Taxation Laws Amendment Bills, 2011

STANDING COMMITTEE ON FINANCE PRESENTATION

20 September 2011

national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

Tax Policy Objectives for 2011/12

- Tax relief for individuals, tax breaks to support job creation and skills development:
  - Fiscal drag relief (changes in PIT brackets & rebates) and changes in some monetary thresholds
  - Specific business tax incentives
- Closure of tax loopholes (e.g. section 45) and improvement in tax equity (medical scheme credits) so as to broaden the tax base so as to support Government's fiscal and social objectives
- Adjustments in specific excise taxes to address environmental and health concerns.

2011 Legislative Process

- Bills give effect to tax proposals announced in 2011 February Budget
- Standing Committee Informal Process
  - Draft released on 2 June 2011
  - Initial briefing to Standing Committee on Finance on 15 June 2011
  - Hearings held on 21 and 22 June 2011
- Treasury/SARS public interaction:
  - Written responses to National Treasury/SARS due by 11 July 2011 (responses amounted to over 500 pages provided by approximately 60 organisations)
  - July Workshops were conducted with interested stakeholders
- Accelerated consultation process on section 45 and related matters announced on 29 June 2011
  - One-on-one meetings held, covering more than 50 transactions
  - Revised proposal on section 45 and related matters released on 3 August 2011
  - Comments on revised legislation due by 17 August 2011 and workshop held on 31 August 2011

Rates, Thresholds and Taxation of Individuals/Employment

Numerical summary of main tax proposals

Impact of tax proposals on 2011/12 revenue

R million		Effect of tax proposals
Tax revenue		745,735
Non-tax revenue		10,001
Less: SACU payments		-21,763
National budget revenue		**733,973**
Provinces, social security funds and selected public entities.		94,609
Budget revenue (before tax proposals)		**828,581**
Budget 2011/12 proposals:		**-4,115**
Taxes on individuals and companies	**-8,350**	
Personal income tax	-8,850	
Adjustment in personal tax rate structure	*-8,100*	
Adjustment in monetary thresholds	*-750*	
Business taxes	500	
Closure of dividend cession schemes	*500*	
Taxes on property	**-750**	
Adjustment in transfer duties	-750	
Indirect taxes	**4,985**	
Increase in general fuel levy	1,900	
Increase in excise duties on tobacco products	1,785	
Increase in Ad valorem excise duties	150	
Increase in electricity levy	1,150	
Budget revenue (after tax proposals)		**824,466**

Current rates & thresholds for individuals

TAXABLE INCOME	RATE OF TAX
R0 to R140K	18%
R140 001 to R221K	R25 200 + 25% of amount above R140K
R221 001 to R305K	R45 450 + 30% of amount above R221K
R305 001 to R431K	R70 650 + 35% of amount above R305K
R431 001 to R552 K	R114 750 + 38% of amount above R431K
R552 001 +	R160 730 + 40% of amount above R552K

Proposed rates & thresholds for individuals – 1 March 2011

TAXABLE INCOME	RATE OF TAX
R0 to R150K	18%
R150 001 to R235K	R27 000 + 25% of amount above R150K
R235 001 to R325K	R48 250 + 30% of amount above R235K
R325 001 to R455K	R75 250 + 35% of amount above R325K
R455 001 to R580 K	R120 750 + 38% of amount above R455K
R580 001 +	R168 230 + 40% of amount above R580K

Rebates for individuals

CURRENT REBATES		
Primary rebate	All naturals persons	R10 260
Secondary rebate	Natural persons 65 +	R 5 675

PROPOSED REBATES - 1 March 2011		
Primary rebate	All naturals persons	R10 755
Secondary rebate	Natural persons 65 +	R 6 012
Tertiary rebate	Natural persons 75 +	R 2 000

Proposed rebates effective as from 1 March 2011.

Current & proposed retirement lump sum & severance benefit tax table

TAXABLE INCOME	RATE OF TAX
R0 to R300 000	0%
R300 000 to R600000	18% of amount above R300 000
R600 000 to R900 000	R54 000 + 27% of amount above R600 000
R900 000	R135 000 + 36% of amount above R900 000

TAXABLE INCOME	RATE OF TAX
R0 to R315 000	0%
R315 000 to R630000	18% of amount above R315 000
R630 000 to R945 000	R56 700 + 27% of amount above R630 000
R945 000	R141 750 + 36% of amount above R945 000

Medical Scheme contributions and other medical expenses - past reforms

- **2005/06**: An employer could contribute up to two-thirds of the member's contribution as a tax-free fringe benefit
- **2006/07**: 2/3rds tax-free provision was replaced by a monthly monetary cap (to encourage broader medical scheme coverage & achieve a more equitable tax treatment by eliminating incentives for high-end plans)
  - Medical scheme contributions paid by taxpayers are tax deductible (tax-free if the employer pays) subject to monthly caps (R500 first two beneficiaries & R300 for all other beneficiaries)
- **2007/08, 2008/09 & 2009/10**: Monthly caps increased - R530 & R320, and R570 & R345, and R625 & R380
- **2010/11**: Monthly caps - R670 & R410. As from 01 March 2010, any contribution from employers to medical aids are treated as a taxable fringe benefit. The employee claimed a tax deduction up to the capped amounts regardless of who made the contributions.
- **2011/12**: Monthly caps - R720 & R440

Credit proposal for 2012/13

	65 years & older	Disabled	All others
Regime driver	Taxpayer	Taxpayer, spouse, child	Catch-all
Medical scheme contributions - who?		Medical aid dependants	
Medical scheme contributions - credit/deduction?	Full deduction	Credit - **R216 monthly tax credit** each for taxpayer & first dependant -**R144 monthly tax credit** for each additional dependant	
Out-of-pocket expenses of who?		Taxpayer, spouse, child, medical aid dependants & financial dependants	
Out-of-pocket expenses – deduction?	Full deduction of out-of pocket expenses	Full deduction of medical scheme contributions that exceeds 4 x the credit + out-of pocket expenses	Deduction of medical scheme contributions that exceeds 4 x the credit + out-of pocket expenses to the extent that it exceeds 7,5% of taxpayer's taxable income

Medical credits - example
(Sections 6A & 18)

Taxpayer (under age 65)	A	B	C
Marginal tax rate	18%	30%	40%
Taxable Income – before medical deduction **(TI 1)**	150,000	320,000	640,000
Tax liability if no deduction or credit	16,245	62,995	181,495

Medical scheme contribution capped allowance			
Taxpayer plus 3 dependants (R720x2 + R440x2 / month)	27,840	27,840	27,840
Taxable Income – after medical scheme deduction **(TI 2)**	122,160	292,160	612,160
Tax liability if deduction taken into account	11,234	54,643	170,359
Tax benefit of medical scheme deduction	**5,011**	**8,352**	**11,136**

Medical scheme tax credit (fixed amounts)			
Taxpayer plus 3 dependants (R216x2 + R144x2 / month)	8,640	8,640	8,640
Tax liability on TI 1 – after medical scheme tax credit	7,605	54,355	172,855
Tax benefit of medical tax credit	**8,640**	**8,640**	**8,640**
Effect of tax credit vs tax deduction	**3,629**	**288**	**-2,496**

Insurance policies: Employer contributions as a taxable fringe benefit
(Paragraphs 2(k) & 12C of the 7th Schedule)

Group risk plans for the benefit of the employee :

- Employers acquire cover for the benefit of employees in the case of death, accident and severe illness, and pay the contributions on their behalf.
- The general rule is that any payment for the benefit of an employee is treated as a taxable fringe benefit. This rule should equally apply to insurance cover but questions exist on how far this rule can be applied.
- Under the proposed amendment, the fringe benefit treatment will be made explicit. Employees will therefore be taxed on any premiums paid by an employer in respect of a policy (life cover) that is intended directly or indirectly for the benefit of the employees or their dependants. The fringe benefit will equal the allocable premium paid.
- Since the premium will be taxed as a fringe benefit in the hands of the employee, the proceeds will be tax free.

Insurance policies: Employer contributions as a taxable fringe benefit

(Paragraphs 2(k) & 12C of the 7th Schedule & section 23(m)(ii))

Group income protection plans for the benefit of the employee :

- Employers acquire cover for the benefit of employees in the case of loss of income, and pay the contributions on their behalf.
- As in the case of the group risk plans, the payment for the benefit of the will treated as a taxable fringe benefit.
- However, the employer premium will be deemed to have been paid by the employee to the extent of the fringe benefit.
- In turn, the employee will get a deduction in respect of the premium paid, because it will be in respect of an income protection plan.
- Because there was a deduction available for the employee, the proceeds will be taxed in the hands of the employee upon payout.

Insurance policies: Employer risk plans
(Section 11(w)(ii) & paragraph (m) of “gross income”)

Employer risk cover:

- The proposal allows an employer in respect of a genuine risk cover to protect the employer from business loss due to the death, disability or severe illness of an employee.
- The employer can either elect to receive a deduction of premiums paid and receive taxable proceeds or alternatively elect not to be eligible for deduction in respect of the premiums, but then receive non-taxable proceeds.

Note: To the extent that an employer abuses the employer risk cover provisions and intends the benefit to flow through to the employees or their dependants, the entire plan will be viewed has having generated a fringe benefit from inception. The employer will have the liability to pay over the PAYE as well as interest and penalties to SARS in respect of the fringe benefits.

Insurance policies: Investment policies for the benefit of employees
(Paragraph (d) of “gross income”)

Employer owned investment policies for the benefit of employees:

- In the past, it was not clear that the premiums paid by an employee in respect of an investment policy for the benefit of an employee must be included as a fringe benefit. As such, the payout or cession of such policies will now be taxable in the hands of the employee.
- Going forward, if the employer however does include the premium as a fringe benefit, the cession or the payout of the proceeds, whichever is applicable, will not be taxable.

Share incentive schemes
(Section 10(1)(k)(i)(dd))

Avoidance scheme:

- Preference shares are held in trust for the benefit of select executives
- The preference share dividend yield to match salary bonus
  - May be based on employee performance; or
  - Other measure that operates as an indirect bonus
  - The shares have no capital value
- Unlike salary, the dividend yield is exempt if form governs

Proposal:

- Treat dividends from all employee share trusts as ordinary revenue unless
  - the sole assets of the trusts are equity shares; and/or
  - The trust holds cash and other assets that are incidental to the equity shares

Road accident fund payouts
(Section 10(1)(gB))

- Road accident fund compensates victims of accidents for damages sustained in motor vehicle accidents, usually in the form of a lump sum payment viewed as capital.
- However, the fund plans to create an option for this compensation to be paid annually in the form of an annuity. According to current tax principles, an annuity must be taxed as income in the hands of the recipient.
- The proposal is to exempt all payments from the fund, whether received as a lump sum or via annual payments.

Judicial long distance commuting (employer provided motor vehicles) (Paragraph 7(8) of the Seventh Schedule)

- Employees using employer owned vehicles are subject to a taxable fringe benefit (excluding distances covered for business purposes).
- Distances travelled between an employee's place of residence and work are not regarded as business travel.
- Judges are unique in that they are required to travel long distances to serve various courts placed far and wide and cannot be expected to shift their homes to shorten their shifting work locations. Their obligations and benefits are set by regulations and rules outside their control.
- For purposes of the employer-provided motor vehicle rules, it is proposed that judges treat their daily commute as business travel if they keep a log book to record the distances covered.

Parliamentarians' contribution to UIF
(Section 4 of the UIF Act)

- Currently, like most formally employed individuals, parliamentarians are also required to contribute towards the Unemployment Insurance Fund (UIF).
- The benefit afforded to the contributing individual is that when he or she is unemployed, they have access to draw benefits from the fund in the form of monthly payments based on their prior contributions.
- Parliamentarians however do not have this option available to them and it is proposed that since they are not able to draw on the benefit of the UIF, they should therefore not be required to contribute to the fund.

Business and International

Dividends Tax: General Background

- The Secondary Tax on Companies ("STC") imposes tax at 10 per cent on dividends declared by domestic companies (at company level)
- STC is to be replaced with the Dividends Tax system
  - as of 1 April 2012
  - STC credits will continue for a transitional period
- Dividends Tax imposes tax at 10 per cent on dividends paid by domestic companies (at shareholder level)
- Dividends Tax uses a withholding system in terms of which the company paying the dividend must withhold the tax on behalf of the shareholders
- The Dividends Tax contains many exemptions, including exemptions for:
  - Domestic company shareholders
  - Pension funds
- A potential 5 per cent reduction for large foreign shareholders (due to the new application of tax treaties)

Dividends Tax: Removal of the VET

(Repeal of part IX)

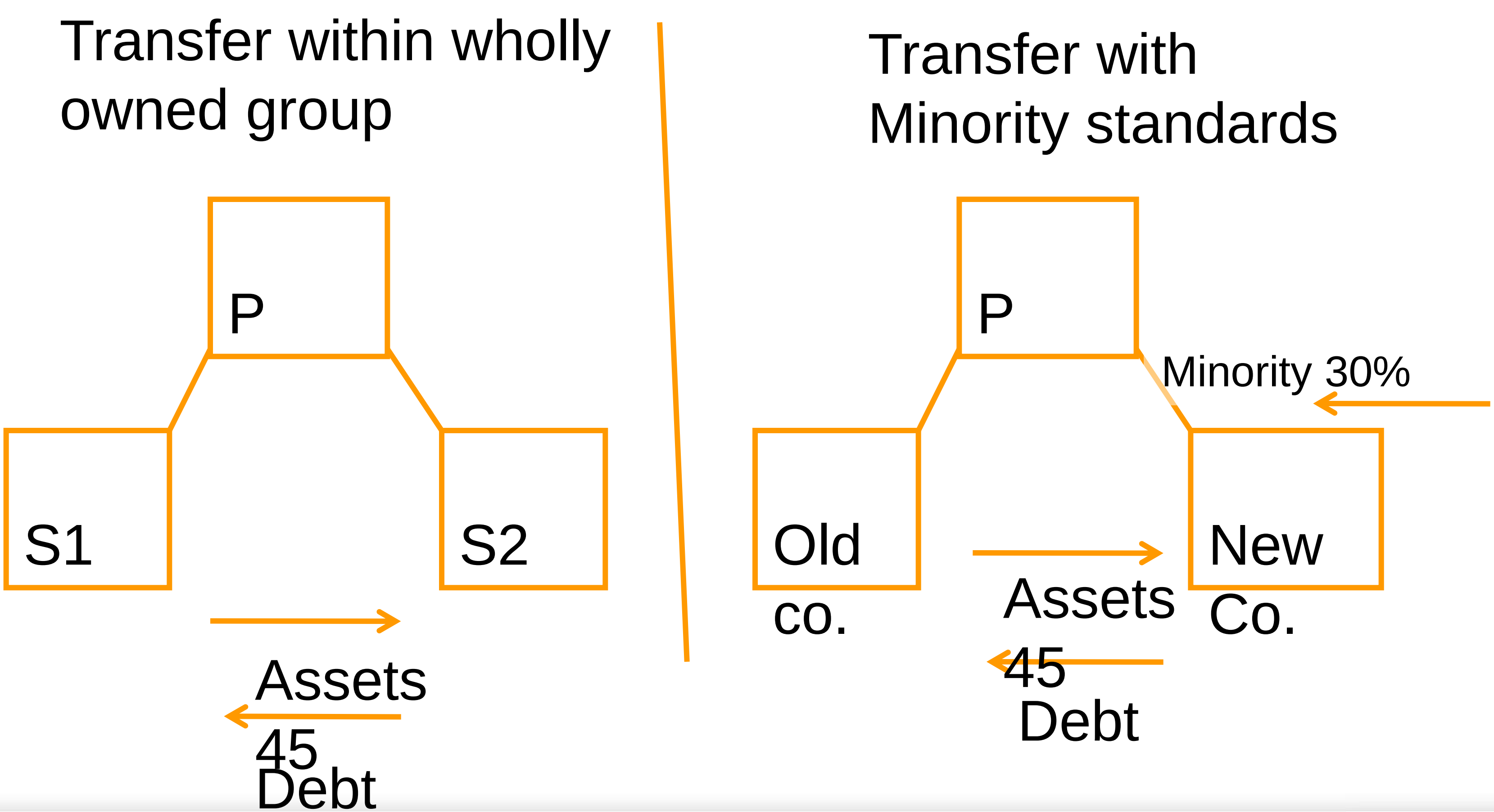
- Current STC:
  - The STC contains automatic deemed dividends, including loans to shareholders to be taxed upfront (with exceptions)
- Pending Value Extraction Tax (VET):
  - The pending VET contains similar automatic deeming rules including loans to shareholders
  - However, all loan capital not taxed upfront (only below market element)
- Proposal:
  - Remove most of the automatic deemed dividend rules (i.e. the VET)
  - Company provision of value for the benefit (or on behalf of) shareholders will trigger a dividend based on the facts and circumstances
  - However, if a shareholder loan falls below market, the below market element will still trigger an automatic annual charge (with transitional STC credits flowing through)

Foreign Dividends (Matching to Domestic Dividends)

(Section 10B)

- Foreign dividends will no longer be fully included as gross income (i.e. potentially taxed at 28% or 40%)
- The tax on foreign dividends will now be subject to tax at a maximum of 10% (like domestic dividends)
- The new charge will not be subject to withholding (only provisional tax and a year-end assessment top-up)
- However, cash dividends in respect of JSE shares of a foreign company will be subject to the Dividends Tax so dividends in respect of JSE shares (domestic and foreign) will be treated equally

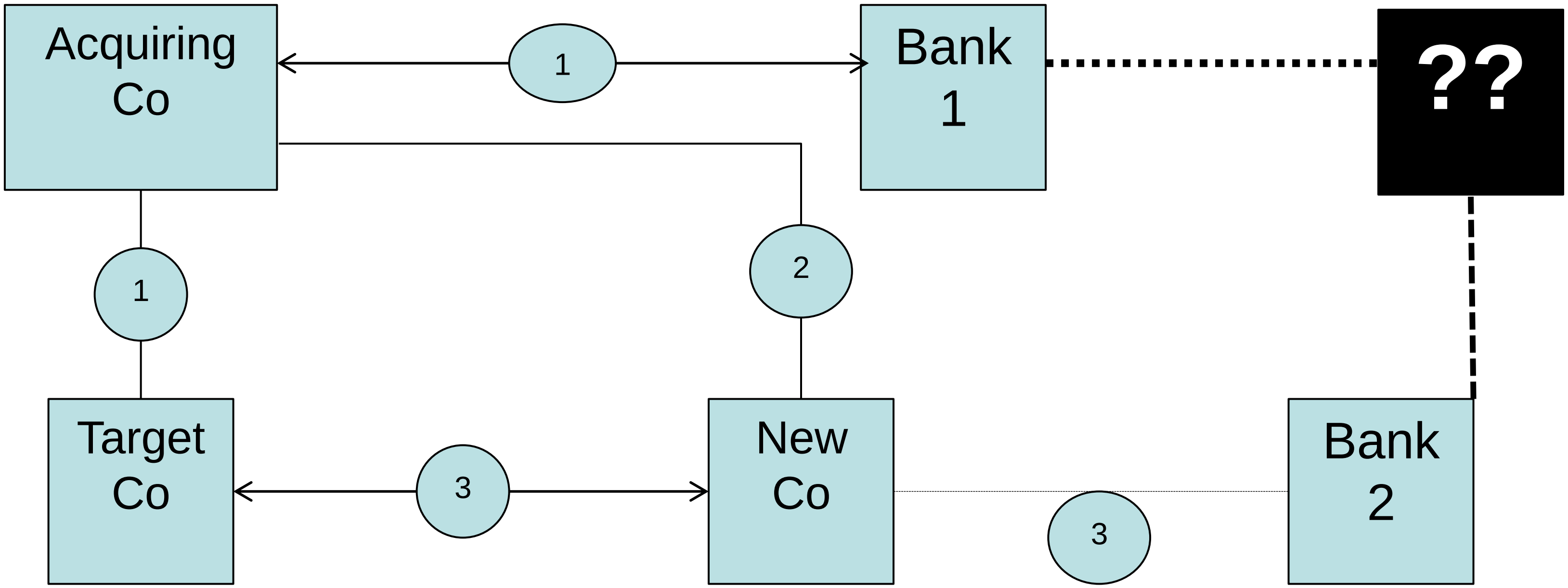
Initial Purpose of Section 45 Rollovers



Reorganisations and Leveraged Buyouts

- Concern:
  - Use of tax-free reorganisations to connect deductible debt to share acquisitions
  - Reorganisations: Mainly section 45; also section 47
- Problem features:
  - Excessive debt
  - Debt with share-like terms
  - Interest paid to exempt parties
    - Foreign bond holders
    - Foreign paid-in-kind notes
    - Four funds formula (exempt fund)
    - Pension funds (domestic and foreign)

Section 45 LBO Transactions



1 – Acquiring Co obtains a bridging loan from Bank 1 uses the loan proceeds to acquire all the Target Co shares
2 – Acquiring Co sets up New Co
3 – New Co obtains a long-term interest bearing loan from Bank 2 to acquire the assets of Target Co with the proceeds used to pay off the bridging loan (for which New Co obtains interest deductions because the debt is connected to assets; see case IT 1625)
4 – System tax risk: Bank 2 offloads the loan to exempt parties or channels funds to exempt parties via back-to-back loans

Basic Tax Mathematics

	Payor	Payee
Interest	(-)	(+)
Dividends	(0)	(0)
Tax planner’s target	(-)	(0)
Trapped	(0)	(+)

Closure of Excessive LBO Schemes

- Denial of interest deduction for section 45 (and section 47) transactions where approval is not granted
- Approval process for interest deduction (regulation)
  - SARS only
  - Decision subject to appeal and objection
  - Regulations to clarify exact points (see next slide)
- Main leakage:
  - Debtor getting deduction and financier (Bank) offloading debt instrument to exempt person (i.e. foreigner or pension fund)
- No approval, no deduction
  - Group companies: no deduction no inclusion
  - Banks: deduction by Bank if there's an inclusion (but an interest offset by the bank)
  - Exempt persons: no deduction no inclusion

Regulatory Discretion

- Factors taken into account in exercising the discretion:
  - the potential tax leakage associated with the debt issued to facilitate the reorganisaiton
  - the level of debt to the total equity of the debtor company,
  - the estimated interest expenses in relation to the estimated income after the reorganisation
  - the debt versus equity features of the so-called debt instrument and
  - the ownership relationship between debtor versus the creditor (i.e. whether the creditor is a shareholder in the debtor)

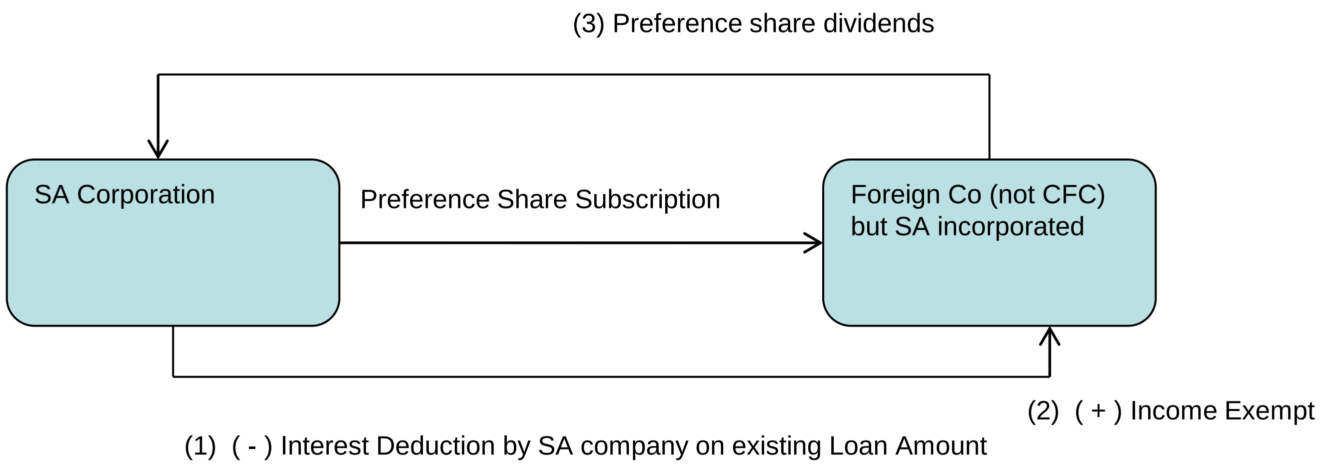
Hybrid Shares (Debt Disguised as Shares)

- **Substance questions**
- Key Question: Are the shares really disguised debt?
- Key feature of debt #1: Perpetual versus required capital repayment by issuer or third party (IFRS)
- Key feature of debt #2:
  - Interest in profits versus fixed repayment
  - Look to the funds of the issuer versus outside parties
- **Aggregate Theory**
  - Preference shares should be respected if the system is neutral (0 – 0)
  - Assumes all parties are taxpayers
  - Lowering the cost of funding

South African Paradigm

- Limit on interest deductions
  - Interest on debt used to acquire shares is not deductible (most countries so allow)
  - BEE vehicles do not have any income to be absorbed by interest deductions
  - No group taxation
  - Strong need for funding
  - Problems of multi-person audits (impractical nature of the aggregate theory)
  - The auditor needs to know the tax position of the fundee to know the impact of hybrid shares by the funder
  - Each taxpayer must be audited separately, taxpayers can take different positions in regard to the same transaction, and taxpayers are not responsible for the tax owed by other parties

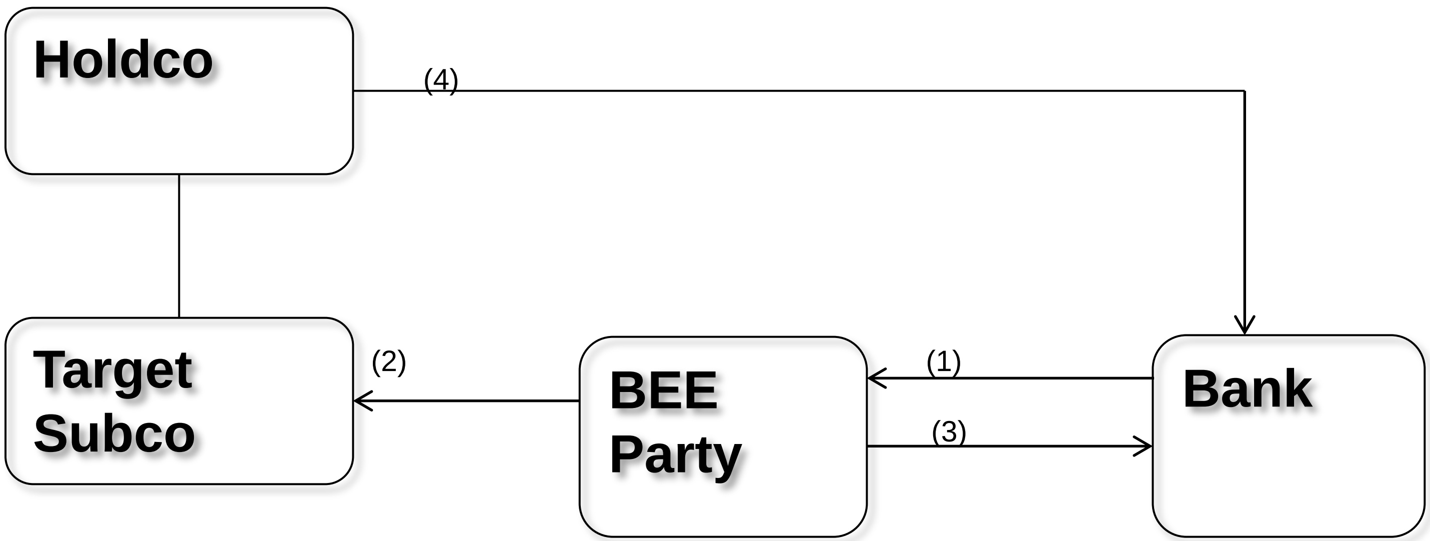
Section 8E Funnel Problem



Hybrid Share Proposal

- Section 8EA (third party backed shares)
  - Third party backed shares are impermissible
  - However, a safe harbour added for funding to acquire ordinary shares
    - Group member of issuing preference share company can provide guarantee
    - Group member of target company can provide guarantee
    - Section 8E (hybrid shares)
  - Dividends cannot be in respect of shares if the shares are pledged or otherwise secured by financial instruments (other than ordinary shares)

Acquisition and Pledge of Ordinary Shares



1. Bank funds BEE Party
2. BEE Party purchases Target Ordinary Shares
3. BEE Party issues Preference Shares to the funding Bank
4. As security to the funding arrangement, Holdco issues a Guarantee exercisable upon default by the BEE Party (or Holdco can acquire shares from bank)

Anti-Avoidance: Dividend Cessions

(Proviso (ee) to sector 10(1)(k)(i))

- Problem:
  - Certain taxpayers (mainly financial institutions) purchase dividends after declaration
  - The sole purpose of the acquisition is to acquire tax-free amounts (that are usually indirectly linked to interest deductions)
  - But for tax, no meaningful commercial reason exists for these transactions
- Proposal:
  - Dividends acquired by way of cession will be treated as ordinary revenue
  - In addition, the tax cost of shares held for less than 45 days will be reduced for any dividends generated during the interim (thereby preventing artificial losses)
  - The goal is to increase the tax burden if the recipient lacks any meaningful stake in the underlying shares producing the dividend

Islamic Finance: Government Sikuk
(Section 24JA)

- Revised taxation of Shariá compliant arrangements were introduced in 2010 to provide parity of tax treatment with traditional products
- Islamic banks also require a risk-free standard (typically utilising interest-based Government bonds) for portfolio balancing and cash-flow regulation
- It is proposed that a Government Sikuk be introduced:
  - The yield will mimic the tax treatment of interest
  - Individuals will be entitled to the annual de minimis exception
  - Foreign persons will be entitled to the exemption (but the initial bond will only be sold domestically)

Incentive: Industrial Policy Project Revisions
(Section 12I)

Background:

- An additional tax allowance was introduced in 2008 in order to encourage large industrial projects
- The incentive offers special tax benefits (i.e. additional deductions) to new industrial projects and expansions/upgrades
- The DTI introduced the Industrial Development Zone (IDZ) regime to encourage industrial development within certain geographical areas, but the incentive has not reached its desired objectives

Proposal:

- The additional allowance for both new industrial projects (i.e. a 100% additional allowance) and expansions/upgrades (i.e. 75%) in IDZs
- The scoring criteria will also be changed to promote IDZs
- Other adjustments (for training allowances and deadweight losses) will be made to fix minor anomalies

Incentive: Venture Capital Company Revisions
(Section 12J)

Problem:

The Venture capital company (VCC) regime was enacted in 2008 to act as an investment pool to encourage investment into small businesses and junior mining companies:

- The regime requires the VCC to use its shareholder funding (for 5-10 years) to fund small businesses and junior mining companies until they grow to a level when the VCC may sell them for a profit
- The VCC regime has been largely unsuccessful
  - Few applications have been made
  - No VCC has been successfully created to date

Overall Proposal:

- The VCC regime will be greatly liberalised
- This liberalisation will occurs at three levels: (i) at the investor-level, (ii) at the VCC level, and (iii) at the small business/junior mining company level

Incentive: Research and Development Revisions
(Section 11D)

- <u>R&D definition</u>
  - The definition will be changed to clarify the definition and exclusions (thereby eliminating peripheral items such as overheads)
- <u>Automatic deductions</u>
  - Taxpayers will receive a full deduction (without pre-approval being required) for expenditure in respect of R&D activities if the expenditure meets specific criteria
  - R&D plant and machinery will automatically receive the same depreciation write-offs as manufacturing
- <u>Additonal allowances</u>
  - Taxpayers conducting R&D activities will qualify for an additional allowance (i.e. an additional 50%) with DS&T approval
  - If taxpayers manage and control but R&D subcontract, the 50% uplift is for the party with management and control
  - Taxpayers funding R&D will also qualify for the additional allowance if funding:
    - Universities or certain Government-owned entities (e.g. CSIR); or
    - Group companies (with the funded entities forgoing the additional allowance)

Incentive: Film Production Exemption
(Section 12O)

1. <u>Film requirement</u>
   - Taxpayers will receive an exemption for exploitation rights from films produced as a feature film, documentary or animation
   - The exemption will apply if the profits are wholly dependent on the success of the film (not disguised salary or interest)
2. <u>Pre-approval required</u>
   - All qualifying films must be approved by the National Film and Video Foundation (NFVF) for taxpayers to qualify as either a domestic film or domestic co-production
3. <u>Initial investors</u>
   - The exemption only applies to investors (holding exploitation rights) during the early stages of film production since these investors take initial risk
   - Broadcasters (and their connected persons) do not qualify for the exemption as these parties represent a deadweight loss
4. <u>Net loss allowed</u>
   - Investors may claim any net loss from the film (as downside tax protection) after two years
   - The net loss must not be from borrowed funds
   - Once a loss is claimed, the exemption is lost

Micro-business turnover tax relief

(Paragraph 7 of Appendix 1))

Taxable turnover	Rate of tax (current)
R0 to R100K	0% of taxable turnover
R100K to R300K	1% of amount above R100K
R300K to R500K	R 2 000 plus 3% of amount above R300K
R500K to R750K	R 8 000 plus 5% of amount above R500K
R750K +	R20 500 plus 7% of amount above R750K

Taxable turnover	Rate of tax (proposed)
R0 to R150K	0% of taxable turnover
R150K to R300K	1% of amount above R150K
R300K to R500K	R 1 500 plus 2% of amount above R300K
R500K to R750K	R 5 500 plus 4% of amount above R500K
R750K +	R15 500 plus 6% of amount above R750K

Unification of Source Rules (Foreign versus Domestic)(Section 9)

- New uniform system of source rules amalgamating common law, pre-existing statutory law and tax treaty principles;
- The common law will as act a residual method for undefined categories of income; concept of deemed source is entirely eliminated;
- Items of income falling outside these definitions will be treated as foreign sourced income
- Defined categories:
  - Dividends from South African companies are locally sourced
  - Interest and royalties from South African taxpayers are locally sourced unless attributable to a foreign business establishment or if the funds/intangible is used locally
  - Gains/losses from trading stock, capital assets, and exchange gains are locally sourced if disposed of: (i) by a South African taxpayers unless attributable to a foreign permanent establishment, or (ii) by a South African foreign permanent establishment of a foreign person

Special Foreign Tax Credit for management Fees
(Section 6quin)

- **Background:**
  - South Africa residents taxed on world-wide income;
  - However, they are entitled to tax credit for taxes paid offshore
  - No foreign tax credits available in respect of SA sourced income
- **Proposal:**
  - Limited foreign tax credit will be introduced;
  - Foreign tax credit to be limited to foreign taxes withheld or imposed on services rendered in South Africa;
  - If the tax is wrongfully imposed despite a tax treaty, the taxpayer must provide advanced notification to SARS so SARS can attempt to rectify
  - Excess foreign tax credit carry-forward not allowed
  - Taxpayers can still choose to deduct the tax (instead of the credit)

Headquarter Company Adjustments

- The headquarter company incentive was introduced in 2010 to encourage South Africa as a regional centre
- Adjusted requirements:
  - The 80 per cent asset and receipts/accruals test will be relaxed;
  - Exchange gains/losses relating to foreign subsidiaries will be excluded
  - The exemption for capital gains upon the disposal of foreign shares will be expanded
  - Taxpayers must elect into the regime (by submitting the election to SARS) ; simplified annual reporting will be required to monitor the progress of the regime
  - Taxpayers entering the regime will be subject to an exit charge (as if becoming a foreign resident

Value-added Tax

Relief for temporary rental use by developers of residential fixed property (section 18B of the VAT Act)

Background:

- Developers of residential fixed property for sale are sometimes forced to temporarily rent out the property to cover costs.
- The change in application from a taxable sale purpose to a residential rental creates a deemed VAT charge at market value of the fixed property (because residential rentals fall outside the VAT net)
- This ‘forced’ deemed charge has placed some developers in a precarious financial situation.

Proposal:

- An interim short term solution is granted to developers whereby fixed property may be temporarily rented for residential purposes for a maximum period of 36 months, provided the intention remains to sell the property (i.e. the developer does not permanently change intention from a selling purpose to a rental purpose)

Imported Services (Section 14(5)(e) of the VAT Act)

- Initial proposal
  - The exemption for imported goods was set to be increased from R100 to R500
  - A matching R500 exemption for imported services was to be added
  - Problem: Local book industry complained that the removal of VAT on imported goods will undercut the local industry
- Revised proposal
  - The exemption for imported goods will remain at R100
  - A matching exemption for imported services will be added at R100
  - The validity of the competition argument needs to be reviewed as well as the policy for effectively imposing VAT for imported electronic downloads