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TO STRIP, OR NOT TO STRIP… YOUR DIVIDENDS

2019 Budget Speech – Review of Corporate Tax Laws

On the 20th of February 2019, the Minister of Finance, Tito Mboweni, delivered to Parliament the 2019 Budget speech. From a tax perspective, there are a number of tax legislative provisions to be reviewed. The endorsing legislation in respect of these tax provisions to be reviewed and proposals thereto will only be made available for public comment later this year.

From a corporate tax perspective, it is apparent that the interaction between various tax anti-avoidance rules applicable to intra-group transactions will be reassessed and the irregularities surrounding value shifting rules (i.e. the market value of an asset, acquired by a company, differs from the market value of the shares issued in exchange for such asset) will be addressed.

One of the prominent corporate tax issues to be reviewed is the current 'dividend stripping' regime in the Income Tax Act (the "**Act**"). Currently, the dividend stripping rules, included in Section 22 (Normal Tax) Par.43A (Schedule 8) (Capital Gains Tax) of the **Act**, treat exempt dividends (declared and received within 18 months prior to the disposal of shares) as 'proceeds', giving rise to capital gains tax. The Finance Minister announced new anti-dividend stripping tax avoidance provisions, intended to apply where a company distributes a 'substantial dividend' to its current shareholder/s, and subsequently issues shares to a third party. The new provisions are intended to be effective from 20 February 2019.

Until the actual detailed wording is made known in the tax amendment bill, it will be risky to distribute dividends to shareholders and issue shares shortly thereafter.

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