TAX GUIDE
2012 | 2013

LPH Chartered Accountants Inc.

Old Warehouse Building
Black River Park, Fir Street
OBSERVATORY
7925

PO Box 14043
MOWBRAY
7705

TEL: +27 21 448 1360
FAX: +27 21 448 2157
E-MAIL: info@lph.co.za
WEBSITE: www.lph.co.za

DIRECTORS:

ME Luyt CA (SA)
N Hall CA (SA)
CA Kempen CA (SA)
WJ de Villiers CA (SA)
DK Cox CA (SA)

LPH Chartered Accountants Inc.

Old Warehouse Building
Black River Park, Fir Street
OBSERVATORY
7925

PO Box 14043
MOWBRAY
7705

TEL: +27 21 448 1360
FAX: +27 21 448 2157
E-MAIL: info@lph.co.za
WEBSITE: www.lph.co.za

DIRECTORS:

ME Luyt CA (SA)
N Hall CA (SA)
CA Kempen CA (SA)
WJ de Villiers CA (SA)
DK Cox CA (SA)

INDEX

2012/2013 Budget Review 2
Administrative Penalties 42
Advance Tax Rulings 33
Arrear pension fund contributions 6
Arrear retirement annuity fund contributions 6
Bursaries 9
Capital Gains Tax 20
Capital incentive Allowances 22
Company Tax 13
Comparative Tax Rates 47
Connected person definition 37
Consumer Protection Act 38
Controlled Foreign Companies 25
Current pension fund contributions 6
Current retirement annuity fund contributions 6
Donations Tax 29
Employer-owned Vehicles: 8
"Environmental" Deductions 34
Estate Duty 28
Exchange Control 27
Farming Tax 18
Foreign Dividends 25
Green Tax 34
Holiday accommodation 8
Individual Tax Rates 4
Interest Exemption 5
Interest Rates 46
Interest-free or low-interest loans 9
IRP 5 Codes 40
Learnership Allowances 23
Leasehold improvements 32
Medical and disability expenses 6
Non-residents 26
PAYE 12
Personal Service Providers (PSP) 15
Pre-production interest 32
Pre-trade expenditure 32
Proposed design of carbon emissions tax 34
Provisional Tax 11
Public Benefit Organisations 16
Research and Development 32
Residence Based Tax 24
Residential accommodation 9
Restraint of trade 32
Retention of Records 43
Ring-fencing of Assessed Losses 30
Secondary Tax on Companies 17
Securities Transfer Tax 33
Skills Development Levy 33
Small Business Corporations 13
Subsistence allowances 9
Tax allowance for energy-efficiency savings 34
Tax Rebates 5
Tax Thresholds 5
Taxation of Lump Sums 10
Transfer Duty on Immovable Property . . . 35
Transfer of a residence out of a Company, CC or Trust 36
Travelling Allowance 7
Trusts 14
Turnover Tax 15
Unemployment Insurance Contributions . . 33
Value Added Tax 21
Wear and Tear Allowances 44

The **threshold** below which individuals are not liable for personal income tax is increased to R63 556 of taxable income per year for those below the age of 65, R99 056 per year for those aged 65 to 74, and R110 889 for age 75 and over.

Dividend withholding tax will come into effect on 1 April 2012, bringing an end to the secondary tax on companies. Pension funds that are exempt from income tax will receive their dividends tax free. For equity reasons it is proposed that the dividend withholding tax come into effect at 15 per cent – five percentage points higher than the previous secondary tax on companies rate.

Capital gains tax inclusion rate for individuals and special trusts will increase to 33.3 per cent, shifting their maximum effective capital gains tax rate to 13.3 per cent. The inclusion rate for other entities (companies and other trusts) will increase to 66.6 per cent, raising the effective rate for companies to 18.6 per cent and for other trusts to 26.7 per cent. These changes will come into effect from 1 March 2012. The exemption thresholds for individual capital gains and for primary residences will be adjusted significantly.

Monthly medical tax credits will be increased from R216 to R230 for the first two beneficiaries and from R144 to R154 for each additional beneficiary with effect from 1 March 2012. From that date onwards (apart from those with disabilities), where medical scheme contributions in excess of four times the total allowable tax credits plus out-of-pocket medical expenses combined exceed 7.5 per cent of taxable income, they can be claimed as a deduction against taxable income.

Additional medical deductions will be converted into tax credits at a rate of 25 per cent for taxpayers aged below 65 years with effect from 1 March 2014. Also with effect from the same date, employer contributions to medical schemes on behalf of ex-employees will be deemed a taxable fringe benefit and such ex-employees will be able to claim the appropriate tax credits. **Taxpayers 65 years and older**, and those with disabilities or disabled dependants will be able to convert all medical scheme contributions in excess of three times the total allowable tax credits plus out-of-pocket medical expenses into a tax credit of 33.3 per cent. Note that the 7.5 per cent threshold will not apply.

National health insurance is to be phased in over a 14-year period beginning in 2012/13. Funding options include an increase in the VAT rate, a payroll tax on employers, a surcharge on the taxable income of individuals, or some combination of the above. A discussion paper will be published by end-April 2012.

Contributions by employees and employers to pension, provident and retirement funds will be tax deductible by individual employees. Individual taxpayer deductions will be set at 22.5 and 27.5 per cent, for those below 45 years and 45 and above respectively, of the higher of employment or taxable income. Annual deductions will be limited to R250 000 and R300 000 for taxpayers below 45 years and 45 and above respectively. A minimum monetary threshold of R20 000 will apply to allow low-income earners to contribute in excess of the prescribed percentages. Non-deductible contributions (in excess of the thresholds) will be exempt from income tax if, on retirement, they are taken as either part of the lump sum or as annuity income. These amendments will come into effect on 1 March 2014.

Micro businesses will be given the option of making payments for turnover tax, VAT and employees' tax at twice-yearly intervals from 1 March 2012. It is further envisaged that a single combined return will be filed on a twice-yearly basis from 1 March 2013.

The tax-free threshold for **small businesses corporations** increases from R59 750 to R63 556. Taxable income up to R300 000 is currently taxed at 10 per cent; this threshold is now increased to R350 000 and the applicable rate reduced to 7 per cent. For taxable income above R350 000, the normal corporate tax rate of 28 per cent applies. These amendments will come into effect for years of assessment ending on or after 1 April 2012.

Public debate on section 45 of the Income Tax Act (1962) and **private equity acquisitions** has highlighted the need to improve the classification of corporate financing. To address this, government will enact a revised set of reclassification rules deeming certain debt to be equivalent to shares. In 2013 government will also consider an "across-the-board" percentage ceiling on interest deductions, relative to earnings before interest and depreciation, to limit excessive debt financing.

NORMAL RATES OF TAX PAYABLE BY NATURAL PERSONS FOR THE YEAR ENDED 28 FEBRUARY 2013

TAXABLE INCOME	RATES OF TAX
R0 – R160 000	+ 18% of taxable income
R160 001 – R250 000	R28 800 + 25% of taxable income above R160 000
R250 001 – R346 000	R51 300 + 30% of taxable income above R250 000
R346 001 – R484 000	R80 100 + 35% of taxable income above R346 000
R484 001 – R617 000	R128 400 + 38% of taxable income above R484 000
R617 001 and above	R178 940 + 40% of taxable income above R617 000

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

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

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

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

Tax rebates

	2011	2012	2013
■ Primary	R10 260	R10 755	R11 440
■ Secondary (Persons 65 and older)	R5 675	R6 012	R6 390
■ Tertiary (Persons 75 and older)	–	R2 000	R2 130

Tax thresholds

	2011	2012	2013
■ Below age 65	R57 000	R59 750	R63 556
■ Age 65 to below 75	R88 528	R93 150	R99 056
■ Age 75 and over	–	R104 261	R110 889

Interest Exemption:

	2011	2012	2013
■ Below age 65	R22 300	R22 800	R22 800
■ Age 65 & above	R32 000	R33 000	R33 000

Current pension fund contributions

The greater of –

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

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

Arrear pension fund contributions

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

Current retirement annuity fund contributions

The greater of –

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

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

Arrear retirement annuity fund contributions

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

Medical and disability expenses

- Taxpayers 65 and older may claim all qualifying expenditure;
- Taxpayers under 65 may claim all qualifying medical expenses where the taxpayer or taxpayer’s spouse or child is a person with a disability.
- Other taxpayers under 65 may in determining tax payable deduct monthly contributions to medical schemes (a tax rebate to known as a medical scheme fees tax credit) up to R230 for each of the taxpayer and the first dependant on the medical scheme and R154 for each additional dependant.

When determining taxable income they can also claim a deduction for medical scheme contributions exceeding four times the amount of the medical schemes fees tax credits and any other medical expenses limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums).

FRINGE BENEFITS

Travelling allowance for the Tax year ending 2013

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

WHERE THE VALUE OF THE VEHICLE IS (Including VAT)	FIXED COST R p.a.	FUEL COST c/km	MAINTENANCE COST c/km
0 – 60 000	19 492	73.7	25.7
60 001 – 120 000	38 726	77.6	29.0
120 001 – 180 000	52 594	81.5	32.3
180 001 – 240 000	66 440	89.6	36.9
240 001 – 300 000	79 185	102.7	45.2
300 001 – 360 000	91 873	117.1	53.7
360 001 – 420 000	105 809	119.3	65.2
420 001 – 480 000	119 683	133.6	68.3
exceeding 480 000	119 683	133.6	68.3

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

Alternative to the rate table:

- Where the distance travelled for business purposes does not exceed 8 000 kilometres per annum, no tax is payable on an allowance paid by an employer to an employee up to the rate of 316 cents per kilometre, regardless of the value of the vehicle.
- This alternative is not available if other compensation in the form of an allowance or reimbursement is received from the employer in respect of the vehicle.

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

Employer-owned vehicles:

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

Holiday accommodation *provided by employer*

Employee taxed on –

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

Subsistence allowances and advances

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

- meals and incidental costs, an amount of R303 per day is deemed to have been expended;
- incidental costs only, an amount of R93 per day is deemed to have been expended.

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

Residential accommodation

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

Interest-free or low-interest loans

The difference between interest charged at the official rate and the actual amount of interest charged, is to be included in gross income on any loans exceeding R3 000.

Bursaries

Bursaries are exempt from tax where:

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

Retirement fund lump sum withdrawal benefits

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

- tax determined by applying the tax table to the aggregate of that lump sum plus all other retirement fund lump sum withdrawal benefits accruing from March 2009 and all retirement fund lump sum benefits accruing from October 2007 plus severance benefits accrued from March 2011; less
- tax determined by applying the tax table to the aggregate of benefits mentioned above excluding lump sums withdrawals received for the year.

Retirement fund lump sum benefits or severance benefits

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

- tax determined by applying the tax table to the aggregate of that lump sum plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 plus severance benefits accrued from March 2011; less
- tax determined by applying the tax table to the aggregate of benefits mentioned above excluding retirement lump sums and severance benefits received for the year.

Basic amount

The basic amount is computed as the taxable (excluding capital gain and lump sum) income of the latest preceding year of assessment increased by 8% p.a. if that assessment is more than a year old.

First provisional payment

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

Second provisional payment

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

- taxable income less than R1 million – the estimate must be equal to lesser of the basic amount or 90% of the actual taxable income, or
- taxable income greater than R1 million – the estimate must be equal to 80% of the actual taxable income.

3rd Provisional payment

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

Persons exempt from making provisional tax payment

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

Pay As You Earn (PAYE)

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

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

Directors PAYE

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

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

divided by

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

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

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

Normal Taxation

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

Companies that are classified as personal service providers are taxed at 33%.

Small Business Corporations

Years ending between 1 April 2011 and 31 March 2012

R0 – R59 750	Nil
R59 751 – R300 000	10% of the amount above R59 750
R300 001 and above	R24 025 + 28% of amount above R300 000

Years ending between 1 April 2012 and 31 March 2013

R0 – R63 556	Nil
R63 557 – R350 000	7% of the amount above R63 556
R350 001 and above	R20 051 + 28% of amount above R350 000

A small business corporation is a close corporation or private company (other than a personal service provider) of which:

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

TRUSTS

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

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

Trusts are divided into two categories for tax purposes:

- Special Trusts
- All other Trusts

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

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

All other trusts are subject to an income tax rate of 40% and a capital gains inclusion rate of 66.6%

PERSONAL SERVICE PROVIDERS (PSP)

How to determine what qualifies as a PSP

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

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

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

Where the responses are affirmative, the entity will be treated as a PSP and will be subject to employees’ tax at the rate of 28% if it is a company and 40% if it is a trust. Expenses to be deducted by a PSP are also limited.

TURNOVER TAX FOR MICRO BUSINESSES

Financial years ending on any date between 1 April 2012 and 31 March 2013

TAXABLE TURNOVER	RATES OF TAX
R0 – R150 000	0%
R150 001 – R300 000	1% of the amount above R150 000
R300 001 – R500 000	R1 500 + 2% of the amount above R300 000
R500 001 – R750 000	R5 500 + 4% of the amount above R500 000
R750 001 and above	R15 500 + 6% of the amount above R750 000

Turnover tax for micro businesses is a simplified turnover based tax system substituting income tax, CGT and in certain circumstances VAT. The tax is an elective tax applicable to sole proprietors, partnerships, close corporations, companies and co-operatives. After joining the system, qualifying businesses are to remain in the system for a minimum of three years (provided they remain within the monetary threshold (i.e. qualifying turnover below R1 million)). Once a business has elected to migrate out of the system, it will not be able to migrate back. Personal services rendered under employment-like conditions and professional services are excluded.

PUBLIC BENEFIT ORGANISATIONS (PBO)

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

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

Donations to approved public benefit organisations are deductable as follows:

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

Secondary Tax on Companies

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

Dividends tax replaces the secondary tax on companies from 1 April 2012.

Dividends tax

Dividends tax is a tax levied on the shareholder at a rate of 15% on dividends paid. However, where a dividend in specie is paid, dividends tax is a tax levied on the company declaring the dividend.

Dividends tax is normally withheld by the company paying the dividend and is payable at the end of the month following the month in which the dividend was paid.

Dividends tax exemptions

A dividend is exempt from dividends tax if the beneficial owner is:

- A SA company;
- The Government and various quasi government institutions;
- Public Benefit Organisations;
- Environmental rehabilitation trusts;
- Pension, provident and similar funds;
- Medical Schemes;
- A shareholder in a registered micro business (only the first R200 000 of dividends paid during a particular year of assessment).

STC credits

If a company has STC credits at the effective date of the Dividends Tax regime these STC credits must be used before or on 31 March 2015 (i.e. within 3 years from the effective date).

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

Valuation of livestock and produce

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

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

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

Capital development expenditure

Expenditure not restricted to taxable income from farming:

- Eradication of noxious plants and prevention of soil erosion

Expenditure restricted to taxable income from farming

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

Special depreciation allowance:

Machinery, implements, utensils and articles for farming purposes are written off over three years on a 50:30:20 basis.

Rating formula

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

Other

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

CAPITAL GAINS TAX

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

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

The purchaser must withhold CGT on the purchase price where assets are purchased from a non-resident (except where the amount payable by the purchaser is less than R2 million).

A capital gain or loss is calculated separately in respect of each asset disposed; once determined, gains or losses are combined for that year of assessment; and if it is:

- an assessed capital loss, it is carried forward to the following year, or
- a net capital gain, it is multiplied by the inclusion rate (see table on pg 47).

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

The following exemptions for individual capital gains are increased from 1 March 2012:

- The annual exclusion from R20 000 to R30 000
- The exclusion amount on death from R200 000 to R300 000
- The primary residence exclusion from R1.5 million to R2 million
- The exclusion amount on the disposal of a small business when a person is over age 55 from R900 000 to R1.8 million
- The maximum market value of assets allowed for a small business disposal for business owners over 55 years increases from R5 million to R10 million.

VALUE ADDED TAX (VAT)

The VAT system comprises three types of supply:

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

Key features

- Enterprises with a turnover of less than R1 000 000 in any period of 12 months are not obliged to register for VAT;
- enterprises with a turnover of less than R50 000 in any period of 12 months are not permitted to register for VAT;
- VAT returns are generally submitted on a 2 monthly basis unless turnover in any period of 12 months exceeds R30 million, in which case returns are submitted monthly;
- farmers may submit VAT returns on a 6 monthly basis and property letting companies may, subject to certain requirements, submit annual VAT returns;
- businesses with turnover of less than R1,5 million may apply to submit returns every 4 months;
- a vendor is legally obliged to notify SARS as soon as annual turnover exceeds or is expected to exceed R30 million;
- vendors may reclaim the VAT element of all expenditure except on:
  - entertainment, except qualifying subsistence;
  - passenger vehicles (including hiring); and
  - club subscriptions.
- input tax credits may not be claimed on expenditure relating to exempt supplies;
- input tax credits may only be claimed upon receipt of a valid tax invoice;
- the name, address and VAT registration number of the recipient and supplier must appear on tax invoices where the VAT inclusive total exceeds R3 000.

CAPITAL INCENTIVE ALLOWANCES

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

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

LEARNERSHIP ALLOWANCES

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

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

RESIDENCE BASED TAX

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

Definition of Resident

Natural Person

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

Companies

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

Controlled Foreign Companies (CFC)

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

Foreign Dividends

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

Foreign dividends are exempt as follows:

For years beginning on or after 1 March 2012 (individuals) and 1 April 2012 (companies and trusts)

1. If received by a resident who holds at least 10% of the equity shares and voting rights in the foreign company;
2. The shareholder is a company which is in the same country as the foreign company paying the dividend;
3. If declared by a company listed in South Africa and a foreign stock exchange;
4. If paid out of the profits of a foreign company if the profits of the foreign company have been included in the South African shareholders income in terms of the CFC provisions.

Where a foreign dividend is not exempted in terms of the provisions above the following part of a foreign dividend will be exempted from tax:
1. Individuals: 3/4 of the foreign dividend received;
2. Companies and trusts: 18/28 of the foreign dividend received.

No deduction will be granted for any expenditure incurred in the production of income in the form of foreign dividends.

Foreign Tax Credits

Residents are allowed to deduct all foreign taxes paid in respect of foreign income from the tax payable in South Africa on foreign income. Any excess credits may be carried forward. There is also a foreign tax credit available for foreign companies that are taxed on management fees earned in South Africa.

NON-RESIDENTS

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

Capital Transactions

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

Dividends

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

Fees

Authorised dealers may transfer directors fees to nonresident directors permanently domiciled outside South Africa, provided the application is accompanied by a copy of the resolution of the board of the remitting company, confirming the amount to be paid to the beneficiary.

Foreign Capital Investments

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

Emigration limits

Foreign Capital Allowance

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

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

R2 000 000

Single discretionary allowance

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

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

This discretionary allowance is in addition to the existing R4 000 000 individual foreign capital allowance.

Study allowances

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

ESTATE DUTY

The general rule is that if the taxpayer is ordinarily resident in the Republic at the time of death, all of his assets (including deemed property), wherever they are situated, will be included in the gross value of his estate for the determination of duty payable thereon. Estate duty is currently levied at 20% on the dutiable estate.

Deemed property includes: Insurance Policies on the life of the deceased, claims in terms of the matrimonial property act as well as property that the deceased was competent to dispose of immediately prior to his death.

The most important deductions are:

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

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

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

Executors Remuneration

An executor is entitled to the following remuneration:

- The remuneration fixed by deceased in the will, or
- 3.5% of gross assets
- 6% on income accrued and collected from date of death

Executors remuneration is subject to VAT where the executor is registered as a vendor.

DONATIONS TAX

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

Principal exemptions:

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

Rates:

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

RING-FENCING OF ASSESSED LOSSES (section 20a)

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

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

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

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

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

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

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

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

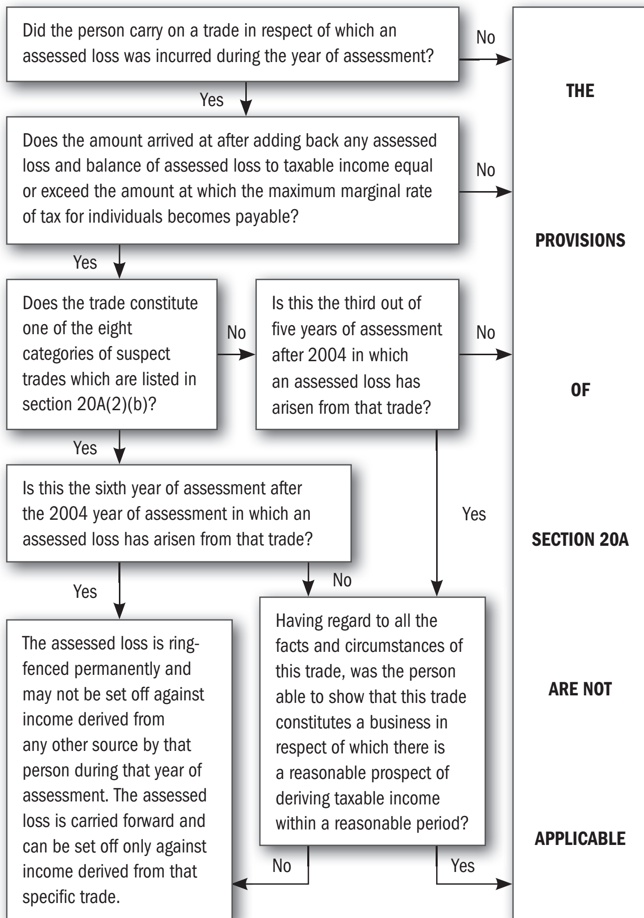
(vi) farming or animal breeding, unless that person carries on farming, animal breeding or activities of a similar nature on a full-time basis;

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

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

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

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



Restraint of trade

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

Leasehold improvements

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

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

Pre-trade expenditure

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

Pre-production interest

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

Research and Development

Research and development performed for the purposes of discovering novel, practical and non-obvious information of a scientific or technological nature

or,creating any invention, patent, design or computer copyright or similar property of a scientific or technological nature,qualifies for incentive allowances whereby 150% of the operating expenses are deductible and capital expenditure is depreciated on a 50:30:20 basis.

SUNDRY TAXES

Securities Transfer Tax

The tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities. Securities consist of shares in companies or member's interests in close corporations.

Skills Development Levy

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

Unemployment Insurance Contributions

Unemployment Insurance Contributions are payable monthly by employers on the basis of a contribution of 1% by employers and 1% by employees, based on employees' remuneration below R12 478 per month (from 1 February 2008).

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

Advance tax rulings

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

Carbon dioxide vehicle emissions tax

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

"Environmental" Deductions/allowances

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

Tax allowance for energy-efficiency savings

The Department of Energy has released a new tax allowance for Energy-efficiency savings Regulation. The Regulation stipulates that any company holding a certificate that can prove their energy savings are genuine, can submit the certificate to claim an allowance from SARS. The allowance is as contemplated in Section 12L (2) of the Income Tax Act, 1962.

Proposed design of carbon emissions tax

A draft policy paper will be published for comment in 2012. The proposed design features include:

- Percentage-based rather than absolute emissions thresholds.
- A higher tax-free threshold for process emission.
- Additional relief for trade-exposed sectors.
- The use of offsets by companies to reduce their carbon tax liability.

TRANSFER DUTY ON IMMOVABLE PROPERTY

Transfer duty:

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

Transfer duty is calculated as follows:

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

TRANSFER OF A RESIDENCE OUT OF A COMPANY, CC OR TRUST

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

Paragraph 51A

Paragraph 51A came into operation on 1 October 2010, and applies to the acquisition of a residence on or after that date, and before 1 January 2013.

Criteria required in order to qualify for relief:

- The property should have been used mainly for domestic purposes during the period commencing 11th February 2009 and ending on the date of disposal – on or before 31 December 2012, by one or more natural persons who are "connected persons" in relation to the company, CC or trust;
- Within a period of six months commencing on the date of the disposal:
  - In the case of a trust making the disposal, steps must have been taken to terminate the trust;
  - In the case of a company or CC making the disposal steps must have been taken to terminate the trust;

Determination of Base Cost

- where a company, CC or a trust makes a disposal of an interest in a residence, that company, CC or trust must be deemed to have made that disposal for an amount equal to the base cost of that interest as at the date of that disposal;
- Where shareholders acquired their shares in a company already holding the residence, and where 90% or more of the market value of the assets held by the company during the window period is attributable to the property:
  a. The base cost of the residence is deemed to be the cost of the shares plus subsequent improvements;
  b. the acquirer must disregard the disposal of all shares held by that person in that company for purposes of determining his or her taxable income, assessed loss, aggregate capital gain or aggregate capital loss;

- Where the company acquired the residence after the shareholders acquired their shares, and where some of the shareholders acquired their shares before the company acquired the residence and others acquired them afterwards:
  a. the cost of the shares in the company is not taken into account for purposes of determining the acquirer's base cost;
  b. The acquirer "steps into the shoes" of the company for the purpose of applying the time-based apportionment, market value, and "20% of proceeds"methods for determining the valuation date value of the residence and any post-CGT costs;
  c. The same principles apply for the acquirer from a trust

General

- The relief is extended to situations where, for example, a company distributes the property to a shareholder trust, provided the trust then distributes the property to a natural person beneficiary who used the property for domestic purposes;
- Note: vacant land does not qualify for relief;

CONNECTED PERSON DEFINITION

Those persons that are connected persons in relation to –

- an individual,
- a trust,
- a connected person in relation to a trust,
- a member of a partnership,
- a company, and
- a close corporation.

The definition also establishes the reverse relationship between the persons that are connected persons in relation to the above persons.

The wording of a particular provision of the Act will determine the time at which the existence of any "connected person" relationship must be determined. It will also determine whether an expanded or restricted meaning of the term as defined must be applied.

THE CONSUMER PROTECTION ACT 68 OF 2008

The Consumer Protection Act (referred to in this section as the Act) aims to "*promote a fair, accessible and sustainable marketplace for consumer products and services, and, for that purpose, to establish national norms and standards relating to consumer protection...*".

The Act thus purports, to fulfill the rights of historically disadvantaged persons and to promote their full participation as consumers, and to give effect to internationally recognised consumer rights. It has the effect of codifying the common law and the Constitution, and has been described as a "Bill of Rights for Consumers".

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

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

Where the Act does not have application:

- The Act will not apply to consumers who are juristic persons whose asset value or annual turnover equals or exceeds the threshold value determined by the Minister (currently set at R2 million);
- Juristic persons for the purposes of this Act include a company, a trust, a close corporation, a body corporate, a partnership or association;
- Transactions including the supply of goods or services to the State;
- If the consumer's transactions are listed as those to which the Act specifically does not apply (e.g. services to be supplied under an employment contract, a collective bargaining agreement or a collective agreement);

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

Basically the Act protects the following 8 fundamental consumer rights:

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

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

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

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

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

There are still many ambiguities and uncertainties surrounding some of the provisions of the Act, which only time (and the courts) will be able to interpret and clarify. You are strongly advised to contact our offices for further advice or consultation on the CPA.

IRP 5 CODES

Normal Income Codes

3601 Income, Pension, overtime, RA Annuity
3602 Income (Excl), Pension (Excl), Arbitration Award (Excl) Purchased Annuity (Excl)
3605 Annual Payment
3606 Commission
3608 Arbitration Award
3611 Purchased Annuity
3613 Restraint of Trade
3614 Other Retirement Lump Sums
3615 Director's Remuneration
3616 Independent Contractors
3617 Labour Brokers (PAYE/IT)

Allowance Codes

3701 Travel Allowance
3702 Reimbursive Travel Allowance (IT)
3703 Reimbursive Travel Allowance (Excl)
3704 Subsistence Allowance – Local Travel (IT)
3707 Share Options Exercised (Section 8A)
3708 Public Office Allowance
3713 Other Allowances, Entertainment Allowance, Tool Allowance, Computer Allowance, Telephone/Cell Phone Allowance
3714 Other Allowances (Excl), Subsistence Allowance – Local Travel (Excl) Uniform Allowance (Excl), Subsistence Allowance- Foreign Travel (Excl)
3715 Subsistence Allowance- Foreign Travel (IT)
3717 Broad-based Employee Share Plan (Section 8B)
3718 Vesting of equity instruments

Fringe Benefit Codes

3801 General Fringe Benefit, Right of Use of Asset, Meals, refreshments and meal and refreshment Vouchers, Free or cheap residential or holiday accommodation, Free or cheap services, Low interest or interest free loans or loan subsidies, Payment of employee's debt, Bursaries or scholarships
3802 Right of Use of Motor Vehicle
3810 Company contribution to Medical Aid
3813 Cost related to Medical Services paid by Company

Important: To report foreign income, add a value of 50 to all normal, allowance, fringe benefit and lump sum codes e.g. 3606 will be 3656

Lump Sum Codes

3901 Gratuities (retirement/retrenchment)
3906 Special Remuneration (e.g. proto-teams)
3907 Other Lump Sums (e.g. Backdated salaries extended over previous tax year, non approved funds)
3908 Surplus Apportionments on or after 1 January 2006
3909 Unclaimed Benefits paid by Fund
3915 Pension, Provident or Retirement Annuity Fund Lump Sum Benefits paid on or after 1 October 2007
3920 Pension, Retirement annuity and Provident fund withdrawal benefits after 28 February 2009 (PAYE)
3921 Lump sum payments accruing after 28 February 2009 from a Pension, Retirement annuity and Provident fund in respect of withdrawal

Gross Remuneration Codes

3696 Gross Non-Taxable Income
3697 Gross Retirement Funding Employment Income
3698 Gross Non-Retirement Funding Employment Income
3699 Gross Remuneration

Employee's Tax Deduction and Reason Codes

4101 SITE
4102 PAYE
4115 Tax on Retirement Lump Sum Benefits
4141 SDL contribution
4142 UIF contribution
4150 02 – Earn Less than the Tax Threshold
03 – Independent Contractor
04 – Non Taxable Earnings (including nil directive)
05 – Exempt Foreign Employment Income
06 – Directors Remuneration – Income Determined in the following Tax Year
07 – Labour Broker with IRP30

Deduction Codes

4001 Current Pension Fund Contributions
4002 Arrear Pension Fund Contributions
4003 Current Provident Fund Contributions, Arrear Provident Fund Contributions
4005 Medical Aid Contributions
4006 Current Retirement Annuity Fund Contributions
4007 Arrear (re-instated) Retirement Annuity Fund Contributions
4018 Premiums Paid for Loss of Income Policies
4020 Medical Services Costs Deemed paid for Immediate Family
4026 Arrear Pension Fund Contributions – Non Statutory Forces
4030 Donations deducted from the employee's remuneration and paid by the employer
4474 Employer's Medical Aid Contributions
4493 Employer's Medical Aid Contributions i.r.o Retired Employees

Fixed Rate Penalties

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

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

Other Penalties

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

Late payment on the second provisional tax payment a penalty of 20% on normal tax payable for the year less provisional tax and PAYE paid.

On an underestimate of the second provisional tax payment a penalty of 20% is payable.

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

RETENTION OF RECORDS

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

Accounting records

Books of prime entry:

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

- Original 15
- Microfiche 5

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

Employee records:

Expense Accounts, Payrolls, Employee Tax Returns, etc 5

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

Statutory & share registration records:

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

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

- Cancelled share transfer forms 12

WEAR AND TEAR ALLOWANCES

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

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

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

The acquisition of "small" items at a cost of less than R7 000 per item may be written off in full during the year of acquisition

INTEREST RATES

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

COMPARATIVE TAX RATES

RATES OF TAX	2011	2012	2013
NATURAL PERSONS			
Maximum marginal rate	40%	40%	40%
■ Reached at a taxable income	552 000	580 000	617 000
Minimum rate	18%	18%	18%
■ Up to taxable income of	140 000	150 000	160 000
■ CGT inclusion rate	25 %	25 %	33.3%
COMPANIES & CC's			
■ Normal tax rate	28%	28%	28%
■ STC rate/Dividends Tax	10%	10%	15%
■ CGT inclusion rate	50%	50%	66.6%
TRUSTS (other than special trusts)			
■ Flat rate	40%	40%	40%
■ CGT inclusion rate	50%	50%	66.6%
SUNDRY			
■ Donations Tax	20%	20%	20%
■ Estate Duty	20%	20%	20%
SMALL BUSINESS CORPORATIONS			
Maximum marginal rate	28%	28%	28%
■ Reached at a taxable income	300 000	300 000	350 000
Minimum rate	0%	0%	0%
■ Up to a taxable income of	57 000	59 750	63 556
MICRO BUSINESS			
Max Rate of Tax	7%	6%	6%
■ On turnover of	750 000	750 000	750 000
Minimum Rate	0%	0%	0%
■ Up to a turnover of	100 000	150 000	150 000

NOTES

IMPORTANT NOTE

The information contained in this Booklet is a summary of current legislation and budget proposals proposed by Minister Gordhan on the 22nd February 2012. We suggest that you do not act solely on material contained in this Booklet as the nature of the information contained herein is general and may in certain circumstances be subject to misinterpretation. In addition, the budget proposals may not include all legislative adjustments which could be made in the near future. Consequently we recommend that our advice be sought when encountering these potentially problematic areas. While every care has been taken in the compilation of this Booklet, no responsibility of any nature whatsoever shall be accepted for any inaccuracies, errors, or omissions.