

DRAFT TAX ADMINISTRATION LAWS AMENDMENT BILL

Standing Committee on Finance

Presenters: National Treasury and SARS | 30 July 2014



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

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Dividends tax refund – dividends *in specie*

[Clause 4, section 64MA of ITA]

- Companies are required to obtain declarations and written undertakings from their shareholders to avoid payment of dividends tax in respect of distributions of dividends *in specie*
- e.g. An unbundling company is liable for the dividends tax on the shares it distributes to its shareholders unless the shareholders have submitted a declaration that the dividends are exempt or that a reduced dividends tax rate may be applied
- If a company had to pay dividends tax as a result of not being in possession of shareholder declarations, the proposed amendment will allow the company to claim a refund of tax paid to SARS once such declarations are obtained

Proposed amendments to provisional tax system

[Clauses 7 – 10, paragraphs 18 – 20A of 4th Schedule to ITA]

- **Paragraph 18:** Align exemptions from payment of provisional tax for people older and younger than 65 & increase threshold to R30 000 for taxable income derived from interest, rent etc. proposed for all persons
- **Paragraph 19:** Ensure that certain amounts included under “gross income” are excluded from “basic amount” due to the irregular and once-off nature of these amounts
- **Paragraph 20:** Resolve problem that rebates are not taken into account when underestimate penalty is calculated & clarify that if no estimate is submitted this is equivalent to a nil estimate
- **Paragraph 20A:** Repeal of penalty for not submitting a provisional tax estimate in time as a late underestimation of provisional tax, with consequent late payments, may result in penalties under paragraphs 20 (underestimation), 20A (late estimate) and 27 (late payment)

Compulsory tariff determinations – alcoholic beverages

[Clause 15, section 47 of C&E Act]

- It is proposed that liquor manufacturers be compelled to apply to SARS for tariff determinations on their alcoholic beverages to obtain certainty on the appropriate tariff classification and excise duty rate applicable to their products
- Compulsory tariff determinations will ensure that all alcoholic beverages are accurately and consistently classified, the correct taxes are collected and that the beverages comply with the requirements of the Liquor Products Act, 1989
- A phased approach to the introduction of compulsory tariff determinations will be followed, beginning with the highest risk products
- Beverages that change their production processes, recipes, alcoholic strength or brand name will require a new tariff determination

Exchange of information for customs and excise purposes

[Clauses 16 and 17, section 50 and 101B of C&E Act]

- It is proposed that the exchange of information provisions of section 50 specifically deal with the automatic exchange of information and the uses to which such information may be put
- Section 101B provides for the protection of advance passenger information and the proposed amendments extend the protection to the exchange and automatic exchange of personal information in terms of international agreements and thus also protect trader information
- The proposed amendments include amendments that the Commissioner may now obtain and use personal information for the administration of the Customs and Excise Act and international customs cooperation agreements
- The Commissioner must be satisfied that the recipient of information is subject to a law with similar protection of information principles
- The proposed amendments empower the Commissioner to specify conditions under which information will be exchanged

Elimination of the four monthly VAT filing category

[Clause 26, section 27 of VAT Act]

- The four-monthly VAT filing category was introduced in 2005 to assist small businesses
- Subsequently, other measures were introduced to assist small businesses
- During 2012/13 fewer than 100 vendors, with only R44 million output VAT and R23 million input VAT, were registered for this filing category
- The proposed amendment eliminates this category and brings the registered vendors into the bi-monthly VAT filing category

Preventing the unlawful use of SARS intellectual property

Automatic exchange of information

[Clause 32, section 30 of SARS Act, clauses 34, 35 and 36, sections 1, 3 and 26 of TAA]

Preventing unlawful use of SARS's intellectual property

- Fraudulent or misleading use of SARS's names and logos has become prevalent and is aggravated by their improper and unauthorised use in domain names, the internet and social media
- Amendments are proposed to:
 - broaden SARS's protection against unlawful use of its intellectual property
 - protect the public from fraudulent schemes and misrepresentations of SARS's names and logos on the internet, in media as false advertising and on goods

Automatic exchange of information

- The new international standard for the exchange of information for tax purposes is automatic exchange of information
- Amendments are proposed to improve the framework for automatic exchange of information and related due diligence obligations on third parties.

Reportable arrangements

Tax clearance modernisation

[Clauses 37- 42, sections 34 – 39 of TAA, clause 57, section 256 of TAA]

Reportable arrangements

- Proposal to include tax evasion under the term “tax benefit” to provide greater certainty as to what is meant by a “tax benefit” for purposes of the reportable arrangement scheme
- Other proposed amendments seek to clarify:
 - Reporting obligations of the promoter of an arrangement and all of the participants
 - When the reporting obligations arise

Tax clearance modernisation

- Current legislation is largely built around the model of a tax clearance certificate
- Proposed amendments cater for a full transition to a real time confirmation of a taxpayer’s tax compliance status