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C12531 performance



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(Nil to collect from Andy)



Small Business Tax Amnesty & Amendment of Taxation Laws Bill 2006

National Treasury & South African Revenue Service:
31 May 2006



Major Themes

- Rate and Threshold Relief
- Small Business Amnesty
- Municipalities
- Customs & Excise
- Miscellaneous Amendments & Technical Corrections

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**Continued economic growth and
effective SARS administration
allow for yet another year of
broad-based tax relief . . .**



Individual Income Tax Rates (Clause 23 and Schedule 1)

- **Marginal Brackets:**
 - 18% rate tops out at R100 000 (versus the former R80 000)
 - 25% rate tops out at R160 000 (versus the former R130 000)
 - 30% rate tops out at R220 000 (versus the former R180 000)
 - 35% rate tops out at R300 000 (versus the former R230 000)
 - 38% rate tops out at R400 000 (versus the former R300 000)
 - 40% rate kicks-in at R400 000 (versus the former R300 000)
- **Thresholds (Rebates):**
 - The general tax threshold (for ages below 65) kicks-in at R40 000 (versus the former R35 000)
 - The threshold for ages 65 and above kicks-in at R65 000 (versus the former R60 000)



Individual Thresholds (Clauses 26, 29, 38, 39 and 40)



- Interest (Dividend) Exemption:
 - *Ages Below 65:* Domestic interest (dividends) is exempt up to R16 500 (versus the former R15 000)
 - *Ages 65 and Above:* Domestic interest (dividends) is exempt up to R24 500 (versus the former R22 000)
 - Foreign interest and dividends are exempt up to R2 500 (versus the former R2 000)
- Capital Gains:
 - Annual capital gain/loss exemption increases to R12 500 (versus the former R10 000)
 - Primary residence (i.e. home) sale exemption increases to R1,5 million (versus the former R1 million)
 - Exclusion on death increases to R60 000 (versus the former R50 000)

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Retirement and Inter-Generational Transfers (Clauses 22, 33 and 68)



- Retirement:
 - Retirement fund taxation drops to 9% (versus the former 18%)
 - Corresponding regulatory reform will occur to ensure tax savings translate into individual savings
- Estate Duty/Donations Tax:
 - The Estate Duty threshold increases to R2,5 million (versus the former R1,5 million)
 - The Donations Tax threshold increases to R50 000 (versus the former R30 000)

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Real Estate Purchases and Rentals (Clauses 19 and 47)

- Transfer Duty Relief (Purchases):
 - The zero rate tops out at R500 000 (versus the former R190 000)
 - The 5% duty kicks-in at R500 001 (versus the former R190 001)
 - The 8% duty kick-in at above R1 million (versus the former R330 001)
 - Company/trusts rates drops to 8% (versus the former 10%)
- Stamp Duty Relief (Rentals):
 - Exemption kicks-in at R500 per agreement (versus the former R200); stated differently, rental agreements with aggregate rent up to R100 000 are now exempt

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Prior-Year Individual Holdovers: Base-Broadening (Clauses 27, 34 and 37)

- Car Allowance:
 - Deemed private miles will be 18 000 km (versus the former 16000 km in 2005) in terms of the overall 32 000 deemed amount)
 - Monthly PAYE withholding for the motor vehicle allowance will be 60% (versus the former 50%) in order to prevent under-withholding due the change in deemed private miles
- Medical:
 - New monetary cap system (versus the former 2/3rds formula) takes effect
 - Employer-provided medical assistance on-site and off-site is now excluded from income in terms of uninsured employees
 - Employer-assistance will now also be available for medically-insured employees as long as the medical scheme reimburses the employer (i.e. no double-dipping)

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Tax Incentive for Learnership Wages (Clause 31)

- Initial sunset date: Extended from 2006 to 2011 (in line with the 2010 extension for the National Skills Development Strategy)
- An additional allowance (i.e. deduction) for salary will be available within increased maximum caps:
 - Starting maximum cap for existing employees will be R20 000 (versus the former R17 500)
 - Starting maximum cap for new employees will be R30 000 (versus the former R25 000)
 - Completion maximum cap for all employees will be R30 000 (versus the former R25 000)
- Disabled person category added:
 - 150% additional starting allowance for existing employees with a R40 000 maximum cap
 - 175% additional starting allowance for new employees with a R50 000 maximum cap
 - 175% additional completion allowance for all employees with a R50 000 maximum cap

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Small Business Relief (Clause 30, 40 and 61)

- Small Business Corporations:
 - Definitional limit increases to R14 million (versus the former R6 million)
 - The 10% upper limit tops out at R300 000 (versus the former R250 000)
 - Exemption threshold tops out at R40 000 (versus the former R35 000 – like individuals)
- One-Time Exemption for Small Business Sales:
 - Definitional limit increases to R750 000 (from the former R500 000)
- 100% Depreciation:
 - Small items eligible for 100% depreciation operates under an increased definitional limit of R5 000 (versus the former R2 000)
- VAT Thresholds:
 - Definitional limit for 4-monthly filers increases to R1,2 million (versus the former R1 million)
 - Definitional limit for 6-monthly small farmers increases to R1,2 million (versus the former R1 million)

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Small Business Amnesty . . .

Special Relief to Assist Small
Business (Informal and Formal)



Rationale

- Broaden the tax base
- Normalisation of tax affairs
- Improve tax compliance culture
- Facilitate the tax recapitalisation



Who May Apply (Clause 5)



- Types of parties:
 - Individuals (i.e. natural persons)
 - Trusts and estates
 - Unlisted companies (completely owned by individuals and/or estates)
- Activity level:
 - The party must carry on a business
 - R5 million gross business turnover limit for the 2005 assessment year (i.e. 1 April 2004 – 31 March 2005)
- Covers both unregistered persons and registered taxpayers with undeclared income



When to Apply (Clause 6)



- Time Period:
 - Starting date: 1 August 2006
 - Closing date: 31 May 2007
- Dual Amnesty Process Dropped:
 - The Budget Review envisions an initial tax amnesty followed by a general small business amnesty
 - Initially, the tax recap was supposed to be a pilot phase, but the split process added more administrative complications than benefits



Core Requirements



- 2005 Assessment Year Information
- 10% Levy
- No SARS Notice

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Core Requirement #1: Information (Clause 7)



- One: Full disclosure of all improperly undeclared or unpaid amounts for the 2005 assessment year (i.e. 1 April 2004 – 31 March 2005) relating to:
 - Income Tax and STC
 - PAYE, Unemployment Insurance, Skills Development Levy
 - VAT
 - Withholding taxes on intellectual property royalties
- Two: All relevant returns per tax type for the 2005 assessment year
- Three: An asset/liability balance sheet at cost for the close of the 2005 assessment year

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Reasonable Estimates (Clause 7)



- Many small (especially informal) businesses lack viable internal reporting mechanisms
- The amnesty accordingly accepts “reasonable estimates” in lieu of actual disclosure
- However, amnesty relief will ultimately be void if these reasonable estimates are not materially correct

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Core Requirement #2: Levy (Clause 9 and 10)



- The levy equals:
 - 10% of the undeclared taxable income for the 2005 assessment year;
 - For this purpose, unused pre-2005 losses cannot be carried against 2005 taxable income
- The 10% levy must be paid:
 - 12 months after SARS issues a notice of amnesty approval
 - However, the Commissioner may extend this 12-month period subject to conditions

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Core Requirement #3: No SARS Pre-Amnesty Contact (Clause 14)



- One: Amnesty will generally be denied if SARS issues a notice to the applicant (or the applicant's representative) before the amnesty submission of an:
 - Audit,
 - Investigation; or
 - Other enforcement actionRelating to a period otherwise covered by the amnesty
- Two: The amnesty also does not cover:
 - Amounts already paid (i.e. the amnesty cannot generate refunds); and
 - Payable amounts already disclosed to SARS by way of tax return, etc...

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Scope of Amnesty Relief (Clause 11)



- One: The amnesty covers improperly undeclared or unpaid amounts arising before 1 April 2004
- Two: The amnesty similarly provides relief from:
 - additional tax, penalties and interest relating to the same
 - Criminal prosecution for failure to disclose

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No Carryforward Benefits (Clause 15)



- Taxpayers may not carryover tax benefits from a pre-2005 year
- Hence,
 - Loss carryovers,
 - STC credits, and
 - VAT input creditsCannot be utilised if stemming from a pre-2005 year receiving amnesty relief

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Amnesty Process (Clause 8)



- Amnesty approval is non-discretionary
- Amnesty applications will be reviewed by a separate SARS unit with regional presence
- SARS notice of amnesty approval or denial is required
- All SARS decisions are subject to objection and appeal

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Amnesty Subsequently Void (Clause 16)



- Despite initial SARS approval, amnesty approval will later become void if:
 - The applicant subsequently fails to pay the full 10% levy;
 - The taxpayer fails to make full disclosure for 2005 (or file the necessary 2005 returns);
 - Estimates (if any) are materially incorrect; or
 - The applicant fails to provide all information needed for SARS to properly evaluate the amnesty application

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Parliamentary Report (Clause 18)



- The success of the amnesty must be reported to Parliament
- These details include:
 - Number of applications received
 - Number of applications approved and denied
 - Number of new taxpayer registrations (per tax type)
 - Details of nondisclosure granted amnesty (per tax type)
 - Details of all taxes payable for the 2006 assessment year (per tax type)

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