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#### PERSONAL INCOME TAX

Personal income tax brackets adjusted above inflation after two years of no change. Tax-free threshold increases from R79 000 to R83 100. Medical Tax Credits adjusted by less than inflation to help fund the rollout of the National Health Insurance.



#### FOREIGN REMUNERATION EXEMPTION

Increase in the cap on the exemption from 1 March 2020 to R1.25 million per year to potentially put a curb on high emigration rates.

#### TAX-FREE SAVINGS ACCOUNTS

Annual contributions limit increased from R33 000 to R36 000 from 1 March 2020.

#### CORPORATE TAX RESTRICTIONS

Government proposed two restrictions on companies:

1. Limiting the offset of assessed losses carried forward to 80% of taxable income for years of assessment commencing on or after 1 January 2021.

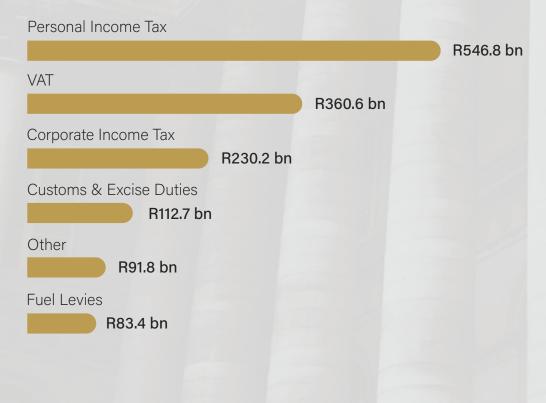
2. Restricting the net interest expense deduction to 30% of earnings for years of assessment commencing on or after 1 January 2021.



#### FUEL LEVY

Taxpayers will be paying 25c/litre more for fuel from 1 April 2020 over and above the normal fuel price movements.

#### **TAX REVENUE 2019/2020**



# 2020 Budget HighLights

### 02

#### TAX RATES & REBATES

Individuals, Estates & Special Trusts

#### Year ending 28 February 2021

Taxable income	Rate of tax (R)
R0 - R205 900	18% of taxable income
R205 901 - R321 600	R37 062 + 26% of taxable income above R205 900
R321 601 - R445 100	R67 144 + 31% of taxable income above R321 600
R445 101 - R584 200	R105 429 + 36% of taxable income above R445 100
R584 201 - R744 800	R155 505 + 39% of taxable income above R584 200
R744 801 - R1 577 300	R218 139 + 41% of taxable income above R744 800
R1 577 301 and above	R559 464 + 45% of taxable income above R1 577 300

#### Year ending 29 February 2020

Taxable income	Rate of tax (R)
R0 - R195 850	18% of taxable income
R195 851 - R305 850	R35 253 + 26% of taxable income above R195 850
R305 851 - R423 300	R63 853 + 31% of taxable income above R305 850
R423 301 - R555 600	R100 263 + 36% of taxable income above R423 300
R555 601 - R708 310	R147 891 + 39% of taxable income above R555 600
R708 311 - R1 500 000	R207 448 + 41% of taxable income above R708 310
R1 500 000 and above	R532 041 + 45% of taxable income above R1 500 000

020/2021	2019/2020	
14 059		
14 900	R14 220	
R8 199 R7 794		
R2 736 R2 601		
Tax threshold		
83 100	R79 000	
128 650	R122 300	
143 850	R136 750	
8 2 12	736 <b>x threshold</b> 3 100 28 650	

#### MEDICAL TAX CREDIT RATES

Per month (R)	2020/2021	2019/2020	
For the taxpayer who paid the medical scheme contributions	R319	R310	
For the first dependant	R319	R310	
For each additional dependant(s)	R215	R209	

#### TAKE-HOME PAY

The table below sets out a comparison of the take-home pay that an individual can expect based on the 2020 and 2021 tax tables:

		Take-home pay					
Monthly Annual		2020/2021			2019/2020		
gross	equivalent	Under 65	65 - 74	Over 75	Under 65	65 - 74	Over 75
R6 583,33	R79 000,00	R6 583,33	R6 583,33	R6 583,33	R6 583,33	R6 583,33	R6 583,33
R6 925,00	R83 100,00	R6 925,00	R6 925,00	R6 925,00	R6 863,50	R6 925,00	R6 925,00
R10 000,00	R120 000,00	R9 446,50	R10 000,00	R10 000,00	R9 385,00	R10 000,00	R10 000,00
R15 000,00	R180 000,00	R13 546,50	R14 229,75	R14 457,75	R13 485,00	R14 134,50	R14 351,25
R20 000,00	R240 000,00	R17 419,17	R18 102,42	R18 330,42	R17 290,67	R17 940,17	R18 156,92
R30 000,00	R360 000,00	R24 659,17	R25 342,42	R25 570,42	R24 465,04	R25 114,54	R25 331,29
R40 000,00	R480 000,00	R31 413,75	R32 097,00	R32 325,00	R31 128,75	R31 778,25	R31 995,00
R50 000,00	R600 000,00	R37 774,25	R38 457,50	R38 685,50	R37 417,75	R38 067,25	R38 284,00
R80 000,00	R960 000,00	R55 715,58	R56 398,83	R56 626,83	R55 298,26	R55 947,76	R56 164,51
R110 000,00	R1 320 000,00	R73 415,58	R74 098,83	R74 326,83	R72 998,26	R73 647,76	R73 864,51
R130 000,00	R1 560 000,00	R85 215,58	R85 898,83	R86 126,83	R84 598,25	R85 247,75	R85 464,50

The table below sets out a comparison of the PAYE that would have been/will be deducted from an individual's salary in 2020 and 2021:

		PAYE to be deducted					
Monthly Annual		2020/2021			2019/2020		
gross	equivalent	Under 65	65 - 74	Over 75	Under 65	65 - 74	Over 75
R6 583,33	R79 000,00	-	-	-	-	-	-
R6 925,00	R83 100,00	-	-	-	R61,50	-	-
R10 000,00	R120 000,00	R553,50	-	-	R615,00	-	-
R15 000,00	R180 000,00	R1 453,50	R770,25	R542,25	R1 515,00	R865,50	R648,75
R20 000,00	R240 000,00	R2 580,83	R1 897,58	R1 669,58	R2 709,33	R2 059,83	R1 843,08
R30 000,00	R360 000,00	R5 340,83	R4 657,58	R4 429,58	R5 534,96	R4 885,46	R4 668,71
R40 000,00	R480 000,00	R8 586,25	R7 903,00	R7 675,00	R8 871,25	R8 221,75	R8 005,00
R50 000,00	R600 000,00	R12 225,75	R11 542,50	R11 314,50	R12 582,25	R11 932,75	R11 716,00
R80 000,00	R960 000,00	R24 284,42	R23 601,17	R23 373,17	R24 701,74	R24 052,24	R23 835,49
R110 000,00	R1 320 000,00	R36 584,42	R35 901,17	R35 673,17	R37 001,74	R36 352,24	R36 135,49
R130 000,00	R1 560 000,00	R44 784,42	R44 101,17	R43 873,17	R45 401,75	R44 752,25	R44 535,50

#### INTEREST EXEMPTION

South African sourced interest		
Persons under 65 years R23 800		
Persons 65 years and older R34 500		

South African sourced interest income earned by non-residents is exempt if the non-resident was absent from the country for an aggregate of 183 days in the 12 months preceding the accrual of that interest.

#### TAX-FREE INVESTMENTS

Amounts received by or accrued to an individual in respect of particular prescribed investment instruments and policies are exempt. Contributions to these prescribed investments/policies are subject to an annual limit of R36 000 (2020: R33 000). Currently, a R500 000 lifetime limit applies.

#### DIVIDENDS

Dividends received by individuals from South African companies are generally exempt from income tax, but dividends tax at a rate of 20% is withheld by the entities paying the dividends to the individuals.

#### FOREIGN DIVIDENDS

Most foreign dividends received by individuals from foreign companies (shareholding of less than 10% in the foreign company) are allowed an exemption equal to 25/45 of the gross dividends received. No deductions are allowed for expenditure incurred to produce foreign dividends.

Foreign withholding taxes are allowed as a credit against taxes payable based on taxable foreign income as a percentage of total taxable income.

#### FOREIGN INTEREST

Foreign interest received by or accrued to a resident is subject to normal tax in South Africa.

#### TRAVEL EXPENSES

Rates per kilometre, which may be used in determining the allowable deduction for business travel against an allowance or advance where actual costs are not claimed, are determined by using the following table:

Value of the vehicle (including VAT) (R)	Fixed cost (R p.a. )	Fuel cost (c/km)	Maintenance cost (c/km)
R0 - R95 000	R31 332	105.8	37.4
R95 001 - R190 000	R55 894	118.1	46.8
R190 001 - R285 000	R80 539	128.3	51.6
R285 001 - R380 000	R102 211	138.0	56.4
R380 001 - R475 000	R123 955	147.7	66.2
R475 001 - R570 000	R146 753	169.6	77.8
R570 001 - R665 000	R169 552	175.1	96.6
Exceeding R665 000	R169 552	175.1	96.6

- \* If the travel allowance is applicable to a portion of the tax year, the fixed cost is reduced proportionately.
- \*\* Where the travel allowance is based on actual distance travelled by the employee for business purposes, no tax is payable on an allowance paid by an employer to an employee, up to the rate of 398 cents per kilometre regardless of the value of the vehicle or distance travelled. This alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.
- \*\*\* It is compulsory to keep a logbook of travels in order to claim business travel expenses.
- \*\*\*\* When claiming actual expenditure, the cost of the vehicle must be limited to R665 000 (2020: R595 000) for the purposes of calculating finance charges and wear and tear.

#### SUBSISTENCE ALLOWANCE

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

• meals and incidental costs, an amount of R452 (2020: R435) per day is deemed to have been expended;

• incidental costs only, an amount of R139 (2020: R134) 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 of South Africa, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website under Legal Counsel/Secondary Legislation/Income Tax Notices/2019.

#### RETIREMENT FUND CONTRIBUTIONS

Contributions to a pension, provident or retirement annuity fund during a tax year are deductible by the member of the fund. The deduction is limited to the greater of:

 27.5% of the employee's remuneration for PAYE purposes (excluding retirement fund lump sums and severance benefits); or

• 27.5% of the employee's taxable income (excluding retirement fund lump sums and severance benefits).

The deduction is limited to a maximum amount of R 350 000. If contributions exceed the limit during a particular tax year, the contributions are carried over to the next tax year.

#### DONATIONS

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income (excluding retirement fund lump sums and severance benefits). The amount of donations exceeding 10% of the taxable income is treated as a donation to qualifying public benefit organisations in the following tax year.

Donations tax is levied at a flat rate of 20% on the cumulative value of donations not exceeding R30 million and a rate of 25% on the cumulative value exceeding R30 million. This was effective March 2018. Donations made prior to this date must not be included in the cumulative total.

The first R100 000 of donations in each year by an individual is exempt from donations tax, as well as donations to spouses and certain public benefit organisations.

Donations made by non-residents are also exempt from donations tax.

#### LUMP SUM BENEFITS

Lump sum benefits in consequence of the withdrawal of membership of a retirement fund, including amounts assigned in terms of divorce settlements in certain circumstances, other than death/retirement lump sum benefits, are taxed according to the following table:

Taxable income from withdrawal benefits	Tax payable
R0 - R25 000	0% of taxable income
R25 001 – R660 000	18% of taxable income above R25 000
R660 001 – R990 000	R114 300 + 27% of taxable income above R660 000
R990 001 and above	R203 400 + 36% of taxable income above R990 000

Lump sum benefits in consequence of retirement/death are taxed according to the following table:

Taxable income from retirement benefits	Tax payable
R0 - R500 000	0% of taxable income
R500 001 – R700 000	18% of taxable income above R500 000
R700 001 – R1 050 000	R36 000 + 27% of taxable income above R700 000
R1 050 001 and above	R130 500 + 36% of taxable income above R1 050 000

\* Taxable income is cumulative and includes all lump sum payments whether on retirement (after 1 October 2007) or withdrawal (after 1 March 2009), or a severance benefit (after 1 March 2011).

#### CAPITAL GAINS TAX (CGT)

As from 1 October 2001, Capital Gains Tax (CGT) applies to residents' worldwide assets and to non-residents' immovable property or assets of a permanent establishment situated in South Africa.

Inclusion rates	
Individuals, special trusts and individual policyholder funds	40%
Exclusions	
Individuals, special trusts and individual policyholder funds	R40 000
Individuals in year of death	R300 000
Primary residence exclusion on the disposal of a primary residence	R2 million gain/ loss
Small business assets (persons over age 55 and market value of assets not more than R10 million)	R1.8 million

CGT example		
Salary		R180 000
Sale of primary residence		
- Proceeds	R4 000 000	
- Agent commission	(R200 000)	
- Purchase price	(R1 500 000)	
- Improvements	(R150 000)	
Sub total	R2 150 000	
Primary residence exclusion	(R2 000 000)	
Gain from sale	R150 000	
Sale of shares		_
- Proceeds	R50 000	
- Purchase price	(R35 000)	
Gain from sale	R15 000	
Total capital gains	R165 000	
Less: Annual exclusion	(R40 000)	
Total	R125 000	
Apply inclusion rate (40%)		R50 000
Total taxable income		R230 000

#### COMMUNAL ESTATE INCOME

Income received by or accrued to a taxpayer, other than that from the carrying on of any trade, but including investment income and capital gain transactions, is deemed to accrue to the spouses, who are married in community of property, in equal portions. This includes income from the letting of fixed property/assets that forms part of the communal estate.

#### TRUSTS TAX RATES

Rate of tax	2015	2016-2017	2018-2020
All taxable income	40%	41%	45%

Special trusts are taxed at the rates applicable to individuals, but are not entitled to any rebate. The 40% inclusion rate for a taxable capital gain applies to both types of special trusts and 80% inclusion rate for normal trusts.

#### A special trust is one created:

 solely for the benefit of a person affected by a mental illness or serious physical disability which prevents that person from earning sufficient income to maintain him/herself. Where the person for whose benefit the trust was established dies prior to or on the last day of the year of assessment the trust will no longer be regarded as a special trust;

• as a testamentary trust established solely for the benefit of minor children who are alive and related to the deceased on the date of death. Where the youngest beneficiary turns 18 years of age prior to or on the last day of the year of assessment, the trust will no longer be regarded as a special trust.

#### **SECTION 7C**

#### What is Section 7C?

Section 7C is an anti-avoidance provision designed to prevent avoidance of both donations tax and estate duty through low or no interest loans granted to trusts.

#### Implications of section 7C?

SARS will deem the interest foregone, on a loan to a trust where the interest is less than the official interest rate, as a donation. This donation is deemed to be made on the last day of the year of assessment of the trust and will be subject to donations tax.

The lender must be either a connected natural person, or a company who granted the loan at the instance of that natural person. This applies to all loan account balances on or after 1 March 2017.

The provision does not apply to loans granted to a trust for the purchase of the lender's or the spouse's primary residence.

The official interest rate is linked to the repurchase rate plus 1% and is published on the SARS website. The most recent changes are as follows:

Date from	Date to	Rate
01.04.2016	31.07.2017	8.00%
01.08.2017	31.03.2018	7.75%
01.04.2018	30.11.2018	7.50%
01.12.2018	31.07.2019	7.75%
01.08.2019	31.01.2020	7.50%
01.02.2020	Until change in Repo rate	7.75%

#### Non-Residents:

Loans by non-residents are not subject to the effect of donations tax as a result of S7C since non-residents are exempt from donations tax. Loans from non-residents may nonetheless be subject to transfer pricing provisions.

Distributions to non-residents are fully taxable in the trust at the trust's applicable tax rate.

#### TAX RATES

(Unless otherwise stated, financial years ending on any date between 1 April 2020 and 31 March 2021)

Basic rate (other than entities specified below)	28%
Companies in certain special economic zones	15%

Small Business Corporations (annual turnover of R20 million or less):

#### Financial years ending on any date between 1 April 2020 and 31 March 2021

Taxable income	Rate of tax
R0 – R83 100	0 % of taxable income
R83 101 – R365 000	7% of taxable income above R83 100
R365 001 – R550 000	R19 733 + 21% of taxable income above R365 000
R550 001 and above	R58 583 + 28% of taxable income above R550 000

#### Financial years ending on any date between 1 April 2019 and 31 March 2020

Taxable income	Rate of tax
R0 – R79 000	0 % of taxable income
R79 001 – R365 000	7% of taxable income above R79 000
R365 001 – R550 000	R20 020 + 21% of taxable income above R365 000
R550 001 and above	R58 870 + 28% of taxable income above R550 000

Micro-business (elective presumptive turnover tax for qualifying annual turnover of R1 million or less)\*.

#### Years of assessment commencing on 1 March 2020 or ending on 28 February 2021.

Taxable turnover	Rate of tax
0 – R335 000	0% of taxable turnover
R335 001 - R500 000	1% of the amount above R335 000
R500 001 – R750 000	R1 650 + 2% of the amount above R500 000
R750 001 and above	R6 650 + 3% of the amount above R750 000

\* Qualifying micro-businesses are entitled to pay turnover tax, VAT and employees' tax twice a year.

#### DONATIONS

In the case of a taxpayer who is not an individual, exempt donations are limited to casual gifts not exceeding R10 000 per annum in total.

Donations between companies forming part of the same group of companies and donations to certain public benefit organisations are exempt from donations tax.

#### VAT

The VAT rate remained unchanged at 15%.

#### **Compulsory Registration**

It is mandatory for a business to register for VAT if the total value of taxable supplies made in any consecutive twelve month period exceeded or is likely to exceed R1 million. The business must complete a VAT 101 - Application for Registration form and submit it to the local SARS branch within 21 days from date of exceeding R1 million.

#### Voluntary Registration

A business may also choose to register voluntarily for VAT if the value of taxable supplies made or to be made is less than R1 million, but has exceeded R50 000 in the past period of 12 months.

#### DIVIDENDS

Dividends are subject to dividends tax which is withheld from the gross dividend declared, before being paid to the beneficial owners. The entity declaring the dividend is liable for withholding the tax and paying it to SARS.

#### The following rates are applicable:

Beneficial owner	Dividend withholding tax rate
Resident individuals	20%
Resident companies	0%
Non-resident individuals and companies	Refer to tax rates per South African DTA Agreements – available on the SARS website

#### FRINGE BENEFITS

#### Right of Use of Motor Vehicle

As from 1 March 2015, for vehicles acquired or financed, the determined value for the fringe benefit is the retail market value (previously cost) including VAT but excluding finance charges and interest. The determined value of a motor vehicle held under a lease is the cash value.

The employee will be taxed on 3,5% (3,25% if subject to a maintenance plan) per month of the determined value of the motor vehicle less any consideration paid by the employee towards the cost of the vehicle.

#### Medical Aid Contributions

As from 1 March 2010, the full contribution by an employer is a fringe benefit. If the employer makes a lump sum payment for all employees, the fringe benefit is determined in accordance with a formula, which will have the effect of apportionment amongst all employees concerned. The fringe benefit has no value where the contributions are made for an employee who retired due to superannuation or ill health, or for dependants of a deceased employee.

#### Low Interest or Interest-Free Loans

The fringe benefit is the difference between the interest rate charged by the employer and the official interest rate applied to the loan amount.

The fringe benefit has no value where the loan is less than R3 000 or where a loan is made to an employee to further his/her own studies.

Employers should consider the requirements to register as a credit provider in terms of the National Credit Act when providing interest bearing loans to employees.

#### Retirement funding contributions

Retirement funding contributions paid by the employer as part of remuneration is included in taxable income as a fringe benefit.

#### Employer pays for tax and related services

An employee should be taxed on a fringe benefit whenever an employer pays tax and related services rendered to that employee.

#### **Residential Accommodation**

The value of the fringe benefit to be taxed is the rental value less any consideration paid by the employee. As from 1 March 2015, where the accommodation is not owned by the employer but by an unconnected person, the rental value is the lower of the formula value or the arm's length rental. As from 1 March 2008, no value is placed on the benefit where:

• the supply of any accommodation to an employee away from his usual place of residence in South Africa for the performance of his duties.

• the supply of any accommodation in South Africa to an employee away from his usual place of residence outside South Africa for a two year period, subject to a limit of R25 000 per month. This concession does not apply if the employee was present in South Africa for more than 90 days in the tax year prior to the date of arrival for the purpose of his duties.

#### CAPITAL GAINS TAX (CGT)

	Inclusion rates*
6	Companies
6	Companies

\* No capital gains exclusions apply to companies.

#### SECURITIES TRANSFER TAX

Securities transfer tax (STT) is payable upon the transfer of unlisted shares. This includes the buying back, redemption or cancellation of shares. STT is levied at 0.25% of the value of the shares transferred and is due within two months after the end of the month in which the shares were transferred.



#### **PROVISIONAL TAX**

A provisional taxpayer is any person who earns income by way of remuneration from an unregistered employer, or income that is not remuneration, or an allowance or advance payable by the person's principal. An individual is not required to pay provisional tax if he or she does not carry on any business, and the individual's taxable income:

 $\cdot\,$  Will not exceed the tax threshold for the tax year; or

• From interest, dividends, foreign dividends, rental from the letting of fixed property, and remuneration from an unregistered employer will be R30 000 or less for the tax year.

Provisional tax returns showing an estimation of total taxable income for the year of assessment are required from provisional taxpayers.

Deceased estates are not provisional taxpayers.

#### ESTATE DUTY

Value of estate	Rate
R0 to R30 000 000	20% of the dutiable amount of a deceased estate
Exceeding R30 000 000	25% of the dutiable amount of a deceased estate

Estate duty is levied on the dutiable amount of a deceased estate (property of residents and SA property of non-residents). Deductions include: a standard abatement of R3.5 million per estate (R7 million for a married couple) and certain other deductions, the most important of which is the deduction for property accruing to a surviving spouse.

#### TRANSFER DUTY

Paid on acquisition of immovable property where the transaction is not subject to VAT. Transfer duty is also payable on the acquisition of residential property through an interest in a company or trust. The rates of duty are as follows:

Years of assessment commencing on 1 March 2020 or ending on 28 February 2021.

Value of property	Rate
R0 to R1 000 000	0% of property value
R1 000 001 to R1 375 000	3% of property value above R1 000 000
R1 375 001 to R1 925 000	R11 250 + 6% of property value above R1 375 000
R1 925 001 to R2 475 000	R44 250 + 8% of property value above R1 925 000
R2 475 001 to R11 000 000	R88 250 + 11% of property value above R2 475 000
R11 000 001 and above	R1 026 000 + 13% of the value exceeding R11 000 000

Years of assessment commencing on 1 March 2019 or ending on 29 February 2020.

Value of property	Rate
R0 to R900 000	0% of property value
R900 001 to R1 250 000	3% of property value above R900 000
R1 250 001 to R1 750 000	R10 500 + 6% of property value above R1 250 000
R1 750 001 to R2 250 000	R40 500 + 8% of property value above R1 750 000
R2 250 001 to R10 000 000	R80 500 + 11% of property value above R2 250 000
R10 000 001 and above	R933 000 + 13% of the value exceeding R10 000 000

#### WITHHOLDING TAXES

Other payments to non-residents		
Royalties	15%	
Interest	15%	
Sportsmen and entertainers who perform in SA	15%	
Fixed property acquired in SA from a seller that is a non-resident:		
If the non-resident is a natural person	7.5%	
If the non-resident is a company		
If the non-resident is a trust		

#### FOREIGN REMUNERATION EXEMPTION

Foreign remuneration has experienced quite a lot of attention in the past 3 years. What was originally a full exemption under Section 10(1)(o)(ii) is now limited to R1.25 million from 1 March 2020 following Tito Mboweni's 2020 Budget Speech. This comes after the initial amendment which was promulgated in December 2017 that capped the exemption at R1 million. These changes have caused numerous South Africans to cut ties with the country and it now appears that the government aims to change their approach.

Although it appears that this may bring relief to South African tax residents abroad, the additional R250 000 is mainly wiped out by the effect of the weakening Rand and fringe benefits which will inflate their total package.

Government has proposed to phase in a new exchange control treatment as from 1 March 2021 which is also aimed at reducing the increasing emigration rates. We will see a new verification process with regards to remuneration earned abroad and offshore transfers which allows identical treatment of natural person emigrants and natural person residents.

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#### BUDGET SPEECH 2020 – GOVERNMENT LAST DITCH ATTEMPT DUE TO EXODUS OF SOUTH AFRICANS

In December 2017, the change to the foreign employment income exemption was promulgated into law. This has widely become known as the "expat tax". The exemption at that point was capped at R1 million, meaning that South African tax residents earning foreign employment income above this threshold would no longer be exempt from tax in South Africa, from the effective date of 1 March 2020.

#### Stakeholders Warned Government

At every point from the proposal of the amendment to the expat tax, to the promulgation of it into law, and thereafter at various workshops with National Treasury, stakeholders pleaded with government and warned in no uncertain terms that implementing this change in legislation would lead to an accelerated cessation of tax residency.

The response from government at that point was that the formalization of non-residency in those cases was to be encouraged. This view was shortsighted and has come back to haunt government as South Africans have in many cases chosen to financially emigrate and thus cease their tax residency with South Africa to avoid the expat tax.

#### South Africa Scrambles to Keep Its Expats

In the 2020 Budget Review, there is a desperate attempt to change the mind of those South African's formalizing their non-resident status by increasing the exemption cap to R1.25 million. This is of course welcome, but a little too late. The increase will unfortunately assist with only a small group of South Africans working abroad, and merely dangles a carrot for the rest of those abroad to entice them to remain within the South African tax net. The big issue which has been raised on numerous occasions with government is the issue of fringe benefits, which in many cases deplete the exemption before one even considers the cash component of their salary to be taxed.

#### Financial Emigration - Has it Changed the Minds of Government?

As there has been a massive increase in South Africans ceasing residency to avoid the change in legislation, government has taken notice. The current loss of revenue and potential future loss with South Africans continuing to cease residency means that the expat tax has backfired before it has even become effective.

Government has announced that they will remove some of the emigration formalities from an exchange control perspective, which will take effect from 1 March 2021. These exchange control formalities will be replaced with an uncertain future regime which leaves South Africans with 12 months of some semblance of certainty and to get their affairs in order before a new regime is put in place.

Specifically mentioned is that, "government wants to encourage all South Africans working abroad to maintain their ties to the country." This must be viewed with some skepticism as government asking a taxpayer to keep ties with the country, and knowing how South African tax residency works, would lead to an attempt to keep the taxpayer within the tax net, while still defending the punitive expat tax.

Government has confirmed that tax residency will still be determined as per South African case law and legislation, being the ordinarily resident test and physical presence test – this comes as no surprise, but does show that government understands that it needs to hold on to its South Africans abroad to ease a flailing tax base. In theory, the financial emigration exit process will in future change from a SARB exchange control perspective, but remains as is from a SARS tax perspective.

#### Offshore Bank Accounts Beware

With the Common Reporting Standards in full swing, having a hidden offshore bank account is a "luxury" of the past, as information is being shared with revenue authorities around the world. Government has again shown interest hereon by noting that "cooperative practices will remain in place to ensure that South African tax residents who have offshore income and investments pay the appropriate level of tax.".

The simple truth remains that taxpayers must assume any bank account in their name will eventually be known to SARS, so remaining compliant is key while ensuring you are not caught when SARS "asks" about all your world-wide bank accounts.

#### A Desperate State, it is Too Late

While we can welcome a small increase to the expat tax threshold, as well as hopefully lesser exchange control restrictions for the future, the issue remains – the expat tax is, and will continue to be, disadvantageous for the South African tax resident, as well as for the South African tax base. The tide of South Africans making up their mind to "divorce" South Africa fiscally, formally letting government know their intentions to leave the fiscal net, will probably not be impacted by Budget 2020. To the contrary, it may cause an accelerated effect, as the taxpayer has until 01 March 2021 to exit under a formalized dispensation.

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#### WHAT TO EXPECT FROM SARS IN 2020/2021

Since being appointed Commissioner for the South African Revenue Service (SARS), Edward Kieswetter has committed himself to rebuild the institution. The findings of the Commission of Inquiry into Tax Administration and Governance by SARS, and the Commissioner himself have confirmed the fact that State Capture eroded the governance, skills, structures and relationships at SARS.

In pursuit to turn around the institution, SARS adopted a 5-year strategic plan to achieve its 2024 Vision, which is "to build a smart modern SARS with unquestionable integrity, trusted and admired by Government, the public, as well as our international peers." Put differently, the Commissioner wants to build a revenue authority that provides a world-class service to compliant taxpayers but one that is equally tough on non-compliant taxpayers.

#### Actions Speak Louder Than Words

The Commissioner has already effected change in several respects, including relaunching the Large Business Centre, the Illicit Trade Capacity has been re-established in the Enforcement division, along with the Compliance Unit.

On 1 February 2020, SARS announced further plans to achieve its objectives. An important part of the strategy is to invest in new technology, to equip SARS officials with the tools and data they need to perform their functions effectively. In addition to this, SARS will embark on an internal and external recruitment drive, to replace the skills lost over recent years and to enrich the gene pool at SARS. In this regard, several executive positions were advertised immediately and appears to have been filled already.

We have also seen some positive signs from SARS that indicate that it is indeed on the mend. SARS has seen some big wins, including a R1 billion tax evasion case at the end of 2019. An encouraging sign is also that taxpayers and SARS officials implicated in tax fraud are investigated properly and some are actually sentenced to imprisonment. Indications that SARS is investigating certain political figures is a further reason to be positive, as it appears that SARS' approach to enforcement is now in fact without fear or favour.

#### **Concluding Remarks**

It is difficult to say how long it will be before SARS will operate as the revenue authority it aspires to be, but it seems that SARS is on the right track. From a taxpayer perspective, we can hopefully look forward to improved service delivery, but perhaps also tighter enforcement and more aggressive collection strategies. This may come as a result of the enhancements in technology and further recruitment of skills, but this can be expected purely because SARS' hands are tied. With prevailing budget constraints, SARS has to improve its efficiency and collect more revenue.

Over time, we hope that better service delivery and improved enforcement will lead to an increase in tax morality, all of which will augment revenue collection across the board.

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#### ON THE FRONTIERS OF **TAX TECHNICAL EXPERTISE** & OPTIMAL COMPLIANCE ASSURANCE.

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