national treasury

Department: National Treasury REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

Publication of the 2015 Draft Taxation Laws Amendment Bill and the Draft Tax Administration Laws Amendment Bill

The National Treasury today publishes, for public comment, the 2015 Draft Taxation Laws Amendment Bill (TLAB) and the 2015 Draft Tax Administration Laws Amendment Bill (TALAB). These bills provide the necessary legislative amendments required to implement most of the tax proposals that were announced in the 2015 Budget on 25 February 2015.

Changes to the rates and thresholds announced in the 2015 Budget were included in the 2015 Rates and Monetary Amounts and Amendment of Revenue Laws Bill that was published on the same day as the 2015 Budget Review. The 2015 draft TLAB deals with more substantive changes to the tax laws while the 2015 draft TALAB deals with administrative provisions of tax legislation currently administered by SARS, including the Tax Administration Act, 2011.

National Treasury and the South African Revenue Service (SARS) hereby invite comments in writing on these draft bills, prior to their formal introduction in Parliament. In addition, the Standing Committee on Finance in Parliament normally makes a similar call for public comment, and convenes public hearings on the draft bills before their formal introduction in Parliament. Where deemed necessary, National Treasury and SARS will also engage separately with key stakeholders, including through workshops that may be held in early September. Thereafter, a response document on comments received will be presented to the Standing Committee on Finance. The bills will then be revised, taking into account public comments, before they are tabled formally tabled in Parliament for its consideration.

A first batch of the 2015 TLAB was published on 5 June 2015 containing tax proposals that required an additional round of comments. These proposals included measures to counter tax-free corporate migrations, transitional tax issues resulting from the regulation of hedge funds and the tax implications of the outright transfer of collateral. The current draft TLAB includes these proposals with the amendments that have arisen from comments received on the first batch.

The 2015 draft TLAB gives effect to the following key proposals announced in the 2015 Budget Review:

- Closing a loophole to ensure consistent tax treatment on all retirement funds
- Closing a loophole to avoid estate duty through excessive contributions to retirement funds
- The tax implications of the outright transfer of collateral
- Transitional tax issues resulting from the regulation of hedge funds
- Measures to counter tax free corporate-migrations
- Withdrawal of special foreign tax credits for service fees sourced in South Africa
- Reinstatement of the controlled foreign company diversionary income rules
- Allowing municipalities to demarcate more areas as Urban Development Zones
- Monetary threshold adjustments for enterprise supplying commercial accommodation

In addition to the above amendments, it should be noted that further amendments may be effected to the *de-minimis* threshold at which individuals would be required to purchase an annuity at retirement, to take into account consultations through NEDLAC. This will be in line with a request arising from hearings in the Standing Committee on Finance in 2014.

For legal reasons, the draft tax amendments continue to be split into two bills, namely a money bill (section 77 of the Constitution) dealing with money bill issues and an ordinary bill (section 75 of the Constitution) dealing with issues relating to tax administration.

The 2015 draft TALAB gives effect to the following key proposals:

- Medical scheme tax credits to be taken into account for PAYE
- Collection of information by South African financial institutions and an associated obligation on the financial institutions to register with SARS
- Extension of period of limitations for issuance of assessments under narrow circumstances
- Clarifying qualifying persons for voluntary disclosure, relaxing the requirements for voluntary disclosure and broadening the ambit of voluntary disclosure relief

Greater transparency and the automatic exchange of information between tax administrations is an important step forward in countering cross border tax evasion and aggressive tax avoidance. The requirement for South African financial institutions to collect certain information is necessary to allow SARS to implement agreements under international tax standards, such as the OECD Standard for Automatic Exchange of Financial Account

Information in Tax Matters, which encompasses the Common Reporting Standard that was endorsed by the G20 Finance Ministers in 2014.

The draft legislation and the draft explanatory memorandum containing a comprehensive description of the draft amendments can be found on the National Treasury (www.treasury.gov.za) and SARS (www.sars.gov.za) websites.

Due date for comments

Please forward written comments to Nomalizo Bulisile at: Nomalizo.bulisile@treasury.gov.za and Adele Collins at acollins@sars.gov.za by close of business on 24 August 2015.

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