national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

2014 Rates and Monetary Amounts and Amendment of Revenue Laws Bill and First Batch of the draft Taxation Laws Amendment Bill

National Treasury today publishes the 2014 Rates and Monetary Amounts and Amendment of Revenue Laws Bill ("Rates Bill"), First Batch of the 2014 draft Taxation Laws Amendment Bill and Regulations ("TLAB").

The Rates Bill gives effect to the rates and monetary threshold changes announced in the 2014 Budget, and will be tabled in Parliament shortly. It is published for public information. The Rates Bill deals with numerical adjustments. It does not deal with new and substantive changes in law, which is normally dealt with in the annual TLAB. The 2014 draft TLAB will be published for public comment in July 2014.

The First Batch of the 2014 TLAB is not the full bill, but is intended to solicit comments on two specific amendments to inform the full draft TLAB to be published in July. Draft regulations on one of the specific amendments dealing with defined benefit funds are also published for comment, and provide taxpayers with an early indication of some of the proposed reporting requirements. Written comments on the First Batch of the 2014 draft TLAB and Regulations should be submitted by close of business on **23 June 2014.**

This First Batch of the 2014 draft TLAB and Regulations deals with the following two amendments:

1. The tax treatment of the risk businesses of long-term insurers

The current taxation of long term insurers does not distinguish between the investment and risk businesses. However, from a tax policy point of view the two types of businesses cannot be taxed by applying the same principles. From the perspective of a long-term insurer, profits or losses arising in respect of risk business should be fully taxed and should therefore not form part of the tax calculation of a policyholder fund that focusses on the taxation of the return on assets invested for the benefit of policyholders on the trustee basis.

It proposed that as from 1 January 2016 a clear distinction be drawn in the taxation of investment and risk business conducted by long term insures. Profits or losses that result from such new risk business will be taxed in the corporate fund.

2. Retirement reforms and in particular rules with regards to defined benefit funds

Changes to the rules and thresholds that apply to the tax deductible contributions to retirement savings will become effective on 1 March 2015. Defined benefit funds offer retirement benefits that are calculated according to the rules of the pension fund where the value of the contributions to the fund may not be an accurate reflection of the benefits that may be received by the retirement fund member. For example, if the pension fund is in financial difficulty and the employer needs to make additional contributions to meet the expected liabilities, it may be unfair to tax members of the fund on those contributions as if they were a fringe benefit if there is no associated increase in benefits.

In order to avoid any discrepancies, align the tax treatment of contributions to defined contributions pension funds and defined benefit pension funds and to improve fairness in relation to the receipt of retirement benefits within defined benefit funds, a prescribed methodology is proposed to determine a notional employer contribution for members of defined benefit pension funds. The notional employer contribution will be a fringe benefit that is taxable in the hands of the employee and will be included in the total pension contribution amount to calculate whether the individual is still below the allowable annual and monthly deductible limits.

The proposal is based on the concept of a 'fund member category'. A 'fund member category' is a group of members of a fund whose entitlement to receive benefits and the value of those benefits when they are received are determined by the same rules, and in respect of whom the same contributions are paid as a proportion of pensionable salary by them and by their employer. The fringe benefit should be calculated separately for each fund member category of a fund. This is to ensure that the fringe benefits are calculated across groups of members in the same way as the fund pools contributions and the costs of paying benefits across members.

To calculate the fringe benefit, the employer would need to multiply the pensionable salary by the 'fund member category factor' that is provided in the 'contribution certificate' and subtract the value of any contributions made by the employee.

The pension fund would be required to calculate the 'fund member category factor' by following the calculation method specified in regulations. This requires the fund to separate benefits for which members of the fund are eligible into defined benefit, defined contribution, underpin and risk benefit components. A separate calculation method is specified for each type of component. If the fund offers more than one benefit component of a particular type, a calculation would need to be performed for each benefit component separately, and the results aggregated.

- Regulations on defined benefit funds

Comments are also solicited on the proposed draft regulations that give effect to the determination of the fund member category as well as information to be contained in contribution certificates.

The draft legislation, regulations and explanatory memoranda can be found on the National Treasury (www.treasury.gov.za) and SARS (www.sars.gov.za) websites.

Please forward written comments to Nombasa Nkumanda at Nombasa.nkumanda@treasury.gov.za and Adele Collins at acollins@sars.gov.za by the close of business on **23 June 2014.**

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