Advice

Opportunities to save tax and legislative changes

January 2025

see money differently

NEDBANK
PRIVATE WEALTH

In this document we provide actionable opportunities for tax-saving strategies and the latest updates on legislative changes.

Key highlights include:

1. Proactive opportunities to maximise tax efficiency for clients before the tax year-end.
2. Legislative updates:
   - The introduction of the two-pot retirement system and its implications for client portfolios.
   - New anti-avoidance rules for trust loans and their impact on estate planning.
   - Fresh opportunities to leverage exchange loss set-offs for non-trading clients.

Stop-press: On 24 December 2024, President Cyril Ramaphosa signed the **Global Minimum Tax Act into law, introducing a 15% minimum corporate tax rate** for large multinational companies operating in South Africa.

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A Tax deduction opportunities for 2024/2025

Maximise your tax benefits for financial growth and giving

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As we approach the end of the tax year at the end of February 2025, it's a valuable time to look back at the financial decisions that have shaped your current financial position, while also planning ahead for new opportunities that can secure your future. This guide is designed to help you explore some ways to maximise tax benefits available to you, not only to strengthen your personal financial health and business success but also to support causes that matter to you.

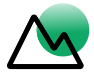
You can make the most of tax incentives to achieve your goals with a thoughtful, proactive approach.

For individuals and families, this means investing in your future and protecting what you have built, while business owners can use these tools to stimulate growth, encourage employment, and make a positive difference in society. Each section offers insights into tax strategies that align with your unique goals, whether focused on retirement, youth employment, philanthropy, or sustainable business practices.

Plan ahead and use these options to improve your financial well-being and create a meaningful legacy.

Let this guide be your new year's prompt to get in touch with us so that, with our globally integrated advice, we can help you make smart and strategic decisions that generate lasting value for you, your family and the broader community.

Click on the numbers on the right-hand side to read other sections or return to the Contents page.



Goals and needs for individuals and families

How we connect you to opportunities to save tax and achieve your goals.

Your goals are personal, especially with your money. Are you aiming to build wealth, give back meaningfully, or maybe both?

What are your goals?

Build wealth

Explore **tax-free investments** and **retirement annuities** to secure long-term financial goals.

Build long-term financial security

Tax break:
Tax-free investments (TFIs)

How they help you:
Allows tax-free growth on returns (interest, dividends, and capital gains).

Click here to learn more.

Save for retirement

Tax break:
Retirement annuities (RAs)

How they help you:
Contributions are tax-deductible, lowering your taxable income.

Click here to learn more.

Give back meaningfully

Support causes aligned with your values through strategic, tax-efficient charitable giving.

Support causes you care about

Tax break:
Donations to public benefit organisations (PBOs)

How they help you:
Donations to approved PBOs are tax-deductible.

Click here to learn more.

Tax breaks in more detail

Explanation of each tax break and the benefits for individuals and families.

Below is a brief overview of each of the possible tax breaks. It is important to speak to your wealth adviser to get advice about which may be appropriate for your circumstances and goals.

Tax-free investments (TFIs)

TFIs allow tax-free growth on returns (like interest, dividends and capital gains).

SARS tax section:
Section 12T of the Income Tax Act, 1962

Benefits:
Maximise savings by investing in tax-free products, enhancing long-term financial security.

- Contact your wealth adviser to learn more about TFIs.
- Top up TFIs before February to take full advantage of the annual allowance.

Retirement annuities (RAs)

Contributions to RAs are tax-deductible, supporting long-term retirement planning.

SARS tax section:
Section 11F of the Income Tax Act, 1962

Benefits:
Reduce taxable income while building a retirement fund.

Speak to your wealth adviser about if it is best for you to:

- make a lump sum contribution; or
- change your current contributions.

Donations to public benefit organisations (PBOs)

Donations to Section 18A-approved PBOs are tax-deductible, reducing taxable income.

SARS tax section:
Section 18A of the Income Tax Act, 1962

Benefits:
Contribute to causes aligned with your personal values while lowering taxable income.

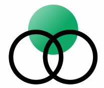
- Speak to your wealth adviser about your giving goals and how we can help you achieve these with our philanthropy expertise.
- A tax adviser can help you maximise your charitable impact and tax efficiency.

B Tax changes signed into law

This section aims to highlight the tax changes after the signing into law of the following amendment acts by President Cyril Ramaphosa on 24 December 2024:

- Taxation Laws Amendment Act, 42 of 2024
- Revenue Laws Second Amendment Act, 44 of 2024

We have summarised the possible impact this may have on you and your wealth.



Retirement-related reforms: two-pot retirement system

The final 2023 Revenue Laws Amendment Bill incorporated public comments received and provided the necessary amendments required to launch the **first phase** of the two-pot retirement system on 1 September 2024. The 2024 Revenue Laws Second Amendment Act includes further technical refinements of the first phase of the two-pot retirement system.

The two-pot retirement system effectively splits your overall retirement benefits into two pots (referred to as components), namely:

- 1/3 contributions plus growth, ie a savings component; and
- 2/3 contributions plus growth, ie a retirement component.

You can access contributions to the savings component while contributions to the retirement component will be saved until annuitisation on retirement. The existing retirement contributions plus growth will be valued a day before the implementation date and be designated as a 'vested component'. If you have retirement funds, you will keep your existing rights to the vested component, including the ability to withdraw a lump sum on resignation or retrenchment. Please note that if you are a retirement annuity (RA) member, you cannot withdraw a lump sum from the vested component.

The once-off seed capital, which will enable you to access a portion of the available balance in the retirement fund on 1 September 2024, will be calculated as 10% of the benefit accumulated in the 'vested component' on 31 August 2024, capped at R30 000.

Future legislative amendments, which will enable members to access funds from the 'retirement component' if they are retrenched and have no alternative sources of income, will be considered in the **second phase** of the implementation of the two-pot retirement system. However, this will be coupled with measures to ensure that saving for retirement is not compromised, and to protect the liquidity of such funds at all stages.

For a detailed document explaining the intricacies of the system, click here: how-the-two-pot-system-affects-you.pdf (nedbank.co.za).

Clarifying anti-avoidance rules for low-interest or interest-free loans to trusts

Applicable for the years of assessment starting on or after 1 January 2025.

This section deals with tax rules for South African residents lending money interest-free or at a low interest rate to non-resident trusts, such as offshore family trusts.

Summary

Who may be affected?	What may change?	The impact	Effective date if enacted
South Africans lending money to offshore trusts with low-interest or interest-free loans.	Tax is now calculated on the **higher of the arm's-length rate or the official rate**.	Increased tax burden for South Africans lending money to non-resident trusts, especially in years where the official rate exceeds the arm's-length rate.	Tax years starting on or after **1 January 2025**.

The proposed changes in more detail

What may be changing?

Current legislation	Proposed change	Assessment of potential impact
Tax law applies the following 2 sets of rules depending on the situation: **1 Section 7C (Anti-avoidance rules):** • Interest foregone on a low-interest or interest-free loan is treated as a **deemed donation** and subject to **donations tax**. • The **official rate of interest** (like the US Fed rate + 1% for USD loans) is used to calculate the interest foregone, ie the difference where interest charged is lower than interest calculated using official rate of interest. • Section 7C does not apply if transfer pricing rules (Section 31) are applicable. **2 Section 31 (Transfer pricing):** • For 'affected transactions' (these are loans between connected persons, like an individual who is a beneficiary of that non-resident trust and that non-resident trust), an **arm's-length interest rate is used**. • Interest foregone, which means the difference where interest charged is lower than interest calculated using arm's-length interest rate. Under this rule, interest foregone is also treated as a deemed donation.	• If the arm's-length interest rate (under Section 31) is **lower** than the official rate (under Section 7C), the lender will now pay donations tax on official rate. • If the arm's-length interest rate (under Section 31) is **higher** than the official rate (under Section 7C), the lender will now pay donations tax on arm's-length interest rate. • This means an **additional deemed donation** may apply if the official rate exceeds the arm's-length rate.	• **Negative impact:** South Africans lending money will pay donations tax based on the **higher interest rate**, potentially increasing their tax burden. • **Practical challenges:** Calculating and comparing the official rate and the arm's-length rate for each year could become complex and burdensome.

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Explanation and worked example

Section 7C of the Income Tax Act

Anti-avoidance rules for low-interest or interest-free loans (including those denominated in foreign currency) by an individual or by specified companies at the instance of an individual to discretionary trust:

- These rules deem any interest foregone for low-interest or interest-free loans, advances or credit by a South African resident individual and/or connected company (sometimes denominated in foreign currency, ie Swiss franc) to a trust to be a donation subject to a donations tax.
- Where such loans are denominated in foreign currency, an official rate of interest equal to the South African repurchase rate applicable to that currency plus 1% is used to calculate interest foregone, ie where a loan is denominated in Swiss franc, the official interest rate will be the Swiss National Bank rate plus 1%.
- These anti-avoidance rules do not apply where the loans, advances or credit is an 'affected transaction' dealt with by the transfer pricing provisions (section 31 of the Income Tax Act) and there is no actual income derived as a consequence of a low-interest or interest-free loans.

Transfer pricing for affected transactions including low-interest or interest-free loans denominated in foreign currency to trusts (section 31):

- The transfer pricing provisions apply to low-interest or interest-free loans, advances, or credit by a South African resident (including individuals) to a non-resident where both persons are connected persons ('affected transaction').
- Where 'affected transactions' are between a South African individual and non-resident trust, the interest foregone is deemed to be a donation.
- The interest foregone is calculated using 'arm's-length interest rate', which is subjectively determined based on several factors including credit worthiness of the non-resident trust as a borrower.
- Government is now of the view that despite transfer pricing taking priority over the anti-avoidance measures (ie section 7C), the interaction between them is not effectively addressed where the arm's-length interest rate is less than the official rate of interest.

The proposed legislation for affected transactions

If the interest foregone (deemed donation) determined that the arm's-length interest rate that was used (section 31 – transfer pricing provisions) is less than what it would have been if the official rate of interest (section 7C – anti-avoidance provisions) was used, an additional interest foregone should be determined per section 7C to make up the difference.

Scenario

Mr B is a South African resident who is a beneficiary of the offshore B trust. B trust is a discretionary trust based in Guernsey. Mr B gave a US$1 million interest-free loan to this offshore trust. A fixed interest of 3% would have been charged by a financial institution to the trust based on the factors considered. This means that the arm's-length interest rate is considered.

The US Fed interest rates for each of the 3 years were as follows:

Year of assessment	1	2	3
US Fed interest rate	1%	4%	5%
Official rate of interest (US Fed +1%)	2%	5%	6%

Notional interest is capitalised to the loan.

Solution based on the current legislation

Deemed donation

Transfer pricing provisions in terms of section 31 apply and section 7C does not apply.

Year of assessment	1	2	3
Arm's-length interest rate	3%	3%	3%
Secondary adjustment US$ (Interest foregone to be included as a donation for donations tax purposes)	30 000	30 900	31 827

Interest foregone determined based on official rate of interest

Year of assessment	1	2	3
Official rate of interest (US Fed rate +1%)	2%	5%	6%
Interest foregone (US$)	20 000	51 000	64 260

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Solution based on the legislation proposal

Deemed donation per section 31 and 7C

Transfer pricing provisions (section 31) apply.
An additional interest foregone should be determined per section 7C to make up the difference.

Year of assessment	1	2	3
Secondary adjustment US$ (Interest foregone to be included as a donation for donations tax purposes)	30 000	30 900	31 827
Section 7C – additional interest foregone	0*	20 100	32 433
Total interest foregone (US$)	**30 000**	**51 000**	**64 260**

* No top-up for tax year 1 since additional interest foregone because the arm's-length rate of interest is higher than the official rate of interest.

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Reviewing the interaction of assessed loss set-off rules and foreign exchange differences

Applicable for the years of assessment starting on or after 1 January 2025.

This section focuses on how companies with foreign currency denominated debts or loan assets can manage exchange losses and gains under tax rules.

Summary

Who may be affected?	What may change?	The impact	Effective date if enacted
Companies that are not actively trading with foreign currency denominated debts, loans, or investments.	Exchange losses can now be carried forward to offset future exchange gains, even if the company does not meet the trading requirement.	Provides tax relief for non-trading companies by allowing them to reduce future taxable income with carried-forward exchange losses, aligning tax treatment with trading companies.	Tax years starting on or after **1 January 2025**.

The proposed changes in more detail

What is changing?

Current legislation	Proposed change	Impact
• **Trading requirement:** A taxpayer can only **set off assessed losses** against income if the company is carrying on a trade under Section 24I, read with Section 20 of the Income Tax Act. • Companies that are **not trading** cannot carry forward exchange losses or set them off against exchange gains in future years.	• **No trading requirement:** Companies will be allowed to **carry forward exchange losses** and offset them against exchange gains in the following year, even if they are **not carrying on a trade**. • This applies to **years of assessment starting on or after 1 January 2025**.	• **Positive impact:** Non-trading companies will no longer lose out on using exchange losses to reduce future taxable income. • **Simplified rules:** Aligns the treatment of exchange differences for trading and non-trading companies, ensuring fair tax outcomes for businesses with foreign currency assets or liabilities.

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Explanation and worked example

- The company can set off the balance of assessed losses carried forward from the preceding tax year against income, provided that the taxpayer is **carrying on a trade** in terms of section 24I, read with section 20 of the Income Tax Act.
- Taxpayers (other than individuals and non-trading trusts) who have incurred exchange losses arising from currency movement on debt, advance or loan (whether debtor or creditor) denominated in foreign currency may not be able to set off such exchange losses against exchange gains from the same debt if the trading requirement is not met.
- For taxpayers who are companies but not carrying on a trade, the legislation is proposing that exchange losses in excess of exchange gains (if any) be carried forward and be deemed to be a foreign exchange loss of that company in the immediately succeeding year of assessment.

Scenario

Company C invests in financial instruments, including US dollar bonds.

- **Year 1:** The **rand strengthens**, resulting in an **exchange loss** of **R500 000** for Company C.
- **Year 2:** The rand weakens, resulting in an **exchange gain** of **R800 000**.

Solution based on the current legislation

Year	Details	Outcome
Year 1	Exchange loss of R500 000	Loss **cannot be carried forward** as the company does not carry on a trade.
Year 2	Exchange gain of R800 000	Company must pay tax on the full R800 000 gain as no losses can offset.

Solution based on the proposed legislation

Year	Details	Outcome
Year 1	Exchange loss of R500 000	Loss **is carried forward** to the next year, even though the company is not trading.
Year 2	Exchange gain of R800 000	Loss of **R500 000** is applied, reducing taxable income to R300 000.

C South Africa's new global minimum tax on multinationals

On 24 December 2024, President Cyril Ramaphosa signed the Global Minimum Tax Act into law, introducing a 15% minimum corporate tax rate for large multinational companies operating in South Africa.

Implementation timeline:

The legislation is retrospective and starts on January 2024, aligning with global efforts to curb tax base erosion and profit shifting by multinational corporations.

Global context

This move is part of a broader international initiative led by the Organisation for Economic Cooperation and Development (OECD) to establish a coordinated system of minimum taxation, aiming to prevent countries from engaging in competitive tax rate reductions to attract multinational business.

Expected revenue impact

The South African Revenue Service (SARS) anticipates an increase in corporate tax revenue by approximately R8 billion by the 2026/2027 fiscal year due to this new tax measure.

Wealth manager and affected client considerations

It is important to understand the implications of this legislation on multinational business interests, and to advise a proactive approach in reviewing and adjusting tax strategies to ensure compliance and optimise tax efficiency.

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