KPMG

# Tax Budget Guide 2022/2023

**Licence to Tax: A Changing Future**

# Income Tax: Individuals and Special Trusts

## Tax Rates (year of assessment ending 28 February 2023)

| Taxable income | Rates of tax |
|---|---|
| R0 – R226 000 | 18% of each R1 of taxable income |
| R226 001 – R353 100 | R40 680 + 26% of the amount above R226 000 |
| R353 101 – R488 700 | R73 726 + 31% of the amount above R353 100 |
| R488 701 – R641 400 | R115 762 + 36% of the amount above R488 700 |
| R641 401 – R817 600 | R170 734 + 39% of the amount above R641 400 |
| R817 601 – R1 731 600 | R239 452 + 41% of the amount above R817 600 |
| R1 731 601 and above | R614 192 + 45% of the amount above R1 731 600 |

## Tax Thresholds

| Age | Threshold |
|---|---|
| Below age 65 | R91 250 |
| Age 65 to below 75 | R141 250 |
| Age 75 and older | R157 900 |

Trusts, other than special trusts, will be taxed at a flat rate of 45%.

## Tax Rebates (natural persons)

- Primary rebate – R16 425
- Secondary rebate (age 65 to below 75) – R9 000
- Tertiary rebate (age 75 and older) – R2 997

# Individuals who must submit tax returns

The Commissioner gives annual public notice of the persons who are required to submit tax returns for normal tax purposes. The relevant Government Gazette is expected to be issued in June/July 2022 in relation to the tax year ended 28 February 2022.

## Capital Gains Tax (CGT): Individuals

*Relevant rates*

- Inclusion rate: 40%
- Statutory rate: 0% – 45%
- Effective rate: 0% – 18%

*Exemptions / exclusions from CGT*

- The annual exclusion for individuals and special trusts is R40 000.
- The exclusion granted to individuals during the year of death is R300 000.
- The first R2 million of the capital gain or capital loss in respect of the disposal of a primary residence must be disregarded.
- A capital gain in relation to the disposal of a primary residence, if the proceeds of from the disposal of that primary residence does not exceed R2 million, must be disregarded.
- The exclusion on the disposal of a small business for persons 55 years and older is R1.8 million, provided that the market value of the business does not exceed R10 million.

# Allowances

## Subsistence Allowances and Advances

Where the recipient is obliged to spend at least one night away from his/her usual place of residence on business, and the accommodation to which that allowance or advance relates is in South Africa, and the allowance or advance is granted to pay for:

1. Meals and incidental costs, an amount of R493 per day is deemed to have been expended.
2. Incidental costs only, an amount of R152 for each day which falls within the period, is deemed to have been expended.

With effect from 1 March 2021, the above daily amounts will also apply where an employee is obliged to be away from the office on a day trip.

Overseas costs: The applicable rate per country is available on the SARS website at Subsistence Allowances and Advances | South African Revenue Service (sars.gov.za) or Legal Counsel/Secondary Legislation/ Income Tax Notices on the SARS website.

## Travel Allowance

A log book confirming business kilometres travelled and total kilometres travelled during the tax year, must be maintained in order to claim a deduction against the travel allowance.

PAYE must be withheld by the employer on 80% of the allowance granted to the employee. The withholding percentage may be reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.

No fuel and/or maintenance costs may be claimed if the employee has not borne the full cost thereof (e.g. if the vehicle is covered by a maintenance plan).

The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.

*Alternative simplified method:*

No tax is payable on a reimbursement paid by an employer to an employee which does not exceed the SARS rate per kilometre, regardless of the value of the vehicle. The SARS rate for 2023 is yet to be published but will be available on the SARS website (link to SARS website: Rates per kilometer | South African Revenue Service (sars.gov.za)).

However, this alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

## Travel Table

Rates per kilometre which may be used in determining the allowable deduction for business travel against an allowance or advance where actual costs are not claimed, are determined by using the following table on SARS's website: https://www.sars.gov.za/tax-rates/employers/rates-per-kilometer/

# Fringe Benefits

## Employer-provided vehicles

The taxable value is 3.5% of the determined value (the cash cost including VAT) per month of each vehicle.

However, where the vehicle is:

- the subject of a maintenance plan when the employer acquired the vehicle, the taxable value is 3.25% of the determined value; or
- acquired by the employer under an operating lease, the taxable value is the cost incurred by the employer under the operating lease plus the cost of fuel.

80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.

On assessment, the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes substantiated by a logbook, divided by the actual distance travelled during the tax year.

On assessment, further relief is available for the cost of licence, insurance, maintenance and fuel for private travel, if the full cost thereof has been borne by the employee, and if the distance travelled for private purposes is substantiated by a logbook.

## Employer-provided residential accommodation

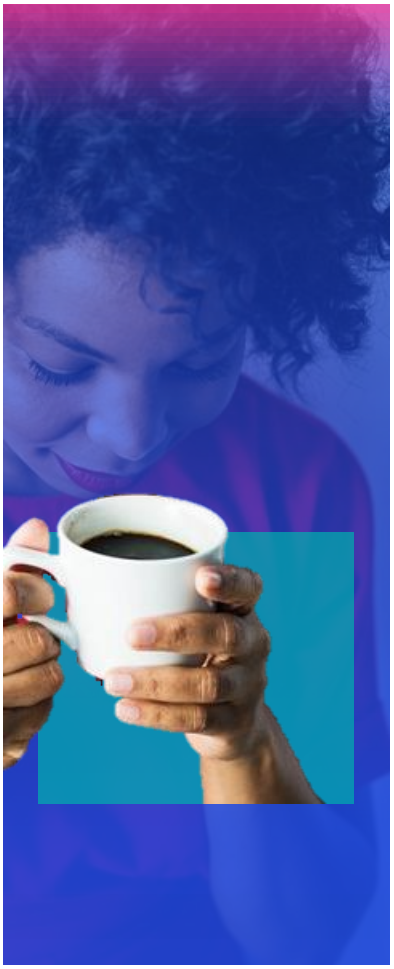
In the case of employer-provided residential accommodation, where the employer-provided accommodation is leased by the employer from an unconnected third party, the value of the fringe benefit to be included in gross income is the lower of:

- the cost to the employer in providing the accommodation; and
- the amount calculated with reference to the formula.

The formula will apply if the accommodation is owned by the employee, but it does not apply to holiday accommodation hired by the employer from non-associated Institutions.

## Interest-free or low-interest loans

The fringe benefit to be included in gross income is the difference between interest charged at the official rate and the actual amount of interest charged.



# Exemptions

## Interest and dividend income

Under 65 years of age – The first R23 800 of interest income is exempt.

65 years of age and over – The first R34 500 of interest income is exempt.

Interest is exempt if earned by a non-resident person who is an individual who is physically absent from South Africa for at least 183 days during the 12 month period before the interest accrues, or if the debt from which the interest arises is not effectively connected to a permanent establishment of that non-resident person in South Africa.

South African dividends are generally exempt after the withholding of dividends tax (except to the extent that anti-avoidance provisions have been triggered).

## Foreign interest and dividends

There is no exemption in respect of foreign sourced interest income.

Where an individual holds less than 10% of the equity share capital of a foreign company, which distributes a dividend, the dividend will be taxed at a maximum effective rate of 20%, as determined by a formula. No deductions are allowed for expenditure to produce foreign dividends.

## Foreign remuneration exemption

Where an employee works abroad for more than 183 days and more than 60 consecutive days in a 12-month rolling period, that foreign remuneration is exempt from tax in South Africa. From 1 March 2020 only the first R1.25 million of foreign remuneration will be exempt.

For the foreign remuneration exemption to be applied, an employee must be rendering services outside of South Africa for more than 183 days in a twelve-month period and for more than 60 consecutive days in the same twelve-month period.

In an effort to reduce the cash flow burden on the employee, the South African employer may apply to SARS for a tax directive allowing Foreign Tax Credits (FTCs) as a tax reduction in the South African payroll. Employees who are not remunerated via a South African payroll will be considered provisional taxpayers and will be required to claim the FTCs when filing their provisional and annual tax returns.

## Fringe benefit exemption for employer provided bursaries

Employer-provided bursaries to employees are not subject to income eligibility thresholds or monetary limit criteria.

However, there are other criteria, such as repayment conditions, that must be met for the bursary to be exempt entirely.

The remuneration eligibility threshold applicable to employees in respect of bursaries granted to their relatives, is R600 000.

The monetary limits for bursaries to relatives are as follows:

- R20 000 for grade R to grade 12 or for qualifications up to and including NQF level 4; and
- R60 000 for qualifications from NQF level 5 and above.

The monetary limits for relatives with disabilities are as follows:

- R30 000 for grade R to grade 12 or for qualifications up to and including NQF level 4; and
- R90 000 for qualifications from NQF level 5 and above.

With effect from 1 March 2021, no exemption applies if the bursary is subject to an element of salary sacrifice.

# Deductions from Income (individuals)

## Contributions to Pension, Provident and Retirement Annuity Funds

Employer contributions to South African retirement funds for the benefit of employees are deemed to be taxable fringe benefits in the hands of employees. Depending on the nature of the fund, the fringe benefit is either the actual cash value of the contribution or determined by a formula. The employee will be deemed to have made contributions to the value of the fringe benefit (which, together with their own contributions, may be eligible for a deduction).

The annual tax deduction for contributions to all retirement funds is limited to the lower of R350 000, or 27.5% of the greater of taxable income before the inclusion of a taxable capital gain (excluding retirement and severance lump sums) or remuneration (excluding retirement and severance lump sums).

Any contributions in excess of the limitations will be rolled forward and will be available for deduction in future tax years, subject to the annual limitations applicable in those tax years. Any non-deductible contributions will be available for deduction against retirement lump sums or annuity income.

It was clarified in the 2020 Budget that both employee and employer contributions to retirement funds (made on or after 1 March 2016) should qualify for a deduction under either paragraphs 5(1)(a) or 6(1)(a) of the Second Schedule to the Income Tax Act.

## Donations to certain Public Benefit Organisations

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income (excluding retirement fund lump sums and severance benefits).The amount of donations exceeding 10% of the taxable income is treated as a donation to qualifying public benefit organisations in the following tax year. It has been proposed that third-party reporting be extended to tax deductible donations made, so that SARS can pre-populate same on the relevant tax returns.

# Medical and Disability Expenses

Taxpayers may deduct from their tax liability a tax credit (i.e. a rebate) of R347 per month for each of the first two beneficiaries and R234 per month for each additional beneficiary, in respect of medical aid contributions.

Taxpayers 65 years and older and those with disabilities under the age of 65 years or with disabled dependents may deduct an additional tax credit (rebate) equal to 33.3% of the sum of:

- qualifying medical expenses; and
- an amount by which the contributions paid exceed three times (3x) the medical tax credits for the year.

Taxpayers under the age of 65 years may deduct an additional tax credit (rebate) equal to 25% of the sum of:

- qualifying medical expenses; and
- an amount by which the contributions paid exceeds four times (4x) the medical tax credits for the year, but limited to the amount which exceeds 7.5% of taxable income (excluding retirement lump sums and severance benefits).

# Tax-Free Savings and Investment Accounts

All returns received from tax free savings and investment accounts, such as interest, dividends and capital gains, are 100% tax free. The annual contribution limit is R36 000 from 1 March 2020 (previously R33 000), while the lifetime contribution limit is R500 000.

# Taxation of Lump Sum Benefits

## Retirement fund lump sum benefits (retirement or death) and severance lump sum benefits

The tax-free lump sum benefit upon death, retirement and in respect of severance benefits (as defined in the Income Tax Act), is R500 000. The tax rates are:

| Taxable income | Rates of tax |
|---|---|
| R1 – R500 000 | 0% of taxable income |
| R500 001 – R700 000 | 18% of taxable income above R500 000 |
| R700 001 – R1 050 000 | R36 000 + 27% of taxable income above R700 000 |
| R1 050 001 and above | R130 500 + 36% of taxable income above R1 050 000 |

## Retirement fund lump sum withdrawal benefits

Retirement fund lump sum withdrawal benefits refer to lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund upon withdrawal from the fund. The tax rates are:

| Taxable income | Rates of tax |
|---|---|
| R1 – R25 000 | 0% of taxable income |
| R25 001 – R660 000 | 18% of taxable income above R25 000 |
| R660 001 – R990 000 | R114 300 + 27% of taxable income above R660 000 |
| R990 001 and above | R203 400 + 36% of taxable income above R990 000 |

These tax tables apply cumulatively to all lump sum benefits, and include:

- all other retirement fund lump sum withdrawal benefits accruing from March 2009;
- all retirement fund lump sum benefits accruing from October 2007; and
- all severance benefits accruing from March 2011.

# Companies and Employers

## Corporate Tax Rates

| Type | Rates of Tax |
|---|---|
| **Companies** | |
| Resident company | 28%* |
| Non-resident company | 28%* |
| Personal Service Provider company | 28%* |
| *The corporate tax rate will be lowered to 27% with effect from years of assessment ending on or after 31 March 2023.<br><br>Gold mining, oil & gas companies and long-term insurance companies are subject to special rules and tax rates. | |
| **Small Business Corporations** (footnote 1) | |
| R 0 – R91 250 | 0% of taxable income |
| R91 251 – R365 000 | 7% of taxable income above R91 250 |
| R365 001 – R550 000 | R19 163 plus 21% of taxable income above R365 000 |
| R550 001 and above | R58 013 plus 28%* of taxable income above R550 000 |
| **Micro Businesses** (footnote 2) | |
| R 0 – R335 000 | 0% of taxable turnover |
| R335 001 – R500 000 | 1% of taxable turnover above R 335 000 |
| R500 001 – R750 000 | R1 650 plus 2% of taxable turnover above R500 000 |
| R750 001 and above | R6 650 plus 3% of taxable turnover above R750 000 |
| **Withholding Taxes** (footnote 3) | |
| Dividends | 20% |
| Interest paid to non-residents | 15% |
| Royalties paid to non-residents | 15% |
| Amounts paid to non-resident entertainers and sportspersons | 15% |
| Disposal of fixed property by non-residents | Individuals: 7.5%, Companies: 10%, Trusts: 15% |

1 Applicable for years of assessment ending on any date between 1 April 2021 and 30 March 2023. Note the marginal rate in respect of taxable income above R550 001 decreases to 27% in respect of years of assessment ending on or after 31 March 2023.

2 Micro businesses have the option of making payments for turnover tax, VAT and employees' tax bi-annually. Applicable in respect of years of assessment commencing on or after 1 March 2022.

3 Subject to double tax agreement relief if paid to a non-resident

## Withholding Taxes

If the amount is paid to a non-resident, the applicable withholding tax rate may be reduced by the provisions of a relevant Double Tax Agreement (DTA). The foreign recipient of the royalty, dividend or the interest should provide a written declaration and undertaking to the payor, confirming that the requirements to qualify for a reduced rate under a DTA have been met. These written declarations and undertakings have to be renewed every five years.

# Which companies must submit returns

The Commissioner annually gives public notice of the persons who are required to furnish returns for the assessment of normal tax within the period prescribed in that notice (likely to be issued in June/July 2022).*

The following entities are currently required to submit annual income tax returns:

- every company or other juristic person, which is a resident and which derived gross income or capital gains or losses of more than R1 000, had assets or liabilities of more than R1 000 or had taxable income, taxable turnover, an assessed tax loss or an assessed capital loss;
- every trust which is a resident;
- every company, trust or other juristic person, which is not a resident, and
  - which carried on a trade through a permanent establishment in South Africa;
  - which derived income from a source in South Africa; or
  - which derived any capital gain or capital loss from the disposal of an asset to which the Eighth Schedule to the Income Tax Act applies;
- every company incorporated, established or formed in South Africa, but which is not a resident as a result of the application of any DTA.

*A tax alert setting out the category of persons required to submit a return and any changes in relation to the above requirements, will be issued at the time of publication of the public notice (once available on the SARS website).

# Capital Gains Tax

## Effective CGT rates

| Type of taxpayer | Inclusion Rate | Statutory Rate | Effective Rate |
|---|---|---|---|
| Other trusts | 80% | 45% | 36% |
| Companies* (including personal service provider companies and branches of non-resident companies) | 80% | 28% | 22.4% |
| Small business corporations | 80% | 0% – 28% | 0% – 22.4% |

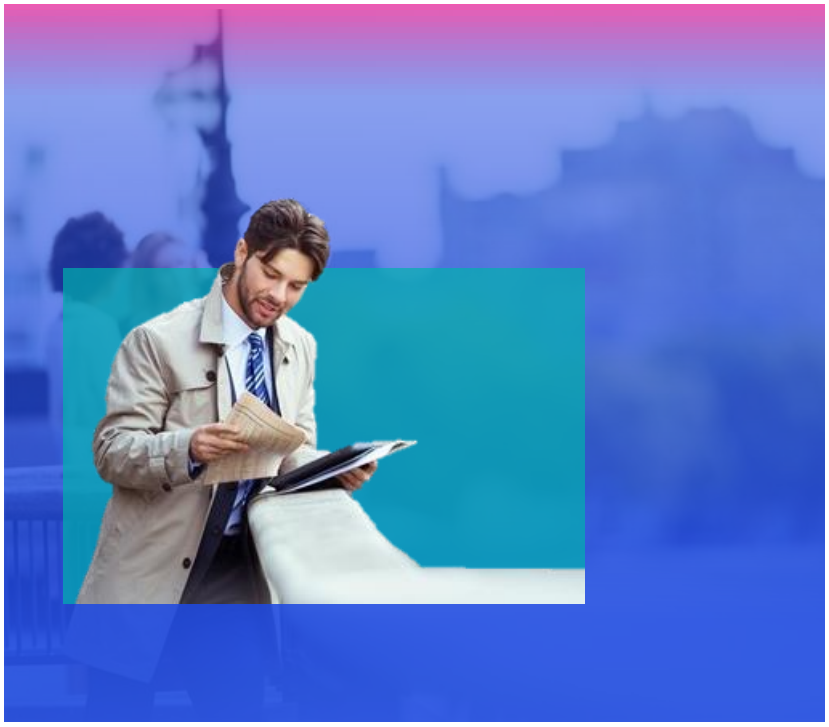
*The effective capital gains tax rate will be lowered to 21.6% with effect from years of assessment ending on or after 31 March 2023 (assuming the inclusion rate remains at 80%).

# Payroll Taxes and Levies

## Employees' Tax / Pay-As-You-Earn (PAYE)

Resident employers and resident representative employers are required to withhold PAYE from all remuneration paid to employees. The PAYE must be paid to SARS by the 7th day of the month following the month in which the remuneration is received. If the 7th falls on a weekend or public holiday, the payment must be made by the last business day before the 7th.

Employees' tax and personal income tax administration reforms are expected.



## Unemployment Insurance Fund (UIF)

UIF contributions are payable by employers to SARS on a monthly basis and are calculated at a rate of 2% of remuneration paid or payable (1% employee and 1% employer contribution, based on the employee's remuneration) to each employee during the month. The monthly threshold has increased from a maximum threshold of R17 712 per month (R212 544 per year) from 1 June 2021.

Employers (including non-resident employers) not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

With effect from 1 March 2018, foreign nationals working in South Africa and employees undergoing learnership training are subject to UIF.

## Skills Development Levy (SDL)

Employers with a payroll of more than R500 000 per year must account for SDL at a rate of 1% of total remuneration paid to employees.

## Employment Tax Incentive (ETI)

The ETI was introduced with the objective of generating employment opportunities for young and less experienced work seekers.

The incentive reduces the cost of hiring young people to employers, through a cost-sharing mechanism with government, while leaving the wage of the employee unaffected. Compliant employers are able to reduce their PAYE liabilities by claiming ETI.

The ETI was implemented with effect from 1 January 2014 and will end on 28 February 2029.

From 1 March 2019, employers are able to claim ETI up to a maximum of R1 000 per qualifying employee per month in the first twelve months and up to R500 per qualifying employee per month in the second twelve months.

The incentive is nil for qualifying employees who earn R6 500 and more.

In an attempt to increase its effectiveness (i.e. encourage employers to employ young people), the Minister of Finance has proposed that the ETI benefit be increased by 50% with effect from 1 March 2022, resulting in claims as follows:

- ETI up to R1 500 can be claimed per qualifying employee in the first twelve months (previously up to R1 000);
- ETI up to R750 can be claimed per qualifying employee in the second twelve months (previously up to R500).

In addition to the above, due to the abuse of the ETI regime, Government has proposed that the Employment Tax Incentive Act be amended to impose understatement penalties on reimbursements that are improperly claimed by employers.

# Value-Added Tax

- Standard rate:
  - 15% (from 1 April 2018)
  - 14% (until 31 March 2018)
- Threshold for compulsory VAT registration: Taxable supplies > R1 million during any 12-month period
- Voluntary VAT registration threshold: Taxable supplies > R50 000 during any 12-month period
- VAT registration threshold for foreign suppliers of "electronic services":
  - R50 000 (until 31 March 2019)
  - R1 million (from 1 April 2019)

# Corporate Income Tax

## Restructure of the corporate income tax system and broadening the tax base

Last year, the 2021 Budget included proposals to broaden the tax base through changes to the interest limitation provisions in respect of cross border debt, as well as proposals to limit the utilisation of assessed losses carried forward (to 80% of taxable income) and proposals that the corporate income tax rate be lowered. The interest limitation and assessed loss proposals were enacted in 2021 with an effective date linked to the date of the reduction in the corporate income tax rate.

The corporate income tax rate will reduce to 27% with effect from years of assessment ending on or after 31 March 2023.

# Other Incentives

## Incentives review

The following tax incentives end on the dates specified:

- Sections 12DA (rolling stock), 12F (airport and port assets) and 13*sept* (low cost housing on interest-free loan account): 28 February 2022
- Section 12O (films): 31 December 2021

The section 11D research and development tax incentive, which currently expires on 1 October 2022, will be extended to 31 December 2023.

The end date of the section 12L energy efficiency tax incentive will be extended from 1 January 2023 to 31 December 2025. This is to align the "environmental" incentive with the extension of the first phase of carbon tax.

# Provisional Tax

## Provisional tax – individuals / companies

- First payment: To be made within 6 months from the start of the tax year.
- Second payment: To be made by the tax year end.
- Third payment: Voluntary payment to be made within 7 months after the tax year end (if tax year end is 28/29 February), or to be made within 6 months after year end (if tax year end falls on any other date).

A provisional taxpayer is any person who earns income by way of remuneration from an unregistered employer, or income that is not remuneration or an allowance or advance payable by the person's principal. An individual is not required to pay provisional tax if the individual does not carry on any business and the individual's taxable income:

- will not exceed the tax threshold for the tax year; or
- from interest, dividends, foreign dividends, rental from the letting of fixed property and remuneration from an unregistered employer will be R30 000 or less for the tax year.

Provisional tax returns showing an estimation of total taxable income for the year of assessment are required from provisional taxpayers.

Deceased estates are not provisional taxpayers.

## Provisional tax – penalties on late payment, late submission and underestimation

The following penalties may be imposed:

- A 10% penalty for the late payment of the amount of provisional tax due.
- A 20% penalty for the late submission of the provisional tax return or for the underestimation of the amount of provisional tax due.
- The 20% underestimation penalty is reduced by the amount of any late payment penalty imposed. Both of these penalties constitute percentage based penalties in terms of section 213 of the Tax Administration Act.

The 20% underestimation penalty will only be triggered in the following scenarios:

- Taxable income of less than R1 million: if the taxable income per the second provisional tax return is less than 90% of the taxable income upon final assessment and is less than the "basic amount" (i.e. the taxable income per the most recent previous assessment issued).
- Taxable income equal to or more than R1 million: if the taxable income per the second provisional tax return is less than 80% of the taxable income per the final assessment.

# International Tax

## Base erosion, profit shifting and digital services tax

The issue of digital service tax was addressed in 2016 in the South African context by the Davis Tax Committee, when it recommended that South Africa should await the outcome of the OCED's Base Erosion and Profit Shifting (BEPS) program on the digital economy, which has subsequently morphed into the Two Pillar Approach.

With the OECD/G20 Inclusive Framework agreeing in principle on the Two Pillar Approach, and the implementation framework envisaged to take effect by 2023, National Treasury has proposed that legislative amendments be effected for the implementation of these rules, once the framework has been finalised.

## Updating the definitions and terms relating to the Insurance Act in the determination of net income of CFC

The current controlled foreign company (CFC) rules provide for an exclusion from imputing income arising from participation rights that are held in a policyholder fund of an insurer, to a resident shareholder. However, the current wording of the exclusion is outdated as a result of the implementation of the Insurance Act 18 of 2017 on 1 July 2018. Therefore, it is proposed that the wording of the exclusion be updated and brought into line with the existing insurance legislation.

## Clarifying the deeming provisions in respect of royalties derived by CFCs

Section 9D(2A) of the Income Tax Act is premised on the basis that the "net income" of a CFC must be determined as if that CFC is a taxpayer as well as a resident (the latter for specific sections of the Income Tax Act).

An omission from the deemed residency rule relates to royalties that are received by or accrue to a non-resident. Accordingly, it is proposed that the deeming provision in section 9D(2A) be extended to include royalties, such that an exemption from income tax cannot be claimed. Admittedly, insofar as any royalty was received by or accrued to a CFC from a South African source, and that royalty was subject to South African withholding tax, then that royalty will not be included in the "net income" of that CFC under the existing exclusions.

## Clarifying the treatment of amounts from hybrid equity instruments deemed to be income under CFC rules

Section 9D(9)(fA) of the Income Tax Act provides an exclusion for certain intra-CFC income streams where both the payor and payee are part of the same group of companies. The current wording of the provision does not cater for income arising from hybrid equity instruments (section 8E/8EA). Under the hybrid equity rules, certain dividends are deemed to be income in the payee's hands. To ensure neutral tax treatment, it is proposed that deemed income arising from hybrid equity instruments between CFCs be specifically excluded. In other words, arrangements between CFCs that are part of a group of companies, would need to be tested against the hybrid equity rules in order to determine whether the group CFC exemption applies.

## Clarifying the exclusion of participatory interests in foreign collective investment schemes from the definition of foreign dividend

The definition of 'foreign dividend' in section 1 of the Income Tax Act specifically excludes the redemption of a participatory interest in a foreign collective investment scheme. However, the narrow wording of the current exclusion does not cover the sale of units, shares or interest in such schemes. Therefore, it is proposed that the ambit of the exclusion be expanded by including the term "or other disposal" within the wording of the provision.

# Customs and Excise

## Customs and excise rates increases

*Customs and excise rate increases:*

- ***Specific excise duties***: With effect from 23 February 2022, specific customs and excise duties are increased. Alcoholic beverages increased by between 4.5% and 6.5%, (excluding traditional African beer and beer powder which remain unchanged). The rate of duty on cigarettes, cigarette tobacco, pipe tobacco and cigars increased by between 5.5% and 6.5%.
- ***General Fuel Levy & Road Accident Fund Levy***: The General Fuel Levy for 2022/2023 is unchanged and will remain at 385c/li and 370c/li respectively for petrol and diesel. The Road Accident Fund Levy will remain at 218c/li.
- ***Plastic Bag Levy***: With effect from 1 April 2022, the plastic bag levy will increase from 25c/bag to 28c/bag.
- ***Carbon tax on fuel***: For the 2022 calendar year, the levy for carbon tax will increase by 1c to 9c/litre for petrol and 10c/litre for diesel from 6 April 2022.
- ***Carbon tax***: For the 2022 calendar year, the carbon tax rate will increase by 7.46% to R144 per tonne of carbon dioxide equivalent.
- ***Environmental levy on carbon emissions by vehicles:*** The levy will increase from R120 to R132/gCO2/km on passenger vehicles and from R160 to R176/gCO2/km on double cabs from 1 April 2022.
- ***Incandescent light bulb levy***: The incandescent light bulb levy will be increased from R10 to R15 per light bulb from 1 April 2022.
- ***Beer powders:*** With effect from 1 October 2022, the flat excise rate of R34.7c/kg applied to traditional African beer powder will be extended to similar products in the market.
- ***Health Promotion Levy***: Health promotion levy for beverages with more than 4g of sugar content per 100ml will be increased from 2.21c/g to 2.31c/g from 1 April 2022. Consideration will also be given to lowering the 4g/100ml threshold and extending the levy to fruit juices.
- ***Vaping liquids:*** An excise duty of R2.90/ml will be introduced on nicotine and non-nicotine solutions from 1 January 2023.

*Legislative amendment proposals:*

- ***Advance Rulings***: Government proposes to introduce an enabling framework for advance rulings in the Customs and Excise Act.
- ***Time of entry***: Government proposes to introduce rules for the time of entry of any category of goods imported.
- ***Invoice requirements***: Government proposes to introduce amendments to clarify the legislative requirements for invoices in respect of import and export goods.
- ***Review of the diesel refund administration***: Government proposes to introduce amendments to the diesel refund notes and rules following conclusion of its public consultation process.

# Environmental Taxes

## Carbon tax

*Carbon tax rate*

In terms of section 5 of the Carbon Tax Act, the rate of the tax must be increased annually based on the consumer price index (CPI) inflation rate for the preceding tax period plus two percentage points for the first phase of the carbon tax up to December 2022. For the 2022 calendar year, the carbon tax rate will increase by 7.46%, resulting in an increase in the carbon tax rate from R134 per tonne of carbon dioxide equivalent emissions to R144 per tonne of carbon dioxide equivalent emissions.

*Extension of Phase 1*

The first phase of the carbon tax, which was due to end on 31 December 2022, will be extended by three years to 31 December 2025.

Accompanying the extension of the first phase of the carbon tax, is the extension of the energy efficiency savings tax incentive from 1 January 2023 to 31 December 2025, as well as the extension of the electricity price neutrality commitment until 31 December 2025.

The transitional support measures afforded to companies in the first phase, such as significant tax-free allowances and revenue-recycling measures, will continue over this period.

*Trade exposure allowance*

The threshold for the maximum trade exposure allowance will be increased from 30% to 50% from 1 January 2023.

*Mandatory carbon budgets*

Section 12(1) of the Carbon Tax Act permits a taxpayer to claim a carbon budget allowance of 5% if the taxpayer participates in the voluntary carbon budget system during or before the tax period ending 31 December 2022.

A mandatory carbon budgeting system will come into effect on 1 January 2023, at which time the carbon budget allowance of 5% will fall away.

To address concerns about double penalties for companies under the carbon tax and carbon budgets, it is proposed that a higher carbon tax rate of R640 per tonne of carbon dioxide equivalent emissions will apply to greenhouse gas emissions exceeding the mandatory carbon budget.

These amendments will be legislated once the Climate Change Bill is enacted.

*Offset of renewable energy premiums*

In the first phase of the carbon tax, taxpayers generating electricity can claim a tax deduction for electricity generation levy payments and additional renewable electricity purchases.

It is proposed that section 6(2)(c) of the Carbon Tax Act be amended to clarify that taxpayers would qualify for a deduction if they generate electricity from fossil fuel and conduct fuel combustion activities under the Intergovernmental Panel on Climate Change (IPCC) Code 1A1, energy industries and IPCC Code 1A2, manufacturing industries and construction.

*Carbon sequestration*

The Carbon Tax Act allows taxpayers to deduct sequestered emissions (which includes carbon capture and storage in geological reservoirs and biological sequestration) from their fuel combustion-related greenhouse gas emissions for a tax period. The Taxation Laws Amendment Bill was amended in January 2022 to expand the scope of the carbon sequestration deduction to include emissions sequestered in harvested wood products for the paper and pulp activities under IPCC code 1A2D.

To address potential administration challenges where activities are not within the taxpayer's operational control and to curb potential abuse, Government proposes to introduce a limitation on the deduction for forestry management and harvested wood product sequestration activities to only those activities within the operational control of the taxpayer conducting paper and pulp activities. These amendments will take effect on 1 January 2022.

# Transfer Duty and Securities Transfer Tax

## Transfer Duty

*Payable on transactions that are not subject to VAT (including zero-rated VAT)*

| Value of Property | Rates payable |
|---|---|
| R0 – R1 000 000 | 0% of the value |
| R1 000 001 – R1 375 000 | 3% of the value above R1 000 000 |
| R1 375 001 – R1 925 000 | R11 250 plus 6% of the value above R1 375 000 |
| R1 925 001 – R2 475 000 | R44 250 plus 8% of the value above R1 925 000 |
| R2 475 001 – R11 000 000 | R88 250 plus 11% of the value above R2 475 000 |
| R11 000 001 and above | R1 026 000 plus 13% of the value above R11 000 000 |

## Securities Transfer Tax (STT)

This tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities.

# Estate Duty And Donations Tax

## Estate Duty

Estate duty is payable on properties of residents and South African properties of non-residents (less allowable deductions).

Estate duty will be levied on the "dutiable value" of an estate at a rate of 20% on the first R30 million. A tax rate of 25% will apply where the dutiable value of an estate is above R30 million.

A basic deduction of R3.5 million is allowed in the determination of an estate's liability for estate duty, as well as deductions for liabilities, bequests to Public Benefit Organisations (PBOs) and property accruing to surviving spouses.

## Donations Tax

A rate of 20% will be payable on the value of property donated. Donations exceeding R30 million in value will be taxed at a rate of 25%.

The first R100 000 of property donated in each year by a natural person is exempt from donations tax. For taxpayers who are not natural persons, exempt donations are limited to casual gifts not exceeding a total of R10 000 per annum. Donations between spouses, South African group companies and to certain PBOs are exempt from donations tax.

# Administrative Non-Compliance Penalties

## Fixed amount penalties

| Taxable income for preceding year | Monthly Penalty |
|---|---|
| Assessed Loss | R 250 |
| R 0 – R 250 000 | R 250 |
| R 250 001 – R 500 000 | R 500 |
| R 500 001 – R 1 000 000 | R 1 000 |
| R 1 000 001 – R 5 000 000 | R 2 000 |
| R 5 000 001 – R 10 000 000 | R 4 000 |
| R 10 000 001 – R 50 000 000 | R 8 000 |
| Above R 50 000 000 | R 16 000 |
| Maximum successive penalties: 36 months (SARS in possession of address) or 48 months (SARS not in possession of address) | |

Administrative non-compliance is the failure to comply with an obligation imposed by or under a tax Act and listed in a public notice by the Commissioner. Failures attracting fixed amount penalties currently include:

- The failure by a natural person to submit an income tax return (subject to further conditions).
- The failure by a reporting financial institution to submit returns in relation to the intergovernmental agreement to implement the United States of America's Foreign Account Tax Compliance Act.
- Certain incidences of non-compliance with the Common Reporting Standard (CRS) Regulations (e.g. failure by a reporting financial institution to submit a return as required, or to remedy the partial or non-implementation of a due diligence required under the CRS Regulations within 60 days, etc.).
- Failure by a company to submit an income tax return as required under the Income Tax Act for years of assessment ending during the 2009 and subsequent calendar years, where SARS has issued the company with a final demand and such company has failed to submit the return within 21 business days of the date of issue of the final demand.

## Understatement Percentage-Based Penalties

| Behaviour | Standard case | Obstructive or repeat case | Voluntary disclosure after notification of audit | Voluntary disclosure before notification of audit |
|---|---|---|---|---|
| Substantial understatement | 10% | 20% | 5% | 0% |
| Reasonable care not taken in completing return | 25% | 50% | 15% | 0% |
| No reasonable grounds for tax position | 50% | 75% | 25% | 0% |
| Impermissible avoidance arrangement | 75% | 100% | 35% | 0% |
| Gross negligence | 100% | 125% | 50% | 5% |
| Intentional tax evasion | 150% | 200% | 75% | 10% |

"Understatement" means any prejudice to SARS or the *fiscus* as a result of:

- A failure to submit a return
- An omission from a return
- An incorrect statement in a return
- Failure to pay correct amount of tax if no return is required
- An impermissible avoidance arrangement

The burden of proving the facts on which SARS based the imposition of the understatement penalty, is on SARS.

# Voluntary Disclosure Programme

Provisions for a general Voluntary Disclosure Programme (VDP) are contained in the Tax Administration Act, in terms of which taxpayers (corporate entities, individuals, etc.), can approach SARS with a view to regularise their tax affairs, with the prospect of remittance of certain penalties.

It was announced in the 2021 Budget that the VDP provisions would be reviewed to ensure that the provisions align with strategic and policy objectives of the programme. There has been no announcement in the 2022 budget regarding the progress of the proposed review of the VDP provisions.

# SARS Interest Rates

| **Effective 1 February 2022** | |
|---|---|
| Fringe benefits – interest free or low interest loans | 5% p.a. |
| **Effective 1 March 2022** | |
| Late or underpayments of tax | 7.25% p.a. |
| Refund of overpayments of provisional and employees' tax | 3.25% p.a. |
| Refund of tax on successful appeal, or where the appeal was conceded by SARS | 7.25% p.a. |
| Refund of VAT after prescribed period | 7.25% p.a. |
| Late payments of VAT | 7.25% p.a. |
| Customs and Excise Duties | 7.25% p.a. |

# Budget Proposal

The following amendments are considered as part of the Budget proposals:

- All provisional taxpayers with assets in excess of R50 million will be required to disclose specified assets and liabilities, at market value and not cost, in their 2023 tax returns. The proposal is intended to assist with the detection of non-compliance and fraud by identifying unexplained wealth. In addition, the disclosure will provide insight into wealth levels and the manner in which wealth is held, as recommended by the Davis Tax Committee report 'Feasibility of a wealth tax in South Africa'.
- The current provisional tax system will be reviewed. A discussion document in this regard will be published in due course.
- It is proposed that the Tax Administration Act and other aspects of the South African legal framework be amended to make provision for the full use of joint audits with other tax administrations. This is intended to improve the effective exchange of information under International Tax Agreements.
- The interaction between the 2021 amendments in relation to the utilisation of assessed losses and the capital expenditure regime for mining companies will be clarified.
- The mining tax provisions will be amended to clarify that interest included in capital expenditure will not be subject to the interest limitation provisions.
- It is proposed that a discussion document on the tax treatment of trading profits accruing to a collective investment schemes be published.

# Future-ready Tax

# The changing landscape - The future of tax is here

## Tax is no longer (only) a compliance function of business, but has become a Strategic Asset

There is no shortage of challenges and opportunities facing today's tax functions. Carrying on as in the past is no longer a viable option. The traditional tax function is undergoing a transformation. This is a response to the constantly evolving business, economic and technological developments happening as we speak.

Tax authorities around the world are moving towards digitised reporting requirements and seeking to collect tax information directly from your company's accounting system (ERP) in real-time. Even locally there is a fundamental shift in how data is being collected and exchanged. We are moving away from information being "pushed" to tax authorities towards a position where data is "pulled" by them.

From SARS' 2024 Vision statement it is clear that they are moving towards risk-based reviews, that is not return driven, using data (from ERP systems and other third parties) and a stronger technological backbone. Hiring and upskilling resources with data analytical and data management skills are a priority for SARS. Having a technologically inclined workforce that can rely on factual insight directly from data in real time, requiring limited interaction with business on tax, will bring significant efficiency and growth opportunities for tax authorities.

## KPMG's response:

***Tax Reimagined*** *– KPMG's framework where we have combined our technology, transformation and compliance capabilities to meet your unique tax business needs.*

- Deploying our solution architects and leveraging this framework, we assist businesses to develop a strategy for your tax function and design a "future-ready" technology-enabled target operating model (TOM) to reduce costs, improve quality and unlock value from your tax and statutory function.
- Every company is unique. Every tax function is too. A bespoke KPMG Tax Reimagined workshop gives you the opportunity to imagine the model that works for you, then brings it to life. Our rapid diagnostics and wealth of benchmarking data can take you from dreaming of the possible to the foundations of a tangible business case in less time than you think.

# The changing landscape - Harnessing the power of technology and unlocking the value of a company's data

## Data has become a core asset of the 21st century tax function

Tax executives need to look beyond the implementation of a specific compliance tool or technology solution, also considering accessibility, accuracy and completeness of tax data. The concept of "compliance-by-design", whereby tax data is ready for reporting in real-time, has become a critical success factor in today's tax world.

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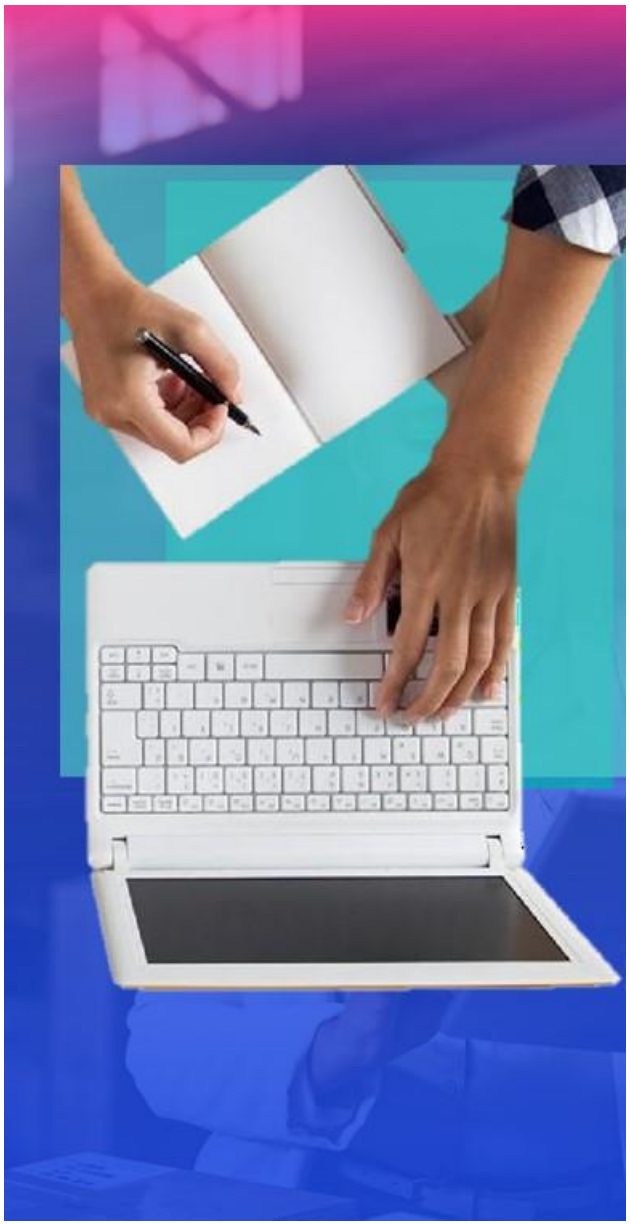

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