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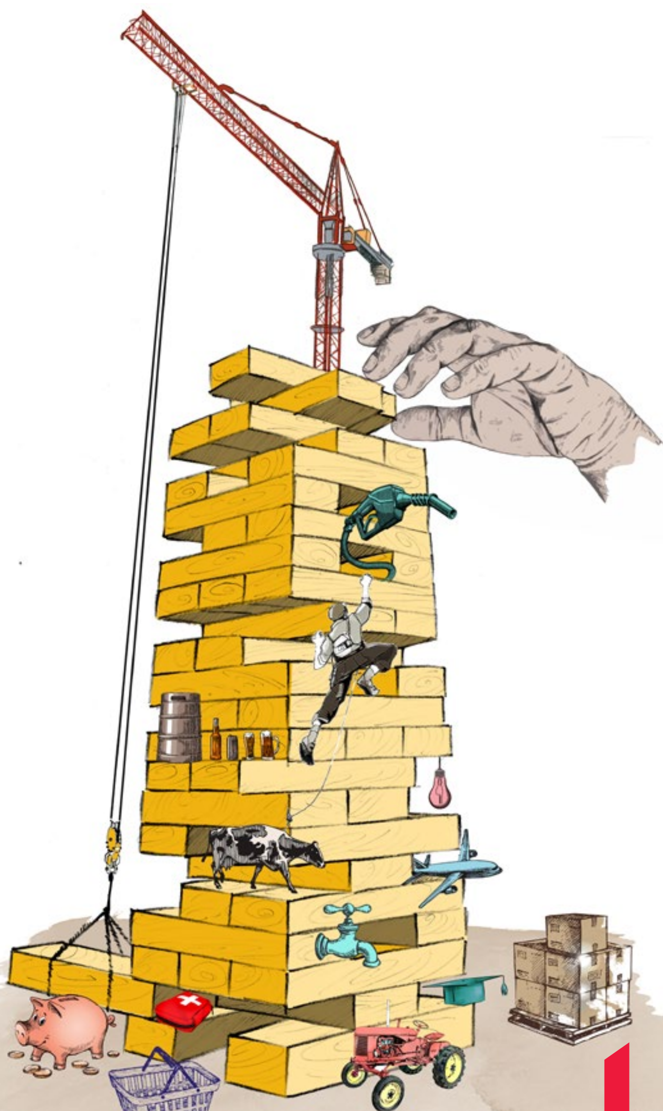

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Our distinctive reputation for building close personal relationships with our clients is built upon our commitment to all our stakeholders that what matters to them matters to us. We work with our clients to define what exceptional client service means to them and we aim to bring insight and up to date thinking to help them meet their business objectives.

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BUDGET HIGHLIGHTS 2017/2018

The contents of this publication incorporate the Budget proposals tabled in Parliament on 22 February 2017, together with appropriate amending legislation to that date. Applicable laws, rules, proposals, practices and regulations often change and have varying implementation dates. Furthermore, the information provided is only intended to serve as a general guideline, and professional advice should be sought before making any decision.

Salient features of the Budget proposals are summarised below for ease of reference.

PERSONAL INCOME TAX RATES

The minimum tax threshold increases from R75 000 to R75 750 for persons under the age of 65. For persons aged from 65 to 74, the tax threshold increases from R116 150 to R117 300 and for persons aged 75 and older the tax threshold increases from R129 850 to R131 150.

The primary rebate increases from R13 500 to R13 635. The secondary rebate for individuals aged 65 and older increases from R7 404 to R7 407. The tertiary rebate for individuals aged 75 and older increases from R2 466 to R2 493.

A new maximum marginal tax bracket is introduced. The new maximum marginal tax rate of 45% is applicable to taxable income above R1 500 001. Taxable income above R708 310 will be subject to the previous maximum marginal tax rate of 41%.

Interest Income Exemption

The domestic interest exemption remains constant at R23 800 per year of assessment for individuals aged under 65 and at R34 500 per year of assessment for individuals aged 65 and over.

THE MOST SIGNIFICANT TAX PROPOSALS

The 2017 Budget was tabled during a time of low economic growth and the threat of an impending credit downgrade. It was anticipated that additional taxes in the order of around R30 billion would have to be raised.

The 2017 Budget saw a reduction in the budget deficit as a percentage of gross domestic product to 3.1%, compared with 3.2% in the 2016/2017 Budget. The tax proposals if implemented would lead to an increase in personal income tax revenues of some R16.5 billion through not adjusting brackets fully for inflation.

It was not proposed that the capital gains tax inclusion rates would be increased and that these would remain at 40% for individuals, special trusts and insurers' policyholder funds and 80% for all other taxpayers.

The following were the most important proposals:

- A new 'supertax' rate of 45% for individuals which would apply to so much of taxable income as exceeds R1.5 million per annum;
- the income tax rate for trusts other than 'special trusts' would increase from 41% to 45%;
- the dividends tax rate would increase from 15% to 20% with effect from 22 February 2017, subject to the application of double taxation agreements. This was expected to raise an additional R6.8 billion. In tandem with this increase, the effective income tax rate on foreign dividends would also be increased;
- the headline corporate income tax rate would remain unchanged at 28%;
- the standard VAT rate would remain unchanged at 14%;
- the value of properties qualifying for a zero rate of transfer duty would be increased from R750 000 to R900 000;
- the withholding tax rates applicable to sales of immovable property by non-residents would be increased to align more closely with the increase in income tax rates. This withholding tax is however merely a pre-payment which is credited against the capital gains tax or income tax liability of the seller of the property;
- the fuel levy be increased by 30 cents per litre and that the Road Accident Fund levy be increased by 9 cents per litre; and
- the targeted excise duties on wine, beer, spirits and tobacco would be increased by rates higher than the current consumer price index.

In order to expand the tax base, it was announced that the zero-rating on fuel would be removed. In order to mitigate the effect on transport costs, a freeze or decrease in the fuel levy would be considered. Such proposals would be published for public comment during 2017.

It was also confirmed that the proposed tax on sugary beverages would be introduced, once the necessary legislation passed the legislative process.

It was announced that a revised Carbon Tax Bill would be published for public consultation by mid-2017.

A Special Voluntary Disclosure Relief Programme came into effect on 1 October 2016 and is expected to remain available until August 2017 for taxpayers to regularise their tax and exchange control affairs by declaring undeclared offshore income and assets.

South Africa, as one of the adopters of the automatic exchange of information together with the country-by-country reporting standards, will report in September 2017.

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BUDGET HIGHLIGHTS 2017/2018

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The introduction of the newly-enacted legislation dealing with the taxation of interest-free loans to Trusts is regarded as an anti-avoidance measure to prevent a loss to the fiscus when growth assets are transferred on interest-free loan account to Trust structures.

Among the technical amendments it was announced that:

- The current exemption for foreign employment income would be narrowed such that the exemption will only apply if the remuneration is subject to tax in a foreign country;
- The provisions deeming the difference between interest at the official rate and the interest actually charged in respect of a loan to a trust would become subject to an anti-avoidance rule dealing with schemes in which loans are made to a company of which the shares are owned by a trust. It was however proposed that the anti-avoidance rule would not apply to trusts such as share scheme trusts and certain trading trusts;
- Measures would be introduced on the treatment of foreign companies held by interposed trusts. It appears that what is envisaged by this proposal is that the controlled foreign company rules will be amended to deem such a company to be a controlled foreign company in various (as yet unspecified) circumstances;
- With regard to the amendments introduced in 2016 dealing with share schemes in which the underlying shares are liquidated in return for a dividend, it was stated that the interaction between section 8C and the capital gains tax provisions will be clarified. It was also announced that specific countermeasures will be introduced to curb the use of such buyback schemes;
- In the case of dormant companies or companies undergoing business rescue, the current group relief from the debt reduction rules in the case of debt that funded the acquisition of capital assets will be extended to cover debt that funded operating expenditure;
- The corporate reorganisation rules would be amended to allow for the tax neutral assumption of contingent liabilities;
- Various amendments would be made to the taxation of banks and financial institutions;
- In order to facilitate and simplify the calculation and administration of employees' tax, only the portion of the travel expenses reimbursed by an employer that exceeds the rate or distance fixed by the Minister by notice in the Gazette should be regarded as remuneration for purposes of determining employees' tax;
- All decisions of SARS that are not currently subject to objection and appeal would be subject to the remedies under Chapter 9 of the Tax Administration Act (dispute resolution rules).

THE CALCULATION OF TAX PAYABLE – INDIVIDUALS

2018 YEAR OF ASSESSMENT

Gross income		…………
Less: exempt income	(*see pages 11 – 12*)	…………
Income		…………
Less: deductions	(*see pages 12 – 14*)	--------
Add: 40% of capital gain	(*see pages 38 – 44*)	…………
Less: 18A donation deduction	(*see page 12*)	
Taxable income		
Tax per tables	(*see page 6*)	…………
Less: rebates	(*see page 6*)	…………
Less: medical scheme fees tax credit	(*see page 12 – 13*)	
Provisional tax paid	(*see pages 24 – 26*)	
Foreign tax credits	(*see page 10*)	
PAYE paid	(*see page 26*)	
Tax due		

TAX RATES: INDIVIDUALS AND TRUSTS

YEAR ENDED 28/29 FEBRUARY

Individuals

Rebates	2018	2017	2016
Primary Rebate	R13 635	R13 500	R13 257
Age Rebate* – 65 and over	R7 479	R7 407	R7 407
Third Rebate* – 75 and over	R2 493	R2 466	R2 466

** Additional to primary rebate*

Tax Threshold			
Under 65	R75 750	R75 000	R73 650
65 and over	R117 300	R116 150	R114 800
75 and over	R131 150	R129 850	R128 500

Individuals and Special Trusts

Taxable Income 2018 R		Tax Liability R		R
0 –	189 880		18% of taxable income	
189 881 –	296 540	34 178	+ 26% of the amount >	189 880
296 541 –	410 460	61 910	+ 31% of the amount >	296 540
410 461 –	555 600	97 225	+ 36% of the amount >	410 460
555 601 –	708 310	149 475	+ 39% of the amount >	555 600
708 311 –	1 500 000	209 032	+ 41% of the amount >	708 310
1 500 001	and above	533 625	+ 45% of the amount >	1 500 000

Trusts (other than Special Trusts)

Taxable Income	Rate of Tax	Effective Capital Gains Tax Rate
2018	45%	36.00%
2017	41%	32.80%

TAX RATES: CORPORATES

YEAR OF ASSESSMENT ENDING BETWEEN 1 APRIL 2017 – 31 MARCH 2018

Companies and Close Corporations

Taxable Income (R)	Rate of Tax (%)
SMALL BUSINESS CORPORATIONS	
0 – R75 750	0%
R75 751 – R365 000	7% of the amount above R75 750
R365 001 – R550 000	R20 248 + 21% of the amount above R365 000
R550 001 and above	R59 098 + 28% of the amount above R550 000
MICRO BUSINESSES Qualifying businesses with a turnover of up to R1 million may elect to be taxed upon qualifying turnover. See page 29 for table of rates.	
COMPANIES AND CLOSE CORPORATIONS other than certain gold mining companies and special entities referred to on this page	28%
DIVIDENDS TAX	20%
PUBLIC BENEFIT ORGANISATIONS AND RECREATIONAL CLUBS (on non-exempt income)	28%
LOCAL BRANCH OF FOREIGN COMPANY Normal tax rate	28%
LONG-TERM INSURERS	
Individual policyholder fund	30%
Company policyholder, Corporate fund and Risk policy fund	28%
Untaxed policyholder fund	0%

RESIDENCE AND SOURCE OF INCOME

South African residents are taxed on their worldwide income, whilst non-residents are subject to tax on their South African sourced income (subject to specific exclusions, exemptions or deductions as well as the provisions of applicable double taxation treaties).

DEFINITION OF RESIDENT

Individuals

A natural person is a resident if he or she:

- is ordinarily resident in South Africa; or
- is not ordinarily resident in South Africa, but:
  - is physically present in South Africa for a period or periods exceeding 91 days in aggregate during the current year of assessment and for a period or periods exceeding 91 days in aggregate during each of the preceding 5 years of assessment; and
  - was physically present in South Africa for a period exceeding 915 days in aggregate during the preceding 5 years of assessment.

If a person is deemed to be a resident in terms of the physical presence test above, he or she is deemed to be a resident from the first day of the relevant year of assessment.

Where a person is a resident in terms of the physical presence test, but has been outside of South Africa for a continuous period of at least 330 full days after ceasing to be physically present in South Africa, he or she will be deemed to be non-resident from the date of departure.

Furthermore, a person will not be regarded as a resident if such person is deemed to be exclusively a resident of another country for purposes of the application of a double taxation treaty.

Companies or entities other than natural persons

A company or juristic entity will be considered to be resident in South Africa if it is incorporated, established, formed or has its place of effective management in South Africa.

Foreign branches of South African residents

The taxable income of a foreign branch belonging to a local resident, person or entity will also be subject to South African income tax.

Losses in foreign branches cannot be offset against income from a South African source and must be carried forward for offset against foreign sourced income in the following years.

Controlled foreign companies (CFCs)

A controlled foreign company (CFC) generally means any foreign company where more than 50% of the total participation rights in that foreign company are directly or indirectly held or more than 50% of the voting rights in that foreign company are directly or indirectly exercisable by one or more residents.

A CFC's net income is imputed to South African residents who, together with any 'connected persons' in relation to themselves, hold more than 50% of the participation or voting rights in the CFC. This is subject to a number of exclusions.

The most important of these are an exclusion for net income subject to a high rate of foreign tax and non-diversionary net income attributable to a foreign business establishment of the CFC.

The imputation is generally done on the basis of the ratio of the participation rights of each resident in such CFC on the last day of the foreign tax year of the CFC.

The taxable income of a CFC is determined as if the CFC were a South African taxpayer and a South African resident, subject to a number of exceptions.

Foreign tax credits / deduction

A resident may deduct the foreign taxes paid in respect of foreign sourced income from the South African tax attributable to that income, subject to certain limitations.

Any excess credits may be carried forward for up to 7 years.

Alternatively, relief may be claimed if a double taxation treaty applies.

Where a resident is subject to foreign tax in respect of South African sourced income, a deduction of the foreign tax paid from taxable income may be claimed, subject to certain limitations

Non-residents

As stated above, non-residents are taxed on South African sourced income subject to a number of exceptions and the provisions of various double taxation treaties.

There are currently more than 70 comprehensive treaties in force and other prospective treaties are in various stages of finalisation.

continued...

RESIDENCE AND SOURCE OF INCOME

...continued

Some of the more important principles relating to South African sourced income earned by non-residents are as follows:

- The profits of local branches of foreign companies are taxed at a rate of 28% and no dividends tax or similar tax is payable on the repatriation of branch profits.
- There are comprehensive transfer pricing rules (including thin capitalisation) applicable to transactions between local entities and non-resident related parties.
- Interest earned by non-residents is exempt from income tax unless the non-resident has a permanent establishment in South Africa to which the interest is attributable or if the non-resident is an individual who is present in South Africa for more than 183 days in aggregate during the 12-month period preceding the date on which the interest was received by or accrued to him or her. However, a withholding tax at 15% on certain interest paid to non-residents applies from 1 March 2015. For more detail on this withholding tax, see 'Withholding tax on interest paid to non-residents' in this guide.
- Royalty payments to non-residents are subject to a withholding tax of 15% (increased from 12% with effect from 1 January 2015).
- Dividends paid to non-residents are subject to a 20% dividend withholding tax in respect of dividends paid on or after 22 February 2017. Prior to this date the rate was 15%.
- The above withholding taxes are subject to various exclusions and are also subject to relief in terms of double taxation treaties.
- The disposal of South African immovable property by a non-resident is subject to withholding tax, unless certain exceptions apply.

TAXATION OF INDIVIDUALS

Subject to the provisions of any particular double taxation treaty, South African resident individuals are taxed on their worldwide income whilst non-resident individuals are subject to tax on income earned from a South African source.

There is one set of income tax tables for all individuals, regardless of marital status or the number of dependants. Tax payable is reduced by a primary rebate applicable to all individuals and secondary and tertiary (age-related) rebates.

MARRIED PERSONS

Married persons are generally taxed as separate taxpayers and each spouse is taxed on his or her own income. Exceptions to this rule include:

- Any income which is received by or accrued to a spouse in consequence of a donation, settlement or other disposition by the other spouse is deemed to be income of the spouse who made such donation/settlement/disposition if done solely or mainly to avoid tax.
- Any income derived by one spouse from the other spouse or from a partnership or private company of the other spouse, or derived from a trade which is connected to a trade carried on by the other spouse, is taxed in the hands of the other spouse to the extent that the amount of income is excessive in the circumstances.
- If a couple is married in community of property, the net property rentals and/or interest income received by them is deemed to accrue in equal shares to each spouse, provided that the underlying property forms part of the joint estate. Any income which does not fall into the joint estate is taxed in the hands of the spouse entitled thereto. Similar principles apply in respect of capital gains and losses made by persons married in community of property.

MINOR CHILDREN

Minor children (under the age of 18 years) may be taxpayers in their own right and are taxed on income received by or accrued to them. Where the income arises as a result of the child's parent having made a donation, settlement or other disposition to the child, the resultant income will be taxed in the parent's hands.

EXEMPT INCOME

The following are the more common types of income exempt from income tax in the hands of individuals:

- Qualifying pensions received by or accrued to a resident from a non-South African source provided the pension is also from a non-South African retirement fund;
- The capital portion of a purchased annuity;
- Remuneration received for services rendered outside the Republic for longer than 183 days in any 12-month period, provided the 183-day period of absence includes a continuous period of more than 60 days. This exemption is subject to certain exclusions, e.g. severance and termination payments do not qualify for the exemption;
- War and certain disability pensions;

continued...

EXEMPT INCOME

...continued

- Dividends received from South African resident companies, subject to certain exceptions;
- Certain dividends received from non-resident companies;
- South African sourced interest earned by individuals, up to a maximum of R23 800 per tax year (R34 500 for persons aged 65 years and over);
- Interest earned by non-residents unless the interest is attributable to a permanent establishment of the non-resident in South Africa;
- Interest earned by non-resident individuals who are absent from South Africa for at least 183 days in aggregate during the 12-month period preceding the date on which the interest was received by or accrued to the non-resident. Note, however, that from 1 March 2015 withholding tax on interest in general applies to interest payments to non-residents; and
- UIF and Workmens' Compensation benefits.

FOREIGN EMPLOYMENT

Employees who are residents of South Africa are, in the absence of an exemption, subject to income tax on remuneration earned whilst they render services abroad. Employees are exempt from income tax on remuneration earned for services rendered outside South Africa, but only if the employee is outside South Africa for more than 183 days and is absent for at least one continuous period of more than 60 days in earning the remuneration, during a 12-month cycle. This exemption is subject to certain exclusions. Other remuneration items that relate to foreign employment may also qualify for this exemption, for example, bonuses, fringe benefits, or the relevant portion of certain share options.

SARS recently issued the second issue of Interpretation Note 16 dealing with this exemption. There are several aspects relating to the apportionment calculation which includes leave days. The facts and circumstances giving rise to the leave accrual must be considered.

REBATE FOR MEDICAL EXPENSES

MEDICAL AND DISABILITY EXPENSES

Medical expenditure includes:

- any contributions to a local or foreign medical scheme made in respect of the taxpayer and his/her spouse and dependants; and
- all amounts paid in respect of medical, dental and hospitalisation expenses, payments to pharmacists for medicines obtained on prescription and payments to nursing homes or a registered nurse/midwife for services supplied to the taxpayer, his/her spouse, and his/her dependants.

Qualifying medical expenses do not include expenses that have been recovered from a medical scheme. Only the person who paid an expense may claim it.

Payments by an employer which are treated as taxable benefits are, however, deemed to have been paid by the employee.

From the 2015 year of assessment, a credit-only (rebate) system applies:

- The rebate effectively consists of two components which are aggregated:
  1. The Medical Scheme Fees Tax Credit; and
  2. The Additional Medical Expenses Tax Credit.

1 above is in respect of medical aid contributions paid by the person but does not depend on the level of such contributions i.e. it is a fixed monthly amount as follows:

- R303 where the contributions are in respect of the taxpayer only;
- R606 in respect of the taxpayer and one dependant;
- R204 in the case of each additional dependant.

2 above is in respect of so-called 'excess' medical aid contributions and non-recoverable medical expenses.

Taxpayers aged 65 years and older and those with disabilities or disabled dependants convert all medical scheme contributions in excess of three times the allowable contributions credit (above) plus out-of-pocket expenses into an additional tax credit at a conversion rate of 33.3%. In respect of taxpayers under the age of 65 years, the conversion to credit will apply to medical scheme contributions in excess of four times the allowable contributions credit (above) plus out-of-pocket expenses less 7.5% of taxable income (excluding lump-sum benefits) at a conversion rate of 25%.

DEDUCTIONS

ENTERTAINMENT

Such expenditure may not be claimed against employment income (remuneration) where such remuneration is mainly fixed and is not in the form of commission on sales.

DONATIONS TO PUBLIC BENEFIT ORGANISATIONS

Donations to qualifying Public Benefit Organisations (PBOs) are deductible up to a maximum calculated at 10% of taxable income excluding retirement fund lump sums and severance benefits. A specific mechanism allows for payroll giving whereby an employee may enjoy a reduction of PAYE withheld as a consequence of making eligible donations. Donations in excess of the 10% limit are allowed to be rolled over to future tax years.

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HOME STUDY EXPENSES

A deduction for home study costs will only be allowed if:

- a study is regularly and exclusively used for the purpose of the taxpayer's trade and is specifically equipped for such purpose; and
- in the case of an employee who derives income mainly from commission, his or her duties are mainly performed other than in an office provided by the employer; and
- in the case of other employees, his or her duties are mainly performed in the home study.

CONTRIBUTIONS TO PENSION, PROVIDENT AND RETIREMENT ANNUITY FUNDS

Treatment for 2017 year of assessment and thereafter

From 1 March 2016, contributions to retirement funds by employers will constitute a taxable fringe benefit in the hands of the employee. Individual taxpayers will be allowed to deduct up to 27.5% of the greater of their remuneration (excluding lump-sum benefits) and taxable income (excluding lump-sum benefits) with an overall cap of R 350 000 in respect of contributions made by themselves or their employer to pension, provident or retirement annuity funds. An excess may be carried forward to the following year of assessment.

Treatment for 2016 and prior years of assessment

Pension Funds

Any person could claim a deduction of his or her current contributions to a pension fund. The deduction was limited to the greater of:

- R1 750, or
- 7,5% of his remuneration derived from retirement funding employment.

Any excess could not be carried forward to the following year of assessment. A maximum deduction of R1 800 per annum was allowable for arrear contributions to a pension fund. Any excess over R1 800 could be carried forward to the following year of assessment.

Retirement Annuity funds

A taxpayer could claim his or her current contributions and, provided they were included in the taxpayer's gross income as a taxable fringe benefit, the employer's contributions to a retirement annuity fund as a deduction, limited to the greatest of:

(i) 15% of income from non-retirement funding employment, excluding specified income (e.g. retirement lump sums and severance benefits);

(ii) R3 500 less any deduction for current contributions to a pension fund; or

(iii) R1 750.

Any excess could be carried forward to the following year of assessment. The maximum deduction of arrear contributions to a retirement annuity fund was R1 800 per annum. Any excess could be carried forward to the following year of assessment.

Provident funds

Contributions to approved provident and benefit funds were not allowable as a deduction from an individual's income.

TAX-FREE INVESTMENTS

With effect from 1 March 2015, individuals, regardless of age, are permitted to invest up to R30 000 per annum, with an overall lifetime limit of R500 000, into 'tax-free investments'. With effect from 1 March 2017, the R30 000 limit increased to R33 000 per annum. The eligible products include exposure to money market instruments, equities and property investments. The allowed composition of the tax-free investments as well as the entities that may administer such investments have been designated by notice by the Minister of Finance.

A withdrawal followed by a return to such an investment as well as transfers between products do not count towards the annual contribution limit.

Where a taxpayer contributes in excess of the annual or lifetime limit, a penalty of 40% of the excess contribution is levied.

SHARE INCENTIVE SCHEMES

Employees and directors are subject to tax on gains derived from rights that they obtain in terms of a share incentive scheme. Rights obtained prior to 26 October 2004 are governed by section 8A. Rights obtained on or after 26 October 2004 are governed by section 8C. Broad-based share incentive schemes are governed by section 8B (see page 46).

The more important features of section 8C are as follows:

- Employees are subject to tax on any share, share option, convertible instrument or member's interest in a close corporation that is acquired from an employer or by arrangement with the employer. The gain or loss will be determined on the vesting date (see below);
- The gain or loss is the difference between the amount paid by the employee to acquire the equity instrument and its market value on the vesting date;
- The definition of 'vesting date' differs depending on whether the instrument is restricted or unrestricted;

continued…

SHARE INCENTIVE SCHEMES

...continued

- Unrestricted instruments trigger a taxable event when acquired whereas restricted instruments usually trigger such an event once the restrictions causing the restricted equity instrument status are lifted;
- The amount of any gain determined on the vesting of an equity instrument is taxed as income and will be subject to employees' withholding tax.

THE TAXATION OF FRINGE BENEFITS

GENERAL PRINCIPLES

- The taxability of the fringe benefit in the hands of the employee is unaffected, whether the benefit is granted by the employer or by an 'associated institution' in relation to the employer; –Where the benefit is granted to any person other than the taxpayer by virtue of the taxpayer's employment, it is deemed to be granted to the taxpayer;
- Tax effects described below apply to benefits granted to an employee or to the holder of an office (e.g. a director), hereinafter collectively referred to as 'employee';
- VAT output on certain fringe benefits is payable by the employer, generally calculated as the fringe benefit value determined using the rules below multiplied by the rate of 14/114.

RESIDENTIAL ACCOMMODATION FOR FOREIGNERS WORKING IN THE REPUBLIC

A taxable fringe benefit will arise if an employer provides residential accommodation to a foreign employee working in South Africa, subject to the following relief available to expatriates.

The foreign employee will be exempt from fringe benefits tax on residential accommodation for a maximum period of two years from the date of his arrival in the Republic. The residential accommodation must be provided for the purpose of performing the duties of employment. This concession is limited to R25 000 per month. Where the value of the benefit exceeds R25 000 per month, the fringe benefit is determined by taking the value of the benefit as determined below in terms of the item 'residential accommodation', less the R25 000 exemption. If an employee is in the Republic for less than 90 days, the cap will not apply.

This special tax-free concession does not apply if a foreign employee was present in the Republic for a period exceeding 90 days during the year of assessment immediately preceding the date of arrival, in order to commence his or her duties. In that case, the use of the accommodation is taxed as per the rules set out in 'residential accommodation'. See page 21.

BURSARIES

Bona fide bursaries or scholarships granted by an employer to an employee or to an employee's relative are generally exempt in the hands of the employee. However, this exemption will not apply:

- if the bursary or scholarship is granted to any employee and the employee does not agree to reimburse the employer if the employee fails to complete the studies; or
- if the bursary or scholarship is granted to an employee's relative and the employee's 'remuneration proxy' exceeds R400 000 per annum; or
- if the bursary or scholarship is granted to an employee's relative, to so much of the bursary or scholarship as exceeds R40 000 per annum (in the case of higher education) or R15 000 per annum (in the case of basic education).

ACQUISITION OF ASSET AT LESS THAN ACTUAL VALUE

A taxable benefit arises whenever an asset (other than money) has been acquired by an employee from:

- his or her employer; or
- an associated institution; or
- any other person by arrangement with his employer.

The taxable benefit is generally the difference between the market value of the asset and the consideration given by the employee.

Transfers of low-cost housing to certain qualifying employees are excluded from this treatment.

The fringe benefit value is reduced by R5 000 if the asset comprises:

- a bravery award; or
- a long service award (unbroken period of service of 15 years or any subsequent unbroken period of 10 years).

TRAVEL ALLOWANCES

Use of the employee's own vehicle

If an employee uses his or her own motor vehicle for business purposes and receives an allowance from the employer to defray expenditure, the allowance is tax-free to the extent that it is expended for business purposes.

Either actual or deemed costs relating to business travel may be claimed. Deemed costs are determined based on the value of the vehicle as per the table below. The value of the vehicle is essentially the purchase price including VAT, but excluding finance charges. Private travelling includes travelling between the employee's place of residence and the place of employment.

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THE TAXATION OF FRINGE BENEFITS

...continued

Where business travel is 12 000 kilometres or less for a year of assessment, an employee may receive a reimbursement of up to 355 cents per kilometre on a tax-free basis, provided that no other allowance or reimbursement is received by the employee in respect of the vehicle.

For PAYE purposes, 80% of the monthly travel allowance is regarded as remuneration and is subject to PAYE. However, if the employer is satisfied that at least 80% of the use of the motor vehicle will be for business purposes, only 20% of the monthly travel allowance may be subject to PAYE. If the employee has the use of a company-owned fuel, garage or maintenance card, the amount used on the card is added to the travel allowance and taxed as highlighted above for PAYE purposes.

The following methods may therefore be applied in determining business travel reduction against a travel allowance received:

- a taxpayer may furnish accurate data and deduct actual costs relating to business travel. A logbook is thus required for this method. Finance charges and wear and tear are, however, limited where a vehicle costs more than R595 000, and in this case, lease payments are limited to the deemed fixed cost applicable to a vehicle with a cost of R595 000 per the table below; or
- a taxpayer may use actual business kilometres which are applied to deemed costs. A logbook is also required for this method.

Deemed costs are determined according to the following table:

Value of the Vehicle (including VAT) (R)	Fixed Cost (R)	Fuel Cost (c)	Maintenance Cost (c)
0 – 85 000	28 492	91.2	32.9
85 001 – 170 000	50 924	101.8	41.2
170 001 – 255 000	73 427	110.6	45.4
255 001 – 340 000	93 267	118.9	49.6
340 001 – 425 000	113 179	127.2	58.2
425 001 – 510 000	134 035	146.0	68.4
510 001 – 595 000	154 879	150.9	84.9
> 595 000	154 879	150.9	84.9

The fixed cost is divided by the total kilometres travelled during the year of assessment. The fixed cost is prorated if the vehicle is not used for business purposes for the full year. The fixed cost per kilometre, fuel costs and maintenance costs are then added to arrive at a total rate per kilometre, which is applied to the actual business kilometres travelled. The fuel cost and maintenance cost components may only be claimed where the employee bears the full cost of fuel or of maintenance, respectively.

RIGHT OF USE OF AN EMPLOYER-PROVIDED MOTOR VEHICLE

A taxable benefit accrues where an employee is granted the right to use an employer-provided motor vehicle either free of charge or for a consideration that is less than the value of the private use of that vehicle.

The monthly taxable benefit for the use of an employer-owned vehicle granted to an employee is 3.5% of the determined value of the vehicle (3.25% where the vehicle is subject to a maintenance plan). The same percentages also apply to the taxable benefit for a second or subsequent vehicle granted by an employer to an employee where the vehicle in question is not used primarily for business purposes.

Where the vehicle is held by the employer under an 'operating lease' concluded between non-connected parties in an arms-length transaction, the monthly taxable benefit is the sum of the costs incurred by the employer under the lease and the fuel costs.

The 'determined value' of a vehicle owned by the employer is the retail market value thereof, inclusive of VAT but excluding finance charges, as determined by the Minister by regulation, at the time when the employer first obtained the right of use of the vehicle. The 'determined value' does not decrease in subsequent years. However, should the taxpayer not be the first employee to have use of the motor vehicle, and the taxpayer first obtains the right of the use of the vehicle 12 months or more after the employer first obtained the use of the vehicle, the determined value comprises the original value as determined above depreciated by 15% per annum for each completed period of 12 months on the reducing balance method.

Where a logbook is maintained and the employee pays the full cost of licensing, insurance or maintenance, on assessment a pro-rata reduction is made based on actual costs. Where a logbook is maintained and the employee pays the full cost of fuel for private travel, on assessment a pro-rata reduction is made, based on the deemed fuel cost per the travel allowance table above.

In the following cases, the private use of a motor vehicle will not give rise to a taxable benefit:

- if the vehicle is available to, and is used by, employees of the employer in general, the private use is of a casual nature or merely incidental to the business use and the vehicle is not normally kept at or near the employee's home when not in use outside business hours (i.e. a pool car); or
- if the nature of the employee's duties are such that he or she is regularly required to use the vehicle outside his normal hours of work and he is not permitted to use such vehicle for private purposes other than travelling between his or her place of residence and work; or

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- private use that is infrequent or merely incidental to its business use.

For PAYE purposes, 80% of the fringe benefit as determined above (without any reduction for costs borne by the employee) is regarded as remuneration and is subject to PAYE. However, if the employer is satisfied that at least 80% of the use of the motor vehicle will be for business purposes, only 20% of the fringe benefit may be subject to PAYE.

INTEREST ON LOANS

The taxable benefit arising from interest-free or low-interest loans granted to employees will be valued at the difference between the official interest rate and the interest (if any) payable by the employee.

The official rate is determined with reference to the repurchase ('repo') rate. Where the loan is denominated in rands, the official rate is 100 basis points above the repo rate. Where the loan is denominated in foreign currency, the official rate is 100 basis points above the equivalent rate to the repo rate for that currency. Where the repo rate changes during a month, the official rate changes from the beginning of the following month.

No benefit is placed on a casual loan to an employee up to R3 000 or a study loan to enable the employee to further his or her own studies.

Where an employee has utilised the loan to produce income, the interest taxed, as above, is deductible in terms of the general deduction formula.

Where a subsidised loan has been granted to an employee, the full amount of the subsidy will be taxable in the hands of the employee if the amount of the subsidy together with the interest payable by the employee exceeds the interest on the debt calculated at the official rate.

SUBSISTENCE ALLOWANCE

Employees who are absent from their usual place of residence for the purpose of their duties for at least one night, are entitled to the following tax-free allowances:

- where the accommodation to which that allowance or advance relates is in South Africa, an amount equal to:
  - R122 per day if the allowance/advance is paid to defray the cost of incidental subsistence expenses; or
  - R397 per day if the allowance/advance is paid to defray the cost of meals and incidental subsistence expenses, i.e. beverages, room service, etc.; and
  - where the accommodation to which the allowance relates is outside of South Africa, a foreign subsistence allowance applies, which varies from country to country.

A comprehensive SARS list of foreign subsistence allowances may be viewed on our website at **www.bdo.co.za/mailers/Subsistence.pdf.**

RIGHT OF USE OF AN ASSET (OTHER THAN RESIDENTIAL ACCOMMODATION OR MOTOR VEHICLES)

A taxable benefit arises whenever an employee is granted the right to use an asset for his private or domestic purposes, either free of charge or for a consideration that is lower than the value of use

Exclusions:

- private use that is incidental to the use of the asset for purposes of the employer's business;
- amenities enjoyed at work or qualifying recreational facilities;
- equipment or machinery used by employees for private use for short periods of time where the value of the use is negligible;
- assets consisting of books, literature, recordings or works of art; or
- private use of cellular phones, laptops and related hardware and software mainly used for business purposes.

RESIDENTIAL ACCOMMODATION

If an employer provides residential accommodation that is owned by such employer to an employee, the employee will be taxed on the difference between the rental value for the year, as determined by the following formula, and the amount paid by him or her for the accommodation, household goods, power and food supplied by the employer.

Where the employer or associated institution supplies accommodation in which the employee does not have an interest and which accommodation is leased from an unconnected person, the value of the supply of such accommodation is deemed to be lower of the value determined by the following formula and the expentiture incurred on the accommodation by the employer or associated institution :

$$(A-B) \times \frac{C}{100} \times \frac{D}{12}$$

A = the remuneration of the employee in the preceding year of assessment, including directors fees, but excluding taxable benefits from residential accommodation. If the employee was employed by the current employer for only part of the preceding year, his salary is grossed up to that of a full year, but if he was not employed by the current employer in the previous year, 'A' will be his first month's salary divided by the number of days in that month and multiplied by 365.

B = R75 750 except for the following situations where it is nil:

(i) where the employer is a private company controlled by the employee or his spouse even if the employee is only one of the persons controlling the company; or

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(ii)where the employee or his spouse or minor child has an option or right of pre-emption granted by the employer or another person by arrangement with the employer whereby they may become the owner of the accommodation.

C = 17, or 18 if the accommodation consists of at least four rooms and is unfurnished and power or fuel is supplied by the employer, or furnished but without the supply of power or fuel, and 19 if furnished and power or fuel is supplied.

D = the number of months during the current year in which the employee was entitled to occupation.

If the employee has an interest in the property and the property has been let to the employer or associated institution, the rental is deemed not to have been received by the employee or any connected person in relation to the employee.

HOLIDAY ACCOMMODATION

If the accommodation is hired by the employer, the employee will be taxed on all costs borne by the employer (including meals, refreshments and services). In any other case, the employee will be taxed on an amount equal to the prevailing rate per day at which the accommodation could normally be let to a person who is not an employee.

PAYMENT OF EMPLOYEE'S DEBTS

A taxable benefit arises where an employer has paid an amount owing by the employee to a third party without requiring reimbursement from the employee, or has released an employee from an obligation to pay an amount owing by the employee to the employer. The amount of the benefit is the amount of the debt settled. Professional subscriptions paid by the employer are, however, exempt if membership is a condition of employment, as are professional indemnity insurance premiums paid by the employer and study loans transferred under certain circumstances.

MEALS AND REFRESHMENTS

An employee is taxed on the cost to the employer of any meal or refreshment provided by the employer, subject to the following exclusions, which apply to meals or refreshments:

- supplied in a canteen or dining room operated for employees;
- supplied during business hours, extended working hours or a special occasion; or
- enjoyed by an employee providing entertainment on behalf of the employer.

FREE OR CHEAP SERVICES

Services provided to an employee by his employer (whether the services are rendered by the employer or some other person) at no cost or for an amount lower than the cost of such services to the employer, give rise to a taxable fringe benefit in the hands of the employee. The employee is taxed on the difference between the cost to the employer of the service and the amount paid by the employee.

The following exclusions apply:

- certain circumstances where the employer is engaged in the business of conveying passengers;
- transport services conveying employees between their home and place of work;
- telephone, cellphone or other communication services if used mainly for business purposes;
- services rendered by the employer at the place of work to assist with the better performance of employees' duties or recreational facilities provided at that place; and
- travel facilities granted to the spouse or minor children of an employee who is stationed more than 250km away from his usual place of residence for more than 6 months in a tax year.

MEDICAL AID CONTRIBUTIONS

Direct or indirect contributions by an employer to a medical aid or other benefit fund are fully taxable subject to the exceptions listed below.

No taxable fringe benefit arises if:

- the employee retired due to old age, ill health or other infirmity; or
- the benefit is accrued to a dependant following the death of an employee or a retired employee.

CONTRIBUTIONS TO RETIREMENT FUNDS

With effect from 1 March 2016, the amount of contributions by an employer for the benefit of any employee to any pension fund, provident fund or retirement annuity fund is a taxable fringe benefit.

INSURANCE POLICY PREMIUMS

With effect from 1 March 2012, the amount of premiums paid by an employer to an insurer under an insurance policy for the direct or indirect benefit of an employee or his nominee is a taxable fringe benefit in the hands of the employee. Income continuation policy premiums taxed as above in the hands of the employee are however no longer deductible by the employee in respect of premiums paid on or after 1 March 2015.

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THE TAXATION OF FRINGE BENEFITS

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OTHER EXEMPTIONS

The following benefits are exempt from tax:

- the value of a uniform, or an allowance paid for purposes of funding a uniform, which an employee is required to wear while he or she is on duty, provided that the uniform is clearly distinguishable from ordinary clothing; and
- the cost of the transfer of an employee to another place of employment arising out of the appointment or resignation of an employee. Included in this exemption are transportation costs, costs in respect of the sale of an employee's previous residence, settling-in costs and costs of renting temporary accommodation.

EMPLOYER'S OBLIGATIONS

The determination of the cash equivalent of any taxable benefit is to be made by the employer although the Commissioner may adjust the cash equivalent if he is of the opinion that a determination is incorrect. An employer is obliged to deduct PAYE on the value of the taxable fringe benefits.

PROVISIONAL TAX

PROVISIONAL TAX – INDIVIDUALS

In the case of individuals, provisional payments are advance tax payments most often made in circumstances where the individual earns income that is not 'remuneration'. 'Remuneration' is a defined term and essentially covers employment and other income, such as annuities, which is subject to PAYE.

From the 2016 year of assessment onwards, individuals, regardless of age, whose taxable income is not derived from the carrying on of a business and does not exceed the tax threshold or whose taxable income is not derived from the carrying on of a business and whose taxable income from interest, dividends, foreign dividends and rental from the letting of fixed property does not exceed R30 000 are exempt from the payment of provisional tax.

From 1 March 2017 individuals who derive remuneration from employers who are not registered for employees' tax will have to register for provisional tax unless:

- Their taxable income is not derived from the carrying on of a business and it does not exceed the tax threshold; or
- Their taxable income is not derived from the carrying on of a business and if their taxable income from interest, dividends, foreign dividends, rental from the letting of fixed property and remuneration from an employer who is not registered for employees' tax does not exceed R30 000 for the tax year.

First provisional tax return

Due within the first 6 months of the tax year – 31 August.

The first payment represents 50% of the tax due on the 'basic amount' less rebates, PAYE and foreign credits. The 'basic amount' is the taxable income per the most recent assessment, reduced by lump sums and capital gains.

The 'basic amount' is escalated at 8% per annum when an assessment is more than a year in arrears. Consent is required to base one's calculations on an amount less than the 'basic amount'.

Second provisional tax return

Due before the end of the tax year – 28 / 29 February.

Where taxable income is less than or equal to R1 million, the second provisional payment must be based upon an estimate of income that is not less than the lower of the 'basic amount' and 90% of actual taxable income, in order to avoid a 20% penalty.

The 20% penalty is calculated as 20% of the difference between the lesser of normal tax less rebates on the basic amount and normal tax less rebates on 90% of the actual taxable income, and the sum of the employees' tax and provisional tax paid by the end of the year of assessment.

Where taxable income exceeds R1 million, an 80% level of accuracy is required between actual and estimated income for the current year, in order to avoid a 20% penalty.

There is no fallback on the historical 'basic amount' as above.

The 20% penalty is calculated as 20% of the difference between normal tax less rebates on 80% of the actual taxable income, and the sum of the employees' tax and provisional tax paid by the end of the year of assessment.

Third provisional tax return

Should there be any remaining tax liability following the first and second provisional payments, then interest is charged, commencing 7 months after the tax year end for individuals.

Therefore, in order to avoid interest, individuals may make a 3rd voluntary top-up payment by 30 September of each year.

Interest is not, however, charged on late payments of provisional taxes in respect of the third provisional payment where an individual's taxable income does not exceed R50 000.

General

Interest and penalties paid are not tax deductible whereas interest earned on overpayments is taxable.

EMPLOYEES' TAX (PAYE)

Employers are required to deduct employees' tax according to tax deduction tables supplied by SARS on all remuneration paid to employees unless otherwise instructed in terms of a tax deduction directive issued by SARS. For years of assessment commencing prior to 1 March 2017, directors of private companies, as well as members of close corporations, were subject to PAYE on the greater of their actual monthly remuneration or their deemed remuneration (calculated in terms of a formula), unless they received at least 75% of their remuneration in the previous tax year in the form of fixed monthly payments of remuneration. In that case, such directors were taxed only on their actual remuneration.

With effect from 1 March 2017 paragraph 11C of the Fourth Schedule has been repealed. The provisions of section 7B would apply to the variable remuneration received by the director in that it is deemed to accrue to the director on the date on which it is paid to the director. This is also the date on which the amount of the remuneration becomes claimable as expenditure by the private company.

TAXATION OF LUMP SUM PAYMENTS

A lump sum benefit that is received from an employer and constitutes a 'severance benefit', is taxed on an aggregated basis together with lump sum benefits received from provident, pension and retirement annuity funds. A 'severance benefit' is an amount received or accrued from an employer or an associated institution in respect of the termination or variation of office or employment if:

- the employee or holder of office is at least 55 years old;
- the termination or variation is due to permanent incapacity of holding the office or employment on the part of the employee or holder of office; or
- the termination or variation is a result of retrenchment (except where the employee or holder of office at any time held more than 5% of the shares or members' interests in the employer).

Severance benefits are taxed in accordance with a table that contains the same rate bands as the 'retirement, death or retrenchment' table in respect of lump sums from pension, provident and retirement annuity funds set out below.

ON RETIREMENT, DEATH OR RETRENCHMENT

Pension Funds, Retirement Annuity Funds and Provident Funds

A maximum of one third of the taxpayer's entitlement from a pension or retirement annuity fund may be commuted to a lump sum. With effect from 1 October 2007, the taxable portion of a lump sum from a pension, provident or retirement annuity fund as a result of death, retirement or retrenchment is calculated according to a table, after deducting:

- previously disallowed contributions; and
- transfers to approved funds.

The table applies cumulatively and is currently as follows:

Lump Sum	Tax Liability
0 – R500 000	0% of each R1
R500 001 – R700 000	18% of the amount exceeding R500 000
R700 001 – R1 050 000	R36 000 + 27% of the amount exceeding R700 000
R1 050 001 and above	R130 500 + 36% of the amount exceeding R1 050 000

ON WITHDRAWAL FROM THE FUND

The taxable portion of a lump sum from a pension, provident or retirement annuity fund as a result of withdrawal or resignation from the fund or certain non-approved transfers to other funds of the member, or amounts assigned to a former spouse in terms of a divorce order granted on or after 13 September 2007 is calculated according to the following table, after deducting:

- previously disallowed contributions; and
- transfers to approved funds.

The taxable portion of a lump sum upon withdrawal from a fund is taxed separately from other taxable income. The rates are currently as follows:

Lump Sum	Tax Liability
R0 – R25 000	0% of each R1
R25 001 – R660 000	18% of the amount exceeding R25 000
R660 001 – R990 000	R114 300 + 27% of the amount exceeding R660 000
R990 001 and above	R203 400 + 36% of the amount exceeding R990 000

The tables must be viewed cumulatively, taking into account previous retirement, retrenchment, withdrawal or severance benefits.

TRUSTS

Trusts are separate fiscal entities and pay tax at a flat rate of 45% on income retained and not awarded to beneficiaries. Trusts do not qualify for the annual interest exemption nor the primary rebate. Trusts pay Capital Gains Tax at an effective rate of 36% from the 2018 year of assessment (32.8% – 2017). Various anti-avoidance provisions exist to combat the use of trusts for income splitting and tax avoidance structures.

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TRUSTS

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One such provision provides that any income earned by the trust as a result of a donation, settlement or disposition made by a person ('the donor'), which is not distributed, is deemed to be the income of that donor and taxed in his or her hands. Another provides that, if income is distributed to beneficiaries who are minor children of the donor, the income is taxed in the hands of the donor. Also, if income is distributed to a non-resident, it is taxed in the hands of the donor. Similar provisions exist in respect of capital gains accruing to a trust. The legislation allows for a 'special trust' to be taxed at the normal income tax rates applicable to individuals and not the 45% flat rate.

A 'special trust' is a trust that is created:

- solely for the benefit of a person who suffers from a mental illness or a serious physical disability, where that person is incapacitated from earning sufficient income for his or her maintenance or from managing his or her own financial affairs; or
- in terms of the will of a deceased person, where all the beneficiaries are surviving relatives of the deceased, the youngest of whom must be under the age of 18 as at the end of the relevant tax year.

With effect from 1 March 2017, if a natural person, or, at the instance of a natural person a company in relation to which the natural person is a connected person, has made a loan or provided an advance or credit to a trust and either no interest, or interest at a rate less than the 'official rate', is charged, the difference between interest at the official rate and the interest actually charged on the loan, advance or credit will be deemed to be a donation by the natural person for donations tax purposes on an annual basis. There are several exclusions that apply.

These exclusions are:

- Trusts that used the loan, advance or credit for purposes of funding the acquisition of a residence that was used as a primary residence by the lender or the lender's spouse throughout the year of assessment and if the amount owed relates to the part of the loan that funded the acquisition of the primary residence;
- Loans, advances or credit provided to offshore trusts if the loan, advance or credit is subject to transfer pricing provisions;
- Loans, advances or credit provided to share incentive trusts if such loans are subject to dividends tax provisions;
- Loans, advances or credit provided by reason of or in return for a vested interest in a non-discretionary trust if various pre-conditions exist;
- Loans, advances or credit provided to approved public benefit organisations or small business funding entities;
- Loans, advances or credit provided to 'special trusts';
- Loans, advances or credit provided to a trust in terms of an arrangement that would have qualified as a sharia-compliant financing arrangement had the trust been a bank.

In terms of the first interim report on Estate Duty of the Davis Tax Committee, it appears that the 'conduit pipe' treatment will cease to apply to discretionary trusts and that taxable income will in future be fully calculated at trust level. Distributions from offshore foundations will be treated as ordinary revenue. It is not clear whether or not an amendment to this effect will be promulgated.

COMPANIES AND CLOSE CORPORATIONS

NORMAL TAXATION

Companies and close corporations, other than for certain gold mines and the special cases described below, are taxed at a rate of 28%. From 1 April 2012 STC was replaced with a dividends withholding tax (see page 31). Branches of foreign companies earning South African sourced income are taxed at 28%.

Small business corporations (see definition below) are taxed at the following rates for financial years ending 1 April 2017 – 31 March 2018:

Taxable Income	Tax Liability
0 – R75 750	0% of taxable income
R75 751 – R365 000	7% of taxable income above R75 750
R365 001 – R550 000	R20 248 + 21% of taxable income above R365 000
R550 001 and above	R59 098 + 28% of taxable income above R550 000

A **small business corporation** is a close corporation or private company (other than an employment company) of which:

- the entire shareholding or membership was held by natural persons throughout the year of assessment;
- the gross income did not exceed R20 million during the year of assessment;
- none of the shareholders or members at any time during the year of assessment held shares in any other company (other than listed companies, any portfolio in a collective investment scheme or qualifying body corporates, shareblock companies, certain associations of persons, venture capital companies, certain dormant entities and certain entities in liquidation or deregistration);
- not more than 20% of the gross income and capital gains consist of investment income and personal service income; and
- such company is not a personal service provider (PSP).

Micro businesses (see definition below) with a turnover of up to R1 million may elect to be taxed on a presumptive basis in respect of their taxable turnover. The rates of tax are as follows for financial years ending 1 April 2017 – 31 March 2018:

Taxable Income	Tax Liability
0 – R335 000	0% of taxable turnover
R335 001 – R500 000	1% of taxable turnover above R335 000
R500 001 – R750 000	R1 650 + 2% of taxable turnover above R500 000
R750 001 and above	R6 650 + 3% of taxable turnover above R750 000

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COMPANIES AND CLOSE CORPORATIONS

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A **micro business** is a company, close corporation or individual (including deceased and insolvent estates where the person was a registered micro business at the time of the death or insolvency) where qualifying turnover for the year of assessment does not exceed R1 million. This amount is reduced proportionately for periods of less than a full year. A person will not qualify as a micro business in certain circumstances, such as the following:

- it holds certain shares such as shares in unlisted companies;
- more than 20% of total receipts consist of, in the case of natural persons, income from professional services, and in the case of companies or close corporations, investment income and income from professional services;
- its business is that of a personal service provider for any portion of the year;
- the total receipts from capital disposals do not exceed R1.5 million over a 3-year period;
- in the case of a company, its tax year ends other than on the last day of February or its shareholders are persons other than individuals or the deceased or insolvent estates of individuals; or
- in the case of partnerships any partner is not a natural person, or a partner is a partner in more than one partnership or the turnover of the partnership exceeds R1 million.

Personal service providers (PSPs) that are incorporated are taxed at a rate of 28%. PSPs that are trusts are taxed at 45%. A personal service provider is any company or trust where any service rendered on behalf of the entity to a client of the entity is rendered personally by any person who is a connected person in relation to the entity and:

- such person would be regarded as an employee of the client if such service was rendered directly by such person to the client; or
- where those duties must be performed mainly at the premises of the client, such person is subject to the control or supervision of such client as to the manner in which the duties are performed; or
- where more than 80% of the income of such an entity (during the year of assessment) from services rendered consists of, or is likely to consist of, amounts received directly or indirectly from any one client or any associated institution as defined in the Seventh Schedule in relation to such client.

Any entity which throughout the year of assessment employs three or more full-time employees, who are engaged on a full-time basis in the business of such entity of rendering any service to a client, other than an employee who is a shareholder, member or beneficiary of the entity, or is a connected person in relation to such shareholder, member or beneficiary, is excluded from the definition of a personal service provider.

Any amount that is paid to a personal service provider is subject to employees' tax at the rate of 28% (in the case of a company) or 45% (in the case of a trust).

If the personal service provider is in possession of a directive from SARS for a lower percentage, then employees' tax must be deducted at the percentage per the directive. Section 23(k) prohibits deductions in respect of many types of expenses that may be incurred by a personal service provider.

DIVIDENDS TAX WITHHOLDING REGIME

The essential features of the DT are as follows:

- Although the tax is borne by the shareholder, it is the responsibility of the payer or appropriate intermediary to withhold the tax;
- It is levied at the rate of 20% on dividends paid on or after 22 February 2017 (15% prior to this date), subject to the relief available in terms of double taxation treaties;
- Dividends payable to, *inter alia*, the following shareholders as beneficial owners of the dividend are exempt from DT:
  - resident companies;
  - national, provincial and local government institutions;
  - approved Public Benefit Organisations;
  - certain environmental rehabilitation trusts;
  - non-profit entities approved in terms of section 10(1)(cA);
  - pension, provident, retirement annuity and benefit funds;
  - pension and provident preservation funds;
  - parastatals such as CSIR, SAIDC, SANRAL and water service providers;
  - a shareholder in a micro business paying the dividend to the extent that the micro business's total annual dividends do not exceed R200 000;
  - a non-resident where the dividend is paid by a non-resident company listed on the JSE;
  - a portfolio of a collective investment scheme in securities;
  - any person to the extent that the dividend is not exempt from income tax;
  - a small business funding entity.

A payer must not withhold tax if:

- the beneficial owner provides a written declaration that the dividend is exempt from dividends tax, and an undertaking to notify the payer if the beneficial ownership of the dividends should change; or
- the dividend is paid to a company forming part of the same SA resident group of companies; or
- the payment is to a regulated intermediary.

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A regulated intermediary must not withhold tax if:

- the beneficial owner has submitted a written declaration that the dividend is exempt from dividends tax, and an undertaking to notify the payer if the beneficial ownership of the dividends should change; or
- the payment is made to another regulated intermediary.

Withholding taxes could be reduced up to 31 March 2015 by STC credits available in the declaring company, subject to certain administrative requirements. Furthermore, rebates are granted in respect of foreign withholding taxes paid on certain dividends.

There are various anti-avoidance rules. These include measures to levy DT on the difference between interest charged at the 'official' rate and the interest actually charged in respect of loans to SA resident non-company shareholders or connected persons in relation to such shareholders, and measures to levy DT where dividends are diverted to exempt persons after announcement or declaration of the dividend.

PROVISIONAL TAX

Companies and close corporations are obliged to register for provisional tax purposes.

Provisional payments are advance tax payments in respect of normal tax payable for the year. Companies and close corporations are required to make their first provisional tax payment within 6 months of the beginning of their tax year and the second provisional payment before the end of the tax year.

The third provisional payment is voluntary and should be submitted 7 months after the end of the tax year if the year end is February and 6 months after the end of the tax year if the year end is on any other date, in order to avoid interest.

No interest is levied on companies with a taxable income of less than R20 000 in respect of late payment of the third provisional payment.

The same rules apply as for individuals relating to the estimation of provisional tax payments (see 'Provisional tax –individuals' on pages 24 –25).

SPECIAL CORPORATE RULES

The South African tax system does not allow for group assessment, and each legal entity is a separate taxpayer in its own right. This approach is softened somewhat by special corporate rules, which allow for some free flow without triggering the normal tax consequences.

These rules specifically cover:

- Asset-for-share transactions;
- Substitutive share-for-share transactions;

- Amalgamation transactions;
- Intra-group transactions;
- Unbundling transactions;
- Liquidations/winding-up and deregistrations.

CAPITAL ALLOWANCES

PLANT AND MACHINERY

Second-hand plant or machinery used directly in a process of manufacturing or a similar process, qualifies for a depreciation allowance over 5 years (20% per annum), subject to the accelerated depreciation allowance referred to below.

New or unused manufacturing assets used as above may be written off over a period of 4 years, 40% in year 1 and 20% in the remaining 3 years. This treatment also applies to new and unused plant or machinery used for purposes of research and development, if such plant or machinery was acquired in terms of an agreement concluded on or after 1 January 2012.

Manufacturing assets acquired by small business corporations, as defined, may be deducted in full (100%) in the year the asset was acquired. Other depreciable assets acquired by small business corporations are eligible for a depreciation allowance at a 50:30:20 rate over a 3-year period. The normal S11(e) write-off periods (see below) may, however, be used at the option of the small business corporation.

Farmers are entitled to an allowance, over 3 years, of 50%, 30% and 20% respectively, calculated on the cost of machinery, implements and articles used for farming, excluding passenger motor vehicles and office furniture and equipment. Farmers are also entitled to a deduction of various capital expenses against farming income.

Besides these general capital allowances, special rates apply to certain classes of assets, which do not necessarily reflect the economic life of these assets. These assets include:

- Pipelines and transmission lines;
- Rolling stock;
- Hotelkeeper's assets;
- Aircraft and ships;
- Airports and port assets;
- Approved strategic industrial projects;
- Assets used in the production of renewable energy.

In order to qualify for these allowances, the assets in question must be owned by the taxpayer. The allowances are subject to recoupment and the above allowances are not reduced where an asset was used for only part of the year.

continued...

WEAR AND TEAR ALLOWANCE

Assets owned by the taxpayer and used for trade (excluding buildings and assets qualifying for the above-mentioned allowances) qualify for a wear and tear allowance on the straight-line basis over the useful life of the asset.

Interpretation note 47, reissued on 2 November 2012, deals comprehensively with wear and tear allowances. The write-off period for certain key assets is listed below:

Assets	Years
Personal computers	
• hardware	3
• software	2
• mainframe computers/servers	5
Passenger cars	5
Delivery vehicles	4
Motor cycles	4
Furniture and fittings	6
Cash registers	5
Telephone equipment	5
Workshop equipment	5
Air conditioners (window type)	6
Demountable partitions	6
Dental and doctors' equipment	5
Fax machines	3
Fitted carpets	6
Shop fittings	6
Photocopying equipment	5
Security systems (removable)	5
Cellular telephones	2
Containers	10
Fork-lift trucks	4
Front-end loaders	4
Neon signs and advertising boards	10
Television sets, video machines and decoders	6
Text books	3
Trucks (heavy duty)	3
Trucks (other)	4

A full transcript of the interpretation note, which includes a detailed list of rates acceptable to SARS, may be viewed at **www.bdo.co.za/mailers/Wearandtearallowances2014.pdf**

In order to qualify for these write-off periods, a taxpayer must maintain adequate records relating to the fixed assets. The allowance is reduced proportionately if the asset is used for only part of the tax year. A shorter write-off period may be applied for.

Small items may be written off in full during the year of their acquisition. The Commissioner regards a small item as an item costing less than R7 000, which normally functions in its own right and is not an individual item that is part of a set.

A taxpayer may change from a reducing balance method to a straight-line method in respect of existing assets. The remaining income tax value of assets will then be written off over the remaining lives of the assets, being the write-off period acceptable to SARS less the period elapsed to date.

Lessors are required to reduce the value of the asset for write-off purposes by any residual value.

BUILDINGS

An annual allowance of 5% is allowed in respect of the cost of certain industrial buildings and improvements thereto, if erection commenced on or after 1 January 1989. Where erection commenced before 1 January 1989, the annual allowance is limited to 2%.

For a limited period, the tax allowance of 10% was granted where the erection of any building commenced during the period 1 July 1996 to 30 September 1999 and the building was brought into use on or before 31 March 2000. The cost of such building would be written off at 10% per annum on the straight-line basis.

The annual allowance is also claimable in respect of purchased industrial buildings, provided that the seller was entitled to the allowance. The rate of the allowance will be the same as the rate to which the seller was entitled, with the exception of the accelerated 10% rate.

The 2% or 5% allowance is also claimable on buildings used wholly or mainly for purposes of research and development during the tax year, the rate being dependent on the date of commencement of the erection of the building.

The allowance is not apportioned where the building or improvement was not in use for the full tax year.

COMMERCIAL BUILDING ALLOWANCE

An allowance is available in respect of new commercial buildings or improvements to existing buildings. The allowance is equal to 5% of the cost to the taxpayer of any new and unused building owned by the taxpayer, if that building or improvement is wholly or mainly used by the taxpayer during the year of assessment for purposes of producing income in the course of the taxpayer's trade.

The owner of the building qualifies for this allowance and not the occupant. If, for example, the occupant incurs the expenditure in respect of any improvements, the allowance is not available to the owner of such building (improvements by occupants to buildings may also result in other tax effects, for example, CGT or normal income tax in the hands of the owner of the building). This potential problem can simply be remedied if the occupant pays additional rental income (equal to the improvements) and the owner incurs the expenditure in respect of the improvements.

This allowance is not available for buildings used for the provision of residential accommodation.

continued…

The allowance is only available in respect of any building or improvement that was contracted for on or after 1 April 2007 if the construction, erection or installation commenced on or after that date.

To the extent that a taxpayer acquires part of a building without erecting or constructing that part, only a portion of the acquisition price may be claimed for allowance purposes.

The allowance is not apportioned where the building or improvement is not in use for the full tax year.

If a taxpayer, other than one carrying on any banking, financial services or insurance business, incurs expenditure to improve land or buildings in terms of a Public Private Partnership but Government holds the right of use of occupation, the expenditure is deducted over the period for which the taxpayer will derive income in terms of the Public Private Partnership, or 25 years, whichever is the lesser.

RESIDENTIAL BUILDING ALLOWANCE

An allowance may be claimed equal to 5% of the cost of a new and unused residential unit owned by the taxpayer and used solely for the purposes of the taxpayer's trade, or of new and unused improvements to residential units, provided that erection commenced on or after 21 October 2008 or the unit or improvement was acquired on or after that date and the taxpayer owns at least 5 residential units in South Africa. Where the unit qualifies as a 'low-cost residential unit' the rate of the allowance is accelerated to 10%.

To the extent that a taxpayer acquires a residential unit representing part of a building without erecting or constructing that part or improvement, only a portion of the acquisition price may be claimed for allowance purposes.

URBAN DEVELOPMENT ZONE ALLOWANCE ('UDZ')

The UDZ allowance is an incentive, in the form of depreciation allowances, meant to promote the renewal of inner cities. The incentive is available in respect of buildings or parts of buildings brought into use on or before 31 March 2020.

SALE OF LOW-COST HOUSING ON LOAN ACCOUNT

Where an employer sells a low-cost residential unit (as defined) to an employee or an employee of an associated institution, the employer may claim a deduction equal to 10% of any amount owing by the employee to the employer as at the end of the employer's tax year, under certain circumstances.

Certain transfers of low-cost immovable property to low-earning employees are additionally not taxed as a fringe benefit in the hands of the employees.

FOREIGN EXCHANGE PROFITS AND LOSSES

Foreign exchange profits and losses realised by companies, trading trusts and individuals trading in exchange items are largely regulated by section 24I, which provides for the deduction/ inclusion of certain specified exchange losses/profits, whether realised or unrealised and whether or not of a capital nature.

Section 25D deals specifically with the rates at which foreign receipts, accruals and expenditure are converted to rands.

TRADING STOCK

Trading stock on hand at year end is required to be added back to income at the lower of cost or net realisable value. It should, however, be noted that with effect from the commencement of tax years commencing on or after 1 January 2011, no taxpayer may write down the value of trading stock that consists of 'financial instruments' (as defined) to below cost.

The value of trading stock on hand at the end of the year becomes the opening trading stock for the following year and is deductible in that year.

Trading stock held by farmers is dealt with in the First Schedule of the Income Tax Act. The key differences from the general rules are, in essence, that produce is only recognised as stock when picked, harvested or reaped, and livestock is valued at nominal standard values.

The LIFO method of valuation is not permitted.

Consumable stores and spare parts acquired to be consumed in the course of trade are also included in trading stock.

The cost price of contractors' work-in-progress relating to fixed property owned by another person must also be included in trading stock until the contract is complete. The cost price will be reduced by progress payments and retention monies.

A disposal of trading stock for no consideration or an inadequate consideration, or a disposal other than in the ordinary course of trade (for example, if trading stock ceases to be held for resale or if trading stock is distributed as a dividend) will result in an inclusion in income of an amount equal to either the market value or cost of the stock (depending on the specific circumstances), less the consideration, if any, received.

VENTURE CAPITAL COMPANIES

In terms of section 12J, any taxpayer that invests in a venture capital company (VCC), approved and registered in terms of section 12J with SARS, can claim income tax deductions in respect of the expenditure actually incurred to acquire shares issued to the taxpayer by such VCCs, subject to certain conditions.

Section 12J VCCs are therefore intended to be a pooling vehicle for investment into SMEs or junior mining companies. The VCC's investee companies are generally referred to in this context as qualifying investee companies.

From 1 January 2015 the following are the most important amendments to the VCC regime that are effective:

- making tax deductions permanent (i.e. no recoupment and only capital gains tax at disposal) if investments in the VCC are held for a 5-year minimum period; and;
- increasing the total asset limit for qualifying investee companies from R20 million to R50 million, and that of mining companies from R300 million to R500 million.

CAPITAL GAINS TAX (CGT)

Capital Gains Tax was introduced from 1 October 2001.

DETERMINATION OF A CAPITAL GAIN OR LOSS

A capital gain or loss is the difference between the base cost of an asset and the proceeds received or deemed to have been received for that asset upon the disposal or the deemed disposal of the asset.

The calculation of CGT

Proceeds on disposal	……...
Less: Base Cost	……....
Capital Gain	______
Less: Annual exclusion (if applicable)	R40 000[1]
Less: Previous assessed capital loss	______
Net Capital Gain (Assessed Capital loss carried forward and may not be offset against revenue gains)	______
Net Capital Gain Multiplied by: Inclusion rate (40.0% / 80.0%)	______
Amount of the capital gain to be included in income	______

Note 1*: An annual exclusion of R40 000 against capital gains or capital losses applies to individuals and special trusts only. In the year of the death of an individual, the annual exclusion becomes R300 000.*

FOUR CORNERSTONES FOR DETERMINING A CAPITAL GAIN OR LOSS

A capital gain or loss is made up of the following key elements:

- an asset;
- a disposal or deemed disposal;
- proceeds or deemed proceeds; and
- a base cost.

It is, however, fundamental that before a capital gains tax calculation is performed relating to the disposal of an asset, it should be ascertained that the asset was indeed held on capital account rather than on revenue account. In other words, that the asset was held for investment purposes rather than for speculation.

ASSET

An 'asset' is property of whatever nature, whether movable or immovable, corporeal or incorporeal, including:

- coins mainly made from gold or platinum; and
- any right or interest of whatever nature to or in such property, but excluding currency.

DISPOSAL

A 'disposal' is any event, act, forbearance or operation of law and includes:

- any event that constitutes alienation or the transfer of ownership of an asset, e.g. sale, donation, cession, expropriation, grant or exchange;
- any event that results in expiry or abandonment of an asset, e.g. forfeiture, termination, redemption, cancellation, surrender, waiver, discharge, release, renunciation or relinquishment;
- scrapping, loss or destruction of an asset;
- vesting in a beneficiary of an interest in a trust asset;
- distribution of an asset by a company to a shareholder;
- granting, renewal, extension or exercise of an option; and
- a decrease in value of a person's interests in a company, trust or partnership through value shifting.

The following are the more important events that are not regarded as 'disposals':

- the transfer of an asset as security for debt;
- the issuing or cancellation of shares by a company (in the hands of the company);
- the granting of an option by a company to take up shares or debentures (in the hands of the company);
- the issuing of units by an equity unit trust or the granting of an option to take up units;

continued...

- the issuing of a bond, debenture, note or borrowing of money from a person;
- the correction at the deeds office of incorrect property registration; and
- the lending of marketable securities in terms of a lending arrangement.

DETERMINATION OF BASE COST

Assets acquired before 1 October 2001:

- The base cost will be the sum of the 'valuation date value' and qualifying costs incurred after the valuation date. The valuation date value, depending on the information and records available, can be determined by using any one of the following methods:
  - market value of the asset on 1 October 2001. It should be noted that proof of the market valuation of certain high value assets had to be furnished to the Commissioner within a prescribed period in order to be eligible to apply this method upon the disposal of the high value asset;
  - the time-apportionment base cost method; or
  - 20% of the proceeds from disposal of the asset.

In the case of assets acquired before 1 October 2001, special rules apply to prevent taxpayers from claiming phantom losses or from being taxed on gains that were made before that date.

Assets acquired on or after 1 October 2001:

The base cost is the price paid for the asset, plus certain other costs incurred that are directly related to buying, selling or improving it, e.g. transfer duties, attorney's fees, improvement costs, commissions, stamp duty, etc.

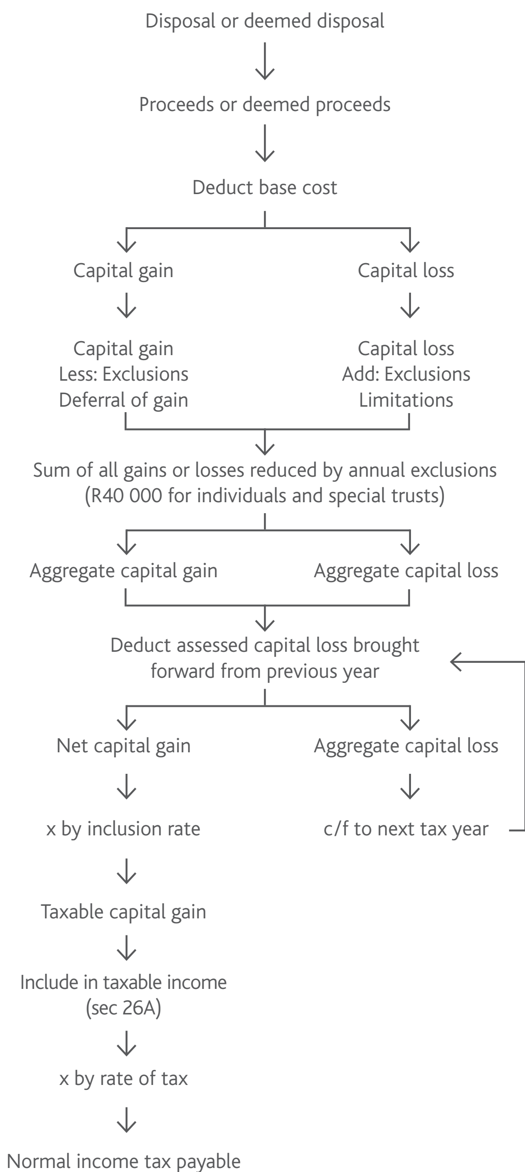
The following are examples of costs that are excluded from the base cost:

- costs of maintaining, repairing or protecting assets;
- borrowing costs;
- raising fees;
- rates and taxes; and
- insurance.

One third of borrowing costs relating to listed shares may however, be claimed.

In the case of an asset that was subject to a deemed disposal (e.g. asset acquired through donation or inheritance), the base cost in the hands of the recipient will be equal to the deemed proceeds that were used to calculate the gain in the hands of the person who disposed of the asset plus subsequent qualifying costs.

CGT BASIC FRAMEWORK



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CAPITAL GAINS TAX (CGT)

...continued

INCLUSION RATES

Type of Taxpayer	Inclusion rate (%)	Statutory tax rate (%)	Effective tax rate (%)
Individuals	40	0 - 45	0 - 18.0
Standard companies	80	28	22.4
Trusts:			
• Unit	N/A	N/A	N/A
• Special	40	0 - 45	0 - 18.0
• Other	80	45	36
Retirement Funds	N/A	N/A	N/A
Life assurers:			
• Ind policyholder fund	40	30	12
• Co policyholder fund	80	28	22.4
• Corporate fund	80	28	22.4
• Untaxed policyholder fund	0	0	0
• Risk policy fund	80	28	22.4

DEATH

The annual exclusion available to individuals during the year of death is R300 000.

LIABILITY FOR CGT

South African residents are liable for CGT on their worldwide assets. Non-residents are liable for CGT on the following assets situated in South Africa:

- immovable property and any interest in or right to immovable property; and
- assets of a permanent establishment situated in South Africa.

WITHHOLDING TAX REGIME FOR NON-RESIDENTS

A capital gain made by a non-resident on the disposal of immovable property or any right or interest therein is subject to a withholding tax regime. The obligation to withhold the tax is placed upon the purchaser and the withholding rates are as follows:

• Individuals	7.5%
• Corporates	10.0%
• Trusts (non-resident)	15.0%

The withholding tax does not apply to property sales for proceeds of R2 million or less. Also, a directive may be obtained to withhold a lesser amount.

TRIGGERING OF CGT

Certain events are deemed to be disposals for CGT purposes, whilst certain other events will give rise to simultaneous disposals and acquisitions, e.g. when a person commences or ceases to be a resident for South African tax purposes; change in the nature of the holding of an asset from personal use to business or *vice versa*; death, etc.

EXCLUSIONS

Capital gains or losses arising from the disposal of, *inter alia*, the following items are disregarded for CGT purposes:

- the first R2 million of a gain or loss upon disposal of a primary residence;
- the disposal of personal use assets of individuals or special trusts;
- lump-sum benefits from pension, provident or retirement annuity funds;
- proceeds from long-term insurance policies (excluding second-hand policies);
- payments as compensation for personal injury, illness or defamation claims;
- gains from gambling, games or competitions authorised and conducted in terms of South Africa's laws;
- certain gains made by approved PBOs;
- qualifying gains and losses made by unit trust funds;
- gains of up to R1.8 million during an individual's lifetime from the disposal of a small business asset by reason of reaching the age of 55 or for reasons of ill health or death, provided certain other requirements are met; and
- donations and bequests to approved PBOs.

ROLLOVER OR DEFERRALS

In the case of the following events, the gain on the disposal of an asset is deferred until a subsequent CGT event:

- involuntary disposals (e.g. theft, fire) provided the asset is replaced within a period of 12 months;
- re-investment in replacement assets that are brought into use within a period of 12 months;
- transfers between spouses, including as inheritances; and
- disposal of assets using the special corporate rules.

CAPITAL LOSSES NOT TAKEN INTO ACCOUNT

Losses suffered in respect of the following transactions or events cannot be claimed for CGT purposes:

- losses on disposal of intangible assets acquired before 1 October 2001;
- losses in respect of certain forfeited deposits;

continued...

CAPITAL GAINS TAX (CGT)

...continued

- in most cases, losses suffered on transactions with connected persons. These losses are ring-fenced and can only be offset against capital gains resulting from dealing with that same connected person;
- losses on disposal of options in respect of certain assets; and
- losses on disposal of certain shares.

ASSETS HELD IN FOREIGN CURRENCY

Special rules apply in respect of assets held and disposed of in foreign currency.

FOREIGN CURRENCY ASSETS AND LIABILITIES

'Currency' is excluded from the definition of an 'asset' and is therefore not subject to the normal CGT rules. Complex rules that applied in determining capital gains and losses made by a resident due to exchange rate fluctuations in respect of the disposal or acquisition of 'foreign currency assets' or the settlement or part settlement of a 'foreign currency liability' were repealed with effect from 1 March 2011.

DISPOSAL OF SHARES

3-YEAR RULE

Amounts received or accrued (other than dividends or foreign dividends) in respect of an equity share (with certain exceptions) are deemed to automatically be capital in nature if the period of ownership is at least 3 years.

The application of section 9C, unlike its predecessor (section 9B), is not optional. The application of section 9C extends beyond listed shares; it also applies to shares in private companies, interests in close corporations and collective investment schemes (in securities and hedge fund collective investment schemes).

There are, however, various exclusions from section 9C, such as shares in non-resident companies (other than shares in non-resident SA listed companies), shares in share block companies and hybrid equity instruments.

It is important to note that amounts received or accrued in respect of equity shares that were not held for the required 3-year period may also be capital in nature, depending upon a taxpayer's intention. The onus of proof is on the taxpayer under these circumstances. Factors such as the holding period and the frequency of share disposals will be considered in establishing intention.

THE TAXATION OF FOREIGN DIVIDENDS

A new dispensation for the taxation of foreign dividends became effective for dividends received or accrued on or after 1 March 2012 for individuals and on or after 1 April 2012 for companies. In terms of the new rules, residual foreign dividends that are not fully exempt from income tax by virtue of one of the exemptions listed below are subject to tax at a maximum effective rate of 15%. With effect for years of assessment commencing on or after 1 March 2017, the maximum effective rate of 20% will be applied.

The following foreign dividends are exempt or partially exempt from income tax:

- A foreign dividend declared by a company that is listed on the JSE, provided that the foreign dividend is not a dividend *in specie*;
- A foreign dividend to the extent that the profits from which the foreign dividend is distributed have been or will be included in the resident's income in terms of the controlled foreign company rules (s 9D);
- A foreign dividend received by or accrued to a company where the foreign dividend is paid or declared by another foreign company that is a resident in the same foreign country as the first company;
- A foreign dividend paid to a person who owns 10% or more of the equity share capital and voting rights in the foreign company, provided that the foreign dividend is in respect of an equity share;
- The last two exemptions above do not apply in respect of foreign dividends from foreign collective investment schemes, to so-called 'funnel scheme' dividends, or to foreign dividends in circumstances where the foreign dividend is deductible for income tax purposes by the declaring company in the jurisdiction in which its place of effective management is located;
- A foreign dividend declared by a company that is listed on the JSE received by or accrued to a South African resident company where the dividend consists of the distribution of an asset *in specie*.

BROAD-BASED BLACK ECONOMIC EMPOWERMENT

The Broad-Based Black Economic Empowerment (BBBEE) Act aims to promote equality within the business sector. The Department of Trade and Industry has issued a general BEE scorecard to measure companies' BEE credentials.

The components of the scorecard include ownership, management, employment equity, skills development, preferential procurement, enterprise development and a residual element. Increasing emphasis is being placed upon ownership credentials.

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BROAD-BASED BLACK ECONOMIC EMPOWERMENT

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BROAD-BASED EMPLOYEE SHARE PLANS

Section 8B is designed to promote empowerment of employees through share ownership. These provisions, whilst applicable to employees in general, could assist taxpayers in meeting their black economic empowerment objectives.

In essence, employees may acquire over a period of 5 years, in aggregate up to R50 000 worth of shares from the employer or associated companies either free or for a nominal consideration. The employee will be subject to capital gains tax on any amounts received or accrued, if the shares are held by the employee for more than 5 years before disposal. If the shares are disposed of within 5 years, any gains made will be taxable as normal income and subject to normal income tax (this is despite the 3-year rule contained in section 9C which characterises the proceeds upon the disposal of a share after 3 years as capital).

Loans to employees to acquire qualifying equity shares are free of fringe benefits tax, as is the acquisition of the shares.

A company is entitled to a deduction of the market value of any qualifying equity shares granted to employees, limited to a maximum of R10 000 per employee per annum. Any excess may be carried forward and claimed in the following tax year.

In general, 'broad-based employee share plans' are subject to the following requirements:

- equity shares in the employer or an associated institution must be acquired by employees for a consideration that does not exceed the par value of the shares;
- employees who participate in any other share plan of the employer or associated institution must not be allowed to participate; at least 80% of the other permanent or full-time employees are entitled to participate (i.e. other than employees who participate in any other share plan of the employer);
- employees who acquire the shares are entitled to all the dividends and have full voting rights in respect of the shares acquired;
- no restrictions may be imposed on the disposal of the shares other than:
  - restrictions imposed by legislation or where an employee is guilty of poor performance or misconduct;
  - a right of any person to acquire those equity shares from the employees at market value; or
  - a restriction in terms of which that employee may not dispose of those equity shares for a period (which period may not extend beyond 5 years from the date of grant).

HEADQUARTER COMPANY REGIME

The Headquarter Company regime is voluntary in South Africa and a company which is a resident of South Africa and who complies with the legislative requirements, may elect to be a Headquarter Company

The requirements to elect to become a Headquarter company are:

- Each holder of shares in the company (whether alone or together with any other company forming part of the same group of companies) held 10% or more of the equity shares and voting rights in that company: Provided that in determining whether a company complies with the requirements prescribed by this paragraph in relation to any year of assessment of that company during which the company commences the carrying on of trade, no regard must be had to any period during that year before which the company so commenced the carrying on of trade;
- At the end of that year of assessment and of all previous years of assessment of that company, 80% or more of the cost of the total assets of the company was attributable to one or more of the following:
  - Any interest in the equity shares in,
  - Any debt owed by, or
  - Any intellectual property that is licensed by the resident company to any foreign company in which that company (whether individually or jointly with any other company forming part of the same group of companies) held at least 10% of the equity shares and voting rights at the end of the current year of assessment and at the end of all previous years of assessment of the company (80% asset requirement) Companies that did not have assets with total market value exceeding R 50 000 will not be taken into account.
- In each year of assessment, during which the gross income of the company exceeds R 5 million, 50% or more of the "gross income" must consisted of amounts in the form of one or both of the following:
  - Any rental, dividends, interest royalties or service fees received from a foreign company in which the company holds at least 10% of the equity shares and voting rights; or
  - Any proceeds from the disposal of any interest in equity shares in the foreign company or the disposal of any intellectual property which was licensed by the company to a foreign company, both in respect of which the company holds at least 10% of the equity shares or voting rights (gross-income requirement).

If the requirements of a Headquarter Company are met and the required election is made, the tax relief provided includes the following:

- The exclusion from Controlled Foreign Company ("CFC") legislation.
- Exemption from withholding tax in respect of dividends declared.
- Exemption by a Headquarter Company from withholding tax on royalties and interest paid to a foreign company.

continued…

HEADQUARTER COMPANY REGIME

...continued

- Exemption from transfer pricing provisions as they relate to financial assistance whereby a non-resident grants financial assistance to a Headquarter Company. The Headquarter Company directly applies the financial assistance to any foreign company in which the Headquarter Company holds at least 10% of the equity shares and voting rights (directly or indirectly, individually or jointly with group companies).
- Exemption from transfer pricing provisions as they relate to royalties where the non-resident grants the use of intellectual property (IP) to the Headquarter Company to the extent that the Headquarter Company gives the use of IP to a foreign company in which the Headquarter Company has at least 10% of the equity shares and voting rights (directly or indirectly, individually or jointly with group companies).

It is important to note that the classification as a Headquarter Company does not change the fact that the company is still a South African resident and will be taxed on its world-wide income. We reiterate that the South African resident company needs to make an election to become a Headquarter Company.

WITHHOLDING TAX ON INTEREST PAID TO NON-RESIDENTS

This withholding tax applies to interest that is paid or that becomes due and payable to or for the benefit of a non-resident on or after 1 March 2015.

The withholding tax is a final tax and is levied at the flat rate of 15% subject to relief in terms of double taxation treaties. It applies to any interest received by or accrued to a non-resident that is from an SA source, that is not specifically exempted in terms of one of the exemptions contained in the provision.

The following are the most important exemptions:

- Interest in respect of Government or listed debt instruments;
- Interest in respect of bank or Reserve Bank debts: note, however, that there is a specific anti-avoidance provision to the effect that this exemption does not apply in the case of back-to-back loans;
- Interest payable by a headquarter company if certain conditions are met;
- Interest payable in terms of the Financial Markets Act;
- Interest that is taxable in the hands of the non-resident for income tax purposes.

COUNTRY-BY-COUNTRY REPORTING

South Africa is part of the international tax movement to eliminate base erosion and profit shifting (BEPS) through the OECD/G20 BEPS Action Plans finalised in October 2015.

The OECD/G20 BEPS Project developed 15 key reform actions in the international tax arena to ensure that profits are reported where economic activities are carried out and value created. BEPS assists governments in closing the tax gap created by profit shifting from higher to lower or no tax environments, without underlying substance.

BEPS Action Plan 13 contains Country-by-Country (CbC) reporting requirements for MNEs. Action 13 requires the reporting entity of the MNE group to collect and file the information in its residence country. The CbC report provides tax authorities with information on the global allocation of the group income and whether it follows where the functions are performed, assets used and risks are assumed.

With the automatic exchange of information between tax authorities coming into force during in 2017, tax authorities will exchange CbC reports electronically which will assist tax authorities to obtain a complete understanding of the manner in which MNE structures operate.

SARS published its CbC reporting requirements on 23 December 2016, which confirm that South Africa participates in the BEPS projects. South Africa signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports on 27 January 2016.

In terms of the CbC reporting requirements, an ultimate parent entity of an MNE Group that is a resident for tax purposes in South Africa is required to file a CbC report containing the information set out in Article 4 of the Government Notice. The CbC report must be filed within 12 months from the last day of the Reporting Fiscal Year of the MNE Group.

SARS will use the CbC Report to identify high-level transfer pricing risks and other BEPS related risks in South Africa. These will include assessment on the risk of non-compliance by the members of the MNE Group, application of the transfer pricing rules and assessment of whether an appropriate economic and statistical analysis exists.

SARS may not use the CbC report to make primary and secondary transfer pricing adjustments contained in Article 31 of the Income Tax Act.

These regulations apply with effect from the Report Fiscal Years of MNE Groups beginning on or after 1 January 2016.

TAX EXEMPT ENTITIES

While certain entities (for example Pension, Provident and Benefit Funds) qualify for tax exemption automatically, others, for example Public Benefit Organisations and Recreational Clubs, must apply for tax exemption, which exemption only applies to non-trading income.

PUBLIC BENEFIT ORGANISATIONS (PBOs)

Public Benefit Organisations seeking exemption from income tax must comply with the requirements for tax exemption set out in section 30. In addition to partial exemption from income tax, PBOs enjoy special tax treatment in other respects. Included in the special treatment is that there is no donations tax or estate duty on donations or bequests to approved PBOs, no transfer duty on purchase of fixed property in certain cases, no stamp duty or securities transfer tax in certain cases and no capital gains tax on assets disposed of to a PBO.

The income tax relief afforded to PBOs is only partial and is subject to the PBO being approved by SARS. PBOs are subject to tax on part of their trading income, although non-trading income is exempt.

PBOs are also exempt from capital gains tax in respect of disposals of non-trading assets. PBOs seeking approval for exemption must comply with certain provisions, the most important of which are:

- the sole object of the entity must be to carry on one or more public benefit activities in the following categories:
  - Welfare and humanitarian;
  - Healthcare;
  - Land and housing;
  - Education and development;
  - Religion, belief or philosophy;
  - Cultural;
  - Conservation, environment and animal welfare;
  - Research and consumer rights;
  - Sport (non-professional);
  - Provision of funds and resources to other PBOs;
  - Support services to other PBOs;
  - Hosting international events;
- the management committee must comprise at least three persons who are not related to each other and no one person may control the entity;
- no funds may be distributed to any person other than in the course of a public benefit activity.

Foreign charities operating as an agency or branch within South Africa and that meet similar criteria to local organisations may also be granted exemption.

In terms of section 18A, donations to certain PBOs that carry on the public benefit activities contemplated in Part II of the Ninth Schedule are deductible up to a limit of 10% of the donor's taxable income. Any disallowed excess contribution is rolled forward to the succeeding tax years.

Employees may also enjoy PAYE reduction where donations are made by way of salary or wage reduction (payroll giving). PBOs also enjoy preferential VAT treatment in certain respects.

RECREATIONAL CLUBS

A recreational club is any company, society or other association of which the sole or principal object is to provide social and recreational amenities or facilities for its members. Recreational clubs previously enjoyed complete exemption from income tax. Now, approved recreational clubs are subject to a system of partial taxation in terms of section 10(1)(cO), for years of assessment commencing on or after 1 April 2007.

All club income is subject to income tax, unless it is exempt in terms of 10(1)(cO). This includes an exemption for income from membership fees and certain business activities if integrally related to the provision of recreational activities. The Commissioner will approve a recreational club for these purposes if certain conditions are met, for example, the management committee must consist of at least three persons who are not related to each other and no one person may control the entity. The recreational club may also not distribute surplus funds other than on dissolution, to certain tax exempt bodies.

SMALL BUSINESS FUNDING ENTITIES

Prior to 1 March 2015, funding entities that supported small, medium and micro-sized entities (SMMEs) were afforded relief from taxation only through the Venture Capital Company regime and the Public Benefit Organisation regime (the latter could apply if the recipients were 'poor and needy'). In order to assist such entities, receipts and accruals of a 'small business funding entity' derived otherwise than from business or trading activities are now exempt from income tax.

In terms of section 10(1)(cQ), certain types of trading income may be exempt in terms of criteria similar to those that apply to Public Benefit Organisations. In order to qualify for the exemption, the entity has to be approved by SARS in terms of certain prescribed criteria, which are similar to those that apply to Public Benefit Organisations. Dividends paid to approved small business funding entities are exempt from the dividends tax. Amounts accruing to an SMME from an approved funding entity are exempt from income tax in the hands of the SMME. However, the SMME is prohibited from claiming deductions or allowances in respect of expenditure incurred from such funding provided. The base cost of assets acquired using such exempt funding must also be reduced by the amount of the funding.

BODY CORPORATES

All levy income is exempt and other income up to R50 000 per annum is exempt from tax.

VALUE –ADDED TAX (VAT)

VAT is levied at 14% on the value of all goods and services supplied by vendors. The main exceptions are as follows:

EXEMPT SUPPLIES, FOR EXAMPLE:

- non fee-based financial services unless zero-rated, e.g. by export. This includes interest charged and the transfer of debt and equity securities;
- rental of residential accommodation in terms of an agreement for the letting and hiring of the accommodation. This exemption does not apply to 'commercial accommodation', e.g. accommodation provided in a hotel or guest house;
- educational services;
- local passenger transport by road or rail;
- trade union contributions;
- share block and body corporate levies;
- childcare in a crèche or after-school care;
- the sale or letting of land outside South Africa; and
- certain supplies by certain Public Benefit Organisations.

ZERO-RATED SUPPLIES, FOR EXAMPLE:

- the sale of a going concern between two registered vendors;
- petrol sales;
- certain basic foodstuffs;
- certain goods to be used for farming purposes;
- exported goods and services, subject to prescribed requirements;
- goods supplied to a customs controlled area, subject to prescribed requirements;
- supply of gold to the South African Reserve Bank, Mint or any registered bank;
- certain services rendered outside South Africa;
- international transportation and related services;
- certain services rendered to non-residents, but subject to prescribed requirements;
- certain services rendered by welfare organisations; and
- certain services related to warranties.

ESSENTIAL FEATURES

- Enterprises whose taxable supplies have exceeded R1 million in the previous period of 12 months are obliged to register for VAT;
- Additionally, enterprises where there is a contractual obligation in writing in terms of which the value of taxable supplies in the next 12-month period will exceed R1 million are obliged to register for VAT;
- Also, non-resident suppliers of 'electronic services' as prescribed by the Minister by regulation under certain circumstances become liable to register for VAT at the end of any month where the total value of taxable supplies made by

them has exceeded R50 000;

- enterprises making taxable supplies of less than R50 000 in any period of 12 months are not permitted to register for VAT;
- VAT returns are generally submitted on a 2-monthly basis unless taxable supplies in any period of 12 months has exceeded or is likely to exceed R30 million, in which case returns are submitted monthly. There are, however, also 4-monthly, 6-monthly and annual VAT periods;
- a vendor may claim the VAT element of all incoming taxable supplies from registered VAT vendors, subject to the vendor being in possession of a valid tax invoice when making the claim, but for the following exceptions:
  - entertainment expenditure (which excludes, *inter alia* certain qualifying subsistence expenditure and expenditure of an entertainment business);
  - the supply of passenger vehicles (including hiring);
  - club subscriptions; and
  - goods or services acquired by a superannuation scheme;
- input tax credits may not be claimed on expenditure relating to exempt supplies;
- the name, address and VAT registration number of the recipient must appear on tax invoices (together with other required information) where the VAT inclusive total exceeds R5 000;
- a notional input tax credit may be claimed on the purchase of second-hand goods, including immovable property, subject to prescribed requirements;
- all fee-based financial services (with the exception of certain premiums on life policies, contributions to retirement funds and the buying or selling of derivatives or the granting of options) are subject to VAT;
- certain vendors, the value of whose taxable supplies made in a 12-month period has not exceeded and is not likely to exceed R2.5 million, may apply to account for VAT on a payments basis; and
- non-residents may, subject to certain conditions, qualify for a VAT refund on goods purchased in South Africa. Such refunds do not apply to services.

GOVERNMENT INCENTIVES

At present there are a number of incentives available to South African businesses. Incentive categories include research and development, enterprise development, export development, industry-specific incentives and investment incentives. The incentive programmes are administered and managed by the Industrial Development Incentive Administration Division (IDIAD) within The Department of Trade and Industry (DTI).

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The five main incentive clusterings used by the DTI are the Broadening Participation Cluster (BCP), Competitiveness Investment Cluster (CIC), Manufacturing Investment Cluster (MIC), Services Investment Cluster (SIC) and Infrastructure Support Cluster (ISC). For more information, see the IDIAD 2014-2015 Incentive Performance Report.

In addition to the incentives listed below, the Government has created Special Economic Zones. A few of the available incentives are set out below.

RESEARCH AND DEVELOPMENT

Support programmes provided by the DTI are aimed at encouraging research and development activities by large companies and SMEs. The Support Programme for Industrial Innovation (SPII) serves to promote technology development in industries within South Africa for the innovation of competitive products and/or processes.

Three options are available:

- Product Process Development (PPD): a taxable non-repayable grant of 50%-85% of qualifying costs incurred in pre-competitive development activity associated with a specific development project up to a maximum grant of R2 million.
- SPII Matching Scheme: a taxable non-repayable grant of 50%-75% of qualifying costs incurred in pre-competitive development activity associated with a specific development project up to a maximum grant amount of R5 million.
- SPII Partnership Scheme: a taxable conditionally repayable grant of 50% of qualifying costs with a maximum grant amount of R10 million.

ENTERPRISE DEVELOPMENT

The Black Business Supplier Development Programme (BBSDP) supports the development of established black-owned enterprises. The BBSDP is a cost-sharing grant available to black-owned enterprises and provides grants to a maximum of R1 million for tools, machinery and equipment, and to improve corporate governance, management, marketing, productivity and use of modern technology.

The focus is on black-owned enterprises that are VAT-registered and have the potential ability to supply goods and services to public and private sector corporations, as well as government departments, on a sustainable basis. The administration of this programme falls under the Department of Small Business Development.

The Black Industrialists Scheme (BIS) is a cash grant available to majority black-owned and black-managed manufacturing projects (start-up or existing) that will subsidise between 30% and 50% of the cost of machinery and equipment, buildings, commercial vehicles and certain third-party service projects.

The minimum investment requirement is R30 million and applicants must obtain grant approval from the DTI before commencing with the project. The BIS grant is capped at R50 million. Add Strategic Partnership Programme (SPP) : This programme is to encourage large private sector partnerships with government to support and develop small, micro and medium enterprises (SMME's) and nuture them into sustainable enterprises that can provide employment and contribute to economic growth.

Enterprises in manufacturing sector with a turnover above R100 million cost sharing support of 50:50. Enterprises not in manufacturing sector with a turnover of R100 million cost sharing support of 70:30. Maximum grant of R15 million per annum, effective from 1 October 2016 to 31 March 2019.

EXPORT DEVELOPMENT

Various incentives to encourage exports are available.

These include:

- Export Marketing and Investment Assistance scheme (EMIA): The DTI may subsidise expenses relating to primary export market research, individual inward-bound trade missions, exhibits at international pavilions and individual exhibitions, outward selling trade and investment recruitment missions and inward buying and investment missions. The EMIA programme may also provide sector specific assistance to initiatives aimed at growing exports and is available to historically disadvantaged businesses, SMMEs and 'other businesses'.
- Capital Projects Feasibility Programme (CPFP): A cost-sharing scheme providing a contribution to the cost of feasibility studies that are likely to lead to projects outside South Africa that will increase local exports and stimulate the market for South African capital goods and services.

INDUSTRY-SPECIFIC INCENTIVES

Targeted support is available to selected industry sectors which include:

- **Film incentive:** a revised film and television production incentive intended to increase local content generation and improve location competitiveness for filming in South Africa.
- **Business Process Services (BPS)** aims to attract investment and create employment in South Africa through off-shoring activities by providing a tax-exempt grant for each offshore job created and maintained by an entity performing BPS activities.
- **Automotive Investment Scheme (AIS)**, People-Carrier and Medium & Heavy Commercial Vehicles Automotive Investment Scheme.

INVESTMENT INCENTIVES

Incentives to encourage investment in certain targeted sectors of the economy include:

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- **Critical Infrastructure Programme (CIP)**: a cost-sharing grant established to assist industrialists engaged in the development or upgrading of critical infrastructure, such as roads, rail links, water pipelines, telecommunication networks, etc. The grant of up to 30% (capped at R30 million) of development costs is available to approved enterprises on completion of the infrastructure project concerned.
- **The Manufacturing Competitiveness Enhancement Programme (MCEP)** was launched on 15 May 2012 and offers a cash grant to existing manufacturing and engineering businesses and Conformity Assessment Bodies that wish to increase competitiveness through capital investment and green technology projects, as well as through certain third-party service projects such as quality management system implementation and accreditation. The MCEP was suspended in October 2015 and is currently not accepting applications. The Aquaculture Development and Enhancement Programme (ADEP) was launched on 15 December 2012 and offers a cash grant to fish hatcheries and fish farms as well as operations involved in the production, processing and preserving of aquaculture fish, that wish to spend money on one or more of the following:
  - Machinery and equipment (owned or leased)
  - Bulk infrastructure
  - Owned land and / or buildings
  - Leasehold improvements to rented buildings
  - Commercial vehicles and work boats (owned or leased – limited to 50% of total asset spend)
  - Aquaculture feed (limited to 5% of total asset investment)
  - Research and development
  - Competitiveness improvement activities (e.g. process improvement, accreditation, training).

Maximum grant payable per entity: R40 million.

- **The Clothing and Textile Production Incentive (PI)** offers a cash grant to existing manufacturing businesses (and design houses) in the clothing, textile and leather goods sector for qualifying investments in machinery and equipment (historical and future). The PI no longer offers an interest subsidy for working capital facility. This grant is calculated using the applicant's Manufacturing Value Addition (MVA), defined as:

Sales for the last financial year
Less material input costs
Less sales value of bought-in finished goods
Less sales value of imported goods
Less outsourced CMT costs
= MVA
The MVA is then multiplied by 7.5%

- **Tax allowance incentive for industrial projects (S12I):** The S12I incentive is designed to support Greenfield projects (i.e. new industrial projects that utilise only new and unused manufacturing assets), as well as Brownfield projects (i.e. expansions or upgrades of existing industrial projects). The projects have to be approved by the Minister of Trade and Industry. The manufacturing of certain products, for example, wine, spirits, beer, tobacco, arms and ammunition does not qualify for the allowance. The provision gives allowances for both capital investment and training. Certain minimum investment in manufacturing assets is required, for example, for Greenfield projects, the minimum is R50 million. The project must significantly contribute to the Industrial Policy Programme of South Africa having regard to:
  - Upgrading an industry within South Africa (via innovative process, cleaner production technology and improved energy efficiency);
  - Providing general business linkages within South Africa;
  - Acquiring goods and services from small, medium and micro enterprises;
  - Creating direct employment within South Africa;
  - Providing skills development in South Africa; and
  - In the case of a Greenfield project, its location within an Industrial Development Zone.

The provision gives additional tax allowances over and above the allowances already available in the Act. The capital investment allowances are 55% (or 35% if the project does not have preferred status) of the cost of new and unused manufacturing assets used in an industrial policy project. This additional tax allowance increases to 100% (or 75% if the project does not have preferred status) where the project is carried out in an Industrial Development Zone or a Special Economic Zone. The S12I allowances that may be claimed on any project have certain ceilings, for example R900 million in the case of a Greenfield project with preferred status and R550 million in the case of a Brownfield project with preferred status. The additional training allowance is equal to the cost of training provided to employees in connection with the project, to a maximum of R36 000 per employee, limited to R30 million for a project with preferred status, or R20 million for a project without preferred status, in a 6-year period. In terms of the Special Economic Zones Act of 2013, certain companies operating in Special Economic Zones are granted special tax incentives:

- A 15% corporate income tax rate for 'qualifying companies';
- The Employment Tax Incentive, allowing for a rebate from Employees' Tax in respect of workers earning less than R60 000 per annum;
- An accelerated depreciation allowance for new and unused buildings or improvements to buildings in these areas; and
- VAT and customs duty relief.

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EMPLOYMENT TAX INCENTIVE ACT

The Employment Tax Incentive Act was promulgated during December of 2013. The objective of the Act is to support employment growth by focusing on labour market activation, especially in relation to young work-seekers, i.e. those aged between the ages of 18 and 29 years. If the employment commenced on or after 1 October 2013 and if the workers are paid remuneration of less than R6 000 per month, the employer may qualify to benefit from the incentive.

MAIN FEATURES

In a nutshell, the effect of the legislation is that employers that are registered for Employees' Tax may reduce the Employees' Tax payable to SARS without affecting the wage paid to the qualifying employees. The amount of the reduction in Employees' Tax depends on the remuneration (as defined for PAYE purposes) paid to the qualifying employees. The benefit reaches a maximum level of R1 000 per month per qualifying employee (for remuneration of between R2 001 and R4 000 per month), decreasing to zero (for remuneration of R6 000 per month and above). The scale of benefits per month halves after the first 12 months of employment of a qualifying employee.

So, for example, if an employer employs a qualifying employee who earns remuneration of R4 000 per month, the employer would pay the R4 000 per month to the employee but would obtain a credit of R1 000 per month for the first 12 months of that qualifying employee's employment, assuming that the remuneration was a constant R4 000 throughout this period, to offset against the total Employees' Tax liability (in respect of all of its employees). For the second 12 months of that qualifying employee's employment, the credit would halve to R500 per month, assuming that the employee continued to earn remuneration of R4 000 per month during this period.

The incentive has been made exempt from income tax in the hands of the employer by virtue of a specific exemption provision.

QUALIFICATION REQUIREMENTS

The legislation came into effect on 1 January 2014 although it is retroactive in that it applies to new employment that commenced on or after 1 October 2013. However, benefits only apply for the first 24 months of a qualifying employee's employment.

In short, a 'qualifying employee' is an employee who is either:

- Not younger than 18 years old and not older than 29 years old at the end of the relevant month in respect of which the incentive is claimed;
- Employed by an employer operating within a Special Economic Zone (regardless of age); or

- Employed by an employer operating in an industry designated by the Minister of Finance by notice in the Government Gazette. No such industries have yet been designated.

In addition, the employee must:

- Not be a ‘connected person’ (as defined in the Income Tax Act) in relation to the employer;
- Not be a domestic worker;
- Either be in possession of a South African identity card or an asylum seeker’s permit;
- Have been employed by the employer or an ‘associated person’ (as defined) on or after 1 October 2013 in respect of employment commencing on or after that date;
- Be paid at least the minimum wage applicable to the employer or the equivalent of R2 000 for a full month (where there is no minimum wage relevant to the employer); and
- Earn remuneration of less than R6 000 per month (or equivalent if the period of employment is less than a full month) for the month in which the credit is claimed.

Employers are prohibited from claiming the incentive in circumstances where they have outstanding tax returns or tax debts (other than tax debts not exceeding R100 or tax debts in respect of which payment arrangements have been made with SARS).

EXCESS CREDITS

Where the incentive credit exceeds the Employees’ Tax payable during a particular month, the excess is rolled over as a credit to the following month. If an employer does not claim the credits in any particular month (for example in ignorance of the legislation), then the amount of the unclaimed credits is rolled over as a credit to the next month. If the employer becomes disqualified from claiming credits by virtue of having an outstanding tax return or tax debt as discussed above, then credits continue to accumulate during the period of disqualification. SARS will pay out credits due at the IRP 501 reporting date in cash, provided that the employer is in good standing.

ANTI-DISPLACEMENT RULES

The Act contains so-called ‘anti-displacement’ rules, designed to prevent the dismissal of older, non-qualifying employees in circumstances that constitute an automatically unfair dismissal in terms of the Labour Relations Act and the replacement of such employees with qualifying employees.

In such circumstances a cash penalty of R30 000 per displaced employee becomes payable and the employer may be disqualified from receiving the incentive, presumably on a prospective basis.

ESTATE DUTY

The general rule is that, if the deceased was ordinarily resident in South Africa at the time of death, all his or her assets, wherever situated, will be included in the gross value of his or her estate for the determination of estate duty payable thereon. However, it should be noted that assets owned by the deceased prior to his or her first becoming ordinarily resident in South Africa or inherited from a non-resident, may be deducted in calculating the net value of the estate (see below):

Value of all property at date of death (including limited interests such as usufructs and off-shore assets)	R……………
Deemed property*	R……………
Gross value of property	R……………
Deductions**	R……………
Net value of estate	R……………
Abatement***	R (3 500 000)
Dutiable amount	R……………
Estate Duty thereon at 20%	R……………

* *Deemed property includes certain insurance policies on the life of the deceased as well as any accrual claim the deceased's estate may have against a surviving spouse.*

** *The most important deductions are funeral expenses and administration costs; debts due at date of death, which includes the income tax and CGT liability of the deceased for the period prior to death; charitable bequests; assets owned by the deceased prior to his or her first becoming ordinarily resident in South Africa or inherited from a non-resident; and property and deemed property passing to a surviving spouse (as defined).*

*** *If the deceased was the spouse of one or more previously deceased persons, this abatement will be calculated as follows: R3 500 000 x 2, less the section 4A abatement/s claimed in the estate/s of the previously deceased person/s. If the deceased was only one of the spouses of the previously deceased person, the abatement will be apportioned between the spouses of that person.*

To limit the practice of avoiding estate duty through retirement contributions, the Estate Duty Act was amended with effect from 1 January 2016 to include retirement contributions made on or after 1 March 2015 which were not allowed as a deduction or exemption in the hands of the deceased for income tax purposes, in the dutiable amount of the estate. There is relief from estate duty in the case of the same property being included in the estates of taxpayers dying within 10 years of each other. The deduction is calculated on a sliding scale decreasing from 100% where the taxpayers die within two years of each other to 20% where the deaths are within 8 to 10 years of each other. If the deceased was not ordinarily resident in South Africa at the date of his or her death, only those assets located in South Africa will be subject to estate duty. South Africa has entered into reciprocal agreements (double taxation agreements) with Botswana, Lesotho, Swaziland, Zimbabwe, the UK and the USA for the avoidance of double estate duty being payable in respect of the same property.

RATES

Estate duty is payable on the dutiable amount of the estate at the rate of 20%.

DONATIONS TAX

Donations tax is payable on the value of any gratuitous disposal of property, including the disposal of property for inadequate consideration, by any South African resident as defined. Public companies as defined for income tax purposes are exempt from donations tax.

A donation is also a disposal for capital gains tax (CGT) purposes except if the asset donated is cash, and generally triggers CGT based on the market value of the property less its CGT base cost.

RATE OF DONATIONS TAX

Donations tax is payable within one month of the date of donation at a flat rate of 20% on all donations made.

PRINCIPAL EXEMPTIONS

- Donations between spouses (as defined);
- Donations to approved public benefit organisations;
- The donation of assets outside South Africa, subject to certain conditions;
- Casual donations up to R10 000 per year by donors other than individuals;
- Donations by individuals not exceeding R100 000 in aggregate per year of assessment that are not otherwise exempt; and
- *Bona fide* maintenance payments that are considered reasonable by the Commissioner for SARS.

SECURITIES TRANSFER TAX

In terms of the Securities Transfer Tax Act, which came into effect on 1 July 2008, Securities Transfer Tax ('STT') is payable on a change of beneficial ownership of securities at a rate of 0.25% of the 'taxable amount' of all listed or unlisted securities.

The 'taxable amount' means the purchase consideration on change of ownership (including cancellation or redemption). If there is no consideration or if the consideration is less than fair value, STT is payable on the market value or the closing price of the securities on the date of the transaction. 'Securities' include a member's interest in a close corporation. No STT is payable on the issue of shares.

The cancellation or redemption of a security (including share buy-backs and redemptions) is regarded as a change in beneficial ownership and is therefore subject to STT.

Transfer, redemption or cancellation of securities will be exempt from STT in certain circumstances, for example:

- transfer to an heir or legatee;
- cancellation on liquidation;

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SECURITIES TRANSFER TAX

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- transfer to a PBO;
- transfer of shares in a share block company;
- transfer of shares constituting a transaction subject to transfer duty; and
- restructuring transactions in terms of the corporate restructuring rules.

STAMP DUTY ON LEASES OF IMMOVABLE PROPERTY

The Stamp Duties Act, which imposed stamp duty only on leases for periods exceeding 5 years, was repealed with effect from 1 April 2009.

However, stamp duty remains payable on leases of fixed property executed before 1 April 2009 at a fixed rate of 0.5% on the quantifiable amount (as defined) of the lease. The stamp duty is subject to a maximum amount equal to 8% of the value of the property.

No stamp duty was payable on leases for periods (including renewal periods) of 5 years or less. A lease that may continue for an indefinite period was deemed to be for a period of 5 years, and thus was not dutiable.

TRANSFER DUTY ON IMMOVABLE PROPERTY

Transfer duty is levied on the greater of the purchase price or market value on the transfer of immovable property in the Republic. The indirect acquisition of residential property by way of the acquisition of shares, a member's interest in a close corporation or a contingent right in a discretionary trust is subject to transfer duty.

The following are the rates applicable to acquisitions of immovable property acquired under purchase agreements concluded on or after 1 March 2017, irrespective of the juristic nature of the acquiror:

Property value (R)	Rate of tax
0 – 900 000	0%
900 001 – 1 250 000	3% of the value in excess of R900 000

1 250 001 – 1 750 000	R10 500 plus 6% of the value in excess of R1 250 000
1 750 001 – 2 250 000	R40 500 plus 8% of the value in excess of R1 750 000
2 250 001 – 10 000 000	R80 500 plus 11% of the value in excess of R2 250 000
10 000 001 and above	R933 000 plus 13% of the value in excess of R10 000 000

Transfers between spouses on divorce and transfers to heirs (including trusts and companies) from a deceased estate are exempt from transfer duty.

CARBON TAX

As part of the 2013 Budget proposals, it was announced that a carbon tax will be introduced as part of South Africa's efforts to mitigate the effects of climate change. By pricing the external costs associated with carbon dioxide (CO_2) emissions, incentives will be created to change behaviour and encourage energy-efficiency measures. Government proposes to phase the tax in over time. On 2 November 2015 the National Treasury published a Draft Carbon Tax Bill for public comment.

SKILLS DEVELOPMENT LEVY

The skills development levy (SDL) is a levy payable by an employer based on its 'leviable amount'. 'Leviable amount' is remuneration for employees' tax purposes less certain prescribed exemptions. The funds collected from this levy are used to finance a national skills development programme. All employers (subject to certain exemptions) are required to pay 1% of their leviable amount on a monthly basis to SARS. The actual remuneration paid or payable to directors must be included. No SDL is payable by employers with a payroll of less than R500 000 per annum or by any public service employer, approved public benefit organisations and certain national and provincial entities.

TAX ADMINISTRATION ACT

The Tax Administration Act (Act 28 of 2011) consolidates administrative provisions relating to taxing statutes into a separate Act. It came into effect on 1 October 2012 (except for certain provisions dealing with interest). The Act deals, *inter alia*, with the following matters:

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TAX ADMINISTRATION ACT

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- Powers and duties of SARS and SARS officials;
- The office of the tax ombud;
- Registration;
- Returns and records;
- Reportable arrangements;
- Information gathering, including search and seizure protocols;
- Confidentiality of information;
- Advance rulings;
- Assessments;
- Dispute resolution protocols;
- Tax liability and payment;
- Recovery of tax;
- Interest;
- Refunds;
- Write-off or compromise of tax debt;
- Administrative non-compliance penalties;
- Understatement penalties, including a permanent voluntary disclosure programme;
- Criminal offences; and
- Registration of tax practitioners and the reporting of unprofessional conduct.

The Act also contains transitional provisions.

EXCHANGE CONTROL

Exchange controls are monitored and administered by the Financial Surveillance Department (formerly the Exchange Control Department) of the South African Reserve Bank.

FACILITIES AVAILABLE TO SOUTH AFRICAN RESIDENTS

Discretionary allowance

Private individuals are entitled to a single discretionary allowance of R1 million per calendar year. The discretionary allowance is available to all individuals over the age of 18 years. It is in addition to the existing foreign investment allowance described below.

The discretionary allowance may be used for any legal purpose abroad and no supporting documentation has to be furnished to the authorised dealer attending to the transfer except in the case of the allowance being used for travel purposes.

The single discretionary allowance may be transferred abroad in rand, however transfers for investment purposes (of a capital nature) must be converted to foreign currency through an authorised dealer.

Travel allowances for visits outside the Common Monetary Area (CMA)

Adults – the travel allowance forms part of the discretionary allowance referred to above.

Persons under the age of 18 – R200 000 per calendar year.

Travel facilities may be provided in any authorised form. If transferred to a bank account, the allowance may only be transferred to the traveller's account and / or spouse accounts and not to the account of a third party.

Travel facilities not availed of during one calendar year may not be carried forward to the following year. Travellers proceeding on visits outside the CMA are permitted to export up to R25 000 per person in South African Reserve Bank notes. This is not regarded as being part of the travel allowance.

SOUTH AFRICAN RESIDENTS TEMPORARILY LIVING ABROAD

Such persons qualify for:

- a subsistence allowance in terms of the discretionary allowance as referred to above (if over the age of 18);
- a subsistence allowance not exceeding R200 000 per calendar year (applicable to children under the age of 18);
- exportation of household goods and personal effects and motor vehicles with a maximum insured value of R1 million.

STUDY FACILITIES

Foreign exchange study facilities are restricted to permanent residents of South Africa who are taking full-time courses at recognised educational institutions abroad.

The facilities comprise:

- full amount of tuition and academic fees for the academic year, transferred directly to the institution concerned;
- discretionary allowance as referred to above to cover travelling and related costs; and
- exportation of household goods and personal effects up to the value of R200 000 per student.

BUSINESS TRAVEL FACILITIES

Authorised dealers may approve applications by businesses for omnibus travel facilities for up to R20 million per calendar year for allocation at the discretion of the business. Representatives of the business using this facility also qualify for the travel allowances referred to above.

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FOREIGN INVESTMENT BY SOUTH AFRICAN RESIDENTS

Individuals

Private individuals over the age of 18 years are permitted to invest an amount of R10 million per calendar year outside the CMA. A tax clearance certificate must be obtained from SARS prior to the transfer of funds. These funds may not be utilised to invest directly or indirectly back into South Africa. The Reserve Bank will also consider applications by private individuals to invest in fixed property in the SADC member countries against submission of a tax clearance certificate.

In addition to this dispensation, applications by private individuals to invest outside the SADC will be considered, including the purchase of property. Private individuals wishing to avail themselves of this dispensation must first approach SARS to obtain a tax clearance certificate in the prescribed format, which must accompany their application to the Reserve Bank.

SOUTH AFRICAN RESIDENT COMPANIES

Requests to invest overseas are considered on merit. The investor will be required to motivate that the investment will result in a long-term benefit to the South African economy. Similarly, major corporates may apply to establish primary listings offshore. authorised dealers can currently approve new outward foreign direct investments provided that the total cost does not exceed R1 billion per company per calender year. Applications for investments exceeding R1 billion have to be submitted to the Financial Surveillance Department of the South African Reserve Bank for approval.

Dividends declared and paid by foreign subsidiaries may be retained offshore and utilised for any purposes, except for loans into the CMA. Where a new investment is made without funds being transferred from South Africa, the proposed investment must still be approved by an authorised dealer. Dividend proceeds may also be used to acquire 10% to 20% equity and/or voting rights, whichever is the greater, in a foreign target entity which may hold investments and/or make loans to any CMA country.

In terms of the 2013 Budget proposals, it was announced that each JSE-listed entity will be entitled to establish one subsidiary to hold African and offshore operations (HoldCo), which will not be subject to foreign exchange restrictions. This dispensation has now been extended to also include unlisted entities. This will incentivise companies to manage their African and offshore operations from South Africa, maximising the benefits to South Africa's economy. Following a pilot, this dispensation may be extended to other entities. The HoldCos will be subject to the following conditions:

- They must operate as South African tax residents, and be incorporated and effectively managed and controlled in South Africa;

- Transfers from the parent company to HoldCo will be allowed up to R2 billion per calendar year for listed entities and R1 billion per calendar year in the case of unlisted entities. Additional amounts may be considered on application to the Reserve Bank;
- HoldCos will be allowed to freely raise and deploy capital offshore, provided these funds are without South African guarantees. Additional domestic capital and guarantees will be allowed on funding genuine foreign direct investment (FDI) in the same manner as the current FDI allowance;
- HoldCos will be allowed to operate as cash management centres for South African multinationals. Cash pooling will be allowed without any restrictions. Local income generated from cash management will be freely transferable;
- HoldCos may choose their functional currency or currencies, and operate foreign currency accounts and a rand-denominated account for operational expenses;
- Only one wholly owned HoldCo per JSE-listed entity or unlisted entity will be allowed. In future, conditions for jointly owned HoldCos, multiple HoldCos and subsidiaries of non-listed entities may be prescribed; and
- Appropriate governance and transparency arrangements will be required.

A complementary tax incentive will be considered to allow HoldCos to use foreign functional currency for tax accounting. This would ensure that a HoldCo is not taxable on currency gains and losses arising in the course of foreign functional currency treasury operations.

INSTITUTIONAL INVESTORS

Long-term insurers, pension funds and fund managers may invest 25% of total assets offshore. Collective investment schemes and investment managers may invest 35% of the total retail assets under management offshore.

ROYALTIES AND LICENCE FEES

Agreements by South African companies to pay royalties, licence and patent fees to non-residents (both related and unrelated parties) in respect of the local manufacturing of a product are subject to approval from the Department of Trade and Industry (on behalf of the Exchange Control authorities). Agreements by South African companies to pay royalties, licences and patent fees to unrelated non-residents where no local manufacturing is involved are subject to the approval of an authorised dealer.

Requests by South African residents to make royalty and fee payments to related parties abroad should be submitted to the Financial Surveillance Department via an authorised dealer for consideration.

A related party is defined by the Financial Surveillance Department as a party to a transaction that has a direct or indirect interest

continued…

in the other party and has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions. The payment of royalties to non-residents is generally not approved where the royalties stem from intellectual property initially devised in South Africa.

NON-RESIDENTS

Non-residents may freely invest in the Republic, provided that suitable documentary evidence is received in order to ensure that such transactions are concluded at arm's length, at fair market-related prices, and are financed in an approved manner. Such financing would require prior exchange control approval.

CAPITAL TRANSACTIONS

Proceeds from the sale of assets in South Africa, owned by non-residents (excluding blocked assets of emigrants), may be remitted abroad.

DIVIDENDS

Dividends declared by listed companies are remittable to non-resident shareholders. An emigrant shareholder will be entitled to dividends declared out of income earned after the date of emigration. Dividends declared by unlisted companies are remittable in proportion to percentage shareholdings. Dividends in favour of emigrant shareholders may be remitted subject to additional requirements.

DIRECTORS' FEES

Authorised dealers may transfer directors' fees to non-resident directors permanently domiciled outside South Africa, provided the application is accompanied by a copy of the resolution of the board of the remitting company, confirming the amount to be paid to the beneficiary.

MANAGEMENT AND ADMINISTRATION FEES

Authorised dealers may approve payment of management and administration fees payable to unrelated non-resident parties (neither of the parties having any direct/indirect interest or shareholding in one another), taking into account the reason for the fees, nature of the services and the basis of calculation. Fees calculated on the basis of a percentage of turnover, income, sales or purchases are generally not approved. Payment of percentage based fees is permissible provided it is normal in the trade concerned.

EMIGRANTS FROM SOUTH AFRICA

Emigrants qualify for:

- a cash allowance;
- an annual foreign capital allowance; and
- exportation of certain items.

Cash allowance

Emigrants qualify for a cash allowance equal to the annual discretionary allowance available to South African residents. This allowance may only be granted once and not more than 60 days prior to departure.

Foreign capital allowance

- up to R10 million per calendar year per single person; or
- up to R20 million per calendar year per family unit, less any amount invested in terms of the foreign investment allowance.

Individuals who have emigrated and who have not fully utilised the authorised foreign capital allowance, may be afforded additional capital transfers within the overall limits. Application may also be made for the export of both listed and unlisted securities based on their market value at the time of utilising the foreign capital allowance. The relevant securities must be restrictively endorsed.

EXPORTATION OF GOODS

Emigrants may export household and personal effects and motor vehicles within the overall insured value of R2 million.

FURTHER REGULATIONS

- Foreign assets held by an emigrant are not deducted from the facilities mentioned above; and
- Emigrants must declare whether any assets were received as donations or gifts in excess of R100 000 within the last 3 years or as capital distributions from inter vivos trusts within the last 3 years, prior to the date of emigration.

BLOCKED FUNDS

Assets of an emigrant in excess of the above allowances remain blocked in South Africa. They must be brought under the control of an authorised dealer and may be released for payment of specified investments and/or expenses. Emigrants can, on application, request to transfer blocked assets in excess of the foreign capital allowance limits, subject to an exit schedule approved at the discretion of the South African Reserve Bank. Blocked assets are required to be invested in prescribed assets as determined by the South African Reserve Bank. Certain income from a South African source may be remitted to emigrants. A detailed listing is available on request.

DISTRIBUTIONS FROM ESTATES

Bequests and the cash proceeds of and inheritances due to heirs permanently resident outside South Africa may be remitted abroad, subject to the adherence to prescribed procedures where the legatee is an emigrant.

NAMIBIA

TAX YEAR

The tax year-end for individual taxpayers is 28/29 February of each year. Companies and close corporations follow their financial reporting period (usually a year).

Individual tax rates

Taxable income (N$)	Tax rate (N$)
Up to 50 000	Not Taxable
50 001 – 100 000	18% for each N$ above 50 000
100 001 – 300 000	9 000 + 25% for each N$ above 100 000
300 001 – 500 000	59 000 + 28% for each N$ above 300 000
500 001 – 800 000	115 000 + 30% for each N$ above 500 000
800 001 – 1 500 000	205 000 + 32% for each N$ above 800 000
Over 1 500 000	429 000 + 37% for each N$ above 1 500 000

Trusts are taxed according to individual tax rates.

Company tax rates

- Non-manufacturing and non-mining companies (including branches of foreign companies and insurance companies) and close corporations are taxed at a rate of 32%.
- Registered and approved manufacturing companies and close corporations are taxed at a rate of 18% for the first 10 years, and at a rate of 32% thereafter.
- Hard rock mining companies (other than diamond mining, and oil and gas extraction) are taxed at a rate of 37.5%.
- Diamond mining taxable income is taxed at 55%.
- Retirement funds are exempt from income tax.
- Petroleum companies are taxed at 35%.
- Long-term insurance companies are taxed at 12.8% (40% of Gross Investment Income taxed at 32%).

Capital Gains Tax (CGT)

There is no CGT system in Namibia. Certain capital gains are, however, specifically included in Gross Income.

Withholding tax

- Dividends: 10% if the beneficiary is a company holding more than 25% capital in the Namibian company and 20% in all other cases.

The following income tax amendments became effective on 30 December 2015:

- **Interest:** Interest paid to a non-resident person will now attract a withholding tax at a rate of 10%. This will ensure that taxes are collected on interest arising in Namibia. The withholding tax must be paid by the 20th of the month following the month in which the interest is paid. The payment needs to be accompanied with a return.

- **Royalties:** The current effective rate for withholding tax on royalties will now be fixed at 10%. This will include the right to use industrial, commercial or scientific equipment. The withholding tax must be paid within 20 days after the end of the month during which the liability is incurred or the said payment is made.
- **Services:** The reduction of withholding tax on services rendered by non-residents from 25% to 10%. For this purpose "non-resident" means a person, company, partnership, board or trust that is not a resident person. A new definition for resident person has been included and branches of external companies are specifically defined as residents for withholding tax on services purposes.

Double Taxation Agreements (DTA) may override these withholding taxes. There are DTAs with Botswana, France, Germany, India, Malaysia, Mauritius, South Africa, Romania, Russian Federation, Sweden and the United Kingdom.

Estate duty / donations tax

There is currently no estate duty nor donations tax.

Transfer pricing and thin capitalisation

Transfer pricing legislation was introduced with effect from 14 May 2005. The legislation regulates international goods or service transactions between connected persons, and permits revenue to disallow certain expenditure/adjust income if the contract price is less or more than the price would have been between parties dealing at arm's length. Thin capitalisation rules were also introduced in 2005. These regulate the financial assistance granted by non-residents to connected Namibian companies. Interest paid on that portion of any foreign connected party loan that is considered to be excessive is denied as a deduction.

Value-Added Tax (VAT)

- The standard rate applicable is 15% on taxable supplies.
- Zero-ratings and exempt supplies apply to certain goods and services.

The amendments to the VAT Act take effect on 1 January 2016.

VAT Registrations and cancellation of registrations

- The VAT registration threshold for compulsory VAT registration is increased from N$200 000 to N$500 000.
- Application for voluntary VAT registration may be considered if the applicant expects to make taxable supplies which will exceed N$200 000 in a 12-month period.
- The VAT period applicable for persons registered voluntarily will be 6 and not 2 calendar months. Upon written application the Commissioner of Inland Revenue can allow a different VAT period.

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Import VAT accounts

Security may be requested before the importation of goods on a VAT import account and on such additional conditions as may be prescribed by the Commissioner by notice for the granting or refusal of such an account. A trader whose VAT import account has been cancelled as a result of tax law transgressions will have to pay the import VAT when importing the goods at the border.

Liability of shareholders for tax debts

The shareholders of companies and members of close corporations will be liable to pay unpaid tax to the extent that the tax debt arose during the time that the person was a shareholder or a member. Shareholders and / or members will be held jointly or severally liable for the unpaid tax.

Financial services

Financial services rendered to a non-resident who is outside of Namibia at the time the services are supplied will be an exempt supply in future.

THE FOLLOWING INCOME TAX AMENDMENTS BECAME EFFECTIVE ON 30 DECEMBER 2015:

Corporate Income Tax

The reduced tax rate for non-mining and non-manufacturing companies of 32% is effective for years of assessment commencing on or after 1 January 2015. This will also apply to close corporations.

Restraint of Trade Taxation

Restraint of trade payments earned by individuals and companies will no longer be considered to be capital in nature, but will be included in gross income. An allowance in respect of expenditure incurred on restraint of trade payments will be allowed.

Mineral Licences and Rights

Gross income includes the proceeds from the sale of a mineral licence, mineral right, petroleum licence or petroleum right and also any alienation or transfer of ownership of any share or member's interest in a company that holds a mineral licence, mineral right, petroleum licence or petroleum right, whether directly or indirectly. The acquisition cost of the mineral licence or right and the petroleum licence or right may be deducted but this cost may not create a loss.

Non-resident shareholders tax

The due date for payment has been changed to 20 days following the month the dividend has been paid. Specific penalties and interest provisions in respect of late payment of this tax have been introduced.

Collection/Payment of tax balances

Payments will first be allocated to tax, then to penalties and only then to interest. Furthermore, provisions have been introduced for the collection of taxes where there are grounds to believe that a person will leave Namibia.

Third parties appointed liable for tax

The Minister is granted powers to collect tax debts from third parties. Shareholders of companies and members of close corporations are liable to pay the unpaid tax to the extent that the tax debt arose during such time that the person served as a shareholder or member. In the case of more than one person, such persons will be liable jointly and severally to pay the unpaid tax.

Provisions have been made to assign liability for tax debts to financial managers in certain circumstances.

BOTSWANA

TAX YEAR

Companies and individuals are assessed on an annual basis as at 30 June.

Company tax rates

Resident companies	22%
Resident manufacturing companies (Approved*)	15%
Non-resident companies	30%
International Financial Services Centre (IFSC) Companies (Income from approved transactions)	15%
International Financial Services Centre (IFSC) Companies (Income from unapproved transactions)	22%
Foreign dividends	15%
Pension and Provident Fund not approved by the Commissioner General	7.5%
All other persons not mentioned above, excluding individuals	22%

* *A specific application must be submitted to the Ministry of Finance and a Development Approval Order obtained to qualify for the special rate applicable to manufacturers.*

On 23 January 2015 amendements to the VAT Act proposed in 2014 were gazetted and are now effective.

BOTSWANA

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The following are the amendments:

- VAT compulsory registration threshold is now P1 000 000;
- Voluntary VAT registration is allowed if taxable revenue is between P500 000 and P1 000 000;
- VAT registration is no longer accepted if revenue is below P500 000 and biennial update reports (BURs) can de-register VAT registered vendors whose revenue is below P500 000;
- Certain foodstuffs are now zero-rated for VAT, e.g. fresh vegetables and fruits, bread, milk, etc;
- Supply of tractors for farming is now exempt for VAT.

CAPITAL GAINS TAX

Capital Gains Tax is charged on gains arising on the disposal of certain assets, irrespective of whether the taxpayer is a resident or not, at a maximum of 22%.

Capital gains subject to tax include gains on all movable and immovable property of a business carried on in Botswana and investments in shares or debentures of a company. However, gains arising in respect of the following are exempt:

- principal private residence if owned for at least 5 years;
- shares and debentures of a public company if held for at least one year; and
- plant and machinery, but not buildings, in respect of which annual allowances have been granted, subject to income tax and gains arising from disposal of mineral rights and mining or prospecting information.

100% of net gains on immovable property will be taxable, whereas only 75% of net gains on movable property will be taxable.

Capital losses may be carried forward for a maximum of one year.

WITHHOLDING TAX (WHT)

- Dividends 7.5%;
- Payment of interest to a non-resident is subject to WHT of 15% on payment;
- 10% WHT is deductible on entertainment fees paid to a non-resident;
- 3% WHT is deductible on construction contracts that are in excess of P5 000, but the WHT does not apply to construction-related services.
- 4% WHT is deductible on payments for livestock purchased for slaughter or for feeding for slaughter.

NB: Subject to Double Tax Agreements

SELF-ASSESSMENT TAX (SAT)

Under this scheme, tax is payable on a quarterly basis in advance with a final payment due during the first 4 months of the subsequent financial year.

The scheme is at present only applicable to companies. The quarterly payments must not be less than 20% of the actual liability for the relevant tax year. SAT is mandatory for companies with tax payable over P50 000.

INDIVIDUALS

The maximum tax rate for individuals is 25%, which applies to income of P144 000 and more. According to the sliding scales, the first P36 000 is tax-free (only applicable to residents).

VALUE-ADDED TAX

Introduced on 1 July 2002.

The standard rate of 12% applies to taxable supplies. Certain services or supplies are either zero-rated or exempt.

Compulsory registration is required for those persons whose taxable turnover is in excess of P1 000 000 and for all auctioneers, irrespective of their annual turnover. There are 2 categories of VAT periods: those of 1 calendar month (if turnover is over P12 million) and those of 2 calendar months.

MOZAMBIQUE

The tax year coincides with the calendar year. Companies may, however, be granted approval to adopt their financial year-end as their tax year-end.

CORPORATE INCOME TAX (IMPOSTO SOBRE OS RENDIMENTOS DAS PESSOAS COLECTIVAS – IRPC)

Resident companies are taxed on worldwide income whilst non-residents are subject to tax only on income that has its source in Mozambique.

CORPORATE TAX RATES

The rate of IRPC is 32%, subject to the following exceptions:

Company tax rates

Specific categories	Rate
Agricultural or livestock activities, until 31 December 2015	10%
Income subject to withholding tax at source (e.g. interest, certain dividends and royalties)	20%
Entities that do not have headquarters, effective management nor a permanent establishment in Mozambique	20%

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Entities that do not have headquarters, effective management nor a permanent establishment in Mozambique where income is derived from rendering services relating to international telecommunication and transport as well as assembling and installing equipment related to the latter entities. Also applies to construction and rehabilitation of electric energy infrastructure in rural zones and rental of fishing vessels for fishing and cabotage	10%
Withholding tax on dividends from shares listed on the Maputo Stock Exchange	10%
Expenses not duly documented and those of a confidential or illegal nature (unsubstantiated payments)	35%

INDIVIDUAL TAX (IMPOSTO SOBRE AS RENDIMENTOS DAS PESSOAS SINGULARES – IRPS)

Resident individuals are taxed on their worldwide income whilst non-residents are taxed on their Mozambique sourced income.

Income is taxed under separate schedules for:

- employment;
- trade and business;
- capital gains;
- real estate;
- other income.

The top marginal rate is 32%.

VALUE-ADDED TAX (IMPOSTO SOBRE O VALOR ACRESCENTADO – IVA)

VAT is chargeable on the supply of goods and services in Mozambique as well as upon the importation of goods.

Exemptions from VAT include certain education, health and banking activities as well as supplies related to certain public benefit organisations.

The standard rate of VAT is 17% but subject to a number of exceptions, including:

- zero-rating of qualifying exports;
- a fractional rate for items subject to a fixed pricing regime, such as fuel;
- a 5% rate under a simplified system whereby the supplier is denied input credits.

DOUBLE TAXATION AGREEMENTS

Comprehensive double taxation agreements are in force with Italy, Mauritius, Portugal, United Arab Emirates, South Africa, Macau, Botswana, Vietnam and India.

ESTATE DUTY / DONATIONS TAX

The rate varies between 2% and 10% depending on the closeness of the relationship to the beneficiary / donee. For example, payments to direct descendants would attract tax at 2%, whereas payments to unrelated parties would attract tax at 10%.

ZIMBABWE

BodyThe 2017 Zimbabwe budget was presented on 8 December 2017 and below are tax highlights.

VALUE ADDED TAX PROPOSALS

VAT rate

The VAT rate remains unchanged at 15%.

VAT Fiscalised Machines

All VAT registered operators [turnover of more than US$60,000 per annum] are required to acquire VAT fiscalised machines which are linked to the Zimbabwe Revenue Authority (ZIMRA) server.

VAT fiscalised Recording of taxable transactions

It is proposed to authorise suppliers of fiscalised devices to procure advanced fiscal devices to ensure outdated fiscal devices are replaced.

With effect from 1 January 2017, it is proposed, as a deterrent measure that fiscalised Category C operators who are not connected to the ZIMRA Server will not be issued with tax clearance certificates.

Rationalisation of VAT zero rated products

With effect from 1 February 2017, the following goods were rated for VAT:- rice, margarine, cereals, maheu, pork, beef, fish, chicken and fresh or chilled potatoes.

After a public outcry, this measure was withdrawn with effect from 16th February 2017.

Registration for Value Added Tax by SMEs

To facilitate and encourage SMEs to register for VAT, with effect from 1 January 2017, it is proposed to waive the requirement to account for output tax from the deemed date of qualification for registration.

It should be noted that the proposed incentive applies to SMEs with a turnover of US$60,000 and above but not exceeding $240,000. Furthermore, the incentive is only for a period of six months, and will thus end on 30 June 2017.

continued…

Vat exemption on banking services

With effect from 1 January 2017, it is proposed to exempt banking and payment solutions offered by any person registered under the National Payment Systems Act from VAT.

Other VAT legislative amendments

It is proposed to:

- Provide for exemption of VAT on Radiation Protection Service for the period 2011 to 2015, in order to cover the legacy debt of the Authority.
- Extend VAT zero rating to the supply of pipeline transportation, storage and handling services for purposes of delivery of fuel through the pipeline, with effect from 1 January 2017.
- Extend deferment of export tax on unbeneficiated platinum to 1 January 2018.
- Include supply of gold to Fidelity Printers and Refineries on the list of VAT zero rated supplies.

CORPORATE TAX

Tax Incentives for Special Economic Zones

In order to enhance the attractiveness of Special Economic Zones (ECZs), with effect from 1 January 2017, it is proposed to provide tax incentives as follows:

Tax Head	Proposed Incentive
Corporate Tax	• Corporate tax exempted for the first 5 years. Thereafter, corporate tax shall be at the rate of 15%. • SIA on capital equipment to be allowed at 50% of cost in first year, and 25% in subsequent years.
Employees' Tax	Specialized expatriate staff to be taxed at a flat rate of 15%.
Non Residents Withholding Tax on Fees (NRTF)	Exemption from NRTF on services not locally available.
Non Residents Withholding Tax on Royalties (NRTR)	Exemption from NRTR.
Non Residents Withholding Tax on Dividends (NRST)	Exemption of NRST from Dividends.
Customs Duty on Equipment	Capital equipment for SEZs to be imported duty free.

Customs Duty on Raw Materials	Duty exemption to apply, provided such raw materials are not produced locally.

The General corporate tax rate of 25,75% remains unchanged.

Exemption of dividends from Income Tax

With effect from 1 January 2017, the Third Schedule to the Income Tax Act (Chapter 23:06) is amended to provide clarity on local dividends qualifying for tax exemption.

To minimise tax planning initiatives that reduce tax liability, deemed dividends arising from disallowed interest expenses in terms of section 16(1)q of the Income Tax Act, (Chapter 23:06) on any domestic loan, after exceeding the debt to equity ratio of 3:1, are proposed to be specifically excluded from local dividends that are exempted from tax.

Payment of Provisional Tax by SMEs

With effect from 1 January 2017, it is proposed to amend section 72(13)(b) of the Income Tax Act to make it possible for taxpayers who qualify as Small to Medium Enterprises to be permitted to pay provisional tax on a monthly basis, or one month at a time in advance.

It should be noted that the SME taxpayer concerned should submit an application to the Commissioner and should have voluntarily registered with ZIMRA.

NON Executive Directors' Fees

Effective 1 January 2017, it is proposed to amend the Income Tax Act, to exempt board fees accruing to non-executive directors from the 15% Non-Residents Tax on Fees.

This is meant to eliminate double taxation and ensure that Non Resident Executive Directors are only subject to 20% withholding tax.

TRANSFER PRICING

General Administration and Management Fees

To curb possible base erosion and profit shifting to lower tax jurisdictions, it is proposed with effect from 1 January 2017, to extend the limit on tax deductible expenditure to apply to transactions between associated companies.

In view of the fact that Zimbabwe's Transfer Pricing regulations cover both cross border and domestic transactions, we advise clients to develop transfer pricing policies that are aligned with proposed amendments to our tax laws.

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ZIMBABWE

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PERMANENT ESTABLISHMENT (PE)

It is proposed to include the definition of PE in the Income Tax Act to give clarity on the taxing rights of Zimbabwe and foreign countries with respect to attributable profits.

The proposed definition of a PE to be incorporated in the Income Tax Act is the one adopted by the OECD and provides clarity as to when a company can be said to be having a PE and thus becomes taxable in Zimbabwe and vice versa.

Where a DTA exists, then the provisions of the DTA should be applied.

PRESUMPTIVE TAX

With effect from 1 January 2017, it is proposed to review downwards presumptive taxes and the payment period from a quarterly to a monthly basis for omnibus, driving school, vehicle and salon operators as tabulated below:

Category	Current Level of Presumptive Tax per Quarter	Proposed Level of Presumptive Tax per Month
OMNIBUSES		
8 - 14 passengers	150	40
15 - 24 passengers	175	45
25 - 36 passengers	300	70
Above 36	450	100
Taxi Cabs	100	25
DRIVING SCHOOL		
Class 4 vehicles	500	100
Class 1 and 2	600	130
VEHICLES		
Above 10t up to 20t	1,000	200
Above 20t	2,500	500
Hair Salon Operator	1,500	US$10 per chair

- It is further proposed that presumptive tax be charged to informal traders at the rate of 10% on rentals by the informal traders.
- For small scale miners, it is proposed that presumptive tax will be charged at the rate of zero percent on the purchase price of precious metals or stones.
- For cross border traders, it is proposed that the rate of presumptive tax be charged at 10% of the value for duty purposes of the commercial goods being imported by the concerned traders.
- Provisional tax for SMEs may be paid monthly.

CAPITAL GAINS TAX

Capitals Gains has traditionally been restricted to sale of shares and immovable property (including rights in residential and commercial properties.

Capital Gains Tax on Intangibles

With effect from 1 January 2017, it is proposed to amend the definition of specified assets to include income accruing from the disposal of prescribed property of any description, whether tangible or intangible, including whatever nature of rights to such property.

The definition of ""specified asset" means:

(a) Immovable property; or

(b) Any marketable security; or

(c) any right or title to property whether tangible or intangible that is registered or required to be registered in terms of the Mines and Minerals Act, the Patents Act; the Trade Marks Act, the Industrial Designs Act; the Copyright and Neighbouring Rights Act; the Brands Act; the Geographical Indications Act; or the Integrated Circuit Layout-Designs Act.

Definition of a Depository

With effect from 1 January 2017, the definition of a depository now includes the registrar or other registering official by whatever name called responsible for registering rights, titles and transferor amendments thereof in terms of the Capital Gains Tax specified Acts referred in the definition of specified asset in (c) above.

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Exemption from Capital Gains Tax: Donated Houses

With effect from 1 January 2017 it is proposed to exempt from Capital Gains Tax disposals by way of donation of immovable property consisting of housing units to any local authority, employee share ownership trust or scheme or community ownership trust.

For the purpose of the new amendment, community share ownership trust or scheme means such a scheme approved in terms of the Indigenisation an Economic Empowerment (General) Regulations, 2010, published in Statutory Instrument 17 of 2010, or any other law that may be substituted for the same.

CUSTOMS AND EXCISE

Numerous customs and excise proposals were announced in the budget. The details are available at **www.bdo.co.zw**

WITHHOLDING TAXES (WHT)

The general rate of 15% is applied on fees and royalties. This rate is restricted if there is a DTA in force.

A new DTA has been negotiated between Zimbabwe and South Africa and this seeks to reduce the rate of Withholding Tax on management fee from 15% to 5% and royalties from 15% to 10%.

OTHER ADMINISTRATIVE MEASURES

The Minister proposed a cocktail of other administrative measures to regulate clearing agents and tax consultants and promoting sound Corporate Governance at ZIMRA. The other measures proposed would result in monitoring and curbing transit and other forms of fraud at ports of entry.

We briefly discus the proposals:

Regulation of Clearing Agents

- Clearing Agents should be registered after meeting set criteria that consist of having knowledge in customs law and procedures, having a good reputation as well as not having convictions for contravention of Customs and Excise legislation during the past 5 years.
- In addition, clearing companies should be members of a recognised Clearing, Shipping and Forwarding Association.
- The above information is required when applying for a new licence.

Regulation of Tax Consultants

With effect from 1 January 2017 it is proposed to extend the authority of the Commissioner General to report any unethical conduct by a taxpayer or tax practitioner to their controlling association.

It is also now a requirement for all tax practitioners to be registered with a recognised controlling body or association that regulates their conduct as well as the Zimbabwe Revenue Authority.

The registration with ZIMRA will be subject to attainment of specified minimum educational qualifications among other requirements.

Penalty Loading Model

With effect from 1 January 2017, it is proposed to publish through a gazette, a penalty loading model which informs taxpayers on the level of penalties.

The penalty loading model is intended to promote transparency in the administration of the penalty regime for various tax offences.

Temporary Import Permits for Visitors' Vehicles

With effect from 1 January 2017, it is proposed to reduce the maximum period under which visitors and residents living outside Zimbabwe may import vehicles under Temporary Import Privileges (TIP) from the current 12 months to 3 months.

ZIMRA Corporate Governance

In order to enhance sound Corporate Governance at ZIMRA, it is proposed that the tenure of office for the Commissioner General be fixed to a maximum of two, five year terms.

Electronic Cargo Tracking System (ECTS)

Government has with the assistance of the African Development Bank, put in place an ECTS to mitigate the adverse effects of transit fraud.

The ECTS will enhance efficiency in clearance and management of transit cargo whilst allowing for tracking of transit cargo from point of entry to point of exit. The system is under trial along Beitbridge to Chirundu and Forbes to Chirundu routes.

CCTV

In an effort to curb corruption and smuggling, Government has implemented CCTV systems at Beitbridge Border Post.

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ZIMBABWE

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TAX RATES

Employment Income Tax Bands

No adjustments were made for the tax bands for individuals on income earned from employment, hence tax will be calculated as follows:

Individual Tax rates from Employment Income

Annual PAYE Table: 1 January 2017 – 31 December 2017

Band of Taxable Income (US$)	Amount US$	Tax rate (%)	Tax Cumulative (US$)	Tax (US$)
1 – 3 600	3 600	0%		–
3 601 – 18 000	14 400	20%	2 880	2 880
18 001 – 36 000	18 000	25%	4 500	7 380
36 001 – 60 000	24 000	30%	7 200	14 580
60 001 – 120 000	60 000	35%	21 000	35 580
120 001 – 180 000	60 000	40%	24 000	59 580
180 001 – 240 000	60 000	45%	27 000	86 580
240 001 and more	–	50%		

COMPARATIVE TABLE

TAXES PAYABLE: CERTAIN SOUTHERN AFRICAN STATES

	South Africa	Zambia	Botswana	Lesotho	Namibia	Swaziland	Mozambique	Zimbabwe
COMPANY TAX								
Manufacturing/IFSC/ Innovation Hub	28% - 15%[N1]	35%	15% [N10]	10% [N12]	18% [N16]	27.5%	10% [N19] 32%	20% [N21]
Normal non-mining, local	28%	35%	22%	25%	32%	27.5%	32%	25% + AIDS levy 3%
Non-resident branch	28%	35%	30%	25%	32%	27.5% + 15%	32% [N20]	
Mining and other	28% [N2]	10% –40% [N8]	≥22%[N11]	25%	37.5%	27.5%		15% –25%
INDIVIDUAL TAX								
Maximum rate	45%	37.5%	25%	30%	37%	33%	32%	50% + AIDS levy 3%
Non-residents			25%				20%	
Level of taxable income at which maximum rate applies	ZAR 1 500 000	ZMW74,400	BWP144,000	LSL54,770	NAD1,500,000	SZL200,000	MZM1,512,000,001	USD240,000
OTHER TAXES								
Remitance tax iro branches of foreign companies	-	15%	-	25% [N13]	-	15% [N17]	-	15%
CGT	18.00% 36.00% [N3]	-	22% [N24]	0%/25% [N14]	-	37.5% [N18]	0	20%/5% [N22]
VAT	14%	16%	12%	14%	15%	14%/25%	17%	15%
NRST / WHT / Dividends Tax	20% [N4]	15%	7.5%	25% [N15]	10-20%	15% [N17]	20%	15%/10% [N23]
NRTI / WHT Interest	15% [N5]	15% [N9]	15%	25%	10%	15%	20%	0%
NRTF / WHT fees	–[N6]	20%	15%	10/25%	10%	15%	10/20%	15%
NRTR / WHT Royalties / Royalty Tax	15% [N7]	20%	15%	25%	10%	15%	20%	15%

COMPARATIVE TABLE

...continued

THE TABLE HAS BEEN COMPILED FROM INFORMATION SUPPLIED AND IS SUBJECT TO CONFIRMATION

N1 *Qualifying company in a special economic zone*

N2 *Gold mining according to formulae*

N3 *Individuals and special trusts - 18%; companies - 22.4%; other trusts - 36%*

N4 *STC was replaced by the Dividends Tax with effect from 1 April 2012. The Dividends Tax is not applicable to the distribution of branch profits. The rate of Dividends Tax was increased from 15% to 20% for dividends paid on or after 22 February 2017*

N5 *Non-residents are taxed from 1 March 2015 at a rate of 15%*

N6 *There is no witholding tax on cross-border service fees although such fees may give rise to a Reportable Arrangement*

N7 *The rate increased from 12% to 15% with effect from 1 January 2015*

N8 *E.g. farming-10%, non-traditional exports, manufacture of organic and chemical fertilizers - 15%, Banks - 35%. Telecommunication Companies - First ZMW250,000 at 35%, balance taxed at 40%, Mining companies pay tax at 30% and then at a variable rate above 8% of gross sales*

N9 *Interest to individuals on Treasury Bills - 15%, interest to non-resident contractors (MFEZ) - 20%*

N10 *The 15% is for income from approved activities. Unapproved activities 22%*

N11 *A special formula is used to calculate the tax rate, it cannot be below the normal company rate*

N12 *0% for certain manufacturing companies which export exclusively outside SACU countries*

N13 *Taxed at a 25% rate in addition to corporate income tax payable on the chargeable income of the branch.*

N14 *Part of business income*

N15 *Applies to branch profits as well.*

N16 *Taxed at a rate of 18% for the first 10 years, and at a rate of 32% thereafter*

N17 *12,5% for companies in Botswana, Lesotho, Mozambique, Namibia and South Africa*

N18 *Only on disposal of mineral rights*

N19 *Agriculture and stockbreeding - 10% until 31 December 2015*

N20 *Tax-free zone operators and enterprises*

N21 *20% rate for manufacturing applies where at least 50% of goods are exported from Zimbabwe.*

N22 *The rate of CGT on specified assets acquired prior to 1 February 2009 is 5%*

N23 *Reduced rate applies to listed shares in Zimbabwe*

N24 *CGT rate is 16.5% on sale of shares*

RETENTION OF RECORDS

	Retention Period Originals (years)
Close corporations	
• Accounting records, including supporting schedules to accounting records and ancillary accounting records	15
• Annual financial statements, including annual accounts and the report of the accounting officer	15
• Amended founding statement (forms CK 2 and CK 2A)	Indefinite
• Founding statement (form CK 1)	Indefinite
• Minute books as well as resolutions passed at meetings	Indefinite
• Microfilm image of any original record reproduced directly by the camera – the 'camera master'	Indefinite
Companies	
• General rule: Any documents, accounts, books, writing, records or other information required to be kept in terms of the Companies Act (Act 71 of 2008) ("the Act') and other public regulation	7 or longer (as specified in other public regulation)
• Memorandum of Incorporation and alterations or amendments, Rules and Registration Certificate	Indefinite
• Record of directors and past directors, after the director has retired from the company	7
• Copies of accounting records as required by the Act	7
• Copies of annual financial statements required by the Act	7
• Notice and minutes of all shareholder meetings including resolutions adopted and documents made available to holders of securities	7
• Copies of reports presented at the annual general meeting of the company	7
• Written communication to holders of securities	7
• Securities register and uncertificated securities register	7
• Members register in case of a non-profit company	Indefinite
• Register of company secretary and auditors A change in the record's location must be notified to the Commission. If security register and accounting records are kept electronically, certain extra requirements apply such as to keep adequate precautions etc.	Indefinite

continued…

RETENTION OF RECORDS

...continued

	Retention Period Originals (years)
Other documents	
Customs and Excise Act	
• All customs and excise documentation to be kept by importer / exporter	5
Compensation for Occupational Injuries and Diseases Act	
• Records of wages paid, time and piece work and overtime records, accident records, etc.	7
Insolvency Act	
• The insolvent's records of his transactions.	3
Occupational Health and Safety Act	
• A copy of the Act, an incident register, factory register, certificate of compliance (electrical) etc.	Permanently
• Record of employees exposed to asbestos fibres.	Minimum of 40
Value-Added Tax Act	
• Books of account; records of the supply of goods to or by the vendor; invoices; tax invoices; credit and debit notes; bank statements; deposit slips; stock lists and paid cheques and any documentory proof prescribed by the Commissioner Information in book form – 5 years from last entry. Computerised records must be kept in printout form, not just on disk or tape.	5
Capital Gains Tax	
All records relating to capital transactions	
• If a person is not required to render tax returns - from the end of the relevant year of assessment.	5
• For taxpayers - from the date of submission of the relevant tax return.	5
Income Tax Act	
• Accounting records from date of submission of the return incorporating the information	5

PRIME BANK OVERDRAFT RATES

Effective Date	Rate (%)
18.03.2016	10.50
29.01.2016	10.25
20.11.2015	9.75
24.07.2015	9.50
18.07.2014	9.25
29.01.2014	9.00
19.07.2012	8.50
19.11.2010	9.00
10.09.2010	9.50
26.03.2010	10.00
14.08.2009	10.50
29.05.2009	11.00
04.05.2009	12.00
25.03.2009	13.00
06.02.2009	14.00
12.12.2008	15.00
13.06.2008	15.50
11.04.2008	15.00
07.12.2007	14.50
12.10.2007	14.00
17.08.2007	13.50
08.06.2007	13.00
08.12.2006	12.50
13.10.2006	12.00
03.08.2006	11.50
08.06.2006	11.00
15.04.2005	10.50
16.08.2004	11.00
18.12.2003	11.50
20.10.2003	12.00
16.09.2003	13.50
14.08.2003	14.50
12.06.2003	15.50
13.09.2002	17.00
14.06.2002	16.00
14.03.2002	15.00
15.01.2002	14.00
25.09.2001	13.00
16.07.2001	13.50
18.06.2001	13.75
14.01.2000	14.50
04.10.1999	15.50
02.08.1999	16.50

continued...

PRIME BANK OVERDRAFT RATES

...continued

Effective Date	Rate (%)
19.07.1999	17.00
14.07.1999	17.50
25.06.1999	18.50
19.04.1999	19.00
09.03.1999	20.00
13.02.1999	21.00
08.01.1999	22.00
07.12.1998	23.00
09.11.1998	23.50
19.10.1998	24.50

COMPARATIVE RATES

COMPANIES INCOME TAX

Years of assessment ending on or after	Rate
1 April 1993	40%
1 April 1994	35%
1 April 1998	30%
1 April 2005	29%
1 April 2008	28%

BRANCHES OF FOREIGN COMPANIES

Years of assessment ending on or after	Rate
1 April 1999	35%
1 April 2005	34%
1 April 2008	33%
1 April 2012	28%

STC / DIVIDENDS TAX

	Rate
Dividends declared on or after 17 March 1993	15%
Dividends declared on or after 22 June 1994	25%
Dividends declared on or after 14 March 1996	12.5%
Dividends declared on or after 1 October 2007	10%
Replaced by dividends tax with effect from 1 April 2012	15%
Dividends paid on or after 22 February 2017	20%

SARS INTEREST RATES (PRESCRIBED RATES)

Date from	Interest payable on outstanding taxes	Interest receivable on overpayment of provisional tax
1 September 2003	14.00%	10.00%
1 October 2003	13.00%	9.00%
1 December 2003	11.50%	7.50%
1 November 2004	10.50%	6.50%
1 November 2006	11.00%	7.00%
1 March 2007	12.00%	8.00%
1 November 2007	13.00%	9.00%
1 March 2008	14.00%	10.00%
1 September 2008	15.00%	11.00%
1 May 2009	13.50%	9.50%
1 July 2009	12.50%	8.50%
1 August 2009	11.50%	7.50%
1 September 2009	10.50%	6.50%
1 July 2010	9.50%	5.50%
1 March 2011	8.50%	4.50%
1 May 2014	9.00%	5.00%
1 November 2014	9.25%	5.25%
1 November 2015	9.50%	5.50%
1 March 2016	9.75%	5.75%
1 May 2016	10.25%	6.25%
1 July 2016	10.50%	6.50%

ACCEPTABLE RATES ON EMPLOYEE LOANS FOR FRINGE BENEFIT PURPOSES (OFFICIAL RATES)

Date	Rate
1 December 2003	9.50%
1 March 2004	9.00%
1 September 2004	8.50%
1 September 2005	8.00%
1 September 2006	9.00%
1 March 2007	10.00%
1 September 2007	11.00%
1 March 2008	12.00%
1 September 2008	13.00%
1 March 2009	11.50%
1 June 2009	9.50%
1 July 2009	8.50%
1 September 2009	8.00%
1 October 2010	7.00%
1 March 2011	6.50%
1 August 2012	6.00%
1 February 2014	6.50%
1 August 2014	6.75%
1 August 2015	7.00%
1 December 2015	7.25%
1 February 2016	7.75%
1 April 2016	8.00%

continued...

COMPARATIVE RATES

...continued

With effect from 1 March 2011, the official rate is determined with reference to the repurchase ('repo') rate. Where the loan is denominated in rands, the official rate is 100 basis points above the repo rate. Where the loan is denominated in foreign currency, the official rate is 100 basis points above the equivalent rate to the repo rate for that currency. Where the repo rate changes during a month, the official rate changes from the beginning of the following month.

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