PINTO RUSSELL

Tax Guide 2008/2009

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IMPORTANT NOTE

The information contained in this Booklet is a summary of current legislation and budget proposals. We suggest that you do not act solely on material contained in this Booklet as the nature of the information contained herein is general and may in certain circumstances be subject to misinterpretation. In addition, the budget proposals may not include all legislative adjustments which could be made in the near future. Consequently we recommend that our advice be sought when encountering these potentially problematic areas.

HEADLINE CORPORATE INCOME TAX RATE

Given the positive results of reforms there is a further reduction in the headline corporate income tax rate from 29 per cent to 28 per cent. To limit tax avoidance and/or tax arbitrage, given the gap between the corporate tax rate and top marginal personal income tax rate, it is proposed that closely held (passive) companies be subject to a 40 per cent tax rate.

SECOND PHASE OF STC REFORMS

Under the new regime, all distributions will be treated as dividends unless it is shown that the distribution represents a return of capital. It is proposed that the new rate remain at 10 per cent, that no dividend withholding tax be applied to dividends declared to income tax-exempt entities and that all STC credits will expire. A 10 per cent final withholding rate for domestic shareholders would apply, except in cases of income tax-exempt entities. As an anti-avoidance measure, dividends paid to closely held (passive) companies used to accumulate passive income will be subject to a 10 per cent tax rate.

LEARNERSHIP ALLOWANCE FOR APPRENTICESHIPS

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

HOUSING FOR LOW-INCOME WORKERS

The existing monetary threshold limits for low-cost housing allowances, such as the R6 000 deductible limit per dwelling for employer-provided housing, will be revised.

A SIMPLIFIED TAX REGIME FOR VERY SMALL BUSINESSES

The 2008 Budget proposes a simplified tax regime that will reduce paperwork related to income tax and VAT for small sole proprietors, partnerships and incorporated businesses.

Government proposes that a simplified, turnover-based tax system be implemented for businesses with a turnover up to R1 million per year. In addition, it is proposed to increase the compulsory VAT registration threshold to R1 million per year. This turnover-based presumptive tax system will be elective. Businesses will be required to remain in this system for a minimum of three years (provided they remain within the monetary threshold). Once a business has elected to migrate out of the system, it will not be able to migrate back for a period of five years. To protect the personal income tax base, personal services rendered under employment-like conditions and professional services will be excluded from this tax system.

The table below is a summary of the proposed simplified (presumptive) tax regime for small businesses. The rates and technical aspects will be refined after consultation.

PROPOSED PRESUMPTIVE TAX FOR VERY SMALL BUSINESSES

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 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

VENTURE CAPITAL TAX INCENTIVE

To meet the challenge of access to venture capital for small and medium-sized enterprises, government proposes tax incentives for investors in qualifying small enterprises and start-ups. In general, 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.

It is proposed that general venture capital investments qualify for a 30 per cent up-front deduction, with annual deductions to be capped at R500 000 for individuals, R750 000 for corporations and R7.5 million for venture capital funds.

PERSONAL INCOME TAX RELIEF

Over the past six years substantial tax relief has been provided to individuals. This was achieved by raising the monetary values of the income tax brackets and adjusting the primary and secondary rebates. The 2008 Budget proposes direct tax relief to individual taxpayers amounting to R7.2 billion. This will compensate taxpayers for the impact of wage inflation, also known as “bracket creep”.

MEDICAL SCHEME CONTRIBUTIONS

It is proposed that the monthly monetary caps for tax-free medical scheme contributions be increased with effect from 1 March 2008 from R530 to R570 (by 7.6 per cent) for each of the first two beneficiaries and from R320 to R345 (7.8 per cent) for each additional beneficiary.

TRAVELLING ALLOWANCES

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

TAX-FREE INTEREST, DIVIDEND INCOME AND CAPITAL GAINS

Government proposes to increase the interest and dividend income tax-free threshold for individuals under 65 years from R18 000 to R19 000, and for individuals 65 years and over from R26 000 to R27 500 per year. It is similarly proposed to increase the threshold for the tax-free income of foreign dividends and interest from R3 000 to R3 200 per year. In addition, it is proposed to increase the annual exclusion threshold for capital gains or losses from R15 000 to R16 000.

VALUE-ADDED TAX

It is proposed to increase the thresholds, applicable to farmers who submit VAT returns every six months and businesses that submit VAT returns every four months, from R1.2 million to R1.5 million.

PUBLIC BENEFIT ORGANISATIONS

Restrictions on PBOs

PBOs are required to conduct 85 per cent or more of their activities in South Africa. It is proposed that this restriction on PBOs be dropped.

NEWLY PROPOSED
MISCELLANEOUS INCOME TAX AMENDMENTS

Personal issues

Personal use of cellular phones and laptops: it is proposed that incidental private use of cellular phones and laptops should not give rise to fringe benefits taxation.

SHARE INCENTIVE SCHEMES:

These schemes continue to raise issues in terms of avoidance and anomalies that may require either legislative amendment or interpretive clarification.

BUSINESS ISSUES

Threshold for the spreading of deductions

Deductions for payments relating to goods, services and other benefits must be spread over the economic life that these items are provided. This spreading prevents artificial upfront payments. However, a R50 000 de minimis threshold exists for administrative and compliance ease. This exemption threshold, set in the year 2000, will be increased to R80 000 in line with inflation.

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 28 FEBRUARY 2009

TAXABLE INCOME			RATES OF TAX		
R 0	—	R 122 000		+ 18% of each R1	
R 122 001	—	R 195 000	R 21 960	+ 25% of the amount over	R 122 000
R 195 001	—	R 270 000	R 40 210	+ 30% of the amount over	R 195 000
R 270 001	—	R 380 000	R 62 710	+ 35% of the amount over	R 270 000
R 380 001	—	R 490 000	R 101 210	+ 38% of the amount over	R 380 000
R 490 001	and above		R 143 010	+ 40% of the amount over	R 490 000

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 29 FEBRUARY 2008

TAXABLE INCOME			RATES OF TAX		
R 0	—	R 112 500		+ 18% of each R1	
R 112 501	—	R 180 000	R 20 250	+ 25% of the amount over	R 112 500
R 180 001	—	R 250 000	R 37 125	+ 30% of the amount over	R 180 000
R 250 001	—	R 350 000	R 58 125	+ 35% of the amount over	R 250 000
R 350 001	—	R 450 000	R 93 125	+ 38% of the amount over	R 350 000
R 450 001	and above		R 131 125	+ 40% of the amount over	R 450 000

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 28 FEBRUARY 2007

TAXABLE INCOME			RATES OF TAX		
R 0	—	R 100 000		+ 18% of each R1	
R 100 001	—	R 160 000	R 18 000	+ 25% of the amount over	R 100 000
R 160 001	—	R 220 000	R 33 000	+ 30% of the amount over	R 160 000
R 220 001	—	R 300 000	R 51 000	+ 35% of the amount over	R 220 000
R 300 001	—	R 400 000	R 79 000	+ 38% of the amount over	R 300 000
R 400 001	and above		R 117 000	+ 40% of the amount over	R 400 000

TAX REBATES AMOUNTS DEDUCTIBLE FROM TAXES PAYABLE:

	2008	2009
■ Primary Rebate	R 7 740	R 8 280
■ Additional Rebate (Applicable to taxpayers 65 years and older)	R 4 680	R 5 040

TAX THRESHOLDS TAXABLE INCOMES ON WHICH NO TAX IS PAYABLE:

	2008	2009
■ Natural Persons under 65	R 43 000	R 46 000
■ Natural Persons 65 years and older	R 69 000	R 74 000

DEDUCTIONS

Employee deductions are limited to the following:

- Business travel deduction limited to car allowance
- Certain medical expenses
- Contributions to pension and retirement funds
- Donations to certain public benefit organisations
- Specific expenditure against allowances of holders of public office
- Wear and tear allowances on equipment.

The following currently represent certain standard deductions which may be utilised by taxpayers -

MEDICAL EXPENSES: For taxpayers under 65 years of age, this deduction is limited to expenditure (including contributions) which exceeds 7.5% of taxable income.

For taxpayers over 65 years of age, there are no limitations and all expenses are deductible. Where the taxpayer qualifies as a “handicapped person”, the taxpayer may deduct all qualifying medical expenditure in excess of R500 for the year.

CURRENT PENSION FUND CONTRIBUTIONS: This deduction is limited to the greater of R 1 750 or 7.5% of remuneration from retirement funding employment.

CURRENT RETIREMENT ANNUITY FUND CONTRIBUTIONS: This deduction is limited to the greater of 15% of taxable income from non-retirement funding employment, R1 750 or R3 500 less Pension Fund contributions.

TRAVELLING ALLOWANCE

For the Tax year ending 2009

Rates per kilometre which may be used in determining the allowable deduction for business-travel, where no records of actual costs are kept.

WHERE THE VALUE OF THE VEHICLE IS (Including VAT)	FIXED COST R p.a.	FUEL COST c/km	MAINTENANCE COST c/km
0 - 40 000	14 672	58.6	21.7
40 001 - 80 000	29 106	58.6	21.7
80 001 - 120 000	39 928	62.5	24.2
120 001 - 160 000	50 749	68.6	28.0
160 001 - 200 000	63 424	68.8	41.1
200 001 - 240 000	76 041	81.5	46.4
240 001 - 280 000	86 211	81.5	46.4
280 001 - 320 000	96 260	85.7	49.4
320 001 - 360 000	106 367	94.6	56.2
360 001 - 400 000	116 012	110.3	75.2
exceeding 400 000	116 012	110.3	75.2

Note: *The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.*

Of the actual distance travelled during a tax year, in the absence of a log book, it is deemed that the first 18 000 kilometres are travelled for private purposes and the balance, but not exceeding 14 000 kilometres, are travelled for business purposes. 60% of the travelling allowance must be included in the employee's remuneration for the purposes of calculating PAYE.

Alternatively;
Where the distance travelled for business purposes does not exceed 8 000 kilometres per annum, no tax is payable on an allowance paid by an employer to an employee, up to the rate of 292 cents per kilometre regardless of the value of the vehicle.

This alternative is not available if other compensation in the form of an allowance or reimbursement is received from the employer in respect of the vehicle.

EMPLOYER-OWNED VEHICLES:

The taxable value is 2,5% of the determined value (usually the cash cost excluding VAT) per month. Where a second (and further) vehicle is made available to an employee or his family, and the vehicle is not used primarily for business purposes, the benefit is 2,5% per month on the vehicle with the highest value and 4% per month on the other vehicle(s). Where the employee bears the cost of all fuel used for the purposes of the private use of the vehicle (including travelling between the employee's place of residence and his/her place of employment) the monthly percentage to be applied is reduced by 0,22 percentage points.
If the employee bears the full cost of maintaining the vehicle (including the cost of repairs, servicing, lubrication and tyres) the monthly percentage to be applied is reduced by 0,18 percentage points.

HOLIDAY ACCOMMODATION *provided by Employer*

Employee taxed on —

- Lower of R100 per day or prevailing market rate
- All costs incurred if accommodation is hired by Employer

SUBSISTENCE ALLOWANCE

The unexpended portion of any allowance given to an Employee for expenses for personal subsistence and incidental costs, e.g. —

- Accommodation and meals is subject to tax if required to spend at least one night away from home.
- In order to simplify the administrative procedures, the amount in excess of the limits described below is taxable.

OVERSEAS TRAVEL

At the discretion of CIR, who currently allows actual accommodation costs plus $215 per day for meals and incidental costs. This only applies for continuous periods outside the Republic not exceeding six weeks. Where this period is exceeded, allowance paid must be declared in full on Employee's Tax Certificate and Employee must claim his/her actual expenditure as a deduction.

LOCAL TRAVEL

The deemed expenditure provision will be limited to the subsistence and incidental cost allowance of R240 per day for local travel.

RESIDENTIAL ACCOMMODATION

Supplied by Employer - DETERMINED BY FORMULA : (A - B) x C/100 x D/12:

A = Remuneration (excluding any use of motor vehicle, or entertainment or travel allowances)
B = R 40 000
C = 17 (at least 4 rooms)
C = 18 (at least 4 rooms, power/fuel supplied by Employer)
C = 19 (at least 4 rooms, furnished, power/fuel supplied by Employer)
D = Number of months of occupation

Any rental payment to Employer by Employee reduces formula determination

LOW INTEREST/INTEREST-FREE LOANS

Amount taxed is the difference between interest payable on the loan by the employee and official interest rate Short term loans, not granted regularly, not granted to all Employees, not in excess of R 3 000, are not taxable benefits.

TAXATION OF LUMP SUMS

RETIREMENT

Pension fund: A maximum of one third may be commuted to a lump sum. The full value of the fund can be paid out as a lump sum where two thirds of the total value does not exceed R 50 000. The taxation of the lump sum will be at the following rates after deducting tax free portions received in the past and adding own contributions not allowed in the past.

First	R30 0000	0 %
Next	R30 0000	18 %
Next	R30 0000	27 %
The balance		36 %

Provident Fund: As for pension funds but with no commutation of one third. The tax free portion is the same as for pension funds.

Retirement annuity fund: As for pension funds

RESIGNATION

Pension fund: Maximum of the greater of:
- R1 800 plus any amount transferred as a single premium to another approved pension or retirement annuity fund, or
- An amount equal to a member's own contributions not previously allowed as a deduction.

Provident Fund: As for pension funds except that any amount transferred to another approved provident fund will also be allowed as a deduction

Retirement annuity fund: No withdrawal allowed, except in the case of mental disability, but may be made paid up. Benefits may not be surrendered, commuted, assigned or pledged as security. Transfer is limited to another retirement annuity fund or the purchase of an insurance policy which the Commissioner is satisfied provides similar benefits.

ON DEATH

Pension fund: As for retirement

Provident Fund: Same as pension funds plus employees own contributions

LUMP SUMS RECEIVED FROM EMPLOYER

R30 000 exemption: Amounts received in respect of:

- Termination of office or employment,
- Impending termination of office or employment,
- Relinquishment, termination, loss, repudiation, cancellation or variation of office or employment or in respect of appointment to any office or employment.

To qualify for the exemption the person receiving the lump sum must fall into one of the following categories:

- the person must have reached the age of 55 years; or
- the termination or pending termination of the person's services must be due to superannuation, ill-health or infirmity; or
- the termination or impending termination of services must be due to the person's employer having ceased or intending to cease carrying on business, or implementing a reduction in staff (i.e. retrenchment)

The exemption in respect of amounts received in consequence of retrenchment or the employer ceasing to carry n business only applies if the person was not a director of the company (the employer) and did not at any time hold more than 5% of the issued share capital or members interest in such company.

RATING FORMULA

The rating formula ensures that lump sums are taxed, not at the marginal rate, but at the average rate of tax applicable to the tax payer's taxable income excluding the extraordinary amount.

Where the taxable income of any taxpayer includes:

- Any amount received by or accrued to him (other than pension provident or RAF lump sums)
- As an employee or the holder of an office
- By way of a bonus, gratuity or compensation
- Upon or because of the termination, or impending termination within five years, or his office or employment.

Such amount will be subject to the rating formula if:

- the person must have reached the age of 55 years; or
- the termination or pending termination of the person's services must be due to superannuation, ill-health or infirmity; or
- the Commissioner is satisfied that the termination is due to the taxpayer's employer having ceased or intending to cease carrying on business, or the taxpayer having become redundant and the circumstances warrant this concession

PROVISIONAL TAX

Provisional taxpayers are required to make two payments during a tax year, i.e. every six months. In addition, provisional taxpayers with taxable income in excess of R50 000 per annum (Companies and Close Corporations: R20 000 per annum) must pay a third “top-up” payment to avoid interest leviable in terms of Section 89 quat of the Income Tax Act.

Under normal circumstances, this 3rd provisional payment is due 6 months after a taxpayer’s year-end. In the case of a taxpayer with a February year-end, the “top-up” payment can be made by the end of September of every year.

TAXPAYERS DEFINED FOR PROVISIONAL TAX PURPOSES

- Income earners not deriving remuneration as defined
- Companies, CCs, Trusts

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

PERSONS EXEMPT FROM MAKING PROVISIONAL TAX PAYMENT

- Natural persons under the age of 65 who do not carry on business, and whose taxable income will not exceed the tax threshold or whose interest, foreign dividends and rental will not exceed R10 000.
- Non-residents
- Certain farming, fishing and diamond-digging operators
- Natural persons over 65 years of age not carrying on a business with taxable income not exceeding R80 000
- Non-resident ship or aircraft charterers

STANDARD INCOME TAX ON EMPLOYEES (SITE)

SITE is a procedure through which the normal tax in respect of the first segment of an Employee's remuneration (R60 000 in all cases) is determined by the Employer and deducted under the PAYE system. **SITE** constitutes either a final or minimum liability, and is only refundable in certain scenarios. The most important exclusions from SITE systems are:

- Director's remuneration
- Self-employed practitioners
- Remuneration that may be set off against any assessed loss

All taxpayers who receive remuneration as defined will thus have an element of **SITE** in their tax deductions but only amounts which are PAYE in excess of the SITE liability will be refundable.

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

PAY AS YOU EARN (PAYE)

Any Employee's remuneration which is not 'net remuneration' as defined or exceeds SITE limits (R60 000) is subject to monthly deductions according to the **PAYE** tables.

- 60% of any Travel Allowance
- Payment made to directors of private companies (including members of close corporations) in respect of services rendered are subject to **PAYE**.
- **PAYE** should be withheld from remuneration paid to labour brokers unless an exemption certificate is obtained.
- ANNUITIES from Annuity Funds are subject to **PAYE** and SITE.

NORMAL TAXATION

Close corporations and companies are treated the same for tax purposes and are taxed at the South African normal company tax rate of 28%.

Employment companies that are classified as personal service companies (see page 20) or labour brokers (who have not been issued with an exemption certificate for PAYE purposes) are taxed at 33%. A small business corporation(see pg 21 for rates) is a close corporation or private company (other than an employment company) of which: a) the entire shareholding or membership is held by natural persons; b) the gross income does not exceed R14million during the year of assessment; c) none of the members, at any time during the year of assessment, held shares in any other company (other than listed companies, collective investment schemes or body corporate, a shareblock company or association of persons); d) not more than 20% of the gross income consists of investment income; e) if engaged in the provision of personal services, maintains at least three full-time employees (non of whom may be a shareholder or a connected person in relation to the shareholder) for core operations.

SECONDARY TAX ON COMPANIES

A company resident in South Africa is liable for Secondary Tax on Companies (STC) on dividends declared. STC of 12,5% or 10% if after 1 October 2007, is payable within a month of the end of the dividend cycle. Dividends declared by a company in liquidation, winding-up or deregistration from capital profits that accrued after 1 October 2001, are subject to STC. If the capital profits accrued before that date, the dividend will be exempt from STC if declared in the process of liquidation or deregistration, provided certain prescribed steps are taken and instituted within 6 months after the date the dividend is declared.

TRUSTS

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

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

Trusts are divided into two categories for tax purposes :

- Special Trusts
- All other Trusts

A special trust means a trust created solely for the benefit of someone who suffers from a mental illness as defined in the Medical Health Care Act, or any serious physical disability Where such illness or disability prevents such person from earning sufficient income for their maintenance or from managing their own financial affairs. A special trust can also be created by way of a testamentary trust whereby beneficiaries of the testator who suffer from illness or physical disability as defined and where the youngest of the beneficiaries is on the last day of the year of assessment of that trust is under the age of 21 years.

The tax rates applicable to Special Trusts are the same as those applicable to natural persons, except that the primary rebate and interest and foreign dividend exemptions do not apply.

PERSONAL SERVICE COMPANIES & TRUSTS

A personal service company or trust is characterised by the following:

a) the person rendering the service to a client is a connected person in relation to the company or trust, and

b) such person would be regarded as an employee of the client were it not for the entity, or

c) such person would be subject to the control and supervision of the client, if services are given at home.

d) more than 80% of the entities income is received from any one client or associated entity of the client.

Furthermore, the only allowable deduction will be limited to the amount of remuneration paid to the shareholders, members or any other employee of the company or trust.

An exception applies to the above, if the entity employs more than two full time employees throughout the year of assessment who are not connected to the company or trust.

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

SMALL BUSINESS CORPORATIONS

Taxable income	Tax rates
2008	
R0 - R 43 000	Nil
R43 001 - R 300 000	10% of amount above R43 000
R300 001 +	R25 700 plus 29% of amount above R300 000
2009	
R0 - R 46 000	Nil
R46 001 - R 300 000	10% of amount above R46 000
R300 001 +	R25 400 plus 28% of amount above R300 000

Rates applies if

- All shareholders throughout the year of assessment are natural people who hold no shares in any other private companies or members interest in any other close corporations
- Gross income for the year does not exceed R14m (2007 : R14m)
- Not more than 20% of the gross income consists collectively of investment income (annuity, interest, rental income, royalty, dividends, income from marketable securities or immovable property) or from income from rendering a personal service (accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, broking, commercial arts, consulting, draughtsmanship, education, engineering, entertainment, health, information technology, journalism, law, management, performing arts, real estate research, secretarial services, sport, surveying, translation, valuation, or vetenirary science, which is performed personally by any person who holds an interest in the company or close corporation except where such corporation employs three or more unconnected full time employees for core operations (2007 : at least four)
- Corporation or company is not an employment entity

Accelerated depreciation

- Full cost of any asset used in a process of manufacture and brought into use on or after 1 April 2001
- All other assets brought into use after 1 March 2005 can be written off on a 50:30:20 basis (no apportionment)

FARMING INCOME

The First schedule of the Income Tax Act regulates farming taxes. The most important sections are :

VALUATION OF LIVESTOCK AND PRODUCE

Only livestock and produce need to be brought into account, not fertiliser etc Livestock can be valued at standard values or the farmer may elect own values which may not differ more than 20% of standard values (once a value has chosen, it must be used consistently).

Purchases of livestock cannot create a loss because of using standard values. (ringfencing) This gross loss must be carried forward to the next year The values as per government gazette 5309 of 8 Oct 1976:

Cattle:	Bull R 50, Ox R40, Cow R40
Tollies and Heifers:	1 - 2 years old R14, 2 - 3 years old R 30
Calves	R4
Sheep	Wethers, Rams and Ewes R6, weaned lambs R2
Goats	Weaned Kids R2, Fully grown R 4
Pigs	Under 6 months (weaned) R6, over 6 months R12
Poultry	over 9 months R1
Horses	Stallions over 4 years R40, Mares over 4 years and Geldings over 3 years R30, Colts and fillies 3 years R10, Colts and fillies 2 years R8, Colts and fillies 1 year R 6, Foals under 1 year R2
Donkeys	Jacks and Jennies over 3 years R4, Jacks and Jennies under 3 years R 2
Mules	4 years and over R30, 3 years R20, 2 years R14, 1 year R6
Ostriches	fully grown R6
Chinchillas	all ages R1

CAPITAL DEVELOPMENT EXPENDITURE

Expenditure not restricted to taxable income from farming:

- Eradication of noxious plants and prevention of soil erosion

Expenditure restricted to taxable income from farming

- Dipping tanks
- Dams irrigation schemes, boreholes and pumping plants
- Fences
- Additions, erection of, extensions and improvements to farm buildings (including farm schools and domestic buildings of employees, not related to the farmer or shareholders, but limited to a maximum of R6000 per employee and recouped if a non-employee takes occupation)
- Costs of establishing the area for and the planting of trees, shrubs and perennial plants
- Carrying of electric power from main power lines to farm machinery and equipment

SPECIAL DEPRECIATION ALLOWANCE:

Machinery, implements, utensils and articles for farming purposes are written off over three years on a 50:30:20 basis. This does not apply to motor vehicles used to convey passengers, caravans, aircraft (excluding crop-spraying aircraft) or office furniture and equipment.

Rating formula

Because a farmers income fluctuates from year to year, he may elect to be taxed in accordance with a rating formula. The farmer is taxed on the average taxable income in the current and preceding four years (losses are taken into account). After election he is bound to the same rating in future and he is not entitled to make use of provisions relating to government livestock reduction schemes, rating formula for plantation farmers and provisions relating to sugar cane farmers. Special arrangements applicable in the event of the first year of farming, being either lower than R5000, R5000 or 2/3rds if income is above R7500.

Other

Special provisions exist for forced sales in the event of drought, disease, plague or fire., special drought relief schemes, Plantation farming and sugar cane farming.

BRIEF SUMMARY OF CGT

CGT is payable on the **disposal** of **assets** that take place on or after valuation date, i.e. 1 October 2001; in the case of South African residents, the tax will apply to disposals of all assets (including overseas assets); in the case of **non-residents**, the following assets will be subject to CGT:

- immovable property, or any right or interest in a property (this includes a direct or indirect interest of at least 20% held alone or together with any connected person in the equity share capital of a company, where at least 80% of the value of the net assets of the company is, at the time of the disposal, attributable to immovable property in SA); and
- any asset of a permanent establishment through which a trade carried on in SA;

a capital gain or loss is determined by calculating the difference between the **proceeds** i.e. the amount accruing to the seller, and the base cost of the disposed asset;
base cost relates to the costs directly incurred in acquiring or improving the asset.

CALCULATION OF CGT

A capital gain or loss is calculated separately in respect of each asset disposed;

once determined, gains or losses are combined for that year of assessment;

an annual exclusion of **R16 000** is applicable, in respect of natural persons only, to the sum of all gains and losses (**R120 000** in the year of death of the person); the resulting capital gain or loss (if not specifically excluded, disregarded or deferred) is aggregated with all other gains or losses in the current tax year, and if it is;

- an assessed capital loss, it is carried forward to the following year, or
- a net capital gain, it is multiplied by the inclusion rate (see example).

this taxable capital gain is included in taxable income and taxed at the normal income tax rates applicable.

EFFECTIVE TAX RATES

Type of taxpayer	Inclusion Rate	Statutory Rate	Effective Rate
Individuals	25%	0-40%	0-10%
Retirement funds	N/A	0%	N/A
Trusts			
- unit trusts	N/A	30%	N/A
- special trusts	25%	18-40%	4,5%-10%
- other	50%	40%	20%
Life assurers			
- individual policyholder fund	25%	30%	7,5%
- company policyholder fund	50%	30%	15%
- corporate fund	50%	30%	15%
- untaxed policyholder fund	0%	0%	0%
Companies	50%	28%	14%
Small business corporations	50%	0-28%	0-14%
Employment companies	50%	33%	16.5%
Tax holiday companies	50%	0%	0%

VALUE ADDED TAX (VAT)

VAT was introduced on 30 September 1991 at 10% and increased to 14% on 7 April 1993. The VAT system comprises three types of supply:

- standard-rated supplies - supplies of goods and services subject to the VAT rate in force at the time of supply
- exempt supplies - supplies of certain services not subject to VAT. Vendors making exempt supplies are not entitled to input credits
- zero-rated supplies - supplies of certain goods or services subject to VAT at zero percent.

KEY FEATURES

- enterprises with a turnover of less than R1 000 000 in any period of 12 months are not obliged to register for VAT;
- enterprises with a turnover of less than R20 000 in any period of 12 months are not permitted to register for VAT;
- VAT returns are generally submitted on a 2 monthly basis unless turnover in any period of 12 months exceeds R30 million, in which case returns are submitted monthly;
- farmers may submit VAT returns on a 6 monthly basis and property letting companies may, subject to certain requirements, submit annual VAT returns;
- businesses with turnover of less than R1,5 million may apply to submit returns quarterly, i.e., once every 3 months;
- a vendor is legally obliged to notify SARS as soon as annual turnover exceeds or is expected to exceed R30 million;
- vendors may reclaim the VAT element of all expenditure except on:
  - entertainment, except qualifying subsistence;
  - passenger vehicles (including hiring); and
  - club subscriptions.
- input tax credits may not be claimed on expenditure relating to exempt supplies;
- input tax credits may only be claimed upon receipt of a valid tax invoice;
- from 1 March 2005, the name, address and VAT registration number of the recipient must appear on tax invoices where the VAT inclusive total exceeds R3 000;

DONATIONS

Donations Tax is payable by any individual living in the Republic of South Africa, or any South African company or one managed or controlled in the Republic, on the value of any gratuitous disposal of property including the disposal of property for inadequate consideration and the renunciation of rights.

PRINCIPAL EXEMPTIONS:

1. Donations between spouses.
2. Donations to charitable, ecclesiastical and educational institutions, and certain public bodies in the Republic of South Africa limited to certain thresholds.
3. Casual donations up to R10 000 per year by donors other than natural persons.
4. Donations by natural persons on or after 1 March 2007 not exceeding R100 000 (previously R50 000) per year.
5. The donation of assets situated outside the Republic, subject to certain conditions:
   - Donations by companies not considered to be public companies up to R10 000 per annum after 1 March 2002 (2001 : R5 000)
     - Donations where the donee will not benefit until the death of the donor
   - Donations made by companies which are recognised as public companies for tax purposes
   - Donations cancelled within six months of the effective date
   - Property disposed of under and in pursuance of any trust
     - With effect from 1 October 2001, donations between companies forming part of the same group of companies

RATES:

Donations tax is payable within 3 months after the donation at a flat rate of 20% on all donations on or after 1 October 2001.

CAPITAL INCENTIVE ALLOWANCES

ASSET TYPE	CONDITIONS FOR ANNUAL ALLOWANCES	ANNUAL ALLOWANCES
Industrial Buildings	Cost of erection of buildings or improvements, provided building is used wholly or mainly for carrying on a process of manufacture or similar process	5% WEF 1/7/96 — 10%
Commercial & Residential Buildings in Designated Urban Areas	Refurbishment of existing building Construction of new building	20% 20% in 1st year 5% in each of 16 subsequent years
Hotel Buildings	Cost of portion of erection or improvements, provided registered as a hotel Refurbishments which commenced on or after 17 March 1993	5% 20%
Residential Buildings	Building projects erected on or after 1 April 1982 consisting of at least five units of more than one room intended for letting, or occupation by *bona fide* full-time employees	2% of cost and an initial allowance of 10% of cost
Aircraft	Must be used for purposes of trade	20%
Ships	Must be used for purposes of trade	20%
Plant & Machinery	New or unused manufacturing assets acquired on or after 1 March 2002 will be subject to wear and tear allowances over four years	40% in 1st year 20% in each of the 3 subsequent years
Plant & machinery (small business corporations only)	New and unused plant or machinery brought into use on or after 1 April 2001 and used by the taxpayer directly in a process of manufacture	100% of cost

RESIDENCE BASED TAX

With effect from 1 January 2001, all income earned by a South African resident became taxable in South Africa.

DEFINITION OF RESIDENT

Natural Person

- any natural person who is ordinarily resident in South Africa; or
- any natural person who is not ordinarily resident in South Africa but who:
  - is physically present in South Africa for a period exceeding 91 days in aggregate during the current year of assessment and for a period exceeding 91 days in aggregate during each of the prior 5 years of assessment; and was physically present in South Africa for a period exceeding 915 days in aggregate during the previous 5 years of assessments.
  - Where a person has been outside of South Africa for a continuous period of at least 330 full days after he ceases to be physically present in South Africa, he will be deemed to not have been resident in South Africa from the day that he ceased to be physically present in the country.
  - South African resident employees who render services for any employer outside South Africa for a period which in aggregate exceeds 183 full days commencing on or ending during a period of assessment, and for a continuous period exceeding 60 full days during such 183 day period, will not be liable for income tax on their remuneration for the period that they are outside South Africa.

Companies

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

CONTROLLED FOREIGN COMPANIES (CFC)

A Controlled Foreign Company (CFC) means any foreign company where 50% or more of the total participation rights in that foreign company are held or more than 50% of the voting rights in that foreign company are directly or indirectly exercisable by one or more residents. South African residents must impute all income of a CFC in the same ratio as the participation rights of the resident in such a CFC, subject to a number of exclusions. Net income of the CFC is defined as the CFC's taxable income determined as if the CFC is a South African taxpayer.

FOREIGN DIVIDENDS

With effect from 1 June 2004 foreign dividends received from a non-resident company, including deemed dividends, are taxable, unless:

- A qualifying interest is held in the equity of the distributing company
- Residents hold more than 10% of the distributing companies equity share capital and that such company is a listed entity
- The distributing company is a controlled foreign company (CFC) and the dividends do not exceed amounts deemed to be the resident shareholder's income under the CFC rules
- The profits from which the dividends were declared are taxable in South Africa or arose from dividends declared by a resident company.

With effect from from 8 November 2005 the qualifying interest is 20%.

FOREIGN TAX CREDITS

Residents are allowed to deduct all foreign taxes paid in respect of foreign income from the tax payable in South Africa on the total amount of such foreign income. Any excess credits may be carried forward.

EXCHANGE CONTROL

SOUTH AFRICAN RESIDENT PRIVATE INDIVIDUALS

Private individuals who are over 18 and tax payers in good standing have been permitted to invest abroad since 1 July 1997. The current limit is R2 000 000 per person.

MISCELLANEOUS

Companies and individuals will, where appropriate, need to satisfy the authorities that their tax affairs are in good standing.

EMIGRATION LIMITS

Household & personal effects, Motor Vehicles, Stamps, coins & Kruger Rands. R 1 000 000

TRAVEL AND STUDY ALLOWANCES

Travel:	per adult p.a. (over 12 years)	R 160 000
	per child p.a. (under 12 years)	R 50 000
Study:	per student p.a.	R 160 000
	per student p.a. (accompanied by spouse)	R 320 000
Student Travel Allowance:		
	per student	R 50 000
	per student (accompanied by spouse)	R 100 000
Personal transfer limits for domestic purposes:		
	Maintenance & alimony transfers per month	R 9 000
	Monetary gifts & loans p.a.	R 30 000

CAPITAL TRANSFERS

Capital introduced into the country after 1 July 1997, by resident individuals may be repatriated at any time.

NON-RESIDENTS

Non-residents may 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 subject to exchange control approval.

CAPITAL TRANSACTIONS

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

DIVIDENDS

Dividends declared by quoted companies out of income earned are remittable to non-resident shareholders. An emigrant shareholder will be entitled to dividends declared out of income earned after the date of emigration. Dividends declared by non-quoted companies are remittable in proportion to percentage shareholdings, subject to certain restrictions. Dividends in favour of emigrant shareholders may be remitted subject to additional requirements.

FEES

Authorised dealers may transfer directors fees to nonresident 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. Requests for payment of management and administration fees are considered on merit.

ESTATE DUTY

The general rule is that if the taxpayer is ordinarily resident in the Republic at the time of death, all of 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 usufruct)	R	....
◆ Deemed property	R	....
◆ Gross value of property	R	....
◆ Deductions	R	....
◆ Net Value of Estate	R	....
◆ Abatement	R	...(3 500 000)...
◆ Dutiable Estate (A)	R	....
◆ Estate Duty 20% of A	R	....

Deemed property includes: Insurance Policies on the life of the deceased as well as property that the deceased was competent to dispose of immediately prior to his death.

The most important deductions are:

- Debts due at date of death
- Bequests to various charities
- Bequests to a surviving spouse

There is relief from Estate Duty in the case of the same property being included in the estates of spouses dying within 10 years of each other. The deduction is calculated on a sliding scale varying from 100% where the taxpayers die within 2 years of each other and 20% where the deaths are within 8 years of each other.

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

RATES: Estate duty is payable at a flat rate of 20% for persons dying on or after 1 October 2001.

TRANSFER DUTY ON IMMOVABLE PROPERTY

TRANSFER DUTY IS:

- is calculated on the value of the immovable property (purchase price or market value whichever is the highest);
- will be exempted if the purchase price / value is under R500 000 or when the Seller is a registered VAT vendor and the property is being sold as a going concern;
- Where a registered vendor purchases property from a non-vendor, the VAT notional input tax credit is limited to the quantum of transfer duty payable. A notional input tax credit is only claimable to the extent to which the purchase price has been paid,
- Certain exemptions apply to unbundling of corporate structures;
- The acquisition of a contingent right in a trust that holds a residential property or the shares in a company or the member's interest in a close corporation, which owns residential property, comprising more than 50% of its CGT assets, is subject to transfer duty at the applicable rate;
- The purchaser of the shares or members interest will be liable to pay transfer duty
- Liabilities of the entity to be disregarded when calculating the fair value of the contingent right in the trust, the shares in the company or the member's interest in the close corporation;
- Any person who does or omits to do anything with the intent to evade transfer duty may be charged with additional duty up to twice the amount of duty payable. Such person is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 60 months;

Transfer duty is calculated as follows: Rate of transfer duty, 2008/9

Natural persons:

R0 - R500 000	0%
R500 001 - R1 000 000	5% on the value above R500 000
R1 000 001 and above	R25 000 plus 8% on the value over R1 000 000

Companies, Close Corporations & Trusts:

Transfer duty rate for these legal entities is a flat rate of 8%

WEAR AND TEAR ALLOWANCES

WRITE-OFF PERIODS ACCEPTABLE TO INLAND REVENUE

ITEM	Period of write-off (no. of years)	ITEM	Period of write-off (no. of years)
Adding machines	6	Fertiliser spreaders	6
Air-conditioners: window type	6	Fire extinguishers (loose units)	5
Aircraft: light pass/		Fishing Vessels	12
commercial/helicopter	4	Fitted carpets	6
Arc welding equipment	6	Fork-lift trucks	4
Balers 6		Front-end loaders	4
Battery chargers	5	Furniture and fittings	6
Bicycles	4	Gantry cranes	6
Bulldozers	3	Garden irrigation equipment	
Burglar Alarms (removable)	10	(movable)	5
Calculators	3	Gas cutting equipment	6
Cash registers	5	Gas heaters and cookers	6
Cellular telephone	3	Gear shapers	6
Cheque writing machines	6	Graders	4
Cinema equipment	5	Grinding machines	6
Cold drink dispenser	6	Guillotines	6
Compressors	4	Gymnasium equipment	10
Computer (main frame)	5	Hairdressers equipment	5
Computer (personal computer)	3	Harvesters	6
Computer software (main frames):	2	Heat dryers	6
Purchased	3	Heating equipment	6
Self-developed	1	Hot water systems	5
Computer software (personal computer)	2	Incubators	6
Concrete transit mixers	3	Ironing and pressing	
Containers	5	equipment	6
Crop sprayers	6	Kitchen equipment	6
Curtains	5	Knitting machines	6
Debarking equipment	4	Laboratory research	
Delivery vehicles	4	equipment	5
Demountable partitions	6	Lathes 6	
Dental and doctors		Laundromat equipment	5
equipment	5	Law reports	5
Dictaphones	3	Lift installations (goods)	12
Drilling equipment (water)	5	Lift installation (passengers)	12
Drills 6		Medical theatre equipment	6
Electric saws	6	Milling machines	6
Electrostatic copiers	6	Mobile caravans	5
Engraving equipment	5	Mobile cranes	4
Excavators	4	Mobile refrigeration units	4
Fax machines	3	Motorcycles	4

WEAR AND TEAR ALLOWANCES

WRITE-OFF PERIODS ACCEPTABLE TO INLAND REVENUE

ITEM	Period of write-off (no. of years)
Motorised chain saws	4
Motorised concrete mixers	3
Motor mowers	5
Musical instruments	5
Neon signs and advertising boards	10
Ovens and heating devices	6
Oven for heating food	6
Oxygen concentration	3
Paintings (valuable)	25
Pallets4	
Passenger cars	5
Patterns, tooling and dies	3
Perforating equipment	6
Photocopying equipment	5
Photographic equipment	6
Planers	6
Pleasure craft etc.	12
Portable concrete mixers	4
Ploughs	6
Portable generators	5
Portable safes	25
Power tools (hand operated)	5
Public address systems	5
Race horses	4
Radio communication equipment	5
Refrigerated milk tank	4
Refrigerated equipment	6
Refrigerators	6
Runway lights	5
Sanders	6
Security systems	6
Seed separators	6
Sewing machines	6
Shop fittings	6
Solar energy units	5
Special patterns and tooling	2
Spin dryers	6
Spot welding equipment	6
Staff training equipment	5
Stainless steel containers	5
Surveyors:	
Instruments	10
Field equipment	5
Tape-recorders	5
Telephone equipment	5
Television and advertising films	4
TV sets, video machines and decoders	6
Textbooks	3
Tractors	4
Trailers	5
Traxcavators	4
Trucks (heavy duty)	3
Trucks (other)	4
Truck mounted cranes	4
Typewriters	6
Vending machines (inc. video game)	6
Video cassettes	2
Washing machines	5
Water distillation and purification plant	12
Water tankers	4
Water tanks	6
Weighbridges (movable parts)	10
Workshop equipment	5
X-ray equipment	5

**** Please note: Items of a value of less than R5000 may be written off in full in year one.***

RETENTION OF RECORDS

It is recommended that all documentation pertaining to potential Capital Gains tax transactions be retained indefinitely.

ACCOUNTING RECORDS

Books of prime entry:

Cash Books, Creditor's Ledgers, Debtor's 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 —

- Original 15
- Microfiche 5

Vouchers, Working Papers, Bank Statements, Costing Records, Creditor's Invoices and Statements, Debtor's Invoices and Statements, Goods Received Notes, Journal Vouchers, Payrolls, Purchase Orders and Invoices, Railage Documents, Salary and Wages Registers, Sales Tax Records, Tax Returns and Assessments, etc 5

EMPLOYEE RECORDS:

Expense Accounts, Payrolls, Employee Tax Returns,etc 5
Accident Records, Apprentice Records, Industrial Training Records, Staff Records, etc 3

STATUTORY & SHARE REGISTRATION RECORDS:

Annual Returns, Certificates of change of name, Incorporation, to commence business, 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 and pledges and Bonds, etc.

- Cancelled share transfer forms 12

SARS INTEREST RATES

SARS INTEREST RATES 2008/2009

Rates of interest rate	Rate
Fringe benefits - interest-free or low-interest loan (official rate)	12% p.a.
Late or underpayments of tax	14% p.a.
Refund of overpayments of provisional tax	10% p.a.
Refund of tax on successful appeal or where the appeal was conceded by SARS	14% p.a.
Refund of VAT after prescribed period	14% p.a.
Late payments of VAT	14% p.a.
Customs and Excise	14% p.a.

SARS INTEREST RATES 2007/2008

Rates of interest	Rate
Fringe benefits - interest-free or low-interest loan (official rate)	9% p.a.
Late or underpayments of tax	12% p.a.
Refund of overpayments of provisional tax	8% p.a.
Refund of tax on successful appeal or where the appeal was conceded by SARS	12% p.a.
Refund of VAT after prescribed period	12% p.a.
Late payments of VAT	12% p.a.
Customs and Excise	12% p.a.

PRIME BANK OVERDRAFT RATES

EFFECTIVE DATE			RATE	
01.	07.	1998	22,25	%
04.	07.	1998	23,25	%
14.	07.	1998	24,00	%
29.	08.	1998	25,50	%
19.	10.	1998	24,50	%
09.	11.	1998	23,50	%
07.	12.	1998	23,00	%
11.	01.	1999	22,00	%
05.	02.	1999	21,00	%
15.	03.	1999	20,00	%
26.	04.	1999	19,00	%
28.	06.	1999	18,00	%
14.	07.	1999	17,50	%
23.	07.	1999	16,50	%
04.	10.	1999	15,50	%
25.	01.	2000	14,50	%
18.	06.	2001	13,75	%
16.	07.	2001	13,50	%
28.	09.	2001	13,00	%
16.	01.	2002	14,00	%
18.	03.	2002	15,00	%
15.	06.	2002	16,00	%
16.	09.	2002	17,00	%
13.	06.	2003	15,50	%
15.	08.	2003	14,50	%
11.	09.	2003	13,50	%
20.	10.	2003	12,00	%
15.	12.	2003	11,50	%
16.	08.	2004	11,00	%
15.	04.	2005	10,50	%
08.	06.	2006	11,00	%
03.	08.	2006	11,50	%
13.	10.	2006	12,00	%
08.	12.	2006	12,50	%
08.	06.	2007	13,00	%
17.	08.	2007	13,50	%
12.	10.	2007	14,00	%
07.	12.	2007	14,50	%

COMPARATIVE TAX RATES

RATES OF TAX		2009	2008	2007	2006
(A) NATURAL PERSONS:					
Maximum marginal rate -		40%	40%	40%	40%
• Reached at a taxable income		490 001	450 000	400 000	300 000
Minimum rate		18%	18%	18%	18%
• Up to taxable income of		122 000	112 500	100 000	80 000
(B) COMPANIES:					
• Private and Public -	Normal tax rate	28%	29%	29%	29%
	STC rate	10%	10%	12.5%	12.5%
• Close Corporation -	Normal tax rate	28%	29%	29%	29%
	STC rate	10%	10%	12.5%	12.5%
(C) TRUSTS: (other than special trusts)					
Maximum marginal rate -		40%	40%	40%	40%
• Reached at a taxable income		Flat rate	Flat rate	Flat rate	Flat rate
Minimum rate		40%	40%	40%	40%
• Up to taxable income of		Flat rate	Flat rate	Flat rate	Flat rate
(D) SUNDRY:					
• Donations Tax		20%	20%	20%	20%
• Estate Duty		20%	20%	20%	20%