

**PKF**

chartered accountants  
& business advisers

# Tax Guide

2020/2021



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**1 Foreign Remuneration Exemption**

The limit of R1 million, has been increased to R1,25 million as from 1 March 2020.

**2 Tax Residency**

There is concern that SARB emigration is being abused as a method to cease South African tax residency. The emigration process and its consequences will be reviewed.

**3 Broadening the Corporate Tax Base**

- Current incentives will be reviewed and possibly limited.
- Sunset clauses may be introduced on certain capital allowances which will apply from 28 February 2022.
- Corporate interest deductions may be limited to combat base erosion and profit shifting.
- The special allowance for industrial policy projects will not be renewed beyond 31 March 2020.
- The urban development zone incentive will be renewed for one year whilst the general review of incentives is completed.

**4 Reduction of Assessed Losses**

Corporate assessed losses carried forward will be restricted to 80% for years of assessment commencing 1 January 2021.

**5 Section 7C**

Further anti-avoidance measures will be introduced to curb the use of preference share arrangements currently used to circumvent the application section 7C.

**6 Environmental Taxes**

Various enhancements to these taxes to assist with the global crisis on climate change will be considered, including:

- Restructuring the general fuel levy to include a local air pollution emissions component.
- Reviewing inefficient fossil fuel subsidies, including the VAT zero-rating of transport fuels.
- Considering product taxes on electrical and electronic waste.
- Reviewing the tax treatment of company cars to incentivise use of more fuel-efficient vehicles.

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As from 1 March 2017, interest-free or low interest loans to a trust by a connected natural person or by a company connected to that natural person give rise to a deemed donation. The donation is the difference between the interest rate charged and the official interest rate applied to the loan amount. This deemed donation applies to new and existing loans, excluding:

- Loans to certain vesting trusts
- Loans to special trusts created solely for the benefit of any person with a disability
- Loans to certain share incentive trusts
- Loans to approved public benefit organisations
- Loans funding the primary residence of that person or their spouse
- Loans to small business funding entities
- Loans where transfer pricing rules apply
- Loans provided in terms of a Sharia compliant financing arrangement
- Loans subject to Dividends Tax
- Unpaid beneficiary distributions, subject to certain provisions which may include a requirement that:
  - the trust deed stipulates (or the trustees have the sole discretion to determine) the time and extent of payment of such vested amount
  - the beneficiary has not entered into an agreement with the trustee to retain such amount in the trust.

The interest foregone is treated as an ongoing annual donation by the natural person as at the end of the tax year. Donations Tax will be payable at the end of March each year. The annual Donations Tax exemption of R100 000 may be claimed if not already utilised.

As from 19 July 2017, further anti-avoidance rules extend the deemed donation to loans provided by natural persons to companies held by trusts or to loans ceded to connected natural persons such as trust beneficiaries.

**Example:** Where an interest free loan of R1.5 million was provided to a trust on 1 March 2019 and the loan remained constant during the year, the calculation is:

	R
<b>Loan</b>	<u>1 500 000.00</u>
Interest 1 March 2019 to 31 July 2019 (153/366 days) at 7,75%	48 596.31
Interest 1 August 2019 to 31 January 2020 (184/366 days) at 7,50%	56 557.38
Interest 1 February 2020 to 29 February 2020 (29/366 days) at 7,25%	8 616.80
Deemed donation	113 770.49
Less annual exemption	<u>100 000.00</u>
Net deemed donation at 29 February 2020	<u>13 770.49</u>
Donations Tax at 20% (due 31 March 2020)	<u>2 754.10</u>

## FOREIGN EMPLOYMENT

## INCOME

As from 1 March 2020, foreign employment income not exceeding R1,25 million is exempt, provided the person spends more than 183 days, of which at least 60 days is continuous, outside of South Africa in any 12 month period commencing or ending during that year of assessment.

Prior to 1 March 2020, foreign employment income is fully exempt provided the same days requirement is met.

**TAX RATES****COMPANIES****Income Tax**

For years of assessment ending during the following periods:

1 April 1994 - 31 March 1999	35%
1 April 1999 - 31 March 2005	30%
1 April 2005 - 31 March 2008	29%
1 April 2008 - 31 March 2021	28%

**SA Income - Foreign Company/Branch Tax**

For years of assessment ending during the following periods:

1 April 1996 - 31 March 1999	40%
1 April 1999 - 31 March 2005	35%
1 April 2005 - 31 March 2008	34%
1 April 2008 - 31 March 2012	33%
1 April 2012 - 31 March 2021	28%

**Secondary Tax on Companies**

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

**Dividends Tax**

Dividend paid or becomes due and payable from 1 April 2012	15%
Dividend paid or becomes due and payable from 22 February 2017	20%

**EFFECTIVE****TAX RATE**

	Tax year			
	2014 to 2016	2017 Prior to 22 Feb 2017	2017 From 22 Feb 2017	2018 to 2021
	R	R	R	R
Taxable income	100,00	100,00	100,00	100,00
Less: Normal tax	28,00	28,00	28,00	28,00
Available for distribution	72,00	72,00	72,00	72,00
Less: Dividend	72,00	72,00	72,00	72,00
Retained	0	0	0	0
Total tax	38,80	38,80	42,40	42,40
Normal tax	28,00	28,00	28,00	28,00
Dividends Tax	10,80	10,80	14,40	14,40
Effective rate	38,80%	38,80%	42,40%	42,40%

Assumes all profits are declared as a dividend.

**TAX RATES****INDIVIDUALS - 2020****Taxable income****Rates of tax**

R 0 - R 195 850	18% of each R1	
R 195 851 - R 305 850	R 35 253 + 26% of the amount over R 195 850	R 195 850
R 305 851 - R 423 300	R 63 853 + 31% of the amount over R 305 850	R 305 850
R 423 301 - R 555 600	R100 263 + 36% of the amount over R 423 300	R 423 300
R 555 601 - R 708 310	R147 891 + 39% of the amount over R 555 600	R 555 600
R 708 311 - R1 500 000	R207 448 + 41% of the amount over R 708 310	R 708 310
R1 500 001 +	R532 041 + 45% of the amount over R1 500 000	R1 500 000

**TAX RATES****INDIVIDUALS - 2021****Taxable income****Rates of tax**

R 0 - R 205 900	18% of each R1	
R 205 901 - R 321 600	R 37 062 + 26% of the amount over R 205 900	R 205 900
R 321 601 - R 445 100	R 67 144 + 31% of the amount over R 321 600	R 321 600
R 445 101 - R 584 200	R105 429 + 36% of the amount over R 445 100	R 445 100
R 584 201 - R 744 800	R155 505 + 39% of the amount over R 584 200	R 584 200
R 744 801 - R1 577 300	R218 139 + 41% of the amount over R 744 800	R 744 800
R1 577 301 +	R559 464 + 45% of the amount over R1 577 300	R1 577 300

**TAX****THRESHOLDS**

	Taxable income	
	2020	2021
Persons under 65	R 79 000	R 83 100
Persons 65 and under 75	R122 300	R128 650
Persons 75 and over	R136 750	R143 850

**TAX****REBATES**

Amounts deductible from the tax payable	2020	2021
Persons under 65	R14 220	R14 958
Persons 65 and under 75	R22 014	R23 157
Persons 75 and over	R24 615	R25 893

**MEDICAL AID****TAX CREDITS**

Monthly amounts deductible from tax payable	2020	2021
Main member	R310	R319
Main member with one dependant	R620	R638
Main member with two dependants	R829	R853

Each additional dependant qualifies for a further rebate or credit of R215 (2020 : R209) per month.

# TAX RATES

## TRUSTS

Rate of tax	2015	2016-2017	2018-2021
All taxable income	40%	41%	45%

Special trusts are taxed at the rates applicable to individuals, but are not entitled to any rebate. The 40% inclusion rate for a taxable capital gain applies to both types of special trusts.

A special trust is one created:

- solely for the benefit of a person affected by a mental illness or serious physical disability which prevents that person from earning sufficient income to maintain himself. Where the person for whose benefit the trust was established dies prior to or on the last day of the year of assessment the trust will no longer be regarded as a special trust
- as a testamentary trust established solely for the benefit of minor children who are alive and related to the deceased on the date of death. Where the youngest beneficiary turns 18 years of age (2013 : 21) prior to or on the last day of the year of assessment, the trust will no longer be regarded as a special trust.

# TURNOVER TAX

## MICRO-BUSINESSES

Years of assessment ending between 1 March 2014 and 28 February 2015

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

Years of assessment ending between 1 March 2015 and 28 February 2021

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

This simplified turnover-based tax system applies to qualifying sole proprietors, partnerships and incorporated businesses with a turnover of less than R1 million per year.

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

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

For years of assessment commencing on or after 1 March 2018, transitional measures were introduced to eliminate penalties when turnover exceeds R1 million and the micro-business is obliged to exit the system.



Years of assessment ending between 1 April 2019 and 31 March 2020

Taxable income		Rates of tax
R 0 - R 79 000		Nil
R 79 000 - R365 000		7% of the amount over R 79 000
R365 001 - R550 000	R20 020 + 21% of the amount over R365 000	
R550 001 +	R58 870 + 28% of the amount over R550 000	

Years of assessment ending between 1 April 2020 and 31 March 2021

Taxable income		Rates of tax
R 0 - R 83 100		Nil
R 83 101 - R365 000		7% of the amount over R 83 100
R365 001 - R550 000	R19 733 + 21% of the amount over R365 000	
R550 001 +	R58 583 + 28% of the amount over R550 000	

### Qualifying requirements:

- All shareholders or members throughout the year of assessment are natural persons who do not hold an interest in any other private company, close corporation or co-operative other than those which:
  - are inactive and have assets with a market value less than R5 000; or
  - have taken steps to liquidate, wind-up or deregister (effective for years of assessment commencing on or after 1 January 2011).
- Gross income for the year of assessment does not exceed R20 million (2013 : R14 million).
- Not more than 20% of the gross income and all capital gains consists collectively of **investment income** and income from the rendering of a **personal service**.

**Investment income** includes any annuity, interest, rental income from immovable property, royalty or any income of a similar nature, local dividends, foreign dividends (as from 1 April 2012) and any proceeds derived from investment or trading in financial instruments (including futures, options and other derivatives), marketable securities or immovable property.

**Personal service** includes any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draughtmanship, education, engineering, financial service broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science, performed personally by any person who holds an interest in the company, co-operative or close corporation, except where such small business corporation employs three or more unconnected full-time employees for core operations throughout the year of assessment.

- The company, close corporation or co-operative is not a personal service provider or venture capital company.

Where the business operates in a special economic zone the tax rate is the lower of 15% or the rate determined in accordance with the tables.

### Investment incentive

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

Dividends Tax is applicable to all South African resident companies as well as non-resident companies listed on the JSE. Dividends Tax is borne by the shareholder at a rate of 20% (prior to 22 February 2017 : 15%), subject to any reduction in terms of a double taxation agreement. Tax on dividends *in specie* remains the liability of the company declaring the dividend.

### **Exemptions from Dividends Tax**

South African resident companies, the Government, public benefit organisations, certain exempt bodies, closure rehabilitation trusts, retirement funds, shareholders in a registered micro-business (provided the dividend does not exceed R200 000 in the year of assessment), are exempt from Dividends Tax. The exemption also applies to dividends *in specie*.

As from 1 April 2012, any dividend that was subject to STC is also exempt. A non-resident receiving a dividend from a non-resident company, which is listed on the JSE, is exempt from Dividends Tax.

### **Withholding Tax Obligations**

The company declaring the dividend, other than dividends *in specie*, is required to withhold the Dividends Tax on payment. Liability for withholding tax shifts if the dividend is paid to a regulated intermediary which includes central securities depository participants, brokers, collective investment schemes, approved transfer secretaries and linked investment service providers.

Dividends Tax can be eliminated or reduced upon the timely receipt of a written declaration that the shareholder is either entitled to an exemption or to double taxation agreement relief and an undertaking that the shareholder will inform the company should there be a change in circumstances.

As from 1 July 2020, the written declaration and undertaking must be renewed every five years from the date of the original declaration.

In the case of dividends *in specie* there is no withholding obligation, as the tax is the liability of the company declaring the dividend.

### **Dividend Definition**

The definition of a dividend includes all distributions to a shareholder, other than:

- a reduction of contributed tax capital
- an issue of capitalisation shares
- a general share buy-back by a JSE listed company
- an issue of shares as consideration for a share buy-back
- certain transfer pricing adjustments

A distribution of contributed tax capital must be recorded in writing by the directors prior to making the distribution.

### **Low Interest or Interest-Free Loans**

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

### **Share Buy-back**

Where an unlisted company buys back any portion of its own shares, the portion distributed from contributed tax capital will be subject to Capital Gains Tax and the portion distributed from reserves will be subject to Dividends Tax.

## First Year of Assessment

Where a taxpayer has not been assessed previously, a reasonable estimate of the taxable income, and not merely a default of nil, must be made.

### First Payment

The estimate of taxable income may not be less than the basic amount without the consent of SARS.

### Second Payment

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

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

If the above requirements are not met, a penalty of 20% is levied on the difference between the estimated tax and 90% of the actual tax (where the taxable income is R1 million or less), or 80% of the actual tax (where the taxable income exceeds R1 million), less the PAYE and provisional tax paid in the year of assessment. The penalty may be waived if the taxpayer can prove that due care has been taken in seriously calculating the estimate.

- **Non-submission of a return**

Where the return is not submitted within four months of the due date, the estimate of taxable income is deemed to be nil.

## Year of Death

As from 15 January 2020, no estimate is required for the period from the last provisional return up to date of death.

### Third Payment

Third provisional payments are only applicable to individuals and trusts with taxable income in excess of R50 000 and companies and close corporations with taxable income in excess of R20 000.

### Basic Amount

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

### Permissible Reductions in the Basic Amount

Capital gains, retirement fund lump sums and certain severance benefits are excluded from the basic amount.

### Estimates

Where an estimate lower than the basic amount is used, capital gains must be included in that estimate and the taxpayer's circumstances must justify a lower estimate. Capital gains must be included in the second estimate if the final taxable income is expected to exceed R1 million. SARS has the right to increase any estimate, to an amount considered reasonable.

### Exemptions

Natural persons, excluding sole proprietors, are exempt from provisional tax if either:

- the taxable income does not exceed the tax threshold
- the taxable income derived from interest, foreign dividends, rental from letting immovable property and remuneration from a foreign employer (not registered for PAYE) does not exceed R30 000.

Body corporates, deceased estates, PBO's, recreational clubs, shareblocks and small business funding entities are exempt from provisional tax.

## Medical Aid Contributions

Medical aid contributions may be claimed as a **medical scheme fees tax credit** against tax payable as follows:

- R319 (2020 : R310) per month each for the taxpayer and the first dependant
- R215 (2020 : R209) per month for each additional dependant

Where more than one person pays the medical aid contribution, the medical scheme fees tax credit is apportioned.

## Younger than 65 years

Excess contributions and other qualifying medical expenses may be claimed as an **additional medical expense tax credit** calculated as follows:

- The amount by which the formula  $\{[\text{medical aid contributions} - (\text{medical scheme fees tax credit} \times 4)] + \text{other qualifying medical expenses}\}$  exceeds 7,5% of taxable income, divided by a factor of 4.

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

Excess contributions and other qualifying medical expenses may be claimed as an **additional medical expense tax credit** calculated as follows:

- $\{[\text{Medical aid contributions} - (\text{medical scheme fees tax credit} \times 3)] + \text{other qualifying medical expenses}\}$ , divided by a factor of 3.

## Other qualifying medical expenses include:

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

**Disability** means a moderate to severe limitation of a person's ability to function or perform daily activities as a result of physical, sensory, communication, intellectual or mental impairment, if the limitation lasts more than a year and is diagnosed by a duly registered medical practitioner, in accordance with prescribed criteria.

According to the SARS guide on the medical tax credits (issue 10):

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

GAP cover and medical insurance premiums do not qualify as medical aid contributions or as other qualifying medical expenses.

Recovery of expenses (including amounts received from a medical aid savings account, GAP cover or medical insurance) reduces the claim.

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

## EXEMPTIONS INDIVIDUALS

- Dividends received or accrued from South African companies or JSE dual listed non-resident companies are generally not subject to income tax. Dividends paid by a real estate investment trust (REIT) to a resident are subject to income tax.
- As from 1 March 2014, dividends received for services rendered or by virtue of employment including share incentive trust distributions are not exempt, subject to certain exclusions.
- For years of assessment commencing on or after 1 March 2017, foreign dividends are partially exempt in terms of a formula whereby the maximum effective rate is 20% (previously 15%).
- Interest received by or accrued to a non-resident is exempt from income tax unless the individual was physically present in South Africa for a period exceeding 183 days in aggregate or carried on business through a permanent establishment in South Africa at any time during the 12 month period prior to the date of receipt or accrual. As from 1 March 2015, where this exemption is applicable, a final withholding tax of 15% is imposed on interest paid to a non-resident subject to an exemption or reduction in the rate in terms of a double taxation agreement.
- South African sourced interest received by natural persons:

Persons under 65 years	R23 800	(2013 : R22 800)
Persons 65 years and older	R34 500	(2013 : R33 000)
- Unemployment insurance benefits.
- As from 1 March 2012, Road Accident Fund payouts.
- As from 1 March 2015, all returns from tax free savings investments.

### Termination Lump Sum from Employer

As from 1 March 2011, employer provided severance payments for reasons of age, ill health and retrenchment are aligned with the taxation of lump sum benefits, including the R500 000 (2012 : R315 000) tax free limit.

In the case of retrenchment this concession does not apply where that person at any time held an interest of more than 5% in that entity.

### Compensation

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

## DEDUCTIONS EMPLOYEES

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

- Bad debts and doubtful debts allowance
- Wear and tear allowance
- Business travel expenses limited to the travel allowance or fringe benefit for the use of a company motor vehicle
- Pension or retirement annuity fund contributions, subject to a limitation
- As from 1 March 2016, provident fund contributions, subject to a limitation
- Donations to qualifying public benefit organisations, subject to a limitation
- Home office expenses, subject to certain requirements
- Legal expenses, subject to certain requirements
- Prior to 1 March 2015, premiums paid for an income protection policy
- As from 1 March 2008, refunded awards for services rendered and refunded restraint of trade awards.

## DEEMED EMPLOYEES

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

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

- **A labour broker** is a natural person who, for reward, provides a client with other persons to render a service to the client or procures other persons for the client and remunerates such persons
- **A personal service provider** is a company, close corporation or trust where any service rendered on behalf of the entity to its client is rendered personally by any person who is a connected person in relation to such entity, and **one** of the following provisions apply:
  - the person would have been regarded as an employee of the client, if the service was not rendered through an entity
  - the person or entity rendering the service must perform such service mainly at the premises of the client and such person or entity is subject to the control or supervision of such client as to the manner in which the duties are performed
  - more than 80% of the income derived from services rendered is received from one client or associated person in relation to the client
- The entity will **not** be regarded as a **personal service provider** where such entity employs three or more unconnected full-time employees for core operations throughout the year of assessment.

### Implications

- A labour broker, not in possession of an exemption certificate, is subject to PAYE on income received at the rates applicable to individual taxpayers. Deductible expenditure is limited to remuneration paid to employees
- A personal service provider is subject to PAYE at the rate of 28% (2012 : 33%) in the case of a company and 45% (2017 : 41%) in the case of a trust
- No PAYE is required to be deducted where the entity provides an affidavit confirming that it does not receive more than 80% of its income from one source
- The deemed employee may apply to SARS for a tax directive for a lower rate of tax to be applied
- Deductions available to personal service providers are limited to remuneration to employees, contributions to pension, provident and benefit funds, legal expenses, bad debts, expenses in respect of premises, finance charges, insurance, repairs, fuel and maintenance in respect of assets used **wholly and exclusively** for trade and any amount previously included in taxable income and subsequently refunded by the recipient.

## TAX FREE SAVINGS ACCOUNTS

As from 1 March 2015, natural persons can invest in approved saving instruments which include unit trusts, fixed deposits or REIT's. These investments are subject to a lifetime investment limit of R500 000, and an annual investment limit of R36 000 (2020 : R33 000).

All proceeds, including interest, dividends and capital gains on the disposal of these investments, are fully exempt from tax.

Where the annual or lifetime limits are exceeded, a penalty of 40% of the excess capital contributed is applicable.

## MARRIED IN COMMUNITY OF PROPERTY

Taxpayers married in community of property are taxed on half of their own interest, dividends, rental income and capital gain and half of the interest, dividends, rental income and capital gain of their spouse, regardless of the spouse in whose name the assets are registered (other than assets excluded from the joint estate).

All other taxable income is taxed only in the hands of the spouse who received it or to whom it accrues.

## ARBITRATION AWARDS

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

## RESTRAINT OF TRADE

### Gross Income

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

### Deduction

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

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

Where the expense did not constitute income in the hands of the recipient, no deduction is allowed.

## DIRECTORS FEES

Prior to 1 March 2017, directors of private companies and members of close corporations were deemed to have received a monthly remuneration, subject to PAYE, calculated in accordance with a formula, which did not apply where at least 75% of their remuneration was in the form of fixed monthly payments.

As from 1 March 2017, this formula is no longer applicable and PAYE is calculated on a payment basis.

As from 1 June 2017, resident non-executive directors are regarded as independent contractors, resulting in no PAYE being withheld from directors fees, unless voluntarily agreed to. Where the fees exceed R1 million in a 12 month period, the non-executive director is required to register for VAT and issue a tax invoice to the company for the directors fees.

## Right of Use of Motor Vehicle

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

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

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

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

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

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

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

No value is placed on the private use of an employer-owned vehicle if:

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

The provision of an employer-owned vehicle constitutes a deemed supply for VAT purposes. The employer must account for output VAT on the deemed consideration by applying the VAT fraction on a monthly basis.

The deemed consideration is determined as follows:

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

## Use of Business Cellphones and Computers

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

## Low Interest or Interest-Free Loans

- The fringe benefit is the difference between the interest rate charged by the employer and the official interest rate applied to the loan amount
- The fringe benefit has no value where the loan is less than R3 000 or where a loan is made to an employee to further his own studies.



## **Long Service and Bravery Awards**

Long service is an initial unbroken period of at least 15 years or any subsequent unbroken period of at least 10 years.

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

## **Medical Aid Contributions**

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

If the employer makes a lump sum payment for all employees, the fringe benefit is determined in accordance with a formula, which will have the effect of apportionment amongst all employees concerned.

No value is placed on the contributions made for an employee who retired due to superannuation or ill health, or for dependants of a deceased employee.

## **Holiday Accommodation**

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

## **Residential Accommodation**

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

As from 1 March 2008, no value is placed on the benefit where:

- the supply of any accommodation to an employee away from his usual place of residence in South Africa for the performance of his duties
- the supply of any accommodation in South Africa to an employee away from his usual place of residence outside South Africa for a two year period, subject to a limit of R25 000 per month. This concession does not apply if the employee was present in South Africa for more than 90 days in the tax year prior to the date of arrival for the purpose of his duties.

## **Employer-Owned Insurance Policies**

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

## **Uniform Allowance**

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

## **Free or Subsidised Meals and Refreshments**

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

No value is placed on the benefit if it is provided at a place mainly or wholly used by the employees or at the employer's premises, or it is provided during business hours (normal or extended) or on a special occasion.

## **Low-Cost Housing Transferred to Employee**

No value is placed on interest-free or low interest loans granted solely to acquire fixed property or if fixed property is transferred to an employee where all of the following are applicable:

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

## SUBSISTENCE ALLOWANCES

If an employee is obliged to spend at least one night away from his usual residence in South Africa on business, the employer may pay an allowance for personal subsistence and incidental costs without such amounts being included in the employee's taxable income, subject to the employee travelling for business by no later than the end of the following month. If such allowance is paid to an employee and that employee does not travel for business purposes by the end of the following month, the allowance becomes subject to PAYE in that month.

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

### Local travel

- R139 (2020 : R134) per day or part of a day for incidental costs
  - R452 (2020 : R435) per day or part of a day for meals and incidental costs.
- Where an allowance is paid to an employee to cover accommodation, meals and incidental costs, the employee is required to prove the expense incurred while away on business, which is limited to the allowance received.

### Overseas travel

Actual accommodation expenses plus an allowance per country as set out on [www.sars.gov.za](http://www.sars.gov.za) (2009 : \$215) per day for meals and incidental costs incurred outside South Africa. Where the absence is for a continuous period in excess of six weeks, the deemed expenditure does not apply.

## TRAVEL ALLOWANCES

### Fixed Travel Allowances

As from 1 March 2010, 80% of the fixed travel allowance is subject to PAYE. As from 1 March 2011, where the employer is satisfied that at least 80% of the use of the vehicle in the year of assessment will be for business purposes, the inclusion rate may be reduced to 20%. The full allowance is disclosed on the employee's IRP5 certificate, irrespective of the percentage of business travel.

### Reimbursive Travel Expenses

Prior to 1 March 2018, where an employee receives a reimbursement based on the actual business kilometres travelled, no other compensation is paid to the employee and the cost is calculated in accordance with the prescribed rate of 398 cents (2020 : 361 cents) per kilometre, no PAYE is deductible, provided the business travel does not exceed 12 000 (2017: 8 000) kilometres per year. The reimbursement must be disclosed under code 3703 on the IRP5 certificate.

No PAYE is withheld and the amount is not subject to taxation on assessment. If the business kilometres travelled exceed 12 000 (2017: 8 000) kilometres per year, or if the reimbursive rate per kilometre exceeds the prescribed rate, or if other travel compensation is paid to the employee the allowance must be disclosed separately under code 3702 on the IRP5 certificate.

As from 1 March 2018, where the reimbursive rate exceeds the prescribed rate, irrespective of the business kilometres travelled, there is an inclusion in remuneration for PAYE purposes. The full inclusion amount is subject to PAYE unlike the fixed travel allowance where only 80% of the amount is subject to PAYE.

**Example:** 17 891 kilometres are reimbursed for business travel at 420 cents. The prescribed rate is 398 cents. The amount included in remuneration is calculated as  $17\,891 \times (420 \text{ cents less } 398 \text{ cents}) = R3\,936,02$ .

## INCOME PROTECTION CONTRIBUTIONS

Prior to 1 March 2015, insurance premiums paid on income protection policies were deductible.

## DEDUCTIONS

## TRAVEL EXPENSES

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

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

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

The cost of the vehicle includes VAT but excludes finance costs. Where actual expenditure is used the value of the vehicle is limited to R665 000 (2020 : R595 000) for purposes of calculating wear and tear, which must be spread over a **seven** year period.

The finance costs are also limited to a debt of R665 000 (2020 : R595 000). In the case of a leased vehicle, the instalments in any year of assessment may not exceed the fixed cost component in the table.

### DEEMED EXPENDITURE - 2020

Cost of vehicle	Fixed R	Fuel c	Repairs c
Does not exceed R85 000	28 352	95,7	34,4
Exceeds R 85 001 but not R170 000	50 631	106,8	43,1
Exceeds R170 001 but not R255 000	72 983	116,0	47,5
Exceeds R255 001 but not R340 000	92 683	124,8	51,9
Exceeds R340 001 but not R425 000	112 443	133,5	60,9
Exceeds R425 001 but not R510 000	133 147	153,2	71,6
Exceeds R510 001 but not R595 000	153 850	158,4	88,9
Exceeds R595 000	153 850	158,4	88,9

### DEEMED EXPENDITURE - 2021

Cost of vehicle	Fixed R	Fuel c	Repairs c
Does not exceed R95 000	31 332	105,8	37,4
Exceeds R 95 000 but not R190 000	55 894	118,1	46,8
Exceeds R190 000 but not R285 000	80 539	128,3	51,6
Exceeds R285 000 but not R380 000	102 211	138,0	56,4
Exceeds R380 000 but not R475 000	123 955	147,7	66,2
Exceeds R475 000 but not R570 000	146 753	169,4	77,8
Exceeds R570 000 but not R665 000	169 552	175,1	96,6
Exceeds R665 000	169 552	175,1	96,6

## VARIABLE

## REMUNERATION

Variable remuneration, such as commission, bonuses, overtime, leave pay, night shift allowance, standby allowance and reimbursive travel, is taxed on a payment basis.

The rule applies to the deduction of PAYE, the employee's gross income inclusion and the employer's income tax deduction.

## RELOCATION OF AN EMPLOYEE

Where the employer incurs expenses for the relocation of an employee or where the employee is reimbursed, the following expenses are exempt from tax:

- transportation of the employee, his family and personal possessions
- hiring temporary residential accommodation for the employee and his family for up to 183 days after transfer
- other related costs, including new school uniforms, replacement of curtains, bond registration and cancellation fees, legal fees, transfer duty, motor vehicle registration fees and estate agents commission on the sale of the previous residence.

The loss on sale of the previous residence and architect's fees for the design of, or alterations to, a new residence are excluded.

As from 22 November 2017, the actual cost must be reflected on the IRP5 under code 3714. Previously one month's basic salary could be deemed as the relocation allowance.

## RESEARCH AND DEVELOPMENT

An additional deduction of 50% is available for expenditure incurred in respect of qualifying research and development.

### As from 1 January 2014

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

Research and development capital assets are written off as follows:

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

The incentive ceases to apply from 1 October 2022.

## DEDUCTIONS RETIREMENT

### As from 1 March 2016

#### Pension, Provident and Retirement Annuity Fund Contributions

The contributions to pension, provident and retirement annuity funds are deductible but limited to 27,5% of the greater of remuneration or taxable income (including capital gains prior to 1 March 2019), but excluding lump sums and severance benefits, prior to the deduction for donations, limited to R350 000. Any excess may be carried forward to a subsequent tax year. Contributions paid by the employer are taxed as a fringe benefit in the hands of the employee and are deemed to be contributions paid by the employee in order to calculate the allowable deduction.

The employer deduction for contributions made to these funds on the employee's behalf is not subject to any limitation (2016 : 20% of remuneration).

#### Annuitisation Rules

Pension and retirement annuity funds are subject to the one-third lump sum and the two-thirds annuity rules unless the lump sum is below R247 500 (2016 : R75 000).

As from 1 March 2021, lump sums from provident funds will be subject to annuitisation and apportioned to ensure contributions made prior to 1 March 2021 and the resultant growth may be paid out as a lump sum. Where the member will be at least 55 years old on 1 March 2021, the lump sum from the provident fund is not subject to the annuitisation rules.

## RETIREMENT LUMP SUM BENEFITS

As from 1 October 2007, the **taxable portion** of a lump sum from a pension, provident or retirement annuity fund on retirement or death is the lump sum less any contributions that have not been allowed as a tax deduction **plus the taxable portion of all lump sums previously received**. As from 1 March 2011, certain severance benefits are also taxed in terms of this table.

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

Lump sums accruing between 1 March 2011 and 28 February 2014

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

An assessed loss cannot be set-off against the taxable lump sum.

Lump sums accruing between 1 March 2014 and 28 February 2021

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

An assessed loss cannot be set-off against the taxable lump sum.

## WITHDRAWAL LUMP SUM BENEFITS

As from 1 March 2009, the **taxable portion** of a pre-retirement lump sum from a pension or provident fund is the amount withdrawn less any transfer to a new fund **plus all withdrawal lump sums previously received**.

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

Lump sums accruing between 1 March 2009 and 28 February 2014

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

An assessed loss cannot be set-off against the taxable lump sum.

Lump sums accruing between 1 March 2014 and 28 February 2021

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

An assessed loss cannot be set-off against the taxable lump sum.

## YOUTH

## EMPLOYMENT INCENTIVE

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

- **Employers must**
  - be registered for PAYE and be tax compliant
  - not be the Government or a municipal entity
  - not have been disqualified by the Minister of Finance
- **Employees must**
  - have a South African bar-coded ID/card or asylum seeker permit
  - be at least 18 years old and not older than 29 years
  - not be a domestic worker or connected to the employer
  - earn at least R2 000 per month or the minimum amount stipulated by the regulated industry but not more than R6 500 per month
  - be employed on or after 1 October 2013

As from 1 March 2019, the credit for each qualifying employee is as follows:

Monthly Remuneration	Per month during the first 12 months of employment	Per month during the next 12 months of employment
R 0 - R2 000	50% of monthly remuneration	25% of monthly remuneration
R2 001 - R4 500	R1 000	R500
R4 501 - R6 500	R1 000 - (0,5 x (Monthly Remuneration - R4 500))	R500 - (0,25 x (Monthly Remuneration - R4 500))

As from 1 March 2015, where an employee is employed on a full-time basis for at least 160 hours per month (excluding overtime hours), an employer is entitled to claim the full incentive. Where less than 160 hours are worked, the incentive must be apportioned pro-rata.

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

As from 1 March 2017, monthly claims can only be made up to the date of each six monthly reconciliation.

The incentive ceases to apply from 28 February 2029.

## BURSARIES

## AND SCHOLARSHIPS

*Bona fide* scholarships or bursaries granted to enable any person to study at a recognised educational institution are exempt from tax. Where the benefit is granted to an employee, the exemption will not apply unless the employee agrees to reimburse the employer in the event that the studies are not completed.

Where the benefit is granted to a relative of the employee, the exemption will only apply if the annual remuneration proxy in the prior year of the employee is less than R600 000 (2017 : R400 000) and to the extent that the bursary does not exceed R60 000 (2017 : R40 000) per relative for higher education and R20 000 (2017 : R15 000) per relative for basic education to grade 12.

As from 1 March 2018, where the benefit is granted to a relative with a disability, the exemption will apply to the extent that the bursary does not exceed R90 000 per relative for higher education and R30 000 per relative for basic education to grade 12.

## BROAD-BASED

## EMPLOYEE EQUITY

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

## LIMITATION OF INTEREST DEDUCTION

### Debt arising as a result of a corporate restructure

As from 1 January 2015, the interest deduction in respect of certain corporate restructures may be limited and calculated in accordance with a formula.

Any excess interest cannot be carried forward to the next tax year. As a result the excess interest is permanently non-deductible.

The interest deduction limitation must be applied in the tax year in which the restructure transaction is entered into and the five subsequent tax years.

### Recipient of interest is not subject to tax in South Africa

As from 1 January 2015, interest paid to an exempt or foreign person or foreign entity who is not subject to tax in South Africa may be limited and calculated in accordance with a formula.

Any excess interest is carried forward to the next tax year, and is subject to the formula in that year.

This will generally apply in the case of:

- interest paid to a public benefit organisation
- interest paid to a foreign person or foreign entity where the withholding tax on interest is reduced to nil in terms of a double taxation agreement.

This limitation is only applicable when the parties involved are in a controlling relationship, whereby the recipient directly or indirectly holds more than 50% of the equity shares or voting rights in that company.

## DEBT REDUCTIONS

As from 1 January 2013, a reduction or waiver of debt is not subject to Capital Gains Tax. The tax consequences of a debt reduction or waiver is determined in accordance with the purpose of the debt funding.

Where the debt funded:

- a capital asset which has not been disposed of:
  - the base cost of that asset is reduced
  - future allowances are limited to the reduced base cost
  - to the extent that the debt reduction exceeds the base cost any capital loss is reduced
- a capital asset which has been disposed of:
  - any capital loss is reduced
  - if no capital loss is available for reduction, a capital gain is included
- an allowance asset which has not been disposed of:
  - the base cost of that asset is reduced
  - to the extent that the debt reduction exceeds the base cost a recoupment, limited to previous allowances granted, is recognised as income
- an allowance asset, which has been disposed of:
  - a recoupment arises but is limited to previous allowances granted
- trading stock:
  - reductions are made to opening stock, purchases and/or closing stock depending on whether the stock was brought forward from the previous tax year, purchased in the current tax year or has not been disposed of in the current tax year
- deductible expenditure:
  - a recoupment is recognised as income.

Certain transactions, subject to specific criteria, are excluded or partially excluded from these provisions such as transactions involving deceased estates, donations, group of companies, fringe benefits and companies in liquidation.

## ENVIRONMENTAL EXPENDITURE

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

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

Recoupments apply where the taxpayer breaches the agreement.

## HOTEL ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Hotel buildings	Construction of buildings or improvements, provided used in trade as hotelkeeper or used by lessee in trade as hotelkeeper	5% of cost
	Refurbishments (note) which commenced on or after 17 March 1993	20% of cost
Hotel equipment	Machinery, implements, utensils or articles brought into use on or after 16 December 1989	20% of cost

### Note

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

## RESIDENTIAL BUILDING ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Residential buildings	Buildings erected on or after 1 April 1982 and before 21 October 2008 consisting of at least five units of more than one room intended for letting, or occupation by <i>bona fide</i> full-time employees	2% of cost and an initial allowance of 10% of cost
	New and unused buildings acquired, erected or improved on or after 21 October 2008 if situated anywhere in South Africa and owned by the taxpayer for use in his trade, either for letting or as employee accommodation. Enhanced allowances are available where the low cost residential unit is situated in an urban development zone	5% of cost or 10% of cost for low cost residential units not exceeding R300 000 for a stand-alone unit or R350 000 in the case of an apartment
Employee housing	50% of the costs incurred or funds advanced or donated to finance the construction of housing for employees on or before 21 October 2008 subject to a maximum per dwelling	R6 000 prior to 1 March 2008 R15 000 between 1 March 2008 and 20 October 2008
Employee housing loans	Allowance on amounts owing on interest free loan account in respect of low cost residential units sold at cost by the taxpayer to employees and subject to repurchase at cost only in case of repayment default or termination of employment	10% of amount owing at the end of each year of assessment



# CAPITAL INCENTIVE ALLOWANCES

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

## Notes

- As from 1 April 2012, new or unused assets or buildings used for the purpose of research and development also qualify for the allowances
- Recoupsments of allowances can be deducted from the cost of the replacement asset
- Allowances available to owners as users of the building or as lessors
- Where plant and machinery is used in a process of manufacture or a similar process, the taxpayer is obliged to make use of the allowances and not the wear and tear rates.

**WEAR AND TEAR****ALLOWANCES**

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

<b>Type of asset</b>	<b>No. of years for write-off</b>	<b>Type of asset</b>	<b>No. of years for write-off</b>
Adding machines	6	Drills	6
Air-conditioners		Electric saws	6
window	6	Electrostatic copiers	6
mobile	5	Engraving equipment	5
room unit	10	Escalators	20
Air-conditioning assets		Excavators	4
absorption type chillers	25	Fax machines	3
air handling units	20	Fertiliser spreaders	6
centrifugal chillers	20	Firearms	6
cooling towers	15	Fire extinguishers (loose units)	5
condensing sets	15	Fire detections systems	3
Aircraft (light passenger or commercial helicopters)	4	Fishing vessels	12
Arc welding equipment	6	Fitted carpets	6
Artefacts	25	Food bins	4
Balers	6	Food-conveying systems	4
Battery chargers	5	Forklift trucks	4
Bicycles	4	Front-end loaders	4
Boilers	4	Furniture and fittings	6
Bulldozers	3	Gantry cranes	6
Bumping flaking	4	Garden irrigation equipment (movable)	5
Carports	5	Gas cutting equipment	6
Cash registers	5	Gas heaters and cookers	6
Cell phone antennae	6	Gear boxes	4
Cell phone masts	10	Gear shapers	6
Cellular telephones	2	Generators (portable)	5
Cheque-writing machines	6	Generators (standby)	15
Cinema equipment	5	Graders	4
Cold drink dispensers	6	Grinding machines	6
Communication systems	5	Guillotines	6
Compressors	4	Gymnasium equipment	
Computers		Cardiovascular	2
mainframe/server	5	Health testing	5
personal	3	Weights and strength	4
Computer software (mainframes)		Spinning	1
purchased	3	Other	10
self-developed	1	Hairdressers' equipment	5
Computer software (personal computers)	2	Harvesters	6
Concrete mixers portable	4	Heat dryers	6
Concrete transit mixers	3	Heating equipment	6
Containers	10	Hot-water systems	5
Crop sprayers	6	Incubators	6
Curtains	5	Ironing and pressing equipment	6
Debarking equipment	4	Kitchen equipment	6
Delivery vehicles	4	Knitting machines	6
Demountable partitions	6	Laboratory research equipment	5
Dental and doctors' equipment	5	Lathes	6
Dictaphones	3	Laundromat equipment	5
Drilling equipment (water)	5	Law reports	5

Type of asset	No. of years for write-off	Type of asset	No. of years for write-off
Lift installations	12	Runway lights	5
Medical theatre equipment	6	Sanders	6
Milling machines	6	Scales	5
Mobile caravans	5	Security systems removable	5
Mobile cranes	4	Seed separators	6
Mobile refrigeration units	4	Sewing machines	6
Motors	4	Shakers	4
Motorcycles	4	Shopfittings	6
Motorised chain saws	4	Solar energy units	5
Motorised concrete mixers	3	Special patterns and tooling	2
Motor mowers	5	Spin dryers	6
Musical instruments	5	Spot welding equipment	6
Navigation systems	10	Staff training equipment	5
Neon signs and advertising boards	10	Surge bins	4
Office equipment		Surveyors	
electronic	3	field equipment	5
mechanical	5	instruments	10
Oxygen concentrators	3	Tape recorders	5
Ovens and heating devices	6	Telephone equipment	5
Ovens for heating food	6	Television and advertising films	4
Packaging equipment	4	Television sets, video machines and decoders	6
Paintings	25	Textbooks	3
Pallets	4	Tractors	4
Passenger cars	5	Trailers	5
Patterns, tooling and dies	3	Traxcavators	4
Pellet mills	4	Trollies	3
Perforating equipment	6	Trucks (heavy-duty)	3
Photocopying equipment	5	Trucks (other)	4
Photographic equipment	6	Truck-mounted cranes	4
Planers	6	Typewriters	6
Pleasure craft	12	Vending machines (including video game machines)	6
Ploughs	6	Video cassettes	2
Portable safes	25	Warehouse racking	10
Power tools (hand-operated)	5	Washing machines	5
Power supply	5	Water distillation and purification plant	12
Public address systems	5	Water tankers	4
Pumps	4	Water tanks	6
Racehorses	4	Weighbridges (movable parts)	10
Radar systems	5	Wireline rods	1
Radio communication	5	Workshop equipment	5
Refrigerated milk tankers	4	X-ray equipment	5
Refrigeration equipment	6		
Refrigerators	6		

## Notes

- 1 Wear and tear may be claimed on either a diminishing value method or on a straight-line basis, in which case certain requirements apply
- 2 Costs incurred in moving business assets from one location to another are not deductible as these are regarded as being capital in nature. Wear and tear may be claimed over the remaining useful life of the assets
- 3 When an asset is acquired for no consideration, a wear and tear allowance may be claimed on its market value at date of acquisition
- 4 Prior to 1 January 2013, wear and tear on any assets acquired from a connected person may only be claimed on the original cost to the seller less allowances claimed by the seller, plus recoupments and CGT included in the seller's income
- 5 The acquisition of "small" items at a cost of less than R7 000 (2009 : R5 000) per item may be written off in full during the year of acquisition.

## STRATEGIC ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Strategic projects	An additional industrial investment allowance is allowed on new and unused assets used for preferred qualifying strategic projects which were approved between 31 July 2001 and 31 July 2005 Any other qualifying strategic projects	100% of cost  50% of cost
Pipelines electricity cables railway tracks	New and unused structures contracted for and construction commenced on or after 23 February 2000	10% of cost (oil pipelines) 5% of cost (other)
Electronic telecommunication lines or cables	New and unused structures contracted for and construction commenced on or after 23 February 2000 As from 1 April 2015 new and used structures As from 1 April 2019 new and used structures	5% of cost  6.67% of cost 10% of cost
Airport and port assets	New and unused assets and improvements brought into use on or after 1 January 2008 and used directly and solely for purpose of business as airport, terminal or transport operation or port authority	5% of cost
Rolling stock	Brought into use on or after 1 January 2008	20% of cost
Environmental assets	Environmental treatment and recycling assets as from 8 January 2008 for new and unused assets  Environmental waste disposal assets of a permanent nature	40% in 1st year 20% in each of the 3 subsequent years  5% of cost
Energy efficiency savings	All forms of energy efficiency savings as reflected on an energy savings certificate in any year of assessment ending before 1 January 2023	Determined in accordance with a formula
Solar PV renewable energy	Generation capacity not exceeding 1 000 kW or 1 MW For years of assessment on or after 1 January 2016	50% / 30% / 20% 100% of cost

## CAPITAL GAINS TAX

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

### Disposals

CGT is triggered on disposal of an asset.

- **Important disposals include**
  - abandonment, scrapping, loss or donation
  - vesting of an interest in an asset of a trust in the beneficiary
  - distribution of an asset by a company to a shareholder
  - granting, renewal, extension or exercise of an option
- **Deemed disposals include**
  - termination of South African tax residency
  - a change in the use of an asset
  - an asset ceasing to be part of a permanent establishment
  - for years of assessment commencing on or after 1 January 2013, the reduction or waiver of a debt, subject to certain exclusions
- **Disposals exclude**
  - the transfer of an asset as security for a debt or the release of such security
  - issue of, or grant of an option to acquire a share, debenture or unit trust
  - loans and the transfer or release of an asset securing debt.

## Calculation of a Capital Gain/Loss

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

### Base Cost

#### • Expenditure included in the base cost

- acquisition, disposal, transfer, stamp duty, STT and similar costs
- remuneration of advisers, consultants and agents
- costs of moving an asset and improvement costs

#### • Expenditure excluded from the base cost

- expenses deductible for income tax purposes
- interest and raising fees, except for listed shares and business assets
- expenses initially recorded and subsequently recovered

#### • Methods for an asset acquired before 1 October 2001

- Valuation as at 1 October 2001
- 20% of the proceeds
- Time apportionment base cost

**Example:** If an asset cost R250 000 on 1 October 1998 and was sold on 30 September 2018 for R450 000, as CGT was implemented on 1 October 2001, the base cost is:

Original cost expenditure	R250 000	
Add:	R 30 000*	
*Proceeds from disposal	R450 000	} x 3/20
Less: Base cost expenditure	(R250 000)	
Time apportionment base cost	R280 000	

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

**Note 2:** Where expenditure in respect of a pre-valuation date asset was incurred on or after 1 October 2001 and an allowance has been allowed in respect of that asset, an extended formula is applied.

**Note 3:** Expenditure incurred on or after 1 October 2001 is then added to the base cost determined in accordance with one of the above methods.

#### • Part disposals

- Base cost is apportioned unless it is separately identifiable

### Proceeds

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

### Inclusion Rates and Effective Rates

	Inclusion rate			Maximum effective rate		
	2019	2020	2021	2019	2020	2021
Individuals	40,0%	40,0%	40,0%	18,0%	18,0%	18,0%
Special Trusts	40,0%	40,0%	40,0%	18,0%	18,0%	18,0%
Companies	80,0%	80,0%	80,0%	22,4%	22,4%	22,4%
Trusts	80,0%	80,0%	80,0%	36,0%	36,0%	36,0%

In the case of Collective Investment Schemes (unit trusts), the unitholder is liable for the CGT on disposal of the units. Retirement Funds are exempt from CGT.

## Exclusions and Rebates

### • Annual exclusion

Natural persons and special trusts R40 000 (2016 : R30 000)

Natural persons in the year of death R300 000 (2012 : R200 000)

The annual exclusion is applied to the net capital gain or loss prior to the application of the inclusion rate.

### • Other exclusions

- A primary residence, owned by a natural person or a special trust, used for domestic residential purposes, where the proceeds do not exceed R2 million. Where the proceeds exceed R2 million, the exclusion is R2 million (2012 : R1,5 million) of the calculated capital gain
- Personal use assets owned by a natural person or a special trust
- Lump sums from insurance and retirement benefits, except for certain second-hand policies
- Small business assets or an interest in a small business, limited to R1,8 million (2012 : R900 000) if certain requirements are met, including:
  - the market value of all the person's business assets at the date of disposal is less than R10 million (2012 : R5 million)
  - the natural person was a sole proprietor, partner or held a minimum shareholding of 10%, and was actively involved in the business for at least five years
  - the natural person is at least 55 years old, or suffers from ill-health, is infirm or deceased
- Compensation, prizes and donations to certain PBO's
- Assets used by registered micro-businesses for business purposes.

## Rollover Relief

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

The relief applies to the following:

- certain involuntary disposals
- replacement of qualifying business assets (excluding buildings)
- transfer of assets between spouses
- shareblock conversions to sectional title or full title
- certain corporate restructure transactions.

## Valuations

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

- where the market value of any intangible asset exceeded R1 million
- where the market value of any other asset exceeded R10 million

## Non-resident Sellers of Immovable Property

Where a non-resident disposes of immovable property in South Africa in excess of R2 million, the purchaser is obliged to withhold the following taxes from the proceeds (unless a directive to the contrary has been issued):

### Seller's status

### Withholding tax

1/9/2007-21/2/2017

As from 22/2/2017

Natural person

5,0%

7,5%

Company

7,5%

10,0%

Trust

10,0%

15,0%

The tax withheld is regarded as a pre-payment of the tax due as a result of the capital gain made by the non-resident upon the submission of a tax return for that year of assessment. If a return is not submitted within 12 months of the end of the tax year the pre-payment is regarded as a final tax.

## **DIVIDEND** STRIPPING

Where a company, holding at least 50% of the shares (directly or together with a connected person) in an unlisted company, pays an extraordinary dividend to a resident shareholder within 18 months of the disposal of the shares, the capital gain will be adjusted to include a portion of the extraordinary dividend as proceeds.

As from 1 January 2019, certain disposals resulting from corporate restructure transactions are excluded.

As from 20 February 2019, where an extraordinary dividend accrues to a holding company from a target company, and that target company, within a period of 18 months, issues shares to another person (company, individual or trust) that share issue will result in a deemed disposal by the holding company due to a decrease in the effective interest of the holding company in the target company. The deemed disposal will result in a capital gain for the holding company as a portion of the extraordinary dividend will be proceeds.

An extraordinary dividend is any dividend that exceeds 15% of the higher of market value of the shares disposed 18 months prior to their disposal or at the date of their disposal.

A dividend received or accrued after 30 October 2019 in terms of an unbundling or liquidation transaction undertaken as a corporate restructure transaction is not regarded as an extraordinary dividend.

## **UNQUANTIFIED** PROCEEDS

Where an asset is disposed of for an unquantified amount, the portion of the price which cannot be quantified in that year is deemed to accrue in the year that it becomes quantifiable. Any recoupment, capital gain or capital loss arising from such transaction is deferred until such time as the price becomes quantifiable.

Where an asset is brought into use in the first year, but the price can only be quantified in a subsequent year, the wear and tear will be claimed in the subsequent year.

## **REINVESTMENT** RELIEF

Taxpayers can defer taxable recoupments and capital gains on the sale of business assets (excluding buildings) if they fully reinvest the sale proceeds in other qualifying assets. These assets must be contracted for within 12 months and brought into use within three years. Tax on the recoupment and capital gain upon the disposal of the old asset is spread over the same period as wear and tear may be claimed for the replacement asset.

## **DEEMED CAPITAL** DISPOSAL OF SHARES

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

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

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

## LEARNERSHIP ALLOWANCES

Employers may claim learnership allowances in respect of registered learnerships, over and above the normal remuneration deduction.

This allowance is granted in two parts which consists of a **recurring annual allowance** and a **completion allowance**. An annual pro-rata allowance is granted depending on the number of months falling within the relevant tax year. The completion allowance is determined by multiplying the number of completed 12 month periods of the learnership to the amounts below.

For learnerships entered into on or after 1 October 2016, the allowances are determined as follows:

- NQF levels 1 to 6: R40 000 (disabled person: R60 000)
- NQF levels 7 to 10: R20 000 (disabled person: R50 000)

The level descriptions are as follows:

- NQF levels 1 to 4: Up to grade 12 (National Certificate)
- NQF level 5: Higher Certificate
- NQF level 6: Diploma or Advanced Certificate
- NQF levels 7 to 10: Bachelor's Degree to Doctorate.

Prior to 1 October 2016, the allowances were R30 000 (disabled person: R50 000) regardless of the person's NQF level.

The allowances cease to apply from 1 April 2022.

## DOUBTFUL DEBT ALLOWANCE

For years of assessment commencing 1 January 2019, the allowance is:

### For Taxpayers Applying IFRS 9

- 40% of the IFRS 9 loss allowance relating to impairment that is measured at an amount equal to the lifetime expected credit loss
- 40% of amounts of bad debts that have been written off for accounting purposes but do not meet the requirements for a tax deduction
- 25% of the difference between the IFRS 9 loss allowances relating to impairment and the IFRS 9 loss allowance in respect of which 40% tax allowance is determined to be allowed as a deduction.

### For Taxpayers Not Applying IFRS 9

- 40% of the face value of debts that are at least 120 days past due date
- 25% of the face value of debts that are between 60 days and 120 days past due date.

A ruling can be obtained from SARS for a higher percentage not exceeding 85%, based on specific criteria.

Prior to 1 January 2019, an allowance of 25% of the doubtful debt provision was permitted.

## INDUSTRIAL POLICY PROJECTS

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

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

There is an additional training allowance of R36 000 per employee per annum for costs incurred by the end of the compliance period, limited to R30 million for preferred projects and R20 million for non-preferred projects.

The allowance ceases to apply from 1 March 2020.



## SECURITIES TRANSFER TAX

As from 1 July 2008, Securities Transfer Tax (STT) is payable at a rate of 0,25% on the greater of the consideration, closing price or market value on the transfer, cancellation or redemption of any listed or unlisted share, member's interest in a close corporation or cession of a right to receive distributions from a company or close corporation.

- On listed securities, the STT is payable by the 14th day of the month following the month during which the transfer occurred
- On unlisted securities, the STT is payable by the end of the second month following the month during which the transfer occurred
- If not paid in full within the prescribed period, interest is imposed at the prescribed rate and a 10% penalty is payable
- No STT is payable if the consideration, closing price or market value is less than R40 000
- No STT is levied on the issue of shares.

## PRE-PAID EXPENDITURE

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

This does not apply if one of the following requirements are met:

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

## PRE-TRADING EXPENDITURE

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

## PRE-PRODUCTION INTEREST

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

## VENTURE CAPITAL INVESTMENTS

An investment in a venture capital company is deductible as follows:

	<b>Natural Person/Trust</b>	<b>Company</b>
From 1 January 2012 to 20 July 2019	100%	100%
As from 21 July 2019	R2.5 million	R5 million

SARS has set out strict criteria for an approved venture capital company and the qualifying entities in which they are permitted to invest.

The investment must be held for at least five years to avoid a recoupment.

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

## Resident means

- A natural person who is ordinarily resident in South Africa
- As from 1 March 2005, a natural person who is physically present in South Africa for at least 92 days in the current and each of the preceding five tax years, and at least 916 days during the five preceding tax years. These days do not need to be consecutive
- A company or trust that is incorporated, established, formed or which has its place of effective management in South Africa.

## Resident excludes

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

## Exemptions

- As from 1 March 2020, foreign employment income not exceeding R1,25 million (previously no limit) is exempt, provided the person spends more than 183 days, of which at least 60 days is continuous, outside of South Africa in any 12 month period commencing or ending during that year of assessment
- Foreign pension and social security payments, subject to certain conditions.

## Foreign Dividends

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

- the shareholder holds at least 10% of the equity and voting rights of the distributing company, subject to certain exceptions
- the distributing company is listed on the JSE, including a dividend *in specie* from 1 March 2014
- the distributing company is a controlled foreign company (CFC) and the dividends do not exceed amounts deemed to be the resident shareholder's income under the CFC rules
- foreign dividends declared by one company to another company resident in the same country.

For years of assessment commencing on or after 1 March 2017, any remaining taxable foreign dividends are subject to a formula whereby the maximum rate of taxation is 20% (previously 15%) subject to a reduction in terms of a double taxation agreement.

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

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

## Controlled Foreign Companies

A CFC is a non-resident company in which residents, other than a headquarter company, directly or indirectly own or control more than 50% of the participation or voting rights or is consolidated in terms of IFRS 10.

- A resident must include in his income:

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

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

### Exemptions

- The net income, including capital gains, of the CFC that is derived from an active *bona fide* foreign business establishment situated outside South Africa, subject to certain exclusions
- Income of the CFC otherwise taxed in South Africa at normal rates
- Foreign dividends received by the CFC from another CFC to the extent that the income from which the dividend is declared has already been included in the resident's taxable income under the CFC rules
- Net income attributable to interest, royalties or similar income payable to the CFC by other foreign companies forming part of the same group
- The high tax exemption applies where the aggregate of foreign taxes payable by the CFC, for years of assessment commencing on or after 1 January 2020, is at least 67.5% (previously 75%) of the amount of South African tax that would have been imposed had the CFC been a South African taxpayer.

### Relief from Foreign Taxes

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

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

- If the foreign tax paid exceeds the limit set out above, the excess may be carried forward for a maximum of seven years, but is not refundable
- As from 1 January 2012, foreign taxes withheld on income arising from services rendered in South Africa may be claimed as a rebate. For years of assessment commencing on or after 1 January 2016 this is no longer available
- Tax withheld in a foreign country in respect of South African sourced income is recognised as a deduction against such income, not as a rebate against South African tax payable on that income.

### General

- A loss incurred in carrying on a business outside South Africa may not be set-off against income in South Africa
- A foreign capital loss may be set off against a local capital gain
- The amount of foreign tax payable must be converted to rands at the last day of the tax year by applying the average exchange rate
- Foreign income is converted to rands by applying the spot exchange rate at the date the income accrues. Natural persons and non-trading trusts may elect to apply the average exchange rate for that tax year
- Where foreign income may not be remitted because of restrictions imposed by the source country, such income is included in the resident's gross income in the tax year during which that amount may be remitted to South Africa.

## DOUBLE TAXATION AGREEMENTS

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

## TAXATION OF NON-RESIDENTS

### Interest

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

### Dividends

As from 22 February 2017, Dividends Tax is payable at a rate of 20% (previously 15%), subject to a reduction in the rate in terms of a double taxation agreement. Prior to 1 April 2012, dividends were subject to Secondary Tax on Companies.

### Royalties

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

Residents require Government and SARB approval for royalty payments to a non-resident.

### Service Fees

There is no withholding tax on cross-border consultancy, management and technical fees from a South African source.

### Other Income

Non-residents are taxed on South African sourced income only.

### Payment to Non-Resident Sportspersons and Entertainers

A withholding tax of 15% is imposed on non-resident sportspersons and entertainers on income earned in South Africa.

## WITHHOLDING TAX ON INTEREST

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

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

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

## WITHHOLDING TAX ON ROYALTIES

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

Royalties are exempt from the withholding tax if:

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

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

## DEDUCTION ROYALTY TO NON-RESIDENTS

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

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

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

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

## HEADQUARTER COMPANY

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

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

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

A company may elect to be treated as a headquarter company on an annual basis. This election results in the company ceasing to be South African tax resident but liable for exit taxes such as Capital Gains Tax, Dividends Tax and normal income tax.

# WITHHOLDING TAXES SUMMARY

## DOUBLE TAXATION AGREEMENTS

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

	Royalties %	Dividends %	Interest %
<b>Non-Treaty Countries</b>	<b>15</b>	<b>20</b>	<b>15</b>
<b>Treaty Countries</b>			
Algeria	10	10/15	10
Australia	5	5/15	10
Austria	0	5/15	0
Belarus	5/10	5/15	5/10
Belgium	0	5/15	10
Botswana	10	10/15	10
Brazil	10/15	10/15	15
Bulgaria	5/10	5/15	5
Cameroon	10	10/15	10
Canada	6/10	5/15	10
Chile	5/10	5/15	5/15
Croatia	5	5/10	0
Cyprus	0	5/10	0
Czech Republic	10	5/15	0
Democratic Republic of Congo	10	5/15	10
Denmark	0	5/15	0
Egypt	15	15	12
Ethiopia	15	10	8
Finland	0	5/15	0
France	0	5/15	0
Germany	0	7,5/15	10
Ghana	10	5/15	5/10
Greece	5/7	5/15	8
Hong Kong	5	5/10	10
Hungary	0	5/15	0
India	10	10	10
Indonesia	10	10/15	10
Iran	10	10	5
Ireland	0	5/10	0
Israel	0/15	20	15
Italy	6	5/15	10
Japan	10	5/15	10
Kenya	10	10	10
Korea	10	5/15	10
Kuwait	10	0	0
Lesotho	10	10/15	10
Luxembourg	0	5/15	0
Malawi	0/15	15	10
Malaysia	5	5/10	10
Malta	10	5/10	10
Mauritius	5	5/10	10
Mexico	10	5/10	10
Mozambique	5	8/15	8
Namibia	10	5/15	10
Netherlands	0	5/10	0

	Royalties %	Dividends %	Interest %
New Zealand	10	5/15	10
Nigeria	7,5	7,5/10	7,5
Norway	0	5/15	0
Oman	8	5/10	0
Pakistan	10	10/15	10
Peoples Republic of China	7/10	5	10
Poland	10	5/15	10
Portugal	10	10/15	10
Qatar	5	0/5/10	10
Romania	15	15	15
Russian Federation	0	10/15	10
Rwanda	10	10/20	10
Saudi Arabia	10	5/10	5
Seychelles	0	5/10	0
Sierra Leone	15	15	0
Singapore	5	5/10	7,5
Slovak Republic	10	5/15	0
Spain	5	5/15	5
Swaziland	10	10/15	10
Sweden	0	5/15	0
Switzerland	0	5/15	5
Taiwan	10	5/15	10
Tanzania	10	10/20	10
Thailand	15	10/15	10/15
Tunisia	10	10	5/12
Turkey	10	10/15	10
Uganda	10	10/15	10
Ukraine	10	5/15	10
United Arab Emirates	10	5/10	10
United Kingdom	0	5/10/15	0
United States of America	0	5/15	0
Zambia	0/15	15	0/15
Zimbabwe	10	5/10	5

#### Notes

- 1 A number of double taxation agreements provide for alternative rates, including zero, to be applied in specific circumstances. The double taxation agreements are available on [www.sars.gov.za](http://www.sars.gov.za)
- 2 As from 1 January 2015, the withholding tax rate on royalties changed from 12% to 15%.
- 3 As from 1 March 2015, a withholding tax on interest paid to non-residents is imposed at a rate of 15%.
- 4 As from 22 February 2017, the withholding tax rate on dividends changed from 15% to 20%.
- 5 New comprehensive double taxation agreements are in the process of negotiation with Cuba, Gabon, Isle of Man, Morocco, Senegal, Sudan, Syria and Vietnam.
- 6 Existing comprehensive double taxation agreements are in the process of renegotiation with Germany, Malawi, Namibia and Zambia.
- 7 Tax information exchange agreements are currently in place with Argentina, Bahamas, Barbados, Belize, Bermuda, Cayman Islands, Cook Islands, Costa Rica, Dominica Gibraltar, Grenada, Guernsey, Jersey, Liberia, Liechtenstein, Monaco, Samoa, San Marino, St Kitts and Nevis, Turks and Caicos Islands, and Uruguay.
- 8 New tax information exchange agreements are in the process of negotiation with Andorra, Brunei Darussalam, Isle of Man, Jamaica, Macao SAR, Maldives, Marshall Islands, Panama and St. Lucia.

## COMMON REPORTING STANDARD

The common reporting standard is a process which allows for financial account information to be obtained from financial institutions and automatically exchanged with other tax jurisdictions on an annual basis. The financial institutions required to report include banks, brokers, asset managers, private equity funds and long-term insurers.

The information in respect of reportable accounts include the person's particulars such as name, address, tax reference number, place of birth and account number, as well as financial information such as account balances and income from interest, dividends, certain insurance products and proceeds from the sale of financial assets.

Reportable accounts include accounts held by individuals, entities (including trusts, partnerships and foundations) and passive entities.

### **First exchanges in September 2017:**

Anguilla, Argentina, Barbados, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Columbia, Croatia, Curacao, Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Niue, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands and United Kingdom.

### **First exchanges in September 2018:**

Albania, Andorra, Antigua and Barbuda, Aruba, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Ghana, Grenada, Hong Kong, Indonesia, Israel, Japan, Kuwait, Lebanon, Macao SAR, Malaysia, Marshall Islands, Mauritius, Monaco, Nauru, New Zealand, Pakistan, Panama, Qatar, Russia, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Samoa, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Turkey, United Arab Emirates, Uruguay, and Vanuatu.

### **First exchanges in September 2019/2020/2021:**

Dominica, Ecuador, Kazakhstan, Liberia, Maldives, Morocco (2021), Nigeria (2019) and Oman.

### **Developing Countries - no date set for first exchange:**

Armenia, Benin, Bosnia Herzegovina, Botswana, Burkina Faso, Cape Verde, Cambodia, Cameroon, Chad, Côte d'Ivoire, Djibouti, Dominican Republic, Egypt, El Salvador, Eswatini, Former Yugoslav Republic of Macedonia, Gabon, Georgia, Guatemala, Guyana, Haiti, Jamaica, Kenya, Lesotho, Madagascar, Mauritania, Moldova, Mongolia, Montenegro, Morocco, Niger, Papua New Guinea, Paraguay, Philippines, Rwanda, Senegal, Serbia, Tanzania, Thailand, Togo, Tunisia, Uganda and Ukraine.

## COUNTRY-BY-COUNTRY REPORTING

For years of assessment commencing on or after 1 January 2016, the ultimate parent company of a multinational enterprise (MNE) group that is a tax resident in South Africa is required to file a country-by-country report to SARS within 12 months of the year-end. The threshold for reporting to SARS is a consolidated MNE group turnover of at least R10 billion in the fiscal year prior to the year in which the report must be submitted. The first report should have been filed from 28 February 2018.

Where the ultimate parent company is not tax resident in South Africa, the South African tax resident company which forms part of the MNE group must inform SARS of the identity and tax residency of the reporting entity within 12 months.



Upon receipt of the report the revenue authority in that tax jurisdiction will then automatically exchange such information with the other tax jurisdictions. The report will contain extensive information in respect of transactions between the group entities and includes:

- revenue
- profit/loss before income tax
- income tax paid or accrued
- stated capital and accumulated earnings
- number of employees
- tangible assets, other than cash or cash equivalents.

The information obtained in the report will be utilised by SARS to assess high-level transfer pricing risks. The report is due within 12 months of the last day of the reporting fiscal year of the MNE group.

## **TRANSFER PRICING**

For years of assessment commencing on or after 1 October 2016, entities which enter into cross-border transactions with connected persons, and the value of the transactions exceed or are reasonably expected to exceed R100 million, are required to maintain transfer pricing policy documentation.

Transfer pricing policy documentation, as required by SARS, includes:

- a description of the ownership structure of the entities
- detailed particulars (name, address, legal form and tax jurisdiction) of each connected person with whom potentially affected transactions have been entered into
- a summary of the entity's business operation including the nature of its business, specific business and external market conditions, and its business strategy
- details of senior management, including an organogram indicating the titles and location of persons
- major economic and legal issues affecting the profitability of the entity and/or the industry in which the entity operates
- a description of any business restructuring or transfer of intangibles
- the entity's market share within the industry and analysis of market competitor information
- key value drivers
- industry policy, incentives or restrictions
- the role of the entity and the connected persons in the supply chain of the group.

Where the value of a specific transaction exceeds R5 million, detailed records of the transaction must be maintained, including:

- the nature and terms of the transaction
- copies of the relevant contracts or agreements
- relevant SARB applications or approvals
- functional analysis
- operational flows such as information, product and cash flow
- comparable analysis
- comprehensive details of financial assistance.

Where a connected person retains these documents in the ordinary course of business, the entity will be deemed to comply with the requirement to retain such documentation.

Where the volume of transactions are high, SARS may agree to alternative records that the entity must retain in order to satisfy the arms-length requirement. The documents have to be submitted with the annual tax return.

# TRANSFER DUTY

## On Immovable Property (on or after 1 March 2020)

Payable by natural persons and legal entities:

Property value	Rates of tax
R 0 - R 1 000 000	Nil
R 1 000 001 - R 1 375 000	3% on the value above R 1 000 000
R 1 375 001 - R 1 925 000	R 11 250 + 6% on the value above R 1 375 000
R 1 925 001 - R 2 475 000	R 44 250 + 8% on the value above R 1 925 000
R 2 475 001 - R11 000 000	R 88 250 + 11% on the value above R 2 475 000
R11 000 001 +	R1 026 000 + 13% on the value above R 11 000 000

- No transfer duty is payable if the transaction is subject to VAT
- If a registered vendor purchases property from a non-vendor, the notional input tax credit is limited to the VAT fraction (15/115) (prior to 1 April 2018: 14/114) applied to the lower of the selling price or the open market value. As from 10 January 2012, the notional input tax credit is no longer limited to the transfer duty paid
- A notional input tax credit is only claimable to the extent the purchase price has been paid and the property transferred
- Exemptions apply to certain corporate restructure transactions
- The acquisition of a contingent right in a trust that holds a residential property or the shares in a company or the member's interest in a close corporation, which owns residential property comprising more than 50% of its CGT assets, is subject to transfer duty at the applicable rate
- Liabilities of the entity are to be disregarded when calculating the fair value of the contingent right in the trust, the shares in the company or the member's interest in the close corporation
- Residential property includes dwellings, holiday homes, apartments and similar abodes, improved and unimproved, zoned for residential purposes. It excludes a structure of five or more units, rented by five or more unconnected persons. It excludes immovable property forming part of the enterprise of a VAT vendor.

## PRIME OVERDRAFT RATES

Date of change	Rate %	Date of change	Rate %
17 August 2007	13,50	19 November 2010	09,00
12 October 2007	14,00	31 July 2012	08,50
07 December 2007	14,50	31 January 2014	09,00
11 April 2008	15,00	31 July 2014	09,25
13 June 2008	15,50	24 July 2015	09,50
12 December 2008	15,00	20 November 2015	09,75
1 February 2009	14,00	29 January 2016	10,25
25 March 2009	13,00	18 March 2016	10,50
04 May 2009	12,00	21 July 2017	10,25
29 May 2009	11,00	29 March 2018	10,00
14 August 2009	10,50	23 November 2018	10,25
26 March 2010	10,00	19 July 2019	10,00
10 September 2010	09,50	16 January 2020	09,75

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

# BOND/INSTALMENT SALE REPAYMENTS

The following table reflects repayments on every R1 000 borrowed.

**Example:** A bond of R800 000 at 10,5% over a 20 year period  
 $R800\ 000 \div R1\ 000 \times 09,98 = R7\ 984.00$  a month over the 20 year period.

Rate	Mortgage Bonds				Short Term Financing		
	10 Yrs	20 Yrs	25 Yrs	30 Yrs	36 Months	48 Months	60 Months
07,0%	11,61	07,75	07,07	06,65	30,88	23,95	19,08
07,5%	11,87	08,06	07,39	06,99	31,11	24,18	20,04
08,0%	12,13	08,36	07,72	07,34	31,34	24,41	20,28
08,5%	12,40	08,68	08,05	07,69	31,57	24,65	20,52
09,0%	12,67	09,00	08,39	08,05	31,80	24,89	20,76
09,5%	12,94	09,32	08,74	08,41	32,03	25,12	21,00
10,0%	13,22	09,65	09,09	08,78	32,27	25,36	21,25
10,5%	13,49	09,98	09,44	09,15	32,50	25,60	21,49
11,0%	13,78	10,32	09,80	09,52	32,74	25,85	21,74
11,5%	14,06	10,66	10,16	09,90	32,98	26,09	21,99
12,0%	14,35	11,01	10,53	10,29	33,21	26,33	22,24
12,5%	14,64	11,36	10,90	10,67	33,45	26,58	22,50
13,0%	14,93	11,72	11,28	11,06	33,69	26,83	22,75
13,5%	15,23	12,07	11,66	11,45	33,94	27,08	23,01
14,0%	15,53	12,44	12,04	11,85	34,18	27,33	23,27
14,5%	15,83	12,80	12,42	12,25	34,42	27,58	23,53
15,0%	16,13	13,17	12,81	12,64	34,67	27,83	23,79
15,5%	16,44	13,54	13,20	13,05	34,91	28,08	24,05
16,0%	16,75	13,91	13,59	13,45	35,16	28,34	24,32
16,5%	17,60	14,29	13,98	13,85	35,40	28,60	24,58

# PENALTIES AND INTEREST

Type	Reason	Basis of charge
Provisional tax	1st and 2nd payment late	10% penalty plus interest charged daily from due date to date of payment
Provisional tax	3rd payment late	Interest charged daily from effective date to earlier of payment date or assessment date. Effective date is six months after year-end, except in the case of February year-ends, where the effective date is 30 September
Provisional tax	Overpayment	Interest credited daily from effective date to date of refund
Assessment	Late payment	Interest charged on each completed month from first due date to date of payment
Value-Added Tax (VAT)	Late payment	10% penalty plus interest charged daily from due date to date of payment
Value-Added Tax (VAT)	Refund	Interest credited monthly from 21 business days after receipt of return to date of payment. Period is suspended when vendor fails to provide information or update banking details
Employees tax (PAYE)	Late payment	10% penalty plus interest charged daily from due date to date of payment
Skills Development Levy (SDL)	Late payment	10% penalty plus interest charged daily from due date to date of payment
Unemployment Insurance Fund (UIF)	Late payment	10% penalty plus interest charged daily from due date to date of payment

## INTEREST RATES CHANGES

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

Date of change	Rate %
1 July 2018	10,00
1 March 2019	10,25
1 November 2019	10,00

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

### Prescribed rate - Refund of overpayment of provisional tax

Date of change	Rate %
1 July 2018	6,00
1 March 2019	6,25
1 November 2019	6,00

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

### Prescribed rate - Refund of VAT after prescribed period, refund on successful objection, appeal or conceded appeal

Date of change	Rate %
1 July 2018	10,00
1 March 2019	10,25
1 November 2019	10,00

### Official rate - Fringe benefits, loans to shareholders, loans to trusts and companies held by trusts

Date of change	Rate %
1 August 2017	7,75
1 April 2018	7,50
1 December 2018	7,75
1 August 2019	7,50
1 February 2020	7,25

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

## NATIONAL CREDIT ACT

The maximum lending rates of interest are calculated as follows:

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

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

## SKILLS DEVELOPMENT LEVY

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

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

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

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

## Summary of the First Schedule's Main Paragraphs

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

## Rating Formula Applicable to Farmers

Because a farmer's income fluctuates from year to year, a farmer who is a natural person may elect to be taxed in accordance with a rating formula. The formula is based on the average taxable farming income in the current and preceding four years. Should he elect to make use of this formula, it is binding upon him in future years and he is not permitted to make use of the provisions relating to government livestock reduction schemes, rating formula for plantation farmers and provisions relating to sugar cane farmers. For a farmer commencing farming operations the average taxable income from farming in the first year of assessment ending on or after 1 January 2008 will be two-thirds of the taxable income for that period.

## Capital Development Expenditure

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

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

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

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

## Non-Farming Income

Income from non-farming sources should be shown separately. The most common examples of non-farming income include:

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

**Foreign Capital Allowance**

Individuals, 18 years and older, in good standing with SARS, can invest up to a limit of R10 million (prior to 1 April 2015 : R4 million) per calendar year abroad, subject to obtaining a tax compliance status PIN.

Income accruing thereon may also be retained abroad.

Applications in excess of R10 million are considered on a case by case basis.

**Single Discretionary Allowance**

Individuals 18 years and older are permitted to transfer up to a limit of R1 million (2010 : R750 000) per calendar year (without the requirement to obtain a tax clearance certificate) which can be used to cover donations to missionaries, maintenance, gifts (except gold and jewellery), loans, travel, study, alimony and child support, wedding expenses and foreign investment. It is recommended that proof of these transactions is retained.

Applications in excess of R1 million are considered on a case by case basis.

Individuals, younger than 18 years, are limited to a travel allowance of R200 000 (2010 : R160 000) per calendar year.

Foreign currency for travel purposes may only be obtained within 60 days prior to departure.

Unused foreign currency must be resold within 30 days to an authorised dealer except where the next business trip is within 90 days.

**Specialised Medical/Dental Expenses Abroad**

No limit, provided supported by original documentary evidence of expenses.

**Directors Fees**

Subject to certain conditions and documentation, no limit is applicable to directors fees paid to non-residents, including emigrants.

**Guarantees by Residents for Foreign Liabilities**

Individuals may raise loans abroad to finance the acquisition of foreign assets without recourse to South Africa. Under no circumstances may local guarantees or suretyships be issued or South African assets be encumbered.

**Emigrants**

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

- R20 million (2015 : R8 million) per calendar year per family unit
- R10 million (2015 : R4 million) per calendar year per single emigrant

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

**Local Visits by Emigrants**

There is no limit on the daily utilisation of an emigrant's South African funds during a visit by an emigrant but these funds may not be loaned to a South African resident unless permission is obtained. Direct return airfares may be paid locally from such funds.

**Remittable Income to Emigrants**

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

**Krugerrands and Cash**

In addition to the single discretionary allowance residence may:

- export Krugerrands up to an amount R30 000 as gifts to non-residents subject to the completion of the prescribed SARS form.
- take up to R25 000 per person in South Africa currency when proceeding on visits outside the common monetary area.

## **Inheritances**

Non-residents are entitled to transfer their inheritance from resident estates abroad, subject to certain documentary requirements. Former South African residents must have completed emigration formalities to qualify.

Residents are not required to declare inheritances from *bona fide* foreign estates that accrued after 17 March 1998 and may retain the capital and income generated from such assets abroad.

Foreign assets inherited by a resident from the estate of a South African resident must be declared and can be retained abroad provided the original owner of such assets has complied with the regulations and no loop structure exists.

## **Foreign Bank Accounts**

Individuals may utilise a foreign bank account for travel expenses, foreign investment, foreign earned income and foreign inheritances.

## **Foreign Investment in South Africa**

Non-residents may freely invest in South Africa provided that such transactions are concluded at arm's length. The proceeds on disposal of non-resident owned assets may be remitted freely subject to certain conditions. Interest and dividends are also freely remittable. Loans by non-residents to South African residents are subject to specific criteria.

## **Outbound Investments by Companies**

Certain commercial banks may approve investments up to R1 billion (2015 : R500 million) per calendar year.

Approval from SARB is required for foreign direct investments exceeding this limit. South African companies are allowed to make *bona fide* new outward foreign direct investments outside their current line of business excluding passive real estate investments.

Authorised dealers may allow additional working capital funding subject to certain criteria. South African companies must acquire at least 10% equity and/or voting rights, whichever is the higher, in a foreign target entity which may hold investments and/or make loans into the common monetary area.

Dividends declared by the offshore subsidiary may be retained abroad.

Net proceeds on the sale of a foreign investment must be repatriated.

## **Restrictions on Local Financial Assistance**

Local financial assistance subject to the 1:1 ratio is available to non-residents if the borrowing is required for the acquisition of residential property in South Africa.

## **Forward Cover**

South African companies may cover forward up to 75% of budgeted import commitments or export accruals in respect of the following financial year, subject to certain conditions.

## **South African Holding Company for African and Offshore Operations**

Listed entities on the JSE and unlisted entities can establish one subsidiary in South Africa to hold African and offshore operations, which will not be subject to exchange control restrictions, subject to certain conditions.

## **Residents Temporarily Abroad**

Remuneration earned whilst physically working abroad can be retained offshore. Residents temporarily abroad may use the single discretionary and foreign capital allowances without returning to South Africa. They may continue to use their local debit or credit cards within the overall single discretionary allowance limit. Income from pension and retirement annuity funds may be transferred abroad without specific approval.

## **Imports Payments by Credit or Debit Cards**

Residents can make permissible foreign exchange payments for small transactions up to a limit of R50 000 per transaction using their credit or debit card, subject to the single discretionary allowance limit.

# VALUE-ADDED TAX (VAT)

The system provides for three types of supplies:

- **Standard-rated supplies** – supplies of goods or services, at a rate of:

1/04/2018	7/04/1993	30/09/1991
15%	14%	10%
- **Exempt supplies** – supplies of certain goods or services not subject to VAT. Persons making only exempt supplies are not entitled to input credits
- **Zero-rated supplies** – supplies of certain goods or services subject to VAT at zero per cent. Vendors making zero-rated supplies are entitled to input credits. Zero-rated supplies include certain basic food items, export sales and services (subject to specific requirements) and the supply of a going concern. Supplies from South Africa to a customs controlled area or a special economic zone will be treated as exports.

Where a vendor makes mixed supplies of standard or zero-rated supplies together with exempt supplies the input credits are apportioned. Input credits on direct and indirect expenses relating to exempt supplies cannot be claimed.

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

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

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

## Registration and other Considerations

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

As from 1 April 2014, the compulsory registration requirement was extended to existing or future businesses that have a contractual commitment to make taxable supplies exceeding R1 million within 12 months.

Where turnover is less than R1 million in a 12 month period, but exceeds R50 000, a vendor can register voluntarily.

In the case of commercial rental establishments, the voluntary registration threshold is R120 000 (prior to 1 April 2016 : R60 000).

For years of assessment commencing on or after 1 March 2012, a registered micro-business can register voluntarily.

Where turnover is less than R30 million in a 12 month period, VAT returns are rendered every two months.

Where turnover exceeds R30 million in a 12 month period a monthly VAT return is required.

Farmers, with a turnover of less than R1,5 million in a 12 month period, render VAT returns every six months.

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

Notional input tax can be claimed as a "change in use" adjustment, on capital assets owned as at the date of registration as a vendor.

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



## VAT RELIEF FOR DEVELOPERS

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

## VAT RELIEF INTER-GROUP

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

## ASSESSED LOSSES RING-FENCED

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

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

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

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

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

## PATENT AND INTELLECTUAL PROPERTY

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

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

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

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

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

## SPECIAL ECONOMIC ZONES

As from 9 February 2016, certain companies trading in a special economic zone will qualify for:

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

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

The incentive ceases to apply from 1 January 2024 or 10 years after the commencement of the trading in a special economic zone.

## RECREATIONAL CLUBS

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

The annual trading income exemption is the greater of 5% of total membership fees and subscriptions or R120 000 (2010 : R100 000).

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

An approved recreational club is exempt from provisional tax.

Subject to certain rollover relief, recreational clubs are subject to CGT.

## BODY CORPORATES

Levies received by sectional title body corporates or share block companies are exempt from income tax. In addition to this exemption all other receipts and accruals are exempt up to a maximum of R50 000 per annum.

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

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

## PUBLIC BENEFIT ORGANISATIONS

A public benefit organisation carries out certain public benefit activities in a non-profit manner substantially in South Africa.

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

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

An approved PBO is exempt from provisional tax.

An approved PBO is exempt from CGT except for assets used in a trading activity.

An audit certificate confirming the amount of donations received is required.

## DEDUCTIONS DONATIONS

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

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

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

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

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

## REPORTABLE ARRANGEMENTS

The participant in or the promoter of a reportable arrangement is obliged to report the arrangement to SARS within 45 business days of the date on which such arrangement was entered into. If the arrangement is not reported an administrative penalty is imposed.

These arrangements include:

- financing transactions whereby the calculation of interest, finance costs or similar fees are wholly or partly dependent on the tax treatment of that arrangement and provision has been made for the variation of such finance fees, by potentially more than R5 million.
- any arrangement which would have qualified as a hybrid equity instrument (except in the case of listed instruments) if the prescribed period for that provision was 10 years
- a share buy-back transaction on or after 3 February 2016 with one or more shareholders for an aggregate amount exceeding R10 million and the company issued or is required to issue shares within 12 months of entering into the share buy-back
- payments made by a resident, on or after 16 March 2015, to a foreign trust where that person has or acquires a beneficial interest in that trust and the total contributions made before and after that date, or the value of interest exceeds R10 million, subject to certain exceptions
- the acquisition of a direct or indirect controlling interest in a company on or after 3 February 2016, which has or is reasonably expected to have an assessed loss exceeding R50 million
- an arrangement between a resident and a foreign insurer where the aggregate amount payable to the resident on or after 16 March 2016 exceeds R5 million and is determined mainly by reference to the value of particular assets or categories of assets that are held by or on behalf of the foreign insurer or by another person
- the rendering of consultancy, construction, technical and managerial services to a resident or a permanent establishment in South Africa in terms of which a non-resident was or is anticipated to be physically present in South Africa for the purposes of rendering such services and the expenditure in respect of those services incurred or to be incurred on or after 3 February 2016, exceeds R10 million and does not qualify as remuneration.

There is no reporting requirement where the aggregate tax benefit does not exceed R5 million or where the tax benefit which is derived is not the main or one of the main benefits of the arrangement.

## TAX CLEARANCE

A taxpayer's tax clearance can be confirmed by obtaining a tax compliance status PIN, provided that the taxpayer is registered for tax and does not have any tax debt outstanding (except if the debt has been suspended pending an objection or appeal or is less than R100) or returns outstanding (except if arrangements are in place to submit those returns).

The clearance is generally issued within 21 business days from the application date. SARS may revoke a taxpayer's compliance status if the tax clearance was issued in error or obtained on the basis of fraud or misrepresentation. SARS must give a taxpayer at least 10 business days notice before revoking the compliance status. The compliance status changes as soon as the taxpayer becomes non-compliant.

As from 2 November 2019, printed certificates previously issued are invalid.

## VOLUNTARY DISCLOSURE

As from 1 October 2012, a permanent Voluntary Disclosure Programme is available to assist taxpayers to regularise their tax affairs.

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

## UNDERSTATEMENT PENALTIES

### Assessments issued on or after 19 January 2017

Behaviour	Standard case	Obstructive or repeat case	Voluntary disclosure after audit notification	Voluntary disclosure before audit notification
Substantial understatement	10%	20%	5%	0%
Reasonable care not taken in completing return	25%	50%	15%	0%
No reasonable grounds for tax position	50%	75%	25%	0%
Impermissible avoidance arrangements	75%	100%	35%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

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

In the case of a substantial understatement (tax shortfall exceeds R1 million) SARS may waive the penalty if the taxpayer is in possession of an opinion provided by an independent registered tax practitioner before the return was due (unless that return was due before 1 October 2012) and the practitioner had been given all the material facts and concluded that the taxpayer was more than likely correct in the tax treatment of the transaction.

## DISPUTE RESOLUTION

Where there is uncertainty as to the basis of an assessment, a request for reasons can be submitted within 30 business days from the date of the issue of the assessment. If there is still a dispute with the basis of the assessment, the objection must be submitted within 30 business days from the date of assessment or from the date when a response to the request for reasons is received. Where an objection is disallowed the appeal must be submitted within 30 business days from the date the objection is disallowed. The prescribed form must accompany an objection or appeal. If an objection or appeal is submitted late adequate grounds must be provided to condone the late objection or appeal.

## ADMINISTRATIVE PENALTIES

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

Assessed loss or taxable income for preceding year	Penalty
Assessed loss	R 250
R 0 – R 250 000	R 250
R 250 001 – R 500 000	R 500
R 500 001 – R 1 000 000	R 1 000
R 1 000 001 – R 5 000 000	R 2 000
R 5 000 001 – R10 000 000	R 4 000
R10 000 001 – R50 000 000	R 8 000
Above R50 000 000	R 16 000

- The penalty will automatically be imposed monthly until the taxpayer remedies the non-compliance
- The penalty is payable if the taxpayer is:
  - a natural person who has more than one year's tax returns outstanding
  - a company which has returns outstanding from the 2009 tax year and failed to submit the returns within 21 days of a specific final demand
- Late submission of the PAYE reconciliation attracts a penalty of 10% of the PAYE deducted for the tax year
- The failure to disclose a reportable arrangement will result in a monthly penalty, limited to 12 months, of R50 000 for a participant and R100 000 for a promoter, which may be increased, depending on the tax benefit
- Non-compliance that will attract administrative penalties, once an effective date has been gazetted, include the failure to:
  - meet registration requirements such as failing to register or not registering timeously or not supplying supporting documents
  - inform SARS of a change of address, banking details or the details of the representative taxpayer
  - submit a return timeously or failure to sign the return
  - retain records for the prescribed period and in the prescribed format
  - provide information requested or co-operate during a field audit.

## SUSPENSION OF PAYMENT

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

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

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

No recovery proceedings may be taken by SARS from the date of the submission of the application to the expiry of 10 business days after notice of the decision or revocation is provided to the taxpayer, unless there is a risk of dissipation of assets by the taxpayer.

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

**Deeming provisions**

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

**Trust losses**

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

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

Income distributed to a non-resident beneficiary is taxed in the hands of the beneficiary on a source basis in South Africa.

Where the income is attributable to a donation or other similar disposition by a resident donor, it is deemed to accrue to the resident donor and is taxed in that donor's hands.

**Trust to trust distribution of a capital gain**

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

Income distributions retain their nature and are taxed accordingly in the hands of the South African resident.

Capital distributions are taxed in the hands of the South African resident beneficiary where **all** of the following are applicable:

- that person was a beneficiary of the trust in the year in which the income was earned
- the amount had not already been taxed in South Africa
- the amount would have constituted income of the trust if it had been a South African resident trust

Prior to 1 March 2019, where the capital distribution was in respect of accumulated foreign dividends and the trust held more than 10% of the equity shares and/or voting rights in the foreign company, the full distribution is exempt from tax in the hands of the resident beneficiary. This is also applicable to capital distributions of accumulated foreign capital gains on the sale of shares in that foreign company.

As from 1 March 2019, where the capital distribution was in respect of accumulated foreign dividends and the trust held more than 50% of the equity shares and/or voting rights in the foreign company, the exemption is limited and the dividend is taxed at an effective rate of 20%. This is also applicable to capital distributions of accumulated foreign capital gains on the sale of shares in that foreign company which is taxable at the effective capital gains tax rate applicable to that beneficiary.

## DONATIONS TAX

Donations Tax is payable at a rate of 20% on the value of any property disposed of gratuitously by a resident (natural person, corporate entity or trust). As from 1 March 2018, where a donation or the cumulative donations exceed R30 million, the excess is taxed at a rate of 25%. Donations made prior to 1 March 2018 and exempt donations are excluded in the determination of the R30 million threshold. The tax is payable by the end of the month following the month in which the donation takes effect.

### Exemptions from Donations Tax include:

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

## ESTATE DUTY

### Rates of Estate Duty

- Persons deceased:
  - prior to 1 October 2001: 25%
  - on or after 1 October 2001: 20%
  - on or after 1 March 2018: 20% - first R30 million  
: 25% - on excess above R30 million.

### Exemptions from Estate Duty include:

- Persons deceased prior to 1 March 2006, the first R1,5 million
- Persons deceased on or after 1 March 2006, the first R2,5 million
- Persons deceased on or after 1 March 2007, the first R3,5 million
- Any bequest to a surviving spouse or a PBO
- As from 1 January 2010, the unutilised portion of the exemption of the first deceased spouse may be carried forward to the estate of the surviving spouse.

## EXECUTOR'S REMUNERATION

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

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

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

**Normal Income Codes**

3601	Income
3602	Income (non-taxable)
3603	Pension
3605	Annual Payment
3606	Commission
3607	Overtime
3608	Arbitration Award
3610	Annuity from a Retirement Annuity Fund
3611	Purchased Annuity
3613	Restraint of Trade
3614	Other Retirement Lump Sums
3615	Director's Remuneration
3616	Independent Contractors
3617	Labour Brokers (PAYE) - without exemption certificate
3619	Labour Brokers (IT) - with exemption certificate
3620	Resident non-executive directors fees
3621	Non-resident non-executive directors fees

**Allowance Codes**

3701	Travel Allowance
3702	Reimbursive Travel Allowance (IT)
3703	Reimbursive Travel Allowance (non-taxable)
3704	Subsistence Allowance - Local Travel (IT)
3707	Share Options Exercised (Section 8A)
3708	Public Office Allowance
3713	Other Allowances
3714	Other Allowance - (non-taxable)
3715	Subsistence Allowance - Foreign Travel (IT)
3717	Broad-Based Employee Share Plan (Section 8B)
3718	Employee Equity Instruments (Section 8C)
3722	Reimbursive Travel Allowance (PAYE)

**Fringe Benefit Codes**

3801	General Fringe Benefits
3802	Right of Use of Motor Vehicle
3805	Free or cheap accommodation
3806	Free or cheap services
3808	Payment of Employees Debt
3809	Taxable Bursaries or Scholarships - Basic Education
3810	Company Contribution to Medical Aid
3813	Cost related to Medical Services paid by Company
3815	Non-Taxable Bursaries or Scholarships - Basic Education
3816	Right of Use of Motor Vehicle acquired by operating lease
3817	Pension Fund Contributions paid by employer for the employee
3820	Taxable Bursaries and Scholarships - Further Education
3821	Non-taxable Bursaries and Scholarships - Further Education
3822	Non-taxable Fringe Benefits on acquisition of immovable property
3825	Provident Fund Contributions paid by employer for the employee
3828	Retirement Annuity Contributions paid by employer
3829-3832	Bursaries and Scholarships
3833	Taxable benefits-Bargaining Council employer contribution

**Gross Remuneration Codes**

3696	Gross Non-Taxable Income
3699	Gross Employment Income (taxable)

**Foreign Employment Income**

For employees with foreign employment income the value of 50 must be added to each relevant IRP5 code.

Example: Code 3601 will become 3651 for Foreign Income.



## **Lump Sum Codes**

3901	Gratuities and severance benefits- retirement or retrenchment
3902	Pension or Retirement Annuity Fund Lump Sum - resignation
3903	Pension or Retirement Annuity Fund Lump Sum - retirement
3904	Provident Fund Lump Sum - resignation, transfer or surplus
3905	Provident Fund Lump Sum - retirement
3906	Special Remuneration (e.g. proto-teams)
3907	Other Lump Sums (e.g. backdated salaries extended over previous tax year, non-approved funds)
3908	Surplus Apportionments and Exempt Policy Proceeds on or after 1 January 2006
3909	Unclaimed Benefits paid by fund
3915	Pension, Provident or Retirement Annuity Fund Lump Sum Benefits paid on or after 1 October 2007
3920	Lump Sum Withdrawal Benefits from Retirement Funds after 28 February 2009
3921	Living Annuity and Section 15C Surplus Apportionments accruing after 28 February 2009
3922	Compensation in respect of death during employment
3923	Transfer of unclaimed benefits
3924	Transfer on retirement.

## **Deduction Codes**

4001	Pension Fund Contributions paid or deemed paid by employee
4003	Provident Fund Contributions paid or deemed paid by employee
4005	Medical Aid Contributions paid or deemed paid by Employer
4006	Total Retirement Annuity Fund Contributions paid or deemed paid by employee
4024	Medical Services Costs Deemed paid for Immediate Family
4030	Donations paid by the Employer to a PBO
4472	Employer's Pension Fund Contributions
4473	Employer's Provident Fund Contributions
4474	Employer's Medical Aid Contributions
4475	Employer's Retirement Annuity Fund Contributions
4493	Employer's Medical Aid Contributions i.r.o. Retired Employees
4497	Total Deductions
4582	Remuneration inclusion used in section 11(F) deduction
4583	Remuneration for foreign services inclusion used for section 11F
4584	Employer's Bargaining Council Contributions
4585	Employer's Pension Fund Contributions-Retired Employee
4586	Employer's Provident Fund Contributions-Retired Employee

## **Employees Tax Deduction and Reason Codes**

4102	PAYE
4115	Tax on Retirement Lump Sum and Severance Benefits
4116	Medical Scheme Fees Tax Credit
4118	The sum of the Employment Tax Incentive
4120	Additional Medical Expense Tax Credit (65 years and older)
4141	UIF Employee and Employer Contribution
4142	SDL Contribution
4149	Total PAYE, SDL and UIF
4150	01 - Invalid from March 2002
	02 - Earn Less than the Tax Threshold
	03 - Independent Contractor
	04 - Non-Taxable Earnings (including nil directive and income protection policy from 1 March 2015)
	05 - Exempt Foreign Employment Income
	06 - Director's Remuneration - Income Determined in the following Tax Year
	07 - Labour Broker with IRP30
	08 - No Tax Due to Medical Aid Tax Credit allowed
	09 - No Withholding of tax on shares possible

# RETENTION OF DOCUMENTS/RECORDS

## RECOMMENDED GUIDELINES

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

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

### Close Corporations

Founding Statement (CK1)	Indefinite
Amended Founding Statement (CK2)	Indefinite
Minute Book	Indefinite
Annual Financial Statements	15 years
Books of Account	15 years
Accounting records including supporting schedules	15 years
Fixed Asset Registers	15 years

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

### Other Suggested Periods of Retention

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

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

*The above list is not comprehensive*

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right people  
right size  
right solutions