

# TAX & EXCHANGE CONTROL

## ALERT

4 AUGUST 2022

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More change afoot, but less than expected? Release of the draft tax amendment bills, including retirement reform proposals

On 29 July and 31 July 2022, National Treasury issued media statements regarding the publication of four draft bills for public comment, which give effect to the tax proposals made in the 2022 Budget Review.



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## More change afoot, but less than expected? Release of the draft tax amendment bills, including retirement reform proposals

On 29 July and 31 July 2022, National Treasury issued media statements regarding the publication of four draft bills for public comment, which give effect to the tax proposals made in the 2022 Budget Review, namely:

- The 2022 Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill (2022 Draft Rates Bill).
- The 2022 Draft Revenue Laws Amendment Bill (2022 Draft RLAB).
- The 2022 Draft Taxation Laws Amendment Bill (2022 Draft TLAB).
- The 2022 Draft Tax Administration Laws Amendment Bill (2022 Draft TALAB).

In the coming weeks, we will publish articles on some of the proposals contained in these bills, but for now, we provide a high-level overview of the proposals.

### **2022 DRAFT RATES BILL**

According to the 29 July media statement, the bill gives effect to the tax proposals announced in Chapter 4 of the 2022 Budget dealing with changes to the rates and monetary thresholds to the personal income tax tables and increases in the excise duties on alcohol and tobacco. Readers might recall that the initial draft of this bill was first published along with the 2022 Budget Review and subsequently revised to include changes tabled by the Minister of Finance regarding the temporary fuel levy reduction and postponing the effective date of an inflationary increase in the health promotion levy (sugar tax). We wrote about the temporary reduction of the fuel levy in our Tax and Exchange Control Alert of [7 April 2022](#).

### **2022 DRAFT RLAB**

According to the 29 July media statement, the 2022 Draft RLAB contains proposed amendments dealing with the “two pot” retirement system. The proposed

amendments give effect to the previous announcements made by the Minister of Finance in the February 2021 Budget Speech and November 2021 Medium-Term Budget Policy Statement.

The 31 July media statement notes that the amendments enable South Africans to also save for non-retirement purposes (e.g. emergencies) via their retirement funds, whilst preserving more of their savings for retirement. It explains that these amendments aim to encourage members to preserve their retirement savings by making it more flexible to accommodate unforeseen pressures that members face during the span of their working life. It makes it possible for workers not to resign from their employment merely to access their retirement funds and would have assisted members during a crisis like the COVID-19 pandemic, when many employees faced reduced salaries or were not paid at all for a time.

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### 2022 DRAFT TLAB

The 29 July media statement notes that the key proposals in this bill are:

- The progressive increase in the carbon tax rate for 2023 to 2030, as contained in the Carbon Tax Act 15 of 2019.
- In respect of vaping, the taxation of electronic nicotine and non-nicotine delivery systems.
- Extension of the research and development tax incentive sunset date, which provisions are contained in section 11D of the Income Tax Act 58 of 1962 (ITA).
- The impact of IFRS17 insurance contracts on the taxation of insurers, including their taxation in terms of sections 28 and 29A of the ITA.
- Reviewing the debtor's allowance provisions to limit the impact on lay-by arrangements, which relates to section 24 of the ITA.

### 2022 DRAFT TALAB

In respect of this bill, the 29 July media statement indicates that the key proposals are:

- Advance rulings under the Customs and Excise Act 91 of 1964, where the insertion of entirely new sections is proposed.
- Imposition of understatement penalties for employment tax incentives improperly claimed, which is currently not possible based on the wording of the Tax Administration Act 28 of 2011 (TAA).
- Addressing tax compliance status (TCS) system abuse. The TCS provisions are currently contained in section 256 of the TAA.

### OPPORTUNITY TO COMMENT ON THE DRAFT BILLS

The media statements indicate that the due date for comments on the bills is 29 August 2022 and that all submissions on the draft bills must be sent to National Treasury at [2022AnnexCProp@treasury.gov.za](mailto:2022AnnexCProp@treasury.gov.za) and to the South African Revenue Service (SARS) at [acollins@sars.gov.za](mailto:acollins@sars.gov.za)

### IMPORTANCE OF MAKING SUBMISSIONS

It is crucial that taxpayers who may be affected by the proposals make use of the opportunity to raise their concerns with National Treasury and SARS in writing and at the workshops that will likely be hosted by National Treasury and SARS soon after the closing date for submissions.

Taxpayers who are affected by the proposals and belong to industry bodies, should also liaise with their industry bodies about making submissions to National Treasury and SARS, as such consolidated

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submissions made on behalf of a large segment of taxpayers can often be very persuasive. This is because they may assist National Treasury and SARS to better understand the unintended practical impact of a proposed amendment on taxpayers or how a proposed amendment can adversely affect a large number of taxpayers. In the past, National Treasury has revoked proposals initially made in draft tax legislation, with one such case occurring in 2021 where the proposals regarding the extension of section 7C of the ITA were revoked and excluded from the final 2021 Draft Taxation Laws Amendment Bill submitted to Parliament.

CDH has in the past assisted taxpayers to make submissions to National Treasury and SARS with the successful result that proposed legislative amendments were either revoked or amended, in line with the concerns raised by taxpayers. Readers or taxpayers who would like us to assist with the preparation of their submissions are welcome to contact us for assistance.

**LOUIS BOTHA**





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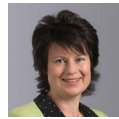
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**BBBEE STATUS:** LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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