CLIFFE DEKKER

FINANCIAL AND TAXATION DIRECTORY 2008/2009

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FINANCIAL AND TAXATION DIRECTORY

2008/2009

Cliffe Dekker is a national law firm of more than 60 directors and some 160 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 on 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 we have access to DLA Piper's international network which stretches across Europe, the Middle East, Asia and the US.

Transformation is a top priority. We are committed to developing a practice that cherishes diversity and actively contributes to attaining the objectives of Black Economic Empowerment. We have earned the EmpowerDex AAA rating, which qualifies the firm as a ‘Level 2, Good BEE Contributor’.

The information contained in this booklet is accurate at the time of publication, 20 February 2008, but should not be acted upon without professional advice.

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HIGHLIGHTS OF THE 2008/2009 BUDGET
20 FEBRUARY 2008

The contents of this publication incorporates the budget proposals tabled in Parliament on 20 February 2008 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 R43 000 to R46 000 for persons under the age of 65. For persons aged 65 and over the tax threshold increases from R69 000 to R74 000.

The primary rebate increases from R7 740 to R8 280. The secondary rebate for individuals aged 65 and over increases from R4 680 to R5 040.

The maximum marginal tax rate at 40% is applicable to taxable income above R490 000 (previously R450 000).

Interest and Dividend Income Exemption

The interest and foreign dividend exemption is to be increased from R18 000 to R19 000 for taxpayers under 65 and from R26 000 to R27 500 for taxpayers aged 65 and over.

The portion of the exemption applicable to foreign interest and foreign dividend income increases from R3 000 to R3 200.

Medical Expenses

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

With effect from 1 March 2008, the monetary cap applicable to the deduction of monthly contributions to medical schemes (in the case of taxpayers under 65 years of age) will be increased from R530 to R570 in respect of the taxpayer and the first dependant, and from R320 to R345 for each additional dependant.

Definition of Disability

All medical expenses and other specified expenses are currently deductible in respect of disabled persons. The definition of disabled persons is considered to be outdated and will be reviewed. A limitation on the types of expenses that may be deducted that do not reasonably relate to the disability will also be considered.

Standard Income Tax on Employees

The standard income tax on employees (SITE) system assumes that a SITE taxpayer will work for a full tax year. This may lead to individuals earning below the tax threshold (for a specific year) paying income tax. It is proposed that SITE payments should become refundable in such cases.

Bursaries for Relatives of Employees

Where an employer grants a bursary to an employee's relative a taxable fringe benefit arises. For employees earning up to R100 000 per year (previously R60 000), R10 000 (previously R3 000 per year) of this fringe benefit is tax-free.

Travelling Allowances

The deemed cost tables for travelling allowances will be updated for inflation, including higher interest rates and fuel prices.

Retirement Savings

The taxation of lump sum payments on retirement was simplified in 2007. The taxation of other withdrawals from retirement funds will now also be simplified.

Divorce settlement payments made by retirement funds will be taxable in the hands of the non-member spouse. Consolidation of the various tax-relief related monetary thresholds and percentage contributions by both employees and employers towards retirement saving vehicles will also be considered. An overall monetary cap to limit the tax benefits of such contributions will be considered.

Capital Gains Tax

The annual capital gain/loss exclusion for individuals and special trusts is increased from R15 000 to R16 000.

Corporate Income Tax Rate

The corporate income tax rate is to be reduced from 29% to 28%. This measure is intended to reduce the cost of capital, facilitate an increase in private sector investment and stimulate the supply side of the economy.

It is proposed that closely held (passive) companies be subject to a 40% tax rate in order to limit tax avoidance that may arise based on the gap between the corporate tax rate and top marginal personal income tax rate.

Secondary Tax on Companies

A reform to the secondary tax on companies (STC) regime was announced in the 2007 Budget. The 2008 Budget announced that the second phase of reforms to STC would be implemented, culminating in the introduction of a final withholding dividend tax at shareholder level in 2009. It was also announced that the withholding tax rate will remain at 10%, that there will be no dividend withholding tax applied to dividends declared to income tax exempt entities, and that all existing STC credits will expire.

Learnership Allowances

It is proposed that the learnership tax allowance be amended to take into account longer-term apprenticeships, focusing on those of a technical nature, such as electricians, welders, plumbers, mechanics and others.

Industrial Policy Tax Incentives

Tax incentives to encourage investment in labour-intensive or strategic sectors will be considered. An amount will be set aside for tax incentives to be used over three years in support of sectors identified as vital to the emerging South African industrial strategy.

Urban Development Zones

The tax incentives available for investments in Urban Development Zones will be extended for a five-year period until March 2014.

Housing for Low-income Workers

The monetary threshold limits for low-cost housing allowances (currently the deductible limit is R6 000 per dwelling for employer-provided housing) will be revised. Depreciation allowances for the construction of low-cost houses will also be reviewed and enhanced.

Small Businesses

The 2008 Budget proposes that a simplified tax regime will be introduced for businesses with a turnover up to R1 million per year. This is aimed at reducing the paperwork related to income tax and VAT in respect of small sole proprietors, partnerships and incorporated businesses.

The new turnover-based presumptive tax system will be elective, but qualifying business will be required to remain in the system for a minimum three-year period after joining (provided they remain within the monetary threshold). If a business elects to migrate out of the system, it will not be able to migrate back for a five-year period. Personal services rendered under employment-like conditions and professional services will be excluded from this tax system.

The proposed rates are:

Turnover	Tax liability
0 - R100 000	0%
R100 001 - R300 000	2% of each R1 above R100 000
R300 001 - R500 000	R4 000 + 4% of the amount above R500 000
R500 001 - R750 000	R12 000 + 5.5% of the amount above R500 000
R750 001 - R1 000 000	R25 750 + 7.5% of the amount above R750 000

Venture Capital Tax Incentive

New tax incentives are proposed for investors in qualifying small enterprises and start-ups. The targeted enterprises are high growth and high-tech companies with an annual turnover of up to R14 million or gross assets of up to R7 million. The threshold for junior mining and exploration companies will be gross assets of R30 million to R50 million.

The incentive (which aims to target individual investors, corporate investors and venture capital funds) will provide a 30% up-front deduction for non-mining venture capitalists. Capped annual deductions of R500 000 for individuals, R750 000 for corporations and R7.5 million for venture capital funds will also be introduced. Junior mining exploration investments will qualify for a 50% deduction up-front, with annual deductions capped at R1 million for individuals and R10 million for corporations and venture capital funds.

Electricity Levy

Because of recent electricity shortages, it is proposed that a 2c/kWh tax on electricity generated from non-renewable sources be imposed. This tax will be collected at source by the producers/generators of electricity.

Incentives that encourage firms to behave in a more environmentally responsible manner will complement the imposition of this tax. Tax incentives currently in place to encourage the uptake and development of renewable energy may be further enhanced in the future.

Biodiversity Conservation and Management

Tax reforms to encourage biodiversity conservation by private landowners will be considered. Landowners will receive an income tax deduction (limited to income derived from the land) for preserving habitats and biodiversity on their land. Expenses incurred in developing and implementing an approved conservation management plan will be covered by the deduction.

The existing PBO framework will be reviewed for impediments to tax deductions for property donated to a PBO or parastatal conservation agency where that property is declared a nature reserve or national park. Similar review in respect of estate duty, transfer duty and donations tax exemptions for properties bequeathed, sold or donated to a PBO for declaration as a protected area will be conducted.

Value-Added Tax

The threshold for compulsory value-added tax (VAT) registration will be increased from an annual turnover of R300 000 to R1 million. This change is aimed at facilitating a simplified tax regime for small businesses.

The threshold applicable to farmers who submit VAT returns every six months and businesses that submit VAT returns every four months will be increased from R1.2 million to R1.5 million.

Public Benefit Organisations

It is proposed that the current restriction obliging public benefit organisations (PBOs) to conduct at least 85% of their activities in South Africa be dropped.

Donations to multilateral humanitarian organisations (that otherwise might qualify for a section 18A deduction) are not deductible for income tax purposes. As current legislation provides that an organisation must be registered in South Africa in order for donations to be deductible, a legislative exception will be considered to deal with the situation.

The provision of student loans by PBOs will be included in the list of public benefit activities. The maximum monthly household income of intended beneficiaries where a PBO provides housing for the benefit of the poor will be increased from R3 500 to R7 000.

Financing Options for Provincial and Local Government

Alternatives to replace the Regional Services Council and Joint Services Board levies are being considered. The sharing of revenue from the general fuel levy (a percentage from the general fuel levy will accrue to category A and B municipalities from 2009/10), as opposed to the provinces acquiring a share of the general fuel levy based on the fuel sales per province is currently under consideration.

Exchange Control

Relaxations will be introduced to Treasury's exchange control policy. Existing rules that prohibit companies, trusts, partnerships and banks from buying rand futures or inward listed instruments will be abolished.

The current system, which obliges institutional investors (such as pension funds, insurers and unit trusts) to apply for Reserve Bank approval before they are allowed to invest offshore, will be changed to a system of "prudential" guidelines, whereby a "system of quarterly reporting and monitoring of foreign exposures by the Reserve Bank" will be implemented. The new system will have a "pre-notification requirement for substantial changes in foreign exposure to enhance surveillance".

Institutional investors will be granted an increase in the amount of total assets they are allowed to invest offshore.

CALCULATION OF TAX PAYABLE - INDIVIDUALS

Gross Income	....
Less: Exempt Income (see pages 15 to 16)	______
Income	______
Less: Deductions (see pages 17 to 19)	....
Add: 25% of Capital Gain (see pages 50 to 58)	______
TAXABLE INCOME	______
TAX per Tables (see page 10)	....
Less: REBATES (see page 10)	______
NORMAL TAX PAYABLE	______
Less: Provisional tax paid	....
Foreign tax credit	....
PAYE/SITE paid	______
TAX DUE	======

NORMAL TAX RATES YEAR ENDED 28/29 FEBRUARY
NATURAL PERSONS AND SPECIAL TRUSTS

Taxable Income	2009	Rates of Tax
R	**R**	
0-122 001		18% of each R1
122 001-195 000	21 960 + 25% of the amount over 122 000	
195 001-270 000	40 210 + 30% of the amount over 195 000	
270 001-380 000	62 710 + 35% of the amount over 270 000	
380 001-490 000	101 210 + 38% of the amount over 380 000	
490 001 and above	143 010 + 40% of the amount over 490 000	

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	

Rebates	2007	2008	2009
Primary Rebate	R7 200	R7 740	R8 280
Age Rebate * 65 and over	R4 500	R4 680	R5 040

* Additional to primary rebate

Tax Threshold			
Under 65	R40 000	R43 000	R46 000
65 and over	R65 000	R69 000	R74 000

TRUSTS (Other than Special Trusts)

Taxable Income	2009	Rates of Tax
R0 and over		40% of each R1

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

CORPORATE TAX RATES
FINANCIAL YEARS ENDING BETWEEN 1 APRIL 2008 AND 31 MARCH 2009
COMPANIES AND CLOSE CORPORATIONS

Corporate Income Tax Rates	**Rate of Tax**
Companies (other than listed below)	28%
Small Business Corporation	
R0 - R46 000 taxable income	0%
R46 001 - R300 000 taxable income	10%
R300 001 taxable income and over	28%

Small Businesses - where an elective presumptive turnover tax is applicable to turnover (less than 1 million per year).

R0 - 100 000	0%
R100 001 - R300 000	2% of each R1 above R100 000
R300 001 - R500 000	R4 000 +4% of the amount above R300 000
R500 001 - R750 000	R12 000 +5.5% of the amount above R500 000
R750 001 - R1 000 000	R25 750 +7.5% of the amount above R750 000

Public Benefit Organisations and Recreational Clubs	28%
Employment companies	33%
Local Branch of Foreign Company (exempt from STC)	33%
Long-term Insurers	
Individual policyholder fund	30%
Company policyholder fund and Corporate fund	28%
Untaxed policyholder fund	0%
Closely held (passive) Companies	40%
Secondary Tax on Companies	10%

STC on dividends declared on/after 1 October 2007
Note: STC is to be replaced with a dividend tax at shareholder level in 2009.

Comparison of 2009 with 2008 Taxes Payable
Persons 65 years and over

Taxable Income	2009 Rates	2008 Rates	Annual Reduction	Percent Reduction
R	R	R	R	%
74 000	-	900	900	100%
75 000	180	1 080	900	83.3%
80 000	1 080	1 980	900	45.5%
85 000	1 980	2 880	900	31.3%
90 000	2 880	3 780	900	23.8%
100 000	4 680	5 580	900	16.1%
120 000	8 280	9 705	1 425	14.7%
150 000	15 640	17 205	1 565	9.1%
200 000	28 390	30 705	2 315	7.5%
250 000	43 390	45 705	2 315	5.1%
300 000	59 890	63 205	3 315	5.2%
400 000	95 490	99 705	4 215	4.2%
500 000	133 690	138 705	5 015	3.6%
1 000 000	333 690	338 705	5 015	1.5%

Comparison of 2009 with 2008 Taxes Payable
Persons under 65 years

Taxable Income	2009 Rates	2008 Rates	Annual Reduction	Percent Reduction
R	**R**	**R**	**R**	**%**
46 000	-	540	540	100%
50 000	720	1 260	540	42.9%
55 000	1 620	2 160	540	25.0%
60 000	2 520	3 060	540	17.6%
65 000	3 420	3 960	540	13.6%
70 000	4 320	4 860	540	11.1%
75 000	5 220	5 760	540	9.4%
80 000	6 120	6 660	540	8.1%
85 000	7 020	7 560	540	7.1%
90 000	7 920	8 460	540	6.4%
100 000	9 720	10 260	540	5.3%
120 000	13 320	14 385	1 065	7.4%
150 000	20 680	21 885	1 205	5.5%
200 000	33 430	35 385	1 955	5.5%
250 000	48 430	50 385	1 955	3.9%
300 000	64 930	67 885	2 955	4.4%
400 000	100 530	104 385	3 855	3.7%
500 000	138 730	143 385	4 655	3.2%
1 000 000	338 730	343 385	4 655	1.4%

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.

Definition of A Resident

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 assessment,

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

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 for any employer outside the Republic, for a period or periods exceeding 183 full days in aggregate during any period of 12 months, and for a continuous period exceeding 60 full days during that period of 12 months, will be exempt from income tax.
- War and certain disability pensions;
- Foreign social security payments;
- All dividends received (except for dividends distributed by property trusts and specified foreign dividends);
- Interest earned by natural persons, up to a maximum of R19 000 per tax year (R27 500 for persons aged 65 years and over). Only R3 200 of foreign interest and foreign dividends is exempt, and the R3 200 exemption applies first to foreign dividends and then to foreign interest;
- Interest earned by non-residents. This exemption does not apply to natural persons who are not absent from South Africa for at least 183 days during the tax year in which the interest was received or accrued, or to any person carrying on business in South Africa through a permanent establishment;
- UIF and Workmen's Compensation benefits;
- Compensation paid by an employer on the death of an employee, if the death arose out of and in the course of employment (up to a maximum of R300 000, less any exempt termination lump sum - see below); and
- An amount to a maximum of R30 000 (over the taxpayer's lifetime) 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.

Deductions allowable are as follows:

Taxpayers 65 years and over

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.

Taxpayers under 65

In case of taxpayers under the age of 65, the deduction is split into two parts:

(a) Basic deduction for medical aid contributions:

- R570 per month if the contribution is solely for the benefit of the taxpayer;
- R1 140 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 R345 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 830 per month (R1 140 + R345 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 any retirement fund lump sum benefit and any medical deduction). Any part of medical aid contributions paid by an employer that is included in the taxpayer's remuneration as a fringe benefit, is 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.

It was proposed in the 2008 Budget that the definition of disabled persons will be reviewed and that a limitation on the types of expenses that may be deducted that do not reasonably relate to the disability be considered.

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

Donations to Public Benefit Organisations

Bona 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 and excluding any retirement fund lump sum benefit. 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, their duties are mainly performed in the home study.

Contributions to Pension, Retirement Annuity and Provident Funds

It was proposed in the 2008 Budget that the various tax-relief related monetary thresholds and percentage contributions, by both employees and employers, be consolidated.

Pension Funds

The deduction for current contributions to a pension fund is limited to the greater of:

- R1 750; or
- 7,5% of 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 deduction is limited to the greatest of:

(i) 15% of income from non-retirement funding employment (excluding retirement fund lump sum benefits);

(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 funds by natural persons 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 R74 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 of private companies 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 2008, interest on an underpayment of provisional tax is charged at 14% per annum (non-deductible), whereas interest on an overpayment accrues at a rate of 10% (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" determined by a formula, 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 process through which the normal tax in respect of the first R60 000 of an employee's net remuneration is finally determined by the employer. SITE constitutes either a final or minimum liability and is thus not refundable, except in certain instances. It was proposed in the 2008 Budget that SITE should be refundable where the taxpayer works for less than a full year.

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;

- annuities other than from a pension, provident or benefit fund;
- any retirement fund lump sum benefit; 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 employees' tax deductions are made on a monthly basis in terms of the employees' tax tables.

SHARE INCENTIVE 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 and/or the share and the market value of the share on the vesting date.
- The date of vesting depends on whether the equity instrument is restricted or unrestricted.
- Unrestricted instruments vest when they are acquired, whereas restricted instruments only vest once the restrictions cease.
- The amount of the gain determined on the vesting of an equity instrument is taxed as income and will be subject to employees' tax.
- The employee will be taxed on any low-interest or interest-free loan provided by his employer to acquire the shares.
- The employee will be subject to capital gains tax on any gain made when he disposes of the shares.

TAXATION OF LUMP SUM PAYMENTS

Lump Sums on Termination of Service (Other Than From Retirement Funds)

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 carry on trading 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 Sums from Retirement Funds

Lump sum benefits payable by approved funds are aggregated for tax purposes and subject to tax as detailed below. It was proposed in the 2008 Budget that the taxation of withdrawal from retirement funds be simplified and that divorce settlement payments made by retirement funds be taxable in the hands of the non-member spouse. No tax will be withheld from lump sum payments to persons with taxable income of less than R46 000 (the tax threshold).

Retirement/Death

With effect from 1 October 2007, the taxation of lump sum benefits from retirement funds changed. Previously, lump sum benefits payable by pension, provident and retirement annuity funds were partially tax-free, with the balance being taxed at the higher of the taxpayer's average rate of tax in the tax year in which the lump sum accrued or the previous tax year. The tax-free portion of the lump sum was calculated on a formula basis, taking into account the number of years of membership of the fund or years of employment, the taxpayer's annual average salary over any five years of employment, as well as non-deductible contributions.

All retirement fund lump sum benefits on retirement or death will qualify for a R300 000 tax exemption as a lifetime tax-free amount. The portion of any lump sum benefit attributable to non-deductible contributions will continue to be exempt from tax.

The balance of the lump sum benefit will be taxed according to a new sliding scale, with effect from 1 October 2007 as follows:

Taxable Amount **(excluding R300 000 exempt portion)**	**Rate of Tax**
Not exceeding R300 000	18%
R300 001 to R600 000	R54 000 plus 27% of taxable income exceeding R300 000
R600 001 and above	R135 000 plus 36% of taxable income exceeding R600 000

A taxpayer whose total interest in a pension fund or retirement annuity fund on retirement is R75 000 or less will be able to commute the full amount as a lump sum.

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.

Surplus Apportionment Payments
Payments to a person after their retirement, death or withdrawal e.g. surplus apportionment payments are not taxable.

THE TAXATION OF ALLOWANCES AND FRINGE BENEFITS

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

Bursaries

Bona 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 for reasons other than death, ill-health or injury; 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. It was proposed in the 2008 Budget that these limits be increased to R100 000 and R10 000 respectively.

Acquisition of Asset at less than Actual Value

A taxable benefit arises whenever an asset (other than money and equity instruments acquired in terms of a share incentive scheme) 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 to an employee 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 deemed expenditure rates per kilometre in respect of private vehicles used for business purposes from 1 March 2008 are:

Where the value of the vehicle	Fixed cost R	Fuel cost c	Maintenance cost c
Does not exceed R40 000	14 672	58.6	21.7
exceeds R40 000 but does not exceed R80 000	29 106	58.6	21.7
exceeds R80 000 but does not exceed R120 000	39 928	62.5	24.2
exceeds R120 000 but does not exceed R160 000	50 749	68.6	28.0
exceeds R160 000 but does not exceed R200 000	63 424	68.8	41.1
exceeds R200 000 but does not exceed R240 000	76 041	81.5	46.4
exceeds R240 000 but does not exceed R280 000	86 211	81.5	46.4
exceeds R280 000 but does not exceed R320 000	96 260	85.7	49.4
exceeds R320 000 but does not exceed R360 000	106 367	94.6	56.2
exceeds R360 000 but does not exceed R400 000	116 012	110.3	75.2
exceeds R400 000	116 012	110.3	75.2

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 292 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 the actual cost of business travel. The value of the vehicle is limited to R400 000 for the purposes of wear and tear (determined over 7 years), finance charges and lease expenses; 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, the monthly taxable benefit is 2.5% 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 does not receive an allowance in respect of the vehicle and:

- 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.

Where the employer is a VAT vendor, 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 12% with effect from 1 March 2008.

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) R73.50 per day if the allowance/advance is paid to defray the cost of incidental subsistence expenses; or
(b) R240 per day if the allowance/advance is paid to defray the cost of meals and incidental subsistence expenses; and

- where the accommodation to which the allowance relates is outside South Africa, an amount equal to a maximum of US$215 per day for meals and incidentals 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 the private 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.

It was proposed in the 2008 Budget that incidental private use of cellular phones and laptop computers be excluded from fringe benefit taxation.

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 a travel allowance and 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 during the tax year 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;
- the benefit is provided at arms length and for *bona fide* business purposes; and
- the employee does not have an interest in the house.

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.

Subsidies

Where a subsidy has been paid by the employer in respect of capital or interest on a loan, the full amount will be taxable in the hands of the employee as a subsidy if the amount paid by the employer together with the amount paid by the employee exceeds an amount determined based on the official rate of interest applied to the capital of the loan.

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. This does not apply to medical aid contributions or medical expenses paid by an employer, or to the repayment of bursaries or study loans by a subsequent employer where the employee terminates his employment, subject to certain conditions.

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 in South Africa 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:

- R570 a month, where the employee has no dependants;
- R1 140 a month, where the employee has one dependant; or
- R1 140 a month for the employee and his first dependant plus R345 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; and
- any *bona fide* scholarship or bursary granted to enable or assist any person to study at a recognised educational or research institution (restrictions apply where a bursary/scholarship is paid to an employee or a relative of an employee)).

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

Residence Basis of Tax

All income earned by a South African resident is taxable in South Africa, subject to an applicable double taxation agreement. Non-residents are subject to tax on their South African sourced income.

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 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 more than 50% of the total participation rights or voting rights in that foreign company are held directly or indirectly by one or more residents.

South African residents must impute the net income of a CFC in the same ratio as their participation rights in the CFC, subject to a number of exclusions. The net income of the CFC to be included in the resident's income is the CFC's taxable income determined as if the CFC had been a South African taxpayer.

Foreign Dividends
Generally foreign dividends received by residents are taxable, subject to a number of exclusions, including the following:

- Foreign dividends paid out of income which has been taxed in South Africa.
- Foreign dividends declared by a listed company if more than 10% of the equity shares of the listed company are held by South African residents.

- Dividends paid out of profits of a Controlled Foreign Company which were included in the income of the resident.
- Foreign dividends received by residents holding at least 20% of the total equity share capital and voting rights of the foreign company.

In the case where foreign dividends are included in income, a deduction for any withholding taxes paid in respect thereof may be claimed (subject to an election by the resident).

Foreign Tax Credits

A resident taxpayer may deduct all foreign taxes paid in respect of foreign income included in South African taxable income from the tax payable in South Africa on the foreign income. Any excess tax credits may be carried forward.

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 28% for years of assessment ending during the period 1 April 2008 to 31 March 2009.

Branches of foreign companies conducting business in South Africa through a permanent establishment are taxed at 33%.

For small business corporations (see definition below) the rates, with effect from 1 April 2008, are:

R0 - R46 000	0%
R46 000 - R300 000	10%
R300 001 and above	28% of the amount by which the taxable income exceeds R300 000

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 R14 million during the year of assessment;
- none of the shareholders or members, at any time during the year of assessment of the company, holds shares in any other company (other than listed companies, any portfolio in a collective investment scheme, any body corporate, shareblock company or association of persons); and
- not more than 20% of the gross income consists of investment income and income from the rendering of any personal service. A company rendering a personal service excludes any company which employs three or more full-time employees (none of whom may be a shareholder or member or a connected person in relation to a shareholder/member) who are on a full-time basis engaged in the business of that company of rendering services.

For employment companies the rate of tax is 33%. An employment company is a personal service company (see definition below) or a labour broker without an exemption certificate for PAYE purposes.

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
- where those duties must be performed mainly at the premises of the client, 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 or are to be performed in rendering such service; 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 33%. Furthermore, section 23(k) limits the deductions 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.

The 2008 Budget proposed a presumptive turnover-based tax system for very small businesses with a turnover of up to R1 million per annum. The proposed presumptive tax will be elective. After electing to join this tax system, qualifying businesses will have to remain in the system for a minimum of 3 years (provided their turnover is within the R1 million threshold) and if a business migrates out of the system, it cannot migrate back for 5 years. Personal services rendered under employment-like conditions and professional services will be excluded from this regime.

The proposed presumptive tax rates are as follows:

Turnover	**Tax Liability**
R0 - R100 000	0%
R100 001-R300 000	2% of each R1 above R100 000
R300 001-R500 000	R4 000 + 4% of the amount above R300 000
R500 001-R750 000	R12 000 + 5.5% of the amount above R500 000
R750 001-R1 000 000	R25 750 + 7.5% of each R1 above R750 000

The 2008 Budget also proposed that "closely held (passive) companies" be subject to a 40% tax rate, in order to limit tax avoidance and tax arbitrage due to the gap between the corporate tax rate and the maximum marginal tax rate for natural persons. No further details were given.

Secondary Tax on Companies

A company resident in South Africa is liable for Secondary Tax on Companies (STC) on dividends declared. STC of 10% is payable in respect of dividends declared on or after 1 October 2007 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 or under-payments of STC is charged at the prescribed rate. 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.

Dividends declared by a company in liquidation, or in anticipation of liquidation, winding-up or deregistration from pre-March 1993 revenue profits or capital profits that accrued before 1 October 2001, are currently 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. This exemption will be removed with effect from 1 January 2009.

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 andadvances to, or asset distributions to shareholders or a connected person in relation to the shareholders.

STC is to be replaced with a dividend tax at shareholder level in 2009.

It was announced in the 2008 Budget that the rate of STC will remain at 10%, that no dividend withholding tax will be applied to dividends declared to income tax-exempt entities and that all STC credits will expire. A 10% final withholding tax will be imposed on domestic shareholders, other than income tax-exempt entities (e.g. retirement funds, public benefit organizations). Cascading relief will be provided so that dividends will only be taxed when declared to persons other than companies, or to non-residents. The cascading relief will apply irrespective of whether the companies form part of the same group of companies. The imposition of the dividend tax on non-resident shareholders will be subject to an applicable double tax treaty. It was also proposed that, as an anti-avoidance measure, dividends paid to closely held (passive) companies used to accumulate passive income will be subject to a 10% tax rate.

Provisional Tax

All companies and close corporations 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 beginning of the tax year and the second provisional payment by 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 all companies.

TRUSTS

Trusts are a separate fiscal entity and normally 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.

50% of all capital gains realised are included in the taxable income of trusts.

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 managed, 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 decreased, but with careful planning the impact of CGT can be minimised.

"Special trusts" are taxed at the normal income tax rates applicable to individuals and not the 40% flat rate. Similarly, 25% of all capital gains realised are included in the taxable income of special trusts.

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.

It was proposed in the 2008 Budget that the potential double tax charge arising where trust assets are vested in beneficiaries will be eliminated.

CAPITAL ALLOWANCES

Plant and Machinery

New or used plant and machinery used in a 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. It was proposed in the 2008 Budget that small business corporations can elect to use the general depreciating regime (e.g. 100% write-off of small assets) if desired.

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 certain write-off periods in terms of Practice Notes 19 and 39 in respect of specific assets.

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 less than R5 000 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.

Rolling Stock and Port Assets

Rolling stock brought into use on or after 1 January 2008 qualifies for an allowance of 20% per annum on the cost of acquisition. Port infrastructure assets may be depreciated at a rate of 5% per annum over 20 years.

Water Pipelines

It was proposed in the 2008 Budget that water pipelines used to transport water to power stations will be eligible for a 5% per annum depreciation allowance.

Buildings

Commercial Buildings

New and unused commercial buildings and improvements (other than residential use buildings) owned by the taxpayer and used wholly or mainly in the production of income qualify for an allowance of 5% per annum. This allowance applies to buildings or improvements contracted for and the construction of which commenced on or after on or after 1 April 2007.

Urban Development Zones

Accelerated depreciation allowances are available for commercial or residential buildings situated in an urban development zone as follows:

- Improvements to existing buildings (where the structural or exterior framework is preserved) - 20% per annum;
- Construction of a new building or the extension of an existing building (where the structural or exterior framework is not preserved) - 20% in the first year and 5% per annum thereafter.

The first purchaser of a new or improved building acquired from a developer will qualify for the allowance based on a deemed percentage of the purchase price (55% for new buildings and 30% for improved buildings).

It was proposed in the 2008 Budget that this incentive be extended until March 2014, and the number of participating municipalities may be increased.

Buildings used for Manufacturing

The allowances for buildings used in a process of manufacture are as follows:

- An annual allowance of 5% is allowed in respect of the cost of certain industrial buildings, and improvements thereto, if erection or improvements 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 for a manufacturing process 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.

Specific allowances apply to hotel buildings, farm buildings and airport infrastructure.

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 for Employees
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.

It was proposed in the 2008 Budget that the monetary threshold limits for low-cost housing allowances, such as the R6 000 deductible limit per dwelling for employer-provided housing, and the depreciation allowances for low-cost housing will be revised and enhanced. Further relief in terms of fringe benefit taxation for employees will also be considered.

Environmental Capital Expenditure

New deductions have been introduced for environmental capital expenditure. Environmental treatment and recycling assets qualify for an allowance of 40% in the first year and 20% per annum for the next three years. The allowance for environmental waste disposal assets is 5% per annum. In addition, environmental clean-up, restoration and decommissioning costs will be immediately deductible if incurred for purposes of complying with any legislation for the protection of the environment upon cessation of trade and would have been deductible had the taxpayer still been trading.

Research and Development

Two types of deductions are available for research and development expenditure:

- A 150% deduction for expenditure incurred directly in respect of activities undertaken in the Republic for purposes of the discovery, devising, developing or creation of certain intellectual property.
- A three-year write-off (50%:30%:20%) of the cost of buildings, machinery, plant, implements, utensils or articles used for research and development purposes.

Other Tax Incentives

The 2008 Budget contained several proposals regarding tax incentives, including the following:

Venture Capital Tax Incentive

A new venture capital tax incentive has been proposed for investors in qualifying small businesses and start-up enterprises, targeted at high growth, high-tech companies with an annual turnover of up to R14 million or gross assets of up to R7 million. For junior mining and exploration companies, a threshold of gross assets of R30 million to R50 million will be considered.

It was proposed that general venture capital investments (non-mining) qualify for a 30% initial deduction, with annual deductions capped at R500 000 for individuals, R750 000 for companies and R7.5 million for venture capital funds.

Junior mining exploration investments will qualify for a 50% initial deduction with annual deductions capped at R1 million for individuals and R10 million for companies and venture capital funds.

Supporting Sustainable Development

The introduction of additional emission taxes and charges in 2009 will be considered, together with targeted tax incentives to encourage the development and use of cleaner production technologies. Reforms to the existing vehicle tax regime could be used to create incentives for the introduction of vehicles with reduced emissions and increased fuel efficiency, including possibly incorporating environmental criteria into the *ad valorem* excise duties on vehicles.

Learnership Allowances
It has been proposed that the learnership tax allowance be amended to take into account longer-term apprenticeships, particularly those of a technical nature such as electricians, welders, plumbers, mechanics etc.

Industrial Policy Tax Incentives
It was proposed that R5 billion be set aside for tax incentives to be used over three years in support of sectors identified as key to the emerging industrial strategy, particularly labour-intensive industries.

Biodiversity Conservation and Management
The 2008 Budget proposed an income tax deduction to encourage conservation of South Africa's biodiversity by private landowners, in terms of an approved conservation management plan. Tax relief will be investigated for donations of property to PBOs or a parastatal conservation agency where that property is declared a nature reserve or national park.

FOREIGN EXCHANGE GAINS AND LOSSES

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

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.

If a taxpayer uses trading stock for private or domestic use or consumption, the lower of the cost of such stock or written-down value will be recouped and added to income. 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 stock in specie, will result in an inclusion in taxable income of an amount equal to the market value 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.

The transfer of trading stock will also enjoy rollover relief under the corporate rule provisions.

CORPORATE RULES

The corporate rules provide tax relief for transfers of assets in certain circumstances:

- Asset-for-share transactions, whereby assets are disposed of to a South African resident company in exchange for equity shares in that company;
- Amalgamation transactions, whereby a company disposes of all its assets to another company in return for equity shares, after which the former company's existence is terminated;
- Intra-group transactions, which applies to disposals of assets within a group of companies;
- Unbundling transactions, whereby a holding company transfers all its shares in a subsidiary to its (the holding company's) shareholders; and
- Disposals of assets by a subsidiary company to its holding company, or a shareholder which forms part of the group of companies, in the course of liquidation, winding-up or deregistration.

Certain of the rules are elective, while others are mandatory.

However, it was proposed in the 2008 Budget that the application of the corporate rules should be automatic, with taxpayers having the option to elect out if desired. It was also proposed that rollover relief be introduced for capital distributions between group companies.

TRANSFER PRICING AND THIN CAPITALISATION

The transfer pricing provisions allow the Commissioner for SARS to adjust the consideration payable in terms of an international transaction between connected persons if the consideration does not reflect an arm's length price. SARS has issued Practice Note 7 dealing with transfer pricing.

In respect of loans, the acceptable rates of interest on loans from foreign connected persons are the weighted average of the South African prime rate plus 2% for Rand-denominated loans, and the weighted average of the relevant interbank rate plus 2% for foreign denominated loans. Any excess interest charged may be disallowed.

In terms of the thin capitalisation rules, the Commissioner for SARS may disallow the interest expense on such portion of a loan from a foreign connected person as he considers excessive in relation to the company's equity. A debt : equity ratio of not more than 3:1 is regarded as reasonable by SARS. Interest on the excess portion of the loan may be disallowed.

Any expenditure which is disallowed under these provisions could be a deemed dividend and subject to STC.

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.

Proceeds

The proceeds from the disposal of an asset is the amount received by or accrued to (or deemed to have been received or accrued) a person in respect of a disposal. Amounts by which a debt owed by a taxpayer have been reduced or discharged, and amounts received by or accruing to a lessee from the lessor of property for improvements effected to that property are also included in proceeds.The proceeds will also be reduced by any amounts that are included in gross income.

Disposal

A "disposal" is any event, act, forbearance or operation of law which results in the creation, variation, transfer or extinction of an asset 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 interest in a company, trust or partnership through a "value shifting arrangement".

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;
- disposal by a trustee, executor, curator or administrator in respect of a change of ownership in an asset due to the appointment/termination of a trustee etc.
- correction at the deeds office of incorrect property registration; and
- lending of marketable security in terms of a lending arrangement.

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

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 (1 October 2001). 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 cost 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:

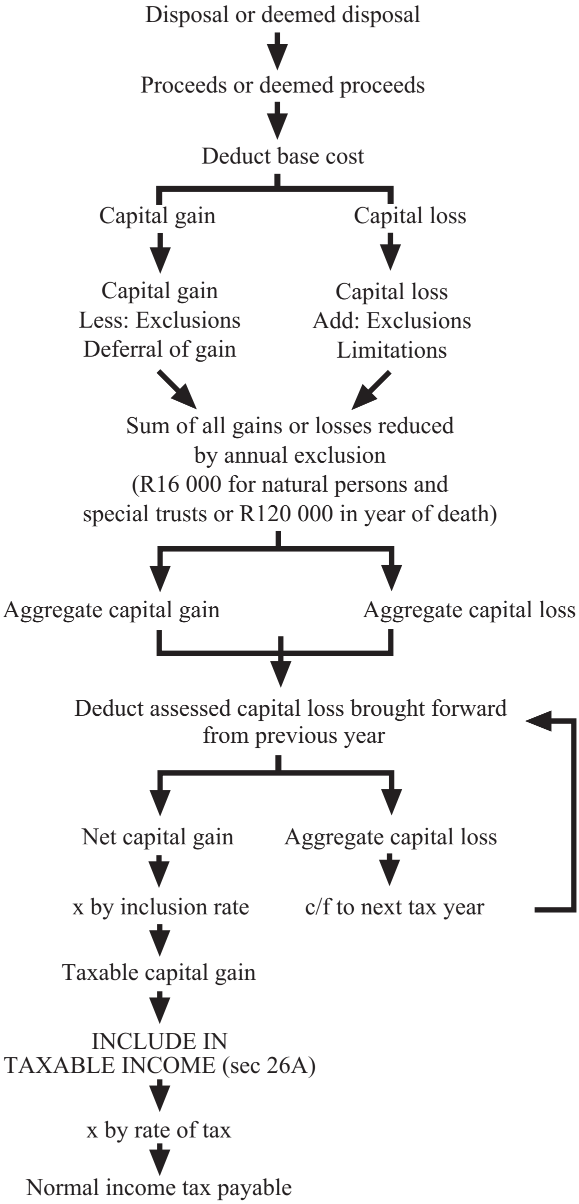
The base cost is the acquisition cost of the asset, plus certain other costs incurred that are directly related to buying it, selling it or improving it, e.g., transfer duties, attorney's fees, improvement costs, sales commission, advertising, valuation costs, stamp duty, etc.

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;
- repairs and maintenance;
- 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	18-40	4.5-10
Companies	50	28	14
Trusts			
Special trusts	25	18-40	4.5-10
Other trusts	50	40	20
Life Assurers			
Individual policyholder fund	25	30	7.5
Company policyholder fund	50	28	14
Corporate fund	50	28	14
Untaxed policyholder fund	0	0	0

Annual Exclusion for Individuals and Special Trusts

From 1 March 2007 the annual exclusion for individuals and special trusts was increased from R12 500 to R15 000.
In the 2008 Budget speech it was proposed that the amount is increased to R16 000 with effect from 1 March 2008.

Death

The annual exclusion granted to individuals is R120 000 during the year of death.

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

Non-residents are subject to a withholding tax on the disposal of any immovable property situated in South Africa, or any right or interest therein. The withholding tax must be withheld by the purchaser in respect of the disposal by non-residents of immovable properties with a value in excess of R2 million. The rates are 5% of the purchase price if the seller is a natural person, 7.5% if the seller is a company and 10% if the seller is a trust.

The amount withheld is an advance payment in respect of the seller's capital gains tax liability. The seller may apply to SARS for a directive that a reduced amount be withheld.

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

Exclusions

The following 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 R1,5 million 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;
- exercise of options;
- 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.

Taxation of Gains on Long-Term Equity Investments

With effect from 1 October 2007, gains arising from the disposal of shares that have been held for at least three years will be deemed to be of a capital nature and will be subject to capital gains tax. This applies to JSE listed shares, private company shares, interests in a close corporation and certain collective investment schemes held for a continuous period of at least three years. Where deductions were claimed in respect of the shares (e.g. interest on a loan), the amounts deducted will be recouped on disposal of the shares.

Note: These rules do not apply to shares acquired in terms of employee share incentive schemes.

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 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 arising from bed and breakfast sales and certain dividend stripping disposals.

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 (i.e. shares listed on a foreign stock exchange, foreign unit trusts, gold/platinum coins, any contractual right or obligation which derives its value from a foreign index, and any related option, future or contract), profits and losses resulting from foreign exchange differences must be accounted for. Both the proceeds and the expenditure must be translated into Rand, using either the average exchange rate for the year of assessment, or the spot rate.

Specific rules apply to determine 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. These rules do not apply to companies, or natural persons holding foreign currency as trading stock.
A "foreign currency asset" means:

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

A "foreign currency liability" means a loan, advance or debt owed in a foreign currency by a person.

Where a South African resident acquires or disposes of any foreign currency asset (other than a personal foreign currency asset), or settles any foreign currency liability, the capital gain or loss must be calculated.

A foreign currency asset is essentially disposed of when it ceases to be a foreign currency asset in that specific currency, and includes the vesting of any foreign currency asset of a trust in a beneficiary of that trust.

Separate pools must be created for each foreign currency acquired. Every time new currency assets are introduced into a pool, the "total asset pool base cost" must be re-determined.

The foreign currency asset must be converted into Rand using the average exchange rate for the year of assessment in which it was acquired. 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.

WITHHOLDING TAXES - NON-RESIDENTS

No withholding tax is levied on interest or dividends paid to non-residents. Withholding taxes on payments to non-residents are payable as follows:

- A final withholding tax of 12% on royalty payments, subject to an applicable double taxation agreement.
- A withholding tax in some circumstances on payments made for the acquisition of immovable property in South Africa from a non-resident seller (refer to Capital Gains Tax above).
- A final withholding tax of 15% on payments made to non-resident sportspersons and entertainers.

PUBLIC BENEFIT ORGANISATIONS AND RECREATIONAL CLUBS

Public Benefit Organisations and recreational clubs which are approved under sections 30 or 30A of the Income Tax Act respectively, qualify for a partial tax exemption. Such entities pay income tax on a portion of their trading profits.

Approved Public Benefit Organisations (PBOs) must comply with certain provisions, the most important of which are:

- The sole or principal object of the entity must be to carry on one or more public benefit activities falling into eleven categories, namely, welfare and humanitarian, health care, land and housing, education and development, religion, belief or philosophy, cultural activities, conservation, environment and animal welfare, research and consumer rights, amateur sport, the provision of funds, assets or other resources to other PBOs, and hosting certain international events.
- At least 85% of the activities, measured in cost or time spent, must be carried out in South Africa. It was proposed in the 2008 Budget that this restriction be removed.
- Each public benefit activity is for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups).

- The constitution, will or other written instrument under which the PBO was established must comply with specific requirements.

A specific PBO exemption has been introduced for foreign charities operating a branch within South Africa.

Donations to approved PBOs are exempt from donations tax and bequests to PBOs are exempt from estate duty. Donations to certain PBOs which carry on public benefit activities contemplated in Part II of the Ninth Schedule are deductible up to 10% of the donor's taxable income. (This does not apply to donations to South African branches of foreign charities although it was proposed in the 2008 Budget that a legislative exception in this regard will be considered.)

Other amendments proposed in the 2008 Budget include allowing employers to take into account deductible donations to PBOs in determining employees' tax, including the provision of student loans by PBOs as a public benefit activity, and increasing the monthly income threshold for beneficiaries of housing from R3 500 to R7 000.

Recreational clubs previously received complete exemption from income tax. Now, recreational clubs are subject to a system of partial taxation with effect from years of assessment commencing on or after 1 April 2007. Approved clubs will be exempt from income tax on membership or subscription fees, payments by members for social or recreational services, income from fund-raising undertaken on an occasional basis and substantially by volunteers without compensation, and any other income, including trading income, not exceeding the greater of 5% of membership fees or R50 000.

Specific rules have been introduced to allow for the merger of professional and amateur sporting organisations without capital gains tax or transfer duty consequences, subject to approval by SARS.

VALUE-ADDED TAX (VAT)

VAT is levied at the standard rate of 14% of the value of most goods and services supplied by vendors. VAT is payable on imports of goods and services, while exports are generally zero-rated. Non-residents can, subject to certain conditions, qualify for a VAT refund on goods purchased in South Africa.

Exempt Supplies

Exempt supplies include:

- rental of residential accommodation;
- educational services;
- local passenger road or rail transport;
- trade union contributions;
- share block and body corporate levies;
- certain financial services;
- the supply of child care in a crèche or after-school care;

and

- the sale or letting of land outside South Africa.

Zero Rated Supplies

The main zero-rated supplies are as follows:

- exports of goods;
- the supply of a business as a going concern between two VAT vendors;
- petrol and diesel sales, excluding aviation fuel;
- certain basic foodstuffs;
- certain goods to be used for farming purposes;
- services rendered to a non-resident who is situated outside South Africa;
- goods or services 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.

Registration for VAT

Enterprises which make taxable supplies (standard-rated or zero-rated) of more than R300 000 in any period of 12 months are obliged to register for VAT. It was proposed in the 2008 Budget that the threshold for compulsory VAT registration be increased to an annual turnover of R1 million.

Enterprises which make taxable supplies of less than R20 000 in any period of 12 months are not permitted to register for VAT.

Tax Periods

VAT returns are generally submitted on a 2 monthly basis unless the vendor falls into one of the following categories:

- The vendor's taxable supplies in any period of 12 months exceed R30 million, in which case returns are submitted monthly.
- A vendor with a annual taxable supplies of less than R1,2 million may apply to submit VAT returns every 4 months. It was proposed in the 2008 Budget that the threshold be increased to R1.5 million.
- Farmers with an annual turnover not exceeding R1.2 million may submit VAT returns on a 6 monthly basis. It was proposed in the 2008 Budget that the threshold be increased to R1.5 million.
- Companies or trusts receiving only rental income or administration or management fees from connected person vendors may submit annual VAT returns.

A vendor is legally obliged to notify SARS as soon as annual taxable supplies exceed or are expected to exceed R30 million.

Input Tax

Vendors may claim a deduction of input tax incurred by the vendor on goods and services acquired for the purpose of making taxable supplies. A notional input tax credit may be claimed on the purchase of second hand goods, subject to certain requirements.

VAT cannot be claimed on entertainment expenses, except qualifying subsistence, passenger vehicles (including hiring) and club subscriptions.

Input tax credits may not be claimed on expenditure relating to exempt supplies.

Tax Invoices

Input tax credits may only be claimed once the vendor is in possession of a valid tax invoice. The name, address and VAT registration number of the recipient must appear on tax invoices where the VAT inclusive total exceeds R3 000.

Accounting for VAT

Vendors must generally account for VAT on an invoice basis.

Only natural persons and partnerships with taxable supplies not exceeding R2.5 million per annum, and certain public authorities and associations not for gain may apply to SARS to use the payments basis.

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 Africa 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.

It was proposed in the 2008 Budget that a general anti-avoidance rule be introduced, as well as specific anti-avoidance rules to prevent the artificial manipulation of estate values through the use of short-term trusts and similar arrangements.

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 controlled 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 made 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;
- *bona fide* maintenance payments; and
- donations between group companies.

Rates of Donations Tax

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

UNCERTIFICATED SECURITIES TAX (UST)/STAMP DUTY/SECURITIES TRANSFER TAX

Marketable securities

Uncertificated Securities Tax (UST) is currently payable on a change of beneficial ownership (including cancellation or redemption) at a rate of 0.25% of the "taxable amount" of all listed securities. In the case of unlisted shares stamp duty is payable.

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

No UST or stamp duty is payable on the issue of shares. With effect from 1 July 2008, stamp duty/UST will no longer be payable on the transfer of shares. Securities transfer tax (STT) will be payable at a rate of 0.25% on the transfer of any security issued by a South African company or a member's interest in a close corporation, or a share in any foreign company listed on a South African stock exchange, subject to certain exemptions. The cession of dividend rights is also subject to STT. STT is payable on the higher of the consideration paid or the market value of the security.

Stamp Duty: Leases of Immovable Property

Stamp duty is payable on leases of fixed property situated in South Africa at a rate of 0.5% of the total rentals (excluding VAT) where the lease period exceeds 5 years. In calculating the period of the lease, renewal periods must be included. The stamp duty is limited to 8% of the market value of the property.

The duty is payable on 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 any other consideration for the lease.

If rentals or other considerations subsequently become quantifiable, additional stamp duty must be paid in the relevant year of assessment.

Where the stamp duty payable on a lease would be less than R500, the lease will be exempt from stamp duty on leases is under consideration.

It was stated in the 2008 Budget Review that the repeal of stamp duty on leases is under consideration.

TRANSFER DUTY

Transfer Duty is payable by the purchaser on the greater of the consideration or the market value on the transfer of immovable property situated in South Africa. 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 also subject to transfer duty. No transfer duty is payable where the transfer of the fixed property is subject to VAT.

Transfer duty rates applicable from 1 March 2006:

Transfer to natural person	**Duty payable**
First R500 000	0%
R500 001 to R1 000 000	5% of value above R500 000
R1 000 001 and above	R25 000 plus 8% of value above R1 000 000
Transfer to company, close corporation or trust	8%

ELECTRICITY LEVY

The 2008 Budget proposed an electricity levy of 2 cents per kilowatt hour on electricity generated from non-renewable sources, to be collected at source by the generators or producers of electricity.

The introduction of this levy will be complemented by incentives to encourage businesses to behave in a more environmentally responsible way. Tax incentives in respect of renewable energy could be further enhanced.

SKILLS DEVELOPMENT LEVY

The skills development levy (SDL) is a levy payable by an employer on remuneration paid to its employees. 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 which will not exceed R500 000 per annum or by any public service employer, certain approved public benefit organisations and certain national and provincial entities.

UNEMPLOYMENT INSURANCE FUND

Employers and employees must each contribute 1% of the employee's remuneration per month to the Unemployment Insurance Fund (UIF). Remuneration for this purpose is limited to R12 478 (with effect from 1 February 2008). This does not apply to national and provincial government employees, employees who work for less than 24 hours per month, employees who are learners under a learnership agreement, and employees who are temporarily in South Africa to carry out a contract of service and are required to leave on completion of the contract.

EXCHANGE CONTROL

Significant relaxations of exchange controls were announced in the 2008 Budget regarding outward investment by South African residents. The reforms involve a shift from exchange controls for institutional investors and the pre-application process to a system of prudential regulation through quarterly reporting and the monitoring of cross-border flows.

The overall intention of the regulations remains to maintain financial stability, but this is to be achieved through financial surveillance. Accordingly, the Exchange Control Department will be renamed the Financial Surveillance Department of the Reserve Bank.

South African Residents

Discretionary Allowance for Individuals

To streamline administrative controls on individuals, a single discretionary allowance of R500 000 per year has been introduced for purposes of travel, gifts, donations and maintenance. This discretionary allowance is in addition to the existing R2 million individual investment allowance.

Individual Investment Allowance

Natural persons over the age of 18 years are permitted to invest an amount of R2 million outside the CMA. A tax clearance certificate must be obtained from SARS prior to the transfer of funds.

Resident Companies

Foreign investments made by institutional investors will no longer be subject to the pre-approval process, but a system of quarterly reporting and a pre-notification requirement for substantial changes in foreign exposure will be introduced to enhance surveillance.

While the final prudential foreign exposure limits will be determined in 2008, in the interim, the following limits apply:

- 20% of total retail assets (previously 15%) for pension funds and the underwritten policies of long-term insurers; and
- 30% of total retail assets for collective investment schemes, investment managers and the investment-linked business of long-term insurers.

There is an additional allowance for portfolio investment in Africa of 5% of total retail assets for all institutional investors.

A prudential limit of 40% of a bank's liabilities has been set and measures to simplify the regulation of banks' foreign exposure will be finalised during 2008.

South African companies, trusts, partnerships and banks will be permitted to participate without restriction in the rand futures market on the JSE Securities Exchange, as well as investment in inward-listed (foreign) instruments on the JSA and Bond Exchange of South Africa.

In line with efforts to streamline administration for small and medium-sized businesses, the current application process for exchange control approval of foreign direct investment will be removed for company transactions totaling less than R50 million per year. The current transaction reporting system will remain in place.

No specific mention was made in the 2008 Budget regarding a number of exchange control issues. We have thus noted them below on the assumption that they will continue to apply as per last year.

Business Travel Facilities

Authorised dealers may approve applications by firms/ companies for omnibus travel facilities to R2 million 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.

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, 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 study 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.

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 of 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 the Exchange Control authorities.

Non-Residents

Non-residents may freely invest in the Republic, provided that suitable documentary evidence 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 in proportion to the percentage of their shareholding/ownership. 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 Exchange Control on merit, taking into account the reason for the fees, the 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

- R2 million per single person; or
- R4 million 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 but where capital transfers have been authorised and effected prior to emigration, such amounts must be deducted; and
- Any assets received as donations or gifts, or as capital distributions from *inter vivos* trusts, within 3 years prior to the date of emigration are deducted from the aggregate of assets forming part of the facilities available to emigrants.

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.

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 %
10.12.07	14.50
15.10.07	14.00
20.08.07	13.50
11.06.07	13.00
11.12.06	12.50
16.10.06	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, employees' tax returns etc.	4
Staff 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.	15
Indemnity for lost share certificate.	Indefinitely
Cancelled share transfer forms.	12
Dividend and interest payment list.	15
Customs and Excise Act	
Documentation for export incentive scheme claim.	5
Other documents.	2

	Retention Period (years) Originals
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.	Indefinitely
Record of employees exposed to asbestos fibres.	50
Value-Added Tax	
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. Information in book form - 5 years from last entry. Computerised records must be kept in printout form, not just on disk or tape.	5
Capital Gains Tax	
All records relating to capital transactions • If a person is not required to render tax returns - from the date of disposal. • For taxpayers - from the date of receipt by SARS of the relevant tax return.	5 5
Income Tax Act	
From date of receipt of the return by SARS.	5

Johannesburg

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Michael Whitaker *(COO)*
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Eugene Bester
Preeta Bhagattjee
Fahdia Bhayat
Chris Charter
Harry Christodoulou
Joz Coetzer
Lucia Erasmus
Hans Evenhuis
Tim Fletcher
Deon Govender
Ian Hayes
Hugh Jackson
Martin Jackson
Willem Jacobs
Rob Jarvis
Fred Kolbe
Fiona Leppan
Matshipi Mabane
Brigitte McGregor
Janet MacKenzie
Tim Mills
Mondo Ntlha
Sam Oosthuizen
Aadil Patel
Jackie Pennington
Verushca Pillay
David Pinnock
Allan Reid
Lydia Shadrach
Natalie von Ey
Craig Whitley
Deon Wilken
Brent Williams
Jonathan Witts-Hewinson

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Quintin Honey
Winile Madonsela
Yvonne Mkefa
Michelle Saayman
Colleen Smith-Bekwa

Cape Town

Directors

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Owen Barrow
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John Gomes
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