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Tax

Tax guidelines for clients
2014 | 2015

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IMPORTANT

This booklet is based on legislation currently in force in the Republic of South Africa and proposed legislation arising from the Budget speech as presented on 26 February 2014.

It attempts to summarise legislation and regulations, some of which are highly complicated and should therefore not be used in isolation as a basis for investment or taxation decisions, for which we propose that you approach us at LDP.

Whilst every care has been exercised in compilation, no responsibility is accepted for any inaccuracies or errors.

Date of issue: February 2014.

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This guide is prepared by ProBeta Training (Pty) Ltd.
This guide is prepared from 2013 promulgated tax acts and 2014/2015 tax proposals as presented during the budget speech.

Whilst every care has been taken in compiling this guide, readers are cautioned to use it as a guideline only and no liability is accepted for the consequences of any inaccuracies.
Figures in brackets refer to the previous tax year.

INCOME TAX RATES

Rate of normal income tax on taxable income of any natural person or special trust: 2014/2015

Taxable income	Rate of tax (R)
R 0 - R 174 550	18% of each R 1
R 174 551 - R 272 700	R 31 419 + 25% of the amount above R 174 550
R 272 701 - R 377 450	R 55 957 + 30% of the amount above R 272 700
R 377 451 - R 528 000	R 87 382 + 35% of the amount above R 377 450
R 528 001 - R 673 100	R 140 074 + 38% of the amount above R 528 000
R 673 101 and above	R 195 212 + 40% of the amount above R 673 100

Rate of normal income tax on taxable income of any natural person or special trust: 2013/2014

Taxable income	Rate of tax (R)
R 0 - R 165 600	18% of each R 1
R 165 601 - R 258 750	R 29 808 + 25% of the amount above R 165 600
R 258 751 - R 358 110	R 53 096 + 30% of the amount above R 258 750
R 358 111 - R 500 940	R 82 904 + 35% of the amount above R 358 110
R 500 941 - R 638 600	R 132 894 + 38% of the amount above R 500 940
R 638 601 and above	R 185 205 + 40% of the amount above R 638 600

Rebates

Type of rebate	2014	2015
Primary rebate	R 12 080	R 12 726
Secondary rebate for natural persons 65 years and older	R 6 750	R 7 110
Tertiary rebate for natural persons 75 years and older	R 2 250	R 2 367

Please note: The rebate is reduced proportionally where the period of assessment is less than 12 months.

Tax threshold

Type of person	2014	2015
Natural persons younger than 65 years	R 67 111	R 70 700
Natural persons 65 - 74 years	R 104 611	R 110 200
Natural persons 75 years and older	R 117 111	R 123 350

Corporate Tax Rates	2014	2015
Private and public companies and close corporations	28%	28%
Personal Service Provider Company	28%	28%
South African income of a foreign company	28%	28%
Public Benefit Organisations*	28%	28%
Recreational clubs**	28%	28%
Company carrying on long-term insurance business		
• Individual policyholder fund	30%	30%
• Company policyholder fund and corporate fund	28%	28%
Trusts	40%	40%

* The annual trading income exemption is greater of R 200 000 or 5% of total receipts.

** The annual trading income exemption is greater of R 120 000 or 5% of total membership fees.

WEAR AND TEAR ALLOWANCES

General

Fixed assets may be depreciated on the straight-line basis over their expected useful lives. SARS has indicated certain periods which will be acceptable in Interpretation Note 47. These include amongst others (in years):

Aircraft	4	Passenger vehicles	5
Air conditioners	6	Personal computers	3
Cash registers	5	Photographic equipment	6
Cellular phones	2	Photocopying equipment	5
Curtains	5	Power tools (hand)	5
Computer software	2	Shop fittings	6
Delivery vehicles	4	Television sets	6
Fax machines	3	Textbooks	3
Fitted carpets	6	Telephone equipment	5
Furniture and fittings	6	Trucks (heavy duty)	3
Kitchen equipment	6	Typewriters & calculators	6
Motorcycles	4	Workshop equipment	5

If the cost price of an item is less than R 7 000 it can be written off immediately.

Capital allowances

Type of asset	Rate
Small business corporations	
- New and unused plant and machinery used in a process of manufacture or similar process	100%
- Other depreciable assets	Normal wear and tear rates or 50%:30%:20%
Plant and machinery	
- New and unused, acquired on or after 1 March 2002 and used in a process of manufacture or similar process.	40%:20%:20%:20%
- Other plant and equipment	20%
Industrial buildings	
- Used wholly or mainly in the process of manufacturing or a similar process (from 1 October 1999). Also applicable to buildings used for research and development purposes on or after 1 April 2012	5%
New commercial buildings	
- Buildings or improvements contracted for on or after 1 April 2007 and construction, erection, or installation commences on or after that date	5%
Farming equipment	50%:30%:20%
Urban Development Zones	
- New buildings, extensions and additions (on or after 21 October 2008)	20% initial allowance and 8% thereafter
- Improvements (Applies until 31 March 2020)	20% straight line

Normal profits and/or capital gains made on involuntary disposals of depreciable assets will be recouped over the period that the replacement asset is depreciated. A contract to replace the depreciable asset must be concluded within 12 months and the asset brought into use within 3 years. Losses on the sale of depreciable business assets can be claimed from ordinary revenue for tax purposes.

RESIDENCE BASIS OF TAXATION

Resident

Residents of South Africa are taxable on their world wide income. To be considered a resident and therefore subject to South African income tax an individual must be either "ordinarily resident" in South Africa (have a permanent home in South Africa) or be "physically present" in the Republic of South Africa.

The last test (physically present) requires that an individual be present in South Africa:

- For more than 91 days in aggregate during the particular year of assessment; and
- For more than 91 days in aggregate during each of the preceding five years; and
- For more than 915 days in aggregate during the preceding five years.

If the individual was outside the Republic of South Africa for a continuous period of 330 days after ceasing to be physically present in South Africa, then the individual will no longer be a resident from the commencement of the 330 day period.

A person other than a natural person will be a resident as defined if it is:

- Incorporated in the Republic of South Africa; or
- Established or formed in the Republic of South Africa; or
- Has its place of effective management in the Republic of South Africa.

If you are a resident, whether "ordinarily resident" or through being "physically present" in the Republic of South Africa, the source of the income is irrelevant and the income will be taxed in South Africa.

The definition of a resident does not include any person who is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the governments of the Republic and that other country for the avoidance of double taxation, as well as certain companies meeting specific criteria.

There are, however, many pitfalls and the legislation is very complex and we advise you to contact us when foreign income is received.

Non-resident

Non-residents are taxed on their income from a source within or deemed to be within the Republic of South Africa. For individual non-residents the same tax thresholds would be applicable as for South African residents.

Business income
Business income is taxed in South Africa if the profits of the business are from a South African source. Most double taxation agreements state that these profits will only be taxable in South Africa if the non-resident has a permanent establishment located in South Africa.

Remuneration and fees
These are taxed in South Africa if the services are rendered in South Africa.

Withholding taxes
Interest received
A withholding tax will be introduced from 1 January 2015. The tax will be levied at a rate of 15% of the interest received by, or accruing to a foreign person. It only applies to interest from a South African source. It is also applicable to interest income which a South African trust distributes to a non-resident beneficiary.

The withholding tax is a final tax. No further South African tax is paid on the interest.

Interest received by, or accruing to a non-resident, will be exempt from the withholding tax if the interest is paid by:
- The government of the Republic;
- Any bank, the South African Reserve Bank, the Development Bank of Southern Africa or the Industrial Development Corporation; or
- A headquarter company in respect of it granting financial assistance to which the transfer pricing rules do not apply.

The interest will also be exempt from the withholding tax if it is paid in respect of any:
- Listed debt instruments; or
- If it is payable as contemplated in section 21(6) of the Financial Markets Act to any foreign person that is a client as defined.

Dividends
All dividends paid to non-residents are subject to a final withholding tax of 15%. That rate of tax may be altered by the provisions of an agreement for the avoidance of double taxation in place between South Africa and the other country.

Royalties
A final withholding tax of 12% is levied on royalty payments subject to the provisions of any agreement for the avoidance of double taxation in place between South Africa and the other country. (This rate will increase from 1 January 2015 to 15%).

Foreign entertainers and sports persons
A final tax of 15% is payable on all amounts received by, or accrued to a non-resident in respect of any specified activity exercised, or to be exercised. Any person who is primarily responsible for founding, organising or facilitating a specified activity in the Republic and who will be rewarded, directly or indirectly for doing so, is required to notify the Commissioner within 14 days after the agreement has been concluded, that the specified activity is to take place.

Service fees

A withholding tax of 15% of the gross amount of service fees paid to a non-resident will come into effect from 1 January 2016, and will apply in respect of service fees that are paid, or become due and payable, on or after that date (subject to tax treaty relief).

Service fees means any amount that is received or accrued in respect of technical services, managerial services and consultancy services, but does not include services incidental to the imparting of any scientific, technical, industrial or commercial knowledge or information, or the rendering of any service in connection with the application or utilisation of such knowledge or information.

A foreign person is exempt from the withholding tax on service fees if that service fee constitutes remuneration paid by an employer to an employee.

General rules pertaining to withholding taxes

The person who pays the fees/interest is responsible for withholding the correct amount of tax and paying it over to SARS.

Persons potentially subject to a withholding tax, can be relieved of their withholding liability, only if the person paying the fees/interest to a non-resident receives a declaration of exemption/treaty relief from the non-resident. This declaration must be submitted by the earlier of the date set by the person paying the fees/interest or the date of payment.

Payment to SARS of withholding taxes must be made at the close of the month following the month in which the fees/interest is paid.

A refund may be claimed from SARS if a withholding tax on fees/interest is improperly withheld and application is made to SARS within three years after payment of the applicable fees/interest.

If the payment of fees/interest is denominated in a foreign currency, the currency must be converted to the South African Rand at the spot rate on the date of withholding.

A foreign person is exempt from the withholding tax on fees/interest if that foreign person is a natural person who was physically present in the Republic for a period exceeding 183 days in aggregate during the twelve-month period preceding the date on which the fees/interest is paid, or the fee/debt claim in respect of which that fee/interest is paid is effectively connected with a permanent establishment of that foreign person in the Republic if that foreign person is registered as a taxpayer in the Republic. The reason is that the fee/interest is subject to normal income tax.

Sale of immovable property

Non-residents are subject to a withholding tax on the disposal of immovable property in South Africa for a consideration in excess of R 2 million.

Unless a directive is provided by the non-resident seller, the following amounts must be withheld by the purchaser of the property from the selling price:

• Where the seller is a natural person	5.0%
• Where the seller is a company	7.5%
• Where the seller is a trust	10.0%

The amount withheld by the purchaser must be paid to SARS:

- Within 14 days if the purchaser is a resident; or
- Within 28 days if the purchaser is a non-resident,

after the date on which that amount was withheld.

A late payment is subject to a 10% penalty and interest.

INTEREST AND DIVIDEND INCOME

South-African interest

Local interest is exempt limited to the following maximum amounts:

	2014	2015
Natural persons under 65 years	R 23 800	R 23 800
Natural persons aged 65 years and over	R 34 500	R 34 500

Foreign interest

Foreign interest is taxable.

South African dividends

South African dividends received by or accrued to a natural person are subject to a 15% dividend withholding tax.

Dividends in respect of employment

Shares and other equity-linked instruments, granted to employees, are generally subject to income tax at the earlier of vesting or disposal. Dividends are often paid on these instruments prior to vesting/disposal.

Dividends paid in respect of 'restricted equity instruments' are not exempt unless:

- The dividend arises from an equity share, excluding certain hybrid equity instruments (e.g. preference shares);
- The dividend itself is an equity instrument; or
- The dividend arises from a trust solely containing equity shares, excluding certain hybrid equity instruments (e.g. preference shares).

From 1 March 2014

Any dividends paid (on or after this date) to a person in respect of services rendered, or to be rendered in respect of, or by virtue of employment, or the holding of any office will not be exempt, unless the dividend is paid in respect of a restricted equity instrument. If the dividend is not exempt, it will be treated and taxed as normal remuneration received by the employee for rendering employment services. As a result, the payment will be subject to tax at the employee's marginal tax rate (up to 40%) as opposed to the 15%

dividend withholding tax rate. This will equally apply to dividend payments made via an employee share trust.

The employer declaring a dividend of this nature will then be allowed a deduction equal to the amount included in the employee's remuneration.

Foreign dividends
Most foreign dividends are included in the recipient's gross income. The following foreign dividends are however exempt:

- Participation exemption where a person holds at least 10% of the total equity shares and voting rights in the company declaring the foreign dividend;
- Where the shareholder is a company and resident in the same country as the other foreign company that paid or declared the foreign dividend;
- Dividends received from a Controlled Foreign Company (CFC) that have already been taxed in the hands of the taxpayer when the profits were first made;
- A dividend received from a dual listed company (and is not an asset distributed *in specie*).

Any remaining taxable foreign dividend is subject to a formula whereby the portion of the dividend exempt from taxation is:

- the ratio of 25/40 for a natural person, deceased or insolvent estate, or special trust; and
- the ratio of 13/28 for other taxpayers.

The maximum effective rate of taxation as a result of the formula is 15%.

The foreign dividend exemptions do not apply to a foreign dividend received or accrued to a person in respect of services rendered, or to be rendered, or in respect of or by virtue of employment, or the holding of any office other than a foreign dividend received or accrued in respect of a restricted equity instrument.

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

No deduction will be allowed in respect of any expenses incurred in the production of foreign dividends.

INDIVIDUALS

Deductions for individuals

Pension fund contributions

- Limited to the greater of 7,5% of remuneration derived from retirement-funding employment or R 1 750.
- Unutilised portions of contributions cannot be carried forward to the following year of assessment, but are accumulated for the purpose of determining the tax free portion of the lump sum upon retirement.
- Arrear contributions are limited to R 1 800. Any excess may be carried forward to the next year of assessment.

Retirement annuity fund contributions

- Limited to the greater of:
  - R 1 750; or
  - R 3 500 less current pension fund contributions; or
  - 15% of taxable income, excluding retirement funding remuneration, taxable capital gain, and lump sums from retirement funds and severance benefits.
- Arrear contributions are limited to R 1 800.
- Unutilised portion of contributions can be carried forward to the following year.

Provident fund contributions

Contributions to approved provident funds by natural persons are not allowed as a deduction from the taxpayer's income.

From 1 March 2015

Member contributions

Members making a contribution will receive a uniform deduction for contributions to a pension, provident or retirement annuity fund. Deductible contributions will be limited to the lesser of:

- A monetary limit of R 350 000; or
- 27.5% of the greater of "remuneration" or "taxable income" (excluding retirement lump sums, withdrawal and severance benefits).

Contributions in excess of the annual limits may be rolled over to future years, where the amounts will again be deductible together with contributions made in that year, but subject to the limits applicable in that year. If any contributions have not been deducted as at retirement, the nominal value will be available to be set off against any lump sum income prior to the tax calculation, or will be available at assessment to reduce the tax payable in respect of compulsory annuities.

Employer contributions

Employer contributions to all approved retirement funds will be deductible. The deduction will effectively be unlimited. The employer deduction will be available regardless of whether the fund allocates the contribution to a current or a retired employee. However, no fringe benefit will arise in the case of an employer contribution allocable by a retirement fund to a retired member of the fund.

Employee fringe benefit

Any contributions made by an employer, for the benefit of an employee, will be taxed as a fringe benefit in the hands of the member as follows:

- If the contributions are made to a defined contribution fund, the taxable fringe benefit is the cash value of the contribution.
- If the contributions are made to a defined benefit fund, the taxable fringe benefit will be determined through a special formula.

Income protection policies

An income protection policy is a policy that will cover the individual person against loss of income as a result of illness, disability or unemployment. The total premium paid by the employee is tax deductible.

From 1 March 2015
Premiums paid by natural persons in respect of life, disability and severe illness policies will no longer be deductible if the policies are aimed at income protection. All pay-outs on these policies will be tax-free, irrespective of whether the payout takes the form of a lump sum or an annuity.

Where an employer pays a premium in respect of an employer-provided insurance policy for the benefit of an employee, the premium will be deductible for the employer, as long as the premium is taxed as a fringe benefit in the hands of employee. With the employee being taxed on the premium (with no subsequent deduction available), the policy pay-outs will be exempt from tax.

There will be no transitional period for current policy holders, meaning that premiums going forward will no longer be eligible for deduction even if the plans are pre-existing. On the other hand, all policy pay-outs will be tax-free even if the policy previously generated deductible premiums.

Donations
Donations to certain public benefit organisations are deductible, limited to 10% of taxable income, before the deduction of donations and medical expenses and excluding any retirement lump sum benefit. The taxpayer must be in receipt of a qualifying section 18A donations certificate. The amount of the donation made in excess of the limit is permanently lost.

From 1 March 2014
Donations in excess of 10% will no longer be permanently lost and the excess will be rolled over and allowed as a deduction in the subsequent tax year (subject to the 10% rule). If any excess remains, the excess can be further rolled over again.

Travel expenses (Only claim against travel allowance)
In order for an individual to claim a deduction, a log book must be maintained to justify business use. A log book must contain at least the date of travel, destinations of travel, reasons for travel and the business kilometres travelled. Accurate records of the opening and closing odometer readings must be maintained.

The following schedule must be used to determine the deductible portion of the allowance (alternatively the actual expenditure may be used):
Deemed expenditure – tax year ending 28 February 2015

Value of the vehicle (Inc Vat)	Fixed costs R	Fuel costs c	Maintenance costs c
0 - 80 000	25 946	92.3	27.6
80 001 - 160 000	46 203	103.1	34.6
160 001 - 240 000	66 530	112.0	38.1
240 001 - 320 000	84 351	120.5	41.6
320 001 - 400 000	102 233	128.9	48.8
400 001 - 480 000	120 997	147.9	57.3
480 001 - 560 000	139 760	152.9	71.3
560 000 and above	139 760	152.9	71.3

Deemed expenditure – tax year ending 28 February 2014

Value of the vehicle (Inc Vat)	Fixed costs R	Fuel costs c	Maintenance costs c
0 - 60 000	19 310	81.4	26.2
60 001 - 120 000	38 333	86.1	29.5
120 001 - 180 000	52 033	90.8	32.8
180 001 - 240 000	65 667	98.7	39.4
240 001 - 300 000	78 192	113.6	46.3
300 001 - 360 000	90 668	130.3	54.4
360 001 - 420 000	104 374	134.7	67.7
420 001 - 480 000	118 078	147.7	70.5
480 000 and above	118 078	147.7	70.5

Where the employee retained supporting documentation then the actual expenditure can be claimed on assessment, but limited to the value of the allowance. Where the deduction is based on actual expenditure the ceiling on the vehicle cost is R 560 000 (R 480 000) and the ceiling on the debt relating to the vehicle cost is also R 560 000 (R 480 000). The wear and tear is limited to this value and must be determined over a period of 7 years.

Self-employed taxpayers must claim motor vehicle expenses based on the actual costs in respect of the particular vehicle over the actual distance covered. It follows that a log book must be maintained to justify the business use.

Medical aid contributions and medical expenses

For individual taxpayer's, medical expenses fall into two categories:

- Contributions to a medical aid scheme; and
- Out-of-pocket medical expenses (qualifying expenses).

Up to 28 February 2014

Medical expenses deduction

- If the taxpayer is over 65 there is no limit on the deduction.

Where the taxpayer is under the age of 65 the amount deductible is:

- The sum of the medical aid contributions, as exceeds four times the amount of the medical schemes fees tax credit and all qualifying medical expenses that in aggregate exceeds 7.5% of taxable income (excluding any retirement fund lump sum benefit) as determined before allowing this medical aid deduction.

Where the taxpayer, his or her spouse or child is a person with a disability, the amount deductible is:

- The aggregate of the medical aid contributions that exceeds four times the amount of the medical schemes fees tax credit and all qualifying medical expenses.

Medical scheme fees tax credit

Taxpayers younger than 65 must deduct a rebate known as the medical scheme fees tax credit from normal tax payable in respect of contributions to a medical scheme. The amount of the rebate is:

- R 242 for the taxpayer;
- R 484 for the taxpayer and one dependant; or
- R 484 for the taxpayer and one dependant, plus R 162 for each additional dependant, for each month in the year of assessment for which the fees are paid.

From 1 March 2014

For years of assessment, commencing on or after 1 March 2014, the deduction system for medical expenses will be replaced with the tax credit system in respect of all medical scheme contributions and qualifying medical expenses for all taxpayers.

Medical scheme fees tax credit

- R 257 for the taxpayer;
- R 514 for the taxpayer and one dependant; or
- R 514 for the taxpayer and one dependant, plus R 172 for each additional dependant, for each month in the year of assessment for which the fees are paid.

Additional medical expenses tax credit

For taxpayers 65 and older and for persons with a "disability" (in the immediate family) the additional medical expenses tax credit will be calculated as follows:

- 33.3% of the fees paid to a medical scheme or fund as exceeds three times the amount of the medical scheme fees tax credit to which that person is entitled; and
- 33.3% of qualifying medical expenses paid by the person.

For all other natural persons, the additional medical expenses tax credit will be 25% of so much of the aggregate of:

- The amount of the fees paid to a medical scheme or fund, as exceeds four times the amount of the medical scheme fees tax credit, to which that person is entitled; and
- The amount of qualifying medical expenses paid by the person,

as exceeds 7,5% of the person's taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit).

For PAYE purposes, the employer may only take the medical scheme fees tax credit into account. Where the employer does not give effect to the payment of the medical aid contributions, it may only take the medical scheme fees tax credit into account if proof of payment of such contributions has been furnished.

The medical scheme fees tax credit applies in respect of fees paid by the taxpayer to:

- A registered medical scheme; or
- A foreign fund which is registered under any similar provisions contained in the laws of another country.

Definition of a "disability"

A "disability" means a moderate to severe limitation of a person's ability to function or perform daily activities, as a result of a physical, sensory, communication, intellectual or mental impairment if the limitation:

- Has lasted longer, or has a prognosis of lasting more than a year; and
- Is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner.

Meaning of "physical impairment"

The meaning of a "physical impairment" is not defined in the Act but it is regarded as a disability that is less restraining than a "disability" as defined. It means the restriction on the person's ability to function or perform daily activities, after maximum correction, is less than a "moderate to severe limitation". Maximum correction means appropriate therapy, medication and use of devices.

Meaning of "qualifying medical expenses"

Any amounts (other than amounts recoverable by the taxpayer, or his or her spouse) which were paid during the year of assessment:

- To a medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopedist for professional services rendered or medicines supplied to the person or any dependant of the person; or
- To a registered nursing home or hospital, or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of the services of such a nurse, midwife or nursing assistant) in respect of the illness or confinement of the person or any dependant of the person; or
- To a pharmacist for medicines supplied on prescription; or
- For expenditure incurred outside the Republic that is substantially similar to qualifying medical services rendered and medicines supplied in South Africa; and
- That is prescribed by the Commissioner (other than expenditure recoverable by a person or his or her spouse) and necessarily incurred and paid by the person during the year of assessment in consequence of any physical impairment or disability suffered by the person or any dependant of the person.

Please note: Only where a taxpayer or dependant has a "disability" as defined will he/she qualify for the additional medical expenses tax credit at 33.3%. Where a taxpayer or dependant has a "physical impairment" the expenses incurred will be regarded as "qualifying medical expenses".

Home study expenses

A deduction for home study costs will be allowed if:

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

Ring fencing of assessed losses

Certain assessed losses incurred by a natural person in the carrying on of a secondary trade will not be allowed to be set off against income other than income derived from that trade.

There are two conditions to be met before this section becomes applicable:

- Firstly, the provisions of the section will only apply when the taxable income of a person for a year of assessment (before taking into account the set-off of any assessed losses incurred in carrying on any trade during that year and the balance of assessed losses carried forward from the preceding year) equals or exceeds the amount at which the maximum marginal rate of tax chargeable for the taxable income of individuals becomes applicable.
- Secondly, it focuses on the loss generating activity (losses in three out of five years or a listed suspect trade).

The three out of five year rule will apply when the person has, during the five year period ending on the last day of that year of assessment, incurred an assessed loss in at least three years of assessment in carrying on the trade, (before taking into account any balance of assessed losses carried forward).

List of suspect trades

- Any sport practiced by the natural person or any relative;
- Any dealing in collectibles by the person or any relative;
- The rental of residential accommodation, unless at least 80% of it is used by persons who are not relatives for at least half of the year of assessment;
- The rental of vehicles, aircrafts or boats as defined in the Eighth Schedule, unless at least 80% of their use is by persons who are not relatives for at least half of the year of assessment;
- Animal showing by the person or any relative;
- Farming or animal breeding, unless the person carries on farming, animal breeding or activities of a similar nature on a full time basis;
- Any form of performing or creative arts practiced by the person or any relative; or
- Any form of gambling or betting practiced by the person or any relative.

Please note: The above list does not include the owners of racehorses.

A "fact and circumstances" escape hatch exists for assessed losses incurred by a person during any year of assessment from carrying on any trade, when that trade constitutes a business for which there is a reasonable prospect of deriving taxable income (other than a taxable capital gain) within a reasonable period.

In making this determination special regard must be given to the following six factors:

- Proportion of gross income in relation to allowable deductions;
- Advertising and selling;
- Commercial manner;
- Period of losses in duration of activities;

- Business plan;
- Trade versus recreation.

The above “escape hatch” does not apply to any of the listed trades (other than farming) carried on by a person during any year of assessment when he/she has, during the ten year period ending on the last day of that year of assessment, incurred an assessed loss in at least six of the years of assessments in carrying on that trade (before taking into account any balance of assessed losses carried forward).

Any assessed losses carried forward from the preceding year of assessment, which is attributable to an assessed loss which failed the “escape hatch” may not be set off against any income derived by that person other than from carrying on that trade. In other words this assessed loss brought forward is “ring-fenced”.

EXEMPT INCOME

Foreign employment

Any form of remuneration that is received by or accrued to an employee, provided that it is in respect of services rendered outside of the Republic by that employee for or on behalf of any employer, shall be exempt from normal tax, provided that the employee was outside of the Republic:

- For a period or periods exceeding 183 full days in aggregate during any period of 12 months; and
- For a continuous period exceeding 60 full days during that period of 12 months.

ALLOWANCES AND REIMBURSEMENTS

An allowance is an amount of money granted by the employer, to an employee, where the employer is certain that the employee will incur business related expenditure on behalf of the employer, but where the employee is not obliged to prove, or account to the employer for the expenditure.

A reimbursement is a repayment by the employer to the employee for business-related expenditure incurred by the employee, and is subject to proof of the expenditure by the employee.

Travelling and car allowances

Employees' tax is calculated on 80% of the travel allowance. However, employees' tax may be calculated on 20% of the travel allowance if the employer is satisfied that at least 80% of the use of the vehicle for the year of assessment will be for business purposes.

Reimbursive travel allowance

If only compensated for business travel, and where business travel does not exceed 8 000 km for the year, the rate can at the option of the taxpayer, be determined at 330 (324) cents per kilometre. No other compensation in the form of a travel allowance or reimbursement may be paid by the employer. No PAYE is withheld and the amount is not subject to taxation on assessment.

Subsistence allowance

If an employee is obliged to spend at least one night away from his/her usual place of residence in South Africa on business, a subsistence allowance may be paid as follows by the employer without the amount being included in the employee's taxable income:

Travelling inside South Africa:	R 103 (R 98) per day for incidental costs excluding meals.
Travelling inside South Africa:	R 335 (R 319) per day for incidental costs including meals.
Travelling outside South Africa:	The amount deemed to have been expended is different for each country. Details can be found on the SARS website.

The allowance for incidental costs is to cover expenses such as beverages, private telephone calls, tips and room service.

FRINGE BENEFITS

A fringe benefit refers to payments made to employees in a form other than cash. A taxable benefit is deemed to have been granted by the employer to the employee if such benefit is granted as a reward for services rendered or to be rendered.

Definition of remuneration proxy

Remuneration proxy means the remuneration derived by an employee, from an employer, during the year of assessment immediately preceding that year of assessment: Where during a portion of such preceding year, the employee was not in the employment of the employer (or associated institution), the remuneration proxy is deemed to be the yearly equivalent of the employee's remuneration for the portion of such preceding year during which the employee was in such employment. Where during the whole of such preceding year, the employee was not in the employment of the employer, (or associated institution), the remuneration proxy is deemed to be the yearly equivalent of the first month during which the employee was in the employment of the employer.

Acquisition of an asset at less than the actual value

A taxable benefit arises where an employee acquires an asset consisting of any goods, commodity, financial instrument or property of any nature (other than money), either for no consideration or for a consideration that is less than the market value of the asset.

The value to be placed on such asset shall be the market value thereof, at the time the asset is acquired by the employee, less the value of any consideration given by the employee for such asset.

The cost of the asset must be used to determine the value of the benefit where:

- The asset is movable property (other than marketable securities or an asset which the employer had the use of prior to acquiring ownership thereof) and was acquired by the employer in order to dispose of it to the employee; or

- The asset was held by the employer as trading stock, unless the market value thereof is less than cost, in which case the market value must be used.

No value shall be placed on:
- Fuel or lubricants supplied by an employer to his employee for use in a motor vehicle provided by the employer.
- Any asset awarded as a long service or bravery award up to R 5 000.

Long service means an initial unbroken period of service of not less than 15 years, or any subsequent unbroken period of service of not less than 10 years.

From 1 March 2014
No value shall be placed on any immovable property acquired by an employee for less than the market value, provided that the employee's remuneration proxy does not exceed R 250 000 in relation to the year of assessment during which the immovable property is so acquired, and the market value of the immovable property on the date of acquisition does not exceed R 450 000. The employee may also not be a connected person in relation to the employer.

Right of use of an asset
A taxable benefit arises where an employee has been granted the private or domestic use of any asset free of charge or for a consideration that is less than the determined value of the use.

The value of the taxable benefit is the determined value of the private use or domestic use of the asset, less any consideration given by the employee for its use during that period, and any amount spent by him on its maintenance or repair.

The determined value is:
- The amount of the rental/lease if the asset is hired or leased by the employer, or
- Where the employer owns the asset, 15% per annum of the lesser of the cost to the employer, or the market value of the asset when the employer is first granted the use of the asset.

The following are excluded:
- Private use that is incidental to the business use;
- Provided as an amenity or for recreational purposes at the place of work or for the use of employees in general;
- Private purpose use is for a short period and the Commissioner is satisfied that the value of private use is negligible;
- Books, literature, recordings or works of art.

Use of company owned motor vehicle
A taxable benefit arises where an employee is granted the right to use the employer's motor vehicle. Private use includes travelling between the employee's place of residence and place of work, as well as other private travel.

The taxable value is 3.5% per month of the vehicle's determined value, but will be reduced to 3.25% per month where the motor vehicle is the subject of a maintenance plan, for not less than 3 years and/or 60 000 kilometres. The determined value of the vehicle includes VAT, but excludes finance charges and interest. The value of the benefit must be reduced by any consideration given by the employee.

Where a vehicle has been acquired by an employer under an operating lease the value of the fringe benefit is the total of:

- The actual cost incurred by an employer under the lease; and
- The cost of fuel for the vehicle.

The vehicle must be leased from an "unconnected person" dealing at arm's length. No relief in this case is given for business kilometers travelled.

Definition of an operating lease:
It is a lease of movable property that is concluded by a lessor in the ordinary course of a business of letting vehicles, excluding a banking, financial services or insurance business, if:

- The vehicle may be hired by members of the general public directly from the lessor for a period of less than a month;
- The cost of maintaining and repairing the vehicle in consequence of normal wear and tear must be borne by the lessor; and
- The risk of destruction or loss of the vehicle is not assumed by the lessee.

The employer must withhold employees' tax on 80% of the taxable value of the fringe benefit. However, employees' tax need only be withheld on 20% of the fringe benefit where the employer is satisfied that at least 80% of the use of the vehicle for the year of assessment will be for business purposes.

Where an employee has been granted the right of use of a motor vehicle, and the vehicle, or the right of use thereof, was acquired by the employer not less than 12 months before the date on which the employee was granted such right of use, there shall be deducted from the amount determined, a depreciation allowance calculated according to the reducing balance method, at the rate of 15% for each completed period of 12 months from the date on which the employer first obtained such vehicle or the right of use thereof to the date on which the employee was first granted the right of use thereof.

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

The value of the fringe benefit must be reduced on assessment where accurate records have been kept in respect of distances travelled for business purposes by the ratio that the business mileage bears to the total distance travelled during the year of assessment. The value must further be

reduced if the employee bears the full cost of the license, insurance, or the maintenance of the vehicle, then the value of private use is reduced to the extent of that full cost multiplied by the ratio of private kilometres travelled in relation to total kilometres travelled for the year. If the employee bears the full cost of fuel for private use of the vehicle, then the value of private use is reduced by the amount of private kilometres travelled multiplied by the fuel cost in the travel allowance table.

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

- It is available to, and used by all employees as a pool car in general, the private use is incidental to the business use, and the vehicle is not normally kept at or near the residence of the employee, or
- The nature of the employee's duties requires regular use of the vehicle outside normal working hours, and the private use is infrequent or incidental to the business use.

The provision of a company owned vehicle constitutes a deemed supply for VAT purposes. The deemed consideration is as follows:

- Motor car 0.3% of the determined value (excl VAT) per month.
- Other vehicles 0.6% of the determined value (excl VAT) per month.

Benefits in respect of insurance policies

Premiums paid by an employer in respect of insurance policies for the benefit of employees will constitute a taxable fringe benefit in the employees' hands. The cash equivalent of the value of the taxable benefit is the amount of any contribution or payment made by the employer in respect of a year of assessment, for premiums payable under a policy of insurance, directly or indirectly, for the benefit of an employee or his/her spouse, child, dependant or nominee.

The above does not apply to any premium paid by the employer on a policy that relates to an event arising solely out of, and in the course of, employment of the employee.

If the employer pays a premium under a loss of income policy and the premiums are taxed as a fringe benefit, the employee is deemed to have paid the premium. This will no longer apply as from 1 March 2015.

Medical aid contributions

The full medical scheme contribution made by the employer is taxed as a fringe benefit in the hands of the employee. If the employer makes a lump sum payment for all employees, the fringe benefit is determined according to a formula, which will have the effect of apportionment amongst the employees concerned. The amount is then deemed to be medical scheme contributions made by the employee.

No value shall be placed on the taxable benefit where the contribution is in respect of:

- An employee that retired due to superannuation, ill health or other infirmity, or dependants of that person after their death;

- Dependants of a deceased employee who was in the employ of the employer on the date of that person's death; or
- A person that is aged 65 years or older at the end of the year of assessment.

Where the employer effects the payment to the medical scheme, the medical scheme fees tax credit must be taken into consideration for PAYE purposes. If the employee effects the payment, the employer has the option to take the credit into consideration for PAYE purposes.

Where an employer paid medical costs in respect of any medical, dental or similar services, hospital services, nursing services and prescribed medicines on behalf of an employee, his or her spouse, child, other relative or dependant, such payments are regarded as taxable fringe benefits.

Residential accommodation

Where the employer provides free or cheap housing, the taxable value is the greater of the amount of the actual cost to the employer or the amount determined according to a formula (in both cases the amount of any rentals paid by the employee will be deducted from the amount calculated).

The formula:

(A - B) x C/100 x D/12 where:

A = remuneration proxy as determined in relation to the year of assessment.

B = R 67 111 (subject to certain exclusions).

C = 17, or

If the accommodation consists of a house, flat or apartment consisting of at least four rooms, then:

= 18 if unfurnished and power or fuel is supplied by the employer, or furnished and no power or fuel is supplied by the employer.

= 19 if furnished and power or fuel is supplied by the employer.

D = the number of completed months in the year of assessment during which the employee is entitled to the accommodation.

The formula must be used where:

- Full ownership vests in the employer; or
- Full ownership does not vest in the employer, and it is customary in the industry concerned or necessary for the employer to provide free or subsidised accommodation:
  - For the proper performance by employees of their duties; or
  - As a result of the frequent movement of the employees, or
  - As a result of the lack of employer owned accommodation; and
  - The benefit is provided solely for business purposes.

No rental value will be placed on the following:

- Supply of accommodation to an employee away from his/her usual place of residence in the Republic for the purposes of performing the duties of employment.

- If an employee's usual place of residence is outside South Africa, the employee will not be taxed on being given the use of residential accommodation in South Africa for a period of up to two years from the date of arrival in South Africa. The exemption will not apply if:
  - The employee was present in the Republic for a period exceeding 90 days during the year of assessment immediately preceding the date of arrival; or
  - To the extent that the cash equivalent of the value of the taxable benefit exceeds an amount of R 25 000 multiplied by the number of months during which the housing was provided.
- If an employee's usual place of residence is outside South Africa, the employee will not be taxed on the use of residential accommodation in South Africa if the employee is physically present in South Africa for a period of less than 90 days in that year.

Holiday accommodation

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

Free or cheap services

Where services are provided to an employee, by his employer or by another person on behalf of the employer, for an amount lower than the actual costs, or at no cost to the employee, the value to be placed on the service is the difference between the actual cost to the employer and the amount paid by the employee for that service. Where the employer's business is to convey passengers by sea or air, then travel to destinations outside South Africa is valued at the lowest full fare less any amount paid by the employee.

The following services are excluded:

- Travel facilities provided by an employer, who is in the business of conveying passengers, to his employee, his/her spouse or minor child, to travel to any destination in or outside South Africa, but only on a stand-by basis.
- Transport services to convey employees between their home and work.
- Services rendered by the employer to assist employees with better performance of their duties.
- Travel facilities granted to a spouse or minor child of an employee, who is stationed more than 250 km away from his/her usual place of residence in the Republic for business purposes, for more than 183 days during the relevant year of assessment.

Long service and bravery awards

The first R 5 000 of the value of any asset awarded, excluding cash, is not subject to tax. Long service is an initial unbroken period of 15 years or any subsequent unbroken period of 10 years.

Interest on loans

The taxable benefit arising from interest-free or low-interest loans granted to employees is the difference between interest payable on the loan by the employee and the official rate (repurchase rate plus 1%).

No benefit is placed on a casual loan to an employee up to R 3 000, or in respect of a study loan to enable the employee to further his/her studies.

Payment of employee's debt or release from debt

A taxable fringe benefit arises when the employer has directly or indirectly paid an amount owing by the employee, to any third party, without holding the employee accountable for such amount, or requiring the employee to reimburse the employer. This includes releasing an employee from an obligation to pay an amount owing by the employee to the employer.

The taxable value is the amount the employer paid/settled on behalf of the employee, or the amount of debt from which the employee has been released.

Uniform allowance

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

Free or subsidised meals and refreshments

A taxable benefit arises if an employee has been provided with any meal or refreshment or voucher entitling him to any meal or refreshment for free or for a consideration which is lower than the value of the benefit.

No value is placed on the benefit if it is:

- Provided in a canteen, cafeteria or dining room operated by, or on behalf of the employer, and patronised wholly or mainly by employees;
- Supplied during business hours, extended working hours or on a special occasion;
- Enjoyed by an employee in the course of providing entertainment on behalf of the employer.

Bursaries and scholarships

Any *bona fide* scholarship or bursary granted to assist or enable any person to study at a recognised educational or research institution is exempt.

The following rules apply if the scholarship or bursary has been granted by an employer to an employee or a relative of an employee:

- The exemption will not apply unless the employee agrees to reimburse the employer for any scholarship or bursary if the employee fails to complete his or her studies for reasons other than death, ill-health or injury.
- If a bursary or scholarship is awarded to a relative of the employee, the exemption will apply only if the employee's remuneration proxy does not exceed R 250 000 (previously R 100 000) during the year of assessment, and the amount of the bursary or scholarship does not exceed R 10 000 in the case of qualifications up to and including matric or grade 12 (previously R 10 000 was allowed for all qualifications) or R 30 000 in respect of any further education. (NQF level 5 - 10). (With retrospective effect from 1 March 2013).

Share incentive schemes

An employee as well as a director who derived a gain in respect of rights to acquire equity instruments (including shares, share options, convertible instruments or contractual rights) obtained in terms of a share incentive scheme, is subject to tax on such gain. The taxable gain is based on the difference between the amount paid by the employee to acquire the equity instrument, and the market value at the date of vesting.

The vesting date of an unrestricted instrument is the date when the instrument is acquired, whereas for restricted instruments the vesting date is the date when all restrictions ceases.

An employer must apply for a directive on the gain made from the vesting of any equity instrument.

Telephone or computer equipment provided by the employer

Where telephone or computer equipment is provided by an employer to an employee mainly for business use, no taxable fringe benefit will arise from the personal use of such items.

RETIREMENT BENEFITS

Retirement fund lump sum benefits or severance benefits

Retirement fund lump sum benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to the redundancy or termination of employer's trade.

Tax on the retirement fund lump sum benefit or a severance benefit is equal to:

- Tax determined by applying the tax table to the aggregate of that lump sum or severance benefit plus all other retirement fund lump sum benefits accruing from 1 October 2007, and all retirement fund lump sum withdrawal benefits accruing from 1 March 2009 and all other severance benefits received or accruing from 1 March 2011; less
- Tax determined by applying the tax table to the aggregate of all retirement fund lump sum benefits accruing from 1 October 2007 and all retirement fund lump sum withdrawal benefits accruing from 1 March 2009 and all severance benefits received or accruing from 1 March 2011.

The retirement fund lump sum benefit or severance benefit is taxed as follows:

Year of assessment ending 28 February 2015

Taxable income	Tax payable
R 0 - R 500 000	0%
R 500 001 - R 700 000	R 0 + 18% of the amount above R 500 000
R 700 001 - R1 050 000	R 36 000 + 27% of the amount above R 700 000
R1 050 001 and above	R130 500 + 36% of the amount above R 1 050 000

Year of assessment ending 28 February 2014

Taxable income	Tax payable
R 0 - R 315 000	0%
R 315 001 - R 630 000	R 0 + 18% of the amount above R 315 000
R 630 001 - R 945 000	R 56 700 + 27% of the amount above R 630 000
R 945 001 and above	R141 750 + 36% of the amount above R 945 000

Retirement fund lump sum withdrawal benefits

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal.

Tax on a retirement fund lump sum withdrawal benefit is equal to:

- Tax determined by applying the tax table to the aggregate of that lump sum plus all other retirement fund lump sum withdrawal benefits accruing from 1 March 2009 and all retirement fund lump sum benefits accruing from 1 October 2007 and all severance benefits received or accruing from 1 March 2011; less
- Tax determined by applying the tax table to the aggregate of all retirement fund lump sum withdrawal benefits accruing from 1 March 2009 and all retirement fund lump sum benefits accruing from 1 October 2007 and all severance benefits received or accruing from 1 March 2011.

The withdrawal benefit is taxed as follows:

Year of assessment ending 28 February 2015

Taxable income	Tax payable
R 0 - R 25 000	0%
R 25 001 - R 660 000	R 0 + 18% of the amount above R 25 000
R 660 001 - R 990 000	R114 300 + 27% of the amount above R 660 000
R 990 001 and above	R203 400 + 36% of the amount above R 990 000

Year of assessment ending 28 February 2014

Taxable income	Tax payable
R 0 - R 22 500	0%
R 22 501 - R 600 000	R 0 + 18% of the amount above R 22 500
R 600 001 - R 900 000	R103 950 + 27% of the amount above R 600 000
R 900 001 and above	R184 950 + 36% of the amount above R 900 000

Severance Benefits

The definition of a severance benefit includes the following:

- It must be a lump sum received from an employer;
- It must be in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of the person's office or employment;

One of the following must apply:

- The person must be 55 years or older;
- The person must be permanently incapable of holding his employment or office due to sickness, accident, injury or incapacity through infirmity of mind or body; or

- The termination or loss is due to the employer retrenching personnel, because it ceased to carry on trade, or implementing a reduction in personnel in general.

This retrenchment provision will not apply where the person being retrenched held more than 5% of the issued share capital or members' interest in the employer.

An employer is required to apply for a tax deduction directive. The exemption and tax rates applicable will be determined by SARS.

Current position for benefit pay-outs

Type of fund	Pension / Retirement Annuity Fund	Provident Fund
Retirement payout / annuitisation	Two-thirds must be used to buy a pension (annuity).	May take entire benefit as a lump sum.
Taxation of retirement payout	Lump sum taxed according to retirement tax tables. Pension taxed at member's marginal tax rate.	Lump sum taxed according to retirement tax tables.
"De minimis" exception	If the total benefit is less than, or equal to, R 75 000, the entire benefit can be taken as a lump sum.	N/A

Position from 1 March 2015 for benefit pay-outs in provident funds

	Pre-1 March 2015 portion of benefit	Post-1 March 2015 portion of benefit
Retirement: Member younger than 55 years 1 March 2015	Benefit plus growth may be taken as a lump sum.	Member is required to buy a pension with at least two-thirds of the benefit. Up to one-third of the benefit may be taken as a lump sum.
Retirement: Member 55 years or older on 1 March 2015	Entire benefit can be taken as a lump sum upon retirement.	Entire benefit can be taken as a lump sum upon retirement for contributions to the same retirement fund as at 1 March 2015.
"De minimis" exception	N/A	If amount subject to annuitisation is less than or equal to R 150 000, member can take entire benefit as a lump sum.

Current position for tax-free fund to fund transfers

From	To
Pension Fund	Pension Fund Pension Preservation Fund Retirement Annuity Fund
Pension Preservation Fund	Pension Fund Pension Preservation Fund Retirement Annuity Fund
Provident Fund	Pension Fund Pension Preservation Fund Provident Fund Provident Preservation Fund Retirement Annuity Fund
Provident Preservation Fund	Pension Preservation Fund Provident Fund Provident Preservation Fund Retirement Annuity Fund
Retirement Annuity Fund	Retirement Annuity Fund

Position from 1 March 2015 for tax-free fund to fund transfers

From	To
Pension Fund	Pension Fund
Pension Preservation Fund	Pension Preservation Fund
Pension Fund	Provident Fund
Provident Preservation Fund	Provident Preservation Fund Retirement Annuity Fund
Retirement Annuity Fund	Retirement Annuity Fund

DIRECTORS PAYE

Where more than 75% of a director of a private company's remuneration consists of fixed monthly remuneration, the company need not apply the formula below in calculating PAYE.

The amount subject to PAYE is determined on an amount based on the remuneration of the director for the previous year of assessment and is calculated by way of the following formula:

$Y = T/N$ where
- "Y" represents the amount of remuneration to be determined,
- "N" is the number of completed months which the director was employed by the company in the previous year of assessment, and
- "T" is the balance of remuneration paid/payable to the director by the company for the previous year of assessment of the director (the year which ended the month before that).

The balance of remuneration must be reduced by:

- Compensation for loss of office awards;
- Any taxable lump sum from a pension, provident or retirement annuity fund;

- Any commuted amounts due under a contract of employment or a service; and
- The taxable portion of gains on share options.

Where the remuneration for the previous year of assessment is not determinable, "T" would be the balance of remuneration for the year preceding the previous year of assessment plus an amount of 20% of that remuneration.

COMPANIES

Small business corporations

This type of company (for tax purposes) enjoys a graduated tax rate structure as per the following table:

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

Taxable income	
Up to R 70 700	0%
R 70 701 to R 365 000	7% of the amount above R 70 700
R 365 001 to R 550 000	R 20 601 + 21% of the amount above R 365 000
In excess of R 550 000	R 59 451 + 28% of the amount above R 550 000

Year of assessment ending between 1 April 2013 and 31 March 2014

Taxable income	
Up to R 67 111	0%
R 67 112 to R 365 000	7% of the amount above R 67 111
R 365 001 to R 550 000	R 20 852 + 21% of the amount above R 365 000
In excess of R 550 000	R 59 702 + 28% of the amount above R 550 000

The lower rate structure will apply in respect of companies where:

- The entire shareholding is held, for the entire year of assessment, by natural persons;
- The gross income for the year of assessment does not exceed R 20 million;
- None of the shareholders, at any time during the year of assessment, held any shares or had any interest in any other company, other than a listed company, unit trust portfolio, sectional title body corporate, share block companies, friendly society, less than 5% in co-operatives, venture capital company, any company, close corporation, or co-operative, which has not during any year of assessment carried on any trade and has never owned assets of more than R 5 000 in value, or a company or close corporation that has taken steps to liquidate, wind up or deregister;
- Not more than 20% of the company's gross income consists of investment income and income from rendering personal services;
- The entity does not meet the definition of a personal service provider.

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

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

Dividends paid by a Small Business Corporation are subject to dividends withholding tax at 15%.

Personal service providers

- A personal service provider is defined as any company (including a close corporation) or trust, where any service rendered on behalf of such company or trust to a client, is rendered personally by any person who is a connected person in relation to such company or trust; and
- Such person would be regarded as an employee of that client if the service was rendered by such person directly to that client, other than on behalf of such company or trust; or
- Where those duties must be performed mainly at the premises of the client and is subject to the control or supervision of such client; or
- Where more than 80% of the income during the year of assessment from services rendered, consist of amounts received directly or indirectly from any one client or any associated institution in relation to such client.

A company will however not be regarded as a personal service provider where such company/trust employs at least 3 full-time employees (other than a shareholder or member) during the year of assessment, none of whom are connected persons in relation to such shareholder or member.

The personal service provider is taxed as follows:

- The remuneration payable to such personal service provider by the client is subject to employees' tax.
- Personal service providers can claim amounts paid or payable to any employee for services rendered, which is or will be taken into account in the determination of the taxable income of such employee, legal expenses, bad debts and contributions to pension, provident and benefit funds, refunds of remuneration, refunds of restraint of trade payments and any expenses in respect of premises, finance charges, insurance, repairs and fuel and maintenance in respect of assets, if such premises or assets are used wholly and exclusively for purposes of trade.
- The income of a personal service provider will be taxed at a rate of 28%, and any declaration of a dividend will be subject to dividend tax.
- Remuneration paid to a trust is taxed at 40%.
- The entity may apply to SARS for a tax directive for a lower rate of tax.

No employee's tax is required to be withheld from payment if the personal service provider has in respect of a year of assessment, provided an

affidavit or solemn declaration that no more than 80% of the income was received from one client, and that affidavit or declaration is relied on in good faith.

Personal service providers cannot qualify as a micro business.

Micro businesses

The simplified tax system essentially consists of a turnover tax as a substitute for income tax, CGT and dividends tax. The turnover tax is optional, meaning that a micro business still has the option to use the current tax system. Natural persons, partnerships, companies and close corporations can qualify as micro businesses, provided their "qualifying turnover" for a year of assessment does not exceed R 1 million. A trust cannot qualify as a micro business.

The following tax rates apply to a micro business:

Year of assessment ending on 28 February 2014/2015

R 0 - R 150 000	0%
R 150 001- R 300 000	1% of taxable turnover above R 150 000
R 300 001- R 500 000	R 1 500 +2% of taxable turnover aboveR 300 000
R 500 001- R 750 000	R 5 500 +4% of taxable turnover above R 500 000
R 750 001- R 1 000 000	R15 500 +6% of taxable turnover above R 750 000

The turnover tax will be calculated by applying a tax rate to a "taxable turnover". The "taxable turnover" will consist of the following amounts:

- Not of a capital nature received by the micro business (cash basis) during the year of assessment from carrying on business activities in the Republic;
- 50% of all receipts of a capital nature from the sale of immovable property and any other asset used mainly for business purposes (excluding trading stock and financial instruments);
- For companies and close corporations: 100% of investment income (excluding dividends and foreign dividends)
- Less: any amount refunded to any person in respect of goods and services supplied during that year of assessment, or any previous year of assessment.

The following amounts are excluded from the taxable turnover of a registered micro business and should therefore be taxed at normal tax rates:

- For natural persons: Investment income such as dividends, royalties, rental, annuities, interest, proceeds from trading in financial instruments etc.
- Any amount received from any person by way of a refund in respect of goods or services supplied by that person to the registered micro business.

Record keeping

The following records must be retained by a micro business during a year of assessment:

- Amounts received;
- Dividends declared;

- Each asset with a cost price of more than R 10 000; and
- Each liability that exceeded R 10 000.

The first R 200 000 dividends paid during the year of assessment by the micro business is exempt from dividends tax.

The turnover tax will be levied annually on a year of assessment that runs from the beginning of March to the end of February of the following year. A micro business that opts for the turnover tax must apply to do so before the beginning of a year of assessment, or within two months from the date of commencement of business. After joining the system the micro business must remain in the system for a minimum of three years (provided they remain within the monetary threshold). A person that is deregistered (either voluntary or compulsory) may not again be registered as a micro business.

A micro business must pay tax twice a year:

- Within the first 6 months (by 31 August): Estimate taxable turnover for the year and pay tax on half of the taxable turnover. The estimate cannot be less than the taxable turnover for the previous year unless the Commissioner accepts a lower estimate.
- By the end of the year (by 28 or 29 February): Estimate taxable turnover and calculate the tax, and pay this tax less the amount already paid at the end of the first six months of the tax year. If the year-end estimate is less than 80% of the actual taxable turnover for the year an additional tax of 20% of the shortfall in tax is payable. Interest is payable on late payments at the prescribed rate.

From 1 March 2014 a micro business is allowed to be registered for VAT as a category D vendor (6 month VAT period ending on last day of February and August).

The following persons are excluded:

- If any of the shareholders have an interest in the equity of any other company, other than a share or interest in listed companies, portfolios in collective investment schemes, a body corporate, a share block company, venture capital companies, less than 5% interest in co-operatives and savings co-operative banks, as well as interests in friendly societies. This disqualification does not apply to the holding of shares by shareholders in the equity of another company, if the other company has not during any year of assessment carried on any trade and has not owned assets of which the total market value exceeds R 5 000 and a company which has taken steps to liquidate, wind up or deregister;
- If more than 20% of a natural person's income during the year of assessment consists of income from the rendering of a professional service*;
- If more than 20% of a company's income during the year of assessment consists of investment income and the rendering of a professional service;
- A personal service provider or labour broker without an exemption certificate;

- If the total of receipts from the disposal of immovable property and other capital assets used mainly for business purposes exceeds R 1.5 million over a period of 3 years (current year and the last two years);
- If any of the shareholders of a company is a person other than a natural person;
- If the year of assessment of a company or close corporation does not end on the last day of February;
- Tax exempt Public Benefit Organisations or Recreational clubs; or
- If the person was a VAT vendor before 1 March 2012.

* "Professional service" means a service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draftsmanship, education, engineering, financial service broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science.

TRUSTS

Trusts are taxed at 40% with the exception of a special trust.

A special trust means a trust created solely for the benefit of one or more persons with a disability as defined, where such disability incapacitates the person or persons from earning sufficient income for their maintenance or managing their own financial affairs.

These special trusts are taxed at the rates applicable to natural persons, but do not qualify for rebates.

Please note:
- Losses of a trust are not allowed to flow through to the beneficiaries for tax purposes, but are accumulated in the trust and are carried forward to the next year for setting off against any income from the trust in that year.
- A trust is not automatically registered as a taxpayer by SARS. The trustees must apply for registration once the trust has been registered by the Master of the High Court. The application is to be made to the SARS office in the district where the office of the trustee is situated.
- A trustee is not allowed to act as such without his/her appointment being confirmed in writing by the Master of the High Court.

DIVIDEND TAX

Definition of a dividend
For the purpose of dividends tax a dividend is defined as any dividend or foreign dividend that is:
- Paid by a company that is a resident; or
- Paid by a company that is not a resident:
    - If the share in respect of which that foreign dividend is paid is a listed share; and
    - To the extent that the foreign dividend does not consist of a distribution of an asset *in specie*.

Levy of tax
Dividends tax is levied at shareholder level at a rate of 15% of the amount of any dividend paid by any company other than a headquarter company.

Timing of dividend payments
The deemed date of payment is the earlier of the date on which the dividend is paid, or becomes payable by the company that declared the dividend. For listed shares a dividend is deemed to be paid on the date it is actually paid.

Liability for the dividend tax
Although it is a tax of the shareholder, it is withheld by the company, which then pays the shareholder the net amount. Where the dividend consists of a distribution of an asset *in specie*, the company that declares and pays a dividend is liable for the dividends tax in respect of that dividend.

It is the responsibility of the shareholder to notify the company, by means of a written declaration of the fact that it is exempt from the withholding tax on dividends (DTD(EX)), or when a reduced rate is applicable (DTD(RR)). This is not applicable if the shareholder is part of the same group of companies as the company paying the dividend, or the dividend is paid to a regulated intermediary.

Withholding tax on dividends is payable to SARS by the end of the month following the month when the company paid the dividend. A dividend tax return (DTR02) must be submitted with the payment. Where a shareholder receives a dividend that is exempt from dividends tax, a return (DTR02) must also be submitted to SARS by the end of the month following the month in which the dividend is received.

The following must be indicated on the return:
- Distributed by regulated intermediary.
- Distributed to the beneficial owner:
  - Portion subject to 15%;
  - Portion subject to a reduced rate;
  - Portion exempt from tax.

The distribution of a dividend in specie must be indicated separately.

If a dividend is subject to a reduced rate of tax, because of the application of a double tax agreement, the company withholding the tax has to submit to SARS the declaration on which it relied at the time and in the manner prescribed by the Commissioner.

Interest becomes payable on unpaid dividends tax at the prescribed rate from the end of the payment period. The underpayment of dividend tax may be subject to the administrative and understatement penalties.

Loans by company
Where an amount is owing to a company in respect of a loan or advance provided by the company to:
- A person that is not a company, a resident, and a connected person in relation to that company; or

- A person that is not a company, a resident, and a connected person in relation to the person above;

that company must be deemed to have paid a dividend if the loan or advance is provided by virtue of any share held in that company.

The amount of the dividend is the market related interest (official rate of interest) in respect of that loan or advance, less the amount of interest that is payable to the company, for that loan or advance, for the period that the loan is outstanding during the year of assessment.

The dividend is deemed to have been paid on the last day of the year of assessment during which the loan or advance is provided by the company.

The dividend must be treated as a distribution *in specie*. This means that the company is liable, in its own name, for the dividends tax. It will however not be treated as a dividend *in specie* if the loan was subject to the deemed dividend provisions under the STC regime.

Distribution of an asset in specie

If a company distributes an asset *in specie*, the amount of the dividend is the market value of the asset on the date that the dividend is deemed to be paid. For listed financial instruments this value would be the price quoted on the exchange at the close of business on the day before the date the dividend is paid. Tax on dividends *in specie* will remain the liability of the company declaring the dividend.

STC credits

A dividend paid by the company is not subject to the dividends tax to the extent that:

- The dividend does not exceed the STC credit of the company; and
- The company has by the date of payment notified the person to whom the dividend is paid of the amount by which the dividend reduces the STC credit of the company.

If a dividend received by a company was not subject to STC, it cannot be used to calculate the STC credit.

STC credits may be utilised for a period of three years from the date of implementation of dividends tax, namely 1 April 2012.

Exemptions

Dividends paid to the following shareholders will not be subject to withholding tax on dividends:

- South African resident companies and close corporations;
- The Government, a provincial administration or a municipality;
- Approved public benefit organisations (PBOs);
- A closure rehabilitation trust;
- Institutions, boards or bodies established under law and exempt from tax in terms of Section 10(1)(cA);
- Pension, pension preservation, provident, provident preservation, retirement annuity or benefit fund;

- A person contemplated in section 10(1)(t) of the Act (these include, amongst others, CSIR, SANRAL, DBSA);
- The first R 200 000 of dividends paid to shareholders of a micro business (on the turnover tax system) during a particular year of assessment;
- A non-resident and the dividend is paid by a non-resident company which is listed on the JSE;
- A portfolio of a collective investment scheme in securities;
- Any person to the extent that the dividend constitutes income of that person, or was subject to STC;
- Any fidelity or indemnity fund.

Refunds
Where a declaration has not been given to the company, and after receiving the dividend net of dividend tax, the beneficial owner has three years from the date of payment to give the declaration to the company. The company can then refund the dividend tax to the beneficial owner. Dividend tax withheld in respect of a subsequent dividend may be used for this purpose. If this tax is insufficient to cover the refund any shortfall may be recovered from SARS within a period of four years from the date that the dividend was originally paid.

OTHER TAXES

Value-added tax (VAT)
Compulsory registration
Registration is compulsory where the total value of taxable supplies made by a person, in the 12 month period, ending at the end of that month exceeded R 1 million. It is also compulsory at the commencement of a month period where there are reasonable grounds for believing that the total value of taxable supplies to be made by a person in the immediately succeeding 12 months will exceed R 1 million.

From 1 April 2014
Compulsory registration will in future be necessary where:
- The threshold of R 1 million has been exceeded in a 12 month period; or
- Where the total value of taxable supplies in terms of a contractual obligation in writing during the 12 month period, calculated from the commencement of a given month will exceed R 1 million. This could apply, for example, to commercial leasing contracts or tenders won from the Government.

Voluntary registration
A person may also voluntarily register if the enterprise has already reached a R 50 000 turnover taking into account the prior 12-month period, or if the business enterprise is acquired from another party as a going concern after having reached that threshold. Persons intending to carry on an enterprise may also voluntarily register for VAT if the R 50 000 threshold will be reached in any 12-month period. (For commercial accommodation enterprises the threshold is R 60 000 in a 12-month period).

From 1 April 2014
The current R 50 000 taxable supply threshold test for voluntary VAT registration will be retained. However, businesses that are unable to satisfy the R 50 000 threshold will be allowed to register for VAT, but only on the payments basis, and must expect to exceed R 50 000 within 12 months of date of registration. These businesses must switch-over to the invoice basis when the R 50 000 threshold is exceeded.

Normally VAT must be accounted for on the invoice basis by a vendor. However, where the turnover in a 12 month period is likely to be less that R 2.5 million, the vendor can apply to be registered on the payment basis provided the vendor is a natural person or an unincorporated body of persons whose members are natural persons.

Registration of e-commerce suppliers
From 1 April 2014 all foreign suppliers of electronic services to South African customers will be required to register for VAT. A monetary threshold of R 50 000 is applicable before a VAT registration liability is triggered. These vendors will be allowed to register for VAT on the payments basis.

In view of the fact that customer location is often unknown in the case of e-commerce, a proxy for customer location will be used which is either a payment from a South African bank, or customer residency in South Africa.

Home owners associations
From 1 April 2014 the supply of services by a home owners association, to any of its members, will be exempt from VAT. Home owners associations that become liable to deregister for VAT will be given a concession to pay over the VAT liability in six equal monthly instalments, or in so many instalments as the Commissioner may allow.

Micro business
From 1 March 2012 a registered micro business may also register as a vendor.

VAT periods

Category	Turnover	Period
Category A and B	Turnover less than R 30 million	2 monthly
Category C	Turnover more than R 30 million	Monthly
Category D	Farming enterprise with a turnover less than R 1.5 million and a micro business	6 monthly
Category E	Company or trust which receives only rental income, administration or management fees from connected persons, who are all registered vendors	12 month period ending on the last day of the year of assessment
Category F	Turnover less than R 1.5 million (applied in writing)	4 monthly

Supplies fall into three categories
- Standard-rated supplies, which are taxed at the rate of 14%. A vendor making such a supply is entitled to recover all related input tax.

- Exempt supplies, which are not subject to VAT. Examples of exempt supplies are: non-fee related financial services, educational services provided by an approved educational institution, residential rental accommodation, and public road and rail transport. Vendors who supply these services may not recover any related input tax.
- Zero-rated supplies, which are subject to VAT, but at a zero-rate. The following are examples of supplies that are zero-rated: brown bread, maize meal, samp, mealie rice, dried mealies, dried beans, lentils, pilchards/sardinella in tins, milk powder, dairy powder blend, rice, vegetables, fruit, vegetable oil, milk, cultured milk, brown wheaten meal, eggs, edible legumes and pulses of leguminous plants, exports sales and services, illuminating paraffin, goods which are subject to the fuel levy (petrol and diesel), international transport services, farming inputs, sales of going concerns, and certain grants by government. Since these supplies are taxable, the vendors who supply them may recover all related input tax.

VAT is levied at 14%, on the following:
- Supplies of goods and services;
- Importation of goods; and
- Importation of some services.

Non-supplies (i.e. not subject to VAT)
- Medical services provided by state and provincial hospitals and local authority clinics.
- Services provided by employees to employers.
- Sale of goods on which an input tax credit was denied (e.g. passenger vehicles, entertainment goods).

Time of supply
With a few exceptions, the *time of a supply* is triggered either by the issue of an invoice or by the receipt of payment (in whole or in part) by the supplier, whichever is earlier.

As from 1 April 2014, where services are supplied under an agreement for consideration which is not determined at the time the services are rendered, the supply of those services shall be deemed to take place when, and to the extent that any payment in terms of the agreement is due, or received, or when an invoice relating to the supply is issued by the supplier.

Documentation requirements
A tax invoice must be issued for every taxable supply made by a vendor. Only one tax invoice can be issued per supply. If a copy of a tax invoice is made it must be clearly marked "copy".

A tax invoice must contain the following information:
- The words "tax invoice" in a prominent place;
- The name, address and VAT registration number of the supplier;
- The name, address and VAT registration number of the recipient if the invoice is for more than R 5 000;
- A serial number;
- The date upon which the invoice is issued;

- A description of the goods or services supplied;
- The quantity or volume of the goods or services supplied;
- Either the value of the supply, plus the VAT, and the consideration, or the consideration for the supply and a statement that it includes VAT charged and the rate at which the tax is charged;
- Stated in South African currency unless it is a zero-rated supply.

Temporary letting of residential fixed property by developers
Where such property of a developer, consisting of any dwelling, is temporarily applied for the supply of accommodation under an agreement for the letting and hiring thereof, the output tax adjustment which results from such "change of use" will be deferred until the earlier of 36 months or the sale of such residential property held as trading stock. (Effective from 10 January 2012 and ceases to apply on 1 January 2015).

Imported services exemption
VAT is not payable on a supply of imported services if the value of the supply does not exceed R 100.

VAT and transfer duty
As from 10 January 2012 a vendor acquiring a fixed property from a non-vendor will be entitled to claim an input tax deduction equal to the tax fraction (14/114) of the purchase consideration. However, fixed property notional input credits are deferred to the extent of actual payment and registration in the name of the vendor.

Entertainment supplied on board a flight or ship
Despite the general VAT prohibition against entertainment, input tax deductions for a vendor's cost to supply any entertainment will be allowed from 1 April 2014, if the entertainment is ancillary to air or sea travel, and provided at no additional charge.

E-filing
E-filers may submit VAT returns by the last business day of the relevant month.

Donations tax

The rate of donation tax is 20% of the value of the asset or money donated. Donations tax is payable by the donor. The tax is payable within three months of the donation. If the donor fails to pay the tax within the prescribed period, the donor and the donee become jointly and severally liable for the tax.

Donation tax does not apply to non-residents even if they donate South African assets.

The annual exemption for casual donations by natural persons is R 100 000. For other persons it is R 10 000.

Where a donor made more than one donation during a tax year, the exemption is to be calculated according to the order in which the donations were made.

Exemptions
- Bona fide maintenance payments.
- Donations to Public Benefit Organisations and qualifying traditional councils and communities.
- Donations between spouses, who are not separated.
- Donations where the donee will not benefit until after the death of the donor.
- Donations made by companies which are recognised as public companies for tax purposes.
- Donations between companies forming part of the same group of companies.
- Donations cancelled within six months of the effective date.
- Property disposed of under, and in pursuance of any trust.
- Donation of property, or a right in property situated outside South Africa, if acquired by the donor before becoming resident in South Africa for the first time, or by inheritance or donation from a non-resident.

Please Note
- Where two persons are married in community of property and property is disposed of in terms of a donation by one of the spouses, such donation shall be deemed to have been made in equal shares.
- Where any property has been disposed of for a consideration which, in the opinion of the Commissioner, is not an adequate consideration, that property shall be deemed to have been disposed of under a donation.

Estate duty

Estate duty is levied at a rate of 20% on the dutiable value of the estate in excess of R 3.5 million.

For purposes of the duty, the estate of a deceased person who was ordinarily resident in South Africa consists of all the property of the deceased, wherever situated.

If the deceased was a non-resident, his/her South African estate would generally comprise of all enforceable rights to property in South Africa.

The duty is calculated on the dutiable value of the estate, arrived at by deducting certain admissible deductions from the total value of all the property which is required to be included in the value of the estate e.g.
- Deathbed and funeral costs;
- Debt owed to persons ordinarily resident in the South Africa;
- Costs which have been allowed by the Master in the administration and liquidation of the estate;
- All expenditure incurred in carrying out the requirements of the Master or Commissioner;
- Assets owned by the deceased prior to immigration to the Republic;
- An amount of any claim by the surviving spouse;
- Value of any property that accrues to any public benefit organisation or institution which is exempt from tax;
- Assets accruing to a surviving spouse.

All lump sum benefits received as a result of death, from a retirement fund will be exempt from estate duty.

Portable estate duty abatement

The portable spousal deduction allows for the R 3.5 million deduction from estate duty to rollover from the deceased to a surviving spouse, so that the surviving spouse can use a R 7 million deduction amount on death. This is however reduced by the amount of the deduction already used by a predeceased spouse.

The executor is entitled to an administration fee of up to 3.5% of the value of the estate.

Successive death rebate

Relief is provided if the same property is included in the estate of taxpayers dying within 10 years of each other. The relief is calculated as follows:

- 100% - if the taxpayers die within 2 years from each other,
- 20% - for every 2 years over the next 8 - 10 years.

Where a person and his/her spouse die at the same time, the spouse with the smaller estate must be deemed to have died first.

Transfer duty

Value of the property (R)	Rate of transfer duty
R 0 - R 600 000	0%
R 600 001 - R 1 000 000	3% of the value above R 600 000
R 1 000 001 - R 1 500 000	R 12 000 + 5% of the value above R 1 000 000
R 1 500 001 and above	R 37 000 + 8% of the value above R 1 500 000

The same rates will be applicable to all taxpayers.

The transfer duty is payable by the purchaser and has to be paid within 6 months of the date of acquisition.

No transfer duty is payable if the transaction is subject to VAT (either standard or zero rate).

Where the ownership of a trust, or the shares, or members interest of a company or close corporation, which owns residential property, comprising more than 50% of all assets, (excluding any liabilities), is transferred, transfer duty will be chargeable on the market value of the property.

Transfer between spouses on divorce/death, or to heirs from a deceased estate are exempt from transfer duty.

Securities transfer tax (STT)

STT is an indirect tax imposed on the transfer of any security issued by:

- A close corporation; or
- A listed or unlisted company incorporated, established or formed inside the Republic; or
- A company incorporated, established or formed outside the Republic and listed on the South African stock exchange.

STT is levied at a rate of 0.25% of the taxable amount of that security. No STT is payable on the original issue of shares.

The "taxable amount" means the purchase consideration on change of ownership (including cancellation or redemption). If there is no consideration, or the consideration is less than fair value, STT is payable on the market value or the closing price, of the securities, on the date of the transaction.

The transferee (purchaser) is liable for the payment of the STT on the transfer of securities. If the shares or securities are cancelled or redeemed, the entity cancelling or redeeming the shares is liable for the payment of the STT.

STT is not payable where a security is cancelled or redeemed by an issuing company that is being wound up, liquidated or deregistered, or whose corporate existence is being finally terminated.

For listed securities STT must be paid by the 14th of the month following the month during which the transfer occurred. For unlisted securities STT must be paid 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 will be imposed at the prescribed rate and a 10% penalty will be payable.

No STT is payable if the consideration, closing price or market value is less than R 40 000.

Skills Development Levies (SDL)

SDL is payable by every employer in South Africa who has an annual payroll in excess of R 500 000. The amount payable will be calculated at 1% of the total amount of remuneration paid to employees.

The amount, on which the percentage levy is calculated, is the total amount of remuneration paid by an employer to its employees during any month, as determined for the purposes of determining employees tax, whether employees tax is deducted or not. This will include any amount that is paid or payable to any person, whether in cash or otherwise, in respect of services rendered or to be rendered.

Exclusions, amongst others are:

- Amounts paid to independent contractors;
- Reimbursive payments to employees;
- Pensions paid; and
- Remuneration of learners under contract.

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

Unemployment Insurance Fund (UIF)

Unemployment insurance contributions are based on remuneration (gross) as defined in the Income Tax Act, with the following exclusions:

- Non-employment related payments for example pensions and annuities and payments to a labour broker in possession of an exemption certificate;

- Retrenchment pay;
- Lump sum payments from pension, provident or retirement annuity funds;
- Restraint of trade payments;
- Commission.

The UIF monthly limit is currently R 14 872. All employees must contribute to UIF at a rate of 1% by employee and 1% by employer on the earnings of the employee, but the contribution will only be calculated up to the limit.

Employees excluded:
- All non-natural persons (i.e. companies and trusts);
- Independent contractors.

Employees excluded from the calculation of contributions but whose details are still to be included in return for statistical purposes:
- Temporary workers (less than 24 hours per month);
- Employees in the national and provincial spheres of government;
- Employees who are repatriated at the end of the service contract;
- Employees who earn commission only;
- Employees with no taxable income;
- Learners in terms of the Skills Development Act.

Workmen's Compensation

Aim of the Act
The aim of the Act is to provide for compensation in the case of disablement caused by occupational injuries or diseases, sustained or contracted by employees in the course of their employment, or death resulting from such injuries or diseases, and to provide for matters connected therewith.

Registration
All employers who employ one or more part- or full-time employees must register with the Compensation Fund and pay annual assessment fees. The annual assessment fee is based on the employee's earnings and the risks associated with the type of work or profession.

Please note: A separate registration is necessary for each separate branch of a business, unless an arrangement for combined registration has been made.

The fund covers employees who are:
- Permanently employed;
- Domestic workers in a boarding house;
- An apprentice or trainee farm worker; and
- A worker paid by a labour agency.

Please note: This excludes domestic workers employed by households and anyone receiving military training.

On duty
The "accident" must occur while the worker is on duty, in other words, it must take place out of, and be in the course of employment.

The accident must have occurred because the employee was at work doing what he or she was employed to do. It must be because of the employment that caused the accident or exposed the worker to the risk of the accident.

Submission dates for returns

Employers must submit their return of earnings no later than the 31st of March each year.

Provisional tax

Who is a provisional taxpayer?

Any person (excluding a company or CC) deriving income that does not constitute remuneration, as defined, or an allowance or advance excluding:

- Any natural person, who on the last day of that year, will be below the age of 65 years, and who does not derive any income from the carrying on of any business, if:
    - the taxable income for the relevant year of assessment does not exceed the tax threshold; or
    - the taxable income for the relevant year of assessment which is derived from interest, foreign dividends and rentals from the letting of fixed property does not exceed R 20 000.
- Any natural person who on the last day of the year of assessment will be over 65 years and his taxable income for that year:
    - will not exceed R 120 000;
    - will not be derived wholly or in part from the carrying on of any business; and
    - will not be derived otherwise than from remuneration, interest, foreign dividends or rentals from the letting of fixed property.
- All companies and close corporations.
- All persons notified by the Commissioner that they are provisional taxpayers.

The following are specifically excluded from the definition of a provisional taxpayer:

- Any public benefit organisation that has been approved by the Commissioner;
- Any recreational club that has been approved by the Commissioner; and
- Any body corporate, share block company or association of persons as contemplated in Section 10(1)(e) of the Act.

Every person who is a provisional taxpayer must, within 30 days after the date upon which he/she becomes a provisional taxpayer, apply to be registered as such.

Basic amount

The basic amount is deemed to be a taxpayer's taxable income, assessed by SARS, for the latest preceding year of assessment, in relation to such estimate, less any taxable capital gain, the taxable portion of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or any severance benefit.

For a company, the basic amount is deemed to be the company's taxable income, as assessed by SARS for the latest preceding year of assessment, in relation to such estimate, less the amount of any taxable capital gain.

Where the estimate must be made more than 18 months and in respect of a period that ends more than one year after the latest preceding year of assessment, the basic amount must be increased by an amount equal to 8% per annum of that amount, from the end of such year, to the end of the year of assessment in respect of which the estimate is made.

Reference to a previous assessment means, a notice of assessment that has been issued by the Commissioner more than 14 days before the estimate is submitted to the Commissioner for the provisional return in question.

Estimate of taxable income
When making an estimate of taxable income, capital gains must be included, but the taxable portion of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit, or any severance benefit must be excluded.

First year of assessment
Where a taxpayer has not been assessed previously, a reasonable estimate of taxable income must be made. The basic amount cannot be estimated as nil unless it is fully motivated.

First provisional payment
- Within six months after the beginning of the tax year (for individuals 31 August), an amount equal to half of the tax on the estimated taxable income, less any employee's tax deductions to date, and foreign taxes subject to section *6quat* rebate, must be paid to SARS.
- The estimated taxable income must not be less than the basic amount (as discussed above), unless permission is obtained from SARS to use a lower estimate.

Second provisional payment
Payable on or before the last day of the financial year (for individuals the end of February).

Tier one taxpayers: Taxable income is equal to or less than R 1 million
- The liability may be calculated on the lower of the estimated taxable income for the year, or the basic amount (as discussed above), less the first provisional payment and any employee's tax.
- If using your own estimate of taxable income, and the estimate is less than 90% of the actual taxable income, a penalty of 20% of the excess of normal tax payable on the taxable income for the year over the sum of amounts of provisional tax payments and employees' tax for the year will be imposed.

Tier two taxpayers: Taxable income is in excess of R 1 million

- The liability must be calculated on an estimate of taxable income, less the first provisional payment and any employee's tax.
- If the estimate is less than 80% of actual taxable income, a penalty of 20% of the excess of normal tax payable on the taxable income for the year over the sum of amounts of provisional tax payments and employees' tax for the year will be imposed.

Optional third provisional payment

Companies and close corporations with taxable income in excess of R 20 000 and individuals and trusts with taxable income in excess of R 50 000 may make a third additional payment to avoid interest on underpayment. This payment should be made within six months after the end of the financial year and represents the outstanding balance of tax payable on the actual taxable income for the year. If the year-end is February, the third payment is payable on or before 30 September (seven months after the end of the year). The third payment is not compulsory and there is therefore no penalty for late or underestimated payments.

CAPITAL GAINS TAX (CGT)

Capital gains tax became effective from 1 October 2001. CGT is payable, as a general rule, when a capital asset is sold or when there is a change in the ownership of the asset.

If a capital asset is sold at a profit, the profit is subject to CGT, and if it is sold at a loss, the capital loss can be set-off against other capital profits. If there are no other capital profits in the year, the capital loss is carried forward to the next year.

Calculation:

Proceeds from disposal of specific asset		XXXXX
Less:	Base cost of asset	XXXXX
	Capital gain/loss on specific asset	XXXXX
Add:	Capital gains/losses of all other assets disposed of during the year of assessment	XXXXX
Less:	Only for natural persons R 30 000; or Deceased estates R 300 000	XXXXX
Less:	Assessed capital losses brought forward from previous year of assessment	XXXXX
=	Net capital gain for the year *	XXXXX
X	Inclusion rate - individuals and special trusts: 33.3% - others: 66.6%	
=	Amount to be included in taxable income and taxed at marginal rates	

*(If it is a net capital loss, it will be carried forward to the next year of assessment, no set-off is allowed against taxable income)

The effective tax rates for capital gains for different classes of taxpayers are as follows:

Taxpayer	Inclusion rate %	Statutory rate %	Effective tax rate%
Individuals	33.3	0 - 40	0 - 13.32
Companies	66.6	28	18.648
Small business corporations	66.6	0 - 28	0 - 18.648
Employment companies	66.6	28	18.648
Branches of foreign companies	66.6	28	18.648
Trusts (normal)	66.6	40	26.64
Trusts (special)	33.3	0 - 40	0 - 13.32
Public Benefit Organisations (if taxable)	66.6	28	18.648

Who is liable for CGT?

All persons who are residents of South Africa for purposes of income tax will be subject to CGT on the disposal of their world wide assets.

Non-residents will only be subject to CGT on disposal of the following:

- Immovable property or an interest in the property in South Africa;
- Assets of a permanent establishment in South Africa; and
- At least a 20% interest in the shares of a company where at least 80% of its net asset value is derived from immovable property, not held as trading stock, situated in South Africa.

Proceeds

Proceeds are the amounts received or accrued to the taxpayer in respect of the disposal of his/her assets. It excludes amounts included in gross income for income tax purposes and amounts repaid or repayable or for a reduction in the sale price.

Asset

Any property, movable or immovable, corporeal or incorporeal as well as a right or interest in such property. Specifically excluded is any currency, except for coins made mainly from gold or platinum.

Disposal of assets

A capital gain or loss can only realise if an "asset" as described above is disposed of. Disposal of assets include circumstances where an asset is transferred, for example with sale, as well as other occurrences like creation, variation, extinction, donation, expropriation, cession, exchange, cancellation, expiry, abandonment, scrapping, loss and destruction of an asset. The transfer of a trust asset to a beneficiary is also considered a disposal except when the beneficiary has a vested right in the asset. Any distribution of an asset by a company to its shareholders, the granting, renewal, extension or exercise of an option is also a disposal but not the original issue of shares, debentures, options and units in a unit portfolio by the company. A decrease in value of an interest in a trust, company or partnership, as a result of a value-shifting arrangement, is deemed to be a disposal, but not the granting of credit, or the provision of assets as security, corrections of errors on deeds, etc. and appointments of new trustees.

A disposal is deemed to have taken place when:

- A taxpayer emigrates in respect of certain assets;
- Non-residents cease to have a permanent establishment in South Africa or when the assets become assets of a permanent establishment;
- Assets become trading stock; and
- Assets cease to be personal use assets or trading stock other than by way of disposal.

The above mentioned assets are deemed to be disposed of at market value and then re-acquired at the same market value.

Where a person becomes a South African resident, he/she is deemed to have disposed of his/her assets at market value and to have re-acquired it at the same value on the day immediately before he/she became a resident.

The time of disposal is the day on which ownership changes but where an agreement has a suspensive condition, this condition has to be fulfilled first. With donations all the legal requirements of a valid transfer must be complied with. For a distribution of an asset by a trust, the time of disposal is the date that the interest in the asset vested in the beneficiary.

Base cost

The base cost of assets consists of different amounts including the following allowable expenses:

- Expenses incurred to obtain or to improve the asset;
- Costs incurred with the disposal or acquisition of the asset;
- Valuation costs for CGT purposes;
- Costs incurred in defending or maintaining a legal right to the asset;
- Costs of improving the asset;
- Transfer costs;
- Advertising, relocation and installation costs;
- Option costs to obtain the asset;
- Certain costs incurred in holding the asset (wholly or exclusively held for business purposes) for example maintenance, repairs, certain interest and municipal taxes. No costs can however be added to the base cost of an asset if that cost was allowable as a normal income tax deduction.

Where the asset consists of listed shares or a participatory interest in a portfolio of a collective investment scheme, only one third of the costs listed as holding costs above can be added to the base cost of the asset.

The value of base cost has to be reduced by any amounts already deducted for income tax purposes, amounts recouped and amounts not paid.

As only capital gains realised on assets disposed on or after 1 October 2001 are taxable, we distinguish between assets obtained before that date (pre-valuation date assets) and assets obtained after that date.

Assets acquired before valuation date

The base cost of assets acquired before valuation date is determined as the valuation date value of the asset plus any allowable expenses incurred after valuation date. The valuation date value could be one of the following three values:

- Market value of the asset on valuation date;
- Time apportionment base cost (the apportionment of costs by way of a formula plus post valuation date costs); or
- 20% of the proceeds received minus expenses incurred after 1 October 2001.

Market value of the asset on valuation date is the following for:

Listed South African shares	Published values
Foreign listed shares	Closing price on valuation date
Other assets	Valuation on valuation date

Exclusions

Certain capital gains and losses are excluded from capital gains tax. It is mainly on the following assets:

Primary residence

- The first R 2 million of any capital gain or loss on the disposal of a primary residence of a natural person (or a special trust under certain circumstances). If the primary residence is sold for R 2 million or less, the full capital gain on the disposal is disregarded.
- Only one residence at a time can qualify as a primary residence except under certain circumstances, for example where a new home is being built.
- It must be the residence in which the person/beneficiary normally resides and can be any structure including a boat, caravan, etc.
- The exemption is only applicable to the residence and the land on which it is built provided the land is only 2 hectares or less. The residence must only be used for domestic purposes and the land and residence must be disposed of at the same time to the same person.
- The exemption is not applicable to a residence that is only occupied temporarily.
- If the property is not occupied when for example a new house is being built or on the death of the owner, it could only be unoccupied for a period not exceeding two years.
- If the residence is used for business purposes as well, the exemption has to be calculated on a pro-rata basis for the portion and period it was used for domestic purposes.
- A primary residence would still qualify for the exemption even if it is leased out provided that the lease does not exceed five years, the owner lived there for at least a year before and after the lease, he did not have any other house as a primary residence and he was temporarily absent from the area in which the house is, but at least 250 km away or in a foreign country.

Assets for personal use

The disposal of assets of a natural person which are mainly used for purposes other than a business are also excluded from CGT. The exemption is not applicable to the following assets:

- Gold or platinum coins;
- Immovable property;
- Aircraft with an empty mass exceeding 450kg;
- A boat exceeding 10 metres in length;
- A financial instrument;
- A fiduciary, usufructuary or like interest, the value which decreases over time;
- A right or interest in any of the above mentioned assets.

Retirement benefits
A lump sum benefit from a pension, pension preservation, provident, provident preservation or retirement annuity funds is not subject to CGT.

Disposal of small business assets under the following circumstances
- The market value of all the business's assets (or all the businesses' assets) on the date of disposal of the asset or interest in the business should not exceed R 10 million;
- The person disposing of the assets must be a natural person 55 years or older, or the business is disposed of as a result of ill-health, other infirmity, superannuation or death of the taxpayer;
- The person must have been substantially involved in the business;
- The person should have had the business for a continuous period of at least five years prior to disposal;
- All capital gains must be realised within a period of two years from disposing of the first asset;
- The exemption is only applicable to a maximum of R 1.8 million in a person's lifetime;
- Active business assets do not include financial instruments or assets held mainly to earn rental, annuity income, royalty income, foreign exchange gain or similar income;
- The asset can also be an interest in a partnership or a share of at least 10% in a company.

Disposal of micro business assets
A registered micro business will not be subject to capital gains tax, and may not deduct any capital loss which arises on the disposal of any asset if it is part of the micro business.

Further exclusions
- Compensation for personal injury, illness or defamation;
- Capital gain or loss in respect of a risk policy with no cash value or surrender value;
- Insurance benefits accruing to employees if the amount of premiums paid by the employer has been deemed to be a taxable fringe benefit;
- Proceeds from gambling, games and competitions (only for natural persons);
- Donations and bequests to approved public benefit organisations;
- Assets disposed of by persons or institutions exempted from income tax;
- Assets used to generate income that is exempt from income tax except for assets used to produce interest, shares from which dividends are received and the copyright of a first owner thereof.

GENERAL

Exit charges on interests in immovable property

Since 2001, South Africa has imposed an 'exit charge' on taxpayers ceasing to be residents, in the form of a deemed disposal for Capital Gains Tax (CGT) purposes. The deemed disposal excludes immovable property situated in South Africa, and certain indirect interests therein.

With effect from 11 December 2013, a person that ceases to be a resident is deemed to have disposed of all assets, including any interest in a property company, for an amount received or accrued to the market value of those assets on the day before ceasing to be a resident, and to have immediately reacquired the same assets at a cost equal to the same market value.

Variable remuneration

With effect from 1 March 2013, variable remuneration is deemed to accrue to an employee, and constitutes expenditure incurred by the employer, on the date on which the amount is paid to the employee by the employer.

Variable remuneration is defined as the following:

- Overtime pay, bonus, or commission paid as remuneration;
- A travel allowance or advance for travel expenses;
- Any amount which an employer has during any year of assessment become liable to pay to an employee in consequence of the employee having during such year become entitled to any period of leave which had not been taken by the employee during that year.

Learnership allowance

The learnership allowance is applicable to registered learnership agreements entered into between a learner and an employer before 1 October 2016.

A registered learnership agreement is a learnership agreement registered in accordance with the Skills Development Act.

If the learnership is registered within 12 months after the last day of the year of assessment in which it was entered into, it must be deemed to have been registered from the date it was entered into.

The agreement must be entered into pursuant to a trade carried on by the employer.

Annual allowance

- R 30 000, or R 50 000 for a learner with a disability.
- The allowance is based on full monthly periods completed in the employer's year of assessment.
- The allowance will be apportioned if falling in more than one year of assessment.
- The annual allowance is allowed in respect of each successive year of learnership.

Completion allowance

- R 30 000, or R 50 000 for a learner with a disability, in respect of each completed 12 month period of the learnership.
- The allowance is only claimable on the successful completion of the learnership.

If the learner leaves during the year there is no recoupment.

If a learner fails to complete the learnership, no allowance may be claimed by the employer if that learner registers for a new learnership, either with the same employer or with as associated institution, and the new learnership contains the same training component as the learnership that the person failed.

Key-man policies

Risk and investment policies premiums paid by the employer are deductible only if:

- The employer is the policy holder; and
- The policy relates to death, disablement or severe illness of an employee or director; and
- The premiums paid by the employer are taxed as a fringe benefit in the hands of the employee or director.

These types of policies would usually pay out directly to the employee when an insured event occurs. It could also pay out to the employer, who uses the funds to pay a benefit to the employee or his or her family. Where the employee has been taxed on the premiums as a fringe benefit, he or she is entitled to an exemption from tax on the proceeds of the policy.

Where the policy is a risk policy only (no cash or surrender value) and the premiums are not taxed as a fringe benefit in the hands of any employee or director, the premiums will be deductible only if:

- The employer is the policyholder at the time of the payment of each premium; and
- The policy relates to death, disablement or severe illness of an employee or director; and
- The employer has elected to deduct the premiums; and
- The election is made in the policy agreement if it is entered into on or after 1 March 2012, or in an addendum to the policy agreement for earlier policies. The addendum must have been added by no later than 31 August 2012.

If the policy was entered into on or after 1 March 2012, and the policy agreement does not state that the employer elects to deduct the premiums, or no addendum is attached, and no deduction is claimed in respect of the premiums paid, the insurance proceeds received by the employer will be exempt. The fact that the employer may have deducted the premiums prior to 1 March 2012 does not affect the tax exemption.

If the policy owned by the employer covers death, disablement, or severe illness, arising solely out of, and in the course of employment, then the

premiums are deductible under the normal deduction formula. An example of such a policy would be one which covers general work-related accident plans and travel insurance taken by an employee during work-travel.

If the policy covers an employment event the premiums are not taxed in the hands of the employee(s).

Research and development

Research and development is defined as:

- Systematic investigative or experimental activities of which the result is uncertain for the purpose of:
  - Discovering non-obvious scientific or technical knowledge; or
  - Creating or developing an invention as defined in the Patents Act, a functional design as defined in the Designs Act, a computer program as defined in the Copyright Act which is of an innovative nature, or knowledge essential to the use of those items.
  - Making a significant and innovative improvement to any invention, functional design, computer program or knowledge that will result in a new or improved function or improvement of performance, reliability or quality.

A deduction of 150% of costs (revenue or capital) is allowed for:

- Expenditure actually incurred;
- Directly and solely in respect of research and development undertaken in South Africa;
- In the production of income;
- And in the carrying on of any trade;
- The research and development is approved by the Minister of Science and Technology; and
- The expenditure is incurred on or after the date of receipt of the application by the Department of Science and Technology for its approval.

Non-qualifying expenditure

No research and development deduction may be claimed for the following expenditure:

- Market research, market testing or sales promotion;
- Administration, financing, compliance or similar expenditure;
- Routine testing, analysis, collection of information or quality control in the normal course of business;
- Development of internal business processes, unless it is mainly intended for sale, or for granting the use or right of use thereof, to unconnected persons (e.g. typical computer software);
- Social science research, including the arts and humanities;
- Oil and gas or mineral exploration or prospecting, except research and development carried out to develop technology used for oil and gas or mineral exploration;
- The creation or development of financial instruments or financial products;
- The creation or enhancement of trademarks or goodwill; and

- The registration or acquisition of pre-existing inventions, designs or computer programs.

The above may however be claimed under section 11(a) if the expenditure is of a revenue nature, in the production of income, and in the course of the taxpayer's trade.

The section whereby these disallowed items are identified is deleted with effect from 1 January 2014, and applicable in respect of expenditure incurred in respect of research and development on or after that date, but before 1 October 2022. The reason for the deletion is because these items already fall outside of the definition of “research and development”.

Funding expenditure
Special provisions apply when one party undertakes research and development activities on behalf of another (the funder). Only the party who is responsible for the determination of the research method is eligible to qualify for the 150% deduction.

With effect from 1 January 2014, it must be approved having regard to whether the taxpayer has proved to the committee that the research and development in respect of which the approval is sought complies with the criteria contemplated in the definition of “research and development”.

Research and development machinery or plant and buildings
The accelerated allowance of 50%,30%,20% is available with effect from 1 April 2012 on new or unused machinery or plant, or on improvements to the machinery or plant, if acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement, on or after 1 January 2012, and brought into use on or after that date. Where a building is used wholly or mainly for research and development a 5% allowance is also claimable.

Special economic zone tax incentive
The Special Economic Zone Incentive legislation will be effective from the date that the Special Economic Zones Act comes into operation, and ceases to apply for years of assessment commencing on or after 1 January 2024.

A “qualifying company” will have to meet the following requirements to be eligible for the special economic zone benefits:
- Incorporated in South Africa; or
- Have its place of effective management in South Africa; and
- Carries on a business in a special economic zone designated by the Minister, or carries on a type of business that is located in a special economic zone; and
- Must be operational from a fixed place of business situated within a special economic zone; and
- Not less than 90% of the income of the company must be derived from carrying on the activity within that special economic zone.

Manufacturing companies in the following industries are excluded:
- Spirits and ethyl alcohol from fermented products and wine;
- Beer and other malt liquors and malt;
- Tobacco products;
- Arms and ammunition;
- Bio-fuels if that manufacturer negatively impacts on food security in the Republic; or
- Any other manufacturer which the Minister of Finance may designate by notice in the Gazette.

Companies operating within special economic zones and approved by the Minister will be eligible for:
- Accelerated depreciation allowance of 10% per annum on new or unused buildings and improvements, owned by the "qualifying company", and used wholly or mainly by that company for producing income, in that special economic zone, other than providing residential accommodation;
- No age restriction is applicable on the employment tax incentive;
- Reduced corporate rate of 15%;
- VAT and customs relief.

Employment tax incentive

Employers who are registered for tax will be eligible to decrease their employees' tax that is payable for hiring a qualifying individual.

Employers are able to claim the incentive when they have employees who:
- Have a valid South African ID or is in possession of an asylum seeker permit;
- Are from 18 to 29 years old;
- Are not domestic workers;
- Are not related or "connected" to the employer;
- Earn at least a minimum wage in terms of wage regulating measures. If no measure exists then the employee must earn R 2 000 per month in wages;
- Earn less than R 6 000 per month in total remuneration (basic salary plus all other benefits); and
- Were newly employed on or after 1 October 2013.

For employers operating in a special economic zone, there is no age restriction for the employees.

The incentive is not available to employers which do not have to register as an employer with SARS e.g. because all their employees are below the tax threshold.

The incentive will be available for the first two years of employment. The value of the incentive is prescribed by a formula, which has three components for different wage levels.

Monthly Remuneration	Per month during the first 12 months of employment	Per month during the next 12 months of employment
R 0 - R 2 000	50% of monthly remuneration	25% of monthly remuneration
R 2 001 - R 4 000	R 1 000	R 500
R 4 001 - R 6 000	R 1 000 – (0.5 x (monthly remuneration – R 4 000))	R 500 – (0.25 x (monthly remuneration – R 4 000))

Employers will be disqualified from receiving the incentive in the case of non-compliance with the minimum wage, prescribed by the relevant sector determination or bargaining council agreement, or if there is no sector determination or bargaining council agreement, if the employer does not pay remuneration to that employee of at least R 2 000 per month, or if it has been found that the employer has unfairly dismissed an employee in order to hire a new "qualifying employee".

An employer may not reduce the employees' tax payable by the amount of the employment tax incentive if, on the last day of that month, the employer has failed to submit any tax return, or has any tax debt, that is outstanding and which is not subject to an agreement entered into with SARS. In these circumstances the employer will be allowed to carry forward the incentive to the next month, subject to certain limits.

The employer cannot deduct more than the total employees' tax which is due to SARS in a particular month. However, the incentive amount may be rolled over to the next month where the incentive available exceeds the employees' tax otherwise due in a month, but subject to certain limits. No refunds are currently permitted and employers should be able to produce IDs for the employees that the incentive is claimed for, if required to.

Penalties will be levied when:

- An employer claims an employment tax incentive in respect of an eligible employee earning less than the minimum wage (or less than R 2 000 where a minimum wage is not applicable). The employer will be liable for a penalty equal to 100% of the incentive received and will have underpayment of employees' tax and possible interest in penalties.
- An employer is deemed to have displaced an employee in order to employ an eligible individual. In this instance the employer will be liable for a penalty of R 30 000 in respect of that employee and may be disqualified from receiving the employment tax incentive.

The commencement date of the employment tax incentive is 1 January 2014 and the incentive will cease on 1 January 2017. The incentive applies to all qualifying employees who are hired after 1 October 2013.

PENALTIES

Administrative non-compliance penalties

SARS has the power to impose administrative penalties in respect of non-compliance with any procedural or administrative action or duty imposed or requested in terms of the Income Tax Act.

Fixed amount penalty

The fixed amount penalty increases monthly calculated from one month after the penalty assessment is issued, subject to a maximum of either 35 months or 47 months, depending on whether or not SARS has the taxpayer's current address. The amount depends on the taxpayer's taxable income, or assessed loss, for the preceding year of assessment. Special rules apply for large companies or large exempt institutions.

The fixed amounts are to be imposed by SARS in accordance with the following table:

Item	Assessed loss or taxable income for preceding year of assessment	Penalty
(i)	Assessed loss	R 250
(ii)	R 0 - R 250 000	R 250
(iii)	R 250 001 - R 500 000	R 500
(iv)	R 500 001 - R 1 000 000	R 1 000
(v)	R 1 000 001 - R 5 000 000	R 2 000
(vi)	R 5 000 001 - R 10 000 000	R 4 000
(vii)	R 10 000 001 - R 50 000 000	R 8 000
(viii)	R 50 000 000 and above	R 16 000

Percentage based penalty

The percentage based penalty is imposed where SARS is satisfied that the taxpayer has not paid the tax as and when required under a tax Act. The penalty is equal to a percentage of tax not paid.

The amount of penalty is prescribed in the particular tax Act and varies between 10% and 20%.

Penalties are levied in terms of a penalty assessment. This assessment will set out the date by which the penalty must be paid.

Remittance of penalties

A person can request that a penalty be remitted. This request must contain the grounds and supporting documents. The penalty will only be remitted in the following exceptional circumstances:

- A natural or human-made disaster;
- A civil disturbance or disruption in services;
- A serious illness or accident;
- Serious emotional or mental distress;
- Certain SARS errors e.g. capturing errors or processing delay;
- Serious financial hardship;
- Any other circumstances of analogous seriousness.

A fixed amount penalty can be remitted up to an amount of R 2 000 in cases where there is a first incidence of non-compliance (no penalty assessment

during preceding 36 months), or the duration of non-compliance is less than 5 business days.

For percentage based penalties it can be remitted in respect of a first incidence (no penalty assessment during preceding 36 months), or if the amount is less than R 2 000, and reasonable grounds exist for the non-compliance, and the non-compliance has been remedied.

Understatement penalties
The understatement penalty is a percentage in accordance with the table set out below, applied to the shortfall of the tax.

An "understatement" is a default in rendering a return, an omission from a return, an incorrect statement in a return, or if no return is required the failure to pay the correct amount of tax.

A "substantial understatement" is a case where the prejudice to the *fiscus* exceeds the greater of 5% of the amount of tax properly chargeable or refundable for the relevant period, or R 1 000 000.

Understatement Penalty Percentage Table

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

The above understatement penalty will be payable unless the understatement results from a *bona fide* inadvertent error. The onus is on the taxpayer to show that a *bona fide* inadvertent error was made. This applies to understatements made from the date of promulgation of the Tax Administration Act. Where a taxpayer corrects a return shortly after it has been submitted SARS will treat it as an inadvertent error.

If more than one understatement is made in a return the penalty for each understatement must be separately determined according to the table.

A repeat case is one which takes place within 5 years of a previous case.

SARS must remit a penalty for a "substantial understatement" if the taxpayer had an opinion from an independent registered tax practitioner, (issued before or when the return was due), that the taxpayer's position was more likely than not to be upheld if the matter proceeds to court, and the opinion was based upon full disclosure of the specific facts and circumstances.

VOLUNTARY DISCLOSURE PROGRAMME

A person may apply for voluntary disclosure relief unless that person is aware of a pending audit or investigation into the affairs of the person seeking relief, or an audit or investigation has commenced but not yet been concluded. A senior SARS official may direct that a person may apply for voluntary disclosure relief if the default would not otherwise have been detected during a SARS audit or investigation, and the application would be in the interest of good management of the tax system, and the best use of SARS's resources.

A default means the submission of inaccurate or incomplete information to SARS, or the failure to submit information, or the adoption of a tax position, either of which have the result that the taxpayer is not assessed for the correct amount of tax, or does not pay the correct amount of tax, or is given an incorrect refund by SARS.

The disclosure must be voluntary, involve a default, be full and complete, involve the potential imposition of an understatement penalty, not result in a refund by SARS, and must be made in the prescribed form and manner.

A senior SARS official may issue a non-binding private opinion as to a person's eligibility for relief. The identity of the party to the default need not be disclosed to SARS in such a case.

Successful applicants will receive relief in the form of:
- Criminal prosecution;
- Understatement penalty (according to understatement penalty table);
- 100% relief for the administrative non-compliance penalty.

If the voluntary disclosure application is accepted, SARS must enter into a voluntary disclosure agreement with the taxpayer.

The statement issued to give effect to the agreement is not subject to objection and appeal.

EXCHANGE CONTROL ALLOWANCES

Discretionary allowance for resident individuals:
- A single discretionary allowance of R 1 000 000 per calendar year for resident individuals who are over the age of 18 years, for purposes of monetary gifts and loans, donations to missionaries, maintenance transfers, alimony and child support payments, wedding expenses and other special occasions, foreign capital allowance, travel allowance and study allowance.
- This discretionary allowance is in addition to the existing R 4 million foreign investment allowance.
- The funds may be transferred to the resident's bank account overseas.
- The discretionary allowance may be obtained through an authorised dealer, without the requirement of a tax clearance certificate.
- Resident individuals under the age of 18 years are only permitted a travel allowance of R 200 000 per calendar year.

Alimony transfers

Authorised dealers may permit transfers to non-residents for alimony and child support against production of a court order. An applicant may transfer in excess of the amount stipulated, subject to the limit of the discretionary allowance and provided that the beneficiary is a non-resident for exchange control purposes.

Study facilities

Foreign exchange facilities are available to permanent residents of South Africa who are taking full time courses at schools, universities or similar educational institutions abroad. The study facilities comprise:

- Transfer directly to the school, university or institution, the tuition and academic fees for the academic year.
- The temporary export of personal and household effects (excluding motor vehicles) up to R 200 000 per person.

Foreign investment allowance

- Resident individuals who are over the age of 18 years are permitted to invest R 4 million per calendar year outside South Africa.
- A tax clearance certificate must be obtained from SARS prior to transfer of funds.
- The investment and any income on the investment may be kept offshore.
- The foreign investment allowance is not available to companies or trusts.
- The South African Reserve Bank may approve investment in fixed property anywhere in the world, over and above the investment amount.

Emigration facilities

- Unutilised portion of discretionary allowance.
- Unutilised portion of foreign investment allowance, limited to an overall foreign capital allowance of R 8 million per family unit per annum, or R 4 million per annum if a single person is emigrating.
- The export of household and personal effects and motor vehicles with a maximum insured value of R 2 million.

Companies

- Payments of royalties, licence and patent fees to non-residents for the local manufacturing of a product need the approval of the Department of Trade and Industry.
- The outward investment allowance that can be approved by an Authorised Dealer is R 500 million per calendar year. Investments in excess of this limit will require the approval of the Financial Surveillance Department.

OFFICIAL INTEREST RATES

Prime interest rate

Date	Rate	Date	Rate	Date	Rate
19/11/2010	9.0%	20/07/2012	8.5%	29/01/2014	9.0%

Interest rates

Rate of interest (from 1 February 2014) Fringe benefits - interest-free or low-interest loan (official rate)		6.5% p.a.
	Rates from 1 March 2011	Rates from 1 May 2014
Late or underpayment of tax	8.5% p.a.	9% p.a.
Refund of overpayment of provisional tax	4.5% p.a.	5% p.a
Refund of tax on successful appeal or where the appeal was conceded by SARS	8.5% p.a	9% p.a
Refund of VAT after prescribed period	8.5% p.a.	9% p.a.
Late payment of VAT	8.5% p.a.	9% p.a.
Customs and Excise	8.5% p.a.	9% p.a.

RETENTION OF RECORDS

Companies

Document	Retention period
Any documents, accounts, books, writing, records or other information required to be kept in terms of the Companies Act and other public regulation	7 years (or as per regulation)
Registration certificate	Indefinite
Memorandum of Incorporation and alterations or amendments	Indefinite
Rules	Indefinite
Securities register and uncertificated securities register	Indefinite
Register of company secretary and auditors	Indefinite
Notice and minutes of all shareholders/directors/ audit committee and other committee meetings including resolutions adopted and documents made available to holders of securities	7 years
Copies of reports presented at the annual general meeting	7 years
Copies of annual financial statements	7 years
Copies of accounting records	7 years
Records of directors and past directors, after the director has retired from the company	7 years
Written communication to holders of securities	7 years

Close corporations

Accounting records, including supporting documents	15 years
Founding statement/ amended founding statement	Indefinite
Annual financial statements, including annual accounts and the report of the accounting officer	15 years
Minute books and resolutions	Indefinite

Tax records

A person who has submitted a return for the tax period	For a period of 5 years from the date of submission of the return, unless subject to an audit, investigation, objection or appeal
A person who is required to submit a return for the tax period and has not submitted a return	Indefinite, until a return is submitted, when the above period applies
A person who is not required to submit a return but has, during the tax period, received income, has a capital gain or loss or engaged in any other activity that is subject to tax, or would be subject to tax, but for the application of a threshold or exemption	For a period of 5 years from the end of the relevant tax period
A person who has been notified or is aware that the records are subject to an audit or investigation, or a person who has lodged an objection or appeal against an assessment or decision	Until the audit is concluded, or the assessment or decision becomes final, or the applicable period above, whichever is the latest

BUDGET SPEECH TAX PROPOSALS

Tax preferred savings accounts to be made available. Further interest exemption, tax exemptions for interest, dividends and capital gains will be granted for investments of not more than R 30 000 per annum per individual. Investments in bank deposits, collective investment schemes, and exchange traded funds and retail savings bonds will be allowed to be offered with these tax exemptions by banks, asset managers, life insurers and brokers.

In the next fiscal year SARS will implement single registration of taxpayers and traders for the main taxes.

The turnover tax regime will be amended to further reduce the tax burden on micro-enterprises.

Consideration is being given to replacing the graduated tax structure for small business corporations with a refundable tax compliance credit.

A relaxation of the requirements for philanthropic foundations to distribute 75% of funds generated within a year, while still ensuring that accumulated capital is distributed to worthy causes within a reasonable time period.

Postponement of the carbon tax to 2016 to allow for further consultation.

IRP5 CODES

Code	Foreign income code	Description	Type of tax
Normal Income Tax			
3601	(3651)	Income	Subject to PAYE
3602	(3652)	Income	Non-taxable
3603	(3653)	Pension	Subject to PAYE
3605	(3655)	Annual payment	Subject to PAYE
3606	(3656)	Commission	Subject to PAYE
3608	(3658)	Arbitration award	Subject to PAYE
3610	(3660)	Annuity from a RAF	Subject to PAYE
3611	(3661)	Purchased annuity	Subject to PAYE
3613	(3663)	Restraint of trade	Subject to PAYE
3614	(3664)	Other retirement lump sums	Subject to PAYE
3615	(3665)	Director's remuneration	Subject to PAYE
3616	(3666)	Independent contractors	Subject to PAYE
3617	(3667)	Labour Brokers	PAYE/IT
Allowance Codes			
3701	(3751)	Travel allowance	Subject to PAYE
3702	(3752)	Reimbursive travel allowance	IT
3703	(3753)	Reimbursive travel allowance	Non-taxable
3704	(3754)	Subsistence allowance – local travel	IT
3705	(3755)	Subsistence allowance	Non-taxable
3707	(3757)	Share options exercised	Subject to PAYE
3708	(3758)	Public office allowance	Subject to PAYE
3713	(3763)	Other allowances, e.g. Entertainment, tool, computer, cellphone	Subject to PAYE
3714	(3764)	Uniform, relocation, subsistence local and foreign	Non-taxable
3715	(3765)	Subsistence allowance – foreign travel	IT
3717	(3767)	Broad-based employee share plan	Subject to PAYE
3718	(3768)	Vesting of equity instruments	Subject to PAYE
Fringe Benefit Codes			
3801	(3851)	General fringe benefits	Subject to PAYE
3802	(3852)	Use of motor vehicle	Subject to PAYE
3803	(3853)	Use of asset	Subject to PAYE
3804	(3854)	Meals, etc.	Subject to PAYE
3805	(3855)	Accommodation	Subject to PAYE
3806	(3856)	Free or cheap services	Subject to PAYE
3808	(3858)	Employee's debt	Subject to PAYE
3809	(3859)	Bursaries or Scholarships. Not applicable from 2010	Subject to PAYE
3810	(3860)	Medical aid contributions (company)	Subject to PAYE
3813	(3863)	Medical services costs	Subject to PAYE
3815	(3865)	Non-taxable bursaries and scholarships	Non-taxable
3816	(3866)	Use of motor vehicle acquired by employers via "Operating Lease"	Subject to PAYE

Lump Sum Codes

Code		Description	
3901	(3951)	Gratuities	Subject to PAYE
3906	(3956)	Special Remuneration	Subject to PAYE
3907	(3957)	Other lump sums	Subject to PAYE
3908		Surplus apportionments and Employer Owned Policy Proceeds	Non- taxable
3909		Unclaimed benefits	Subject to PAYE
3915		Retirement/involuntary termination of employment lump sum benefits/ Commutation of annuities on or after 1 October 2007	Subject to PAYE
3920		Lump sum withdrawal benefits	Subject to PAYE
3921		Living annuity and section 15C of the Pension Funds Act, surplus apportionments	Subject to PAYE
3922		Compensation i.r.o death during employment	Subject to PAYE

Deduction Codes

Code	Description
4001	Current pension fund contributions
4002	Arrear pension fund contributions
4003	Current and arrear provident fund contributions
4005	Medical aid contributions
4006	Current retirement annuity fund contributions
4007	Arrear (re-instated) retirement annuity fund contributions
4018	Premiums paid for loss of income policies
4024	Medical services costs deemed to be paid by the employee in respect of himself/herself, spouse or child
4026	Arrear pension fund contributions – Non-statutory forces (NSF)
4030	Donations deducted from the employee's remuneration and paid by the employer to the organisation
4474	Employer's medical scheme contributions (employee 65 years and older and who has not retired fromthat employer, should also be reflected under this code)
4493	Employer's medical aid contributions in respect of retired employees.
4497	Total Deductions/Contributions.

Employees' Tax Deduction and Reason Codes

Code	Description
4101	SITE
4102	PAYE
4115	Tax on retirement lump sum benefits
4116	Medical schemes fees tax credit
4141	UIF employee and employer contribution
4142	SDL contribution
4150	01 - Invalid from 1 March 2002 02 - Earn less than the tax threshold 03 - Independent contractor 04 - Non- taxable earnings (including nil directives) 05 - Exempt foreign employment income 06 - Director's remuneration – income quantified in the following year of assessment (Valid from 1 March 2002) 07 - Labour broker with valid IRP 30 (only valid from 1 March 2004) 08 - No tax to be withheld due to medical scheme fees tax credit allowed 09 - No withholding possible.

2014 CALENDER

FEBRUARY

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

MARCH

S	M	T	W	T	F	S
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30	31					

APRIL

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27	28	29	30			

MAY

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JUNE

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29	30					

JULY

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AUGUST

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30	31					

SEPTEMBER

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28	29	30				

OCTOBER

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19	20	21	22	23	24	25
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NOVEMBER

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23	24	25	26	27	28	29
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DECEMBER

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21	22	23	24	25	26	27
28	29	30	31			

FEBRUARY 2015

S	M	T	W	T	F	S
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LDP services

The **main business activities** of LDP comprise the following:

- **compliance work** (audit (also of pension funds), reviews and other assurance work)
- **accounting services**
- **statutory work** (administration of companies, Close Corporations, Trusts and similar entities)
- **business consulting.**

In addition to these, LDP **also provides the following services:**

- **specialised financial services**
  - **management advisory**
  - **wealth management**
  - **taxation**
- **internal risk management**
  - **internal auditing**
  - **risk management**
  - **performance audits**
  - **forensic auditing**
- **financial reporting services (in consultation, where necessary, with external consultants)**
  - **consulting on financial reporting issues**
  - **training in IFRS, IFRS for SMEs and SA GAAP**
  - **quality control and review of financial statements**
- **B-BBEE certification through Codex.**