UPDATE ON THE 2019 TAX BILLS

Select Committee on Finance

Presenters: National Treasury and SARS | 27 November 2019

national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Consultation process

- The 2019 Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill (Draft Rates Bill), the 2019 Draft Taxation Laws Amendment Bill (Draft TLAB) and the 2019 Draft Tax Administration Laws Amendment Bill (Draft TALAB) were published for public comment on 21 July 2019.
- National Treasury and SARS received written comments from 77 organisations and 600 individuals on the Draft tax bills by deadline of 23 August 2019.
- National Treasury and SARS briefed the SCoF and the SECoF on the draft tax bills on 3 September 2019.
- Oral presentations by taxpayers and tax advisors on the draft tax bills were made at hearings by the SCoF and the SECoF on 10 September 2019.
- Workshops with stakeholders to discuss their comments on the 2019 draft tax bills were held by National Treasury and SARS on 5 and 6 September 2019.
- On 18 September 2019, National Treasury and SARS presented to the SCoF and the SECoF a draft response document containing a summary of draft responses to public comments received on the draft tax bills.
- The 2019 tax bills were introduced by the Minister of Finance in the National Assembly on 30 October 2019.
- The SCoF voted on the 2019 tax bills on 20 November 2019.
- The 2019 tax bills were debated in the National Assembly on 26 November 2019.
- Today, 27 November 2019, National Treasury and SARS are briefing the Select Committee on Finance on key issues in the tax bills.

Key issues raised in the 2019 tax bills

Key amendments in the 2019 tax bills that received the most comments are the following:

2019 Rates Bill

- Increase on excise duty on tobacco

2019 TLAB

➢ **Employment, Individuals and Savings**

- Reviewing the tax treatment of surviving spouse pensions

➢ **Business Tax (Incentives)**

- Reviewing the Special Economic Zone (SEZ) tax incentive regime
- Reviewing the venture capital company tax incentive regime

➢ **Customs and Excise Act**

- *Ad valorem* excise duty on motor vehicles

➢ **Carbon Tax Amendments**

- Technical corrections

2019 TALAB

- Removal of per payment declaration that royalties and interest are exempt or subject to a reduced rate, introduction of expiry period for declarations and undertakings
- Extension of notice period to institute legal proceedings against the Commissioner

Changes to the 2019 TLAB

- Since National Treasury and SARS last briefed both the SCoF and SECoF on the draft response document containing a summary of draft responses to public comments received on the draft bills on 18 September 2019, the following occurred:

- **Before the introduction of the tax bills in Parliament**
  - Changes were made to the tax bills in accordance with the draft response document, in particular, changes to section 12J of the Income Tax Act dealing with VCC Tax Incentive Regime
  - Based on the consultation process with the stakeholders, further changes were made to the 2019 TLAB by removing the proposed changes to the ad valorem excise duty formula on motor vehicles.

- **After the introduction of the tax bills in Parliament**
  - Following the introduction of the tax bills, a technical correction was made to the definition of "hybrid equity instrument" in clause 8 of the 2019 TLAB to explicitly refer to amounts paid to redeem or repay some or all of the original issue price of the shares.
  - The change to clause 8 of the 2019 TLAB is a technical correction because it aims to amend a legislative text because the current legislative text does not reflect the policy intent.

Venture Capital Company Tax Incentive Regime: Section 12J of the Income Tax Act

Reviewing the allowable deduction for investors investing in a VCC

- In the Draft 2019 TLAB that was published for public comment on 21 July 2019, proposed changes were made to the VCC tax incentive regime to limit the upfront amount to be deducted in respect of taxpayers investing in VCC shares to R2.5 million.
- During the public hearings, taxpayers especially within the VCC fund manager segment made written and oral presentation to Parliament that the proposed cap would limit the viability of VCC funds and makes VCC an undesirable investment for corporate investors.
- In the presentation of the draft response document, National Treasury proposed that legislative amendments be made in the 2019 TLAB to amend the limitation of the amount to be deducted in respect of taxpayers investing in a VCC to distinguish between natural persons and corporate investors.
- As a result, in the 2019 TLAB that was introduced by the Minister in National Assembly, the cap was revised as follows:
  - Natural persons: R2.5 million
  - Corporate investors: R5 million

Ad Valorem Excise Duty on Motor Vehicles

Ad valorem excise duty on motor vehicles

- In the Draft 2019 TLAB that was published for public comment on 21 July 2019, proposed changes were made to revise the *ad valorem* formula on excise duty on motor vehicles to be based on the full customs value without factoring in the rebates.
- During the public hearings, South African OEM's made written and oral presentation to Parliament that the benefits (incentives & duty rebates) offered by the APDP contribute to the competitiveness of SA's OEM exports. Furthermore the reduced incentives under SAAM, combined with a further benefit reduction in rebates on excise duties will substantially impair production competitiveness to the disadvantage of local production.
- After the presentation of the draft response document, National Treasury held further meetings with the motor industry from 18 September 2019 to 17 October 2019 to discuss the issue further. During these meetings, it became apparent that the ADPD incentive structure enables OEMs plant global competitiveness, and the proposed amendment and formula revision will have negative impact on OEMs plant global competitiveness and further investment opportunities in the country.
- As a result, proposed changes to the *ad valorem* excise duty formula on motor vehicles were removed from the 2019 TLAB that was introduced by the Minister in Parliament.

Technical correction to the definition of “hybrid equity instrument” in clause 8 of the 2019 TLAB

Technical correction to the definition of "hybrid equity instrument" in clause 8 of the 2019 TLAB

- After the 2019 TLAB was introduced, one technical error related to clause 8 of the 2019 TLAB was brought to our attention.
- The technical correction relates to the definition of "hybrid equity instrument, which is aimed at clarifying the scope of that definition, and does not involve any change in tax policy.
- The current definition of "hybrid equity instrument" that is contained in clause 8 of the 2019 TLAB has unintended effect of covering all dividends received in respect of preference shares which are regarded and taxed as income, instead of being taxed as dividends under specific circumstances.
- In order to amend the legislative text, a technical correction was made to the definition of "hybrid equity instrument" in clause 8 of the 2019 TLAB to explicitly refer to amounts paid to redeem or repay some or all of the original issue price of the shares. This will satisfy the intention of excluding dividends and foreign dividends from the scope of this definition.
- The technical correction in clause 8 of the 2019 TLAB entails replacing the following words "***determined with reference to***" with the words ***"constituting a return of"***
- The above-mentioned change is a technical correction because it aims to amend a legislative text because the current legislative text does not reflect the policy intent. In turn, the amendment was never aimed at influencing tax burden or at raising revenue, but was aimed at textual clarification, which is revenue neutral.

THANK YOU