C

2024 BUDGET REVIEW

ADDITIONAL TAX POLICY AND ADMINISTRATIVE ADJUSTMENTS

national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

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 is held constant this year. The effects of these proposals are set out in tables C.1, C.2 and C3.

Table C.1 Annual income tax payable, 2024/25

Taxable income (R)	2023/24 rates (R)	Proposed 2024/25 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
85 000	–	–	–	–	–	–
90 000	–	–	–	–	–	–
100 000	765	765	–	0.0%	0.8%	0.8%
120 000	4 365	4 365	–	0.0%	3.6%	3.6%
150 000	9 765	9 765	–	0.0%	6.5%	6.5%
200 000	18 765	18 765	–	0.0%	9.4%	9.4%
250 000	28 797	28 797	–	0.0%	11.5%	11.5%
300 000	41 797	41 797	–	0.0%	13.9%	13.9%
400 000	69 272	69 272	–	0.0%	17.3%	17.3%
500 000	100 272	100 272	–	0.0%	20.1%	20.1%
750 000	191 942	191 942	–	0.0%	25.6%	25.6%
1 000 000	292 284	292 284	–	0.0%	29.2%	29.2%
1 500 000	497 284	497 284	–	0.0%	33.2%	33.2%
2 000 000	709 604	709 604	–	0.0%	35.5%	35.5%

Source: National Treasury

Table C.2 Annual income tax payable and average tax rates, 2024/25 (taxpayers aged 65 to 74)

Taxable income (R)	2023/24 rates (R)	Proposed 2024/25 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
120 000	–	–	–	–	–	–
150 000	321	321	–	0.0%	0.2%	0.2%
200 000	9 321	9 321	–	0.0%	4.7%	4.7%
250 000	19 353	19 353	–	0.0%	7.7%	7.7%
300 000	32 353	32 353	–	0.0%	10.8%	10.8%
400 000	59 828	59 828	–	0.0%	15.0%	15.0%
500 000	90 828	90 828	–	0.0%	18.2%	18.2%
750 000	182 498	182 498	–	0.0%	24.3%	24.3%
1 000 000	282 840	282 840	–	0.0%	28.3%	28.3%
1 500 000	487 840	487 840	–	0.0%	32.5%	32.5%
2 000 000	700 160	700 160	–	0.0%	35.0%	35.0%

Source: National Treasury

Table C.3 Annual income tax payable and average tax rates, 2024/25 (taxpayers aged 75 and over)

Taxable income (R)	2023/24 rates (R)	2024/25 rates (R)	Tax change (R)	% change	Average tax rates	
					Old rates	New rates
150 000	–	–	–	–	–	–
200 000	6 176	6 176	–	0.0%	3.1%	3.1%
250 000	16 208	16 208	–	0.0%	6.5%	6.5%
300 000	29 208	29 208	–	0.0%	9.7%	9.7%
400 000	56 683	56 683	–	0.0%	14.2%	14.2%
500 000	87 683	87 683	–	0.0%	17.5%	17.5%
750 000	179 353	179 353	–	0.0%	23.9%	23.9%
1 000 000	279 695	279 695	–	0.0%	28.0%	28.0%
1 500 000	484 695	484 695	–	0.0%	32.3%	32.3%
2 000 000	697 015	697 015	–	0.0%	34.9%	34.9%

Source: National Treasury

CUSTOMS AND EXCISE DUTY

Government proposes that excise duties in the Customs and Excise Act (1964, section A of part 2 of schedule 1) be amended with effect from 21 February 2024 to the extent shown in Table C.4.

Table C.4 Specific excise duties, 2023/24 – 2024/25

Tariff item	Tariff subheading	Article description	2023/24 Rate of excise duty	2024/25 Rate of excise duty
104.00		**PREPARED FOODSTUFFS; BEVERAGES, SPIRITS AND VINEGAR; TOBACCO**		
104.01	**19.01**	**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:**		
104.01.05	1901.90.13	Preparations for making alcoholic beverages (excluding those of subheading 1901.90.20) as defined in Additional Note 2 to Chapter 19	34,7c/kg	34,7c/kg
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
104.05	**21.06**	**Food preparations not elsewhere specified or included:**		
104.05.10	2106.90.13	Preparations for making alcoholic beverages as defined in Additional Note 1 to Chapter 21	34,7c/kg	34,7c/kg
104.10	**22.03**	**Beer made from malt:**		
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	R127.40/li aa	R135.89/li aa
104.15	**22.04**	**Wine of fresh grapes, including fortified wines; grape must (excluding that of heading 20.09):**		
104.15.01	2204.10	Sparkling wine	R16.64/li	R17.83/li
104.15	**2204.21**	**In containers holding 2 li or less:**		
104.15	**2204.21.4**	**Unfortified wine:**		
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.	R5.20/li	R5.57/li
104.15.04	2204.21.42	Other	R257.23/li aa	R274.39/li aa
104.15	**2204.21.5**	**Fortified wine:**		
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.	R8.77/li	R9.40/li
104.15.06	2204.21.52	Other	R257.23/li aa	R274.39/li aa
104.15	**2204.22**	**In containers holding more than 2 li but not more than 10 li:**		
104.15	**2204.22.4**	**Unfortified wine:**		
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.	R5.20/li	R5.57/li
104.15.15	2204.22.42	Other	R257.23/li aa	R274.39/li aa
104.15	**2204.22.5**	**Fortified wine:**		
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.	R8.77/li	R9.40/li
104.15.19	2204.22.52	Other	R257.23/li aa	R274.39/li aa
104.15	**2204.29**	**Other:**		
104.15	**2204.29.4**	**Unfortified wine:**		
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.	R5.20/li	R5.57/li
104.15.23	2204.29.42	Other	R257.23/li aa	R274.39/li aa
104.15	**2204.29.5**	**Fortified wine:**		
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.	R8.77/li	R9.40/li
104.15.27	2204.29.52	Other	R257.23/li aa	R274.39/li aa
104.16	**22.05**	**Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:**		
104.16	**2205.10**	**In containers holding 2 li or less:**		
104.16.01	2205.10.10	Sparkling	R16.64/li	R17.83/li

Table C.4 Specific excise duties, 2023/24 – 2024/25 *(continued)*

Tariff item	Tariff subheading	Article description	2023/24 Rate of excise duty	2024/25 Rate of excise duty
104.16	**2205.10.2**	**Unfortified:**		
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.	R5.20/li	R5.57/li
104.16.04	2205.10.22	Other	R257.23/li aa	R274.39/li aa
104.16	**2205.10.3**	**Fortified:**		
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.	R8.77/li	R9.40/li
104.16.06	2205.10.32	Other	R257.23/li aa	R274.39/li aa
104.16	**2205.90**	**Other:**		
104.16	**2205.90.2**	**Unfortified:**		
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.	R5.20/li	R5.57/li
104.16.10	2205.90.22	Other	R257.23/li aa	R274.39/li aa
104.16	**2205.90.3**	**Fortified:**		
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.	R8.77/li	R9.40/li
104.16.12	2205.90.32	Other	R257.23/li aa	R274.39/li aa
104.17	**22.06**	**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:**		
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	R16.64/li	R17.83/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	R127.40/li aa	R135.89/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.	R127.40/li aa	R135.89/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.	R127.40/li aa	R135.89/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.	R127.40/li aa	R135.89/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.	R127.40/li aa	R135.89/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.	R102.89/li aa	R109.76/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.	R102.89/li aa	R109.76/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.	R127.40/li aa	R135.89/li aa

Table C.4 Specific excise duties, 2023/24 – 2024/25 *(continued)*

Tariff item	Tariff subheading	Article description	2023/24 Rate of excise duty	2024/25 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.	R102.89/li aa	R109.76/li aa
104.17.90	2206.00.90	Other	R257.23/li aa	R274.39/li aa
104.21	**22.07**	**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:**		
104.21.01	2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher	R257.23/li aa	R274.39/li aa
104.21.03	2207.20	Ethyl alcohol and other spirits, denatured, of any strength	R257.23/li aa	R274.39/li aa
104.23	**22.08**	**Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent vol.; spirits, liqueurs and other spirituous beverages:**		
104.23	**2208.20**	**Spirits obtained by distilling grape wine or grape marc:**		
104.23	**2208.20.1**	**In containers holding 2 li or less:**		
104.23.01	2208.20.11	Brandy as defined in Additional Note 7 to Chapter 22	R231.51/li aa	R246.95/li aa
104.23.02	2208.20.19	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.20.9**	**Other:**		
104.23.03	2208.20.91	Brandy as defined in Additional Note 7 to Chapter 22	R231.51/li aa	R246.95/li aa
104.23.04	2208.20.99	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.30**	**Whiskies:**		
104.23.05	2208.30.10	In containers holding 2 li or less	R257.23/li aa	R274.39/li aa
104.23.07	2208.30.90	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.40**	**Rum and other spirits obtained by distilling fermented sugarcane products:**		
104.23.09	2208.40.10	In containers holding 2 li or less	R257.23/li aa	R274.39/li aa
104.23.11	2208.40.90	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.50**	**Gin and Geneva:**		
104.23.13	2208.50.10	In containers holding 2 li or less	R257.23/li aa	R274.39/li aa
104.23.15	2208.50.90	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.60**	**Vodka:**		
104.23.17	2208.60.10	In containers holding 2 li or less	R257.23/li aa	R274.39/li aa
104.23.19	2208.60.90	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.70**	**Liqueurs and cordials:**		
104.23	**2208.70.2**	**In containers holding 2 li or less:**		
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.	R102.89/li aa	R109.76/li aa
104.23.22	2208.70.22	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.70.9**	**Other:**		
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.	R102.89/li aa	R109.76/li aa
104.23.24	2208.70.92	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.90**	**Other:**		
104.23	**2208.90.2**	**In containers holding 2 li or less:**		
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.	R102.89/li aa	R109.76/li aa
104.23.26	2208.90.22	Other	R257.23/li aa	R274.39/li aa
104.23	**2208.90.9**	**Other:**		
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.	R102.89/li aa	R109.76/li aa
104.23.28	2208.90.92	Other	R257.23/li aa	R274.39/li aa

Table C.4 Specific excise duties, 2023/24 – 2024/25 *(continued)*

Tariff item	Tariff subheading	Article description	2023/24 Rate of excise duty	2024/25 Rate of excise duty
104.30	**24.02**	**Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:**		
104.30	**2402.10**	**Cigars, cheroots and cigarillos containing tobacco:**		
104.30.01	2402.10.10	Imported from Switzerland	R5 061.01/kg net	R5 474.32/kg net
104.30.03	2402.10.90	Other	R5 061.01/kg net	R5 474.32/kg net
104.30	**2402.20**	**Cigarettes containing tobacco:**		
104.30.05	2402.20.10	Imported from Switzerland	R10.40 /10 cigarettes	R10.89 /10 cigarettes
104.30.07	2402.20.90	Other	R10.40 /10 cigarettes	R10.89 /10 cigarettes
104.30	**2402.90.1**	**Cigars, cheroots and cigarillos of tobacco substitutes:**		
104.30.09	2402.90.12	Imported from Switzerland	R5 061.01/kg net	R5 474.32/kg net
104.30.11	2402.90.14	Other	R5 061.01/kg net	R5 474.32/kg net
104.30	**2402.90.2**	**Cigarettes of tobacco substitutes:**		
104.30.13	2402.90.22	Imported from Switzerland	R10.40 /10 cigarettes	R10.89 /10 cigarettes
104.30.15	2402.90.24	Other	R10.40 /10 cigarettes	R10.89 /10 cigarettes
104.35	**24.03**	**Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:**		
104.35	**2403.1**	**Smoking tobacco, whether or not containing tobacco substitutes in any proportions:**		
104.35.01	2403.11	Water pipe tobacco specified in Subheading Note 1 to Chapter 24	R278.31/kg net	R301.05/kg net
104.35	**2403.19**	**Other:**		
104.35.02	2403.19.10	Pipe tobacco in immediate packings of a content of less than 5 kg	R278.31/kg net	R301.05/kg net
104.35.03	2403.19.20	Other pipe tobacco	R278.31/kg net	R301.05/kg net
104.35.05	2403.19.30	Cigarette tobacco	R467.54/kg	R489.37/kg
104.35	**2403.91**	**"Homogenised" or "reconstituted" tobacco:**		
104.35.07	2403.91.20	Imported from Switzerland	R975.15/kg	R1 020.69/kg
104.35.09	2403.91.80	Other	R975.15/kg	R1 020.69/kg
104.35	**2403.99**	**Other:**		
104.35.15	2403.99.30	Other cigarette tobacco substitutes	R467.54/kg	R489.37/kg
104.35.17	2403.99.40	Other pipe tobacco substitutes	R278.31/kg net	R301.05/kg net
104.35.19	2403.99.90	Other	R975.15/kg	R1 020.69/kg
104.37	**24.04**	**Products containing tobacco, reconstituted tobacco, nicotine, or tobacco or nicotine substitutes, intended for inhalation without combustion; other nicotine containing products intended for the intake of nicotine into the human body:**		
104.37	**2404.1**	**Products intended for inhalation without combustion:**		
104.37	**2404.11**	**Containing tobacco or reconstituted tobacco:**		
104.37	**2404.11.1**	**Containing reconstituted tobacco:**		
104.37.01	2404.11.11	Imported from Switzerland, put up for retail sale in the form of sticks	R7.80 /10 sticks	R8.16 /10 sticks
104.37.03	2404.11.13	Imported from Switzerland, other	R975.15/kg	R1 020.69/kg
104.37.05	2404.11.15	Other, put up for retail sale in the form of sticks	R7.80 /10 sticks	R8.16 /10 sticks
104.37.07	2404.11.19	Other	R975.15/kg	R1 020.69/kg
104.37	**2404.11.9**	**Other:**		
104.37.11	2404.11.91	Put up for retail sale in the form of sticks	R7.80 /10 sticks	R8.16 /10 sticks
104.37.13	2404.11.99	Other	R975.15/kg	R1 020.69/kg
104.37.14	2404.12	Other, containing nicotine	R2.90/ml	R3.04/ml
104.37	**2404.19**	**Other:**		
104.37.16	2404.19.10	Containing nicotine substitutes	R2.90/ml	R3.04/ml
104.37.19	2404.19.20	Other, put up for retail sale in the form of sticks	R7.80 /10 sticks	R8.16 /10 sticks
104.37.21	2404.19.90	Other	R975.15/kg	R1 020.69/kg

Source: SARS

ADDITIONAL POLICY AND ADMINISTRATIVE AMENDMENTS

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

Individuals, employment and savings

Curbing the abuse of the employment tax incentive scheme

Changes were made to the Employment Tax Incentive Act (2013) in 2021 and 2023 to curb abuse of the employment tax incentive from aggressive tax schemes, which used training institutions to claim the incentive for students. It is proposed that punitive measures to support those amendments be refined in the legislation to address the abusive behaviour of certain taxpayers towards the incentive.

Amending the definition of "remuneration proxy" in section 1

In 2013, the definition of "remuneration factor" in the Seventh Schedule to the Income Tax Act (1962) was replaced by a new definition of "remuneration proxy" in section 1. The new definition of "remuneration proxy" refers to an "associated institution" in relation to the employer without referencing paragraph 1 of the Seventh Schedule, where this term is defined. It is proposed that the definition of "remuneration proxy" be amended to include a reference to "an 'associated institution' as defined in paragraph 1 of the Seventh Schedule".

Payroll amendments and refunds made in the current year

With the move by the South African Revenue Service (SARS) for payroll administrators to report payroll monthly, government proposes amending section 11(nA) of the Income Tax Act to cater for taxpayers seeking to make refunds of amounts received or accrued during the same year of assessment.

Clarifying anti-avoidance rules for low-interest or interest-free loans to trusts

The Income Tax Act contains an anti-avoidance measure aimed at curbing the tax-free transfer of wealth to trusts using low-interest or interest-free loans, advances or credit arrangements (including cross-border loan arrangements). The transfer pricing rules in the act also apply to counter the mispricing of cross-border loan arrangements. To avoid the possibility of an overlap or double taxation, the trust anti-avoidance measures specifically exclude low- or no-interest loan arrangements that are subject to the transfer pricing rules. It has come to government's attention that the above-mentioned exclusion does not effectively address the interaction between the trust anti-avoidance measures and transfer pricing rules where the arm's length interest rate is less than the official rate on these cross-border loan arrangements. It is proposed that amendments be made to the legislation to provide clarity in this regard.

Retirement provisions

Transfers between retirement funds by members who are 55 years or older

In 2023, changes were made to the legislation to allow for tax-neutral transfers between retirement funds in instances where members of pension or provident funds who have reached the normal retirement age as contained in the rules of the fund, but have not yet elected to retire, to transfer their retirement interest tax-free if it is an involuntary transfer. However, to be tax-free the transfer of the retirement interest should be made to a fund that is not less restrictive. It has come to government's attention that the law only allows certain tax-free transfers of an involuntary nature but excludes transfers from one retirement annuity fund to another. It is proposed that the law be amended to allow involuntary transfers of this nature.

Business (general)

Reviewing the connected person definition in relation to partnerships

Paragraph (c) of the definition of "connected person" in section 1 of the Income Tax Act provides that, in the context of a partnership or foreign partnership (as defined in section 1), each member of the partnership is a connected person in relation to any other member of the partnership and any connected person in relation to any member of such partnership or foreign partnership. Therefore, partners are connected to each other as well as to all connected persons of the partners in the partnership. It has come to government's attention that limited partners in an *en commandite* partnership (a partnership carried out in the name of only some of the partners; the undisclosed partners contribute a fixed sum and are not liable for more than their capital contribution in the case of a loss) are affected by the wide ambit of paragraph (c) of the definition of connected person. It is proposed that the status of connected persons in relation to a "qualifying investor" as defined be reviewed in the definition of "connected person" in the Income Tax Act.

Limiting interest deductions in respect of reorganisation and acquisition transactions

It is proposed that the definition of "adjusted taxable income" and the formula applied to limit an interest deduction in section 23N of the Income Tax Act be reviewed for closer alignment with the changes made to the definition of the adjusted taxable income and the formula applied for the interest limitation rules for debts owed to persons not subject to tax in section 23M of the Income Tax Act.

Relaxing the assessed loss restriction rule under certain circumstances

When a company is in the process of liquidation, deregistration or being wound up, it cannot make use of the full assessed loss. It is proposed that the legislation be amended to exempt companies from applying the assessed loss restriction rule while in the process of liquidation, deregistration or winding up.

Corporate reorganisation rules

Clarifying the interaction of the value shifting provisions and the definition of "value shifting arrangement" in paragraph 1 of the Eighth Schedule

Disposals between group companies falling within the ambit of the corporate rollover relief provisions should, in principle, be tax neutral. In essence, rationalising a group of companies can result in the market value of an existing shareholding of one group entity decreasing and another group entity's newly acquired shareholding increasing (this would trigger the application of the value shifting rules). However, commercially, the market value of the ultimate holding company's combined direct and indirect interests in all the subsidiary companies remains unchanged. It is proposed that the definition of "value shifting arrangement" be amended to exclude certain corporate rollover transactions between groups of companies or where the value of the effective interest of the connected person remains unchanged.

Reviewing the prohibition against transfers of assets to non-taxable transferees in terms of an "amalgamation transaction"

In general, "amalgamation transaction" rules do not apply if assets are transferred to companies that are wholly or partially exempt or fall outside the South African tax base because they are not fully taxable, in order to ensure that rollover relief is not used to obtain a permanent exemption. It has come to government's attention that the interaction between the definition of "amalgamation transaction" and the aforementioned rule, its reference to an "amalgamated company" and cross-references to a resultant company that is a foreign company that does not have a place of effective management in South Africa seem to be misaligned and unclear. It is proposed that this interaction be reviewed and clarified.

Reviewing the ambit of the de-grouping charge in intra-group transactions

The anti-avoidance measures of the intra-group corporate reorganisation rules set out the tax consequences for capital assets, allowance assets and trading stock in the event of de-grouping subsequent to an intra-group transaction. This is commonly referred to as a de-grouping charge and is applied when the transferee company and a transferor company cease to form part of the same group of companies or when the transferee company ceases to form part of the same group as any controlling group company in relation to the transferor company. For the de-grouping charge to be triggered, the de-grouping must take place within six years of the transfer of the assets if the assets were transferred between group companies as envisaged in paragraph (a) of the definition of "intra-group transaction". It is proposed that the scope of the de-grouping charge be narrowed to avoid the de-grouping charge being triggered when there is a change in shareholding affecting a group of companies, while the companies involved in the original intra-group transactions are still part of another group of companies.

Clarifying anti-avoidance rules dealing with third-party backed shares

Third-party backed share anti-avoidance rules deem dividend yields of preference shares, backed by third parties through an enforcement right of the holder, to be income except where the funds derived from the issue of these third-party backed shares are used for a qualifying purpose. The

anti-avoidance rules do not apply if the funds derived from the issue of the preference shares in question are used for a qualifying purpose, for example, if the funds are used directly or indirectly to acquire equity shares in an operating company. It has come to government's attention that the following amendments are required to clarify the rules.

Extending the definition of "enforcement right" to a connected person

An "enforcement right", as defined in the Income Tax Act, encompasses a right of the holder of a share, or any connected person in relation to that holder (a third party), to enforce performance by another person in respect of that share. However, the definition of a "third-party backed share" in section 8EA of the Income Tax Act does not clearly match the intent that either a holder or a connected person to that holder could hold that enforcement right. Government proposes that the definition of a "third-party backed share" be clarified to address this anomaly.

Extending exclusions to the ownership requirement

In 2023, amendments were made to the qualifying purpose provisions to clarify the ownership requirement for the equity shares in the operating company by the person that acquired those equity shares at the time of the receipt or accrual of any dividend or foreign dividend, subject to certain exclusions. The exclusions include a provision that the ownership requirement will not apply if that equity share was a listed share and was substituted for another listed share in terms of an arrangement that is announced and released as a corporate action on a South African regulated stock exchange. It is proposed that the ownership requirement exclusions be extended to include corporate actions relating to listed share substitutions on a recognised exchange in a country other than South Africa.

In addition, the ownership requirement exclusions will apply if the equity shares in the operating company are disposed of and the funds derived from that disposal are used to redeem the preference share within 90 days of the disposal. It has come to government's attention that further clarity is required on whether settlement of any dividends, foreign dividends or interest accrued from that preference share that are payable also falls within the ambit of its allowable redemption. It is proposed that the legislation be amended to include the settlement of any amounts of dividends, foreign dividends or interest accrued in respect of the redemption of a preference share.

Refining "contributed tax capital" provisions

The contributed tax capital of any company is a notional and ring-fenced tax amount derived from a deemed market value amount when a foreign company becomes a South African tax resident and the consideration for the issue of a class of shares by a company. It is reduced by any amounts referred to as capital distributions, transferred by the company to the shareholders. It has come to government's attention that the following amendments are needed to further refine the contributed tax capital provisions.

Effect on legitimate transactions due to "contributed tax capital" anti-avoidance measures

Section 8G of the Income Tax Act is an anti-avoidance measure that limits the "contributed tax capital" of a resident company in a share-for-share transaction with a non-resident group company.

The taxation consequences of this anti-avoidance measure may affect legitimate corporate finance practices and limit South Africa's attractiveness as an investment destination. Government proposes that further refinements be considered to minimise any inadvertent tax consequences.

Translating "contributed tax capital" from foreign currency to rands

In 2023, amendments were proposed in the draft Taxation Laws Amendment Bill to clarify the translation of "contributed tax capital", denominated in a foreign currency, to rands. The initial effective date for these proposed amendments was 1 January 2024. After reviewing stakeholder comments on the draft bill, government decided to postpone the effective date for these amendments to 1 January 2025 to give both the National Treasury and affected stakeholders more time to consider the impact of the proposed amendments. Government proposes reviewing the impact of the 2023 amendments during the 2024 legislative cycle.

Business (financial sector)

Clarifying the interaction of section 24JB(3) of the Income Tax Act and the gross income definition

Section 24JB(3) of the Income Tax Act seeks to ensure that financial assets and financial liabilities that are measured at fair value in terms of the International Financial Reporting Standards (IFRS) 9 and whose income, expenses, gains or losses are recognised in the statement of profit or loss and other comprehensive income are only included in or deducted from the income of certain persons under section 24JB(2) of the act. Therefore, the amounts cannot be dealt with under any other section of the Income Tax Act. It has come to government's attention that further clarity is required on the interaction between the aforementioned rule and the definition of "gross income". It is proposed that section 24JB(3) be amended to specifically exclude the application of the definition of gross income.

Impact of IFRS 17 on the taxation of insurers

In May 2017, the International Accounting Standards Board issued IFRS 17 to replace IFRS 4 as the new accounting standard for insurers. In 2022, tax legislation was developed to cater for the application of IFRS 17 for the financial years of insurers starting on or after 1 January 2023. The implementation of IFRS 17 is a complex, ongoing process, with insurers now starting to report on the new standard. Given the significant adjustments required due to implementing IFRS 17, several unintended consequences have come to government's attention and need to be addressed in the tax legislation. For example, an amendment is required to reduce an excessive phasing-in amount as a result of liabilities for remaining coverage not specifically being allowed as a deduction under the IFRS 17 tax system. Government proposes to adjust the legislation to cater for these unintended consequences.

International

Clarifying the translation for hyperinflationary currencies

The net income of a controlled foreign company (CFC) is determined in the currency used by that CFC for financial reporting (the functional currency) and is translated into rand at the average

exchange rate for that foreign tax year. An "exchange item", as defined in the Income Tax Act, is treated as not attributable to any permanent establishment of the CFC if the currency used for financial reporting is that of a country with an official rate of inflation of 100 per cent or more throughout the foreign tax year. However, in contrast to the intention that a hyperinflationary functional currency not be used for translation purposes, section 9D(2A)(*k*) of the Income Tax Act requires the local currency to be used. It is proposed that the rules be changed so that section 9D(2A)(*k*) does not allow the use of a hyperinflationary functional currency for translation purposes.

Clarifying the 18-month period in relation to shareholdings by group entities

In 2023, tax legislation was amended to require an 18-month holding requirement for the participation exemption on the foreign return of capital similar to the participation exemption relating to the disposal of shares in a foreign company. However, the test for the holding period for a foreign return of capital does not cover the situation where more than one company in a group of companies was holding the shares during the 18-month period. It is proposed that the holding period rules be amended to cater for this situation.

Clarifying the rebate for foreign taxes on income in respect of capital gains

South African tax residents are subject to income tax on their worldwide income. The Income Tax Act provides relief to them from double taxation where the same amount is taxed by more than one tax jurisdiction. Section 6*quat* of the Income Tax Act provides that a taxpayer should get credit for the taxes paid in the relevant foreign jurisdiction but limits this to the South African tax on the amount taxed in South Africa. According to the foreign tax credit rules dealing with foreign dividends, the tax-exempt portion must not be taken into account when determining the allowable foreign tax credit. However, the rules dealing with capital gains have no corresponding provision for the non-taxable portion of the capital gain.

It is proposed that section 6*quat* be amended to explicitly allow for a full foreign tax credit against tax payable in South Africa on a capital gain for taxes payable in the relevant foreign jurisdiction on the disposal of an asset. This will ensure a similar treatment as for foreign tax credits for taxable foreign dividends.

Aligning the section 6quat rebate and translation of net income rule for CFCs

Foreign taxes payable by a CFC must be translated to rand at the average exchange rate for the year of assessment, of the resident having an interest in the CFC, in which an amount of net income of the CFC is included in the income of that resident. However, the net income of the CFC must be translated by applying the average exchange rate for the foreign tax year of the CFC. A mismatch arises when the year of assessment of the resident and the foreign tax year of the CFC are different. To address this anomaly, it is proposed that the Income Tax Act align the years used to translate net income and foreign tax payable by referring to the foreign tax year of the CFC.

Refining the definition of "exchange item" for determining exchange differences

Certain financial arrangements that include preference shares are eroding the tax base due to a mismatch because some elements of the arrangement result in an exchange loss for tax purposes, while gains on the preference shares are not being taken into account for tax purposes. Government

proposes to address the tax leakage associated with these financial arrangements by extending the definition of "exchange item" to include shares that are disclosed as financial assets for purposes of financial reporting in terms of IFRS.

Reviewing the interaction of the set-off of assessed loss rules and rules on exchange differences on foreign exchange transactions

When determining taxable income, the Income Tax Act enables taxpayers to set off their balance of assessed losses carried forward from the preceding tax year against their income, provided that the taxpayer continues trading. The interaction between the assessed loss set-off and exchange differences rules mean that a foreign exchange loss on an exchange item may not be set off in future years against gains from the same exchange item if the trading requirement is not met. It is proposed that consideration be given to ring-fencing all foreign exchange losses on exchange items from a future year of assessment.

Value-added tax

Amendments to schedule 2 part B for fruit and vegetables

It is proposed that items 12 and 13 of part B of schedule 2 of the Value-Added Tax (VAT) Act (1991) be amended to clarify that the zero-rating of VAT does not apply to pre-cut or prepared fruit or vegetables. Amendments to schedule 1 part 1 of the Customs and Excise Act (1964) may also be needed in order to align both the schedules.

VAT treatment of rental stock paid in terms of the National Housing Programme

Amendments to section 8(23) of the VAT Act that came into effect from 1 April 2017 have resulted in confusion about the VAT status of rental stock under the National Housing Programme. It is proposed that amendments be made to the VAT Act to clarify the VAT status of this rental stock.

Providing VAT relief for non-resident lessors of parts of ships, aircraft or rolling stock required to deregister as a result of recent amendments to the VAT Act

Previously, foreign lessors of parts of ships, aircraft or rolling stock were required to register for VAT because they were not covered under the proviso (xiii) exclusion in the definition of "enterprise" in section 1(1) of the VAT Act. However, the addition in 2023 of the words "or parts directly in connection thereto" to proviso (xiii) implied that foreign lessors were now required to deregister. This amendment had the unintended consequence of such vendors now facing an output tax liability under section 8(2). It is proposed that the VAT Act be amended to provide relief from this unintended consequence.

Clarifying the VAT treatment of the Mudaraba Islamic financing arrangement

Section 8A of the VAT Act does not address the VAT treatment of "Mudaraba" financing arrangements (Islamic financing arrangements, mostly used as an investment or transactional account). This causes disparity with the Income Tax Act and uncertainty as to the VAT treatment thereof. It is proposed that the VAT Act be amended to clarify this.

Clarifying the VAT treatment of supply of services to non-resident subsidiaries of companies based in the Republic

The definition of "resident of the Republic" (of South Africa) in section 1(1) of the VAT Act refers to the definition of "resident" in section 1 of the Income Tax Act. The proviso to this definition in the VAT Act envisages a resident as someone conducting an "enterprise" in the Republic. Non-resident subsidiaries of companies based in the country may qualify under the definition of "resident" in the Income Tax Act (as a result of being effectively managed in the Republic), and hence in the VAT Act as well. As a result, services supplied by the resident to the non-resident subsidiary may not be zero-rated. Since these services will be effectively consumed outside the country, it is proposed that the VAT Act be amended to exclude such subsidiaries from the definition of "resident of the Republic".

Reviewing the foreign donor funded project regime

The VAT Act requires each foreign donor funded project, as defined in the VAT Act, to be separately registered for VAT as a branch of the implementing agency. This results in an increased administrative burden for recipients of foreign donor funding. To ease the administrative burden on the implementing agents, it is proposed that the foreign donor funded project regime be reviewed.

Updating the Electronic Services Regulations

Government proposes to revise and update the Electronic Services Regulations (and relevant sections of the VAT Act) to keep up with changes in the digital economy and ease the administrative burden. The scope of the regulations should be limited to only non-resident vendors supplying electronic services to non-vendors or end consumers.

Regulations on the domestic reverse charge mechanism relating to valuable metal

Effective from 1 July 2022, government introduced regulations to curb VAT fraud schemes in relation to gold and goods containing gold. The regulations exclude from the definition of "valuable metal" the gold produced by "holders", as defined under the Mineral and Petroleum Resources Development Act (2002), or a person contracted to such "holder". It has come to government's attention that these schemes and malpractices have now shifted to the primary gold sector. It is proposed that the regulations be revised to foreclose these schemes.

Accounting for VAT in the gambling industry

In 2019 changes were made to section 72 of the VAT Act, which deals with the SARS Commissioner's discretion to make arrangements or decisions regarding the application of the 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 affected the arrangements or decisions made on or before 21 July 2019. Government has reviewed the impact of these decisions to ascertain whether they should be discontinued or incorporated into the VAT Act. The amended section 72 affected the gambling industry and more specifically table games of chance, which previously accounted for VAT in terms of a section 72 arrangement or decision with SARS. It is proposed that this specific ruling relating to accounting for VAT for table games of chance be incorporated into the VAT Act.

Prescription period for input tax claims

To ease the administrative burden on both taxpayers and SARS, it is proposed that the VAT Act be amended in relation to the tax period in which past unclaimed input tax credits may be claimed. To ensure ease of audit functions and clarity of returns in this regard, it is also proposed that the act be amended to clarify that such deductions be made in the original period in which the entitlement to that deduction arose.

VAT claw-back on irrecoverable debts subsequently recovered

The current provisions of the VAT Act entitle a recipient of an account receivable at face value on a non-recourse basis to a deduction of the tax amounts written off as irrecoverable. However, the act does not provide for any claw-back of these deductions on amounts subsequently recovered. It is proposed that the VAT Act be amended to provide for this.

Supplies by educational institutions to third parties

It has come to government's attention that the VAT treatment of supplies provided by educational institutions to third parties is unclear, resulting in differing treatment of these supplies. It is proposed that the VAT Act be amended to clarify the policy intention relating to these supplies.

Carbon tax

Aligning schedule 1 of the Carbon Tax Act with the updated greenhouse gas emissions methodological guidelines

To ensure alignment between the Carbon Tax Act (2019) and the Department of Forestry, Fisheries and the Environment's Methodological Guidelines For Quantification Of Greenhouse Gas Emissions (the Methodological Guidelines), changes to the carbon dioxide emission factors and net calorific values for the relevant fuel types are necessary, as announced in the 2023 Budget. It is proposed that the schedule 1 fuel combustion emissions factors and net calorific values are updated, and new fuel types added, as set out in the tables below. To align with the guidelines, it is proposed that the density factors for calculation of the carbon fuel levy is changed from 0.75 to 0.7405 kilogram per litre for petrol and from 0.845 to 0.8255 kilogram per litre for diesel. The amendments will take effect from 1 January 2024.

Table C.5 Proposed changes to Schedule 1 Stationary fuel emission factors[1]

Fuel Type	Fuel combustion emission factors - Stationary source category			Default net calorific value (TJ/TONNE)		
	CO_2 ($KGCO_2$/TJ)	CH_4 ($KGCH_4$/TJ)	N_2O (KGN_2O/TJ)	Net calorific value	Lower limit of the 95% confidence interval	Upper limit of the 95% confidence interval
Changes to existing fuel types						
Aviation gasoline	65 752			0.0475	N/A	N/A
Diesel	74 638			0.0430	N/A	N/A
Heavy fuel oil (residual fuel oil)	73 090			0.0430	N/A	N/A
Jet kerosene	73 463			0.0433	N/A	N/A
Liquified petroleum gas (LPG)	64 852			0.0463	N/A	N/A
Paraffin	64 640			0.0490	N/A	N/A
Petrol	72 430			0.0439	N/A	N/A
Other bituminous coal				0.0192	0.0192	
New fuel types						
Acetylene	67 870	N/A	N/A	0.049818	N/A	N/A
Refuse-derived fuel	83 000	30	4	0.0100	0.0070	0.0180
Sawdust	–	30	4	0.0116	0.0059	0.0230
Waste tyres	85 000	1	1.5	0.0325	N/A	N/A
Methane rich gas (MRG)	54 888	1	0.1	0.0480	0.0465	0.0504
Deletion						
Diesel	74 100	3	0.6	0.0381	–	–

1. The current emission factors and net calorific values contained in Schedule 1 of the Carbon Tax Act are applicable where the cells in the table are blank
Source: National Treasury

Table C.6 Proposed changes to Schedule 1 Non-stationary fuel emission factors[1]

Fuel Type	Fuel combustion emission factors - Non-stationary source category			Default net calorific value (TJ/TONNE)		
	CO_2 ($KGCO_2$/TJ)	CH_4 ($KGCH_4$/TJ)	N_2O (KGN_2O/TJ)	Net calorific value	Lower limit of the 95% confidence interval	Upper limit of the 95% confidence interval
Changes to existing fuel types						
Aviation gasoline	65 752	0.5	2	0.0475	N/A	N/A
Diesel	74 638			0.0430		
Heavy fuel oil (residual fuel oil)	73 090			0.0473	N/A	N/A
Jet kerosene	73 463			0.0433	N/A	N/A
Liquified Petroleum Gas (LPG)	64 852			0.0463	N/A	N/A
Paraffin	64 640			0.0490	N/A	N/A
Petrol	72 430			0.0439		
Diesel-rail		4.15				
New fuel types						
Biodiesel	–	4.15	28.6	0.0270	N/A	N/A
Biogasoline	–	3.5	5.7	0.0270	N/A	N/A
Diesel – offroad	74 100	3.9	3.9	0.0381	N/A	N/A
Petrol – oxidation catalyst	69 300	25	8	0.0443	N/A	N/A
Petrol uncontrolled	69 300	33	3.2	0.0443	N/A	N/A
Refuse-derived fuel	83 000	N/A	N/A	N/A	N/A	N/A
Sawdust	–	N/A	N/A	N/A	N/A	N/A
Waste tyres	85 000	N/A	N/A	N/A	N/A	N/A
Methane rich gas (MRG)	54 888	92	3	0.0480	0.0465	0.0504

1. The current emission factors and net calorific values contained in Schedule 1 of the Carbon Tax Act are applicable where the cells in the table are blank
Source: National Treasury

Including default emission factors for additional fugitive emissions source categories

The Methodological Guidelines included the default emission factors for fugitive emissions from coal mining, oil and gas operations. It is proposed that the fugitive emissions table in schedule 1 of the Carbon Tax Act be updated to include the following activities and emission factors for the relevant emission source categories based on the 2019 refinements to the 2006 Intergovernmental Panel on Climate Change Guidelines for National Greenhouse Gas Inventories. The amendments will take effect from 1 January 2024.

Table C.7 Proposed additions to Schedule 1 Fugitive emission factors

IPCC Code	Source category activity	Fugitive emission factors		
		CO_2	CH_4	N_2O
1B1	**Solid Fuels (M^3/tonne)**			
1B1cii	Charcoal production (per charcoal produced) (tonne GHG/tonne charcoal)	0	0.0000403	$8*10^{-8}$
1B1Ciii	Biochar production (per biochar produced) (tonne GHG/tonne biochar)	0	0.00003	ND
1B1ci	Coke production (per coke produced) (tonne GHG/tonne coke)	ND	$4.9*10^{-8}$	ND
1B1civ	**Coal to liquids (tonne GHG/TJ total output)**			
1B1civ	Coal to liquids – syngas	55	0.0061	–
1B1civ	Coal to liquids – syngas/H_2	55	0.0061	–
1B1civ	Coal to liquids – SNG (synthetic natural gas)	78	0.0061	–
1B1civ	Gas to liquids (tonne GHG/TJ natural gas input)	12.73	ND	ND
	Oil transport (tonne/10^3M^3 oil loaded onto tanker ships)			
1B2ai	Loading offshore production on tanker ships – without VRU – All	ND	0.065	ND
1B2ai	Loading offshore production on tanker ships – with VRU – All	ND	0.04	ND
1B2a	**Oil refining (tonne/10^3M^3 oil refined)**			
1B2aiii4	All (the factors include fugitive equipment leaks, flaring, storage of crude oil, handling and calcination)	5.85	$2.6*10^{-6}$ to $4.1*10^{-5}$	$8.77*10^{-5}$

Source: National Treasury

Renewable energy premium deduction

Electricity generators including state-owned entities claim the renewable energy premium deduction for renewable energy purchased under power purchase agreements concluded as part of the Renewable Energy Independent Power Producer Procurement Programme and with private producers. As the generation, transmission and distribution functions of Eskom are separated, the power purchase agreements will be transferred to the National Transmission Company of South Africa when it commences operations. However, the carbon tax liability arising from greenhouse gas emissions in category 1A1a will remain with the generation function of the state-owned entity.

It is proposed that the Carbon Tax Act be amended to allow electricity generators to continue to claim the renewable energy premium deduction for power purchase agreements ceded to the National Transmission Company of South Africa. The amendment will take effect from 1 January 2024.

Aligning eligible Clean Development Mechanism project offsets with the Article 6(4) mechanism under the Paris Agreement

Under the Carbon Tax Act, offsets generated from approved projects developed under the Clean Development Mechanism (CDM) of the Kyoto Protocol are eligible for use by taxpayers for purposes of the carbon offset allowance. The adoption of Article 6(4) of the Paris Agreement provides for a new market mechanism to replace the CDM. Decisions taken under the Paris Agreement in November 2022 set out the process for transitioning activities from the CDM to the Article 6(4) mechanism. About 48 CDM projects are eligible for the transition to the new mechanism.

To ensure alignment with the new Article 6(4) mechanism and the transition of eligible CDM project activities, the National Treasury in consultation with the Department of Mineral Resources and Energy and the Department of Forestry, Fisheries and the Environment will consider the inclusion of the new mechanism as an eligible carbon offset standard and measures to facilitate the transition of existing CDM projects. Draft amendments to the regulations will be published by the Minister of Finance for public comment and further consultation in 2024.

Tax administration

Customs and Excise Act
Reviewing the process on packages imported through eCommerce

The approach to packages imported through eCommerce will be reviewed to ensure that the appropriate balance between simplicity and compliance with customs and excise requirements is being maintained.

Timeframe for delivery of export bills of entry

Certain exporters face legitimate challenges in complying with the timeframe for submitting export bills of entry. It is proposed that the Customs and Excise Act be amended to enable the SARS Commissioner to provide, by rule, for a process by which exporters can be allowed to submit export bills of entry at a different time than what is currently provided for in the act.

Simplifying the process of substituting bills of entry in certain circumstances

It is proposed that the Customs and Excise Act be amended to simplify the process of substituting a bill of entry in certain circumstances where such bill of entry has been passed in error or where an importer, exporter or manufacturer requested the substitution on good cause shown. A voucher of correction will no longer be required in those circumstances and it is foreseen that the substituting bill of entry will replace the previous one.

Value-Added Tax Act
Non-resident vendors with no or a limited physical presence in South Africa

Due to the wide definition of "enterprise", non-resident vendors may be required to register as vendors, despite not having any physical presence in South Africa or having a very limited presence for a short period of time. These non-residents have difficulties in appointing a representative vendor who resides in South Africa and in opening a South African bank account, as is required to register as a vendor. As a result, non-resident suppliers of electronic services were exempted from these requirements.

To facilitate engagement and compliance, it is proposed that electronic services suppliers be required to appoint a representative vendor, but that the requirement that such person must reside in South Africa be waived while maintaining the exemption from opening a South African bank account. Furthermore, it is recommended that the aforementioned dispensation be afforded to non-resident vendors with no, or a limited, presence in South Africa in specified circumstances.

Overpayments of VAT on the importation of goods and imported services

Prior to the introduction of the Tax Administration Act (2011), the VAT Act made specific provision for a refund of tax paid in excess of what was properly chargeable under the VAT Act. While the VAT Act, read with the Tax Administration Act, provides for a refund of an amount under an assessment and of an amount erroneously paid, it does not adequately cater for a reduction in the amount of tax chargeable as result of a subsequent event in respect of the import of goods by persons who are not registered as vendors or in respect of imported services. It is proposed that this be corrected.

Timing of VAT on imported services

In terms of the VAT Act, VAT should be accounted for and is payable by the recipient of imported services within 30 days of the earlier of receipt of the invoice issued by the supplier or the recipient or the time any payment is made by the recipient in respect of that supply. In many instances it is impractical to comply with the 30-day time period. Failure to pay VAT within this timeframe will result in the imposition of penalties and interest. To address this concern, it is proposed that the 30-day time period be extended to 60 days.

Tax Administration Act
Expanding the provision requiring the presentation of relevant information in person

SARS may require a person to attend the offices of SARS to be interviewed by a SARS official concerning the tax affairs of a person. This would be the case where the interview is intended to clarify issues of concern to SARS that would render further verification or audit unnecessary or to expedite a current verification or audit. It is proposed that the provision be expanded to also include instances where a taxpayer is subject to recovery proceedings for an outstanding tax debt or has applied for debt relief, to expedite the processes.

Clarifying provisions relating to original assessments

Concerns have been raised that the current legislative framework only covers certain types of original assessments by implication. It is proposed that the legislative framework be further clarified.

Alternative dispute resolution proceedings

In terms of the Tax Administration Act and the rules issued under the act, alternative dispute resolution proceedings can only be accessed at the appeal stage of a tax dispute, where they are responsible for the resolution of most appeals. It is proposed that SARS review the dispute resolution process to improve its efficiency, which may include allowing alternative dispute resolution proceedings at the objection phase of a tax dispute.

Reviewing temporary write-off provisions

SARS may decide to temporarily write off an amount of tax debt if it is satisfied that the tax debt is uneconomical to pursue or for the duration of the period that the debtor is subject to business rescue proceedings under the Companies Act (2008). It is proposed that the circumstances under which SARS may decide to temporarily write off an amount of tax debt be reviewed.

Removing the grace period for a new company to appoint a public officer

Every company that carries on business or has an office in South Africa must be represented by a public officer. Given that companies are automatically registered for income tax on formation, it is proposed that the one-month period within which the public officer must first be appointed be removed. A newly formed company will thus have both its directors and public officer in place on formation.

Implementing the Constitutional Court judgment regarding tax records access

In *Arena Holdings (Pty) Limited t/a Financial Mail and Others v South African Revenue Service and Others [2023] ZACC 13*, the Constitutional Court has made findings regarding the constitutional invalidity of certain provisions of the Promotion of Access to Information Act (2000) as well as the Tax Administration Act. It has ordered that Parliament considers measures to address their constitutional validity and, in the meantime, the court has ordered a "read-in" to the relevant provisions of the Promotion of Access to Information Act and those of the Tax Administration Act. It is proposed that these measures and the necessary amendments to affected legislation be addressed during the next legislative cycle.

TECHNICAL CORRECTIONS

In addition to the amendments described above, the 2024 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.

Other technical corrections relate to modifications following the 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. These technical corrections are limited to recent legislative amendments.