



## THE 2009 TAX RELATED BUDGET PROPOSALS FOR THE SOUTH AFRICAN FISCUS

The South African Minister of Finance tabled his budget speech to parliament on 11 February 2009 and we hereby summarise the budget>.

### BUDGET HIGHLIGHTS

- Personal income tax relief for individuals amounting to R13.6 billion
- Taxes on petrol and diesel to increase by 40.5 and 41.5 cents per litre respectively
- A packet of 20 cigarettes will cost 88 cents more
- A 750 ml bottle of natural wine will cost 10.5 cents more
- A 340 ml can of beer to cost 7 cents more while a bottle of spirits will cost R3.21 more
- New motor vehicle excise taxes to tax carbon emissions and a new tax on energy intensive light bulbs
- An increase in the plastic bag levy by 1 cent per bag

### INDIVIDUALS

#### Personal Income Tax

Budget 2009 provides significant tax relief to individuals amounting to R13 billion countering the effects of inflation (bracket creep) as well as providing real relief.

**This means that individuals younger than 65 years of age earning a total amount of–**

- R60 000 will pay an amount equal to an average rate of 1.7% of earnings and save R1 476;
- R200 000 will pay an amount equal to an average rate of 15.5% of earnings and save R2 426;
- R750 000 will pay an amount equal to an average rate of 31% of the earnings and save R5 526.

The tax threshold for individuals younger than 65 will be R54 200 and for individuals 65 or older R84 200.

Taxpayers with an annual taxable income below R150 000 will receive 45 per cent of the proposed relief; those with an annual taxable income between R150 001 and R250 000, 22 per cent; those with an annual taxable income between R250 001 and R500 000, 21 per cent; and those with an annual taxable income above R500 000, 12 per cent.



Alongside corporate income tax and VAT, personal income tax is one of the three main tax instruments and provides the basis for the progressive structure of South Africa's tax system. It is estimated that the 12.5 per cent of registered individual taxpayers with an annual taxable income between R250 001 and R500 000 will account for 29 per cent of personal income tax revenues, and the 5.5 per cent of registered individual taxpayers with an annual taxable income above R500 000 will account for 38 per cent of personal income tax revenues during 2009/10.

### **Increased exemption for interest and dividend income**

The annual exemption on interest earned for individuals younger than 65 years is raised from R19 000 to R21 000. The exemption for individuals older than 65 years increases from R27 500 to R30 000. The threshold for the tax-free portion of interest and dividends from foreign investment increases from R3 200 to R3 500.

### **Capital Gains Tax**

Annual exclusion threshold for capital gains or losses increases from R16 000 to R17 500.

### **Medical Expenses**

From 1 March 2009 the tax exempt or deductible portion of monthly contributions to medical schemes is increased from R570 to R625 for each of the first two beneficiaries and from R345 to R380 for each additional beneficiary.

### **Adjustments to Excise Duties**

Excise duties are increased as follows:

- Malt beer - increased by 7 cents to 79 cents per 340ml can
- Unfortified wine - increased by 14 cents to R1.98 per litre
- Fortified wine - increased by 32 cents to R3.72 per litre
- Spirits - increased by R3.21 to R25.05 per 750ml
- Cigarettes - increased by 88 cents to R7.70 per packet of 20.

### **Fuel levy and the Road Accident Fund levy increased**

On 1 April 2009 the fuel levy on petrol increases by 23 cents to R1.50 per litre and by 24 cents to R1.35 per litre for diesel. On the same date the Road Accident Fund levy on petrol and diesel increases by 17.5 cents per litre to 64 cents per litre.

### **Excise duties focusing on the Environment**

- Adjustment to excise duties on motor vehicles. It is proposed to reduce the current ad valorem excise duty rate on the sale of new motor vehicles while introducing an additional excise duty component to take into account CO2 emissions.
- Increase plastic bag levy to 4 cents per bag
- Introduce a charge of about R3 per bulb on energy intensive light bulbs



- Increase international air passenger departure tax to R150 (R80 to Botswana, Lesotho, Namibia and Swaziland)

## **COMPANIES**

No change is proposed to corporate tax rates.

### **Incentives for investments in energy efficient technologies**

It is proposed that investments by companies in energy efficient equipment should qualify for an additional allowance of up to 15 per cent, on condition that there is documentary proof of the resulting energy efficiencies, certified by the Energy Efficiency Agency.

## **OVERVIEW OF TAX PROPOSALS**

### **Main tax proposals**

The main tax proposals include:

- Personal income tax relief for individuals amounting to R13.6 billion
- Delaying implementation of new mineral and petroleum royalties until 1 March 2010
- A final set of amendments to support dividends tax reform
- Incentives for investments in energy-efficient technologies
- Implementation of the electricity levy announced in Budget 2008
- Making certified emission reduction credits tax exempt or subject to capital gains tax, instead of normal income tax
- Taxation of energy-intensive light bulbs
- Reforms to the motor vehicle ad valorem excise duties
- Increases in the Road Accident Fund (RAF) and general fuel levies
- Tax-sharing arrangements with municipalities
- Increases in excise duties on alcoholic beverages and tobacco products
- An increase in the international air passenger departure tax
- Reviewing the tax treatment of travel (motor vehicle) allowances to improve the equity and transparency of the tax system
- Amendments to the treatment of contributions to medical schemes.

## **INDIVIDUALS**



### **Personal income tax relief**

Personal income tax relief was made possible by buoyant corporate income tax revenues as a result of an improved culture of compliance and higher corporate profits. The 2009 Budget proposes personal income tax relief to individual taxpayers amounting to R13.6 billion.

### **Consideration given to phasing out SITE**

Given that the tax-free income threshold for taxpayers younger than 65 years is approaching R60 000, which is the current Standard Income Tax on Employees (SITE) ceiling, consideration is being given to discontinuing the SITE system by 2010/11. Two measures introduced by SARS in 2008 – pre-populated returns and the waiver of the annual filing requirement for taxpayers with single employers meeting certain requirements – would take the place of SITE.

### **Caps on tax-deductible contributions to medical schemes are increased**

From 1 March 2009, the monthly monetary caps for tax-deductible contributions to medical schemes will increase from R570 to R625 for each of the first two beneficiaries, and from R345 to R380 for each additional beneficiary.

### **Deemed kilometer allowance system to be scrapped by 2011**

It is proposed that the deemed business kilometer procedure be scrapped from 2010/11. Taxpayers who are required to use their personal vehicles for business purposes will still be able to keep a logbook to claim business travelling expenses.

### **Tax deductibility of contributions by employers to post-retirement medical schemes to be clarified**

To provide clarity on the deductibility of these once-off payments, it is proposed that such contributions be deductible immediately, not spread over a period of time. The precondition is that the company making such contributions must not derive any direct benefits from such payments, nor will a return of the funds to the employer or a redirection of the use of the funds be permitted.

### **Provisional tax for taxpayers 65 years and older**

Individuals 65 years and older are exempt from provisional tax if they are not company directors and only receive employment income, interest, rental or dividends amounting to taxable income of up to R80 000. It is proposed that the threshold be increased to R120 000.

### **Higher thresholds to encourage savings**

It is proposed to increase the tax-free interest-income ceiling from R19 000 to R21 000 for persons below the age 65 and from R27 500 to R30 000 for persons aged 65 and above. It is also proposed to increase the tax-free income ceilings for foreign dividends and interest from R3 200 to R3 500, and the annual exclusion ceiling for capital gains and losses for Individuals from R16 000 to R17 500.

### **Capital gains tax exclusion for primary residences is simplified to benefit lower income individuals**

The capital gains tax regime contains several exclusions designed to reduce the tax burden for lower and middle income earners. One such exclusion is for an individual's primary residence: a capital gain or loss of up to R1.5 million upon the disposal of such a residence is



excluded from taxable capital gains. It is proposed that the exclusion be extended so that an alternative is available based on the gross sale proceeds of the residence. By basing the calculation on gross proceeds, the taxpayer would have a better understanding of how the exclusion applies on disposal, without resorting to complex capital gain calculations.

The capital gains tax exclusion will fully apply to the primary residence up to a gross value of R2 million. As a result, people selling their primary residence with a gross value below R2 million will not be liable for capital gains tax. For primary residences valued above this threshold the normal rules (including the current R1.5 million capital gain/loss exclusion) will apply.

#### **Tax at shareholder level likely to be implemented in late 2010**

The basic legislative framework for the introduction of the dividend tax, which replaces the secondary tax on companies, was enacted in 2008. The dividend tax will come into effect once the treaty ratification processes are completed. All the applicable treaties have already been renegotiated, and it is likely that this tax at shareholder level will be implemented during the second half of 2010.

Further legislative amendments during 2009 will provide for the completion of the dividend tax reform. The remaining items mostly relate to anti-avoidance concerns (such as preventing companies from converting taxable sales to tax-free dividends) and to foreign dividends.

#### **Distribution by collective investment schemes should follow a flow-through principle**

Under current law, a collective investment scheme (CIS) in shares is treated as a company whose distributions are treated as a special form of dividend. The CIS dividend is generally exempt, like other dividends, unless that dividend is distributed out of ordinary revenue (e.g. distributed out of interest and income from trading).

It is proposed that distributions by these schemes should generally follow a flow-through principle. If a CIS distributes dividends received, this should be viewed as dividend distribution; if it distributes interest received it should be viewed as an interest distribution. This approach will eliminate certain unintended anomalies. Currently, a CIS distribution results in less-favourable tax treatment for some investors.

#### **Mineral and petroleum royalties**

The Mineral and Petroleum Resources Royalty Act (2008) was scheduled to be implemented from 1 May 2009. It is proposed to postpone implementation until 1 March 2010, resulting in gross savings of about R1.8 billion in 2009/10 for mining companies. It is hoped that this relief will contribute to constructive dialogue between government, the mining houses and labour, resulting in practical initiatives to mitigate the impact of expected retrenchments in the sector.

#### **False statements on any VAT form to be considered an offence**

It is proposed that false statements on any VAT form submitted to SARS, not just returns, be considered an offence. This will serve as a deterrent to those who seek to register for VAT without being eligible to do so.

As an additional measure to combat VAT fraud, the introduction of enabling provisions to permit the use of biometric measures to verify the identity of applicants for VAT registration is proposed.



### **Excise duties on tobacco products and alcoholic beverages are increased**

Excise duties on tobacco products will be increased in accordance with the policy decision to target a total excise burden (excise duties plus VAT) of 52 per cent for all categories of tobacco products. The proposed increases for the various tobacco products vary between 5.5 and 13 per cent.

Excise duties on alcoholic beverages will be increased in accordance with the policy decision to target a total tax burden (excise duties plus VAT) of 23, 33 and 43 per cent on wine products, malt beer and spirits respectively. No increase in the excise duty on traditional beer is proposed. The proposed increases for the various alcoholic beverages vary between 7.6 and 14.7 per cent.

### **General fuel levy**

It is proposed to increase the general fuel levy on petrol and diesel by 23 and 24 cents per litre respectively from 1 April 2009. The diesel fuel levy refund relief for the primary sector remains unchanged in percentage terms and its monetary value will be adjusted accordingly.

### **Road Accident Fund levy**

It is proposed to increase the RAF levy by 17.5 cents/litre, from 46.5 c/l to 64.0 c/l from 1 April 2009. It is hoped that these adjustments and recent reforms to the legislation governing the RAF will strengthen the Fund's financial position and effectiveness.

### **Tax-sharing arrangements with metropolitan municipalities**

As part of continuing efforts to find a viable basket of tax instruments to replace the Regional Services Council (RSC) and Joint Services Board (JSB) levies that were abolished several years ago, it is proposed that from 2009/10, 23 per cent of the revenues from the general fuel levy be earmarked for metropolitan (Category A) municipalities. Distribution of this revenue among various metropolitan municipalities, to be phased in over four years, will eventually be based on fuel sales in each metro.

Consideration will be given to ensuring that municipalities use such funds to boost budgets for roads and transportation infrastructure.

## **OTHER MEASURES UNDER REVIEW**

### **Income Tax Act rewrite – phase one**

To enhance the process of simplification, proposed revisions to the employment income tax base will represent the first step towards rewriting the Income Tax Act (1962). It is intended that discussion document and draft legislation will be released for comment by the end of 2010.

### **Provident funds, social security and retirement reforms**

The current debate on social security and retirement reforms has raised the need to examine whether provident funds should be phased into pension funds. This question is also relevant given the different tax treatment of contributions to pension and provident funds. One option would be to phase out provident funds as a prelude to broader social security reforms. This option will be explored with the relevant stakeholders during 2009.

### **Tax administration modernisation agenda**



A set of incremental changes is proposed to underpin the SARS modernisation agenda. These measures will allow for continued progress in the reform of personal income tax collection and lay the groundwork for a future social security tax. The changes are:

- The introduction of enabling provisions to require employer reconciliations of employees' tax more frequently than once a year, together with the extension of the reconciliations to skills development levies and UIF contributions.
- Reinstatement of employers' obligation to obtain and maintain certain employee data (originally known as the IRP2 and done away with in 1995), and to report this data as required.
- Permitting SARS to provide employees' tax reference numbers and certain other non-financial data to their employers.
- Requiring other third-party data providers to include taxpayer reference numbers – which will be available in many cases due to requirements of the Financial Intelligence Centre Act (2001) – with the information they provide.
- Alignment of estimated assessment, interest and additional tax provisions across personal income tax, the skills development levy and UIF contributions.

Key customs modernisation measures were introduced in 2008 and supporting amendments are anticipated in 2009. Measures under consideration in accounting for SARS's administered revenue include:

- Moving to a single taxpayer account across different tax types
- Use of a single interest rate on underpayments and overpayments
- Charging compound interest instead of simple interest
- A revised payment allocation rule that generally sets payments off against the oldest outstanding debt.

SARS is assessing the potential for a single taxpayer registration process across multiple taxes, as well as the automatic registration of employees. This would improve customer service and operational efficiency, using technology and third-party information to authenticate data, and reduce the need for supporting documents.

## **TAX GUIDE**

### **INCOME TAX RATES: NATURAL PERSONS AND SPECIAL TRUSTS YEAR OF ASSESSMENT ENDING 28 FEBRUARY 2010**



<b>Taxable income</b>			<b>Tax rates</b>		
R					
(R) Ra0	-	132 000		18% of each R1	
132 001	-	210 000	23 760 +	25% of the amount above	132 000
210 001	-	290 000	43 260 +	30% of the amount above	210 000
290 001	-	410 000	67 260 +	35% of the amount above	290 000
410 001	-	525 000	109 260 +	38% of the amount above	410 000
525 001		and above	152 960 +	40% of the amount above	525 000

**Natural persons:**

**Tax thresholds**

Below 65 years of age  
Aged 65 and over

2009	2010
<b>R</b>	
46 000	54 200
74 000	84 200

**Tax rebates**

Primary - All natural persons  
Secondary - Persons aged 65 and over

2009	2010
<b>R</b>	
8 280	9 756
5 040	5 400

**CORPORATE TAX RATES**

**YEARS OF ASSESSMENT ENDING BETWEEN 1 APRIL 2009 AND 31 MARCH 2010**

**NORMAL TAX**

		2009	2010
Non-mining companies	Basic rate	28%	28%
Close corporations	Basic rate	28%	28%
Employment companies	Basic rate	33%	33%
Other companies	Basic rate	28%	28%

Tax rates for qualifying small business corporations will be as follows:

Taxable Income (R) Rate of Tax (R)

0 – 54 200 0%

54 201 – 300 000 10% of the amount above 54 200

300 001 and above 24 580 + 28% of the amount above 300 000

**SECONDARY TAX ON COMPANIES (STC)**

The STC rate remains unchanged at 10%.

**TRUSTS**

The tax rate on trusts (other than special trusts) remains unchanged at 40%.



## EFFECTIVE CGT RATES

<b>Taxpayer</b>	<b>Inclusion Rate (%)</b>	<b>Statutory Rate (%)</b>	<b>Effective Rate (%)</b>
<b>Individuals</b>	25	0 – 40	0 – 10
<b>Trusts</b>			
Unit	-	28	-
Special	25	18 – 40	4,5 – 10
Other	50	40	20
<b>Companies</b>			
Ordinary	50	28	14
Small business corporation	50	0 – 28	0 – 14
Permanent establishment	50	33	16,5
Employment company	50	33	16,5

### Provisional Tax

A provisional taxpayer is any person who earns income other than remuneration or an allowance or advance payable by the person's principal. The following individuals are exempt from the payment of provisional tax–

- Individuals below the age of 65 who do not carry on a business and whose taxable income–
  - o will not exceed the tax threshold for the tax year; or
  - o from interest, dividends and rental will be R20 000 or less for the tax year.
- Individuals age 65 and older if their annual taxable income–
  - o consists exclusively of remuneration, interest, dividends or rent from the lease of fixed property; and
  - o is R120 000 or less for the tax year.

### Retirement fund lump sum withdrawal benefits

<b>Taxable Income (R)</b>	<b>Rate of Tax (R)</b>
0 – 300 000	18% of each R1
300 001 - 600 000	54 000 + 27% of the amount above 300 000
600 001 and above	135 000 + 36% of the amount above 600 000

The taxable income from a retirement fund lump sum withdrawal benefit (lump sum from a pension, provident or retirement annuity fund on withdrawal) is determined after deducting a lifetime exemption of R22 500. The tax payable is determined by applying the rate table to the aggregate of the taxable portions of all retirement fund lump sum withdrawal benefits accrued during the current and previous years of assessment and deducting tax payable according to the current tax table on the aggregate of those lump sums accrued during previous years of assessment.



### **Retirement fund lump sum benefits**

#### **Taxable Income (R)**

0 – 300 000  
300 001 - 600 000  
600 001 and above

#### **Rate of Tax (R)**

18% of each R1  
54 000 + 27% of the amount above 300 000  
135 000 + 36% of the amount above 600 000

The taxable income from a retirement fund lump sum benefit (lump sum from a pension, provident or retirement annuity fund on retirement) is determined after deducting a lifetime exemption of R300 000. The tax payable is determined by applying the rate table to the aggregate of the taxable portions of all retirement fund lump sum benefits and retirement fund lump sum withdrawal benefits accrued during the current and previous years of assessment and deducting tax payable according to the current tax table on the aggregate of those lump sums accrued during previous years of assessment.

### **Foreign Dividends**

Most dividends received by individuals from foreign entities are taxable.

### **Exemptions**

Interest and dividends

- Interest and otherwise taxable dividends earned by any natural person under 65 years of age, up to R21 000 per annum, and persons 65 and older, up to R30 000 per annum, are exempt from taxation. Foreign interest and foreign dividends are only exempt up to R3 500 out of the total exemption.
- Interest is exempt where earned by non-residents who are physically absent from South Africa for 183 days or more per annum and who are not carrying on business in South Africa.

### **Deductions**

#### **Current pension fund contributions**

The greater of—7,5% of remuneration from retirement funding employment, or R1 750. Any excess may not be carried forward to the following year of assessment.

#### **Arrear pensions fund contributions**

Maximum of R1 800 per annum. Any excess over R1 800 may be carried forward to the following year of assessment.

#### **Current retirement annuity fund contributions**

The greater of—

- 15% of taxable income other than from retirement funding employment, or
- R3 500 less current deductions to a pension fund, or
- R1 750.

Any excess may be carried forward to the following year of assessment.

#### **Arrear retirement annuity fund contributions**

Maximum of R1 800 per annum. Any excess over R1 800 may be carried forward to the following year of assessment.



### **Medical and disability expenses**

- Taxpayers 65 and older may claim all qualifying expenditure
- Taxpayers under 65 are not taxed on, or may deduct, monthly contributions to medical schemes up to R625 for each of the first two dependants on their medical scheme and R380 for each additional dependant. In addition they can claim a deduction for medical scheme contributions above the caps and any other medical expenses limited to the amount which exceeds 7,5% of taxable income (excluding retirement fund lump sums)
- Taxpayers under 65 may claim all qualifying medical expenses, where the taxpayer or the taxpayer's spouse or child is a person with a disability.

### **Donations**

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income before deducting medical expenses.

### **Allowances**

#### **Subsistence allowances and advances**

Where the recipient is obliged to spend at least one night away from his/her usual place of residence on business and the accommodation to which that allowance or advance relates is in the Republic and the allowance or advance is granted to pay for—

- meals and incidental costs, an amount of R260 per day is deemed to have been expended;
- incidental costs only, an amount of R80 for each day which falls within the period is deemed to have been expended

Where the accommodation to which that allowance or advance relates is outside the Republic, the daily amount deemed to have been expended is available on the SARS website.

#### **Travelling allowance**

Rates per kilometer which may be used in determining the allowable deduction for business travel, where no records of actual costs are kept.

<b>Value of the vehicle</b> (including VAT) (R)	<b>Fixed cost</b> (R p.a.)	<b>Fuel cost</b> (c/km)	<b>Maintenance</b> cost (c/km)
0 - 40 000	14 672	58.6	21.7
40 001 - 80 000	29 106	58.6	21.7
80 001 - 120 000	39 928	62.5	24.2
120 001 - 160 000	50 749	68.6	28.0
160 001 - 200 000	63 424	68.8	41.1
200 001 - 240 000	76 041	81.5	46.4
240 001 - 280 000	86 211	81.5	46.4
280 001 - 320 000	96 260	85.7	49.4
320 001 - 360 000	106 367	94.6	56.2
360 001 - 400 000	116 012	110.3	75.2
exceeding 400 000	116 012	110.3	75.2



**Note:**

The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.

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