Budget and Tax Update

South African Reward Association
AGENDA

1. Two Items of Interest
2. Budget Overview
3. Budget Items Impacting Remuneration Professionals
4. Interesting for Reward Professionals
5. Tax Items Promulgated since 01 March 2015
6. SARS update for past year
7. Supreme Court of Appeal on Salary Structuring / Salary Sacrifice
7.2 It is important to note that English, being the transactional language, will have a presence in all provinces. Below are the chosen languages per province:

- Eastern Cape: isiXhosa, Afrikaans, English
- Free State: Sesotho, Afrikaans, English
- Gauteng: isiZulu, English, Afrikaans, Sesotho
- KwaZulu Natal: isiZulu, English
- Limpopo: Sepedi, Xitsonga, Tshivenda, English
- Mpumalanga: siSwati, isiZulu, Xitsonga, isiNdebele, English
- North West: Setswana, Afrikaans, English
- Northern Cape: Afrikaans, Setswana, English
- Western Cape: Afrikaans, isiXhosa, English
MESSAGE FROM THE COURTS

Tax court - win/lose ratio
- SARS won: 47%
- Taxpayer won: 6%
- Partial wins: 25%

SCA - win/lose ratio
- SARS won: 70%
- Taxpayer won: 10%
- Partial wins: 20%

High court - win/lose ratio
- SARS won: 65%
- Taxpayer won: 15%

All cases - win/lose ratio
- SARS won: 49%
- Taxpayer won: 47%
- Partial wins: 4%
## World Comparison

<table>
<thead>
<tr>
<th>Country</th>
<th>Tax-to-GDP ratio</th>
<th>Personal income tax&lt;sup&gt;1&lt;/sup&gt;</th>
<th>Corporate income tax</th>
<th>Value-added tax&lt;sup&gt;2&lt;/sup&gt;</th>
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<tbody>
<tr>
<td>Sweden</td>
<td>42.7</td>
<td>56.9</td>
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<td>25.0</td>
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<tr>
<td>Germany</td>
<td>36.1</td>
<td>47.5</td>
<td>30.2</td>
<td>19.0</td>
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<tr>
<td>Russia</td>
<td>34.8</td>
<td>13.0</td>
<td>20.0</td>
<td>18.0</td>
</tr>
<tr>
<td>Brazil&lt;sup&gt;3&lt;/sup&gt;</td>
<td>33.4</td>
<td>27.5</td>
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<td>17.0 - 19.0</td>
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<td>Spain</td>
<td>33.2</td>
<td>52.0</td>
<td>28.0</td>
<td>21.0</td>
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<tr>
<td>UK</td>
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<td>20.0</td>
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<td>5.0</td>
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<td>Turkey</td>
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<td>35.8</td>
<td>20.0</td>
<td>18.0</td>
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<tr>
<td>Australia</td>
<td>27.5</td>
<td>46.5</td>
<td>30.0</td>
<td>10.0</td>
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<tr>
<td>South Africa&lt;sup&gt;4&lt;/sup&gt;</td>
<td><strong>25.7</strong></td>
<td><strong>41.0</strong></td>
<td><strong>28.0</strong></td>
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<td>Chile</td>
<td>19.8</td>
<td>39.5</td>
<td>22.5</td>
<td>19.0</td>
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<tr>
<td>China</td>
<td>19.4</td>
<td>45.0</td>
<td>25.0</td>
<td>17.0</td>
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<tr>
<td>Kenya</td>
<td>16.2</td>
<td>30.0</td>
<td>30.0</td>
<td>16.0</td>
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<tr>
<td>Ghana</td>
<td>16.1</td>
<td>25.0</td>
<td>30.0</td>
<td>15.0</td>
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<tr>
<td>Rwanda</td>
<td>13.9</td>
<td>30.0</td>
<td>30.0</td>
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## TAX COLLECTION

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Taxes on income and profits¹</td>
<td>457 314</td>
<td>507 759</td>
<td>561 790</td>
<td>608 654</td>
<td>668 387</td>
<td>737 785</td>
<td>817 593</td>
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<td>of which:</td>
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<td></td>
<td></td>
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<tr>
<td>Personal income tax</td>
<td>275 822</td>
<td>309 834</td>
<td>352 950</td>
<td>392 000</td>
<td>441 040</td>
<td>476 778</td>
<td>519 339</td>
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<td>Corporate income tax</td>
<td>159 259</td>
<td>177 324</td>
<td>184 925</td>
<td>189 000</td>
<td>198 293</td>
<td>214 843</td>
<td>233 215</td>
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<td>Taxes on payroll and workforce</td>
<td>11 378</td>
<td>12 476</td>
<td>14 032</td>
<td>15 800</td>
<td>17 640</td>
<td>19 687</td>
<td>22 057</td>
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<td>Taxes on property</td>
<td>8 645</td>
<td>10 487</td>
<td>12 472</td>
<td>14 762</td>
<td>15 455</td>
<td>16 145</td>
<td>16 904</td>
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<td>Domestic taxes on goods and</td>
<td>296 921</td>
<td>324 548</td>
<td>356 554</td>
<td>383 995</td>
<td>418 771</td>
<td>447 871</td>
<td>481 163</td>
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<tr>
<td>services</td>
<td></td>
<td></td>
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<tr>
<td>of which:</td>
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<td></td>
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<td></td>
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<tr>
<td>VAT</td>
<td>215 023</td>
<td>237 667</td>
<td>261 295</td>
<td>278 060</td>
<td>301 260</td>
<td>327 645</td>
<td>357 705</td>
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<td>Taxes on international trade</td>
<td>39 549</td>
<td>44 732</td>
<td>41 463</td>
<td>46 490</td>
<td>54 536</td>
<td>59 988</td>
<td>65 593</td>
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<tr>
<td>and transactions</td>
<td></td>
<td></td>
<td></td>
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## TAX RATES

<table>
<thead>
<tr>
<th>Taxable income (R)</th>
<th>2015/16 Rates of tax</th>
<th>Taxable income (R)</th>
<th>2016/17 Rates of tax</th>
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</thead>
<tbody>
<tr>
<td>R0 - R181 900</td>
<td>18% of each R1</td>
<td>R0 - R188 000</td>
<td>18% of each R1</td>
</tr>
<tr>
<td>R181 901 - R284 100</td>
<td>R32 742 + 26% of the amount above R181 900</td>
<td>R188 001 - R293 600</td>
<td>R33 840 + 26% of the amount above R188 000</td>
</tr>
<tr>
<td>R284 101 - R393 200</td>
<td>R59 314 + 31% of the amount above R284 100</td>
<td>R293 601 - R406 400</td>
<td>R61 296 + 31% of the amount above R293 600</td>
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<tr>
<td>R393 201 - R550 100</td>
<td>R93 135 + 36% of the amount above R393 200</td>
<td>R406 401 - R550 100</td>
<td>R96 264 + 36% of the amount above R406 400</td>
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<tr>
<td>R550 101 - R701 300</td>
<td>R149 619 + 39% of the amount above R550 100</td>
<td>R550 101 - R701 300</td>
<td>R147 996 + 39% of the amount above R550 100</td>
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<tr>
<td>R701 301 and above</td>
<td>R208 587 + 41% of the amount above R701 300</td>
<td>R701 301 and above</td>
<td>R206 964 + 41% of the amount above R701 300</td>
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</table>
# Rebates and Tax-Free Thresholds

<table>
<thead>
<tr>
<th>Rebates</th>
<th></th>
<th>Rebates</th>
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<tbody>
<tr>
<td>Primary</td>
<td>R13 257</td>
<td>Primary</td>
<td>R13 500</td>
</tr>
<tr>
<td>Secondary</td>
<td>R7 407</td>
<td>Secondary</td>
<td>R7 407</td>
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<tr>
<td>Tertiary</td>
<td>R2 466</td>
<td>Tertiary</td>
<td>R2 466</td>
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<tr>
<td><strong>Tax threshold</strong></td>
<td>****</td>
<td><strong>Tax threshold</strong></td>
<td>****</td>
</tr>
<tr>
<td>Below age 65</td>
<td>R73 650</td>
<td>Below age 65</td>
<td>R75 000</td>
</tr>
<tr>
<td>Age 65 and over</td>
<td>R114 800</td>
<td>Age 65 and over</td>
<td>R116 150</td>
</tr>
<tr>
<td>Age 75 and over</td>
<td>R128 500</td>
<td>Age 75 and over</td>
<td>R129 850</td>
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## IMPACT ON EMPLOYEES TAKE-HOME

<table>
<thead>
<tr>
<th>Taxable income (R)</th>
<th>2015/16 rates (R)</th>
<th>Proposed 2016/17 rates (R)</th>
<th>Tax change (R)</th>
<th>% change</th>
<th>Average tax rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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<td></td>
<td>Old rates</td>
</tr>
<tr>
<td>85 000</td>
<td>2 043</td>
<td>1 800</td>
<td>-243</td>
<td>-11.9%</td>
<td>2.4%</td>
</tr>
<tr>
<td>90 000</td>
<td>2 943</td>
<td>2 700</td>
<td>-243</td>
<td>-8.3%</td>
<td>3.3%</td>
</tr>
<tr>
<td>100 000</td>
<td>4 743</td>
<td>4 500</td>
<td>-243</td>
<td>-5.1%</td>
<td>4.7%</td>
</tr>
<tr>
<td>120 000</td>
<td>8 343</td>
<td>8 100</td>
<td>-243</td>
<td>-2.9%</td>
<td>7.0%</td>
</tr>
<tr>
<td>150 000</td>
<td>13 743</td>
<td>13 500</td>
<td>-243</td>
<td>-1.8%</td>
<td>9.2%</td>
</tr>
<tr>
<td>200 000</td>
<td>24 191</td>
<td>23 460</td>
<td>-731</td>
<td>-3.0%</td>
<td>12.1%</td>
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<tr>
<td>250 000</td>
<td>37 191</td>
<td>36 460</td>
<td>-731</td>
<td>-2.0%</td>
<td>14.9%</td>
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<tr>
<td>300 000</td>
<td>50 986</td>
<td>49 780</td>
<td>-1 206</td>
<td>-2.4%</td>
<td>17.0%</td>
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<tr>
<td>400 000</td>
<td>82 326</td>
<td>80 780</td>
<td>-1 546</td>
<td>-1.9%</td>
<td>20.6%</td>
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<tr>
<td>500 000</td>
<td>118 326</td>
<td>116 460</td>
<td>-1 866</td>
<td>-1.6%</td>
<td>23.7%</td>
</tr>
<tr>
<td>750 000</td>
<td>215 297</td>
<td>213 431</td>
<td>-1 866</td>
<td>-0.9%</td>
<td>28.7%</td>
</tr>
<tr>
<td>1 000 000</td>
<td>317 797</td>
<td>315 931</td>
<td>-1 866</td>
<td>-0.6%</td>
<td>31.8%</td>
</tr>
</tbody>
</table>
MEDICAL AID CREDITS

Increase monthly medical scheme contribution tax credits in line with inflation, maintaining the current level of relief in real terms. These tax credits will be increased from R270 to R286 from 1 March 2016 for the first two beneficiaries, and from R181 to R192 for additional beneficiaries.
## Employee Travel

<table>
<thead>
<tr>
<th>Value (Incl VAT)</th>
<th>Fixed Cost</th>
<th>Fuel Cost</th>
<th>Maintenance Cost</th>
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<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>26 105</td>
<td>26 675</td>
</tr>
<tr>
<td>80 001</td>
<td>80 001</td>
<td>46 505</td>
<td>47 644</td>
</tr>
<tr>
<td>160 001</td>
<td>160 001</td>
<td>66 976</td>
<td>68 684</td>
</tr>
<tr>
<td>240 001</td>
<td>240 001</td>
<td>84 945</td>
<td>87 223</td>
</tr>
<tr>
<td>320 001</td>
<td>320 001</td>
<td>102 974</td>
<td>105 822</td>
</tr>
<tr>
<td>400 001</td>
<td>400 001</td>
<td>121 886</td>
<td>125 303</td>
</tr>
<tr>
<td>480 001</td>
<td>480 001</td>
<td>140 797</td>
<td>144 784</td>
</tr>
<tr>
<td>560 001</td>
<td>560 001</td>
<td>140 797</td>
<td>144 784</td>
</tr>
</tbody>
</table>
EXAMPLE CALCULATORS - POSTED

Employee Take-Home Calculator

Employee Travel Calculator
BUDGET AMENDMENTS IMPACTING EMPLOYEE REMUNERATION
• Retirement Reform effective 01 March 2016.

• Includes employer contributions taxable fringe benefit and then employee gets corresponding tax deduction for employer and employee contribution to lower of 27,5% or R350,000 of “remuneration” or “taxable income”.

• Same rules for pension fund, provident fund and retirement annuity.

• Employee contributions to provident fund continue to get new tax deduction.

• Thanks to Cosatu, for provident fund employees, compulsory annuitisation on retirement not effective now and postpones to 01 March 2018.
ALLOWABLE DEDUCTION FOR FRINGE BENEFIT OF EMPLOYER CONTRIBUTIONS TO DEFINED PENSION FUNDS

• Section 11(k)(iii) of the Income Tax Act inadvertently limited the allowable deduction for the fringe benefit of employer contributions to retirement funds to the actual value of the employer contribution.

• However, the fringe benefit value for defined benefit pension funds is determined by a formula provided in paragraph 12D of the Seventh Schedule and may be larger than the actual value of the employer contribution (because the fringe benefit is dependent on the value of benefits and not the funding position of the defined benefit pension fund).

• The legislation will be adjusted to allow a deduction up to the full value of the employer contribution fringe benefit, if valued according to paragraph 12D of the Seventh Schedule.

• The amendment will take effect from 1 March 2016.
• Before 1 March 2016, taxpayers were able to deduct retirement annuity contributions against their passive or non-trading income up to a certain limit. The current wording of section 11(k) of the Income Tax Act, which introduces the harmonised tax regime for retirement contributions from 1 March 2016, does not allow for contributions to any retirement fund to be set off against passive income.

• Section 11(k) will allow for retirement contributions to be deducted against passive income, subject to the previously noted limits.

• Note: From remuneration management perspective, make sure that employees only allowed to contribute on “remuneration” and not “taxable income”. Employees can do this privately, outside payroll.
ROLLOVER OF EXCESS CONTRIBUTIONS PRIOR TO 1 MARCH 2016

• Section 11(k) of the Income Tax Act be amended to allow for the rollover of excess contributions to retirement annuity funds and pension funds accumulated up to 29 February 2016.
ORDER OF ALLOWABLE DEDUCTIONS

• To correct the ordering rule for calculating allowable deductions in the determination of taxable income, it is proposed that the allowable deduction under section 11(k) of the Income Tax Act be determined before the allowable deduction under section 18A.

• This gives higher deduction and before donation deduction.
• The 2015 retirement reforms made provision for tax-free transfers from pension funds to provident funds.

• Before this amendment, tax-free transfers from pension funds to provident funds required a tax directive from SARS.

• This requirement for a tax directive will be removed.
When the residence-based taxation system was introduced in 2001, section 10(1)(gC) was added to the Income Tax Act to exempt foreign pensions derived from past employment in a foreign jurisdiction (i.e. from a source outside of South Africa).

The question of how contributions to foreign pension funds and the taxation of payments from foreign funds should be dealt with raises a number of issues, which require a review.

Sufficient time would be required to determine how to deal with contributions to foreign funds and the taxation of payments from foreign funds, taking into account the tax policy for South African retirement funds.

Note: As SARA we have to comment hereon.
CLARIFICATION REGARDING RAISING AN ASSESSMENT FOR RE-CALCULATING FRINGE BENEFIT

• Paragraph 3(2) of the Seventh Schedule of the Income Tax Act allows the SARS Commissioner under certain circumstances to re-determine the cash equivalent of a fringe benefit and assess either the employer or the employee (housing directives good example).

• Uncertainty exists regarding under what circumstances this determination will be made.

• To provide clarity, it is proposed that the wording of paragraph 3(2) of the Seventh Schedule be aligned with the wording in paragraph 5(2) of the Fourth Schedule.
ALIGNMENT OF THE DEFINITION OF PRIVATE TRAVEL

• The concept of private travel has been difficult for employers to apply in practice. The difference in the wording of the definition of private travel in section 8 and the Seventh Schedule of the Income Tax Act adds to the difficulties.

• To correct this, it is proposed that the wording of the two provisions be aligned.

• Note: This will impact employee travel allowance calculators and when promulgated. Clear also that employee travel a valid package structuring item and no discussion to remove.
ADDRESSING CIRCUMVENTION OF SECTION 8C RULES

• The main purpose of section 8C is to prevent taxpayers from disguising high salaries through the use of restricted shares or share-based incentive schemes, which would trigger lower or no taxable income or capital gains.

• Specific anti-avoidance rules have been added to the tax legislation to counteract avoidance schemes where benefits derived from restricted shares or share-based incentive schemes consist of dividends.

• The rules exclude such dividends from the exemption in section 10(1)(k) and tax them as ordinary income. However, the current rules do not deal adequately with some schemes where restricted shares held by employees are liquidated in return for an amount qualifying as a dividend.

• It is proposed that the current rules be reviewed to deal with this.
INCLUSION OF CERTAIN DIVIDENDS IN THE DEFINITION OF REMUNERATION

• Certain dividends received from restricted equity instruments do not qualify for an income tax exemption and are taxable on assessment of the directors and employees.

• It is proposed that these taxable dividends be specifically included in the definition of remuneration for PAYE in paragraph 1 of the Fourth Schedule to the Income Tax Act.
EMPLOYEES OF FOREIGN EMPLOYERS IN SOUTH AFRICA 
DESIGNATED AS PROVISIONAL TAXPAYERS

If foreign employers in South Africa do not deduct PAYE, local employees should pay provisional tax in terms of the Fourth Schedule of the Income Tax Act.

Rather than alert this class of taxpayers of their status through individual notices, as is currently required, it is proposed that the commissioner notify them of their status through a public notice.

Note: technical risk here and conservative approach is withhold PAYE. Work permit creates employer / employee link.
DIRECTIVES TO BE SOUGHT FOR ALL EMPLOYMENT LUMP SUMS

• There are exceptions to the rule that employers must ascertain from the commissioner the correct amount in employees’ tax to be withheld from lump-sum payments before payment is made.

• It is proposed that the provision for exceptions be removed.

• Note: Any lump sum including share gains are subject to SARS tax directive.
WITHDRAWAL OF WITHHOLDING TAX ON SERVICE FEES

• The withholding tax on service fees has introduced unforeseen issues, including uncertainty on the application of domestic tax law and taxing rights under tax treaties.

• To resolve these issues, it is proposed that the withholding tax on service fees be withdrawn from the Income Tax Act and dealt with under the provisions of reportable arrangements in the Tax Administration Act (2011).

• Note: Technical level again excellent example of how law is being pushed through, which are non-workable solutions in the first instance.
TAXATION OF NON-EXECUTIVE DIRECTORS’ FEES

• Under the Income Tax Act and the Value-Added Tax Act, a non-executive director’s fees may be subject to both employees’ tax (PAYE) and VAT.

• Views differ on whether to deduct PAYE from these fees or if the director should register as a VAT vendor. It is proposed that these issues be investigated to provide clarity.
• VAT Regulation 2835 specifies a method for establishing the determined value of a company car for output tax purposes.

• This method differs from the method prescribed in paragraph 7(1) of the Seventh Schedule of the Income Tax Act. These differences have resulted in employers and payroll managers calculating the determined value of company cars using two methods and maintaining two sets of records.

• In addition, both of these determined values can be depreciated. The use of two methods and maintenance of two sets of records creates an administrative burden.

• It is proposed that the provisions of the VAT Regulation 2835 be aligned with the provisions of the Seventh Schedule of the Income Tax Act.
EXTENSION OF OBJECTION AND CONDONATION PERIODS

• The current period for lodging an objection under the Tax Administration Act is 30 business days from the date of assessment.

• This has been shown to be too short in practice, particularly in complex matters, resulting in a large number of applications for condonation.

• It is therefore proposed that a longer period for lodging an objection and condonation be considered.

• Amendments to the dispute resolution rules will also be required to give effect to this proposal, which could result in a change to the rules for failing to comply within the prescribed time periods.
The Tax Administration Act provides that if a tax appeal relates to the business of mining, the commercial member must be a registered engineer with experience in that field, or a sworn appraiser if it involves the valuation of assets.

Because other matters of a technical nature may also require a commercial member with expertise in the relevant field, it is proposed that an amendment be considered to include a more generic provision for this purpose.
A person who is aware of a pending audit or investigation may not apply for voluntary disclosure relief. It is proposed that an amendment be considered to clarify what is meant by pending audit or investigation.
South Africa’s voluntary disclosure programme gives non-compliant taxpayers the opportunity to correct their tax affairs.

With a new OECD global standard for the automatic exchange of financial information between tax authorities coming into effect from 2017, time is running out for taxpayers who still have undisclosed assets abroad.

The National Treasury, SARS and the Reserve Bank have received requests from parties with unauthorised foreign assets who wish to regularise their affairs.

Accordingly, government proposes to relax voluntary disclosure rules for a period of six months, from 1 October 2016, to allow non-compliant individuals and firms to disclose assets held and income earned offshore.
LEARNERSHIP AND EMPLOYMENT TAX INCENTIVES

• The learnership tax incentive, introduced in 2002, aims to encourage education and work-based training.

• The employment tax incentive, introduced in 2014, was designed to promote the employment of young workers.

• Both incentives will expire towards the end of 2016.

• SARS has made data on the employment tax incentive available and a review is under way.

• It is envisaged that results from the review of both incentives will be published and presented to Parliament by the third quarter of 2016.

• If there are delays in completing these reviews, government may consider extending the incentives by one year.
INCREASING THE INCENTIVE FOR EMPLOYERS TO PROVIDE BURSARIES

• Increase in the fringe benefit tax exemption thresholds for bursaries provided to employees or their relatives.
  • The income eligibility threshold for employees to access the relief will be increased from R250 000 to R400 000.
  • The value of qualifying bursaries will be increased from R10 000 to R15 000 for National Qualifications Framework levels 1 to 4, and from R30 000 to R40 000 for levels 5 to 10.
TAX TREATMENT OF TRUSTS

• To limit taxpayers’ ability to transfer wealth without being taxed -
  • Assets transferred through a loan to a trust are included in the estate of the founder at death;
  • Categorise interest-free loans to trusts as donations; and
  • Further measures to limit the use of discretionary trusts for income-splitting and other tax benefits will also be considered.
INTERESTING ITEMS FOR REWARD PROFESSIONALS
“Social partners have reached agreement on the principle of a national minimum wage ... deliberations continue on appropriate level”
“National Treasury, the Department of Public Service and Administration, and the Department of Planning, Monitoring and Evaluation are assessing the 2015 public-sector wage negotiation process.

The result of the assessment will be used to develop and propose reforms to collective bargaining and remuneration that could further enhance fiscal stability.”
“The National Treasury, in partnership with the Department of Public Service and Administration (DPSA) and the Department of Planning, Monitoring and Evaluation (DPME) should develop systems and mechanisms targeted at reforming public-sector wage agreement mechanisms so that they align with the principles of fiscal sustainability and countercyclicality.

In addition, wage agreements should not deplete contingency reserves as these serve as a critical buffer against natural disasters such as droughts and global economic shocks.”
“The National Treasury is working with the DPSA and the DPME to prepare an evaluation of the 2015 wage negotiations. Weaknesses in public-service wage-setting institutions are being identified and proposals for reforms considered. Issues identified thus far include:

- Excessive focus on short-term cost-of-living adjustments.
- Insufficient focus on longer-term reforms to public-sector employment practices and remuneration structures that could improve performance, service delivery and fiscal sustainability.
- Weakness in the sectoral collective bargaining chambers, and insufficient attention to sectoral issues and the central chamber.
- Gaps in the employers’ mandate formulation and approval processes, such as the absence of direct participation of provincial governments.

The report will draw on lessons and experiences gained from other countries on public-sector collective bargaining institutions and remuneration reforms. Reform proposals will help government prepare for the next round of negotiations.”
MEASURING PRODUCTIVITY IN THE PUBLIC SECTOR

“The National Treasury, in partnership with the DPSA and DPME, should develop systems and implement a framework for measuring productivity aimed at benchmarking improvements in the public sector in the medium to long term.

It is also working on a strategy for remuneration reform that should ensure there is a strong link between wage settlements and performance at both an individual and institutional level.”
“An exercise to model remuneration trends is also under way. Preliminary results indicate that increases in the remuneration bill in central, administrative and policy departments are partly driven by increases in employee numbers or salary levels, without a commensurate increase in productivity.”

“Governance framework will see the enactment of overarching legislation, informed by a review of the current shareholder management model. Board appointment processes will be standardised, and remuneration frameworks reviewed to ensure that compensation growth is contained and linked to efficient performance.”
MONITORING PUBLIC EMPLOYMENT PROGRAMMES AND THEIR EFFECT ON JOB CREATION

“The National Treasury, in partnership with relevant stakeholders, should look at ways in which public employment programmes can be sufficiently customised so that they respond to the varying economic conditions across the country.

There should be enhanced monitoring mechanisms of public employment programmes and their overall effects on job creation, wages and productivity.”
“Rising compensation costs continue to stretch provincial finances.

Over the medium term, the percentage of provincial budgets allocated to salaries is expected to increase from 59.7 per cent to 61 per cent, mainly for the salaries of teachers and healthcare workers.

Compensation as a share of provincial budgets ranges from a low of 53 per cent in the Western Cape to a high of 72 per cent in Limpopo.

Over the medium term, compensation budgets are expected to grow at 1 per cent above inflation as a result of the wage settlement reached in 2015.”
TAX ITEMS PROMULGATED SINCE 01 MARCH 2015
COMPANY VEHICLE FRINGE BENEFIT VALUE

• Special rules for motor vehicle manufacturers, motor vehicle importers, motor vehicle dealers or motor vehicle rental companies.

• The price of acquisition of the motor vehicle paid by the employer (including value-added tax).

• Regulation Gazette 10423 posted
RETIREMENT REFORM EFFECTIVE 01 MARCH 2016

• Contributions by both employers and employees to pension, provident and retirement annuity funds will qualify for a tax deduction, capped at a lesser of: 27.5% of the greater of taxable income or remuneration; or R350 000 per annum.

• On the other hand, contributions by employers to pension, provident and retirement annuity funds on behalf of employees will become a taxable fringe benefit in the hands of the employee.

• The de minimis threshold is increased from R75 000 to R247 500. This effectively means that members of pension and retirement annuity funds who do not have a retirement benefit exceeding R247 500 at retirement will not be required to annuitise. Only members who have a retirement benefit of R247 500 will be required to annuitise.
RETIREMENT REFORM – STRUCTURE CHANGES

• Flexible retirement fund salary (to 100%) and contributions on bonuses, share scheme gains etc.

• Generally employer contributions unchanged, but protection to not over R350,000.

• Employee flex to 27.5%.

• Exclusive / approved model on risk benefits (1 – 10 times Life)

• Income disability no more than take-home.
WITHDRAWING RETIREMENT ANNUITY FUND

• The definition of “retirement annuity fund” in section 1(b)(x)(dd) amended to allow for expatriates to withdraw a lump sum from their retirement annuity fund if one of the two criteria is met:

  • when the expatriates cease to be tax resident and leave South Africa; or

  • when the expatriates leave South Africa at the end of their work visa.

• Same applies to South African residents when emigrate.
MEDICAL AID OVER 65

• Medical tax credits related to medical scheme contributions by those over 65 be taken into account for both monthly PAYE and Provisional tax computation.
SARS UPDATE FOR PAST YEAR
14 August 2015


1 July 2015

• BPR 196 – Employees’ Tax: Monthly pension benefits in respect of foreign services rendered.

16 February 2016

• BPR 220 – Contribution by a mining company to a trust pursuant to a share incentive scheme

16 February 2016

• BPR 051 – Taxation of employees participating in a perpetuity employee share incentive scheme
26 February 2016

• Draft Interpretation Note 16 (Issue 2) – Exemption from Income Tax: Foreign Employment Income
INTERNATIONAL MOBILITY

• Change to expatriate residential accommodation (actual cost method where rented, tax directives only for company owned).

• Exchange rate planning.

• Foreign tax credits no longer on RSA source income.

Davis Tax Committee Interim Report on Action 6: “Preventing Treaty Abuse” in its discussion of section 6quin “Base erosion resulting from South Africa giving away its tax base” states that “South Africa has effectively eroded its own tax base as it is obliged to give credit for taxes levied in the paying country.”
SUPREME COURT OF APPEAL ON
SALARY STRUCTURING / SALARY SACRIFICE
• Question of law: Whether valid and binding salary sacrifice agreement achieved.

• Taxpayer win.

• The scheme involved employees sacrificing or foregoing a portion of their cash remuneration ‘packages’ in return for their use of company-owned motor vehicles.
“In the commercial world employers and employees are entitled to structure salary packages in a tax efficient manner. And that salary sacrifice arrangements, whereby employees sacrifice or forego a portion of their cash salaries in return for some quid pro quo or fringe benefit from the employer that reduces their tax liability, are perfectly lawful.”

“It is a question of fact in each case whether a salary sacrifice agreement was achieved. In this regard a court is not concerned with the subjective belief of the parties to the agreement – no matter how genuine this belief may be – but with whether the facts, objectively viewed, establish that this result was attained. It must thus consider the oral and documentary evidence to assess the probabilities.”
“The taxpayer bears the burden of proving that the Commissioner’s decision to disallow its objection to the assessments was wrong. And where, as in this case, the taxpayer’s is the only oral evidence, it must be considered carefully in the light of the available documentary evidence before a court is able to conclude whether or not the taxpayer has discharged the onus.”

“To conclude: the parties sought to fund a taxable benefit from a salary sacrifice. They were entitled to do so in accordance with the relevant provisions of the Act. And they achieved this through the scheme they agreed on and implemented. The following features of the scheme indicate that it was properly designed and implemented ...”
CONFIRMS PACKAGE STRUCTURING ON PREVIOUSLY FRINGE ITEMS

- Company vehicles (perk vehicles and not tool of trade)
- Additional leave
- Company cellular phones, computers, home office items, ADSL / Fiber
- Bursary (employee study) and children (see new thresholds)
- Home ownership schemes etc.
SUMMARY

• SARS Collection pressure, no government bailout, retrenchments and union pressures.

• Attraction vs retention / increased activism by shareholders

• Role of remuneration practitioner
  - Strategic / reporting
  - Lobby business and stakeholders
  - Make sure every cent count (benefits, flexibility, reward policies, reimbursements, cellular phones, petrol cards)
DURBAN & CAPE TOWN ITEMS

• Flex leave and structured bursaries.

• Employer using bulk buying for better benefits (non-tax items), i.e. vehicle tyres, pharmacy services, unit trusts, section 12J investments, vehicle insurance, funeral plans.
THANK YOU