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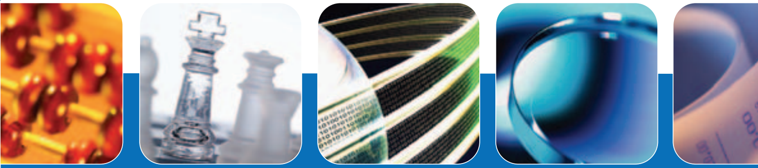

Financial and Taxation Directory 2007/2008

Empowerdex AAA Rating

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Financial and Taxation Directory 2007/2008

CLIFFE DEKKER

Cliffe Dekker is a national law firm of 56 directors and more than 140 lawyers practising from regional offices in Johannesburg (Sandton) and Cape Town, with excellent skills in all major areas of corporate legal activity.

We also provide tax advice as an integral part of the firm's participation in local and international corporate transactions and are able to structure transactions tax efficiently from inception through to implementation.

We are part of global legal services organisation DLA Piper, the second-largest law firm in the world with offices in all major business centres.

As a member of DLA Piper Group we are able to enhance the services we provide using the reach and expertise of other Group members in Africa and our clients have access to DLA Piper's international network which stretches across Europe, the Middle East, Asia and the US.

Being a truly South African law firm, we have faced the challenge of transformation and empowerment head on. Our efforts so far have earned us the coveted Empowerdex **AAA rating**. The firm is currently 26,78% black owned. Women professionals own 26,28% of the firm; black women professionals own 12,5%.

The **AAA rating** is the second-highest empowerment rating possible, equivalent to an overall BEE score of 85% to 100%. It means that we are a "good broad-based empowerment contributor" in terms of the codes of good practice and it entitles our clients to count 125% of the firm's fees as preferential procurement on their own BEE scorecards.

The information contained in this booklet is accurate at the time of publication, 22 February 2007, but should not be acted upon without professional advice.

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CONTENTS

South African Taxation

Highlights of the 2007/2008 Budget	2 - 3
Calculation of Tax Payable	4
Tables of Normal Tax Payable	5 - 6
Comparison of 2008 vs 2007 Taxes Payable	7 - 8
Natural Persons	9 - 24
Basis of Taxation	9
Exempt Income	10
Deductions	10 - 13
Provisional Tax	13 - 14
PAYE/SITE	14
Share Incentive Schemes	14 - 15
Lump Sum Payments	15 - 16
Fringe Benefits	17 - 24
Companies and Close Corporations	25 - 27
Trusts	27 - 28
Capital Allowances	28 - 31
Foreign Exchange Profits and Losses	31
Trading Stock	31 - 32
Capital Gains Tax	32 - 39
Residence Based Tax	39 - 41
Broad-Based Black Economic Empowerment	41 - 43
Tax Exemption for Charities	43 - 44
Value-Added Tax	44 - 45
Government Incentives	46 - 47
Estate Duty	47 - 48
Donations Tax	48
Securities Tax	48 - 49
Stamp Duty	49
Transfer Duty on Immovable Property	49
Regional Services Council Levies	49
Skills Development Act	50

Taxation in other Southern African Countries

Comparison of Taxes Payable	51
Namibia	52 - 53
Botswana	53 - 55

Other Related Information

Exchange Control	55 - 60
Prime Bank Overdraft Rates	61
Retention of Records	62 - 63
Tax Timetable	64

HIGHLIGHTS OF THE 2007/2008 BUDGET
21 FEBRUARY 2007

The contents of this publication incorporates the budget proposals tabled in Parliament on 21 February 2007 by Mr TA Manuel, Minister of Finance. The notes are subject to amendment if the Income Tax Act is amended by Parliament and it is important that this point be borne in mind when considering the application of these notes to any specific case.

Salient features of the budget proposals are summarised below for ease of reference.

Personal Income Tax Rates

The minimum tax threshold increases from R40 000 to R43 000 for persons under age 65. For persons aged 65 and over the tax threshold increases from R65 000 to R69 000.

The primary rebate increases from R7 200 to R7 740. The secondary rebate for individuals aged 65 and over increases from R4 500 to R4 680.

The maximum marginal tax rate at 40% is applicable to taxable income above R450 000 (previously R400 000).

Interest and Dividend Income Exemption

The interest and foreign dividend exemption is increased from R16 500 to R18 000 for taxpayers aged under 65 and from R24 500 to R26 000 for taxpayers aged 65 and over.

The portion of the exemption applicable to foreign interest and foreign dividend income increases from R2 500 to R3 000.

Medical Expenses

Taxpayers aged 65 years and older continue to enjoy a full deduction for all medical expenses.

For taxpayers under 65 years of age, a monetary cap applies to the deduction of monthly contributions to medical schemes. This cap has been increased from R500 to R530 for each of the taxpayer and the first dependant and from R300 to R320 for each additional dependant.

Secondary Tax on Companies

STC will gradually be phased out and replaced by a tax on dividends. The current rate of 12,5% will reduce to 10% with effect from 1 October 2007.

Small Business Corporations

The threshold at which Small Business Corporations are subject to income tax increases from R40 000 to R43 000.

Retirement Fund Taxation

Retirement Fund tax is abolished with effect from 1 March 2007.

Estate Duty

The estate duty exemption is increased from R2,5million to R3,5million with effect from 1 March 2007.

Donations

The annual donations tax exemption for natural persons is increased from R50 000 to R100 000 with effect from 1 March 2007.

Deductible donations to qualifying Public Benefit Organisations by individuals and companies is increased from a maximum of 5% to 10% of taxable income.

Depreciation - Commercial Buildings

The Income Tax Act currently provides for depreciation of buildings used for manufacturing and similar processes.

It is proposed that this be extended to include certain commercial buildings. Newly constructed commercial buildings and upgrades will qualify for a 5% per annum depreciation allowance.

Capital Gains Tax

The annual capital gain/loss exclusion for individuals and special trusts is increased from R12 500 to R15 000 with effect from 1 March 2007.

The CGT exclusion at death is increased from R60 000 to R120 000 with effect from 1 March 2007.

Long-Term Equity Investments

To avoid the debate as to whether gains on the sale of shares should be taxed as income or capital gains, it is proposed (with effect from 1 October 2007) that all shares disposed of after three years will be subject to capital gains tax.

The tax treatment of executive employee share schemes remains unchanged.

THE CALCULATION OF TAX PAYABLE - INDIVIDUALS

Gross Income	....
Less: Exempt Income (see pages 10)	....
Income	....
Less: Deductions (see pages 10 and 13)	----------
Add: 25% of Capital Gain (see pages 35 to 42)	....
TAXABLE INCOME	
TAX per Tables (see page 5)	....
Less: REBATES (see page 5)	....
NORMAL TAX PAYABLE	
Less: Provisional tax paid	
Foreign tax credit	
PAYE/SITE paid	
TAX DUE	

NORMAL TAX RATES
YEAR ENDED 28 FEBRUARY

NATURAL PERSONS AND SPECIAL TRUSTS

Rebates	**2006**	**2007**	**2008**
Primary Rebate	R6 300	R7 200	**R7 740**
Age Rebate * – 65 and over	R4 500	R4 500	**R4 680**
* Additional to primary rebate			

Tax Threshold			
Under 65	R35 000	R40 000	**R43 000**
65 and over	R60 000	R65 000	**R69 000**

Taxable Income	**2008**	**Rates of Tax**
R	**R**	
0 – 112 500		18% of each R1
112 501 - 180 000		20 250 + 25% of the amount over 112 500
180 001 - 250 000		37 125 + 30% of the amount over 180 000
250 001 - 350 000		58 125 + 35% of the amount over 250 000
350 001 - 450 000		93 125 + 38% of the amount over 350 000
450 001 and above		131 125 + 40% of the amount over 450 000

Taxable Income	**2007**	**Rates of Tax**
R	**R**	
0 – 100 000		18% of each R1
100 001 - 160 000		18 000 + 25% of the amount over 100 000
160 001 - 220 000		33 000 + 30% of the amount over 160 000
220 001 - 300 000		51 000 + 35% of the amount over 220 000
300 001 - 400 000		79 000 + 38% of the amount over 300 000
400 001 and above		117 000 + 40% of the amount over 400 000

TRUSTS (Other than Special Trusts)

Taxable Income	**2008**	**Rates of Tax**
R0 and over		40% of each R1

Taxable Income	**2007**	**Rates of Tax**
R0 and over		**40% of each R1**

CORPORATE TAX RATES
YEAR OF ASSESSMENT ENDING AFTER 1 MARCH 2007

COMPANIES AND CLOSE CORPORATIONS

Taxable Income	Rate of Tax
R	**%**
Small Business Corporation	
0 - 43 000	0%
43 001 - 300 000	10%
300 001 and over	29%
Companies	29%
Public Benefit Organisations and Recreational Clubs	29%
Employment companies	34%
Secondary Tax on Companies	
STC on dividends declared	12.5% (10% - Note 1)
Note 1: Reduced to 10% effective 1 October 2007 and is to be replaced with a dividend tax at shareholder level in 2008.	
Local Branch of Foreign Company (exempt from STC)	
Normal tax rate	34%
Long-term Insurers	
Individual policyholder fund	30%
Company policyholder and Corporate fund	29%
Untaxed policyholder fund	0%
Retirement Funds	
Tax on retirement funds abolished with effect from 1 March 2007.	0%

Comparison of 2008 with 2007 Taxes Payable
Persons Under 65 Years

Taxable Income	2008 Rates	2007 Rates	Annual Reduction	Percent Reduction
R	R	R	R	%
43 000	0	540	540	100%
45 000	360	900	540	60%
50 000	1 260	1 800	540	30%
55 000	2 160	2 700	540	20%
60 000	3 060	3 600	540	15%
65 000	3 960	4 500	540	12%
70 000	4 860	5 400	540	10%
75 000	5 760	6 300	540	8.6%
80 000	6 660	7 200	540	7.5%
85 000	7 560	8 100	540	6.7%
90 000	8 460	9 000	540	6%
100 000	10 260	10 800	540	5%
120 000	14 385	15 800	1 415	9%
150 000	21 885	23 300	1 415	6.1%
200 000	35 385	37 800	2 415	6.4%
250 000	50 385	54 300	3 915	7.2%
300 000	67 885	71 800	3 915	5.5%
400 000	104 385	109 800	5 415	4.9%
500 000	143 385	149 800	6 415	4.3%
1 000 000	343 385	349 800	6 415	1.8%

Comparison of 2008 with 2007 Taxes Payable
Persons 65 Years and Over

Taxable Income	2008 Rates	2007 Rates	Annual Reduction	Percent Reduction
R	R	R	R	%
69 000	0	720	720	100%
70 000	180	900	720	80%
75 000	1 080	1 800	720	40%
80 000	1 980	2 700	720	26.7%
85 000	2 880	3 600	720	20%
90 000	3 780	4 500	720	16%
95 000	4 680	5 400	720	13.3%
100 000	5 580	6 300	720	11.4%
120 000	9 705	11 300	1 595	14.1%
150 000	17 205	18 800	1 595	8.5%
200 000	30 705	33 300	2 595	7.8%
250 000	45 705	49 800	4 095	8.2%
300 000	63 205	67 300	4 095	6%
500 000	138 705	145 300	6 595	4.5%
1 000 000	338 705	345 300	6 595	1.9%

TAXATION OF NATURAL PERSONS

BASIS OF TAXATION

'Income' earned by South African resident natural persons, irrespective of where in the world that income is earned, is subject to South African taxation. Non-resident natural persons are subject to tax on income earned from a South African source (actual or deemed). There is one set of income tax tables applicable to all natural persons, irrespective of marital status or dependants. The amount of tax is reduced by rebates which are dependent on the taxpayer's age.

Married Persons

Married persons are generally taxed as separate taxpayers and each spouse is taxed on his/her own income. Exceptions to this rule include:

- Any income which is received by or accrued to a spouse in consequence of a donation/settlement/disposition by the other spouse is deemed to be income of the spouse who made such donation/settlement/disposition if done solely or mainly to avoid tax.
- Any income derived by one spouse from the other spouse or a partnership or private company of the other spouse, or derived from a trade which is connected to the trade carried on by the other spouse, is taxed in the hands of the other spouse to the extent that the amount of income is excessive in the circumstances.

If persons are married in community of property, the net property rentals and/or interest income received by them is deemed to accrue in equal shares to each spouse. Any income which does not fall into the joint estate of the spouses is taxed in the hands of the spouse entitled thereto. Similar principles apply in respect of capital gains and losses made by persons married in community of property.

Minor Children

Minor children may be taxpayers in their own right and are taxed on income received by or accrued to them. Where the income arises as a result of the child's parent having made a donation or transferring income to the child, the resultant income will be taxed in the parent's hands.

EXEMPT INCOME

The following income is exempt from income tax:

- Any pension received or accrued to a resident from a source outside South Africa subject to certain exclusions;
- The capital portion of a purchased annuity;
- Remuneration received due to services rendered outside the Republic, subject to certain exclusions (see section 10(1)(o)(ii));
- War and certain disability pensions;
- All dividends received (except for dividends distributed by property trusts and specified foreign dividends);
- Interest earned by natural persons, up to a maximum of R18 000 per tax year (R26 000 for persons aged 65 years and over). Only R3 000 is allowed against foreign interest and foreign dividends and applies first to foreign dividends and then to foreign interest;
- Interest earned by non-residents who are absent from South Africa for 183 days, or more, per annum and who are not carrying on business in South Africa;
- UIF and Workmen's Compensation benefits; and
- An amount to a maximum of R30 000 received on termination of employment subject to:
    - the taxpayer having attained 55 years of age; or
    - termination of employment being the result of ill health or superannuation; or
    - termination of services resulting from the employer ceasing to carry on trade, or the taxpayer becoming redundant as a consequence of a general reduction of personnel. This exemption is not available if the taxpayer was at any time a director of the company or held more than 5% of the shares in the company.

DEDUCTIONS

Medical and Disability Expenses

Medical Expenditure

Qualifying medical expenditure includes:

- any contributions to a medical scheme made in respect of the taxpayer and his/her spouse and dependants; and
- all amounts paid in respect of medical, dental and hospitalisation expenses, payments to pharmacists for medicines obtained on prescription and payments to nursing homes or a registered nurse/midwife for services supplied to the taxpayer, his/her spouse, and his/her children.

Qualifying medical expenses do not include expenses that have been recovered from the medical scheme. Only the person that paid the expense can claim it.

Deductions allowable are as follows:

- In case of taxpayers aged 65 years and over:
  - There is no limit on the amount of qualifying medical expenditure that may be claimed as a deduction, i.e., all medical expenses paid by the taxpayer can be deducted.
- In case of taxpayers under the age of 65:
  The deduction is split into two parts:
  (a) Basic deduction for medical aid contributions:
    - R530 per month if the contribution is solely for the benefit of the taxpayer;
    - R1 060 per month if the contributions are for the benefit of the taxpayer and one dependant;
    - If the taxpayer has more than one dependant the limit is increased by R320 for each additional dependant, e.g., if the contributions the taxpayer makes to the fund are in respect of the taxpayer and 3 dependants, the limit is R1 700 per month (R1 060 + R320 x 2).

  The basic deduction is reduced by any amount contributed to the medical aid by the employer on behalf of the taxpayer which was not taxed as a fringe benefit.

  (b) Deduction of other medical expenses:
    - The balance of the medical aid contributions exceeding the basic deduction and all other qualifying medical expenditure paid by the taxpayer, and not recovered from the medical aid are deductible to the extent that they exceed 7.5% of the taxpayer's taxable income (before medical deduction). Any part of medical aid contributions paid by an employer that is included in the taxpayer's remuneration as a fringe benefit, shall be deemed to have been contributed by the taxpayer and will therefore qualify for deduction under this part.

Handicapped Persons

If the taxpayer or his/her spouse or his/her child is handicapped, all qualifying medical expenses paid by the taxpayer, i.e., not only those paid in respect of the handicapped person and all expenses incurred in consequence of any physical disability, may be claimed.

Note: The deduction is claimed by the person who pays the expense.

Entertainment

This expense may not be claimed by individuals who earn a fixed salary only.

Donations to Public Benefit Organisations

B*ona fide* donations made by individuals and companies to certain Public Benefit Organisations (PBO) are deductible and the maximum deduction is calculated at 10% of taxable income before deducting medical expenses (5% in respect of qualifying contributions during the 2007 year of assessment).

Proof of payment is required by SARS.

Home Study Expenses

A deduction for home study costs will only be allowed if:

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

Contributions to Pension, Retirement Annuity and Provident Funds

The following rules are subject to certain reform measures to be implemented in 2007.

Pension Funds

Any person may claim a deduction of his current contributions to a pension fund. The deduction is limited to the greater of:

- R1 750; or
- 7,5% of his remuneration derived from retirement funding employment.

A maximum deduction of R1 800 per annum is allowable for arrear contributions to a pension fund.

Retirement Annuity Funds

A taxpayer may claim his current contributions to a retirement annuity fund as a deduction, which is limited to the greatest of:

(i) 15% of income from non-retirement funding employment;

(ii) R3 500 less any deduction for current contributions to a pension fund; or

(iii) R1 750.

The maximum deduction of contributions with regard to the reinstatement of membership of a retirement annuity fund is R1 800 per annum.

Provident Funds
Contributions to approved provident and benefit funds are not allowed as a deduction from the taxpayer's income.

PROVISIONAL TAX

Provisional payments are advance tax payments in respect of normal tax payable for the year.

Individuals who do not derive income from the carrying on of a business need not register as provisional taxpayers if:
- their taxable income for that year will not exceed the tax threshold (R43 000 for individuals under 65 years of age and R69 000 for individuals who are 65 years of age and or older); or
- their taxable income from interest, dividends and rental from the letting of fixed property will not exceed R10 000 in the case of individuals under the age of 65 (R80 000 if the individual will be over the age of 65 on the last day of the year of assessment).

Directors and members of a close corporation are not required to register as provisional taxpayers merely because they are directors of private companies or members of a close corporation.

Due Dates for Returns

First Provisional Tax Return
Due within the first 6 months of the tax year - 31 August (Applies to all individuals, juristic persons with a February year end and most trusts).

Second Provisional Tax Return
Due before the end of the tax year - 28 February. (Applies to all individuals, juristic persons with a February year end and most trusts).

Third Provisional Tax Return
Due on 30 September, seven months after the end of the tax year for February year ends. (Applies to all individuals, juristic persons with a February year end and most trusts).

Due six months after the end of the tax year, for year ends other than the end of February.

The third provisional tax payment must bring the total tax paid for the year to 100% of the taxpayer's liability if interest is to be avoided.

With effect from 1 March 2007, interest on an underpayment of the third provisional tax payment is charged at 12% per annum (non-deductible), whereas interest on an overpayment accrues at a rate of 8% (taxable).

EMPLOYEES' TAX (PAYE AND SITE)

Employers are required to deduct employees' tax according to tax deduction tables supplied by SARS on all remuneration paid to employees unless otherwise instructed in terms of a tax deduction directive issued by SARS.

Directors of private companies, as well as members of close corporations, are subject to PAYE on the greater of their actual monthly remuneration or their "deemed remuneration", unless they received at least 75% of their remuneration in the previous tax year in the form of fixed monthly payments of remuneration. In that case, such directors are taxed only on their actual remuneration.

STANDARD INCOME TAX ON EMPLOYEES (SITE)

SITE is a procedure through which the normal tax in respect of the first R60 000 of an employee's remuneration is finally determined by the employer.

SITE constitutes either a final or minimum liability and is thus not refundable, except in certain instances. The most important exclusions from the SITE system are:
- directors' remuneration;
- any travel allowance (although 60% is subject to PAYE);
- remuneration that may be set off against any assessed loss;
- remuneration from which the taxpayer is entitled to claim expenses of at least 1% of such remuneration; and
- income from non-standard employment.

From an administrative point of view the SITE liability is only calculated at the end of a tax period, but tax deductions are made on a monthly basis in terms of the employees' tax tables.

SHARE INCENTIVES SCHEMES

A summary of the provisions of section 8C is as follows:
- The employee/director will be subject to tax if he/she is awarded shares/share options by his/her employer. The tax will become payable on the vesting date (see below);
- The amount subject to tax is the difference between the amount paid by the employee to acquire the option or the share and the market value of the share on the vesting date;

- The date of vesting depends on whether the instrument is restricted or unrestricted.
- Unrestricted instruments trigger a taxable event when acquired whereas restricted instruments trigger such an event once the restrictions cease; and
- The amount of the gain determined on the vesting of an equity instrument is taxed as income and will be subject to employees' tax.

TAXATION OF LUMP SUM PAYMENTS

Certain lump sum payments received on termination of service, qualify for taxation at the average rate of tax. The average rate of tax to be used in determining the tax liability on the lump sum will be the higher of the average rate of tax in respect of taxable income (excluding the lump sum) accrued in the current and preceding years of assessment.

Lump sum payments received by the taxpayer from his employer by way of bonus, gratuity or compensation upon either reaching the age of 55, retirement due to superannuation, ill health or other infirmity are tax free to a maximum of R30 000 over the lifetime of the taxpayer.

Furthermore, all employees who lose their jobs as a result of either the employer ceasing to operate or because of a general reduction of personnel, will qualify for the R30 000 tax free concession regardless of age. This exemption will however not apply to any present or past director of the employer company nor to any shareholder who holds or held more than 5% of a company's shares.

Lump sum benefits payable by approved funds are aggregated for tax purposes and subject to tax as detailed below. These rules are subject to review as announced during the 2007 budget.

On Retirement

Pension Funds
A maximum of one third of the taxpayer's entitlement may be commuted to cash.

The actual tax free amount of this lump sum benefit is calculated using a formula which takes into account the number of years of membership of the fund and the highest annual average salary over any 5-year period of membership. The tax free portion is limited to the greater of R120 000 or R4 500 times the number of years of membership, plus contributions not previously allowed as deductions.

Retirement Annuity Funds
A maximum of one third of the taxpayer's entitlement may be commuted to cash. The tax free portion of the lump sum benefit will be equal to the amount commuted limited to the greater of R120 000 or R4 500 times the number of years of membership, plus contributions which were not allowed as a tax deduction.

Provident Funds
As for pension funds, with a minimum tax-free amount of R24 000.

On Death prior to Retirement

Pension and Provident Funds
The benefits are the same as on retirement except that the minimum tax-free amount is the greater of R60 000, or twice the taxpayer's salary for the last 12 months (salary is limited to R60 000), again limited to the greater of R120 000 or R4 500 times the number of years of membership, plus contributions not previously allowed as deductions.

On Withdrawal from the Fund

Pension Funds
The tax-free portion will be R1 800 plus any amount paid into any approved pension fund or retirement annuity fund.

Retirement Annuity Funds
The tax-free portion will be R1 800 plus the amount paid into another retirement annuity fund or used to purchase an approved insurance policy that provides benefits similar to a retirement annuity fund.

Provident Funds
The tax-free portion will be R1 800, plus any amount paid into any approved pension, provident or retirement annuity fund.

In all cases, the tax-free portions from either a pension, provident or retirement annuity fund shall not be less than the lesser of the lump sum benefit or any contributions made to the fund by the member which were not previously allowed as deductions.

THE TAXATION OF FRINGE BENEFITS

The Income Tax Act provides for the taxation of various fringe benefits granted by an employer in respect of services rendered by an employee.

Bursaries

B*ona fide* bursaries or scholarships granted by an employer to an employee or employee's relative will be exempt in the hands of the employee. However, this exemption will not apply if:

- the employee does not agree to reimburse the employer if the employee fails to complete the studies; or
- the bursary is granted to an employee's relative and the employee earns more than R60 000 per annum in which case the exemption is limited to R3 000 per annum.

Acquisition of Asset at less than Actual Value

A taxable benefit arises whenever an asset (other than money) has been acquired by an employee from:

- his employer; or
- an associated institution; or
- any other person by arrangement with his employer.

The taxable benefit is the difference between the market value of the asset and the consideration given by the employee.

VAT is payable by the employer on this difference at a rate of 14/114.

The first R5 000 of an asset awarded is exempt if it comprises:

- a bravery award; or
- a long service award (unbroken period of service of 15 years or any subsequent unbroken period of 10 years).

Travel Allowances

If an employee uses his own motor vehicle for business purposes and receives an allowance from his employer to defray expenditure, the allowance is tax-free to the extent that it is expended for business purposes. Unless acceptable figures for expenditure and business kilometres can be produced, business purpose expenditure is calculated on the total kilometres travelled (limited to a maximum of 32 000km), less deemed private travel of 18 000km. Where the taxpayer has used more than one vehicle for business purposes, the deemed private travel will be applied separately to each vehicle. Deemed costs are determined based on the value of the vehicle from the table below. The value of the vehicle is essentially the purchase price including VAT but excluding finance charges. Private travelling includes travelling between the employee's place of residence and his place of employment.

The rates per kilometre in respect of private vehicles used for business purposes from 1 March 2006 are:

Where the Value of the Vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R40 000	15 364	47.3	22.5
exceeds R40 000 but not R60 000	20 910	49.4	26.2
exceeds R60 000 but not R80 000	25 979	49.4	26.2
exceeds R80 000 but not R100 000	31 513	54.8	30.5
exceeds R100 000 but not R120 000	36 978	54.8	30.5
exceeds R120 000 but not R140 000	41 771	54.8	30.5
exceeds R140 000 but not R160 000	47 512	57.2	39.8
exceeds R160 000 but not R180 000	52 629	57.2	39.8
exceeds R180 000 but not R200 000	58 334	65.9	43.8
exceeds R200 000 but not R220 000	64 591	65.9	43.8
exceeds R220 000 but not R240 000	69 072	65.9	43.8
exceeds R240 000 but not R260 000	74 777	65.9	43.8
exceeds R260 000 but not R280 000	79 918	69.3	52.5
exceeds R280 000 but not R300 000	85 440	69.3	52.5
exceeds R300 000 but not R320 000	88 793	69.3	52.5
exceeds R320 000 but not R340 000	95 218	69.3	52.5
exceeds R340 000 but not R360 000	100 011	77.1	68.0
exceeds R360 000	100 011	77.1	68.0

The fixed cost is pro-rated if the vehicle is not used for business purposes for the full year.

Where business travel is 8 000km or less for the year of assessment, the rate per kilometre will, at the option of the recipient, be 246 cents per kilometre, provided that no other allowance or reimbursement is received by the employee in respect of the vehicle.

For PAYE purposes, 60% of the monthly travel allowance is regarded as remuneration and is subject to PAYE.

The following methods may be applied in determining business travel deductions against travel allowances received:

- the taxpayer can furnish accurate data and deduct actual cost. The actual lease expenses, finance charges or wear and tear are, however, limited to a maximum of R360 000 in respect of the cost of a vehicle; or
- the taxpayer can furnish actual business kilometres, applied to deemed costs; or
- the taxpayer can furnish total kilometres travelled, less deemed private travel, applied to deemed travel expenses.

Right of Use of Motor Vehicle

Where a taxpayer is granted the right to use a motor vehicle free of charge or for a consideration less than the value of the private use of that vehicle, a taxable benefit accrues to him and is included in his taxable income.

The monthly taxable benefit for employer owned vehicles used by employees is 2.5% (2006: 1.8%) of the determined value of the vehicle. The taxable benefit of a second or subsequent vehicle granted by an employer to an employee or his family, where the vehicle is not used primarily for business purposes, is 4% of the determined value.

The "determined value" of the vehicle is the original cash cost to the employer (excluding VAT) or the retail market value thereof in the case of a lease or donation. The determined value does not decrease in subsequent years. However, should the taxpayer not be the first employee to have use of the motor vehicle, and the taxpayer first obtains the right of the use of the vehicle more than 12 months after the employer acquired the vehicle, the determined value comprises the original value as determined above, depreciated by 15% per annum on the reducing balance method.

Where the employee:

- bears the cost of all fuel used for private purposes, the monthly percentage to be applied is reduced by 0.22 percentage points; or
- bears the full cost of maintaining the vehicle, the monthly percentage to be applied is reduced by 0.18 percentage points.

The fringe benefit may be reduced on assessment if the employee keeps a detailed logbook to prove that private kilometres travelled are less than 10 000km per annum.

The value of private use will not be reduced where the vehicle is temporarily not used by the employee for private purposes.

In the following cases, private use of a motor vehicle will not give rise to a taxable benefit:

- if the vehicle is available to, and used by, employees of the employer in general; the private use is of a casual nature or merely incidental to the business use; and the vehicle is not normally kept at or near the employee's home when not in use outside business hours (i.e., pool car); or
- the nature of the employee's duties are such that he is regularly required to use the vehicle outside his normal hours of work and he is not permitted to use such vehicle for private purposes other than travelling

between his place of residence and work, or private use which is infrequent or merely incidental to its business use.

This fringe benefit has a VAT implication. The employer must account for output VAT, the consideration for which is calculated as follows:

	% of Determined Value pm
Motor vehicle as defined	0,3
Other vehicles	0,6

Where the employee:
- pays for the use of a motor vehicle, the consideration on which the VAT is based must be reduced by what the employee pays; or
- bears the full cost of repairs and maintenance of the vehicle, the consideration calculated is reduced by R85 per month.

Interest on Loans

The taxable benefit arising from interest-free or low interest loans granted to employees will be valued at the difference between the official interest rate and the interest (if any) payable by the employee.

The official interest rate is currently 9%.

No benefit is placed on a casual loan to an employee up to R3 000 or a study loan to enable the employee to further his own studies.

Where the employee has utilised the loan to produce income, the interest taxed, as above, is deductible in terms of the general deduction formula.

Subsistence Allowance

If an employee is absent from his usual place of residence for the purpose of his duties for at least one night, then he is entitled to a tax-free allowance as follows:
- where the accommodation to which that allowance or advance relates is in South Africa, an amount equal to:
  (a) R63.50 per day if the allowance/advance is paid to defray the cost of incidental subsistence expenses; or
  (b) R208 per day if the allowance/advance is paid to defray the cost of meals and incidental subsistence expenses, i.e., beverages, room service, etc.; and
- where the accommodation to which the allowance relates is outside South Africa, an amount equal to

a maximum of US$200 per day is applicable. This allowance only applies to continuous periods, not exceeding 6 weeks away from home.

Right of use of an Asset (other than Residential Accommodation or Motor Vehicles)

A taxable benefit arises whenever an employee is granted the right to use an asset for his private or domestic purposes, either free of charge or for a consideration which is lower than the value of use. VAT is payable by the employer on this value at a rate of 14/114.

Exclusions:

- private use which is incidental to the use of the asset for purposes of the employer's business;
- amenities enjoyed at work or qualifying recreational facilities;
- equipment or machinery used by employees for private use for short periods of time and the value of the use is negligible; or
- assets consisting of books, literature, recordings or works of art.

Residential Accommodation

If an employer or associated institution provides residential accommodation which is owned by the employer to an employee (in which property the employee does not have any interest), the employee will be taxed on the difference between the rental value for the year, as determined by the following formula, and the amount paid by him:

$$(A-B) \times \frac{C}{100} \times \frac{D}{12}$$

A = the remuneration of the employee in the preceding year of assessment, including directors fees, but excluding taxable benefits from the use of a motor vehicle or residential accommodation.

If the employee was with the current employer for only part of the preceding year, his salary is grossed up to that of a full year, but if he was with another employer in the previous year, "A" will be his first month's salary divided by the number of days in that month and multiplied by 365.

B = R40 000 except for the following situations where it is nil:

(i) where the employer is a private company controlled directly or indirectly by the employee or his spouse even if the employee is only one of the persons controlling the company; or

(ii) where the employee or his spouse or minor child has an option or right of pre-emption granted by the employer or another person by arrangement with the employer whereby they may become the owner of the accommodation.

C = 17, or 18 if unfurnished and power or fuel is supplied by the employer or furnished but no power or fuel supplied, and 19 if furnished and power and fuel are supplied.

D = the number of months the employee was entitled to occupation.

If an employer provides accommodation for an employee through the rental of property (irrespective of whether the employee has an interest in the property or not), or by the purchase of property in which the employee has an interest, the value of the benefit is the greater of an amount arrived at by using the formula, or the total amount of the rentals payable for such accommodation by the employer and any other expenditure defrayed by the employer in respect of such accommodation.

This valuation based on the cost to the employer will not apply where:

- it is customary for the employer in the industry concerned to provide free or subsidised accommodation to employees;
- it is necessary for the employer to provide free or subsidised accommodation for the proper performance by employees of their duties, as a result of frequent movement of employees or lack of existing accommodation; and
- the benefit is provided at arms length and for *bona fide business* purposes.

When all of the criteria have been met, the value will be determined in accordance with the formula, even though the accommodation is not wholly owned by the employer.

Loans and Subsidies

Where a loan has been granted to an employee, the amount taxed is the difference between interest payable on the loan and the official interest rate.

Where a subsidy has been paid by the employer, the full amount will be taxable in the hands of the employee.

Holiday Accommodation

If the accommodation is hired by the employer, the employee will be taxed on all costs borne by the employer (including meals, refreshments and services). In any other case, the employee will be taxed on an amount equal to the prevailing rate per day at which the accommodation could normally be let to a person who is not an employee.

Payment of Employee's Debts

A taxable benefit arises where an employer has paid an amount owing by the employee to a third party, without requiring reimbursement from the employee, or has released an employee from an obligation to pay an amount owing by the employee to the employer.

Professional subscriptions paid by the employer are, however, exempt if membership is a condition of employment.

Meals and Refreshments

An employee is taxed on the cost to the employer of any meal or refreshment provided by the employer, subject to the following exclusions:

- supplied in a canteen or dining room operated for employees;
- supplied during business hours, extended working hours or a special occasion; and
- enjoyed by an employee providing entertainment on behalf of the employer.

Free or Cheap Services

Services provided to an employee by his employer (whether they are rendered by the employer or some other person) for no cost or for an amount lower than the cost of such services to the employer, gives rise to a liability for tax to the employee on the difference between the cost to the employer of the service and the amount paid by the employee.

The following exclusions apply:

- certain situations where the employer is engaged in the business of conveying passengers;
- transport service conveying employees between their homes and work;
- services rendered by the employer to assist with better performance of employees' duties; and
- travel facilities granted to the spouse or minor children of an employee who is stationed more than 250km away from his usual place of residence for more than 6 months in a tax year.

Medical Aid Contributions

A taxable fringe benefit will arise for an employee to the extent that the direct or indirect contributions made by an employer to a medical aid scheme for the benefit of an employee or his dependants exceed:

- R530 a month, where the employee has no dependants;
- R1 060 a month, where the employee has one dependant; or
- R1 060 a month for the employee and his first dependant plus R320 a month, for each additional dependant thereafter.

No taxable fringe benefit arises in respect of contributions made by an employer to a medical aid scheme, where the employee is over 65 years of age.

Exemptions

The following benefits are exempt from tax:

- the value of a uniform, or an allowance paid for that purpose, which an employee is required to wear while he is on duty, provided that the uniform is clearly distinguishable from ordinary clothing;
- the cost of the transfer of an employee to another place of employment arising out of the appointment or resignation of an employee at the insistence of the employer;
- if an employee purchases shares under a share incentive scheme and the transaction is cancelled or the shares are repurchased from the employee, the employee will not be taxed on the amount received in so far as it does not exceed the amount paid for the shares; and
- any *bona fide* scholarship or bursary granted to enable or assist any person to study at a recognised educational or research institution (certain restrictions apply - see section 10(1)(q)).

Employer's Obligations

The determination of the cash equivalent of any taxable benefit is to be made by the employer although the Commissioner may reduce the cash equivalent if he is of the opinion that the employer's determination is incorrect.

An employer is obliged to deduct PAYE on taxable fringe benefits.

COMPANIES AND CLOSE CORPORATIONS

Normal Taxation

Close corporations are taxed at the same rates and on the same basis as companies. The rate of South African normal company taxation is 29%.

Branches of foreign companies conducting business in South Africa through a permanent establishment is taxed at 34%.

For small business corporations (see definition below) the rates, with effect from 1 April 2007, are:

R0 - R43 000	0%
R43 001 - R300 000	10%
R300 001 and above	29% of the amount by which the taxable income exceeds R300 000

For employment companies being personal service companies (see definition below) or labour brokers (who have not been issued with an exemption certificate for PAYE purposes) the rate is 34%.

A small business corporation is a close corporation or private company (other than an employment company) of which:

- the entire shareholding or membership is held by natural persons;
- the gross income does not exceed R14million during the year of assessment;
- none of the shareholders or members, at any time during the year of assessment, holds shares in any other company (other than listed companies any portfolio in a collective investment scheme or body corporate, a shareblock company or association of persons);
- not more than 20% of the gross income consists of investment income; and
- if engaged in the provision of personal services, maintains at least three full-time employees (non of whom may be a shareholder or a connected person in relation to the shareholder) for core operations.

A personal service company is:

Any company (other than a labour broker) where any service rendered on behalf of the company to a client (of the company) is rendered personally by any person who is a connected person in relation to the company and:

- such a person would be regarded as an employee of the client if such service was rendered directly by such person to the client; or

- such a person or company is subject to the control or supervision of such client as to:
  - the manner in which the duties are performed; and
  - must be mainly performed at the premises of the client; or
- where more than 80% of the income of such a company (during the year of assessment) from services rendered consists of, or is likely to consist of, amounts received directly or indirectly from any one client or any associated institution as defined in the Seventh Schedule in relation to such client.

Any company which throughout the year of assessment employs three or more full time employees, who are engaged on a full time basis in the business of such company of rendering any service to a client, other than an employee who is a shareholder or member of the company, or is a connected person in relation to such shareholder or member, is excluded from the definition of a personal service company.

Any amount that is paid to an employment company is subject to employees' tax at the rate of 34%.

Furthermore, section 23(k) prohibits a deduction in respect of certain expenses incurred by a labour broker (who is not in possession of a certificate of exemption for PAYE purposes) or a personal service company, or personal service trust.

Secondary Tax on Companies

A company resident in South Africa is liable for Secondary Tax on Companies (STC) on dividends declared. STC of 12,5%, or 10% after 1 October 2007, is payable on the net amount, which comprises the dividend declared, less total dividends received or accrued during the dividend cycle. The dividend cycle extends between dividend declaration dates.

STC is payable on or before the last day of the month, following the month in which the dividend cycle ends. Interest on late payment of STC is charged at the prevailing SARS rate.

Dividends declared by a company in liquidation, or in anticipation of liquidation, winding-up or deregistration from capital profits that accrued after 1 October 2001, are subject to STC. If the capital profits accrued before that date, the dividend will be exempt from STC if declared in the process of liquidation or deregistration, provided certain prescribed steps are taken and instituted within 6 months after the date the dividend is declared.

Interest at the prescribed rate will be levied on late or underpayments of STC.

No penalty is charged in respect of a late payment of STC. However, 200% additional tax can be charged in the event of default or omission to correctly or properly pay any STC that may be due to SARS.

Anti-avoidance provisions exist that deem certain transactions and dealings between a company and its shareholders or connected persons in relation to the shareholders to constitute dividends. This includes, *inter alia*, interest-free loans and advances to, or asset distributions to shareholders or a connected person in relation to the shareholders.

The STC rules are to be replaced with a tax on shareholders level in 2008.

Provisional Tax

All companies and close corporations (except those engaged in gold mining activities) are obliged to make provisional tax payments.

Provisional payments are advance tax payments in respect of normal tax payable for the year. Companies are required to make the first provisional tax payment within 6 months of the tax year and the second provisional payment before the end of the company's tax year.

The third voluntary provisional payment is due 7 months after the end of the tax year if the year end is February and 6 months after the end of the tax year if the year end is on any other date. The third provisional tax payment must bring the total tax paid for the year to 100% of the taxpayer's liability, if interest is to be avoided. No interest is levied on companies with a taxable income of less than R20 000 on late or underpayments of provisional taxes.

Note: Third provisional tax payments are voluntary for <u>all</u> companies.

TRUSTS

Trusts are a separate fiscal entity and pay tax at a flat rate of 40% on income retained in the trusts. Trusts do not qualify for the annual interest exemption or the primary rebate.

Trusts pay capital gains tax (CGT) on 50% of all capital gains realised.

Various anti-avoidance provisions exist to combat the use of trusts for income splitting and tax avoidance structures. These provisions work predominantly on a basis whereby any income earned by the trust as a result of a donation, settlement, or disposition made by a person ('the donor'), which is not distributed, is deemed to be the income of that donor and taxed in his or her hands. If income is distributed to beneficiaries who are minor children of the donor, the income is also taxed in the hands of the donor. Similar provisions exist in respect of capital gains made by or accrued to a trust.

Trusts are very important in estate planning and if properly planned, managed and controlled can act as a significant shelter against future estate duties. With the introduction of CGT, the effectiveness of the use of trusts in estate planning has been slightly negated, but with careful planning the impact of CGT can be minimised and even completely avoided.

The legislation allows for a "special trust" to be taxed at the normal income tax rates applicable to individuals and not the 40% flat rate. A "special trust" is one that is created:

- solely for the benefit of a person who suffers from a mental illness or a serious physical disability, where that person is incapacitated from earning sufficient income or from managing his or her own financial affairs; or
- in terms of the will of a deceased person, where all the beneficiaries are surviving relatives of the deceased, the youngest of whom must be under the age of 21 at the end of the tax year.

CAPITAL ALLOWANCES

A number of amendments were proposed during the 2007 budget speech, of which the detail appears in the budget highlight section of this text.

Plant and Machinery

New or used plant and machinery used in the process of manufacturing or a similar process, qualify for a write-off over 5 years (20% per annum), subject to the accelerated depreciation allowance referred to below.

New or unused manufacturing assets acquired and brought into use, on or after 1 March 2002, will be written-off over a period of 4 years, 40% in year 1 and 20% per annum thereafter over the remaining 3 years.

Manufacturing assets acquired by small business corporations, as defined, can be deducted in full (100%) in the year the asset was acquired. Other depreciable assets acquired by small business corporations are eligible for a depreciation write-off at a 50:30:20 rate over a 3-year period.

Farmers are entitled to an allowance, over 3 years, of 50%, 30% and 20% respectively calculated on the cost of machinery, implements and articles used for farming, excluding passenger motor vehicles, office furniture and equipment. Farmers are also entitled to the deduction of various capital expenses against farming income.

These allowances can be recouped and are not reduced where the asset was used for only part of the year.

Wear and Tear Allowance

Assets used for trade (excluding buildings and assets qualifying for the above-mentioned allowances) qualify for a depreciation allowance on the straight-line basis over the useful life of the asset.

The Commissioner has approved the following write-off periods:

	Years
Personal computers	
- hardware	3
- software	2
- mainframe	5
Passenger cars	5
Delivery vehicles	4
Motor cycles	4
Furniture and fittings	6
Cash registers	5
Telephone equipment	5
Workshop equipment	5
Air conditioners (window type)	6
Calculators	3
Demountable partitions	6
Dental and medical equipment	5
Fax machines	3
Fitted carpets	6
Shop fittings	6
Photocopying equipment	5
Security systems	5
Cellular telephones	3
Containers	5
Burglar alarms (removable)	10
Fork-lift trucks	4
Front-end loaders	4
Neon signs and advertising boards	10
Television sets, video machines and decoders	6
Text books	3

Trucks (heavy duty)	3
Trucks (other)	4

A *more detailed list is available on request*.

In order to qualify for these write-off periods, the taxpayer must maintain an adequate fixed assets register. The allowance is reduced proportionately if the asset is purchased during the tax year. A shorter write-off period may be applied for. Assets costing R2 000 or less may be written off in full in the year of acquisition. A taxpayer may change from a reducing balance method to a straight-line method in respect of existing assets. Should the election be made, the straight-line method must be applied to all assets of the same class. The assets will have to be written off over the remaining period of their life. The remaining period of their life is the write-off period acceptable to SARS.

Where the original cost of an asset amounts to less than R2 000, the balance on changeover to the straight line basis may be written off in full in the year of the changeover.

Buildings

An annual allowance of 5% is allowed in respect of the cost of certain industrial and hotel buildings, and improvements thereto, if erection commenced on or after 1 January 1989. Where erection commenced before 1 January 1989, the annual allowance is limited to 2%.

For a limited period, the tax allowance of 10% was granted where the erection of any building commenced during the period 1 July 1996 to 30 September 1999 and the building was brought into use before 31 March 2000. The cost of such building would be written off at 10% per annum on the straight-line basis.

The annual allowance is also claimable in respect of purchased industrial buildings, provided that the seller was entitled to the allowance.

Residential Building Allowance

An initial allowance of 10% and an annual allowance of 2% of the cost of erecting housing accommodation for letting or for occupation by the taxpayer’s full-time employees may be deducted in the year in which the project is completed and the accommodation is first let or occupied, provided the project consists of no less than 5 housing units.

Housing Allowance

The taxpayer may deduct 50% of the cost (up to a maximum of R6 000) of erecting a dwelling for his employee (and his household) in certain circumstances.

FOREIGN EXCHANGE PROFITS AND LOSSES

Foreign exchange profits and losses are regulated in terms of section 24I that provides for the deduction/inclusion of exchange losses/profits both realised and unrealised whether of a capital nature or not.

Section 24I(10) which previously applied to exchange items between a South African resident and a controlled foreign company, was amended by the 2005 revenue laws amendment Act, and is now applicable to exchange items between one resident and specified foreign companies.

Certain unrealised gains and losses made on exchange items between a resident and specified foreign companies are disregarded in terms of section 24I(10).

TRADING STOCK

The purchase of trading stock is deductible for income tax in the tax year that the trading stock is disposed of. The net deduction to gross income is calculated by allowing for the cost of trading stock to be deducted in the year of purchase and by adding back to gross income, the lower of cost or net realisable value of any trading stock on hand at the year-end (closing stock).

The value of trading stock on hand at the end of the year becomes the opening trading stock for the following year and, as such, is deductible in that year.

Trading stock held by farmers is dealt with in the First Schedule of the Income Tax Act.

The LIFO method of valuation is not permitted.

Consumable stores and spare parts acquired to be consumed in the course of trade are also included in trading stock.

The cost price of contractors' work-in-progress relating to fixed property owned by another person must also be included in trading stock until the contract is complete. The cost price will be reduced by progress payments, retention monies and notional losses.

Trading stock is reflected exclusive of VAT if an input can be claimed and inclusive of VAT if an input cannot be claimed (i.e., the taxpayer is not a vendor).

A disposal of inventory for no consideration or an inadequate consideration or a disposal other than in the ordinary course of trading (e.g., stock ceasing to be held as trading stock) including a distribution of a dividend, a liquidation distribution, reduction of capital or share premium or redemption of redeemable preference shares *in specie*, will result in an inclusion in taxable income of an amount equal to the market value or cost of the stock, less the consideration, if any, received.

Where a marketable security is lent in terms of a lending arrangement (i.e., a stock loan), conditional upon a marketable security of the same kind and of the same quality and quantity being returned to the lender within 12 months, the marketable security is deemed not to have been disposed of by the lender, nor held by the borrower.

During a "company formation transaction" trading stock will be deemed to be transferred at cost. The transferor therefore makes no profit.

CAPITAL GAINS TAX (CGT)

The effective (valuation) date was 1 October 2001.

Determination of a Capital Gain or Loss

A capital gain or loss is the difference between the base cost of an asset and the proceeds received or deemed to have been received for that asset upon the disposal or the deemed disposal of that asset.

Four Cornerstones for Determining a Capital Gain or Loss

For CGT purposes, the following must be present:
- an asset;
- proceeds or deemed proceeds;
- a disposal or deemed disposal; and
- a base cost.

Asset

An "asset" is property of whatever nature, whether movable or immovable, corporeal or incorporeal, including:
- coins mainly made from gold or platinum; and
- any right or interest of whatever nature to or in such property,

but excluding currency.

Disposal

A "disposal" is any event, act, forbearance or operation of law and includes:

- any event that constitutes alienation or the transfer of ownership of an asset; e.g., sale, donation, cession, expropriation, grant or exchange;
- any event that results in expiry or abandonment of an asset; e.g., forfeiture, termination, redemption, cancellation, surrender, waiver, discharge, release, renunciation or relinquishment;
- scrapping, loss or destruction of an asset;
- vesting in a beneficiary of an interest in a trust asset ;
- distribution of an asset by a company to a shareholder;
- granting, renewal, extension or exercise of an option; or
- decrease in value of a person's interests in a company, trust or partnership through value shifting.

The following are not regarded as "disposals":

- transfer of an asset as security for debt;
- issuing or cancellation of shares by a company;
- granting of an option by a company to take up shares or debentures;
- issuing of units by an equity unit trust or the granting of an option to take up units;
- issuing of a bond, debenture, note or borrowing of money from a person;
- obtaining of credit from a person;
- distribution of trust assets to a beneficiary who has a vested right to the assets;
- correction at the deeds office of incorrect property registration; and
- lending of marketable security in terms of a lending arrangement.

Determination of Base Cost

Assets acquired before 1 October 2001:

- the base cost will be the sum of the "valuation date value" and qualifying costs incurred after the valuation date. The valuation date value, depending on the information and records available, can be determined by using any one of the following methods:
  - market value of the asset on 1 October 2001;
  - the time-apportionment base method; or
  - 20% of the proceeds from the disposal.

In the case of assets acquired before 1 October 2001, special rules apply to prevent taxpayers from claiming phantom losses or from being taxed on gains that were made before that date.

Assets acquired on or after 1 October 2001:

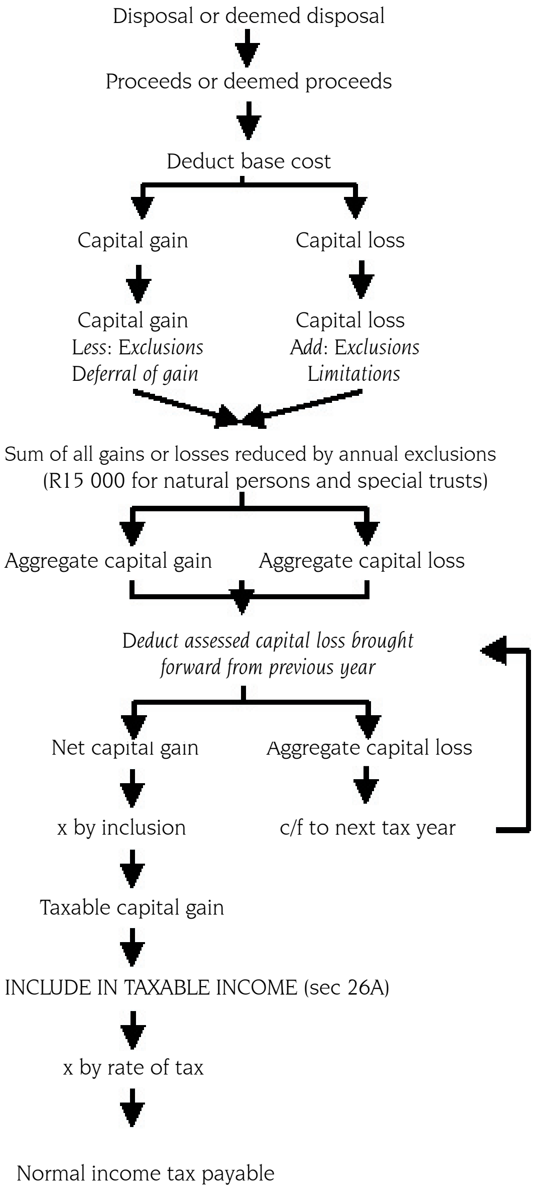
- the base cost is the price paid for the asset, plus certain other costs incurred that are directly related to buying it, selling it or improving it, e.g., transfer duties, attorney's fees, improvement costs, commissions, stamp duty, etc.

The following are examples of costs that cannot be added to the base cost:

- expenses otherwise allowable as a deduction for income tax purposes;
- borrowing costs;
- raising fees;
- rates and taxes; and
- insurance.

In the case of an asset that was subject to a deemed disposal (e.g., asset acquired through donation or inheritance), the base cost in the hands of the recipient will be equal to the deemed proceeds that were used to calculate the gain in the hands of the person who disposed of the asset.

Basic Framework



Inclusion Rates

Type of Taxpayer	Inclusion Rate (%)	Statutory Tax Rate (%)	Effective Tax Rate (%)
Individuals	25	0 - 40	4,5 - 10
Companies	50	29	14,5
Trusts			
. Unit	N/A	30	N/A
. Special	25	0 - 40	4,5 - 10
. Other	50	40	20
Retirement Funds	N/A	0	N/A
Life Assurers			
. Ind policyholder fund	25	30	7.5
. Co policyholder fund	50	29	14.5
. Corporate fund	50	29	14.5
. Untaxed policyholder fund	0	0	0

Death

The annual exclusion granted to individuals has increased to R60 000 during the year of death with effect from 1 March 2006 (increased to R120 000 effective date to be advised).

Liability for CGT

South African residents are liable for CGT on their worldwide assets.

Non-residents are liable for CGT on the following assets situated in South Africa:

- immovable property and any interest in or right to immovable property; and
- assets of a permanent establishment, branch or agency situated in South Africa through which a trade is carried on.

Withholding Tax Regime for Non-residents

It has been proposed that a capital gain made by a non-resident on the disposal of an immovable property or any right or interest therein is subject to a withholding tax regime. The obligation to withhold the tax would be placed upon the purchaser and the withholding rates vary from 5% to 10% depending on the nature of the non-resident seller.

No tax would need to be withheld in respect of transactions if the total value is less than R2million. Tax withheld by the purchaser must be paid within certain timeframes depending on details of the transaction and subject to any directive that may have been issued by SARS.

Certain obligations and even personal liability for taxes, penalties and interest would be placed upon estate agents and conveyancers involved in transactions where the seller is a non-resident.

Certain events are deemed disposals for CGT purposes, whilst certain other events will give rise to simultaneous disposals and acquisitions, e.g., emigration; when a person ceases to be a resident for South African tax purposes; waiver of debt by a creditor; death, etc.

Exclusions

The following are examples of assets that are excluded from CGT:

- primary residence owned by a natural person or special trust (various special rules apply and the exclusion only applies to the first R1,5million of the total gain made);
- most personal use assets, i.e., assets not mainly used for purposes of carrying on a trade;
- lump sum benefits from pension, provident or retirement annuity funds;
- proceeds from long term insurance policies (excluding second-hand policies);
- payments as compensation for personal injury, illness or defamation claims;
- gains from gambling, games or competitions authorised and conducted in terms of South Africa's laws;
- gains made by approved PBOs;
- gains and losses made by unit trust funds;
- gains of up to R750 000 on the disposal of a small business by reason of death, reaching the age of 55 or for reasons of ill-health, provided certain other requirements are met; and
- donations and bequests to approved PBOs.

Rollover or Deferrals

In the case of the following, the gain on the disposal of an asset is deferred until a subsequent CGT event:

- involuntary disposals (e.g., theft, fire) provided the asset is replaced within 1 year;
- re-investment in replacement assets that are brought into use within 1 year;
- transfers between spouses; and
- disposal of assets using the special corporate rules.

Capital Losses not taken into Account

Losses suffered in respect of the following transactions or events cannot be claimed for CGT purposes:

- losses on disposal of intangible assets acquired before 1 October 2001;
- losses in respect of certain forfeited deposits;
- losses suffered on transactions with connected persons. These losses are ring-fenced and can only be offset against gains resulting from dealing with that same connected person;
- losses on disposal of options on certain personal use assets; and
- losses on disposal of certain shares.

Assets held in Foreign Currency

Special rules apply in respect of assets held and disposed of in foreign currency.

In the case of foreign equity instruments, profits and losses resulting from foreign exchange differences must be accounted for.

"Currency" is excluded from the definition of an "asset" and therefore not subject to the normal CGT rules. Complex rules apply in determining capital gains and losses made in respect of the disposal or acquisition of "foreign currency assets" or the settlement or part settlement of a "foreign currency liability" because of foreign exchange fluctuations.

"Foreign currency asset" means:

- a unit of foreign currency; or
- a foreign loan, advance or debt owing by a person.

"Foreign currency liability" means a foreign loan, advance or debt owing by a person.

Any gains or losses in respect of foreign currency assets and liabilities up until 28 February 2003 have been excluded from the CGT net. With effect from 1 March 2003, these gains and losses are subject to CGT.

The following constitutes the disposal of a "foreign currency asset":

- the conversion, sale, donation, cession, exchange or transfer of that foreign currency asset;
- the forfeiture, loss, termination, redemption, cancellation, surrender, waiver, expiry or abandonment of that foreign currency asset; or
- the vesting of any foreign currency asset of a trust in a beneficiary of that trust.

Different pools must be created for different foreign currencies acquired after 1 March 2003. Foreign currencies held on 1 March 2003 are deemed to have been acquired into the various currency pools on that date and must be converted to Rands at the average exchange rate for the year ending 29 February 2004.

Every time new currency assets are introduced into a pool, the "total asset pool base cost" must be re-determined. When a foreign currency asset is disposed of, a *pro rata* portion of the "total asset pool base cost" must be allocated to that currency asset disposed of and the gain or loss calculated with reference to the Rand value of the disposed foreign currency asset.

The Calculation of CGT

Consideration on disposal	....
LESS: Base Cost	....
Capital Gain	....
LESS: Annual exclusion (if applicable)	....
LESS: Previous assessed capital loss	....
Net Capital Gain	________
MULTIPLIED BY: Inclusion rate (25% / 50%)	....
Amount of the capital gain to be included in the taxpayer's income	....

RESIDENCE BASED TAX

With effect from years of assessment commencing on or after 1 January 2001, all income earned by a South African resident became taxable in South Africa, whilst non-residents are subject to tax on their South African sourced income.

Definition of Resident

Natural Person
The definition of resident provides that in the case of a natural person, a resident is:

- any natural person who is ordinarily resident in South Africa; or
- any natural person who is not ordinarily resident in South Africa but who:
  - is physically present in South Africa for a period exceeding 91 days in aggregate during the current year of assessment and for a period exceeding 91 days in aggregate during each of the prior 5 years of assessment; and

- was physically present in South Africa for a period exceeding 915 days in aggregate during the previous 5 years of assessments,

in which case, that person will be a resident with effect from the first day of that relevant year of assessment.

Where a person (who is deemed to be a resident in terms of the physical presence test) has been outside of South Africa for a continuous period of at least 330 full days after he ceases to be physically present in South Africa, he will be deemed to not have been resident in South Africa from the day that he ceased to be physically present in the country.

South African resident employees who render services for any employer outside South Africa for a period which in aggregate exceeds 183 full days commencing on or ending during a period of assessment, and for a continuous period exceeding 60 full days during such 183 day period, will not be liable for income tax on their remuneration for the period that they are outside South Africa.

Companies
A company will be considered to be resident in South Africa for tax purposes if it is incorporated, established, formed or has its place of effective management in South Africa.

Foreign Branches of South African Companies

The taxable income of foreign branches will be subject to South African income tax.

Losses in foreign branches cannot be offset against income from a South African source with effect from years of assessment commencing on or after 1 January 2001 and must be carried forward for offset against foreign sourced income in the following years.

Controlled Foreign Companies (CFC)

A Controlled Foreign Company (CFC) means any foreign company where 50% or more of the total participation rights in that foreign company are held or more than 50% of the voting rights in that foreign company are directly or indirectly exercisable by one or more residents.

South African residents must impute all income of a CFC in the same ratio as the participation rights of the resident in such a CFC, subject to a number of exclusions.

Net income of the CFC is defined as the CFC's taxable income determined as if the CFC is a South African taxpayer.

Foreign Dividends (section 9E)

With effect from 23 February 2000 foreign sourced dividends earned by South African residents became taxable in South Africa with certain exceptions (e.g., dividends paid by dual listed companies where more than 10% of the shares of that "listed company" is held by residents).

Section 9E was introduced to regulate the taxation of foreign dividends received by or accrued to residents. It provides for various rules relating to the claiming of direct or indirect tax credits in the case of residents holding more than 10% of the shares of a foreign company. The section also contains a number of exemptions.

With effect from 1 June 2004, and in respect of any foreign dividends received or accrued during any tax year commencing after that date, section 9E has been deleted. This means that the new provisions regarding the taxation of foreign dividends will apply to individual taxpayers with effect from 1 March 2005, i.e., their 2006 tax year.

In essence, the new rules for the taxation of foreign dividends are supposed to make the process of taxing such dividends and the claiming of tax credits more simple and to encourage dividend inflows. Dividends paid to residents who own 26% or more of the shares in a foreign company shall be exempt from tax. However, persons holding an interest of less than 26% in a foreign company will not be able to claim indirect tax credits. They will only be entitled to claim direct taxes (e.g., withholding taxes) paid in respect of such dividends. Persons holding between 10% and 25% who wish to avail themselves of the indirect tax credit system can elect that the foreign company be treated as a CFC and that they be taxed on the income of that foreign company in proportion to their shareholding.

Foreign Tax Credits

A resident is allowed to deduct all foreign taxes paid in respect of foreign income included in his or her taxable income from the tax payable in South Africa on the total amount of such foreign income. Any excess credits may be carried forward.

BROAD-BASED BLACK ECONOMIC EMPOWERMENT

The Broad-Based Black Economic Empowerment ("BEE") Act aims to promote equality within the business sector. The Department of Trade and Industry has issued a general BEE scorecard to measure companies' BEE credentials.

The components of the scorecard include ownership, management, employment equity, skills development, preferential procurement, enterprise development and a residual element. Increasing emphasis is being placed on ownership.

Broad-Based Employee Share Plans

Section 8B has been introduced and is designed to promote empowerment of employees through share ownership. These provisions are likely to assist and encourage taxpayers in meeting their black economic empowerment objectives.

In summary, employees may acquire in aggregate R9 000 worth of shares from the employer or associated companies for a nominal consideration. The employee will be subject to capital gains tax on any amounts received or accrued, if the shares are held by the employee for more than 5 years before disposal. If the shares are disposed of within 5 years, any gains made will be taxable as normal income and subject to normal income tax.

The company is entitled to a deduction of the market value of any qualifying equity shares granted to employees, limited to a maximum of R3 000 in respect of each year of assessment and the two succeeding years of assessment.

In general, 'broad-based employee share plans' are subject to the following requirements:

- equity shares in the employer or other companies in the group are acquired by employees for a minimum consideration, namely the par value of the shares;
- at least 90% of the permanent or full time employees are entitled to participate (other than employees who participate in another equity incentive scheme of the group);
- employees who acquire the shares are entitled to all the dividends and have full voting rights of the shares acquired;
- no restrictions may be imposed on the disposal of the shares other than:
  - (a) restrictions imposed by legislation;
  - (b) a right of any person to acquire those equity shares from employees at market value; or
  - (c) a restriction in terms of which that employee may not dispose of those equity shares for a period of at least 5 years from the date of the grant of those shares.

The value of the equity shares acquired in terms of the plan may not exceed R9 000 in aggregate in the first year and the two succeeding years of assessment.

There are also additional reporting obligations which are placed on the employer company when the equity shares are subsequently sold pursuant to where the employee disposes of broad-based equity shares in exchange for other equity shares in the group due to restructuring.

TAX EXEMPTION FOR CHARITIES

In terms of the amended section 10 of the Income Tax Act, all organisations which were exempt from income tax prior to 15 July 2001, were obliged to re-apply for exemption prior to 31 December 2004. Organisations currently not formally exempt from income tax must apply for exemption.

Public Benefit Organisations (PBOs) must be approved as such and must comply with certain provisions, the most important of which are:

- the sole object of the entity must be to carry on one or more public benefit activity falling into eleven categories including the activities which would be carried on by:
  - . schools, technikons, universities and other educational bodies;
  - . religious bodies;
  - . organisations which provide housing or facilities for prescribed classes of persons;
  - . entities which provide certain welfare and humanitarian services;
  - . entities which provide certain health care services;
  - . conservation, environment and animal welfare bodies;
  - . research and consumer rights bodies;
  - . certain cultural bodies;
  - . amateur sports bodies; and
  - . charitable trusts which fund PBOs;
- at least 85% of the activities, measured in cost or time spent, must be carried out in South Africa;
- the management committee must comprise at least three persons who are not connected persons;
- no excessive remuneration and no profits may be distributed to any person;
- the PBO must register with the Department of Social Development as a Non-Profit Organisation;
- surplus funds may be invested only as prescribed; and
- if the PBO is approved in terms of section 18A as an entity, donations to which are tax deductible by the donor. However, 75% of its tax deductible donations must be used for the purposes of its activities within 12 months from the financial year in which they are received, unless SARS approves the accumulation of funds for a special purpose.

Organisations which were approved in terms of section 18A prior to 15 July 2001 were obliged to re-apply for approval prior to 31 December 2003, to avoid the approval lapsing.

TAX EXEMPTION FOR RECREATIONAL CLUBS

A recreational club is any specific company, society or other association of which the sole or principal object is to provide social and recreational amenities or facilities for it's members.

The Commissioner must approve a recreational club for exemption from normal tax if certain conditions are met, of which the following are the most important:
- a constitution for non-profit activities must be adhered to;
- surplus funds may only be distributed in terms of strict requirements;
- certain limitations regarding remuneration payable are adhered to; and
- members must be entitled to annual or seasonal membership which may not be sold.

Applications for the approval of the exemption status before 31 March 2009 may be approved with retrospective effect.

VALUE ADDED TAX (VAT)

VAT is levied at 14% of the value of all goods supplied by vendors, the major exceptions of which are as follows:

Exempt Supplies
- rental of residential accommodation;
- educational services;
- local passenger transport;
- trade union contributions;
- share block and body corporate levies;
- certain financial services;
- child care in a creche or after-school care; and
- the sale or letting of land outside South Africa.

Zero Rated Supplies
- the sale of a going concern between two VAT vendors;
- petrol sales, excluding aviation fuel;
- certain basic foodstuffs;
- certain goods to be used for farming purposes;
- exported goods and services, subject to prescribed requirements;
- goods supplied to a customs controlled area, subject to prescribed requirements;
- supply of gold to the South African Reserve Bank, mint or any registered bank;
- certain services rendered outside South Africa;
- international transportation and related services; and
- certain services supplied to any public or local

authority or municipality.

Essential Features

- enterprises with a turnover of less than R300 000 in any period of 12 months are not obliged to register for VAT;
- enterprises with a turnover of less than R20 000 in any period of 12 months are not permitted to register for VAT;
- VAT returns are generally submitted on a 2 monthly basis unless turnover in any period of 12 months exceeds R30million, in which case returns are submitted monthly;
- farmers may submit VAT returns on a 6 monthly basis and property letting companies may, subject to certain requirements, submit annual VAT returns;
- businesses with turnover of less than R1,2million may apply to submit returns quarterly, i.e., once every 3 months;
- a vendor is legally obliged to notify SARS as soon as annual turnover exceeds or is expected to exceed R30million;
- vendors may reclaim the VAT element of all expenditure except on:
  - entertainment, except qualifying subsistence;
  - passenger vehicles (including hiring); and
  - club subscriptions.
- input tax credits may not be claimed on expenditure relating to exempt supplies;
- input tax credits may only be claimed upon receipt of a valid tax invoice;
- from 1 March 2005, the name, address and VAT registration number of the recipient must appear on tax invoices where the VAT inclusive total exceeds R3 000;
- a notional input tax credit may be claimed on the purchase of second hand goods, subject to prescribed requirements;
- notional input tax claimed on property transactions is limited to transfer duty paid on all transactions;
- all fee based financial services (with the exception of certain premiums on life policies and contributions to retirement funds) are subject to VAT with effect from 1 October 1996;
- only natural persons may, provided permission has been granted by SARS, account for VAT on the payments basis; and
- non-residents can, subject to certain conditions, qualify for a VAT refund on goods purchased in South Africa.

GOVERNMENT INCENTIVES

Government has long and short-term economic objectives it aims to achieve. It is impossible for these objectives to be achieved without the intervention of the private sector and these activities are therefore encouraged and rewarded by Government. At present, there are around 59 local incentives and 40 foreign incentives available to South African businesses. Incentive categories include research and development, enterprise development, competitiveness improvement and export development.

In addition to this, there are industry-specific incentives, empowerment incentives, social incentives and incentives to support specific types of transactions.

A summary of some of the available incentives are set out as follows:

- *Export Incentives*: There are several incentives to help South African companies gain access to export markets. Some of these incentives are available to exporters operating in disparate industries and others are highly industry-specific. Incentives include the Export Marketing and Investment Assistance Scheme (EMIA), Motor Industry Development Programme (MIDP), and Duty Credit Certificate Scheme (DCCS).
- *Research and Development* (R&D): R&D incentives exist to assist South African companies to invest in R&D projects. The Support Programme for Industrial Innovation (SPII), serves to promote local innovation resulting in the development of new products or processes. Three schemes are available to successful applicants namely, the matching scheme available to small and medium enterprises, the partnership scheme available to all private sector enterprises and the product process deveopment scheme available to small, very small and micro black-owned private sector enterprises. There is also a Technology and Human Resources for Industry Programme (THRIP) and Inannovation Funds (IF).
- *Capital Projects*: Any decision to make an investment in new or increased capital manufacturing capacity is not taken lightly. Significant capital is exposed in any such transaction and the impact on the business will always be significant. There are a number of significant incentives relating to investment in manufacturing capacity. Support ranges from small investments to investments of billions of Rands. This includes the Small Medium Enterprise Development Programme (SMEDP), the Foreign Investments Grant (FIG), the Skills Support Programme (SSP), the Strategic Industrial Projects (SIP) and the Critical Infrastructure Programme.

- *Competitive Behaviour*: Companies often have access to capital at optimal costs and to state of the art equipment and production facilities, and are still not competitive when compared to domestic competitors and to imports. In order to address this anomaly there is a suite of incentives designed specifically to encourage competitive practices by South African companies such as the Black Business Supplier Development Programme (BBSDP) and the Sector Partnership Fund (SPF).

ESTATE DUTY

The general rule is that, if the deceased is ordinarily resident in South Africa at the time of death, all his assets, wherever they are situated, will be included in the gross value of his estate for the determination of duty payable thereon.

The dutiable amount is arrived at as follows:

Value of all property at date of death (including limited interests such as usufructs, and off-shore assets)	R.................
Deemed property *	R.................
Gross value of property	R.................
Deductions **	R.................
Net value of estate	R.................
Abatement	R (3 500 000)
Dutiable amount	R.................
Estate Duty thereon at 20%	R.................

* Deemed property includes: insurance policies on the life of the deceased as well as any accrual claim the deceased's estate may have against a surviving spouse.

** The most important deductions are:
- funeral expenses and administration costs;
- debts due at date of death, which includes the income tax and CGT liability of the deceased for the period prior to death;
- charitable and other bequests; and
- property inherited by a surviving spouse.

There is relief from estate duty in the case of the same property being included in the estates of taxpayers dying within 10 years of each other. The deduction is calculated on a sliding scale decreasing from 100% where the taxpayers die within two years of each other to 20% where the deaths are within 8 to 10 years of each other.

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

South Africa has entered into reciprocal agreements with various countries (e.g., United Kingdom and Canada) for the avoidance of double estate duty being payable in respect of the same property.

Rates

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

DONATIONS TAX

Donations tax is payable on the value of any gratuitous disposal of property including the disposal of property for inadequate consideration by any resident, individual or private company which is incorporated, managed or controled in South Africa. Public companies are exempt from donations tax.

A donation is also a disposal for CGT purposes.

Principal Exemptions

- donations between husband and wife;
- donations to approved PBOs;
- the donation of assets outside South Africa, subject to certain conditions;
- casual donations up to R10 000 per year by donors other than natural persons;
- donations by natural persons not exceeding R100 000 per year; and
- *bona fide* maintenance payments.

Rates of Donations Tax

Donations tax is payable within 3 months after the donation at a flat rate of 20% on all donations made.

SECURITIES TAX

Securities Tax (ST) is payable on a change of beneficial ownership at a rate of 0.25% of the "taxable amount" of all listed or unlisted securities .

The "taxable amount" means the purchase consideration on change of ownership (including cancellation or redemption). If there is no consideration, or the consideration is less than fair value, ST will be payable on the market value or the closing price of the securities on the date of the transaction. Where ST is payable, no stamp duty is payable on the registration of transfer of the security.

With effect from 1 January 2006 no ST is payable on the issue of shares. The cancellation or redemption of a security (including share buy-backs and redemptions) will however be regarded as a change in beneficial ownership and therefore subject to ST.

STAMP DUTY

Leases of Immovable Property

Stamp duty is payable on leases of fixed property at a fixed rate of 0.5% on the quantifiable amount of the lease. It is proposed that the stamp duties on short-term leases (less than 5 years) be abolished.

The quantifiable amount is the quantifiable rent payable (excluding VAT) for the full period of the lease plus any quantifiable "other consideration" including costs of improvements to be effected by the lessee and the amount of any liabilities of the lessor which are to be paid by the lessee.

If rentals or other considerations subsequently become quantifiable, additional stamp duty must be paid within 6 months from the end of the lessor's tax year or if the lessor is not a taxpayer then on or before 31 August each year.

Where stamp duty would be less than R500 the lease will be exempt from stamp duty.

TRANSFER DUTY ON IMMOVABLE PROPERTY

Transfer Duty is levied on the greater of purchase price or market value on the transfer of immovable property in the Republic. The indirect acquisition of residential property by way of the acquisition of shares, member's interest in a close corporation or a contingent right in a discretionary trust is subject to transfer duty. Rates applicable from 1 March 2006:

a. Companies, close corporations and trusts:	8%
b. Natural persons:	
on first R500 000	0%
R500 001 to R1 000 000	5% of value above R500 000
R1 000 001 and above	R25 000 + 8% on value above R1 000 000

REGIONAL SERVICES COUNCIL LEVIES

RSC levies were abolished with effect from 30 June 2006.

SKILLS DEVELOPMENT ACT

The skills development levy (SDL) is a levy payable by an employer on its payroll. The funds collected from this levy are used to finance a national skills development programme.

All employers (subject to certain exemptions) are required to pay 1% of their payroll on a monthly basis to SARS or a Sector Education and Training Authority (SETA).

No SDL is payable by employers with a payroll of less than R500 000 per annum or by any public service employer, certain approved public benefit organisations and certain national and provincial entities.

COMPARATIVE TABLE OF TAXES PAYABLE IN CERTAIN SOUTHERN AFRICAN STATES

	South Africa	Zambia	Botswana	Lesotho	Namibia	Swaziland	Mozambique	Zimbabwe
COMPANY TAX								
Manufacturing	29%	35%	15%	0%/10%	18%	30%	32%	30%
Normal non-mining, local	29%	35%	25%	25%	35%	30%	32%	30% + AIDS levy 3%
Non-resident Branch	34%	35%	25%	25%	35%	15%	32%	-
Mining and other	37% (gold)	25%/35%	25%	25%	55% diamond 37,5% other	30%	10% (agriculture and mining)	15%
INDIVIDUAL TAX								
Maximum rate	40%	37.5%	25%	35%	35%	33%	32%	35%
Non-residents	40%	37.5%	25%	25%	-	-		-
Level of taxable income at which maximum rate applies	R450 001	K68 664 240	P120 000	M33 075	N$200 000	E75 000	MZM1 008 000 001	Z$216 001 + AIDS levy 3%
OTHER TAXES								
Distributed Profits Tax	12.5% (10%)**	-	-	-	-	-	-	-
CGT	14,5%	-	25%	-	-	30%*	-	20%
VAT	14%	17.5%	10%	14%	15%	-	17%	15%
GST	-	-	-	-	-	14%	-	-
NRST	-	15%	15%	25%	10%	15%**	20%	15%/20%
NRTI	-	15%/25%	15%	25%	-	10%	20%	10%
NRTF	-	-	15%/10%	10%/25%	-	15%	10%/20%	20%
Royalty Tax (withholding tax)	12%	15%	12,5%	10%	10.5%	15%	20%	20%

The above table has been compiled from information supplied and is subject to confirmation.

* Only on disposal of mineral rights ** 12,5% for companies in Southern Africa reduced to 10% with effect 1 October 2007 phased out in 2008 **** Special VAT rate for Cellular telecommunications suppliers

NAMIBIA

Tax Year

The tax year-end for individual taxpayers is 28/29 February of each year. Companies and close corporations have 31 December tax year-ends.

Company Tax Rates

N*on-manufacturing*, *petroleum mining*, *non-mining companies* (*including branches of foreign companies and insurance companies*), *and close corporations* are taxed at the rate of 35%.

R*egistered manufacturing companies and close corporations*, where the approval was granted before 1 January 2003, the rate is 18% for the first 10 years, including the year when the taxpayer was registered and thereafter the 35% rate applies. For the approval to be granted after 1 January 2003, the 18% applies to the first 10 years of registration, thereafter 35% applies.

For *hard rock mining* (other than diamond mining, oil and gas extraction) the rate will be 37,5%.

For *diamond mining* there is a 50% rate of taxable income and 10% surcharge on tax payable with an effective rate of 55%.

Retirement funds are exempt from income tax.

Capital Gains Tax (CGT)

There is no CGT system in Namibia. Certain capital gains are, however, specifically included in Gross Income.

Withholding Tax

- 10% withholding tax is deductible on dividends received by non-resident shareholders whether corporate or individual;
- royalties paid to non-residents are subject to 10,5% withholding tax;
- Double Taxation Agreements (DTA) may override these withholding taxes. There are DTA's with France, Germany, India, Mauritius, South Africa, Romania, Russia, Sweden and the United Kingdom; and
- no restrictions apply when foreign funds are introduced into Namibia as share capital. Share certificates must be endorsed "non-resident". Companies owned by non-residents should observe a ratio of share capital to fixed assets of 1:1. Introduction of loan funds from abroad are subject to specific exchange control approval.

Estate Duty/Donations Tax

There is currently no estate duty or donations tax.

Transfer Pricing and Thin Capitalisation

Transfer pricing legislation was introduced with effect from 14 May 2005. The legislation regulates international goods or service transactions between connected persons, and allow Revenue to disallow certain expenditure/adjust income if the contract price is less or more than the price would have been between parties dealing at arm's length.

Thin capitalisation rules to regulate the financial assistance granted by non-residents to connected Namibia companies were also introduced in 2005. This enables Revenue to disallow interest charged on excessive debits, if they deem a company to be thinly capitalised.

Value Added Tax (VAT)

- The standard rate applicable is 15% on taxable supplies.
- Zero ratings and exempt supplies apply to certain goods and services.

BOTSWANA

Tax Year

Companies and individuals are assessed on an annual basis at 30 June.

Company Tax Rates

Companies	25%
Manufacturing Companies	15%
International Financial Services Centre (IFSC) Companies	15%

Although the above is the total tax chargeable, with no additional tax, there is a timing and administration split of this tax rate, with a basic company tax rate of 15% and an Additional Company Tax (ACT) rate of 10%.

Manufacturing companies are taxed at a basic rate of 5% and an ACT of 10% (a specific application has to be submitted to the Ministry of Finance and a Development Approval Order should be obtained in order to qualify for this special rate). The Withholding Tax (WHT) of 15% on dividends declared and paid is allowed as an offset against the 10% ACT. If the 10% tax due in any year is greater than the 15% WHT tax, the excess is carried forward and offset against WHT due on dividends in succeeding tax years.

Capital Gains Tax

Capital gains tax is charged on gains arising on the disposal of certain assets, irrespective of whether the tax payer is a resident or not, at a maximum of 25%.

Capital gains subject to tax include gains on all movable and immovable property of a business nature carried on in Botswana and investments in shares or debentures of a company.

However, gains arising in respect of the following are exempt:
- principal private residence;
- shares and debentures of a public company;
- plant and machinery, but not buildings, in respect of which annual allowances have been granted; and
- gains arising from disposal of mineral rights and mining or prospecting information.

100% of net gains on immovable property will be taxable, whereas only 75% will be taxable on moveable property.

Capital losses can be carried forward for a maximum of one year.

Withholding Tax

- 15% WHT is deductible on dividends paid. Note that, as mentioned above, this amount can be offset against company tax payable.
- Payment of interest to a non-resident is subject to WHT of 15% on payment.
- Commercial royalties and management or consultancy fees paid to non-residents are subject to 15% WHT.
- 10% WHT is deductible on entertainment fees paid to a non-resident.
- 3% WHT is deductible on construction contracts that are in excess of Pula5 000, but the withholding tax does not apply to construction related services.
- For South African companies there is a double tax treaty in place which allows amounts to be reclaimed against SARS. Also the rates above are reduced to 10% for dividends (if shareholding held >25%), interest, royalties etc, and 0% on entertainment fees.

Self Assessment Tax (SAT)

Under this scheme, tax is payable on a quarterly basis in advance with a final payment due during the first 4 months of the subsequent financial year and is at present only applicable to companies. The quarterly payments must not be less than 20% of the actual liability for the relevant tax year. SAT is mandatory for companies with tax payable of over Pula50 000.

Individuals

The maximum tax rate of 25% applies to individuals earning Pula120 000 and more; up to this amount tax of Pula10 875 is payable.

Income up to Pula30 000 is tax free (only applicable to residents), with tax brackets being in staggered intervals up to the maximum bracket exceeding Pula120 000.

Value Added Tax

Introduced on 1 July 2002.

The standard rate of 10% applies to taxable supplies. Certain services or suppliers are either zero-rated or exempt.

Compulsory registration is required for those persons whose taxable turnover is in excess of Pula250 000 and all auctioneers, irrespective of their annual turnover.

There are 2 categories of VAT periods, those of 1 calendar month (if turnover is over Pula12 million) and those of 2 calendar months.

EXCHANGE CONTROL

Facilities available to South African Residents

Travel Allowances for visits outside the Common Monetary Area (CMA)

- R160 000 per calendar year per person of 12 years and older; and
- R50 000 per calendar year per child under 12 years.

Travel facilities may be provided by way of traveller's cheques, foreign bank notes and credit/debit cards.

Travel facilities not availed of during 1 calendar year may not be carried forward to the following year.

Travellers proceeding on visits outside the CMA are permitted to export up to R5 000 per person in South African Reserve Bank notes. This is not regarded as being part of the travel allowance.

Business Travel Facilities
Authorised dealers may approve applications by firms/ companies for omnibus travel facilities to R2million per calendar year for allocations at the discretion of the firm/ company. Representatives of the firm/company using this

facility also qualify for the travel allowances referred to above.

Foreign Investment by South African Residents

Natural Persons

Private individuals over the age of 18 years are permitted to invest an amount of R2million outside the CMA. A tax clearance certificate must be obtained from SARS prior to the transfer of funds. These funds may not be utilised to invest directly or indirectly back into South Africa. The Reserve Bank will also consider applications by private individuals to invest in fixed property in SADC member countries against submission of a tax clearance certificate.

South African Resident Companies

Requests to invest overseas are considered on merit. The investor must be able to motivate that the investment will result in a long-term benefit to the South African economy. Similarly, major corporates may apply to establish primary listings offshore.

Dividends repatriated from foreign subsidiaries are eligible for an exchange control credit. Dividends declared and paid after 26 October 2006 may be utilised for any purposes at any stage, except for loans into the CMA.

Institutional Investors

Long term insurers, pension funds and fund managers may invest 15% of total assets offshore. Whereas unit trusts may invest 25% of the total assets under management offshore.

South African Residents Temporarily Living Abroad

Such persons qualify for:

- a standard travel facility (subsistence allowance R160 000 per adult and R50 000 per child under 12 years);
- exportation of household goods and personal effects and motor vehicles with a maximum insured value of R1million.

Study Facilities

Foreign exchange study facilities are restricted to permanent residents of South Africa who are taking fulltime courses at recognised educational institutions abroad. The facilities comprise:

- full amount of tuition and academic fees for the academic year transferred directly to the institution concerned;
- R160 000 living allowance per year for single students;
- R320 000 living allowance per year for a student accompanied by a spouse who is not studying; and
- R50 000 per person per year (R100 000 if accompanied by a spouse) is allowed as a vacation travelling allowance.

Gifts

South African residents may transfer monetary gifts within a limit of R30 000 per applicant per calendar year to non-resident individuals, and to resident individuals who are overseas temporarily, excluding those residents who are abroad on holiday or business travel.

Alimony and Maintenance Transfers

Authorised dealers may permit alimony transfers to non-residents on presentation of a court order. Where the applicant wishes to effect a monthly payment in excess of the amount stipulated, authorised dealers may transfer up to an amount of R9 000, per month over and above the stipulated amount.

Residents of South Africa may transfer an amount of up to R9 000 per month to a receiving family unit (being a father, mother, brother or sister relation of the South African resident) who is in necessitous circumstances.

Royalties and Licence Fees

Agreements by South African companies to pay royalties, licence and patent fees to non-residents in respect of the local manufacturing of a product are subject to the approval from the Department of Trade and Industry.

Agreements by South African companies to pay royalties, licences and patent fees to non-residents where no local manufacturing is involved, are subject to the approval of Excon (the Exchange Control authorities).

Non-Residents

Non-residents may freely invest in the Republic, provided that suitable documentary evidende is received in order to ensure that such transactions are concluded at arms length, at fair market-related prices, and are financed in an approved manner. Such financing would require prior exchange control approval.

Capital Transactions

Proceeds from the sale of assets in South Africa, owned by non-residents (excluding emigrants), may be remitted abroad.

Dividends

Dividends declared by quoted companies out of income earned are remittable to non-resident shareholders. An emigrant shareholder will be entitled to dividends declared out of income earned after the date of emigration.

Dividends declared by non-quoted companies are remittable in proportion to percentage shareholdings, subject to certain restrictions. Dividends in favour of emigrant shareholders may be remitted subject to additional requirements.

Directors Fees

Authorised dealers may transfer directors fees to non-resident directors permanently domiciled outside South Africa, provided the application is accompanied by a copy of the resolution of the board of the remitting company, confirming the amount to be paid to the beneficiary.

Management and Administration Fees

Requests for payment of management and administration fees are considered by Excon on merit, taking into account the reason for the fees, nature of the services and the basis of calculation.

Emigrants from South Africa

Emigrants qualify for:
- a cash allowance (equal to a travel allowance);
- a foreign capital allowance; and
- exportation of certain items.

Cash Allowance
Emigrants qualify for a cash allowance equal to the annual travel allowance available to South African residents.

Foreign Capital Allowance
- R2million per single person; or
- R4million per family unit.

Persons who have emigrated and who have not fully utilised the authorised foreign capital allowance, may be afforded additional capital transfers within the overall limits.

Quoted securities may be exported as part of the emigration facilities based on the market value thereof at the time of availing of the applicable allowance. The relevant securities must be restrictively endorsed.

Exportation of Goods
Emigrants may export household and personal effects and motor vehicles within the overall insured value of R1million.

These goods, other than clothing, must have been in the emigrant's possession for at least 1 year prior to emigration.

Further Regulations
- Foreign assets held by an emigrant are not deducted from the settling-in allowance; and
- Emigrants must declare whether any assets were received as donations or gifts within the last 3 years or as capital distributions from *inter vivo* trusts within the last 5 years, prior to the date of emigration.

Blocked Funds

Assets of an emigrant in excess of the above allowances remain blocked in South Africa. They must be brought under the control of an authorised dealer and may be released for payment of specified investments and/or expenses.

Emigrants can, on application, request to transfer blocked assets in excess of the foreign capital allowance limits, subject to an exit schedule approved at the discretion of the South African Reserve Bank. An exit charge of 10% of the amount remitted is charged.

Blocked assets are required to be invested in prescribed assets as determined by the South African Reserve Bank.

Certain income from a South African source may be remitted to emigrants. A detailed listing is available on request.

Distributions from Estates

Bequests and the cash proceeds of and inheritances due to heirs permanently resident outside South Africa may be remitted abroad.

PRIME BANK OVERDRAFT RATES

Effective Date	Rate %
08.12.06	12.50
13.10.06	12.00
03.08.06	11.50
08.06.06	11.00
15.08.05	10.50
16.08.04	11.00
18.12.03	11.50
20.10.03	12.00
16.09.03	13.50
14.08.03	14.50
12.06.03	15.50
13.09.02	17.00
14.06.02	16.00
14.03.02	15.00
15.01.02	14.00
08.10.01	13.00
16.07.01	13.50
18.06.01	13.75
14.01.00	14.50
04.10.99	15.50
02.08.99	16.50
19.07.99	17.00
14.07.99	17.50
25.06.99	18.50
19.04.99	19.00
09.03.99	20.00
13.02.99	21.00
08.01.99	22.00

The above details relate to prime overdraft rates charged by Nedbank Ltd. The effective date may differ slightly at other banks.

RETENTION OF RECORDS

Set out below is a summary of certain recommended or statutory retention periods:

	Retention Period (years) Originals
Accounting Records Books of prime entry	
• Cash books, creditors ledgers, debtors ledgers, fixed asset registers, general ledgers, journals, petty cash books, purchase journals, sales journals, subsidiary journals and ledgers, as well as supporting schedules to such books of account, etc.	15
• Vouchers, working papers, bank statements, costing records, creditors invoices and statements, debtors invoices and statements, goods received notes, journal vouchers, payrolls, purchase orders and invoices, railage documents, salary and wage registers, sales tax records, tax returns and assessments, etc.	5
Employee Records	
• Expense accounts, payrolls, employee tax returns etc.	4
• Medical records.	3
Companies and CCs	
• Annual returns, certificates of change of name, incorporation and to commence business, founding statements, amended founding statements, memorandum and articles of association, minute books, notices of meetings, etc.	Indefinitely
• Branch registers, registers of directors attendance, debenture holders, directors and officers, directors' interests, members pledges and bonds, etc.	15
Share Registration Records	
• Return of allotments, register of allotments.	45
• Indemnity for lost share certificate.	12
• Cancelled share transfer forms.	12
• Dividend payment lost.	15

RETENTION OF RECORDS (continued)

	Retention Period (Years) Originals
Other Documents	
Customs and Excise Act	
• Documentation for export incentive scheme claim.	5
• Other documents.	2
Compensation for Occupational Injuries and Diseases Act	
• Records of wages paid, time worked and payment for piece work and overtime, and of any particulars prescribed for at least 4 years after the date of last entry in those records.	4
Insolvency Act	
• The insolvent's records of his transactions.	3
• Trustees' records - after rehabilitation.	5
Occupational Health and Safety Act	
• A copy of the Act; an incident register Certificate of compliance (electrical) etc.	Indefinite
• Record of employees exposed to asbestos fibres.	50
Value Added Tax Act	
• Books of account, recording the supply of goods to or by the vendor; invoices; tax invoices; credit and debit notes; bank statements; deposit slips; stock lists and paid cheques.	5
Information in book form – 5 years from last entry.	
Computerised records must be kept in printout form, not just on disk or tape.	
Capital Gains Tax	
All records relating to capital transactions	
• If a person is not required to render tax returns - from the date of disposal.	5
• For taxpayers - from the date of receipt by SARS of the relevant tax return.	5
Income Tax Act	
• From date of receipt of the return by SARS.	5

TAX TIMETABLE 2007

Description	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Provisional taxes:												
Individuals		28 (2nd)						31 (1st)	28 (3rd)			
Trusts		28 (2nd)						31 (1st)	28 (3rd)			
Companies & CCs												
Dec year - end						29 (1st/3rd)						31 (2nd)
Jan year - end	31 (2nd)						31 (1st/ 3rd)					
Feb year - end		28 (2nd)						31 (1st)	28 (3rd)			
Mar year - end			30 (2nd)						28 (1st/3rd)			
Apr year - end				29(2nd)						31 (1st/3rd)		
May year - end					31 (2nd)						30 (1st/3rd)	
Jun year - end						29 (2nd)						31 (1st/3rd)
Jul year - end	31 (1st/3rd)						31 (2nd)					
Aug year - end		28 (1st/3rd)						31 (2nd)				
Sep year - end			30 (1st/3rd)						28 (2nd)			
Oct year - end				29 (1st/3rd)						31 (2nd)		
Nov year - end					31 (1st/3rd)						30 (2nd)	
PAYE	5	7	7	5	7	7	6	7	7	5	7	7
VAT	25	23	23	25	25	25	25	24	25	25	23	24
UIF	5	7	7	5	7	7	6	7	7	5	7	7
STC	By the last business day of the month following the month in which the dividend accrues											
Withholding tax on royalties	Within 14 days of month end i.e. the last Friday within the 14-day period in which royalty liability was incurred											
Tax returns (without extension):												
Individuals and trusts							31					
Companies and CCs												
- Dec year - end		28										
- Feb year - end				28								
-Jun year - end									28			
IRP5 certificates - issue date				29								
IRP5 certificates - reconciliation date				29								

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Johannesburg

Directors

Chris Ewing (Chairman)
Nick Altini
Eugene Bester
Preeta Bhagattjee
Fahdia Bhayat
Natalie Browne
Ryan Butler
Harry Christodoulou
Joz Coetzer
Lucia Erasmus
Hans Evenhuis
Tim Fletcher
Deon Govender
Ian Hayes
Hugh Jackson
Martin Jackson
Willem Jacobs
Rob Jarvis
Fred Kolbe
Matshipi Mabane
Janet MacKenzie
Brigitte McGregor
Tim Mills
Mondo Ntlha
Sam Oosthuizen
Aadil Patel
David Pinnock
Michael Whitaker
Craig Whitley
Deon Wilken
Jonathan Witts-Hewinson

Consultants

Henry Bennett
Tim Jooste
Kevin Lester

Senior Associates

Chris Charter
Winile Madonsela
John McFarlane
Tsakani Mhlanga
Verushca Pillay

Cape Town

Directors

Jo Neser (Deputy Chairman)
Ashley Adriaans
Owen Barrow
Ingrid Broodryk
Michael Collins
Lionel Egypt
Simóne Franks
John Gomes
Andrew Heiberg
Jay-Ann Jacobs
Rekha Jaga
Alan Jeftha
Emma Kingdon
Gillian Lumb
Dawie Malan
Richard Marcus
Nick Muller
Francis Newham
Koos Rossouw
Brigit Rubinstein
David Thompson
Zithu Twala
Randall van Voore
Jacques van Wyk
Brent Williams

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Anthony Plummer
Thys Seyffert
Anthonie Troskie

Special Advisor

Prof Hugh Corder

Senior Associates

Carla Batt
Mark Olivier
Kaamilah Paulse
Tania Steven-Jennings
Eben van Wyk

Business Manager

Howard Cooke

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