The New Dividends Tax Replaces Secondary Tax on Companies

The new Dividends Tax replaced The Secondary Tax on Companies (STC) with effect from 1 April 2012.

Dividend tax is a tax on shareholders when they receive dividend distributions from companies and itapplies to any dividend declared and paid on or after 1 April 2012.

Dividend tax is categorized as a withholding tax as the tax should be withheld and paid over to SARS by the company that is distributing the dividend to the shareholders.

The main difference between Dividend tax and STC lies in who is liable for the tax. Dividend tax is a tax imposed on the shareholder on receipt of the dividends, whereas STC is a tax imposed on companies on the declaration of dividends.

The main objectives behind the change to Dividend Tax were:

- To align the level of taxation of dividends in South Africa with the international norm where the recipient of the dividend, not the company paying it, is liable for the tax relating to the dividend
- To make South Africa a more attractive international investment destination by eliminating the perception of higher corporate tax rate (STC is an additional corporate tax).

Dividend Taxis triggered by the payment of dividends by a South African tax resident company; or a foreign company that is paying dividends in respect of shares listed on the JSE.

If a company provide a low or no interest loan to a person that hold shares in that company, the interest benefit so provided is deemed to be a dividend and will consequently besubject to Dividend Tax.

Dividend tax is levied at a rate of 15% of the amount of any dividend paid by a local company.

Certain dividend payments *could* be exempt from Dividend Tax depending on the nature or status of the recipient. The exemptions are "elective" in the sense that it will only apply where the company distributing the dividend or relevant withholding agent receives the required notifications from the recipient prior to payment of the dividend.

Dividends payable to the following beneficial shareholders could be exempt from Dividend Tax:

- South African resident companies
- The Government
- Public Benefit Organisations (approved ito The Income Tax Act)
- Mining rehabilitation trusts (section 37A of The Income Tax Act)
- Any institution that conducts specific research; or provides necessary commodities or services to the state; or carries on activities designed to promote commerce, industry or agriculture (see Section 10(1)(cA) of The Income Tax Act)
- Certain funds as specified in The Income Tax Act (e.g. pension fund, provident fund or medical scheme)
- Section 10(1)(t) persons (e.g. CSIR and SANRAL)
- Shareholders in a registered micro business (6^{th}Schedule) insofar as the dividend is less than R200,000 per year
- Non-resident and the dividend is received from a foreign company listed on the JSE

Companies with unused STC credits will be able to reduce dividend tax payable by shareholders on dividends received during a transitional period of five years.
Any unused STC credits will expire five years after 01 April 2012.

**Dividend tax is also applicable on dividend distributions made by Close Corporations*.

Published in the Muslim News April 2012