Tax Guide 2023 – 2024

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Foreword

Glacier by Sanlam brings together leading experts and respected financial services companies to meet the needs of investors. We acknowledge the critical role that tax planning plays as part of one's overall financial planning. We're therefore pleased to sponsor the Money*Marketing* tax guide for the 2023 – 2024 tax year. We trust that the guide will prove invaluable in assisting you with completing tax returns, reviewing portfolios, or in solving any tax-related queries you may have.

Glacier provides access to a number of tax-efficient, local and international investment solutions to cater for a diverse set of needs – whether that be saving for retirement or for shorter-term goals. Investors can select from a wide range of collective investments, as well as wrap funds and listed share portfolios via our platform.

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We also offer discretionary fund management (DFM) and investment consulting services through Glacier Invest, which is a partnership between Glacier and Sanlam Multi Manager International, part of Sanlam Investments.

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BUDGET PROPOSALS

1 **Rooftop Solar Panel Tax Incentive - Individuals**
A rebate of 25% of the cost of new and unused solar panels (excluding inverters and batteries), limited to R15 000 per individual, will be allowed for panels brought into use for the first time in the period 1 March 2023 to 29 February 2024.

2 **Expansion to Solar Tax Incentive - Companies**
Between 1 March 2023 and 28 February 2025, businesses will be able to claim a deduction of 125% in the year in which a renewable energy project is brought into use. There is no limitation on generation capacity.

3 **Taxation of Non-resident Beneficiaries of a South African Trust**
Capital gains distributed to non-resident beneficiaries are currently taxed in the trust. A similar rule is being considered for income distributions.

4 **Delay in the Withdrawal of Practice Notes 31 and 37**
The notes which allow the deduction of certain fees and interest paid against interest received, were intended to be withdrawn as from 1 March 2023. This implementation date has been delayed.

5 **Expansion of the Diesel Rebate**
In light of the current electricity crisis, the diesel rebate will be extended to food manufactures from 1 April 2023 until 31 March 2025.

6 **Oil and Gas Company Royalty**
The minimum royalty rate will be increased from 0,5% to 2%, with the maximum remaining at 5%.

TWO-POT RETIREMENT SYSTEM

As from 1 March 2024, retirement funds will be subject to the new two-pot system which aims to strike a balance between maximising retirement savings and minimising early withdrawals.

The new system seeks to retain the principle of exempting contributions and growth, whilst taxing withdrawals and benefits.

Contributions to the "retirement pot" cannot be accessed before retirement. Contributions to the "saving pot" can be accessed with a single taxable withdrawal in any 12 month period, subject to tax at marginal rates.

The maximum of one-third of the total contribution can go to the savings pot and the balance to the retirement pot.

Contributions prior to 1 March 2024 will remain in the "vested pot" and withdrawals will be subject to tax according to the relevant lump sum table.

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- All information contained herein is believed to be correct at the time of publication, 22 February 2023. The contents should not be used as a basis for action without further professional advice.
- While utmost care has been taken in the compilation of this publication no responsibility will be accepted for any inaccuracies, errors or omissions.
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- Changes in rates of tax announced in the budget speech for the 2024 tax year become effective only once the legislation is enacted by Parliament.
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LOANS TO TRUSTS SECTION 7C

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 and certain share incentive trusts
- Loans to special trusts solely for the benefit of a person with a disability
- Loans to approved public benefit organisations
- Loans funding a primary residence of that person or that person's 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 that person as at the end of the tax year. Donations Tax will be payable at the end of March of each year. The annual Donations Tax exemption of R100 000 may be claimed if not already utilised.

As from 19 July 2017, loans provided by natural persons to companies held by trusts or loans ceded to connected natural persons such as trust beneficiaries are included.

As from 1 January 2021, certain preference shares issued to a connected natural person are treated as deemed loans.

Example: An interest free loan of R2,5 million provided to a trust on 1 March 2022 and the loan remained constant during the year, the calculation is:

	R
Loan	2 500 000,00
Interest 1 March 2022 to 31 March 2022 (31/365 days) at 5,00%	10 616,44
Interest 1 April 2022 to 31 May 2022 (61/365 days) at 5,25%	21 934,93
Interest 1 June 2022 to 31 July 2022 (61/365 days) at 5,75%	24 023,97
Interest 1 August 2022 to 30 September 2022 (61/365 days) at 6,50%	27 157,53
Interest 1 October 2022 to 30 November 2022 (61/365 days) at 7,25%	30 291,10
Interest 1 December 2022 to 31 January 2023 (62/365 days) at 8,00%	33 972,60
Interest 1 February 2023 to 28 February 2023 (28/365 days) at 8,25%	15 821,92
Deemed donation	163 818,49
Less annual exemption	100 000,00
Net deemed donation at 28 February 2023	63 818,49
Donations Tax at 20% (due 31 March 2023)	12 763,70

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 (2020 and 2021 tax years: 117 days), of which at least 60 days is continuous, outside South Africa in any 12 month period commencing or ending during that tax year.

Prior to 1 March 2020, foreign employment income was fully exempt provided the same days requirement was 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 - 28 February 2023	28%
1 March 2023 - 31 March 2024	27%

SA Income - Foreign Company/Branch Tax

For years of assessment ending during the following periods:

1 April 1999 - 31 March 2005	35%
1 April 2005 - 31 March 2008	34%
1 April 2008 - 31 March 2012	33%
1 April 2012 - 28 February 2023	28%
1 March 2023 - 31 March 2024	27%

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

	1 Mar 2016 to 21 Feb 2017	22 Feb 2017 to 28 Feb 2017	1 Mar 2017 to 28 Feb 2023	1 Mar 2023 to 29 Feb 2024
	R	R	R	R
Taxable income	100,00	100,00	100,00	100,00
Less: Normal tax	28,00	28,00	28,00	27,00
Available for distribution	72,00	72,00	72,00	73,00
Less: Dividend	72,00	72,00	72,00	73,00
Retained	0	0	0	0
Total tax	38,80	42,40	42,40	41,60
Normal tax	28,00	28,00	28,00	27,00
Dividends Tax	10,80	14,40	14,40	14,60
Effective rate	38,80%	42,40%	42,40%	41,60%

Assumes all profits are declared as a dividend subject to Dividends Tax.

TAX RATES INDIVIDUALS - 2023

Taxable income		Rates of tax	
R 0 - R 226 000		18% of each R1	
R 226 001 - R 353 100	R 40 680 +	26% of the amount over	R 226 000
R 353 101 - R 488 700	R 73 726 +	31% of the amount over	R 353 100
R 488 701 - R 641 400	R115 762 +	36% of the amount over	R 488 700
R 641 401 - R 817 600	R170 734 +	39% of the amount over	R 641 400
R 817 601 - R1 731 600	R239 452 +	41% of the amount over	R 817 600
R1 731 601 +	R614 192 +	45% of the amount over	R1 731 600

TAX RATES INDIVIDUALS - 2024

Taxable income		Rates of tax	
R 0 - R 237 100		18% of each R1	
R 237 101 - R 370 500	R 42 678 +	26% of the amount over	R 237 100
R 370 501 - R 512 800	R 77 362 +	31% of the amount over	R 370 500
R 512 801 - R 673 000	R121 475 +	36% of the amount over	R 512 800
R 673 001 - R 857 900	R179 147 +	39% of the amount over	R 673 000
R 857 901 - R1 817 000	R251 258 +	41% of the amount over	R 857 900
R1 817 001 +	R644 489 +	45% of the amount over	R1 817 000

TAX THRESHOLDS

	Taxable income 2023	2024
Persons under 65	R 91 250	R 95 750
Persons 65 and under 75	R141 250	R148 217
Persons 75 and over	R157 900	R165 689

TAX REBATES

Amounts deductible from the tax payable	2023	2024
Persons under 65	R16 425	R17 235
Persons 65 and under 75	R25 425	R26 679
Persons 75 and over	R28 422	R29 824

MEDICAL AID TAX CREDITS

Monthly amounts deductible from tax payable	2023	2024
Main member	R347	R364
Main member with one dependant	R694	R728
Main member with two dependants	R928	R974

Each additional dependant qualifies for a credit of R246 (2023 : R234) per month.

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TAX RATES TRUSTS

Rate of tax	2015	2016-2017	2018-2024
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 29 February 2024

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

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

The 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 the 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.

SMALL BUSINESS CORPORATIONS

Years of assessment ending between 1 April 2022 and 28 February 2023

Taxable income	Rates of tax
R 0 - R 91 250	Nil
R 91 251 - R365 000	7% of the amount over R 91 250
R365 001 - R550 000	R19 163 + 21% of the amount over R365 000
R550 001 +	R58 013 + 28% of the amount over R550 000

Years of assessment ending between 1 March 2023 and 29 February 2024

Taxable income	Rates of tax
R 0 - R 95 750	Nil
R 95 751 - R365 000	7% of the amount over R 95 750
R365 001 - R550 000	R18 848 + 21% of the amount over R365 000
R550 001 +	R57 698 + 27% 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, draughtsmanship, 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, close corporation or co-operative, 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.

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DIVIDENDS TAX

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 includes all distributions to a shareholder, other than:

- a reduction of contributed tax capital (CTC)
- 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 CTC 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 a portion of its own shares, the portion distributed from CTC will be subject to Capital Gains Tax and the portion distributed from reserves will be subject to Dividends Tax.
The CTC distributed must be in proportion to that shareholder's percentage held in that specific class of shares.

PROVISIONAL 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, unless circumstances justify a lower estimate.

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 must 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 (if the taxable income is R1 million or less), or 80% of the actual tax (if the taxable income exceeds R1 million), less PAYE and provisional tax paid in the year of assessment. The penalty may be waived or reduced 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.

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.

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.

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 reduce 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; or
- the taxable income from dividends (e.g. REIT distributions), interest, foreign dividends, rental from letting immovable property and remuneration from an 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.

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MEDICAL EXPENSE TAX CREDITS

Medical Aid Contributions

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

- R364 (2023 : R347) per month each for the taxpayer and the first dependant
- R246 (2023 : R234) 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 *{[medical aid contributions - (medical scheme fees tax credit x 4)] + other qualifying medical expenses}* exceeds 7,5% of taxable income, divided by a factor of 4.

65 years and older, or younger than 65 years if 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:

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

Other qualifying medical expenses include:

- payments to medical practitioners, nursing homes and hospitals
- payments to pharmacists for **prescribed** medicines
- payments 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, orthopaedic 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). School fees are limited to the amount in excess of the fees of the closest public 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 14):

- diabetes and asthma are regarded as medical conditions and not disabilities
- 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, child or parent 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/distributions received by or accrued from a real estate investment trust (REIT) 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 retirement lump sum benefits, including the R550 000 (2023 : R500 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 stringent 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.

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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 27% (prior to 1 April 2022: 28%) in the case of a company and 45% (2017 : 41%) in the case of a trust
- No PAYE is required to be deducted in certain instances,where the entity provides an affidavit confirming that the entity 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 INVESTMENTS

As from 1 March 2015, natural persons can invest in approved investments 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 imposed.

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.

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FRINGE BENEFITS

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, including cash, is not subject to tax. Prior to 1 March 2022 cash awards were excluded.

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 is 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 is 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.

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SUBSISTENCE ALLOWANCES

If an employee is obliged to spend at least one night away from his usual place of 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 not 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

- R161 (2023 : R152) per day or part of a day for incidental costs
- R522 (2023 : R493) 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* (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.

Reimbursive Subsistence Expenses

As from 1 March 2021, where an employee is obliged to be away from the office on a day trip, any reimbursements paid by an employer in respect of meals and incidental costs are not included in the employee's taxable income provided the employer's policy allows for such reimbursements and the reimbursed amount does not exceed R161 (2023 : R152).

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

No PAYE is deductible where an employee receives a reimbursement based on the actual business kilometres travelled, no other travel allowance is paid to the employee and the cost is calculated in accordance with the prescribed rate. The amount is not subject to tax on assessment.

Where the reimbursive rate paid by the employer does not exceed the prescribed rate but another travel allowance is paid, the allowances are combined and treated as a fixed travel allowance.

Where the reimbursive rate paid by the employer exceeds the prescribed rate of 464 cents (2023 : 418 cents) per kilometre, irrespective of the business kilometres travelled, there is an inclusion in remuneration for PAYE purposes. The excess 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 500 cents. The prescribed rate is 464 cents. The amount included in remuneration is calculated as 17 891 x (500 cents less 464 cents) = R6 440,76.

DEDUCTIONS TRAVEL EXPENSES

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.

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 cost of the vehicle includes VAT but excludes finance costs. Where actual expenditure is used the value of the vehicle is limited to R800 000 (2023 : R665 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 R800 000 (2023 : R665 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 - 2023

Cost of vehicle	Fixed R	Fuel c	Repairs c
Does not exceed R95 000	29 836	131,7	40,9
Exceeds R 95 000 but not R190 000	52 889	147,0	51,1
Exceeds R190 000 but not R285 000	76 033	159,7	56,3
Exceeds R285 000 but not R380 000	96 197	171,8	61,5
Exceeds R380 000 but not R475 000	116 438	183,8	72,3
Exceeds R475 000 but not R570 000	137 735	210,8	84,9
Exceeds R570 000 but not R665 000	159 031	218,0	105,5
Exceeds R665 000	159 031	218,0	105,5

DEEMED EXPENDITURE - 2024

Cost of vehicle	Fixed R	Fuel c	Repairs c
Does not exceed R100 000	33 760	141,5	43,8
Exceeds R100 000 but not R200 000	60 329	158,0	54,8
Exceeds R200 000 but not R300 000	86 958	171,7	60,4
Exceeds R300 000 but not R400 000	110 554	184,6	65,9
Exceeds R400 000 but not R500 000	134 150	197,6	77,5
Exceeds R500 000 but not R600 000	158 856	226,6	91,0
Exceeds R600 000 but not R700 000	183 611	230,5	102,1
Exceeds R700 000 but not R800 000	209 685	234,3	113,1
Exceeds R800 000	209 685	234,3	113,1

VARIABLE REMUNERATION

Variable remuneration, such as commission, bonuses, overtime, leave pay, night shift or standby allowances and reimbursive travel, is taxed on a payment basis. As from 1 March 2023, this includes performance-based remuneration. 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 and 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.

DEDUCTIONS RETIREMENT

The contributions to pension, provident and retirement annuity funds are deductible but limited to the **lesser** of:

- R350,000
- 27.5% of the greater of:
  - Remuneration (excluding retirement, withdrawal or severance lump sums)
  - Taxable income (excluding retirement, withdrawal or severance lump sums) prior to the deduction of donations and foreign tax.
- Taxable income (excluding retirement, withdrawal or severance lump sums and taxable capital gains) prior to the deduction of donations and foreign tax.

Any excess contributions may be carried forward to the 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's 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 R247 500 or less (2016 : R75 000).
As from 1 March 2021, lump sums from provident funds are 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 was 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 accordance with 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 2014 and 28 February 2023

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.

Lump sums accruing between 1 March 2023 and 29 February 2024

Taxable portion of lump sum	Rates of tax
R 0 - R 550 000	Nil
R 550 001 - R 770 000	18% of the amount over R 550 000
R 770 001 - R1 155 000	R 39 600 + 27% of the amount over R 770 000
R1 155 001 +	R143 550 + 36% of the amount over R1 155 000

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 2014 and 28 February 2023

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.

Lump sums accruing between 1 March 2023 and 29 February 2024

Taxable portion of withdrawal	Rates of tax
R 0 - R 27 500	Nil
R 27 501 - R 726 000	18% of the amount over R 27 500
R 726 001 - R1 089 000	R125 730 + 27% of the amount over R 726 000
R1 089 001 +	R223 740 + 36% of the amount over R1 089 000

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

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EMPLOYMENT TAX 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 ID book/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
  - be subject to the Basic Conditions of Employment Act as from 1 March 2022
  - not be mainly involved in the activity of studying as from 1 March 2022.

As from 1 March 2022, 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 - R1 999	75% of monthly remuneration	37,5% of monthly remuneration
R2 000 - R4 499	R1 500	R750
R4 500 - R6 500	R1 500 - (0,75 x (Monthly Remuneration - R4 500))	R750 - (0,375 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 provided there is no element of salary sacrifice. 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.

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. The tax deduction is limited to a maximum of R10 000 (2008 : R3 000) per year per employee.
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 in the five subsequent tax years.

Recipient of interest is not subject to tax in South Africa

As from 1 January 2015, the deduction of interest paid to an exempt entity or foreign loanholder (who is not subject to tax in South Africa) may be limited and calculated in accordance with a formula.
Any excess 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 loanholder 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.
For years of assessment ending on or after 31 March 2023, the limitation will apply to interest paid to a foreign loanholder taxed at a reduced rate.

DEBT CONCESSION OR COMPROMISE

As from 1 January 2013, a concession or compromise of debt 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, groups of companies, fringe benefits and companies in liquidation.

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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 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 for the acquisition of any trademark or property of a similar nature on or after 29 October 1999.

HOTEL ALLOWANCES

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

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

RESIDENTIAL BUILDING ALLOWANCES

Asset type	Conditions for annual allowance	Annual allowance
Residential buildings	Buildings erected on or after 1 April 1982 and before 21 October 2008 consisting of at least five units of more than one room intended for letting, or occupation by *bona fide* full-time employees	2% of cost and an initial allowance of 10% of cost
	New and unused buildings acquired, erected or improved on or after 21 October 2008 if situated anywhere in South Africa and owned by the taxpayer for use in his trade, either for letting or as employee accommodation. Enhanced allowances are available where the low cost residential unit is situated in an urban development zone	5% of cost or 10% of cost for low cost residential units not exceeding R300 000 for a stand-alone unit or R350 000 in the case of an apartment
Employee housing	50% of the costs incurred or funds advanced or donated to finance the construction of housing for employees on or before 21 October 2008 subject to a maximum per dwelling	R6 000 prior to 1 March 2008 R15 000 between 1 March 2008 and 20 October 2008
Employee housing loans	Allowance on amounts owing on interest free loan account in respect of low cost residential units sold at cost by the taxpayer to employees and subject to repurchase at cost only in case of repayment default or termination of employment	10% of amount owing at the end of each year of assessment. This ends on 28 February 2022

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 goverment body to carry on telecommunication services, exploration, production or distribution of petroleum or the provision of gambling facilities	Evenly over the period of the licence, subject to a maximum of 30 years

Notes

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

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WEAR AND TEAR ALLOWANCES

The following rates of wear and tear are allowed by SARS in terms of Interpretation Note 47 (issue 5):

Type of asset	No. of years for write-off
Adding machines	6
Air-conditioners	
window	6
mobile	5
room unit	10
Air-conditioning assets	
air handling units	20
cooling towers	15
condensing sets	15
Aircraft (light passenger or commercial helicopters)	4
Arc welding equipment	6
Artefacts	25
Balers	6
Battery chargers	5
Bicycles	4
Boilers	4
Bulldozers	3
Bumping flaking	4
Carports	5
Cash registers	5
Cell phone antennae	6
Cell phone masts	10
Cellular telephones	2
Cheque-writing machines	6
Chillers	
absorption type	25
centrifugal	20
Cinema equipment	5
Cold drink dispensers	6
Communication systems	5
Compressors	4
Computers	
mainframe/server	5
personal	3
Computer tablet	2
Computer software (mainframes)	
purchased	3
self-developed	5
Computer software (personal computers)	2
Concrete mixers portable	4
Concrete transit mixers	3
Containers	10
Crop sprayers	6
Curtains	5
Debarking equipment	4
Delivery vehicles	4
Demountable partitions	6
Dental and doctors equipment	5
Dictaphones	3
Drilling equipment (water)	5
Drills	6
Electric saws	6
Electrostatic copiers	6
Engraving equipment	5
Escalators	20
Excavators	4
Fax machines	3
Fertiliser spreaders	6
Firearms	6
Fire extinguishers (loose units)	5
Fire detections systems	3
Fishing vessels	12
Fitted carpets	6
Food bins	4
Food-conveying systems	4
Forklift trucks	4
Front-end loaders	4
Furniture and fittings	6
Gantry cranes	6
Garden irrigation equipment (movable)	5
Gas cutting equipment	6
Gas heaters and cookers	6
Gear boxes	4
Gear shapers	6
Generators (portable)	5
Generators (standby)	15
Graders	4
Grinding machines	6
Guillotines	6
Gymnasium equipment	
cardiovascular	2
health testing	5
weights and strength	4
spinning	1
other	10
Hairdressers equipment	5
Harvesters	6
Heat dryers	6
Heating equipment	6
Hot-water systems	5
Incubators	6
Ironing and pressing equipment	6
Kitchen equipment	6
Knitting machines	6
Laboratory research equipment	5
Lathes	6
Laundromat equipment	5
Law reports	5
Lift installations	12
Magnetic resonance imaging (MRI) scanners	5
Medical theatre equipment	6
Milling machines	6
Mobile caravans	5
Mobile cranes	4
Mobile refrigeration units	4
Motors	4
Motorcycles	4
Motorised chain saws	4
Motorised concrete mixers	3
Motor mowers	5
Musical instruments	5
Navigation systems	10
Neon signs and advertising boards	10
Office equipment	
electronic	3
mechanical	5
Oxygen concentrators	3
Ovens and heating devices	6
Ovens for heating food	6
Packaging and related equipment	4
Paintings (valuable)	25
Pallets	4
Passenger cars	5
Patterns, tooling and dies	3
Pellet mills	4
Perforating equipment	6
Photocopying equipment	5
Photographic equipment	6
Planers	6
Pleasure craft	12
Ploughs	6
Portable safes	25
Power tools (hand-operated)	5
Power supply	5
Public address systems	5
Pumps	4
Racehorses	4
Radar systems	5
Radio communication	5
Refrigerated milk tankers	4
Refrigeration equipment	6
Refrigerators	6
Runway lights	5
Sanders	6
Scales	5
Security systems (removable)	5
Seed separators	6
Sewing machines	6
Shakers	4
Shopfittings	6
Solar energy units	5
Special patterns and tooling	2
Spin dryers	6
Spot welding equipment	6
Staff training equipment	5
Surge bins	4
Surveyors	
field equipment	5
instruments	10
Tape recorders	5
Telephone equipment	5
Television and advertising films	4
Television sets, video machines and decoders	6
Textbooks	3
Tractors	4
Trailers	5
Traxcavators	4
Trollies	3
Trucks (heavy-duty)	3
Trucks (other)	4
Truck-mounted cranes	4
Typewriters	6
Vending machines (including video game machines)	6
Video cassettes	2
Warehouse racking	10
Washing machines	5
Water distillation and purification plant	12
Water tankers	4
Water tanks	6
Weighbridges (movable parts)	10
Wireline rods	1
Workshop equipment	5
X-ray equipment	5

Notes

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

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

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

4 Prior to 1 January 2013, wear and tear on any assets acquired from a connected person may only be claimed on the original cost to the seller less allowances claimed by the seller, plus recoupments and CGT included in the seller's income

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

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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 brought into use on or before 28 February 2022 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 before 28 February 2022	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 2026	Determined in accordance with a formula
Solar PV renewable energy	Generation capacity exceeding 1 megawatt For tax years on or after 1 January 2016, generation capacity not exceeding 1 megawatt Generation capacity without limitation brought into use for the first time between 1 March 2023 and 28 February 2025	50% / 30% / 20% 100% of cost 125% 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
- **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 R220 000 on 1 October 1998 and was sold on 30 September 2022 for R450 000, as CGT was implemented on 1 October 2001, the base cost is:

Original cost expenditure	R220 000
Add:	R 28 750
Proceeds from disposal	R450 000
Less: Base cost expenditure	(R220 000) } x 3/24
Time apportionment base cost	R248 750

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		
	2022	2023	2024	2022	2023	2024
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%	21,6%
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.

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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 as at 1 October 2001

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 year of assessment, 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 exempt 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 from the sale of the shares.

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 regarded as proceeds from the sales of the shares.

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.

INVOLUNTARY DISPOSALS

Where movable or immovable assets are disposed of by operation of law, theft or destruction, taxpayers can defer the taxable recoupments and capital gains if the proceeds are equal to or exceed the base cost and are fully reinvested in qualifying replacement assets. These assets must be contracted for within 12 months and brought into use within three years. These periods may be extended for up to six months. 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 on the replacement asset. Personal use assets do not qualify for this relief.

REINVESTMENT RELIEF

Taxpayers can defer taxable recoupments and capital gains on the sale of business assets (excluding buildings) if they fully reinvest the proceeds from the sale in other qualifying replacement assets. These assets must be contracted for within 12 months and brought into use within three years. These periods may be extended for up to six months. 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.

UNQUANTIFIED PROCEEDS

Where an asset is disposed of for an unquantified amount, the portion of the amount 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 amount becomes quantifiable.

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

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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:

- 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:

- 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 2024.

INDUSTRIAL POLICY PROJECTS

An additional investment allowance for an approved project was 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 was 55% for preferred projects and 35% for non-preferred projects.

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

There was 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 ceased to apply from 1 March 2020.

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.

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-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.

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

After taking into account the value of any security:

- 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.

An annual ruling can be obtained from SARS, based on specific criteria, which will increase the 40% to 50% for debts exceeding 150 days in arrear, increasing by an additional 5% for every 30 days, but limited to 85% when the debt is in arrear for 12 months or longer.

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

VENTURE CAPITAL INVESTMENTS

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

	Natural Person/Trust	Company
From 1 January 2012 to 20 July 2019	100%	100%
From 21 July 2019 to 30 June 2021	R2,5 million	R5 million

Approved venture capital companies and the qualifying entities in which they were permitted to invest were subject to certain requirements.

The investment must be held for more than five years to avoid a recoupment. Investments made after 30 June 2021 do not qualify for the deduction.

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RESIDENCE BASED TAXATION

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 (2020 and 2021 tax years: 117 days), of which at least 60 days are continuous, outside of South Africa in any 12 month period commencing or ending during that tax year
- Foreign pension and social security payments, subject to certain conditions.

Ceasing of Tax Residency

When a natural person ceases being tax resident either due to a change in ordinary residence or due to the application of the tie-breaker rules of a double taxation agreement various disclosures are required. The deemed disposal of certain worldwide assets gives rise to capital gains tax.

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. As from 1 March 2014 dividends *in specie* are exempted
- 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 other 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
- For years of assessment commencing on or after 1 January 2012 to 31 December 2015, foreign taxes withheld on income arising from services rendered in South Africa could have been claimed as a rebate.
- 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 income may be remitted.

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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*

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 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 the recipient will inform the person 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-licenced 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 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 the recipient will inform the person 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.

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WITHHOLDING TAXES SUMMARY

DOUBLE TAXATION AGREEMENTS

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

	Royalties %	Dividends %	Interest %
Non-Treaty Countries	**15**	**20**	**15**
Treaty Countries			
Algeria	10	10/15	10
Australia	5	5/15	10
Austria	0	5/15	0
Belarus	5/10	5/15	5/10
Belgium	0	5/15	10
Botswana	10	10/15	10
Brazil	10/15	10/15	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
Eswatini	10	10/15	10
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	20	15
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

	Royalties %	Dividends %	Interest %
Netherlands	0	5/10	0
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	15
Singapore	5	5/10	7,5
Slovak Republic	10	5/15	0
Spain	5	5/15	5
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	20	0/15
Zimbabwe	10	5/10	5

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*

MULTILATERAL INSTRUMENT

On 30 September 2022 South Africa deposited its multilateral instrument for ratification with the OECD. This effectively modifies the bilateral tax treaties already concluded. More than 100 countries are using the multilateral instrument to efficiently amend their tax treaty networks. The multilateral instrument forms part of Action 15 of the OECD's base erosion and profit shifting initiative to combat treaty abuse.

The multilateral instrument does not replace the bilateral tax treaty but will be applied in conjunction with the relevant treaty to modify the treaty application where **all** of the following requirements are met:

- where both countries have elected for the same amendment to apply
- both countries have deposited their multilateral instrument for ratification
- a period of three calendar months has expired from the date of ratification.

South Africa's multilateral instrument came into force on 1 January 2023.

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.

Jurisdictions that have exchanged information

Albania, Andorra, Anguilla, Antigua and Barbuda, Argentina, Aruba, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda, Brazil, British Virgin Islands, Brunei Darussalam, Bulgaria, Canada, Cayman Islands, Chile, China, Colombia, Cook Islands, Costa Rica, Croatia, Curacao, Cyprus, Czech Republic, Denmark, Dominica, Ecuador, Estonia, Faroe Islands, Finland, France, Germany, Ghana, Gibraltar, Greece, Greenland, Grenada, Guernsey, Hong Kong, Hungary, Iceland, India, Indonesia , Ireland, Isle of Man, Israel, Italy, Jamaica, Japan, Jersey, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macao SAR, Malaysia, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Montserrat, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Peru, Poland, Portugal, Qatar, Romania, Russia, Samoa, San Marino, Saudi Arabia, Seychelles, Singapore, Sint Maarten, Slovak Republic, Slovenia, South Africa, Spain, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sweden, Switzerland, Turkey, Turks and Caicos Islands, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

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 disclose the identity and tax residency of the reporting entity in the tax return.

Upon receipt of the report the revenue authority in that tax jurisdiction will then automatically exchange such information.

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 it's 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 arm's length requirement. The documents have to be submitted with the annual tax return.

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 charged
- 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.

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TRANSFER DUTY

On Immovable Property (on or after 1 March 2023)

Payable by natural persons and legal entities:

Property value	Rates of tax		
R 0 - R 1 100 000	Nil		
R 1 100 001 - R 1 512 500	3%	on the value above	R 1 100 000
R 1 512 501 - R 2 117 500	R 12 375 + 6%	on the value above	R 1 512 500
R 2 117 501 - R 2 722 500	R 48 675 + 8%	on the value above	R 2 117 500
R 2 722 501 - R12 100 000	R 97 075 + 11%	on the value above	R 2 722 500
R12 100 001 +	R1 128 600 + 13%	on the value above	R 12 100 000

- 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 %
10 September 2010	9,50	16 January 2020	9,75
19 November 2010	9,00	20 March 2020	8,75
31 July 2012	8,50	15 April 2020	7,75
31 January 2014	9,00	22 May 2020	7,25
31 July 2014	9,25	24 July 2020	7,00
24 July 2015	9,50	19 November 2021	7,25
20 November 2015	9,75	28 January 2022	7,50
29 January 2016	10,25	24 March 2022	7,75
18 March 2016	10,50	19 May 2022	8,25
21 July 2017	10,25	21 July 2022	9,00
29 March 2018	10,00	22 September 2022	9,75
23 November 2018	10,25	24 November 2022	10,50
19 July 2019	10,00	27 January 2023	10,75

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 ÷ R1 000 x 09,98 = R7 984.00 a month over the 20 year period.

	Mortgage Bonds				Short Term Financing		
Rate	10 Yrs	20 Yrs	25 Yrs	30 Yrs	36 Months	48 Months	60 Months
07,0%	11,61	07,75	07,07	06,65	30,88	23,95	19,08
07,5%	11,87	08,06	07,39	06,99	31,11	24,18	20,04
08,0%	12,13	08,36	07,72	07,34	31,34	24,41	20,28
08,5%	12,40	08,68	08,05	07,69	31,57	24,65	20,52
09,0%	12,67	09,00	08,39	08,05	31,80	24,89	20,76
09,5%	12,94	09,32	08,74	08,41	32,03	25,12	21,00
10,0%	13,22	09,65	09,09	08,78	32,27	25,36	21,25
10,5%	13,49	09,98	09,44	09,15	32,50	25,60	21,49
11,0%	13,78	10,32	09,80	09,52	32,74	25,85	21,74
11,5%	14,06	10,66	10,16	09,90	32,98	26,09	21,99
12,0%	14,35	11,01	10,53	10.29	33,21	26,33	22,24
12,5%	14,64	11,36	10,90	10,67	33,45	26,58	22,50
13,0%	14,93	11,72	11,28	11,06	33,69	26,83	22,75
13,5%	15,23	12,07	11,66	11,45	33,94	27,08	23,01
14,0%	15,53	12,44	12,04	11,85	34,18	27,33	23,27
14,5%	15,83	12,80	12,42	12,25	34,42	27,58	23,53
15,0%	16,13	13,17	12,81	12,64	34,67	27,83	23,79
15,5%	16,44	13,54	13,20	13,05	34,91	28,08	24,05
16,0%	16,75	13,91	13,59	13,45	35,16	28,34	24,32
16,5%	17,60	14,29	13,98	13,85	35,40	28,60	24,58

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

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INTEREST RATES CHANGES

Prescribed rate - Late payment of assessed tax, provisional tax, VAT and underpayment of provisional tax; refund of VAT after prescribed period, refund on successful objection, appeal or conceded appeal

Date of change	Rate %
1 May 2020	9,75
1 July 2020	7,75
1 September 2020	7,25
1 November 2020	7,00
1 March 2022	7,25
1 May 2022	7,50
1 July 2022	7,75
1 September 2022	8,25
1 November 2022	9,00
1 January 2023	9,75
1 March 2023	10,50

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

Prescribed rate - Refund of overpayment of provisional tax

Date of change	Rate %
1 May 2020	5,75
1 July 2020	3,75
1 September 2020	3,25
1 November 2020	3,00
1 March 2022	3,25
1 May 2022	3,50
1 July 2022	3,75
1 September 2022	4,25
1 November 2022	5,00
1 January 2023	5,75
1 March 2023	6,50

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.

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

Date of change	Rate %
1 February 2020	7,25
1 April 2020	6,25
1 May 2020	5,25
1 June 2020	4,75
1 August 2020	4,50
1 December 2021	4,75
1 February 2022	5,00
1 April 2022	5,25
1 June 2022	5,75
1 August 2022	6,50
1 October 2022	7,25
1 December 2022	8,00
1 Febuary 2023	8,25

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

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.

TAXATION OF FARMING INCOME

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

Summary of the First Schedule's Main Paragraphs

2 – 5 & 9	Valuation of livestock and produce	14 – 16	Plantation farming
6 – 7	Election of standard values	17	Sugar cane destroyed by fire
8	Ring-fencing of livestock acquisitions	19	Rating formula for farmers (who are natural persons)
11	Donations and *in specie* dividends		
12	Capital development expenditure	20	Expropriation of farming land
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 the farmer elect to make use of the formula, it is binding in future years and the farmer 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.

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EXCHANGE CONTROL REGULATIONS

Foreign Capital Allowance
Tax compliant individuals, 18 years and older, 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 (TCS) 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. Proof of these transactions should be 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.

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

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.

Ceasing of Tax Residency
As from 1 March 2021, the concept of exchange control emigration is no longer applicable and has been aligned to the ceasing of tax residency.
An emigrant is permitted a foreign capital allowance from assets disclosed as at the date of ceasing of residency of R10 million (2015: R4 million) per calendar year subject to obtaining a TCS PIN.

Household and personal effects may be exported within an overall insured value of R1 million (prior to 18 January 2022: R2 million) per family unit in the same calendar year that the individual ceases to be a resident.

Income or capital distributions from an *inter vivos* trusts may be transferred abroad and will be deducted from the foreign capital allowance.

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 residents may:
- export Krugerrands up to an amount of 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 African currency for visits outside the common monetary area.

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. Income from pension and retirement annuity funds may be transferred abroad.

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 and can be retained abroad provided the original owner of such assets has complied with the regulations and will not be placed at the disposal of other South African residents.

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.

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

Foreign Investments 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 such assets to a non-resident must be repatriated to South Africa.
The transfer of proceeds on disposal to a resident requires prior approval from SARB. Interest and dividends are 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 R5 billion (Prior to 23 February 2022 : R1 billion) per calendar year. Approval from SARB is required for foreign direct investments exceeding this limit.
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.

Loop Structures
As from 1 January 2021, the restriction of loop structures in relation to resident individuals, companies and private equity funds has been lifted.
The previous regulations permitted a maximum investment of 40% of the equity and/or voting rights in a non-resident company. The change in the regulations removes this 40% restriction. However, approval must still be sought from SARB through the resident's authorised dealer.
Existing unauthorised loop structures (created prior to 1 January 2021 or where the 40% threshold was exceeded) must be regularised with SARB.

Withdrawal of Lump Sums from Retirement Funds
As from 1 March 2021, lump sum withdrawals can be made prior to retirement age where an individual remains non-resident for an uninterrupted period of three years. Prior to such date, pre-retirement lump sum withdrawals were only permitted upon exchange control emigration.

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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.

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, postal or physical address, VAT registration number, description and quantity of goods, VAT amount and display the words "tax invoice", "VAT invoice" or "invoice".

Input credits may be claimed within five years of the date of the tax invoice.

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

Registration Requirements

A vendor is required to register for VAT if taxable supplies (including the supply of electronic services) in any 12 month period exceeds or is likely to exceed R1 million. Registration is not required where this threshold is exceeded as a result of abnormal circumstances of a temporary nature.

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.

VAT CLAW-BACK FOR DEVELOPERS

Where a property developer is unable to sell residential property and temporarily leases the property, a change of use adjustment must be made to account for the output tax. The deemed output is based on the open market value of the property when it is leased for the first time. A temporary concession was granted for the period 10 January 2012 to 31 December 2017 for the units temporarily leased for a maximum period of 36 months per unit.

Where a change of use adjustment was made between 10 September 2020 and 31 March 2022, the subsequent sale of the property is subject to Transfer Duty.

As from 1 April 2022, the change of use adjustment is based on the adjusted cost (cost of construction, extension or improvement) of the property provided it is temporarily leased for a period not exceeding 12 months. Where the lease period exceeds 12 months at the outset the change in use adjustment will be based on the open market value.

Where the property is sold or brought back into the "VAT net" by the end of the 12 month period, output tax is payable on the sale consideration or open market value respectively, with an input tax deduction allowed for the deemed output tax previously paid in terms of the change of use adjustment.

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

Individuals

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 one of the following "suspect" trades:

- Sporting activities
- 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
- Acquisition or disposal of cryptocurrency.

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

Companies

For years of assessment ending on or after 31 March 2023, companies will be limited to utilise their assessed loss to the **greater** of R1 million or 80% of their taxable income.

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.

This incentive ceases to apply to any year of assessment commencing the later of 1 January 2031 or ten years after the commencement of trading in the 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 the corporate rate.

An approved recreational club is exempt from provisional tax.

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

BODY CORPORATES

Levies accrued to 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 the corporate rate.

These entities are exempt from provisional tax.

PUBLIC BENEFIT ORGANISATIONS

An approved public benefit organisation (PBO) 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 the corporate rate. A PBO is exempt from provisional tax. A PBO is exempt from CGT except for assets used in a trading activity. An audit certificate is required confirming the donations received were used solely for the approved public benefit activities.

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.

Donations to the Solidarity Fund from 1 April 2020 to 30 September 2020 qualified for an additional 10% deduction.

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 of three years was replaced with 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.

In certain circumstances 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 subject to an approved instalment payment plan or is less than R100) or returns outstanding (except if arrangements are in place to submit those returns).

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 ten business days notice before revoking the compliance status.

The compliance status changes when the taxpayer becomes non-compliant.

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

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VOLUNTARY DISCLOSURE

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

The relief applies to penalties (excluding penalties for late submission), understatement penalties 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 and the practitioner had been given all the material facts and concluded that the taxpayer was more than likely correct in the tax treatment.

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, an 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 together with supporting documents 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.
Where there is a tax debt in dispute, a suspension of payment should be requested at **all** stages of the dispute process.

ADMINISTRATIVE PENALTIES

Failure to submit certain returns or disclose information will give rise to the following fixed amount 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 one or more (prior to 1 December 2021 at least two) 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.

HOME OFFICE DEDUCTION

The requirements for the deduction of home office costs are onerous and must be based on the ratio of the actual floor area of the office to the actual floor area of the home.
The deduction will only be allowed where the home office is regularly and solely used for the purpose of the taxpayer's trade and has been specifically equipped for such purpose.
Where the taxpayer derives income mainly from commission, the duties must be mainly performed outside the employer's office.
Where the taxpayer is an employee, the duties must be performed at the home office for more than 50% of the time.
The claiming of the deduction will impact the primary residence exemption for capital gains tax on the disposal of the property.

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TRUST DISTRIBUTIONS LOCAL TRUST

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 beneficiaries, 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 beneficiaries 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.
A capital gain distributed to a non-resident beneficiary is taxed in the trust. 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 beneficiaries of the second trust unless the second trust had a vested interest in the asset of the first trust prior to the disposal.

TRUST DISTRIBUTIONS FOREIGN TRUST

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

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
- Donations between companies forming part of the same group
- 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.

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% - 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.

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IRP5 CODES

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
3616 Independent Contractors
3618 Annuity from a provident or a provident preservation fund
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 - Non disabled person - Basic Education
3810 Company Contribution to Medical Aid
3813 Cost related to Medical Services paid by Company
3815 Non-Taxable Bursaries - Non disabled person - 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 - Non disabled person - Further Education
3821 Non-taxable Bursaries - Non disabled person - 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 Bursaries and Scholarships
3830 Non-Taxable Bursaries Disabled person - Basic Education
3831 Taxable Bursaries Disabled person - Further Education
3832 Non-Taxable Bursaries Disabled person - Further Education
3833 Taxable benefits-Bargaining Council employer contribution
3834 Non-taxable loan to purchase immovable property

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
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 and deemed paid by employee
4003 Provident Fund Contributions paid and deemed paid by employee
4005 Medical Aid Contributions paid and deemed paid by employee
4006 Total Retirement Annuity Fund Contributions paid and 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 11F 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
4587 Exempt foreign employment income taken into account by the employer for PAYE purposes

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 - Directors 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

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RETENTION OF DOCUMENTS/RECORDS

RECOMMENDED GUIDELINES

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

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

Close Corporations

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

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

Other Suggested Periods of Retention

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

Records of trust monies	Indefinite
Tax returns and assessments (after date of submission)	5 years
Staff personnel records (after employment ceased)	3 years
Salary and wage registers	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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