BUDGET SPEECH SUMMARY 2020

Insights into Finance Minister Tito Mboweni's address

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2020 Budget Speech

Introduction

Finance Minister Tito Mboweni delivered his second National Budget Speech on 26 February 2020.

Despite the challenging fiscal and macro-economic climate, his message was clear: ***"Our economy has won before, and it will win again."***

Highlights

OVERALL

- The consolidated budget deficit is estimated at 6.3% in 2019/20: Revenue of R1 517 billion versus expenditure of R1 843 billion.
- The Finance Minister alluded to the reduction in corporate income tax rates in the near future.
- The Government expects to collect tax revenue of R1.43 trillion (26.3%) in 2020/21.
- Over the next 12 months, a new capital flow management system will be put in place. All foreign-currency transactions will be allowed, except for a very specific list.
- The concept of emigration as recognised by the Reserve Bank will be phased out and will be replaced by a verification process.
- The National Treasury is conducting a feasibility study for a sovereign wealth fund, possibly from the proceeds from the allocation of spectrum and the sale of non-core assets to capitalise such a fund.
- South African Airways: Over the medium term, the Government has allocated R16.4 billion to settle guaranteed debt and interest.
- Over the next three years, Government will transfer R112 billion to Eskom to enable the utility to meet its short-term financial obligations.

FOR CONSUMERS

- To support the property market, the threshold for transfer duties has been adjusted. Property costing R1 million or less will no longer be subject to transfer duty.
- A new SARS centre focused on wealthy individuals who have complex tax arrangements will be introduced.
- The personal income tax brackets and the primary, secondary and tertiary rebates will be increased by 5.2% for 2020/21, which is above the expected inflation of 4.4%.
- There will be an increase in the value of medical tax credits in 2020/21, rising from R310 to R319 per month for the first two beneficiaries, and from R209 to R215 per month for the remaining beneficiaries.
- The annual limit on contributions to tax-free savings accounts will be increased from R33 000 to R36 000 from 1 March 2020.
- The Government will increase the cap on the exemption of foreign remuneration earned by South African tax residents to R1.25 million per year, starting from 1 March 2020.

Income Tax Proposals

ADDRESSING THE CIRCUMVENTION OF ANTI-AVOIDANCE RULES FOR TRUSTS

In 2016, anti-avoidance measures were introduced to curb the transfer of growth assets to trusts using low interest or interest-free loans, which was done to avoid estate duty on the asset's subsequent growth in value. In 2017, these rules were strengthened to prevent the transfer of growth assets through low interest or interest-free loans made to companies owned by trusts. Certain taxpayers are allegedly undermining the adjusted rules by subscribing for preference shares in companies owned by trusts that are connected to the individuals. To curb this new form of abuse, it is proposed that the rules preventing tax avoidance through the use of trusts be amended.

ADDRESSING ANOMALIES ON THE ACQUISITION OF ASSETS IN EXCHANGE FOR DEBT ISSUED

The Income Tax Act sets out rules for the tax treatment of "share for share" and "asset for share" transactions, and for curbing value-shifting arrangements under these transactions. There are, however, several unintended consequences relating to the calculation of the base cost of assets subject to these types of transactions. To address these concerns, it is proposed that the legislation be amended.

REFINING THE CORPORATE REORGANISATION RULES

The interaction between anti-avoidance rules for de-grouping after the conclusion of certain intra-group transactions and rules for the transfer of assets and the assumption of related debt may result in double taxation. Furthermore, unbundling transactions are subject to an anti-avoidance rule that excludes the shareholders and the unbundling company from benefitting from the rollover relief if 20% or more of the shares in the unbundled company are held by non-residents – either alone or together with individuals connected to those non-residents – after the transaction. This rule aims to limit the extent to which taxpayers can distribute tax-free shares in resident companies to non-residents. The current rule creates a loophole. It is proposed that the legislation be amended to address these concerns.

REVIEWING THE VENTURE CAPITAL COMPANY TAX INCENTIVE REGIME

The venture capital company tax incentive regime has a sunset clause of 30 June 2021. The Government will review the effectiveness, impact and role of this regime to ascertain whether the incentive should be discontinued.

REFINING THE TAX TREATMENT REGARDING TRANSFER OF COLLATERAL IN SECURITIES LENDING ARRANGEMENTS

The Income Tax Act contains rules to address dividend tax avoidance transactions whereby listed shares are lent or transferred as collateral from a person that would be liable for the tax to a tax-exempt person. The borrower or recipient of the collateral receives the exempt dividend and pays a manufactured dividend to the lender or provider of the collateral. It is proposed that the anti-avoidance rules be extended to also cover situations where additional exempt parties are involved to facilitate the avoidance transactions.

Value-Added Tax Proposals

REVISING THE DEFINITION OF “TELECOMMUNICATION SERVICES” FOR ELECTRONIC SERVICES REGULATIONS

With effect from April 2019, the regulations prescribing electronic services were changed to broaden the scope of electronic services that are subject to South African value-added tax. However, the definition of „telecommunication services“ in the regulations currently contains an incorrect reference that creates unintended consequences. It is proposed that further changes be made to the regulations to address these consequences.

INTRODUCING MEASURES TO ADDRESS UNDUE VAT REFUNDS ON GOLD

Schemes and malpractice to claim undue VAT refunds have been detected in the value chain relating to gold exports.
The schemes and malpractice generally involve the import of coins, and the purchase of Krugerrands and illicit gold. It is proposed that appropriate regulations be considered, or legislation be amended to address this.

CLARIFYING THE VAT TREATMENT OF IRRECOVERABLE DEBTS

Where a vendor, who is required to account for VAT on an invoice basis, has made an input tax deduction for the VAT they were charged on a taxable supply and that vendor has not paid the full consideration within a 12-month period, that vendor will be required to account for output tax on the unpaid amount. The VAT Act provides clarity on the time of supply within which such output tax is to be declared. However, there is uncertainty regarding the value of supply rule that applies in certain circumstances. It is proposed that clarity be provided in the legislation to address the uncertainty.

Winning requires hard work, focus, time, patience and resilience.

Individuals, Employment and Savings

- **ADDRESSING AN ANOMALY IN THE TAX EXEMPTION OF EMPLOYER-PROVIDED BURSARIES**

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

- **REIMBURSING EMPLOYEES FOR BUSINESS TRAVEL**

If an employee spends a night away from home for business purposes, an employer may reimburse the employee for meals and incidental costs. This reimbursement is not taxed, provided the amount does not exceed the amount published by SARS. If an employee is away from the office on a day trip, advances or reimbursements are not taxed if the employee can prove that they incurred these expenses on the instruction of the employer, in the furtherance of the employer's trade. An anomaly arises when an employee purchases meals and incurs incidental costs during a day trip for work, but the employer has not explicitly instructed the employee to do so. To address this anomaly, it is proposed that the legislation be amended to exclude reimbursement expenses incurred by an employee for meals and incidental costs during a business day trip, provided the employer's policy allows for such reimbursement.

Customs and Excise

- **PROGRESS WITH THE REVIEW OF THE DIESEL REFUND ADMINISTRATION**

SARS recently published draft diesel refund rules and notes to the Customs and Excise Act for public comment. The draft is the result of National Treasury and SARS consultations with affected industries, including the 2017 discussion paper, *Review of the Diesel Fuel Tax Refund System*, industry-specific workshops conducted in 2018, and further technical inputs received from stakeholders during 2019. The draft presents a provisional outline for the review of the diesel refund administration to facilitate further industry engagements during 2020. The reform proposals and legislative framework will be refined further based on the outcome of the engagements.

> *Mr President, you have directed your Government to deal with wasteful expenditure. This is a vital step in restoring the confidence of the public in the Government. We must get more value for our money.*

Cross-Border Income Tax and Exchange Control Proposals

- **AMENDING THE ANTI-AVOIDANCE PROVISION REGARDING CHANGE OF RESIDENCE**

Capital gains tax (CGT) is levied when a person ceases to be a South African tax resident. When a company ceases to be a resident, there is a deemed disposal of its assets that triggers capital gains tax. Despite these rules, residents that hold shares in the company could subsequently dispose of the shares and qualify for a participation exemption for the sale of company shares. It is proposed that amendments be made to the legislation to close this loophole.

- **WITHDRAWING RETIREMENT FUNDS UPON EMIGRATION**

Individuals are currently able to withdraw funds from their pension preservation fund, provident preservation fund and retirement annuity fund upon emigrating for exchange control purposes through the Reserve Bank. As a result of the exchange control announcements in Annexure E, the concept of emigration as recognised by the Reserve Bank will be phased out. It is proposed that the trigger for individuals to withdraw these funds be reviewed. Any resulting amendments will come into effect on 1 March 2021.

> *We cannot go on like this. Classroom sizes are growing, hospitals are getting fuller and our communities are becoming increasingly unsafe.*

Administrative Proposals

- **WITHHOLDING PAYE REFUNDS WHERE RETURNS ARE OUTSTANDING**

In terms of the Income Tax Act, SARS may refuse to authorise a refund until a taxpayer furnishes any outstanding returns. A similar but broader provision exists in the Employment Tax Incentive Act. Given the tight integration between the skills development levy, unemployment insurance contributions, employment tax incentive and PAYE systems, it is proposed that this power also apply to the Skills Development Levies Act and the Unemployment Insurance Contributions Act. It is also proposed that similar provisions across tax legislation be reviewed to determine if they can be consolidated into a single provision applicable to all tax types under the Tax Administration Act.

Fighting corruption is a priority of this Administration.

Rates of Tax

The following rates remain unchanged:

- VAT at 15%
- Corporate income tax at 28% and dividends withholding tax at 20%
- All inclusion rates for CGT
- Interest and royalty withholding tax rates at 15%

Taxable Income (R)	**Rate of Tax (R)**
1 – 205 900	18% of taxable income
205 901 – 321 600	37 062 + 26% of taxable income above 205 900
321 601 – 445 100	67 144 + 31% of taxable income above 321 600
445 101 – 584 200	105 429 + 36% of taxable income above 445 100
584 201 – 744 800	155 505 + 39% of taxable income above 584 200
744 801 – 1 577 300	218 139 + 41% of taxable income above 744 800
1 577 301 and above	559 464 + 45% of taxable income above 1 577 300