**2. Report of the Standing Committee on Finance on the Tax Administration Laws Amendment Bill [B39 - 2018] dated 14 November 2018**

The Standing Committee on Finance, having considered and examined the **Tax Administration Laws Amendment Bill [B39 - 2018]** (National Assembly- section 75), referred to it, reports the Bill with amendments [B39A– 2018].

1. **INTRODUCTION**
   1. The 2018 Tax Administration Laws Amendment Bill (TALAB) was tabled in the National Assembly on the 24 October 2018. The TALAB proposes to amend the Income Tax Act; the Income Tax Act, 1962; the Customs and Excise Act, 1964; the Value-Added Tax Act, 1991; the Securities Transfer Tax Act, 2007; the Tax Administration Act, 2011, and the Customs Control Act, 2014.
   2. National Treasury (NT) and the South African Revenue Service (SARS) briefed the Standing Committee on Finance (SCoF) on the draft bills on 16 August 2018. On 21 August 2018, SCoF held public hearings on the draft bills. On 12 and 13 September 2018, NT and SARS replied to key proposals on the draft bills made by stakeholders during the public hearings. On 2 October 2018, NT and SARS gave an update to the SCoF sub-committee meeting on the steps taken in addressing the key issues raised during consultation process in the draft bills. On 17 October 2018, NT and SARS updated the SCoF on the proposed changes to the key issues raised during consultation process in the draft bills. On the 13 November, SCOF received another briefing on the tabled Taxation Laws Amendment Bill (TLAB) and TALAB.
   3. TALAB contains several amendments, but this report will deal mainly with the amendment introduced by the Committee in this Bill as a response to the 1 percent VAT increase provided for in section 9 of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2018
2. **1 PERCENT VAT INCREASE**
   1. Section 9of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2018 provides for an increase of VAT from 14 to 15 percent.
   2. The Committee had three sets of public hearings and other extensive engagements on the VAT increase with stakeholders from March 2018.
   3. There was almost unanimous opposition to the VAT increase from a wide range of stakeholders. Certainly, the Committee has not experienced such widespread opposition to a tax proposal during this term of Parliament. It may well be that it has been one of the most contested tax provisions since 1994 and it was certainly the most challenging the Committee has had to process this fifth term of Parliament.
   4. In response, the Minister of Finance appointed a panel of experts to consider the list of zero-rated items, the inclusion of additional zero-rated items and mitigating measures to the impact of the increase to poor households. The Panel led by Prof Ingrid Woolard received submissions and consulted widely.
   5. The VAT Panel reported that through public submissions a total of 66 items were submitted for zero-rating. Eight of these items were considered by the Panel. These were baby food consisting predominantly of milk, bread flour, cake flour, disposable nappies, poultry, sanitary products, school uniforms, and white bread.
   6. The Panel concluded that there are good equity reasons to zero-rate bread due to its proportional consumption by lower income deciles.
   7. On white and brown flour, the Panel said that these items are used proportionally more by the lower income deciles, therefore there were good economic and social reasons for them to be zero-rated.
   8. The Panel stated that consumers spend between R4.5 billion to R10 billion per year on school uniforms and the VAT payment is significantly a larger proportion amount for poor households compared to rich households. The report argued that school uniforms are a merit good therefore worthy of support from public finances. Uniforms are also a compulsory purchase for all households that have school-going children, and therefore low-income households have no choice but to purchase uniforms. The Panel said there was therefore a strong rationale for zero-rating school uniforms. However, there are a number of complications which need further investigation and finalization before this can feasibly be done.
   9. The Panel noted the concerns raised about the use of baby formula and how it can affect the health of babies. Formula use is associated with higher death rates in low-income countries, where households do not have access to clean water and where the high costs may lead parents to dilute it excessively. At the same time, it is recognised that many mothers cannot rely exclusively on breastfeeding due to a variety of reasons including work commitments and HIV. According to the Stats SA’s Living Conditions Survey (LCS) data, it is estimated that zero-rating formula would come at a cost of only R122 million (in 2018 prices) in revenue forgone.
   10. The report noted that women between the ages of 13 and 55 need some form of sanitary towel on a monthly basis. VAT on sanitary products made women pay additional taxes compared to men based only on their biology - and this is inequitable. The LCS research also said that poor households cannot afford all the sanitary products they require. The reported further said that zero-rating sanitary products will have only a limited impact on improving women’s access to sanitary products in low-income households. The Panel thus recommended that sanitary products be zero rated, but this should be done together with the provision of free access to sanitary products for low-income women.
   11. The report stated that on an annual basis, a new-born child requires a diaper change every three hours, which amounts to 8-10 disposable nappies per day. The report noted that disposable nappies are convenient especially when one is travelling or working, hence preferred by most mothers as they are less bulky compared to the cloth nappies. They are also preferred by struggling families because of the lack of washing machines, electricity and water. Zero-rating nappies would provide, the Panel said, tax relief of approximately R538 million to households in deciles 1 to 7 (in 2018 prices).
   12. The Panel did not reach a unanimous decision on zero-rating on poultry. During the Public Hearings of SCOF, strong submissions were made for the zero-rating of poultry- particularly chicken as it is the staple and most accessible, in terms of price, to lower income households.
   13. In processing this report, the SCoF noted that the Panel referred to the need for sanitary pads for 13 to 55 year olds, but there are some children under 13 who also need sanitary pads.
   14. The SCoF from the outset expressed its serious reservations about the VAT increase, among other reasons, because of its negative effects on the poor and lower income earners who are stressed enough as it is; the increases in fuel prices; job losses; the increases in the cost of living; and the widespread opposition to the increases. The presentations made to the Committee opposing the VAT increase have not been based solely on moral grounds, but have included strong technical arguments, based in cases on inputs by economists.
   15. However, the Committee is acutely aware of the financial crunch and the severe constraints on the budget and the desperate need to raise additional revenue. The pressures have emerged more glaringly with the introduction of the MTBPS (Medium Term Budget Policy Statement), which, estimated 0,7% economic growth and unexpectedly, forecast that there will be a R27,4 billion shortfall of revenue this financial year, which includes R20 billion of VAT refunds that have been withheld.
   16. We welcome NT’s zero-rating of the additional items of white bread flour, cake flour and sanitary pads, as well as the decision to provide free sanitary pads to learners. We believe though that there can be more targeted expenditure to cushion the effects of specifically the VAT increase on the poor by re-prioritizing within the expenditure ceiling, and NT needs to effectively consider the possibilities of increasing the allocation of free water and electricity to indigent households and vouchers for uniforms for learners at no fee schools for locally produced school uniforms.
   17. More than ever, parliament and government have to ensure that more revenue is secured through considerably strengthening SARS capacity to raise more; drastically reducing wasteful expenditure and more effectively tackling the illicit economy and corruption. Much more also needs to be done to stop the funding of ineffective and underperforming programmes and re-prioritising spending. More revenue will also flow from investment, economic growth and job-creation.
   18. We believe that the increase has to be reluctantly accepted, but should be reviewed at the end of the third year of its implementation, 1 April 2021, following an evaluation of the impact of the rate on revenue collection and the poor. The Committee introduced an amendment to the TALAB, clause 28, which reads: “The Minister shall review the amendment to the rate in section 9  of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2018, following an evaluation of its impact on revenue collection and the poor and shall table a report in writing to Parliament by no later than 30 June 2021.” The amendment was introduced in the TALAB because it does not affect the numbers for the MTEF period and as the TALAB is a Section 75 Bill that is not classified as a Money Bill the amendment does not have to go through the process set out in the Money Bills Amendment Procedure and Related Matters Act.
   19. Questions have been raised about whether the process of introducing the VAT increase as a fait accompli was necessary given that VAT is seen as an “indirect” tax and did not need the immediate implementation or “surprise” element required for direct taxes or “sin” taxes. This is a matter that the SCoF will engage with NT on further
   20. The Committee believes that our approach to the VAT increase both provides certainty for the fiscus in raising the revenue required for the MTEF period and allows for a review taking into account future economic and financial conditions.
3. **OTHER AMENDMENTS IN TALAB**
   1. In respect of the proposal to permit the correction of tax invoices for value-added tax purposes, this was widely welcomed but a number of technical suggestions were made to ensure the timing of the original transaction was not affected by the correction, to ensure that the proposal was consistent with a wide variety of South African accounting systems and to clarify the type of errors that could be corrected. The TALAB contains changes to address these suggestions.
   2. In respect of the proposal to deregister tax practitioners, who were themselves non-compliant with their tax return and payment obligations, as tax practitioners, concerns were expressed that the originally proposed period of three months non-compliance over a six month period that would trigger the process was too short in view of the annual membership cycle of recognised controlling bodies and the consequences of deregistration. The concern was also expressed that tax practitioners should be given an explicit opportunity to make a submission that they were not, in fact, non-compliant before deregistration. The TALAB makes provision to only sanction cumulative non-compliance of six months over a twelve month period and to give affected tax practitioners an explicit opportunity to make a submission that they were not, in fact, non-compliant before deregistration.

The Democratic Alliance (DA) reserve their position on the Bill

Report to be considered