



November 2021

New Assessed Loss Rules for Companies

The Taxation Laws Amendment Bill 2021 (the TLAB) was released on 11 November 2021. The TLAB includes new rules relating to the utilisation of assessed losses by companies. The effective date of the changes will be aligned to the date on which the corporate income tax rate is reduced, and will apply in respect of years of assessment commencing on or after that date.

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 TLAB proposes to limit the set-off of any balance of assessed losses to an amount not exceeding the higher of R1 million and 80% of taxable income before applying the set-off.

The proposal would result in taxpayers with taxable income in excess of R1 million 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 will be the date on which the corporate income tax is first reduced and 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 above 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 excess of R1 million 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.

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

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Regards

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