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2024 Tax Amendments

Deloitte updated commentary on the 2024 Tax Amendments

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Income Tax Amendments

2024 Income Tax Amendment Act

Tabling and effective date

On the 6th of August 2024, the Minister of Finance and Public Enterprise introduced the 2024 Income Tax Amendment Bill in parliament. The 2024 Amendment Bill passed through Parliament during August and the Amendment Act was gazetted on 16 September 2024.

The Income Tax Amendment Act deals with the following changes:

- Substitute references to South African Rand to Namibia Dollar
- Abolishing the exemption of non-resident shareholder's tax on dividends for short-term and long-term insurance companies
- Non-mining corporate tax rate changes
- Individual tax rate changes
- Additional allowance in respect of internship programmes
- Limitation of the carry forward of tax losses
- Replacement of the 3:1 thin capitalisation provisions

Budget proposals that are not included in the Income Tax Amendment Act:

- Local dividend withholding tax
- Introduction of a Special Economic Zones (SEZ) regime
- Tax rate for SMEs
- Allowances to address urban decay and to maintain existing infrastructure within the inner cities

Replacing Rand with Namibia Dollar

- Throughout the Income Tax Act, all references to South African Rand has been replaced with Namibia Dollar.
- The change is effective from 16 September 2024

Dividends declared by long-term and short-term insurance companies

- The exemption from the payment of non-resident shareholder's tax on dividends declared and paid by Namibian short-term and long-term insurance companies to foreign shareholders have been abolished.
- Any dividends paid to a non-resident shareholder by a Namibian short-term or long-term insurance company will be subject to dividend withholding tax from 1 January 2024.
- The applicable rate is 10% where the foreign shareholding is more than 25%. Where the foreign shareholding is less than 25% the applicable rate is 20%. These rate may reduce if the foreign shareholder is tax resident in a treaty country.
- The Amendment Act is silent on how dividends that have been paid already need to be treated.

2024 Income Tax Amendment Act

Non-mining corporate tax rate

- The non-mining corporate tax rate will change from 32% to 31% and from 31% to 30%.
- Although the amendment relating to the effective date has not been worded as we are used to, the current rate reduces to 31% for tax years commencing on or after 1 January 2024.
- The rate further reduces to 30% for tax years commencing on or after 1 January 2025.

Individual tax rates

- The individual income tax threshold will increase from the current N$50 000 to N$100 000.
- The effective date is 1 March 2024, and the rates are therefore retrospectively applicable.
- The Minister of Finance issued a General Notice explaining how the retrospective application of the individual tax rates need to be treated. We deal with this later in this document.

Tax rate applicable until 28 February 2024

Taxable income	Rate of tax
N$ 0 - N$ 50 000	Not taxable
N$ 50 001 - N$ 100 000	N$ 0 + 18%
N$ 100 001 - N$ 300 000	N$ 9 000 + 25%
N$ 300 001 - N$ 500 000	N$ 59 000 + 28%
N$ 500 001 - N$ 800 000	N$ 115 000 + 30%
N$ 800 001 - N$ 1 500 000	N$ 205 000 + 32%
Over N$ 1 500 001	N$ 429 000 + 37%

Tax rates applicable from 1 March 2024

Taxable income	Rate of tax
N$ 0 - N$ 100 000	Not taxable
N$ 100 001 - N$ 150 000	N$ 0 + 18%
N$ 150 001 - N$ 350 000	N$ 9 000 + 25%
N$ 350 001 - N$ 550 000	N$ 59 000 + 28%
N$ 550 001 - N$ 850 000	N$ 115 000 + 30%
N$ 850 001 - N$ 1550 000	N$ 205 000 + 32%
N$ 1 550 000 +	N$ 429 000 + 37%

2024 Income Tax Amendment Act

General notice relating to retrospective individual rates

- The Minister of Finance issued a General Notice in terms of various provisions in the Income Tax Act stating how employers need to deal with the new tax tables and their retrospective effect.
- Employers are directed to retrospectively adjust PAYE deducted from employee's salaries and make the adjustment as soon as possible after the amendment has been gazetted.
- Employers need to reimburse any over deduction of PAYE to employees. Employers must deduct the reimbursed PAYE from the monthly employee's tax to be paid to NamRA.
- Where employers do not have sufficient PAYE payable to NamRA for the full population of its employees, employees will have to claim a refund when they submit their 2025 tax returns to NamRA.
- Where an employee has left the employment of a particular employer, that employee will have to claim a refund when the employee submits his/her 2025 tax return to NamRA.
- The aim of the directive is to ensure that the tax deductible and remitted to NamRA are equal to the tax that is due per the revised tax rates.

General notice relating to retrospective individual rates (cont.)

- The retrospective application of the tax rates means that the first ETX submission after the publication of the gazette, will include negative PAYE amounts for some employees.

Youth internship allowance

- A youth internship allowance has been introduced and is effective for corporate taxpayers from 1 January 2024 and for individuals from 1 March 2024.
- In addition to the actual internship costs that are deductible in terms of the Income Tax Act, an internship allowance shall be deductible from the income of the employer provided that a registered internship agreement was in place during the year of assessment.
- An internship agreement must be entered into between an employer and an intern, and the agreement must be certified by a designated authority. The designated authority will be an institution designated by the Minister of Finance and the designation will be made public in a Government Gazette. Although the allowance is applicable from 1 January 2024 (for corporates employers) and 1 March 2024 (for individual employers), the designated authority has not been made public in a gazette yet.

Youth internship allowance (cont.)

- Where the internship agreement is for a period less than 12 months during the year of assessment, the internship allowance must be apportioned to the number of months that the intern was employed under the internship agreement.

- An internship allowance may not be claimed by an employer for more than 36 months of internship.

Youth internship allowance (cont.)

- The internship allowance formula is:

  (A/B) x C – C

  Where;

  "A" is 50% of the amount represented by "C";
  "B" is the corporate tax rate %; and
  "C" is the actual cost incurred per annum or N$50 000, whichever is the lesser.

- We expect a change to the formula to change "A" to 50%; i.e. the "of the amount represented by C" will be removed.

- If the change is made the allowance will be calculated as follows: say the costs relating to an internship is N$ 80 000 in a corporate taxpayer's 2025 tax year, the employer will deduct N$ 80 000 plus an additional amount of:

  50% / 30% = 1.67 x N$ 50 000 – N$ 50 000 = N$ 33 333

2024 Income Tax Amendment Act

Limitation to the carrying forward of tax losses

- For tax years commencing on or after 1 January 2024, certain limitations in the carry forward of tax losses are applicable. These limitations are not applicable for individual taxpayers where the ring-fencing provisions apply.
- The limitations include the following:

- For all corporate taxpayers other than mining companies, accumulated assessed losses should not exceed N$1 million or 80% of taxable income for a particular year whichever is the greater. This effectively means that any taxpayer (excluding mining companies) that has taxable income of more than N$ 1 million in a particular tax year, may only utilise 80% its accumulated tax loss in that year and will have to pay tax on 20% of the taxable income.
- Where the taxable income is N$ 1 million or less the full accumulated tax loss may be utilised.
- For mining companies, the same will apply but the taxable income needs to be determined before the deduction of mining capital allowances.

Limitation to the carry forward of tax losses (cont.)

- Furthermore, for companies other than mining, petroleum and green hydrogen, accumulated tax losses may only be carried forward for a period of five years.
- For mining, petroleum and green hydrogen, accumulated tax losses may be carried forward for a period of ten years.
- We understand that some changes may still be made to these provisions and that consultations with the Ministry of Finance are underway.
- It is also worth noting that green hydrogen has not been defined in the Income Tax Amendment Act. The lack of a definition could raise several questions and uncertainties.
- We also understand that the reference to petroleum will be removed from the Amendment Act as the petroleum industry (at least the upstream petroleum industry) has a separate taxation act that deals with the carrying forward of tax losses.

2024 Income Tax Amendment Act

Limitation to the carrying forward of tax losses (cont.)

- As the amendment is only effective for tax years commencing on or after 1 January 2024, any accumulated tax losses up to the 2023 tax year may be utilised as described and carried forward as set out earlier. In other words, the counting of the number of years that tax losses may be carried forward will only start for tax years commencing on or after 1 January 2024.

- The limitation on the number of years that tax losses may be carried forward will mean that, in future, taxpayers will have to keep track of when tax losses were incurred.

Thin capitalisation changes

- The 3:1 thin capitalisation provision has been replaced with a limitation of the deduction of net interest by a Namibian taxpayer who received financial assistance from a connected person or where the financial assistance is guaranteed by a connected person. The changes is applicable from 1 January 2024. Clarification is required whether the new rule also applies to financial assistance from a Namibian resident connected person.

- A definition of connected person has been introduced into the Income Tax Act and essentially includes every person that has control over another person. A very detailed and wide definition of "control over another person" has been introduced.

Thin capitalisation changes (cont.)

- In terms of the new rule, a Namibian taxpayer may only deduct net interest expenses equal to 30% of it's Tax EBITDA where the interest is payable on financial assistance provided by a connected person.

- The new provision only applies where the net interest expense exceeds N$ 3 million.

- The amount above the 30% may be carried forward and will be available for a deduction in the next tax year. However, the carry forward is limited to five years for entities that are not involved in mining, petroleum or green hydrogen industries. For mining, petroleum and green hydrogen, the net interest expense may only be carried forward for ten years.

- The definition of net interest expense is fairly wide and includes *inter alia* interest in all forms of debt, raising expenses, guarantee fees, arrangement fees and any payment economically equivalent to interest.

- Tax EBITDA is defined as taxable income before net interest expense, tax, tax deprecation (all allowances deductible in terms of section 17 and 36 – we assume this refers to capital allowances) and tax amortisation (all deduction in terms of section 17).

Value-Added Tax Amendments

2024 VAT Amendment Act

Tabling and effective date

On the 6th of August 2024, the Minister of Finance and Public Enterprise introduced the 2024 VAT Amendment Bill in parliament. The 2024 VAT Amendment Bill passed through Parliament during August 2024 and the VAT Amendment Act was gazetted on 16 September 2024. The Amendment Act is however not effective yet. The effective date will be confirmed in a separate gazette in due course.

The VAT Amendment Act deals with the following changes:

- Substitute of Permanent Secretary with Executive Director
- Timing of payment of imported services
- Registration threshold changes
- Changes to interest rates where amounts are owing by taxpayers to NamRA and amounts owing by NamRA to taxpayers

Budget proposals that are not included in the VAT Amendment Act:

- E-invoicing
- VAT treatment of unlisted asset managers

Replacing PS with Executive Director

- Throughout the VAT Act, all references to Permanent Secretary will be replaced with Executive Director.
- The change will be effective from a date determined by the Minister of Finance. The effective date has not been set as yet. We expect the effective date to be included when the VAT Amendment Act is gazetted.

Timing of payment of import VAT on services

- The current provision that deals with the timing of when import VAT on services are due and payable to NamRA is impractical. The Amendment Act seeks to address the problem.
- The new timing provision effectively states that import VAT on services must be paid to NamRA by the 20th of the month after the payment was made to the supplier.
- The effective date of the new provision will be published in the Government Gazette.
- Import VAT on services is only applicable where the recipient of the services makes exempt supplies.

2024 VAT Amendment Act

Registration threshold

- From a date to be determined by the Minister, the compulsory registration threshold will change from the current N$ 500 000 to N$ 1 million.

Tax invoice

- From a date to be determined by the Minister, a VAT registered person does not need to have a full tax invoice for any purchases below N$ 1 000. Previously a VAT registered person needed to have a valid tax invoice for all purchases above N$ 100.

Interest on tax debts owing to NamRA

- In terms of the current provisions, any outstanding debt attracts compounded interest of 20% per annum.
- In future, outstanding debts will attract compounded interest at the applicable prime lending rate as announced by the Bank of Namibia.
- The Minister needs to publish any changes to the prime lending rate within 30 days after the announcement by the Bank of Namibia and the new rate will be applicable from the first day of the second month after the date of the Gazette in which the change was published.

Interest on tax refunds owing by NamRA

- In terms of the current provisions, refunds are subject to interest of 11% per annum provided the relevant refund criteria was met.
- In future, refunds will be subject to simple interest at the applicable repo rate as announced by the Bank of Namibia, provided the relevant refund criteria was met.
- The Minister needs to publish any changes to the applicable repo rate within 30 days after the announcement by the Bank of Namibia and the new rate will be applicable from the first day of the second month after the date of the Gazette in which the change was announced.

Transfer Duty Amendments

2024 Transfer Duty Amendment Act

Tabling and effective date

On the 6th of August 2024, the Minister of Finance and Public Enterprise introduced the 2024 Transfer Duty Amendment Bill in parliament. The 2024 Transfer Duty Amendment Bill passed through Parliament during August 2024 and the Amendment Act was gazetted on 16 September 2024. The Transfer Duty Amendment Act is however not effective yet. The effective date will be confirmed in a separate gazette in due course.

The Transfer Duty Amendment Act deals with the following changes:
- Substitute of Permanent Secretary with Executive Director
- Companies/ Close Corporations selling shares/ membership interest
- Rate changes

Replacing PS with Executive Director

- Throughout the Transfer Duty Amendment Act, all references to Permanent Secretary will be replaced with Executive Director.

- The change will be effective from a date determined by the Minister of Finance.   The effective date has not been set as yet. We expect the effective date to be included when the Transfer Duty Amendment Act is gazetted.

Sale of shares or membership interest

- In future the sale of any shares in a company or membership interest in a close corporation that owns residential property will be subject to transfer duties. The new provisions also refers to trusts and seem to include transactions relating to residential property where the property is owned by a trust. However, the wording relating to trust lacks clarity and understanding of the legal nature of a trust.

- The Amendment Act also does not address situations where a company or a close corporation owns assets other than residential property. There is therefore a questions as to whether the purchase price for such transactions needs to be apportioned and if so, how that apportionment should be done.

2024 Transfer Duty Amendment Act

Sale of shares or membership interest (cont.)

- Residential property is a defined terms and includes:
- any dwelling house, holiday home, apartment or similar abode and any real right thereto; and
- an improved or unimproved land zoned for residential use in Namibia and any real right thereto.

- Residential property excludes an apartment complex, hotel, guesthouse or similar structure consisting of five or more units which is being rented to five or more persons who are connected persons. The exclusions is not well worded and it is not entirely clear what is meant to be excluded.

Rate changes

- The new rates that will be applicable from a date as set out in the Government Gazette will be:

Value		**Transfer duty rate**
N$ 0 - N$ 1 100 000		N$nil
N$ 1 100 000 - N$ 1 580 000		1% of amount above N$ 1 100 000
N$ 1 580 000 - N$ 3 150 000		N$ 4 800 + 5%
N$ 3 150 000 - N$ 12 100 000		N$83 300 + 8%
N$ 12 100 000 +		N$ 799 000 + 11%

Stamp Duty Amendments

2024 Stamp Duty Amendment Act

Tabling and effective date

On the 6th of August 2024, the Minister of Finance and Public Enterprise introduced the 2024 Stamp Duty Amendment Bill in parliament. The 2024 Stamp Duty Amendment Bill passed through Parliament during August 2024 and the Amendment Act was gazetted on 16 September 2024. The Amendment Act is however not effective yet. The effective date will be confirmed in a separate gazette in due course.

The Stamp Duty Amendment Act deals with the following changes:

- Substitute of Permanent Secretary with Executive Director
- Substitute of Rand with Namibia Dollar
- Expansion of electronic stamping
- Rate changes

Replacing PS with Executive Director

- Throughout the Stamp Duty Amendment Act, all references to Permanent Secretary will be replaced with Executive Director.

- The change will be effective from a date determined by the Minister of Finance. The effective date has not been set as yet. We expect the effective date to be included when the Stamp Duty Amendment Act is gazetted.

Replacing Rand with Namibia Dollar

- Throughout the Stamp Duty Act, all references to South African Rand has been replaced with Namibia Dollar.

- The change will be effective from a date determined by the Minister of Finance. The effective date has not been set as yet. We expect the effective date to be included when the Stamp Duty Amendment Act is gazetted.

Expansion of the use of electronic stamps

- The use of electronic stamps have been expanded and, in future, payment of stamp duties or penalties may be made via a mark embossed or impressed per electronic means.

2024 Stamp Duty Amendment Act

Rate changes

- Stamp duties applicable in respect of the purchase of property by a natural person will change to:

  - where the value or consideration does not exceed N$1 100 000 – nil
  - where the value or consideration exceeds N$1 100 000, N$ 10 for every N$1 000 or part thereof of the value or consideration that exceeds N$1 100 000

- The change will apply from a date to be announced by the Minister in a Government Gazette.

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