

Monthly Compliance and Legislation

Presenter: Caryn Maitland

*Stay informed on the multitude of
Compliance and Legislation Updates*

This webinar covers changes during the month of January 2022

Ask Questions

To ask questions and interact during the webinar please use the chat sidebar to the right of the video / presentation on the screen.

Feel free to ask your questions during the webinar in the chat, these will be address in the formal Q & A at the end of the presentation.

Presenter

Caryn Maitland

Caryn is a qualified CA(SA and RA, who has lectured extensively at UKZN (and other institutes) where she lectured Advanced Financial Accounting up until 2011 as well as co-ordinating the module on the Pietermaritzburg campus and was appointed Section Head of Financial Accounting and Deputy Head of the School of Accounting (managing the Pietermaritzburg campus) prior to leaving UKZN.

She has conducted independent workshops and seminars for professional accountants since 2006 on various topics and has consulted on a number of technical issues. Since January 2011, she has focused on her own business as technical freelance consultant and trainer to those working within the accounting profession. Caryn is a technical advisor to the SAICA Eastern Region Midlands District, Northern District and Southern District Associations, as well as the Small Practice Interest Group in Durban – specialising in financial reporting (IFRS, IFRS for SME's and general accounting), assurance, legislation and ethics. Caryn has a passion for Corporate Governance, which together with her Companies Act specialism and Financial Management for Non Financial Management lecturing background, has served her well in consulting and advising various Boards of Directors in recent years.

Caryn is also a platform presenter for various institutes as well as many small to medium accounting practices across the country and into Southern Africa. Maitland was appointed as a visiting Associate Professor to the University of Limpopo tasked with mentoring their Financial Accounting staff (Aug 2011 to Dec 2013).

Maitland's passion is IFRS and IFRS for SME's and was delighted at the opportunity granted in 2013 to serve on the APC subcommittee constituted to investigate the need for Micro GAAP and the role of IFRS for SME's for small and medium sized practitioners. Caryn, also serves on the Joint Accountants, Auditors and Attorneys Committee of SAICA, and is part of the School Governing Body project initiated by SAICA in KwaZulu-Natal, and has been appointed as an alternative member to the APC in June 2020

Caryn was elected as the first woman Chairperson for the Midlands District Association for SAICA in 2018 and also serves on the Eastern Region SMP Committee as well as the Local Subvention Committee for SAICA. In 2019 Caryn was appointed to the SAICA Eastern Region Council. As someone who is committed to environmental affairs, Caryn serves as a non-executive director for the Institute of Natural Resources, a Non Profit Company focusing on research. Since 2018 Caryn has worked extensively with commerce and industry, assisting analysts, directors and other users of financials to interpret, prepare, analyse and forecast based on the results of financial statements.



Course Outline

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Auditing Update

Company Secretarial Update

COVID-19 Update

Employment Law Update – none today....

Other Laws & Regulations Update

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Quote

We make a living by what we get, but we make a life by what we give.

- Winston Churchill

Accounting Update

Accounting Update:

Standards – What's new?

IFRS Monthly news summary

Accounting issues

Long term debts with covenants – classification

Supplier Finance arrangements

IFRS 17 Insurance Contracts

THE ZONDO COMMISSION

Our takeaways as a profession

The scope of the Commission's investigation concerned the extent to which state capture, corruption, and fraud were prevalent in the public sector, and in particular whether public officials or functionaries had unlawfully awarded tenders to benefit any family, individual or corporate entity and whether any officials or functionaries within the various SOEs had benefited personally from acts of corruption.

Part I of the report is divided into three volumes, each of which is divided into chapters:

Volume one consists of chapter one which deals with the South African Airways and its associated companies.

Volume two consists of chapter two and deals with Gupta owned "New Age" and its dealings with government departments and state-owned entities.

Volume three consists of chapter three and four which deal with the South African Revenue Service and public procurement in South Africa, respectively.

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Company Secretarial Update

CIPC Notices

Notices and Practice Notes issued (enforcement and to customers):

None

CIPC Notices

Articles:

Section 161 of the Companies Act and a shareholder's claim for reflective loss

Common law derivative action survives for close corporations

Employment Law

Saying no to the job could mean saying goodbye to your job?? (article)

COVID-19 Update

COVID-19 Update

Adjusted level 1 alert

Other Laws and Regulations Update

The Big 5

Issue 17 - this Update overviews new relevant National laws up to 30 January 2022

The Big 5 in this Update include:

The Criminal Law (S Offences and Related Matters) Amendment Act: Amendment Act 2021;

The Domestic Violence Act: Amendment Act 2021;

The Income Tax Act: Tax Administration and Taxation Laws Amendment Acts;

The Tax Administration Act: Tax Administration Laws Amendment Act 2021; and

The Value-added Tax Act: Taxation Laws Amendment Act 2021.

Extra: Climate Change Bill

The Climate Change Bill, that aims to enable the development of an effective climate change response and a long-term, just transition to a low-carbon and climate-resilient economy and society for South Africa in the context of sustainable development; and to provide for matters connected therewith, was formally introduced into Parliament today.

The objects of this Act are to—

- (a) provide for a coordinated and integrated response by the economy and society to climate change and its impacts in accordance with the principles of cooperative governance;
- (b) provide for the effective management of inevitable climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to building social, economic and environmental resilience and an adequate national adaptation response in the context of the global climate change response;
- (c) make a fair contribution to the global effort to stabilise greenhouse gas concentrations in the atmosphere at a level that avoids dangerous anthropogenic interference with the climate system;
- (d) to ensure a just transition towards a low carbon economy and society considering national circumstances;
- (e) give effect to the Republic's international commitments and obligations in relation to climate change; and
- (f) protect and preserve the planet for the benefit of present and future generations of humankind.

Property Practitioners Act **LIVE**

Certification, trust accounts and record keeping

Fidelity Fund Certificates (FFCs) must be easily available for consumers to inspect.

FFC holders must have their certificate prominently displayed in every place of business where they conduct property transactions.

The FFC holder should also ensure that the prescribed sentence regarding holding a FFC is reproduced on any letterhead or marketing material. Importantly, in any agreement relating to property transactions, the FFC holder must include a prescribed clause guaranteeing the validity of the certificate.

Every property practitioner must also:

- open and keep one or more separate trust account/s;
- appoint an auditor;
- provide the Property Practitioners Regulatory Authority with all information regarding the trust account/s and auditor appointed;
- deposit all trust money in the relevant trust account; and
- keep separate accounting records for the trust account/s and have them audited.

Property Practitioners Act **LIVE**

Certification, trust accounts and record keeping (continued)

The PPA also requires property practitioners to keep accounting records and other documents for a period of five years, including

- all documents exchanged with the Property Practitioners Regulatory Authority;
- all agreements, mandates and mandatory disclosure forms relating to the financing, sale, purchase or lease of property; and
- any advertising or marketing material that relates to the carrying on of business as a property practitioner.

Property Practitioners Act **LIVE**

Remuneration and insurance

A property practitioner is not entitled to any remuneration unless the property practitioner and, if a company, every director of the company, is in possession of a FFC.

A conveyancer may not pay any remuneration or other money to a property practitioner unless the property practitioner has provided the conveyancer with a certified copy of the relevant FFC.

Every property practitioner must comply with the prescribed code of conduct that will be published by the Minister of Human Settlements.

To provide redress when a code of conduct or other sanctionable conduct in terms of the PPA is contravened, the Minister of Human Settlements may prescribe indemnity insurance that a property practitioner must take out and maintain.

All property practitioners must also comply with the Property Sector Transformation Charter Code

Property Practitioners Act **LIVE**

Consumer-focused

The PPA is a consumer-focused piece of legislation that has been designed to protect consumers in the property industry.

In line with this, the PPA obliges property practitioners to deliver a “disclosure form” to a seller/lessor before concluding a mandate, and to a purchaser/lessee before making an offer.

The disclosure form must be signed by all parties and attached to the sale or lease agreement.

If no disclosure form is signed and attached, the PPA provides that the agreement must be interpreted as if no defects or deficiencies of the property were disclosed to the purchaser.

A property practitioner cannot accept a mandate unless the seller or lessor has provided a fully completed and signed disclosure form.

Property Practitioners Act **LIVE**

Impact on service provider selections

Section 58(2) of the PPA outlaws any type of practice in which a practitioner provides a consumer with an incentive to use a particular conveyancer or service provider. This is probably one of the most debated sections of the PPA, with significant practical ramifications for the way property practitioners do business.

These obligations are clearly intended for the protection of consumers. Any property practitioner in contravention of the PPA will be required to repay any fees received for a property transaction and may be issued with a fine. Furthermore, any person convicted of an offence in terms of the PPA is liable to pay a fine, or to imprisonment for up to 10 years. Thus, even if property practitioners do not hold monies in trust, they will need to comply with the remaining obligations in terms of the PPA.

Property practitioners should familiarise themselves with these requirements so they can be ready to implement them when the PPA comes into effect.

Taxation Update

Budget Speech

Budget Speech set for 23 February.

Might be an interesting ride with respect to forecasts and cash flow projections.

SARS Legal

All Amendment Bills have now been promulgated as of 19 January 2022.

The updated and final response documents and Explanatory Memoranda are available on the SARS website.

Administrative penalties

Towards the end of last year, GG45540 changed the rules for individuals – as of 1 March 2020, having a single tax return outstanding would result in individuals becoming liable for non compliance penalties.

For provisional taxpayers however, there has been a new wrinkle to come to light in early January. When submitting tax returns for these individuals, they were being hit with non compliance penalties, although their returns were being submitted before the 31 January deadline.

According to the Fourth Schedule, certain taxpayers are exempt from being provisional taxpayers. For example, taxpayers whose total taxable income is below the tax threshold, or taxpayers who earn remuneration and investment returns under R30 000. It seemed that the eFiling system, on submission of the tax return, was assessing whether these individuals are actually required to be provisional taxpayers. Administrative penalties were then levied on these taxpayers, even though they had all submitted provisional tax returns.

Follow up with SARS indicates that SARS does believe that this view is correct and in line with the law. They have however conceded that there are practical concerns with this. As of the end of January, any taxpayer who had submitted provisional tax returns should have these penalties reversed automatically. I would however urge all tax practitioners to review their clients statements carefully to ensure that the penalties are not still there.

Pensioners

SARS has sent a letter

Don't panic!

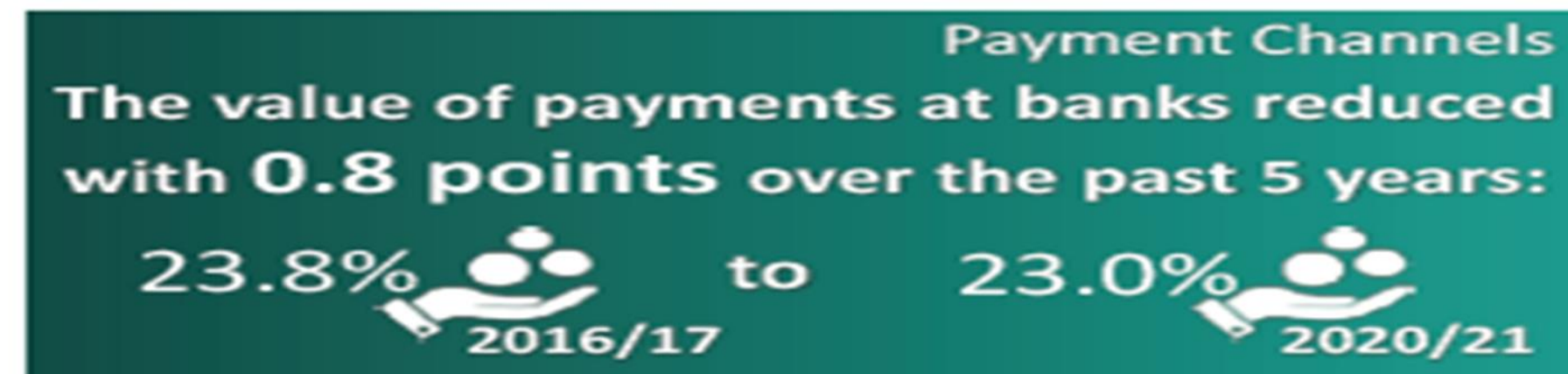
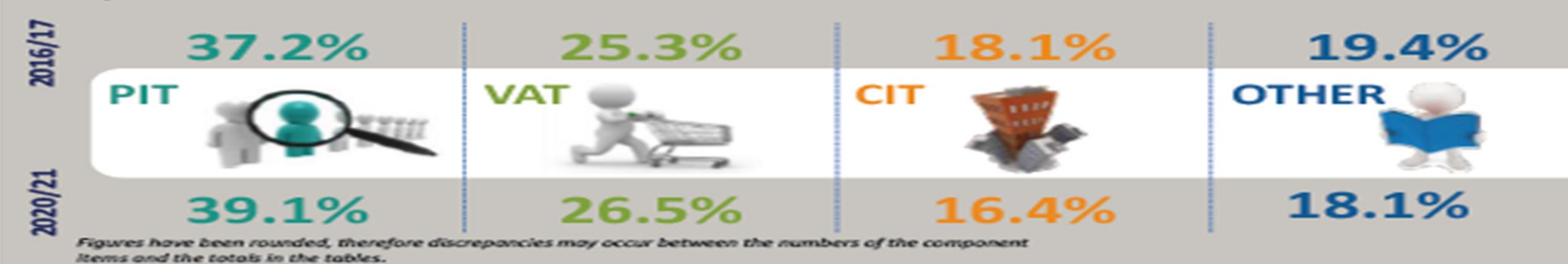
Just a warning that the PAYE calcs will change for 2022.

Tax Statistics

For the 2020/21 fiscal year

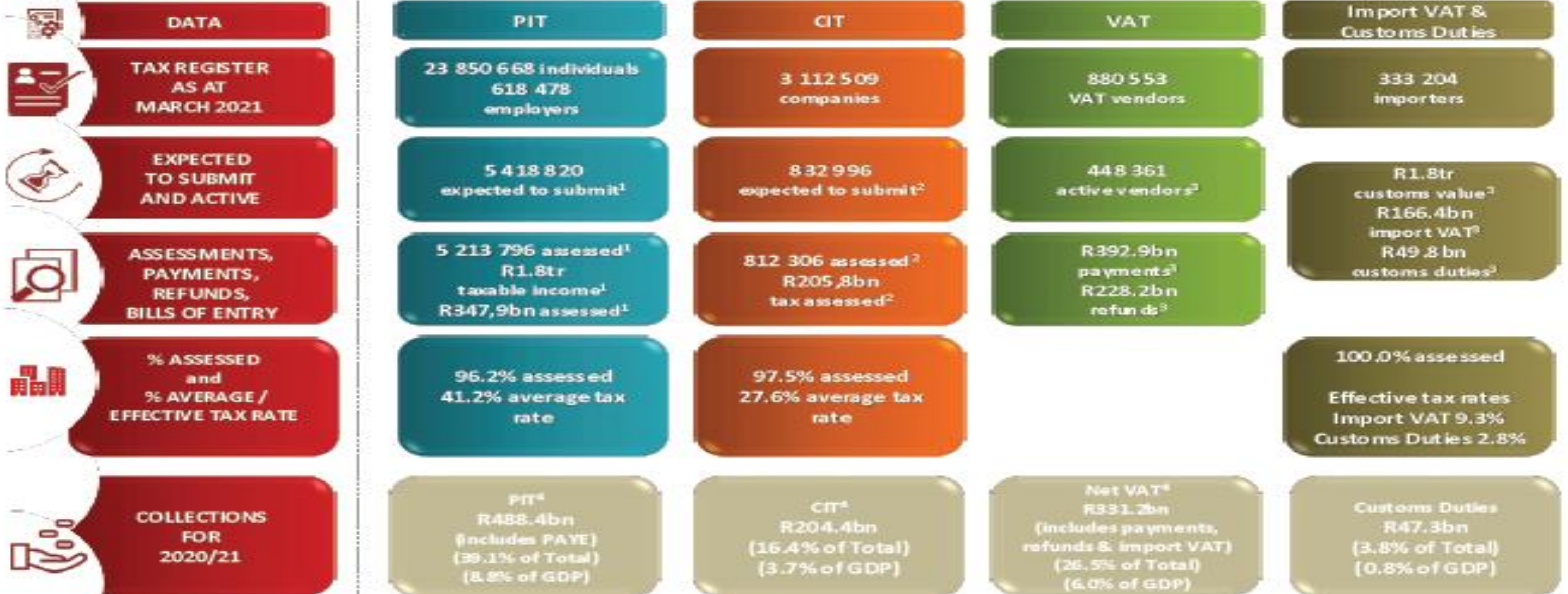


Composition of main sources of tax revenue



Tax Statistics

TAX STATISTICS AT A GLANCE



1. For the 2020 tax year
2. For the 2019 tax year
3. For the 2020/21 fiscal year
4. The figure includes interest on overdue income tax

Tax Statistics

Relative composition of main sources of tax revenue, 2016/17 - 2020/21



Registered individuals **22.9 million**



Expected to submit returns

5.4 million

Assessed taxpayers

5.2 million

96.2%
Assessed



Females
assessed

46.4%

Males
assessed

53.6%



Aggregated taxable
income of assessed
individual taxpayers

**R1.8
trillion**

Tax liability
of assessed
individual
taxpayers

**R407.2
billion**

68.7%
PAYE payments received from
the financial intermediation,
insurance sector

Of those assessed...

...owed SARS some tax.

16.1%



67.3%

...received refunds.

16.2%

...had a zero assessment.
Unknown result was 0.4%.



37.2%

...were registered in
Gauteng



26.2%

...were in the
35 – 44
age bracket

Allowances and deductions



Travel was the largest allowance at
R29.2bn (23.1% of total allowances
assessed).



Contributions to pension, provident
and retirement annuity funds was the
largest deduction at **R204.1bn** (85.5%
of all deductions granted).



Pension, provident and retirement
annuities paid on behalf of employees
was the largest fringe benefit at
R116.2bn (59.2% of the total fringe
benefits assessed).

Cohort across 10 consecutive years



2 838 100

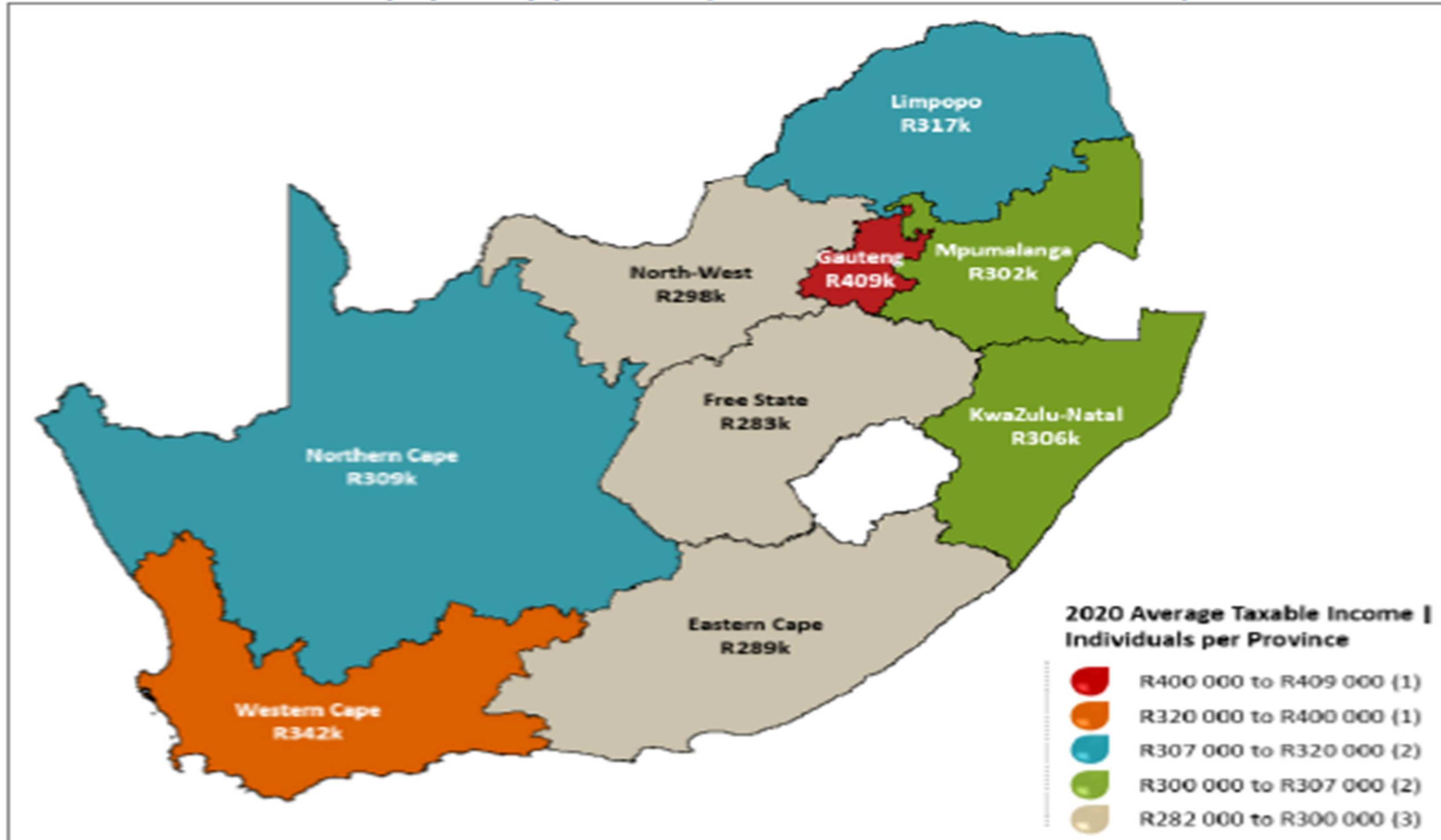
Taxpayers assessed for all tax years 2010 - 2019

Municipalities

Statistics available on assessed tax
for individual taxpayers in 213
municipalities, reduced from 234
reported in the 2016 publication as
a result of merging municipalities
during the past year.

Tax Statistics

Assessed individual taxpayers by province (based on residential address), 2020



For the 2020/21 fiscal year

CIT

third largest contributor
to tax revenue

15.9%

2019/20



16.4%

2020/21

1st Provisional period	2nd Provisional period	3rd Provisional period
41.9%	55.8%	2.3%



Total CIT Provisional Tax
Collected in 2018

Nearly 2.5 million companies on register as at March 2020

2019 tax year

812 306

Were assessed
(majority of remainder inactive or
dormant)



158 818

assessed as Small Business
Corporations (using graduated tax
rates as opposed to a fixed rate)

Contributions by financial year-end in tax year 2019

32.3%

December

21.9%

June

24.1%

February



27.7%

Reported
NEGATIVE
taxable income

48.3%

Reported
ZERO
taxable income

24.0%

Reported
POSITIVE
taxable income

Taxable income for assessed companies

Sector contributions of companies with assessed losses

14.6%

Financing, insurance, real estate
& business services sector



8.8%



Construction sector

6.0%

Agencies and other services



Odds and Sods

National Treasury has released a discussion document regarding:

- the taxation of electronic nicotine delivery system, aka vaping. It seems implementation is still some ways off.
- Research and Development Tax Incentive – what is working and what is not?
- Taxing the Oil and Gas industry – most appropriate?

The draft interpretation note on home office expenses has been redrafted again – comments closed on the 14th of January 2022.

Tax cases

ITC: 145672W Taxpayer vs CSARS

This case dealt with two primary issues.

Section 12C: At what point does manufacture end? The taxpayer was involved in recycling and hazardous waste disposal. The argument hinged on whether the storage tanks for the final waste product could be considered part of the “process of manufacture”. The courts held no, as the intent of these tanks was not to assist in the process, nor were they required as part of the disposal process. They were simply the “end home” for the waste product. As such, they are not directly involved in the process of manufacture, and s 12C cannot be claimed on them.

Section 24C: As required by IFRS, the taxpayer had estimated the expected future costs of building and housing more storage tanks for the waste materials they had accepted. IFRS requires that these estimated costs be discounted to a present value figure for recognition in the annual financial statements of the entity. However, s 24C allows for a deduction based on the expected costs at future value. The taxpayer therefore had an adjustment in their income tax return that accounted for this discounting. The courts accepted that s24C should not have been claimed on the discounted value.

Regulator Update

Regulators News

IRBA News & press releases: (none)

SAICA press releases and other publications: (none)

CIPC: (none)

Consumer Regulator (CGSO) (none)

SAIBA:

Accounting Weekly Newsletter

CFO Talks

Regulators News

LPC: (none)

National Credit Regulator: (none)

SARS: (none)

Information Regulator: (none)

FSCA publications & press releases: (none)

State of the Nation Address

Highlights

National State of Disaster

Government intends to lift the National State of Disaster as soon as other supplementary legislation has been aligned to enable the government to respond to the pandemic and other health disasters. Currently, virtually all restrictions in response to Covid-19 have been lifted.

Highlights

Creating Conditions for Private Sector Investment

Load shedding and high cost of doing business continue to affect the economy, investment promotion and job creation.

Government has to create the environment for businesses to invest, grow and employ more people. SA's problems are structural and also being affected by lack of broadband spectrum, power shortages, poor infrastructure. Government to implement far reaching reforms to unlock investment, reduce cost of doing business and increase competitiveness. Electricity crisis one of the greatest threats to economic revival and growth.

Highlights

Ports and Railways

Transnet is addressing port and rail challenges and is currently focused on improving operational efficiencies at the ports through procuring additional equipment and implementing new systems to reduce congestion. Transnet will ask for proposals from private partners for the Durban and Ngqura Container Terminals within the next few months, which will enable partnerships to be in place at both terminals by October 2022. Transnet will start the process of providing third-party access to its freight rail network from April 2022 by making slots available on the container corridor between Durban and City Deep in Gauteng.

Highlights

Telecoms

Government will facilitate the rapid deployment of broadband infrastructure across all municipalities by establishing a standard model for the granting of municipal permissions. These reforms will revolutionise the country's technological development, making faster broadband accessible to more people and reducing the costs of digital communications.

Highlights

High Frequency Spectrum Auction

ICASA will commence with the auctioning of the high frequency communications spectrum in about three weeks from now. This will unlock new spectrum for mobile telecommunications for the first time in over a decade.

Highlights

Immigration

Government to further streamline immigration laws to attract skilled immigrants, and this includes streamlining and modernizing the visa application process to make it easier to travel to South Africa for tourism, business and work. The revised Critical Skills List has been published for the first time since 2014, following detailed technical work and extensive consultations with business and labour. The updated list reflects the skills that are in shortage today, to ensure that our immigration policy matches the demands of our economy. A comprehensive review of the work visa system is currently underway, led by a former Director-General of Home Affairs, Mr Mavuso Msimang. Government also exploring new visa categories to enable economic growth, such as startup and remote working visa.

Highlights

Water Infrastructure

Government to prioritise institutional reforms to ensure future water security, investment in water resources and maintenance of existing assets. Government has also embarked on the process of institutional reform in capacitating the Department of Water and Sanitation and reviewing water boards in as far as their mandates are concerned and ensuring that they serve municipalities in terms of the District Development Model. These reforms are being championed by the Minister of Water and Sanitation, who has visited every water source in the country.

A comprehensive turnaround plan is being implemented to streamline the process for water use license applications. The target is to clear the backlog of applications by June 2022 and to process 80% of all applications within 90 days during the next financial year. In addition, legislation for the establishment of the National Water Resources Infrastructure Agency will be published for public comment within the next month.

Highlights

SMME Growth

Government to implement measures to unleash the potential of small businesses, micro businesses and informal businesses. Has also started discussions with social partners as part of the social compact process to review labour market regulations for smaller businesses to enable them to hire more people, while continuing to protect workers' rights. A new, redesigned loan guarantee scheme is being introduced to enable small businesses to bounce back from the pandemic and civic unrest. Red tape team led by ex Exxaro CEO Sipho Nkosi being established to review red tape affecting the SMMEs and recommend on how these can be streamlined.

Highlights

Infrastructure

Energy, road, water management projects to be prioritised under the R100 billion Infrastructure Fund, focusing on water, sanitation, and student accommodation among other projects. The Infrastructure Fund is now working with state entities to prepare a pipeline of projects with an investment value of approximately R96 billion in student accommodation, social housing, telecommunications, water and sanitation and transport. Several catalytic projects worth R21 billion

are expected to start construction this year. Of this, R2.6 billion is contributed by government and the balance from the private sector and developmental finance institutions. Government will make an initial investment of R1.8 billion in bulk infrastructure, which will unlock seven private sector projects valued at R133 billion.

Highlights

Social Infrastructure Mechanism

Focus will be on school infrastructure and speed up delivery of infrastructure including building new schools in rural areas. Government is introducing an innovative social infrastructure delivery mechanism to address issues that afflict the delivery of school infrastructure. The mechanism will address the speed, financing and funding, quality of delivery, mass employment and maintenance. The new delivery mechanism will introduce a Special Purpose Vehicle, working with prominent DFIs and the private sector, to deliver school education infrastructure.

Highlights

Hydrogen Capability and Hydrogen Road Map

Government has built on its successful Hydrogen SA strategy to make major strides in positioning South Africa as a global leader in this new market. This includes the development of a Hydrogen Society Roadmap for the next ten years as well as a Green Hydrogen Strategy for the Northern Cape, supporting the development of a green hydrogen pipeline worth around R270 billion.

Highlights

Localisation Plans

An important pillar of our Economic Reconstruction and Recovery Plan is to revitalise our manufacturing base and create globally competitive export industries. In the past year, we launched new master plans in the steel industry, furniture and global business services. Through these plans, business, government and labour are working together to increase production and create more jobs in the sector.

Highlights

Investment Conference

Investment conference to be held on 24 March 2022 in Johannesburg to showcase the many investment opportunities available as South Africa continues its recovery from the COVID-19 pandemic, and report back on the progress of previous commitments. By the time of the third South Africa Investment Conference in November 2020, SA had reached R776 billion in investment commitments.

Highlights

AfCTA

Following the resolutions of the African Union Summit over the past weekend, trading can now begin under the African Continental Free Trade Area agreement. South African companies are poised to play a key role in taking up the opportunities that this presents for preferential access to other African markets.

Highlights

Global Business Sector

SA placed to attract companies keen to open call centre and business facilitation offices in SA. **Cannabis Industry**

Government to streamline regulations to attract investment in cannabis which has the potential to create 130 000 jobs. The hemp and cannabis sector has the potential to create more than 130,000 new jobs. Government to streamline the regulatory processes so that the hemp and cannabis sector can thrive like it is in other countries such as Lesotho.

Highlights

Mining Sector

To attract investors into the mining minerals needed in the new global economy, government to finalise the mining exploration strategy. I will also continue to support the development of the upstream gas industry, as it holds huge potential for job creation and broader economic development.

Highlights

Energy

New energy generation projects will be coming online over the next few years, including several renewable energy projects, among them the 2,600 MW from Bid Window 5 of the renewable energy programme, for which the preferred bidders were announced last year; 2,600 MW from Bid Window 6 of the renewal energy programme, which will soon be opened and 3,000 MW of gas power and 500 MW of battery storage, for which requests for proposals will be released later this year.

In addition, Eskom has established a separate transmission subsidiary, and is on track to complete its unbundling by December 2022. The utility has continued with its intensive maintenance programme, to reverse many years of neglected maintenance and underperformance of existing plants. To regulate all of these reforms, Cabinet yesterday approved amendments to the Electricity Regulation Act for public

Highlights

Public and Social Employment

A revitalised National Youth Service will recruit its first cohort of 50,000 young people during the next year, creating opportunities for young people to contribute to their communities, develop their skills and grow their employability. The Department of Higher Education and Training will place 10,000 unemployed TVET graduates in workplaces from April 2022

Social Grants

As reported, the government is extending the R350 monthly social grant introduced in response to the impact of Covid-19 for another year to March 2023.

Highlights

Expropriation of Land

Expanding access to land is vital for efforts to reduce hunger and provide people with meaningful livelihoods. Government will move ahead with land reform in terms of the Constitution, and anticipate the approval of the Expropriation Bill during this year. The establishment of the Agriculture and Land Reform Development Agency will be finalised this year. The Department of Public Works and Infrastructure will finalise the transfer of 14,000 hectares of state land to the Housing Development Agency.

Highlights

State Capture

The first two part of the Zondo Commission there was indeed state capture, with SOEs infiltrated by a criminal network. The report details devastating impact on SOEs and this had a direct and concrete negative impact on SA, especially poor and vulnerable people, weakened state ability to deliver services. Government to make sure it will never happen again and act on the commission's recommendations. By no later than June, plan of action will be presented to Parliament, and meanwhile it will strengthen whistle blowers who are a vital safeguard against corruption. Detailed review of legislation underway to strengthen and protect whistle blowers.

Highlights

SOEs

Government has embarked on several immediate measures to restore SOEs stability and also implement far-reaching reforms to make SOEs more efficient, competitive, accountable and sustainable. The Presidential SOE Council has recommended that government adopt a centralised shareholder model for its key commercial state-owned companies. This would separate the state's ownership functions from its policy-making and regulatory functions, minimise the scope for political interference, introduce greater professionalism and manage state assets in a way that protects shareholder value. As part of this, preparatory work has begun for the establishment of a state-owned Holding Company to house strategic SOEs and to exercise coordinated shareholder oversight. To ensure that state-owned enterprises are effectively fulfilling their responsibilities, the Presidential SOE Council is preparing recommendations on state-owned entities to be retained, consolidated or disposed of.

Highlights

Civil Unrest in 2021

Cabinet accepts responsibility for security lapses which were exposed during the July 2021 unrest in parts of KZN and Gauteng. The security services have been tasked by the National Security Council to urgently develop implementation plans that address the range of recommendations made by the expert panel. These measures will go a long way to address the serious concerns about the breakdown of law and order in society

General Announcements

Media articles

Media articles and Other thoughts...

Auditor General concerned about weak internal controls on SOEs –highlights R3.21 billion in unauthorised expenditure

Public Servants to face lifestyle audits from Feb 2022 (Public Service Commission)

**Thank you for your
participation**