

PRESENTATION TO THE SCoF

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Presenters:

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Opening remarks



We thank you for the opportunity to submit written comments and make oral presentations

Our expertise lies in the application of tax laws and our comments are therefore focussed on the revenue side of the budget

General comments



Pages 1 and 2 of
our comments

Tax Ombud

Timing of the budget speech and the
availability of tax rates

SAICA's proposals mentioned in the budget

Bursaries

VAT: registration and apportionment

VAT: business rescue

VAT: supplies between connected persons

Registration as a vendor for purposes of Value-Added tax



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Current problems pose a serious hindrance to doing business in South Africa

Submissions made in 2011 and meeting with National Treasury and SARS

Impact of Tax Administration Act – automatic penalties

The proposed amendments to the taxation of trusts



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Trusts are not created with the view to avoid tax

Trust law is still developing

General anti-avoidance rules should be sufficient

Estate duty

Cross-border services and pensions



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The source of employment income is where the services are rendered

The law currently allows for the exemption of remuneration in respect of foreign services if absent for more than six months

RSA allows treaty countries to tax RSA residents when they work outside the RSA for more than six months

Using the foreign tax credit system is cumbersome and taxpayer is out of pocket

Cross-border services and pensions



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The main issue is whether the tax focus should rely solely on the national source of the services provided or the national origin of the pension fund serving as the savings vehicle.

With the globalisation of all economies, it would be considered irresponsible of any employer to not contribute to employees' retirement savings.

It would be more beneficial to allow a deduction to any retirement fund local or off-shore and tax payouts from the funds instead, irrespective of where the fund pays out from.

Restricting debt to prevent base erosion



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We expect complex legislation

Excessive debt

40% of taxable income after other interest

Clarity needed on Transfer Pricing Practice Note



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difficult to determine what fell into the 'fixed capital' and 'financial assistance' parts of the safe harbour thin capital ratio,

The new legislation does not contain a thin capitalisation requirement

However, the South African Revenue Service (SARS) has not withdrawn PN2 and, despite indications that new guidance has been in the process of being prepared, nothing has been issued. This leaves the South African taxpayer, who is a party to such loans, in a quandary as to what to do.



Thank you for your time

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