#Budget2020 highlights...

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"Ex Africa Semper aliquid novi," winning requires hard work, focus, time, patience and resilience. Finance Minister Tito Mboweni delivered his National Budget Speech on 26 February 2020, leaving South African taxpayers pleased by the implementation of tax relief on personal income tax, but disappointing those who indulge in alcoholic beverages and heated tobacco products.

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The 2020 Budget Speech focused on economic growth, education, health, social development, small businesses and job creation. Minister Mboweni appears to have gone out of his way to implement measures to avoid the slowdown of economic growth.

Some of the significant tax proposals in this year's Budget as tabled by the Finance Minister are highlighted below:

Personal Income Tax

- **Personal Income Tax Rates and Rebates:** While the primary, secondary and tertiary rebates will increase by 5.2% for 2020/2021 the tax-free threshold will increase by almost 5% from R79,000 to R83,100. Personal income tax rates are adjusted to support economic growth and provide relief for taxpayers.

- **Medical Scheme Fees Tax Credits:** The medical credits have increased from R310 to R319 for the first two persons covered by the scheme, and R215 for each additional member. This below inflation adjustment is in line with the announcement in the 2018 Budget Review to reduce the medical scheme fees tax credits to help fund the rollout of national health insurance (NHI).

- **Foreign Remuneration Exemption:** The foreign remuneration exemption which becomes effective on 1 March 2020 and has initially been set at R1 million will now be capped at R1,25 million. The Minister indicated that Government wants to encourage South Africans working abroad to maintain their ties with South Africa; the concept of financial emigration will therefore be phased out by 1 March 2021.

- **Tax-free Savings Accounts:** The annual limit on contributions to tax-free savings accounts will increase by R3,000 to R36,000 effective 1 March 2020.

Corporate Income Tax

- **Tax Base and Rate:** The corporate income tax rate remains unchanged at 28% for now. However, Government intends to restructure the Corporate Income Tax structure over the medium term by broadening the tax base, through minimizing tax incentives and introducing limitations to interest deductions and assessed losses carried forward, and reducing the rate to encourage investment and expansion as well as South Africa's competitiveness as an investment destination.

- **Limitation of Interest Deductions:** It has been proposed to limit interest expense deductions to 30% of earnings for years of assessment commencing on or after 1 January 2021. Consultation for the design of the limitation will commence shorty and a discussion document is expected to be made available on National Treasury's website on 17 April 2020.

- **Corporate Tax Incentives:** The section 12I (industrial policy projects) will not be renewed beyond 31 March 2020. The urban development zone incentive will be extended for a year while being reassessed. A sunset date of 28 February 2022 is proposed for incentives relating to airport and port assets, rolling stock and loans for residential units. Government intends to review all other incentives to determine whether they should be extended.

- **Limitations on assessable losses:** It is proposed that assessable losses carried forward be limited to 80% of taxable income for years of assessment commencing on or after 1 January 2021. Companies would therefore have to pay tax on at least 20% of its taxable income.

Value Added Tax

- **Rate:** contrary to speculation and expectations, the VAT rate was not increased.

- **Electronic Services VAT:** The definition of "telecommunication services" for purposes of the electronic services regulations will be updated to eliminate the unintended non-taxation of certain services under the electronic services regime, while intermediaries who are required to collect and account for VAT on behalf of non-resident suppliers of electronic services will now be able to apply to SARS to account for the VAT on the payments rather than the invoice basis.

- **VAT Treatment of Transactions under Corporate Reorganization Rules:** The provisions of section 8(25) of the VAT Act which allows for the transfer of a business as a going concern if transferred under the corporate reorganization rules will be reviewed to eliminate unintended limitations where the corporate reorganisation rules do not apply in respect of the transfer of certain assets.

Other Indirect Taxes

- **Transfer Duty:** the threshold for transfer duty has been adjusted; property valued at R1 million or less will no longer be subject to transfer duty.

- **Excise duties:** to comply with the Department of Health's policies, there are plans to tax heated tobacco products such as "hubbly bubby or hookah". The rate will be 75% of the rate of the cigarettes. Electronic cigarettes, also known as vapes, will be taxed from 2021. There have also been increases on excise duties applicable to cigarettes, beers, ciders, wine and spirits, in line with inflation. Excise on piped tobacco, cigars, and sparkling wine went up by above inflation.

- **Fuel levy:** has increased by 25 cents, 16 cents is for the general fuel levy and 9 cents for Road Accident Fund levy, to adjust for inflation.

- **Plastic bags levy:** Government has proposed a more focused spending on climate change mitigation through carbon tax, increasing the plastic bag levy to 25 cents and through other measures. National Treasury will consult on extending the current levy on plastic bags to all single-use plastics used for retail consumption, including plastic straws, utensils and packaging in 2021.

- **Carbon tax:** The carbon tax rate will increase by 5.6% for 2020 from R120 per tonne of carbon dioxide equivalent to R127 per tonne of carbon dioxide equivalent.

- **Export tax on ferrous metals exports:** Government will consult with affected industries on the introduction of export taxes on scrap metal, which could replace the current price preference system. Proposed export taxes will apply to ferrous metals at the rate of R1,000 per tonne, aluminium at R3,000 per tonne, red metals at R8,426 per tonne, and other waste and scrap metals at R1,000 per tonne. Consultation will begin immediately, to be concluded by the end of May 2020, for consideration in the annual tax bills.

Exchange control

- It was announced that there will be a noteworthy exchange control relaxation that will be phased in over 12 months (to be implemented by 1 March 2021), more for individuals than corporates. The intention appears to be to change the current system whereby no capital outflows are allowed unless expressly permitted, to a system whereby cross-border transactions will be permitted unless specifically prohibited.

Other Noteworthy Proposals:

- In an attempt to encourage growth of small businesses in South Africa, government proposes to review the small business tax regime, the VAT threshold and turnover tax.

- Government has now allocated R230 billion over the next 10 years to achieve the restructuring of the electricity sector in South African to ensure a stable electricity supply. Finance Minister Mboweni stated that it would soon be possible for municipalities in who are in a financially good standing to purchase electricity from independent power producers.

- Government has allocated R16.4 billion to settle South African Airways debts, with the hope that this intervention will lead to a sustainable airline.

- SARS recently published draft diesel refund rules and notes to the Customs and Excise Act for public comment. The draft presents a provisional outline for the review of the diesel refund administration to facilitate further industry engagements during 2020. The reform proposals and legislative framework will be refined further, based on the outcome of the engagements.

- In line with the World Customs Organisation's stance on knowledge sharing by customs authorities to enhance compliance with customs and excise legislation, it was announced that the Customs and Excise Act be amended to provide for the publication of tariff determinations and rules prescribing the circumstances in which such publication may take place, the kind of information that may be published and the manner of publication. This will be a first for South Africa.

- The Tax Administration Act provides that SARS may withhold a refund until such time that the refund is verified, inspected or audited. It is proposed that this provision be extended to include criminal investigations, which will, by implication, extend the period for which no refunds are given by SARS.

- There is a proposal to amend the anti-avoidance provision regarding change of residence. When a company ceases to be a resident, there is a deemed disposal of its assets that triggers capital gains tax. Despite these rules, residents that hold shares in the company could subsequently dispose of the shares and qualify for a participation exemption for the sale of company shares. It is proposed that amendments be made to the legislation to close this loophole.

- The participation exemption rules for foreign dividends do not contain a similar limitation for general foreign dividends exemption rules (in the Income Tax Act). This limitation denies tax exemption for foreign dividends if there is a deductible expense or reduction that is determined directly or indirectly with reference to a dividend. For example, where a resident owns 20% of the shares in an unlisted foreign company, no tax is imposed on the foreign dividends, even though these dividends arose from amounts that previously qualified for a tax deduction. To address this concern, it is proposed that changes be made to the legislation.

- It is proposed that the definition of an “affected transaction” in the transfer pricing rules be refined. Transfer pricing rules apply if a taxpayer or a controlled foreign company enters into a transaction with a non-resident “connected person”, on terms and conditions that are not at arm’s length, and derives a tax benefit from that transaction. In the case of a transaction between a controlled foreign company and a non-resident “connected person”, a tax benefit may not be derived by the foreign company, but may be derived by a South African resident shareholder as a result of a lower inclusion of controlled foreign company net income for the resident. To address this situation, it is proposed that the legislation be amended to refer to a tax benefit that may be derived by a person, in relation to a controlled foreign company, that is a resident.

Minister Mboweni said it was hoped that the Budget would restore the confidence of the public, grow the economy and improve the employment and education challenges in South Africa.

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