MINISTRY OF FINANCE
REPUBLIC OF SOUTH AFRICA

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MEDIA STATEMENT

PUBLICATION OF THE 2024 DRAFT TAX BILLS AND DRAFT REGULATIONS

The National Treasury and the South African Revenue Service (SARS) today publish, for public comment, draft tax bills and draft regulations for 2024. These draft tax bills and draft Regulations contain tax proposals made in the 2024 Budget on 21 February 2024.

These are: the 2024 draft Taxation Laws Amendment Bill (2024 draft TLAB), the 2024 draft Revenue Laws Amendment Bill (2024 draft RLAB), the 2024 draft Tax Administration Laws Amendment Bill (2024 draft TALAB), draft Regulations on the method for determining the VAT liability in respect of casino table games of chance, issued in terms of section 74(2) of the Value-Added Tax Act, 1991, draft Regulations on amendments to the Carbon Offset Regulations prescribing carbon offsets in terms of section 19(c) of the Carbon Tax Act, 2019, and draft Regulations on domestic reverse charge relating to valuable metal in terms of 74(2) of the Value-Added Tax Act.

- **2024 Draft TLAB**

The 2024 draft TLAB provides the necessary legislative amendments required to implement the more complex tax announcements made in Chapter 4 and Annexure C of the 2024 Budget Review that require greater consultation with the public. Key tax proposals contained in the 2024 draft TLAB include the following:

- Curbing the abuse of the employment tax incentive scheme
- Reviewing the connected person definition in relation to partnerships
- Relaxing the assessed loss restriction rule under certain circumstances
- Reviewing the prohibition against transfers of assets to non-taxable transferees in terms of an “amalgamation transaction”
- Clarifying anti-avoidance rules dealing with third-party backed shares
- Impact of IFRS 17 on the taxation of insurers
- An investment allowance for automotive companies investing in production capacity for electric and hydrogen-powered vehicles in South Africa
- Refining the definition of “exchange item” for determining exchange differences
- Reviewing the interaction of the set-off of assessed loss rules and rules on exchange differences on foreign exchange transactions
- Retrospective amendment applicable to fuel products of heading 27.10

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- Clarifying the VAT treatment of supply of services to non-resident subsidiaries of companies based in the Republic
- Reviewing the foreign donor funded project regime
- Prescription period for input tax claims
- Aligning Schedule 1 of the Carbon Tax Act with the updated greenhouse gas emissions methodological guidelines
- Renewable energy premium deduction

Retrospective amendment applicable to fuel products of heading 27.10 under the Schedules to the Customs and Excise Act, 1964, and the Value-Added Tax Act

The 2024 draft TLAB also proposes a retrospective amendment applicable to fuel products of heading 27.10 under the Schedules to the Customs and Excise Act and the Value-Added Tax Act that was not announced in the 2024 Budget. Substantive proposals outside the Budget are exceptional and are made in response to exceptional events, such as the COVID-19 pandemic or the identification of pressing issues that pose a substantial threat to the fiscus. An example of such an issue was the argument advanced by certain multinationals and their advisers in 2004 that dividends could be declared to offshore group companies free of tax.

South Africa is a member of the World Customs Organisation (WCO) and a signatory to the Harmonised System Convention (HS) issued by the WCO. The HS is a multipurpose goods nomenclature used as the basis for customs tariffs and for the compilation of trade statistics all over the world. With the implementation of changes in terms of the HS recommended by the WCO for 2002 (HS2002), a new 6-digit tariff structure as well as a new subheading note were introduced to define “light oils and preparations” for the purposes of subheading 2710.11 (now 2710.12). When this change was made at a national level in South Africa, all the national subheadings under 27.10 were transposed to 2710.11 as light oils and preparations, irrespective of whether the oils and preparations complied with new HS subheading Note 4, which specifies a threshold for distillation. These provisions have been applied according to their obvious intent for many years.

More recently, however, a technical interpretation has been advanced by some industry members that would, if accepted, give rise to a glaring absurdity, render certain wording meaningless and pose a substantial threat to the fiscus. Essentially the interpretation advanced is that, due to the introduction of a distillation threshold in Note 4 applicable to subheading 2710.11 (now 2710.12), certain products previously classified under such subheading, including those expressly provided for

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in Additional Note 1(g), conflicted with Note 4 and ought more appropriately to have been reclassified under subheading 2710.19. A review of international practice reveals that these products are classified under subheading 2710.19. Government wishes to bring South African legislation in line with international practice and make it clear that it is not, and has never been, the intention to exclude the relevant products from fuel levies.

It is, therefore, proposed that the bulk of the products that were transposed in 2002 to 2710.11 as light oils and preparations also be transposed to subheading 2710.19 as they may have a distillation point above the threshold provided for in Note 4 applicable to 2710.11 (now 2710.12). It is further proposed that the transposition be done retrospectively from 1 January 2002, being the date this threshold for distillation was introduced at an international level.

- **2024 Draft RLAB**

The 2024 draft RLAB is aimed largely at clarifying the existing language and to simplify the directives system for both administrators and SARS to allow for an efficient implementation of the 'two-pot' retirement reform.

- **2024 Draft TALAB**

The 2024 draft TALAB provides more complex and technical legislative amendments dealing with tax administration made in Annexure C of the 2024 Budget Review, that also require greater consultation with the public. Key tax proposals contained in the 2024 draft TALAB include the following:

  - Implementing the Constitutional Court judgment regarding access to tax records
  - Simplifying the process of substituting bills of entry in certain circumstances
  - Timeframe for delivery of export bills of entry
  - Non-resident vendors with no or a limited physical presence in South Africa
  - Timing of VAT on imported services
  - Overpayments of VAT on the importation of goods and imported services
  - Expanding the provision requiring the attendance and presentation of relevant information in person to include tax recovery and debt relief processes
  - Clarifying provisions relating to original assessments where no return is required or a taxpayer voluntarily submits a return

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- Clarifying the right to appearance before the tax court by taxpayers' representatives who are not legal practitioners and the taxation of legal costs where SARS legal practitioners appear for SARS
- Reviewing of dispute resolution proceedings to improve their efficiency
- Reviewing of temporary write-off provisions
- Removing of grace period for new company to appoint a public officer

- **Draft Regulations on the method for determining the VAT liability in respect of casino table games of chance, issued in terms of section 74(2) of the Value-Added Tax Act**

The draft Regulations on determining the VAT liability in respect of casino table games of chance contain the following key proposals announced in Annexure C of the 2024 Budget Review:

- Clarification of the definition of a "casino"
- Clarification of the amount to be recognised as the "gross gaming revenue"
- Clarification of the term "table game of chance"
- Clarification on the accounting for VAT in the VAT returns in in respect of table games of chance

- **Draft Regulations on the domestic reverse charge issued in terms of section 74(2) of the Value-Added Tax Act**

The draft Regulations on domestic reverse charge contain the following key proposal announced in Annexure C of the 2024 Budget Review:

- The exclusion in paragraph (a) to the definition of "valuable metal" in regulation 1 aimed at schemes and malpractices that are being shifted to the primary gold sector.

- **Draft Regulations on Electronic Services for the purpose of the definition of "electronic services" in section 1 of the Value-Added Tax Act**

The draft Regulations on electronic services contain the following key tax proposals announced in Annexure C of the 2024 Budget Review:

- Adding a new definition of "content" and revising the definition of "telecommunications services"
- Clarification relating to supplies between group of companies

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- Providing the services supplied by a non-resident person where such supplies are made solely to vendors that are registered in the Republic

- **Draft Carbon Offset Regulations**

The draft Carbon Offset Regulations contain the following key tax proposal announced in Chapter 4 of the 2024 Budget Review:

- Increasing the threshold for eligible renewable energy projects from 15 megawatts to 30 megawatts

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 2024 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 2024 draft TLAB, 2024 draft RLAB, and 2024 draft TALAB, before their formal introduction in Parliament. It is further expected that the same will be accorded by SCoF and SeCoF to the 2024 Draft Rates and Monetary Amounts Bill, Draft Global Minimum Tax Bill and Draft Global Minimum Tax Administration Bill that were published for comment on 21 February 2024.

Thereafter, a response document on the comments received will be presented at 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 tabled formally in Parliament for its consideration. The tax bills will be tabled in Parliament later this year. For legal reasons, the 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, after National Treasury and SARS have engaged with stakeholders through public workshops to discuss the written comments, the Notices on Regulations on determining the VAT liability in respect of casino table games of chance, Regulations on domestic reverse charge relating to valuable metal in terms of 74(2) of the Value-Added Tax Act, Regulations on electronic services and Carbon Offset Regulations will be published in the Government Gazette after taking into account public comments to be received.

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The 2024 draft tax bills, the accompanying draft Explanatory Memoranda containing a comprehensive description of the proposed tax amendments contained in the 2024 draft TLAB, 2024 draft RLAB, draft TALAB, the draft Regulations on determining the VAT liability in respect of casino table games of chance, draft Regulations on domestic reverse charge, draft Regulations on electronic services and Carbon Offset Regulations can be found on the National Treasury (www.treasury.gov.za) and SARS (www.sars.gov.za) websites.

More general information underlying the changes in rates, thresholds or any other tax amendments can be found in the 2024 Budget Review, available on the National Treasury website.

Due date for public comments on the 2024 draft tax bills and draft Regulations

With respect to the 2024 RLAB published for comment on 21 February 2024 and public workshops held on 6 June 2024, National Treasury and SARS invite a second round of comments in writing on this revised 2024 draft RLAB. Please forward written comments to the National Treasury's tax policy depository at 2024AnnexCProp@treasury.gov.za and SARS at acollins@sars.gov.za by close of business on **16 August 2024.**

National Treasury and SARS invite comments in writing on the 2024 draft TLAB, 2024 draft TALAB, the draft Regulations on determining the VAT liability in respect of casino table games of chance, draft Regulations on domestic reverse charge and draft Regulations on electronic services and Carbon Offset Regulations. Please forward written comments to the National Treasury's tax policy depository at 2024AnnexCProp@treasury.gov.za and SARS at acollins@sars.gov.za by close of business on **31 August 2024.**

- **2024 Draft Taxation Laws Amendment Bill (2024 draft TLAB)**
- **2024 Draft Revenue Laws Amendment Bill (2024 draft RLAB)**
- **2024 Draft Tax Administration Laws Amendment Bill (2024 draft TALAB)**
- **Draft Regulations on the method for determining the VAT liability in respect of casino table games of chance, issued in terms of section 74(2) of the Value-Added Tax Act, 1991,**
- **Draft Regulations on the domestic reverse charge issued in terms of section 74(2) of the Value-Added Tax Act, 1991**
- **Draft Regulations on Electronic Services for the purpose of the definition of "electronic services" in section 1 of the Value-Added Tax Act**

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- **Draft Regulations on amendments to the Carbon Offset Regulations prescribing carbon offsets in terms of section 19(c) of the Carbon Tax Act, 2019**

Issued by Ministry of Finance
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