TAX GUIDE

2013 | 2014

PINTO RUSSELL

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CERTIFIED FINANCIAL PLANNER

LIST OF SERVICES

- ACCOUNTING
- AUDIT
- CONSULTING
- NEW BUSINESS FORMATIONS
- TAXATION
- BRITISH PENSIONS
- ESTATE PLANNING
- FINANCIAL PLANNING
- INVESTMENTS
- LIVING ANNUITIES
- MORTGAGE BONDS
- RETIREMENT PLANNING
- UNIT TRUST PORTFOLIO
- WINDING UP ESTATES

The Nelson Mandela Bridge

Symbolising linkage and unity.

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2013/2014 BUDGET HIGHLIGHTS

- Personal income tax relief of R7 billion, together with adjustments to the medical tax credit and other monetary thresholds, amounting to about R350 million
- Individuals whose taxable income is from one employer and is below R250 000 a year are not required to submit income tax returns
- From March 2014 an employer's contribution to retirement funds on behalf of an employee will be treated as a taxable fringe benefit in the hands of the employee. Individuals will from that date be allowed to deduct up to 27.5 per cent of the higher of taxable income or remuneration for contributions to pension, provident and retirement annuity funds with a maximum annual deduction of R350 000. Contributions above the cap are carried forward to future tax years
- Creation of special economic zones with preferential tax treatment designed to attract investment
- Requiring foreign businesses supplying e-books, music and other electronic services in South Africa to register as VAT vendors
- Several measures are proposed to limit the deduction of interest on specific types of debt to protect the tax base
- To curtail tax avoidance associated with trusts, government is proposing several legislative measures during 2013/14
- An employment incentive through the tax system for first-time job seekers.
- Further tax relief for small businesses, including an increase in the monetary tax thresholds applicable for small business corporations
- An overall increase of 23 cents per litre in fuel levies in April, which includes 8 cents per litre in the road accident fund levy
- Increases in excise duties on alcohol and tobacco products of between 5.7 and 10 per cent
- Policy paper on carbon emissions tax to be published in 2013 with the view of introducing a carbon tax from 2015

COMPARATIVE TAX RATES

RATES OF TAX	2012	2013	2014
NATURAL PERSONS			
Maximum marginal rate	40%	40%	40%
■ Reached at a taxable income	580 000	617 000	638 600
Minimum rate	18%	18%	18%
■ Up to taxable income of	150 000	160 000	165 600
■ CGT inclusion rate	25 %	33.3%	33.3%
COMPANIES & CC's			
■ Normal tax rate	28%	28%	28%
■ STC rate/Dividends Tax	10%	15%	15%
■ CGT inclusion rate	50%	66.6%	66.6%
TRUSTS (other than special trusts)			
■ Flat rate	40%	40%	40%
■ CGT inclusion rate	50%	66.6%	66.6%
SUNDRY			
■ Donations Tax	20%	20%	20%
■ Estate Duty	20%	20%	20%
SMALL BUSINESS CORPORATIONS			
Maximum marginal rate	28%	28%	28%
■ Reached at a taxable income	300 000	350 000	550 000
Minimum rate	0%	0%	0%
■ Up to a taxable income of	59 750	63 556	67 111
MICRO BUSINESS			
Max Rate of Tax	6%	6%	6%
■ On turnover of	750 000	750 000	750 000
Minimum Rate	0%	0%	0%
■ Up to a turnover of	150 000	150 000	150 000

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 28 FEBRUARY 2014

TAXABLE INCOME	RATES OF TAX
R0 – R165 600	+ 18% of taxable income
R165 601 – R258 750	R29 808 + 25% of taxable income above R165 600
R258 751 – R358 110	R53 096 + 30% of taxable income above R258 750
R358 111 – R500 940	R82 904 + 35% of taxable income above R358 110
R500 941 – R638 600	R132 894 + 38% of taxable income above R500 940
R638 601 and above	R185 205 + 40% of taxable income above R638 600

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 28 FEBRUARY 2013

TAXABLE INCOME	RATES OF TAX
R0 – R160 000	+ 18% of taxable income
R160 001 – R250 000	R28 800 + 25% of taxable income above R160 000
R250 001 – R346 000	R51 300 + 30% of taxable income above R250 000
R346 001 – R484 000	R80 100 + 35% of taxable income above R346 000
R484 001 – R617 000	R128 400 + 38% of taxable income above R484 000
R617 001 and above	R178 940 + 40% of taxable income above R617 000

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 29 FEBRUARY 2012

TAXABLE INCOME	RATES OF TAX
R0 – R150 000	+ 18% of each R1
R150 001 – R235 000	R27 000 + 25% of the amount above R150 000
R235 001 – R325 000	R48 250 + 30% of the amount above R235 000
R325 001 – R455 000	R75 250 + 35% of the amount above R325 000
R455 001 – R580 000	R120 750 + 38% of the amount above R455 000
R580 001 and above	R168 250 + 40% of the amount above R580 000

Tax rebates	**2012**	**2013**	**2014**
Primary	R10 755	R11 440	R12 080
Secondary (Persons 65 and older)	R6 012	R6 390	R6 750
Tertiary (Persons 75 and older)	R2 000	R2 130	R2 250

Tax thresholds	**2012**	**2013**	**2014**
Below age 65	R59 750	R63 556	R67 111
Age 65 to below 75	R93 150	R99 056	R104 611
Age 75 and over	R104 261	R110 889	R117 111

Interest Exemption:	**2012**	**2013**	**2014**
Below age 65	R22 800	R22 800	R23 800
Age 65 & above	R33 000	R33 000	R34 500

Current pension fund contributions

The greater of –

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

Any excess may not be carried forward to the following year of assessment.

Arrear pension fund contributions

Maximum of R1 800 per annum. Any excess over R1 800 may be carried forward to the following year of assessment.

Current retirement annuity fund contributions

The greater of –

- 15% of taxable income other than from retirement funding employment, or
- R3 500 less current deductions to a pension fund, or
- R1 750.

Any excess may be carried forward to the following year of assessment.

Arrear retirement annuity fund contributions

Maximum of R1 800 per annum. Any excess over R1 800 may be carried forward to the following year of assessment.

Medical and disability expenses

- Taxpayers 65 and older may claim all qualifying expenditure;
- Taxpayers below 65 years of age are entitled to a monthly "tax rebate" (i.e. credit) in respect of any medical scheme contributions made for the benefit of themselves and their dependants as follows:

	2013	2014
Taxpayer	R230	R242
First dependant	R230	R242
Per additional dependant	R154	R162

Additional (e.g. out-of-pocket) medical expenses incurred by individual taxpayers below 65 are handled as follows:

- Where the taxpayer, taxpayer's spouse or child is a person with a disability: A deduction of all qualifying medical expenses as well as the value of the medical scheme contributions that in aggregate exceed 4 $\times$ the credit allowed for medical scheme contributions;
- Other taxpayers: The taxpayer is entitled to a deduction equal to the aggregate of qualifying medical expenses and the medical scheme contributions in excess of 4 $\times$ the allowed credit that exceeds 7.5 per cent of the taxpayer’s taxable income (excluding any retirement fund lump sum, withdrawal and severance benefit).

Qualifying expenditure includes payments to/for:

- medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopaedist for professional services rendered and medicines supplied; or
- nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency for the services of such nurse, midwife or nursing assistant), for illness or confinement; or
- pharmacist for medicines as prescribed by a person mentioned in the first bullet point above;
- any expenditure that is necessarily incurred and paid by the taxpayer in consequence of any physical impairment or disability suffered by the taxpayer, his or her spouse or child, or any dependant of the taxpayer including in appropriate circumstances, the cost of structural modifications to a residence, such as the installation of elevators and the enlargement of halls and doorways;

Disability means a moderate to severe limitation of a person’s ability to function or perform daily activities as a result of physical, sensory, communication, intellectual or mental impairment, if the limitation lasts more than a year and is diagnosed by a registered medical practitioner.

Travelling allowance for the Tax year ending 2014

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 – 60 000	19 310	81.4	26.2
60 001 – 120 000	38 333	86.1	29.5
120 001 – 180 000	52 033	90.8	32.8
180 001 – 240 000	65 667	98.7	39.4
240 001 – 300 000	78 192	113.6	46.3
300 001 – 360 000	90 668	130.3	54.4
360 001 – 420 000	104 374	134.7	67.7
420 001 – 480 000	118 078	147.7	70.5
exceeding 480 000	118 078	147.7	70.5

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.*

Alternative to the rate table:

When the following criteria are met no tax is payable on a reimbursive travel allowance paid by an employer to an employee:

Description	2012	2013	2014
Maximum distance travelled for business purposes per annum:	8 000	8 000	8 000
Maximum rate per kilometre paid (cents):	305	316	324

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.

The actual distance travelled during a tax year and the distance travelled for business purposes substantiated by a log book are used to determine the costs which may be claimed against a travelling allowance.

Right of use of motor vehicle:

- Where the vehicle is owned by the employer, the taxable value is 3,5% of the determined value (the cash cost including VAT) per month of each vehicle. Where the vehicle is the subject of a maintenance plan at the time that the employer acquired the vehicle the taxable value is 3,25% of the determined value.
- Where the vehicle is rented by the employer, the monthly taxable value is equal to the actual costs incurred by the employer (i.e. the rental contract and related costs). The cost of fuel is not reflected in the rental value. Therefore, if the employer bears the cost of fuel, that taxable benefit must be reflected separately as a travel allowance.
- 80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.
- On assessment the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes substantiated by a log book divided by the actual distance travelled during the tax year.
- On assessment further relief is available for the cost of licence, insurance, maintenance and fuel for private travel if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a log book.

Holiday accommodation *provided by employer*

Employee taxed on –

- The prevailing market rate; or
- All costs incurred if accommodation is hired by Employer

Subsistence allowances and advances

Where the recipient is obliged to spend at least one night away from his/her usual place of residence on business and the accommodation to which that allowance or advance relates is in the Republic and the allowance or advance is granted to pay for –

- meals and incidental costs, an amount of R319 per day is deemed to have been expended;
- incidental costs only, an amount of R98 per day is deemed to have been expended.

Where the accommodation to which that allowance or advance relates is outside the Republic, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website.

Residential accommodation

A benefit arises where an employee has been provided with residential accommodation. The fringe benefit to be included in gross income is the greater of the benefit calculated by applying a prescribed formula or the cost to the employer. The formula will apply if the accommodation is owned by the employer, or an associated institution in relation to the employer, or under certain limited circumstances where it is not owned by the employer.

Interest-free or low-interest loans

The difference between interest charged at the official rate and the actual amount of interest charged, is to be included in gross income on any loans exceeding R3 000.

Bursaries

Bursaries are exempt from tax where:

- the bursary is granted to an employee (or a relative of an employee) who agrees to reimburse the employer for the bursary if the employee fails to complete his studies; and
- the bursary is granted to an employee who earns less than R200 000 (previously R100 000) per annum and is limited to R30 000 for higher and R10 000 for basic education per relative.

Retirement fund lump sum withdrawal benefits

BENEFIT	RATES OF TAX
R0 – R22 500	0% of benefit
R22 501 – R600 000	18% of benefit above R22 500
R600 001 – R900 000	R103 950 + 27% of benefit above R600 000
R900 001 and above	R184 950 + 36% of benefit above R900 000

- tax determined by applying the tax table to the aggregate of that lump sum plus all other retirement fund lump sum withdrawal benefits accruing from March 2009 and all retirement fund lump sum benefits accruing from October 2007 plus severance benefits accrued from March 2011; less
- tax determined by applying the tax table to the aggregate of benefits mentioned above excluding lump sums withdrawals received for the year.

Retirement fund lump sum benefits or severance benefits

BENEFIT	RATES OF TAX
R0 – R315 000	0% of benefit
R315 001 – R630 000	18% of benefit above R315 000
R630 001 – R945 000	R56 700 + 27% of benefit above R630 000
R945 001 and above	R141 750 + 36% of benefit above R945 000

- tax determined by applying the tax table to the aggregate of that lump sum plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 plus severance benefits accrued from March 2011; less
- tax determined by applying the tax table to the aggregate of benefits mentioned above excluding retirement lump sums and severance benefits received for the year.

Basic amount

The basic amount is computed as the taxable income (excluding capital gain and lump sum) of the latest preceding year of assessment increased by 8% p.a. if that assessment is more than a year old.

First provisional payment

The first payment is due six months before the end of the tax year. The payment must be based on the basic amount or a lower estimate approved by SARS.

Second provisional payment

The second payment is due on the last day of the tax year. The payment must be based on an estimate of the taxable income for the year. A two tier model is in force.

- taxable income less than R1 million – the estimate must be equal to lesser of the basic amount or 90% of the actual taxable income, or
- taxable income greater than R1 million – the estimate must be equal to 80% of the actual taxable income.

3rd Provisional payment

The 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.

Persons exempt from making provisional tax payments

- 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 taxable interest, foreign dividends and rental will not exceed R20 000.
- Natural persons over 65 years of age not carrying on a business with taxable income not exceeding R120 000.

Pay As You Earn (PAYE)

Any Employee's remuneration is subject to monthly deductions according to the **PAYE** tables. The following income/payments are subject to **PAYE**:

- 80% of any travel allowance.
- Payments made to directors of private companies (including members of close corporations) in respect of services rendered.
- Remuneration paid to labour brokers/personal service providers.
- ANNUITIES from Annuity Funds.

Directors PAYE

Directors of private companies and members of close corporations are deemed to have received a monthly remuneration, subject to PAYE, calculated in accordance with the following formula:

The balance of remuneration paid or accrued in the last year of assessment after the deduction of contributions to pension funds, retirement annuity funds, qualifying medical aid contributions and income protection plans by the employee, qualifying donations made by the employer on behalf of the employee, lump sum awards from the employer and withdrawals from retirement funds and share incentive benefits.

divided by

Number of completed months which the director/member was employed by the company/close corporation during the last year of assessment.

Actual remuneration paid is still subject to employees tax. The employees tax payable thereon must be reduced by the amount of employees tax payable on the deemed remuneration.

The formula calculated remuneration does not apply to directors of private companies and members of close corporations where they earn at least 75% of their remuneration in the form of fixed monthly payments

Resident companies (excluding personal service provider)

For years of assessment ending during the following periods:	Tax rate
1 April 2005 – 31 March 2008	29%
1 April 2008 – 31 March 2014	28%

Non-resident companies / Branch profits

For years of assessment ending during the following periods:	Tax rate
1 April 2008 – 31 March 2012	33%
1 April 2012 – 31 March 2014	28%

Personal service provider companies

For years of assessment ending during the following periods:	Tax rate
1 April 2011 – 31 March 2012	33%
1 April 2012 – 31 March 2014	28%

Effective tax rate of resident company (excluding personal service provider)

	2012	2013 From 1 April 2012	2014
Taxable income	100.00	100.00	100.00
Less: Normal tax	28.00	28.00	28.00
Available for distribution	72.00	72.00	72.00
Less: Dividend	65.45	72.00	72.00
Less: STC / Dividends tax	6.55	10.80	10.80
Total tax	34.55	38.80	38.80
Effective rate	34.55%	38.80%	38.80%

Note: Assumes all profits are declared as a dividend.

Years ending between 1 April 2012 and 31 March 2013	
R0 – R63 556	Nil
R63 557 – R350 000	7% of the amount above R63 556
R350 001 and above	R20 051 + 28% of amount above R350 000

Years ending between 1 April 2013 and 31 March 2014	
R0 – R67 111	Nil
R67 112 – R365 000	7% of the amount above R67 111
R365 001 – R550 000	R20 852 + 21% of taxable income above R365 000
R550 001 and above	R59 702 + 28% of the amount above R550 000

A small business corporation is a close corporation or private company (other than a personal service provider) of which:

- the entire shareholding or membership is held by natural persons;
- the gross income does not exceed R20 million (previously R14 million) during the year of assessment;
- none of the members/shareholders, at any time during the year of assessment, held shares in any other company other than listed companies, collective investment schemes, body corporates, shareblock companies, certain associations of persons, friendly societies and small interests in cooperatives, shares in private companies that are inactive and have assets of less than R5 000 or have taken steps to liquidate, wind-up or deregister (effective for years of assessment commencing on or after 1 January 2011).
- not more than 20% of the gross income and capital gains consists of investment income and income from the provision of personal services;
- if engaged in the provision of personal services, maintains at least three full-time employees (none of whom may be a shareholder or a connected person in relation to the shareholder) for core operations.

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.

All other trusts are subject to an income tax rate of 40% and a capital gains inclusion rate of 66.6%

PERSONAL SERVICE PROVIDERS (PSP)

A company or trust will qualify as a PSP if –

- A service is provided by a company or trust
- The services are rendered personally by any person who is a connected person.
- The entity does not employ more than three full-time employees throughout the year of assessment, that are not connected persons.
- There is an affirmative response to at least one of the following:
  - (i) The person who is rendering the service or the entity performing the duties would have been regarded as an "employee" of the client if the service was rendered directly to the client.
  - (ii) The service is rendered mainly at the premises of the client and the service is subject to the control or supervision of the client as to the manner in which it is performed.
  - (iii) More than 80% of the income of the entity stems from one client as defined.

A PSP is subject to employees' tax at the rate of 28% if it is a company and 40% if it is a trust. Expenses to be deducted by a PSP are also limited.

TURNOVER TAX FOR MICRO BUSINESSES

Financial years ending on any date between 1 April 2013 and 31 March 2014

TAXABLE TURNOVER	RATES OF TAX
R0 – R150 000	0%
R150 001 – R300 000	1% of the amount above R150 000
R300 001 – R500 000	R1 500 + 2% of the amount above R300 000
R500 001 – R750 000	R5 500 + 4% of the amount above R500 000
R750 001 and above	R15 500 + 6% of the amount above R750 000

Turnover tax for micro businesses is a simplified turnover based tax system substituting income tax, CGT and in certain circumstances VAT. The tax is an elective tax applicable to sole proprietors, partnerships, close corporations, companies and co-operatives with a turnover of less than R1 million per year. With effect from years of assessment commencing 1 March 2012, a micro business can voluntarily exit the turnover tax system at the end of any year of assessment. However, once out of the turnover tax system the taxpayer will not be permitted to re-enter. Prior to this, a three year lock-in period existed for exit and re-entry into the system (provided they remain within the monetary threshold of turnover below R1 million). Personal services rendered under employment-like conditions and professional services are excluded.

PUBLIC BENEFIT ORGANISATIONS (PBO)

In order to qualify as a PBO an entity needs to have as its main object the carrying out of one or more public benefit activities in a non profit manner substantially in South Africa. These activities need to qualify in one or more of the following categories.

- welfare and humanitarian
- health care
- land and housing
- education and development
- religion, belief or philosophy
- cultural
- conservation, environment and animal welfare
- research and consumer rights
- sport
- providing funds, assets or other resources.

Donations to approved public benefit organisations are deductable as follows:

- Company donations limited to 10% of taxable income
- Individual donations limited to 10% of taxable income before the deduction of medical expenses, excluding any retirement benefit lump sum.
- It is proposed in the 2013/14 budget that any excess of 10% be rolled over to subsequent years

DIVIDENDS TAX

Dividends tax

Dividends tax is a tax levied on the shareholder at a rate of 15% on dividends paid. However, where a dividend in specie is paid, dividends tax is a tax levied on the company declaring the dividend.

Dividends tax is normally withheld by the company paying the dividend and is payable at the end of the month following the month in which the dividend was paid.

Dividends tax exemptions

A dividend is exempt from dividends tax if the beneficial owner is:

- A SA company;
- The Government and various quasi government institutions;
- Public Benefit Organisations;
- Environmental rehabilitation trusts;
- Pension, provident and similar funds;
- Medical Schemes;
- A shareholder in a registered micro business (only the first R200 000 of dividends paid during a particular year of assessment).

Secondary Tax on Companies ('STC') credits

If a company has STC credits at the effective date of the Dividends Tax regime these STC credits must be used before or on 31 March 2015 (i.e. within 3 years from the effective date).

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. Produce are valued at the lowest of average cost of production or market value. 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. This gross loss must be carried forward to the next year. The standard values as per government gazette 5309 of 8 Oct 1976 is as follows:

Cattle:	Bulls R50, Oxen R40, Cows R40
Tollies and Heifers:	1 – 2 years old R14, 2 – 3 years old R30
Calves	R4
Sheep	Wethers, Rams and Ewes R6, weaned lambs R2
Goats	Weaned Kids R2, Fully grown R4
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 R6, Foals under 1 year R2
Donkeys	Jacks and Jennies over 3 years R4, Jacks and Jennies under 3 years R2
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 R6 000 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
- Building of roads and bridges for farming operations
- 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.

Rating formula

Because a farmer's income fluctuates from year to year, an individual farmer 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 are applicable in the event of the first year of farming, where taxable income comprises 2/3rds of actual farming income.

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.

CAPITAL GAINS TAX

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 is carried on in SA;

The purchaser must withhold CGT on the purchase price where assets are purchased from a non-resident (except where the amount payable by the purchaser is less than R2 million).

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 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 (individuals 33.33%, companies and trusts 66.67%).

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

The following exemptions for individuals are applicable:

- Annual exclusion: R30 000 (Until 2012: R20 000);
- The exclusion amount on death: R300 000 (until 2012: R200 000);
- The primary residence exclusion: R2 million (until 2012: R1.5 million);
- The exclusion amount on the disposal of a small business when a person is over age 55: R1.8 million (until 2012: R900 000);
- The maximum market value of assets allowed for a small business disposal for business owners over 55 years: R10 million (until 2012: R5 million).

VALUE ADDED TAX (VAT)

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 (currently 14%);
- exempt supplies – supplies of certain services not subject to VAT. Vendors making exempt supplies are not entitled to input VAT credits;
- zero-rated supplies – supplies of certain goods or services subject to VAT at zero percent. Vendors making zero rated supplies are entitled to input VAT credits.

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 R50 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 every 4 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;
- the name, address and VAT registration number of the recipient and supplier must appear on tax invoices where the VAT inclusive total exceeds R3 000.

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	Either 2%,5%, or 10% depending on date cost incurred
Commercial & Residential Buildings in Designated Urban Areas	Refurbishment of existing building	20%
	Construction of new building before 21 October 2008	20% in 1st year 5% in each of 16 subsequent years
	Construction of new building after 21 October 2008	20% in 1st year 8% in each of 10 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%
Commercial Buildings	Cost of erecting any new and unused building wholly or mainly used for the purpose of producing income in the course of trade. Applies to the costs of new and unused improvements to existing buildings on or after 1 April 2007	5%
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
Residential Units	Before 21 October 2008 Building projects erected on or after 1 April 1982 but before 21 October 2008 consisting of at least five units of more than one room intended for letting, or occupation by bona fide fulltime employees	2% of cost and an initial allowance of 10% of cost
	After 21 October 2008 New & unused units, acquired, erected or improved, situated in South Africa, owned & used by the taxpayer for the purposes of a trade he carries on. At least five units must be owned	Normal Unit 5% Low Cost unit 10%* *a building not exceeding cost of R200 000 or an apartment not exceeding a cost of R250 000

LEARNERSHIP ALLOWANCES

With effect from 1st January 2010 an annual and completion allowance of R30 000 was introduced, without any reference to the learner's remuneration. The deduction claimable for disabled learners will be set at R50 000 for both annual and completion allowances.

Where a learnership is terminated before a period of 12 full months the employer will be entitled to a pro rata portion of the annual allowance, regardless of the reason for the termination of the learnership. The completion allowance for a learnership of 24 months or more will be based on the number of consecutive 12 month periods completed $\times$ R30 000 (R50 000 for disabled learners).

Residents are taxed on their worldwide income, subject to certain exclusions. Foreign taxes on that income are allowed as a credit against South African tax payable. This is applicable to individuals, companies, close corporations and trusts.

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 more than 50% 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

Foreign Dividends received from a non –resident company, including deemed dividends are taxable.

Foreign dividends are exempt as follows:

For years beginning on or after 1 March 2012 (individuals) and 1 April 2012 (companies and trusts)

1. If received by a resident who holds at least 10% of the equity shares and voting rights in the foreign company;
2. The shareholder is a company which is in the same country as the foreign company paying the dividend;
3. If declared by a company listed in South Africa and a foreign stock exchange;
4. If paid out of the profits of a foreign company if the profits of the foreign company have been included in the South African shareholders income in terms of the CFC provisions.

Where a foreign dividend is not exempted in terms of the provisions above the following part of a foreign dividend will be exempted from tax:

1. Individuals: 25/40 or 63% of the foreign dividend received;
2. Companies and trusts: 13/28 or 46% of the foreign dividend received.

No deduction will be granted for any expenditure incurred in the production of income in the form of foreign dividends.

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 foreign income. Any excess credits may be carried forward. There is also a foreign tax credit available for foreign companies that are taxed on management fees earned in South Africa.

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.

Foreign Capital Investments

Resident individuals who are over 18 and tax payers in good standing are permitted to invest abroad. The current limit is R4 000 000 per person per year.

Emigration limits

Foreign Capital Allowance

Single Person – R4 000 000
Family Unit – R8 000 000

Note that these capital allowances are reduced by the Foreign Capital Investments

Household & Personal Effects, Motor Vehicles, Stamps, Coins & Kruger Rands

R2 million could be transferred.

Single discretionary allowance

Residents (natural persons), who are over the age of 18 years may be permitted to avail of a single allowance within an overall limit of R1 000 000 per individual per calendar year, without the requirement to obtain a Tax Clearance Certificate, to cover the following discretionary allowances:

- monetary gifts and loans
- donations to missionaries
- maintenance transfers
- travel allowance (children under the age of eighteen will be entitled to an annual allowance of R200 000)
- study allowance

This discretionary allowance is in addition to the existing R4 000 000 individual foreign capital allowance.

Study allowances

The direct costs of study (ie tuition and academic fees) may be transferred directly to the institution concerned, over and above the single discretionary allowance. Should a spouse accompany a student, a discretionary allowance may be accorded the spouse.

The general rule is that if the taxpayer is ordinarily resident in the Republic at the time of death, all of his assets (including deemed property), wherever they are situated, will be included in the gross value of his estate for the determination of duty payable thereon. Estate duty is currently levied at 20% on the dutiable estate.

Deemed property includes: Insurance Policies on the life of the deceased, claims in terms of the matrimonial property act 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

The Act allows for the R3.5m deduction from estate duty to rollover from the deceased to a surviving spouse so that the surviving spouse can use a R7m deduction amount on death. The portability of the deduction will apply to the extent that the first dying spouse did not use the whole abatement.

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 varying from 100% where the taxpayers die within 2 years of each other and 20% where the deaths are within 8 to 10 years of each other.

Executors Remuneration

An executor is entitled to the following remuneration:

- The remuneration fixed by deceased in the will, or
- 3.5% of gross assets
- 6% on income accrued and collected from date of death

Executors remuneration is subject to VAT where the executor is registered as a vendor.

DONATIONS TAX

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. Donations by natural persons not exceeding R100 000 per year.
4. The donation of assets situated outside the Republic, subject to certain conditions
5. Donations by companies not considered to be public companies up to R10 000 per annum
6. Donations where the donee will not benefit until the death of the donor
7. Donations made by companies which are recognised as public companies for tax purposes
8. Donations cancelled within six months of the effective date
9. Property disposed of under and in pursuance of any trust
10. Donations between companies forming part of the same group of companies
11. Reasonable bona fide contributions to maintenance of individual

Rates:

Donations tax is payable within 3 months after the donation at a flat rate of 20%

RING-FENCING OF ASSESSED LOSSES (section 20A)

Assessed losses incurred by natural persons from secondary trades are ring-fenced, and are not available for set-off against other income.

These restrictions apply to an individual whose taxable income is at the maximum marginal rate of tax, before setting off any assessed loss or balance of assessed loss.

For the restrictions to apply the person must have incurred an assessed loss from the secondary trade in at least three years of assessment during any five year period, or have carried on any of the following trades which constitutes –

(i) any sport practised by that person or any relative;

(ii) any dealing in collectibles by that person or any relative;

(iii) the rental of residential accommodation, unless at least 80 per cent of the residential accommodation is used by persons who are not relatives of that person for at least half of the year of assessment;

(iv) the rental of vehicles, aircraft or boats as defined in the Eighth Schedule, unless at least 80 per cent of the vehicles, aircraft or boats are used by persons who are not relatives of that person for at least half of the year of assessment;

(v) animal showing by that person or any relative;

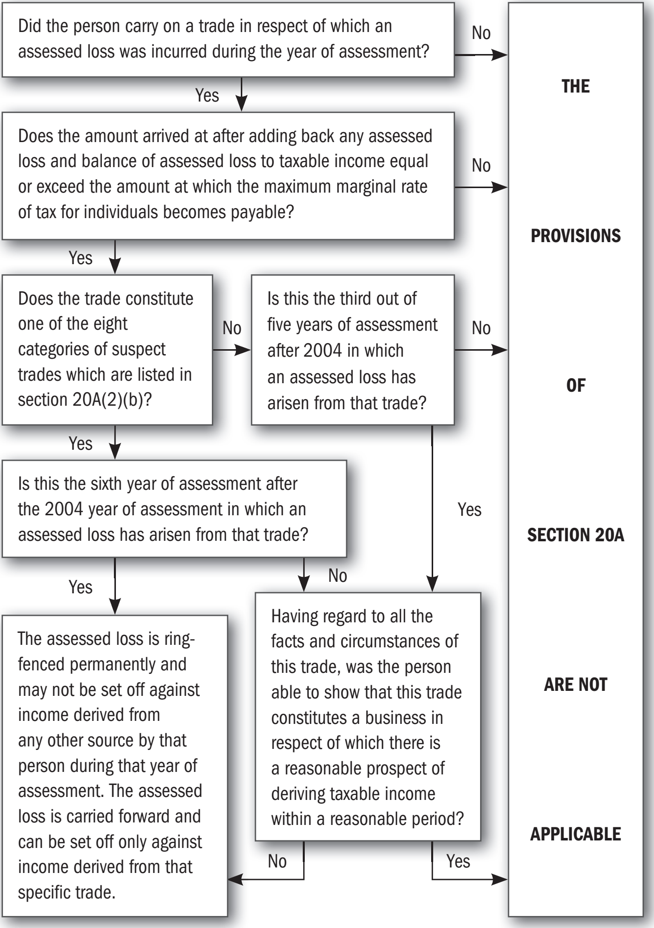
(vi) farming or animal breeding, unless that person carries on farming, animal breeding or activities of a similar nature on a full-time basis;

(vii) any form of performing or creative arts practised by that person or any relative; or

(viii) any form of gambling or betting practised by that person or any relative.

These provisions do not apply in respect of an assessed loss incurred by a person during any year of assessment from carrying on any trade as contemplated above, where that trade constitutes a business in respect of which there is a reasonable prospect of deriving taxable income (other than taxable capital gain) within a reasonable period and complies with certain other criteria. Where these losses have been incurred for at least six years out of the preceding ten years then such concession will not apply.

Checklist (flowchart) for the application of the ring-fencing provisions



Restraint of trade

Restraint of trade payments are taxable in the hands of individuals, labour brokers and personal service providers. Such payments are deductible by the payer over 3 years if the period of the restraint is less than 3 years, or over the period of the restraint if longer.

Leasehold improvements

Improvements made to leasehold property in terms of a lease agreement by the lessee must be included in the income of the lessor. Either the stipulated amount or a fair and reasonable value will be included.

The lessee may deduct such expenditure over the period of the lease. The lessor may be entitled to discount the value of the improvements over the period of the lease or 25 years whichever is the shorter.

Pre-trade expenditure

Expenditure which would normally be deductible from income, actually incurred prior to the commencement and in connection with a specific trade can be deducted from the income of that trade. The deduction is limited to income from that trade and any shortfall can be carried forward to the subsequent years of assessment.

Research and Development

Research and development performed for the purposes of discovering novel, practical and non-obvious information of a scientific or technological nature or,creating any invention, patent, design or computer copyright or similar property of a scientific or technological nature,qualifies for incentive allowances whereby 100% of the operating expenses are deductible with an additional 50% of the operating expenses being deductible if certain requirements are met.

Securities Transfer Tax

The tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interests in close corporations.

Skills Development Levy

A Skills Development Levy is payable by employers at a rate of 1% of the total remuneration paid to employees. Employers paying annual remuneration of less than R500 000 are exempt from the payment of the levy.

Unemployment Insurance Contributions

Unemployment Insurance Contributions are payable monthly by employers on the basis of a contribution of 1% by employers and 1% by employees, based on employees' remuneration below R14 872 per month from 1 October 2012 (previously R12 478).

Employers not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

Advance tax rulings

Compliant taxpayers may apply for advance tax rulings from SARS where a tax payer wishes to obtain clarity on the interpretation and application of the relevant tax act. Any ruling provided by SARS will be binding provided full disclosure has been made.

Carbon dioxide vehicle emissions tax

New passenger cars will be taxed based on their certified CO2 emissions. With effect from 1 April 2013, for passenger cars, the tax will rise from R75 to R90 for every gram of emissions per kilometre above 120 gCO2/km. In the case of double cabs it will increase from R100 to R125 for every gram of emissions per kilometre above 175 gCO2/km.

Plastic bag levy

The levy will rise from 4 cents to 6 cents per bag from 1 April 2013.

Incandescent light bulb levy

The levy is to be increased from R3 to R4 per bulb from 1 April 2013.

"Environmental" Deductions/allowances

- Section 12B Deduction in respect of certain machinery, plant, implements, utensils and articles used in framing or production of renewable energy
- Section 37B Deductions in respect of environmental expenditure
- Section 37C Deductions in respect of environmental conservation
- Section 11D Deduction for research and development costs
- Section 12 K Exemption for Certified Emission Reductions
- Section 12 L Special Allowance for Energy Efficiency Savings

Tax allowance for energy-efficiency savings

The Department of Energy has released a new tax allowance for Energy-efficiency savings Regulation. The Regulation stipulates that any company holding a certificate that can prove their energy savings are genuine, can submit the certificate to claim an allowance from SARS. The allowance is as contemplated in Section 12L (2) of the Income Tax Act, 1962.

Transfer duty:

- is calculated on the value of the immovable property (purchase price or market value whichever is the highest)
- is payable within six months after the transaction is entered into;
- will be exempted when the seller is a registered VAT vendor;
- where a registered VAT vendor purchases property from a non-vendor, the notional input tax is calculated by multiplying the tax fraction (presently 14/114) by the lesser of the consideration paid or market value.
- 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 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;

Transfer duty is calculated as follows:	
R0 – R600 000	0%
R600 001 – R1 000 000	3% of the value above R600 000
R1 000 001 – R1 500 000	R12 000 plus 5% of the value over R1 000 000
R1 500 001 and above	R37 000 plus 8% of the value over R1 500 000

Income tax returns

	Individual	Company	Trust
Submitting tax returns manually:	September	N/a	September
Non-provisional taxpayers filing via e-Filing	November	N/a	November
Provisional taxpayers filing via e-Filing	January	12 Months after year end	January

Provisional tax

	Individual	Company	Trust
First provisional tax	31 August	6 months after year end	31 August
Second provisional tax	28 February	12 months after year end	28 February
Third provisional tax	30 September	6 months after year end if year-end is not February. 7 months after year end if year-end is February.	30 September

Value-Added Tax

	Individual	Company	Trust
Submitting VAT returns manually:	On or before the 25th of the month following the VAT period.	On or before the 25th of the month following the VAT period.	On or before the 25th of the month following the VAT period.
Submitting VAT returns via e-Filing:	On or before the end of the month following the VAT period.	On or before the end of the month following the VAT period.	On or before the end of the month following the VAT period.

Payroll tax returns

	Individual	Company	Trust
Annual Employer Reconciliation Declaration (EMP501) and Employee Income Tax certificates [IRP5/IT3(a)]	31 May	31 May	31 May
Interim/Bi-annual Employer Reconciliation Declaration (EMP501) and Employee Income Tax certificates [IRP5/IT3(a)]	31 October	31 October	31 October
Monthly declaration (EMP201)	On or before the 7th of the month following the payroll month	On or before the 7th of the month following the payroll month	On or before the 7th of the month following the payroll month

IRP 5 CODES

Normal Income Codes

3601 Income, Pension, overtime, RA Annuity
3602 Income (Excl), Pension (Excl), Arbitration Award (Excl) Purchased Annuity (Excl)
3605 Annual Payment
3606 Commission
3608 Arbitration Award
3611 Purchased Annuity
3613 Restraint of Trade
3614 Other Retirement Lump Sums
3615 Director's Remuneration
3616 Independent Contractors
3617 Labour Brokers (PAYE/IT)

Allowance Codes

3701 Travel Allowance
3702 Reimbursive Travel Allowance (IT)
3703 Reimbursive Travel Allowance (Excl)
3704 Subsistence Allowance – Local Travel (IT)
3707 Share Options Exercised (Section 8A)
3708 Public Office Allowance
3713 Other Allowances, Entertainment Allowance, Tool Allowance, Computer Allowance, Telephone/Cell Phone Allowance
3714 Other Allowances (Excl), Subsistence Allowance – Local Travel (Excl) Uniform Allowance (Excl), Subsistence Allowance- Foreign Travel (Excl)
3715 Subsistence Allowance- Foreign Travel (IT)
3717 Broad-based Employee Share Plan (Section 8B)
3718 Vesting of equity instruments

Fringe Benefit Codes

3801 General Fringe Benefit, Right of Use of Asset, Meals, refreshments and meal and refreshment Vouchers, Free or cheap residential or holiday accommodation, Free or cheap services, Low interest or interest free loans or loan subsidies, Payment of employee's debt, Bursaries or scholarships
3802 Right of Use of Motor Vehicle
3810 Company contribution to Medical Aid
3813 Cost related to Medical Services paid by Company

Important: To report foreign income, add a value of 50 to all normal, allowance, fringe benefit and lump sum codes e.g. 3606 will be 3656

Lump Sum Codes

3901 Gratuities (retirement/retrenchment)
3906 Special Remuneration (e.g. proto-teams)
3907 Other Lump Sums (e.g. Backdated salaries extended over previous tax year, non approved funds)
3908 Surplus Apportionments on or after 1 January 2006
3909 Unclaimed Benefits paid by Fund
3915 Pension, Provident or Retirement Annuity Fund Lump Sum Benefits paid on or after 1 October 2007
3920 Pension, Retirement annuity and Provident fund withdrawal benefits after 28 February 2009 (PAYE)
3921 Lump sum payments accruing after 28 February 2009 from a Pension, Retirement annuity and Provident fund in respect of withdrawal

Gross Remuneration Codes

3696 Gross Non-Taxable Income
3697 Gross Retirement Funding Employment Income
3698 Gross Non-Retirement Funding Employment Income
3699 Gross Remuneration

Employee's Tax Deduction and Reason Codes

4101 SITE
4102 PAYE
4115 Tax on Retirement Lump Sum Benefits
4141 SDL contribution
4142 UIF contribution
4150 02 – Earn Less than the Tax Threshold
03 – Independent Contractor
04 – Non Taxable Earnings (including nil directive)
05 – Exempt Foreign Employment Income
06 – Directors Remuneration – Income Determined in the following Tax Year
07 – Labour Broker with IRP30

Deduction Codes

4001 Current Pension Fund Contributions
4002 Arrear Pension Fund Contributions
4003 Current Provident Fund Contributions, Arrear Provident Fund Contributions
4005 Medical Aid Contributions
4006 Current Retirement Annuity Fund Contributions
4007 Arrear (re-instated) Retirement Annuity Fund Contributions
4018 Premiums Paid for Loss of Income Policies
4020 Medical Services Costs Deemed paid for Immediate Family
4026 Arrear Pension Fund Contributions – Non Statutory Forces
4030 Donations deducted from the employee's remuneration and paid by the employer
4474 Employer's Medical Aid Contributions
4493 Employer's Medical Aid Contributions i.r.o Retired Employees

ADMINISTRATIVE NON-COMPLIANCE PENALTIES

Administrative non-compliance penalties are penalties for the failure to keep proper records, failure to report reportable arrangements, non-compliance with a request for information, obstruction of SARS officials and failure to comply with tax obligations. The following non-compliance penalties could be charged:

- Fixed amount penalties (this penalty increases monthly, calculated from one month after the penalty assessment);
- Percentage base penalties;
- Understatement penalties.

Fixed amount penalties

Fixed rate penalties can be imposed by SARS for non –compliance with any procedural or administrative action or duty imposed or requested, for example:

- Not registering when required to;
- Not informing SARS where there is a change in registration details;
- Not filing returns;
- Not retaining records as required by SARS.

The fixed rate penalty does not apply where the percentage base penalty or understatement penalty applies.

Fixed rate penalties can be imposed as per the following table:

Assessed Loss or taxable income for preceding year	Monthly penalty
Assessed loss	R250
R0 – R250 000	R250
R250 001 – R500 000	R500
R500 001 – R1 000 000	R1 000
R1 000 001 – R5 000 000	R2 000
R5 000 001 – R10 000 000	R4 000
R10 000 001 – R50 000 000	R8 000
R50 000 000 +	R16 000

Percentage base penalties

The percentage based penalty is imposed where SARS is satisfied that the taxpayer has not paid the tax as and when required under a tax Act. This penalty is equal to a percentage of the tax not paid. The following percentage based penalties will be imposed:

Tax type	Penalty percentage
Income tax	10%
Provisional tax	■ 10% on the late or non-payment of provisional tax; ■ 20% if an estimate has not been filed; ■ 20% if provisional tax estimate has been understated.
Employers and employees tax	■ 10% if return has not been filed; ■ 10% if employee tax and / or UIF has not been paid; ■ 10% if fringe benefits have not been indicated on employee's tax certificates.
Value-Added Tax	10% on the late payment of VAT

Understatement penalties

The understatement penalty is a percentage in accordance with the table set out below and is applied to the shortfall of the tax. It applies to all taxes and could be charged when there is a default in rendering a return, an omission from a return, an incorrect statement in a return and, if no return is required, the failure to pay the correct amount of tax.

The following definitions relate to the understatement table below:

- **Substantial understatement** means a case where the prejudice to SARS or the fiscus exceeds the greater of five per cent of the amount of 'tax' properly chargeable or refundable under a tax Act for the relevant tax period, or R1 000 000;
- **Repeat case** means a second or further case of any of the behaviours listed under the table above within five years of the previous case;

- **Reasonable care not taken** means that a taxpayer is required to take the degree of care that a reasonable, ordinary person in the circumstances of the taxpayer would take to fulfill his or her tax obligations;
- **No reasonable grounds for the tax position** would occur when the taxpayer does not have a reasonably arguable position. A taxpayer's interpretation of the application of the law is reasonably arguable if, having regard to the relevant authorities, for example an income tax law, a court decision or a general ruling, it would be concluded that what is being argued by the taxpayer is at least as likely as not, correct.
- **Gross negligence** means doing or not doing something in a way that, in all the circumstances, suggests or implies complete or a high level of disregard for the consequences. Gross negligence involves recklessness but does not require an element of wrongful intent or "guilty mind", or intent to breach a tax obligation;
- **Intentional tax evasion** is a willful act that exists when a person's conduct is meant to disobey or wholly disregard a known legal obligation. Knowledge of illegality is crucial.

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

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

WEAR AND TEAR ALLOWANCES

The following rates of wear and tear are allowed by SARS in terms of Interpretation Note 47:

Type of asset	No. of years for write-off	Type of asset	No. of years for write-off
Adding machines	6	Debarking equipment	4
Air-conditioners		Delivery vehicles	4
window	6	Demountable partitions	6
mobile	5	Dental and doctors' equipment	5
room unit	10	Dictaphones	3
Air-conditioning assets		Drilling equipment (water)	5
absorption type chillers	25	Drills	6
air handling units	20	Electric saws	6
centrifugal chillers	20	Electrostatic copiers	6
cooling towers	15	Engraving equipment	5
condensing sets	15	Escalators	20
Aircraft (light passenger or		Excavators	4
commercial helicopters)	4	Fax machines	3
Arc welding equipment	6	Fertiliser spreaders	6
Artefacts	25	Fire arms	6
Balers	6	Fire extinguishers (loose units)	5
Battery chargers	5	Fire detections systems	3
Bicycles	4	Fishing vessels	12
Boilers	4	Fitted carpets	6
Bulldozers	3	Food bins	4
Bumping flaking	4	Food-conveying systems	4
Carports	5	Fork-lift trucks	4
Cash registers	5	Front-end loaders	4
Cell phone antennae	6	Furniture and fittings	6
Cell phone masts	10	Gantry cranes	6
Cellular telephones	2	Garden irrigation equipment	
Cheque-writing machines	6	(movable)	5
Cinema equipment	5	Gas cutting equipment	6
Cold drink dispensers	6	Gas heaters and cookers	6
Communication systems	5	Gear boxes	4
Compressors	4	Gear shapers	6
Computers		Generators (portable)	5
mainframe	5	Generators (standby)	15
personal	3	Graders	4
Computer software (mainframes)		Grinding machines	6
purchased	3	Guillotines	6
self-developed	1	Gymnasium equipment	
Computer software		Cardiovascular	2
(personal computers)	2	Health testing	5
Concrete mixers portable	4	Weights and strength	4
Concrete transit mixers	3	Spinning	1
Containers	10	Other	10
Crop sprayers	6	Hairdressers' equipment	5
Curtains	5	Harvesters	6

Type of asset	No. of years for write-off	Type of asset	No. of years for write-off
Heat dryers	6	Radio communication	5
Heating equipment	6	Refrigerated milk tankers	4
Hot water systems	5	Refrigeration equipment	6
Incubators	6	Refrigerators	6
Ironing and pressing equipment	6	Runway lights	5
Kitchen equipment	6	Sanders	6
Knitting machines	6	Scales	5
Laboratory research equipment	5	Security systems removable	5
Lathes	6	Seed separators	6
Laundromat equipment	5	Sewing machines	6
Law reports	5	Shakers	4
Lift installations	12	Shop fittings	6
Medical theatre equipment	6	Solar energy units	5
Milling machines	6	Special patterns and tooling	2
Mobile caravans	5	Spin dryers	6
Mobile cranes	4	Spot welding equipment	6
Mobile refrigeration units	4	Staff training equipment	5
Motors	4	Surge bins	4
Motorcycles	4	Surveyors:	
Motorised chain saws	4	Field equipment	10
Motorised concrete mixers	3	Instruments	5
Motor mowers	5	Tape-recorders	5
Musical instruments	5	Telephone equipment	5
Navigation systems	10	Television and advertising films	4
Neon signs and advertising boards	10	Television sets, video machines	
Office equipment - electronic	3	and decoders	6
Office equipment - mechanical	5	Textbooks	3
Oxygen concentrators	3	Tractors	4
Ovens and heating devices	6	Trailers	5
Ovens for heating food	6	Traxcavators	4
Packaging equipment	4	Trollies	3
Paintings (valuable)	25	Trucks (heavy-duty)	3
Pallets	4	Trucks (other)	4
Passenger cars	5	Truck-mounted cranes	4
Patterns, tooling and dies	3	Typewriters	6
Pellet mills	4	Vending machines (including video	
Perforating equipment	6	game machines)	6
Photocopying equipment	5	Video cassettes	2
Photographic equipment	6	Warehouse racking	10
Planers	6	Washing machines	5
Pleasure craft, etc	12	Water distillation and	
Ploughs	6	purification plant	12
Portable safes	25	Water tankers	4
Power tools (hand-operated)	5	Water tanks	6
Power supply	5	Weighbridges (movable parts)	10
Public address systems	5	Wire line rods	1
Pumps	4	Workshop equipment	5
Racehorses	4	X-ray equipment	5
Radar systems	5		

The acquisition of "small" items at a cost of less than R7 000 per item may be written off in full during the year of acquisition

INTEREST RATES

EFFECTIVE DATE		RATE
Late or underpayments of Tax		
1 May	2009	13.50%
1 July	2009	12.50%
1 August	2009	11.50%
1 September	2009	10.50%
30 June	2010	9.50%
1 March	2011	8.50%
Fringe benefits – official rate of interest		
1 March	2009	11.50%
1 June	2009	9.50%
1 July	2009	8.50%
1 September	2009	8.00%
1 October	2010	7.00%
1 March	2011	6.50%
1 August	2012	6.00%
Overpayments of tax		
1 May	2009	9.50%
1 July	2009	8.50%
1 August	2009	7.50%
1 September	2009	6.50%
1 July	2010	5.50%
1 March	2011	4.50%
Prime Overdraft Rates		
6 February	2009	14.00%
25 March	2009	13.00%
4 May	2009	12.00%
29 May	2009	11.00%
14 August	2009	10.50%
26 March	2010	10.00%
10 September	2010	9.50%
19 November	2010	9.00%
20 July	2012	8.50%