Tax Budget Guide 2020/2021

Compliant today. Reimagine tomorrow.

Turning data and knowledge into value across your organisation.

Harnessing the power of technology and unlocking the value residing in a company's data will require a business's tax function to understand and manage its role accordingly.

With the world changing so rapidly, there is a greater urgency for businesses to focus more effort on strategies for sustainability.

For more information please email:
Madelein van Zyl,
Head of Tax Technology
madelein.vanzyl@kpmg.co.za

kpmg.com

KPMG

Income Tax: Individuals and Special Trusts

Tax Rates (year of assessment ending 28 February 2021)

Taxable income	Rates of tax
R0 – R205 900	18% of each R1 of taxable income
R205 901- R321 600	R37 062 + 26% of the amount above 205 900
R321 601- R445 100	R67 144 + 31% of the amount above 321 600
R445 101 – R584 200	R105 429 + 36% of the amount above 445 100
R584 201 - R744 800	R155 505 + 39% of the amount above 584 200
R744 801 - R1 577 300	R218 139 + 41% of the amount above 744 800
R1 577 301 and above	R559 464 + 45% of the amount above 1 577 300

Tax Thresholds

Age	Threshold
Below age 65	R83 100
Age 65 to below 75	R128 650
Age 75 and older	R143 850

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

Tax Rebates (natural persons)

- Primary rebate – R14 958
- Secondary rebate (age 65 to below 75) – R8 199
- Tertiary rebate (age 75 and older) – R2 736

KPMG

© 2020 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.

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. A KPMG Tax Alert describing the persons who must submit an income tax return for the 2020/2021 tax year of assessment will be issued once the relevant Government Gazette has been published (expected in June 2020).

Capital Gains Tax ("CGT"): Individuals

Relevant rates

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

Exemptions / Exclusions from CGT

- Annual exclusion for individuals and special trusts: R40 000.
- Exclusion granted to individuals during the year of death: R300 000.
- Exclusion on disposal of a primary residence is R2 million.
- Exclusion on 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:

- Meals and incidental costs, an amount of R452 per day is deemed to have been expended.
- Incidental costs only, an amount of R139 for each day which falls within the period is deemed to have been expended.

Overseas costs: The applicable rate per country is available on the SARS website at Legal Counsel/Secondary Legislation/ Income Tax Notices under Notice 268.

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:

Where an allowance or advance is based on the actual distance travelled by the employee for business purposes, no tax is payable on an allowance paid by an employer to an employee up to the rate of 398 cents per kilometre, regardless of the value of the vehicle.

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.

KPMG

© 2020 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.

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:

Value of the vehicle (including VAT)	Fixed cost	Fuel cost	Maintenance cost
	R	c/km	c/km
R0 – R95 000	31 332	105.8	37.4
R95 001 – R190 000	55 894	118.1	46.8
R190 001 – R285 000	80 539	128.3	51.6
R285 001 – R380 000	102 211	138.0	56.4
R380 001 – R475 000	123 955	147.7	66.2
R475 001 – R570 000	146 753	169.4	77.8
R570 001 – R665 000	169 552	175.1	96.6
Exceeding R665 000	169 552	175.1	96.6

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.

© 2020 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.

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 where earned by non-residents who are physically absent from South Africa for at least 183 days during the 12 month period before the interest accrues or the debt from which the interest arises is not effectively connected to a permanent establishment of that 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.

KPMG

© 2020 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.

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. However, for years of assessment commencing on or after 1 March 2020, only the first R1.25 million (previously R1 million) of foreign remuneration will be exempt.

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 that must be met in order for the bursary to be exempt entirely.

The income eligibility threshold applicable to employees, in respect of bursaries granted to their relatives, is R600 000. The monetary limits for bursaries are as follows:

- R20 000 for grade R to grade 12 or for qualifications below NQF level 4; and
- R60 000 for qualifications at 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 below NQF level 4; and
- R90 000 for qualifications at NQF level 5 and above.

A number of employer bursary schemes seek to reclassify ordinary remuneration as a tax-exempt bursary granted to the dependants of an employee. Government proposes to close this loophole. These amendments will take effect on 1 March 2020.

KPMG

© 2020 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.

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 a taxable fringe benefit 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 the result of 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 (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.

KPMG

© 2020 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.

Medical and Disability Expenses

Taxpayers may deduct from their tax liability a tax credit (i.e. a rebate) of R319 per month for each of the first two beneficiaries and R215 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:

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

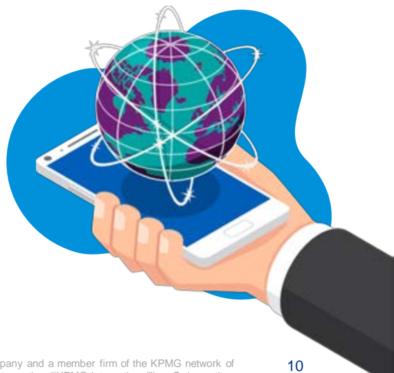
Taxpayers under the age of 65 years may deduct an additional tax credit (rebate) equal to 25% of the sum of:

1. qualifying medical expenses; and
2. 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.



© 2020 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.

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 rates follow below:

Taxable income	Rates of tax
R0 - 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 rates follow below:

Taxable income	Rates of tax
R0 - 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.

KPMG

© 2020 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.

Companies and Employers

Corporate Tax Rates

Type	Rates of Tax
Companies	
Resident Company	28%
Non-resident Company	28%
Personal Service Provider Company	28%
Gold mining, oil & gas, and long-term insurance companies are subject to special rules and tax rates. It is envisaged that the corporate tax rate will be reduced in future, as part of the broadening of the corporate income tax base.	
Small Business Corporations [1]	
R 0 – R83 100	0% of taxable income
R83 001 – R365 000	7% of taxable income above R83 100
R365 001 – R550 000	R19 733 plus 21% of taxable income above R365 000
R550 001 and above	R58 583 plus 28% of taxable income above R550 000
Micro Businesses [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 [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 financial years ending on or after 1 April 2020.

[2] Micro businesses have the option of making payments for turnover tax, VAT and employees' tax bi-annually. Applicable in respect of financial years commencing on or after 1 March 2020.

[3] Most withholding taxes payable by non-residents are subject to DTA relief.

KPMG

© 2020 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.

Withholding Taxes

The rates 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 declaration and/or an undertaking to the payor, confirming that the requirements to qualify for a reduced rate under a DTA have been met.

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 2020).*

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

- every company, trust or other juristic person, 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 SARS notice.

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%

© 2020 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.

Payroll Taxes and Levies

Pay-as-you-earn ("PAYE")

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, up to a maximum remuneration threshold of R14 872 per month or R178 464 per annum.

Employers (including non-resident employers) that are 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 annum must account for SDL, at a rate of 1% of total remuneration paid to employees.

Employment Tax Incentive ("ETI")

The ETI, which mainly benefits young workers, was reviewed and extended to February 2029. From 1 March 2019, employers are able to claim the maximum value of R1 000 per month for employees earning up to R4 500 per month (previously R4 000), with the incentive tapering to zero at the maximum monthly remuneration of R6 500. The value of the incentive halves during the second twelve-month period during which the employer claims the ETI in respect of a specific employee. The ETI is positioned to incentivise employers to:

- Employ workers from the ages of 18 to 29; and
- Employ workers that work mainly (50% or more) in a Special Economic Zone ("SEZ").

The ETI is available to eligible employers in respect of qualifying employees, subject to specific criteria. For example, employers must abide by the relevant wage-regulating measures in order to be able to claim the ETI in respect of an employee.

One of the Budget proposals is aimed at addressing the anomaly in relation to the rollover of amounts claimable under the ETI. Currently, any unclaimed ETI available to be claimed, must be utilised at the end of each bi-annual reconciliation period (i.e. August or February) or the unutilised ETI will be forfeited. However, non-compliant employers are able to claim the ETI in a subsequent month once they become compliant. This created disparity between compliant and non-compliant employers.

KPMG

© 2020 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.

Value-Added Tax

- Standard rate:
  - 15% (from 1 April 2018)
  - 14% (until 31 March 2018)
- VAT registration threshold remains at R1 000 000
- VAT voluntary registration threshold remains at R50 000
- VAT registration threshold for foreign suppliers of “electronic services”:
  - R50 000 (until 31 March 2019)
  - R1 000 000 (from 1 April 2019)

Corporate Income Tax

Excessive corporate interest deductions

A significant change to the interest limitation provisions in respect of cross border debt will be introduced for years of assessment commencing on or after 1 January 2021. The changes are consistent with the OECD recommendations relating to base erosion and profit shifting involving interest deductions and other financial payments. 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” released for comment on 26 February 2020. The proposed regime will apply to net interest determined as arm’s length under the transfer pricing rules and will replace the provisions of section 23M of the Income Tax Act.

The existing provisions in section 23N of the Income Tax Act will be unaffected. It is proposed that the new interest limitation rules will apply to total (external and internal) net interest expenditure along with payments economically equivalent to interest, that the rules will apply to all entities in South Africa forming part of a multinational group and that the deduction will be limited to 30% of tax EBITDA. Provision will be made for a de minimis rule and for the carry forward of interest disallowed for a period of 5 years.

Limiting the use of assessed losses to reduce taxable income

With effect for years of assessment commencing on or after 1 January 2021, it is proposed that the off set of assessed losses carried forward will be limited to 80% of taxable income.

KPMG

© 2020 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.

Potential tax avoidance within the banking industry

In terms of section 24JB of the Income Tax Act, a covered person (as defined) must include or exclude from income, amounts in respect of financial assets and financial liabilities recognised as profits and losses. There are, however, certain exclusions. One of these exclusions is in respect of a foreign dividend received by or accrued to a covered person. A loophole existed whereby a taxpayer could include a special purpose vehicle in a banking group between an investor and the covered person. The investor would have received dividends whilst the vehicle would have received interest. The special purpose vehicle effectively converted income to dividends for the benefit of investors. It is proposed that the exclusion be extended to dividends declared, thereby closing the loophole.

Proposed changes within the REIT industry

Clarification has been provided that the beneficial tax dispensation, as envisaged in section 25BB of the Income Tax Act, will not be available in respect of listed preference shares of a REIT (as these are predominantly used as funding tools and do not provide full equity exposure to the shareholders). It is proposed that the legislation be clarified to exclude preference shares and non-equity shares from the shares that must be listed on an exchange to qualify as a REIT.

Foreign dividends received by a REIT are currently treated as exempt or partially exempt in terms of section 10B of the Income Tax Act .

To the extent these foreign dividends are on-declared to the REIT shareholders, the REIT will obtain a full deduction for the dividend declared to the shareholders (assuming all requirements have been met). To address this mismatch, it is proposed that the legislation be amended so that the full foreign dividend is subject to tax if the recipient company is a REIT.

Proposed changes within the Mining Industry

Accelerated allowances

Currently, in terms of sections 15(a) read with section 36 of the Income Tax Act, a taxpayer that derives income from mining and mining operations, will be allowed to claim accelerated tax allowances. In the past, deriving income from mining was interpreted as income derived from the actual selling of a mineral. However, as a result of the recent *Benhaus case*, a contract miner who excavates for a fee, was also regarded as conducting mining operations from which income was derived. This resulted in accelerated allowances being claimed by the contract miner. Uncertainty therefore exists as to who should be entitled to the accelerated allowances. In order to address these concerns, it is proposed that the meaning of allowable mining capital expenditure be reviewed.

KPMG

© 2020 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.

Ring fencing provisions – Removal of Commissioners discretion

Currently, in terms of section 36 of the Income Tax Act, the capital expenditure incurred on a particular mine may not be utilised to reduce the taxable income of another operating mine, unless the Minister of Finance, in consultation with the Minister of Mineral Resources and Energy, decides otherwise. The application of this discretion appears to be problematic, therefore it is proposed that the discretion be restructured or removed. It is not clear whether the intention is to remove the ability of taxpayers to apply for a "one mine" dispensation entirely or to introduce more objective criteria for determining when a "one mine" dispensation will be approved.

Refining the tax treatment of doubtful debts

Non-Bank Taxpayers who do not apply IFRS 9

In terms of section 11(j) of the Income Tax Act, non-bank taxpayers are allowed to claim a doubtful debt allowance of 25% of the provision which can be increased to 40%. The allowance is based on an age analysis which references the amount of days the debt is in arrears. The deductions do not cater for a situation where the debt is secured, which results in an undue benefit to the taxpayer. It is proposed that this section be reviewed in respect of taxpayers who do not apply IFRS 9.

Banking regulated taxpayers

The banking rules are relatively complex and in some instances, unintended consequences have arisen (i.e. certain impairments which would not have been deductible under the bad debt provisions of the Income Tax Act, are now deductible in terms of IFRS 9). It is therefore proposed that the deduction of impairments under IFRS 9 be reviewed.

Taxpayers that operate a leasing business

The current provisions of section 11(j) of the Income Tax Act have unintended consequences for taxpayers that conduct lease businesses as lessors and that applied IFRS 9. These taxpayers were not allowed to claim a doubtful debt allowance as lease receivables were specifically excluded. It is therefore proposed that changes be made for both banking regulated and other taxpayers to exclude lease receivables that have not been received or accrued.

KPMG

© 2020 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.

Other Incentives

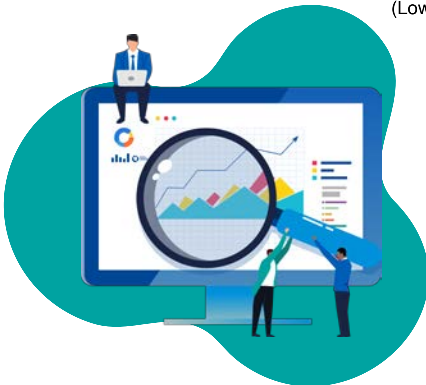
Venture Capital Companies

The effectiveness of the venture capital company tax incentive will be reviewed to determine whether it should be discontinued.

Special Economic Zones

It is proposed to amend the existing sunset clause and introduce a clear end date for the SEZ incentive, in respect of the 15% corporate tax rate and the accelerated capital allowance regarding buildings used in an SEZ.

Six SEZs have already been approved by the Minister of Finance. However, it was announced that the tax incentives will not be extended beyond the six approved SEZs.



Section 12I Manufacturing Incentive

This incentive, relating to industrial policy projects, will not be renewed beyond 31 March 2020.

Urban Development Zone tax incentive

The Urban Development Zone tax incentive will be extended until 31 March 2021. In addition, the effectiveness of the incentive will be reviewed.

Incentives review

The following tax incentives are to be reviewed for effectiveness and the potential insertion of a sunset clause (being 28 February 2022) - sections 12DA (Rolling stock), 12F (Airport and port assets), 12O (Films) and 13sept (Low cost housing on loan account).

KPMG

© 2020 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.

Provisional Tax

Provisional tax – individuals / companies

- 1st Payment: To be made within 6 months from the start of tax year.
- 2nd Payment: To be made by tax year end.

3rd Payment: Voluntary payment to be made within 7 months after 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 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 assessment.

KPMG

© 2020 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.

International Tax

Limiting the CGT participation exemption

Where a South African resident company ceases to be a resident, that company is deemed to have disposed of its assets to a resident on the date before it ceased to be a resident and to have reacquired those assets at the market value on the day the company ceased be a resident. This deemed disposal triggers possible tax recoupments and / or capital gains tax.

In an instance where South African resident company holds shares in the company which ceased to be a resident, and subsequently disposes of those shares, the holder of the shares may qualify for the participation exemption in respect of that disposal and not be subject to CGT.

It is proposed that amendments are made to address this loophole.

Broadening the transfer pricing rules

Currently, transfer pricing adjustments can be made to the taxable income of a taxpayer or a controlled foreign company ("CFC") where their transactions with connected persons are not at arm's length and they derive a tax benefit from that transaction. However, in the case of a transaction between a CFC and a non-resident "connected person", a tax benefit may not be derived by the CFC, but may indirectly be derived by the South African shareholder as a result of the lower imputation of the net income of the CFC to the resident shareholder. It is proposed that the legislation be amended to refer to a tax benefit derived by a resident person in relation to the CFC.

This amendment, combined with the change in concept from "connected person" to "associated enterprise" with effect from 1 January 2021, is aimed at broadening transfer pricing rules.

KPMG

© 2020 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.

Customs and Excise

Customs and Excise rates increases

Customs and excise rate increases:

- ***Specific excise duties:*** With effect from 26 February 2020, specific customs and excise duties are increased. On most alcoholic beverages the rate increased by between 4.4% and 6%, (excluding traditional African beer and beer powder which remain unchanged). The rate of duty on cigarettes and cigarette tobacco increased by 4.4% and pipe tobacco and cigars increased by 7.5%.
- ***General Fuel Levy & Road Accident Fund Levy:*** The General Fuel Levy for 2020/2021 is increased by 16c/li to 370c/li and 355c/li for petrol and diesel respectively. The Road Accident Fund Levy will increase by 9c/li to 207c/li. These increases will take effect on 1 April 2020.
- ***Heated tobacco products:*** With immediate effect, Government will introduce a new category of tariff subheading for heated tobacco products, to be taxed at a rate of 75 per cent of the rate applicable to ordinary cigarettes.

Legislative amendment proposals:

- ***Duty free purchases by diplomats***: It is proposed that SARS be allowed to disclose information regarding duty free purchases by diplomats to the Director-General of the Department of International Relations and Cooperation in order to minimise abuse and risks associated with such purchases.
- ***Publication of tariff determinations***: Government proposes to publish rules prescribing the circumstances in which it may publish tariff determinations, including the kind of information and manner of publication.
- ***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.
- ***Export taxes***: Government is seeking to introduce export taxes on scrap metal and is proposing to replace the current price preference system. Proposed export taxes will apply to ferrous metals at the rate of R1 000 per tonne, aluminium at R3 000 per tonne, red metals at R8 426 per tonne, and other waste and scrap metals at R1 000 per tonne

KPMG

© 2020 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.

- ***Electronic cigarettes:*** Government intends to tax electronic cigarettes from 2021.
- ***Diesel refund system:*** Review of the Diesel Fuel Tax Refund System is currently underway, with SARS recently publishing draft rules and notes for public comment. Further engagements are scheduled for 2020 to refine the proposals and legislative framework.

Environmental tax proposals

- ***Plastic bag levies:*** from 1 April 2020, the plastic bag levy will be increased to 25 cents per bag.
- ***Motor vehicle emissions:*** with effect from 1 April 2020, the vehicle emissions tax rate for passenger cars is increased to R120 per gram of carbon dioxide emissions per kilometre (gCO2/km) and R160 gCO2/km for double cabs. The threshold will be adjusted from R120 gCO2/km to R95 gCO2/km for passenger vehicles.
- ***Incandescent globe tax:*** with effect from 1 April 2020, the incandescent light build levy will increase to R10.

© 2020 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.

Environmental Taxes

Carbon Tax

In terms of section 5 of the Carbon Tax Act No. 15 of 2019 (“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 2020 calendar year, the carbon tax rate will increase by 5.6% (CPI of 3.6% plus 2%), resulting in an increase in the carbon tax rate from R120 per tonne of carbon dioxide equivalent to R127 per tonne of carbon dioxide equivalent.

To provide clarity on the quantum of the annual carbon fuel levy rate adjustment, it is proposed that changes to the carbon fuel levy be aligned with the annual increase to the principal carbon tax rate in terms of section 5 of the Carbon Tax Act. It is proposed that the annual carbon fuel levy adjustment become effective on the first Wednesday in January for a particular tax period.

With the first carbon tax payment being due in less than six months’ time (by end July 2020), draft regulations were issued late last year for comment in respect of the trade exposure allowance and the performance allowance. Both allowances are included in a suite of allowances that may be used by a company to offset their carbon tax liability. After taking into account the public comments received, the draft regulations will be revised and gazetted in March 2020.

In April 2020, the Department of Environment, Forestry and Fisheries will publish the much anticipated methodology and accounting framework for greenhouse gas emissions sequestration. This framework will provide industry with a better understanding of what sequestration activities will be approved in order to reduce carbon tax liabilities.

Due to the regulated nature of petrol and diesel fuel prices, refineries are unable to recover their carbon tax costs. Amendments are proposed to allow a limited recovery of the carbon tax costs for regulated fuels. It is proposed that the cost recovery mechanism applies as a deduction against the carbon tax liability of petroleum refineries. Government will publish the applicable rates for specific regulated fuels in a notice in the gazette.

Carbon pricing and environmental taxation

Against the backdrop of the Carbon Tax, South Africa’s most prominent “*Green Tax*”, in the 2020 Budget Government reaffirmed its commitment to monitor South Africa’s progress against its 2015 Paris Agreement obligations. Government is preparing to publish an environmental fiscal reform review paper. The paper will explore the potential for new environmental taxes and reforms to existing instruments, including *inter alia* restructuring the general fuel levy to include a local air pollution emissions component, alleviating traffic congestion through road pricing charges, considering product taxes on electrical and electronic waste and reviewing the tax treatment of company cars to incentivise use of more fuel-efficient vehicles.

KPMG
© 2020 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.

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 property of residents and South African property 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 be applicable 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 ("PBO") and property accruing to surviving spouses.

Donations Tax

A rate of 20% will be payable on the value of property donated; and 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 donations to certain PBOs are exempt from donations tax.

KPMG

© 2020 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.

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 is 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.

KPMG

© 2020 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.

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 rendering 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 upon SARS.

Voluntary Disclosure Programme

A general Voluntary Disclosure Programme ("VDP") is provided for 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.

KPMG

© 2020 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.

SARS Interest Rates

Effective 1 February 2020	
Fringe benefits – interest free or low interest loans	7.25%[1] p.a.
Effective 1 November 2019	
Late or underpayments of tax	10% p.a.
Refund of overpayments of provisional and employees' tax	6% p.a.
Refund of tax on successful appeal, or where the appeal was conceded by SARS	10% p.a.
Refund of VAT after prescribed period	10% p.a.
Late payments of VAT	10% p.a.
Customs and Excise Duties	10% p.a.

[1] Based on the current official repurchase rate plus 100 basis points.

Budget Proposal

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

- Failure by PBOs to comply with requirements relating to the receipt of tax-deductible donations, may result in the donations being treated as taxable income and in receipts issued by the PBO no longer being valid.
- Provision for a refund of tax withheld in respect of royalty(s) where such royalty(s) subsequently become non-recoverable.
- Provision for the withholding of tax refunds in respect of matters under criminal investigations.
- Revision of estimated assessments will apply to matters where relevant information has been requested and an adequate response provided, to ensure all facts are taken into account at the time of the revision assessment being issued.

KPMG

© 2020 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.

Tax @ KPMG

KPMG Tax and Legal department is looking for graduates that are passionate about effecting change in the tax Industry.

Our experts will assist with moulding the right calibre of talent in the order to help inform future policy and enable proper business sustainability leading to economic growth.

For more information email:
taxandlegalrecruitment@kpmg.co.za

KPMG

Tax Reimagined

Tax is changing. We're changing Tax

There is no shortage of challenges and opportunities facing today's tax functions. Carrying on as in the past is not a viable option. You need to be ready to be compliant and ready for the changing digital future of tomorrow. Tax is your license to do business.

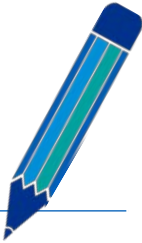
At KPMG we have combined our technology, transformation and compliance capabilities under a powerful new framework — Tax Reimagined.

Deploying our solution architects and leveraging this framework, we can help you develop a strategy for your tax function and design a target operating model to help ensure execution, reduce costs, improve quality and unlock value from your tax and statutory function.

Dermot Gaffney
Africa Head: Tax Reimagined
M: +27 82 686 9345
E: dermot.gaffney@kpmg.co.za

KPMG

Notes



Contact Us:

Johannesburg and Pretoria:
Joubert Botha
Head of Tax and Legal
Head of Corporate Tax
T: +27 83 456 7734
E: joubert.botha@kpmg.co.za

Andre Meyburgh
Head of Indirect Tax
T: +27 82 851 6587
E: andre.meyburgh@kpmg.co.za

Venter Labuschagne
Head of Customs and Excise
T: +27 83 677 7744
E: venter.labuschagne@kpmg.co.za

Vian Strydom
Director, Tax Management Services
T: +27 82 564 9118
E: vian.strydom@kpmg.co.za

Natasha Vaidanis
Head of International Tax and Transfer Pricing
T: +27 82 458 1043
E: natasha.vaidanis@kpmg.co.za

Carolyn Chambers
Head of Global Mobility Services & Employment Tax Advisory
T: +27 83 440 5564
E: carolyn.chambers@kpmg.co.za

Cape Town:
Zohra De Villiers
Head of Tax and Legal, Cape Town
T: +27 82 719 0279
E: zohra.devilliers@kpmg.co.za

Durban:
Vian Strydom
Director, Tax Management Services
T: +27 82 564 9118
E: vian.strydom@kpmg.co.za

Port Elizabeth:
Tanette Nell
Associate Director, Corporate Tax
T: +27 82 719 2179
E: tanette.nell@kpmg.co.za

www.kpmg.co.za

© 2020 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. Printed in South Africa. KPMG and the KPMG logo are registered trademarks of KPMG International Cooperative (“KPMG International”), a Swiss entity.

kpmg.com/socialmedia

kpmg.com/app

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2020 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. Printed in South Africa. KPMG and the KPMG logo are registered trademarks of KPMG International Cooperative ("KPMG International"), a Swiss entity.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.