NATIONAL ASSEMBLY

QUESTION FOR ORAL REPLY

QUESTION NUMBER: 183 [NO1104E]

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★183. Mr X S Qayiso (ANC) to ask the Minister of Finance:

Given that he announced in his Budget Speech on 23 February 2022 that the corporate income tax rate would be reduced from 28% to 27% for companies with the year of assessment ending on or after 31 March 2023, (a) how will the National Treasury ensure that the reduction of corporate income tax will encourage corporates to invest in our economy and (b) what measures are in place to close the opportunities for tax base erosion and profit shifting by companies? NO1104E

REPLY

(a) The Government cannot force any company to invest in our economy, and the best way to encourage such investment is to create as attractive a climate for investment in our country. Key factors to facilitate investment include the construction and maintenance of infrastructure, access to markets, political and policy certainty and access to skilled labour. Attracting investment in our economy requires a package of measures that consist of both tax and non-tax (structural) alongside the rate reduction in the corporate income tax. National Treasury and the Presidency – through Operation Vulindlela – are supporting the implementation of key structural reforms to promote economic recovery and growth. The envisaged economic reforms are designed to:

- Support rapid and inclusive growth by reforming network industries to modernise and transform the economy
- Lower barriers to entry to make it easier for businesses to start, grow and compete
- Create greater levels of economic inclusion and address high levels of economic concentration
- Result in higher levels of employment as growth accelerates

Restructuring the CIT regime is an important complement to this endeavour and is aimed at enhancing equity and efficiency. Research by the OECD and the Davis Tax Committee show that an increase in the corporate income tax (CIT) rate has the largest negative impact on economic growth compared to other types of tax increases. High corporate income tax rates reduce the incentive for companies to invest in the economy. Capital is mobile and many corporates operate on a global scale, which allows them the advantage of choosing where they want to locate their business. As a result, governments around the world continue to compete for investment by making their countries an attractive investment destination. While there has been a global downward trend in corporate tax rates, South Africa's corporate income tax rate had remained unchanged since 2008, with many of our key trading and investment partners

reducing their rates. The has led to a growing gap in the tax rate differential – reducing the competitiveness of South Africa as an investment destination and providing a strong incentive for companies to shift profits out of South Africa. Lowering the CIT rate will reduce these barriers and create a more conducive environment for corporates to invest in our economy.

(b) In addition to reducing the corporate income tax rate by one percentage point, the CIT package introduced two measures that widen the tax base. One of these measures includes countering tax base erosion and profit shifting (BEPS) by strengthening the rules that restrict multinational companies from using excessive interest deductions to minimise taxable profits in South Africa. While some companies will pay more corporate income tax (CIT) as a result of this measure, all companies in South Africa will benefit from the reduced rate. In this way, equity between smaller stand-alone companies and multinational companies with operations in South Africa will be improved as purely domestic companies do not have global links that enable them to avoid tax through profit shifting.

South Africa has also introduced a number of measures over the past two decades to try restrict BEPS. Besides domestic measures, South Africa is party to multinational tax processes and agreements that aim to reduce tax avoidance by multinational companies and ensure that national tax bases are not eroded. South Africa is part of the OECD's Inclusive Framework that consists of 141 jurisdictions. In October 2021, the Inclusive Framework agreed to a new international tax framework to recognise how the world has changed since many bilateral tax treaties were signed many years ago.

Under this agreement, large multinational corporations will be required to allocate some of their taxable profits to countries where their customers are based and, for the first time, there will be a minimum tax rate applied globally. This is expected to enhance global CIT collections.

Many of South Africa's anti-avoidance measures are in line with best practice approaches emanating from the OECD/G20 BEPS Project. Below are some of the measures currently in place to curb base erosion and profit shifting:

- Transfer pricing rules (section 31 of the ITA) aim to ensure that prices charged between a company in South Africa and a connected party in another country are at arm's length (i.e. priced as if the transaction / loan was between independent parties) so that prices are not inflated or deflated to shift profits out of South Africa.
- Interest limitation rules (section 23M of the ITA) ensure that companies do not minimise profits in South Africa by, for example, a South African subsidiary taking on too much debt from its foreign parent so that it can use the interest payments to strip its profits in South Africa
- Controlled Foreign Company (section 9D of the ITA) were introduced in 2001 to recognise the shift to a residence basis of taxation and ensure that South African multinational companies do not shelter profits in low-tax jurisdictions. These rules require the South Africa parent to report net income of its CFCs to SARS.
- General Anti Avoidance Rules (section 80A- 80L of the ITA) allow SARS to question certain transactions where the main objective is to avoid tax.