- **Legislative amendments:**

  *Road Accident Fund (**RAF**)levy diesel refunds*:
  Government proposes that the RAF levy diesel refund benefit for primary production industries within farming, forestry and mining be limited to ensure that diesel users in these sectors equitably contribute towards their RAF indemnity.

  Ad valorem excise duty on motor vehicles: Government proposes to align the tax treatment of locally manufactured vehicles and imported vehicles. This proposal seeks to remove the anomaly where vehicles produced locally are taxed at a higher rate than imported vehicles.

  Taxation of electronic cigarettes and tobacco heating products: The use of electronic cigarettes and tobacco heating products has increased in recent years. Government intends to start taxing these products. The National Treasury and the Department of Health will consult on the appropriate mechanisms, structure and timing of the tax.

  Duty-free shops: Concerns regarding duty-free shops operating within the country have been noted. The legislative framework governing duty-free shops will be reviewed to minimise any abuse.

  Diesel refund system: During August 2018, the National Treasury and SARS jointly held extensive consultations on the published discussion paper, "Review of the Diesel Fuel Tax Refund System". These intensive consultations revealed the need for developing industry-specific provisions for each sector for a focused and effective diesel refund administration system. The proposed system will shift the basis from eligible users to eligible activities. The design of the new standalone diesel refund administration will be outlined in draft rules and notes that will be developed and published for public comment during the course of the year.

  Ad valorem proposals: Government proposes to expand the computer category to include any apparatus with a screen larger than 45cm. Government is also proposing to expand the gaming category to include any external screen or surface on which gaming console images can be reproduced.

Contact Us:

Johannesburg and Pretoria:
Joubert Botha
Head of Tax and Legal
Head of Corporate Tax T: +27 83 456 7734
E: joubert.botha@kpmg.co.za

Andre Meyburgh
Head of Indirect Tax
T: +27 82 851 6587
E: andre.meyburgh@kpmg.co.za

Venter Labuschagne
Head of Customs and Excise
T: +27 83 677 7744
E: venter.labuschagne@kpmg.co.za

Carolyn Chambers
Head of Global Mobility Services & Employment Tax Advisory
T: +27 83 440 5564
E: carolyn.chambers@kpmg.co.za

Natasha Vaidanis
Head of International Tax and Transfer Pricing
T: +27 82 458 1043
E: natasha.vaidanis@kpmg.co.za

Cape Town:
Di Hurworth
Managing Partner Cape Town Tax
T: +27 82 719 2262
E: di.hurworth@kpmg.co.za

Tanya Engels
Partner, Corporate and International Tax
T: +27 82 719 0418
E: tanya.engels@kpmg.co.za

Yacoob Jaffar
Partner, Corporate Tax Financial Services
T: +27 78 786 2277
E: yacoob.jaffar@kpmg.co.za

Port Elizabeth:
Tanette Nell
Associate Director, Corporate Tax
T: +27 82 719 2179
E: tanette.nell@kpmg.co.za

Johannesburg and Durban:
Johan Heydenrych
Head of Tax Management Services
T: +27 82 719 2468
E: johan.heydenrych@kpmg.co.za

kpmg.com/socialmedia

Download on the App Store

kpmg.com/app

www.kpmg.co.za

KPMG

BudgetWatch: Building a digital future

Get Connected
KPMG's 2019/20 Budget Summary

Finance Minister Tito Mboweni delivered his maiden National Budget address on 20 February 2019.

Key highlights

The Minister of Finance today acknowledged that, notwithstanding increases in tax rates since 2016, tax revenue as a proportion of gross domestic product has started to decline. Therefore, in order to limit the negative impact on economic growth, the 2019 budget proposals will not increase taxes in any category, but will rather aim to increase collections by not adjusting for inflation and improving the efficiency of SARS.

To achieve this, the following proposals were tabled:

- the appointment of a new Commissioner for SARS in the near future;
- the re-establishment of the Large Business Unit;
- the investigations by the Illicit Economy Unit of potential tax-related offences in high-risk sectors (such as the tobacco industry) in relation to activities highlighted by various commissions of enquiry;
- strengthening the information technology systems of SARS;
- harnessing opportunities arising from information-sharing agreements between national tax authorities; and
- the appointment of an inspector-general for tax administration.

We set out below the key proposals of the Budget Speech.

Individuals and employment proposals

- The personal income tax brackets have remained unchanged and will not be adjusted for inflation, although the rebates have been slightly increased. Medical tax credits will not increase.

- The highly contentious amendment to the foreign employment income tax exemption will come into effect from 1 March 2020. In terms of this amendment, South African tax residents who spend more than 183 days in employment outside South Africa (of which 60 days are consecutive), will be taxed on employment income earned above R1 million. It is proposed that South African employers, in implementing the amended section, will be able to reduce their monthly local employees' tax withholding by the amount of foreign taxes withheld on employment income in the foreign jurisdiction. Further consultation with taxpayers relating to their administrative concerns in implementing this amendment will take place. Any resulting amendments will be processed during the 2019 legislative cycle.

- The requirement for non-resident employers to register with SARS and submit annual and bi-annual tax returns, irrespective of whether they withhold employees' tax, will be reviewed. The purpose will be to determine whether an exclusion from registration is warranted for this type of employer.

- The income bands per the Employment Tax Incentive Act will be adjusted to partially cater for inflation. From 1 March 2019, employers will be able to claim a maximum monthly value of R1 000 per month for employees earning up to R4 500 monthly (previously R4 000). The monthly incentive value will reduce to zero at a maximum monthly income of R6 500.

- **Retirement reforms:**
  Alignment of tax treatment of annuities from provident funds upon retirement:
  Where an annuity is received as a retirement benefit from a retirement annuity or pension fund, the amount of any contributions to the fund that did not qualify for a deduction in prior tax years is tax exempt. It is proposed that the same tax treatment be applied to annuities received from provident funds, in respect of contributions made after 1 March 2016.

  Reviewing tax treatment of surviving spouse pensions:
  Spousal pension payments are subject to PAYE. Aggregation of this pension with a salary or other income may push the taxpayer into a higher tax bracket, resulting in an unforeseen additional tax liability. It has been proposed that monthly spousal pension be subject to PAYE withholding at a specified flat rate and tax rebates should not be taken into account in the calculation of spousal pensions. PAYE excessively withheld as a result of this proposal will be refunded upon assessment.

General business proposals

- Anti-avoidance rules relating to share-buybacks and dividend-stripping will be tightened. These will target new avoidance arrangements involving substantial dividend distributions followed by share issues to third parties so as to dilute a company's value.

- The current corporate reorganisation rules allow for the tax-neutral transfer of assets between group companies. It has been proposed that the legislation be amended to clarify that the transfer of certain assets held in foreign currency, as well as interest-bearing loans, be excluded from these reorganisation rules so as to tax the seller on unrealised values.

- In order to qualify for the tax-neutral transfer of assets, some corporate reorganisation rules require that one or more companies to the transaction should cease to exist after the transaction. The legislation contains a list of the steps that a company must take to meet this requirement. It is proposed that the list be amended to include deregistration by operation of law.

Business incentives proposals

- The urban development zone (**UDZ**) tax incentive, which was introduced in 2003 to encourage investment in UDZs, is due to expire on the 31st of March 2020. The possible extension of the incentive is to be considered.

- The venture capital company tax regime will be reviewed to tighten the anti-avoidance measures and prevent abuse.

Financial sector proposals

- The regulation and tax treatment of unlisted Real Estate Investment Trusts (**REITs**) that are widely held or held by institutional investors are to be considered. In conjunction, the efficiency of the current REIT regime is to be reviewed.

- The legislation will be amended to address various inconsistencies between the current REIT legislation and the corporate reorganisation rules.

- The 2018 Taxation Laws Amendment Bill proposed to tax trading profits of some collective investment schemes as revenue rather than capital. Based on feedback received, National Treasury has agreed to work with affected stakeholders during the 2019 legislative cycle to find solutions to address the taxation of trading profits.

International tax proposals

- Given the global trend to reduce corporate tax rates, a reduction is proposed to the current percentage threshold for the comparable tax exemption (i.e. the exemption from the controlled foreign company (**CFC**) provisions, for the benefit of CFCs in jurisdictions with tax rates comparable to South Africa).

- The current definition of a "permanent establishment" in the Income Tax Act follows the widened OECD definition of the term. Actual South African treaties, however, use a narrower definition. A limitation on the current definition in the Income Tax Act, to align it with the one used in double tax treaties, will therefore be considered.

- South African transfer pricing legislation applies to transactions between "connected persons", as defined in tax legislation. It has been proposed that the application of transfer pricing rules be aligned with the OECD definition, which uses the wider term "associated enterprises".

- South Africa already has measures in place to address the erosion of its tax base through excessive debt financing, However, as part of the proposed tax policy review, Minister Mboweni has proposed that these rules need to be reviewed against best practices to ensure that there is the right balance between attracting capital and investment, and adequately protecting the corporate tax base.

Value-Added Tax (VAT) proposals

- SARS has been tasked with expediting the payment of VAT refunds, which currently amount to R31 billion.

- From 1 April 2019, regulations will expand the scope of electronic service providers who are required to pay VAT in South Africa. These regulations exclude electronic services supplied between companies in a "group of companies", if a non-resident company supplies such services to a domestic company within the same group. The regulations define "group of companies" to include two or more companies that hold shares in at least one other company such that 100% of equity shares in each controlled company are directly held by the controlling company in the group.

- However, this 100% shareholding requirement may exclude companies who are not 100% owned because of employee incentives or other empowerment programmes. It is therefore proposed that the definition will be changed to cater for this. The change will come into effect on 1 April 2019.

- It is proposed that the transfer of a long term reinsurance policy will be included as an exempt financial service.

- The VAT Act currently provides relief to companies in a group who restructure using the income tax corporate reorganisation rules.

- However, this relief does not always apply where fixed property is transferred which does not qualify as a going concern. It is proposed that the VAT treatment in these circumstances will be clarified.

- White bread flour, cake flour and sanitary pads will be zero rated from 1 April 2019.

Environmental tax proposals

- The energy-efficiency savings tax initiative, which provides an income tax deduction for energy efficiency savings of 95c per kilowatt hour, will be extended until 31 December 2022.

- Carbon tax, which imposes an initial levy of R120 per tonne of carbon dioxide equivalent above stipulated tax-free allowances, takes effect from 1 June 2019. Related draft rules will be released by March 2019**.**

- National Treasury will publish a white paper in 2019 to consider new taxes to address air pollution, climate change, efficient water use and ways to restrict and recycle "single-use" plastics.

Tax administration proposals

- In order to counter perceived offshore structures designed to avoid financial account reporting under the OECD's Common Reporting Standard, it has been proposed that South Africa implements rules in line with the OECD's mandatory disclosure rules. In addition, penalties for contravention, similar to those currently in force for non-compliance with the reportable arrangement rules, have been proposed.

Miscellaneous proposals

- Draft legislation introducing a gambling tax in the form of a 1% levy will be published for public comment.

- The oil and gas tax regime will be reviewed in light of the Government's failure over the past 5 years to approve any fiscal stability agreements (i.e. agreements that freeze the headline tax rates and rules applying to oil and gas companies).

Customs and Excise Duty proposals

- **Customs and excise rate increases:**
  Specific excise duties: With effect from 20 February 2019, specific customs and excise duties are increased. On most alcoholic beverages the rate increased by between 7.4% and 9%, (excluding traditional
  African beer and beer powder which remain unchanged). The rate of duty on cigarettes and cigarette tobacco increased by 7.4% and pipe tobacco and cigars increased by 9%.
  *Health Promotion Levy**:*** From 1 April 2019, the health promotion levy will be increased to 2.21 cents per gram in excess of 4 grams of sugar per 100ml.
  General Fuel Levy & Road Accident Fund Levy: The General Fuel Levy for 2019/2020 is increased by 15c/li to 352c/li and 337c/li for petrol and diesel, respectively. The Road Accident Fund Levy will increase by 5c/li to 198c/li. These increases will take effect on 3 April 2019.
  Carbon tax: From 5 June 2019, a carbon tax of 9c/li on petrol and 10c/li on diesel will become effective.