MINISTRY: FINANCE
REPUBLIC OF SOUTH AFRICA

INTRODUCTION: TAXATION LAWS AMENDMENT BILLS, 2010
ADDRESS TO THE NATIONAL ASSEMBLY
BY THE HONOURABLE MINISTER OF FINANCE
24 August 2010

Mister Speaker;
Deputy President;
Fellow Cabinet Ministers and Deputy Ministers;
Honourable members.

Mister Speaker, I have pleasure in presenting the Taxation Laws Amendment Bills of 2010. These Bills represent the annual revisions to existing tax legislation. As required by the Constitution, two Bills are required for tax legislation. The first Bill is the money bill, which contains the changes to total tax liabilities as a result of changes to tax rates and / or the tax bases. The second Bill covers other tax matters, mainly relating to tax administration.

I. Economic context

Let me reflect on our current economic conditions. Taxation in the South African economy is crucial to our fiscal sovereignty and our ability to fund government expenditure through tax revenue. However, the recession resulted in a massive drop in budgeted revenue last year of R68.9 billion. This resulted in the tax / GDP ratio dropping from 26.9% to 24.4%. It is going to take us 3 to 5 years to recover to a 28% tax / GDP ratio that we had in 2007/08.

The GDP figures released today show second quarter growth at 3.2% and the leading indicators released by SARB yesterday indicate the uncertain economic climate we live in. However, let's be positive and hope that the prediction that our economy will still grow by 3% this year happens to be true.

II. Impact of the tax legislation

The Bills give effect to the tax proposals announced in February when we presented the 2010 Budget. After intensive consultation, including public comments on an initial draft set of bills as well as hearings in parliament, we have amended many of the initial proposals. This, Mister Speaker, demonstrates the power of Parliament to amend money bills such as these tax bills. It also demonstrates the extent to which we listen to stakeholders, and that where they have legitimate concerns, we accommodate them.

Given the complexity of tax legislation, the National Treasury and SARS also publish a detailed Explanatory Memorandum, which assists greatly as the bills are largely amendments to Acts of Parliament, including the Income Tax Act, VAT Act, and Customs and Excise Act.

The proposed Bills provide personal income tax relief and close various tax loopholes to ensure an equitable tax system. Both tax bills contain a mix of limited tax relief measures needed to overcome commercial blockages and anti-avoidance measures needed to protect the tax base. The closing of tax loopholes has become a matter of concern internationally.

III. Employment, individuals and savings

Severance packages paid by employers will qualify for the R300 000 exemption, and at the same time the preferential rates that currently apply to lump sum payments out of retirement savings when one is retrenched or retires will now also be extended to severance packages. This measure will assist those receiving severance packages from employers. A number of other measures are intended to provide relief for various forms of lump sum pension payouts so that taxpayers can more readily access their full retirement savings after retirement.

However, the tax system is not designed to comfort those who seek to exploit loopholes, no matter how well-entrenched those loopholes have become. In this vein, salary packages continue to provide some with undue tax advantages. These undue tax advantages leave a select group of employees with a lower tax burden than the majority who receive their salaries in cash.

These Bills will ensure that workers whose employers provide them with a motor vehicle are treated equitably. While the current tax rules correctly treat this free use of a motor vehicle as a taxable fringe benefit, the proposed amendment increases the tax charge to reflect fully the value of the economic benefit received by the employee.

IV. South Africa as a regional gateway

South Africa is an ideal location for multi-nationals to base their regional operations for investments into sub-Saharan Africa. South Africa offers world-class financial services, strong and clear financial regulatory architecture and world-class infrastructure. We have a modern economy, wonderful weather and other natural attractions that make South Africa a desirable location for foreign expatriates seeking assignments on a long-term basis. Certain domestic tax anomalies, the Exchange Control regime and fierce competition from certain low tax countries, remain stumbling blocks to South Africa taking full advantage of the opportunities that are available.

To remedy this situation, the proposed amendments remove various tax hurdles that a multinational company would face if it based its regional headquarter in South Africa. We are also revising exchange controls to support such initiatives.

Another important area of innovation relates to the growing use of Islamic financing, which contains certain prohibitions in respect of finance, including prohibitions against interest, immoral substances and the lack of transparency in respect of investments. At issue is the tax system's lack of recognition of Islamic finance, as it mainly focuses on traditional forms of finance. The proposed amendments will level the playing field in respect of certain Islamic financial products when undertaking savings and investments and when attempting to bank finance.

V. Cross-border interest

To attract foreign investment into our country we exempt foreign investors based in South Africa from tax on interest received or accrued from their operations outside our borders. It now appears that the South African exemption for cross-border interest is far wider than the global practice. More specifically, the current exemption covers nearly all forms of interest, except if the foreign investor has substantial presence within South Africa. As a result, billions of rands are flowing out of South Africa without any tax being paid on them.

The proposed amendment will close this gap by narrowing the cross-border interest exemption, mainly to mobile international capital, such as listed government and corporate bonds. Most other forms of cross border interest payments will become subject to a 10 per cent withholding charge. Unfortunately, this amendment will have to be delayed until 2013 because the change in the taxation of cross-border interest requires the renegotiation of certain tax treaties and the implementation of an administrative mechanism to allow for a withholding regime.

VII. CO_2 emission tax

The proposed CO_2 vehicle emissions tax forms part of this year's tax proposals, although it is not included in the Bills tabled today. This tax will be imposed in terms of amended schedules and rules to the Customs and Excise Act. As with other tax proposals, we have consulted with relevant stakeholders, including the motor car industry. After some initial misunderstanding, I met with the largest motor car industry CEOs last week, and confirmed that the CO_2 vehicle emisssions tax on passenger cars will proceed as scheduled on 1 September 2010. However, I have also taken into account some concerns of the industry, and agreed that the tax on double cabs will be delayed slightly, and come into effect on another date in the next few months. This tax will be extended to all other light commercial vehicles at a later date.

I should add that we do have a comprehensive approach to the environmental taxes. Work in this area began in 2003, including a paper on environmental fiscal reform published in 2006 and the discussion paper on carbon taxes that will be published shortly.

Though not implemented this year, we are considering the implementation of a CO_2 vehicle emissions tax on <u>all</u> cars - new and old. This will be implemented by reviewing our approach to vehicle license fees, which are implemented by provinces. As we improve our public transport, we could also impose higher fuel levies and demand better quality fuel. All in all, there is a place for all these mechanisms if we want to reduce the emission of green house gases and ensure that we leave our children with a better legacy when it comes to air quality and reducing the risks of climate change.

VII. Implementation of the Mineral and Petroleum Royalty

The Mineral and Petroleum Resources Royalty Act came into effect for the first time from 1 March 2010. The South Africa mineral and petroleum royalty system imposes a royalty charge on a gross basis with the rate increasing or decreasing depending on company profitability. This varying rate allows for South Africa as a whole to enjoy relatively higher yields during the boom years while providing partial relief during lean years.

Some key anomalies that were identified during the past few months are being remedied. These remedies include the introduction of rollover relief. This rollover relief is intended to allow smaller mining companies to roll the royalty over to other parties. They will refine or otherwise upgrade the minerals. In addition, the minimum specified first saleable condition for certain minerals has been adjusted. These revised minimum conditions or points relate to iron ore, coal, vanadium and sand aggregates.

In conclusion, I would like to thank the Deputy Minister of Finance, Nhlanhla Nene, National Treasury and SARS officials for drafting the Bill, members of the public for their comments on the Bills, and the Standing Committee on Finance under the leadership of Thaba Mufamadi for the sterling work in shaping the Bills.

Last, but not least, SARS is extremely gratified by the response of taxpayers in filing their tax returns for 2010. To date 1,3 million returns have been filed compared to 950 000 returns for the same period last year. This is an increase of 32% year on year. Ninety eight percent of returns came in electronically, which means we now deal with less paper.

Both tax Bills, Mister Speaker, strike a careful balance between tax relief and the broadening of the tax base. I hereby introduce the “Taxation Laws Amendment Bill, 2010” and “the Voluntary Disclosure Programme and Second Taxation Laws Amendment Bill, 2010” for the Assembly’s consideration.

Thank you.