



LEGISLATIVE UPDATE: POST-BUDGET ANALYSIS 1 OF 3

Tax Practice on the Move Series

YOUR KEY TO THE TAX COMMUNITY

RECAP OF THE BUDGET, 2024

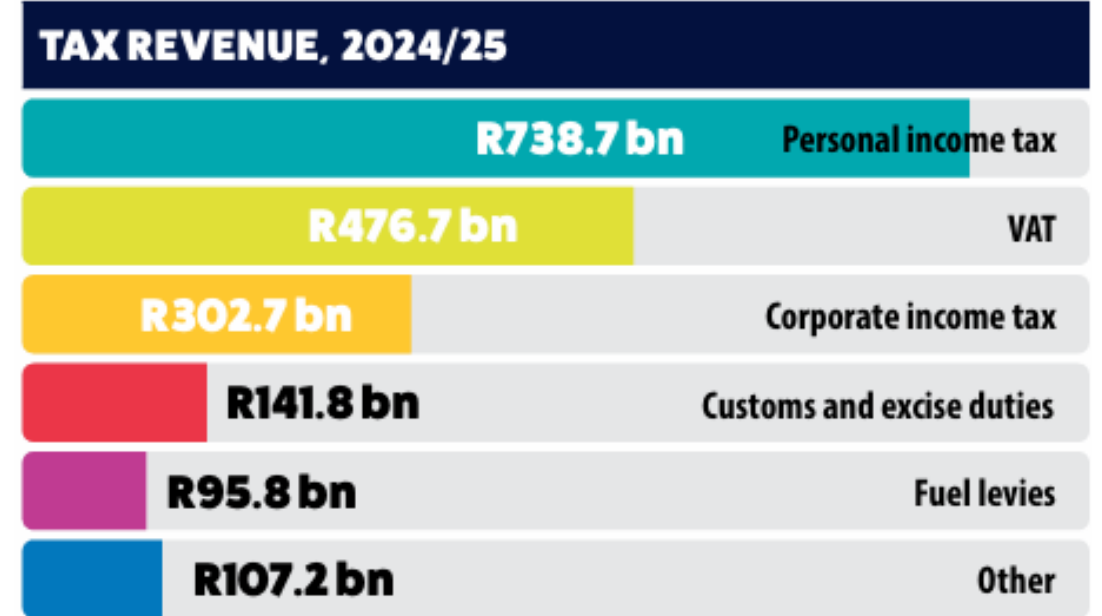
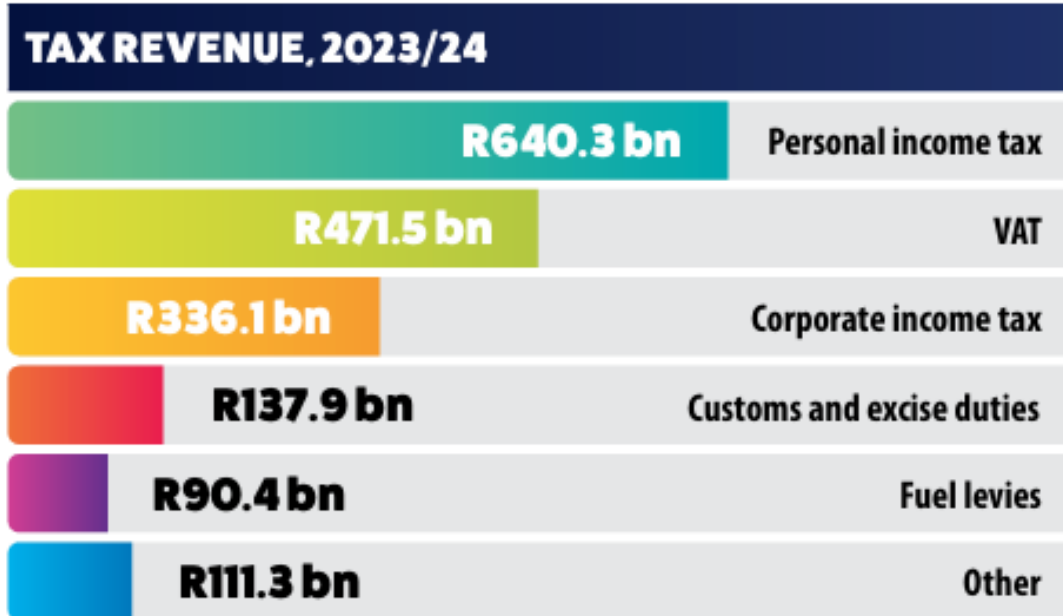
Tax Revenue Collection

No Increase in personal taxes – the fallacy

“To ensure revenue can be raised reliably, the most stable and resilient tax base, personal income tax, is targeted for the largest increases” (Budget Review 2024 p37)

(NB: Lower base for future increases)

Tax Revenue Collection



Decline in Revenue Collection

R56.1bn less revenue collected than 2024

Table 4.1 Budget estimates and revenue outcomes¹

R million	2022/23			2023/24			Percentage change ³
	Budget ²	Outcome	Deviation	Budget ²	Revised	Deviation	
Taxes on income and profits	989 877	988 505	-1 371	1 021 213	997 924	-23 289	1.0%
Personal income tax	601 649	600 367	-1 283	640 300	649 783	9 483	8.2%
Corporate income tax	344 944	344 660	-285	336 119	301 367	-34 751	-12.6%
Dividends tax	38 515	38 119	-396	39 819	39 705	-114	4.2%
Other taxes on income and profits ⁴	4 768	5 360	592	4 975	7 069	2 094	31.9%
Skills development levy	21 238	20 892	-346	23 027	22 713	-314	8.7%
Taxes on property	22 656	21 238	-1 418	23 863	19 486	-4 377	-8.3%
Domestic taxes on goods and services	581 871	579 990	-1 881	642 765	616 951	-25 814	6.4%
Value-added tax	426 283	422 416	-3 867	471 477	445 340	-26 136	5.4%
Specific excise duties	55 228	55 155	-73	58 956	53 942	-5 014	-2.2%
Health promotion levy	2 320	2 195	-125	2 476	2 254	-222	2.7%
Ad valorem excise duties	4 461	5 520	1 059	4 699	7 782	3 083	41.0%
Fuel levy	79 131	80 473	1 342	90 408	93 372	2 964	16.0%
Other domestic taxes on goods and services ⁵	14 448	14 231	-217	14 750	14 261	-489	0.2%

2022 Taxes Assessed

973 984 PIT Taxpayers TI > R500k

(=less than 1.5% of SA population (+-65mn))

Tax: R300bn out of R373bn = 80.4% of PIT

TWO-POT REIREMENT SYSTEM

Current:

- 1/3 Lump Sum:-

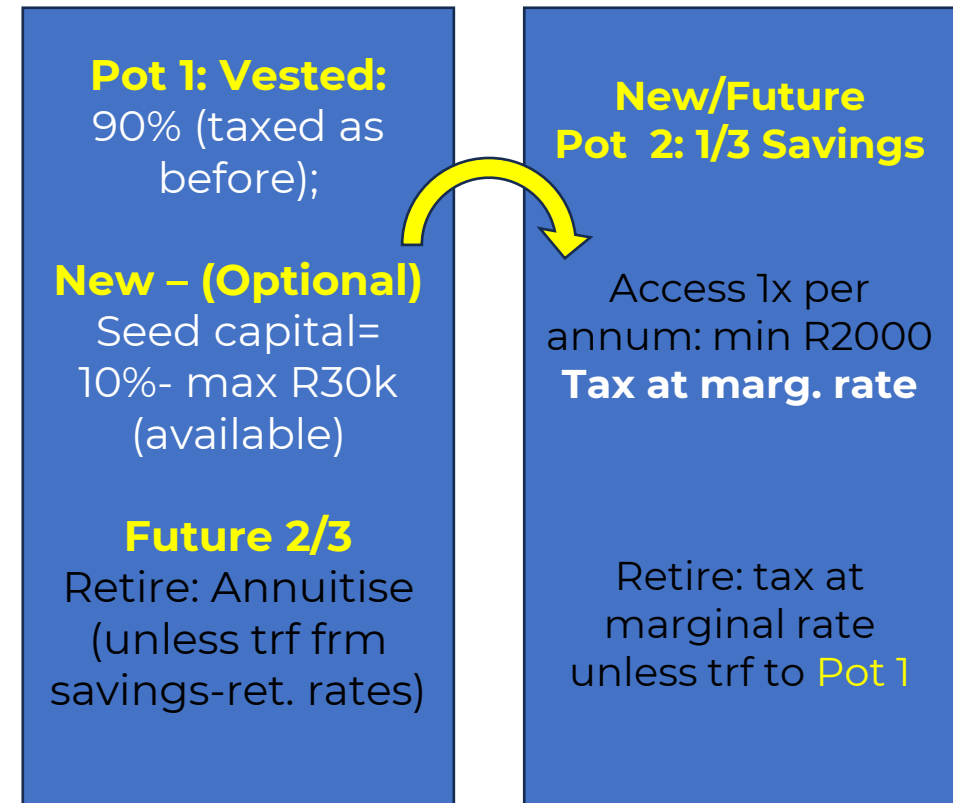
Tax:

Retire R550k; Withdraw R27k:0%

Max 36% above R1089 000

- 2/3 Annuity

From 1 September 2024:



Corporate Income Tax

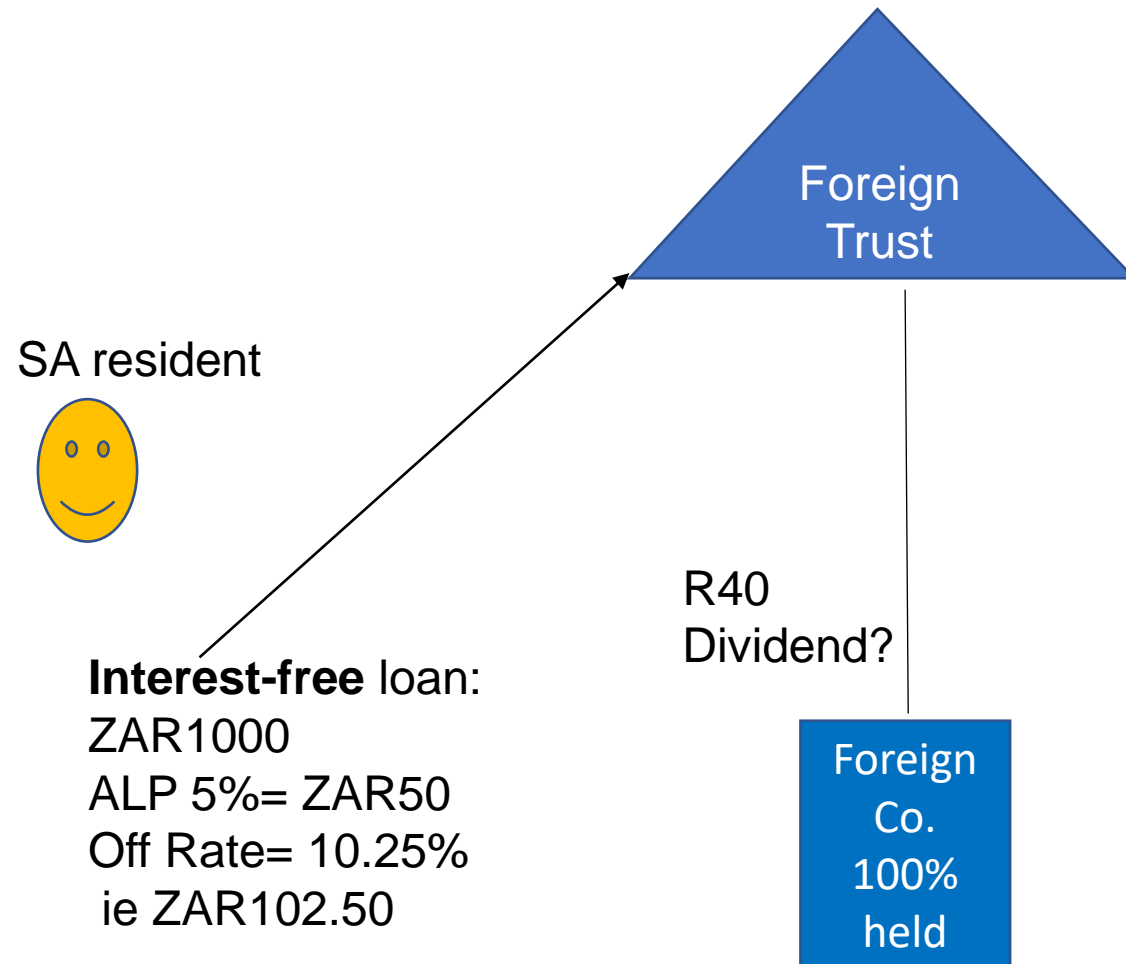
&

International Tax



Prof. Deborah Tickle (Chartered Tax Advisor)
Adjunct Associate Professor- UCT

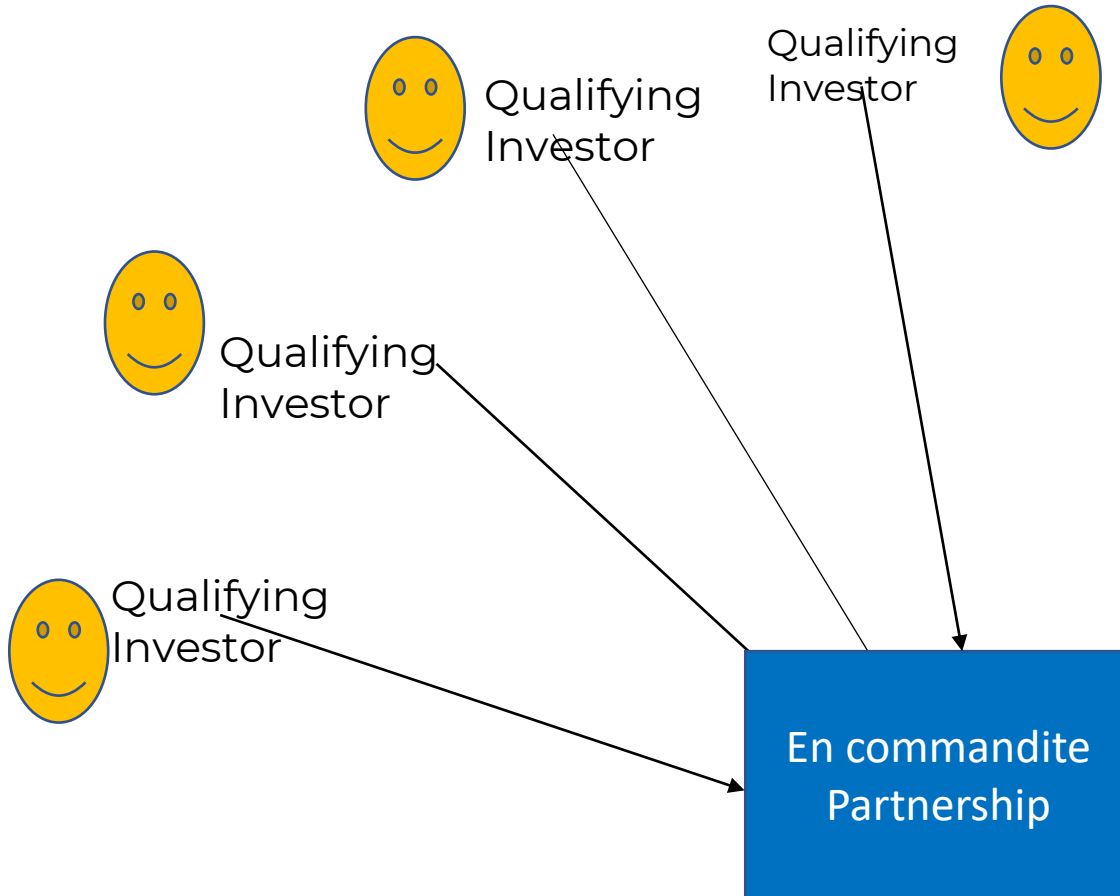
ANNEXURE C: CLARIFYING ANTI-AVOIDANCE RULES FOR LOW-INTEREST OR INTEREST-FREE LOANS TO TRUSTS



Impact:

1. No income in Trust: to extent interest not arm's length price (ALP) S31 TP adj (45% on ZAR50) + deemed donation (20% ie ZAR10)
2. Dividend R40: IN127: Section 7(8) first. Then S31 on any balance eg Dividend from Co to Trust - attribution/distrib to ben - taxable at up to 20%; s31 + don tax on bal: R10
3. IN127: If S31 adj no s7C (ie no tax on R52.50)
4. PROPOSAL? To extent ALP interest < official rate –deemed donation ie s7C(20% ie ZAR52.5 x 20%)?

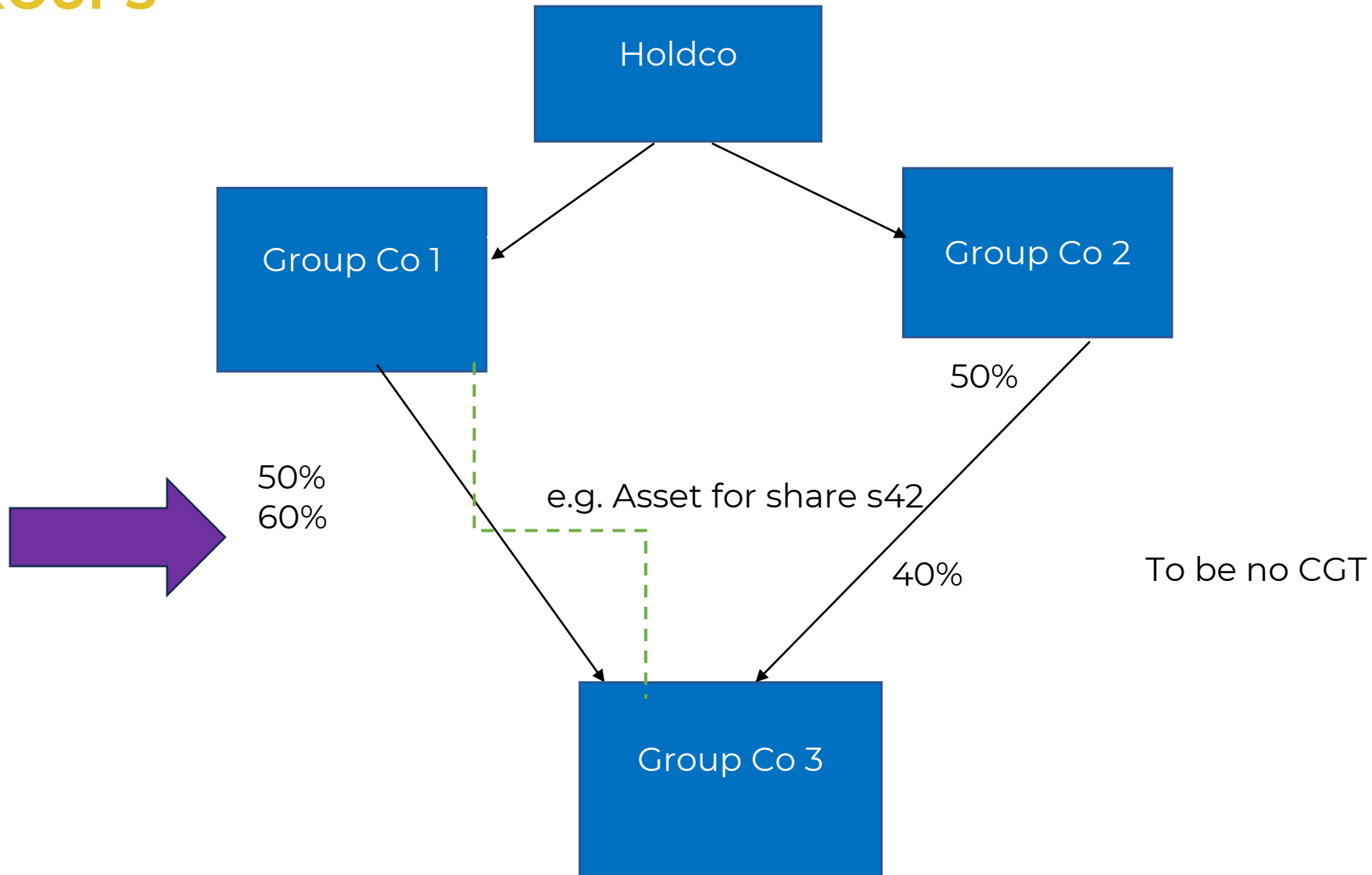
ANNEXURE C: CONNECTED PERSONS



Connected Person means...
c) in relation to a member of any partnership or foreign partnership –
(i) any other member; and
(ii) any connected person in relation to any member of such partnership or foreign partnership”

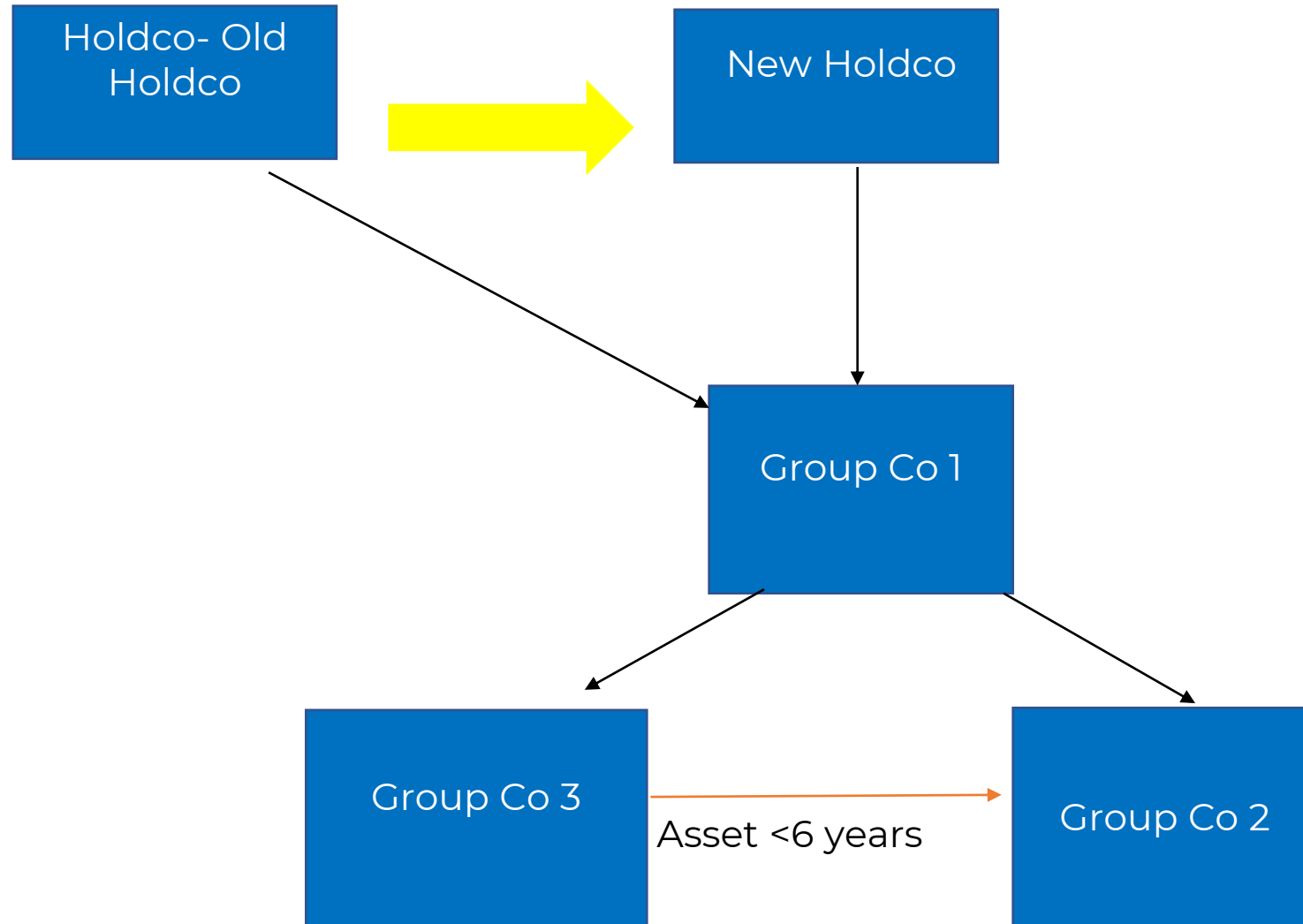
To exclude “Qualifying Investors”

ANNEXURE C: VALUE SHIFTING TO EXCLUDE CORP. RULES FOR GROUPS -



CORPORATE REORGANISATION RULES

- Section 45 Intergroup: 6-year de-grouping rule not to be applicable if original companies remain part of another group of companies (of original group)?



ASSESSED LOSSES

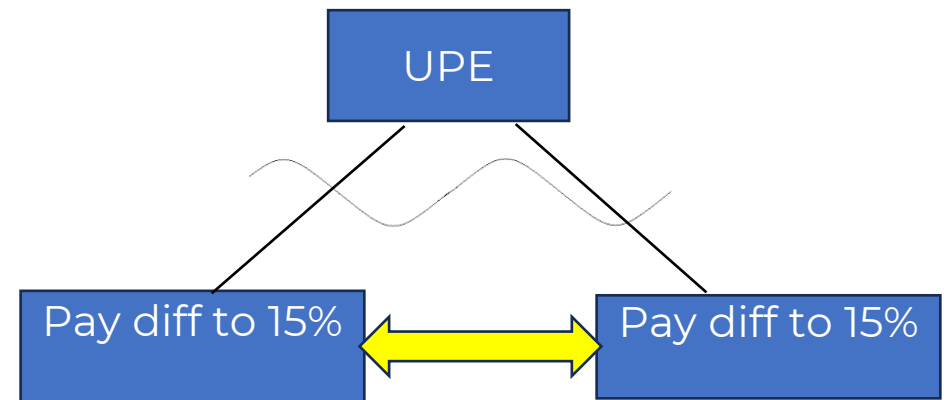
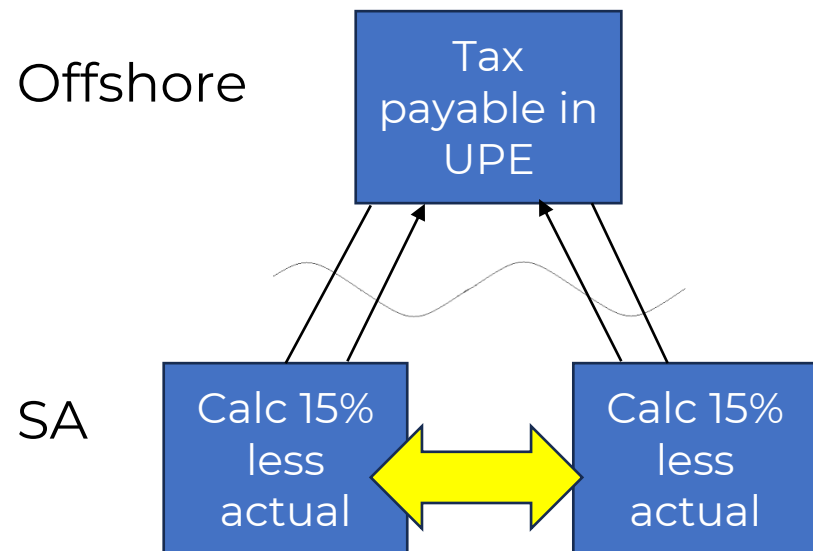
- B/fwd Assessed Loss Limitation (80% of TI) n/a if
 - Liquidation; Deregistration; winding up.
- If forex loss on loan & no trading- now: No set-off following year.
 - To ring-fence loss so set-off can occur.

GLOBAL MINIMUM TAX – PILLAR TWO

- Implementation of Global Minimum Tax (Tax years comm on/after 1 January 2024)
- MNE's TO \geq EU750mn (in 2 of preceding 4 years);
- Rate: Min **effective** Rate of excess profits (jurisdictional):15%

Income Inclusion Rule- Ultimate Parent Entity

- Domestic minimum top-up tax rule – Subs in SA



DOWN TO DETAIL

- Section 12H learnership allowances – extended to 31 March 2027
- Extension of punitive measures for ETI abuse.
- Section 11(nA) to be amended to cater for taxpayers seeking to make refunds of amounts received or accrued during the same year of assessment and reporting of monthly payroll.
- Involuntary transfers between RAFs to be tax free (previously omitted)
- (Interest limitation rules unfairly prejudice tax-exempt investors, eg pension funds, when they lend to a related party. Government to consider this for 2024 amendments);

TECHNICAL CLARIFICATIONS

- Section 6quat to allow full FTC where for asset disposed of (CGT);
- Section 46 Amalgamations: exempt “resultant company” clarification;
- “Adjusted Taxable Income: Section 23N to align to s23M;
- Section 8G (limits CTC of resident co. in share for share with non-res. co)- amend to avoid unintended consequences;
- Interaction- s24JB and GI clarification;
- Insurers- align IFRS 17 to tax legislation.
- Participation exemption: 18 month holding period on return of capital (for. Co.)
To amend to cover if >1 co in group holds shares;

SUNDRY

3rd party backed shares- re qualifying purpose (operating company:

- Needs to match - either holder or connected person thereto could hold “enforcement right”
- To extend 2023 amendments re exclusion of ownership requirements:
 - of listed equity shares to other shares listed in other countries
 - To include settlement of (foreign) dividends or interest iro redemption of preference shares within 90 days of disposal

VALUE -ADDED TAX



Frikkie de Jager (Master Tax Practitioner)

Director - Indirect tax - VAT at SecuriTax Consulting Services

EXPECTED

- Nothing much as it is an election year, and the economy is strained
- No rate increase
- Wish list:
 - VAT registration thresholds

ZERO RATE – BASIC FOOD STUFF

- S1(1)(j) read with Schedule 2 Part B
- Various Binding General Rulings (BGR)
 - Brown bread/dates/herbs/oils/potatoes and frozen potatoes, importation and supplies of fruit and veg
- Strangely limited legislative amendments

FRUITS AND VEGETABLES

- Item 12 Vegetables, not cooked or treated in any manner except for the purpose of preserving such vegetables in their natural state, but excluding dehydrated, dried, canned or bottled vegetables or such vegetables as are described under separate Items in this PART.
- Item 13 Fruit, not cooked or treated in any manner except for the purposes of preserving such fruit in its natural state, but excluding dehydrated, dried, canned or bottled fruit and nuts.
- The provisions of [paragraph 1](#) shall not apply where any goods mentioned in that paragraph are supplied in the course of carrying out any agreement for the furnishing or serving of any meal, refreshment, cooked or prepared food or any drink, as the case may be, so as to be ready for immediate consumption when so supplied.

FRUITS AND VEGETABLES (continued)

- Very novel idea to zero rate basic foodstuff – Zero rate vs grant?
- Issue – very prescriptive wording versus practical application
- High compliance cost for supplier
- Easy target for SARS
- Budget 2024 proposal - refers to “precut or prepared” not be zero-rated.
- What is the scope of the zero rating?
- Going to be interesting to see what is the actual scope
- How would you draft the wording?

PRESCRIPTION PERIOD FOR INPUT TAX CLAIMS

- 5-year Prescription period
- VAT legislation - Indicated the commencement of the 5 years
- Specifically listed circumstances (more important ones)
 - Tax invoice should have been issued
 - Imported goods (entered for home consumption)
 - First become entitled to the deduction
- Budget proposal – refer to past unclaimed credits
- SARS practice to inform vendor “claim in next tax period”
- Created by SARS due to issue with refunds
- SAIT submission – interest on refunds should be mandatory

IRREVOCABLE DEBTS

- Selling of debtors – recourse or non-recourse
- Non-recourse - buyer takes risk of non-collection
- Write-off – claim input tax deduction if Std rated
- Issue with subsequent recovery after write-off and payment of output tax

UPDATING THE ELECTRONIC SERVICE REGULATIONS

- Electronic service provider required to register
 - B2B vs B2C
 - Not in line with other jurisdictions – mainly B2C
 - Representative vendor
 - Bank account
- Prelude – SARS modernization
- Tax to be online – not only when a VAT return is due
- E-reporting vs e-invoicing
- VAT is going to be a busy place in the next few years

INDIRECT TAX - CUSTOMS



Ronnie van Rooyen
Customs Specialist

CUSTOMS AND EXCISE DUTY

Alcohol and Tobacco: Customs and Excise Act (1964, Section A of Part 2 of Schedule 1)

- SARS has imposed above-inflationary excise duty increases of
 - 6.7 to 7.2% on alcoholic beverages, and
 - Between 4.7% and 8.2% on tobacco products, including “vapes”.
- These increases will be amended with effect from 21 February 2024.
- Government proposes that excise duties to be amended with effect from 21 February 2024.

Points to Consider:

- South African inflation seen averaging 5% in 2024 (reference: <https://www.reuters.com> ; Date: 17 January 2024)
 - The South African Central Bank Governor, Lesetja Kganyago, said on Wednesday that the disinflation process had begun and that he expected inflation to average 5% this year.
 - The South African Reserve Bank (SARB) targets inflation between 3% and 6%.

CUSTOMS AND EXCISE DUTY

Reviewing the process on packages imported through eCommerce

- The South African government plans to review how packages imported through eCommerce are handled.
- The goal is to find the right balance between making things simple for people and following customs and excise regulations.

Points to Consider:

- The World Customs Organization has several initiatives in place to promote simplicity and compliance amongst its Customs administration members, for instance, the Revised Kyoto Convention, the AEO programme, and the Single Window Concept.

CUSTOMS AND EXCISE DUTY

Timeframe for delivery of export bills of entry

- Some exporters find it difficult to meet the deadline for submitting export bills of entry.
- To address this, it is suggested that the Customs and Excise Act be changed so that the SARS Commissioner can create rules allowing exporters to submit their export bills at a different time than currently required by the Customs Act.
- This would provide exporters with more flexibility while still ensuring compliance with Customs regulations.

Points to Consider:

- Section 38(3)(a) of the Customs Act: Every exporter of any goods shall, before such goods are exported from the Republic, deliver, during the hours of any day prescribed by rule, to the Controller a bill of entry in the prescribed form
- Rule 41.03 of the Customs Act: Any person entering any goods for export shall produce to the Controller at the time of presentation of the bill of entry in question, an invoice containing the particulars as the Controller may require.

CUSTOMS AND EXCISE DUTY

Simplifying the process of substituting bills of entry in certain circumstances

- The proposal is to change the Customs and Excise Act to make it easier to substitute a bill of entry in specific situations.
- If a bill of entry is mistakenly passed or if an importer, exporter, or manufacturer has a valid reason to request a substitution, they can do so without needing a voucher of correction.
- The new substituting bill of entry will replace the previous one in these cases.

Points to Consider:

- Substitution: When goods have been cleared under the incorrect CPC resulting in the original import declaration being substituted by a new import declaration reflecting the correct CPC and VAT is paid a second time.
- A substitution refund application will only be considered if the requirements for substitution as prescribed in Section 40(3) read with Rules 40.01 and 40.02 of the Customs Act have been complied with
 - Section 40(3)(ii) of the Customs Act: The Commissioner may allow the importer, exporter or manufacturer concerned to adjust that bill of entry by substitution of a fresh bill of entry and cancellation of the original bill of entry, provided such goods, where a rebate of duty is being claimed, qualified at the time the duty was paid in all respects for that rebate.

CARBON TAX



Mansoor Parker
Tax Executive at ENSAfrica

CARBON TAX

- **Carbon tax.** Carbon tax increased from R159 to R190 per tonne of CO₂e emissions (1/1/2024). The carbon fuel levy will increase to 11c/litre for petrol and 14c/litre for diesel effective from 3 April 2024. The carbon tax cost recovery quantum for the liquid fuels sector increased from 0.66c/litre to 0.69c/litre.
- **Gradual relaxation of basic allowance.** In the 2022 Budget government proposed a gradual reduction of the carbon tax's basic tax-free allowance from 1 January 2026 to 31 December 2030. To issue a discussion paper for public comment.
- **Aligning carbon tax and carbon budget.** The higher tax rate of R640 on emissions exceeding carbon budgets will come into effect after the climate change bill is enacted and DFFE gazettes the relevant regulations. Implementation is expected from 1 January of the calendar year after the legislation is finalised.
- **Carbon budget allowance.** The carbon budget allowance of 5% falls away once the mandatory carbon budgeting system comes into effect.
- **Carbon offset allowance.** When the carbon budget allowance falls away, there is an equivalent increase of the carbon offset allowance by 5% to encourage investment in green energy projects.

CARBON TAX

- **Embedded generation.** Increase the threshold for eligible renewable energy projects from 15 megawatts to 30 megawatts installed capacity for purposes of the carbon offset allowance. The amendments are effective from 1 January 2024.
- **Domestic carbon offsets.** DMREnergy aims to finalise the framework for the approval of domestic carbon offset standards this year. This will reduce the cost burden on carbon offset project developers for the registration and approval of offset projects.
- **12B renewable energy allowance.** Government will reconsider the generation threshold and leasing restrictions of section 12B. (to take effect from 1 March 2025).
- **Incentivising local EV production.** For new investments from 1 March 2026, producers will be able to claim 150% of qualifying investment spending on production capacity for electric and hydrogen-powered vehicles in the first year of investment

Questions?



YOUR KEY TO THE TAX COMMUNITY