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Budget 2018/9 Tax Guide

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Income Tax: Individuals and Special Trusts

Tax Rates (year of assessment ending 28 February 2019)

Taxable income	Rates of tax
R	R
0 - 195 850	18% of each 1
195 851 - 305 850	35 253 + 26% of the amount above 195 850
305 851 - 423 300	63 853 + 31% of the amount above 305 850
423 301 - 555 600	100 263 + 36% of the amount above 423 300
555 601 - 708 310	147 891 + 39% of the amount above 555 600
708 311 - 1 500 000	207 448 + 41% of the amount above 708 310
1 500 001 and above	532 041 + 45% of the amount above 1 500 000

Tax Thresholds

Age	Threshold (R)
Below age 65	78 150
Age 65 to below 75	121 000
Age 75 and over	135 300

Trusts, other than special trusts, will be taxed at a flat rate of 45%.

Tax Rebates (natural persons)

- Primary rebate - R14 067
- Secondary rebate for persons aged 65 and older - R7 713
- Tertiary rebate for persons aged 75 and older - R2 574

Which individuals must submit returns

The Commissioner annually gives public notice of the persons who are required to furnish returns for the assessment of normal tax within the period prescribed in that notice (likely to be issued in June 2018).

Currently, the following persons must furnish an income tax return (updated for the rate changes in the 2018 Budget Review):

Every natural person:

1. who is a resident and carried on any trade (other than solely in their capacity as an employee);
2. who is not a resident and carried on any trade (other than solely in their capacity as an employee) in South Africa;
3. to whom a travel allowance was paid or granted (other than an amount reimbursed or advanced for actual travel) and whose gross income exceeded:
 - R78 150 for individuals under 65 years old); or
 - R121 000 for individuals older than 65 years but under the age of 75; or
 - R135 300 for individuals 75 years or older;
4. who was granted a taxable fringe benefit and whose gross income exceeded the thresholds set out in item 3;
5. who is a resident and who had capital gains or losses exceeding R40 000;
6. who is not a resident and had capital gains or capital losses from the disposal of qualifying assets;
7. who is a resident and held any funds in foreign currency or owned any assets outside South Africa, if the total value of those funds and assets exceeded R225 000 at any stage during the year of assessment;
8. who is a resident and to whom any income or capital gains from funds in foreign currency or assets outside South Africa could be attributed;
9. who is a resident and held any participation rights in a controlled foreign company;
10. to whom an income tax return is issued or who is requested by the Commissioner in writing to furnish a return, irrespective of the amount of income of that person;
11. subject to the provisions of item 3, at the end of the year of assessment meets the thresholds listed in item 3;
12. subject to the provisions of item 3, every estate of a deceased person that had gross income;
13. who is a non-resident, and whose gross income included interest from a source in South Africa to which the interest exemption does not apply; and
14. every representative taxpayer of any person referred to above.

Natural persons (or the estate of a deceased person) are not required to furnish a return if their gross income consist solely of:

1. remuneration paid or payable from one single source, which does not exceed R350 000 and employees' tax has been duly deducted or withheld;
2. interest from a source in South Africa not exceeding:
 - R23 800 in the case of a natural person below the age of 65 years;
 - R34 500 in the case of a natural person aged 65 years or older; or
 - R23 800 in the case of the estate of a deceased person;
3. dividends, and the natural person was a non-resident throughout the year of assessment; and
4. amounts received or accrued from a tax free investment.

Capital Gains Tax (CGT): Individuals

Inclusion rate: 40%

Statutory rate: 0% - 45%

Effective rate: 0% - 18%

Exemptions / Exclusions from CGT

- Annual exclusion for individuals and special trusts: R40 000.
- Exclusion granted to individuals during the year of death: R300 000.
- Exclusion on disposal of a primary residence: R2 million.
- Exclusion on disposal of a small business for persons over 55:
 - R1.8 million provided that the market value of the business does not exceed R10 million.

Allowances and deductions

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 South Africa, and the allowance or advance is granted to pay for:

- Meals and incidental costs, an amount of R416 per day is deemed to have been expended.
- Incidental costs only, an amount of R128 for each day which falls within the period is deemed to have been expended.

For overseas costs, the applicable rate per country is available on the SARS website.

Travel Allowance

A log book confirming business kilometres travelled must be maintained in order to claim any deduction for business kilometres.

PAYE must be withheld by the employer on 80% of the allowance granted to the employee. The percentage may be reduced to 20% PAYE withholding 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.

No fuel cost may be claimed if the employee has not borne the full cost of fuel used in the vehicle and no maintenance cost may be claimed if the employee has not borne the full cost of maintaining the vehicle (e.g. if the vehicle is covered by a maintenance plan).

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 simplified method:

Where an allowance or advance is based on the actual distance travelled by the employee for business purposes, no tax is payable on an allowance paid by an employer to an employee up to the rate of 361 cents per kilometre, regardless of the value of the vehicle. However, this alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

Travel Table

Rates per kilometre, which may be used in determining the allowable deduction for business travel against an allowance or advance where actual costs are not claimed, are determined by using the following table:

Value of the vehicle (including VAT) R	Fixed cost (R/p.a.)	Fuel cost (c/km)	Maintenance cost (c/km)
0 – 85 000	28 352	95.7	34.4
85 001 – 170 000	50 631	106.8	43.1
170 001 – 255 000	72 983	116.0	47.5
255 001 – 340 000	92 683	124.8	51.9
340 001 – 425 000	112 443	133.5	60.9
425 001 – 510 000	133 147	153.2	71.6
510 001 – 595 000	153 850	158.4	88.9
exceeding 595 000	153 850	158.4	88.9

Fringe benefits

Company car / 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 when the employer acquired the vehicle, the taxable value is 3.25% of the determined value; or
- acquired by the employer under an operating lease the taxable value is the cost incurred by the employer under the operating lease plus the cost of fuel.

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.

Relief is available upon assessment for the cost of license, insurance, maintenance and fuel for private travel if the full cost was borne by the employee and the number of private kilometres travelled is substantiated by a log book.

Employer provided residential accommodation

In the case of employer provided residential accommodation, the value of the fringe benefit to be included in gross income:

- where the accommodation is rented by the employer from an unconnected third party, the lower of the cost to the employer and the result of the formula; or
- where the employer/ employee has an interest/ deemed interest in the accommodation, the result of the formula.

Note that holiday accommodation is subject to a different tax treatment.

Exemptions

Interest and dividend income

Under 65 years of age – The first R23 800 of interest income is exempt.

Over 65 years of age – The first R34 500 of interest income is exempt.

Interest is exempt where earned by non-residents who are physically absent from South Africa for at least 183 days during the 12 month period before the interest accrues and the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa of that non-resident.

exempt after the withholding of dividends tax (except to the extent that anti-avoidance provisions have been triggered).

Foreign interest and dividends

There is no exemption in respect of foreign sourced interest income.

Where an individual holds less than 10% of the equity share capital of a foreign company, which distributes a dividend, the dividend will be taxed at a maximum effective rate of 20% as determined by a formula.

Foreign remuneration exemption

Where an employee works abroad for more than 183 days and more than 60 consecutive days in a 12-month rolling period, that foreign remuneration is exempt from tax in South Africa. However, for years of assessment commencing on or after 1 March 2020, the exemption will only apply to exempt the first R1 million of foreign remuneration.

Fringe benefit exemption for employer provided bursaries

The income eligibility threshold applicable to employees, in respect of bursaries granted to their relatives, is R600 000.

The monetary limits for bursaries are as follows:

- R20 000 for grade R to grade 12 or for qualifications below NQF level 4;
- R60 000 for qualifications at NQF level 5 and above.

The monetary limits for relatives with disabilities are as follows:

- R30 000 for grade R to grade 12 or for qualifications below NQF level 4; and
- R90 000 for qualifications at NQF level 5 and above.

Deductions from Income (individuals)

Contributions to Pension, Provident and Retirement Annuity Funds

Employer contributions to South African retirement funds for the benefit of employees are deemed to be a taxable fringe benefit in the hands of employees. Depending on the nature of the fund, the fringe benefit is either the actual cash value of the contribution or the result of a formula. The employee will be deemed to have made contributions to the value of the fringe benefit (which together with their own contributions, may be eligible for a deduction).

The tax deduction for contributions to all South African retirement funds is limited per annum to the lower of R350 000 or 27.5% of the greater of taxable income (excluding retirement and severance lump sums) or remuneration (excluding retirement and severance lump sums).

Any contributions in excess of the limitations will be rolled forward and will be available for deduction in future tax years, subject to the annual limitations applicable in those tax years. Any non-deductible contributions will be available against retirement lump sums or annuity income.

Donations to certain Public Benefit Organisations

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income (excluding retirement fund lump sums and severance benefits). The amount of donations exceeding 10% of the taxable income is treated as a donation to qualifying public benefit organisations in the following tax year.

Medical and disability expenses

Taxpayers may deduct from their tax liability a tax credit (i.e. a rebate) of R310 for the first two beneficiaries and R209 for each additional beneficiary, in respect of medical aid contributions.

Taxpayers 65 years and older and those under the age of 65 years with disabilities or with disabled dependents may deduct an additional tax credit (rebate) equal to 33.3% of the sum of:

1. qualifying medical expenses; and
2. an amount by which the contributions paid exceeds three times (3x) the medical tax credits for the year.

Taxpayers under the age of 65 years may deduct an additional tax credit (rebate) equal to 25% of the sum of:

1. qualifying medical expenses; and
2. an amount by which the contributions paid exceeds four times (4x) the medical tax credits for the year, but limited to the amount, which exceeds 7.5% of taxable income (excluding retirement lump sums and severance benefits).

Tax Free Savings and Investment Accounts

All returns received from tax free savings and investment accounts, such as interest, dividends and capital gains are 100% tax free.

The annual contribution limit is R33 000, while the lifetime contribution limit is R500 000.

Taxation of lump sum benefits

Retirement fund lump sum benefits (retirement or death) and severance lump sum benefits

The tax free lump sum benefit upon death, retirement, and in respect of severance benefits (as defined in the Income Tax Act), is R 500 000. The rates follow below:

Taxable income	Rates of tax
R	R
0 - 500 000	0% of taxable income
500 001 - 700 000	18% of taxable income above 500 000
700 001 - 1 050 000	36 000 + 27% of taxable income above 700 000
1 050 001 and above	130 500 + 36% of taxable income above 1 050 000

Retirement fund lump sum withdrawal benefits

Retirement fund lump sum withdrawal benefits refer to lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund upon withdrawal from the fund.

Taxable income	Rates of tax
R	R
0 - 25 000	0% of taxable income
25 001 - 660 000	18% of taxable income above 25 000
660 001 - 990 000	114 300 + 27% of taxable income above 660 000
990 001 and above	203 400 + 36% of taxable income above 990 000

These tax tables apply cumulatively to all lump sum benefits.

Companies and Employers

Corporate Tax Rates

Type	Rates of Tax
Companies	2018/19
Resident Company	28%
Non-resident Company	28%
Personal Service Provider Company	28%
Gold mining, oil & gas, and long-term insurance companies are subject to special rules and tax rates	
Small Business Corporations ¹	
R0 – R78 150	0% of taxable income
R78 151– R365 000	7% of taxable income above R78 150
R365 001 – R550 000	R20 080 + 21% of taxable income above R365 000
R550 001 and above	R58 930 + 28% of taxable income above R550 000
Micro Businesses ²	
R 0 – R335 000	0% of taxable turnover
R335 001 – R500 000	1% of taxable turnover above R 335 000
R500 001 – R750 000	R1 650 + 2% of taxable turnover above R500 000
R750 001 and above	R6 650 + 3% of taxable turnover above R750 000
Withholding Taxes ³	
Dividends	20%
Interest paid to non-residents	15%
Royalties paid to non-residents	15%
Amounts paid to non-resident entertainers and sportspersons	15%
Disposal of fixed property by non-residents	Individuals: 7.5% Companies: 10% Trusts: 15%

¹ Applicable for financial years ending on any date between 1 April 2018 and 31 March 2019.

² Micro businesses have the option of making payments for turnover tax, VAT and employees' tax bi-annually. Applicable in respect of financial years ending on any date between 1 March 2018 and 28 February 2019.

³ Most withholding taxes payable by non-residents are subject to DTA relief.

Which companies must submit returns

The Commissioner annually gives public notice of the persons who are required to furnish returns for the assessment of normal tax within the period prescribed in that notice (likely to be issued in June 2018).

The following entities are currently required to submit annual income tax returns:

- every company, trust or other juristic person, which is a resident;
- every company, trust or other juristic person, which is not a resident, and
 - which carried on a trade through a permanent establishment in South Africa;
 - which derived income from a source in South Africa; or
 - which derived any capital gain or loss from the disposal of an asset to which the Eighth Schedule to the Income Tax Act applies;
- every company incorporated, established or formed in South Africa, but which is not a resident as a result of the application of any agreement entered into with the Government of any other country for the avoidance of double taxation.

Capital Gains Tax

Effective CGT rates

Type of taxpayer	Inclusion Rate	Statutory Rate	Effective Rate
Other Trusts	80%	45%	36%
Companies (including personal service provider companies and branches of non-resident companies)	80%	28%	22.4%
Small business corporations	80%	0% – 28%	0% – 22.4%

Payroll Taxes and Levies

Pay-as-you-earn ("PAYE")

Employers are required to withhold PAYE from remuneration paid to employees. The PAYE must be paid to SARS by the 7th day of the month following the month in which the remuneration is received. If the 7th falls on a weekend or public holiday, the payment must be made by the last business day before the 7th.

Unemployment Insurance Fund ("UIF")

UIF contributions are payable by employers to SARS on a monthly basis and are calculated at a rate of 2% of remuneration paid or payable to each employee during the month, up to a maximum remuneration threshold of R14 872 per month or R178 464 per annum.

Both the employer and the employee are required to make a contribution of 1% each based on the employee's remuneration (up to the threshold) on a monthly basis (i.e. a total of 2%).

Employers (including non-resident employers) not registered for PAYE or SDL purposes must pay the contributions directly to the Unemployment Insurance Commissioner.

With effect from 1 March 2018, foreign nationals working in South Africa, and employees undergoing learnership training are included in the UIF net.

Skills Development Levy ("SDL")

Employers with a payroll of more than R500 000 per annum must account for SDL, at a rate of 1% of total remuneration paid to employees.

Employment Tax Incentive ("ETI")

The ETI will be reviewed before it expires on 28 February 2019.

The ETI is available to eligible employers in respect of qualifying employees. Amongst other criteria (e.g. minimum wage requirements), the employee must not be less than 18 years old and must be younger than 30 years old in the relevant month.

The maximum amount of the incentive that can be claimed per qualifying employee for the first twelve months is R1 000 per month (thereafter R500 per month for the next twelve months). No incentive is available if the employee earns R6 000 or more in respect of that month.

Specific gross-up calculations apply to calculate the ETI where a qualifying employee works and is remunerated for less than 160 hours in a month.

Strong anti-abuse measures apply to ensure that employers do not abuse the incentive.

The Minister of Finance has designated six special economic zones ("SEZ") to benefit from the ETI by notice in the Gazette. Other than the standard ETI, the incentive will be available in a designated SEZ irrespective of the age of the employee, and only for an employer operating through a fixed place of business located within the designated SEZ.

Value - Added Tax

- Standard rate:
 - 14% (until 31 March 2018)
 - 15% (from 1 April 2018)
- VAT registration threshold remains at R1 000 000
- VAT voluntary registration threshold remains at R50 000.

Corporate Income Tax

Amendments to the debt relief rules

The 2017 amendments to the debt relief provisions, effective for years of assessment commencing on or after 1 January 2018 will be reviewed to address unintended consequences of the amendments.

Anti-avoidance measures: Dividend Stripping Transactions

Significant amendments were made to the anti-avoidance measures targeting dividend stripping transactions during 2017. The impact of these provisions on the corporate roll-over relief provisions will be reviewed, as will the application of these rules to preference shares.

Deduction of interest on loans used to acquire shares in an operating company

Taxpayers who acquire a minimum 70% equity share interest in an operating company are permitted to claim a deduction in respect of interest on debt financing for the shares subject to amongst other requirements, that at least 80% of the receipts or accruals of the operating company constitute income as defined for income tax purposes. The provisions will be amended to clarify the time at which the test must be performed as well as the requirements where the business of an operating company is transferred as going concern.

Anti-avoidance measures: Collateral and securities lending arrangement provisions

The collateral and securities lending provisions will be amended to prevent cross border transactions intended to circumvent Dividends Tax on amounts payable to non-residents.

Tax treatment of doubtful debts

The criteria for the determination of a doubtful debt allowance was intended to be determined by the Commissioner by way of public notice. It is proposed that these criteria, once determined, be included in the Income Tax Act.

Tax treatment of trading profits derived by Collective Investment Schemes

Gains of a capital nature realised by a portfolio of collective investment scheme are not taxable in the collective investment scheme or the participatory interest holders, until disposal of the participatory unit. In practice, some the collective investment schemes incorrectly treat all gains as capital in nature. The current income tax provisions will be amended to regulate the tax treatment of gains of a revenue nature.

Venture capital companies

Companies with investment income in excess of 20% of gross income do not meet the existing requirements for a 'qualifying company' in which a venture capital company may invest. This threshold will be reviewed. Amendments are also proposed to the retroactive withdrawal of venture capital company status approval, the exclusion from 'qualifying company' definition for controlled group companies. The provisions will also be reviewed in order to reduce the scope for tax structuring.

Write-off of electronic communication cables

The write-off period for electronic communication lines and fibre optic cables will be reduced. In addition, the alignment of the allowance between taxpayers that own the assets and taxpayers that lease the assets will be reviewed.

Distribution period for small business funding entities

The current requirement that small business funding entities distribute 25% of all amounts received or accrued from assets held during the same tax year will be amended. Small business funding entities will be allowed a period of twelve months after year end to make the distribution.

Cryptocurrency transactions

It is proposed that the income tax legislation be introduced in relation to the tax treatment of cryptocurrency.



Other Incentives

A R18.8 billion has been allocated for industrialisation incentives over the medium term. Of the incentives budget, R4.9 billion is allocated for industrial infrastructure projects, such as special economic zones, government-owned industrial and critical infrastructure projects.

Six special economic zones have been approved, whereby qualifying companies will be subject to a reduced corporate tax rate, as well as enabling them to claim an employment tax incentive for workers of all ages.

Tax Calendar

Provisional tax – individuals / companies

1st Payment: To be made within 6 months after previous tax year end.

2nd Payment: To be made on tax year end.

3rd Payment: Voluntary payment to be made within 7 months after tax year end (if tax year end is 28/29 February), or voluntary payment to be made within 6 months after year end (if tax year end falls on any other date).

A provisional taxpayer is any person who earns income by way of remuneration from an unregistered employer, or income that is not remuneration or an allowance or advance payable by the person's principal.

An individual is not required to pay provisional tax if the individual does not carry on any business and the individual's taxable income:

- will not exceed the tax threshold for the tax year; or
- from interest dividends, foreign dividends, rental from the letting of fixed property and remuneration from an unregistered employer will be R30 000 or less for the tax year.

Provisional tax returns showing an estimation of total taxable income for the year of assessment are required from provisional taxpayers.

Deceased estates are not provisional taxpayers.

Provisional tax – penalties on late payment, late submission and underestimation

The following penalties may be imposed:

- A 10% penalty for the late payment of the amount of provisional tax due.
- A 20% penalty for the late submission of the provisional tax return, or for the underestimation of the amount of provisional tax due.
- The 20% underestimation penalty is reduced by the amount of any late payment penalty imposed. Both of these penalties constitute percentage based penalties in terms of section 213 of the Tax Administration Act.

The 20% underestimation penalty will only be triggered in the following scenarios:

- Taxable income of less than R1 million: if the taxable income per the second provisional tax return is less than 90% of the taxable income upon assessment **and** is less than the "basic amount" i.e. the taxable income per the most recent previous assessment issued.
- Taxable income equal to or more than R1 million: if the taxable income per the second provisional tax return is less than 80% of the taxable income per the assessment.

International Tax

Withholding Taxes

The rates may be reduced by the provisions of a relevant Double Tax Agreement ("DTA"). The foreign recipient of the royalty, dividend or the interest should provide a declaration and/or an undertaking to the payor, confirming that the requirements to qualify for a reduced rate under a DTA have been met.

Dividends

Dividends tax is a final tax. The dividends tax rate is 20%, effective from 22 February 2017. The tax is levied on the dividends paid by a resident company and by a non-resident company in respect of shares listed on the JSE. To the extent that the dividend does not consist of a distribution of an asset *in specie*, the beneficial owner of the dividend is liable for the dividends tax in respect of the dividend.

Insofar as the dividend consists of a distribution of an asset *in specie*, the resident company that declares the dividend is liable for the dividends tax in respect of the dividend.

Royalties

Withholding tax on royalties is a final tax and is levied at a rate of 15%. The withholding tax is levied on the gross amount of royalties paid to a non-resident, where the royalty is of a South African source.

Interest

Withholding tax on interest is a final tax that is levied at a rate of 15% with effect from 1 March 2015. Interest withholding tax is required to be withheld on South African sourced interest that is paid or becomes due and payable to any foreign person. Interest is deemed to be paid on the earlier of the date the interest is paid or becomes due and payable. Consequently, interest withholding tax may at times be withheld irrespective of whether or not interest payments are actually made.

Withholding tax on immovable property sales by non-residents

The withholding tax on immovable property sales by non-residents is 7.5% for individuals 10% for companies and 15% for trusts, with effect from 22 February 2017.

International Tax

BEPS: South Africa's position on the Group of 20/OECD action plan in relation to certain International Tax matters

In an effort to curb base erosion and profit shifting of profits to low-tax countries, the BEPS project remains a focus, and preventative measures continue to be incorporated into domestic legislation.

Multilateral instrument

On 7 June 2017, South Africa (amongst many other countries and jurisdictions) signed the multilateral instrument which will effectively incorporate tax treaty-related BEPS measures into the existing network of bilateral treaties. The MLI is not, however, yet in force.

Treaty abuse

Where it is concluded that one of the principal purposes of entering into an arrangement / transaction was to obtain a benefit in terms of a tax treaty, the benefit will be denied. In terms of anti-treaty abuse rules, South Africa has chosen to adopt the principal purpose test, which aligns with the domestic general anti-avoidance rules. The aim is to limit, so-called treaty shopping.

Interest deductions

The review of excessive debt financing remains a priority, and a discussion document inviting public comment is expected to be released. A review of the current interest deduction limitations is taking place in light of OECD recommendations, and changes are expected.

Transfer pricing

Consideration will be given to address the anomaly that currently exists between the definition of dividend under section 1 of the Act, and the reference to dividend under section 31 for transfer pricing purposes. It is proposed that a dividend for purposes of a transfer pricing adjustment will be amended to refer to a dividend in specie.

Over the last year transfer pricing rules have been updated with the recommendations on transfer pricing documentation as contained in the BEPS Action Plan 13 being implemented in South Africa. Pursuant to these amendments certain South African taxpayers are required to submit three tier documentation in the form of Country-by-Country Report, Master File and Local File to SARS by the prescribed due date. In addition, the Record Keeping Rules also place an onerous requirement on South African taxpayers who meet the prescribed threshold to maintain underlying documentation to support their transfer pricing practices.

Practice Note 7 is expected to be updated in order for the transfer pricing rules to be aligned to the updated OECD Transfer Pricing Guidelines to incorporate new guidance included therein.

International Tax

Controlled foreign companies and offshore trusts

With effect from 1 January 2018, amendments were made to the definition of a controlled foreign company in an effort to impute income of foreign entities held by foreign trusts and foundations to the resident beneficiaries of the Trust. A further amendment was proposed to classify distributions of discretionary foreign trusts or foreign foundations to individuals and trusts as income of the South African resident beneficiaries, so as to discourage the use of trusts to defer tax or recharacterise the nature of the income. However, this amendment was withdrawn due to the broad application thereof, and the amendment will be reconsidered going forward.

Furthermore, Government will review the high tax exemption available under the controlled foreign company rules, to determine whether a reduction is warranted in light of the trend towards lower corporate tax rates.

Exchange control

The loop structure provision is increased from 20% to a maximum of 40% for bona fide business investment, growth and expansion transactions. The current minimum requirement of 10% is abolished. This applies to companies, including private equity funds, provided that the entity is a tax resident in South Africa.

Loop structures above the prescribed threshold will require Reserve Bank approval with due consideration to transparency, tax, equivalent audit standards and governance.

Branches of non-resident short-term insurers

Amendments to the relevant provisions applicable to short-term insurers will be made, so as to apply to non-resident short-term insurers operating their business through branches in South Africa.



Customs and Excise

Customs and Excise rates increases

- Specific excise duties: With effect from 21 February 2018, specific customs and excise duties are increased. On most alcoholic beverages the rate increased by between 6% and 10%, (excluding traditional African beer and beer powder which remain unchanged). The rate of duty on tobacco products and cigars increased by 8.5%.
- General Fuel Levy and Road Accident Fund Levy: The General Fuel Levy for 2018/2019 is increased by 22c/li to 337c/li and 322c/li for petrol and diesel, respectively. The Road Accident Fund Levy will increase by 30c/li to 193c/li. These increases will take effect on 4 April 2018. General Fuel Levy and Road Accident Fund Levy.

Customs and Excise Proposals

- **Ad valorem excise duties:**
Government proposes an increase in the ad valorem excise duties on certain luxury goods. Proposals include a maximum increase in ad valorem excise duty for motor vehicles from 25% to 30%. Inclusion of smart phones in the classification of cellular telephones is also proposed to attract ad valorem excise duties. The ad valorem excise duty rate, currently on 5% and 7% will be increased to 7% and 9%. Government will also consult on a proposal to replace the flat rate for cell phones with a progressive rate structure based on the value of the phone.

- **Legislative amendments:**
Government proposes to introduce amendments to the Customs and Excise Act (1964) to prevent "forestalling" – a practice through which abnormal volumes of products are moved from warehouses into the market to avoid increases in excise duty rates.
- **Legislative amendments:**
Government proposes to introduce amendments to the Customs and Excise Act (1964) to extend the use of "fiscal markers", which are required under the tracking and tracing obligations of the World Health Organisation's Protocol to Eliminate Illicit Trade in Tobacco Products.
- **Legislative amendments:**
Government is at advanced stages to implement the customs modernisation programme provided for in the Customs and Excise Act (1964), to strengthen data and revenue collection associated with cross border trade.
- **Diesel refund system:**
The 2015 Budget announced a comprehensive review of the administration of the diesel refund system, which requires the delinking of the diesel refund from the VAT system and the creation of a standalone diesel refund administration.

A discussion paper outlining the options for a simplified administration system was published for public comment on 15 February 2017. In 2018, National Treasury and SARS will engage with effected industries and other role players as a next step in the reform process. The legislative amendments to give effect to the separation of the diesel refund system will be developed following public consultations of which the design of the new diesel refund administration system will be announced in Budget 2019.

— **Legislative amendments:**

Government proposes to introduce amendments to the Diamond Export Levy Act (2007) to adjust the diamond export levy thresholds to reflect the original US dollar equivalents to retain the policy intent.

Environmental Taxes

Carbon Tax

The Carbon Tax Bill was adopted by Cabinet in August 2017 and the second draft bill was released in December 2017. The Carbon Tax is proposed to be implemented from 1 January 2019.

Carbon Dioxide Emissions Tax

From 1 April 2018, the carbon dioxide emissions tax is R110.00 for every gram above 120gCO₂/km for passenger vehicles and R150.00 for every gram above 175gCO₂/km for double cabs.

Plastic Bag Levy

With effect from 1 April 2018, the environmental levy payable in respect of plastic bags (shopping bags) is 12 cents per bag.

Electric Filament Lamps Levy

From 1 April 2018, the environmental levy payable in respect of electric filament lamps is R8.00 per globe.

Acid Mine Drainage Levy

Government will publish a discussion document outlining design options for the proposed acid mine drainage levy to make polluters pay for the cost of environmental damages, and to help fund the treatment of acid mine water.

Environmental fiscal reform policy

An environmental fiscal reform policy brief is proposed by government to examine fiscal and regulatory options to improve water resource management, mitigate the emission of pollutants and reduce waste.

Health Promotion Levy

From 1 April 2018, the health promotion levy will be implemented, which taxes sugary beverages. Government will publish a policy brief on the use of taxes to encourage healthy choices.

Transfer Duty and Securities Transfer Tax

Transfer Duty

Payable on transactions that are not subject to VAT (including zero-rated VAT)

Value of Property	Rates payable
R0 – R900 000	0%
R900 000 – R1250 000	3% of the value above R900 000
R1 250 001 – R1 750 000	R10 500 + 6% of the value above R1 250 000
R1 750 001 – R2 250 000	R40 500 + 8% of the value above R1 750 000
R2 250 001 – R10 000 000	R80 500 + 11% of the value above R2 250 000
R10 000 001 and above	R933 000 + 13% of the value above R10 000 000

Securities Transfer Tax (STT)

This tax is imposed at a rate of 0.25% on the transfer of listed or unlisted securities.

Estate Duty And Donations Tax

Estate Duty

Estate duty is payable on property of residents and South African property of non-residents (less allowable deductions). With effect from 1 March 2018, estate duty will be levied on the 'dutable value' of an estate at a rate of 20% on the first R30 million; and a rate of 25% will be applicable where the dutiable value of an estate is above R30 million.

A basic deduction of R3.5 million is allowed in the determination of an estate's liability for Estate Duty as well as deductions for liabilities, bequests to Public Benefit Organisations ("PBO") and property accruing to surviving spouses.

Donations Tax

With effect from 1 March 2018, a rate of 20% will be payable on the value of property donated; and donations exceeding R30 million in value will be taxed at a rate of 25%.

The first R100 000 of property donated in each year, by a natural person, is exempt from donations tax. For taxpayers who are not natural persons, exempt donations are limited to casual gifts not exceeding a total of R10 000 per annum. Donations between spouses, South African group companies and donations to PBOs are exempt from donations tax.

Tax Administration

Adjustment to the official rate of interest

It is proposed that the current definition of 'official rate of interest' will be amended to reflect a rate closer to the prime interest rate.

Requirement to submit dividend tax returns on receipt of exempt dividends

It is proposed that the current requirement for taxpayers who receive exempt dividends to submit dividend tax returns be repealed.

Notification of commencement of an audit

It is proposed that the taxpayers who are under audit be notified at the start of an audit.

Administrative Non-Compliance Penalties

Taxable income for preceding year	Monthly Penalty
Assessed Loss	R 250
R 0 – R 250 000	R 250
R 250 001 – R 500 000	R 500
R 500 001 – R 1 000 000	R 1 000
R 1 000 001 – R 5 000 000	R 2 000
R 5 000 001 – R 10 000 000	R 4 000
R 10 000 001 – R 50 000 000	R 8 000
Above R 50 000 000	R 16 000
Maximum successive penalties: 36 (SARS in possession of address) or 48 (SARS not in possession of address)	

Administrative non-compliance is the failure to comply with an obligation imposed by or under a tax Act and is listed in a public notice by the Commissioner.

As at 21 February 2018, failure by a natural person to submit an income tax return (subject to further conditions), and the failure by a reporting financial institution to submit returns in relation to the intergovernmental agreement to implement the United States of America's Foreign Account Tax Compliance Act, were listed.

In addition, certain incidences of non-compliance with the Common Reporting Standard (CRS) Regulations will also be subject to administrative penalties (e.g. failure by a reporting financial institution to submit a return as required, or to remedy the partial or non-implementation of a due diligence required under the CRS Regulations within 60 days etc.)

Understatement Percentage-Based Penalties

Behaviour	Standard case	Obstructive or repeat case	Voluntary disclosure after notification of audit	Voluntary disclosure before notification of audit
Substantial understatement	10%	20%	5%	0%
Reasonable care not taken in completing return	25%	50%	15%	0%
No reasonable grounds for tax position	50%	75%	25%	0%
Impermissible avoidance arrangement	75%	100%	35%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

Understatement means any prejudice to SARS or the fiscus as a result of:

- A default in rendering a return
- An omission from rendering a return
- An incorrect statement in a return
- Failure to pay correct amount of tax if no return is required
- An impermissible avoidance arrangement

The burden of proving the facts on which SARS based the imposition of the understatement penalty, is upon SARS.

Voluntary Disclosure Programme

A general Voluntary Disclosure Programme ("VDP") is provided for in the Tax Administration Act, in terms of which taxpayers (corporate entities, individuals, etc.), can approach SARS with a view to regularise their tax affairs with the prospect of remittance of certain penalties.

SARS Interest Rates

Effective 1 August 2017	
Fringe benefits – interest free or low interest loans	7.75% ¹ p.a.
Effective 1 November 2017	
Late or underpayments of tax	10.25% p.a.
Refund of overpayments of provisional and employees' tax	6.25% p.a.
Refund of tax on successful appeal, or where the appeal was conceded by SARS	10.25% p.a.
Refund of VAT after prescribed period	10.25% p.a.
Late payments of VAT	10.25% p.a.
Customs and Excise Duties	10.25% p.a.

¹Based on the current official repurchase rate plus 100 basis points.

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