

REPUBLIC OF SOUTH AFRICA

**RATES AND MONETARY
AMOUNTS AND AMENDMENT
OF REVENUE LAWS
(ADMINISTRATION) BILL**

*(As amended by the Standing Committee on Finance)
(The English text is the official text of the Bill)*

(MINISTER OF FINANCE)

[B 20B—2016]

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BILL

To provide for administrative matters in respect of additional relief under the voluntary disclosure programme and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Interpretation

1. For the purposes of this Act, any word or expression to which a meaning has been assigned in the Tax Administration Act bears the meaning so assigned unless the context otherwise indicates and the following terms have the following meaning— 5

“**application**” means an application for the additional relief described in Part II of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2016;

“**Tax Administration Act**” means the Tax Administration Act, 2011 (Act No. 28 of 2011); 10

“**trust**” means a “trust” as defined in section 1(1) of the Income Tax Act, and includes any similar arrangement formed or established under the laws of any country other than the Republic.

Applications

2. (1) An application must be— 15

- (a) made under Part B of Chapter 16 of the Tax Administration Act; and
- (b) received by SARS on or after 1 October 2016 but by no later than 31 August 2017.

(2) An application may not be made—

- (a) by or on behalf of a trust; or 20
- (b) in respect of receipts and accruals from which an asset that has been disclosed to SARS under an international tax agreement was wholly or partly derived.

Understatement penalty

3. For purposes of section 229(b) of the Tax Administration Act, subsequent to the approval of an application under section 230 of the Act, column 6 of the understatement penalty percentage table in section 223 of the Act must be treated as reflecting 0% for all items in that column in respect of that application. 25

Reporting

4. (1) The Minister must report to the National Assembly on—

- (a) the additional relief described in Part II of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2016; and 30
- (b) the exchange control special voluntary disclosure programme contemplated in Exchange Control Circular No. 6/2016, Exchange Control Circular No. 8/2016 and any subsequent circulars in this regard.

- (2) The report must include a summary by main classes of taxpayers or sections of the public of the applications made, approved and not approved and of the amounts payable in respect of—
- (a) voluntary disclosure agreements concluded under section 230 of the Tax Administration Act in respect of applications contemplated in subsection (1)(a); and 5
 - (b) applications approved under the exchange control special voluntary disclosure programme contemplated in subsection (1)(b).
- (3) The report must be tabled in the National Assembly within a reasonable period, which period must not be more than 60 days after receipt by the Minister of the summary 10 contemplated in section 233 of the Tax Administration Act.

Short title

5. This Act is called the Rates and Monetary Amounts and Amendment of Revenue Laws (Administration) Act, 2016.

**MEMORANDUM ON THE OBJECTS OF THE RATES AND
MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS
(ADMINISTRATION) BILL, 2016**

1. INTRODUCTION

The Rates and Monetary Amounts and Amendment of Revenue Laws Bill, 2016, is introduced in Parliament as a money Bill in terms of section 77 of the Constitution. Part II of that Bill proposes to introduce a special voluntary disclosure programme in respect of offshore assets and income. The programme was announced by the Minister of Finance in the Budget Speech in Parliament on 24 February 2016.

2. PURPOSE OF BILL

The Bill proposes to provide for administrative matters in respect of additional relief under the voluntary disclosure programme.

3. OBJECTS OF BILL

3.1 Clause 1 deals with the interpretation of terms in the Bill. Generally terms bear the meaning assigned to them in the Tax Administration Act, 2011 (Act No. 28 of 2011). The term “application” refers specifically to an application for the additional voluntary disclosure relief envisaged in Part II of the Rates and Monetary Amounts and Amendment of Revenue Laws Bill, 2016. The definition of “trust” refers to the definition in the Income Tax Act, 1962 (Act No. 58 of 1962), and expands it to include foreign arrangements similar to trusts.

3.2 Clause 2 specifies the conditions under which an application for additional voluntary disclosure relief may be made. Subclause (2) indicates the circumstances under which such an application may not be made.

3.3 Clause 3 deals with the changes that apply to the understatement penalty in cases where an application for additional voluntary disclosure relief has been approved.

3.4 Clause 4 makes provision for the short title of the proposed Act.

4. CONSULTATION

The amendments proposed by this Bill were published on SARS and National Treasury’s websites for public comment. Comments by interested parties were considered and changes were made as a consequence. Accordingly, the general public and institutions at large have been consulted in preparing the Bill.

5. FINANCIAL IMPLICATIONS FOR STATE

An account of the financial implications for the State was given in the 2016 Budget Review, tabled in Parliament on 24 February 2016.

6. PARLIAMENTARY PROCEDURE

6.1 The State Law Advisers and the National Treasury and South African Revenue Service are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution of the Republic of South Africa, 1996, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it contains no provision pertaining to customary law or customs of traditional communities.