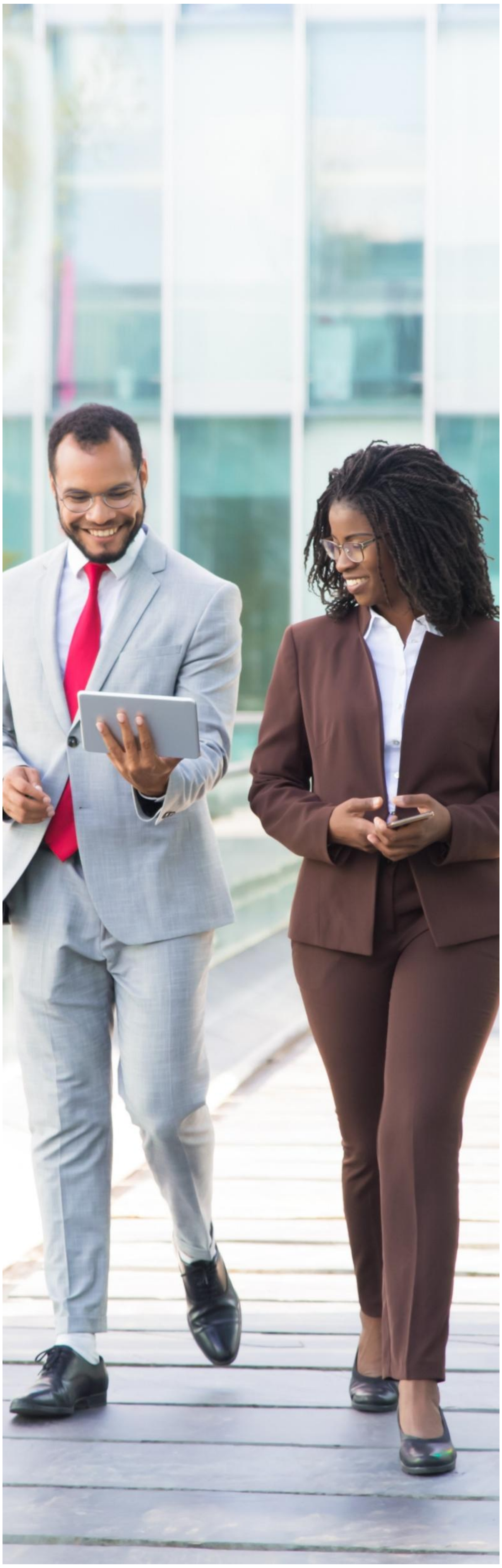
Draft tax legislation released - invitation to comment

National Treasury and SARS published for public comment the 2026 Draft Taxation Laws Amendment Bill (Draft TLAB) and Draft Tax Administration Laws Amendment Bill (Draft TALAB), together with the draft explanatory memorandum to the Draft TLAB and the draft memorandum on the objects of the Draft TALAB, on 30 July 2026. Stakeholders are invited to comment by close of business on 28 August 2026.

Key proposals include:

- The introduction of a domestic arm's-length rule for certain transactions involving Special Economic Zone (SEZ) qualifying companies;
- Changes to the interaction between the Controlled Foreign Company (CFC) and Domestic Treasury Management Company (DTMC) currency translation rules;
- Provisional tax administration changes;
- New VAT rules affecting intermediaries facilitating electronic services;
- Amendments to the VAT treatment of leasehold improvements;
- Changes to the carbon tax threshold for backup generators used by businesses; and
- The ability to combine a voluntary disclosure application with an application for remission of interest.

We summarise selected proposals below.



Draft Taxation Laws Amendment Bill (Draft TLAB)

Individuals, savings, and employment

Government proposes to clarify the application of the de minimis rule for living annuities by confirming that the prescribed threshold must be determined cumulatively where an annuitant holds multiple living annuities with the same insurer or fund. In the retirement annuity context, the R15,000 threshold would be applied at fund level across multiple paid-up policy contracts within the same retirement annuity fund.

Government also proposes to extend eligibility for the medical scheme fees tax credit and the additional medical expenses tax credit to members of certain restricted medical schemes that fall outside the regulatory oversight of the Council for Medical Schemes. A further proposal would allow rollover treatment of capital allowances on allowance assets transferred between spouses, thereby aligning the treatment of those assets more closely with existing inter-spousal rollover provisions.

Government also proposes to limit the inter-spousal donations tax exemption to cases where the recipient spouse is a South African tax resident. National Treasury indicates that the amendment is intended to counter arrangements that involve the staggered cessation of tax residence by spouses to reduce donations tax and section 9H exit tax consequences.

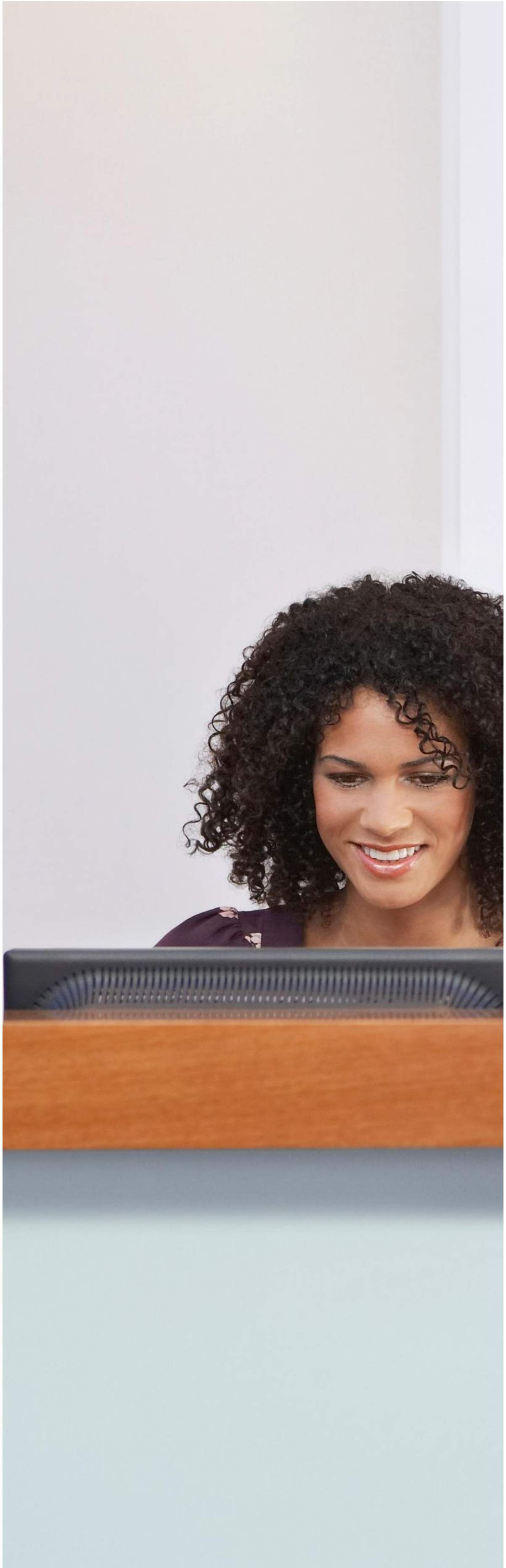
Income tax: business (general)

The Draft TLAB proposes to reverse the 2024 alignment of the section 23N interest-limitation formula with section 23M. National Treasury's view is that the two provisions address different policy concerns and should therefore operate using different formulae.

The Draft TLAB also proposes that expenditure on roads, fences and related supporting structures used in qualifying renewable electricity generation projects undertaken by mines may qualify as mining capital expenditure under section 36.

Income tax: business (financial institutions and products)

For short-term insurers, the Draft TLAB proposes to align section 28 with IFRS 17 terminology by replacing references to premiums and claims with terminology based on insurance liabilities for incurred claims.



Draft TLAB (continued)

Income tax: business (incentives)

Government proposes to extend the rehabilitation fund regime in section 37A to certain nuclear facilities. The proposal would allow qualifying nuclear licence holders to deduct contributions to approved rehabilitation and decommissioning funding vehicles, ensuring that rehabilitation costs are borne by nuclear operators rather than the broader taxpayer base.

The Draft TLAB also proposes a significant amendment to the SEZ regime. The existing anti-profit-shifting rule in section 12R(4)(c) would be replaced by a new domestic arm's-length rule contained in a proposed section 31B. The new provision would apply to certain domestic transactions between a qualifying company operating in an approved SEZ and a connected resident that is not a qualifying company, including connected residents operating outside the SEZ.

Income tax: international

Government proposes to amend the interaction between the CFC rules and the DTMC functional currency rules. The objective is to eliminate unnecessary currency conversions where a DTMC holds an interest in a CFC and both entities use the same functional currency. According to National Treasury, the proposed amendment is intended to align the tax outcome more closely with the economic substance of the transaction while reducing administrative complexity.

Value-Added Tax

The Draft TLAB proposes to clarify the zero-rating rule for services supplied to customs controlled area enterprises and SEZ operators operating within customs controlled areas. National Treasury has indicated that the proposal is intended merely to clarify that the services must be physically rendered in the relevant customs controlled area and does not alter the underlying policy position. A further proposal affects intermediaries that facilitate electronic services. The default position would become that a VAT-registered intermediary facilitating electronic services is deemed to make the supply and account for VAT, unless the intermediary and principal agree in writing that the principal will account for the supply.

Government also proposes to address a perceived VAT leakage relating to leasehold improvements. The proposal would extend the existing claw-back mechanism to lessors that are not VAT vendors. Non-vendor lessors would satisfy the resulting liability through a prescribed declaration and payment process.

Draft TLAB (continued)

Carbon Tax Act

The Draft TLAB proposes technical amendments to the carbon budget refund provisions. Refunds relating to the first two tax periods would be claimable in year three of the relevant carbon-budgeting period, while refunds relating to the remaining periods, together with any required adjustments relating to the first two periods, would generally be claimable in year six.

The Draft TLAB also proposes replacing the existing 10 megawatt thermal-capacity threshold applicable to commercial and institutional 1A4a activities with an emissions threshold of 25,000 tCO_2e. The amendment is intended to reduce compliance burdens, particularly for businesses that use backup generation capacity.

Draft Tax Administration Laws Amendment Bill (Draft TALAB)

The Draft TALAB proposes to exclude certain fully exempt and partially exempt entities from the definition of "provisional taxpayer", thereby reducing compliance obligations for entities not intended to bear the ordinary provisional-tax burden. Government also proposes refining the employees' tax withholding rules for non-resident employers by requiring, in addition to the permanent establishment test, that the relevant employee be effectively connected to that permanent establishment in South Africa before a withholding obligation arises. For provisional tax purposes, the threshold for relying on historical assessed taxable income would increase from R1 million to R1.8 million. In addition, for underestimation-penalty purposes, the estimate would effectively be linked to the payment made in relation to that estimate, or be deemed to be nil where no payment is made.

On the customs side, the Draft TALAB introduces an enabling framework for electronic ATA Carnets, allowing the Commissioner to prescribe requirements for the issuing, use, and submission of international carnets in relation to temporarily imported and exported goods.

In the VAT administration area, the Draft TALAB proposes:

- Expanded documentary requirements for second-hand goods dealers; and
- A requirement that tax invoices issued on supplies of relevant second-hand goods to qualifying purchasers reflect any associated notional input tax previously deducted.

Let's talk

Mbai Rashamuse

Southern Africa Tax and Legal Services Leader

mbai.rashamuse@pwc.com

James Whitaker

Africa Tax and Legal Services Leader

james.whitaker@pwc.com

Kyle Mandy

Tax Technical and Policy Leader

kyle.mandy@pwc.com

Rodney Govender

Director: Value Added Tax

rodney.govender@pwc.com

Draft TALAB (continued)

The Draft TALAB further proposes to permit banks to conduct pre-deposit and post-deposit screening of suspicious refunds. The intention is to facilitate more rapid payment of legitimate refunds while allowing SARS to investigate potentially problematic payments.

Government also proposes reducing the period during which collection steps are suspended following a penalty remittance request so that the protected period ends ten business days after SARS notifies the taxpayer of its decision.

Finally, the Draft TALAB proposes allowing taxpayers applying for voluntary disclosure relief to simultaneously apply for remission of interest under the relevant tax Act.

Key takeaway

The 2026 draft legislation contains a mixture of technical corrections, anti-avoidance measures, and targeted policy changes affecting a broad range of taxpayers, including multinational groups, financial institutions, VAT vendors, and individual taxpayers.

Taxpayers should review both the draft legislation and the accompanying explanatory materials carefully to assess the potential impact on existing structures, systems, and compliance processes. The consultation process provides an important opportunity to engage with National Treasury and SARS before the proposals progress into final legislation