Tuffias
SANDBERG

CHARTERED ACCOUNTANTS (SA)
REGISTERED AUDITORS

2011 / 2012

Budget summary & Financial information

Real People. Real Solutions.

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BUDGET PROPOSALS

Tabled by the Minister of Finance on 23 February 2011:

INDIVIDUAL TAX

Tax brackets
The tax brackets have been restructured to increase the tax threshold at which the maximum rate is reached to R580 000 (2011 – R552 000). Tax thresholds have been increased for persons under 65 to R59 750 (2011 – R57 000) and for persons 65 to 75 years to R93 150 (2011 – R88 528). An additional tax bracket is to be introduced for persons 75 and over reaching the tax threshold at R104 261.

Interest
Interest earned by natural persons under 65 is exempt up to R22 800 (2011 – R22 300) and persons 65 and over to R33 000 (2011 – R32 000). Foreign interest and dividends are exempt up to R3 700 (2010 – R3 700).

Medical scheme contributions
Monthly tax deductible contributions for a member and first beneficiary have increased to R720 (2011 – R670) and for each beneficiary thereafter to R440 (2011 – R410).

Lump sum on retirement
The tax free portion of a lump sum on retirement is increased to R315 000 (2011 – R300 000).

Rebates
A rebate of R2 000 has been introduced for persons over 75 years.

Gambling taxes
With effect from 1 April 2012, a final withholding tax of 15% on winnings above R25 000, including from the National Lottery, was proposed.

Capital Gains
The capital gains exclusion for individuals and special trusts has increased to R20 000 (2011 – R17 500). On death, the exclusion has increased to R200 000 (2011 – R120 000). On disposal of a small business by a person 55 years or older, the exclusion has increased to R900 000 (2011 – R750 000).

PBOs and recreational clubs
The annual trading income exemption is increased to R200 000 (2011 – R150 000) for PBOs and to R120 000 (2011 – R100 000) for recreational clubs.

Transfer duty
The transfer duty exemption threshold will be increased to R600 000 (2011 – R500 000).

Learnership allowances
It was proposed to extend the learnership incentives due to expire in September 2011 for a further five years.

Youth employment subsidy

It is proposed that a youth employment subsidy in the form of a tax credit will be introduced, administered through the PAYE system.

Dividend tax

Secondary tax on companies will be replaced by a dividend tax on 1 April 2012.

Micro businesses

From March 2011, the turnover tax for micro businesses with annual turnover up to R1 million will be adjusted (for tax) so that the tax only applies to turnover in excess of R150 000. The structure will also be revised.

From 1 March 2012 micro businesses that register for VAT will be permitted to register for turnover tax.

National health insurance

Government expects the NHI to be phased in over 14 years and is investigating funding by phasing in of a payroll tax, an increase in the VAT rate and a surcharge on individual's taxable income. Announcements will be made in the 2012 budget.

COMPANIES AND CLOSE CORPORATIONS

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

	2012	**2011**
Normal tax		
Companies and close corporations	28%	28%
Personal service companies	33%	33%
Foreign companies with South African activities	33%	33%
South African branches of foreign companies	33%	33%
Tax holiday companies – qualify under S37H	0%	0%
Small business corporations – per table (page 12)		
Micro businesses – on turnover per table (page 11)		
Secondary tax on companies (STC)		
Dividends declared	10%	10%

INDIVIDUALS

TAX TABLES

For the year ended 29 February 2012

R	R	
0 – 150 000		18% of income
150 001 – 235 000	27 000	+ 25% of income above 150 000
235 001 – 325 000	48 250	+ 30% of income above 235 000
325 001 – 455 000	75 250	+ 35% of income above 325 000
455 001 – 580 000	120 750	+ 38% of income above 455 000
580 001 and above	168 250	+ 40% of income above 580 000

For the year ended 28 February 2011

R	R	
0 – 140 000		18% of each R1
140 001 – 221 000	25 200	+ 25% of income above 140 000
221 001 – 305 000	45 450	+ 30% of income above 221 000
305 001 – 431 000	70 650	+ 35% of income above 305 000
431 001 – 552 000	114 750	+ 38% of income above 431 000
552 001 and above	160 730	+ 40% of income above 552 000

REBATES

	2012	**2011**
Primary	R10 755	R10 260
65 to 75	R6 012	R5 675
75 and over	R2 000	N/A

TAX THRESHOLDS

Below 65	R59 750	R57 000
65 to 75	R93 150	R88 528
75 and over	R104 261	N/A

EXEMPT INCOME

Total interest exemption including foreign interest		
Below 65	R22 800	R22 300
65 and over	R33 000	R32 000
Foreign interest and dividends	R3 700	R3 700
Awards for bravery and long service	R5 000	R5 000

Interest earned by non-residents not carrying on business in South Africa.

War and certain disability pensions.

Pensions received from sources outside South Africa.

Unemployment and Workmen’s Compensation benefits.

Bursaries are exempt from tax where:

- the bursary is granted to an employee who agrees to reimburse the employer for the bursary if the employee fails to complete his studies
- the bursary does not exceed R10 000 and is granted to a relative of an employee who earns less that R100 000 per annum.

DEDUCTIONS

Pension fund contributions

Greater of: R1 750, or
7,5% of income from retirement funding employment.

Retirement annuity fund contributions

Greater of: R1 750, or
R3 500 less current pension fund contributions deductable, or
15% of taxable income from non-retirement funding income, before deducting medical aid contributions and expenses, and before deductable donations.

Reinstated fund contributions are limited to R1 800, whilst excess contributions may be carried forward to the following year.

Medical and physical disability expenses

Over 65	All expenses
Under 65	Expenses in excess of 7,5% of taxable income plus the following monthly amount

	2012	**2011**
Taxpayer	720	670
First dependent	720	670
Each additional dependent	440	410

Medical expenses include the balance of the medical aid contributions plus 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

These are limited to 10% of taxable income before deducting medical expenses and donations provided they are made to organisations which issue receipts in terms of S18A. A detailed schedule of the types of organisations which qualify as public benefit organisations has been issued by SARS.

Home study expenses

A deduction will only be allowed if the study is used exclusively for trade, or where the income is derived mainly from commission and the duties are not carried out in an office provided by the employer, or where the employee carries on his duties mainly from the home study.

EMPLOYEE'S TAX

Pay as you earn (PAYE)

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.

SITE

SITE is a component of PAYE, and used to be a final deduction of normal tax from net remuneration up to R60 000. SITE is repealed from 1 March 2011. All taxpayers now have to be registered for income tax. Taxpayers earning less than R120 000 per year from a single employer do not need to submit a tax return.

The discontinuation of SITE will potentially result in an increased tax liability for some low-income taxpayers with more than one source of income. These taxpayers will qualify for a phasing-out relief that will decrease the tax payable on assessment. The phase-out relief will apply in the 2012 and 2013 years of assessment.

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. The payment of additional PAYE does not constitute a taxable fringe benefit in the hands of the employee.

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.

FRINGE BENEFITS

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 which is calculated on 0,3% of the ex VAT cost of the vehicle per month, where the VAT on the vehicle may not be claimed as an input.

Medical aid

Taxpayer contributions to medical schemes up to specified monetary threshold are tax deductible, as are qualifying out-of-pocket medical expenses. With effect from March 2012 the contributions and expenses will be converted into tax credits.

Low interest loans

The benefit arises on the difference in the official rate of interest and that charged to the employee on loans greater than R3 000. Study loans are excluded. Loans to directors and members arising from their shareholding or membership and not from employment are also excluded.

From 1 March 2011 the official rate is linked to the repo rate: 100 basis points above the repo rate for loans in Rands.

The official interest rate of interest over various prior periods was:

1 March 2009 – 31 May 2009	11%
1 June 2009 – 30 June 2009	9.5%
1 July 2009 – 31 August 2009	8.5%
1 September 2009 to 1 October 2010	8%
1 October 2010 to date	7%

Right of use of motor vehicle

From 1 March 2011 the monthly fringe benefit on all motor vehicles is 3.5% of the determined value.

The determined value is the cash cost including VAT, or the market value when the employer first obtained right of use in the case of a lease or donation.

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

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. A table has been issued to determine the fuel cost per kilometre based on the cost of the vehicle where this cost is borne by the employee.

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.

Travelling allowance

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

PAYE on 80% of the allowance is deductible 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 logbook must be kept detailing the business and total kilometres travelled.

The fringe benefit can be reduced on assessment for actual business travel expenditure. This is calculated using the ratio of business kilometres to total kilometres travelled and actual costs incurred or deemed costs as per the table below:

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 –	R60 000	19 492	64.6	26.4
R60 001 –	R120 000	38 726	68.0	29.2
R120 001 –	R180 000	52 594	71.3	31.9
R180 001 –	R240 000	66 440	77.7	35.0
R240 001 –	R300 000	79 185	87.0	44.7
R300 001 –	R360 000	91 873	93.9	54.2
R360 001 –	R420 000	105 809	100.9	65.8
R420 001 –	R480 000	119 683	113.1	67.6
exceeding	R480 000	119 683	113.1	67.6

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 R480 000.

Where total business travel for the year does not exceed 8 000 km the employee can opt to deduct a fixed rate of R3.05 per km from the travel allowance instead of using the table above, provided no other travel allowance is received.

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 R286 per day for meals and incidental costs or R88 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:

Australia	175	AU$
Botswana	799	PULA
Lesotho	750	ZAR
Namibia	660	ZAR
Swaziland	411	ZAR
United Kingdom	120	GBP
USA	157	US$

Broad-based employee share plan

This plan is defined as one in terms of which:

- equity shares are acquired at the minimum required by the Companies Act
- in which employees who participate in any other share equity plan cannot participate
- at least 80% of non-excluded employees are entitled to participate
- the shares have full voting rights
- no restrictions are placed on the disposal of the shares except at full market value or in terms of the rules of the plan for at least five years from date of the grant
- the market value of the shares acquired during a 5 year period in terms of this plan cannot exceed R50 000 per employee.

The gain made on the sale of the qualifying shares within 5 years from the date of the grant is taxable as income. Thereafter the gain is subject to CGT.

The employer may deduct up to R10 000 per year per employee

Equity instruments issued to directors and employees

Regulations are applicable to equity instruments acquired by virtue of employment or office.

Gains or losses are taken into account on the vesting of the equity instrument. 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

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, the 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. The costs must be reflected appropriately on the IRP5.

Other fringe benefits
Fringe benefits will arise from any free or cheap service, housing or residential allowances.

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.

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 commencing on 1 March 2004.

LUMP SUM BENEFITS

On retirement
From 1 March 2011 lump sum benefits received from an employer on retirement or retrenchment are added to lump sums received from funds and taxed accordingly.

Lump sum benefits from pension and retirement funds are limited to one third of the value of the fund, unless the remaining two thirds is equal to or less than R50 000. In effect, retirement fund values of R75 000 or less can be withdrawn as lump sum.

On retirement or death
A benefit received on retirement or death is taxed in terms of the following table:

For the year ended 29 February 2012

R	R	
0 – 315 000		0%
315 001 – 630 000		+ 18% of the amount above R315 000
630 001 – 945 000	56 700	+ 27% of the amount above R630 000
945 001 – and over	141 750	+ 36% of the amount above R945 000

For the year ended 28 February 2011

R	R	
0 – 300 000		0%
300 001 – 600 000		+ 18% of the amount above R300 000
600 001 – 900 000	54 000	+ 27% of the amount above R600 000
900 001 – and over	135 000	+ 36% of the amount above R900 000

On withdrawal, resignation or divorce

A benefit received on withdrawal, resignation or divorce is taxed in terms of the following table:

For the years ended 28 February 2009 and thereafter

R	R	
0 – 22 500		0%
22 501 – 600 000		+ 18% of the amount above R22 500
600 001 – 900 000	103 950	+ 27% of the amount above R600 000
900 001 – and over	184 950	+ 36% of the amount above R900 000

These tax rates are applied cumulatively to lump sum benefits received after 1 October 2007.

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

The taxpayer's own 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.

ESTATE DUTY

Estate duty is levied at 20% on the dutiable amount of the estate after taking into account an abatement of R3,5 million.

Where the person was at date of death the spouse of a previously deceased spouse, the estate duty abatement can be doubled and reduced by the amount of the abatement utilised by the pre-deceased spouse. This amendment applies to the estates of persons dying on or after 1 January 2010.

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 the surviving spouse. Benefits arising from pension funds, pension preservation funds, provident funds, provident preservation funds and retirement annuity funds are not included in the estate of persons dying on or after 1 January 2009.

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

TRUSTS OTHER THAN SPECIAL TRUSTS

Normal tax rate

For years ended 28 February 2003 to 2012	40%

No primary rebate or interest exemption

SPECIAL TRUSTS

Same rate as individuals.

No primary rebate or interest exemption.

Defined as one 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.

MICRO BUSINESSES

A turnover tax for micro businesses with an annual turnover of up to R1 million became effective from 1 March 2009.

The turnover tax is a substitute for income tax, CGT, STC and VAT and applies to sole proprietors, partnerships, close corporations, companies and co-operatives. The turnover tax is optional.

It is levied annually on the year of assessment ending in February. It includes two six monthly interim payments.

Turnover tax for years of assessment commencing after 1 March 2011

R	R	
0 – 150 000		0%
150 001 – 300 000		1% of the amount above 150 000
300 001 – 500 000	1 500	+ 3% of the amount above 300 000
500 001 – 750 000	7 500	+ 5% of the amount above 500 000
750 001 and above	20 000	+ 7% of the amount above 750 000

Turnover tax for years of assessment ending before 28 February 2011

R	R	
0 – 100 000		0%
100 001 – 300 000		1% of each R1 above 100 000
300 001 – 500 000	2 000	+ 3% of the amount above 300 000
500 001 – 750 000	8 000	+ 5% of the amount above 500 000
750 001 – 1 000 000	20 500	+ 7% of the amount above 750 000

If elected, the turnover tax will apply for at least 3 years unless the conditions for registration no longer apply. If deregistered the business cannot reregister for 3 years.

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

Micro businesses will be exempted from STC to the extent that dividends do not exceed R200 000. Any excess will be subject to STC.

The VAT threshold is R1 million with effect from 1 March 2009 and micro businesses registered for the turnover tax system will no longer be excluded from VAT registration.

COMPANIES AND CLOSE CORPORATIONS

NORMAL TAX

Normal companies

Close corporations are included in the definition of company and are taxed in the same way.

The normal tax rate for years ending on or after 31 March 2008 is 28%.

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 R14 million, no shareholder holds any interest in any other company during the year 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 R5000 in value (dormant entities)

Normal tax rate for years of assessment after 31 March 2011

On first R59 750	0%
From R59 751 to R300 000	10%
Thereafter	28%

Normal tax rate for years of assessment after 31 March 2010

On first R57 000	0%
From R57 001 to R300 000	10%
Thereafter	28%

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: 40% where the personal service provider is a trust and 33% 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 is 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 on 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/wages, legal expenses, bad debts, employer contributions to funds and expenses in respect of premises, finance charges, insurance, repairs & maintenance and fuel relating to assets used exclusively for the purposes of trade.

DIVIDEND

Dividend means any amount transferred or applied by a company for the benefit of any shareholder by virtue of any share held in the 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
- Buy back of participatory interest by a foreign collective investment scheme

Secondary Tax on Companies (STC)

Dividends declared on or after 1 October 2007 are subject to STC at 10%. The STC is paid on the amount by which the dividend declared is greater than the dividends received in the dividend cycle.

The dividend cycle is the period between dividend declarations – the earliest date being 1 September 1992.

The STC is payable by the end of the month following that in which the dividend is declared. Interest will be charged at the prescribed rate on late payments.

Deemed dividends
Benefits received by a shareholder of an unlisted share or person connected to the shareholder can be deemed as dividends for STC and include:

- cash or assets distributed for the benefit of the recipient
- release of recipient's monetary obligation to company
- settlement of recipient's obligation to third party
- amounts applied for the benefit of the recipient
- distributable reserves when the company ceases to be resident.
- loan or advance granted to the recipient

The above deeming provisions will not apply where the distributions are:

- remuneration due to recipient
- in excess of the reserves available for distribution
- loans subject to interest at a rate not less than the official rate
- loans in terms of normal loan scheme available to employees
- loans made to a trust to acquire shares in the company in terms of a share incentive scheme
- loans repaid before the end of the next financial year, not included in any subsequent loan and where this provision has not been applied by the company in any previous year of assessment
- loans made to a company within the same group of companies and the deemed dividend has been taken into account in the profits of the recipient company.

DIVIDENDS TAX

Dividends tax comes into effect on 1 April 2012, at which date STC will fall away.

Dividends tax will be levied at 10% of the amount of dividends paid and is payable by the beneficial owner of the dividend. The tax will be treated as a withholding tax; therefore the shareholder will receive the net amount after dividends tax.

Dividends tax will be applicable to:

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

The dividends tax will arise on payment of the dividend, unlike STC which arose on declaration.

Exemptions
The dividend would be exempt from dividends tax if the beneficial owner is a:

- South African resident company/close corporation
- Public benefit organisation
- Pension, provident or retirement annuity 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).

Value Extraction Tax (VET)

A new tax (VET) will replace the deeming provisions under the STC regime. The basic principles will remain unchanged, therefore if a distribution was a deemed dividend and subject to STC under the STC rules it will be subject to VET from 1 April 2012. VET will be charged at a rate of 10% of the value extracted from the company for the benefit of the shareholder.

STC credits

STC credits can be used for up to 5 years after 1 April 2012. A company with a STC credit on 1 April 2012 will be deemed to declare a dividend of nil, and therefore must submit a STC return to disclose the amount of the STC credit to SARS.

If a dividend is subsequently paid and no dividends tax needs to be withheld as a result of the STC credit the company must notify the shareholders how much of the STC credit has been used. If the company fails to give this written notice the dividend will be subject to the 10% dividends tax.

RESIDENCE BASED TAXATION

A resident is:

- a natural person ordinarily resident in South Africa
- a natural person who complies with the physical presence test
- 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 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 ceases to be a resident if physically absent from South Africa for 330 continuous days.

FOREIGN INCOME

All foreign income must be included in taxable income.

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 – currently 7%.

Investments

Interest, net rental income and income from unit trusts must be included in income. Individuals are entitled to R3 700 exempt income from foreign investments in the form of dividends or interest subject to a total exemption of R22 800 (over 65 – R33 000) including local interest.

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

Employment

South African residents who render services outside South Africa for a period which in aggregate exceeds 183 days commencing or ending during the period of assessment and for a continuous period exceeding 60 days during that 183 days period will not be subject to taxation on their remuneration for the period they are absent from South Africa.

Pensions

Pensions are included in gross income 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. Losses may not be set off against income earned in South Africa.

Foreign dividends

Foreign dividends received from a non-resident company, including deemed dividends, are taxable, except where:

- taxpayer holds more than 20% of the equity
- the company holds a listing in South Africa as well (a dual listed company)
- the company is a controlled foreign company (CFC) and the dividends do not exceed amounts deemed to be the resident shareholder's income under the CFC rules
- the profits from which the dividends were declared are taxable in the hands of the South African shareholder or arose from dividends declared by a resident company.

Interest is deductible where it is incurred in the production of foreign dividends to the extent that they are included in gross income. Excess interest paid must first be set off against any other exempt foreign dividends and the balance may be carried forward to the following tax year.

Withholding tax paid 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.

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

This does not apply if the taxpayer is a headquarter company in SA. 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.

Where the taxpayer holds between 10% and 20% of the participation rights and voting control, an election can be made to treat the investment as a CFC.

Headquarter companies

A headquarter company is a South African company of which:

- each shareholder holds at least 20% 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 20% of the equity is held by the headquarter company, and
- at least 80% of income is derived from foreign companies in which at least 20% of equity is held, or the income is derived from dividends, interest or royalties.

Dividends declared by headquarter companies are not subject to STC.

Dividends received from a headquarter company are treated the same as foreign dividends, and will not be subject to dividends tax when it comes into effect on 1 April 2012.

Interest paid on a loan from a non-resident is deductable, but the deduction is limited to interest earned from non-resident entities in which the headquarter company holds at least 20% of equity.

NON-RESIDENTS

Non residents are taxed on all income from a South African source.

Interest

Interest paid to non-residents is exempt from tax provided the taxpayer is physically absent from South Africa for 183 days and did not carry on a business and is not deemed to be ordinarily resident in South Africa.

Dividends

All South African dividends are exempt from tax.

Royalties

A withholding tax of 12% is levied on royalty payments subject to the International agreement in force.

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. 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:

5%	where the seller is a natural person
7,5%	where the seller is a company
10%	where the seller is a trust.

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

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 public benefit activities in the following categories, and meet all the qualifying conditions in each category:

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

Donations to public benefit organisations are exempt as follows:
Company donations limited to 10% of taxable income

Individual donations limited to 10% of taxable income before the deduction of medical expenses, excluding any retirement benefit lump sum.

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 R20 000 applies to both gains and losses during the person’s lifetime whilst R200 000 applies in the year the person dies.

Effective rate of tax

Taxpayer	*Capital gain included*	*Tax rate*	*Effective rate*
Natural person	25%	0 – 40%	0 – 10%
Special trust	25%	0 – 40%	0 – 10%
Other trusts	50%	40%	20%
Companies	50%	28%	14%
Small business corporation	50%	0 – 28%	0 – 14%
Employment companies	50%	33%	17%

Capital losses

Capital losses may not be set off against taxable income but must be carried forward for setoff 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 and assets of a permanent establishment and shares and options granted less than 5 years before.

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 on the day he becomes a resident, excluding immovable property and assets of a permanent establishment.

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 disposal is triggered when an asset ceases to be a non-personal use asset.

Debt reduction

If a debt is written off by a creditor the gain made by the debtor is a capital gain, unless the debtor and creditor are members of the same group of companies.

Proceeds on disposal of an asset

These comprise the amount received or accruing to the taxpayer or deemed to have been received or accrued. 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.

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. Only one third of the cost of holding listed shares or unit trusts may be added to the cost in arriving at the base cost. The costs which cannot be taken into account (unless they apply to business assets and are not deductible for normal tax) include borrowing costs, raising fees, rates and taxes and insurance.

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:

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

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 is disregarded, but any capital loss may be carried forward.
  If the proceeds exceed R2 million the first R1.5 million of the capital gain or loss calculated is disregarded.
- most personal use assets excluding gold or platinum coins, immovable property, aircraft exceeding 450kg, boat exceeding 10 metres in length, financial instrument, usufructuary or fiduciary interest which decreases over time
- lump sum benefits from pension, provident or retirement annuity funds
- long term assurance paid to original beneficiary, spouse, dependent or deceased estate
- small business (where assets do not exceed R5 million) up to R900 000 due to ill health or reaching the age of 55, subject to some conditions
- 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 in the same year are taxed in the beneficiary's hands.

Donations to trusts not vesting in beneficiaries are taxed in the hands of the donor.

PRIMARY RESIDENCE AMNESTY

Companies, close corporations or trusts whose sole asset is a domestic residence and who distribute the residence to the individuals that use it as their home, are not subject CGT, transfer duty and STC. This concession is available until 31 December 2012. The individuals must have been in residence on 11 February 2009.

For the amnesty to apply the company, close corporation or trust must take steps to liquidate, wind up or deregister within 6 months of the date of disposal.

The natural person is deemed to have acquired the residence at the same base cost and at the same time it was acquired by the company, close corporation or trust.

DONATIONS

Donations tax is payable on the value of any gratuitous disposal of property including disposals for inadequate consideration by a taxpayer.

Donations tax is payable at 20% within three months of the donation.

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.

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 R20 000, or if the total taxable income of the person will be below the tax threshold.

Natural persons over 65 years old, other than a director of a private company whose taxable income is less than R120 000 and who do not carry on business are exempt from provisional tax.

Basic amount
The basic amount is computed as:

- the taxable income according to the last assessment issued not less than 60 days before due date,
- 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.

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 if approved by SARS.

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

- 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.

The penalty may be 20% of the difference between the income disclosed and the actual taxable income if SARS is not satisfied that the estimate was seriously calculated or was not deliberately or negligently understated.

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 may be imposed as follows:

- 10% of amount not paid by due date for the late payment of provisional tax, or
- 20% of the under-payment on under-estimation of income, or
- 20% of the actual assessed tax less amounts paid on due date on late submission of the second provisional.

Interest 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.

Interest will be paid where the taxable income of an individual exceeds R50 000 and of company exceeds R20 000 calculated from six months after the year end at the prescribed rate. Interest is taxable in the year the assessment is raised.

PRESCRIBED INTEREST RATES

Period			Payable to taxpayer (taxable)	Payable by taxpayer (non-deductible)
01/03/2008	to	31/08/2008	10,0%	14,0%
01/09/2008	to	30/04/2009	11,0%	15,0%
01/05/2009	to	30/06/2009	9.5%	13.5%
01/07/2009	to	31/07/2009	8.5%	12.5%
01/08/2009	to	31/08/2009	7.5%	11.5%
01/09/2009	to	30/06/2010	6.5%	10.5%
01/07/2010	to	28/02/2011	5.5%	9.5%
01/03/2011			4.5%	8.5%

LEARNERSHIP ALLOWANCES

For years of assessment commencing on or after 1 January 2010 the allowance is as follows where an employer enters into a registered Learnership agreement with a learner:

- R30 000 (or R50 000 for learners with disabilities) for each year that the learner is registered for a learnership linked to the employer's trade. The allowance is apportioned for a part of the year if the learnership was not in place for the full 12 months, and

- in the year that the learnership is successfully completed, R30 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
- in the year that the learnership is successfully completed, R30 000 (or R50 000 for learners with disabilities) if the learnership is for a period of less than 24 months.

RESEARCH AND DEVELOPMENT

Research and development performed for the purposes of

- discovering novel, practical and non-obvious information of a scientific or technological nature or,
- creating any invention, patent, design or computer copyright or similar property of a scientific or technological nature

qualifies for incentive allowances whereby

- 150% of the operating expenses are deductible and
- capital expenditure is depreciated on a 50:30:20 basis.

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 disposed of, including date of acquisition, tax value in the previous tax year, the price on disposal or scrapping, the final written down value of the asset to 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 sets out write-off periods that are acceptable to SARS. The most common of which are:

Item	**No of years**
Air-conditioners (window type, moving parts only)	6
Aircraft (light passenger, commercial and helicopters)	4
Bulldozers, concrete mixers	3
Cellular telephones	2
Cinema equipment	5
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	5
Containers (stainless steel – transport of freight)	5

Item	No of years
Crop sprayers, fertilizer spreaders, harvesters, ploughs, seed separators	6
Curtains	5
Delivery vehicles	4
Demountable partitions	6
Dental and doctors’ equipment	5
Drilling equipment (water)	5
Drills, electric saws	6
Electrostatic copiers	6
Excavators	4
Fax machines	3
Fishing vessels	12
Fitted carpets	6
Fork-lift trucks, front-end loaders	4
Furniture & fittings	6
Gantry cranes	6
Graders	4
Grinding machines	6
Gymnasium equipment	10
Hairdressers’ equipment	5
Heating equipment	6
Laboratory research equipment	5
Lathes	6
Laundromat equipment	5
Lift installations (goods and passengers)	12
Mobile caravans	5
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
Refrigerated milk tankers	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
X-ray equipment	5

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

Urban development zone allowance
The capital allowances will apply until 31 March 2014 to buildings in an urban development zone.

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%.

An enhanced allowance will be considered for private developers who improve another party's land, subject to anti-avoidance measures.

Low-cost residential units qualify for higher allowances. A low-cost residential unit is a building whose cost does not exceed R200 000 or an apartment whose cost does not exceed R250 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 that the unit is new and unused, used solely for the purposes of trade, situated in the Republic and the taxpayer must own at least 5 residential units for the purposes of trade. The annual allowance until the cost is written off is 5% on normal units and 10% on low-cost units.

Special depreciation allowance
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
- aircraft and ships brought into use after 1 April 1995.

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

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.

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.

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.

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 three years.

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

RESTRAINT OF TRADE

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

LEASEHOLD IMPROVEMENTS

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

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

PRE-TRADE EXPENDITURE

Expenditure which would normally be deductible from income, actually incurred prior to the commencement and in connection with a specific trade can be deducted 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.

PRE-PRODUCTION INTEREST

Interest and finance charges incurred on borrowings raised for the acquisition, installation, erection or construction of machinery, plant, building, etc which are to be used in the taxpayer's trade may be deducted in the year in which the asset is brought into use.

VALUE ADDED TAX (VAT)

VAT is levied on the supply of most goods and services at 14%.

Registration
An enterprise whose turnover 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.

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 eFiled, 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.

OBJECTIONS AND APPEAL

If a taxpayer disagrees with any tax assessment, an objection may be lodged followed by an appeal to the Tax Board or the Tax Court.

Provision is also made for the matter to be dealt with by way of an alternative dispute resolution (ADR) process.

The process is as follows:

Receive assessment and lodge objection thereto within 30 days by way of ADR1 form, including the grounds for the objection. The Commissioner may condone a "late" objection in certain circumstances.

The Commissioner then has 90 days from the date of the objection to respond. He may allow, partially allow or disallow the objection.

The taxpayer may lodge an appeal against the decision by way of an ADR2 document within 30 days of the notice of disallowance. The lodging of an appeal does not take away the obligation to pay the assessed tax.

The matter can then be heard by the Tax Board and possibly followed by the Tax Court, or

- proceed directly to the Tax Court, or
- go to ADR and thereafter the Tax Board or Tax Court, if necessary.

The Income Tax Act governs the procedures for all the legal steps. At any of the stages, the parties may not accept the findings and proceed to the next level, until it reaches the Tax Court.

The final costly step in the process is for the matter to be heard by the Appellate Division of the High Court of South Africa, at which stage the decision is final and binding.

ADVANCE TAX RULINGS

A taxpayer may apply for an advance tax ruling from SARS to obtain certainty and clarity on the Commissioner's interpretation and application of the tax laws on proposed transactions. This ruling will be binding provided full and accurate disclosure has been made. It is proposed that this service will only be available to compliant taxpayers i.e. all tax returns must be submitted up to date and all outstanding taxes paid.

GENERAL ANTI-AVOIDANCE PROVISIONS

The anti-avoidance provisions apply to schemes or arrangements entered into on or after 2 November 2006.

- 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.

VOLUNTARY DISCLOSURE

A voluntary disclosure program (VDP) is effective from 1 November 2010 to 31 October 2011, whereby taxpayers may come forward to disclose their defaults and regularise their tax affairs. A default includes the following:

- Submission of inaccurate or incomplete information
- Failure to submit information
- Adoption of a tax position that was incorrect.

Individuals may also avail themselves of this dispensation to disclose unreported bank accounts overseas and to fully disclose untaxed revenue. The full amount of the tax will remain due, but will avoid the imposition of interest and certain penalties.

To be applicable, the default must have occurred before 17 February 2010 and complete disclosure must be made to SARS, who must not have been aware of the default, and penalty or additional tax would have been imposed if SARS had discovered the default.

The VDP applies to all taxes and therefore includes VAT, STC, UIF, SDL, transfer duty, estate duty etc.

A taxpayer who qualifies will receive the following relief:

- No criminal prosecution
- 100% relief for penalties & additional tax (except certain administrative penalties e.g. penalty for late payment)
- 100% or 50% relief for interest, depending on circumstances.

TRANSFER DUTIES

Transfer duty on immovable property

Natural persons and all legal persons (including companies, close corporations and trusts) on or after 23 February 2011

On first R600 000	0%
On R600 001 to R1 000 000	3%
On R1 000 001 to R1 500 000	5%
On amount above R1 500 000	8%

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.

ANNUAL RETURNS FOR COMPANIES AND CLOSE CORPORATIONS

Public and External Companies, Private and Incorporated Companies and Close Corporations are required to lodge annual returns. The due date is the last day of the month following the registration month.

These returns are lodged on the CIPRO website. Failure to comply will lead to deregistration which can only be reversed by lodging of the applicable return prior to the final deregistration notice.

FOREIGN EXCHANGE

The regulations and restrictions discussed below are in force as at 23 February 2011.

Residents

Residents (natural persons), who are over the age of 18 years may be permitted to avail of a single allowance ("general allowance") within an overall limit of R1 million per individual per calendar year, without the requirement to obtain a Tax Clearance Certificate.

Residents (natural persons) under the age of 18 years may only be accorded a travel allowance of up to an amount of R200 000 per calendar year.

Residents living abroad temporarily are permitted to export household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps and coins (excluding coins that are legal tender in the Republic) per family unit or single person within the overall insured value of R1 million.

New documentary evidence must be called for after one year, and thereafter on an annual basis.

Alimony payments may be made by Authorised Dealers on production of a court order. An amount of R9 000 per month over and above the amount awarded may be transferred.

Capital investments

Natural persons

Residents (natural persons) who are tax-payers in good standing and over the age of 18 years, are permitted to make foreign investments of up to R4 million per calendar year, but, prior to the transfer of any funds, a duly completed "TAX CLEARANCE CERTIFICATE (IN RESPECT OF FOREIGN INVESTMENTS)", issued by the South African Revenue Service, must be presented to the bank.

Companies
Foreign direct investments of up to R500 million per calendar year no longer require approval from the Financial Surveillance department. This applies to new foreign direct investments whereby a minimum of 10% voting right is obtained.

The Authorised Dealers are required to ensure that the investments are bona fide and to report the investments to the Financial Surveillance Department.

Audited financial statements of the target company and its subsidiaries are to be submitted annually to the Financial Surveillance Department.

Foreign dividends repatriated to South Africa may be retransferred abroad at any time and used for any purpose. Such funds may, not be utilised to fund investments or loans in South Africa for any purpose whatsoever via a loop structure. These funds may be invested in investments listed on the JSE Limited or the Bond Exchange of South Africa.

Emigration
Emigrants are required to complete an MP336 (setting out the details of their assets and liabilities) and to obtain written confirmation from the South African Revenue Services that their commitments have been met or that suitable arrangements have been made.

Emigrants are entitled to receive the general allowance mentioned if over 18 years of age, and R200 000 if under 18 years of age. They are also entitled to a foreign capital allowance of:

- single persons R4 million
- family unit R8 million.

On application remaining funds may be expatriated.

Household and personal effects, motor vehicles, caravans, trailers, motor cycles, stamps and coins with an insured value of R2 million may be exported.

Assets of emigrants are classified as "blocked" and documents giving title to assets must be lodged with the Authorised Dealer. Any cash balances remaining after all capital assets have appropriately dealt with, will be credited to a bank account with the Authorised Dealer which is designated as "blocked". These funds can be utilised locally for any purpose.

Where these funds are utilised for investment purposes, these investments must be held to the order of the Authorised Dealer.

The proceeds of mortgage bonds and/or mortgage bond participations which are part of the blocked assets may be reinvested in further bonds.

All securities, quoted and unquoted must be deposited with the Authorised Dealer and may not be released except for switching purposes, without the specific authority of the Financial Surveillance Department. Unquoted securities may only be switched to quoted securities.

The Financial Surveillance Department will consider applications to transfer liquid assets or quoted securities in excess of the foreign capital allowances.

Most income is eligible for remittance to an emigrant.

Income from the following sources is not eligible for remittance without approval of the Financial Surveillance Department:

- Inter vivos trusts; and
- a donation or gift received by emigrants within the last three years or a capital distribution from a trust inter vivos received within the last three years prior to date of departure.

Borrowings

Prior approval must be obtained for foreign loans (except in the case of headquarter companies) from Authorised Dealers or the Financial Surveillance Department, in the case of affected persons. This approval is also required for loan commitments arising from non-payment for imports and overseas services.

Companies (applies to close corporations, foundations, trusts and partnerships) having a non-resident interest of 75% are regarded as affected companies. These companies may not accept or repay loans from their non-resident shareholders without approval from the Financial Surveillance Department. These companies are required to ensure that their local borrowings fall within the restrictions imposed by the local borrowings formula.

Inheritances

Estate of South African resident

Cash bequests to non-resident beneficiary of a deceased estate of a South African resident may be remitted.

Securities inherited by non-resident are to be endorsed “Non-resident” and the proceeds on disposal are remittable.

Estate of non-resident

South African assets are freely remittable to non-resident beneficiaries.

Foreign assets inherited by residents from a non-resident estate do not have to be disclosed to an Authorised Dealer but are to be disclosed to the South African Revenue Service if and when applicable.

Immigrants

On arrival, immigrants are required to declare to an Authorised Dealer that they possess foreign assets and to undertake 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 South African resident and qualifies for foreign capital investment and emigration allowances.

RETENTION OF RECORDS

Below are the recommended retention periods which commence from the date of the last entry in the record.

Statutory Records	**Originals**
Memorandum and Articles of association, certificate to commence business, certificate of incorporation and change of name, founding statement, amended founding statement, minute books and notice of minutes.	Indefinite
Share registers, directors' attendance registers, directors' interests	15 years
Cancelled share certificates	12 years
Accounting records	
Books of prime entry, including cash books, creditors' ledgers, debtors' ledgers, fixed asset registers, general ledgers, journals, purchase and sales journals, subsidiary journals and ledgers	15 years
Vouchers, working papers, bank statements, costing records, creditors' invoices and statements, debtors' invoices and statements, goods received notes, journal vouchers, payrolls, purchase orders and invoices, salary and wage registers, VAT records, tax returns and assessments	5 years
Employee records	
Personnel records, payrolls, tax records	5 years
Capital gains tax	
All records to date of sale including base costs and valuations, thereafter from date return lodged	5 years

Records may be retained electronically provided they can be reprinted.

DTI INCENTIVES AND DEVELOPMENT FINANCE

The DTI offer various types of incentives to encourage investment. These include:

- S12i Income Tax allowance incentive introduced to support Greenfield projects (new projects, new manufacturing assets) and Brownfield projects (expansion of existing industrial projects). The support is for capital investment and training.
- The Automotive investment scheme provides a cash grant as an incentive to grow investment in technologically-advanced production.

- Enterprise Investment Programme which encompasses the Manufacturing Investment Programme and Tourism Support Programme.
- Export Marketing and Investment Assistance to assist with costs incurred to develop export markets and develop new foreign direct investment in South Africa.

More information about these and other incentives is available from the DTI website at http://www.dti.gov.za

FINANCING

The payment required for each R1 000 borrowed is as stated below. For example, a bond of R100 000 for 20 years at 10% is
100 x 9.65 = R965 per month.

Mortgage bond

Rate	**10 years**	**20 years**	**25 years**	**30 years**
8%	12.13	8.36	7.72	7.34
9%	12.67	9.00	8.39	8.05
10%	13.22	9.65	9.09	8.78
11%	13.78	10.32	9.80	9.52
12%	14.35	11.01	10.53	10.29
13%	14.93	11.72	11.28	11.06
14%	15.53	12.44	12.04	11.85

Short term finance – instalment credit and leases

Rate	**36 months**	**48 months**	**60 months**
8%	31.34	24.41	20.28
9%	31.80	24.89	20.76
10%	32.27	25.36	21.25
11%	32.74	25.85	21.74
12%	33.21	26.33	22.24
13%	33.69	26.83	22.75
14%	34.18	27.33	23.27
15%	34.67	27.83	23.79
16%	35.16	28.34	24.32
17%	35.65	28.86	24.85

FOREX RATES

	US$	UK£	€	AUS$
29/01/2010	7.5879	12.2712	10.6019	6.7797
26/02/2010	7.7859	11.8774	10.5589	6.9156
31/03/2010	7.3273	11.0686	9.8468	6.7024
30/04/2010	7.3263	11.2529	9.7374	6.8213
31/05/2010	7.6362	11.0709	9.3970	6.4641
30/06/2010	7.6492	11.5079	9.3562	6.5359
30/07/2010	7.3477	11.4779	9.5788	6.6050
31/08/2010	7.3763	11.3820	9.3543	6.5703
30/09/2010	6.9621	11.0552	9.4817	6.7431
29/10/2010	7.0269	11.1619	9.7246	6.8306
30/11/2010	7.1267	11.0909	9.3427	6.8587
31/12/2010	6.6224	10.2557	8.8339	6.7431
31/01/2011	7.1817	11.3912	9.7789	7.1378

PRIME OVERDRAFT RATES

Date of change		**Rate**
		%
2006	8 June	11.00
	3 August	11.50
	13 October	12.00
	8 December	12.50
2007	8 June	13.00
	17 August	13.50
	12 October	14.00
	7 December	14.50
2008	11 April	15.00
	13 June	15.50
	12 December	15.00
2009	6 February	14.00
	25 March	13.00
	4 May	12.00
	29 May	11.00
	14 August	10.50
2010	26 March	10.00
	10 September	9.50
	19 November	9.00

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