TAX PROPOSALS

BUDGET 2012

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Contents

Overview

The 2012 tax proposals support a sustainable fiscal framework over the medium term, while facilitating economic growth and a more competitive economy. Reforms will improve the fairness of the tax system, ensuring that income from capital is taxed more appropriately. Measures are proposed to encourage household savings. Financing options for national health insurance as part of a strengthened public health system will be explored.

Meeting South Africa's development challenges requires sufficient revenue to fund key expenditure priorities, while ensuring that public debt and debt-service costs are contained, and avoiding overburdening taxpayers. Government is taking steps to improve the efficiency of public expenditure and to root out corruption.

Main tax proposals

- Personal income tax relief of R9.5 billion
- Relief for micro and small businesses
- Implementing the dividend withholding tax at 15 per cent
- An increase in effective capital gains tax rates
- Reforms to the tax treatment of contributions to retirement savings
- Further reforms of the tax treatment of medical scheme contributions
- Higher taxes on alcohol and tobacco products.

Proposals affecting individuals

Personal income tax relief

To ensure that the direct personal income tax burden on individuals remains reasonable, personal income tax brackets and rebates are adjusted to take account of inflation or "bracket creep", as well as provide limited real tax relief. The 2012 Budget proposes direct personal income tax relief to individuals amounting to R9.5 billion.

Personal income tax provides the foundation for an equitable and progressive tax system. The distribution of taxpayers and their relative contributions to the income tax base are shown below.

Estimates of individual taxpayers and taxable income

	Taxpayers		Taxable income		Income tax payable		Personal income tax relief	
Taxable bracket	**Number**	**%**	**R million**	**%**	**R million**	**%**	**R million**	**%**
Below R60 000	4 864 000		99 957					
R60 001 to R160 000	1 792 100	29.0%	187 031	12.1%	12 630	4.3%	-1 333	14.1%
R160 001 to R260 000	2 711 200	43.9%	563 174	36.3%	78 387	26.5%	-3 784	39.9%
R260 001 to R600 000	1 396 200	22.6%	471 950	30.4%	94 582	32.0%	-3 018	31.8%
R600 001 to R1 000 000	175 500	2.8%	130 603	8.4%	38 355	13.0%	- 730	7.7%
> R1 000 001	102 050	1.7%	198 826	12.8%	71 782	24.3%	- 618	6.5%
Total	**6 177 050**	**100.0%**	**1 551 584**	**100.0%**	**295 735**	**100%**	**-9 483**	**100.0%**

The primary rebate has been increased to R11 440 per year for all individuals. The secondary rebate, which applies to individuals aged 65 years and over, is increased to R6 390 per year. The third rebate, which applies to individuals aged 75 years and over, is increased to R2 130 per year. The threshold below which individuals are not liable for personal income tax is increased to R63 556 of taxable income per year for those below the age of 65, R99 056 per year for those aged 65 to 74, and R110 889 for age 75 and over. The rates for the 2011/12 tax year and the proposed rates for 2012/13 are set out below.

Personal income tax rate and bracket adjustments

2011/12		2012/13	
Taxable income (R)	**Rates of tax**	**Taxable income (R)**	**Rates of tax**
R0 - R150 000	18% of each R1	R0 - R160 000	18% of each R1
R150 001 - R235 000	R27 000 + 25% of the amount above R150 000	R160 001 - R250 000	R28 800 + 25% of the amount above R160 000
R235 001 - R325 000	R48 250 + 30% of the amount above R235 000	R250 001 - R346 000	R51 300 + 30% of the amount above R250 000
R325 001 - R455 000	R75 250 + 35% of the amount above R325 000	R346 001 - R484 000	R80 100 + 35% of the amount above R346 000
R455 001 - R580 000	R120 750 + 38% of the amount above R455 000	R484 001 - R617 000	R128 400 + 38% of the amount above R484 000
R580 001	R168 250 + 40% of the amount above R580 000	R617 001	R178 940 + 40% of the amount above R617 000
Rebates		**Rebates**	
Primary	R10 755	Primary	R11 440
Secondary	R6 012	Secondary	R6 390
Tertiary	R2 000	Tertiary	R2 130
Tax threshold		**Tax threshold**	
Below age 65	R59 750	Below age 65	R63 556
Age 65 and over	R93 150	Age 65 and over	R99 056
Age 75 and over	R104 261	Age 75 and over	R110 889

Income tax payable by individuals younger than 65 years

Taxable income (R)	2011 rates (R)	Proposed rates (R)	Tax deduction (R)	% reduction
65 000	945	260	- 685	-72.5%
80 000	3 645	2 960	- 685	-18.8%
100 000	7 245	6 560	- 685	-9.5%
120 000	10 845	10 160	- 685	-6.3%
150 000	16 245	15 560	- 685	-4.2%
200 000	28 745	27 360	-1 385	-4.8%
250 000	41 995	39 860	-2 135	-5.1%
300 000	56 995	54 860	-2 135	-3.7%
400 000	90 745	87 560	-3 185	-3.5%
500 000	127 095	123 040	-4 055	-3.2%
750 000	225 495	220 700	-4 795	-2.1%
1 000 000	325 495	320 700	-4 795	-1.5%

Income tax payable by individuals aged 65 and over but younger than 75 years

Taxable income (R)	2011 rates (R)	Proposed rates (R)	Tax deduction (R)	% reduction
120 000	4 833	3 770	-1 063	-22.0%
150 000	10 233	9 170	-1 063	-10.4%
200 000	22 733	20 970	-1 763	-7.8%
250 000	35 983	33 470	-2 513	-7.0%
300 000	50 983	48 470	-2 513	-4.9%
400 000	84 733	81 170	-3 563	-4.2%
500 000	121 083	116 650	-4 433	-3.7%
750 000	219 483	214 310	-5 173	-2.4%
1 000 000	319 483	314 310	-5 173	-1.6%

Income tax payable by individuals aged 75 years and older

Taxable income (R)	2011 rates (R)	Proposed rates (R)	Tax deduction (R)	% reduction
120 000	2 833	1 640	-1 193	-42.1%
150 000	8 233	7 040	-1 193	-14.5%
200 000	20 733	18 840	-1 893	-9.1%
250 000	33 983	31 340	-2 643	-7.8%
300 000	48 983	46 340	-2 643	-5.4%
400 000	82 733	79 040	-3 693	-4.5%
500 000	119 083	114 520	-4 563	-3.8%
750 000	217 483	212 180	-5 303	-2.4%
1 000 000	317 483	312 180	-5 303	-1.7%

Implementation of dividend withholding tax

As announced previously, the dividend withholding tax will come into effect on 1 April 2012, bringing an end to the secondary tax on companies. Pension funds that are exempt from income tax will receive their dividends tax free. For equity reasons it is proposed that the dividend withholding tax come into effect at 15 per cent – five percentage points higher than the previous secondary tax on companies rate. Income from capital can be derived as interest income, dividends or capital gains, all of which should be taxed equitably.

High-income individuals tend to receive a larger portion of their income in the form of dividends and capital gains. The higher rate will also help to mitigate some of the revenue losses when switching from the secondary tax on companies to the new tax. The estimated net loss as a result of these changes will be R1.9 billion.

Increase in effective capital gains tax rates

Capital gains tax was introduced in 2001 at relatively modest rates and has remained unchanged for the past 10 years. This reform has helped to ensure the integrity and progressive nature of the tax system. To enhance equity, effective capital gains tax rates will be increased. The inclusion rate for individuals and special trusts will increase to 33.3 per cent, shifting their maximum effective capital gains tax rate to 13.3 per cent. The inclusion rate for other entities (companies and other trusts) will increase to 66.6 per cent, raising the effective rate for companies to 18.6 per cent and for other trusts to 26.7 per cent. These changes will come into effect for the disposal of assets from 1 March 2012.

Proposed capital gains tax inclusion rates

	Current rates 2011/12	Proposed rates 2012/13
For individuals and special trusts	25%	33.3%
For other persons	50%	66.6%

To limit the impact of capital gains taxation on middle-income households, the exemption thresholds for individual capital gains and for primary residences will be adjusted significantly. The following exemptions for individual capital gains are increased from 1 March 2012:

- The annual exclusion from R20 000 to R30 000
- The exclusion amount on death from R200 000 to R300 000
- The primary residence exclusion from R1.5 million to R2 million
- The exclusion amount on the disposal of a small business when a person is over age 55 from R900 000 to R1.8 million
- The maximum market value of assets allowed for a small business disposal for business owners over 55 years increases from R5 million to R10 million.

Medical deductions converted to medical tax credits

Medical tax credits are a more equitable form of relief than medical deductions because the relative value of the relief does not increase with higher income levels. As announced in the 2011 Budget, income tax deductions for medical scheme contributions for taxpayers below 65 years will be converted into such credits. Monthly tax credits will be increased from R216 to R230 for the first two beneficiaries and from R144 to R154 for each additional beneficiary with effect from 1 March 2012. From that date onwards (apart from those with disabilities), where medical scheme contributions in excess of four times the total allowable tax credits plus out-of-pocket medical expenses combined exceed 7.5 per cent of taxable income, they can be claimed as a deduction against taxable income.

To ensure improved equity of the tax system and to help curb increases in health costs, additional medical deductions will be converted into tax credits at a rate of 25 per cent for taxpayers aged below 65 years with effect from 1 March 2014. Also with effect from the same date, employer contributions to medical schemes on behalf of ex-employees will be deemed a taxable fringe benefit and such ex-employees will be able to claim the appropriate tax credits.

Taxpayers 65 years and older, and those with disabilities or with disabled dependants, can currently claim all medical scheme contributions and out-of-pocket medical expenses as a deduction against their taxable income. The tax credits will, as from 1 March 2014, apply to all taxpayers. However, taxpayers 65 years and older and those with disabilities or disabled dependants will be able to convert all medical scheme contributions in excess of three times the total allowable tax credits plus out-of-pocket medical expenses into a tax credit of 33.3 per cent. Note that the 7.5 per cent threshold will not apply in the case of taxpayers 65 years and older and those with disabilities or with disabled dependants.

Funding options for national health insurance

National health insurance is to be phased in over a 14-year period beginning in 2012/13. The new system will provide equitable health coverage for all South Africans. Plans to begin the first phase of national health insurance, and initial funding requirements, are discussed in some detail in Chapter 6 of the Budget Review. Over time, the new system will require funding over and above current budget allocations to public health. Funding options include an increase in the VAT rate, a payroll tax on employers, a surcharge on the taxable income of individuals, or some combination of the above.

Achieving an appropriate balance in the funding of national health insurance is necessary to ensure that the tax structure remains supportive of economic growth, job creation and savings. The role and implications of co-payments or user charges under certain circumstances (for example, to limit overuse and risky behaviours) will also be explored. A discussion paper will be published by end-April 2012.

Encouraging household savings

To encourage greater savings among South Africans, tax-preferred savings and investment accounts are proposed as alternatives to the current tax-free interest-income caps. This will encourage a new generation of savings products. Returns generated within these savings and investment vehicles (including interest, capital gains and dividends) and withdrawals will be tax exempt. Aggregate annual contributions could be limited to R30 000 per year per taxpayer, with a lifetime limit of R500 000, to ensure that high net-worth individuals do not benefit disproportionately. The design and costs (banking and other fees) of these savings and investment vehicles may be regulated to help lower-income earners to participate.

Government proposes to introduce tax-preferred savings and investment vehicles by April 2014. A discussion document will be published by May 2012 to facilitate consultation and refine these proposals.

Retirement reforms

To encourage South Africans to save for retirement, contributions by employees and employers to pension, provident and retirement funds will be tax deductible by individual employees.

Individual taxpayer deductions will be set at 22.5 and 27.5 per cent, for those below 45 years and 45 and above respectively, of the higher of employment or taxable income. Annual deductions will be limited to R250 000 and R300 000 for taxpayers below 45 years and 45 and above respectively. A minimum monetary threshold of R20 000 will apply to allow low-income earners to contribute in excess of the prescribed percentages. Non-deductible contributions (in excess of the thresholds) will be exempt from income tax if, on retirement, they are taken as either part of the lump sum or as annuity income. Measures to address some of the complexities of defined benefit pension schemes will be considered. These amendments will come into effect on 1 March 2014.

A rollover dispensation similar to the current retirement annuity contributions will be adopted to allow flexibility in contributions for those with fluctuating incomes. Contributions towards risk benefits and administration costs within retirement savings will be included in the maximum percentage allowable deduction.

Lump sum withdrawals upon retirement from pension and retirement annuity funds are restricted to a maximum of one-third of accumulated savings. Consultations will be held with interested parties on a uniform approach to retirement fund withdrawals, taking into account vested rights and appropriate transitional arrangements.

Business taxes

In addition to the dividend withholding tax and adjustments to capital gains tax discussed earlier, several business tax measures are proposed.

Turnover tax for micro businesses

Several reforms of the turnover tax for micro businesses (with annual turnover below R1 million) were announced in 2011. Building on these reforms, micro businesses will be given the option of making payments for turnover tax, VAT and employees' tax at twice-yearly intervals from 1 March 2012. It is further envisaged that a single combined return will be filed on a twice-yearly basis from 1 March 2013. The number of returns required for these taxes will fall from about 18 per year to only two a year in 2013. The build-up of tax liability will require such taxpayers to ensure that funds are available when payment is due.

Small business corporations

To encourage the growth of small incorporated businesses, government proposes to increase the tax-free threshold for such firms from R59 750 to R63 556. Taxable income up to R300 000 is taxed at 10 per cent; this threshold is now increased to R350 000 and the applicable rate reduced to 7 per cent. For taxable income above R350 000, the normal corporate tax rate of 28 per cent applies. These amendments will come into effect for years of assessment ending on or after 1 April 2012.

Limiting excessive debt in businesses

Public debate on section 45 of the Income Tax Act (1962) and private equity acquisitions has highlighted the need to improve the classification of corporate financing. The main problem is the erroneous classification of certain instruments as "debt" to generate interest deductions for the debtor, when such instruments more accurately represent equity financing. Similarly, in some private equity transactions, where creditors receive exempt interest income, the deductibility of interest payments deprives the fiscus of revenue. Excessive debt can also give rise to excessively risky transactions that may represent "credit risk" for the domestic market.

To address these concerns, government will enact a revised set of reclassification rules deeming certain debt to be equivalent to shares. In 2013 government will also consider an "across-the-board" percentage ceiling on interest deductions, relative to earnings before interest and depreciation, to limit excessive debt financing.

Debt used to fund share acquisitions

Unlike most countries, South Africa does not allow for interest to be deductible when debt is used to acquire shares. Section 45 has been used as an indirect acquisition technique to facilitate the deduction of interest payments by allowing debt to be formally matched against underlying assets as opposed to shares. Given the acceptance of section 45 as an indirect share acquisition tool, it is now proposed that the use of debt to directly acquire controlling share interests of at least 70 per cent be allowed. However, the interest associated with this form of debt acquisition will be subject to the same controls applied to section 45 acquisitions.

Property loan stock companies and property unit trusts

Property unit trusts and property loan stock companies typically provide a commitment to distribute a minimum of 90 per cent of their rental income to investors. The distribution of rental income is effectively tax-neutral in the hands of the property unit trust. Property loan stock companies appear to achieve roughly the same result but without official sanction. They issue investors a dual-linked unit that consists of a debenture and a share with the distribution in the form of interest.

The dual-linked structure needs to be eliminated so that other entities do not undertake the same structure to avoid tax by relying on excessive debt. The governance of property loan stock entities will be placed on par with property unit trusts. Rental income from these entities will fall under the pass-through regime that applies to property unit trusts.

Special economic zones

Legislation will introduce special economic zones, which will build on the industrial development zone policy. The main aim is to improve governance, streamline procedures and provide more focused support to businesses operating within these zones. In support of this initiative, the following tax interventions will be explored:

- A possible reduction in the headline corporate income tax rate for businesses within selected zones (as determined by the Minister of Finance after consultation with the Minister of Trade and Industry).
- An income tax exemption for the operators of special economic zones.
- An additional deduction from taxable income for the employment of workers earning below a predetermined threshold.

Incentives for the construction of affordable housing

There is insufficient affordable housing stock for middle-income households above the income thresholds for RDP-type housing, but who cannot afford high mortgage finance. To address this "gap market", a tax incentive for developers (and employers) to build new housing stock (at least five units in compliance with prescribed standards) for sale below R300 000 per dwelling is under consideration. Options include either a tax credit or a deduction at either a fixed rand amount per unit or as a percentage of the value of the dwelling. This proposal will be refined after public consultation. Policy alignment with existing housing incentives and attempts to unblock regulatory bottlenecks will also be considered.

Some low-income employees receive financial assistance from their employers to acquire a house. The current tax hurdles associated with such assistance will also be explored.

International

Dual-listed companies and other offshore reorganisations

In 2011, government introduced rollover rules for some offshore reorganisations. The purpose was to give South African multinationals more flexibility when restructuring offshore subsidiaries, and to curtail the use of the offshore participation exemption to avoid tax. Now that steps have been taken to bring misuse of section 45 under control, government proposes to introduce an offshore section 45 provision. It would also appear that unbundlings are used to facilitate dual-linked structures that allow for foreign operations to be shifted outside South Africa's tax jurisdiction. The participation exemption will be curtailed if the transaction indirectly strips value from a South African multinational.

Rationalisation of withholding tax on foreign payments

International investors are subject to a final withholding tax when receiving royalties unless a tax treaty provides otherwise. They will also be subject to a final withholding tax on interest income as from 2013, subject to tax treaty exemptions. Government proposes to coordinate and streamline the procedures, rates and times for all of these withholding tax regimes, including the adoption of a uniform rate of 15 per cent.

Indirect taxes

Climate change: carbon emissions tax

A carbon tax will contribute to the global response to mitigate climate change. A modest carbon tax will begin to price carbon dioxide emissions so that the external costs resulting from such emissions start to be incorporated into production costs and consumer prices. This will also create incentives for changes in behaviour and encourage the uptake of cleaner-energy technologies, energy-efficiency measures, and research and development of low-carbon options.

Proposed design of carbon emissions tax to help mitigate global climate change

Following public consultation, government has revised its concept design for a carbon tax, and a draft policy paper will be published for comment in 2012. The proposed design features include:

- Percentage-based rather than absolute emissions thresholds, below which the tax will not be payable.
- A higher tax-free threshold for process emission, with consideration given to the limitations of the cement, iron and steel, aluminium and glass sectors to mitigate emissions over the near term.
- Additional relief for trade-exposed sectors.
- The use of offsets by companies to reduce their carbon tax liability.

- Phased implementation

  The tax will apply to carbon dioxide equivalent (CO_2e) emissions calculated using agreed methods. A basic tax-free threshold of 60 per cent (with additional concession for process emissions and for trade-exposed sectors) and maximum offset percentages of 5 or 10 per cent until 2019/20 is proposed. Additional relief will be considered for firms that reduce their carbon intensity during this first phase. The reduction in carbon intensity will be measured with reference to a base year or industry benchmark. Tax-free thresholds will be reduced during the second phase (2020 to 2025) and may be replaced with absolute emission thresholds thereafter. Alignment with the proposed carbon budgets as per the national climate change response white paper (2011) will be important.

  A carbon tax at R120 per ton of CO_2e above the suggested thresholds is proposed to take effect during 2013/14, with annual increases of 10 per cent until 2019/20. Revenues from the tax will not be earmarked, but consideration will be given to spending to address environmental concerns. Incentives such as the proposed energy-efficiency tax incentive and measures to assist low-income households will be supported.

Government will be publishing its second version of a draft policy paper on carbon tax, outlining its revised concept. To minimise adverse impacts on industry competitiveness and effectively manage the transition to a low-carbon economy, temporary thresholds are proposed below which an exemption from the carbon tax will be granted. The table below summarises the proposed emission thresholds for the carbon emissions tax, including a basic percentage tax-free threshold for all sectors, further adjustments to account for the trade exposure of a firm (up to a maximum), a flat allowance for sector process emissions with limited potential for mitigation, and maximum allowable percentage offsets.

Proposed emissions thresholds for sectors

Sector	Basic tax free threshold (%) below which no carbon tax will be payable during the first phase (2013 to 2019)	Maximum Additional allowance trade exposure	Additional allowance for "process" emissions	Total	Maximum offset percentage
Electricity	60%	-	-	60%	10%
Petroleum (coal to liquid)	60%	10%	-	70%	10%
Petroleum – oil refinery	60%	10%	-	70%	10%
Iron and steel	60%	10%	10%	80%	5%
Aluminium	60%	10%	10%	80%	5%
Cement	60%	10%	10%	80%	5%
Glass & ceramics	60%	10%	10%	80%	5%
Chemicals	60%	10%	10%	80%	5%
Pulp & paper	60%	10%	-	70%	10%
Sugar	60%	10%	-	70%	10%
Agriculture, forestry and land use	60%	-	40%	100%	-
Waste	60%	-	40%	100%	-
Fugitive emissions: coal	60%	10%	10%	80%	5%
Other	60%	10%	-	70%	10%

In addition to the proposed percentage thresholds in the table above, firms will be encouraged to reduce the carbon intensity of their products during the first phase of the scheme. This could be accommodated by adjusting the basic percentage tax-free threshold by increasing or decreasing it by a factor (Z). The box below explains the formula to be used to determine this adjustment. The overall tax-free allowance for an entity will be capped at 90 per cent of actual verified emissions.

The basic percentage tax-free threshold

Percentage thresholds will be used to quantify the carbon tax liability of an entity or firm based on the absolute emissions for that year. A formula is proposed to adjust the basic percentage tax-free threshold to take into account efforts already made by firms to reduce their emissions and to encourage firms to invest in low-carbon alternatives. The basic percentage threshold below which the tax will not be payable may be adjusted using a carbon emissions intensity factor for output compared to an agreed sector benchmark. A formula is proposed to calculate a factor Z, which will then be used to adjust (increase or decrease) the basic percentage tax-free threshold as described below:

Z = Y / X

X is the average measured and verified carbon intensity of the output of a firm.

Y is the agreed benchmark carbon intensity for the sector.

The adjustment to the tax-free threshold is then determined by multiplying the original percentage threshold by Z.

Example:

Assume that the agreed benchmark carbon emission intensity is 0.9tCO_2e/ton output. Further assume that the absolute level of greenhouse gas emissions for three different firms (A, B & C) is 100 000 tons CO_2e for each firm. The basic percentage tax-free threshold is 60 per cent and the carbon emissions intensity for Firm A is 0.9tCO_2e/ton of output, for Firm B is 0.85CO_2e/t of output and for Firm C is 1.1tCO_2e/ton of output. The factor by which the basic percentage tax-free threshold (Z) should be adjusted for each of the three firms is:

Z = Y / X

Firm A: Z = 0.91 / 09.1 = 1.00

Firm B: Z = 0.91 / 0.85 = 1.0706

Firm C: Z = 0.91 / 1.1 = 0.8273

The adjusted basic percentage tax-free thresholds for the three firms are as follows:

Firm A = 0.6 × Z = 0.6 × 1.0 = 0.60000 = 60.000 per cent

Firm B = 0.6 × Z = 0.6 × 1.0706 = 0.64236 = 64.236 per cent

Firm C = 0.6 × Z = 0.6 × 0.8273 = 0.49638 = 49.638 per cent

The basic percentage tax-free emissions are:

Firm A = 60.00 per cent of 100 000 tons = 60 000 tons

Firm B = 64.236 per cent of 100 000 tons = 64 236 tons

Firm C = 49.638 per cent of 100 000 tons = 49 638 tons

Given that the carbon emission intensity for Firm A is the same as the benchmark figure, its basic percentage tax-free threshold remains unchanged. Firm B is doing better than the carbon emissions intensity benchmark, therefore it qualifies for a higher basic percentage tax-free threshold. Firm C is doing worse than the carbon emission intensity benchmark. It is penalised for this poor performance. Its basic percentage tax-free threshold is reduced from 60 per cent to 49.638 per cent.

Electricity levy increase

The electricity levy generated from non-renewable sources will be increased by 1c/kWh to 3.5c/kWh. The additional revenue will be used to fund energy-efficiency initiatives such as the solar water heater programme. This arrangement will replace the current funding mechanism that is incorporated into Eskom's annual tariff application. It will enhance transparency and enable government to use alternative agencies to deliver on energy-efficiency initiatives. The net impact on electricity tariffs should be neutral.

Increase in general fuel levy and Road Accident Fund levy

Government proposes to increase the general fuel levy and Road Accident Fund (RAF) levy by 20c/l and 8c/l respectively with effect from 4 April 2012. The table below shows the fuel tax rates and estimated fuel tax burden expressed as a percentage of retail and wholesale prices.

Total combined fuel taxes on petrol and diesel

	2010/11		2011/12		2012/13	
c / litre	**93 Octane petrol**	**Diesel**	**93 Octane petrol**	**Diesel**	**93 Octane petrol**	**Diesel**
General fuel levy	167.50	152.50	177.50	162.50	197.50	182.50
Road Accident Fund levy	72.00	72.00	80.00	80.00	88.00	88.00
Customs and excise levy	4.00	4.00	4.00	4.00	4.00	4.00
Illuminating paraffin marker	0.00	0.01	0.00	0.01	0.00	0.01
Total	**243.50**	**228.51**	**261.50**	**246.51**	**289.50**	**274.51**
Pump price: Gauteng (as in February)[1]	785.00	701.85	884.00	814.05	1 077.00	1 026.69
Taxes as % of pump price	*31.0%*	*32.6%*	*29.6%*	*30.3%*	*26.9%*	*26.7%*

1. Diesel (0.05% sulphur) wholesale price (retail price not regulated)

Value-added tax (VAT)

Square Kilometre Array

South Africa (in cooperation with other African countries) is bidding to host the Square Kilometre Array (SKA), an international collaboration to build the world's largest radio telescope. SKA is eligible for income-tax exemption under existing public-benefit provisions. Under consideration is providing VAT relief either in the form of a refund mechanism or the zero-rating of consideration received by the project and for imported goods and services if South Africa were to win the bid.

Financial services

Government will eliminate the VAT zero-rating of interest earned on loans to non-residents to level the playing field.

Review of VAT on indirect exports and temporary imports

The policy, legislation and administration of the VAT treatment of indirect exports of goods by road will be reviewed to ensure that exporters are not prejudiced and that the fiscus continues to be protected against potential abuses.

Government will review the VAT treatment of temporary imports to promote local processing and beneficiation, while protecting the fiscus.

Revised gambling tax

The 2011 Budget proposed a withholding tax on gambling winnings above R25 000. After broader consultation, a national gambling tax based on gross gambling revenue will be introduced. This tax, effective from 1 April 2013, will take the form of an additional 1 per cent national levy on a uniform provincial gambling tax base. A similar tax base will be used to tax the national lottery.

Excise duties on tobacco and alcohol

The excise duties on tobacco products are determined in accordance with a targeted total tax burden (excise duties plus VAT) of 52 per cent of the retail price. Increases in excise duties on tobacco products of between 5 and 8.2 per cent are proposed.

The current targeted total tax burdens (excise duties plus VAT) on alcoholic beverages are 23, 33, and 43 per cent of the weighted average retail selling price of wine, clear beer and spirits respectively. Following an announcement in Budget 2011, the appropriateness of these benchmark tax burdens was reviewed.

It is now proposed to retain the current benchmark for wine but to increase the targeted benchmark tax burdens for beer and spirits to 35 and 48 per cent respectively. These increases will be phased in over two years. The resulting increases in excise duties on alcoholic beverages for this year range between 6 and 20 per cent. The increase will complement broader efforts to reduce alcohol abuse.

Changes in specific excise duties

Product	Current excise duty rate	Proposed excise duty rate	Percentage change Nominal	Real
Malt beer	R53.97 / litre of absolute alcohol (91.75c / average 340ml can)	R59.36 / litre of absolute alcohol (100.98c / average 340ml can)	*9.99%*	*3.82%*
Traditional African beer	7.82c / litre	7.82c / litre	*0.00%*	*-5.60%*
Traditional African beer powder	34.70c / kg	34.70c / kg	*0.00%*	*-5.60%*
Unfortified wine	R2.32 / litre	R2.50 / litre	*7.76%*	*1.72%*
Fortified wine	R4.33 / litre	R4.59 / litre	*6.00%*	*0.06%*
Sparkling wine	R6.97 / litre	R7.53 / litre	*8.03%*	*1.98%*
Ciders and alcoholic fruit beverages	R2.71 / litre (92.14c / average 340ml can)	R2.97 / litre (100.98c / average 340ml can)	*9.59%*	*3.45%*
Spirits	R93.03 / litre of absolute alcohol (R30.00 / 750ml bottle)	R111.64 / litre of absolute alcohol (R36.00 / 750ml bottle)	*20.00%*	*13.28%*
Cigarettes	R9.74/ 20 cigarettes	R10.32/ 20 cigarettes	*5.95%*	*0.02%*
Cigarette tobacco	R10.53/ 50g	R11.05/ 50g	*4.94%*	*-0.94%*
Pipe tobacco	R2.98/ 25g	R3.22/ 25g	*8.05%*	*2.00%*
Cigars	R50.52 / 23g	R53.05 / 23g	*5.01%*	*-0.88%*

It is proposed that the customs and excise duties in the Customs and Excise Act No. 91 of 1964 (schedule 1, part 2 of section A) be amended with effect from 22 February 2012 to the extent shown below.

Specific excise duties

Tariff item	Tariff heading	Description	2011/12 Present rate of duty Excise	Customs	2012/13 Proposed rate of duty Excise	Customs
104.00		**Prepared foodstuffs; beverages, spirits and vinegar; tobacco**				
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 preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5 per cent by mass of cocoa calculated on a totally defatted basis not elsewhere specified or included:**				
		Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34.7c/kg	34.7c/kg	34.7c/kg	34.7c/kg
104.10	22.03	**Beer made from malt:**				
		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/li	7.82c/li	7.82c/li	7.82c/li
		Other	R53.97/li aa	R53.97/li aa	R59.36/li aa	R59.36/li aa

Tariff item	Tariff heading	Description	2011/12 Present rate of duty		2012/13 Proposed rate of duty	
			Excise	Customs	Excise	Customs
104.15	**22.04**	**Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):**				
104.16	**22.05**	**Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:**				
		Sparkling	R6.97/li	R6.97/li	R7.53/li	R7.53/li
		Unfortified wine of heading 22.04, with an alcoholic strength by volume exceeding 6.5 per cent vol. but not exceeding 16.5 per cent vol.	R2.32/li	R2.32/li	R2.50/li	R2.50/li
		Unfortified wine of heading 22.05, with an alcoholic strength by volume exceeding 6.5 per cent vol. but not exceeding 15 per cent vol.	R2.32/li	R2.32/li	R2.50/li	R2.50/li
		Fortified wine of headings 22.04 and 22.05 with an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 22 per cent vol.	R4.33/li	R4.33/li	R4.59/li	R4.59/li
		Other	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
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:**				
		Sparkling beverages	R6.97/li	R6.97/li	R7.53/li	R7.53/li
		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/li	7.82c/li	7.82c/li	7.82c/li
		Other fermented beverages, unfortified, with an alcoholic strength by volume not exceeding 9 per cent vol.	R2.71/li	R2.71/li	R2.97/li	R2.97/li
		Other fermented beverages, unfortified, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2.71/li	R2.71/li	R2.97/li	R2.97/li
		Other fermented beverages, fortified, with an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38.00/li aa	R38.00/li aa	R45.60/li aa	R45.60/li aa
		Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, with an alcoholic strength by volume not exceeding 9 per cent vol.	R2.71/li	R2.71/li	R2.97/li	R2.97/li
		Other, mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, with an alcoholic strength by volume exceeding 9 per cent vol. but not exceeding 15 per cent vol.	R2.71/li	R2.71/li	R2.97/li	R2.97/li
		Other	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa

Tariff item	Tariff heading	Description	2011/12 Present rate of duty		2012/13 Proposed rate of duty	
			Excise	Customs	Excise	Customs
104.21	**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:**	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
104.23	**22.08**	**Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:**				
		Spirits obtained by distilling grape wine or grape marc	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
		Whiskies	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
		Rum and other spirits obtained by distilling fermented sugarcane products	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
		Gin and Geneva	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
		Vodka	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
		Liqueurs and cordials:				
		With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38.00/li aa	R38.00/li aa	R45.60/li aa	R45.60/li aa
		Other	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
		Other:				
		With an alcoholic strength by volume exceeding 15 per cent vol. but not exceeding 23 per cent vol.	R38.00/li aa	R38.00/li aa	R45.60/li aa	R45.60/li aa
		Other	R93.03/li aa	R93.03/li aa	R111.64/li aa	R111.64/li aa
104.30	24.02	**Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:**				
		Cigars, cheroots and cigarillos containing tobacco	R2 196.65 /kg net	R2 196.65 /kg net	R2 306.48 /kg net	R2 306.48 /kg net
		Cigarettes containing tobacco	R4.87 /10 cigarettes	R4.87 /10 cigarettes	R5.16 /10 cigarettes	R5.16 /10 cigarettes
		Cigars, cheroots and cigarillos of tobacco substitutes	R2 196.65 /kg net	R2 196.65 /kg net	R2 306.48 /kg net	R2 306.48 /kg net
		Cigarette of tobacco substitutes	R4.87 /10 cigarettes	R4.87 /10 cigarettes	R5.16 /10 cigarettes	R5.16 /10 cigarettes

Tariff item	Tariff heading	Description	2011/12 Present rate of duty		2012/13 Proposed rate of duty	
			Excise	Customs	Excise	Customs
104.35	24.03	**Other manufactured tobacco and manufactured tobacco substitutes; “homogenised” or “reconstituted” tobacco; tobacco extracts and essences:**				
		Smoking tobacco, whether or not containing tobacco substitutes in any proportions:				
		Water pipe tobacco specified in Subheading Note 1 to Chapter 24	R119.16 /kg net	R119.16	R128.69 /kg net	R128.69
		Pipe tobacco, in immediate packings of a content of less than 5 kg	R119.16 /kg net	R119.16	R128.69 /kg net	R128.69
		Other pipe tobacco	R119.16 /kg net	R119.16	R128.69 /kg net	R128.69
		Cigarette tobacco	R210.51 /kg	R210.51	R221.04 /kg	R221.04
		Other:				
		Other cigarette tobacco substitutes	R210.51 /kg	R210.51	R221.04 /kg	R221.04
		Other pipe tobacco substitutes	R119.16 /kg net	R119.16	R128.69 /kg net	R128.69

Financial transaction tax reform (securities transfer tax)

South Africa has a financial transaction tax in place in the form of the securities transfer tax. This is a tax of 0.25 per cent on purchases of shares, with an exemption for brokers who acquire shares for their own benefit. It is proposed that the current blanket exemption for brokers be abolished and broker transactions, where the beneficial ownership rests with the broker, be taxed at an appropriate lower rate. This reduced rate will also cover the purchase of shares utilised in support of derivative hedging.

These amendments will come into effect on 1 April 2013. Government will also investigate the feasibility of including derivatives in the base of the securities transfer tax.

Taxation of luxury goods

From 1 October 2012, government proposes to subject the following items to ad valorem tax at the indicated rates:

- Aeroplanes and helicopters with a mass exceeding 450kg but not 5 000kg at 7 per cent
- Motorboats and sailboats longer than 10m at 10 per cent.

Tax administration

During 2012/13, the South African Revenue Service (SARS) will increase its focus on cross-border cooperation. In addition, several other administrative areas will receive attention.

Tax Administration Bill

The bill has been approved by Parliament. It incorporates the common administrative elements of current tax law into one piece of legislation, and makes further improvements in this area. The bill is expected to be promulgated and most of its provisions brought into force in 2012.

Voluntary disclosure programme

By mid-February 2012, SARS had captured 17 938 applications for relief, concluded agreements to the value of R941 million and collected R718 million in related tax.

High net-worth individuals

There is room for improvement in the service offered to this segment and in compliance. This will be a focus area for SARS in the coming year.

Corporate income tax modernisation

Modernisation efforts now shift to corporate income tax. Over the next 12 months SARS will improve its audit capability and align declarations to International Financial Reporting Standards where possible.

Customs transformation

The transformation of SARS customs is starting to gain momentum, and additional steps will be taken over the period ahead to achieve fully integrated electronic customs capability.

Tax ombud

During 2012, South Africa will establish a dedicated ombud for tax matters. The office is intended to provide taxpayers with a low-cost mechanism to address administrative difficulties that cannot be resolved by SARS.

Miscellaneous tax amendments

Miscellaneous tax amendments proposed for the upcoming tax legislative cycle are set out below.

Employment, individuals and savings

Employee share schemes

Many companies use employee share schemes to motivate employees and to meet black economic empowerment objectives. Most of these schemes are based on the use of employee share trusts. These trusts obtain funding from an employer-company, with a trust holding the shares for the benefit of the employees. While this legitimate practice is to be supported, these schemes are often mixed with executive share schemes that tend to undermine tax. This has resulted in audit controversy and legislative uncertainty. To address these concerns, it is proposed that the various types of employee share schemes be reviewed to eliminate loopholes and possible double taxation. The review will also consider the interrelationship between employer deductions and employee share scheme income. The incentive regime for low-income earner share schemes also needs to be reviewed and possibly merged into a single employee share scheme regime. These issues will be resolved over a two-year period.

False job terminations

Employees cannot withdraw funds from employer-provided retirement schemes before retirement unless an employee terminates employment with that employer. In some instances, employees terminate their employment solely to gain access to employer-provided retirement funds. In the most egregious circumstances, employees quit employment only to be rehired by the same employer shortly thereafter. Access to withdrawal under these artificial circumstances will no longer be permitted.

Determination of the value of fringe benefits

In certain cases, the Income Tax Act prescribes the use of a formula to calculate the value of a fringe benefit to be taxed in the hands of the employee. However, in these cases, it is sometimes possible for the employer to determine or obtain the actual cost of providing the fringe benefit to the employee (for example, actual business and private kilometres travelled by an employee using a company vehicle, and employers that provide rented vehicles to their employees as "company vehicles"). To create a better match between the employees' tax withheld and the tax calculation on assessment, it is proposed that, where possible and practical, the employer be allowed to use actual cost to determine the value of the fringe benefit for the employee.

Employer-owned insurance intended to cover a contingent liability

In 2011, the taxation of employer-provided insurance was rationalised. One of the aims of this rationalisation was to ensure that deferred compensation policies are not disguised as key person insurance. One unresolved issue relates to the purpose for which genuine key person insurance is intended. Insurance to cover against operating losses due to the loss of an employee clearly should be deductible for an employer if desired. On the other hand, deducting premiums for insurance to purchase ownership interests of an employee-shareholder or to repay the allocation of debt guaranteed by an employee-shareholder is questionable. The continued allowance of deductible premiums in these latter circumstances will be explored, along with other tax issues relating to this form of insurance. These issues will be resolved in 2012 or 2013 (depending on the press of other matters).

Taxation of payouts from South African or foreign retirement funds

There are currently a number of anomalies in the tax treatment of lump sum and annuity payouts from South African or foreign retirement funds, depending on whether a South African resident or a non-resident receives the payout. An important factor is whether the services that relate to the payout were rendered in South Africa or elsewhere. The issue will receive due consideration during the course of 2012 and 2013.

Taxation of divorce order-related retirement benefits

The "clean-break" principle was introduced to private-sector funds in 2007 so that divorcing spouses could fully separate their pension interests without any ongoing connection. This principle will also form part of the Government Employees Pension Fund (GEPF). The National Treasury proposes that the taxation of retirement interests paid out as a result of divorce orders for the GEPF should roughly mirror private-sector funds:

- In the case of retirement fund payouts stemming from divorce orders issued on or after 13 September 2007, each individual spouse will be responsible for the tax on the portion that they receive.
- The transitional rules applicable to private-sector funds are extended to GEPF payouts, so that retirement fund payouts stemming from divorce orders issued prior to 13 September 2007 will not lead to any tax consequences for either spouse.
- Formula C, which preserves a public-sector fund member's right to a tax-free retirement benefit prior to 1 March 1998, will be extended to the non-member's portion of the pre-1 March 1998 interest.
- The proposed date of implementation is 1 March 2012.

Although the introduction of the "clean-break" principle in private-sector funds has been largely successful, there are still some anomalies that result in continued engagement. It is proposed that these anomalies be addressed so that the overall tax treatment of all divorce-order retirement benefits paid out as a result of a divorce order will fully apply the clean-break principle from 1 March 2012.

Learnership allowances

Employers are eligible for an additional allowance for each registered learnership (in addition to the general deduction for employee expenses). Employers, however, do not qualify for this allowance if the learner did not complete a prior registered learnership. This prohibition will be re-examined. A further problem arises when registration is delayed owing to reasons outside the employer's control, but the allowance begins only upon official registration. The commencement date will be adjusted so that these delays do not undermine the benefit of the additional allowance.

Employee-related fringe benefit

A revised employee-related fringe benefit is set out below.

Description	Current thresholds 2011/12	Proposed thresholds 2012/13
Employee accommodation	R59 750	R63 556

Business

Collateral amendments stemming from the implementation of the new dividend withholding tax

As discussed, dividends withholding tax will become effective from 1 April 2012 at a rate of 15 per cent. This new tax necessitates the following collateral adjustments:

- Removal of the 33 per cent rate for foreign companies: Foreign companies with domestic income are subject to a 33 per cent rate of tax, while domestic companies are subject to a 28 per cent rate plus a 10 per cent secondary tax. The additional 5 per cent charge is a proxy for the lack of any secondary tax on foreign companies. This charge will be dropped in light of the repeal of the secondary tax on domestic companies.
- Removal of the 33 per cent rate for personal service providers: Personal service providers are similarly subject to a 33 per cent rate, which will also be reduced to 28 per cent.
- Removal of the higher gold formula rate: Gold companies have the choice of two gold formula rates – the standard formula or the higher formula. Companies choosing the higher formula are exempt from the secondary tax on companies. With the repeal of the secondary tax on companies, the higher formula will be removed as superfluous.
- Removal of the proposed passive holding company regime: Government initially proposed a passive holding company regime to come into effect with the implementation of the dividend withholding tax to correct potential arbitrage between different tax rates. With the dividend withholding tax coming into effect at a 15 per cent rate, these arbitration concerns are greatly reduced. The initially proposed passive holding company regime will be dropped.
- Shortened period for transitional credits: The dividends tax contains transitional credit relief stemming from the pre-existing secondary tax on companies. These credits are set to last for up to five years into the new regime. However, given the delayed implementation of the dividends tax (and the fact that the new regime has a higher rate), the transitional credit period will be reduced to three years.

Debt cancellations and restructurings

Given the weaker economic climate over the past several years, some taxpayers are at risk of becoming insolvent and are seeking to reduce or restructure their debt. In 2011, the National Treasury announced its intention to eliminate the unintended tax impact of debt reductions in the case of debt workouts (the treatment of debt cancellations or reductions as capital gain or ordinary revenue). The goal would be to create a simplified regime to determine the tax impact on the debtor when debt is unilaterally reduced or cancelled without full consideration, and to eliminate adverse tax consequences when the debt relief merely restores the debtor to solvency. Specific rules will also be required to address situations where creditors agree to convert their debt interests into an equity stake as partial compensation.

Company law reform and company restructurings

The comprehensive rewrite of the Companies Act (2008) has given rise to a set of anomalies in relation to tax, especially in the case of reorganisations and other share restructurings. As many of the tax rules relating to company reorganisations have been in place for 10 years, a review is appropriate. Government will hold a series of workshops to review the nature of company mergers, acquisitions and other restructurings to better understand their practical use. These workshops will lay the foundation for tax changes (and possibly changes to company law) over a two-year period. An immediate focus area will be share-for-share recapitalisations of a single company.

Mark-to-market taxation of financial instruments

The taxation of financial instruments on a mark-to-market basis has long been under consideration. This form of taxation aligns the tax treatment to financial accounting, which greatly simplifies audit and compliance. It is proposed that this project begin in earnest, using certain changes as pilot projects. First, the current system of mark-to-market taxation for foreign currency instruments should be moved closer to modern accounting standards. Second, the mark-to-market treatment of other financial instruments for tax purposes should be expanded and revised. Changes include expanding the elective regime to cover a wider set of financial assets and liabilities. However, the revised system will be subject to explicit SARS approval so that the regime can be fully controlled during the pilot phase. Ongoing changes can be expected in this area over the next few years based on practical experience.

Review of tax system for insurers

The global insurance industry is undergoing reforms associated with solvency assessment and management projects. These rules will change the way insurers determine their reserves. There are several related tax issues:

- In the case of short-term insurers, certain reserves form the basis for tax deductions while providing a safety cushion for the insurers. To date, the regulatory and tax impact of these reserves has not been fully coordinated, leading to anomalies that have both positive and negative effects for short-term insurers. Captive insurers have also raised longstanding issues for the fiscus.
- The principles of the four fund trustee system of taxation relating to long-term insurers has long been in need of review, Long-term insurers hold and administer assets on behalf of various categories of policyholders, in addition to managing assets for the benefit of shareholders. In recognition of these relationships, long-term insurance products are subject to the four funds system, with the insurer being taxed on return on assets as trustee for the policyholder. However, once the system moves beyond basic theory, it is often unclear whether issues should be determined from a policyholder perspective or a corporate shareholder perspective, and how the two perspectives can be combined. The system also lacks any correlation with the system of accounting, making factual verification and reconciliation difficult, if not impossible.

These concerns necessitate a comprehensive review of the tax system for insurers. To simplify the task, it is proposed that the tax system for calculating short-term insurance reserves be addressed in 2012, with long-term insurers being addressed in 2013. A short paper on long-term insurers will be circulated for comment by mid-2012.

Government grants

Unless a specific exemption exists, government grants are subject to tax when paid to a taxable entity. A comprehensive review is being undertaken to determine which grants should be exempt to avoid undue taxation (or unintended additional administration). This review will result in an explicit legislative list of exempt grants, updated annually, to improve transparency and ease of administration. The current regulatory regime will also remain in place in the interim. It should be noted, however, that tax expenditure related to tax-exempt grant funding will not be deductible, depreciable or allowed as any other tax offset against the grantee's taxable income, because government, not the grantee, bears these costs.

Sales of trading stock to connected persons

The tax system has rules to prevent character mismatches through related (connected) person sales. Under these rules, taxpayers purchasing assets from connected persons receive a tax cost that is the lower of the purchaser's or the connected person's tax cost. While this anti-avoidance rule can be supported from a capital gains tax perspective, it does not need to apply to trading stock because connected persons' sale of trading stock is unlikely to give rise to manipulation. Trading stock will accordingly be removed from the anti-avoidance connected-person sale rules.

Contingent liabilities associated with the sale of business operations

In 2011, concerns were raised about the tax effect of the sale of a business subject to potential contingent liabilities. These liabilities were giving rise to concerns of potential double taxation or double non-taxation. After much debate, the proposed legislation was withdrawn in favour of an interpretative approach. Interpretative guidance, with legislative refinements, is expected later in the year.

Share issue mismatches

The issuing of shares by a company does not give rise to ordinary or capital gain because any amounts received represent a cash contribution. However, it has come to government's attention that certain taxpayers are seeking to use this rule to shift value to new shareholders without paying the full tax due. Most of these schemes rely on the receipt of consideration in excess of the value of the shares issued. It is proposed that the exemption for the issue of shares be limited to their value, with the excess being subject to tax.

Share block conversions to sectional title

Company liquidations are generally subject to tax to preserve the company dual-level tax system (a tax on company income plus distribution of that income). The conversion of share block companies into sectional title schemes can create a tax problem. In form, this conversion is a company liquidation, but in substance it is merely a change to direct interest from an indirect interest in the underlying property. In these situations, the property owner has swapped interests in favour of a more modern approach. It is proposed that these liquidations receive tax-free rollover treatment.

Supporting structure for energy projects

Energy projects such as wind, solar and hydroelectric facilities are eligible for accelerated depreciation on a 50:30:20 basis. At issue are the foundations and supporting structures associated with these arrangements. Accelerated depreciation will be extended to these ancillary structures.

Extension of the urban development zone incentive

The incentive for buildings (new and renovated) in urban development zones is set to expire in 2014. Government is considering extending this incentive, subject to the receipt of current legislatively required municipal progress reports and a review of their effectiveness. In addition, the cut-off date poses a problem because it is based on when buildings are brought into use rather than the date of initial construction. It is proposed that the cut-off date be re-examined along with any other anomalies associated with the incentive.

Captive finance vehicles

Some taxpayers use artificial financing vehicles to eliminate income. In some of these schemes, the parent company transfers trade receivables at discounted rates, followed by the return of the discount via tax-free preference share dividends. Other schemes provide for the same manipulation through the artificial over-payment of insurance, services or other deductible payments. These schemes give rise to income tax concerns, and they may also be problematic for VAT. It is proposed that these schemes be reviewed for potential elimination.

Industrial policy incentives – section 12I

Section 12I of the Income Tax Act provides a tax incentive for qualifying companies in respect of investment and training. The experience gained thus far in administering the programme has revealed two areas in which legislative adjustments will result in a more streamlined process. First, the requirement for tax clearance certificates of all connected parties is an administrative burden. A relaxation of this requirement is under consideration. Second, it is proposed that companies should submit monitoring reports until the allowance is exhausted or until all requirements of the programme are met.

Other miscellaneous proposals

Description	Current thresholds 2011/12	Proposed thresholds 2012/13
Public-benefit organisations		
Housing provided by a PBO[1]: maximum monthly income of beneficiary household	R7 500	R15 000
Deferral		
Maximum amount of deferral	R80 000	R100 000

1. Refers to public-benefit organisation

There are certain circumstances where the provisions of section 23H of the Income Tax Act will not apply. These include instances where the aggregate of all amounts to be limited by section 23H do not exceed R80 000. It is proposed that the amount or aggregate amount be increased to R100 000.

International

South African investment into Africa

Over several years, South Africa has introduced several initiatives to reduce potential double-tax costs when investing into Africa. Management services have been an issue, especially the question of whether foreign withholding taxes on these services are eligible for foreign tax credits. Besides clarifying further anomalies in this area, active South African management over controlled foreign subsidiaries may trigger dual-residence tax status, even though all day-to-day operational activities are being conducted abroad. This situation arises because there are practical difficulties associated with local conditions. It is proposed that this dual-residence tax status be removed if the tax of the foreign country is roughly on par with otherwise applicable South African tax. Alternatively, the issue can be resolved as a matter of interpretation.

Many South African loans to foreign African subsidiaries essentially operate as additional share capital contributions – their purpose is to provide for a more flexible use of capital, not to avoid

South African tax. However, the formal use of a loan often gives rise to transfer pricing concerns because these loans do not generate annual interest. It is proposed that these loans be treated as shares in line with the decision to treat certain forms of debt as shares.

Local managers of foreign funds

Foreign investment funds often rely on active managers in South Africa for direction regarding African fund assets. However, this form of guidance often raises tax risks, especially the risk that this form of management will be viewed as South African effective management in tax terms, giving rise to a worldwide tax on all fund assets. This risk has deprived local fund managers of foreign investment fund business and has even forced certain local fund managers to relocate abroad. It is proposed that a legislative carve-out be created for foreign investment funds so that these funds are not inadvertently subject to worldwide taxation.

Ongoing refinements to headquarter company relief

Over the past two years, special rules have been enacted that provide tax and exchange control relief for South African headquarter companies. While most issues have been resolved, some outstanding problems are being uncovered as foreign investors seek to use the regime. These anomalies mainly focus on transfer-pricing concerns and headquarter companies that rely on foreign currency for their operations. These anomalies will be addressed to encourage regional headquarter company investment.

Value-added tax

Clarification of the date of liability for VAT registration

A person that becomes liable to register for VAT (on account of reaching the compulsory threshold of R1 million) must apply to SARS for registration as a vendor within 21 days. That person cannot charge VAT on supplies until they have been registered as a vendor by SARS. There are no transitionary rules in the VAT Act that address this issue. It is proposed that the liability date for VAT be clarified to streamline the transition from a non-vendor to a vendor.

Bargaining councils

Bargaining councils regulate collective agreements and conduct dispute resolution for their members. These councils levy an administration fee that is payable by employees. However, the activities of a bargaining council do not fall within the ambit of an employee organisation, and are arguably subject to VAT. These activities are similar to that of an employee organisation and should similarly be exempt from VAT.

Instalment credit agreements

Movable goods supplied through an instalment credit agreement take the form of a sale or a lease. Depending on the form, finance charges and/or insurance (the lessee accepts the full risk of destruction of the asset) is payable. Shariah law prohibits the charging of interest or the placing of risk or insurance responsibilities on the client, owing to the element of chance. It is proposed that the provisions governing instalment credit agreements in the VAT Act be amended to accommodate products that are compliant with Shariah law.

Debit and credit notes

The VAT Act contains specific scenarios that justify the issuing of a credit or debit note. For instance, if a vendor issues a tax invoice for an incorrect amount (for example, R100), the vendor cannot justify the issue of a credit note (the invoice amount was R50 and not R100) within the specified conditions in the VAT Act. It is also unlawful to issue more than one tax invoice for the same supply. It is proposed that the specified conditions in the VAT Act under which a vendor can issue credit or debit notes to correct incorrect tax invoices be extended.

VAT double charge for goods removed from an industrial development zone

Movable goods imported into a customs controlled area (CCA) of an industrial development zone are exempted from customs duty and VAT. A deemed VAT charge is triggered if the goods are temporarily removed from the CCA and not returned within 30 days. For customs purposes, the removal of the goods leads to a voucher of correction, processed by customs, and VAT on importation is payable. The result is that double VAT is charged. It is proposed that this double charge be eliminated.

Political parties

The receipts and accruals of any political party registered in terms of the Electoral Act (1998) are exempt from income tax. The VAT Act does not contain a specific provision for political parties, which results in uncertainty. As a result, it is unclear whether the receipts and accruals of a political party can be construed as "consideration" for taxable supplies or a "donation". The latter view seems more consistent with the nature and mandate of political parties as there is no reciprocal performance between the political party and the donor(s) concerned. It is proposed that the receipts and accruals of political parties be exempted from VAT.

Imported goods sold prior to entry for home consumption

A foreign company that sells goods that enter South African territorial waters may be required to register for VAT if this activity is continuous or regular. The recipient (buyer and vendor) is liable for import VAT on the clearance of the goods for home consumption. As a result, the recipient is liable for two VAT charges on the same amount. It is proposed that the VAT provisions relating to goods sold by foreign companies prior to entry for home consumption be reviewed.

Customs

Implementation of one-stop border post agreement with Mozambique

The agreement between South Africa and Mozambique on combined border control posts on the Mozambique-South Africa border and its implementing annexures have been submitted to Parliament for ratification. Although the Customs Act contains provisions for implementing such an agreement, ratification by Parliament will necessitate amendments to a wide range of legislation regulating the movement of people, goods and means of conveyance into and out of South Africa. These amendments will be proposed after ratification of the agreement and consultation between the affected organs of state.

Technical corrections

In addition to the amendments described above, the 2012 Taxation Laws Amendment Bill (like all annual amendment bills) will contain various technical corrections. These technical corrections mainly cover inconsequential items – typing errors, grammar, punctuation, numbering, misplaced cross references, updating or removing obsolete provisions, the removal of superfluous text, and the incorporation of regulation and commonly accepted secondary interpretations into formal law. Technical corrections also include changes to effective dates and the proper coordination of transitional tax changes.

A final set of technical corrections relates to modifications that account for practical implementation of the tax law. Although tax amendments go through an intensive comment and review process, new issues arise (including obvious omissions and ambiguities) once the law is applied. These issues typically arise when returns are prepared for the first time after legislation is implemented. Technical corrections of this nature are almost exclusively limited to recent legislative changes.

Tax policy research projects

The following tax policy research projects will be undertaken or completed during 2012/13:

- Reforms to the primary, secondary and tertiary rebates in the context of a review of the means testing for the old age grant and with the intention to introduce a child and/or dependant tax rebate/credit.
- Taxation of financial instruments (including derivatives).
- Long-term insurance companies – review of the taxation, accounting and regulatory practices of the four fund system.
- Taxation of income from capital (interest income, dividends, capital gains, rental) to be reviewed to ensure greater equity and minimise opportunities for tax arbitrage.
- VAT treatment of public passenger transport.
- The implementation and importance of user charges and other fees.
- Taxation of transport fuels – review to determine the equitable treatment of all transport fuels based on their environmental characteristics (for example, CO_2 emissions) and energy content.

Impact of tax proposals on 2012/13 revenue

R million	Effect of tax proposals
Taxes on individuals and companies	**-10 650**
Personal income tax	-4 300
Adjustment in personal tax rate structure	*-9 500*
Adjustment in monetary thresholds	*-1 100*
Capital gains - individuals	*800*
Dividend withholding tax	*5 500*
Business taxes	-6 350
Capital gains - companies	*1 200*
Small business relief	*- 100*
Abolition of STC	*-7 450*
Indirect taxes	**8 342**
Increase in general fuel levy	4 517
Increase in excise duties on tobacco products and alcoholic beverages	1 840
Increase in electricity levy	1 985
Budget 2012/13 proposals:	**-2 308**

Conclusion

The 2012 tax proposals support a sustainable fiscal framework, economic growth and a more competitive economy. Reforms will improve the fairness of the tax system, ensuring that income from capital is taxed more appropriately. A discussion document outlining the design of a proposed tax on carbon emissions will be released. Proposals are advanced to support small business, and to encourage household savings. Options to augment and streamline funding for national health insurance as part of a strengthened public health system will be explored.

Notes

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