WERKSMANS ATTORNEYS

2023/2024 Budget Proposals

Tax Overview

22 February 2023

by the Werksmans Tax & Exchange Control Team

Introduction

Minister of Finance Enoch Godongwana delivered the second Budget speech of his term on 22 February 2023. Setting out the government's tax and spending plans for the year ahead. Minister Godongwana said his plans were focused on policies that support faster growth and address fiscal risks.

This was in response to a 2.5% growth in South Africa's economy in 2022 and a deterioration in medium-term growth outlook with real GDP growth projected to average 1.4% from 2023 to 2025. The consolidated fiscal deficit is projected at 4.2% of GDP for 2022/23 and is expected to reduce to 3.2% in 2025/26.

The policies aimed at supporting faster growth and address fiscal risks would be "anchored" on three pillars. The pillars are ensuring a stable macroeconomic framework to create a conducive environment for savings, investment, and growth; implementing growth-enhancing reforms in the energy and transport sectors; and strengthening the capacity of the state to deliver quality public services, invest in infrastructure and fight crime and corruption.

If growth is anchored by these three pillars, the foundation of each pillar is a reliable electricity supply. It comes as no surprise then that Eskom's failure to deliver reliable electricity supply was described as the biggest economic constraint.

The minister said that government is acting decisively to bring additional capacity onto the grid and working to transform the electricity sector to achieve energy security in the long term.

Two tax measures were announced to encourage businesses and individuals to invest in renewable energy and increase electricity generation, the first being targeted at business and the second at individuals.

From 1 March 2023, businesses will be able to reduce their taxable income by 125% of the cost of an investment in renewables. There will be no thresholds on the size of the projects that qualify, and the incentive will be available for two years to stimulate investment in the short term.

Individuals who install rooftop solar panels from 1 March 2023 will be able to claim a rebate of 25% of the cost of the solar panels, up to a maximum of R15 000. The rebate is a reduction of the actual tax liability in the 2023/24 tax year, which makes it more valuable than a deduction.

This incentive will be available for one year and is only available in respect of "new and unused solar panels", i.e., it does not include inverters, batteries and costs of installation.

While these measures are welcome, if not expected, they fall short. In particular, there are many businesses and individuals that have already incurred significant capital sums on installing alternate electricity sources that will not benefit from these measures. Given that Mr Godongwana has said that the government remains focused on ensuring that the tax system is fair, efficient, and equitable, these shortcomings will need to be addressed through the consultative part of the legislative process.

In addition to these measures, it was also confirmed that government would take over a portion of Eskom's debt in order to ease pressure on the company's balance sheet, enabling it to invest in transmission and distribution infrastructure and conduct the maintenance required to improve the availability of electricity. In any event, R337 billion of Eskom's debt is already guaranteed by Government.

For a second successive year, tax collections were better than expected with estimated tax revenue for 2022/23 to be R1.69 trillion, which is R10.3 billion higher than the estimates from four months ago. It is, however, acknowledged that this has been driven in the main by the favourable commodity cycle, which has contributed a staggering 30% of provisional corporate tax collections. 'Cycle' is the operative word here as income tax collections from mining are forecasted to decline in line with commodity price expectations. Relying on the mining sector to contribute 30% of the corporate tax collections is simply unsustainable, not least because of the electricity crisis and rising global interest rates. Other contributors are higher personal income tax collection due to a recovery in earnings and improving employment levels in the post-pandemic world, import VAT and customs duties from the growth in import prices, and enhanced tax administration. The latter has been described by the Commissioner of the SARS as the "compliance dividend".

Overall, most will be pleased that there are no increases to corporation tax, income tax and VAT. In so far as individuals are concerned, inflationary relief is provided through an adjustment in the personal income tax brackets and increases in rebates of 4.9%.

Personal income tax remains the largest contributor to revenue collection making up at least 40% of total tax revenue. In a low growth environment, it is no surprise therefore that a further increase to the highest marginal tax rate was stated to have no compelling case. Any further increases would certainly result in further emigration, higher non-compliance and would make South Africa unattractive for foreign investment.

At a macro level, the fiscal deficit is to be reduced without resorting to tax increases or further cuts in the social wage and infrastructure. The fiscal consolidation strategy introduced several years ago to restrain growth in consumption expenditure, coupled with higher than-expected revenues, will be used to reduce the deficit.

In addition to the tax changes, the Budget documentation sets out a considerable number of proposed amendments to the various fiscal Acts. Many of these are either of a highly technical or esoteric nature, and therefore the overview reports on those believed to be of more widespread interest to individuals and companies. For tax changes announced at this Budget, draft legislation and responses to consultations would normally be published in July 2023. The legislation would then be introduced in amendment Bills towards the end of 2023.

INDIVIDUALS

Personal Income Tax and CGT

Individuals earning more than R1.817 million of taxable income per year will be taxed at 45%, with the top effective rate of CGT remaining at 18%. This gives an average tax rate of 35.5%. The first R40 000 of exempt capital gains also remains unchanged.

The personal income tax brackets and the primary, secondary and tertiary rebates will be increased by 4.9%.

It is notable that there is no express mention of a "wealth tax" as proposed by the Davis Tax Committee.

Rooftop solar tax incentive

To further alleviate the energy crisis, Government has proposed a rooftop solar incentive for individuals to invest in solar PV to supplement electricity supply. This incentive is only available for one year to encourage investment as soon as possible.

In terms of this incentive, individuals will be able to receive a tax rebate to the value of 25% of the cost of any new and unused solar PV panels up to a maximum of R15 000 per individual, which translates into a maximum capital cost of R60 000, provided that the solar panels are purchased and installed at a private residence, and a certificate of compliance for the installation has been issued 1 March 2023 to 29 February 2024. As mentioned above, as this is a rebate it results in a tax reduction of up to R15 000.

Two-pot retirement system

Following extensive public consultation, a number of legislative amendments to the retirement system have been effected. The intention of these legislative changes is to enable pre-retirement access to a portion of one's retirement assets, while preserving the remainder for retirement.

It is worth noting that despite government's intention to promote retirement savings, there exists a foreign investment limit of 45% for institutional investors, such as retirement funds. Accordingly, individuals investing into a South African retirement fund will have their foreign asset exposure capped at 45%. This limitation is one of the main reasons why high-income earners are investing foreign pension products directly, where there are no limits on foreign asset exposure.

Apportioning the tax-free investment contribution limitation and limiting the retirement funds contributions deduction

In the normal course, an individual's year of assessment starts on 1 March and ends on 28 February of the following year. However, when an individual ceases to be a tax resident, that individual's year of assessment is deemed to have ended on the day immediately before the day on which that individual ceased to be a tax resident, and a new year of assessment is deemed to start on the day on which that individual ceased to be a tax resident. This results in the creation of two years of assessment during a single twelve-month tax period.

Consequently, individuals who ceased to be a tax resident were in a position to claim certain annual exemptions (such as the annual interest exemption) and certain annual exclusions (such as the capital gains tax annual exclusion) twice in a single twelve-month tax period (i.e., once in the "year of assessment" from 1 March to the date before their cessation of tax residence and again in the "year of assessment" starting on the date of their cessation of tax residence to 28 February).

While the annual interest exemption and capital gains tax exclusion were amended in 2022 to ensure that the annual interest exemption was appropriately apportioned and the capital gains tax annual exclusion was limited in such circumstances, certain other provisions of the Income Tax Act were not similarly amended. Accordingly, it is proposed that changes be made to apportion the tax-free investment contribution limitation and to apportion the annual limit on the deduction of the retirement funds contributions in situations where two years of assessment are created in a single twelve-month tax period following an individual ceasing to be a tax resident.

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

Currently there are still instances in which a person who had reached normal retirement age but has not yet opted to retire from a retirement fund is subject to an involuntary transfer to another retirement fund and this transfer is taxable. It is proposed that members of retirement funds who have reached the normal retirement age stipulated in the rules of the fund but have not yet opted to retire will be able to transfer their retirement interest to a more restrictive retirement fund without incurring a tax liability. The value of this retirement interest and the future growth will remain ringfenced in the retirement fund until the member elects to retire.

Foreign dividends from shares listed in South Africa

Currently, foreign dividends from shares of a non-resident company listed on a South African stock exchange are exempt from normal tax normally imposed on foreign dividends, because these foreign dividends are typically subject to dividends tax. If a South African resident invests in shares of a foreign company listed in South Africa and that company invests in interest-bearing financial instruments in South Africa, the fiscus is short-changed because a deduction for an interest-expense is not matched with a taxable foreign dividend. It is proposed that the current round-tripping anti-avoidance provision for foreign dividends be extended to include foreign dividends from shares listed on a South African stock exchange if those foreign dividends are funded by amounts that were deductible in South Africa.

Taxation of income awarded to non-resident beneficiaries of South African trusts

Recent legislative changes have been implemented to prevent the "flow-through" of capital gains from a local trust to a non-resident beneficiary such that capital gains that arise in a local trust and are awarded to a non-resident beneficiary during the same tax year must be taxed in the local trust (at a much higher tax rate than if taxed in the hands of the beneficiary). Currently, income that arises in a local trust and is awarded to a non-resident beneficiary during the same tax year is not taxed in the local trust. It is proposed that the provisions relating to income be aligned with those for capital gains.

CORPORATE TAX

Corporate tax rate

In 2022, the corporate tax rate was reduced to 27% for companies with years of assessment ending on or after 31 March 2023.

The commencement date for the reduced corporate rate coincided with assessed loss limitation rules in terms of which corporate taxpayers will only be allowed to claim assessed losses against 80% of their income, as well as the interest limitation rules.

Expansion of the renewable energy tax incentive

Given the ongoing energy crisis, and in order to promote rapid investment in renewable energy, Government intends to expand the current tax incentive available to businesses in respect of qualifying investments in, inter alia wind, concentrated solar and hydropower.

Currently, businesses are able to deduct (in respect of qualifying investments) 50% of the costs in the first year, 30% of the costs in the second and 20% of the costs in the third year.

Where the power generated is a maximum of 1 megawatt, 100% can be written off in the first year.

In terms of the expanded incentive, businesses will now be in a position to deduct (in respect of qualifying investments) 125% of the costs in the first year. This is limited to investments brought into use for the first time between 1 March 2023 and 28 February 2025.

Refining the research and development tax incentive

In order to promote scientific research and technological advancement, government implemented a tax incentive to encourage private-sector companies to invest in scientific or technological research and development in the country.

Briefly, any company that undertakes research and development within South Africa can apply for the incentive which allows a company to deduct 150% of its qualifying research and development expenditure from its income or an accelerated depreciation deduction for capital expenditure incurred on machinery or plant used for research and development.

The incentive had a sunset date set of 30 September 2022. Following public consultation on a review of the incentive published in 2021, government proposes to, inter alia, extend the incentive for 10 years from 1 January 2024 as well as refine the incentive to make it simpler to understand and administer.

Clarifying the anti-avoidance provisions dealing with third-party backed shares

Third-party backed preference shares are effectively treated as debt for income tax purposes as any dividend on such shares is included in the income of their beneficial owner. There are a couple of exceptions to this provision, the most common of which applies where the company issuing the third-party backed preference shares utilises the resultant subscription capital to acquire equity shares in an operating company from an unconnected party (Target Company). It is, however, a requirement that the Target Company be an operating company at the time of the receipt or accrual of any dividend on the third-party backed preference shares. In this case, the dividends on the third-party backed preference shares will not be recharacterized as income in the hands of the beneficial owner of such shares. They will retain their nature as exempt dividends in the hands of such beneficial owner.

The exception to the application of the anti-avoidance provisions dealing with third-party backed preference shares do not cease to apply where the company issuing such shares ceases to hold the equity shares in the Target Company. The Budget Review states that these anti-avoidance provisions will be clarified to make it clear that the exception to the application of such provisions will cease to apply where the company issuing the third-party backed preference shares ceases to hold equity shares in the Target Company

Addressing the abuse of the definition of contributed tax capital

A non-resident company which becomes a resident obtains a so-called "step-up" in the base cost of its non-South African-sourced capital assets equal to the market value of such assets on the date on which it becomes a resident. The company is also deemed to have Contributed Tax Capital (CTC) equal to the market value of its shares on the day immediately before the date on which it becomes a resident. This CTC can be returned to the non-resident shareholder(s) of such company via tax-free distributions in most instances. The purpose of these provisions is simply to ensure that the South African fiscus does not benefit from the "pre-immigration" capital appreciation and profits of the immigrating company.

The Budget Review states that the provision providing the step-up in the CTC of the immigrant company is abused where there is a structure comprising a non-resident holding company which holds shares in a non-resident subsidiary which, in turn, holds shares in valuable resident operating companies. The perceived abuse relates to the tax-driven immigration of the intermediary non-resident holding company to allow such holding company effectively to externalise the profits of the valuable resident operating companies by receiving tax-exempt dividends and on-distributing them its non-resident holding company out of its stepped-up CTC. The Budget Review proposes that amendments be made to address this perceived abuse.

Interest Limitation Rules

Historically, for income tax purposes, the deduction of interest expenses from a taxpayer's income (from carrying on a business) has been limited by thin capitalisation and transfer pricing rules, and specific anti-avoidance measures that involve loans from a controlling shareholder who is wholly or partly exempt from any tax on the interest.

In order to curb base erosion and profit shifting arising from excessive interest deductions, a new rule was introduced with effect from the date that the 27% corporate income tax rate took effect. In terms of this rule, taxpayers are excluded from deducting interest expenses (on debts owed to controlling shareholders and connected persons) in excess of 30% of their "adjusted taxable income" or so-called "tax EBITDA".

Any interest expense that is not allowed to be deducted under this rule, in a particular tax year, may be carried forward by the taxpayer for deduction in a future tax year, subject to the same limitation in that tax year.

Several amendments are proposed to clarify issues relating to this limitation. These include:

- clarifying that the calculation of "adjusted taxable income" requires the only the balance of assessed loss from prior tax years to be added back to adjusted taxable income, and not any assessed loss arising in the current tax year (as this would take the loss into account twice);
- clarifying that the limitation only applies to interest which is payable to non-residents;
- including exchange gains in the calculation of the total amount of interest which is subject to the limitation; and
- excluding interest paid to a controlling shareholder, where the controlling shareholder has borrowed the funds from a South African lending institution in order to make a loan to the taxpayer.

INTERNATIONAL TAX

Controlled foreign company (CFC) rules

A CFC is a foreign company in which South African residents, either alone or collectively, hold more than 50% of the participation rights. The CFC rules provide for the taxable income of the CFC to be calculated as if the CFC was a South African tax resident and to be attributed to and taxed in the hands of the resident shareholders.

In terms of the CFC rules amounts which are attributable to a so-called foreign business establishment (FBE) are exempt from imputation. A FBE consists of a fixed place of business located outside South Africa that is, briefly put, suitably staffed, suitably equipped, and has suitable facilities to carry on the primary operations of the company.

It is proposed that the FBE exemption contained in section 9D of the Income Tax Act is amended to tighten the scope on the activities that must be performed by the CFC in order to qualify for the FBE exemption.

The proposal addresses the situation whereby the CFC retains certain management functions but outsources other essential functions, while still continuing to compensate the CFC for those functions. Interestingly, SARS recently won a case in the Supreme Court of Appeal against Coronation Investment Management on this very issue.

The SCA placed particular importance on what the primary operations of the company are and whether those primary operations are being performed in the jurisdiction of the CFC seeking to claim the exemption. In the Coronation case, the SCA found that the primary operations of the CFC were being outsourced, even though the CFC in Ireland was suitably staffed, suitably equipped, and had suitable facilities to carry on the primary operations.

This proposal is aimed at clarifying any misunderstanding on when the FBE exemption applies. However, with Coronation seeking to appeal to the Constitutional Court on this issue, this proposal should remain on the watchlist.

Refinements to the participation exemption

The CGT provisions provide for an exemption for any capital gains or losses that arise from the disposal of equity shares in foreign companies subject to certain requirements being met, including that the person held an interest of at least 10% of the equity shares and voting rights in that foreign company for at least 18 months, and that the interest in the foreign company is disposed of to a non-resident (other than a connected person).

The proposed changes will see the participation exemption being disapplied in situations where the disposing company sells shares in a foreign company to a non-resident and both the disposing company, and the acquiring company formed part of the same group of companies or the shareholders of the acquiring company are the same as the shareholders of the disposing company. It remains to be seen what the threshold of "substantially the same" means in this context.

A further change to the application of a participation exemption in relation to CFC legislation has been proposed. Currently, as stated, a minimum holding period of 18 months is required in order to qualify for the participation exemption. The CFC legislation, however, which applies a participation exemption on any foreign return of capital, does not have a similar minimum holding period. The proposal is to introduce the 18-month holding to a return of capital from a CFC so as to align the provisions.

OECD Pillar II

It was announced in the Budget Speech that the government will publish draft legislation on Pillar II later this year as part of its annual legislative cycle

Pillar II is one of a two-pillar solution put together by the OECD inclusive framework to address the challenges arising from the digitalization of the economy and introduces a global minimum Effective Tax Rate of 15% (ETR) on multinational companies that have a consolidated revenue of more than EUR750m. Pillar II has been gaining momentum on its implementation globally, with countries such as the United Kingdom having already published draft legislation last year. The question might be how this will impact South African-headed groups when the South African corporate income tax rate is 27%, which is higher than the average of the OECD Member States and significantly higher than the ETR. However, depending on the rules that are brought into effect and the way each South African group is structured, the results could be surprising.

VAT

Domestic Reverse Charge Relating to Valuable Metal

In June 2022 regulations were introduced to shift the liability for VAT on supplies of valuable metals (containing gold) from the supplier to the recipient to curb certain abusive schemes aimed at claiming VAT refunds. The regulations will be amended to, amongst other things:

- clarify that "valuable metals" refers to the gold contained in certain items, such as jewelry, bars, blank coins, ingots, buttons, wire, plate and granules, and not that the gold must be in the form of, jewelry, etc.
- include a de minimis rule to excluded goods which are plated with a thin layer of gold.
- include gold in the form of a sponge or powder in the definition of "valuable metals";
- place an obligation on the supplier of the valuable metal to declare the percentage of the gold content in the valuable metal; and
- to clarify that the transitional measures allowing registered vendors one month period to comply with the domestic reverse charge does not exempt them from accounting for the domestic reverse charge in the period covering 1 July 2022 to 1 August 2022.

EXCHANGE CONTROLS

The government has adopted a strategy to building a financial system that is less vulnerable to abuse by reviewing the deficiencies/vulnerabilities in its anti-money laundering enforcement regime. This is part of a broader international approach to prevent illicit funds from being channelled into terrorism, failing which a country may be subject to closer monitoring (Greylisting) by the Financial Action Task Force (FAFT). Greylisting occurs where a country has a reduced ability to enforce anti-money laundering and terrorism-funding regulations, and to investigate and successfully prosecute financial crimes.

Since its inception in late 2022, this strategy has been characterised by the close supervision of financial institutions together with a range of other non-financial businesses and professions which may be susceptible to being taken advantage of such as estate agents, lawyers and especially the providers of crypto assets and the use of crypto assets. Given the proven volatility and vulnerability of crypto assets, the focus has been on the regulation of providers of crypto assets in SA. This initiative represents a double benefit by promoting oversight on the use/trade in crypto assets, without stifling financial innovation whilst also ensuring that SA is not Greylisted.

The Budget Review, recognises the need to encourage the use of crypto assets whilst emphasising oversight and regulation. Part of the measures implemented are (i) making crypto asset service providers accountable institutions, and (ii) having the Financial Intelligence Centre supervising crypto asset service providers to enforce their compliance with anti-money laundering, combating of terrorist financing and combating of proliferation financing obligations.

In so far as the nexus between exchange control regulations and the use of crypto assets is concerned, it is proposed that part of the strategy be to enhance the monitoring and reporting of crypto asset transactions to comply with exchange control regulations.

In terms of a circular released in January 2021, the Reserve Bank announced that the full 'loop structure' restriction had been lifted to encourage inward investments into South Africa, subject to the normal criteria applying to inward investments into South Africa and reporting to the Bank. Following the subsequent reporting of loop structures to the Bank, concerns were raised by them a year ago that the circular has been "misinterpreted" to allow for the externalisation of control over South African assets. It was widely anticipated that the contents of the circular will be narrowed and that the "misinterpretations" will be corrected. While nothing to this effect was contained in the Budget, a revised circular is still anticipated to be issued.

MISCELLANEOUS

Aligning tax registration requirements for non-resident employer

A non-resident employer is not liable to deduct or withhold employees' tax (PAYE) from remuneration paid to its employees who render services in South Africa. An employees' tax withholding obligation does, however, arise where a non-resident employer has an agent in South Africa who pays or becomes liable to pay remuneration to the employees of such non-resident. In such case, the withholding obligation is imposed on the agent in South Africa. The non-resident employer is required to register as an employer with SARS and to pay Skills Development Levies (SDL) and Unemployment Insurance Contributions (UIC) in respect of the remuneration paid to its employees who render services in South Africa, irrespective of whether it has an agent in South Africa. The Budget Review proposes that the employees' tax, SDL and UIC provisions be aligned in this case to ensure consistency.

Review of Practice Notes 31 and 37

In the early 1990s, SARS issued Practice Note 31 to allow a taxpayer to claim expenditure incurred in the production of interest income as a deduction, but only to the extent that such expenditure does not exceed the interest income (technically the deduction is allowed only if the taxpayer carries on a trade). The concession provided by PN31 is widely relied upon in financial transactions involving back-to-back loans that are channelled through special purpose funding vehicles to operating entities.

PN 37 allows taxpayers whose income consists solely of remuneration and/or interest and dividends to claim a tax deduction in respect of fees paid to accountants, bookkeepers, tax consultants and other professional persons or institutions for the completion of their tax returns, subject to certain qualifications.

On 6 November 2022, SARS issued a notice to the public confirming its intention to withdraw PN 31 and PN 37 with effect from years of assessment ending on or after 1 March 2023 due to the perceived abuse of the concession provided in PN31 and the fact that PN37 does not incorporate the requirement that the tax practitioner must be a registered tax practitioner.

The Budget Review states that government will consider the impact of the proposed withdrawal of PN 31 and PN37 and whether changes could be made to legislation to accommodate legitimate transactions that would otherwise be affected by such withdrawal. It is confirmed that the effective date of the withdrawal of these PNs will be aligned with the effective date of any legislative provisions that are aimed at filling the lacunae resulting from their withdrawal. SARS has issued a notice confirming that it will not be withdrawing the practice notes.

Tax Rates and Thresholds

Individuals and Special Trusts

For the fourth year in a row relief is given at all tax brackets, with significant percentage relief in the lowest three brackets.

Personal income tax rate and bracket adjustments

2023/24		2021/22	
Taxable Income (R)	Rates of Tax	Taxable Income (R)	Rates of Tax
0 – 237 100	18% of each R1	0 – 226 000	18% of each R1
237 101 – 370 500	R42 678 + 26% of the amount above R237 100	226 001 – 353 100	R40 680 + 26% of the amount above R226 000
370 501 – 512 800	R77 362 + 31% of the amount above R370 500	353 101 – 488 700	R73 726 + 31% of the amount above R353 100
512 801 – 673 000	R121 475 + 36% of the amount above R512 800	488 701 – 641 400	R115 762 + 36% of the amount above R488 700
673 001 – 857 900	R179 147 + 39% of the amount above R673 000	614 401 – 817 600	R170 734 + 39% of the amount above R641 400
857 901 – 1 817 000	R251 258 + 41% of the amount above R857 900	817 601 – 1 731 600	R239 452 + 41% of the amount above R817 600
1 817 001 and above	R644 489 + 45% of the amount above R1 817 000	1 731 601 and above	R614 192 + 45% of the amount above R1 731 600

Rebates

	2023/24	2022/23
	R	R
Primary	17 235	16 425
Secondary (Persons 65 and older)	9 444	9 000
Tertiary (Persons 75 and older)	3 145	2 997

Tax threshold

	2023/24	2022/23
	R	R
Below age 65	95 750	91 250
Age 65 to below 75	148 217	141 250
Age 75 and older	165 689	157 900

Annual income tax payable and average tax payable comparison (taxpayers younger than 65):

Taxable Income	2022/23 Tax	2023/24 Tax	Tax Change	Change	Average Tax Rates	
R	R	R	R	%	Old Rates	New Rates
85 000	-	-	-	-	-	-
90 000	-	-	-	-	-	-
100 000	1 575	765	-810	-51.4%	1.6%	0.8%
120 000	5 175	4 365	-810	-15.7%	4.3%	3.6%
150 000	10 575	9 765	-810	-7.7%	7.1%	6.5%
200 000	19 575	18 765	-810	-4.1%	9.8%	9.4%
250 000	30 495	28 797	-1 698	-5.6%	12.2%	11.5%
300 000	43 495	41 797	-1 698	-3.9%	14.5%	13.9%
400 000	71 840	69 272	-2 568	-3.6%	18.0%	17.3%
500 000	103 405	100 272	-3 133	-3.0%	20.7%	20.1%
750 000	196 663	191 942	-4 721	-2.4%	26.2%	25.6%
1 000 000	297 811	292 284	-5 527	-1.9%	29.8%	29.2%
1 500 000	502 811	497 284	-5 527	-1.1%	33.5%	33.2%
2 000 000	718 547	709 604	-8 943	-1.2%	35.9%	35.5%

Source: National Treasury

Retirement fund lump sum withdrawal benefits

2023/24	
Taxable Income (R)	**Rate of Tax (R)**
0 – 27 500	0% of taxable income
27 501 – 726 000	18% of taxable income above 27 500
726 001 – 1 089 000	125 730 + 27% of taxable income above 726 000
1 089 001 and above	223 740 + 36% of taxable income above 1 089 000

Retirement fund lump sum benefits or severance benefits

2023/24	
Taxable Income (R)	**Rate of Tax (R)**
0 – 550 000	0% of taxable income
550 001 – 770 000	18% of taxable income above 550 000
770 001 – 1 155 000	39 600 + 27% of taxable income above 770 000
1 155 001 and above	143 550 + 36% of taxable income above 1 155 000

Capital gains tax effective rate (%)

	2023/24	2022/23
For individuals and special trusts	18%	18%
Companies	21.6%	22.4%
Trusts	36%	36%

Capital gains exemptions

Description	2023/24	2022/23
	R	R
Annual exclusion for individuals and special trusts	40 000	40 000
Exclusion on death	300 000	300 000
Exclusion in respect of disposal of primary residence (based on amount of capital gain or loss on disposal)	2 million	2 million
Maximum market value of all assets allowed within definition of small business on disposal when person over 55	10 million	10 million
Exclusion amount on disposal of small business when person over 55	1.8 million	1.8 million

Corporate Income Tax Rates

Income tax - Companies

For the financial years ending on any date between 1 April 2023 and 31 March 2024, the following rates of tax will apply:

	2023/24	2022/23
Type	Rate of Tax (%)	Rate of Tax (%)
Companies (other than gold mining companies and long term insurers)	27	28
Personal service providers	27	28
Foreign resident companies earning income from a South African source	27	28
Dividends Tax	20	20

Tax regime for small business corporations

2023/24		2022/23	
Taxable Income (R)	**Rates of Tax**	**Taxable Income (R)**	**Rates of Tax**
1 – 95 750	0% of taxable income	1 – 91 250	0% of taxable income
95 751 – 365 000	7% of taxable income above R95 750	91 251 – 365 000	7% of taxable income above R91 250
365 001 – 550 000	R18 848 + 21% of taxable income over R365 00	365 001 – 550 000	R19 163 plus 21% of taxable income above R365 000
550 001 and above	R57 698 + 27% of the amount above R550 000	550 001 and above	R58 013 + 28% of taxable income above R550 000

Income tax rates for trusts

2023/24	2022/23
Rate of Tax (%)	
45	45

Tax-free portion of interest

	2023/24	2022/23
	R	R
Under 65	23 800	23 800
Over 65	34 500	34 500

Withholding tax - non-residents	Rate of tax
	%
Dividends	20%
Interest	15%
Royalties	15%
Foreign entertainers and sportspersons	15%

Transfer Duty

The transfer duty table affecting sales on or from 1 March 2023, and which applies to all types of purchasers, is as follows:

Value of property (R)	Rate (R)
0 – 1 100 000	0% of property value
1 100 001 - 1 512 500	3% of property value above R1 100 000
1 512 501 - 2 117 500	12 375 + 6% of the value above 1 512 500
2 117 501 - 2 722 500	48 675 + 8% of the value above 2 117 500
2 722 501 – 12 100 000	97 075 + 11% of the value above 2 722 500
12 100 001 and above	1 128 600 + 13% of property value above R12 100 000

Medical tax credits

Description (monthly amounts)	2023/24	2022/23
	R	R
Medical scheme fees tax credit, in respect of benefits to the taxpayer	364	347
Medical scheme fees tax credit, in respect of benefits to the taxpayer and one dependent	728	694
Medical scheme fees tax credit, in respect of benefits to each additional dependant	246	234

About Werksmans Tax & Exchange Control Practice

The Werksmans Tax & Exchange Control Practice is able to respond swiftly and effectively to South African and international tax matters. Team members have many years' experience in consulting to the commercial sector and are able to provide integrated advice and assistance on a wide range of local or international tax issues. Ongoing tax changes and the aggressive stance of the South African Revenue Service have elevated tax law in South Africa to a highly specialised area of practice.

The many changes in tax law since 2001 have resulted in a complex tax system, the complexity of which increases annually with comprehensive amendments. These cover multiple aspects such as ever-changing corporate restructuring rules, tax rules affecting financial instruments, rules affecting retirement and so on. The team's focus is on assisting corporates and high-net-worth individuals who seek comprehensive, up-to-date tax advice.

Services range from consulting on the tax aspects of clients' commercial dealings to interacting on their behalf with the tax authorities and, where necessary, dealing with objections and disputes. Team members are also skilled in handling settlement negotiations, appeals in the Tax Court and High Court, and alternative dispute resolution processes.

Special areas of expertise include the tax aspects of commercial activities such as mergers and acquisitions (M&A), private equity and black economic empowerment transactions, and corporate reconstructions.

In terms of international tax services, the team has a well-established track record in inward and outward investment matters and offshore structuring, taking into account the exchange control implications thereof.

Services include dealing with:

- Domestic tax: income tax, withholding tax, capital gains tax, employees' tax, value-added tax and securities transfer tax;
- International tax: inward and outward investment;
- Estate planning: domestic and international;
- Financial services and products: tax rules relating to insurance, private equity, securitisations, hedge funds, structured and project finance, debt and derivative instruments;
- Tax structuring of black economic empowerment transactions, M&A, unbundlings, reconstructions;
- Management buyouts, distributions, funding, securities issues and buybacks;
- Exchange control advice in relation to the above;
- Liaison and negotiation with tax authorities and regulators; and
- Tax litigation and dispute resolution: settlement negotiations, alternative dispute resolution, objections and Tax Court appeals.

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About us

Established in the early 1900s, Werksmans Attorneys is a leading South African corporate and commercial law firm, serving multinationals, listed companies, financial institutions, entrepreneurs and government.

Operating in Gauteng and the Western Cape, the firm is connected to an extensive African legal alliance through LEX Africa. LEX Africa was established in 1993 as the first and largest African legal alliance and offers huge potential for Werksmans' clients seeking to do business on the continent by providing a gateway to Africa.

With a formidable track record in mergers and acquisitions, banking and finance, business rescue and restructuring, commercial litigation and dispute resolution, Werksmans is distinguished by the people, clients and work that it attracts and retains.

Werksmans' more than 200 lawyers are a powerful team of independent-minded individuals who share a common service ethos. The firm's success is built on a solid foundation of insightful and innovative deal structuring and legal advice, a keen ability to understand business and economic imperatives and a strong focus on achieving the best legal outcome for clients.