DAVEY'S Locker

Interest-free loans to trusts

Second draft of section 7C

On 25 September 2016 the National Treasury issued the 'second batch' of the 2016 Draft Taxation Laws Amendment Bill (TLAB) for public comment (see the Monthly Listing).

This second batch incorporates amendments consequent upon public comments received on the 'first batch', published on 8 July 2016.

The draft TLAB proposes the introduction, effective as from 1 March 2017, of a specific anti-avoidance measure, in s 7C of the Income Tax Act, aimed at curbing the tax-free transfer of wealth through the use of low-interest or interest- free loans to trusts.

These are used in classic estate-pegging exercises, in which growth assets are transferred to a trust to accumulate there, thanks to an interest-free loan. Upon death, the lender's estate is dutiable only on the original loan.

First batch—income

The 'first batch' draft TLAB proposed that the difference between the official rate of interest for tax (currently 8%) and

actual interest charg
loan be treated as in
subjected to income
on a deemed-interes

For example, unde
free loan to a trust, d
interest of 8% would
lender.

Second batch—dor

The 'second batch' d
proposes a more ben
dispensation, namely
deemed interest will
treated as income bu
ongoing, annual don
the lender on the las
lender's tax year.

Thus the effective
lender would be 1,6%
(donation's tax rate)
rate of interest).

Annual donations t exemption

The current annual d
exemption of R100 0
tax year (56(2)(*b*)) wi

Thus a loan may c
written down by the l
alternately, monies d
trust, free from dona