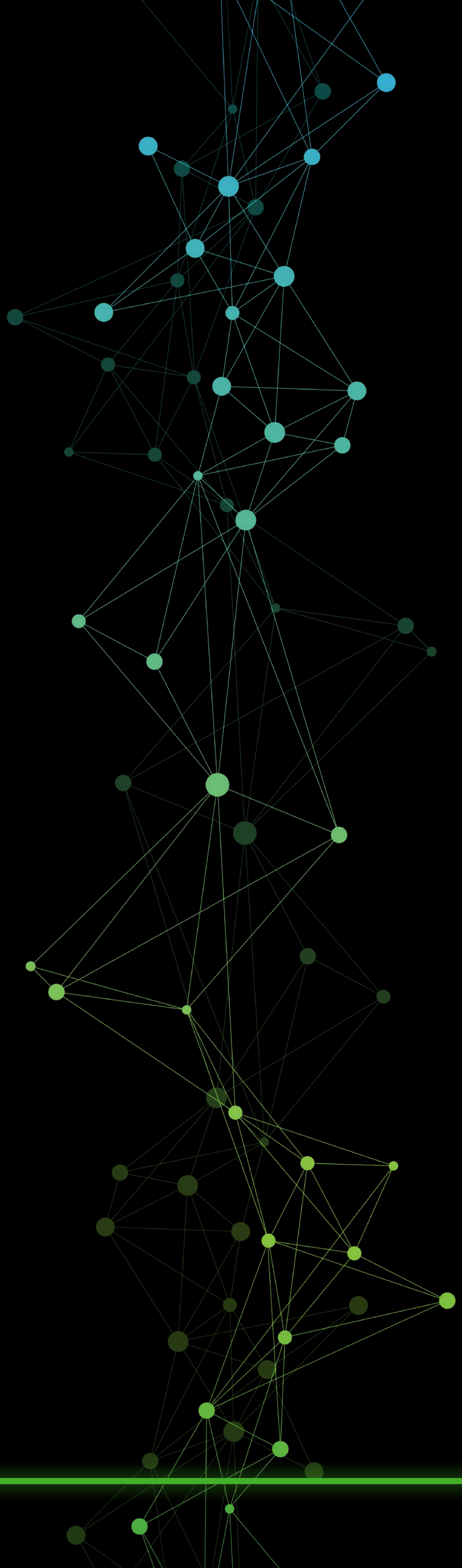
Deloitte.

Redefining Resilience: Navigating an economic path to prosperity in South Africa

Deloitte commentary on South Africa Budget 2024/25

MAKING AN IMPACT THAT MATTERS since 1845



> *"Given our difficult past, and some of the inevitable challenges we have faced as a young democracy trying to find its place in a world marked by a number of new and overlapping crises, it would be easy to indulge in extremes; either of blind optimism or crippling pessimism. We should resist both these extremes."*

Minister of Finance
Mr Enoch Godongwana, 21 February 2024

Contents

01 Foreword 4

02 Economic outlook 6

03 Tax policy proposals 10

Overview 11

Individuals 11

Corporate tax 11

Tax incentives 13

Pillar Two-Global minimum taxes 14

Trusts 14

Value-Added Tax (VAT) 14

Customs and excise duty 15

Carbon tax 15

Other 16

Tax administration 16

Tax research and reviews 17

04 Contacts 18

For more information, contact your nearest Deloitte tax office 19

Editorial team 19

Click on the titles to navigate

Foreword

Foreword

Redefining Resilience: Navigating an economic path to prosperity in South Africa

Itireleng Kubeka
Managing Director,
Deloitte Africa Tax & Legal

Finance Minister Enoch Godongwana pulled the proverbial rabbit out of the hat in his Budget Speech, announcing that the government would dip into the country's gold and currency reserve funds. This move is meant to alleviate the pressure on the National Treasury, which has to contend with increasing debt service costs and pressures on spending.

Held at the reserve bank, the Gold and Foreign Exchange Contingency Reserve Account (GFECRA), worth R500 billion, captures losses and profits on foreign currency movements and essentially protects the South African Reserve Bank (SARB) against currency market volatility. The plan is to draw down R150 billion over three years, but this will need a formal agreement with the SARB and legislation to be amended in Parliament to ensure sufficient solvency buffers are in place.

Minister Godongwana said the government will use these funds to reduce borrowing and, consequently, the growth in debt-service costs. However, the concern is that dipping into the gold and currency reserve is a once off windfall but does not address the major issues of economic growth and spending efficiency.

The consolidated budget deficit is projected to improve from 4.9% of GDP in 2023/24 to 3.3% of GDP by 2026/27.

National Treasury acknowledges that South Africa's government gross loan debt as a percentage of GDP is at an all-time high. Gross loan debt has grown from R1.58 trillion in 2013/14 to R5.21 trillion in 2023/24.

As mentioned in the full Budget Review, “debt-service costs now consume one of every five rands of government revenue.” This is a startling statistic and clearly shows the pressure government is under to collect revenue and ensure spending efficiency.

The economic outlook provides scant comfort. South Africa's 2023 GDP growth estimate has been revised down to 0.6% for a variety of reasons listed, including loadshedding, logistics issues and high living costs. The outlook is a little better in the medium term, with an average growth of 1.6% forecast, compared with 1.4% at the time of the 2023 Medium-Term Budget Policy Statement (MTBPS).

According to National Treasury, GDP growth has averaged at only 0.8% since 2012, which needs to be significantly improved in order to address high levels of unemployment and poverty. Achieving an average of 1.6% growth in the medium term, although double this past average, is arguably not sufficient to turn the tide.

It was comforting to see that some of our tax predictions were accurate, given that this was an election year budget, which often comes with surprises.

Corporations will note that South Africa will implement a global minimum corporate tax, with multinational corporations subject to an effective tax rate of at least 15%, regardless of where their profits are located. This is in response to the Organisation for Economic Cooperation and Development’s (OECD) Pillar Two framework which was developed to avoid a "race to the bottom" by countries that seek to enhance the competitiveness of their tax system. There are over 135 countries that have signed up to these rules, of which South Africa is one.

In the MTBPS, the Finance Minister mentioned raising R15 billion in additional taxes. This is mainly coming from not adjusting the personal tax rates or medical aid credits for inflation which is in line with our predictions.

Although fuel levies will not be increased, the carbon tax rates will be increased. Therefore, the fuel price will still be affected as this includes a portion for carbon taxes.

There is no surprise that sin taxes will be increased.

It’s encouraging to see that producers of electric or hydrogen powered vehicles in South Africa will be able to claim 150% of qualifying investment spending as an incentive to aid the transition to new energy vehicles. However, in reality for this to be achieved, government needs to address the challenges facing car manufacturers such as load shedding, port congestion and other logistical challenges. In this respect, the budget mentions a number of steps to help address these challenges, but proof of success will be in execution.

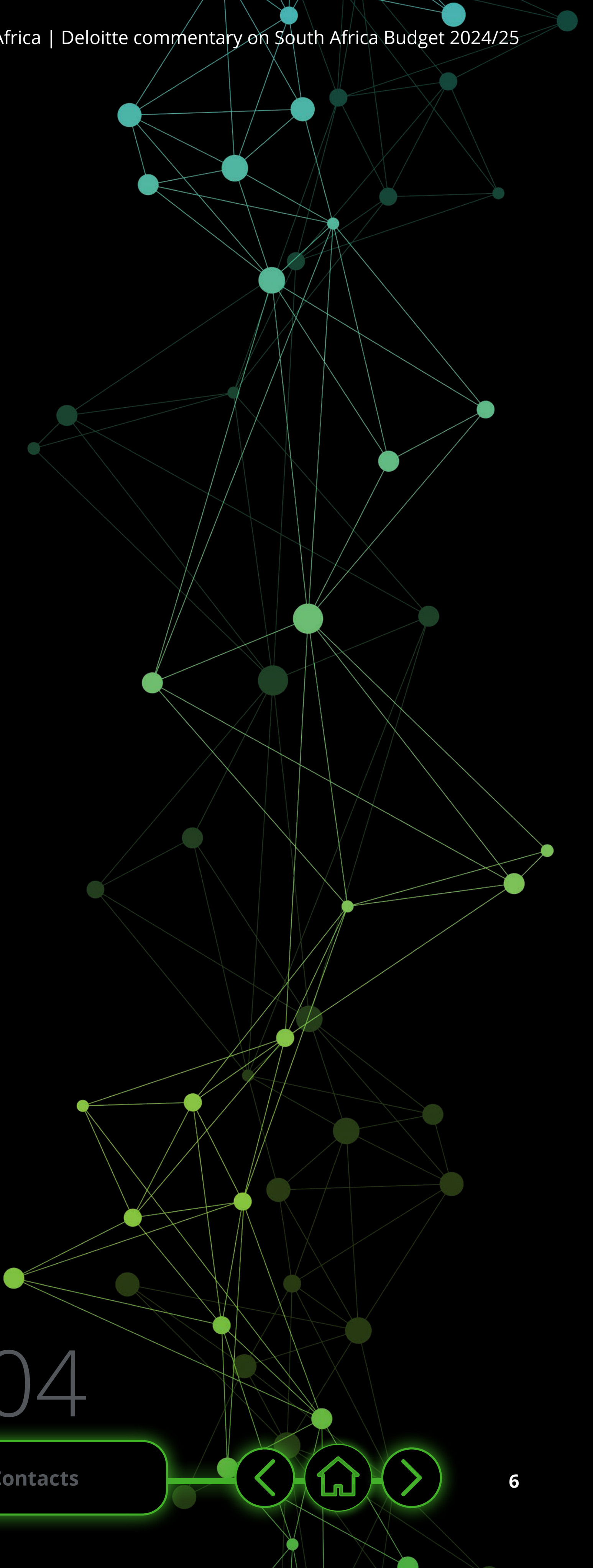
As a positive, the almost 20% increase in carbon taxes shows government's commitment to aligning our carbon pricing to global norms and encourage the greening of our economy.

What is missing, is detail on how structural reforms will be accelerated. If that does not happen, the government will end up tinkering around the margins without changing the structure of the economy and the fiscal framework itself. We appreciate that speeding up reforms is not something the Finance Minister can do on his own.

We now await further clarity from the economics cluster on what will be done to ignite the rate of economic growth and inclusion.

Overall, the budget does not give much relief to taxpayers and with high debt to GDP and slow growth rates, we need to redefine resilience. We are known to be a resilient people, but this is calling us to dig deeper to determine how we can come together as a country. As government opens up sectors to more private investment, there is hope that corporates will be able to provide the impetus to bolster the economy.

Economic outlook



Economic outlook

Addressing South Africa's economic growth challenge: A pie that is not growing

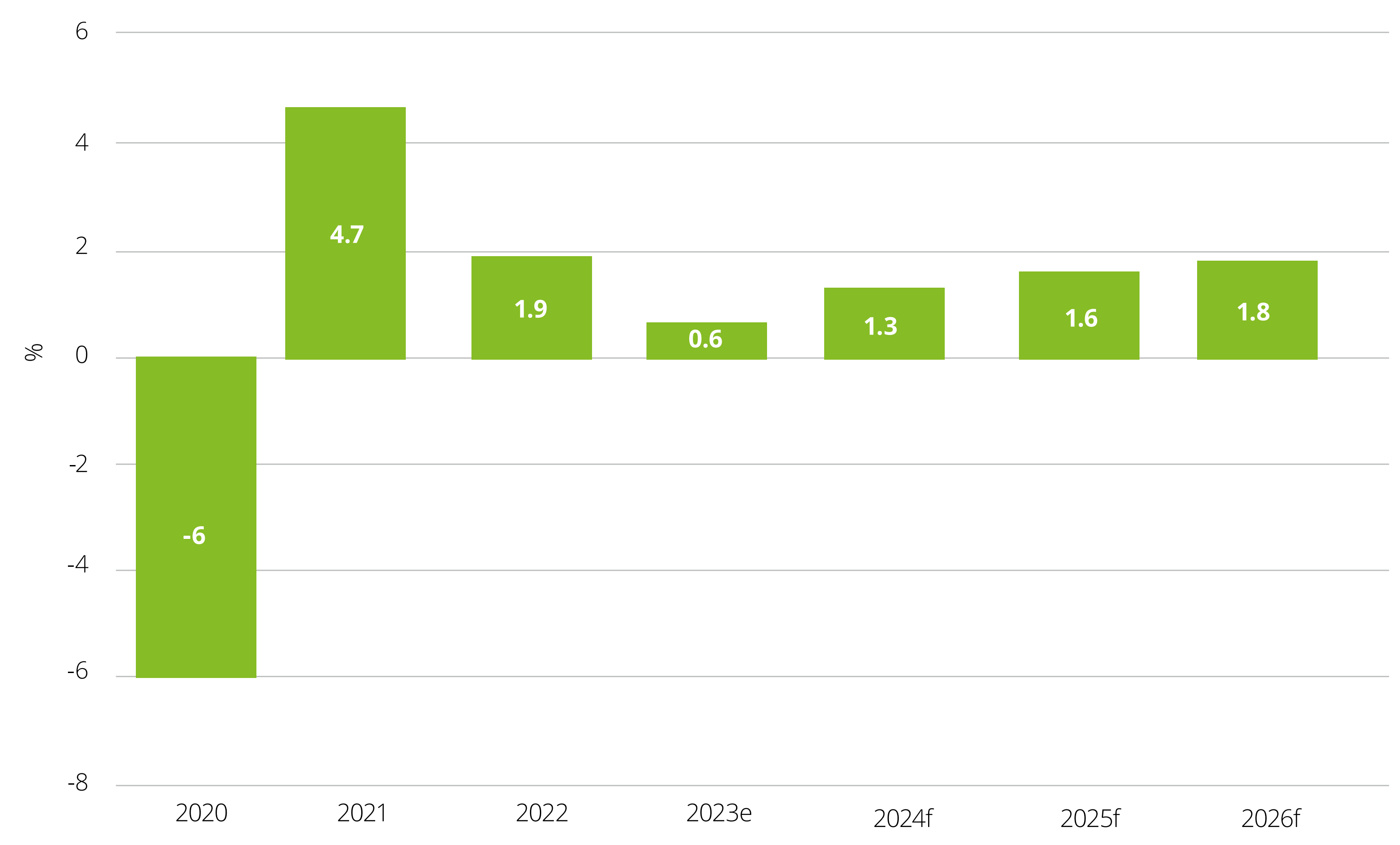
South Africa has experienced a growth slump over the past decade or so. According to National Treasury, economic growth averaged only 0.8% per annum since 2012 – a rate well below the 2030 National Development Plan target, and a rate that far falls short of addressing the socio-economic challenges of high unemployment and poverty that the country continues to struggle with. As noted by Finance Minister Enoch Godongwana: "the size of the pie is not growing fast enough to meet our developmental needs".

Key supply-side constraints to growth, ranging from energy shortages (2023 was the worst year of loadshedding on record) to operational challenges at ports and rail ineffectiveness, have dragged on the economy's growth potential in 2023, and will likely continue to do so in the near term.

Together with high inflation, high borrowing costs, low business sentiment, flat investment (especially in infrastructure), moderate net exports due to lower commodity prices (and power and freight constraints), and a cost of living crisis which has moderated household consumptions, this has put the brakes on growth, and so too pressure on the fiscus.

Given the above, National Treasury estimates that real GDP growth expanded by 0.6% in 2023, down from its MTBPS 2023 estimate of 0.8% for that year. It has also revised its outlook for 2024 through to 2026, with the backdrop of a marginally better global growth outlook over the 2024-25 period as per the International Monetary Fund (IMF), as well as raised expectations that advanced economies will start cutting rates this year given the expected pace of disinflation in these economies.

Figure 1. Real GDP growth and projections, % (2020-2026f)



Source: National Treasury, 2024

National Treasury thus expects real GDP growth to average 1.6% per annum over the 2024-2026 period, with growth in 2024 expected at 1.3% and 1.6% the year after, as new energy capacity comes online, inflation moderates and lending rate cuts help bolster disposable income and boost household spending and credit extension; and as various reforms, such as those in the energy sector help boost sentiment among business, and fixed investment. This compares to a 1% and 1.3% growth rate as penciled in by the IMF for South Africa in 2024 and 2025, respectively.

However, as emphasised by the minister, the size of the pie is not growing fast enough – not fast enough to increase revenue receipts that fund the fiscus, and not fast enough to meet developmental needs as debt-service costs continue to crowd out other expenditure.

While a primary budget surplus is still expected in 2023/24, gross tax revenue for that year is expected to be R1.73 trillion (R56.1 billion lower than expected in the 2023 Budget). The consolidated budget deficit is expected to increase to 4.9% of GDP in 2023/24 compared to the 4% expected a year ago, largely on account of lower tax receipts from the corporate sector, and specifically less revenue from the mining industry.

As National Treasury continues on its path of fiscal consolidation, the budget deficit is expected reduce to 4.5% of GDP in 2024/25, and to 3.3% of GDP in 2026/27. This is due to tax revenue projections that have been revised upwards over the medium term, and expenditure revisions, with non-interest expenditure somewhat lower over the medium-term expenditure framework period. Still, the largest components (excluding the costs of servicing debt) of expenditure are expected to be basic education, social protection and health.

Yet, debt-service costs continue to be the fastest-growing expenditure item and have been revised to R356.1 billion in 2023/24 and to R382.2 billion in 2024/25. More than 20% of revenue is being spent on servicing debt, making this line item larger than spending on health or economic development.

To tackle this, and with its aims to stick to the MTBPS 2023 outlined fiscal strategy and goals, one key announcement by the minister is the reform of the Gold and Foreign Exchange Contingency Reserve Account (GFECRA). Treasury will use some of these funds to help bridge the shortfall in revenues, as well as help offset potential tax rate hikes and spending cuts. The reform of the GFECRA – an account held at the Reserve Bank and which has grown to over R500 billion due to rand depreciation over recent years – will see government draw on R150 billion of its value in three tranches, and thus help reduce borrowing and debt service cost growth over the next three years. In this light, it is expected to help to preserve the social wage, with 60% of non-interest spending being directed towards this, while also creating space to preserve capital spending.

While this first requires to be formalised through legislation, and the right governance frameworks, it will be a temporary fix and only really a fraction of the more than R5.2 trillion 2023/24 gross debt of South Africa. Nevertheless, this will help stabilise borrowing requirements, debt-service costs and also the debt-to-GDP ratio. Debt-to-GDP in the 2023 MTBPS was expected peak at 77.7% in 2025/26; but now is expected to stabilise at 75.3% that same year.

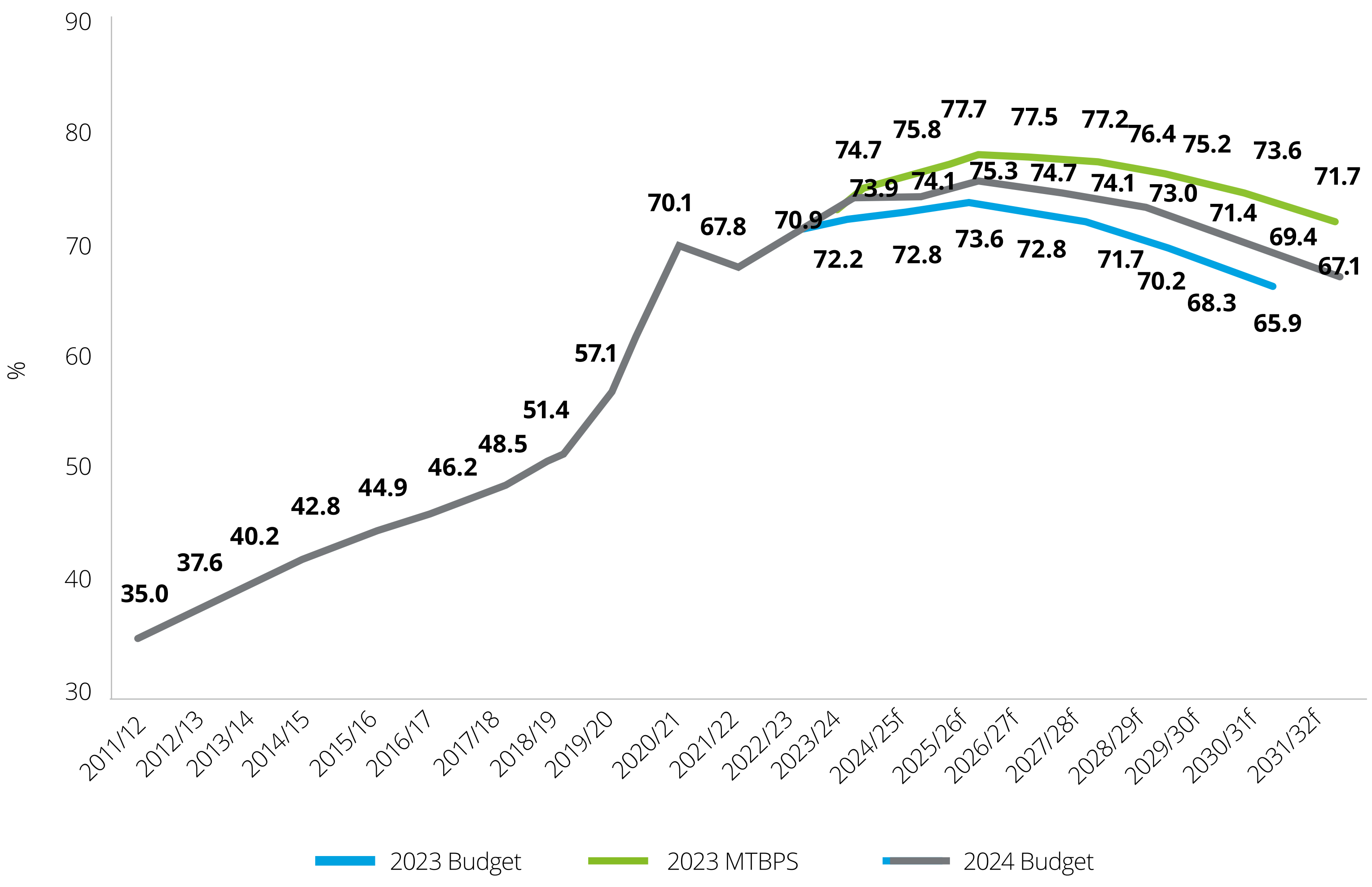
This means that the worrisome trend in South Africa's debt trajectory that took place in the decade prior to the COVID-19 pandemic is on course to slowly reverse, and with the proposal of binding fiscal anchors being established in the coming year – anticipated to assist to ensure future debt sustainability – this will reduce the likelihood of re-emerging, permanent fiscal imbalances in future.

While there is no silver bullet solution that National Treasury can table to address South Africa's economic growth crisis, maintaining a fiscal policy stance that prioritises macroeconomic stability and stabilises debt remains important to help unlock growth and free up developmental spending. Another key priority remains a focus on the value of money from government spending by enhancing the quality of spending, minimising inefficiencies, and improving the capacity of the state.

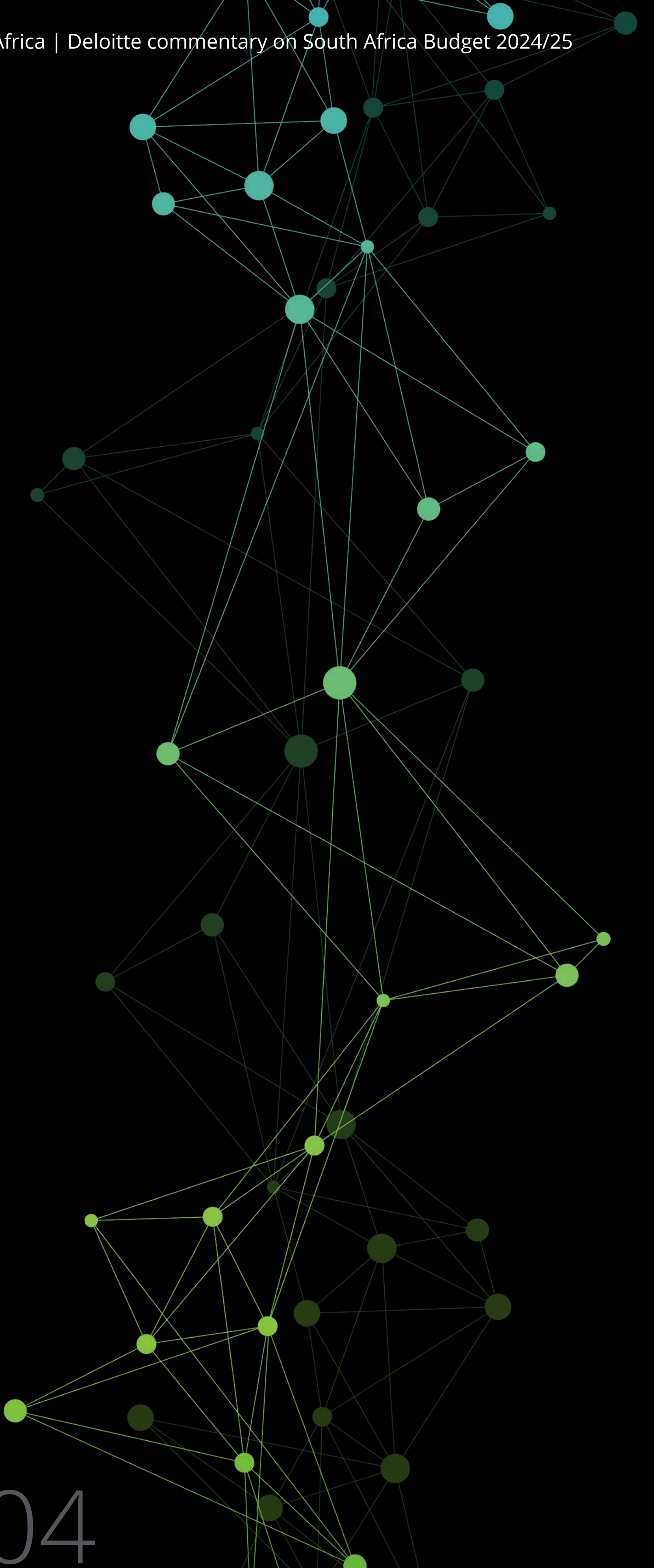
One of the most significant focus areas for National Treasury to support economic growth, as indicated in the MTBPS 2023, will be investment in infrastructure to stimulate economic growth. While the minister announced R943 billion in infrastructure investment by Government over the next three years, much greater capital investment will be required, not just through delivery by the public sector, but with the intend of crowding in the private sector via public-private partnerships, while enhancing the quantity and quality of infrastructure delivery by government. With the bulk of the outlined medium-term investment noted to be in the energy, freight and logistics, and water sectors, and with more than half of this expected to be delivered by relevant state-owned enterprises, this also requires that speedy reforms and turnaround plans at relevant state-owned enterprises and in the sectors they operate are implemented, to attract private participation, improve business sentiment, and unlock private investment. While Treasury acknowledges that Eskom and Transnet are implementing reforms as per their respective debt-relief and guarantee framework agreements, challenges facing these entities remain.

As it will take time to reverse the operational challenges at these and other state-owned enterprises, and as structural reforms, although slow, are rolled out to try and help overcome binding constraints to growth in the medium term, South Africa is likely to continue to see another year of slow growth. Treasury realises there is no quick fix for the economy and continue to help putting the building blocks in place. Now it is a matter of implementation and perseverance.

Figure 2. Gross debt-to-GDP ratio, % (2011/12-2031/21)



National Treasury, 2024



Tax policy proposals

Tax policy proposals

Overview

- Tax revenue for 2023/24 is expected to amount to R1.73 trillion, which is R56.1 billion less than expected in the 2023 Budget.
- Revenue from both corporate income tax and value-added-tax (VAT) is expected to remain subdued due to low profitability in many sectors with corporate tax collections contracting by roughly 14% over the first 10 months of 2023/24 relative to the same period in the previous year. Although recent personal income tax collections have surpassed expectations, it's been acknowledged that further rate increases could threaten economic growth and prompt negative taxpayer behaviours.
- The tax-to-GDP ratio is expected to reach 25.3% by 2026/27. Gross tax revenue collections are expected to increase by 7.6%, 6.9% and 7.1% over the next three years. It has been acknowledged that greater tax revenues cannot be achieved through increased tax rates and that a broadening of the tax base should instead be achieved through sustained investment and economic growth, supported by continued improvements in tax administration.
- Due to the above, no significant tax increases have been proposed in personal income tax, corporate income tax or VAT, which together comprise approximately 80% of budgeted tax revenues. Tax increases of R15 billion in 2024/25 is primarily attributable to personal income tax brackets and medical tax credits not being adjusted for inflation. There are also above-inflationary increases in excise duties on alcohol. Perhaps the most significant development is the proposed introduction of global minimum tax for multinational enterprises with consolidated revenues of €750 million or more. These and other tax policy proposals are considered in further detail in this commentary.

Individuals

Personal tax

- Tax measures will raise R15 billion in 2024/25 to alleviate immediate fiscal pressure and support faster debt stabilisation. To ensure this revenue can be raised reliably, the most stable and resilient tax base, personal income tax, will contribute most of this revenue by not adjusting the tax brackets, rebates and medical tax credit for inflation.

Two-pot retirement system reform

- Effective 1 September 2024, contributions to retirement funds will be split, with one-third going into a “savings component” and two-thirds going into a “retirement component”.
- Contributions remain tax deductible and tax free while invested in the fund.
- Retirement fund members will be allowed to withdraw amounts from the savings component before retirement, while the retirement component will remain protected.
- Savings accumulated up to the date of implementation will not be affected, except for the initial seed capital amount. This amount will be the lower of 10% of the fund value on 31 August 2024 or R30 000 and will be transferred from accumulated retirement savings to the savings component to assist fund members who may prefer an immediate withdrawal. This seeding will be a once -off event. If not used, it will still be available in the future.
- Pre-retirement withdrawals from the savings component will be taxed at marginal rates, like all other income.

Employment tax incentive

- Further punitive measures will be introduced to curb the abuse of the employment tax incentive scheme.

Tax relief for refunds of amounts during the same tax year

- With the move by South African Revenue Service (SARS) for taxes to be reported monthly via the payroll, it is proposed that section 11(nA) of the Income Tax Act be amended to cater for taxpayers seeking to make refunds of amounts received or accrued during the same tax year. The proposal will have positive cash flow effects on employees to whom this deduction applies. While the change is welcomed, it would be even more effective if the proposal extended to Pay-As-You-Earn (PAYE) refunds.

Corporate tax

Connected person definition in relation to partnerships

- It has come to government’s attention that limited partners in an en commandite partnership are affected by the wide ambit of paragraph (c) of the definition of "connected person".
- It is proposed that the status of connected persons in relation to a “qualifying investor” as defined be reviewed in the definition of “connected person” in the Income Tax Act.
- The proposal is expected to reduce the compliance burden on partners in an en commandite partnership.

Limiting interest deductions in respect of reoganisation and acquisition transactions

- The definition of "adjusted taxable income" and the formula applied to limit an interest deduction in section 23N of the Income Tax Act will be reviewed to more closely align with the changes made to the definition of "adjusted taxable income" and formula for interest limitation rules for debts owed to persons not subject to tax in section 23M of the Income Tax act.

Relaxing the assessed loss restriction rule

- It is proposed that legislation be amended to exempt companies from applying the assessed loss restriction rule while they are in the process of liquidation, deregistration or being wound up.

Clarifying the interaction of section S24JB(3) of the Income Tax Act and the gross income definition

- Further clarification on the interaction between the definition of "gross income" and the application of section 24JB(2) of the Income Tax Act in respect of the taxation of financial assets and liabilities of certain persons has been proposed. It is proposed that section 24JB(3) of the Income Tax Act be amended to specifically exclude the application of the definition of "gross income".

Impact of IFRS 17 on the taxation of insurers

- The previous accounting standard for insurance contracts (IFRS 4) was replaced by a new accounting standard (IFRS 17) effective for reporting periods starting on or after 1 January 2023. The necessary tax amendments were already legislated in the previous years to accommodate this new accounting standard. The implementation of IFRS 17 is a complex, ongoing process, with insurers now starting to report on the new standard. Given the significant adjustments required due to implementing IFRS 17, several unintended consequences have come to government's attention and need to be addressed in the tax legislation. We welcome these changes as it will hopefully reduce uncertainties in this regard.

Refining the definition of "exchange item" for determining exchange differences

- It is proposed that the definition of an "exchange item" be expanded to include preference share investments accounted for as financial assets in the hands of the holder.

- The proposal will result in adverse tax and cashflow impacts for taxpayers where preference dividends have not been declared but now attract a tax liability. The recharacterisation of such instruments may have further unintended consequences.

Reviewing the interaction of the set-off of assessed loss rules and rules on exchange differences on foreign exchange transactions

- It's proposed that foreign exchange losses that result in an assessed loss in a specific year be ringfenced and allowed to be carried forward even if the company is not trading and be utilized against foreign exchange gains on the same instrument in future years. This is a welcome change especially for holding companies where this is a regular occurrence.

Corporate Reorganisation Rules

- A number of changes are proposed to the corporate reorganisation rules. These include proposals to:
  - Review the definition of a "value shifting arrangement" to exclude roll over relief transactions where the value of the effective interest of the connected persons remain unchanged;
  - Review the ambiguity identified in the definition of "amalgamation transaction" regarding what is deemed to be an "amalgamated company" and a "resultant company" when the amalgamated company and resultant company are "foreign companies" as defined;
  - Review the ambit of the de-grouping charge in intra-group transactions to exclude transactions where the controlling group company in relation to a transferor company ceases to form part of the same group of companies;

Contributed tax capital

- Section 8G is an anti -avoidance measure that limits the "contributed tax capital" (CTC) of a resident company in certain share transactions with a non-resident group company.

- National Treasury has noted that the tax consequences of this anti-avoidance measure may affect legitimate corporate finance practices and limit South Africa's attractiveness as an investment destination. It is proposed that further amendments be made to section 8G to minimise any inadvertent tax consequences.

- The effective date for the 2023 proposed amendment relating to the translation of CTC that is denominated in foreign currency has been postponed to 1 January 2025 after reviewing stakeholder comments on the draft bill. The impact of the 2023 amendments will be reviewed in the 2024 legislative cycle.

Clarifying the translation of hyperinflationary currencies

- The net income of a controlled foreign company (CFC) is determined in the currency used by that CFC for financial reporting (the functional currency) and is translated into Rand at the average exchange rate for that foreign tax year.
- However, in contrast to the intention that a hyperinflationary functional currency not be used for translation purposes, section 9D(2A)(k) of the Income Tax Act requires the local currency to be used.
- It is proposed that the rules be changed so that section 9D(2A)(k) of the Income Tax Act does not allow the use of a hyperinflationary functional currency for translation purposes.

Clarifying the 18-month period in relation to shareholdings by group entities

- An 18-month holding requirement for the participation exemption on a foreign return of capital relating to the disposal of shares in a foreign company was introduced in 2023.
- This test for the holding period did not cover a situation where more than one company in a group of companies was holding the shares during the 18-month period.
- It is proposed that the holding period rules be amended to cater for this situation.

Section 6quat rebate for foreign taxes on income in respect of capital gains

- It is proposed that section 6quat be amended to explicitly allow for a full foreign tax credit against tax payable in South Africa on a capital gain for taxes payable in the relevant foreign jurisdiction on the disposal of an asset. This will ensure a similar treatment as for foreign tax credits for taxable foreign dividends.

Aligning the section 6quat rebate and translation of net income rule for CFCs

- Foreign taxes payable by a CFC must be translated to rand at the average exchange rate for the year of assessment, of the resident holding an interest in the CFC. However, the net income of the CFC must be translated by applying the average exchange rate for the foreign tax year of the CFC.
- It is proposed that the Income Tax Act align the years used to translate net income and foreign tax payable by referring to the foreign tax year of the CFC in both instances.

Clarifying anti avoidance rules dealing with third-party backed shares

- Government proposed that the definition of a "third party backed share" in section 8EA of the Income Tax Act be clarified to address the intent that either a holder or a connected person in relation to that holder could hold an "enforcement right", as defined in the Income Tax Act.
- In 2023, amendments were made to the qualifying purpose provisions. The aim of the amendment was to clarify the ownership requirement for the equity shares in the operation company by the person that acquired those equity shares at the time of the receipt or accrual of any dividends or foreign dividends, subject to certain exclusions. One of the exclusions in the section indicated that the ownership requirement will not apply if:
  - the equity share was a listed share; and
  - was substituted for another listed share in terms of an arrangement that is announced and released as a corporate action on a South African regulated stock exchange
- The proposed amendment is to include corporate actions related to listed share substitutions in a recognised exchange in countries other than South African.
- The ownership requirement exclusion applies if the equity shares in the operating company are disposed of and the funds derived from that disposal are used to redeem the preference shares within 90 days of the disposal. Government proposed that an amendment is made to include settlement of any dividends, foreign dividends or interest accrued from the redemption of a preference share.

Tax incentives

Investment incentives for the production of electric vehicles

- To encourage the production of electric vehicles in South Africa, it is proposed that an investment allowance be made available for new investments from 1 March 2026 in new energy vehicles (NEVs). For every R1 an automotive manufacturer invests in NEVs, they will receive a 13.5c tax benefit. National Treasury has further reprioritised R964 million which will be used largely as grant funding under the Automotive Investment Scheme, to support the transition to NEVs. These are important measures as South Africa plays catch-up with other economies that have made major strides to support the development of NEVs.

Learnership tax incentive extension

- The section 12H learnership tax incentive is aimed at supporting workplace education, skills development, and employment. The sunset date for this incentive will be extended by three years to 31 March 2027 to allow sufficient time for the incentive to be evaluated before a decision is made on its future. This proposal is welcomed.

Renewable energy projects for carbon offset

- Government proposes to increase the threshold for eligible renewable energy projects from 15 megawatts to 30 megawatts installed capacity for purposes of the carbon offset allowance. The amendments are effective from 1 January 2024.

Pillar Two-Global minimum taxes

- As anticipated, global minimum tax (GMT) legislation, in line with the Organisation for Economic Co-operation and Development's (OECD) base erosion and profit-shifting framework is to be introduced with effect from 1 January 2024. Draft GMT legislation has been released for public comment.

- GMT legislation will apply to multinational enterprises (MNEs) with consolidated revenues of €750 million or more. MNEs that fall within scope of the GMT legislation will be required to pay a minimum tax of 15% in each jurisdiction in which the MNE operates. If the minimum 15% tax has not been paid in a particular jurisdiction, additional top-up taxes are payable, although not necessarily in that jurisdiction. Accordingly, the introduction of GMT legislation in South Africa, including the introduction of a domestic minimum top-up tax, seeks to protect the South African tax base.

- Other jurisdictions that have already introduced the final GMT legislation include the United Kingdom, Denmark, Hungary and Japan; while countries such as Canada, Germany and New Zealand have also introduced draft legislation.

- MNEs caught by GMT legislation are well advised to prepare for the introduction. This includes understanding the technical data and technological requirements , as well as assessing whether full compliance with the detailed rules is required or whether there are any "safe harbours" that could apply to significantly reduce compliance obligations during the transitional period.

- National Treasury has indicated that it expects that GMT rules will result in an increase in corporate tax collections of R8 billion in 2026/27.

Trusts

Clarifying anti-avoidance rules for low-interest or interest-free loans to trusts

- Section 7C of the ITA contains anti-avoidance rules for low-interest or interest-free loans to trusts, including cross-border loans. However, section 7C does not apply if the loan arrangement is subject to the transfer pricing provisions of section 31.

- SARS has noted, instances where taxpayers submit that an arm's length interest rate under section 31, is less than the official rate of interest.

- It is proposed that amendments be made to the legislation to provide clarity in this regard, as SARS is of the view that the above position does not effectively address the trust anti-avoidance measures.

Value-Added Tax (VAT)

Amendments to schedule 2 part B for fruit and vegetables

- It is proposed that the zero-rating of VAT does not apply to pre-cut or prepared fruit or vegetables. This may require amendments to the Customs and Excise Act.

VAT treatment of rental stock paid in terms of the National Housing Programme

- It is proposed that amendments be made to the VAT Act to clarify the VAT status of rental stock under the National Housing Programme.

Providing VAT relief for non-resident lessors of parts of ships, aircraft or rolling stock

- The deregistration of foreign suppliers had the unintended consequence of such vendors now facing an output tax liability. It is proposed that the VAT Act be amended to provide relief from this unintended consequence.

Clarifying the VAT treatment of the Mudaraba Islamic financing arrangement

- It is proposed that the VAT Act be amended to clarify the disparity with the Income Tax Act and uncertainty as to the VAT treatment of Mudaraba financing arrangements.

Clarifying the VAT treatment of supply of services to non-resident subsidiaries of companies based in the Republic

- The reference in the VAT Act to the Income Tax Act's definition of "resident" results in services supplied by a resident to its non-resident subsidiary falling foul of zero rating. Where these services will be effectively consumed outside the country, it is proposed that the VAT Act be amended to exclude such subsidiaries from the definition of "resident of the Republic".

Reviewing the foreign donor funded project regime

- To ease the administrative burden on the implementing agents, it is proposed that the foreign donor funded project regime be reviewed.

Updating the Electronic Services Regulations

- To keep up with changes in the digital economy and ease the administrative burden, it is proposed that the scope of the regulations be limited to only non-resident vendors supplying electronic services to non-vendors or end consumers.

Regulations on the domestic reverse charge mechanism relating to valuable metal

- The current regulations have caused schemes and malpractices to shift to the primary gold sector. It is proposed that the regulations be revised to foreclose these schemes.

Accounting for VAT in the gambling industry

- Concessions in respect of accounting for VAT in the gambling industry, specifically table games of chance, will be incorporated into the VAT Act.

Prescription period for input tax claims

- To ease the administrative burden, it is proposed that the VAT Act be amended in relation to the tax period in which past unclaimed input tax credits may be claimed. In addition, it is proposed that the VAT Act be amended to clarify that such deductions be made in the original period in which the entitlement to that deduction arose.

VAT claw-back on irrecoverable debts subsequently recovered

- Input tax may be claimed by a recipient of an account receivable at face value on a non-recourse basis when the amount is written off as irrecoverable. It is proposed that the claw-back of VAT should also apply where there is a subsequent recovery of these receivables.

Supplies by educational institutions to third parties

- It is proposed that the VAT Act be amended to clarify the treatment of supplies provided by educational institutions to third parties.

Customs and excise duty

- Apart from the annual increases in sin taxes, we have not seen major changes from a customs and excise perspective.

- Contrary to what was intimated in the previous Budget Review, we have also not seen any changes to the sugar beverages levy. Additionally, no increase is proposed to the fuel levy. These come as a welcome relief to the already financially strained South African consumer.

Excise duties on alcoholic beverages and tobacco -related products

- For alcohol products, excise duty increases of between 6.7% and 7.2% for 2024/25 are proposed.

- For tobacco products, we see an increase of 4.7% for cigarettes and cigarette tobacco, and 8.2% for pipe tobacco and cigars.

Carbon tax

- The carbon tax rate on taxable greenhouse gas (GHG) emissions increased from R159 to R190/tCO$_2$e effective from 1 January 2024. The carbon fuel levy will increase to 11c/litre petrol and 14c/litre diesel, effective 3 April 2024.

- The 2022 Budget Review proposed a gradual reduction in the basic tax-free allowance from 1 January 2026 to 31 December 2030. The reduction of the basic tax-free allowance on emitters' carbon tax liability is significant. A discussion paper will be published for comment later in the year to provide policy certainty on the reduction of the basic tax-free allowance.

- A further alignment between the Department of forestry, Fishers and Environment's (DFFE) Methodological Guidelines for Quantification of Greenhouse Gas Emissions (Methodological Guidelines) is proposed for fuel combustion emission factors and net calorific values. The density factors for petrol and diesel are amended to align with the DFFE Methodological Guidelines with effect 1 January 2024. Schedule 1 of the Carbon Tax Act (2019) will be amended accordingly. Additional fugitive emissions categories will be introduced with effect from 1 January 2024 based on the 2019 refinements to the 2006 Intergovernmental Panel on Climate Change Guidelines for National Greenhouse Gas Inventories.

- An amendment is being proposed to the renewable energy deduction allowed for electricity producers. It is proposed that electricity producers are allowed to continue claiming the renewable energy premium deduction where power purchase agreements are ceded to the National Transmission Company of South Africa. The effective date of the amendment is 1 January 2024.
- One of the current mechanisms to calculate the carbon offset allowance, the Clean Development Mechanism (CDM) will be replaced. The National Treasury in consultation with the Department of Mineral Resources and Energy and the DFFE will consider the inclusion of the new mechanism as an eligible carbon offset standard and measures to facilitate the transition of existing CDM projects. Draft amendments to the regulations will be published by the Minister of Finance for public comment and further consultation in 2024.

Other

- The plastic bag levy is proposed to increase from 28c/bag to 32c/bag from 1 April 2024.
- To encourage the use of more energy efficient lighting, it is proposed that the levy on incandescent light bulbs be increased from R15 to R20 per light bulb from 1 April 2024.
- It is proposed that the motor vehicle emissions tax be increased from R132 to R146 per gram of CO_2e per kilometre for passenger vehicles and from R176 to R195 of CO_2e per kilometre for double cabs from 1 April 2024.

Tax administration

- The Budget Review provides the following update on the activities at SARS. SARS continues to rebuild and implement recommendations from the Nugent Commission of Inquiry following the period of state capture. It notes that over the past four years, SARS has raised revenue collection by improving debt collection, expanding the tax register, curbing trade valuation fraud and issuing additional assessments where tax is underdeclared. SARS' focus remains on collecting all revenues due, enhancing compliance and facilitating legitimate trade while curbing illicit activities. Taxpayers can meet their tax obligations more easily due to improved service offerings and digital platforms. During the 2023 tax season, about 4 million taxpayers were auto-assessed. Using big data and artificial intelligence, SARS's automated risk engines prevented over R60 billion in impermissible refunds and fraud this past year. SARS is also raising awareness of tax requirements through outreach to small and medium enterprises.

The following tax administrative initiatives were noted in the Budget Review

- The approach to packages imported through e-commerce will be reviewed to ensure that the appropriate balance between simplicity and compliance with customs and excise requirements is being maintained.
- Certain exporters face legitimate challenges in complying with the timeframe for submitting export bills of entry. It is proposed that the Customs and Excise Act be amended to enable the SARS Commissioner to provide, by rule, for a process by which exporters can be allowed to submit export bills of entry at a different time than what is currently provided for in the Customs and Excise Act.
- It is proposed that the Customs and Excise Act be amended to simplify the process of substituting a bill of entry in certain circumstances where such bill of entry has been passed in error or where an importer, exporter or manufacturer requested the substitution on good cause shown. A voucher of correction will no longer be required in those circumstances. It is foreseen that the substituting bill of entry will replace the previous one.
- Due to the wide definition of "enterprise" in the VAT Act, non-resident vendors may be required to register as vendors, despite not having any physical presence in South Africa or having a very limited presence for a short period of time. These non-residents have difficulties in appointing a representative vendor who resides in South Africa and in opening a South African bank account, as is required to register as a vendor. As a result, non-resident suppliers of electronic services were exempted from these requirements. To facilitate engagement and compliance, it is proposed that electronic services suppliers be required to appoint a representative vendor, but that the requirement that such person must reside in South Africa be waived while maintaining the exemption from opening a South African bank account. Furthermore, it is recommended that this dispensation be extended to non-resident vendors with no or limited presence in South Africa, in specified circumstances.
- Prior to the introduction of the Tax Administration Act, the VAT Act made specific provision for a refund of tax paid in excess of what was properly chargeable under the VAT Act. While the VAT Act, read with the Tax Administration Act, provides for a refund of an amount under an assessment and of an amount erroneously paid, it does not adequately cater for a reduction in the amount of tax chargeable as result of a subsequent event in respect of the import of goods by persons who are not registered as vendors or in respect of imported services. It is proposed that this be corrected.

- In terms of the VAT Act, VAT should be accounted for and is payable by the recipient of imported services within 30 days of the earlier of receipt of the invoice issued by the supplier or the recipient or the time any payment is made by the recipient in respect of that supply. In many instances it is impractical to comply with the 30-day time period. Failure to pay VAT within this timeframe will result in the imposition of penalties and interest. To address this concern, it is proposed that the 30-day time period be extended to 60 days.

- In terms of section 47 of the Tax Administration Act, SARS may require a person to attend the offices of SARS to be interviewed by a SARS official to clarify issues of concern to SARS. The interview may either assist in rendering further verification or audit unnecessary or expedite a current verification or audit. It is proposed that the provision be expanded to also include instances where a taxpayer is subject to recovery proceedings for an outstanding tax debt or has applied for debt relief, thereby also expediting these processes.

- Concerns have been raised that the current legislative framework only covers certain types of original assessments. It is proposed that the legislative framework be further clarified.

- Currently, the alternative dispute resolution proceedings can only be accessed at the appeal stage of a tax dispute. It is proposed that SARS review the dispute resolution process to improve its efficiency, which may include allowing alternative dispute resolution proceedings at the objection phase of a tax dispute.

- In terms of Chapter 14 of the Tax Administration Act, SARS may decide to temporarily write-off an amount of tax debt if it is satisfied that the tax debt is uneconomical to pursue or for the duration of the period that the debtor is subject to business rescue proceedings under the Companies Act (2008). It is proposed that the circumstances under which SARS may decide to temporarily write-off an amount of tax debt be reviewed.

- At present a public officer needs to be appointed within one month after the company begins to carry on business or acquires an office in South Africa. As companies are automatically registered for income tax on formation, it is proposed that the one-month period within which the public officer must first be appointed be removed.

- In Arena Holdings (Pty) Limited t/a Financial Mail and Others v South African Revenue Service and Others [2023] ZACC 13, the Constitutional Court has made findings regarding the constitutional invalidity of certain provisions of the Promotion of Access to Information Act (2000) as well as the Tax Administration Act. It has ordered that Parliament considers measures to address their constitutional validity and, in the meantime, the court has ordered a "read-in" to the relevant provisions of the Promotion of Access to Information Act and those of the Tax Administration Act. It is proposed that these measures and the necessary amendments to affected legislation be addressed during the next legislative cycle.

Tax research and reviews

- To encourage infrastructure investment, government will investigate the feasibility of a flow-through tax treatment, similar to what is afforded to trusts and other investment vehicles, for certain clearly defined infrastructure projects under specified circumstances.

- Currently, embedded solar photovoltaic assets with generation capacity not exceeding 1 megawatt (which are linked to the private electricity generation threshold) are written off in one year. As the private electricity generation threshold has been lifted due to the electricity crisis, government will reconsider the generation threshold and leasing restrictions of section 12B. Any proposals will be designed to take effect from 1 March 2025.

- Section 23M of the Income Tax Act contains interest deduction limitation rules when there is a relationship between a debtor and a creditor, and the corresponding interest income is not taxed fully. An unintended consequence of this rule may unfairly prejudice tax-exempt investors, such as pension funds, when they lend to a related party. Government will consider this matter further, with the possibility of including amendments in the 2024 Taxation Laws Amendment Bill.

Contacts

For more information, contact your nearest Deloitte tax office

Itireleng Kubeka, Managing Director, Deloitte Africa Tax & Legal
Email: ikubeka@deloitte.co.za

Gauteng: Alex Gwala, Global Business Tax Services Leader, Deloitte Africa Tax & Legal
Email: agwala@deloitte.co.za

KwaZulu-Natal: Mark Freer, Regional Leader, Deloitte Africa Tax & Legal
Email: mfreer@deloitte.co.za

Western Cape: Anthea Scholtz, Regional Leader, Deloitte Africa Tax & Legal
Email: ascholtz@deloitte.co.za

Editorial team

Hannah Marais
Email: hmarais@deloitte.co.za

Moray Wilson
Email: morwilson@deloitte.co.za

Ruben Johannes
Email: rjohannes@deloitte.co.za

www.deloitte.co.za

Deloitte.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (DTTL), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415 000 people worldwide make an impact that matters at www.deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (DTTL), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2024. For information, contact Deloitte Touche Tohmatsu Limited.