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Global Tax Alert

South Africa enacts Tax Amendment Acts for 2020

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On 15 January 2020, *South Africa's Taxation Laws Amendment Act, No. 34 of 2019* and the *Tax Administration Laws Amendment Act, No. 33 of 2019* were promulgated and came into force.

Key amendments under the enacted Acts include:

- Deferral of the tax deductibility of variable remuneration (such as reimbursive, night shift, and standby allowances) to time of payment
- Clarification that part-redemption, in the context of hybrid equity instruments, refers to a distribution of the issue price (in whole or in part)
- Broadening of the anti-dividend stripping rules to combat effective interest dilution schemes
- Inclusion of certain foreign exchange gains as rental income for real estate investment trusts (REITs)
- Alignment of the tax cost of assets acquired in value-mismatch exchange transactions to eliminate double taxation
- Confirmation of the exclusion, from the special interest deduction regime, of interest funding used to fund the acquisition of a controlling share interest in a start up
- Confirmation that the special interest deduction may continue to be claimed where an indirect controlling interest is converted to a direct one in terms of certain corporate rules

Building a better working world

- Addressing income and expense mismatches for short-term insurers by spreading both items in accordance with accounting principles
- Confirmation that the corporate rules do not override section 24I (exchange items) and section 24J (interest bearing debt) on transfer of such items
- Alignment of the corporate rule claw back provisions with the REIT tax regime
- Introduction of 5-year validity periods for declaration and undertaking forms relating to exemption/tax rate reduction in respect of royalty, interest, and dividend withholding taxes (save for entities that are subject to FICA, FATCA or CRS in respect of interest and dividend payments)
- Alignment of the Special Economic Zone (SEZ) tax incentive with the policy intent and strengthening measures to prevent existing businesses re-locating into SEZs
- Introduction of annual tax deductibility caps in respect of the acquisition of venture capital company shares and extending the period within which to meet investment requirements
- Repeal of the tax exemption for certified emission reductions given the carbon tax offset
- Extension of the energy efficiency savings tax incentive regime
- Reduction of the comparable tax exemption threshold for controlled foreign companies
- Expansion of controlled foreign company anti-diversionary rules
- Expansion of the transfer pricing scope by including transactions between associated enterprises (from 1 January 2021 subject to further consideration)
- Limiting the Commissioner's power to issue value-added tax (VAT) rulings to address VAT anomalies, provide transitional rules in respect of historic rulings, and impose expiration dates in respect of section 72 rulings

Taxpayers need to be vigilant and carefully consider the impact of these amendments. Failure to do so, may lead to adverse implications.

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