The HRTorQue REPORTER

Some Food for Thought After the Budget Speech

By David Beattie

- Estimated tax collection for 2010/2011 was R650 billion
- Of this, R224 billion (i.e. 35%) comes from individuals
- About 45% of the R224 billion comes from 150 000 people (i.e. those who are in the super tax bracket and earn more than R556 000 per annum)
- The remaining 55% comes from the other 21 million people who earn between the tax threshold and the super tax bracket. The equates to about 19% (i.e. 55% of the 35%)

UIF - A Quick Recap After the Budget Speech

By David Beattie

The earnings limit/ceiling has increased since the speech.

There will be some very interesting developments regarding online/instant submissions being released during the course of this year – we anticipate no paperwork and almost instant access to benefits if claimed online.

Please remember that foreigners must contribute unless they are contracted and required to leave SA on completion of the contract, if they pay they and their dependants can claim from UIF, (previously they couldn't). This was backdated to April 2002.

If you didn't pay anything over for foreigners during the past few years, whilst they were not entitled to claim them – you have a legal case as to why you shouldn't pay any arrears now.

- Then consider that there are 15 million (30%) of our 50 million citizens who will be on Social Security this year and there is talk of education levies being carried by the upper income earners.

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Capital Gains Tax Recap - After The Budget Speech

By David Beattie

- The tax free portion on Individuals and Special Trusts is up from R17 500 to R20 000
- The tax free portion on death is up from R120 000 to R200 000
- The tax free portion of a small business for someone over the age of 65 is up from R750 000 to R900 000

Are Employees Paid Twice for Sunday/Monday Public Holiday Work?

By Nicky Hardwick

In the Randfontein Estates v National Union of Mineworkers (2006) 27 ILJ 1200 (LC), Randfontein Estates sought an order declaring that where a public holiday falls on a Sunday, then the following Monday shall be a public holiday in substitution for, or instead of, the public holiday on the Monday.

There were a number of issues which were addressed, the first being whether the Sunday/Monday holiday was one or two public Holidays. The court held that the provisions of the Public Holidays Act are quite clear and state that "the days mentioned in schedule 1 shall be public holidays, and whenever any public holiday falls on a Sunday, the following Monday shall be a public holiday."

The second issue was one of payment of these two days and if the employee was entitled to receive double benefit for both Sunday and Monday. The judgement stated that the rationale behind section 2(1) of the Public Holidays Act (that both the Sunday and the Monday are public holidays) is to ensure that employees, who do not normally work on a Sunday, do not lose out on the benefit of having a day off work on full pay - those employees have the Monday off on full pay as a public holiday.

It was therefore ruled that those employees who worked a Sunday Public Holiday would get paid only for one public holiday and not for two.

The reason is that these employees, who ordinarily work on Sundays, will receive the benefit of double pay for working on the Sunday public holiday and have therefore received the benefit.

The judgement ruled that employees are entitled to payment for only one public holiday.

*For more information please contact Nicky: **nicky@hrtorque.co.za***

New Earnings Threshold

By Karen van den Bergh

Labour Minister Mildred Oliphant has announced an increase in the earnings threshold in the Basic Conditions of Employment Act (BCEA) from R149 736 to R172 000 per year. **This is effective from 1 July 2011.**

Employment Equity Reports - Fines of R900 000!

By Melany Bydawell

Employment Equity Reports - Fines for Non Submission and Non Compliance R900 000!

As mentioned in recent draft legislation, it is proposed that these reports will in future be due by all companies, ***annually***, irrespective of size, industry sector, etc. There has been nothing final on this issue yet but we urge you, as we will, to keep an eye out for any further information as and when it becomes available.

Also, we would like to remind those companies who have to submit their returns in October this year and that are using our EtorQue Product (i.e. irrespective of whether or not the new amendments regarding annual submissions are implemented) to make sure that they are regularly updating the relevant HR information, to ensure accuracy of the returns. If you need any assistance with this or a quick refresher course, please don't hesitate to contact our HR Department.

In addition, HRTorQue has specialist consultants who assist companies with their Employment Equity reports, plans and training. Please contact Melany Bydawell for further information: **melany@hrtorque.co.za**.

Status of the Proposed Changes To BCEA, EE and LRA Acts

By Melany Bydawell

With regards to the proposed amendments of the Labour Laws, these have, as predicted, been moved out. All proposed amendments have, in essence, been put on hold and the relevant parties are now debating six "fundamental principles" in NEDLAC. Only once agreement has been achieved, will a new set of drafts be drawn up by the legal experts. As such, we don't foresee any changes to the current labour laws for the next 18 to 24 months. Good news for now!

We will be setting up seminars with MacGregor, Erasmus (our labour experts), to discuss other important labour related issues at workshops to be held in later this year. Details about these will be available in the official invite / agenda which will be sent out later in the year.

Draft Amendments Effective March 2012

By David Beattie and Karen van den Bergh

As mentioned in the budget, the "**cap**" tax relief will effectively fall away and be replaced by a tax "**credit**" system. In essence, tax relief will be applied to medical aid contributions by means of a tax rebate instead of reducing remuneration by the value of the cap amount. A discussion document has been made available which further clarifies the "**credit**" system. It also investigates the possibility of using the tax credit system for medical expenses paid by the employee / individual. Our understanding so far is that the intention is to change the method of calculation for tax relief and not to change the principle of taxing medical aid contributions. More about this topic will be made available once response to the working paper has been received, digested and finalised.

There has been no further update on the proposed reforms regarding taxation and administration of retirement funds, other than the fact that they have been postponed until later on in the year. At this stage, there is no indication as to whether or not the proposed reforms will be effective from March 2012 or a later date.

The Youth Subsidy scheme proposed in the budget (effective March 2012) has not been finalised yet. More about this is expected later on in the year.

The National Health Insurance scheme also proposed for implementation in March 2012 has not been included in the draft amendments. Again, more on this topic should be available later on in the year.

We attended a lunch and presentation, hosted by the Department of Social Development on 17 July, regarding Pension Reform Presentation. It appears that over the next 3 years the detail will be with the legislators and we can expect a roll out in approximately 2015. In the next reporter, we will prepare an overview of what we believe were the important points covered.

Hospitality Sector Minimum Wages as from 1 July 2011

Table 1

Minimum Wages for Employers with 10 or Less Employees					
Minimum Rate for the Period			**Minimum Rate for the Period**		
1 July 2011 to 30 June 2012			1 July 2012 to 30 June 2013		
Monthly	Weekly	Hourly	Monthly	Weekly	Hourly
R2084.52	R481.10	R10.70	Previous Minimum Wage + CPI + 1%		

Table 2

Minimum Wages for Employers with More Than 10 Employees					
Minimum Rate for the Period			**Minimum Rate for the Period**		
1 July 2011 to 30 June 2012			1 July 2012 to 30 June 2013		
Monthly	Weekly	Hourly	Monthly	Weekly	Hourly
R2323.87	R536.34	R11.92	Previous Minimum Wage + CPI + 1%		

NB: The current wage increases have been determined by utilising the CPI (excluding owners' equivalent rent) reported by Stats SA on 17 May 2011. The current level of CPI is 4,2%. The wage increase is therefore determined by adding 4,2% plus 1% as stated in the current Sectoral Determination. The total increase is 5,2%.

Filing Season for Employees

By David Beattie

SARS have now published dates regarding the Employee filing season.

They are:

- **1 July 2011** - The submission period opens for all taxpayers
- **30 September 2011** – Manual submissions deadline for all tax payers
- **25 November 2011** – Electronic submissions deadline for Non-Provisional Taxpayers
- **31 January 2011** – Electronic submissions deadline for Provisional Tax Payers

Please diarise these dates – it has already begun!

NB: Any employee that has a car/travel allowance needs to submit a Log Book in order to justify the tax relief received on a monthly basis.

News from SARS and Mid-year Submissions

By Karen van den Bergh

It's mid-year already! Tax Year End, Budget Speech, - WSP's, SETA's and Filing Season seem to cause time to fly by unnoticed and this year was certainly no exception. So, what's next? A well-deserved rest perhaps, working normal hours again, pleasant people at the call centre, pressing of buttons on the keyboard and everything just happens like magic? No such luck!

What's next is, Employment Equity Reports, begging SARS to reverse penalties, endless paper work to justify reversing of penalties, the next wave of ITA88's, preparing for the August submissions, and the new Companies Act – it just never seems to end! And here we are again, having to tell you about a whole basket of other items looming that you need to know about.

SARS have again repeated their policy regarding penalties for late submissions and/or incomplete mandatory information on the employee IRP5. Although there have been a number of technical issues around the process of downloading the bulk Tax Reference Numbers prior to this years' submission, SARS is still adamant that they will be imposing penalties on Employers that are not compliant.

However, should an Employer have valid reasons for this and can show that a serious attempt was made to gather and update employee mandatory information, SARS will be sympathetic. The details of the penalties, as sent in our previous newsflash, are still valid so please review if necessary.

We will be communicating with all our payroll clients before the end of July 2011, to discuss the mid-year submission and any corrections that need to be made to ensure the files are error free.

2012 Budget Summary

After inflation and increases in other indirect taxes are taken into account, the R 8.1 billion in tax relief that Finance Minister Pravin Gordhan announced in this week's Budget, may not amount to much for you in the tax year ahead.

The 2012 Budget tax relief is intended to compensate for the effects of inflation as well as some bracket creep. Tax specialists have, however, commented that after adjusting for inflation, taxpayers on incomes up to R140 000 a year, will not benefit from the 2011/2012 tax reductions. They continue by saying that taxpayers at an annual income level of R600 000 and above will receive a marginal benefit of R724 per annum. This makes it abundantly clear that there is not much to enthuse about in Minister Gordhan's offerings.

A brief summary of the important changes that may be of interest to taxpayers are listed below:

Income Tax Threshold Increased:

Below the age of 65:	R59 750 (2011 - R57 000)
Aged 65 and over:	R93 150 (2011 - R88 528)
Aged 75 and over:	R104 261 (2011 - not applicable)

Tax Rebates Increased:

Primary (for everyone):	R10 755 (2011 - R10 260)
Secondary:	R6 012 (2011 - R5 675)
Third:	R2 000 (2011 - not applicable)

Top Margin Tax Bracket:

R580 000 (40%):	(2011 - R552 000 (40%))

Tax-free Interest Income Increased:

Below the age of 65:	R22 800 (2011 - R22 300)
Aged 65 and over:	R33 000 (2011 - R32 000)

2011/2012 Tax Tables

Rates of Tax

0 – 150 000	18% of taxable income
150 001 – 235 000	R 27 000 + 25% of the amount above R150 000
235 001 – 325 000	R 48 250 + 30% of the amount above R235 000
325 001 – 455 000	R 75 250 + 35% of the amount above R325 000
455 001 – 580 000	R 120 750 + 38% of the amount above R455 000
580 001 and above	R 168 250 + 40% of the amount above R580 000

Medical & Physical Disability Expenses

Taxpayers 65 and older may claim all qualifying expenditure. Taxpayers under 65 are not taxed on, or may deduct, monthly contributions to medical schemes up to **R720** for each of the first two dependants on their medical scheme and **R440** for each additional dependant. In addition, they can claim a deduction for medical scheme contributions above the caps and any other medical expenses limited to the amount which exceeds 7.5 % of taxable income. Taxpayers under 65 may claim all qualifying medical expenses, where the taxpayer or the taxpayer's spouse or child is a handicapped person.

Subsistence Allowance and Advances

Where the recipient is obliged to spend at least one night away from his/her usual place of residence on business and the accommodation to which that allowance or advance relates is in the Republic and the allowance or advance is paid or granted to pay for:

- Meals and incidental costs, and amount of **R286** per day is deemed to have been expended;
- Incidental costs only, an amount of **R88** for each day which falls within the period is deemed to have been expended.

Where the accommodation to which that allowance or advance relates is outside the Republic, a specific amount per country is deemed to have been expended (see SARS table).

Type of Company / Organisation 2011 / 2012 Percentage

Companies and Closed Corporations: 28%
Employment Companies (Personal Service Providers): 33%
Branch Profits Tax (Foreign Resident Companies): 33%

Small Businesses

First R59 750 of taxable income - 0%
R59 751 to 300 000 of taxable income - 10% of the amount above R59 750
R300 001 and above of taxable income - R24 025 + 28% of the amount above 300 000

Travel Allowances

80% of the travelling allowance must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to **20%** if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes. No fuel cost may be claimed if the employee has not borne the full cost of fuel used in the vehicle and no maintenance cost may be claimed if the employee has not borne the full cost of maintaining the vehicle (e.g. if the vehicle is the subject of a maintenance plan). The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.

The actual distance travelled during a tax year and the distance travelled for business purposes substantiated by a log book are used to determine the costs which may be claimed against a travelling allowance.

Alternatively:
Where the distance travelled for business purposes does not exceed **8 000 kilometres** per annum, no tax is payable on an allowance paid by an employer to an employee up to the rate of **305 cents** per kilometre, regardless of the value of the vehicle. This alternative is not available if other compensation in the form of an allowance or reimbursement is received from the employer in respect of the vehicle.

Employer-owned Vehicles

The taxable value is **3.5%** of the determined value (the cash cost including VAT) per month of each vehicle. Where the vehicle is the subject of a maintenance plan at the time that the employer acquired the vehicle the taxable value is **3.25%** of the determined value. **80%** of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to **20%** if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes. On assessment the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes substantiated by a log book divided by the actual distance travelled during the tax year. On assessment further relief is available for the cost of licence, insurance, maintenance and fuel for private travel if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a log book.

Transfer Duty

Transfer duty is payable at the following rate on transactions, which are not subject to VAT.

Acquisitions of property by natural persons:

Value of Property (R)	**Rate**
0 – 600 000	0%
600 001 – 1 000 000	3% of the value above R600 000
1 000 001 – 1 500 000	R12 000 + 5% of the value exceeding R1 000 000
1 500 001 and above	R37 000 + 8% of the value exceeding R1 500 000

Acquisitions of property by persons other than natural person: 8% of the value.

If you have any questions regarding the budget please contact Dave Beattie on 031 582 7410 or **dave@hrtorque.co.za**.