

SARA BUDGET UPDATE

Budget 2009/10

Statement issued by [NUMSA](#) National Executive Committee, February 18 2010:

“The National Union of Metal Workers of South Africa listened to the Budget Speech by the Minister of Finance and we are convinced that this budget is anti-working class and anti-poor. ... Our union is not surprised because we have consistently argued that the Treasury staff belong to the old order that resisted change, and continued to tie development of our country to the Washington Consensus ... We are afraid that the Minister of Finance has been overly influenced by the neoliberal priests, who can't see beyond outdated neo-liberal stereotypes ... Numsa rejects with contempt the cheap manipulation of language - talk of 'Transforming the Economy' - by the Minister of Finance when his budget retains the status quo. The budget has got absolutely nothing to do with doing things differently ... Indeed, it constitutes a declaration of war to workers and the poor, as its intention is to undermine the gains that we have secured under the dark days of apartheid”

Budget Proposals

- Tax threshold remains 40% now at R552,001 (previously R525,001)
- Tax Free Limit up from R54,200 to R57,000 (R10,260 / 18%)
- Medical relief increased from R625 to R670 (member and dependent #1) and from R380 to R410 (thereafter)

Budget Proposals

- Interest exemption from R21,000 to R22,300
- Foreign dividends from R3,500 to R3,700
- Retrenchment exemption of R30,000 abolished?

“It is proposed that this exemption be merged into the retirement fund lump sum benefit system and that the qualifying lump sums be taxed by applying the tax table for retirement fund lump sum benefits. The aggregation principle will apply”

Budget Proposals

- SITE abolished 01 March 2011
- Voluntary Disclosure Program: 01 November 2010 to 31 October 2011
 - The full amount of capital remains due
 - Relief for interest and penalties
 - Relief is to be granted where ...
 - » the disclosure is complete
 - » SARS was not aware of the default
 - » penalty or additional tax would have been imposed had SARS discovered the default in the normal course of business

Budget Proposals

- Employer payment of professional fees – definition to be widened to cover all other fees which mainly benefit employer (only professional fees which are term and condition now exempt)
- *Assessment of employers for employees' tax:* Employers have an obligation to deduct or withhold employees' tax from the value of fringe benefits granted to employees. A recent judgment has created the impression that an incorrect determination by an employer of PAYE on fringe benefits can only be remedied on assessment of the individual employees. To enable SARS to effectively administer employees' tax in these situations, an amendment is proposed that SARS be allowed to raise an assessment on an employer if the value of a fringe benefit has not been taken into account (or undervalued) for employee tax purposes. Collateral amendments may also be required to ensure employer payments do not result in a further taxable fringe benefit.

Budget Proposals

- *Retirement savings payouts to third parties:* Impacts Member's retirement benefits to make payments to third parties (e.g. such as compensation to lenders for unpaid housing loans guaranteed by the fund).

These payments be treated like other lump sum benefits for the benefit of the member, thereby triggering the special rates table.

Budget Proposals (company vehicles)

- “Limiting salary structuring”
- “Company car fringe benefit value is to be increased”
- No indication of the rate
- Company vehicle schemes may become less attractive (value mostly lies not in tax benefit but overall better cost proposition)
- Tool of Trade and Essential Users - effect

Budget Proposals (company vehicles)

- Current relief mechanisms are not adequate to cope with challenges of tax on essential usage vehicles
- Paragraph 7(10) exemption difficult to implement
- 10,000km private use relief only end of year
- Potential implementation only 01 March 2011?
- Lobby for better relief mechanism.

Budget Proposals (company vehicles)

- Essential Usage Vehicle Choice:
 - Suffer full blow of tax
 - Change behaviour (business usage only)
 - *Start considering policy changes and new employees on more strict treatment*

Budget Proposals (Life Cover etc.)

- Deferred Compensation – fully taxed
- Key Man Insurance – fully taxed
- Employer provided life cover (part of retirement scheme) – fully taxed
- Potential implementation only 01 March 2011?

Budget Proposals (Life Cover etc.)

- Life Cover “Approved” (part of retirement scheme) and governed by Pension Fund Act.
- Not taxed now, but when payout.

When You Leave Employment

Retirement funding Law change 01 October 2007

- Lump sums on Death and Retirement
- The first R300 000 payment is tax-free
- Between R300 000 – R600 000 are taxed at 18%
- Between R600 001 – R900 000 are taxed at 27%
- Lump sum payments over R900 000 are taxed at 36%

Budget Proposals (Life Cover etc.)

- Life Cover “Unapproved” (not part of retirement scheme) and not governed by Pension Fund Act.
- Monthly fringe benefit tax and tax-free payout
- Traditionally better to go “approved”:
 - Take same risk view as insurers
 - Chances are more than even that never claim from insurer

Budget Proposals (Life Cover etc.)

- Effect: Life Cover component of Pension Scheme is taxed as monthly fringe benefit
- Effect on employees: Less monthly take-home pay and benefit of tax-free payout
- Before communicating consider critical design aspects of scheme:
 - Will employees be worst off?
 - Depends on whether you have total package approach
 - Basic Plus approach or non-flexible package, may result in increased pension

Budget Proposals (Life Cover etc.)

Example:

- Employee has CTC of R30,000 per month and flexible life cover with a rate of 10c per R1,000 cover.
- Employer allows flexible structuring to ensure that employee can align remuneration with personal requirements
- Broker determines that employee requires R3.5m after-tax life coverage. Considering the tax tables on death, this amounts to R5m before tax cover.

Budget Proposals (Life Cover etc.)

Now:

- Life Cover approved, therefore employee needs R5m.
Cost is R1000 per month ($R5m / R1,000 \times 20c$)
- Therefore CTC will be: Salary R29,000 and Life Cover R1,000 (assume no other components)
- Employee taxed at 25% on R29,000 means tax of R7,250 and take-home of R21,750 ($R29,000 - R7,250$)

Budget Proposals (Life Cover etc.)

Future:

- Life Cover taxed now, tax-free on payout, so employee only needs R3.5m. Cost thereof is R700 ($R3.5m / 1000 \times 20c$)
- Therefore CTC will be: Salary R29,300 and Life Cover R700 (assume no other components)
- Employee taxed at 25% on R30,000 ($R29,300 + R700$) means tax of R7,500 and take-home of R21,800 ($R29,300 - R7,500$)

Budget Proposals (Life Cover etc.)

Results:

- Employees will be out of pocket, but not as much as you think (where you have flexibility)
- Full hit – paternalistic approach to group and not cognisance of personal needs – set level of cover regardless of circumstances (Government therefore penalises bad remuneration practices with this amendment)
- Employee should align life cover with personal financial requirements

Budget Proposals (Life Cover etc.)

Results (cont.):

- Consider reduced life cover = same employee benefit (as after-tax)
- Consider allowing employees flexibility (where flexibility, brokers must re-compute the individual and group movements)
- Better delivery of remuneration: Benchmark determines quantum. Good benefit practice ensures optimal delivery

Employee Travel

- CO₂ emissions tax (01 September 2010) – 0% to 4.1% with average 1.9%
- Petrol and Diesel increase 25.5c/l and effect 07 April 2010
 - 10c “expected rate of inflation”
 - 7.5c new pipeline
 - 8c RAF

Employee Travel (cont.)

- Costs and Petrol Increase
- Tax deduction rates unchanged;
 - R2.92 same
 - Tax Tables same
- Not good year for employee travel (80% PAYE inclusion rate and deemed claim method abolished)

Employee Travel (cont.)

- 80% no impact on employers who are on CTC (flexible approach) and who claimed logbooks in the past – still structure a “tax break-even” allowance
- SARS table for travel expenses remains (incorrectly noted in some media as abolished)
- 80% hits fixed travel allowances per grade and abolishment of deemed hits those who claimed this basis

Employee Travel (cont.)

- Remember:
 - Logbook compulsory 01 March 2010
 - Make part of policy
 - Retention Period 5 years
 - Look at equitable rate of reimbursement (employee should be no better or worst off had travel not been undertaken)
 - Educate employees on importance of low private mileage when using a logbook

Medical Aid Change

- Now:
- Employer pays R2,000 and employee 0 for one member. Effect – Fringe Benefit of R1,330 (R2,000 – R670)
- Employer pays R1,000 and employee R1,000 for one member. Effect – Fringe Benefit of R330 plus employee R1,000 no tax relief = R1,330 taxed
- Employer pays 0 and employee pays R2,000 for one member. Effect, employee gets relief of R670 and therefore R1,330 taxed

Medical Aid Change

- New effective 01 March 2010:
- Employer contribution always fully taxed.
- Employer contribution taxed is deemed as employee contribution (law unchanged)
- Employee gets deduction per exemption threshold
- No impact on employees and only disclosure change

Medical Aid Change

- Future:
- Employer pays R2,000 and employee 0 for one member. Effect – Fringe Benefit of R2,000 and employee claim for R670. Taxable amount is R1,330 (R2,000 – R670)
- Employer pays R1,000 and employee R1,000 for one member. Effect – Fringe Benefit of R1,000. Employee claims R670, therefore R1,330 (R1,000 + R330) is taxed
- Employer pays 0 and employee pays R2,000 for one member. Effect, employee gets relief of R670 and therefore R1,330 taxed

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Medical Aid Change

Remember:

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Social Security

- National Health Insurance appears to have priority – paper expected later the year (10 point plan and 5 year window)
- Social Security – Savings and Risk Benefits: Appears to recognize soundness of private industry and potential parallel operation. Need to wait and see outcomes.
- Impact for Remuneration Professionals: status quo remain

Tax Administration Act

- First Part of re-write of Income Tax Act
- Message – SARS is very serious about increased administrative effectiveness and some collateral damage may follow
- Significantly enhanced audit, interview and information collection processes

Tax Administration Act

- Record keeping rules (format)
- Pay now argue later (including instances when waived)
- Notification prior to leaving RSA (183 day rule absence)

Penalty Charges

1 Item	2 Behaviour	3 Standard case	4 If obstructive, or if it is a 'repeat case'	5 Voluntary disclosure after notification of audit	6 Voluntary disclosure before notification of audit
(i)	'Substantial understatement'	25%	50%	12%	0%
(ii)	Reasonable care not taken in completing <i>return</i>	50%	75%	25%	12%
(iii)	No reasonable grounds for 'tax position' taken	75%	100%	37%	18%
(iv)	Gross negligence	100%	125%	50%	25%
(v)	Intentional tax evasion	150%	200%	75%	37%

PAYE Changes

- New PAYE Guide for Monthly PAYE reconciliations (published last week)
- Commonly asked questions on the PAYE monthly process
- This years' EMP501 submissions:
 - No tax numbers required
 - Sticky on correct format, ID numbers, addresses etc.

PAYE Changes

- Employer registration portal not yet functional and technical / practical questions
- Contact SARS in advance should you have problems with deadlines (last year first instance when 10% penalty was imposed = R4m and request for waiver disallowed)

Binding Private Rulings

- Number 29: Free Meals and Refreshments
 - No cash conversion of credit on card
 - Leave employment card must be returned
 - Contract with provider must contain specific terms
 - Must be provided mainly or wholly for employees

Binding Private Rulings

- Number 43: Private use of a company vehicle
 - Various classes of employees
 - No fringe benefit tax on fixed working hours employees (9 to 5)
 - Leave month = must be taxed
 - Others allowed 10,000km on personal assessment

Binding Private Rulings

- Number ??: Incentive Trips
 - Dual Purpose: Business and Incentive
 - Work Hours
 - Structured Program
 - Travel fully taxable
 - Accommodation and other activities pro rated

Remuneration Checklist (in handout)

- Trustees understand your remuneration methodology?
- Fund Rules aligned
- Best cost structures
- Flexible options must be properly debated

QUESTIONS