NATIONAL
TREASURY

REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM

ON THE

RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL, 2012

13 March 2012

[W.P. –- ‘12]

Purpose of Bill

Together with the Taxation Laws Amendment Bills, to be introduced in Parliament later this year, this Bill aims to give legislative effect to the tax proposals announced by the Minister of Finance in the 2012 Budget Review, as tabled in Parliament on 22 February 2012. This Bill deals with proposed changes to the rates and monetary amounts pertaining to income tax and customs and excise. Highlights relating to the impact of this Bill are described in the media statement entitled "Rates and Monetary Amounts and Amendment of Revenue Laws Bill, 2012".

Content of Bill

Clause 1 deals with the annual fixing of rates of normal tax in terms of section 5(2) of the Income Tax Act, 1962 (Act No. 58 of 1962), ("the Income Tax Act") and with the rate of tax for registered micro businesses to be set annually in terms of section 48(1) of the Income Tax Act. Subclauses (4) and (5) specify the dates on which these rates are proposed to come into operation for individual taxpayers and special trusts, companies, trusts and registered micro businesses.

Clause 2 proposes new amounts for the primary, secondary and tertiary rebates under section 6 of the Income Tax Act.

Clause 3 proposes new amounts for the medical scheme fees tax credit contained in section 6A of the Income Tax Act.

Clause 4 proposes to change the ratios pertaining to the exemption for foreign dividends contained in section 10B of the Income Tax Act.

Clause 5 proposes to raise the threshold contained in section 23H from R80 000 to R100 000.

Clause 6 deals with the rate of the dividends tax envisaged in section 64E(1) of the Income Tax Act. It is proposed to raise this rate from 10 per cent to 15 per cent.

Clause 7 proposes to raise the rebatement amount in respect of the provision of residential accommodation (in determining the amount of a taxable benefit in terms of paragraph 9 of the Seventh Schedule to the Income Tax Act) from R59 750 to R63 556.

In clause 8 the annual exclusion from capital gains tax for natural persons and special trusts is proposed to be raised from R20 000 to R30 000. In the case of death the annual exclusion is proposed to be raised from R200 000 to R300 000. This necessitates an amendment to paragraph 5 of the Eighth Schedule to the Income Tax Act.

The inclusion rates for capital gains tax are contained in paragraph 10 of the Eighth Schedule to the Income Tax Act. Clause 9 proposes to raise these rates from 25 per cent to 33,3 per cent in the case of natural persons, special trusts and the individual policyholder funds of insurers. In other cases it is proposed to raise the rate from 50 per cent to 66,6 per cent.

Clause 10 proposes to raise the exclusion amount in respect of capital gains and losses for the disposal of a primary residence from R1,5 million to R2 million. This is contained in an amendment to paragraph 45 of the Eighth Schedule to the Income Tax Act.

Clause 11 deals with capital gains tax pertaining to small businesses. It is proposed that the market value of a business that qualifies as a small business should be raised from R5 million to R10 million. The capital gains to be disregarded in case of disposal of a small business asset by a person over 55, in ill-health or at death is proposed to be raised from R900 000 to R1,8 million. Paragraph 57 of the Eighth Schedule to the Income Tax Act is therefore amended.

The threshold for monthly household income in case of housing provided by NGOs is proposed to be raised from R7 500 to R15 000. This would necessitate amendments to paragraph 3 of Part I of the Ninth Schedule to the Income Tax Act, as well as to paragraph 5 of Part II of that Schedule. The proposed amendments are contained in clauses 12 and 13.

Clause 14 proposes amendments to Schedule 1 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), (the “Customs and Excise Act”). These amendments are set out in Appendix II to the Bill and give effect to the new excise duties announced by the Minister of Finance in Parliament on 22 February 2012 in terms of section 58(1) of the Customs and Excise Act.

Clause 15 proposes a short title for the Bill.

Appendix 1 specifies the amounts referred to in clause 1 of the Bill.

Paragraph 1 deals with proposed rates for individuals and special trusts according to specified bands of taxable income.

Paragraph 2 specifies a rate of 40 per cent for trusts.

Paragraph 3 proposes rates for tax levied on—

(a) the taxable income of companies;
(b) the taxable income derived by companies from mining for gold;
(c) gross income in respect of disposal of section 36 mining assets by gold mining companies;
(d) the taxable income of long-term insurance companies; and
(e) the taxable income of companies that qualify in terms of section 37H.

Paragraph 4 deals with proposed rates for approved public benefit organisations and recreational clubs.

Paragraph 5 proposed tax rates to be levied on the taxable income of small business corporations.

Paragraph 6 proposes tax rates based on the taxable turnover of registered micro businesses.

Paragraph 7 deals with the tax rates imposed on taxable income derived from retirement fund lump sum withdrawal benefits, retirement fund lump sum benefits and severance benefits (in subparagraphs (a), (b) and (c) respectively).

Appendix II specifies the rates of duty (as proposed to be amended) contained in Part 2A of Schedule 1 to the Customs and Excise Act.