+27 83 417 5904
pieter@pvdz.co.za
www.pvdz.co.za

Budget 2021: Tax proposals

The National Treasury published the Budget Review 2021 on 24 February 2021. This article considers some of the proposals for tax amendments that the National Treasury intends to make as part of the 2021 legislative cycle.

The National Treasury published the Budget Review 2021 on 24 February 2021. This document contains the announcements of tax rates and scales, but also proposals for various tax amendments of a more technical nature that the National Treasury intends to make as part of the 2021 legislative cycle. This article reviews some of these proposals.

Corporate tax rate

The Minister of Finance proposed in his budget speech that the corporate tax rate be reduced to 27% for years of assessment that commence on or after 1 April 2022. This will coincide with measures to broaden the tax base through limiting the utilisation of assessed losses and interest deductions. In relation to the latter, it is proposed that the scope of the interest deduction limitation should be expanded to include similar interest items and that the limitation ratio be adjusted to 30% of earnings. It does however appear as if the restriction will be limited to connected party interest, although it is not clear if the current definition of controlling relationship will remain the threshold for such a relationship.

End of the road for section 12J

The venture capital company ('VCC') incentive has received much attention from the National Treasury and in the media over the past few years. The regime has gone through various cycles from an initially unattractive incentive to attracting so much interest that schemes considered to be abusive of the incentive were devised around it. The incentive was introduced with a sunset date of 30 June 2021. The National Treasury announced that the incentive will not be extended beyond this date since it did not sufficiently achieve its objectives. There is no indication of a phased-out approach for existing VCCs. This may place some fund managers under pressure to raise capital before the sunset date, which may affect the VCC's ability to comply with the requirements of section 12J within the prescribed periods.

Wealth and estate planning

Section 7C was introduced into the Income Tax Act a number of years ago to curb the practice of freezing the value of an individual's estate. The National Treasury identified schemes that undermine the current rules by transferring loans that funded high value assets between related trusts. Further changes to this provision can be expected.

Hybrid debt rules

Sections 8F and 8FA deal with debt instruments that exhibit characteristics of equity instruments. The National Treasury indicated in the Budget Review that "[t]he provision does not deem the return to be an *in specie* dividend for the recipient of the return". If this is the case, it results in economic double taxation. It is proposed that this concern be addressed.

There may however be a broader concern relating to this announcement. These provisions are widely interpreted in practice as already providing a re-classification for the recipient. This statement casts significant doubt on those interpretations.

VAT claw-backs for property developers

Developers who construct residential property to sell are entitled to deduct input tax. If the property is however temporarily let out while the developer is unable to sell it, this triggers an output tax charge on the full market value of the property. Section 18B was inserted into the VAT Act to provide temporary relief. This relief has since expired. The National Treasury indicated that it will investigate a more equitable claw-back mechanism in the case of temporary leasing by property developers.

Alignment of tax laws for remote working

The National Treasury will undertake a multi-year project, which will start with consultations in 2021/22, to review travel and home office allowances in light of the large scale migration to working at home over the past year.