Monthly Tax Update: February 2021

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The Tax Faculty

2021 Budget Speech
Main tax proposals

- Inflationary adjustments to tax tables and rebates
- VAT rate stays at 15%
- Company tax rate stays at 28% with 1% promised reduction
- VCC incentive ends
- Trust, estate duty & donations tax rates unchanged
- Transfer duty unchanged
- Fuel taxes increased
- Sin taxes increased
- Carbon tax rate increased
- Plastic bag levy relief for bio bags
- Tax Administration amendments

Tax revenue trends

Main budget revenue
Table 4.1 Budget estimates and revenue outcomes & Table 4.2 Budget revenue

(Rm)	Budget	Outcome / Revised	Deviation
2017/18	1 194 585	1 196 399	1 814
2018/19	1 285 386	1 275 270	-10 116
2019/20	1 403 464	1 345 870	-57 994
2020/21	1 397 996	1 200 786	-197 210
2021/22	1 351 672		

Tax revenue trends

	Main budget revenue: 2019/20			Main budget revenue: 2020/21		
(Rm)	Budget	Outcome / Revised	Deviation	Budget	Outcome / Revised	Deviation
Personal income tax	527 584	527 633	48	546 771	482 143	-64 628
Corporate income tax	216 718	211 522	-5 196	230 226	188 801	-41 425
Dividends tax	29 144	27 930	-1 215	31 169	22 980	-8 189
Value-added tax	344 202	346 761	2 559	360 555	324 554	-36 000
Specific excise duties	46 765	46 827	62	48 836	24 694	-24 142
Fuel levy	82 958	79 277	-3 680	83 441	75 236	-8 206

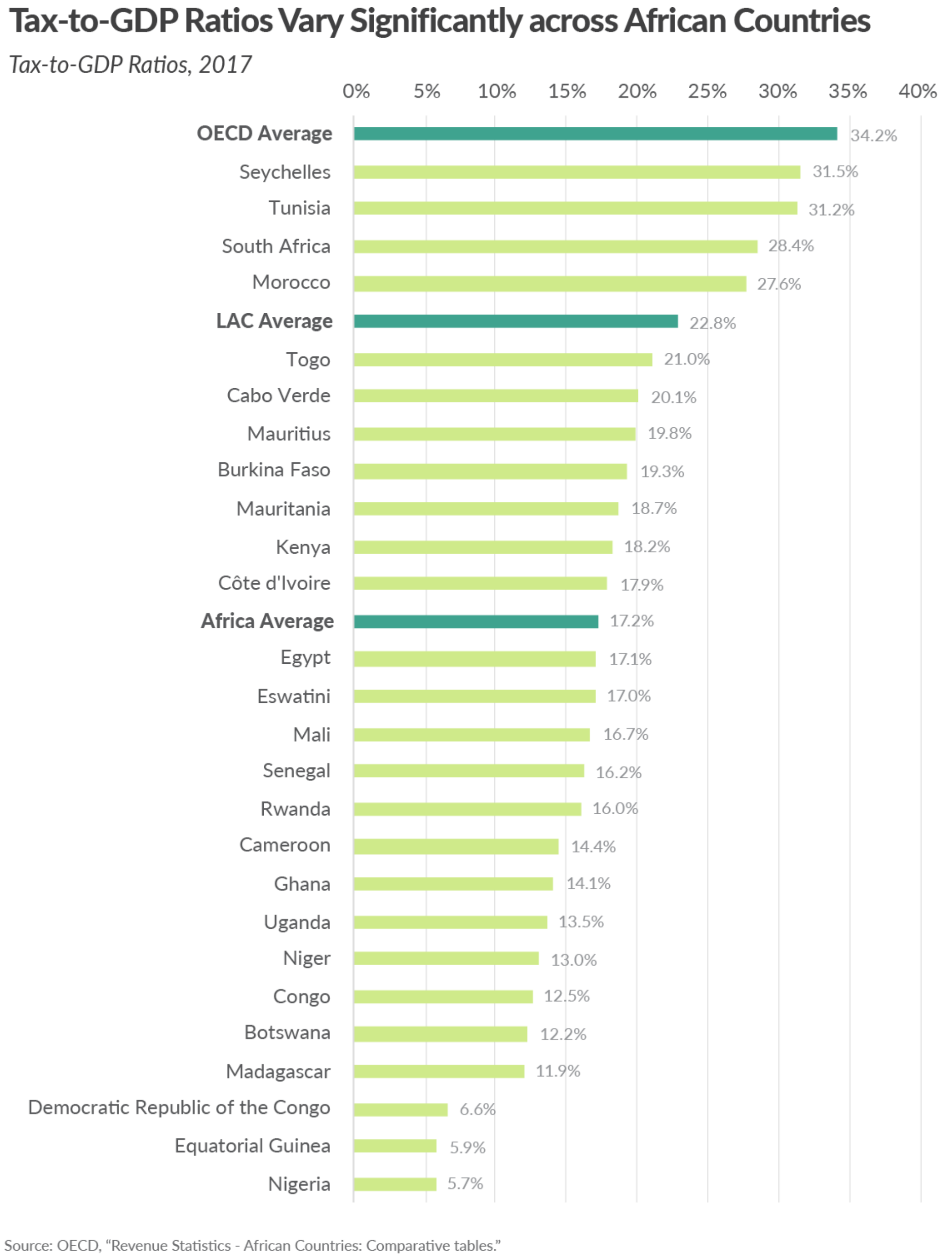
Table 4.1 Budget estimates and revenue outcomes

Effect of COVID-19 tax measures

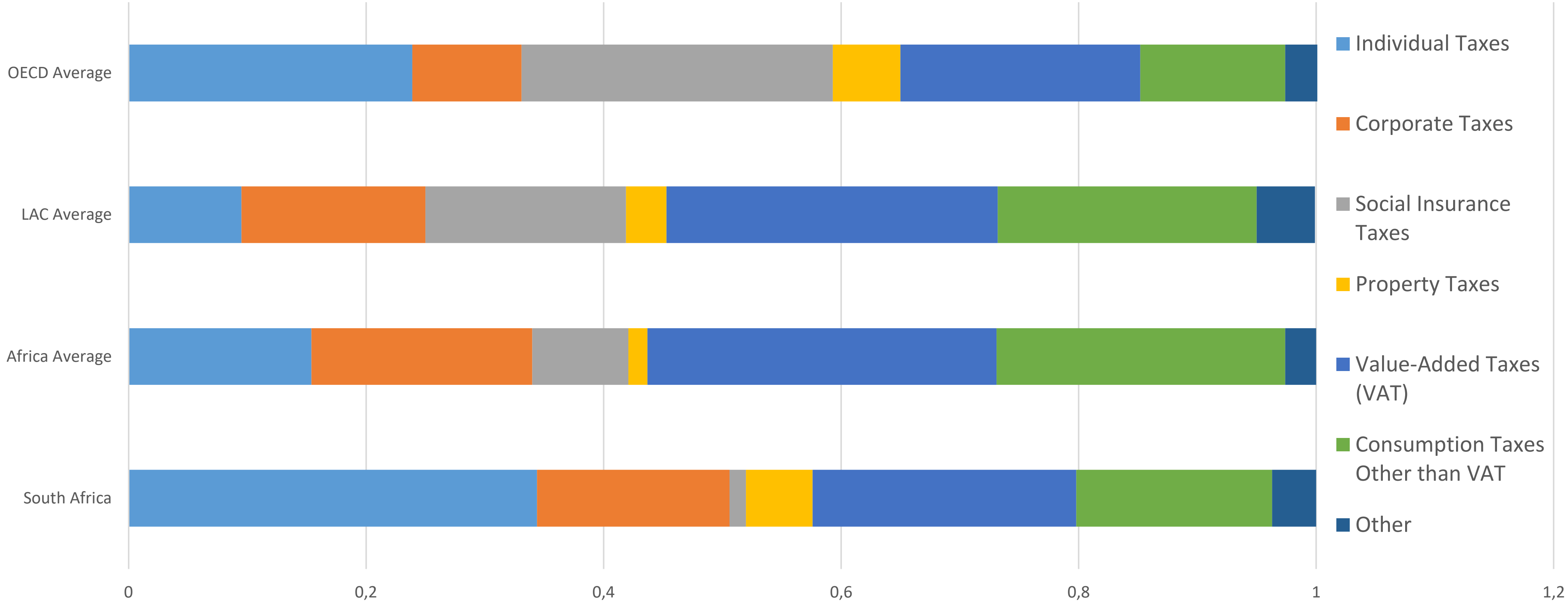
The take-up of tax deferral measures for provisional tax and specific excise duties, and those granted on a case-by-case basis, were higher than expected for these categories, providing cash flow relief of over R28 billion. Some corporate, individual and trust provisional tax deferrals may still be claimed. There was lower take-up of the PAYE tax deferral: companies used only R1.9 billion of the projected R19 billion. An additional R4 billion in tax deferral relief has been provided to the alcohol industry in the past month through case-by-case applications. These deferrals will flow through to the next fiscal year.

For the direct tax relief measures, the exemption from the skills development levy provided relief of about R5.9 billion, in line with estimates. Companies could choose to benefit from either the Temporary Employer/Employee Relief Scheme (TERS) or the expanded employment tax incentive, and claimed R57.3 billion from the TERS against only R1.4 billion from the employment tax incentive. By mid-February 2021, of the total R70 billion in estimated tax relief from the COVID-19 measures, R40 billion had been taken up.

Tax to GDP ratios (OECD, 2017)



Tax revenue composition



Source: OECD Tax Statistics

Tax Tables - Individuals

2020/21		2021/22	
Taxable Income	**Rates of Tax**	**Taxable Income**	**Rates of Tax**
R0 – R205 900	18%	R0 - R216 200	18%
R205 901 – R321 600	37 062 + 26%	R216 201 - R337 800	R38 916 + 26%
R321 601 – R451 100	67 144 + 31%	R337 801 - R467 500	R70 532 + 31%
R451 101 – R584 200	105 429 + 36%	R467 501 - R613 600	R110 739 + 36%
R584 201 – R744 800	155 505 + 39%	R613 601 - R782 200	R163 335 + 39%
R744 801 – 1 577 300	218 139 + 41%	R782 201 - R1 656 600	R229 089 + 41%
R1 577 301 and above	559 464 + 45%	R1 656 601 and above	R587 593 + 45%

Rebates

	2020/21	2021/22
Under 65	**R 14 958**	**R 15 714**
Increase	R 738	R756
Increase	5%	5%
Over 65	**R 8 199**	**R 8 613**
Increase	R 405	R414
Increase	5%	5%
Over 75	**R 2 736**	**R 2 871**
Increase	R 135	R135
Increase	5%	4,9%

Tax thresholds

	2020/21	2021/22
Under 65	**R83 100**	**R87 300**
Increase	R4 100	R4 200
Increase %	5%	5%
Over 65	**R128 650**	**R135 150**
Increase	R6 350	R6 500
Over 75	**R143 850**	**R151 100**
Increase	R7 100	R7 250

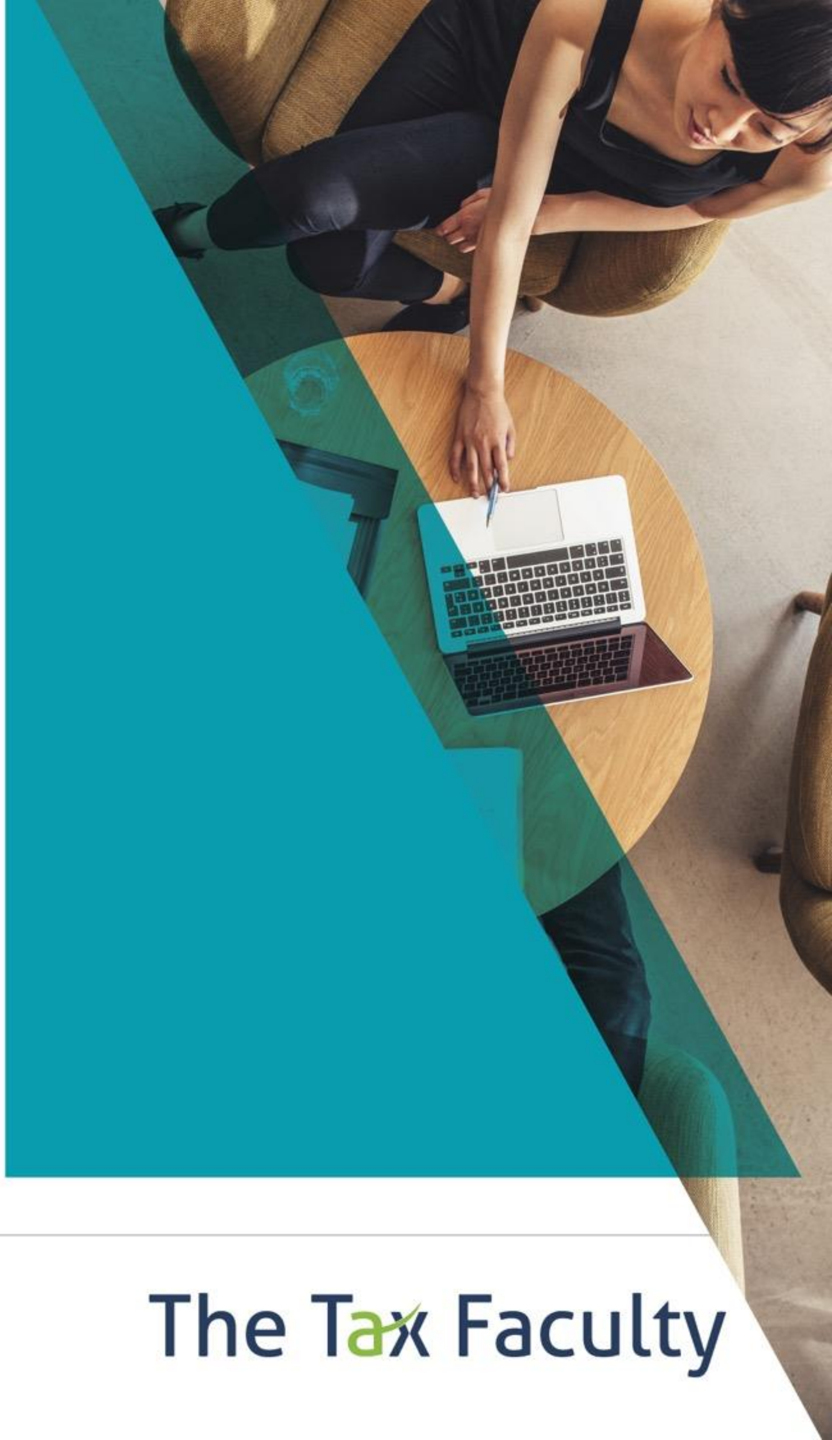
Company tax rates: unchanged for the next year

Statement:

The corporate income tax rate will be lowered to 27% for companies with **years of assessment commencing on or after 1 April 2022**.

This will be done alongside a broadening of the corporate income tax base by limiting interest deductions and assessed losses.

We will give consideration to further rate decreases to make our tax system more attractive. We will do this in a revenue-neutral manner. We also intend to leverage the insights of the Davis Tax Committee as we undertake this reform.



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2020 Budget proposal: Limitation on deduction of interest

- For years of assessment commencing on/after 1 January 2021 (*delayed*)
- Net interest expense deduction will be capped at 30% of taxable income before interest & capital allowances (EBITDA)
- Will apply to companies in multinational groups
- Carry-forward of excess for up to 5 years
- Sub minimum amount
- Consultation: discussion document on the National Treasury website – closing date for comments: 17 April 2020

2020 Budget proposal: Limitation on set-off of assessed losses

- For years of assessment commencing on/after 1 January 2021 (*delayed*)
- Assessed losses carried forward from previous years: deduction will be limited to 80% of taxable income in the current year
- Remaining assessed losses may be carried forward – may have a time limit

Corporate tax-broadening measures Statement in 2021 Budget Speech

- Government has postponed the introduction of these two measures until 2022 due to the impact of the Covid-19 pandemic.
- In February 2020, a discussion document on limiting excessive interest deductions was released for public comment, followed by public consultation.
  - After assessing the comments, government proposes to expand the scope of the current interest limitation rules to include some similar interest items; to adjust the fixed-ratio limitation for net interest expense to 30% of earnings; and to restrict only connected-party interest rather than total interest.

Company tax rates: unchanged for the next year

	Current	**2022/23**
Companies and close corporations	28%	27%
Dividends tax	20%	20% (?)
Effective tax rate on fully-taxed dividends (72 x 20%)	14,4%	14,6%
Effective tax rate on fully taxed distributed profits	**42,4%**	**41,6%**

Revenue from dividends tax

- Rate increased from 15% to 20% on 22/2/2017
  - Projected additional revenue in 2017 Budget from increase in dividend tax rate was R6 822m (*Table 4.3 Impact of tax proposals on 2017/18 revenue*)
- Budget outcomes:

Dividends tax (Rm)			
	Budget (original)	Outcome / Revised	Deviation
2017/18	34 237	29 037	-5 200
2018/19	30 341	29 898	-443
2019/20	31 893	27 930	-3 963
2020/21	31 169	22 980	-8 189

Table 4.1 Budget estimates and revenue outcomes

Small business corporations
Minimal change

Years of assessment ending between 1 April 2021 and 31 March 2022	
Taxable income (R)	**Rate of tax**
0 – 87 300	0% of taxable income
87 301 – 365 000	7% of taxable income above R87 300
365 001 – 550 000	R19 439 + 21% of taxable income above R365 000
550 001 and above	R58 289 + 28% of taxable income above R550 000

Years of assessment ending between 1 April 2020 and 31 March 2021	
Taxable income (R)	**Rate of tax**
0 – 83 100	0% of taxable income
83 101 – 365 000	7% of taxable income above R83 100
365 001 – 550 000	R19 733 + 21% of taxable income above R365 000
550 001 and above	R58 583 + 28% of taxable income above R550 000

Turnover tax on micro businesses
No change

Year of assessment ending 28 February 2022	
Taxable turnover (R)	**Rate of tax**
0 – 335 000	0% of taxable turnover
335 001 – 500 000	1% of taxable turnover above 335 000
500 001 – 750 000	R1 650 + 2% of taxable turnover above R500 000
750 001 and above	R6 650 + 3% of taxable turnover above R750 000

Year of assessment ending 28 February 2021	
Taxable turnover (R)	**Rate of tax**
0 – 335 000	0% of taxable turnover
335 001 – 500 000	1% of taxable turnover above 335 000
500 001 – 750 000	R1 650 + 2% of taxable turnover above R500 000
750 001 and above	R6 650 + 3% of taxable turnover above R750 000

Trusts
No change in rates

2020 Budget Announcement: 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 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.

Local interest exemption
No change

Under 65	R23 800
65 and over	R34 500

Tax-free investments

- Annual allowance for tax free savings accounts
  - increased from R30 000 to R33 000 in 2017
  - increased to R36 000 from 1 March 2020
- Lifetime limit R500 000
- No further changes

Medical scheme credit (s 6A)

	2020/21 Per month	2021/22 Per month	% increase
Member and 1st dependent	R319	R332	4,1%
Member plus 1st dependent	R638	R664	4,1%
Each additional dependent	R215	R224	4,2%

Additional medical credit (s 6B):No change

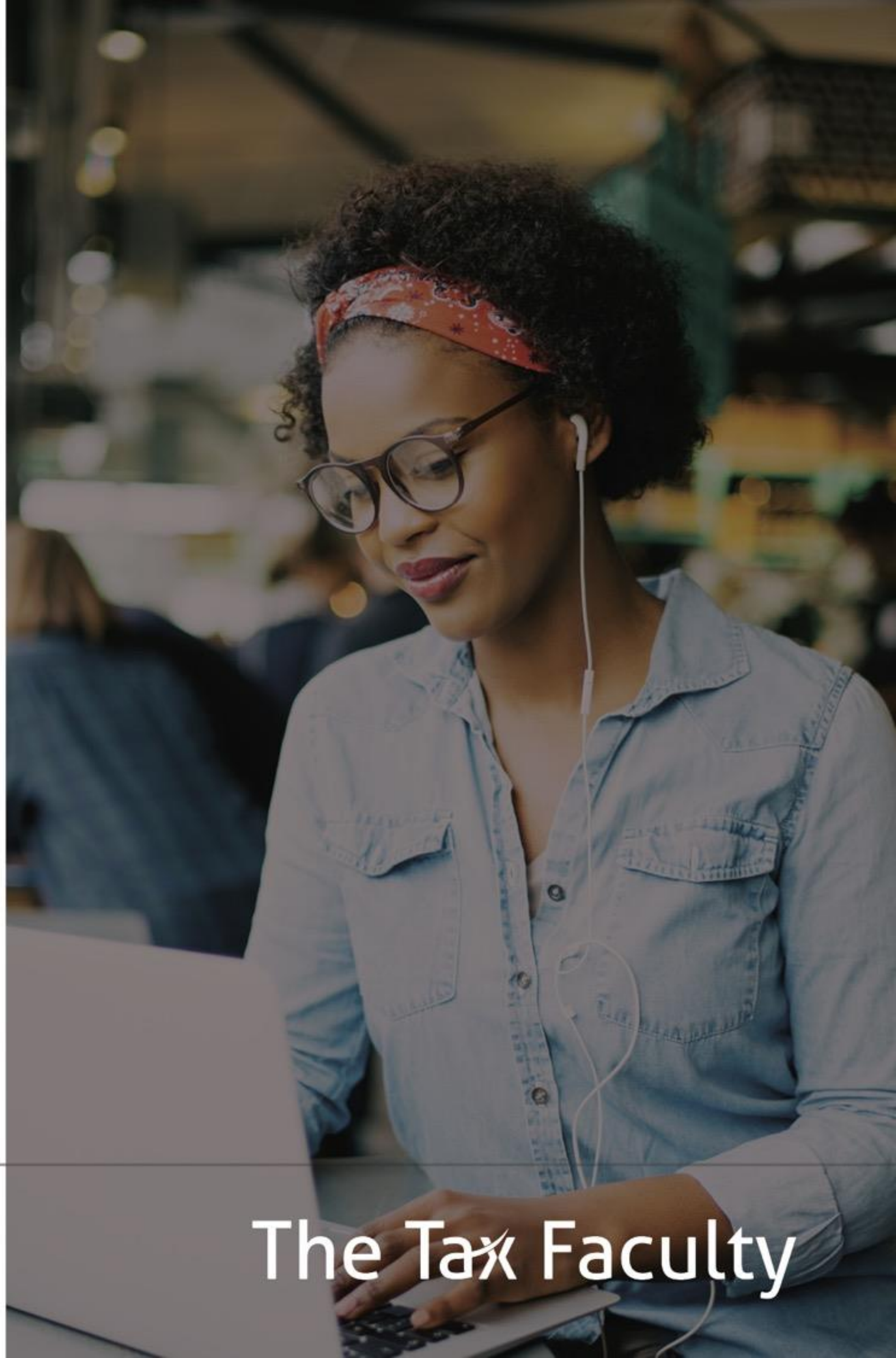
- 65 and older OR taxpayer, spouse, or child is a person with a disability:
  - 33.3% of the sum of -
    - qualifying medical expenses paid and borne by the individual +
    - excess contributions (medical scheme contributions paid by the individual *less* **3 x** medical scheme fees tax credits for the tax year)

- Other individuals:
  - 25% of the sum of -
    - qualifying medical expenses paid and borne by the individual +
    - excess contributions (medical scheme contributions paid by the individual *less* **4 x** medical scheme fees tax credits for the tax year)

    Less: 7.5% of taxable income (excl. retirement fund lump sums and severance benefits)

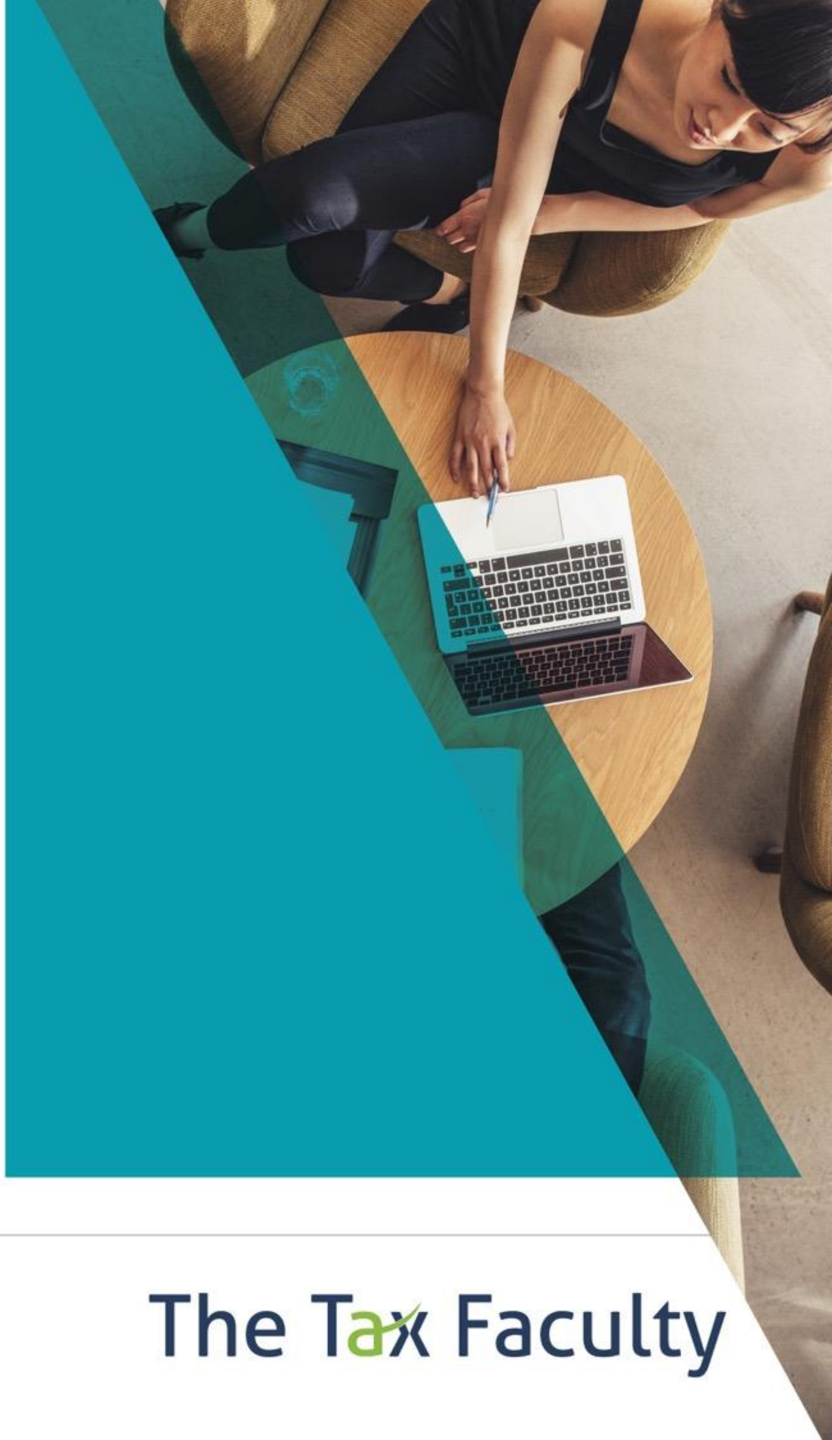
UIF

	2020/21	2021/22
Rate (employer + employee)	1% + 1%	1% + 1%
Monthly (not annual) remuneration threshold	R14 872	R17 711,58



Skills development levy

	2020/21	2021/22
Rate	1%	1%
Annual remuneration threshold	R500 000	R500 000



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Travel allowance table
Year ending 28 February 2022 (unchanged)

Value of the vehicle (including VAT)	**Fixed cost**	**Fuel cost**	**Maintenance cost**
R	***R per annum***	***c per km***	***c per km***
0 - 95 000	31 332	105.8	37.4
95 001 – 190 000	55 894	118.1	46.8
190 001 – 285 000	80 539	128.3	51.6
285 001 – 380 000	102 211	138.0	56.4
380 001 – 475 000	123 955	147.7	66.2
475 001 – 570 000	146 753	169.4	77.8
570 001 – 665 000	169 552	175.1	96.6
Exceeding 665 000	169 552	175.1	96.6

Fixed travel rate

- No tax is payable on an allowance paid by an employer to an employee up to the rate of R3,82* (was R3,98) per kilometre, regardless of the value of the vehicle or the distance travelled.
- NB: 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.
- Full tax (remuneration) on reimbursement at more than R3,82/km.

* 3.82 per kilometre (from 1 March 2021) as per *SARS Guide for Employers in respect of Allowances (2022 tax year)* (24/02/2021)

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Subsistence allowances

- **Travel in the Republic**
  - meals and incidental costs: R452 per day (unchanged)
  - incidental costs only: R139 per day (unchanged)

- **Travel outside the Republic**
  - daily amount per country: No changes since 2019

  EG
  - France € 128 per day
  - USA US$146 per day
  - United Kingdom GBP102 per day
  - Swaziland RSA Rand 818 per day
  - Other countries not listed US$ 215 per day

Subsistence rate for day trips

- s 8(1)(a)(ii) amendment effective 1 March 2021:
  - Where the recipient is by reason of the duties of his or her office or employment obliged to spend a part of a day away from his/her usual place of work or employment, a reimbursement or advance for expenditure actually incurred by the recipient is exempt if the recipient is allowed by his/her principal to incur expenditure on meals and other incidental costs for that part of a day and the amount of the expenditure does not exceed an amount published on the SARS website
- Daily rate = R139 per day from 1 March 2021

Statement on reviewing tax provisions for travel and working from home

- In light of the large-scale migration to working at home over the past year, NT will review current travel and home office allowances to investigate their efficacy, equity in application, simplicity of use, certainty for taxpayers and compatibility with environmental objectives. In recognition of the potential effect on salary structuring, this will be a multi-year project, starting with consultations during 2021/22.

Estate duty
Unchanged

Estate duty	
Estates up to R30m	20%
Exceeding R30M	25%
Abatement	R3 500 000

Donations tax
Unchanged

Donations tax rates and exemptions	
Donations up to R30m (cumulative from 1/3/2018)	20%
Exceeding R30m (cumulative from 1/3/2018)	25%
Annual exemption per person (individuals)	R100 000
Annual exemption per person (other than individuals)	R10 000

CGT exemptions Unchanged

Annual exclusion (individuals)	R40 000
Primary residence exclusion	R2 000 000
Annual exclusion in year of death	R300 000
Sale of small business assets	R1 800 000
• Maximum value of small business assets	R10 000 000

CGT inclusion rates
Unchanged

	Inclusion rate	Max. marginal rate	Max. effective rate
Individuals	40%	45%	18%
Companies	80%	28%	22.4%
Trusts	80%	45%	36%

Transfer duty

Value of property (R)	Rate: Acquisition of property on or after 1/3/2020
0 – 1 000 000	0%
1 000 001 – 1 375 000	3% of the value above 900 000
1 375 001 – 1 925 000	11 250 + 6% of the value above 1 375 000
1 925 001 – 2 475 000	44 250 + 8% of the value above 1 925 000
2 475 001 – 11 000 000	88 250 + 11% of the value above 2 475 000
11 000 001 and above	1 026 000 + 13% of the value above 11 000 000

Other withholding taxes

Interest withholding tax	15%
Royalties	15%
Foreign entertainers and sportspersons	15%
Disposal of immovable property	Seller: 7.5% - individual, 10% - company, 15% - trust

Assessing the s 12J venture capital company incentive (2021 Budget statement)

- NT surveyed 100 VCCs and 360 qualifying companies.
- The results showed that R11.5bn had been invested at VCC level (100% tax deduction), with R4.2 bn invested at qualifying company level.
- Total tax contribution from qualifying companies was R207m for 2019/20, half of which was VAT.
- Qualifying companies employed 8 239 people, of which 4 035 people were in direct employment. Only 37% of qualifying companies added new jobs after receiving VCC funding. Over 50% of the investments appeared to be in low-risk moveable asset rental structures, low-risk income-producing investments and guaranteed-return real estate investments.

Assessing the s 12J venture capital company incentive (cont.)

- NT findings broadly correspond with the 12J Association's own survey, but differ from modelled predictions on job creation and tax estimates, with the association's estimates more optimistic than the actual responses.
- Since 2015/16, total tax revenue foregone due to the incentive was R1.8bn, of which R1.7bn went to individuals who had a taxable income and VCC investment above R1.5m per year.
- Revenue foregone in 2018/19 was R745m before the deduction cap of R2.5m was introduced.
- Based on this information, the incentive seems to give a significant tax deduction to high net worth taxpayers that cannot be justified given its limited economic impact.

Specific excise duties

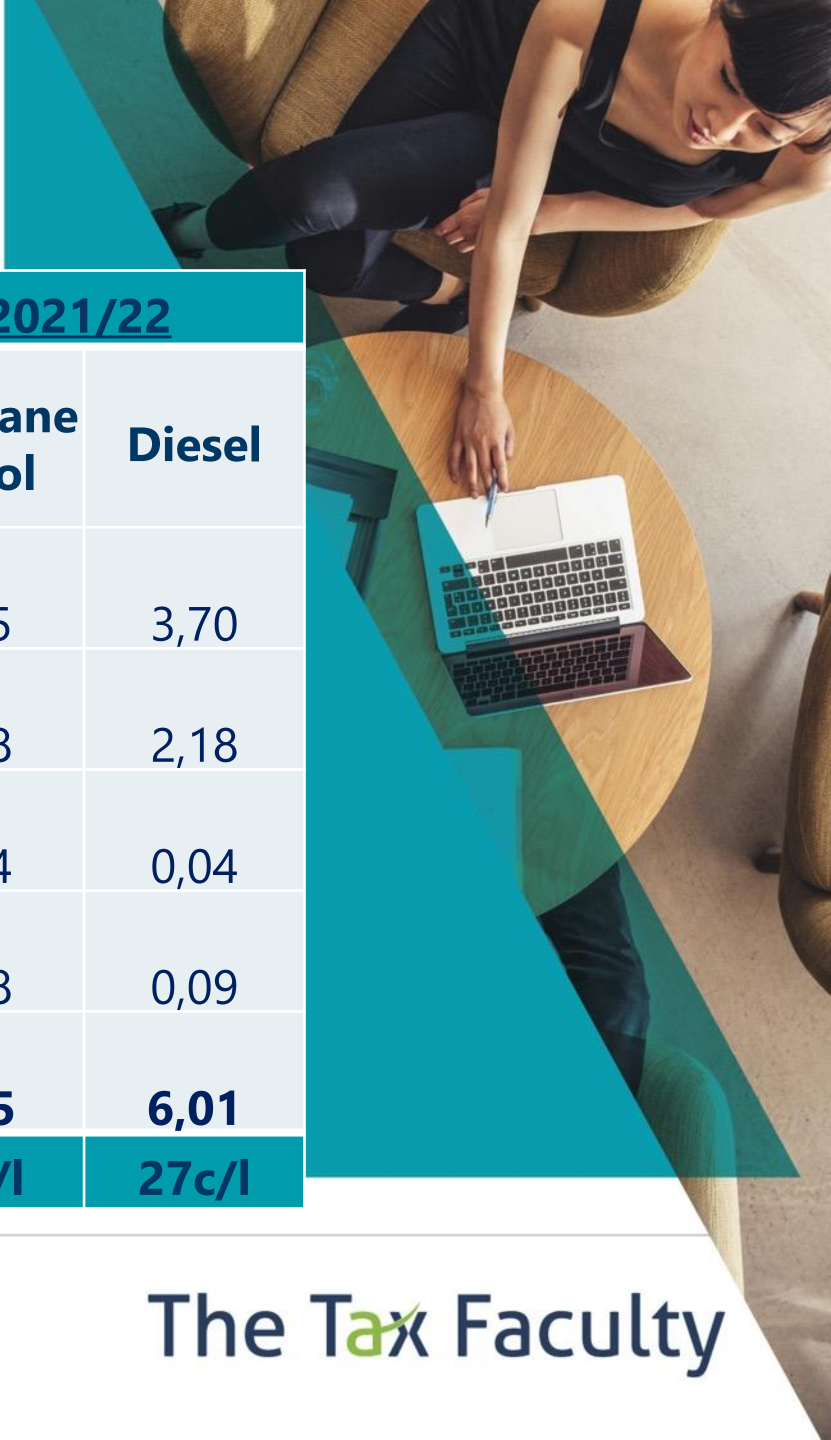
- 8% increase in excise duties on alcohol and tobacco
- Projected increase in tax revenue:
  - Increase in excise duties on alcohol - R1 100m
  - Increase in excise duties on tobacco - R700m
- 2020 Budget:
  - Government introduced a new excise duty on heated tobacco products (HTPs) at a rate of 75% of the cigarette excise rate.
  - A tax on e-cigarettes (eg vapes) is also being considered to take effect in 2021, in line with international trends.
- 2021: NT will soon publish a discussion paper on proposals to tax electronic nicotine and non-nicotine delivery systems. An excise duty will be introduced later this year, following public consultations.

Sin Taxes – 8% increase

- Excise duties to increase as follows:
  - 340ml can of beer: 14c
  - 750ml bottle of wine: 26c
  - 750ml bottle of sparkling wine: 86c
  - 750 ml spirits: R5,50
  - Pack of 20 cigarettes: R1,39
  - 25 gram of piped tobacco: 47c
  - 23-gram cigar: R7,71
  - No change to excise duty on sorghum beer

Fuel levies

	2020/21			2021/22	
R/litre Inc from 7 Apr 2021	**93 octane petrol**	**Diesel**	**Increase**	**93 octane petrol**	**Diesel**
General fuel levy	3,70	3,55	0,15	3,85	3,70
Road Accident Fund levy	2,07	2,07	0,11	2,18	2,18
Customs and excise levy	0,04	0,04	0	0,04	0,04
Carbon fuel levy	0,07	0,08	0,01	0,08	0,09
Total	**5,88**	**5,74**	**0,27**	**6,15**	**6,01**
Increase	**25c/l**	**25c/l**		**27c/l**	**27c/l**



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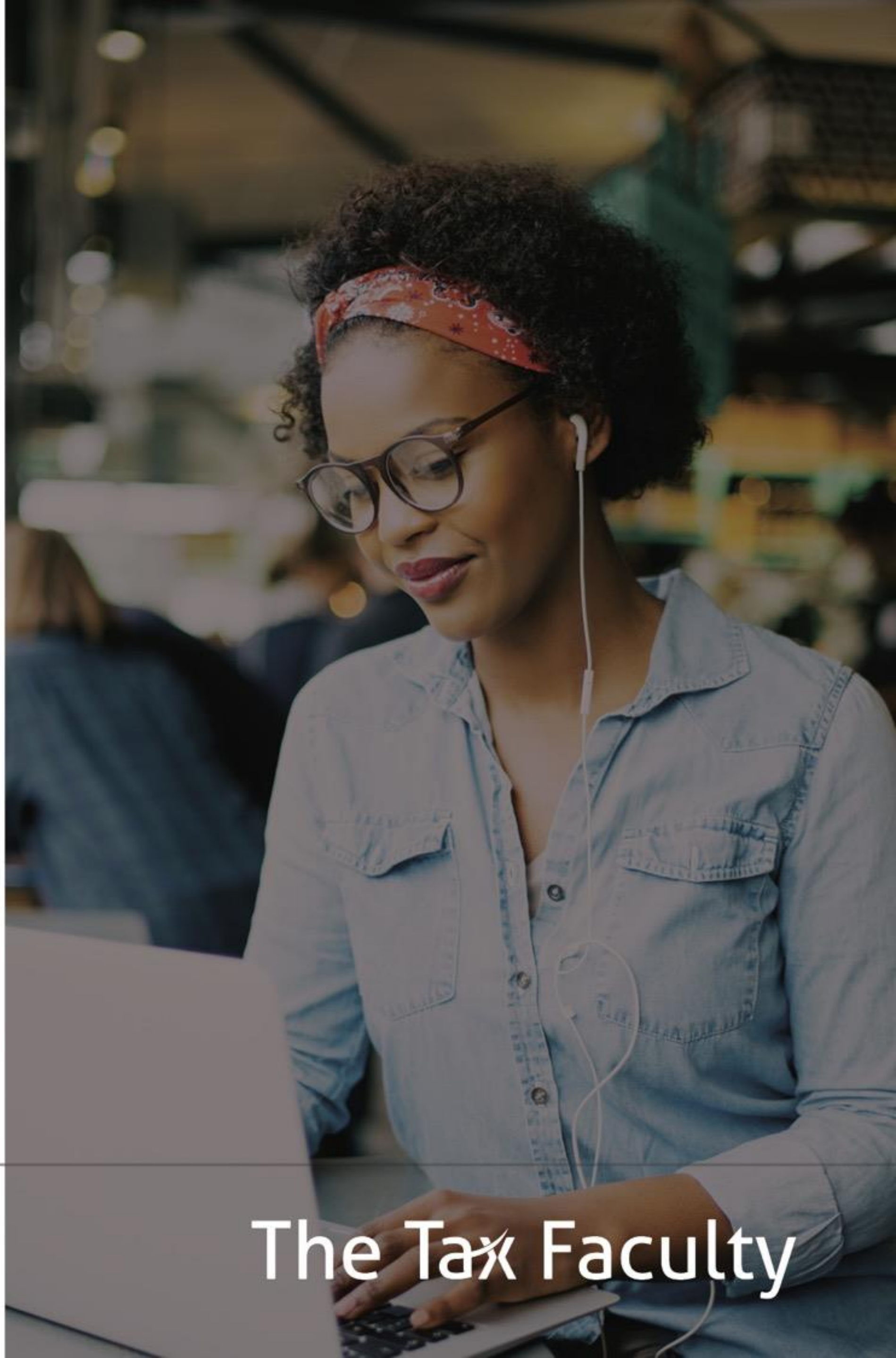
Carbon tax

- Came into effect on 1 June 2019 at R120 per tonne of carbon dioxide equivalent
- Annual increase as per the Carbon Tax Act, 2019 (up to December 2022):
    - annual inflation rate of plus 2%
- 2020: 5,6% increase from R 120 to R127 per tonne of carbon dioxide
- 2021: 5,5% increase from R 127 to R134 per tonne of carbon dioxide

Health promotion levy

- Introduced 1 April 2018
  - 2.1c/gram of sugar content exceeding 4 g/100ml (first 4 g/100ml are levy free)
  - Paid in addition to any other Customs and Excise Duty payable and imports will not be declared on separate bills of entry;
- No further change to the rate



Plastic bag levy

- Charged on certain plastic bags ("grocery bags" or "shopping bags") – excluding bags used for immediate wrapping or packaging, zip-lock bags and household bags including refuse bags and refuse bin liners.
- Local manufacturers of such bags must license their premises as manufacturing warehouses with their local Customs and Excise Office and submit quarterly excise accounts to such Controller.

Date	Rate (per bag)
1 June 2004 to 31 March 2009	3c
1 April 2009 to 31 March 2013	4c
1 April 2013 to 31 March 2016	6c
1 April 2016 to 31 March 2018	8c
1 April 2018 to 31 March 2020	12c
1 April 2020 to current	25c
Reduced rate on bio-based plastic bags	12,5c

made from renewable feedstocks such as sugarcane and food residue, emit less greenhouse gas but still contribute to littering and marine pollution

Other environmental taxes

Heated tobacco products: New excise duty taxed at a rate of 75% of the cigarette excise rate with immediate effect

Tax on e-cigarettes (vapes): to take effect in 2021

Annexure C proposed amendments

Long-service awards

- The Income Tax Act (1962) permits an employer to grant a long-service award (in the form of an asset or a non-cash benefit) to an employee as a no value fringe benefit provided that the value of this award does not exceed R5 000 (Paragraph 5(2) of the Seventh Schedule.)
  - 'long-service' means an initial unbroken period of service of at least 15 years or any subsequent unbroken period of service of at least 10 years
- Currently, employers recognise long service through awards in a variety of forms that could be considered non-cash benefits in terms of the Act. Therefore, it is proposed that the current provisions of the Act be reviewed to consider other awards within the same limit granted to employees as long-service awards.

Curbing abuse of the employment tax incentive

- The ETI is aimed at reducing the cost of hiring youth between the ages of 18 and 29 years old.
- Allows employers to reduce PAYE payments to SARS for the first two years in which they employ qualifying employees with a monthly remuneration of less than R6 500, subject to certain limitations.
- Schemes have been devised using training institutions to claim the ETI for students. To counter this abuse, it is proposed that the definition of an "employee" in the ETI Act (2013) be changed to specify that work must be performed in terms of an employment contract that adheres to record-keeping provisions in accordance with the Basic Conditions of Employment Act (1997).
- The amendments will take effect from 1 March 2021

Time of disposal rules for assets acquired from a deceased estate

- When a person dies, the Estate Duty Act (1955) provides for the assets of the person to be transferred to the estate of the deceased before the assets are distributed to their heirs. The act also provides for the executors to administer this estate, which includes preparing and submitting the liquidation and distribution (L&D) account to the Master of the High Court Office, and submitting the relevant tax returns – including payment of the estate duty – to SARS.
- Legally, the L&D account must remain open for inspection in the Master of the High Court Office for 21 business days. Once the L&D account is finalised, the personal right of the heirs to claim delivery of the assets is triggered.
- At present, there is uncertainty around *when* the heirs are regarded as having acquired an asset from the estate of the deceased. To clarify the time of disposal of this personal right, government proposes that the legislation be changed so that the disposal by the estate occurs on the date when the L&D account becomes final.

Anti-avoidance to curb cession of a right to receive an asset

- Schemes have been devised to transfer rights to assets to a trust before any value attaches to the right, thereby avoiding both income tax (due to the inclusion of the value of the asset in gross income) and donations tax (arising on the value of the asset donated to the trust).
- These schemes entail a service provider (e.g., an employee or independent contractor) ceding the right to receive or use an asset to be received from the person to whom the services are rendered or are to be rendered. The right is generally ceded to a family trust for no consideration.
- In these instances, the service provider will be able to circumvent
  - the gross income provisions as the asset would have been ceded to the trust before a value can be attached to it; and
  - donations tax, as it appears as though they are disposing of a worthless asset and are therefore not liable for donations tax until the services have been rendered and the employer transfers the asset to the cessionary.
- Moreover, the service provider will not be entitled to the asset and therefore cannot be regarded as having disposed of it.
- Amendments are proposed to address these kinds of schemes.

Anti-avoidance to curb loan transfers between trusts

- Schemes to avoid the application of s 7C by transferring loans – which finance high-value assets – between trusts, where the founder of one trust is related to one or more beneficiaries of the other trust.
- Further amendment to s 7C are proposed to counter to these schemes.

Lump sum retirement benefits after ceasing to be a resident

- At issue is the tax treatment of a retirement interest when an individual ceases to be a SA tax resident, but retains his/her investment in a SA retirement fund, and only later accesses the fund benefit when s/he dies or retires.
- Section 9(2)(i) deems such amounts to be from a SA source and the lump sum is therefore still potentially taxable in SA, if received by a non-resident.
- However, tax treaties between SA and other countries typically provide that retirement benefits are taxed only in the country of residence. Thus, if the person is a resident of the other country, the retirement fund interest will be subject to tax in that country and SA would forfeit its taxing rights.

Lump sum retirement benefits after ceasing to be a resident (cont.)

- To address this anomaly, government proposes changing the legislation as follows:
  - When the individual ceases to be a SA tax resident, the retirement fund interest will form part of the assets that are subject to **retirement withdrawal tax**. The individual will be deemed to have withdrawn from the fund on the day before s/he ceases to be SA tax resident.
  - If the individual ceases to be SA tax resident but leaves his/her investment in a SA retirement fund and only withdraws from the retirement fund when s/he dies or retires from employment, then the retirement withdrawal tax will be deferred until payments are received from the retirement fund or as a result of retirement. When the individual eventually receives payments from the fund, the tax will be calculated based on the prevailing lump sum tables or in the form of an annuity. A tax credit will be provided for the deemed retirement withdrawal tax as calculated when the individual ceased to be SA tax resident.

Other retirement amendments

- Use of retirement savings to acquire annuities on retirement
  - Government proposes expanding the amount of retirement interest that may be used to acquire annuities.
- Transfers between retirement funds by members who are 55 years or older
  - Government proposes allowing a member of a pension, provident or retirement annuity fund, who has chosen to retire early, to be able to transfer to a similar or more restrictive fund on a tax-free basis.
- Fringe benefit value of employer contributions to a retirement fund
  - It is proposed that self-insured risk benefits be classified as a defined contribution component to ensure that retirement funds that provide both defined contribution component retirement benefits and self-insured risk benefits can provide the fringe benefit value based on the actual contribution.

Corporate tax amendments

- Clarifying the definition of contributed tax capital
- Hybrid debt anti-avoidance rules
- Debt reduction: meaning of “interest”

Various proposed amendments to corporate reorganisation rules

- Interaction between value shifting (s 24BA) and corporate reorganisation rules (s 42)
- Asset-for-share transactions when a debt is assumed by a company
- Early disposal anti-avoidance rule in intra-group transactions
- Extending the reversal of the nil base cost rules to apply on the 6th anniversary of an intra-group transaction
- Clarifying the interaction between the early disposal anti-avoidance rules and the nil base cost anti-avoidance rules
- Refining the provisions applicable to unbundling transactions

International tax

- Controlled foreign company diversionary rules
- Participation exemption on CFC ceasing to be a CFC

Withholding tax exemption declarations

- No withholding tax on interest applies if the foreign person submits a declaration that he/she is – in terms of an agreement for the avoidance of double taxation – exempt from the tax.
- A similar declaration does not exist for withholding tax on royalties. To address the anomaly, it is proposed that the tax legislation be amended.

VAT amendments

- VAT refunds on gold
  - proposed that regulations providing for a domestic reverse charge mechanism for industry, under section 74(2) of the VAT Act, be issued. It is also proposed that the mechanism be included in the VAT Act to deal with such malpractice. Under the mechanism, a vendor that acquires gold from another vendor would declare and pay to SARS the VAT charged on the acquisition.
- Aligning the VAT Act with the New Insurance Act
  - It is proposed that the VAT Act be amended to make provision for the VAT treatment of micro-insurance.
- VAT on temporary letting of residential property
  - Amendments to clarify the rate of claw-back for developers.

Tax administration amendments

Tax-deductible donations (s 18A)

- The information required by law in the receipts issued for tax-deductible donations is limited and entities issuing the receipts are not required to provide third-party data on the donations to SARS on a systematic basis. SARS has detected that receipts are being issued by entities that are not approved to do so.
- To ensure that only valid donations are claimed and to enhance SARS' ability to pre-populate individuals' returns, it is proposed that the information required in the receipts be extended and third-party reporting be extended in future to cover the receipts issued.

Refunds of dividends tax

- SARS will only pay a valid refund of dividends tax if the claim is submitted within 3 years from the date of payment of a cash dividend.
- However, the corresponding period for a dividend *in specie* ends 3 years from the date of payment of the tax.
- It is proposed that the period within which a taxpayer may claim a dividends tax refund for dividends *in specie* also be determined with reference to the date of payment of the dividend.

Period allowed for farmers to replace livestock sold

- Farmers are allowed to deduct the cost of livestock purchased, within a fixed period, to replace livestock sold in a previous year of assessment on account of drought, fire or other specified reasons, by reopening the assessment for the previous year of assessment.
- It is proposed that the period during which assessments may be reopened and document retention requirements be aligned.

Administrative non-compliance penalties for non-submission of EMP501 returns

Where the employees' tax for the period is not known to SARS, due to the non-submission of monthly or 6-monthly returns, the penalty (under para 14(6) of the Fourth Schedule) can only be imposed retrospectively.

This undermines the purpose and deterrent effect of the non-compliance penalty. It is proposed that SARS be enabled to raise the penalty on an alternative basis in such cases, for example through an estimate of the employees' tax with an adjustment once the actual employees' tax is known.

Provisional tax: years of assessment of 6 months or less

- Provisional taxpayers are required to make provisional tax payments within 6 months after the commencement of a year of assessment and then again by the end of the year of assessment.
- Currently, no provision is made for instances where a taxpayer has a short year of assessment, whether by reason of death, ceasing to be a tax resident, a company being incorporated during a year or a change of a company's financial year.
- It is proposed that a first provisional tax payment and return not be required when the duration of a year of assessment does not exceed six months.

Advance tax ruling system

- Taxpayers may approach SARS to obtain advance rulings on proposed transactions, which are binding on SARS, to enhance taxpayer certainty. In line with its strategic objectives, SARS has invited public comment on the advance tax ruling process for binding rulings to assess whether it can be improved.
- Legislative amendments may be required to give effect to improvements identified during the consultation process.

Review of voluntary disclosure programme

- Taxpayers may approach SARS to regularise their tax affairs to avoid criminal prosecution, understatement penalties and certain administrative non-compliance penalties.
- The voluntary disclosure provisions will be reviewed in 2021 to ensure that they align with SARS' strategic objectives and the policy objectives of the programme.

QUESTIONS?

Please use the Q&A portal

REMINDER

Budget and Tax Update Workshop on 10 March 2021 (09:00 – 13:00)

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