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The South African Institute of Chartered Accountants

Ref: 216166
Call for comment

04 August 2008

The Secretary to Parliament
Attention: Mr Bradley Viljoen
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By e-mail: bviljoen@parliament.gov.za

Dear Sir

CALL FOR COMMENT: MONEY BILL AMENDMENT PROCEDURE AND RELATED MATTERS

We refer to your call for comment regarding the Draft Money Bill Amendment Procedures and Related Matters Bill [2008] ("the Draft Bill"). Set out below please find SAICA's comments, which have been provided by members of our National Tax Committee.

1. General

- 1.1 We note the reference to section 73(2) of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), which provides that only the Cabinet member responsible for national financial affairs may introduce a Money Bill in the National Assembly. A Money Bill is defined in section 77(1) as a Bill that appropriates money; imposes, abolishes or reduces, or grants exemptions from national taxes, levies, duties or surcharges; or, authorises direct charges against the National Revenue Fund, except a Bill envisaged in section 214 (dealing with equitable shares and allocation of revenue amongst the three spheres of government) authorising direct charges. Section 77(3) of the Constitution requires that an Act of Parliament must provide for a procedure to amend Money Bills before Parliament. Currently, no amendments may be made to any Money Bill once it is introduced in the National Assembly.
- 1.2 This draft Money Bill Amendment Procedure and Related Matters Bill seeks to establish a procedure to amend money Bills before Parliament within the context of oversight findings and the adoption of a fiscal framework. It also requires the Secretary to Parliament to establish a budget office to support this procedure.



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A member of the International Federation of Accountants (IFAC) and the Eastern Central and Southern African Federation of Accountants (ECSAFA)

2. Changes in the National Budget process

- 2.1 Any commentary on the Draft Bill will be incomplete if the significant changes in the budget process which arose from the introduction of the Constitution is ignored. These significant changes comprise:
- 2.1.1 the move to the allocation of global provincial budgets and the decentralization of decision-making about the allocation of those budgets between functions or sectors to the provinces;
- 2.1.2 The Department of Finance ("Finance") however assumed a central role in the budget process as a result of the macroeconomic policy ("GEAR"). As such, the Finance is responsible for setting the parameters which must be used when departmental budgets are determined.
- 2.1.3 While the provincial treasuries have the final responsibility for the budget submission to their respective Executive Councils (EXCOs), a committee referred to as "the MTEF Committee" makes the final recommendations to cabinet at the national level. The MTEF Committee consists of the
- 2.1.3.1 Minister and Deputy Minister of Finance;
- 2.1.3.2 the Director-Generals of Finance and State Expenditure; and
- 2.1.3.3 other officials of the Finance.
- 2.1.4 Officials of the various national departments make submissions to the MTEF Committee defending their budget. The MTEF Committee adjudicates and recommends budget allocations for each national department to cabinet.
- 2.1.5 At the same time as the national cabinet and provincial EXCOs are considering the draft consolidated budgets, the Minister's Committee on the Budget (MinComBud) meets to set broad priorities, which are submitted to cabinet via the Minister of Finance. MinComBud comprises of the Minister and Deputy Minister of Finance, and the Ministers of Trade and Industry, Arts and Culture, Science and Technology, Health and Education. At the same time, sectoral teams for the 'big five' (i.e. education, health, social welfare, justice and defence) also consider all the budget submissions relating to their sector. These sectoral teams contain representatives of the relevant national and provincial departments (Departments of Health in the case of the health sector), Finance and the provincial treasuries. The function of these teams is to develop expenditure models for the sector, consider policy choices, develop norms and standards and make recommendations on conditional grants.
- 2.1.6 Once the cabinet, the EXCOs and the sectora budget teams have undertaken their reviews of, and made recommendations on, the national and provincial budgets, the draft overall budget is compiled and submitted to the Budget Council and then to cabinet.
- 2.1.7 Once Budget Council and cabinet have approved the budget, allocations to national government and each province are finalized (and match the budget requirements arising from the draft budget which has been approved by cabinet).

- 2.1.8 National spending agencies and provincial treasuries are informed of their final allocations and must then finalise their budgets in line with this allocation and taking into consideration the recommendations of the various stakeholders.
- 2.1.9 The final MTEFs are once again submitted to cabinet, via the Budget Council, for approval. Relevant budget documentation is compiled (particularly the 'white books') and is then ready to be tabled in parliament during the annual budget speech by the Minister of Finance.
- 2.2 In addition to these constitutional changes, there have also been changes in the key 'actors' within the budgeting process. These include the following shifts in power such as:
- 2.2.1 The Ministry and Department of Finance have assumed the dominant role in the budgeting process. Together with the provincial treasuries, they hold considerable power.
- 2.2.2 National and provincial parliaments have a relatively limited role in the budget process at present (although there are likely to be some changes in the future). Some of the involvement by Parliament includes the ability to influence the budgets in terms of it deciding on and determining government priorities (through debating and passing policy documents and legislation relating to various sectors) and these parliamentary decisions should form the basis for the government priorities determined by cabinet.
- 2.3 Taken against this background, it is therefore not clear why Parliament would want to acquire the right to make amendments to any money Bill.

3. General comments and clause 7 of the Draft Bill

- 3.1 We support the current process whereby a draft Bill is released for public comment and thereafter the amendments to the draft Bill are affected before the "Money Bill" being released. If a change to the current process is to be done we suggest extending the period before the Money Bill is released, to ensure that all the necessary corrections are made in time. Our concerns with the proposed amended procedures are as follows:
- The new proposed process in this Bill where a committee is to be established will unduly delay the finalisation and signing of the Money Bill. Without the new proposed process it already takes a few months for the Bill to be signed. It would appear that the new proposed process will delay this process further.
 - To affect changes to a technical Money Bill (i.e. taxation) at parliament level, might not be the best way of achieving the desired results and may result in unintended consequences.
 - It is anticipated that the time limit for comments by relevant parties will become even shorter and of less relevance.