

# C

## 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 the chapter, clarifies certain matters and presents additional technical proposals arising from the annual tax policy process.

### ■ Personal income tax

The proposed tax schedule in Table 4.4 in Chapter 4 more than compensates individuals for the effect of inflation. The effects of these proposals are set out in tables C.1, C.2 and C.3.

**Table C.1 Annual income tax payable and average tax rates, 2020/21 (taxpayers below 65)**

Taxable income (R)	2019/20 rates (R)	Proposed 2020/21 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
85 000	1 080	342	-738	-68.3%	1.3%	0.4%
90 000	1 980	1 242	-738	-37.3%	2.2%	1.4%
100 000	3 780	3 042	-738	-19.5%	3.8%	3.0%
120 000	7 380	6 642	-738	-10.0%	6.2%	5.5%
150 000	12 780	12 042	-738	-5.8%	8.5%	8.0%
200 000	22 112	21 042	-1 070	-4.8%	11.1%	10.5%
250 000	35 112	33 570	-1 542	-4.4%	14.0%	13.4%
300 000	48 112	46 570	-1 542	-3.2%	16.0%	15.5%
400 000	78 819	76 490	-2 330	-3.0%	19.7%	19.1%
500 000	113 654	110 235	-3 420	-3.0%	22.7%	22.0%
750 000	210 320	205 313	-5 007	-2.4%	28.0%	27.4%
1 000 000	312 820	307 813	-5 007	-1.6%	31.3%	30.8%
1 500 000	517 820	512 813	-5 007	-1.0%	34.5%	34.2%
2 000 000	742 820	734 721	-8 099	-1.1%	37.1%	36.7%

Source: National Treasury

**Table C.2 Annual income tax payable and average tax rates, 2020/21 (taxpayers aged 65 to 74)**

Taxable income (R)	2019/20 rates (R)	Proposed 2020/21 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
120 000	–	–	–	–	0.0%	0.0%
150 000	4 986	3 843	-1 143	-22.9%	3.3%	2.6%
200 000	14 318	12 843	-1 475	-10.3%	7.2%	6.4%
250 000	27 318	25 371	-1 947	-7.1%	10.9%	10.1%
300 000	40 318	38 371	-1 947	-4.8%	13.4%	12.8%
400 000	71 025	68 291	-2 735	-3.9%	17.8%	17.1%
500 000	105 860	102 036	-3 825	-3.6%	21.2%	20.4%
750 000	202 526	197 114	-5 412	-2.7%	27.0%	26.3%
1 000 000	305 026	299 614	-5 412	-1.8%	30.5%	30.0%
1 500 000	510 026	504 614	-5 412	-1.1%	34.0%	33.6%
2 000 000	735 026	726 522	-8 504	-1.2%	36.8%	36.3%

Source: National Treasury

**Table C.3 Annual income tax payable and average tax rates, 2020/21 (taxpayers aged 75 and over)**

Taxable income (R)	2019/20 rates (R)	Proposed 2020/21 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
150 000	2 385	1 107	-1 278	-53.6%	1.6%	0.7%
200 000	11 717	10 107	-1 610	-13.7%	5.9%	5.1%
250 000	24 717	22 635	-2 082	-8.4%	9.9%	9.1%
300 000	37 717	35 635	-2 082	-5.5%	12.6%	11.9%
400 000	68 424	65 555	-2 870	-4.2%	17.1%	16.4%
500 000	103 259	99 300	-3 960	-3.8%	20.7%	19.9%
750 000	199 925	194 378	-5 547	-2.8%	26.7%	25.9%
1 000 000	302 425	296 878	-5 547	-1.8%	30.2%	29.7%
1 500 000	507 425	501 878	-5 547	-1.1%	33.8%	33.5%
2 000 000	732 425	723 786	-8 639	-1.2%	36.6%	36.2%

Source: National Treasury

## ■ Customs and excise duty

Government proposes that the customs and excise duties in the Customs and Excise Act (1964, section A of part 2 of schedule 1) be amended with effect from 26 February 2020 to the extent shown in Table C.4.

**Table C.4 Specific excise duties, 2019/20 – 2020/21<sup>1</sup>**

Tariff item	Tariff subheading	Article description	2019/20 Rate of excise duty	2020/21 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	R102.07/li aa	R106.56/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	R13.55/li	R14.36/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.	R4.20/li	R4.39/li
104.15.04	2204.21.42	Other	R204.15/li aa	R213.13/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.	R7.03/li	R7.34/li
104.15.06	2204.21.52	Other	R204.15/li aa	R213.13/li aa
<b>104.15</b>	<b>2204.22</b>	<b>In containers holding more than 2 li but not more than 10 li:</b>		
<b>104.15</b>	<b>2204.22.4</b>	<b>Unfortified wine:</b>		
104.15.13	2204.22.41	With an alcoholic strength of at least 4.5 per cent by volume but not exceeding 16.5 per cent by vol.	R4.20/li	R4.39/li
104.15.15	2204.22.42	Other	R204.15/li aa	R213.13/li aa
<b>104.15</b>	<b>2204.22.5</b>	<b>Fortified wine:</b>		
104.15.17	2204.22.51	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.	R7.03/li	R7.34/li
104.15.19	2204.22.52	Other	R204.15/li aa	R213.13/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>		
104.15.21	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.	R4.20/li	R4.39/li
104.15.23	2204.29.42	Other	R204.15/li aa	R213.13/li aa
<b>104.15</b>	<b>2204.29.5</b>	<b>Fortified wine:</b>		
104.15.25	2204.29.51	With an alcoholic strength of at least 15 per cent by volume but not exceeding 22 per cent by vol.	R7.03/li	R7.34/li
104.15.27	2204.29.52	Other	R204.15/li aa	R213.13/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	R13.55/li	R14.36/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.	R4.20/li	R4.39/li
104.16.04	2205.10.22	Other	R204.15/li aa	R213.13/li aa

**Table C.4 Specific excise duties, 2019/20 – 2020/21 (continued)**

Tariff item	Tariff subheading	Article description	2019/20 Rate of excise duty	2020/21 Rate of excise duty
<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.	R7.03/li	R7.34/li
104.16.06	2205.10.32	Other	R204.15/li aa	R213.13/li aa
<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.	R4.20/li	R4.39/li
104.16.10	2205.90.22	Other	R204.15/li aa	R213.13/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.	R7.03/li	R7.34/li
104.16.12	2205.90.32	Other	R204.15/li aa	R213.13/li aa
<b>104.17</b>	<b>22.06</b>	<b>Other fermented beverages (for example, cider, perry, mead, saké); 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	R13.55/li	R14.36/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 of less than 2.5 per cent by volume	R102.07/li aa	R106.56/li aa
104.17.09	2206.00.19	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.	R102.07/li aa	R106.56/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.	R102.07/li aa	R106.56/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.	R102.07/li aa	R106.56/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.	R102.07/li aa	R106.56/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.	R81.71/li aa	R85.25/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.	R81.71/li aa	R85.25/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.	R102.07/li aa	R106.56/li aa

**Table C.4 Specific excise duties, 2019/20 – 2020/21 (continued)**

Tariff item	Tariff subheading	Article description	2019/20 Rate of excise duty	2020/21 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.	R81.71/li aa	R85.25/li aa
104.17.90	2206.00.90	Other	R204.15/li aa	R213.13/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	R204.15/li aa	R213.13/li aa
104.21.03	2207.20	Ethyl alcohol and other spirits, denatured, of any strength	R204.15/li aa	R213.13/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	R183.73/li aa	R191.82/li aa
104.23.02	2208.20.19	Other	R204.15/li aa	R213.13/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	R183.73/li aa	R191.82/li aa
104.23.04	2208.20.99	Other	R204.15/li aa	R213.13/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	R204.15/li aa	R213.13/li aa
104.23.07	2208.30.90	Other	R204.15/li aa	R213.13/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	R204.15/li aa	R213.13/li aa
104.23.11	2208.40.90	Other	R204.15/li aa	R213.13/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	R204.15/li aa	R213.13/li aa
104.23.15	2208.50.90	Other	R204.15/li aa	R213.13/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	R204.15/li aa	R213.13/li aa
104.23.19	2208.60.90	Other	R204.15/li aa	R213.13/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.	R81.71/li aa	R85.25/li aa
104.23.22	2208.70.22	Other	R204.15/li aa	R213.13/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.	R81.71/li aa	R85.25/li aa
104.23.24	2208.70.92	Other	R204.15/li aa	R213.13/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.	R81.71/li aa	R85.25/li aa
104.23.26	2208.90.22	Other	R204.15/li aa	R213.13/li aa
<b>104.23</b>	<b>2208.90.9</b>	<b>Other:</b>		
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.	R81.71/li aa	R85.25/li aa
104.23.28	2208.90.92	Other	R204.15/li aa	R213.13/li aa

**Table C.4 Specific excise duties, 2019/20 – 2020/21 (continued)**

Tariff item	Tariff subheading	Article description	2019/20 Rate of excise duty	2020/21 Rate of excise duty
<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	R3901.04/kg net	R4193.62/kg net
104.30.03	2402.10.90	Other	R3901.04/kg net	R4193.62/kg net
<b>104.30</b>	<b>2402.20</b>	<b>Cigarettes containing tobacco:</b>		
104.30.05	2402.20.10	Imported from Switzerland	R8.33/10 cigarettes	R8.70/10 cigarettes
104.30.07	2402.20.90	Other	R8.33/10 cigarettes	R8.70/10 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	R3901.04/kg net	R4193.62/kg net
104.30.11	2402.90.14	Other	R3901.04/kg net	R4193.62/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	R8.33/10 cigarettes	R8.70/10 cigarettes
104.30.15	2402.90.24	Other	R8.33/10 cigarettes	R8.70/10 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 proportions:</b>		
104.35.01	2403.11	Water pipe tobacco specified in Subheading Note 1 to Chapter 24	R215.52/kg net	R231.69/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	R215.52/kg net	R231.69/kg net
104.35.03	2403.19.20	Other pipe tobacco	R215.52/kg net	R231.69/kg net
104.35.05	2403.19.30	Cigarette tobacco	R374.58/kg	R391.06/kg
<b>104.35</b>	<b>2403.91</b>	<b>"Homogenised" or "reconstituted" tobacco:</b>		
104.35.11	2403.91.10	Imported from Switzerland	-	R815.63/kg
104.35.13	2403.91.90	Other	-	R815.63/kg
<b>104.35</b>	<b>2403.99</b>	<b>Other:</b>		
104.35.15	2403.99.30	Other cigarette tobacco substitutes	R374.58/kg	R391.06/kg
104.35.17	2403.99.40	Other pipe tobacco substitutes	R215.52/kg net	R231.69/kg net
104.35.19	2403.99.90	Other	-	R815.63/kg

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

Source: National Treasury

In terms of section 48 of the Customs and Excise Act, part 2A of schedule 1 is amended to the extent set out overleaf.

**Table C.5 Amendments to part 2A of Schedule No. 1**

By deletion of the following:			
Tariff item	Tariff subheading	Article description	Rate of excise duty
104.35.07	2403.99.30	Other cigarette tobacco substitutes	R374.58/kg
104.35.09	2403.99.40	Other pipe tobacco substitutes	R215.52/kg net

  

By the insertion of the following:			
Tariff item	Tariff subheading	Article description	Rate of excise duty
<b>104.35</b>	<b>2403.91</b>	<b>"Homogenised" or "reconstituted" tobacco:</b>	
104.35.11	2403.91.10	Imported from Switzerland	R815.63/kg
104.35.13	2403.91.90	Other	R815.63/kg
104.35.15	2403.99.30	Other cigarette tobacco substitutes	R391.06/kg
104.35.17	2403.99.40	Other pipe tobacco substitutes	R231.69/kg net
104.35.19	2403.99.90	Other	R815.63/kg

Source: SARS

In terms of section 75 of the Customs and Excise Act, schedule 6 is amended to the extent set out below.

**Table C.6 Amendments to Schedule No. 6**

By deletion of the following:						
Rebate item	Tariff item	Rebate code	CD	Description	Extent of rebate	Extent of refund
622.07	104.35.07	05.01	74	Other cigarette tobacco substitutes	Full duty	
622.07	104.35.09	06.01	72	Other pipe tobacco substitutes	Full duty	
622.12	104.35.07	05.01	73	Other cigarette tobacco substitutes	Full duty	
622.12	104.35.09	06.01	71	Other pipe tobacco substitutes	Full duty	
622.22	104.35.07	05.01	71	Other cigarette tobacco substitutes		As provided in Note 4 to this Section
622.22	104.35.09	06.01	75	Other pipe tobacco substitutes		As provided in Note 4 to this Section

  

By insertion of the following:						
Rebate item	Tariff item	Rebate code	CD	Description	Extent of rebate	Extent of refund
622.07	104.35.11	05.01	71	Imported from Switzerland	Full duty	
622.07	104.35.13	06.01	76	Other	Full duty	
622.07	104.35.15	07.01	78	Other cigarette tobacco substitutes	Full duty	
622.07	104.35.17	08.01	76	Other pipe tobacco substitutes	Full duty	
622.07	104.35.19	09.01	74	Other	Full duty	
622.12	104.35.11	05.01	70	Imported from Switzerland	Full duty	
622.12	104.35.13	06.01	79	Other	Full duty	
622.12	104.35.15	07.01	77	Other cigarette tobacco substitutes	Full duty	
622.12	104.35.17	08.01	75	Other pipe tobacco substitutes	Full duty	
622.12	104.35.19	09.01	73	Other	Full duty	
622.22	104.35.11	05.01	79	Imported from Switzerland		As provided in Note 4 to this Section
622.22	104.35.13	06.01	77	Other		As provided in Note 4 to this Section
622.22	104.35.15	07.01	75	Other cigarette tobacco substitutes		As provided in Note 4 to this Section

  

By insertion of the following:						
Rebate item	Tariff item	Rebate code	CD	Description	Extent of rebate	Extent of refund
622.22	104.35.17	08.01	73	Other pipe tobacco substitutes		As provided in Note 4 to this Section
622.22	104.35.19	09.01	89	Other		As provided in Note 4 to this Section

Source: SARS

## Additional tax amendments

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

### Individuals, employment and savings

#### *Reimbursing employees for business travel*

If an employee spends a night away from home for business purposes, an employer may reimburse the employee for meals and incidental costs. This reimbursement is not taxed, provided the amount does not exceed the amount published by the Commissioner of the South African Revenue Service (SARS) in the notice. If an employee is away from the office on a day trip, advances or reimbursements are not

taxed if the employee can prove that they incurred these expenses on the instruction of the employer, in the furtherance of the employer's trade. An anomaly arises when an employee purchases meals and incurs incidental costs during a day trip for work, but the employer has not explicitly instructed the employee to do so. To address this anomaly, it is proposed that the legislation be amended to exclude reimbursement expenses incurred by an employee for meals and incidental costs during a business day trip, provided the employer's policy allows for such reimbursement.

#### *Clarifying deductions in respect of contributions to retirement funds*

Paragraphs 5(1)(a) and 6(1)(a) of the second schedule to the Income Tax Act (1962) make provision for a deduction of retirement fund contributions that did not qualify for a deduction in terms of section 11F of the act. These paragraphs refer to "own contributions", which inadvertently prevents employer retirement fund contributions on behalf of employees (made on or after 1 March 2016) from qualifying for a deduction under either paragraph. It is proposed that the legislation be amended to remove this anomaly.

#### *Addressing the circumvention of anti-avoidance rules for trusts*

In 2016, anti-avoidance measures were introduced to curb the transfer of growth assets to trusts using low interest or interest-free loans, which was done to avoid estate duty on the asset's subsequent growth in value. In 2017, these rules were strengthened to prevent the transfer of growth assets through low interest or interest-free loans made to companies owned by trusts. Certain taxpayers are undermining the adjusted rules by subscribing for preference shares in companies owned by trusts that are connected to the individuals. To curb this new form of abuse, it is proposed that the rules preventing tax avoidance through the use of trusts be amended.

#### *Addressing an anomaly in the rollover of amounts claimable under the employment tax incentive*

If the amount available to be claimed by a compliant employer in respect of the monthly employment tax incentive (ETI) is not claimed in that respective month, it can be claimed in the following month. Any unclaimed monthly ETI must be claimed by August or February, whichever is the last month of each reconciliation period. If the monthly ETI is not claimed by that time, the compliant employer forfeits that amount. However, if a non-compliant employer did not claim any ETI for an employee they were entitled to claim for, the employer is able to claim the ETI in any subsequent month when it becomes compliant. This creates an anomaly because non-compliant employers benefit more than compliant employers. It is proposed that the legislation be amended to address this anomaly.

#### *Addressing an anomaly in the tax exemption of employer-provided bursaries*

A number of employer bursary schemes seek to reclassify ordinary remuneration as a tax-exempt bursary granted to the dependants of an employee. Government proposes to close this loophole. These amendments will take effect on 1 March 2020.

### **Business (general)**

#### *Addressing anomalies on the acquisition of assets in exchange for debt issued*

The Income Tax Act sets out rules for the tax treatment of "share for share" and "asset for share" transactions, and for curbing value-shifting arrangements under these transactions. The act contains a rule to determine the base cost of assets acquired by a company in exchange for the issue of debt by that company. The interaction between the specific base cost rule for debt issued on the acquisition of assets and the act's general provisions for determining the base cost creates unintended consequences. Some taxpayers are of the view that the specific rule overrides other anti-avoidance measures dealing with disposals between connected individuals. To address these concerns, it is proposed that the legislation be amended.



*Refining the corporate reorganisation rules*

Refining the interaction between the anti-avoidance provisions for intra-group transactions:

Current corporate reorganisation rules allow for the tax-neutral transfer of assets between companies that are part of the same group. These provisions contain anti-avoidance measures to limit the abuse of these rules through:

- Early disinvestment in transferred assets
- External distribution of intra-group sale proceeds
- Transfers of assets and assumption of related debt
- De-grouping the group of companies that entered into an intra-group sale.

In 2019, the legislation was amended to clarify the interaction between the anti-avoidance rules for de-grouping a group of companies and the anti-avoidance rules for the early disinvestment in transferred assets. However, the interaction between the anti-avoidance rules for de-grouping, and rules for the transfer of assets and the assumption of related debt may result in double taxation. It is proposed that the legislation be amended to address this anomaly.

Clarifying rollover relief for unbundling transactions:

The Income Tax Act makes provision for rollover relief where shares of a resident company (referred to as an unbundled company) that are held by another resident company (referred to as an unbundling company) are distributed to the shareholders of that unbundling company in accordance with the effective interest of those shareholders. However, these unbundling transactions are subject to an anti-avoidance rule that excludes the shareholders and the unbundling company from benefitting from the rollover relief if 20 per cent or more of the shares in the unbundled company are held by non-residents – either alone or together with individuals connected to those non-residents – after the transaction. This rule aims to limit the extent to which taxpayers can distribute tax-free shares in resident companies to non-residents. The current rule creates a loophole. To close this loophole, it is proposed that the legislation be amended to make provision for the 20 per cent rule to apply irrespective of whether non-resident shareholders are connected to each other.

**Business (financial sector)***Taxation of insurance*

Tax treatment of deposit insurance scheme:

Government is establishing a deposit insurance scheme to protect depositors in the event of a bank failure, which in turn will contribute to the stability of the South African financial system. It is envisaged that each bank will make stipulated contributions to the scheme. It is proposed that tax implications relating to the deposit insurance scheme be considered.

Clarifying the meaning of “asset” for the taxation of long-term insurers:

The rules in the Income Tax Act dealing with the taxation of long-term insurers make provision for assets to be allocated to the relevant fund and the profit to be taxed when annual transfers are made to the corporate fund. The transfer amounts are calculated by deducting the adjusted International Financial Reporting Standards (IFRS) value of liabilities from the market value of assets in the policyholder and risk policy funds. A problem arises with the treatment of assets that do not have an open market value, for example, prepayments. Prepayments are treated as assets for financial reporting purposes and they cannot be separately disposed of in the open market. To address these concerns, it is proposed that the legislation be amended to make provision for those assets that do not have a market value.

Reviewing the interaction between rules for the taxation of benefits received by short-term insurance policyholders and the tax treatment of related expenses:

The Income Tax Act allows short-term insurance premiums to be deductible provided they are disclosed as expenses for the purposes of financial reporting in line with IFRS 9. The act also makes provision for including short-term insurance policy benefits received or accrued during a year of assessment in gross income. However, another rule prohibits the deduction of any loss or expense, to the extent that it is recoverable under any contract of insurance, guarantee, security or indemnity. It is proposed that the interaction between the different rules for the taxation of benefits received by short-term insurance policyholders and the tax treatment of related expenses be reviewed.

#### *Refining the tax treatment of doubtful debt*

Clarifying the tax treatment of doubtful debt for non-bank taxpayers with security:

The Income Tax Act sets out specific criteria for determining a doubtful debt allowance deduction for non-bank taxpayers that are not applying IFRS 9 to debt for financial reporting purposes. In this case, an age analysis of debt is used to determine a 25 per cent and 40 per cent deduction allowance for the doubtful debt. However, these deductions do not account for the taxpayer's debt security. It is proposed that the determination of deductions in respect of secured debt arrears owed to non-bank taxpayers not applying IFRS 9 should be reviewed.

Clarifying the tax treatment of doubtful debt in respect of certain impairments for banking regulated taxpayers:

The Income Tax Act makes provision for the specific tax treatment of doubtful debt owed to taxpayers subject to prudential banking regulations. However, unlike the rules relating to non-banks, bank rules do not only restrict the allowance to be granted to a debt that would have been deductible if it had become a bad debt. As a result, certain impairments such as financial guarantee contracts that would otherwise not be deductible in terms of the act's bad debt deduction provisions are deductible in terms of IFRS 9. This creates unintended consequences. To address these concerns, it is proposed that the determination of deductions in respect of impairments under IFRS 9 should be reviewed.

Clarifying the tax treatment of doubtful debt in respect of taxpayers operating a leasing business:

Taxpayers conducting a leasing business (lessors) and applying IFRS 9 for financial reporting purposes cannot claim a doubtful debt allowance because lease receivables are specifically excluded. This creates unintended consequences. To address these concerns, it is proposed that changes be made in the tax treatment of doubtful debts for both banking regulated and other taxpayers to exclude lease receivables that have not been received or accrued.

#### *Curbing potential tax avoidance caused by dividend deductions*

A bank or other "covered person" must, subject to exclusions, include in or deduct from their statement of comprehensive income all amounts from qualifying financial assets and financial liabilities that are recognised as profits or losses. One of the exclusions is a dividend or foreign dividend received by or accrued to a "covered person". Some covered individuals are providing investment opportunities to investors by inserting a special purpose vehicle in a banking group between an investor and a "covered person". This vehicle issues shares (a financial liability) to the investors that yield dividends while it receives interest or other income on its financial assets. The special purpose vehicle effectively converts income to dividends for the benefit of investors. To close this loophole, it is proposed that the exclusions from the rules for the taxation of covered individuals be extended to dividends declared.

#### *Refining the taxation of real estate investment trusts*

Clarifying the definition of real estate investment trusts (REITs):

The current definition of REIT in the Income Tax Act refers to the approval of listing requirements by the appropriate authority under the Financial Markets Act (2012) in consultation with the Minister of Finance. This definition needs to be updated to be in line with the Financial Sector Regulation Act (2017). In

addition, it is proposed that the consultation requirements regarding listing criteria in an approved exchange should be reviewed.

Clarifying the meaning of a share in the definition of REITs:

To qualify as a REIT for tax purposes, the entity must be a resident and the trust's shares must be a listed on an exchange as defined in section 1 of the Financial Markets Act and licensed under section 9 of that act. However, it has come to government's attention that some REITs wish to issue and list preference shares. It was never envisaged that holders of preference shares should benefit from the REIT tax dispensation because preference shares are mainly used for financing, and not to provide full equity exposure to investors. It is proposed that the legislation be clarified to exclude preference shares and non-equity shares from the shares that must be listed on an exchange to qualify as a REIT.

Amending the anti-avoidance provision regarding taxation of foreign dividends received by REITs:

A REIT holding shares in a non-resident property company qualifies for a participation exemption in terms of the Income Tax Act in respect of foreign dividends from that non-resident company. The REIT also gets a full deduction when it distributes profits from those foreign dividends. To address this mismatch, it is proposed that the legislation be amended so that the full dividend is subject to tax if the recipient company is a REIT.

#### *Refining the tax treatment of transfer of collateral in securities lending arrangements*

The Income Tax Act contains rules to address dividend tax avoidance transactions whereby listed shares are lent or transferred as collateral from a person that would be liable for the tax to a tax-exempt person. The borrower or recipient of the collateral receives the exempt dividend and pays a manufactured dividend to the lender or provider of the collateral. It is proposed that the anti-avoidance rules be extended to also cover situations where additional exempt parties are involved to facilitate the avoidance transactions.

### **Business (incentives)**

#### *Reviewing the special economic zone tax incentive regime*

The special economic zone (SEZ) tax incentive regime rules are contained in two separate provisions of the Income Tax Act. The first deals with the criteria for determining what constitutes a company, under the SEZ tax regime, that qualifies to be taxed at a rate of 15 per cent instead of 28 per cent. In addition, this provision includes a sunset clause. The clause originally stated that the provision will no longer apply for years of assessment starting on or after 1 January 2024. Following the late enactment of the Special Economic Zones Act (2014), the clause was amended to add that the provision will no longer apply for years of assessment after a 10-year period determined from the date when a qualifying company started trading in an SEZ.

The second provision provides for an accelerated capital allowance for a building owned and used by a qualifying company in the production of its income within an SEZ. This provision has a sunset clause of the year of assessment starting on or after 1 January 2024. Government proposes to amend the sunset clauses for sections 12R and 12S to clearly stipulate an end date for these incentives. No company would be eligible for approval beyond these dates. The end date would also provide government with a natural point for reviewing these incentives to determine whether they should be continued.

#### *Reviewing the venture capital company tax incentive regime*

The venture capital company tax incentive regime has a sunset clause of 30 June 2021. Government will review the effectiveness, impact and role of this regime to ascertain whether the incentive should be discontinued.

### *Clarifying anomalous provisions*

Over the past two years, changes were made in the venture capital company incentive tax regime to curb abuse and limit the regime's revenue costs. There are potential unintended consequences within the current legislation that may affect the successful closure of legitimate venture capital companies. It is proposed that the legislation be amended to address these unintended consequences.

### *Mining capital expenditure*

Addressing the tax treatment of allowable mining capital expenditure:

The Income Tax Act makes provision for any taxpayer that derives income from mining operations to be allowed an accelerated capital expenditure deduction. At issue are the definitions of mining and mining operations for purposes of claiming the capital expenditure deductions, and whether a contract miner – who excavates for a fee – and the mineral rights holder – as principal – should both qualify for accelerated capital expenditure deductions. To address these concerns, it is proposed that the provisions dealing with allowable mining capital expenditure be reviewed.

Removing the Minister of Finance's discretion in ring-fencing capital expenditure per mine:

The tax-deductible capital expenditure incurred on a mine may not be used to reduce the taxable income of another mine, unless the Minister of Finance, in consultation with the Minister of Mineral Resources and Energy and having considered the relevant fiscal, financial and technical implications, decides otherwise. The application of this discretion has proven problematic, so it is proposed that the discretion be reviewed with the aim of its removal or restructuring.

### *Aligning immunity from taxation of international organisations*

South Africa is a member of many internationally recognised organisations. The international agreements underpinning these memberships make provision for these international organisations to be immune from taxation in South Africa. The Income Tax Act makes provision for such exemptions, but it is proposed that amendments be made to all tax acts to make provision for these exemptions and ensure South African legislation aligns with international agreements.

### *Refining tax treatment of foreign donor-funded projects*

In 2006, changes were made to the Income Tax Act to make provision for the tax treatment of foreign donor-funded projects in terms of the Official Development Assistance Agreement. Given that some of these projects were entered into long ago, it has come to government's attention that the interaction between the provisions of the act and the provisions of the Official Development Assistance Agreement creates unintended consequences. It is proposed that amendments be made to the legislation to address these concerns.

### *Reviewing expenditure deductions incurred related to the National Key Points Act*

The National Key Points Act (1980) makes provision for deduction of expenditure incurred by taxpayers in respect of any national key point. The act will be repealed when the Critical Infrastructure Protection Act (2019) comes into effect. It is proposed that the current expenditure deduction for national key points be reviewed to ascertain whether this deduction should be discontinued or aligned with the Critical Infrastructure Protection Act, but with certain limitations.

## International

### *Amending the anti-avoidance provision regarding change of residence*

Capital gains tax is levied when a person ceases to be a South African tax resident. When a company ceases to be a resident, there is a deemed disposal of its assets that triggers capital gains tax. Despite these rules, residents that hold shares in the company could subsequently dispose of the shares and qualify for a participation exemption for the sale of company shares. It is proposed that amendments be made to the legislation to close this loophole.

### *Changing the anti-avoidance provision regarding taxation of foreign dividends received by residents*

The participation exemption rules for foreign dividends do not contain a similar limitation for general foreign dividends exemption rules (in the Income Tax Act). This limitation denies tax exemption for foreign dividends if there is a deductible expense or reduction that is determined directly or indirectly with reference to a dividend. For example, where a resident owns 20 per cent of the shares in an unlisted foreign company, no tax is imposed on the foreign dividends, even though these dividends arose from amounts that previously qualified for a tax deduction. To address this concern, it is proposed that changes be made to the legislation.

### *Refining the definition of an “affected transaction” in the transfer pricing rules*

Transfer pricing rules apply if a taxpayer or a controlled foreign company enters into a transaction with a non-resident “connected person”, on terms and conditions that are not at arm’s length, and derives a tax benefit from that transaction. In the case of a transaction between a controlled foreign company and a non-resident “connected person”, a tax benefit may not be derived by the foreign company, but may be derived by a South African resident shareholder as a result of a lower inclusion of controlled foreign company net income for the resident. To address this situation, it is proposed that the legislation be amended to refer to a tax benefit that may be derived by a person, in relation to a controlled foreign company, that is a resident.

### *Refining the tax treatment of capital flows*

Restricting the artificial reduction of dividends and capital gains tax:

The current exchange control provisions restrict the use of loop structures, in part to protect the tax base. Tax legislation is a more appropriate tool to combat tax avoidance. For example, if a resident individual or trust holds at least 10 per cent of the total equity shares and voting rights in a foreign company, they qualify for a participation exemption and all foreign dividends received are exempt from tax. If the resident shareholding is more than 50 per cent, the foreign company is a controlled foreign company and all of the controlled foreign company’s dividend income is exempt from tax. If loop structures are no longer restricted, it would be possible to set up a structure where the controlled foreign company owns a South African company, and any dividends flowing from the resident company to the resident individual or trust through the controlled foreign company are exempt for the individual or trust. This would enable the resident individual or trust to reduce their dividend tax liability in respect of dividends declared by a resident company from 20 per cent to, in some instances, zero.

A further loop structure risk exists if a resident disposes of shares in a controlled foreign company that owns South African assets. The unrealised gains attributable to the South African assets may not be taxed if the resident qualifies for the participation exemption for capital gains. Government proposes that the controlled foreign company legislation be amended to limit the dividend exemption available to a resident individual or trust relating to the accrual or receipt of dividends from a resident company to a controlled foreign company. As a result, such dividends would be taxed at an effective rate of 20 per cent, in line with cases where resident individuals receive dividends from resident companies.

In addition, it is proposed that the participation exemption for capital gains on the disposal of shares in controlled foreign companies by residents should not apply to the extent that the value of those shares is derived from South African assets.

Withdrawing retirement funds upon emigration:

Individuals are currently able to withdraw funds from their pension preservation fund, provident preservation fund and retirement annuity fund upon emigrating for exchange control purposes through the Reserve Bank. As a result of the exchange control announcements in Annexure E, the concept of emigration as recognised by the Reserve Bank will be phased out. It is proposed that the trigger for individuals to withdraw these funds be reviewed. Any resulting amendments will come into effect on 1 March 2021.

Transferring dual-listed shares abroad:

A resident individual or company that owns a listed domestic security is not permitted to export that security without approval. This approval requirement is one of the exchange control provisions that will be phased out. As a result, government proposes that these events be deemed a disposal that would attract capital gains tax or normal tax. If the person or company remains a tax resident, they would be liable for tax on further gains when the security is sold in future.

### **Value-added tax**

#### *Revising the definition of "telecommunication services" for electronic services regulations*

With effect from April 2019, the regulations prescribing electronic services were changed to broaden the scope of electronic services that are subject to South African value-added tax (VAT). However, the definition of "telecommunication services" in the regulations currently contains an incorrect reference that creates unintended consequences. It is proposed that further changes be made to the regulations to address these consequences.

#### *Reviewing the VAT accounting basis option available for an intermediary*

In terms of section 54(2B) of the VAT Act (1991), certain supplies made by an underlying foreign electronic services supplier are deemed to be made by the intermediary, who is then required to levy and account for South African VAT on these supplies. Section 15(2)(a)(vii) of the VAT Act allows a vendor that is a foreign electronic services supplier to apply to the SARS Commissioner to account for VAT on a payment basis. However, it does not allow a vendor that is an intermediary to account for VAT on this basis. It is proposed that an intermediary vendor be allowed to account for VAT on a payment basis.

#### *Changing the VAT treatment of transactions under the corporate reorganisation rules*

Section 8(25) of the VAT Act ensures that transactions entered into between a group of companies have no VAT consequences. This is achieved by treating the supplier and the recipient of goods or services as the same person, provided the relevant rollover relief provisions of the Income Tax Act are met. The income tax relief provisions may not apply to the transfer of certain assets, which means that their transfer will also not qualify for the VAT relief, even though the assets form part of the entire transaction. This limitation of relief creates unintended consequences for VAT. The entire transaction could qualify for VAT relief under the going-concern provisions, but are excluded because the transaction falls within the ambit of the corporate reorganisation rules, which automatically require the provisions of section 8(25) of the VAT Act to apply. It is proposed that changes be made in the relief provisions in section 8(25) of the VAT Act to address these limitations.

#### *Reviewing section 72 arrangements and decisions*

In 2019, changes were made in section 72 of the VAT Act, which deals with the SARS Commissioner's discretion to make arrangements or decisions regarding the application of the VAT Act to specific



situations where the manner in which a vendor or class of vendors conducts their business leads to difficulties, anomalies or incongruities. These changes have an impact on the arrangements and decisions made before 21 July 2019. To address these concerns, government will review the impact and the role of these arrangements and decisions to ascertain whether they should be discontinued or extended in accordance with the new provisions of section 72.

#### *Clarifying the VAT treatment of irrecoverable debts*

Where a vendor, who is required to account for VAT on an invoice basis, has made an input tax deduction for the VAT they were charged on a taxable supply and that vendor has not paid the full consideration within a 12-month period, that vendor will be required to account for output tax on the unpaid amount. The VAT Act provides clarity on the time of supply within which such output tax is to be declared. However, there is uncertainty regarding the value of supply rule that applies in certain circumstances. It is proposed that clarity be provided in the legislation to address the uncertainty.

#### *Introducing measures to address undue VAT refunds on gold*

Schemes and malpractice to claim undue VAT refunds have been detected in the value chain relating to gold exports. The schemes and malpractice generally involve the import of coins, purchase of Krugerrands and illicit gold. It is proposed that appropriate regulations be considered or legislation be amended to address this.

### **Carbon tax**

#### *Update on the Trade Exposure and Performance Allowance Regulations*

The Carbon Tax Act came into effect on 1 June 2019. Following an extensive five-year stakeholder consultation process on the design, scope and methodology, the National Treasury published draft regulations for trade exposure and performance allowances for public comment in December 2019. After taking into account the public comments received, the draft regulations will be revised and gazetted in March 2020. In that month, the National Treasury will also publish a notice for the renewable energy premium credit and, in April 2020, the Department of Environment, Forestry and Fisheries will publish the methodology and accounting framework for greenhouse gas emissions sequestration.

#### *Aligning the carbon fuel levy adjustment with Carbon Tax Act*

Non-stationary greenhouse gas emissions from petrol and diesel used for road transport are incorporated in the current fuel levy in terms of the Customs and Excise Act. Under section 5 of the Carbon Tax Act, the rate of the carbon tax must be increased annually based on the consumer price index inflation rate for the preceding tax period plus two percentage points for the first phase of the carbon tax up to December 2022. To provide clarity on the quantum of the annual carbon fuel levy rate adjustment, it is proposed that changes to the carbon fuel levy should be aligned with adjustments to the principal carbon tax rate under the Carbon Tax Act and become effective on the first Wednesday in January for a particular tax period. The rates of 7 cents and 8 cents per litre for petrol and diesel respectively will remain unchanged for the 2020 tax period. Government will also publish a technical note outlining the methodological approach and administrative process for future carbon fuel levy rate adjustments by June 2020.

#### *Allowing a carbon tax “pass-through” for the regulated liquid fuels sector*

Currently, stationary sources of greenhouse gas emissions from crude oil and synthetic coal-to-liquid and gas-to-liquid refining processes are covered by the carbon tax and qualify for tax-free allowances up to a maximum of 90 per cent and 95 per cent respectively. Due to the regulated nature of petrol and diesel fuel prices, refineries are unable to recover these carbon tax costs. The 2013 *Carbon Tax Policy Paper* recommended a limited, transparent and equitable “pass-through” mechanism for carbon tax costs. Taking into account the maximum tax-free allowances for fuel combustion and fugitive emissions,

amendments are proposed to allow a limited recovery of the carbon tax costs for regulated fuels. It is proposed that the cost recovery mechanism applies as a deduction against the carbon tax liability of petroleum refineries and government will publish the applicable rates for specific regulated fuels in a notice in the gazette.

## **Tax administration**

### *Income Tax Act*

Failure by public benefit organisations approved to receive tax-deductible donations to submit audit certificates

If a public benefit organisation fails to comply with specific requirements for receiving tax-deductible donations, SARS may regard these donations as taxable income for the organisation. If the failure is not addressed within a reasonable period, the receipts issued by the organisation will no longer be valid for claiming tax deductions. The sanctions do not apply to the requirement that an organisation conducting mixed activities, some of which qualify for the issue of receipts and some of which do not, obtain an audit certificate for the use of the funds for which receipts have been issued. It is proposed that this be corrected.

Refunds of withholding tax on royalties where the royalty becomes irrecoverable:

The interest-withholding tax provisions provide for a refund of tax withheld when interest became due and payable if the interest subsequently becomes irrecoverable. It is proposed that the same principle should apply in cases where royalty-withholding tax was paid and the royalty becomes irrecoverable.

### *Customs and Excise Act*

Exchanging information with the Department of International Relations and Cooperation:

A review aimed at minimising abuse and risks associated with duty-free shops was announced in the 2019 *Budget Review*. The abuse of duty-free purchases by certain diplomats has become an increasing problem and disclosure of relevant information to the Department of International Relations and Cooperation will enable a response at a diplomatic level. It is proposed that SARS be permitted to disclose information regarding duty-free purchases by diplomats to the Director-General of the Department of International Relations and Cooperation.

Providing for the publication of tariff determinations:

The World Customs Organisation advocates capacity building, skills development and knowledge sharing by customs authorities to enhance compliance with customs and excise legislation. Publishing tariff classifications will be useful in this regard and will contribute to consistency and transparency in the classification of goods. It is proposed that the Customs and Excise Act be amended to provide for the publication of tariff determinations and rules prescribing the circumstances in which such publication may take place, the kind of information that may be published and the manner of publication.

Liability for duty in respect of imported goods:

The liability for import duties rests with the master, pilot or carrier and only ceases when the goods are lawfully delivered, after due entry, to the importer or agent of the importer. Complaints by stakeholders have highlighted certain difficulties relating to the cessation of liability of the master, pilot or carrier at that stage. These difficulties include high shipping line charges for landside operations and the transport of goods for scanning, the favouring of shipping line transport, and the removal of containers to certain container depots with which shipping lines have private agreements. It is proposed that the Customs and Excise Act be amended to address these challenges by providing for licensed removers of goods in bond to move containerised goods from container terminals before they are released. The liability of the master, pilot or carrier will cease on delivery of the goods to a licensed remover. Provision will also be made for the assumption of liability by the licensed remover on receipt of the goods until their delivery.



Progress with the review of the diesel refund administration:

SARS recently published draft diesel refund rules and notes to the Customs and Excise Act for public comment. The draft is the result of National Treasury and SARS consultations with affected industries, including the 2017 discussion paper, *Review of the Diesel Fuel Tax Refund System*, industry-specific workshops conducted in 2018 and further technical inputs received from stakeholders during 2019. The draft presents a provisional outline for the review of the diesel refund administration to facilitate further industry engagements during 2020. The reform proposals and legislative framework will be refined further based on the outcome of the engagements.

#### *Tax Administration Act*

Aligning the Mineral and Petroleum Resources Royalty (Administration) and the Tax Administration acts:

Chapter 12 of the Tax Administration Act (2011) created a framework to support the modernisation of the SARS accounting system for interest. Due to the similarities in the interaction between provisional and income tax on the one hand and the estimation and final payment of royalties for mineral and petroleum resources on the other, it is proposed that the Mineral and Petroleum Resource Royalty (Administration) Act (2008) and Chapter 12 of the Tax Administration Act be amended to ensure they align. This includes aligning interest payable for royalties, for the first and second payment, with provisional tax interest under Chapter 12.

Estimated assessments for non-compliance:

SARS may issue an estimated assessment to a taxpayer who does not file a return. The assessment may only be disputed where the relevant return is filed and SARS has failed to revise the assessment in light of the return. This ensures that all the facts are available when the assessment is revisited and that the dispute resolution timelines that would otherwise apply may be relaxed in appropriate circumstances. It is proposed that this approach be extended to cases where specific relevant material was requested from a taxpayer on more than one occasion, without an adequate response.

Withholding PAYE refunds where returns are outstanding:

In terms of the Income Tax Act, SARS may refuse to authorise a refund until a taxpayer furnishes any outstanding returns. A similar but broader provision exists in the Employment Tax Incentive Act (2013). Given the tight integration between the PAYE, skills development levy, unemployment insurance contributions and employment tax incentive systems, it is proposed that this power also apply to the Skills Development Levies Act (1999) and the Unemployment Insurance Contributions Act (2002). It is also proposed that the similar provisions across tax legislation be reviewed to determine if they can be consolidated into a single provision applicable to all tax types under the Tax Administration Act.

Withholding refunds where a matter is under criminal investigation:

The Tax Administration Act provides that SARS may withhold a refund until such time that the refund is verified, inspected or audited. It is proposed that this provision be extended to include criminal investigations.

## ■ Technical corrections

In addition to the amendments described above, the 2020 tax legislation will make various technical corrections, which mainly cover inconsequential items – typing errors, grammar, punctuation, numbering, incorrect cross-references, updating and removing obsolete provisions, removing superfluous text, 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 relate to modifications that account for practical implementation of the tax law. Although tax amendments go through an intensive comment and review process, new issues arise once the law is applied (including obvious omissions and ambiguities). These issues typically arise when tax returns are prepared for the first time after the tax legislation is applied. Technical corrections of this nature are limited to recent legislative amendments.