**Report of the Standing Committee on Finance on the Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25 - 2022] (National Assembly- section 77), dated 15 November 2022**

The Standing Committee on Finance, having considered the Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25 - 2022] (National Assembly- section 77) referred to it and classified as a Money Bill, reports the Bill as follows:

1. **INTRODUCTION AND BACKGROUND**
   1. The Rates and Monetary Amounts and Amendment of Revenue Laws Bill (Rates Bill) was tabled in Parliament by the Minister of Finance (“Minister”) on 26 October 2022, together with the 2022 Medium-Term Budget Policy Statement (MTBPS). The Rates Bill is a section 77 (of the Constitution) Bill dealing with national taxes, levies, duties and surcharges.
   2. The Bill was preceded by the publication of the draft version, published with Budget 2022 on 23 February and on 29 July 2022, to solicit public comment.
   3. The Rates Bill gives effect to changes in rates and monetary thresholds to the personal income tax tables and increases of excise duties on alcohol and tobacco. It also contains changes tabled by the Minister on 31 March and 31 May 2022 regarding temporary relief on the fuel levy as well as the postponement of the effective date of an increase in the health promotion levy.
2. **PUBLIC PARTICIPATION** 
   1. The Committee was briefed by National Treasury (NT) and the South African Revenue Service (SARS) on the Draft Rates Bill on 23 August and held public hearings on 13 September 2022.
   2. On 20 September, NT and SARS presented detailed draft responses to the Draft Rates Bill to the Committee, addressing all the comments made during the public hearings and Committee briefings and deliberations.
   3. NT and SARS reported that on 29 August they had received written public comments from 27 organisations and 80 individuals, which they responded to during their consultation process. They also hosted workshops with stakeholders on 8 and 12 September 2022.
   4. The Committee received written and oral submissions from the following organisations and/or individuals: Congress of South African Trade Unions (COSATU), British American Tobacco South Africa (BATSA), Beer Association of South Africa, Philip Morris South Africa (Pty) Ltd, South African Breweries, Tobacco, Alcohol and Gambling Advisory.
3. **OVERVIEW OF THE KEY TAX PROPOSALS IN THE DRAFT RATES BILL**
   1. The Rates Bill gives effect to changes in rates and monetary thresholds to the personal income tax tables and increases of excise duties on alcohol and tobacco. It also contains changes tabled by the Minister on 31 March and 31 May 2022 regarding temporary relief on the fuel levy as well as the postponement of the effective date of an increase in the health promotion levy.
   2. On 31 March 2022, the Ministers of Finance and Mineral Resources and Energy issued a joint statement detailing measures to cushion the impact of large, expected increases in the prices of petrol and diesel. The relief included a two-month reduction in the general fuel levy of R1.50 per litre from 6 April 2022, reducing the levy by 40 per cent, at a fiscal cost of around R6 billion. This amount was to be funded through the sale of strategic oil stocks and would not have an impact on the fiscal framework. Government announced additional measures that were intended to come into force at the end of the two-month period, including the removal of the demand side management levy of 10 cents per litre for 95 unleaded petrol for the inland market, a reduction in the basic fuel price of 3 cents per litre and the introduction of price cap (maximum price) for 93 unleaded petrol to promote competition and reduce prices.
   3. On 31 May 2022, after further price increases, government extended for another two months in a statement issued by the Ministers of Finance and Mineral Resources and Energy. However, unlike the previous relief, the loss in revenue could not be paid for through further sales of strategic oil stocks and will have an impact on the fiscal framework. It was expected that the second relief will lead to around R4 billion in revenue foregone.
   4. On the delayed increase to the health promotion levy (HPL) for one year, the 2022 Budget stated that the HPL would be increased by 4.5 per cent to R2.31 cents per gram from 1 April 2022. Further announcements were made in the 2022 Budget to start consultations on lowering the 4g of sugar per 100ml threshold and to extend the levy to fruit juices. However, on 1 April 2022, after consultation with the Ministers of Agriculture, Land Reform and Rural Development and Trade, Industry and Competition, the Minister of Finance released a media statement announcing the delay in the implementation of the increase in the HPL to 1 April 2023 to allow further consultations. The consultations would begin after the release of a discussion paper on extending the HPL to 100% fruit juices and lowering the 4g per 100ml threshold.
4. **KEY ISSUES RAISED IN THE PUBLIC HEARINGS**
   1. Most of the comments received were on the general increase in the excise duty on alcohol and tobacco by between 4.5 and 6.5 per cent (Main reference: Schedule No 1 to the Customs and Excise Act, 1964: clause 5 of the Draft Rates Bill), the South African government has a guideline to direct excise duty policy where duty should be 11, 23 and 36 per cent of weighted average retail price for wine, beer and spirits and 40 per cent of price of most popular brand for cigarettes. In 2022, excise duty changes of between 4.5 per cent (inflation) and 6.5 per cent were proposed.

**Alcohol**

* 1. Comments were received from industry about the delayed review of the excise on alcohol policy that the Minister of Finance announced will be undertaken in the 2021 Budget. Commentators stated that there had been no feedback received from National Treasury on the status of the review or when the discussion document will be released for public comment.
  2. The National Treasury responded that it was busy finalising the review paper and once completed, all the stakeholders will be informed, and a consultative process initiated. It said that there have been several developments in the alcohol industry, the regulatory framework and the excise policy framework need to keep up with all these developments.Any structural changes to the excise policy framework will first be consulted with all stakeholders before implementation.
  3. Other comments argued that there were many reasons why people drink alcohol and none of the consumption reasons relate to the cost or affordability of alcohol. They submitted that leveraging pricing policies was unlikely to address irresponsible drinking as it was not addressing the underlying drivers of alcohol consumption. It was further submitted that targeted policies or interventions that address the specific drivers were more likely to have a lasting impact than disproportionate polices that erode overall value to society.
  4. The National Treasury partially accepted the latter comment, stating that the problems related to alcohol consumption and abuse require a comprehensive package of tax and non-tax measures to address them effectively. It stated that excise policy is a cost effective, key component of the package of measures as consumers do change their spending behaviour based on prices. It added that a lot more still needed to be done on non-tax measures to address the problem of excessive alcohol consumption. The World Health Organisation (WHO) has identified some of the alcohol policy “best-buys”, which include increasing alcohol beverage excise taxes, enacting and enforcing bans or comprehensive restrictions on exposure to alcohol advertising (across multiple types of media), and enacting and enforcing restrictions on the physical availability of retailed alcohol (via reduced hours of sale), amongst others.
  5. Other comments addressed the issue of tax incidence over the past six years and its compounding impact which have shown a cumulative deviation of 17,03% (marginally down from 2021). It was stated that there were significant impacts of excise duty increases on the value chain which are ultimately absorbed by consumers at nearly double the intended excise duty rate. It was submitted that a rise in excise duties should ideally be in line with or below the inflation rate.
  6. Other commentators suggested that the excise duty rate be fixed to enable investors to have some certainty and plan accordingly. Other commentators decried the different treatment of various categories of alcohol, particularly that of beer and spirits, which were treated unfavorably as compared to wine. Others submitted that the current regime of varying excise duty payment terms is inequitable. They stated that the Customs and Excise Act rules set out varying payment terms for the various alcoholic products ranging from 30 days in the case of beer to 130 days in the case of spirituous beverages. It was submitted that the payment terms for the collection of excise duties be uniformly applied across all alcoholic products.
  7. Most of these comments were noted by the National Treasury, deferring some issues to the policy review process underway. On the issue of differential treatment of different beverages, National Treasury noted that beer is the preferred alcoholic beverage and dominates the alcoholic beverage market. It noted that it accounted for approximately 75 per cent of total alcoholic beverage consumption by volume, with alcoholic fruit beverages and spirit coolers at 12 per cent, wine at 10 per cent, and spirits at 3 per cent. If further added that industry data further estimated that beer represents about 51.4 per cent of the market based on absolute alcohol content and about 65.75 litres per capita consumption for individuals 15 years and older compared to wine estimates of 16 per cent and 8.61 litres in 2021.
  8. The National Treasury further clarified that the current differential excise duty payment terms for the respective alcoholic beverage product categories reflected the unique product-specific characteristics. It said that excise duties are collected at a manufacturing level under the duty-at-source administration but are consumption taxes for which the tax costs are recovered by industry from consumers. It said that the lengthy maturation periods of wine and spirits meant that these industries typically must bear the costs of excise duties on their products for several years before they can be recovered from consumers, while the beer industry is in the favourable position to market its products and recover excise duty paid by it much sooner. The National Treasury said that the impact of these factors on the cash flow of the respective industries are reflected in the differential historical payment terms. Nonetheless, SARS in its 2019 discussion document expressed its intention to review and explore uniform payment terms during the process to rewrite the excise legislation.

**Tobacco**

* 1. Comments were received commending the National Treasury for taking a far more balanced approach in respect of the current 2022/2023 excise increase than was seen in the 2021/2022 fiscal year. It was submitted that high increases as seen in 2021/22 financial year (i.e. an 8% excise increase) would be unsustainable for the legal tobacco industry.
  2. Other commentators decried the increase on the excise rate on cigarettes by 5.5%. It was submitted that this excise hike had placed the excise incidence on cigarette’s Most Popular Price Category (“MPPC”) at 45% compared to a targeted incidence of 40% as per the National Treasury’s excise policy. It was said that the total tax incidence on the MPPC currently sits at 58.1% against the background of falling consumer affordability and unprecedented levels of illicit trade.
  3. Others recommended that National Treasury should revise the base on which the current excise increase is determined, submitting that the Peter Stuyvesant brand should no longer be used as the MPPC. It was argued that in line with global best practice, South Africa’s fiscal policy on cigarettes should be determined on Weighted Average Price (“WAP”) in the market.
  4. The National Treasury noted most of these comments and rejected some submissions. It noted that although the proposed increases kept the tax incident above the 40 per cent policy guideline of government, it is the industry that has continued to absorb a portion of the excise increases instead of passing them down to consumers. National Treasury said that this behaviour by industry leads to an overestimated tax incidence which then undermine Government policy intentions of reducing consumption and improving public health. The National Treasury emphasised that the excise increases by Government seek to ensure that tobacco products do not become affordable over time as this will increase consumption of tobacco products, which goes against public health policy objectives. It said that the excise policy framework for tobacco products is currently under review and once completed, all the stakeholders will be consulted.
  5. The National Treasury rejected the submissions that Government change from the MPPC to WAP, as that will result in fundamental or substantive policy change with significant ramifications for tobacco control policy in South Africa. It said that the current benchmarking using MPPC already has differential impacts on cigarette products in terms of excise burdens, so National Treasury does not envisage a situation where there is a reversal on the current levels of excise duty rates. However, the excise policy framework for tobacco products is currently under review and some of these issues will be considered and inputs from all stakeholders will also be considered.
  6. Comments were also received regarding the illicit tobacco trading in the country. It was submitted that the macro-economic environment in South Africa was worsening, and consumers were being further stretched. It was submitted that Duty Paid (“DP”) cigarettes were becoming less affordable to consumers, who were moving at a rapid rate to the illicit Duty Not Paid (“DNP”) cigarette market. It was submitted that a consequence of this is that South Africa now has one of the highest illicit cigarette trade levels in the world, at approximately 62% of consumption. It was submitted further that most of all consumption (illicit and licit), approximately 80%, takes place in the informal trade. It was further highlighted that the informal trade is dominated by single stick sales, and given the DNP price points, the legal market can simply not compete.
  7. The National Treasury acknowledged that the problem of illicit trade undermines the health and excise policy objectives. However, the problem of illicit trade is an act of criminality and cannot be dealt with through excise rate adjustments but needs to be effectively addressed through robust compliance and law enforcement mechanisms. The National Treasury pointed out that SARS has been investigating and clamping down on the illicit economy focusing on the tobacco, gold and fuel industries, and this has resulted in many enforcement actions taken. It further assured that SARS was harnessing its capabilities to make non-compliance with legal tax obligations hard and costly to those who are engaged in criminal activities.
  8. The National Treasury further stated that the Department of Health was leading Government on the matter of ratifying the World Health Organisation's Protocol to Eliminate Illicit Trade in Tobacco Products. As part of the Protocol, the National Treasury said, South Africa would be required to consider developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.

1. **COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**
   1. The Committee notes that the 2022 Budget contained no measures to raise additional tax revenue. The Committee notes further that this was done in order to support households and businesses.
   2. The Committee further notes and welcomes the tax relief provided in March and May 2022 to support households by not adjusting the general fuel levy and the Road Accident Fund levies, while fully adjusting the personal income tax brackets and rebates for inflation. The Committee still awaits the finalization of the fuel levy review announced by the Minister of Finance, given the ever-increasing fuel prices which are putting a strain on households and the economy.
   3. The Committee further notes and welcomes that excise duties on tobacco were increased by only 5.5 per cent, which most in the industry are happy about, compared to the 8 per cent increase last year. The Committee believes that the review of the excise policy on alcohol and tobacco has delayed as it was announced with the 2021 Budget Review. The Committee acknowledges the assurance from the National Treasury that it is finalizing this review paper which will then be released for public comment.
   4. The Committee notes that the illicit trade in alcohol and tobacco is a serious problem and believes more needs to be done in terms of compliance and law   
      enforcement mechanisms to curb this.
   5. The Committee notes that the implementation of the proposed HPL price increase has been postponed until 1 April 2023 following consultation by the Minister of Finance with the Ministers of Agriculture, Land Reform and Rural Development and Trade, Industry and Competition. The Committee notes that further consultations would begin after the release of a discussion paper on extending the HPL to 100% fruit juices and lowering the 4g per 100ml threshold.
2. **CONCLUSION**
   1. The Committee reports the Bill.

The Democratic Alliance reserves its position.

Report to be considered