C

Summary of tax proposals

Direct tax proposals

Personal income tax rate and bracket structure

It is proposed to retain the single rate scale for individuals. The primary rebate is increased to R5 800 a year for all individuals. The secondary rebate is increased to R3 200 a year for individuals age 65 and over. The rates of tax in respect of the 2003/04 tax year and those proposed for the 2004/05 tax year are set out in table C1.

The proposed tax schedule eliminates the effects of inflation on income tax liabilities and results in a reduced tax liability for taxpayers at all income levels. These tax reductions are set out in tables C2 and C3.

Table C.1 : Personal income tax rate and bracket adjustments

2003/04		2004/05	
Taxable income (R)	**Rates of tax**	**Taxable income (R)**	**Rates of tax**
0 – 70 000	18% of each R1	0 – 74 000	18% of each R1
70 001 – 110 000	R12 600 + 25% of the amount above R70 000	74 001 – 115 000	R13 320 + 25% of the amount above R74 000
110 001 – 140 000	R22 600 + 30% of the amount above R110 000	115 001 – 155 000	R23 570 + 30% of the amount above R115 000
140 001 – 180 000	R31 600 + 35% of the amount above R140 000	155 001 – 195 000	R35 570 + 35% of the amount above R155 000
180 001 – 255 000	R45 600 + 38% of the amount above R180 000	195 001 – 270 000	R49 570 + 38% of the amount above R195 000
255 001 and above	R74 100 + 40% of the amount above R255 000	270 001 and above	R78 070 + 40% of the amount above R270 000
Rebates		**Rebates**	
Primary	R5 400	Primary	R5 800
Secondary	R3 100	Secondary	R3 200
Tax threshold		**Tax threshold**	
Below age 65	R30 000	Below age 65	R32 222
Age 65 and over	R47 222	Age 65 and over	R50 000

Table C2: Income tax payable, 2004/05 (taxpayers younger than 65)

Taxable income (R)	2003 rates (R)	Proposed rates (R)	Tax reductions (R)
32 500	450	50	400
35 000	900	500	400
40 000	1 800	1 400	400
45 000	2 700	2 300	400
50 000	3 600	3 200	400
55 000	4 500	4 100	400
60 000	5 400	5 000	400
65 000	6 300	5 900	400
70 000	7 200	6 800	400
75 000	8 450	7 770	680
80 000	9 700	9 020	680
85 000	10 950	10 270	680
90 000	12 200	11 520	680
100 000	14 700	14 020	680
120 000	20 200	19 270	930
150 000	29 700	28 270	1 430
180 000	40 200	38 520	1 680
200 000	47 800	45 670	2 130
500 000	166 700	164 270	2 430
800 000	286 700	284 270	2 430
1 000 000	366 700	364 270	2 430

Table C3: Income tax payable, 2004/05 (taxpayers age 65 and older)

Taxable income (R)	2003 rates (R)	Proposed rates (R)	Tax reductions (R)
50,000	500	–	500
55,000	1,400	900	500
60,000	2,300	1,800	500
65,000	3,200	2,700	500
70,000	4,100	3,600	500
75,000	5,350	4,570	780
80,000	6,600	5,820	780
85,000	7,850	7,070	780
90,000	9,100	8,320	780
100,000	11,600	10,820	780
120,000	17,100	16,070	1,030
150,000	26,600	25,070	1,530
180,000	37,100	35,320	1,780
200,000	44,700	42,470	2,230
500,000	163,600	161,070	2,530
800,000	283,600	281,070	2,530
1,000,000	363,600	361,070	2,530

The average tax rates (tax as a percentage of taxable income) for individuals are illustrated in figures C1 and C2. Average tax rates decline for all income groups under the proposed tax rate structure is illustrated in figure C3.

Figure C1 Average tax rates under age 65

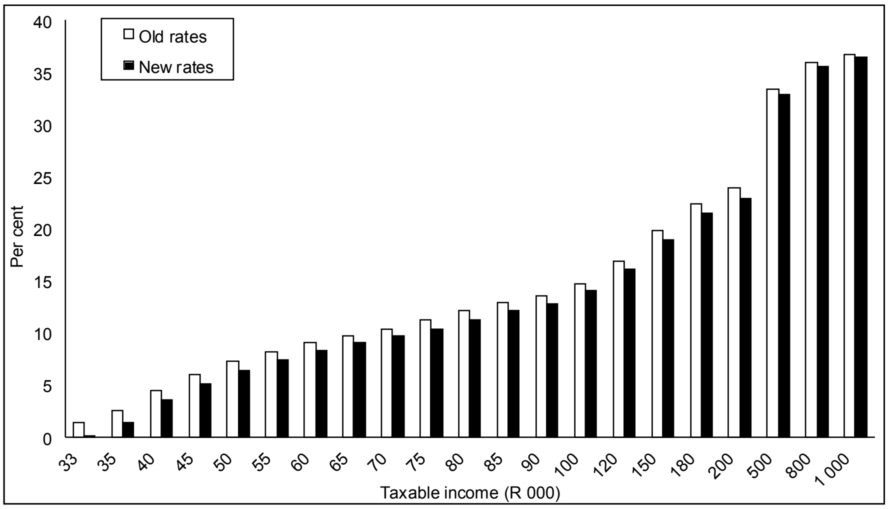


Figure C2 Average tax rates age 65 and over

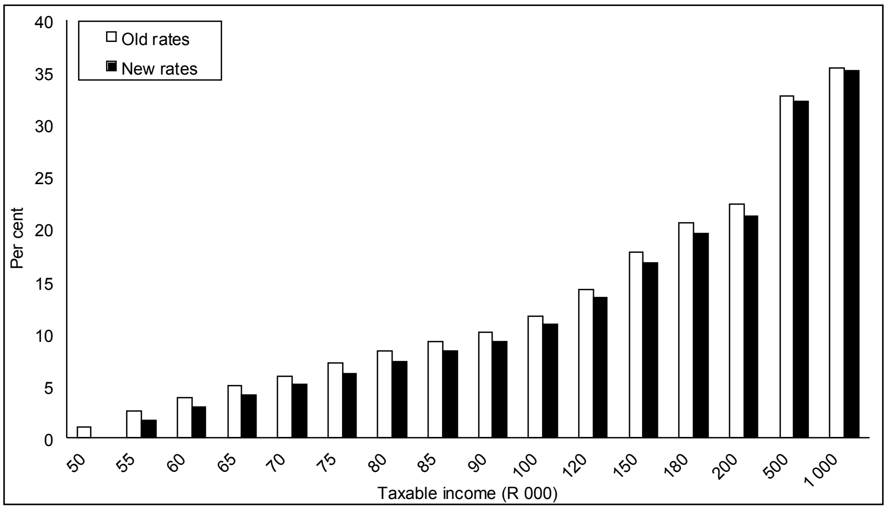
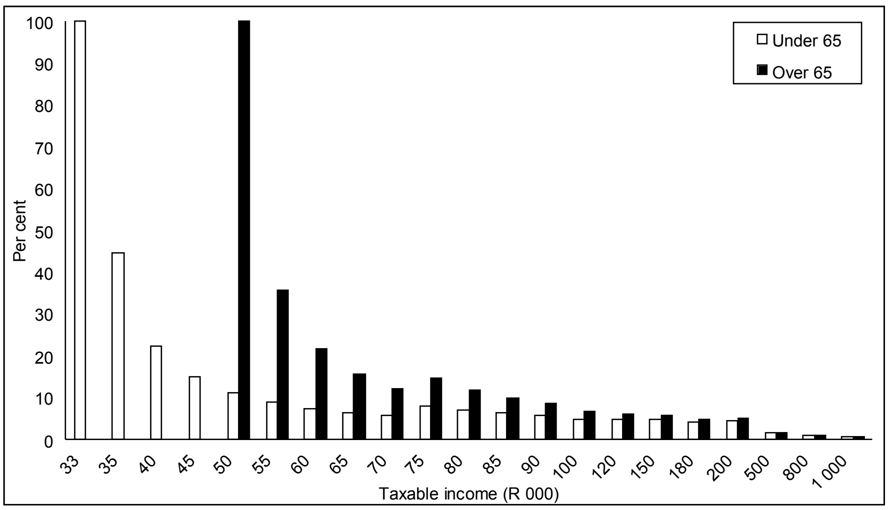


Figure C3 Nominal declines in average tax rates



International tax agreements

International tax agreements are important for encouraging investment and trade flows between countries. Agreements reached on the allocation of taxing rights between residence and source countries of international investors, international tax agreements provide a solid platform for growth in international trade and investment.

In the 2003/04 fiscal year, considerable progress was once again made in reaching agreements with other countries for the avoidance of double taxation and prevention of fiscal evasion. The present position is as follows:

- Comprehensive agreements (53) are in force with Algeria, Australia, Austria, Belarus, Belgium, Botswana, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Korea, Lesotho, Luxembourg, Malawi, Malta, Mauritius, Namibia, the Netherlands, Norway, Oman, Pakistan, the People's Republic of China, Poland, Romania, the Russian Federation, the Seychelles, Singapore, the Slovak Republic, Swaziland, Sweden, Switzerland, Taiwan, Thailand, Tunisia, Uganda, the United Kingdom, the United States of America, Zambia and Zimbabwe. An older agreement with the United Kingdom (1946) applies also to Grenada and Sierra Leone.
- New comprehensive agreements (26) are in the process of negotiation or being finalised with Bangladesh, Brazil (ratified by South Africa), Bulgaria, Cuba, Estonia, Ethiopia, Gabon, Ghana, Kuwait, Latvia, Lithuania, Malaysia, Morocco, Mozambique, New Zealand (ratified by South Africa), Nigeria (ratified by South Africa), Portugal, Qatar, Rwanda (ratified by South Africa), Saudi Arabia, Spain, Sri Lanka, Tanzania, Turkey, Ukraine (signed but not ratified) and the United Arab Emirates.
- Old comprehensive agreements (7) are in the process of renegotiation or being finalised with Botswana (signed but not ratified by South Africa), Germany, Malawi, the Netherlands, Swaziland (signed but not ratified), Zambia and Zimbabwe. Where agreements are being renegotiated, the existing agreements remain effective until new agreements are entered into force.
- Limited sea and air transport agreements (3) are in force with Brazil, Portugal and Spain.

Agreements for mutual administrative assistance between customs administrations

Agreements covering all aspects of assistance, including exchange of information, technical assistance, surveillance, investigations and visits by officials are as follows:

- Agreements (4) are in force with France, the Netherlands, the United Kingdom and the United States of America.
- New agreements (9) are in the process of negotiation or being finalised with Algeria (ratified by South Africa), Angola, Iran, Norway, the Czech Republic (ratified by South Africa), Mozambique (ratified by South Africa), Norway, Turkey and Zambia (ratified by South Africa).
- Agreements for mutual and technical assistance in respect of VAT
- New agreements (4) with Botswana, Lesotho, Namibia and Swaziland are in the process of negotiation or being finalised.

Indirect tax proposals

Specific excise duties

It is proposed that the customs and excise duties in Section A of Part 2 of Schedule No.1 of the Customs and Excise Act, No.91 of 1964, be amended with effect from 18 February 2004 to the extent shown in table C4.

Table C4: Specific excise duties

Tariff item	Tariff heading	Description	Present rate of duty 2003/04		Proposed rate of duty 2004/05	
			Excise	Customs	Excise	Customs
104.00		Prepared foodstuffs; beverages, spirits and vinegar; tobacco				
104.01	19.01	Malt extract; food preparations of flour, grouts, meal starch or malt extract, not containing cocoa or containing less than 40 per cent by mass of cocoa calculated on totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 04.01 to 04.04, not containing cocoa or containing less than 5 per cent by mass of cocoa calculated on totally defatted basis not elsewhere specified or included:				
.10		Traditional African beer powder as defined in Additional Note 1 to Chapter 19	34.7c/kg	34.7c/kg	34.7c/kg	34.7c/kg
104.10	22.03	Beer made from malt				
.10		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/l	7.82c/l	7.82c/l	7.82c/l
.20		Other	2 819.30c/l of absolute alcohol	2 819.30c/l of absolute alcohol	3 073.04c/l of absolute alcohol	3 073.04c/l of absolute alcohol
104.15	22.04	Wine of fresh grapes, including fortified wines; grape must, other than that of heading no. 20.09				
	22.05	Vermouths and other wine of fresh grapes flavoured with plants or aromatic substances				
.02		Sparkling wine	252.60c/l	252.60c/l	323.32c/l	323.32c/l
.04		Unfortified wine	89.6c/l	89.6c/l	117.10c/l	117.10c/l
.06		Fortified wine	200.75c/l	200.75c/l	232.87c/l	232.87c/l
104.17	22.06	Other fermented beverages, (for example, cider, perry and mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:				
.05		Traditional African beer as defined in Additional Note 1 to Chapter 22	7.82c/l	7.82c/l	7.82c/l	7.82c/l
.15		Other fermented beverages, unfortified	143.55c/l	143.55c/l	153.74c/l	153.74c/l
.17		Other fermented beverages, fortified	254.54c/l	254.54c/l	295.27c/l	295.27c/l
.22		Mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages	143.55c/l	143.55c/l	153.74c/l	153.74c/l
.90		Other	254.54c/l	254.54c/l	295.27c/l	295.27c/l
104.20	22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent volume or higher; ethyl alcohol and other spirits, denatured, of any strength				
	22.08	Undernatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent volume; spirits, liqueurs and other spirituous beverages:				
.10		Wine spirits, manufactured by the distillation of wine	4 038.10c/l of absolute alcohol	3 942.10c/l of absolute alcohol	4 583.65c/l of absolute alcohol	4 487.65c/l of absolute alcohol
.15		Spirits, manufactured by the distillation of any sugar cane product	4 038.10c/l of absolute alcohol	3 942.10c/l of absolute alcohol	4 583.65c/l of absolute alcohol	4 569.65c/l of absolute alcohol
.25		Spirits, manufactured by the distillation of any grain product	4 038.10c/l of absolute alcohol	3 942.10c/l of absolute alcohol	4 583.65c/l of absolute alcohol	4 537.65c/l of absolute alcohol
.29		Other spirits	4 038.10c/l of absolute alcohol	4 038.10c/l of absolute alcohol	4 583.65c/l of absolute alcohol	4 583.65c/l of absolute alcohol
.40		Liqueurs and other spirituous beverages	4 038.10c/l of absolute alcohol	4 038.10c/l of absolute alcohol	4 583.65c/l of absolute alcohol	4 583.65c/l of absolute alcohol

Table C4: Specific excise duties (continued)

Tariff item	Tariff heading	Description	Present rate of duty 2003/04		Proposed rate of duty 2004/05	
			Excise	Customs	Excise	Customs
104.30	24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes				
.10		Cigars, cheroots and cigarillos, of tobacco or of tobacco substitutes	106 600c/kg net	106 600c/kg net	123 304c/kg net	123 304c/kg net
.20		Cigarettes, of tobacco or of tobacco substitutes	194.25c/10 cigarettes	194.25c/10 cigarettes	226.40c/10 cigarettes	226.40c/10 cigarettes
104.35	24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences:				
.10		Cigarette tobacco and substitutes thereof	12 447c/kg	12 447c/kg	13 903c/kg	13 903c/kg
.20		Pipe tobacco and substitutes thereof	5 824c/kg net	5 824c/kg net	6 832c/kg net	6 832c/kg net

Ad valorem excise duties

It is proposed that the relevant sections in Section B of Part 2 of Schedule No.1 of the Customs and Excise Act, No.91 of 1964, be deleted with effect from 1 April 2004 to the extent shown in table C5.

Table C5: Items to be deleted from the *ad valorem* excise net

Tariff item	Tariff heading	Description
118.25	33.05	Preparations for use on hair: shampoos, etc.
118.30	33.07	Pre-shave, shaving, or after-shave preparations, personal deodorants, bath preparations, etc
118.35	37.01	Photographic plates & film, etc.
118.40	37.02	Photographic film in rolls, sensitised, unexposed, etc
124.10	84.43	Printing machines
124.60	85.23	Prepared unrecorded media: magnetic tapes, discs, cards incorporating a magnetic stripe, etc.
124.65	85.24	Records, tapes & other recorded media e.g. CDs, DVDs, magnetic tapes, magnetic strips, etc.
128.40	90.09	Photo copying apparatus
128.55	91.03	Clocks with watch movements
128.60	91.05	Other clocks

Miscellaneous amendments

In addition to the Budget Proposals described in Chapter 4 of this Budget Review, the 2004 legislation will contain a number of miscellaneous amendments to the various tax acts. These amendments stem from various problem areas identified in the current legislation as detected over the course of the year through internal review and public comment. Some of these amendments eliminate perceived loopholes while others ensure that tax legislation does not inadvertently hinder legitimate non-tax motivated transactions. These amendments are expected to have only a small revenue impact for the fiscus and are accordingly not listed in Chapter 4. This full listing of lesser amendments provides taxpayers with certainty in terms of expected legislative changes for the upcoming year.

Miscellaneous amendments to the Income Tax Act

- *Removing foreign anomalies involving trusts:* A number of foreign anomalies exist involving trusts. These anomalies include issues relating to the flow-through principle of foreign income and the treatment of foreign beneficiaries. The rules will be clarified in order to ensure that funds retained off-shore through trusts remain fully within the tax net and to ensure that foreign holdings of this type are not subjected to any unintended additional tax charges.
- *Clarifying the meaning of "participation rights" in a foreign company without share capital*: The Income Tax Act triggers the inclusion of income for South African residents having participation rights in a controlled foreign company if those residents have a stake of at least 10 per cent. At issue is how to apply these rules when a foreign company does not have share capital (such as a captive insurance mutual fund). It is accordingly proposed that the law be clarified in this regard.
- *Adopting an annualised average foreign currency exchange rate for purchased annuities*: As a result of recent amendments, the income tax rules for calculating currency profits and losses now generally apply on an annual averaging (rather than spot) basis. The shift to averaging was inadvertently omitted from the purchased annuity-formula. This omission will accordingly be rectified.
- *Clarifying the 50:30:20 depreciation write-off for bio-fuel processing:* Last year Government stressed the importance of bio-fuels (bio-diesel and bio-ethanol) to support sustainable development. A preferential tax depreciation write-off regime of 50:30:20 was highlighted to encourage investment in bio-fuel related processing. It has subsequently come to Government's attention that not all bio-fuel projects may qualify for this preferential tax regime as was intended. It is proposed that the law be clarified to allow a 50:30:20 tax depreciation write-off for all investment in bio-fuel related processing.
- *Deleting the special entertainment deduction for amounts incurred by commission-based employees and entrepreneurs:* Commission-based employees and entrepreneurs can claim a limited amount of entertainment deductions if incurred directly in connection with a trade (and these expenses do not satisfy the general deduction formula). This deduction for additional entertainment expenses will be deleted in order to reduce confusion and to reduce possible claims for disguised personal expenses.
- *Denying deductions for interest and penalties made pursuant to the Unemployment Insurance Contributions Act:* Taxpayers generally cannot deduct interest and penalties paid pursuant to the various tax laws. Express provision will be made to deny deductions for comparable payments made pursuant to the Unemployment Insurance Contributions Act.
- *Removing the reference to Generally Accepted Accounting Practice (GAAP) in interest rate agreements:* Taxpayers must calculate their income and expense arising from interest rate agreements on a day-to-day basis, which conforms to GAAP and is consistently applied for all financial reporting purposes. With the adoption of AC 133, parties subject to mark-to-market accounting no longer use day-to-day calculations. It is accordingly proposed that the reference to GAAP be deleted.
- *Eliminating anomalies to the secondary tax on companies (STC):* Last year's amendment included changes to the STC to co-ordinate the rules for actual and deemed dividends. Further review may be needed to ensure that the recent changes work as intended. In addition, problems have emerged with certain administrative provisions, including the rules for additional taxes and the prescription period for assessments. Lastly, the dividend exemption for intra-group dividends needs to be limited so that the exemption does not apply when dividends are paid to exempt companies.
- *Modifying the provisions for pension payouts to divorced/separated spouses:* The current rules involving pension payouts to divorced/separated spouses contain unintended anomalies when a

fund member's benefit is awarded to the former spouse. These rules will accordingly be clarified for consistency.

- *Creating rules for the conversion of real estate companies to share block companies:* A number of uncertainties exist when a real property company converts to a share block company. Special concerns exist as to whether this conversion causes a deemed distribution to the shareholders. It is accordingly proposed that these uncertainties be clarified.
- *Ongoing revisions concerning 1 October 2001 implementation issues for capital gains tax*: Special time-apportionment rules apply with respect to assets held before 1 October 2001 that ensure capital gains/losses are restricted to the post-1 October 2001 period. As in prior years, issues continually arise in this area that need to be addressed.
- *Clarifying the calculations for the learnership deduction:* Calculating the size of the learnership deduction depends on certain ratios involving the "annual equivalent" of a learner's wage. Unfortunately, the term "annual equivalent" is creating multiple interpretation problems. It is accordingly proposed that the learnership calculations be clarified either administratively or legislatively.
- *Administration – removing duplicate record keeping requirements:* Two sets of rules currently exist for essentially the same record keeping requirements. These rules will accordingly be streamlined.
- *Administration – providing optional pay-as-you-earn (PAYE) relief for disability insurance premiums paid by employees:* Under current law, employers may deduct employee-contributions to retirement annuity funds from the PAYE base if elected by the employee. No deduction from the PAYE base exists for employee-premiums paid for disability insurance. Consideration will accordingly be given to provide optional deductions from the PAYE base in these circumstances.
- *Administration – liberalising the definition of labour broker for PAYE*: Parties paying remuneration to a labour broker must withhold PAYE unless that labour broker receives a certificate of exemption. Similar to the waiver for the anti-avoidance personal service company rules, it is proposed that PAYE withholding be waived if a labour broker employs more than three full-time employees.
- *Administration – co-ordinating the R10 000 threshold for provisional tax with other thresholds:* The R10 000 threshold for payment of provisional tax has not been synchronised with other thresholds, such as the income threshold for paying tax. As a result, certain taxpayers are forced to file provisional tax returns even if no taxes are ultimately due. It is accordingly proposed that the provisional tax threshold be modified to eliminate this and other anomalies.
- *Administration – providing the Financial Services Board (FSB) with the authority to approve various forms of tax-exempt pension plans:* Tax-free pension plans currently need approval from both the FSB and SARS. This dual process is cumbersome, especially when the requirements of both agencies are often aimed at the same concerns. In order to simplify administration, consideration is being given to providing SARS with the authority to delegate the tax approval process to the FSB.
- *Administration – prescription period for re-assessments:* SARS generally cannot re-assess a taxpayer after three years have passed from original assessment. This three-year rule becomes a hindrance to negotiations when transactions under investigation are questioned by SARS. It is accordingly proposed to allow taxpayers to elect to extend the prescription period by agreement for, these marginal circumstances, to facilitate the negotiation process.

Miscellaneous amendments to the Value-Added Tax (VAT) Act

- *Extending the list of preferential domestic goods and services:* Commercial accommodations (e.g., hotels, old age homes) providing certain listed domestic goods and services are subject to VAT under a preferential formula subject to certain conditions. This list includes cleaning, maintenance, electricity, telephone, television and meals. The proposal is to extend the list to laundry and frail care services (including nursing services) provided by housing schemes for retired persons.
- *Extending the list of motor vehicles eligible for VAT input credits:* VAT vendors generally do not receive VAT input credits for motor vehicles, even for business use, because vehicles often contain a private consumption element. However, some exceptions exist for vehicles if the nature of the vehicle is such that private usage is doubtful (e.g., single-cab bakkies, ambulances). It is accordingly proposed to add hearses and game viewing vehicles as additional exceptions.
- *Clarifying the minimum VAT registration threshold for commercial accommodations:* It has always been intended that a commercial accommodation enterprise has to make annual taxable supplies exceeding R60 000 in order to be eligible to register as a VAT vendor. However, a technical anomaly exists between the general minimum registration rule of R20 000 and the commercial accommodation rule that arguably permits an "accommodation" enterprise to register voluntarily at the R20 000 general minimum. It is accordingly proposed that this technical anomaly be eliminated.
- *Clarifying derivatives as an exempt financial service:* Uncertainty exists as to whether the current generation of derivatives are adequately covered as an exempt financial service. It is accordingly proposed to extend the list of exempt financial services to include derivatives.
- *Clarifying the type of foreign leased goods eligible for zero-rating:* Zero-rating for lease, rental or charter agreements conducted outside South Africa was initially intended solely for the benefit of foreign utilised movable goods. However, this zero-rating could be misconstrued as also applying to "fixed property" (thereby triggering unintentional VAT inputs) because the definition of "goods" literally includes "fixed property." It is accordingly proposed to eliminate this anomaly.
- *Providing for zero-rating when enterprises of the same legal entity are combined:* A single legal enterprise can have multiple VAT registration numbers for its branches or divisions if those branches or divisions qualify as separate enterprises. As a rule, any combination of these separate enterprises creates a VAT liability, even though all activities remain within the same legal entity. It is accordingly proposed that enterprise combinations of this kind be zero-rated.
- *Clarifying the circumstances when zero-rating applies to services for foreign residents:* Services performed in South Africa for a foreign resident are generally zero-rated if that foreign resident (or representative) is located outside South Africa at the time of performance. However, certain foreign residents are attempting to claim zero-rating even though the services at issue are wholly received by a VAT registered enterprise within South Africa (where standard rating is the only appropriate policy result). It is accordingly proposed that the rules involving zero-rating for services to foreign residents be clarified.
- *Providing VAT inputs for meals to offshore crews:* Enterprises providing meals as part of their services to clients generally cannot claim VAT inputs for meals consumed by employees (because employee meals could act as a fringe benefit). In 2003, an exception to this rule was added so that VAT inputs could be claimed for meals consumed by employees on board passenger transportation (who have no option but to eat at their worksite). It is now proposed that a comparable exception be added for meal costs consumed by crew employees of shipping vessels and those engaged in similar activities.

- *Eliminating VAT avoidance schemes using artificial non-vendor intermediaries:* A small class of VAT vendors are illegally attempting to avoid paying VAT on sales by utilising non-vendor intermediaries as agents. In schemes of this kind, a VAT vendor transfers goods to a non-vendor, and the non-vendor (acting as agent) sells the goods to another VAT vendor with VAT outputs illegally left unpaid. The buying VAT vendor then claims deemed VAT inputs for the purchase of second-hand goods (thereby being indifferent to the use of the intermediary). In addition to ongoing audits to prevent this practice, it is proposed that the declaration required for the deemed input be reviewed.
- *Defining the term "bad debts":* Special rules apply for bad debts, but the term "bad debts" is left wholly undefined, with the issue left solely to existing practice. It is accordingly proposed that the term "bad debts" be defined in statute in accordance with existing practice.
- *Reviewing changes to intergovernmental transfers and grants:* In 2003, changes were made to the operation of VAT in terms of transfer payments and governmental subsidies. These changes are set to go into effect on the date of Presidential proclamation. Consideration will be given to revisit the proposed treatment of grants to businesses in order to address any unintended consequences.
- *Administration - moving the location of VAT payments on imports:* In order to align the VAT Act with the Customs and Excise Act, it is proposed that VAT payments on imports be made at the port of entry or at the nearest local Customs office (rather than at the local SARS office).
- *Administration – clarifying the rules for tax invoices:* It is intended that all VAT vendors issue either full or abridged VAT invoices as part of their general reporting obligations. In addition, it is intended that all VAT vendors rely on a full VAT invoice when claiming inputs for supplies above R1 000 and may alternatively rely on an abridged VAT invoice when claiming VAT inputs for supplies not exceeding R1 000. The current literal wording is confusing and apparently contradictory in this regard. It is accordingly proposed that this wording be clarified.
- *Administration – requiring farmer notification for changes in VAT registration status:* Farmers who account for VAT on a six monthly cycle are not required to notify SARS when their income exceeds R1 million per annum, even though this change in income requires a shift to a bi-monthly cycle. Notification requirements will be added for this circumstance as a matter of consistency.
- *Administration – imposing a penalty for failing to notify SARS of an enterprise's cessation:* A vendor who ceases to carry on a VAT registered enterprise is required to notify SARS, but currently no penalty exists to enforce this notification. Consistent with other current notification penalties, it is accordingly proposed that this failure be made an offence.

Miscellaneous amendments to the Customs and Excise Act

- *Excise – refining duty at source:* Since 2002, duty at source has been phased in for the tobacco, spirit and fuel industries. Possible consequential amendments may be required to eliminate unintended anomalies uncovered during the implementation process.
- *Excise – refining the biofuels preference:* In 2002, a legislative preference was introduced for the manufacture, storage, distribution and use of biofuels. Consequential legislative amendments to this biofuel preference may be required to facilitate rule implementation.
- *Excise – clarifying the diesel fuel refund:* Diesel fuel concessions have recently been extended to certain off-land non-passenger operators. Further clarifications will be required in this regard, as well as extending it to other small off-land categories of non-passenger operators.
- *Ad valorem excise – Eliminating misuse of the R50 000 threshold:* Manufacturers are currently misusing the R50 000 threshold by artificially dividing their activities in order to multiply the

value of the exemption. This misuse allows manufacturers to escape licensing and *ad valorem* excise duties. This provision will accordingly be reviewed to eliminate these concerns.

- *Ad valorem excise– eliminating category splitting of air conditioning machines*: Importers are attempting to reduce the *ad valorem* excise duty on air conditioners by artificially dividing the machine into two parts. Specific anti avoidance techniques will be introduced.
- *Environmental plastic bag levy – providing consequential amendments to the enabling legislation*: Enabling legislation was introduced in 2003 for the enactment of an environmental (plastic bag) levy. SARS will commence collection of the levy during the course of 2004. Consequential amendments might be needed to facilitate rule implementation.
- *Customs - Industrial Development Zones*: A revised set of enabling legislation for Industrial Development Zones was introduced in 2003. Gradual implementation of Industrial Development Zones may necessitate further legislative changes to facilitate smooth implementation, including collateral changes to the VAT Act, and may possibly include some policy shifts to account for changing realities.
- *Customs – refining enforcement in light of possible Constitutional concerns:* Customs enforcement requires that customs officials have the power to enter premises, gather information as well as detain and seize goods. Consideration will be given to reviewing these powers in order to eliminate any possible violation of the Constitution.
- *Customs – providing the Commissioner the power to readjust the value of exported goods*: The Customs and Excise Act currently provides that the value of exported goods is equal to the free-on-board value. The Commissioner does not have any power to adjust this value in favour of true economic realities, even though the Commissioner normally has this power in other areas as a standard measure to prevent avoidance. The Commissioner will accordingly be provided with this power to address these concerns.
- *Customs – continuing the refinement of Siyakha initiatives*: The Siyakha initiatives are still ongoing. Consequential amendments may still be required for implementation.
- *Customs – adjusting legislation in light of the new South African Customs Union ("SACU") Agreement:* The new SACU agreement is expected to enter into force at the end of April 2004. This new agreement will necessitate changes to customs legislation and will include the updating of cross-references.
- *Customs – refining the shift of the General System of Preferences ("GSP") function to SARS:* In 2003, legislation was promulgated that shifted the function of GSP to SARS. Possible consequential amendments may be required to eliminate unintended anomalies uncovered during the process of implementation.
- *Customs – adding an absolute final prescription period for Section 75 refund claims*: Section 75(14) of the Customs and Excise Act provides that the Commissioner may, in exceptional circumstances, pay a refund or drawback after the expiration of the relevant period within which it has to be submitted. It is therefore proposed that final prescription period be added even for exceptional circumstances.
- *Customs - refining the dispute resolution, appeals and settlement procedures:* A revised set of dispute resolution, appeals and settlement procedures were added in 2003. Possible consequential amendments may be required to eliminate unintended anomalies.
- *Customs – prescribing the payment of salvage pursuant to the Wreck and Salvage Act No. 94 of 1996*: The Wreck and Salvage Act requires the Commissioner to pay salvage to the person salvaging a wreck. The Customs and Excise Act prescribes how payment is made for most situations but omits to make reference to salvage payments. It is accordingly proposed that salvage payments be included in the act.

Miscellaneous amendments to the Tax on Retirement Funds Act

- *Administration – providing interest for refunds:* Taxpayers entitled to a refund from SARS with respect to retirement funds taxes are not entitled to any interest. This failure to provide interest is unfair and differs from the principles of other taxes. It is accordingly proposed that refund interest provisions be added for the tax on retirement funds.

Miscellaneous amendments to the Unemployment Insurance Contributions Act

- *Clarifying the interaction between the Unemployment Insurance Contributions Act and the Unemployment Insurance Act:* Some anomalies remain between the contributions act and the main act. It is proposed that the provisions of the Unemployment Insurance Contributions Act be aligned with the Unemployment Insurance Act.

Miscellaneous amendments to the Transfer Duty Act

- *Clarifying the exemption from transfer duty for partial public benefit organisation (PBO) activities:* PBOs are exempt from transfer duty when acquiring property wholly or substantially for PBO activities. However, since confusion exists as to how this exemption applies when property is only partly used for these purposes, the law will be clarified.

Miscellaneous amendments to the Stamp Duties Act and Uncertificated Securities Tax Act

- *Administration – imposing late interest charges:* Taxpayers who fail to pay the stamp duty are subject to penalties but no late interest charges. Taxpayers consequently have little incentive to pay stamp duty on time. It is accordingly proposed that late interest charges be imposed that are consistent with other tax acts.
- *Administration – eliminating penalty stamps in favour of additional duties:* Stamp duty penalties are currently enforced through the anachronistic system of late penalty stamps. It is proposed that this penalty system be eliminated in favour of an additional duty.
- *Clarifying the definition of interest-bearing securities:* Stamp duties and uncertificated securities tax do not apply to interest-bearing securities unless convertible into shares. As part of the overall review of hybrid instruments, consideration will be given to clarify the meaning of "interest-bearing." Consideration will also be given to ensure that the exclusion of convertible securities from the exemption is consistent for both stamp duty and uncertificated securities tax purposes.

Miscellaneous amendments to the Skills Development Levies Act

- *Administration – reviewing in-kind salary:* Administration and compliance difficulties exist when applying the skills development levy if employers can only make salary payments in-kind rather than cash. Consideration will be given to review these concerns.

Miscellaneous amendments for general administration

- *Addressing administrative difficulties when applying interest rates set in terms of the Public Finance Management Act ("PFMA"):* Interest charges under the various tax acts are set with reference to PFMA. While this result makes sense from a policy viewpoint, process issues arise in terms of application, especially during periods immediately following rate changes. It is proposed that administrative leeway be provided to accommodate these process issues.

- *Reviewing the system of taxpayer accounts:* Taxpayers often have multiple tax accounts for various taxes. Consideration is being given for an improved accounting system possibly entailing minor legislative changes.
- *Reviewing Government interest for refund payments:* Although taxpayers are entitled to interest on refunds, the circumstances triggering interest can be unclear. It is accordingly proposed that these circumstances be clarified.

Technical corrections

In addition to the miscellaneous amendments above, the 2004 legislation will contain ongoing technical corrections. These technical corrections will address typing and grammatical issues, incorrect or misleading headings, misplaced cross-references, differences between the English and Afrikaans text, obsolete provisions, cross references incorporating regulations into law and problems relating to effective dates. These technical corrections may also occasionally include legislation clearly at odds with legislative intent as well as obvious ambiguities and omissions (especially with respect to recent legislative changes). These changes are not intended to have any policy or revenue impact. Technical corrections will be made during the upcoming year only if time permits.

Other

- *Clarifying the circumstances when the 35 per cent branch rate applies:* The 35 per cent rate for South African branches or agencies could literally be read to apply to all companies with foreign located effective management. As a matter of clarity, the 35 per cent rate will be adjusted so that the rate applies only when a non-resident company maintains a South Africa branch or agency.
- *Reviewing tax acts relating to the former self-governing territories:* Some special tax acts and provisions for former self-governing territories inadvertently still remain on the books. Consideration will be given to the removal of these tax acts and provisions as they come to Government's attention.

Tax expenditures in South Africa

The IMF visited the country in March 2002 and issued the Observance of Standards and Codes: Fiscal Transparency Report. In terms of this review process, South Africa has given an undertaking to introduce a basic tax expenditure statement with further development towards a comprehensive quantitative statement on revenues foregone once the information management systems at SARS are fully developed.

Tax expenditures can be defined as any tax preference, including exemptions that exclude income from the tax base or allowances that are deductible from gross income or a reduction in a rate of tax or tax deferrals that delay the payment of tax. The statement covers all national government taxes. The detail of the main tax expenditures with the policy rationale and intended beneficiaries is provided in table C6.

Table C.6: Tax expenditures

Source	**Rationale for tax expenditure and intended beneficiaries**
Personal income tax expenditures	
• Rating formula on lump sum benefits • Exemption of R30 000 on certain lump sum payments • Exemption of war pensions • Exemption of disability pensions • Exemption of any capital annuity.	Providing relief for retirement.
• Exemption of compensations paid in terms of the Workmen's Compensation Act or the Compensation for Occupational Injuries and Diseases Act • Exemption of allowances payable in terms of the Unemployment Insurance Act.	Providing relief to taxpayers receiving payments due to detrimental work-related circumstances.
• R11 000/R16 000 exemption on interest income.	Incentivising the propensity to save.
• Broad based employee equity participation.	Incentivising initiatives to empower employees.
• Exemption of certain foreign dividends.	Encouraging the repatriation of dividends.
• Exemption for employees working abroad.	Providing simplified tax relief (in lieu of tax credits) for South Africans working abroad.
• Exemption of a *bona fide* scholarship or bursary.	Incentivising education initiatives.
• Deductions for donations to Public Benefit Organisations ("PBO").	Assisting non-profit organizations to obtain funding.
• Deductions for pension fund and retirement annuity fund contributions.	Encouraging saving for retirement, thereby reducing the need for State assistance.
• Deductions for medical expenses.	Providing tax relief for essential unavoidable expenses incurred by individual taxpayers, thereby reducing the need for State assistance.
• Individual taxpayers pay capital gains tax only at an effective rate of up to 10%.	Low effective capital gains tax rate for individuals to prevent lock-in effect.

Source	Rationale for tax expenditure and intended beneficiaries
Corporate income tax expenditures	
• Companies declaring a dividend pay a 12,5 per cent secondary tax on companies.	Low tax rate on dividends to mitigate company double tax.
• Exemption for real property body corporate.	Eliminating the tax burden for entities formed solely for purposes of managing the collective interests common to all its members.
• Exemption for specially formed mining rehabilitation trusts.	Incentivising efforts to rehabilitate land.
• Deduction of premiums paid on key-man insurance policies.	Promoting initiatives to ensure long-term continuance of businesses
• Deduction for a strategic industrial projects.	Incentive package to stimulate industrial investment by granting additional allowances (available to both domestic and foreign investors).
• Deduction for research and development capital expenditure • Accelerated depreciation for research and development buildings.	Incentivising research and development undertaken in the South Africa.
• Accelerated depreciation for Urban Development Zones.	Countering urban decay.
• Exempt infrastructure Government grants to Public Private Partnerships (“PPP”).	Eliminating tax burden for corporate expenditure on Government property.
• Special rules for small businesses	Incentivising the growth and development of the small business sector.
• Business reinvestment deferral.	Providing cash-flow benefit to businesses to encourage reinvestment growth.
• Corporates pay capital gains tax only at an effective rate of 15%.	Low effective capital gains tax rate for corporates to prevent lock-in effect
• Deduction for learnership agreements	Encouraging job creation by lowering the cost of hiring new employees.
• 100% deduction for mining extraction operations	Incentivising mining extraction operations
• Gold mining formula (including STC exemption)	Incentivising gold mining extraction operations
Estate duty and Donation tax	
Estate duty: • Deduction of R1,5 million of the dutiable value of an estate for individuals. Donation tax: • Tax exemption for individual and annual donations.	Alleviating the overall tax burden of estate duty. Concession to assist taxpayers when making small donations.

Source	Rationale for tax expenditure and intended beneficiaries
Value-added tax expenditures	
Exempt supplies are defined as: • The supply of financial services • The supply of residential accommodation • The supply of road transport • The supply of rail transport • Trade union subscriptions • The sale or letting of land outside the Republic • The supply of services to members in the course of management of a sectional title body corporate, a share block company and any housing development scheme for the aged • The supply of educational services by approved educational institutions • The supply of crèche or after-school for children • The supply by an association not for gain or certain donated goods • The letting of land for the purpose of constructing a residential dwelling	No input credit can be claimed on exempt supplies. Persons delivering only exempt supplies are deemed not to be carrying on an enterprise and cannot register as a vendor for VAT purposes. Educational services and public transport are exempted to provide some relief as well as for administrative considerations. Exemptions from VAT are generally applied to non-fee based financial services as it is difficult to determine the value added. The exclusion of the vendor from the VAT regime (although costs including VAT are passed on to the consumer), is a solution in balancing the needs of the under privileged (by not charging VAT on the service) against revenue considerations.

Source	**Rationale for tax expenditure and intended beneficiaries**
Zero-rated supplies of services include: • The transport of passengers and goods to and from an export country • Certain services rendered to non-residents who are outside the country • The insuring of passengers and goods • The arranging of international transport • Services rendered outside the Republic to a user in the Republic – excluding telecommunication services • Welfare activities, such as the provision of food, meals, board, lodging, clothing, or other necessaries, comforts or amenities to aged or indigent persons, children, or physically or mentally handicapped persons Zero-rated supplies of goods: • The supply of animal feed, animal remedy, fertilizer, pesticide, plants and seed for farming purposes • The supply of basic foodstuffs: brown bread, maize meal, samp, mealie rice, dried mealies, dried beans, lentils, pilchards or sardinella, milk powder, rice, vegetables, fruit, vegetable oil, cultured milk, brown wheaten meal, eggs, edible legumes • The supply of illuminating paraffin • The supply of petrol and diesel fuel • The supply of goods that are exported	An enterprise that makes only zero-rate supplies may register as a VAT vendor and may reclaim VAT on input costs (supplies received). The zero-rating of primary agriculture, basic foodstuffs and illuminating paraffin is intended to provide relief to the poor. The zero-rating of petrol and diesel fuel is in place as these products are subject to fuel levies. The zero-rating of exports is in line with international practice of the "destination principle" – where VAT is intended to be levied in the jurisdiction where consumption occurs. Consistent with the principles behind the zero-rating of the export of goods, certain exported services are also zero-rated.

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