TAX GUIDE

2011 | 2012

ACCUMULO CONSULTING

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Registered Public Accountants and Auditors
Reg. No. 2004/003504/21

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SERVICES:

- Accounting
- Confidential Payroll
- Consulting
- Corporate Secretarial
- Corporate Taxation
- Individual Taxation
- IT and Technical

INDEX

IMPORTANT NOTE

The information contained in this Booklet is a summary of current legislation and budget proposals proposed by Minister Gordhan on the 23rd February 2011. We suggest that you do not act solely on material contained in this Booklet as the nature of the information contained herein is general and may in certain circumstances be subject to misinterpretation. In addition, the budget proposals may not include all legislative adjustments which could be made in the near future. Consequently we recommend that our advice be sought when encountering these potentially problematic areas. While every care has been taken in the compilation of this Booklet, no responsibility of any nature whatsoever shall be accepted for any inaccuracies, errors, or omissions.

The **primary rebate** is increased to R10 755 per year for all individuals. The secondary rebate, which applies to individuals aged 65 years and over, is increased to R6 012 per year. A **third rebate**, which applies to individuals aged 75 years and over, is introduced at R2 000 per year.

WEF 1 March 2011 the monthly monetary threshold for tax-deductible **contributions to medical schemes** will be raised from R670 to R720 for the first two beneficiaries, and from R410 to R440 for each additional beneficiary. The monthly deductions for contributions and out-of-pocket medical expenses will be converted into tax credits effective 1 March 2012.

WEF 1 March 2011, government will increase the **tax-free interest income** annual threshold from R22 300 to R22 800 for individuals below 65 years, and from R32 000 to R33 000 for individuals 65 years and over.

An employer's contribution on behalf of an employee to **retirement funds** will be deemed a taxable fringe benefit in the hands of the employee. Individuals will be allowed to deduct up to 22.5 per cent of their taxable income (a minimum annual deduction of R12 000 and an annual maximum of R200 000).

WEF 1 March 2011, government will increase the **tax-free lump sum benefit** upon retirement from R300 000 to R315 000.

WEF 1 March 2011 **capital gains tax** exclusion amounts increase as follows:

- For individuals and special trusts from R17 500 to R20 000 annually
- On death from R120 000 to R200 000
- On disposal of a small business when a person is over 55 years old from R750 000 to R900 000

Public Benefit Organisations annual trading income exemption will increase from R150 000 to R200 000, and for **recreational clubs** from R100 000 to R120 000.

With effect from 1 April 2012 all **gambling winnings** above R25 000, will be subject to a final 15 per cent withholding tax.

The **learnership tax incentive** will expire in September 2011. Government proposes to extend the incentive for five years, subject to review.

Government proposes to increase the **transfer duty** exemption threshold from R500 000 to R600 000. A rate of 3 per cent will be applicable to the value from R600 001 to R1 000 000; an amount of R12 000 plus 5 per cent to the value between R1 000 000 and R1 500 000; and an amount of R37 000 plus 8 per cent to amounts above R1 500 000. It will also be **applicable to legal persons** (close corporations, companies and trusts).

Micro Businesses tax rates will be adjusted from 1 March 2011 so that a micro business only becomes liable to pay turnover tax if its turnover exceeds R150 000 (currently R100 000) a year. From 1 March 2012, micro businesses that register for VAT will no longer be barred from registering for turnover tax.

The **voluntary disclosure programme** that began in November 2010 will remain open until 31 October 2011.

The new **dividends tax** is set to replace the secondary tax on companies from 1 April 2012.

The VAT and transfer duty nexus has resulted in the notional VAT input credit being delinked from the transfer duty payable, and the quantum of the notional VAT input credit being set equal to the tax fraction (14/114) of the lower of the:

- Selling price (consideration) payable for the property
- Open-market value of the property
- Current municipal value of the property
- VAT-inclusive acquisition price, including improvements, by the non-vendor selling the property

Total **fuel and road accident fund levies** increase by 18c per litre of petrol from 6 April 2011

National Health Insurance will be phased in over 14 years. Funding options under consideration are a payroll tax (payable by employers), an increase in the VAT rate and a surcharge on individuals' taxable income.

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

TAXABLE INCOME	RATES OF TAX
R0 – R150 000	+ 18% of each R1
R150 001 – R235 000	R27 000 + 25% of the amount above R150 000
R235 001 – R325 000	R48 250 + 30% of the amount above R235 000
R325 001 – R455 000	R75 250 + 35% of the amount above R325 000
R455 001 – 580 000	R120 750 + 38% of the amount above R455 000
R580 001 and above	R168 250 + 40% of the amount above R580 000

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 28 FEBRUARY 2011

TAXABLE INCOME	RATES OF TAX
R0 – R140 000	+ 18% of each R1
R140 001 – R221 000	R25 200 + 25% of the amount above R140 000
R221 001 – R305 000	R45 450 + 30% of the amount above R221 000
R305 001 – R431 000	R70 650 + 35% of the amount above R305 000
R431 001 – R552 000	R114 750 + 38% of the amount above R431 000
R552 001 and above	R160 730 + 40% of the amount above R552 000

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 28 FEBRUARY 2010

TAXABLE INCOME	RATES OF TAX
R0 – R132 000	+ 18% of each R1
R132 001 – R210 000	R23 760 + 25% of the amount above R132 000
R210 001 – R290 000	R43 260 + 30% of the amount above R210 000
R290 001 – R410 000	R67 260 + 35% of the amount above R290 000
R410 001 – R525 000	R109 260 + 38% of the amount above R410 000
R525 001 and above	R152 960 + 40% of the amount above R525 000

TAX REBATES
AMOUNTS DEDUCTIBLE FROM TAXES PAYABLE:

	2010	2011	2012
■ Primary	R9 756	R10 260	R10 755
■ Secondary (Persons 65 and older)	R5 400	R5 675	R6 012
■ Tertiary (Persons 75 and older)	–	–	R2 000

TAX THRESHOLDS
TAXABLE INCOMES ON WHICH NO TAX IS PAYABLE:

	2010	2011	2012
■ Below age 65	R54 200	R57 000	R59 750
■ Age 65 to below 75	R84 200	R88 528	R93 150
■ Age 75 and over	–	–	R104 150

Current pension fund contributions

The greater of –

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

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

Arrear pension fund contributions

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

Current retirement annuity fund contributions

The greater of –

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

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

Arrear retirement annuity fund contributions

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

Medical and disability expenses

- Taxpayers 65 and older may claim all qualifying expenditure
- Taxpayers under 65 may claim all qualifying medical expenses where the taxpayer or the taxpayer's spouse or child is a person with a disability.
- Other taxpayers under 65 may deduct monthly contributions to medical schemes up to R720 for each of the first two dependants on their medical scheme and R440 for each additional dependant. In addition they can claim a deduction for medical scheme contributions above the caps and any other medical expenses limited to the amount which exceeds 7,5% of taxable income (excluding retirement fund lump sums).

Donations

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income before deducting medical expenses (excluding retirement fund lump sums).

FRINGE BENEFITS

Travelling allowance

For the Tax year ending 2012

Rates per kilometre which may be used in determining the allowable deduction for business-travel, where no records of actual costs are kept.

WHERE THE VALUE OF THE VEHICLE IS (Including VAT)	FIXED COST R p.a.	FUEL COST c/km	MAINTENANCE COST c/km
0 – 60 000	19 492	64.6	26.4
60 001 – 120 000	38 726	68.0	29.2
120 001 – 180 000	52 594	71.3	31.9
180 001 – 240 000	66 440	77.7	35.0
240 001 – 300 000	79 185	87.0	44.7
300 001 – 360 000	91 873	93.9	54.2
360 001 – 420 000	105 809	100.9	65.8
420 001 – 480 000	119 683	113.1	67.6
exceeding 480 000	119 683	113.1	67.6

Note: *The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes for less than a full year.*

Alternative to the rate table:

- Where the distance travelled for business purposes does not exceed 8 000 kilometres per annum, no tax is payable on an allowance paid by an employer to an employee up to the rate of 305 cents per kilometre, regardless of the value of the vehicle.
- This alternative is not available if other compensation in the form of an allowance or reimbursement is received from the employer in respect of the vehicle.

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

Employer-owned vehicles:

- The taxable value is 3,5% of the determined value (the cash cost including VAT) per month of each vehicle. Where the vehicle is the subject of a maintenance plan at the time that the employer acquired the vehicle the taxable value is 3,25% of the determined value.
- 80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.
- On assessment the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes substantiated by a log book divided by the actual distance travelled during the tax year.
- On assessment further relief is available for the cost of licence, insurance, maintenance and fuel for private travel if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a log book.

Holiday accommodation *provided by employer*

Employee taxed on –

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

Subsistence allowances and advances

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

- meals and incidental costs, an amount of R286 per day is deemed to have been expended;
- incidental costs only, an amount of R88 for each day which falls within the period is deemed to have been expended

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

Residential accommodation

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

Interest-free or low-interest loans

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

Bursaries

Bursaries are exempt from tax where:

- the bursary is granted to an employee who agrees to reimburse the employer for the bursary if the employee fails to complete his studies
- the bursary is granted to a relative of an employee who earns less that R100 000 per annum and is limited to R10 000.

Retirement fund lump sum withdrawal benefits

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

- tax determined by applying the tax table to the aggregate of that lump sum X plus all other retirement fund lump sum withdrawal benefits accruing from March 2009 and all retirement fund lump sum benefits accruing from October 2007; less
- tax determined by applying the tax table to the aggregate of all retirement fund lump sum withdrawal benefits accruing before lump sum X from March 2009 and all retirement fund lump sum benefits accruing from October 2007.

Retirement fund lump sum benefits or severance benefits

TAXABLE INCOME	RATES OF TAX
R0 – R315 000	0% of taxable income
R315 001 – R630 000	18% of taxable income above R315 000
R630 001 – R945 000	R56 700 + 27% of taxable income above R630 000
R945 001 and above	R141 750 + 36% of taxable income above R945 000

- tax determined by applying the tax table to the aggregate of that lump sum Y plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009; less
- tax determined by applying the tax table to the aggregate of all retirement fund lump sum benefits accruing before lump sum Y from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009.

Provisional taxpayers are required to make two payments during a tax year. Provisional taxpayers with taxable income in excess of R50 000 per annum (Companies and Close Corporations: R20 000 per annum) must pay a third "top-up" payment to avoid interest.

Basic amount

The basic amount is computed as the taxable income of the latest preceding year of assessment increased by 8% p.a. if that assessment is more than a year old.

First provisional payment

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

Second provisional payment

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

- income less than R1 million – the estimate must be equal to 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.

3rd Provisional payment

The 3rd provisional payment is due 6 months after a taxpayer's year-end. In the case of a taxpayer with a February year-end, the "top-up" payment can be made by the end of September of every year.

Persons exempt from making provisional tax payment

- Natural persons under the age of 65 who do not carry on business and whose taxable income will not exceed the tax threshold or whose interest, foreign dividends and rental will not exceed R20 000.
- Natural persons over 65 years of age not carrying on a business with taxable income not exceeding R120 000.

Pay As You Earn (PAYE)

Any Employee's remuneration is subject to monthly deductions according to the **PAYE** tables.

- 80% of any travel allowance is subject to PAYE
- Payments made to directors of private companies (including members of close corporations) in respect of services rendered are subject to **PAYE**.
- **PAYE** should be withheld from remuneration paid to labour brokers/personal service providers.
- ANNUITIES from Annuity Funds are subject to **PAYE**.

Directors PAYE

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

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

divided by

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

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

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

Normal Taxation

Close corporations and companies are treated the same for tax purposes and are taxed at the South African normal company tax rate of 28%.

Companies that are classified as personal service providers are taxed at 33%. A small business corporation is a close corporation or private company (other than a personal service provider) of which:

- the entire shareholding or membership is held by natural persons;
- the gross income does not exceed R14 million during the year of assessment;
- none of the members, at any time during the year of assessment, held shares in any other company (other than listed companies, collective investment schemes, body corporates, shareblock companies, certain associations of persons, friendly societies and small interests in cooperatives) a company or corporation is a unused shelf company or in the process of liquidation);
- not more than 20% of the gross income and capital gains consists of investment income;
- if engaged in the provision of personal services, maintains at least three full-time employees (none of whom may be a shareholder or a connected person in relation to the shareholder) for core operations.

Secondary Tax on Companies

A company resident in South Africa is liable for Secondary Tax on Companies (STC) on dividends declared. STC of 10% is payable at the end of the month following the month in which the dividend was declared.

The new dividends tax is set to replace the secondary tax on companies from 1 April 2012.

TRUSTS

Various anti-avoidance provisions exist to combat the use of trusts for income splitting and tax avoidance schemes. These provisions work mainly on a basis whereby any income earned by the trust as a result of a donation, settlement, or other disposition made by a person ('the donor'), which is not distributed, is deemed to be the income of that donor and taxed in their hands. If income is distributed to beneficiaries who are minor children of the donor, the income is also taxed in the hands of the donor. Similar provisions exist in respect of capital gains made by or accrued to a trust.

Trusts are very important in estate planning and if properly planned, managed and controlled can act as a significant shelter against future estate duties. With the introduction of Capital Gains Tax, the effectiveness of the use of trusts in estate planning has been slightly negated, but with careful planning the impact of CGT can be reduced and even completely avoided.

Trusts are divided into two categories for tax purposes:

- Special Trusts
- All other Trusts

A special trust means a trust created solely for the benefit of someone who suffers from a mental illness as defined in the Medical Health Care Act, or any serious physical disability where such illness or disability prevents such person from earning sufficient income for their maintenance or from managing their own financial affairs. A special trust can also be created by way of a testamentary trust whereby beneficiaries of the testator who suffer from illness or physical disability as defined and where the youngest of the beneficiaries is on the last day of the year of assessment of that trust is under the age of 21 years.

The tax rates applicable to Special Trusts are the same as those applicable to natural persons, except that the primary rebate and interest and foreign dividend exemptions do not apply.

All other trusts are subject to an income tax rate of 40% and a capital gains inclusion rate of 50%

PERSONAL SERVICE PROVIDERS (PSP)

How to determine what qualifies as a PSP

- A service is provided by a company or trust
- If the services are rendered personally by any person who is a connected person.
- If the entity does not employ more than three full-time employees throughout the year of assessment, that are not connected persons.

Furthermore an affirmative response to at least one of the following would indicate that an entity is a PSP:

- The person who is rendering the service or the entity performing the duties would have been regarded as an "employee" of the client if the service was rendered directly to the client.
- is mainly at the premises of the client and subject to the control or supervision of the client
- More than 80% of the income of the entity stems from one client as defined

Where the responses are affirmative, the entity will be treated as a PSP and will be subject to employees' tax at the rate of 33% if it is a company and 40% if it is a trust.

TURNOVER TAX FOR MICRO BUSINESSES, FINANCIAL YEAR ENDING 29 FEB 2012

TAXABLE INCOME	RATES OF TAX
R0 – R150 000	+ 0% of taxable income
R150 001 – R300 000	+ 1% of the amount above R150 000
R300 001 – R500 000	R1 500 + 3% of the amount above R300 000
R500 001 – R750 000	R7 500 + 5% of the amount above R500 000
R750 001 and above	R20 000 + 7% of the amount above R750 000

Turnover tax for micro businesses is a simplified turnover based tax system substituting income tax, CGT, STC and VAT. The tax is an elective tax applicable to sole proprietors, partnerships, close corporations, companies and co-operatives. After joining the system, qualifying businesses are to remain in the system for a minimum of three years (provided they remain within the monetary threshold). Once a business has elected to migrate out of the system, it will not be able to migrate back for a period of three years. Personal services rendered under employment-like conditions and professional services are excluded.

PUBLIC BENEFIT ORGANISATIONS (PBO)

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

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

Donations to 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.

SMALL BUSINESS CORPORATIONS

Taxable income		Tax rates
2010	R0 – R54 200	Nil
	R54 201 – R300 000	10% of the amount above R54 200
	R300 001 and above	R24 580 + 28% of amount above R300 000
2011	R0 – R57 000	Nil
	R57 001 – R300 000	10% of the amount above R57 000
	R300 001 and above	R24 300 + 28% of amount above R300 000
2012	R0 – R59 750	Nil
	R59 751 – R300 000	10% of the amount above R59 750
	R300 001 and above	R24 025 + 28% of amount above R300 000

Rates applies if

- All shareholders throughout the year of assessment are natural people who hold no shares in any other private companies or members interest in any other close corporations (unless such company or corporation is a unused shelf company or in the process of liquidation)
- Gross income for the year does not exceed R14m
- Not more than 20% of the gross income consists collectively of investment income (annuity, interest, rental income, royalty, dividends, proceeds from marketable securities or immovable property) or from income from rendering a personal service (accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draughtsmanship, education, engineering, health, information technology, journalism, law, management, real estate broking, research, financial service broking, sport, surveying, translation, valuation, or vetenirary science, which is performed personally by any person who holds an interest in the company or close corporation except where such corporation employs three or more unconnected full time employees for core operations
- Corporation or company is not an employment entity.

The First schedule of the Income Tax Act regulates farming taxes. The most important sections are:

Valuation of livestock and produce

Only livestock and produce need to be brought into account, not fertiliser etc Livestock can be valued at standard values or the farmer may elect own values which may not differ more than 20% of standard values (once a value has chosen, it must be used consistently).

Purchases of livestock cannot create a loss because of using standard values. (ringfencing) This gross loss must be carried forward to the next year The values as per government gazette 5309 of 8 Oct 1976:

Cattle:	Bull R50, Ox R40, Cow R40
Tollies and Heifers:	1 – 2 years old R14, 2 – 3 years old R30
Calves	R4
Sheep	Wethers, Rams and Ewes R6, weaned lambs R2
Goats	Weaned Kids R2, Fully grown R4
Pigs	Under 6 months (weaned) R6, over 6 months R12
Poultry	over 9 months R1
Horses	Stallions over 4 years R40, Mares over 4 years and Geldings over 3 years R30, Colts and fillies 3 years R10, Colts and fillies 2 years R8, Colts and fillies 1 year R6, Foals under 1 year R2
Donkeys	Jacks and Jennies over 3 years R4, Jacks and Jennies under 3 years R2
Mules	4 years and over R30, 3 years R20, 2 years R14, 1 year R6
Ostriches	fully grown R6
Chinchillas	all ages R1

Capital development expenditure

Expenditure not restricted to taxable income from farming:

- Eradication of noxious plants and prevention of soil erosion

Expenditure restricted to taxable income from farming

- Dipping tanks
- Dams irrigation schemes, boreholes and pumping plants
- Fences
- Additions, erection of, extensions and improvements to farm buildings (including farm schools and domestic buildings of employees, not related to the farmer or shareholders, but limited to a maximum of R6 000 per employee and recouped if a non-employee takes occupation)
- Costs of establishing the area for and the planting of trees, shrubs and perennial plants
- Carrying of electric power from main power lines to farm machinery and equipment

Special depreciation allowance:

Machinery, implements, utensils and articles for farming purposes are written off over three years on a 50:30:20 basis. This does not apply to motor vehicles used to convey passengers, caravans, aircraft (excluding crop-spraying aircraft) or office furniture and equipment.

Rating formula

Because a farmers income fluctuates from year to year, he may elect to be taxed in accordance with a rating formula. The farmer is taxed on the average taxable income in the current and preceding four years (losses are taken into account). After election he is bound to the same rating in future and he is not entitled to make use of provisions relating to government livestock reduction schemes, rating formula for plantation farmers and provisions relating to sugar cane farmers. Special arrangements are applicable in the event of the first year of farming, where taxable income comprises 2/3rds of actual farming income.

Other

Special provisions exist for forced sales in the event of drought, disease, plague or fire, special drought relief schemes, plantation farming and sugar cane farming.

CGT is payable on the **disposal** of **assets** that take place on or after valuation date, i.e. 1 October 2001; in the case of South African residents, the tax will apply to disposals of all assets (including overseas assets); in the case of **non-residents**, the following assets will be subject to CGT:

- immovable property, or any right or interest in a property (this includes a direct or indirect interest of at least 20% held alone or together with any connected person in the equity share capital of a company, where at least 80% of the value of the net assets of the company is, at the time of the disposal, attributable to immovable property in SA); and
- any asset of a permanent establishment through which a trade is carried on in SA;

A capital gain or loss is determined by calculating the difference between the proceeds i.e. the amount accruing to the seller, and the base cost of the disposed asset; base cost relates to the costs directly incurred in acquiring or improving the asset.

Calculation of CGT

A capital gain or loss is calculated separately in respect of each asset disposed; once determined, gains or losses are combined for that year of assessment; an annual exclusion of R20 000 (previously R17 500) is applicable, in respect of natural persons only, to the sum of all gains and losses (R200 000 (previously R120 000) in the year of death of the person); the resulting capital gain or loss (if not specifically excluded, disregarded or deferred) is aggregated with all other gains or losses in the current tax year, and if it is;

- an assessed capital loss, it is carried forward to the following year, or
- a net capital gain, it is multiplied by the inclusion rate (see table on pg 48).

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

VALUE ADDED TAX (VAT)

The VAT system comprises three types of supply:

- standard-rated supplies – supplies of goods and services subject to the VAT rate in force at the time of supply (currently 14%)
- exempt supplies – supplies of certain services not subject to VAT. Vendors making exempt supplies are not entitled to input credits
- zero-rated supplies – supplies of certain goods or services subject to VAT at zero percent.

Key features

- Enterprises with a turnover of less than R1 000 000 in any period of 12 months are not obliged to register for VAT;
- enterprises with a turnover of less than R50 000 in any period of 12 months are not permitted to register for VAT;
- VAT returns are generally submitted on a 2 monthly basis unless turnover in any period of 12 months exceeds R30 million, in which case returns are submitted monthly;
- farmers may submit VAT returns on a 6 monthly basis and property letting companies may, subject to certain requirements, submit annual VAT returns;
- businesses with turnover of less than R1,5 million may apply to submit returns quarterly, i.e., once every 3 months;
- a vendor is legally obliged to notify SARS as soon as annual turnover exceeds or is expected to exceed R30 million;
- vendors may reclaim the VAT element of all expenditure except on:
  - entertainment, except qualifying subsistence;
  - passenger vehicles (including hiring); and
  - club subscriptions.
- input tax credits may not be claimed on expenditure relating to exempt supplies;
- input tax credits may only be claimed upon receipt of a valid tax invoice;
- the name, address and VAT registration number of the recipient must appear on tax invoices where the VAT inclusive total exceeds R3 000.

CAPITAL INCENTIVE ALLOWANCES

ASSET TYPE	CONDITIONS FOR ANNUAL ALLOWANCES	ANNUAL ALLOWANCES
Industrial Buildings	Cost of erection of buildings or improvements, provided building is used wholly or mainly for carrying on a process of manufacture or similar process	Either 2%,5%, or 10% depending on date cost incurred
Commercial & Residential Buildings in Designated Urban Areas	Refurbishment of existing building	20%
	Construction of new building before 21 October 2008	20% in 1st year 5% in each of 16 subsequent years
	Construction of new building after 21 October 2008	20% in 1st year 8% in each of 10 subsequent years
Hotel Buildings	Cost of portion of erection or improvements, provided registered as a hotel Refurbishments which commenced on or after 17 March 1993	5% 20%
Commercial Buildings	Cost of erecting any new and unused building wholly or mainly used for the purpose of producing income in the course of trade. Applies to the costs of new and unused improvements to existing buildings on or after 1 April 2007	5%
Aircraft	Must be used for purposes of trade	20%
Ships	Must be used for purposes of trade	20%
Plant & Machinery	New or unused manufacturing assets acquired on or after 1 March 2002 will be subject to wear and tear allowances over four years	40% in 1st year 20% in each of the 3 subsequent years

Plant & machinery (small business corporations only)	New and unused plant or machinery brought into use on or after 1 April 2001 and used by the taxpayer directly in a process of manufacture	100% of cost
Residential Units	Before 21 October 2008 Building projects erected on or after 1 April 1982 but before 21 October 2008 consisting of at least five units of more than one room intended for letting, or occupation by bona fide fulltime employees	2% of cost and an initial allowance of 10% of cost
	After 21 October 2008 New & unused units, acquired, erected or improved, situated in South Africa, owned & used by the taxpayer for the purposes of a trade he carries on. At least five units must be owned	Normal Unit 5% Low Cost unit 10%* *a building not exceeding cost of R200 000 or an apartment not exceeding a cost of R250 000

LEARNERSHIP ALLOWANCES

WEF 1st January 2010 a commencement and completion allowance of R30 000 was introduced, without any reference to the learner's remuneration. The deduction claimable for disabled learners will be set at R50 000 for both commencement and completion allowances. Commencement allowances are claimed pro rata where terminated before 12 months.

Where a learnership is terminated before a period of 12 full months the initial employer will be entitled to a pro rata portion of the commencement allowance, regardless of the reason for the termination of the learnership. The completion allowance for a multiyear learnership will be based on the number of years duration of the apprenticeship × R30 000.

RESIDENCE BASED TAX

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

Definition of Resident

Natural Person

- any natural person who is ordinarily resident in South Africa; or
- any natural person who is not ordinarily resident in South Africa but who:
  - is physically present in South Africa for a period exceeding 91 days in aggregate during the current year of assessment and for a period exceeding 91 days in aggregate during each of the prior 5 years of assessment; and was physically present in South Africa for a period exceeding 915 days in aggregate during the previous 5 years of assessments.
  - Where a person has been outside of South Africa for a continuous period of at least 330 full days after he ceases to be physically present in South Africa, he will be deemed to not have been resident in South Africa from the day that he ceased to be physically present in the country.
  - South African resident employees who render services for any employer outside South Africa for a period which in aggregate exceeds 183 full days commencing on or ending during a period of assessment, and for a continuous period exceeding 60 full days during such 183 day period, will not be liable for income tax on their remuneration for the period that they are outside South Africa.

Companies

A company will be considered to be resident in South Africa for tax purposes if it is incorporated, established, formed or has its place of effective management in South Africa.

Controlled Foreign Companies (CFC)

A Controlled Foreign Company (CFC) means any foreign company where more than 50% of the total participation rights in that foreign company are held or more than 50% of the voting rights in that foreign company are directly or indirectly exercisable by one or more residents. South African residents must impute all income of a CFC in the same ratio as the participation rights of the resident in such a CFC, subject to a number of exclusions. Net income of the CFC is defined as the CFC's taxable income determined as if the CFC is a South African taxpayer.

Foreign Dividends

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

Foreign dividends are exempt in the following instances:

1. If paid out of income taxed in South Africa.
2. If declared by a company listed in South Africa and a foreign exchange
3. If paid out of the profits of a foreign company if the profits of the foreign company have been included in the South African shareholders income.
4. If received by a resident who holds at least 20% of the equity shares and voting rights in the foreign company

Foreign Tax Credits

Residents are allowed to deduct all foreign taxes paid in respect of foreign income from the tax payable in South Africa on the total amount of such foreign income. Any excess credits may be carried forward.

Foreign Capital Investments

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

Emigration limits

Foreign Capital Allowance

Single Person – R4 000 000(previously R2 000 000)
Family Unit – R8 000 000(previously R4 000 000)
Note that these capital allowances are reduced by the Foreign Capital Investments

Household & Personal Effects, Motor Vehicles, Stamps, Coins & Kruger Rands
R2 000 000

Single discretionary allowance

Residents (natural persons), who are over the age of 18 years may be permitted to avail of a single allowance within an overall limit of R1 000 000 (previously R750 000) per individual per calendar year, without the requirement to obtain a Tax Clearance Certificate, to cover the following discretionary allowances:

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

This discretionary allowance is in addition to the existing R4 000 000 (previously R2 000 000) individual foreign capital allowance.

Study allowances

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

NON-RESIDENTS

Non-residents may invest in the Republic, provided that suitable documentary evidence is received in order to ensure that such transactions are concluded at arms length, at fair market-related prices, and are financed in an approved manner subject to exchange control approval.

Capital Transactions

Proceeds from the sale of assets in South Africa, owned by non-residents (excluding emigrants), may be remitted abroad.

Dividends

Dividends declared by quoted companies out of income earned are remittable to non-resident shareholders. An emigrant shareholder will be entitled to dividends declared out of income earned after the date of emigration. Dividends declared by non-quoted companies are remittable in proportion to percentage shareholdings, subject to certain restrictions. Dividends in favour of emigrant shareholders may be remitted subject to additional requirements.

Fees

Authorised dealers may transfer directors fees to nonresident directors permanently domiciled outside South Africa, provided the application is accompanied by a copy of the resolution of the board of the remitting company, confirming the amount to be paid to the beneficiary. Requests for payment of management and administration fees are considered on merit and may not be calculated on the basis of a percentage of turnover, income, sales or purchases.

ESTATE DUTY

The general rule is that if the taxpayer is ordinarily resident in the Republic at the time of death, all of his assets, wherever they are situated, will be included in the gross value of his estate for the determination of duty payable thereon.

The dutiable amount is arrived at as follows:

■ Value of all property at date of death (including limited interests such as usufructs)	R ....
■ Deemed property	R ....
■ Gross value of property	R ....
■ Deductions	R ....
■ Net Value of Estate	R ....
■ Abatement	R ...(3 500 000)...
■ Dutiable Estate (A)	R ....
■ Estate Duty 20% of A	R ....

Deemed property includes: Insurance Policies on the life of the deceased as well as property that the deceased was competent to dispose of immediately prior to his death.

The most important deductions are:

- Debts due at date of death
- Bequests to various charities
- Bequests to a surviving spouse

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

There is relief from Estate Duty in the case of the same property being included in the estates of taxpayers dying within 10 years of each other. The deduction is calculated on a sliding scale varying from 100% where the taxpayers die within 2 years of each other and 20% where the deaths are within 8 years of each other.

DONATIONS TAX

Donations Tax is payable by any individual living in the Republic of South Africa, or any South African company or one managed or controlled in the Republic, on the value of any gratuitous disposal of property including the disposal of property for inadequate consideration and the renunciation of rights.

Principal exemptions:

1. Donations between spouses.
2. Donations to charitable, ecclesiastical and educational institutions, and certain public bodies in the Republic of South Africa limited to certain thresholds.
3. Donations by natural persons not exceeding R100 000 per year.
4. The donation of assets situated outside the Republic, subject to certain conditions
5. Donations by companies not considered to be public companies up to R10 000 per annum
6. Donations where the donee will not benefit until the death of the donor
7. Donations made by companies which are recognised as public companies for tax purposes
8. Donations cancelled within six months of the effective date
9. Property disposed of under and in pursuance of any trust
10. Donations between companies forming part of the same group of companies

Rates:

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

RING-FENCING OF ASSESSED LOSSES (section 20a)

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

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

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

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

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

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

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

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

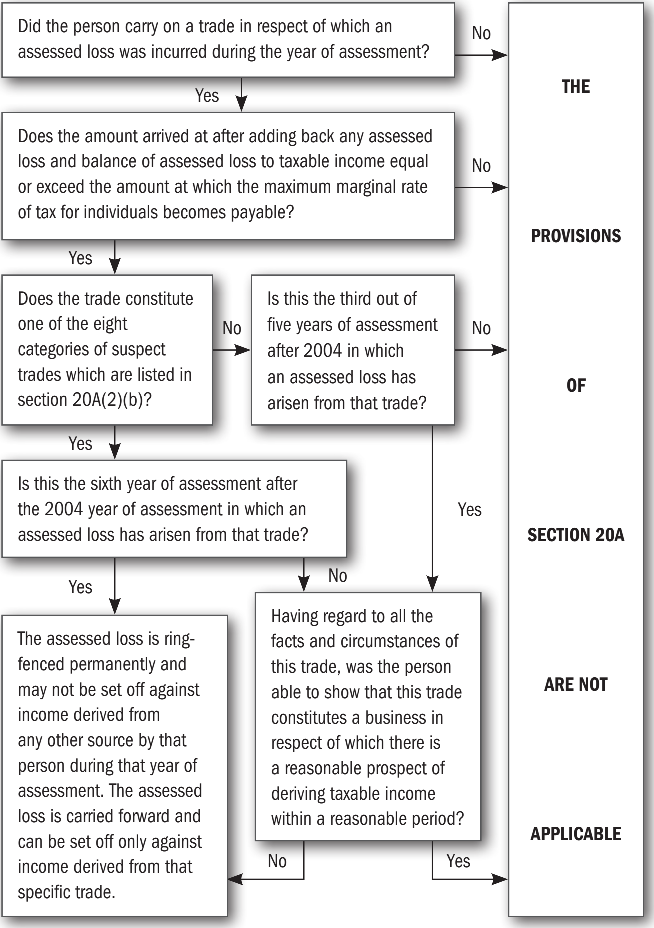
(vi) farming or animal breeding, unless that person carries on farming, animal breeding or activities of a similar nature on a full-time basis;

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

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

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

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



DIVIDENDS TAX

Dividends tax will replace STC and will come into effect from 1 April 2012.

- The tax will be levied on shareholders at a rate of 10% on any dividend paid by a resident company
- The tax is withheld by the company declaring the dividend
- Unutilised STC credits must be utilised within five years of the changeover to the dividends tax system.

Shareholder Exemptions

- SA companies
- the Government and various quasi government institutions
- Public Benefit Organisations
- Environmental rehabilitation trusts
- Pension, provident and similar funds
- Medical Schemes
- The first R200 000 of dividends paid during a particular year of assessment to shareholders of a registered micro business,

Anti Avoidance Measure

Value extraction tax (VET) is a separate tax levied on the company and not the shareholder. This arises only in respect of South African resident companies seeking to extract value without declaring dividends and is calculated at 10% of the value extracted and is applicable in the following circumstances where the company:

- provides low interest loans or advances to a shareholder or connected person,
- releases or relieves any shareholder or connected personfrom an obligation measurable in financial terms
- expunges a loan owed by a shareholder or connected person to a third party
- ceases to be a South African resident

In his Budget Speech of 17 February 2010, the Minister of Finance announced a VDP to run from November 2010 to October 2011. The VDP is a window of opportunity for individuals and/or corporate entities to disclose and regularise their tax and/or exchange control affairs.

With regard to the Tax VDP, successful applicants will be granted relief in terms of reduced interest and penalties, while the Excon VDP will offer successful applicants administrative relief. In both cases, successful applicants may also avoid possible criminal prosecution. The Excon VDP offers an opportunity to South African residents (including former South African residents) to regularise their exchange control affairs by making a voluntary disclosure to the FinSurv (previously known as the "Exchange Control Department") of contraventions of the provisions of the Regulations, and which contraventions include the direct and/or indirect ownership of any unauthorised foreign asset(s) and/or structure(s) of whatever nature, excluding bearer instruments.

Who may apply for relief under the VDP

Tax VDP

Any person may apply, whether in a personal, representative, withholding or other capacity, for defaults on all types of tax administered by SARS prior to 17 February 2010.

Excon VDP

- Individual(s), sole proprietor(s), partnership, deceased estate(s), insolvent estate(s), South African trust(s), former South African residents, companies and close corporations that have contravened the Regulations, prior to 28 February 2010; and
- South African residents who took funds offshore illegally and/or who beneficially own any unauthorised foreign assets and/or structures (of whatever nature, excluding bearer instruments) may apply to the FinSurv (VDP Division).

Note: For the purpose of determining whether a person is a resident for exchange control purposes, the nationality or citizenship of that person is irrelevant.

Carbon Tax

Carbon dioxide vehicle emissions tax

New passenger cars will be taxed based on their certified CO2 emissions at R75 per g/km for each g/km above 120 g/km. This emissions tax will be in addition to the current ad valorem luxury tax on new vehicles.

Proposed Greenhouse Gas emissions Tax

The national treasury has released a discussion paper for public comment.

The development of a carbon tax policy will be informed by the following considerations:

- In the absence of an international climate change agreement and a global emissions pricing system, a partial, rather than full, internalisation of the externality should be targeted as an interim measure.
- While a carbon tax based on measured and verified emissions is preferred, a proxy tax can be considered and levied according to the carbon content of fossil fuels (i.e. a fuel input tax). A tax of R75 per ton of CO2 and with an increase to around R200 per ton CO2 (at 2005 prices) would be both feasible and appropriate to achieve the desired behavioural changes and emission reduction targets.
- The carbon tax should be introduced at a modest rate, which will increase over a set time period, giving taxpayers an opportunity to adjust to the new tax.

"Environmental" Deductions/allowances

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

Transfer duty:

- is calculated on the value of the immovable property (purchase price or market value whichever is the highest);
- will be exempted when the seller is a registered VAT vendor;
- where a registered vendor purchases property from a non-vendor, the VAT is claimable as detailed on page 3.
- certain exemptions apply to unbundling of corporate structures;
- the acquisition of a contingent right in a trust that holds a residential property or the shares in a company or the member's interest in a close corporation, which owns residential property, comprising more than 50% of its assets, is subject to transfer duty at the applicable rate;
- the purchaser of the shares or members interest will be liable to pay transfer duty;
- liabilities of the entity to be disregarded when calculating the fair value of the contingent right in the trust, the shares in the company or the member's interest in the close corporation;
- any person who does or omits to do anything with the intent to evade transfer duty may be charged with additional duty up to twice the amount of duty payable. Such person is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 60 months;

Transfer duty is calculated as follows:

R0 – R600 000	0%
R600 001 – R1 000 000	3% of the value above R600 000
R1 000 001 – R1 500 000	R12 000 plus 5% of the value over R1 000 000
R1 500 001 and above	R37 000 plus 8% of the value over R1 500 000

This section deals with certain CGT, STC, and transfer duty relief measures that apply to the acquisition by a natural person of a residence from a company, CC or trust.

Paragraph 51 of the Taxation Laws Amendment Act, 2009

- applies to the disposal of a residence by a company, CC or trust on or after 11 February 2009 but no later than on or before 30 September 2010,
- will apply to residences acquired under contracts signed on or before 30 September 2010, which are not subject to suspensive conditions at that date;
- If a disposal of a residence is subject to suspensive conditions which are only fulfilled after 30 September 2010, the disposal must be addressed under Para 51A.

Key provisions of Para 51

The residence must be a primary residence:

a) in which a natural person or a special trust holds an interest; and

b) which that person or a beneficiary of that trust or spouse of that person or beneficiary –

   i) ordinarily resided or resided in his or her main residence; and

   ii) uses or used mainly for domestic purposes

This relief is not available if:

- The residential property is:
  - held in a company, and the shareholder is a family trust (see item B below);
  - held in an ordinary trust and the acquisition of such property was financed by the trust obtaining a mortgage bond in its name, and it (the trust) services the bond out of its own means.[Note: where the bond is in the trust's name yet serviced by the individual seeking the exemption i.e he/she paid the instalments in full, the relief may be available];

The relief is available if:

A. A natural person alone or together with his/her spouse ordinarily resided in that residence and used it mainly for domestic purposes as his or her ordinary residence- holiday homes or vacant plots are thus not included (unless adjacent to primary residence and not exceeding 2 hectares in extent);

B. If held in a CC, company, or ordinary trust, the natural person alone or together with his or her spouse, must directly hold all the equity share capital in that entity;

C. Where held in trust, the natural person (must have disposed of that residence to the trust by way of donation, settlement or other disposition OR made all the funds available that enabled the trust to acquire and maintain the residence (unless that person is married in community of property, then the property may be transferred to both spouses jointly);

D. the total portion of land to which the exemption will apply may not exceed 2 hectares.

Paragraph 51A of the Taxation Laws Amendment Act, 2010

The new relief measure came into operation on 1 October 2010, and applies to the acquisition of a residence on or after that date, and before 1 January 2013.

Criteria required in order to qualify for relief:

- The property should have been used mainly for domestic purposes during the period commencing 11th February 2009 and ending on the date of disposal – on or before 31 December 2012, by one or more natural persons who ordinarily resided in that residence during that period. Such natural persons are required to be “connected persons” in relation to the company, CC or trust, in other words the property should have been used by the individual shareholder, his or her relatives (or relatives connected to a trust) during the window period;
- Within a period of six months commencing on the date of the disposal:
  - In the case of a trust making the disposal, the founder, the trustees and the beneficiaries of that trust must have agreed in writing to the revocation of the trust, or alternatively, application must be made to a competent court for the revocation of the trust;

- In the case of a company or CC making the disposal, that company or CC has taken steps to liquidate, wind up or deregister;

Determination of Base Cost

- where a company, CC or a trust makes a disposal of an interest in a residence, that company, CC or trust must be deemed to have made that disposal for an amount equal to the base cost of that interest as at the date of that disposal;
- Where a shareholder acquired their shares in a company already holding the residence, and where 90% or more of the market value of the assets held by the company during the window period is attributable to the property:
  a. The base cost of the residence is deemed to be the cost of the shares plus subsequent improvements;
  b. the acquirer must disregard the disposal of all shares held by that person in that company for purposes of determining his or her taxable income, assessed loss, aggregate capital gain or aggregate capital loss;
- Where the company acquired the residence after the shareholders acquired their shares, and where some of the shareholders acquired their shares before the company acquired the residence and others acquired them afterwards:
  a. the cost of the shares in the company is not taken into account for purposes of determining the acquirer's base cost;
  b. The acquirer "steps into the shoes" of the company for the purpose of applying the time-based apportionment, market value, and "20% of proceeds"methods for determining the valuation date value of the residence and any post-CGT costs;
  c. The same principles apply for the acquirer from a trust

General

- The relief is extended to situations where, for example, a company distributes the property to a shareholder trust, provided the trust then distributes the property to a natural person beneficiary who used the property as a primary residence;
- Note: vacant land does not qualify for relief;
- Unlike Para 51, which contained a two-hectare limit, Para 51A contains no restriction on the size of the land on which the residence is situated.

Restraint of trade

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

Leasehold improvements

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

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

Pre-trade expenditure

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

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.

A BRIEF OVERVIEW OF THE CONSUMER PROTECTION ACT 68 OF 2008

Some provisions of the Consumer Protection Act (referred to in this section as the Act) have already been implemented, however the remaining provisions are expected to come into force on the 1 April 2011.

The general explanatory note of the Act states that it aims to "*promote a fair, accessible and sustainable marketplace for consumer products and services, and, for that purpose, to establish national norms and standards relating to consumer protection...*".

The Act thus purports, inter alia, to fulfill the rights of historically disadvantaged persons and to promote their full participation as consumers, to ensure accessible transparent and efficient redress for consumers who are subjected to abuse or exploitation in the marketplace, and to give effect to internationally recognised consumer rights. The Act has the effect of codifying the common law in regard to consumer rights, and has been described as a "Bill of Rights for Consumers".

The Act applies to every transaction occurring within the Republic, and covers both goods or services delivered or rendered "in the ordinary course of business". It applies to transactions that suppliers enter into with consumers relating thereto. It therefore covers:

- the promotion and advertising of goods or services that could lead to the transaction being entered into;
- the performance of the service and the supply of goods;
- the goods and services themselves after the transaction is completed;
- the goods which form the subject of an exempted transaction

Where the Act does not have application:

- The Act will not apply to consumers who are juristic persons whose asset value or annual turnover equals or exceeds the threshold value determined by the Minister (draft regulations set at R3 million);
- Transactions including the supply of goods or services to the State;
- If the consumer's transactions are listed as those to which the CPA specifically does not apply (e.g. services to be supplied under an employment contract, a collective bargaining agreement or a collective agreement);

- A transaction constituting a credit agreement under the National Credit Act (but the goods and services themselves are covered);
- If exempted by the Minister.

Basically the Act protects the following 8 fundamental consumer rights:

- Right to privacy
- Right of equality in the consumer market
- Right to choice
- Right to fair and responsible marketing
- Right to fair & honest dealing
- Right to fair, just & reasonable terms & conditions
- Right to disclosure & information
- Right to fair value, good quality & safety

In short, the Act prohibits certain practices, such as negative option marketing, bait marketing, and promotes consumer entitlements such as "cooling off" rights (within five business days following direct marketing- Section 16), and the right to return goods. It also regulates, inter alia, automatic renewal of fixed term agreements, requires quotes for maintenance and repair services and prohibits overselling and overbooking. Franchise agreements are regulated by the Act in that they have to be in writing, include prescribed information, and comply with the plain and understandable language requirement. Franchisees are to be regarded as 'consumers' and therefore afforded various protections by the Act.

The Act regulates names that businesses use in their interaction with the public, and authorises the Minister to prescribe industry codes by regulation.

Consumers will be able to approach the National Consumer Commission, the National Consumer Tribunal, certain Ombuds and specified courts for assistance in the protection of their rights.

Offences will be penalised by imprisonment or a fine. The Tribunal will be able to impose administrative fines of up to 10% of a company's turnover or R100 000.

Securities Transfer Tax

The tax is imposed at a rate of a ¼ of a per cent on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interests in close corporations.

Tax on International Air Travel

R150 per passenger departing on international flights excluding flights to Botswana, Lesotho, Namibia and Swaziland, in which case the tax is R80. The tax will be increased to R190 and R100, respectively, from 1 October 2011.

Skills Development Levy

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

Unemployment Insurance Contributions

Unemployment Insurance Contributions are payable monthly by employers on the basis of a contribution of 1 per cent by employers and 1 per cent by employees, based on employees' remuneration below a certain amount.

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

Advance tax rulings

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

RETENTION OF RECORDS

It is recommended that all documentation pertaining to potential Capital Gains tax transactions be retained indefinitely.

Accounting records

Books of prime entry:

Cash Books, Creditor's Ledgers, Debtor's Ledgers, Fixed Asset Registers, General Ledgers Journals, Petty Cash Books, Purchase Journals, Sales Journals, Subsidiary Journals and Ledgers – as well as supporting schedules to such Books of Account, etc –

- Original 15
- Microfiche 5

Vouchers, Working Papers, Bank Statements, Costing Records, Creditor's Invoices and Statements, Debtor's Invoices and Statements, Goods Received Notes, Journal Vouchers, Payrolls, Purchase Orders and Invoices, Railage Documents, Salary and Wages Registers, Sales Tax Records, Tax Returns and Assessments, etc 5

Employee records:

Expense Accounts, Payrolls, Employee Tax Returns, etc 5

Accident Records, Apprentice Records, Industrial Training Records, Staff Records, etc 3

Statutory & share registration records:

Annual Returns, Certificates of change of name, Incorporation, to commence business, Founding Statements Memorandum and Articles of Association, Minute Books, Notices of Meetings, etc . . . . Indefinitely

Branch Registers, Registers of: Directors Attendance, Debenture Holders, Directors and Officers, Directors' Interests, Members and pledges and Bonds, etc.

- Cancelled share transfer forms 12

WEAR AND TEAR ALLOWANCES

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

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

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

Notes

1 Wear and tear may be claimed on either a diminishing value method or on a straightline basis, in which case certain requirements apply
2 Removal costs incurred in moving business assets from one location to another are not deductible as these are regarded as being capital in nature. Wear and tear may be claimed over the remaining useful llife of the assets
3 When an asset is acquired for no consideration, a wear and tear deduction may be claimed on its market value at date of acquisition
4 Where an asset is acquired from a connected person, wear and tear may only be claimed on the original cost to the seller less allowances claimed by the connected person plus recoupments and CGT included in the seller's income
5 The acquisition of "small" items at a cost of less than R7 000 per item may be written off in full during the year of acquisition

Fixed Rate Penalties

Fixed rate penalties can be imposed by SARS for non –compliance with any procedural or administrative action or duty imposed or requested as per the following table

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

Other Penalties

Late payment of PAYE and provisional tax incurs a penalty of 10% of the amount due.

The late submission of the PAYE reconciliation incurs a penalty of 10% of the PAYE deducted for the tax year

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.

INTEREST RATES

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

COMPARATIVE TAX RATES

RATES OF TAX	2010	2011	2012
NATURAL PERSONS			
Maximum marginal rate	40%	40%	40%
■ Reached at a taxable income	525 000	552 000	580 000
Minimum rate	18%	18%	18%
■ Up to taxable income of	132 000	140 000	150 000
■ CGT inclusion rate	25 %	25 %	25 %
COMPANIES & CC's			
■ Normal tax rate	28%	28%	28%
■ STC rate	10%	10%	10%
■ CGT Inclusion rate	50%	50%	50%
TRUSTS (other than special trusts)			
■ Flat rate	40%	40%	40%
■ CGT Inclusion rate	50%	50%	50%
SUNDRY			
■ Donations Tax	20%	20%	20%
■ Estate Duty	20%	20%	20%
SMALL BUSINESS CORPORATIONS			
Maximum marginal rate	28%	28%	28%
■ Reached at a taxable income	300 000	300 000	300 000
Minimum rate	0%	0%	0%
■ Up to a taxable income of	54 200	57 000	59 750
MICRO BUSINESS			
Max Rate of Tax		7%	7%
■ On turnover of		750 000	750 000
Minimum Rate		0%	0%
■ Up to a turnover of		100 000	150 000