



Tax & Legal Flash



July 2021

Utilisation of Assessed Losses

The Draft Taxation Laws Amendment Bill 2021 (the DTLAB) was released on 28 July 2021. Included in the proposed amendments are changes to rules relating to the utilisation of assessed losses by companies.

The carry forward of assessed losses by a company is regulated by section 20 of the Income Tax Act 58 of 1962 (the Income Tax Act). Currently, a company is able to carry forward assessed losses indefinitely subject only to the requirement that the company continue to carry on a trade. Where the assessed loss carried forward in a particular year of assessment exceeds the taxable income (before set-off of the loss) for the year, the taxable income can be set off in full against the assessed loss.

As part of the measures to broaden the corporate income tax base, the DTLAB proposes changes to section 20 of the Income Tax Act. In terms of these proposals, companies will only be permitted to set-off the balance of an assessed loss carried forward to the extent that the set-off does not exceed 80% of the taxable income determined for that year (before taking into account the assessed loss). The proposal would result in taxpayers being subject to tax on a minimum of 20% of their taxable income calculated for any year, irrespective of the quantum of any assessed loss brought forward. The proposed effective date for the amendment is 1 April 2022, with the amendment being applicable for years of assessment commencing on or after that date. Importantly, the limitation will apply to assessed losses generated prior to the effective date as well as those arising after that date.

The balance of any unutilised assessed loss will remain available to be carried forward, subject to the 80% restriction in future years. Taxpayers will be able to add any current year loss to the balance of assessed loss. However, as soon as a company has taxable income in any particular year, tax will be payable on 20% of that taxable income with only 80% of the taxable income capable of being set-off against any available assessed loss.

Based on the announcements made by the Minister of Finance in the 2021 Budget Speech, the introduction of the proposed amendment should be accompanied by a reduction in the corporate income tax rate from 28% to 27%.

If you have any queries, require assistance or need more information, please contact us:



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