

Corporate tax cut welcome

● SA rate is higher than global average, must come down faster

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One of the welcome surprises in the 2021 budget was a lowering in the corporate tax rate from 28% to 27% from next year.

A healthy debate had been raging prior to the budget whether this rate may need to be increased to 30% to make up for the growing revenue shortfalls. However, sanity prevailed. Even with the cut, SA's rate is still far higher than a global average of about 23% and needs to come down even faster in the future.

SA needs more competitive company taxes to ensure other jurisdictions do not become more attractive in the desperate search for investment and growth.

The corporate rate will only be lowered for companies with years of assessment starting on or after April 1 2022. But notably this will be done alongside a broadening of the corporate income tax base by limiting interest deductions and assessed losses.

Tax executive at ENSAfrica Kazi Mbangeleli – who correctly predicted the corporate tax cut ahead of the budget in

a Business Law Focus podcast – says tax changes indicate a clear, targeted and well thought-out strategy of broadening the SA tax base.

“Securing additional foreign investment for economic recovery is a priority for SA. This is why any increase to the already high 28% corporate income tax rate would surely have neutralised these good intentions,” she says.

Finance minister Tito Mboweni gave an early indication of the intent to grow the tax base and economy in his 2020 budget speech, when he spoke of an intention to broaden the corporate income tax base to create additional revenue to be used to reduce the corporate tax rate in the near future, to help SA businesses grow.

AJM directors Albertus Marais and De Wet de Villiers say the key benefits of lowering the corporate rate include making SA a more attractive economy and a

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hub into the rest of Africa.

“Our corporate taxes were a little high compared with other jurisdictions in Africa, while our VAT rate is actually fairly competitive, compared to some peers. So the move to lower the corporate rate from April next year and to hold VAT steady is an important signal that SA is open for business. These moves should also help broaden the tax base, which will be crucial to getting the overall economic recovery moving forward.”

Nazrien Kader, group head of tax for Old Mutual,

says Mboweni reiterated his commitment to the policy change for companies.

Partial relief in the form of a deferral to 2022 of changes such as the ring-fencing of deductions for interest expenses of companies that form part of a multinational group (to 30% of earnings), a limitation on the set-off of assessed losses against taxable income (to 80% of taxable income) announced in the 2020 budget, is also welcomed. Companies in the regulated financial services sector were cautioned that a financial sector levy will be

tabled in due course to fund the regulation of the financial sector.

Head of tax in ENSAfrica's Johannesburg office, Andries Myburgh, says while the reduction in corporate taxes and other partial relief is welcome, the details about the future treatment of assessed losses and interest exemptions were in short supply.

“For instance, this seems to be a nod to the need to clamp down on base erosion and profit shifting broadly. This is in line with similar moves globally and in accordance with directives of the OECD. If you break that down, however, then it could mean they would need to focus on thin capitalisation and transfer pricing rules, as these would relate to funding and interest deductibility. But we do not have the details, so we don't know which of the corporate relief measures will be taken away and when.”

Myburgh says if broadening the tax base is the aim, it may be important for the Treasury not to mess with incentives which encourage investment by limiting costs for investors. According to Myburgh, it was disappointing that the budget did not mention incentivising foreign direct investment in mining.

Wesley Grimm, Joon Chong and Cor Kraamwinkel from Webber Wentzel say that uncertainty regarding the scope and content of the

interest deductibility rules remains a concern and proposed refinements to the corporate reorganisation rules will have to be carefully considered when the relevant bill is published.

Ntebaleng Sekabate, also a tax executive at ENSAfrica, says while the budget did not directly address wealth taxes, it was made clear the SA Revenue Service (Sars) would be looking into the affairs of high-net worth individuals.

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“Whether the wealth tax should be introduced should largely depend on the efficacy of collecting such taxes, and the determination of the basis on which the wealth tax will be imposed. Questions that still need to be answered are: how is “wealth” determined? Will certain assets be excluded in the determination of ‘wealth’? For instance, are pensions included, and how

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would offshore stocks and bonds be treated? Who will ultimately bear the burden of the wealth tax and the opportunities for evasion by taxpayers? Considering that wealth taxes already exist in the form of capital gains tax, estate duty and so on," Sekabate says.

"These are still open questions after the budget speech, and it seems the can was kicked down the road. The reality is SA already has high taxes and the impact of wealth taxes on capital flight remains," she says.

In a nod to the benefits of lower taxes to encourage growth, Mboweni said consideration would be given to further rate decreases to make the tax system more attractive. These changes are expected to enhance efficiency, transparency and fairness in the business tax system, while facilitating economic growth through improved investment and competitiveness.

However, Grimm, Chong and Kraamwinkel caution that one of the hardest hit groups will be individual taxpayers who propose to emigrate for tax purposes and have pension or provident funds in SA.

The proposal to include retirement funds in the exit tax net may cause panic and increase withdrawals of such funds prematurely.