

Motivation to comply with sections 8(5) and 11(3) of the Money Bills Amendment Procedure and Related Matters Act, 2009, for amending the Disaster Management Tax Relief Bill [B11—2020], as tabled by the Minister of Finance on 24 June 2020

Background

The COVID-19 Tax Bills give effect to the exceptional tax measures outlined by President Cyril Ramaphosa on 23 March 2020 in his speech on the Escalation of Measures to Combat COVID-19, as well as the tax announcements made by the Minister of Finance on 29 March 2020 on tax measures to combat the COVID-19 pandemic. The first version of the draft COVID-19 Tax Bills were published for public comment by the National Treasury and the South African Revenue Service (SARS) on 1 April 2020. These draft COVID-19 Tax Bills give effect to the COVID-19 tax measures to take effect on 1 April 2020 and apply for a limited period of four months, ending on 31 July 2020.

Following President Cyril Ramaphosa's address to the nation on 21 April 2020, further COVID-19 tax measures that aim to assist individuals and businesses through the pandemic were announced by the Minister of Finance on 23 April 2020. On 1 May 2020 National Treasury and SARS published, for public comment, the revised versions of the draft COVID-19 Tax Bills. The revised draft COVID 19 Tax Bills give effect to the further COVID-19 tax measures announced by the Minister of Finance on 21 April 2020, that took effect on 1 May 2020 and apply for a limited period of four months, ending on 31 August 2020. These revised draft COVID-19 Tax Bills also took into account public comments received on the initial version of the draft COVID-19 Tax Bills published on 1 April 2020.

On 19 May 2020, National Treasury and SARS published the second revised draft Disaster Management Tax Relief Bill (DMTR) and revised draft Notice on Expanding Access to Living Annuity Funds. These were published to provide early feedback on issues raised through public comment on the revised draft COVID-19 Tax Bills published on 1 May 2020 that were time critical for payroll and other aspects to be implemented in May 2020.

In light of the impact of the COVID-19 pandemic and the resultant economic downturn, the Minister of Finance tabled an Adjustment Budget on 24 June 2020, as empowered by the Public Finance Management Act, 1999, read together with the Money Bills Amendment Procedure and

Related Matters Act, 2009, (the Act). The Adjustment Budget also contained the COVID-19 tax measures. On the same day, the Minister of Finance tabled the COVID-19 Tax Bills before Parliament for consideration.

National Treasury and SARS briefed both the Standing Committee on Finance (SCoF) and Select Committee on Finance (SeCoF) on the draft COVID-19 Tax Bills on 23 April 2020. This briefing was on the COVID-19 tax measures that were included in the initial versions of the draft COVID-19 Tax Bills that were published for public comment on 1 April 2020, as well as on the further COVID-19 tax measures announced by the Minister of Finance on 23 April 2020 that were not included in the draft COVID-19 Tax Bills. The National Treasury and SARS briefed both the Standing Committee on Finance and Select Committee on Finance on the COVID-19 Tax Bills on 14 July 2020. On 22 July 2020, the SCoF and SeCoF convened public hearings on the COVID-19 Tax Bills.

On 28 July 2020, National Treasury and SARS presented to both the SCoF and SeCoF the draft Response Document on the COVID-19 Tax Bills. The draft Response Document was then presented to the Minister of Finance, including approving proposed amendments to the COVID-19 Tax Bills, specifically relating to the extension of the COVID-19 tax relief measure dealing with the streamlined tax dispensation for funds established to assist with COVID-19 relief efforts contained in the DMTR. Since the DMTR is a money bill in terms of section 77 of the Constitution, and had already been tabled in Parliament any proposed amendments made or approved by SCoF must comply with the Act, including sections 8 and 11 of the Act. This note provides the information to help inform the requirements in sections 8(5) and 11(3) of the Act.

The proposed amendments

On date/month/2020 the Minister of Finance requested that the SCoF consider amendments to the DMTR in terms of section 11 of the Act for the extension of the following COVID-19 tax relief measure:

- *Streamlined special tax dispensation for funds established to assist with COVID-19 disaster relief efforts*
 - This tax relief provides special tax exemption for COVID-19 relief funds for a period of four months from 1 April 2020 to 31 July 2020. It is proposed that the four month period be extended by two months to six months. As a result of this relief will cease to apply on 30 September 2020.

With South Africa heading towards peak of COVID-19 infection in the coming months, there is a need to extend the relief available to those targeted funds that are established to assist with COVID-19 disaster relief efforts. These funds are not established to make profits and are mainly charitable in nature. Most of these funds would have qualified for tax exemption in terms

of the current provisions of the Income Tax Act, 1962. However, due to the impact of COVID-19 pandemic, it transpired that the funds that are established to assist with COVID-19 disaster relief efforts provide a range of charitable activities that make them difficult to fit in one current tax exempt provision of the Income Tax Act, 1962, which may have slowed their registration process. As a result, it was decided that a special provision should be introduced in the COVID-19 Tax Bills. At the end of the special relief period provided in the COVID-19 Tax Bills, these funds will have to re-arrange their activities so as to fit in the requirements of the current provisions of the Income Tax Act, 1962, and re-apply to SARS for tax exemption in terms of the current provisions of the Income Tax Act, 1962. Such approval will be granted based on the nature and activities of each fund at the time of the application.

As these funds would have qualified for tax exemption in terms of the current provisions of the Income Tax Act, 1962, the extension of this relief is tax neutral and does not result in an additional direct cost to government.

Potential impact of the amendments

Section 11(3) of the Act requires that the amendment considers:

- The revenue raised (to be consistent with the fiscal framework)
- Equity, efficiency, certainty, ease of collection
- The composition of tax revenues
- Regional and international tax trends
- The impact on development, investment, employment and economic growth

Section 8(5) of the Act requires that the amendment considers the impact on the fiscal framework, including elements of revenue, expenditure and borrowing.

The only policy change is the extension of the relief measure dealing with the streamlined tax dispensation for funds established to assist with COVID-19 relief efforts contained in the DMTR by two months, from four months to six months. As these funds would have qualified for tax exemption in terms of the current provisions of the Income Tax Act, 1962, the extension of this relief is tax neutral and does not result in an additional direct cost to government.

1. EXTENSION OF THE RELIEF BY TWO MONTHS

Tax revenue implications

None. The extension of the relief measure dealing with the streamlined tax dispensation for funds established to assist with COVID-19 relief efforts contained in the DMTR by two months,

from four months to six months will be revenue neutral as these funds would have qualified for tax exemption in terms of the current provisions of the Income Tax Act, 1962.

Equity, efficiency, certainty and ease of collection

No impact

Composition of tax revenues

No impact.

Regional and international tax trends

No impact.

Development, investment, employment and economic growth

No impact.

The fiscal framework

No impact, since there are no revenue implications.