BULLETIN

2022/2023

IMPORTANT AMENDMENTS TO THE INCOME TAX ACT, CURRENT TAX RATES AND ALLOWANCES AND OTHER GENERAL POINTS OF INTEREST

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ISSUED FOR THE USE OF CLIENTS AND STAFF ONLY

IMPORTANT

This book is based on legislation currently in force in the Republic of South Africa and proposed legislation arising out of the Budget speech as presented on 23 February 2022.

It attempts to summarise legislation and regulations, some of which are extremely complicated and should not therefore be used in isolation as a basis for investment or taxation decisions, for which we ask you please to consult us.

Whilst every care has been exercised in compilation, no responsibility is accepted for any inaccuracies or errors.

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CORPORATE TAX RATES

Company tax rates apply to years of assessment commencing after 31 March of each year.

	2023	2022
Normal tax		
Companies and close corporations	27%	28%
Personal service companies	27%	28%
South African income of foreign companies	27%	28%

Small business corporations – per table on page 13
Micro businesses – on turnover per table on page 12

	2023	2022
Dividends tax	20%	20%

INDIVIDUALS

TAX TABLES

For the year ended 28 February 2023

R	R		R
0 – 226 000		18% of each R1	
226 001 – 353 100	40 680	+ 26% of income above	226 000
353 101 – 488 700	73 726	+ 31% of income above	353 100
488 701 – 641 400	115 762	+ 36% of income above	488 700
641 401 – 817 600	170 734	+ 39% of income above	641 400
817 601 – 1 731 600	239 452	+ 41% of income above	817 600
1 731 601 and above	614 192	+ 45% of income above	1 731 600

For the year ended 28 February 2022

R	R		R
0 – 216 200		18% of each R1	
216 201 – 337 800	38 916	+ 26% of income above	216 200
337 801 – 467 500	70 532	+ 31% of income above	337 800
467 501 – 613 600	110 739	+ 36% of income above	467 500
613 601 – 782 200	163 335	+ 39% of income above	613 600
782 201 – 1 656 600	229 089	+ 41% of income above	782 200
1 656 601 and above	587 593	+ 45% of income above	1 656 600

REBATES

	2023	2022
Primary	R16 425	R15 714
Secondary (Persons 65 and older)	R9 000	R8 613
Tertiary (Persons 75 and older)	R2 997	R2 871

TAX THRESHOLDS

	2023	2022
Below age 65	R91 250	R87 300
Age 65 and over	R141 250	R135 150
Age 75 and over	R157 900	R151 100

Married in community of property

Taxpayers married in community of property are taxed on half of their own interest, dividends, rental income and capital gains and half of their spouse's income earned from these sources, regardless of the spouse in whose name the assets are registered (other than assets excluded from the joint estate).

All other taxable income is taxed only in the hands of the spouse who received it or to whom it accrues.

EXEMPT INCOME

Investment income
Local interest earned is exempt up to the following limits:

	2023	2022
Below 65	R23 800	R23 800
65 and over	R34 500	R34 500

Certain local dividends are exempt from normal income tax.

Tax free savings and investment accounts (TFSAs)
Income earned from certain investment accounts specified as TFSAs are tax free. The earnings (interest and dividends) and growth (capital gains) on these products will not attract income, dividends or capital gains tax. TFSAs may only be issued by regulated institutions such as registered banks, long-term insurers, collective investment scheme managers, the government, mutual and co-operative banks. The investment amount is limited to R36 000 per year and R500 000 in aggregate. Contributions in excess of these limits will be subject to a 40% penalty, payable to SARS on assessment.

Pensions and other employment related benefits
Awards for bravery and long service are exempt up to R5 000.

War and certain disability pensions.

Pensions and lump sums received by South African residents originating from foreign retirement funds and relating to past employment outside South Africa.

Certain insurance payouts where an employer paid the insurance premiums and the premiums were taxed as a fringe benefit to the employee.

Policy payouts from income protection policies are exempt if paid as a result of death, disablement, illness or unemployment.

Amounts paid by a Bargaining Council to a member, to the extent that the amount is not paid from a pension or provident fund.

Workmen's compensation and death benefits
Unemployment (UIF) and Workmen's Compensation benefits.

Compensation paid by employer on death as a result of employment up to R300 000.

Compensation received from the Road Accident Fund.

Bursaries and scholarships
Bursaries are exempt from tax where:

- It is a *bona fide* bursary granted to an employee who agrees to reimburse the employer for the bursary if the employee fails to complete his studies, or
- The bursary is granted to a relative of an employee who earns less than R600 000 per annum, in which case it will be exempt up to the following limits:

Bursaries for higher education (NQF levels 5 – 10)	
Learner not disabled, or	R60 000
Learner a disabled person	R90 000
Bursaries for basic education (NQF levels 1 – 4, i.e. grades R – 12)	
Learner not disabled, or	R20 000
Learner a disabled person	R30 000

No portion of a bursary will be exempt if the employee forfeits or reduces any form remuneration he / she is entitled to, or potentially will be entitled to in future, in exchange for the granting of such bursary (referred to as a salary sacrifice).

Alimony & maintenance
Payments received are exempt if granted under a judicial order of divorce or separation.

DEDUCTIONS

Retirement fund deductions
All employer contributions to funds are taxable fringe benefits, and all contributions to funds qualify for a deduction in the employee's hands. The annual deduction is limited to the lesser of:

- R350 000; or
- 27.5% of the higher of remuneration or taxable income*; or
- Taxable income excluding any capital gains.

(*Taxable income for purpose of calculating the 27.5% limit excludes lump sums and severance benefits but includes the taxable portion of capital gains. It also excludes this retirement fund contributions deduction and the qualifying donations deduction.)

The allowable deduction as calculated above is deducted from taxable income before the inclusion of taxable capital gains. Excess contributions are carried forward and deemed to be contributed in the following year.

Loss of income insurance
No deduction is allowed for premiums paid on income protection policies, and payouts from such policies are exempt from tax.

Medical, dental and physical disability expenses
No deduction is allowed for medical expenses incurred or contributions paid to a medical aid. Instead, all persons who contribute to a medical aid are entitled to the following monthly tax credit:

	2023	2022
Taxpayer	R347	R332
First dependent	R347	R332
Each additional dependent	R234	R224

A person who carries the expense of a dependent's contributions to a medical aid where the person himself is not a member, is entitled to the above tax credits in proportion to the amount paid by that person over the total medical aid contributions for that dependent.

Contributions made by a person's employer are taxed as a fringe benefit, and deemed to have been contributed by the employee.

An additional annual tax credit will be available as follows:

- Persons under 65: Total qualifying contributions less four times the above tax credit (annualised), plus other qualifying medical expenses, less 7.5% of taxable income, multiplied by 25%. This tax credit is only available on assessment.
- Persons above 65 and persons where the taxpayer, spouse or child is disabled: Total qualifying contributions less three times the above tax credit (annualised), plus qualifying medical expenses incurred, multiplied by 33.3%. The portion of the additional tax credit which relates to excess contributions may be deducted from the person's monthly employee's tax where applicable. The remainder is available on assessment.

For purposes of the additional tax credit a dependent includes a dependent recognised under the medical aid rules.

Medical expenses include all expenditure incurred not refunded by the medical aid, including non-South African expenses.

Physical disability expenditure includes necessary expenditure incurred as a result of the disability. The definition of disability covers a moderate to severe limitation of a person's ability to function normally as a result of physical, sensory, communication, intellectual or mental impairment if it has lasted or has a prognosis to last more than a year as diagnosed by a duly registered medical practitioner.

Donations to public benefit organisations
The deduction for donations made is limited to 10% of taxable income before deducting medical expenses and donations, and excluding retirement lumps sums or severance benefits, provided they are made to organisations which issue receipts in terms of S18A. Donations made in excess of the 10% may be carried forward and treated as a donation made in the following year, and subject to the 10% limitation in that year.

Home office expenses
Employees who mainly work from home or individuals carrying on a trade may deduct expenses incurred in respect of a home study, provided the study is regularly and exclusively used for and specifically equipped for such purpose. The expenses that may be deducted include the proportionate amount of rent, repairs, bond interest etc., calculated using the ratio of the floor area of the study to the floor area of the entire premises.

EMPLOYEES' TAX

All employees have to be registered for income tax. Taxpayers who earn less than R500 000 per year from a single employer, do not receive any travel allowance and do not earn taxable interest income above R23 800 (R34 500 for persons older than 75) do not need to submit a tax return.

Employers are required to deduct PAYE on all remuneration paid to employees, including directors and members of close corporations, unless a tax deduction directive is issued by SARS. Fringe benefits are included in remuneration.

The medical aid credit must be deducted from the employee's tax payable where the employer pays the medical aid contributions or, at the employer's option, if provided with proof of payment of the medical aid contributions by the employee.

Employer's responsibility
SARS can raise an assessment on the employer if the value of a fringe benefit has not been taken into account or undervalued for PAYE purposes.

Shareholders, company directors or members of a close corporation who are involved in the management of the company's financial affairs are personally liable for employees tax, additional taxes, penalties and interest not paid by the company.

Bonuses and other variable remuneration
The tax treatment of bonuses, leave pay, overtime, commissions, reimbursive travel or expenses allowances and other variable remuneration is as follows:

- The employer may only deduct the expense in the year in which the amount is paid to the employee.

- The employee is taxed on the amount in the year that it is received and employees' tax is deducted in the month received.

Directors' normal salary is not seen as variable remuneration, even though it may change from year to year.

FRINGE BENEFITS

Medical aid
Contributions made by an employer to a medical aid scheme constitute a taxable fringe benefit.

Retirement funds
Employer contributions to pension funds, provident funds and retirement annuity funds constitute a taxable fringe benefit. The value of the fringe benefit depends on whether the fund has defined benefit or defined contribution components, and will be determined in terms of a formula.

Bargaining Councils
Employer contributions to Bargaining Councils, other than pension and provident funds, is a taxable fringe benefit. If the employer makes a lump sum contribution for a number of employees, each employee is taxed on his share of the contribution.

Low interest loans
The benefit arises on the difference in the official rate of interest (page 40) and that charged to the employee on loans greater than R3 000. Study loans and loans to fund qualifying low-cost housing are excluded. Loans to directors and members arising from their shareholding or membership and not from employment are also excluded.

Long term insurance policies
An insurance premium paid by the employer in respect of an insurance policy that is directly or indirectly for the benefit of an employee or his beneficiary is a taxable fringe benefit.

The value of the fringe benefit is the amount paid by the employer. If the amount relating to a specific employee cannot be determined the value of the fringe benefit is the total contribution divided by the number of employees for whom the contribution is made.

Employer contributions that are taxed as fringe benefits may be claimed as a deduction by the employee.

Right of use of motor vehicle
The monthly fringe benefit on all motor vehicles is 3.5% of the determined value.

The determined value is the cash cost paid by the employer including VAT, or the market value if the employer acquired the vehicle at no cost. Employers who are motor vehicle manufacturers, importers, dealers or rental companies must use the determined value for vehicles acquired after 1 March 2015 as published by the Minister.

If the cost of the motor vehicle includes a maintenance plan the monthly fringe benefit is reduced to 3.25%.

Where the motor vehicle is acquired by the employer under an operating lease from a non-connected person the monthly fringe benefit is the actual cost of rental plus any fuel costs paid by the employer.

80% of the fringe benefit is subject to PAYE. This can be reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle will be for business travel. Travel between an employee's home and place of work is private travel.

The fringe benefit can be reduced on assessment if the employee can prove actual business use and/or private expenses incurred on licensing, insurance, maintenance or fuel. The employee would need to keep a logbook for this purpose. If the employee pays for fuel the cost per kilometre is determined according to the table below.

Should the employee have the right to use more than one vehicle at a time, the taxable benefit is based on the highest determined value, provided it is used primarily for business purposes.

Fringe benefits – VAT
Certain fringe benefits may result in a deemed supply of goods or services for VAT purposes. A specific inclusion is the right of use of a motor vehicle. The monthly VAT is calculated as 15/115 x 0.3% of the determined value of the vehicle where the VAT on the vehicle may not be claimed as an input. Where VAT may be claimed as an input the percentage is increased to 0.6%. The determined value is the cost price including VAT less 15% depreciation (on reducing balance method) for each year that the employer owned the vehicle before it was given to the employee to use.

Travelling allowance
The allowance may be paid at a fixed monthly rate or per kilometre.

80% of the allowance is subject to PAYE where the allowance is not based on actual business travel costs. This can be reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle will be for business travel.

A reimbursive travel allowance is exempt from tax up to R4.18 (2022 R3.82) per km. Any excess above R4.18 (2022 R3.82) per km is taxable and subject to employees' tax. Both the exempt and taxable portion must be disclosed on the employee's IRP5.

The fringe benefit can be reduced on assessment for actual business travel expenditure. In order to claim any deductions for business travel a logbook must be kept detailing the business and total kilometres travelled. The deduction is calculated by using the ratio of business kilometres to total kilometres travelled and actual costs incurred, or deemed costs as per the following table.

No fuel or maintenance costs may be claimed if the employee has not borne these costs.

Scale for determining the costs of travelling

Value of the vehicle (including VAT)	Fixed Cost (R p.a.)	Fuel Cost (c/km)	Maintenance Cost (c/km)
0 – R95 000	29 836	131.7	40.9
R95 001 – R190 000	52 889	147.0	51.1
R190 001 – R285 000	76 033	159.7	56.3
R285 001 – R380 000	96 197	171.8	61.5
R380 001 – R475 000	116 438	183.8	72.3
R475 001 – R570 000	137 735	210.8	84.9
R570 001 – R665 000	159 031	218.0	105.5
exceeding R665 000	159 031	218.0	105.5

Where actual costs are used the employee may include wear and tear in the costs. The wear and tear is calculated over 7 years and for this purpose the value of the vehicle is limited to R665 000.

Subsistence allowance
The allowance relates to expenditure on meals and incidental costs incurred whilst being absent from home for at least one night. It is taxable to the extent that the employee has not spent the required nights away from home by the last day of the following month. No proof is required where allowance is R493 (2022: R452) per day for meals and incidental costs or R152 (2022: R139) per day for incidental costs in South Africa.

SARS has issued a table listing the daily allowance for meals and incidental costs outside South Africa denominated in the appropriate currency, such as:

	2023	
Australia	230	AU$
Botswana	826	PULA
Lesotho	750	ZAR
Namibia	950	ZAR
Swaziland	818	ZAR
United Kingdom	102	GBP
USA	146	US$

For a full list of all countries and the rates applicable to 2023 visit the SARS website under https://www.sars.gov.za/tax-rates/employers/subsistence-allowances-and-advances/

Equity instruments issued to directors and employees
Regulations are applicable to equity instruments acquired by virtue of employment or office of director.

Gains or losses are taxed on the vesting of the equity instrument. The gain or loss is calculated as the market value of the instrument on date of vesting less any consideration paid by the employee. Vesting occurs on the acquisition of an unrestricted equity instrument, or in the case of a restricted equity instrument, the earliest of:

- when all restrictions cease to exist
- immediately before the disposal of the instrument
- immediately after an option terminates or a convertible instrument is converted

Gains made on the vesting of equity instruments must be taken into account when calculating employee's tax (PAYE). A tax directive must be obtained from SARS to determine the amount of tax to be withheld.

Cellphones and computers
No fringe benefit accrues through the private use of cellphones and computers provided by the employer used mainly for business purposes.

Payment of professional fees on behalf of employees
If membership of a body is a condition of employment such payment is not a taxable fringe benefit. Other fees paid by the employer will also be tax free if such payments largely benefit the employer.

Transfer or relocation costs
Where an employee is appointed or transferred at the insistence and expense of the employer, certain relocation costs incurred are exempt from tax in the employee's hands. These costs include transportation costs, settling in costs and the hire of temporary residence for less than 183 days, new school uniforms, bond registration and cancellation fees, transfer duties and estate agents commission on the sale of the employee's previous residence. The actual costs incurred by the employer must be reflected under code 3714 on the IRP5. Any cash allowance paid by the employer to cover the such relocation costs will be taxed in full.

Residential accommodation
Housing provided to employees is generally a taxable fringe benefit, the value of which is based on the rental value of the property. No fringe benefit arises on low cost immovable property given to an employee or sold at less than market value, if the property has a market value of less than R450 000, and the employee earns less than R250 000 per annum.

Uniforms
Uniforms or allowances for uniforms are taxable unless the employee is required to wear a special uniform while on duty which is clearly distinguishable from ordinary clothing.

Other fringe benefits
Fringe benefits will arise from any asset or service provided to the employee at less than its market value. From 1 March 2022, assets provided as awards for long service are only taxable to the extend the value thereof exceeds R5 000.

RING FENCING OF ASSESSED LOSSES

Ring fencing can only be applied to natural persons subject to the maximum marginal tax rate. A trade loss is ring fenced if that trade has incurred a loss in 3 out of the past 5 years, or if it relates to a suspect trade, as listed in the Income Tax Act.

The suspect trades relate to sport practices, dealing in collectibles, animal showing, performing or creative arts, betting or gambling carried on by the taxpayer or a relative; or the rental of residential accommodation, vehicles or aircraft unless 80% used by persons not related to the taxpayer for at least 6 months; farming or animal breeding unless on a fulltime basis, and trading in cryptocurrency.

The ring fencing can be prevented where the trade constitutes a business and "facts and circumstances" are presented for consideration, unless the losses were incurred in 6 out of 10 years.

LUMP SUM BENEFITS

Lump sum benefits from pension and retirement annuity funds are limited to one third of the value of the fund, unless the remaining two thirds is equal to or less than R165 000. In effect, retirement fund values of R247 500 or less can be withdrawn as lump sum, with the balance available as an annuity.

Currently lump sum withdrawals from provident funds are not subject to any limitations. From 1 March 2021 members under 55 will only be able to withdraw savings accumulated up to this date as a lump sum, plus one third of the balance accumulated after 1 March 2021. Members older than 55 on 1 March 2021 can continue to withdraw the full value of the fund as a lump sum.

On retirement or death

A benefit received on retirement or death is taxed in terms of the following table, which applies cumulatively to all such benefits received over a person's lifetime:

R		R		R
0 –	500 000	0%		
500 001 –	700 000	18%	of the amount above	500 000
700 001 –	1 050 000	36 000 + 27%	of the amount above	700 000
1 050 001 –	and over	130 500 + 36%	of the amount above	1 050 000

Severance benefits are also taxed in terms of the above table. A severance benefit is a lump sum received from an employer in respect of the termination of employment, and

- the person is 55 years or older, or
- incapable of continuing employment due to sickness, accident injury or incapacity, or
- being retrenched due to the employer ceasing to carry on trade or due to a general reduction in personnel.

On withdrawal, resignation or divorce

A benefit received on withdrawal, resignation or divorce is taxed in terms of the following table, which applies cumulatively to all such benefits received over a person's lifetime:

R		R		R
0 –	25 000	0%		
25 001 –	660 000	18%	of the amount above	25 000
660 001 –	990 000	114 300 + 27%	of the amount above	660 000
990 001 –	and over	203 400 + 36%	of the amount above	990 000

The full value of a person's retirement fund could be withdrawn as a lump sum upon emigration if the person formally emigrated prior to 28 February 2021. Thereafter such lump sum may only be withdrawn once the person is not tax resident in South Africa for an uninterrupted period of at least 3 years commencing on or after 1 March 2021.

Post-retirement annuity payments converted into a lump sum will be treated in the same way as retirement lump sum benefits.

Any contributions which were not previously allowed as a deduction plus amounts transferred to another qualifying fund are deducted from the lump sum received. The net lump sum after these deductions is taxed according to the tables above.

The taxable lump sum cannot be offset against any assessed loss of the taxpayer. Lump sums are independently taxed and the tax cannot be reduced by rebates. An employer must apply for a directive from SARS before paying a retirement lump sum to any employee.

ESTATE DUTY

Estate duty is levied on the dutiable amount of the estate as follows on estates arising after 1 March 2018:

R0 – R30 million	20%
R30 million and above	25%

An abatement of R3.5 million per person is allowed.

Where the person was at date of death the spouse of a previously deceased spouse, the estate duty abatement is R7 million less the amount of the abatement utilised by the pre-deceased spouse.

The deemed property of the estate includes all assets and liabilities of the deceased, insurance policies on the life of the deceased as well as any accrued claim against a surviving spouse. Death benefits arising from pension funds, pension preservation funds, provident funds, provident preservation funds and retirement annuity funds are excluded from the estate. For estates created after 30 October 2019, excess contributions made to retirement funds after 1 March 2016 that were deductible from the taxable portions of lumpsums received are also included in the estate.

Where assets comprise non-listed shares, a valuation of the shares on date of death must be approved by SARS unless the shares are bequeathed to the surviving spouse.

Certain deductions are allowed, which include funeral, tombstone and deathbed expenses, costs of administering and liquidating the estate, CGT, bequests to approved PBO and all assets bequeathed to the surviving spouse.

DONATIONS TAX

Donations tax is levied as follows on the cumulative donations made on or after 1 March 2018:

R0 – R30 million	20%
R30 million and above	25%

Donations tax is payable by the donor within three months of the donation. If a donor fails to pay the tax, the donor and donee becomes jointly and severally liable.

Exemptions include donations:

- by natural persons not exceeding R100 000 per year
- to a spouse
- to an approved PBO
- casual donations up to R10 000 by donors other than natural persons
- by a public company

TRUSTS

SPECIAL TRUSTS

Defined as a trust created solely for the benefit of a person suffering from a severe mental illness or physical disability, or a testamentary trust established solely for the benefit of minor children related to the deceased.

Normal tax rate: Same rate as individuals (page 2).
No primary rebate or interest exemption.

OTHER TRUSTS

Any trust that is not a special trust as defined.

Normal tax rate: 45%
No primary rebate or interest exemption.

Trust income is taxed in the trust if it does not vest in a beneficiary and is retained in the trust. Income that vests in a beneficiary is taxed in the hands of the beneficiary. Any distribution to a

beneficiary that has previously been subject to tax in the trust is not taxed again in the hands of the beneficiary. Losses incurred in a trust cannot be distributed to beneficiaries; it is retained in the trust to be utilised against future trust income.

Loans to trusts or companies owned by trusts

Any loan from a connected person in relation to the trust that does not carry interest, or interest is based on a rate lower than the official interest rate (page 40), is seen as a deemed donation made by the person who granted the loan. This also applies to loans made by a person to a company which is owned by a trust that is connected to the person granting the loan.

Where a natural person (or a company connected to that person) subscribes for preference shares in a company which is owned more than 20% by a trust, the subscription price of the preference shares will be deemed to be a loan to the company, for purposes of determining the deemed donation.

The deemed donation is calculated as the difference between the annual interest calculated using the official interest rate, less interest paid by the trust. Any dividends paid in respect of preference shares will be deemed to be interest for purposes of calculating the deemed donation.

The donation is deemed to be made on the last day of the year of assessment, and is subject to donations tax. The person granting the loan is liable for the donations tax, and the trust will not be allowed to claim an income tax deduction in respect of the interest differential giving rise to the deemed donation.

Loans to trusts that are waived may be seen as a donation by the lender, or it may have income tax or capital gains tax implications for the trust. The lender will also not be allowed to claim any deduction or loss in respect of such a loan write-off.

Exclusions:

- Loans to PBO trusts or small business funding trusts;
- Loans to certain type of vesting trusts where no beneficiary has any discretionary interest in the trust;
- Loans to special trusts created solely for the benefit of a person suffering from a severe mental illness or physical disability;
- Loans to employee share trusts used to fund the acquisition of shares in an employee incentive scheme
- Loan that was used to fund a primary residence that is used by the lender throughout the year of assessment;
- Loans provided in terms of Sharia compliant financing arrangements;
- Loan by a company that is subject to dividends tax.
- Loan to a foreign trust that is subject to transfer pricing principles, which deem such loan to carry interest at an arm's length rate.

TURNOVER TAX ON MICRO BUSINESSES

Turnover tax is an alternative, optional basis, for computing tax payable where the annual turnover is R1 million or less.

In addition to the turnover tax, micro businesses may submit VAT and Employees Tax returns twice yearly.

Natural persons, companies and close corporations, but not trusts, can qualify as micro businesses.

Turnover tax is calculated using the following table:

R	R		R
0 – 335 000	0%		
335 001 – 500 000	1%	of turnover above	335 000
500 001 – 750 000	1 650 + 2%	of turnover above	500 000
750 001 and above	6 650 + 3%	of turnover above	750 000

If elected, the turnover tax will apply for at least 3 years unless the conditions for registration no longer apply.

Micro businesses are exempted from CGT, but 50% of the amounts recovered from disposal of the business assets are included in taxable turnover.

Dividends paid by a micro business are exempt from dividends tax to the extent that dividends do not exceed R200 000. Any excess is subject to dividends tax at a rate of 20%.

SMALL BUSINESS CORPORATIONS

These entities are entitled to certain allowances and reduced tax rates. They are defined as corporations where all the shareholders or members were natural persons for the entire year, the gross income for the year of assessment does not exceed R20 million, no shareholder holds any interest in any other trading company during the year (apart from listed investments) and less than 20% of the income is investment income or personal service income. A shareholder's or member's interest in any of the following would not disqualify the entity as a small business corporation:

- Listed company, shareblock company or body corporate
- Company or close corporation that has never traded or owned assets of more than R5 000 in value (dormant entities)

Years of assessment ending after 1 April 2021

R	R		R
0 – 91 250	0%	of taxable income	
91 251 – 365 000	7%	of taxable income above	91 250
365 001 – 550 000	19 163 + 21%	of taxable income above	365 000
550 001 and above	58 013 + 28%	of taxable income above	550 000 (until 30 March 2023)
550 001 and above	58 013 + 27%	of taxable income above	550 000 (from 31 March 2023)

LABOUR BROKERS AND PERSONAL SERVICE PROVIDERS

Labour brokers and personal service providers (companies and trusts) are classified as employees and the persons paying them are required to deduct employee tax.

The employee tax deduction is 45% where the personal service provider is a trust and 28% (27% from years ending after 31 March 2023) if a company. The employee tax deduction for a labour broker is determined according to the tax tables for individuals.

A labour broker is a natural person who provides a client with other persons to render a service or perform a service and who remunerates such persons.

A labour broker can apply for an exemption certificate.

A personal service provider is a company or trust which renders any service personally by a person who is a connected person to such company or trust and:

- such person would be regarded as an employee of the client if the services were rendered directly; or
- the duties are performed mainly at the premises of the client or are subject to the control and supervision of the client as to the manner in which the duties are performed; or
- more than 80% of the income of such company consists of amounts paid directly or indirectly by one client;
  except where such company or trust employs 3 or more full-time employees throughout the year of assessment who are not connected persons.

Personal service companies cannot qualify as micro businesses.

A labour broker without an exemption certificate cannot deduct any expenses other than salaries/wages paid to employees.

A personal service provider cannot deduct any expenses other than salaries and wages, legal expenses, bad debts, employer contributions to funds and expenses in respect of premises, finance charges, insurance, repairs and maintenance and fuel relating to assets used exclusively for the purposes of trade.

PUBLIC BENEFIT ORGANISATIONS (PBO)

These bodies as well as new entities wishing to conduct public benefit activities have to be approved as PBOs after complying with the qualifying provisions, the most important of which are that the main object of the entity must be to carry on substantially in the Republic in a non-profit manner one or more defined or approved public benefit activities.

Trading income is exempt up to the greater of 5% of total receipts of accruals, or R200 000.

Donations to public benefit organisations are deductible as follows if the organisation provides the donor with a section 18A certificate:

- Company donations limited to 10% of taxable income.
- Individual donations limited to 10% of taxable income before the deduction of medical expenses, excluding any retirement and severance benefit lump sums. Any excess above the 10% limit may be carried forward and treated as a donation made in the following year.

DIVIDENDS AND DIVIDENDS TAX

A dividend means any amount transferred or applied by a company for the benefit of or on behalf of any person in respect of any share in that company. It includes amounts transferred as consideration for a share buy-back and excludes the following:

- A reduction of the company’s share capital or share premium
- Issue of capitalisation shares
- Buy back of shares by a listed company

A dividend could be cash or an asset. Assets distributed as dividends are referred to as dividends in specie.

Dividends received from SA companies (local dividends) are generally exempt from normal income tax. The following local dividends are not exempt:

- Dividends from headquarter companies as these are treated as foreign dividends
- Dividends from property unit trusts (REITs)
- Dividends received by share dealers on a buy-back of shares
- Dividends from share incentive schemes if the dividend relates to an instrument which is not a true equity share
- Dividends from share incentive schemes if the dividend relates to a restricted equity instrument and arose on a share buy-back or redemption or is paid in anticipation of the winding up of the company, or constitute unrestricted equity instruments that are distributed as dividends in specie
- Dividends received in consequence of a cession
- Dividends on borrowed shares, hybrid equity instruments, or third-party backed shares.

Dividends tax

Dividends tax is levied at 20% of the amount of dividends paid and is payable by the beneficial owner of the dividend, i.e. the shareholder. The tax is treated as a withholding tax, therefore the company paying the dividend must pay the tax over to SARS, and the shareholder will receive the net amount after dividends tax.

Dividends tax is applicable to:

- A dividend paid by a South African company, or
- A dividend paid by a non-resident company if listed on the JSE.

The dividends tax arises on payment of the dividend.

A dividends tax return must be submitted to SARS, and payment of the relevant dividends tax must be made by the end of the month following the month in which the dividend was paid. Late payment will result in interest being charged at the prescribed interest rate (page 40).

The dividends tax that arises on dividends paid to foreign shareholders can be reduced if permitted by the relevant double tax agreement.

Exemptions

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

- South African resident company or close corporation
- Public benefit organisation which is tax exempt
- Pension, provident, retirement annuity or benefit fund
- Shareholder in a registered micro business, if the dividend is from the micro-business. (This exemption applies to the first R200 000 of dividends paid by the micro-business in a year of assessment).

Deemed dividend

A loan or advance to a person that is a SA resident shareholder and not a company, or connected person to such shareholder, can give rise to a deemed dividend. The deeming provision therefore does not apply to loans between group companies.

The amount that is regarded as a dividend and therefore subject to dividends tax is the interest benefit on the loan, calculated as interest at the official interest rate (page 40) less the amount of interest payable to the company. If the interest payable is higher than the official interest rate the deemed dividend is nil.

The company, and not the shareholder, is liable for dividends tax arising from a deemed dividend. The deemed dividend is treated as having been paid on the last day of the year of assessment.

RESIDENCE BASED TAXATION

South African residents pay local tax on their world-wide income, subject to relevant exclusions and double tax agreements in place.

A resident is:
- a natural person ordinarily resident in South Africa,
- a natural person who complies with the physical presence test, or
- any entity incorporated, established or formed in South Africa or which has its place of effective management in South Africa, but excludes any person deemed to be resident of country with which a double taxation agreement is in force.

The physical presence test is applied when a person is not ordinarily resident in South Africa, and must be performed each year. In terms of this test a person is deemed to be a resident for tax purposes if he or she was present in South Africa for:
- 91 days in aggregate during the current year of assessment, and
- 91 days in aggregate during each of the previous five years of assessment, and
- 915 days in aggregate during the previous five years.

A person who is deemed to be a resident due to the physical presence test ceases to be a resident if physically absent from South Africa for 330 continuous days.

FOREIGN INCOME

South African residents must disclose all foreign income earned on their annual tax return.

SARS has the discretion to impose a deemed amount as foreign income on assets taking into account any information it may have relative to assets held, transferred or disposed of during the period. The income is attributed at the official interest rate (page 40).

Investments
Interest, net rental income and income from unit trusts must be included in income.

Losses incurred on foreign rental property may not be set off against South African income but may be carried forward to be offset against future foreign income.

Employment
Income from foreign employment is taxable in South Africa, unless the income relates to services rendered outside South Africa for an aggregate of 183 days or more during any 12 month period, and for a continuous period exceeding 60 days during that 183 day period.

The above exemption only applies to the first R1.25 million of remuneration earned from foreign employment. Income above this threshold will be taxed in South Africa, but subject to double taxation. Employees are allowed to reduce monthly employees' tax by the amounts of foreign taxes paid by the employees.

Pensions
Pensions are taxable except where they are received in terms of the social security system of another country or relate to past employment in another country.

Trading activities
Income earned from a business owned as a sole proprietor outside South Africa is taxed in the normal course, except where restrictions are imposed by the foreign country on the remittance of income. In this instance the income is taxed when remitted. Foreign trading losses may not be set off against income earned in South Africa. Such losses may be carried forward and offset against future foreign income.

Foreign dividends
A foreign dividend is any amount received from a foreign company if the amount is treated as a dividend under the laws of that country. Foreign dividends are taxable, except where:

- taxpayer holds more than 10% of the equity in the foreign entity
- the taxpayer is a controlled foreign company (CFC) and is situated in the same country as the company declaring the dividend
- the company holds a listing in South Africa as well (a dual listed company)
- the taxpayer is a CFC and the dividends do not exceed amounts deemed to be the resident shareholder's income under the CFC rules.

Foreign dividends are taxable if received indirectly from a foreign company where more than 50% of that company's voting rights are controlled by a resident through the use of a foreign trust.

Foreign dividends not included in the exceptions above are taxed at an effective rate of 20%, determined by exempting part of a foreign dividend in terms of the following formula:

A = B x C Where:
A = The exempt amount
B = 25/45 if the taxpayer is a natural person, estate or trust, or
B = 8/28 for all other taxpayers
C = total foreign dividends received that are not otherwise exempt.

No tax deduction is allowed for expenses incurred in the production of foreign dividend income.

Withholding tax paid on foreign dividends received is allowed as a credit against tax payable in South Africa.

Controlled foreign companies (CFC)
A CFC is a non-resident entity that is not listed in which South African residents (excluding South African headquarter companies) hold more than 50% of the participation rights or voting control.

A non-resident entity indirectly held through a foreign trust or foundation is a CFC if its results are included in the consolidated financial statements of the South African parent company.

The net income of the CFC is imputed as income of the taxpayer in the ratio of the participation share if the taxpayer holds more than 10% of the participation rights. Any loss must be carried forward for set off against future income.

The net income of a CFC is determined in the functional currency of the CFC, and translated to Rands using the average exchange rate for the SA resident's year of assessment.

The proportionate share of foreign tax payable by the CFC will be allowed as a tax rebate against tax payable by the South African resident shareholder.

The net income of a CFC attributable to a foreign business establishment is excluded.

Headquarter companies
A company can elect to be a headquarter company if it is a South African resident company of which:

- each shareholder holds at least 10% of equity,
- at least 80% of assets are represented by interests in equity shares, loans and advances and intellectual property licensed to any foreign company of which at least 10% of the equity is held by the headquarter company, and
- at least 50% of gross income was derived from rentals, dividends, interest, royalties or service fees from foreign companies in which at least 10% of equity is held; or from proceeds on the disposal of equity shares in foreign companies in which at least 10% of equity is held if total gross income for the year is more than R5 million.

Dividends declared by headquarter companies will not be subject to dividends tax.

Dividends received from a headquarter company are treated the same as foreign dividends and will be exempt from normal tax as the shareholder will hold at least 10% of the equity in the headquarter company.

Interest paid on a loan from a non-resident is deductible, but the deduction is limited to interest earned from non-resident entities in which the headquarter company holds at least 10% of equity.

NON-RESIDENTS AND WITHHOLDING TAXES

Non-residents are taxed on all income from a South African source, subject to relevant double tax agreements in force. Income earned by non-residents is mainly collected through withholding taxes. The person paying the non-resident must withhold the appropriate tax and pay it over to SARS by the last day of the month following the month in which the relevant payment was made to the non-resident. Income that is subject to withholding tax is generally exempt from normal income tax.

Interest
Interest paid to non-residents is exempt from normal income tax if the person is physically absent from South Africa for 183 days per annum and did not carry on a business in, or is not deemed to be ordinarily resident in South Africa. The exemption does not apply if the debt resulting in the interest is effectively connected to a fixed place of business in South Africa. Non-residents who receive interest that is not exempt must submit a tax return to SARS.

A 15% withholding tax is levied on interest paid to non-residents, subject to the double tax agreement in force. The following interest payments are exempt from the withholding tax:

- Interest paid by a South African bank, the SARB, the IDC, the Development Bank of South Africa or the South African Government.
- Interest paid to the African Development Bank, World Bank, IMF, African Import & Export Bank, European Investment Bank or New Development Bank.
- Interest paid in respect of listed debt.
- Interest paid to a non-resident individual who was physically present in South Africa for more than 183 days during a year, as the interest will be subject to normal income tax.
- Interest paid in respect of debt that is effectively connected with a permanent establishment of the non-resident in South Africa, as the interest will be subject to normal income tax.

Dividends
Dividends paid to non-residents are subject to 20% dividends withholding tax, subject to the double tax agreement in force.

Royalties
A withholding tax of 15% is levied on royalty payments made to non-residents, subject to the double tax agreement in force.

Foreign entertainers and sportspersons
A 15% withholding tax is levied on gross amounts paid to such persons for activities exercised by them in South Africa.

Sale of immovable property
Non-residents are subject to CGT on the disposal of immovable property or the assets of a permanent establishment, branch or agency through which a trade is carried on situated in South Africa.

For property where the selling price exceeds R2 million, the purchaser of the property is required to withhold the following amounts from the price paid on the sale of immovable property unless a directive is provided by the seller:

7.5% where the seller is a natural person
10% where the seller is a company
15% where the seller is a trust.

The amount withheld must be paid to SARS within 14 days if the purchaser is a resident, and within 28 days if the purchaser is also a non-resident.

Estate duty
Assets located in South Africa will be subject to estate duty, subject to international agreements.

CAPITAL GAINS TAX (CGT)

Residents are taxed on capital profits on world-wide assets, whilst non-residents are taxed on capital profits arising on the disposal of fixed property, an interest or right in fixed property or the assets of South African permanent establishment. A capital gain or loss is calculated as the difference between the proceeds received on disposal and the base cost of the asset disposed.

Exclusions for natural persons and special trusts
An annual exclusion of R40 000 applies to both gains and losses during the person’s lifetime whilst R300 000 applies in the year the person dies.

Effective rate of tax

Taxpayer	Capital gain included	Tax rate	Effective rate
Natural person	40%	0 – 45%	0 – 18%
Special trust	40%	0 – 45%	0 – 18%
Other trusts	80%	45%	36%
Companies	80%	27%	21.6%
Small business corporations	80%	0 – 27%	0 – 21.6%

Capital losses
Capital losses may not be set off against taxable income but must be carried forward for set-off against future capital gains.

Deemed disposals or acquisitions

Change of residence
When a person leaves South Africa permanently he is deemed to have sold all assets at market value, except immovable property, assets of a permanent establishment, Also excluded are certain equity instruments granted by virtue of employment, including shares less than 5 years old, share options and equity instruments which have not yet vested.

When a person becomes a resident in South Africa he is deemed to have disposed of his assets one day prior to becoming a resident and reacquired them at market value on the day he becomes a resident, excluding immovable property and assets of a permanent establishment.

Death
A person is deemed to have disposed of his or her assets at date of death at their market values. Certain assets are excluded from such deemed disposal, e.g. assets left to a surviving spouse, long term policies and interests in retirement funds

Trading stock
The conversion of an asset from a capital asset to trading stock (or vice versa) can trigger income tax or capital gains tax.

Personal use assets
The disposal of personal use assets is not subject to CGT.
A deemed acquisition is triggered when an asset ceases to be a non-personal use asset.

Proceeds

These comprise the amounts received or accruing to the taxpayer or deemed to have been received or accrued on disposal of an asset. Proceeds specifically include:

- amount by which a debt is reduced or discharged,
- amount received by or accrued to a lessee for improvements to property,
- market value of assets donated.

Excluded from proceeds are:

- Amounts that taxed as income
- Amounts repayable or a reduction in the sales price in the year of disposal

Dividend Stripping
Anti-avoidance rules exist which can deem certain exempt dividends received to be proceeds on the sale of shares, if such dividend is seen as an extraordinary dividend and is received within 18 months prior to the sale of the shares. An extraordinary dividend is any dividend that exceeds 15% of the higher of market value of the shares disposed 18 months prior to their disposal or at the date of their disposal.

Base cost

The base cost of assets acquired after 1 October 2001 is the cost of the asset plus any other cost incurred directly in the acquisition, improvement or selling. One third of finance costs incurred to acquire listed shares or unit trusts may be included in the base cost.

Excluded from base cost are:

- borrowing costs, raising fees, rates and taxes and insurance
- any expenses that were deductible from income tax, including wear and tear or capital allowances claimed.

Where the asset is acquired by donation the base cost is equal to the deemed proceeds taken into account by the donor at date of donation plus a portion of the donations tax, depending on who pays the tax (donor or donee).

The base cost of assets acquired before 1 October 2001 is calculated by determining a value as at 1 October 2001 and adding qualifying costs incurred after that date. The 1 October 2001 value may be determined at the option of the taxpayer on one of the following bases:

- market value on 1 October 2001, or
- time-apportioned base cost method, or
- 20% of the proceeds on disposal (after taking into account expenditure after 1 October 2001).

The time-apportioned base cost method requires that the date of acquisition and cost are known and is calculated according to the following formula:

$$Y = B + \frac{[(P - B) \times N]}{T + N}$$

Where:
Y = value as at 1 October 2001
B = expenditure before 1 October 2001
P = proceeds on disposal (or per adjustment formula)
N = number of years held before 1 October 2001
T = number of years held after 1 October 2001

The adjustment formula applies where allowable expenditure is incurred after 1 October 2001 and is used to compute P in the previous formula as follows:

$$R \times \frac{B}{A + B}$$

Where:
R = actual proceeds
A = expenditure incurred after 1 October 2001
B = expenditure incurred before 1 October 2001

The 20% of proceeds rule is generally used where none of the other information is available. This method should not be disregarded where there has been a dramatic increase in the value of the assets.

The base cost of foreign assets in respect of which amnesty was granted cannot exceed the value of that asset on 28 February 2003 and expenditure incurred after that date.

Excluded assets

Assets which are not taken into account in computing CGT include:

- Primary residence (applicable to natural persons and special trusts only):
  If the proceeds on the sale of a person's primary residence is less than R2 million any capital gain or loss is disregarded. If the proceeds exceed R2 million the first R2 million of the capital gain or loss calculated is disregarded.
- most personal use assets excluding gold or platinum coins, immovable property, aircraft exceeding 450kg, boats exceeding 10 metres in length, financial instruments, usufructuary or fiduciary interests which decrease over time
- lump sum benefits from pension, provident or retirement annuity funds
- long term assurance paid to original beneficiary, spouse, dependent or deceased estate
- the first R1.8 million of a gain realised on the sale of an interest in a small business if sold by an individual who is at least 55 or as a result of ill health or death. The exclusion only applies if the market value of the small business assets does not exceed R10 million and is applied cumulatively over a person's lifetime
- micro business assets to the extent that the proceeds from such disposals do not exceed R1.5 million over a period of 3 years
- compensation for personal injury, illness or defamation
- gains from gambling, competitions or games by natural persons
- gains or losses made by PBO
- gains and losses made by unit trust funds
- donations or bequests to PBO
- assets used to produce exempt income.

Trusts

Capital gains retained in a trust are taxed in the trust's hands whilst those distributed to or vested in SA resident beneficiaries in the same year are taxed in the beneficiary's hands. Gains distributed to non-resident beneficiaries are taxed in the trust's hands.

Capital gains arising in a trust as a result of donations to trusts not vesting in beneficiaries are taxed in the hands of the donor.

If a trustee vests an asset in a beneficiary it is deemed to be a disposal and subject to CGT in the beneficiary's hands, unless the beneficiary is a spouse or minor child of the donor. The subsequent transfer of the asset to the beneficiary is not treated as a disposal.

PROVISIONAL TAX

The following taxpayers are required to register as provisional taxpayers:

- Companies and close corporations
- Natural persons who earn income that is not remuneration as defined, unless such income is derived from interest, dividends or rentals and does not exceed R30 000, or if the total taxable income of the person will be below the tax threshold.
- A person who receives remuneration from an employer that is not registered for PAYE. This includes local employees of foreign employers who do not deduct PAYE.

First provisional payment
The first payment is due six months before the end of the tax year. The payment must be based on the greater of an estimate of taxable income for the year, or the basic amount. If the estimate of taxable income is lower than the basic amount the lower estimate may be used.

Basic amount
The basic amount is computed as:

- the taxable income according to the last assessment issued,
- less any capital gain included in the income,
- less (in the case of individuals) the taxable portion of any lump sum payments on termination of service or retirement fund benefit.

Should the last year of assessment be more than one year prior to the current tax period, an increase of 8% per annum must be included in the basic amount. If the latest assessment was issued less than 14 days before the provisional payment is due, the previous assessment may be used, increased by 8%.

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

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

Note that capital gains, retrenchment or severance payments and employer owned insurance policy pay-outs must be included in the estimates used for the first and second provisional payments. These amounts are only excluded from the basic amount.

Additional provisional payment
Where the taxable income of an individual exceeds R50 000 and of a company exceeds R20 000, additional payments of tax are required six months after the year end (February year end by end of September) to obviate interest being levied on the amounts due.

Penalties and interest
Penalties will be imposed as follows:

- 10% of amount not paid by due date for the late payment of provisional tax;
- 20% of the under-payment on under-estimation of income if SARS is not satisfied that the second provisional estimate was seriously calculated or was not deliberately or negligently understated. If no second provisional tax return is submitted the person is deemed to have submitted a nil return, which will be subject to the under-estimation penalty.

Under-estimation penalties may be remitted if the taxpayer can prove that the second provisional tax estimate was based on a serious calculation and not deliberately or negligently understated.

Interest on late payment of provisional tax will be charged from the end of the period within which payment is required at the prescribed rate.

Penalties and interest paid to SARS are not tax deductible.

DIRECTORS' FEES

Directors of private companies who receive remuneration are regarded as employees and must be subject to PAYE on such remuneration, regardless of whether the director is registered for provisional tax.

Non-executive directors are regarded as independent contractors, therefore no PAYE need to be withheld from directors' fees, unless voluntarily agreed to. Where the fees exceed R1 million in a 12 month period, the non-executive director is required to register for VAT and issue a tax invoice to the company for the directors fees.

DEBT REDUCTION

The tax treatment of a debt that has been reduced, cancelled, or the terms of which changed resulting in a benefit to the debtor or converted to equity is determined in terms of a set of ordering rules. For purposes of these rules the term "debt" excludes interest debt.

If the debt benefit:

1. Qualifies as a taxable donation it will be subject to donations tax;
2. Constitutes property of an estate and the debt is reduced or cancelled in favour of an heir or legatee by virtue of a bequest it will be subject to estate duty;
3. Stems from an employer/employee relationship it will be regarded as a taxable fringe benefit and will be subject to PAYE;
4. Falls outside the above three areas and the debt was used to fund expenditure which qualified for a tax deduction or allowance, it will be treated as a recoupment subject to normal tax unless the debt was used to fund trading stock still on hand, in which case the cost of the stock that will be allowed as a deduction must be reduced;
5. Falls outside all of the above it will have capital gains tax (CGT) consequences:
    - If the debt funded a capital asset still on hand the debt benefit amount must be used to reduce the base cost of that asset and any remaining balance is a recoupment of capital allowances claimed.
    - If the asset funded by the debt is no longer on hand the capital gain/loss realised in the year of disposal must be compared to what would have been the gain/loss had the debt benefit occurred in that year, and the difference is treated as a capital gain in the year that the debt benefit actually occurs.
    - If the debt relates to a capital loan due between connected persons and is reduced in the course or in anticipation of liquidation, winding up or deregistration of the debtor company, there will be no CGT consequences.

None of the above rules will apply where the debt is between South African resident companies in the same group and the debtor is a dormant company, or the debt is settled out of the proceeds of a share issue by the debtor, providing the debt did not exist prior to the companies becoming part of the same group.

Interest debt that is waived or reduced will only result in a recoupment of interest previously deducted by the debtor if the creditor was not subject to tax in South Africa on the interest earned.

LEARNERSHIP ALLOWANCES

A learnership allowance will be granted to employers who enter into a registered Learnership agreement prior to 31 March 2024. The learnership must be linked to the employer's trade. An annual allowance is granted for each year that the learner is registered for a learnership. The allowance is apportioned for a part of the year if the learnership was not in place for the full 12 months. A further completion allowance is granted in the year that the learnership is successfully completed.

Learnerships entered into after 1 October 2016:

- Annual allowance for learners with a qualification on NQF level 1 – 6 is R40 000 (or R60 000 for learners with disabilities);
- Annual allowance for learners with a qualification on NQF level 7 - 10 is R20 000 (or R50 000 for learners with disabilities);
- Completion allowance for learners with a qualification on NQF level 1 – 6:
  R40 000 (or R60 000 for learners with disabilities) for each completed year of the learnership if the learnership is for a period of more than 24 months, or R40 000 (or R60 000 for learners with disabilities) if the learnership is for a period of less than 24 months.
- Completion allowance for learners with a qualification on NQF level 7 – 10:
  R20 000 (or R50 000 for learners with disabilities) for each completed year of the learnership if the learnership is for a period of more than 24 months, or R20 000 (or R50 000 for learners with disabilities) if the learnership is for a period of less than 24 months.

EMPLOYMENT TAX INCENTIVE (ETI)

An employment tax incentive is currently effective until 29 February 2024. Employers registered for PAYE are eligible to claim the ETI, provided all due tax debts have been paid and no tax returns are in arrears. The ETI amount is calculated on a monthly basis for each qualifying employee and deducted from total amount of PAYE that is payable to SARS.

ETI credits are exempt from normal income tax in the hands of the employer.

A qualifying employee is a person between the ages of 18 and 29 with a valid South African ID, not a domestic worker and earning less than R6 500 per month but more than the minimum wage in terms of regulation, or more than R2 000 per month if no minimum wage is prescribed. The employee must not be related to the employer, be newly employed after 1 October 2013, and work must be performed in terms of a legitimate employment contract.

The employee must assist in the business activities of the employer and may not be mainly involved in studying, unless the employer entered into a registered learnership agreement with the employee.

The ETI can be claimed for up to 24 months for each qualifying employee and is calculated as follows from 1 March 2022:

Monthly Remuneration	Employment Tax Incentive per month during the first 12 months of employment of the qualifying employee	Employment Tax Incentive per month during the next 12 months of employment of the qualifying employee
R0 – R2 000	50% of Monthly Remuneration	25% of Monthly Remuneration
R2 001 – R4 500	R1 500	R750
R4 501 – R6 500	Formula: R1 500 – (0.5 x (Monthly Remuneration – R4 500))	Formula: R750 – (0.25 x (Monthly Remuneration – R4 500))

The incentive is proportionally reduced for employees who work less than 160 hours per month.

Penalties of up to 100% will apply where an employer claims the ETI for non- qualifying employees, or when a current employee is displaced in order to employ a qualifying employee.

GOVERNMENT GRANTS

Certain grants, subsidies or contributions by the government are exempt from income tax if listed as an exempt grant in the 11th Schedule of the Income Tax Act, or identified as such by the Minister of Finance in a notice in the Government Gazette.

The list of exempt grants include, amongst others, grants received from the DTI and DST in terms of:

- The Automotive Investment Scheme and Automotive Production and Development Programme
- The Manufacturing Competitiveness Enhancement Programme
- The Clothing and Textiles Competitiveness Programme
- Export Marketing and Investment Assistance.

Where an exempt government grant is secured for the acquisition or creation of an asset, the cost of the asset must be reduced by the amount of the grant as follows:

- If the asset relates to trading stock the cost price deduction claimed when the stock is sold, is reduced
- If the asset relates to an allowance asset the base cost of the asset must be reduced and any tax allowances must be calculated on the reduced cost.
- If the asset relates to a capital asset which does not qualify for any tax allowances the base cost of the asset must be reduced.

Where a government grant is received or accrued and not used to acquire trading stock or an asset, any other deductible operating expenses must be reduced by the portion of the grant not used to acquire trading stock or assets. This rule applies to all deductible expenses incurred, and not only those expenses linked to the government grant. If the grant received in any one year is more than the expenses incurred the excess is carried forward and reduces expenses in the next year of assessment.

RESEARCH AND DEVELOPMENT

A company can qualify for a 150% tax deduction in respect of research and development expenditure incurred if the research and development relates to systematic investigative or experimental activities of which the result is uncertain, for the purpose of:

- discovering new non-obvious scientific or technical knowledge; or
- creating or developing an invention, patent, design or computer copyright or
- significantly improving any of the above.

The company must apply for approval from the Minister of Science and Technology before the deduction may be claimed.

Plant and machinery acquired and brought into use for the first time after 1 January 2012 for purposes of research and development qualify for a capital allowance on a 50:30:20 basis, and buildings used wholly or mainly for research and development qualify for a 5% annual allowance. The incentive in its current form will expire on 31 December 2023.

WEAR AND TEAR ALLOWANCES

Wear and tear can be calculated on a straight-line basis provided the taxpayer complies with certain requirements:

- adequate records must be maintained
- the method must be applied to all assets in the same class
- the taxpayer must be able to provide a detailed schedule of assets on which wear and tear is claimed, including date of acquisition, cost of acquisition (excluding finance charges), tax value in the previous tax year, and where applicable, the date of disposal and the price realised on disposal or scrapping. Fully written off assets not yet disposed of must be reflected at R1. The records must be maintained so that each asset's value can be established at any point in time
- the asset must be used in the taxpayer's trade.

Interpretation Note 47, together with a Binding General Ruling No 7, sets out write-off periods that are acceptable to SARS. The most common of which are:

Item	**No of years**
Air-conditioners	
• Window type	6
• Mobile	5
• Room unit	10
Aircraft (light passenger, commercial and helicopters)	4
Bulldozers, concrete mixers	3
Cellular telephones	2
Compressors	4
Computers (mainframe or servers)	5
Computers (personal computers)	3
Computer software (mainframes)	
• purchased	3
• self-developed	1
Computer software (personal computers)	2
Containers (stainless steel – transport of freight)	5
Delivery vehicles	4
Demountable partitions	6

Item	No of years
Dental and doctors’ equipment	5
Drilling equipment (water)	5
Drills, electric saws	6
Electrostatic copiers	6
Excavators	4
Fitted carpets	6
Fork-lift trucks, front-end loaders	4
Furniture & fittings	6
Gantry cranes	6
Graders	4
Grinding machines	6
Heating equipment	6
Laboratory research equipment	5
Lathes	6
Lift installations (goods and passengers)	12
Mobile cranes	4
Motorcycles	4
Musical instruments	5
Office equipment – mechanical	5
Office equipment – electronic	3
Ovens and heating devices	6
Paintings (valuable)	25
Pallets	4
Passenger cars	5
Photocopying equipment	5
Racehorses	4
Refrigeration equipment	6
Security systems	5
Shop fittings	6
Telephone equipment	5
Television and advertising films	4
Textbooks	3
Tractors	4
Trailers	5
Trucks (heavy-duty)	3
Trucks (other)	4
Workshop equipment	5

“Small” assets costing R7 000 or less can be written off in full in the year of acquisition.

The allowance must be apportioned where the asset is used for only a part of the year.

CAPITAL ALLOWANCES

Plant and machinery

Certain assets used for trade qualify for this allowance and include:

- Plant and machinery used directly in a process of manufacture
- Machinery, implements and utensils used by a hotelkeeper
- Agricultural co-operative plant and machinery used for storing or packing products of its members
- Aircraft and ships brought into use after 1 April 1995.
- Research and development plant and machinery brought into use after 1 April 2012.

These assets all qualify to be written off over 5 years, except for new and unused assets which may be written off 40% in the first year and 20% for the subsequent 3 years.

New and unused plant & machinery brought into use after 1 January 2012 for qualifying research and development approved by the Minister of Science and Technology may be deducted as follows: 50% in year 1, 30% in year 2 and 20% in year 3.

Farming and renewable energy assets
Farming plant and equipment, assets used for the production of bio-diesel or bio-ethanol or assets used for the production of electricity from wind, sunlight, gravitational water forces or biomass may be written off 50% in year 1, 30% in year 2 and 20% in year 3. The foundations and supporting structures for energy projects are included.

For assets generating solar PV energy not exceeding 1 megawatt and brought into use after 1 January 2016, the allowance is 100% in the first year.

Small business corporations
New and unused manufacturing plant and machinery acquired by a small business corporation may be written off in full in the year it is brought into use. Other assets qualify for write-off of 50% in year 1, 30% in year 2 and 20% in year 3.

Building Allowances

Industrial buildings
Buildings erected after 30 September 1999 used mainly for manufacture qualify for a 5% annual allowance. The allowance can be claimed by a purchaser of a qualifying building. From 1 April 2012 buildings used wholly or mainly for research and development purposes also qualify for a 5% annual allowance.

Hotel buildings
New buildings erected after 4 June 1988 qualify for a 5% annual allowance, whilst improvements which do not extend the exterior framework of the building qualify for a 20% annual allowance.

Commercial buildings
New and unused buildings erected for the purposes of trade which does not include residential accommodation qualify for a 5% annual allowance.

Urban development zone allowance
This allowance will apply to buildings in an urban development zone brought into use before 31 March 2023.

The refurbishment of existing buildings entitles the taxpayer to an allowance of 20% straight-line over 5 years, whilst the construction of a new building entitles the taxpayer to an allowance of 20% in the first year and 8% thereafter provided that the building commenced after 21 October 2008. Where the building commenced prior to that date the annual allowance is 5%.

Low-cost residential units in an urban development zone qualify for higher allowances. A low- cost residential unit is a building whose cost to build does not exceed R300 000 or an apartment whose cost to build does not exceed R350 000. The refurbishment of such units may be written off over 4 years, whilst new units may written off: 25% in year 1, 13% in years 2 – 6, and 10% in year 7.

Residential units
Residential units acquired or erected after 21 October 2008 qualify for an allowance provided the unit is new and unused, used solely for the purposes of trade, situated in the Republic and the taxpayer

owned at least 5 residential units for the purposes of trade. The cost of improvements made to residential units after 21 October 2008 also qualify for the allowance. The annual allowance until the cost is written off is 5% on normal units and 10% on low-cost units.

ASSET REINVESTMENT RELIEF

The taxpayer can elect to postpone the recoupment on disposal of an asset where:

- the disposal of the asset was involuntary, or
- the asset disposed of was subject to a capital deduction or wear and tear provided that the replacement assets are brought into use within 18 months.

The recoupment can be set off over the same period as the wear and tear.

DOUBTFUL DEBT ALLOWANCE

An allowance for doubtful debts may be claimed in respect of debts that would have been allowed as a deduction had they become bad during the year. The allowance is determined as set out below.

For taxpayers who did not apply IFRS 9:

- 40% of all debts that are 120 days or more in arrears; plus
- 25% of all debts that are between 60 and 120 days in arrears, after deducting the value of any security given in respect of above debts

For taxpayers who applied IFRS 9:

- 40% of the loss allowance lifetime expected credit loss calculated in terms of IFRS 9; plus
- 40% of bad debts written off for financial reporting purposes but not allowed as a bad debt deduction, if the debt was included in taxable income in the current or any previous year; plus
- 25% of the loss allowance calculated in terms of IFRS 9 in respect of other debts

A ruling can be obtained from SARS for a higher percentage not exceeding 85% based on specific criteria.

The allowance claimed must be added to taxable income in the following year.

PREPAID EXPENSES

Expenditure paid where the benefits will only be enjoyed in a subsequent year may only be deducted as and when the benefits are received.

Prepaid expenses are deductible in the year it is paid if:

- the goods, services or benefits are supplied or rendered within six months after the end of the year of assessment; or
- the total pre-paid expenditure does not exceed R100 000

RESTRAINT OF TRADE

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

LEASEHOLD IMPROVEMENTS

Improvements made to leasehold property in terms of a lease agreement by the lessee must be included in the income of the lessor. Either the stipulated amount or a fair and reasonable value will be included. The lessor may be entitled to discount the value of the improvements over the period of the lease or 25 years whichever is the shorter.

The lessee may deduct leasehold improvement expenditure over the period of the lease only if it was effected in terms of an obligation imposed by the lease agreement and if the lessor is taxed thereon. No deduction is permitted for voluntary improvements effected by the lessee.

Lessees in Public Private Partnerships, or lessees leasing land or buildings from government qualify for tax deductions on voluntary improvements made.

PRE-TRADE EXPENDITURE

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

INTEREST DEDUCTION LIMITATIONS

Debt arising as a result of a corporate restructure
Interest deductions in respect of certain corporate restructures may be limited and calculated in accordance with a formula.

Any excess interest cannot be carried forward to the next tax year. As a result, the excess interest is permanently non-deductible.

The interest deduction limitation must be applied in the tax year in which the restructure transaction is entered into and the five subsequent tax years.

Recipient of interest is not subject to tax in South Africa
Interest paid to an exempt or foreign person or foreign entity who is not subject to tax in South Africa may be limited and calculated in accordance with a formula. Any excess interest is carried forward to the next tax year, and is subject to the formula in that year.

This will generally apply in the case of interest paid to a foreign person or foreign entity where the withholding tax on interest is reduced to nil in terms of a double taxation agreement.

This limitation is only applicable when the parties involved are in a controlling relationship, whereby the recipient directly or indirectly holds more than 50% of the equity shares or voting rights in that company.

CORPORATE ASSESSED LOSSES

Currently corporate taxpayers may carry forward assessed losses without restriction provided the entity is trading.

For years of assessment ending 31 March 2023, companies will only be able to set off losses to the higher of R1 million, or 80% of its current year taxable income before taking the assessed loss into account.

SARS has the discretion to entirely disallow the set-off of an assessed loss against the income of a company, close corporation or trust. It may do so if any agreement was entered into which affected the entity or its shareholding, membership or trustees, resulting directly or indirectly in income or a capital gain accruing to the entity, solely or mainly for the purpose of utilising any assessed loss or capital loss in order to avoid or reduce the liability for any tax on the part of that entity or any other person.

VALUE ADDED TAX (VAT)

VAT is levied on the supply of most goods and services at 15%. When VAT is levied by a vendor it is termed output VAT, and VAT paid to other suppliers is referred to as input VAT. The net VAT amount (output less allowable input) must be paid over to SARS at the end of each VAT period.

Certain supplies are exempt from VAT and others are zero-rated, meaning VAT must be charged at 0%. Input VAT incurred that relates to the making of exempt supplies may not be claimed as a deduction from output VAT. Input VAT incurred on the purchase of a motor vehicle, entertainment expenses and employees' membership fees to professional bodies may not be claimed.

Where a vendor makes mixed supplies of standard or zero-rated supplies together with exempt supplies the input credits are apportioned. Input credits on expenses relating to exempt supplies cannot be claimed.

Notional input VAT may be claimed on certain second-hand goods purchased. It is calculated as 15/115 of the cost of second-hand goods acquired from a resident person that is not registered as a VAT vendor.

Where input VAT was claimed on supplies received and the creditor is not paid within 12 months, and output VAT adjustment for the amount previously claimed is required.

Where input VAT was claimed on supplies received and the use of those supplies subsequently change to a non-vatable purpose, and output VAT adjustment is required. Some of the more common exempt and zero-rated supplies are listed below.

Exempt supplies
Financial services, but excluding fees charged for arranging these services, e.g. bank charges.
Letting of residential accommodation (note that the sale of residential property by a VAT vendor is not exempt).
Certain education services.
Transport of passengers by road or railway.
Crèche or after-school care for children.
Services to members in the course of managing a sectional title body corporate, share block company, housing development scheme for aged persons. Supplies by Home Owners Associations to members.

Zero-rated supplies
Exported goods.
Supply of a business as a going concern.
Fuel and fuel levy goods.
Certain items used for farming e.g. animal feed and remedy, fertilizer, pesticide, plants and seeds.
Certain basic foodstuffs e.g. brown bread, white bread flour, maize meal, cake flour, rice, unprocessed fruit and vegetables, eggs.
Sanitary towels (pads).

Certain cross-border transport of passengers and goods and related services.
Services supplied to non-residents not present in South Africa.
Services physically rendered outside of South Africa.

Property developers
From 1 April 2022, property developers who temporarily rent out residential property for less than 12 months are required to account for an output VAT adjustment based on the cost of the property in the month during the which the rental agreement comes into effect.

A subsequent sale of the property will be subject to output VAT, however the developer may then claim the output VAT previously paid at the start of the lease as an input VAT credit.

Registration and returns
An enterprise whose turnover (excluding exempt supplies) has exceeded R1 million in any twelve month period or if there are reasonable grounds to believe that turnover will exceed R1 million, is required to register as a VAT vendor. Voluntary registration is permitted where taxable supplies exceed R50 000 in any 12 month period or can reasonably be expected to reach that limit.

VAT periods are monthly, bi-monthly, 6 monthly or annually depending on the type and size of the vendor. Vendors with a turnover of more than R30 million per annum must submit VAT returns on a monthly basis. Vendors who are registered on a bi-monthly basis and subsequently reach the R30 million threshold must inform SARS in writing.

Foreign suppliers of electronic services to South African residents are also required to register for VAT if such supplies exceed R1 million per any 12 month period.

Accounting basis
Legal entities must account for VAT on an invoice basis, meaning VAT must be accounted for on the earlier of when an invoice is issued, or when payment is received.

Natural persons or unincorporated bodies of natural persons may apply to account for VAT on the payments basis if taxable supplies will not exceed R2.5 million per annum. Vendors registered on the payments basis only have to account for VAT when payment is received for a supply.

Penalties and interest
VAT returns are to be submitted and payment made by the last business day on or before the 25th day of the month unless the returns are e-Filed, in which case the due date is the last business day of the month. The late submission of a VAT return results in a penalty of 10% of the VAT payable and interest at the prescribed rate for the month or part thereof.

SKILLS DEVELOPMENT LEVY (SDL)

The levy is utilised to develop the skills of the workforce, improve productivity and the quality of life of the workers.

Employers are encouraged to create an active learning environment by being eligible for grants if their training programs meet the Sector Education and Training Authority (SETA) requirements.

Employers with an annual payroll in excess of R500 000 are required to register and pay the 1% levy on the total remuneration used to compute employees' tax.

TAX ADMINISTRATION ACT

The Tax Administration Act (TAA) regulates the administrative provisions applicable to all taxes except customs and excise. The TAA deals with the powers of SARS and the rights of taxpayers as well as dispute resolution procedures, interest and penalties.

The TAA gives SARS the power to conduct search-and-seizure operations without a warrant. SARS may also raise estimated assessments where a taxpayer fails to submit a tax return, submits a return or material that is incorrect or inadequate, or fails to respond to a request for relevant material after more than one notice of such request has been delivered.

Tax Ombud
The office of the Tax Ombud is an independent channel for addressing SARS service complaints. A taxpayer may approach the Tax Ombud only once all existing and prescribed complaint resolution mechanisms within SARS have been exhausted.

Taxpayers' rights
SARS must advise taxpayers of the status of any audit being conducted, and keep the taxpayer up to date with the progress of the audit at regular intervals.

Dispute resolution
If a taxpayer disagrees with any tax assessment, an objection may be lodged within 30 business days from the date of the assessment. Should the objection be unsuccessful, the taxpayer can appeal to the Tax Board or the Tax Court. A matter can also be dealt with by way of an alternative dispute resolution (ADR) process. A notice of appeal or ADR must be submitted within 30 business days from the date the objection is disallowed. If an objection or appeal is submitted late, adequate grounds must be provided to condone the late objection or appeal.

Penalties
Penalties are divided between non-compliance and understatement penalties. A fixed amount non-compliance penalty will apply when a taxpayer fails to comply with administrative provisions, e.g. not submitting a return on time. The penalty is calculated as follows and will be applied for each month that the non-compliance exists:

Assessed loss or taxable income for preceding year	Penalty
Assessed loss	R250
R0 – R250 000	R250
R250 001 – R500 000	R500
R500 001 – R1 000 000	R1 000
R1 000 001 – R5 000 000	R2 000
R5 000 001 – R10 000 000	R4 000
R10 000 001 – R50 000 000	R8 000
R50 000 001 – and over	R16 000

A percentage based penalty will apply when a taxpayer has not paid tax as and when required. These penalties vary between 10% and 20% depending on the type of tax involved.

An understatement penalty will apply where the incorrect amount of tax was paid due to a default, omission or incorrect statement in a return, failure to pay the correct amount of tax where no return is required or as result of an impermissible avoidance arrangement. The understatement penalty will be a percentage of the shortfall of the tax paid, according to the following table:

Behaviour	Standard case	Obstructive or repeat case	Voluntary disclosure after notification of audit	Voluntary disclosure before notification of audit
Substantial understatement	10%	20%	5%	0%
Reasonable care not taken in completing return	25%	50%	15%	0%
No reasonable grounds for position taken	50%	75%	25%	0%
Impermissable avoidance arrangement	75%	100%	35%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

No understatement penalty will be imposed if the taxpayer can show that the understatement resulted from a bona fide inadvertent error.

Voluntary disclosure
A taxpayer who approaches SARS to rectify any previous defaults will qualify for relief against penalties as per the table above. An application for VDP relief may not be made for a similar default within a period of 5 years.

GENERAL ANTI-AVOIDANCE PROVISIONS

The anti-avoidance provisions apply to schemes or arrangements entered into.

- Impermissible avoidance arrangements are those whose sole or main object is to obtain a tax benefit and are entered into in a manner not normally employed for bona fide business purposes, or lack commercial substance or create rights and obligations not normally created between persons dealing at arm's length.
- Consequences of such arrangements may result in the Commissioner disregarding, combining or recharacterising any steps of the arrangement, disregarding any accommodating or tax indifferent party, deeming connected persons to be a single person, or treatment of the arrangement as if it had not been entered into.
- Lack of commercial substance exists if the arrangement does not have a substantial effect on the business risks, utilises round trip financing or an accommodating or tax indifferent party and has elements that have the effect of offsetting or cancelling each other.
- Presumption of purpose of the arrangement as being one solely or mainly created to obtain a tax benefit by the Commissioner must be disproved by the taxpayer.

TRANSFER DUTIES

Transfer duty on immovable property
Transfer duty is payable on the acquisition of fixed property situated in South Africa, and is payable by the purchaser. In cases where the transaction will be subject to VAT no transfer duty will be payable.

The rate of transfer duty for natural persons and all legal persons (including companies, close corporations and trusts) from 1 March 2020 is:

0 – R1 000 000		0%	
R1 000 001 – R1 375 000		3% of value over	R1 000 000
R1 375 001 – R1 925 000	R11 250	+ 6% of value over	R1 375 000
R1 925 001 – R2 475 000	R44 250	+ 8% of value over	R1 925 000
R2 475 001– R11 000 000	R88 250	+ 11% of value over	R2 475 000
R11 000 001 and above	R1 026 000	+ 13% of value over	R11 000 000

The transfer of shares in a residential property company is subject to transfer duty as above. A residential property company is one that owns a dwelling house, holiday home, land zoned for residential use, other than apartment complexes, and where the fair value of the property is more than 50% of the total fair value of all other assets (other than financial instruments).

SECURITIES TRANSFER TAX (STT)

This tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities. The STT is calculated on the higher of the consideration paid or the market value of the security, and is payable by the purchaser. Securities consist of shares in companies or member's interests in close corporations.

FOREIGN EXCHANGE CONTROL

Regulations and restrictions in force as at 23 February 2022.

South Africa's exchange control system is in the process of being modernised. Proposals in line with the policy to modernise the capital flows management framework are included below.

Single discretionary allowance
Natural persons older than 18 years
Residents may transfer up to R1 million per calendar year without requiring a Tax Clearance Certificate.

This allowance may be utilised as follows:

- monetary gifts and loans to non-residents or residents temporarily abroad as defined;
- donations to missionaries abroad;
- maintenance transfers to family members;
- alimony and child support payments;
- wedding expenses or other special occasions;
- foreign investment and online foreign exchange trading activities;
- travel allowance;
- study allowance

Proof of above transactions should be retained. Applications in excess of R1 million are considered on a case by case basis.

Natural persons younger than 18
Such persons are entitled to a R200 000 allowance per calendar year.

Travel allowance
Individuals may use the single discretionary allowance to avail of a travel allowance, through an Authorised Dealer, subject to the following conditions:

- may not be used more than 60 days prior to departure;
- the traveller must present a valid passenger ticket when travelling by air, bus, rail or ship;
- foreign currency may be availed of in foreign currency notes or traveller's cheques;
- the allowance may be transferred abroad to the traveller's own bank account and/or a spouse bank accounts, but not into a 3rd party's bank account;
- minors travelling with parents, may have their travel allowances transferred to their parents' bank account abroad;
- any unused foreign currency must be resold to an Authorised Dealer within 30 days of returning to South Africa;
- business travellers travelling on recurring trips within 90 days may retain unused allowances for use during subsequent business trips;
- no more than R25 000 Rand denominated notes, per person, may be taken in addition to the travel allowance for immediate needs.

Foreign capital allowance
Natural persons

Taxpayers in good standing over the age of 18 may make foreign investments of R10 million per calendar year provided a Tax Clearance Certificate in respect of foreign investments is submitted. Income on such foreign investments does not need to be repatriated, but will be subject to tax in South Africa. Applications in excess of R10 million are considered on a case by case basis.

Companies
Foreign direct investments of up to R5 billion (prior to 23 February 2022: R1 billion) per calendar year may be made without approval.

Authorised Dealers are required to ensure that the investments are bona fide and to report the investments to FinSurv. The investments are not required to be in the same line of business as the applicant, though passive real estate investments are excluded from this dispensation. Companies are required to state how the investment is to be funded.

Foreign investments in excess of R5 billion per investment require FinSurv approval and have stringent reporting requirements. FinSurv also reserves the right to stagger the capital outflows so as to manage any potential impact on the foreign exchange market.

Dividends declared by the offshore subsidiary may be retained abroad. Net proceeds on the sale of a foreign investment must be repatriated.

Borrowings
Authorised Dealers of FinSurv must approve inbound foreign loans prior to the loans being made.

Maximum interest rates:

- Foreign denominated loans may not exceed the base rate + 2% or, in the case of shareholders, the base rate as set by the commercial banks in the foreign country;
- South African Rand denominated loans may not exceed prime overdraft rate + 3% or, in the case of shareholders, prime overdraft rate.

Companies, close corporations, foundations, trusts and partnerships having a non-resident interest of 75% or more are regarded as affected companies. These companies may not accept or repay loans from their

non-resident shareholders without approval from FinSurv. These companies are required to ensure that their local borrowings fall within the restrictions imposed by the local borrowings formula.

Emigration
Outflows of capital must be supported with a SARS issued tax clearance certificate. Applicants are required to disclose all assets and liabilities (local and foreign) and may as a result be subjected to scrutiny regarding the origin of the funds being exported. Certain retirement funds are subjected to a three-year rule, which effectively blocks funds from being exited from South Africa until such time as proof of foreign residency can be provided to SARS.

Immigrants
On arrival in South Africa, immigrants are required to make a declaration to SARB via an Authorised Dealer, disclosing their foreign assets undertaking that their foreign assets will not be placed at the disposal of a third party South African resident.

Immigrants may freely deal with their foreign assets and income.

Assets introduced into South Africa may be retransferred together with normal growth during first 5 years.

After 5 years the immigrant will be classified as a South African resident and qualify for foreign capital investment and emigration allowances.

Inheritances
Foreign assets inherited from a resident may, on application to FinSurv, be retained abroad provided that the assets were held abroad by the deceased in compliance with the provisions of the South African Exchange Control Regulations. Where it is disclosed that the foreign assets inherited were held by the deceased in a manner contrary to the provisions of the Regulations, an application for regularisation of such assets must be submitted via an Authorised Dealer to FinSurv.

The approval of the FinSurv to retain foreign inherited assets abroad will be subject to the condition that the foreign assets may not be placed at the disposal of other South African residents.

Loop structures
Loop structures, subject to certain restrictions, have been legalised. Corporates with authorised foreign assets may invest in South Africa through an offshore structure, subject to reporting of the transactions through an Authorised Dealer to FinSurv. The establishment of loop structures by the contribution of assets to an offshore entity are subject to FinSurv approval

Existing unauthorised loop structures created prior to 1 January 2021 will not be automatically regularised as a result of the changes to the exchange control rules. These structures must still be regularised with the FinSurv.

Residents temporarily abroad
A resident temporarily abroad may on departure and annually thereafter utilise the R1 million single discretionary allowance and the R10 million foreign capital allowance without returning to South Africa. Applications must be made to Authorised Dealers, a South African identity document, and in the case of the R10 million foreign capital allowance a tax clearance certificate, will need to be provided every 12 months.

Income earned abroad
Income earned abroad whilst a resident is working offshore may be retained abroad. Income earned abroad whilst a resident is present in South Africa must be repatriated to South Africa within 30 days.

Crypto Currencies
The SARB does not currently oversee, supervise or regulate crypto assets. Crypto assets are not legal tender in South Africa, so they may be legally refused as a means of payment. Crypto currencies are not guaranteed or backed by the SARB.

FinSurv will not approve any transactions in crypto currency. Individuals may purchase crypto assets from abroad using their single discretionary allowance and/or their individual foreign capital allowance of up to R10 million per calendar year, provided a tax clearance certificate is obtained.Certain inflows and outflows arising from the use of crypto currencies are restricted.

GLOBAL EXCHANGE OF INFORMATION

The Common Reporting Standard (CRS) is a global standard governing how tax authorities in participating tax jurisdictions share information about the financial assets and income of taxpayers.

The financial institutions that are required to report under the CRS include banks, custodians and other financial institutions such as brokers, certain collective investment vehicles and certain insurance companies.

Reportable accounts include those held by individuals and entities (including trusts and foundations), and the standard includes a requirement to look through passive entities to report on the individuals that ultimately control these entities.

All information relevant to the financial assets is required to be disclosed.

RETENTION OF RECORDS

Documents must be retained for a certain number of years, depending on the legislation. Below are the prescribed retention periods which commence from the date of the last entry in the record.

Close Corporations

Founding statement, (CK1 or CK2 and CK2A), minute books and resolutions passed at meetings	Indefinite
Accounting records, annual financial statements and report of the accounting officer	15 years

Companies

Registration certificate, Memorandum of Incorporation and alterations or amendments, rules, securities registers, register of company secretary and auditors	Indefinite
Notice and minutes of shareholders meetings, resolutions adopted, records of directors,minutes and resolutions of directors meetings, reports presented at the AGM, annual financial statements, accounting records.	7 years
Any other company records (if longer period is not specified in terms of another act)	7 years

Tax

Returns submitted	5 years

Capital gains tax

All records to date of sale including base costs and valuations, thereafter from date return lodged	5 years

VAT

Returns submitted and records supporting information disclosed therein, including invoices, debit notes, credit notes, bank statements, stock lists, paid cheques	5 years
Documents supporting zero rating of supplies	5 years

Employee records

Including records of remuneration paid, PAYE withheld, employee's income tax reference number, EMP501	5 years

Micro businesses

Records of income, dividends declared, assets owned and liabilities exceeding R10 000	5 years

Records may be retained electronically provided they can be reprinted.

INTEREST RATES

OFFICIAL INTEREST RATES

This is the minimum interest rate to be charged on loans to employees, shareholders or trusts to avoid triggering taxable fringe benefits, deemed dividends or deemed donations.

The official interest rate is linked to the repo rate: 100 basis points above the repo rate.

	Repo rate	Official interest rate
1 August 2020 to 30 November 2021	3.50%	4.50%
1 December 2021 to 31 January 2022	3.75%	4.75%
1 February 2022 to date	4.00%	5.00%

PRESCRIBED INTEREST RATES

These are the rates applicable to provisional tax overpaid, outstanding taxes and refunds of tax on successful appeals or certain delayed refunds.

Interest received is taxable, while interest paid to SARS is not deductible unless it represents a repayment of interest which was previously taxed.

Period	On provisional tax overpaid (Prescribed rate – 4%)	Overdue taxes and refunds (Prescribed rate)
1 September 2020 to 31 October 2020	3.25%	7.25%
1 November 2020 to 28 February 2022	3.00%	7.00%
1 March 2022 to date	3.25%	7.25%

PRIME OVERDRAFT RATES

Date of change	Rate
22 May 2020	7.25%
24 July 2020	7.00%
19 November 2021	7.25%
28 January 2022	7.50%

Produced by
Crowe Tax & Advisory JHB (Pty) Ltd

INDIVIDUAL TAX YEAR 2022/2023

MARCH

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

AUGUST

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

OCTOBER

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

NOVEMBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JANUARY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

PROVISIONAL TAX TIMETABLE

DATE	PAYMENT	WHO PAYS	TAX YEAR
28 February 2022	2nd Provisional Tax	Individuals	2022
	2nd Provisional Tax	February Companies	2022
31 March 2022	1st Provisional Tax	September Companies	2022
	2nd Provisional Tax	March Companies	2022
	3rd Provisional Tax	September Companies	2021
30 June 2022	1st Provisional Tax	December Companies	2022
	2nd Provisional Tax	June Companies	2022
	3rd Provisional Tax	December Companies	2021
31 August 2022	1st Provisional Tax	Individuals	2023
	1st Provisional Tax	February Companies	2023
30 September 2022	1st Provisional Tax	March Companies	2023
	2nd Provisional Tax	September Companies	2022
	3rd Provisional Tax	March Companies	2022
	3rd Provisional Tax	February Companies	2022
	3rd Provisional Tax	Individuals	2022
30 December 2022	1st Provisional Tax	June Companies	2023
	2nd Provisional Tax	December Companies	2022
	3rd Provisional Tax	June Companies	2022
28 February 2023	2nd Provisional Tax	Individuals	2023
	2nd Provisional Tax	February Companies	2023

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