Tax & Legal - News Alert

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Revisions to tax amendments in anticipation of IFRS 17

Introduction

In our tax alert published in August 2022, we summarised the tax impact of the introduction of the new standard and the anticipated impact of the proposed amendments to sections 28 and 29A[1] as a result of National Treasury having released the Draft Taxation Laws Amendment Bill 2022 (**DTLAB**) on 29 July 2022.

Subsequent to the release of the DTLAB, there were consultations between the insurance industry and National Treasury on aspects ranging from technical corrections to unintended consequences of the first cut of amendments released.

On 26 October 2022, National Treasury released the Taxation Laws Amendment Bill 26 of 2022 (**TLAB**) which now amends the DTLAB. We set out below a summary of the proposed revisions (other than technical amendments of a textual nature) for both long and short-term insurers.

Long-term insurers

Phasing-in measures

The DTLAB proposed that a phasing-in period of six years would be provided for the phasing-in amount to be allowed as a deduction from (or included in) the income of the corporate fund. In addition, the amount that has been deducted as a "phasing-in amount" will be included in the income of the corporate fund in the following year of assessment (or *vice versa*.)

The TLAB has been amended and it is now proposed that the phasing-in amount be calculated as the difference between:

— The value of liabilities per policyholder fund and risk policy fund determined

with reference to IFRS 4 (at the end of the year of assessment commencing on or after 1 January 2022 but before 1 January 2023), and
- The value of liabilities per policyholder fund and risk policy fund determined with reference to IFRS 17 (for the same period referred to above) as if the new definitions of value of liabilities and adjusted IFRS value was applicable.

There was some consternation in the industry about the 6 year phasing in duration granted by National Treasury and despite this being queried, this aspect has remained unchanged in the TLAB.

Because the phasing-in amount is required to be calculated in the policyholder and risk policy funds, the use of interfund transfer credits (to the extent available) may result in a lower cash tax impact for the corporate fund.

Capital gains and liquidity implications are also anticipated to be reduced due to the abovementioned revision as insurers will only be required to sell assets in the respective policyholder (or risk policy) fund at the time that the fund build up is completed for the specific year, and only to the extent that a surplus is determined in the respective policyholder (or risk policy) fund. As assets will only be sold as and when a transfer is required in a specific year as opposed to on the date of transition, the policyholder and risk policy funds can utilise tax losses, to the extent available in those funds.

Other aspects

The insurance industry also raised a concern regarding the disclosure of premium debtors and policy loans as these were previously disclosed as assets under IFRS 4. As insurance contract liabilities are determined and presented net of premium debtors and policy loans in terms of IFRS 17, National Treasury has revised the phasing-in amount calculation to provide for the specific exclusion of these amounts from the phasing-in amount calculation.

Short-term insurers

Similar to the long-term insurance industry, a number of matters identified after the DTLAB was released and that specifically had an impact on section 28 of the Act were raised with National Treasury.

The TLAB included amendments in respect of the following:

- In terms of IFRS 4, premiums received by or accrued to a short-term insurer is disclosed as gross written premium (**GWP**). In addition, a tax deduction is allowed for unearned premium reserves which is recognised as a provision under IFRS 4. As GWP is being replaced with an amount disclosed as “insurance revenue”, section 28 is being amended to refer to insurance revenue and the deduction allowed in terms of section 28(3)(*a*) has been deleted.
- Premium income arising from cell captive arrangements and other arrangements will now be included in insurance revenue as determined in terms of IFRS 17. In addition, a deduction should be allowed for liabilities in respect of claims related to these cell captive and other arrangements.
- Insurance premium or reinsurance premium debtors and reinsurance premium payable balances is now excluded from the phasing-in amount calculation in order to avoid an unintended tax liability which would have arisen from the change in disclosure required in terms of IFRS 17.
- In the year of transition, the impact of insurance and reinsurance receivables and payables other than those forming part of the liability for incurred claims would form part of ‘insurance revenue’ resulting in double tax.
- In terms of IFRS 17, it is anticipated that there will be difficulty in separating ‘salvages/third-party recoveries’ receivable and actual receipt thereof. The ‘salvages/third-party recoveries’ receivable immediately before transition is now

required to be included in taxable income of the short-term insurer in the year of transition.

If you have any queries, or require any assistance please contact us.

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Notes:

[1] of the Income Tax Act No 58 of 1962

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[1] of the Income Tax Act No 58 of 1962