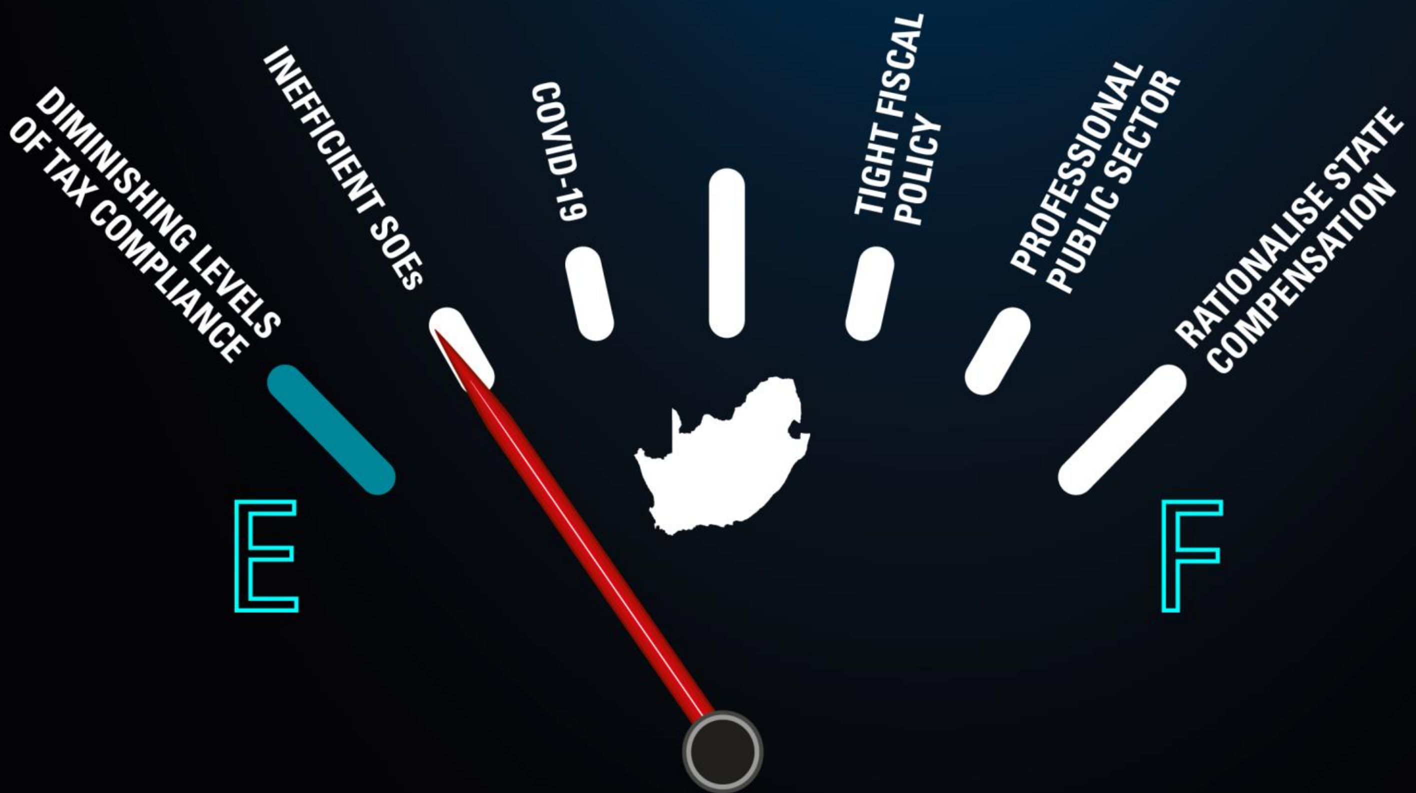
BUDGET DAY 2021

REFUELLING THE TANK



Budget Analysis and Commentary

A summary of tax related budget proposals announced by the Minister of Finance today, **Wed, 24 February 2021**

SAICA
THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS
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CONTENTS

1. FOREWORD BY SAICA CEO 3
2. MBOWENI'S 2021 BUDGET CREDIBILITY – AN ANALYSIS BY DR MIRIAM ALTMAN 3
3. TRUST AND CONSENSUS TO REFUEL THE TANK 5
4. SAICA 7 FOR ECONOMIC GROWTH 9
4.1 FOCUSING ON THE ELEMENT OF ACCOUNTABILITY 9
4.2 QUALITY EDUCATION 13
4.3 CRIME AND ECONOMIC GROWTH 15
5. BUDGET OVERVIEW 16
6. FOCUS ON IMPROVING TAX ADMINISTRATION AND REBUILDING SARS 18
7. INDIVIDUALS 19
Personal income tax (PIT) 19
Exemption for interest and dividend income 19
Other proposals affecting individuals, employment and savings 20
8. COMPANIES 23
Corporate tax rates 23
9. INCENTIVES 26
10. INTERNATIONAL TAX 27
11. ENVIRONMENTAL TAXES 28
12. INDIRECT TAXES 30
13. TAX ADMINISTRATION/OTHER 31
Tax Administration Act 31
14. TAX GUIDE (including tables) 33
Individuals and trusts 33
Corporate tax rates 39
Companies, PSPs and foreign resident companies 39
Small business corporations 39
Micro businesses 39
Effective capital gains tax rates 39
Other taxes, duties and levies 40
Value-added Tax (VAT) 40
Transfer duty 40
Estate duty 40
Donations tax 41
Securities transfer tax 41
Tax on International Air Travel 41
Skills Development Levy 41
Unemployment Insurance Contributions 41

1. FOREWORD BY SAICA CEO – MR FREEMAN NOMVALO

As a country still mourning the lives and livelihoods lost to a dreadful pandemic, the Minister of Finance in his 2021 Budget Speech reminds us of the brave and fearless people in our society and many who have come together in an act of human solidarity.

It will take many more of our people to be brave and fearless to overcome the challenges we face. It requires a brave Minister and Government to depart from embedded political plans and ideas and actually hear what stakeholders are telling them.

Budget 2021, sees a drastic departure from the narrative in MTBPS 2020 and seems to enter a new consensus that government will not just listen but will actually hear what the people have to say.

It acknowledges that the Minister has consulted widely and it seems clear that he has in fact heard many. From businesses' calls for infrastructure revitalisation and corporate tax rate reductions to individual taxpayers' call for no tax increases and lastly, also organised labour's requests to rethink the promised R160 billion wage bill reductions.

The proof of the pudding will be in the eating and will require more brave and fearless actions by government to engage and collaborate with labour, business and civil society to work together in achieving the very ambitious goals set.

As SAICA we, together with our members, look forward to not only facilitate much needed consensus but also knuckle down and collaborate with government and stakeholders in changing the lives of so many that are desperate and despaired. We concur with the Minister that our beautiful country and people have the possibility of a similar beautiful future. It is, however, up to those with the power to implement change to rise and be the responsible leaders we need.

2. MBOWENI'S 2021 BUDGET CREDIBILITY – AN ANALYSIS BY DR MIRIAM ALTMAN

The most important conundrum facing Mboweni in his 2021 Budget is whether he can reveal a credible path to stabilising public finances, while also enabling activities that promote progression to a decent life. While elements of these can be sequenced, there will have to be material signs of both in the near term.

Otherwise, the goals of fiscal sustainability will be scuppered early on by political demands, which pushes SA into a vicious circle and locks it into stasis.

Does the 2021 Budget demonstrate hope that a balance has been found? So much of the discourse on public finance revolves around either cutting spending and/or raising taxes. These are naturally two elements in the equation, but they are static. A more dynamic approach asks about the "X-Factor". It is well known that there is significant space in the public sector to improve

both the composition and the quality of spending. It is also well known that there is substantial opportunity for strengthening revenue collection. Given the size of the public sector, even small improvements can have important growth inducing, confidence boosting effects. The difference between static and dynamic effects is that lifting taxes or cutting expenditure offers one-off improvements and could even have growth dampening effects. Dynamic approaches enable continuous improvements over time.

Is this an "austerity" budget?

This budget was never going to be an expansionary one. Non-interest spending (not including remuneration) grows by 0.4% pa in real terms. So, by that definition, it is not austerity.

Mboweni proposes a path to reducing the deficit from 14% in 2020/1 to 6.3% in 2023/24, stabilising the debt at 88.9% by 2023/4. This is primarily achieved by cutting R265 billion in spending and lifting revenues. Some big assumptions are made to achieve this – are they valid?

Credibility will be tested by the following in 2021:

- The public sector three year wage agreement formally ends in March this year. The fiscal framework depends heavily on savings in the wage bill – R 160 billion over the MTEF to be precise. This is a big assumption given the hostility wrecked in the final year of the wage agreement and the seeming lack of readiness for the next three years. More needs to be revealed about the status of these negotiations. They need to address a sustainable wage path, the link to performance, the composition of employment – with fewer bureaucrats and more staff at the coal face of delivery, and ensuring that the ethos of "right skill for the job".

- The State-Owned Enterprises are meant to offer government a vehicle for delivery and off-balance sheet finance. Instead they are weighing heavily on the fiscus and falling short on delivery. Since 2008, R188.7bn has channelled to Eskom, with a further R77bn expected over the MTEF. SAA should get almost R37bn between 2017/18 and 2022/3. PRASA received R80 billion in capital spending and an annual R10bn for operating costs, but is a shadow of its former self. The NPC's recent Economic Review highlights the need for better and stable appointments on SOE boards and executive management, transparent procurement, and the introduction of deeper public-private cooperation, most notably in energy procurement and port and rail lines. In 2021, watch for the appointment of the ESKOM board, the creation of an ITSMO by ESKOM, progress in energy procurement and the concessioning of rail and port facilities by Transnet.

- COVID expenditures are meaningful in the budget and it was good to see an expansion in the contingency fund. R9 billion is allocated to vaccines, some to cover risk where there are adverse reactions, funds to COVID relief grants and the Presidential youth employment programme. Strangely, the health budget falls by R2 billion, mostly focused on personnel spending, in a context where there are staff shortages and greater stress on the system.

- On the revenue side, it was good to see R3bn allocated to SARS over the MTSF to strengthen digital systems and revenue collection capacity. This is not a massive allocation, but should offer one of the few locations in government with a direct return on investment. The fiscal framework depends heavily on SARS' capability to strengthen collection.

It is worth remembering that this budget is buffered by an expectation that the global economy will recover faster than anticipated, and that is especially so for China and India. Already commodity prices have elevated. No matter what happens domestically, SA is lifted by the global wave. Will this bolster commitment to a fiscal framework, or will it be used to buffer politicians? Minerals economies like SA tend to ride the wave and avoid hard reforms. Policy makers will have to resist the tendency to slow down structural reforms and public sector efficiency initiatives in response to this buffer. Instead, they should rather use the "windfall" fiscal space to speed up.

We will need to see considerable Presidential and cabinet level commitment to what is proposed in this Budget. The Minister of Finance is never a popular figure in any country, for obvious reasons. Securing a fiscal framework and sticking to it requires discipline. Having said that, a credible path to fiscal health will require one that is politically plausible, even if it takes longer to implement.

3. TRUST AND CONSENSUS TO REFUEL THE TANK

Budget 2021 has seen the Minister of Finance affirm government's desire for sustainable public finances and the supremacy of the Constitution. He also emphasises that much resolve or "political will" is required in overcoming the challenges we have created as a country to grow the economy. His words echo what many are thinking and saying when he states:

> *"We will not rest until we have fundamentally altered the structure of this economy by lowering barriers to entry, raising productivity and lowering the cost of doing business"*

"Business friendly" and "open to business" become hollow slogans quite quickly. Our mettle as a society and that of our government will be tested in the implementation of these promises to the world and the people of South Africa.

Every year for at least the last 13 years "*this years's"* budget was labelled as the most important. How fickle those statements were is very obvious in *this year's* budget. Every year we all wait in anticipation for the Minister of Finance to conclude 6 months of number crunching from government departments and relate to us the financial plan, as approved by cabinet, and aligned to the "*Economic Plan*".

This year is different, because many more actual lives and the livelihoods that pay for keeping those lives alive, depend on "*the Plan*" and "*the Budget*". What was glaringly obvious under COVID-19 is that both "the Plan" and "the Budget" needs a rethink and that some serious questions need answers. COVID-19 did not create the hole we are in, it just dug it deeper but also shone a spotlight of where we are failing as a society and as a government. It is especially processes attempting to ensure accountability, efficiency and transparency, that have been treated with disdain over the years, as now all too familiar soap opera-like "commissions of inquiry" continue to reveal. In addition, we get to see how the courts have more commonly expressed judgment on the failures of those who have abdicated their constitutional and legal obligations of oversight and dubbed them "constitutional delinquents". This delinquency reached a new level of recognition when a recent High Court judgment not only affirmed the constitutional delinquency of the Kgetlengrivier Local Municipality, but found it's delinquency so great that the people could legally take over its constitutional mandate to render sewage treatment services.

What we are witnessing is the breakdown of **trust** in governments, not just in South Africa, and its ability to meet its constitutional mandate. This point is aptly demonstrated by the Edelman Trust's research.

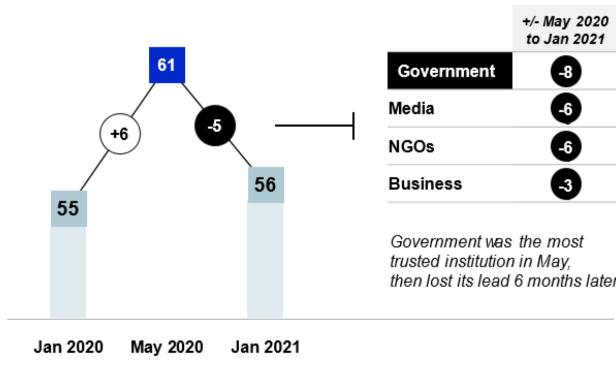
21st ANNUAL EDELMAN TRUST BAROMETER

Methodology

Online survey in 28 countries*
33,000+ respondents
2021 Edelman Trust Barometer fieldwork conducted from October 19 to November 18, 2020

SPRING TRUST BUBBLE BURSTS; BIGGEST LOSS FOR GOVERNMENT

Trust Index, 11 countries included in the 2020 Trust Barometer Spring Update

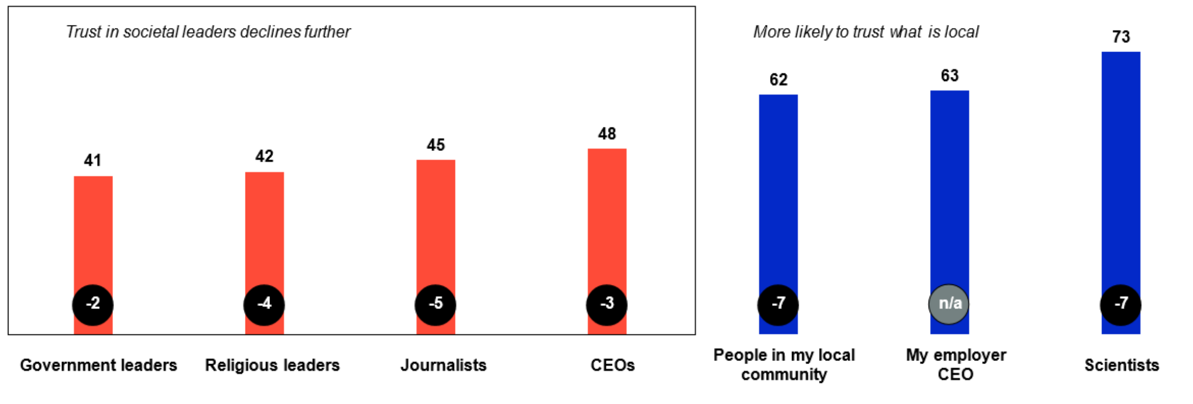


Government	+/- Jan 2020 to May 2020	+/- May 2020 to Jan 2021
S. Korea	+16	-17
UK	+24	-15
China	+5	-13
Mexico	+12	-12
Canada	+20	-11
India	+6	-8
U.S.	+9	-6
Germany	+19	-5
Japan	-5	-1
Saudi Arabia	+5	-1
France	+13	+2

Globally, the pandemic has eroded even further the trust society has in others, but particularly that trust which society has in Government's ability; the same applies to South Africa. It is specifically the lack of trust in governments to do the right thing that has waned, notwithstanding that before the pandemic they led this trust index.

SOCIETAL LEADERS NOT TRUSTED TO DO WHAT IS RIGHT

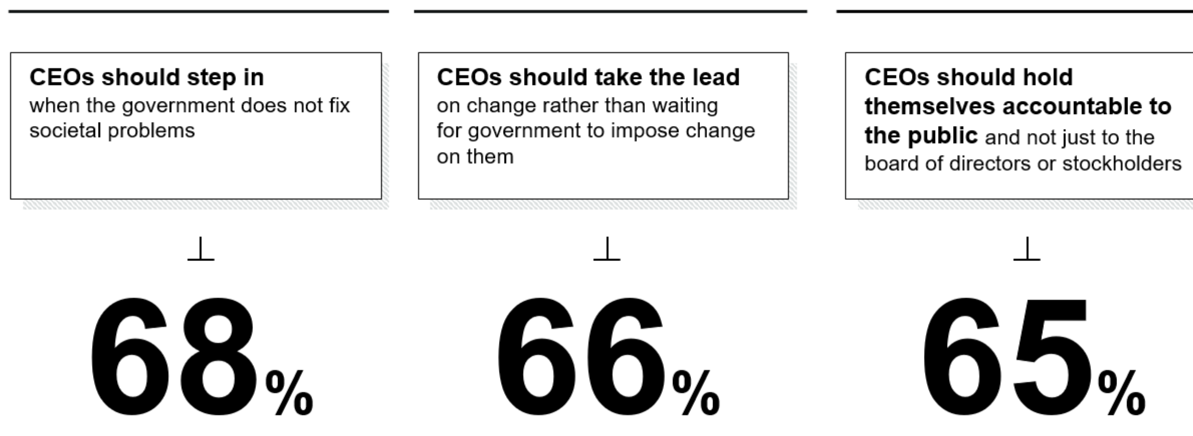
Percent trust



Increasingly, society and communities are looking to take back their power and become less reliant on government and even big business to save them, as demontrasted by the Kgetlengrivier community and so many others across the country. However, society still has an expectation on business to also fill the void left by government and be a lot more vocal on government failures, lack of accountability and leadership.

BUSINESS EXPECTED TO FILL VOID LEFT BY GOVERNMENT

Percent who agree



2021 Edelman Trust Barometer. CEO_EXP. Below is a list of potential expectations that you might have for a company CEO. Thinking about CEOs in general, whether they are global CEOs or a CEO who oversees a particular country, how would you characterize each using the following three-point scale? 3-point scale, sum of codes 2 and 3. Question asked of half of the sample. CEO_AGR. Thinking about CEOs, how strongly do you agree or disagree with the following statement? 9-point scale; top 4 box, trust. Question asked of half of the sample. General population, 27-mkt avg.

Edelman | 25

Following on from trusting each other is lack of **consensus**.

In the 2017 MTBPS the Parliamentary Standing Committee on Finance challenged civil society to give input on how to grow the economy. SAICA, through its National Tax Committee took up this challenge and identified that the lack of consensus and accountability underpinned growing the economy and undermined interventions planned for its revival. In SAICA's 2018 Budget Review presentations to Parliament, the **SAICA 7** was submitted and presented as critical consensus items to rebuild the economy. This was again reiterated in 2020 at the height of the pandemic with South Africa ranking amongst the worst in the world in many of these areas. We would pose a critical question: Where is NEDLAC, the body created to get consensus pertinent to the economy and societal order, in this discussion?

In February 2021, the Thabo Mbeki Foundation would release a paper demonstrating exactly this challenge in a lot more detail as it played out in 2020. Consensus and collaboration would be called upon by government, but as demonstrated, government would, notwithstanding claims to the contrary, proceed to ignore the contributions of business and labour and produce the Economic Reconstruction and Recovery Plan ("ERRP"). Both Business (represented by Business4SA) and Organised Labour would thereafter proceed to issue their own plans contradicting some of what government has prioritised, but also in many instances having better workable plans, again contrary to the suggestion that all parties had sought and found consensus at NEDLAC.

Budget 2021 makes significant promises on a macro scale, especially as to returning South Africa to a surplus budget by 2025 and curbing debt to under 90% of GDP. However, we need to be brutally honest with each other to find consensus and trust. Unlike 2006/2007, the Minister is not talking about an actual main budget surplus, but one without considering debt costs, the fastest growing expense that nears R400bn by 2024/2025. A similar "fake narrative" is used in our

unemployment rate released this month where it is continually stated as 32,5% and not the real number of 42,6%.

Refueling the tank of the South African economy will have to start with rebuilding trust between government and societal partners and reaching actual consensus on the principles of how this rebuild task will be carried out. Without this crucial foundation, no plan, no matter how good it is, will succeed. This trust and consensus between government, business, labour and civil society will have to be built, not on speeches and structures, but on actions that deliver the results and changes society needs so desperately. Collaboration and coordination will be natural bedfellows to follow such consensus, but the question remains: can we regain the trust of society and start trusting those to whom they look to before they lose all hope and stop looking outward and only inward?

This brings us to consider 3 of the **SAICA 7** in more detail, namely: accountability, education and crime.

4. SAICA 7 FOR ECONOMIC GROWTH

4.1 FOCUSING ON THE ELEMENT OF ACCOUNTABILITY

Every February the Minister of Finance presents his budget speech in Parliament for the upcoming fiscal year. This is not the final budget but a proposal that has to be scrutinised and approved by Parliament. The budget presents an overall synopsis of the state of the country's economy, amendments to tax, distribution of revenue across spheres of government and distribution of expenditure across national departments.

As far back as August 2010, Parliament questioned the credibility of the budgets presented by the government departments and the planning that went into these budget preparations. It was conceded in this meeting that government needed to see how cost overruns could be better managed, and to investigate the actual practices of budgeting.

What is really happening?

Fast forward twelve years, and it seems that budgeting practices have not improved. A simple example of this is contained in the ongoing legal matter between government and the public sector trade unions. The national budget submitted to Parliament did not reflect what is actually being paid to public sector employees. Due to this, adjustments were continually made in the Medium Term Budget Policy Statement, despite National Treasury knowing full well that higher wages had been agreed with the unions notwithstanding Regulation 79 requiring National Treasury to approve these agreements as they exceeded budgets. The Labour Appeal Court judgement in this regard reinforces budgeting controls.

Numerous other instances of bad budgeting and lack of financial controls are contained in the Auditor General Reports issued over the last ten years. A summary of the audit outcomes for the PFMA entities is shown below:

2018-19 PFMA AUDIT OUTCOMES				
Audit Outcomes	**2015-16**	**2016-17**	**2017-2018**	**2018-2019**
Audits Outstanding	3	3	5	49
Unqualified with no findings	113	129	97	100
Unqualified with findings	184	185	202	182
Qualified with findings	61	83	95	86
Adverse with findings	3	9	5	4
Disclaimed with findings	21	14	27	11
Number of audits performed	385	423	431	432
Irregular, Unauthorised, Fruitless and wasteful expenditure				
Irregular expenditure	29.4 billion	R45,3 billion	R 36, 8 billion	R42, 8 billion
Fruitless and Wasteful expenditure	1.08 billion	757 million	R 792 million	R 849 million
Unauthorised expenditure	0.76 billion	R1,54 billion	R 1, 77 billion	R 1, 37 billion

With regard to municipalities, the Auditor General had the following to say:

"The safe and clean hands that can be relied upon to look after the public's finances in local government are few and far between. This is found to be so in the custodial roles in financial management across a number of provinces."

The latest report on municipalities shows that roughly only just over 7% of the municipalities received clean audits and irregular expenditure exceeded R32 billion. The report on the national and provincial government (and their entities), also showed that audit outcomes regressed with only 26% of the auditees being able to produce quality financial statements and performance reports and could prove that they complied with key legislation to obtain a clean audit.

The continuous reporting of irregular, fruitless & wasteful expenditure and unauthorised expenditure is another area of concern. Of particular relevance is 'unauthorised expenditure'. This expenditure is defined as:

(*a) overspending of a vote or a main division within a vote; or*

(b) expenditure that is made not in accordance with the purpose of a vote or, in the case of a main division, not in accordance with the purpose of the main division.

Section 34 of the Public Finance Management Act explains the following about how this expenditure is to be treated in the budgeting process:

unauthorised expenditure <u>does not become a charge against a Revenue Fund</u> except when—

(a) the expenditure is an overspending of a vote and <u>Parliament or a provincial legislature</u>, as may be appropriate, <u>approves</u>, as a direct charge against the relevant Revenue Fund, an additional amount for that vote which covers the overspending; or

(b) the expenditure is unauthorised for another reason and <u>Parliament or a provincial legislature</u>, as may be appropriate, <u>authorises the expenditure</u> as a direct charge against the relevant Revenue Fund.

(2) If Parliament or a provincial legislature <u>does not approve</u> in terms of subsection (1) (a) an additional amount for the <u>amount of any overspending</u>, that amount <u>becomes a charge against</u> the funds allocated for the <u>next or future financial years</u> under the relevant vote.

Our understanding is that this means that if Parliament or a provincial legislature does not approve an additional amount for any overspending, that additional amount becomes a charge against the funds allocated for the next or future financial years under the relevant vote. This means that the overspending will be funded by a department's future savings achieved against its vote or funds available due to reprioritization of expenditure. From our review of the different department's budgets (votes), it is not clear where these amounts are reported. To ensure transparency, these amounts should be clearly indicated on the budgets.

Should the unauthorised amounts be approved by Parliament as indicated in section 34(2), the question has to be posed, why have these amounts been consistently approved with no seeming consequence management taking place?

However it is not accountability on identified unauthorised expenditure that is concerning, but that unidentified unauthorised expenditure seems to be rampant practice. Looking at the 2018/2019 Auditor General report on the PFMA outcomes, the AG has this to say:

"Overall, the trend of departments failing to manage their finances properly continued. Some departments did not pay their creditors when their budgets started running out and thereby avoided unauthorised expenditure; but the payments were then made in the following year, effectively using money intended for other purposes. Some departments overspent their budgets and still had outstanding liabilities at year-end. This continuing 'rollover' of budgets is having a negative impact on departments' ability to pay creditors on time and to deliver services. The education and health departments are affected the most, and the possible effect on service delivery will have an impact on the most vulnerable in society."

In essence the auditor general observes that departments are deferring amounts to creditors as unpaid rather than paying creditors and deferring payments to the next budget cycle. This enables them to not have to classify such overspend as unauthorised expenditure. This practice is demonstrated by the following from the AG report:

We are also concerned about some of the other departments due to the reasons shown in the following table:

Department	Vulnerable position	Unauthorised expenditure	Deficit	% of cash shortfall funded by next year's operational budget	Claims as % of next year's budget
Home Affairs	No	-	No deficit	39,4	80,2 (R2 088 million)
Justice and Constitutional Development	No	-	R108,6 million	31,3	37,9 (R2 356 million)
Social Development	No	-	No deficit	14,9	35,4 (R152 million)
Water and Sanitation	Yes	-	No deficit	11,7	16,2 (R885 million)
Human Settlements (KZN)	No	R1,909 million	No deficit	10,3	58,2 (R119 million)
Cooperative Governance, Human Settlements and Traditional Affairs (LP)	No	-	No deficit	11,2	167,7 (R339 million)
Public Works (EC)	No	-	No deficit	16,5	29 (R320 million)
Cooperative Governance and Traditional Affairs (MP)	No	-	R28,03 million	27,5	50,1 (R41 million)
Energy	No	-	No deficit	17,8	42,7 (R125 million)
Higher Education and Training	No	-	R250,58 million	22,3	26,6 (R150 million)

What we see are provinces deferring such expenditure up to 182% of the following years budget and departments such as Home Affairs more than 39% of their following year budget. This begs the question, where is the oversight and who should be doing oversight?

Who oversees accountability?

The Minister of Finance is obligated with oversight and has to approve the budgets and changes to the budgets. Parliament has to consider and approve, where relevant, any unauthorised expenditure. This requirement is further amplified and expanded by the Constitution of South Africa. In terms of section 216 of the Constitution, the National Treasury has an obligation, to ensure that all organs of state have followed generally recognised accounting practices. It also states that should these organs of state commit a serious or persistent material breach of those measures; it may stop the transfer of funds to these entities.

The question is then posed, how have we managed to land up where we are, with municipalities and government entities in financial crises, and who should be held responsible. Well it is clear that the National Treasury has the power to ensure fiscal accountability of all state entities. The Parliament of South Africa's role includes scrutinising and overseeing executive action (keep oversight of the executive and organs of state). The Public Protector's role includes strengthening constitutional democracy in pursuit of its constitutional mandate by investigating, rectifying and redressing any improper or prejudicial conduct in state affairs and to ensure fair, responsive and accountable public sector decision-making and service delivery.

It is therefore clear that all of these players have an obligation to ensure fiscal accountability of our public sector. Yet despite this obligation, we have not seen any form of action taken to prevent the blatant abuse of taxpayer funds. Civil society can no longer stand by and let their hard earned taxpayer money be misspent. National Treasury, the Minister of Finance, Parliament and the Public Protector should account for their lack of action and why they have not exercised the relevant oversight.

It is encouraging to see that in the 2021 Budget Review, the National Treasury will review provincial infrastructure sector funding policies and propose how grants, incentives and other funding can best be structured to coordinate planning and budgeting. This model will, however, focus on only 52 district and metropolitan spaces as convergence points for public- and private-sector investment, supported by joint planning, budgeting and implementation processes. The development of a Framework for Infrastructure Delivery and Procurement Management that applies to national and provincial departments, public entities and municipalities that will promote accountability and good governance by minimising control points, while allowing flexibility for local conditions is also a welcome change mentioned in the 2021 Budget Speech. Added to this, are the welcomed draft proposals to professionalise the public sector, which if implemented correctly, will go a long way to ensure transparency and accountability of the public sector. Any deviations from these promises/budgets should be strictly monitored and all those responsible for the fiscal oversight, the National Treasury, Parliament and the Public Protector should enforce consequence management to ensure that the taxpayers' money is spent on public infrastructure and services that are needed the most.

One of the largest contributions to oversight would be getting the accounting right. The current Modified Cash Basis of accounting has clearly created many bad and unlawful habits from SARS tax refund disclosures to how unauthorised expenditure is accounted for. Ironically, the Accounting Standards Board already in April 2012 approved the adoption of Generally Recognised Accounting Standards (GRAP) in the public sector. Nearly a decade later we have still failed to implement, with even financial astute institutions like SARS having requested repetitive postponements to April 2022.

4.2 QUALITY EDUCATION

Reaching an "agreement on what quality education actually is, what is hindering its implementation and how long term skills are created" remains a fundamental part of the SAICA 7. The creating of skills starts at school and the matric results give some indication of skills quantity and quality of skills created.

Qualitatively the first question is just narrowing down the level of skills.

A Bachelor pass is 4 subjects over 50%, not including Life Orientation, Dance, CAT or Hospitality (and some other non-designated subjects). Also the learner must have your above 40% Home Language and no subjects under 30%. The following table sets this out in more detail.

Source: https://www.umalusi.org.za/docs/research/2013/nsc_pass.pdf

<table>
<tr><th rowspan="3"></th><th colspan="4">National Senior Certificate</th></tr>
<tr><th rowspan="2">NSC</th><th colspan="3">With admission requirements to:</th></tr>
<tr><th>Higher Certificate</th><th>Diploma</th><th>Bachelors</th></tr>
<tr><td>Home language</td><td>40%</td><td rowspan="6">The NSC with a minimum of ≥30% in the language of learning and teaching (LOLT) of the HE institution</td><td rowspan="6">The NSC with a minimum of ≥30% in the LOLT of the HE institution, and ≥40% in four recognized 20-credit subjects [that is, excluding Life Orientation]</td><td rowspan="6">The NSC with a minimum of ≥30% in the LOLT of the HE institution and ≥50% in four designated 20-credit subjects [that is, excluding Life Orientation]</td></tr>
<tr><td>FAL</td><td rowspan="5">3 Subjects passed with ≥40% (including the HL) and 3 passed with ≥30%.
Can fail one subject, provided there is full evidence of the SBA having been cmpleted.</td></tr>
<tr><td>Life Orientation</td></tr>
<tr><td>Mathematics/ Maths Literacy</td></tr>
<tr><td>3 subjects offered from group B</td></tr>
<tr><td></td></tr>
</table>

Given that most professions will require a higher standard than even the Bachelor pass, including qualifying as a Chartered Accountant, a Bachelor degree pass is the lowest pass level for matric to really measure skills. It therefore requires a closer look at the 2020 matric results.

2020 Matric results

According to the table, which indicates the performance of provinces in the November 2020 National Senior Certificate (NSC) examinations, we see that the percentage of candidates who qualify for Bachelor studies has declined from 36,9% in 2019 to 36,4 % in 2020.

However, this means that at most 36,4% of matric's met some higher form of actual pass rate standard. When considering that 60% and above is required for most professions in medicine, finance and engineering, a lot less that this 36% would qualify

This state of affairs is not the students own making. The 2017 School Monitoring Survey released early in 2019 by the Department of Basic Education revealed that the number of teachers absent from school on a daily basis had increased from 8% to 10%. According to this, every day in South Africa, 10% of teachers don't pitch for work, and this means more than 135,000 children go untaught daily. This will have a serious long-term impact. Even more importantly is that no subsequent report was released and no real accountability has been demanded. This in a country that both in 2011 and 2016 scored the lowest in a global analysis for grade 4 learners as to their ability to read for understanding.

However small changes have a big impact. SAICA schools program in all none provinces that assist our members to be voluntarily deployed to schools to assist and improve on financial reporting and controls has seen a major impact in both financial and academic performance.

Unemployment nexus

The concerns regarding quality education do not exist in a vacuum and impacts real lives. The results of the Quarterly Labour Force Survey (OLFS) for the fourth quarter of 2020 reveal that:

there was a significant increase in the official unemployment rate to 43,5% - the highest since the start of the QLFS in 2008. Of the 7,2 million unemployed persons in the fourth quarter of 2020, as many as 52,3% had education levels below matric, followed by those with matric at 37,9%. Only 1,8% of unemployed persons were graduates, while 7,5% had other tertiary qualifications as their highest level of education.

- StatsSA http://www.statssa.gov.za/publications/P0211/P02114thQuarter2020.pdf

The nexus between quality education and employment is undeniable. Quality skills and education will be required to rebuild both the economy and to professionalise the public sector. Who will also take ownership and accountability in making sure interventions happen will have to be seen.

4.3 CRIME AND ECONOMIC GROWTH

Crime affects economic growth. The Global Peace Index for 2020 which is produced by Institute for Economics and Peace (IEP), an independent non-profit global research institute, analysed the links between business, peace and economic development concluding violence costs South Africa about 13% of its gross domestic product (GDP).

The most recent national crime statistics, covering the period between level 1 and adjusted level 3 lockdown, which applied in mid-December 2020, have indicated that South Africa has seen, inter alia, a 6.6% increase in the murder rate, this all in a country under partial lock down.

REPUBLIC OF SOUTH AFRICA
Crime Situation

CRIME CATEGORY	Oct to Dec 2016_17	Oct to Dec 2017_18	Oct to Dec 2018_19	Oct to Dec 2019_20	Oct to Dec 2020_21	Case Diff	% Change
CONTACT CRIMES (CRIMES AGAINST THE PERSON)							
Murder	5 549	5 691	5 918	5 908	6 297	389	6,6%
Sexual Offences	14 193	14 436	15 130	15 325	15 595	270	1,8%
Attempted murder	4 927	4 826	5 060	5 014	5 452	438	8,7%
Assault with the intent to inflict grievous bodily harm	50 907	49 154	50 583	49 428	50 124	696	1,4%
Common assault	43 631	43 789	45 660	47 599	47 875	276	0,6%
Common robbery	13 859	13 504	13 722	13 531	11 822	-1 709	-12,6%
Robbery with aggravating circumstances	36 283	36 243	36 348	37 352	34 599	-2 753	-7,4%
Total Contact Crimes (Crimes Against The Person)	**169 349**	**167 643**	**172 421**	**174 157**	**171 764**	**-2 393**	**-1,4%**
TOTAL SEXUAL OFFENCES							
Rape	11 357	11 545	12 068	12 037	12 218	181	1,5%
Sexual Assault	1 805	1 978	2 117	2 288	2 390	102	4,5%
Attempted Sexual Offences	623	588	604	639	625	-14	-2,2%
Contact Sexual Offences	408	325	341	361	362	1	0,3%
Total Sexual Offences	**14 193**	**14 436**	**15 130**	**15 325**	**15 595**	**270**	**1,8%**
SOME SUBCATEGORIES OF AGGRAVATED ROBBERY							
Carjacking	4 314	4 153	3 929	4 462	4 794	332	7,4%
Robbery at residential premises	5 935	5 956	5 970	5 704	5 781	77	1,3%
Robbery at non-residential premises	5 219	5 368	5 314	5 426	5 052	-374	-6,9%
Robbery of cash in transit **	45	62	35	39	65	26	66,7%
Bank robbery	0	6	1	0	0	0	0 Cases
Truck hijacking	324	339	312	325	436	111	34,2%

** Percentage change above 50%

This statistic adds support to the need for an urgent plan for the reduction in crime, including white collar crime, which is an inordinate burden on society, which plan is part of SAICA's seven areas of consensus. It therefore is quite alarming that the Police budget was cut and remains stagnant in the medium term in Budget 2021.

It needs to be understood and recognised that the prevalence of a high crime rate, especially violent crime, will inevitably result in a wastage of money from an economic point of view. The approach in the budget does not seem to recognise the importance and impact of crime. No economy can be built on a lawless society as no government can enforcement policy and changes in such a lawless environment. Effective and appropriate policing but also investigations to enable speedy prosecutions is a core part of rebuilding the economy. Budget 2021 may require a rethink in strategy in this regard.

5. BUDGET OVERVIEW

For various reasons, revenue collection in relation to estimates continues to decline year on year. **Total tax collections** is estimated at around **R1.2 trillion** for the year, **10.6% lower than the prior year** and **reflecting an estimated shortfall of R213.2 billion** in comparison to the initial 2020 Budget. This reflects the crippling effect of COVID-19 on our already struggling economy.

Although small comfort, compared to the 2020 Medium Term Budget estimate of **R312.8 billion**, there was a **decrease in the expected shortfall between October and now, by R99.6 billion**, which shows an improvement to what was expected mid-year and is effectively 'additional cash' on hand not expected as at October. A gradual recovery in revenue collections is expected over the medium term.

The decrease in the shortfall between October and now is attributed to a recovery in consumption, improvement in wages within the last few months and mining sector tax receipts - reflecting improvements in personal income taxes (PIT) and corporate income taxes (CIT), value-added tax (VAT), fuel levies and customs duties since October. Perhaps with the lockdown having been relaxed before the resurgence of COVID-19 in December, spending improved contributing to the increase in VAT and of course with re-opening of countries and improvement in trading activity, imports started flowing in again contributing to the higher customs collections. The improvement in CIT was largely driven by the mining sector, with companies benefiting from high commodity prices and a favourable exchange rate.

From a PIT perspective, it is not entirely clear what contributes to this improvement given that the unemployment rate significantly worsened due to the lockdown. However, the job losses could have resulted in withdrawals from retirement funds, resulting in additional PIT collected on such withdrawals.

In any event, government indicated that it plans to use this 'additional cash', in the medium term, to reduce the borrowing requirement and debt issuance.

Change in policy with respect to tax rates

Due to the decrease in the expected shortfall between the 2020 MTBPS and now, government has decided that it will not introduce measures to increase tax revenue in this Budget. **Previously announced increases amounting to R40 billion over the next four years will be withdrawn**

– i.e. R5 billion for next year, R10 billion per year in the following two years and R15 billion in 2024/25. Cash balances are expected to decline over the next few years.

The expectation is that the decision not to increase tax revenues will reduce the pressure on households and business and therefore contribute in some way to economic recovery.

There is also a **proposal to decrease the corporate income tax rate** in future, starting with a **proposed decrease to 27%, effective April 2022** and future decreases to be considered, in a revenue-neutral manner.

For years now, SAICA has been advocating for this position – lower taxes, resulting in more disposable income, more spending and more investment, plus a focus on reducing expenditure to a reasonable level – are all steps in the right direction towards economic recovery.

As has been evident in the last few years, higher tax rates do not contribute to higher revenue collection or economic recovery and negatively impacts the behaviour of taxpayers. We therefore welcome this change in approach with respect to personal and corporate tax rates.

Tax proposals

Some of the more significant tax proposals are noted below:

- Although not proposed to take effect in the current year, there is a proposal to **decrease the corporate income tax rate to 27% from 1 April 2022**;
- Above-inflation increase of 5% in personal income tax brackets and rebates;
- An inflation-linked general fuel levy increase of 15c/l for petrol and above-inflation increase of 11c/l in the RAF levy;
- The carbon tax levy for 2021 will increase by 1c to 8c/litre for petrol and 9c/litre for diesel from 7 April 2021;
- 8% increase in alcohol and tobacco excise duties;
- The UIF contribution ceiling will increase for the first time in 4 years, to be in line with the benefit ceiling and set at R17 711.58 per month from 1 March 2021;
- Reduced levy of 12.5c/bag will be introduced for more environmentally friendly (bio-based) shopping bags, whilst the current 25c/bag will be retained for normal plastic bags;
- The urban development zones and learnership tax incentives will be extended for two years while their reviews are completed.

Regarding excise duties on alcohol and tobacco products, government reiterated that in addition to raising revenue, these duties were also to motivate a change in behaviour towards reduced consumption of these harmful products. It was further noted that following the introduction of excise duties on heated tobacco products in the 2020 Budget , the National Treasury will soon publish a discussion paper on proposals to tax electronic nicotine and non-nicotine delivery systems and an excise duty will be introduced later this year, following public consultations.

The sunset date for the venture capital company (VCC) incentive, which was initiated in 2009 to encourage retail investments in smaller businesses, will not be extended beyond 30 June 2021. The reason for this is that based on National Treasury's review, the incentive did not achieve the

intended outcome of developing small business, generating economic activity and creating employment. Instead, it provided a significant tax deduction for wealthy taxpayers.

Performance of COVID-19 tax measures

The take-up of tax deferral measures for provisional tax and specific excise duties, as well as those requiring pre-approval by SARS, was higher than expected, providing cash flow relief of over R28 billion. Recovery of this is a matter of timing, on the assumption that the taxpayers will be in a position to pay the deferred amounts when due. Given the end date of the relief being March 2021 for second provisional tax payments, some corporate, individual and trust provisional tax deferrals may still be claimed.

There was lower take-up of the PAYE tax deferral as companies used only R1.9 billion of the projected R19 billion. It is not clear what this is attributed to, but could possibly relate to the administration of applying the relief. Given that it is a deferral in payment date, as opposed to a reduction in taxes, some taxpayers may have felt that paying the full amount immediately was easier than deferring and tracking this for later payment.

An additional R4 billion in tax deferral relief has been provided to the alcohol industry in the past month through case-by-case applications. These deferrals will flow through to the next fiscal year.

For the direct tax relief measures, the exemption from the skills development levy provided relief of about R5.9 billion, in line with estimates. Companies could choose to benefit from either the Temporary Employer/Employee Relief Scheme (TERS) or the expanded employment tax incentive (ETI), and claimed R57.3 billion from the TERS against only R1.4 billion from the ETI. By mid-February 2021, of the total R70 billion in estimated tax relief from the COVID-19 measures, R40 billion had been taken up.

6. FOCUS ON IMPROVING TAX ADMINISTRATION AND REBUILDING SARS

As has always been maintained by SAICA, a more efficient and effective tax administration will lead to improved taxpayer behaviour, improved compliance and consequently an improvement in revenue collections.

The Nugent Commission made 27 recommendations to address governance failures at SARS. To date, the Commissioner for SARS has apparently implemented 14 of these recommendations, including re-establishing the Large Business Centre, and units focusing on litigation, compliance and integrity. It was noted in the Budget Review, that performance of the previous executive committee was reviewed, and operational policies related to VAT refunds, settlements and debt collection contracts are being amended.

It is encouraging to note that SARS has, this year, started legal processes to recover unwarranted expenditure and handed over case files on persons identified in the Nugent report. Accountability of government officials is of utmost importance. The inter-agency working group on criminal and illicit economic activities completed 117 investigations, yielding revenue of R2.7 billion.

Customs and excise operations are reducing the illicit movement of goods across borders, assisted by specialised cargo scanners, resulting in 3 393 seizures valued at R1.5 billion for the fiscal year to January 2021.

Following the recommendations of the Davis Tax Committee, it was noted that SARS will be focusing on consolidating wealth data for taxpayers through third-party information. This will assist in broadening the tax base, improving tax compliance and assessing the feasibility of a wealth tax, something that has been talked about for some time now as a means of boosting revenue collections.

The Minister of Finance is responsible for implementing Nugent Commission policy recommendations and to this end, an NT discussion document proposing legislative amendments to SARS governance which was apparently delayed by COVID-19, will soon be published. The document outlines processes to appoint and remove a commissioner, and the establishment of at least two deputy commissioners and an executive committee. It also considers measures to improve governance and integrity oversight processes, including the feasibility of a governance board, an inspector-general and mechanisms to account to the Minister. Perhaps, a further proposal could include the implementation of a Taxpayers' Bill of Rights to ensure a better balance between SARS and taxpayer rights.

It is noteworthy that the Minister has not provided further comment on audit reforms. This may also be as a result of COVID-19.

It was noted that there will be additional spending allocation of R3 billion for SARS to modernise its technology infrastructure and systems, 'expand and improve the use of data analytics and artificial intelligence capabilities, and participate meaningfully in global tax compliance initiatives'. A digitalised SARS is intended to lower costs of compliance, simplify tax administration and improve collections. Given the recent system related challenges experienced by members, it is hoped that this spending will improve the overall user experience making for more efficient compliance.

We hope that the above plans will materialise sooner, rather than later, contributing to a more administratively efficient SARS.

7. INDIVIDUALS

Personal income tax (PIT)

PIT contributed R482 billion of the total tax collections of R1.2 trillion - i.e. 40% of total tax revenue.

As noted in the overview, there is an above-inflation increase in the personal income tax brackets and rebates, resulting in relief of R2.2 billion. The change in the primary rebate increases the tax free threshold from R83 100 (in 2020) to R87 300, for taxpayers under 65 years old.

Exemption for interest and dividend income

The annual exemption on interest earned by individuals younger than 65 years (R23 800) and for individuals 65 years and older (R34 500) remains the same.

The annual contribution limit to tax-free savings accounts remains R36 000.

Other proposals affecting individuals, employment and savings

Reviewing tax provisions for travel and working from home

SAICA made submissions to NT last year requesting a review of the tax treatment of travel and home office allowances, in light of the shift to remote working in response to the COVID-19 lockdowns.

We are pleased to note that NT will be reviewing these allowances to investigate their efficacy, equity in application, simplicity of use, certainty for taxpayers and 'compatibility with environmental objectives'. Due to the potential effect on salary structuring, this will be a multi-year project, starting with consultations during 2021/22.

Curbing abuse in the employment tax incentive (ETI)

The ETI is aimed at reducing the cost of hiring youth between the ages of 18 and 29 years old. It allows employers to reduce their pay-as-you-earn (PAYE) tax payments to SARS for the first two years in which they employ qualifying employees with a monthly remuneration of less than R6 500, subject to certain limitations. As SAICA first reported to SARS, National Treasury, members and the media in August 2021, some taxpayers have devised certain schemes using training institutions to claim the ETI for students..

We are pleased to note that in order to counter this abuse, it is proposed that the definition of an "employee" be changed in the ETI Act, 2013 to specify that work must be performed in terms of an employment contract that adheres to recordkeeping provisions in accordance with the Basic Conditions of Employment Act, 1997. These amendments will take effect from 1 March 2021.

We would like to thank those members who first alerted us to such schemes for taking an ethical stand and contributing to this positive change.

Reviewing the nature of long-service awards for fringe benefit purposes

Currently, the Income Tax Act, 1958 (the ITA) provides that non-cash long-service awards up to R5 000 and fulfilling the specific 'years of service' criteria, are considered a no-value fringe benefit. Employers recognise long service through awards in a variety of forms that could be considered non-cash benefits in terms of the ITA.

It is proposed that the current provisions be reviewed to consider other awards within the same limit granted to employees as long-service awards.

Clarifying the timing of disposal rules in respect of an asset acquired from a deceased estate

Currently, there is timing uncertainty around when heirs are regarded as having acquired an asset from the estate of the deceased. To clarify the time of disposal of this personal right, it is proposed that the legislation be changed so that the disposal by the estate occurs on the date when the liquidation and distribution account becomes final.

Tax treatment of the cession of a right to receive an asset

The ITA specifies certain amounts to be included in "gross income" and certain disposals that are regarded as donations in terms of section 56. Some taxpayers have devised schemes to undermine both the abovementioned provisions. These schemes entail a service provider (for example, an employee or independent contractor) ceding the right to receive or use an asset to be received from the person to whom the services are rendered or are to be rendered. The right is generally ceded to a family trust for no consideration. In these instances, the service provider will be able to circumvent the gross income provisions as the asset would have been ceded to the trust before a value can be attached to it. In addition, the service provider will not be liable for donations tax, as it appears as though they are disposing of a worthless asset and are therefore not liable for donations tax until the services have been rendered and the employer transfers the asset to the cessionary. Moreover, the service provider will not be entitled to the asset and therefore cannot be regarded as having disposed of it.

In order to address these kinds of schemes, it is proposed that changes be made to the abovementioned tax provisions.

Strengthening anti-avoidance rules in respect of loan transfers between trusts

Some taxpayers may continue to undermine the current anti-avoidance rules by transferring loans – which finance high-value assets – between trusts, where the founder of one trust is related to one or more beneficiaries of the other trust. To curb this abuse, it is proposed that further changes be made to these anti-avoidance rules.

Retirement provisions

Allowing members to use retirement interest to acquire annuities on retirement

Currently, a retirement fund member is prohibited from using their retirement interest to acquire various annuities. To increase flexibility for a retiring member and maximise the retirement capital available to provide for an annuity, government proposes expanding the amount of retirement interest that may be used to acquire annuities

Applying tax on withdrawals of retirement interest when an individual ceases to be a tax resident

When an individual ceases to be a South African (SA) tax resident, retirement funds are not always subject to withdrawal tax in terms of the ITA. At issue is the tax treatment of retirement interest when an individual ceases to be a South African tax resident, but retains his/her investment in an SA retirement fund and only withdraws from the retirement fund when he/she dies or retires from employment.

In terms of section 9(2)(i) such amounts are deemed to be from an SA source, subject to SA tax, despite the individual no longer being an SA tax resident.

The challenge arises when the individual ceases to be an SA tax resident before retiring and becomes a tax resident of another country. When that individual withdraws from the retirement fund, due to the application of the tax treaty between SA and the other country, the retirement

fund interest will be subject to tax in that other country as the individual will, in terms of the tax treaty, be regarded as a tax resident in that other country. The provisions of the tax treaty between SA and the new resident country will result in SA forfeiting its taxing rights. To address this anomaly, government proposes changing the legislation as set out below.

When the individual ceases to be an SA tax resident, the retirement fund interest will form part of the assets that are subject to retirement withdrawal tax. The individual will be deemed to have withdrawn from the fund on the day before he/she ceases to be a South African tax resident.

If the individual ceases to be an SA tax resident, but leaves their investment in an SA retirement fund and only withdraws from the retirement fund on death or retirement, then the retirement withdrawal tax (including associated interest) payment will be deferred until payments are received from the retirement fund or as a result of retirement.

When the individual eventually receives payments from the fund, the tax will be calculated based on the prevailing lump sum tables or in the form of an annuity. A tax credit will be provided for the deemed retirement withdrawal tax as calculated when the individual ceased to be an SA tax resident.

Transfers between retirement funds by members who are 55 years or older

The ITA stipulates that any transfer by a member of a pension, provident or retirement annuity fund (who has opted to retire early) into a similar fund would be considered a taxable transfer.

The policy in this regard is not intended to tax transfers from a less to a more restrictive fund, or between similar funds. To address this anomaly, government proposes allowing tax-free transfers into more or similarly restrictive funds by members who have already opted to retire.

Clarifying the calculation of the fringe benefit in relation to employer contributions to a retirement fund

Currently, all employer contributions to a retirement fund on behalf of employees are considered taxable fringe benefits for the employees. If the contribution contains a defined benefit component, the fringe benefit is to be calculated in accordance with the Seventh Schedule of the ITA and the employer must provide the employee with a contribution certificate. An anomaly arises in instances where a retirement fund provides both a retirement benefit in relation to the defined contribution component and a self-insured risk benefit. This results in the classification of the total contribution to the fund as a defined benefit component because self-insured risk benefits are not considered a defined contribution component.

It is proposed that self-insured risk benefits be classified as a defined contribution component to ensure that retirement funds that provide both defined contribution component retirement benefits and self-insured risk benefits can provide the fringe benefit value based on the actual contribution.

8. COMPANIES

Corporate tax rates

Although not proposed to take effect in the current year, there is a proposal for a **decrease in the corporate income tax rate to 27% from 1 April 2022.**

This will be done alongside a broadening of the corporate income tax base by limiting interest deductions and assessed losses, which was postponed to 2022 in light of the impact of the COVID-19 pandemic on business. Consideration will be given to further rate decreases in future, with the idea that this will be done in a revenue-neutral manner. The Minister noted in his speech that he will engage with the Davis Tax Committee as the NT embarks on this reform.

General corporate tax policy proposals are noted below.

Clarifying the definition of contributed tax capital (CTC)

In terms of the ITA, no shareholder within a particular class of shares may receive CTC in excess of an amount per share that is derived by dividing the total CTC by the number of shares in that class immediately before the capital distribution. Some companies are allocating CTC on the basis of an alleged “share premium” contributed by a particular shareholder, but not by all shareholders within the same class of shares.

To curb this abuse, NT proposes that changes be made to clarify the principle that shareholders within the same class of shares should share equally in the allocation of CTC as a result of a distribution.

Limiting potential for double taxation under the hybrid debt anti-avoidance rules

Hybrid debt anti-avoidance rules aim to curb the unfair use of hybrid debt instruments or hybrid interest to gain tax benefits. To this end, to ensure that instruments that exhibit equity features or returns that exhibit dividend features do not benefit from interest deduction, the ITA deems any returns to be *in specie* dividends paid by the issuer on which the issuer must pay dividends tax if no dividends tax exemption applies. The provision does not deem the return to be an *in specie* dividend for the recipient of the return, which leads to economic double taxation, a concern raised by SAICA in its submissions to NT.

It is proposed that the tax legislation be amended to address this concern.

Clarifying the meaning of”interest” under the debt relief rules

The ITA contains debt relief rules that trigger tax consequences for a waiver, cancellation, reduction or discharge of a debt owed by a taxpayer. Rules dealing with the tax treatment of converting debt into equity were introduced in 2017, and changes were made to ensure that the debt relief rules apply in all instances where a debt is settled by a debtor and the creditor received inadequate consideration for the debt claim. However, amounts of interest that are waived, cancelled, extinguished or converted to shares are excluded from the application of the debt relief

rules as it is anticipated that normal recoupment rules would apply to unpaid interest that was previously deducted.

To clarify this exclusion, it is proposed that a definition of interest be included in these debt relief rules.

Refinements to the corporate reorganisation rules

Refining the interaction between anti-value shifting rules and corporate reorganisation rules

There is an anomaly in the application of the above rules as the capital gain triggered under the anti-value shifting rules is only added to the base cost outside of the corporate reorganisation rules. To address this anomaly, it is proposed that the tax legislation be changed to allow taxpayers to treat the capital gain as an additional base cost when applying the corporate reorganisation rules.

Clarifying the rules that trigger additional consideration in asset-for-share transactions when a debt is assumed by a company

The ITA allows for the tax-neutral transfer of assets that are disposed of to a company in return for shares in that company or the assumption of qualifying debt by that company. The asset-for-share transaction rules contain an anti-avoidance measure aimed at preventing a permanent loss to the fiscus (instead of a tax deferral) when a person disposes of an asset that was acquired using debt and the debt is assumed by the company acquiring that asset.

This measure deems the person to have received additional consideration equal to the amount of the debt assumed by the company when the person subsequently disposes of the shares. However, the rules that trigger additional consideration on disposal are undermined when the shares are subsequently transferred in terms of corporate reorganisation transactions because the applicable corporate reorganisation rules will enforce the rolled-over base cost of the previous asset-for-share transaction. To prevent the rule from being undermined, it is proposed that the additional consideration be taken into account during all corporate reorganisation transactions until the shares are disposed of in a transaction that falls outside the corporate reorganisation transactions.

Clarifying the early disposal anti-avoidance rules in intra-group transactions

To address this ambiguity within the rules, it is proposed that the resultant tax consequences of an early asset disposal be clarified.

Clarifying the interaction between early disposal anti-avoidance rules and de-grouping anti-avoidance rules in intra-group transactions

Given that both of these anti-avoidance rules apply to reverse the deferred tax benefit of an intra-group transaction, it is proposed that changes be made to the tax legislation so that if one of the anti-avoidance rules applies in respect of an asset, the other will not subsequently apply.

Extending the reversal of the nil base cost rules to apply on the sixth anniversary of an intra-group transaction

It is proposed that the tax legislation be changed so that the nil base cost anti-avoidance rules only apply for six years after an intra-group transaction.

Clarifying the interaction between the early disposal anti-avoidance rules and the nil base cost anti-avoidance rules

Given that the early disposal anti-avoidance rules reverse the deferral benefit of acquiring an asset through an intra-group transaction, it is proposed that the intra-group transaction rules be amended so that the nil base cost anti-avoidance rules are reversed when the early disposal anti-avoidance rules are triggered.

Refining the provisions applicable to unbundling transactions

Following 2020 amendments to the anti-avoidance rules related to unbundling transactions, there is no tax deferral for an unbundling transaction of an equity share that is distributed by an unbundling company to a shareholder that is a disqualified person and holds at least 5 per cent of the equity shares in the unbundling company immediately before that unbundling transaction. Based on the "pro-rata" application of the rules, it is proposed that the tax legislation make provision for shareholders in an unbundling company that only qualifies for tax deferral to receive an increase in the base cost of the shares in the unbundled company (in accordance with their respective shareholding) to the extent that the unbundling company did not qualify for tax deferral. In addition, it is proposed that the limitation of expenditure incurred by a taxpayer for shares held in an unbundling company should apply only to shares that are acquired through an unbundling transaction.

Clarifying rehypothecation of collateral within collateral arrangement provisions

The ITA allows for the tax-neutral transfer of collateral (listed equity shares and listed South African and foreign government bonds) between the parties to a collateral arrangement, provided that certain requirements are met. At issue is the rehypothecation, where the bank or broker-dealer (collateral taker) reuses collateral received for trading or as security for its own borrowing through a tax-neutral collateral arrangement.

It is proposed that changes be made to the legislation to clarify the policy intention that further rehypothecation of the collateral received by the collateral taker can only form part of subsequent collateral arrangement transactions.

Financial sector

Clarifying the transfer of a policy or insurance book of business between short-term insurers

Section 28 of the ITA, which deals with the tax treatment of short-term insurers, does not specifically address all the tax consequences that arise from the sale of an insurance book of business, so the general provisions of the ITA apply. However, the interpretation of the general provisions, read with section 28, may result in inequitable tax treatments of the parties to the

transaction. It is proposed that these provisions be changed to address the tax treatment of transfer of liabilities as part of a short-term insurance business.

Refining a deduction formula for taxable long-term insurer policyholder funds

The concept of "net economic income" for purposes of the denominator in the deduction section 29A deduction formula is intended to reflect total taxable income without a reduction of non-includible dividends, foreign dividends and capital gains. However, unrealised gains to be accounted for in the denominator do not specifically refer to aggregation of unrealised gains and losses and are inconsistent with dividends, foreign dividends and capital gains, which refer to an aggregation of amounts.

It is proposed that these provisions be changed so that unrealised gains and losses explicitly are aggregated for all assets.

Tax treatment of deposit insurance scheme

In 2020, government committed to establishing a deposit insurance scheme to protect depositors in the event of a bank failure, which in turn will contribute to the stability of the South African financial system.

It is also envisaged that each bank will make stipulated contributions to the scheme. Parliament has yet to pass legislation making provision for the establishment of a deposit insurance scheme. It is proposed that as soon as that legislation is passed by Parliament, changes be made to the tax legislation relating to the tax implications of the deposit insurance scheme.

Financial sector levies

With the implementation of the Twin Peaks regulatory system since 1 April 2018, regulated companies in the financial sector will be expected to pay a levy towards the regulatory costs. A bill to impose levies on the financial sector is expected to be tabled in early 2021, and the resulting revenue will fund the Prudential Authority, the Financial Sector Conduct Authority and other entities and activities outlined in the Financial Sector Regulation Act (2017).

Potential tax reform

Reviewing the tax regime for the upstream petroleum industry

Two large gas finds near Mossel Bay underline the potential for additional exploration, development and production of South African petroleum resources. To move towards a fairer and more certain fiscal and regulatory regime, NT and the Department of Mineral Resources and Energy will publish a discussion paper on potential tax reforms.

9. INCENTIVES

As noted in the 2020 Budget, government indicated that it would be reviewing incentives over the medium term with a view to repeal or restructure those that are considered to be inefficient or inequitable. It is believed that this will go some way to broadening the tax base as currently incentives are available to a select few and may not have achieved the intended outcomes.

VCC incentive

The **sunset date for the VCC incentive**, which was initiated in 2009 to encourage retail investments in smaller businesses, **will not be extended beyond 30 June 2021**.

Research and development (R&D) tax incentive

The R&D tax incentive expires on 1 October 2022. NT and the Department of Science and Innovation will, this year, publish a discussion paper inviting public comment on the future of the incentive.

Amending the timeframes of compliance requirements for industrial policy projects

Industrial policy projects approved in terms of section 12I of the ITA must comply with specific requirements within specified timeframes. The impact of the COVID-19 pandemic has made it difficult to meet the compliance criteria within the required time periods. Government will consider amending the time period within which assets must be brought into use, along with the section 12I compliance period.

This is aimed at accommodating approved industrial policy projects that have bona fide reasons for non-compliance with section 12I requirements due to business-related disruptions caused by the COVID-19 pandemic.

Other

The urban development zones and learnership tax incentives will be extended for two years while their reviews are completed.

Tax incentives dealing with airport and port assets, rolling stock, loans for residential units and exemptions for films will lapse once their sunset dates are reached. However, **NT will consider submissions from affected stakeholders** who would like these incentives to be extended or otherwise retained.

10. INTERNATIONAL TAX

Clarifying the controlled foreign company (CFC) diversionary rules

The current diversionary rules for CFC outbound sale of goods provide for an exemption if similar goods are purchased by the CFC, from unconnected persons to that CFC, mainly within the country in which the CFC is resident. Certain taxpayers are circumventing these rules by merely entering into a contract of purchase and sale that implies that the purchase of goods took place in the country of residence of the CFC, when this is not the case. To curb this abuse, it is proposed that these diversionary rules be amended.

Clarifying the interaction between provisions dealing with a CFC ceasing to be a CFC and the participation exemption

In 2020, changes were made to the ITA to reduce tax planning opportunities that may emerge from loop structures as a result of the relaxation of the approval requirement by the Reserve Bank.

An amendment was made in relation to gains on the disposal of shares in a non-resident company to a non-resident that was not taxed because of the participation exemption in paragraph 64B of the Eighth Schedule. This amendment has the effect that the participation exemption does not apply to the disposal of shares in a CFC to the extent that the value of the CFC's assets is derived from South African assets.

However, section 9H provides that where a CFC ceases to be a CFC as a direct or indirect result of the disposal of all or some of the equity shares in that CFC, the capital gain or loss realised in respect of such disposal is disregarded if the participation exemption under paragraph 64B of the Eighth Schedule applies. To address the interaction between section 9H and paragraph 64B, it is proposed that section 9H be amended so that a partial participation exemption in terms of paragraph 64B(6) of the eighth schedule would not affect the exclusion under section 9H(5).

Clarifying the rules dealing with withholding tax exemption declaration

In terms of the provisions dealing with withholding tax on interest, no withholding tax on interest applies if the foreign person submits a declaration that he/she is – in terms of an agreement for the avoidance of double taxation – exempt from the tax. A similar declaration does not exist for withholding tax on royalties. To address the anomaly, it is proposed that the tax legislation be amended.

11. ENVIRONMENTAL TAXES

Carbon tax

Clarifying renewable energy premium beneficiaries

Concerns have been raised that the Carbon Tax Act, 2019 (CTA) is unclear about who is eligible for the renewable energy premium tax deduction. To address this concern, it is proposed that changes be made, effective 1 January 2021, to clarify that only entities that conduct electricity generation activities and purchase additional primary renewable energy directly under the Renewable Energy Independent Power Procurement Programme or from private independent power producers with a power purchase agreement are eligible to claim the tax deduction for their renewable energy purchases.

It is also proposed that changes be made to the amount of the renewable energy premium, which will be deducted as follows:

Renewable energy deduction = quantity of renewable energy purchased (kilowatt hour) × rate (rand) for technology, as per the renewable energy notice gazetted in June 2020.

Aligning fugitive emissions activities covered under Carbon Tax Act

To ensure alignment between the greenhouse gas emissions covered under sections 4(1) and 4(2) of the Carbon Tax Act, it is proposed that an additional category be included under the CTA to cover the IPCC code 1B3 activities for other emissions from energy production.

Clarifying the definition of carbon capture and sequestration

The CTA allows taxpayers to deduct sequestered emissions as verified and certified by the Department of Environment, Forestry and Fisheries (DEFF) from their fuel combustion-related greenhouse gas emissions for a tax period. This covers carbon capture and storage in geological reservoirs and biological sequestration. Government has clarified that for combustion activities where carbon capture and storage technologies are used, the net greenhouse emissions should be reported to the DEFF. To address possible double benefits for the same sequestered remissions, it is proposed that the definition of greenhouse gas emissions sequestration be amended to remove carbon capture and storage in geological reservoirs from the scope of the deduction.

In November 2020, the Department of Environment, Forestry and Fisheries published a methodological guideline for quantifying greenhouse gas emissions sequestration in the forestry industry. Due to concerns about the permanence of sequestered emissions in harvested wood products and the robustness of the available emissions calculation methodologies, it is proposed that only actual forestry plantation sequestered emissions should be eligible for the deduction under the CTA.

Clarifying the carbon budget allowance

The DEFF has gazetted the extension of the voluntary carbon budget system, which became effective from 1 January 2021 and ends on 22 December 2022, and the piloting of new methodologies for determining company-level carbon budgets. The CTA allows a taxpayer to claim a carbon budget allowance of 5% if they participate in the carbon budget system during or before the tax period. To address any ambiguity due to the new voluntary carbon budget system, it is proposed that reference to “before the tax period” be replaced with the specific timeframe for the carbon budget – i.e. 1 January 2021 to 31 December 2022, as determined by the department.

Progress on waste tyre greenhouse gas emissions

The DEFF will develop appropriate emission factors for waste tyres for possible inclusion in the 2022 *Budget Review*, as currently it is not clear if the CTA covers this.

Aligning schedule 2 emissions activities and thresholds with the greenhouse gas emission reporting regulations of the DEFF

In September 2020, the DEFF gazetted the amended National Greenhouse Gas Emission Reporting Regulations, including new activities required to report emissions and changes to emissions reporting thresholds. To ensure alignment between the activities covered under the Carbon Tax Act and the amended regulations, changes are proposed in schedule 2 of the CTA, to take effect from 1 January 2021.

12. INDIRECT TAXES

VAT

Zero-rating of super fine maize meal

Schedule 2 part B of the Value-Added Tax (VAT) Act (1991) provides for a list of zero-rated items, which include grades of maize meal aligned to the Agricultural Products Standards Act. A change was made to the latter Act a few years ago and it is proposed that schedule 2 part B of the VAT Act be amended to align to this.

Introducing measures to address undue VAT refunds on gold

The 2020 *Budget Review* noted that schemes and malpractice to claim undue VAT refunds have been detected in the value chain relating to gold exports. It is proposed that regulations providing for a domestic reverse charge mechanism for industry, under section 74(2) of the VAT Act, be issued. It is also proposed that the mechanism be included in the VAT Act to deal with such malpractice. Under the mechanism, a vendor that acquires gold from another vendor would declare and pay to SARS the VAT charged on the acquisition.

Aligning the provisions of the VAT Act with the New Insurance Act

The New Insurance categorises insurance policies into life and non-life policies, and makes provision for micro-insurance. The VAT Act does not make provision for micro-insurer conducting a micro-insurance business and it is proposed that the VAT Act be amended to make provision for the VAT treatment of microinsurance.

VAT treatment of temporary letting of residential immovable property

Property developers are entitled to deduct input tax on the VAT costs incurred to build residential property for sale. However, where the developer is unable to sell the residential property and temporarily leases it out until a buyer is found, the developer is required to make an output tax adjustment based on the open market value of the property when the property is let for the first time. An announcement was made in the 2010 *Budget Review* to investigate and determine an equitable value and rate of claw-back for developers as the current treatment is disproportionate to the exempt temporary rental income.

However, no subsequent changes were made to the VAT Act. It is proposed that the VAT Act be amended to resolve this matter.

Customs & Excise

Postponing the collection of export taxes on scrap metal

It is proposed that the effective date of the export tax on scrap metals be postponed to 1 August 2021 to allow SARS and taxpayers' systems to be ready and because the price preference system has been extended to 31 July 2021 or the date on which the export tax is fully implemented at a rate that is higher than 0%, whichever date comes first.

Clarifying the regulation and reporting of consolidated air cargo for exports

It is proposed that section 6(1)(hC) be amended to regulate the consolidation of air cargo for export at de-grouping depots.

Amending the accreditation system

SARS is amending the current accreditation system to more closely reflect the requirements of the SAFE Framework of Standards issued by the World Customs Organisation. In light of these developments, it is proposed that the Customs and Excise Act be amended accordingly.

Adjusting the minimum thresholds for payment of refunds and underpayments of duties

To ease the administrative burden on SARS and taxpayers, it is proposed that the minimum thresholds in respect of underpayments of customs duties by taxpayers be increased.

Clarifying provisions dealing with less serious offences and punishment

Under section 79(1)(e) of the Customs and Excise Act, anyone who pretends to be an officer is guilty of an offence and liable on conviction to a fine or imprisonment. The Act does not specifically deal with the unlawful use or possession of a customs uniform as an offence and is proposed that section 79 be amended to include this as an offence.

Progress with the review of the diesel refund administration

The 2020 *Budget Review* announced the intention to refine the first draft of the diesel refund notes and rules to the Customs and Excise Act that was published for public comment in early 2020, based on the outcome of further industry engagements. These public consultations were postponed as a result of the COVID-19 pandemic and resultant lockdown restrictions. To maintain the momentum of the review process, SARS revised the draft legislation to incorporate relevant comments and technical inputs received from various stakeholders. The second draft was published on 9 February 2021 for public comment and will, where necessary, be informed by virtual industry-specific consultations during the year.

13. TAX ADMINISTRATION/OTHER

Tax Administration Act

Tax-deductible donations

SARS has detected that receipts for donations are being issued by entities that are not approved to do so. To ensure that only valid donations are claimed and to enhance SARS' ability to pre-populate individuals' returns, it is proposed that the information required in the receipts be extended and third-party reporting be extended in future to cover the receipts issued.

Aligning periods for refunds of dividends tax for cash and in-kind dividends

SARS will only pay a valid refund of dividends tax if the claim is submitted within three years from the date of payment of a cash dividend. However, the corresponding period for a dividend in kind

ends three years from the date of payment of the tax. It is proposed that the period within which a taxpayer may claim a dividends tax refund for in-kind dividends also be determined with reference to the date of payment of the dividend.

Aligning the period allowed for farmers to replace livestock sold and tax administration rules

Farmers are allowed to deduct the cost of livestock purchased, within a fixed period, to replace livestock sold in a previous year of assessment on account of drought, fire or other specified reasons, by reopening the assessment for the previous year of assessment. It is proposed that the period during which assessments may be reopened and document retention requirements be aligned.

Administrative non-compliance penalties for non-submission of six-monthly employees' tax returns

SARS may impose a penalty for the non-submission of the six-monthly employees' tax returns by employers. The penalty is calculated as a percentage of the employees' tax for the period covered by the return. Where the employees' tax for the period is not known to SARS, due to the non-submission of monthly or six-monthly returns, the penalty can only be imposed retrospectively. This undermines the purpose and deterrent effect of the non-compliance penalty. It is proposed that SARS be enabled to raise the penalty on an alternative basis in such cases, for example through an estimate of the employees' tax with an adjustment once the actual employees' tax is known.

Provisional taxpayers with years of assessment of six months or shorter

Currently, no provision is made for provisional tax return due dates in instances where a taxpayer has a short year of assessment, whether by reason of death, ceasing to be a tax resident, a company being incorporated during a year or a change of a company's financial year. It is proposed that a first provisional tax payment and return not be required when the duration of a year of assessment does not exceed six months.

Review of advance tax ruling system

In line with its strategic objectives, SARS has invited public comment on the advance tax ruling process for binding rulings to assess whether it can be improved. Legislative amendments may be required to give effect to improvements identified during the consultation process.

Review of voluntary disclosure programme

The voluntary disclosure provisions will be reviewed in 2021 to ensure that they align with SARS' strategic objectives and the policy objectives of the programme. We welcome this review as many concerns regarding this process were raised by SAICA via submissions and in workshops held with SARS.

14. TAX GUIDE (including tables)

Individuals and trusts

Income tax rates for natural persons and special trusts Year of assessment ending 28 February 2022	
Taxable income (R)	**Taxable rates**
0 – R216 200	18% of each R1
R 216 201 – R 337 800	R 38 916 + 26% of the amount above R 216 200
R 337 801 – R 467 500	R 70 532 + 31% of the amount above R 337 800
R 467 501 – R 613 600	R 110 739 + 36% of the amount above R 467 500
R 613 601 – R 782 200	R 163 335 + 39% of the amount above R 613 600
R 782 201 – R 1 656 600	R 229 089 + 41% of the amount above R 782 200
R 1 656 600 and above	R 587 593 + 45% of the amount above R 1 656 600

Natural persons

Tax thresholds		
	2021/22	**2020/21**
		R
Below 65 years of age	87 300	83 100
Aged 65 and below 75	135 150	128 650
Aged 75 and over	151 100	143 850

Tax rebates		
	2021/22	**2020/21**
		R
Primary – all natural persons	15 714	14 958
Secondary – persons aged 65 and below 75	8 613	8 199
Secondary – persons aged 75 above	2 871	2 736

Trusts

The tax rate on trusts (other than special trusts which are taxed at rates applicable to individuals) is 45%.

Retirement fund lump sum withdrawal benefits

Taxable income	Rate of tax
R	**R**
0 – 25 000	0% of taxable income
25 001 – 660 000	18% of taxable income above 25 000
660 001 – 990 000	114 300 + 27% of taxable income above 660 000
990 001 and above	203 400 + 36% of taxable income above 990 000

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal (including assignment in terms of a divorce order).

Tax on a specific retirement fund lump sum withdrawal benefit (lump sum X) is equal to –

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

Retirement fund lump sum benefits or severance benefits

Taxable income	Rate of tax
R	**R**
1 – 500 000	0% of taxable income
500 0001 – 700 000	18% of taxable income above 500 000
700 001 – 1 050 000	36 000 + 27% of taxable income above 700 000
1 050 001 and above	130 500 + 36% of taxable income above 1 050 000

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 attaining the age of 55 years, sickness, accident, injury, incapacity, redundancy or termination of the employer's trade.

Severance benefits consist of lump sums from or by arrangement with an employer due to relinquishment, termination, loss, repudiation, cancellation or variation of a person's office or employment.

Tax on a specific retirement fund lump sum benefit or a severance benefit (lump sum or severance benefit Y) is equal to –

- the tax determined by the application of the tax table to the aggregate of amount 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 accruing from March 2011; less
- the tax determined by the application of 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 accruing before severance benefit Y from March 2011.

Dividends

Effective from 22 February 2017, the dividend withholding tax rate increased to 20% (previously 15%), in respect of dividends paid (as defined) on or after 22 February 2017. Government

increased the dividend withholding tax rate to reduce the difference between the top marginal personal income tax rate and the combined statutory tax rate.

Dividends received by South African resident individuals from REITs (listed and regulated property owning companies) are subject to income tax and non-residents in receipt of those dividends are only subject to dividends tax.

Foreign Dividends

Most foreign dividends received by individuals from foreign companies (shareholding of less than 10% in the foreign company) are taxable at a maximum effective rate of 20%. No deductions are allowed for expenditure to produce foreign dividends.

Withholding tax on immovable property sales

The rate of withholding tax payable on disposal of immovable property by **non-residents** remains unchanged.

The rate for individuals is 7.5%. Whilst the rate for companies is 10% and a rate of 15% applies to trusts.

Withholding tax on royalties

A final tax, at a rate of 15%, is imposed on the gross amount of royalties from a South African source payable to non-residents.

Interest withholding tax

A final tax, at a rate of 15%, is imposed on interest from a South African source, payable to non-residents. Interest is exempt if payable by any sphere of the South African government, a bank, or if the debt is listed on a recognised exchange.

Withholding tax on foreign entertainers and sportspersons

A final tax, at the rate of 15%, is imposed on gross amounts payable to non-residents, for activities exercised by them in South Africa as entertainers or sportspersons.

Exemptions

Interest

Interest from a South African source earned by any natural person under 65 years of age, up to R23 800 per annum, and persons 65 and older, up to R34 500 per annum, is exempt from taxation.

Interest is exempt where earned by non-residents who are physically absent from South Africa for at least 181 days during the 12 month period before the interest accrues or the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa of that non-resident.

Deductions

Pension, provident and retirement annuity fund contributions

Amounts contributed to pension, provident and retirement annuity funds during a year of assessment are deductible by members of those funds. Amounts contributed by employers and taxed as fringe benefits are treated as contributions by the individual employees.

The deduction is limited to 27.5% of the greater of remuneration for PAYE purposes or taxable income (both excluding retirement fund lump sums and severance benefits). The deduction is further limited to the lower of R350 000 or 27.5% of taxable income, before the inclusion of a taxable capital gain. Any contributions exceeding the limitations are carried forward to the next year of assessment, and are deemed to be contributed in that following year. The amounts carried forward are reduced by contributions set off against retirement fund lump sums and against retirement annuities.

Donations

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

Medical and disability expenses

In determining tax payable, individuals are allowed to deduct:

- monthly contributions to medical schemes (a tax rebate referred to as a medical scheme fees tax credit) by the individual who paid the contributions up to R332 (PY: R319) for each of the first two persons covered by those medical schemes, and R234 (PY: R215) for each additional dependant; and
- in the case of
    - an individual who is 65 and older, or if an individual, his or her spouse, or his or her child is a person with a disability, 33.3% of the sum of qualifying medical expenses paid and borne by the individual, and an amount by which medical scheme contributions paid by the individual exceed 3 times the medical scheme fees tax credits for the tax year; or
    - any other individual, 25% of an amount equal to the sum of qualifying medical expenses paid and borne by the individual and an amount by which medical scheme contributions paid by the individual exceed 4 times the medical scheme fees tax credits for the tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).

Allowances

Subsistence allowances and advances

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

- meals and incidental costs, an amount of R452 (previously R435) per day is deemed to have been expended;
- incidental costs only, an amount of R159 (previously R134) for each day which falls within the period is deemed to have been expended.

Where the accommodation to which that allowance or advance relates is outside the Republic of South Africa, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website under Legal Counsel / Secondary Legislation / Income Tax Notices / 2019.

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 are determined by using the table to be provided by SARS. Note, at the time of publishing, this table was not available.

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 simplified method:

- Where an allowance or advance is based on the actual distance travelled by the employee for business purposes, no tax is payable on an allowance paid by an employer to an employee, up to the rate published on the SARS website www.sars.gov.za, under Legal Counsel / Secondary Legislation / Income Tax Notices / Fixing of rate per kilometre in respect of motor vehicles, regardless of the value of the vehicle.

- However, this alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

Other deductions

Other than the deductions set out above an individual may only claim deductions against employment income or allowances in limited specified situations.

Fringe Benefits

Employer contributions to retirement funds for employees' benefit

- The taxable fringe benefit is equal to the actual contribution where the benefits payable to the employee consists solely of defined contribution components.

- Where the benefits payable to the employee do not consist of defined contribution components, the taxable fringe benefit is calculated in terms of a formula.

Employer-owned vehicles

- The taxable value is 3.5% of the determined value (retail market value) per month of each vehicle. Where the vehicle is–

  - the subject of a maintenance plan when the employer acquired the vehicle the taxable value is 3.25% of the determined value; or

  - acquired by the employer under an operating lease the taxable value is the cost incurred by the employer under the operating lease plus the cost of fuel.

- 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 license, 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.

Residential accommodation

The value of the fringe benefit to be included in gross income is the lower of the benefit calculated by applying a prescribed formula, or the cost to the employer if the employer does not have full ownership of the accommodation.

The formula applies if the accommodation is owned by the employee, but it does not apply to holiday accommodation rented by the employer from non-associated Institutions.

Corporate tax rates

Companies, PSPs and foreign resident companies

YEARS OF ASSESSMENT ENDING BETWEEN 1 APRIL 2020 AND 31 MARCH 2021 (unchanged since prior year)		
Normal tax		
Companies and close corporations	Basic rate	28%
Personal service provider companies	Basic rate	28%
Foreign resident companies which earn income from a SA source	Basic rate	28%

Small business corporations

Financial years ending on any date between 1 April 2021 and 31 March 2022

Taxable income	Rate of tax
R	**R**
1 – 87 300	0% of taxable income
87 301 – 365 000	7% of taxable income above 87 300
365 001 – 550 000	19 439 + 21% of taxable income above 365 000
550 001 and above	58 289 + 28% of the amount above 550 000

Micro businesses

Financial years ending on any date between 1 March 2021 and 28 February 2022

Taxable turnover	Rate of tax
R	**R**
1 – 335 000	0% of taxable turnover
335 001 – 500 000	1% of taxable turnover above 335 000
500 001 – 750 000	1 650 + 2% of taxable turnover above 500 000
750 001 and above	6 650 + 3% of taxable turnover above 750 000

Effective capital gains tax rates

Capital gains on the disposal of assets are included in taxable income.

Maximum effective rate of tax

	2020/21	2019/20
Individuals and special trusts	18%	18%
Companies	22.4%	22.4%
Other trusts	36%	36%

Other taxes, duties and levies

Value-added Tax (VAT)

From 1 April 2018, VAT is levied at the standard rate of 15% (previously 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. 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

Government proposed to raise the duty-free threshold on the purchase of a residential property from R900 000 to R1 million, in order to adjust for inflation.

Transfer duty is payable at the following rates on transactions in respect of acquisition of property **on or after 1 March 2020** which are not subject to VAT.

Value of property (R)	Rate
0 – 1 000 000	0%
1 000 001 – 1 375 000	3% of the value above 1 000 000
1 375 001 – 1 925 000	11 250 + 6% of the value above 1 375 000
1 925 001 – 2 475 000	44 250 + 8% of the value above 1 925 000
2 475 001 – 11 000 000	88 250 + 11% of the value above 2 475 000
11 000 001 and above	1 026 000 + 13% of the value above 11 000 000

Transfer duty is payable at the following rates on transactions in respect of acquisition of property **on or after 1 March 2017, but before 1 March 2020** which are not subject to VAT.

Value of property (R)	Rate
0 – 900 000	0%
900 001 – 1 250 000	3% of the value above 900 000
1 250 001 – 1 750 000	10 500 + 6% of the value above 1 250 000
1 750 001 – 2 250 000	40 500 + 8% of the value above 1 750 000
2 250 001 – 10 000 000	80 500 + 11% of the value above 2 250 000
10 000 001 and above	933 000 + 13% of the value above 10 000 000

Estate duty

Estate duty is levied on property of residents and South African property of non-residents less allowable deductions. The duty is levied on the dutiable value of an estate at a rate of 20% on the first R30 million and at a rate of 25% above R30 million.

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, up to R30 million.
- Donations exceeding R30 million is taxed at a rate of 25%.
- 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 South African group companies 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.

Tax on International Air Travel

The tax amounts to R190 per passenger departing on international flights, excluding flights to Botswana, Lesotho, Namibia and Swaziland, in which case the tax is R100 per passenger, remains unchanged.

Skills Development Levy

A skills development levy (SDL) is payable by employers at a rate of 1% of the total remuneration paid to employees. Employers paying annual remuneration of less than R500 000 are exempt from the paying the levy.

Unemployment Insurance Contributions

Unemployment insurance contributions are payable monthly to SARS by employers on the basis of a contribution of 1% by employers and 1% by employees, based on employees' remuneration below a certain amount. Employers not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

The UIF contribution ceiling will increase for the first time in 4 years, to be in line with the benefit ceiling and set at R17 711.58 per month from 1 March 2021.

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NOTE: A word version of this document is available on the SAICA Budget 2021 webpage.

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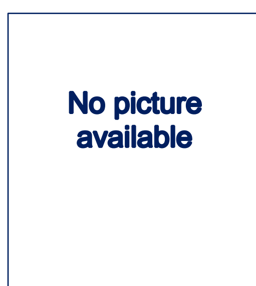

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