



## Tax Alert

November 2018

# Tax Laws Amendment Bill changes for Trusts

South African taxpayers have seen a number of anti-avoidance provisions proposed by SARS over the last three years, focusing on the taxation of trusts and Controlled Foreign Companies (CFC).

Following KPMG's tax alert issued on [17 July 2018](#) on the draft 2018 Taxation Laws Amendment Bill (**draft 2018 TLAB**) relating to trusts and CFCs, National Treasury (**NT**) received comments from tax practitioners and the public and have considered the valid commentary and some amendments to the draft 2018 TLAB have been effected in the final 2018 TLAB (released on [24 October 2018](#)).

Initially the draft 2018 TLAB proposed, within a foreign trust structure with South African beneficiaries or donor, that the capital gains tax (**CGT**) participation exemption be disregarded in its entirety for the purposes of inclusion of capital gains in terms of paragraphs 72 and 80 of the Eighth Schedule to the Income Tax Act<sup>[1]</sup>.

This removal of the participation exemption, in its entirety, did not align with the proposed amendments to the participation exemption in respect of foreign dividends, which only removes the participation exemption where the more than 50% of the participation rights or voting rights are held by a taxpayer.

---

<sup>[1]</sup> No 58 of 1962

KPMG, along with other tax practitioners and the public, submitted comments to NT noting the discrepancy. NT and SARS considered the commentary and agreed to the submission in its response document. This has resulted in the final TLAB aligning the amendments to the participation exemption for both foreign dividends and CGT in respect of shares held by a foreign trust in a foreign company.

For more information regarding all the proposed amendments in this regard, please read our third edition of [KPMG Enterprise's Personal Perspectives](#) publication.

**For more information, please contact:**

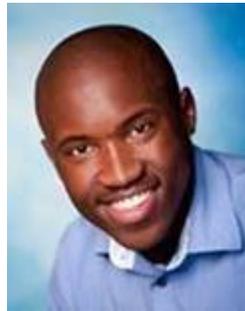


**Creagh Sudding**

Associate Director, International & Corporate Tax

T: +27 82 719 1995

E: [creagh.sudding@kpmg.co.za](mailto:creagh.sudding@kpmg.co.za)



**Mfundo Dubula**

Senior Tax Consultant

T: +27 60 997 6001

E: [mfundo.dubula@kpmg.co.za](mailto:mfundo.dubula@kpmg.co.za)

---

[Privacy](#) | [Legal](#)

[kpmg.co.za](http://kpmg.co.za)

You have received this message from KPMG in South Africa.

© 2018 KPMG Services Proprietary Limited, a South African company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ('KPMG International'), a Swiss entity. All rights reserved.

