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KPMG's 2020/21 Budget Summary

Finance Minister, Tito Mboweni delivered the National Budget address on 26 February 2020

Key highlights

Although some commentators predicted significant tax increases, other than the usual increases in "sin taxes" no increases were proposed for 2020. Individual taxpayers are even granted some relief. Some far-reaching proposals to broaden the corporate tax base have however been announced.

Tax Policy

- In line with international trends, government plans to reduce the corporate income tax rate over the medium term. This will encourage investment, reduce the appeal of base erosion and profit shifting initiatives, and will bolster South Africa's competitiveness in trade relations.
- National Treasury aims to broaden the tax base by limiting exemptions, deductions and incentives.

Individuals and employment tax

- The personal income tax brackets, primary, secondary and tertiary rebates have been adjusted for inflation. The tax-free threshold increases to R83 100 per year, and medical tax credits will be adjusted to a limited extent.
- The annual limit in respect of contributions to tax-free savings accounts will be increased from R33 000 to R36 000 from 1 March 2020.
- The highly contentious amendment to the foreign employment income tax exemption will come into effect from 1 March 2020. In terms of this amendment, South African tax residents who spend more than 183 days in employment outside South Africa (of which 60 days are consecutive), will be taxed on employment income earned above R1.25 million. Furthermore, with effect from 1 March 2021, the concept of "financial emigration", facilitated in the past through the Reserve Bank, will be phased out.
- A PAYE and personal income tax administration reform is intended to be introduced. This is expected result in an automated PAYE system that could reduce the filing burden of salaried individuals.
- Following the implementation (in 2016 and 2017) of the anti-avoidance provisions to curb the transfer of growth assets to trusts/companies owned by trusts on low interest/interest-free loans, SARS has proposed to also provide for preference share funding structures which are similar to the low interest/interest-free loan structures, which currently fall outside the scope of the 2016/2017 anti-avoidance provisions.

Assessed losses

- A far-reaching change that was announced, is to restrict the offset of assessed losses carried forward. From 1 January 2021, the offset of an assessed loss brought forward will be restricted to 80% of taxable income. On face value, the impact would be that taxpayers would be subject to tax on a minimum of 20% of their taxable income calculated for that year, irrespective of the quantum of any assessed loss brought forward. While not clearly stated, it is assumed that the balance of any unutilised assessed loss will remain available to be carried forward to the next year, subject to the same restriction in that next year.

Incentives

- In line with the stated aim to reduce incentives, the sunset clauses of a number of incentives, including the one relating to special economic zones (SEZs) will be reviewed or introduced. Furthermore, no new SEZs will be announced.
- The effectiveness of the venture capital company tax incentive regime will be reviewed and may well be discontinued.
- The provisions dealing with allowable mining capital expenditure will be reviewed to address whether contract miners and mineral rights holders both qualify for these accelerated capital expenditure deductions.

Cross-border tax

- A significant change to the interest limitation provisions in respect of cross-border loans will be introduced for years of assessment commencing on or after 1 January 2021. The proposed changes are broadly set out in the discussion document "Reviewing the Tax Treatment of Excessive Debt Financing, Interest Deductions and Other Financial Payments" which was released for public comment on 26 February 2020. The proposed regime will clarify that transfer pricing rules should apply before the interest limitation rules. It will apply to total (external and internal) interest expenditure, as well as to payments economically equivalent to interest (currently the limitation only applies to interest paid to creditors in a "controlling relationship" to the debtor). Significantly, the deduction will be limited to 30% of taxable income for the year before interest, capital allowances and imputed controlled foreign company (CFC) income (often referred to as "tax EBITDA").

  Currently, interest up to approximately 43% (depending on the average repo rate) of tax EBITDA is allowed as a tax deduction, so the proposed change will represent a significant decrease in the allowable deduction. Provision will be made for a de minimis rule and for the carry forward of interest that has been disallowed for a period of 5 years.
- South African dividends received by a CFC in relation to a South African resident individual or trust will no longer qualify for a full exemption, and will be subject to 20% dividends tax (in line with what the treatment would have been if the South African individual / trust had received the dividend directly).
- For capital gains tax purposes, the participation exemption in respect of gains on the disposal of shares in foreign companies will no longer apply if the value of those shares is attributable to South African assets.
- Transfer pricing legislation is to be amended in order to address a scenario where a transaction is between a CFC and a non-resident connected person. Currently, the transfer pricing rules do not consider the tax benefit derived by a South African resident shareholder of a CFC by virtue of a lesser imputed amount arising from such transactions.

Financial sector

- Various amendments to the tax treatment of doubtful debts will be considered.
- A number of changes to the tax legislation applicable to Real Estate Investment Trusts (REITs) are to be made.
- The dividends tax anti-avoidance provisions relating to securities lending arrangements will be tightened to cover the interposition of tax exempt parties.

Value-Added Tax (VAT)

- Amendments have been proposed to the basis on which intermediaries account for VAT in respect of supplies of electronic services.
- The implications of the income tax roll-over relief in the so-called "corporate rules" in the Income Tax Act on the related relief granted by the VAT Act are to be reviewed, as unintended consequences may arise.

Environmental tax

- Plastic bag levies, tax on motor vehicle emissions, the incandescent globe tax and the carbon tax rate will be increased.

Tax administration

- Where a PBO fails to comply with the requirements set to maintain its tax exempt status, donations received by that PBO may be considered taxable. A continued failure to comply may render certificates issued by the PBO as invalid. It is proposed that these sanctions will apply to organisations conducting mixed activities, in respect of their audit certificate requirement for funds spent from donations received.
- It has been proposed that SARS may refuse to authorise PAYE refunds until a taxpayer furnishes any outstanding returns.
- It is proposed that the Mineral and Petroleum Resource Royalty (Administration) Act and the Tax Administration Act be amended to ensure they align, specifically to ensure that late payment interest for royalties, for the first and second payment, aligns with provisional tax interest rules.

Transfer duty

- The brackets to calculate transfer duties on the sale of property will be adjusted from 1 March 2020. No transfer duty will be imposed on the purchase of property with a value below R1 million.

Customs and excise duty

- With effect from 26 February 2020, specific customs and excise duties are increased, specifically in respect of most alcoholic beverages (excluding traditional African beer and beer powder), cigarettes, cigarette tobacco, pipe tobacco and cigars.
- From 1 April 2020, the General Fuel Levy & Road Accident Fund Levy and the Road Accident Fund Levy will increase.
- Government intends to tax electronic cigarettes in 2021.
- Licensed removers of goods in bond: Government proposes to amend the customs and excise legislation to allow for licensed removers of goods in bond to move containerised goods from container terminals before they are released, in order to transfer the liability of the master, pilot or carrier for import duties prior to delivery and due entry. This proposal will end the liability of the master, pilot or carrier on delivery of the goods to a licensed remover.
- Government is seeking to introduce export taxes on scrap metal and is proposing to replace the current price preference system.

Exchange control

- Over the next twelve months, the exchange control system will be modernised. A change will be made from a system where foreign currency transactions are prohibited by default, except for a specific list of allowable transactions. The new system will work on the opposite basis, namely that all foreign currency transactions are allowed, except for a specific list of exceptions.
- As a result of the modernisation of the exchange control system, so-called "loop structures" that are currently prohibited, would now be allowed. However, the legislation pertaining to participation exemptions in respect of capital gains tax and foreign dividends will be amended to combat tax avoidance.

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