



## **SPEECH BY THE MINISTER OF FINANCE**

### **INTRODUCTION OF TAX ADMINISTRATION BILL, 2011**

#### **CHECK AGAINST DELIVERY**

##### **1. Introduction**

Mister Speaker, tax legislation comprises of two different aspects. The first relates to the establishment of the tax liability, while the second relates to the administration of the tax. In constitutional terms the first aspect is the money Bill aspect, while the second can be thought of as the administrative Bill aspect. Both aspects are essential to the success of a tax system and it is the administrative aspect that we are dealing with today.

##### **2. Promoting certainty, simplicity and coherence**

The Tax Administration Bill takes the generic administrative aspects of several different tax Acts administered by SARS, brings them together, rationalises them and updates them. The aim of the Bill is to promote certainty, simplicity and coherence in the administrative aspect of the South African tax system to the benefit of taxpayers and SARS alike. This aim is reflected in the Bill's very structure. It follows the life cycle of a taxpayer starting with registration and running through to the supply of returns and other information, assessment of tax, resolution of disputes that may arise and the collection or refund of amounts due.

The Bill should enable business sustainability by improving consistency in administration of the tax laws and cutting down on red tape. Equally it should protect the *fiscus* and compliant taxpayers from the corrosive effects of non-compliance.

Taxpayers will welcome a broad range of measures that will underpin efforts to simplify their interactions with SARS. Greater access to third party data will enable the further pre-population of returns. The basis for a phased move to a single registration number across tax types has been put in place, as has the basis for modernising and transforming SARS's accounting systems.

The Bill seeks to strike a balance between SARS's powers and duties and taxpayers' rights and obligations. Thus while SARS's information gathering powers are extended, the requirement is introduced that requests for information be reasonably specific and that requests to third parties be limited to information they would reasonably be expected to maintain. Taxpayers who are the subject of an audit will be entitled to regular reports on its progress and the findings on its conclusion if an adjustment to their tax liability is proposed.

Taxpayers who discover that they are non-compliant and wish to correct the situation before being detected will be able to make use of a permanent voluntary disclosure programme. Those taking advantage of the programme will find their understatement penalties reduced substantially and SARS will not pursue criminal prosecution.

I should note that this programme is not as generous as the existing voluntary disclosure programme that is scheduled to close on 31 October 2011. The temporary programme allows for the complete waiver of understatement penalties and of interest due on late payment. Those who are non-compliant and considering their options would be well advised to come forward under the temporary programme while they still can.

### **3. Resolving disputes**

The Bill largely carries over the dispute resolution system for substantive tax disputes that was introduced in 2003. The Bill does, however, propose a significant change when it comes to service, procedural or administrative matters. This is the creation of a Tax Ombud who will be able to review and mediate taxpayer difficulties relating to these matters. The Ombud is not intended to usurp the role of SARS's existing internal mechanisms, the Public Protector or the Courts. The Ombud is an additional low cost avenue to resolve the difficulties, located between SARS's internal mechanisms and the external mechanisms that are already available. The proposal for the Ombud's office is based on this approach and draws on comparable institutions in Canada and the United Kingdom.

### **4. Public consultation**

This Bill has benefited from an extended public consultation process. The process started with a closed workshop with tax practitioners and organisations in May 2009. It was continued with the release of a first draft Bill for public comment that year, followed by workshops with commentators and other stakeholders in 2010, the release of a second draft Bill for public comment in 2010 and further workshops in 2011. The Bill has further benefited from a constitutional review by external senior counsel, as well as a constitutional and technical review by the State Law Adviser. An informal briefing on the second draft Bill to the Standing Committee on Finance in late last year provided additional feedback.

### **5. A first instalment**

The Bill is the first instalment in a set of rewrite legislation that I intend to bring before Parliament. The Customs Duty Bill and Customs Control Bill, which were first released in draft form for public comment in 2009, are currently with the State Law Adviser for review. I anticipate that they will be introduced later this year. The Income Tax Act, 1962, will lose approximately 25% of its

volume once the Tax Administration Bill has been passed by Parliament, so it is next. A consolidation of the Act is planned for 2012.

## **6. Conclusion**

To close, Mister Speaker, the Tax Administration Bill, 2011, before us today represents the outcome of several years' work. It has involved a range of people from SARS staff to international experts in the field in its drafting and a wide range of stakeholders in its two year long consultative process. I thank all those involved for their efforts to date. I hereby introduce the "Tax Administration Bill, 2011" for the Assembly's consideration.