

# TAX GUIDE

2018 | 2019

# TdP

Chartered Accountants (SA)

*We understand business*



Geoktrooieerde Rekenmeesters (S.A.)

Chartered Accountants (S.A.)

TdP Chartered Accountants (SA)

P.O. Box 3737,  
Tyger Valley,  
7536

Tel: +27 (0)21 975-3737

Fax: +27 (0)21 975-3766 / 976-0106

Email: [info@tdpca.co.za](mailto:info@tdpca.co.za)

Directors:

Bjorn Swenson CA (SA)

Fanie Maritz CA (SA)

Suzanne Boshoff CA (SA)

Associate:

Lambert Theron Professional Accountant (SA)

# INDEX

|  |    |  |    |
|--|----|--|----|
| 2018/2019 Budget Highlights  | 2  | Green Tax  | 43 |
| Capital Gains Tax (CGT)  | 27 | – Carbon tax   | 43 |
| – Persons subject to CGT   | 27 | – Tyre levy  | 43 |
| – Exclusions   | 27 | – “Environmental” deductions/allowances                                    | 43 |
| – Calculation and inclusion rates  | 27 | – Tax allowance for energy-efficiency savings                              | 43 |
| – Withholding tax  | 28 | Interest Rates   | 63 |
| Capital Incentive Allowances   | 32 | IRP 5 Codes  | 52 |
| Companies Normal Taxation  | 19 | Leamership Allowances  | 49 |
| Comparative Tax Rates  | 3  | Lump Sum Benefits  | 12 |
| Connected person definition for income tax   | 30 | – Retirement fund lump sum withdrawal benefits                             | 12 |
| – Diagram illustrating the rate for determining persons who are related within the third degree of consanguinity | 31 | – Retirement fund lump sum benefits or severance benefits                  | 12 |
| Deductions   | 10 | Natural Person Tax Rates   | 4  |
| – Contributions to pension, provident and retirement annuity funds   | 10 | Pay As You Earn (PAYE)   | 14 |
| – Medical and disability expenses  | 10 | – General provisions   | 14 |
| Deductions: Sundry   | 46 | – Common law dominant impression test grid                                 | 16 |
| – Restraint of trade   | 46 | – Personal service providers process flow                                  | 18 |
| – Leasehold improvements   | 46 | – The employee is defined as a person who:                                 | 15 |
| – Pre-trade expenditure  | 46 | Penalties: Administrative Non-compliance                                   | 54 |
| – Research and Development   | 46 | – Fixed amount penalties   | 54 |
| Dispute Resolution Process   | 57 | – Percentage based penalties   | 55 |
| Dividends Tax  | 25 | – Understatement penalties   | 55 |
| Donations Tax  | 42 | Provisional Tax  | 13 |
| – Principal exemptions   | 42 | Public Benefit Organisations (PBO)   | 24 |
| – Rates  | 42 | Residence Based Tax  | 34 |
| Employment Tax Incentive   | 47 | – Definition of resident   | 34 |
| Estate Duty  | 41 | – Controlled Foreign Companies (CFC)                                       | 34 |
| – Executor’s remuneration  | 41 | – Foreign dividends (including deemed dividends)                           | 35 |
| Exchange Control: Non-residents  | 36 | – Foreign tax credits  | 35 |
| – Financial assistance in South Africa   | 36 | – Average exchange rates for a year of assessment                          | 39 |
| – Loans from non-resident shareholders to residents  | 36 | – Physical presence test for a person not ordinarily resident:             | 38 |
| – Capital transactions   | 37 | Retention of Records   | 58 |
| – Dividend payments to non-residents   | 37 | Ring-fencing of Assessed Losses  | 44 |
| – Director fee payments to non-residents   | 37 | – Checklist (flowchart) for the application of the ring-fencing provisions | 45 |
| Exchange Control: Residents  | 40 | Small Business Corporations  | 22 |
| – Foreign capital investments  | 40 | Sundry Taxes   | 47 |
| – Single discretionary allowance   | 40 | – Securities Transfer Tax  | 47 |
| – (in addition to foreign capital allowance)   | 40 | – Skills Development Levy  | 47 |
| – Study allowances   | 40 | – Unemployment Insurance Fund Contributions                                | 47 |
| – Emigration limits  | 40 | Tax Free Investments   | 11 |
| Farming Tax  | 26 | Tax Season Deadlines 2018/19   | 50 |
| – Valuation of livestock and produce   | 26 | – Income tax returns   | 50 |
| – Capital development expenditure  | 26 | – Provisional tax  | 50 |
| – Special depreciation allowance   | 26 | – Value-added tax  | 51 |
| – Rating formula   | 26 | – Payroll tax returns  | 51 |
| Finance Repayment Factors  | 62 | Transfer Duty on Immovable Property  | 49 |
| Fringe Benefits  | 6  | Trusts   | 20 |
| – Travelling allowance for the tax year ending 2019  | 6  | – Tax rates  | 20 |
| – Right of use of motor vehicle  | 7  | – Interest-free and low-interest loans to a trust                          | 20 |
| – Subsistence allowances and advances  | 8  | – Other anti-avoidance provisions  | 21 |
| – Residential accommodation  | 8  | Turnover Tax for Micro Businesses  | 23 |
| – Low-cost housing   | 9  | Value-Added Tax (VAT)  | 29 |
| – Interest-free or low-interest loans  | 9  | – Key features   | 29 |
| – Bursaries  | 9  | Wear and Tear Allowances   | 60 |
| – Medical fund contributions   | 9  | Withholding Tax (other)  | 28 |

## 2018/19 BUDGET HIGHLIGHTS

- A one percentage point increase in VAT to 15% with effect from 1 April 2018
  - ◆ The VAT increase will result in additional R22.9 billion to the fiscus
- No adjustments to the top four income tax brackets for individuals
- Below inflation adjustments to the bottom three brackets for individuals
- Plastic bag levy to be increased by 50% to 12c per bag with effect from 1 April 2018
- Fuel taxes increased with effect from 4 April 2018:
  - ◆ A 22c/ℓ increase in the general fuel levy
  - ◆ A 30c/ℓ increase in the Road Accident Fund
- Higher ad valorem excise duties for luxury goods with effect from 1 April 2018
  - ◆ e.g. Motor vehicles will be increased from 25% to 30%
- Increased estate duty with effect from 1 March 2018:
  - ◆ To be levied at 25% for portion of estates above R30 million
  - ◆ Consequently, donations in excess of R30 million will also be taxed at 25%
- Carbon Tax to be implemented 1 January 2019
- Health promotion levy (sugar tax) will be implemented with effect from 1 April 2018
- Minister of Finance to approve six special economic zones for additional tax relief
- Proposals:
  - ◆ Increase “*official rate of interest*” to a level closer to the prime rate of interest
  - ◆ Remove fringe benefit tax for preferential interest rates on low-cost housing loans to qualifying employees

## COMPARATIVE TAX RATES

| CATEGORY                                  | 2017    | 2018      | 2019      |
|---|---------|-----------|-----------|
| <b>NATURAL PERSONS</b>                    |         |           |           |
| Maximum marginal rate                     | 41%     | 45%       | 45%       |
| ■ Reached at a taxable income             | 701 300 | 1 500 000 | 1 500 000 |
| Minimum rate                              | 18%     | 18%       | 18%       |
| ■ Up to taxable income of                 | 188 000 | 189 880   | 195 850   |
| ■ CGT inclusion rate                      | 40%     | 40%       | 40%       |
| <b>COMPANIES &amp; CC's</b>               |         |           |           |
| ■ Normal tax rate                         | 28%     | 28%       | 28%       |
| ■ Dividends Tax                           | 15%     | 20%       | 20%       |
| ■ CGT inclusion rate                      | 80%     | 80%       | 80%       |
| <b>TRUSTS (other than special trusts)</b> |         |           |           |
| ■ Flat rate                               | 41%     | 45%       | 45%       |
| ■ CGT inclusion rate                      | 80%     | 80%       | 80%       |
| <b>SUNDRY</b>                             |         |           |           |
| ■ Donations Tax                           | 20%     | 20%       | 20%*      |
| ■ Estate Duty                             | 20%     | 20%       | 20%*      |
| <b>SMALL BUSINESS CORPORATIONS</b>        |         |           |           |
| Maximum marginal rate                     | 28%     | 28%       | 28%       |
| ■ Reached at a taxable income             | 550 000 | 550 000   | 550 000   |
| Minimum rate                              | 0%      | 0%        | 0%        |
| ■ Up to a taxable income of               | 75 000  | 75 750    | 78 150    |
| <b>MICRO BUSINESS</b>                     |         |           |           |
| Max Rate of Tax                           | 3%      | 3%        | 3%        |
| ■ On turnover of                          | 750 000 | 750 000   | 750 000   |
| Minimum Rate                              | 0%      | 0%        | 0%        |
| ■ Up to a turnover of                     | 335 000 | 335 000   | 335 000   |

\* Estates and consequently donations in excess of R30m will be taxed at 25%

**NATURAL PERSON TAX RATES: 28 FEBRUARY 2019**

| <b>TAXABLE INCOME</b> | <b>RATES OF TAX</b>                           |
|-----------------------|---|
| R0 - R195 850         | + 18% of each R1                              |
| R195 851 - R305 850   | R35 253 + 26% of the amount above R195 850    |
| R305 851 - R423 300   | R63 853 + 31% of the amount above R305 850    |
| R423 301 - R555 600   | R100 263 + 36% of the amount above R423 300   |
| R555 601 - R708 310   | R147 891 + 39% of the amount above R555 600   |
| R708 311 - R1 500 000 | R207 448 + 41% of the amount above R708 310   |
| R1 500 001 and above  | R532 041 + 45% of the amount above R1 500 000 |

**NATURAL PERSON TAX RATES: 28 FEBRUARY 2018**

| <b>TAXABLE INCOME</b> | <b>RATES OF TAX</b>                           |
|-----------------------|---|
| R0 - R189 880         | + 18% of each R1                              |
| R189 881 - R296 540   | R34 178 + 26% of the amount above R189 880    |
| R296 541 - R410 460   | R61 910 + 31% of the amount above R296 540    |
| R410 461 - R555 600   | R97 225 + 36% of the amount above R410 460    |
| R555 601 - R708 310   | R149 475 + 39% of the amount above R555 600   |
| R708 311 - R1 500 000 | R209 032 + 41% of the amount above R708 310   |
| R1 500 001 and above  | R533 625 + 45% of the amount above R1 500 000 |

## NATURAL PERSON TAX RATES: 28 FEBRUARY 2017

| TAXABLE INCOME      | RATES OF TAX                                |
|---------------------|---|
| R0 - R188 000       | + 18% of each R1                            |
| R188 001 - R293 600 | R33 840 + 26% of the amount above R188 000  |
| R293 601 - R406 400 | R61 296 + 31% of the amount above R293 600  |
| R406 401 - R550 100 | R96 264 + 36% of the amount above R406 400  |
| R550 101 - R701 300 | R147 996 + 39% of the amount above R550 100 |
| R701 301 and above  | R206 964 + 41% of the amount above R701 300 |

| Rebates: Natural persons         | 2017    | 2018    | 2019    |
|----------------------------------|---------|---------|---------|
| Primary                          | R13 500 | R13 635 | R14 067 |
| Secondary (Persons 65 and older) | R7 407  | R7 479  | R7 713  |
| Tertiary (Persons 75 and older)  | R2 466  | R2 493  | R2 574  |

| Thresholds: Natural persons | 2017     | 2018     | 2019     |
|-----------------------------|----------|----------|----------|
| Below age 65                | R75 000  | R75 750  | R78 150  |
| Age 65 to below 75          | R116 150 | R117 300 | R121 000 |
| Age 75 and over             | R129 850 | R131 150 | R135 300 |

| Interest Exemption:<br>Natural persons | 2017    | 2018    | 2019    |
|--|---------|---------|---------|
| Below age 65                           | R23 800 | R23 800 | R23 800 |
| Age 65 and above                       | R34 500 | R34 500 | R34 500 |

## Travelling allowance for the tax year ending 2019

When a travel allowance has been received, the employee must determine the allowable deduction for business travel. There are two ways in which this could be done:

- Using actual business expenditure (The value of the vehicle is limited to R595 000 for purposes of calculating wear and tear, which must be spread over seven years, while finance costs are also limited to a debt of R595 000. For a leased vehicle the instalments in a year of assessment may not exceed the fixed cost component in the table), or
- Using a deemed cost per kilometre as per the following table:

| WHERE THE VALUE OF THE VEHICLE IS (Including VAT) R | FIXED COST R p.a. | FUEL COST c/km | MAINTENANCE COST c/km |
|---|-------------------|----------------|-----------------------|
| 0 - 85 000  | 28 352            | 95.7           | 34.4                  |
| 85 001 - 170 000                                    | 50 631            | 106.8          | 43.1                  |
| 170 001 - 255 000                                   | 72 983            | 116.0          | 47.5                  |
| 255 001 - 340 000                                   | 92 683            | 124.8          | 51.9                  |
| 340 001 - 425 000                                   | 112 443           | 133.5          | 60.9                  |
| 425 001 - 510 000                                   | 133 147           | 153.2          | 71.6                  |
| 510 001 - 595 000                                   | 153 850           | 158.4          | 88.9                  |
| exceeding 595 000                                   | 153 850           | 158.4          | 88.9                  |

**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.

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 travel allowance.



Employees' tax is based on 80% of the travel allowance. However, if the employer is satisfied that at least 80% of the use of a motor vehicle will be for business purposes, employees' tax may be based on 20% of the travel allowance.

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

| Description   | 2017  | 2018   | 2019 |
|---|-------|--------|------|
| Maximum distance travelled for business purposes per annum: | 8 000 | 12 000 | *    |
| Maximum rate per kilometre paid (cents):                    | 329   | 355    | 361  |

\* This figure has not been confirmed at time of publication

This alternative is not available if other compensation in the form of a travel allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle. In such an instance the reimbursive travel allowance will be taxable and expenditure for business travel could be claimed in the same manner as with a normal travel allowance.

## Right of use of motor vehicle

When an employee receives the right to use a motor vehicle the following provisions apply:

- Where the vehicle is owned by the employer, the taxable value is 3,5% of the determined value (Vehicles purchased before 1 March 2015: The cash cost including VAT; Vehicles purchased on/after 1 March 2015: Retail market value) 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 under the lease (rental and insurance for example) as well as the cost of fuel for the vehicle.
- 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.

## Subsistence allowances and advances

Where an advance or allowance is received by an employee for meals and other incidental costs, he / she can deduct either:

- The amount actually spent (limited to the advance or allowance), or
- The daily amounts set out in the table below. These amounts can only be used where the employee is obliged to spend at least one night away from his/her usual place of residence on business. When the deemed amounts are used, the employee does not have to produce proof of the amounts spent and the allowance is not subject to employees' tax.

| Cost   | 2017                | 2018 | 2019 |
|--|---------------------|------|------|
| Meals and incidental cost in South Africa    | R372                | R397 | R416 |
| Incidental cost only in South Africa         | R115                | R122 | R128 |
| Daily amount for travel outside South Africa | As per 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 calculated in the following different ways, depending on the circumstances:

- Using a formula less the amount paid by the employee
- Using the lower of a formula or the cost borne by the employer less the amount paid by the employee

- When holiday accommodation has been provided, the fringe benefit will be the cost borne by the employer if the accommodation has been hired. Where the property is owned by the employer the fringe benefit will be the prevailing market rate per day at which the accommodation could normally be let.

## **Low-cost housing**

No fringe benefit will arise if an employee acquires a house from their employers at a discount (i.e. at a price below market value) if the following requirements are met:

- The employee does not earn more than R250 000 in salary during the year of assessment in which the acquisition took place
- The market value of the property that is acquired may not exceed R450 000, and
- The employee may not be a connected person in relation to the employer

## **Interest-free or low-interest loans**

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

Short-term loans granted at irregular intervals to employees are, however, exempted to the extent that it does not exceed R3 000.

## **Bursaries**

Bursaries are exempt from tax where:

- the bursary is granted to an employee who agrees to reimburse the employer for the bursary if the employee fails to complete his studies for reasons other than death, ill-health or injury, or
- the bursary is granted to a relative of an employee that earns less than R600 000 per annum and to the extent that the bursary does not exceed R20 000 (R30 000 for disabled relative) grade R to matric and R60 000 (R90 000 for disabled relative) for further education.

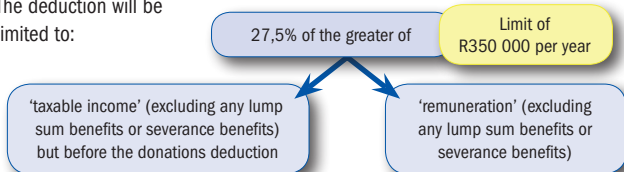
## **Medical fund contributions**

Medical fund contributions paid on behalf of an employee is a fringe benefit. As a result the employee is deemed to have made the payment to the scheme and may get a tax credit.

## DEDUCTIONS

### Contributions to pension, provident and retirement annuity funds

With effect 1 March 2016 the tax deduction for contributions made to pension funds, provident funds and retirement annuity funds is significantly amended. Please refer to previous year's tax guides for the tax treatment before 1 March 2016. From 1 March 2016 onwards, the tax deduction calculation for the three different funds, pension, provident and retirement annuity funds will be identical. The deduction will be limited to:



The above deduction is however limited to taxable income before this deduction and before any taxable capital gain.

Excess contributions not allowed as deductions are carried forward to the following year of assessment. Contributions made by employers on behalf of employees would be a taxable fringe benefit in the hands of the employees but will also be regarded as a contribution made by the employee, therefore deductible in the hands of the employee subject to the above limitations.

### Medical and disability expenses

All taxpayers 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:

|                          | 2017 | 2018 | 2019 |
|--------------------------|------|------|------|
| Taxpayer                 | R286 | R303 | R310 |
| First dependant          | R286 | R303 | R310 |
| Per additional dependant | R192 | R204 | R209 |

For additional (e.g. out-of-pocket) medical expenses incurred by individual taxpayers, a tax rebate is available as follows:

- Where the taxpayer is 65 and older or where the taxpayer, taxpayer's spouse or child is a person with a disability: 33.3% of the value of the amount by which the aggregate of the medical scheme fees that exceed  $3 \times$  the standard medical scheme credits, and all qualifying medical expenses (other than medical scheme contributions)
- Other taxpayers: 25% of the value of the amount by which the aggregate of the medical scheme fees that exceed  $4 \times$  the standard medical scheme credits, and all qualifying medical expenses (other than medical scheme contributions), exceed 7.5% of the taxpayer's taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit including capital gains)

## TAX FREE INVESTMENTS

Any amount received from a tax free investment is exempt from normal tax (this includes income on the investment as well as any profits arising on disposal of the investment). The following requirements must be met:

- Investment must be owned by a natural person or the deceased or insolvent estate of a natural person
- The investment must be a financial instrument or policy that is administered by any person or entity designated by the Minister of Finance
- Contributions to the investment must be made in cash and are limited to R33 000 per year and R500 000 in total (both in aggregate)

In the event where the R33 000 and R500 000 limits are exceeded, 40% of the excess investment is treated as normal tax payable (the income on the excess part of the investment is, however, still tax free).

## LUMP SUM BENEFITS

### Retirement fund lump sum withdrawal benefits

| BENEFIT             | RATES OF TAX                             |
|---------------------|--|
| R0 - R25 000        | 0% of benefit                            |
| R25 001 - R660 000  | 18% of benefit above R25 000             |
| R660 001 - R990 000 | R114 300 + 27% of benefit above R660 000 |
| R990 001 and above  | R203 400 + 36% of benefit above R990 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 - R500 000         | 0% of benefit                              |
| R500 001 - R700 000   | 18% of benefit above R500 000              |
| R700 001 - R1 050 000 | R36 000 + 27% of benefit above R700 000    |
| R1 050 001 and above  | R130 500 + 36% of benefit above R1 050 000 |

- 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

## PROVISIONAL TAX

Provisional tax is payable by all taxpayers except natural persons if:

- That person does not derive any income from the carrying on of any business, and
- Taxable income of that person for the year of assessment will not exceed the tax threshold, or
- The taxable income of that person for the year of assessment which is derived from interest, foreign dividends and rental will not exceed R30 000

### **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. The following two tier model is in force:

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

### **Third Provisional payment**

The third provisional payment is due six 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.

### **Basic amount**

The basic amount is computed as the taxable income (excluding capital gains and retirement fund lump sum benefits) of the latest preceding year of assessment issued by SARS more than 14 days before submission of the provisional tax return. The taxable income must be increased by 8% per annum if that assessment is more than 18 months old.

### General provisions

Any Employee's remuneration is subject to monthly deductions referred to as **PAYE**. Apart from salaries, commission etc. the following income/payments are also subject to **PAYE**:

- 80% of any travel allowance reduced to 20% if the employer is satisfied that the employee travels at least 80% of the time for business
- 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
- Payments to Personal Service Providers (PSP's)

See PSP process flow for more detail on entities that will be considered PSP's. A PSP is subject to employees' tax at the rate of 28% if it is a company and 45% if it is a trust. Expenses to be deducted by a PSP are also limited.

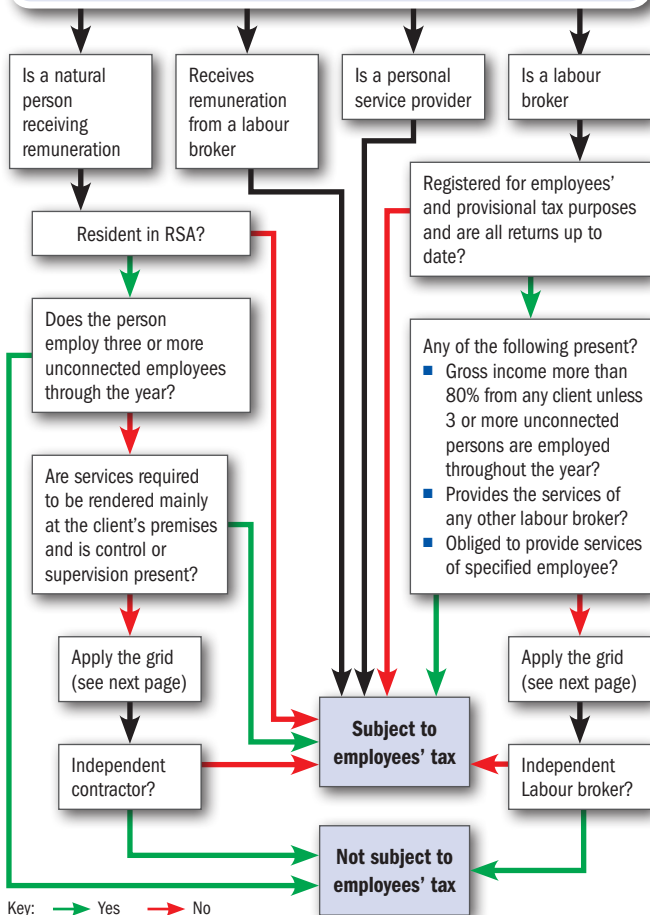
Directors of companies are subject to PAYE according to the same rules applying to other employees.

Part-time, casual and temporary employees are subject to PAYE at a flat rate of 25%.

Variable remuneration, such as overtime pay, bonus or commission accrue to the employee only on the date that it is paid. The employer is also only deemed to have incurred the variable remuneration on the date of payment.



## The employee is defined as a person who:

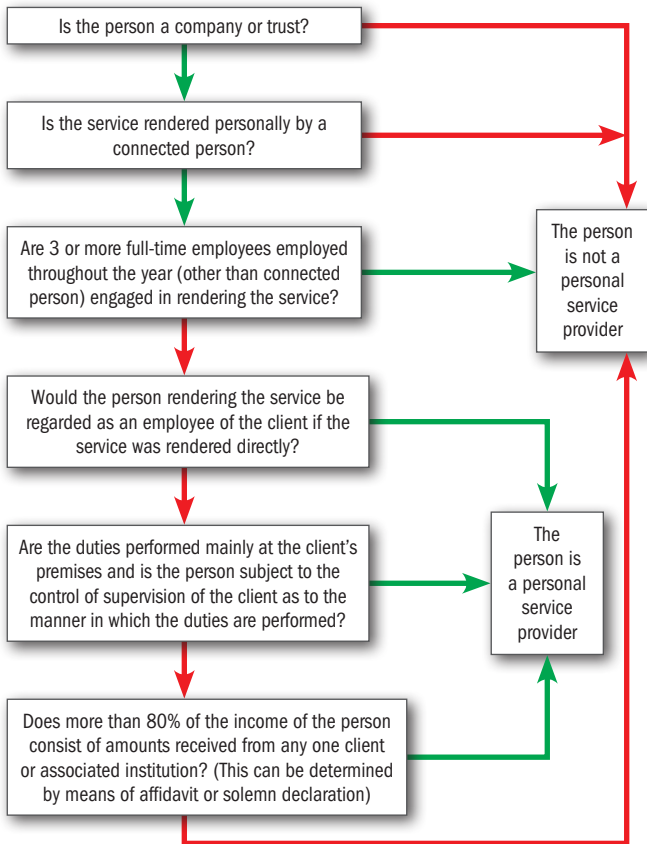


## Common law dominant impression test grid

|                        | Indicator                               | Suggests employee status  | Suggests independent contractor status  |
|------------------------|---|---|---|
| <b>Near-conclusive</b> | Control of manner of working            | Employer instructs (has right to) which tools/equipment, or staff, or raw materials, or routines, patents, technology | Person chooses which tools/equipment, or staff, or raw materials, or routines, patents, technology                                      |
|                        | Payment regime                          | Payment by rate $\times$ time-period, but regardless of output or results   | Payment by a rate $\times$ time-period but <b>with reference to results</b> , or payment by output or <b>"results in a time period"</b> |
|                        | Person who must render the service      | Person obliged to be render service personally, hires & fires only with approval                                      | Person, as employer, can delegate to, hire & fire own employees, or can subcontract   |
|                        | Nature of obligation to work            | Person obliges to be present, even if there is no work to be done   | Person only present and performing work if actually required, and chooses to  |
|                        | Employer (client) base                  | Person bound to an exclusive relationship with one employer (particularly for independent business test)              | Person free to build a multiple concurrent client base (esp. if tries to build client base - advertises etc.)                           |
|                        | Risk/Profit & loss                      | Employer bears risk (pays despite poor performance/slow markets) (particularly for independent business test)         | Person bears risk (bad workmanship, price hikes, time over-runs)  |
| <b>Persuasive</b>      | Instructions/Supervision                | Employer instructs on location, what work, sequence of work etc. or has the right to do so                            | Person determines own work, sequence of work etc. Bound by contract terms, not orders as to what work, where, etc.                      |
|                        | Reports                                 | Control through oral/written reports  | Person not obliged to make reports  |
|                        | Training                                | Employer controls by training the person in the employer's methods  | Worker uses/trains in own methods   |
|                        | Productive time (work hours, work week) | Controlled or set by employer/person works full time or substantially so  | At person's discretion  |

|                         | Indicator  | Suggests employee status  | Suggests independent contractor status   |
|-------------------------|--|---|--|
| Relevant                | Tools, materials, stationery, etc.   | Provides by employer, no contractual requirement that person provides   | Contractually/necessarily provided by person   |
|                         | Office/workshop, admin/secretarial etc.                                      | Provides by employer, no contractual requirement that person provides   | Contractually/necessarily provided by person   |
|                         | Integration/ Usual premises  | Employer's usual business premises  | Person's own/leased premises   |
|                         | Integration/ Usual business operations                                       | Person's service critical/integral part of employer's operations  | Person's services are incidental to the employer's operations or success   |
|                         | Integration/ Hierarchy & organogram  | Person has a job designation, a position in the employer's hierarchy  | Person designated by profession or trade, no position in the hierarchy   |
|                         | Duration of relationship   | Open ended/fixed term & renewable, ends on death of worker  | Limited with regard to result, binds business <b>despite worker's death</b>  |
|                         | Threat of termination/ Breach of contract                                    | Employer may dismiss on notice (LRA equity aside), worker may resign at will (BCEA aside)                                   | Employer in breach if it terminates prematurely. Person in breach if fails to deliver product/service              |
|                         | Significant investment   | Employer finances premises, tools, raw materials, training, etc.  | Person finances premises, tools, raw materials, training, etc.   |
|                         | Employee benefits  | Especially if designed to reward loyalty  | Person not eligible for benefits   |
|                         | <i>Bona fide</i> expenses or statutory compliance                            | No business expenses, travel expenses and/or reimbursed by employer. Registered with trade/professional association         | Over-heads built into contract prices. Registered under tax/ labour statutes & with trade professional association |
|                         | Viability on termination   | Obligated to approach an employment agency of labour broker to obtain new work (particularly for independent business test) | Has other clients, continues trading. Was a labour broker or independent contractor before this contract           |
| Industry norms, customs | Militate against independent viability. Make it likely person is an employee | Will promote independent viability. Make it likely person is an independent contractor or labour broker                     |  |

## Personal service providers process flow



Key: → Yes → No

## COMPANIES NORMAL TAXATION

### Resident companies (excluding personal service provider)

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

### Non-resident companies/Branch profits

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

### Personal service provider companies

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

### Combined tax rate of resident company (as a percentage)

|                            | 2017   | 2018   | 2019   |
|----------------------------|--------|--------|--------|
| 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             | 72.00  | 72.00  | 72.00  |
| Less: Dividends tax        | 10.80  | 14.40  | 14.40  |
| Total tax                  | 38.80  | 42.40  | 42.40  |
| Combined rate              | 38.80  | 42.40  | 42.40  |

**Note:** Assumes all profits are declared as a dividend. Dividends Tax is the liability of the shareholder, while the normal tax is a company liability.

## TRUSTS

### Tax rates

Tax rates applicable to trusts are as follows:

| TYPE OF TRUST | INCOME TAX RATES  | CAPITAL GAINS TAX INCLUSION RATE |
|---------------|---|----------------------------------|
| Normal Trust  | 45%   | 80%                              |
| Special Trust | Same as those applicable to natural persons, except that the rebates and interest exemptions do not apply | 40%                              |

**Note:** A special trust is a trust created solely for the benefit of someone who suffers from a disability that 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 relatives of the testator who are alive on the date of death are the beneficiaries. In order to qualify as a special trust, the youngest of the beneficiaries must, on the last day of the year of assessment of that trust, be under the age of 18 years.

### Interest-free and low-interest loans to a trust

With effect 1 March 2017 loans made to a trust by

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

the difference between the amount of interest incurred by the trust (if any, otherwise nil) and the interest that would have been incurred by that trust at the official rate of interest will be a continuing, annual donation for purposes of donations tax, made by the lender on the last day of the year of assessment of the trust

With effect 19 July 2017 loans by a natural person or a company to a company is also subject to donation tax on the same basis if 20% or more of the shares of the company is held directly or indirectly by a trust.

The following will be specifically excluded from the above donation provisions:

- special trusts that are created solely for the benefit of disabled persons
- trusts that fall under public benefit organisations
- vesting trusts (in respect of which the vesting rights and contributions of the beneficiaries are clearly established)
- loans used by the trusts to fund the acquisition of a primary residence
- loans that constitute affected transactions and are subject to transfer pricing provisions
- loans provided to the trust in terms of a sharia-compliant financing arrangement, or
- loans that are subject to dividends tax
- loans to employee share purchase trusts

The lender may utilise the annual donations tax exemption of R100 000 (or remaining portion if applicable) against this deemed donation.

No deduction, loss, allowance or capital loss may be claimed in respect of the reduction, waiver or other disposal of such a loan, advance or credit by the lender and will thus have no tax benefit for the lender.

## **Other anti-avoidance provisions**

Anti-avoidance provisions exist to combat the use of trusts for income splitting and tax avoidance schemes. These provisions will normally be applicable where income accrues to a person other than the donor as a result of a donation, settlement or other disposition made (i.e. interest free loans). These provisions may apply where income accrues to the following persons:

- The donor's spouse
- A minor child of the donor
- The trust to whom the donation, settlement or other disposition has been made
- Non-residents

The result of the anti-avoidance provisions are that the income that accrues to the person's mentioned above are deemed to be the income of the donor.

## SMALL BUSINESS CORPORATIONS

### Year ending between 1 April 2018 and 31 March 2019

|                     |  |
|---------------------|--|
| R0 – R78 150        | 0% of taxable income                           |
| R78 151 – R365 000  | 7% of taxable income above R78 150             |
| R365 001 – R550 000 | R20 080 + 21% of taxable income above R365 000 |
| R550 001 and above  | R58 930 + 28% of the amount above R550 000     |

### Year ending between 1 April 2017 and 31 March 2018

|                     |  |
|---------------------|--|
| R0 – R75 750        | 0% of taxable income                           |
| R75 751 – R365 000  | 7% of taxable income above R75 750             |
| R365 001 – R550 000 | R20 248 + 21% of taxable income above R365 000 |
| R550 001 and above  | R59 098 + 28% of taxable income above R550 000 |

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

- the entire shareholding or membership is held by natural persons for the entire year of assessment
- the gross income does not exceed R20 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, less than 5% interest in cooperatives, venture capital company, 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
- not more than 20% of the sum of 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



## TURNOVER TAX FOR MICRO BUSINESSES

Financial years ending on any date between 1 March 2018 and 28 February 2019

| TAXABLE TURNOVER      | RATES OF TAX                             |
|-----------------------|--|
| R0 – R335 000         | 0%                                       |
| R335 001 – R500 000   | 1% of the amount above R335 000          |
| R500 001 – R750 000   | R1 650 + 2% of the amount above R500 000 |
| R750 001 – R1 000 000 | R6 650 + 3% of the amount above R750 000 |

Financial years ending on any date between 1 March 2017 and 28 February 2018

| TAXABLE TURNOVER      | RATES OF TAX                             |
|-----------------------|--|
| R0 – R335 000         | 0%                                       |
| R335 001 – R500 000   | 1% of the amount above R335 000          |
| R500 001 – R750 000   | R1 650 + 2% of the amount above R500 000 |
| R750 001 – R1 000 000 | R6 650 + 3% of the amount above R750 000 |

Turnover tax for micro businesses is a simplified turnover-based tax system substituting income tax and Capital Gains Tax. A micro business may voluntarily register for VAT. Turnover tax is an elective tax applicable to sole proprietors, partnerships and companies that meet certain criteria and have a turnover of less than R1 million per year.

A micro business may only voluntarily exit the turnover tax system before the beginning of a year of assessment.

## 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**
- **conservation, environment and animal welfare**
- religion, belief or philosophy
- cultural
- research and consumer rights
- sport
- providing funds, assets or other resources
- support services to other PBO's
- hosting certain international events

**Note:** Only the activities in bold qualify for section 18A status.

Donations to approved public benefit organisations are exempt from donations tax and deductible for income tax as follows if section 18A status has been approved:

- Company donations limited to 10% of taxable income
- Individual donations limited to 10% of taxable income excluding any retirement fund lump sum benefits
- Any excess above the 10% cap above may be rolled over to subsequent years

## DIVIDENDS TAX

Dividends tax is a tax levied on the shareholder at a rate of 20% (15% prior to 22 February 2017) 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 dividend is not a dividend in specie and 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)
- A non-resident and the dividend is paid by a South African Listed non-resident company

Where the dividend comprises of a dividend in specie, the following exemptions are applicable:

- The same exemptions as above subject to the beneficial owner submitting a declaration and written undertaking
- Where the beneficial owner forms part of the same group of companies

### Loans to connected persons

Dividends tax will be calculated as 20% of the difference between the official rate of interest in respect of the debt and the amount of interest payable in respect of the debt. Where the official rate of interest on the debt does not exceed the actual interest payable on the debt, the value of the deemed dividend is deemed to be nil. Dividends tax on a loan to a connected person is regarding is a *dividend in specie* and as such the liability of the company and not the shareholder.

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 at year-end and not consumables like seed, fertiliser, fuel etc. Produce is valued at the lowest of average cost of production or market value. Livestock can be valued at standard values or the farmer may elect his 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. See [www.sars.gov.za](http://www.sars.gov.za) for the standard values.

### **Capital development expenditure**

The following capital development expenditure may be deducted in full: Eradication of noxious plants, alien invasive plants and prevention of soil erosion.

The following capital development expenditure is 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, 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 in terms of special provisions.

### Persons subject to CGT

CGT is payable on capital gains that arise by the following persons:

- Residents are subject to CGT on all assets including overseas assets
- Non-residents are subject to CGT on immovable property or any right or interest in a property situated in South Africa and any asset of a permanent establishment through which a trade is carried on in South Africa (SA)

**Note:** Any right or interest in a property 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.

### Exclusions

The following are the main exclusions from CGT:

- Primary residences with capital gains up to R2 million
- Personal use assets
- Retirement benefits
- Long-term assurance
- Small business assets with capital gains up to R1.8 million (applicable when a person is over the age of 55 where the maximum market value of the small business assets does not exceed R10 million)
- Annual exclusion for natural persons: R40 000
- Annual exclusion on death for natural persons: R300 000

### Calculation and inclusion rates

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 and included in taxable income

The inclusion rates are as follows:

| <b>PERSON</b>                    | <b>2018</b> | <b>2019</b> |
|----------------------------------|-------------|-------------|
| Natural person and special trust | 40%         | 40%         |
| Company                          | 80%         | 80%         |
| Trust                            | 80%         | 80%         |

## **Withholding tax – prepayment CGT**

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. This withholding tax is not a final tax and is merely a prepayment of the expected CGT. The following withholding tax rates are applicable and are based on the proceeds on disposal:

| <b>NON-RESIDENT SELLER</b> | <b>2018</b> | <b>2019</b> |
|----------------------------|-------------|-------------|
| Natural person             | 7.5%        | 7.5%        |
| Company                    | 10%         | 10%         |
| Trust                      | 15%         | 15%         |

## **WITHHOLDING TAX (OTHER) – FINAL**

### **Royalties**

A withholding tax of 15% is payable when royalties from a South African source are paid to non-residents, subject to certain exemptions.

### **Interest**

A withholding tax of 15% is payable when interest from a South African source are paid to non-residents, subject to certain exemptions.

### **Foreign Entertainers and sportpersons**

A withholding tax of 15% on payments to foreign entertainers and sportpersons for activities in South Africa.

## VALUE-ADDED TAX (VAT)

The VAT system comprises of three types of supplies:

- Standard-rated supplies – supplies of goods and services subject to the VAT rate in force at the time of supply. With effect 1 April 2018 the VAT rate is increased from 14% to 15%\*
- 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

\*Transitional rules dealing with VAT rate increases are contained in s 67A of the VAT Act

### 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 two 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 six monthly basis as long as their turnover does not exceed R1.5 million and property letting companies and trusts may, subject to certain requirements, submit annual VAT returns
- Vendors may reclaim the VAT element on expenditure incurred for the purpose of making taxable VAT supplies except on, entertainment, excluding 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
- In order to be 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 R5 000

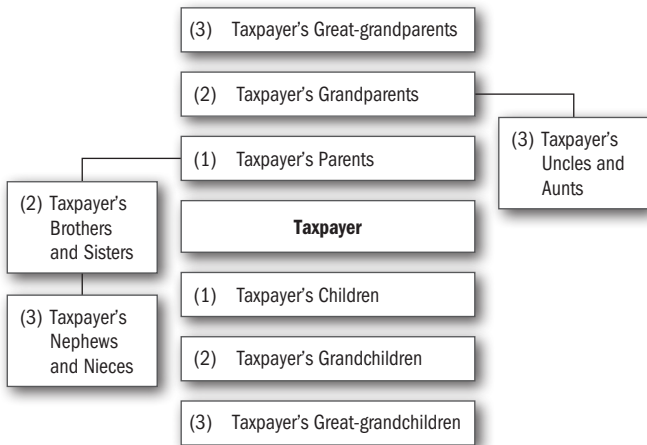
## CONNECTED PERSON DEFINITION FOR INCOME TAX

| Type of taxpayer                                | Connected persons in relation to the taxpayer   |
|---|---|
| Natural person                                  | <ul style="list-style-type: none"> <li>■ a relative to the third degree – see diagram for guidance on the meaning of relative</li> <li>■ a trust of which the natural person or the relative is a beneficiary</li> </ul>  |
| Trust   | <ul style="list-style-type: none"> <li>■ any beneficiary of the trust</li> <li>■ any connected person in relation to a beneficiary</li> </ul>   |
| Connected person in relation to a trust         | <ul style="list-style-type: none"> <li>■ any other person who is a connected person in relation to the trust</li> </ul>   |
| Members of a partnership or foreign partnership | <ul style="list-style-type: none"> <li>■ any other member</li> <li>■ any connected person in relation to any member of the partnership or foreign partnership</li> </ul>  |
| Company   | <ul style="list-style-type: none"> <li>■ any other company in the same group of companies, where a group of companies consists of a controlling group company that:               <ul style="list-style-type: none"> <li>◆ directly holds more than 50% of the equity shares or voting rights in at least one controlled group company, and</li> <li>◆ directly or indirectly holds more than 50% of the equity shares in or voting rights in each controlled group company</li> </ul> </li> <li>■ any person (but excluding companies) who individually or jointly with that person's connected persons holds 20% or more of a company's equity shares or voting rights</li> <li>■ any company who holds 20% or more of a company's equity shares or voting rights (but only if no other holder of shares holds the majority of voting rights in the company)</li> </ul> |



| Type of taxpayer  | Connected persons in relation to the taxpayer   |
|-------------------|---|
|                   | <ul style="list-style-type: none"> <li>any other company, if the company is managed or controlled by a connected person (or his connected person)</li> <li>any other company that would be part of the same group of companies according to the definition of 'group of companies'</li> </ul> |
| Close corporation | <ul style="list-style-type: none"> <li>any member</li> <li>any relative of the member or trust that is a connected person in relation to a member</li> <li>any other close corporation which is a connected person to one of the members, or relative or connected trust</li> </ul>           |

**Diagram illustrating the rule for determining persons who are related within the third degree of consanguinity**



## CAPITAL INCENTIVE ALLOWANCES

| ASSET TYPE   | CONDITIONS FOR ANNUAL ALLOWANCES  | ANNUAL ALLOWANCES   |
|--|---|---|
| Industrial Buildings   | Cost 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 (excluding low-cost residential units)   | 20%   |
|  | Construction of new building and extension to existing buildings (excluding low-cost residential units)   | 20% in 1st year<br>8% in each of 10 subsequent years  |
|  | Low-cost residential units: New buildings or extension/additions to existing buildings where taxpayer incurs the cost   | Year 1: 25% of the cost<br>Year 2 - 6: 13% of the cost<br>Year 7: 10% of the cost                   |
|  | Low-cost residential units: Improvements to existing buildings where the existing structure is preserved and where taxpayer incurs the cost                   | Year 1: 25% of the cost<br>Year 2 - 4: 25% of the cost  |
|  | Low-cost residential units: New buildings or extension/additions to existing buildings where taxpayer purchased building from developer                       | Year 1: 55% × 25% of the cost<br>Year 2 - 6: 55% × 13% of the cost<br>Year 7: 55% × 10% of the cost |
|  | Low-cost residential units: Improvements to existing buildings where the existing structure is preserved and where taxpayer purchased building from developer | Year 1: 30% × 25% of the cost<br>Year 2 - 4: 30% × 25% of the cost                                  |
| Hotel Buildings  | Cost of portion of building or improvements used  | 5%  |
|  | Improvements that do not extend the exterior framework of the building  | 20%   |

| ASSET TYPE   | CONDITIONS FOR ANNUAL ALLOWANCES   | ANNUAL ALLOWANCES   |
|--|--|---|
| Commercial Buildings                                     | Cost of erecting any new and unused building as well as new and unused improvements wholly or mainly used for the purpose of producing income in the course of trade | 5%  |
|  | Taxpayer acquires part of a building that is new and unused wholly or mainly to be used for producing income in the course of trade                                  | $55\% \times 5\%$ of the cost                                     |
|  | Taxpayer acquires part of a building that has new and unused improvements to be wholly or mainly used for producing income   | $30\% \times 5\%$ of the improvement                              |
| Aircraft & Ships   | Must be used for purposes of trade   | 20%   |
| Plant & Machinery  | New or unused manufacturing assets   | 40% in 1st year<br>20% in each of the 3 subsequent years          |
| Plant & machinery  | New and unused plant or machinery used by the taxpayer directly in a process of manufacture by a Small Business Corporation  | 100% of cost  |
| Renewable Energy - Machinery - Supporting Infrastructure | Small scale embedded solar photovoltaic renewable energy with generation capacity not exceeding 1000 kW  | 100% of cost  |
|  | Road & fences where the electricity production will exceed 5 MW  | 100% of cost  |
| Residential Units - at least five units must be owned    | New & unused units, erected or improved, situated in South Africa, owned & used by the taxpayer for the purposes of a trade he carries on.                           | Normal Unit 5%<br>Low Cost unit 10%*                              |
|  | New & unused units acquired, situated in South Africa, used by the taxpayer for the purpose of a trade he carries on   | Normal unit $55\% \times 5\%$<br>Low cost unit $55\% \times 10\%$ |
|  | Unit acquired with a new and unused improvement, situated in South Africa, used by the taxpayer for the purpose of a trade he carries on                             | Normal unit $30\% \times 5\%$<br>Low cost unit $30\% \times 10\%$ |

\*a building not exceeding cost of R300 000 or an apartment not exceeding a cost of R350 000

Residents are taxed on their worldwide income, subject to certain exclusions.

### Definition of resident

#### Natural Person (see flowchart further in this guide)

- 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 five years of assessment; and was physically present in South Africa for a period exceeding 915 days in aggregate during the previous five 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 from then.
  - ◆ 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 that period. From 1 March 2020 this exemption will be limited to R1m per year.

#### Companies and Trusts

A company and Trust will be considered to be resident 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 or voting rights 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 (including deemed dividends)**

Foreign Dividends received from a non-resident company are taxable.

Foreign dividends are, however, exempt as follows:

- If received by a resident who holds at least 10% of the equity shares in the foreign company
- The shareholder is a company which is in the same country as the foreign company paying the dividend
- If declared by a company listed on the SA stock exchange
- If paid out of the profits of a foreign company if the profits of the foreign company have been included in the South African shareholder's income in terms of the CFC provisions

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

- Individuals and trusts: 25/45 or 56% of the foreign dividend received
- Companies: 8/28 or 29% 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 source income from the tax payable in South Africa on such foreign income. Any excess credits may be carried forward.

Where foreign tax is withheld on South African source income, the taxpayer can claim a deduction against income.

## EXCHANGE CONTROL: 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 arm's length, at fair market-related prices, and are financed in an approved manner.

### Financial assistance in South Africa

- Emigrants: local financial assistance made available to emigrants is subject to the 1:1 ratio.
- Non-residents: authorised dealers may grant or authorise local financial assistance facilities to non-residents in respect of bona fide foreign direct investments into South Africa without restrictions. Where the funds are required for the acquisition of residential property or other financial transactions, the 1:1 ratio will apply.
- Affected persons (i.e. where non-residents directly or indirectly own 75% or more of an entity): there is no restriction on the amount that could be borrowed locally in instances where an affected person wishes to borrow locally to finance a foreign direct investment into South Africa or for domestic working capital requirements. Wholly non-resident owned subsidiaries may borrow locally up to 100% of the total shareholders' investment, in respect of the acquisition of residential property and or other financial transactions. The effect of local participation in non-resident controlled entities is to make the abovementioned norms more liberal the greater the local participation, i.e. the ability to borrow locally increases. This is based on a formula.

### Loans from non-resident shareholders to residents

Applications for proposed borrowing abroad by residents must be referred to the Financial Surveillance Department for approval.

## **Capital transactions**

Proceeds from the sale of assets in South Africa, may be remitted abroad. Proceeds on the sale of assets by emigrants will be subject to the blocked account provisions.

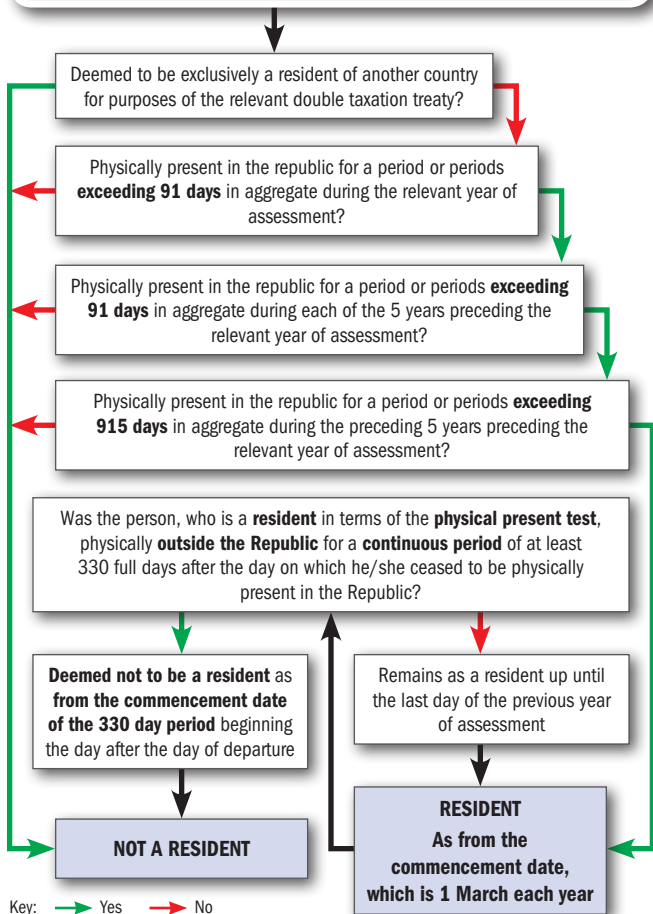
## **Dividend payments to non-residents**

Dividends declared by companies are remittable to non-resident shareholders in proportion to percentage shareholdings, subject to certain restrictions if the dividend is declared by an affected person who has local financial assistance. An emigrant shareholder will be entitled to dividends declared out of income earned from normal trading activities after the date of emigration. Non-listed companies have additional requirements to be met in order to transfer such dividends. Dividends declared out of capital gains, or out of income earned from normal trading activities prior to the date of emigration, remain subject to the blocked account provisions.

## **Director fee payments to non-residents**

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

## Physical presence test for a person not ordinarily resident:





### Average exchange rates for a year of assessment

| Year of assessment for the 12 months ending: | Australian Dollar                             | Canadian Dollar | Euro    | Hong Kong Dollar | Indian Rupee | Japanese Yen | Swiss Franc | UK Pound | US Dollar |
|--|---|-----------------|---------|------------------|--------------|--------------|-------------|----------|-----------|
| January 2017                                 | 10.8157                                       | 10.9912         | 16.0036 | 1.8651           | 0.2152       | 0.1336       | 14.6966     | 19.4237  | 14.4740   |
| February 2017                                | 10.7211                                       | 10.8790         | 15.7153 | 1.8379           | 0.2123       | 0.1319       | 14.4707     | 18.9169  | 14.2595   |
| March 2017                                   | 10.5813                                       | 10.7145         | 15.4416 | 1.8112           | 0.2095       | 0.1301       | 14.2413     | 18.4209  | 14.0525   |
| April 2017                                   | 10.4919                                       | 10.6015         | 15.2616 | 1.7983           | 0.2086       | 0.1291       | 14.0975     | 18.0955  | 13.9553   |
| May 2017                                     | 10.3792                                       | 10.4261         | 15.0370 | 1.7755           | 0.2066       | 0.1272       | 13.9099     | 17.6658  | 13.7813   |
| June 2017                                    | 10.2624                                       | 10.2599         | 14.8344 | 1.7517           | 0.2047       | 0.1250       | 13.7272     | 17.2573  | 13.6013   |
| July 2017                                    | 10.2104                                       | 10.1983         | 14.7641 | 1.7369           | 0.2038       | 0.1232       | 13.6433     | 17.0983  | 13.4942   |
| August 2017                                  | 10.2096                                       | 10.1909         | 14.7832 | 1.7303           | 0.2039       | 0.1220       | 13.6060     | 17.0275  | 13.4522   |
| September 2017                               | 10.1943                                       | 10.1880         | 14.7763 | 1.7196           | 0.2034       | 0.1204       | 13.5431     | 16.9423  | 13.3770   |
| October 2017                                 | 10.1965                                       | 10.2159         | 14.8347 | 1.7158           | 0.2035       | 0.1193       | 13.5267     | 17.0118  | 13.3547   |
| November 2017                                | 10.2159                                       | 10.2724         | 14.9582 | 1.7166           | 0.2044       | 0.1189       | 13.5445     | 17.1224  | 13.3684   |
| December 2017                                | Rates not available as at date of publication |                 |         |                  |              |              |             |          |           |

### Foreign capital investments

Resident individuals who are over 18 and tax payers in good standing are permitted to invest abroad. The current limit is R10 000 000 per person per calendar year. Applications by individuals to invest in fixed property and other investments will also be considered in addition to the foreign capital allowance.

### Single discretionary allowance (in addition to foreign capital allowance)

Residents over the age of 18 years may be permitted 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 (w.e.f. 1/4/15 to cover use for any legal purpose):

- monetary gifts and loans
- donations to missionaries
- maintenance transfers
- travel allowance (minors entitled to an annual allowance of R200 000)
- study allowance

### Study allowances

The direct costs of study may be transferred directly to the institution. Should a spouse accompany a student, a discretionary allowance may be accorded to the spouse. Household and personal effects, including jewellery (but excluding motor vehicles), up to a value of R200 000 per student may be exported.

### Emigration limits

#### Foreign Capital Allowance (reduced by foreign capital investments)

Single Person – R10 000 000

Family Unit – R20 000 000

**Household & Personal Effects, Motor Vehicles, Stamps, Coins & Kruger Rands**  
R2 million can be transferred.

## 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 (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 levied at 20% on the first R30 million of the dutiable estate. Estate duty will be levied at 25% on the dutiable estate in excess of R30 million.

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 a R3.5m estate duty abatement. This abatement could rollover from the deceased to a surviving spouse, so that the surviving spouse can use a R7m abatement 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 ten years of each other. The deduction is calculated on a sliding scale varying from 100% where the taxpayers die within two years of each other and 20% where the deaths are within eight to ten years of each other.

### **Executor's 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

Executor's remuneration is subject to VAT where the executor is registered as a vendor.

## DONATIONS TAX

Donations Tax is payable by any South African resident. The donations tax provisions do not apply to non-residents even if they donate South African assets. Donations tax is payable on the value of any gratuitous disposal of property (including the disposal of property for inadequate consideration) and the renunciation of rights.

### Principal exemptions

- Donations between spouses
- Donations to charitable, ecclesiastical and educational institutions, and certain public bodies in the Republic of South Africa (limited to certain thresholds)
- Donations by natural persons not exceeding R100 000 per year
- 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
- 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
- Donations between companies forming part of the same group of companies
- Reasonable bona fide contributions to the maintenance of individuals

### Rates

Donations tax is payable at the end of the month following the month in which the donation was made at a flat rate of 20% on the first R30 million donations. Donations tax on the donations in excess of R30 million for the preceding 12 months will be 25%.

### Carbon tax

Cabinet adopted the Carbon Tax Bill in August 2017. Parliament has convened hearings following the release of the draft bill in December 2017. The bill is expected to be enacted before the end of 2018. Government proposes to implement the tax from 1 January 2019 to meet its nationally determined contributions under the 2015 Paris Agreement of the United Nations Framework Convention on Climate Change.

### Tyre levy

A tyre levy was implemented with effect 1 February 2017 at a rate of R2.30/kg, through the Customs and Excise Act and collected by SARS. This replaces the existing environmental fee arrangements per the Department of Environmental Affairs regulations.

### “Environmental” deductions/allowances

- Section 12B Deduction in respect of certain machinery, plant, implements, utensils and articles used in farming 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 12K Exemption for Certified Emission Reductions
- Section 12L Special Allowance for Energy Efficiency Savings
- Section 12U Allowance for renewable energy supporting structures

### Tax allowance for energy-efficiency savings

The energy-efficiency savings tax incentive is calculated at a rate of 95c/kWh and also applies to cogeneration projects. 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.

## RING-FENCING OF ASSESSED LOSSES

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

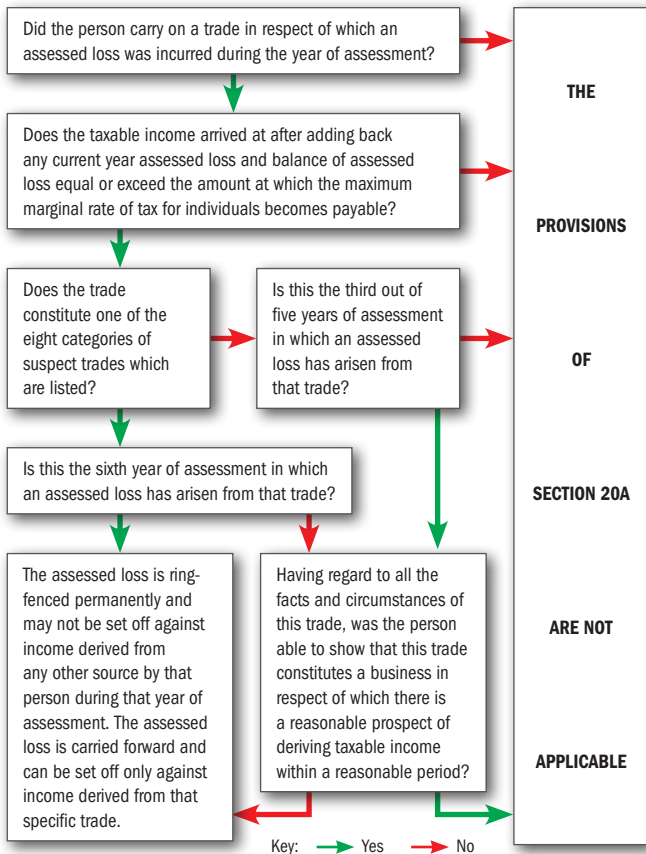
These restrictions apply to an individual whose taxable income is at the maximum marginal rate of tax, before setting off any assessed loss or balance of assessed loss.

For the restrictions to apply the person must have incurred an assessed loss from the secondary trade in at least three out of the last five years, or have carried on any of the following trades:

- any sport practised by that person or any relative
- any dealing in collectibles by that person or any relative
- the rental of residential accommodation, unless at least 80% of the residential accommodation is used by persons who are not relatives of that person for at least half of the year of assessment
- the rental of vehicles, aircraft or boats as defined in the Eighth Schedule, unless at least 80% 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
- animal showing by that person or any relative
- farming or animal breeding, unless that person carries on farming, animal breeding or activities of a similar nature on a full-time basis
- any form of performing or creative arts practised by that person or any relative, or
- 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. Where these losses have been incurred for at least six years out of the preceding ten years then such concession will not apply except for farming.

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



### **Restraint of trade**

Restraint of trade payments that are taxable in the hands of individuals, labour brokers and personal service providers are deductible by the payer over three years if the period of the restraint is less than three 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 restricted to the income from that trade and may not be set off against the income from a different trade.

### **Research and Development**

Research and development expenditure may qualify for incentive allowances whereby 150% of the operating expenses are deductible.

Certain requirements must, however, be met, including the Department of Science and Technology's approval of the deduction.



## SUNDRY TAXES

### Securities Transfer Tax

The tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities. No tax is payable on the original issue of shares. 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 Fund Contributions

Unemployment Insurance Fund 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 R17 712 per month.

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

## EMPLOYMENT TAX INCENTIVE

The employment tax incentive was instituted in order to encourage employment creation for the youth (i.e. employees between the ages of 18 and 29 years) and the incentive will come to an end on 28 February 2019.

If an employer is eligible to receive the employment tax incentive in respect of a qualifying employee in respect of a month, that employer may reduce the employees' tax payable by that employer with the amount of the incentive.

The main requirements to qualify for this incentive are as follows:

- The taxpayer must be registered for the purposes of the withholding and payment of employees' tax

- The wage paid to an employee may not be less than the amount payable by virtue of a wage regulating measure applicable to that employer (i.e. a minimum wage) or if the amount of the wage payable to an employee is not subject to any wage regulating measure, the amount of R2 000 per month if the employee is employed for more than 160 hours in the month (if the employee is employed for less than 160 hours in a month and is paid remuneration in respect of those hours a percentage of R2 000 must be used)
- An employee is a qualifying employee if the employee:
  - ◆ is not an independent contractor
  - ◆ is not less than 18 years old and not more than 29 years old at the end of any month in respect of which the employment tax incentive is claimed
  - ◆ was not employed by the employer before 1 October 2013
  - ◆ is in possession of an identity card or is in possession of an asylum seeker permit
  - ◆ in relation to the employer, is not a connected person
  - ◆ is not a domestic worker
  - ◆ does not earn more than R6 000 per month

The Minister of Finance designated special economic zones and industries in respect which an employer will also qualify for the incentive.

The amount of the employment tax incentive in respect of a qualifying employee is determined as follows:

- During each month of the first 12 months, 50% of the monthly remuneration of the employee if the employee's remuneration is less than R2 000, R1 000 if the employee's remuneration is R2 000 or more but less than R4 000 and according to a formula if the employee's remuneration is R4 000 or more but less than R6 000.
- During each of the 12 months after the first 12 months that the same employer employs the qualifying employee, 25% of the monthly remuneration of the employee if the employee's remuneration is less than R2 000, R500 if the employee's remuneration is R2 000 or more but less than R4 000 and according to a formula if the employee's remuneration is R4 000 or more but less than R6 000.

## LEARNERSHIP ALLOWANCES

An annual and completion allowance of R40 000 may be claimed by the taxpayer for learnerships NQF qualifications from levels 1 to 6, and R20 000 for learnerships NQF qualifications from levels 7 to 10. The deduction claimable for disabled learners is R60 000 or 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  $\times$  the above annual allowance amount.

## TRANSFER DUTY ON IMMOVABLE PROPERTY

- Calculated on the value of immovable property
- Payable within six months after the transaction is entered into
- Exemptions apply with the most notable when the seller is a VAT vendor
- Where a VAT vendor purchases property from a non-vendor, the notional input tax is calculated by multiplying the tax fraction (15/115 (14/114 before 1 April 2018)) by the lesser of the consideration paid or market value
- 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

### Transfer duty is calculated as follows:

|                          |  |
|--------------------------|--|
| R0 – R900 000            | 0%   |
| R900 001 – R1 250 000    | 3% of the value over R900 000                |
| R1 250 001 – R1 750 000  | R10 500 + 6% of the value over R 1 250 000   |
| R1 750 001 – R2 250 000  | R40 500 + 8% of the value over R 1 750 000   |
| R2 250 001 – R10 000 000 | R80 500 + 11% of the value over R2 250 000   |
| R10 000 001 +            | R933 000 + 13% of the value over R10 000 000 |

## TAX SEASON DEADLINES 2018/19

### 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  | August     | 6 months after year-end   | August    |
| Second provisional tax | February   | 12 months after year-end  | February  |
| Third provisional tax  | September  | <ul style="list-style-type: none"><li>■ 6 months after year-end if year-end is not February</li><li>■ 7 months after year-end if year-end is February</li></ul> | September |

## Value-added tax

|                                     | <b>Individual</b>   | <b>Company</b>  | <b>Trust</b>  |
|-------------------------------------|---|---|---|
| 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

|   | <b>Individual</b>   | <b>Company</b>  | <b>Trust</b>  |
|---|---|---|---|
| Annual Employer Reconciliation Declaration (EMP501) and Employee Income Tax certificates [IRP5/IT3(a)]            | May   | May   | May   |
| Interim/Bi-annual Employer Reconciliation Declaration (EMP501) and Employee Income Tax certificates [IRP5/IT3(a)] | October   | October   | 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 (taxable) i.e. salaries and wages (taxable), overtime (taxable)
- 3602 Income (non-taxable) i.e. pension payments (non-taxable), arbitration award (non-taxable)
- 3603 Pension payments (taxable)
- 3605 Annual payments (taxable) i.e. annual bonus, incentive bonus etc.
- 3606 Commission
- 3608 Arbitration Award (taxable)
- 3610 RAF annuity (taxable)
- 3611 Purchased annuity (taxable)
- 3613 Restraint of Trade (taxable)
- 3614 Other Retirement Lump Sums (taxable)
- 3615 Director's Remuneration (taxable)
- 3616 Independent Contractors (taxable)
- 3617 Labour Brokers (PAYE/IT)
- 3619 Labour Brokers with Exemption Certificate (IT)
- 3620 Directors Fees - resident Non-Executive Director - voluntary PAYE withholding
- 3621 Directors Fees - Non-resident Non-Executive Director

### Allowance Codes

- 3701 Travel Allowance (taxable)
- 3702 Reimbursive Travel Allowance (taxable)
- 3703 Reimbursive Travel Allowance (non-taxable)
- 3704 Subsistence Allowance - Local Travel (taxable)
- 3707 Share Options Exercised (taxable)
- 3708 Public Office Allowance (taxable)
- 3713 Other Allowances (taxable) i.e., Entertainment Allowance (taxable), Tool Allowance (taxable), Computer Allowance (taxable), Telephone/ Cell Phone Allowance (taxable)
- 3714 Other Allowances (non-taxable) i.e., Subsistence Allowance - Local Travel (non-taxable), Uniform Allowance (non-taxable), Subsistence Allowance- Foreign Travel (non-taxable), Relocation allowance (non-taxable)
- 3715 Subsistence Allowance- Foreign Travel (taxable)
- 3717 Broad-based Employee Share Plan (taxable)
- 3718 Vesting of equity instruments (taxable)

- 3719 Dividends not exempt i.t.o para (dd) of the proviso to s10(1)(k)(i)
- 3720 Dividends not exempt i.t.o. par (ii) of the proviso to s10(1)(k)(i) dividends
- 3721 Dividends not exempt i.t.o. par (jj) of the proviso to s 10(1)(k)(i) dividends

### Fringe Benefit Codes

- 3801 General Fringe Benefit (taxable) i.e., Right of Use of Asset other than motor vehicle (taxable), acquisition of asset at less than actual value (taxable), Meals, refreshments and meal and refreshment Vouchers (taxable), Low interest or interest free loans or loan subsidies (taxable)
- 3802 Right of Use of Motor Vehicle (taxable)
- 3805 Accommodation (taxable) i.e. free or cheap residential or holiday accommodation (taxable)
- 3806 Services (taxable) i.e. free or cheap services
- 3808 Employee's debt (taxable)
- 3809 Bursaries or scholarships (taxable)
- 3810 Medical Aid contributions (taxable)
- 3813 Medical services cost (taxable)
- 3815 Bursaries and scholarships (non-taxable)
- 3816 Use of motor vehicle acquired by employers via "Operating Lease" (taxable)
- 3817 Taxable benefit i.r.o. Pension Fund Employer Contribution
- 3820 Taxable Bursaries or Scholarships - Further Education
- 3821 Non-Taxable Bursaries or Scholarships - Further Education
- 3822 Non-taxable Acquisition of Immovable Property
- 3825 Taxable Benefit i.r.o. Provident Fund Employer Contribution
- 3828 Taxable Benefit i.r.o. Retirement Annuity Employer Contribution

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, except 3614, 3617, 3621, 3908, 3909, 3915, 3920, 3921 and 3922.

**Lump Sum Codes**

- 3901 Gratuities (taxable)  
3906 Special Remuneration (taxable) i.e. proto-teams  
3907 Other Lump Sums (taxable) i.e. Backdated salaries extended over previous tax year, Lump sum payments by unapproved funds, Gratuity paid to an employee due to normal termination of service, Employer owned insurance policy (risk policy) proceeds NOT exempt i.to the exclusion in section 10(1)(gG) (i) of the Income Tax Act)  
3908 Surplus Apportionments and Employer Owned Policy Proceeds (non-taxable)  
3909 Unclaimed Benefits paid by Fund (taxable)  
3915 Retirement/involuntary termination of employment lump sum benefits/Commutation of annuities (taxable)  
3920 Lump sum withdrawal benefits (taxable)  
3921 Living annuity and section 15C of the Pension Funds Act, surplus apportionments (taxable)  
3922 Compensation i.r.o death during employment (Excl/PAYE)  
3923 Transfer of Unclaimed Benefits

**Gross Remuneration Codes**

- 3696 Gross Non-Taxable Income  
3697 Gross Retirement Funding Employment Income (not applicable from 2017 year of assessment)  
3698 Gross Non-Retirement Funding Employment Income (not applicable from 2017 year of assessment)  
3699 Gross Taxable Employment Income

**Employee's Tax Deduction and Reason Codes**

- 4102 PAYE  
4115 Tax on Retirement Lump Sum and Severance benefits  
4116 Medical Scheme Fees Tax Credit taken into account by the employer for PAYE purposes  
4118 Employment Tax Incentive  
4120 Additional medical expense credit allowed for employee older than 65  
4141 UIF contribution  
4142 SDL contribution  
4149 Total Tax, SDL and UIF (excluding the value of 4116 Medical Scheme Fees Tax Credit taken into account by the employer for PAYE purposes).

- 4150 02 – Earn Less than the Tax Threshold  
03 – Independent Contractor  
04 – Non Taxable Earnings (including nil directive)  
05 – Exempt Foreign Employment Income  
06 – Director's Remuneration – Income Determined in the following Tax Year  
07 – Labour Broker with IRP30  
08 – No Tax to be withheld due to Medical Scheme Fees Tax Credit allowed  
09 – Par 11A(5) Fourth Schedule notification – No withholding possible

**Deduction Codes**

- 4001 Current Pension Fund Contributions  
4002 Arrear Pension Fund Contributions (not applicable from 2017 year of assessment)  
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 (not applicable from 2017 year of assessment)  
4018 Premiums Paid for Loss of Income Policies (not applicable from 2016 year of assessment)  
4024 Medical services costs deemed to be paid by the employee in respect of himself/herself, spouse or child  
4026 Arrear Pension Fund Contributions – Non Statutory Forces (not applicable from 2017 year of assessment)  
4030 Donations deducted from the employee's remuneration and paid by the employer  
4472 Employer's Pension Fund Contributions  
4473 Employer's Provident Fund Contributions  
4474 Employer's medical scheme contributions in respect of employees not included in code 4493  
4475 Employer's Retirement Annuity Contributions  
4493 Employer's Medical Aid Contributions i.r.o Retired Employees (not applicable from 2013 year of assessment)  
4497 Total Deductions/Contributions  
4582 Remuneration inclusion used in section 11(k) deduction (specific codes included)  
4583 Remuneration portion of travel allowance, motor vehicle fringe benefit and Reimbursive Travel Allowance

## PENALTIES: ADMINISTRATIVE NON-COMPLIANCE

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 based 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 based 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% under certain circumstances (i.e. sec 35A)   |
| Provisional tax               | <ul style="list-style-type: none"><li>10% on the late or non-payment of provisional tax</li><li>20% if provisional tax estimate has been understated (the non-submission of the return within four months after year-end is deemed to be a submission with an estimate of Rzero)</li></ul> |
| Employers' and employees' tax | <ul style="list-style-type: none"><li>10% if return has not been filed</li><li>10% if employee tax and/or UIF has not been paid</li><li>10% if fringe benefits have not been indicated on employee's tax certificates</li></ul>  |
| 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. Excluded from the understatement penalties are penalties resulting from a "bona fide inadvertent error".

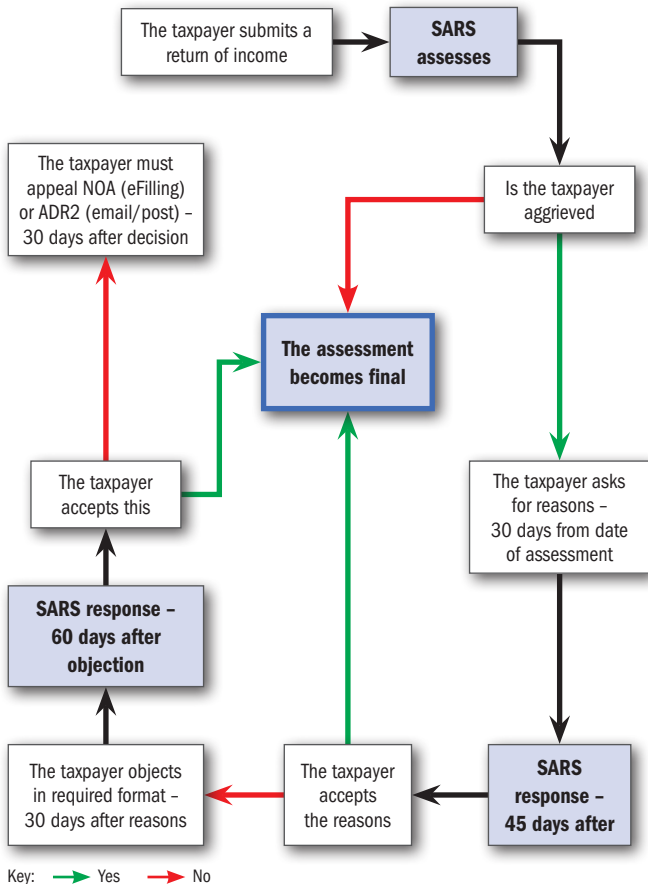
The following definitions relate to the understatement table below:

- **Substantial understatement** means a case where the prejudice to SARS or the fiscus exceeds the greater of 5% 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
- **Impermissible avoidance arrangement** means an arrangement as defined in the General Anti-Avoidance Rules in the Income Tax Act
- **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                     | 10%           | 20%                        | 5%  | 0%   |
| Reasonable care not taken in completing return | 25%           | 50%                        | 15%   | 0%   |
| No reasonable grounds for tax position         | 50%           | 75%                        | 25%   | 0%   |
| Impermissible avoidance arrangement            | 75%           | 100%                       | 35%   | 0%   |
| Gross negligence                               | 100%          | 125%                       | 50%   | 5%   |
| Intentional tax evasion                        | 150%          | 200%                       | 75%   | 10%  |

## DISPUTE RESOLUTION PROCESS



## RETENTION OF RECORDS

| DOCUMENT  | RETENTION PERIOD   |
|---|--|
| <b>Companies Act</b>  |  |
| <ul style="list-style-type: none"> <li>■ Any documents, accounts, books, writing, records or other information that a company is required to keep in terms of the Companies Act and other public regulation</li> </ul>  | 7 years or longer<br>(as specified in other public regulation) |
| <ul style="list-style-type: none"> <li>■ Registration certificate</li> <li>■ Memorandum of Incorporation</li> <li>■ Rules</li> <li>■ Securities register and uncertificated securities register</li> <li>■ Register of company secretary and auditors</li> </ul>  | Indefinite   |
| <ul style="list-style-type: none"> <li>■ Notice and minutes of all shareholders' meetings</li> <li>■ Copies of reports presented at the annual general meeting of the company</li> <li>■ Copies of annual financial statements</li> <li>■ Copies of accounting records</li> <li>■ Record of directors and past directors, after the director has retired from the company</li> <li>■ Written communication to holders of securities</li> <li>■ Minutes and resolutions of directors' meetings, audit committee and directors' committees</li> </ul> | 7 years  |
| <b>Close Corporations Act</b>   |  |
| <ul style="list-style-type: none"> <li>■ Accounting records</li> <li>■ Annual financial statements</li> </ul>   | 15 years   |
| <ul style="list-style-type: none"> <li>■ Founding statement (Form CK 1)</li> <li>■ Amended Founding statement (forms CK 2 and CK 2A)</li> <li>■ Microfilm image of any original record reproduced directly by the camera - the "camera master"</li> <li>■ Minutes books as well as resolution passed at meetings</li> </ul>   | Indefinite   |

| DOCUMENT   | RETENTION PERIOD                              |
|--|---|
| <b>Income Tax and VAT Act</b>  |   |
| <ul style="list-style-type: none"> <li>■ In respect of each employee the employer shall keep a record showing: amount of remuneration paid or due by him to the employee; the amount of employees' tax deducted or withheld from the remuneration paid or due; the income tax reference number of that employee; any further prescribed information; Employer Reconciliation return (EMP501)</li> <li>■ The following records of importation of goods and documents: Bill of entry or other documents prescribed by the Custom and Excise Act, proof that the VAT charge has been paid to SARS</li> <li>■ VAT Vendors are obliged to keep the following records: record of all goods and services, the rate of tax applicable to the supply and the suppliers or their agents, invoices, tax invoices, credit notes, debit notes, bank statements, deposit slips, stock lists and paid cheques</li> <li>■ Documentary proof for zero-rating of supplies</li> </ul> | 5 years from date of submission of the return |

**Note:** The records, books of account and documents must be retained in their original form in a safe place, or electronic format as prescribed by the Commissioner or in a form authorised by a senior SARS official.

## 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 commercial helicopters) | 4                          | Excavators                            | 4                          |
| Arc welding equipment                                | 6                          | Fax machines                          | 3                          |
| Artefacts  | 25                         | Fertiliser spreaders                  | 6                          |
| Balers   | 6                          | Fire arms                             | 6                          |
| Battery chargers                                     | 5                          | Fire extinguishers (loose units)      | 5                          |
| Bicycles   | 4                          | Fire detections systems               | 3                          |
| Boilers  | 4                          | Fishing vessels                       | 12                         |
| Bulldozers   | 3                          | Fitted carpets                        | 6                          |
| Bumping flaking                                      | 4                          | Food bins                             | 4                          |
| Carports   | 5                          | Food-conveying systems                | 4                          |
| Cash registers                                       | 5                          | Fork-lift trucks                      | 4                          |
| Cell phone antennae                                  | 6                          | Front-end loaders                     | 4                          |
| Cell phone masts                                     | 10                         | Furniture and fittings                | 6                          |
| Cellular telephones                                  | 2                          | Gantry cranes                         | 6                          |
| Cheque-writing machines                              | 6                          | Garden irrigation equipment (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 (personal computers)               | 2                          | Cardiovascular                        | 2                          |
| Concrete mixers portable                             | 4                          | Health testing                        | 5                          |
| Concrete transit mixers                              | 3                          | Weights and strength                  | 4                          |
| Containers   | 10                         | Spinning                              | 1                          |
| Crop sprayers  | 6                          | Other                                 | 10                         |
| Curtains   | 5                          | Hairdressers' equipment               | 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.

## FINANCE REPAYMENT FACTORS

The following table reflects repayments on every R1 000 borrowed.

| Short/Medium/Long term Financing |           |           |           |          |          |          |          |
|----------------------------------|-----------|-----------|-----------|----------|----------|----------|----------|
| Rate                             | 36 Months | 48 Months | 60 Months | 10 Years | 20 Years | 25 Years | 30 Years |
| 07,0%                            | 30,88     | 23,95     | 19,08     | 11,61    | 07,75    | 07,07    | 06,65    |
| 07,5%                            | 31,11     | 24,18     | 20,04     | 11,87    | 08,06    | 07,39    | 06,99    |
| 08,0%                            | 31,34     | 24,41     | 20,28     | 12,13    | 08,36    | 07,72    | 07,34    |
| 08,5%                            | 31,57     | 24,65     | 20,52     | 12,40    | 08,68    | 08,05    | 07,69    |
| 09,0%                            | 31,80     | 24,89     | 20,76     | 12,67    | 09,00    | 08,39    | 08,05    |
| 09,5%                            | 32,03     | 25,12     | 21,00     | 12,94    | 09,32    | 08,74    | 08,41    |
| 10,0%                            | 32,27     | 25,36     | 21,25     | 13,22    | 09,65    | 09,09    | 08,78    |
| 10,5%                            | 32,50     | 25,60     | 21,49     | 13,49    | 09,98    | 09,44    | 09,15    |
| 11,0%                            | 32,74     | 25,85     | 21,74     | 13,78    | 10,32    | 09,80    | 09,52    |
| 11,5%                            | 32,98     | 26,09     | 21,99     | 14,06    | 10,66    | 10,16    | 09,90    |
| 12,0%                            | 33,21     | 26,33     | 22,24     | 14,35    | 11,01    | 10,53    | 10,29    |
| 12,5%                            | 33,45     | 26,58     | 22,50     | 14,64    | 11,36    | 10,90    | 10,67    |
| 13,0%                            | 33,69     | 26,83     | 22,75     | 14,93    | 11,72    | 11,28    | 11,06    |
| 13,5%                            | 33,94     | 27,08     | 23,01     | 15,23    | 12,07    | 11,66    | 11,45    |
| 14,0%                            | 34,18     | 27,33     | 23,27     | 15,53    | 12,44    | 12,04    | 11,85    |
| 14,5%                            | 34,42     | 27,58     | 23,53     | 15,83    | 12,80    | 12,42    | 12,25    |
| 15,0%                            | 34,67     | 27,83     | 23,79     | 16,13    | 13,17    | 12,81    | 12,64    |
| 15,5%                            | 34,91     | 28,08     | 24,05     | 16,44    | 13,54    | 13,20    | 13,05    |
| 16,0%                            | 35,16     | 28,34     | 24,32     | 16,75    | 13,91    | 13,59    | 13,45    |
| 16,5%                            | 35,40     | 28,60     | 24,58     | 17,06    | 14,29    | 13,98    | 13,85    |



## INTEREST RATES

| EFFECTIVE DATE                                     | RATE   |
|--|--------|
| <b>Late or underpayments of Tax</b>                |        |
| 1 November 2015                                    | 9.50%  |
| 1 March 2016                                       | 9.75%  |
| 1 May 2016   | 10.25% |
| 1 July 2016  | 10.50% |
| 1 November 2017                                    | 10.25% |
| <b>Fringe benefits – official rate of interest</b> |        |
| 1 August 2012                                      | 6.00%  |
| 1 February 2014                                    | 6.50%  |
| 1 August 2014                                      | 6.75%  |
| 1 August 2015                                      | 7.00%  |
| 1 December 2015                                    | 7.25%  |
| 1 February 2016                                    | 7.75%  |
| 1 April 2016                                       | 8.00%  |
| 1 August 2017                                      | 7.75%  |
| <b>Overpayments of tax</b>                         |        |
| 1 November 2015                                    | 5.50%  |
| 1 March 2016                                       | 5.75%  |
| 1 May 2016   | 6.25%  |
| 1 July 2016  | 6.50%  |
| 1 November 2017                                    | 6.25%  |
| <b>Prime Overdraft Rates</b>                       |        |
| 18 July 2014                                       | 9.25%  |
| 24 July 2015                                       | 9.50%  |
| 20 November 2015                                   | 9.75%  |
| 29 January 2016                                    | 10.25% |
| 18 March 2016                                      | 10.50% |
| 21 July 2017                                       | 10.25% |





Geoktrooieerde Rekenmeesters (S.A.)

Chartered Accountants (S.A.)

## **OUR SERVICES**

Statutory Audits and Special Assignments;  
Independent Reviews;  
Accounting;  
Tax Administration and Planning;  
Company Secretarial Services;  
Registration of Companies;  
Management Consultancy;  
Viability Studies, Business Plans,  
Valuation of Businesses;  
Financial Information Services;  
Forecasts, Budgets and Cashflow Statements;  
Trust Formation and Administration;  
Administration of Deceased Estates;  
Estate Planning;  
Employees Benefits Consultancy and Administration;  
Insurance (Short and Long Terms);  
Consultation on Buying and Selling of Businesses;

