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TAX & EXCHANGE CONTROL

2026 Special Edition

# Budget Speech

overview

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# Index

## Corporate income tax 4

- Changing landscape for collective investments schemes

## International tax 6

- An appreciation of the rand leads to an appreciation of foreign currency tax dilemmas

## Personal income tax/employees' tax 9

- Welcome clarification for non-resident employers
- The brackets stopped creeping and Christmas came early

## Tax administration 13

- Tax debt collection: Update on SARS' recovery performance
- Provisional taxpayers beware: pay on time or be penalised
- Voluntary disclosure, involuntary interest: A proposed solution

## Value-Added Tax (VAT) 17

- 2026 Budget summary: VAT

## Customs & Excise 21

- Customs & Excise

## Other 25

- Special economic zones
- Carbon tax: Some developments
- Is National Treasury gambling on taxpayers?

# Definitions

## Abbreviation

**Budget**

**Carbon Tax Act**

**CFC**

**CIS**

**Customs Act**

**ITA**

**Minister**

**SARS**

**TAA**

**VAT**

**VAT Act**

**PAYE**

**Climate Change Act**

## Full reference

2026 Budget

Carbon Tax Act 15 of 2019

Controlled Foreign Company

Collective Investment Scheme

Customs and Excise Act 91 of 1964

Income Tax Act 58 of 1962

Minister of Finance

South African Revenue Service

Tax Administration Act 28 of 2011

Value-Added Tax

Value-Added Tax Act 89 of 1991

Pay-As-You-Earn

Climate Change Act 22 of 2024

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# Corporate income tax

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## Changing landscape for collective investments schemes

The focus of National Treasury has been on the tax treatment of Collective Investment Schemes (CISs) for some time. This is especially in the context of qualified investment hedge funds (Hedge Funds), which achieved spectacular returns over the last few years without paying tax in respect thereof.

The current position is that capital gains made by CISs are exempt from the payment of capital gains tax. Pursuant to recommendations made, the intention is now that all investment returns generated by regular CISs and retail investment Hedge Funds be taxed as capital. This will encourage savings and provide the industry with certainty about the tax treatment of these type of vehicles. However, it has already been indicated that Hedge Funds will (from 1 January 2027) not qualify for asset-for-share transactions, even though they would qualify for amalgamation transactions.

It has also been indicated that, generally, distributions of capital receipts by a CIS will be treated as a capital gain for the holder of a participatory interest with effect from 1 March 2026. Distributions of capital gains would therefore no longer be exempt.

The issue is now that some Hedge Funds that are not open to the general public will be removed from this favourable tax regime. It has been indicated that these funds will be removed in circumstances where they have minimal investment criteria and only cater for those able to invest a minimum of R1 million. Hedge Funds that are open to the general public will still qualify for the favourable tax regime.

The announcement is welcomed in the sense that the industry has been the subject matter of much uncertainty over the last few years in respect of the treatment of gains pursuant to the realisation of investments. The one key issue is that certainty is required, which will now be provided on the basis that investment returns will be treated on capital account, and thus be exempt. However, Hedge Funds will be removed from this favourable regime and normal tax principles will apply with reference to investment returns, especially whether the proceeds can be said to constitute the realisation of an investment as opposed to an active business in deriving profits.

**Emil Brincker**

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# International tax

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## An appreciation of the rand leads to an appreciation of foreign currency tax dilemmas

A domestic treasury management company (DTMC) is a company that is considered tax resident in South Africa but which is treated as a non-resident company for exchange control reporting and monitoring purposes, even though it is a South African tax resident.

This concept was especially aimed at alleviating some of the exchange control complexities and burdens in relation to investing into Africa (and overseas in general) and was formulated to keep South Africa competitive. For example, where a multinational is faced with establishing its foreign investment holding company in South Africa versus another foreign jurisdiction, that company may prefer a foreign jurisdiction with less burdensome exchange control regimes. This is what the concept of a DTMC was specifically trying to curb.

Due to the rand's extreme volatility (which at least recently has led to appreciation) there are also specific tax rules regarding the taxation of unrealised and realised foreign currency gains and losses.

Moreover, unique rules apply where South African taxpayers conduct business in foreign currency. In addition, South African resident shareholders holding investments offshore may have some of their foreign operations' income taxed in their hands in South Africa under the CFC rules. However, these two somewhat conflicting concepts can have unintended consequences.

Section 9D(6) of the ITA (which sets out the CFC rules) requires that the net income of a CFC (for purposes of attribution to South African resident shareholders) be determined in its "*functional currency*", being essentially the currency of the primary economic environment within which business is conducted (e.g. the US dollar or Euro). The rules then dictate

## An appreciation of the rand leads to an appreciation of foreign currency tax dilemmas...continued

that when including the relevant amount in the income of a South African shareholder, this amount must be translated into rand by applying the average exchange rate for the CFC's foreign tax year.

On the other hand, section 25D(5) of the ITA governs how to determine taxable income in a foreign currency. It provides that where the South African shareholder is a DTMC (for example, with a US dollar or Euro functional currency), any amount received in a currency other than its functional currency (such as the rand attribution of an amount of net income under the CFC rules) must first be determined in the DTMC's

functional currency (US dollar/Euro) and thereafter translated back into rand using the average exchange rate applicable to the DTMC's year of assessment.

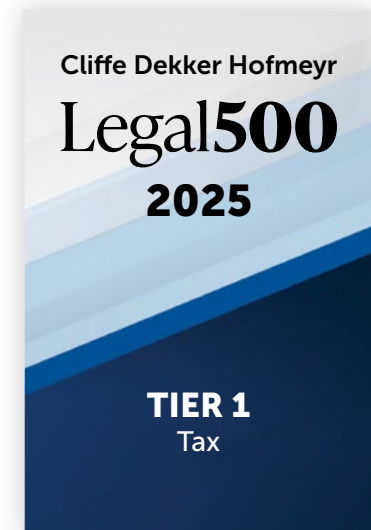
On the face of it, this seems counter-intuitive, potentially double counting and administratively cumbersome. National Treasury agrees as it has identified that the current interaction between section 9D(6) and section 25D(5) of the ITA may inadvertently create onerous translation requirements, resulting in distortions in the taxable income ultimately reflected in South Africa.

To resolve this anomaly, it is proposed that legislation be amended to ensure that where a DTMC is

the resident shareholder of a CFC, section 9D(6) of the ITA does not require the translation of an

amount of net income to rand first. This would hopefully avoid some of the unintended and unnecessary consequences identified and is a welcome proposal.

**Jerome Brink**



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# Personal income tax/employees' tax

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## Welcome clarification for non-resident employers

Paragraph 2 of the Fourth Schedule to the ITA mentions three requirements that trigger the withholding of employees' tax (PAYE). There must be an "employer" paying "remuneration" to an "employee". Paragraph 2 of the Fourth Schedule also distinguishes and clarifies the withholding obligation in the context of residents versus non-residents.

Historically, a non-resident employer was only required to deduct and pay over employees' tax in respect of a South African tax resident employee where that foreign employer had a representative employer who paid or was liable to pay remuneration to an "employee". A "representative employer" in turn was, in the case of a company, essentially a public officer of a company. If a non-resident employer

did not have a "representative employer" in South Africa that paid (or was liable to pay) remuneration, then no employees' tax obligation would arise for the foreign employer. Tax compliance for the local South African tax resident individual would then be accounted for under the provisional tax system.

During the 2023 legislative cycle, National Treasury proposed removing the distinction between resident and non-resident employers on the basis that any employer (resident or foreign) must deduct employees' tax. National Treasury was of the view that the proposed amendment would level the playing field between resident and non-resident employers and ensure alignment with skills development levies and unemployment insurance contributions, which many pay. While not explicitly stated, National Treasury may also have proposed this due to the potential low levels of compliance of individuals in the context of these scenarios.



## Welcome clarification for non-resident employers...continued

During the 2023 public consultation process, there was some pushback from industry and commentators alike. In particular, it was raised that this would cause significant administrative costs for foreign companies in circumstances where the provisional tax system should theoretically already cater for this. National Treasury partially accepted this comment and revised the proposal on the basis that the employees' tax withholding requirement would be limited to non-resident employers conducting business through a permanent establishment in South Africa. This was aimed at alleviating the administrative burden on non-resident employers in general and limiting the obligation to non-resident employers that have business activities in South Africa.

However, since the amendment, a number of practical difficulties and challenges have arisen. For example, while there are guidelines as to what constitutes a "*permanent establishment*", this is largely a factual test in circumstances where it is not always easy to obtain certainty. Moreover, while permanent establishment is generally a corporate income tax concept, it is now being used in the context of employees' tax, which leads to interconnected complexities.

Over and above this, it has been argued that this amendment can have anomalous consequences if the employee in question is not also effectively connected to the permanent establishment. For example, a non-resident employer with a permanent establishment in South Africa could employ a

South African resident employee in its home country who does not have any connection to the South African permanent establishment. In such circumstances, the non-resident employer would have a withholding obligation in relation to the South African resident employee although employment is not exercised in South Africa.

The Minister has therefore announced that it is proposed that the permanent establishment requirement for non-resident employers should be amended to include an additional requirement that the employee is effectively connected to the permanent establishment in South Africa. This would align with generally accepted international tax principles and will likely be welcomed by employers.

**Jerome Brink**

## The brackets stopped creeping and Christmas came early

After three years of fiscal drag, income tax brackets have stopped creeping. But that is not all. After many years of the tax thresholds and exemptions in the ITA remaining stagnant, the Minister announced that adjustments are also being made to these, including to the donations tax exemption and the capital gains tax annual, death and primary residence exemptions.

Fiscal drag or bracket creep refers to the practice of not adjusting income tax brackets in line with inflation. This is often termed a 'silent tax' as it results in taxpayers, whose incomes have increased to take account of inflation, paying more tax as a result of falling into a higher tax bracket. It is therefore a favourite tool of a fiscus that needs to balance its budget, but which faces opposition to introducing new taxes (or increasing tax rates outright).

National Treasury has used fiscal drag in order to bolster its revenue collection in recent years, but with the personal income tax brackets not having been adjusted since the 2023/24 financial year, this 'silent tax' has started becoming noticeable to taxpayers. Coupled with positive anticipated collections from SARS for the 2026/27 financial year, the personal income tax brackets will therefore be adjusted upwards to take account of inflation.

Arguably, however, National Treasury will still benefit from the last three years of bracket creep as the adjustment to the personal income tax brackets in the coming financial year will only take account of last year's inflation. Therefore, taxpayers whose incomes have increased with inflation for the last three years may still find themselves in a higher tax bracket than they would have been had National Treasury adjusted the personal income tax brackets during each of the last three financial years.

However, to sweeten this lukewarm victory for taxpayers, National Treasury has also announced increases to the tax thresholds and exemptions continued in the ITA. Most notably, the R100,000 donations tax exemption for donations by individuals, which has remained stagnant since 2007, is being increased to R150,000.

In addition, the capital gains tax exemptions, many of which have remained the same since 2012, are also increasing. For individuals, the first R50,000 of a person's taxable capital gain each year is now exempt (up from R40,000), while during the year in which a person dies, this exemption is now R440,000 (up from R300,000). The primary residence exemption has also increased from R2 million to R3 million.

On the whole, therefore, this Budget has brought some welcome relief for taxpayers. Hopefully it is a sign that the fiscal drag of recent years is being left behind, and SARS is collecting revenue from a growing tax base, instead of collecting more revenue from the existing tax base. Those who are proponents of Arthur Laffer's famous curve will also likely welcome this.

**Nicholas Carroll**

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# Tax administration

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## Tax debt collection: Update on SARS' recovery performance

The Budget provides an update on SARS' recent efforts to improve the collection of outstanding tax debt. This discussion is notable because it provides measurable insight into SARS' recovery performance against the quantitative targets previously set.

### Background and targets

The 2025 Budget and 2025 Medium-Term Budget estimated that SARS would collect between R20 billion and R50 billion in additional tax revenue by increasing total tax debt collections from R95 billion to at least R120 billion in 2025/26. This projected increase formed part of the revenue assumptions for the fiscal year.

To support this objective, SARS was allocated an additional R7 billion over the medium-term expenditure framework period and recruited approximately 1,500 additional debt collectors. The additional funding was aimed at strengthening enforcement capacity and improving recovery processes.

### Recorded collection outcomes

The Budget confirms that the projected increase in collections was not achieved in full. As at 31 January 2026, total outstanding tax debt amounted to approximately R646 billion. Of this amount, approximately R518,2 billion represents undisputed debt.

By 31 January 2026, SARS collected R79,4 billion. This is approximately R15 billion below the prior R95 billion collection target and materially below the enhanced R120 billion target for 2025/26.

The shortfall is attributed to delays in onboarding additional personnel, an increase in disputed debt and growth in deferred payment arrangements. As a result, additional revenue from debt collections is not taken into account in the fiscal framework.

### Takeaways

The scale of outstanding tax debt remains significant, particularly in respect of undisputed amounts. Undisputed liabilities present fewer procedural barriers to recovery than amounts under objection or appeal.

An increase in disputed debt is also recorded. It should be noted that, due to the "*pay now, argue later*" rule embodied in section 164 of the TAA, the lodging of an objection or appeal does not, in itself, suspend the legal obligation to pay tax. Suspension requires a separate application in terms of that provision. Taxpayers engaged in disputes should therefore critically consider the statutory requirements to qualify for such suspension should they wish to request the delay of the payment of the disputed tax debt.

Growth in deferred payment arrangements is similarly noted. Such arrangements regulate the timing of payment of the tax debt but do not extinguish the underlying tax liability. Relief under section 167 of the TAA is conditional, and ongoing compliance with agreed terms is central to maintaining that relief.

### Conclusion

The Budget points to strengthened debt collection capacity within SARS, although collections fell short of projected targets. This is (like with every business) a never-ending struggle.

Taxpayers should assess outstanding liabilities carefully, distinguish between disputed and undisputed amounts and ensure that procedural safeguards available under the TAA are properly utilised where appropriate.

**Mariska Delpert**

## Provisional taxpayers beware: pay on time or be penalised

Provisional tax is not a separate tax in itself. It is essentially a manner in which personal income tax for individuals and corporate income tax for companies is collected by SARS. For example, if an individual earns non-employment income (e.g. rental from letting a property) the profits derived from such activity are not taxed using the monthly employees' tax system. However, on the other extreme of being taxed monthly is having tax levied only once on assessment. The provisional tax system tries to cater for a middle road by spreading the tax liability from such non-employment income in three separate payments. This allows both SARS and taxpayers to better plan and comply with their tax obligations.

Nevertheless, timing of payments under the provisional tax system are also important as it feeds into the fiscus. National Treasury plans its budget and cash flow around this. Given this, there are various potential penalties applicable for the failure to comply with one's provisional tax obligations, including the underestimation, underpayment or late payment of provisional tax. In particular the following penalties may apply:

- **First period or payment:** 10% penalty for late payment where payment is usually due on 31 August of each year.
- **Second period or payment:** 10% penalty for late payment where payment is usually due on 28 February each year.
- **Second period or payment:** 20% penalty on the underestimation of the provisional tax estimate.
- **Third period or payment:** No penalties.

In relation to the underestimation penalty, acceptable tolerances are designed with reference to whether the taxpayer's actual taxable income is more or less than R1 million. Put simply the "*margin for error*" in estimating provisional tax is greater if one's actual taxable income is more than R1 million compared to less than R1 million.

Therefore in order for provisional tax penalties to be triggered, a taxpayer must first underestimate their taxable income outside acceptable tolerances. However, if the taxpayer submits an estimate that is within the acceptable tolerance but pays no provisional tax, the underestimation penalty cannot be imposed. The only penalty applicable in these cases is a late payment penalty of 10% which is less than the 20% underestimation penalty.

It has therefore been proposed that, with effect from 25 February 2026, timely payment of the estimated amount must be made or otherwise taxpayers will not be able to stand behind the accurate estimate. In other words, if one makes an estimate within the acceptable tolerances but pays the amount owing late, then the penalty will likely be increased.

The proposed amendments indicate that the fiscus is focused on cash flow. Effective implementation of budgets and plans depends on it and this penalty aligns with such intentions.

On the lighter side, the R1 million limit referenced in paragraph 20 of the Fourth Schedule for relying on amounts based on previous assessments, and not current estimates, will be increased to R1,8 million.

**Heinrich Louw and Jerome Brink**

# Voluntary disclosure, involuntary interest: A proposed solution

South Africa's Voluntary Disclosure Programme (VDP), governed by sections 225 to 233 of the TAA, offers taxpayers who make full and honest disclosure of historic tax defaults the prospect of relief from criminal prosecution and significant penalty reductions. What the VDP has never offered, however, is relief from interest, which accrues automatically on outstanding tax amounts and can, for taxpayers with large historic defaults, rival or exceed the underlying tax liability.

## The Medtronic decision

In *Commissioner for the South African Revenue Service v Medtronic International Trading S.A.R.L.* [2024] ZACC 26, the Constitutional Court considered whether a taxpayer could seek interest remission under section 39(7) of the VAT Act after concluding a voluntary disclosure agreement.

The court effectively held that: (i) by signing an agreement (which included interest as a statutory requirement) the taxpayer accepted its terms, and allowing subsequent remission would render the interest provision worthless; (ii) the legislature deliberately excluded interest relief from the VDP framework; and (iii) the principle of *pacta sunt servanda* required that the binding agreement be honoured.

The practical consequence emanating from the judgment was that once an agreement is concluded, a taxpayer cannot separately seek remission of the interest incorporated therein.

## The 2026 Budget proposal

Taking express note of *Medtronic*, it is proposed that provision be made to specifically permit VDP applicants to simultaneously apply for the separate remission of interest under the relevant tax act (e.g. section 39(7) of the VAT Act or section 89quat of the ITA) in respect of the defaults disclosed under the VDP.

Critically, the interest remission application must be made simultaneously with – not after – the voluntary disclosure application, consistent with *Medtronic's* reasoning against post-agreement remission requests.

The amendment is proposed to take effect from 1 March 2026.

## Practical implications

The proposal makes the VDP somewhat more attractive for taxpayers with historic defaults, in that there is at least a possibility for interest to be reduced. However, it is important to note that interest remission will remain governed by the relevant tax act. In other words, it will not form part of the relief guaranteed under the VDP.

**Puleng Mothabeng**



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# Value-added tax (VAT)

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## 2026 Budget summary: VAT

### VAT registration threshold

In terms of section 23(1)(a) of the VAT Act, any person carrying on an “enterprise” is required to register for VAT at the end of a month in which the total value of taxable supplies made during the preceding 12 months exceeds R1 million.

It is proposed that, with effect from 1 April 2026, the compulsory VAT registration threshold will increase to R2,3 million while the voluntary registration threshold will increase from R50,000 to R120,000.

The proposed increase in the VAT registration thresholds is expected to ease the administrative burden on small businesses and improve their cash flow. Accordingly, where a business does not exceed the increased compulsory registration threshold as at 1 April 2026, it may apply to deregister for VAT in terms of section 24(1) of the VAT Act.

### Removing distinction between eFilers and non-eFilers

Currently, vendors who submit their VAT 201 returns and payments to SARS via eFiling may do so on the last business day of the month in which filing is required. By contrast, vendors who file and pay manually must meet the earlier deadline of the 25th of that month. As most vendors now use eFiling, it is proposed that this distinction be removed. Under the proposed change, all VAT vendors will be required to submit their returns and make payment by the last business day of the relevant month.

### Time period to deduct notional input tax

Currently, a vendor may claim a notional input tax deduction on the acquisition of second-hand goods acquired under a non-taxable supply from a South African resident, where those goods are acquired for purposes of making taxable supplies.

If the goods are subsequently exported by that vendor, the supply may qualify for zero-rating. However, zero-rating is not permitted where the supplier, or a connected person, has deducted notional input tax on the acquisition. In the case of an indirect export, the VAT Refund Administrator (VRA) may only refund the qualifying purchaser to the extent that the VAT charged exceeds any notional input tax deduction claimed.

Even where the seller has not yet claimed the notional deduction at the time of sale, the existence of a valid VAT 264 creates a presumption that it may be claimed later, with the result that the subsequent export sale may not be zero-rated.

The exclusion of the zero-rating and VRA refunds only applies once the notional input tax has actually been claimed by the vendor. On the basis that vendors have five years to claim the notional deduction, this creates a fiscal risk to SARS if it refunds the full VAT amount, including the notional input tax amount, on the basis that no deduction has yet been claimed, only for the supplier to claim it in a later period.



## 2026 Budget summary: VAT...continued

It is therefore proposed that section 16(3) of the VAT Act be amended to require that the notional input tax deduction be claimed no later than the tax period in which the supply of the second-hand goods takes place, subject to the five-year prescription rule i.e. The notional input tax deduction will be restricted to a tax period prior to export. A vendor will not be able to claim the notional input tax deduction in a tax period after the goods were exported.

It appears that the risk that the proposal seeks to address relates primarily to refunds made by the VRA for the exportation of second-hand goods in respect of which a notional deduction will be made. However, the Budget does not explicitly state that the proposed amendment will apply only to the exportation of second-hand goods. Furthermore, it is unclear whether the restriction will apply only to the acquisition of second-hand

goods purchased for purposes of onward supply, or whether it will apply more broadly to all acquisitions of second-hand goods. Further clarity is therefore required to determine how the proposal will be implemented in practice.

### Expanding documentary requirements for second-hand goods

To mitigate the risk of fraudulent notional input tax deductions, it is proposed that the documentary requirements under section 20(8) of the VAT Act to support notional input tax deductions in respect of the acquisition of second-hand goods be expanded to include those documents listed under section 21 of the Second-Hand Goods Act 6 of 2009 (Second-Hand Goods Act).

The requirements of section 21 of the Second-Hand Goods Act are, briefly, that a dealer must, *inter alia*:

- Maintain a prescribed register recording every acquisition and disposal of second-hand goods.
- Record key particulars, including:
  - Seller's full details and identity number, and how identity was verified.
  - Description and identifying features of the goods.
  - Purchase price.
  - Dealer reference number.
  - Dealer representative's name and signature.
  - Date and time of the transaction and subsequent disposal details.
- Obtain and keep a copy of the seller's identity document or passport.
- Make entries contemporaneously with each transaction.

- Retain the register and identity document copies for at least five years from the transaction date (and keep separate registers if required by registration conditions).

### Additional information required on tax invoices on acquisition of second-hand goods subsequently supplied by vendors

The zero-rate on exports does not apply to second-hand goods where the supplier has claimed a notional input tax deduction. In such cases, the supplier must charge VAT equal to the notional input tax previously claimed, and for indirect exports, the VRA may only refund the purchaser to the extent that the VAT charged exceeds the notional input tax deduction.

It is proposed that section 20 of the VAT Act be amended to require that the supplier of second-hand goods must issue a tax invoice for a subsequent supply of such second-hand goods which must show both the purchase price paid by the vendor and the amount of notional input tax previously claimed.

## 2026 Budget summary: VAT...continued

It seems that the intention is that this requirement will only apply to the export of second-hand goods in respect of which a notional input tax deduction was claimed. This, however, creates a concern for vendors, who would now effectively be required to indirectly disclose their margins to their customers.

### **Services rendered to a customs-controlled area enterprise or special economic zone operator**

It appears that there is some confusion as to whether services rendered to a customs-controlled area or special economic zone operator in a customs-controlled area may be zero-rated in terms of section 11(2)(k).

It is proposed that the VAT Act be amended to clarify that only services physically rendered in the customs-controlled area may be zero-rated.

### **Supply of gold to banks**

Section 11(1)(f) of the VAT Act currently provides for the zero-rating of gold supplied to the South African Reserve Bank, the South African Mint Company (Pty) Ltd, and any bank registered under the Banks Act 94 of 1990. This applies to gold supplied in the form of bars, blank coins, ingots, buttons, wire, plate, granules or in solution, provided that it has not undergone any manufacturing process other than refining or the manufacturing necessary to achieve those specific forms.

As SARS is required to undertake lengthy audit procedures to verify the correct application of the zero-rating, it is proposed that this provision be repealed.

Accordingly, the supply of gold will, going forward, be subject to VAT at the standard rate.

### **Electronic services and intermediaries**

Section 54(2B) of the VAT Act was amended in 2024 to require a written agreement between the intermediary and the principal supplier. In instances where a principal makes a supply of electronic services through an intermediary's platform, the intention was that the intermediary would be liable to account for the VAT on those electronic services.

It appears that intermediaries have experienced practical difficulties in concluding written agreements with foreign electronic service suppliers. In addition, it poses a compliance risk for SARS to recover VAT from the principal.

It is therefore proposed that section 54(2B) be amended to provide that the intermediary must account for the VAT by default, unless there is an agreement to the contrary, in which case the principal will be responsible for accounting for the VAT.

### **Leasehold improvements**

Section 18C of the VAT Act requires a lessor who is a vendor and acquires leasehold improvements for non-taxable purposes, such as residential use, to account for output tax on the open market value of the improvements effected to the land. The purpose of this adjustment is to place the lessor in the same position as if the lessor had undertaken and paid for the leasehold improvements personally.

At present, however, section 18C does not apply to a lessor who is not a registered vendor. As a result, a non-vendor lessor may benefit from leasehold improvements in circumstances where VAT has effectively not been borne by the lessor.

It is therefore proposed that the VAT Act be amended so that this treatment is no longer limited to vendor-lessors, and that a specific declaration mechanism be introduced to give effect to this adjustment.

**Gerhard Badenhorst, Varusha Moodaley and Tersia van Schalkwyk**

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# Customs & Excise

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# Customs & Excise

## Excisable products

### Alcohol

- Government proposes to increase excise duties on alcoholic beverages in line with the inflation forecast of 3.4% for 2026/27. Stakeholder consultations on the alcohol excise review will continue during 2026.

### Tobacco

- Government also proposes to increase excise duties on tobacco products in line with expected inflation. This includes excise duty on electronic nicotine and non-nicotine delivery systems (vaping). The excise duty adjustments will take effect on 1 April. The required legislative amendments will form part of the taxation laws amendment bills this year.

### Relevant structures as follows:

| Product                              | Current rate                      | Proposed rate                     |
|--------------------------------------|-----------------------------------|-----------------------------------|
| Malt beer                            | R145.07/litre of absolute alcohol | R149.98/litre of absolute alcohol |
| Unfortified wine                     | R5.95/litre                       | R6.15/litre                       |
| Fortified wine                       | R10.04/litre                      | R10.38/litre                      |
| Sparkling wine                       | R19.03/litre                      | R19.68/litre                      |
| Ciders and alcoholic fruit beverages | R145.07/litre of absolute alcohol | R149.98/litre of absolute alcohol |
| Spirits                              | R292.91/litre of absolute alcohol | R302.94/litre of absolute alcohol |
| Cigarettes                           | R22.81/20 cigarettes              | R23.58/20 cigarettes              |
| HTP sticks                           | R17.10/20 sticks                  | R117.68/20 sticks                 |
| Cigarette tobacco                    | R25.63/50g                        | R26.50/50g                        |
| Pipe tobacco                         | R8.03/25g                         | R8.31/25g                         |
| Cigars                               | R134.40/23g                       | R138.96/23g                       |
| ENDS/ENNDS                           | R3.18/ml                          | R3.29/ml                          |

- As was the case last year, there will be no change to the excise duty on traditional African beer (umqombothi) and traditional African beer powder.

## Customs & Excise...continued

### Fuel taxes

- From 2015 to 2025 taxes as a percentage of the pump price averaged 33.4% for petrol and 35.7% for diesel. The tax burden for petrol peaked in 2015/16 at 40.9%, and for diesel in 2020/21 at 45%. From 2022/23, the tax burden for petrol and diesel has remained below 35% due to higher fuel prices and because fuel levies were not increased for three years.
- Fuel prices have remained subdued and it is proposed that from 1 April the general fuel levy is increased by less than inflation to R4.10/litre for petrol and R3.93/litre for diesel. The Road Accident Fund (RAF) levy will be increased by 7c/litre to R2.25/litre from 1 April, in line with expected inflation, while the customs and excise levies remain unchanged.

### Carbon tax

- It increased from R236 to R308 per tonne of carbon dioxide equivalent from 1 January 2026.

- The carbon fuel levy will increase to 19c/litre for petrol and 23c/litre for diesel from 1 April 2026, as required under the Carbon Tax Act. The combined increase in fuel levies from the general fuel levy, the carbon fuel levy and the RAF levy is in line with expected inflation. The carbon tax cost recovery quantum for the liquid fuels sector will be increased from 0.99c/litre to 1.29c/litre from 1 January 2026 to align with the increase of the headline carbon tax rate.

### General

- The ATA Carnet system, established under the ATA and Istanbul Conventions, enables the temporary admission of certain goods such as commercial samples, professional equipment and exhibition items into foreign territories without the payment of duties or taxes. Carnets were historically issued in paper form by the National Guaranteeing Associations and manually processed at border posts.

The World Customs Organization and the International Chamber of Commerce have launched an electronic ATA Carnet Project, which mandates fully digitised carnets. To ensure that South Africa can implement the new requirements of the international agreement, an amendment to the Customs Act is proposed to enable the Commissioner to issue rules relating to the issuing, use and submission of international carnets when goods are temporarily imported or exported.

- The insertion of section 17A in the Carbon Tax Act in 2025 provides for a refund where an entity complies with carbon budgets over a five-year period. Carbon tax refunds are administered in terms of the Customs Act and a two-year prescription period applies for customs and excise refund claims. It is therefore proposed that the Customs Act be amended to facilitate the administration of carbon tax refunds claimed over a longer period.

## Customs & Excise...continued

- Section 75(10) of the Customs Act gives the Commissioner broad discretion to exempt or condone non-compliance by taxpayers who fail to meet conditions or requirements prescribed by rule or in the notes to Schedules Three, Four and Six in respect of any goods specified in an item of these schedules. The modern legislative approach is to move away from broad discretions and provide criteria for the exercise of discretions to enhance clarity and certainty. It is proposed that the discretion be redrafted accordingly.
- When the carbon fuel levy was introduced pursuant to the Carbon Tax Act, SARS systems were not designed to facilitate the separate payment of these levies. As a result, the carbon fuel levy applicable to petrol and diesel was included as part of the general fuel levy provided for in Part 5A of Schedule One to the Customs Act. Since the implementation of the carbon fuel levy, new tariff items attracting this levy have been introduced by the Taxation Laws Amendment Act 42 of 2024. Systems changes were required to accommodate the integration of these new tariff items, and the carbon fuel levy can now be separated from the general fuel levy. It is proposed that a new Part 5C be inserted into Schedule One to provide separately for the administration of the carbon fuel levy.
- Taxing electronic heated tobacco products based on tobacco content (weight) rather than by stick (quantity) is considered a more effective public health strategy because it reduces the industry's ability to control the tax base and encourages healthier consumer choices. It is proposed that the statistical unit of measure "per 10 sticks" be changed to "per kilogram net" for electronic heated tobacco products.
- The global diamond industry is in transition and domestic producers are feeling the effects. To encourage diamond producers to sell unpolished stones to local cutters and polishers, a 5% levy is applied on the value of unpolished diamonds released for export. Producers are exempt from paying this levy if they meet local sales requirements. Different thresholds are applied to producers of different sizes. Large producers must sell 40% locally, and medium producers 15%. To continue support for the domestic industry, Government proposes to lower the threshold separating large and medium producers from R3 billion to R2 billion and allow large producers to choose between selling 15% locally and offering the remaining output to the Diamond Exchange and Export Centre (DEEC) or selling 40% locally and being exempt from offering the remaining production to the DEEC. Stakeholder consultation will continue after Budget Day.

**Petr Erasmus And Savera Singh**

TAX & EXCHANGE CONTROL

# Other

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## Special economic zones

Certain qualifying companies enjoy a favourable corporate tax rate of 15% (as opposed to 27%) if they operate from a special economic zone, approved in terms of section 12R of the ITA. This is a very attractive incentive to encourage investment in key areas.

However, qualifying for the incentive is subject to multiple requirements, and there are various provisions in section 12R that are aimed at preventing abuse of the special regime. For example, a company may not be a “qualifying company” if more than 20% of its deductible expenditure or income stems from transactions with connected persons. Companies should not be allowed to artificially shift profits to the zones.

It is now proposed that this disqualifying criterium be re-evaluated on the basis that it could unduly impact businesses already operating

in these zones, and discourage further investment, in the context where parties want to use the zones to develop and strengthen their own supply chains

Specifically, National Treasury is considering a different approach, which would entail assessing whether companies are trading with connected parties outside the zone at market-related prices in order to ensure that profits are not shifted into the zones.

**Heinrich Louw**



## Carbon tax: Some developments

As a general note, it was stated that the carbon tax increased from R236 to R308 per tonne of carbon dioxide equivalent from 1 January 2026, as was expected in terms of the Carbon Tax Act. Related to that, the carbon fuel levy will also increase to 19c per litre for petrol and 23c per litre for diesel from 1 April 2026, as required under the Carbon Tax Act. Of relevance to the liquid fuels sector, the carbon tax cost recovery quantum will be increased from 0.99c per litre to 1.29c per litre from 1 January 2026 to accommodate the carbon tax rate increase.

### **Refunds in respect of meeting carbon budgets**

The Climate Change Act, which partially commenced in 2025, creates a framework for South Africa's commitment to transitioning to a low-carbon economy, and was bound to impact the Carbon Tax Act, in terms of which the carbon tax is levied. Among other things, the Climate Change Act provides for the Department of Forestry, Fisheries and the Environment to set carbon budgets for sectors and relevant participants. The Carbon Tax Act was duly amended to accommodate this. Previous carbon budget allowances would fall away.

Essentially, carbon tax has annual carbon tax periods, but carbon budgets run over multi-year cycles. From a policy perspective, if a company exceeds its annual carbon budget and pays carbon tax on the

excess emissions, but ultimately complies with its five-year carbon budget, it should be entitled to a refund. The insertion of section 17A into the Carbon Tax Act was to provide for this, as proposed in the 2025 Taxation Laws Amendment Bill.

However, the proposed wording appears to have been unclear, as reference was only made to "the immediately preceding tax period", leaving taxpayers uncertain as to which periods a refund could be claimed for in any given year in relation to a budget cycle. It is now proposed that it will be made clear that a refund may be claimed in the third year for the first two tax periods. From years three to five, and over the five-year budget period, a refund may be claimed in the sixth year. Effectively, there will be a mid-cycle correction point, and then a final reconciliation in year six.

### **Adjusted carbon tax thresholds for certain commercial and institutional combustion**

Many commercial and institutional entities (e.g. office parks, shopping centres, hospitals, etc.) have installed back-up diesel generators to buffer against electricity supply issues, including load-shedding. While they might have significant installed capacity, actual use may be very little. However, simply having the installed capacity can trigger carbon tax compliance, such as registration and submission of returns, irrespective of actual use and actual carbon tax liability. To narrow the scope and reduce superfluous compliance, it is now proposed that the capacity-based threshold for activities under Intergovernmental Panel on Climate Change Code 1A4a, be replaced with an emissions threshold of 25,000 tonnes of carbon dioxide equivalent, with effect from 1 January 2026.

**Heinrich Louw**

## Is National Treasury gambling on taxpayers?

The process to introduce a new tax takes time, careful consideration and public consultation. Therefore, the new online gambling tax proposed by National Treasury in a discussion paper published in November last year was never expected to be confirmed in this Budget. However, it did receive an honourable mention.

The Minister included a reminder in the Budget that public comments on National Treasury's discussion paper are due by 27 February 2026, following which workshops will be held with affected parties. Given the wide-ranging impact the proposed tax will likely have and the current media and public attention around it, it is expected that submissions will be many, and issues raised during workshops keenly debated.

As National Treasury puts it, this tax will be imposed in order to internalise the negative externalities associated with online gambling (i.e. to impose the negative social costs of problem/pathological gambling on the gambling sector). Many people will agree that most negative social costs should ideally be cushioned by those who create them, but deciding how that is done is not simple.

It will be interesting to see if further consultations expand on the underlying rationale for introducing the tax. For example, to support such a tax, it would be expected that collected data would indicate that there has been an increase in problem/pathological gambling that has resulted in negative social costs (i.e. data should indicate whether there are negative externalities to be internalised to begin with).

Another important aspect that one hopes will come through during further consultations and engagement is how Government intends tackling the illegal sector. For example, this has been a primary issue where other behaviour targeting taxes have been implemented (most noticeably with the growth in the illicit tobacco trade).

Without clear, targeted interventions, there is always a risk that punters switch to illegal, untaxed operators.

This would arguably defeat the purpose of the tax. National Treasury has indicated that South Africa's exchange controls can largely tackle illegal operators, however, some operators may circumvent South Africa's exchange controls or never deal in foreign currency.

Nevertheless, National Treasury has identified a problem against the backdrop of a keenly debated topic in the public domain. Being seen to be doing something may count more than that something having little impact on the possible problem. However, introducing a new tax requires careful thought for it to achieve its objectives without resulting in unintended consequences. This is one to watch.

**Nicholas Carroll**

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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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