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2011 TAX RELATED BUDGET PROPOSALS

The following is a summary of the tax related budget proposals announced by the Minister of Finance on 23 February 2011.

1 BUDGET HIGHLIGHTS

The main tax proposals include:

- Personal income tax relief of R8.1 billion.
- A third income tax rebate of R2 000 for individuals 75 years and older.
- Conversion of medical tax deductions to tax credits from March 2012.
- From 1 March 2012 an employer's contribution to retirement funds on behalf of an employee will be a taxable fringe benefit in the hands of the employee. Individuals will from that date be allowed to deduct up to 22.5 (%) per cent of their taxable income for contributions to pension, provident and retirement annuity funds with a minimum annual deduction of R12 000 and an annual maximum of R200 000.
- Transfer duty relief for transactions from 23 February 2011.
- National Health Insurance will be phased in over 14 years. Funding options under consideration are a payroll tax (payable by employers), an increase in the VAT rate and a surcharge on individuals' taxable income.
- Dividends tax becomes effective from 1 April 2012 and Secondary Tax on Companies will be discontinued from that date.
- Treat dividends received under certain dividend schemes which undermine the tax base as ordinary revenue.
- Extend the learnership tax incentive for a further five years.
- Introduction of a youth employment subsidy in the form of a tax credit.
- Taxation of gambling winnings exceeding R25 000 at 15% from 1 April 2012.

INDIVIDUALS

Relief for Individuals

Personal Income Tax

Budget 2011 provides significant tax relief to individuals amounting to R8.1bn, which partially compensates for the effects of inflation (bracket creep).

The tax threshold for individuals younger than 65 will be R59 750 and for individuals 65 up to 75 will be R93 150 and older than 75 will be R104 261.

Increased exemption for interest and dividend income

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- The annual exemption on interest earned for individuals younger than 65 years is raised from R22 300 to R22 800.
- The exemption for individuals 65 years and older increases from R32 000 to R33 000.
- The threshold for the tax-free portion of interest and dividends from foreign investment stays unchanged at R3 700 from the 2010 budget.

Medical Expenses

From 1 March 2011 the tax deductible portion of monthly contributions to medical schemes is increased for each of the first two beneficiaries from R670 to R720 and for each additional beneficiary from R410 to R440.

Other Tax Proposals Affecting Individuals:

- **Adjustment of monetary thresholds**

In addition to the measures mentioned above, government proposes to increase capital gains exclusion amounts as follows as from 1 March 2011:

- For individuals and special trusts from R17 500 to R20 000 annually.
- On death from R120 000 to R200 000.
- On disposal of a small business when a person is over 55 years old from R750 000 to R900 000.

- **Termination of the capital gain foreign currency rules**

To ensure theoretical consistency, capital profits from foreign currency adjustments should be fully taxed when they are realised. Because taxing currency based on realisation can be extremely onerous, a currency pooling concept was introduced that defers any foreign currency capital gain/loss until that foreign currency is converted into a different currency. Despite this deferral, taxing individuals on their currency gains is simply impractical. The cost of compliance typically outweighs any revenue to the fiscus. Given these concerns, it is proposed that the capital gain charge for foreign currency be completely removed.

COMPANIES

No change is proposed to corporate tax rates.

Dividends tax

The dividends tax will take effect on 1 April 2012, replacing the secondary tax on companies. The introduction of the tax should correct the impression that a tax on dividends is another tax on businesses: legally and economically, it will be a tax on individuals and non-resident shareholders.

Closure of dividend schemes

Several dividend schemes undermine the tax base. One method involves the use of dividend cessions, where taxpayers effectively purchase tax-free dividends without any stake in the underlying shares. Another scheme involves the receipt of dividends from shares in which the taxpayer has no meaningful economic risk (e.g. has an offsetting derivative position). Some arrangements make use of preference shares that generate allegedly tax free dividends, while the dividends are indirectly generated from interest yielding debt. All these schemes will be closed by treating the dividends at issue as ordinary revenue.

Internal company restructuring

The Income Tax Act (1962) provides special rules for debt cancellation and similar adjustments. Government will consider exempting otherwise taxable gains or ordinary revenue imposed on the debtor if the debt is cancelled or reduced. Relief will be limited to insolvent debtors to ensure that this does not give rise to tax avoidance.

Venture capital company

Many small and medium-sized businesses find it difficult to access equity finance. This led government to introduce the concept of a venture capital company into the Income Tax Act. The response to this vehicle has been poor and the provisions will be reviewed.

Islamic finance

The 2010 Budget announced that the taxation of Islamic financial products would be aligned with conventional financial instruments. Provisions were introduced to cover several instruments. This year the rules will address ijara products, which act like commercial finance leases. Amendments to legislation will facilitate the issue of Islamic-compliant government bonds.

Research and development tax incentive

The research and development (R&D) tax incentive is intended to encourage innovation and job creation. Government proposes to streamline the current incentive, introducing an approval process by the Department of Science and Technology before a taxpayer can claim this incentive. This should limit opportunities for retrospective reclassification of spending.

Promoting skills development and job creation

- ***Learnership tax incentive***

The learnership tax incentive, designed to support youth employment, will expire in September 2011. The tax expenditure associated with this incentive is estimated to have amounted to R324 million in 2007/08, but its effectiveness is difficult to assess. Government proposes to extend the incentive for five years, subject to an analysis of its effectiveness by businesses, sector and training authorities, and the Department of Higher Education and Training. The review will take place during 2011.

- ***Youth employment subsidy***

To support job creation, a youth employment subsidy in the form of a tax credit costing R5 billion over three years will be introduced. It will be administered by the South African Revenue Service (SARS) through the PAYE system to limit abuse, ensure maximum liquidity and ease business compliance.

- ***Industrial development zones***

To support the objectives of the industrial policy action plan and the New Growth Path, businesses making greenfield and/or brownfield investments qualify for tax relief. Greenfield investments in industrial development zones (IDZs) qualify for additional relief. Government will consider expanding incentives for labour-intensive projects in IDZs.

International taxation

- ***Gateway into Africa – headquarter regime***

During 2010, tax rules were amended to enable regional investments to flow through South Africa without being taxed. These measures were intended to encourage the development of regional investment banks and holding companies in South Africa. However, current rules could lead to double taxation. There are also concerns about the manner of imposition of residence-based taxation. These concerns will be reviewed.

- ***Refinement of controlled foreign company legislation***

The main purpose of controlled foreign company rules is to prevent South African residents from shifting passive income offshore. Some provisions are overly complex and can interfere with normal business conduct, while others create unintended loopholes. Adjustments will focus on the rules without compromising their purpose.

1.1.1.1 TAX GUIDE

INDIVIDUALS AND TRUSTS

1.1.1.2 INCOME TAX RATES: NATURAL PERSONS AND SPECIAL TRUSTS

1.1.1.3 YEAR OF ASSESSMENT ENDING 29 FEBRUARY 2012

<u>Taxable Income</u>	<u>Taxable rates</u>
0 - 150 000	18% of taxable income
150 001 - 235 000	27 000 + 25% of taxable income above 150 000
235 001 - 325 000	48 250 + 30% of taxable income above 235 000
325 001 - 455 000	75 250 + 35% of taxable income above 325 000
455 001 - 580 000	120 750 + 38% of taxable income above 455 000
580 001 and above	168 250 + 40% of taxable income above 580 000

Natural persons:

Tax thresholds

1.1.2	2011	2012
	R	R
Below 65 years of age	57 000	59 750
Aged 65 and below 75	88 528	93 150
Aged 75 and over	-	104 261

Tax rebates

1.1.3	2012
	R
Primary - All natural persons	10 755
Secondary - Persons aged 65 and below 75	6 012
Secondary - Persons aged 75 above	2 000

1.1.3.1 Trusts

The tax rate on trusts (other than special trusts which are taxed at rates applicable to individuals) remains unchanged at 40%.

Provisional Tax

A provisional taxpayer is any person who earns income other than remuneration or an allowance or advance payable by the person's principal. The following individuals are exempt from the payment of provisional tax—

- Individuals below the age of 65 who do not carry on a business and whose taxable income
 - will not exceed the tax threshold for the tax year; or
 - from interest, dividends and rental will be R20 000 or less for the tax year.
- Individuals age 65 and older if their taxable income for the tax year
 - consists exclusively of remuneration, interest, dividends or rent from the letting of fixed property; and
 - is R120 000 or less.

Retirement fund lump sum withdrawal benefits

TAXABLE INCOME (R)	RATE OF TAX (R)
0 - 22 500	0% of taxable income
22 501 - 600 000	18% of taxable income above 22 500
600 001 - 900 000	103 950 + 27% of taxable income above 600 000
900 001 and above	184 950 + 36% of taxable income above 900 000

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal. Tax on a specific retirement fund lump sum withdrawal benefit (X) is equal to—

- tax determined by applying the tax table to the aggregate of that lump sum X plus all other retirement fund lump sum withdrawal benefits accruing from March 2009 and all retirement fund lump sum benefits accruing from October 2007 and all severance benefits received or accruing from March 2011; less
- tax determined by applying the tax table to the aggregate of all retirement fund lump sum withdrawal benefits accruing before lump sum X from March 2009 and all retirement fund lump sum benefits accruing from October 2007 and all severance benefits received or accruing from March 2011.

Retirement fund lump sum benefits

TAXABLE INCOME (R)	RATE OF TAX (R)
0 - 315 000	0% of taxable income
315 001 - 630 000	18% of taxable income above 315 000
630 001 - 945 000	56 700 + 27% of taxable income above 630 000
945 001 and above	141 750 + 36% of taxable income above 945 000

Retirement fund lump sum benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to redundancy or termination of employer's trade. Tax on a specific retirement fund lump sum benefit (Y) is equal to—

- tax determined by applying the tax table to the aggregate of that lump sum Y plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all other severance benefits received or accruing from March 2011; less
- tax determined by applying the tax table to the aggregate of all retirement fund lump sum benefits accruing before lump sum Y from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all severance benefits received or accruing before severance benefit Y from March 2011.

Foreign Dividends

Most dividends received by individuals from foreign entities are taxable.

Exemptions

Interest and dividends

- Interest earned by any natural person under 65 years of age, up to R22 800 per annum, and persons 65 and older, up to R33 000 per annum, are exempt from taxation. Foreign interest and foreign dividends are only exempt up to R3 700 out of the total exemption.
- Interest is exempt where earned by non-residents who are physically absent from South Africa for 183 days or more per annum and who are not carrying on business in South Africa. Withholding tax of 10% on certain interest paid to non-residents to become effective 1 January 2013.

Deductions

Current pension fund contributions

The greater of—7,5% of remuneration from retirement funding employment, or R1 750. Any excess may not be carried forward to the following year of assessment.

Arrear pensions fund contributions

Maximum of R1 800 per annum. Any excess over R1 800 may be carried forward to the following year of assessment.

Current retirement annuity fund contributions

The greater of—

- 15% of taxable income other than from retirement funding employment, or
- R3 500 less current deductions to a pension fund, or
- R1 750.

Any excess may be carried forward to the following year of assessment.

Arrear retirement annuity fund contributions

Maximum of R1 800 per annum. Any excess over R1 800 may be carried forward to the following year of assessment.

Medical and disability expenses

- Taxpayers 65 and older may claim all qualifying expenditure.
- Taxpayers under 65 may claim all qualifying medical expenses where the taxpayer or the taxpayer's spouse or child is a person with a disability.
- Other taxpayers under 65 may deduct monthly contributions to medical schemes up to R720 for each of the first two dependants on their medical scheme and R440 for each additional dependant. In addition they can claim a deduction for medical scheme contributions above the caps and any other medical expenses limited to the amount which exceeds 7,5% of taxable income (excluding retirement fund lump sums).

Donations

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income before deducting medical expenses (excluding retirement fund lump sums).

Allowances

Subsistence allowances and advances

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

- meals and incidental costs, an amount of R286 per day is deemed to have been expended;
- incidental costs only, an amount of R88 for each day which falls within the period is deemed to have been expended

Where the accommodation to which that allowance or advance relates is outside the Republic, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website under *Legal & Policy / Legislation / Regulations and Government Notices / Income Tax Act, 1962*.

Travelling allowance

Rates per kilometer which may be used in determining the allowable deduction for business travel, where no records of actual costs are kept.

Value of the vehicle (including VAT) (R)	Fixed cost (R p.a.)	Fuel cost (c/km)	Maintenance cost (c/km)
0 - 60 000	19 492	64.6	26.4
60 001 - 120 000	38 726	68.0	29.2
120 001 - 180 000	52 594	71.3	31.9
180 001 - 240 000	66 440	77.7	35.0

240 001 - 300 000	79 185	87.0	44.7
300 001 - 360 000	91 873	93.9	54.2
360 001 - 420 000	105 809	100.9	65.8
420 001 - 480 000	119 683	113.1	67.6
exceeding 480 000	119 683	113.1	67.6

Note:

- 80% of the travelling allowance must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.
- No fuel cost may be claimed if the employee has not borne the full cost of fuel used in the vehicle and no maintenance cost may be claimed if the employee has not borne the full cost of maintaining the vehicle (e.g. if the vehicle is the subject of a maintenance plan).
- The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.
- The actual distance travelled during a tax year and the distance travelled for business purposes substantiated by a log book are used to determine the costs which may be claimed against a travelling allowance.

Alternative to the rate table:

- Where the distance travelled for business purposes does not exceed 8 000 kilometers per annum, no tax is payable on an allowance paid by an employer to an employee up to the rate of 305 cents per kilometer, regardless of the value of the vehicle.
- This alternative is not available if other compensation in the form of an allowance or reimbursement is received from the employer in respect of the vehicle.

Fringe Benefits

Employer-owned vehicles

- The taxable value is 3,5% of the determined value (the cash cost including VAT) per month of each vehicle. Where the vehicle is the subject of a maintenance plan at the time that the employer acquired the vehicle the taxable value is 3,25% of the determined value.
- 80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.
- On assessment the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes substantiated by a log book divided by the actual distance travelled during the tax year.
- On assessment further relief is available for the cost of licence, insurance, maintenance and fuel for private travel if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a log book.

Interest-free or low-interest loans

The difference between interest charged at the official rate and the actual amount of interest charged, is to be included in gross income.

1.1.3.2 CORPORATE TAX RATES

YEARS OF ASSESSMENT ENDING BETWEEN 1 APRIL 2011 AND 31 MARCH 2012

1.1.4 NORMAL TAX		
Companies and close corporations	Basic rate	28%
Personal service provider companies	Basic rate	33%
Foreign resident companies which earn income from a SA source	Basic rate	33%

SMALL BUSINESS CORPORATIONS

Tax rates for qualifying **small business corporations** will be as follows:

Taxable Income (R)	Rate of Tax (R)
0 – 59 750	0%
59 751 – 300 000	10% of the amount above 59 750
300 001 and above	24 025 + 28% of the amount above 300 000

MICRO BUSINESSES

Financial year ending on 29 February 2012

Taxable turnover (R)	Rate of tax (R)
0 – 150 000	0%
150 001 – 300 000	1% of the amount above 150 000
300 001 – 500 000	1 500 + 3% of the amount above 300 000
500 001 – 750 000	7 500 + 5% of the amount above 500 000
750 001 and above	20 000 + 7% of the amount above 750 000

SECONDARY TAX ON COMPANIES (STC)

The STC rate remains unchanged at 10%.

1.1.5

1.1.6 EFFECTIVE CGT RATES

1.1.7 Taxpayer	1.2 Inclusion Rate (%)	1.3 Statutory Rate (%)	1.4 Effective Rate (%)
1.4.1			
1.4.2 Individuals	25	0 – 40	0 – 10
1.4.3 Trusts			
Special	25	18 – 40	4,5 – 10
Other	50	40	20
1.4.4 Companies			
Ordinary	50	28	14
Small business corporation	50	0 – 28	0 – 14
Permanent establishment	50	33	16,5

OTHER TAXES DUTIES AND LEVIES

Value-added Tax (VAT)

VAT is levied at the standard rate of 14% on the supply of goods and services by registered vendors. A vendor making taxable supplies of more than R1 million per annum must register for VAT and a vendor making taxable supplies of more than R50 000, but not more than R1

million per annum, may apply for voluntary registration. Certain supplies are subject to a zero rate or are exempt from VAT.

Transfer Duty

Transfer duty is payable at the following rate on transactions which are not subject to VAT -

- Acquisition of property by all persons:

Value of property (R)	Rate
0 – 600 000	0%
600 001 – 1 000 000	3% of the value above R600 000
1 000 001 – 1 500 000	R12 000 + 5% of the value exceeding R1 000 000
1 500 001 and above	R37 000 + 8% of the value exceeding R1 500 000

Estate Duty

Estate duty is levied at a flat rate of 20% on property of residents and South African property of non-residents. A basic deduction of R3,5 million is allowed in the determination of an estate's liability for estate duty as well as deductions for liabilities, bequests to public benefit organisations and property accruing to surviving spouses.

Donations Tax

- Donations tax is levied at a flat rate of 20% on the value of property donated.
- The first R100 000 of property donated in each year by a natural person is exempt from donations tax.
- In the case of a taxpayer who is not a natural person, the exempt donations are limited to casual gifts not exceeding R10 000 per annum in total.
- Dispositions between spouses, and donations to certain public benefit organisations are exempt from donations tax.

Securities Transfer Tax

The tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interests in close corporations.

1.4.5 23 February 2012

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