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TAX GUIDE

2010/2011

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- All information contained herein is believed to be correct at the time of publication, 17 February 2010. The contents should not be used as a basis for action without further professional advice.
- While every care has been taken in the compilation of this publication no responsibility shall be accepted for any inaccuracies, errors or omissions.
- The information is prepared from the budget speech and the legislation finally enacted may differ considerably.
- Changes in rates of tax announced in the Budget Speech for the tax year 2011 become effective only once the legislation is enacted by Parliament.
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1 **Corporate Tax Rate**
No change to the rate of corporate tax.

2 **VAT**
A review of the claw back from developers who temporarily lease residential property prior to sale is taking place.

3 **Voluntary Disclosure Program**
A Voluntary Disclosure Program will exist for 12 months from November 2010. Non-compliant taxpayers may use this window period to disclose and pay undeclared tax liabillities at a reduced interest charge and without penalties. Consideration will also be given to align exchange control violation penalties with this voluntary disclosure opportunity.

4 **Discontinuation of the SITE System**
This system will be repealed from 1 March 2011 and relief for low income earners with multiple sources of income will be considered.

5 **Retrenchment**
The R30 000 exemption for retrenchment packages will be adjusted and aligned with the retirement and retrenchment lump sums.

6 **Interest Exemption**
In an attempt to limit tax planning aimed at shifting income, the interest exemption will now be limited to bank deposits, government retail bonds and collective investment money market funds.

7 **Post Retirement Lump Sum**
Lump sum payouts that occur post retirement will in future receive the same tax treatment as lump sums on retirement.

8 **Limiting Salary Structuring**
The company car fringe benefit value is to be increased. Deferred compensation and group life insurance schemes provided by an employer will be taxed as a fringe benefit.

9 **Further Anti-Avoidance Measures**
Sophisticated tax avoidance schemes, particularly those involving cross border transactions, are likely to come under close scrutiny.

10 **Enhancements to Tax Administration**
SARS is of the opinion that tax compliance has deteriorated during the recession and as a result it intends to bolster its enforcement policy. This will include improvements to the system of administrative procedures and greater focus on significant taxpayers and wealthy individuals.

11 **Estate Duty**
Estate duty and CGT arising on death are to be reviewed due to the low revenue yield and the use of trusts to minimise taxes.

Dividends tax, applicable to SA resident companies, will come into operation at least three months after a date announced by the Minister. Dividends Tax will be borne by the shareholder at a rate of 10% (subject to any reduction in terms of double taxation agreements).

Exemptions from Dividends Tax

The following shareholders are exempt from dividends tax: SA resident companies, the Government, PBO's, certain exempt bodies, rehabilitation trusts, pension, provident and similar funds, shareholders in a registered micro business, provided the dividend does not exceed R200 000 in a year of assessment, a natural person upon receipt of an interest in a primary residence and a non-resident receiving a dividend from a non-resident company which is listed on the JSE, i.e. a dual listed company.

Withholding Tax Obligations in respect of Dividends Tax

Dividends tax initially requires the company declaring the dividends to withhold dividends tax on payment. However, liability for withholding tax shifts if the dividend is paid to a regulated intermediary which includes central securities depository participants, brokers, collective investment schemes and listed investment service providers. Dividends tax can be reduced or eliminated upon the timely receipt of a written declaration that the shareholder is entitled to an exemption or to tax treaty relief.

Use of Unutilised STC Credits

Unutilised STC credits must be utilised within five years of the changeover to the dividends tax system. STC credits will be exhausted first.

Revised Dividend Definition

The definition of a dividend has been simplified and includes all distributions to a shareholder other than: a reduction of contributed tax capital (which consists of untainted share premium and share capital of a company), capitilisation issues, a share buy-back of a JSE listed company, or a redemption of a participatory interest in a foreign collective investment scheme.

In order for a distribution of contributed tax capital not to be regarded as a dividend the directors must, immediately prior to the distribution, record in writing that contributed tax capital is being distributed.

Introduction of Value Extraction Tax (VET)

This is an anti-avoidance measure similar to the deemed dividend provisions which will be introduced when dividends tax is effective. This is a separate tax levied on the company and not the shareholder. This arises only in respect of South African resident companies seeking to extract value without declaring dividends and is calculated at 10% of the value extracted. This is applicable where a company: provides low interest loans or advances to a shareholder, releases or relieves loans previously made to a shareholder, settles a loan owed by a shareholder to a third party, or ceases to be a South African resident. These anti-avoidance rules apply also to all persons who are connected persons in relation to the shareholder.

Passive Holding Company

To prevent the use of private investment companies avoiding the payment of dividends tax, passive holding companies, which earn more than 80% of their gross income in the form of interest and dividends and in which more than 50% of the participation rights are held by five or less resident natural persons, will be taxed at 10% on their dividend income and at a rate of 40% on their other taxable income, but will not be required to subject dividends they declare to the dividends tax.

TAX RATES COMPANIES

For years of assessment ending during the following periods:

1 April 1993 - 31 March 1994	40%
1 April 1994 - 31 March 1999	35%
1 April 1999 - 31 March 2005	30%
1 April 2005 - 31 March 2008	29%
1 April 2008 - 31 March 2011	28%

Note: Companies qualifying under the Tax Holiday legislation (Section 37H) were subject to tax at 0%. The Tax Holiday ended on 30 September 1999.

Branch Profits Tax

For years of assessment ending during the following periods:

1 April 1996 - 31 March 1999	40%
1 April 1999 - 31 March 2005	35%
1 April 2005 - 31 March 2008	34%
1 April 2008 - 31 March 2011	33%

Note: As from years of assessment ending on or after 31 March 2008 these rates apply to the profits of a non-resident company.

STC

Dividend declared on or after	17 March 1993	15%
Dividend declared on or after	22 June 1994	25%
Dividend declared on or after	14 March 1996	12,5%
Dividend declared on or after	1 October 2007	10%

TAX IMPACT COMPANIES

	Tax year				
	2008 Prior to 1/10/2007	2008 After 1/10/2007	2009	2010	2011
	R	R	R	R	R
Taxable income	100,00	100,00	100,00	100,00	100,00
Less: Normal tax	29,00	29,00	28,00	28,00	28,00
	71,00	71,00	72,00	72,00	72,00
Less: STC	7,89	6,45	6,55	6,55	6,55
Available for distribution	63,11	64,55	65,45	65,45	65,45
Total tax paid	36,89	35,45	34,55	34,55	34,55
Effective rate of tax	36,89%	35,45%	34,55%	34,55%	34,55%

Assumes all profits are declared as dividends

TAX RATES INDIVIDUALS - 2010

Taxable income	Rates of tax	
R 0 - R132 000	18% of each R1	
R132 001 - R210 000	R 23 760 + 25% of the amount over	R132 000
R210 001 - R290 000	R 43 260 + 30% of the amount over	R210 000
R290 001 - R410 000	R 67 260 + 35% of the amount over	R290 000
R410 001 - R525 000	R109 260 + 38% of the amount over	R410 000
R525 001 +	R152 960 + 40% of the amount over	R525 000

TAX RATES INDIVIDUALS - 2011

Taxable income	Rates of tax	
R 0 - R140 000	18% of each R1	
R140 001 - R221 000	R 25 200 + 25% of the amount over	R140 000
R221 001 - R305 000	R 45 450 + 30% of the amount over	R221 000
R305 001 - R431 000	R 70 650 + 35% of the amount over	R305 000
R431 001 - R552 000	R114 750 + 38% of the amount over	R431 000
R552 001 +	R160 730 + 40% of the amount over	R552 000

TAX THRESHOLDS

	Taxable income 2010	Taxable income 2011
Persons under 65	R54 200	R57 000
Persons over 65	R84 200	R88 528

TAX REBATES

Amounts deductible from the tax payable	2010	2011
Persons under 65	R 9 756	R10 260
Persons over 65	R15 156	R15 935

These rebates are not available to either normal or special trusts, and companies.

SKILLS DEVELOPMENT LEVY

The Skills Development Act seeks to restructure the existing training system and upgrade the level of skills and access to skills by workers.

Directors remuneration, on the same basis as for PAYE, will be subject to the Skills Development Levy.

The Skills Development Levy is payable by employers at a rate of 1% of remuneration as from 1 April 2001 (previously 0,5%).

Employers paying annual remuneration of less than R500 000 are exempt from this levy as from 1 August 2005.

TAX RATES TRUSTS - 2010 AND 2011

Taxable income	Rate of tax
All taxable income	40% of each R1

Special trusts are taxed at the rates applicable to individuals.

A *special trust* is one created solely for the benefit of a person affected by a mental illness or serious physical disability which prevents that person from earning sufficient income to maintain himself, or a testamentary trust established solely for the benefit of minor children who are relatives of the deceased. Where the person for whose benefit the trust was established dies prior to or on the last day of the year of assessment or the youngest beneficiary in the case of a testamentary trust turns 21 years of age prior to or on the last day of the year of assessment, the trust will no longer be regarded as a special trust.

TRUSTS LOSSES

A loss incurred by a trust cannot be distributed to beneficiaries. The loss is retained in the trust and carried forward to the next year as an assessed loss.

ROYALTIES TO NON-RESIDENTS

As from 1 January 2009, no deduction will be allowed in respect of royalty payments if:

- the intellectual property was at any time wholly or partly owned by a South African resident or the taxpayer, or
- the intellectual property was developed by the taxpayer or a connected person who is a resident.

If the royalty is subject to a withholding tax at a rate of at least 10% then a deduction of one third of the royalty will be allowed.

CONNECTED PERSONS

Where a depreciable asset is acquired by a taxpayer and it was held by a connected person within a period of two years before that acquisition, the purchaser may claim capital allowances on the lower of the purchase price or the following deemed cost:

- the net tax value of the asset to the seller, plus
- the recoupment on the disposal by the seller, plus
- the taxable capital gain on the disposal by the seller.

Labour brokers and personal service providers are regarded as deemed employees.

For years of assessment commencing on or after 1 March 2009:

- *A labour broker* is a natural person who, for reward, provides a client with other persons to render a service for the client or procures such other persons for the client and remunerates such persons.
- *A personal service provider* is a company (including a close corporation) or trust where any service rendered on behalf of the entity to its client is rendered personally by any person who is a connected person in relation to such entity, and one of the following provisions apply:
  - the person would have been regarded as an employee of the client, if the service was not rendered through an entity; or
  - the person or entity rendering the service must perform such service mainly at the premises of the client and such person or entity is subject to the control or supervision of such client as to the manner in which the duties are performed; or
  - more than 80% of the income derived from services rendered is received from one client or associated person in relation to the client.
- The entity will, however, not be regarded as a *personal service provider* where such entity employs three or more full-time employees throughout the year of assessment, none of whom are connected persons in relation to such entity.

Implications

- A labour broker not in possession of an exemption certificate will be subject to PAYE at the rates applicable to individual taxpayers.
- A personal service provider will be subject to PAYE at the rate of 33% (2008 : 34%) in the case of a company and 40% in the case of a trust.
- No PAYE will be required to be deducted where the entity provides an affidavit confirming that it does not receive more than 80% of its income from one source.
- The deemed employee may apply to SARS for a tax directive for a lower rate of tax.
- Deductions available to deemed employees will be limited to remuneration for services rendered, contributions to pension, provident and benefit funds, legal expenses, bad debts, expenses in respect of premises, finance charges, insurance, repairs, fuel and maintenance in respect of assets used wholly and exclusively for trade and any amount previously included in taxable income and subsequently refunded by the recipient.

Years of assessment ending between 1 April 2009 and 31 March 2010

Taxable income	**Rates of tax**
R 0 - R 54 200	Nil
R 54 201 - R300 000	10% of the amount over R 54 200
R300 001 +	R24 580 + 28% of the amount over R300 000

Years of assessment ending between 1 April 2010 and 31 March 2011

Taxable income	**Rates of tax**
R 0 - R 57 000	Nil
R 57 001 - R300 000	10% of the amount over R 57 000
R300 001 +	R24 300 + 28% of the amount over R300 000

Applies if:

- All shareholders or members throughout the year of assessment are natural persons who hold no shares in any other *private* companies or members' interest in any other close corporations or co-operatives other than those which are inactive and have assets of less than R5 000
- Gross income for the year of assessment does not exceed R14 million (2006 : R6 million)
- Not more than 20% of the gross income and all the capital gains consist collectively of *investment income* and income from rendering a *personal service*
  - *Investment income* includes any annuity, interest, rental income, royalty or any income of a similar nature, as well as dividends and any proceeds derived from investment or trading in financial instruments (including futures, options and other derivatives), marketable securities or immovable property
  - *Personal service* includes any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, broking, commercial arts, consulting, draughtsmanship, education, engineering, entertainment, health, information technology, journalism, law, management, performing arts, real estate, research, secretarial services, sport, surveying, translation, valuation or veterinary science, which is performed personally by any person who holds an interest in the company or close corporation, except where such small business corporation employs three or more unconnected full-time employees for core operations
- The company, co-operative or close corporation is not an employment entity.

Investment incentive

The full cost of any asset used in a process of manufacture and brought into use for the first time on or after 1 April 2001, may be deducted in the tax year in which the asset is brought into use. As from 1 April 2005, all other depreciable assets are written off on a 50:30:20 basis.

EXEMPTIONS INDIVIDUALS

- Dividends received or accrued from South African companies are generally not subject to tax.
- All interest received by or accrued to non-residents is exempt from tax provided the individual is physically absent from South Africa for at least 183 days, and did not carry on business in South Africa through a permanent establishment during the year of assessment.
- Interest received by resident natural persons:

Persons under 65 years	R22 300	(2010 : R21 000)
Persons aged 65 years and over	R32 000	(2010 : R30 000)

  Interest includes distributions from property unit trusts and foreign interest and dividends. The foreign interest and dividend exemption is limited to R3 700 (2010 : R3 500).
- Unemployment insurance benefits.

Termination lump sums received from employer

A once off exemption of R30 000 appllies if:

- the employee has reached the age of 55 years, or
- the termination of services are due to ill-health, or
- the employee was retrenched because the employer has ceased to operate or because of personnel reduction

This exemption does not apply to directors of companies or members of close corporations if they at any time held an interest of more than 5% in that entity.

The taxable portion is taxed in terms of the rating formula.

Compensation

As from 1 March 2007, compensation awards paid by an employer on the death of an employee in the course of employment will be exempt to the extent of R300 000 less any previous retrenchment exemption enjoyed by that employee.

DEDUCTIONS EMPLOYEES

Employees or holders of office who derive remuneration are restricted in deducting expenditure incurred which relates to employment to the following:

- Deductions in respect of contributions to a pension fund or retirement annuity fund
- Legal expenses
- Wear and tear allowance
- Bad debts allowance
- Doubtful debts allowance
- Premiums paid in terms of an allowable insurance policy
  - to the extent that the policy covers the person against loss of income as a result of illness, injury, disability or unemployment, and
  - in respect of which all amounts payable in terms of the policy constitutes income as defined
- Home office expenses, subject to requirements
- Refunded awards for services rendered and refunded restraint of trade awards as from 1 March 2008.

Current pension fund contributions
7,5% of remuneration from retirement-funding employment or R1 750, whichever is the greater. Retirement-funding employment refers to income which is taken into account to determine contributions to a pension or provident fund.

Excess contributions are not carried forward to the next year of assessment but are accumulated for the purpose of determining the tax free portion of the lump sum upon retirement.

Arrear pension fund contributions
Up to a maximum of R1 800 per annum. Any excess may be carried forward.

Current retirement annuity fund contributions
15% of taxable income from non-retirement-funding employment, or R3 500 less current contributions to a pension fund, or R1 750, whichever is the greater.

Reinstated retirement annuity fund contributions
Up to a maximum of R1 800 per annum. Any excess may be carried forward.

Medical expenses and medical aid deductions
- **65 years and older:** May claim all qualifying expenditure incurred and medical aid contributions paid by the taxpayer or employer
- **Younger than 65 years:** May claim medical aid contributions, paid by the taxpayer or employer, up to the capped amount and qualifying expenditure to the extent that it exceeds 7,5% of taxable income before this deduction
- **Younger than 65 years (but with an immediate family member who has a disability):** If the taxpayer, spouse or child (including an adopted child or stepchild) has a disability, the deduction allowed is all qualifying expenditure and medical aid contributions paid by the taxpayer or employer
- The capped amount is calculated at R670 (2010 : R625) for each of the first two beneficiaries and R410 (2010 : R380) for each additional beneficiary as defined by the medical aid fund
- Qualifying expenditure includes:
  - own contributions to medical aid funds in excess of capped amount
  - medical aid fringe benefit determined by the employer in excess of capped amount
  - payments to medical practitioners, nursing homes and hospitals
  - payments to pharmacists for prescribed medicines
  - payments for physical disabilities, including remedial teaching and costs incurred for mentally handicapped persons
  - payments for the benefit of any dependents
- *Disability* means a moderate to severe limitation of a person's ability to function or perform daily activities as a result of physical, sensory, communication, intellectual or mental impairment, if the limitation lasts more than a year and is diagnosed by a registered medical practitioner
- Recoveries of expenses (including amounts received from medical aid savings account) reduce the claim
- Expenditure paid by a taxpayer on behalf of a spouse or children can only be claimed in the taxpayer's own tax return.

RETIREMENT LUMP SUM BENEFITS

As from 1 October 2007, the **taxable portion** of a lump sum from a pension, provident or retirement annuity fund on retirement or death is the lump sum less any contributions that have not been allowed as a tax deduction **plus the taxable portion of all lump sums previously received**. This amount is subject to tax at the following rates l**ess any tax previously paid:**

Taxable portion of lump sum	Rates of tax
R 0 - R300 000	0%
R300 001 - R600 000	18% of the amount over R300 000
R600 001 - R900 000	R 54 000 + 27% of the amount over R600 000
R900 001 +	R135 000 + 36% of the amount over R900 000

The taxable lump sum cannot be set-off against any assessed loss of the taxpayer.

WITHDRAWAL LUMP SUM BENEFITS

As from 1 March 2009, the **taxable portion** of a pre-retirement lump sum from a pension or provident fund is the withdrawal less any transfer to a new fund **plus all withdrawal lump sums previously received**. This amount is subject to tax at the following rates **less any tax previously paid:**

Taxable portion of withdrawal	Rates of tax
R 0 - R 22 500	0%
R 22 501 - R600 000	18% of the amount over R 22 500
R600 001 - R900 000	R103 950 + 27% of the amount over R600 000
R900 001 +	R184 950 + 36% of the amount over R900 000

RING-FENCED ASSESSED LOSSES

As from 1 March 2004, losses from secondary trades will be ring-fenced, and will not be available for set-off against income from any other trade.

It will only apply to an individual whose taxable income, before setting off any assessed loss or balance of assessed loss, is equal to or exceeds the level at which the maximum rate of tax is applicable.

For the restrictions to apply the person must have incurred an assessed loss from the secondary trade in at least three years of assessment during any five year period, or have carried on any of the following 'suspect' trades:

- Any sporting activities
- Any dealing in collectables
- The rental of accommodation, vehicles, aircraft or boats (unless at least 80% of the asset is used by persons who are not relatives of such person for at least half of the year of assessment)
- Animal showing
- Farming or animal breeding (otherwise than on a full-time basis)
- Performing or creative arts
- Gambling or betting.

The taxpayer will be able to circumvent these provisions where he can prove that there is a reasonable prospect of deriving taxable income within a reasonable period and where he complies with other tests, unless losses have been incurred in carrying on a suspect trade in at least six out of ten years.

All provisional taxpayers are required to remit two provisional tax payments a year. A third voluntary payment may be required to avoid interest being charged.

First Year of Assessment

Where a taxpayer has not been assessed previously, a reasonable estimate of the taxable income must be made. The basic amount cannot be estimated at nil as was previous practice, unless fully motivated.

First Payment

One half of the total tax in respect of the estimated taxable income for the year is payable six months before the financial year end. The estimate of taxable income may not be less than the basic amount without the consent of SARS.

Second Payment

A two-tier model applies depending on the taxpayer's taxable income:

- **Actual taxable income equal to or less than R1 million**
  To avoid any additional tax on the underestimation of taxable income this can be based on the basic amount as defined or if a lower estimate is used the estimate must be within 90% of the taxable income finally assessed.
- **Actual taxable income exceeds R1 million**
  To avoid any additional tax on the underestimation the estimate must be within 80% of the taxable income finally assessed.

If the above requirements are not met, a penalty of 20% of the provisional tax underpaid may be imposed.

Third Payment

Third provisional payments are only applicable to individuals and trusts with taxable income in excess of R50 000 and companies and close corporations with taxable income in excess of R20 000. Such payments should be made before 30 September in the case of a taxpayer with a February year end and within six months of other year ends to avoid interest being charged.

Basic Amount

The basic amount is the taxable income of the latest preceding year of assessment increased by 8% p.a. if that assessment is more than a year old.

Permissable Reductions in the Basic Amount

Capital gains and taxable portions of lump sums are not included in the basic amount for the first period or the second period, where the taxable income is not expected to exceed R1 million. If however an estimate lower than the basic amount is used, such amounts must be included in the estimate. These amounts have to be included in the second provisional tax payments where the taxable income is expected to exceed R1 million.

Estimates

SARS has the right to increase any provisional tax estimate, even if based on the basic amount, to an amount considered reasonable.

Persons over 65

Persons over 65 years, excluding directors of companies and members of close corporations, whose taxable income does not exceed R120 000 (2009 : R80 000) are exempt from provisional tax, provided that such income consists exclusively of remuneration, rental, interest or dividends.

Persons under 65

Persons under 65 years who do not carry on business, and whose taxable income does not exceed the tax threshold or whose interest, foreign dividends and rental income does not exceed R20 000 (2008 : R10 000) are exempt from provisional tax.

DIRECTORS PAYE

Directors of private companies and members of close corporations are deemed to have received a monthly remuneration, subject to PAYE, calculated in accordance with the following formula:

$$Y = \frac{T}{N}$$

Where

Y = deemed monthly remuneration

T = the balance of remuneration paid or accrued in the last year of assessment after the deduction of contributions to pension funds, retirement annuity funds, qualifying medical aid contributions and income protection plans by the employee, qualifying donations made by the employer on behalf of the employee, lump sum awards from the employer and withdrawals from retirement funds and share incentive benefits.

N = number of completed months which the director/member was employed by the company/close corporation during the last year of assessment.

Actual remuneration paid is still subject to employees tax. The employees tax payable thereon must be reduced by the amount of employees tax payable on the deemed remuneration.

The formula calculated remuneration does not apply to directors of private companies and members of close corporations where they earn at least 75% of their remuneration in the form of fixed monthly payments.

DEEMED CAPITAL DISPOSAL OF SHARES

As from 1 October 2007, the proceeds on the sale of an equity share or collective investment scheme unit will automatically be of a capital nature if held continuously for at least three years except:

- a share in a shareblock company
- a share in a non-resident company
- a hybrid equity instrument.

Previously the taxpayer could elect that the proceeds on the sale of a listed share held for at least five years be treated as capital.

ENVIRONMENTAL EXPENDITURE

Expenditure incurred by a taxpayer to conserve or maintain land is deductible if it is carried out in terms of a biodiversity management agreement with a duration of at least five years and the land used by the taxpayer in his trade consists of, includes or is in close proximity to the land which is subject to this agreement. Where the conservation or maintenance of land owned by the taxpayer is carried out in terms of a declaration of at least 30 years' duration, the expenditure incurred is deemed to be a donation to the Government which qualifies as a deduction under section 18A.

In certain circumstances where the land is declared a national park or nature reserve an annual donation based on 10% of the lesser of cost or market value of the land is deemed to be made to the Government and qualifies for a section 18A deduction in the year the declaration is made and in each of the subsequent nine years.

Recoupments arise where the taxpayer breaches the agreement or violates the declaration.

ADMINISTRATIVE PENALTIES

Failure to submit certain returns or information will give rise to the following fixed rate penalties:

Assessed loss or taxable income for preceding year	Penalty
Assessed loss	R 250
R 0 – R 250 000	R 250
R 250 001 – R 500 000	R 500
R 500 001 – R 1 000 000	R 1 000
R 1 000 001 – R 5 000 000	R 2 000
R 5 000 001 – R10 000 000	R 4 000
R10 000 001 – R50 000 000	R 8 000
Above R50 000 000	R16 000

The penalty will automatically be imposed monthly until the taxpayer remedies the non-compliance.

- **Late payment of PAYE and provisional tax attracts a penalty of 10% of the amount due.**
- **The late submission of the PAYE reconciliation attracts a penalty of 10% of the PAYE deducted for the tax year.**

TRAVEL ALLOWANCES

Fixed Travel Allowances

As from 1 March 2010, 80% (2007 : 60%) of the fixed travel allowance is subject to PAYE and the full allowance is disclosed on the employee's IRP5 certificate, irrespective of the quantum of business travel.

Reimbursive Travel Expenses

Where an employee receives a reimbursement based on the actual business kilometres travelled, no other compensation is paid to the employee and the costs are calculated in accordance with the prescribed rate of 292 cents (2008 : 246 cents) per kilometre, no employees tax need be deducted, provided the business travel does not exceed 8 000 kilometres per annum. The reimbursement must be disclosed under code 3703 on the IRP5 certificate. No PAYE is withheld and the amount is not subject to taxation on assessment.

If the business kilometres travelled exceed 8 000 kilometres per annum, or if the reimbursive rate per kilometre exceeds the prescribed rate, or if other compensation is paid to the employee the allowance must be disclosed separately under code 3702 on the IRP5 certificate. No PAYE is withheld and the amount is subject to taxation on assessment.

Accurate records of the opening and closing odometer readings must be maintained in all circumstances. Prior to 1 March 2010, in the absence of accurate travel records, the first 18 000 kilometres travelled are deemed private travel and the maximum business kilometres which may be claimed are limited to 14 000.

As from 1 March 2010 the claim must be based on the actual distance travelled as supported by a log book and the deemed kilometres method may no longer be used.

DEEMED EXPENDITURE - 2008

Cost of vehicle	**Fixed R**	**Fuel c**	**Repairs c**
Does not exceed R40 000	15 364	47,3	22,5
Exceeds R 40 000 but not R 60 000	20 910	49,4	26,2
Exceeds R 60 000 but not R 80 000	25 979	49,4	26,2
Exceeds R 80 000 but not R100 000	31 513	54,8	30,5
Exceeds R100 000 but not R120 000	36 978	54,8	30,5
Exceeds R120 000 but not R140 000	41 771	54,8	30,5
Exceeds R140 000 but not R160 000	47 512	57,2	39,8
Exceeds R160 000 but not R180 000	52 629	57,2	39,8
Exceeds R180 000 but not R200 000	58 334	65,9	43,8
Exceeds R200 000 but not R220 000	64 591	65,9	43,8
Exceeds R220 000 but not R240 000	69 072	65,9	43,8
Exceeds R240 000 but not R260 000	74 777	65,9	43,8
Exceeds R260 000 but not R280 000	79 918	69,3	52,5
Exceeds R280 000 but not R300 000	85 440	69,3	52,5
Exceeds R300 000 but not R320 000	88 793	69,3	52,5
Exceeds R320 000 but not R340 000	95 218	69,3	52,5
Exceeds R340 000	100 011	77,1	68,0

DEEMED EXPENDITURE - 2009/2011

Cost of vehicle	**Fixed R**	**Fuel c**	**Repairs c**
Does not exceed R40 000	14 672	58,6	21,7
Exceeds R 40 000 but not R 80 000	29 106	58,6	21,7
Exceeds R 80 000 but not R120 000	39 928	62,5	24,2
Exceeds R120 000 but not R160 000	50 749	68,6	28,0
Exceeds R160 000 but not R200 000	63 424	68,8	41,1
Exceeds R200 000 but not R240 000	76 041	81,5	46,4
Exceeds R240 000 but not R280 000	86 211	81,5	46,4
Exceeds R280 000 but not R320 000	96 260	85,7	49,4
Exceeds R320 000 but not R360 000	106 367	94,6	56,2
Exceeds R360 000 but not R400 000	116 012	110,3	75,2
Exceeds R400 000	116 012	110,3	75,2

The cash equivalent of taxable benefits granted to employees is taxable.

Use of Company Owned Vehicle

The determined value for the fringe benefit is the cash cost excluding VAT, finance charges and interest. The employee will be taxed on 2,5% (2006 : 1,8%) per month of the determined value of the motor vehicle having the highest value, and 4% per month of the determined value of any second or subsequent vehicle used primarily for private purposes.

If the employee bears the full cost of:

- all fuel used for private use (including travel between place of residence and employment), the monthly value is reduced by 0,22% (2006 : R120);
- maintaining the vehicle (including repairs, servicing, lubrication and tyres), the monthly value is reduced by 0,18% (2006 : R85).

If the employee has the use of a company car and receives a travel allowance for another vehicle, the company car is taxed at 4% of the determined value and not 2,5%. If the costs for the other vehicle are reimbursed based on actual distance travelled on business and the rate does not exceed 292 cents (2008 : 246 cents) per kilometre the 2,5% (2006 : 1,8%) will still apply.

The private use by an employee of a motor vehicle shall have no value if:

- the vehicle is available to and used by all employees and the private use is infrequent and incidental to its business use, or
- where the nature of the employee's duties requires regular use of the vehicle for performance of duties outside normal hours of work and it is not used for private purposes other than travel to and from work.

Where it can be shown that the distance travelled for private purposes (including travelling between the employee's place of residence and his place of employment) is less than 10 000 km, the fringe benefit may be reduced upon assessment by the ratio of this distance to 10 000 km.

The provision of a company car results in a deemed consideration and thus liable for output VAT for the vendor employer.

The deemed consideration, inclusive of VAT, is as follows:

Motor vehicle/Double cab	0,3 % of cost of vehicle (excl. VAT) per month
Bakkies	0,6 % of cost of vehicle (excl. VAT) per month

Medical Aid Contributions

As from 1 March 2010, the full contribution by an employer is a fringe benefit.

The amount by which an employer's contribution to a medical aid fund exceeds R670 (2010 : R625) for each of the first two beneficiaries as defined by the medical aid fund and R410 (2010 : R380) for each additional beneficiary is subject to PAYE. If the employer makes a lump sum payment for all employees, the effective benefit is determined in accordance with a formula, which will have the effect of apportionment amongst all employees concerned.

Holiday Accommodation

The employee is taxed on the prevailing market rate if the property is owned by the employer or rented from an associated entity; or the actual rental if the employer rented the accommodation.

Long Service and Bravery Awards

The first R5 000 of the value of any asset awarded, excluding cash, is not subject to tax.

Use of Business Cellphones and Computers

As from 1 March 2008 no taxable value will be placed on the private use by employees of employer owned cellphones and computers which are used mainly for business purposes.

Low Interest/Interest-Free Loans

- The amount taxed is the difference between interest payable on the loan by the employee and the official interest rate
- Short-term loans, not granted regularly, which are not in excess of R3 000, are not taxable benefits
- A loan to the employee to enable him to further his own studies is not a taxable benefit.

Subsistence Allowances

If an employee is obliged to spend at least one night away from his usual residence in South Africa on business, the employer may pay an allowance for personal subsistence and incidental costs without such amounts being included in the employee's taxable income, subject to the employee travelling for business within the following month.

If such allowance is paid to an employee and that employee does not travel for business purposes by the end of the following month, the allowance becomes subject to PAYE in that month.

If the allowances do not exceed the amounts or periods detailed below, the total allowance must be reflected under code 3705 on the IRP5 certificate.

Where the allowances exceed the amounts or periods detailed below, the total allowance must be reflected under code 3704 on the IRP5 certificate.

The following amounts are deemed to have been expended by an employee in respect of a subsistence allowance:

Local travel

- R85 (2010 : R80) per day or part of a day for incidental costs; or
- R276 (2010 : R260) per day or part of a day for meals and incidental costs.

Where an allowance is paid to an employee to cover the cost of accommodation, meals or other incidental costs, the employee has to prove how much he spent while away on business. This claim is limited to the allowance received.

Overseas travel

Actual accommodation costs plus an allowance per country as set out on www.sars.gov.za (2009 : $215) per day for meals and incidental costs incurred outside South Africa. The deemed expenditure will not apply where the absence is for a continuous period in excess of six weeks.

Residential Accommodation Supplied by Employer

As from 1 March 1999, where accommodation is provided to an employee and is not owned by the employer or associated entity, the value of the fringe benefit to be taxed shall be the greater of the formula value or the rental and other expenses paid by the employer.

The formula will nevertheless apply if it is:

- customary for the industry to provide free or subsidised accommodation to employees;
- necessary for the particular employer to provide free accommodation for proper performance of the employee's duties or as a result of frequent movement of employees or lack of existing accommodation; and
- provided for bona fide business purposes, other than obtaining a tax benefit.

As from 1 March 2008, no rental value will be placed on the:

- supply of accommodation to an employee away from his usual place of residence in South Africa for the performing of duties
- supply of accommodation in South Africa to an employee away from his usual place of residence outside South Africa for a two year period. This concession does not apply if the employee was present in South Africa for more than 90 days in the tax year prior to the date of arrival for the purpose of his duties. There is a monthly monetary cap of R25 000.

RELOCATION OF AN EMPLOYEE

The following items of expenditure borne by the employer for relocation, appointment or termination are exempt from tax:

- transportation of the employee, members of his household and personal possessions
- hiring temporary residential accommodation for the employee and members of his household for up to 183 days after transfer
- such costs as SARS may allow, e.g. new school uniforms, replacement of curtains, bond registration and legal fees, transfer duty, motor vehicle registration fees, cancellation of bond and agent's fee on sale of previous residence

Expenses which do not qualify are loss on sale of the previous residence and architect's fees for design of or alterations to a new residence.

PUBLIC BENEFIT ORGANISATIONS

An organisation will qualify as a Public Benefit Organisation (PBO) if it carries out one or more public benefit activities in a non-profit manner substantially in South Africa. A public benefit activity includes the activities as set out in the Ninth Schedule to the Act, as well as activities approved by the Minister of Finance in the Gazette.

DEDUCTIONS DONATIONS

Donations to certain designated PBO's will qualify for a tax deduction
Individuals - limited to 10% (2007 : 5%) of taxable income before the deduction of donations and medical expenses
Companies - limited to 10% (2007 : 5%) of taxable income before the deduction of donations.

RESIDENTIAL BUILDING ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Residential buildings	Building projects erected on or after 1 April 1982 and before 21 October 2008 consisting of at least five units of more than one room intended for letting, or occupation by bona fide full-time employees	2% of cost and an initial allowance of 10% of cost
	New and unused buildings acquired, erected or improved on or after 21 October 2008 if situated anywhere in South Africa and owned by the tax-payer for use in his trade either for letting or as employee accommodation. Enhanced allowances are available where the low cost residential unit is situated in an urban development zone	5% of cost or 10% of cost for low cost residential units not exceeding R200 000 for a stand alone unit or R250 000 in the case of an apartment
Employee housing	50% of the costs incurred or funds advanced or donated to finance the erection of housing for employees on or before 21 October 2008 subject to a maximum per dwelling	R6 000 prior to 1 March 2008 R15 000 between 1 March 2008 and 20 October 2008
Employee housing loans	Allowance on amounts owing on interest free loan account in respect of low cost residential units sold at cost by the taxpayer to employees and subject to repurchase at cost only in case of repayment default or termination of employment	10% of amount owing at the end of each year of assessment

CAPITAL INCENTIVE ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Industrial buildings or improvements	Construction of buildings or improvements on or after 1 January 1989, provided building is used wholly or mainly for carrying on process of manufacture or similar process Construction of buildings or improvements on or after 1 July 1996 to 30 September 1999 and the buildings or the improvements are brought into use before 31 March 2000 and used in a process of manufacture or similar process	5% of cost (previously 2%) (note 3) 10% of cost (note 3)
New commercial buildings (other than residential accommodation) (note 1)	Any cost incurred in erecting any new and unused building, or improving an existiing building on or after 1 April 2007 wholly or mainly used for the purposes of producing income in the course of trade	5% of cost
Building in an urban development zone (note 1)	Costs incurred in erecting or extending a building in respect of demolishing, excavating the land, or to provide water, power or parking, drainage or security, waste disposal or access to the building Improvements to existing buildings	20% in first year 8% in each of the 10 subsequent years 20% of cost
Hotel buildings	Construction of buildings or improvements, provided used in trade as hotelkeeper or used by lessee in trade as hotelkeeper Refurbishments (note 2) which commenced on or after 17 March 1993	5% of cost 20% of cost
Hotel equipment	Machinery, implements, utensils or articles brought into use on or after 16 December 1989	20% of cost
Aircraft	Acquired on or after 1 April 1995	20% of cost (note 3)
Farming equipment	Machinery, implements, utensils or articles (other than livestock) brought into use on or after 1 July 1988. Biodiesel plant and machinery brought into use after 1 April 2003	50% in first year 30% in second year 20% in third year
Ships	South African registered ships used for prospecting, mining or as a foreign-going ship, acquired on or after 1 April 1995	20% of cost (note 3)
Plant and machinery	New or unused manufacturing assets acquired on or after 1 March 2002 will be subject to wear and tear allowances over four years	40% in 1st year 20% in each of the 3 subsequent years (note 4)
Plant and machinery (small business corporations only)	New and unused plant or machinery brought into use on or after 1 April 2001 and used by the taxpayer directly in a process of manufacture	100% of cost
Non-manufacturing assets (small business corporations only)	Acquired on or after 1 April 2005	50% in first year 30% in second year 20% in third year
Licences	Expenditure, other than for infrastructure, to acquire a licence from a goverment body to carry on telecommunication services, exploration, production or distribution of petroleum or the provision of gambling facilities	Evenly over the period of the licence, subject to a maximum of 30 years

Notes:

1 Allowances available to owners as users of the building or as lessors/financiers
2 Refurbishment is defined as any work undertaken within the existing building framework
3 Recoupments of allowances can be deducted from the cost of the replacement asset
4 Where plant and machinery is used in a process of manufacture or a similar process, the taxpayer is obliged to make use of the allowances and not the wear and tear rates

WEAR AND TEAR ALLOWANCES

The following rates of wear and tear are allowed by SARS in terms of Interpretation Note 47:

Type of asset	No. of years for write-off
Adding machines	6
Air-conditioners	
window	6
mobile	5
room unit	10
Air-conditioning assets	
absorption type chillers	25
air handling units	20
centrifugal chillers	20
cooling towers	15
condensing sets	15
Aircraft (light passenger or commercial helicopters)	4
Arc welding equipment	6
Artefacts	25
Balers	6
Battery chargers	5
Bicycles	4
Boilers	4
Bulldozers	3
Bumping flaking	4
Carports	5
Cash registers	5
Cell phone antennae	6
Cell phone masts	10
Cellular telephones	2
Cheque-writing machines	6
Cinema equipment	5
Cold drink dispensers	6
Communication systems	5
Compressors	4
Computers	
mainframe	5
personal	3
Computer software (mainframes)	
purchased	3
self-developed	1
Computer software (personal computers)	2
Concrete mixers portable	4
Concrete transit mixers	3
Containers	10
Crop sprayers	6
Curtains	5
Debarking equipment	4
Delivery vehicles	4
Demountable partitions	6
Dental and doctors' equipment	5
Dictaphones	3
Drilling equipment (water)	5

Type of asset	No. of years for write-off
Drills	6
Electric saws	6
Electrostatic copiers	6
Engraving equipment	5
Escalators	20
Excavators	4
Fax machines	3
Fertiliser spreaders	6
Fire arms	6
Fire extinguishers (loose units)	5
Fire detections systems	3
Fishing vessels	12
Fitted carpets	6
Food bins	4
Food-conveying systems	4
Fork-lift trucks	4
Front-end loaders	4
Furniture and fittings	6
Gantry cranes	6
Garden irrigation equipment (movable)	5
Gas cutting equipment	6
Gas heaters and cookers	6
Gear boxes	4
Gear shapers	6
Generators (portable)	5
Generators (standby)	15
Graders	4
Grinding machines	6
Guillotines	6
Gymnasium equipment	
Cardiovascular	2
Health testing	5
Weights and strength	4
Spinning	1
Other	10
Hairdressers' equipment	5
Harvesters	6
Heat dryers	6
Heating equipment	6
Hot water systems	5
Incubators	6
Ironing and pressing equipment	6
Kitchen equipment	6
Knitting machines	6
Laboratory research equipment	5
Lathes	6
Laundromat equipment	5
Law reports	5

Type of asset	No. of years for write-off
Lift installations	12
Medical theatre equipment	6
Milling machines	6
Mobile caravans	5
Mobile cranes	4
Mobile refrigeration units	4
Motors	4
Motorcycles	4
Motorised chain saws	4
Motorised concrete mixers	3
Motor mowers	5
Musical instruments	5
Navigation systems	10
Neon signs and advertising boards	10
Office equipment - electronic	3
Office equipment - mechanical	5
Oxygen concentrators	3
Ovens and heating devices	6
Ovens for heating food	6
Packaging equipment	4
Paintings (valuable)	25
Pallets	4
Passenger cars	5
Patterns, tooling and dies	3
Pellet mills	4
Perforating equipment	6
Photocopying equipment	5
Photographic equipment	6
Planers	6
Pleasure craft, etc	12
Ploughs	6
Portable safes	25
Power tools (hand-operated)	5
Power supply	5
Public address systems	5
Pumps	4
Racehorses	4
Radar systems	5
Radio communication	5
Refrigerated milk tankers	4
Refrigeration equipment	6
Refrigerators	6

Type of asset	No. of years for write-off
Runway lights	5
Sanders	6
Scales	5
Security systems removable	5
Seed separators	6
Sewing machines	6
Shakers	4
Shop fittings	6
Solar energy units	5
Special patterns and tooling	2
Spin dryers	6
Spot welding equipment	6
Staff training equipment	5
Surge bins	4
Surveyors:	
Field equipment	10
Instruments	5
Tape-recorders	5
Telephone equipment	5
Television and advertising films	4
Television sets, video machines and decoders	6
Textbooks	3
Tractors	4
Trailers	5
Traxcavators	4
Trollies	3
Trucks (heavy-duty)	3
Trucks (other)	4
Truck-mounted cranes	4
Typewriters	6
Vending machines (including video game machines)	6
Video cassettes	2
Warehouse racking	10
Washing machines	5
Water distillation and purification plant	12
Water tankers	4
Water tanks	6
Weighbridges (movable parts)	10
Wire line rods	1
Workshop equipment	5
X-ray equipment	5

Notes

1 Wear and tear may be claimed on either a diminishing value method or on a straight-line basis, in which case certain requirements apply

2 Removal costs incurred in moving business assets from one location to another are not deductible as these are regarded as being capital in nature. Wear and tear may be claimed over the remaining useful llife of the assets

3 When an asset is acquired for no consideration, a wear and tear deduction may be claimed on its market value at date of acquisition

4 Where an asset is acquired from a connected person, wear and tear may only be claimed on the original cost to the seller less allowances claimed by the connected person plus recoupments and CGT included in the seller's income

5 The acquisition of "small" items at a cost of less than R7 000 (2009 : R5 000) per item may be written off in full during the year of acquisition

STRATEGIC ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Strategic projects (note)	An additional industrial investment allowance is allowed on new and unused assets used for preferred qualifying strategic projects which were approved between 31 July 2001 and 31 July 2005 Any other qualifying strategic projects	100% of cost 50% of cost
Pipelines	New and unused structures contracted for and construction commenced on or after 23 February 2000	10% of cost
Electricity and telephone transmission lines and railway tracks	New and unused structures contracted for and construction commenced on or after 23 February 2000	5% of cost
Airport hangars and runways	Construction commenced on or after 1 April 2001	5% of cost
Rolling stock	Brought into use on or after 1 January 2008	20% of cost
Port assets	Brought into use for the first time by the taxpayer on or after 1 January 2008	5% of cost
Environmental assets	As from 8 January 2008 for new and unused assets Environmental treatment and recycling assets Environmental waste disposal assets of a permanent nature	40% in 1st year 20% in each of the 3 subsequent years 5% of cost
Energy efficiency savings	All forms of energy efficiency savings as reflected on an energy savings certificate in any year of assessment ending before 1 January 2020	Determined in accordance with a formula

Note:
- The allowance is limited to the income derived from the industrial project and the excess is deductible in the immediately succeeding year of assessment, subject to certain other limits

CAPITAL GAINS TAX

Capital Gains Tax (CGT), applicable since 1 October 2001, applies to a resident's worldwide assets and to a non-resident's immovable property or assets of a permanent establishment in the Republic.

Disposals

CGT is triggered on disposal of an asset.

- ***Important disposals include:***
  - abandonment, scrapping, loss, etc
  - vesting of an interest in an asset of a trust in the beneficiary
  - distribution of an asset by a company to a shareholder
  - granting, renewal, extension or excercise of an option
- ***Deemed disposals include:***
  - termination of South African residency
  - a change in the use of assets
  - the transfer of an asset by a permanent establishment
  - the reduction or waiver of a debt by a creditor without full consideration, subject to certain exclusions
- ***Disposals exclude:***
  - the transfer of an asset as security for a debt or the release of such security
  - issue of, or grant of an option to acquire, a share, debenture or unit trust
  - loans and the transfer or release of asset securing debt

Calculation of a Capital Gain/Loss

- A capital gain or loss is the difference between the proceeds and the base cost

Base Cost

- ***Expenditure included in the base cost:***
  - cost of acquisition, transfer, stamp duty and similar costs
  - remuneration of advisors, consultants and agents
  - costs of moving an asset and improvement costs
- ***Expenditure excluded from the base cost:***
  - expenses deductible for income tax purposes
  - interest paid, raising fees (except in the case of listed shares and business assets)
  - expenses initially recorded and subsequently recovered
- ***Methods for determining base cost:***
  - Time apportionment base cost

    Example:

    If an asset cost R250 000 on 1 October 1998 and was sold on 30 September 2002 for R450 000, as CGT was implemented on 1 October 2001, the base cost is:

Original cost expenditure	R250 000	
Add:	R150 000*	
*Proceeds from disposal	R450 000	x $^3/_4$
Less: Base cost expenditure	(R250 000)	
Time apportionment base cost	R400 000	

    Note 1: When determining the number of years to be included in the time apportionment calculation, a part of the year is treated as a full year.

    Note 2: Where expenditure in respect of a pre-valuation date asset was incurred on or after 1 October 2001 and an allowance has been allowed in respect of that asset, a second time apportionment formula is applied.
  - Valuation as at 1 October 2001
  - 20% of the proceeds

Proceeds

- The total amount received or accrued from the disposal
- ***Excluded:***
  - amounts included in gross income for income tax purposes
  - amounts repaid or repayable or a reduction in the sale price
- ***Specific transactions:***
  - connected persons - deemed to be at market value
  - deceased persons - market value as at date of death
  - deceased estates - the disposal is deemed to be at the base cost i.e. market value at date of death

Inclusion Rates And Effective Rates

	Inclusion rate	Max effective rate
Individuals and special trusts	25%	10%
Companies	50%	14%
Trusts	50%	20%

Unit Trusts (CIS): the unitholder is taxable

Retirement Funds: not taxable

Exclusions and Rebates

- *Annual exclusion*
  Natural persons and special trusts R17 500 (2009 : R16 000).
  Natural persons in the year of death R120 000 (2007 : R60 000)

- *Exclusions*
  - A primary residence, owned by a natural person or a special trust, used for domestic residential purposes, where the proceeds do not exceed R2 milllion. Where the proceeds exceed R2 million, the exclusion is R1,5 million (2006 : R1 million) of the calculated capital gain.
  - Personal use assets, not used for the carrying on of a trade
  - Lump sums from insurance and retirement benefits. This exclusion does not apply to second-hand policies
  - Small business assets, limited to R750 000 (2007 : R500 000)

    Requirements:
    - gross asset value - less than R5 million
    - should be sole proprietor for at least five years, 55 years old, suffer from ill-health, be infirm or deceased
  - Compensation, prizes and donations to certain PBO's
  - Assets used by registered micro businesses for business purposes

Rollover Relief

Gain is disregarded until the disposal of the replacement asset or is recognised over a five year period commencing when the replacement asset is brought into use

- Certain involuntary disposals and the replacement of qualifying business assets
- Transfer of assets between spouses
- Shareblock conversions to sectional title
- Transfer of primary residence from a qualifying corporate entity or trust between 11 February 2009 and 31 December 2011

Corporate Transactions

Income tax and CGT relief exists for certain transactions. These are:

- Asset for share transactions
- Amalgamation transactions
- Intra-group transactions
- Unbundling transactions
- Liquidation, winding up or deregistration transactions within a group.

Valuations

Valuations should have been obtained on or before 30 September 2004. For certain categories of assets these valuations should have been lodged with the first tax return submitted after 30 September 2004, or such other time as the Commissioner may allow, provided the valuation was in fact done prior to the requisite date

- Where the market value of any intangible asset exceeds R1 million
- Where the market value of any unlisted investment exceeds R10 million
- Where the market value of any other asset exceeds R10 million

Non-resident Sellers of Immovable Property

As from 1 September 2007, where a non-resident disposes of immovable property in South Africa, for R2 million or more, the purchaser will be obliged to withhold the following taxes from the proceeds:

Seller's status	***Withholding tax***
Natural person	5,0%
Company	7,5%
Trust	10,0%

LIMITATION OF DEDUCTIONS

Expenditure paid should be apportioned, to the extent that only expenditure actually incurred in a year of assessment is deductible. The remainder of the pre-paid expenditure will be deductible in subsequent years of assessment.

This does not apply:

- where the goods, services or benefits, in respect of which the expenditure was incurred, are supplied or rendered within six months after the end of the year of assessment
- where the total pre-paid expenditure does not exceed R80 000 (2008 : R50 000)
- to expenditure, the timing and accrual of which is specifically determined
- to pre-paid expenditure payable in terms of a legislative obligation.

RESEARCH AND DEVELOPMENT

Where an amount was incurred in respect of qualifying scientific and technological research and development costs on or after 2 November 2006, the following deductions will be allowed:

- 150% of operating research and development costs in respect of activities undertaken in South Africa for the purposes of the discovery of novel, practical and non-obvious information; or devising, developing or creating any invention, design or computer program as defined in their applicable acts, or knowledge essential to the use of such research property.
- Research and development capital costs (including the cost of any building or part thereof, machinery, plant, implements, utensil or article or improvements thereto of a capital nature) on a 50:30:20 basis.

PATENT / INTELLECTUAL PROPERTY

A taxpayer may claim an allowance for the cost of acquiring any invention, patent, design, copyright, other property which is of a similar nature or knowledge connected with the use of such patent, design, copyright or other property or the right to have such knowledge imparted.

Where the cost exceeds R5 000, the allowance is limited to:

- 5% of the cost in respect of any invention, patent, copyright or other property of a similar nature; or
- 10% of the cost of any design or other property of a similar nature.

Where the intangible was acquired from a connected person the allowance is limited to the cost to the connected person less allowances claimed by the connected person plus recoupments and CGT included in the seller's income.

No allowance is allowed in respect of any expenditure incurred by the taxpayer on or after 29 October 1999, in respect of the acquisition of any trademark or property of a similar nature.

REINVESTMENT RELIEF

Taxpayers can defer taxable recoupments and capital gains on the sale of business assets (excluding buildings) if they fully reinvest the sale proceeds in other qualifying assets within a period of three years. Tax on the recoupment and capital gain upon the disposal of the old asset is spread over the same period as wear and tear may be claimed for the replacement asset.

RESIDENCE BASED TAXATION

As from 1 January 2001 residents of South Africa are taxable on their worldwide income.

Resident means

- A natural person who is ordinarily resident in South Africa; or
- As from 1 March 2005 a natural person who is physically present in South Africa for at least 91 days in the current and each of the preceding five tax years and at least 915 days during the five preceding tax years; or
- A company or trust that is incorporated, established, formed or which has its place of effective management in South Africa.

Resident excludes

- A natural person, who was previously regarded as a deemed resident, if physically absent from South Africa for a continuous period of at least 330 days from the date of departure
- A person who is deemed to be exclusively a resident of another country for the purposes of the application of any double taxation agreement.

Exemptions

- Remuneration for services rendered outside South Africa during the tax year if such person was outside South Africa for periods in aggregate of at least 183 days, of which 60 days were continuous
- Non-South African pension and social security payments.

Foreign Dividends

Foreign dividends received from a non-resident company, including deemed dividends, are taxable, except if:

- The shareholder holds at least 20% of the equity and voting rights of the distributing company
- The distributing company is a company listed on a recognised exchange
- The distributing company is a controlled foreign company (CFC) and the dividends do not exceed amounts deemed to be the resident shareholder's income under the CFC rules
- Declared from profits already taxed in South Africa.

Interest is deductible where it is incurred in the production of foreign dividends to the extent that they are included in gross income. Excess interest paid may be carried forward to the next tax year.

A resident is entitled to a credit for any withholding tax paid in respect of a foreign dividend that is included in gross income.

Controlled Foreign Companies

A CFC is a non-resident company, in which residents own or control more than 50% of the participation or voting rights. Where a resident alone or with connected persons, holds at least 10%, but not more than 20% of the participation rights, they may elect that the foreign company is deemed a CFC

- A resident must include in his income:

$$\text{Net income of CFC} \times \frac{\text{Resident's participation rights in CFC}}{\text{Total participation rights in the CFC}}$$

- The net income of a CFC should be calculated according to South African tax principles. If the calculation results in a loss, the deductions are limited to income and the excess is carried forward.

Exemptions

- The net income (including capital gains) of the CFC that is derived from an active bona fide foreign business establishment situated outside South Africa
- Income otherwise taxed in South Africa at normal rates
- Foreign dividends received by the CFC from another CFC to the extent that the income from which the dividend is declared has already been included in the resident's taxable income
- Net income attributable to interest, royalties or similar income payable to the CFC by other foreign companies forming part of the same group of companies.

Tax Rebates

- Where a resident has to include in his taxable income any foreign sourced income or capital gain, proportionate amount of the net income of a CFC, foreign dividends, or other amounts attributed in terms of the Income Tax Act, a rebate in respect of any foreign taxes paid or payable in respect of such amount to a foreign government is allowed
- The rebate is limited to the foreign tax payable and may not exceed:

$$\text{Total SA normal tax} \times \frac{\text{Foreign income}}{\text{Total taxable income}}$$

- If the normal tax payable on the foreign income exceeds the rebate, the excess may be carried forward for a maximum of seven years

General

- A loss incurred in carrying on a business outside South Africa may not be set off against income in South Africa
- The amount of foreign tax payable must be translated to South African currency at the last day of the tax year by applying the average exchange rate for that tax year
- Foreign income is converted to Rands by applying the spot exchange rate at the date the income accrues. Natural persons and non-trading trusts may elect to apply the average exchange rate for that tax year
- Where foreign income may not be remitted because of restrictions imposed by the source country, such income is included in the resident's gross income in the tax year during which that amount may be remitted to South Africa
- Tax withheld in a foreign country in respect of South African sourced income is recognised as a deduction against such income rather than as a rebate against South African tax payable on that income.

PRE–TRADING EXPENDITURE

The deduction of expenditure and losses incurred in connection with, but prior to the commencement of trade is allowed, provided the expenditure and losses including section 24J interest could have been deductible had the trade commenced. However, such expenditure and losses are ring-fenced, in that they can only be set off against income from that trade. The balance is carried forward and can be claimed in the next year of assessment.

PRE–PRODUCTION INTEREST

Interest and related finance charges incurred on any borrowing for the acquisition, installation, erection or construction of any machinery, plant, building or improvements to a building or other assets, including land, are deductible when the asset is brought into use in the production of income.

BURSARIES AND SCHOLARSHIPS

Bona fide scholarships or bursaries granted to enable any person to study at a recognised educational institution are exempt from fringe benefit tax. Where the benefit is granted to an employee, the exemption will not apply unless the employee agrees to reimburse the employer in the event that the studies are not completed. Where the beneficiary is a relative of the employee, the exemption will only apply if the annual remuneration of the employee is less than R100 000 (2007 : R60 000) and to the extent that the bursary does not exceed R10 000 (2007 : R3 000).

BROAD BASED EMPLOYEE EQUITY

Employer companies may issue qualifying shares up to a limit of R50 000 (2008 : R9 000) per employee in the current tax year and in the immediately preceding four (2008 : two) tax years. A tax deduction limited to a maximum of R10 000 (2008 : R3 000) per annum per employee will be allowed in the employer's hands. Provided the employee holds onto the shares for at least five years there will be no tax consequences for the employee, other than CGT.

RESTRAINT OF TRADE

Gross Income

Any amount received by or accrued to any natural person, labour broker or personal service provider for a restraint of trade imposed on such person, should be included in the recipient's gross income in the year of receipt or accrual.

Deduction

Where an amount was incurred in respect of a restraint of trade imposed on any person, the deduction, in a year of assessment, is limited to the lesser of:

- the amount apportioned over the period for which the restraint applies; or
- one-third of the amount incurred per annum

No deduction is allowed where the amount did not constitute income in the hands of the recipient.

Farming income is subject to the provisions of the First Schedule to the Income Tax Act. Farmers who are natural persons are also allowed to average their farming income in determining their tax liability.

Summary Of The First Schedule's Main Paragraphs

2 – 5 & 9	Valuation of livestock and produce	14 – 16	Plantation farming
6 – 7	Election of standard values	17	Sugar cane destroyed by fire
8	Ring-fencing of livestock acquisitions		
11	Donations and in specie dividends	19	Rating formula for farmers (who are natural persons)
12	Capital development expenditure		
13	Forced sales and drought relief provisions	20	Expropriation of farming land

Rating Formula Applicable To Farmers

Because a farmer's income fluctuates from year to year, he may elect to be taxed in accordance with a rating formula. The formula is based on the average taxable farming income in the current and preceding four years. Should he elect to make use of this formula, it is binding upon him in future years and he is not permitted to make use of the provisions relating to government livestock reduction schemes, rating formula for plantation farmers and provisions relating to sugar cane farmers.

For a farmer commencing farming operations the average taxable income from farming in the first year of assessment ending on or after 1 January 2008 will be two thirds of the taxable income for that period.

Capital Development Expenditure (Paragraph 12)

The following items of capital expenditure, incurred during a year of assessment, are deductible against farming income:

- expenditure which is not restricted to taxable income from farming:
  - eradication of noxious weeds and invasive alien vegetation and prevention of soil erosion
- expenditure which is restricted to taxable income from farming:
  - dipping tanks, building of roads and bridges for farming operations
  - dams, irrigation schemes, boreholes, pumping plants and fences
  - additions, erection of, extensions and improvements to farm buildings not used for domestic purposes
  - costs of establishing the area for and the planting of trees, shrubs and perennial plants
  - carrying of electric power from main power lines to farm machinery and equipment.

The excess expenditure over taxable income from farming is carried forward to the next year of assessment.

Machinery, implements, utensils and articles for farming purposes are written off over three years on a 50:30:20 basis. This does not apply to motor vehicles used to convey passengers, caravans, aircraft (excluding crop-spraying aircraft) or office furniture and equipment. Normal wear and tear may be claimed on these items.

Non-farming Income

Income from non-farming sources should be shown separately.

The most common examples of non-farming income are:

- interest received
- income derived by a farmer from carrying on a trade other than farming
- annuities
- rental income from farmland.

DOUBLE TAXATION AGREEMENTS

AND WITHHOLDING TAXES

Double Taxation Agreements provide for relief in respect of royalties and know-how withholding taxes.

	Royalties %		Royalties %
Non-Treaty Countries	**12**		
Treaty Countries			
Algeria	10	Mauritius	0
Australia	5	Mozambique	5
Austria	0	Namibia	10
Belarus	5/10	Netherlands	0
Belgium	0	New Zealand	10
Botswana	10	Nigeria	7.5
Brazil	10/15	Norway	0
Bulgaria	5	Oman	8
Canada	10	Pakistan	10
Croatia	5	Peoples Republic of China	7/10
Cyprus	0	Poland	10
Czech Republic	10	Portugal	10
Denmark	0	Romania	12
Egypt	12	Russian Federation	0
Ethiopia	20	Rwanda	10
Finland	0	Saudi Arabia	10
France	12	Seychelles	0
Germany	12	Sierra Leone*	12
Ghana	10	Singapore	5
Greece	5/7	Slovak Republic	10
Grenada*	12	Spain	5
Hungary	0	Swaziland	10
India	10	Sweden	12
Indonesia	10	Switzerland	0
Iran	10	Taiwan	10
Ireland	0	Tanzania	10
Israel	12	Thailand	12
Italy	6	Tunisia	10
Japan	10	Turkey	10
Korea	10	Uganda	10
Kuwait	10	Ukraine	10
Lesotho	10	United Kingdom	0
Luxembourg	0	USA	0
Malawi	12	Zambia	12
Malaysia	5	Zimbabwe	12
Malta	10		

* Part of the DTA with the United Kingdom

Notes

1 If the royalty is subject to tax in the recipient's country of residence there is no withholding tax.

2 The above rates are provided as a guide only. A number of the above DTA's provide for alternative rates, including zero, to be applied in specific circumstances. To view the complete Double Tax Agreements refer to www.sars.gov.za.

3 Currently South Africa has no withholding tax on dividends or interest. A new dividend withholding tax is to replace STC. The effective date of this change has not yet been announced.

MARRIED IN COMMUNITY OF PROPERTY

Taxpayers who are married in community of property are taxed on half of their own interest, dividend, rental income and capital gain and half of their spouses' interest, dividend, rental income and capital gain, no matter in whose name the asset is registered (except for assets excluded from the joint estate). All other taxable income is taxed only in the hands of the spouse who receives that income.

VENTURE CAPITAL INVESTMENTS

As from 1 July 2009 a taxpayer will be entitled to a deduction of 100% of the cost of shares issued by a venture capital company subject to the following limitations:

- a natural person may deduct R750 000 in a year of assessment and a total of R2 250 000
- a listed company and any company held 70% directly or indirectly by that listed company can deduct a maximum of the cost of up to 40% of the total equity interest in the venture capital company
- the venture capital company must be approved by SARS as a qualifying company and fulfil a number of pre-conditions.

LEARNERSHIP ALLOWANCE

Employers are allowed to claim learnership allowances in respect of registered learnerships over and above the normal remuneration deduction. For years of assessment ending on or after 1 January 2010:

- Where an employer is party to a learnership, the learnership allowance consists of two basic thresholds, namely a recurring annual commencement allowance of R30 000 and a completion allowance of R30 000 for each year of the learnership, claimable cumulatively at the end of the learnership.
- For learners with disabilities the relevant allowances are increased to R50 000
- Learnerships of less than 12 full months will be eligible for a pro-rata amount of the commencement allowance (regardless of the reason that the learnership falls short of the 12 month period). If a learnership falls over two years of assessment, the commencement allowance is allocated pro-rata between both years based on the calendar months applicable to each year by multiplying the commencement amount by the total calendar months of the learnership over 12.

For years of assessment ending before 1 January 2010 the learnership allowance regime was as follows:

- Commencement allowance:
  - The lesser of 70% of the prescribed remuneration of the learner or R20 000 (for existing employees)
  - The lesser of the prescribed remuneration of the learner or R30 000 (for new employees)
- Completion allowance: The lesser of the prescribed remuneration of the learner or R30 000
- For disabled persons employed as learners the initial allowance is equal to 150% of the annual salary of an existing learner (up to a maximum of R40 000) and 175% for a newly employed learner (up to a maximum of R50 000). The completion allowance for a disabled learner is 175% of annual salary (up to a maximum of R50 000)
- Special provisions applied to multiple year apprenticeship contracts

BOND / INSTALMENT SALE REPAYMENTS

The following table reflects repayments on every R1 000 borrowed.

Example: A bond of R80 000 at 10,5% over 20 years
R80 000 ÷ R1 000 x 09,98 = R798.40 a month over a 20 year period.

	Mortgage Bonds				Short Term Financing		
Rate	**10 Yrs**	**20 Yrs**	**25 Yrs**	**30 Yrs**	**36 Months**	**48 Months**	**60 Months**
08,0%	12,13	08,36	07,72	07,34	31,34	24,41	20,28
08,5%	12,40	08,68	08,05	07,69	31,57	24,65	20,52
09,0%	12,67	09,00	08,39	08,05	31,80	24,89	20,76
09,5%	12,94	09,32	08,74	08,41	32,03	25,12	21,00
10,0%	13,22	09,65	09,09	08,78	32,27	25,36	21,25
10,5%	13,49	09,98	09,44	09,15	32,50	25,60	21,49
11,0%	13,78	10,32	09,80	09,52	32,74	25,85	21,74
11,5%	14,06	10,66	10,16	09,90	32,98	26,09	21,99
12,0%	14,35	11,01	10,53	10.29	33,21	26,33	22,24
12,5%	14,64	11,36	10,90	10,67	33,45	26,58	22,50
13,0%	14,93	11,72	11,28	11,06	33,69	26,83	22,75
13,5%	15,23	12,07	11,66	11,45	33,94	27,08	23,01
14,0%	15,53	12,44	12,04	11,85	34,18	27,33	23,27
14,5%	15,83	12,80	12,42	12,25	34,42	27,58	23,53
15,0%	16,13	13,17	12,81	12,64	34,67	27,83	23,79
15,5%	16,44	13,54	13,20	13,05	34,91	28,08	24,05
16,0%	16,75	13,91	13,59	13,45	35,16	28,34	24,32
16,5%	17,60	14,29	13,98	13,85	35,40	28,60	24,58

OFFICIAL INTEREST RATES AND PENALTIES

Type	Reason	Basis of charge
Provisional tax	1st and 2nd payment late	10% penalty plus interest charged daily from due date to date of payment
Provisional tax	3rd payment late	Interest charged daily from effective date to earlier of payment date or assessment date. Effective date is six months after year-end, except in the case of February year-ends, when the effective date is 30 September
Provisional tax	Overpayment	Credited daily from effective date to date of refund
Assessment	Late payment	Interest charged on each completed month from first due date to date of payment
Loan to employee	Deemed fringe benefit	Official rate for fringe benefit less actual rate x loan x actual months divided by 12
VAT	Late payment	10% penalty plus interest at the prescribed rate
VAT	Refund	Calculated monthly, starting 21 business days after receipt of return to date of payment. Period is suspended when vendor denies SARS access to books if requested
Employees tax	Late payment	10% penalty plus interest charged daily from due date to date of payment
Skills Development Levy	Late payment	10% penalty plus interest charged daily from due date to date of payment

PRIME OVERDRAFT RATES

Date of change	Rate %	Date of change	Rate %
07 December 1998	23,00	20 October 2003	12,00
11 January 1999	22,00	15 December 2003	11,50
12 February 1999	21,00	16 August 2004	11,00
15 March 1999	20,00	14 April 2005	10,50
26 April 1999	19,00	08 June 2006	11,00
25 June 1999	18,00	03 August 2006	11,50
14 July 1999	17,50	12 October 2006	12,00
02 August 1999	16,50	07 December 2006	12,50
04 October 1999	15,50	08 June 2007	13,00
25 January 2000	14,50	17 August 2007	13,50
18 June 2001	13,75	12 October 2007	14,00
16 July 2001	13,50	07 December 2007	14,50
25 September 2001	13,00	11 April 2008	15,00
16 January 2002	14,00	13 June 2008	15,50
18 March 2002	15,00	12 December 2008	15,00
15 June 2002	16,00	06 February 2009	14,00
14 September 2002	17,00	25 March 2009	13,00
13 June 2003	15,50	04 May 2009	12,00
18 August 2003	14,50	29 May 2009	11,00
15 September 2003	13,50	14 August 2009	10,50

The above dates are applicable to Standard Bank. Banks do not always adjust their rates on the same day.

INTEREST RATES CHANGES

All payments tendered to SARS, are first set off against penalties, then interest and finally tax.

Prescribed rate - Assessed and Provisional tax

Date of change	Rate %
1 May 2009	13,5
1 July 2009	12,5
1 August 2009	11,5
1 September 2009	10,5

Official rate - Fringe benefits

Date of change	Rate %
1 March 2009	11,5
1 June 2009	9,5
1 July 2009	8,5
1 September 2009	8,0

Prescribed rate - Overpayments of tax

Interest on overpayment of provisional tax is only paid if taxable income exceeds R50 000 (individuals and trusts) R20 000 (companies and close corporations) or the refund exceeds R10 000, regardless of taxable income.

Date of change	Rate %
1 May 2009	9,5
1 July 2009	8,5
1 August 2009	7,5
1 September 2009	6,5

Prescribed rate - Late payment and late refund of VAT

Date of change	Rate %
1 September 2009	10,5

TRANSFER DUTY

On Immovable Property (on or after 1 March 2006)

Transfer duty, if property is purchased by natural persons:

Property value	Rates of tax
R0 - R500 000	0%
R500 001 - R1 000 000	5% on the value above R500 000
R1 000 001 and above	R25 000 plus 8% on the value above R1 000 000

Transfer duty, if property is purchased by companies, close corporations or trusts, is at a flat rate of 8% on full purchase consideration

Notes

- No transfer duty is payable if the transaction is subject to VAT
- Where a registered vendor purchases property from a non-vendor, the VAT notional input tax credit is limited to the quantum of transfer duty payable. A notional input tax credit is only claimable to the extent to which the purchase price has been paid
- Certain exemptions apply to corporate restructuring
- The acquisition of a contingent right in a trust that holds a residential property or the shares in a company or the member's interest in a close corporation, which owns residential property, comprising more than 50% of its CGT assets, is subject to transfer duty at the applicable rate
- Liabilities of the entity are to be disregarded when calculating the fair value of the contingent right in the trust, the shares in the company or the member's interest in the close corporation
- Residential property includes dwellings, holiday homes, apartments and similar abodes, improved and unimproved, zoned for residential purposes. It excludes a structure of five or more units, rented by five or more unconnected persons. It also excludes fixed property forming part of the enterprise of a VAT vendor
- Any person who does or omits to do anything with the intent to evade transfer duty may be charged with additional duty up to twice the amount of duty payable. Such a person is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 60 months.
- No transfer duty is payable in respect of the acquisition by a qualifying natural person of a primary residence from a qualifying corporate entity or trust between 11 February 2009 and 31 December 2011.

NATIONAL CREDIT ACT

The maximum lending rates of interest are calculated as follows:

Mortgage agreements	{(Repo rate x 2.2) + 5%} per year
Credit facilities	{(Repo rate x 2.2) + 10%} per year
Unsecured credit transactions	{(Repo rate x 2.2) + 20%} per year
Short term credit transactions	5% per month
Other credit agreements	{(Repo rate x 2.2) + 10%} per year
Incidental credit agreements	2% per month

The National Credit Act does not apply to large agreements as defined, or to credit agreements where the consumer is a juristic person with a turnover above a defined threshold, the state or an organ of state, or where the lender is the South African Reserve Bank or a foreigner.

STAMP DUTY

No stamp duty is payable on leases of immovable property entered into after 1 April 2009

INDUSTRIAL POLICY PROJECTS

An additional investment allowance in respect of approved projects is available to brownfield project expansion or upgrade or greenfield projects in respect of wholly new and unused manufacturing items. The additional investment allowance, subject to limitations, is 55% of the cost of the assets or 35% if no preferred status. There is also an additional project related training allowance of R36 000 per employee limited to R30 million or R20 million if no preferred status.

SECURITIES TRANSFER TAX

As from 1 July 2008 the stamp duty on the transfer of unlisted shares and the uncertificated securities tax on listed shares was abolished and replaced with the securities transfer tax at a rate of 0,25% of the consideration, closing price or market value (whichever is greater) on the transfer, cancellation or redemption of any listed or unlisted share, members' interest in a close corporation or cession of a right to receive distributions from a company or close corporation.

- On listed securities, this must be paid by the 14th of the month following the month during which the transfer occurred
- On unlisted securities, this must be paid by the end of the second month following the end of the month during which the transfer occurred.
- If not paid in full within the prescribed period interest will be imposed at the prescribed rate and a 10% penalty will be payable
- Duty of 0,5% is payable on the creation or increase in authorised share capital in terms of the Companies Act.

TURNOVER TAX MICRO BUSINESSES

As from 1 March 2009 a simplified turnover-based tax system was implemented for small sole proprietors, partnerships and incorporated businesses with a turnover less than R1 million per year.

This turnover-based presumptive tax system is elective. After joining the system, qualifying businesses are to remain in the system for a minimum of three years (provided they remain within the monetary threshold). Once a business has elected to migrate out of the system, it will not be able to migrate back for a period of three years. Personal services rendered under employment-like conditions and professional services are **excluded** from this tax system.

Turnover	Rates of tax
R 0 - R100 000	Nil
R100 001 - R300 000	1% of the amount over R 100 000
R300 001 - R500 000	R 2 000 + 3% of the amount over R 300 000
R500 001 - R750 000	R 8 000 + 5% of the amount over R 500 000
R750 001 - R1 000 000	R 20 500 + 7% of the amount over R 750 000

DONATIONS TAX

Payable at a rate of 20% on the value of any property disposed of gratuitously by a South African resident (natural person, corporate entity or trust) excluding donations exempt from the tax. The tax is payable within three months of the donation taking effect.

Exempt donations include:

- Donations by natural persons up to R100 000 per annum after 1 March 2007 (2006 : R50 000)
- Donations by corporate entities not considered to be public companies up to R10 000 per annum
- Donations between spouses not separated
- Bona fide maintenance payments
- Donations to Public Benefit Organisations and qualifying traditional councils and communities
- Donations where the donee will not benefit until the death of the donor
- Donations made by companies which are recognised as public companies for tax purposes
- Donations cancelled within six months of the effective date
- Property disposed of under and in pursuance of any trust
- Donation of property or a right in property situated outside South Africa if acquired by the donor
  - before becoming resident in South Africa for the first time, or
  - by inheritance or donation from a non-resident
- Donations between companies forming part of the same group of companies

ESTATE DUTY

Rates of Estate Duty

- Persons deceased prior to 1 October 2001 - 25%
- Persons deceased on or after 1 October 2001 - 20%

Exemptions from Estate Duty include:

- Persons deceased prior to 1 March 2006, the first R1 500 000
- Persons deceased on or after 1 March 2006, the first R2 500 000
- Persons deceased on or after 1 March 2007, the first R3 500 000
- Any bequest to a surviving spouse or a public benefit organisation
- Where a surviving spouse dies on or after 1 January 2010, the unutilised portion of the exemption of the first deceased spouse may be carried forward to the estate of the surviving spouse

EXECUTORS REMUNERATION

An executor is entitled to the following remuneration:

- the remuneration fixed by deceased in the will, or
- 3,5% on gross assets and 6% on income accrued and collected from date of death

Executors remuneration is subject to VAT where the executor is registered as a vendor.

VALUE-ADDED TAX (VAT)

VAT was introduced on 30 September 1991 at 10% and increased to 14% on 7 April 1993. The VAT system comprises three types of supplies:

- **Standard-rated supplies** – supplies of goods and services subject to the VAT rate in force at the time of supply
- **Exempt supplies** – supplies of certain services not subject to VAT. Vendors making exempt supplies are not entitled to input credits
- **Zero-rated supplies** – supplies of certain goods or services subject to VAT at zero percent. The following are, amongst others, specifically zero-rated: brown bread, maize meal, samp, mealie rice, dried maize, dried beans, lentils, pilchards (excluding pet food or sardines supplied in tins), milk powder (unflavoured), dairy powder blend, rice, fresh vegetables (excluding canned, bottled and dehydrated), fresh fruit, vegetable oil used for cooking (excluding olive oil), milk including long-life milk (excluding condensed, flavoured, sweetened and evaporated milk), cultured milk, brown wheaten flour, raw eggs, pod vegetables, diesel, petrol and illuminating paraffin. Export sales and services are zero-rated, subject to specific requirements. Supplies from South Africa to an Industrial Development Zone will be treated as exports.

VAT input tax credits may in general not be claimed in respect of entertainment and sedan and double-cab type motor vehicles

All fee-based financial services are subject to VAT with the exception of:

- premiums payable in respect of life policies issued in terms of the Insurance Act and contributions to pension, provident, retirement annuity and medical aid funds; and
- buying or selling of derivatives or granting of an option.

Registration Requirements

As from 1 March 2009 a vendor is required to register for VAT when his turn-over in a 12 month period is likely to exceed R1 million (previously R300 000). Where turnover is less than R1 million, but exceeds R50 000 (2009 : R20 000) and R60 000 in the case of commercial rental establishments in a 12 month period, a vendor can register voluntarily. All vendors that deregister from the VAT system in light of the increase in the VAT registration threshold to R1 million will be allowed to pay the exit VAT over a period of six months.

A registered micro business may not be registered for VAT.

Where turnover is less than R1,5 million (previously R1,2 million) in a 12 month period, VAT returns may be rendered every four months. Where turnover is less than R30 million in a 12 month period, VAT returns may be rendered every two months. Turnover in excess of R30 million results in VAT returns having to be rendered every month. Farmers, with a turnover of less than R1,5 million (previously R1,2 million), may render VAT returns every six months.

Normally a vendor accounts for VAT on an invoice basis. However, where turnover in a 12-month period is likely to be less than R2,5 million, one can apply to be placed on a payments basis if the vendor is a natural person or an unincorporated body of persons whose members are natural persons.

A tax invoice must reflect the purchaser's trade name and VAT registration number, if the value is in excess of R3 000.

Foreign Capital Allowance
Individuals, older than 18 years, in good standing with SARS, can invest R4 million (2008 : R2 million) abroad. Income accruing thereon may also be retained abroad.

Single Discretionary Allowance
Individuals, older than 18 years, have a single discretionary allowance of R750 000 (2008 : R500 000) per calendar year for the purpose of maintenance, gifts, travel and study. Individuals, under 18 years, have a travel allowance of R160 000 per calendar year.

Miscellaneous Transfers
Against the production of the necessary documents application can be made for the remittance of: alimony and child support, legal fees, fees for examinations held in South Africa, wedding expenses and Bar or Bat Mitzvah ceremonies, seminar fees, subscriptions, sporting events.

Medical/Dental Expenses Abroad
No limit, against original documentary evidence of cost.

Full-time Students
Travel and maintenance costs are included in the single discretionary allowance. Tuition and academic fees may be paid directly to the institution concerned against original documentary evidence, without any limit.

Philatelic and Numismatic Imports
No limit applicable, excluding South African gold coins minted from 1962.

Directors Fees
No limit is applicable to directors fees paid to non-residents including emigrants. Applications to be supported by a copy of the directors resolution confirming the amount paid together with proof of non-resident status.

Guarantees
No limit is applicable to guarantees given by non-residents in respect of financial assistance to South African residents who are not affected persons.

Emigrants
Where the foreign capital allowance has not been fully utilised, a top-up is permitted up to:

- R8 million (2008 : R4 million) per family unit
- R4 million (2008 : R2 million) per single emigrant
- R1 million overall insured value per family unit or single emigrant of household and personal and other effects.

In addition, the unutilised portion of the single discretionary allowance may be remitted.

Inheritances
Non-resident beneficiaries are entitled to transfer their inheritance, irrespective of whether the deceased was resident or non-resident in South Africa. Former South African residents have to complete emigration formalities in order to qualify.

Remittable Income
The income earned by an emigrant on his blocked assets is freely remittable abroad, after providing for income tax, where applicable.

Blocked Assets
Assets in excess of the settling-in allowance remain blocked and fall under the

control of an authorised dealer to be released for payment of authorised gifts and local expenses including donations to South African residents, within an overall limit of R100 000 per annum. Applications to export blocked assets are subject to a 10% exit levy.

Local Visits by Emigrants

R75 000 per calendar year per family unit from blocked funds at a rate of R3 000 per day for adults and R1 500 per day per child under 12 years. Direct return airflights may be paid locally from blocked funds.

Restrictions on Local Financial Assistance

The 3:1 ratio restriction on local financial assistance has been abolished and there is now no restriction on the amount that can be borrowed locally by affected persons and non-residents for use in respect of *bona fide* foreign direct investments.

Local financial assistance to emigrants remains subject to the 1:1 ratio where their rand assets are used as collateral.

Non-resident wholly owned subsidiaries may borrow locally up to 100% of total shareholders investments.

Foreign Investment in South Africa

Non-residents enjoy unrestricted rights to invest in gilts and shares listed on the Stock Exchange and export the proceeds on the sale thereof. Interest and dividends are also freely remittable. Loans by non-residents to South African individuals/entities require prior Exchange Control approval.

Outbound Investments

The limit that can be approved by Authorised Dealers is R500 million (2008 : R50 million). Exchange Control approval will have to be obtained for investments exceeding this llimit.

TAXATION OF NON-RESIDENTS

Interest

- All interest received by or accrued to non-residents is exempt from tax, provided the individual is physically absent from South Africa for at least 183 days, and did not carry on business in South Africa through a permanent establishment during the year of assessment.
- As from 1 April 1996 all interest received by or accrued to any company managed or controlled outside South Africa is exempt from tax unless such company carries on business in South Africa (i.e. branches of foreign companies).

Dividends

A new dividends tax has been introduced with an effective date still to be announced. This dividends tax will be borne by the shareholder at a rate of 10% (subject to any reduction in terms of double taxation agreements).

Royalties

Subject to the double taxation agreements, royalties paid to non-residents are subject to a final withholding tax of 12%.

Residents require Government and S A Reserve Bank approval for royalty payments to a non-resident.

Other Income

Non-residents will continue to be taxed on South African source and deemed source income only.

Payment to Non-resident Entertainers

A withholding tax of 15% is payable by non-resident sports persons and entertainers on income earned in South Africa.

RECOMMENDED GUIDELINE FOR THE
RETENTION OF DOCUMENTS AND RECORDS

Retention periods commence from the date of the last entry in the particular record

Companies (In terms of Government Gazette dated 25 November 1983)	**Retention period**
Certificate of Incorporation	Indefinite
Certificate of Change of Name	Indefinite
Memorandum and Articles of Association	Indefinite
Certificate to Commence Business	Indefinite
Minute book, CM25 and CM26, as well as resolutions passed at general meetings	Indefinite
Annual Financial Statements	15 years
Books of account	15 years
Supporting schedules to books of account and ancillary books of account	15 years
Fixed asset registers	15 years
Proxy forms	3 years

Close Corporations

Founding Statement (CK1)	Indefinite
Amended Founding Statement (CK2)	Indefinite
Minute books	Indefinite
Annual Financial Statements	15 years
Books of account	15 years
Accounting records including supporting schedules	15 years
Fixed asset registers	15 years

When a company or close corporation reproduces its records on microfilm, the original may be destroyed after a period of three years The microfilm copies must be retained indefinitely

Other Suggested Periods of Retention

(Where relevant statutory or legal requirements have been taken into account)

Records of trust monies	Indefinite
Tax returns and assessments (after date of assessment)	5 years
Staff personnel records (after employment ceased)	3 years
Salary and wage registers	3 years
Paid cheques and bills of exchange	6 years
Invoices – sales and purchases	5 years
Bank statements and vouchers	5 years
Stock sheets – listed company	6 years
Stock sheets – unlisted company	5 years
Year-end working papers	5 years
VAT records	5 years
Other vouchers and general correspondence	5 years

The above list is not comprehensive

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Listings
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