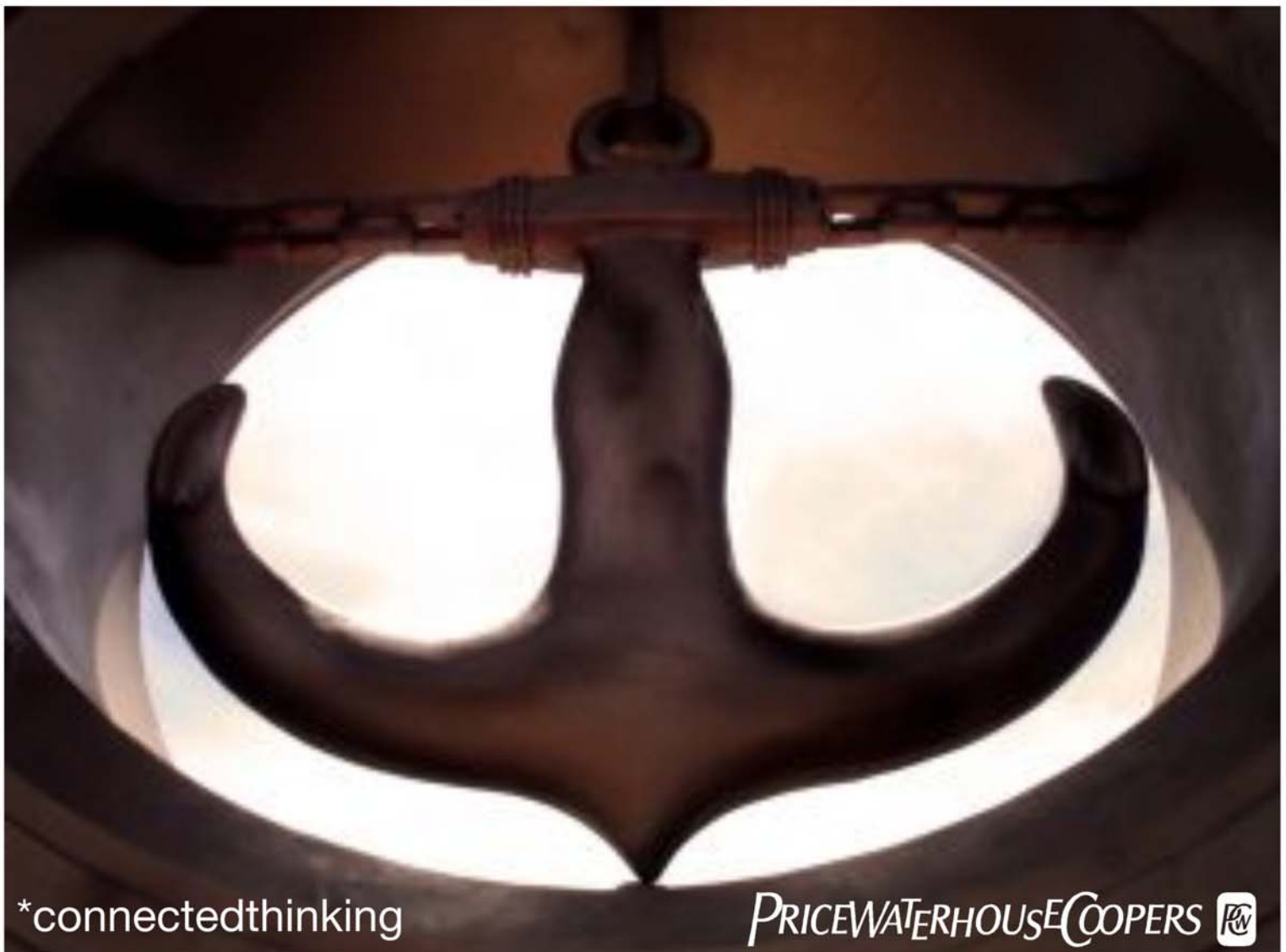


Weathering the storm*

Budget 2009



*connectedthinking

PRICEWATERHOUSECOOPERS 

BUDGET 2009

11 February 2009

The Minister of Finance, Mr Trevor Manuel, announced a Budget that provided tax relief of R13.6 billion in personal income tax relief to individuals but which provided for an increase in indirect tax collections of R10 billion.

Government expenditure is to be allocated as follows:

Education	R140.4 bn
General public services	R51.3 bn
Public order and safety	R75.5 bn
Economic affairs	R179.6 bn
Recreation and culture	R7.7 bn
Social protection	R118.1 bn
Housing and community amenities	R73.2 bn
Health	R86.9 bn
Defence	R34.7 bn
Environmental protection	R5.6 bn
State debt cost	R55.3 bn

There were several more interesting announcements, including the following:

- Implementation of the electricity levy announced in Budget 2008;
- Reducing the current ad valorem excise duty rate on the sale of new motor vehicles while introducing an additional excise duty component to take into account CO₂ emissions;
- From an administrative perspective, the lodging of an objection will no longer suspend payment of the taxes due;
- Reviewing the tax treatment of travel (motor vehicle) allowances to improve the equity and transparency of the tax system; and
- A final set of amendments to support dividends tax reform.

Income tax - individuals

Both the minimum marginal rate of 18% and the maximum marginal rate of 40% have remained unchanged. The upper level of the band to which the 18% rate applies has been increased from R122 000 to R132 000 and the level at which the maximum rate is applicable has been increased from R490 000 to R525 000. The intervening brackets have all been adjusted upwards.

The proposed scale of rates for individuals and trusts is set out in the appendices. The new scale of rates for individuals will be applicable for years of assessment beginning on 1 March 2009.

The primary rebate is increased from R8 280 to R9 756, whilst the secondary rebate for individuals aged 65 years or older is increased from R5 040 to R5 400.

As a result of the amendments to the scale of rates and the rebates increase, the tax threshold for individuals below the age of 65 increases from R46 000 to R54 200, and for individuals aged 65 and over from R74 000 to R84 200.

The resultant decrease in the tax liability for individuals younger than 65 is illustrated below:

Taxable income	2009/2010	2008/2009	Decrease
R	R	R	R
54 200	0	1 476	1 476
150 000	18 504	20 680	2 176
500 000	133 704	138 730	5 026
1 000 000	333 204	338 730	5 526

The interest exemption for individuals increases from R19 000 to R21 000 for individuals under the age of 65 and from R27 500 to R30 000 for individuals over the age of 65. The exemption in respect of foreign interest and taxable foreign dividends increases from R3 200 to R3 500 of the total exemption limit.

Proposed tax administration modernisation

Changes are proposed to allow for continued progress in the reform of personal income tax collection which will also form the basis for future social security tax. These changes include amongst other:

- Employer reconciliations of employees' tax to be submitted more than once a year;

- Employer reconciliations to extend to Skills Development Levy (“SDL”) and Unemployment Insurance Fund (“UIF”) contributions;
- Reinstatement of employers’ obligation to obtain, maintain and report employee data as required; and
- Alignment of estimated assessment, interest and additional tax provisions across personal income tax, SDL levies and UIF contributions.

Proposed phasing out of Standard Income Tax on Employee (SITE)

The tax-free income threshold for taxpayers younger than 65 years is approaching R60 000 per annum. This is currently the SITE ceiling. As a result it is proposed that the SITE system be discontinued by 2010/11. Pre-populated returns, introduced in 2008 and the waiver of the annual filing requirement for certain taxpayers is envisaged to replace SITE.

Provisional tax

Individuals below the age of 65 who do not carry on a business and whose taxable income will not exceed the tax threshold for the tax year or whose income from interest, dividends and rental is less than R20 000 for the tax year will not be liable for provisional tax.

The provisional tax threshold for those over 65 has increased to R120 000 from R80 000..

Travel allowances

It is proposed that the deemed business kilometre procedure be scrapped from 2010/11. Taxpayers will only be able to claim business travel expenses based on use of a logbook.

The deemed cost tables for travel allowances will also be updated.

Subsistence allowances

Tax-free subsistence allowances paid by an employer to an employee will be increased as follows:

- Meals and incidental costs - from R240 per day to R260 per day;
- Incidental costs only – from R73,50 per day to R80 per day; and
- Overseas travel – as set out on the SARS website.

Medical scheme contributions and medical cap

The monthly monetary cap for monthly medical scheme contributions is to be increased from R570 to R625 for the first two beneficiaries and from R345 to R380 for each additional beneficiary.

Medical scheme contributions will cease to qualify as tax-free fringe benefits and employees will be permitted to claim a tax deduction for contributions up to the cap.

Replacing the medical scheme contribution deduction with a non-refundable tax credit is under consideration and a consultation paper will be released in 2009.

Estate Duty

It is proposed that spouses be given flexibility in using their combined estate duty deductions. In this regard, the surviving spouse's estate will benefit from any unused deduction of the deceased spouse automatically.

Miscellaneous personal and employment tax issues

- It is proposed that employer contributions to retirement annuity funds should be deductible subject to existing limits to put them on par with contributions made directly by employees.
- Consideration is being given to phase out provident funds and to phase them into pension funds.
- It is proposed that there is a single interest rate for underpayments and overpayments of tax and charging compound rather than simple interest.

Corporate tax

Corporate tax rate

The corporate tax rate remains unchanged at 28%, and the secondary tax on companies (STC) rate remains unchanged at 10%.

Dividend tax reform process

The basic legislative framework for the introduction of the dividend tax, which will replace STC, was enacted in 2008. It is likely that this tax at shareholder level will be implemented during the second half of 2010.

Under the dividend tax regime, local individual taxpayers will be taxed at 10 per cent; domestic retirement funds, public benefit organisations and domestic companies will be exempt and foreign persons will be eligible for tax-treaty benefits (i.e. a potential reduction to a 5 per cent rate).

Provision is also made for transitional STC credits, so that tax paid under the STC regime can be offset against the dividend tax. Further legislative amendments during 2009 will provide for the completion of the dividend tax reform. The remaining items mostly relate to anti-avoidance concerns (such as preventing companies from converting taxable sales to tax-free dividends) and to foreign dividends.

Treatment of collective investment scheme distributions

To eliminate certain unintended anomalies, it is proposed that distributions by collective investment schemes should generally follow a flow-through principle, i.e. dividends or interest received will retain its nature when distributed to investors. (Collective investment schemes in shares are currently treated as a company.)

Deductibility of post-retirement medical contributions

Some companies provide a subsidy towards medical scheme contributions for employees after retirement. In general, contributions towards medical schemes on behalf of pensioners on a pay-as-you-go basis are deductible by the employer. Accounting practice now requires companies to reflect future obligations with respect to medical contributions for already retired employees as liabilities. For this reason, some companies prefer to settle these obligations as once-off payments directly to their retired employees. Other companies opt to make once-off contributions towards insurance-type products that will take over the liability for some or all of the future medical expenses/contributions to a medical scheme on behalf of retirees.

To provide clarity on the deductibility of these once-off payments, it is proposed that such contributions be deductible immediately and not spread over a period of time. The precondition is that the company making such contributions must not derive any direct benefits from such payments, nor will a return of the funds to the employer or a redirection of the use of the funds be permitted.

Administrative tax issues

SARS will in the future pay interest on the overpayment of tax when a taxpayer is required to pay a disputed amount that is still subject to objection, provided the objection is subsequently allowed. It is proposed that the Income Tax and VAT Acts be amended to:

- formalise the circumstances where payment will be required despite objection; and
- provide for interest where a payment made pending the consideration of an objection is refunded.

International tax

CFC rulings - s9D(10) to be re-examined

Currently certain tainted income (e.g. certain passive income and income from SA connected persons) is often imputable in terms of controlled foreign company (“CFC”) rules. A special application can, however, be lodged in terms of section 9D(10) to request the Commissioner to allow relief in certain circumstances. Due to the difficulties in administering the section 9D(10) applications, this section is to be re-examined along with the creation of additional objective exemptions where circumstances so warrant.

Capital Gains Tax

The annual exclusion threshold for capital gains or losses is to increase from R16 000 to R17 500.

The primary residence exclusion will be modified. Currently, a capital gain or loss of up to R1,5 million arising upon the disposal of a primary residence by an individual is excluded from capital gains tax. An alternative method will be made available in terms of which this exclusion will also fully apply to a primary residence disposed of by an individual for gross sale proceeds of up to R2 million. This will therefore remove the need for complex capital gains tax calculations for primary residences falling into this category. For remaining primary residences (with values above R2 million), the current rules will continue to apply, including the R1,5 million gain/loss exclusion.

Short-term insurance

Clarification that short-term insurance reserves relating to off-shore short-term insurance operations are eligible for potential deductions, only if subject to substantially similar regulation and evaluation by SARS.

Indirect Tax

VAT

Businesses with an annual taxable supply turnover below R20 000 were generally denied the ability to register as VAT vendors. It is proposed to increase this threshold to R50 000 from 1 March 2010.

It is proposed that false statements on any VAT form submitted to SARS, not just returns, be considered an offence.

An additional measure to combat VAT fraud is proposed by the introduction of biometric measures to verify the identity of applicants for VAT registration.

Following the enactment of reorganisation rollover relief for income tax in 2001/02, reorganisation relief provisions were enacted for VAT in 2005. However, interpretational issues have arisen regarding change in use and input tax credits (e.g. commissions and legal fees). Many of these reorganisation problems appear to have their roots in the transfer of assets involving mixed supplies (e.g. banks, insurers and transport companies having both taxable and tax-exempt supplies). To remedy these concerns, an interpretation note will be issued clarifying these matters (with possible legislation if required).

Shares of a share block scheme represent a special form of interest in underlying real estate. Under current law, the transfer of these shares can trigger transfer duty, VAT or neither. The law will be clarified so at least one form of indirect tax applies.

Taxpayers are required by law to pay interest on late payments or excessive refunds. SARS has the discretionary power to grant full or limited relief for interest due on late payments if: (i) there is no loss to the state, or (ii) there is no financial benefit for the taxpayer. The choice of which of these grounds should be used often complicates the application of this relief provision. It is proposed that clarification be provided to eliminate the potential for inconsistent application.

Excise Duties

Excise duty has increased with effect from 11 February 2009 by the following percentages:

Cigarettes:	12.9 %
Cigarette tobacco:	5.5 %
Cigars:	13.0 %
Pipe tobacco:	8.6 %
Natural unfortified wine:	7.6 %
Sparkling wine:	9.4 %
Fortified wine:	9.4 %
Spirits:	14.7 %
Clear/malt beer:	9.5 %
Ciders & alcoholic fruit beverages:	9.9 %

International Air Passenger Departure Tax

It is proposed that the international air passenger departure tax be increased from R120 per passenger on flights to international destinations and R60 on flights to Southern African Customs Union member states to R150 and R80 respectively.

These increases will come into effect on 1 October 2009.

Fuel Levy and Road Accident Fund ('RAF')

It is proposed that the general fuel levy on petrol and diesel be increased by 23 c/l and 24 c/l respectively.

It is proposed to increase the RAF levy on petrol and diesel by 17.5 c/l from 46.5 c/l to 64.0 c/l.

These increases will come into effect on 1 April 2009.

Motor Vehicle Ad Valorem Excise Duties

It is recommended that the existing ad valorem excise duties on motor vehicles be adjusted to incorporate CO₂ emissions as an environmental criterion as improved fuel efficiency is important in curbing the growth in greenhouse gas emissions.

This will come into effect on 1 March 2010.

RATES

INDIVIDUALS RATES, REBATES AND TAX THRESHOLD 2009/10	
Persons (including deceased estates) other than companies and trusts, but including special trusts and trusts established for the benefit of minor children	
Taxable income (R)	Rates of tax
0 – 132 000	18% of each R1
132 001 – 210 000	R23 760 + 25% of the amount above R132 000
210 001 – 290 000	R43 260 + 30% of the amount above R210 000
290 001 – 410 000	R67 260 + 35% of the amount above R290 000
410 001 – 525 000	R109 260 + 38% of the amount above R410 000
525 001 and above	R152 960 + 40% of the amount above R525 000
Rebates (applicable to individuals only)	
Primary	R9 756
Secondary	R5 400
Tax threshold	
Below age 65	R54 200
Age 65 and older	R84 200
TRUSTS (OTHER THAN SPECIAL TRUSTS)	
Flat rate	40%
TURNOVER TAX FOR MICRO BUSINESSES	
Turnover (R)	Rates of tax
0 – R100 000	0%
R100 001 – R300 000	1% of each R1 above R100 000
R300 001 – R500 000	R2 000 + 3% of the amount above R300 000
R500 001 – R750 000	R8 000 + 5% of the amount above R500 000
R750 001 and above	R20 500 + 7% of the amount above R750 000

COMPANY RATES		
	2008/2009 %	2009/2010 %
Normal company income tax rate (excluding taxable income from mining operations and long-term insurance)	28	28
Branch income tax	33	33
Tax on 'employment companies'	33	33
Tax on small business corporations	0/10/28	0/10/28
Secondary tax on companies	10	10

CAPITAL GAINS TAX RATES			
Taxpayer	Inclusion rate %	Statutory rate %	Effective tax rate %
Individuals	25	0 – 40	0 – 10
Retirement funds	N/a	N/a	N/a
Life assurers			
•Individual policyholder fund	25	30	7.50
•Company policyholder fund	50	28	14
•Corporate policyholder fund	50	28	14
•Untaxed policyholder fund	0	N/a	0
Companies (standard)	50	28	14
Branches of foreign companies	50	33	16.5
Trusts (normal)	50	40	20
Trusts (special)	25	0 – 40	0 – 10

OTHER RATES		
	2008/2009 %	2009/2010 %
Value-added tax	14	14
Donations tax	20	20
Estate duty	20	20
Skills development levy	1	1

The information contained in this summary is based on our interpretation of the existing legislation and Budget proposals. These proposals are subject to amendment during the forthcoming debate in the National Assembly before they become law. Whilst we have taken every care in preparing the summary, we cannot accept responsibility for any inaccuracies that may arise.

We suggest that you use this summary as a guide, but that you consult us before taking any decisions based in the information contained herein.