

Tax bills published for public comment

PRETORIA: National Treasury has published for public comment two tax bills which provide the legislative amendments required to implement most of the tax proposals that were announced in the 2015 Budget in February.



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The 2015 Draft Taxation Laws Amendment Bill (TLAB) and the 2015 Draft Tax Administration Laws Amendment Bill (TALAB) were published on Wednesday, 22 July 2015.

"Changes to the rates and thresholds announced in the 2015 Budget were included in the 2015 Rates and Monetary Amounts and Amendment of Revenue Laws Bill that was published on the same day as the 2015 Budget Review.

"The 2015 draft TLAB deals with more substantive changes to the tax laws while the 2015 draft TALAB deals with administrative provisions of tax legislation currently administered by SARS [South African Revenue Services], including the Tax Administration Act, 2011," explained Treasury in a statement.

Members of the public and stakeholders can make comments in writing on these draft bills, before they are formally introduced in Parliament.

The Standing Committee on Finance in Parliament usually makes a call for public comment too and convenes public hearings on the draft bills before their formal introduction in Parliament.

Treasury said it will, together with SARS, also engage separately with key stakeholders, including through workshops that may be held in early September.

"A response document on comments received will be presented to the Standing Committee on Finance. The bills will then be revised, taking into account public comments, before they are formally tabled in Parliament for its consideration," said Treasury.

A first batch of the 2015 TLAB was published on 5 June 2015 containing tax proposals that required an additional round of

comments. These proposals included measures to counter tax-free corporate migrations, transitional tax issues resulting from the regulation of hedge funds and the tax implications of the outright transfer of collateral.

The current draft TLAB 2 includes these proposals with the amendments that have arisen from comments received on the first batch.

The 2015 draft TLAB gives effect to these key proposals announced in the 2015 Budget Review:

- closing a loophole to ensure consistent tax treatment on all retirement funds
- closing a loophole to avoid estate duty through excessive contributions to retirement funds
- the tax implications of the outright transfer of collateral
- transitional tax issues resulting from the regulation of hedge funds
- measures to counter tax free corporate-migrations
- withdrawal of special foreign tax credits for service fees sourced in South Africa
- reinstatement of the controlled foreign company diversionary income rules
- allowing municipalities to demarcate more areas as Urban Development Zones
- monetary threshold adjustments for enterprise supplying commercial accommodation

For legal reasons, the draft tax amendments continue to be split into two bills - namely a money bill dealing with money bill issues and an ordinary bill dealing with issues relating to tax administration.

The 2015 draft TALAB gives effect to the following key proposals:

- medical scheme tax credits to be taken into account for Pay As You Earn tax (PAYE)
- collection of information by South African financial institutions and an associated obligation on the financial institutions to register with SARS
- extension of period of limitations for issuance of assessments under narrow circumstances
- clarifying qualifying persons for voluntary disclosure, relaxing the requirements for voluntary disclosure and broadening the ambit of voluntary disclosure relief

Treasury said requirement for banks to collect certain information is necessary to allow SARS to implement agreements under international tax standards.

The draft legislation and the draft explanatory memorandum containing a comprehensive description of the draft amendments have been published on www.treasury.gov.za and www.sars.gov.za.

Written comments should be submitted to Nomalizo Bulisile at: Nomalizo.bulisile@treasury.gov.za and Adele Collins at acollins@sars.gov.za by close of business on 24 August 2015.

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