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Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Enquiries: Communications Unit • Email: media@treasury.gov.za • Tel: (012) 315 5046 • 40 Church Square, PRETORIA, 0002 • www.treasury.gov.za

MEDIA STATEMENT

Media Statement

Publication of the 2023 Budget Draft Tax Bills and Draft Regulations

- **2023 draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill (2023 draft Rates Bill)**
- **2023 draft Taxation Laws Amendment Bill (2023 draft TLAB)**
- **2023 draft Tax Administration Laws Amendment Bill (2023 draft TALAB)**
- **Draft Regulations in terms of paragraphs (d) and (e) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act, 1962**
- **Draft amendments to the Regulations on domestic reverse charge relating to valuable metal in terms of section 74(2) of the VAT Act, 1991; and**
- **draft Carbon Offset Regulations**

The National Treasury and the South African Revenue Service (SARS) today publish, for public comment, the 2023 draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill (2023 draft Rates Bill), the 2023 draft Taxation Laws Amendment Bill (2023 draft TLAB), the 2023 draft Tax Administration Laws Amendment Bill (2023 draft TALAB), draft Regulations in terms of paragraph (d) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act, 1962, on additional criteria for multisource pharmaceutical products, draft Regulations in terms of paragraph (e) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act, 1962, on criteria for clinical trials in respect of deduction for research and development; draft Regulations on domestic reverse charge relating to valuable metal in terms of section 74(2) of the Value-Added Tax Act, 1991 and draft Carbon Offset Regulations.

These draft tax bills and draft Regulations give effect to the 2023 Budget tax proposals, which were outlined in Chapter 4 and Annexure C of the 2023 Budget Review. In addition, draft Explanatory Memoranda containing a comprehensive description of the proposed tax amendments contained in the 2023 draft TLAB and regulations are

MEDIA STATEMENT

published, to assist the public on the background and reasons for any proposed change, and the proposed amendments. A Draft Memorandum on the Objects on the TALAB is also published to assist the consultation process.

- **2023 Draft Rates Bill**

The 2023 draft Rates Bill was first published on Budget Day (22 February 2023) but is published for the second time for public information. The 2023 draft Rates Bill contains tax announcements made in Chapter 4 of the 2023 Budget Review that deal with changes to the rates and monetary thresholds and increases of the excise duties. Key tax proposals contained in the 2023 draft Rates Bill include the following:

- Changes in rates and monetary thresholds to the personal income tax tables
- Changes in monetary thresholds for transfer duty
- Increases of the excise duties on alcohol and tobacco

2023 Draft TLAB

The 2023 draft TLAB contains the necessary legislative amendments required to implement the more complex tax announcements made in Chapter 4 and Annexure C of the 2023 Budget Review (ie those not dealing changes in a rate or threshold of a tax) that involves more complex policy and technical amendments and requires greater consultation with affected stakeholders and the public. Key tax proposals contained in the 2023 draft TLAB include the following:

- Rooftop solar tax incentive
- Renewable energy tax incentive
- Research and Development tax incentive
- Urban Development Zone tax incentive
- Adjusting the minimum royalty rate for oil and gas companies
- Reviewing principles contained in Practice Note 31 of 1994
- Clarifying anti-avoidance rules dealing with third-party backed shares
- Refining the provisions applicable to unbundling transactions
- Tax treatment of deposit insurance scheme



MEDIA STATEMENT

- Clarifying the foreign business establishment exemption for controlled foreign companies
- Refining the participation exemption for the sale of shares in foreign companies
- Reviewing the VAT treatment of specific supplies in the short-term insurance industry
- Clarifying the VAT treatment of prepaid vouchers in the telecommunications industry

2023 Draft TALAB

The 2023 draft TALAB contains the legislative amendments dealing with tax administration announced in Chapter 4 and Annexure C of the 2023 Budget Review, that also require greater consultation with the affected stakeholders and the public. Key tax proposals contained in the 2023 draft TALAB include the following:

- Advance Pricing Agreement Programme
- Employees' tax registration requirement for non-resident employers
- Variation of employees' tax withholding in respect of remuneration
- Expanding the general disclosure provisions for section 18A approved organisations
- Single window for advance passenger information and passenger name record data
- Enabling SARS' new online traveller management system
- Expanding the time period to submit a return where taxpayers disagree with an auto-assessment.
- Alignment with anti-money laundering and combatting terrorism developments.

Draft Regulations in terms of paragraph (d) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act on additional criteria for multisource pharmaceutical products

The draft Regulations in terms of paragraph (d) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act contain consequential technical amendments aimed at aligning the wording of the Regulations with the proposed changes on Research and Development tax incentive, announced in Chapter 4 of the 2023 Budget Review.



MEDIA STATEMENT

Draft Regulations in terms of paragraph (e) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act on criteria for clinical trials in respect of deduction for research and development

The draft Regulations in terms of paragraph (e) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act contain consequential technical amendments aimed at aligning the wording of the Regulations with the proposed changes on Research and Development tax incentive, announced in Chapter 4 of the 2023 Budget Review.

Draft Regulations on domestic reverse charge relating to valuable metal in terms of section 74(2) of the VAT Act, 1991

The draft Regulations on domestic reverse charge relating to valuable metal contain the following key tax proposals announced in Annexure C of the 2023 Budget Review:

- Clarifying the definition of “residue”
- Clarifying the definition of “valuable metal”
- Clarifying the exclusions from the definition of “valuable metal”
- Introducing a *de minimis* rule in the definition of “valuable metal”
- Aligning the definition of “valuable metal” with the Precious Metals Act, 2005
- Clarifying the transitional measures
- Clarifying the responsibilities of the recipient of valuable metal

Draft Carbon Offset Regulations

The draft Carbon Offset Regulations contain the following key tax proposal announced in Annexure C of the 2023 Budget Review:

- Aligning the utilisation period in the Carbon Offset Regulations with the extension of the first phase of the carbon tax, i.e., from 1 January 2023 to 31 December 2025.

The public consultation process for tax proposals is a critical element of the tax legislative process and differs from the consultative processes for other money bills.

MEDIA STATEMENT

After receipt of written comments, National Treasury and SARS normally engage with stakeholders through public workshops to discuss the written comments on the draft tax bills and draft regulations.

With regard to the 2023 draft tax bills, the Standing Committee on Finance (SCoF) and the Select Committee on Finance (SeCoF) in Parliament are expected to make a similar call for public comment and convene public hearings on the 2023 Rates Bill, 2023 draft TLAB and 2023 draft TALAB before their formal introduction in Parliament. Thereafter, a response document by the National Treasury and SARS will be presented on the comments received to the parliamentary committee meetings, after which the draft bills will then be revised, taking into account public comments and recommendations made during committee hearings, before they are introduced formally in Parliament for its consideration. For legal reasons, the draft tax amendments continue to be split into two types of bills, namely a money bill (section 77 of the Constitution) dealing with money bill issues and an ordinary bill (section 75 of the Constitution) dealing with issues relating to tax administration.

With regard to the draft regulations, National Treasury and SARS will also engage with stakeholders through public workshops to discuss their written comments. The Notices on Regulations in terms of paragraph (d) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act, 1962, on additional criteria for multisource pharmaceutical products, Regulations in terms of paragraph (e) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act, 1962, on criteria for clinical trials in respect of deduction for research and development; Regulations on domestic reverse charge relating to valuable metal in terms of section 74(2) of the Value-Added Tax Act, 1991 and Carbon Offset Regulations will then be published in the Government Gazette after taking into account public comments received.

The 2023 draft tax bills, the accompanying draft Explanatory Memoranda containing a comprehensive description of the proposed tax amendments contained in the 2023 draft TLAB and TALAB, and draft Regulations can be found on the National Treasury (www.treasury.gov.za) and SARS (www.sars.gov.za) websites.



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MEDIA STATEMENT

More general information underlying the changes in rates, thresholds or any other tax amendments can be found in the 2023 Budget Review, available on the National Treasury website.

Due date for public comments on the 2023 draft tax bills and draft regulations

National Treasury and SARS hereby invite comments in writing on the 2023 draft Rates Bill, the 2023 draft TLAB, 2023 draft TALAB, the draft Regulations in terms of paragraph (d) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act, 1962, on additional criteria for multisource pharmaceutical products, the draft Regulations in terms of paragraph (e) of the definition of “Research and Development” in section 11D(1) of the Income Tax Act, 1962, on criteria for clinical trials in respect of deduction for research and development; the draft Regulations on domestic reverse charge relating to valuable metal in terms of section 74(2) of the Value-Added Tax Act, 1991 and the draft Carbon Offset Regulations.

Please forward written comments to the National Treasury’s tax policy depository at 2023AnnexCProp@treasury.gov.za and SARS at acollins@sars.gov.za by close of business on **31 August 2023**.

ISSUED BY NATIONAL TREASURY ON 30 JULY 2023