TAX GUIDE 2013/2014

Legal&Tax

The right team to protect your rights

PO Box 95275
Grant Park 2051

Tel: 0860 587 587

E-mail: members@legalandtax.co.za

CONTENTS

INCOME TAX RATES, REBATES AND THRESHOLDS 2

WEAR AND TEAR ALLOWANCES
General 4
Capital allowances 4

RESIDENCE BASIS OF TAXATION
Resident 5
Non-resident 5

INTEREST AND DIVIDEND INCOME 7

INDIVIDUALS
Deductions for individuals 8
Ring fencing of assessed losses 11

ALLOWANCES AND FRINGE BENEFITS
Travelling and car allowances 13
Subsistence allowance 13
Use of company owned motor vehicle 13
Benefits in respect of insurance policies 14
Medical aid contributions 15
Residential accommodation 15
Holiday accommodation 15
Long service and bravery awards 16
Interest on loans 16
Uniform allowance 16
Free or subsidised meals and refreshments 16
Bursaries and scholarships 16
Telephone and computer equipment 17

RETIREMENT BENEFITS
Retirement fund lump sum benefits or severance benefits 17
Retirement fund lump sum withdrawal benefits 17
Withdrawal benefits: Divorce orders and transfers reinvested 18
Severance benefits 18

DIRECTORS PAYE 19

COMPANIES
Small business corporations 19
Personal service providers 20
Micro businesses 21

TRUSTS 23

DIVIDEND TAX 24

OTHER TAXES
Value-added tax (VAT) 26
Donations tax 28
Estate duty 29
Transfer duty 29
Securities transfer tax (STT) 30
Skills development levies (SDL) 30
Unemployment insurance fund (UIF) 31
Provisional Tax 31

CAPITAL GAINS TAX (CGT) 33

GENERAL

Variable remuneration 38
Learnership allowance 39
Key-man policies 39
Research and development 40

PENALTIES 42

VOLUNTARY DISCLOSURE PROGRAMME 43

EXCHANGE CONTROL ALLOWANCES 44

OFFICIAL INTEREST RATES 45

RETENTION OF RECORDS 46

BUDGET SPEECH TAX PROPOSALS 47

This guide is prepared by ProBeta Training (Pty) Ltd.
This guide is prepared from 2012 promulgated tax acts and 2013/2014 tax proposals as presented during the budget speech.

Whilst every care has been taken in compiling this guide, readers are cautioned to use it as a guideline only and no liability is accepted for the consequences of any inaccuracies.

Figures in brackets refer to the previous tax year.

INCOME TAX RATES

Rate of normal income tax on taxable income of any natural person or special trust: 2013/2014

Taxable income	Rate of tax (R)
R 0 - R 165 600	18% of each R 1
R 165 601 - R 258 750	R 29 808 + 25% of the amount above R 165 600
R 258 751 - R 358 110	R 53 096 + 30% of the amount above R 258 750
R 358 111 - R 500 940	R 82 904 + 35% of the amount above R 358 110
R 500 941 - R 638 600	R 132 894 + 38% of the amount above R 500 940
R 638 601 and above	R 185 205 + 40% of the amount above R 638 600

Rate of normal income tax on taxable income of any natural person or special trust: 2012/2013

Taxable income	Rate of tax (R)
R 0 - R 160 000	18% of each R 1
R 160 001 - R 250 000	R 28 800 + 25% of the amount above R 160 000
R 250 001 - R 346 000	R 51 300 + 30% of the amount above R 250 000
R 346 001 - R 484 000	R 80 100 + 35% of the amount above R 346 000
R 484 001 - R 617 000	R128 400 + 38% of the amount above R 484 000
R 617 001 and above	R178 940 + 40% of the amount above R 617 000

Rebates

Type of rebate	2013	2014
Primary rebate	R 11 440	R 12 080
Secondary rebate for natural persons 65 years and older	R 6 390	R 6 750
Tertiary rebate for natural persons 75 years and older	R 2 130	R 2 250

Please note: The rebate is reduced proportionally where the period of assessment is less than 12 months.

Tax threshold

Type of person	2013	2014
Natural persons younger than 65 years	R 63 556	R 67 111
Natural persons 65 - 74 years	R 99 056	R 104 611
Natural persons 75 years and older	R 110 889	R 117 111

Corporate and Trust Income Tax Rates: 2014
For years of assessment ending on or after 1 April 2013

Type of company	Rate of tax
Companies and close corporations (other than listed below)	28%
Small business corporation Taxable income	
- Up to R 67 111	0%
- R 67 112 to R 365 000	7% of the amount above R 67 111
- R 365 001 to R 550 000	R 20 852 + 21% of the amount above R 365 000
- In excess of R 550 000	R 59 702 + 28% of the amount above R 550 000

Public Benefit Organisations	28% (Annual trading income exemption is greater of R 200 000 or 5% of total receipts)
Recreational Clubs	28% (Annual trading income exemption is greater of R 120 000 or 5% of total membership fees)
Personal service provider companies	28%
Local branch of foreign company	28%
Trusts	40%
Micro business Year of assessment ending on 28 February 2014	
R 0 - R 150 000	0%
R 150 001 - R 300 000	1% of taxable turnover above R 150 000
R 300 001 - R 500 000	R 1 500 +2% of taxable turnover above R 300 000
R 500 001 - R 750 000	R 5 500 +4% of taxable turnover above R 500 000
R 750 001 - R 1 000 000	R15 500 +6% of taxable turnover above R 750 000

Corporate and Trust Income Tax Rates: 2013

For years of assessment ending on or after 1 April 2012

Type of company	Rate of tax
Companies and close corporations (other than listed below)	28%
Small business corporation Taxable income - Up to R 63 556 - R 63 557 to R 350 000 - In excess of R 350 000	 0% 7% of the amount above R 63 556 R 20 051 + 28% of the amount above R 350 000
Public Benefit Organisations	28% (Annual trading income exemption is greater of R 200 000 or 5% of total receipts)
Recreational Clubs	28% (Annual trading income exemption is greater of R 120 000 or 5% of total membership fees)
Personal service provider companies	28%
Local branch of foreign company	28%
Trusts	40%
Micro business Year of assessment ending on 28 February 2013	
R 0 - R 150 000	0%
R 150 001 - R 300 000	1% of taxable turnover above R 150 000
R 300 001 - R 500 000	R 1 500 +2% of taxable turnover above R 300 000
R 500 001 - R 750 000	R 5 500 +4% of taxable turnover above R 500 000
R 750 001 - R 1 000 000	R15 500 +6% of taxable turnover above R 750 000

WEAR AND TEAR ALLOWANCES

General

Fixed assets may be depreciated on the straight-line basis over their expected useful lives. SARS has indicated certain periods which will be acceptable in Interpretation Note 47. These include amongst others (in years):

Aircraft	4	Passenger vehicles	5
Air conditioners	6	Personal computers	3
Cash registers	5	Photographic equipment	6
Cellular phones	2	Photocopying equipment	5
Curtains	5	Power tools (hand)	5
Computer software	2	Shop fittings	6
Delivery vehicles	4	Television sets	6
Fax machines	3	Textbooks	3
Fitted carpets	6	Telephone equipment	5
Furniture and fittings	6	Trucks (heavy duty)	3
Kitchen equipment	6	Typewriters & calculators	6
Motorcycles	4	Workshop equipment	5

If the cost price of an item is less than R 7 000 it can be written off immediately.

Capital allowances

Type of asset	Rate
Small business corporations - New and unused plant and machinery used in a process of manufacture or similar process - Other depreciable assets	 100% Normal wear and tear rates or 50%:30%:20%
Plant and machinery - New and unused, acquired on or after 1 March 2002 and used in a process of manufacture or similar process. Also applicable to research and development assets from 1 April 2012 - Other plant and equipment	 40%:20%:20%:20% 20%
Industrial buildings - Used wholly or mainly in the process of manufacturing or a similar process (from 1 October 1999). Also applicable to buildings used for research and development purposes on or after 1 April 2012	5%
New commercial buildings - Buildings or improvements contracted for on or after 1 April 2007 and construction, erection, or installation commences on or after that date	5%
Farming equipment	50%:30%:20%
Urban Development Zones - New buildings, extensions and additions (on or after 21 October 2008) - Improvements (Applies until 31 March 2020)	 20% initial allowance and 8% thereafter 20% straight line

Normal profits and/or capital gains made on involuntary disposals of depreciable assets will be recouped over the period that the replacement asset is depreciated. A contract to replace the depreciable asset must be concluded within 12 months and the asset brought into use within 3 years. Losses on the sale of depreciable business assets can be claimed from ordinary revenue for tax purposes.

RESIDENCE BASIS OF TAXATION

Resident

Residents of South Africa are taxable on their world wide income. To be considered a resident and therefore subject to South African income tax an individual must be either "ordinarily resident" in South Africa (have a permanent home in South Africa) or be "physically present" in the Republic of South Africa.

The last test (physically present) requires that an individual be present in South Africa:

- For more than 91 days in aggregate during the particular year of assessment; and
- For more than 91 days in aggregate during each of the preceding five years; and
- For more than 915 days in aggregate during the preceding five years.

If the individual was outside the Republic of South Africa for a continuous period of 330 days after ceasing to be physically present in South Africa, then the individual will no longer be a resident from the commencement of the 330 day period.

A person other than a natural person will be a resident as defined if it is:

- Incorporated in the Republic of South Africa; or
- Established or formed in the Republic of South Africa; or
- Has its place of effective management in the Republic of South Africa.

If you are a resident, whether "ordinarily resident" or through being "physically present" in the Republic of South Africa, the source of the income is irrelevant and the income will be taxed in South Africa.

The definition of a resident does not include any person who is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the governments of the Republic and that other country for the avoidance of double taxation, as well as certain companies meeting specific criteria.

There are, however, many pitfalls and the legislation is very complex and we advise you to contact us when foreign income is received.

Non-resident

Non-residents are taxed on their income from a source within or deemed to be within the Republic of South Africa. For individual non-residents the same tax thresholds would be applicable as for South African residents.

Interest received
Interest paid to non-residents is currently exempt from tax, provided that the taxpayer is physically absent from South Africa for 183 days, and did not carry on a business in South Africa through a permanent establishment.

With effect from 1 July 2013 the above exemption would not apply if the non-resident was physically present in South-Africa for a period exceeding 183 days during the 12 month period preceding the date on which the interest is received, or he/she carried on business through a permanent establishment in South Africa at any time during that 12 month period.

A 15% withholding tax will be introduced from 1 March 2014. The tax will be levied at a rate of 15% of the interest received by, or accruing to a foreign person. It only applies to interest from a South African source. It is also applicable to interest income which a South African trust distributes to a non-resident beneficiary.

The 15% withholding tax is a final tax. No further South African tax is paid on the interest.

The person who pays the interest is responsible for withholding the correct amount of tax and paying it over to SARS by the last day of the month following the month when the interest is paid. A refund for amounts wrongfully withheld, may be claimed by the person to whom the interest was paid, from SARS, within three years from the date withheld.

Interest received by, or accruing to a non-resident, will be exempt from the withholding tax if the interest is paid by:
- The government of the Republic;
- Any bank, the South African Reserve Bank, the Development Bank of Southern Africa or the Industrial Development Corporation; or
- A headquarter company in respect of it granting financial assistance to which the transfer pricing rules do not apply.

The interest will also be exempt from the withholding tax if it is paid in respect of any:
- Listed debt instruments; or
- Bill of exchange, letter of credit or similar instrument, to the extent that the interest is incurred in respect of the purchase price of goods imported into the Republic.

A non-resident individual is exempt from the withholding tax if he/she is physically present in South Africa for a period exceeding 183 days during the 12-month period, preceding the date on which the interest is paid, or if at any time during this period carried on a business through a permanent establishment in South Africa. The reason is that the interest is subject to normal income tax.

Dividends
All dividends paid to non-residents are subject to a final withholding tax of 15%. That rate of tax may be altered by the provisions of an agreement for

the avoidance of double taxation in place between South Africa and the other country.

Royalties

A final withholding tax of 12% is levied on royalty payments subject to the provisions of any agreement for the avoidance of double taxation in place between South Africa and the other country. This is to be replaced on 1 March 2014 with a 15% withholding tax on royalties.

Sale of immovable property

Non-residents are subject to a withholding tax on the disposal of immovable property in South Africa.

Unless a directive is provided by the non-resident seller, the following amounts must be withheld by the purchaser of the property from the selling price:

- Where the seller is a natural person 5.0%
- Where the seller is a company 7.5%
- Where the seller is a trust 10.0%

The amount withheld by the purchaser must be paid to SARS:

- Within 14 days if the purchaser is a resident; or
- Within 28 days if the purchaser is a non-resident,

after the date on which that amount was withheld.

A late payment is subject to a 10% penalty and interest.

Business income

Business income is taxed in South Africa if the profits of the business are from a South African source. Most double taxation agreements state that these profits will only be taxable in South Africa if the non-resident has a permanent establishment located in South Africa.

Remuneration and fees

These are taxed in South Africa if the services are rendered in South Africa.

Foreign entertainers and sportspersons

A final tax of 15% is payable on all amounts received by, or accrued to a non-resident in respect of any specified activity exercised, or to be exercised.

INTEREST AND DIVIDEND INCOME

South-African interest

Local interest is exempt limited to the following maximum amounts:

	2013	2014
Natural persons under 65 years	R 22 800	R 23 800
Natural persons aged 65 years and over	R 33 000	R 34 500

Foreign interest
Foreign interest is taxable.

South African dividends
South African dividends received by or accrued to any person are exempt from tax.

Foreign dividends
Most foreign dividends are included in the recipient's gross income. The following foreign dividends are however exempt:
- Participation exemption where a person holds at least 10% of the total equity shares and voting rights in the company declaring the foreign dividend;
- Where the shareholder is a company and resident in the same country as the other foreign company that paid or declared the foreign dividend;
- Dividends received from a Controlled Foreign Company (CFC) that have already been taxed in the hands of the taxpayer when the profits were first made;
- A dividend received from a dual listed company (and is not an asset distributed *in specie*).

Any remaining taxable foreign dividend is subject to a formula whereby the portion of the dividend exempt from taxation is:
- the ratio of 25/40 for a natural person, deceased or insolvent estate, or special trust; and
- the ratio of 13/28 for other taxpayers.

The maximum effective rate of taxation as a result of the formula is 15%.

A resident is entitled to a credit for any withholding tax paid in respect of a foreign dividend that is included in gross income.

No deduction will be allowed in respect of any expenses incurred in the production of foreign dividends.

INDIVIDUALS

Deductions for individuals

Pension fund contributions
- Limited to the greater of 7,5% of remuneration derived from retirement-funding employment or R 1 750.
- Unutilised portions of contributions cannot be carried forward to the following year of assessment, but are accumulated for the purpose of determining the tax free portion of the lump sum upon retirement.
- Arrear contributions are limited to R 1 800. Any excess may be carried forward to the next year of assessment.

Retirement annuity fund contributions
- Limited to the greater of:
  - R 1 750; or

  - R 3 500 less current pension fund contributions; or
  - 15% of taxable income, excluding retirement funding remuneration, taxable capital gain, and lump sums from retirement funds and severance benefits.
- Arrear contributions are limited to R 1 800.
- Unutilised portion of contributions can be carried forward to the following year.

Provident fund contributions

Contributions to approved provident funds by natural persons are not allowed as a deduction from the taxpayer's income.

Donations

Donations to certain public benefit organisations are deductible, limited to 10% of taxable income, before the deduction of donations and medical expenses and excluding any retirement lump sum benefit. The taxpayer must be in receipt of a qualifying section 18A donations certificate.

Travel expenses (Only claim against travel allowance)

In order for an individual to claim a deduction, a log book must be maintained to justify business use.

The following schedule must be used to determine the deductible portion of the allowance (alternatively the actual costs may be used):

Value of the vehicle (Inc Vat)	Fixed costs R	Fuel costs c	Maintenance costs c
0 - 60 000	19 310	81.4	26.2
60 001 - 120 000	38 333	86.1	29.5
120 001 - 180 000	52 033	90.8	32.8
180 001 - 240 000	65 667	98.7	39.4
240 001 - 300 000	78 192	113.6	46.3
300 001 - 360 000	90 668	130.3	54.4
360 001 - 420 000	104 374	134.7	67.7
420 001 - 480 000	118 078	147.7	70.5
480 000 and above	118 078	147.7	70.5

Where the deduction is based on actual expenditure the ceiling on the vehicle cost is R 480 000 and the ceiling on the debt relating to the vehicle cost is also R 480 000. The wear and tear is limited to this value and must be determined over a period of 7 years.

Self-employed taxpayers must claim motor vehicle expenses based on the actual costs in respect of the particular vehicle over the actual distance covered. It follows that a log book must be maintained to justify the business use.

Medical aid contributions and medical expenses

For individual taxpayer's, medical expenses fall into two categories:

- Contributions to a medical aid scheme; and
- Out-of-pocket medical expenses (qualifying expenses).

Medical expenses deduction
If the taxpayer is over 65 there is no limit on the deduction.

Where the taxpayer is under the age of 65 the amount deductible is:
- The sum of the medical aid contributions, as exceeds four times the amount of the medical schemes fees tax credit and all qualifying medical expenses that exceeds 7.5% of taxable income (excluding any retirement fund lump sum benefit) as determined before allowing this medical aid deduction.

Where the taxpayer, his or her spouse or child is a person with a disability, the amount deductible is:
- The aggregate of the medical aid contributions that exceeds four times the amount of the medical schemes fees tax credit and all qualifying medical expenses.

Medical scheme fees tax credit
Taxpayers younger than 65 must deduct a rebate known as the medical scheme fees tax credit from normal tax payable in respect of contributions to a medical scheme. The amount of the rebate is:
- R 242 (R 230) for the taxpayer;
- R 484 (R 460) for the taxpayer and one dependant; or
- R 484 (R 460) for the taxpayer and one dependant, plus R 162 (R 154) for each additional dependant, for each month in the year of assessment for which the fees are paid.

The credit applies in respect of fees paid by the taxpayer to:
- A registered medical scheme; or
- A foreign fund which is registered under any similar provisions contained in the laws of another country.

Physical impairment or disability
A “disability” means a moderate to severe limitation of a person's ability to function or perform daily activities, as a result of a physical, sensory, communication, intellectual or mental impairment if:
- The limitation has lasted longer, or has a prognosis of lasting more than a year; and
- Is diagnosed by a duly registered medical practitioner.

Meaning of “qualifying medical expenses”
Any amounts (other than amounts recoverable by the taxpayer or his or her spouse) which were paid during the year of assessment:
- To a registered medical practitioner, or qualifying medical professional; or
- To a registered nursing home, nurse or similar qualifying expense; or
- To a pharmacist for medicines supplied on prescription; or
- For expenditure incurred outside the Republic that is substantially similar to qualifying medical services rendered and medicines supplied in South Africa; and

- Prescribed by the Commissioner and necessarily incurred in consequence of any physical impairment or disability suffered by the person or any dependant of the person.

From 1 March 2014
For years of assessment commencing on or after 1 March 2014 a tax rebate, called the additional medical expenses tax credit will replace the medical expenses deduction.

For taxpayers 65 and older and for persons with a disability (in the immediate family) the rebate will be:
- 33.3% of the fees paid to a medical scheme or fund as exceeds three times the amount of the medical scheme fees tax credit to which that person is entitled; and
- 33.3% of qualifying medical expenses paid by the person.

For all other natural persons, the rebate will be 25% of so much of the aggregate of:
- The amount of the fees paid to a medical scheme or fund, as exceeds four times the amount of the medical scheme fees tax credit, to which that person is entitled; and
- The amount of qualifying medical expenses paid by the person, as exceeds 7,5% of the person's taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit).

Home study expenses
A deduction for home study costs will be allowed if:
- The study is regularly and exclusively used for the purpose of the taxpayer's trade and is specifically equipped for such purpose; and
- In the case of an employee who derives income mainly from commission, his/her duties are mainly performed other than in an office provided by the employer; and
- In the case of other employees, their duties are mainly performed in the home study.

Ring fencing of assessed losses
Certain assessed losses incurred by a natural person in the carrying on of a secondary trade will not be allowed to be set off against income other than income derived from that trade.

There are two conditions to be met before this section becomes applicable:
- Firstly, the provisions of the section will only apply when the taxable income of a person for a year of assessment (before taking into account the set-off of any assessed losses incurred in carrying on any trade during that year and the balance of assessed losses carried forward from the preceding year) equals or exceeds the amount at which the maximum marginal rate of tax chargeable for the taxable income of individuals becomes applicable.

- Secondly, it focuses on the loss generating activity (losses in three out of five years or a listed suspect trade).

The three out of five year rule will apply when the person has, during the five year period ending on the last day of that year of assessment, incurred an assessed loss in at least three years of assessment in carrying on the trade, (before taking into account any balance of assessed losses carried forward).

List of suspect trades

- Any sport practiced by the natural person or any relative;
- Any dealing in collectibles by the person or any relative;
- The rental of residential accommodation, unless at least 80% of it is used by persons who are not relatives for at least half of the year of assessment;
- The rental of vehicles, aircrafts or boats as defined in the Eighth Schedule, unless at least 80% of their use is by persons who are not relatives for at least half of the year of assessment;
- Animal showing by the person or any relative;
- Farming or animal breeding, unless the person carries on farming, animal breeding or activities of a similar nature on a full time basis;
- Any form of performing or creative arts practiced by the person or any relative; or
- Any form of gambling or betting practiced by the person or any relative.

Please note that the above list does not include the owners of racehorses.

A "fact and circumstances" escape hatch exists for assessed losses incurred by a person during any year of assessment from carrying on any trade, when that trade constitutes a business for which there is a reasonable prospect of deriving taxable income (other than a taxable capital gain) within a reasonable period.

In making this determination special regard must be given to the following six factors:

- Proportion of gross income in relation to allowable deductions;
- Advertising and selling;
- Commercial manner;
- Period of losses in duration of activities;
- Business plan;
- Trade versus recreation.

The above "escape hatch" does not apply to any of the listed trades (other than farming) carried on by a person during any year of assessment when he/she has, during the ten year period ending on the last day of that year of assessment, incurred an assessed loss in at least six of the years of assessments in carrying on that trade (before taking into account any balance of assessed losses carried forward).

Any assessed losses carried forward from the preceding year of

assessment, which is attributable to an assessed loss which failed the "escape hatch" may not be set off against any income derived by that person other than from carrying on that trade. In other words this assessed loss brought forward is "ring-fenced".

ALLOWANCES AND FRINGE BENEFITS

Travelling and car allowances

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

If only compensated for business travel, and where business travel does not exceed 8 000 km for the year, the rate can at the option of the taxpayer, be determined at 324 (316) cents per kilometre. No other compensation in the form of a travel allowance or reimbursement may be paid by the employer. No PAYE is withheld and the amount is not subject to taxation on assessment.

Subsistence allowance

If an employee is obliged to spend at least one night away from his/her usual place of residence in South Africa on business, a subsistence allowance may be paid as follows by the employer without the amount being included in the employee's taxable income.

Type of travel	Rate
Travelling in South Africa	R 98 (R 93) per day for incidental costs excluding meals. R 319 (R 303) per day for incidental costs including meals.
Overseas travel	The amount deemed to have been expended is different for each country. Details can be found on the SARS website.

Use of company owned motor vehicle

The taxable value is 3.5% per month of the vehicle's determined value, but will be reduced to 3.25% per month where the motor vehicle is the subject of a maintenance plan, for not less than 3 years and/or 60 000 kilometres. The determined value of the vehicle includes VAT, but excludes finance charges and interest.

The employer must withhold employees' tax on 80% of the taxable value of the fringe benefit. However, employees' tax need only be withheld on 20% of the fringe benefit where the employer is satisfied that at least 80% of the use of the vehicle for the year of assessment will be for business purposes.

Where an employee has been granted the right of use of a motor vehicle, and the vehicle, or the right of use thereof, was acquired by the employer not less than 12 months before the date on which the employee was granted such right of use, there shall be deducted from the amount determined, a depreciation allowance calculated according to the reducing balance method, at the rate of 15% for each completed period of 12 months

from the date on which the employer first obtained such vehicle or the right of use thereof to the date on which the employee was first granted the right of use thereof.

The value of the fringe benefit must be reduced on assessment where accurate records have been kept in respect of distances travelled for business purposes by the ratio that the business mileage bears to the total distance travelled during the year of assessment. The value must further be reduced if the employee bears the full cost of the licence, insurance, or the maintenance of the vehicle, then the value of private use is reduced to the extent of that full cost multiplied by the ratio of private kilometres travelled in relation to total kilometres travelled for the year. If the employee bears the full cost of fuel for private use of the vehicle, then the value of private use is reduced by the amount of private kilometres travelled multiplied by the fuel cost in the travel allowance table.

From 1 March 2013
Where a vehicle has been acquired by an employer under an operating lease the value of the fringe benefit is the total of:
- The actual cost incurred by an employer under the lease; and
- The cost of fuel for the vehicle.

The vehicle must be leased from an "unconnected person" dealing at arm's length.

No relief in this case is given for business kilometers travelled.

Definition of an operating lease:
It is a lease of movable property that is concluded by a lessor in the ordinary course of a business of letting vehicles, excluding a banking, financial services or insurance business, if:
- The vehicle may be hired by members of the general public directly from the lessor for a period of less than a month;
- The cost of maintaining and repairing the vehicle in consequence of normal wear and tear must be borne by the lessor; and
- The risk of destruction or loss of the vehicle is not assumed by the lessee.

The provision of a company owned vehicle constitutes a deemed supply for VAT purposes. The deemed consideration is as follows:
- Motor car 0.3% of the determined value (excl VAT) per month.
- Other vehicles 0.6% of the determined value (excl VAT) per month.

Benefits in respect of insurance policies
Premiums paid by an employer in respect of insurance policies for the benefit of employees will constitute a taxable fringe benefit in the employees' hands. The cash equivalent of the value of the taxable benefit is the amount of any contribution or payment made by the employer in respect of a year of assessment, for premiums payable under a policy of insurance,

directly or indirectly, for the benefit of an employee or his spouse, child, dependant or nominee.

The above does not apply to any premium paid by the employer on a policy that relates to an event arising solely out of, and in the course of, employment of the employee.

If the employer pays a premium under a loss of income policy and the premiums are taxed as a fringe benefit, the employee is deemed to have paid the premium.

Medical aid contributions

The full medical scheme contribution made by the employer is taxed as a fringe benefit in the hands of the employee. The amount is then deemed to be medical scheme contributions made by the employee.

Where the employer effects the payment to the medical scheme, the deduction (for employees over 65) or medical scheme fees tax credit (for employees under 65) must be taken into consideration for PAYE purposes. If the employee effects the payment, the employer has the option to take the deduction or credit into consideration for PAYE purposes.

Residential accommodation

Where the employer provides free or cheap housing, the taxable value is the greater of the amount of the actual cost to the employer or the amount determined according to a formula (in both cases the amount of any rentals paid by the employee will be deducted from the amount calculated).

No rental value will be placed on the following:

- Supply of accommodation to an employee away from his/her usual place of residence in the Republic for the purposes of performing the duties of employment.
- If an employee's usual place of residence is outside South Africa, the employee will not be taxed on being given the use of residential accommodation in South Africa for a period of up to two years from the date of arrival in South Africa. The exemption will not apply if:
  - The employee was present in the Republic for a period exceeding 90 days during the year of assessment immediately preceding the date of arrival; or
  - To the extent that the cash equivalent of the value of the taxable benefit exceeds an amount of R 25 000 multiplied by the number of months during which the housing was provided.
- If an employee's usual place of residence is outside South Africa, the employee will not be taxed on the use of residential accommodation in South Africa if the employee is physically present in South Africa for a period of less than 90 days in that year.

Holiday accommodation

The employee is taxed on the prevailing market rate per day if the property

is owned by the employer or rented from an associated entity, or actual rental paid where the employer rented the accommodation.

Long service and bravery awards

The first R 5 000 of the value of any asset awarded, excluding cash, is not subject to tax. Long service is an initial unbroken period of 15 years or any subsequent unbroken period of 10 years.

Interest on loans

The taxable benefit arising from interest-free or low-interest loans granted to employees is the difference between interest payable on the loan by the employee and the official rate (repurchase rate plus 1%).

No benefit is placed on a casual loan to an employee up to R 3 000, or a study loan to enable the employee to further his/her studies.

Uniform allowance

An employer may provide an employee with a uniform, or an allowance, to buy such uniform. No value is placed on the fringe benefit, provided that the employee is required, while on duty, to wear the special uniform, and it is clearly distinguishable from ordinary clothing.

Free or subsidised meals and refreshments

A taxable benefit arises if an employee has been provided with any meal or refreshment or voucher entitling him to any meal or refreshment for free or for a consideration which is lower than the value of the benefit.

No value is placed on the benefit if it is:

- Provided in a canteen, cafeteria or dining room operated by, or on behalf of the employer, and patronised wholly or mainly by employees;
- Supplied during business hours, extended working hours or on a special occasion;
- Enjoyed by an employee in the course of providing entertainment on behalf of the employer.

Bursaries and scholarships

Any *bona fide* scholarship or bursary granted to assist or enable any person to study at a recognised educational or research institution is exempt.

The following rules apply if the scholarship or bursary has been granted by an employer to an employee or a relative of an employee:

- The exemption will not apply unless the employee agrees to reimburse the employer for any scholarship or bursary if the employee fails to complete his or her studies for reasons other than death, ill-health or injury.
- In the case of a scholarship or bursary granted to a relative of an employee, the exemption is limited to R 30 000 (R 10 000) per year for higher education and R 10 000 for basic education, if the employee's remuneration does not exceed R 200 000 (R 100 000) per annum.

Telephone or computer equipment provided by the employer

Where telephone or computer equipment is provided by an employer to an employee mainly for business use, no taxable fringe benefit will arise from the personal use of such items.

RETIREMENT BENEFITS

Retirement fund lump sum benefits or severance benefits

Retirement fund lump sum benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to the redundancy or termination of employer's trade.

Other than for provident and provident preservation funds, lump sum benefits are limited to one third of the value of the fund. The full value of the fund can however be paid out as a lump sum where two thirds of the total value does not exceed R 50 000, or where the member is deceased.

Tax on the retirement fund lump sum benefit or a severance benefit is equal to:

- Tax determined by applying the tax table to the aggregate of that lump sum or severance benefit plus all other retirement fund lump sum benefits accruing from 1 October 2007, and all retirement fund lump sum withdrawal benefits accruing from 1 March 2009 and all other severance benefits received or accruing from 1 March 2011; less
- Tax determined by applying the tax table to the aggregate of all retirement fund lump sum benefits accruing from 1 October 2007 and all retirement fund lump sum withdrawal benefits accruing from 1 March 2009 and all severance benefits received or accruing from 1 March 2011.

The retirement fund lump sum benefit or severance benefit is taxed as follows:

Taxable income	Tax payable
R 0 - R 315 000	0%
R 315 001 - R 630 000	R 0 + 18% of the amount above R 315 000
R 630 001 - R 945 000	R 56 700 + 27% of the amount above R 630 000
R 945 001 and above	R 141 750 + 36% of the amount above R 945 000

Retirement fund lump sum withdrawal benefits

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal.

Tax on a retirement fund lump sum withdrawal benefit is equal to:

- 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 1 March 2009 and all retirement fund lump sum benefits accruing from 1 October 2007 and all severance benefits received or accruing from 1 March 2011; less

- Tax determined by applying the tax table to the aggregate of all retirement fund lump sum withdrawal benefits accruing from 1 March 2009 and all retirement fund lump sum benefits accruing from 1 October 2007 and all severance benefits received or accruing from 1 March 2011.

The withdrawal benefit is taxed as follows:

Taxable income	Tax payable
R 0 - R 22 500	0%
R 22 501 - R 600 000	R 0 + 18% of the amount above R 22 500
R 600 001 - R 900 000	R 103 950 + 27% of the amount above R 600 000
R 900 001 and above	R 184 950 + 36% of the amount above R 900 000

Withdrawal benefits: Divorce orders and transfers reinvested

A deduction will be allowed for a lump sum benefit assigned under a divorce order or upon resignation or withdrawal equal to so much of it as paid or transferred from a:

- Pension fund into another pension fund, a pension preservation fund or a retirement annuity fund;
- Pension preservation fund, into a pension fund, another pension preservation fund or a retirement annuity fund;
- Provident fund into a pension fund, pension preservation fund, another provident fund, provident preservation fund or retirement annuity fund;
- Provident preservation fund into a pension preservation fund, provident fund, another provident preservation fund or a retirement annuity fund; and
- Retirement annuity fund into another retirement annuity fund.

Severance Benefits

The definition of a severance benefit includes the following:

- It must be a lump sum received from an employer;
- It must be in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of the person's office or employment;
- One of the following must apply:
  - The person must be 55 years or older;
  - The person must be permanently incapable of holding his employment or office due to sickness, accident, injury or incapacity through infirmity of mind or body; or
  - The termination or loss is due to the employer retrenching personnel, because it ceased to carry on trade, or implementing a reduction in personnel in general.

This retrenchment provision will not apply where the person being retrenched held more than 5% of the issued share capital or members' interest in the employer.

An employer is required to apply for a tax deduction directive. The exemption and tax rates applicable will be determined by SARS.

DIRECTORS PAYE

Where more than 75% of a director of a private company's remuneration consists of fixed monthly remuneration, the company need not apply the formula below in calculating PAYE.

The amount subject to PAYE is determined on an amount based on the remuneration of the director for the previous year of assessment and is calculated by way of the following formula:

Y = T/N where
- "Y" represents the amount of remuneration to be determined,
- "N" is the number of completed months which the director was employed by the company in the previous year of assessment, and
- "T" is the balance of remuneration paid/payable to the director by the company for the previous year of assessment of the director (the year which ended the month before that).

The balance of remuneration must be reduced by:

- Compensation for loss of office awards;
- Any taxable lump sum from a pension, provident or retirement annuity fund;
- Any commuted amounts due under a contract of employment or a service; and
- The taxable portion of gains on share options.

Where the remuneration for the previous year of assessment is not determinable, "T" would be the balance of remuneration for the year preceding the previous year of assessment plus an amount of 20% of that remuneration.

COMPANIES

Small business corporations

This type of company (for tax purposes) enjoys a graduated tax rate structure as laid out under the corporate income tax rates.

The lower rate structure will apply in respect of companies where:

- The entire shareholding is held, for the entire year of assessment, by natural persons;
- The gross income for the year of assessment does not exceed R 20 million (R14 million);
- None of the shareholders, at any time during the year of assessment, held any shares or had any interest in any other company, other than a listed company, unit trust portfolio, sectional title body corporate, share block companies, friendly society, less than 5% in co-operatives, venture capital company, any company, close corporation, or co-operative, which has not during any year of assessment carried on any

trade and has never owned assets of more than R 5 000 in value, or a company or close corporation that has taken steps to liquidate, wind up or deregister;

- Not more than 20% of the company's gross income consists of investment income and income from rendering personal services;
- The entity does not meet the definition of a personal service provider.

Investment income includes any annuity, interest, rental income, royalty or any income of a similar nature, as well as dividends and foreign dividends and any proceeds derived from investment or trading in financial instruments (including futures, options and other derivatives), marketable securities and immovable property.

"Personal service" is defined as any service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draftsmanship, education, engineering, financial service broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science, which is performed personally by any person who holds an interest in the close corporation, co-operative or company, except where such small business corporation employees three or more unconnected full-time employees for core operations.

Dividends paid by a Small Business Corporation are subject to dividends withholding tax at 15%.

Personal service providers

A personal service provider is defined as any company (including a close corporation) or trust, where any service rendered on behalf of such company or trust to a client, is rendered personally by any person who is a connected person in relation to such company or trust; and

- Such person would be regarded as an employee of that client if the service was rendered by such person directly to that client, other than on behalf of such company or trust; or
- Where those duties must be performed mainly at the premises of the client and is subject to the control or supervision of such client; or
- Where more than 80% of the income during the year of assessment from services rendered, consist of amounts received directly or indirectly from any one client or any associated institution in relation to such client.

A company will however not be regarded as a personal service provider where such company/trust employs at least 3 full-time employees (other than a shareholder or member) during the year of assessment, none of whom are connected persons in relation to such shareholder or member.

The personal service provider is taxed as follows:

- The remuneration payable to such personal service provider by the client is subject to employees' tax.

- Personal service providers can claim amounts paid or payable to any employee for services rendered, which is or will be taken into account in the determination of the taxable income of such employee, legal expenses, bad debts and contributions to pension, provident and benefit funds, refunds of remuneration, refunds of restraint of trade payments and any expenses in respect of premises, finance charges, insurance, repairs and fuel and maintenance in respect of assets, if such premises or assets are used wholly and exclusively for purposes of trade.
- The income of a personal service provider will be taxed at a rate of 28%, and any declaration of a dividend will be subject to dividend tax. Remuneration paid to a trust is taxed at 40%.
- The entity may apply to SARS for a tax directive for a lower rate of tax.

No employee's tax is required to be withheld from payment if the personal service provider has in respect of a year of assessment, provided an affidavit or solemn declaration that no more than 80% of the income was received from one client, and that affidavit or declaration is relied on in good faith.

Personal service providers cannot qualify as a micro business.

Micro businesses

The simplified tax system essentially consists of a turnover tax as a substitute for income tax, CGT and dividends tax. The turnover tax is optional, meaning that a micro business still has the option to use the current tax system. Natural persons, partnerships, companies and close corporations can qualify as micro businesses, provided their "qualifying turnover" for a year of assessment does not exceed R 1 million. A trust cannot qualify as a micro business.

The turnover tax will be calculated by applying a tax rate to a "taxable turnover". The "taxable turnover" will consist of the following amounts:

- Not of a capital nature received by the micro business (cash basis) during the year of assessment from carrying on business activities in the Republic;
- 50% of all receipts of a capital nature from the sale of immovable property and any other asset used mainly for business purposes (excluding trading stock and financial instruments);
- For companies and close corporations: 100% of investment income (excluding dividends and foreign dividends);
- Less: any amount refunded to any person in respect of goods and services supplied during that year of assessment, or any previous year of assessment.

The following amounts are excluded from the taxable turnover of a registered micro business and should therefore be taxed at normal tax rates:

- For natural persons: Investment income such as dividends, royalties,

rental, annuities, interest, trading in financial instruments etc.
- Any amount received from any person by way of a refund in respect of goods or services supplied by that person to the registered micro business.

The turnover tax system does not provide for the deduction of any business expenses. The minimum value of individual assets and liabilities for which a micro business is required to retain records is R 10 000.

The first R 200 000 dividends paid during the year of assessment by the micro business is exempt from dividends tax.

The turnover tax will be levied annually on a year of assessment that runs from the beginning of March to the end of February of the following year. A micro business that opts for the turnover tax must apply to do so before the beginning of a year of assessment, or within two months from the date of commencement of business. After joining the system the micro business must remain in the system for a minimum of three years (provided they remain within the monetary threshold). A person that is deregistered (either voluntary or compulsory) may not again be registered as a micro business.

A micro business must pay tax twice a year:
- Within the first 6 months (by 31 August): Estimate taxable turnover for the year and pay tax on half of the taxable turnover. The estimate cannot be less than the taxable turnover for the previous year unless the Commissioner accepts a lower estimate.
- By the end of the year (by 28 or 29 February): Estimate taxable turnover and calculate the tax, and pay this tax less the amount already paid at the end of the first six months of the tax year. If the year-end estimate is less than 80% of the actual taxable turnover for the year an additional tax of 20% of the shortfall in tax is payable. Interest is payable on late payments at the prescribed rate.

From 1 March 2014 a micro business is allowed to be registered for VAT as a category D vendor (6 month VAT period ending on last day of February and August).

The following persons are excluded:
- If any of the shareholders have an interest in the equity of any other company, other than a share or interest in listed companies, portfolios in collective investment schemes, a body corporate, a share block company, venture capital companies, less than 5% interest in co-operatives and savings co-operative banks, as well as interests in friendly societies. This disqualification does not apply to the holding of shares by shareholders in the equity of another company, if the other company has not during any year of assessment carried on any trade and has not owned assets of which the total market value exceeds R 5 000 and a company which has taken steps to liquidate, wind up or deregister;
- If more than 20% of a natural person's income during the year of

assessment consists of income from the rendering of a professional service*;
- If more than 20% of a company's income during the year of assessment consist of investment income and the rendering of a professional service;
- A personal service provider or labour broker without an exemption certificate;
- If the total of receipts from the disposal of immovable property and other capital assets used mainly for business purposes exceeds R 1.5 million over a period of 3 years (current year and the last two years);
- If any of the shareholders of a company is a person other than a natural person;
- If the year of assessment of a company or close corporation does not end on the last day of February;
- Tax exempt Public Benefit Organisations or Recreational clubs; or
- If the person was a VAT vendor before 1 March 2012.

* "professional service" means a service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draftsmanship, education, engineering, financial service broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science.

TRUSTS

Trusts are taxed at 40% with the exception of a trust created solely for the benefit of a person who suffers from:
- A mental illness as defined in section 1 of the Mental Health Act, 1973; or
- A serious physical disability where such illness or disability incapacitates the beneficiary from earning sufficient income to maintain himself/herself.

These special trusts are taxed at the rates applicable to natural persons, but do not qualify for rebates.

Please note:
- Losses of a trust are not allowed to flow through to the beneficiaries for tax purposes, but are accumulated in the trust and are carried forward to the next year for setting off against any income from the trust in that year.
- A trust is not automatically registered as a taxpayer by SARS. The trustees must apply for registration once the trust has been registered by the Master of the High Court. The application is to be made to the SARS office in the district where the office of the trustee is situated.
- A trustee is not allowed to act as such without his/her appointment being confirmed in writing by the Master of the High Court.

DIVIDEND TAX

For the purpose of dividend tax a dividend is defined as any dividend or foreign dividend that is:

- Paid by a company that is a resident; or
- Paid by a company that is not a resident:
  - If the share in respect of which that foreign dividend is paid is a listed share; and
  - To the extent that the foreign dividend does not consist of a distribution of an asset *in specie*.

Levy of tax

Dividends tax is levied at shareholder level at a rate of 15% of the amount of any dividend paid by any company other than a headquarter company.

Timing of dividend payments

The deemed date of payment is the earlier of the date on which the dividend is paid, or becomes payable by the company that declared the dividend.

Liability for the dividend tax

Although it is a tax of the shareholder, it is withheld by the company, which then pays the shareholder the net amount. Where the dividend consists of a distribution of an asset *in specie* the company that declares and pays a dividend is liable for the dividend tax in respect of that dividend.

It is the responsibility of the shareholder to notify the company, by means of a written declaration (in such form as prescribed by SARS) of the fact that it is exempt from the withholding tax on dividends, or when a reduced rate is applicable. This is not applicable if the shareholder is part of the same group of companies as the company paying the dividend, or the dividend is paid to a regulated intermediary.

Withholding tax on dividends is payable to SARS by the end of the month following the month when the company paid the dividend.

Interest becomes payable on unpaid dividends tax at the prescribed rate from the end of the payment period.

Loans by company

Where an amount is owing to a company in respect of a loan or advance provided by the company to:

- A person that is not a company, a resident, and a connected person in relation to that company; or
- A person that is not a company, a resident, and a connected person in relation to the person above;

that company must be deemed to have paid a dividend if the loan or advance is provided by virtue of any share held in that company.

The amount of the dividend is the market related interest (official rate of

interest) in respect of that loan or advance, less the amount of interest that is payable to the company, for that loan or advance, for the period that the loan is outstanding during the year of assessment.

The dividend is deemed to have been paid on the last day of the year of assessment during which the loan or advance is provided by the company.

The dividend must be treated as a distribution *in specie*. This means that the company is liable, in its own name, for the dividends tax. It will however not be treated as a dividend *in specie* if the loan was subject to the deemed dividend provisions under the STC regime.

Distribution of an asset in specie
If a company distributes an asset *in specie,* the amount of the dividend is the market value of the asset on the date that the dividend is deemed to be paid. For listed financial instruments this value would be the price quoted on the exchange at the close of business on the day before the date the dividend is paid. Tax on dividends in specie will remain the liability of the company declaring the dividend.

STC credits
A dividend paid by the company is not subject to the dividends tax to the extent that:

- The dividend does not exceed the STC credit of the company; and
- The company has by the date of payment notified the person to whom the dividend is paid of the amount by which the dividend reduces the STC credit of the company.

If a dividend received by a company was not subject to STC, it cannot be used to calculate the STC credit.

STC credits may be utilised for three years from the date of implementation.

Exemptions
Dividends paid to the following shareholders will not be subject to withholding tax on dividends:

- South African resident companies and close corporations;
- The Government, a provincial administration or a municipality;
- Approved public benefit organisations (PBOs);
- A closure rehabilitation trust;
- Institutions, boards or bodies established under law and exempt from tax in terms of Section 10(1)(cA);
- Pension, pension preservation, provident, provident preservation, retirement annuity or benefit fund;
- A person contemplated in section 10(1)(t) of the Act (these include, amongst others, CSIR, SANRAL, DBSA);
- The first R 200 000 of dividends paid to shareholders of a micro business (on the turnover tax system) during a particular year of assessment;

- A non-resident and the dividend is paid by a non-resident company which is listed on the JSE;
- A portfolio of a collective investment scheme in securities;
- Any person to the extent that the dividend constitutes income of that person, or was subject to STC;
- Any fidelity or indemnity fund.

Refunds
Where a declaration has not been given to the company, and after receiving the dividend net of dividend tax, the beneficial owner has three years from the date of payment to give the declaration to the company. The company can then refund the dividend tax to the beneficial owner. Dividend tax withheld in respect of a subsequent dividend may be used for this purpose. If this tax is insufficient to cover the refund any shortfall may be recovered from SARS within a period of four years from the date that the dividend was originally paid.

OTHER TAXES

Value-added tax (VAT)
VAT periods

Category	Turnover	Period
Category A and B	Turnover less than R 30 million	2 monthly
Category C	Turnover more than R 30 million	Monthly
Category D	Farming enterprise with a turnover less than R 1.5 million and a micro business	6 monthly
Category E	Company or trust which receives only rental income, administration or management fees from connected persons, who are all registered vendors	12 month period ending on the last day of the year of assessment
Category F	Turnover less than R 1.5 million (applied in writing)	4 monthly

Vendor registration
- Compulsory for enterprises with taxable supplies having a value in total of more than R 1 million per twelve months; and
- Voluntary for other enterprises, although SARS will not register enterprises with a turnover of less than R 50 000 per twelve months, or commercial accommodation enterprises, if the turnover is less than, or cannot reasonably be expected to exceed, R 60 000 in a twelve month period.

Normally VAT must be accounted for on the invoice basis by a vendor. However, where the turnover in a 12 month period is likely to be less that R 2.5 million, the vendor can apply to be registered on the payment basis provided the vendor is a natural person or an unincorporated body of persons whose members are natural persons.

Supplies fall into three categories

- Standard-rated supplies, which are taxed at the rate of 14%. A vendor making such a supply is entitled to recover all related input tax.
- Zero-rated supplies, which are subject to VAT, but at a zero-rate. Since these supplies are taxable, the vendors who supply them may recover all related input tax.
- Exempt supplies, which are not subject to VAT. Vendors who supply them may not recover any related input tax.

VAT is levied at 14%, on the following:

- Supplies of goods and services;
- Importation of goods; and
- Importation of some services.

Non-supplies (i.e. not subject to VAT)

- Medical services provided by state and provincial hospitals and local authority clinics.
- Services provided by employees to employers.
- Sale of goods on which an input tax credit was denied (e.g. passenger vehicles, entertainment goods).

Time of supply

With a few exceptions, the *time of a supply* is triggered either by the issue of an invoice or by the receipt of payment (in whole or in part) by the supplier, whichever is earlier.

Documentation requirements

A tax invoice must be issued for every taxable supply made by a vendor. Only one tax invoice can be issued per supply. If a copy of a tax invoice is made it must be clearly marked "copy".

A tax invoice must contain the following information:

- The words "tax invoice" in a prominent place;
- The name, address and VAT registration number of the supplier;
- The name, address and VAT registration number of the recipient if the invoice is for more than R 5 000 (R 3 000);
- A serial number;
- The date upon which the invoice is issued;
- A description of the goods or services supplied;
- The quantity or volume of the goods or services supplied;
- Either the value of the supply, plus the VAT, and the consideration, or the consideration for the supply and a statement that it includes VAT charged and the rate at which the tax is charged;
- Stated in South African currency unless it is a zero-rated supply.

Temporary letting of residential fixed property by developers

Where such property of a developer, consisting of any dwelling, is temporarily applied for the supply of accommodation under an agreement for the letting and hiring thereof, the output tax adjustment which results from such "change of use" will be deferred until the earlier of 36 months or

the sale of such residential property held as trading stock. (Effective from 10 January 2012 and ceases to apply on 1 January 2015).

Imported services —minimum exemption

VAT is not payable on a supply of imported services if the value of the supply does not exceed R 100.

VAT and transfer duty

If VAT is charged on the sale of fixed property no transfer duty is payable by the buyer. A notional input tax deduction can be claimed on the purchase price. This is calculated by applying the tax fraction of 14/114 to the purchase price. As from 10 January 2012 a vendor acquiring a fixed property from a non-vendor will be entitled to claim an input tax deduction equal to the tax fraction (14/114) of the purchase consideration. However, fixed property notional input credits are deferred to the extent of actual payment and registration in the name of the vendor.

E-filing

E-filers may submit VAT returns by the last business day of the relevant month.

Donations tax

The rate of donation tax is 20% of the value of the asset or money donated. Donations tax is payable by the donor. The tax is payable within three months of the donation. If the donor fails to pay the tax within the prescribed period, the donor and the donee become jointly and severally liable for the tax.

Donation tax does not apply to non-residents even if they donate South African assets.

The annual exemption for casual donations by natural persons is R 100 000. For other persons it is R 10 000.

Where a donor made more than one donation during a tax year, the exemption is to be calculated according to the order in which the donations were made.

Exemptions

- Bona fide maintenance payments.
- Donations to Public Benefit Organisations and qualifying traditional councils and communities.
- Donations between spouses, who are not separated.
- Donations where the donee will not benefit until after the death of the donor.
- Donations made by companies which are recognised as public companies for tax purposes.
- Donations between companies forming part of the same group of companies.
- Donations cancelled within six months of the effective date.

- Donation of property, or a right in property situated outside South Africa, if acquired by the donor before becoming resident in South Africa for the first time, or by inheritance or donation from a non-resident.

Please Note

- Where two persons are married in community of property and property is disposed of in terms of a donation by one of the spouses, such donation shall be deemed to have been made in equal shares.
- Where any property has been disposed of for a consideration which, in the opinion of the Commissioner, is not an adequate consideration, that property shall be deemed to have been disposed of under a donation.

Estate duty

- Estate duty is levied at a rate of 20% on the dutiable value of the estate in excess of R 3.5 million.
- For purposes of the duty, the estate of a deceased person who was ordinarily resident in South Africa consists of all the property of the deceased, wherever situated.
- If the deceased was a non-resident, his/her South African estate would generally comprise of all enforceable rights to property in South Africa.
- The duty is calculated on the dutiable value of the estate, arrived at by deducting certain admissible deductions from the total value of all the property which is required to be included in the value of the estate.
- Certain deductions are permitted, such as deathbed and funeral costs, debt owed to persons ordinarily resident in RSA, costs due to the Master, an amount of any claim by the surviving spouse and the value of any property that accrues to any charitable, educational or religious institution.
- Assets passing from a spouse to a surviving spouse are exempt in the estate of the first dying spouse.
- All lump sum benefits received as a result of death, from a retirement fund will be exempt from estate duty.

Portable estate duty abatement

The portable spousal deduction allows for the R 3.5 million deduction from estate duty to rollover from the deceased to a surviving spouse, so that the surviving spouse can use a R 7 million deduction amount on death. This is however reduced by the amount of the deduction already used by a predeceased spouse.

Where a person and his/her spouse die at the same time, the spouse with the smaller estate must be deemed to have died first.

Transfer duty

Value of the property (R)	Rate of transfer duty
R 0 - R 600 000	0%
R 600 001 - R 1 000 000	3% of the value above R 600 000
R 1 000 001 - R 1 500 000	R 12 000 + 5% of the value above R 1 000 000
R 1 500 001 and above	R 37 000 + 8% of the value above R 1 500 000

The same rates will be applicable to all taxpayers. No transfer duty is payable if the transaction is subject to VAT (either standard or zero rate). The transfer duty is payable by the purchaser and has to be paid within 6 months of the date of acquisition.

Where the ownership of a trust, or the shares, or members interest of a company or close corporation, which owns residential property is transferred, transfer duty will be chargeable on the market value of the property excluding any liabilities.

Securities transfer tax (STT)

STT is an indirect tax imposed on the transfer of any security issued by:

- A close corporation; or
- A listed or unlisted company incorporated, established or formed inside the Republic; or
- A company incorporated, established or formed outside the Republic and listed on the South African stock exchange.

STT is levied at a rate of 0.25% of the taxable amount of that security. No STT is payable on the original issue of shares.

The "taxable amount" means the purchase consideration on change of ownership (including cancellation or redemption). If there is no consideration, or the consideration is less than fair value, STT is payable on the market value or the closing price, of the securities, on the date of the transaction.

The transferee (purchaser) is liable for the payment of the STT on the transfer of securities. If the shares or securities are cancelled or redeemed, the entity cancelling or redeeming the shares is liable for the payment of the STT.

The cession of dividend rights was also subject to STT, but only up until 31 March 2012.

STT is not payable where a security is cancelled or redeemed by an issuing company that is being wound up, liquidated or deregistered, or whose corporate existence is being finally terminated.

For listed securities STT must be paid by the 14th of the month following the month during which the transfer occurred. For unlisted securities STT must be paid by the end of the second month following the month during which the transfer occurred. If not paid in full within the prescribed period, interest will be imposed at the prescribed rate and a 10% penalty will be payable.

Skills Development Levies (SDL)

SDL is payable by every employer in South Africa who has an annual payroll in excess of R 500 000. The amount payable will be calculated at 1% of the total amount of remuneration paid to employees.

The amount, on which the percentage levy is calculated, is the total amount of remuneration paid by an employer to its employees during any month, as determined for the purposes of determining employees tax, whether employees tax is deducted or not. This will include any amount that is paid or payable to any person, whether in cash or otherwise, in respect of services rendered or to be rendered.

Exclusions, amongst others are:
- Amounts paid to independent contractors;
- Reimbursive payments to employees;
- Pensions paid; and
- Remuneration of learners under contract.

Directors' remuneration, on the same basis as for PAYE, will be subject to the Skills Development Levy.

Unemployment Insurance Fund (UIF)

Unemployment insurance contributions are based on remuneration (gross) as defined in the Income Tax Act, with the following exclusions:
- Non-employment related payments for example pensions and annuities and payments to a labour broker in possession of an exemption certificate;
- Retrenchment pay;
- Lump sum payments from pension, provident or retirement annuity funds;
- Restraint of trade payments;
- Commission.

The UIF monthly limit is currently R 14 872. All employees must contribute to UIF at a rate of 1% by employee and 1% by employer on the earnings of the employee, but the contribution will only be calculated up to the limit.

Employees excluded:
- All non-natural persons (i.e. companies and trusts);
- Independent contractors.

Employees excluded from the calculation of contributions but whose details are still to be included in return for statistical purposes:
- Temporary workers (less than 24 hours per month);
- Employees in the national and provincial spheres of government;
- Employees who are repatriated at the end of the service contract;
- Employees who earn commission only;
- Employees with no taxable income;
- Learners in terms of the Skills Development Act.

Provisional tax

Who is a provisional taxpayer?
- Any person (excluding a company or CC) deriving income that does not constitute remuneration, as defined, or an allowance or advance excluding:

- Any natural person, who on the last day of that year, will be below the age of 65 years, and who does not derive any income from the carrying on of any business, if:
  - the taxable income for the relevant year of assessment does not exceed the tax threshold; or
  - the taxable income for the relevant year of assessment which is derived from interest, foreign dividends and rentals from the letting of fixed property does not exceed R 20 000.
- Any natural person who on the last day of the year of assessment will be over 65 years and his taxable income for that year:
  - will not exceed R 120 000;
  - will not be derived wholly or in part from the carrying on of any business; and
  - will not be derived otherwise than from remuneration, interest, foreign dividends or rentals from the letting of fixed property.

- All companies and close corporations.
- All persons notified by the Commissioner that they are provisional taxpayers.

The following are specifically excluded from the definition of a provisional taxpayer:

- Any public benefit organisation that has been approved by the Commissioner;
- Any recreational club that has been approved by the Commissioner; and
- Any body corporate, share block company or association of persons as contemplated in Section 10(1)(e) of the Act.

Every person who is a provisional taxpayer must, within 30 days after the date upon which he/she becomes a provisional taxpayer, apply to be registered as such.

For provisional tax purposes, reference to a previous assessment means a notice of assessment that has been issued by the Commissioner more than 14 days before the due date for the submission of the provisional return in question.

First year of assessment

Where a taxpayer has not been assessed previously, a reasonable estimate of taxable income must be made. The basic amount cannot be estimated as nil unless it is fully motivated.

First provisional payment

- Within six months after the beginning of the tax year (for individuals 31 August) an amount equal to half of the tax on the estimated taxable income, less any employee's tax deductions to date, and foreign taxes subject to section *6quat* rebate, must be paid to SARS.
- The estimated taxable income must not be less than the taxable income of the last assessment received (basic amount), unless permission is obtained to use a lower estimate.

- The basic amount must exclude any taxable capital gains.
- For purposes of calculating the estimate of taxable income, the taxable portion of any lump sums, and any retirement fund lump sum must be excluded.
- The basic amount for the purposes of the first provisional tax payment must be increased by 8% per annum, where the previous assessment is for a year which is more than two years before the year that is currently being estimated.

Second provisional payment
Payable on or before the last day of the financial year (for individuals the end of February).

Tier one taxpayers: Taxable income is equal to or less than R 1 million
- The liability must be calculated on either the basic amount (as discussed above) or an estimate of taxable income, less the first provisional payment and any employee's tax.
- If making the estimate of taxable income, capital gains must be included, but the taxable portion of any lump sums and any retirement fund lump sum must be excluded.
- If the estimate of taxable income is less than 90% of the actual taxable income, a penalty of 20% of the excess of normal tax payable on the taxable income for the year over the sum of amounts of provisional tax payments and employees' tax for the year will be imposed.
- The basic amount is increased by 8% per annum if the previous assessment is for a year which is earlier than the immediately preceding year.

Tier two taxpayers: Taxable income is in excess of R1 million
- The liability must be calculated on an estimate of taxable income, less the first provisional payment and any employee's tax.
- If the estimate is less than 80% of actual taxable income, a penalty of 20% of the excess of normal tax payable on the taxable income for the year over the sum of amounts of provisional tax payments and employees' tax for the year will be imposed.

Optional third provisional payment
Companies and close corporations with taxable income in excess of R 20 000 and individuals and trusts with taxable income in excess of R 50 000 may make a third additional payment to avoid interest on underpayment. This payment should be made within six months after the end of the financial year and represents the outstanding balance of tax payable on the actual taxable income for the year. If the year-end is February, the third payment is payable on or before 30 September (seven months after the end of the year). The third payment is not compulsory and there is therefore no penalty for late or underestimated payments.

CAPITAL GAINS TAX (CGT)

Capital gains tax became effective from 1 October 2001. CGT is payable,

as a general rule, when a capital asset is sold or when there is a change in the ownership of the asset.

If a capital asset is sold at a profit, the profit is subject to CGT, and if it is sold at a loss, the capital loss can be set-off against other capital profits. If there are no other capital profits in the year, the capital loss is carried forward to the next year.

Calculation:

	Proceeds from disposal of specific asset	XXXXX
Less:	Base cost of asset	XXXXX
	Capital gain/loss on specific asset	XXXXX
Add:	Capital gains/losses of all other assets disposed of during the year of assessment	XXXXX
Less:	Only for natural persons R 30 000; or Deceased estates R 300 000	XXXXX
Less:	Assessed capital losses brought forward from previous year of assessment	XXXXX
=	Net capital gain for the year *	XXXXX
X	Inclusion rate - individuals and special trusts: 33.3% - others: 66.6%	
=	Amount to be included in taxable income and taxed at marginal rates	

*(If it is a net capital loss, it will be carried forward to the next year of assessment, no set-off is allowed against taxable income)

The effective tax rates for capital gains for different classes of taxpayers are as follows:

Taxpayer	Inclusion rate %	Statutory rate %	Effective tax rate%
Individuals	33.3	0 - 40	0 - 13.32
Companies	66.6	28	18.648
Small business corporations	66.6	0 - 28	0 - 18.648
Employment companies	66.6	28	18.648
Branches of foreign companies	66.6	28	18.648
Trusts (normal)	66.6	40	26.64
Trusts (special)	33.3	0 - 40	0 - 13.32
Public Benefit Organisations (if taxable)	66.6	28	18.648

Who is liable for CGT?
All persons who are residents of South Africa for purposes of income tax will be subject to CGT on the disposal of their world wide assets.

Non-residents will only be subject to CGT on disposal of the following:
- Immovable property or an interest in the property in South Africa;
- Assets of a permanent establishment in South Africa; and
- At least a 20% interest in the shares of a company where at least 80% of

its net asset value is derived from immovable property, not held as trading stock, situated in South Africa.

Proceeds

Proceeds are the amounts received or accrued to the taxpayer in respect of the disposal of his/her assets. It excludes amounts included in gross income for income tax purposes and amounts repaid or repayable or for a reduction in the sale price.

Asset

Any property, movable or immovable, corporeal or incorporeal as well as a right or interest in such property. Specifically excluded is any currency, except for coins made mainly from gold or platinum.

Disposal of assets

A capital gain or loss can only realise if an “asset” as described above is disposed of. Disposal of assets include circumstances where an asset is transferred, for example with sale, as well as other occurrences like creation, variation, extinction, donation, expropriation, cession, exchange, cancellation, expiry, abandonment, scrapping, loss and destruction of an asset. The transfer of a trust asset to a beneficiary is also considered a disposal except when the beneficiary has a vested right in the asset. Any distribution of an asset by a company to its shareholders, the granting, renewal, extension or exercise of an option is also a disposal but not the original issue of shares, debentures, options and units in a unit portfolio by the company. A decrease in value of an interest in a trust, company or partnership, as a result of a value-shifting arrangement, is deemed to be a disposal, but not the granting of credit, or the provision of assets as security, corrections of errors on deeds, etc. and appointments of new trustees.

A disposal is deemed to have taken place when:

- A taxpayer emigrates in respect of certain assets;
- Non-residents cease to have a permanent establishment in South Africa or when the assets become assets of a permanent establishment;
- Assets become trading stock; and
- Assets cease to be personal use assets or trading stock other than by way of disposal.

The above mentioned assets are deemed to be disposed of at market value and then re-acquired at the same market value.

Where a person becomes a South African resident, he/she is deemed to have disposed of his/her assets at market value and to have re-acquired it at the same value on the day immediately before he/she became a resident.

The time of disposal is the day on which ownership changes but where an agreement has a suspensive condition, this condition has to be fulfilled first.

With donations all the legal requirements of a valid transfer must be complied with. For a distribution of an asset by a trust, the time of disposal is the date that the interest in the asset vested in the beneficiary.

Base cost

The base cost of assets consists of different amounts including the following allowable expenses:

- Expenses incurred to obtain or to improve the asset;
- Costs incurred with the disposal or acquisition of the asset;
- Valuation costs for CGT purposes;
- Costs incurred in defending or maintaining a legal right to the asset;
- Costs of improving the asset;
- Transfer costs;
- Advertising, relocation and installation costs;
- Option costs to obtain the asset;
- Certain costs incurred in holding the asset (wholly or exclusively held for business purposes) for example maintenance, repairs, certain interest and municipal taxes. No costs can however be added to the base cost of an asset if that cost was allowable as a normal income tax deduction.

Where the asset consists of listed shares or a participatory interest in a portfolio of a collective investment scheme, only one third of the costs listed as holding costs above can be added to the base cost of the asset.

The value of base cost has to be reduced by any amounts already deducted for income tax purposes, amounts recouped and amounts not paid.

As only capital gains realised on assets disposed on or after 1 October 2001 are taxable, we distinguish between assets obtained before that date (pre-valuation date assets) and assets obtained after that date.

Assets acquired before valuation date

The base cost of assets acquired before valuation date is determined as the valuation date value of the asset plus any allowable expenses incurred after valuation date. The valuation date value could be one of the following three values:

- Market value of the asset on valuation date;
- Time apportionment base cost (the apportionment of costs by way of a formula plus post valuation date costs); or
- 20% of the proceeds received minus expenses incurred after 1 October 2001.

Market value of the asset on valuation date is the following for:

Listed South African shares	Published values
Foreign listed shares	Closing price on valuation date
Other assets	Valuation on valuation date

Exclusions

Certain capital gains and losses are excluded from capital gains tax. It is mainly on the following assets:

Primary residence

- The first R 2 million of any capital gain or loss on the disposal of a primary residence of a natural person (or a special trust under certain circumstances). If the primary residence is sold for R 2 million or less, the full capital gain on the disposal is disregarded.
- Only one residence at a time can qualify as a primary residence except under certain circumstances, for example where a new home is being built.
- It must be the residence in which the person/beneficiary normally resides and can be any structure including a boat, caravan, etc.
- The exemption is only applicable to the residence and the land on which it is built provided the land is only 2 hectares or less. The residence must only be used for domestic purposes and the land and residence must be disposed of at the same time to the same person.
- The exemption is not applicable to a residence that is only occupied temporarily.
- If the property is not occupied when for example a new house is being built or on the death of the owner, it could only be unoccupied for a period not exceeding two years.
- If the residence is used for business purposes as well, the exemption has to be calculated on a pro-rata basis for the portion and period it was used for domestic purposes.
- A primary residence would still qualify for the exemption even if it is leased out provided that the lease does not exceed five years, the owner lived there for at least a year before and after the lease, he did not have any other house as a primary residence and he was temporarily absent from the area in which the house is, but at least 250 km away or in a foreign country.

Assets for personal use

The disposal of assets of a natural person which are mainly used for purposes other than a business are also excluded from CGT. The exemption is not applicable to the following assets:

- Gold or platinum coins;
- Immovable property;
- Aircraft with an empty mass exceeding 450kg;
- A boat exceeding 10 metres in length;
- A financial instrument;
- A fiduciary, usufructuary or like interest, the value which decreases over time;
- A right or interest in any of the above mentioned assets.

Retirement benefits

A lump sum benefit from a pension, pension preservation, provident, provident preservation or retirement annuity funds is not subject to CGT.

Disposal of small business assets under the following circumstances

- The market value of all the business's assets (or all the businesses' assets) on the date of disposal of the asset or interest in the business should not exceed R 10 million;

- The person disposing of the assets must be a natural person 55 years or older, or the business is disposed of as a result of ill-health, other infirmity, superannuation or death of the taxpayer;
- The person must have been substantially involved in the business;
- The person should have had the business for a continuous period of at least five years prior to disposal;
- All capital gains must be realised within a period of two years from disposing of the first asset;
- The exemption is only applicable to a maximum of R 1.8 million in a person's lifetime;
- Active business assets do not include financial instruments or assets held mainly to earn rental, annuity income, royalty income, foreign exchange gain or similar income;
- The asset can also be an interest in a partnership or a share of at least 10% in a company.

Disposal of micro business assets
A registered micro business will not be subject to capital gains tax, and may not deduct any capital loss which arises on the disposal of any asset if it is part of the micro business.

Further exclusions
- Compensation for personal injury, illness or defamation;
- Capital gain or loss in respect of a risk policy with no cash value or surrender value;
- Insurance benefits accruing to employees if the amount of premiums paid by the employer has been deemed to be a taxable fringe benefit;
- Proceeds from gambling, games and competitions (only for natural persons);
- Donations and bequests to approved public benefit organisations;
- Assets disposed of by persons or institutions exempted from income tax;
- Assets used to generate income that is exempt from income tax except for assets used to produce interest, shares from which dividends are received and the copyright of a first owner thereof.

GENERAL

Variable remuneration
With effect from 1 March 2013, variable remuneration is deemed to accrue to an employee, and constitutes expenditure incurred by the employer, on the date on which the amount is paid to the employee by the employer.

Variable remuneration is defined as the following:
- Overtime pay, bonus, or commission paid as remuneration;
- A travel allowance or advance for travel expenses;
- Any amount which an employer has during any year of assessment become liable to pay to an employee in consequence of the employee having during such year become entitled to any period of leave which had not been taken by the employee during that year.

Learnership allowance

The learnership allowance is applicable to registered learnership agreements entered into between a learner and an employer before 1 October 2016.

A registered learnership agreement is a learnership agreement registered in accordance with the Skills Development Act.

If the learnership is registered within 12 months after the last day of the year of assessment in which it was entered into, it must be deemed to have been registered from the date it was entered into.

The agreement must be entered into pursuant to a trade carried on by the employer.

Annual allowance

- R 30 000 or R 50 000 for a learner with a disability.
- The allowance is based on full monthly periods completed in the employer's year of assessment.
- The allowance will be apportioned if falling in more than one year of assessment.
- The annual allowance is allowed in respect of each successive year of learnership.

Completion allowance

- R 30 000 or R 50 000 for a learner with a disability, in respect of each completed 12 month period of the learnership.
- The allowance is only claimable on the successful completion of the learnership.

If the learner leaves during the year there is no recoupment.

From 2013 the learnership deduction will only be prohibited if the learner failed the same type of learnership with the same employer. Previously the limitation applied even if the learner failed to complete the registered learnership and it was in terms of an agreement with a different employer.

Key-man policies

Risk and investment policies premiums paid by the employer are deductible only if:

- The employer is the policy holder; and
- The policy relates to death, disablement or severe illness of an employee or director; and
- The premiums paid by the employer are taxed as a fringe benefit in the hands of the employee or director.

These types of policies would usually pay out directly to the employee when an insured event occurs. It could also pay out to the employer, who uses the funds to pay a benefit to the employee or his or her family. Where the

employee has been taxed on the premiums as a fringe benefit, he or she is entitled to an exemption from tax on the proceeds of the policy.

Where the policy is a risk policy only (no cash or surrender value) and the premiums are not taxed as a fringe benefit in the hands of any employee or director, the premiums will be deductible only if:

- The employer is the policyholder at the time of the payment of each premium; and
- The policy relates to death, disablement or severe illness of an employee or director; and
- The employer has elected to deduct the premiums; and
- The election is made in the policy agreement if it is entered into on or after 1 March 2012, or in an addendum to the policy agreement for earlier policies. The addendum must have been added by no later than 31 August 2012.

If the policy was entered into on or after 1 March 2012, and the policy agreement does not state that the employer elects to deduct the premiums, or no addendum is attached, and no deduction is claimed in respect of the premiums paid, the insurance proceeds received by the employer will be exempt. The fact that the employer may have deducted the premiums prior to 1 March 2012 does not affect the tax exemption.

If the policy owned by the employer covers death, disablement, or severe illness, arising solely out of, and in the course of employment, then the premiums are deductible under the normal deduction formula. An example of such a policy would be one which covers general work-related accident plans and travel insurance taken by an employee during work-travel.

If the policy covers an employment event the premiums are not taxed in the hands of the employee(s).

Research and development

Research and development is defined as:

- Systematic investigative or experimental activities of which the result is uncertain for the purpose of:
  - Discovering non-obvious scientific or technical knowledge; or
  - Creating an invention as defined in the Patents Act, a design as defined in the Designs Act, a computer program as defined in the Copyright Act or knowledge essential to the use of those items.
- Developing or significantly improving inventions, designs, computer programs or knowledge to enhance a new or improved function or an improvement of performance, reliability or quality.

100% deduction

For the purposes of determining the taxable income of a taxpayer for a year of assessment, there is deductible from his income, an amount equal to so much of his expenditure actually incurred, directly and solely, for research and development undertaken in South Africa, if it is incurred in the

production of income and in the carrying on of any trade.

Additional 50% deduction

In addition to the 100% deduction of expenditure actually incurred, a taxpayer that is a company may deduct an amount equal to 50% of that expenditure if:

- The research and development is approved by the Minister of Science and Technology;
- The expenditure is incurred for research and development carried out by that taxpayer; and
- The expenditure is incurred on or after the date of receipt of the application by the Department of Science and Technology for its approval.

Non-qualifying expenditure

No research and development deduction may be claimed for the following expenditure:

- Market research, market testing or sales promotion;
- Administration, financing, compliance or similar expenditure;
- Routine testing, analysis, collection of information or quality control in the normal course of business;
- Development of internal business processes (e.g. typical computer software);
- Social science research, including the arts and humanities;
- Oil and gas or mineral exploration or prospecting, except research and development carried out to develop technology used for oil and gas or mineral exploration;
- The creation or development of financial instruments or financial products;
- The creation or enhancement of trademarks or goodwill; and
- The registration or acquisition of pre-existing inventions, designs or computer programs.

The above may however be claimed under section 11(a) if the expenditure is of a revenue nature, in the production of income, and in the course of the taxpayer's trade.

Funding expenditure

Special provisions apply when one party undertakes research and development activities on behalf of another (the funder). Only the party who is responsible for the determination of the research method is eligible to qualify for the 50% deduction.

Research and development machinery or plant

The accelerated allowance of 40%;20%;20%;20% is available with effect from 1 April 2012 on new or unused machinery or plant, or on improvements to the machinery or plant, if acquired by the taxpayer under an agreement formally and finally signed by every party to the agreement, on or after 1 January 2012, and brought into use on or after that date.

PENALTIES

Administrative non-compliance penalties

SARS has the power to impose administrative penalties in respect of non-compliance with any procedural or administrative action or duty imposed or requested in terms of the Income Tax Act.

Fixed amount penalty

The fixed amount penalty increases monthly calculated from one month after the penalty assessment is issued, subject to a maximum of either 35 months or 47 months, depending on whether or not SARS has the taxpayer's current address. The amount depends on the taxpayer's taxable income, or assessed loss, for the preceding year of assessment. Special rules apply for large companies or large exempt institutions.

The fixed amounts are to be imposed by SARS in accordance with the following table:

Item	Assessed loss or taxable income for preceding year of assessment	Penalty	Maximum penalty
(i)	Assessed loss	R 250	R 8 750
(ii)	R 0 - R 250 000	R 250	R 8 750
(iii)	R 250 001 - R 500 000	R 500	R 17 500
(iv)	R 500 001 - R 1 000 000	R 1 000	R 35 000
(v)	R 1 000 001 - R 5 000 000	R 2 000	R 70 000
(vi)	R 5 000 001 - R 10 000 000	R 4 000	R 140 000
(vii)	R 10 000 001 - R 50 000 000	R 8 000	R 280 000
(viii)	R 50 000 000 and above	R 16 000	R 560 000

Percentage based penalty

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. The penalty is equal to a percentage of tax not paid.

The amount of penalty is prescribed in the particular tax Act and varies between 10% and 20%.

Penalties are levied in terms of a penalty assessment. This assessment will set out the date by which the penalty must be paid.

Remittance of penalties

A person can request that a penalty be remitted. This request must contain the grounds and supporting documents. The penalty will only be remitted in the following exceptional circumstances:

- A natural or human-made disaster;
- A civil disturbance or disruption in services;
- A serious illness or accident;
- Serious emotional or mental distress;
- Certain SARS errors e.g. capturing errors or processing delay;
- Serious financial hardship;

- Any other circumstances of analogous seriousness.

A fixed amount penalty can be remitted up to an amount of R 2 000 in cases where there is a first incidence of non-compliance or the duration of non-compliance is less than 5 business days.

For percentage based penalties it can be remitted in respect of a first incidence, or if the amount is less than R 2 000, and reasonable grounds exist for the non-compliance, and the non-compliance has been remedied.

Understatement penalties
The understatement penalty is a percentage in accordance with the table set out below, applied to the shortfall of the tax.

An "understatement" is a default in rendering a return, an omission from a return, an incorrect statement in a return, or if no return is required the failure to pay the correct amount of tax.

A "substantial understatement" is a case where the prejudice to the *fiscus* exceeds the greater of 5% of the amount of tax properly chargeable or refundable for the relevant period, or R 1 000 000.

Understatement Penalty Percentage Table				
Penalty to be Levied				
Behaviour	Standard Case	If obstructive or a "repeat case"	Voluntary disclosure after notification of audit	Voluntary disclosure before notification of audit
"Substantial understatement"	25%	50%	5%	0%
Reasonable care not taken in completing return	50%	75%	25%	0%
No reasonable grounds for "tax position" taken	75%	100%	35%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

The understatement penalty is calculated by applying the highest applicable understatement penalty percentage in accordance with the table.

VOLUNTARY DISCLOSURE PROGRAMME

A person may apply for voluntary disclosure relief unless that person is aware of a pending audit or investigation into the affairs of the person seeking relief, or an audit or investigation has commenced but not yet been concluded. A senior SARS official may direct that a person may apply for voluntary disclosure relief if the default would not otherwise have been detected during a SARS audit or investigation, and the application would be

in the interest of good management of the tax system, and the best use of SARS's resources.

A default means the submission of inaccurate or incomplete information to SARS, or the failure to submit information, or the adoption of a tax position, either of which have the result that the taxpayer is not assessed for the correct amount of tax, or does not pay the correct amount of tax, or is given an incorrect refund by SARS.

The disclosure must be voluntary, involve a default, be full and complete, involve the potential imposition of an understatement penalty, not result in a refund by SARS, and must be made in the prescribed form and manner.

A senior SARS official may issue a non-binding private opinion as to a person's eligibility for relief. The identity of the party to the default need not be disclosed to SARS in such a case.

Successful applicants will receive relief in the form of:
- Criminal prosecution;
- Understatement penalty (according to understatement penalty table);
- 100% relief for the administrative non-compliance penalty.

If the voluntary disclosure application is accepted, SARS must enter into a voluntary disclosure agreement with the taxpayer.

The statement issued to give effect to the agreement is not subject to objection and appeal.

EXCHANGE CONTROL ALLOWANCES

Discretionary allowance for resident individuals:
- A single discretionary allowance of R 1 000 000 per calendar year for resident individuals who are over the age of 18 years, for purposes of monetary gifts and loans, donations to missionaries, maintenance transfers, alimony and child support payments, wedding expenses and other special occasions, foreign capital allowance, travel allowance and study allowance.
- This discretionary allowance is in addition to the existing R 4 million foreign investment allowance.
- The funds may be transferred to the resident's bank account overseas.
- The discretionary allowance may be obtained through an authorised dealer, without the requirement of a tax clearance certificate.
- Resident individuals under the age of 18 years are only permitted a travel allowance of R 200 000 per calendar year.

Alimony transfers

Authorised dealers may permit transfers to non-residents for alimony and child support against production of a court order. An applicant may transfer in excess of the amount stipulated, subject to the limit of the discretionary allowance and provided that the beneficiary is a non-resident for exchange control purposes.

Study facilities

Foreign exchange facilities are available to permanent residents of South Africa who are taking full time courses at schools, universities or similar educational institutions abroad. The study facilities comprise:

- Transfer directly to the school, university or institution, the tuition and academic fees for the academic year.
- The temporary export of personal and household effects up to R 200 000 per person.

Investment outside South Africa

- Resident individuals who are over the age of 18 years are permitted to invest R 4 million per calendar year outside South Africa.
- A tax clearance certificate must be obtained from SARS prior to transfer of funds.
- The investment and any income on the investment may be kept offshore.
- The foreign investment allowance is not available to companies or trusts.
- The South African Reserve Bank may approve investment in fixed property anywhere in the world, over and above the investment amount.

Emigration facilities

- Unutilised portion of discretionary allowance.
- Unutilised portion of foreign investment allowance, limited to an overall foreign capital allowance of R 8 million per family unit per annum, or R 4 million per annum if a single person is emigrating.
- The export of household and personal effects and motor vehicles with a maximum insured value of R 2 million.

Companies

- Payments of royalties, licence and patent fees to non-residents for the local manufacturing of a product need the approval of the Department of Trade and Industry.
- The outward investment allowance that can be approved by an Authorised Dealer is R 500 million per calendar year. Investments in excess of this limit will require the approval of the Financial Surveillance Department.

OFFICIAL INTEREST RATES

Prime interest rate

Date	Rate	Date	Rate	Date	Rate
13/10/2006	12.0%	11/04/2008	15.0%	29/05/2009	11.0%
08/12/2006	12.5%	13/06/2008	15.5%	14/08/2009	10.5%
08/06/2007	13.0%	12/12/2008	15.0%	26/03/2010	10.0%
17/08/2007	13.5%	06/02/2009	14.0%	10/09/2010	9.5%
12/10/2007	14.0%	25/03/2009	13.0%	19/11/2010	9.0%
07/12/2007	14.5%	04/05/2009	12.0%	20/07/2012	8.5%

Official interest rate

Date			Date		
From	To	Rate	From	To	Rate
01/09/2008	28/02/2009	13.0%	01/09/2009	30/09/2010	8.0%
01/03/2009	31/05/2009	11.5%	01/10/2010	28/02/2011	7.0%
01/06/2009	31/06/2009	9.5%	01/03/2011	31/07/2012	6.5%
01/07/2009	31/08/2009	8.5%	01/08/2012	To date	6.0%

*The "official rate of interest" is specifically linked to the repurchase rate (repurchase rate plus 1%). The "official interest rate" will automatically be adjusted at the beginning of the month following the month when the Reserve Bank changes the repurchase rate.

Interest rates charged on outstanding taxes, duties and levies and interest rates payable in respect of refunds of tax on successful appeals and certain delayed refunds

Date			Date		
From	To	Rate	From	To	Rate
01/03/2008	31/08/2008	14.0%	01/08/2009	31/08/2009	11.5%
01/09/2008	30/04/2009	15.0%	01/09/2009	30/06/2010	10.5%
01/05/2009	30/06/2009	13.5%	01/07/2010	28/02/2011	9.5%
01/07/2009	31/07/2009	12.5%	01/03/2011	To date	8.5%

Interest rates payable on credit amounts (overpayment of provisional tax) under section 89 quat(4) of the Income Tax Act

Date			Date		
From	To	Rate	From	To	Rate
01/03/2008	31/08/2008	10.0%	01/08/2009	31/08/2009	7.5%
01/09/2008	30/04/2009	11.0%	01/09/2009	30/06/2010	6.5%
01/05/2009	30/06/2009	9.5%	01/07/2010	28/02/2011	5.5%
01/07/2009	31/07/2009	8.5%	01/03/2011	To date	4.5%

RETENTION OF RECORDS

Companies

Document	Retention period
Any documents, accounts, books, writing, records or other information required to be kept in terms of the Companies Act and other public regulation	7 years (or as per regulation)
Registration certificate	Indefinite
Memorandum of Incorporation and alterations or amendments	Indefinite
Rules	Indefinite
Securities register and uncertificated securities register	Indefinite
Register of company secretary and auditors	Indefinite

Notice and minutes of all shareholders/directors/ audit committee and other committee meetings including resolutions adopted and documents made available to holders of securities	7 years
Copies of reports presented at the annual general meeting	7 years
Copies of annual financial statements	7 years
Copies of accounting records	7 years
Records of directors and past directors, after the director has retired from the company	7 years
Written communication to holders of securities	7 years

Close corporations

Accounting records, including supporting documents	15 years
Founding statement/ amended founding statement	Indefinite
Annual financial statements, including annual accounts and the report of the accounting officer	15 years
Minute books and resolutions	Indefinite

Tax records

A person who has submitted a return for the tax period	For a period of 5 years from the date of submission of the return, unless subject to an audit, investigation, objection or appeal
A person who is required to submit a return for the tax period and has not submitted a return	Indefinite, until a return is submitted, when the above period applies
A person who is not required to submit a return but has, during the tax period, received income, has a capital gain or loss or engaged in any other activity that is subject to tax, or would be subject to tax, but for the application of a threshold or exemption	For a period of 5 years from the end of the relevant tax period
A person who has been notified or is aware that the records are subject to an audit or investigation, or a person who has lodged an objection or appeal against an assessment or decision	Until the audit is concluded, or the assessment or decision becomes final, or the applicable period above, whichever is the latest

BUDGET SPEECH TAX PROPOSALS

From 1 March 2014 an employer's contribution to a retirement fund on behalf of an employee will be treated as a taxable fringe benefit in the hands

of the employee. Individuals will from that date be allowed to deduct up to 27.5% of the higher of taxable income or employment income for contributions to pension, provident and retirement annuity funds with an annual maximum deduction of R 350 000. Contributions above the cap are carried forward to future tax years.

Individuals whose taxable income is only from a single employer and does not exceed R 250 000 for the 2012/13 tax year are not required to submit tax returns.

With effect from 2015, individuals will be permitted to save up to R 30 000 a year with a lifetime limit of R 500 000 in tax-preferred savings and investment accounts. All returns within these accounts and any withdrawals will be exempt from tax. The current tax free interest regime will not be adjusted for inflation in future years.

All foreign businesses supplying e-books, music and other electronic services to South Africans must register as VAT vendors from a date to be announced.

The tax on motor vehicle carbon dioxide emissions, which is intended to encourage consumers to buy vehicles with lower carbon emissions, will increase from 1 April 2013. For passenger vehicles, the tax will rise from R 75 to R 90 for every gram of emissions per kilometre above 120 gCO2/km. In the case of double cabs it will increase from R 100 to R 125 for every gram of emissions per kilometre above 175 gCO2/km.

The introduction of a youth employment tax incentive to help young people enter the labour market.

Government proposes that the withholding tax regime be extended to cross border service fees, subject to treaty relief.