



# Tax and Legal News

#BudgetSpeech2022



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## Proposed clarification – section 23M and assessed losses for mining companies

**As part of the corporate income tax restructuring process, certain measures are being put in place to broaden the tax base whilst the corporate income tax rate will be reduced from 28% to 27%. These amendments will be effective for years of assessment ending on or after 31 March 2023.**

One such measure is to limit the assessed losses that are set off against taxable income, to 80 percent of the taxable income. This will result in a company with an assessed loss greater than the taxable income having to pay tax on 20 percent of its taxable income. As it currently stands, there seems to be an anomaly between the new assessed loss restriction provision per section 20 of the Income Tax Act and the redemption of capital expenditure in terms of section 36 of the Income Tax Act. Government proposed that the legislation be clarified.

A further measure to increase the tax base was to strengthen the rules in respect of interest limitations per section 23M of the Income Tax Act. There are concerns about the interaction between the provisions of section 23M and section 36 dealing with capital expenditure for mining companies. The question for clarification is whether section 23M applies to interest that is capitalised to capital expenditure for a non-producing mine in terms of section 36. Government proposed that clarification be provided that section 23M does not apply in this instance.

For any questions in this regard, please feel free to contact us.



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