

Significant amendments in newly released tax bills

By [Joon Chong](#)

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The Tax Administration Laws Amendment Bill (TALAB) and Taxation Laws Amendment Bill (TLAB) were released with the Medium Term Budget Policy Statement 2017 on 25 October 2017. There were significant amendments in the TALAB and TLAB on tax administration, dispute resolution and value-added tax.

Amendments to the Tax Administration Act, 2011 (TAA)

- Banks will have the authority to hold or freeze funds in a bank account immediately for two business days on suspicion of a tax offence and on reporting such suspicion to SARS. Their current authority is limited to reporting the suspicion to SARS and only to hold the funds if instructed by SARS.
- The interest provisions in the TAA will be aligned to enable the implementation of interest for different taxes in phases and for the Minister to determine by public notice, the effective date of interest for a tax type. Until the chapter on interest in the TAA comes into force, interest on understatement penalties will continue to be calculated using the same method as the interest on the (repealed) additional tax penalty in the ITA.
- Taxpayers aggrieved by decisions of SARS officials that do not result in assessments which are subject to objection and appeal may request SARS to withdraw or amend the assessments. This provides taxpayers with an additional remedy before considering a costly High Court review application.



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Amendments to the Income Tax Act, 1962 (ITA)

- The reimbursement of travel expenses for "remuneration" for purposes of the Fourth Schedule of the ITA is simplified to use the published rate. In addition, amounts reimbursed in excess of the published rate would be included in "remuneration" and subject to employees' tax.
- Interest due and payable from SARS will be deemed to accrue on date of payment. This prevents interest accruing which should have been included in income tax returns in historic years and the necessity of resubmitting returns.
- Public benefit organisations will need a further approval from the Commissioner in order to issue section 18A certificates for tax deductible donations received.
- United Nations agencies operating in South Africa, if approved, would also be able to issue section 18A certificates.
- The retirement fund contribution deductions are further harmonised as a new section, with a new third limitation to exclude any taxable capital gain before calculating the deduction allowed for such contributions.
- Further, when the ZAR 350,000 annual cap applies, the amount deducted per month will be spread over an employee's year of assessment during which the employee receives remuneration from an employer. Further, the annual cap will be reduced proportionately depending on the number of months the employee receives such remuneration.
- The requirement for 2/3 of provident fund benefits to be annuitised when paid will be postponed to 1 March 2019, and will apply to contributions to provident funds made after this date.
- Dividends received are usually exempt from income tax, unless the exclusion of certain dividends received "by virtue of employment" or in respect of specified "restricted equity instruments" applies. PAYE must be withheld from such dividends paid to employees generally.
- Additional harsher penalties are imposed where mining rehabilitation funds hold investments which are not on the specified list or if the funds distribute or use property other than for rehabilitation. There are further reporting requirements to the Director General of the National Treasury (DG) within three months after the end of any year of

assessment, or within seven days of a request from the DG.

Amendments to the Value-Added Tax, 1991 (VAT Act)

- The supply of travel insurance is confirmed to be zero-rated if it relates to an international journey.
- Services directly supplied in connection with movable property situated outside South Africa are to be zero-rated. "Movable property" is clarified to exclude debt securities, equity securities, and participatory securities listed on a licensed exchange in South Africa.
- Any services supplied directly to imported goods under Schedule 1 of the VAT Act in relation to processing, repair, cleaning, reconditioning or manufacture of those goods may be zero-rated. Any goods supplied in relation to these services would similarly be zero-rated.

A lessee who is a vendor is deemed to have made a "taxable supply to the lessor" where the lessee effects leasehold improvements on the fixed property of the lessor. The time of supply is deemed to be at the time the leasehold improvements are completed. The value of the supply for the lessee will be any consideration charged, or deemed to be nil where no consideration was charged by the lessee. In both instances, the lessee will be entitled to full input tax relief. Where the lessor is a vendor, the lessor will be deemed to have made a taxable supply to the extent that the lessor uses the leasehold improvements for making non-taxable supplies, or where input tax deductions are denied as the improvements are used for entertainment. In this instance, the lessor will have to account for output VAT on the market value of the improvements (being the higher of actual cost, the agreed value or actual open market value).

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