23 February 2022

Sanlam Corporate: Budget Commentary

1. Introduction

- Tax revenue strengthened significantly in recent months and is expected to reach R1.55 trillion for 2021/22, well above (prior) projections.
- Given the revenue improvement, Government proposes R5.2 billion in tax relief to help support the economic recovery, provide some respite from fuel tax increases and boost incentives for youth employment.
- Most of the relief is provided through an adjustment in personal income tax brackets and rebates. In addition, there will be no increase in either the general fuel levy or the Road Accident Fund levy.

The main tax proposals for 2022/23 are:

- Inflationary relief through a 4.5 per cent adjustment in the personal income tax brackets and rebates.
  An expansion of the employment tax incentive, through a 50 per cent increase in the maximum monthly value, to R1 500.
- No change to the general fuel levy or the Road Accident Fund (RAF) levy.
- Increases of between 4.5 per cent and 6.5 per cent in excise duties on alcohol and tobacco.

As announced in the 2021 Budget Speech, the corporate income tax rate will be reduced from 28 per cent to 27 per cent. Base-broadening measures will be implemented to ensure that there is no effect on revenue.

2. Proposals affecting the retirement fund industry

2.1 Regulation 28

Regulation 28 of the Pension Funds Act (1956) provides maximum investment limits for retirement funds. The Minister of Finance initiated a process to amend this regulation to enable greater infrastructure investment by retirement funds and improve data reporting on such investment by the funds. The amendments have been through two rounds of public consultations and will be gazetted into law by March 2022.

Comment: *This is to be welcomed as it makes it easier for retirement funds to invest in infrastructure projects, without the regulation being prescriptive in this regard.*

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2.2 Capital Flows management framework – Institutional investors

The offshore limit for all insurance, retirement and savings funds is harmonised at 45 per cent inclusive of the 10 per cent African allowance. The previous maximum limits were set at 30 per cent or 40 per cent for different investors.

Comment: *Since the late 1990's, there has been a gradual increase in foreign exposure limits which allows for greater flexibility and is to be welcomed.*

2.3 Two-pot retirement system

The discussion paper entitled *Encouraging South African Households to Save More for Retirement* was published in December 2021. It outlines a set of reforms to enable pre-retirement access to a portion of a member's retirement savings while ensuring that the remainder is preserved for retirement. Public comments on the tax treatment of contributions to the two-pots are being reviewed in preparation for public workshops, to be followed by legislative amendments, which will be published for comment in the middle of the year.

Part of this proposal includes the possibility of short-term access, which would be dependent on the approval by trustees of each fund.

Comment: *The two-pot system has been welcomed by the industry as it will lead to increased preservation of retirement savings which will ultimately lead to better retirement outcomes.*

2.4 Governance of Umbrella Funds

National Treasury in December 2021 issued a discussion paper titled "Governance of Umbrella Funds", which seeks to improve the governance of retirement funds, particularly for commercial umbrella funds. The Minister said that work on the above will continue during 2022.

Comment: *The focus on umbrella funds illustrates their growing importance in the retirement fund industry.*

2.5 Reviewing the transfer of total interest in a retirement annuity fund

The Income Tax Act allows members of retirement funds to transfer their retirement interest from one retirement fund to another. This provision is subject to certain conditions, for example, if the individual is transferring to a similar type of retirement fund or from a less restrictive to a more restrictive retirement fund and – in the case of retirement annuity funds – if the total interest in the transferor fund is transferred.

These conditions result in retirement annuity fund members with more than one contract in a particular fund being restricted from transferring one or more contracts from one retirement annuity fund to another. However, members of a preservation fund are not restricted on the proportion of their retirement interest that can be transferred into another fund. To address this anomaly, government proposes changing the legislation to allow fund members to transfer one or more contracts in a particular retirement annuity fund, subject to certain conditions to ensure that the current minimum thresholds are not contravened.

Comment: *This proposal supports portability of retirement fund benefits, which is welcomed by the retirement fund industry. Furthermore, from a retirement planning perspective, this change is welcomed because there may be sound reasons for the member to only transfer one of his/her contracts in the retirement annuity fund to another retirement annuity fund.*

2.6 Clarifying the compulsory annuitisation and protection of vested rights when transferring to a public-sector fund

The T-day (compulsory annuitisation) amendments came into effect on 1 March 2021, subject to the protection of vested rights. As a result, historical vested rights (those that arose before 1 March 2021) were segregated from new rights (those arising after 1 March 2021). Historical vested rights may be transferred into another retirement fund without forfeiting their vested rights protection (irrespective of the number of transfers effected). It has come to Government's attention that the unintended consequence of the current provisions is that the protection of historical vested rights would be forfeited if a transfer is made into a public-sector fund. This is because the pension fund and provident fund definitions do not make any reference to the protection of vested rights for individuals who were members of a provident or provident preservation fund as at 1 March 2021. To address this anomaly, Government proposes amending the pension and provident fund definitions to ensure that historical vested rights remain protected even if they are transferred to a public-sector fund.

Comment: *Addressing this anomaly is welcomed.*

2.7 Clarifying paragraph (eA) of gross income regarding public-sector funds

In 2021, the retirement reforms that require mandatory annuities for provident funds came into effect. These reforms included amendments that cater for public-sector pension funds that operate like provident funds. As such, with effect from 1 March 2021, members of provident funds (including public-sector pension funds that operate like provident funds) are required to receive their benefits as annuities on retirement. At issue is the fact that, despite the above-mentioned changes regarding the annuitisation of public-sector funds, paragraph (eA) of the definition of gross income in section 1 does not mention public-sector funds that fall within paragraph (a) of the definition of provident fund. Government proposes that paragraph (eA) be clarified to ensure that gross income includes all public-sector funds. These amendments will take effect from 1 March 2022.

Comment: *This clarifies that the intention is for annuitisation to also apply to public sector funds. However, the proposed amendment would in our view not resolve the current uncertainty in this regard. Furthermore, any correction in this regard should be made retrospectively, with effect from 1 March 2021 and not 1 March 2022 as mentioned above.*

2.8 Retirement of a provident fund member on grounds other than ill health

In 2021, the retirement reforms that require mandatory annuities for provident funds came into effect. As a result, it is no longer necessary to differentiate between a pension and provident fund for retirement purposes, as these funds now operate in the same way. Paragraph 4(3) of the Second Schedule to the Income Tax Act treats pension and provident funds differently. According to this paragraph, if a member of a provident fund who is younger than 55 retires from that fund for reasons other than ill health, any lump sum received shall be taxed as a withdrawal benefit rather than a retirement benefit. This does not apply to members of pension or retirement annuity funds. To address this anomaly, Government proposes to delete paragraph 4(3) of the Second Schedule to the act.

Comment: *This proposal is in line with the general harmonization of retirement funds.*

2.9 Clarifying the applicability of tax-neutral transfers from a pension to a provident fund

Before the mandatory annuitisation of provident funds came into effect in 2021, transfers to a provident or provident preservation fund would be taxable if the transfer was made from a fund that had mandatory annuitisation requirements. From 1 March 2021, and in accordance with paragraph 6(1)(a) of the Second Schedule to the Income Tax Act, transfers to a provident or provident preservation fund would be tax-neutral irrespective of the type of retirement fund from which the retirement interests were transferred. Both before and after 1 March 2021, the policy intent is for these transfers to be tax neutral.

It has come to Government's attention that the current provisions of paragraph 6(1)(a) create an anomaly: transfers from a pension fund to a provident fund related to contributions made before 1 March 2021 are not tax neutral. Government proposes that contributions to a pension fund before 1 March 2021 also receive tax-neutral transfer status.

2.10 Cross-border tax treatment of retirement funds

Consultation on last year's proposal regarding the tax treatment of retirement interest when changing tax residence showed that multiple tax treaties need to be revised to ensure South Africa retains taxing rights on payments from local retirement funds. Government intends to initiate these negotiations this year.

Comment: *We foresee that this proposal will not be easy to implement given the fact that there are numerous tax treaties that will have to be renegotiated with various countries.*

3. Other matters of interest

3.1 The Conduct of Financial Institutions Bill

The National Treasury has revised the Conduct of Financial Institutions Bill based on feedback from stakeholders. The bill is expected to be tabled in Parliament in early 2022. It will empower the FSCA to deliver the mandate set out in the Financial Sector Regulation Act (2017), which includes the fair treatment of customers and the integrity of the financial system.

3.2 Transformation

The FSCA will publish its transformation strategy in February 2022, outlining its approach to promoting financial sector transformation within the existing policy framework, including the Financial Sector Regulation Act, and under the future Conduct of Financial Institutions Bill. It will set out how the FSCA intends to effect key proposals in the bill. The strategy will be published for public comment and consultations will be held with stakeholders. The subcommittees of the Financial Sector Transformation Council have been reviewing the transformation targets in the Financial Sector Code. They are expected to conclude their review and submit the revised targets to the council for approval this year. The Department of Trade, Industry and Competition will publish the revised targets for public comment.

Comment: *This is an important topic within the financial services industry and Sanlam will continue to engage in consultations in this regard.*

3.3 Financial inclusion strategy

The National Treasury facilitated workshops with stakeholders during 2021 to discuss the comments received on the draft policy paper An Inclusive Financial Sector for All. The policy framework, aimed at promoting financial inclusion in South Africa, has been revised and will be finalised for formal adoption. The National Treasury will work with industry and civil society working groups and forums to develop a financial inclusion strategy to implement the new policy framework from 2023 to 2033, by setting targets and monitoring and evaluation mechanisms.

3.4 Social protection

The 2022 Budget provides for a 12-month extension of the R350 per month special COVID-19 social relief of distress grant. This will ensure the continuation of public support for poor households as the pandemic recedes. The Minister noted that nearly half of the population currently receives at least one social grant from the state.

Three new allocations are made to social grants, including:

- R44 billion in 2022/23 to continue the special COVID-19 social relief of distress grant (R350 per beneficiary) for another 12 months.
- A total of R1.6 billion in the two outer years to initiate a new extended child support grant for double orphans. This is to encourage the care of orphans within families rather than foster care.
- A total of R13.1 billion in the two outer years to offset budget reductions made in the 2021 Budget and provide for inflationary increases to permanent grants.

Table 5.8 Average monthly social grant values

Rand	2021/22	2022/23	Percentage increase
Old age	1 890	1 985	5.0%
Old age, over 75	1 910	2 005	5.0%
War veterans	1 910	2 005	5.0%
Disability	1 890	1 985	5.0%
Foster care	1 050	1 070	1.9%
Care dependency	1 890	1 985	5.0%
Child support	460	480	4.3%

Source: National Treasury

4. Tax research and reviews

- A discussion document will be published in 2022 on a personal income tax regime for remote work.
- A review of the exemption of foreign retirement benefits in domestic tax legislation will be Conducted.
- A review of depreciation and investment allowances will take place during 2022/23, followed by the release of a discussion document.
- Government will review the approach to adjusting thresholds for inflation.

5. Personal income tax

5.1 Income tax brackets

If the personal income tax brackets were not adjusted, revenue would have increased by R13.5 billion. This relief is mainly targeted for individuals in the middle-income group.

Table 4.4 Personal income tax rates and bracket adjustments

2021/22		2022/23	
Taxable income (R)	**Rates of tax**	**Taxable income (R)**	**Rates of tax**
R0 - R216 200	18% of each R1	R0 - R226 000	18% of each R1
R216 201 - R337 800	R38 916 + 26% of the amount above R216 200	R226 001 - R353 100	R40 680 + 26% of the amount above R226 000
R337 801 - R467 500	R70 532 + 31% of the amount above R337 800	R353 101 - R488 700	R73 726 + 31% of the amount above R353 100
R467 501 - R613 600	R110 739 + 36% of the amount above R467 500	R488 701 - R641 400	R115 762 + 36% of the amount above R488 700
R613 601 - R782 200	R163 335 + 39% of the amount above R613 600	R641 401 - R817 600	R170 734 + 39% of the amount above R641 400
R782 201 - R1 656 600	R229 089 + 41% of the amount above R782 200	R817 601 - R1 731 600	R239 452 + 41% of the amount above R817 600
R1 656 601 and above	R587 593 + 45% of the amount above R1 656 600	R1 731 601 and above	R614 192 + 45% of the amount above R1 731 600
Rebates		**Rebates**	
Primary	R15 714	Primary	R16 425
Secondary	R8 613	Secondary	R9 000
Tertiary	R2 871	Tertiary	R2 997
Tax threshold		**Tax threshold**	
Below age 65	R87 300	Below age 65	R91 250
Age 65 and over	R135 150	Age 65 and over	R141 250
Age 75 and over	R151 100	Age 75 and over	R157 900

Source: National Treasury

5.2 Medical tax credits

Medical tax credits will increase from R332 to R347 per month for the first two members, and from R224 to R234 per month for additional members.

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