C&A FRIEDLANDER
attorneys

23 February 2022

BUDGET SPEECH SUMMARY

2022

Insights into the 2022 Budget Speech.

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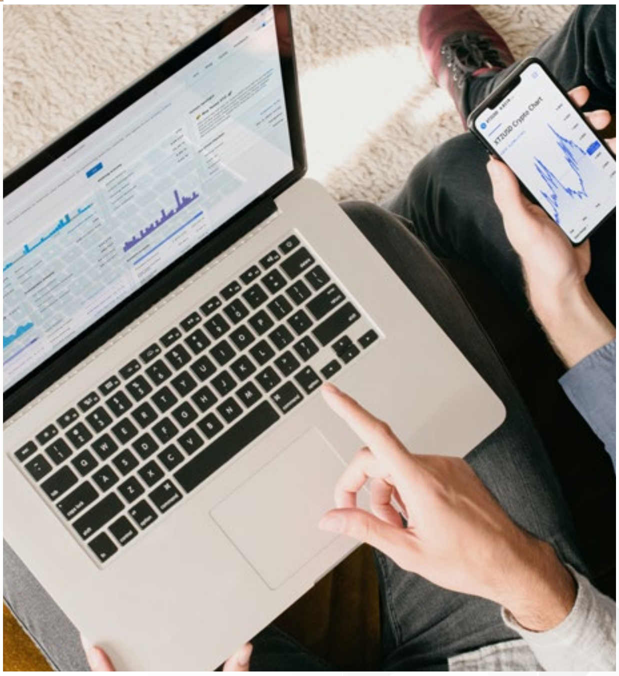


INTRODUCTION

"We need to strike a critical balance between saving lives and livelihoods, while supporting inclusive growth. This budget presents this balance." These were the words of Finance Minister Enoch Godongwana in delivering his maiden National Budget address on 23 February 2022.

The Minister's address focused on the collective participation and buy-in necessary to ensure that we steer the ship in the right direction, and supported this proposition by emphasising that *"a swallow does not a summer make."*

In furthering the Minister's appeal for a collective effort, herewith the key budget matters...

"

Now is not the time to increase taxes and put the [economic] recovery at risk. Accordingly, we have decided to keep money in the pockets of taxpayers.

HIGHLIGHTS

Overall

- The consolidated budget deficit is projected to narrow from 6 per cent of GDP in 2022/23 to 4.2 per cent of GDP in 2024/25.
- The Government expects to collect tax revenue of R1 598 billion in 2022/23.
- Real GDP is expected to grow at 2.1 per cent in 2022 and average 1.8 per cent over the medium term.
- Consolidated government expenditure is expected to reach R2.16 trillion.
- Corporate tax rate to reduce to 27 per cent for tax years ending on or after 31 March 2023.
- The 2022 Budget provides R5.2 billion in tax relief to support households and the economy by not adjusting the general fuel levy (for the first time in 32 years) and the Road Accident Fund levy, while fully adjusting the personal income tax brackets and rebates for inflation.
- Total consolidated government spending will amount to R6.62 trillion over the next three years, and the social wage will take up 59.4 per cent of total non-interest spending over this period.
- Increasing the monthly benefits for employers under the employment tax incentive by 50 per cent.

> **We will continue our commitment of saving lives and maintaining livelihoods.**

For consumers

- "Bracket creep" is eliminated through above-inflationary increases in tax brackets, effectively decreasing personal income tax rates.
- The exemption of foreign remuneration earned by South African tax residents remains unchanged.
- There is an undertaking by the National Treasury and the Minister of Minerals to review the fuel levy structure to arrive at a more sustainable future approach to fuel increases.
- Increases of between 4.5 and 6.5 per cent in excise duties on alcohol and tobacco.
- A proposal for a new tax on vaping products is being considered.
- The plastic bag levy is increased by 3 cents to 28 cents per bag from 1 April 2022.

INCOME TAX PROPOSALS

Clarifying the definition of contributed tax capital

In 2021, amendments were proposed in the Taxation Laws Amendment Bill to address tax avoidance concerns and clarify the definition of contributed tax capital. The effective date for the proposed amendments was 1 January 2022. After reviewing the public comments on the bill, the Government decided to postpone the effective date for these amendments to 1 January 2023 to give both the National Treasury and affected stakeholders more time to consider the impact of the proposed amendments. Government proposes to review the impact of the 2021 amendments during the 2022 legislative cycle.

Expiry of corporate tax incentives

Following reviews in 2021, including engagement with affected stakeholders, several corporate tax incentives will not be renewed when they reach their sunset date.

These include:

- Section 12DA (rolling stock) on 28 February 2022
- Section 12F (airport and port assets) on 28 February 2022
- Section 12O (films), which lapsed on 31 December 2021
- Section 13*sept* (sale of low-cost residential units through an interest-free loan) on 28 February 2022

Study on the tax treatment of amounts received by or accrued to portfolios of collective investment schemes

Government proposes that a discussion document dealing with the tax treatment of amounts received by or accrued to portfolios of collective investment schemes be published for public comment before any amendments are proposed to the tax legislation.

Assessed losses

In 2021, the Government proposed restricting the use of assessed losses. The offsetting of the balance of assessed losses brought forward will be limited to 80 per cent of taxable income. This means that companies with an assessed loss balance that matches or exceeds their current-year taxable income will need to pay tax on 20 per cent of their taxable income. The proposal does not increase companies' tax liability, but ensures tax payments from companies are smoothed over time. Smaller companies more likely to struggle with cash flow will be exempt from the proposed changes. It is proposed that these measures take effect for years of assessment ending on or after 31 March 2023.

Research and development tax incentive to be extended

A discussion document and an online survey reviewing the R&D tax incentive were published for public comment on 15 December 2021. A workshop will be held with interested parties during 2022. To allow for certainty and planning, the incentive will be extended in its current form until 31 December 2023. The extension and potential amendments will be included in the 2022 Taxation Laws Amendment Bill.

VALUE-ADDED TAX PROPOSALS

1

Reviewing section 72 arrangements and decisions

In 2019, changes were made to section 72 of the Value-Added Tax (VAT) Act (1991), which deals with the Commissioner's discretion to make arrangements or decisions regarding the application of the Act to specific situations where the manner in which a vendor or class of vendors conduct their business leads to difficulties, anomalies or incongruities. It is proposed that further changes be made to account for reviews of some of the section 72 decisions.

2

Updating the regulations prescribing electronic services

With effect from 1 April 2019, the regulations prescribing electronic services were amended to broaden the scope of electronic services that are subject to South African VAT, in line with the Organisation for Economic Co-operation and Development/Group of 20 Base Erosion and Profit Shifting Action 1 Report. It is proposed to review the current regulations to account for further developments in this area.

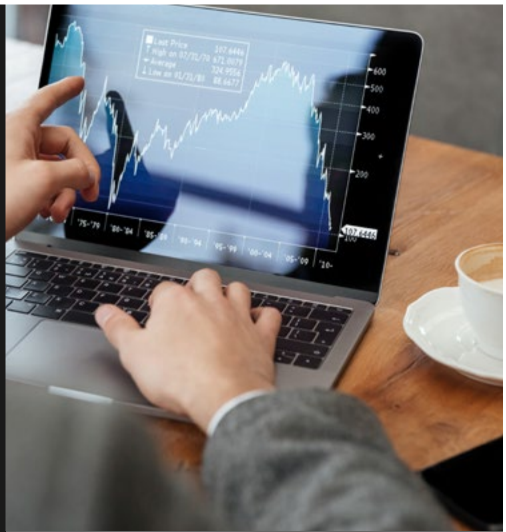
INDIVIDUALS, EMPLOYMENT AND SAVINGS

Apportioning the interest exemption and the annual exclusion of capital gains tax when an individual ceases to be a tax resident

When an individual ceases to be a South African tax resident, their year of assessment is deemed to have ended on the date before the day their tax residency ceased. The individual's next succeeding year of assessment will start on the day that tax residency is ceased. As a result, the individual has two years of assessment during the 12-month period, which means that the individual may be able to double-up on certain exemptions or exclusions that are allowed per year of assessment. This goes against the policy rationale of the provisions of the Income Tax Act. To address this anomaly, Government proposes that the legislation be changed to apportion the interest exemption and capital gains annual exclusion in such instances.

> "...THE STRUCTURE OF THE ECONOMY WILL NEED TO CHANGE TO ADAPT TO THE NEEDS OF ADDRESSING CLIMATE CHANGE.

CUSTOMS AND EXCISE



Clarifying the requirements for invoices in respect of import and export goods

EXCISE

Because of existing uncertainty, it is proposed that amendments be made to the Customs and Excise Act to clarify the legislative requirements for invoices in respect of import and export goods.

CROSS-BORDER INCOME TAX AND EXCHANGE CONTROL PROPOSALS

Cross-border tax treatment of retirement funds

Consultation on last year's proposal regarding the tax treatment of retirement interest when changing tax residence showed that multiple tax treaties need to be revised to ensure South Africa retains taxing rights on payments from local retirement funds. The Government intends to initiate these negotiations this year.

Base erosion, profit shifting and digital services taxation

South Africa is a member of the Steering Group of the OECD/G20 Inclusive Framework tasked with finding consensus-based solutions to tax challenges associated with the digitalisation of the economy. In October 2021, the Inclusive Framework agreed on a two-pillar solution and will work on an implementation framework to take effect by 2023. South Africa will propose legislative amendments to implement these rules once the framework has been finalised and translated into a local context.

Crypto assets

The Intergovernmental Fintech Working Group ("IFWG") published a position paper on crypto assets in June 2021, setting out a coordinated and phased approach to regulating crypto assets. The recommendations in this paper include:

- Including crypto asset service providers as accountable institutions within the Financial Intelligence Centre Act (2001). The proposed amendments to the act were published in June 2020 for public consultation and are expected to be finalised during 2022.
- Protecting consumers by considering the declaration of crypto assets as a financial product under the Financial Advisory and Intermediary Services Act (2002). This will include crypto asset exchanges and platforms, as well as brokers and advisors. This work is expected to be finalised during 2022.
- Enhancing monitoring and reporting of crypto asset transactions to comply with the Exchange Control Regulations of 1961. The process to include crypto assets in the regulations is under way.

In 2022, the IFWG will publish a follow-up paper to address risks posed by so-called stable coins. The National Treasury is also exploring measures to regulate electricity-intensive crypto mining, which is environmentally harmful.

ADMINISTRATIVE PROPOSALS

Tax compliance status system abuse

SARS has noted increased abuse of the tax compliance status system. Taxpayers that are economically active may file a nil (zero-income) or otherwise inaccurate returns to meet the requirement that there are no outstanding returns, among other abuses. It is proposed that approaches should be investigated to ensure that the system provides a more accurate reflection of the actual tax compliance status of taxpayers.

Disclosure of wealth

Provisional taxpayers with business interests are required to declare their assets (based on their cost) and liabilities in their tax returns each year. To assist with the detection of non-compliance or fraud through unexplained wealth, it is proposed that all provisional taxpayers with assets above R50 million must declare specified assets and liabilities at market values in their 2023 tax returns. The additional information will also help determine the levels and structure of wealth holdings as recommended by the Davis Tax Committee.

Once-off electronic services supplied by non-resident suppliers to a recipient in South Africa

It is proposed that a specific exception be included in the rule that a non-resident supplier must register as a vendor when electronic supplies exceed R1 million a year if it constitutes a once-off supply. This exception already applies to resident suppliers. This will prevent unnecessary registrations, costs, and administrative burdens for both non-resident suppliers and SARS.

Imposition of understatement penalty for employment tax incentives improperly claimed

Given the abuse of employment tax incentives, Government proposes that the Employment Tax Incentive Act (2013) be amended to impose understatement penalties on reimbursements that are improperly claimed.

PROPOSALS

RATES OF TAX

The following rates remain unchanged:

- VAT at **15%**
- Dividends withholding tax at **20%**
- All inclusion rates for **Capital Gains Tax (CGT)**
- Interest and royalty withholding tax rates at **15%**

Corporate income tax has been lowered to 27 per cent for years of assessment ending on any date on or after 31 March 2023.

Tax brackets for individuals for 2023 have been increased by 4.5 per cent in line with inflation.

Tax rates from 1 March 2022 to 28 February 2023:

Taxable Income (R)	Rate of Tax
1 – 226 000	18% of taxable income
226 001 – 353 100	R40 680 + 26% of taxable income above R226 000
353 101 – 488 700	R73 726 + 31% of taxable income above R353 100
488 701 – 641 400	R115 762 + 36% of taxable income above R488 700
641 401 – 817 600	R170 734 + 39% of taxable income above R641 400
817 601 – 1 731 600	R239 452 + 41% of taxable income above R817 600
1 731 601 and above	R614 192 + 45% of taxable income above R1 731 600

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