0606 14 perurones





VSARS

Small Business Tax Amnesty & Amendment of Taxation Laws Bills

> Formal Deliberations 14 June 2006



Major Themes (Revisited)

SARS

Basic Themes

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



VSARS

Small Business Amnesty . . .



Who May Apply (Clause 2)

VSARS

- 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 business
 - R10 million gross business turnover limit for the 2006 assessment year
 - Pro rate R10 million for years that are shorter or longer than 12 months



Core Requirements



- · Time Period:
 - Starting 1 August 2006
 - Ending 31 May 2007
- 2006 Assessment Year Information
- 5% Maximum Levy
- SARS Notice



Information Requirement (Clause 4)

VSARS

- One: Full disclosure of all business taxable income for the 2006 assessmentyear:
 - Only for a single year (no 2005 hoome Tax assessment year requirements)
 - No PAYE, Unemployment Insurance, Skills Development Levy, VAT or Royalty Withholding
- <u>Two</u>: Income Tax return for the 2006 assessment year
- Three: An asset/lability balance sheet at cost for the close of the 2006 assessment year



VSARS Reasonable Estimates (Clause 4)

- The amnesty retains:
 - the "reasonable estimate" concept in lieu of actual disclosure
 - The voiding of these reasonable estimates if not materially correct
- Moving the year forward to 2006 should reduce the need for reasonable estimates as well as the reasonable estimate procedure



Levy Requirement

- (Clause 6)
- Maximum 5%: - Maximum 5% of the total taxable business income
- for the 2006 assessment year - For this purpose, unused pre-2006 losses cannot be carried against 2006 taxable income
- Schedule of Rates:
 - 0% rate for 0 R35 000
 - 2% rate for R35 001 to R100 000
 - 3% rate for R100 001 to R250 000
 - 4% rate for R250 001 to R500 000
 - 5% rate for R500 001 or more



No SARS Pre-Amnesty Contact VSARS (Clauses 5 & 10)

- The basic 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 action

Relating to a period otherwise covered by the amnesty

- The term "enforcement action" will be clarified by the Commissioner via Gazette
- <u>Note</u>: SARS notice will be ignored if withdrawn or finalised before submitting the amnesty application



Amnesty Relief (Clause 8)

VSARS

VSARS

- · One: The amnesty covers improperly undeclared or unpaid business income (including incidental investment income):
 - Income Tax and STC amounts arising before the 2006 assessment year; and
 - VAT, PAYE, UIF, SDL and Royalty Withholding before 1 March 2006
- · Two: The amnesty similarly covers:
 - Additional tax, penalties and interest
 - Criminal prosecution for failure to disclose





No Carry Forward Benefits VSARS (Clause 11)

- · Taxpayers may not carryover tax benefits from a pre-2006 year
- · Hence,
 - Loss carryovers,
 - -STC credits, and
 - VAT input credits

Cannot be utilised if stemming from a pre-2005 year receiving amnesty relief



Amnesty Process (Clause 5)

- VSARS
- · 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



Not For Organised Crime VSARS (Clause 10, FICA Regulations)

- The Amnesty does not apply to fraudulentVAT schemes:
 - VAT refunds based on the submission of fictitious purchase invoices
 - VAT refunds based on fictitious zero-rated exports for sales actually occurring locally
- · The Financial Intelligence Act will not prevent advisors from providing tax advise, but they must disclose applicants involved in other offences (drug dealing, money laundering,



Amnesty Subsequently Void SARS (Clause 12)

- · Despite initial SARS approval, amnesty approval will later become void if:
 - The applicant subsequently fails to pay the full 10% levy (12 months+);
 - The taxpayer failed to make full disclosure of business income for 2006; or
 - Estimates (if any) are materially incorrect



Outstanding Debt Amnesty



- Taxpayers (and their representatives) will receive an outstanding debt amnesty if they have not yet paid, but have:
 - Submitted a return or information indicating payment due; or
 - SARS indicates payment is due via SARS assessment
- · Coverage: Penalty, additional tax and interest
- Process: Ministerial regulation for public comment and Parliamentary scrutiny



Parliamentary Report

(Clause 7 - 2nd Bill)

- · 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)
 - All amnesty levies payable
 - Retention of new taxpayers on the register for 2008 and 2009



VSARS

Municipalities and Technical Corrections . . .



Municipalities

VSARS

- · SARS Interpretation Note to be released to cover issues, such as service fees versus fines and grants versus service charges
- · Regulations under section 74 will be utilised to defer penalties and interest by 6 months for municipalities initially failing to properly standard rate under the new regime
- · Zero-rated property rates will not include service charges based on property values
- · Pre-effective date status of waterboards to be clarified



Transitional Petroleum Incentives (Schedule 3)



- OP 26 oil and gas leases and subleases operating along the SA coast have been eligible for tax incentives since 1977
- Conversion to "new order" rights and wholly new applications technically fall outside these incentives
- The Bill carries over these incentives until the sooner of 1 May 2009 or revised legislation (due in October)

19

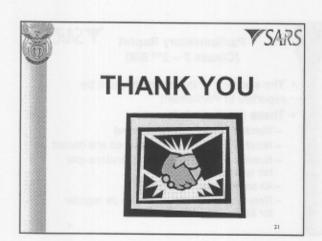


UST and the Sale of Partial Share Rights (Clauses 56 and 57)

VSARS

- In 2005, Government adopted UST rules for treating all off-market sales as occurring at a market value for at least equal to the "total" listed share value
- This deeming rule inadvertently applied to the sale of partial rights (dividend and voting cessions), triggering a tax on value equal to the "total" share value
- The change limits the deeming rule to the market value of the partial right
- The same problem will be remeded for partial sales via participants (e.g. banks)

- 20



4