BUDGET 2023

CULTURE BEATS STRATEGY

The impact of culture on strategy in the development of a sustainable economy.

Analysis & Commentary

22 February 2023

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FOREWORD BY SAICA CEO – MR FREEMAN NOMVALO

Culture has become the single biggest impediment to economic and fiscal policy implementation in South Africa. It is therefore not a surprise that the Minister's 2023 Budget Speech at least noted one of these problematic cultures, the "**Culture of Non-payment**" and correctly concludes that this culture cripples and undermines the country. The Minister then saddles National Treasury with the problem to *"encourage and improve*" this behaviour. Unfortunately that statement in itself talks to the "**Culture of Accountability**" or rather lack thereof. It would rather be befitting for the President as the CEO of SA Inc to be accountable to "encourage behavioural change" across the whole of government.

National Treasury's role is rather that it enforces the law when the lack of culture continues, especially as it relates to fiscal discipline and therefore creates a "**Culture of Discipline**". The lack of implementation of policy was and continues to remain our main concern. The **"Culture of Procrastination"** has become the single largest impediment to ensuring South Africa's economic success and prosperity for all our country's people. Some hard decisions cannot be deferred into perpetuity and certain problems cannot be ignored in the hope that things will get better. Neither South Africa nor the world we live in will fix or correct itself. We as a country must collectively start making the hard decisions and doing the hard work, driving a "Culture of Unity, Collaboration and Delivery".

SAICA will, together with its members, continue working together with all stakeholders in rebuilding our nation to achieve a better South Africa for all.

BUDGET OVERVIEW

The Minister has again this year tried to give us "the facts as they are" and the stark realities we face in stabilising public finances.

Unfortunately, as in the last few years, the Budget narrative remains the same. South Africa has collected more than we thought we would, the economic outlook is worse than we estimated last year, we will continue to expand spending beyond the previous year's budget "ceilings" and the debt problem will be kicked down the road for another 3 years at least, or so is promised. The "plan" is therefore exactly the same.

The Minister has presented that **total tax collections** are estimated at around **R1.69 trillion** for the year, **R128 billion higher than the prior year**. This improvement in collections is expected to result in the **tax-to-GDP ratio reaching 25.4%** in 2022/23, increasing to 25.7% over the next three years.

Despite a slow-down in economic recovery, tax revenue collections for 2022/23 are **expected to exceed the 2022 Budget estimate by R93.7 billion** and the 2022 MTBPS estimate by R10.3 billion.

According to Treasury, this was mainly due to:

- Elevated (although declining) commodity prices;
- Higher profitability in the services sector has supported corporate and dividends tax collections;
- Personal income tax collection buoyed by a recovery in earnings and improving employment levels;

- Growth in import prices supporting noteworthy collections in import value-added tax (VAT) and customs duties;
- Corporate income and profits being more resilient than anticipated, with tax collections benefiting from strong but temporary increases in the prices of exports relative to imports – specific sectors that contributed to this increase include mining, manufacturing and finance;
- Enhanced tax administration.

It was noted that whilst the medium-term revenue outlook has improved slightly due to higher tax receipts in 2022/23, continued power cuts, further disruptions to global supply chains, weaker-than-expected global growth, renewed inflationary pressures from the war in Ukraine, a deterioration in port and rail infrastructure, as well as widespread criminal activity pose significant risks to the fiscal outlook.

Year on year medium-term revenue increases are estimated to be 5.6%, 6.7% and 7.1%, as economic growth gradually improves. Again these increases are on the back of downward adjusted economic growth outlook. Employment and employees' tax remains a pillar for the tax collection stability, together with short term upsides like commodities and services revenue. That may change quite quickly in 2023. Given governments persistence till now to maintain lowering the public sector wage bill growth and global pressure on employment, these pillars of stable tax collection will come under severe pressure.

The lack of spending discipline and keeping to the "spending plan" is yet again a problem as illustrated below how the expenditure has continue to creep upwards.

Table 3.5 Main budget expenditure ceiling

R million	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
2020 MTBPS	1 418 408	1 502 867	1 479 709	1 516 052	1 529 585		
2021 Budget	1 418 399	1 504 656	1 514 934	1 521 721	1 530 664		
2021 MTBPS	1 418 456	1 487 388	1 570 890	1 552 268	1 558 725	1 627 154	
2022 Budget		1 487 399	1 575 002	1 630 905	1 613 671	1 686 932	
2022 MTBPS		1 487 385	1 566 490	1 667 118	1 665 349	1 744 762	1 832 678
2023 Budget		**1 487 419**	**1 566 498**	**1 653 459**	**1 671 030**	**1 750 276**	**1 842 572**

Source: National Treasury

We are now a mere R20 billion below the budgeted spending ceiling for 2022/23 as projected in the 2019 MTBPS, and those were made under a much better economic outlook than we have now.

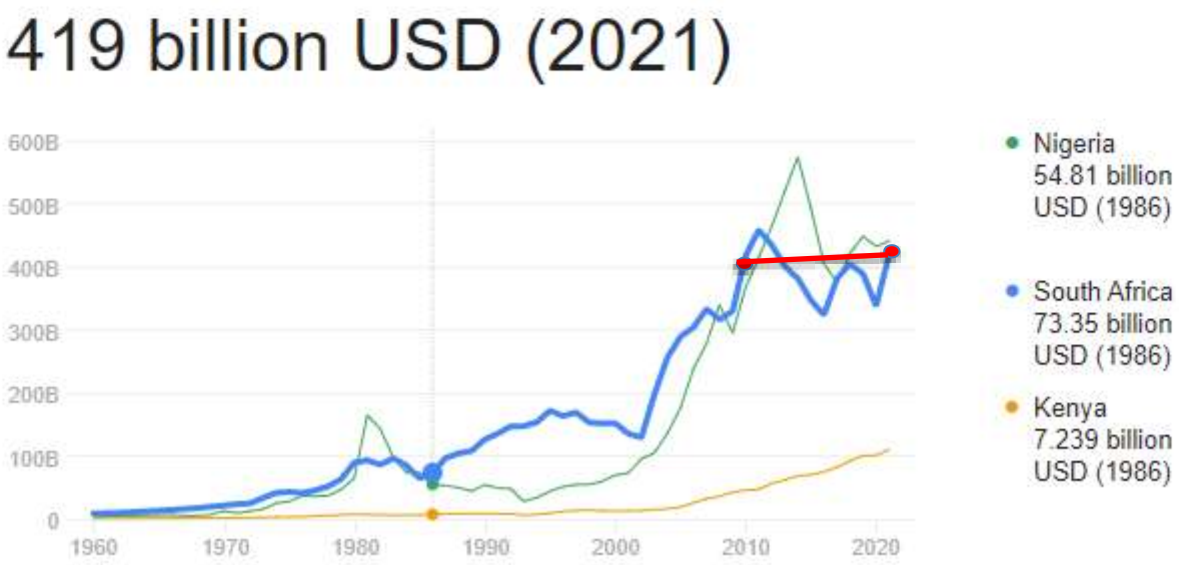
SARS has noted that the improved revenue collections is also partly attributable to its efforts to ensure that its systems, officials and leadership are capacitated to improve the taxpayer's experience, increase compliance and generate additional tax revenue. It noted further that in November 2022, the reparation process for current and former employees as recommended by the Nugent Commission of Inquiry was finalised. From a SAICA perspective, service delivery by SARS and SARS's ability to meet a mandate of fairness and efficiency, **in practice**, remains a concern. A structural review of the governance of SARS was promised after the 2018 Nugent Commission and in the 2020 Budget a date of June 2020 was set. No public consultation process was followed, with taxpayers being one of the victims of the governance failures at SARS. The Minister has made no statement on the progress of this undertaking and it seems that the project may have been abandoned notwithstanding that no changes have been made as relates to SARS Governance.

Treasury noted that since the 2020 Budget, government has avoided further increases in tax rates as such increases carry significant risks, more so in a highly unpredictable or low-growth economic environment. Research has indicated that tax increases may impede economic activity and the negative impact is more pronounced when growth is weak. Tax increases are likely to be avoided while the economy recovers from recent shocks. While the Minister notes that inflationary adjustments have been made to personal income taxes, this unfortunately does not mean that the adjustment caters for inflation as the relief is well below actual inflation of 6.9%. Many of the other thresholds that were adjusted have not been adjusted for many years and therefore does not represent inflation over the period. However, taxpayers will welcome all the relief they can get.

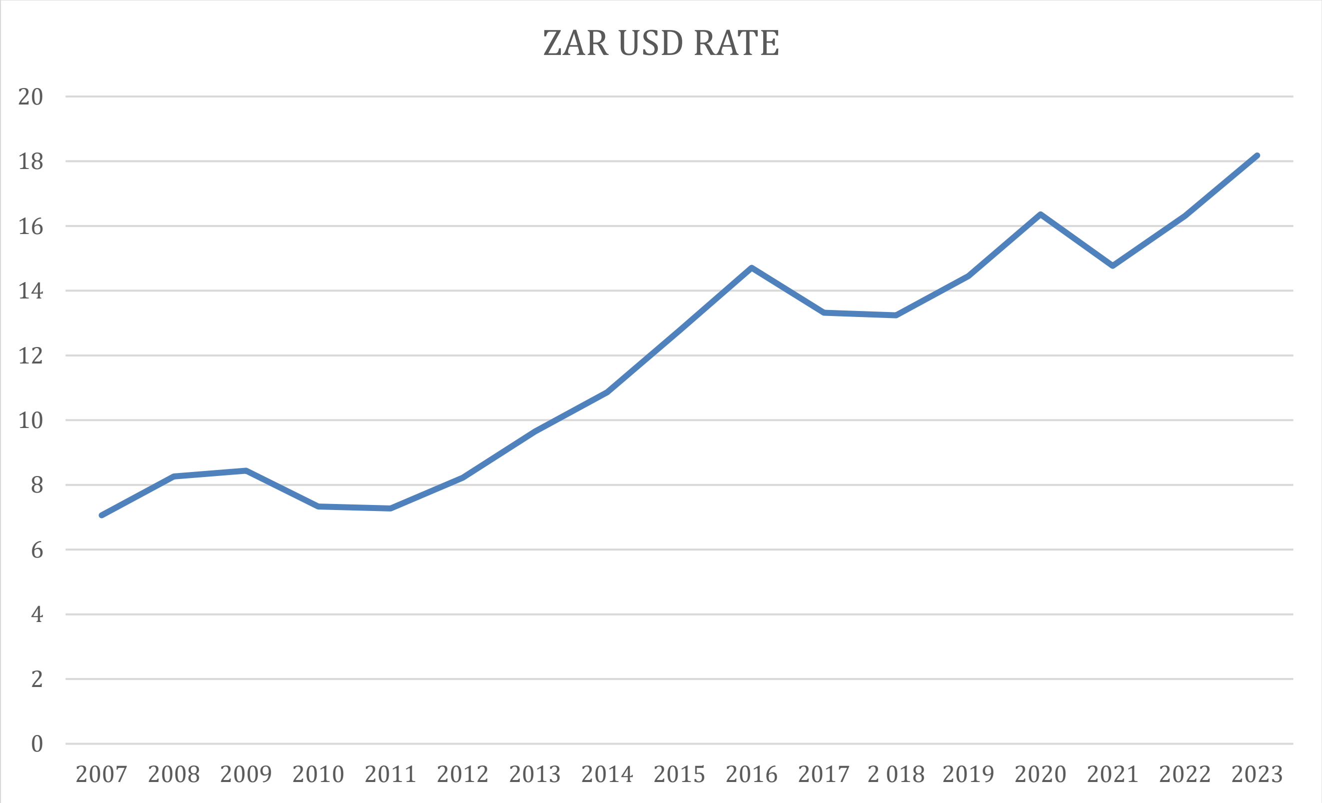
The focus, as for the last three years, will continue to be on measures to protect the tax base and reforms aimed at improving equity, efficiency, certainty, and simplicity. Following recommendations by the Davis Tax Committee, a number of tax incentives have been discontinued, given that there was little evidence of any additional benefit. However, Treasury acknowledges that each incentive needs to be assessed on its own merits. The proposed refinement and expansion of certain incentives in the current Budget demonstrates that the tax system can help to address particular market failures, for example, the lack of research and development or inadequate electricity generation capacity.

The Primary Budget Surplus sounds like progress until you note that by 2026, the excluded item from this is debt service costs of R397bn, which increases the debt to 73,6% of GDP. This debt figure also excludes above inflation wage increases and the inflationary and costs impacts of any “grey listing”, which the Minister says they are prepared for, but does not explain how. The depreciating currency is also a much bigger problem that both government and the Reserve Bank acknowledge. When looking from an investor perspective, South Africa’s GDP has been stagnant since 2010 even though in ZAR terms it has been growing, albeit slowly. This is all to do with the currency devaluation as indicated below.

SOUTH AFRICA’S GDP IN USD



The ZAR in just 15 years has lost 2.5 times its value. That’s means all investments and returns by foreign investors made in 2007 have decreased 2.5 times in USD terms over this period and without those investments growing meteorically to compensate, those investments become underperforming investments, even if it’s a good profitable business.



Though government explains its Eskom Debt Takeover, no explanation is given as to other State Owned Enterprises (SOEs) debt other than noting guarantees have reduced by R81.4 billion. Given the precarious debt position of Transnet, Denel, Post Office etc, their non-guaranteed debt books are a National Fiscus problem. It is ironic that the same applied to Eskom, where unguaranteed bond rates increased as holders were confident government would eventually guarantee it. We also cannot ignore the ongoing implosion of local government which will become an increasing national budget problem. Below we explain why loadshedding and watershedding (and losses in these areas) have not only impacted municipal revenues, but plans to divert paying customers to become self-sufficient will have a material impact on municipal finances in the transition.

Eskom and energy have been positioned as the biggest concern to the economy and we set out some of the statistics below in **Eskom by the Numbers**. A much larger and immediate challenge is lurking that endangers societal stability, namely **water and sanitation**. It is worrisome that an administrative matter such as the issuance of water licences was the highlight in the Ministers speech in this area. South Africa is one drought away from another State of Disaster when **watershedding**, as already rearing its head in Gauteng in 2022, becomes our reality.

Tax proposals – 2023/24

Some of the more significant tax proposals are noted below:

- **Inflationary relief** through a **4.9% adjustment in the personal income tax brackets and rebates**. If these were not adjusted, this would have contributed an additional R15.7 billion in revenue for 2023/24.
- R4 billion in relief is provided for **households that install solar panels –** via a **tax rebate for solar PV panels of 25% of the cost** for a limited period, capped at R15 000 per individual (conditions apply).

- An **expansion of the renewable energy 'incentive' for businesses** of 125% of the cost of renewable energy assets used for electricity generation, brought into use for the period 1 March 2023 to 31 February 2025. This amounts to **R5 billion in relief**.
- **No change** to the **general fuel levy** or the **Road Accident Fund** (RAF) levy.
- **Extension of diesel rebate to manufacturers of foodstuffs**, from 1 March 2023 to 28 February 2025.
- Increase of **4.9%** in **excise duties on alcohol** (excluding sparkling wine) **and tobacco**.
- The **carbon tax levy** for 2023 will increase by 1c to **10c/litre for petrol** and **11c/litre for diesel** from 5 April 2023.
- The **brackets for transfer duties, retirement fund lump sum benefits and retirement fund lump sum** withdrawal benefits will all be **adjusted upwards by 10%** to compensate for inflation, whilst tax rates remain unchanged.

INDIVIDUALS

Personal income tax

Personal income tax (PIT) contributed R601.6 billion of the total estimated tax collections of R1.69 trillion – i.e. 36% of total tax revenue, consistent with the prior year.

As noted in the overview, there is an inflationary increase in the personal income tax brackets and rebates, resulting in relief of R15.7 billion. The change in the primary rebate increases the tax free threshold from R9 250 (in 2022) to R95 750, for taxpayers under 65 years old.

Exemption for interest and dividend income

The annual exemption on interest earned by individuals younger than 65 years (R23 800) and for individuals 65 years and older (R34 500) remains the same.

The annual contribution limit to tax-free investments remains R36 000.

Other proposals affecting individuals, employment and savings

Rooftop solar incentive

To increase electricity generation, there is a proposed rooftop solar incentive for individuals to invest in solar PV. Individuals will be eligible for a tax rebate of 25% of the cost of any new and unused solar PV panels. To qualify, the solar panels must be purchased and installed at a private residence, and a certificate of compliance for the installation must be issued from 1 March 2023 to 29 February 2024.

This rebate will be available **solely in respect of solar PV panels**, and **will not apply in respect of inverters or batteries**, as the focus is on the promotion of additional generation. The rebate will be limited to a maximum of R15 000 per individual. For example, an individual who purchases 10 solar panels at a cost of R40 000 will be able to reduce their personal income tax liability for the 2023/24 tax year by R10 000. Where the cost exceeds R60 000, the rebate will be limited to R15 000.

SAICA has a concern regarding the restriction of the allowance to solar PV panels only. Factually, one will be unable to use the electricity generated without an inverter and this is something that will be addressed when the draft legislation is released. The availability of the allowance for one year only is also concerning considering that this amendment is likely to only be legislated in January 2024.

Two-pot retirement system

Following extensive public consultation, the first phase of legislative amendments to the retirement system will take effect on 1 March 2024. The intention is to enable pre-retirement access to a portion of one's retirement assets, whilst preserving the rest for retirement. Contributions will remain deductible up to lesser of R350 000 per year or 27.5% of taxable income per year. Permissible withdrawals from funds accrued before 1 March 2024 will be taxed according to the lump sum tables. Withdrawals from the "savings pot" prior to retirement is to be taxed at marginal rates. On retirement, any remaining amounts in the savings pot will be taxed according to the retirement lump sum table.

Four areas required additional work, namely, a proposal for seed capital; legislative mechanisms to include defined benefit funds in an equitable manner; legacy retirement annuity funds and withdrawals from the retirement portion if one is retrenched and has no alternative source of income. The first three matters will be clarified in forthcoming draft legislation. The final matter will be reviewed as a second phase of implementation.

Apportioning the tax-free investment contribution limitation and limiting the retirement funds contributions deduction when an individual ceases to be a tax resident

Due to a 2022 amendment, when an individual ceases to be a South African tax resident, the annual interest exemption applicable to individuals in terms of section 10(1)(i) is apportioned and the capital gains tax annual exclusion applicable to individuals in terms of paragraph 5(1) of the Eighth Schedule to the act is limited. To align with other provisions for individuals ceasing to be tax residents, it is proposed that further changes be made to section 12T(4)(a) of the Income Tax Act, 1962 (the Act), to apportion the tax-free investment contribution limitation and section 11F(2)(a) to apportion the annual limit on the deduction of the retirement funds contributions.

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

The current anti-avoidance rules have certain exclusions, including that the rules do not apply if the low-interest or interest-free loan, advance or credit is used to purchase a primary residence for the person advancing that low-interest or interest-free loan, advance or credit to the trust, company or spouse of such person. This exclusion does not fully encompass what constitutes a primary residence in terms of the Eighth Schedule of the Act. It has also been identified that, in instances where the low-interest or interest-free loan, advance or credit is foreign-denominated, the rules do not clarify how and when this amount should be converted to ZAR. This affects the calculation of the deemed donation. Amendments are proposed to provide clarity.

Tax research and review in relation to individuals

Broadening the personal income tax base

Due to the migration to remote or hybrid working models, National Treasury and SARS committed to a multi-year review of allowances for individuals. A discussion document will be released this year to outline workplace practices and policies, changes in the current environment and how different workplaces are affected by home office and travel allowance policies.

Retirement provisions

Adjustment of transfer duty and retirement tax tables

The brackets for transfer duties, retirement fund lump sum benefits and retirement fund lump sum withdrawal benefits will all be adjusted upwards by 10% to compensate for inflation, whilst tax rates remain unchanged. Tables are reflected late in this document.

Clarifying the amount of employer contribution to a retirement fund to be deductible

Section 11F(4) of the Act deems an employer contribution to a retirement fund as a contribution made by the employee, and it is calculated as the amount equal to the cash equivalent of the value of the taxable benefit. However, there is no requirement that the calculated cash equivalent be included in the employee's income, which is against the policy rationale of the Act's provisions. To address this, an amendment is proposed to require that the cash equivalent of the taxable benefit for employer retirement fund contributions be included in an employee's income before a tax deduction is allowed.

Transfers between retirement funds by members who are 55 years or older

Whilst changes were previously made to allow for tax-neutral transfers between retirement funds by members who are 55 or older, in instances where transfers of retirement interests in relation to a member who has reached normal retirement age has not yet opted to retire, it has been identified that that there are some instances where active contributing pension and provident fund members who have reached retirement age and been subjected to involuntary transfers to another pension or provident fund may still be subject to tax. It is proposed that members of pension or provident funds who have reached the normal retirement age as stipulated in the rules of that fund, but have not yet opted to retire must, as part of the involuntary transfer, be able to have their retirement interest transferred from a less restrictive to a more restrictive retirement fun, tax-neutral. The value of the retirement interest, including any growth thereon, will remain ring-fenced and preserved in the receiving pension or provident fund until the member elects to retire from that fund, such that these members will not be entitled to the payment of a withdrawal benefit in respect of the amount transferred.

COMPANIES

General corporate tax proposals

Reviewing Practice Note 31 of 1994 (PN 31) and Practice Note 37 of 1995 (PN 37)

Late last year, SARS issued a notice informing the public of the intention to withdraw the abovementioned practice notes, with effect from years of assessment starting on/after 1 March 2023. The reasons provided was the increasing abuse of the tax deduction concession per PN 31 and the fact that PN 37 does not incorporate the requirements of the term "registered tax practitioner" contained in the Tax Administration Act, 2011 (the TAA)).

Following public comments, the impact of the proposed withdrawal will be reconsidered and a decision will be taken as to whether changes could be made in the tax legislation to accommodate legitimate transactions affected by such withdrawal. In light of this, SARS intends to delay and align the withdrawal of these practice notes with the effective date of any legislation arising from the proposals.

Extension of diesel fuel levy refund

The diesel refund system was implemented in 2000 to provide relief for the general fuel and RAF levies for the farming, forestry, fishing and mining sectors. Due to the current electricity crisis, a similar refund on the RAF levy for diesel used in the manufacturing process (such as for generators) will be extended to the manufacturers of foodstuffs, to limit the impact of fuel prices on food items. Refund payments will take place once the system is developed and will apply from 1 April 2023 until 31 March 2025.

Clarifying anti-avoidance rules dealing with third-party backed shares

The Act contains anti-avoidance rules targeting debt-like equity instruments – like third-party backed shares – and deeming any dividend or foreign dividend received by or accrued to any person in respect of a third-party backed share as income. The anti-avoidance rules do not apply if the funds derived from the issue of the shares in question are used directly or indirectly to acquire equity shares of an operating company. However, these rules do not deem any dividend or foreign dividend received by or accrued to any person in respect of a third-party backed share as income when the shares in that operating company are no longer held by the person who initially acquired them. Government proposes a legislative amendment to provide clarity.

Contributed tax capital (CTC)

Addressing the abuse of the definition of CTC

It has been identified that taxpayers are creating structures whereby a foreign holding company that holds shares in a valuable South African operating company through a foreign intermediary could avoid dividends tax by changing the tax residency of the foreign intermediary to South Africa. This results in the CTC being recognised as an amount equal to the market value of its shares. The South African operating company then distributes dividends to the new South African tax resident company, and such dividends are exempt from tax, because dividends between South African companies are not subject to tax. When the new South African company makes distributions to the foreign holding company, the distributions are shielded by CTC and regarded as capital distributions, and are therefore not subject to dividends tax in the hands of the foreign holding company. These capital distributions are also not subject to capital gains tax in the hands of the foreign holding company if the underlying investment in South Africa is not in immovable property.

Legislative amendments are proposed to address this abuse.

Converting CTC from foreign currency to ZAR

After a company changes its tax residence to South Africa, it is possible for that company's functional currency and share capital to be denominated in a currency other than the ZAR. The current rules dealing with the conversion of foreign-denominated amounts to ZAR do not specifically cater for the conversion of CTC to ZAR. Legislative amendments are proposed to address this.

Refinements to the corporate reorganisation rules

Clarifying the interaction between the debt reduction rules and the disposal of assets exclusion rule for dormant group companies

The abovementioned exclusion does not apply if the related debt was used to fund an asset that was subsequently disposed of in terms of the corporate reorganisation transactions provided in Part III of

Chapter II of the Act. At issue is whether the disposal in terms of the corporate reorganisation transactions is envisaged to take place subsequent to the asset's acquisition, but prior to the debt reduction, or whether the disposal is meant to take place subsequent to the acquisition and the debt reduction. When changes were made to the debt relief rules in 2017, the policy rationale was that the exclusion from applying the dormant company rule should not restrict the timing of the disposal under the corporate reorganisation rules. Legislative amendments are proposed to reflect this.

Clarifying the interaction of provisions on the acquisition of assets in exchange for shares

At issue is whether allowances in respect of an asset acquired in exchange for shares issued to the seller may be determined according to the deemed base cost. Legislative amendments are proposed to clarify this.

Refining the provisions applicable to unbundling transactions

Following amendments made in 2020 and 2021, it is proposed that further consideration should be given to whether it is appropriate to apportion tax paid by the unbundling company between the unbundling company shares and the unbundled company shares, and to situations where the unbundling company is not in a taxable position due to having capital losses or assessed losses.

Clarification of the interest limitation rules

Clarifying the definition of "adjusted taxable income"

"Adjusted taxable income" is defined in section 23M(1) of the Act, as taxable income calculated before applying the interest limitation rules, including the addition of any assessed loss or balance of assessed loss allowed to be set off against income in terms of section 20. There is uncertainty due to the inclusion of the terms "assessed loss" and "balance of assessed loss". It is proposed that the legislation be amended to align with the policy intent that only the balance of assessed losses from the prior year be added in the adjusted taxable income calculation.

Introducing a definition of the term "creditor"

Whilst "debt" and "debtor" is defined, the term "creditor" is not defined and therefore, government proposes that this definition be added to section 23M.

Clarifying the treatment of exchange gains and losses

While section 23M(7) deems exchange losses to be incurred, a corresponding deemed accrual does not apply to exchange gains. This may result in exchange gains not being taken into account as interest received or accrued for purposes of section 23M. Amendments are proposed to address this.

Clarifying the application of the proviso to section 23M(2) of the act

The proviso to section 23M(2) contains a formula that reduces the amount of interest disallowed for deduction based on the extent to which withholding tax on interest must be withheld under Part IVB of the chapter. However, it does not adequately specify that this adjustment should only apply in the case of interest flowing to non-residents. An amendment is proposed to provide clarity.

Extending the provisions of section 23M(6) to apply to South African lending institutions

Currently, the exemption from the application of interest limitation rules where the creditor provides a loan to a taxpayer with funds granted by a lending institution is in respect of a foreign bank. It is proposed that this section be amended to extend this exemption to apply to South African lending institutions.

Reviewing the outcome of the interaction between the "controlling relationship" definition in section 23M(1) and the rule in section 23M(2)(c)

In 2021, changes were made to the definition of "controlling relationship" in section 23M(1) by adding a connected person test. In addition, further changes were made to section 23M(2)(c) by inserting a group companies test in instances where the creditor is not in a controlling relationship with the debtor. The interaction between the definition of "controlling relationship" in section 23M(1) and the provisions of 23M(2) will be reviewed to ensure achievement of the intended policy outcome.

Financial sector

Tax treatment of deposit insurance scheme

In 2020, government announced the establishment of a deposit insurance scheme to protect depositors in the event of a bank failure, which in turn will contribute to the stability of the South African financial system. It was also envisaged that each bank would make stipulated contributions to the scheme. In 2022, Parliament passed the legislation dealing with the deposit insurance scheme. Tax legislation is proposed to address the tax implications of the scheme.

Reviewing the Sharia-compliant financing arrangements

It is proposed that provisions dealing with Sharia-compliant arrangements will be extended and aligned across all the tax Acts.

Refining the provisions dealing with the impact of International Financial Reporting Standard (IFRS) 17 insurance contracts on the taxation of insurers

It has been identified that certain third-party cell captive arrangements are treated as reinsurance arrangements for IFRS purposes. As a result, there are reinsurance assets and liabilities recognised for IFRS purposes in relation to a portion of cell profits due to or from the cell owner. For tax purposes, these are not true commercial reinsurance arrangements, and these balances should be disregarded in determining a cell captive insurer's taxable income. In addition, cell captive arrangements effected in terms of preference share arrangements may be accounted for under IFRS17 or IFRS9. Insurance contract liabilities (IFRS17) and investment contract liabilities (IFRS9) are both included in the "adjusted IFRS value" definition in section 29A of the Act. Where a separate liability is recognised in respect of profits due to the cell owner, it may be possible that such a liability may also be included in the "value of liabilities" definition in section 29A, resulting in the double-counting of the liability.

To address this, it is proposed that reinsurance contracts relating to an owner as contemplated in the definition of "cell structure" in section 1 of the Insurance Act, 2017 be disregarded. In addition, changes should be made to the definition of "value of liabilities" in section 29A of the Act to exclude any other liabilities relating to a cell owner.

Tax incentives

Clarifying the meaning of "person" in the provisions dealing with public benefit organisations (PBOs), recreational clubs and associations

Regarding the requirement for PBOs, recreational clubs and associations to have three unconnected "persons" who accept fiduciary responsibility and that no single person may directly or indirectly control the decision-making powers of the entity, it is not clear whether the word "person" in these requirements refers to a natural person or a juristic person. Legislative amendment is proposed to clarify that "person" in this context refers to a natural person.

Clarifying the timeframes of compliance requirements for industrial policy projects

In 2021, changes were made to the act to allow for a discretionary extended compliance period of up to two additional years for companies with approved industrial policy projects to comply with the provisions of section 12I, where there were bona fide reasons for non-compliance due to business-related disruptions caused by the COVID-19 pandemic. There is uncertainty over the interaction between the skills development criteria and the extended compliance period. Further legislative amendments are being considered to clarify the intention of providing taxpayers with additional time to meet the section 12I requirements and the extent to which the incentive criteria should be met over the extended compliance period.

Other

Fuel levies

To reduce pressure on households and businesses, as with the prior year, no changes were made to the general fuel levy or the Road Accident Fund (RAF) levy in the 2023 Budget, leading to revenue foregone of R4 billion.

INCENTIVES

Government continues to assess existing incentives to enhance transparency and efficiency. Those found to be effective and which create the intended benefits will be retained and, where necessary, redesigned to improve performance and additional incentives may be provided to address specific market failures.

Introduction of solar rooftop panel incentive for individuals

See details above under '***Individuals***'.

Expansion of the renewable energy tax incentive

The tax incentive available for businesses to promote renewable energy will be temporarily expanded to encourage rapid investment to alleviate the energy crisis. The current incentive allows businesses to deduct the costs of qualifying investments over a one- or three-year period, which creates a cash flow benefit in the early years of a project, depending on the level of power produced.

Under the proposed expanded incentive, businesses will be able to claim a 125% deduction in the year incurred, for all renewable energy projects with no thresholds on generation capacity. This will be available only for investments brought into use for the first time between 1 March 2023 and 28 February 2025.

For a business with positive taxable income, the deduction will reduce its tax liability. For example, a renewable energy investment of R1 million would qualify for a deduction of R1.25 million. Using the current corporate tax rate, this deduction could reduce the corporate income tax liability of a company by R337 500 in the first year of operation of related equipment.

Refining the research and development (R&D) tax incentive

Following public consultation on a review of the R&D incentive published in 2021, government proposes to:

- Extend the incentive for 10 years from 1 January 2024. There will also be a six-month grace period for projects to commence before the application is submitted, to allow new and smaller applicants to gather information and potentially benefit from the incentive.
- Refine the definition of R&D to make it simpler to understand and administer, resulting in an easier application process for the incentive.
- Move the definition of R&D from an "end-result" approach (for example, it must be patentable) to incorporate principles of the OECD Frascati Manual, in which activities should be novel, uncertain, systematic and transferable and/or reproducible.
- Remove the exclusion for internal business processes – so that if an activity is investigative or experimental with the aim of resolving a scientific or technological uncertainty and it meets the proposed (revised) definition of R&D for the purposes of this incentive, it should be considered R&D – even if it is not intended for sale or the use thereof is granted to connected parties.
- Allow the Commissioner of SARS to disclose certain information to the Minister of Higher Education, Science and Innovation to improve monitoring and evaluation.

Extending the urban development zone (UDZ) incentive

Public consultation for the UDZ tax incentive will not be concluded before the 31 March 2023 sunset date. Further engagement is required to assess the incentive's results – specifically, to source and evaluate municipal data on its uptake. Relatively low compliance of municipalities with annual reporting requirements has delayed the review process. The incentive will therefore be extended for two years to 31 March 2025 while its review process is completed.

Adjusting the minimum royalty rate for oil and gas companies

Following consultation, government proposes retaining the flexibility of the royalty rate, which is determined by profitability, rather than opt for a flat rate for these companies. This recognises that companies face varying costs and profit levels depending on whether they are, for example, operating in deep or shallow waters. However, to ensure that the country is adequately compensated for the loss of its finite resources, the minimum royalty rate will be increased from 0.5% to 2%, with the maximum remaining at 5%.

INTERNATIONAL TAX

Base erosion and profit shifting: The two-pillar solution

The 2022 Budget Review announced that legislative amendments would be proposed to implement tax rules related to digitalisation and base erosion, flowing from South Africa's role in the Steering Group of the OECD/G20 Inclusive Framework. The framework has two pillars.

Pillar One focuses on the digital economy and is expected to establish a coherent and integrated approach to the tax treatment of multinationals, with the allocation of taxing rights among jurisdictions based on their market share. No final agreement has been reached on Pillar One and OECD guidelines for this pillar are yet to be finalised.

Pillar Two focuses on the remaining base erosion and profit shifting matters. It proposes an approach to ensure that all internationally operating businesses with global annual revenue of more than €750 million pay an effective tax rate of at least 15%, regardless of where they are headquartered or which jurisdictions they operate in. A minimum effective tax rate for large multinationals is expected to apply in a number of countries from December 2023. During the 2023 legislative cycle, government will publish a draft position on the implementation of Pillar Two for public comment and draft legislation will be prepared for inclusion in the 2024 Taxation Laws Amendment Bill.

Extending the anti-avoidance provision to cover foreign dividends from shares listed in South Africa

Section 10B provides for an exemption from normal tax, in respect of foreign dividends received or accrued from shares listed on a South African stock exchange, given that some of these foreign dividends may be subject to dividends tax. Exploitation of the exemption has been identified and it is therefore proposed that the round-tripping anti-avoidance provision for foreign dividends be amended to include foreign dividends received or accrued from shares listed on a South African stock exchange if the foreign dividends are directly or indirectly funded by amounts that were deductible in South Africa.

Interaction between the anti-avoidance rule and exemption applying to foreign dividends

Regarding the anti-avoidance rule in terms of which the participation exemption does not apply to a foreign dividend if any amount of the foreign dividend arises directly or indirectly from an amount that is deductible from the income of any person under the Act, the policy rationale for this measure is that a deductible amount should not be received by a resident or a controlled foreign company (CFC) as an exempt amount. A further exemption that applies to foreign dividends limits the effective tax rate for foreign dividends accruing to residents to a rate of 20%. This exemption has the effect that amounts that are allowed to be deducted for income tax at a rate of 27% or marginal tax rates, are taxed at a rate of only 20% where the anti-avoidance provision applies. It is proposed that the exemption to tax foreign dividends at 20% should not apply where the anti-avoidance rule is applicable.

Clarifying the foreign business establishment exemption for controlled foreign companies

It has come to government's attention that some taxpayers are retaining certain management functions, but outsourcing other important functions for which the CFC is also being compensated by its clients. This is against the policy rationale of the definition of a foreign business establishment and legislative amendment is proposed to clarify that to qualify as a foreign business establishment, all important functions for which a CFC is compensated need to be performed by the CFC or by the other company meeting the requirements listed above.

Taxation of non-resident beneficiaries of trusts

The gradual relaxation of exchange control regulations has led to an increase in applications to SARS for confirmation of tax compliance status of a person for purposes of transferring funds offshore via authorised dealers. Government is concerned about the difference between the rules covering the normal tax treatment of income attributed to beneficiaries of trusts in section 25B of the Act and the rules covering the tax treatment of capital gains in relation to beneficiaries in paragraph 80 of the Eighth Schedule to the Act. Paragraph 80 makes provision for capital gains to be attributed only to beneficiaries who are South African tax residents and does not allow for capital gains to flow through to non-resident beneficiaries. Those capital gains for non-resident beneficiaries are taxed in the trusts and the trust is liable for the payment of the tax. Thereafter, distributions can be made to non-resident beneficiaries. In contrast, section 25B does not distinguish between SA-resident vs non-SA-resident beneficiaries. The flow through of amounts from South African tax resident trusts to non-resident beneficiaries makes it difficult for SARS to collect income tax from those non-resident beneficiaries as it is more complicated to enforce recovery actions against non-residents.

To address this, it is proposed that changes be made to section 25B to align it with the provisions of paragraph 80.

Refining the participation exemption for the sale of shares in foreign companies

It has been identified that the participation exemptions provided for in paragraph 64B of the Eighth Schedule of the section 10B do not achieve the intended objective. Legislative amendment is proposed to ensure that the participation exemption is not granted where the sale of shares is to a non-resident company that formed part of the same group of companies as the company disposing of the shares, or the shareholders are substantially the same as the shareholders of any company in the group of companies disposing of the shares.

Refining the participation exemption for the foreign return of capital from a CFC

One of the requirements of the participation exemption relating to the sale of shares in foreign companies, is that the South African tax resident selling the shares in a foreign company should have held those shares for at least 18 months prior to the sale. In 2012, changes were made to extend the participation exemption to apply in respect of the foreign return of capital from a CFC. However, the participation exemption for the foreign return of capital from a CFC does not have a similar 18-month holding requirement. To close this loophole, it is proposed that a similar holding requirement be introduced for the participation exemption in respect of the foreign return of capital from a CFC.

ENVIRONMENTAL TAXES

Health promotion levy

To enable stakeholders in the sugar industry to restructure, given the challenges from greater regional competitive pressures and the effect of recent floods and public violence, there will be no increase in the health promotion levy in 2023/24 and 2024/25. A discussion paper on the levy will be published, for consultation on proposals to extend the levy to pure fruit juices and lower the 4-gram threshold.

Carbon tax

Rates

Effective 1 January 2023, the carbon tax rate increased from R144 to R159 per tonne of carbon dioxide equivalent. In line with the carbon tax rate increase, the carbon fuel levy for 2023/24 will increase by 1c to 10c/l for petrol and 11c/l for diesel from 5 April 2023. The carbon tax cost recovery quantum for the liquid fuels refinery sector increased from 0.63c/l to 0.66c/l, effective from 1 January 2023.

Extending the utilisation period in the Carbon Offsets Regulations

The Carbon Offsets Regulations, which came into effect on 1 June 2019, make provision for a utilisation period up to 31 December 2022 for carbon offsets from projects under taxable activities. When this utilisation period was included in the regulations, it was aligned with the initial first phase of the carbon tax. In the 2022 Budget, the first phase of the carbon tax was extended by three years from 1 January 2023 to 31 December 2025. It is proposed that the utilisation period also be changed in the Carbon Offsets Regulations to align it with the extension of the first phase of the carbon tax, effective from 1 January 2023.

Aligning the fuel emission factors with methodological guidelines and regulations

In October 2022, amended methodological guidelines for quantifying greenhouse gas emissions were gazetted. The amendments include updated carbon dioxide emission factors for domestic (tier 2) emissions reporting for existing fuel types and added fuel types. The updated emission factors will take effect for the department's 2023 reporting period, covering emissions during 2022.

To align the Carbon Tax Act with these guidelines, it is proposed that a new table be inserted into schedule 1 of that act to provide the tier 2 emission factors. Further changes to the emission factors may be added to the Tax Laws Amendments Act, 2023 if the further updates are published. The proposed amendments will take effect from 1 January 2023.

Adjusting the formula for fugitive emission factors

Section 4(2) of the Carbon Tax Act provides the formulas to be used to calculate total greenhouse gas emissions. In 2019, changes were made to the formula for fugitive emissions to provide for converting the unit of the emission factors for the different greenhouse gases from volume to mass by multiplying by a density factor, followed by multiplying by 1 000 to convert to tonnes. This is accurate for some Intergovernmental Panel on Climate Change code activities but not all, depending on the units of measurement in which the emission factors are expressed. It is proposed that the formula be changed to only multiply certain emission factors by 1 000.

INDIRECT TAXES

Value-added Tax (VAT)

Reviewing the value-added tax (VAT) treatment of specific supplies in the short-term insurance industry

Binding General Ruling 14 (BGR 14), dealing with the VAT treatment of specific supplies in the short-term insurance industry, was updated in 2018 and 2020. In 2019, changes were made to section 72 of the VAT Act,1991 (the VAT Act), which related to the CSARS's discretionary powers over VAT decisions.

These changes affected decisions made before 21 July 2019, including BGR 14. Amendments to the VAT Act are proposed, to clarify the VAT treatment of specific supplies in the short-term insurance industry.

Clarifying the VAT treatment of prepaid vouchers in the telecommunications industry

The evolution of the industry and technological advances have made it possible for prepaid vouchers to be used for other services provided by third parties where the mobile telecommunication company acts as an agent of that third party – for example, data offerings and mobile money services.

The VAT Act does not provide clarity in instances where prepaid vouchers are used for services provided by a third party, the mobile telecommunication company is acting as an agent and/or those third-party-provided services are regarded as exempt supplies or non-taxable supply in the VAT Act. Legislative amendments are proposed to provide clarity.

VAT treatment of temporary letting of residential property

- Clarifying the meaning of “adjusted cost” relating to temporary letting of residential property

  With effect from 1 April 2022, a new section 18D was introduced in the VAT Act to clarify the VAT treatment of temporary letting of residential property. Consequential amendments were made to other sections of the VAT Act including section 10, which deals with how to determine the value of supply of goods and services. Legislative amendments are proposed to clarify whether the term “adjusted cost” contemplated in section 10(29) of the VAT Act also includes the cost of the land.

- Clarifying the rule dealing with recovery of the previous declared output tax

  In general, section 18D(5) of the VAT Act makes provision for a vendor that previously made an output tax adjustment under section 18D(2), to reclaim that tax through a deduction under section 16(3)(o) in the tax period after the vendor exits the temporarily applied period of 12 months. However, section 18D(5)(c) refers to a situation in which section 18(1) applies. This creates an anomaly as section 18D(5)(c) can never apply in the given circumstances. it is proposed that section 18D(5)(c) of the VAT Act be deleted.

Clarifying VAT rules dealing with documentary requirements for gold exports

The main purpose of gold refineries is to refine and smelt gold or ore received from various customers, namely depositors. In most instances, the refineries also act as agents and sell or export gold on behalf of these depositors. Gold from more than one depositor is typically required to make up the volume ordered for sale or export. When the depositor delivers their gold to the refinery, the refinery issues a sale of gold certificate to the depositor and the value of the gold deposited is determined using that day’s morning, afternoon or spot London Bullion Market Association gold price. After the refining or smelting, it is difficult to determine which depositor’s gold is sold or exported because the gold loses its original identity during refinery and smelting. As a result, depositors find it difficult to obtain the documentary evidence to support the application of the zero rate on a transaction-by-transaction basis in relation to their gold as contemplated in the regulations issued in terms of section 74(1) of the VAT Act read with paragraph (d) of the definition of “exported” in section 1(1). To address this, it is proposed that changes be made to the VAT Act.

Regulations on the domestic reverse charge relating to valuable metal

Effective 1 July 2022, regulations aimed at foreclosing schemes and malpractices to claim undue VAT refunds from SARS by vendors operating in the value chain relating to high-risk goods containing gold. These regulations allowed vendors a transitional period of one month: 1 July 2022 to 1 August 2022, to comply with the requirements. This implied that registered vendors must account for and pay VAT for transactions falling within the ambit of the regulations in the August 2022 tax period. It is acknowledged that the regulations require further clarification in the areas outlined below. For more detail, please refer to Annexure C of the Budget Review document.

- Definition of "residue"
- Definition of "valuable metal"
- Definition of "valuable metal"
- Introducing a de minimis rule in the definition of "valuable metal"
- Aligning the definition of "valuable metal" with the Precious Metals Act (2005)
- Clarifying the transitional measures
- Clarifying the responsibilities of the recipient of valuable metal

Customs & Excise

Specifying conditions for deferment of duties

Standard 4.15 of the General Annex of the Revised Kyoto Convention provides that "[w]here national legislation provides for the deferred payment of duties and taxes, it shall specify the conditions under which such facility is allowed." It is proposed that the CSARS be enabled to prescribe conditions under which deferment of duties will be allowed by rules.

Single window for advance passenger information and passenger number record data

Following an assessment of South Africa's approach to collecting advance passenger information and passenger name record data, it is proposed that a single platform be established to collect such data. Since the Department of Home Affairs is responsible for the collection of such data, carriers will be allowed to submit the relevant data to the Department of Home Affairs, which will distribute the information to other relevant government entities, like SARS. An amendment is also proposed to ensure the protection of personal information in this regard.

Traveller management system

SARS is implementing a modern online traveller management system, which has been piloted on a voluntary basis at King Shaka International Airport since November 2022. The system is aimed at strengthening SARS's capability to facilitate legitimate traveller movements, providing travellers with clarity and certainty regarding their obligations, easing compliance, detecting non-compliance and improving enforcement of legislation by SARS and other agencies. Amendments to the Customs & Excise Act are proposed, in order to provide for the declaration of the required information before arrival in or departure from South Africa.

Amending the processes and procedure for provisional payments

There are currently no provisions in the Customs & Excise Act relating to the liquidation of provisional payments that serve as security in certain circumstances and that are not claimed back by the trader. Amendments are proposed to enhance the current processes and procedure for such payments below a specified amount or that remain unliquidated after a specified period and to introduce a prescription period for unclaimed amounts.

TAX ADMINISTRATION/OTHER

Third-party data and personal income tax administration reform

The PAYE and personal income tax administration reform announced in the 2020 Budget will progress over the medium term, with the intention of reducing the administrative burden for employers, payroll administrators and SARS, as well as individual salaried taxpayers.

In consultation with employers and representative organisations, work has commenced to provide automated employer and employee data on a monthly basis. It is expected that the need for the employer PAYE annual reconciliation will eventually fall away, and, in time, the reform will be extended to third-party data providers.

SARS administration

SARS intends to review the VAT administrative framework to simplify and modernise the current system, in consultation with affected stakeholders.

In line with SARS' strategic objective of providing clarity and certainty through instruments such as advance rulings, government also proposes to introduce a legislative framework to empower SARS to conclude bilateral advance pricing agreements.

Aligning tax registration requirements for non-resident employers

Non-resident employers may not have representative employers in South Africa for purposes of employees tax and are therefore not liable to deduct or withhold tax from the remuneration paid to their employees who render services in South Africa. Nevertheless, given that these employers pay remuneration, they are required to register with SARS as employers and are liable for skills development levies and unemployment insurance contributions, which many pay. Amendments are proposed across the various provisions to ensure consistency.

Varying employees' tax withholding in respect of remuneration

The Fourth Schedule to the Income Tax Act allows employers to request a variation in employees' tax withholding to take into account foreign taxes paid. However, such a variation does not apply to remuneration arising from share options and similar schemes. This could result in cash flow implications for the affected employees, as they will only be entitled to claim a foreign tax credit when they complete their annual tax returns. It is proposed that SARS be empowered to vary the basis for withholding under these circumstances.

Expanding the general disclosure provisions for section 18A approved organisations

In terms of the Tax Administration Act, SARS may disclose a list of PBOs approved in terms of sections 18A and 30 of the Income Tax Act. As a broader range of entities than PBOs may be granted approval to issue receipts for tax-deductible donations in terms of section 18A, it is proposed that SARS be explicitly empowered to disclose all entities with a section 18A approval.

Extending the time period to submit a return where taxpayers disagree with an auto-assessment

Where SARS issues an auto assessment, taxpayers may, within 40 days from the date of the assessment, request SARS to make a reduced or additional assessment by submitting a true and full return. It is proposed that SARS be empowered, by public notice, to extend the period within which the taxpayer is required to submit their request to SARS, which will allow the deadline for the request to be aligned with the end of the filing season for non-provisional taxpayers.

Aligning with anti-money laundering and combating the financing of terrorism developments

Amendments are proposed to align with the National Strategy on Anti-Money Laundering, Counter Financing of Terrorism and Counter Financing of Proliferation, achieve consistency with the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act (2022) and take account of other developments related to the Financial Action Task Force.

TAX RESEARCH AND REVIEWS

Adjustments for feed-in tariffs

The start of feed-in tariffs in some municipalities may require adjustments in the Income Tax Act to cater for additional revenue from electricity sales. The National Treasury and SARS will investigate the potential changes required.

TAX GUIDE (including tables)

Individuals and trusts

Income tax rates for natural persons and special trusts Year of assessment ending 29 February 2024	
Taxable income (R)	**Taxable rates (R)**
1 – 237 100	18% of taxable income
237 101 – 370 500	42 678 + 26% of taxable income above 237 100
370 501 – 512 800	77 362 + 31% of taxable income above 370 500
512 801 – 673 000	121 475 + 36% of taxable income above 512 800
673 001 – 857 900	179 147 + 39% of taxable income above 673 000
857 901 – 1 817 000	251 258 + 41% of taxable income above 857 900
1 817 001 and above	644 489 + 45% of taxable income above 1 817 000

Natural persons

Tax thresholds		
	2023/24 R	**2022/23 R**
Below 65 years of age	95 750	91 250
Aged 65 and below 75	148 217	141 250
Aged 75 and over	165 689	157 900

Tax rebates		
	2023/24 R	2022/23 R
Primary – all natural persons	17 235	16 425
Secondary – persons aged 65 and below 75	9 444	9 000
Tertiary – persons aged 75 above	3 145	2 997

Trusts

The tax rate on trusts (other than special trusts which are taxed at rates applicable to individuals) is 45%.

Retirement fund lump sum withdrawal benefits

Taxable income	Rate of tax
R	R
1 – 27 500	0% of taxable income
27 501 - 726 000	18% of taxable income above 27 500
726 001 – 1 089 000	125 730 + 27% of taxable income above 726 000
1 089 001 and above	223 740 + 36% of taxable income above 1 089 000

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal (including assignment in terms of a divorce order).

Tax on a specific retirement fund lump sum withdrawal benefit (lump sum X) is equal to –

- the tax determined by the application of the tax table to the aggregate of lump sum X plus all other retirement fund lump sum withdrawal benefits accruing from March 2009, all retirement fund lump sum benefits accruing from October 2007 and all severance benefits accruing from March 2011; less

- the tax determined by the application of the tax table to the aggregate of all retirement fund lump sum withdrawal benefits accruing before lump sum X from March 2009, all retirement fund lump sum benefits accruing from October 2007 and all severance benefits accruing from March 2011.

Retirement fund lump sum benefits or severance benefits

Taxable income	Rate of tax
R	R
1 – 550 000	0% of taxable income
550 001 – 770 000	18% of taxable income above 550 000
770 001 – 1 155 000	39 600 + 27% of taxable income above 770 000
1 155 001 and above	143 550 + 36% of taxable income above 1 155 000

Retirement fund lump sum benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to attaining the age of 55 years, sickness, accident, injury, incapacity, redundancy or termination of the employer's trade.

Severance benefits consist of lump sums from or by arrangement with an employer due to relinquishment, termination, loss, repudiation, cancellation or variation of a person's office or employment.

Tax on a specific retirement fund lump sum benefit or a severance benefit (lump sum or severance benefit Y) is equal to –

- the tax determined by the application of the tax table to the aggregate of amount Y, plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all other severance benefits accruing from March 2011; less

- the tax determined by the application of the tax table to the aggregate of all retirement fund lump sum benefits accruing before lump sum Y from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all severance benefits accruing before severance benefit Y from March 2011.

Dividends

Dividends received by individuals from South African companies are generally exempt from income tax, but dividends tax, at a rate of 20%, is withheld by the entities paying the dividends to the individuals.

Dividends received by South African resident individuals from REITs (listed and regulated property-owning companies) are subject to income tax, and non-residents in receipt of those dividends are only subject to dividends tax.

Foreign Dividends

Most foreign dividends received by individuals from foreign companies (shareholding of less than 10% in the foreign company) are taxable at a maximum effective rate of 20%. No deductions are allowed for expenditure to produce foreign dividends.

Withholding tax on immovable property sales

The rate of withholding tax payable on disposal of immovable property by **non-residents** remains unchanged.

The rate for individuals is 7.5%. Whilst the rate for companies is 10% and a rate of 15% applies to trusts.

Withholding tax on royalties

A final tax, at a rate of 15%, is imposed on the gross amount of royalties from a South African source payable to non-residents.

Interest withholding tax

A final tax, at a rate of 15%, is imposed on interest from a South African source, payable to non-residents. Interest is exempt if payable by any sphere of the South African government, a bank, or if the debt is listed on a recognised exchange.

Withholding tax on foreign entertainers and sportspersons

A final tax, at the rate of 15%, is imposed on gross amounts payable to non-residents, for activities exercised by them in South Africa as entertainers or sportspersons.

Exemptions

Interest

Interest from a South African source earned by any natural person under 65 years of age, up to R23 800 per annum, and persons 65 and older, up to R34 500 per annum, is exempt from taxation.

Interest is exempt where earned by non-residents who are physically absent from South Africa for at least 182 days during the 12 month period before the interest accrues or the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa of that non-resident.

Deductions

Pension, provident and retirement annuity fund contributions

Amounts contributed to pension, provident and retirement annuity funds during a year of assessment are deductible by members of those funds. Amounts contributed by employers and taxed as fringe benefits are treated as contributions by the individual employees.

The deduction is limited to lesser of three items:

1. R350 000; or
2. 27.5% of the greater of a) remuneration and b) taxable income (excluding retirement lump sum benefits, but including any taxable capital gain); or
3. Taxable income (excluding retirement lump sum benefits and excluding any taxable capital gain)

Any contributions exceeding the limitations are carried forward to the next year of assessment, and are deemed to be contributed in that following year. The amounts carried forward are reduced by contributions set off against retirement fund lump sums and against retirement annuities.

Donations

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income (excluding retirement fund lump sums and severance benefits). The amount of donations exceeding 10% of the taxable income is treated as a donation to qualifying public benefit organisations in the following tax year.

Medical and disability expenses

In determining tax payable, individuals are allowed to deduct:

- monthly contributions to medical schemes (a tax rebate referred to as a medical scheme fees tax credit) by the individual who paid the contributions up to R364 (PY: R347) for each of the first two persons covered by those medical schemes, and R246 (PY: R234) for each additional dependant; and
- in the case of
    - an individual who is 65 and older, or if an individual, his or her spouse, or his or her child is a person with a disability, 33.3% of the sum of qualifying medical expenses paid and borne

by the individual, and an amount by which medical scheme contributions paid by the individual exceed 3 times the medical scheme fees tax credits for the tax year; or

  - any other individual, 25% of an amount equal to the sum of qualifying medical expenses paid and borne by the individual and an amount by which medical scheme contributions paid by the individual exceed 4 times the medical scheme fees tax credits for the tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).

Allowances

Subsistence allowances and advances

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

- meals and incidental costs, an amount of R522 (previously R493) per day is deemed to have been expended;

- incidental costs only, an amount of R161 (previously R152) 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 of South Africa, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website.

Travelling allowance

Rates per kilometer which may be used in determining the allowable deduction for business travel, where no records of actual costs are kept are determined by using the table to be provided by SARS. Note, at the time of publishing, this table was not available.

Note:

- 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.

Alternative simplified method:

- Where an allowance or advance is based on the actual distance travelled by the employee for business purposes, no tax is payable on an allowance paid by an employer to an employee, up to the rate published on the SARS website www.sars.gov.za, under Legal Counsel / Secondary Legislation / Income Tax Notices / 2023 / Fixing of rate per kilometre in respect of motor vehicles, regardless of the value of the vehicle.

- However, this alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

Other deductions

Other than the deductions set out above an individual may only claim deductions against employment income or allowances in limited specified situations.

Fringe Benefits

Employer contributions to retirement funds for employees' benefit

- The taxable fringe benefit is equal to the actual contribution where the benefits payable to the employee consists solely of defined contribution components.

- Where the benefits payable to the employee do not consist of defined contribution components, the taxable fringe benefit is calculated in terms of a formula.

Employer-owned vehicles

- The taxable value is 3.5% of the determined value (retail market value) per month of each vehicle. Where the vehicle is–

  - the subject of a maintenance plan when the employer acquired the vehicle the taxable value is 3.25% of the determined value; or

  - acquired by the employer under an operating lease the taxable value is the cost incurred by the employer under the operating lease plus the cost of fuel.

- 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 license, 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.

Interest-free or low-interest loans

The difference between interest charged at the official rate and the actual amount of interest charged, is to be included in gross income.

Residential accommodation

The value of the fringe benefit to be included in gross income is the lower of the benefit calculated by applying a prescribed formula, or the cost to the employer if the employer does not have full ownership of the accommodation.

The formula applies if the accommodation is owned by the employee, but it does not apply to holiday accommodation rented by the employer from non-associated Institutions.

Corporate tax rates

Companies, PSPs and foreign resident companies

YEARS OF ASSESSMENT ENDING BETWEEN 1 APRIL 2023 AND 31 MARCH 2024 (unchanged since prior year)		
Normal tax		
Companies and close corporations	Basic rate	27%
Personal service provider companies (PSPs)	Basic rate	27%
Foreign resident companies which earn income from a SA source	Basic rate	27%

Small business corporations

Financial years ending on any date between 1 April 2023 and 31 March 2024

Taxable income	Rate of tax
R	**R**
1 – 95 750	0% of taxable income
95 751 – 365 000	7% of taxable income above 95 750
365 001 – 550 000	18 848 + 21% of taxable income above 365 000
550 001 and above	57 698 + 27% of the amount above 550 000

Micro businesses

Financial years ending on any date between 1 March 2023 and 29 February 2024

Taxable turnover	Rate of tax
R	**R**
1 – 335 000	0% of taxable turnover
335 001 – 500 000	1% of taxable turnover above 335 000
500 001 – 750 000	1 650 + 2% of taxable turnover above 500 000
750 001 and above	6 650 + 3% of taxable turnover above 750 000

Effective capital gains tax rates

Capital gains on the disposal of assets are included in taxable income.

Maximum effective rate of tax		
	2023/24	**2022/23**
Individuals and special trusts	18%	18%
Companies	21.6%	22.4%
Other trusts	36%	36%

Other taxes, duties and levies

Value-added Tax (VAT)

VAT is levied at the standard rate of 15% on the supply of goods and services by registered vendors. A vendor making taxable supplies of more than R1 million per annum must register for VAT. A vendor making taxable supplies of more than R50 000, but not more than R1 million per annum may apply for voluntary registration. Certain supplies are subject to a zero rate or are exempt from VAT.

Transfer duty

Transfer duty is payable at the following rates on transactions in respect of acquisition of property **on or after 1 March 2023** which are not subject to VAT.

Value of property (R)	Rate
1 – 1 100 000	0%
1 100 001 – 1 512 500	3% of the value above 1 100 000
1 512 501 – 2 117 500	R12 375 + 6% of the value above R1 512 500
2 117 501 – 2 722 500	R48 675 + 8% of the value above R2 117 500
2 722 501 – 12 100 000	R97 075 + 11% of the value above R2 722 500
12 100 001 and above	R1 128 600 + 13% of the value above R12 100 000

Transfer duty is payable at the following rates on transactions in respect of acquisition of property **on or after 1 March 2020, but before 1 March 2023** which are not subject to VAT.

Value of property (R)	Rate
0 – 1 000 000	0%
1 000 001 – 1 375 000	3% of the value above 1 000 000
1 375 001 – 1 925 000	11 250 + 6% of the value above 1 375 000
1 925 001 – 2 475 000	44 250 + 8% of the value above 1 925 000
2 475 001 – 11 000 000	88 250 + 11% of the value above 2 475 000
11 000 001 and above	1 026 000 + 13% of the value above 11 000 000

Estate duty

Estate duty is levied on property of residents and South African property of non-residents less allowable deductions. The duty is levied on the dutiable value of an estate at a rate of 20% on the first R30 million and at a rate of 25% above R30 million.

A basic deduction of R3.5 million is allowed in the determination of an estate's liability for estate duty as well as deductions for liabilities, bequests to public benefit organisations and property accruing to surviving spouses.

Donations tax

- Donations tax is levied at a flat rate of 20% on the cumulative value of property donated since 1 March 2018, up to R30 million.
- Donations exceeding R30 million is taxed at a rate of 25%, since 1 March 2018.
- The first R100 000 of property donated in each year by a natural person is exempt from donations tax;
- In the case of a taxpayer who is not a natural person, the exempt donations are limited to casual gifts not exceeding R10 000 per annum in total;
- Dispositions between spouses and South African group companies and donations to certain public benefit organisations are exempt from donations tax.

Securities transfer tax

The tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interests in close corporations.

Tax on International Air Travel

The tax amounts to R190 per passenger departing on international flights, excluding flights to Botswana, Lesotho, Namibia and Swaziland, in which case the tax is R100 per passenger, remains unchanged.

Skills Development Levy

A skills development levy (SDL) is payable by employers at a rate of 1% of the total remuneration paid to employees. Employers paying annual remuneration of less than R500 000 are exempt from the paying the levy.

Unemployment Insurance Contributions

Unemployment insurance contributions are payable monthly to SARS by employers on the basis of a contribution of 1% by employers and 1% by employees, based on employees' remuneration below a certain amount.

Employers not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

CULTURE BEATS STRATEGY

Background

South Africa has an Economic Reconstruction and Recovery Plan with interventions that are in pursuit of the National Development Plan goals of reducing unemployment, poverty and inequality, with a view to eliminating poverty and reducing inequality by 2030.

According to this plan, South Africa can realise these goals by drawing on the energies of its people, growing an inclusive economy, building capabilities, enhancing the capacity of the state, and promoting leadership and partnerships throughout society.

Charting a course towards growth and sustainability and committing to these in the budget is merely a start. As with any plan, the implementation thereof is a critical component for its success and the feasibility of implementation should be considered at the outset of any plan. It goes without saying, however, that when considering implementation, one also needs to consider who should be accountable for each stage of implementation.

Does South Africa have the culture to achieve what needs to be done? Below we detail some of our main concerns as what we see as a **Culture of Procrastination**.

National Water Disaster – "Watershedding"

Whilst the electricity crisis at Eskom continues to negatively impact life for all citizens, it appears that the looming water and sanitation crisis will prove to be an even bigger problem.

South Africa, an already water scarce country, faces a water crisis caused by insufficient water infrastructure maintenance and investment and a lack of skilled water engineers[1]. 56% of waste-water treatment works (which remove and eliminate sewage from wastewater) and 44% of water treatment works in South Africa are said to be totally dysfunctional.

While the positive aspect of the 2023 Budget Review is that it contains more references to water infrastructure than any other in recent memory, the negative is that the intended plans mentioned may be "too-little-too late", as capital intensive projects take many years to complete. The plans also seem totally insufficient given that the water and sanitation crisis will financially a lot burdensome and a lot more complex to resolve.

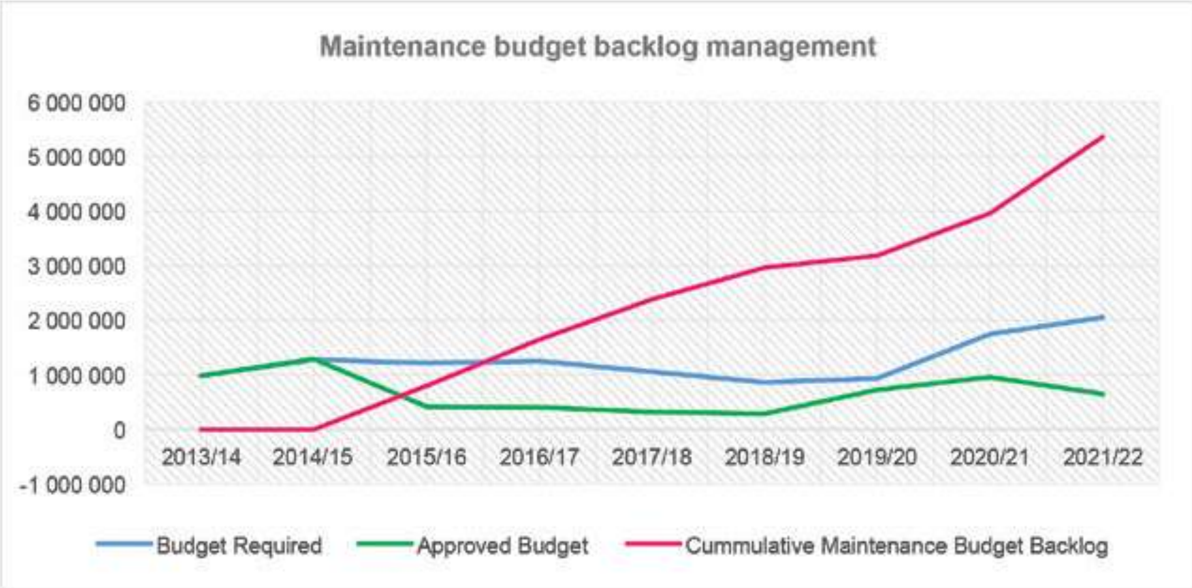
Water demand continues to outpace supply, leaving the potential for a looming shortage[2] with Gauteng already experiencing "watershedding" in 2022 even with dams nearly 100% full.

South Africa's average domestic water usage (237 litres per person per day) is 64 litres per person per day more than the world average. Add to this the fact that municipalities lose 35% of water through burst pipes, leaks, etc and the magnitude of our nation's water problem becomes clearer.

[1] National Water and Sanitation Master Plan, Call to Action

[2] Page 9, ibid

This is further compounded by the R36 billion backlog in maintenance and refurbishment of national water resources infrastructure, which continues to grow year by year[3].



Note that the R36 billion backlog pertains only to maintenance, and not the additional water and sanitation infrastructure so desperately needed.

The budget allocation for municipal water and sanitation is expected to increase from R11.6 billion in 2021/22 to R13.9 billion in 2024/25, prompted by the results of the Department of Water and Sanitation's ("DWS") 2022 Green Drop Report, which assessed the state of municipal wastewater management systems[4].

Spending on national water resource management will grow from R27.5 billion in 2021/22 to R47.4 billion in 2024/25 in order to fund new bulk water projects and maintain existing raw water infrastructure[5].

ANNEXURE D: PUBLIC-SECTOR INFRASTRUCTURE UPDATE

Table D.1 Public-sector infrastructure expenditure and estimates

R billion	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	MTEF
	Outcomes			Revised estimate	Medium-term estimates			total
Energy	39.9	26.2	30.0	34.5	35.4	45.2	44.1	124.8
Water and sanitation	27.1	22.5	29.5	33.9	41.4	43.9	45.7	131.1

[3] Department of Water and Sanitation 2022 Annual Report
[4] 2022 Budget Review, page 76
[5] 2022 Budget Review, Page 79

However as per the 2019 National Water Masterplan, South Africa needs at least R89bn per annual for 10 years to fund water infrastructure.

Funding Gap over the next decade

Funding Requirement	-	Funding Available	=	Funding Gap
• R 898 billion		• R 565 billion		• R 333 billion (37%)

These estimates were before the current flood damage and damage due to loadshedding and therefore may have significantly increased. It probably also assumed that allocated budgets for water infrastructure were in fact effectively and efficiently spent, which would be a large assumption.

These numbers are updated in the 2023 Budget Review as follows:

Table 5.11 Economic development expenditure

R million	2022/23	2023/24	2024/25	2025/26	Percentage of total MTEF allocation	Average annual MTEF growth
	Revised estimate	Medium-term estimates				
Economic regulation and infrastructure	112 445	124 863	143 768	159 158	55.3%	12.3%
of which:						
Water resource and bulk infrastructure	*27 544*	*34 092*	*38 368*	*48 801*	*15.7%*	*21.0%*

Clearly the Budget seems to make no real progress or proposals in what is the largest crisis facing the country.

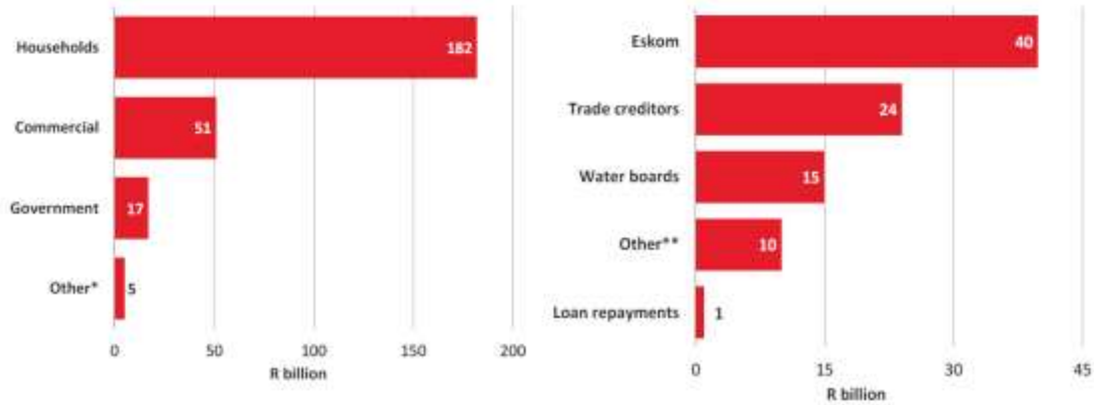
The problems don't stop there. Only 59% of South Africans pay for their water, meaning that municipalities do not charge for 41% of the water they provide.

Municipalities therefore lose about 1660 million m³ per year through "Non-Revenue Water" (i.e. water provided to citizens "for free"). At a unit cost of R6 per cubic metre, this amounts to an annual amount of R9.9 billion that government could have earned had this water been provided for a fee. Government will have no choice but to charge for at least some of this water going forward.

Even with the aforementioned 59% of users who do pay for water, a further analysis of this group leaves little to be desired, with billions of Rands currently owed to municipalities for the provision of both water and electricity. The below[6] paints a startling picture of the current situation:

[66] Page 71, 2023 Budget Review

Figure 6.2 Municipal debtors, 2021/22 **Figure 6.3 Municipal creditors, 2021/22**



**Includes rental and equipment leases income, interest on arrears and other recoveries, and outstanding payments from national or provincial government for projects carried out by municipalities on their behalf*
***Includes PAYE deductions, output VAT less input VAT, pensions or retirement and Auditor-General*
Source: National Treasury

In short, private households currently owe municipalities R182 billion, who, in turn, owe Eskom and the water boards (Rand Water, etc) R40 billion and R15 billion respectively.

Partial payment of the debt owed to municipalities by households would create a positive domino effect which would alleviate some of the financial pressure faced by the municipalities and ultimately, Eskom and the water boards.

The overall situation is unsustainable, forcing government to resort to debt in order to fund additional water infrastructure expenditure. This begs the question, is South Africa one drought away from a self-made water disaster?

For now, National Water and Sanitation Master Plan notes the future that awaits us:

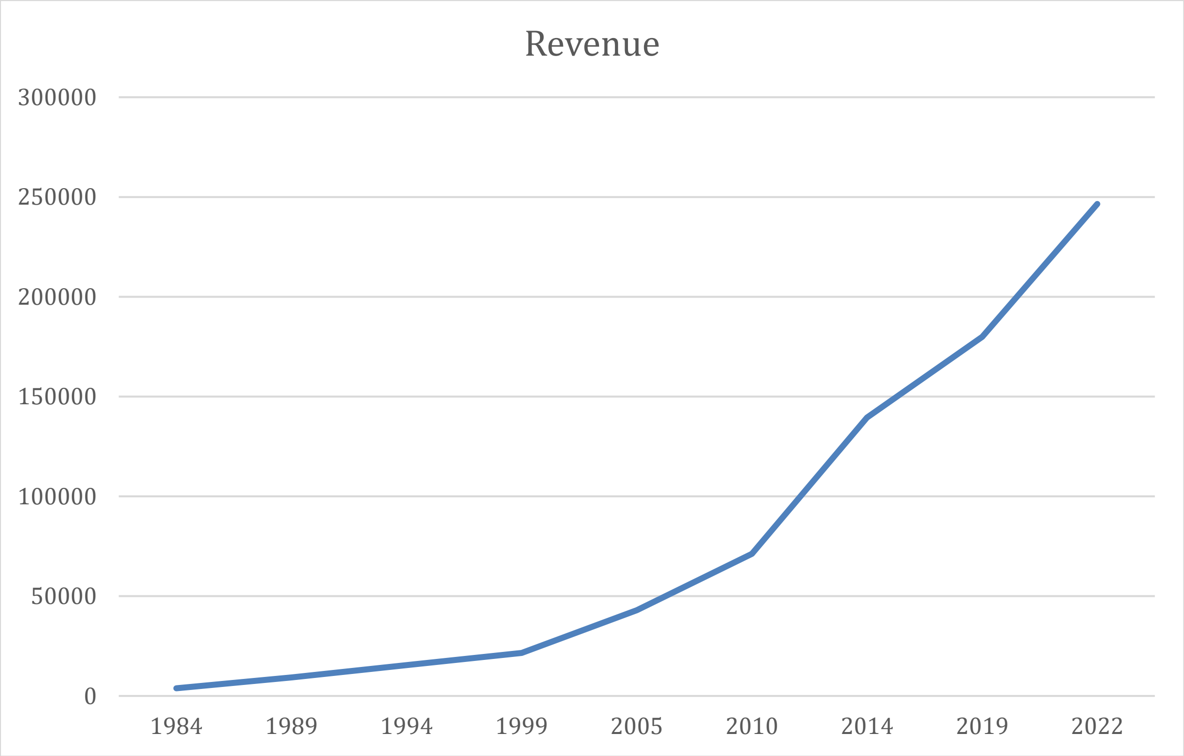
The new reality:

- **Water will become more expensive**
- **Everyone (except those without access to piped water) MUST use less water for the same activities**
- **Everyone - except the indigent - MUST pay for water and sanitation services**

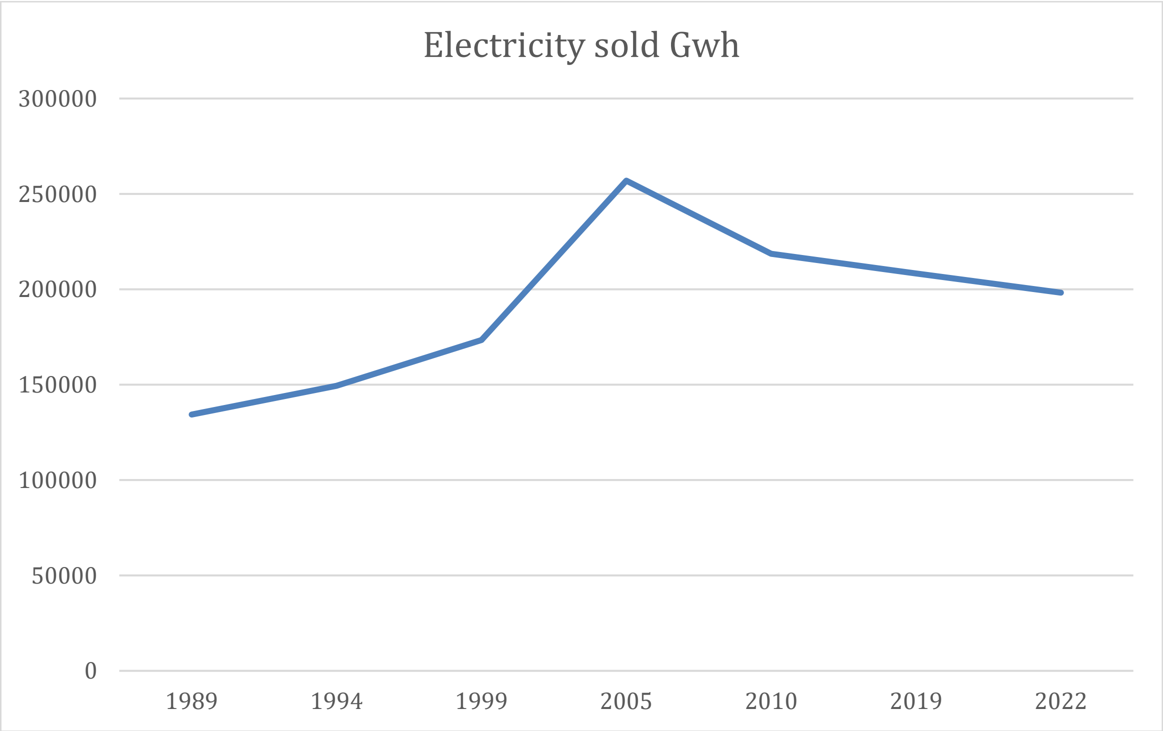
Eskom by the Numbers

Eskom was a major focus in the 2023 Budget with government committed to resolving the challenges at Eskom. However public insight into the challenges become a bit more when we peek into the Eskom numbers.

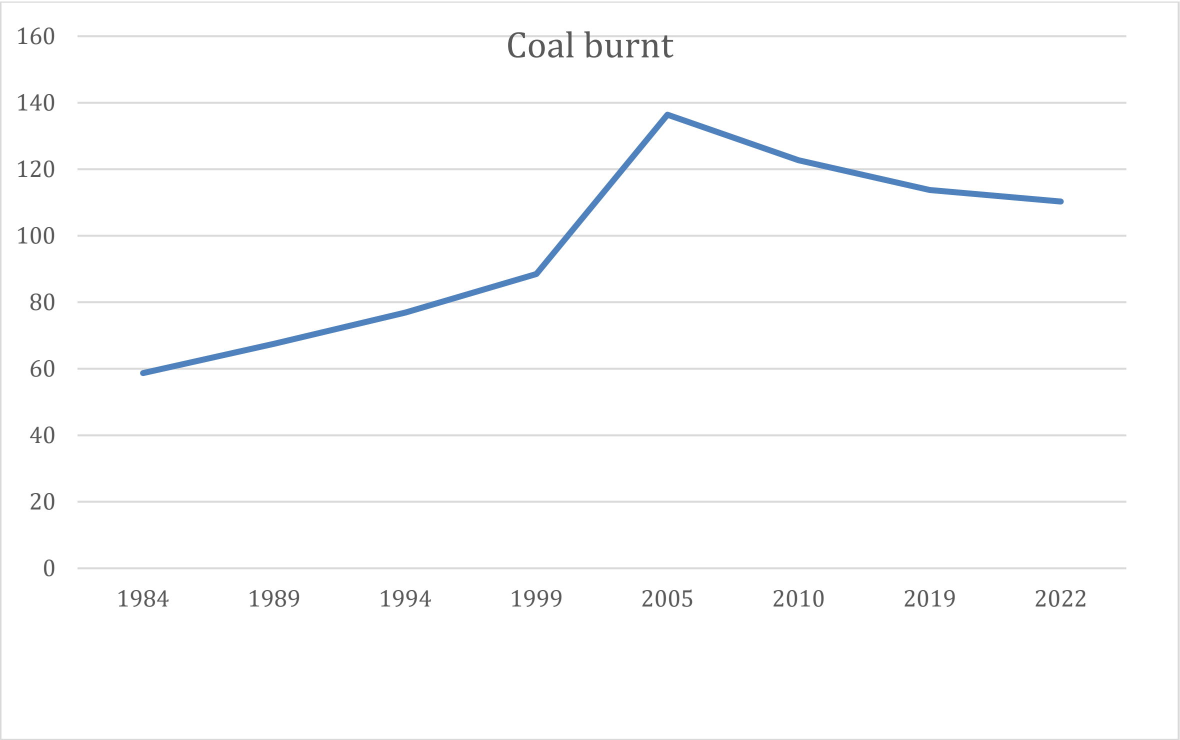
Eskom has been suffering large losses, but as can be seen in the next graph, it's not because it has not had a meteoric increase in revenue.

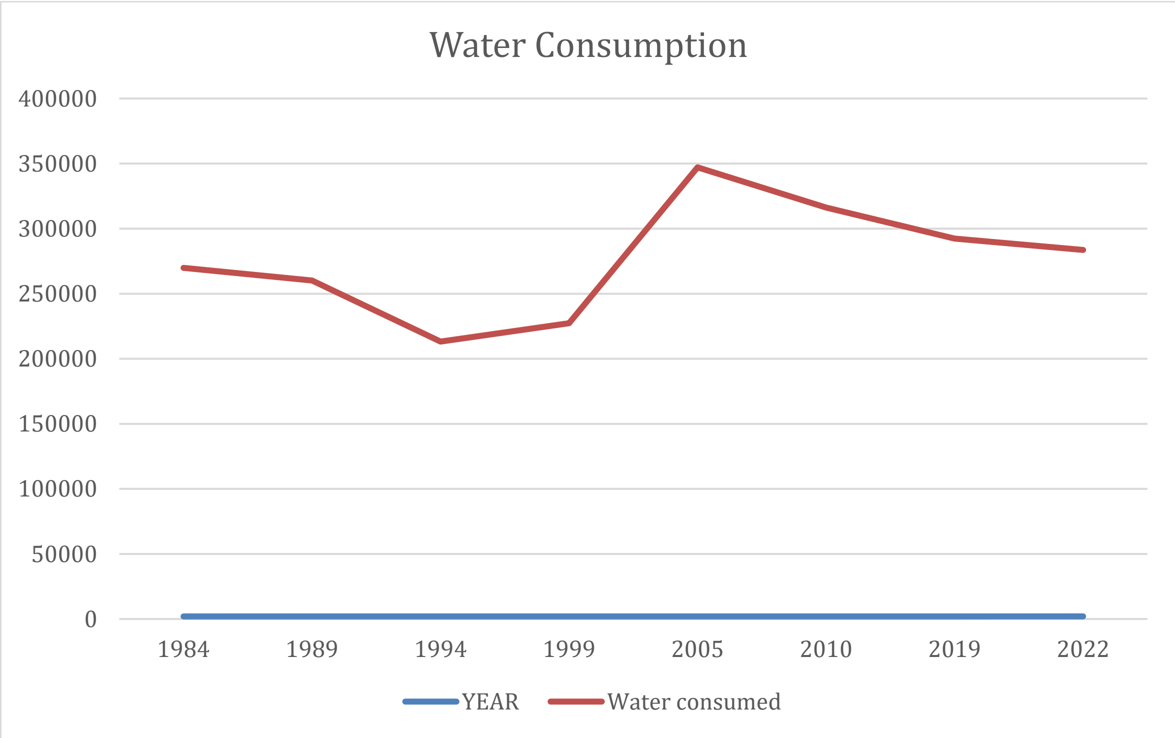


This revenue rise is notwithstanding Eskom electricity sales continuing to decrease significantly, i.e. its selling less and less electricity for more and more money.

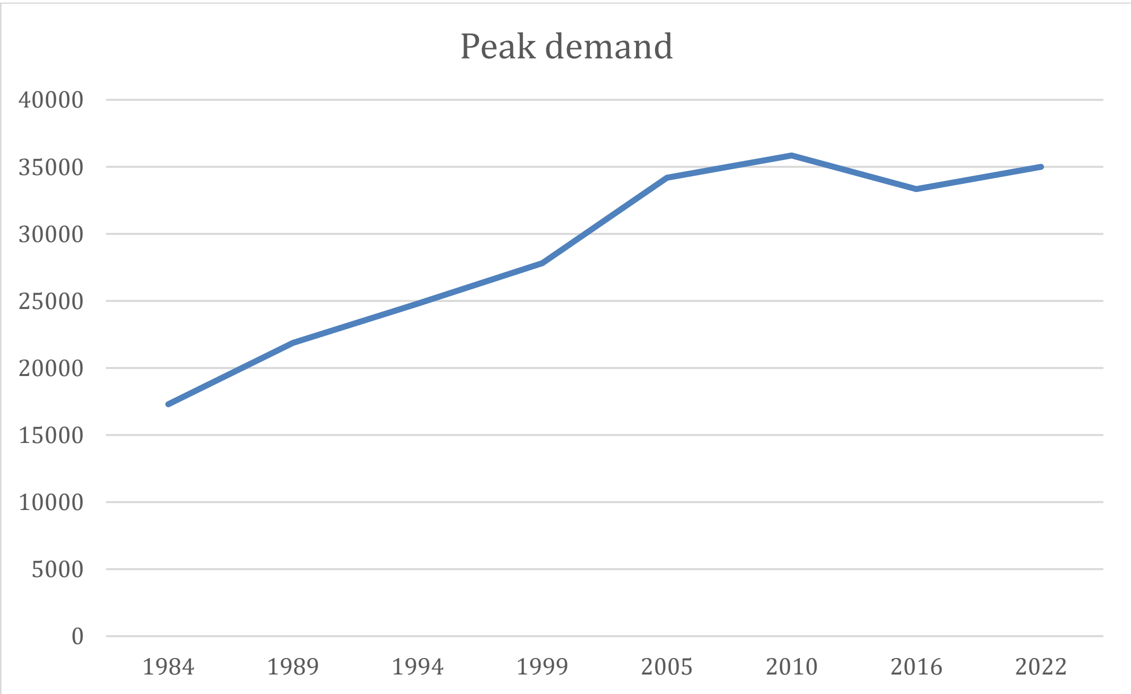


The fact is it is not only selling less electricity, but as confirmed by its water and coal usage it has been producing less electricity as well i.e. its variable cost drivers were decreasing over the same period that its total revenue was increasing.

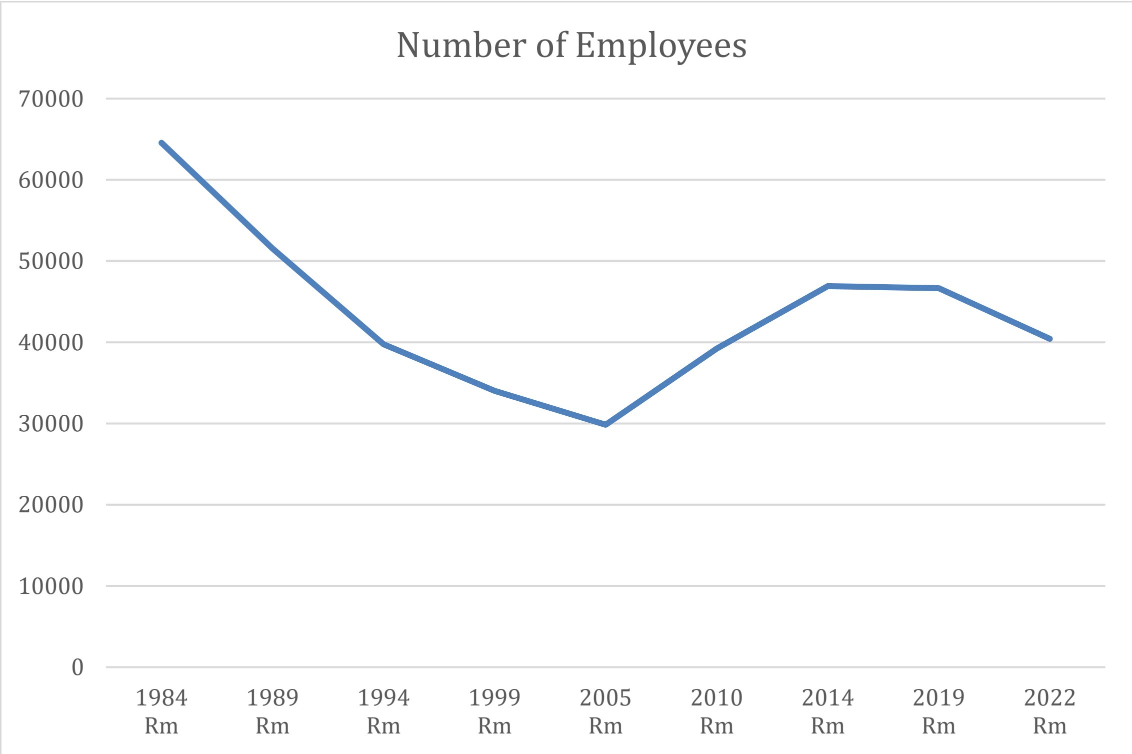




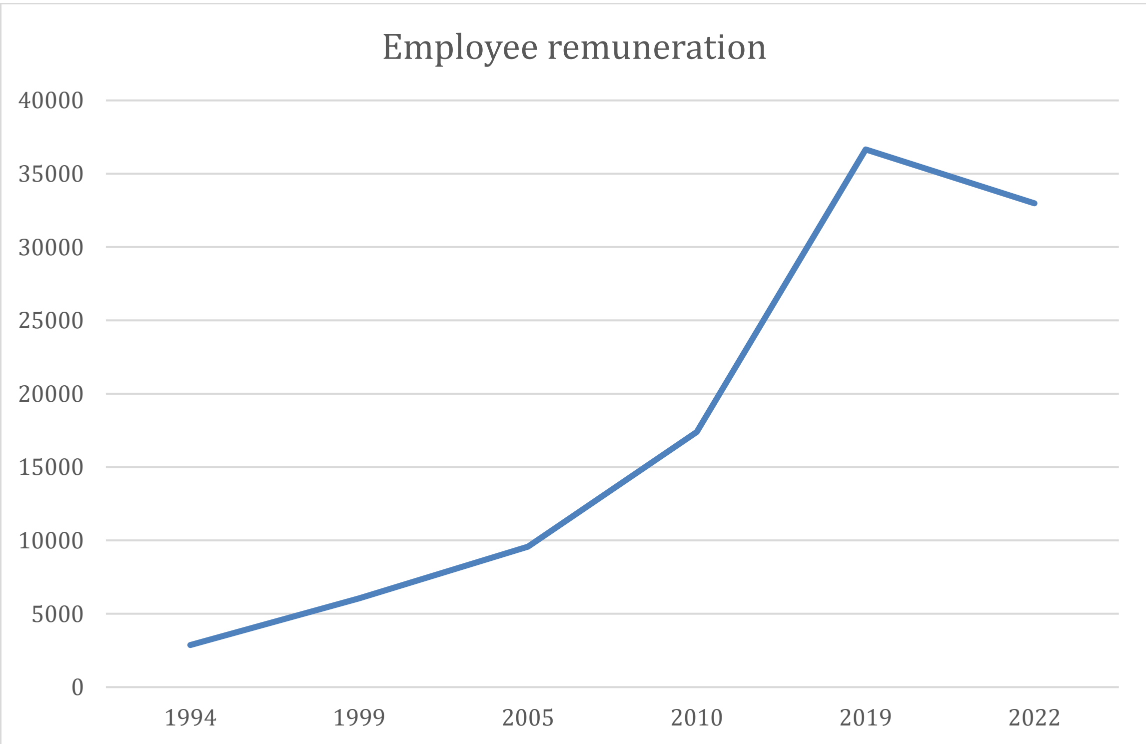
Its consumers were also buying less, which is probably due to both the economic decline that started happening after 2007 as well as loadshedding in 2008. Peak demand is at nearly the same level as it was more than a decade ago, a key sign of a stagnant economy.



Much has been made of employee numbers at Eskom, however, Eskom has had significant more staff before and has recently been reducing numbers since 2014.

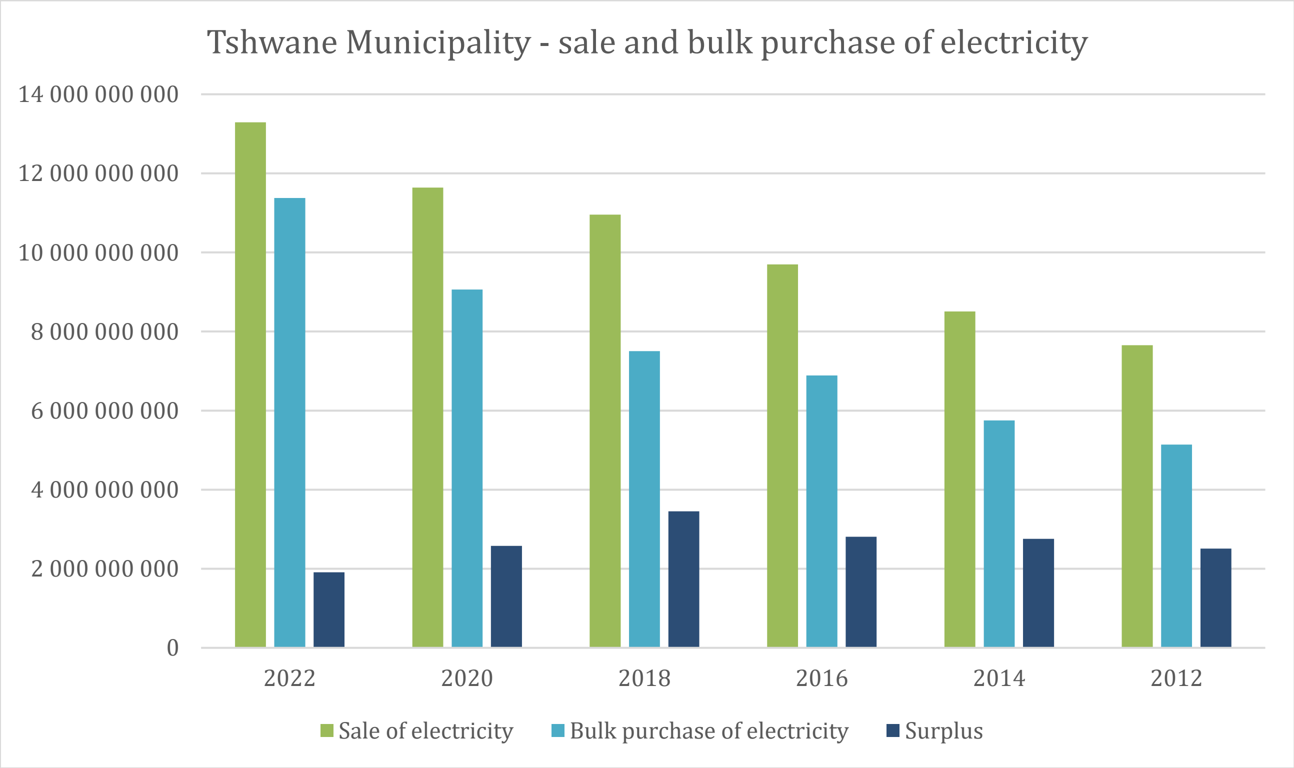


What seems to be a challenge is that employee remuneration over the same period sees a meteoric rise without explanation, with a dip probably due to numbers in 2019. However, in the 2005-2018 period it is clear that it was not new hire but salary increases that was driving staff costs.

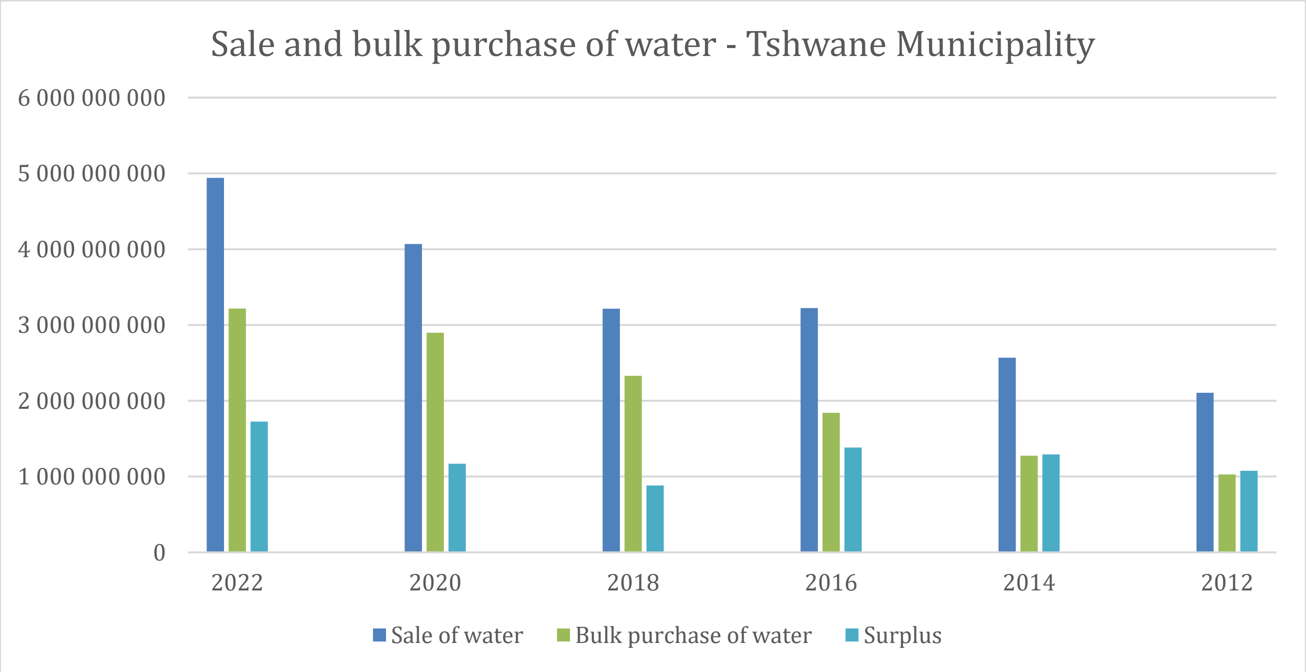


Municipal Fiscal Implosion

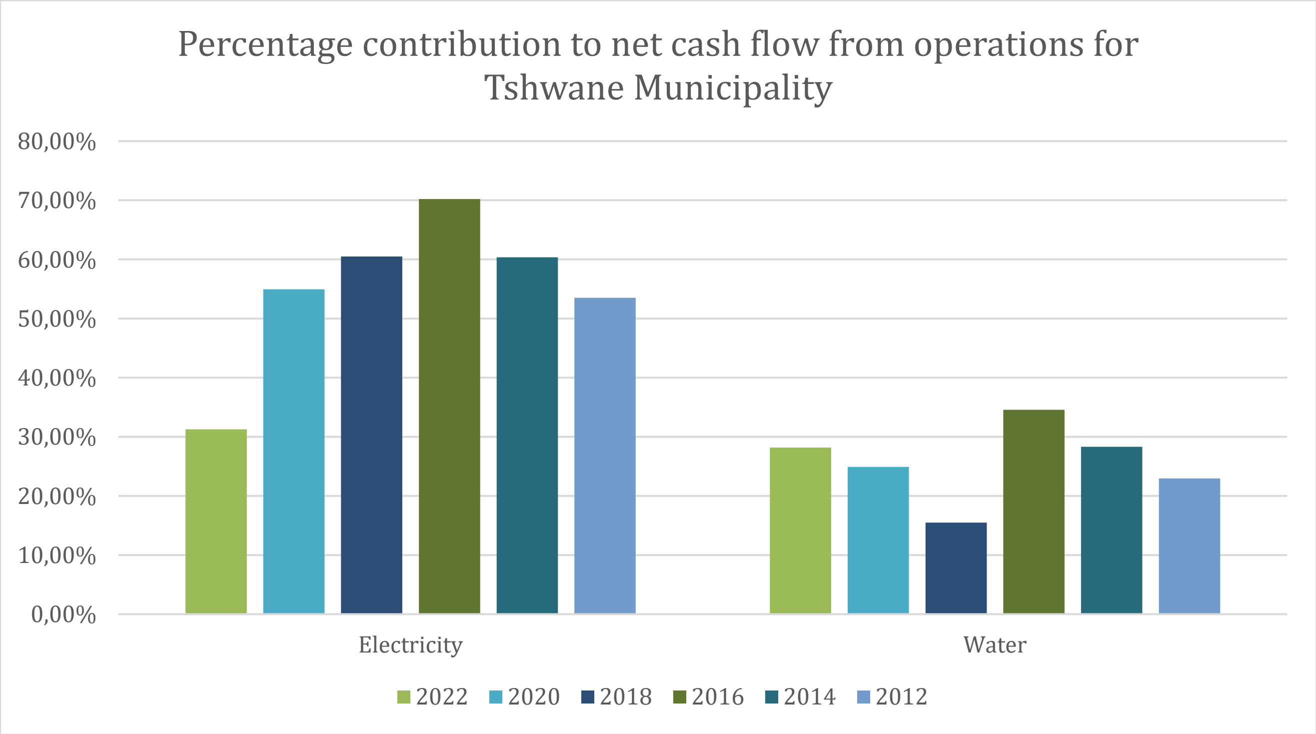
Municipalities make bulk purchases of electricity and water and then mark it up when it is billed to ratepayers. This is, in the first place, to fund the provision of electricity and water for free to certain residents in the municipality and to cover technical losses and use of electricity and water not paid for – i.e. non-technical losses due to theft. Using the Tshwane Metro as a case study, iIn the last 10 years, electricity sales have increased exponentially but the profits have declined, showing something seriously wrong.



Water has a similar trend though not as drastic with sales more than double but profits not matching it.



So the next question is how reliant on municipalities on the profits from the profits from electricity and water. To get some perspective we look at profits from water and electricity and a percentage of net cash flow from operations.



As is illustrated, the surpluses from the sale of electricity and water, makes a significant contribution to the funds of the municipalities. However, there is a decline in the contribution in the last two years for Tshwane, in particular. For Tshwane, the contribution dropped to 31.25% and 28.18%, which is significantly lower than the previous year's contributions for electricity and water respectively.

The drop in the contribution, for electricity, is due to the loadshedding and lack of sufficient maintenance of infrastructure. The drop in the contribution for water, in a year where the municipalities had above average rainfall, is also due to the loadshedding to a lesser extent and lack of maintenance of infrastructure.

The risk faced by municipalities, because of load shedding and the badly maintained water and electricity infrastructure, is that it will get a reduced contribution from the sale of electricity and water, to fund its operations. This is all before many more paying taxpayers start migrating off the municipal grid with particularly rural municipalities at financial risk. Whilst municipalities are already financially imploding as is quite apparent from the Auditor Generals report, this will only push them further into the abyss.

NOTE: A word version of this document is available on the SAICA Budget 2023 webpage.

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