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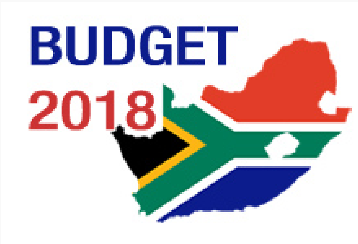
March 2018

YOU AND BUDGET 2018: IT COULD HAVE BEEN WORSE!

"What people really want is fairness. They want people paying their fair share of taxes" (Barack Obama)



In the Medium Term Budget Speech (MTBS) last October, Finance Minister Gigaba laid out some frightening numbers – tax revenue was not rising as predicted and expenditure was inexorably increasing. The forecasted spending ceiling was breached and the message for Budget 2018 was clear – "Expect substantial tax hikes".

In the end, there are indeed R36 billion's worth of tax increases, but also the Government will put in place spending cuts of R85 billion over the next three years. The combination of tax increases and spending cuts is an important step towards restoring fiscal credibility.

The big story – VAT increasing to 15%

Many commentators called for an increase in VAT but were doubtful that Government would push through such an unpopular and regressive (regressive in the sense that it impacts more on the poor than the rich) measure so close to an election. Yet a 1% increase from 1 April headlined the Budget. This is the first VAT increase in more than 20 years.

The two other main contributors to tax revenue – company and individual tax – are already at high levels and further increases would likely prove to be counterproductive, again leaving Government short of its revenue target. Lower income groups will also benefit from an increase in thresholds for the bottom three personal income tax brackets.

Globally, the world is increasingly moving towards indirect taxation as it brings more certainty to the fiscus in that it is a relatively simple and robust collection process.

In the past few years, the affluent have been inundated with tax increases. VAT is paid by all consumers and so spreads the load of the tax burden. The concern remains that this regressive tax will impact adversely on vulnerable households despite the existing zero-rating of basic food items and despite the cushioning effect of an above-inflation increase of 7% in social grants. On the other hand some economists support it as increasing fairness in our tax system and as the tax least likely to damage the economy.

of shareholder agreements
- A shareholder agreement should contain…
- Don't forget the memorandum of Incorporation (MOI) and the Companies Act

Your Tax Deadlines for March, and How to Upload Supporting Documents when eFiling

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For business, the VAT rate change will however mean more costs as a result of extra administration in changing your systems and stationery. Start preparing now!

The major increases and how much tax they will raise

MAJOR INCREASES AND REVENUE PROJECTED	
Taxable Income	**SARS Revenue Projected**
VAT rises from 14 to 15 %	R22.9bn
"Bracket Creep" *	R 6.8bn
Excise taxes**	R2.6bn
Fuel Levy (52 cents a litre)	R1.2bn
Ad Valorem Excise Duties***	R1.0bn
Sugar tax	R1.0bn
Medical Tax Credit cap	R0.7bn
Estate Duty on Estates over R30 million (25% tax)****	R0.15bn

* Personal Income Tax brackets are not adjusted for inflation so any increase in your salary (even just an inflation-linked increase) could push you into a higher tax bracket.

** Excise Tax on cigarettes is up 8.5%, whilst alcoholic products will see excise tax increase by between 6% and 10%.

*** Ad Valorem rates will increase on luxury goods from a range of 5% to 7% to a range of 7% to 9%.

**** 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. Donations tax increased by 5% in line with that.

What will Government prioritise on the expenditure side?

Over the next three years:

- Basic education will receive R792 billion whilst tertiary education gets R324 billion (R57 billion for free education including R12 billion this year). This follows President Zuma's concession to the Fees Must Fall campaign.
- Health Care gets R667 billion.
- Social grants R528 billion.
- Basic services to low income households R205 billion.
- R129 billion for public transport.
- R126 billion for water infrastructure and services.

The key ratios and what they mean for us

Analysts, ratings agencies and investors look at economic ratios as part of the process in determining how a country is performing.

- Together with an improved growth outlook, the proposals will reduce the consolidated budget deficit to GDP from 4.3% in 2017/18 to 3.5% in 2020/21 – as best practice is close to 3%, this is a good trend.
- Net debt to GDP was forecast at over 60% by 2023 per the MTBS and is now expected to fall to 56.2%, also a positive indicator. Generally, this should be below 50% but this is now heading in the right direction.
- Inflation is expected to be benign for the next three years and contained within the 3% to 6% mark.
- GDP is estimated to increase by 1.5% this year, by 1,9% in 2019/20 and by 2.1% in 2020/21. As our population is growing at 1.35%, this means that real growth per capita is projected to rise in the medium term.

All of these ratios will hopefully give comfort to investors and ratings agencies. It remains to be seen how achievable they are but our new President seems to have substantial credibility.

Other important changes

- The Carbon Tax will be effective from 1 January 2019. As this is expected to be complex and will require considerable set-up time, start preparing for it now.
- Another point of interest is that government departments and parastatals are mandated to pay suppliers in 30 days – failure will result in management facing charges. That's good news for suppliers struggling to keep their cash flows positive.
- The Minister mooted several retirement reforms such as that pension and provident preservation funds will be allowed to make transfers to a retirement annuity fund (after the retirement date of an employee). This was excluded in the retirement reform proposals of 2017.

For a comprehensive guide to the 2018 Budget, there is an excellent summary by SAICA downloadable here.

What about Junk Status and investor confidence?

Moody's is the only major ratings agency not to have fully downgraded South Africa to junk status. Government's commitment to getting financial discipline back into the budgeting processes within government plus the bold decision to raise VAT will hopefully be welcome news to ratings agencies.

It should also be attractive to potential investors – something needed to grow the economy and jobs.

The bottom line

In tone, this is a Budget which builds on the rising hope the nation has experienced since our new President was sworn in. It confronts corruption head on (for example, the proposed reforms to procurement rules), tackles tax administration and declining tax morality and clearly seeks to contain expenditure, plus relaxing regulations where possible.

Above all, it was pragmatic and in increasing VAT seeks to spread the burden of tax increases. Not nearly as bad news a Budget as some feared it might be!

YOU AND BUDGET 2018: THE NEW TABLES

For ease of reference please find below -

- The new tax tables for individuals and trusts (with notes).
- The new tax tables for Small Business Corporations.

NEW INCOME TAX TABLES 2018/19 (INDIVIDUALS & SPECIAL TRUSTS)

Taxable Income	Tax
R0 - R195,850	18% of taxable income
195,851 - 305,850	R35,253 + 26% of the amount above R195,850
305,851 - 423,300	R63,853 + 31% of the amount above R305,850
423,301 - 555,600	R100,263 + 36% of the amount above R423,300
555,601 - 708,310	R147,891 + 39% of the amount above R555,600
708,311 - 1,500,000	R207,448 + 41% of the amount above R708,310
1,500,001 and above	R532,041 + 45% of the amount above R1,500,000

New rates apply from 1 March 2018. Trusts (other than special trusts) are taxed at 45%

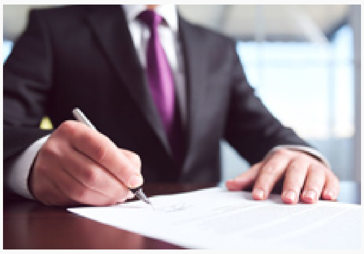
NOTES	2018/19	CHANGES FROM LAST YEAR	APPLICABLE DATES
VAT	15%	Increases by 1%	1 April
Rebates			
Persons under 65	R14,067	Increased by R432	1 March
Secondary (Persons over 65 and below 75)	R21,780	Increased by R666	1 March
Tertiary (Persons 75 and older)	R24,354	Increased by R747	1 March
Tax Thresholds			
Persons under 65	R78,150	Increased by R2,400	1 March
Secondary (Persons over 65 and below 75)	R121,000	Increased by R3,700	1 March
Tertiary (Persons 75 and older)	R135,300	Increased by R4,150	1 March
Interest Exemption			
Persons under 65	R23,800	No change	N/A
Persons 65 and older	R34,500	No change	N/A
Dividends			
Dividends Tax	20%	No change	N/A
Medical Aid Tax Credits per beneficiary			
First two beneficiaries	R310 p.m. each	Increased by R7	1 March
Third and more	R209 p.m. each	Increased by R5	1 March

Business Travel - Tax free			
Up to 12,000 kilometres per annum	R3.61 per km	Increased by 6 cents per km.	1 March
Travel Allowance			
Travel allowance still taxable at 80%	No change	No change	N/A
Logbook compulsory			
Other Taxes			
Capital Gains Tax - Individuals/Special Trusts*	18.00%	No change	N/A
Capital Gains Tax - Companies	22.4%	No change	N/A
Capital Gains Tax - Other Trusts	36.00%	No change	N/A
Fuel Levy		Increases by 22 cents a litre	4 April
Cigarettes		Increases by R1.22 per packet of 20	1 April
Wine (Unfortified)		Increases by 23 cents a 750 ml bottle	1 April
Spirits		Increases by R4.80 a 750 ml bottle	1 April
Beer		Increases by 15 cents a 340 ml bottle	1 April
Road Accident Fund		Increases by 30 cents a litre	4 April
**= Represents the maximum effective rate of Capital Gains Tax*			

SMALL BUSINESS CORPORATIONS - NEW TAX TABLE

Taxable Income	New SBC Tax Rates	Change vs Prior Year
R0 - R78,150	Nil	Band raised by R2,400
R78,151 - 365,000	7% of taxable income over R78,150	Small tax decrease
R365,001 - R550,000	R20,080 + 21% over R365,000	Small tax decrease
Over R550,001	R58,930 + 28% over R550,000	Small tax decrease
Benefits to taxpayers are marginal *Rates apply 1 April 2018 to 31 March 2019*		

MAKE SURE YOU HAVE A SHAREHOLDERS' AGREEMENT



A well-known attorney recently said he is constantly surprised by the number of shareholder disputes that could be quickly resolved if there was a shareholder agreement.

The importance of shareholder agreements

Human nature is fickle and a few years after starting a company on a handshake, things can quickly unravel. That's why shareholders should apply their minds upfront to defining the key characteristics in their relationship with fellow shareholders.

For example, if a shareholder wants to sell out after a dispute and wants a friend to acquire his shareholding, this can create many obstacles:

- What if the other shareholders want to acquire the equity?
- Who sets the price of the shares?
- What happens to the current shareholder's loan account?
- The remaining shareholders may want a different shareholder.

The chances are, in this example, that the shareholders will have to turn to the courts to resolve the situation.

A shareholder agreement should contain…

The major points a shareholder agreement should contain are:

Firstly, the roles and responsibilities of the shareholders, such as do they actively participate in the business or appoint directors.

Secondly, if one of the shareholders does want to exit or if an offer is made for the company, there should be clear processes as to how to execute this:

- How the shares are valued (normally by independent accountants).
- Whether existing shareholders get first option to buy the shares and how to allocate the shareholding if more than one shareholder wants to buy the equity.
- The time frames for all this to happen.

Thirdly, how to resolve shareholder disputes. Usually some arbitration and dispute resolution mechanisms are built in.

Fourthly, what mix of shareholder money and debt to use in the business?

There are obviously many aspects to the agreement, and the nature of the business and the relationships of the shareholders (e.g. do they know each other well?) will determine what else should be included in the agreement.

Don't forget the Memorandum of Incorporation (MOI) and the Companies Act

In terms of the "new" Companies Act, the shareholders' agreement cannot conflict with the Act or the MOI. If any clauses in the shareholders' agreement are not consistent with the Act or the MOI, they are null and void.

For example, if the shareholders want to restrict directors in incurring company debt, the Companies Act requires that this be stipulated in the MOI. This could thus lead to an expensive error as failure to insert this clause in the MOI will effectively mean that directors can borrow at their own discretion.

Take good advice when drawing up your agreement.

Bottom line: Protect yourself and draw up a shareholders' agreement – one day you will need it. When that day comes you will be very relieved to have taken the time in agreeing fundamental principles with your fellow shareholders.

YOUR TAX DEADLINES FOR MARCH, AND HOW TO UPLOAD SUPPORTING DOCUMENTS WHEN EFILING

There are only run-of-the-mill deadlines for March.

When eFiling you can upload twenty files per day as supporting documentation – these files can be no more than 2 MB each. If you have more than twenty files to upload when submitting your return, then contact SARS and they will open a new link enabling you to submit all the necessary files.
