

TAX & EXCHANGE CONTROL ALERT

28 OCTOBER 2022



CLIFFE DEKKER HOFMEYR

INCORPORATING
KIETI LAW LLP, KENYA

IN THIS ISSUE

2022 MTBPS: Generally good news, limited tax changes

On 26 October 2022, the Minister of Finance (Minister) delivered the Medium-Term Budget Policy Statement (MTBPS). While it appears that the MTBPS speech was generally positively received, from a tax and tax policy perspective, there were also some interesting announcements.



FOR MORE
INSIGHT INTO
OUR EXPERTISE
AND SERVICES

2022 MTBPS: Generally good news, limited tax changes

On 26 October 2022, the Minister of Finance (Minister) delivered the Medium-Term Budget Policy Statement (MTBPS). While it appears that the MTBPS speech was generally positively received, from a tax and tax policy perspective, there were also some interesting announcements.

TAX COLLECTIONS

The Minister indicated that since the 2022 Budget, revenue collection has exceeded projections and the gross tax revenue estimate for 2022/23 has been revised upwards by R83,5 billion, to R1,68 trillion. It was indicated that the reasons for this higher estimate are largely the improvements made in corporate income tax collections, with strong receipts from the finance and manufacturing sectors. What is interesting about this is that the amendments to the Income Tax Act 58 of 1962 that came into effect earlier this year, specifically the reduction of the corporate income tax rate to 27% and concomitant interest deductibility and limitation of assessed losses amendments, were aimed at broadening the corporate tax base. It is thus possible that the increased projection is based on the amendments having the desired effect, although it remains to be seen whether these amendments will adversely affect taxpayers and their businesses, especially those operating in industries and sectors where it takes a number of years to become profitable.

TAXATION LAWS AMENDMENT BILL AND TAX ADMINISTRATION LAWS AMENDMENT BILL

The Minister tabled the Taxation Laws Amendment Bill, 2022 (2022 TLAB) and Tax Administration Laws Amendment Bill, 2022 (2022 TALAB) before Parliament, following the public consultation process that took place in relation to draft versions of the bills that were published earlier this year. Following the public consultation process, the following notable changes have been included in the bills:

- Regarding the carbon tax proposed amendments, it appears that only some of the submissions made by stakeholders were accepted. Most notably, the revised 2022 TLAB now sets out the exact rate for each carbon tax year of assessment from now until 2030, although these rates are lower than those proposed in the draft version of the bill.



2022 MTBPS: Generally good news, limited tax changes

CONTINUED

- In relation to business tax amendments, the most notable changes relate to the provisions regarding contributed tax capital (CTC), where changes have been introduced to ensure an equal and proportionate distribution of CTC per share whilst not impacting on certain legitimate targeted corporate actions.
- Regarding value-added tax (VAT), there were not many changes, but those that were made relate mainly to proposals following the 2019 amendments to section 72 of the Value-Added Tax Act 89 of 1991, which dealt with the issuing of VAT rulings.
- From a tax administration perspective, the 2022 TALAB has been amended to take into account comments regarding the imposition of understatement penalties in the context of the employment tax incentive and regarding the provisions aimed at preventing abuse of the tax compliance status system.

COMMENT

The 2022 TLAB and 2022 TALAB will now be considered by the relevant parliamentary committees and once they have been passed by Parliament, they will be signed by the President and come into effect on promulgation in the Government Gazette. Taxpayers should note that some of the provisions in the bills apply retrospectively (to periods prior to promulgation) and should therefore understand and appreciate how this may impact them.

We will also discuss some of the amendments in our Tax and Exchange Control Alert in the coming weeks and months.

LOUIS BOTHA

2022 RESULTS

CHAMBERS GLOBAL 2018 - 2021 ranked our Tax & Exchange Control practice in Band 1: Tax.

Emil Brincker ranked by **CHAMBERS GLOBAL 2003 - 2022** in Band 1: Tax.

Gerhard Badenhorst was awarded an individual spotlight table ranking in **CHAMBERS GLOBAL 2022** for tax: indirect tax. **CHAMBERS GLOBAL 2009-2021** ranked him in Band 1 for tax: indirect tax.

Mark Linington ranked by **CHAMBERS GLOBAL 2017 - 2022** in Band 1: Tax: Consultants.

Ludwig Smith ranked by **CHAMBERS GLOBAL 2017 - 2022** in Band 3: Tax.

Stephan Spamer ranked by **Chambers Global 2019-2022** in Band 3: Tax.



Cliffe Dekker Hofmeyr

OUR TEAM

For more information about our Tax & Exchange Control practice and services in South Africa and Kenya, please contact:



Emil Brincker

Practice Head & Director:
Tax & Exchange Control
T +27 (0)11 562 1063
E emil.brincker@cdhlegal.com



Sammy Ndolo

Managing Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E sammy.ndolo@cdhlegal.com



Lance Collop

Director:
Tax & Exchange Control
T +27 (0)21 481 6343
E lance.collop@cdhlegal.com



Mark Linington

Director:
Tax & Exchange Control
T +27 (0)11 562 1667
E mark.linington@cdhlegal.com



Gerhard Badenhorst

Director:
Tax & Exchange Control
T +27 (0)11 562 1870
E gerhard.badenhorst@cdhlegal.com



Jerome Brink

Director:
Tax & Exchange Control
T +27 (0)11 562 1484
E jerome.brink@cdhlegal.com



Petr Erasmus

Director:
Tax & Exchange Control
T +27 (0)11 562 1450
E petr.erasmus@cdhlegal.com



Dries Hoek

Director:
Tax & Exchange Control
T +27 (0)11 562 1425
E dries.hoek@cdhlegal.com



Alex Kanyi

Partner | Kenya
T +254 731 086 649
+254 204 409 918
+254 710 560 114
E alex.kanyi@cdhlegal.com



Heinrich Louw

Director:
Tax & Exchange Control
T +27 (0)11 562 1187
E heinrich.louw@cdhlegal.com



Howmera Parak

Director:
Tax & Exchange Control
T +27 (0)11 562 1467
E howmera.parak@cdhlegal.com



Stephan Spamer

Director:
Tax & Exchange Control
T +27 (0)11 562 1294
E stephan.spamer@cdhlegal.com



Tersia van Schalkwyk

Tax Consultant:
Tax & Exchange Control
T +27 (0)21 481 6404
E tersia.vanschalkwyk@cdhlegal.com



Louis Botha

Senior Associate:
Tax & Exchange Control
T +27 (0)11 562 1408
E louis.botha@cdhlegal.com



Varusha Moodaley

Senior Associate:
Tax & Exchange Control
T +27 (0)21 481 6392
E varusha.moodaley@cdhlegal.com



Tsanga Mukumba

Associate:
Tax & Exchange Control
T +27 (0)11 562 1136
E tsanga.mukumba@cdhlegal.com

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.

PLEASE NOTE

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.

Dx 154 Randburg and Dx 42 Johannesburg.

T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.

T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

NAIROBI

Merchant Square, 3rd floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.

T +254 731 086 649 | +254 204 409 918 | +254 710 560 114

E cdhkenya@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.

T +27 (0)21 481 6400 E cdhstellenbosch@cdhlegal.com

©2022 11650/OCT