SOUTH AFRICAN TAX ADVISORY UPDATE

23 FEBRUARY 2022

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THE SOUTH AFRICAN BUDGET SPEECH 2022

Introduction

'Now is not the time to increase taxes and put recovery at risk! Accordingly we have decided to keep money in the pockets of South Africans.' These words from the 2022 Budget Speech by South African Minister of Finance, Enoch Godongwana will resonate well with South Africans, hard pressed under the tough economic conditions over the last few years.

There is indeed very little in the line of tax increases. Further welcome news, against the recent steep increases in fuel prices, is that there will be no increase to the general fuel levy or the Road Accident levy.

Apart from the fuel levy, the main tax proposals for 2022/23 are:

- Inflationary relief through a 4.5 percent adjustment in the personal income tax brackets and rebates.
- An expansion of the employment tax incentive, through a 50 percent increase in the monthly value.
- Increases of between 4.5 percent and 6.6 percent in excise duties on alcohol and tobacco.

Tax collections have been better than expected and has come mainly from the mining sector due to higher commodity prices. The tax revenue for 2021/ 22 is now estimated to be R1.55 trillion.

As was the case with Budget publications in recent years, it is cautioned that raising tax rates does not necessarily result in higher tax collections. E.g whereas the one percentage point VAT increase a few years ago resulted in significant additional revenue, the same is not true for the increase in the top tax rate for individuals from 41 to 45 percent.

The Minister also dealt with a wide range of other issues well-known to South Africans. This includes a concern over high and rising government debt, a re-evaluation of the sustainability of state-owned enterprises and whether they can be run without bailouts from the *fiscus*, job creation, the slow economy growth rate and corruption.

Below is a summary of some of the other tax proposals:

Other personal tax matters

- Medical tax credits will increase from R332 to R347 per month for the first two members, and from R224 to R234 per month for additional members.
- **Disclosure of Wealth**: Currently provisional taxpayers with business interests are required to declare their assets (at cost) on their tax returns. In order to assist with the detection of non-compliance and fraud, it is proposed that taxpayers with assets above R50 million be required to declare specified assets and liabilities at market values in their 2023 returns.

CONTACT US

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- When ceasing tax residency, an individual's tax year is split into two during the 12-month period, which means the individual may be able to double-up on certain exemptions or exclusions that are allowed per year of assessment, specifically the capital gains annual exclusion and interest exemption. An amendment will be made to prevent doubling-up.
- **Retirement provisions:**
  - **Cross-border tax treatment of retirement funds:** Last year's Budget included a proposal to address the fact that when an individual ceases to be a South African tax resident, retirement funds are not always subject to withdrawal tax. Following consultations, it became evident that multiple tax treaties need to be revisited to ensure South Africa retain taxing rights on payments from local retirement funds. Government intends to initiate these negotiations this year.
  - Various other reforms in respect of the retirement industry have been announced.

Business tax and international tax

Some of the more important announcements are the following:

- As announced in the 2021 Budget, the corporate income tax rate will be reduced from 28 percent to 27 percent for companies with years of assessment ending on or after 31 March 2023.

- **Collective Investment Schemes:** Collective Investment Schemes ("CIS") are a popular way of holding investments in South Africa. Persons who invest in a CIS normally only pay tax when they sell their units in the CIS. The CIS does not pay tax on the disposal of assets, e.g. listed shares. Government has in the past expressed concern over excessive trading within CISs and that that such trading should be subject to tax. This was not followed-through, mainly as a result of concerns raised by the CIS industry. It appears though that the issue of tax on trading gains within the CIS is again on the table.

- Other matters that will be addressed include refining certain group relief measures, the definition of contributed tax capital, the rules in respect of debt relief as well as the tax treatment of lay-by arrangements. The provisional tax system will also be reviewed. As far as international tax is concerned, the tax treatment of royalties received by controlled foreign companies will be changed.

Tax Research and Reviews

The Budget documentation also include topics which are currently being researched and/or of which discussion documents should be expected. Notably, the following reviews are currently being or will be undertaken:

- A discussion document will be published in 2022 on a personal income tax regime for remote work.
- A review of the exemption of foreign retirement benefits in domestic tax legislation will be conducted. This is

specifically relevant for persons in South Africa receiving **foreign pensions**. Such pensions are currently exempt.
- A review of depreciation and investment allowances will take place during 2022/23.

Exchange Control

Although there are no specific Exchange Control matters raised in the Budget there is mention of a review of the treatment of Crypto Currencies in general and that a Circular can be expected dealing with the Exchange Control implications.

Following an announcement in the 2020 Medium Term Budget Speech, the South African Reserve Bank ("SARB") issued a circular on 1 January 2021 that removed the restrictions on South African residents using their foreign assets to invest in South Africa (loop structures). These transactions were still required to be reported to SARB. Recent correspondence with SARB indicates that they are considering a review of the relevant regulations as the profile of the reported transactions are not in line with what they had intended.

As always, if you have any queries or would like to discuss the draft legislation in more detail, please contact your Relationship Manager, or our in-house tax specialists.

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