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PROFESSIONAL ACCOUNTANTS™

YOUR WEALTH

TAX GUIDE

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CENTRE OF
TAX EXCELLENCE

SAIPA

Tax Guide

2021/22

SAIPA Tax Guide 2021/22

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REFERENCES IN THE GUIDE

- Income Tax Act 58 of 1962/ITA (as amended)
- Value-Added Tax Act 89 of 1991/VAT (as amended)
- Tax Administration Act 28 of 2011/TAA (as amended)
- Draft Rates and Monetary Amounts and Amendments of Revenue Laws Bill, February 2021
- Rates and Monetary Amounts and Amendment of Revenue Laws Act 22 of 2020
- Taxation Laws Amendment Act 23 of 2020
- Tax Administration Laws Amendment Act 24 of 2020
- National Budget Speech, 2021
- Budget Review, 2021

BUDGET SUMMARY

2021 Budget highlights

- Above inflation adjustment of tax brackets and rebates resulting in personal income tax relief for individuals.
- A decrease in the corporate income tax rate to 27% from 1 April 2022. This will be done alongside a broadening of the corporate income tax base by limiting interest deductions and assessed losses, which was postponed to 2022 considering the impact of the COVID-19 pandemic on business.
- Unemployment Insurance Fund contribution ceiling will be increased to R17 711.58 per month from 1 March 2021.
- No extension of the venture capital company tax incentive beyond its current sunset date of 30 June 2021.
- An inflation-related increase of 15c/litre in the general fuel levy and a higher-than-inflation increase of 11c/litre in the Road Accident Fund levy, with effect from 7 April 2021.
- Plastic bags are currently taxed at 25c/bag. A reduced levy of 12.5c/bag will apply to bio-based plastic bags.
- The carbon tax levy for 2021 will increase by 1c to 8c/litre for petrol and 9c/litre for diesel from 7 April 2021.
- Increase of 8% in specific excise duties on tobacco and alcohol.
- The urban development zones and learnership tax incentives will be extended for two years while their reviews are completed.

- SARS will establish a dedicated unit to improve compliance of individuals with wealth and complex financial arrangements. This first group of taxpayers have been identified and will receive communication during April 2021.
- Considering the large-scale migration to working at home over the past year, the current travel and home office allowances will be reviewed.

Definitions (s1 ITA)

Financial Instrument

- Effective, 17 January 2019, cryptocurrencies were added to the definition of financial instrument. Effective, 20 January 2021, cryptocurrency Is replaced with crypto asset.

Official Rate of Interest

- Effective, 17 January 2019, the new rate of interest applies from the first day of the month following the date on which that new repurchase rate or equivalent rate came into operation.

RESIDENCE BASED TAXATION

South African residents account for tax on their worldwide receipts and accruals if they are tax resident on the basis of being 'ordinarily resident' or through the physical presence test. A tax resident's income is taxed in South Africa, regardless of the source of the income. There are, however, several exemptions.

'Ordinarily resident' generally means the place where a person has his/her place of permanent residence. If a person is outside the Republic and intends to return to the Republic to keep his/her permanent home, such a person is regarded as a resident.

Some of the criteria that are used to establish the country in which someone is 'ordinarily resident' are:

- the place of his/her most fixed and settled place of residence;
- the place of business and personal interests;
- the location of personal belongings, or
- whether an application has been made for permanent residency else-where. (If a person has formally emigrated from South Africa, he/she has decided to make another country his/her real home and, therefore, he/she will cease to be a tax resident in South Africa.)

The physical presence test requires that an individual be present in South Africa:

- for more than 91 days in aggregate during the relevant year of assessment; and

- for more than 91 days in aggregate in each of the preceding 5 years of assessment, and
- for more than 915 days in aggregate in the preceding 5 years of assessment.

But not:

- if the individual was outside the Republic for a continuous period of 330 days after ceasing to be physically present in South Africa (then the individual will no longer be a resident from the start of the 330-day period).

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

- incorporated in the Republic;
- established or formed in the Republic; or
- has its place of effective management in the Republic.

Foreign income is converted into South African Rand by applying the spot rate on the date on which the amount was received or accrued.

A natural person or a trust may elect that all amounts be translated to South African Rand by applying the average exchange rate for the year of assessment.

The tax implication of ceasing to be a South African tax resident is that the taxpayer is deemed to have disposed of all capital assets other than immovable property in the Republic or assets attributable to a permanent establishment of the Republic.

Non-residents are taxable on income from a source within the Republic. Also, applicable withholding taxes would apply.

Tax rates: Individuals 2020/21 and 2021/22

2020/21		2021/22	
Taxable Income (R)	**Rate of tax**	**Taxable Income (R)**	**Rate of tax**
R0 – R205 900	18% of each R1	R0 – R216 200	18% of each R1
R205 901 – R321 600	R37 062 + 26% above R205 900	R216 201 – R337 800	R38 916 + 26% above R216 200
R321 601 – R445 100	R67 144 + 31% above R321 600	R337 801 – R467 500	R70 532 + 31% above R337 800
R445 101 – R584 200	R105 429 + 36% above R445 100	R467 501 – R613 600	R110 739 + 36% above R467 500
R584 201 – R744 800	R155 505 + 39% above R584 200	R613 601 – R782 200	R163 335 + 39% above R613 600
R744 801 – R1 577 300	R218 139 + 41% above R744 800	R782 201 – R1 656 600	R229 089 + 41% above R782 200
R1 577 301 and above	R559 464 + 45% above R1 577 300	R1 656 601 and above	R587 593 + 45% above R1 656 600
Rebate		**Rebate**	
Primary Secondary Tertiary	R14 958 R8 199 R2 736	Primary Secondary Tertiary	R15 714 R8 613 R2 871
Tax Threshold		**Tax Threshold**	
Below age 65 Age 65 and older Age 75 and older	R83 100 R128 650 R143 850	Below age 65 Age 65 and older Age 75 and older	R87 300 R135 150 R151 100

Trusts

Trusts are taxed at 45%, except for a special trust created solely for the benefit of one or more persons who is or are persons with a disability as defined in s6B where such disability incapacitates such person or persons from earning sufficient income for their maintenance, or from managing their own financial affairs.

These special trusts are taxed at the rates applicable to natural persons, but do not qualify for rebates. All trusts have a year of assessment ending the last day of February and a trust is currently required to be registered as a provisional taxpayer, regardless of its activities.

Loans or credit advanced to a trust by a connected person (s7C ITA)

Section 7C is effective from 1 March 2017. Section 7C has been inserted in order to limit a taxpayers' ability to transfer wealth to a trust without being subject to tax. Section 7C applies to interest free loans or loans with interest below market rates that are made to a trust directly or indirectly by:

- a natural person, or
- at the instance of that person, a company in relation to which that person is a connected person, and where that person or the company is a connected person in relation to the trust.

With effect from 19 July 2017, low-interest or interest-free loan funding provided to a trust or a company when at least 20% of the equity shares are owned, directly or indirectly; or voting rights in that company can be exercised, by the trust, whether alone or together with any person who is a beneficiary of that trust or the spouse of a beneficiary of that trust or any person related to that beneficiary or that spouse within the second degree of consanguinity, would be subject to s7C.

Interest foregone in respect of low interest loans or interest free loans that are made to a trust will be treated as an ongoing annual donation made by the lender to the trust on the last day of the year of assessment of that trust.

This section is effective from 1 March 2017 and is not retrospective as it does not change the tax liabilities for previous years of assessment. It applies to all loans currently in existence on 1 March 2017 that meet the aforementioned criteria.

No deduction, loss, allowance or capital loss may be claimed in respect of a loan that meets the aforementioned criteria. The reduction, waiver or other disposal of such a loan, advance or credit will thus result in no tax benefit for the lender.

Exclusions

The amount owing by a trust during a year of assessment is not subject to this new rule in the following situations:

- special trusts that are created solely for the benefit of minors with a disability
- trusts that fall under public benefit organisations
- vesting trusts
- loans that are subject to transfer pricing provisions
- loans used by the trust to acquire a primary residence
- loans to a trust in terms of a sharia-compliant financing arrangement
- loans subject to dividends tax
- trusts created solely for purposes of giving effect to an employee share incentive scheme

For years of assessment that commence on or after 1 January 2021, certain preference shares issued to a connected natural person are treated as deemed loans.

Tax Rates: Companies/Close Corporations (CCs)

Type of company	Rate of tax
Companies and close corporations	28%
Personal service provider companies/CC	28%
Local branch of foreign company	28%

Small Business Corporations – In respect of any year of assessment ending during 1 April 2021 and 31 March 2022	
Taxable income	**Rate of Tax**
Not exceeding R87 300	0% of taxable income
Exceeding R87 300 but not exceeding R365 000	7% of amount by which taxable income exceeds R87 300
Exceeding R365 000 but not exceeding R550 000	R19 439 plus 21% of amount by which taxable income exceeds R365 000
Exceeding R550 000	R58 289 plus 28% of amount by which taxable income exceeds R550 000

Small Business Corporations – In respect of any year of assessment ending during 1 April 2020 and 31 March 2021	
Taxable income	**Rate of Tax**
Not exceeding R83 100	0% of taxable income
Exceeding R83 100 but not exceeding R365 000	7% of amount by which taxable income exceeds R83 100
Exceeding R365 000 but not exceeding R550 000	R19 733 plus 21% of amount by which taxable income exceeds R365 000
Exceeding R550 000	R58 583 plus 28% of amount by which taxable income exceeds R550 000

Small Business Corporations (s12E ITA)

Small Business Corporation refers to any close corporation or co-operative or any private company or *a personal liability company* if at all times during the year of assessment all the holders of shares in that company, co-operative, close corporation or personal liability company are natural persons. Where:

- the gross income for the year of assessment must not exceed R20 000 000;
- none of the shareholders held any shares or had any interest in any other private company or members' interest in any other close corporations or co-operatives other than those that are inactive and have assets of less than R5 000;
- not more than 20% of gross income consists of investment income and income from rendering personal services; and
- it is not personal service provider.

[NOTE: Generally, companies that qualify for incentives under Special Economic Zones (SEZ) will be taxed at 15% but SBC located in SEZ will be taxed at a rate lesser of the determined value (as per the above tax table) and the 15% of the taxable income.]

New businesses are permitted to use a shelf CC or company (an entity already registered by someone else, who then sells it on and did not own assets exceeding a total market value of R5 000) from the date of trading.

'Personal service' in respect to a company, co-operative or close corporation means any service in 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, which is performed personally by any person who holds an interest in the close corporation, company or co-operative, or by any person that is a connected person in relation to any person holding such an interest, except where such entity's employ three or more unconnected full-time employees who are engaged in the business of the entity.

Personal service providers (Fourth Schedule and s23(k) ITA)

To discourage the use of corporate entities as intermediaries to provide personal services, amendments have been made to identify entities that are personal service providers – as defined in the Fourth Schedule to the ITA.

A personal service provider, which is any company, close corporation or trust, where any service rendered on behalf of such company, close corporation or trust to a client, is rendered personally by any person who is connected to such company, close corporation or trust; and one of the following requirements must also be met:

- such person would be regarded as an employee of such client if such service was rendered by such person directly to such client, other than on behalf of such company, close corporation or trust, or

- where those duties must be performed mainly at the premises of the client and are subject to the control or supervision of such client, or
- where more than 80% of the income of such company, close corporation or trust during the year of assessment, from services rendered consists of amounts received directly or indirectly from any one client or any associated institution in relation to such client.

A company, close corporation or trust will not be regarded as a personal service provider where such company, close corporation or trust employs more than three full-time employees (other than a shareholder or member or settlor or beneficiary of a trust) throughout the year of assessment, none of whom is connected to such shareholder or member or settlor or beneficiary of a trust.

The personal service provider is taxed as follows:

- The remuneration payable to the personal service provider by the client is subject to employees' tax.
- Personal service providers are restricted in terms of s23(k) from claiming their business-related expenses as an income tax deduction. This in effect, limits the deduction of expenses incurred by the personal service provider. They can claim deductions for certain legal expenses, bad debts and contributions to pension, provident and benefit funds; refunds of remuneration, refunds of restraint of trade payments and any expenses associated with premises, finance charges, insurance, repairs, and fuel and maintenance in respect of assets, if such assets are used wholly and exclusively for trade purposes.

The taxable income of a personal service provider company is taxed at 28% and if the personal service provider is a trust at 45%.

The entity may apply to SARS for a tax directive for a lower rate of tax.

Labour broker (Fourth Schedule and s23(k) ITA)

A labour broker is any natural person who, for reward, provides a client with persons to render services or perform work for the client, or procures persons for a client and remunerates those persons for their services to, or work done for, the client.

If an exemption certificate has been lost or misplaced, an application for a replacement certificate must be made to SARS Head Office and the replacement certificate will only be issued during the period of validity of the original certificate.

If a labour broker is not in possession of a valid exemption certificate (IRP30), all payments made to the labour broker will be subject to employees' tax.

Micro business (Sixth Schedule and s48 – 48C ITA)

The simplified tax system essentially consists of a turnover tax as a substitute for income tax, CGT, dividends tax and VAT. The turnover tax is optional, meaning that a micro business still has the option to use the current normal tax system. It is available to sole proprietors, partnerships, close corporations, companies and co-operatives with a turnover of up to R1 000 000 in any year of assessment.

The turnover tax is calculated by applying a tax rate to a 'taxable turnover'. The taxable turnover will consist of amounts that are:

- not of a capital nature;
- received by the micro business (cash basis);
- during the year of assessment;
- from carrying on business activities in the Republic.

Only 50% of all receipts from the disposal of capital assets and immovable property used mainly for business purposes, are included in taxable turnover.

The turnover tax system does not provide for the deduction of any business expenses.

The first R200 000 dividends paid during the year of assessment by the micro business are exempt from dividends tax.

The turnover tax is levied annually on a 'year of assessment' that runs from the beginning of March to the end of February of the following year. It allows for two six-monthly interim provisional tax payments. A micro business that opts for the turnover tax must apply to do so before the beginning of a year of assessment and remain in the system for at least three years unless it is specifically disqualified. A micro business that exits the turnover tax system will not be allowed to re-enter the turnover tax system.

The following persons do not qualify as a micro business:

- shareholders with an interest in the equity of any other company;
- if more than 20% of a person's total receipts during the year of assessment consist of income from the rendering

of professional services in the case where the person is a natural person. In the case where the person is a company, investment income and income from the rendering of professional services is taken into account;

- public benefit organisations and recreational clubs;
- 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 R1 500 000 over three years (current year of assessment and the preceding two years of assessment);
- if any of the shareholders is a person other than a natural person;
- if the year of assessment does not end on the last day of February; and
- trusts.

Micro businesses were allowed to register for VAT from March 2012 as a Category D vendor (six monthly VAT period ending on the last day of August and February).

Turnover tax: Year of assessment ending 28 February 2021 and 28 February 2022 (unchanged from prior year)

Taxable Turnover (R)	Rate of tax
R0 – R335 000	0% of taxable turnover
R335 001 – R500 000	1% of the amount above R335 000
R500 001 – R750 000	R1 650 + 2% of the amount above R500 000
R750 001 – R1 000 000	R6 650 + 3% of the amount above R750 000

Real Estate Investment Trust (REIT)

REIT is a listed company or trust that invests in immovable property. It receives income from rental and distributes it to investors. A REIT can deduct such distributions if it is resident in South Africa and at least 75% of its gross income is rental income. The distribution received by the investor is taxable income for the investor, and qualifying deductions can be recognised in determining the taxable income.

The acquisition of shares in a REIT is exempt from securities transfer tax. The relief matches the relief for share-acquisitions in a collective investment scheme in securities.

Venture Capital Company (s12J ITA)

One of the main challenges to the growth of small and medium-sized businesses and junior mining exploration is access to equity finance. To assist these sectors in terms of equity finance, the government has implemented a tax incentive for investors in these enterprises through a venture capital company regime.

A taxpayer is allowed a full deduction of the expenditure actually incurred by the taxpayer in acquiring venture capital shares issued to the taxpayer by the venture capital company on or before 30 June 2021, provided certain conditions are met.

For expenditure incurred on or after 21 July 2019, the tax deduction in respect of investment in venture capital company shares is limited to

- R5 million per year per company, and
- R2.5 million per year per person other than a company.

Venture capital companies are intended to be a marketing vehicle that will attract retail investors. An investor is any taxpayer who qualifies to invest in an approved venture capital company. They have the benefit of bringing together small investors as well as concentrating investment expertise in favour of the small business sector. There are no special tax benefits for a venture capital company, only standard tax rules will apply.

The sunset date for the venture capital company (VCC) tax incentive, will not be extended beyond 30 June 2021.

Provisional tax (Paragraphs 17 – 27, Fourth Schedule ITA)

Effectively, a natural person is a provisional taxpayer when he receives taxable income other than from employment (being remuneration, allowances and advances as per s8(1) ITA) that is subject to the deduction of employees' tax.

The following are excluded:

- any recreation club that is exempt from tax;
- any public benefit organisation that is exempt from tax;
- a body corporate, share block company or association of person contemplated in s10(1)(e).
- any natural person who does not derive any income from the carrying on of any business and the following applies:
  - the taxable income of that person does not exceed the tax threshold during the relevant year of assessment; or

    - the taxable income of that person is derived from interest, dividends, foreign dividends, rental from the letting of fixed property and any remuneration from an employer that is not registered in terms of paragraph 15, does not exceed R30 000 for the relevant year of assessment. (In effect, for years of assessment commencing on or after 1 March 2017, any renumeration from an employer that is not registered in terms of paragraph 15 is included to determine if the R30 000 is exceeded);
- a small business funding entity;
- a deceased estate, and
- any entity as defined in s30B and which is approved by the Commissioner.

Estimate of the taxable income for the purpose of provisional tax

Provisional taxpayers are required to submit a return of an estimate of the taxable income which will be derived by the taxpayer during the relevant year of assessment. The returns must be submitted during the period within which provisional tax is or may be payable.

For a natural person such estimates exclude any retirement fund lumpsum benefit, retirement fund lumpsum withdrawal benefit or any severance benefit received by or accrued to or to be received by or accrue to the taxpayer during the applicable year of assessment including taxable capital gains for natural persons and companies.

The estimate amount shall not be less than the basic amount unless circumstances of the matter justify the submission of the lower estimate. SARS may call upon any provisional taxpayer to substantiate any estimate made or submitted or to furnish information in relation to income and expenditure or any other relevant information that may be required.

In an event SARS is not satisfied with the estimate submitted, SARS may increase the amount to the amount that SARS deems fair. The increase of the estimate will not be subject to objection and appeal.

Basic amounts

With reference to the calculation of the basic amount, paragraph 19(1) of the Fourth Schedule to the ITA was amended and reads as follows:

Paragraph 19(1) (d)(iii):

> "Provided that, if an estimate under item (a) must be made:
>
> a) more than 18 months after the end of the latest preceding year of assessment in relation to such estimate, the basic amount determined in terms of sub item (i) and (ii) shall be increased by an amount equal to 8% per annum of that amount, from the end of such year to the end of the year of assessment in respect of which the estimate is made."

In practice, it means that if a provisional taxpayer has received an assessment within 18 months from when the provisional tax is payable, the basic amount used to determine the estimate must not be inflated at all (that is 0%). If a provisional taxpayer has been last assessed in the period beyond the 18 month threshold, then the basic amount ought to be increased by 8% per annum.

The latest preceding year of assessment must be taken into account when calculating the basic amount. The latest preceding year of assessment is the last year of assessment preceding the year of assessment in which the estimate is made and in respect of a notice of assessment that has been issued by the Commissioner not less than 14 days before the date on which the estimate is submitted to the Commissioner.

This now provides that if a provisional taxpayer receives an assessment within 14 days from when the provisional tax payment is due, the assessment may not be used in the calculation of the basic amount used for determining the estimate of taxable income.

First Provisional Tax Payment

The estimated taxable income for the year of assessment must not be less than the basic amount, unless permission of using a lower estimate is granted by SARS. An amount equal to half of the tax on the estimated taxable income less any employee's tax deducted and any foreign taxes subject to s6quat rebate must be paid to SARS within 6 months after commencement of the year of assessment. In the case of a natural person, the primary rebate and where applicable, the secondary and tertiary rebates as well as the s6A medical scheme tax credit and the s6B medical expenses tax credit must also be taken into account when calculating the tax payable.

Second Provisional Tax Payment

The full amount of tax payable based on the estimated taxable income for the year of assessment less any employees tax deducted, first provisional tax payment and any foreign taxes subject to s6quat rebate must be paid to SARS not later than the last day of the year of assessment in question. If an estimate for the second provisional tax period is not submitted within four months of the last day of the year of assessment the provisional taxpayer is deemed to have submitted an estimate of a nil taxable income, thereby triggering an understatement penalty.

Third Provisional Tax Payment

This is a voluntary payment and may be made within seven months of the year of assessment, where the year of assessment ends on the last day of February (which is 30 September) and within six months of the last day of the year of assessment, in any other case.

Penalty on late payment

In an event the provisional taxpayer fails to pay any amount of provisional tax, a penalty of 10% will be imposed.

Under estimation penalty

A 20% under estimation penalty pertaining to the second provisional tax payment may be levied for the failure to make the correct estimation of taxable income. Relief could be granted by the Commissioner for failure to correctly estimate the taxable income.

Government grants (s12P ITA)

The tax consequences for government grants are covered by s12P and the Eleventh Schedule of the Income Tax Act. To claim the tax exemption relief, the grant received must be listed in the Eleventh Schedule of the Income Tax Act. There are 33 listed government grants. Therefore, the receipt of the government grant must be included in the definition of 'gross income' and subsequently, included in 'exempt' income.

National Housing Finance Corporation (NHFC) (s10(1)(t)(xvii) ITA)

The receipts and accrual of the NHFC are exempt from normal tax with effect from 1 April 2016.

Doubtful Debt Allowance (s11(j) ITA)

For years of assessment commencing on or after 1 January 2019, the doubtful allowance depends on whether IFRS 9 (Financial Instruments) has been applied to the debt or not.

If IFRS 9 has not been applied, the deduction is 40% of 120 day old debtors plus 25% of 60 day old debtors.

For years of assessment commencing on or after 1 January 2021, the amount of debt should be reduced by any security that is available in respect of that debt before applying the 25% and 40% for taxpayers that does not apply IFRS9 for financial reporting purposes.

If IFRS 9 has been applied, the deduction is 40% (loss allowance lifetime credit loss plus debts written off for accounting purposes that do not qualify for a s11(a) or s11(i) deduction and was included in income in the current or previous years of assessment) and 25% (IFRS 9 loss allowance).

Research and Development (s11D ITA)

Taxpayers intending to obtain the relief from this allowance must obtain a pre-approval from the Minister of Science and Technology. The findings of the pre-approval committee is often delayed and their outcome is not released in time for the submission of tax returns.

The submission of income tax and provisional tax returns should not be delayed pending the outcomes of the pre-approval committee.

The taxpayer is allowed to re-open an assessment once an approval letter has been received by the taxpayer. SARS would then issue a reduced assessment, for the relative year of assessment, effective date 1 October 2012.

The research and development tax incentive expires on 1 October 2022.

National Treasury and the Department of Science and Innovation will, this year, publish a discussion paper inviting public comment on the future of the incentive.

Learnership allowance (s12H ITA)

The additional deduction for these agreements apply to all registered learnership agreements entered into on or after 1 October 2016 but concluded before 1 April 2022.

a) Annual allowance

- The allowance of R40 000 for a learner with no disability and R60 000 (R40 000 plus R20 000) if regarded as a person with a disability as per s6B. The learner has a qualification at an NQF Level 1-6 when entering into the learnership agreement or
- The allowance of R20 000 for a learner with no disability and R50 000 (R20 000 plus R30 000) if regarded as a person with a disability as per s6B. The learner has a qualification at an NQF Level 7-10 when entering into the learnership agreement.

b) Completion allowance

- In the case where the learner has a qualification on the NQF level 1-6,
  - if the period of the learnership agreement is less than 24 months then the allowance will be R40 000 or R60 000 (R40 000 plus R20 000 in the case of a learner with a disability) on successful completion of the learnership agreement.
  - if the learnership agreement is for a period of 24 months or greater, the allowance of R40 000 or R60 000 (R40 000 plus R20 000 in the case of a learner with a disability) will be allowed on successful completion of the learnership for every consecutive 12 months of the learnership.
- In the case where the learner has a qualification on the NQF level 7-10,
  - if the period of the learnership agreement is less than 24 months then the allowance will be R20 000 or R50 000 (R20 000 plus R30 000 in case of a learner with a disability) on successful completion of the learnership agreement.
  - if the learnership agreement is for a period of 24 months or greater, the allowance of R20 000 or R50 000 (R20 000 plus R30 000 in the case of a learner with a disability) will be allowed on successful completion of the learnership for every consecutive 12 months of the learnership.

The learnership tax incentives will be extended for two years while their reviews are completed.

Exemption of certified emission reductions (s12K ITA)

Effective 1 June 2019, this section has been repealed.

Deduction in respect of energy efficiency savings (s12L ITA)

The date has been extended from 1 January 2020 to 1 January 2023.

Additional deduction in respect of roads and fences in respect of production of renewable energy (s12U ITA)

A person is allowed to deduct any amount of expenditure incurred during the year of assessment, in respect of the construction of any road or the erecting of any fence, including a foundation or supporting structure designed for such a fence for the purpose of generation of electricity which exceeds 5 megawatts from:

- windpower;
- solar energy;
- hydropower (to produce electricity of not more than 30 megawatts); or
- biomass comprising organic wastes, landfill gas or plant material.

Companies operating in special economic zones (ss12R and 12S ITA)

The Special Economic Zone (SEZ) regime was introduced in terms of the Special Economic Zone Act, No. 16 of 2014 but only came into operation on 9 February 2016.

In order to provide further support to the SEZ regime, income tax benefits were introduced to the Act in 2013 for qualifying companies operating within the SEZ.

Qualifying company is defined in s12R as a company

- Incorporated in South Africa or any part thereof, or that has its place of effective management in South Africa, and
- That carries on a trade in an approved SEZ, and
- The trade is carried on from a fixed place of business situated within a SEZ, and
- That derives at least 90% of its income of that company from the carrying on of a trade within one or more SEZs, and
- For years of assessment ending on or after 1 January 2019, the company's trade must have:
  - Commenced before 1 January 2013 in a location that was subsequently designated as a SEZ
  - Commenced on or after 1 January 2013 in an approved location or subsequently designated as a SEZ and was not previously carried on by the company or a connected person in South Africa, or
  - Commenced on or after 1 January 2013 in an approved location or subsequently designated as a SEZ comprising of the production of goods not previously produced by that company or any connected person in relation to that company in South Africa; utilizes new technology in that company's production processes or represents an increase in the production capacity of that company in South Africa.

Income tax is levied at a rate of 15% on taxable income of a qualifying company.

Accelerated allowances in terms of s12S for new and unused buildings also exist for a qualifying company at a rate of 10% from the date the building is brought into use.

There are also employment tax incentives for employees that render services to that employer who is a qualifying company that carries on trade within the SEZ.

Effective 1 March 2020, the definition of the special economic zone in the Employment Incentive Act was amended to align it with the definition in the Act.

The provisions of s12R and s12S ceases to apply in respect of any year of assessment commencing on or after 1 January 2031.

Public Benefit Organisation: Industry Based Education

Receipts and accruals of industry based public benefit organisations providing education and training programmes and courses for the development of persons or employees in that particular industry be exempt from normal taxation by including the activities performed by them under "Education and Development" in paragraph 4 of Part I of the Ninth Schedule to the Act provided that those qualifications are compatible with the type of qualifications in the Quality Council for Trades and Occupations. Receipts and accruals of industry based public benefit organisations administering examination and providing certification or is credited by the South African National Accreditation System (SANAS) are also exempt.

Public Benefit Organisations and Recreational Clubs (ss30 and 30A ITA)

Effective, 15 January 2020, public benefit organisations or recreational clubs seeking retrospective approval as an exempt entity shall be granted such approval, at the Commissioner's discretion, subject to complying with certain additional criteria.

Taxation of individuals and employees

Married persons

Married individuals are generally taxed as separate taxpayers, except:

- where income is received by or accrued to a spouse through a donation, settlement or disposition by the other spouse, which is deemed to be income of the spouse who made the donation, settlement or disposition that was done to avoid tax;
- where income is derived by one spouse from the other spouse, through a partnership or a private company where the other spouse is a connected person, or derived from a trade that is carried on by the other spouse, the income is taxed in the hands of the other spouse to the extent of the amount of which the income is excessive; or
- where the person is married in community of property, the net rental income from property or any income derived otherwise than from the carrying on of any trade shall be deemed to have accrued in equal shares to both spouses. Any other income that does not fall within the joint estate is taxed in the hands of the spouse entitled thereto.

Employees' tax (PAYE)

Employers are required to withhold employees' tax (PAYE) from the remuneration of their employees, which is calculated on the balance of remuneration (remuneration less deductions).

The calculation of employees' tax is based on the standard tax rates for that year of assessment. However, temporary employees (also known as 'non-standard employees') will not be taxed based on the standard tax rates for employees' tax deduction purposes.

A standard employee is an employee who works for 22 hours or more a week or works fewer than 22 hours a week and has made a written declaration that he/she has no other employment. Where an employee works fewer than 22 hours a week and has another job, that employee is 'non-standard'.

Employers must deduct employees' tax at a rate of 25% from the taxable remuneration paid to the non-standard employee. However, no tax is deducted if the non-standard employee worked at least five hours on a specific day, and the daily rate of pay is less than the equivalent of the annual tax threshold.

Employees' tax for directors (Fourth Schedule ITA)

Directors of private companies that receive remuneration are included in the definition of employee in terms of para (a) of the Fourth Schedule and are subject to PAYE.

With effect from 1 March 2019 and applicable to years of assessment commencing on or after that date, directors of private companies who do not receive remuneration have been removed from the definition of employee for the purposes of the Fourth Schedule. These directors are no longer subject to PAYE in terms of the Fourth Schedule.

Variable employment income (s7B)

This is effective from 1 March 2013. The timing of accrual and deduction, and employees' tax withholding has been amended. The employer can now claim a deduction only in the year of assessment in which the remuneration was paid and not merely when the obligation to pay has occurred. The employee, in turn, will recognise the income from remuneration only when the payment from the employer is made to him or her.

Additional specific payments were added to the list, effective 1 March 2020.

Sections 8(b)(ii) and (iii) were also amended to state that where a travel allowance was paid and taxed per s7B when paid, the distance travelled would be deemed to be travelled in the same year that it was taxed.

Employment Tax Incentive: Extension

To encourage the employment of workers, a special incentive is allowed as a credit against the employer's monthly PAYE, from 1 January 2014.

The incentive is not applicable to the government as an employer and to some of the public entities including municipalities.

For the employer to qualify for the incentive, the employer must be registered for PAYE, not have been disqualified by the Minister of Finance and be tax compliant.

The employee must have a valid South African identity document or asylum seeker permit and be at least 18 years old but not older than 29 years. The employee must not be a domestic worker or related or connected to the employer and earn at least R2 000 remuneration per month (or the minimum amount stipulated by the regulated industry) but a maximum of R6 500 (2019: R6 000) remuneration per month. The employee must be newly appointed from 1 October 2013.

With effect from 1 March 2017, an employer is not eligible to receive the employment tax incentive in respect of an employee in respect of a month if the wage paid to that employee in respect of that month is less than –

(a) the amount payable by virtue of a wage regulating measure applicable to that employer; or

(b) if the amount of the wage payable to an employee by an employer is not subject to any wage regulating measure –

  (i) where the employee is employed and paid remuneration for at least 160 hours in a month, the amount of R2 000 in respect of a month; or

  (ii) where the employee is employed and paid remuneration for less than 160 hours in a month, an amount that bears to the amount of R2 000 the same ratio as 160 hours bears to the number of hours that the employee was employed for and paid remuneration by that employer in that month

An employer may not receive the employment tax incentive after 28 February 2019, however this has been extended for a further 10 years, from 28 February 2019 to 28 February 2029.

The Employment Tax Incentive is calculated based on the criteria set out in the table below from 1 March 2019:

Monthly remuneration	Per month during the first 12 months of employment	Per month during the next 12 months of employment
Less than R2 000	50% of monthly remuneration	25% of monthly remuneration
R2 000 or more but less than R4 500	R1 000	R500
R4 500 or more but less than R6 500	Formula R1 000 – (0.5 × (Monthly remuneration – R4 500)	Formula R500 – (0.25 × (Monthly remuneration – R4 500)
R6 500 or more	Nil	Nil

The higher of the national minimum wage or the other wage regulating measures is the applicable minimum wage as contemplated in the National Minimum Wage Act (2018). The minimum wage of R2 000 per month available in the Employment Tax Incentive Act remains in place for categories of workers or companies that may be exempt from national minimum wage.

With effect from 31 July 2020, the excess employment tax incentive amounts of non-tax compliant employers will not be rolled over at the end PAYE reconciliation period.

It is proposed that the definition of an "employee" be changed in the Employment Tax Incentive Act (2013) to specify that work must be performed in terms of an employment contract that adheres to record-keeping provisions in accordance with the Basic Conditions of Employment Act (1997). These amendments will take effect from 1 March 2021.

Allowances (s8(1)(a) ITA)

To avoid exempt allowances becoming taxable, amendments were made in s8(1)(a) of the Act to exclude exempt allowances from taxable income.

From 1 March 2021, if the employee is obliged to be away from the office on a day trip and such employee purchases meals and incurs incidental costs in the furtherance of the employer's trade but the employee has not been explicitly instructed by the employer to purchase meals and incidental costs, the reimbursement is subject to tax in the employee's hands.

Travel allowance (s8(1)(b) ITA)

An allowance is granted to an employee for travelling expenses for business purposes. From 1 March 2010, the deeming provisions on business and private kilometres are no longer applicable. All employees who receive a travel allowance should keep records of actual business and private distances travelled by means of a logbook, which is required to support the claim for business use on assessment.

Deemed expenditure 2022

Where the value of the vehicle	Fixed cost R	Fuel cost c/km	Maintenance costs c/km
Does not exceed R95 000	29 504	104.1	38.6
Exceeds R95 000 but does not exceed R190 000	52 226	116.2	48.3
Exceeds R190 000 but does not exceed R285 000	75 039	126.3	53.2
Exceeds R285 000 but does not exceed R380 000	94 871	135.8	58.1
Exceeds R380 000 but does not exceed R475 000	114 781	145.3	68.3
Exceeds R475 000 but does not exceed R570 000	135 746	166.7	80.2
Exceeds R570 000 but does not exceed R665 000	156 711	172.4	99.6
Exceeds R665 000	156 711	172.4	99.6

Deemed expenditure 2021

Where the value of the vehicle	Fixed cost R	Fuel cost c/km	Maintenance costs c/km
Does not exceed R95 000	31 332	105.8	37.4
Exceeds R95 000 but does not exceed R190 000	55 894	118.1	46.8
Exceeds R190 000 but does not exceed R285 000	80 539	128.3	51.6
Exceeds R285 000 but does not exceed R380 000	102 211	138.0	56.4
Exceeds R380 000 but does not exceed R475 000	123 955	147.7	66.2
Exceeds R475 000 but does not exceed R570 000	146 753	169.4	77.8
Exceeds R570 000 but does not exceed R665 000	169 552	175.1	96.6
Exceeds R665 000	169 552	175.1	96.6

For the calculation of employees' tax, 80% of the travel allowance is subject to PAYE. If the employer is satisfied that at least 80% of the use of the motor vehicle will be for business purposes, then the 80% becomes 20%. Travel allowance must be reported against code 3701.

Where an employer reimburses the employee for business kilometres travelled in addition to the travel allowance, the two must be combined for travel allowance purposes. Failing to reduce the travel allowance may be regarded as an excessive allowance, as the value of the allowance should be based on the expected business-related expenditure, where the employer is certain that the employee will incur business-related expenditure on behalf of the employer.

If an employer reimburses employees only for business travel at a rate no greater than R3.82 per kilometre (2021: R3.98), the reimbursement will not be subject to PAYE. The 12 000 kilometre limitation for the claim for reimbursement travel allowance was deleted with effect from 1 March 2018. The reimbursement is reported under the code 3703. The amount is non-taxable on assessment. This alternative 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.

If an employee receives a reimbursement at a rate greater than R3.82 (2021: R3.98) per kilometre, the reimbursement is subject to employees' tax on the portion above the prescribed rate per kilometre and the portion on or below the prescribed rate per kilometre is not subject to employees' tax. From 1 March 2018, the entire difference between the rate paid by the employer that is greater than the prescribed rate per kilometre (the amount fixed by notice) are included in remuneration and subject to employees' tax. Two codes will be applicable in this scenario, 3702 for the portion on or below the prescribed rate per kilometre (not subject to employees' tax) and 3722 for the portion above the prescribed rate per kilometre (subject to employees' tax).

If a reimbursement is at a rate exceeding the prescribed rate per kilometre and 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, then three codes are applicable. 3701 for the travel allowance, 3702 for the portion on or below the prescribed rate per kilometre (not subject to employees' tax) and 3722 for the portion above the prescribed rate per kilometre (subject to employees' tax). SARS will combine all three source codes on assessment. The employee may be entitled to claim expenses incurred for business travel against the total of all three source codes.

A travel logbook must contain the following:

- date of travel;
- destination(s) of travel;
- reason for travel, and
- business kilometres travelled

Subsistence allowance (s8(1)(c) ITA)

Where an employee is required to spend at least one night away from his/her usual place of residence on business, the employer may pay a subsistence allowance. No employees' tax is deducted from a subsistence allowance. The full allowance, however, must be reflected on the IRP5 and reflected as non-taxable. However, if the payments exceed the limits, the excessive payment is assessed by SARS.

The following limits for subsistence allowances are for travel within the Republic:

- meals and incidental costs – R452 (2021: R452) per day is deemed to have been expended.
- incidental costs only – R139 (2021: R139) per day is deemed to have been expended.

The deemed expenditure for subsistence allowances for travelling outside the Republic is based on an amount prescribed and updated annually, based on a rate per country, which may not be for a period of more than six consecutive weeks. For the latest list of foreign subsistence allowances see below.

Daily Amount for Travel outside the Republic

Refer to the following for more information:

https://www.sars.gov.za/Tax-Rates/Employers/Pages/Subsistence-Allowances-and-Advances.aspx

Fringe benefits

Right of use of motor vehicle (company car) (Paragraph 7, Seventh Schedule ITA)

A taxable benefit arises where an employee is granted the right to use an employer's motor vehicle, which includes private use (such as travelling between employee's home and place of work). A fixed percentage of the 'determined value' of the motor vehicle, less any consideration given by the employee for the use, is used as the basis of determining the taxable value to be placed on the private use of the employer-provided motor vehicle fringe benefits.

From 1 March 2015, the 'determined value' means the retail market value of the vehicle as determined by the Minister by regulation usually including VAT but excluding finance charges and interest payable by the employer in respect of the purchase thereof. The determined value is reduced by 15% depreciation (reducing balance method) for each completed 12-month period that the employer owned the vehicle prior to granting the use of such motor vehicle to the employee.

- The monthly value placed on the private use for such motor vehicle is 3.5% of the determined value. If a full maintenance plan is included in the purchase price, the monthly fringe benefit rate is reduced to 3.25%, provided the maintenance plan covers all maintenance expenses other than consumables (such as fuel, top-up oil and tyres);
- In the case where the motor vehicle was acquired by the employer In terms of an operating lease in terms of s23A(1), the value of the private use for such motor vehicle is the actual cost Incurred by the employer under the operating lease and the cost of fuel In respect of the motor vehicle.
- Employees' tax withholding is based on 80% of the taxable fringe benefit value;
- where the employer is satisfied that at least 80% of the use of the motor vehicle for a year of assessment is for business purposes, only 20% of such fringe benefit is subject to employees' tax (supporting travel logbook and reasons for employer's presumption must be retained);

- The value of private use will be reduced by:
  - *Business km deduction* (par. 7(7)):
    Private use value × (Business km/Total km).
  - *License deduction* (par. (7)8(a)(i)):
    License cost × (Private km/Total km)
  - *Insurance deduction* (par. (7)8(a)(ii)):
    Full cost of insurance × (Private km/Total km)
  - *Maintenance deduction* (par. (7)8(a)(iii)):
    Maintenance Cost × (Private km/Total km)
  - *Fuel deduction* (par. (7)8(b)):
    Value per table × Private km.
- The value of the private use can only be reduced on assessment, provided the employee keeps an accurate logbook of both business and private kilometres travelled. The employee must also bear the full costs of the licence, insurance, maintenance and fuel of such a motor vehicle.

Where an employer is a registered VAT vendor and the employee is granted the right of use of a motor vehicle, the monthly VAT liability (deemed supply) is based on 0.3% of the determined value if input tax was denied for that motor vehicle, and 0.6% if input tax was not denied.

Residential accommodation (Paragraph 9, Seventh Schedule ITA)

Where the employer provides free or cheap housing, the taxable benefit depends on whether the employer owns the residential accommodation or not.

Formula

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

A	=	Remuneration Proxy in relation to the year of assessment.
B	=	R87 300 (2021: R83 100) (subject to certain exclusions)
C	=	17 unless the accommodation consists of at least 4 rooms
	=	18 if unfurnished and power or fuel is supplied by the employer
	=	18 if furnished and no power or fuel is supplied by the employer
	=	19 if furnished and power or fuel is supplied by the employer
D	=	the number of completed months in the year of assessment during which the employee is entitled to the accommodation

The formula value is used when the accommodation is owned by the employer. As from 1 March 2015, where the accommodation is not owned by the employer and the transaction is at arm's length, the rental value is the lower of the formula value and the amount of expenditure incurred by the employer on the accommodation.

No rental value is placed on the following:

- supply of accommodation in the Republic to an employee away from his usual place of residence in the Republic.
- if an employee's usual place of residence is outside South Africa, the employee will not be taxed on being given the use of residential accommodation in South Africa for up to two years from the date of arrival in South Africa, or if the employee is physically present in the Republic for fewer than 90 days.

The exemption will not apply:

- if the employee was present in the Republic for more than 90 days immediately preceding the date of arrival, or
- to the extent that the cash equivalent of the value of the taxable benefit is more than R25 000 multiplied by the number of months during which the accommodation was provided.

Holiday accommodation (Paragraph 9(4), Seventh Schedule ITA)

If the accommodation is acquired by the employer, the employee is taxed on all costs incurred by the employer, which include meals, services and refreshments. In all other cases, the employee is taxed on an amount equal to the prevailing market rate per day at which the accommodation could normally be let to a person who is not an employee.

Long-service (and bravery) award (Paragraphs 2(a) and 5, Seventh Schedule ITA)

The first R5 000 of assets given to an employee as an award for long service is not subject to tax, provided that such award is given as an asset (not cash or similar to cash) and is for an initial unbroken period of service of not fewer than 15 years, and any subsequent unbroken period of service of not fewer than 10 years.

The value of the award given in cash or voucher is taxable.

The value of the asset that exceeds R5 000 is taxed as a fringe benefit.

Currently, employers recognise long service through awards in a variety of forms that could be considered non-cash benefits in terms of the Act. Therefore, it is proposed that the current provisions of the Act be reviewed to consider other awards within the same limit granted to employees as long-service awards.

Bursaries and scholarships (s10(1)(q) and s10(1)(qA) ITA)

A bona fide bursary or scholarship granted by an employer to an employee is exempt in the hands of the employee, provided that the employee agrees to reimburse the employer if the employee fails to complete the studies (no repayment is required if the failure directly results from death, ill-health or injury).

A bursary granted to an employee's relative and the employee's remuneration proxy in relation to a year of assessment is R600 000 or less, the exemption is limited to the following:

R20 000 – Grades R to 12 or a qualification at an NQF level 1-4

R60 000 – Qualification at an NQF level 5-10

If the bursary exceeds R60 000 (higher education) or R20 000 (basic education), the excess is taxed in the hands of the employee.

If the bursary or scholarship is taxable, it must be taxed as a fringe benefit (reported against code 3801).

From 1 March 2018, a bona fide bursary or scholarship granted by an employer to an employee, who is a person with a disability as defined in s6B(1), is exempt in the hands of the employee, provided that the employee agrees to reimburse the employer if the employee fails to complete the studies (no repayment is required if the failure directly results from death, ill-health or injury).

Where the employer grants a bursary to a relative of the employee who has a disability as defined in s6B(1) , the amount will be exempt if the employee's remuneration proxy in relation to a year of assessment is R600 000 or less.

The exemption is limited to the following:

R30 000 – Grades R to 12 or a qualification at an NQF level 1-4
R90 000 – Qualification at an NQF level 5-10

For years of assessment commencing on or after 1 March 2021, if an employer grants a bursary or scholarship to an employee or a relative of an employee and there is a salary sacrifice, the exemption of the bursary will not be allowed.

Low-interest or interest-free loans (Paragraph 11, Seventh Schedule ITA)

A taxable benefit arises where a loan is granted to an employee, where either no interest is payable, or with interest at a rate lower than the official rate of interest. The fringe benefit value is the amount of interest applicable at the official rate of interest, compared to the interest paid/payable by the employee.

No taxable value is recognised for a low-interest loan, if such is a 'casual' loan that does not exceed R3 000 at any time, or if such loan is to enable the employee to study.

From 1 March 2019, no value is placed as a fringe benefit for a debt owed by an employee to his or her employer in consequence of a loan by the employer as does not exceed R450 000 if

- The debt was assumed to acquire immovable property;
- The market value of the immovable property does not exceed R450 000;

– The remuneration proxy of the employee does not exceed R250 000, and
– The employee is not a connected person in relation to the employer.

Right of use of an asset (Paragraph 6, Seventh Schedule ITA)

A taxable benefit arises when an employee is granted the right to use an asset of the employer for his/her private or domestic use, either free of charge or for a charge that is lower than the value of use (other than residential accommodation or use of motor vehicle).

Exclusions

Exclusions include:

- private use that is incidental to the business use;
- amenities enjoyed at work or qualifying recreational facilities;
- use for private purpose is for a short period and the value of such asset does not exceed the amount determined on a basis set out in a public notice issued by the Commissioner;
- assets consisting of books, literature, recordings or works of art; or
- private use of cell phone, computer, and related hardware and software that is used mainly for business purposes.

Free or cheap services (Paragraph 10, Seventh Schedule ITA)

Where services are provided to an employee by his/her employer (or some other person for and on behalf of the employer), for an amount lower than the actual costs or at no cost to the employee, such services give rise to a fringe benefit. The taxable benefit is calculated on the difference between the actual cost to the employer and the amount paid by the employee for that service.

The following services are excluded (no taxable benefit):

- in certain circumstances where the employer is in the business of transporting passengers;
- transport service for employees between their homes and work;
- services rendered by the employer to assist with better performance of the employee's duties;
- travel facilities granted to the spouse or minor children of an employee who is stationed more than 250km away from his/ her usual residence for longer than 183 days during a year of assessment, and
- any communication service provided to an employee if the service is used mainly for the purposes of the employer's business.

Acquisition of asset at less than actual value (Paragraph 2(a) and Paragraph 5, Seventh Schedule ITA)

A taxable benefit arises where an employee acquires an asset for either no consideration, or for a consideration that is less than the value of the asset.

The value of the asset in determining the taxable benefit is the market value of the asset at the time the employee acquired it, less any consideration paid by the employee. However, the cost of the asset must be used instead of the market value, where the asset is movable property, other than marketable securities or an asset that the employee had prior use of, and was acquired by the employer to dispose of such asset to the employee.

If the asset was held as trading stock, the market value must be used, unless the market value is less than the cost.

No value is placed on fuel or lubricants supplied by the employer to his employee for use in a company provided motor vehicle.

No value for immovable property acquired by the employee except if:

- the remuneration proxy of the employee exceeds R250 000; or
- the market value of the immovable property exceeds R450 000; or
- the employee is a connected person in relation to the employer.

Payment of employee's debts (Paragraph 13, Seventh Schedule ITA)

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

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

No value shall be placed on the value of any taxable benefit as a result of the fact that an employer has borne the costs like subscriptions paid by the employer on behalf of an employee to a professional body in an event an employee is required by the condition of an employment to be a member of such a professional body.

Nil value shall be placed on insurance premiums indemnifying an employee solely against claims arising from negligent acts or omission on the part of the employee in rendering services to the employer.

Meals and refreshments (Paragraph 8, Seventh Schedule ITA)

A taxable benefit arises where the employer provides meals and refreshments. The employee is taxed on the cost to the employer for the provision of meals or refreshments, subject to the following exclusions:

- where supplied in a canteen or dining room operated for employees;
- where supplied during business hours (including extended working hours and special occasions); or
- where enjoyed by an employee providing entertainment on behalf of the employer.
- Contributions by an employer to bargaining councils (Paragraph 2(m) and 12E, Seventh Schedule ITA)
- From 1 March 2019, contributions by an employer to any bargaining council for the benefit of an employee, is a taxable fringe benefit

Uniforms (s10(1)(nA) ITA)

Where it is a condition of employment that an employee is required to wear a special uniform while on duty, which is clearly distinguishable from ordinary clothing, the value of such uniform given to the employee, or any reasonable allowance granted by the employer in lieu of such uniform, is exempt from tax.

Share incentive schemes (s8A–C ITA)

An employee (including a director) who derived a gain from a right obtained in terms of a share incentive scheme is subject to tax on such gains.

Rights obtained prior to 26 October 2004 are subject to s8A. Rights obtained on or after 26 October 2004 are subject to s8C. Broad-based share incentive schemes are subject to s8B.

The taxable gains made in respect of rights to acquire marketable securities in terms of s8A are based on the difference between the amount paid and the market value at the date of exercise, cession or release. The employer must apply for a tax directive on the gains made.

The vesting of equity instruments (including shares, share options, convertible instruments or contractual rights referenced to shares) that are awarded by an employer, in terms of s8C, is taxed as follows:

- the value subject to tax is the difference between the amount paid by the employee to acquire the equity instrument and its market value on the date of vesting;
- the vesting date is based on the restriction of the instrument, as unrestricted instruments will trigger a tax liability when acquired, whereas restricted instruments will trigger a tax liability when the restriction ceases;
- the value of the gain that is determined on the vesting of an equity instrument is taxed as income (and subject to employees' tax), and an employer must apply for a tax directive on the gain made from the vesting of any equity instrument.

A *broad-based employee share plan* (s8B) is subject to the following requirements:

- the equity shares in the employer, or other associated institution in the group, are acquired by the employees for a minimum consideration;
- at least 80% of the permanent/full-time employees should be entitled to participate, but this should not include employees who already participate in another equity incentive scheme of the group;
- employees who acquire the shares are entitled to all the dividends;
- employees must have full voting rights of the shares acquired; and
- no restrictions must be imposed on the disposal of the shares, other than:
    - restrictions imposed by legislation; or
    - where an employee has been found guilty of poor performance or misconduct; or
    - right of any person to acquire the equity shares from employees at market value; or
    - restriction in terms of which the employee may not dispose of those equity shares for at least five years from the date of the granting of such shares.

The value of the equity shares acquired in terms of such plan must not exceed R50 000 in aggregate over a five-year period.

The employee is subject to CGT on the amounts received or accrued, provided the shares are held by the employee for more than five years before disposal. If the employee disposes of the shares within five years of acquisition, any gains made are taxable as normal income.

The employer may claim a deduction of the market value of qualifying equity shares granted to employees, limited to a maximum of R10 000 per annum, and the excess may be carried forward to the following years of assessment.

Deductions: Individuals

Home study expenses (s11(a), 11(d), 23(b) ITA)

A deduction for home study expenses is allowed where the study is regularly and exclusively used for the purpose of the taxpayer's trade and is specifically equipped for such purpose. In the case of an employee who derives income mainly from commission, his duties are mainly performed other than in an office provided by the employer. In the case of employees, other than commission earners, the employee is required to perform his duties mainly in the home study.

Limitation of employee deductions (s23(m) ITA)

Only the following expenses may be deducted by employees and holders of offices that earn remuneration, except where the employee earns wholly or mainly commissions based on sales or turnover:

- bad debts allowance
- doubtful debts allowance
- wear and tear allowance
- any contributions to a pension, provident or retirement annuity fund
- legal expenses

- so much of any amount received in respect of services that is refunded by that person or so much of any amount received as a restraint of trade payment that is refunded by that person
- home office expenses

Ring-fencing of assessed losses (s20A ITA)

Assessed losses incurred by a natural person in the carrying on of a secondary trade will not be allowed to be set off against income other than income derived from that trade (ring-fenced), where:

- the individual's taxable income, before setting off any assessed loss or balance of assessed loss, is equal to or exceeds the level at which the maximum rate of tax applies, and
- the natural person has incurred an assessed loss from the secondary trade during the five year period ending on the last day of assessment, in at least three years of assessment or
- the individual has carried on any 'suspect' trade.

'Suspect' trades:

- any sport practised by the natural person or any relative;
- any dealing in collectibles by the person or any relative;
- the rental of residential accommodation, unless at least 80% of it is used by persons who are not relatives for at least half of the year of assessment;
- the rental of vehicles, aircrafts or boats as defined in the Eighth Schedule, unless at least 80% of their use is by

persons who are not relatives for at least half of the year of assessment;

- animal showing by the person or any relative;
- farming or animal breeding, unless the person carries on farming, animal breeding or activities of a similar nature full-time basis;
- any form of performing or creative arts practised by the person or any relative; or
- any form of gambling or betting practised by the person or any relative.
- the acquisition or disposal of any cryptocurrency

A taxpayer could avoid ring-fencing where a reasonable prospect of deriving a taxable income within a reasonable period of time could be demonstrated. However, if it is from a suspect trade and when the taxpayer has, during the ten-year period ending on the last day of that year of assessment, incurred an assessed loss in at least six of the years of assessments in carrying on that trade (before taking into account any balance of assessed losses carried forward), the ring-fencing cannot be avoided.

Pre-trade expenditure (s11A ITA)

Expenses and losses incurred by a taxpayer prior to the commencement of and in preparation for the carrying on of any trade that would have been deductible had the expenses or losses been incurred after that person started carrying on that trade and that was not allowed as a deduction in that year or any previous year of assessment, are allowed as a deduction from the income derived in the year that trade begins.

The expenses and losses from pre-trade expenditure cannot take the taxpayer into a loss situation, nor can they increase a trade loss if the taxpayer is already in a loss situation. If pre-trade expenses and losses exceed the income from trade, such excess may not be set off against income from another trade. The excess expenditure over income is ring-fenced and can be set off against income from that trade only in the following year of assessment.

Retirement savings reform (New s11F ITA)

The new s11F deduction for contributions to retirement funds is effective from 1 March 2016. The contributions to retirement funds refer to pension funds, provident funds and retirement annuity funds.

s11F can be claimed against both trade and non-trade income.

The total deduction in terms of s11F(2) is limited to the lesser of:–

- R350 000 or
- 27.5% of the higher of the person's
    - remuneration (excluding lump sums from funds and severance benefits), or
    - taxable income (excluding lump sums from funds and severance benefits) as determined before allowing any deduction in terms of s11F and s18A.
- the taxable income of that person before allowing the s11F(2) deduction and before including any taxable capital gain.

The intention to propose a new limiting criterion, is to avoid circumstances that can create an assessed loss.

Any amount contributed not claimed as deduction during any previous year of assessment and which has been disallowed solely because the amount contributed exceeded the amount of the allowable deduction is carried forward to the next year of assessment (s11F(3)).

The contributions of employers to any pension fund, provident fund or retirement annuity fund are taxed as fringe benefits in the hands of the employees in terms of paras 2(l) and 12D of the Seventh Schedule and such contributions are deemed to be made by the employee (s11F(4)).

From 1 March 2019:

s11F(2) – The total deduction in terms of s11F(2) is limited to the lesser of :-

- R350 000;
- 27,5% of the higher of the person's
  - remuneration (excluding lump sums from funds and severance benefits); or
  - taxable income (excluding lump sums from funds and severance benefits) as determined before allowing any deduction in terms of s11F(2) and non-recoverable foreign taxes paid by a resident in terms of s6quat(1C) and s18A; or
- the taxable income (excluding lump sums from funds and severance benefits) of that person before allowing the s11F(2) deduction and non-recoverable foreign taxes paid by a resident in terms of s6quat(1C) and s18A before including any taxable capital gain.

Clarity has been given due to the previous confusion caused and confirms that s11F(2) deduction is the lesser of the three limits. The new amendments made to s11F, has now deleted the word 'or' at the end of para (a) of s11F(2) and the insertion of the word 'or' at the end of para (b) from 1 March 2019 clarifies the previous confusion caused.

Employer policies (Paragraphs 2(k) and 12C, Seventh Schedule ITA)

Unapproved group life policy: Employer contributions are taxed in the hands of the employees.

Policies protecting income or income-earning capacity: income-replacement policies:

- premiums paid by the employer are tax deductible for the employer;
- premiums included in the income of the employee as a fringe benefit;
- benefit payments (annuity-type income) taxed at marginal rates.

Policies aimed at protecting the income-earning capacity of an employee and a lump sum is paid upon a certain event:

- premiums paid by the employer are tax deductible for the employer;
- premiums included in the income of the employee as a fringe benefit;
- premiums are not tax deductible for employees; and
- benefit payments received are tax-free in the hands of the employee.

Key-man policies (s11(w) ITA)

The employer may elect to get a tax deduction for these premiums. This became effective 1 March 2012 and an election on policy contracts effective after that date will have to be made in terms of the contract. Election on policy contracts effective prior to 1 March 2012 must have been concluded by 31 August 2012. The taxing provisions are:

- No election, the premiums are not tax deductible for the employer and the benefits are tax-free for the employer.
- An election can be made to claim the premiums as tax deductions (the benefits received are taxable for the company) if the following criteria are met:
  - the company must be insured against the loss of a key person by death, disability or severe illness;
  - the company must be the exclusive and beneficial owner of the policy; and
  - it must be a risk-only policy.
- Cession of policies: The disposal of all risk-only policies will not give rise to a taxable capital gain, regardless of whether the cession is effected by the original policy owner. Losses are disregarded for CGT purposes.

Donations (s10(1)(cA) and 18A ITA)

Donations to certain public benefit organisations and those to institutions, boards or bodies contemplated in s10(1)(cA) are deductible, limited to 10% of taxable income, before the deduction of donations, and excluding any retirement lump sum benefit and severance benefit. The taxpayer must be in receipt of a s18A donations certificate. Donations in excess of 10% of taxable income are rolled over to the next year of assessment, but are still limited to 10% of the taxable income in the following years of assessment.

A PBO must within 12 months after the year of assessment incur an obligation to distribute at least 50% of all funds received.

The rule of undistributed funds held by PBOs is that 100% of all returns on investments made by the conduit PBO in respect of undistributed funds should be distributed after 5 years from the date that the Commissioner issued a reference number to the PBO, or every five years from 1 January 2015 if that PBO was incorporated or established prior to 1 March 2015. Conduit PBO's will be required to change their founding documentation to facilitate this condition.

Medical tax credits (s6A and s6B ITA)

Monthly tax credits for medical scheme contribution:

2020/2021		2021/2022
R319	Main Member	R332
R638	Main member and first dependant	R664
R215	For each additional dependant	R224

In the case of:

- An individual who is 65 years and older, or if that person, his or her spouse or child is a person with a disability, 33.3% of qualifying medical expenses paid and borne by the individual and an amount by which the medical scheme contributions paid by the individual exceed three times the medical scheme fees tax credits for the year of assessment.

- Any other individual, 25% of an amount equal to qualifying medical expenses paid and borne by the individual and an amount by which the medical scheme contributions paid by the individual exceed four times the medical scheme fees tax credits for the tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).
- From 1 March 2018, where taxpayers carry a share of the medical scheme contributions in respect of dependants, medical tax credits should be proportionally allocated between taxpayers who made the payment of medical scheme contributions.
- Also, with effect from 1 March 2018, the definition of 'dependant' in s6B also applies for the purposes of s6A.

Exempt income: Individuals

Relocation allowance (s10(1)(nB) ITA)

Where the employer has borne the following expenses for relocating/transferring an employee from one place to another, such items are exempt from tax:

- the expenses of transporting the employee and members of the household, including personal effects, from the previous residence to the new residence;
- the expenses of hiring residential accommodation in a hotel or similar for the employee and members of the household for 183 days after the transfer took place;
- the costs which have been incurred by the employee in respect of the sale of his or her previous residence and in settling in the permanent residential accommodation at his or her new place of residence.

The employer may reimburse the employee for the following, which will be exempt of tax:

- registration of a mortgage bond and legal fees;
- transfer duty;
- cancellation costs of a mortgage bond; and
- agent's fees for the sale of the employee's previous residence.

If no reimbursement is made, a settling-in payment equivalent to one month's basic salary is exempt from tax (includes compensation for new school uniforms, replacement of curtains, motor vehicle registration fees, as well as telephone, water and electricity connection costs).

Foreign employment (s10(1)(o) ITA)

Employees who are residents of the Republic are exempt from tax on remuneration earned from services rendered outside of the Republic (from employment), where:

- the employee was outside the Republic for more than 183 full days (117 full days during any period of 12 months in respect of any year of assessment ending on or after 29 February 2020 but on or before 28 February 2021) in aggregate, and
- the employee was outside the Republic for a continuous period of at least 60 full days during any 12-month period.

From 1 March 2020, the exemption will only apply if the employee's remuneration for services rendered outside South Africa does not exceed R1 250 000 in respect of a year of assessment.

Therefore, foreign employment income in excess of R1 250 000 will be taxed in accordance with the normal tax tables applicable to individuals.

Interest earned (s10(1)(i) ITA)

The tax-free, interest-threshold is as follows:

- below the age of 65 years – R23 800
- 65 years and over – R34 500

Interest earned by non-residents (s10(1)(h) ITA)

Interest earned by a non-resident from a South African source is exempt unless:

- In the case of a natural person, who was physically present in South Africa for a period exceeding 183 days in aggregate during a twelve month period preceding the date on which the interest is received by or accrued to such person or if the debt from which the interest arises is effectively connected to a permanent establish of such person in South Africa.
- In the case of any other person, if the debt from which the interest arises is effectively connected to a permanent establishment of such person in South Africa.

Tax-free investment

A tax-free investment is a financial instrument owned by a natural person and provides for an exemption from normal tax of all amounts received from a tax-free investment. Financial institutions have products classified as tax-free. A natural person is allowed to contribute up to R36 000 (2021: R36 000) cash during a year of assessment to these investments and a lifetime contribution of R500 000.

Individual disability insurance (s10(1)(gI) ITA)

With effect from 1 March 2015, any amount received (policy pay-out) in respect of a policy of insurance relating to death, disablement, severe illness or unemployment of a person who is the policyholder of the disability insurance policy will be tax-free. A deduction for the premiums paid towards such policy is not deductible.

Foreign pensions (s10(1)(gC) ITA)

From 1 March 2017, the exemption in terms of s10(1)(gC) will only apply to retirement benefits received from foreign funds.

Retirement lump sum withdrawal benefits

Taxable Income (R)	Rate of Tax
R0 – R25 000	0% of taxable income
R25 001 – R660 000	18% of taxable income above R25 000
R660 001 – R990 000	R114 300 + 27% of taxable income above R660 000
R990 001 and above	R203 400 + 36% of taxable income above R990 000

Retirement lump sum or severance benefits

Taxable Income (R)	Rate of Tax
R0 – R500 000	0% of taxable income
R500 001 – R700 000	18% of taxable income above R500 000
R700 001 – R1 050 000	R36 000 + 27% of taxable income above R700 000
R1 050 001 and above	R130 500 + 36% of taxable income above R1 050 000

The above tables apply to the year of assessment ending 28 February 2022. There were no changes to the tables from the 2021 year of assessment to the 2022 year of assessment.

The annuitisation requirements for provident funds are postponed by two years, from 1 March 2019 to 1 March 2021.

The effective date of tax neutral transfers from a pension fund to a provident or provident preservation funds were aligned with the effective date of retirement fund reform amendments which is 1 March 2021.

Effective 1 March 2021, a proviso to the definitions of all funds provides that the following will not be taken into account when calculating the total value of the retirement interest to which the one-third limitation on the amount that can be taken as a lump sum applies:

- any contributions to a provident fund before 1 March 2021
- in the case of members of a provident fund who are 55 years or older on 1 March 2021, any contributions to a provident fund made on or after 1 March 2021 to a provident fund of which the person was a member on 1 March 2021, and
- any fund return, as defined in the Pensions Fund Act, in respect of the above-mentioned contributions.

Provident funds must maintain separate accounts in respect of a member under the age of 55 as at 1 March 2021 in order to separate pre-1 March 2021 contributions and any growth thereon from post-1 March 2021 contributions and the related growth thereon.

Effective 1 March 2016, para 5(1)(a) and 6(1)(b)(i) of the Second Schedule of the Act, has been amended from ''a person's own contributions'' to ''contributions''. This amendment results in the employer's contributions to retirement funds that were not allowed as a deduction also now being considered to reduce the taxable lumpsum from retirement.

From 1 March 2021, the definitions of "pension preservation fund", "provident preservation fund" and "retirement annuity fund" in section 1 of the Act is amended to remove the reference to payment of lump sum benefits when a member emigrates from South Africa and such emigration is recognised by the SARB for exchange control purposes. The new amendment stipulates that members who emigrated will only be able to withdraw the full retirement interest as a lumpsum benefit prior to retirement date if the person is not a resident for an uninterrupted period of three years or longer on or after 1 March 2021.

Exemption relating to annuities from a Provident or Provident Preservation Fund (s10C ITA)

Effective on or after 1 March 2020, annuities received from a provident or provident preservation fund will be given the same exemption status that is applicable to other retirement funds, that is, any non-deductible contributions be allowed as an exemption when determining the taxable portion of annuities received from a provident or provident preservation fund.

Wear-and-tear allowance (s11(e) ITA)

The wear-and-tear allowance is available for certain qualifying assets used for the purposes of trade. These assets must be:

- owned by the taxpayer, or
- acquired by the taxpayer under an 'instalment credit agreement' as defined in paragraph (a) of the definition of that term in s1 of the VAT Act.

Buildings or other structures or works of a permanent nature will not qualify for the wear-and-tear allowance. Furthermore, assets for which deductions may be claimed under any other section of the Act will not qualify for the wear-and-tear allowance.

(A 2008 amendment allows an SBC to elect either s12E or s11(e) 'the wear-and-tear allowance' on an asset that meets the requirements of both sections.)

The acquisition cost of an asset includes:

- the original purchase price;
- shipping or delivery charges relating to the delivery of the asset;
- any costs incurred in moving the asset from one location to another; and
- costs directly relating to the installation or erection of the asset.

Pre-production and financing costs are not included in the cost of an asset.

Assets may be written off using either the straight-line method or the diminishing-value (reducing-balance) method.

Under the straight-line method, an asset must be written off in equal annual instalments over its estimated useful life. Under the diminishing-value method, the allowance is determined on the income tax value of the asset during each year of assessment in which the asset is used for the purposes of trade.

Binding General Ruling No.7 (Interpretation Note No.47) provides a schedule of write-off periods that are acceptable to the Commissioner for assets that are written off on the straight-line method and were brought into use during a year of assessment starting on or after 1 March 2009.

A taxpayer may apply to write off an asset over a shorter period than that reflected in the schedule, provided that such an application is fully motivated and submitted to the SARS office where the taxpayer is on the income tax register.

The application must be lodged before the submission of the tax return in which the relevant allowance is claimed.

An asset that is let for a period exceeding that prescribed in the schedule must be written off over the period of the lease.

The write-off period of any asset not included in the schedule must be determined with reference to its expected useful life.

A used or second-hand asset must be written off over its expected useful life, taking into account its condition.

The cost of 'small' assets may be written off in full in the year of assessment in which they are acquired and brought into use, when the asset/item is at a cost of less than R7 000 for assets acquired on or after 1 March 2009. A small item is one that normally functions in its own right and does not form part of a set.

On disposal of allowance assets, the profit or loss will be treated as taxable income, and not subject to CGT. Non-allowance assets will generally be subject to CGT regarding gains and losses made on disposal.

Asset	**Proposed write-off period (in years)**
Adding machines	6
Air conditioners:	
Window type	6
Mobile	5
Room unit	10
Air conditioning assets (excluding pipes, ducting and vents):	
Air handling units	20
Cooling towers	15
Condensing sets	15
Chillers:	
Absorption type	25
Centrifugal	20
Aircraft: light passenger or commercial helicopters	4
Arc welding equipment	6
Artefacts	25
Balers	6
Battery chargers	5
Bicycles	4
Boilers	4
Bulldozers	3
Bumping flaking	4

Asset	Proposed write-off period (in years)
Carports	5
Cash registers	5
Cell phone antennae	6
Cell phone masts	10
Cellular telephones	2
Cheque writing machines	6
Cinema equipment	5
Cold drink dispensers	6
Communication systems	5
Compressors	4
Computers:	
Main frame / servers	5
Personal	3
Computer tablet and similar devices	2
Computer software (main frames):	
Purchased	3
Self-developed	5
Computer software (personal computers)	2
Concrete mixers (portable)	4
Concrete transit mixers	3
Containers (large metal type used for transporting freight)	10
Crop sprayers	6
Curtains	5

Asset	Proposed write-off period (in years)
Debarking equipment	4
Delivery vehicles	4
Demountable partitions	6
Dental and doctors equipment	5
Dictaphones	3
Drilling equipment (water)	5
Drills	6
Electric saws	6
Electrostatic copiers	6
Engraving equipment	5
Escalators	20
Excavators	4
Fax machines	3
Fertiliser spreaders	6
Firearms	6
Fire extinguishers (loose units)	5
Fire detection systems	3
Fishing vessels	12
Fitted carpets	6
Food bins	4
Food-conveying systems	4
Fork-lift trucks	4
Front-end loaders	4

Asset	Proposed write-off period (in years)
Furniture and fittings	6
Gantry cranes	6
Garden irrigation equipment (movable)	5
Gas cutting equipment	6
Gas heaters and cookers	6
Gearboxes	4
Gear shapers	6
Generators (portable)	5
Generators (standby)	15
Graders	4
Grinding machines	6
Guillotines	6
Gymnasium equipment:	
Cardiovascular equipment	2
Health testing equipment	5
Weights and strength equipment	4
Spinning equipment	1
Other	10
Hairdressers' equipment	5
Harvesters	6
Heat dryers	6
Heating equipment	6
Hot water systems	5

Asset	Proposed write-off period (in years)
Incubators	6
Ironing and pressing equipment	6
Kitchen equipment	6
Knitting machines	6
Laboratory research equipment	5
Lathes	6
Laundromat equipment	5
Law Reports: Sets (Legal practitioners)	5
Lift Installations (goods/passengers)	12
Magnetic Resonance Imaging Scanners	5
Medical theatre equipment	6
Milling machines	6
Mobile caravans	5
Mobile cranes	4
Mobile refrigeration units	4
Motors	4
Motorcycles	4
Motorised chainsaws	4
Motorised concrete mixers	3
Motor mowers	5
Musical instruments	5
Navigation systems	10
Neon signs and advertising boards	10

Asset	Proposed write-off period (in years)
Office equipment – electronic	3
Office equipment – mechanical	5
Oxygen concentrators	3
Ovens and heating devices	6
Ovens for heating food	6
Packaging and related equipment	4
Paintings (valuable)	25
Pallets	4
Passager car	5
Patterns, tooling and dies	3
Pellet mills	4
Perforating equipment	6
Photocopying equipment	5
Photographic equipment	6
Planers	6
Pleasure craft etc.	12
Ploughs	6
Portable safes	25
Power tools (hand-operated)	5
Power supply	5
Public address systems	5
Pumps	4
Race horses	4

Asset	Proposed write-off period (in years)
Radar systems	5
Radio communication equipment	5
Refrigerated milk-tankers	4
Refrigeration equipment	6
Refrigerators	6
Runway lights	5
Sanders	6
Scales	5
Security systems (removable)	5
Seed separators	6
Sewing machines	6
Shakers	4
Shop fittings	6
Solar energy units	5
Special patterns and tooling	2
Spin dryers	6
Spot welding equipment	6
Staff training equipment	5
Surge bins	4
Surveyors:	
Instruments	10
Field equipment	5
Tape-recorders	5

Asset	Proposed write-off period (in years)
Telephone equipment	5
Television and advertising films	4
Television sets, video machines and decoders	6
Textbooks	3
Tractors	4
Trailers	5
Traxcavators	4
Trolleys	3
Trucks (heavy duty)	3
Trucks (other)	4
Truck-mounted cranes	4
Typewriters	6
Vending machines (including video game machines)	6
Video cassettes	2
Warehouse racking	10
Washing machines	5
Water distillation and purification plant	12
Water tankers	4
Water tanks	6
Weighbridges (movable parts)	10
Wire line rods	1
Workshop equipment	5
X-ray equipment	5

Capital incentives and allowances

- Residential building project erected before 21 October 2008 consisting of five or more units, of which more than one room is intended for letting or occupation by full-time employees – an initial allowance of 10% of cost, and an allowance of 2% of cost annually.
- New and unused residential buildings acquired, erected or improved on or after 21 October 2008, situated anywhere in South Africa and owned by the taxpayer for use in his trade, for letting or as employee accommodation – annual allowance of 5% of the cost, or 10% of the cost in the case of low-cost residential units not exceeding R300 000 for a stand-alone unit, or R350 000 for an apartment and an enhanced allowance is available where the low-cost residential unit is situated in an urban development zone.
- An allowance of 10% applies to an interest-free loan account, amount owing at the end of each year of assessment for low-cost residential units sold at cost by the employer to his employees, and subject to repurchase at cost in the event of repayment default or termination of employment. A sunset date of 28 February 2022 has been introduced for tax incentives dealing with loans for residential units.
- New or used plant and machinery used in manufacturing or similar process qualify for a depreciation allowance over five years (20% per annum), subject to the accelerated depreciation allowance. New or unused manufacturing assets acquired and brought into use on or after 1 March 2002 may be written off over four years (40% in year one and 20% in the remaining three years).

- Manufacturing assets acquired by SBCs, as defined, may be deducted in full (100%) in the year the asset was acquired. Other depreciable assets acquired by SBCs are eligible for a depreciation allowance at a 50: 30: 20 rate over a three-year period. In addition, an SBC may elect to apply the wear-and-tear allowance, such as the small assets provision that allows for a full tax deduction in the year in which such asset is brought into use.
- Farmers are entitled to an allowance over three years (50%, 30% and 20%) against the cost of machinery, implements and articles used for farming, but excluding passenger motor vehicles or office furniture and equipment. Also, farmers are entitled to a deduction of various capital expenses against their farming income.
- Other allowances or specific rates apply to certain classes of assets, such as:
  - pipelines and transmission lines;
  - licences (for telecommunication services, petroleum exploration or production, or the provision of gambling facilities);
  - rolling stock;
  - hotelkeepers' assets; aircrafts and ships; airports and port assets; approved strategic industrial projects; and assets used in the production of renewable energy.

  A sunset date of 28 February 2022 has been introduced for tax incentives dealing with rolling stock and airport and port assets.
- An allowance is available for new commercial buildings or improvements to existing buildings – construction, erection or installation – which were contracted for on

or after 1 April 2007. The allowance is equal to 5% of the cost to the taxpayer of any new and unused building owned by the taxpayer, if that building or improvement is wholly or mainly used by the taxpayer during the year of assessment for producing income in the course of the taxpayer's trade. To the extent that a taxpayer acquires part of a building without erecting or constructing that part, then only a portion of the acquisition price may be claimed. The owner, not the occupant, of the building qualifies for this allowance. If the occupant incurs the expenditure for any improvements, the allowance is not available for the owner of such building, and the owner may be liable for income tax or CGT (leasehold improvements).

- An allowance is available for the costs of acquiring, or in connection with the use of, an invention, patent, design, copyright or other similar intellectual property. Where the cost exceeded R5 000, the allowance is limited to an annual allowance of: 5% of any invention, patent, copyright or other similar property, or 10% of the cost of any design or other similar property.

  If the intellectual property was acquired from a connected person, the allowance is limited to the costs to the connected person, less allowances previously claimed by the connected person, plus CGT or recoupments included in the selling of the connected person's income.

  No allowance is available for costs incurred by the taxpayer for the acquisition on or after 29 October 1999 of a trademark or similar property.

Other

Calculation of the amount of interest (s7D ITA)

Interest should be calculated as simple interest calculated daily.

Time of accrual of interest payable by SARS (s7E ITA)

From 1 March 2018, interest payable by SARS is only included in gross income when the amount is actually received and not when it accrues.

Deduction of interest repaid by SARS (s7F ITA)

From 1 March 2018, interest that was previously received from SARS and is later repaid to SARS by the taxpayer will be deductible from the taxpayer's taxable income in the year of assessment that it is repaid by the taxpayer. Effective 15 January 2020, the deduction is only available to the extent that the amount of interest is or was included in the Income of the taxpayer.

Trading Stock (s22 ITA)

For years of assessment on or after 1 January 2020, clarity has been provided, confirming that closing stock must be included in gross income. Also in determining any diminution in the value of trading stock, no account must be taken of the fact the value of some items of trading stock held and not disposed of by the taxpayer may exceed their cost price.

DIVIDENDS TAX (S64D – S64N ITA)

Dividend tax, and the requirement to withhold such tax, applies to dividends declared and paid on or after 1 April 2012. The rate of dividend tax is 20% which is effective 22 February 2017 (15% from 1 April 2012 to 21 February 2017), subject to any reduction in terms of a double tax agreement.

For years of assessments commencing on or after 1 January 2019, an amount deemed as a dividend in specie as a result of a transfer pricing adjustment in terms of s31 of the Income Tax Act, is excluded from s1 in terms of the definition of a dividend.

The dividend is exempt if the beneficial owner is (s64F ITA):

- a South African resident company;
- any of the three levels of government;
- an approved public benefit organisation;
- a mining rehabilitation trust;
- institutions established in terms of s10(1)(cA) or s10(1)(t); (e.g. CSIR and SANRAL);
- a benefit fund (such as a medical aid scheme), fidelity fund or indemnity fund;
- a pension, provident, retirement annuity or preservation fund, trade union and professional bodies;
- a shareholder in a registered microbusiness (up to R200 000 of dividends paid by a microbusiness in a year of assessment);
- a small business funding entity as contemplated in s10(1)(cQ);
- a non-resident if the dividend is paid by a non-resident company listed on the South African JSE;

- dividends paid by a REIT (real estate investment trust) or a controlled property company (as defined in s25BB) received or accrued before 1 January 2014 (insofar as it does not consist of a dividend in specie);
- a portfolio of a collective investment scheme in securities;
- any fidelity or indemnity fund;
- any person to the extent that the dividend constitutes income of that person or that dividend was subject to secondary tax on companies; or
- any natural person or deceased or insolvent estate of that person in respect of a dividend paid on or after 1 March 2015, for a tax-free investment.

The above exemptions also apply to a dividend in specie.

Where a loan or advance is provided by a company to a resident shareholder (other than a company) or to a connected person to the shareholder, the company is deemed to have paid a dividend where the loan is provided interest-free or at low-interest rate. The dividend is deemed to have been paid on the last day of the company's year of assessment.

Foreign dividends

A foreign dividend may qualify for the ratio exemption to the extent that it does not qualify for the following exemptions:

- participation exemption,
- country-to-country exemption,
- controlled foreign company exemption, or
- JSE exemption.

The exemption ratio is calculated as follows:

- the ratio is 25/45 (previously 26/41) if the receiving person is a natural person, deceased or insolvent estate or trust,
- the ratio is 8/28 (previously 13/28).

The effective date for foreign dividend exemption is 1 March 2017.

A summary of the withholding tax rates as per the South African Double Taxation Agreements currently in force can be accessed at:

http://www.sars.gov.za/TaxTypes/DT/Pages/default.aspx

OTHER WITHHOLDING TAXES

In some situations, the applicable tax rate may be reduced in terms of a tax treaty with the country in which the non-resident resides.

Generally, all South African-sourced interest and royalties earned by foreign entities outside the permanent establishment rule will be subject to a 15% withholding tax.

Interest

With effect from 1 March 2015, cross-border interest will be subject to a withholding tax of 15% and applies to interest that is paid or becomes due and payable on or after 1 March 2015. The person making payments for the benefit of a foreign recipient is liable to withhold the tax. Payment of withholding tax on interest must be made at the close of the month following the month in which interest is paid.

Overpayment of interest amounts may be refunded from SARS only if the foreign payee lodges a refund claim with the payer within three years of the payment of interest. The refund process has been simplified and will involve SARS solely.

Exemptions

The withholding tax on interest does not apply:

- on any interest paid on government borrowing;
- on interest paid by any bank (including a branch of a foreign bank) the Development Bank of Southern Africa (DBSA) or the Industrial Development Corporation;
- interest paid by a headquarter company in respect of a financial assistance, subject to exceptions; and

- interest paid in respect of any listed debt;
- in terms of the timing of tax payments to SARS, the withholding tax on interest must be made at the close of the month.

Royalties

Cross-border royalties were subject to a withholding tax rate of 12% on the gross amount payable to non-residents. The tax rate has been increased to match other withholding taxes to 15% for royalties that are paid or payable on or after 1 January 2015, subject to the maximum rate per relevant double taxation treaties.

In terms of payment rules (both interest to non-residents and royalties), initial liability to withhold the tax will remain with the person making the payment, but ultimate liability will remain with the beneficial owner.

The date on which a royalty withholding tax is deemed to be paid is the earlier of the date on which the royalty is paid or becomes due and payable. Accrual is no longer the basis for withholding the tax.

Payment to foreign entertainers and sportspersons

Withholding tax is payable on payments to foreign entertainers and sportspersons, at a fixed rate of 15% of the amount received by or accrued to such a person.

Withholding tax on immovable property by a non-resident seller

Withholding tax on disposal of immovable property by a non-resident seller: tax rates for individuals is 7.5%, companies is 10% and trusts is 15%.

Donations tax (s54 ITA)

Donations tax is generally payable at a flat rate of 20% on the value of any gratuitous disposal of property, including the disposal of property for inadequate consideration, by any resident individual or private company that is incorporated, managed or controlled in South Africa. The donations tax is payable by the end of the month following the month during which the donation takes effect.

From 1 March 2018, in respect of donations exceeding R30 million, donations tax will be imposed at 25% instead of the current rate of 20%.

Exemptions

- donations by public companies;
- donations between spouses;
- casual donations made by a donor other than an individual up to R10 000 per year;
- donations made by an individual not exceeding R100 000 per year in aggregate;
- bona fide maintenance payments;
- donations to approved public benefit organisation (PBO) of up to a maximum of 10% of the donor's taxable income;
- donations where the donee will not benefit until the donor's death;
- donations cancelled within six months of the effective date;
- donations between companies of the same group of companies;

- property disposed of under and in pursuance of a trust; and
- donations of property, including a right, situated outside South Africa if acquired by the donor either before becoming resident in South Africa for the first time, or by inheritance or donation from a non-resident.

A donation is also a disposal for CGT purposes, and therefore the CGT effect must be considered.

The amount of donation tax payable by a person in respect of the disposal of an asset may be included in the base of the asset as per the formula in Paragraph 22 of the Eight Schedule.

SECURITIES TRANSFER TAX

Stamp duty on the transfer of unlisted shares and uncertificated securities tax on listed shares was replaced with securities transfer tax (STT), which is payable at a rate of 0.25% on the transfer of all shares/ member's interest in companies/CCs incorporated in South Africa, as well as foreign companies listed on the South African stock exchange.

- The cession of dividend rights is also subject to STT.
- 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 security.
- Where the shares or securities are transferred, the STT is payable by the purchaser thereof.
- Where the shares or securities are cancelled or redeemed, the STT is payable by the company or CC cancelling or redeeming the shares.
- No STT is payable if the share is cancelled or redeemed due to the company being wound up, liquidated or deregistered.
- Tax of 0.5% is payable on the creation or increase in authorised share capital.
- 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 end of the month during which the transfer occurred.

Various exemptions apply to STT including exemptions on lending arrangements and transfers of securities as collateral.

VALUE-ADDED TAX (VAT)

VAT is levied at 15% from 1 April 2018 (14% before 1 April 2018) for supplies of goods and/or services, the importation of goods and certain services.

It is compulsory for an enterprise with taxable supplies of R1 million or more for a twelve month period, or when an enterprise determines that it is likely to exceed the R1 million for a twelve month period, to register for VAT.

An enterprise (other than micro business using the turnover basis of taxation) may voluntarily register for VAT, provided that the enterprise's taxable supplies exceed, or is likely to exceed, R50 000 in a twelve month period.

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

All foreign electronic service entities must register for VAT in South Africa where the total value of electronic services supplied to South Africa exceeds R50 000. From 1 April 2019, the compulsory registration threshold increases from R50 000 to R1 million.

Supplies fall into three categories (known as 'output tax'):

- standard-rated supplies (taxed at 14%, from 1 April 2018 at 15%);
- zero-rated supplies (taxed at 0%); and
- exempt supplies.

The following items have been added to the list of zero-rated items:

– Whole wheat brown bread from 1 April 2018.

- Cake wheat flour from 1 April 2019.
- White bread wheat flour from 1 April 2019.
- Sanitary towels (pads) from 1 April 2019.

It is proposed that Schedule 2 Part B of the VAT Act be amended to include super fine maize meal in the list of grades of maize meal that qualify for zero rating.

Where commercial accommodation is supplied for an unbroken period exceeding 28 days, a special value of supply rule applies, in which 60% of the all-inclusive charge will be subject to standard rate VAT, and 40% of the consideration will be deemed exempt.

A registered vendor making taxable supplies, may claim input tax to the extent that such was incurred in making taxable supplies, and the required documentation is retained.

A registered vendor is required to issue a Tax Invoice within 21 days of the date of supply.

A full tax invoice must be issued when the supply is for R5 000 or more, and must contain:

- the date of issue;
- individual serialised number;
- both seller's and purchaser's registered/trading name, address (which could be postal and/or physical address), and VAT registration number;
- detailed description of goods or services supplied, and volumes or quantities of goods supplied;
- VAT amount or reference to the tax rate; and

- display the words “tax invoice”, “VAT invoice”, or “invoice” (prior to January 2016 amendment requirement was to display the words “Tax Invoice” in a prominent place).

For electronically issued tax invoices, in addition to the requirements for a valid tax invoice the following are also applicable:

- the tax invoice must be sent in encrypted format (at least 128 bytes), over a secure line or contain an electronic signature;
- a written agreement in which both parties agreed to send/receive tax invoices in electronic format, and that the electronic tax invoice will be retained as the original; and
- the tax invoice and copy tax invoice should display the words “computer generated tax invoice” and “computer generated copy tax invoice”.

s20 of the VAT Act relating to tax invoices with effect from 17 January 2019 has been amended. Where a tax invoice contains an error, the supplier must correct the tax invoice within 21 days from the date of request to correct it, provided that the time of supply remains unaltered. The supplier must obtain and retain Information sufficient to identify the transaction to which that tax invoice and the corrected tax invoice refers.

A definition of ‘face value’ was inserted in s22 of the VAT Act under the provisions dealing with irrecoverable debts with effect from 1 April 2019. For the purposes of this section, face value means, the amount of the account receivable at the time of transfer less the amount written off by the seller, after adjustments have been made for debit and credit notes and amounts already written off as irrecoverable by the vendor.

The registered vendor must file returns and account for the supplies made, output tax and input tax claimed for expenditure incurred in the course or furtherance of an enterprise that was used, consumed or on-supplied in making taxable supplies. The VAT returns are due by the 25th day of the month following the relevant VAT period, and where the 25th day falls on a public holiday, Saturday or Sunday, the due date for filing the return (with required payment) will be the first business day before the 25th day. SARS allows the vendor to file the return and make payment by the last working day of the relevant month if both the return and the payment is made electronically.

The VAT periods are:

Category	
A	Taxable supplies ≤ R30 000 000 Farmers > R 1 500 000 2 monthly period ending on the last day of – January, March, May (odd number months)
B	Taxable supplies ≤ R30 000 000 Farmers > R 1 500 000 2 monthly period ending on the last day of – February, April, June (even number months)
C	Taxable supplies > R30 000 000 or specific application or repeatedly default 1 monthly ending on the last day of each month
D	Farmers and Micro businesses ≤ R1 500 000 Periods of 6 months ending on last day of August and February
E	Companies and trust funds whose activities consist solely of – letting of fixed property or movable goods, or – the administration or management of companies that are connected persons to the vendor Periods of 12 months ending on the last day of their year of assessment

Leasehold improvements

The lessee

With effect from 1 April 2018, leasehold improvements made by a lessee to the leasehold property of a lessor during the period of a lease agreement are not considered if the supply is used by the lessee for enterprising purposes. The time of supply is when the leasehold improvement is completed. The value of supply is deemed to be nil.

The lessor

Where leasehold improvements are supplied to the lessor by the lessee, the lessor shall be deemed to have made a taxable supply of goods in the course or furtherance of its enterprise, to the extent that the lessor, at the time of completion of the leasehold improvements, uses the fixed property otherwise than for making taxable supplies.

The value of supply of goods in respect of the adjustment will be the amount stipulated in the agreement or if no amount is stipulated, the open market value. This value will be deemed to be inclusive of VAT. The lessor's output tax liability will be calculated by applying the tax fraction to the value of the supply and then further applying the percentage to which the lessor uses that property for purposes other than making taxable supplies.

Cryptocurrency

From 1 April 2019, a cryptocurrency is listed as a financial service. In terms of s2(1)(o) of the VAT Act, the issue, acquisition, buying, selling or transfer of ownership of any cryptocurrency is a financial service. Therefore, a cryptocurrency is an exempt supply and will not attract VAT as per s12(a) of the VAT Act. This clears the confusion as to whether a cryptocurrency is money. With the new amendment, a cryptocurrency is not 'money' for the purposes of the VAT Act.

Separate registrations for branches and divisions

With effect from 17 January 2019, s50 of the VAT Act has been amended to simplify SARS' set-off and recovery provisions and provides legal certainty that set-off and recovery provisions will apply across such separately registered branches and divisions.

ESTATE DUTY

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

With effect from 1 March 2018, in respect of the estate of a person that dies on or after that date, if the dutiable amount of the estate does not exceed R30 million, the estate duty payable is 20%. The dutiable amount of the estate that exceeds R30 million is taxed at 25%.

Estate duty rebate is R3,5 million. If the deceased was the spouse of a previous deceased person(s), the rebate will be R7 million (R3,5 million x 2), less the s4A rebate(s) claimed in the previously deceased estates.

Further relief from estate duty is provided in the case of the same property being included in the estate of a taxpayer dying within 10 years of each other. The relief is calculated on a sliding-scale, decreasing from 100% where the taxpayers die within 2 years of each other, reduced by 20% for each year within 8-10 years.

If the deceased party was not ordinarily resident in the Republic, only the assets located in the Republic will be subject to estate duty.

The Executor of the estate is entitled to a maximum administration fee of 3.5%, excluding VAT.

The following is deemed to be included in the property of the deceased to determine the dutiable amount for estate duty:

- insurance policies on the life of the deceased; and
- accrual claim the deceased's estate may have against a surviving spouse.

The deductions which are generally available, in addition to the rebate:

- funeral expenses and administration costs;
- debts due before or at date of death (including income tax liability for the period prior to death);
- charitable bequests;
- assets owned by the deceased prior to immigration to the Republic;
- inheritance from a non-resident; and
- property (including deemed property) passing to the surviving spouse.

SUGAR TAX

Tax on beverages containing sugar has been implemented from 1 April 2018. The levy rate will increase from 2.1 to 2.21 cents per gram in excess of 4 grams of sugar per 100ml from 1 April 2019.

CARBON TAX

The Act 15 of 2019 was promulgated on 23 May 2019. The tax will be payable on direct emissions from 1 June 2019.

The carbon tax rate increased by 5.2 per cent, from R127 to R134 per tonne of carbon dioxide equivalent, from 1 January 2021.

TRANSFER DUTY

Transfer duty applies in respect of transfer of ownership or rights in immovable property, which is payable at the applicable rate of the purchaser. In the event that transfer duty is not paid by the purchaser, the duty may be recovered from the seller.

Transfer duty is levied on the greater of the purchase price or market value.

No transfer duty will apply in the event that the transaction (transfer, sale, or disposal) is subject to VAT. In some circumstances the purchaser, being a registered VAT vendor, will use the property purchased in making taxable supplies (such as a developer that purchased the property for development, which is after development sold and VAT is charged) may claim a notional input tax deduction, which is limited to the lower of the selling price or the open market value (and no longer limited to the transfer duty paid), and is claimable to the extent to which the purchase price has been paid and the property has been registered in the Deeds Office.

Where a company, close corporation, or trust owns residential property, which comprise more than 50% of its CGT assets, and there is a acquisition of a contingent right in the trust, the shares in a company, or the member's interest in a close corporation, such will be deemed to be a sale of immovable property and transfer duty will apply.

Transfer duty rates for natural persons and legal entities (on or after 1 March 2020)

Property value	Transfer Duty rate
R0 – R1 000 000	Nil
R1 000 001 – R1 375 000	3% of the value above R1 000 000
R1 375 001 – R1 925 000	R11 250 + 6% of the value above R1 375 000
R1 925 001 – R2 475 000	R44 250 + 8% of the value above R1 925 000
R2 475 001 – R11 000 000	R88 250 + 11% of the value above R2 475 000
R11 000 001 +	R1 026 000 + 13% of the value above R11 000 000

Transfer between spouses on divorce, or to heirs from a deceased estate (including trust, company, or close corporation), are exempt from transfer duty.

SKILLS DEVELOPMENT LEVY (SDL)

An employer is liable to pay a 1% monthly levy against the total amount of remuneration paid by that employer, where the employer's annual payroll exceeds R500 000.

Generally, the total value of remuneration paid is used to calculate the levy, but excludes the following:

- amounts paid to independent contractors;
- reimbursement payments to employees;
- pensions paid; and
- remuneration of learners under contract.

UNEMPLOYMENT INSURANCE FUND (UIF)

Every employer is liable to pay a monthly contribution to UIF, which is based on the monthly gross remuneration paid to employees up to a limit of R17 711.58 (R212 539 annually) with effect from 1 April 2017. The employer will contribute 1%, and the employee will (by means of a deduction from his/her salary) contribute 1% of the remuneration up to the limit.

However, the ceiling for contributions to the Unemployment Insurance Fund (UIF) has not been increased in the last four years, despite the increase in the benefit ceiling. The contribution ceiling will therefore return to be in line with the benefit ceiling and set at R17 711.58 per month from 1 March 2021.

Remuneration for purposes of calculating UIF excludes the following:

- non-employment related payments (such as annuity or pension payments);
- payments made to labour brokers that hold a valid exemption certificate;
- retrenchment payments;
- lump sums paid from pension, provident or retirement annuities;
- restraint of trade payments;
- commission;
- payments made to juristic persons (such as companies); and
- payments to independent contractors.

Employees who are excluded from contributing toward UIF, but must still be reported in the return, are:

- temporary workers (working fewer than 24 hours per month);
- employees in the national or provincial sphere of government;
- foreign employees who will be repatriated at the end of the service/employment contract term;
- employees with no taxable income, or commission only; and
- learners under contract (in terms of the Skills Development Act).

OCCUPATIONAL INJURIES AND DISEASES

Every employer is required to contribute towards occupational injuries and diseases (OID) for their employees. The amount of contributions is based on assessments and risks associated with the employer's activities and the industry. This provides a system of 'no fault' compensation whereby employees are entitled to compensation irrespective of cause, while prohibiting the employee from instituting damages claims against his/her employer and certain categories of fellow employees.

The employer is required to complete and submit the annual W.As8 return by 31 March of each year.

The contribution attributable to each employee is limited to an annual value, meaning that contributions are for earnings up to the annual limit, which is generally updated annually.

Excluded from employees for OID are:

- persons undergoing military service or training;
- members of the permanent force while defending the Republic;
- members of the police force while defending the Republic;
- a person who contracts for the carrying out of work and
- him-/herself contracts other persons to perform such work (such as a labour broker);
- legal entities (such as company or CCs);
- common law independent contractors; and
- a domestic employee in a private household.

Earning for the OID annual return includes:

- regular overtime, but not intermittent or irregular overtime;
- bonus (of any kind), which includes incentive and annual bonuses;
- commission;
- cash value of food and quarters supplied to staff;
- tangible fringe benefits (such as company car);
- travel and other allowance paid regularly;
- where the employee is remunerated in accordance with a package of benefits, all items that form part of the remuneration package, other than employer contributions; and
- earnings, fees or drawings paid to a working director of a private company or member of a CC.

Earning for the OID annual return excludes:

- re-imbursive payments;
- overtime worked occasionally;
- payments for specific non-recurring tasks that do not form part of an employee's normal duties;
- ex-gratia payments;
- intangible fringe benefits (such as company contributions to medical aid); and
- payments to cover special expenses (such as subsistence and travel costs).

(The regulations to the OID Act expressly exclude travel and subsistence allowances, which are in contradiction to the interpretation provided on the annual return.)

CAPITAL GAINS TAX (CGT)

Effective from 1 October 2001, CGT applies to a resident's worldwide assets, immovable property or assets situated in the Republic owned by a non-resident, and immovable property or assets of a permanent establishment in the Republic.

CGT is triggered on disposal of an asset, and capital gains or loss is calculated on the proceeds, less the base cost. Only a portion of capital gains is included to be taxed at the taxpayer's normal rate of tax. The inclusion rates are:

- individuals and special trusts – 40%;
- companies and CCs – 80%, yielding an effective tax rate of 22.4%;
- trusts – 80%, yielding an effective tax rate of 32.8% for the 2017 year of assessment, and 36% for the 2018 year of assessment;
- retirement funds – not taxable; and
- unit trusts – the unit-holder is taxed.

Annual exclusion (portion of capital gains/loss that is excluded from taxable income):

- a natural person or special trust – R40 000, and
- a natural person in the year of his/her death – R300 000.

Exclusions (portion of capital gain/loss that is excluded from taxable income):

- a natural person's primary residence (owned by a natural person or special trust), which is used for domestic residential purposes – R2 million exclusion;
- personal use assets (not used for carrying on a trade);

- lump sum benefits from insurance or retirement policy or scheme (not including second-hand policies);
- small business assets, where disposal is interest in such business or sole proprietorship (where he/she traded as a sole proprietor for at least five years) due to retirement (at least 55 years of age) or ill-health, and the small business market value not exceeding R10 million – the exclusion is a once-off R1,8 million;
- assets used by a micro business (turnover tax) for business purposes; and
- compensation, prizes and certain donations.

Various rollover and corporate transactions relief is available.

With the introduction of CGT, various valuation and base cost provisions were introduced.

Effective from 15 January 2020, the base cost requirement in par 20(1)(e) of the Eighth Schedule that expenditure incurred in improving or enhancing the value of an asset still be reflected in the state or nature of the asset at the time of disposal has been deleted.

In terms of par 20(2)(a), bond registration costs and bond cancellation costs are specifically prohibited from forming part of the base cost of an asset. This is also effective from 15 January 2020.

Document retention requirements:

The following retention periods apply.

Companies Act (No 71 of 2008):

Company records, which include any documents, accounts, books, writing, records or other information that a company is required to keep	7 years
Annual financial statements and accounting records	7 years (from date that annual financial statements signed)
Company registration and incorporation records, which include notice of Incorporation, Memorandum of Incorporation (incl. alterations or amendments), Rules and Registers	Indefinite
Notice, minutes and resolutions of all shareholders and directors' meetings, and committees. Documents made available and written communications to holders of securities. Copies of reports presented at annual general meetings	7 years
Securities and uncertificated securities registers	Indefinite

Close Corporations Act (No 69 of 1984):

Accounting records (including supporting schedules and ancillary accounting records), annual financial statements (including annual accounts and the report of the accounting officer/reviewer/auditor)	15 years (from the date of the issue of the annual financial statements)
Founding statement (CK1), amending founding statements (CK2 and CK2A), minutes of meetings and resolutions passed	Indefinite

Tax Administration Act (No 28 of 2011) and Income Tax Act:

Return submitted or required to be submitted by the taxpayer	5 years from the date of submission
Where the taxpayer was not required to submit a return (with regards to information of income, deductions, and capital gains/losses)	5 years from the end of the relevant tax period

Where a taxpayer has been notified or is aware that the records are subject to an audit or investigation	In addition to the 5 year retention requirement, the records must be retained until the audit is concluded or the assessment or decision becomes final. In this regard, the extended retention period will apply irrespective of whether the assessments have prescribed
Where a taxpayer has lodged an objection or appeal against an assessment or decision	In addition to the 5 year retention period, the records must be retained until the despite has been finalised

[Notwithstanding the document retention periods prescribed, which is generally 5 years, due to the extension of the prescription periods and audit risks it is recommended to retain all VAT and Income Tax records for a minimum period of 7 years]

Value-Added Tax Act:

A vendor is obligated to keep records: Record of all goods and services supplied by and to the vendor; The rate of tax applicable to the supplies; Invoices, tax invoices, debit and credit notes; Bank statements; Proof of payment; and Stock lists	5 years from date of submission of the return (not the date of the supply, but the date of the return submitted disclosing the supplies)
Records of importation of goods and documents (bill of entry or other documents prescribed by the Customs and Excise Act, and proof that the VAT charge has been paid to SARS)	5 years from date of submission of the return
Documentary proof substantiating the zero-rating of supplies	5 years from date of submission of the relevant return
Where a tax invoice, debit or credit note has been issued in relation to a supply by an agent or to an agent, the agent shall maintain sufficient records of the name, address and VAT registration number of the principal to be ascertained	5 years from date of submission of the relevant return
All other transactions that include sale of going concern, or notional input tax deduction (property purchase or second hand goods transaction)	5 years from the date of the submission of the relevant return

Securities Transfer Tax Administration Act (No 26 of 2007):

Details of persons to whom a listed security has been transferred. A company or close corporation that issued an unlisted security must keep records of every transfer of an unlisted security issued by it.	5 years from the date of transfer of the security

ADMINISTRATIVE PENALTIES

Chapter 15 of the Tax Administration Act (No 28 of 2011)

In terms of the Tax Administration Act, administrative non-compliance penalties apply to all taxes, but are referred to as administrative penalties to distinguish them from understatement penalties imposed under Chapter 16 of the Act. Administrative non-compliance penalties relate to failures to comply with the administrative requirements of any tax act, such as:

a) failure to register as a taxpayer;
b) failure to inform the Commissioner of a change in address or required other details;
c) failure to submit a return or other related documentation or information;
d) failure to furnish, produce or make available information, documents or things as and when required;
e) failure to reply to or answer a question put to a person as and when required by the Act;
f) failure to attend and give evidence as and when required;
g) failure by a person to register as an employer;
h) failure by an employer to notify SARS of a change of address or of having ceased to be an employer;
i) failure by an employer to provide details of an employee or deliver to an employee or former employee any employee's tax certificate as and when required;
j) failure by a provisional taxpayer to submit an estimate of taxable income; or
k) any other non-compliance with a procedural or administrative action.

Fixed amount of non-compliance penalty

Item	Assessed loss or taxable income for preceding year	Penalty
(i)	Assessed loss	R250
(ii)	R0 – R250 000	R250
(iii)	R250 001 – R500 000	R500
(iv)	R500 001 – R1 000 000	R1 000
(v)	R1 000 001 – R5 000 000	R2 000
(vi)	R5 000 001 – R10 000 000	R4 000
(vii)	R10 000 001 – R50 000 000	R8 000
(viii)	above R50 000 000	R16 000

The penalty will apply for each month, or part thereof, that the taxpayer fails to remedy the non-compliance within 30 days of the date of the delivery of the penalty assessment. This penalty is limited to a maximum of 35 months after the date of delivery. However, if SARS is not in possession of the taxpayer's current address and SARS is unable to deliver the penalty assessment, the maximum penalty that may be imposed is limited to 47 months after the date of non-compliance.

Taxpayers may apply to SARS to remit an administrative non-compliance penalty. The application must be done on the prescribed form and be delivered to SARS before the date the penalty must be paid.

Remittance of first incidence or 'nominal' non-compliance

A first incidence means that a penalty has not been imposed for the past 36 months – whether for the same default or any other type of default. A nominal incidence of non-compliance refers to:

- *triggering a fixed amount penalty*: where the duration of the noncompliance, for example failure to submit a return by the due date for filing, is fewer than five business days, or
- *triggering a percentage-based penalty*: where the amount of the non-compliance, for example failure to pay an amount of tax on time, involves less than R2 000.

Remittance for exceptional circumstances

An administrative non-compliance penalty may be remitted if exceptional circumstances exist. The exceptional circumstances, in this case, are limited to listed circumstances and one, or more, of the circumstances must have rendered the person incapable of complying with the obligation. The listed circumstances are:

- *external factors*: if there was a natural or human-made disaster or a civil disturbance or a disruption in services.
- *factors personal to the taxpayer*: if the non-compliance was due to a serious illness or accident or to serious emotional or mental distress.
- *serious financial hardship*: for an individual, if the reason for non-compliance was connected to depriving the person of basic living requirements, and for a business, if there was an immediate danger that the continuity of the business operations and the continued employment of its employees were jeopardised.
- *SARS' fault*: if the reason for non-compliance is SARS's fault or error, involving one of the following –
    - SARS made a capturing error;
    - there was a processing delay;

- incorrect information was contained in an official publication or media release issued by the office of the Commissioner;
- SARS delayed providing information; or
- SARS did not provide sufficient time for an adequate response to a request for information.

Objection and appeal against decision not to remit

If SARS' decision is to not remit or reduce the administrative non-compliance penalty, the taxpayer may object to this decision (Chapter 9 of the Tax Administration Act).

Understatement penalties

[NOTE: In terms of s221, impermissible avoidance arrangements are now subject to an understatement penalty.]

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

Interest rates payable on credit amounts (overpayment of provisional tax) under section 89quat (4) ITA					
Date		**Rate**	**Date**		**Rate**
01.03.2011	30.04.2014	4.5%	01.05.2014	31.10.2014	5%
01.11.2014	31.10.2015	5.25%	01.11.2015	29.02.2016	5.5%
01.03.2016	30.04.2016	5.75%	01.05.2016	30.06.2016	6.25%
01.07.2016	31.10.2017	6.5%	01.11.2017	30.06.2018	6.25%
01.07.2018	28.02.2019	6%	01.03.2019	31.10.2019	6.25%
01.11.2019	30.04.2020	6%	01.05.2020	31.06.2020	5.75%
01.07.2020	31.08.2020	3.75%	01.09.2020	31.10.2020	3.25%
01.11.2020		3%			

Fringe benefits – interest-free or low-interest loan (official rate)					
Date		**Rate**	**Date**		**Rate**
01.03.2011	31.07.2012	6.5%	01.08.2012	31.01.2014	6.0%
01.02.2014	31.07.2014	6.5%	01.08.2014	31.07.2015	6.75%
01.08.2015	30.11.2015	7%	01.12.2015	31.01.2016	7.25%
01.02.2016	31.03.2016	7.75%	01.04.2016	31.07.2017	8%
01.08.2017	31.03.2018	7.75%	01.04.2018	30.11.2018	7.5%
01.12.2018	31.07.2019	7.75%	01.08.2019	31.01.2020	7.5%
01.02.2020	31.03.2020	7.25%	01.04.2020	30.04.2020	6.25%
01.05.2020	31.05.2020	5.25%	01.06.2020	31.07.2020	4.75%
01.08.2020		4.5%			

Interest rates charged on outstanding taxes, duties and levies and interest rates payable on refunds of tax on successful appeals and certain delayed funds					
Date		**Rate**	**Date**		**Rate**
01.03.2011	30.04.2014	8.5%	01.05.2014	31.10.2014	9.0%
01.11.2014	31.10.2015	9.25%	01.11.2015	29.02.2016	9.5%
01.03.2016	30.04.2016	9.75%	01.05.2016	30.06.2016	10.25%
01.07.2016	31.10.2017	10.5%	01.11.2017	30.06.2018	10.25%
01.07.2018	28.02.2019	10%	01.03.2019	31.10.2019	10.25%
01.11.2019	30.04.2020	10%	01.05.2020	30.06.2020	9.75%
01.07.2020	31.08.2020	7.75%	01.09.2020	31.10.2020	7.25%
01.11.2020		7.00%			

Tax Practitioners (s240 and s256 of TAA)

From 17 January 2019, persons or registered tax practitioners that are non-compliant as a result of outstanding returns or tax debts are not registered or are deregistered as tax practitioners, respectively.

Tax practitioners will not be registered or will be deregistered if :

- during the preceding twelve months, for an aggregate period of at least six months, not been tax compliant; and
- failed to demonstrate that he or she has been compliant for that period or remedy the non-compliance, within the period specified in a notice delivered by SARS.

A tax practitioner will not be tax compliant if she/he has:

- outstanding tax debt, excluding
  - a tax debt in respect of which the taxpayer has entered into an instalment payment agreement
  - the portion of a tax debt compromised
  - a tax debt that has been suspended, or
  - a tax debt that does not exceed R100
- outstanding return unless an arrangement acceptable to the SARS official has been made for the submission of the return.

IT 14 codes: Provinces

The codes for the different provinces are:

CODE	PROVINCE
01	Northern Province
02	Mpumalanga
03	North West
04	Gauteng
05	Free State
06	KwaZulu – Natal
07	Eastern Cape
08	Western Cape
09	Northern Cape

Employees' tax (IRP5) certificate codes

All income and deductions reflected on an IRP5/IT3(a) must be classified according to the different codes allocated for income and deductions.

Refer to the following for more information:

http://www.sars.gov.za/TaxTypes/PIT/Tax-Season/Pages/Find-a-Source-Code.aspx

NOTES

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