
PREFACE

This guide is issued with the compliments of Nexia Josman Seidel and Nedbank and is intended as an easy reference to proposals set out in the Budget Speech as presented on 23 February 2005. 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 Josman Seidel
Nedbank

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BUDGET HIGHLIGHTS

TAXATION OF INDIVIDUALS

Rates

Revised marginal rates are as follows:

Taxable Income

R 1 - 80 000	18%
R 80 001 - 130 000	25%
R 130 001 - 180 000	30%
R 180 001 - 230 000	35%
R 230 001 - 300 000	38%
R 300 001 +	40%

	2006	2005
	R	R
Rebates		
Primary rebate	6 300	5 800
Secondary rebate for individuals 65 and older	4 500	3 200
Interest income exemption		
64 and younger	15 000	11 000
65 and older	22 000	16 000
Tax thresholds at which liability commences		
64 and younger	35 001	32 223
65 and older	60 001	50 001

MOTOR VEHICLE ALLOWANCES

With effect from 1 March 2005 the method for calculating deemed business expenditure will be amended as follows:

- car value capped at R360 000
- residual value must be taken into account
- deemed private use increased from 14 000 to 16 000 kilometres (18 000 in 2006)
- deemed maintenance and fuel costs to be adjusted and reviewed annually.

With effect from 1 March 2006, the monthly taxable value of the use of company

cars is to be increased from 1,8% to 2,5%. The value of the fringe benefit for VAT purposes is to be amended.

MEDICAL SCHEME MEMBERSHIP

With effect from 1 March 2006 the two-thirds tax-free portion of medical scheme contributions will be replaced by a monthly monetary cap that takes into account the number of beneficiaries covered by the medical scheme membership.

COMPANY TAX

With effect from 1 April 2005 the tax rate for all companies has been reduced by 1%.

SMALL BUSINESSES

With effect from 1 April 2005 the following provisions will apply to small businesses as defined:

- Turnover limit increased from R5 million to R6 million
- Personal service companies fall within the definition of a small company as long as they employ at least 4 full time people
- Tax rates restructured as follows:
Taxable Income
R 1 - 35 000 0%
R 35 001 - 250 000 10%
R 250 001 + 29%
- Accelerated depreciation allowances available
- Skills development levy thresholds are to be increased from 1 August 2005.

TRANSFER DUTY

The new rates of transfer duty on immovable property, effective from 1 March 2005, is set out below:

Values	Rates
R 1 - 190 000	No duty to be paid
R 190 001 - 330 000	5% of the value above R 190 000
R 330 001 +	R 7 000 + 8% of the value above R 330 000

RESIDENCE-BASED SYSTEM OF TAXATION

A residence-based system of taxation was introduced with effect from 1 January 2001.

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, excluding any international headquarter company as defined, 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 3 preceding years of assessment, and
- 549 days in aggregate during the 3 preceding years of assessment.

The above periods of physical presence need not be continuous.

A natural person will be deemed to be “not ordinarily resident” if he is physically outside the Republic for a continuous period of 330 full days.

Nonresidents

Nonresidents 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, 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.

REBATES	2006	2005
	R	R
PRIMARY	6 300	5 800
SECONDARY Persons aged 65 and older	4 500	3 200

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 over R1 800 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 over R1 800 may be carried forward to the following year of assessment.

DONATIONS

To certain public benefit organisations as defined, limited to 5% of taxable income.

MEDICAL AND PHYSICAL DISABILITY EXPENSES

- Taxpayers under 65:
 - where the taxpayer or his spouse or child is a handicapped person, the amount which exceeds R500
 - in all other cases, the amount which exceeds 5% of taxable income
- Taxpayers 65 and older, unlimited expenditure allowed.

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 taxation.

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, in terms of section 10(1)(x), 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 in terms of this section.

Directors, former directors or shareholders holding more than 5% of the equity share capital of a company are not entitled to this exemption.

INTEREST AND TAXABLE DIVIDENDS

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

	2006	2005
	R	R
64 and younger	15 000	11 000
65 and older	22 000	16 000

The exempt portion of interest and dividends earned from a foreign source is limited to R2 000 of the total exemption.

TAX THRESHOLDS

The tax thresholds at which liability for tax commences for natural persons are as follows:

	2006	2005
	R	R
64 and younger	35 001	32 223
65 and older	60 001	50 001

TAX RATES

Taxable Income

Rates

R 1 - 80 000	18% of each R1
R 80 001 - 130 000	R 14 400 + 25% of the amount over R 80 000
R 130 001 - 180 000	R 26 900 + 30% of the amount over R 130 000
R 180 001 - 230 000	R 41 900 + 35% of the amount over R 180 000
R 230 001 - 300 000	R 59 400 + 38% of the amount over R 230 000
R 300 001 +	R 86 000 + 40% of the amount over R 300 000

SITE AND PAYE

SITE

The first R60 000 of net remuneration as defined is subject to SITE, any excess is subject to PAYE. An individual whose income is subject to SITE only, need not submit a tax return and the SITE deducted is the final tax liability.

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 of a company and a member of a close corporation 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.

Individuals whose taxable income does not exceed R50 000 are not required to make the third provisional payment. No interest will be charged on any shortfall.

Individuals whose taxable income exceeds R50 000, although not required to make the third provisional payment, will be charged interest at the rate of 10,5% on any shortfall calculated from seven or six months after the financial year end, as the case may be. Such interest is not deductible for tax purposes.

Interest, at the rate of 6,5%, will be paid by the State to any individual on tax overpaid in the following instances:

- tax overpaid exceeds R10 000, or
- taxable income exceeds R50 000.

Such interest is taxable.

Individuals 65 and older whose taxable income (exclusively from remuneration, rent or investment) is less than R80 000 need not make provisional tax payments.

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;
 - any form of 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 R300 000) and is effective for years of assessment commencing on or after 1 March 2004.

TAXATION OF FRINGE BENEFITS AND ALLOWANCES

Only certain important provisions are summarised below.

ENTERTAINMENT ALLOWANCE

Included in gross income.

SUBSISTENCE ALLOWANCE

Included in gross income is only the portion exceeding:

- R60 per day if the allowance is paid to defray costs of incidental expenses, or
- R196 per day if the allowance is paid to defray cost of meals and incidental expenses, or
- \$190 per day where the accommodation to which the allowance relates is outside South Africa.

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: 1,8% 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 1,8% per month of the vehicle with the highest value and 4,0% per month per other vehicle used. From 1 March 2006 the rate increases from 1,8% to 2,5%.

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:

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

MEDICAL AID FUND CONTRIBUTIONS

Included in gross income: amount of employer's contribution which exceeds two-thirds of the total contribution.

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 March 2005 is 8,5%.

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.

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 16 000 kilometres deemed to be private. From 1 March 2006 the first 18 000 kilometres will be 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 2005, where no record of expenses is kept.

Vehicle value (including VAT)			Fixed cost	Fuel cost	Maint cost
R		R	R	C	C
1	-	40 000	14 489	34,5	21,6
40 001	-	60 000	19 869	36,2	22,4
60 001	-	80 000	25 068	36,2	22,4
80 001	-	100 000	30 893	40,7	27,8
100 001	-	120 000	35 578	40,7	27,8
120 001	-	140 000	40 732	40,7	27,8
140 001	-	160 000	46 157	45,0	37,7
160 001	-	180 000	51 930	45,0	37,7
180 001	-	200 000	57 332	51,1	41,6
200 001	-	220 000	63 287	51,1	41,6
220 001	-	240 000	68 697	51,1	41,6
240 001	-	260 000	74 287	51,1	41,6
260 001	-	280 000	78 992	53,9	49,8
280 001	-	300 000	83 744	53,9	49,8
300 001	-	320 000	88 854	53,9	49,8
320 001	-	340 000	94 322	53,9	49,8
340 001	-	360 000 +	99 240	59,8	65,5

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 238 cents per kilometre.

TRUSTS AND DECEASED ESTATES

TAX RATES

With effect from 1 March 2002

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

Section 25B of 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 for income tax purposes.

TAX RATES

Year of assessment ending on or after 1 April 2005

Normal tax

Corporate entities (other than those mentioned below)	29,0%
Small business corporations	
R 1 - 35 000	0,0%
R 35 001 - 250 000	10,0%
R 250 001 +	29,0%
Employment companies	34,0%
Branches of companies having their effective place of management outside the Republic	34,0%
Secondary tax on companies	12,5%

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

Small business corporation

A small business corporation is a company where:

- the shareholders are natural persons
- gross income does not exceed R6 000 000 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 company).

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, members or other employees
- net income is taxed at a rate of 34% and secondary tax on companies applies to any dividends paid.

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

TAXATION OF MEMBERS

Dividends received by members are exempt from income 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 11 for full details relating to provisional tax.

CAPITAL INCENTIVE ALLOWANCES

INITIAL

Residential buildings	Cost of buildings in ‘housing projects’ consisting of at least 5 residential units intended for letting or to be occupied by a bona fide full time employee, and erection commenced on or after 1 April 1982	10%
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ANNUAL

Industrial buildings used in manufacture or similar process	Cost of erection of buildings or improvements commenced on or after 1 January 1989	5%
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	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%
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The annual allowances may be claimed in full in the year in which the building or improvements were brought into use.

Residential buildings	Cost of buildings in ‘housing projects’ consisting of at least 5 residential units intended for letting or to be occupied by a bona fide full time employee, and erection commenced on or after 1 April 1982	2%
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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

Annual wear and tear allowances are calculated on the straight line basis, on tax values of assets.

Accelerated allowances

New and unused manufacturing assets acquired from 1 March 2002:

1st year	40,00%
2nd to 4th year	20,00%

Plant or machinery

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.

Furniture, fittings and equipment

Air-conditioning equipment (movable parts only)	16,67%
Calculators and fax machines	33,33%
Cellular phones	33,33%
Computers - PC hardware	33,33%
- software	50,00%
Demountable partitions	16,67%
Furniture and fittings	16,67%
Lifts (cages and movable parts only)	8,33%
Photocopiers	20,00%

Motor vehicles

Cars	20,00%
Delivery vehicles	25,00%
Heavy duty trucks	33,33%

These allowances are apportioned where an asset is used for part of the year.

NOTES

- S** 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.
- S** Relief will be provided where the proceeds from the sale of movable business assets are reinvested in other movable assets within an 18 month period.

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 as an exporter with the South African Revenue Service for Income Tax and VAT.

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

- National pavilions
- Individual exhibition assistance
- Inward/outward buying/selling/investment trade missions
- Primary export market research
- Foreign direct investment research
- 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

SMALL AND MEDIUM ENTERPRISE DEVELOPMENT PROGRAMME (SMEDP)

This programme is available to entities investing up to R100 million in qualifying assets. New and expansion projects in manufacturing, tourism, certain business services, information and communication, high value agricultural projects, agro-processing, recycling, biotechnology industries and cultural industries may be considered for the incentive.

Qualifying assets are:

- leased land and buildings (capitalised at 15%)
- owned property, plant and equipment at cost
- leased machinery and equipment (as capitalised in the balance sheet)
- commercial vehicles (owned and/or leased)
- research and development capital costs (as accepted by the South African Revenue Service)

Eligible projects qualify for a tax free establishment grant (paid quarterly) in the first two years calculated on the qualifying investments as follows:

Investment R million	Assistance	R million
0 - 5	10% of each R1	
5 - 15	R 500 000 + 6% of the amount over	5
15 - 30	R 1 100 000 + 4% of the amount over	15
30 - 50	R 1 700 000 + 3% of the amount over	30
50 - 75	R 2 300 000 + 2% of the amount over	50
75 - 100	R 2 800 000 + 1% of the amount over	75

An additional grant for one year (third year) will be extended if the ratio between the labour cost and the value added is at least 30%.

The grant can be claimed quarterly, starting from the first full financial year of production.

SKILLS SUPPORT PROGRAMME (SSP)

This programme provides for a three year cash grant to the value of 50% of the cost of training new staff for a new or expansion project. The grant is limited to 30% of the annual wage bill. The enterprise must have an approved training programme.

Payment is on a performance basis. The programme also makes provision for a capital grant to acquire training equipment and course materials.

The scheme supports the following activities:

- procuring training equipment
- developing course material
- delivering instruction
- upgrading the teaching competence of instructors
- printing course material
- establishing training facilities/institutes
- designing national standards and qualifications for learnerships.

FOREIGN INVESTMENT GRANT (FIG)

This programme provides for a cash grant to assist foreign investors with the cost of relocating new machinery and equipment from overseas to South Africa.

It is available to foreign investors with a shareholding of at least 50%. Furthermore, applicants will only be supported if they also qualify for SMEDP.

The grant is the lower of 15% of the value of the new machinery and equipment or the actual relocation costs up to a maximum of R3 million.

STRATEGIC INDUSTRIAL PROJECTS (SIP)

This programme provides for an additional investment allowance.

The allowance is granted for industrial assets described as follows:

- previously unused plant and machinery
- previously unused buildings and/or additional improvements, which will be wholly or mainly used in conducting the strategic investment project.

To qualify for the SIP benefits, an investment project must first pass a set of mandatory conditions:

- classification in certain industrial sectors
- non-displacement of existing production by more than 40% of project's production
- long term commercial viability

- investment must be at least R50 million or expansions must be at least R50 million and the new production must be at least 35% larger than the existing production capacity
- the project may not receive concurrent benefits through any additional investment scheme.

Having satisfied the mandatory criteria listed above, the project is evaluated according to a points system and the following criteria are taken into account:

- Upgrading an existing industry
 - new product or process (1 point)
 - key component to related existing industrial project (1 point)
 - value-adding process (1 point)
- General business linkages
 - contracting with small, medium or micro enterprises (SMMEs) (1 or 2 points)
 - provision of public infrastructure (1 point)
- Employment
 - direct and indirect employment creation (4 points).

Points-based criteria

- 0 - 3 points The project does not qualify for an investment allowance
- 4 - 5 points The project qualifies for a 50% investment allowance up to a maximum of R300 million ('qualified' status)
- 6 points or more The project qualifies for a 100% investment allowance up to a maximum of R600 million ('preferred' status)

SMALL BUSINESS DEVELOPMENT

The full cost of any investment in manufacturing assets made by a small business corporation as defined may be deducted in the year in which the asset is brought into use by the taxpayer for the first time. This applies to assets brought into use for the first time on or after 1 April 2001.

The cost of any investment in other depreciable assets may be written off over a three year period as follows:

1st year	50,00%
2nd year	30,00%
3rd year	20,00%

EXCHANGE CONTROL

CURRENT ALLOWANCES

- **TRAVEL ALLOWANCES**

Holiday and business travel

- adults R160 000 per annum
- children under age of 12 R 50 000 per annum

Bank notes

Export limit for South African bank notes
intended for use upon return to South Africa R 5 000

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 18 years of age R750 000
- participation in share incentive schemes
of foreign parent company R750 000 per employee of
local subsidiary or branch
of foreign parent company

Investments - Corporate entities	
- investments	R1 billion per investment
- projects in African countries	R2 billion per project
- retention of export proceeds	maximum of 180 days from date of shipment or date of rendering of service
Portfolio investments	
- institutions	15% of total assets
- unit trust management companies	20% of total assets
Internet transactions	R 20 000 per transaction via credit/debit card
Payment for imports	R 50 000 per transaction on a cash with order basis (other than capital goods)
Advance payment of imports of capital goods	Up to a of ex-factory cost
Temporary residence abroad	Travel allowance and personal and household effects up to insured value of R1 million
• STUDY ALLOWANCES	
Unmarried persons	
- basic	R160 000 per annum plus cost of tuition
- vacation allowance	R 50 000 per annum
Married persons	
- basic	R320 000 per annum plus cost of tuition
- vacation allowance	R100 000 per annum
• GIFTS	
To nonresidents and students	R 30 000 per annum

- **MAINTENANCE**

To mothers, fathers, brothers
and sisters

R 9 000 per month per
family

- **ALIMONY**

R 9 000 per month plus
amounts in terms of a court
order

- **WEDDING EXPENSES AND BAR/BAT
MITZVAH CEREMONIES**

R 50 000 per occasion

EMIGRANTS

ALLOWANCES

Settling-in allowance

- family unit
- single person

R1,5 million
R750 000

Household, personal effects and motor vehicles R1 million
(excluding Kruger coins)

Cash allowance (equivalent to travel allowance)

- adults
- children under age of 12

R160 000
R 50 000

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 reinvestment 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 (Pty) Ltd
- 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
- 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.

LIBERALISATION OF BLOCKED ASSETS

Emigrants can, on application, request to transfer blocked assets in excess of the limit of R1 500 000 per family unit or R750 000 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 AND ROYALTIES

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.

DIVIDENDS

Trading profits and dividends earned on investments are transferable to nonresidents 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 rental 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 NONRESIDENTS FROM DECEASED ESTATES

Bequests and legacies to nonresidents from estates of permanent residents are freely remittable.

INTER VIVOS TRUSTS

Income and capital may be transferred to nonresident 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 nonresidents

Income and capital is not transferable while the funder is alive but is credited to the nonresident'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 five years prior to emigration, the income is freely transferable. Where funding took place less than five 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 benefited 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:

$$\left[300\% \times \frac{\text{South African \% interest}}{\text{Nonresident \% interest}} \times 100\% \right] \times \text{affected capital}$$

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 R300 000 per annum must register for VAT. Persons with taxable supplies between R20 000 (R60 000 in the case of the supply of commercial accommodation) and R300 000 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 nonresidents 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 nonresidents
- 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

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 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.

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**
 - the sale of shares in a shareblock scheme is specifically 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.

CAPITAL GAINS TAX

Capital gains tax was introduced with effect from 1 October 2001. Some salient features of the tax are:

- residents are subject to the tax on the disposal of their assets held worldwide, while nonresidents 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 R10 000 of capital gain or loss realised by individuals per annum is excluded
- certain exemptions apply *inter alia* to primary residences, 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
- 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
- the relevant tax rates are as follows:

Taxpayer	Inclusion rate (%)	Effective rate (%)
Individuals	25	0 - 10,0
Trusts		
Unit	0	0
Special	25	0 - 10,0
Other	50	20,0
Companies		
Ordinary	50	14,5
Employment company	50	17,0
Permanent establishment	50	17,0
Small business corporation	50	0 - 14,5
Life assurers		
Untaxed policyholder fund	0	0
Company policyholder fund	50	14,5
Corporate fund	50	14,5
Individual policyholder fund	25	7,5

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 dutiabale 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 R1 500 000
- dispositions between spouses.

The definition of 'spouse' has been amended to include 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 dutiabale amount includes any property which has also been included in the dutiabale 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.

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 from this tax 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 R30 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.

TRANSFER DUTY ON IMMOVABLE PROPERTY

With effect from 1 March 2004 the following transfer duty is payable on transactions not subject to VAT:

- Acquisitions of property by natural persons

Values	Rates
R 1 - 190 000	No duty to be paid
R 190 001 - 330 000	5% of the value above R 190 000
R 330 001 +	R 7 000 + 8% of the value above R 330 000

- Acquisitions of property by persons other than natural persons (this includes trusts):
 - 10% of the value.

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 (CK1) Amended founding statements (CK2 and CK2A) Minute book and resolutions passed at meetings	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	5 years
Salary and wage registers	5 years
Invoices - sales and purchases	5 years
Bank statements and vouchers	5 years
Stock sheets	5 years
Year end working papers	5 years
VAT records	5 years
Other vouchers and general correspondence	4 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.

INTEREST RATES

PRIME OVERDRAFT RATES

16 August 2004	11,00%
15 December 2003	11,50%
20 October 2003	12,00%
15 September 2003	13,50%
18 August 2003	14,50%
13 June 2003	15,50%
14 September 2002	17,00%
14 June 2002	16,00%
18 March 2002	15,00%
16 January 2002	14,00%
25 September 2001	13,00%
16 July 2001	13,50%
18 June 2001	13,75%
25 January 2000	14,50%
04 October 1999	15,50%
02 August 1999	16,50%
14 July 1999	17,50%
25 June 1999	18,00%
26 April 1999	19,00%
15 March 1999	20,00%
08 February 1999	21,00%
11 January 1999	22,00%

LIMITATIONS ON INTEREST RATES IN TERMS OF THE USURY ACT

Capital amount	Changes effective from			
	17 Sep 2004	06 Feb 2004	21 Nov 2003	01 Oct 2003
R 1 - 10 000	20%	21%	22%	24%
R 10 001 - 500 000	17%	18%	19%	21%
R500 001 +	No limit	No limit	No limit	No limit

FOREIGN EXCHANGE RATES

R1 equivalent to	28 Feb 2005	31 Dec 2004	30 Sep 2004	30 Jun 2004	31 Mar 2004	27 Feb 2004
United States Dollar	0,1729	0,1769	0,1548	0,1584	0,1577	0,1496
British Pound	0,0895	0,0917	0,0861	0,0880	0,0861	0,0802
Euro	0,1300	0,1297	0,1256	0,1312	0,1286	0,1201
Australian Dollar	0,2188	0,2284	0,2183	0,2309	0,2087	0,1959
Japanese Yen	18,1896	18,2456	17,2902	17,3644	16,5071	16,4593
Botswana Pula	0,7570	0,7592	0,7422	0,7468	0,7395	0,7286
Zimbabwean Dollar	1046,4900	991,5100	818,8900	845,5800	674,9400	587,8700