Budget
Tax Proposals
2008/9

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Budget

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INTRODUCTION

This year's tax proposals stimulate the economy's growth potential by reducing the tax rate on business and supporting industrial incentives. New initiatives reduce the cost of doing business by cutting red tape, especially for small businesses. Government continues to protect individuals from the effects of inflation by adjusting personal income tax brackets and thresholds.

The 2008/09 tax proposals complement other demand-side measures to deal with the current electricity supply crisis. These proposals will also underpin efforts to support sustainable development and make a contribution to deal with the global challenge of climate change.

Gross tax revenue in 2007/08 will amount to R571.1 billion, which is R14.5 billion higher than the figure budgeted a year ago and R5.0 billion higher than the revised figure indicated in the 2007 Medium Term Budget Policy Statement. Tax revenue growth, which has a strong cyclical component, is expected to moderate in line with a slower rate of GDP growth over the medium term.

OVERVIEW

South Africa's tax policy framework continues to support economic growth. Proposals in the 2008 Budget minimise the potential distortionary impact that taxes might have on growth and employment creation, and stimulate the supply side of the economy. Tax collections continue to be robust as a result of improved compliance and cyclical factors. As the economic cycle moderates, it becomes increasingly important to carefully monitor tax revenue collections.

Additional measures are proposed to support very small businesses, reducing compliance costs and encouraging the formalisation of informal businesses. Various supply-side interventions are proposed to support sustainable growth. An electricity levy is proposed to support demand-side measures and the energy-efficiency strategy over the short term, and to support initiatives to deal with environmental concerns, air pollution and climate change over the longer term.

Government intends to embark on a coordinated approach, including the use of taxes, and incentives, to support environmental protection. The tax implications of private equity transactions and funding options for municipalities will also be investigated.

Main tax proposals

The 2008 Budget proposes R10.5 billion in net tax relief. The proposals include:

- Personal income tax relief for individuals amounting to R7.7 billion
- A reduction in the headline corporate tax rate by one percentage point from 29 to 28 per cent
- The second phase of reforms to the secondary tax on companies (STC), culminating in the introduction of a final withholding dividend tax at shareholder level in 2009
- A simplified tax package for very small businesses with an annual turnover up to R1 million
- An increase in the compulsory VAT registration threshold from an annual turnover of R300 000 to R1 million
- Incentives to encourage venture capital equity investments in small and medium-sized businesses
- R5 billion in tax subsidies over the next three years to support the emerging industrial policy
- A review of learnership allowances to encourage apprenticeships
- Measures to encourage private land owners to protect biodiversity
- The introduction of an electricity levy of 2 cents per kilowatt hour.

SUPPLY-SIDE MEASURES TO BOOST GROWTH AND JOB CREATION

South Africa's economy faces a number of constraints to economic growth, including infrastructure capacity and a shortage of skills. These realities suggest a need for supply-side measures that can boost the growth and job creation potential of the economy.

Headline corporate income tax rate

A broadening of the tax base, reduction in tax rates, strengthening of tax administration and enforcement over the past decade have contributed to a more efficient and equitable tax system. Given the positive results of these reforms there is fiscal space for a further reduction in the headline corporate income tax rate from 29 per cent to 28 per cent.

This measure is also intended to reduce the cost of capital, facilitating an increase in private sector investment and stimulating the supply side of the economy. To limit tax avoidance and/or tax arbitrage, given the gap between the corporate tax rate and top marginal personal income tax rate, it is proposed that closely held (passive) companies be subject to a 40 per cent tax rate.

Second phase of STC reforms

In 2007 the Minister of Finance announced a reform of the STC regime. The main purpose of this reform is to switch this tax charge from a company-level tax to a shareholder-level tax, consistent with international practice. Under the new regime, all distributions will be treated as dividends unless it is shown that the distribution represents a return of capital.

It is proposed that the new rate remain at 10 per cent, that no dividend withholding tax be applied to dividends declared to income tax-exempt entities and that all STC credits will expire. A 10 per cent final withholding rate for domestic shareholders would apply, except in cases of income tax-exempt entities, such as retirement funds and public benefit organisations (PBOs). The withholding rate for non-domestic shareholders may be limited by specific tax treaties.

It is also proposed to provide cascading relief (i.e. taxing dividends only when profits reach individuals or non-domestic company shareholders). As an anti-avoidance measure, dividends paid to closely held (passive) companies used to accumulate passive income will be subject to a 10 per cent tax rate.

Learnership allowance for apprenticeships

Learnerships and apprenticeships play an important role in strengthening the skills base of the economy. The learnership tax allowance favours short-term learnerships. It is proposed that the allowance be amended to take into account longer-term apprenticeships, focusing on those of a technical nature, such as electricians, welders, plumbers, mechanics and so on.

Tax incentives to support industrial policy

Carefully designed tax incentives that encourage higher levels of investment in labour-intensive or strategic sectors will be considered. However, incentives have to be implemented with circumspection. It is important to identify clearly where the market failures are, consider the costs and benefits of such actions, and explore alternatives. It is proposed that R5 billion be set aside for tax incentives to be used over three years in support of sectors identified as key to the emerging industrial strategy. The design of this programme will be finalised in consultation with the Department of Trade and Industry and other interested parties over the next few months.

Developing the built environment

Urban development zones

To rejuvenate decaying inner cities, government introduced the urban development zone tax incentive in 2004. The incentive provides accelerated depreciation for refurbished and new commercial buildings in 15 municipalities, and there is evidence that this measure has made a difference in the pace of development. It is recommended that the incentive be extended for five years, until March 2014. Municipalities will be given an opportunity to apply for extension of the designated zones, and consideration will be given to expanding the number of participating municipalities.

Housing for low-income workers

The provision of adequate and affordable low-income housing (owned or rented) remains a challenge. The obstacles to providing such housing are often of a regulatory nature. While these challenges are being addressed it is proposed that current provisions in the Income Tax Act encouraging employers, developers, PBOs and landlords to increase the supply of houses for low-income households be enhanced and that additional incentives be explored.

The existing monetary threshold limits for low-cost housing allowances, such as the R6 000 deductible limit per dwelling for employer-provided housing, will be revised. The depreciation allowances for the construction of low-cost houses and associated public infrastructure that employers and developers may claim will be reviewed and enhanced. In the case of employer-provided low-cost housing, further relief with respect to fringe benefit taxation in the hands of the employee will be considered.

SUPPORT FOR SMALL AND MEDIUM-SIZED BUSINESSES

Over the past several years government has taken steps to reduce the tax liability and tax compliance burden of small businesses. These measures include:

- The introduction in 2001 of a (lower) graduated income tax rate structure for incorporated small businesses, with regular subsequent adjustments to monetary thresholds
- An enhanced depreciation regime for incorporated small businesses, introduced in 2001 and extended in 2005
- Capital gains relief for small businesses in 2001, increased in 2006
- The option to file VAT returns every four months instead of every two months, introduced in 2005 for very small businesses

- Relief from the skills development levy for businesses with a payroll of less than R500 000 per year from 2005.

A simplified tax regime for very small businesses

The 2008 Budget proposes a simplified tax regime that will reduce paperwork related to income tax and VAT for small sole proprietors, partnerships and incorporated businesses.

Tax compliance costs tend to be regressive for small businesses because of the fixed costs and systems needed to fulfil various requirements. Government proposes that a simplified, turnover-based tax system be implemented for businesses with a turnover up to R1 million per year. In addition, it is proposed to increase the compulsory VAT registration threshold to R1 million per year.

This turnover-based presumptive tax system will be elective. After joining the system, qualifying businesses will be required to remain in this system for a minimum of three years (provided they remain within the monetary threshold). However, once a business has elected to migrate out of the system, it will not be able to migrate back for a period of five years. To protect the personal income tax base, personal services rendered under employment-like conditions and professional services will be excluded from this tax system.

The turnover-based system is intended to reduce the tax compliance costs for very small businesses, and not necessarily their tax liability. This measure also supports the practice of regular recordkeeping in small businesses, which in time will migrate to the normal income tax system. The table below is a summary of the proposed simplified (presumptive) tax regime for small businesses. The rates and technical aspects will be refined after consultation.

Proposed presumptive tax for very small businesses

Turnover	Tax liability
0 - R100 000	0%
R100 001 - R300 000	2% of each R1 above R100 000
R300 001 - R500 000	R4 000 + 4% of the amount above R300 000
R500 001 - R750 000	R12 000 + 5.5% of the amount above R500 000
R750 001 - R1 000 000	R25 750 + 7.5% of the amount above R750 000

Venture capital tax incentive

Access to equity finance by small and medium-sized businesses has been cited as one of the main challenges to the growth of this important sector of the economy. The private-equity industry in South Africa is well developed but the industry's appetite for start-up, early stage and seed-capital type transactions is low.

To meet the challenge of access to venture capital for small and medium-sized enterprises, government proposes tax incentives for investors in qualifying small enterprises and start-ups. In general, the targeted enterprises are high growth and high-tech companies with an annual turnover of up to R14 million or gross assets of up to R7 million. For junior mining and exploration companies, a different threshold – gross assets of R30 million to R50 million – will be considered. The proposed tax incentives will target individual investors, corporate investors and venture capital funds.

It is proposed that general venture capital investments (non-mining) qualify for a 30 per cent up-front deduction, with annual deductions to be capped at R500 000 for individuals, R750 000 for corporations and R7.5 million for venture capital funds. Junior mining exploration investments would qualify for a 50 per cent upfront deduction, with annual deductions capped at R1 million for individuals and R10 million for corporations and venture capital funds. This incentive mechanism is also proposed in the place of the flow-through share incentive mechanism for junior mining exploration companies mentioned in the 2007 Budget Review.

RELIEF FOR INDIVIDUALS

Personal income tax relief

Over the past six years substantial tax relief has been provided to individuals. This was achieved by raising the monetary values of the income tax brackets and adjusting the primary and secondary rebates. The 2008 Budget proposes direct tax relief to individual taxpayers amounting to R7.2 billion. This will compensate taxpayers for the impact of wage inflation, also known as "bracket creep".

Taxpayers with an annual taxable income of up to R150 000 will receive 33.2 per cent of this relief, those with an annual taxable income between R150 001 and R250 000 receive 27.6 per cent, those between R250 001 and R500 000 receive 25.6 per cent and those with taxable income more than R500 000 per year receive 13.6 per cent of the proposed personal income tax relief.

The primary rebate is increased to R8 280 a year for all individuals. The secondary rebate is increased to R5 040 a year for individuals age 65 and over. The rates of tax in respect of the 2007/08 tax year and those proposed for 2008/09 are set out below.

Personal income tax rate and bracket structure

2007/08		2008/09	
Taxable Income (R)	**Rates of Tax (R**	**Taxable Income (R)**	**Rates of Tax (R)**
R0 - R112 500	18% of each R1	R0 - 122 000	18% of each R1
R112 501- R180 000	R20 250 + 25% of the amount above R112 500	R122 001 - R195 000	R21 960 + 25% of the amount above R122 000
R180 001 - R250 000	R37 125 + 30% of the amount above R180 000	R195 001 - R270 000	R40 210 + 30% of the amount above R195 000
R250 001 - R350 000	R58 125 + 35% of the amount above R250 000	R270 001 - R380 000	R62 710 + 35% of the amount above R270 000
R350 001 - R450 000	R93 125 + 38% of the amount above R350 000	R380 001 - R490 000	R101 210 + 38% of the amount above R380 000
R450 001 and above	R131 125 + 40% of the amount above R450 000	R490 001 and above	R143 010 + 40% of the amount above R490 000
Rebates		**Rebates**	
Primary	R7 740	Primary	R8 280
Secondary	R4 680	Secondary	R5 040
Tax Thresholds		**Tax Thresholds**	
Primary	R43 000	Primary	R46 000
Age 65 and over	R69 000	Age 65 and over	R74 000

The proposed tax schedule eliminates the effects of inflation on income tax liabilities and results in a reduced tax liability for taxpayers at all income levels. These tax reductions are set out below.

Income tax payable by individuals younger than 65

Taxable income (R)	2007 rates (R)	Proposed rates (R)	Tax reductions (R)	% change
46 000	540	-	540	100.0%
50 000	1 260	720	540	42.9%
55 000	2 160	1 620	540	25.0%
60 000	3 060	2 520	540	17.6%
65 000	3 960	3 420	540	13.6%
70 000	4 860	4 320	540	11.1%
75 000	5 760	5 220	540	9.4%
80 000	6 660	6 120	540	8.1%
85 000	7 560	7 020	540	7.1%
90 000	8 460	7 920	540	6.4%
100 000	10 260	9 720	540	5.3%
120 000	14 385	13 320	1 065	7.4%
150 000	21 885	20 680	1 205	5.5%
200 000	35 385	33 430	1 955	5.5%
250 000	50 385	48 430	1 955	3.9%
300 000	67 885	64 930	2 955	4.4%
400 000	104 385	100 530	3 855	3.7%
500 000	143 385	138 730	4 655	3.2%
1 000 000	343 385	338 730	4 655	1.4%

Income tax payable by individuals 65 years of age and older

Taxable income (R)	2007 rates (R)	Proposed rates (R)	Tax reductions (R)	% change
74 000	900	-	900	100.0%
75 000	1 080	180	900	83.3%
80 000	1 980	1 080	900	45.5%
85 000	2 880	1 980	900	31.3%
90 000	3 780	2 880	900	23.8%
100 000	5 580	4 680	900	16.1%
120 000	9 705	8 280	1 425	14.7%
150 000	17 205	15 640	1 565	9.1%
200 000	30 705	28 390	2 315	7.5%
250 000	45 705	43 390	2 315	5.1%
300 000	63 205	59 890	3 315	5.2%
400 000	99 705	95 490	4 215	4.2%
500 000	138 705	133 690	5 015	3.6%
1 000 000	338 705	333 690	5 015	1.5%

Medical scheme contributions

It is proposed that the monthly monetary caps for tax-free medical scheme contributions be increased with effect from 1 March 2008 from R530 to R570 (by 7.6 per cent) for each of the first two beneficiaries and from R320 to R345 (7.8 per cent) for each additional beneficiary. Measures to ensure more consistent reporting of contributions by employers will be considered.

Definition of disability

Disabled persons tend to incur additional medical and related expenses, and a full deduction for all medical expenses and other specified expenses is allowed for income tax purposes. However, the provisions contained in the Income Tax Act (1962) defining disabled persons are outdated. The definitions will be reviewed. Consideration will also be given to limiting the types of expenses that may be deducted where they do not reasonably relate to a disability.

Standard income tax on employees

The "broken period" principle that forms part of the SITE system assumes that a SITE taxpayer will work for a full tax year. This can result in a taxpayer paying income tax, even though he or she may earn below the tax threshold for a given tax year. It is proposed that SITE payments should become refundable in such instances.

Bursaries for relatives of employees

As a rule, if an employer grants a bursary to the relative of an employee, that grant results in a taxable fringe benefit. However, for employees earning up to R60 000 per year, this fringe benefit, up to R3 000 per year, is tax-free. To facilitate employer-sponsored education and training of the dependants of low-and middle-income workers, it is proposed that this tax-free fringe benefit be increased to R10 000 per year for employees earning up to R100 000 per year.

Travelling allowances

The deemed cost tables for travelling allowances will be updated for inflation, including higher interest rates and fuel prices.

SAVINGS

Tax-free interest, dividend income and capital gains

To promote greater national savings, and in line with prior adjustments, government proposes to increase the interest and dividend income tax-free threshold for individuals under 65 years from R18 000 to R19 000, and for individuals 65 years and over from R26 000 to R27 500 per year. It is similarly proposed to increase the threshold for the tax-free income of foreign dividends and interest from R3 000 to R3 200 per year. In addition, it is proposed to increase the annual exclusion threshold for capital gains or losses from R15 000 to R16 000.

Retirement savings

Major reforms to social security and retirement savings are being studied. A number of interim reforms related to retirement savings will help facilitate this process. The taxation of lump sum payments on retirement was simplified during 2007. It is now proposed to also simplify the taxation of other withdrawals from retirement funds. It is also proposed that divorce settlement payments made by retirement funds will be taxable in the hands of the non-member spouse. In addition, consideration will be given to consolidating the various tax-relief related monetary thresholds and percentage contributions, by both employees and employers, towards the various retirement saving vehicles. An overall monetary cap to limit the tax benefits of such contributions will also be considered.

AN ELECTRICITY LEVY TO SUPPORT ENERGY EFFICIENCY

Recent electricity shortages suggest a need for interventions to support demand-side management while encouraging long-term protection of the environment. Government proposes to impose a 2 c/kWh tax on electricity generated from non-renewable sources, to be collected at source by the producers/generators of electricity. This measure will serve a dual purpose of helping to manage the current electricity supply shortages and protecting the environment. This measure is expected to raise about R4 billion per year.

Coal-based electricity generation accounts for a significant share of carbon dioxide emissions, contributing to global warming. The introduction of this tax will be complemented by incentives that encourage firms to behave in a more environmentally responsible manner. Tax incentives to encourage the uptake and development of renewable energy, such as accelerated depreciation allowances, are already in place and could be further enhanced.

BIODIVERSITY CONSERVATION AND MANAGEMENT

The 2008 Budget proposes measures to encourage conservation of South Africa's rich biodiversity. Tax reforms to encourage biodiversity conservation by private landowners will be considered. Landowners will receive an income tax deduction for preserving habitats and biodiversity on their land. The deduction will cover expenses incurred in developing and implementing an approved conservation management plan under either the National Biodiversity Act (2004) or the Protected Areas Act (2003). The deductions contemplated would be limited to income derived from the land.

The existing PBO framework will be reviewed for impediments to tax deductions for property donated to a PBO or parastatal conservation agency where that property is declared a nature reserve or national park under the Protected Areas Act (2003). A similar review will be conducted for estate duty, transfer duty, or donations tax exemptions for properties bequeathed, sold or donated to a PBO for declaration as a protected area under that act.

VALUE-ADDED TAX

Compulsory registration threshold

The introduction of the simplified tax package for very small businesses with an annual turnover below R1 million will provide scope to increase the compulsory VAT registration threshold. It is proposed that this threshold be increased from an annual turnover of R300 000 to R1 million.

It is also proposed to increase, from R1.2 million to R1.5 million, the thresholds applicable to farmers who submit VAT returns every six months and businesses that submit VAT returns every four months.

CUSTOMS AND EXCISE DUTIES

Alcoholic beverages

Excise duties on alcoholic beverages will be increased in accordance with the policy decision to target a total tax burden (excise duties plus VAT) of 23, 33 and 43 per cent on wine, malt beer and spirits respectively. No increase in the excise duty on traditional beer is proposed. The proposed increases for the various alcoholic beverages vary between 7 and 11 per cent as indicated below.

Tobacco products

Excise duties on tobacco products will be increased in accordance with the policy decision to target a total excise burden (excise duties plus VAT) of 52 per cent for all categories of tobacco products. The proposed increases for the various tobacco products vary between 5.2 and 11.0 per cent.

Changes in specific excise duties – 2008/09

Product	Current excise duty rate	Proposed excise duty rate	Percentage change	
			Nominal	Real
Malt beer	R39.61 / litre of absolute alcohol (67c / average 340ml can)	R42,38 / litre of absolute alcohol (72c / average 340ml can)	7.0%	0.8%
Traditional beer	7.82c / litre	7.82c / litre	0.0%	-6.2%
Traditional beer powder	34.70c / kg	34.70c / kg	0.0%	-6.2%
Unfortified wine	R1.72 / litre	R1.84 / litre	7.3%	1.1%
Fortified wine	R3.17 / litre	R3.40 / litre	7.4%	1.2%
Sparkling wine	R5.12 litre	R5.63 / litre	9.9 %	3.7%
Ciders and alcoholic fruit beverages	R1.98 / litre (67c / average 340ml can)	R2.12 / litre (72c / average 340ml can)	7.0%	0.8%
Spirits	R61.01 / litre of absolute alcohol (R19.67 / 750ml bottle)	R67.72 / litre of absolute alcohol (R21.84c / 750ml bottle)	11.0%	4.8%
Cigarettes	R6.16 / 20 cigarettes	R6.82 / 20 cigarettes	10.8%	4.6%
Cigarerre tobacco	R8.24 / 50g	R8.67 / 50g	5.2%	-1.0%
Pipe tobacco	R2.18 / 25g	R2.30 /25g	5.3%	-0.9%
Cigars	R37.73 / 23g	R39.72 / 23g	5.3%	-0.9%

It is proposed that the customs and excise duties in Section A of Part 2 of Schedule No. 1 of the Customs and Excise Act, No. 91 of 1964, be amended with effect from 20 February 2008 to the extent shown below.

Specific excise duties

Tariff item	Tariff heading	Description	2007/08 Present rate of duty Excise	Customs	2008/09 Proposed rate of duty Excise	Customs
104.00		Prepared foodstuffs; beverages, spirits and				
104.01	19.01	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 per cent by mass of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparation of goods of headings 04.01 to 04.04 not containing cocoa or containig less that 5 per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included:				
.10		Traditional beer powder as defined in Additional Note 1 to Chapter 19	34.7 c/kg	34.7 c/kg	34.7 c/kg	34.7 c/kg
104.10	22.03	Beer made from malt:				
.10		Traditional powder as defined in Additional Note 1 to Chapter 22	7.82 c/l	7.82 c/l	7.82 c/l	7.82 c/l
.20		Other	3 961.25 c/l of absolute alcohol	3 961.25 c/l	R42.38/l of absolute alcohol	R42.38/l
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):				
	22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:				
.02		Sparkling wine	512.14 c/l	512.14 c/l	R5.63/l	R5.63/l
.04		Unfortified wine	171.53 c/l	171.53 c/l	R1.84/l	R1.84/l
.06		Fortified wine	316.67c/l	316.67c/l	R3.40/l	R3.40/l
104.17	22.06	Other fermented beverages, (for example, cider, perry and mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:				
.05		Traditional beer as defined in Additonal Note 1 to Chapter 22	7.82c/l	7.82c/l	7.82c/l	7.82c/l
.15		Other fermented beverages, unfortified	198.05 c/l	198.05c/l	R2.12/l	R2.12/l
.17		Other fermented beverages, fortified	401.88 c/l	401.88 c/l	R4.32 /l	R4.32 /l
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	198.05 c/l	198.05c/l	R2.12/l	R2.12/l
.90		Other	401.88 c/l	401.88 c/l	R4.32 /l	R4.32 /l
104.20	22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent volume or higher; ethyl alcohol and other spirits, denatured, of any strength:				

Tariff item	Tariff heading	Description	2007/08 Present rate of duty Excise	Customs	2008/09 Proposed rate of duty Excise	Customs
	22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 percent volume; spirits, liqueurs and other spirituous beverages:				
.10		Wine spirits, manufactured by the distillation of wine	6 100.71c/l	6 100.71c/l of absolute alcohol	R67.72/l	R67.72/l of absolute alcohol
.15		Sprits, manufactured by the distillation of any sugar cane	6 100.71c/l	6 100.71c/l of absolute alcohol	R67.72/l	R67.72/l of absolute alcohol
.25		Sprits, manufactured by the distillation of any grain product	6 100.71c/l	6 100.71c/l of absolute alcohol	R67.72/l	R67.72/l of absolute alcohol
.29		Other spirits	6 100.71c/l	6 100.71c/l of absolute alcohol	R67.72/l	R67.72/l of absolute alcohol
.40		Liqueurs and other spirituous beverages	6 100.71c/l	6 100.71c/l of absolute alcohol	R67.72/l	R67.72/l of absolute alcohol
104.30	24.02	Cigars, cheroots, cigarillos and cigarrettes, of tobacco or of tobacco substitutes:				
.10		Cigars, cheroots, and cigarillos, of tobacco or of tobacco substitutes:	164 057.97	164 057.97 c/kg net	R1 726.92	R1 726.92 /kg net
.20		Cigars, of tobacco or of tobacco substitutes:	307.82	307.82 c/10 cigarettes	R3.41	R3.41 /10 cigarettes
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; “homogenised” or “reconstituted” tobacco; tobacco extracts and essences:				
.10		Cigarrette tobacco and substitutes thereof	16 483.51	16 483.51 c/kg	R173.49	R173.49 /kg
.20		Pipe tobacco and substitutes thereof	8 738.60	8 738.60 c/kg net	R92.15	R92.15 /kg net

Ad valorem excise duties

The list of products subject to *ad valorem* excise duties will be further reviewed. A small list of products, mostly outdated technologies, will be eliminated from the list. See Annexure C.

It is proposed that the relevant sections in Section B of Part 2 of Schedule No. 1 of the Customs and Excise Act, No. 91 of 1964, be deleted with effect from 1 April 2008, to the extent shown below.

Ad valorem excise duties to be abolished

Tariff item	Tariff heading	Sub heading	Description
124.45	85.19	8 519.20	Sound recording or reproducing apparatus operated by coins, banknotes, bank cards tokens or by other means of payment
		8 519.30	Turntables (record-decks)
		8 519.81	Sound recording or reproducing apparatus using magnetic media
124.55	85.19	8 521.81	Magnetic tape-type (excluding those for use with a magnetic tape of a width exceeding 25 mm and video tape duplicators, cassette-type, not incorporating a video reproducing device)
130.10	95.04	9 504.90	Video games with self-contained screen and games of skill or chance with an electronic display, including parts thereof.

Duty-free shops on arrival

In addition to duty-free shops at departure, many major international airports also operate such shops on arrival. The feasibility of duty-free shops on arrival at South Africa's major international airports will be investigated.

FUEL LEVIES

General fuel levy

Government has over the past few years limited increases in the general fuel levy to the expected annual inflation rate. It is proposed that the general fuel levy on petrol and diesel be increased by 6 c/l to 127 c/l and 111 c/l respectively with effect from 2 April 2008. This constitutes an increase of 5 per cent for petrol and 5.7 per cent for diesel respectively. Both these increases are below the expected inflation rate.

The diesel fuel tax refund and biodiesel fuel tax rebate schemes are expressed in percentage terms and will adjust automatically to maintain the relative benefits for qualifying beneficiaries.

Cabinet endorsed the revised biofuels industrial strategy in November 2007. It approved an increase in the biodiesel fuel tax concession from 40 per cent to 50 per cent, and for bioethanol to remain outside the fuel tax net, but to remain subject to VAT at the standard rate.

Road Accident Fund levy

It is proposed to increase the Road Accident Fund (RAF) levy on petrol and diesel by 5 c/l from 41.5 c/l to 46.5 c/l. This adjustment will further seek to stabilise the financial position of the RAF. These increases will come into effect on 2 April 2008.

PUBLIC BENEFIT ORGANISATIONS

Restrictions on PBOs

PBOs are required to conduct 85 per cent or more of their activities in South Africa. It is proposed that this restriction on PBOs be dropped.

Donations to multilateral humanitarian organisations

Multilateral humanitarian organisations offering developmental assistance in South Africa are exempt from income tax here. However, donations made to such organisations for activities that otherwise might qualify in terms of section 18A of the Income Tax Act are not deductible for income-tax purposes. The act requires that an organisation be registered in South Africa in order for donors to be able to deduct donations to such entities. Where it might be impractical for such organisations to register here, a legislative exception will be considered.

Extending tax-exempt status to PBOs providing student loans

To support the activities of PBOs that provide bursaries and loans to needy students, it is proposed that the provision of student loans by PBOs should be included in the list of public benefit activities.

Cap for PBO-provided housing

The Income Tax Act makes provision for the tax exemption of PBOs that provide housing for the benefit of the poor. In order for a PBO to qualify for this concession, the legislation prescribes that the intended beneficiaries must have a maximum monthly household income of R3 500. It is proposed that this be increased to R7 000 per month.

FINANCING OPTIONS FOR PROVINCIAL AND LOCAL GOVERNMENT

Government is studying alternatives to replace the Regional Services Council and Joint Services Board levies, which were abolished from July 2006, and considering sustainable funding models for municipalities. One option under consideration is the sharing of revenue from the general fuel levy. A percentage of revenue from the general fuel levy will from 2009/10 accrue to category A and B municipalities. The share of each municipality will be based on fuel sales per municipality. In addition, as a possible alternative to the proposed provincial fuel levy, provinces will receive a share of the general fuel levy revenue based on the fuel sales per province. These revenues will be expressed in terms of cents per litre to ensure greater transparency and provide certainty. The national fiscus will receive the balance, about 20 per cent of the total revenue.

TAX REFORM MEASURES UNDER REVIEW

Tonnage tax

A discussion document on the proposed sea freight tonnage tax will be released at the end of February 2008.

Private equity transactions

Private equity transactions can contribute to economic growth in various ways, for example by catapulting medium-sized businesses onto a larger stage or optimising the potential of larger businesses. However, some private equity deals, particularly highly leveraged buyouts, have the potential to undermine corporate governance and/or the tax system. The deductibility of interest payments in highly geared transactions and the tax treatment of management-carried interest (reward for fund managers in the form of shares/equity) will be investigated. Given the complexities involved, a discussion document will be developed to raise options and elicit public comment.

Protecting the tax base

With the continuing relaxation of exchange controls, complementary measures to protect the tax base from artificial outflows will be taken into account.

SUPPORTING SUSTAINABLE DEVELOPMENT

The National Treasury published a draft policy paper entitled *A Framework for Considering Market-based Instruments to Support Environmental Fiscal Reform in South Africa* for public comment in April 2006. The draft paper was well received. It focuses on how taxes, charges and incentives can support regulatory measures to promote environmental protection and biodiversity conservation.

Emission charges and taxes

Over the past two years climate change has dominated the international environmental policy arena. *The Stern Review Report on the Economics of Climate Change* and reports by the United Nations-appointed International Panel on Climate Change highlight the importance of these matters. The reports recognise that climate change requires urgent action and identify a range of policy instruments that could be applied, including taxes and tradable permits, to address climate change. The National Treasury and the Department of Environmental Affairs and Tourism will explore the introduction of additional emission taxes and charges in 2009. The draft policy paper will serve as a guideline for evaluating such interventions.

Tax incentives for cleaner production technologies

There may be a case to provide incentives to businesses to encourage them to make use of cleaner production techniques. It may be possible to implement targeted tax incentives to encourage the uptake and/or development of "cleaner" competitive technologies.

Vehicle taxes

Reforms to the existing vehicle tax regime could be used to create incentives for the introduction of vehicles with reduced emissions and increased fuel efficiency. At the national level, reforms to existing vehicle ad valorem excise duties could play an important role, with environmental criteria incorporated into their design. One possibility is the inclusion of engine size as a proxy for the level of emissions and/or fuel consumption.

MEASURES TO ENHANCE TAX AND CUSTOMS ADMINISTRATION

Since its establishment by the South African Revenue Service Act (1997), SARS has changed and grown in response to national needs. Robust revenue collection and improved administration has seen SARS collect in excess of R3 trillion over its first decade. This allowed government to fund its economic and social programmes while at the same time offering income tax relief to individuals and companies to the value of R96 billion over the same period. Further improvements in SARS operations will be driven through the implementation of its modernisation agenda.

Modernisation of tax administration

As foreshadowed in the 2007 *Budget Review,* major changes were introduced in the income tax return process for 2007. Individual income tax returns were rationalised and simplified, the electronic filing facility expanded to handle all income tax returns, and risk management improved through statistical analysis and reliance on third-party data. As a result, a record 3 million taxpayers met the deadline for the manual submission of income tax returns. By the end of January 2008, more than 650 000 income tax returns had been submitted electronically – an increase of more than 1 500 per cent over 2006.

SARS intends to build on this achievement by moving towards further simplification of classes of individual income tax returns in the medium term. As part of this process, the basis for charging and paying interest on assessed income tax will be reviewed. International and domestic experience has shown that employers are the leading providers of the third-party information required to simplify income tax returns for their employees. Accordingly, steps will be taken to rationalise employees' tax returns submitted by employers while improving the returns' quality and timeliness.

Modernisation of customs administration

Increased trade requires a visible and effective enforcement capability. The Customs Border Control Unit was established in 2006 to provide an enforcement function. Many of its personnel are undergoing paramilitary and customs functional training for a pilot deployment at OR Tambo International Airport. Amendments to the Customs and Excise Act (1964) will be considered to further support customs enforcement at the border, while pilot projects will be created for the real-time electronic exchange of information with major trading partners. The first new-generation container scanner is undergoing testing in Durban and is scheduled to be brought into service shortly.

South Africa is a signatory to the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, and further amendments to the Customs and Excise Act (1964) may be required to ensure the successful implementation of the General Annex to the Convention by the target date of 3 February 2009.

ONGOING TAX LEGISLATIVE REFORMS

Below are ongoing tax issues stemming from last year's annual budget cycle. Many of these issues were already subject to analysis but required further information before they could be fully resolved.

South African housing for foreign skilled expatriates

In 2007, legislation was enacted to close unintended loopholes relating to free housing accommodation provided to foreign visiting workers. Without this change, foreign visiting workers arguably could have claimed tax-free employer-provided accommodation for an open-ended period. While the 2007 legislation properly addressed this practice, it is proposed that the legislation be relaxed to permit tax-free employer-provided accommodation for a maximum of two years to cover the likely cost of carrying two homes for short-term secondments. This tax-free treatment will be subject to a ceiling equal to 25 per cent of the employee's salary or R25 000 per month – whichever is lower.

Broad-based incentive shares

As announced in 2007, government surveyed business as to the viability of the current tax incentive for broad-based share schemes. Information yielded from this effort indicates that some requirements are too stringent, thereby preventing full utilisation. Certain of these restrictions will be relaxed without compromising the broad-based objective of the incentive. Key issues at stake are the tax-free ceiling and the percentage of employees required to participate in the scheme.

Streamlining retirement fund registration and changing pre-retirement withdrawal defaults

The 2007 legislative agenda sought to formalise and streamline the various categories of retirement funds for improved administration. These shifts would have allowed the Financial Services Board to assume control over all pension requirements that are regulatory in nature. While significant progress was achieved on this matter, this unfinished aspect of the 2007 agenda will be completed in early 2008. In addition, the proposed changes create the legislative framework for further reforms dealing with retirement withdrawals. One issue to be addressed is the taxation of retirement funds upon employee termination of service, even if that employee fails to withdraw funds from the retirement system. Another issue is the full taxation of retirement funds upon a member's death even if the retirement funds are converted to an annuity for the benefit of the deceased's beneficiaries.

Dividend base definition

In 2007, government announced its intent to broaden the dividend definition base for the Secondary Tax on Companies in order to close significant loopholes. While loopholes were closed, the policy shift required for a proper broadening still needed further analysis. A discussion document is being issued to address the larger policy issues. The ensuing dialogue will allow for the enactment of legislation during the latter part of the year.

Impact of capital distributions

As part of the 2007 effort to close Secondary Tax on Companies loopholes, the taxation of capital distributions was changed to prevent avoidance. Under the change, all capital distributions trigger part-disposal treatment for capital gains purposes. Although this change effectively closed the loophole of concern, other options may have better long-term viability. Depending on time constraints, a short discussion document is anticipated on the subject, followed by possible legislative change.

Intellectual property arbitrage

In 2007, government enacted legislation that seeks to eliminate the deduction for royalty payments to foreign residents if the royalty stemmed from intellectual property initially devised in South Africa. This legislation is based on the premise that taxpayers should not be able to use South African-developed intellectual property to denude the domestic tax base. However, comments from practitioners indicated further discussion was required before implementation. The effective date for the legislation was accordingly delayed until 2009 so that various matters could be addressed.

Revised taxation of public entities

In 2007, it was announced that the income taxation of public entities would be revised. Current legislation predates the Public Finance Management Act (2000), and a new regime should be enacted that reflects this newer public dispensation. The probable essence of the proposal is to mainly treat business entities as fully taxable and regulatory entities as exempt.

Long-term insurers – expense and profit transfer formula

In 1999 a complex formula was introduced to allow a tax deduction for expenses not directly attributable to taxable investment income of the policyholder funds of an insurer. These expenses are generally selling and administration expenses. The underlying principle of apportionment is to exclude that portion of the expenses attributable to non-taxable income. The formula is also used to determine the tax deduction in the various policyholder funds on transfer of "profits" to the corporate fund for tax purposes. Although the formula has been adjusted with the introduction of capital gains tax, it gives rise to a number of anomalies, as the economic environment has changed since it has been introduced. It is proposed that this formula be reviewed for possible legislation so that the formula reflects current business practices (for example, investments through collective investment schemes) and tax policy principles.

Group relief and the de-grouping charge

The 2007 legislative agenda contained a balanced set of changes to the company group relief rules. As part of this balanced set of changes, the legislation narrowed the range of companies eligible for group treatment. This narrowing was not only enacted to prevent avoidance but also to develop a more workable group concept so that further forms of group relief could eventually progress in line with international trends. All 2007 proposed changes were set to become effective as of 1 January 2009. At this stage, the group definition still requires refinement, having been narrowed too much in some respects and not enough in others. Transitional issues also remain an ongoing concern.

Other aspects of the intra-group rollover rules are also of concern. Some taxpayers are misusing group relief to cash out their company interests to independent parties without tax. Intra-group transfers involving debt remain a problem. Lastly, the de-grouping charge must be revisited in respect of double gains as well as trapped losses. A similar set of issues will have to be considered in situations where qualifying ownership unwinds in respect of other rollover reorganisations.

Provisional tax system

The review of the provisional tax system and associated penalty and interest provisions will continue, with a view to improving the system and underpinning the developments in return filing discussed in more detail above.

Administrative penalties

The current penalty tax regime relating to the imposition and remittance of additional tax and other penalties in the tax acts differs from one act to another, and does not appropriately cater for less serious procedural and administrative non-compliance. It is proposed that the administrative penalty regime be revamped and that a more objective penalty system be introduced which would be administered in accordance with a defined set of criteria. This would create more certainty for taxpayers.

E-commerce

In the 2007 Budget, it was announced that the practical implications of requiring e-commerce suppliers of services to register within South Africa would be considered with regard to international practice. The international research has been completed but administrative and operational systems requirements mean that any legislative amendments providing for the registration of these suppliers may require additional consultation. Hence, legislation on this issue may be introduced in 2008 or 2009 (and may be preceded by a discussion document).

Nominal or passive foreign-controlled local activities

In the 2007 Budget, it was announced that the VAT registration for nominal or certain wholly passive activities of foreign persons is impractical when the supply is made to domestic VAT vendors. Consideration has been given to allowing relief in this regard, but administrative and operational system requirements may require additional consultation. Legislation on this issue may be introduced in 2008 or 2009 (and may be preceded by a discussion document).

Bare dominium financing structures

As noted previously, certain taxpayers enter into *bare dominium* structures designed to claim input credit where none are warranted. Rather than proceed directly to a legislative amendment a short discussion paper on the topic will be issued, to be followed by corrective action.

NEWLY PROPOSED MISCELLANEOUS INCOME TAX AMENDMENTS

Personal issues

- *Repayable employee benefits:* Employees sometimes receive funds (e.g. maternity payouts, retention payments and performance bonuses) from their employers that may have to be returned if certain conditions are not subsequently fulfilled. In each of these circumstances, the tax law treats the initial payment as fully includible as gross income for the employee with the repayment being non-deductible. This failure to allow deductions for these repayments needs to be remedied as a matter of fairness.
- *Personal use of cellular phones and laptops:* Employees are increasingly obtaining home use of employer cellular phones and laptops. This usage is mainly intended to encourage productivity outside the office. However, personal use of these items is ultimately inevitable given home access. In accordance with this trend, it is proposed that incidental private use of cellular phones and laptops should not give rise to fringe benefits taxation.
- *Trust distributions to beneficiaries:* The current regime for the vesting of trust assets potentially triggers a double tax charge. No reason exists for this double charge, which will accordingly be removed.

- *Outside contributions added to estate redistributions:* The capital gains regime was recently changed to allow for the tax-free redistribution of inherited assets among heirs. However, these rules need to be adjusted to cover situations where certain heirs supply outside funds (or assets) in order to equalise differences in values among the inherited assets.
- *Community association governing bodies (body corporates):* A variety of organisations pool funds for community needs (such as sectional title bodies, share block companies and other local home associations). The levies raised by these organisations from their members are currently tax-free, but all other income is generally taxable. In order to alleviate administration and compliance, it is proposed that all non-levy investment income be exempt up to R50 000 per organisation.
- *Traditional communities:* Legally recognised traditional communities established under the Traditional Leadership and Governance Framework Act, 2003, are currently tax-exempt. However, certain traditional communities with more informal structures are taxable even though these structures have a similar purpose. Consideration will be given to restructuring or extending the exemption to these more informal structures.
- *Share incentive schemes:* Several years ago, legislation addressing share incentive schemes was significantly tightened to ensure that these executive schemes were fully taxed. These schemes continue to raise issues in terms of avoidance and anomalies that may require either legislative amendment or interpretive clarification.
- *Submission of supporting documents:* The Income Tax Act contains provisions that require supporting documents to be submitted with final and provisional tax returns. This supporting document requirement is now contrary to the administrative drive for electronic filing. The law will accordingly be changed to remove this submission requirement. Supporting documentation need only be kept as part of the taxpayer's records.

Business issues

- *Consideration for government business licenses:* Certain business activities require government licenses as a legal prerequisite. Many licenses have traditionally required an upfront cash consideration. More recently, certain licenses have instead required various forms of socially related expenditure in lieu of typical cash consideration. Due to various anomalies in the law, neither the cash nor the socially related expenditure can be deducted when paid or over the period of the license.
- *Water pipelines for electrical power generation:* Pipelines used to transport raw water

to supply power stations are not eligible for tax depreciation despite ongoing wear and tear. Water pipelines will henceforth be eligible for an annual tax write-off. This write-off will roughly approximate annual wear and tear (i.e. 5 per cent).

- *Depreciation of small business non-manufacturing equipment:* Qualifying small business corporations engaged in non-manufacturing businesses can write-off equipment over three years at a 50:30:20 rate. While this regime acts an incentive, the 50:30:20 rate is occasionally less favourable than the general depreciation regime available to other parties (such as the 100 per cent rate for small assets). It is therefore proposed that small business corporations should be eligible for the general depreciation regime if desired.
- *Removal of the municipal market exemption:* An exemption exists for certain agricultural markets operating under the control of municipalities. This exemption was enacted to assist a particular project, but the proposed project never materialised. Having failed in its stated purpose, the exemption will be removed.
- *Merger of deemed employee regimes:* Two sets of rules exist to prevent employees from avoiding monthly PAYE withholding by artificially characterising themselves as independent contractors. While the objectives at issue are important, the duplicative set of rules creates an unnecessary burden on small business. The two regimes will be merged.
- *Increased exemption threshold for the spreading of deductions:* Deductions for payments relating to goods, services and other benefits must be spread over the economic life that these items are provided. This spreading prevents artificial upfront payments. However, a R50 000 *de minimis* threshold exists for administrative and compliance ease. This exemption threshold, set in the year 2000, will be increased to R80 000 in line with inflation.
- *Inward foreign research and development (R&D) investment:* In 2006, government created a 150 per cent allowance for R&D to stimulate these important activities. As part of this package, special rules apply in the case of outside funding so that the funding party will obtain the 150 per cent allowance if an independent technical team is performing R&D on the funding party's behalf. Although this allocation of the 150 per cent allowance is largely preferred by industry in domestic settings, allocation of the 150 per cent allowance to foreign parties engaged in funding is of little value because the foreign funding party generally lacks a meaningful South African tax base. Subject to anti-avoidance concerns, consideration will therefore be given to switching the 150 per cent allowance to the independent domestic technical team in these circumstances.

- *Inward foreign JSE listings:* Dividends from a company with foreign shares listed on the JSE are tax exempt as long as South African residents own more than 10 per cent of the foreign company's shares. This 10 per cent threshold unfairly discriminates against smaller listed companies and will be removed.
- *Repatriations from foreign cooperatives:* The South African tax system provides a special exemption for dividends repatriated back to South Africa from 20 per cent controlled foreign subsidiaries. This exemption encourages the repatriation of funds by owners of the subsidiary that have a meaningful say in that subsidiary's affairs. While this exemption applies to traditional companies, the exemption does not apply to cooperatives. Because the objective of repatriating funds is the same, this exemption will be extended to cover foreign cooperatives to the extent the member's interest effectively mirrors share equity.
- *Multi-tier controlled foreign companies (CFCs):* South African taxation of CFCs operates on an imputation basis. All imputed CFC income triggers corresponding upward base cost adjustments in the CFC shares. These corresponding adjustments need to be amended to better account for multi-tier situations where less than 100 per cent share ownership exists between CFC tiers.
- *Debt cancellation between offshore group CFCs:* The CFC regime eliminates income and loss for offsetting transactions between CFCs that are part of the same offshore group. This exclusion covers items such as interest and foreign currency adjustments pertaining to intra-group CFC debt. It is proposed that the offsetting tax impact of debt cancellations between intra-group CFC members be eliminated on the same basis.
- *Refinement of share distributions and recapitalisations:* Share distributions and recapitalisations generally enjoy the benefit of rollover treatment for capital gains tax purposes. However, the regime is not integrated with the Chapter II, Part III reorganisation rollover rules (which include trading stock rollovers) and will be altered accordingly.
- *Extended tax-preferred liquidation period:* Taxpayer relief is potentially afforded when companies liquidate. One condition for this relief is that the liquidation occurs within an automatic six-month period (or a later date upon SARS approval). It is now proposed that the automatic period be extended to 18 months given the fact that many larger-scale liquidations take more than six months.
- *Reorganisations involving depository receipts:* The Part III reorganisation rules provide rollover relief upon the restructuring of equity shares. It is proposed that the definition of equity shares be expanded to accommodate depository receipts (i.e. foreign-listed instruments backed by shares).

- *Intra-group capital distributions:* Dividends (i.e. profit distributions) between companies within the same group are tax-free, and sales between these companies are eligible for rollover relief. However, no relief exists if one group company makes a capital distribution to another. Consideration will be given to providing comparable relief in this area as long as the relief amounts to deferral (as opposed to a permanent exemption).
- *Foreign takeovers and unbundlings:* Foreign taxpayers are seeking to utilise group unbundlings to transfer subsidiaries to newly formed holding companies. These transactions step up the purchase price as the means for eliminating any further gain as the subsidiaries are sold to unconnected parties (or in respect of businesses dropped into newly formed subsidiaries). Efforts will be made to eliminate this concern.
- *Share-issue anomalies:* Special rules exist for determining the base cost of items received by a company when that company issues shares in exchange. While the law in this area is fully settled, possible consideration will be given to eliminating unintended anomalies.
- *Capital gains 2001 effective date issues:* The taxation of capital gains continues to generate effective date anomalies. The greatest set of issues relate to the time-apportionment method of allocating gain/loss to pre-2001 years and post-2001 years, especially in relation to the capital distribution rules. As in prior years, these issues will be addressed as they arise.
- *Financial year end:* As a technical matter, taxpayers may only close their accounts on a specified date (e.g. 30 June) for income tax purposes. Unlike the value-added tax, accounts may not be closed on a specified day (e.g. the last Friday of the month). The flexibility to utilise specified days will be added to the income tax.
- *Retirement savings lump sums and provisional tax calculations:* As a general matter, provisional tax payments cannot fall below the “basic amount” calculation. This “basic amount” calculation excludes capital gains because capital gains are not viewed as recurring amounts. A similar exclusion should exist for retirement lump sums and pre-retirement withdrawals.
- *Process and tax treaties:* The process provided for the collection of debt on behalf of another tax administration will be reviewed as it has not kept abreast with international treaty practice.
- *Election for tax-free rollover reorganisation treatment:* The Income Tax Act provides tax-free rollover treatment for a variety of company restructurings. Most of this relief is elective. Unfortunately, no formal election procedure exists even though

substantive reorganisation relief was enacted some time ago. To alleviate these concerns, reorganisation relief will be made automatic with taxpayers given the option of electing out if desired.

NEWLY PROPOSED VAT AMENDMENTS

- *VAT filing threshold:* The monetary thresholds for agricultural, pastoral or other farming activities (which file on a six-monthly basis) will be increased from R1.2 million to R1.5 million. Small businesses that file a VAT return on a four-monthly basis will also be subject to the threshold increase from R1.2 million to R1.5 million. These increases take into account the effects of inflation.
- *Reforming the VAT treatment of business reorganisations:* The Income Tax Act provides extensive rollover treatment for various reorganisations as well as intra-group transfers. Although a modest set of rules was similarly added to the VAT Act, these rules are not fully in line with rollover principles. It is proposed that the VAT rules be amended to improve the alignment.
- *Vocational training:* The VAT Act provides for the supply of vocational training to an employer who is not a resident of the Republic to be zero-rated. The term vocational training is not defined, resulting in difficulty in interpretation. Accordingly, the term vocational training needs to be defined in order clarify the intention and to align it with international practice. Legislation on this issue may be introduced in 2008 or 2009 (and may be preceded by a discussion document).
- *Destroyed goods:* Imported goods destroyed under customs supervision are eligible for full customs rebates. However, this destruction is not eligible for comparable VAT relief, thereby requiring legislative amendment.
- *Transformation of imports:* Imported goods may not be subject to VAT if processed, manufactured, finished, equipped or packed in South Africa for export. Relief in this area, however, continues to be subject to technical difficulties in relation to the customs rules. These issues will be clarified and synchronized with the customs rules.
- *Imports of oil and gas drilling rig equipment:* The previous OP 26 lease regime for oil and gas exploration/production provided various tax incentives to encourage investment. These incentives included relief from VAT (and customs) import charges for oil and gas drilling rig equipment imports. With the termination of the OP 26 lease system, comparable and more transparent relief will be legislatively afforded in line with the initial intention of the former OP 26 lease regime.
- *Termination of refunds into third-party bank accounts:* The VAT Act currently provides SARS with the authority to make refunds to VAT vendors via bank accounts held by

third-party nominees. This practice may be withdrawn or restricted given the risks involved.

NEWLY PROPOSED CUSTOMS AND EXCISE AMENDMENTS

- *State warehouses:* For various reasons, imported goods may not be secured in a state warehouse, but at the place where the goods are found. Amendments to the Customs and Excise Act will be considered to provide for a more equitable distribution of state warehouse rent that becomes due to the owners of rental premises.
- *Alignment with the World Trade Organisation Valuation Agreement:* The Customs and Excise Act will be amended to enhance its alignment to the articles of the World Trade Organisation Valuation Agreement.
- *Counterfeit goods:* In 2007, the customs provisions relating to counterfeit goods were published but not promulgated. Consideration will be given toward refining some of these provisions in line with the amendments to the Counterfeit Goods Act, 1997.
- *Tobacco strategy:* Amendments to the Customs and Excise Act will be considered in order to further curb the illicit trade in tobacco products. These changes will support the implementation of the SARS tobacco strategy.
- *Waste and scrap remaining after destruction:* After goods are destroyed, some waste or scrap could remain. The Customs and Excise Act will be amended so that any duty thereon will be assessed as if the waste or scrap were imported.
- *Refunds against prevailing practice:* In the Income Tax and Value-added Tax Acts, SARS is not authorised to issue refunds if the initial amount was paid in accordance with practice generally prevailing. As a matter of consistency, a similar provision dealing with refunds must be added to the Customs and Excise Act.
- *Advance Passenger Information (API):* API is collected by the carrier at departure and electronically sent to the destination border control authorities. Empowering provisions to make compulsory the electronic furnishing of API to SARS will be considered.
- *Periodic clearance and electronic warehouse management system:* Amendments to the Customs and Excise Act will be considered to provide for the periodic clearance of goods imported into a licensed customs and excise warehouse. An electronic warehouse management system is also under consideration.
- *Small, medium and micro enterprises:* The Customs and Excise Act will be amended

to provide for simplified excise procedures for small, medium and micro enterprises.

- *Review of Schedule No. 8 – Licensing:* SARS will review the provisions within Schedule No. 8 to the Customs and Excise Act.
- *Submission of documents:* Amendments to the Customs and Excise Act will be considered to align the documents required to be produced upon the import or export of goods by declarants.
- *Administration over bulk goods:* The customs procedures relating to storage and movement of bulk goods will be simplified. These changes will reduce industry compliance costs while easing SARS administration.

NEWLY PROPOSED AMENDMENTS TO VARIOUS DUTIES AND LEVIES

- *General anti-avoidance rule to protect the estate duty:* Unlike other tax acts, the estate duty does not contain a general anti-avoidance rule to protect against estate duty avoidance. This general anti-avoidance rule will be added as well as specific anti-avoidance rules to prevent the artificial manipulation of estate values through the use of short-term trusts and similar arrangements.
- Estate duty assessment: Under current law, SARS can raise an initial assessment for an indefinite time after death. A time limit exists only upon additional assessment occurring after the initial assessment. Measures to limit the open-ended assessment window will be investigated.
- *Life insurance/pension benefits and estate duty:* The estate duty is levied on life insurance payouts, but only if certain structures are used. This disparity creates a premium on sophisticated tax planning (frequently enjoyed by the wealthy) while creating an inadvertent trap for the unwary. To rectify this, an explicit exemption will be added for life insurance up to a specified threshold (as long as that policy is not created shortly before death). As a related matter, disparities also exist for pension benefits on death depending on the structure used. Uniform relief will accordingly be explored that similarly eliminates traps for the unwary.
- *Stamp duty on leases:* Stamp duty has been mainly repealed except for leases of more than five years. Under consideration is the outright repeal of the remaining aspects of the stamp duty in order to simplify administration and compliance. At issue is whether this repeal could lead to the undermining of the transfer duty, and whether the transfer duty should be legislatively applied to the full range of long-term leases.

- *Industrial Development Zones (IDZs):* Customs and VAT relief already exist as an incentive for foreign investment into IDZs. At issue is whether IDZ management companies are eligible for tax-free treatment. Other issues of concern are the potential non-deductibility of tenant improvements to leased IDZ improvements and the Stamp Duty on long-term leases.
- *Reversing the burden of proof for the intent to evade:* Various tax acts presently provide that a taxpayer is presumed to have an intent to evade an assessment or taxation if that taxpayer makes a false statement or entry. This presumption can be overcome if the taxpayer provides proof to the contrary. The constitutionality of this presumption will be reviewed.
- *2010 FIFA World Cup:* Parties associated with the 2010 FIFA World Cup are eligible for a variety of tax-relief measures as part of the agreement to attract the World Cup to South Africa. Technical amendments will be added to ensure that these relief measures operate in full as initially intended. Issues slated for legislative change involve the exemption for the host broadcaster, application of employment related taxes and tax-free area adjustments.
- *Diamond export levy:* The Diamond Export Levy Act was promulgated into law in 2007 and is awaiting implementation via ministerial approval. In preparation for this implementation phase, it has been determined that the purchase of diamonds by foreign persons needs to be considered so as to properly regulate the collection and accounting of the levy that may be payable on these diamonds. Administrative implementation issues may also have to be considered.

TECHNICAL CORRECTIONS

In addition to the miscellaneous amendments above, the 2008 legislation will contain various technical corrections. These technical corrections will address non-revenue impact items, such as typing and grammatical errors, incorrect or misleading headings or definitions, misplaced cross-references, differences between the English and Afrikaans texts, obsolete provisions (e.g. updating the tax acts in the light of other non-tax legislative changes), incorporation of regulations into law and problems relating to effective dates. These technical corrections may also occasionally include changes to legislation clearly at odds with legislative intent as well as obvious ambiguities and omissions, especially in respect of legislation introduced in 2007. All technical corrections described herein are not intended as a change in policy.

ANNOUNCEMENTS AND FUTURE WEBSITE REQUEST FOR FURTHER INFORMATION

In addition to the agenda described above, a number of future tax legislative items will be analysed as works in progress for possible finalisation after 2008. Even though many of these items are merely in need of internal review, certain items call for early public participation. Below are some items in which public participation will be requested.

- *Property investment vehicles:* It was announced in the 2007 Budget Review that the regulatory and tax regimes relating to property holding entities will be analysed during the course of 2007. A discussion document was released on 3 December 2007 with the comment period ending on 31 January 2008. A response document will follow which will cover detailed design features and draft legislation.
- *Collective investment schemes and hedge funds:* An international trend exists to provide collective investment schemes in securities with a more flexible mandate. This flexibility offers foreign funds a competitive advantage over South African domestic funds. In view of the complexities related to hedge funds, it is proposed that the regulatory and tax policy issues relating to collective investment schemes and hedge funds be reviewed during the course of 2008. This review will entail the release of a high-level policy statement as a precursor to a more comprehensive discussion document.
- *Future website request for comment:* Taxpayers frequently make requests for legislative changes. In the past two years, the National Treasury has regularised these requests by sending out a formal invitation for comment a few months before the annual tax budget process is complete. These requests often result in amendments, some of which have been described above. Others are rejected. Still others raise issues of policy interest but the arguments raised often fail to contain sufficient motivation. To maintain momentum on this latter group of issues, the National Treasury will issue a website request later this year for public comment on issues that warrant further consideration. Based on the comments received, some of these items may be added to the budget proposal process for 2009.

SUMMARY OF THE EFFECTS OF THE 2008 BUDGET TAX PROPOSALS

R million	Effect of tax proposals
Taxes on individuals and companies	**(15 100)**
Personal income tax	(7 700)
Adjust personal income tax rate structure	(7 200)
Adjustment in monetary thresholds (medical scheme contributions savings)	(500)
Business Taxes	**(7 400)**
Reduction in corporate income tax rate	(5 000)
Presumptive tax structure for very small businesses	(200)
Industrial policy	(1 000)
Adjustment in monetary thresholds (VAT, etc.)	(500)
Other tax incentives	(700)
Indirect taxes	**4 600**
Increase in general fuel levy	1 250
Increase in excise duties on tobacco products and alcoholic beverages	1 350
Electricity levy	2 000
Budget 2008/09 proposals	**(10 500)**

NOTES

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