TAX GUIDE
2020 | 2021

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ASSURANCE • ACCOUNTING • TAX • ADVISORY

CONTENTS

INCOME TAX RATES

Natural person or a special trust: 2020/2021

Taxable income (R)		Tax Rate (R)				
0 -	205 900			18%		
205 901 -	321 600	37 062	+	26%	above	205 900
321 601 -	445 100	67 144	+	31%	above	321 600
445 101 -	584 200	105 429	+	36%	above	445 100
584 201 -	744 800	155 505	+	39%	above	584 200
744 801 -	1 577 300	218 139	+	41%	above	744 800
1 577 301 -	and above	559 464	+	45%	above	1 577 300

Natural person or a special trust: 2019/2020

Taxable income (R)		Tax Rate (R)				
0 -	195 850			18%		
195 851 -	305 850	35 253	+	26%	above	195 850
305 851 -	423 300	63 853	+	31%	above	305 850
423 301 -	555 600	100 263	+	36%	above	423 300
555 601 -	708 310	147 891	+	39%	above	555 600
708 311 -	1 500 000	207 448	+	41%	above	708 310
1 500 001 -	and above	532 041	+	45%	above	1 500 000

TAX REBATES

Type of rebate	2020	2021
Primary rebate	14 220	14 958
Secondary rebate: 65 years and older	7 794	8 199
Tertiary rebate: 75 years and older	2 601	2 736

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

TAX THRESHOLDS

Type of person	2020	2021
Natural persons below age 65	79 000	83 100
Natural persons 65 - 74 years	122 300	128 650
Natural persons 75 years and older	136 750	143 850

MEDICAL SCHEME FEES TAX CREDITS PER MONTH

Type of person	2020	2021
Main member	310	319
Main member and one dependant	620	638
Additional credit per additional member	209	215

INTEREST EXEMPTION

Type of person	2020	2021
Person younger than 65	23 800	23 800
Person 65 years or older	34 500	34 500

DONATION TAX AND ESTATE DUTY

Type of tax	2020	2021
Donations tax		
Exemption: Natural persons	100 000	100 000
Exemption: Entities	10 000	10 000
Donation tax: First R 30 million	20%	20%
Donation tax: Above R 30 million	25%	25%
Estate duty		
Estate duty: First R 30 million	20%	20%
Estate duty: Above R 30 million	25%	25%
Estate duty abatement	3 500 000	3 500 000

FRINGE BENEFITS

Type of fringe benefit	2020	2021
Subsistence allowance		
Republic: Only incidental costs	134	139
Republic: Meals and incidental costs	435	452
Outside Republic	Per country	Per country
Car allowance: ceiling on vehicle cost	595 000	665 000
Car allowance: ceiling on debt	595 000	665 000
Bursary to relative of employee		
Remuneration proxy	600 000	600 000
Bursary to relative of employee without disability:		
Grade R to 12	20 000	20 000
NQF 1 – 4	20 000	20 000
NQF 5 – 10	60 000	60 000
Bursary to relative of employee with disability:		
Grade R to 12	30 000	30 000
NQF 1 – 4	30 000	30 000
NQF 5 – 10	90 000	90 000
Employer provided low cost housing/loans		
Employee's remuneration proxy	250 000	250 000
Market value of immovable property	450 000	450 000
Employees' accommodation "B" in formula	79 000	83 100
Awards for bravery and long service	5 000	5 000
Accommodation for expatriate employees	25 000	25 000
Employee loans	3 000	3 000
Travel allowance subject to PAYE	80%	80%
Reimbursive travel allowance	3.61	3.98
Employer-owned vehicles – Determined value		
No maintenance plan	3.5%	3.5%
Maintenance plan	3.25%	3.25%

CAPITAL GAINS TAX

Description	2020	2021
Annual exclusion: Individuals/special trusts	40 000	40 000
Exclusion on death	300 000	300 000
Exclusion: Disposal of primary residence		
Capital gain or loss	2 000 000	2 000 000
Proceeds on disposal	2 000 000	2 000 000
Disposal of small business: person 55 and older		
Exclusion	1 800 000	1 800 000
Market value of small business assets	10 000 000	10 000 000
Inclusion rate:		
Individuals and special trusts	40%	40%
Companies and other trusts	80%	80%

VAT

Description	2020	2021
Compulsory registration	1 000 000	1 000 000
Voluntary registration	50 000	50 000
Payment basis of VAT registration	2 500 000	2 500 000
Exception to payment basis – Invoice exceeds	100 000	100 000
Foreign suppliers of electronic services	1 000 000	1 000 000
Commercial accommodation	120 000	120 000
Tax invoice		
No tax invoice required	50	50
Abridged tax invoice	5 000	5 000

TAX FREE INVESTMENTS

Tax free limits	2020	2021
Annual limit	33 000	36 000
Lifetime limit	500 000	500 000

CORPORATE TAX RATES

Type of entity	2020	2021
Private, public companies and close corporations	28%	28%
Personal service provider company	28%	28%
South African branches of foreign companies	28%	28%
Public Benefit Organisations*	28%	28%
Recreational clubs**	28%	28%
Long-term insurance business:		
• Individual policyholder fund	30%	30%
• Company policyholder fund, corporate funds and risk policy funds	28%	28%
• Untaxed policyholder fund	0%	0%
Trusts (other than special trusts)	45%	45%
Small Business Funding Entities	28%	28%
Dividend tax	20%	20%
Small business corporation – gross income limitation	20 000 000	20 000 000
Micro business		
• Qualifying turnover	1 000 000	1 000 000
• Disposals of capital assets over 3 years or less (deregistration as micro business)	1 500 000	1 500 000
• Minimum value of assets and liabilities to retain records	10 000	10 000

***** Annual trading income exemption is the greater of R 200 000 or 5% of total receipts and accruals.

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

LEARNERSHIP AGREEMENTS

Type of learnership	2020	2021
Learnership agreement: without disability		
NQF 1 – 6	40 000	40 000
NQF 7 - 10	20 000	20 000
Learnership agreement: with disability		
NQF 1 – 6	60 000	60 000
NQF 7 - 10	50 000	50 000

INTEREST RATES

Official Interest rates

Date	Payable to SARS (%)	Payable by SARS (%)	Official interest rate (%)
01 03 2016	9.75	5.75	
01 04 2016			8.00
01 05 2016	10.25	6.25	
01 07 2016	10.50	6.50	
01 08 2017			7.75
01 11 2017	10.25	6.25	
01 04 2018			7.50
01 07 2018	10.00	6.00	
01 12 2018			7.75
01 03 2019	10.25	6.25	
01 08 2019			7.50
01 11 2019	10.00	6.00	
01 02 2020			7.25

Prime interest rate

Date	Rate (%)	Date	Rate (%)
18 03 2016	10.50	21 07 2017	10.25
29 03 2018	10.00	23 11 2018	10.25
19 07 2019	10.00	17 01 2020	9.75

In determining the taxable income derived by a person during a year of assessment any interest to which a person becomes entitled, that is payable by SARS in terms of a Tax Act, is deemed to accrue to the person on the date on which the amount is paid to the person.

WEAR AND TEAR AND CAPITAL ALLOWANCES

Capital allowances

Type of asset	Allowance
Small business corporations	New or used plant and machinery (other than mining or farming) brought into use for the first time in a process of manufacturing or similar process: 100% Other depreciable assets: Normal wear and tear rates, or 50%:30%:20%
Plant and machinery used in a process of manufacturing or similar process	New and unused, acquired on or after 1 March 2002: 40%:20%:20%:20% New and unused, acquired on or after 1 January 2012 and used for qualifying research and development: 50%:30%:20% Used: 20%
Industrial buildings	Used wholly or mainly in the process of manufacturing or a similar process, or buildings used for research and development purposes: 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: 20% initial allowance and 8% thereafter (before 21 October 2008: 5%) Refurbishments: 20% straight line Applies until 31 March 2020

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 (passenger light)	4	Office equipment (mechanical)	5
Air conditioners (window)	6	Passenger vehicles	5
Carports	5	Personal computers	3
Cellular phones	2	Photocopying equipment	5
Curtains	5	Power tools (hand operated)	5
Computer software	2	Shop fittings	6
Delivery vehicles	4	Solar energy units	5
Fitted carpets	6	Television sets	6
Furniture and fittings	6	Textbooks	3
Generators (portable)	5	Telephone equipment	5
Kitchen equipment	6	Trucks (heavy duty)	3
Motorcycles	4	Workshop equipment	5

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

Recoupments

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.

RESIDENTS

Residency test

Residents of South Africa are taxable on their worldwide income. To be considered a resident and therefore subject to South African income tax an individual must be either "ordinarily resident" in South Africa (as per interpretation note 3) or be "physically present" in the Republic of South Africa.

Physically present requires that an individual be present in South Africa:

- For more than 91 days in total during the current and each of the preceding 5 tax years; and
- For more than 915 days in total during the preceding 5 tax years.

If the individual was outside the Republic of South Africa for a continuous period of 330 full 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 if it is incorporated, established or formed in South Africa, or has its place of effective management 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 a double tax agreement, even if the other tests apply.

South African interest

Local interest is exempt limited to the following maximum amounts:

Type of person	2020	2021
Natural persons under 65 years	23 800	23 800
Natural persons aged 65 years and older	34 500	34 500

Foreign interest

Foreign interest is taxable.

South African dividends

Natural persons who receive dividends from South African companies are exempt from normal income tax on the dividend income. The dividends are subject to a 20% dividends tax, which is withheld by the company paying the dividend and then paid over to SARS on behalf of the taxpayer. This withholding dividends tax is a final tax.

Dividends received as a result of services rendered are not exempt, unless:

- The dividend is received i.r.o. a restricted equity instrument; or
- The share is held by the employee.

Foreign dividends

A foreign dividend is exempt in the following circumstances:

- 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 from a foreign share listed on a South African exchange, and is not a dividend *in specie*;
- A foreign dividend received by or accrued to a company that is a resident in respect of a foreign share listed on a South African exchange and is a dividend *in specie*.

Any taxable foreign dividend is subject to a maximum effective tax rate of 20%. The exemption is calculated as follows:

- Natural persons, deceased estates, insolvent estates or trusts: 25/45 x dividend;
- Companies: 8/28 x dividend.

The foreign dividend exemption does not apply to any foreign dividend received by or accrued to a person in respect of services rendered, unless the person holds the foreign share, or the foreign share is a restricted equity instrument held by that person.

The exemptions also do not apply if the dividends are paid to a person as an annuity.

A resident is entitled to a foreign tax rebate 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 e.g. interest paid on loans to buy foreign shares.

Tax-free investments

Any amount received by or accrued to a natural person or its deceased or insolvent estate, in respect of a tax-free investment, shall be exempt from normal tax. Any capital gain or loss shall also be disregarded. No dividends tax is payable on dividends paid to a natural person in respect of a tax-free investment.

Contributions in respect of tax-free investments is limited to an annual limit of R 36 000 (R 33 000) in aggregate during a year of assessment, and a lifetime limit of R 500 000 in aggregate. The contribution limits apply per person contributing, and not per tax free savings account contributed to. The contributions to a tax-free investment must be in the form of cash. Taxpayers may transfer amounts between tax-free investment offerings by different service providers. These transfers will not be considered when determining the annual or lifetime contribution limits.

A punitive penalty will be levied on contributions that exceed the prescribed contribution limits. If during a year of assessment, a person contributes more than R 36 000 (R 33 000), an amount equal to 40% of that excess will be deemed to be an amount of normal tax payable in the relevant year of assessment. If any person contributes more than R 500 000 in aggregate, an amount equal to 40% of so much of that excess that has not previously been taken into account shall be deemed to be an amount of normal tax payable in respect of the year of assessment in which that excess is contributed. Any exempt amounts received from a tax-free investment that are reinvested will not be regarded as excess contributions for the 40% penalty.

Restraint of trade receipts

Restraint of trade receipts are of a capital nature, except for any amount received by or accrued to any natural person, personal service provider company or trust or a labour broker without an exemption certificate, as consideration for any restraint of trade imposed on that person in respect of employment or the holding of any office.

Foreign trading activities

If a South African resident carries on a business outside the country as a sole proprietor, the taxable income derived from such trade is determined in the same way as it would be in South Africa and must be converted into South African Rands. If the foreign trade results in a loss, such loss may be set off against other foreign trade income but may not be set off against any income from a source in the Republic.

Foreign employment remuneration

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

Remuneration includes fringe benefits and benefits under employee share schemes.

Independent contractors and self-employed individuals, for example sole proprietors or partners in a partnership, do not qualify for the exemption.

In calculating the days during which a person is outside South Africa, weekends, public holidays, vacation leave and sick leave are included.

Any 12-month period may be used to establish whether the person was outside South Africa for more than 183 days. Where a person is in transit through South Africa between two places outside South Africa and does not formally enter South Africa through a designated port of entry, the person is deemed to be outside South Africa.

With effect from 1 March 2020 the exemption will only apply to the extent that remuneration for services rendered outside South Africa does not exceed R 1.25 million during a year of assessment. Any excess above the R 1.25 million will be subject to normal tax in South Africa.

The provisions of a double tax agreement should be considered when the remuneration exceeds R 1.25 million. Double tax relief in the form of a foreign tax credit is available in South Africa where tax was paid in both countries on the same remuneration.

For PAYE purposes the R 1.25 million threshold should accumulate monthly. Once the R 1.25 million threshold is reached, the income exceeding R 1.25 million is subject to normal tax. The R 1.25 million threshold may not be averaged over the year of assessment.

If an employer withholds employees' tax on remuneration that is exempt, the employee may only claim the refund on assessment. SARS may request supporting documents to substantiate the exemption e.g. employment contracts and copies of passports.

Foreign pensions and annuities
Any lump sum, pension or annuity received by or accrued to any resident from a source outside the Republic as consideration for past employment outside the Republic is exempt. Any amount transferred to a South African retirement fund from a source outside the Republic is exempt.

Blocked foreign funds
A special rule applies where a person's income includes an amount that accrued to a person from a foreign country, where that country imposes currency or other restrictions which prevent the amounts from being remitted to South Africa during the year of assessment. These amounts must be deducted from taxable income in that year of assessment and are deemed to be amounts received by or accrued to the person in the year of assessment in which the restrictions are lifted.

Income protection policies
Any premiums paid by a natural person, to an insurance policy to cover the person against illness, injury, disability, death, or unemployment is not deductible. Any amount received or accrued in respect of these policies will be exempt from tax.

NON-RESIDENTS
Non-residents are taxed on their income from a source within or deemed to be within South Africa. For individual non-residents, the same tax thresholds would be applicable as for South African residents. A non-resident is only subject to capital gains tax on the disposal of fixed property (or an interest in such property) situated in South Africa.

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, and therefore employees' tax must be withheld.

Rental income on fixed property
This is taxed in South Africa if the property is situated in South Africa.

Interest received
A withholding tax is levied at 15% on South African source interest paid to non-resident persons. The interest is deemed to be paid on the earlier of the date on which the interest is paid or becomes due and payable. The withholding tax is a final tax.

A foreign person is exempt from the withholding tax on 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 12-month period preceding the date on which the interest is paid, or the debt claim 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 interest will be subject to normal income tax.

Interest paid to a non-resident, will also be exempt from the withholding tax if the interest is paid by:

- The South African government in the national, provincial or local sphere;
- 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;
- Any listed debt instruments; or
- An entity as contemplated in section 21(6) of the Financial Markets Act to any foreign person that is a client as defined.

Royalties
A withholding tax is levied, calculated at a rate of 15% on the amount of a royalty that is paid to any foreign person, to the extent that the amount is received or accrued from a source within the Republic. The withholding tax is a final tax.

A royalty is deemed to be paid on the earlier of the date of payment or when it becomes due and payable.

A royalty is exempt from the withholding tax if the foreign person is a natural person who was physically present in South Africa for a period exceeding 183 days in aggerate during the 12 month period preceding the date on which the royalty is paid, or if the natural person carried on a business through a permanent establishment in the Republic at any time during the 12 month period. The royalty will be subject to normal income tax.

General rules in respect of withholding taxes on interest and royalties
The person who pays the interest or royalty is responsible for withholding the correct amount of tax and paying it over to SARS.

Persons required to withhold the tax, can be relieved of the withholding liability, if the person receives a written declaration and undertaking of exemption/treaty relief from the foreign person. This declaration and undertaking must be submitted by the earlier of the date determined by the person paying the interest or royalty or before the date of payment. With effect from 1 July 2020 such declaration and undertaking will only

be valid for a period of five years from the date of declaration.

Any person that withholds tax on the payment of interest or royalties must submit a return and pay the tax to SARS by the last day of the month following the month during which the interest or royalty is paid.

A refund may be claimed by the non-resident from SARS if a withholding tax on interest or royalties was improperly withheld and application is made to SARS within 3 years after payment of the applicable interest or royalties. SARS will refund the tax directly to the non-resident.

If the payment of interest or royalties is denominated in a foreign currency, it must be converted to South African Rands at the spot rate on the date on which the amount was withheld.

Dividends
All dividends paid to non-residents are subject to a final withholding tax of 20%. The rate of tax may be altered by a double tax agreement.

Foreign entertainers and sportspersons
A final tax of 15% is payable on all amounts paid to a non-resident in respect of any specified activity exercised in South Africa. Any person who is responsible for the organising of a specified activity in the Republic is required to notify the Commissioner within 14 days after the agreement has been concluded that the specified activity is to take place.

Sale of immovable property
A disposal of immovable property situated in the Republic, by a non-resident is subject to capital gains tax.

Non-residents are subject to a withholding tax on the disposal of immovable property in South Africa for a consideration of more than 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:

Type of seller	Rate
Natural person	7.5%
Company	10%
Trust	15%

The amount withheld by the purchaser must be paid to SARS within 14 days after the date on which that amount was withheld if the purchaser is a resident, or within 28 days if the purchaser is a non-resident.

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

If a seller does not submit a return to SARS within 12 months after the end of the year of assessment, the payment of that amount is deemed to be a sufficient basis for SARS to issue an estimated assessment that is not subject to objection or appeal.

If a non-resident holds 20% or more of the equity shares in a South African resident property company, and 80% or more of the market value of those shares is attributable to South African immovable property held as a capital asset or as trading stock, then the shares held by the non-resident are deemed to be fixed or immovable property in South Africa.

If the non-resident sells the shares, then the tax must be withheld from the proceeds of the sale of the shares.

Service fees paid to non-residents
Any arrangement for the provision of consultancy, construction, engineering, installation, logistical, managerial, supervisory, technical or training services by a non-resident, or their employee, agent or representative, carried on in the Republic, and where the expenditure incurred or to be incurred in respect of those services exceeds or is anticipated to exceed R 10 million per arrangement, will be a reportable arrangement.

No disclosure is necessary if the service fee is taxed as remuneration in the non-resident's hands.

ALLOWANCES AND REIMBURSEMENTS
An allowance is an amount granted by an employer to an employee to incur business related expenditure on behalf of the employer, without the obligation on the employee to prove or account for the business-related expenditure.

A reimbursement occurs when an employee has incurred and paid for business-related expenditure on behalf of an employer and is then subsequently reimbursed for the exact expenditure by the employer after having proved and accounted for the expenditure to the employer.

Travelling and car allowance
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. This determination must be done on a monthly basis.

The 80% inclusion does not apply to any travel allowance that is based on actual distance travelled.

Reimbursive travel allowance
Where an allowance or advance is based on the actual distance travelled by the employee for business purposes, no tax is payable on an allowance paid by an employer to an employee up to a rate of 398 (361) cents per kilometre, regardless of the value of the vehicle.

However, this simplified method is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

The portion by which the allowance paid by the employer exceeds 398 (361) cents per kilometre will form part of remuneration for employees' tax purposes.

Where a travel allowance is paid in addition to a reimbursive allowance both amounts will be combined on assessment and treated as a single travel allowance.

With effect from 1 March 2020 both a travel allowance and reimbursive travel allowance are included in the definition of variable remuneration. This means that the allowance only accrues to the employee when it is

paid. The distance travelled for business purposes will also be deemed to be travelled in such a year of 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 by the employer without the amount being included in the employee's taxable income:
- R 139 (R 134) per day for incidental costs only;
- R 452 (R 435) per day for incidental costs and meals.

For 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.

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, if the employee is required, while on duty, to wear the special uniform, and it is clearly distinguishable from ordinary clothing.

FRINGE BENEFITS
A fringe benefit refers to payments made to employees (including a partner in a partnership) 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.

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.

Cash equivalent
General rule: market value at the time the asset is acquired by the employee, less any consideration paid by the employee;
Movable property: the cost to the employer, if acquired by the employer to dispose of it to the employee;
Marketable securities: market value;
Asset which the employer had the use of prior to acquiring ownership thereof: market value;
Trading stock: lower of the cost to the employer or the market value.
(All of the amounts are exclusive of VAT)

No value shall be placed on:
- Fuel or lubricants 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.

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 acquired, and the market value of the immovable property on the date of acquisition by the employee does not exceed R 450 000. The employee may also not be a connected person in relation to the employer. Loans at preferential interest rates, which are solely for housing, made to employees who satisfy the same remuneration criteria for loans with a value of less than R 450 000, will not be subject to fringe benefits tax.

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 private use 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 on the lesser of the cost or market value of the asset at the date of commencement of the period of use by the employee.
- Where the employee is granted the sole right of use of the asset for a major portion of its useful life the value is the cost of the asset to the employer.

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, excluding clothing provided by the employer;
- Asset consists of any equipment or machine and the private use is for a short period and the Commissioner is satisfied that the value of private use is negligible;
- Asset consists of telephone or computer equipment which the employee uses mainly for the purposes of the employer's business;
- 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, or any other travelling done for private or domestic purposes.

Fringe benefit value
- Vehicle not subject to a maintenance plan: 3.5% of determined value
- Vehicle subject to a maintenance plan: 3.25% of determined value
- Vehicle held under an operating lease concluded at arm's length: actual cost to the employer plus the cost of fuel.

Maintenance plan means a contract covering all maintenance costs for not less than 3 years and a distance not less than 60 000 kilometres.

No reduction in the taxable value shall be made because the vehicle was during any period, for any reason, temporarily not used by the employee for private purposes.

Determined value

The determined value is the retail market value excluding finance charges but inclusive of VAT. This has been determined by the Minister as follows for any year of assessment commencing after 1 March 2018:

	New/Demo vehicle:	Pre-owned vehicle:
Manufacturers/ importers	Dealer Billing Price Including VAT	Cost excluding finance charges and interest but Including VAT
Vehicle dealers/ rental companies		If at no cost, then market value including repairs and VAT
Any other person	Price at acquisition including VAT, or where the vehicle was acquired at no cost, the market value including VAT	

The determined value must be reduced by 15% per year on the reducing balance method for every completed 12 month period between acquisition of the motor vehicle by the employer and granting the right of use to the employee for the first time.

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 shall be deemed to be the value of the private use of the vehicle carrying the highest value for private use.

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 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;
- The risk of destruction or loss of the vehicle is not assumed by the lessee;
- The lessor may claim from the lessee for such loss as arises out of the lessee's failure to take proper care of the vehicle.

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 infrequent, or is merely incidental to the business use;
- The vehicle is not normally kept at or near the residence of the employee after business hours, or
- The nature of the employee's duties requires regular use of the vehicle outside normal working hours, and the employee is not permitted to use the vehicle for private purposes, other than travelling between his/her place of residence and place of work, or the private use is infrequent or incidental to the business use.

Employees tax

The employer must calculate employees' tax on 80% of the cash equivalent, or on 20% if the employer is satisfied that the business use will be at least 80%.

Reduction on assessment

Accurate records kept of business kilometres: Value of private use x business kilometres/total kilometres.

Employee bears the full cost of the licence, insurance, or the maintenance: full cost x private kilometres/total kilometres.

Employee bears the full cost of fuel for private use: Private kilometres x deemed cost per kilometre i.r.o. fuel as per the deemed cost table.

Deemed supply for VAT purposes

- Motor vehicle: 0.3% of the determined value (Excl. VAT) per month
- Other vehicles: 0.6% of the determined value (Excl. VAT) per month

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 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 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 during employment of the employee.

Medical aid contributions, expenses and credits

The full medical scheme contribution made by the employer is taxed as a fringe benefit in the hands of the employee. 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:

- A person who has retired from employment by reason of old age, ill health or other infirmity; or
- The dependants of a deceased employee; or
- The dependants of a retired employee after his death.

Medical expenses fall into two categories:

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

Medical scheme fees tax credit

Type of person	2020	2021
Main member	310	319
Main member and one dependant	620	638
Additional credit per additional member	209	215

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.

The rebates are only claimable for those months in respect of which contributions are actually paid to a medical scheme.

Where more than one person pays fees in respect of a dependant, the credit is the pro-rata portion in the same ratio that the fees paid by that

person bear to the total amount.

Additional medical expenses tax credit
For taxpayers 65 years and older and for persons with a "disability" (in the immediate family) the additional medical expenses tax credit is:
- 33.3% of the fees paid to a medical scheme as exceeds 3 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.

Thus:
33.3% x [(contributions – 3 x credit) + qualifying expenses)]

For all other natural persons, the additional medical expenses tax credit is 25% of so much of the aggregate of:
- The amount of the fees paid to a medical scheme, as exceeds 4 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 (including the taxable portion of a capital gain but excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit).

Thus:
25% x [(Contributions – 4 x credit) + qualifying expenses] – (7.5% x taxable income)

Only where a taxpayer or dependant has a "disability" as defined will he or 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". *

For PAYE purposes the employer must deduct from employees' tax:
- The medical scheme fees tax credit; and
- Where the employee is 65 years of age or older the additional medical expenses tax credit of 33.3% of the fees paid to a medical scheme as exceeds 3 times the amount of the medical scheme fees tax credit to which that person is entitled.

Qualifying medical expenses may not be taken into account for employees' tax purposes.

Definition of a "dependant"
A "dependant" means a person's spouse or child, and the child of his or her spouse, any other member of a person's immediate family in respect of whom he or she is liable for family care and support (such as parents), or any person who is recognised as a dependant of that person in terms of the rules of a medical scheme or fund, at the time the contributions to the medical aid fund or the qualifying medical expenses were paid.

Definition of a "child"
A "child" means a person's child or child of his or her spouse (including an adopted child), who was alive during any portion of the year of assessment, and who was on the last day of the year of assessment:
- Unmarried and was:

- Not over the age of 18;
- Not over the age of 21 and was wholly or partially dependent for maintenance upon the taxpayer and has not become liable for the payment of normal tax; or
- Not over the age of 26 and was wholly or partially dependent for maintenance upon the taxpayer and has not become liable for the payment of normal tax, and was a full-time student at an educational institution of a public character; or

• In the case of any other child was incapacitated by physical or mental infirmity from maintaining himself or herself and was wholly or partially dependent for maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of that year.

Definition of a "disability"
A "disability" means a moderate to severe limitation of a person's ability to function or perform daily activities, because 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 certain criteria prescribed by the Commissioner. The medical practitioner needs to be a specialist in the disability he or she diagnoses.

Form ITR-DD must be completed by a medical practitioner and is valid for 10 years (5 years before 1 March 2019) if the disability is of a more permanent nature. In the case of a temporary disability, the form is valid for only one year. *

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. This could include for example bad eyesight, hearing problems, paralysis of a portion of the body, brain dysfunctions such as dyslexia, hyperactivity or lack of concentration. Diabetes and asthma are medical conditions and not physical impairments.

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 any duly registered:

• Medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopaedist for professional services rendered or medicines supplied to the person or any dependant of the person;
• 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;
• Pharmacist for medicines supplied on prescription;
• Expenditure incurred outside the Republic which are substantially

similar to qualifying medical services rendered and medicines supplied in South Africa; and

- Expenditure that is prescribed by the Commissioner* (other than expenditure recoverable by a person or his/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 refer to the SARS Guide on the determination of medical tax credit allowances for a detailed explanation of disability and the expenses as prescribed by the Minister.

Costs relating to medical services

The cash equivalent is the amount incurred by the employer during any month, directly or indirectly, in respect of any medical, dental and similar services, hospital services, nursing services or medicines in respect of that employee, his or her spouse, child or other relative or dependants.

No value must be placed on any taxable benefit in respect of the following:

- A medical scheme that is approved by the Registrar of Medical Schemes and is run by an employer for his employees;
- A person who has retired from employment by reason of old age, ill health or other infirmity;
- The dependants of a deceased employee;
- The dependants of a retired employee after his death;
- A person who during the relevant year of assessment is 65 years or older where the employer incurs qualifying medical expenses;
- Where the services are rendered by the employer to its employees in general at their place of work for the better performance of their duties;
- Any medical benefit where the services are rendered, or the medicines supplied to comply with any law in the Republic.

Residential accommodation

Where the employer provides free or cheap accommodation, the taxable value is determined on 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 83 100 (R 79 000) (subject to certain exclusions)
- C = 17, or
- If the accommodation consists of a house, flat or apartment consisting of at least 4 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 during the year of assessment during which the employee was entitled to the accommodation.

*This is remuneration as defined derived by the employee in the previous year of assessment, excluding the residential accommodation benefit.

B in the formula is Nil in the following two situations:

- The employer is a private company and the employee, or his spouse controls the company;
- The employee or his spouse or minor child has a right of option or pre-emption whereby they may become the owner of the accommodation directly or indirectly by virtue of a controlling interest.

Where the employer or associated institution supplies accommodation, obtained in terms of a transaction at arm's length, with a person that is not a connected person in relation to the employer, or associated institution, and the full ownership does not vest in the employer or associated institution, the value to be placed on such accommodation shall be the lower of:

- The amount as per the formula; or
- The amount of the expenditure incurred for accommodation by the employer or associated institution.

No rental value will be placed on the following:

- Accommodation inside or outside South Africa supplied while the resident employee is away from his usual place of residence in South Africa for work purposes.
- Any accommodation in South Africa supplied to a non-resident employee away from his usual place of residence outside South Africa for a period:
  - Less than two years after the date of arrival in South Africa; or
  - Less than 90 days in the year of assessment.
- 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 excess of the cash equivalent over an amount of R 25 000 multiplied by the number of months during which the accommodation is supplied.

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 and any amount chargeable in respect of meals, refreshments, or any services borne by the employer during which the accommodation was occupied by the employee.

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 or his relative.

The following services are excluded:

- Travel facilities provided by an employer, who is in the business of conveying passengers, to its 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. Transport services that are rendered directly by the employer for the provision of exclusive transport services to employees in general between their homes and their place of employment will qualify for the no-value provisions. The provision of, and access to general public transport will not qualify for the no-value provisions.
- Any communication service provided to an employee if the service is used mainly for business purposes, e.g. access to internet or e-mail;
- Services rendered to employees at their place of work for the better performance of their duties;
- Travel facilities granted to a spouse or minor child of an employee, to travel between the employee's home and the business place, if the employee 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.

Low interest or interest free loans
Debt owed by an employee to the employer, or to any other person by arrangement with the employer or any associated institution, at no interest or at a lower rate than the official interest rate constitutes a fringe benefit.

The cash equivalent is the interest on the outstanding balance calculated at the official interest rate less the actual interest paid.

No value shall be placed on the following benefits:
- A casual loan that does not exceed the sum of R 3 000 at any relevant time; or
- A loan to enable the employee to further his or her own studies.
- A loan to an employee that does not exceed R 450 000 if:
  - The debt was assumed to acquire immovable property;
  - The market value of the property does not exceed R 450 000;
  - The remuneration proxy of the employee does not exceed R 250 000; and
  - The employee is not a connected person in relation to the employer.

Payment of employees' 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 employer is deemed to have released an employee from an obligation to pay a debt if the debt prescribes, unless the prescription was not due to an intention on the part of the employer to confer a benefit on the employee. 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.

No value shall be placed on the following benefits:
- Subscriptions due by the employee to a professional body, if membership of such body is a condition of the employee's employment;
- Insurance premiums indemnifying an employee solely against claims arising from negligent acts or omissions on the part of the employee

in rendering services to the employer;
- The payment of an employee's bursary or study loan debt by the new employer to the previous employer, provided the employee undertake to work for the new employer at least for the unexpired period that had not been worked for the previous 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.

There is no monetary limit for *bona fide* bursaries given to an employee to study. 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 600 000 during the year of assessment, and the amount of the bursary or scholarship does not exceed:
- R 20 000 for basic education (Grade R to 12 and NQF 1 to 4);
- R 60 000 for higher education (NQF 5 to 10).

If the bursary is paid to assist a disabled person who is a member of the employee's family (and the employee has a duty of care and support in respect of the person with the disability), the thresholds are as follows:
- The remuneration proxy is R 600 000;
- R 30 000 for basic education (Grade R to 12 and NQF 1 to 4);
- R 90 000 for higher education (NQF 5 to 10).

Where an employer rewards an employee for obtaining a qualification, successful completion of a study course or reimburses the employee for study expenses, such reward or reimbursement of study expenses will represent, in the case of the reward, taxable remuneration and in the case of the reimbursement of study expenses, a taxable benefit.

Free or subsidised meals and refreshments
A taxable benefit arises if an employee has been provided with any meal, 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 following benefits:
- 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.

Contributions to retirement funds by employer
Where the employer has made any contribution for the benefit of any employee to any pension fund, provident fund or retirement annuity fund, such contributions will be treated as a taxable fringe benefit in the hands of the employee.

The fringe benefit will be taxed as follows:
- Defined contribution fund: Cash value of the contribution;
- Defined benefit fund: Determined through a specific formula.

Employer contributions included as a fringe benefit in the hands of the employee are deemed to have been contributed by the employee.

Share incentive schemes
Any employee or 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 on 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. If the instrument is disposed of to an employer or associated institution for less than the market value, the gain is the amount received or accrued minus the consideration paid by the employee. An employer must apply for a directive on the gain made from the vesting of any equity instrument.

Relocation benefits
Where the employer incurred expenses, or reimbursed an employee any relocation costs, the following expenses will be exempt from normal tax:
- Transportation costs of the employee, members of his household and their goods and possessions;
- Hiring of residential accommodation e.g. hotel for a maximum of 183 days after transfer;
- New school uniforms, replacement of curtains, registration of a mortgage bond and legal fees, transfer duty, motor vehicle registration fees, telephone and water and electricity connection fees, cancellation of a mortgage bond, estate agent fees.

Any loss incurred on the sale of the previous residence or architect fee for the design or alteration of the new residence is not exempt.

DEDUCTIONS FOR INDIVIDUALS
Retirement fund contributions
Contributions made to a pension fund, provident fund and a retirement annuity fund can be claimed as a deduction.

Any amount contributed to any fund during any previous year of assessment and which has been disallowed solely because the amount contributed exceeds the amount of the allowable deduction is called the "unclaimed balance of contributions".

The "unclaimed balance of contributions" at the end of the 2019 year of assessment should be applied or used in the following sequence during the 2020 year of assessment:
- Claim a deduction against a lump sum received during 2020;
- Claim an exemption against any qualifying annuities received during 2020;
- Add the remaining unclaimed balance to the current contributions made during 2020.

Deductible contributions will be limited to the lesser of:

- R 350 000; or
- 27.5% of the greater of:
  - Remuneration, excluding retirement lump sum benefits and severance benefits; or
  - Taxable income including a taxable capital gain but before allowing this deduction and the section 18A donations deduction. It also excludes any retirement lump sum benefits and severance benefits.
- The taxable income of that person before:
  - Allowing this deduction; and
  - The inclusion of any taxable capital gain.

Employers can claim deductions i.r.o. all amounts paid to any retirement fund on behalf of an employee. The cash equivalent of the contributions must be included as a fringe benefit in the hands of the employee. The employee is deemed to have contributed an amount equal to the value of the fringe benefit.

Employers may take this deduction into account for PAYE purposes, limited to the lesser of R 350 000 or 27.5% of remuneration or taxable income. The capped amount of R 350 000 must be spread over 12 months on a cumulative basis for a portion of the year of assessment that the employee received remuneration from the employer. For employees who are paid monthly the deduction cannot exceed R 29 167 per month.

Donations

Donations to certain Public Benefit Organisations are deductible, limited to 10% of taxable income. The taxable income must exclude any lump sums from retirement funds and severance benefits but must include the taxable portion of a capital gain. The taxpayer must be in receipt of a qualifying section 18A donations certificate. Donations in excess of the 10% may be carried forward and treated as a donation in the next year. If the taxpayer has no taxable income or has an assessed loss no deduction may be claimed for that year.

Home study expenses

A deduction for home study costs will be allowed if:

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

Travel expenses

For an individual to claim a deduction, a logbook must be maintained to justify business use. A logbook 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 2021

Value of the vehicle (Inc Vat) (R)			Fixed costs (c)	Fuel (c)	Maintenance (c)
0	-	95 000	31 332	105.8	37.4
95 001	-	190 000	55 894	118.1	46.8
190 001	-	285 000	80 539	128.3	51.6
285 001	-	380 000	102 211	138.0	56.4
380 001	-	475 000	123 955	147.7	66.2
475 001	-	570 000	146 753	169.4	77.8
570 001	-	665 000	169 552	175.1	96.6
665 001		and above	169 552	175.1	96.6

Deemed expenditure – tax year ending 29 February 2020

Value of the vehicle (Inc Vat) (R)			Fixed costs (c)	Fuel (c)	Maintenance (c)
0	-	85 000	28 352	95.7	34.4
85 001	-	170 000	50 631	106.8	43.1
170 001	-	255 000	72 983	116.0	47.5
255 001	-	340 000	92 683	124.8	51.9
340 001	-	425 000	112 443	133.5	60.9
425 001	-	510 000	133 147	153.2	71.6
510 001	-	595 000	153 850	158.4	88.9
595 001		and above	153 850	158.4	88.9

The fixed cost per the table must be divided by the total kilometres travelled during the year of assessment for both private and business purposes. The fixed cost must be reduced proportionately if the vehicle is used for business purposes for less than a full year.

The value of the vehicle is the cost of the vehicle, including VAT but excluding finance charges or interest.

No fuel or maintenance costs may be claimed if the employee has not borne the full cost of fuel or maintenance.

Where the employee retained supporting documentation, the actual expenditure can be claimed on assessment, limited to the value of the allowance. Where the deduction is based on actual expenditure the value of the vehicle is limited to R 665 000 (R 595 000). The wear and tear is limited to this value and must be determined over a period of 7 years. Finance charges must also be limited as if the vehicle had a cost of R 665 000 (R 595 000).

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 logbook must be maintained to justify the business use.

Interest, penalties and taxes

When calculating the taxable income of any person for a year of assessment, any interest that becomes payable by SARS, to a taxpayer is deemed to accrue on the date of actual payment by SARS.

If the interest must be repaid by that person to SARS, it must be deducted in the year of assessment that the interest is repaid to SARS. The deduction is only available to the extent that the interest is or was

included in the persons taxable income.

RETIREMENT BENEFITS

Annuities

All annuities, including capital annuities are taxed in full in the hands of a resident.

On retirement members of pension funds and retirement annuity funds may elect to take a third of their retirement benefit as a lump sum and two-thirds will be paid every month as an annuity until they die. Members who do not have a retirement benefit exceeding R 247 500 at retirement will not be required to annuitise.

Members of provident funds can still until 28 February 2021 elect to have the total value of the fund paid out as a lump sum on retirement date. From 1 March 2021 members of provident funds will not be able to commute more than one-third for a lump sum and will be forced to take qualifying annuities i.r.o. the remaining two-thirds.

All the retirement interests i.r.o. which members already obtained a vested right to on 28 February 2021, will be protected and can still be taken as a lump sum. The one-third limitation is not applicable in the case of members who have already reached the age of 55 years on 1 March 2021.

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

Retirement fund lump sum or severance benefit tax table
Year of assessment ending 28 February 2020/2021

Taxable income (R)			Tax payable				
0	-	500 000			0%		
500 001	-	700 000	0	+	18%	above	500 000
700 001	-	1 050 000	36 000	+	27%	above	700 000
1 050 001	-	and above	130 500	+	36%	above	1 050 000

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 a retirement annuity fund on withdrawal (including amounts assigned to a former spouse in terms of a divorce order).

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

Withdrawal benefit tax table
Year of assessment ending 28 February 2020/2021

Taxable income (R)			Tax payable (R)				
0	-	25 000			0%		
25 001	-	660 000	0	+	18%	above	25 000
660 001	-	990 000	114 300	+	27%	above	660 000
990 001	-	and above	203 400	+	36%	above	990 000

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; or
  - 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 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.

Tax neutral transfers to other funds

Members of retirement funds can postpone 'retirement' by keeping their benefits within their funds past the 'normal retirement age'. Retirees may "elect to retire" at any age of their choice subject to the rules and regulations of each individual fund. From 1 March 2018 employees could transfer their benefits into a retirement annuity fund on or after reaching normal retirement age, but before retirement date without incurring any tax consequences. With effect from 1 March 2019 the same rules apply for transfers to pension preservation funds or provident preservation funds.

Tax neutral transfers from pension funds to provident or provident preservation funds will only be effective from 1 March 2021.

Exemption of qualifying annuities
Section 10(C)(2) allows an exemption equal to so much of a person's own contributions to any fund that did not rank for a deduction against the person's income in respect of any prior year of assessment. The unclaimed balance of contributions at the end of the 2019 year of assessment could be applied or used in the following sequence during the 2020 year of assessment:

- Claim a deduction against a lump sum received during 2020;
- Claim an exemption against any qualifying annuities received during 2020;
- Add the remaining unclaimed balance to the current contributions made during 2020.

The exemption will only apply to annuities paid out of the retirement interest to members of provident funds and provident preservation funds with effect from 1 March 2020.

Withdrawal from retirement funds
Members of pension preservation funds, provident preservation funds or retirement annuity funds will be entitled to withdraw their full lump sum benefit when the member:

- Is or was a resident who emigrated from the Republic, and the emigration is recognised by the SARB; or
- Departs from the Republic upon the expiry of a visa obtained to work or visit the Republic and the member is not recognised as a resident by the SARB.

SMALL BUSINESS CORPORATIONS
This type of company enjoys a graduated tax rate structure as per the following table:

Year of assessment between 1 April 2020 and 31 March 2021

Taxable income (R)			Tax Rate (R)				
0	-	83 100			0%		
83 101	-	365 000			7%	above	83 100
365 001	-	550 000	19 733	+	21%	above	365 000
550 001	-	and above	58 583	+	28%	above	550 000

Year of assessment between 1 April 2019 and 31 March 2020

Taxable income (R)			Tax Rate (R)				
0	-	79 000			0%		
79 001	-	365 000			7%	above	79 000
365 001	-	550 000	20 020	+	21%	above	365 000
550 001	-	and above	58 870	+	28%	above	550 000

A small business corporation is any close corporation, co-operative or private company (as defined in section 1 of the Companies Act), or a personal liability company (as defined in section 8(2)(c) of the Companies Act) 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, portfolio in a collective investment scheme,

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 and all capital gains consists collectively of investment income and income from rendering personal services;
- The entity does not meet the definition of a personal service provider.

Investment income: annuities, 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: 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, or by a person who is connected to a person who holds an interest, except where such small business corporation employs 3 or more unconnected full-time employees for core operations.

The full cost of any asset used directly in a process of manufacture, may be deducted in the tax year in which the asset is brought into use. All other depreciable assets may be written off on a 50%:30%:20% basis, or the normal wear and tear rates may be used.

Dividends paid by a small business corporation are subject to dividends withholding tax at 20%.

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 the client if the service was rendered by the person directly to the client; or
- Where the duties must be performed mainly at the premises of the client and is subject to the control or supervision of the 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 the client.

A company or a trust will not be regarded as a personal service provider where such company or trust, throughout the year of assessment, employs three or more full-time employees who are on a full-time basis engaged in the business of the company or trust, other than any employee who is a shareholder in a company or a settlor or beneficiary of the trust, or is a connected person in relation to such person.

The personal service provider is taxed as follows:

- The remuneration payable to a personal service provider is subject to employees' tax;
- Personal service providers can claim amounts paid to any employee for services rendered, which will be taken into account in the determination of the taxable income of the 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 company will be taxed at a rate of 28%, and any declaration of a dividend will be subject to dividend tax in the case of a company;
- Remuneration paid to a trust is taxed at 45%;
- The entity may apply to SARS for a tax directive for a lower rate of tax.

No employees' 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, 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.

Qualifying turnover

Qualifying turnover is the total receipts (not accruals) from carrying on business activities, excluding any amounts of a capital nature and amounts received from a small business funding entity or a government grant that is exempt.

Exclusions

- 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 receipts 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 2 years);
- If any of the shareholders of a company is not 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;
- An association approved by the Commissioner in terms of section 30B; and
- A small business funding entity.

* "**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.

** **Investment income**: annuities, dividends, foreign dividends, interest, rental derived in respect of immovable property, royalties, or income of a similar nature and any proceeds derived from the disposal of financial instruments.

Tax rates

Year of assessment ending on 28 February 2020/2021

Taxable turnover (R)			Tax Rate (R)				
0	-	335 000			0%		
335 001	-	500 000			1%	above	335 000
500 001	-	750 000	1 650	+	2%	above	500 000
750 001	-	and above	6 650	+	3%	above	750 000

Taxable turnover
- Revenue amounts received (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 the 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.

Excluded from the taxable turnover
- For natural persons: Investment income such as dividends, royalties, rental, annuities, interest, proceeds from trading in financial instruments, etc.;
- Any exempt government grants or receipts from a small business funding entity;
- Any amount received where the amount accrued to it prior to registration as a micro business and the amount was subject to normal income tax;

- 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.

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

Payment of tax
- 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 of assessment 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 6 months of the tax year.

If the year-end estimate is less than 80% of the actual taxable turnover for the year, the penalty is 20% of the difference between the tax payable on 80% of taxable turnover and the tax actually paid. Interest is payable on late payments at the prescribed rate.

Registration
A micro business that opts to register for the turnover tax must apply to do so before the beginning of a year of assessment, or within 2 months from the date of commencement of business.

Deregistration
A registered micro business may elect to be deregistered before the beginning of a year of assessment, or during a year of assessment. If it is voluntarily deregistered during a year of assessment the deregistration is effective from the beginning of that year of assessment. A business that is deregistered may not again be registered as a micro business. A registered micro business must notify the Commissioner within 21 days from the date on which the qualifying turnover for a year of assessment exceeds R 1 million, or if there are reasonable grounds for believing that the qualifying turnover will exceed that amount. The micro business will then be deregistered with effect from the beginning of the month following the month during which the Commissioner received such notification.

If the increase in the qualifying turnover to an amount greater than R 1 million is of a nominal and temporary nature, the person must apply to the Commissioner for a decision whether the person must remain a registered micro business or not.

If a micro business ceases to be a registered micro business due to exceeding the qualifying turnover of R 1 million during the year of assessment, and the micro business has to pay normal tax on taxable income, the micro business will be exempt from the understatement penalties arising solely as result of this deregistration, if the understatement penalties would have been payable under the Fourth Schedule e.g. provisional tax penalties.

VAT registration
A micro business can register for VAT as a category D vendor (6 month VAT period ending on the last day of February and August).

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 exceeds R 10 000.

VENTURE CAPITAL COMPANIES (VCC)
A VCC acts as a financier to various independent small businesses referred to as qualifying companies.

The VCC must be approved by the Commissioner.

In order to obtain VCC approval, the company must be a resident, its tax affairs must be in order, and its sole object must be the management of investments in qualifying companies and it must be licensed i.t.o. the Financial Advisory and Intermediary Services Act.

No shareholder may be a connected person to the VCC or hold more than 20% of a class of share.

At least 80% of the expenditure incurred by the VCC must be used to acquire shares in qualifying companies.

If at the end of the year of assessment, after the expiry of 48 months (36 months before 21 July 2019) from the date of the first issue of the VCC shares, the VCC:
- Has spent less than 80% of its expenditure to obtain qualifying shares with a book value of R 50 million (R 500 million in a junior mining company), or
- Has spent more than 20% of the amounts received to acquire qualifying shares in any qualifying company

the Commissioner can withdraw the VCC approval.

If the Commissioner withdraws the VCC status an amount equal to 125% of the expenditure incurred by investors to acquire VCC shares must be included in the income of the VCC in the year the approval is withdrawn.

A qualifying company means any company if the company is:
- A resident;
- Not a controlled group company in relation to a group of companies of which the VCC forms part from the date of issue of any such share and at any time during any year of assessment after that date;
- An unlisted or a junior mining company;
- Not carrying on an impermissible trade; and
- The tax affairs of the company are in order.

Impermissible trade means any trade carried on in respect of:
- Immovable property, other than a hotel keeper;
- A bank, a long-term insurer, short term insurer, moneylending or hire-purchase financing;
- Financial or advisory services, legal services, tax advisory services, stock broking services, management consulting services, auditing or

accounting services;
- Gambling;
- Liquor, tobacco, arms or ammunition;
- Any trade carried on mainly outside the Republic.

Before 21 July 2019 investors in VCC shares were allowed a deduction of the full amount of expenditure incurred during a year of assessment to acquire VCC shares. For expenditure incurred from 21 July 2019 this deduction will be limited to:
- R 5 million per year if the taxpayer is a company; and
- R 2.5 million per year if the taxpayer is a person other than a company.

TRUSTS

Trusts are taxed at 45% except for a special trust. Trusts do not qualify for the interest exemption or personal rebates. 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, or a testamentary trust formed for relatives of the deceased, where the youngest is under the age of 18 years. These special trusts are taxed at the rates applicable to natural persons, but do not qualify for rebates.

The year of assessment of all trusts ends on the last day of February each year.

BODIES CORPORATE

Levies received by a sectional title body corporate, a share block company, or other association of persons, formed solely for purposes of managing the collective interest common to all its members, including the collection of levies and administration of the expenditure, in respect of the common property, are exempt from income tax. In addition, all other receipts or accruals are exempt up to a maximum of R 50 000 per annum. Income more than this exemption is subject to tax at 28%.

PUBLIC BENEFIT ORGANISATIONS

The Receipts and accruals of Public Benefit Organisations approved by the Commissioner are exempt to the extent that it is not from:
- Business undertakings or trading activities; or
- Certain integral, occasional, or approved business or trading activities.

The tax-free portion of the trading income is the greater of 5% of total receipts and accruals or R 200 000 per annum. The taxable portion is taxed at 28%.

An approved tax-exempt Public Benefit Organisation is not liable for provisional tax.

RECREATIONAL CLUBS

The receipts and accrual of recreational clubs are exempt if derived from:
- Membership or subscription fees paid by members;
- Receipts from any business undertaking or trading activity that are integral and directly related to the provision of social or recreational

amenities for the members if carried out on a cost recovery basis and does not result in unfair competition in relation to taxable entities;
- Fund raising activities of an occasional nature and undertaken substantially with assistance on a voluntary basis;
- Any other source to the extent that it does not exceed the greater of 5% of total membership fees and subscriptions for the year of assessment or R 120 000.

The taxable portion is taxed at 28%.

EMPLOYEES' TAX

Employees' tax is a withholding tax which is deducted from an employee's remuneration by the employer. The employee's tax must be paid to SARS within 7 days after the end of the month. Should the 7th day be a weekend or a holiday, then the employees' tax must be paid by the last business day before the 7th. Any agreement between an employer and an employee where the employer undertakes not to withhold employees' tax is void.

Failure to withhold or pay over employees' tax

If the employer does not withhold the tax from the employee's remuneration or does withhold it but does not pay it to SARS, the employer becomes personally liable for the tax to SARS.

If SARS is satisfied that the failure to withhold tax was not due to an intent to postpone payment or to evade tax and there is a reasonable prospect of recovering the tax from the employee, SARS can absolve the employer from this liability. An employer who has not been absolved shall have a right of recovery against the employee. Until the employee has repaid the tax to the employer, he/she will not be entitled to receive a tax certificate.

The tax not withheld which the employer is liable to pay is deemed to be a penalty, therefore the employer will not be able to claim the amount as a deduction.

Penalties

If the employer pays the tax late, SARS may impose a late payment penalty of 10%. If the employer fails to pay the tax or pays the incorrect amount, SARS can also impose an understatement penalty. This penalty can range from 10% to 200% depending on the circumstances.

Annuities paid from retirement funds

From 1 March 2021 all retirement funds and insurers that pay an annuity must, when deducting or withholding employees' tax disregard any tax rebates applicable to a surviving spouse or any other taxpayer, if SARS issues a directive that the rebate must be disregarded. This will be the case where the person to whom the annuity is paid receives an amount of remuneration from more than one employer. Any PAYE excessively withheld will be refunded upon assessment.

REMUNERATION

Remuneration includes all payments and amounts, in cash or otherwise, whether or not for services rendered. The following are included:

- Annuities and living annuities;
- Salary and wages, leave pay, bonuses, gratuities, commissions, fees, overtime pay, emoluments, or any other amounts paid for services rendered;
- Allowances and advances (excluding travel allowances and subsistence allowances);
- 50% of allowances paid to a holder of public office;
- 80% of any travel allowance, reduced to 20% if the employer is satisfied that at least 80% of the distance travelled was for business purposes;
- 100% of any travel allowance that is based on actual distance travelled, to the extent that the allowance exceeds R 3.98 (R 3.61) per kilometre;
- 80% of the amount of the taxable benefit from the use of an employer-owned vehicle reduced to 20% if the employer is satisfied that at least 80% of the distance travelled was for business purposes;
- Pensions, superannuation and allowances;
- Restraint of trade receipts;
- Amounts paid for variation of office;
- Retirement lump sums received from an employer;
- Fringe benefits;
- Any gain made from the disposal of any qualifying equity share in terms of a Broad-Based Employee Share Plan;
- Any gain determined in terms of the vesting of equity instruments in the hands of directors and employees;
- Dividends received from certain restricted equity instruments.

VARIABLE REMUNERATION

The timing and accrual and incurral of variable remuneration must be on the payment basis, and will only be included in the income of the employee (and be taken into account for employees' tax purposes), and be expenditure incurred by the employer on the date of the actual payment.

Variable remuneration is defined as:

- Overtime, bonus or commission;
- Allowance or advance in respect of transport expenses e.g. a fixed travel allowance;
- Leave pay;

As from 1 March 2020 the following will also be included:

- Night shift allowances;
- Standby allowances;
- Any amount paid or granted for the reimbursement of any expenditure.

NON-EXECUTIVE DIRECTORS REMUNERAION

A non-executive director is not a common law employee. No control or supervision is exercised over the manner in which a non-executive director performs his or her duties, or the hours worked by the director.

Director's fees for services rendered on a company's board, are not "remuneration", and are not subject to the deduction of employees' tax.

Because the amounts received are not "remuneration", the prohibition under section 23(m) will not apply in respect of such fees.

The director's fees of non-resident non-executive directors are regarded as remuneration and are subject to employees' tax.

EMPLOYEES' TAX ON EMPLOYEE SHARE SCHEMES

Remuneration includes any gain made as a result of the vesting of an equity instrument in the hand of an employee or any taxable dividends in respect of an employee share scheme.

The person from whom the equity instrument, that gave rise to the gain was acquired, is deemed to be the person who pays the gain or dividend, therefore the person is liable to deduct or withhold employees' tax.

If an associated institution is unable to deduct the full amount of employees' tax due on the gain made because it exceeds the amount from which the deduction is to be made, then the associated institution and the employer will be required to withhold from remuneration an aggregate amount equal to the employees' tax payable on that gain. The employer and the associated institution will be jointly liable for the employees' tax.

Before deducting withholding tax, the employer must ascertain from SARS the amount to be deducted.

If the employer is unable to deduct the full amount because it exceeds the amount payable to the employee, the employer must notify SARS.

If the employer or the person liable for employees' tax are not parties to the gain that gives rise to the employees' tax, the employee must advise them of the transaction and the amount of the gain. Should the employee fail to inform the employer of the gain, the employee shall be guilty of an offence and liable to a fine not exceeding R 2 000.

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;
- A cash dividend paid by a foreign company that is listed on a South African exchange;
- A deemed dividend due to secondary transfer pricing adjustments.

Levy of tax

Dividends tax is levied at a rate of 20% 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 that must be paid by 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 beneficial owner to notify the company, by means of a written declaration and written undertaking in the prescribed form of the fact, that the dividend is exempt from the withholding tax on dividends (DTD(EX)), or when a reduced rate is applicable (DTD(RR)). These documents must be submitted to the company before the dividend is paid. This is not applicable if the beneficial owner of the dividend forms part of the same group of companies as the company paying the dividend, or if a cash dividend is paid to a regulated intermediary.

With effect from 1 July 2020 the declaration and written undertaking will no longer be valid after 5 years from the date of the declaration.

Payment of dividend tax
Withholding tax on dividends is payable to SARS by the last day of the month following the month during which the dividend is paid.

Interest becomes payable on unpaid dividends tax at the prescribed rate from the end of the payment period. There are no late payment penalties.

Loans by company
Where an amount is paid in respect of a loan or advance provided by the company to a natural resident person, who is a connected person in relation to that company, or to someone who is connected to this person, the company is 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 deemed dividend is the market related interest (official rate of interest) in respect of that loan or advance, less the amount of interest that was paid on the loan or advance, for the period that the loan was 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 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.

Exemptions
Any dividend is exempt from the dividends tax to the extent that it does not consist of a dividend *in specie* if the beneficial owner is:
- A company which is a resident;
- The government of the Republic in the national, provincial or local sphere or a municipality;

- An approved Public Benefit Organisation (PBOs);
- A closure rehabilitation trust;
- Institutions, boards or bodies established under law and exempt from tax in terms of section 10(1) (cA);
- A pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity or benefit fund;
- A person contemplated in section 10(1)(t) of the Act (these include, amongst others, CSIR, SANRAL, DBSA);
- A small business funding entity;
- A holder of shares in a registered micro business, paying that dividend, to the extent that the aggregate of dividends paid to all holders of shares during the year of assessment, does not exceed the amount of R 200 000;
- A non-resident and the dividend is paid by a non-resident company listed on a stock exchange registered in terms of the financial markets act;
- Any person to the extent that the dividend constitutes income of that person, or was subject to STC;
- Any fidelity or indemnity fund; or
- A natural person or deceased estate or insolvent estate of that person in respect of a dividend paid in respect of a tax-free investment.

Refunds
Where the required declaration was not submitted to the company by the relevant date and is then submitted to the company within 3 years from the date of payment of the dividend, the company must refund the dividend tax to the recipient of the dividend. The declaring company must refund the excess out of any dividends tax withheld by it within 1 year of the date of the submission of the late declaration. If the dividend tax withheld is insufficient to cover the full refund, then the company must recover the difference from SARS, which must be claimed within 4 years of the date of payment of the dividend.

If dividends tax is paid in respect of a dividend that consists of a distribution of an asset *in specie*, as a result of the company being unable to obtain the declaration and written undertaking by the date the dividend is paid, and both the declaration and the written undertaking are submitted to the company, within 3 years after the payment of the tax, SARS must refund the company, if claimed from SARS within 3 years from the date the dividend was paid.

Submissions of dividends tax returns
Dividends tax declarations can be submitted manually or on e-filing. Returns must be submitted by a company when declaring a dividend but not when receiving a dividend.

VALUE-ADDED TAX (VAT)
The VAT system is a self-assessment system.

Compulsory registration
If a person carries on an enterprise in the Republic (or partly in the Republic), it is obliged to register as a vendor if the value of taxable supplies at the end of any 12 month period has exceeded R1 million, or at the commencement of any month where the total value of the taxable supplies, in terms of a written contractual commitment will exceed R 1 million within the next 12 months.

Voluntary registration
A person may voluntarily register for VAT where the person has already made taxable supplies exceeding R 50 000 in a 12 month period, or has not yet exceeded the R 50 000 threshold, but reasonably expects that the R 50 000 threshold will be exceeded within 12 months from the date of registration. Such persons will be registered to account for VAT on the payment basis. Once the value of taxable supplies has exceeded R 50 000, VAT must be accounted for on the invoice basis unless the person qualifies to continue to account for VAT on the payment basis.

Registration of an enterprise supplying commercial accommodation
Commercial accommodation means lodging or board and lodging, together with domestic goods and services, in any house, flat, apartment, room, hotel, motel, inn, guest house, boarding house, residential establishment, holiday accommodation unit, chalet, tent, caravan, camping site, houseboat or similar establishment, which is regularly or systematically supplied, but excluding a dwelling supplied in terms of an agreement for the letting and hiring thereof. The definition also includes the lodging or board and lodging in a home for the aged, children, physically or mentally handicapped persons or lodging in a hospice.

Where a person supplies commercial accommodation, it will be deemed not to be an enterprise if the total value of the taxable supplies made by the person in the preceding period of 12 months, or the reasonable projected value of the taxable supplies in a period of 12 months will not exceed R 120 000.

Domestic goods and services include cleaning and maintenance, electricity, gas, air conditioning or heating, a telephone, television set, radio or other similar article, furniture and other fittings, meals, laundry, nursing services or water.

Where domestic goods and services are supplied at an all-inclusive charge for an unbroken period exceeding 28 days, the value of the supply is 60% of the full value.

Registration of E-Commerce suppliers
Foreign suppliers of electronic services must register as a vendor where the total value of the services supplied in South Africa exceeds R 1 million in any consecutive 12 month period. These vendors will be allowed to register for VAT on the payment basis.

The registration requirements apply to any supply of electronic services carried on by a person in an export country where at least two of the following circumstances are present:
- The recipient of the electronic services is a resident of the Republic; or
- Any payment for the electronic services originates from a bank registered in South Africa; or
- The recipient of the electronic services has a business address, residential address or postal address in the Republic.

Electronic services mean any services supplied by means of an electronic agent, electronic communication or the internet for any consideration, other than:
- Intra group transactions if the local company is a wholly owned

subsidiary of a foreign entity;
- Telecommunication services;
- Educational services provided by an entity regulated in a foreign country.

From 1 April 2019 where electronic services are supplied by an intermediary, who is acting on behalf of a foreign supplier and:
- The intermediary is a vendor;
- The foreign supplier is not a resident of the Republic and is not a registered vendor; and
- The electronic services are supplied by the foreign supplier to a person in the Republic,

the supply shall be deemed to be made by the intermediary and not the foreign supplier.

Registration requirements of non-executive directors

Non-executive directors carry on an "enterprise" and is therefore required to register if the compulsory registration threshold of R1 million in total value of taxable supplies is exceeded or will exceed that amount in terms of a contractual obligation in writing in any consecutive period of 12 months.

Non-executive directors that earn fees below the compulsory VAT registration threshold can choose to register voluntarily if the minimum threshold of R 50 000 has been exceeded and all the other requirements for voluntary registration have been met.

Registration requirements for separate branches or divisions

Branches or divisions of one person can be registered separately for VAT purposes. The following requirements must be met:
- The vendor must apply to SARS in writing for separate registration;
- Each separate enterprise must maintain an independent system of accounting;
- Each separate enterprise must be separately identifiable by reference to the nature of the activities carried on or their location.

Invoice basis versus payment basis

Normally VAT must be accounted for on the invoice basis by a vendor. However, where the taxable supplies in a 12 month period is likely to be less than 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.

Any vendor who accounts for VAT on the payment basis shall, in respect of any supply made of goods (other than fixed property) or services of R 100 000 or more, account for VAT on the invoice basis. This rule does not apply to a public authority or municipality.

VAT periods

Category A	Taxable supplies less than R 30 million: 2 monthly: January, March, May, July, September, November
Category B	Taxable supplies less than R 30 million: 2 monthly: February, April, June, August, October, December
Category C	Taxable supplies more than R 30 million: monthly
Category D	Farming enterprise with taxable supplies less than R 1.5 million and a micro business: 6 months (February and August)

Category E	Vendors 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. Tax invoices must only be issued once a year.

Output tax
From 1 April 2018 output tax is levied at a rate of 15% on the supply of goods and services, in the Republic, by a person registered as a vendor.

Supplies fall into three categories
Standard-rated supplies are supplies of goods and services, importation of goods, and importation of some services which are taxed at the rate of 15%. A vendor making such supplies is entitled to recover all related input tax.

Zero-rated supplies are subject to VAT, but at a zero-rate. A vendor making zero rated supplies is entitled to recover all related input tax.

The following are examples of supplies that are zero-rated.
Basic foodstuffs: brown bread and whole wheat brown bread (rye or low GI bread is not to be zero-rated),cake wheat flour, white bread wheat flour, maize meal, samp, mielie rice, dried mielies, 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;
Female sanitary products: sanitary pads and panty liners;
Fuel levy goods: petrol, diesel and biofuel;
Paraffin: for use as lighting and warming;
Municipal rates: property rates and taxes (excluding electricity, gas, water, drainage, disposal of sewerage and garbage);
Transportation: rendering of an international transport service to passengers or goods, by any mode of transportation, if transported from a place outside South Africa to another place outside South Africa, or a place in South Africa to a place outside South Africa, or a place outside South Africa to a place in South Africa. The supply of a domestic leg of international transport is zero-rated provided the booking is made at the same time as the booking for the international flight and the ticket reflect all the flights;
Disposal of a going concern: the disposal of a business as a going concern is deemed to be a supply of goods. The supply may be zero rated if the following conditions are met:

- Both the seller and the purchaser are VAT vendors.
- The seller obtains a copy of the purchaser's VAT registration form.
- The sales agreement must be in writing and state:
  - The business is sold as a going concern;
  - The VAT rate is 0%;
  - The business will be an income-earning activity on the date of transfer;
  - The enterprise will remain active and operating until its transfer to the purchaser.

An agreement to dispose of a dormant business can't be zero-rated as it does constitute an income earning activity.
The sale of shares is not the sale of a going concern and can't be zero-rated. The supply of a share is exempt from VAT;
Export of goods: goods consigned or delivered by the vendor to an address in the export country. The following documentary proof is required before the export can be a zero-rated supply:

- The order from the overseas customer;

- The copy of the vendor's zero-rated tax invoice;
- A copy of the transport document and proof that the vendor paid for the transport of the goods from South Africa;
- A copy of the customs documentation bearing a customs date stamp;
- Proof of payment by the customer;
- Proof that the goods were received by the customer in the export country e.g. a signed delivery note.

Exempt supplies are not subject to VAT. Vendors who supply these services may not recover any related input tax.

Examples of exempt supplies

Financial services: exchange of currency; issue or transfer of ownership of a share or members interest, provision of credit and paying of interest; contributions and proceeds to membership of a retirement or medical aid fund, issue, acquisition, buying selling or transfer of ownership of cryptocurrency. A fee, commission or similar charge relating to an exempt service is taxable at the standard rate of 15%. A fee for providing advice on these services is also taxable at 15%;

Residential accommodation: Supply of a dwelling for the letting and hiring thereof. Dwelling is defined as any building, premises or structure that is intended for use mainly as a place of residence by a natural person;

Transport by road or railway: transport of fare-paying passengers and their personal effects e.g. bus, taxi or train;

Education services: supplied by a school, university, technicon or college for the benefit of learners e.g. school fees, tuition fees, board and/or lodging;

Membership contributions: to employer organisations e.g. trade unions;

Childcare services: creche or after school centre.

Deemed supplies

Person ceasing to be a vendor: whenever a person ceases to be a vendor, any goods which form part of the enterprise, excluding those goods on which an input deduction was denied, are deemed to be supplies made immediately prior to the person ceasing to be a vendor. The output tax is paid at a rate of 15/115 on the lesser of the cost of the goods (including VAT), or their market value. The vendor is also required to account for output VAT on any outstanding balances owing to suppliers in respect of which input VAT was previously claimed.

Outstanding balances owing to suppliers older than 12 months: a vendor is obliged to account for an amount of output tax if the full consideration for the supply has not been paid within 12 months.

Time of supply rules

General rule: Earlier of the date of the invoice or the date of payment received.

Connected persons: when the goods are removed or made available or when the services are rendered.

Rental agreements: earlier of the date on which payment is due, or the date on which payment is received.

Instalment credit agreements: earlier of time of delivery of the goods or the time any payment is received.

Fixed property: earlier of the date of registration in the name of the purchaser, or the date on which any payment is made i.r.o. the consideration of the supply. The payment of a deposit is not treated as

payment of any part of the purchase price.

Value of supply rules
General rule: the amount of money if the consideration is in money, or the open-market value of the consideration if the consideration is not in money.
Connected persons: if the supply is for no consideration, or for a consideration that is less than the open-market value, or the consideration cannot be determined at the time of supply, and the connected person would not have been able to claim a full input tax credit the consideration is deemed to be its open-market value.

Input tax
Input tax is the VAT paid by the vendor on supplies of goods and services made to the vendor by other vendors and in respect of which the vendor is entitled to claim it back from SARS. It also includes VAT paid on the import of goods. It is also the notional input (15/115) of the cost of second-hand goods acquired from a non-vendor. To claim input tax the goods or services must be used wholly or partly, for the purposes of consumption or supplied in the course of making taxable supplies.

Prohibited input tax
Entertainment expenses: VAT cannot be claimed in respect of goods or services acquired by a vendor to the extent that such goods or services are acquired for the purposes of entertainment. Entertainment is defined as the provision of any food, beverages, accommodation, entertainment, amusement, recreation or hospitality of any kind. This prohibition does not apply to vendors who provide entertainment to customers for a consideration which covers all the direct and indirect costs of such entertainment. Despite the general VAT prohibition against entertainment, input tax deductions for a vendor's cost to supply any entertainment will be allowed if the entertainment is ancillary to air or sea travel and provided at no additional charge. If an employee, or office holder of the vendor is away from his residence and usual working place in the Republic for at least one night on business, the VAT on his subsistence expenses e.g. food and hotel accommodation may be claimed as input while he is away.

Motor cars: Input VAT cannot be claimed in respect of any motor car supplied to, or imported by the vendor, whether the supply is by way of purchase or lease. A motor car is defined as a motor car, station wagon, minibus, double-cab light delivery vehicle, and any other motor vehicle of a kind normally used on public roads, which has 3 or more wheels, and is constructed or converted wholly or mainly for carrying passengers. It does not include vehicles capable of accommodating only one person or suitable for carrying more than 16 persons, or caravans, ambulances, vehicles of unladen mass of 3500 kilograms or more, game viewing vehicles or hearses. No VAT may be claimed on the purchase, rent or hiring thereof, unless the vendor is a motor dealer.

Fees or subscriptions: No input VAT may be claimed in respect of any fees or subscriptions paid by the vendor in respect of membership of any club, association or society of a sporting, social or recreational nature.

Second-hand goods
Second-hand goods are goods (movable and immovable) which were previously owned and used. Intangible assets such as patents,

trademarks and copyrights are not goods and so cannot be second-hand goods.

Second-hand goods exclusions
- Animals;
- Gold coins issued by the South African Reserve Bank;
- Any goods consisting solely of gold unless acquired for the sole purpose of supplying such goods in the same state without any further processing;
- Any other goods containing gold unless those goods are acquired for the sole purpose of supplying those goods in the same or substantially the same state to another person.

The notional input tax is calculated by the application of the tax fraction to the lesser of the purchase price or the open market value.

The notional input may only be claimed to the extent that payment is made for the second-hand goods. If the goods are purchased on loan account, the notional VAT input is only claimed as and when the loan is repaid.

The seller of the second-hand goods must be a resident of the Republic. The sale must also take place in the Republic.

The recipient of second-hand goods must obtain and retain the following documentation:
- Natural person: name and ID number of the supplier;
- Legal person: name and ID number of the natural person representing the supplier and any legal registration number;
- Address of the supplier;
- Date of the transaction;
- Description of the goods;
- Quantity or volume of goods;
- Consideration for the supply;
- Proof and date of payment.

A notional input tax that may be claimed by a vendor acquiring fixed property, from a non-vendor, is deferred to the extent of actual payment made by the vendor, and the transfer of that fixed property is effected by registration in a deeds registry, and the fixed property is registered in the name of the vendor that makes the deduction during that tax period.

Documentation requirements
No input VAT may be claimed unless the vendor is in possession of a tax invoice.

A tax invoice must be issued for every taxable supply made by a vendor within 21 days of the date of a supply. Only one original tax invoice can be issued per supply. If a copy of a tax invoice is made it must be clearly marked “copy”.

Where the supplier is informed by the recipient that information on the tax invoice is incorrect and requested to correct it, the supplier must correct the initial document with the correct particulars within 21 days from the date of the request, which correction will not constitute an offence. The supplier must obtain and retain information sufficient to identify the transaction to which the first document and the corrected

tax invoice refers.

Please note: The correction does not alter the time of supply.

A tax invoice must contain the following information:

- The words tax invoice, VAT invoice, or invoice;
- The name, address and VAT registration number of the supplier;
- The trading name, address and VAT registration number of the recipient if the invoice is for more than R 5 000, otherwise an abridged tax invoice may be issued;
- A serial number;
- The date upon which the invoice is issued;
- A description of the goods or services supplied;
- If the goods supplied are second hand, this fact must be stated;
- 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.

Where a supply is in cash and does not exceed R 50, the supplier must give the recipient a document that is acceptable to SARS.

Where a tax invoice has been issued and the supply is cancelled or fundamentally altered or varied, or the amount has been altered, or there is an error in the amount on the original invoice, the vendor must issue a credit note or debit note reflecting the change.

Alternative documentary proof

Where a vendor was unable to obtain the prescribed documents no deduction of input tax will be allowed unless:

- A ruling is issued no later than two months prior to the expiry of the five-year period confirming that the document in the vendor's possession is acceptable for making a deduction; and
- The ruling and document are held by the vendor at the time a return in respect of the deduction is furnished.

The Commissioner may only issue a ruling if he is satisfied that:

- The vendor has taken reasonable steps to obtain the prescribed document and is unable to obtain such a document due to circumstances beyond the vendor's control; and
- No other provision of this Act can be applied to satisfy the Commissioner that the document in the vendor's possession is acceptable for purposes of making a deduction.

Vendors can only access this relief as a last resort. Only when the ruling is issued, may the amount be deducted as input tax. Vendors will thus not be allowed to backdate the claim to a past tax period that has already been closed.

Submission of VAT returns

Electronic VAT returns must be submitted by the last business day of the month after the end of the tax period. Manual VAT returns must be submitted by the 25th day of the month following the end of the tax period. If the submission day falls on a weekend or a public holiday, the return must be submitted on the last business day before the weekend

or public holiday.

Payment of VAT
No payment by cheque in excess of R 100 000 may be made at a SARS branch or per post. All cheques must be made out to the South African Revenue Service (written out in full) and be crossed "not negotiable/transferable". Category C vendors must submit VAT returns in electronic format and make payments electronically.

Refunds
If the input tax exceeds the output tax, or if an amount is erroneously paid i.r.o. an assessment, a vendor is entitled to a refund.

The commissioner must refund the VAT within 21 business days from the date that the vendor submits all the relevant material requested by SARS. Interest must be paid by SARS if they fail to pay the refund in time.

An amount of less than a R 100 is not refundable.

Where the vendor has any other outstanding tax debt the amount plus the interest may be applied against the outstanding tax debt.

A vendor must claim a refund within 5 years form the date of the assessment, otherwise it will be forfeited by the vendor.

Late payment of VAT
If VAT is paid late, a penalty of 10% is payable, plus interest at the prescribed rate for the period the VAT remains unpaid.

DONATIONS TAX
Donation means any gratuitous disposal of property including any gratuitous waiver or renunciation of a right. A donation shall be deemed to take effect upon the date upon which all the legal formalities for a valid donation have been complied with. Donation tax is payable on the value of any property disposed of under any donation by a South African Resident. Donation tax does not apply to non-residents even if they donate South African assets.

Donation tax is levied at a rate of 20% of the value of the property donated if the aggregated value of all property donated does not exceed R 30 million. If the aggregate value of donations exceeds R 30 million the first R 30 million is taxed at 20%, while the excess is taxed at 25%. The R 30 million is aggregated over the lifetime of the taxpayer.

Annual exemption

Type of person	Annual exemption
Natural person	R 100 000
Other persons	R 10 000

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

Exemptions
- Bona fide maintenance payments;
- Donations to Public Benefit Organisations, recreational clubs, 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 in contemplation of death;
- Donations made by a public company;
- Donations between companies forming part of the same group of companies;
- Donations cancelled within 6 months of the effective date;
- Distribution by a trust to the beneficiaries of the 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.

Where two persons are married in community of property and property is disposed of in terms of a donation by one of the spouses, the donation shall be deemed to have been made in equal shares. If the property was excluded from the joint estate of the spouses, the donation shall be deemed to have been made solely by the spouse making the donation.

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.

Donations tax is payable by the donor. The tax is payable by the end of the month following that in which the donation takes effect. 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.

Interest will be levied on the late payment of donations tax. Donations tax is subject to the penalty provisions in the Tax Administration Act, but there is no late payment penalty.

ESTATE DUTY

Estate duty is charged on the dutiable amount of the estate at a flat rate of 20% on the first R 30 million of the dutiable amount and a rate of 25% on the estate exceeding R 30 million when a person dies on or after 1 March 2018. For persons who died before 1 March 2018 the rate was 20% on the full dutiable amount.

The 'dutiable amount' is the amount of the total value of property, less certain admissible deductions, less the abatement of R 3,5 million.

The estate of a deceased person who was ordinarily resident in South Africa consists of all the property and deemed 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.

Admissible deductions:

- Deathbed and funeral expenses;
- Debt owed to persons ordinarily resident in 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;
- Improvements made to the property by the beneficiary;
- Assets accruing to a surviving spouse.

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

Contributions to retirement funds
The following will be included as deemed property in the estate of persons who die on or after 30 October 2019:

- So much of the amount of any contributions made by the deceased on or after 1 March 2016 in consequence of membership or past membership to any retirement fund, as was allowed as a deduction against a lump sum received from the retirement fund to determine the taxable portion of the lump sum benefit that is deemed to have accrued to the deceased immediately prior to his or her death.

Income after death from 1 March 2016
Income received by or accrued to the executor of a deceased estate must be taxed in the hands of the deceased estate. Income includes amounts which would have been income in the hands of the deceased had it been received during his or her lifetime.

The deceased estate must be taxed as a natural person, but it cannot deduct the personal rebates, or the medical contributions or medical expenses rebates.

Acquisition of assets by the deceased estate after 1 March 2016
Except for assets that will be acquired by a resident surviving spouse, the deceased estate is treated as having acquired the assets for an amount of expenditure incurred equal to the market value of the asset as at the date of death.

Where the deceased estate disposes of an asset to an heir or legatee, the deceased estate is treated as having disposed of it for an amount received or accrued equal to the amount of expenditure incurred by the deceased estate in respect of that asset.

The surviving spouse must be treated as having acquired the asset on the same date as the deceased had acquired it and must be deemed to have claimed the deductions and allowances that the deceased spouse and the deceased estate claimed:

- For trading stock: Amount of expenditure incurred by the deceased and allowed as a deduction, i.e. cost of purchase or cost of opening stock in the year of his or her death;
- Capital asset that was part of the deceased estate: Base cost of the asset as at the date of the deceased death;
- For assets (trading stock and capital assets) acquired by the deceased estate, or improvements to assets made by the estate, the surviving spouse is deemed to have acquired such assets for an expense equal to the expense incurred by the deceased estate. This would include the base costs at the date of death plus any further costs incurred.

The surviving spouse must be deemed to have used the assets in the same manner in which the asset was used by the deceased person and the deceased estate.

The deceased estate is exempt from the payment of provisional tax.

Portable estate duty abatement

The portable spousal deduction allows for the unutilised portion of 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 maximum deduction of R 7 million. The executor of the deceased must submit a copy of the estate return of the predeceased spouse, or other relevant material as SARS may regard as reasonable.

The executor is entitled to an administration fee of up to 3.5% of the value of the estate and 6% of all income accumulated through the course of the finalisation of the deceased 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% (year 0 – 2); 80% (year 3 - 4); 60% (year 5 – 6); 40% (year 7 – 8); 20% (year 9 – 10).

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

Transfer duty is a tax paid on the acquisition of fixed property situated in South Africa. The transfer duty is payable by the purchaser and must be paid within 6 months of the date of acquisition.

Transfer duty payable by natural persons and legal entities

From 1 March 2020

Value of the property (R)		Rate of transfer duty			
0 -	1 000 000		0%		
1 000 001 -	1 375 000		3%	above	1 000 000
1 375 001 -	1 925 000	11 250 +	6%	above	1 375 000
1 925 001 -	2 475 000	44 250 +	8%	above	1 925 000
2 475 001 -	11 000 000	88 250 +	11%	above	2 475 000
11 000 001 -	and above	1 026 000 +	13%	above	11 000 000

Before 1 March 2020

Value of the property (R)		Rate of transfer duty			
0 -	900 000		0%		
900 001 -	1 250 000		3%	above	900 000
1 250 001 -	1 750 000	10 500 +	6%	above	1 250 000
1 750 001 -	2 250 000	40 500 +	8%	above	1 750 000
2 250 001 -	10 000 000	80 500 +	11%	above	2 250 000
10 000 001 -	and above	933 000 +	13%	above	10 000 000

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

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

SECURITIES TRANSFER TAX (STT)

STT is payable by the purchaser at a rate of 0.25% on the transfer of all shares in companies incorporated in South Africa as well as foreign companies listed on the South African stock exchange. It is also payable on the transfer of a member's interest in a close corporation. No STT is payable on the original issue of shares.

STT is payable on the higher of the consideration paid or the market value of the securities transferred. The STT is payable by the purchaser if the securities are transferred. 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 can only be paid by means of an electronic payment.

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

STT on listed securities must be paid by the 14th of the month following the month during which the transfer occurred. STT on unlisted securities must be paid by the end of the second month following the month during which the transfer occurred.

The late payment of STT is subject to a 10% penalty. Interest will also be imposed at the prescribed rate.

SKILLS DEVELOPMENT LEVIES (SDL)

SDL is payable by every employer in South Africa who has an annual payroll more than 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:

- Amounts paid to labour brokers with a certificate of exemption;
- Any amounts paid as pension, superannuation allowances or retiring allowances;
- Any annuities and lump sums from employers and retirement funds;
- Remuneration of learners under a learnership agreement.

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

UNEMPLOYMENT INSURANCE FUND (UIF)

The Unemployment Insurance Fund (UIF) gives short-term relief to workers when they become unemployed or are unable to work because of maternity, adoption leave, or illness. It also provides relief to the dependants of a deceased contributor.

The employer must pay a total contribution of 2% (1% contributed by the employee and 1% contributed by the employer) within the prescribed period. The maximum earnings ceiling is R 14 872 per month or R 178 464 annually.

The amounts deducted or withheld must be paid by the employer to SARS on a monthly basis, by completing the Monthly Employer Declaration (EMP201). It must be paid within seven days after the end of the month during which the amount was deducted. If the last day for payment falls on a public holiday or weekend, the payment must be made on the last business day before the public holiday or weekend.

An unemployment benefit received is exempt from tax in the hand of the recipient.

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES

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 during 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 Act applies to:

- All employers; and
- Casual and full-time workers who, as a result of a workplace accident or work-related disease are injured, disabled, killed or become ill.

Exclusions

- Workers who are totally or partially disabled for less than 3 days;
- Domestic workers;
- Anyone receiving military training;
- Members of the South African National Defence Force, or the South African Police Service;
- Any worker guilty of wilful misconduct, unless they are seriously disabled or killed;
- Anyone employed outside the RSA for 12 or more continuous months;
- Workers working mainly outside the RSA and only temporarily employed in the RSA.

On duty

The accident must occur while the worker is on duty. The accident must have occurred because the employee was at work doing what he or she was employed to do. It must be 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

Any person who falls within the definition of a provisional taxpayer is required to be registered as a provisional taxpayer within 21 business days after becoming obliged to register.

A provisional taxpayer is defined as:

- Any natural person who derives:
  - Income which is not remuneration or an allowance or advance;
  - Remuneration from an employer who is not registered for employees' tax;
- Any company;
- Any person notified by the Commissioner that he/she is a provisional taxpayer.

Exclusions

- Any natural person who does not derive any income from the carrying on of any business, if:
  - The taxable income for the year of assessment does not exceed the tax threshold; or
  - The taxable income for the year of assessment derived from interest, dividends, foreign dividends, rental from the letting of fixed property and remuneration from an unregistered employer does not exceed R 30 000;
- Any Public Benefit Organisation or recreational club that is exempt from tax;
- A body corporate, share block company or association of persons formed solely for purposes of managing the collective interest common to all its members;
- A small business funding entity;
- A non-resident owner or charterer of any ships or aircraft assessed under section 33 of this Act;
- A deceased estate.

Estimate of taxable income

Every provisional taxpayer shall, during every period within which provisional tax is payable, submit to the Commissioner (unless the Commissioner directs otherwise) a return of an estimate of the total taxable income which will be derived by the taxpayer in respect of the year of assessment.

Where a taxpayer dies during a year of assessment, no estimate is required to be made for the period ending on the date of death.

For natural persons, such estimate shall exclude any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or any severance benefit received. The taxable portion of the aggregate capital gain must be included in the first and the second provisional tax payment calculations.

The Commissioner may call upon a provisional taxpayer to justify any estimate, or to furnish particulars of the income and expenditure or any other particulars that may be required. If the Commissioner is dissatisfied with the estimate, he may increase it to what he considers reasonable, even if this is more than the basic amount. The increase of the estimate is not subject to objection and appeal.

If a taxpayer fails to submit an estimate, the Commissioner may also determine an estimate.

Basic amount
The basic amount is the taxable income reflected in the latest assessment issued by SARS, not less than 14 days before the date the taxpayer submits the provisional tax return, excluding:

- Any taxable capital gain, the taxable portion of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or any severance benefit;
- Any lump sum benefits arising from variation of office, including any amount received by an employee in respect of a policy of insurance held by the employer, or ceded by the employer to the employee included in the taxpayer's taxable income for that year of assessment.

For a company, the basic amount is the taxable income, as assessed by SARS, for the latest preceding year of assessment, less the amount of any taxable capital gain.

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

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 6 months after the commencement of the year of assessment (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 year of assessment (for individuals the end of February).

Taxable income equal or less than R 1 million: The estimated taxable income must not be less than the lower of:

- The basic amount (as discussed above); or
- 90% of actual taxable income (including taxable capital gains) for the year.

Taxable income of more than R 1 million: The estimated taxable income must be equal to at least 80% of actual taxable income (including taxable capital gains) for the year.

Penalty for underpayment because of underestimation
Taxable income equal or less than R 1 million: The penalty is 20%, based on the lower of either normal tax on 90% of taxable income or normal tax on the basic amount, less any employees' tax and provisional

tax already paid by the end of the year of assessment.

Taxable income of more than R 1 million: The penalty is 20%, based on normal tax on 80% of taxable income, less any employees' tax and provisional tax already paid by the end of the year of assessment.

Please note that any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or severance benefit, received by or accrued to the taxpayer, during the relevant year of assessment, shall not be included for purposes of this calculation. Any lump sum received from an employer in respect of variation or loss of office is however included in the penalty calculation.

Where the Commissioner is satisfied that the amount of any estimate was seriously calculated with due regard to the factors having a bearing thereon and was not deliberately or negligently understated, the Commissioner may in his or her discretion remit the penalty or a part thereof.

If a provisional taxpayer fails to submit a provisional tax return within 4 months after the last day of the year of assessment, the taxpayer is deemed to have submitted a nil return.

Penalty on late payment of provisional tax
If a provisional taxpayer fails to pay any amount of provisional tax within the period allowed for payment, a penalty of 10% of the amount not paid will be levied.

The 20% underestimation penalty in respect of the second provisional tax payment must be reduced by the 10% late penalty payment.

If SARS is satisfied that the provisional taxpayer's failure to submit an estimate timeously was not due to an intent to evade or postpone the payment of provisional tax or normal tax, it may remit the whole or any part of the 20% underestimation penalty.

Third provisional payment
Companies and close corporations with taxable income more than R 20 000 and individuals and trusts with taxable income more than R 50 000 may make a third additional payment to avoid interest on underpayment.

For taxpayers with a February year-end, the third payment could be made within 7 months after the end of the year of assessment (30 September). For other taxpayers the payment should be made within 6 months.

The third payment is not compulsory and there is therefore no penalty for late or underestimated payments.

CAPITAL GAINS TAX (CGT)
Capital gains tax is payable 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 capital gains tax, 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 an asset	XXXXX
Less: Base cost of an 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: Individuals and special trusts R 40 000; or Individuals R 300 000 in year of death	XXXXX
Less: Assessed capital losses brought forward from previous year of assessment	XXXXX
= Net capital gain for the year *	XXXXX

Inclusion rates

Individuals and special trusts: 40%
Others: 80%

*(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).

Effective rates

Taxpayer	Inclusion rate (%)	Statutory rate (%)	Effective rate (%)
Individuals	40	0 - 45	0 - 18
Companies	80	28	22.4
Small business corporations	80	0 - 28	0 - 22.4
Personal service providers	80	28	22.4
Branches of foreign companies	80	28	22.4
Trusts (normal)	80	45	36
Trusts (special)	40	0 - 45	0 – 18
Public Benefit Organisation	80	28	22.4

Residents

Residents pay tax on capital gains resulting from the disposal of assets situated anywhere in the world.

Non-residents

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

- Immovable property, or an interest in immovable property in South Africa;
- Assets of a permanent establishment in South Africa.

An interest in immovable property is South Africa includes:

- Equity shares held in a company;
- The ownership, or right to ownership, of any other entity (including a trust); or
- A vested interest in the assets of a trust.

If a non-resident disposes of an interest in immovable property, and 80% or more of the market value of the interest is directly or indirectly attributable to immovable property in South Africa, and the non-resident together with connected person directly or indirectly holds at least 20% of the interest, the gain will be subject to capital gains tax.

Proceeds

Proceeds are the amounts received or accrued to the taxpayer in respect of the disposal of assets. It specifically includes the amount by which any debt owed by the person has been reduced or discharged by the creditor. It excludes amounts included in gross income for income tax purposes, and amounts repaid or repayable during the year of assessment or for a

reduction in the sale price in the same year that the disposal took place.

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.

Deemed disposals
- A non-resident who becomes a resident;
- A person ceases to be a resident;
- Non-residents cease to have a permanent establishment in South Africa or when the assets become assets of a permanent establishment;
- Capital assets become trading stock;
- Trading stock becomes a capital asset;
- Personal use asset becomes a non-personal use asset; and
- Non-personal use asset becomes a personal use asset.

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 (other than a company) ceases to be a resident of South Africa, in any year of assessment, that person must be treated as having disposed of all of its assets on the date immediately before the day on which the person ceases to be a resident. The disposal must be treated as being for an amount equal to the market value of each asset, on that date and then he/she must be treated as having repurchased those assets on the next day for that same market value. The year of assessment is deemed to end on the date immediately before the day the person ceases to be a resident.

The following assets are excluded from the deemed disposal requirements:
- Immovable property in the Republic;
- Assets of a 'permanent establishment' through which a trade is carried on in South Africa;
- Any right in immovable property in the Republic excluding equity shares in a company that holds South African immovable property (at least 20% interest in an entity, if 80% of the market value of the interest in the entity is attributable to South African immovable

property);
- A section 8B share within the first 5 years of acquisition, a section 8C share or equity instrument that has not yet vested in the person and a section 8A option to acquire a share.

The market value of the asset must be determined in the currency of the expenditure incurred to acquire the asset.

Time of disposal
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 the following expenses:
- Acquisition or creation costs;
- Valuation costs for CGT purposes;
- Direct cost of acquisition or disposal e.g. remuneration of surveyor, valuer, auctioneer, accountant, broker, agent, consultant, legal advisor;
- Transfer costs;
- Cost incurred to obtain electrical certificate;
- Stamp duty or securities transfer tax;
- Advertising costs to find a buyer or seller;
- Sales commission;
- Any cost to move the asset;
- Installation costs e.g. foundations and supporting structures;
- Portion of donation tax payable by donor or donee;
- Costs incurred in defending or maintaining a legal right to the asset;
- Costs of improving the asset. The relevant improvement does not need to reflect in the asset at the time of disposal anymore.
- Option costs to obtain the asset;
- Where the asset consists of listed shares or a participatory interest in a portfolio of a collective investment scheme, one third of interest incurred in financing the shares can be included in the base cost.

The following expenditure may not be included in the base cost:
- Borrowing costs; raising fees, bond registration and cancellation costs, repairs and maintenance, security costs, insurance, rates and taxes, input VAT that was claimed.

The following amounts must reduce the base costs of an asset:
- Expenditure already allowed as a deduction in calculating taxable income e.g. capital allowance;
- Expenditure that has been reduced, recovered or paid by another person.

Assets obtained before valuation date
The base cost of assets acquired before valuation date is determined as the valuation date value of the asset plus any qualifying expenses incurred after valuation date. The valuation date value could be one of the following 3 values:
- Market value of the asset on 1 October 2001;

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

Market value of the asset on valuation date

- Listed South African shares: Published value as per Gazette;
- Foreign listed shares: Trading price last ruling day before 1 October 2001;
- Other assets: Market value if the market value was obtained within 3 years after the valuation date.

Transfer of assets between spouses

The transferor spouse must disregard any capital gain or capital loss when he/she disposes of an asset to his/her spouse.

The spouse is treated as having acquired the asset on the same date that the transferor spouse acquired it, used it in the same way and incurred expenditure on the asset of the same amount, in the same currency and on the same date. The spouse is also deemed to have received an amount equal to any amount received by or accrued to the transferor in respect of that asset that would have constituted proceeds on disposal had the transferor disposed of it to a person other than the spouse.

In the case of trading stock, livestock or produce, the transferor spouse is treated as having disposed of the asset for an amount equal to the amount that was allowed as a deduction for determining the transferor's spouse taxable income, before the inclusion of any taxable capital gain.

The spouse acquiring the trading stock, livestock or produce must be deemed to be one and the same person as the transferor spouse insofar as the date of acquisition, and the date of incurral of any cost or expenditure in respect of that asset, (opening stock plus purchases).

The above does not apply in respect of the disposal of an asset by a person to his/her spouse who is not a resident, unless the asset disposed of is immovable property in South Africa or an interest in immovable property in South Africa.

Exclusions

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

Primary residence

Primary residence is any structure including a boat, caravan or mobile home which is used as a place of residence by a natural person or a special trust.

The natural person or a beneficiary of the special trust or a spouse of the person or beneficiary, must ordinarily reside in the residence and regard the residence as his or her main residence, and use or have used it mainly (more than 50%) for domestic purposes.

Only one residence at a time can qualify as a primary residence. A holiday home will never qualify as a primary residence.

A person will be treated as being ordinarily resident in a residence for a continuous period of up to two years, if he does not reside in it during this period for any of the following reasons:

- The residence was offered for sale and was vacated due to the acquisition, or intended acquisition of a new primary residence;
- The residence was erected on land acquired for the purpose of building a primary residence;
- The residence was accidentally rendered uninhabitable;
- The taxpayer died.

The first R 2 million of any capital gain or loss on the disposal of primary residence of a natural person or a special trust must be disregarded. If the primary residence is sold for R 2 million or less, the full capital gain on the disposal must be disregarded.

Where two individuals have an equal interest in the same primary residence, and both of them use it as a primary residence the R 2 million must be apportioned.

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. Where the size of the land exceeds 2 hectares, apportionment of the gain of the land is required.

If the residence is used for business purposes as well, the capital gain or loss 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 5 years, the owner lived there for at least a year before and after the lease, he did not have any other primary residence during this period, and he was employed or carried on a business in South Africa at a location further than 250 kilometres form the residence.

Assets for personal use

The disposal of assets of a natural person which are mainly used for purposes other than carrying on a trade e.g. personal jewellery, private art collection or personal furniture 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 short-term insurance policy for non-personal use assets;
- 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
Where a natural person makes a capital gain on the disposal of active business assets of a small business, he can disregard up to R 1.8 million of the capital gain. The asset can also be an interest in a partnership or a share of at least 10% in a company.

A small business is a business where the market value of the assets does not exceed R 10 million at the date of the disposal.

Active business assist consists of immovable property and other assets that are used or held wholly or exclusively for business purposes. If the immovable property is not held wholly or exclusively for business purposes the R 1.8 million exclusion will only apply to the extent that the immovable property is held for business purposes. Active business assets do not include financial instruments or assets held mainly to earn rental, annuity income or royalty income, foreign exchange gain or similar income.

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;
- Have been substantially involved in the business;
- Have had the business for a continuous period of at least 5 years prior to disposal;
- Have realised all his or her qualifying capital gains within a period of 24 months from the date of the first qualifying disposal.

The exemption is only applicable to a maximum of R 1.8 million in a person's lifetime.

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.

Gambling, games and competitions
A natural person must disregard a capital gain or loss relating to any form of gambling, game or competition, if it is authorised by and conducted under the law of South Africa. The following capital gains will be subject to CGT:
- Foreign winnings by natural persons;
- Illegal gambling, games and competitions in South Africa;
- Capital gains by companies, trusts and other non-natural persons from any gambling, games or competitions whether local or foreign and whether lawful or unlawful.

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;
- 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.

CONNECTED PERSONS RULES

Type of taxpayer	Connected persons
Natural person	Any relative within the third degree of kinship, including adopted children/parents. A trust of which the natural person or a relative is a beneficiary.
Trust	Any beneficiary of the trust. Any connected person in relation to a beneficiary.
Partnership	Any member of the partnership. Any connected person in relation to any member of the partnership.
Close corporation	Any member. Any relative of the member or trust that is a connected person in relation to a member. Any other close corporation which is a connected person to one of the members, or relative or connected trust.
Company	Any other company in the same group of companies (controlling and controlled group companies) where a group of companies consists of a controlling group company that: • Directly holds more than 50% of the equity shares or voting rights in at least one controlled group company. • Directly or indirectly holds more than 50% of the equity shares or voting rights in each controlled group company. Any person (excluding companies) that individually or jointly with that person's connected persons holds 20% or more of the equity shares or voting rights. Any company that holds 20 % or more of the equity shares or voting rights, but only if no holder of shares holds the majority of voting rights in the company. Any other company, if managed or controlled by a connected person. Any other company that would be part of the same group of companies according to the definition "group of companies".

LEARNERSHIP ALLOWANCE

The learnership allowance is applicable to registered learnership agreements entered between a learner and an employer before 1 April 2022.

A 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 and completion allowance

Type of person	Qualification NQF	From 1 October 2016 (R)	Up to 30 September 2016 (R)
Person without a disability	1 - 6 7 - 10	40 000 20 000	30 000 30 000
Person with a disability	1 - 6 7 - 10	60 000 50 000	50 000 50 000

The annual allowance is based on full monthly periods completed in the employer's year of assessment. The allowance must be apportioned if falling in more than one year of assessment. The annual allowance is allowed in respect of each successive year of learnership.

The completion allowance is only claimable on the successful completion of the learnership. The completion allowance can be claimed for the number of consecutive 12 month periods within the duration of the agreement.

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 an associated institution, and the new learnership contains the same training component as the learnership that the person has not completed.

NQF levels

Level	Description
NQF 1 - 6	General certificate, Elementary certificate, Intermediate certificate, National certificate (Grade 12), Higher certificate, Diploma or Advanced certificate
NQF 7 - 10	Bachelor's degree, Advanced diploma, Honours degree, Master's degree, Doctoral degree

EMPLOYER-OWNED LIFE 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 policy holder 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 an insured event occurs, the amount received by the employer will be taxable if the premiums were deducted.

Where no deductions are 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 for when an employee travels for business purposes.

If the policy covers such an employment event, the premiums are not taxed in the hands of the employee as a fringe benefit.

RESEARCH AND DEVELOPMENT

Definition

- Systematic investigative or experimental activities of which the result is uncertain for the purpose of:
  - Discovering new non-obvious scientific or technical knowledge;
  - Creating or developing an invention as defined in the Patents Act;
  - A functional design as defined in the Designs Act, that can qualify for registration and that is innovative in respect of the functional characteristics or intended use;
  - A computer program as defined in the Copyright Act which is of an innovative nature, or knowledge essential to the use of those items, other than creating or developing operating manuals or instruction manuals or documents of a similar nature intended to be utilised subsequent to the research and development being completed; or
  - 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;
- Creating or developing a multisource pharmaceutical product;
- Conducting a clinical trial.

Deduction of 150%

- Expenditure actually incurred, directly and solely in respect of the carrying on of research and development in the Republic;
- In the production of income;
- 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;
- 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
- Costs incurred for 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.

Reopening and reduced assessments due to late approval
A taxpayer may apply to the Commissioner to allow all deductions in respect of research and development if:
- The expenditure was incurred on or after the date of receipt of an application by the Department of Science and Technology for the approval of that research and development;
- The expenditure was not allowable in respect of a year of assessment solely because of the absence of approval; and
- The research and development are approved after that year of assessment.

The Commissioner may make a reduced assessment for such a year of assessment.

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, 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 can be claimed.

SPECIAL ECONOMIC ZONE TAX INCENTIVE (SEZ)
The Special Economic Zones Act came into effect on the 9th of February 2016.

Qualifying company
- Incorporated or effectively managed in South Africa;
- Carrying on business from a fixed place of business within a SEZ;
- At least 90% of the income must be derived from the carrying on of business or provision of services within the SEZ;
- For years of assessment ending on or after 1 January 2019, the trade must have commenced:

  - Before 1 January 2013 in a location that was subsequently designated as a SEZ;
  - On or after 1 January 2013 in a SEZ and was not previously carried on by the company or a connected person in South Africa; or
  - On or after 1 January 2013 in a SEZ and involves the production of goods not previously produced by the company or a connected person in South Africa, uses new technology in its production process or represents an increase in the production capacity of the company.
- Not more than 20% of the deductible expenses incurred, or 20% of the income received are from transactions with a connected person that is a resident or a non-resident with a permanent establishment in the Republic.

Manufacturing companies in the following industries are excluded:
- Distilling, rectifying and blending of spirits, wines, malt liquors and malt, tobacco products, weapons and ammunition and biofuels if it negatively impacts on food security in the Republic;
- Any activities listed in the SIC codes which the Minister of Finance may designate by notice in the Gazette.

Tax relief
- Accelerated allowance of 10% per annum on new or unused buildings and improvements, owned by the company, and used wholly or mainly for producing income, in that SEZ, other than providing residential accommodation;
- No age restriction is applicable on the employment tax incentive;
- Reduced corporate rate of 15%; (only if the company does not conduct activities listed in the regulations issued by the Minister of Finance).

Please note: Small business corporations have the option of paying tax at the lower of 15%, or the effective tax rate determined in terms of the graduated marginal structure for small business corporations.

This incentive will cease to apply in respect of any year of assessment commencing on the later of:
- On or after 1 January 2024; or
- 10 years after the commencement of the carrying on of a trade in a Special Economic Zone.

EMPLOYMENT TAX INCENTIVE
The Employment Tax Incentive Act commenced on 1 January 2014. The aim is to encourage employment creation.

Eligible employers
Employers who are registered for the purposes of the withholding and payment of employees' tax will be eligible to reduce their employees' tax that is payable, for each month that an employer employs a qualifying employee. This benefit to the employer is exempt.

This incentive is not applicable to the government as an employer, nor to certain public entities or municipal entities.

Qualifying employee

- A natural person that is not an independent contractor in relation to the employer;
- Is between the ages of 18 and 29 at the end of the month in respect of which the employment tax incentive is claimed;
- Is in possession of either a valid South African identity card, an asylum seeker permit or a refugee identity card;
- Is not connected to the employer;
- Is not a domestic worker;
- Was not employed by the employer or an associated person on or before 1 October 2013;
- For employers operating as a qualifying company in a Special Economic Zone, there is no age restriction for the employees.

Remuneration requirements

- Must earn at least the higher of the amount payable by virtue of a wage regulating measure, or the minimum wage;
- Where no wage regulation or minimum wage is applicable:
  - Paid for at least 160 hours in a month, the amount of R 2 000, or
  - Paid for less than 160 hours the R 2 000 must be apportioned pro-rata;
- Remuneration may not exceed R 6 500 in a month.

Please note: "hours" mean ordinary hours as defined in the Basic Conditions of Employment Act.

The incentive may only be claimed for a total of 24 qualifying months.

The value of the incentive is prescribed by the following formula:

From 1 March 2019

Monthly remuneration	Per month during the first 12 months	Per month during the next 12 months
R 0 – R 1 999	50% of monthly remuneration	25% of monthly remuneration
R 2 000 – R 4 499	R 1 000	R 500
R 4 500 – R 6 499	R 1 000 – (0.5 x (monthly remuneration – R4 500))	R 500 – (0.25 x (monthly remuneration – R 4 500))
R 6 500 – and more	Nil	Nil

Before 1 March 2019

Monthly remuneration	Per month during the first 12 months	Per month during the next 12 months
R 0 – R 1 999	50% of monthly remuneration	25% of monthly remuneration
R 2 000 – R 3 999	R 1 000	R 500
R 4 000 – R 5 999	R 1 000 – (0.5 x (monthly remuneration – R4 000))	R 500 – (0.25 x (monthly remuneration – R 4 000))
R 6 000 – and more	Nil	Nil

If a qualifying employee was previously employed by an associated person, the number of months that the employee was employed by the associated person, must be taken into account by that employer for the purposes of calculating the incentive.

The employer cannot deduct more than the total employees' tax which is due to SARS in a 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.

The employer may not claim the incentive if any tax returns are outstanding or if there are outstanding debts, unless arrangements have been made with SARS. In these circumstances the employer will be allowed to carry forward the incentive to the next month or it may be claimed when the taxpayer is tax compliant. If the employer does not claim the ETI amount they are entitled to within 6 months, the ETI will be Nil after the 6 month reconciliation cycle and the employer will not receive the ETI as a refund and cannot backdate the ETI claims if the 6-month cycle has lapsed.

Refunds
In terms of the refund process SARS will refund employers the amount of the incentive that wasn't used to reduce the employees' tax amount payable at the end of each 6 month reconciliation period. (1 March to 31 August and 1 September to 28 February). The refund will only be paid if the employer is tax compliant when the employer's reconciliation documents are received and processed by SARS. A non-compliant employer will have 6 months from the start of the next reconciliation cycle to correct any non-compliance and be able to receive the refund. If the employer does not become compliant by the end of the next 6 month reconciliation period, the refund will be forfeited.

Penalties
Penalties will apply 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 for that employee and will be subject to understatement penalties and interest.
- If an employer is believed to have displaced an employee to employ an individual eligible for the incentive. A penalty of R 30 000 will be levied for each employee displaced.

The incentive will cease on 28 February 2029.

GOVERNMENT GRANTS
All grant received from Government in the national, provincial or local sphere must be included in the gross income of the recipient. Any exemption from tax should be made based on a special exemption in terms of section 12P read together with the Eleventh Schedule to the Act.

IN DUPLUM RULE
Where any notional interest has to be calculated under the Income Tax Act using the “official rate of interest” the calculation must be done ignoring the statutory or common law *in duplum* rule. This rule will apply from 1 January 2018.

DOUBTFUL DEBT ALLOWANCE
A doubtful debt allowance can only be claimed if:
- The debt is due to the taxpayer; and
- It was included in the income of the taxpayer.

Doubtful debt allowance for years of assessments commencing before 1 January 2019

In order to claim a doubtful debt allowance the taxpayer is required to render a list of all debts due that is considered to be doubtful. The amount allowed is at the discretion of the Commissioner but is usually calculated by applying a rate (not exceeding 25%) to the debt considered to be doubtful. The amount of allowance granted must be included in the taxpayer's income in the following year of assessment.

Doubtful debt allowance for years of assessment commencing on or after 1 January 2019

For companies using IFRS 9 for financial reporting purposes:

- 40% of the aggregate of:
  - The loss allowance relating to impairment that is measured at an amount equal to the lifetime expected credit loss, as contemplated in IFRS 9, in respect of debt other than in respect of lease receivables as defined in IFRS 9; and
  - The amounts of debts disclosed as bad debt written off for financial reporting purposes that have not been allowed as a deduction under s 11(a) or 11(i) for the current or any previous year of assessment and the debt is included in the income of the taxpayer in the current or any previous year of assessment; plus
- 25% of the loss allowance relating to impairment, as contemplated in IFRS 9, in respect of debt other than in respect of lease receivables.

For companies not using IFRS 9 for financial reporting purposes:

- 40% of debts in arrears for 120 days or more; plus
- 25% of other debt in arrears for 60 days or more.

The Commissioner may, on application by a taxpayer, issue a directive that the 40% may be increased, to a percentage not exceeding 85% after taking into account:

- The history of a debt owed to that taxpayer, including the number of repayments not met, and the duration of the debt;
- Steps taken to enforce repayment of the debt;
- The likelihood of the debt being recovered;
- Any security available in respect of that debt;
- The criteria applied by the taxpayer in classifying debt as bad; and
- Such other considerations as the Commissioner may deem relevant.

The allowance must be added back in the following year of assessment.

INTEREST FREE OR LOW INTEREST LOANS

Section 7C applies to any loan, advance or credit granted directly or indirectly to the trust by any natural person who is a connected person in relation to the trust.

It also applies where a company grants a loan to a trust at the instance of a natural person who is a connected person to the company by virtue of shareholding or voting rights in the company, i.e. a company in which that natural person, either individually or together with a connected person or persons, holds an interest of at least 20%.

Section 7C also applies to any loan, advance or credit granted to a company if at least 20% of the equity shares in the company are held, directly or indirectly, or the voting rights in that company can be exercised by the trust, whether alone or together with any person who is a beneficiary of the trust or the spouse of a beneficiary or any person related to the beneficiary or the spouse within the second degree of consanguinity.

If a loan is granted to the trust or company free of interest or at a rate lower than the official rate of interest, an amount equal to the difference between the interest charged and the official interest rate will be treated as a donation made to the trust or company by the natural person.

The interest forgone by the lender or holder of the loan will be treated as an ongoing and annual donation made to the trust or company on the last day of the trust's year of assessment. This donation will be subject to donations tax of 20%.

The donations tax must be paid by the 31st of March of each year that the loan is outstanding. The annual R 100 000 donation tax exemption is available to a natural person making the donation if it has not already been utilised for other donations.

If the loan is granted to a trust or company, by a company, at the instance of more than one person connected to the company, then the donation is deemed to be made by the persons in the ratio of their equity shares or votes in the company.

An amount that is vested irrevocably by a trustee in a trust beneficiary and that is used or administered for the benefit of the beneficiary without distributing or paying it to the beneficiary will not qualify as a loan or credit granted by that beneficiary to that trust if:

- The vested amount may in terms of the trust deed not be distributed to the beneficiary, e.g. before that beneficiary reaches a specific age; or
- That trustee has the sole discretion in terms of that trust deed regarding the timing of and the extent of any distribution to that beneficiary of such vested amount.

An amount vested by a trust in a trust beneficiary that is not distributed to that beneficiary will qualify as a loan or credit granted by the beneficiary to the trust if that non-distribution results from an election exercised by the beneficiary, or a request by the beneficiary that the amount must not be distributed or paid over, e.g. if the beneficiary has reached the age at which a vested amount must be paid over or distributed to him or her and:

- The trustee accedes to a request by that beneficiary that this not be done; or
- The beneficiary enters into an arrangement with the trustee in terms of which the amount may be retained in the trust.

Transfer of a loan

Where a person acquires a loan to a trust or a company from another person, and the person is connected to the trust or the previous lender, the person will be treated as having granted a loan, advance or credit to the trust or company on the date on which the person acquired the loan that is equal to the amount of the loan acquired.

If the person was not a connected person to the trust or the previous lender on the date that the person acquired the loan, then the person will be treated as having granted a loan, advance or credit to the trust or company on the date on which the person became a connected person in relation to that trust or person.

Denial of tax deduction or losses

No deduction, loss, allowance or capital loss may be claimed in respect of a disposal, reduction or waiver, or the failure, wholly or partly, of a claim for the payment. This is not the case for losses on loans in respect of which interest was charged at the official rate or higher.

Other exclusions

- Where the trust is an approved Public Benefit Organisation or a small business funding entity;
- Loans to a trust by reason of, or in return for, a vested right the person has in the receipts and accruals and assets of the trust (vested trusts);
- Loans to special trusts that are created solely for the benefit of minors with a disability as defined in paragraph (a) of the definition of "special trust" in section 1 of the Act;
- Where the trust used the loan, advance or credit wholly or partly to fund the acquisition of a residence that is used by the person or their spouse as their primary residence throughout the year of assessment, to the extent to which that loan, advance or credit was used to fund the acquisition;
- Where the loan, advance or credit constitutes an affected transaction relating to transfer pricing;
- A loan provided to a trust in terms of a Sharia compliant financing arrangement;
- The loan, advance or credit is subject to the provisions of section 64E (4) (deemed dividend).

Exemption for employee incentive schemes

A specific exclusion for employee incentive schemes exists subject to certain requirements:

- The trust must be created solely for purposes of giving effect to an employee share incentive scheme in terms of which the loan, advance or credit was granted by a company to the trust for purposes of funding the acquisition of shares in the company or in any other company forming part of the same group of companies;
- Shares may only be offered by the trust to a full-time employee of a company or someone holding the office of director;
- Connected persons in relation to a company or any other company forming part of the same group of companies (i.e. a person that holds at least a 20% interest either individually or collectively with connected persons) may not participate in the scheme.

FRUITLESS AND WASTEFUL EXPENDITURE

From 1 April 2019 the deduction of fruitless and wasteful expenditure by a Public Entity is prohibited. It is defined as expenditure which was made in vain and would have been avoided had reasonable care been exercised by the Public Entity.

The PFMA does require a Public Entity to take effective and appropriate disciplinary steps against any employee who makes or permits fruitless and wasteful expenditure. These steps may include any actions to recover such wasteful and fruitless expenditure from the offending employee.

An amount of fruitless and wasteful expenditure that was not allowed as a deduction and was recovered shall be deemed to be exempt from income tax during the year of assessment in which it is received or accrued.

TAX ADMINISTRATION MATTERS

Tax Ombud

The mandate of the Tax Ombud is to review and address any complaint by a taxpayer regarding a service, procedural or administrative matter arising from the application of the provisions of a tax Act by SARS.

A complaint can only be lodged with the Tax Ombud after the taxpayer tried to resolve the complaint directly with SARS at the branch where the case was dealt with, or through the SARS Contact Centre and allowed reasonable time for a resolution, except for systemic issues.

The Tax Ombud's recommendations are not binding on a taxpayer or SARS, but if not accepted by a taxpayer or SARS, reasons for such decision must be provided to the Tax Ombud within 30 days of notification of the recommendations. This will ensure that the Tax Ombud is able to review the reasonableness of the reasons.

Tax compliance status

A taxpayer may apply, in the prescribed form and manner to SARS for third party access the taxpayer's tax compliance status. SARS must provide or decline third party access to the taxpayer's tax compliance status, within 21 business days, or a longer period to confirm the correctness of the taxpayer's status compliance status, from the date the application is submitted.

A taxpayer will only be compliant if the taxpayer:

- Is registered for tax;
- Does not have an outstanding tax debt of more than R 100 unless that payment has been deferred, compromised, or suspended;
- Does not have an outstanding return unless an arrangement has been made for the submission of the return.

SARS may revoke third party access if the access was issued in error, or was provided on the basis of fraud, misrepresentation or non-disclosure of material facts, and SARS has given the taxpayer prior notice and an opportunity to respond to the allegations of at least 10 business days prior to the revocation.

Illegal use of the word SARS

No person may:

- Use the name or abbreviated name of SARS in an unlawful manner;
- Use any logo or design of SARS without its authorisation;
- Falsely represent any material or substance as emanating from SARS;
- Use any name or description which implies some association or connection between the person or any corporate entity, body, firm,

business or undertaking and SARS; or
- Register or use a domain name which incorporates the name or description 'South African Revenue Service' or 'SARS' or the name or description of any of its subsidiaries.

Notification of an audit
The SARS official involved in or responsible for an audit must provide the taxpayer with a notice of the commencement of an audit and, thereafter, a report indicating the stage of completion of the audit.

Request for relevant material
SARS may require the taxpayer or another person to, within a reasonable period, submit relevant material (whether orally or in writing) that SARS requires.

A request by SARS for relevant material from a person other than the taxpayer is limited to material maintained or kept by the person in respect of the taxpayer.

A taxpayer receiving a request from SARS for relevant material must submit the relevant material to SARS at the place, in the format (which must be reasonably accessible to the taxpayer) and:
- Within the time specified in the request; or
- If the material is held by a connected person located outside the Republic, within 90 days from the date of the request, which request must set out the consequences of failing to do so.

If reasonable grounds for an extension are submitted by the taxpayer, SARS may extend the period within which the relevant material must be submitted.

If a taxpayer fails to provide the material that is held by a connected person located outside the Republic it may not be produced by the taxpayer in any subsequent proceedings, unless a competent court directs otherwise on the basis of circumstances outside the control of the taxpayer and any connected person located outside the Republic.

Persons who may be interviewed by SARS
A senior SARS official may require a taxpayer, or any of the taxpayer's employees or directors to attend an interview with SARS, concerning the tax affairs of the taxpayer, provided that it is not for the purpose of a criminal investigation.

Assistance during field work or criminal investigation
The person on whose premises an audit or criminal investigation is carried out and any other person on the premises, must provide such reasonable assistance as is required by SARS to conduct the audit or investigation, including:
- Making appropriate facilities available to the extent that such facilities are available;
- Answering questions relating to the audit or investigation; and
- Submitting relevant material as required.

No person may without just cause obstruct a SARS official from carrying out the audit or investigation or refuse to give the access or assistance.

The person may recover from SARS after completion of the audit or criminal investigation (or, at the person's request, on a monthly basis) the cost for the use of photocopying facilities in accordance with the fees prescribed in the Promotion of Access to Information Act.

Inquiry order

A judge may grant an inquiry order if satisfied that there are reasonable grounds to believe that a person has:

- Failed to comply with an obligation imposed under a tax Act;
- Committed a tax offence; or
- Disposed of, removed or concealed assets which may fully or partly satisfy an outstanding tax debt; and
- That relevant material is likely to be revealed during the inquiry which may provide proof of the failure to comply, of the commission of the offence or of the disposal, removal or concealment of the assets.

Issuance of assessments

An additional or reduced assessment may not be made after:

- Three years from the date of an original assessment issued by SARS;
- Five years in the case of self-assessment for which a return is required;
- Five years from the date of the payment if no return is required.
- The above does not apply to the extent that:
  - In the case of an assessment by SARS, the fact that the full amount of tax chargeable was not assessed, was due to fraud, misrepresentation or non-disclosure of material facts;
  - In the case of self-assessment, the fact that the full amount of tax chargeable was not assessed, was due to fraud, intentional or negligent misrepresentation or non- disclosure of material facts or the failure to submit a return; or
  - If no return is required, the failure to make the required payment of tax.

The Commissioner may, by prior notice of at least 30 days to the taxpayer, extend a prescription period or an extended period, before the expiry thereof, by a period approximate to a delay arising from:

- Failure by a taxpayer to provide all the relevant material requested within the required period;
- Resolving any information entitlement disputes, including any legal proceedings.

The Commissioner may, by prior notice of at least 60 days to the taxpayer, extend a prescription period before the expiry thereof, by 3 years in the case of an assessment by SARS, or 2 years in the case of self-assessment, where an audit or investigation relates to:

- The application of the doctrine of substance over form;
- The application of the general anti-avoidance rule;
- The taxation of hybrid entities or instruments; or
- Transfer pricing matters.

SARS will only be allowed in exceptional circumstances, i.e. fraud, misrepresentation and non-disclosure to reopen the tax period, audit and issue an additional assessment after prescription.

Reduced assessments
SARS may reduce an assessment if:
- The taxpayer successfully disputed the assessment;
- Necessary to give effect to a settlement;
- Necessary to give effect to a judgment pursuant to an appeal and there is no right of further appeal;
- SARS is satisfied that there is a readily apparent undisputed error in the assessment;
- A senior SARS official is satisfied that an assessment was based on:
  - The failure to submit a return or submission of an incorrect return by a third party or by an employer;
  - A processing error by SARS; or
  - A return fraudulently submitted by a person not authorised by the taxpayer.

SARS may reduce an assessment despite the fact that no objection has been lodged or appeal noted.

Objection against an assessment or decision
If a taxpayer is aggrieved by an assessment, or a decision made by a SARS official, he may object. Prior to lodging an objection, the taxpayer can write to SARS within 30 business days after the date of the assessment and request written reasons for the assessment. SARS has 30 business days to notify the taxpayer where he already provided a reason or if not, SARS has 60 business days to do so. The taxpayer has 30 business days from the later of the day of assessment, or the date the written reasons are given to object. Condonation for a late objection not based on exceptional circumstances may be extended by a senior SARS official for a period up to 30 business days, but if there are exceptional circumstances this period may be further extended by SARS. The maximum period within which a late objection may be extended remains 3 years.

Business days exclude the days from 16 December to 15 January.

Liability of third parties
A senior SARS official may authorise the issue of a notice to a person who holds or owes or will hold or owe any money, including a pension, salary, wage or other remuneration, for or to a taxpayer, requiring the person to pay the money to SARS in satisfaction of the taxpayer's outstanding tax debt.

A person that is unable to comply with a requirement of the notice, must advise the senior SARS official of the reasons for the inability to comply within the period specified in the notice and the official may withdraw or amend the notice as is appropriate under the circumstances.

A person receiving the notice must pay the money in accordance with the notice and, if the person parts with the money contrary to the notice, the person is personally liable for the money.

SARS may, on request by a person affected by the notice, amend the notice to extend the period over which the amount must be paid to SARS, to allow the taxpayer to pay the basic living expenses of the taxpayer and his or her dependants.

SARS may only issue the notice after delivery to the tax debtor of a final demand for payment which must be delivered at the latest 10 business days before the issue of the notice, which demand must set out the recovery steps that SARS may take if the tax debt is not paid and the available debt relief mechanisms.

If the tax debtor is a natural person, the tax debtor may within 5 business days of receiving the demand apply to SARS for a reduction of the amount to be paid to SARS based on the basic living expenses of the tax debtor and his or her dependants.

If the tax debtor is not a natural person, the tax debtor may within 5 business days of receiving the demand apply to SARS for a reduction of the amount to be paid to SARS based on serious financial hardship.

SARS need not issue a final demand if a senior SARS official is satisfied that to do so would prejudice the collection of the tax debt.

Refunds and interest

SARS must pay a refund if a person is entitled to a refund, including interest thereon of:

- An amount properly refundable under a Tax Act and if so reflected in an assessment; or
- The amount erroneously paid in respect of an assessment in excess of the amount payable in terms of the assessment.

SARS need not authorise a refund until such time that a verification, inspection or audit of the refund has been finalised.

SARS must authorise the payment of a refund before the finalisation of the verification, inspection or audit if security in a form acceptable to a senior SARS official is provided by the taxpayer.

An amount that is erroneously paid in respect of an assessment in excess of the amount payable in terms of the assessment is regarded as a payment to the National Revenue Fund unless a refund is made in the case of:

- An assessment by SARS, within 3 years from the later of the date of the assessment or the erroneous payment; or
- Self-assessment, within 5 years from the later of the date the return had to be submitted or, if no return is required, payment had to be made in terms of the relevant tax Act or the erroneous payment was made.

If SARS pays to a person by way of a refund any amount which is not properly payable to the person under a tax Act, the amount, including interest thereon is regarded as an outstanding tax debt from the date on which it is paid to the person.

A decision not to authorise a refund of an amount erroneously paid in respect of an assessment in excess of the amount payable in terms of the assessment is subject to objection and appeal.

Delivery of documents

If a tax Act requires or authorises SARS to issue, give, send, or serve a notice, document or other communication to a person (other than a company), SARS is regarded as having issued, given, sent or served the

communication to the person if it was:

- Handed to the person;
- Left with another person over 16 years of age apparently residing or employed at the person's last known residence, office or place of business;
- Sent to the person by post to the person's last known address, which includes:
  - A residence, office or place of business;
  - The person's last known post office box number or that of the person's employer; or
- Sent to the person's last known electronic address, which includes:
  - The person's last known e-mail address;
  - The person's last known telefax number; or
  - The person's electronic address page e.g. e-filing.

Bank account holds

If a bank that holds an account on behalf of a client into which an amount is deposited, reasonably suspects that the payment of the amount is related to a tax offence, the bank must immediately report the suspicion to SARS and not proceed with the carrying out of any transaction in respect of the amount for a period not exceeding 2 business days unless SARS or a High Court directs otherwise.

Deregistration of non-complaint tax practitioners

All tax practitioners must be registered with a recognised controlling body, if they provide tax advice or completes or assists in completing a tax return.

SARS may refuse to register a tax practitioner, or may deregister a tax practitioner if any of the following apply to the person during the preceding 5 years:

- The person has been removed from a profession by a controlling body for serious misconduct;
- The person has been convicted of any offence involving dishonesty, theft, fraud forgery or uttering a forged document, perjury or an offence under the Prevention and Combatting of Corrupt Activities Act and has been imprisoned for a period exceeding two years without the option of a fine, or to a fine exceeding the amount prescribed in the Adjustment of Fines Act;
- The person has been convicted of a serious tax offence;
- Was not tax compliant during the preceding 12 months for an aggregate period of at least 6 months and has failed to remedy the non-compliance within the period specified by SARS in a notice.

The impact of deregistration is that a tax practitioner will lose access to the tax practitioner eFiling profile and will effectively be prevented to reregister as a tax practitioner for 6 months after the non-compliance has been remedied. The practitioner will also not be able to make use of the SARS tax practitioner channel.

PENALTIES AND INTEREST

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.

Penalties will be levied where a natural person fails to submit a tax return as and when required, for the year of assessment commencing on or after 1 March 2016, and where that person has two or more outstanding tax returns for such year of assessment.

For companies the administrative non-compliance penalties will be imposed for outstanding returns for years of assessment ending during the 2009 and subsequent calendar years. This will also apply to dormant companies with no receipts or assets.

SARS will issue a final demand which will grant the company 21 business days from the date of the final demand to submit the outstanding returns before the penalties will be imposed.

A penalty assessment must be issued for administrative non-compliance penalties. The assessment must give the taxpayer notice of:

- The non-compliance for which the penalty is imposed and its duration;
- The amount of the penalty imposed;
- The date by when the penalty becomes payable;
- The fact that the penalty will automatically increase per month;
- Summary of the procedures to follow when requesting remittance of the penalty.

Fixed amount 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 50 000 001 and above	R 16 000

The amount of the penalty is based 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 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 non-compliance penalty does not apply where the percentage-based penalty, reportable arrangement, or the understatement penalty applies.

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 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.

Fixed amount penalty: Remitted up to R 2 000 in case of a first incidence of non-compliance (no penalty assessment during the preceding 36 months), or the duration of non- compliance is less than 5 business days and reasonable grounds exist for the non-compliance, and the non-compliance has been remedied.

Percentage-based penalty: Remitted in case of a first incidence of non-compliance (no penalty assessment during the 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.

Exceptional circumstances: Remitted in whole or in part, if one or more of the following circumstances rendered the person incapable of complying:

- 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.

SARS may also remit a penalty or a portion thereof if a Tax Act other than the Tax Administration Act provides for remittance grounds for a penalty.

A decision by SARS not to remit a penalty in whole or in part is subject to objection and appeal.

Understatement penalties

An "understatement" is a failure to submit 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 or an impermissible avoidance arrangement.

No understatement penalty is payable if 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.

The understatement penalty is determined by applying the highest applicable percentage based on the table below to the shortfall in relation to each understatement.

The shortfall is the sum of:

- The difference between the amount of tax properly chargeable for the tax period, and the amount of tax that would have been chargeable for the tax period if the understatement were accepted;
- The difference between the amount properly refundable for the tax period and the amount that would have been refundable if the understatement were accepted; and
- The difference between the amount of an assessed loss or any other

benefit to the taxpayer properly carried forward from the tax period to a succeeding tax period and the amount that would have been carried forward if the understatement were accepted.

Understatement Penalty Percentage Table

1. Standard case
2. If obstructive or if it is a 'repeat case'
3. Voluntary disclosure after notification of audit
4. Voluntary disclosure before notification of audit

Behaviour	1	2	3	4
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%
Impermissible avoidance arrangement	75%	100%	35%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

The tax rate applicable to the shortfall determined is the maximum tax rate applicable to the taxpayer, ignoring an assessed loss or any other benefit brought forward from a preceding tax period.

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 million.

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

If the understatement is a failure to submit a return, the tax that resulted from the understatement must be regarded as Nil for the purposes of calculating the shortfall and the understatement penalty.

A decision by SARS not to remit an understatement penalty is subject to objection and appeal.

Remittance of interest

If a senior SARS official is satisfied that interest is payable as a result of circumstances beyond the taxpayer's control, the official may, unless prohibited by a Tax Act, remit so much of the interest as is attributable to the circumstances.

The circumstances referred to above are limited to:

- A natural or human-made disaster;
- A civil disturbance or disruption in services; or
- A serious illness or accident.

SARS may not remit the interest after the expiry of 3 years, in the case of an assessment by SARS, or 5 years, in the case of a self-assessment, from the date of assessment of the tax in respect of which the interest accrued.

CRIMINAL OFFENCES

If a person is convicted of a criminal offence, he/she may be subject to a fine or imprisonment for up to 2 years.

Examples of criminal offences

- Failure to register as a taxpayer or tax practitioner;
- Failure to notify SARS of a change in registered particulars;
- Failure to submit a tax return or document to SARS;
- Failure to retain records;
- Submit a false certificate or statement;
- Issues an erroneous, incomplete or false document to SARS or another person;
- Refuses or neglects to furnish or make available any information or document (excluding information requested for the purpose of revenue estimation);
- Not replying or answering truthfully any question put to the person by a SARS official;
- Failure to take an oath or make a solemn declaration, or attend and give evidence as and when required;
- Fails to comply with a directive or instruction issued by SARS;
- Fails or neglects to disclose to SARS any material fact;
- Obstructs or hinders SARS officials in the discharge of their duties;
- Refuses to give assistance during an audit or investigation;
- Fails to comply with the provisions applicable to third parties when given notice to transfer assets or pay amounts to SARS;
- The dissipation of assets to impede the collection of taxes, penalties or interest;
- Submitting a return to SARS under a forged signature;
- Submitting a return to SARS on behalf of another person without the person's consent and authority;
- Uses an electronic or digital signature of another person;
- Tax practitioners withholding taxpayers' e Filing profiles without the taxpayers' consent.

Evasion of tax, fraud or theft

A person who with intent to evade or to assist another person to evade tax or to obtain an undue refund under a tax Act:

- Makes or causes or allows to be made any false statement or entry in a return or other document, or signs a statement, return or other document so submitted without reasonable grounds for believing it to be true;
- Gives a false answer, whether orally or in writing, to a request for information;
- Prepares, maintains or authorises the preparation or maintenance of false books of account or other records or falsifies or authorises the falsification of books of account or other records;
- Makes use of, or authorises the use of, fraud or contrivance; or
- Makes any false statement for the purposes of obtaining any refund of or exemption from tax;

Is guilty of an offence and, upon conviction, is subject to a fine or to imprisonment for a period not exceeding 5 years.

Any person who makes a statement referred to above may, unless the person proves that there is a reasonable possibility that he or she was ignorant of the falsity of the statement and that the ignorance was not

due to negligence on his or her part, be regarded as being aware of the falsity of the statement.

VOLUNTARY DISCLOSURE PROGRAMME
A person who committed a default may apply for voluntary disclosure relief.

"Default" means the submission of inaccurate or incomplete information to SARS, or the failure to submit information or the adoption of a 'tax position' that resulted in an understatement.

A person may apply for voluntary disclosure relief, unless the person is aware of a pending audit or investigation into his tax affairs, or an audit or investigation has commenced, but has not yet been concluded. If the default does not relate to what is being audited the taxpayer may apply for voluntary disclosure relief for that default.

In the case of an audit or investigation that has commenced, a senior SARS official may permit the voluntary disclosure if he/she is of the view that the default would not otherwise have been detected during the audit, and the application would be in the interest of good management of the tax system, and the best use of SARS's resources.

The disclosure must be voluntary, involve a default which has not occurred within 5 years of the disclosure of a similar default, be full and complete in all material respects, involve a behaviour referred to in the understatement penalty percentage table, 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.

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.

Relief granted
- Criminal prosecution;
- Understatement penalty (per understatement penalty table);
- 100% relief for the administrative non-compliance penalty;
- The late payment penalty.

EXCHANGE CONTROL ALLOWANCES
Discretionary allowance for resident individuals
A single discretionary allowance of R 1 million per calendar year is available to all South African residents who are 18 years and older, and that is in possession of a valid green bar-coded South African identity document or smart identity document card. This dispensation may be used for any legitimate purpose, including for investment purposes abroad as well as the sending of gift parcels in lieu of cash (excluding gold and jewellery) at the discretion of the individual without any documentary evidence having to be produced to the Authorised Dealer, except for travel purposes outside the CMA, where a passenger ticket needs to be produced.

Travel allowance

Individuals may also use the single discretionary allowance as a travel allowance through an Authorised Dealer subject to the following conditions:

- Individuals, who are under the age of 18 years may not qualify for a single discretionary allowance but may make use of a travel allowance not exceeding an amount of R 200 000 per calendar year;
- Individuals may not avail of travel allowances more than 60 days prior to their departure and must present a valid passenger ticket when travelling by air, bus, rail or ship;
- The travel allowance may be transferred abroad to the traveller's own bank account and/or spouse accounts, but not to the account of a third party. Minors travelling with parents, may have their travel allowances transferred to their parents' bank account abroad;
- Any unused foreign currency must be resold within 30 days to an Authorised Dealer upon return to South Africa. However, business travellers going abroad on recurring business trips, where the next business trip is to commence within 90 days after returning from a previous business trip, may retain any unutilised foreign currency for use during subsequent business trips;
- Travellers are permitted to take up to R 25 000 in South African Reserve Bank notes with them in addition to the travel allowance.

Foreign capital allowance

Resident individuals, older than 18 years, are permitted to invest R 10 million per calendar year outside South Africa. A tax compliance status pin in respect of foreign investments must be obtained from SARS prior to the 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.

Study allowance

Individuals studying abroad may use the R 1 million single discretionary allowance. Spouses accompanying students also qualify for the facility.

Students may also export any household and personal effects, including jewellery (but excluding motor vehicles), up to a value of R 200 000 per student.

In addition, Authorised Dealers may transfer directly to the institution concerned the relative tuition and academic fees for the academic year.

Residents must produce to an Authorised Dealer:

- Documentary evidence from the institutions concerned confirming that the student has been enrolled for a course; and
- Evidence of the tuition and academic fees in the form of a letter or prospectus from the institution to be attended.

Students under the age of 18 years also qualify for a study allowance to pay for costs associated with their studies abroad as well as a travel allowance of R 200 000 per calendar year.

Emigration facilities

Private individuals emigrating will qualify for the following facilities after all their assets have been brought under the administration of an Authorised Dealer:

Family unit: Foreign capital allowance of up to R 20 million per calendar year after all local liabilities have been provided for and in in addition a travel allowance for each member of the family unit subject to the prescribed limit.

Single persons: Foreign capital allowance of up to R 10 million per calendar year after all local liabilities have been provided for and in addition a travel allowance subject to the prescribe limit.

Any household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps and coins (excluding coins that are legal tender in South Africa) per family unit or single person, within the overall insured value of R 2 million, may be exported.

Companies

South African registered private, public and listed companies (excluding sole proprietorships, partnerships, close corporations and trusts), as well as mandated state-owned enterprises as defined in Schedule 2 of the Public Finance Management Act, 1999, are allowed to transfer capital for foreign direct investment purposes to any country outside the CMA, subject to certain conditions.

While there is no monetary limit on the amount that can be transferred offshore, requests for investments not exceeding R1 billion per entity per calendar year must be submitted to an Authorised Dealer.

Requests for investments exceeding R1 billion per entity per calendar year must be referred to the Financial Surveillance Department via an Authorised Dealer.

To qualify for the dispensation, business entities must acquire at least 10% of the foreign target entity's voting rights.

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	7 years
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 a tax period	For a period of 5 years from the date of submission of the return, unless subject to an audit, appeal, investigation, or objection
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, then 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

Heated tobacco products, for example hubbly bubbly will be taxed at 75% of the rate of cigarettes. Electronic cigarettes, or so-called vapes, will be taxed from 2021.

From 1 April 2020 the following increases will take place:

- Fuel levy will increase with 25 cent per litre (16 cent is for the general fuel levy and 9 cent is for the Road Accident Fund levy);
- The plastic bag levy will increase to 25 cents from 1 April 2020;
- The carbon tax rate will increase from R120 per ton of carbon dioxide equivalent to R127 per ton of carbon dioxide;
- The incandescent globe tax levy will be increased to R10;
- The motor vehicles emissions tax rates will increase to R120 (R110) for every gram of emissions/km above 95gCO2/km (120gCO2/km) for passenger vehicles and R160 (R150) for every gram of emissions/km in excess of 160gCO2/km (175gCO2/km) for double cab vehicles.

Grants are adjusted as follows:

R 80 increase for the old age, disability and care dependency grants to R 1 860 per month, R 80 increase in the war veterans grant to R 1 880, R 40 increase for the foster care grant to R 1 040 per month and the child support grant will increase by R 20 to R 445 per month.

IRP5 CODES

Income Tax Codes

(Codes in brackets refer to foreign income)

Code	Description	Type of Tax
3601 (3651)	Income for services rendered	Subject to PAYE
3602 (3652)	Non-taxable income for services rendered	Non-taxable
3603 (3652)	Pension	Subject to PAYE
3605 (3655)	Annual payment	Subject to PAYE
3606 (3656)	Commission	Subject to PAYE
3607 (3657)	Overtime	Subject to PAYE
3608 (3658)	Arbitration award	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
3616 (3666)	Independent contractors	Subject to PAYE
3617 (3667)	Labour brokers without exemption certificate	Subject to PAYE
3619 (3669)	Labour brokers with exemption certificate	IT
3620 (3670)	Directors fee: resident NED	IT
3621	Directors fee: non-resident NED	Subject to PAYE

Allowance Codes

Code	Description	Type of tax
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
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 or return of capital i.r.o. restricted equity instruments	Subject to PAYE
3719 (3769)	Dividends not exempt para (dd) of the proviso to s10(1)(k)(i)	Subject to PAYE
3720 (3770)	Dividends not exempt para (ii) of the proviso to s10(1)(k)(i)	Subject to PAYE
3721 (3771)	Dividends not exempt para (jj) of the proviso to s10(1)(k)(i)	Subject to PAYE
3722 (3772)	Reimbursive travel allowance (rate exceeds prescribed rate)	Subject to PAYE
3723 (3773)	Dividends not exempt par (kk) of the proviso to s10(1)(k)(i)	Subject to PAYE

Fringe Benefit Codes

Code	Description	Type of tax
3801 (3851)	General fringe benefits	Subject to PAYE
3802 (3852)	Use of motor vehicle (not operating lease)	Subject to PAYE
3810 (3860)	Medical aid contributions paid on behalf of employee	Subject to PAYE
3813 (3863)	Medical services costs paid by the employer	Subject to PAYE
3815 (3865)	Non-taxable bursaries and scholarships - basic education – not disabled	Non-taxable

3816 (3866)	Use of motor vehicle acquired by employer via operating lease	Subject to PAYE
3817 (3867)	Employers pension fund contribution	Subject to PAYE
3820 (3870)	Taxable bursaries or scholarships - further education – not disabled	Subject to PAYE
3821 (3871)	Non-taxable bursaries or scholarships - further education – not disabled	Non-taxable
3822 (3872)	Non-taxable fringe benefit on acquisition of immovable property	Non-taxable
3825 (3875)	Employer provident fund contributions	Subject to PAYE
3828 (3878)	Employees debt: employer paid retirement annuity fund contributions	
3829 (3879)	Taxable bursaries to a disabled person – basic education	Subject to PAYE
3830 (3880)	Non-taxable bursaries to a disabled person – basic education	Non-taxable
3831 (3881)	Taxable bursaries to a disabled person – further education	Subject to PAYE
3832 (3882)	Non-taxable bursaries to a disabled person – further education	Non-taxable
3833 (3883)	Bargaining council employer contributions	Subject to PAYE
3834 (3884)	Loan to purchase immovable residential property	Non-taxable

Lump sum codes

Code	Description	Type of tax
3901 (3951)	Gratuities/Severance benefits	Subject to PAYE
3906 (3956)	Special Remuneration paid to proto-team members	Subject to PAYE
3907 (3957)	Other lump sums	Subject to PAYE
3908	Surplus apportionments and exempt policy proceeds	Non- taxable
3915	Retirement/termination of employment lump sum benefits/commutation of annuities	Subject to PAYE
3920	Lump sum withdrawal benefits	Subject to PAYE
3921	Living annuity and section 15C of the Pension Funds Act and surplus apportionments	Subject to PAYE
3922	Compensation i.r.o. death during employment	Non- taxable
3923	Transfer of unclaimed benefits	Non- taxable
3924	Transfer on retirement	Subject to PAYE

Deduction Codes

Code	Description
4001	Pension fund contributions paid or deemed paid by employee
4003	Provident fund contributions paid or deemed paid by employee
4005	Medical scheme fees (contributions) paid and deemed paid by employee
4006	Retirement annuity fund contributions paid and deemed paid by employee
4024	Medical services costs deemed to be paid by the employee in respect of himself/herself, spouse or child
4030	Donations deducted from the employee's remuneration and paid by the employer to the organisation
4472	Employer's pension fund contributions paid for the benefit of the employee
4473	Employer's provident fund contributions paid for the benefit of the employee

4474	Employer's medical scheme fees (contributions) paid for the benefit of employees (employee 65 years and older and who has not retired from that employer, should also be reflected under this code)
4475	Employer's retirement annuity fund contributions paid for the benefit of the employee
4493	Employer's medical scheme fees (contributions) paid for the benefit of retired employees who qualifies for the "no value" provisions
4582	Value of "remuneration" included in allowances and benefits (travel related)
4583	The portion (80% or 20%) of travel allowances and benefits which is subject to PAYE
4584	Employers bargaining council contributions
4585	Employers pension fund contributions paid for the benefit of the employee or former employee and qualifies for the "no value" provisions
4586	Employers provident fund contributions paid for the benefit of the employee or former employee and qualifies for the "no value" provisions
4497	Total deductions/contributions

Employees' Tax Deduction and Reason Codes

Code	Description
4102	PAYE
4115	Tax on retirement lump sum and severance benefits
4116	Medical schemes fees tax credit
4118	Sum of ETI amounts
4120	Additional medical expenses tax credit (65 years and older)
4141	UIF employee and employer contribution
4142	SDL contribution

NOTES

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