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Tax Guide 2015/2016

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1 Medical Expense Tax Credit

To alleviate the burden for taxpayers older than 65 years, it is proposed that the medical expense tax credit be taken into account for both PAYE and provisional tax.

2 Harmonisation of Retirement Savings

The taxation of contributions and the rules on compulsory annuitisation for pension funds, provident funds and retirement annuity funds will commence on 1 March 2016.

3 Research and Development

The backlog in the approval process is creating difficulties for small businesses. Measures will be considered to ensure that taxpayers are not disadvantaged.

4 Davis Tax Committee

The Committee continues to review tax policy. It is considering methods to improve transfer pricing documentation and revising the rules for controlled foreign companies.

5 Diesel Refund

It is proposed to delink the diesel refund from the VAT system. Due to the significant disputes over record-keeping, clarity will be provided.

6 Monitoring of Capital Flows

The South African Reserve Bank and SARS will be working closely together to monitor capital flows, in order to reduce capital leakage and tax evasion.

7 Energy-Efficiency Savings Tax Incentive

The energy-efficiency savings tax incentive will be increased from 45c/kwh to 95c/kwh.

8 Withholding Tax on Interest

It is proposed that the term "interest," for withholding tax purposes, be specifically defined to avoid confusion with other definitions.

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- Changes in rates of tax announced in the budget speech for the 2016 tax year become effective only once the legislation is enacted by Parliament.
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As from 1 April 2012, Dividends Tax is applicable to all South African resident companies as well as non-resident companies listed on the JSE. Dividends Tax is borne by the shareholder at a rate of 15% (subject to any reduction in terms of a double taxation agreement). Tax on dividends *in specie* remains the liability of the company declaring the dividend.

Exemptions from Dividends Tax

The following shareholders are exempt from Dividends Tax: South African resident companies, the Government, PBO's, certain exempt bodies, closure rehabilitation trusts, pension, provident and similar funds, shareholders in a registered micro business (provided the dividend does not exceed R200 000 in the year of assessment), and a non-resident receiving a dividend from a non-resident company which is listed on the JSE, i.e. a dual-listed company. The same exemptions apply in respect of dividends *in specie*.
As from 16 January 2014, the company paying the dividend and the company receiving the dividend are required to submit a Dividends Tax return.

Withholding Tax Obligations

In respect of dividends, other than dividends *in specie*, the company declaring the dividend is required to withhold the Dividends Tax on payment. Liability for withholding tax shifts if the dividend is paid to a regulated intermediary which includes central securities depository participants, brokers, collective investment schemes, approved transfer secretaries and linked investment service providers. Dividends Tax can be eliminated or reduced upon the timely receipt of a written declaration that the shareholder is either entitled to an exemption or to double taxation agreement relief and a written undertaking from the shareholder that the company will be informed should there be a change in circumstances. In the case of dividends *in specie* there is no withholding obligation as the tax remains a liability of the company declaring the dividend. However, the Dividends Tax may similarly be eliminated or reduced on timely receipt of the relevant declarations and undertakings.

STC Credits

Companies were deemed to have declared a dividend of nil on 31 March 2012 in order to ascertain the STC credits that would be available for set-off from 1 April 2012. STC credits will be exhausted first. STC credits must be used on or before 1 April 2015.

Revised Dividend Definition

As from 1 January 2011, the definition of a dividend has been simplified and includes all distributions to a shareholder other than, amongst others, a reduction of contributed tax capital (which consists of untainted stated capital of a company), capitalisation issues and a general share buy-back by a JSE listed company.

A distribution of contributed tax capital is not regarded as a dividend if the directors, immediately prior to making the distribution, record in writing that the distribution is made out of contributed tax capital.

Interest-Free Loans

There is a deemed dividend implication where a low interest or interest-free loan or advance is made by a company to a resident natural person or trust which is connected to the company or to a person (other than a company) who is connected to such natural person or trust. The deemed dividend is calculated by applying to the loan or advance the difference between the official interest rate and the rate charged by the company.

TAX RATES COMPANIES

Income Tax

For years of assessment ending during the following periods:

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 2016	28%

SA Income - Foreign Company/Branch 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 2012	33%
1 April 2012 - 31 March 2016	28%

Secondary Tax on Companies

Dividend declared between 17 March 1993 and 21 June 1994	15%
Dividend declared between 22 June 1994 and 13 March 1996	25%
Dividend declared between 14 March 1996 and 30 September 2007	12,5%
Dividend declared between 1 October 2007 and 31 March 2012	10%

Dividends Tax

Dividend declared from 1 April 2012	15%

EFFECTIVE TAX RATE

	Tax year			
	2013 Prior to 1 April 2012	2013 From 1 April 2012	2014 and 2015	2016
	R	R	R	R
Taxable income	100,00	100,00	100,00	100,00
Less: Normal tax	28,00	28,00	28,00	28,00
Available for distribution	72,00	72,00	72,00	72,00
Less: Dividend	65,45	72,00	72,00	72,00
Less: STC	6,55	n/a	n/a	n/a
Retained	0	0	0	0
Total tax	34,55	38,80	38,80	38,80
Normal tax	28,00	28,00	28,00	28,00
STC	6,55	n/a	n/a	n/a
Dividends Tax	n/a	10,80	10,80	10,80
Effective rate	34,55%	38,80%	38,80%	38,80%

Assumes all profits are declared as a dividend.

TAX RATES INDIVIDUALS - 2015

Taxable income	Rates of tax	
R 0 - R174 550	18% of each R1	
R174 551 - R272 700	R 31 419 + 25% of the amount over	R174 550
R272 701 - R377 450	R 55 957 + 30% of the amount over	R272 700
R377 451 - R528 000	R 87 382 + 35% of the amount over	R377 450
R528 001 - R673 100	R140 074 + 38% of the amount over	R528 000
R673 101 +	R195 212 + 40% of the amount over	R673 100

TAX RATES INDIVIDUALS - 2016

Taxable income	Rates of tax	
R 0 - R181 900	18% of each R1	
R181 901 - R284 100	R 32 742 + 26% of the amount over	R181 900
R284 101 - R393 200	R 59 314 + 31% of the amount over	R284 100
R393 201 - R550 100	R 93 135 + 36% of the amount over	R393 200
R550 101 - R701 300	R149 619 + 39% of the amount over	R550 100
R701 301 +	R208 587 + 41% of the amount over	R701 300

TAX THRESHOLDS

	Taxable income 2015	2016
Persons under 65	R 70 700	R 73 650
Persons 65 and under 75	R110 200	R114 800
Persons 75 and over	R123 350	R128 500

TAX REBATES

Amounts deductible from the tax payable	2015	2016
Persons under 65	R12 726	R13 257
Persons 65 and under 75	R19 836	R20 664
Persons 75 and over	R22 203	R23 130

MEDICAL AID REBATES/CREDITS

Monthly amounts deductible from tax payable	2015	2016
Main member	R257	R270
Main member with one dependant	R514	R540
Main member with two dependants	R686	R721

Each additional dependant qualifies for a further rebate or credit of R181 (2015 : R172) per month.

TAX RATES TRUSTS

Rate of tax	2015	2016
All taxable income	40%	41%

Special trusts are taxed at the rates applicable to individuals, but are not entitled to any rebate.

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. Where the person for whose benefit the trust was established dies prior to or on the last day of the year of assessment the trust will no longer be regarded as a special trust
- as a testamentary trust established solely for the benefit of minor children who are related to the deceased. Where the youngest beneficiary turns 18 (2013: 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.

TURNOVER TAX MICRO BUSINESSES

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

This system is elective. For years of assessment commencing 1 March 2012, a micro business can voluntarily exit the system at the end of any year of assessment. However, once out of the system the taxpayer will not be permitted to re-enter.

Prior to this, a three year lock-in period existed for exit and re-entry into the system. Personal services rendered under employment-like conditions and certain professional services are **excluded** from this system to which the following tax rates apply:

Years of assessment ending between 1 April 2014 and 31 March 2015

Turnover	Rates of tax
R 0 - R 150 000	Nil
R150 001 - R 300 000	1% of the amount over R 150 000
R300 001 - R 500 000	R 1 500 + 2% of the amount over R 300 000
R500 001 - R 750 000	R 5 500 + 4% of the amount over R 500 000
R750 001 - R1 000 000	R 15 500 + 6% of the amount over R 750 000

Years of assessment ending between 1 April 2015 and 31 March 2016

Turnover	Rates of tax
R 0 - R 335 000	Nil
R335 001 - R 500 000	1% of the amount over R 335 000
R500 001 - R 750 000	R 1 650 + 2% of the amount over R 500 000
R750 001 - R1 000 000	R 6 650 + 3% of the amount over R 750 000

Years of assessment ending between 1 April 2014 and 31 March 2015

Taxable income	Rates of tax
R 0 - R 70 700	Nil
R 70 701 - R365 000	7% of the amount over R 70 700
R365 001 - R550 000	R20 601 + 21% of the amount over R365 000
R550 001 +	R59 451 + 28% of the amount over R550 000

Years of assessment ending between 1 April 2015 and 31 March 2016

Taxable income	Rates of tax
R 0 - R 73 650	Nil
R 73 651 - R365 000	7% of the amount over R 73 650
R365 001 - R550 000	R20 395 + 21% of the amount over R365 000
R550 001 +	R59 245 + 28% of the amount over R550 000

These tax rates apply if:

- All shareholders or members throughout the year of assessment are natural persons who do not hold 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; or
  - have taken steps to liquidate, wind up or deregister (effective for years of assessment commencing on or after 1 January 2011).
- Gross income for the year of assessment does not exceed R20 million (2013 : R14 million)
- Not more than 20% of the gross income and all the capital gains consists collectively of **investment income** and income from rendering a **personal service**.

  Investment income includes any annuity, interest, rental income from immovable property, royalty or any income of a similar nature, local dividends, foreign dividends (as from 1 April 2012) 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, consulting, draughtsmanship, education, engineering, financial service broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science, which is performed personally by any person who holds an interest in the company, co-operative or close corporation, except where such small business corporation employs three or more unconnected full-time employees for core operations throughout the year of assessment
- The company, close corporation or co-operative is not an employment entity.

Investment incentive

The full cost of any asset used directly 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 may be written off on a 50:30:20 basis.

All provisional taxpayers are required to submit and, where applicable, make payment in respect of two provisional tax returns a year. A third voluntary return and payment may be submitted 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, unless fully motivated.

First Payment

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

Second Payment

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

- **Actual taxable income of R1 million or less**
  To avoid any penalty the basic amount can be used. If a lower estimate is used, this must be within 90% of the taxable income finally assessed.
- **Actual taxable income exceeds R1 million**
  To avoid any penalty the estimate must be within 80% of the taxable income, excluding retirement fund lump sums, finally assessed.

If the above requirements are not met, a penalty of 20% of the provisional tax underpaid will be imposed unless sufficient PAYE and provisional tax has been paid in the year of assessment.

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 must 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

As from 1 March 2015, the basic amount is the taxable income of the latest preceding tax year, provided the assessment is issued 14 days or more prior to the submission of the provisional tax return. If that assessment is in respect of a year older than 18 months, the basic amount is increased by 8% per annum.

Permissable Reductions in the Basic Amount

Capital gains and retirement fund lump sums are not included in the basic amount. However, if an estimate lower than the basic amount is used, capital gains must be included in the estimate.
Capital gains must be included in the second provisional tax estimate if 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.

Exemptions

As from 1 March 2015, natural persons, excluding directors of companies and members of close corporations, are exempt from provisional tax if either one of the following is applicable:

- the taxable income does not exceed the tax threshold
- the taxable income derived from interest, foreign dividends and rental from letting immovable property does not exceed R30 000.

Younger than 65 years

- Medical aid contributions may be claimed as a **medical scheme fees tax credit** against tax payable as follows:
  - R270 (2015 : R257) per month each for the taxpayer and the first dependant
  - R181 (2015 : R172) per month for each additional dependant
- Excess contributions and other qualifying medical expenses may be claimed as an **additional medical expenses tax credit** calculated as follows:
  - The amount by which the formula *{[medical aid contributions - (medical scheme fees tax credit x 4)] + other qualifying medical expenses}* exceeds 7,5% of taxable income, divided by a factor of 4.

65 years and older, or younger than 65 years if an immediate family member has a disability

- Medical aid contributions may be claimed as a **medical scheme fees tax credit** against tax payable as above.
- Excess contributions and other qualifying medical expenses may be claimed as an **additional medical expenses tax credit** calculated as follows:
  - *{[Medical aid contributions - (medical scheme fees tax credit x 3)] + other qualifying medical expenses},* divided by a factor of *3.*

Other qualifying medical expenses include:

- payments to medical practitioners, nursing homes and hospitals
- payments to pharmacists for **prescribed** medicines
- payments necessarily incurred and related to a disability or physical impairment including:
  - costs of special care (including training of parents or caregivers)
  - service animals
  - insurance, maintenance and supply of aids and special devices
  - prosthetics (including prosthetic breasts, limbs or eyes)
  - special devices (including computers suitably adapted, kidney machines, mobile ramps, wheelchairs, crutches, orthopaedic shoes, pacemakers, prescription spectacles and contact lenses)
  - alterations or modifications to assets (including motor vehicles, doorways, elevators and outdoor ramps)
  - special education for learners with disabilities (including fees for a school assistant, classroom costs and school fees, limited to the amount in excess of the fees of the closest fee-paying school)
  - certain services costs (including deaf-blind intervening services, lip-reading services, rehabilitative therapy and sign language)
  - certain reasonable travel expenses (including accommodation).

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.

Recovery of expenses (including amounts received from a medical aid savings account) reduces the claim.

Expenditure paid by a taxpayer on behalf of a spouse or child has to be claimed by the taxpayer who paid the expense.

According to the SARS guide on the medical tax credits (issue 5):

- diabetes and asthma are regarded as medical conditions and not a disability or physical impairment
- bad eyesight, hearing problems, paralysis of a portion of the body and brain disfunctions (including dyslexia, hyperactivity or lack of concentration) are regarded as physical impairments.

DEEMED EMPLOYEES

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 other persons for the client and remunerates such persons
- **A personal service provider** is a company, 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
  - 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
  - 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 **not** be regarded as a **personal service provider** where such entity employs three or more unconnected full-time employees for core operations throughout the year of assessment.

Implications

- A labour broker, not in possession of an exemption certificate, is subject to PAYE on income received at the rates applicable to individual taxpayers. Deductible expenditure is limited to remuneration paid to employees
- A personal service provider is subject to PAYE at the rate of 28% (2012 : 33%) in the case of a company and 40% in the case of a trust
- No PAYE is 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 to be applied
- Deductions available to personal service providers are limited to remuneration to employees, 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.

EXEMPTIONS INDIVIDUALS

- Dividends received or accrued from South African companies or JSE dual listed non-resident companies are generally not subject to income tax.
- As from 1 March 2014, dividends received for services rendered or by virtue of employment including a share incentive trust distributions are no longer exempt.
- Interest received by or accrued to a non-resident is exempt from income tax unless the individual was physically present in South Africa for a period exceeding 183 days in aggregate or carried on business through a permanent establishment in South Africa at any time during the 12 month period prior to date of receipt or accrual. As from 1 March 2015, where this exemption is applicable, a final withholding tax of 15% will be imposed on interest paid to a non-resident subject to a reduction in the rate in terms of a double taxation agreement.
- South African sourced interest received by natural persons:

Persons under 65 years	R23 800	(2013 : R22 800)
Persons 65 years and older	R34 500	(2013 : R33 000)

  Interest includes property unit trust distributions and foreign interest.
- As from 1 March 2012, the foreign interest and dividend exemption (2012 : R3 700) fell away. The foreign dividend exemption is replaced by a formula whereby the maximum effective rate of taxation is 15%.
- Unemployment insurance benefits.
- Road Accident Fund payouts as from 1 March 2012.

Termination Lump Sum from Employer

As from 1 March 2011, employer provided severance payments for reasons of age, ill health and retrenchment are aligned with the taxation of lump sum benefits, including the R500 000 (2012 : R315 000) tax free limit. In the case of retrenchment this concession does not apply where that person at any time held an interest of more than 5% in that entity.

Compensation

As from 1 March 2007, compensation awards paid by an employer on the death of an employee in the course of employment are exempt to the extent of R300 000. As from 1 March 2011, previous retrenchment exemptions are no longer set-off against this amount.

DEDUCTIONS EMPLOYEES

Employees or holders of office are limited to the following deductions from their remuneration:

- Bad debts allowance
- Doubtful debts allowance
- Wear and tear allowance
- Pension or retirement annuity fund contributions
- Donations to qualifying PBO's
- Home office expenses, subject to certain requirements
- Legal expenses
- Prior to 1 March 2015, 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 constitute income as defined
- As from 1 March 2008, refunded awards for services rendered and refunded restraint of trade awards.

Use of Company Provided Motor Vehicle

As from 1 March 2015, for vehicles acquired or financed, the determined value for the fringe benefit is the retail market value (previously cost) including VAT but excluding finance charges and interest. The employee will be taxed on 3,5% (2011 : 2,5%) per month of the determined value of the motor vehicle less any consideration paid by the employee towards the cost of the vehicle.

The fringe benefit is reduced to 3,25% if the vehicle is subject to a maintenance plan for not less than three years and/or 60 000 kilometres.

As from 1 March 2013, for vehicles acquired under an operating lease, the value of the fringe benefit is based on the rental and fuel cost to the employer.

Where an employee is given the use of more than one vehicle and can prove that each vehicle is used primarily for business purposes, the value placed on the private use of all the vehicles is determined according to the value attributed to the vehicle carrying the highest value for private use.

For PAYE purposes the employer is required to include in the employee's monthly remuneration 80% of the taxable benefit. The inclusion rate may be limited to 20% if the employer is satisfied that at least 80% of the use of the vehicle for a year of assessment will be for business purposes.

On assessment SARS is obliged, provided it is satisfied that accurate records have been kept in respect of distances travelled for:

- business purposes, to reduce the value of the fringe benefit by the same proportion that the business distance bears to the total distance travelled during the year of assessment
- private purposes and the employee has borne the full cost of the specified vehicle running expenses, to reduce the value of the fringe benefit:
  - by the same proportion that the private distance bears to the total distance travelled during the year of assessment, in the case of licence, insurance and maintenance costs
  - by applying the prescribed rate per kilometre to the kilometres travelled for private purposes in the case of the fuel cost pertaining to private use.

No value is placed on the private use of a company owned vehicle if:

- it is available to and used by all employees, private use is infrequent and incidental to the business use and the vehicle is not normally kept at or near that employee's residence when not in use outside business hours
- the nature of the employee's duties requires regular use of the vehicle for the performance of duties outside normal hours of work and private use is infrequent or incidental to business use or limited to travel between place of residence and place of work.

The provision of a company owned vehicle constitutes a deemed supply for VAT purposes. The vendor must account for output VAT on the deemed consideration by applying the VAT fraction (14/114) on a monthly basis.

The deemed consideration is determined 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

Use of Business Cellphones and Computers

As from 1 March 2008, no taxable value is 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 fringe benefit is the difference between the interest rate charged by the employer and the official interest rate applied to the loan amount
- No fringe benefit arises where the loan is less than R3 000 or where a loan is made to an employee to further his own studies.

Long Service and Bravery Awards

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

Medical Aid Contributions

As from 1 March 2010, the full contribution by an employer is a fringe benefit. If the employer makes a lump sum payment for all employees, the fringe benefit is determined in accordance with a formula, which will have the effect of apportionment amongst all employees concerned.

The fringe benefit has no value where the contributions are made for an employee retired due to superannuation or ill health, or for dependants of a deceased employee.

Holiday Accommodation

The employee is taxed on the prevailing market rental if the property is owned by the employer or rented from an associated entity, or the actual rental if the employer rents the accommodation from a third party.

Residential Accommodation Supplied by Employer

The value of the fringe benefit to be taxed is the rental value less any consideration paid by the employee. As from 1 March 2015, where the accommodation is not owned by the employer but by an unconnected person, the rental value is the lower of the formula value or the arms length rental.

The formula value is used:

- where the accommodation is owned by the employer
- where the accommodation is not owned by the employer but is provided for a *bona fide* business purpose where it is customary to provide free or subsidised accommodation to employees and it is 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 (eg. construction or mining industries).

As from 1 March 2008, no rental value is placed on:

- the supply of accommodation to an employee away from his usual place of residence in South Africa for the performance of his duties
- the 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.

Employer-Owned Insurance Policies

As from 1 March 2012, any premium paid by an employer under an employer-owned insurance policy (group life or disability plan), directly or indirectly, for the benefit of the employee, spouse, child, dependant or nominee is taxed in the hands of the employee as a fringe benefit. Prior to 1 March 2015, the premium may qualify as an income protection insurance contribution deduction by the employee. If the employer makes a lump sum payment for all employees, the fringe benefit is determined in accordance with a formula, which will have the effect of apportionment amongst all employees concerned.

Uniform Allowance

An employer may provide a uniform to an employee or an allowance in order to purchase such uniform. No value is placed on the fringe benefit, provided that the employee is required to wear the uniform while on duty and it is clearly distinguishable from ordinary clothing.

Free or Subsidised Meals and Refreshments

Free or subsidised meals provided by the employer give rise to a fringe benefit, valued at the cost to the employer less any consideration paid by the employee.

No value is placed on the benefit if:

- it is provided at a place mainly or wholly patronised by the employees or at the employer's premises
- it is provided during business hours (normal or extended) or on a special occasion.

Low Cost Housing Transferred to Employee

As from 1 March 2014, no value is placed on immovable property transferred to an employee where **all** the following are applicable:

- the market value of the property does not exceed R450 000
- the employee's remuneration does not exceed R250 000
- the employee is not a connected person in relation to the employer.

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 by no later than the end of 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 3714 on the IRP5 certificate. Where the allowances exceed the amounts or periods detailed below, the total allowance must be reflected under code 3704 (local) or 3715 (foreign).

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

Local travel

- R109 (2015 : R103) per day or part of a day for incidental costs
- R353 (2015 : R335) per day or part of a day for meals and incidental costs.

Where an allowance is paid to an employee to cover accommodation, meals and incidental costs, the employee has to prove the expense incurred while away on business, which is limited to the allowance received.

Overseas travel

Actual accommodation expenses 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 is not applicable where the absence is for a continuous period in excess of six weeks.

TRAVEL ALLOWANCES

Fixed Travel Allowances

As from 1 March 2010, 80% of the fixed travel allowance is subject to PAYE. As from 1 March 2011, where the employer is satisfied that at least 80% of the use of the vehicle for the year of assessment will be for business purposes, the inclusion rate may be limited to 20%. The full allowance is disclosed on the employee's IRP5 certificate, irrespective of the percentage 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 cost is calculated in accordance with the prescribed rate of 318 cents (2015 : 330 cents) per kilometre, no PAYE is deductible, provided the business travel does not exceed 8 000 kilometres per year.

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 year, 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. As from 1 March 2013, PAYE is withheld on a payment basis.

DEDUCTIONS TRAVEL EXPENSES

Accurate records of the opening and closing odometer readings must be maintained in all circumstances.

As from 1 March 2010, the claim must be based on the actual distance travelled for business purposes as supported by a log book.

The deduction in respect of business travel is limited to the allowance granted and may be determined using actual expenditure incurred or on a deemed cost per kilometre basis in accordance with the table below.

The cost of the vehicle includes VAT but excludes finance costs. Where actual expenditure is used the value of the vehicle is limited to R560 000 (2014 : R480 000) for purposes of calculating wear and tear, which must be spread over a **seven** year period.

The finance costs are also limited to a debt of R560 000 (2014 : R480 000).

In the case of a leased vehicle, the instalments in any year of assessment may not exceed the fixed cost component in the table.

DEEMED EXPENDITURE - 2015

Cost of vehicle	Fixed R	Fuel c	Repairs c
Does not exceed R80 000	25 946	92,3	27,6
Exceeds R 80 001 but not R160 000	46 203	103,1	34,6
Exceeds R160 001 but not R240 000	66 530	112,0	38,1
Exceeds R240 001 but not R320 000	84 351	120,5	41,6
Exceeds R320 001 but not R400 000	102 233	128,9	48,8
Exceeds R400 001 but not R480 000	120 997	147,9	57,3
Exceeds R480 001 but not R560 000	139 760	152,9	71,3
Exceeds R560 000	139 760	152,9	71,3

DEEMED EXPENDITURE - 2016

Cost of vehicle	Fixed R	Fuel c	Repairs c
Does not exceed R80 000	26 105	78,7	29,3
Exceeds R 80 001 but not R160 000	46 505	87,9	36,7
Exceeds R160 001 but not R240 000	66 976	95,5	40,4
Exceeds R240 001 but not R320 000	84 945	102,7	44,1
Exceeds R320 001 but not R400 000	102 974	109,9	51,8
Exceeds R400 001 but not R480 000	121 886	126,1	60,8
Exceeds R480 001 but not R560 000	140 797	130,4	75,6
Exceeds R560 000	140 797	130,4	75,6

VARIABLE REMUNERATION

As from 1 March 2013, variable remuneration, such as commission, bonuses, overtime, leave pay and reimbursive travel, is taxed on a payment basis. This is applicable in respect of the deduction of PAYE, the employee's gross income inclusion and the employer's income tax deduction.

RELOCATION OF AN EMPLOYEE

The following expenses incurred by the employer for relocation, appointment or termination of an employee 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
- other related costs, including new school uniforms, replacement of curtains, bond registration and cancellation fees, legal fees, transfer duty, motor vehicle registration fees and estate agents commission on sale of previous residence.

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

DEDUCTIONS RETIREMENT

Current Pension Fund Contributions

Limited to 7,5% of remuneration from retirement-funding employment or R1 750, whichever is the greater. Remuneration from 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 year. Any excess may be carried forward.

Current Retirement Annuity Fund Contributions

Limited to 15% of taxable income from non-retirement-funding employment, excluding any retirement fund lump sum benefits, or R3 500 less current contributions to a pension fund, or R1 750, whichever is the greater. Any excess may be carried forward.

Reinstated Retirement Annuity Fund Contributions

Up to a maximum of R1 800 per year. Any excess may be carried forward.

Income Protection Contributions

Prior to 1 March 2015, insurance premiums paid on income protection policies to the extent that such amounts received under the policy constitute income.

Alignment of Retirement Fund Contributions

As from 1 March 2016, the tax treatment of pension, retirement annuity and provident funds will be changed so that contributions made by the employer will be a fringe benefit. This change may be delayed to 1 March 2017.

The total contributions deductible by an employee will be limited to 27,5% of the greater of remuneration or taxable income (excluding lump sums received), but capped at an annual limit of R350 000. Excess contributions will be carried forward to the next year of assessment.

All fund to fund transfers have no tax consequences.

Pension, retirement annuity and provident funds will all be subject to the one-third lump sum and two-thirds annuity rules, unless the lump sum is below R150 000 or the member is at least 55 years old on 1 March 2016.

Lump sums from provident funds will be apportioned to ensure contributions made prior to this change and the resultant growth may be paid out as a lump sum not subject to the new annuitisation rules.

No limit will be placed on the deduction the employer may claim (previously limited to 20% of the employee's remuneration) for contributions made to these funds on the employee's behalf.

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**. As from 1 March 2011, certain severance benefits are also taxed in terms of this table.

This amount is subject to tax at the following rates **less any tax on the previous lump sums which is calculated in accordance with this table regardless of the tax actually paid on that lump sum:**

Lump sums accruing between 1 March 2011 and 28 February 2014

Taxable portion of lump sum	Rates of tax
R 0 - R 315 000	Nil
R 315 001 - R 630 000	18% of the amount over R 315 000
R 630 001 - R 945 000	R 56 700 + 27% of the amount over R 630 000
R 945 001 +	R141 750 + 36% of the amount over R 945 000

The taxable lump sum cannot be set-off against an assessed loss.

Lump sums accruing between 1 March 2014 and 29 February 2016

Taxable portion of lump sum	Rates of tax
R 0 - R 500 000	Nil
R 500 001 - R 700 000	18% of the amount over R 500 000
R 700 001 - R1 050 000	R 36 000 + 27% of the amount over R 700 000
R1 050 001 +	R130 500 + 36% of the amount over R1 050 000

The taxable lump sum cannot be set-off against an assessed loss.

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 amount withdrawn 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 on the previous lump sums which is calculated in accordance with this table regardless of the tax actually paid on that lump sum:**

Lump sums accruing between 1 March 2009 and 28 February 2014

Taxable portion of withdrawal	Rates of tax
R 0 - R 22 500	Nil
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

The taxable lump sum cannot be set-off against an assessed loss.

Lump sums accruing between 1 March 2014 and 29 February 2016

Taxable portion of withdrawal	Rates of tax
R 0 - R 25 000	Nil
R 25 001 - R660 000	18% of the amount over R 25 000
R660 001 - R990 000	R114 300 + 27% of the amount over R660 000
R990 001 +	R203 400 + 36% of the amount over R990 000

The taxable lump sum cannot be set-off against an assessed loss.

YOUTH EMPLOYMENT INCENTIVE

As from 1 January 2014, a special incentive is allowed as a credit against the employer's monthly PAYE payment to encourage the employment of workers. To qualify for the incentive:

- **Employers must**
  - be registered for PAYE
  - not be government or a municipal entity
  - not have been disqualified by the Minister of Finance
  - be tax compliant
- **Employees must**
  - have a valid South African bar-coded ID or asylum seeker permit
  - be between the ages of 18 and 30
  - not be a domestic worker
  - not be related or connected to the employer
  - earn at least R2 000 per month or the minimum amount stipulated by the regulated industry
  - earn remuneration of less than R6 000 per month
  - be newly employed on or after 1 October 2013

The credit is determined for each qualifying employee as follows:

Monthly Remuneration	Per month during the first 12 months of employment	Per month during the next 12 months of employment
R 0 - R2 000	50% of monthly remuneration	25% of monthly remuneration
R2 001 - R4 000	R1 000	R500
R4 001 - R6 000	R1 000 - (0,5 x (Monthly Remuneration - R4 000))	R500 - (0,25 x (Monthly Remuneration - R4 000))

As from 1 March 2015, where an employee is employed on a full time basis in excess of 160 hours per month, an employer is entitled to claim the full incentive as set out above. Where the employee works less than this in the month, the incentive has to be apportioned.

Where the credit exceeds the PAYE liabililty of the employer, the excess amount is refundable provided the employer is tax compliant.

This incentive ceases to apply from 1 January 2017.

BURSARIES AND SCHOLARSHIPS

Bona fide scholarships or bursaries granted to enable any person to study at a recognised educational institution are exempt from 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 R250 000 (2013 : R100 000) and to the extent that the bursary does not exceed R30 000 (2013 : R10 000) in respect of higher education and R10 000 (2013 : R10 000) for basic education to grade 12.

BROAD-BASED EMPLOYEE EQUITY

Employer companies may issue qualifying shares up to a cumulative limit of R50 000 (2008 : R9 000) per employee in respect of the current tax year and the immediately preceding four (2008 : two) tax years. A tax deduction limited to a maximum of R10 000 (2008 : R3 000) per year per employee will be allowed in the employer's hands. There are no tax consequences for the employee, other than CGT, provided the employee does not sell the shares for at least five years.

ARBITRATION AWARDS

Arbitration awards are generally awarded due to unfair dismissal, termination of the employment contract prior to the expiry date or unfair labour practices. Amounts paid due to unfair dismissal and early termination of the contract constitute remuneration and are taxable.

CORPORATE TRANSACTIONS

Tax relief exists for certain corporate transactions, including:

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

This relief also applies to transactions involving specific controlled foreign companies.

LIMITATION OF INTEREST DEDUCTION

Debt arising as a result of a Corporate Restructure

As from 1 April 2014, the interest deduction in respect of certain corporate restructures is limited, calculated in accordance with a formula.

Any excess interest cannot be carried forward to the next tax year. As a result any excess interest is permanently lost. The interest deduction limitation must be applied in the tax year in which the restructure transaction is entered into and the five tax years immediately thereafter.

Recipient of interest is not subject to tax in South Africa

As from 1 January 2015, a limitation is placed on the interest deduction available where interest is paid to an exempt or foreign person who is not subject to tax in South Africa.

This will generally apply in the case of interest paid to a PBO or a foreign person where the withholding tax on interest is reduced to nil in terms of a double taxation agreement.

This limitation is only applicable when the parties involved are in a controlling relationship, whereby a person directly or indirectly holds more than 50% of the equity shares or voting rights. The interest deduction is calculated in accordance with the formula and any excess interest is carried forward to the next tax year.

TAX FREE SAVINGS ACCOUNTS

As from 1 March 2015, natural persons can invest up to R30 000 annually, with a lifetime limit of R500 000, in approved saving instruments such as unit trusts, fixed deposits or REITS. All returns, including interest, dividends and capital gains on the disposal of these investments, are tax free. A penalty of 40% of the excess capital contributed is applicable where the annual or lifetime limits are exceeded.

MARRIED IN COMMUNITY OF PROPERTY

Taxpayers 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, regardless of the spouse in whose name the assets are registered (other than assets excluded from the joint estate). All other taxable income is taxed only in the hands of the spouse who receives that income.

ENVIRONMENTAL EXPENDITURE

Expenditure incurred 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. 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 an annual donation based on 10% of the lesser of cost or market value of the land is deemed to be made 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.

HOTEL ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Hotel buildings	Construction of buildings or improvements, provided used in trade as hotelkeeper or used by lessee in trade as hotelkeeper Refurbishments (note) 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

Note:

- Refurbishment is defined as any work undertaken within the existing building framework

RESIDENTIAL BUILDING ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Residential buildings	Buildings 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 taxpayer 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 R300 000 for a stand-alone unit or R350 000 in the case of an apartment
Employee housing	50% of the costs incurred or funds advanced or donated to finance the construction 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

Asset type	Conditions for annual allowance	Annual allowance
Industrial buildings or improvements (note 1)	Construction of buildings or improvements on or after 1 January 1989, where a building is used wholly or mainly for a process of manufacture or similar process or research and development. 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 2) 10% of cost (note 2)
New commercial buildings (other than residential accommodation) (note 3)	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 3)	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
Aircraft	Acquired on or after 1 April 1995	20% of cost (note 2)
Farming equipment and assets used in production of renewable energy	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 2)
Plant and machinery (note 1)	New or unused manufacturing assets acquired on or after 1 March 2002 will be subject to allowances over four years Used manufacturing assets	40% in 1st year 20% in each of the 3 subsequent years (note 4) 20% of cost
Plant and machinery (small business corporations only)	Plant or machinery brought into use for the first time by that taxpayer on or after 1 April 2001 and used 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 As from 1 April 2012, new or unused assets or buildings used for the purpose of research and development will also qualify for the allowances.
2 Recoupments of allowances can be deducted from the cost of the replacement asset
3 Allowances available to owners as users of the building or as lessors/financiers
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/server	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
Drills	6
Electric saws	6
Electrostatic copiers	6
Engraving equipment	5
Escalators	20
Excavators	4
Fax machines	3
Fertiliser spreaders	6
Firearms	6
Fire extinguishers (loose units)	5
Fire detections systems	3
Fishing vessels	12
Fitted carpets	6
Food bins	4
Food-conveying systems	4
Forklift 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
mechanical	5
Oxygen concentrators	3
Ovens and heating devices	6
Ovens for heating food	6
Packaging equipment	4
Paintings	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	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
Runway lights	5
Sanders	6
Scales	5
Security systems removable	5
Seed separators	6
Sewing machines	6
Shakers	4
Shopfittings	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	5
instruments	10
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
Wireline 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 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 life of the assets

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

4 Prior to 1 January 2013, wear and tear on any assets acquired from a connected person may only be claimed on the original cost to the seller less allowances claimed by the seller, 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 and Port assets	New and unused assets and improvements brought into use on or after 1 January 2008 and used directly and solely for purpose of business as airport, terminal or transport operation or port authority	5% of cost
Rolling stock	Brought into use on or after 1 January 2008	20% of cost
Environmental assets	Environmental treatment and recycling assets as from 8 January 2008 for new and unused 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 tax year, subject to certain other limits

CAPITAL GAINS TAX

As from 1 October 2001, Capital Gains Tax (CGT) applies to a resident's worldwide assets and to a non-resident's immovable property or assets of a permanent establishment in South Africa.

Disposals

CGT is triggered on disposal of an asset.

- **Important disposals include**
  - abandonment, scrapping, loss, donation
  - 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 exercise of an option
- **Deemed disposals include**
  - termination of South African residency
  - a change in the use of an asset
  - an asset ceasing to be part of a permanent establishment
  - for years of assessment commencing on or after 1 January 2013, the reduction or waiver of a debt, 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 an asset securing debt

Calculation of a Capital Gain/Loss

- A capital gain or loss is the difference between the proceeds and the base cost. An aggregate capital loss is carried forward and is available for set-off against subsequent capital gains

Base Cost

- **Expenditure included in the base cost**
  - acquisition, disposal, transfer, stamp duty, STT and similar costs
  - remuneration of advisers, 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 asset acquired before 1 October 2001**
  - Valuation as at 1 October 2001
  - 20% of the proceeds
  - Time apportionment base cost

    Example:

    If an asset cost R250 000 on 1 October 1998 and was sold on 30 September 2014 for R450 000, as CGT was implemented on 1 October 2001, the base cost is:

Original cost expenditure	R250 000
Add:	R 37 500*
*Proceeds from disposal	R450 000 } x 3/16
Less: Base cost expenditure	(R250 000) }
Time apportionment base cost	R287 500

    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, an extended formula is applied.

- **Part disposals**
  - Base cost is apportioned unless it is separately identifiable

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 bequest is deemed to be at the base cost i.e. market value at date of death

Inclusion Rates and Effective Rates

	Inclusion rate			Maximum effective rate		
	2012	2013-2015	2016	2012	2013-2015	2016
Individuals	25%	33,3%	33,3%	10%	13,3%	13,7%
Special Trusts	25%	33,3%	33,3%	10%	13,3%	13,7%
Companies	50%	66,6%	66,6%	14%	18,7%	18,7%
Trusts	50%	66,6%	66,6%	20%	26,6%	27,3%

In the case of Unit Trusts (CIS), the unitholder is liable for the CGT on disposal of the units. Retirement Funds are exempt from CGT.

Exclusions and Rebates

- **Annual exclusion**
  Natural persons and special trusts R30 000 (2012 : R20 000)
  Natural persons in the year of death R300 000 (2012 : R200 000)
- **Other 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 million. Where the proceeds exceed R2 million, the exclusion is R2 million (2012 : R1,5 million) of the calculated capital gain
  - Personal use assets owned by a natural person or a special trust, 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 unless they are pure risk policies with no investment or surrender value
  - Small business assets or an interest in a small business, limited to R1,8 million (2012 : R900 000) if certain requirements are met, including:
    - the gross asset value of the business is less than R10 million (2012 : R5 million)
    - the natural person was a sole proprietor, partner or at least 10% shareholder for at least five years, is at least 55 years old, or suffers from ill-health, is infirm or deceased
  - Compensation, prizes and donations to certain PBO's
  - Assets used by registered micro businesses for business purposes.

Rollover Relief

The capital gain is disregarded until ultimate disposal of the asset or in the case of a replacement asset it is spread over the same period as wear and tear may be claimed for the replacement asset, commencing when the replacement asset is brought into use unless disposed of earlier.

The relief applies to the following:

- Certain involuntary disposals
- Replacement of qualifying business assets (excluding immovable property)
- Transfer of assets between spouses
- Shareblock conversions to sectional title or full title
- Transfer of residence from a qualifying corporate entity or trust between 11 February 2009 and 31 December 2012. If transfer occurred after 1 October 2010, the transferring entity had to be terminated.

Valuations

Valuations should have been obtained before 30 September 2004. For certain assets these valuations should have been lodged with the first tax return submitted after 30 September 2004, or such other time as SARS 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 in excess of R2 million, the purchaser is obliged to withhold the following taxes from the proceeds (unless a directive to the contrary has been issued):

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

UNQUANTIFIED PROCEEDS

Where an asset is disposed of for an unquantified amount, the portion of the purchase price which cannot be quantified in that year is deemed to accrue in the year that it becomes quantifiable. Any recoupment, capital gain or capital loss arising from such transaction is deferred until such time as the consideration becomes quantifiable.
For example, if the asset is brought into use in year 1, but the consideration only becomes quantifiable in year 2, the wear and tear for year 1 and year 2 will be claimed in year 2.

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.

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 in the case of:

- a share in a non-resident company, subject to certain exclusions
- a share in a shareblock 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.

RESEARCH AND DEVELOPMENT

As from 2 November 2006, specific deductions are allowed for expenditure incurred in respect of qualifying research and development.

As from 1 October 2012:

- 100% automatic deduction of expenditure incurred solely and directly in respect of separately identifiable research and development activities
- 50% additional deduction of expenditure incurred solely and directly in respect of separately identifiable research and development activities, which is subject to pre-approval by the Department of Science and Technology.

As from 1 January 2014:

- Research and development excludes:
  - internal business processess that are used by connected parties
  - routine testing, analysis, collecting of information and quality control
  - market research, market testing or sales promotion
  - the creation or development of financial instruments or products
  - the creation or enhancement of trademarks or goodwill.
- The Department of Science and Technology must approve the entire 150% deduction. Only expenditure incurred on or after the date of receipt of the application is eligible for this deduction.

Research and development capital assets are written off as follows:

- new and unused machinery or plant on a 50:30:20 basis (prior to 1 January 2012 - 40:20:20:20)
- buildings or improvements at 5% per year.

This incentive ceases to apply from 1 October 2022.

LEARNERSHIP ALLOWANCES

Employers are allowed to claim learnership allowances for registered learnerships (entered into before 1 October 2016) 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: a recurring annual allowance of R30 000 and a completion allowance claimable at the end of the learnership of R30 000. Where the learnership exceeds 24 months the completion allowance is claimed cumulatively for every completed year
- For learners with disabilities the relevant allowances are increased to R50 000
- Learnerships of less than 12 full months are eligible for a *pro-rata* amount of the annual 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 annual allowance is allocated *pro-rata* between both years based on the calendar months applicable to each year by multiplying the annual allowance by the total calendar months of the learnership over 12.

VENTURE CAPITAL INVESTMENTS

As from 1 July 2009, a taxpayer is 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 satisfy a number of pre-conditions.

As from 1 January 2012, all taxpayers are entitled to this deduction without any limitation imposed on the amount, provided the expenditure comprises an investment in equity shares, the investor is not a connected person after making the investment and is genuinely exposed to the risk of economic loss in the event of failure of the venture. Various thresholds regarding the level and nature of expenditure by the venture capital company have also been relaxed to attract more interest in this incentive.

INDUSTRIAL POLICY PROJECTS

An additional investment allowance for an approved project is available to a brownfield project expansion or upgrade, or a greenfield project for new and unused manufacturing items. Subject to certain limits, the additional allowance is 55% for preferred projects and 35% for non-preferred projects.

Where the project is undertaken in an industrial development zone the allowances are increased to 100% and 75% respectively.

There is also an additional project related training allowance of R36 000 per employee per annum for a period of six years, limited to R30 million for preferred projects and R20 million for non-preferred projects.

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 a formula.

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

STAMP DUTY

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

SECURITIES TRANSFER TAX

As from 1 July 2008, Securities Transfer Tax (STT) is payable 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, member's interest in a close corporation or cession of a right to receive distributions from a company or close corporation.

- On listed securities, the STT is payable by the 14th of the month following the month during which the transfer occurred
- On unlisted securities, the STT is payable 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 is imposed at the prescribed rate and a 10% penalty is payable
- No STT is payable if the consideration, closing price or market value is less than R40 000.

PRE-PAID EXPENDITURE

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 are supplied or rendered within six months after the end of the year of assessment
- where the total pre-paid expenditure does not exceed R100 000 (2012 : R80 000)
- to expenditure with specifically determined timing and accrual
- to pre-paid expenditure payable in terms of a legislative obligation.

WEAR AND TEAR CONNECTED PERSONS

Prior to 1 January 2013, where a depreciable asset was acquired by a taxpayer and it was held by a connected person at any time during a period of two years before that acquisition, the purchaser could 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.

This limitation is no longer applicable.

RESIDENCE BASED TAXATION

As from 1 January 2001, residents are taxable on their worldwide income.

Resident means

- A natural person who is ordinarily resident in South Africa
- 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. These days do not need to be consecutive
- 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 (DTA).

Exemptions

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

Foreign Dividends

Foreign dividends received from a non-resident company and dividends received from a headquarter company are taxable, except if:

- the shareholder holds at least 10% of the equity and voting rights of the distributing company
- the distributing company is listed on the JSE and from 1 March 2014 includes a dividend *in specie.*
- 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
- foreign dividends declared by one company to another company resident in the same country.

Any remaining taxable foreign dividend is subject to a formula whereby the maximum rate of taxation is 15% subject to a reduction in terms of a DTA.

A resident is entitled to a credit for any withholding tax paid in respect of a foreign dividend that is included in gross income, provided such dividend is not fully exempt.

As from 1 April 2012, no deduction is allowed for interest incurred in the production of foreign dividends.

Controlled Foreign Companies

A CFC is a non-resident company in which residents, other than a head-quarter company, directly or indirectly own or control more than 50% of the participation or voting rights. As from 1 April 2012, a resident holding between 10% and 20% of a foreign company, may no longer elect to treat the company as a CFC.

- A resident must include in his income:

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

- 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 (subject to certain exclusions)
- Income of the CFC 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 under the CFC rules
- 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.
- The high tax exemption applies where the aggregate of foreign taxes payable by the CFC is at least 75% of the amount of South African tax that would have been imposed had the CFC been a South African taxpayer.

Tax Rebates

- Where a resident has to include in his taxable income any foreign sourced income or capital gain, the proportionate amount of the net income of a CFC, foreign dividends, or other attributable amounts, 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:

$$\text{Total South African normal tax} \times \frac{\text{Taxable foreign income}}{\text{Total taxable income}}$$

- If the foreign tax paid exceeds the limit set out above, the excess foreign tax may be carried forward for a maximum of seven years
- As from 1 January 2012, foreign taxes withheld on income arising from services rendered in South Africa may be claimed as a rebate.

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 converted to rands 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 (except for income arising on services rendered in South Africa) is recognised as a deduction against such income rather than as a rebate against South African tax payable on that income.

DOUBLE TAXATION AGREEMENTS

Double taxation arises where two countries have a taxing right on the same amount. South Africa has negotiated double taxation agreements with various countries around the world. The purpose of these agreements is to eliminate double taxation. The double taxation agreements are available on **www.sars.gov.za**

TAXATION OF NON-RESIDENTS

Interest
Interest received by or accrued to a non-resident is exempt from normal tax unless the individual was physically present in South Africa for a period of more than 183 days in aggregate or carried on business through a permanent establishment in South Africa at any time during the prior 12 month period. As from 1 March 2015, where this exemption is applicable, a final withholding tax of 15% will be imposed on interest paid to a non-resident subject to a reduction in the rate in terms of a double taxation agreement.

Dividends
As from 1 April 2012, Dividends Tax is due by the shareholder at a rate of 15%, subject to a reduction in the rate in terms of a double taxation agreement.

Royalties
As from 1 January 2015, a final withholding tax of 15% (previously 12%) is imposed on royalties paid to a non-resident, subject to a reduction in the rate in terms of a double taxation agreement.
Residents require Government and SARB approval for royalty payments to a non-resident.

Service Fees
As from 1 January 2016, a final withholding tax of 15% will be imposed on cross border consultancy, management and technical fees from a South African source, subject to a reduction in the rate in terms of a double taxation agreement.

Other Income
Non-residents are taxed on South African sourced 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.

WITHHOLDING TAX ON INTEREST

As from 1 March 2015, a final withholding tax of 15% will be imposed on interest paid to any non-resident from a South African source subject to a reduction in the rate in terms of a double taxation agreement, on the date it is paid or becomes due and payable except interest:

- payable by any sphere of the South African Government
- arising on any listed debt instrument
- arising on any debt owed by a bank, the DBSA, the IDC or the SARB
- payable by a headquarter company where transfer pricing does not apply
- accruing to a non-resident natural person who was physically present in South Africa for a period exceeding 183 days in aggregate, during that year, or carried on a business through a permanent establishment in South Africa at any time during the prior 12 month period
- payable by a local stockbroker to a non-resident.

The person paying the interest has a withholding obligation, unless he is in possession of a written declaration and undertaking confirming that the recipient is either entitled to an exemption or to double taxation relief and that such person will inform him of any change of circumstances.

WITHHOLDING TAX ON ROYALTIES

As from 1 January 2015, a final withholding tax of 15% (previously 12%) is imposed on royalties paid to a non-resident subject to a reduction in the rate in terms of a double taxation agreement.

The withholding tax is only applicable to royalties due from a South African source.

Royalties are exempt from the withholding tax if:

- the non-resident natural person was physically present in South Africa for a period exceeding 183 days in aggregate during the 12 month period preceding the date on which the royalty is paid
- the non-resident natural person, company or trust carried on business through a permanent establishment in South Africa during the 12 month period preceding the date on which the royalty is paid
- the royalty is paid by a headquarter company and the intellectual property is sub-licenced to one or more or the foreign companies in which the headquarter company holds at least 10% of the equity and voting rights.

The person paying the royalty has a withholding obligation, unless he is in possession of a written declaration and undertaking confirming that the recipient is either entitled to an exemption or to double taxation relief and that such person will inform him of any change of circumstances.

WITHHOLDING TAX ON SERVICE FEES

As from 1 January 2016, a final withholding tax of 15% will be imposed on cross border consultancy, management and technical fees from a South African source, subject to a reduction in the rate in terms of a double taxation agreement.

Service fees are exempt from the withholding tax if:

- the non-resident natural person was physically present in South Africa for a period exceeding 183 days in aggregate during the 12 month period preceding the date on which the service fee is paid
- the service is effectively connected with a permanent establishment of that non-resident in South Africa provided that the non-resident is registered as a taxpayer in South Africa
- the service fees constitute remuneration.

The person paying the service fee has a withholding obligation, unless he is in possession of a written declaration and undertaking confirming that the recipient is either entitled to an exemption or to double taxation relief and that such person will inform him of any change of circumstances.

HEADQUARTER COMPANY

The headquarter company rules apply from years of assessment commencing on or after 1 January 2011 and provide for several benefits, including:

- its subsidiaries are not treated as controlled foreign companies
- dividends are not subject to Dividends Tax
- no application of thin capitalisation or transfer pricing rules in the case of back-to-back cross-border loans
- exemption from the pending withholding tax on interest in respect of back-to-back loans.

As from 1 January 2011 a special regional investment fund rule is applicable. Qualifying foreign investors will be regarded as passive investors with no exposure to South African tax when using a South African portfolio manager.

WITHHOLDING TAXES SUMMARY

DOUBLE TAXATION AGREEMENTS

Double taxation agreements provide for relief in respect of royalties, dividends and interest withholding taxes.

	Royalties %	Dividends %	Interest %
Non-Treaty Countries	**15**	**15**	**15**
Treaty Countries			
Algeria	10	10/15	10
Australia	5	5/15	10
Austria	0	5/15	0
Belarus	5/10	5/15	5/10
Belgium	0	5/15	10
Botswana	10	10/15	10
Brazil	10/15	10/15	10
Bulgaria	5/10	5/15	5
Canada	6/10	5/15	10
Croatia	5	5/10	0
Cyprus	0	0	0
Czech Republic	10	5/15	0
Democratic Republic of Congo	10	5/15	10
Denmark	0	5/15	0
Egypt	15	15	12
Ethiopia	15	10	8
Finland	0	5/15	0
France	0	5/15	0
Germany	0	7,5/15	10
Ghana	10	5/15	5/10
Greece	5/7	5/15	8
Hungary	0	5/15	0
India	10	10	10
Indonesia	10	10/15	10
Iran	10	10	5
Ireland	0	5/10	0
Israel	0/15	15	15
Italy	6	5/15	10
Japan	10	5/15	10
Korea	10	5/15	10
Kuwait	10	0	0
Lesotho	10	15	10
Luxembourg	0	5/15	0
Malawi	15	15	15
Malaysia	5	5/10	10
Malta	10	5/10	10
Mauritius	0	5/15	0
Mexico	10	5/10	10
Mozambique	5	8/15	8
Namibia	10	5/15	10
Netherlands	0	5/10	0
New Zealand	10	5/15	10
Nigeria	7,5	7,5/10	7,5

	Royalties %	Dividends %	Interest %
Norway	0	5/15	0
Oman	8	5/10	0
Pakistan	10	10/15	10
Peoples Republic of China	7/10	5	10
Poland	10	5/15	10
Portugal	10	10/15	10
Romania	15	15	15
Russian Federation	0	10/15	10
Rwanda	10	10/15	10
Saudi Arabia	10	5/10	5
Seychelles	0	5/10	0
Singapore	5	5/15	0
Slovak Republic	10	5/15	0
Spain	5	5/15	5
Swaziland	10	10/15	10
Sweden	0	5/15	0
Switzerland	0	5/15	5
Taiwan	10	5/15	10
Tanzania	10	10/15	10
Thailand	15	10/15	10/15
Tunisia	10	10	5/12
Turkey	10	10/15	10
Uganda	10	10/15	10
Ukraine	10	5/15	10
United Kingdom	0	5/10/15	0
USA	0	5/15	0
Zambia	15	15	15
Zimbabwe	15	15	15

Notes

1 The above rates are provided as a guide only. A number of double taxation agreements provide for alternative rates, including zero, to be applied in specific circumstances. The double tax agreements are available on **www.sars.gov.za**

2 As from 1 January 2015, the withholding tax on royalties changed from 12% to 15%.

3 A withholding tax on interest paid to non-residents will be introduced from 1 March 2015 at a rate of 15%.

4 New comprehensive double taxation agreements are in the process of negotiation with Cameroon, Chile, Cuba, Gabon, Hong Kong, Isle of Man, Kenya, Morocco, Qatar, Senegal, Sudan, Syria, United Arab Emirates and Vietnam.

5 Existing comprehensive double taxation agreements are in the process of renegotiation with Germany, Lesotho, Malawi, Mauritius, Namibia, Singapore, Zambia and Zimbabwe.

6 Tax information exchange agreements are currently in place with Argentina, Bahamas, Bermuda, Cayman Islands, Cook Islands, Gibraltar, Granada, Guernsey, Jersey, Liberia and San Marino.

7 New tax information exchange agreements are in the process of negotiation with Andorra, Barbados, Belize, Brunei Darussalam, Costa Rica, Dominica, Isle of Man, Jamaica, Liechtenstein, Macao SAR, Marshall Islands, Monaco, Samoa, St. Lucia, St Kitts and Nevis, Turks and Caicos Islands and Uruguay.

DEDUCTION ROYALTY TO NON-RESIDENTS

As from 1 January 2009, no deduction is allowed in respect of royalty payments to non-residents if:

- the intellectual property was at any time wholly or partly owned by the taxpayer or another South African resident, 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 10% then a deduction of one-third of the royalty is allowed.

If the royalty is subject to a withholding tax at a rate of 15% then a deduction of half of the royalty is allowed.

TRUST DISTRIBUTIONS

Distributions from trusts are taxed in terms of the conduit principle where the nature of income is retained and taxed in the hands of the beneficiary, subject to certain deeming provisions.

Deeming provisions

- Where the income or capital gain of the trust is attributable to any donation, settlement or other similar disposition (including the sale of an asset to a trust by way of an interest free loan) the income or a portion thereof may be deemed to accrue to the donor, rather than the beneficiary or the trust, subject to certain conditions
- A capital gain distributed to an exempt person, such as a public benefit organisation or a non-resident beneficiary, is taxed in the trust.

Trust 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 tax year as an assessed loss.

Foreign trust distributions to a South African resident

- Income distributions retain their nature and are taxed accordingly in the hands of the South African resident
- Capital distributions are taxed as normal income in the hands of the South African resident beneficiary where all of the following are applicable:
  - That person was a beneficiary of the trust in the year in which the income was earned
  - The amount had not already been taxed in South Africa
  - The amount would have constituted income of the trust if it had been a South African resident trust.

Distributions from a South African trust to a non-resident beneficiary

Income distributed to a non-resident beneficiary is taxed in the hands of the trust, unless the beneficiary is subject to tax in South Africa. Where the income is attributable to a donation or other similar disposition by a resident donor, it is deemed to accrue to the resident donor and is taxed in that donor's hands.

Trust to trust distribution of a capital gain

A capital gain distributed from one trust to another trust retains its identity and is taxed in the second trust. This distributed capital gain cannot then be further distributed to a beneficiary of the second trust unless the second trust had a vested interest in the asset of the first trust prior to the disposal.

TRANSFER DUTY

On Immovable Property (on or after 1 March 2015)

Payable by natural persons and legal entities:

Property value	Rates of tax
R 0 - R 750 000	Nil
R 750 001 - R1 250 000	3% on the value above R 750 000
R1 250 001 - R1 750 000	R15 000 + 6% on the value above R1 250 000
R1 750 001 - R2 250 000	R45 000 + 8% on the value above R1 750 000
R2 250 001 +	R85 000 + 11% on the value above R2 250 000

- No transfer duty is payable if the transaction is subject to VAT
- If a registered vendor purchases property from a non-vendor, the notional input tax credit is limited to the VAT fraction (14/114) applied to the lower of the selling price or the open market value. A notional input tax credit is only claimable to the extent to which the purchase price has been paid and the property is registered in the Deeds Office
- As from 10 January 2012, the notional input tax credit is no longer limited to the transfer duty 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 immovable property forming part of the enterprise of a VAT vendor.

PRIME OVERDRAFT RATES

Date of change	Rate %	Date of change	Rate %
18 August 2003	14,50	11 April 2008	15,00
15 September 2003	13,50	13 June 2008	15,50
20 October 2003	12,00	12 December 2008	15,00
15 December 2003	11,50	06 February 2009	14,00
16 August 2004	11,00	25 March 2009	13,00
14 April 2005	10,50	04 May 2009	12,00
08 June 2006	11,00	29 May 2009	11,00
03 August 2006	11,50	14 August 2009	10,50
12 October 2006	12,00	26 March 2010	10,00
07 December 2006	12,50	10 September 2010	09,50
08 June 2007	13,00	19 November 2010	09,00
17 August 2007	13,50	31 July 2012	08,50
12 October 2007	14,00	31 January 2014	09,00
07 December 2007	14,50	31 July 2014	09,25

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

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**
07,0%	11,61	07,75	07,07	06,65	30,88	23,95	19,08
07,5%	11,87	08,06	07,39	06,99	31,11	24,18	20,04
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 & 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, where 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 monthly 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 fails to provide information or update banking details
Employees tax (PAYE)	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

INTEREST RATES CHANGES

Prescribed rate - Late payment of assessed tax, provisional tax, VAT and underpayment of provisional tax

Date of change	Rate %
1 May 2014	9,00
1 November 2014	9,25

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

Prescribed rate - Refund of overpayment of provisional tax

Date of change	Rate %
1 May 2014	5,00
1 November 2014	5,25

Interest on overpayment of provisional tax is only payable 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.

Prescribed rate - Refund of VAT after prescribed period

Date of change	Rate %
1 May 2014	9,00
1 November 2014	9,25

Prescribed rate - Refund on successful objection, appeal or conceded appeal

Date of change	Rate %
1 May 2014	9,00
1 November 2014	9,25

Official rate - Fringe benefits and loans to shareholders

Date of change	Rate %
1 August 2012	6,00
1 February 2014	6,50
1 August 2014	6,75

As from 1 March 2011 the official rate is equal to the South African repurchase rate plus 100 basis points.

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 the state, or where the lender is the South African Reserve Bank or a foreigner.

SKILLS DEVELOPMENT LEVY

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

As from 1 August 2005, employers paying annual remuneration of less than R500 000 are exempt from this levy.

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

Foreign Investment Allowance
Individuals, older than 18 years, in good standing with SARS, can invest R4 million per calendar year (prior to 5 November 2010 : R4 million per lifetime) abroad, subject to obtaining a SARS tax clearance certificate. Income accruing thereon may also be retained abroad.

Individuals who wish to invest amounts in excess of R4 million may make an application to the FinSurv Department of the Reserve Bank together with the relevant tax clearance certificate for consideraton.

Single Discretionary Allowance
Individuals, older than 18 years, have a single discretionary allowance of R1 million (2010 : R750 000) per calendar year which can be apportioned to cover donations to missionaries, maintenance, gifts and loans, travel, study, alimony and child support, wedding expenses and foreign capital allowance.

Applications in excess of the R1 million will be considered on a case by case basis. Individuals, younger than 18 years only have a travel allowance of R200 000 (2010 : R160 000) per calendar year.

Specialised Medical/Dental Expenses Abroad
No limit, provided supported by original documentary evidence of expenses.

Directors Fees
No limit is applicable to directors fees paid to non-residents including emigrants. Requests to transfer such fees must be accompanied by a copy of the resolution of the board of the remitting company confirming the amount to be paid to the director and proof that the director is non-resident.

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

Emigrants
Where the foreign investment allowance has not been fully utilised, emigrants are permitted to increase the allowance to:

- R8 million per calender year per family unit
- R4 million per calender year per single emigrant

Household and personal and other effects (excluding coins which are legal tender in South Africa) may be exported within an overall insured value of R2 million per family unit or single emigrant.

In addition a travel allowance subject to the single discretionary allowance limit, may be accorded once within 60 days prior to departure.

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

Foreign Investment in South Africa
Non-residents enjoy unrestricted rights to invest in gilts and shares listed on the JSE and export the proceeds on the sale thereof. Interest and dividends are also freely remittable. Loans by non-residents to South African residents are subject to specific criteria and recording rules.

Outbound Investments by Companies
The limit that can be approved by authorised dealers (an approved commercial bank) is R500 million (2008 : R50 million) per calendar year.

Approval from FinSurv will have to be obtained for investments exceeding this limit. South African companies are allowed to make *bona fide* new outward direct investments outside their current line of business excluding passive investments.
Authorised dealers may also allow additional working capital funding up to the overall limit of R500 million per calendar year. South African companies may now acquire between 10% and 20% equity and/or voting rights in a foreign target entity which may hold investments and/or make loans into any common monetary area country.

Local Visits by Emigrants
There is no limit on the daily utilisation of the emigrants South African funds during a visit by an emigrant but these funds may not be loaned to a South African resident. Direct return airfares may be paid locally from such funds.

Remittable Income
Certain forms of income earned by an emigrant on his remaining South African assets are freely remittable abroad, after providing for income tax.

Restrictions on Local Financial Assistance
The 3:1 ratio restriction on local financial assistance has been abolished.
Local financial assistance subject to the 1:1 ratio is available to:

- emigrants, where blocked rand balances or blocked rand assets are used as collateral
- non-residents, if the borrowing is required for the acquisition of residential or commercial property in South Africa and/or for financial transactions
- affected persons, if the borrowing is required for the acquisition of residential property in South Africa or for financial transactions
- non-resident wholly owned subsidiaries, if the borrowing is required for the acquisition of residential property in South Africa or for financial transactions.

Forward Cover
South African companies may cover forward up to 75% of budgeted import commitments or export accruals in respect of the forthcoming financial year without FinSurv approval.

Headquarter Companies
Foreign individuals who have established headquarter companies in South Africa may, subject to approval, invest offshore without restriction, subject to certain shareholding and asset criteria.

South African Holding Company for African and Offshore Operations
Listed entities on the JSE and unlisted entities can now establish one subsidiary in South Africa to hold African and offshore operations, which will not be subject to foreign exchange restrictions.

Residents Working Abroad
Remuneration earned whilst physically working abroad can be retained offshore.

Technology, Media, Telecommunications and Research and Development Companies
Unlisted technology, media, telecommunications, exploration and other research and development companies, may apply to FinSurv for approval to primary list offshore or raise foreign loans and capital for their operations.

Offshore Secondary Listings
Companies listed on the JSE may secondary list and/or list depository receipt programmes on foreign stock exchanges to facilitate both local and offshore foreign direct investment expansions.

VALUE-ADDED TAX (VAT)

VAT is payable at 14% (prior to 7 April 1993 : 10%). The system provides for three types of supplies:

- **Standard-rated supplies** – supplies of goods or services subject to the VAT rate in force at the time of supply.
- **Exempt supplies** – supplies of certain goods or services not subject to VAT. Vendors making exempt supplies only are not entitled to input credits.
- **Zero-rated supplies** – supplies of certain goods or services subject to VAT at zero percent. Certain basic food items are zero-rated. 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. Vendors making zero-rated supplies are entitled to input credits.

VAT input tax credits may in general not be claimed in respect of motor vehicles (including sedan and double-cabs) and entertainment.

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 Long-term Insurance Act and contributions to pension, provident, retirement annuity and medical aid funds; and
- buying or selling of derivatives or granting of options.

Registration Requirements

As from 1 March 2009, a vendor is required to register for VAT if turnover in any 12 month period is likely to exceed R1 million.

As from 1 April 2014, VAT registration is compulsory in the case of:

- existing businesses whose taxable supplies have already exceeded the R1 million threshold within the preceding 12 months
- existing or future businesses that have a written contractual commitment to make taxable supplies exceeding R1 million within the next 12 months

Where turnover is less than R1 million in a 12 month period, but exceeds R50 000, or R60 000 in the case of commercial rental establishments, a vendor can register voluntarily.

All vendors deregistering from the VAT system due to the increase in the VAT registration threshold to R1 million may be allowed to pay the exit VAT over a period of time.

For years of assessment commencing on or after 1 March 2012, a registered micro business may also be registered as a vendor for VAT purposes.

Prior to 1 July 2015, where turnover is less than R1,5 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. Where turnover exceeds R30 million a monthly VAT return is required to be rendered. Farmers, with a turnover of less than R1,5 million, may render VAT returns every six months.

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

A tax invoice exceeding R5 000 (2013: R3 000) must reflect both the seller's and purchaser's trade name, address, VAT registration number, description and quantity of goods, VAT amount and prominently display the words "tax invoice".

VAT RELIEF FOR DEVELOPERS

As from 10 January 2012, property developers who let residential property prior to a sale are granted temporary relief from the VAT change in use rules. The relief applies for a maximum period of 36 months per unit if the developer is unable to sell the property due to a lack of demand. If the rental period exceeds 36 months, the deemed change in use will apply, based on the market value of the property on that date. The concession ceases to apply from 1 January 2018.

VAT RELIEF INTER-GROUP

As from 10 January 2012, group debt older than 12 months is not subject to the VAT charge back provision and the group creditor is not entitled to claim a VAT input deduction for a bad debt written off.

ASSESSED LOSSES RING-FENCED

As from 1 March 2004, losses from secondary trades are ring-fenced and are not 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 if 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 at least six out of ten years.

PATENT AND INTELLECTUAL PROPERTY

A taxpayer may claim an allowance for the cost of acquiring any invention, patent, design, copyright, other property 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
- 10% of the cost of any design or other property of a similar nature.

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

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

TAXATION OF FARMING INCOME

Farming income is subject to the provisions of the First Schedule to the Income Tax Act.

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	19	Rating formula for farmers (who are natural persons)
11	Donations and *in specie* dividends	20	Expropriation of farming land
12	Capital development expenditure		
13	Forced sales and drought relief provisions		

Rating Formula Applicable to Farmers

Because a farmer's income fluctuates from year to year, a farmer who is a natural person 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

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 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 include:

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

PUBLIC BENEFIT ORGANISATIONS

An organisation qualifies as a public benefit organisation (PBO) if it carries out certain defined and approved public benefit activities in a non-profit manner substantially in South Africa.

The annual trading income exemption for a PBO is the greater of 5% of total receipts and accruals or R200 000 (2010 : R150 000).

Income in excess of this exemption is subject to tax at 28%.

An approved PBO is exempt from provisional tax.

DEDUCTIONS DONATIONS

Donations to certain designated PBO's qualify for a tax deduction:

Companies - limited to 10% (2007 : 5%) of taxable income before the deduction of donations.

Individuals - limited to 10% (2007 : 5%) of taxable income, excluding retirement lump sum payments and severance benefits, and before the deduction of donations and medical expenses.

Employees may also enjoy PAYE reductions when regular donations are made by way of salary deductions not exceeding 5% of net remuneration.

As from 1 March 2014, donations in excess of the 10% threshold may be carried forward to the next tax year.

RECREATIONAL CLUBS

A recreational club is a non-profit organisation which provides social and recreational amenities or facilities for its members.

The annual trading income exemption for recreational clubs is the greater of 5% of total membership fees and subscriptions or R120 000 (2010 : R100 000). Income in excess of this exemption is subject to tax at 28%.

BODY CORPORATES

Levies received by sectional title body corporates or share block companies are exempt from income tax.

In addition to this exemption all other receipts and accruals are exempt up to a maximum of R50 000 per annum.

Income in excess of this exemption is subject to tax at 28%.

Sectional title body corporates and share block companies are exempt from provisional tax.

SPECIAL ECONOMIC ZONES

As from 19 May 2014, a company operating in a special economic zone will qualify for:

- A lower company tax rate of 15%
- An enhanced new and unused building allowance at a rate of 10%
- An enhanced employment incentive for all employees, without an age restriction, earning below R60 000 per annum.

In order to qualify the company must be formed and effectively managed in South Africa and generate at least 90% of its income within the defined zone.

This incentive ceases to apply from 1 January 2024 or 10 years after the commencement of the carrying on of business in a special economic zone.

PRE–TRADING EXPENDITURE

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

PRE–PRODUCTION INTEREST

Prior to 1 January 2012, interest and related finance charges incurred on any borrowing for the acquisition, installation or construction of any machinery, plant, building or improvements to a building or other assets, including land, were deductible when the asset was brought into use in the production of income. Such expenses are now deductible as pre-trading expenditure.

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, is included in the recipient's gross income in the year of receipt or accrual.

Deduction

Where an expense 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 expense apportioned over the period for which the restraint applies; or
- one-third of the amount incurred per year.

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

DISPUTE RESOLUTION

Where a taxpayer is not in agreement with an assessment, the taxpayer is entitled to request reasons from SARS within 30 days from the date of issuance of the assessment.

A letter of objection must be submitted within 30 days from the date of assessment or from the date upon which a response to the taxpayer's request for reasons is received. A letter of appeal must be submitted within 30 days from the date the objection is disallowed.

An ADR1/NOO1 or ADR2/NOA form must accompany an objection or appeal respectively. If an objection or appeal is submitted late adequate ground must be provided to condone the late objection or appeal.

Where an objection or appeal is submitted late, but within 51 days reasonable grounds must be provided for the late submission.

Where an **objection** is submitted after 51 days but before three years, proof of the exceptional circumstances which caused the delay has to be provided. An objection cannot be submitted if an assessment is older than three years.

Where an **appeal** is submitted after 51 days but before 75 days, proof of the exceptional circumstances which caused the delay has to be provided. An appeal cannot be submitted after the expiry of the 75 day period.

VOLUNTARY DISCLOSURE

As from 1 October 2012, a permanent Voluntary Disclosure Programme is available to formalise voluntary disclosures before and after audit notifications.

The relief applies to penalties (excluding penalties for late submission), understatement penalties (previously additional tax) and criminal prosecution, but does not include foreign exchange contraventions and interest on late payments.

UNDERSTATEMENT PENALTIES

Assessments issued on or after 16 January 2014

Behaviour	Standard case	Obstructive or repeat case	Voluntary disclosure after audit notification	Voluntary disclosure before audit notification
Substantial understatement	10%	20%	5%	0%
Reasonable care not taken in completing return	25%	50%	15%	0%
No reasonable grounds for tax position	50%	75%	25%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

Where the taxpayer can prove that the understatement results from a *bona fide* inadvertent error, no understatement penalty will be imposed.

In the case of a substantial understatement SARS may waive the understatement penalty if the taxpayer is in possession of an opinion given by an independent registered tax practitioner before the return was due (unless that return was due before 1 October 2012) and the practitioner had been given all the material facts and concluded that the taxpayer was more than likely correct in the tax treatment of the transaction.

TAX CLEARANCE CERTIFICATES

A tax clearance certificate can only be obtained if the taxpayer is registered for tax and does not have any tax debt outstanding (except if the debt has been suspended pending objection or appeal or is less than R100) or returns outstanding (except if arrangements are in place to submit those returns).

SARS is obliged to issue or decline the clearance, within 21 business days from the application date. SARS may withdraw a tax clearance, with effect from the original date of issue if the tax clearance was issued in error or obtained on the basis of misrepresentation.

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	R 16 000

- The penalty will automatically be imposed monthly until the taxpayer remedies the non-compliance
- At present the penalty is only payable if a taxpayer is a natural person who has more than one year's tax returns outstanding
- Non-compliance that will attract administrative penalties, once an effective date has been gazetted, include the failure to:
  - meet registration requirements such as failing to register or not registering timeously or not supplying supporting documents
  - inform SARS of a change of address, banking details or representative taxpayer
  - submit a return timeously or failure to sign the return
  - retain records for the prescribed period and in the prescribed format
  - provide information requested or co-operate with a field audit
- Late payment of PAYE, provisional tax and VAT attracts a penalty of 10% of the amount due
- Late submission of the PAYE reconciliation attracts a penalty of 10% of the PAYE deducted for the tax year.

SUSPENSION OF PAYMENT

Subject to a formal application to SARS the payment of tax may be suspended pending an objection or appeal.

SARS is required to consider all relevant factors such as the compliance history of the taxpayer, whether the recovery of the disputed tax will be in jeopardy, the risk of dissipation of assets, whether adequate security was provided, whether the amounts involved would cause irreparable financial hardship to the taxpayer which does not justify the prejudice to SARS and whether *prima facie* fraud was involved.

The suspension may be revoked with immediate effect if no objection is lodged, the objection is found to be frivolous or vexatious, there is a material change in any of the factors previously considered or dilatory tactics are being employed.

No recovery proceedings may be taken by SARS from the date of the submission of the application to the expiry of ten business days after notice of the decision or revocation is provided to the taxpayer, unless there is a risk of dissipation of assets by the taxpayer.

DONATIONS TAX

Donations Tax is 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 year (2006 : R50 000)
- Donations by corporate entities not considered to be public companies up to R10 000 per year
- Donations between spouses
- *Bona fide* maintenance payments
- Donations to PBO's 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
  - 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
- As from 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.

EXECUTOR'S REMUNERATION

Subject to ratification by the Master, an executor is entitled to either of the following remuneration:

- the remuneration stipulated in the will
- 3,5% on the value of gross assets and 6% on income accrued and collected from date of death.

Executor's remuneration is subject to VAT where the executor is registered as a vendor.

IRP5 CODES

Normal Income Codes

3601 Income
3602 Income (Excl)
3603 Pension
3605 Annual Payment
3606 Commission
3608 Arbitration Award
3610 Annuity from a Retirement Annuity Fund
3611 Purchased Annuity
3613 Restraint of Trade
3614 Other Retirement Lump Sums
3615 Director's Remuneration
3616 Independent Contractors
3617 Labour Brokers (PAYE/IT)
3618 Compulsory Annuity from a Provident Fund

Allowance Codes

3701 Travel Allowance
3702 Reimbursive Travel Allowance (IT)
3703 Reimbursive Travel Allowance (Excl)
3704 Subsistence Allowance - Local Travel (IT)
3707 Share Options Exercised (Section 8A)
3708 Public Office Allowance
3713 Other Allowances
3714 Other Allowance - (Excl)
3715 Subsistence Allowance - Foreign Travel (IT)
3717 Broad-Based Employee Share Plan (Section 8B)
3718 Employee Equity Instruments (Section 8C)

Fringe Benefit Codes

3801 General Fringe Benefits
3802 Right of Use of Motor Vehicle acquired by employer not by operating lease
3805 Accommodation
3806 Services
3808 Payment of Debt
3809 Bursaries or Scholarships
3810 Company Contribution to Medical Aid
3813 Cost related to Medical Services paid by Company
3815 Non-Taxable Bursaries or Scholarships to Employees and/or their Dependants
3816 Right of Use of Motor Vehicle acquired by employer by operating lease
3817 Pension Fund Contributions paid by employer for the employee
3818 Provident Fund Contributions paid by employer for the employee
3819 Retirement Annuity Contributions paid by employer for the employee
3820 Taxable Bursaries and Scholarships - Further Education
3821 Non-taxable Bursaries and Scholarships - Further Education
3822 Non-taxable Fringe Benefits on acquisition of immovable property

Gross Remuneration Codes

3696 Gross Non-Taxable Income
3697 Gross Retirement Funding Employment Income
3698 Gross Non-Retirement Funding Employment Income

Lump Sum Codes

3901 Gratuities (Retirement/Retrenchment or Death)
3906 Special Remuneration (e.g. proto-teams)
3907 Other Lump Sums (e.g. backdated salaries extended over previous tax year, non-approved funds)
3908 Surplus Apportionments on or after 1 January 2006
3909 Unclaimed Benefits paid by Fund prior to 1 March 2007
3915 Pension, Provident or Retirement Annuity Fund Lump Sum Benefits paid on or after 1 October 2007; Lump Sum accruing on or after 28 February 2009; commutation of annuity on or after 1 March 2011
3920 Lump Sum Withdrawal Benefits from Retirement Funds after 28 February 2009
3921 Living Annuity and Section 15C Surplus Apportionments accruing after 28 February 2009
3922 Compensation in respect of death during employment

Deduction Codes

4001 Current Pension Fund Contributions
4002 Arrear Pension Fund Contributions
4003 Current and Arrear Provident Fund Contributions
4005 Medical Aid Contributions paid by Employer or Pension Fund
4006 Current Retirement Annuity Fund Contributions
4007 Arrear (Re-Instated) Retirement Annuity Fund Contributions
4018 Loss of Income Policy Contributions
4024 Medical Services Costs Deemed paid for Immediate Family
4026 Arrear Pension Fund Contributions - Non-Statutory Forces
4030 Donations paid by the Employer to a PBO
4472 Employer's Pension Fund Contributions
4473 Employer's Provident Fund Contributions
4474 Employer's Medical Aid Contributions
4475 Employer's Retirement Annuity Fund Contributions
4493 Employer's Medical Aid Contributions i.r.o. Retired Employees
4497 Total Deductions

Employees Tax Deduction and Reason Codes

4101 SITE
4102 PAYE
4115 Tax on Retirement Lump Sum Benefits
4116 Medical Scheme Fees Tax Credit
4118 The sum of the Employment Tax Incentive
4141 UIF Employee and Employer Contribution
4142 SDL Contribution
4149 Total SDL and UIF
4150 01 - Invalid from March 2002
02 - Earn Less than the Tax Threshold
03 - Independent Contractor
04 - Non-Taxable Earnings (including nil directive)
05 - Exempt Foreign Employment Income
06 - Director's Remuneration - Income Determined in the following Tax Year
07 - Labour Broker with IRP30
08 - No Tax Due to Medical Aid Tax Credit
09 - No Withholding Possible

Foreign Employment Income

For employees with foreign employment income the value of 50 must be added to each relevant IRP5 code.
Example: Code 3601 will become 3651 for Foreign Income.

RETENTION OF DOCUMENTS/RECORDS

RECOMMENDED GUIDELINES

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

Companies	Retention period
Memorandum and Articles of Association/Incorporation	Indefinite
Certificate of Incorporation/Registration Certificate	Indefinite
Certificate of Change of Name	Indefinite
Certificate to Commence Business	Indefinite
Share/Securities Register, Minute Book, CM25 and CM26	Indefinite
Rules	Indefinite
Annual Financial Statements	7 years
Books of Account and supporting schedules	7 years
Ancillary books of account	7 years
Record of past and present directors	7 years
Fixed Asset Registers	7 years
Proxy Forms	3 years

Close Corporations

Founding Statement (CK1)	Indefinite
Amended Founding Statement (CK2)	Indefinite
Minute Book	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 submission)	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	5 years
Documentary proof of zero rated supplies	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

OUR SERVICES

Audit and corporate services
Auditing - external and internal
Accounting
Company secretarial services
Management consulting services
IT risk services

Tax planning and compliance
Corporate and personal taxation
International tax
Indirect tax

Integrated reporting
Preparation and strategic alignment
Data gathering, synthesis and writing
Report review and assurance

Corporate finance
Mergers, acquisitions and disposals
Financial and tax due diligence
Listings
Valuations
Regulatory support
Management buy-outs
Corporate restructuring
New business formations

Corporate governance
Compliance appraisal and manuals
Corporate governance review

Wealth management
Personal financial planning
Estate planning and administration
Wills and trusts

International and other services
Exchange control
BEE consulting and training
BEE verification
IT support
Recruitment
Liquidations

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