



Personal and Employment Taxes

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY

Presenter:

Elizabeth Da Silva - Executive Director (Ernst & Young
Advisory Services (Pty) Ltd)



Individual Income Tax Rates

- Inflationary bracket adjustment
- No change in tax rates
- Greater benefit in lower tax brackets
- Tax threshold increases to R 91 250 for individuals below the age of 65
- Primary rebate R16 425

Exit tax on retirement fund benefits

- Draft Taxation Laws Amendment Bill 2021 Section 9H(4)g
- Included proposed exit tax on ceasing residency
- Amendment was highly contested
- Tax treaties had not been considered
- Treaty countries with direct impact:
 - UK; Germany; Italy; Denmark; Australia & Belgium
- Proposal has been withdrawn
- Intention to renegotiate applicable treaties
- South Africa to maintain taxing rights

Preservation of retirement benefits- two pot system

- Retirement reforms initiated since 2012
- Additional proposed reforms to include:
 - Design structure of a two-pot system
 - Allow easy access to pre-retirement benefits
 - Expand participation to more vulnerable groups
 - Consolidation of retirement fund sector
 - Improved Governance and economies of scale
- Design of the two-pot system
 - Split in benefits $\frac{1}{3}$ and $\frac{2}{3}$
 - Emphasis on preservation of $\frac{2}{3}$

Employment Tax Incentive (ETI)

- Continued focus on youth unemployment
- 50% increase in ETI amounts claimed
- 1st twelve months benefit amount R 1 500
- 2nd twelve month benefit amount R750
- Effective 1 March 2022
- Eligibility criteria amendment 1 March 2023

Other Amendments

- Variable remuneration- to include performance based payments
- Apportionment of interest and CGT exemptions on ceasing residency partially through tax year
- Revamp of Provisional tax system
- Taxpayers with asset value over R50 million to disclose values- effective 2023 tax year
- Further alignment on retirement legislation:
 - Tax free transfers between Retirement Annuities contracts
 - Clarification of protected vested rights as a result of 1 March 2021 annuitisation rules
 - 55 years and over – vested and unvested rights remain protected if kept in the same fund
 - Historical vested rights may be transferred to other funds without forfeit of vested right

Other Amendments (continued)

- Protected vested right of transfers to public sector funds
- Amendment to paragraph (eA) of definition of Gross Income effective 1 March 2022
- Amendment to paragraph 4(3) of the Second Schedule

An aerial photograph of a large group of triathletes in black wetsuits and white swim caps swimming in turquoise water. A single kayaker in a bright pink kayak is positioned in the center of the group. The scene is dynamic, with many splashes visible as the athletes move through the water.

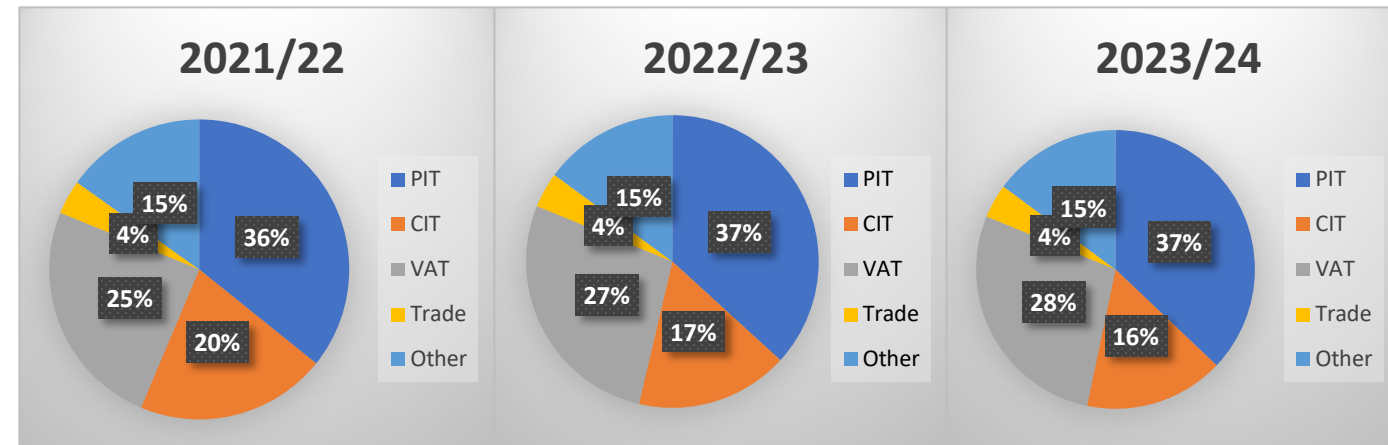
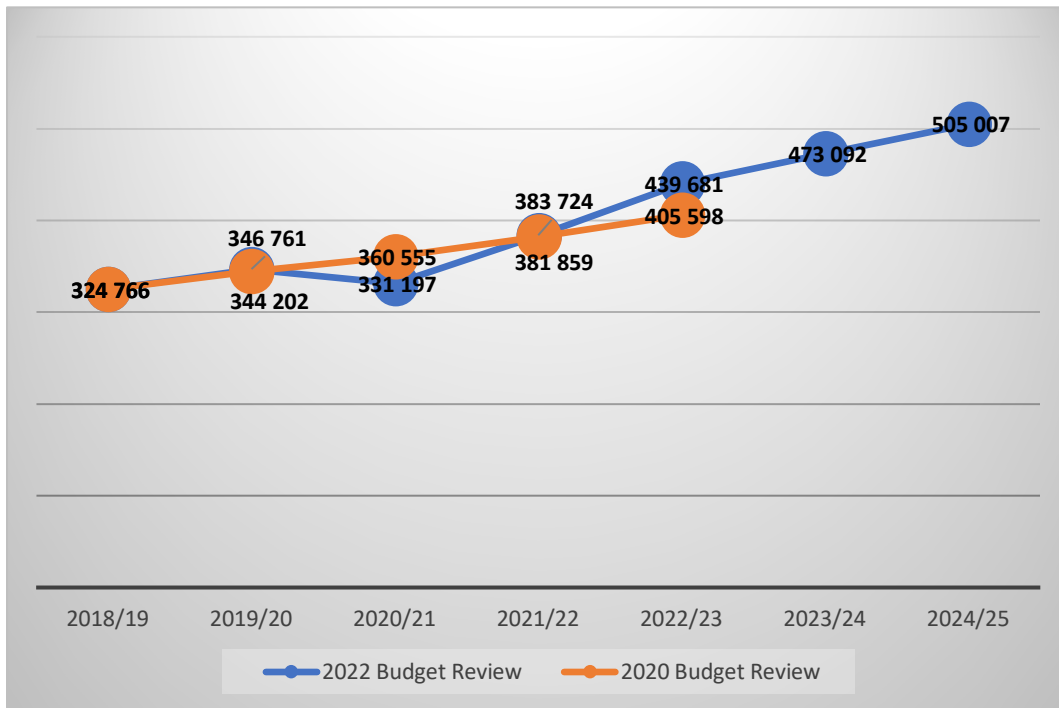
2022 Budget Review

Value-Added Tax Highlights



Building a better
working world

- No changes in VAT rate, but revenue collections from VAT expected to increase significantly over the next fiscal year



- Electronic services

- National Treasury proposes to review the **electronic services regulation** to ensure that it still aligns to OECD guidelines.
- National Treasury is contemplating excluding foreign electronic service providers making **once off supplies exceeding R1m** from registering for VAT in order to reduce the administrative burden on these entities

-
- Section 72 rulings
 - National Treasury is considering additional **changes to the VAT Act** to provide for scenarios previously dealt with in terms of these rulings.

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- Budget proposals
 - Electronic services
 - Section 72 rulings
 - Increased SARS audit activity
 - Domestic Reverse Charge VAT on supply of valuable metals?
 - Clarity from SCA on remission of interest on VAT following a VDP



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Corporate Tax – Corporate Operations

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY

Presenter:

**Nyasha Musviba - Managing Director (SA Tax Guide
(Pty) Ltd)**



South African Tax Policy

Over the past two years, the tax policy has focused on:

- broadening the tax base
- improving administration
- lowering tax rates, and
- reducing tax avoidance opportunities.

Corporate Income Tax Reduction

Reduction in the corporate tax rate from 28% to 27% for companies with financial years ending on or after 31 March 2023. Companies with financial years ending on or before 28 February 2023 will still pay CIT at 28%.

The effective corporate capital gains tax rate will be reduced from 22.4% to 21.6%.

The reasons outlined by the minister for proceeding with this reduction, are as follows:

- Corporate income and profits have increased due to strong increases commodities prices
- South Africa's corporate income tax rate exceeds the Organisation for Economic Co-operation and Development's (OECD) average of 23%.
- The CIT rates of countries with investment and trading ties to South Africa have significantly lower their CIT, which provides a strong incentive for tax avoidance.
- The reduction in CIT is part of a broader restructuring of the corporate income tax system in South Africa.
- Lost tax revenue will be offset by the additional revenue earned from protecting and broadening the tax base.

Protecting and broadening the CIT base

Key proposals aimed at protecting and broadening the tax base with effect from years of assessment ending on or after 31 March 2023:

- the limitation on the use of assessed losses; and
- Additional limitation of the deductibility of interest paid to tax exempt persons.

Limitation of Assessed losses

The offsetting of the balance of assessed losses brought forward will be limited to 80 per cent of taxable income. Smaller companies more likely to struggle with cash flow will be exempt from the proposed limitations.

Further restricting the deductibility of interest paid to tax exempt persons.

The existing rules are provided for in section 23M of the Income Tax Act 58 of 1962 since 1 January 2015.

Application of Section 23M is strengthened by:

- widening the definition of interest to include payments made under interest rate swap agreements, the finance cost portion of finance leases, and foreign exchange losses;
- restricting the tax avoidance opportunities through the use of back-to-back loans; and
- ensuring that the rules apply even if the interest is subject to interest withholding tax in South Africa.

Tax incentives

Several tax incentives removed - expiring incentives that have not widened social or economic benefits will not be renewed.

The following corporate tax incentives provided for in the Income Tax Act will not be renewed when they reach their sunset date:

- which lapsed on 28 February 2022
 - section 12DA, dealing with deductions in respect of rolling stock.
 - section 12F, dealing with deductions in respect of airport and port assets
 - Section 13sept (sale of low-cost residential units through an interest free loan)
- section 12O, providing for an exemption in respect of films, which lapsed on 31 December 2021.

Research and development tax incentive provided for in section 11D was meant to come to an end on 30 September 2022, will be extended in its current form until 31 December 2023.

Corporates must take note of the discontinued tax incentives.

Other proposed changes

CTC effective date postponed to 01 January 2023

The effective date for the proposed amendments to the collateral arrangement and contributed tax capital definitions has been postponed from 1 January 2022 to 1 January 2023.

It is most likely that there will be further amendments during the course of this year.

Refinement of intra group transactions

Government proposes broadening the instances in which the “nil base cost” rule will apply through further refinements of the intra-group transaction rules in the corporate reorganisation provisions.

Debtors allowance to include lay-by arrangements

Section 24 of the Income Tax Act (ITA) providing for a debtors allowance to be claimed as deductions against income will be amended to include lay-by arrangements.

Tax Administration proposed changes

- Review of the provisional tax system given changing circumstances and international developments.
- Amendments to the Tax Administration Act to allow SARS to conduct joint audits with foreign revenue authorities.
- Tax compliance status for taxpayers under business rescue – to be reviewed.
- Tax compliance status system abuse – economically active companies filing nil returns
- SARS increased capacity – 490 staff members recruited and R430m spent on ICT last year.



Corporate Tax – Structuring and Financing

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY

Presenter:

Itumeleng Nkadimeng

Associate Director (Corporate Tax) at KPMG



2022 Budget Proposals

Corporate Income Tax

The reduction in rate will be implemented in a fiscally neutral manner through the introduction of measures to broaden the tax base.

Reduction in Corporate Income Tax Rate and Broadening the Tax Base

CIT Rate

- Corporate income tax (CIT) rate would be reduced from 28% to 27%.
- Effective Date: Years of assessment ending on or after 31 March 2023

Assessed Losses

- Introduction of a limitation on the ability of a company to utilise assessed tax losses.
- A maximum of R1 million or 80% of taxable income (whichever is greater) is permitted to be set-off against taxable income **[Effective date years of assessment ending on or after 31 March 2023]**

2021 Taxation Laws
Amendment Act

Interest Limitation

- Section 23M which limits the deduction of interest payable to certain parties who are not subject to tax was significantly widened **[Effective date years of assessment ending on or after 31 March 2023]**

2021 Taxation Laws
Amendment Act

2022 Budget Proposals

Corporate Income Tax

Reduction in Corporate Income Tax Rate and Broadening the Tax Base

CIT Rate	<i>Effective Date : years of assessment ending on or after 31 March 2023</i> <ul style="list-style-type: none"><input type="checkbox"/> Example 1: Company with a March year end, reduced rate applies for the financial year commencing 1 April 2022 and ending 31 March 2023<input type="checkbox"/> Example 2: Company with a December year end, the change will impact its 31 December 2023 year end
Assessed Loss Limitations	<i>Maximum of R1 million or 80% of taxable income permitted to be set-off against taxable income</i> <ul style="list-style-type: none"><input type="checkbox"/> Impact timing of payments
Interest Limitations	<i>Widening of the rules</i> <ul style="list-style-type: none"><input type="checkbox"/> Broadening of definition of interest<input type="checkbox"/> Change in the definition of 'controlling relationship'<input type="checkbox"/> Application of the rules even where interest is subject to SA withholding tax

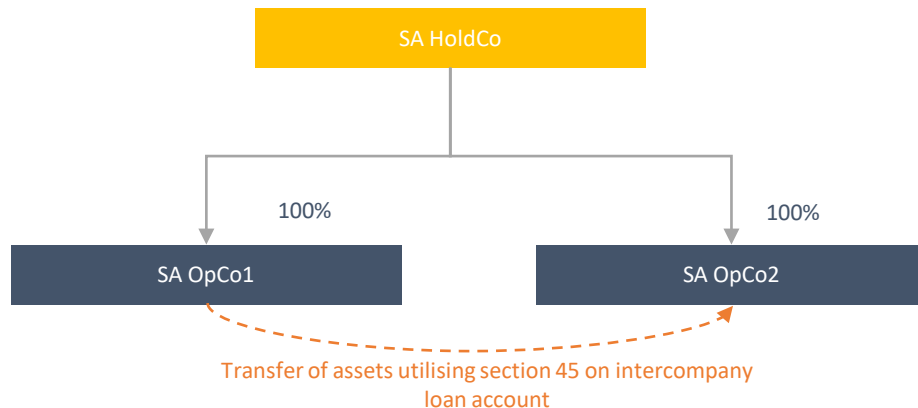
2022 Budget Proposals

Corporate Income Tax

Section 45

Refining the reversal of the nil base cost rules applicable to intra-group transactions

- ❑ **Section 45 Intra-Group Transactions:** Section 45 caters for the transfer of assets between South African group companies in a tax neutral manner (subject to specific claw back and de-grouping provisions)
- ❑ **Funding in the form of debt / share issues:** In terms of section 45 of the Income Tax Act, where assets are transferred for the issue of debt /shares, the debt or shares will be deemed to have a Rnil base cost.



2022 Budget Proposals

Corporate Income Tax

Section 45

Refining the reversal of the nil base cost rules applicable to intra-group transactions

- ❑ **2021 Amendments:** Rules amended to provide for a base cost where no de-grouping has occurred but 6 year de-grouping period has lapsed, or asset funded by the loan or share has been disposed of within 18 months of the section 45 transaction.

In terms of the 2022 Budget proposals, it appears that the 2021 amendments will be widened to take into account further instances that result in the reversal of the Rnil base cost rules

2022 Budget Proposals Corporate Income Tax

Section 19

Paragraph 12A of the
Eighth Schedule

Other Proposals : Debt Benefit Rules

- ☐ The debt benefit rules essentially apply to transactions whereby the value of an outstanding debt is reduced for less than its full consideration.
- ☐ In the instance where a debt benefit arises in respect of a debt owed by a person and the amount of that debt was used to fund expenditure incurred in respect of an **allowance asset** that was disposed of in a year of assessment prior to the year in which the debt benefit arises, the application of the current debt benefit provisions is such that a recoupment (in addition to the absolute gain which arises), is triggered when the debt benefit arises.

2022 Budget proposals indicates that there is potentially a gap in the debt benefit rules where an asset was disposed of in a year of assessment prior to the year in which the debt benefit arises and resulted in a scrapping allowance or a capital loss. It is proposed that the rules be refined to clarify that the debt benefit provisions also apply to assets disposed of in a prior year of assessment that resulted in a scrapping allowance or capital loss

2022 Budget Proposals

Corporate Income Tax

Other Proposals

Clarifying the contributed tax capital definition

Proposed amendments to the definition of CTC definition to give effect to the proposal that the transfer of CTC should be across all shareholders and not just some.

Debtors allowance on lay-by arrangements

Thank You.



Customs and Excise Tax

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY



Presenter:

Jason Blackman- Senior Director - Customs, Trade Compliance and Regulatory Affairs (DHL Express - Sub Saharan Africa)

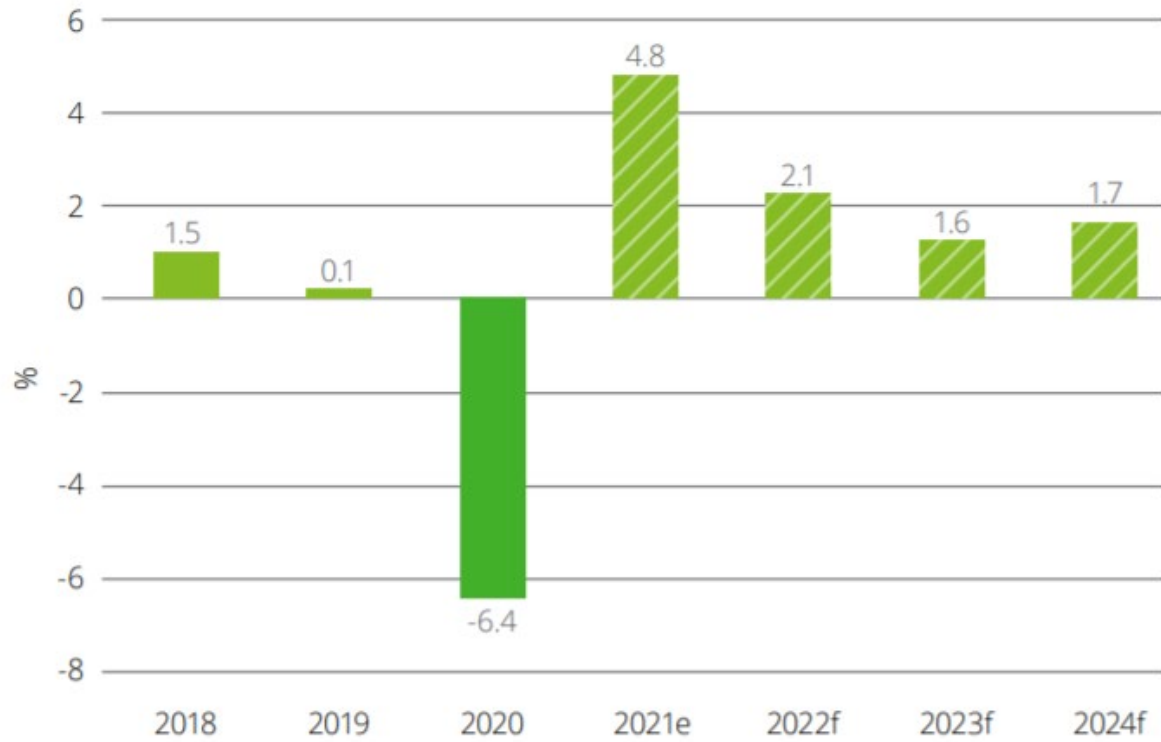
“The President reminded us that even as we face steep and daunting challenges, like we have done in the past, we will overcome... [nevertheless] Our economic recovery has been uneven and risks remain high. We must proceed with caution.”

Minister of Finance Mr Enoch
Godongwana, 23 February 2022

Key Summary Highlights 2022/2023

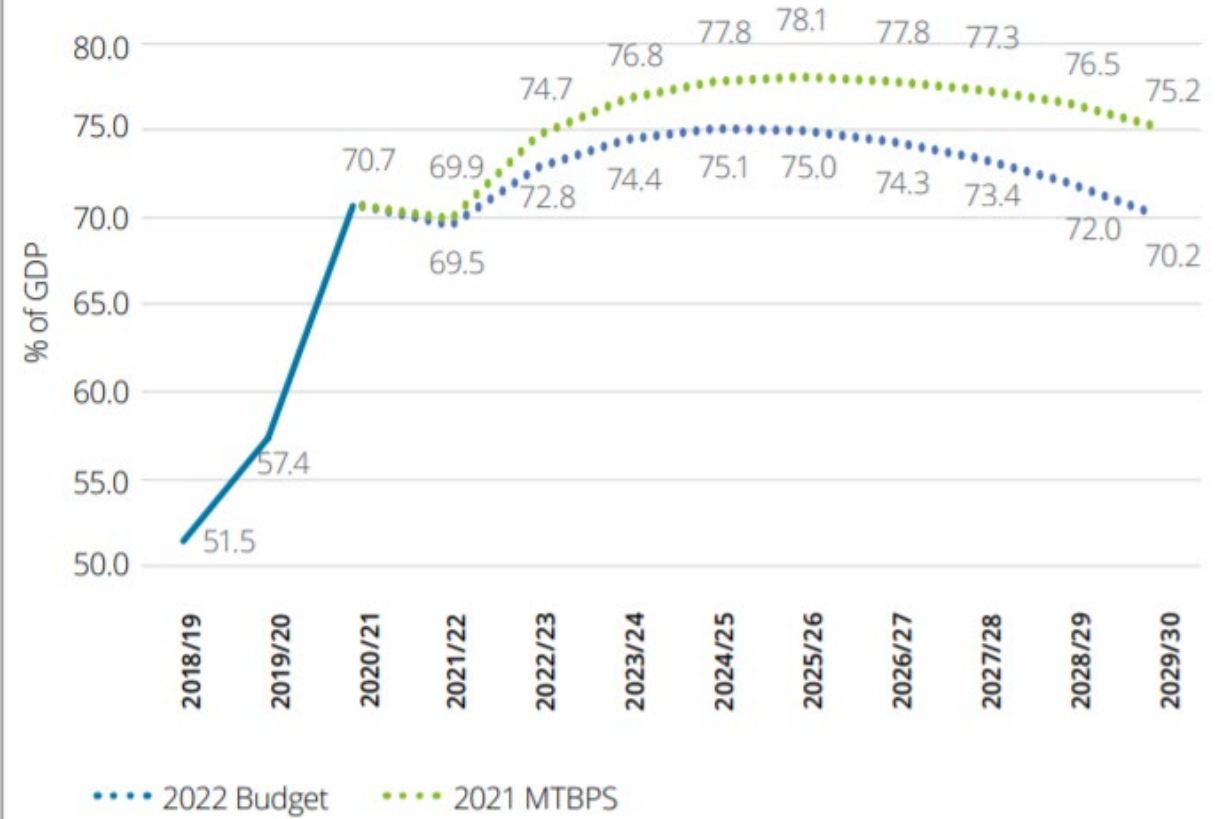
- Overall given the challenges to the South African outlook, the Minister of Finance delivered a balanced budget
 - Smaller than expected budget deficit and debt stabilisation counteracted with some relief to individuals and corporates
 - Due to the windfall from the continued strength in commodity prices and higher than anticipated corporate, personal tax and VAT revenue collections.
 - Maximising opportunity to reduce its debt and reach a primary fiscal surplus in 2023/24, which will signal the end to fiscal consolidation.
 - The Treasury has revised its 2021 GDP projections slightly downwards from 5.1% to 4.8% due to the unrest in July last year, as well as global volatility and the return of load-shedding.
 - No changes in VAT rate, but revenue collections from VAT expected to increase significantly.
 - Regulations applicable to foreign electronic service providers may be updated.
 - The corporate income tax rate is reduced from 28% to 27%, effective for years of assessment ending on or after 31 March 2023.

Real GDP growth and projections, % (2018 - 2024f)



Source: National Treasury, 2022

Gross debt-to-GDP outlook (2018/19-2029/30)



Key Summary Highlights Customs and Excise

- Customs duties estimated at R61.1bn up by 9% and Specific excise duties R51.8bn up by 8%
- As is the case each year, Government proposes an increase in duties and levies for excisable products in Schedule 1 Part 2A to the Customs and Excise Act 91 of 1964 (Customs Act).
- No increase in the fuel and Road Accident Fund levies for the first time since 1990
- Specific excise duties on alcoholic beverages increase by between 4.5% and 6.5%, apart from traditional African beer, with no increase
- An increase in the excise duty rate on tobacco products by between 5.5 and 6.5% is proposed.
 - Government is in the process of reviewing the alcohol and tobacco excise duty policy framework, and review papers will be released shortly.
- There will be a new tax on vaping products of at least ZAR 2.90 per milliliter, from 1 January 2023.
- A new tax will also be introduced on beer powders from 1 October 2022

Key Summary Highlights Customs and Excise

SARS has invested ZAR430-million in refreshing and modernising its ICT infrastructure. The multi-year customs modernisation programme is underway, with an initial focus on improving Beit bridge border operations through data-driven risk profiling and number plate recognition. SARS will expand the modernisation programme to other ports of entry over the medium term.

Corruption at the border posts remains endemic where SARS officials issue fraudulently created documents on exports. The multi-year customs infrastructure modernisation programme is underway, with an initial focus on digitising border operations will aid in curbing this.

Advance rulings - There are currently no provisions in the Customs and Excise Act, 1964 enabling the SARS Commissioner to issue advance rulings. It is proposed that an enabling framework for advance rulings be provided in the act It is proposed that an enabling framework for advance rulings be provided for in the Customs and Excise Act which enable SARS to issue these in the same way as other taxes. Once introduced, advance rulings will be binding on both SARS and the applicant. The indicative implementation date is 30 November 2022.

Key Summary Highlights Customs and Excise

Proposal that the act be amended to allow the Commissioner to make rules for the entry time of any category of goods, which may include break-bulk cargo imported by sea, air or rail. There is currently no provision in the Customs and Excise Act enabling the SARS Commissioner to prescribe the period within which entry must be made in respect of loose or break-bulk cargo imported by sea, air or rail. Government proposes that the act be amended to allow the Commissioner to make rules for the entry time of any category of goods, which may include break-bulk cargo imported by sea, air or rail.

Clarifying the requirements for invoices in respect of import and export goods - Because of existing uncertainty, it is proposed that amendments be made to the Customs and Excise Act to clarify the legislative requirements for invoices in respect of import and export goods.

- The amendment is aimed at providing greater clarity on the invoice requirements with a view to encourage greater compliance and engender trade facilitation.
- Not all goods are traded under invoices and invoices are not always issued by the time goods cross the border.
- Recent disputes regarding costs and charges reflected on the invoices, resulting
- in under or overpayment of customs duty, have led to this development. It would be insightful to understand SARS' uncertainty around invoices.

Key Summary – Focus Areas

- Notably, there was no mention of the AfCFTA as well as the Customs accreditation programme (AEO) programme for importers/exporters. Would have expected an update on progress of the African Continental Free Trade Area (AfCFTA).
- There does seem to be a focus on customs control. Use of data will become more prolific. SARS has intensified its enforcement against criminal activities and the recommendations from the Nugent Commission and the State Capture Report are being implemented.
- SARS clamps down on illicit tobacco trade. It had seized illicit tobacco to the value of R 350 million during the pandemic. It has further issued assessments for R 18 billion in additional duties
- Traders should be aware of the specific note of ITAC-initiated antidumping investigations. ITAC has committed to increased activity for the next year including the initiation of new anti-dumping cases, where the market believes that lower-priced imports are threatening local manufacturers.



Business Tax Incentives and Grants

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY

Presenter:

Moeketsi Marumo



Budget Observations

The Minister of Finance, Mr. Enoch Godongwana, presented National Treasury's annual 2022/23 budget.

During the 2021/22 financial year the dtic received additional allocations amounting to R2.1 billion.

- R800 million was allocated create work opportunities through the presidential Employment initiative
- R1.3 billion was to respond to the social unrest in July 2021 and the negative impact of the COVID19 pandemic.

Budget Observations

- Over the next three years R17.8 billion is allocated to support business investment in new equipment and infrastructure through incentive programmes.
- As a result of this high baseline, spending in the Industrial Financing programme is expected to decrease at an average annual rate of 4.8 per cent, from R6.2 billion in 2021/22 to R5.4 billion in 2024/25.

Business incentive updates

Presidential Employment Initiatives:

- An amount of R18.4 billion (R9 bn 22/23 and R9.4 bn 23/24 financial period) is allocated to support youth employment under the presidential employment initiative over the next 2 years
- R1. 6 billion has been allocated to dtic social employment programme.
- R677 million allocated to Department of Employment and labour for the network pathway programme

Business incentive updates

Research and Development:

The R&D tax incentive is being extended in its current format from 30 September 2022 to 31 December 2023.

- National Treasury will hold workshop to discuss potential changes and improvements to the tax incentive.
- Outcomes of the workshops will be known in the 2022 Taxation Laws Amendment Bill.

Section 12L Energy Efficiency Tax Incentive:

- Energy Efficiency Tax Incentive be extended to 1 January 2023 to 31 December 2025.

Business incentive updates

Employment Tax Incentive (ETI):

- The maximum monthly ETI value per employee will be increased by 50% to R1 500.
- To curb the abuse of the incentive, government also proposes amendments to the Employment Tax Incentive Act (2013) to impose understatement penalties on reimbursements that are improperly claimed

Agriculture Blended Finance:

- R6.8 billion has been allocated to the agriculture industry in the form of blended finance programmes, farmer development and post-settlement support initiatives.

Department of Tourism:

- R360 million is allocated over the medium term to support the pilot phase of the Tourism Equity Fund introduced in 2021

Business incentive updates

R20 billion New business bounce-back scheme will be launched:

- R15 billion **Small Business Loan Guarantees** support mechanism
- R5 billion **Business Equity-Linked Loan Guarantee** support mechanism
- Facilitated through participating banks and development finance institutions



Wealth Tax

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY

Presenter:

Ruaan van Eeden



BUDGET 2022 WEALTH TAX PROPOSALS

SILENCE IS NOT ALWAYS GOLDEN

- Lots of speculation ... but nothing materialised (for now)
- But where are we heading in terms of a Wealth Tax?
- The Davis Tax Committee : Wealth Tax Report (2018)

The process of creating a wealth tax in South Africa as a means to redress South Africa's levels of inequality would need to start with the consideration of a very simple form of an annual net wealth tax. The decision on whether to implement an annual net wealth tax cannot be made without the following:

1. Further consideration as to the appropriate tax base (i.e. which forms of wealth to include within the scope of the tax);
2. Comprehensive data on the pattern of wealth ownership;
3. An evaluation as to whether the revenue generated would exceed the administrative and economic burden on taxpayers and the revenue authorities.



THE CHORUS IS GETTING LOUDER

- Not only limited to South Africa
- The inequality predicament versus the shrinking tax base – a truly polarising issue
- Is momentum gaining for a Wealth (or similar) Tax?



Federal government's failure to tax the very rich is
unconscionable



Thu., Jan. 13, 2022 | 1 min. read

THE WEALTH TAX 'BASE CASE'

- Main driver for Wealth Tax in South Africa – Bridging the inequality gap
- But what about the obvious alternatives –
 - Enhancing enforcement initiatives (coupled with well-trained SARS auditors)
 - Reducing corruption / wasteful expenditure
 - Curbing tax evasion

THE WEALTH TAX 'BASE CASE'

- Flight of capital risk – tax emigrations are on the rise

Table A2.1.7: Assessed individual taxpayers: Taxable income and tax assessed by taxable income group for individuals with change in residence status, 2017 – 2020

Tax year	2017			2018			2019			2020		
Taxable income group	Number of taxpayers	Taxable income (R million)	Tax assessed (R million)	Number of taxpayers	Taxable income (R million)	Tax assessed (R million)	Number of taxpayers	Taxable income (R million)	Tax assessed (R million)	Number of taxpayers	Taxable income (R million)	Tax assessed (R million)
A: < 0	381	-37	-	521	-38	-	545	-50	0	502	-44	0
B: = 0	2 668	-	-	4 104	-	-	4 089	-	0	4 071	-	-
C: 1 – 20 000	554	4	0	859	6	0	855	6	0	1 149	9	0
D: 20 001 – 30 000	184	5	0	266	7	0	229	6	0	357	9	0
E: 30 001 – 40 000	152	5	0	207	7	0	238	8	0	299	11	0
F: 40 001 – 50 000	139	6	0	212	10	0	204	9	0	303	14	0
G: 50 001 – 60 000	127	7	0	170	9	0	226	12	0	271	15	0
H: 60 001 – 70 000	125	8	0	191	12	0	201	13	0	261	17	0
I: 70 001 – 80 000	105	8	0	177	13	0	214	16	0	245	18	0
J: 80 001 – 90 000	121	10	0	149	13	0	184	16	0	231	20	0
K: 90 000 – 100 000	113	11	0	144	14	0	200	19	1	234	22	1
L: 100 001 – 110 000	91	10	0	120	13	1	161	17	1	225	24	1
M: 110 001 – 120 000	66	8	0	116	13	1	140	16	1	202	23	1
N: 120 001 – 130 000	82	10	1	102	13	1	136	17	1	201	25	1
O: 130 001 – 140 000	78	11	1	105	14	1	164	22	1	183	25	2
P: 140 001 – 150 000	76	11	1	102	15	1	125	18	1	174	25	2
Q: 150 001 – 200 000	309	54	5	399	69	6	528	92	8	731	127	10
R: 200 001 – 250 000	258	58	7	291	66	8	468	104	12	600	135	15
S: 250 001 – 350 000	386	114	17	456	137	20	637	189	27	947	283	41
T: 350 001 – 500 000	289	120	24	428	178	35	622	260	50	737	306	57
U: 500 001 – 750 000	254	156	39	367	222	55	502	304	74	554	338	83
V: 750 001 – 1 000 000	134	115	33	175	151	44	212	182	52	306	265	76
W: 1 000 001 – 2 000 000	170	230	77	224	307	103	283	380	127	348	463	152
X: 2 000 001 – 5 000 000	74	216	78	84	254	100	118	340	131	157	450	173
Y: 5 000 001 +	45	572	219	44	990	438	48	640	279	52	1 142	498
Total	6 981	1 712	500	10 013	2 493	812	11 329	2 638	767	13 340	3 719	1 113

41,663

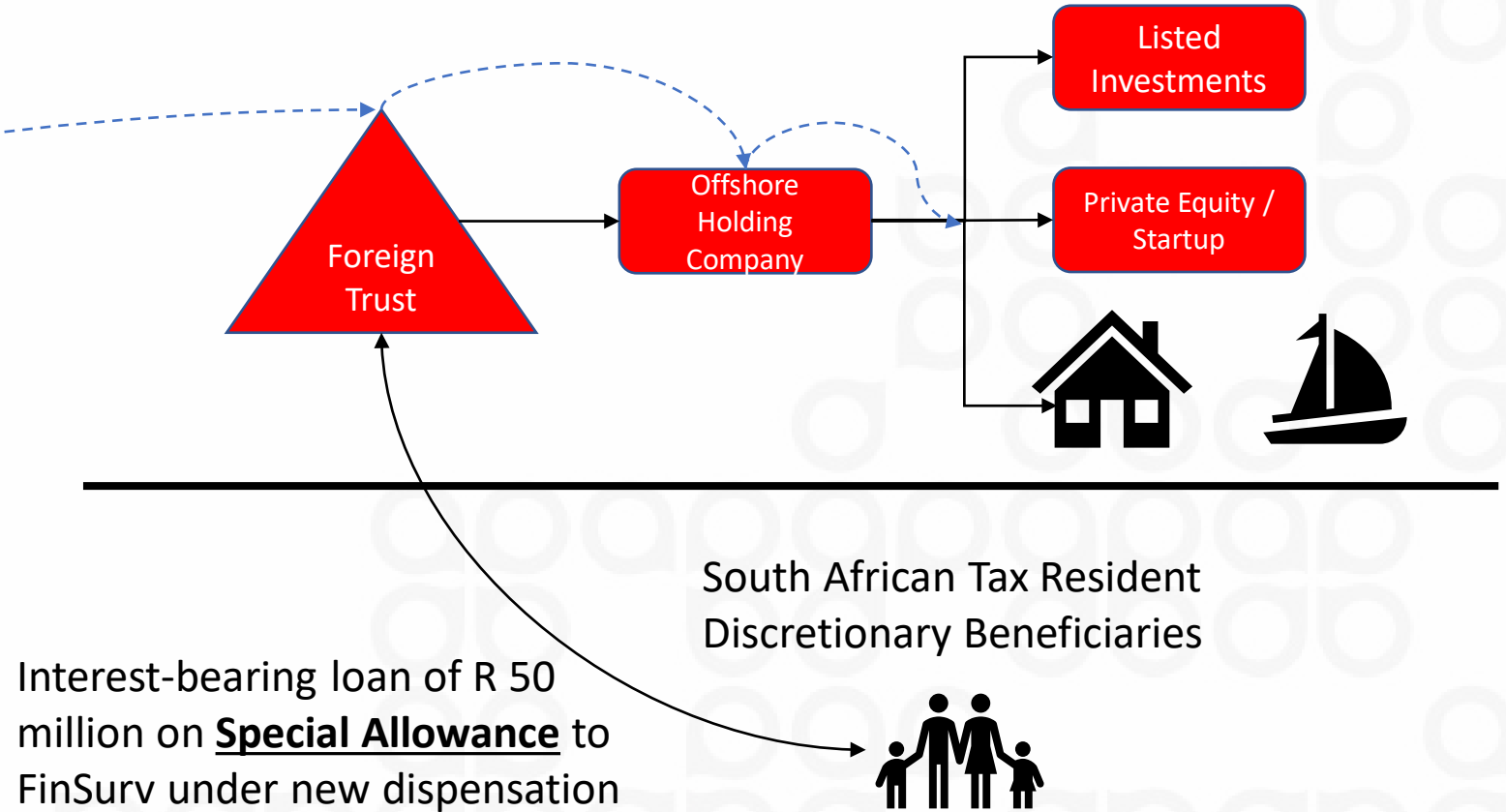
R 3,192,000,000

GETTING BACK TO DATA COLLECTION

- **Budget 2022 – Provisional Tax Disclosures**
 - R 50 million – 2023 Tax Year at Market Value
 - Assets under South African and / or Foreign Trusts?
- **Budget 2022 – Special Allowance into Foreign Trusts**
 - Special allowances were generally limited to ‘direct line of sight’ assets offshore
 - Expanded to foreign trusts – **but be cautious!**

GETTING BACK TO DATA COLLECTION

A Special Allowance requires annual reporting to FinSurv on the **underlying assets** – this allows additional data collection points that would otherwise not have been readily available. The data collection points for foreign trusts are now essentially expanded **together** with CRS and possibly through the provisional tax asset disclosure rules.



WEALTH DATA COLLECTED – WHAT NOW?

- **How much revenue could a Wealth Tax actually raise?**
 - **Estimated to be between R 70 billion to R 160 billion** (source – A Wealth Tax for South Africa, Southern Centre for Inequality Studies University of Witwatersrand (2021))
 - **Based on rates ranging between 3% to 7% of net assets, subject to certain exclusions**
 - **Estimated 60 times more than current Estate Duty collection**

WEALTH DATA COLLECTED – WHAT NOW?

- Significant work is required by SARS / National Treasury to collect adequate data to even consider the introduction of a Wealth Tax (or something similar)
- Difficult balancing act – risk of capital flight, cost of administration of a Wealth Tax, political pressure, shrinking tax base etc. etc. etc. etc.



International Tax

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY



Presenter:

Vanessa Turnbull-Kemp- Senior Manager at Regan van Rooy

International tax amendments announced in the budget speech:

- Amendment to the definition of foreign dividend
 - A foreign dividend is currently defined as an amount paid by a foreign company in respect of a share in that company.
 - This definition specifically excludes any amounts that constitute the **redemption of a participatory interest in a portfolio of collective investment** from being regarded as a foreign dividend.
 - However, foreign law does not only deal with redemptions, but also the sale of units, shares or interest to the foreign management company of the scheme.
 - It is therefore proposed that the term “*or other disposal*” be included to cater for any amounts that constitute the sale of a participatory interest in a foreign collective investment scheme’s portfolio.

International tax amendments announced in the budget speech:

- CFC amendments
 - Amending definitions and terms relating to the Insurance Act
 - The Insurance Act came into effect on 1 July 2018, which deleted and inserted certain new definition, such as the definition of a “linked policy”.
 - Section 9D contains an exclusion which excludes the participation rights held by an insurer in any policyholder fund which are directly attributable to a linked policy from the CFC imputation requirement (provided certain requirements are met).
 - The definitions in section 9D will be amended to refer to the appropriate provisions of the Insurance Act.
 - The deeming provisions will be extended to cater for royalties derived by CFCs
 - The most important rule contained in the CFC provisions is that the net income of the CFC must be calculated as if the CFC is a taxpayer for South African tax purposes and as if the CFC is a resident when applying certain provisions of the Act.
 - For example, a CFC is deemed to be a resident in relation to interest derived from a South African source. However, section 9D(2A) does not mention royalties derived by the CFC.
 - Amendments are proposed to update the net income calculation contained in section 9D(2A) to include the fact that CFCs are residents for purposes of section 10(1)(l).
 - Therefore, the royalty exemption contained in section 10(1)(l) will not apply to a CFC.

International tax amendments announced in the budget speech:

- CFC amendments
 - Clarifying the treatment of amounts from hybrid equity instruments deemed to be income under the CFC rules
 - The CFC rules contain an exclusion applicable to a payor and payee for intra-CFC interest, royalties, rental income, insurance premium or income of a similar nature, provided both the payor and payee are part of the same group of companies.
 - In terms of hybrid equity instrument rules, certain dividends in relation to the recipient are deemed to be income.
 - To ensure neutral tax treatment, it is proposed that specific reference be made to the exclusion of the payee company's deemed income for hybrid equity instruments between CFCs.

Exchange control amendments announced in the budget speech:

- DTMC
 - The blanket approvals for transfers made by a parent company to a South African domestic treasury company have been increased from R3 billion to R5 billion for listed entities; and from R2 billion to R3 billion for unlisted entities.
- Loop structures
 - Although previously the South African Reserve Bank issued a circular allowing loops to be created, it appears that the SARB are trying to backtrack on this and there have been instances where the SARB are pushing back on such loops.
 - We are hoping for some clarity to be issued on this soon.



Tax Administration

SAIT Webinar
10 March 2022

YOUR KEY TO THE TAX COMMUNITY

Presenter:

Nico Theron – Managing Director at Unicus Tax Specialists SA (Pty) Ltd and founder of the Unicus Tax Academy.



Review of the provisional tax system

- Discussion paper expected
- Removed?
- More regular payments?

Once-off E-services threshold breach exception for VAT (for foreign suppliers)

Current similar exceptions for residents:

- Cessation or permanent reduction in size;
- Replacement of capital assets; and
- Abnormal circumstances of a temporary nature.

TAA amendments proposed to allow for Joint audits

Joint audit definition according to OECD Joint audit implementation package [Joint Audit 2019 – Enhancing Tax Co-operation and Improving Tax Certainty]:

TAA amendments proposed to allow for Joint audits

“Joint Audit”: Under this agreement is understood as

- two or more tax administrations joining together to
- examine an issue(s) / transaction(s) of one or more related taxable persons (both legal entities and individuals) with cross-border business activities, perhaps including cross-border transactions involving related affiliated companies organized in the participating countries, and in which the countries have a common or complementary interest;
- proceeding in a pre-agreed and coordinated manner and including the presence of officials from the other tax administration
- where the tax administrations jointly engage with the taxpayer, enabling the taxpayer to share information with them jointly;
- and the teams include Competent Authority representatives from each tax administration for the exchange of information.'

TAA amendments proposed to allow for Joint audits

Why is a TAA amendment required?

Exchange of information – DTA – section 3(3) of the TAA
[FACTA etc].

Only allows for exchange of information and not to audit?

ETI Act to be amended to cater for USP on improper reimbursements claimed

- ETI Act is governed by TAA
- Overclaimed ETI would result from an “understatement”
- A shortfall exists – overstated refund (s 222(3)(b))
- What rate? (FYI - SARS recently released a Draft Note on the meaning of “maximum rate of tax applicable”)
- For understated PAYE – practice seems to be to apply the average marginal rates of all employees.

Tax compliance status abuse practices – submission of nil returns

Perhaps reflect tax compliance status as “under review” if selected for verification/audit?

Provisional taxpayers with assets > R50m – specific asset disclosure on 2023 tax return



Budget Speech 2022 Carbon Tax Update

South African Institute for Tax Professionals (SAIT)

3 March 2022



Building a better
working world

Contents

1. High Level Overview of Carbon Tax

2. Key Carbon Budget Updates
 - ▶ Short term updates
 - ▶ Longer term updates

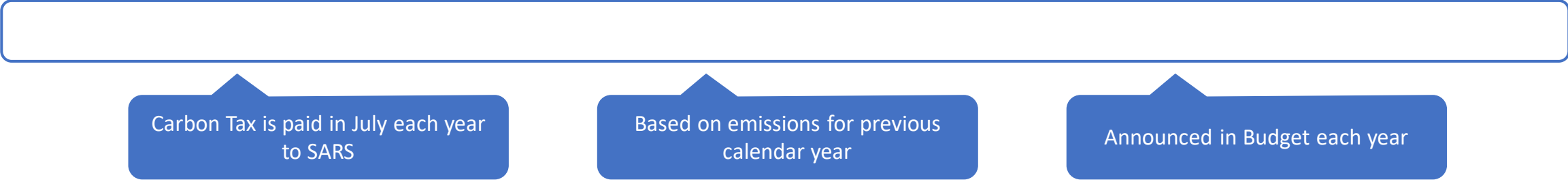
3. What are the implications of these changes

4. How do the increases compare to other excise taxes?

5. Important considerations for business

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High Level Overview of Carbon Tax



Carbon Tax is paid in July each year to SARS

Based on emissions for previous calendar year

Announced in Budget each year

- The Carbon Tax came into effect on 1 June 2019
- The first phase of the carbon tax was originally planned for 1 June 2019 – 31 December 2022 and the second phase from 1 January 2023 – 31 December 2030
- The base tax rate was legislated at R120 per ton CO₂e
 - The increases were also legislated to increase by Consumer Price Inflation (CPI) + 2% for the first phase
 - For the second phase the nominal tax rate to increase by CPI each year

Carbon Tax is paid in July each year to SARS

Based on emissions for previous calendar year

Announced in Budget each year

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- Based on previous information provided by Treasury, they indicated that allowances would change in the second phase. No indications were provided on how these would change.
- Mandatory carbon budgets would be implemented with penalties on exceedance and a penalty of R600 per ton was presented to the Standing Committee on Finance.
- Our expectations of what was to be announced was the plans for the second phase of the carbon tax – mostly focused on the gradual phase out of the allowances, penalties for carbon budgets

A modern office interior with large windows, lush greenery, and people working. The scene is bright and airy, with sunlight streaming in from the windows. A large, leafy plant hangs from the ceiling, and a wall of greenery is visible in the background. In the foreground, a person is sitting on a white chair, looking at a laptop. Another person is sitting on a black leather sofa, also looking at a laptop. A third person is standing at a desk, working on a laptop. The desk is white and has a yellow chair. A small, round, metal coffee table is in the center of the room. The overall atmosphere is professional and eco-friendly.

Key Carbon Budget Updates

-
- Significant announcement was the extension of the first phase extended to 31 December 2025
 - In addition the Carbon Tax Rate announced for 2022 is R144 per ton CO₂e (higher than our projections of R142 per ton CO₂e)
 - The carbon fuel levy increases by 1c/litre for petrol and diesel increasing to 9c/l petrol and 10c/l for diesel
 - Mandatory carbon budgets to be implemented from 2023 onwards, with a penalty of R640 per ton CO₂e for every ton exceeded – as a result the 5% carbon budget allowance falls away
 - Amendments will be made to the trade exposure allowance – the trade intensity threshold will be increased to 50%. The impact of this is that this is likely to reduce the trade exposure allowance that companies will be able to receive
 - Extending the Price neutrality commitment on electricity up to December 2025
 - Most significantly – Treasury has announced stronger carbon pricing signals, which included:
 - Increases in the nominal carbon tax rate in order to reach \$20 per ton CO₂e by 2025
 - Nominal Carbon tax rate to reach \$30 by 2030

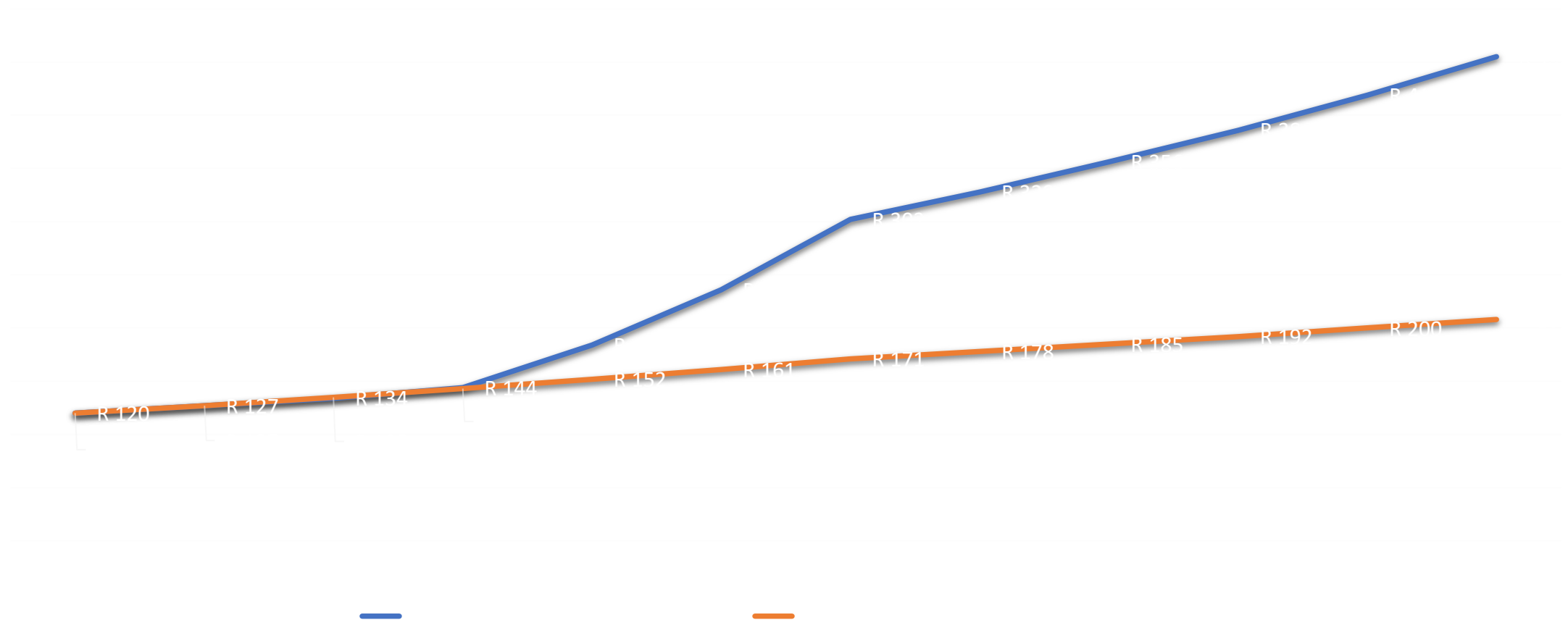
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- For the second phase, government intends to increase the carbon price more rapidly every year, to at least US\$30 by 2030, accelerating to higher levels by 2035, 2040 and up to US\$120 beyond 2050 (R1800 per ton CO₂e).
 - The basic tax-free allowances will also be gradually reduced to strengthen the price signals under the carbon tax from 1 January 2026 to 31 December 2030.
 - To encourage investments in carbon offset projects, government intends to increase the carbon offset allowance by 5% from 1 January 2026.

A photograph of a modern, multi-story glass building with a courtyard. The building features large glass windows and doors, reflecting the surrounding environment. A paved walkway leads through the courtyard, which is bordered by the building on one side and a planter with yellow flowers on the other. The text "What are the implications of these changes" is overlaid on the left side of the image.

What are the
implications of
these changes



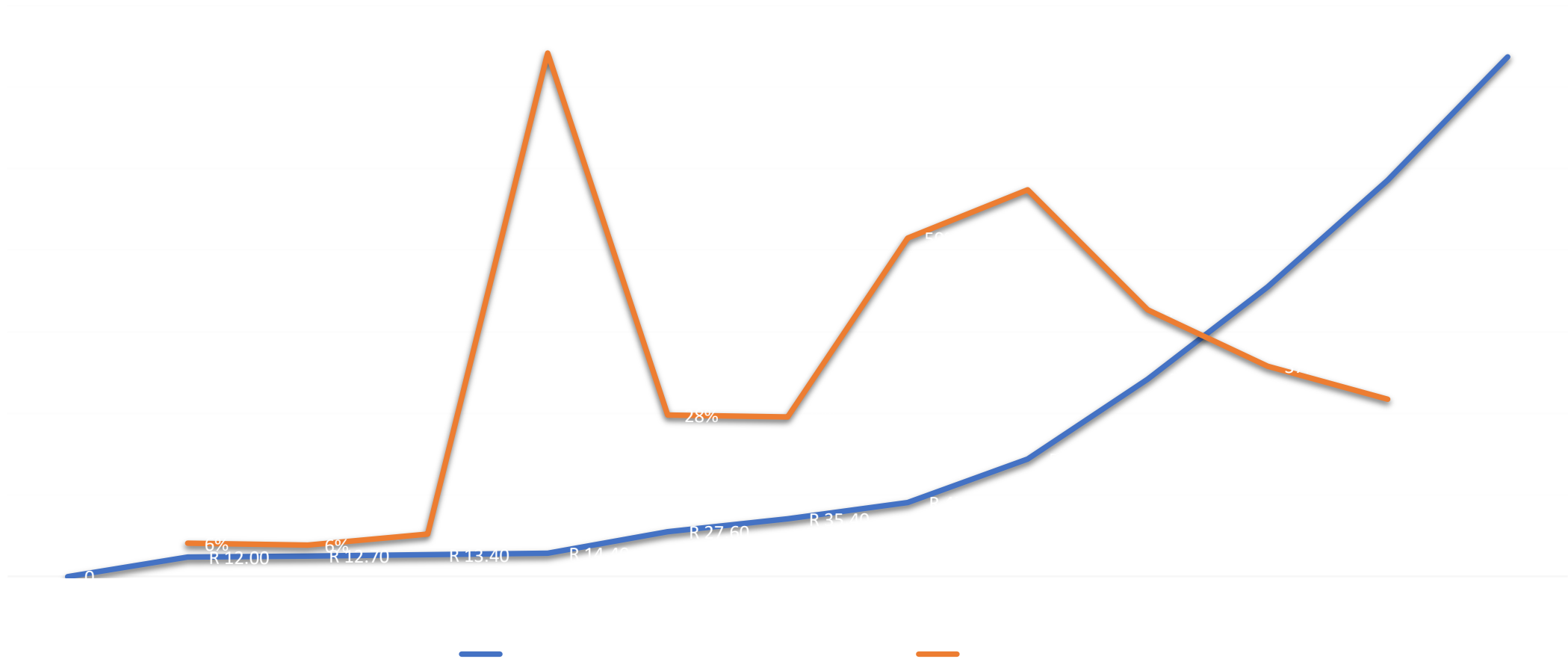
Carbon Tax Rate Increases



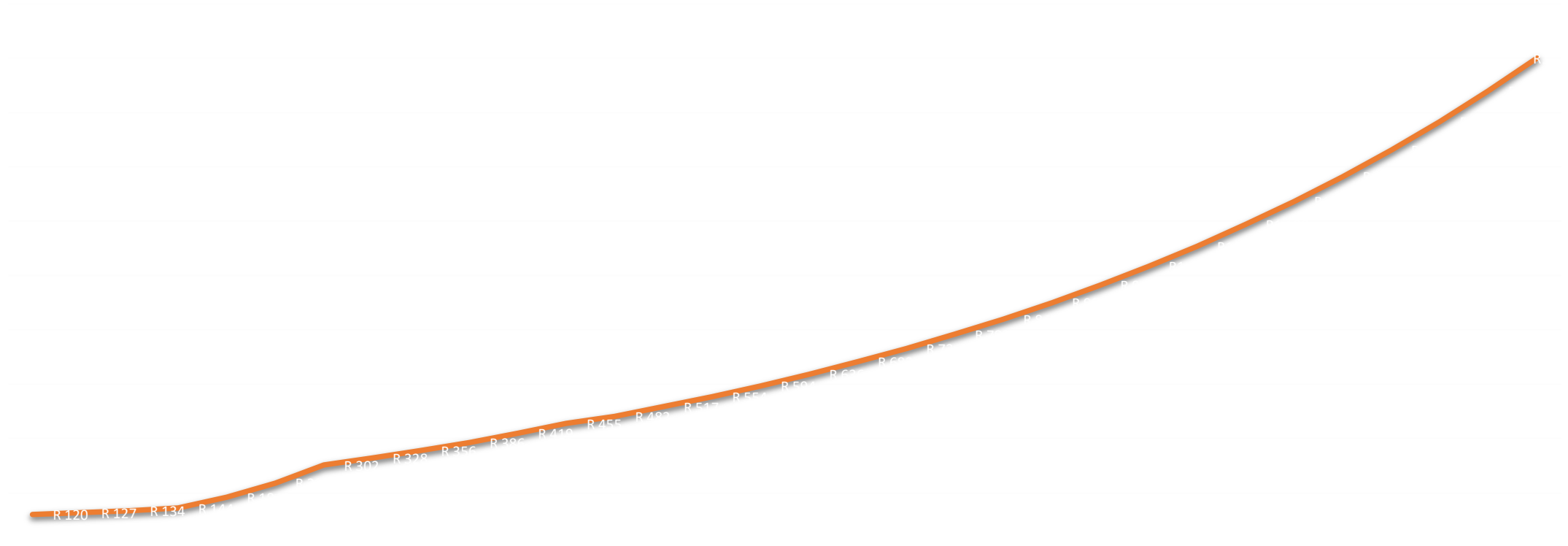


4
How do the increases
compare to other excise
taxes?

Minimum Carbon Tax Rate (Includes allowances)



Projected Carbon Tax Rate 2050



A photograph of a rooftop terrace during sunset. The terrace is lined with solar panels on the left and has wooden benches. Three people are standing on the terrace, looking out at a city skyline with a prominent skyscraper. The sky is filled with orange and yellow clouds.

Important considerations for business

-
- The plastic bag levy increased from 25c per bag to 28c per bag (12% increase)
 - Vehicle emissions tax increased from:
 - Passenger Cars - R120 per gram CO₂ per km to R132 per gram CO₂ per km (10% increase)
 - Double Cabs – R160 per gram CO₂ per km – R176 per gram CO₂ per km (10% increase)
 - Increases in excise taxes are generally quite predictable
 - The increases for carbon tax proposed are significantly higher for 2023 - 2025

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