PREFACE

Nexia Cape Town has produced this guide which is intended as an easy reference to relevant fiscal and financial information, as well as summarising the main proposals set out in the Budget Speech presented by the Minister of Finance Pravin Gordhan on 22 February 2012.

The publication is intended to serve as a general financial guide and should not be relied upon for detailed planning. The contents do not constitute financial advice and we invite you to consult us for guidance on specific issues pertaining to your circumstances. This is especially necessary in view of ongoing legislative and other amendments. Whilst every care has been taken to ensure accuracy, no responsibility is accepted for the consequences of any action based on information contained herein.

Nexia Cape Town

29 February 2012

CONTENTS

CONTENTS

(continued)

BUDGET HIGHLIGHTS

TAXATION OF INDIVIDUALS

Tax rates

Revised marginal rates are as follows:

Taxable income				Rates						
R	0	-	160 000				18%	of each R1		
R	160 001	-	250 000	R	28 800	+	25%	of the amount over	R	160 000
R	250 001	-	346 000	R	51 300	+	30%	of the amount over	R	250 000
R	346 001	-	484 000	R	80 100	+	35%	of the amount over	R	346 000
R	484 001	-	617 000	R	128 400	+	38%	of the amount over	R	484 000
R	617 001	+		R	178 940	+	40%	of the amount over	R	617 000

	2013 R	2012 R
Rebates		
Primary rebate	11 440	10 755
Secondary rebate for persons 65 and older	6 390	6 012
Tertiary rebate for persons 75 and older	2 130	2 000
Interest income exemption		
64 and younger	22 800	22 800
65 and older	33 000	33 000
Interest is exempt where earned by non-residents who are physically absent from South Africa for 183 days or more per annum and who are not carrying on business in South Africa.		
Tax thresholds at which liability commences		
64 and younger	63 557	59 751
65 and older	99 057	93 151
75 and older	110 890	104 262

Medical expenses

From 1 March 2012 a tax credit for contributions to medical schemes will be introduced at a rate of R230 per month for the taxpayer and first dependant and R154 per month for each additional dependant.

(continued)

Retirement funding and savings

- reform of the tax treatment of contributions to retirement funds is envisaged to take effect in 2014
- from 1 March 2014 an employer's contribution to retirement funds on behalf of an employee will be treated as a taxable fringe benefit. Individuals, under the age of 45, will from that date be allowed to deduct up to 22,5% of the higher of taxable income or employment income for contributions to pension, provident and retirement annuity funds with a minimum annual deduction of R20 000 and a maximum annual deduction of R250 000. Individuals 45 years and older will be allowed to deduct up to 27,5% with a minimum annual deduction of R20 000 and a maximum annual deduction of R300 000
- to encourage voluntary savings, it is proposed that individuals be permitted to save up to R30 000 per annum with a lifetime limit of R500 000 in registered savings or investment products which would be free of tax on interest, dividends and capital gains.

TAXATION OF CORPORATE ENTITIES

Small business corporations

- the tax-free threshold for small business corporations is increased to R63 556
- the 10% rate is reduced to 7% and the threshold up to which this rate applies is increased to R350 000
- the normal 28% corporate tax rate applies to taxable income in excess of R350 000.

Micro businesses

From 1 March 2012, micro business (having an annual turnover of R1 million or less)

- that register for Value-added Tax (VAT), will no longer be barred from registering for Turnover Tax
- will be able to pay Turnover Tax, VAT and employees' tax twice a year, thus reducing the number of returns and payments from about 18 to 2 per year.

Small business corporations tax rates

Years of assessment ending on or after 1 April 2012

Taxable income			Rates					
R 0	-	63 556	R		0%			
R 63 557	-	350 000	R		7%	of the amount over	R	63 556
R 350 001	+		R	20 051	+ 28%	of the amount over	R	350 000

(continued)

Micro businesses taxable turnover tax rates
Years of assessment ending on or after 1 April 2012

Taxable turnover				Rates						
R	0	-	150 000				0%			
R	150 001	-	300 000				1%	of the amount over	R	150 000
R	300 001	-	500 000	R	1 500	+	2%	of the amount over	R	300 000
R	500 001	-	750 000	R	5 500	+	4%	of the amount over	R	500 000
R	750 001	+		R	15 500	+	6%	of the amount over	R	750 000

DIVIDENDS TAX

The Secondary Tax on Companies (STC) will be terminated on 31 March 2012 and a withholding tax on dividends will be implemented on 1 April 2012. The Dividends Tax will be introduced at 15%. Dividends are exempt from tax if the beneficial owner is a South African company, retirement fund or other specifically exempt entity.

CAPITAL GAINS TAX

From 1 March 2012 the Capital Gains Tax (CGT) inclusion rate for individuals and special trusts will be increased from 25% to 33,3% and for companies and other trusts from 50% to 66,6%. The maximum effective CGT rates from 1 March 2012 will therefore be:

Individuals	13,3%
Companies	18,6%
Trusts	26,7%

INDIRECT TAXES

- the general fuel levy will increase by 20 cents a litre on both petrol and diesel on 4 April 2012
- the road accident fund levy will increase by 8 cents a litre on 4 April 2012
- the levy on electricity generated from non-renewable sources will increase by 1 cent per kWh from 1 July 2012.

ADDITIONAL TAX ON GAMBLING

A 1% additional tax on gambling will be levied from 1 April 2013 on a uniform provincial gambling tax base. A similar tax base will be used to tax the National Lottery.

RESIDENCE-BASED SYSTEM OF TAXATION

RESIDENTS

A natural person ordinarily resident in South Africa, or physically present in South Africa for longer than a specified period, and a person other than a natural person (e.g. company, close corporation, trust) which is incorporated, established or formed in the Republic or which has its place of effective management in the Republic, will be taxed in the Republic on worldwide income. Credit will be given for any taxes paid, without any right of recovery, to the government of another country.

A natural person who is not ordinarily resident in the Republic will be a resident if he was physically present in the Republic for periods exceeding:

- 91 days in aggregate during the current year of assessment, and
- 91 days in aggregate during each of the 5 preceding years of assessment, and
- 915 days in aggregate during the 5 preceding years of assessment.

The above periods of physical presence need not be continuous.

A natural person who falls into the definition of resident because of physical presence in South Africa will cease to be resident on the day that he leaves the Republic if he remains outside the Republic for a continuous period of at least 330 full days.

NON-RESIDENTS

Non-residents will continue to be taxed in the Republic on income from a South African or deemed South African source.

INDIVIDUALS

TAXATION OF MARRIED PERSONS

MARRIAGES IN COMMUNITY OF PROPERTY

Income taxed specifically in the hands of one spouse:

- income from a trade carried on by a spouse independently is taxed in the hands of that spouse
- benefits payable to a member or a past member of a pension, provident or retirement benefit fund are taxed in the hands of the member or the past member
- an annuity as defined in section 10A is taxed in the hands of the spouse to whom it is payable
- income falling outside the joint estate is taxed in the hands of that spouse, e.g. where a testator bequeaths an asset to a spouse on condition that neither the asset nor the income produced by that asset shall form part of the joint estate.

Income divided between spouses:

- in cases where a joint trade is carried on by the spouses, income is deemed to accrue to the spouses in the profit-sharing ratio per their partnership agreement
- income from the renting of fixed property is deemed to accrue to both spouses in equal proportions
- income derived other than from trade is deemed to accrue to both spouses in equal proportions, e.g. interest or capital gains. Each spouse is entitled to the interest exemption, as well as a pro rata share of any other deduction that may be granted.

MARRIAGES OUT OF COMMUNITY OF PROPERTY

Each spouse is taxed separately.

TAX RATES

Taxable income				Rates						
R	0	-	160 000				18%	of each R1		
R	160 001	-	250 000	R	28 800	+	25%	of the amount over	R	160 000
R	250 001	-	346 000	R	51 300	+	30%	of the amount over	R	250 000
R	346 001	-	484 000	R	80 100	+	35%	of the amount over	R	346 000
R	484 001	-	617 000	R	128 400	+	38%	of the amount over	R	484 000
R	617 001	+		R	178 940	+	40%	of the amount over	R	617 000

INDIVIDUALS

(continued)

	2013 R	2012 R
REBATES		
Primary	11 440	10 755
Secondary Persons aged 65 and older	6 390	6 012
Tertiary Persons aged 75 and older	2 130	2 000
TAX CREDITS		
Medical scheme tax credits Taxpayers under 65 may, in determining tax payable, deduct monthly contributions to medical schemes up to:		
Taxpayer	230	-
First dependant	230	-
Each additional dependant	154	-
TAX THRESHOLDS		
Tax thresholds at which liability for tax commences for natural persons are:		
64 and younger	63 557	59 751
65 and older	99 057	93 151
75 and older	110 890	104 262
EXEMPTIONS		
Interest The exempt portion of interest dividends earned is as follows:		
64 and younger	22 800	22 800
65 and older	33 000	33 000

The exempt portion of interest earned from a foreign source is limited to R3 700 of the total exemption.

(continued)

Interest is exempt where earned by non-residents who are physically absent from South Africa for 183 days or more per annum and who are not carrying on business in South Africa.

TAX ON DIVIDENDS

LOCAL DIVIDENDS

Until 31 March 2012, dividends received from entities registered or managed in South Africa are free from further taxation where the dividend has been subjected to STC.

From 1 April 2012, dividends received from entities registered or managed in South Africa are free from further taxation where the dividend has been subject to the Dividends Tax of 15%.

FOREIGN DIVIDENDS

Most foreign dividends received by individuals from foreign companies (shareholding of less than 10% in the foreign company) are taxable at a maximum effective rate of 15%. No deductions are allowed for expenditure to produce foreign dividends.

TAX ON LUMP SUMS FROM RETIREMENT FUNDS AND SEVERANCE BENEFITS

TAXATION ON RETIREMENT OR SEVERANCE

Taxable income				Rates					
R	0	-	315 000			0%	of each R1		
R	315 001	-	630 000			18%	of the amount over	R	315 000
R	630 001	-	945 000	R	56 700	+ 27%	of the amount over	R	630 000
R	945 001	+		R	141 750	+ 36%	of the amount over	R	945 000

TAXATION ON WITHDRAWAL

Taxable income				Rates					
R	0	-	22 500			0%	of each R1		
R	22 501	-	600 000			18%	of the amount over	R	22 500
R	600 001	-	900 000	R	103 950	+ 27%	of the amount over	R	600 000
R	900 001	+		R	184 950	+ 36%	of the amount over	R	900 000

(continued)

The tax payable on a lump sum from a retirement fund or severance benefit received during a year of assessment is determined by aggregating all lump sums received during the current and previous years of assessment.

DEDUCTIONS

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 may be carried forward to the following year of assessment.

CURRENT RETIREMENT ANNUITY FUND CONTRIBUTIONS

The greatest of:
- 15% of taxable income from non-retirement funding employment, or
- R3 500 less deductible contributions 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 may be carried forward to the following year of assessment.

MEDICAL EXPENSES

- Taxpayers under 65:
  - medical scheme contributions exceeding four times the amount of the medical scheme tax credit and any other medical expenses, limited to the amount which exceeds 7,5% of the taxable income (excluding lump sums from retirement funds and severance benefits) before this deduction
  - where the taxpayer, his spouse, child or dependant is a handicapped person, actual expenditure allowed
- Taxpayers 65 and older, actual expenditure allowed.

(continued)

PHYSICAL IMPAIRMENT OR DISABILITY EXPENSES

Taxpayers may deduct expenditure (as prescribed by the Commissioner) necessarily incurred and paid in consequence of any physical impairment or disability suffered by the taxpayer, his spouse, child or dependant.

DONATIONS

To certain public benefit organisations as defined, limited to 10% of taxable income (excluding lump sums from retirement funds and severance benefits), before deducting medical expenses.

PAY AS YOU EARN

Income from employment is subject to Pay As You Earn (PAYE). Any PAYE overpaid is refundable on assessment. An individual whose sole income is from employment and is below R120 000 per year need not submit a tax return.

PROVISIONAL TAX

Provisional taxpayers are required to make the following payments:

- First payment - six months after the financial year commences
- Second payment - at the end of the financial year
- Third payment (optional) - seven months after the financial year end in respect of taxpayers with a February year end
  - six months after the financial year end in all other cases.

Taxpayers are required to estimate their taxable income in the case of the first provisional tax payment. The first provisional tax payment must be based on a figure not less than taxable income reflected on the last year of assessment, known as the 'basic amount', unless consent is received from the Commissioner. If the estimate is greater than the 'basic amount' it is acceptable for taxpayers to use the 'basic amount' as the estimated taxable income.

Taxpayers are required to estimate their taxable income in the case of the second provisional tax payment. It is acceptable for taxpayers to use the 'basic amount' as the estimated taxable income, except in the case where the taxable income for the year in question is expected to exceed R1 million, in which event the estimated taxable income for the second provisional payment must be at least 80% of the final taxable income for the year.

(continued)

South African Revenue Service (SARS) may impose penalties where there has been an underestimation of taxable income in respect of the second provisional tax payment. Where the final taxable income is R1 million or less and the estimated taxable income is lower than the basic amount and 90% of the final taxable income, the resultant penalty will be 20% of the difference between the tax due on the final taxable income and the tax on the lower of 90% of taxable income or the basic amount. Where the final taxable income exceeds R1 million and the estimated taxable income is less than 80% of the final taxable income, the resultant penalty will be 20% of the tax due on the difference between the tax payable on 80% of the taxable income and the tax payable on the estimated taxable income.

The 'basic amount' used when calculating provisional tax must be increased by 8% per annum where the previous assessment is for a year which is more than one year before the current year in which the provisional tax is calculated.

Taxable interest, currently at the rate of 4,5%, will be paid to any individual on tax overpaid where the tax overpaid exceeds R10 000 or the taxable income exceeds R50 000 in the case of provisional taxpayers.

Non-deductible interest, currently at a rate of 8,5%, will be charged on any underpayment of tax from seven months after a February financial year end or six months after the financial year end in any other case.

The following individuals are exempt from the payment of provisional tax:

- individuals 65 and older whose taxable income (exclusively from remuneration, rent or investment) is less than R120 000
- individuals below the age of 65 who do not carry on a business and whose taxable income:
  - will not exceed the tax threshold for the tax year, or
  - from interest, dividends and rental will be R20 000 or less for the tax year.

(continued)

RING-FENCING OF ASSESSED LOSSES FROM CERTAIN TRADES

Any assessed loss incurred during any year of assessment by a natural person in carrying on any trade may not be set off against any other income of that person derived during the year where:

- the person has incurred an assessed loss in carrying on the relevant trade in at least three years of assessment during a five year period ending on the last day of that year of assessment; or
- the trade in respect of which the assessed loss is incurred constitutes:
  - any sport practised by the person or any relative
  - any dealing in collectibles by the person or any relative
  - the rental of residential accommodation (unless at least 80% is used by persons who are not relatives of the person for at least half of the year of assessment)
  - the rental of vehicles, aircraft or boats as defined for CGT purposes (unless at least 80% of such assets are used by persons who are not relatives of the person for at least half of the year of assessment)
  - animal showing by the person or any relative
  - farming or animal breeding carried on by the person otherwise than on a full-time basis
  - performing or creative arts practised by the person or any relative
  - any form of gambling or betting practised by the person or any relative.

The above provisions do not apply if the trade carried on by the person constitutes a business in respect of which there is a reasonable prospect of deriving taxable income within a reasonable period. However, this does not apply in respect of trades listed above (other than farming) if the person has during a ten year period ending on the last day of that year of assessment, incurred an assessed loss in at least six years of assessment in carrying on that trade.

This section applies to persons whose taxable income for the year of assessment (before setting off any current or preceding years assessed loss from any trade) equals or exceeds the level at which the maximum rate of tax applies (currently R617 001).

TAXATION OF FRINGE BENEFITS AND ALLOWANCES

SUBSISTENCE ALLOWANCE

Included in gross income is only the portion exceeding:

- R93 per day if the allowance is paid to defray costs of incidental expenses, or
- R303 per day if the allowance is paid to defray cost of meals and incidental expenses, or
- where the accommodation to which the allowance relates is outside South Africa: SARS published rates for specific countries.

ENTERTAINMENT ALLOWANCE

Included in gross income.

TRAVEL ALLOWANCE

Taxable value: allowance less business travelling expenditure.
Business travelling expenditure may be summarised as follows:

- actual cost if acceptable calculation based on accurate data is furnished, or
- actual distance travelled on business multiplied by the rate per kilometre set out in the table below. The distance travelled must be substantiated by a log book.

80% of the travel allowance must be included in the employee's remuneration for the purpose of calculating PAYE. The percentage may be 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.

The following table is applicable for years of assessment commencing on or after 1 March 2012, where no record of expenses is kept.

Vehicle value (including VAT)			Fixed cost	Fuel cost	Maintenance cost
R		R	R	C/km	C/km
0	-	60 000	19 492	73,7	25,7
60 001	-	120 000	38 726	77,6	29,0
120 001	-	180 000	52 594	81,5	32,3
180 001	-	240 000	66 440	89,6	36,9
240 001	-	300 000	79 185	102,7	45,2
300 001	-	360 000	91 873	117,1	53,7
360 001	-	420 000	105 809	119,3	65,2
420 001	+		119 683	133,6	68,3

(continued)

Where an allowance is paid to the employee and the distance travelled in the vehicle for business purposes during the year of assessment does not exceed 8 000 kilometres and provided that no other compensation in the form of an additional allowance or reimbursement is payable by the employer to the employee in respect of the vehicle, the employee has the option of deducting up to 316 cents per kilometre.

RIGHT OF USE OF MOTOR VEHICLE

Included in gross income: 3,5% per month of the determined value (cash cost including VAT) of each vehicle, or 3,25% where the vehicle cost includes a maintenance contract at the time the vehicle was acquired. The determined value is reduced by employee payments, except for payments in respect of the cost of the licence, insurance, maintenance or fuel.

80% of the deemed fringe benefit must be included in the employee's remuneration for the purpose of calculating PAYE. The percentage may be 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 adjusted by the ratio of the distance travelled for business purposes substantiated by a log book, divided by the actual distance travelled during the year. Further relief is also 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.

ACCOMMODATION AT LESS THAN ACTUAL VALUE OF RENTAL

Included in gross income: where accommodation is not owned by the employer or an associated institution in relation to the employer, the value of the accommodation for tax purposes shall be the greater of:

- the value determined in accordance with the prescribed formula, or
- an amount equal to the cost to the employer

less amount paid by employee.
Limited exceptions apply.

USE OF ASSET (OTHER THAN ACCOMMODATION OR MOTOR VEHICLE) FOR PRIVATE PURPOSES

Included in gross income:

- where employer hires asset: rental paid by employer less amount paid by employee, or
- where employer owns asset: 15% per annum of the lower of cost or market value of asset less amount paid by employee.

(continued)

ACQUISITION OF ASSET AT LESS THAN ACTUAL VALUE

Included in gross income:
- market value of asset, or
- cost to the employer if the asset is movable property (other than financial securities or any asset which the employer had the use of prior to acquiring ownership thereof) which was acquired by the employer to give to the employee, or
- the lower of cost or market value for trading stock of the employer less amount paid by employee.

MEALS OR REFRESHMENTS AT LESS THAN ACTUAL VALUE

Included in gross income: cost to employer less amount paid by employee. No taxable value where meals provided on employer's premises.

INTEREST FREE OR LOW INTEREST LOANS

Included in gross income: the difference between interest at the official rate and the actual amount of interest charged.

The official rate of interest, effective from 1 March 2011, is 6,5%.

FREE OR CHEAP SERVICE BY EMPLOYER

Included in gross income: cost to employer less amount paid by employee.

PAYMENT OR RELEASE OF EMPLOYEE'S DEBT

Included in gross income: full amount.

BENEFITS GRANTED TO RELATIVES OF EMPLOYEES AND OTHERS

The benefit is deemed to have been granted to the employee and is included in gross income.

BURSARIES FOR RELATIVES OF EMPLOYEES

Included in gross income: cost to employer less amount paid by employee, less R10 000 if employee earns less than R100 000 per annum.

TAXATION OF FRINGE BENEFITS AND ALLOWANCES

(continued)

LONG-TERM INSURANCE CONTRIBUTIONS

Included in gross income: full amount of contribution by employer, on a monthly basis, where the employer is not the beneficiary. This includes inter alia group life, disability or loss of income policies.

BRAVERY AND LONG SERVICE AWARDS

The market value or cost to the employer of acquiring any asset, reduced by the lesser of R5 000 or the aggregate cost of all such awards given to the employee during the year, excluding cash, is not subject to tax. Long service is defined as an initial unbroken period of service of not less than 15 years or any subsequent unbroken period of service of not less than 10 years.

TRUSTS

TAX RATES

Generally, income awarded to beneficiaries is taxed in the hands of the beneficiaries, whilst income retained in the trust is taxed in the trust.

Trusts are taxed at a rate of 40%.

Excluded from the above are special trusts which have been created solely for the benefit of persons suffering from a mental illness as defined or a serious physical disability, where such illness or disability prevents beneficiaries from earning sufficient income to maintain themselves. These trusts are taxed at rates applicable to individuals.

TAX LOSSES

The Income Tax Act provides that losses of a trust may not flow through to the beneficiaries for tax purposes. Losses retained in the trust may be carried forward to the following tax year to be set off against taxable income in that year.

COMPANIES AND CLOSE CORPORATIONS

Companies and close corporations are taxed in the same way. Close corporations are defined as companies within the Income Tax Act.

TAX RATES

Years of assessment ending on or after 1 April 2012

NORMAL TAX	Rates
Corporate entities (other than those mentioned below)	28,00%
Small business corporations	
R 0 - 63 556	0,00%
R 63 557 - 350 000	7,00%
R 350 001 +	28,00%
Branches of companies having their effective place of management outside the Republic	28,00%
SECONDARY TAX ON COMPANIES	10,00%
The tax is payable on dividends declared until 31 March 2012 by resident companies, after being reduced by dividends receivable during a dividend cycle.	
DIVIDENDS TAX	15,00%
The tax is payable on dividends declared and paid from 1 April 2012 by resident companies, and non-resident companies in respect of shares listed on the JSE.	

Dividends are tax exempt if the beneficial owner of the dividend is a South African company, retirement fund or other specifically exempt entity.

The tax is to be withheld by companies paying the taxable dividends or by regulated intermediaries in the case of dividends on listed shares.

STC and Dividends Tax are payable at the end of the month following the month during which the dividend was declared or paid to the shareholder respectively.

(continued)

SMALL BUSINESS CORPORATIONS

A small business corporation is a company where:
- the shareholders are natural persons
- gross income does not exceed R14 million per annum
- the shareholders own shares in any other company (other than listed companies and unit trusts) at a de minimis level only
- not more than 20% of the company's gross income collectively consists of investment income (interest, rents, annuities, dividends) and income from personal services (professional services).

LABOUR BROKERS AND PERSONAL SERVICE PROVIDERS

For the purposes of the Fourth Schedule, labour brokers (natural persons) and personal service providers (companies and trusts) are classified as employees.

The person or entity paying the labour broker or personal service provider must withhold employees' tax from the payment. If the personal service provider is a company, the employees' tax is 33%. If the personal service provider is a trust, the employees' tax is 40%.

Labour brokers may deduct only the remuneration paid to any employees. In addition a personal service provider is allowed certain other specific deductions.

The table below sets out a summary of employees' tax and the income tax treatment of labour brokers, personal service companies and personal service trusts:

Taxpayer	Employees' tax on fee	Income tax on taxable income
A labour broker not in possession of a valid IRP 30 certificate	Tax according to tax tables	Tax according to tax tables
A labour broker in possession of a valid IRP 30 certificate	No employees' tax	Tax according to tax tables
Personal service provider - company	Tax at 33% or as per tax directive	Tax at 28%
Personal service provider - trust	Tax at 40% or as per tax directive	Tax at 40%

(continued)

PROVISIONAL TAX

Companies are provisional taxpayers and are required to make provisional tax payments. Interest will accrue on underpayments and overpayments where the taxable income exceeds R20 000. Companies whose taxable income does not exceed R20 000 are not required to make the third provisional payment and no interest will be charged on any shortfall. See pages 12 and 13 for details relating to provisional tax.

MICRO BUSINESSES

A simplified tax system is available for micro businesses with a qualifying turnover of R1 million or less. The Turnover Tax is an alternative to Income Tax, VAT, CGT, STC and Dividends Tax.

The tax is calculated by applying the tax rates below to 'taxable turnover'. Taxable turnover consists of the amounts received during the year of assessment from carrying on the business, excluding certain amounts that are exempt in terms of the Act and certain investment income, in the case of natural persons.

TAXABLE TURNOVER TAX RATES

Taxable turnover				Rates						
R	0	-	150 000				0%			
R	150 001	-	300 000				1%	of the amount over	R	150 000
R	300 001	-	500 000	R	1 500	+	2%	of the amount over	R	300 000
R	500 001	-	750 000	R	5 500	+	4%	of the amount over	R	500 000
R	750 001	+		R	15 500	+	6%	of the amount over	R	750 000

The Turnover Tax is available to sole proprietors, partnerships and companies (including close corporations and co-operatives). The following, inter alia, do not qualify:

- trusts
- public benefit organisations or recreational clubs as defined
- persons that have an interest in certain other entities
- businesses where more than 10% of the total income of the business is investment income (interest, rent, annuities, dividends)
- personal service providers or labour brokers as defined
- businesses that render a professional service as defined
- companies that, at any time during the year of assessment, have shareholders who are not natural persons
- companies that have a year of assessment ending on a date other than the last day of February.

A micro business that opts for the Turnover Tax must apply to do so within two months from the beginning of the year of assessment and remain in the system for at least three years, unless it is specifically disqualified. A micro business remains liable for employees tax, UIF contributions and SDL as these are not included in the Turnover Tax.

A micro business registered for the Turnover Tax must notify the SARS within 21 days of its qualifying turnover exceeding R1 million for the year of assessment.

With effect from 1 March 2012, qualifying micro businesses will be able to pay Turnover Tax, VAT and employees' tax twice a year. Thus, the number of returns and payments a year will be reduced substantially to just two a year.

CAPITAL INCENTIVE ALLOWANCES

BUILDING ALLOWANCES

		Rates
Industrial buildings used in manufacture or similar process	Cost to the taxpayer of buildings or improvements the erection of which commenced on or after 14 March 1961.	2,00%
	Cost to the taxpayer of buildings or improvements the erection of which commenced on or after 1 January 1989.	5,00%
	New buildings or improvements to buildings used in a process of manufacture or similar process where the erection of the buildings or the improvements commenced during the period 1 July 1996 to 30 September 1999 and such buildings or improvements were brought into use on or before 31 March 2000.	10,00%
	Improvements above are defined as being any extension, addition, or improvements (other than repairs) to a building which are effected in order to increase or improve the industrial capacity of the building.	
Commercial buildings	Cost to the taxpayer of new and unused buildings or improvements to buildings used to produce income, other than the provision of residential accommodation, contracted for and construction commenced on or after 1 April 2007.	5,00%
Residential buildings	Cost to the taxpayer of new and unused residential units or improvements, owned by the taxpayer, if the taxpayer owns at least 5 residential units in the Republic which are used by the taxpayer for the purposes of his trade and the units are acquired, or erection of which commences, on or after 21 October 2008.	5,00%
	The building allowances may be claimed in full in the year in which the buildings or improvements were brought into use.	

(continued)

SPECIAL DEPRECIATION ALLOWANCES

	Rates
SMALL BUSINESSES	
Depreciable assets, other than manufacturing assets, brought into use on or after 1 April 2005:	
1st year	50,00%
2nd year	30,00%
3rd year	20,00%
Manufacturing assets brought into use for the first time on or after 1 April 2001	100,00%
OTHER	
Plant or machinery	
New and unused manufacturing assets acquired on or after 1 March 2002:	
1st year	40,00%
2nd to 4th year	20,00%
Plant or machinery that do not fall into the above category	20,00%
Farming equipment	
Any machinery, implements, utensils or articles (other than livestock) brought into use for the first time by the farmer:	
1st year	50,00%
2nd year	30,00%
3rd year	20,00%
Ships	20,00%
Aircraft	20,00%
With regard to the above assets, the allowance may be claimed in full in the year in which the asset is brought into use.	

CAPITAL INCENTIVE ALLOWANCES

(continued)

WEAR AND TEAR ALLOWANCES

	Rates
Furniture, fittings and equipment acquired on or after 1 March 2009	
Air-conditioning equipment (window type)	16,67%
Cellular phones	50,00%
Demountable partitions	16,67%
Fax machines	33,33%
Furniture and fittings	16,67%
Lifts (cages and movable parts only)	8,33%
Personal computers - hardware	33,33%
- software	50,00%
Photocopiers	20,00%
Telephone equipment	20,00%
Motor vehicles	
Delivery vehicles	25,00%
Heavy duty trucks	33,33%
Passenger cars	20,00%

The above allowances are calculated on the straight line basis and are apportioned where an asset is used for part of the year.

Small items	
Individual small items purchased after 1 March 2009 costing less than R7 000	100,00%

NOTES

Interest or finance charges in terms of instalment sale agreements for assets acquired are excluded from the cost of the assets when calculating the above allowances. Relief from the recoupment provisions will be provided where the proceeds from the sale of movable business assets are reinvested in other movable business assets within an 18 month period.

CAPITAL GAINS TAX

Salient features of the tax are:

- residents are subject to the tax on the disposal of their assets held worldwide, while non-residents are taxed on the disposal of certain assets in South Africa
- only gains accruing after 1 October 2001 are subject to the tax, which is levied on a disposal or deemed disposal
- certain exclusions apply:
  - the first R30 000 of capital gain or loss realised by individuals per annum; this is increased to R300 000 in the year of death
  - primary residences (the first R2 million of capital gain on disposal)
  - personal use assets
  - assurance and retirement benefits
  - assets of a small business disposed of for retirement (qualifying criteria apply)
  - compensation for personal injury
  - lottery receipts
  - gains arising on assets donated to certain public benefit organisations
- roll-over relief is provided for assets in certain circumstances, e.g. certain transfers between spouses or involuntary disposals
- capital gains are taxed with other income, a portion of the net capital gain being included in taxable income; where the aggregate of all capital gains and capital losses results in a net capital loss, the net loss may not be set off against other taxable income, but is carried forward for set off against future taxable capital gains
- the relevant tax rates are as follows:

Taxpayer	Inclusion rates %	Effective rates %
Individuals	33,3	0 – 13,3
Trusts		
Special	33,3	0 – 13,3
Other	66,6	26,7
Companies		
Ordinary	66,6	18,6
Permanent establishment	66,6	18,6
Personal service provider	66,6	18,6
Small business corporation	66,6	0 – 18,6

ESTATE DUTY

Estate duty is calculated at a rate of 20% on the ‘dutiable amount’ of a deceased's estate. This amount is arrived at as follows:

Determine the total value of the estate which includes all property of the deceased at date of death (property means any right in or to property, movable or immovable, corporeal or incorporeal) and all property deemed to be the property of the deceased, which includes proceeds of domestic insurance policies, benefits other than annuities payable by any pension, provident and retirement annuity fund, donations mortis causa and accruals under the Matrimonial Property Act.

Deduct from the total value of the estate the various deductions permitted in terms of Section 4 of the Estate Duty Act, to ascertain the ‘dutiable amount’ of the estate.

The principal deductions include the following:

- funeral and death bed expenses
- debts and other liabilities due by the deceased
- costs incurred in the administration and liquidation of the estate
- legacies to religious, charitable and educational institutions
- an abatement of R3,5 million
- the unused portion of the R3,5 million abatement from the estate of a predeceased spouse
- dispositions between spouses.

The definition of ‘spouse’ includes a person who was the partner of the deceased at the time of death:

- in a marriage or customary union recognised in terms of the laws of the Republic
- in a union recognised as a marriage entered into in accordance with the tenets of any religion or
- in a permanent same-sex or heterosexual union.

Provision is made for a rebate of the duty payable if the ‘dutiable amount’ includes any property which has also been included in the dutiable estate of another person who died within a period of 10 years prior to the deceased's death.

Where spouses are married in community of property, upon the death of one of them, only half of the joint estate is subject to estate duty. If the estate of the first-dying is left to the surviving spouse no estate duty is payable thereon. Estate duty will be levied on the estate of the last-dying spouse.

EXECUTORS' REMUNERATION

Executors' remuneration is determined based on the following tariff laid down in the Administration of Estates Act:

- 3,5% of gross assets and
- 6% on income accrued from date of death.

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

DONATIONS TAX

Donations tax is payable under the Income Tax Act by a donor (persons ordinarily resident in South Africa or domestic companies) at 20% on the value of all property (assets) gratuitously disposed of, including property disposed of for an inadequate consideration.

The principal exemptions are:

- donations between spouses (if not separated)
- donations to certain public benefit organisations
- casual gifts up to R10 000 during the year of assessment made by a donor who is not a natural person
- donations up to R100 000 during the year of assessment made by a donor who is a natural person
- bona fide payments for maintenance
- donations by public companies (as defined in the Income Tax Act)
- donations where the donee will not benefit until the death of the donor
- donations between companies forming part of the same group of companies
- property disposed of under and in pursuit of any trust
- donations cancelled within six months of the effective date.

TRANSFER DUTY ON IMMOVABLE PROPERTY

The following transfer duty is payable on transactions not subject to VAT:

Values			Rates				
R	0	- 600 000		0%			
R	600 001	- 1 000 000		3%	of the amount over	R	600 000
R	1 000 001	- 1 500 000	R 12 000	+ 5%	of the amount over	R	1 000 000
R	1 500 001	+	R 37 000	+ 8%	of the amount over	R	1 500 000

EXPORT INCENTIVES

EXPORT MARKETING INVESTMENT ASSISTANCE (EMIA)

The purpose of assistance under the EMIA scheme is to partially compensate exporters for certain costs incurred in respect of activities aimed at developing export markets for South African products and to recruit new foreign direct investment into South Africa.

The grant applies to companies that:

- are registered with SARS as an exporter
- are registered with the Companies and Intellectual Property Commission (CIPC)
- are in good standing with an original, valid and current tax clearance certificate
- have a minimum trading history of 1 year.

The EMIA scheme refers to certain marketing allowances involving the following:

- trade national pavilions
- individual exhibition assistance
- inward/outward buying/selling/investment trade missions
- primary export market research
- patent registration
- sector specific assistance.

The following criteria, inter alia, will be applied to applications for EMIA:

- past export/production performance of applicant
- potential export performance
- measure of export planning
- type of product for export and local marketing performance
- level of labour absorption, location of venture and technological requirements
- industry in which the venture is planned
- competence of exporter
- membership of an export council (preferable but not compulsory).

BLACK BUSINESS SUPPLIER DEVELOPMENT PROGRAMME (BBSDP)

This programme is a cost sharing grant which offers support to black-owned enterprises. The scheme provides such enterprises with access to business development services in order to assist them in improving their core competencies, upgrading their managerial capabilities and restructuring in order to become more competitive.

The grant applies to enterprises that:

- are registered with SARS for VAT and can provide a valid tax clearance certificate
- are registered with CIPC
- have a minimum trading history of 1 year
- are majority black-owned (51%) and which have a significant representation (50%) of black managers on their management team
- have a maximum annual turnover of R35 million.

The scheme aims to:

- fast-track existing Small, Medium and Micro Enterprises (SMME) into the mainstream of the formal economy
- foster relationships between SMME and corporate and public sector enterprises
- complement current affirmative procurement and outsourcing initiatives in corporate and public sector enterprises
- build capacity for successful corporate and public sector tenders and outsourcing opportunities.

Benefits are:

- maximum of R1 million per qualifying company (R800 000 is ring-fenced for tools, equipment and machinery)
- cost sharing ratio of 50:50 for tools, equipment and machinery and 80:20 for business development and training interventions.

(continued)

MANUFACTURING INVESTMENT PROGRAMME (MIP)

This programme is designed to stimulate investment growth in line with the South African government's National Industrial Policy Framework (NIPF).

The MIP provides investment support to both local and foreign owned entities, by offering an investment grant of up to 30% of the value of qualifying investment costs in machinery, equipment, commercial vehicles, land and buildings required for:

- establishing a new production facility
- expanding an existing production facility
- upgrading production capacity in an existing clothing and textile production facility.

BENEFITS

Projects up to R5 million:
Grant equal to 30% of the total qualifying investment costs, payable over a 3 year period.

Projects over R5 million:
Grant of between 15% and 30% of qualifying investment costs, calculated on a regressive scale and payable over a 2 year period.

Qualifying investment costs are defined as costs of:

- buildings,
- commercial vehicles and
- machinery and equipment.

MANDATORY CONDITIONS

- registered legal entity
- taxpayer in good standing with an original, valid and current tax clearance certificate
- must constitute production facility, refer above
- investment costs capped at R200 million
- classified as being within the manufacturing sector (code 3)
- apply and obtain approval from the Department of Trade and Industry before qualifying investment assets are taken into commercial production.

EXCHANGE CONTROL

CURRENT ALLOWANCES

FOREIGN CAPITAL ALLOWANCES

Discretionary allowance
Natural persons, over the age of 18, may avail themselves of a single allowance within an overall limit of R1 million per individual per calendar year, without the requirement to obtain a tax clearance certificate, to cover the following:

- monetary gifts and loans
- donations to missionaries
- maintenance transfers
- travel allowance
- study allowance
- alimony and child support payments
- wedding expenses and other special occasions
- foreign capital allowances.

The discretionary allowance may not be availed of by residents living temporarily abroad nor may the allowance be used to disguise transfers for other purposes for which foreign exchange would otherwise be refused.

Individual foreign capital allowance
Natural persons, over the age of 18, may avail themselves of an annual capital allowance for foreign investment. Any surplus not used in the discretionary allowance may be used for foreign investment in addition to this allowance. The converse does not apply.

In addition natural persons may also export Krugerrand coins or the equivalent in fractional Krugerrand coins up to an amount of R30 000 as gifts to non-residents.

TRAVEL ALLOWANCES

Holiday

Persons over the age of 18	Included in discretionary allowance above
Persons under the age of 18	R200 000 per annum

Calendar year
Travel allowances not utilised during any one calendar year may not be carried forward to the following year. Where an allowance is provided in one year and the visit extends over the year end, a full allowance is still available for any subsequent travel during the second year, provided the traveller has first returned to South Africa.

(continued)

Bank notes

Export limit for South African bank notes intended for use upon return to South Africa	R25 000

Credit cards

Up to 100% of the available travel allowance may be utilised by means of credit cards issued in the name of the traveller.

Omnibus travel facilities

Up to R20 million per calendar year for allocation at the discretion of the enterprise.

FOREIGN TRANSACTIONS BY RESIDENTS

Investments - Individuals	
• over the age of 18	R4 million per calendar year
• participation in share incentive schemes	R4 million per employee of local subsidiary or branch of foreign parent company
Investments - Corporate entities	
• investments of less than R500 million per applicant company per calendar year	Can be approved by authorised dealer
• investments in excess of R500 million per applicant company per calendar year	Requires prior Exchange Control approval
Portfolio investments	
• retirement funds and long term insurers	25% of total assets
• collective investment scheme management companies	35% of total assets
Internet transactions	R20 000 per transaction via credit/debit card, excluding foreign lotteries, sweepstakes and betting organisations
Advance payment for imports	Unlimited (other than capital goods)
Advance payment for imports of capital goods	Up to 1/3 of ex-factory cost

(continued)

TEMPORARY RESIDENCE ABROAD	
Adults	Discretionary allowance plus personal and household effects up to insured value of R1 million
Persons under the age of 18	R200 000 per annum per Individual
STUDY ALLOWANCES	
Unmarried persons	Discretionary allowance plus cost of tuition plus personal goods up to R200 000 per student
Married persons	Both spouses may avail themselves of the discretionary allowance plus cost of tuition plus personal goods up to R200 000 per student
DONATIONS	
By religious bodies	R20 000 per annum to missionaries
ALIMONY	Amounts in terms of a court order plus additional amounts in terms of discretionary allowance
MEDICAL AND DENTAL EXPENSES ABROAD	No limit, against original documentary evidence of cost
CONFERENCES, CONGRESSES, SEMINARS AND EXAMINATION FEES	No limit, against original documentary evidence of cost
MISCELLANEOUS PAYMENTS	R100 000 per transaction, in respect of transactions not specifically dealt with

(continued)

GUARANTEES

By non-residents in respect of financial assistance to South African residents.	No limit

EMIGRANTS

ALLOWANCES

Foreign capital allowance

• family unit	R8 million per calendar year
• single person	R4 million per calendar year

Quoted securities may be exported as part of or in lieu of the foreign capital allowance, based on the market value of the quoted securities on export. The relevant quoted securities must be suitably endorsed.

Household, personal effects and motor vehicles (excluding Krugerrand coins)	R2 million

Cash allowance (equivalent to discretionary allowance)

• adults	R1 million
• persons under the age of 18	R200 000

The above allowances are available after taking into account prior capital transfers.

BLOCKED ASSETS

The emigrant's assets, after payment of the foreign capital allowance, remain blocked and fall under the control of an authorised dealer. While such blocked assets may be retained in their existing form, the subsequent re-investment thereof will generally require the prior approval of Exchange Control, unless the investment is made via the prescribed avenues e.g. with authorised dealers, in government, municipal and public utility stock, in quoted shares and unit trusts.

The following disbursements may be paid from blocked funds:
- investment in further bonds from the proceeds of mortgage bonds
- such remaining funds may be utilised locally for any purpose.

(continued)

LIBERALISATION OF BLOCKED ASSETS

Emigrants may, on application, request to transfer blocked assets in an amount of R8 million per family unit per annum or R4 million per single person per annum. Requests to transfer amounts in excess of the above limits must be referred to the exchange control authorities.

REMITTANCE OF INCOME

There is no limitation on the remittance of transferable income.

DIRECTORS'/MEMBERS' FEES

Directors' and members' fees may be remitted, without limit, upon production of a resolution from the company or close corporation approving such fees, provided that the recipients are permanently domiciled outside the Republic.

MANAGEMENT FEES, LICENCES, ROYALTIES AND PATENTS

Prior Exchange Control approval is required and will be granted depending on the basis on which the amounts are calculated and their decision as to whether the payments are merited.

Prior approval from the Department of Trade and Industry is also required.

TRADING PROFITS AND DIVIDENDS

Trading profits and dividends earned on investments are transferable to non-residents provided such income was earned after 1 January 1984 or date of emigration, whichever is the later.

Dividends from private companies and close corporations are transferable only on submission of the specified auditors' report and representation letter. Dividends from 'affected companies' with local borrowing require prior Exchange Control approval.

INTEREST

Interest may be remitted upon evidence of indebtedness, provided the rate is reasonable (generally not exceeding the prime overdraft rate), and complies with the thin capitalisation rules.

(continued)

OTHER REMITTABLE INCOME

- cash bonuses on assurance policies
- monthly pensions from a registered pension fund
- income from an inter vivos trust, subject to Exchange Control approval
- net rentals on fixed property
- income from a testamentary trust
- refunds of income tax paid on post emigration income
- income distributions from close corporations
- the difference between the purchase price and maturity value of quoted gilts
- annuities from retirement annuity funds provided that the policy was initiated more than 5 years prior to emigration. For policies initiated within 5 years of emigration, only the actuarially calculated income portion may be remitted
- refunds of income tax on income earned prior to emigration up to R25 000.

DISTRIBUTIONS TO NON-RESIDENTS FROM DECEASED ESTATES

Bequests and legacies to non-residents from estates of permanent residents are freely remittable. This includes proceeds from pension and provident fund schemes as well as insurance policies, where the non-residents are the nominated beneficiaries.

TESTAMENTARY TRUSTS

Capital distributions from local testamentary trusts to non-resident beneficiaries, including emigrants, may be remitted abroad provided that the trustees' resolutions authorising the capital distributions and Last Will and Testaments, confirming that the beneficiaries are entitled to such distributions, have been viewed by authorised dealers. Distributions, as a result of the renunciation of beneficiaries' rights to capital of Testamentary Trusts, must be referred to the exchange control authorities.

INTER VIVOS TRUSTS

Income and capital may be transferred to non-resident beneficiaries from inter vivos trusts as follows:

OWN ASSET TRUSTS

Emigrants
Exchange Control approval is required to establish a trust of this nature after emigration.

Income distributions are freely transferable to beneficiaries. Any capital distributions must be credited to the blocked account of the beneficiary.

(continued)

Emigrants who have not fully utilised the current authorised foreign capital allowances, may be accorded additional capital transfers from such blocked accounts, provided the total amount availed of does not exceed the current limits.

Emigrants can, on application, request to transfer blocked funds in excess of the current limits, subject to an exiting schedule, at the discretion of the exchange control authorities, and an exit charge of 10% of the amount.

Original non-residents
Income and capital is not transferable while the funder is alive but is credited to the non-resident's blocked account. On the death of the funder, a distribution from the trust becomes a legacy, and capital and income are freely transferable to the beneficiary.

THIRD PARTY FUNDED TRUSTS

Emigrants – Income
Where funding of the trust took place more than three years prior to emigration, the income is freely transferable. Where funding took place less than three years prior to emigration, income distributions must be credited to the blocked account of the beneficiary.

Emigrants - Capital
Distributions must be credited to the blocked account of the beneficiary if the funder is alive, or if the funder is deceased and the beneficiary has previously received income from the trust. Distributions are transferable if the beneficiary has not previously benefitted from the trust and the funder is deceased.

RESTRICTION ON LOCAL BORROWINGS

Entities comprising companies, close corporations, trusts, partnerships or estates with foreign control or beneficial interest of 75% or more are 'affected persons' and are limited in their local borrowing facilities by a formula dependent on the extent of the 'affected capital' of the borrower.

'Affected capital' includes the aggregate of:
- issued share capital and share premium
- realised non-distributable reserves
- distributable reserves
- shareholders' loans to the extent that local and foreign shareholders' loans are in proportion to their shareholding
- deferred tax balance.

(continued)

Local borrowings include the aggregate of:

- overdrafts
- mortgage bonds
- instalment sales or leases
- suretyships
- discounting
- factoring
- local acceptance credits
- guarantees
- buybacks
- leasebacks.

The local borrowing formula is:

$$\left[\ 100\ \% + \frac{\textit{South Africa \% interest}}{\textit{Non-resident \% interest}} \times 100\%\ \right] \times \text{'}\textit{affected capital}\text{'}$$

Therefore a company with a 20% local shareholding will be allowed local borrowings up to 125% of ‘affected capital’.

VALUE-ADDED TAX

Only certain important provisions are summarised below.

VAT is a tax levied on the supply of goods and services by vendors in the course or furtherance of an enterprise.

Any person whose total value of taxable supplies exceeds the limit of R1 million per annum must register for VAT. Persons with taxable supplies between R50 000 (R60 000 in any period of 12 months, in the case of the supply of commercial accommodation) and R1 million may (subject to the SARS approval) register voluntarily.

There are currently two rates of VAT:

- Standard rate 14%
- Zero rate 0%

ZERO RATED SUPPLIES

ZERO RATED GOODS

- goods which are exported
- goods supplied in the course of repairing, renovating, modifying or treating any goods temporarily admitted into South Africa, provided that the goods supplied either become part of the other goods or are consumed in the repair process
- goods supplied under a rental agreement for use exclusively in an export country
- the supply of an enterprise or part thereof as a going concern provided certain conditions are met
- illuminating paraffin
- petrol or crude oil which is subject to the fuel levy
- supply of goods to a foreign branch of a South African company
- certain foodstuffs
- supply of gold to the Reserve Bank, Mint or a registered bank
- farming inputs specified in Schedule 2 of the Value-Added Tax Act. These include animal feed, fertilizer, pesticide, dips, plants and seed
- goods supplied to an industrial development zone.

ZERO RATED SERVICES

- the transport of passengers or goods outside South Africa or from South Africa to an export country or from an export country to South Africa
- the transport of passengers within South Africa by aircraft as part of an international air journey
- supply of services to non-residents who are outside South Africa when the service is rendered; services in connection with land or improvements thereon are excluded
- supply of services to foreign-going ships

(continued)

- the transport of goods between places in South Africa supplied as part of international transport of passengers
- the insuring or arranging of insurance or the arranging of the transport of passengers or goods internationally
- supply of services directly in connection with land or any improvement thereto in an export country
- supply of services in respect of movable property in an export country; goods which are exempt from tax and are temporarily admitted into South Africa from an export country; repair, maintenance, cleaning or reconditioning of a foreign-going ship or aircraft
- supply of services rendered to trains operated by non-residents
- supply of services rendered outside South Africa
- supply of rights such as patents, designs, trademarks, copyright or similar rights for use outside South Africa
- supply of services by welfare bodies to government and local authorities
- supply of services by a South African enterprise to a foreign branch.

EXEMPT SUPPLIES

As exempt supplies are not taxable supplies, the VAT on inputs which directly relates to those exempt supplies cannot be recovered from SARS, unless the value of the vendor's exempt supplies is **less** than 5% of the vendor's total supplies during a twelve month period.

TYPES OF EXEMPT SUPPLIES

- supply of certain financial services:
  - premiums payable in respect of life policies and contributions to pension, provident, retirement annuity and medical aid funds
  - compulsory charges included in the selling price of unit trust units
- supply by an association not for gain of donated goods and services or where the association manufactures such goods, if at least 80% of the value of materials used consists of donated goods
- supply of residential accommodation in a dwelling under a letting or hiring agreement, or where any employer permits his employee to occupy the accommodation as a fringe benefit for a period agreed upon by the supplier and the recipient
- supply of leasehold land for existing dwellings or the erection of dwellings
- sale or letting of land outside South Africa
- supply of services to members of a sectional title, shareblock or old aged home scheme
- supply of transport services to fare paying passengers by road or rail

(continued)

- supply of educational and subordinate services by the State, Provincial Administration and institutions of a public character. Subordinate services include any goods or services which are necessary and/or incidental to the supply of educational services (including board and lodging) where they are not supplied for a consideration other than the payment of school fees.

INPUT TAX

DENIAL OF INPUT TAX

In the following circumstances the input tax paid by the vendor will not be recoverable:
- goods or services acquired for the purposes of entertainment
  - this includes food, beverages, recreation, accommodation and hospitality
  - this does not apply to a vendor carrying on an entertainment business or to supplies acquired in respect of employees who are required to be away from their usual residence on business
- subscriptions paid in respect of membership of any club
- the amount paid in respect of the purchase of a passenger motor vehicle.

No input tax may be deducted in respect of a supply unless:
- a tax invoice, debit note or credit note is held by the vendor, or
- in the case of second hand or repossessed goods, there are sufficient records of the transaction.

A tax invoice is not required if progressive regular payments are made in terms of a written contract and:
- the vendor is in possession of the contract
- the contract contains the supplier's name, address and registration number
- proof of regular payments is retained.

DOCUMENTATION

TAX INVOICES

Tax invoice requirements have been split into three categories:
- full tax invoice for supplies over R3 000
- an abridged tax invoice for supplies between R50 and R3 000
- no tax invoice for supplies not exceeding R50.

(continued)

The following information is required on a **full tax invoice**:
- the words 'Tax Invoice' in a prominent place
- name, address and VAT registration number of the supplier
- name, address and VAT registration number of the recipient
- an individual serialised number and the date when issued
- a description of the goods or services supplied
- the quantity or volume of goods or services supplied
- the value of the supply, the amount of tax charged and the total consideration for the supply, or the total consideration for the supply and a statement that the consideration includes VAT at a rate of 14%.

The following information is required on an **abridged tax invoice**:
- the words 'Tax Invoice' in a prominent place
- name and VAT registration number of the supplier
- an individual serialised number and the date when issued
- a description of the goods or services supplied
- the value of the supply, the amount of VAT charged and the total consideration for the supply, or the total consideration for the supply and a statement that the consideration includes VAT at a rate of 14%.

SPECIAL CASES

COMPANY CARS

VAT on the fringe benefit of a company car is based on the cost of the car (excluding interest, finance charges and VAT).

The deemed consideration inclusive of VAT is calculated as follows:
- passenger vehicles - 0,3% per month
- bakkies/pickups - 0,6% per month

Should the employee bear the full cost of maintenance, the deemed consideration may be reduced by the lesser of:
- R85, or
- R85 x taxable use as a percentage of total use, or
- the deemed consideration as determined above.

(continued)

PROPERTY TRANSACTIONS

The general rule is that the sale of fixed property by a vendor in the course of his enterprise will be subject to VAT.

VAT implications of property transactions may be summarised in tabular form as follows:

		PURCHASER	
		VENDOR	**NON VENDOR**
SELLER	**VENDOR**	• VAT payable by purchaser • Input tax credit claimed by purchaser • If sale of a going concern then sale is zero rated i.e. no VAT payable by the purchaser • No transfer duty payable	• VAT payable by purchaser • On subsequent registration as a vendor, purchaser may claim deemed input tax • No transfer duty payable
	NON VENDOR	• No VAT payable • Notional input tax credit equal to the tax fraction (14/114) being the lower of the - selling price (consideration) - market value - current municipal valuation - VAT inclusive acquisition price (including improvements) by the seller • Transfer duty payable by purchaser	• No VAT payable • On subsequent registration as a vendor, purchaser may claim the notional input tax credit (same as for a vendor) • Transfer duty payable by purchaser

Sale of sectional title units

- sale by a vendor in the course of his enterprise will be subject to VAT
- sale by a non-vendor of a property held as a capital asset will not attract VAT.

Sale of shares in a shareblock scheme or fractional ownership scheme

The sale of shares in a shareblock scheme or fractional ownership scheme is excluded from the exemptions relating to financial services. The sale of these shares in the course of an enterprise will therefore be subject to VAT.

(continued)

Sale of timeshare
A timeshare interest is included in the definition of fixed property. The sale of such interest by a vendor in the course of his enterprise will be subject to VAT.

Sale of hybrid or mixed use properties
Where a building is let mainly to commercial tenants and the purchaser and seller are VAT vendors:
- the transaction is zero rated
- the purchaser must pay deemed output tax on the tax fraction of the residential component
- the seller may be entitled to an input tax adjustment of the tax fraction of the original cost of the residential component.

Where a building is let mainly to residential tenants and the purchaser and seller are VAT vendors:
- the full purchase price is subject to VAT
- the purchaser can claim an input tax credit on the commercial component
- the seller may be entitled to an input tax adjustment of the tax fraction of the original cost of the residential component.

Where a mixed use building is sold to a VAT vendor who is a property trader:
- the purchaser is entitled to a full input tax credit
- the seller may be entitled to an input tax adjustment of the tax fraction of the original cost of the residential component.

Time of supply
The earlier of:
- date of registration of the transfer, and
- date on which any payment is made in respect of the consideration for the supply.

RETENTION OF DOCUMENTS AND RECORDS

Description	Retention Period
Certificate of incorporation Certificate of change of name Memorandum and articles of association Memorandum of incorporation (MOI) Certificate to commence business Minute book, secretarial documents and resolutions passed at general meetings Founding statement and amended founding statements	Indefinite
Annual financial statements Books of account Supporting schedules to books of account and ancillary books of account Registers e.g. members, directors and fixed assets	15 years
Proxy forms	3 years
Personnel records (after employment ceased) Salary and wage registers Record of trust monies Paid cheques and bills of exchange Invoices - sales and purchases Bank statements and vouchers Stock sheets - listed company - unlisted company Year end working papers VAT records Other vouchers and general correspondence Tax returns and assessments (after date of assessment)	5 years 5 years Indefinite 6 years 5 years 5 years 6 years 5 years 5 years 5 years 5 years 5 years

The above list is not exhaustive.

The retention periods commence from the later of the date of the last entry and the date upon which the income tax return relevant to the last entry in such record was submitted to the SARS.

When a company or close corporation reproduces its records on microfilm, the original may be destroyed after a period of three years. The microfilm copies must be retained indefinitely.

In terms of the Companies Act No. 71 of 2008 a single retention period of 7 years is prescribed for all documents that need to be retained, with certain exceptions; unless a longer period of time is specified in another public regulation.

INTEREST RATES

PRIME OVERDRAFT RATES

	Rates
29 February 2012	9,00%
19 November 2010	9,00%
10 September 2010	9,50%
26 March 2010	10,00%
14 August 2009	10,50%
29 May 2009	11,00%
04 May 2009	12,00%
26 March 2009	13,00%
06 February 2009	14,00%
12 December 2008	15,00%
13 June 2008	15,50%
11 April 2008	15,00%
07 December 2007	14,50%
12 October 2007	14,00%
17 August 2007	13,50%
08 June 2007	13,00%

FOREIGN EXCHANGE RATES

R1 equivalent to	29 Feb 2012	31 Dec 2011	30 Jun 2011	31 Mar 2011	28 Feb 2011
United States Dollar	0,1333	0,1230	0,1475	0,1474	0,1431
British Pound	0,0840	0,0798	0,0921	0,0914	0,0888
Euro	0,0993	0,0952	0,1018	0,1040	0,1039
Australian Dollar	0,1234	0,1212	0,1376	0,1427	0,1501
Japanese Yen	10,7441	9,5458	11,8599	12,2007	11,7000
Swiss Franc	0,1191	0,1158	0,1230	0,1350	0,1412

NATIONAL CREDIT ACT

The National Credit Act No. 34 of 2005 (the Act) aims to protect consumers taking credit or entering into consumer credit transactions. In addition, the Act makes provision for the control and regulation of all credit transactions, including mortgage, credit card, overdraft, micro-loan and pawnbroking transactions.

The Act also regulates all institutions that provide consumer credit. These include, amongst others, banks, furniture companies, clothing and other retailers, micro-lenders and pawnbrokers.

A National Credit Regulator (the Regulator) was established under the Act to carry out education, research, policy development, registration of industry participants, investigate complaints and ensure enforcement of the Act.

Salient features include:

- credit providers have to explain a consumer's rights before entering into a credit agreement and must ensure that the borrower can afford the repayments
- individuals are obliged to provide comprehensive personal information when applying for loans or credit
- interest rates and fees charged by credit providers have been capped
- individuals have access to debt counsellors in the event of over-indebtedness
- prospective employers must obtain permission before performing a credit check where a job entails the handling of money
- marketing of credit at one's home or workplace is strictly prohibited
- negative option marketing is prohibited. This means that credit providers cannot offer credit on the basis that if one does not respond to the offer, one automatically receives the credit
- one has the right to be supplied with reasons if a loan or credit application is not approved.

The Act requires the following to register with the Regulator:

- credit providers
- providers of developmental credit
- credit bureaux
- debt counsellors.

Credit providers:

- are those who have entered into at least 100 agreements or have a total outstanding book of credit greater than or equal to R500 000
- may be juristic persons or individuals
- are committed to combating over-indebtedness.

(continued)

These registration requirements exclude credit providers who provide incidental credit as a result of outstanding transactions.

Although basic registration of credit providers falls under this Act:

- the Regulator may impose conditions to address matters relating to the purpose of the Act generally
- the Regulator will further consider the application relating to Black Economic Empowerment and over-indebtedness concerns specifically
- a credit provider who intends to enter into developmental credit agreements must apply for supplementary registration, and satisfy the requirements for such registration.

Providers of developmental credit

In addition to registering as credit providers, providers of developmental credit are required to comply with further criteria as set out in Section 41 of the Act. These include credit co-operatives and suppliers of credit for education, small business development and low income housing.

Registration of credit bureaux

The Act requires the registration of all credit bureaux. This excludes credit providers or employees of credit providers. An entity qualifies as a credit bureau if it is engaged in receiving reports or investigating credit applications, credit agreements, payment history or patterns and consumer credit information relating to consumers or prospective consumers. These entities must also be in the business of compiling and maintaining data and issuing reports concerning consumers.

Registration of debt counsellors

The Act makes provision for the registration of debt counsellors who have complied with all the provisions of the Act and have satisfied the training requirements of the Regulator. Debt counsellors should conduct independent enquiries into consumers' financial circumstances and make recommendations to the courts concerning debt restructuring and suspension of reckless credit agreements.

Anyone not registered with the Regulator may not extend credit or trade as a credit provider.

(continued)

Fees and interest rates

- Vehicle finance, credit card, store card and overdraft transactions:
  The maximum initiation fee will be R150 per agreement plus 10% of the amount of the loan facility over R1 000. This fee is capped at R10 000 or 15% of the principal debt, whichever is lower.

  The maximum interest rate will be the repo rate (currently 5,5%) multiplied by 2,2 plus 10% per annum i.e. currently 22,1%.

- Micro-loans:
  For loans of less than 6 months, the maximum interest payable is 5% per month. For loans of more than 6 months, the maximum interest rate will be the repo rate multiplied by 2,2 plus 20% per annum i.e. currently 32,1%.

- Incidental credit agreements:
  These include debts such as cell phone or doctors' accounts. If you fail to pay the account by the due date and it runs into arrears, the supplier may levy interest of up to 2% per month.

- Mortgage bonds:
  The maximum initiation fee will be R1 000 per agreement plus 10% of the amount of the agreement over R10 000. This fee is capped at R5 000 or 15% of the principal debt, whichever is lower.

  The maximum interest rate on mortgages will be the repo rate multiplied by 2,2 plus 5% per annum i.e. currently 17,1%.

CONSUMER PROTECTION ACT

The Consumer Protection Act, No. 68 of 2008 aims to:

- promote a fair, accessible and sustainable marketplace for consumer products and services
- establish national norms and standards to ensure consumer protection
- make provision for improved standards of consumer information
- prohibit certain unfair marketing and business practices
- promote responsible consumer behaviour
- promote a consistent legislative and enforcement framework related to consumer transactions and agreements
- establish the National Consumer Commission
- replace, in a new and simplified manner, existing provisions from five acts, including the Consumer Affairs (Unfair Business Practices) Act of 1988; Trade Practices Act of 1976; Sales and Service Matters Act of 1964; Price Control Act of 1964 and Merchandise Marks Act of 1941 (specifically Sections 2-13 and 16-17).

Who may lodge consumer complaints:

- an individual
- an authorised person acting on behalf of another
- a person acting as a member or in the interest of an affected group or class
- a person acting in the public interest (amicus curiae/leave of tribunal or court association, acting on the interests of its members).

The Consumer Protection Act applies to the following:

- every transaction occurring within the Republic
- promotion or supply of any goods and services occurring within the Republic
- goods supplied or services performed in the Republic, in terms of transactions mentioned in the Act.

The Consumer Protection Act is not applicable in respect of:

- goods or services promoted or supplied to the State
- industry-wide exemption being granted to regulatory authorities
- credit agreements in terms of the National Credit Act, but not goods or services
- services under employment contracts
- agreements giving effect to collective bargaining agreements
- agreements giving effect to bargaining (Section 213 of the Labour Relations Act).

NOTES