



## Additional tax policy and administrative adjustments

This annexure should be read with Chapter 4 of the *Budget Review*. It elaborates on some of the proposals contained in that chapter, clarifies certain matters and presents additional technical proposals.

### ■ Tax expenditures statement: February 2016

Tax expenditures are estimates of tax revenues foregone through legislative provisions enacted to achieve specific economic or social goals without government incurring direct expenditures. The legislative provisions that give rise to tax expenditures allow for, under specific circumstances, certain categories of income to be excluded from the gross income of a taxpayer, exempted from tax, or taxed at special rates or at a later date – or for credits or certain costs to be deducted against them before they are taxed. The provisions can also allow taxpayers to claim rebates against tax payable, or for certain expenditures to be exempted from indirect taxes (taxes added to the price of goods or services sold) or taxed at lower rates or zero.

South Africa's tax expenditures are targeted interventions to encourage investment, job creation and training, entrepreneurship and saving. They also support a tax system that remains overall progressive, contributing to the reduction of inequality and the elimination of poverty. Table C.1 sets out total estimated tax expenditure in terms of the Income Tax Act (1962), the Value-Added Tax Act (1991) and the Customs and Excise Act (1964) between 2010/11 and 2013/14, the latest year for which estimates are available. Total tax expenditure in 2013/14 was R134.6 billion – representing 15 per cent of total gross tax revenue or 14.2 per cent of consolidated non-interest expenditure in that year.

An example of a tax expenditure is the value-added tax (VAT) on certain basic food items, including eggs, maize meal and milk powder, which is levied on the selling price of such items at a rate of zero per cent rather than the standard 14 per cent. There are 19 such items subject to this provision, selected based on the National Treasury's research of household consumption data. These items are bought more frequently or predominately by poorer households. The foregone VAT revenue, the difference between 14 per cent of the selling price and zero, is estimated as tax expenditure. In 2013/14, VAT tax expenditure for these basic food items was R20.1 billion, providing tax relief to the poor and supporting their food security.

#### **Selected trends in tax expenditure**

There was a notable decrease in allowances claimed for research and development in 2012/13. The tax regime for this incentive changed with effect from 1 October 2012, requiring that taxpayers apply to the Minister of Science and Technology for pre-approval. The change caused unforeseen administrative delays and backlogs, which are being addressed. The task team described in Chapter 4 will present recommendations for improving the administration of this tax incentive.

The low levels of tax expenditure for strategic industrial projects in the outer three years are primarily due to the delay between approval and the start of the project. Tax expenditure in 2010/11 and 2011/12 is

still linked to the predecessor of the section 12I manufacturing incentive that expired in 2005. Since the inception of section 12I, 73 projects have been approved. However, only about 10 per cent of the allowances approved had been claimed by 2013/14, resulting in the low tax expenditure numbers in the outer three years. Once the companies begin to implement more of the projects and SARS assessment levels rise, the tax expenditure for this incentive should increase.

The employment tax incentive scheme started in January 2014. The tax expenditure figures recorded in 2013/14 were too small to have a meaningful effect on Table C.1, which is why the incentive is not listed.

**Table C.1 Tax expenditure estimates (R million)**

<b>Personal income tax</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>
Pension and retirement annuity contributions <sup>1</sup>	21 064	23 745	27 037	28 543
<i>Pension contributions – employees</i>	7 922	8 928	10 107	10 650
<i>Pension contributions – employers</i>	8 910	10 041	11 367	11 978
<i>Retirement annuity</i>	4 232	4 776	5 563	5 915
Medical	15 290	17 493	20 314	20 291
<i>Medical contributions &amp; deductions – employees</i>	15 290	17 493	4 314	4 881
<i>Medical credits</i> <sup>2</sup>	–	–	16 000	15 410
Interest exemptions	1 259	1 150	1 184	1 168
Secondary rebate (65 years and older)	1 762	1 702	1 850	2 580
Tertiary rebate (75 years and older)	–	142	152	201
Donations	139	179	216	287
Capital gains tax (annual exclusion)	112	146	303	370
<b>Total personal income tax</b>	<b>39 627</b>	<b>44 557</b>	<b>51 056</b>	<b>53 441</b>
<b>Corporate income tax</b>				
Small business corporation tax savings	1 480	1 551	1 868	2 232
<i>Reduced headline rate</i>	1 460	1 531	1 843	2 206
<i>Section 12E depreciation allowance</i>	20	20	25	26
Research and development	1 216	1 131	360	745
Learnership allowances	1 368	1 219	758	966
Strategic industrial projects <sup>3</sup>	294	27	51	–
Film incentive	185	574	–	354
Urban development zones	298	975	210	314
<b>Total corporate income tax</b>	<b>4 840</b>	<b>5 477</b>	<b>3 247</b>	<b>4 611</b>
<b>Value-added tax</b>				
<b>Zero-rated supplies</b>				
19 basic food items <sup>4</sup>	15 497	17 106	18 628	20 107
Petrol <sup>5</sup>	10 845	13 797	15 343	16 276
Diesel <sup>5</sup>	1 107	1 532	1 759	2 101
Paraffin <sup>5</sup>	367	585	611	702
Municipal property rates	6 032	7 568	9 598	10 209
Reduced inclusion rate for commercial accommodation	142	153	175	190
<b>Subtotal zero-rated supplies</b>	<b>33 989</b>	<b>40 742</b>	<b>46 115</b>	<b>49 585</b>
<b>Exempt supplies (public transport and education)</b>	<b>905</b>	<b>999</b>	<b>1 088</b>	<b>1 175</b>
<b>Customs duties and excise</b>				
Motor vehicles (MIDP/APDP, including IRCCs) <sup>6</sup>	12 673	16 306	15 823	18 415
Textile and clothing (duty credits – DCCs) <sup>6</sup>	2 230	860	652	468
Furniture and fixtures	153	150	163	156
Other customs <sup>7</sup>	787	847	678	665
Diesel refund <sup>8</sup>	2 184	2 668	4 137	6 129
<b>Total customs and excise</b>	<b>18 027</b>	<b>20 831</b>	<b>21 453</b>	<b>25 833</b>
<b>Total tax expenditure</b>	<b>97 389</b>	<b>112 606</b>	<b>122 959</b>	<b>134 644</b>
<b>Tax expenditure as % of total gross tax revenue</b>	<b>14.4%</b>	<b>15.2%</b>	<b>15.1%</b>	<b>15.0%</b>
<b>Total gross tax revenue</b>	<b>674 183</b>	<b>742 650</b>	<b>813 826</b>	<b>900 013</b>
<b>Tax expenditure as % of GDP</b>	<b>3.3%</b>	<b>3.4%</b>	<b>3.5%</b>	<b>3.6%</b>

1. Some of this tax expenditure is recouped when amounts are withdrawn as either a lump sum or an annuity

2. Medical credits were introduced in 2012/13 to replace income tax deductions for medical scheme contributions

3. Tax expenditure for all years is attributable to allowances under sections 12G and 12I

4. VAT relief in respect of basic food items based on National Treasury research of 2010/11 income and expenditure survey data

5. Based on fuel volumes and average retail selling prices

6. Motor Industry Development Programme (MIDP), replaced in 2013 by the Automotive Production Development Programme (APDP); import rebate credit certificate (IRCC), duty credit certificates (DCC)

7. Goods manufactured exclusively for exports, television monitors and agricultural goods exempted

8. Diesel refund previously offset against domestic VAT have been added

Source: National Treasury

## Assumptions and corrections

As some of the amounts presented as tax expenditure are estimates, they may be subject to change should updated data or more accurate assumptions become available. The amounts presented in this statement may differ for this reason from statements previously published.

Adjustments were also made to the tax expenditure tables and figures in this statement to correct the following errors in *Budget Review 2015* as follows:

- The figures for national average price and quantity of fuel sold (Table C.2) and exempt supplies of public transport and education (Table C.1) were misaligned by one year – for example, 2011/12 should have been for 2010/11, and so on.
- Instead of reporting the tax expenditure for strategic industrial projects, the actual allowances claimed were mistakenly reported, overstating the tax expenditure.

### VAT relief on fuel sales

Petrol, diesel and illuminating paraffin are zero rated for VAT. The difference to the standard rate is recorded as tax expenditure when these items are sold to final consumers. The key assumption used to calculate this item of tax expenditure remains the same: 20 per cent of petrol sales and 90 per cent of diesel sales were for business purposes (by VAT vendors) and would have qualified as an input VAT claim.

**Table C.2 National average price and quantity of fuel sold (million litres)**

Fuel type	2010/11		2011/12		2012/13		2013/14	
	Price (Rand/l)	Quantity						
Petrol	8.4	11 541	10.3	11 972	11.8	11 659	13.1	11 085
Diesel	7.7	10 333	9.7	11 291	10.9	11 496	12.3	12 203
Paraffin	5.4	482	7.3	576	8.2	535	9.3	540

Source: National Treasury

## Personal income tax

The primary rebate has been increased to R13 500 per year for all individuals. The secondary rebate, which applies to individuals aged 65 years and over, remains at R7 407 per year. The third rebate, which applies to individuals aged 75 years and over, remains at R2 466 per year. The threshold below which individuals are not subject to personal income tax is increased to R75 000 of taxable income per year for those below the age of 65, R116 150 per year for those aged 65 to 74, and R129 850 for individuals aged 75 and over. The rates for the 2015/16 tax year and the proposed rates for 2016/17 are set out in Table C.3.

**Table C.3 Personal income tax rate and bracket adjustments, 2015/16 – 2016/17**

2015/16		2016/17	
Taxable income (R)	Rates of tax	Taxable income (R)	Rates of tax
R0 - R181 900	18% of each R1	R0 - R188 000	18% of each R1
R181 901 - R284 100	R32 742 + 26% of the amount above R181 900	R188 001 - R293 600	R33 840 + 26% of the amount above R188 000
R284 101 - R393 200	R59 314 + 31% of the amount above R284 100	R293 601 - R406 400	R61 296 + 31% of the amount above R293 600
R393 201 - R550 100	R93 135 + 36% of the amount above R393 200	R406 401 - R550 100	R96 264 + 36% of the amount above R406 400
R550 101 - R701 300	R149 619 + 39% of the amount above R550 100	R550 101 - R701 300	R147 996 + 39% of the amount above R550 100
R701 301 and above	R208 587 + 41% of the amount above R701 300	R701 301 and above	R206 964 + 41% of the amount above R701 300
<b>Rebates</b>		<b>Rebates</b>	
Primary	R13 257	Primary	R13 500
Secondary	R7 407	Secondary	R7 407
Tertiary	R2 466	Tertiary	R2 466
<b>Tax threshold</b>		<b>Tax threshold</b>	
Below age 65	R73 650	Below age 65	R75 000
Age 65 and over	R114 800	Age 65 and over	R116 150
Age 75 and over	R128 500	Age 75 and over	R129 850

Source: National Treasury

The proposed tax schedule in Table C.3 partially compensates individuals for the effect of inflation. The effects of these proposals are set out in tables C.4, C.5 and C.6.

**Table C.4 Annual income tax payable and average tax rates, 2016/17 (taxpayers below 65)**

Taxable income (R)	2015/16 rates (R)	Proposed 2016/17 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
85 000	2 043	1 800	-243	-11.9%	2.4%	2.1%
90 000	2 943	2 700	-243	-8.3%	3.3%	3.0%
100 000	4 743	4 500	-243	-5.1%	4.7%	4.5%
120 000	8 343	8 100	-243	-2.9%	7.0%	6.8%
150 000	13 743	13 500	-243	-1.8%	9.2%	9.0%
200 000	24 191	23 460	-731	-3.0%	12.1%	11.7%
250 000	37 191	36 460	-731	-2.0%	14.9%	14.6%
300 000	50 986	49 780	-1 206	-2.4%	17.0%	16.6%
400 000	82 326	80 780	-1 546	-1.9%	20.6%	20.2%
500 000	118 326	116 460	-1 866	-1.6%	23.7%	23.3%
750 000	215 297	213 431	-1 866	-0.9%	28.7%	28.5%
1 000 000	317 797	315 931	-1 866	-0.6%	31.8%	31.6%

Source: National Treasury

**Table C.5 Annual income tax payable and average tax rates, 2016/17 (taxpayers aged 65 to 74)**

Taxable income (R)	2015/16 rates (R)	Proposed 2016/17 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
120 000	936	693	-243	-26.0%	0.8%	0.6%
150 000	6 336	6 093	-243	-3.8%	4.2%	4.1%
200 000	16 784	16 053	-731	-4.4%	8.4%	8.0%
250 000	29 784	29 053	-731	-2.5%	11.9%	11.6%
300 000	43 579	42 373	-1 206	-2.8%	14.5%	14.1%
400 000	74 919	73 373	-1 546	-2.1%	18.7%	18.3%
500 000	110 919	109 053	-1 866	-1.7%	22.2%	21.8%
750 000	207 890	206 024	-1 866	-0.9%	27.7%	27.5%
1 000 000	310 390	308 524	-1 866	-0.6%	31.0%	30.9%

Source: National Treasury

**Table C.6 Annual income tax payable and average tax rates, 2016/17 (taxpayers aged 75 and over)**

Taxable income (R)	2015/16 rates (R)	Proposed 2016/17 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
150 000	3 870	3 627	-243	-6.3%	2.6%	2.4%
200 000	14 318	13 587	-731	-5.1%	7.2%	6.8%
250 000	27 318	26 587	-731	-2.7%	10.9%	10.6%
300 000	41 113	39 907	-1 206	-2.9%	13.7%	13.3%
400 000	72 453	70 907	-1 546	-2.1%	18.1%	17.7%
500 000	108 453	106 587	-1 866	-1.7%	21.7%	21.3%
750 000	205 424	203 558	-1 866	-0.9%	27.4%	27.1%
1 000 000	307 924	306 058	-1 866	-0.6%	30.8%	30.6%

Source: National Treasury

## ■ Customs and excise duty

Government proposes that the customs and excise duties in the Customs and Excise Act (Part 1 and Section A of Part 2 of Schedule 1) be amended with effect from 24 February 2016 to the extent shown in Tables C.7 and C.8.

**Table C.7 Specific excise duties, 2015/16 – 2016/17**

Tariff item	Tariff subheading	Article description	2015/16 Rate of excise duty	2016/17 Rate of excise duty
<b>104.00</b>		<b>PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO</b>		
<b>104.01</b>	<b>19.01</b>	<b>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:</b>		
104.01.10	1901.90.20	Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34.7c/kg	34.7c/kg
<b>104.10</b>	<b>22.03</b>	<b>Beer made from malt:</b>		
104.10.10	2203.00.05	Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/li	7.82c/li
104.10.20	2203.00.90	Other	R73.05/li aa	R79.26/li aa
<b>104.15</b>	<b>22.04</b>	<b>Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):</b>		
104.15.01	2204.10	Sparkling wine	R9.75/li	R10.53/li
<b>104.15</b>	<b>2204.21</b>	<b>In containers holding 2 li or less:</b>		
<b>104.15</b>	<b>2204.21.4</b>	<b>Unfortified wine:</b>		
104.15.03	2204.21.41	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol.	R3.07/li	R3.31/li
104.15.04	2204.21.42	Other	R149.23/li aa	R161.47/li aa
<b>104.15</b>	<b>2204.21.5</b>	<b>Fortified wine:</b>		
104.15.05	2204.21.51	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.	R5.46/li	R5.82/li
104.15.06	2204.21.52	Other	R149.23/li aa	R161.47/li aa
<b>104.15</b>	<b>2204.29</b>	<b>Other:</b>		
<b>104.15</b>	<b>2204.29.4</b>	<b>Unfortified wine:</b>		
104.15.07	2204.29.41	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol.	R3.07/li	R3.31/li
104.15.08	2204.29.42	Other	R149.23/li aa	R161.47/li aa
<b>104.15</b>	<b>2204.29.5</b>	<b>Fortified wine:</b>		
104.15.09	2204.29.51	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.	R5.46/li	R5.82/li
104.15.10	2204.29.52	Other	R149.23/li aa	R161.47/li aa
<b>104.16</b>	<b>22.05</b>	<b>Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:</b>		
<b>104.16</b>	<b>2205.10</b>	<b>In containers holding 2 li or less:</b>		
104.16.01	2205.10.10	Sparkling	R9.75/li	R10.53/li
<b>104.16</b>	<b>2205.10.2</b>	<b>Unfortified:</b>		
104.16.03	2205.10.21	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 15 per cent by vol.	R3.07/li	R3.31/li
104.16.04	2205.10.22	Other	R149.23/li aa	R161.47/li aa
<b>104.16</b>	<b>2205.10.3</b>	<b>Fortified:</b>		
104.16.05	2205.10.31	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.	R5.46/li	R5.82/li
104.16.06	2205.10.32	Other	R149.23/li aa	R161.47/li aa

**Table C.7 Specific excise duties, 2015/16 – 2016/17 (continued)**

Tariff item	Tariff subheading	Article description	2015/16 Rate of excise duty	2016/17 Rate of excise duty
<b>104.16</b>	<b>2205.90</b>	<b>Other:</b>		
<b>104.16</b>	<b>2205.90.2</b>	<b>Unfortified:</b>		
104.16.09	2205.90.21	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 15 per cent by vol.	R3.07/li	R3.31/li
104.16.10	2205.90.22	Other	R149.23/li aa	R161.47/li aa
<b>104.16</b>	<b>2205.90.3</b>	<b>Fortified:</b>		
104.16.11	2205.90.31	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.	R5.46/li	R5.82/li
104.16.12	2205.90.32	Other	R149.23/li aa	R161.47/li aa
<b>104.17</b>	<b>22.06</b>	<b>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:</b>		
104.17.03	2206.00.05	Sparkling fermented fruit or mead beverages mixtures of sparkling fermented beverages derived from the fermentation of fruit or honey, mixtures of sparkling fermented fruit or mead beverages and non-alcoholic beverages	R9.75/li	R10.53/li
104.17.05	2206.00.15	Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/li	7.82c/li
104.17.07	2206.00.17	Other fermented beverages, unfortified, with an alcoholic strength less than 2.5 per cent by volume	R73.05/li aa	R79.26/li aa
104.17.09	2206.00.19	Other fermented beverages of non-malted cereal grains, unfortified, with an alcoholic strength by volume of 2.5 per cent or more by vol. but not exceeding 9 per cent by vol.	R73.05/li aa	R79.26/li aa
104.17.11	2206.00.21	Other mixtures of fermented beverages of non-malted cereal grains and non-alcoholic beverages, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 9 per cent by vol.	R73.05/li aa	R79.26/li aa
104.17.15	2206.00.81	Other fermented apple or pear beverages, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 15 per cent by vol.	R3.65/li (R73.05/li aa)	R79.26/li aa
104.17.16	2206.00.82	Other fermented fruit beverages and mead beverages, including mixtures of fermented beverages derived from the fermentation of fruit or honey, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 15 per cent by vol.	R3.65/li (R73.05/li aa)	R79.26/li aa
104.17.17	2206.00.83	Other fermented apple or pear beverages, fortified, with an alcoholic strength of at least 15 per cent by volume but not exceeding 23 per cent by vol.	R60.97/li aa	R65.97/li aa
104.17.21	2206.00.84	Other fermented fruit beverages and mead beverages including mixtures of fermented beverages derived from the fermentation of fruit or honey, fortified, with an alcoholic strength of at least 15 per cent by volume but not exceeding 23 per cent by vol.	R60.97/li aa	R65.97/li aa
104.17.22	2206.00.85	Other mixtures of fermented fruit or mead beverages and non-alcoholic beverages, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 15 per cent by vol.	R3.65/li (R73.05/li aa)	R79.26/li aa

**Table C.7 Specific excise duties, 2015/16 – 2016/17 (continued)**

Tariff item	Tariff subheading	Article description	2015/16 Rate of excise duty	2016/17 Rate of excise duty
104.17.25	2206.00.87	Other mixtures of fermented fruit or mead beverages and non-alcoholic beverages, fortified, with an alcoholic strength of at least 15 per cent by volume but not exceeding 23 per cent by vol.	R60.97/li aa	R65.97/li aa
104.17.90	2206.00.90	Other	R73.05/li aa	R161.47/li aa
<b>104.21</b>	<b>22.07</b>	<b>Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher; ethyl alcohol and other spirits, denatured, of any strength:</b>		
104.21.01	2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher	R149.23/li aa	R161.47/li aa
104.21.03	2207.20	Ethyl alcohol and other spirits, denatured, of any strength	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>22.08</b>	<b>Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent vol., spirits, liqueurs and other spirituous beverages:</b>		
<b>104.23</b>	<b>2208.20</b>	<b>Spirits obtained by distilling grape wine or grape marc:</b>		
<b>104.23</b>	<b>2208.20.1</b>	<b>In containers holding 2 li or less</b>		
104.23.01	2208.20.11	Brandy as defined in Additional Note 7 to Chapter 22	R149.23/li aa	R149.23/li aa
104.23.03	2208.20.90	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.20.9</b>	<b>Other:</b>		
104.23.03	2208.20.91	Brandy as defined in Additional Note 7 to Chapter 22	R149.23/li aa	R149.23/li aa
104.23.04	2208.20.99	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.30</b>	<b>Whiskies:</b>		
104.23.05	2208.30.10	In containers holding 2 li or less	R149.23/li aa	R161.47/li aa
104.23.07	2208.30.90	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.40</b>	<b>Rum and other spirits obtained by distilling fermented sugarcane products:</b>		
104.23.09	2208.40.10	In containers holding 2 li or less	R149.23/li aa	R161.47/li aa
104.23.11	2208.40.90	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.50</b>	<b>Gin and Geneva:</b>		
104.23.13	2208.50.10	In containers holding 2 li or less	R149.23/li aa	R161.47/li aa
104.23.15	2208.50.90	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.60</b>	<b>Vodka:</b>		
104.23.17	2208.60.10	In containers holding 2 li or less	R149.23/li aa	R161.47/li aa
104.23.19	2208.60.90	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.70</b>	<b>Liqueurs and cordials:</b>		
<b>104.23</b>	<b>2208.70.2</b>	<b>In containers holding 2 li or less:</b>		
104.23.21	2208.70.21	With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol.	R60.97/li aa	R65.97/li aa
104.23.22	2208.70.22	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.70.9</b>	<b>Other:</b>		
104.23.23	2208.70.91	With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol.	R60.97/li aa	R65.97/li aa
104.23.24	2208.70.92	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.90</b>	<b>Other:</b>		
<b>104.23</b>	<b>2208.90.2</b>	<b>In containers holding 2 li or less:</b>		
104.23.25	2208.90.21	With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol.	R60.97/li aa	R65.97/li aa
104.23.26	2208.90.22	Other	R149.23/li aa	R161.47/li aa
<b>104.23</b>	<b>2208.90.9</b>	<b>Other:</b>		

**Table C.7 Specific excise duties, 2015/16 – 2016/17 (continued)**

Tariff item	Tariff subheading	Article description	2015/16 Rate of excise duty	2016/17 Rate of excise duty
104.23.27	2208.90.91	With an alcoholic strength by volume exceeding 15 per cent by vol. but not exceeding 23 per cent by vol.	R60.97/li aa	R65.97/li aa
104.23.28	2208.90.92	Other	R149.23/li aa	R161.47/li aa
<b>104.30</b>	<b>24.02</b>	<b>Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:</b>		
<b>104.30</b>	<b>2402.10</b>	<b>Cigars, cheroots and cigarillos containing tobacco:</b>		
104.30.01	2402.10.10	Imported from Switzerland	R2 824.55/kg net	R3 012.17/kg net
104.30.03	2402.10.90	Other	R2 824.55/kg net	R3 012.17/kg net
<b>104.30</b>	<b>2402.20</b>	<b>Cigarettes containing tobacco:</b>		
104.30.05	2402.20.10	Imported from Switzerland	R6.21/10 cigarettes	R6.62/10 cigarettes
104.30.07	2402.20.90	Other	R6.21/10 cigarettes	R6.62/10 cigarettes
<b>104.30</b>	<b>2402.90.1</b>	<b>Cigars, cheroots and cigarillos of tobacco substitutes:</b>		
104.30.09	2402.90.12	Imported from Switzerland	R2 824.55/kg net	R3 012.17/kg net
104.30.11	2402.90.14	Other	R2 824.55/kg net	R3 012.17/kg net
<b>104.30</b>	<b>2402.90.2</b>	<b>Cigarettes of tobacco substitutes:</b>		
104.30.13	2402.90.22	Imported from Switzerland	R6.21/10 cigarettes	R6.62/10 cigarettes
104.30.15	2402.90.24	Other	R6.21/10 cigarettes	R6.62/10 cigarettes
<b>104.35</b>	<b>24.03</b>	<b>Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:</b>		
<b>104.35</b>	<b>2403.1</b>	<b>Smoking tobacco, whether or not containing tobacco substitutes in any proportion:</b>		
104.35.01	2403.11	Water pipe tobacco specified in subheading Note 1 to Chapter 24	R155.54/kg net	R166.40/kg net
<b>104.35</b>	<b>2403.19</b>	<b>Other:</b>		
104.35.02	2403.19.10	Pipe tobacco in immediate packings of a content of less than 5 kg	R155.54/kg net	R166.40/kg net
104.35.03	2403.19.20	Other pipe tobacco	R155.54/kg net	R166.40/kg net
104.35.05	2403.19.30	Cigarette tobacco	R278.82/kg	R297.60/kg
<b>104.35</b>	<b>2403.99</b>	<b>Other:</b>		
104.35.07	2403.99.30	Other cigarette tobacco substitutes	R278.82/kg	R297.60/kg
104.35.09	2403.99.40	Other pipe tobacco substitutes	R155.54/kg net	R166.40/kg net

1. The chapter references in this table refer to chapters of the schedule to the Customs and Excise Act (1964)

Source: National Treasury

**Table C.8 Amendment of Schedule 1 Part 1****By the substitution of Additional Note 3 in Chapter 22 of Part 1 to Schedule No. 1 with the following:**

3. The beverages of subheading 2206.00.05 are beverages which, when kept at a temperature of 20 °C in closed containers, have an excess pressure of not less than 300 kPa.

**By the substitution of Additional Note 6 in Chapter 22 of Part 1 to Schedule No. 1 with the following:**

6 (a) Subheading 2206.00.19 is limited to beverages that are the end products of fermentation of a liquor (wort) of non-malted milled cereals listed in the table in Chapter Note 2 to Chapter 11, whether or not flavoured but not mixed with any other beverages, provided the fermentable sugars are derived solely from the liquor (wort) without the addition of any other sugars during or prior to fermentation.

(b) Subheading 2206.00.21 is limited to beverages obtained by mixing the products specified in (a) with any non-alcoholic beverage.

**By the insertion of Additional Note 7 in Chapter 22 of Part 1 to Schedule No.1 with the following:**

7. For the purposes of tariff subheadings 2208.20.11 and 2208.20.91, brandy means pot stillled brandy and vintage brandy as defined in the Liquor Products Act, Act 60 of 1989.

**By the deletions of tariff subheadings 2208.20.10 and 2208.20.90 in Chapter 22 of Part 1 to Schedule No. 1 of the following:**

Heading/ Subheading	Check digit	Article description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
2208.20.10	6	In containers holding 2 li or less	li	154c/li	free	free	free
2208.20.90	4	Other	li	136c/li	free	free	free

**By the substitution of the following tariff subheadings in Chapter 22 of Part 1 to Schedule No. 1 with the following:**

Heading/ Subheading	Check digit	Article description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
2206.00.05	3	Sparkling fermented fruit or mead beverages; mixtures of sparkling fermented beverages derived from the fermentation of fruit or honey; mixtures of sparkling fermented fruit or mead beverages and non-alcoholic beverages	li	25%	free	25%	free
2206.00.19	3	Other fermented beverages of non-malted cereal grains, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 9 per cent by vol.	li	25%	free	25%	free

**Table C.8 Amendment of Schedule 1 Part 1 (continued)**

By the insertion of the following tariff subheadings in Chapter 22 of Part 1 to Schedule No. 1 with the following:

Heading/ Subheading	Check digit	Article description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
2206.00.21	5	Other mixtures of fermented beverages of non-malted cereal grains and non-alcoholic beverages, unfortified, with an alcoholic strength of at least 2.5 per cent by volume but not exceeding 9 per cent by vol.	li	25%	free	25%	free
<b>2208.20.1</b>		<b>In containers holding 2 li or less:</b>					
2208.20.11	4	Brandy as defined in Additional Note 7 to Chapter 22	li	154c/li	free	free	free
2208.20.19		Other	li				
<b>2208.20.9</b>		<b>Other</b>					
2208.20.91	6	Brandy as defined in Additional Note 7 to Chapter 22	li	136c/li	free	free	free
2208.20.99	4	Other	li	136c/li	free	free	free

Source: National Treasury

### Environmental levy on tyres

Government proposes the introduction of an environmental levy on new and re-treaded pneumatic tyres with effect from 1 October 2016. Section E, as shown in Table C.9, is to be inserted into part 3 of schedule 1 of the Customs and Excise Act.

**Table C.9 Environmental levy, 2016/17**

By the insertion of the following note(s) in Section E to Part 3 of Schedule 1

**ENVIRONMENTAL LEVY ON TYRES****Notes:**

1. Any rate of environmental levy on tyres specified in this Section shall apply to -
  - (a) New, used or retreaded tyres, imported into the Republic;
  - (b) Tyres fitted to or presented with imported vehicles or chassis specified in Chapter 87;
  - (c) Tyres fitted to or presented with imported road wheels fitted with tyres; wheel rims fitted with tyres specified in tariff heading 87.08;
  - (d) Tyres imported in terms of Chapter 98;
  - (e) New or retreaded tyres manufactured in the Republic.
2. Any environmental levy payable in terms of this Section in respect of tyres specified therein shall be additional to any Customs and Excise duty payable in terms of Part 1 or 2 of Schedule 1 or any Section in this Part.
3. The rate of environmental levy specified in the "rate of environmental levy" column in this Section shall be calculated on the mass of the tyre/s only, whether or not imported with vehicles, chassis, or components (including road wheels fitted with tyres; wheel rims fitted with tyres), or other goods.
4. Imported goods shall not be declared on separate bills of entry for the purposes of Parts 1, 2 and 3 of this Schedule.

By the insertion of the following tariff item(s) in Section E to Part 3 of Schedule No. 1:

Levy item	Tariff subheading	Article description	Rate of levy
<b>152.00</b>	<b>40.11</b>	<b>New pneumatic tyres, of rubber:</b>	
<b>152.01</b>	<b>4011.10</b>	<b>Of a kind used on motor cars (including station wagons and racing cars):</b>	
152.01.01	4011.10.01	Having a rim size not exceeding 33 cm (13 inches)	R2.30/kg net
152.01.03	4011.10.03	Having a rim size of 35 cm (14 inches)	R2.30/kg net
152.01.05	4011.10.05	Having a rim size of 38 cm (15 inches)	R2.30/kg net
152.01.07	4011.10.07	Having a rim size of 41 cm (16 inches)	R2.30/kg net
152.01.09	4011.10.09	Having a rim size of 43 cm (17 inches) or more	R2.30/kg net
<b>152.02</b>	<b>4011.20</b>	<b>Of a kind used on buses or lorries:</b>	
<b>152.02</b>	<b>4011.20.1</b>	<b>Having a load index not exceeding 121:</b>	
152.02.03	4011.20.16	Having a rim size not exceeding 35 cm (14 inches)	R2.30/kg net
152.02.05	4011.20.18	Having a rim size of 38 cm (15 inches) or more	R2.30/kg net
<b>152.02</b>	<b>4011.20.2</b>	<b>With a load index exceeding 121:</b>	
152.02.07	4011.20.22	Having a rim size not exceeding 44 cm (17.5 inches)	R2.30/kg net
152.02.09	4011.20.24	Having a rim size exceeding 44 cm (17.5 inches) but not exceeding 51 cm (20 inches)	R2.30/kg net
152.02.11	4011.20.26	Having a rim size exceeding 51 cm (20 inches)	R2.30/kg net
152.02.15	4011.30	Of a kind used on aircraft	R2.30/kg net
152.02.17	4011.40	Of a kind used on motorcycles	R2.30/kg net
152.02.19	4011.50	Of a kind used on bicycles	R2.30/kg net
<b>152.02</b>	<b>4011.6</b>	<b>Other, having a "herring-bone" or similar tread:</b>	
<b>152.02</b>	<b>4011.61</b>	<b>Of a kind used on agricultural or forestry vehicles and machines:</b>	
152.02.25	4011.61.10	Having a rim size of less than 91 cm	R2.30/kg net
152.02.27	4011.61.20	Having a rim size of 91 cm or more	R2.30/kg net
152.02.29	4011.62	Of a kind used on construction or industrial handling vehicles and machines and having a rim size not exceeding 61 cm	R2.30/kg net

**Table C.9 Environmental levy, 2016/17 (continued)**

By the insertion of the following note(s) in Section E to Part 3 of Schedule 1

<b>152.02</b>	<b>4011.63</b>	<b>Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm:</b>	
152.02.31	4011.63.10	Having a rim size of less than 91 cm	R2.30/kg net
152.02.33	4011.63.20	Having a rim size of 91 cm or more	R2.30/kg net
<b>152.02</b>	<b>4011.69</b>	<b>Other:</b>	
152.02.37	4011.69.10	Having a rim size of less than 91 cm	R2.30/kg net
152.02.39	4011.69.20	Having a rim size of 91 cm or more	R2.30/kg net
<b>152.02</b>	<b>4011.9</b>	<b>Other:</b>	
<b>152.02</b>	<b>4011.92</b>	<b>Of a kind used on agricultural or forestry vehicles and machines:</b>	
152.02.43	4011.92.10	Having a rim size of less than 91 cm	R2.30/kg net
152.02.45	4011.92.20	Having a rim size of 91 cm or more	R2.30/kg net
152.02.47	4011.93	Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm	R2.30/kg net
<b>152.02</b>	<b>4011.94</b>	<b>Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm:</b>	
152.02.49	4011.94.10	Having a rim size of less than 91 cm	R2.30/kg net
152.02.51	4011.94.20	Having a rim size of 91 cm or more	R2.30/kg net
<b>152.02</b>	<b>4011.99</b>	<b>Other:</b>	
152.02.53	4011.99.10	Having a rim size of less than 91 cm (excluding those for use on wheelchairs)	R2.30/kg net
152.02.55	4011.99.90	Other	R2.30/kg net
<b>152.03</b>	<b>4012.1</b>	<b>Retreaded tyres:</b>	
152.03.11	4012.11	Of a kind used on motor cars (including station wagons and racing cars)	R2.30/kg net
152.03.12	4012.12	Of a kind used on buses or lorries	R2.30/kg net
152.03.13	4012.13	Of a kind used on aircraft	R2.30/kg net
152.03.19	4012.19	Other	R2.30/kg net
<b>152.04</b>	<b>4012.20</b>	<b>Used pneumatic tyres:</b>	
152.04.11	4012.20.10	Of a kind used on motor cars (including station wagons and racing cars)	R2.30/kg net
152.04.13	4012.20.20	Of a kind used on busses or lorries	R2.30/kg net
152.04.15	4012.20.90	Other	R2.30/kg net
<b>153.00</b>	<b>87.01</b>	<b>Tractors (excluding tractors of heading 87.09):</b>	
153.00.01	8701.10	Pedestrian controlled tractors	R2.30/kg net
<b>153.01</b>	<b>8701.20</b>	<b>Road tractors for semi-trailers:</b>	
153.01.05	8701.20.10	Of a vehicle mass not exceeding 1 600 kg	R2.30/kg net
153.01.07	8701.20.20	Of a vehicle mass exceeding 1 600 kg	R2.30/kg net
153.01.09	8701.30	Track-laying tractors	R2.30/kg net
<b>153.01</b>	<b>8701.90</b>	<b>Other:</b>	
153.01.17	8701.90.10	Two-wheeled tractors, of a cylinder capacity exceeding 2 000 cm <sup>3</sup>	R2.30/kg net
153.01.19	8701.90.90	Other	R2.30/kg net
<b>153.02</b>	<b>87.02</b>	<b>Motor vehicles for the transport of ten or more persons, including the driver:</b>	
<b>153.02</b>	<b>8702.10</b>	<b>With compression-ignition internal combustion piston engines (diesel or semi-diesel):</b>	

**Table C.9 Environmental levy, 2016/17 (continued)**

<b>By the insertion of the following note(s) in Section E to Part 3 of Schedule 1</b>			
153.02.11	8702.10.10	New, right-hand drive, fitted with interior parcel racks, foot-rests, magazine nets, coat hooks, reclining seats, arm rests, microphone and radio or cassette equipment, air conditioning with individual controls, pneumatic plug doors, individual reading lights, chemical toilet, wash basin and refrigerator	R2.30/kg net
153.02.13	8702.10.81	Other, of a vehicle mass not exceeding 2 000 kg: with a value for ad valorem customs duty purposes not exceeding R130 000; or vehicles for the transport of 14 persons or more, including the driver	R2.30/kg net
153.02.14	8702.10.85	Other, of a vehicle mass not exceeding 2 000 kg	R2.30/kg net
153.02.17	8702.10.87	Other, of a vehicle mass exceeding 2 000 kg: with a value for ad valorem customs duty purposes or ad valorem excise duty purposes of less than R130 000; or vehicles for the transport of 14 persons or more, including the driver	R2.30/kg net
153.02.21	8702.10.90	Other	R2.30/kg net
<b>153.02</b>	<b>8702.90</b>	<b>Other:</b>	
153.02.23	8702.90.81	Other, of a vehicle mass not exceeding 2 000 kg: with a value for ad valorem customs duty purposes or ad valorem excise duty purposes not exceeding R130 000; or vehicles for the transport of 14 persons or more, including the driver	R2.30/kg net
153.02.25	8702.90.85	Other, of a vehicle mass not exceeding 2 000 kg	R2.30/kg net
153.02.27	8702.90.87	Other, of a vehicle mass exceeding 2 000 kg: with a value for ad valorem customs duty purposes or ad valorem excise duty purposes of less than R130 000; or vehicles for the transport of 14 persons or more, including the driver	R2.30/kg net
153.02.29	8702.90.90	Other	R2.30/kg net
<b>153.03</b>	<b>87.03</b>	<b>Motor cars and other motor vehicles principally designed for the transport of persons (excluding those of heading 87.02), including station wagons and racing cars:</b>	
153.03.01	8703.10	Vehicles specially designed for travelling on snow; golf cars and similar vehicles	R2.30/kg net
<b>153.03</b>	<b>8703.2</b>	<b>Other vehicles, with spark-ignition internal combustion reciprocating piston engine:</b>	
<b>153.03</b>	<b>8703.21</b>	<b>Of a cylinder capacity not exceeding 1 000 cm<sup>3</sup>:</b>	
153.03.11	8703.21.23	Vehicles of the open body tubular frame type, with an engine capacity not exceeding 250 cm <sup>3</sup> and a vehicle mass not exceeding 250 kg	R2.30/kg net
153.03.13	8703.21.25	Hearses	R2.30/kg net
153.03.15	8703.21.27	Ambulances	R2.30/kg net
153.03.17	8703.21.60	Vehicles with motorcycle-type handlebars and hand-operated controls	R2.30/kg net
153.03.19	8703.21.70	Six or eight-wheeled vehicles, chain-driven and operated through an integral gearbox and differential unit	R2.30/kg net
153.03.21	8703.21.90	Other	R2.30/kg net
<b>153.03</b>	<b>8703.22</b>	<b>Of a cylinder capacity exceeding 1 000 cm<sup>3</sup> but not exceeding 1 500 cm<sup>3</sup>:</b>	
153.03.23	8703.22.25	Hearses	R2.30/kg net
153.03.25	8703.22.27	Ambulances	R2.30/kg net
153.03.27	8703.22.90	Other	R2.30/kg net
<b>153.03</b>	<b>8703.23</b>	<b>Of a cylinder capacity exceeding 1 500 cm<sup>3</sup> but not exceeding 3 000 cm<sup>3</sup>:</b>	

**Table C.9 Environmental levy, 2016/17 (continued)**

By the insertion of the following note(s) in Section E to Part 3 of Schedule 1

153.03.29	8703.23.25	Hearses	R2.30/kg net
153.03.31	8703.23.27	Ambulances	R2.30/kg net
153.03.33	8703.23.90	Other	R2.30/kg net
<b>153.03</b>	<b>8703.24</b>	<b>Of a cylinder capacity exceeding 3 000 cm<sup>3</sup>:</b>	
153.03.35	8703.24.25	Hearses	R2.30/kg net
153.03.37	8703.24.27	Ambulances	R2.30/kg net
153.03.39	8703.24.90	Other	R2.30/kg net
<b>153.03</b>	<b>8703.3</b>	<b>Other vehicles, with compression-ignition internal combustion piston engine (diesel or semi-diesel):</b>	
<b>153.03</b>	<b>8703.31</b>	<b>Of a cylinder capacity not exceeding 1 500 cm<sup>3</sup>:</b>	
153.03.41	8703.31.25	Hearses	R2.30/kg net
153.03.43	8703.31.27	Ambulances	R2.30/kg net
153.03.45	8703.31.70	Of a vehicle mass not exceeding 600 kg (excluding hearses)	R2.30/kg net
153.03.47	8703.31.80	Six or eight-wheeled vehicles with skid steering systems, chain-driven and operated through an integral gearbox and differential unit, of a vehicle mass exceeding 600 kg and of a cylinder capacity not exceeding 1 000 cm <sup>3</sup>	R2.30/kg net
153.03.49	8703.31.90	Other	R2.30/kg net
<b>153.03</b>	<b>8703.32</b>	<b>Of a cylinder capacity exceeding 1 500 cm<sup>3</sup> but not exceeding 2 500 cm<sup>3</sup>:</b>	
153.03.51	8703.32.25	Hearses	R2.30/kg net
153.03.53	8703.32.27	Ambulances	R2.30/kg net
153.03.55	8703.32.90	Other	R2.30/kg net
<b>153.03</b>	<b>8703.33</b>	<b>Of a cylinder capacity exceeding 2 500 cm<sup>3</sup>:</b>	
153.03.57	8703.33.25	Hearses	R2.30/kg net
153.03.59	8703.33.27	Ambulances	R2.30/kg net
153.03.61	8703.33.90	Other	R2.30/kg net
<b>153.03</b>	<b>8703.90</b>	<b>Other:</b>	
153.03.63	8703.90.25	Hearses	R2.30/kg net
153.03.65	8703.90.27	Ambulances	R2.30/kg net
153.03.67	8703.90.29	Electric vehicles	R2.30/kg net
153.03.69	8703.90.90	Other	R2.30/kg net
<b>153.04</b>	<b>87.04</b>	<b>Motor vehicles for the transport of goods:</b>	
<b>153.04</b>	<b>8704.10</b>	<b>Dumpers designed for off-highway use:</b>	
153.04.05	8704.10.25	Growth Vehicle Mass (G.V.M.) not exceeding 50 t	R2.30/kg net
153.04.07	8704.10.90	Other	R2.30/kg net
<b>153.04</b>	<b>8704.2</b>	<b>Other, with compression-ignition internal combustion piston engine (diesel or semi-diesel):</b>	
<b>153.04</b>	<b>8704.21</b>	<b>G.V.M. not exceeding 5 t:</b>	
153.04.09	8704.21.10	Shuttle cars for use in underground mines; low construction flame-proof vehicles, equipped with control mechanisms both in the front and at the rear, for use in underground mines	R2.30/kg net
153.04.11	8704.21.40	Off-the-road logging trucks	R2.30/kg net
153.04.13	8704.21.70	Other, of a vehicle mass not exceeding 600 kg	R2.30/kg net
153.04.15	8704.21.85	Other, with an engine capacity not exceeding 1 000 cm <sup>3</sup>	R2.30/kg net
153.04.17	8704.21.81	Other, double-cab, of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg or a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab	R2.30/kg net

**Table C.9 Environmental levy, 2016/17 (continued)**

<b>By the insertion of the following note(s) in Section E to Part 3 of Schedule 1</b>			
153.04.19	8704.21.83	Other (excluding double-cab), of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg or a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab	R2.30/kg net
153.04.21	8704.21.90	Other	R2.30/kg net
<b>153.04</b>	<b>8704.22</b>	<b>G.V.M. exceeding 5 t but not exceeding 20 t:</b>	
153.04.23	8704.22.10	Shuttle cars for use in underground mines; low construction flame-proof vehicles, equipped with control mechanisms both in the front and at the rear, for use in underground mines	R2.30/kg net
153.04.25	8704.22.20	Off-the-road logging trucks	R2.30/kg net
153.04.27	8704.22.90	Other	R2.30/kg net
<b>153.04</b>	<b>8704.23</b>	<b>G.V.M. exceeding 20 t:</b>	
153.04.29	8704.23.10	Shuttle cars for use in underground mines; low construction flame-proof vehicles, equipped with control mechanisms both in the front and at the rear, for use in underground mines	R2.30/kg net
153.04.31	8704.23.20	Off-the-road logging trucks	R2.30/kg net
153.04.33	8704.23.90	Other	R2.30/kg net
<b>153.04</b>	<b>8704.3</b>	<b>Other, with spark-ignition internal combustion piston engine:</b>	
<b>153.04</b>	<b>8704.31</b>	<b>G.V.M. not exceeding 5 t:</b>	
153.04.35	8704.31.30	Off-the-road logging trucks	R2.30/kg net
153.04.37	8704.31.50	Three-wheeled vehicles with motorcycle type steering systems and engines of a cylinder capacity not exceeding 550 cm <sup>3</sup> , and equipped with motor vehicle type differentials and reverse gears	R2.30/kg net
153.04.39	8704.31.70	Other (excluding off-the-road logging trucks and three-wheeled vehicles) of a vehicle mass not exceeding 600 kg	R2.30/kg net
153.04.39	8704.31.75	Other, with an engine capacity not exceeding 1 000 cm <sup>3</sup>	R2.30/kg net
153.04.41	8704.31.81	Other, double-cab, of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg or a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab	R2.30/kg net
153.04.43	8704.31.83	Other (excluding double-cab), of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg or a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab	R2.30/kg net
153.04.45	8704.31.90	Other	R2.30/kg net
<b>153.04</b>	<b>8704.32</b>	<b>G.V.M. exceeding 5 t:</b>	
153.04.49	8704.32.10	Off-the-road logging trucks	R2.30/kg net
153.04.51	8704.32.90	Other	R2.30/kg net
<b>153.04</b>	<b>8704.90</b>	<b>Other:</b>	
153.04.53	8704.90.05	Golf carts, pedestrian type	R2.30/kg net
153.04.55	8704.90.30	Off-the-road logging trucks	R2.30/kg net
153.04.59	8704.90.81	Other, double-cab, of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg or a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab	R2.30/kg net

**Table C.9 Environmental levy, 2016/17 (continued)**

By the insertion of the following note(s) in Section E to Part 3 of Schedule 1

153.04.61	8704.90.83	Other (excluding double-cab), of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg or a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab	R2.30/kg net
153.04.63	8704.90.90	Other	R2.30/kg net
<b>153.05</b>	<b>87.05</b>	<b>Special purpose motor vehicles (excluding those principally designed for the transport of persons or goods) (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile workshops, mobile radiological units):</b>	
153.05.01	8705.10	Crane lorries	R2.30/kg net
153.05.03	8705.20	Mobile drilling derricks	R2.30/kg net
153.05.05	8705.30	Fire fighting vehicles	R2.30/kg net
153.05.07	8705.40	Concrete-mixer lorries	R2.30/kg net
153.05.09	8705.90	Other	R2.30/kg net
<b>153.06</b>	<b>8706.00</b>	<b>Chassis fitted with engines, for the motor vehicles of headings 87.01 to 87.05:</b>	
153.06.05	8706.00.05	Of a vehicle mass not exceeding 1 600 kg or of a G.V.M. not exceeding 3 500 kg, for the vehicles of heading 8704.10	R2.30/kg net
153.06.15	8706.00.15	Other, of a vehicle mass not exceeding 1 600 kg or of a G.V.M. not exceeding 3 500 kg	R2.30/kg net
153.06.20	8706.00.20	Other	R2.30/kg net
<b>153.08</b>	<b>8708.70</b>	<b>Road wheels and parts and accessories thereof:</b>	
153.08.21	8708.70.10	Identifiable for use solely or principally with tractors (excluding road tractors)	R2.30/kg net
153.08.23	8708.70.21	Of a kind used on motor cars	R2.30/kg net
153.08.25	8708.70.23	Of a kind used on busses or lorries	R2.30/kg net
153.08.27	8708.70.29	Other	R2.30/kg net
153.08.29	8708.70.90	Other	R2.30/kg net
<b>153.09</b>	<b>8709.1</b>	<b>Vehicles:</b>	
153.09.11	8709.11	Electrical	R2.30/kg net
153.09.19	8709.19	Other	R2.30/kg net
153.09.29	8709.90	Parts	R2.30/kg net
<b>153.10</b>	<b>8710.00</b>	<b>Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons, and parts of such vehicles</b>	<b>R2.30/kg net</b>
<b>153.11</b>	<b>87.11</b>	<b>Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars:</b>	
153.11.01	8711.10	With reciprocating internal combustion piston engine of a cylinder capacity not exceeding 50 cm <sup>3</sup>	R2.30/kg net
<b>153.11</b>	<b>8711.20</b>	<b>With reciprocating internal combustion piston engine of a cylinder capacity exceeding 50 cm<sup>3</sup> but not exceeding 250 cm<sup>3</sup>:</b>	
153.11.05	8711.20.10	With an engine of a cylinder capacity of less than 200 cm <sup>3</sup>	R2.30/kg net
153.11.07	8711.20.90	Other	R2.30/kg net
153.11.09	8711.30	With reciprocating internal combustion piston engine of a cylinder capacity exceeding 250 cm <sup>3</sup> but not exceeding 500 cm <sup>3</sup>	R2.30/kg net
153.11.11	8711.40	With reciprocating internal combustion piston engine of a cylinder capacity exceeding 500 cm <sup>3</sup> but not exceeding 800 cm <sup>3</sup>	R2.30/kg net

**Table C.9 Environmental levy, 2016/17 (continued)**

<b>By the insertion of the following note(s) in Section E to Part 3 of Schedule 1</b>			
153.11.13	8711.50	With reciprocating internal combustion piston engine of a cylinder capacity exceeding 800 cm <sup>3</sup>	R2.30/kg net
<b>153.11</b>	<b>8711.90</b>	<b>Other:</b>	
153.11.15	8711.90.10	Side-cars	R2.30/kg net
153.11.17	8711.90.20	Other, of a cylinder capacity of 200 cm <sup>3</sup> or more but not exceeding 800 cm <sup>3</sup>	R2.30/kg net
153.11.19	8711.90.30	Other, of a cylinder capacity exceeding 800 cm <sup>3</sup>	R2.30/kg net
153.11.21	8711.90.90	Other	R2.30/kg net
<b>153.12</b>	<b>8712.00</b>	<b>Bicycles and other cycles (including delivery tri-cycles), not motorised:</b>	
153.12.10	8712.00.10	Bicycles	R2.30/kg net
153.12.90	8712.00.90	Other	R2.30/kg net
<b>153.16</b>	<b>8716</b>	<b>Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof:</b>	
153.16.10	8716.10	Trailers and semi-trailers of the caravan type, for housing or camping	R2.30/kg net
153.16.20	8716.20	Self-loading or self-unloading trailers and semi-trailers for agricultural purposes	R2.30/kg net
<b>153.16</b>	<b>8716.3</b>	<b>Other trailers and semi-trailers for the transport of goods:</b>	
153.16.31	8716.31	Tanker trailers and tanker semi-trailers	R2.30/kg net
153.16.39	8716.39	Other	R2.30/kg net
153.16.40	8716.40	Other trailers and semi-trailers	R2.30/kg net
153.16.50	8716.90.20	Road wheels fitted with tyres; wheel rims fitted with tyres	R2.30/kg net
<b>154.00</b>	<b>8801.00</b>	<b>Balloons and dirigibles; gliders, hang gliders and other non-powered aircraft</b>	<b>R2.30/kg net</b>
<b>154.02</b>	<b>8802.1</b>	<b>Helicopters:</b>	
154.02.11	8802.11	Of an unladen mass not exceeding 2 000 kg	R2.30/kg net
154.02.13	8802.12	Of an unladen mass exceeding 2 000 kg	R2.30/kg net
154.02.15	8802.20	Aeroplanes and other aircraft, of an unladen mass not exceeding 2 000 kg	R2.30/kg net
154.02.17	8802.30	Aeroplanes and other aircraft, of an unladen mass exceeding 2 000 kg but not exceeding 15 000 kg	R2.30/kg net
154.02.19	8802.40	Aeroplanes and other aircraft, of an unladen mass exceeding 15 000 kg	R2.30/kg net
154.02.21	8802.60	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles	R2.30/kg net
<b>154.03</b>	<b>88.03</b>	<b>Parts of goods of heading 88.01 or 88.02:</b>	
154.03.11	8803.20	Under-carriages and parts thereof	R2.30/kg net
<b>155.00</b>	<b>9801.00</b>	<b>Original equipment components:</b>	
155.00.10	9801.00.10	For road tractors for semi-trailers of subheading 8701.20 of a vehicle mass not exceeding 1 600 kg	R2.30/kg net
155.00.15	9801.00.15	For road tractors for semi-trailers of subheading 8701.20 of a vehicle mass exceeding 1 600 kg	R2.30/kg net
155.00.20	9801.00.20	For motor vehicles for the transport of ten or more persons including the driver, of heading 87.02 of a vehicle mass not exceeding 2 000 kg	R2.30/kg net
155.00.25	9801.00.25	For motor vehicles for the transport of ten or more persons, including the driver of heading 87.02 of a vehicle mass exceeding 2 000 kg (excluding vehicles of subheading 8702.10.10)	R2.30/kg net
155.00.30	9801.00.30	For motor cars (including station wagons) of heading 87.03	R2.30/kg net
155.00.40	9801.00.40	For motor vehicles for the transport of goods of heading 87.04, of a vehicle mass not exceeding 2 000 kg or of a G.V.M. not exceeding 3 500 kg, or of a mass not exceeding 1 600 kg or of a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab (excluding dumpers designed for off-highway use, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks)	R2.30/kg net
155.00.45	9801.00.45	For motor vehicles for the transport of goods of heading 87.04, of a vehicle mass exceeding 2 000 kg or a G.V.M. exceeding 3 500 kg, or of a mass exceeding 1 600 kg and of a G.V.M. exceeding 3 500 kg per chassis fitted with a cab (excluding shuttle cars and low construction flame-proof vehicles for use in underground mines and off-the-road logging trucks)	R2.30/kg net
155.00.50	9801.00.50	For chassis fitted with engines of heading 87.06, of a mass not exceeding 1 600 kg, or of a G.V.M. not exceeding 3 500 kg (excluding those for dumpers designed for off-highway use, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks)	R2.30/kg net
155.00.55	9801.00.55	For chassis fitted with engines of heading 87.06, of a mass exceeding 1 600 kg and a G.V.M. exceeding 3 500 kg (excluding those for shuttle cars and low construction flame-proof vehicles for use in underground mines and off-the-road logging trucks)	R2.30/kg net

Source: National Treasury

## Additional tax amendments

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

### Individuals, employment and savings

#### *Retirement reforms*

*Allowable deduction for fringe benefit of employer contributions to defined pension funds:* Section 11(k)(iii) of the Income Tax Act inadvertently limited the allowable deduction for the fringe benefit of employer contributions to retirement funds to the actual value of the employer contribution. However, the fringe benefit value for defined benefit pension funds is determined by a formula provided in paragraph 12D of the act's Seventh Schedule and may be larger than the actual value of the employer contribution (because the fringe benefit is dependent on the value of benefits and not the funding position of the defined benefit pension fund). In this case, the available deduction would not be aligned with the employer contribution's fringe benefit value and any excess amount would become taxable. This was not the original intention and the legislation will be adjusted to allow a deduction up to the full value of the employer contribution fringe benefit, if valued according to paragraph 12D of the Seventh Schedule. The amendment will take effect from 1 March 2016.

*Passive income deduction:* Before 1 March 2016, taxpayers were able to deduct retirement annuity contributions against their passive or non-trading income up to a certain limit. The current wording of section 11(k) of the Income Tax Act, which introduces the harmonised tax regime for retirement contributions from 1 March 2016, does not allow for contributions to any retirement fund to be set off against passive income. It is proposed that section 11(k) of the act be amended to allow for retirement contributions to be deducted against passive income, subject to the available limits.

*Rollover of excess contributions prior to 1 March 2016:* It is proposed that section 11(k) of the Income Tax Act be amended to allow for the rollover of excess contributions to retirement annuity funds and pension funds accumulated up to 29 February 2016.

*Order of allowable deductions:* To correct the ordering rule for calculating allowable deductions in the determination of taxable income, it is proposed that the allowable deduction under section 11(k) of the Income Tax Act be determined before the allowable deduction under section 18A.

*Removal of the requirement for a tax directive to effect tax-free transfers from pension funds to provident funds:* The 2015 retirement reforms made provision for tax-free transfers from pension funds to provident funds. Before this amendment, tax-free transfers from pension funds to provident funds required a tax directive from SARS. It is proposed that this requirement for a tax directive be removed because it is no longer applicable to these transfers.

*Valuation of contributions made to defined benefit pension funds:* Paragraph 12D of the Seventh Schedule of the Income Tax Act only makes provision for contributions actually made by the employer or employee to certain retirement funds, and excludes contributions made on behalf of the employer or employee (for example, by the retirement fund). It is proposed that paragraph 12D of the Seventh Schedule be amended to include all contributions made for the member's benefit. Other technical amendments to paragraph 12D include clarifying that retirement fund income is the full amount used to determine the employer's contribution, not only remuneration as defined in paragraph 1 of the Fourth Schedule. A potential issue of double counting for retirement funds with a hybrid structure (having both defined benefit and defined contribution elements) will be removed. It will also be made clear when actuaries can provide an updated contribution certificate.

*Vested rights for provident fund members – divorce order settlements:* From 1 March 2016, provident fund members may be required to purchase an annuity using a portion of contributions made after that date. However, all contributions made before 1 March 2016 will not be subject to annuitisation (generally referred to as vested rights). To allocate this vested right fairly in the case of a divorce, it is

proposed that the withdrawal of retirement benefits arising from divorce order settlements be proportionally attributed as a reduction against both the vested right and non-vested right portions of the retirement fund savings.

*Vested rights for provident fund members – mandatory transfer:* From 1 March 2016, provident fund members above the age of 55 will be able to continue contributing to that provident fund without being required to purchase an annuity upon retirement. However, if they transfer to another retirement fund, then any future contributions to that fund would not be exempt from annuitisation. It is proposed that forced transfers (through the closure of a retirement fund) will not affect the member's ability to make further contributions, which can be taken as a lump sum. Further technical corrections are required to ensure that all contributions to provident funds or pension funds with lump sum benefits made before 1 March 2016 are included in the vested rights provisions, in line with the policy intent. Specifically, the vested rights provision inadvertently excluded transfers made to retirement funds, as defined under paragraph (c) of the definition of pension funds in section 1 of the Income Tax Act, and to preservation provident funds.

*Foreign pension contributions, annuities and payouts:* When the residence-based taxation system was introduced in 2001, section 10(1)(gC) was added to the Income Tax Act to exempt foreign pensions derived from past employment in a foreign jurisdiction (i.e. from a source outside of South Africa). The question of how contributions to foreign pension funds and the taxation of payments from foreign funds should be dealt with raises a number of issues, which require a review. Sufficient time would be required to determine how to deal with contributions to foreign funds and the taxation of payments from foreign funds, taking into account the tax policy for South African retirement funds.

#### *Fringe benefit*

*Clarification regarding raising an assessment for re-calculating fringe benefit:* Paragraph 3(2) of the Seventh Schedule of the Income Tax Act allows the SARS Commissioner under certain circumstances to re-determine the cash equivalent of a fringe benefit and assess either the employer or the employee. Uncertainty exists regarding under what circumstances this determination will be made. To provide clarity, it is proposed that the wording of paragraph 3(2) of the act's Seventh Schedule be aligned with the wording in paragraph 5(2) of the Fourth Schedule.

*Alignment of the definition of private travel:* The concept of private travel has been difficult for employers to apply in practice. The difference in the wording of the definition of private travel in section 8 and the Seventh Schedule of the Income Tax Act adds to the difficulties. To correct this, it is proposed that the wording of the two provisions be aligned.

#### *Tax-free investments*

*Alignment of estate duty treatment:* Tax-free investments were introduced from 1 March 2015 to encourage individuals to save and were not intended to serve as a vehicle to avoid estate duty. Government has become aware that the current law allows individuals who protect their investment portfolio through a long-term insurer to nominate a beneficiary on the endowment policy. As a result, the transfer of the proceeds from the tax-free investment asset to the named beneficiary would circumvent estate duty. It is proposed that the legislation be amended to prevent this.

*Dividends tax returns in the context of tax-free investments:* Investors receiving dividends from tax-free investments are required to submit an exempt dividends tax return to SARS following the receipt of every dividend payment. It is proposed that an amendment be made to remove this requirement.

*Transfers between service providers:* The implementation date to allow transfers of tax-free investments between service providers will be postponed from 1 March 2016 to 1 November 2016 to allow further time for service providers to finalise the administrative processes required for these transfers. Draft regulations outlining the transfer process will be published shortly.

### *Employee share-based incentive schemes*

*Removal of possible double taxation:* If a taxpayer receives a restricted equity instrument having a value, section 1 of the Income Tax Act requires that it be included in gross income in year one, despite the restrictions. Upon vesting, the gain on the instrument needs to be included in gross income in the year of vesting, according to paragraph (n) of the definition of gross income in section 1 when read with section 8C. This could result in the same amount being taxed twice. To avoid this, it is proposed that the acquisition of shares subject to the provisions of section 8C of the act be specifically excluded from paragraph (c) of the definition of gross income in section 1.

*Addressing circumvention of section 8C rules:* The main purpose of section 8C is to prevent taxpayers from disguising high salaries through the use of restricted shares or share-based incentive schemes, which would trigger lower or no taxable income or capital gains. Specific anti-avoidance rules have been added to the tax legislation to counteract avoidance schemes where benefits derived from restricted shares or share-based incentive schemes consist of dividends. The rules exclude such dividends from the exemption in section 10(1)(k) and tax them as ordinary income. However, the current rules do not deal adequately with some schemes where restricted shares held by employees are liquidated in return for an amount qualifying as a dividend. It is proposed that the current rules be reviewed to deal with this.

*Inclusion of certain dividends in the definition of remuneration:* Certain dividends received from restricted equity instruments do not qualify for an income tax exemption and are taxable on assessment of the directors and employees. It is proposed that these taxable dividends be specifically included in the definition of remuneration for PAYE in paragraph 1 of the Fourth Schedule to the Income Tax Act.

### *Employees of foreign employers in South Africa designated as provisional taxpayers*

If foreign employers in South Africa do not deduct PAYE, local employees should pay provisional tax in terms of the Fourth Schedule of the Income Tax Act. Rather than alert this class of taxpayers of their status through individual notices, as is currently required, it is proposed that the commissioner notify them of their status through a public notice.

### *Directives to be sought for all employment lump sums*

There are exceptions to the rule that employers must ascertain from the commissioner the correct amount in employees' tax to be withheld from lump-sum payments before payment is made. It is proposed that the provision for exceptions be removed.

### *Removal of exclusion from penalty calculation*

The penalty for underpaying provisional tax is based on a percentage of normal tax payable after taking into account rebates and tax already paid. Certain once-off amounts, such as retirement lump-sum and severance-benefit payments, are excluded from the calculation of the penalty because they are taxed separately in terms of special tables and the tax owed is withheld before payment is made. Taxpayers are required to pay provisional tax on the other amounts listed in paragraph (d) of the definition of gross income in section 1 of the Income Tax Act, because these amounts are not taxed under the lump-sum tax tables. However, because these amounts are excluded from the penalty calculation, taxpayers are not penalised if they fail to pay the required provisional tax. To correct this, it is proposed that the penalty calculation's exclusion of the amounts in paragraph (d) not taxed in terms of the special tables be removed.

### *Date on which estimate for second provisional tax payment must be submitted*

A provisional taxpayer is not subject to the underpayment penalty if an estimate for the second provisional tax period is submitted before the due date of the subsequent provisional tax payment. It is proposed that this window period be closed on the date of assessment of the relevant year.

## **Business (general)**

### *Hybrid debt instruments*

*Debt instrument subject to subordination agreement:* An instrument may be regarded as a hybrid debt instrument in terms of section 8F of the Income Tax Act, subsequent to its issue, if that instrument becomes subject to a subordination agreement as a result of the issuer being in financial distress. This is because a subordination agreement suspends repayments until such a time as the borrower's financial situation improves. It is proposed that a concession be made to exclude debt instruments subject to a subordination agreement from being regarded as section 8F hybrid debt instruments.

### *Asset-for-share transactions for natural persons employed by a company*

Asset-for-share transactions do not trigger a capital-gains event when the transaction is between a person and a company, and the person either holds a qualifying interest in the company or is a natural person working full time for the company. In such transactions, the base cost of the asset rolls over from the person to the company. The qualifying conditions for such transfers were put in place to ensure that only substantial and long-term transfers of assets for shares benefit from the exemption, and to support the incorporation of professional service firms. However, because some taxpayers have indicated that the limits to the conditions are unclear, it is proposed that section 42 of the Income Tax Act be amended to set them out more clearly.

### *Avoidance schemes in respect of share disposals*

One of the schemes used to avoid the tax consequences of share disposals involves the company buying back the shares from the seller and issuing new shares to the buyer. The seller receives payment in the form of dividends, which may be exempt from normal tax and dividends tax, and the amount paid by the buyer may qualify as contributed tax capital. Such a transaction is, in substance, a share sale that should be subject to tax. The wide-spread use of these arrangements merits a review to determine if additional countermeasures are required.

### *Tax implications of securities lending arrangements*

In 2015, changes were made to the legislation to provide tax relief on the transfer of collateral in securities lending arrangements. As a result, there are no income tax and securities transfer tax implications if a listed share is transferred as collateral in a lending arrangement for a limited period of 12 months. Although the tax relief is welcomed, concerns have been raised that the 12-month limitation rule is too restrictive. It is proposed that a gradual approach to address these concerns be followed. In addition, the tax treatment of securities lending arrangements will be reviewed to take into account corporate actions during the term of the lending arrangement.

### *Refinement of third-party-backed share provisions*

*Pre-2012 legitimate transactions:* In 2012, government introduced new rules to deal with avoidance concerns regarding transactions and arrangements that involve preference shares with dividend yields backed by third parties. These dividend yields, under the new rules, are treated as ordinary revenue. Because the rules may affect some legitimate transactions and arrangements, government will consider relaxing them in relation only to those entered into before 2012.

*Addressing circumvention of anti-avoidance measures:* Several schemes have been identified where investors structure their transactions to circumvent third-party anti-avoidance rules. These schemes include, for example, the formation of trust-holding mechanisms whereby investors acquire participation rights in trusts and the underlying investments of those trusts are preference shares. It is proposed that additional measures be considered to stop the circumvention of these anti-avoidance measures.

### *Mineral and petroleum resources royalties*

The payment of mineral and petroleum resources royalties under the Mineral and Petroleum Resources Royalty (Administration) Act (2008) largely follows the provisional tax scheme in the Fourth Schedule of the Income Tax Act. However, to improve payment automation, greater alignment with the Fourth Schedule is required, particularly with regard to interest and penalties. Amendments to this effect, as well as other technical corrections to the act, will be proposed.

## **Business (financial sector)**

### *Transitional tax issues resulting from regulation of hedge funds*

There are certain scenarios where the tax relief provided in the Taxation Laws Amendment Act (2015) to assist the hedge fund industry's transition to a new regulated tax regime is limited and inapplicable to certain hedge fund's trust structures. This is the case with the tax relief for asset-for-share and amalgamation transactions. It is proposed that provision be made to address these scenarios.

### *Taxation of real estate investment trusts*

*Qualifying distribution rule:* Because recoupments such as building allowances previously claimed are included in the definition of gross income in section 1 of the Income Tax Act, they could affect the 75 per cent rental-income analysis used to determine qualifying distribution applicable to real estate investment trusts (REITs). It is proposed that the provisions relating to the qualifying distribution rule in section 25BB of the act be reviewed to remove this anomaly.

*Interaction between REITs and section 9C:* The current provisions of section 9C of the Income Tax Act are inappropriate for REITs. Dividends received from REITs are taxable, but expenditure incurred to produce these taxable dividends is effectively not deductible. To resolve this anomaly, it is proposed that a provision be added to the act that section 9C(5) does not apply to shares in REITs.

### *Solvency assessment and management framework for long-term insurers*

The Insurance Bill, which gives effect to the Financial Services Board's solvency assessment and management (SAM) framework for long-term and short-term insurers, is likely to come into operation in 2017. As a result, Parliament has proposed that the changes to align the tax valuation method for long-term insurers with SAM that were part of the 2015 Tax Laws Amendment Bill be further considered in 2016.

## **Business (incentives)**

### *Venture capital funding for small businesses*

Funding remains one of the biggest challenges for small businesses. To encourage equity funders to invest in small businesses, the venture capital company regime was introduced in 2008. Currently, 31 venture capital companies are registered. Government is aware that the application of certain provisions on these companies may result in potential investors abandoning plans to take up this incentive. Measures to mitigate this unintended consequence will be explored.

### *Urban development zones*

The urban development zone (UDZ) tax incentive stimulates investment in the construction and renovation of commercial and low-cost residential buildings in the inner city. In conjunction with other development tools, the incentive has helped municipalities promote urban renewal. To assist the many inner cities that remain derelict, it is proposed that the UDZ tax incentive be made available to more municipalities, subject to the application of a set of strict criteria and an adjudication process.

### *Small business corporations in special economic zones*

When the special economic zones tax incentive was introduced in 2013, no clarity was provided regarding the tax treatment of small business corporations located in special economic zones. It is proposed that the legislation be amended to make it clear that small business corporations in special economic zones are subject to corporate income tax at either the applicable graduated rate or 15 per cent, whichever is lower. To be eligible for the 15 per cent rate, the small business corporation will still need to comply with the provisions of section 12R of the Income Tax Act.

### *Tax treatment of National Housing Finance Corporation*

The Department of Human Settlements is consolidating all of its human settlement development finance institutions into the National Housing Finance Corporation. It is proposed that a special tax exemption similar to that provided to certain government entities be provided to the National Housing Finance Corporation. Further amendments will be considered to ensure the transfer of assets from the department's current development finance institutions to the National Housing Finance Corporation are tax neutral.

### *Tax treatment of land donated under land-reform initiatives*

Currently, tax legislation provides tax relief for land donated for land reform. This tax relief does not extend to all government land-reform initiatives. It is proposed that the legislation be amended to cover other land-reform initiatives, such as those set out in the National Development Plan.

### *Clarifying the tax treatment of government grants*

Government grants that are not listed in the Eleventh Schedule to the Income Tax Act can still fall outside the definition of gross income if they are of a capital nature. It is proposed that all government grants be included in gross income and the Eleventh Schedule be the sole mechanism for determining whether they are taxable or not.

## **International tax**

### *Withdrawal of withholding tax on service fees*

The withholding tax on service fees has introduced unforeseen issues, including uncertainty on the application of domestic tax law and taxing rights under tax treaties. To resolve these issues, it is proposed that the withholding tax on service fees be withdrawn from the Income Tax Act and dealt with under the provisions of reportable arrangements in the Tax Administration Act (2011).

### *Foreign companies and collective investment schemes*

Section 9D of the Income Tax Act taxes South African owners of foreign-owned entities on amounts equal to that entity's earned income. This has adverse consequences for collective investment schemes that hold shares in foreign collective investment schemes. There is uncertainty as to whether it is the local fund or the investor in the local fund that should be considered to be the holder of the participation rights in the foreign collective investment scheme. For clarity, it is proposed that collective investment schemes be excluded from applying section 9D to investments made in foreign companies.

### *Bad debt deduction*

Section 11(i) of the Income Tax Act provides for a deduction of any debt owing to the taxpayer that has gone bad during the year, provided that this amount is or was included in the taxpayer's income. Where a taxpayer, not being a money-lender, lends an amount denominated in a foreign currency to another person, any exchange differences arising on such a loan are taken into account in the determination of taxable income as an inclusion in or deduction from income, as the case may be. However, where such a loan becomes bad, no deduction is available under section 11(a) of the act regarding any exchange gains included in income. The loss is of fixed, rather than floating, capital. The result is that a taxpayer would

not be entitled to any tax relief in relation to irrecoverable amounts on which they have been taxed. Based on the above, it is proposed that section 11(i) of the act be amended to specifically apply to any exchange difference in respect of a debt that has been included in income.

#### *Interest withholding tax where interest is written off*

The Income Tax Act requires that tax be withheld from interest paid to a foreign person. Interest is deemed to be paid on the date on which the interest becomes due and payable. In situations where interest withholding tax is paid on interest that becomes due and payable, but the interest is subsequently written off as irrecoverable, there is no mechanism for a refund of interest withholding tax already paid. It is proposed that a mechanism be developed to allow for a refund of interest withholding tax paid.

#### *Tax base protection and hypothetical foreign tax payable due to foreign group tax losses*

In 2009, a high-tax exemption was introduced for controlled foreign companies (CFC). As a result, all CFC income is exempt from tax in South Africa in cases where the CFC pays an amount of foreign tax equal to at least 75 per cent of the tax that would have been due and payable in South Africa, had the CFC been a South African tax resident. The high-tax exemption is based on a calculation of hypothetical amount of foreign taxes, by disregarding foreign group company losses. Government is aware that in applying this calculation, an exemption is granted in situations where no foreign tax is actually payable. In addition, in the absence of the high-tax exemption, no foreign tax rebates would have been granted in this regard to avoid economic double taxation. In order to address the unintended anomaly, it is proposed that the adjustment for foreign group losses in the calculation for high-tax exemption be deleted.

## **VAT**

#### *Notional input tax on goods containing gold*

In 2014, changes were made in the Value-Added Tax Act to exclude goods containing gold from the definition of second-hand goods. It has come to government's attention that the exclusion of goods containing gold from this definition is too restrictive, especially in situations where the gold content of such goods is minimal or inconsequential. It is proposed that the 2014 amendment be revised to eliminate this anomaly.

#### *Taxation of non-executive directors' fees*

Under the Income Tax Act and the Value-Added Tax Act, a non-executive director's fees may be subject to both employees' tax (PAYE) and VAT. Views differ on whether to deduct PAYE from these fees or if the director should register as a VAT vendor. It is proposed that these issues be investigated to provide clarity.

#### *Grants from the National Skills Fund and sector education and training authorities*

The Value-Added Tax Act (1991) zero-rates grants allocated through sector education and training authorities (SETAs), but does not specifically mention those allocated through the National Skills Fund. Aligning the VAT treatment of these two grant allocations will be considered.

#### *Loyalty programmes*

Section 10(18), (19) and (20) of the Value-Added Tax Act deals with how issuing and redeeming tokens, vouchers or stamps are to be treated for VAT. There are no similar provisions in the act to deal with loyalty programmes and the VAT implications of redeeming loyalty points. It is proposed that loyalty programmes be analysed and legislative amendments be considered to provide clarity on their VAT treatment. The provisions relating to vouchers will also be reviewed to determine if they require amendments.

### *Determined value of company cars*

VAT Regulation 2835 specifies a method for establishing the determined value of a company car for output tax purposes. This method differs from the method prescribed in paragraph 7(1) of the Seventh Schedule of the Income Tax Act. These differences have resulted in employers and payroll managers calculating the determined value of company cars using two methods and maintaining two sets of records. In addition, both of these determined values can be depreciated. The use of two methods and maintenance of two sets of records creates an administrative burden. It is proposed that the provisions of the VAT Regulation 2835 be aligned with the provisions of the Seventh Schedule of the Income Tax Act.

### *Waivers and cancellations of debt*

Waivers and cancellations are not included in the definition of financial services. Vendors who waive or cancel debts provide a service through the surrender of a right. Debts that are waived or cancelled between connected persons would trigger an output tax liability calculated on the open market value of the amount waived, even though no consideration will be received. Surrendering the right to receive money (surrendering of a debt security) could also be perceived to be a separate supply. It is proposed that the tax implications relating to these supplies be analysed to determine if a legislative amendment is required.

### *Alignment of prescription periods*

A person may deduct an amount from output tax attributable to a later tax period, provided this later period falls within five years from the date of certain events, for example, the date a tax invoice should have been issued. It is proposed that an input tax deduction be limited in certain instances to the tax period in which the time of supply occurred. In addition, it is proposed that the time limit for the payment of refunds be clarified.

### *Indirect exports*

In terms of the Value-Added Tax Act, a vendor that elected to supply goods at the zero rate for an indirect export may in certain instances be required to account for output tax if the documentary requirements of Regulation 2761 are not met. Provision is made in Regulation 2761 for the vendor to claim an input tax deduction where the relevant documents are subsequently obtained within certain time periods. This section of the act, however, does not refer to the input tax deduction allowed in Regulation 2761. It is therefore proposed that this right to a deduction be referred to in the act to align it with Regulation 2761.

### *Alignment of VAT and customs schedules*

Schedule 1 of the Value-Added Tax Act contains items that are exempt from VAT on importation. According to the Customs and Excise Act, items that are exempt from VAT on importation are identified by heading numbers or rebate items and descriptions as contemplated in schedules 1 and 4 of the act. It is proposed that the notes to the item numbers in schedule 1 of the Value-Added Tax Act be aligned with the notes to the item numbers in schedules 1 and 4 of the Customs and Excise Act.

### *Goods lost, destroyed or damaged*

The Value-Added Tax Act was amended to include item number 412.07 to exempt goods from VAT on importation if they are unconditionally abandoned to the commissioner or destroyed with the commissioner's permission. No similar exemption exists for goods proved to have been lost, destroyed or damaged through, for example, natural disasters or such circumstances that the commissioner deems exceptional. It is therefore proposed that the legislation be amended to exempt the above-mentioned goods from VAT.

### *Payments basis*

The Value-Added Tax Act provides for public authorities and municipalities as defined in section 1 to be registered on the payments basis. In turn, section 15(2A) requires vendors who are registered on the payments basis to issue a tax invoice for any one supply that exceeds R100 000. However, public authorities and municipalities do not have to meet this requirement. This dispensation is not extended to municipal entities. It is proposed that a similar dispensation be granted to municipal entities.

### *Alternative documentary proof*

Section 16(2)(g) of the Value-Added Tax Act determines that a deduction may be allowed where a vendor is in possession of alternative documentary proof that is acceptable to the commissioner. The commissioner's discretion is limited to circumstances where the vendor is unable to obtain the documents prescribed in section 16(2)(a) to (f). It is proposed that scope be provided for the commissioner to take other considerations into account in accepting alternative documentary proof.

### *Removal of goods from a customs controlled area located in a special economic zone*

Businesses that are located in a customs-controlled area (CCA) within a special economic zone enjoy certain VAT cash-flow benefits when importing goods into the CCA. To further support the benefits of investing in special economic zones, an amendment is proposed to allow for the VAT-free movement of goods that are imported into a special economic zone's CCA to a manufacturing duty rebate user, provided there is a sale subject to VAT.

## **Customs and excise duty**

### *General anti-avoidance rule*

To enhance enforcement and compliance with customs duties and excise taxation, a general anti-avoidance provision will be added to the Customs and Excise Act. The design of the anti-avoidance clause will be in line with similar provisions in other indirect tax legislation and will consolidate anti-avoidance efforts in customs and excise administration.

### *Cigarette import or manufacturing*

Provisions in the Customs and Excise Act on the maximum allowed weight of cigarettes that may be imported or manufactured will be updated to 0.8g per cigarette to more accurately reflect volumes of inputs.

## **Tax administration**

### *Extension of objection and condonation periods*

The current period for lodging an objection under the Tax Administration Act is 30 business days from the date of assessment. This has been shown to be too short in practice, particularly in complex matters, resulting in a large number of applications for condonation. It is therefore proposed that a longer period for lodging an objection and condonation be considered. Amendments to the dispute resolution rules will also be required to give effect to this proposal, which could result in a change to the rules for failing to comply within the prescribed time periods.

### *Commercial member to assist presiding officer in tax court*

The Tax Administration Act provides that if a tax appeal relates to the business of mining, the commercial member must be a registered engineer with experience in that field, or a sworn appraiser if it involves the valuation of assets. Because other matters of a technical nature may also require a commercial member with expertise in the relevant field, it is proposed that an amendment be considered to include a more generic provision for this purpose.

*Understatement penalty provisions*

Amendments to the understatement penalty system of the Tax Administration Act to enhance clarity with regard to general anti-avoidance matters will be considered.

*Voluntary disclosure programme*

A person who is aware of a pending audit or investigation may not apply for voluntary disclosure relief. It is proposed that an amendment be considered to clarify what is meant by pending audit or investigation.

*Legal costs recovered by state attorney*

Legal costs recovered by the state attorney on behalf of SARS are paid directly to SARS, not to the National Revenue Fund. It is proposed that all legal costs recovered by the state attorney on behalf of SARS be paid to the National Revenue Fund.

**Technical corrections**

In addition to the amendments described above, the 2016 tax legislation will effect various technical corrections, mainly covering inconsequential items such as grammar, numbering, removing obsolete provisions, and incorporating regulations and commonly accepted 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 fix minor oversights that reveal themselves in the implementation of recently introduced legislative changes.

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