Tax Budget Guide 2023/2024

A New Era in Tax

Income Tax: Individuals and Special Trusts

Tax Rates (year of assessment ending 29 February 2024)

Taxable income	Rates of tax
R0 – R237 100	18% of each R1 of taxable income
R237 101 – R370 500	R42 678 + 26% of the amount above R237 100
R370 501 – R512 800	R77 362 + 31% of the amount above R370 500
R512 801 – R673 000	R121 475 + 36% of the amount above R512 800
R673 001 – R857 900	R179 147 + 39% of the amount above R673 000
R857 901 – R1 817 000	R251 258 + 41% of the amount above R857 900
R1 817 001 and above	R644 489 + 45% of the amount above R1 817 000

Tax Thresholds

Age	Threshold
Below age 65	R95 750
Age 65 to below 75	R148 217
Age 75 and older	R165 689

Trusts, other than special trusts, will be taxed at a flat rate of 45%.

Tax Rebates (natural persons)

- Primary rebate – R17 235
- Secondary rebate (age 65 to below 75) – R9 444
- Tertiary rebate (age 75 and older) – R3 145

Capital Gains Tax (CGT): Individuals

Relevant rates

- Inclusion rate: 40%
- Statutory rate: 0% – 45%
- Effective rate: 0% – 18%

Exemptions / exclusions from CGT

- The annual exclusion for individuals and special trusts is R40 000.
- The exclusion granted to individuals during the year of death is R300 000.
- The first R2 million of the capital gain or capital loss in respect of the disposal of a primary residence must be disregarded.
- A capital gain in relation to the disposal of a primary residence, if the proceeds from the disposal of that primary residence does not exceed R2 million, must be disregarded.
- The exclusion on the disposal of a small business for persons 55 years and older is R1.8 million, provided that the market value of the business does not exceed R10 million.

Individuals who must submit tax returns

The Commissioner gives annual public notice of the persons who are required to submit tax returns for normal tax purposes. The relevant Government Gazette is expected to be issued in June/July 2023 in relation to the tax year ended 29 February 2024.

Allowances

Subsistence Allowances and Advances

Where the recipient is obliged to spend at least one night away from his/her usual place of residence on business, and the accommodation to which that allowance or advance relates is in South Africa, and the allowance or advance is granted to pay for:

1. Meals and incidental costs, an amount of R522 per day is deemed to have been expended.
2. Incidental costs only, an amount of R161 for each day which falls within the period is deemed to have been expended.

These rates also apply where an employee is obliged to be away from the office on a day trip.

Overseas costs: The applicable rate per country is available on the SARS website at Subsistence Allowances and Advances | South African Revenue Service (sars.gov.za) or Legal Counsel/Secondary Legislation/ Income Tax Notices on the SARS website.

Travel Allowance

A log book confirming business kilometres travelled and total kilometres travelled during the tax year, must be maintained in order to claim a deduction against the travel allowance.

PAYE must be withheld by the employer on 80% of the allowance granted to the employee. The withholding percentage may be reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.

No fuel and/or maintenance costs may be claimed if the employee has not borne the full cost thereof (e.g. if the vehicle is covered by a maintenance plan).

The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.

Alternative simplified method:

No tax is payable on a reimbursement paid by an employer to an employee which does not exceed the SARS rate per kilometre, regardless of the value of the vehicle.

The SARS rate for 2024 is available on the SARS website (link to SARS website:.Legal-LSec-IT-GN-2023-003-Budget-2023-Vehicle-cost-tables-3-March-2023.pdf (sars.gov.za)

However, 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.

Travel Table

The actual distance travelled during the tax year, and the distance travelled for business purposes, substantiated by a logbook, are used to determine the cost which may be claimed against a travelling allowance.

Rates per kilometre which may be used in determining the allowable deduction for business travel against an allowance or advance where actual costs are not claimed, are determined by using the following table on SARS's website: Legal-LSec-IT-GN-2023-003-Budget-2023-Vehicle-cost-tables-3-March-2023.pdf (sars.gov.za)

Fringe Benefits

Employer-provided vehicles

The taxable value is 3,5% of the determined value (the cash cost including VAT) per month of each vehicle.

However, where the vehicle is:

- the subject of a maintenance plan when the employer acquired the vehicle, the taxable value is 3,25% of the determined value; or
- acquired by the employer under an operating lease, the taxable value is the cost incurred by the employer under the operating lease plus the cost of fuel.

80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.

On assessment, the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes substantiated by a logbook, divided by the actual distance travelled during the tax year.

On assessment, further relief is available for the cost of licence, insurance, maintenance and fuel for private travel, if the full cost thereof has been borne by the employee, and if the distance travelled for private purposes is substantiated by a logbook.

Employer-provided residential accommodation

In the case of employer-provided residential accommodation, where the employer-provided accommodation is leased by the employer from an unconnected third party, the value of the fringe benefit to be included in gross income is the lower of:

- the cost to the employer in providing the accommodation; and
- the amount calculated with reference to the formula.

The formula will apply if the accommodation is owned by the employee, but it does not apply to holiday accommodation hired by the employer from non-associated institutions.

Interest-free or low-interest loans

The fringe benefit to be included in gross income is the difference between interest charged at the official rate and the actual amount of interest charged.

Exemptions

Interest and dividend income

Under 65 years of age – The first R23 800 of interest income is exempt.

65 years of age and over – The first R34 500 of interest income is exempt.

Interest is exempt if earned by a non-resident person who is an individual who is physically absent from South Africa for at least 183 days during the 12 month period before the interest accrues, or if the debt from which the interest arises is not effectively connected to a permanent establishment of that non-resident person in South Africa.

South African dividends are generally exempt after the withholding of dividends tax (except to the extent that anti-avoidance provisions have been triggered).

Foreign interest and dividends

There is no exemption in respect of foreign sourced interest income.

Where an individual holds less than 10% of the equity share capital of a foreign company which distributes a dividend, the dividend will be taxed at a maximum effective rate of 20%, as determined by a formula. No deductions are allowed for expenditure to produce foreign dividends.

Foreign remuneration exemption

Where an employee works abroad for more than 183 days and more than 60 consecutive days in a 12-month rolling period, that foreign remuneration is exempt from tax in South Africa. The exemption is limited to the first R1.25 million of foreign remuneration.

For the foreign remuneration exemption to be applied, an employee must be rendering services outside of South Africa for more than 183 days in a twelve-month period and for more than 60 consecutive days in the same twelve-month period.

In an effort to reduce the cash flow burden on the employee, the South African employer may apply to SARS for a tax directive allowing Foreign Tax Credits (FTCs) as a tax reduction in the South African payroll. Employees who are not remunerated via a South African payroll will be considered provisional taxpayers and will be required to claim the FTCs when filing their provisional and annual tax returns.

Fringe benefit exemption for employer provided bursaries

Employer-provided bursaries to employees are not subject to income eligibility thresholds or monetary limit criteria.

However, there are other criteria, such as repayment conditions, that must be met for the bursary to be exempt entirely.

The remuneration eligibility threshold applicable to employees in respect of bursaries granted to their relatives, is R600 000.

The monetary limits for bursaries to relatives are as follows:

- R20 000 for grade R to grade 12 or for qualifications up to and including NQF level 4; and
- R60 000 for qualifications from NQF level 5 and above.

The monetary limits for relatives with disabilities are as follows:

- R30 000 for grade R to grade 12 or for qualifications up to and including NQF level 4; and
- R90 000 for qualifications from NQF level 5 and above.

No exemption applies if the bursary is subject to an element of salary sacrifice.

Deductions from Income (individuals)

Contributions to Pension, Provident and Retirement Annuity Funds

Employer contributions to South African retirement funds for the benefit of employees are deemed to be taxable fringe benefits in the hands of employees. Depending on the nature of the fund, the fringe benefit is either the actual cash value of the contribution or determined by a formula. The employee will be deemed to have made contributions to the value of the fringe benefit (which, together with their own contributions, may be eligible for a deduction).

The annual tax deduction for contributions to all retirement funds is limited to the lower of R350 000, or 27,5% of the greater of taxable income before the inclusion of a taxable capital gain (excluding retirement and severance lump sums) or remuneration (excluding retirement and severance lump sums).

Any contributions in excess of the limitations will be rolled forward and will be available for deduction in future tax years, subject to the annual limitations applicable in those tax years. Any non-deductible contributions will be available for deduction against retirement lump sums or annuity income.

It was clarified in the 2023 Budget that both employee and employer contributions to retirement funds (made on or after 1 March 2016) should qualify for a deduction under either paragraphs 5(1)(a) or 6(1)(a) of the Second Schedule to the Income Tax Act.

Donations to certain Public Benefit Organisations

Deductions in respect of donations to certain Public Benefit Organisations (PBOs) are limited to 10% of taxable income (excluding retirement fund lump sums and severance benefits).The amount of donations exceeding 10% of the taxable income is treated as a donation to qualifying PBOs in the following tax year. It has been proposed that third-party reporting be extended to tax deductible donations made, so that SARS can pre-populate these on the relevant tax returns.

Home office deduction

Employees who work from home more than 50% of the time and have set aside a room to be occupied for the purpose of "trade", may be allowed to deduct certain expenses incurred in maintaining a home office. The deduction will be calculated on a pro-rata basis, provided that the requirements as set out in section 11(a) of the Income Tax Act, read in conjunction with sections 23(b) and 23(m), are met.

More details are available on the SARS website: Home Office Expenses | South African Revenue Service (sars.gov.za).

Medical and Disability Expenses

Taxpayers may deduct from their tax liability a tax credit (i.e. a rebate) of R364 per month for each of the first two beneficiaries and R246 per month for each additional beneficiary, in respect of medical aid contributions.

Taxpayers 65 years and older and those with disabilities under the age of 65 years or with disabled dependents may deduct an additional tax credit (rebate) equal to 33,3% of the sum of:

- qualifying medical expenses; and
- an amount by which the contributions paid exceed three times (3x) the medical tax credits for the year.

Taxpayers under the age of 65 years may deduct an additional tax credit (rebate) equal to 25% of the sum of:

- qualifying medical expenses; and
- an amount by which the contributions paid exceeds four times (4x) the medical tax credits for the year, but limited to the amount which exceeds 7,5% of taxable income (excluding retirement lump sums and severance benefits).

Tax-Free Savings and Investment Accounts

All returns received from tax free savings and investment accounts, such as interest, dividends and capital gains, are 100% tax free. The annual contribution limit is R36 000 from 1 March 2020 (previously R33 000), while the lifetime contribution limit is R500 000.

Taxation of Lump Sum Benefits

Retirement fund lump sum benefits (retirement or death) and severance lump sum benefits

The tax-free lump sum benefit upon death, retirement and in respect of severance benefits (as defined in the Income Tax Act), is R550 000. The tax rates are:

Taxable income	Rates of tax
R1 – R550 000	0% of taxable income
R550 001 – R770 000	18% of taxable income above R550 000
R770 001 – R1 155 000	R39 600 + 27% of taxable income above R770 000
R1 155 001 and above	R143 550 + 36% of taxable income above R1 155 000

Retirement fund lump sum withdrawal benefits

Retirement fund lump sum withdrawal benefits refer to lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund upon withdrawal from the fund. The tax rates are:

Taxable income	Rates of tax
R1 – R27 500	0% of taxable income
R27 501 – R726 001	18% of taxable income above R27 500
R726 001 – R1 089 000	R125 730 + 27% of taxable income above R726 000
R1 089 001 and above	R223 740 + 36% of taxable income above R1 089 000

These tax tables apply cumulatively to all lump sum benefits, and include:

- all other retirement fund lump sum withdrawal benefits accruing from March 2009;
- all retirement fund lump sum benefits accruing from October 2007; and
- all severance benefits accruing from March 2011.

Companies and Employers

Corporate Tax Rates

Type	Rates of Tax
Companies	
Resident company	27%
Non-resident company	27%
Personal service provider company	27%

The corporate tax rate was lowered from 28% to 27% with effect from years of assessment ending on or after 31 March 2023.

Gold mining, oil & gas companies and long-term insurance companies are subject to special rules and tax rates. However, it should be noted that it is proposed that the minimum mineral royalty rate will be increased from 0,5% to 2%, with the maximum royalty rate remaining at 5%.

Small Business Corporations (footnote 1)	
R 0 – R95 750	0% of taxable income
R95 751 – R365 000	7% of taxable income above R95 750
R365 001 – R550 000	R18 848 plus 21% of taxable income above R365 000
R550 001 and above	R57 698 plus 27% of taxable income above R550 000
Micro Businesses (footnote 2)	
R 0 – R335 000	0% of taxable turnover
R335 001 – R500 000	1% of taxable turnover above R 335 000
R500 001 – R750 000	R1 650 plus 2% of taxable turnover above R500 000
R750 001 and above	R6 650 plus 3% of taxable turnover above R750 000
Withholding Taxes (footnote 3)	
Dividends	20%
Interest paid to non-residents	15%
Royalties paid to non-residents	15%
Amounts paid to non-resident entertainers and sportspersons	15%
Disposal of fixed property by non-residents	Individuals: 7.5%, Companies: 10%, Trusts: 15%

1 Applicable for years of assessment ending on any date between 1 April 2023 and 31 March 2024.

2 Micro businesses have the option of making payments for turnover tax, VAT and employees' tax bi-annually. Applicable in respect of years of assessment commencing on or after 1 March 2023.

3 Subject to double tax agreement relief if paid to a non-resident

Withholding Taxes

If the amount is paid to a non-resident, the applicable withholding tax rate may be reduced by the provisions of a relevant Double Tax Agreement (DTA). The foreign recipient of the royalty, dividend or the interest should provide a written declaration and undertaking to the payor, confirming that the requirements to qualify for a reduced rate under a DTA have been met. These written declarations and undertakings have to be renewed every five years.

Which companies must submit returns

The Commissioner annually gives public notice of the persons who are required to furnish returns for the assessment of normal tax within the period prescribed in that notice (likely to be issued in June/July 2023).*

The following entities are currently required to submit annual income tax returns:

- every company or other juristic person, which is a resident and which derived gross income or capital gains or losses of more than R1 000, had assets or liabilities of more than R1 000 or had taxable income, taxable turnover, an assessed tax loss or an assessed capital loss;
- every trust which is a resident;
- every company, trust or other juristic person, which is not a resident, and
  - which carried on a trade through a permanent establishment in South Africa;
  - which derived income from a source in South Africa; or
  - which derived any capital gain or capital loss from the disposal of an asset to which the Eighth Schedule to the Income Tax Act applies;
- every company incorporated, established or formed in South Africa, but which is not a resident as a result of the application of any DTA.

*A tax alert setting out the category of persons required to submit a return and any changes in relation to the above requirements, will be issued at the time of publication of the public notice (once available on the SARS website).

Capital Gains Tax

Effective CGT rates

Type of taxpayer	Inclusion Rate	Statutory Rate	Effective Rate
Other trusts	80%	45%	36%
Companies* (including personal service provider companies and branches of non-resident companies)	80%	27%	21,6%
Small business corporations	80%	0% – 27%	0% – 21,6%

*The effective capital gains tax rate is lowered to 21,6% as a result of the reduction in the corporate income tax rate.

Payroll Taxes and Levies

Employees' Tax / Pay-As-You-Earn (PAYE)

Resident employers and resident representative employers are required to withhold PAYE from all remuneration paid to employees. The PAYE must be paid to SARS by the 7th day of the month following the month in which the remuneration is received. If the 7th falls on a weekend or public holiday, the payment must be made by the last business day before the 7th.

Employees' tax and personal income tax administration reforms are expected.

Unemployment Insurance Fund (UIF)

UIF contributions are payable by employers to SARS on a monthly basis and are calculated at a rate of 2% of remuneration paid or payable (1% employee and 1% employer contribution, based on the employee's remuneration) to each employee during the month. The monthly threshold has increased to a maximum threshold of R17 712 per month (R212 544 per year) from 1 June 2021.

Employers (including non-resident employers) not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

With effect from 1 March 2018, foreign nationals working in South Africa and employees undergoing learnership training are subject to UIF.

Skills Development Levy (SDL)

Employers with a payroll of more than R500 000 per year must account for SDL at a rate of 1% of total remuneration paid to employees.

Alignment of registration requirements of non-resident employers

It is proposed in the 2023 Budget that the registration requirements of non-resident employers be aligned with those of resident employers. No details of what changes the alignment will entail were available at the time of this publication.

Employment Tax Incentive (ETI)

The ETI was introduced with the objective of generating employment opportunities for young and less experienced work seekers.

The incentive reduces the cost of hiring young people to employers, through a cost-sharing mechanism with government, while leaving the wage of the employee unaffected. Compliant employers are able to reduce their PAYE liabilities by claiming ETI.

The ETI was implemented with effect from 1 January 2014 and will end on 28 February 2029.

Employers are able to claim ETI up to a maximum of R1 500 per qualifying employee per month in the first twelve months and up to R750 per qualifying employee per month in the second twelve months. These maximum values were increased from R1 000 and R500 respectively, with effect from 1 March 2022.

The incentive is nil for qualifying employees who earn R6 500 and more.

ETI reimbursements are classified as refunds for purposes of the Tax Administration Act and accordingly may be subject to the imposition of understatement penalties if ETI is claimed incorrectly.

Value-Added Tax

- Standard rate:
  - 15% (from 1 April 2018)
  - 14% (until 31 March 2018)
- Threshold for compulsory VAT registration: Taxable supplies > R1 million during any 12-month period
- Voluntary VAT registration threshold: Taxable supplies > R50 000 during any 12-month period
- VAT registration threshold for foreign suppliers of “electronic services”:
  - R50 000 (until 31 March 2019)
  - R1 million (from 1 April 2019)

Corporate Income Tax

Corporate Income Tax System: Rate Change

The corporate income tax rate was reduced to 27% with effect from years of assessment ending on or after 31 March 2023.

Other Incentives

Incentives review

Expansion of renewable energy tax incentive

- Businesses can claim a once-off deduction of 125% of qualifying cost in the first year for all renewable energy projects brought into use during the period 1 March 2023 to 28 February 2025.

Introduction of rooftop solar tax incentive

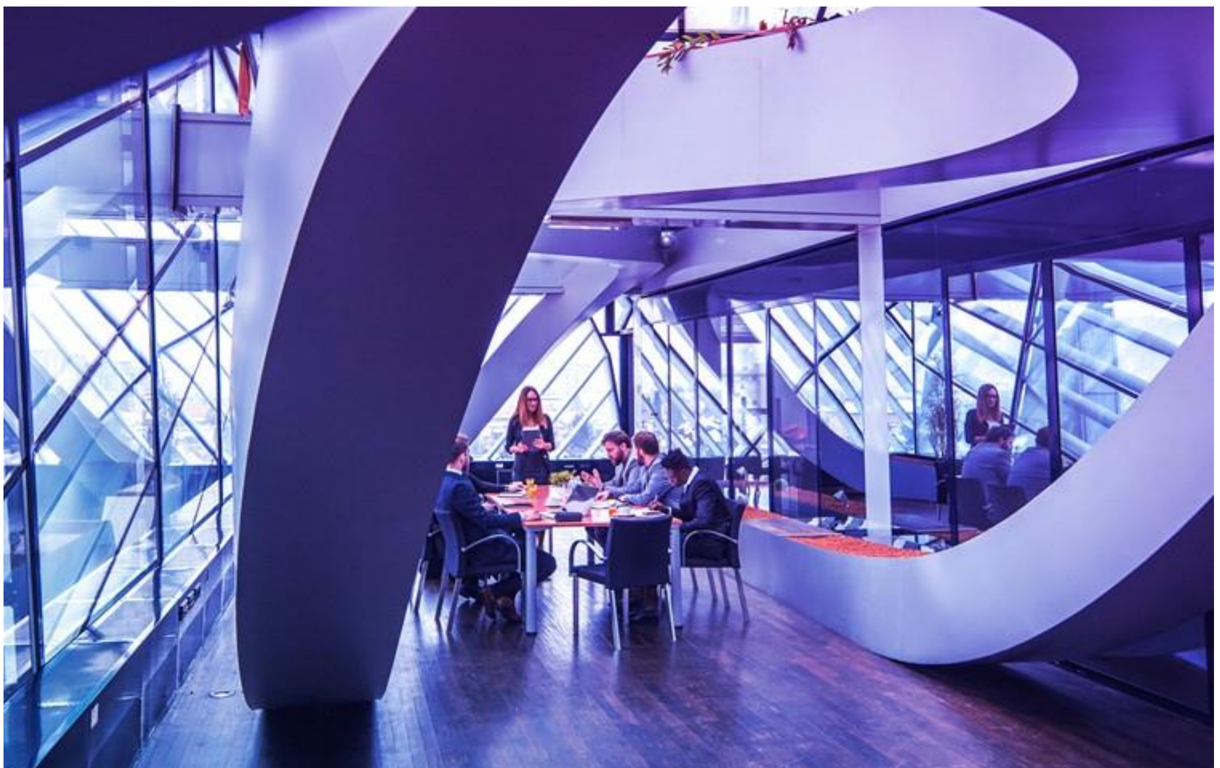
- Individuals may receive a tax rebate of 25% (limited to R15 000) of the cost of new and unused solar PV panels installed and brought into use at private residences during the period 1 March 2023 to 29 February 2024.

Refining and extension of the research and development tax incentive

- The R&D incentive will be extended for a period of 10 years until 31 December 2033.
- A pre-approval grace period of 6 months will be introduced for new R&D projects.
- The R&D definition will be refined to simplify understanding and administration.

Extension of the urban development zone incentive

- The current end date will be extended until 31 March 2025 while the review process is being completed.



Provisional Tax

Provisional tax – individuals / companies

- First payment: To be made within 6 months from the start of the tax year.
- Second payment: To be made by the tax year end.
- Third payment: Voluntary payment to be made within 7 months after the tax year end (if tax year end is 28/29 February), or to be made within 6 months after year end (if tax year end falls on any other date).

A provisional taxpayer is any person who earns income by way of remuneration from an unregistered employer, or income that is not remuneration or an allowance or advance payable by the person's principal. An individual is not required to pay provisional tax if the individual does not carry on any business and the individual's taxable income:

- will not exceed the tax threshold for the tax year; or
- from interest, dividends, foreign dividends, rental from the letting of fixed property and remuneration from an unregistered employer will be R30 000 or less for the tax year.

Provisional tax returns showing an estimation of total taxable income for the year of assessment are required from provisional taxpayers.

Deceased estates are not provisional taxpayers.

Provisional tax – penalties on late payment, late submission and underestimation

The following penalties may be imposed:

- A 10% penalty for the late payment of the amount of provisional tax due.
- A 20% penalty for the late submission of the provisional tax return or for the underestimation of the amount of provisional tax due.
- The 20% underestimation penalty is reduced by the amount of any late payment penalty imposed. Both of these penalties constitute percentage based penalties in terms of section 213 of the Tax Administration Act.

The 20% underestimation penalty will only be triggered in the following scenarios:

- Taxable income of less than R1 million: if the taxable income per the second provisional tax return is less than 90% of the taxable income upon final assessment and is less than the "basic amount" (i.e. the taxable income per the most recent previous assessment issued).
- Taxable income equal to or more than R1 million: if the taxable income per the second provisional tax return is less than 80% of the taxable income per the final assessment.

International Tax

Extending the anti-avoidance provision to cover foreign dividends from shares listed in South Africa

The definition of “foreign dividend” in section 10B of the Income Tax Act provides for an exemption from normal tax for foreign dividends received or accrued from shares listed on a South African stock exchange. However, a loophole exists in cases where a South African resident invests in the shares of a non-resident company listed on the JSE and such company directly or indirectly invests in interest-bearing financial instruments in South Africa. The result is that an interest expense deduction is not matched with a taxable foreign dividend. Accordingly, it is proposed that the round-tripping anti-avoidance provision for foreign dividends be amended to include foreign dividends received or accrued from shares listed on the JSE, provided the foreign dividends are directly or indirectly funded by amounts that were deductible in South Africa.

Interaction between the anti-avoidance rule and exemption applying to foreign dividends

Section 10B(4) of the Income Tax Act contains an anti-avoidance rule in terms of which the participation exemption does not apply to a foreign dividend if any part of the foreign dividend arises directly or indirectly from an amount that is deductible from the income of any person under the Income Tax Act. The policy rationale for this measure is that a deductible amount should not be received by a resident or a controlled foreign company (CFC) as an exempt amount. A further exemption that applies to foreign dividends limits the effective tax rate for foreign dividends accruing to residents to 20%. This exemption results in taxpayers being able to claim a deduction for income tax purposes at a rate of 27% or marginal tax rates, while being taxed at a rate of 20% where the anti-avoidance provision applies. National Treasury has proposed that the exemption to tax foreign dividends at 20% should not apply where the anti-avoidance rule is applicable.

Clarifying the foreign business establishment exemption for CFCs

Section 9D of the Income Tax Act contains anti-avoidance rules aimed at taxing South African residents on an amount equal to the net income of that CFC. To strike a balance between protecting the tax base and enabling South African multinationals to compete offshore, the CFC rules contain exemptions. One such exemption is the foreign business establishment (FBE) exemption, which deems the net income of a CFC to be nil where certain requirements are met.

These requirements include that the fixed place of business should be suitably staffed with onsite managerial and operational employees, should be suitably equipped and have suitable facilities for conducting the primary operations of the business.

However, it has recently transpired that some taxpayers, while retaining certain management functions, are outsourcing the primary functions for which the CFC has been established and for which it is compensated by its clients.

This is against the policy rationale and it is proposed that the tax legislation be amended so that all important functions for which a CFC is compensated, need to be performed by the CFC or by another CFC meeting the shared FBE definition contained in section 9D.

Taxation of non-resident beneficiaries of trusts

National Treasury is concerned about the mismatch between the rules covering the normal tax treatment of income attributed to beneficiaries of trusts in section 25B of the Income Tax Act and the rules covering the tax treatment of capital gains in relation to beneficiaries, as contained in paragraph 80 of the Eighth Schedule to the Income Tax Act.

Currently, in terms of paragraph 80, capital gains attributable to non-resident beneficiaries are taxed in the trust and the trust is liable for the payment of the tax. Distributions can thereafter be made to non-resident beneficiaries. In contrast, section 25B does not distinguish between beneficiaries who are and who are not South African tax residents. The flow through of amounts from South African tax resident trusts to non-resident beneficiaries makes it difficult to collect income tax from non-resident beneficiaries. To address this, National Treasury has proposed that changes be made to section 25B of the Income Tax Act to align it with the provisions of paragraph 80.

Refining the participation exemption for the sale of shares in foreign companies

Paragraph 64B of the Eighth Schedule to the Income Tax Act contains a participation exemption relating to the sale of shares in foreign companies, and section 10B contains a participation exemption relating to foreign dividends from foreign companies. The main purpose of these exemptions is to encourage the repatriation to South Africa of foreign dividends and the proceeds on the sale of shares in foreign companies to non-connected non-residents.

However, National Treasury has identified transactions whereby the participation exemption is applied, but the ultimate shareholders remain the same pre and post transaction (e.g. group restructurings).

Therefore, it is proposed that the participation exemption will not be applicable if the sale of shares is to a non-resident group company that formed part of the same of companies as the disposing company, or the shareholders are substantially the same as the shareholders of any company in the group of companies disposing of the shares.

Refining the participation exemption for the foreign return of capital from a CFC

To qualify for the participation exemption, one of the requirements is that a South African resident must hold shares in the foreign company being disposed for at least 18 months prior to the sale of such shares.

The participation exemption was subsequently extended to apply to the foreign return of capital from a CFC. However, in such instance there is no similar 18-month holding requirement.

To close this loophole, National Treasury has proposed that a similar holding requirement be introduced for the participation exemption in respect of the foreign return of capital from a CFC.

Customs and Excise

Customs and excise rates increases

Customs and excise rate increases:

- ***Specific excise duties:*** With effect from 22 February 2023, specific customs and excise duties are increased. Alcoholic beverages increased by 4,9% (excluding sparkling wine and traditional African beer and beer powder). Sparkling wine increased by 0,7%, while traditional African beer and beer powder remains unchanged. The rate of duty on cigarettes, cigarette tobacco, pipe tobacco and cigars increased by 4,9%.
- ***General Fuel Levy & Road Accident Fund Levy:*** The General Fuel Levy and the Road Accident Fund Levy will remain unchanged.
- ***Carbon tax on fuel:*** With effect from 1 January 2023, the carbon tax rate will increase to R159 per tonne of carbon dioxide equivalent. The carbon fuel levy for 2023 will increase by 1c to 10c/litre for petrol and 11c/litre for diesel from 5 April 2023. The carbon tax cost recovery quantum for the liquid fuels refinery sector increased to 0.66c/litre from 1 January 2023.

Legislative amendment proposals:

- ***Deferment of duties***: Government proposes prescribed conditions under which deferment of duties will be allowed.
- ***Single window***: Government proposes to introduce a single window to collect advance passenger information and passenger name records through the Department of Home Affairs, for distribution to other government entities such as SARS.
- ***Traveller management system:*** SARS implemented a modern online traveller management system, aimed at strengthening SARS's capability to facilitate legitimate traveller movements, providing travellers with clarity and certainty regarding their obligations, easing compliance, detecting non-compliance and improving enforcement of legislation by SARS and other agencies. It is proposed that the Customs and Excise Act be amended to provide for the declaration of the required information before arrival in or departure from South Africa.
- ***Provisional payments:*** Government proposes to amend the customs legislation to provide for the liquidation of provisional payments, including prescription periods that will apply for unclaimed funds.
- ***Extension of diesel fuel levy refund:*** Refund of RAF levies for diesel used in the manufacturing process (including generators used) will be extended to manufacturers of foodstuffs, effective 1 April 2023 for a limited period ending 31 March 2025.
- ***Health promotion levy:*** There will be no increase in the health promotion levy in 2023/24 and 2024/25. Government proposes to publish a discussion paper to extend the levy to pure fruit juices and lower the 4-gram threshold.

Environmental Taxes

Carbon tax

Carbon tax rate

The Carbon Tax Act specifies that the initial rate of carbon tax of R120 per tonne will increase by consumer price inflation (CPI) +2% per year until 31 December 2022, whereafter the rate of tax will be increased only by CPI.

It is, therefore, no surprise that the carbon tax rate will increase from R144 per tonne of carbon dioxide equivalent (CO2e) to R159 per tonne of CO2e for the 2023 calendar year. This represent a 10,42% increase.

Extending the utilisation period in the Carbon Offsets Regulations

The Carbon Tax Act was assented to by the President on 23 May 2019 and became effective from 1 June 2019.

In the 2022 Budget, the first phase of the carbon tax was extended by three years from 1 January 2023 to 31 December 2025.

In the 2023 Budget speech, it was proposed that the utilisation period of the carbon offsets, as provided for in the Carbon Offsets Regulations, also be changed to align it with the extension of the first phase of the carbon tax.

These amendments will take effect from 1 January 2023.

While the Carbon Tax Act sets out how the tax will be managed for Phase 1 (due to end on 31 December 2025), it is silent on the specifics of Phase 2, which is intended to run from 1 January 2026 to 31 December 2030, leaving many companies with unanswered questions regarding the future financial impact of the tax.

Aligning the fuel emission factors with the methodological guidelines and regulations

In October 2022, the Department of Forestry, Fisheries and the Environment gazetted the amended methodological guidelines for quantifying greenhouse gas emissions.

The amendments include updated carbon dioxide emission factors for domestic (tier 2) emissions reporting for existing fuel types and added fuel types.

The updated emission factors will take effect for the department's 2023 reporting period, covering emissions during 2022.

To align the Carbon Tax Act with these guidelines, it is proposed that a new table be inserted into schedule 1 of the Act, to provide the tier 2 emission factors.

Further changes to the emission factors may be added through the Taxation Laws Amendment Act (2023) if the department publishes further updates. In addition, certain emission factors were added in schedule 1 for country-specific tier 2 carbon dioxide reporting.

The amendments will take effect from 1 January 2023.

Adjusting the formula for fugitive emission factors

Section 4(2) of the Carbon Tax Act provides the formulas to be used to calculate total greenhouse gas emissions.

In 2019, changes were made to the formula for fugitive emissions to provide for converting the unit of the emission factors for the different greenhouse gases from volume to mass by multiplying by a density factor, followed by multiplying by 1 000 to convert to tonnes.

This is accurate for some Intergovernmental Panel on Climate Change code activities but not all, depending on the units of measurement in which the emission factors are expressed. It is proposed that the formula be changed to only multiply certain emission factors by 1 000.

Transfer Duty and Securities Transfer Tax

Transfer Duty

Payable on transactions that are not subject to VAT (including zero-rated VAT)

Value of property	Rates payable
R0 – R1 100 000	0% of the value
R1 100 001 – R1 512 500	3% of the value above R1 100 000
R1 512 501 – R2 117 500	R12 375 plus 6% of the value above R1 512 500
R2 117 501 – R2 475 000	R48 675 plus 8% of the value above R2 117 500
R2 722 501 – R12 100 000	R97 075 plus 11% of the value above R2 722 500
R12 100 001 and above	R1 128 600 + 13% of the value exceeding R12 100 000

The above rates are applicable in respect of property acquired on or after 1 March 2023.

Securities Transfer Tax (STT)

This tax is imposed at a rate of 0,25% on the transfer of listed or unlisted securities.

Estate Duty And Donations Tax

Estate Duty

Estate duty is payable on properties of residents and South African properties of non-residents (less allowable deductions).

Estate duty will be levied on the "dutiable value" of an estate at a rate of 20% on the first R30 million. A tax rate of 25% will apply where the dutiable value of an estate is above R30 million.

A basic deduction of R3.5 million is allowed in the determination of an estate's liability for estate duty, as well as deductions for liabilities, bequests to PBOs and property accruing to surviving spouses.

Donations Tax

A rate of 20% will be payable on the value of property donated. Donations exceeding R30 million in value will be taxed at a rate of 25%.

The first R100 000 of property donated in each year by a natural person is exempt from donations tax. For taxpayers who are not natural persons, exempt donations are limited to casual gifts not exceeding a total of R10 000 per annum. Donations between spouses, South African group companies and to certain PBOs are exempt from donations tax.

Administrative Non-Compliance Penalties

Fixed amount penalties

Taxable income for preceding year	Monthly penalty
Assessed Loss	R250
R0 – R250 000	R250
R250 001 – R500 000	R500
R500 001 – R1 000 000	R1 000
R1 000 001 – R5 000 000	R2 000
R5 000 001 – R10 000 000	R4 000
R10 000 001 – R50 000 000	R8 000
Above R50 000 000	R16 000
Maximum successive penalties: 36 months (SARS in possession of address) or 48 months (SARS not in possession of address)	

Administrative non-compliance is the failure to comply with an obligation imposed by or under a tax Act and listed in a public notice by the Commissioner. Failures attracting fixed amount penalties currently include:

- The failure by a natural person to submit an income tax return (subject to further conditions).
- The failure by a reporting financial institution to submit returns in relation to the intergovernmental agreement to implement the United States of America's Foreign Account Tax Compliance Act.
- Certain incidences of non-compliance with the Common Reporting Standard (CRS) Regulations (e.g. failure by a reporting financial institution to submit a return as required, or to remedy the partial or non-implementation of a due diligence required under the CRS Regulations within 60 days, etc).
- Failure by a company to submit an income tax return as required under the Income Tax Act for years of assessment ending during the 2009 and subsequent calendar years, where SARS has issued the company with a final demand and such company has failed to submit the return within 21 business days of the date of issue of the final demand.

Understatement Percentage-Based Penalties

Behaviour	Standard case	Obstructive or repeat case	Voluntary disclosure after notification of audit	Voluntary disclosure before notification of audit
Substantial understatement	10%	20%	5%	0%
Reasonable care not taken in completing return	25%	50%	15%	0%
No reasonable grounds for tax position	0%	75%	25%	0%
Impermissible avoidance arrangement	75%	100%	35%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

"Understatement" means any prejudice to SARS or the *fiscus* as a result of:

- A failure to submit a return
- An omission from a return
- An incorrect statement in a return
- Failure to pay correct amount of tax if no return is required
- An impermissible avoidance arrangement

The burden of proving the facts on which SARS based the imposition of the understatement penalty, is on SARS.

Voluntary Disclosure Programme

Provisions for a general Voluntary Disclosure Programme (VDP) are contained in the Tax Administration Act, in terms of which taxpayers (corporate entities, individuals, etc.), can approach SARS with a view to regularise their tax affairs, with the prospect of remittance of certain penalties.

It was announced in the 2021 Budget that the VDP provisions would be reviewed to ensure that the provisions align with strategic and policy objectives of the programme. There has been no announcement in the 2023 Budget regarding the progress of the proposed review of the VDP provisions.

SARS Interest Rates

Effective 1 February 2023	
Fringe benefits – interest free or low interest loans	8,25% p.a
Effective 1 March 2023	
Late or underpayments of tax	10,5% p.a.
Refund of overpayments of provisional and employees' tax	6,5% p.a.
Refund of tax on successful appeal, or where the appeal was conceded by SARS	10,5% p.a.
Refund of VAT after prescribed period	10,5% p.a.
Late payments of VAT	10,5% p.a.
Customs and Excise Duties	10,5% p.a.

Rates are adjusted as and when the repo rate changes. Rates were correct as at the date of publication.

Withdrawal of Practice Note 31

In 2022, SARS announced that it planned to withdraw Practice Note 31 for years of assessment commencing on or after 1 March 2023. Practice Note 31, issued on 3 October 1994, provided much needed relief from the inequitable position that would arise where an entity was unable to claim a tax deduction in relation to interest which was not incurred in the course of carrying on of a trade. It allows for a deduction of expenditure incurred in the production of the interest income to the extent that it does not exceed such income (typically in the context of investment holding companies).

The proposed withdrawal of the long-standing Practice Note would have had far-reaching consequences for taxpayers such as investment holding companies incurring interest expenditure. Following public consultation, SARS intends to delay and align the withdrawal of the Practice Note with the effective date of any legislation arising from the proposed considerations.

Future-ready Tax

The changing landscape - The future of tax is here

Tax is no longer (only) a compliance function of business, but has become a Strategic Asset

There is no shortage of challenges and opportunities facing today's tax functions. Carrying on as in the past is no longer a viable option. The traditional tax function is undergoing a transformation. This is a response to the constantly evolving business, economic and technological developments happening as we speak.

Tax authorities around the world are moving towards digitised reporting requirements and seeking to collect tax information directly from your company's accounting system (ERP) in real-time. Even locally there is a fundamental shift in how data is being collected and exchanged. We are moving away from information being "pushed" to tax authorities towards a position where data is "pulled" by them.

From SARS' 2024 Vision statement it is clear that they are moving towards risk-based reviews, that is not return driven, using data (from ERP systems and other third parties) and a stronger technological backbone. Hiring and upskilling resources with data analytical and data management skills are a priority for SARS. Having a technologically inclined workforce that can rely on factual insight directly from data in real time, requiring limited interaction with business on tax, will bring significant efficiency and growth opportunities for tax authorities.

KPMG's response:

Tax Reimagined *– KPMG's framework where we have combined our technology, transformation and compliance capabilities to meet your unique tax business needs.*

- Deploying our solution architects and leveraging this framework, we assist businesses to develop a strategy for your tax function and design a "future-ready" technology-enabled target operating model (TOM) to reduce costs, improve quality and unlock value from your tax and statutory function.
- Every company is unique. Every tax function is too. A bespoke KPMG Tax Reimagined workshop gives you the opportunity to imagine the model that works for you, then brings it to life. Our rapid diagnostics and wealth of benchmarking data can take you from dreaming of the possible to the foundations of a tangible business case in less time than you think.

The changing landscape - Harnessing the power of technology and unlocking the value of a company's data

Data has become a core asset of the 21st century tax function

Tax executives need to look beyond the implementation of a specific compliance tool or technology solution, also considering accessibility, accuracy and completeness of tax data. The concept of "compliance-by-design", whereby tax data is ready for reporting in real-time, has become a critical success factor in today's tax world.

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