
PREFACE

Nexia Cape Town produced this guide which is intended as an easy reference to the proposals set out in the Budget Speech presented on 11 February 2009. We have included other relevant fiscal and financial information.

The publication is intended to serve as a general financial guide and should not be relied upon for detailed planning. You are urged to consult us for guidance on specific issues pertaining to your individual 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

16 February 2009

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BUDGET HIGHLIGHTS

TAXATION OF INDIVIDUALS

Tax rates

Revised marginal rates are as follows:

Taxable income	Rates
R 1 - 132 000	18% of each R1
R 132 001 - 210 000	R 23 760 + 25% of the amount over R 132 000
R 210 001 - 290 000	R 43 260 + 30% of the amount over R 210 000
R 290 001 - 410 000	R 67 260 + 35% of the amount over R 290 000
R 410 001 - 525 000	R 109 260 + 38% of the amount over R 410 000
R 525 001 +	R 152 960 + 40% of the amount over R 525 000

	2010 R	2009 R
Rebates		
Primary rebate	9 756	8 280
Secondary rebate for persons 65 and older	5 400	5 040
Interest income exemption		
64 and younger	21 000	19 000
65 and older	30 000	27 500
Foreign dividends and interest exemption		
Part of the total interest exemption	3 500	3 200
Tax thresholds at which liability commences		
64 and younger	54 201	46 001
65 and older	84 201	74 001
Capital Gains Tax threshold		
Annual exclusion	17 500	16 000

Provisional tax for taxpayers 65 years and older

Individuals 65 years and older are exempt from provisional tax if they are not company directors and receive employment income, interest, rental or dividends only, amounting to taxable income of up to R80 000. It is proposed that the threshold be increased to R120 000.

TAXATION OF CORPORATE ENTITIES

Small business corporation tax rates

Taxable income	Rates
R 1 - R 54 200	0%
R 54 201 - R 300 000	10%
R 300 001 +	28%

COMPULSORY VAT REGISTRATION THRESHOLD

The compulsory VAT registration threshold increases from an annual turnover of R300 000 to R1 million with effect from 1 March 2009.

TRAVEL ALLOWANCES (MOTOR VEHICLE)

It is proposed that the "deemed business kilometre" basis of calculation be scrapped from the 2011 year of assessment. Taxpayers who are required to use their vehicles for business purposes will still be able to keep a logbook to claim business travelling expenses.

ESTATE DUTY

Currently, each spouse is entitled to an estate duty abatement of R3,5 million. It is proposed that spouses be given the flexibility of using their combined abatements and that the estate of the second dying spouse benefit from any unused abatement of the first dying spouse.

INCENTIVE FOR CLEANER PRODUCTION

Current legislation provides for a three year 50:30:20 percent accelerated depreciation allowance for investments in renewable energy and biofuels production. It is proposed that investments by companies in energy efficient equipment should qualify for an additional allowance of up to 15 percent on condition that there is documentary proof of the resulting energy efficiencies (after a two or three year period), certified by the Energy Efficiency Agency.

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 a period or 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, retirement or 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, 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, is taxed in the hands of that spouse.

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, e.g. interest or capital gains, is deemed to accrue to both spouses in equal proportions. 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 1 - 132 000	18%	of each R1
R 132 001 - 210 000	R 23 760 + 25%	of the amount over R 132 000
R 210 001 - 290 000	R 43 260 + 30%	of the amount over R 210 000
R 290 001 - 410 000	R 67 260 + 35%	of the amount over R 290 000
R 410 001 - 525 000	R 109 260 + 38%	of the amount over R 410 000
R 525 001 +	R 152 960 + 40%	of the amount over R 525 000

REBATES	2010	2009
	R	R
Primary	9 756	8 280
Secondary	5 400	5 040
Persons aged 65 and older		

TAX THRESHOLDS

Tax thresholds at which liability for tax commences for natural persons are:

	2010	2009
	R	R
64 and younger	54 201	46 001
65 and older	84 201	74 001

EXEMPTIONS

DIVIDENDS

Dividends received from entities registered or managed in South Africa or from foreign companies where a South African taxpayer has a meaningful interest in the foreign subsidiary paying the dividend are free of further taxation where the dividend has been subjected to STC or the dividends tax.

INTEREST AND TAXABLE DIVIDENDS

The exempt portion of interest and taxable dividends earned is as follows:

	2010	2009
	R	R
64 and younger	21 000	19 000
65 and older	30 000	27 500

The exempt portion of interest and dividends earned from a foreign source is limited to R3 500 of the total exemption.

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.

RETRENCHMENT LUMP SUMS

Any employee retrenched as a result of an employer having ceased to carry on trade or having become redundant as a general reduction of the employer's personnel is entitled to an exemption on lump sum benefits received, up to a maximum of R30 000. The exemption is reduced by any amounts previously claimed. Directors, former directors or shareholders holding more than 5% of the equity share capital of a company are not entitled to this exemption.

RETIREMENT FUND LUMP SUM BENEFITS

Exemption on retirement: R 300 000

Exemption on withdrawal: R 22 500

The taxable income from a retirement fund lump sum benefit (lump sum from a pension, provident or retirement annuity fund) is determined by deducting a basic amount of R300 000 in the case of retirement and R22 500 in the case of withdrawal.

Taxable income	Rates
R 1 - 300 000	18% of each R1
R 300 001 - 600 000	R 54 000 + 27% of the amount over R 300 000
R 600 001 +	R 135 000 + 36% of the amount over R 600 000

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

DEDUCTIONS

CURRENT PENSION FUND CONTRIBUTIONS

The greater of:

- 7,5% of taxable income 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.

DONATIONS

To certain public benefit organisations as defined, limited to 10% of taxable income.

MEDICAL SCHEME CONTRIBUTIONS AND MEDICAL EXPENSES

- Taxpayers under 65:
 - the monthly monetary cap for medical scheme contributions is R625 for each of the first two persons and R380 for each additional dependent
 - medical expenses and medical scheme contributions that have not been allowed as a deduction that, in aggregate, exceed 7,5% of the taxable income (excluding retirement fund lump sums) before this deduction
 - where the taxpayer or his spouse or child is a handicapped person, actual expenditure allowed.
- Taxpayers 65 and older, actual expenditure allowed.

SITE AND PAYE

SITE

The first R60 000 of net remuneration as defined is subject to SITE, which is a final determination; any excess is subject to PAYE. SITE payments are refundable in instances where the taxpayer does not work for a full tax year and this results in an overpayment. An individual whose income from employment is below R120 000 need not submit a tax return.

PAYE

Any income of an individual that is not net remuneration as defined and/or exceeds R60 000 is subject to PAYE. Any PAYE overpaid is refundable on assessment. The salary of a director and of a member is subject to PAYE.

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.

The estimated taxable income for the second provisional payment must be at least 80% of the final taxable income for the year, in respect of second provisional payments due on or after 1 March 2009. Additional taxation and interest will be levied if the taxable income is underestimated by more than 20%.

Taxable interest, currently at the rate of 11,0%, 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 15%, will be charged on any underpayment of tax from seven or six months after the financial year end, as the case may be.

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.

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 Capital Gains Tax 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 provision 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 R525 001) and is effective for years of assessment commencing on or after 1 March 2004. An assessed loss from a secondary trade could therefore effectively be ring-fenced as from the 2007 year of assessment.

TAXATION OF FRINGE BENEFITS AND ALLOWANCES

Only certain important provisions are summarised below.

MEDICAL SCHEME CONTRIBUTIONS

Included in gross income: amount of employer's contribution which exceeds the amount of R625 for each of the first two beneficiaries and R380 for each additional beneficiary, per month.

SUBSISTENCE ALLOWANCE

Included in gross income is only the portion exceeding:

- R80 per day if the allowance is paid to defray costs of incidental expenses, or
- R260 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: South African Revenue Service published rates for specific countries.

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.

RIGHT OF USE OF MOTOR VEHICLE

Included in gross income: 2,5% per month of the determined value of the vehicle. When a subsequent vehicle is used by an employee, which is not used primarily for business purposes, the benefit is 2,5% per month of the vehicle with the highest value and 4,0% per month per other vehicle used. Where the employee bears the cost of all fuel used for the purpose of private travel (including travelling between the employee's place of residence and his place of employment) the percentage to be applied is reduced by 0,22%. If the employee bears the full cost of maintaining the vehicle (including the cost of repairs, servicing, lubrication and tyres) the monthly percentage to be applied is reduced by 0,18%.

The determined value is reduced by 15% (reducing balance method) for every completed 12 months, from the date the motor vehicle was first acquired by the employer to the date the employee was first granted the right of use of the motor vehicle.

Where an employee has the right of use of a motor vehicle and is paid a travel allowance in respect of that motor vehicle, he may not deduct any consideration paid by him from the value of the fringe benefit.

ACQUISITION OF ASSET AT LESS THAN ACTUAL VALUE

Included in gross income is either:

- market value of asset
- cost to the employer if the asset is movable property (other than marketable 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
- the lower of cost or market value for trading stock of the employer less amount paid by employee.

INTEREST FREE OR LOW INTEREST LOANS

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

The prescribed rate of interest with effect from 1 September 2008 is 13%.

MEALS OR REFRESHMENTS AT LESS THAN ACTUAL VALUE

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

ACCOMMODATION AT LESS THAN ACTUAL VALUE OF RENTAL

Taxable value: 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.

FREE OR CHEAP SERVICE BY EMPLOYER

Taxable value: cost to employer less amount paid by employee.

HOUSING SUBSIDY UNDER APPROVED SCHEME

Full amount taxable.

PAYMENT OR RELEASE OF EMPLOYEE'S DEBT

Full amount taxable.

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

Taxable value: cost to employer less amount paid by employee, less R10 000 if employee earns less than R100 000 per annum.

ENTERTAINMENT ALLOWANCE

Included in gross income.

LONG SERVICE AWARDS

The first R5 000 of the value of any asset awarded for long service (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), excluding cash, is not subject to tax.

TRAVELLING 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, or
- deemed distance travelled on business multiplied by the rate per kilometre set out in the table below. The total kilometres travelled is limited to 32 000 kilometres per annum with the first 18 000 kilometres deemed to be private. Business travelling expenditure may not be calculated on this basis if the allowance is paid in respect of an employer-owned vehicle.

The following table is applicable for years of assessment commencing on or after 1 March 2008, where no record of expenses is kept.

Vehicle value (including VAT)		Fixed cost	Fuel cost	Maint cost
R	R	R	C/km	C/km
0	- 40 000	14 672	58,6	21,7
40 001	- 80 000	29 106	58,6	21,7
80 001	- 120 000	39 928	62,5	24,2
120 001	- 160 000	50 749	68,6	28,0
160 001	- 200 000	63 424	68,8	41,1
200 001	- 240 000	76 041	81,5	46,4
240 001	- 280 000	86 211	81,5	46,4
280 001	- 320 000	96 260	85,7	49,4
320 001	- 360 000	106 367	94,6	56,2
360 001	- 400 000 +	116 012	110,3	75,2

Where a reimbursive 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 allowance or reimbursement is payable by the employer to the employee in respect of the vehicle, the rate per kilometre shall at the option of the employee be 292 cents per kilometre.

TRUSTS

TAX RATES

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

Trusts are taxed at a rate of 40%.

Excluded from the above are testamentary trusts established for the benefit of minor children and 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 incapacitates the beneficiary from earning sufficient income to maintain himself. Such 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 (CCs) are taxed in the same way.

TAX RATES

Years of assessment ending on or after 1 April 2009

Normal tax	Rates
Corporate entities (other than those mentioned below)	28,0%
Small business corporations	
R 1 - 54 200	0,0%
R 54 201 - 300 000	10,0%
R 300 001 +	28,0%
Employment companies	33,0%
Branches of companies having their effective place of management outside the Republic	33,0%
Secondary Tax on Companies (STC)/Dividends Tax	10,0%

The tax is payable at the end of the month following the month during which the dividend accrued to the shareholder.

STC is to be replaced by the dividends tax from a date to be announced. The tax will take the form of a withholding tax by the company paying the dividend. Certain exemptions apply. The withholding tax rate for non-domestic shareholders may be limited by specific tax treaties.

Small business corporation

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).

Employment company

An employment company is a company:

- which is a labour broker, as defined, which has not been issued with a certificate of exemption
- where any service rendered on behalf of the company to its client is rendered personally by any person who is a connected person in relation to such company (known as a personal service provider).

An employment company is taxed as follows:

- the remuneration payable to such company is subject to employees' tax
- allowable deductions are limited to the remuneration paid to the shareholders or other employees
- net income is taxed at a rate of 33% and STC/dividends tax applies to any dividends paid.

A company is not regarded as a personal service provider where it employs three or more full time employees (other than its shareholders), none of whom is a connected person in relation to such shareholder or member.

TAXATION OF MEMBERS

Dividends received from entities registered or managed in South Africa or from foreign companies where a South African taxpayer has a meaningful interest in the foreign subsidiary paying the dividend are free of further taxation where the dividend has been subjected to STC or the dividends tax.

PROVISIONAL TAX

Companies and CCs 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 and CCs 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 page 10 for details relating to provisional tax.

MICRO BUSINESSES

A simplified tax system for micro businesses with a qualifying turnover of R1 million or less for the year of assessment has been introduced. The new turnover tax, effective from 1 March 2009, is as an alternative to Income Tax, CGT, STC and VAT.

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

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

- 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, rents, 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 South African Revenue Service within 21 days of its qualifying turnover exceeding R1 million for the year of assessment.

CAPITAL INCENTIVE ALLOWANCES

BUILDINGS

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%
	Cost to the taxpayer of buildings or improvements the erection of which commenced on or after 1 January 1989	5%
	New buildings or improvements to buildings used in a process of manufacture or similar process where the erection of the building or the improvements commenced during the period 1 July 1996 to 30 September 1999 and such building or improvements were brought into use on or before 31 March 2000	10%
	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 buildings or improvements to buildings owned by the taxpayer and used to produce income, other than the provision of residential accommodation, contracted for and construction commenced on or after 1 April 2007	5%
Residential buildings	Cost to the taxpayer of new or 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%
	The allowances may be claimed in full in the year in which the buildings or improvements were brought into use.	

WEAR AND TEAR ALLOWANCES

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%

Where contractual arrangements for plant or machinery were concluded after 15 December 1989 and brought into use after that date, where they do not fall into the above category 20,00%

Farming equipment

Any machinery, implements, utensils or articles (other than livestock):

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 (i.e. there is no apportionment), even if the asset was used for part of the year.

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
- the first R17 500 of capital gain or loss realised by individuals per annum is excluded
- certain exemptions apply: primary residences (gain up to R1,5 million, or disposal for a gross amount of R2 million or less); personal use assets; assurance and retirement benefits; assets of a small business disposed of for retirement; compensation for personal injury; lottery receipts; foreign currency converted for personal use; gains arising on assets donated to certain public benefit organisations; exclusion of R120 000 on death
- 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 rate (%)	Effective rate (%)
Individuals	25	0 – 10
Trusts		
Special	25	0 – 10
Other	50	20
Companies		
Ordinary	50	14
Employment company	50	16,5
Permanent establishment	50	16,5
Small business corporation	50	0 – 14

ESTATE DUTY

Estate duty is calculated at a rate of 20% on the 'dutiabale 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
- 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.

It is proposed that spouses be given flexibility in using their combined abatements and that the second dying spouse's estate will automatically benefit from any unused abatement of the first dying spouse.

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.

EXECUTOR'S REMUNERATION

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

- 3,5% of gross assets
- 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:

- Acquisitions of property by natural persons

Values	Rates
R 1 - 500 000	No duty to be paid
R 500 001 - 1 000 000	5% of the value above R 500 000
R 1 000 001 +	R25 000 + 8% of the value above R1 000 000

- Acquisitions of property by persons other than natural persons (this includes trusts): 8% of the value.

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.

To qualify the party must be registered with the South African Revenue Service for Income Tax, VAT and as an exporter.

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).

INVESTMENT INCENTIVES

BLACK BUSINESS SUPPLIER DEVELOPMENT PROGRAMME (BBSDP)

This programme is an 80:20 cost sharing, cash grant incentive scheme which offers support to black-owned companies. The scheme provides such companies 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 companies that:

- are majority black-owned (50% plus one share) and which have a significant representation of black managers on their management team
- have a maximum annual turnover of R12 million
- have a minimum trading history of 1 year (key criterion)
- comply with commercial regulatory requirements, e.g. registration with CIPRO and the South African Revenue Service.

The scheme aims to:

- fast-track existing Small, Medium and Micro Enterprises (SMME) into the mainstream of the formal economy
- foster relationships between SMME's 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 R100 000 per qualifying company. A company may apply for multiple projects provided that cumulative grants awarded do not exceed R100 000
- requested amount should not exceed 25% of the entity's previous year's turnover
- qualifying companies may select their own service providers provided that at least 3 competitive quotes are obtained in the selection process.

EXCHANGE CONTROL

CURRENT ALLOWANCES

DISCRETIONARY ALLOWANCE

Natural persons, over the age of 18, may be permitted to avail of a single allowance within an overall limit of R500 000 per individual per calendar year to cover the following discretionary allowances:

- monetary gifts and loans
- donations to missionaries
- maintenance transfers
- travel allowance.

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

R160 000 per annum

Bank notes

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

R5 000

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.

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 R2 million per calendar year for allocation at the discretion of the enterprise.

FOREIGN TRANSACTIONS BY RESIDENTS

Investments - Individuals

- over the age of 18
- participation in share incentive schemes

R2 million
R2 million per employee of local subsidiary or branch of foreign parent company

Investments - Corporate entities

- investments of less than R50 million per applicant company per calendar year
- investments in excess of R50 million per applicant company per calendar year
- retention of export proceeds

Can be approved by authorised dealer
Requires prior Exchange Control approval
maximum of 180 days from date of shipment or date of rendering of service

Portfolio investments

- retirement funds and long term insurers
- collective investment scheme management companies

20% of total assets
30% of total assets

Internet transactions

R20 000 per transaction via credit/debit card

Advance payment for imports

R250 000 per transaction on a cash with order basis (other than capital goods)

Advance payment for imports of capital goods

Up to 1/3 of ex-factory cost

TEMPORARY RESIDENCE ABROAD

Adults

Discretionary allowance plus personal and household effects up to insured value of R1 million

Persons under the age of 18

R160 000 per annum per applicant

STUDY ALLOWANCES

Unmarried persons	Discretionary allowance plus cost of tuition
Married persons	Both spouses may avail themselves of the discretionary allowance plus cost of tuition

DONATIONS

By religious bodies	R20 000 per annum to missionaries
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ALIMONY

R9 000 per month plus amounts in terms of a court order

WEDDING EXPENSES AND BAR/BAT MITZVAH CEREMONIES

R50 000 per occasion

MEDICAL AND DENTAL EXPENSES ABROAD

No limit, against original documentary evidence of cost

GUARANTEES

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

ALLOWANCES

Settling-in allowance

• family unit	R4 million
• single person	R2 million

Household, personal effects and motor vehicles (excluding Krugerrand coins)	R1 million
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Cash allowance (equivalent to discretionary allowance)

• adults	R500 000
• persons under the age of 18	R160 000

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

BLOCKED ASSETS

The emigrant's assets, after payment of the settling-in 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, which are not exhaustive, may be paid from blocked funds:

- air fares to a local travel agent
- living expenses while on visit to South Africa to a maximum of R75 000 per annum per family unit (R1 500 per child and R3 000 per adult daily)
- tuition and boarding fees in respect of children who have remained in South Africa or returned to complete studies
- income tax assessment on income earned prior to emigration
- rates and taxes on vacant land (non income earning)
- insurance policy premiums on policies taken out prior to departure if the subsequent proceeds are paid into a blocked account
- gifts, donations and maintenance to third parties resident in South Africa up to R100 000 per annum
- maintenance and alterations to fixed property up to R100 000 per annum
- professional fees to residents in respect of services rendered in connection with the blocked assets
- margin calls due to Safex Clearing Company (Proprietary) Limited
- option monies payable by emigrants
- local charges of winding up the South African estate of an emigrant, where the estate has insufficient cash funds
- expenses in connection with emigration e.g. packaging and moving expenses
- membership subscriptions to professional, engineering and technical societies
- investment in quoted South African securities
- investment in unit trusts
- maintenance to a local resident in terms of a court order
- medical expenses for an emigrant family unit, incurred in South Africa during return visits
- brokerage and all other directly related charges levied on marketable security transactions
- investment in further bonds from the proceeds of mortgage bonds
- payment of Capital Gains Tax in respect of blocked assets sold subsequent to the date of emigration
- payment of short term insurance premiums on blocked assets.

LIBERALISATION OF BLOCKED ASSETS

Emigrants may, on application, request to transfer blocked assets in excess of the limit of R4 million per family unit or R2 million per single person, subject to an exiting schedule, at the discretion of Exchange Control, and an exit charge of 10% of the amount.

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).

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.

INTER VIVOS TRUSTS

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

OWN ASSET TRUSTS

Emigrants

Income distributions are freely transferable to beneficiaries. Any capital distributions must be credited to the blocked account of the beneficiary. Exchange Control approval is required to establish a trust of this nature after emigration.

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.

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:

$$\left[300\% + \frac{\textit{South Africa \% interest}}{\textit{Non-resident \% interest}} \times 100\% \right] \times \textit{'affected capital'}$$

Therefore a company with a 20% local shareholding will be allowed local borrowings up to 325% 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 with effect from 1 March 2009 must register for VAT. Persons with taxable supplies between R20 000 (R60 000 in any period of 12 months, in the case of the supply of commercial accommodation) and R1 million may 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
- 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
- supply of services to a public authority to the extent that the payment consists of a transfer payment.

EXEMPT SUPPLIES

As exempt supplies are not taxable supplies, the VAT on inputs which directly relates to those exempt supplies cannot be recovered from the South African Revenue Service, 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
- 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.

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 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%.

SPECIAL CASES

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
S E L L E R	V E N D O R	<ul style="list-style-type: none"> - 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 	<ul style="list-style-type: none"> - VAT payable by purchaser - On subsequent registration as a vendor, purchaser may claim deemed input tax - No transfer duty payable
	N O N V E N D O R	<ul style="list-style-type: none"> - No VAT payable - Notional input tax credit equal to transfer duty payable, if property acquired for purpose of purchaser's enterprise - Transfer duty payable by purchaser 	<ul style="list-style-type: none"> - No VAT payable - On subsequent registration as a vendor, purchaser may claim deemed input tax equal to transfer duty payable - 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.
- **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.

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.

RETENTION OF DOCUMENTS AND RECORDS

COMPANIES/CLOSE CORPORATIONS	RETENTION PERIOD
Certificate of incorporation Certificate of change of name Memorandum and articles of association Certificate to commence business Minute book, CM25 and CM26, and resolutions passed at general meetings Founding statement 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
OTHER	
Personnel records (after employment ceased)	5 years
Salary and wage registers	5 years
Record of trust monies	Indefinite
Paid cheques and bills of exchange	6 years
Invoices - sales and purchases	5 years
Bank statements and vouchers	5 years
Stock sheets - listed company	6 years
- unlisted company	5 years
Year end working papers	5 years
VAT records	5 years
Other vouchers and general correspondence	5 years
Tax returns and assessments (after date of assessment)	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 South African Revenue Service.

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.

INTEREST RATES

PRIME OVERDRAFT RATES

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%
11 December 2006	12,50%
16 October 2006	12,00%
07 August 2006	11,50%
12 June 2006	11,00%
18 April 2005	10,50%
16 August 2004	11,00%
15 December 2003	11,50%

FOREIGN EXCHANGE RATES

R1 equivalent to	31 Dec 2008	30 Sep 2008	30 Jun 2008	31 Mar 2008	29 Feb 2008
United States Dollar	0,1040	0,1186	0,1256	0,1211	0,1292
British Pound	0,0710	0,0656	0,0626	0,0605	0,0650
Euro	0,0741	0,0834	0,0792	0,0759	0,0850
Australian Dollar	0,1497	0,1500	0,1324	0,1342	0,1379
Japanese Yen	9,3400	12,4800	13,2310	11,9512	13,4612
Swiss Franc	0,1107	0,1302	0,1321	0,1297	0,1304

NATIONAL CREDIT ACT

The National Credit Act No. 34 of 2005 (the Act) came into effect on 1 June 2007 and 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, to investigate complaints and ensure enforcement of the Act.

Salient features include:

- credit providers have to explain your rights to you before you enter into a credit agreement and must ensure that you can afford the repayments
- individuals will be obliged to provide more comprehensive personal information when applying for loans or credit
- interest rates and fees charged by credit providers have been capped
- individuals will have access to debt counsellors in the event of over-indebtedness
- prospective employers must obtain your permission before performing a credit check on you where your job entails the handling of money
- marketing of credit at your home or workplace is strictly prohibited
- negative option marketing is prohibited. This means that credit providers cannot offer you credit on the basis that, if you do not respond to the offer, you automatically receive the credit
- an individual 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 \geq R500 000
- may be juristic persons or individuals
- are committed to combating over-indebtedness.

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 BEE 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, as laid out above, providers of developmental credit are required to comply with further criteria as set out in Section 41 of the Act. This includes 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.

If anyone is not registered with the Regulator, they may not extend credit or trade as a credit provider.

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 10,5%) multiplied by 2,2 plus 10% per annum i.e. currently 33,1%.

- 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 43,1%.
- Incidental credit agreements:
These include loans 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 28,1%.

