Introduction

South Africa imposes income tax on a residence basis in respect of worldwide income. Resident individuals are taxed on their worldwide income and non-resident individuals are subject to tax on their South African-sourced income. Capital gains are included in the income tax base as from 1 October 2001.

Indirect taxes payable by individuals include value added tax (VAT) and customs and excise duties. Capital transfer taxes, including property transfer duty, donations tax, estate duty and securities transfer tax are also levied.

Employees are required to make contributions in respect of social security.

The currency used in South Africa is the South African rand (ZAR), which is divided into 100 cents.

1. Individual Income Tax

1.1. Taxable persons

An individual is a resident of South Africa if he:

– is ordinarily resident in South Africa; or
– if not ordinarily resident, is physically present in South Africa for a period or periods of at least 91 days in aggregate in the relevant tax year, as well as for a period or periods exceeding 91 days in aggregate during each of the preceding 5 years and for a period or periods exceeding more than 915 days, in aggregate, during those preceding 5 tax years.

However, this definition excludes any person who is deemed to be exclusively resident of another country for purposes of the application of any income tax treaty.

The concept of being “ordinarily resident” in South Africa is not defined in a statute. However, South African case law provides guidance, as does foreign case law of commonwealth countries from where the concept has been borrowed.

Partnerships are not legal entities for tax purposes and partners are taxed on their respective profit shares depending on their tax status, i.e. company, individual, trust, etc.

1.2. Taxable income

1.2.1. General

The taxable income of individuals is, broadly, gross income less exempt (tax-free) income, less the deductions and allowances granted under the Income Tax Act No. 58 of 1962 (ITA 1962). Gross income is income of a revenue nature derived from sources worldwide. Of capital gains realized, 33.3% is included in an individual’s taxable income.

1.2.2. Exempt income

Income exempt from income tax includes:

1. any disability pension or workmen’s compensation;
2. any amount received by or accrued to an individual under the South African social security system;
3. foreign pension payments received by a resident (i) under the social security system of any foreign country or (ii) from a foreign source in consideration of past employment abroad;
4. foreign dividend income received by a resident shareholder holding more than 10% of the equity shares and voting rights in a non-resident company;
5. relocation costs paid by an employer on commencement, transfer or termination of service, including moving, selling an old residence and settling into a new permanent home, as well as temporary accommodation costs for up to 183 days prior to the employee obtaining permanent accommodation;
6. the first ZAR 5,000 of the cost of an asset presented by an employer to an employee as an award for bravery or for long service;
7. generally, bona fide bursaries granted to employees or their relatives;
8. the first ZAR 500,000 of a retirement fund lump-sum benefit, which is a sum received by an employee upon retirement or death, or the termination of employment due to redundancy or when an employer ceases to trade, and the first ZAR 25,000 of a retirement fund withdrawal benefit, which is any other sum received from a retirement fund;
9. the first ZAR 34,500 of interest per annum of an individual over 65, and ZAR 23,800 for other individuals;
10. the capital element of an annuity voluntarily purchased from an insurance company;
11. maintenance (or alimony) payments received from a former spouse;
12. most local dividends, subject to certain exclusions. Dividends tax may, however, apply;
13. pay-outs from the South African Roads Accident Fund (as from 1 March 2012); and
14. income or gains in respect of a tax-free investment allowance (from 1 March 2015).

1.3. Employment income

1.3.1. Salary

Amounts, whether in cash or in kind, derived from employment or from services rendered or to be rendered
in South Africa, or by a South African resident irrespective of the source, and whether paid under a service agreement or voluntarily, are subject to income tax, subject to the provisions of any applicable double tax treaty. Remuneration received in respect of services rendered outside South Africa is exempt from tax in South Africa if the person rendering the service was outside South Africa for a period or periods exceeding 183 full days in aggregate during any 12 months commencing or ending during the year of assessment, and for a continuous period exceeding 60 full days during that period or periods.

The following pension contributions are deductible:
- current contributions to approved pension funds, limited to a maximum of 7.5% of pensionable emoluments or ZAR 1,750, whichever is greater;
- current contributions to approved retirement annuity funds, limited to the greatest of:
  - 15% of taxable income before certain deductions, e.g. medical expenses (excluding pensionable emoluments);
  - ZAR 3,500, less deductible current pension fund contributions; or
  - ZAR 1,750; and
- arrear contributions for each pension fund and retirement annuity fund, limited to ZAR 1,800 per annum.

Legislation has been enacted that will reform the taxation of retirement savings as from 1 March 2015. In terms of these reforms, the above-mentioned pension deductions will be overhauled to attain uniformity of tax treatment between the various forms of regulated retirement savings vehicles (pension, provident and retirement annuity funds).

Under the new regime, individual members making a contribution will receive a uniform deduction for these contributions regardless of the approved fund involved (i.e. whether to a pension, provident or retirement annuity fund). Deductible contributions will be subject to an annual percentage limit and a monetary limit.
- percentage limit: deductions in respect of contributions made by the member plus any made by his/her employer will be allowed up to 27.5% on the greater of “remuneration” or “taxable income” (excluding retirement lump sums);
- monetary limit: no contributions in excess of an annual limit of ZAR 350,000 may be deducted.

Any contributions made by an employer for the benefit of an employee will be deemed to have been made by the employee, thereby being deductible and subject to the above limits.

Contributions in excess of the annual limits may be rolled over to future years for deduction, but subject to the limits applicable in that year.

To avoid double taxation, if any contributions have not been deducted as at retirement date, the nominal value thereof may be excluded from any taxable pay-outs.

Relocation costs paid by an employer on commencement, transfer or termination of service, including moving, selling an old residence and settling into a new permanent home, as well as temporary accommodation costs for up to 183 days prior to the employee obtaining permanent accommodation, are not treated as part of employment income.

Generally, amounts paid to individuals for services rendered in the course of an independent trade, as well as amounts paid to companies, are not subject to employees tax. However, to prevent schemes for the avoidance of employees tax through the use of companies or close corporations, or through the claim to be an independent contractor, remuneration paid or payable to the following persons will also be subject to employees tax:
- a person to whom remuneration is paid or accrues by reason of services rendered to or on behalf of a labour broker;
- a labour broker; and
- a personal service provider.

Even if such person is a company, close corporation or independent contractor, unless, in the case of a labour broker, he has an exemption certificate.

A labour broker is any business which, for reward, provides a client with persons to perform work or render services, for which work or services the person is remunerated by the labour broker.

### 1.3.2. Benefits in kind

Benefits in kind are, in principle, taxable as part of employment income, unless specifically exempted. For example where an employee is granted an interest-free or low-interest loan, the taxable value of the benefit will be the excess of the interest calculated at the official rate of interest over the actual interest liability of the employee.

In the case of free residential accommodation, the taxable benefit is the greater of the value determined under a formula (which is partly based on prior year salary less ZAR 250,000) or an amount equal to the cost to the employer (i.e. rentals and other expenses paid to provide the accommodation) less any amount paid by the employee. In certain defined circumstances, the formula and not the cost-to-the-employer basis is applicable. From 1 March 2014, exemption relief is provided from fringe benefits tax where low-cost housing is provided to employees by employers for value that is lower than the market value of the housing concerned. The requirements for the relief is that employees must not earn more than ZAR 250,000 in salary (i.e. remuneration) and the market value of the immovable property that is acquired by the employee, may not exceed ZAR 450,000.

The taxable benefit to an employee of the provision of a company car for private or domestic use will be calculated on the determined value of the vehicle, i.e. the cost of the vehicle, excluding value added tax and finance charges. The monthly benefit will be equal to 2.5% of the determined value. The value of the benefit will be adjusted if the employee bears the cost of fuel or maintenance. An allowance paid by the employer to the employee to defray the cost of motor vehicle travel is taxable to the extent that it is not actually expended on business travel.

Contributions by an employer on behalf of an employee to pension, provident, medical or similar funds in terms of fund rules will not be taxable in the hands of the employee. Payment of the employee’s contributions to
such funds will, however, give rise to a taxable benefit equal to the amount of the contributions paid. On 1 March 2015 reforms of the tax regime for retirement savings will become effective in terms of which any contributions made by an employer to an approved South African retirement fund for the benefit of an employee will be taxed as a fringe benefit in the hands of the member. The value of this taxable benefit will be established through a complex formula.

Where an employer covers any costs relating to medical services rendered to or medicines provided to an employee or employee’s dependant, the cash equivalent of these services constitutes a taxable benefit. However, where the services or medicines are so-called “prescribed minimum benefits”, the list of which is, from time to time, approved by the Minister of Health, the value of the taxable benefit is zero, provided that the services or medicines are provided:

- in terms of a programme offered by the employer to the employees who are not members of a medical scheme; or
- in terms of a medical scheme offered by the employer, if this medical scheme is exempted from the requirements of the Medical Schemes Act.

No taxable benefit arises where medical services are offered by the employer to its employees in general at their place of work for the better performance of their duties, or where the employee is 65 or older. See section 1.7.3. for the tax treatment of medical aid contributions.

Gains from equity instruments (i.e. shares and options) received by employees and directors of companies in terms of employee share incentive schemes are taxed according to special rules, whereby the employee or director is subject to taxation as soon as the equity instrument vests in the person. Vesting is, however, dependent on whether the equity instrument is restricted or unrestricted. The employee will therefore only be taxed when a vested equity instrument becomes unrestricted. An employee has an ordinary income tax gain upon the vesting of an equity instrument to the extent that the market value of that instrument on the vesting date exceeds any consideration paid for that instrument. Similarly, an employee has an ordinary loss upon the vesting of an equity instrument to the extent that the consideration paid exceeds the market value of the instrument on the vesting date.

No immediate tax liability for the employee or director arises where shares are granted or disposed of under broad-based share schemes, unless the shares are disposed of within 5 years from the date of grant otherwise than in exchange for another equity instrument, in which case the gain on the disposal will be subject to income tax. A person may not be granted shares under a broad-based share plan that are worth more than ZAR 9,000 during a period of 3 tax years. Where the employee or director disposes of such shares after 5 years from the date of the grant, the resulting gain is subject to capital gains tax.

Other taxable benefits include the release of an employee from or payment of debts and the acquisition of assets from an employer for less than their market value.

1.3.3. Pension income

Pensions and annuities, payable regularly, are fully taxed at the normal individual income tax rates. However, foreign pension payments are exempt from South African tax if received by a resident (i) under the social security system of a foreign country or (ii) from a foreign source in consideration of past employment outside South Africa.

Pension contributions are deductible, subject to limitations (see section 1.3.1.).

1.3.4. Directors’ remuneration

Company directors are subject to employees tax on their remuneration.

1.4. Business and professional income

Taxable income derived by individuals from business operations is generally computed in the same way as for companies. Thus taxable income is computed on the basis of annual financial statements, with the net profit or loss taken from the financial statements being adjusted for differences between items recognized for accounting purposes but not under the ITA 1962. Certain foreign-source income and income or expenditure of a capital nature is excluded for income tax purposes and adjustments are made for special tax allowances and differences between tax and accounting depreciation. Special rules also apply in determining the timing of recognition of income and expenditure. Additional rules apply to interest, discounts and premiums payable under most instruments and option premiums, which are deemed to accrue to the holder and to have been incurred by the issuer evenly over the term of the instrument or option.

An item of expenditure is deductible:

- if actually incurred;
- if incurred in the carrying on of a trade;
- if incurred in the production of taxable income;
- if not of a capital nature; and
- to the extent that it is laid out or expended for the purposes of trade.

Expenditure incurred outside South Africa to produce taxable income is deductible, but subject to certain loss limitation rules that apply to losses incurred through a foreign trade. Generally, all non-capital expenses attached to the performance of a business operation carried on for the purposes of earning taxable income are deductible, whether necessarily incurred or not. The test is that the expenditure must be so closely connected to the income-earning operations that it is regarded as part of the cost of performing them.

Certain expenses are specifically tax deductible under particular provisions, and include the following:

- interest on money borrowed or credit incurred for the purposes of earning income, including interest expenditure relating to foreign shares which produce taxable foreign dividends;
- legal expenses closely linked to an income-earning operation of the business (e.g. expenses relating to
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1.5. Investment income

Dividend income (excluding, amongst others, certain dividends from unit trust schemes and building societies) of an individual is exempt from income tax.

Foreign dividend income is exempt in certain situations, such as when at least 10% of the equity shares and voting rights are owned by the individual shareholder (see further section 6.1.1.). Taxable foreign dividends are subjected to a tax rate reduction mechanism that may result in an effective tax rate of 10% or lower. It appears that unilateral foreign tax credit relief is fully available against such foreign dividends taxable at a lower rate.

From 1 April 2012 South African resident individual shareholders are liable for the dividends tax, which is charged at the rate of 10% on the amount of any dividends paid by a resident company or any foreign dividend paid by a non-resident company the shares of which are listed on a recognized South African securities exchange. Any company that declares and pays a dividend subject to the dividends tax must withhold the tax and pay it over to SARS (see further Corporate Taxation section 6.3.1.).

The first ZAR 34,500 of interest per annum of an individual over 65 years, and ZAR 23,800 for other individuals, is exempt from income tax. Interest received by South African residents will be taxable in South Africa.

Royalties, as well as income from immovable property, are included in the taxable income of an individual and subject to tax at the applicable progressive tax rates (see section 1.9.).

From 1 March 2015, income or gains in respect of a tax-free investment allowance are exempt from income tax and capital gains tax, respectively. Investment contributions to approved bodies are subject to a limit of ZAR 30,000 during any tax year and ZAR 500,000 over the life of an individual. The exemption is available to any natural person, whether resident or not.

1.6. Capital gains

South African resident individuals are taxed on worldwide capital gains from the disposal or deemed disposal of capital assets.

Capital gains tax is triggered by a capital gains tax event (a so-called disposal). This includes the sale, scrapping or exchange of property, as well as the situation where an individual or legal entity ceases to be a resident of South Africa, or where the person’s interest in a company, partnership or trust changes due to a value-shifting arrangement.

The following capital gains and losses are not included in taxable capital gains:
(1) gains or losses realized on disposal of a primary/principal owner-occupied residence to the limit of ZAR 1.5 million;
(2) gains or losses realized on the disposal of private motor vehicles (except boats exceeding 10 metres in length and aircraft with an empty mass exceeding 450 kg), personal belongings and effects;
(3) lump-sum benefits received under superannuation and life assurance policies;
(4) compensation for personal injury or illness, or defamation actions;
(5) gains or losses realized from betting, lotteries or competitions (except in respect of illegal activities or foreign-derived awards);
(6) exchange gains or losses on conversion of foreign legal tender for personal use;
(7) subject to certain conditions, gains or losses realized on the disposal of assets used exclusively by a so-called “small business” if the market value of all assets used in this business does not exceed ZAR 5 million;
(8) gains or losses realized on disposal by a creditor of debt owed by a connected person;
(9) gains or losses realized on disposal of an asset which was used exclusively to produce tax-exempt income; and
(10) donations to public benefit organizations.
Capital gains may be deferred in the following cases:

- where the asset has been disposed of involuntarily, e.g. by way of destruction, and any compensation for the loss of the asset is used to acquire a similar asset;
- where the business asset qualifying for a capital allowance is being replaced with an asset performing the same or similar function; or
- where assets are disposed of by one spouse to another.

Capital gains tax is levied at the progressive income tax rates (see section 1.9.1) on 33.3% of the gain realized by an individual, with an annual exclusion of ZAR 30,000. Where a person dies during the year of assessment, that person’s annual exclusion for that year is ZAR 300,000.

1.7. Personal deductions, allowances and credits

1.7.1. Deductions

Personal deductions permitted from gross income include the following:

- persons aged over 65 and handicapped persons may deduct in full any medical and dental expenses, including medical aid contributions of the taxpayer, the taxpayer’s spouse, children or stepchildren, or immediate family actually paid during the year. On 1 March 2014, these deductions were repealed and replaced with a system of medical tax credit relief (see section 1.7.3.);
- persons aged under 65 may deduct any medical and dental expenses actually paid during the year. Medical aid contributions are not deductible to the extent that the person receives a special tax credit for medical aid contributions (see section 1.7.3.). Any excess medical scheme contributions may be included in the tax deduction. The deduction of these medical and dental expenses is limited to the extent which it exceeds 7.5% of taxable income (before the medical deduction). On 1 March 2014, these deductions were repealed and replaced with a system of medical tax credit relief (see section 1.7.3.); and
- donations to approved public benefit institutions providing services to the poor, needy, elderly or handicapped, or relating to provision of education and housing, nature conservation, HIV prevention, disaster and poverty relief, etc. The deduction is limited to 10% of the taxable income of the donor, calculated before this deduction and the deduction of medical expenses.

Private and domestic expenditure in the form of expenditure on home mortgage bond interest or down-payments, private travel, family maintenance and personal insurance are generally not tax deductible. However, a deduction is allowed for the part of a private residence used exclusively and regularly by the taxpayer for business purposes (e.g. a home office), including related non-capital expenditure (e.g. mortgage bond interest, insurance, property rates, maintenance, cleaning, etc.). The expenditure must be apportioned on the basis of the total area of the residence and the area used for business purposes. Employees and holders of an office may not claim this deduction unless their income is derived mainly from commission or other variable payments and their duties are mainly performed otherwise than in an office provided by the employer or their duties are mainly performed in their home offices.

For the deduction of pension premiums, see section 1.3.1.

1.7.2. Allowances

Individuals may deduct personal rebates from the normal tax calculated according to the tax tables (see section 1.9.1.) in order to arrive at their final tax liability. If taxable income for the tax year is below this minimum level, there will be no tax payable and, generally, no duty to file a tax return. The threshold for individuals aged under 65 is ZAR 73,650; for individuals aged 65 to 75 it is ZAR 114,800; and for individuals aged over 75 it is ZAR 128,500.

A primary rebate is available to all individual taxpayers. The primary rebate for the tax year ending 28 February 2016 is ZAR 13,257. A secondary rebate of ZAR 7,407 is granted, in addition to the primary rebate, to persons over the age of 65. Persons over the age of 75 are granted a further tertiary rebate of ZAR 2,466.

1.7.3. Credits

From 1 March 2012 every taxpayer who is a natural person may deduct an amount from their income tax liability if they belong to a registered medical scheme. The rebate is termed a “medical scheme fees tax credit”.

The amount of the medical scheme fees tax credit for every month in respect of which fees are actually paid to a medical scheme is as follows:

- ZAR 270 in respect of the benefits of the taxpayer;
- ZAR 540 in respect of the benefits of the taxpayer and one dependant; and
- ZAR 540 in respect of the benefits of the taxpayer and one dependant plus ZAR 181 in respect of the benefits of each additional dependant.

The medical scheme fees tax credit is available if an employer pays fees on behalf of an employee or dependants to a medical scheme.

From 1 March 2014, persons that are 65 years of age or over, and persons with a disability will be entitled to an additional medical expenses tax credit. For these persons, the additional credit will be calculated as 33.33% of any “excess” medical contributions not allowed in terms of the medical scheme fees tax credit, plus other medical expenditure. The “excess” amount is calculated as the amount of actual contributions which exceed three times the medical scheme fees tax credit allowed.

Also from 1 March 2014, persons under the age of 65 will be entitled to an additional medical expenses tax credit. The additional credit will be equal to 25% of any additional medical expenditure, including “excess” medical scheme fees that exceed 7.5% of taxable income. The “excess” medical scheme contribution is the amount in excess of four times the medical scheme fees tax credit allowed.
1.10. Administration

1.10.1. Taxable period

The tax year for individuals is the period of 12 months ending the last day of February each year (i.e. 1 March – 28/29 February).

An individual is assessed to tax in respect of income earned during the current assessment year.

1.10.2. Tax returns and assessment

Individuals are required to render income tax returns in accordance with the public notice issued each year by the South African Revenue Service (SARS), specifying when the returns must be lodged. The requirement to submit a tax return usually applies to:

- persons whose gross income exceeds the tax threshold (see section 1.7.2.);
- persons whose aggregate capital gain for the year of assessment multiplied by 25% plus the gross income exceeds the tax threshold;
- any individual or representative taxpayer of such person who derived any income from any trade excluding income derived from remuneration;
- representative taxpayers of trusts, deceased and insolvent estates;
- any individual who, as a part of his or her salary package, receives any allowances (such as travel and subsistence allowances); and
- every person to whom an income tax return is issued, irrespective of the amount of income of such a person.

An individual whose income consists of remuneration from which employees tax has been deducted, is generally not required to furnish a return for that year if:

- such remuneration did not exceed the annual equivalent of ZAR 73,650 from which only standard income tax on employees (SITE) (see section 1.10.3.) has been deducted;
- that person did not receive interest exceeding the annual exempt amount of ZAR 23,800 (in the case of persons below 65) or ZAR 34,500 (in the case of persons 65 and older);
- that person did not realize an aggregate capital gain in excess of ZAR 30,000; or
- no income tax return has been issued to that person for completion.

Individual taxpayers must submit a return for the year of assessment by the date determined by SARS. An extension of time in which to render the return is usually granted on application to the local SARS office. It is possible to submit individual income tax returns on-line.

Spouses are taxed separately, subject to some exceptions, including where income has been channelled from one spouse to the other with the sole or main purpose of reducing tax. Spouses married in community of property each have an undivided half share in the joint estate and in income accruing to either or both of them. However, special rules, applicable to community of property marriages, deem income from trade, including pension benefits, to be taxable in the hands of the spouse carrying on that trade. Other income, including income from investments and the letting of property, is deemed to accrue to the spouses in equal shares.

After a return of income and capital gains has been submitted, the person’s tax liability will be assessed and the individual will be issued with a notice of assessment. Any shortfall of tax not already paid through the PAYE system will be payable by the individual and any excess will be refundable. The notice of assessment will specify the date by which any tax due must be paid to avoid the imposition of interest.

Subject to objection and appeal and the power of SARS to issue additional assessments, an assessment is final and conclusive. SARS may, however, issue an additional assessment where an amount, which should have been assessed to tax, has not been so assessed, or which should
have been paid, has not been paid. SARS may not issue an additional assessment:
- after a period of 3 years from the date of the assessment, unless there has been fraud, misrepresentation or non-disclosure of material facts, or where SARS and the taxpayer agree otherwise prior to the expiry of this 3-year period;
- if the amount was not assessed to tax in accordance with the practice generally prevailing at the date of the assessment; or
- if the amount has been settled under a decision of the Tax Court.

Certain persons are liable to make provisional tax payments of income tax. The following categories of so-called provisional taxpayers must make 6-monthly payments in advance on account on their estimated tax liability for the year:
- individuals who derive income other than remuneration subject to employees tax; and
- persons notified by SARS that they are provisional taxpayers.

The following persons are exempt from the payment of provisional tax:
- individuals with taxable income falling below the tax threshold (see section 1.7.2.);
- individuals with taxable income from interest, dividends and rental of fixed property (over and above remuneration) of ZAR 20,000 or less for a provisional tax period; and
- persons aged 65 years or over whose annual income is not more than ZAR 120,000 and which is not derived from the carrying on of a business and is derived solely from remuneration, interest, taxable dividends or rentals from the letting of fixed property. Directors of private companies are specifically excluded from this exemption.

1.10.3. Payment of tax

Employees’ tax is gathered by SARS on a pay-as-you-earn (PAYE) basis of payment of income tax. Thus, income tax is deducted from remuneration paid by an employer according to standard tables or specific directives. Upon assessment of an individual’s final tax liability, the employee is credited with employees tax paid on his behalf by his employer and will only pay any shortfall or be refunded any overpayment. In the case of employees falling under the standard income tax on employees (SITE) system, the SITE withheld will be their minimum or final tax liability.

SITE is a system of final tax deductions for employees with low income. It is a form of employees’ tax which applies to so much of net remuneration from standard employment as does not exceed ZAR 73,650 per annum. Standard employment is understood as employment in terms of which the employee is required to work for at least 22 hours a week for the employer, or for a shorter period if the employee makes a declaration that he or she will not render services to any other employer.

During the course of the year, the employer will deduct employees’ tax and at the end of a tax period will reclassify the employee’s tax into SITE and PAYE according to prescribed tables. Where the employment is for a full tax year, the first ZAR 73,650 of net remuneration will be subject to SITE and the balance subject to PAYE. Where the employment is for less than a year, the net remuneration will be annualized for the purposes of determination of SITE and PAYE. Amounts which are not net remuneration, such as amounts in excess of ZAR 73,650, will be subject to PAYE and not SITE. Where the employee is in receipt of net remuneration subject to SITE only and has no other sources of income, the SITE deduction will be the final tax liability and the employee will not be required to render a tax return. SITE is not refundable. The liability for income tax cannot be less than the SITE deductions.

1.10.4. Rulings

A taxpayer and certain classes of taxpayers may obtain a binding advance ruling from SARS in respect of the interpretation or application of any provision of the ITA 1962.

An application for an advance tax ruling may not be accepted by SARS in certain cases, including where:
(1) the application requests or requires the rendering of an opinion, conclusion or determination regarding or in respect of:
- the market value of an asset;
- the application or interpretation of the laws of a foreign country;
- the pricing of goods or services supplied by or rendered to a connected person in relation to the applicant;
- the constitutionality of any tax law; or
- a proposed transaction that is hypothetical or not seriously contemplated;
(2) the application relates to the duty of an employer to determine whether a person is an independent contractor, labour broker or personal service provider;
(3) the application is submitted for academic purposes; or
(4) the application presents, contains or raises:
- a frivolous or vexatious issue;
- alternative courses of action by the applicant (or requests or requires the rendering of an opinion, conclusion or determination regarding such alternative courses of action); or
- an issue which is the same as or substantially similar to an issue which is:
  - currently before SARS in connection with an audit, examination, investigation or other proceeding involving the applicant or any connected person in relation to the applicant;
  - the subject of draft legislation;
  - pending before the courts;
(5) the application involves interpretation of the general anti-avoidance rule;
(6) the application involves an issue:
  - that is of a factual nature;
  - that depends on assumptions about future events that cannot be reasonably determined;
  - that should be dealt with by the competent authorities under a specific double tax treaty;
  - in which the tax treatment of the taxpayer is dependent on the tax treatment of a person not party to the application;
  - pending before the courts;
in respect of inter-related transactions that are not fully disclosed;
– that is the same of substantially similar to an issue in respect of which the taxpayer has already received an unfavourable ruling;
(7) the resolution of an application that will be unduly time-consuming or resource intensive;
(8) an application that requests a ruling on the substance of a transaction disregarding its form; or
(9) further exclusion may be published by regulations.
Regulations have been published in 2013 that exclude, among others, any ruling on the place of effective management of a company.

2. Other Taxes on Income

A skills development levy (SDL) is charged in respect of the employment income of any employee. This tax amounts to a compulsory levy scheme for the funding of education and training. SARS administers the collection of the levy. It is not always easy to classify the skills development levy as an income tax or a payroll tax.

The levy is charged at the rate of 1% on the remuneration payable to an employee, and is payable by employers that have an annual payroll in excess of ZAR 500,000.

The levy is deductible by employers for income tax purposes. Employers providing training to employees receive grants under this scheme.

3. Social Security Contributions

Employees must make monthly contributions in respect of unemployment insurance, illness or maternity leave. The obligation to make contributions does not apply to:
– workers working less than 24 hours a month for an employer;
– learners;
– public servants;
– foreigners working on contract;
– workers who get a monthly state (old-age) pension; and
– workers who only earn commission.

The taxable base on which contributions are to be made is 1% of the worker’s total earnings, excluding commission. The maximum insurable amount is ZAR 178,464 per annum. Both an employee and an employer may make contributions, which are separately limited in terms of the foregoing.

Employees also make contributions to benefit funds (i.e. pension, provident, retirement, medical aid, etc. funds). Such contributions are deductible within certain limits (see section 1.3.1.).

4. Taxes on Capital

4.1. Net wealth tax

There are no recurrent taxes on the capital or wealth of individuals.

4.2. Real estate tax

There are no recurrent taxes on real estate. Local municipal levies and service charges in respect of real estate generally apply throughout South Africa.

4.3. Other taxes

4.3.1. Transfer tax

A transfer duty is imposed under the Transfer Duty Act on the acquisition of immovable property (i.e. land and buildings thereon) and certain interests in land.

The duty is imposed on the value of property acquired by a person by way of a transaction, or in any other manner, or on the amount by which the value of property is enhanced by the renunciation of an interest in or restriction upon the use of or disposal of the property. Property includes land and fixtures on it, including any real rights in land, certain mining leases or subleases and rights to minerals (including rights to mine minerals). In addition, the shares in a residential property company, members’ interests in a residential property holding close corporation, and the contingent right of a trust beneficiary to the real property, are treated as property subject to the transfer duty, in order to counter tax avoidance practices where the property is placed in a company or trust to avoid the transfer duty.

A residential property company, close corporation or trust is a company, close corporation or trust, where more than 50% of the fair value of all assets (financial instruments excluded) held by such company, close corporation or trust is attributable to residential property.

Transfer duty is payable at the following rates which apply in an accumulative manner:

<table>
<thead>
<tr>
<th>Value of property</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 750,000</td>
<td>0</td>
</tr>
<tr>
<td>750,001 – 1,250,000</td>
<td>3</td>
</tr>
<tr>
<td>1,250,001 – 1,750,000</td>
<td>6</td>
</tr>
<tr>
<td>1,750,001 – 2,250,000</td>
<td>8</td>
</tr>
<tr>
<td>Over 2,250,000</td>
<td>11</td>
</tr>
</tbody>
</table>

The following transfers or immovable property are exempt from the transfer duty:
– the acquisition of property by an heir or legatee from a deceased’s estate;
– the acquisition of property in the course of a corporate reorganization transaction subject to group income tax relief (see Corporate Taxation section 2.1.); and
– the acquisition of property under a transaction which is subject to VAT at either the zero rate or standard rate.

4.3.2. Securities transfer tax

Securities transfer tax (STT) is payable on the transfer of listed and unlisted securities issued by companies incorporated, established or formed in South Africa, or by any foreign company the securities of which are listed on a regulated South African securities exchange. A security
is broadly defined to include any share or depository receipt in a company, but excluding any debt portion of a share linked to a debenture.

The tax rate is 0.25% on the taxable amount in respect of any transfer of a security. The taxable amount is usually equal to the consideration payable for the security, or in certain cases, it may be the market value or declared value of the security. STT on the transfer of securities must be paid as follows:
- listed securities: by the 14th day of the month following the month during which transfer of the securities occurred; and
- unlisted securities: within 2 months from the end of the month during which the transfer of the securities occurred.

Payment of STT is made exclusively through the SARS e-STT system (an online system).

Certain entities and types of transactions are exempt from STT, including:
- any transfer of shares in a real estate investment trust
- brokers that are authorized users on the JSE Securities Exchange
- heirs or legatees that acquire securities through an administration of an estate
- certain public benefit organizations;
- the government of South Africa or the government of any other country;
- any transfer of a security that does not involve a change in beneficial ownership thereof;
- the government of South Africa or the government of any other country;
- certain public benefit organizations;
- heirs or legatees that acquire securities through an inheritance;
- when a transaction is regarded as the acquisition of property, which is subject to transfer duty;
- brokers that are authorized users on the JSE Securities Exchange are exempt in respect of four types of stock accounts (from 1 January 2013); and
- any transfer of shares in a real estate investment trust (from 1 April 2013).

4.3.3. Air passenger departure tax

This is imposed at the rate of ZAR 80 for passengers departing to Botswana, Lesotho, Namibia and Swaziland, and ZAR 150 for passengers departing to other international destinations.

In October 2011 the South African government released a white paper that contains proposals for a carbon emissions tax. No legislation has been enacted to give effect to these proposals.

5. Inheritance and Gift Taxes

5.1. Taxable persons

Estate duty is imposed on the estate of a deceased person who was ordinarily resident in South Africa at the date of his death. Property (wherever it is situated) belonging to such a person at the date of his death constitutes part of the estate.

Property of a deceased person not ordinarily resident in South Africa at the date of death situated in South Africa is also subject to estate duty.

Property includes any right in or to property, movable, immovable, corporeal or incorporeal, as well as (i) fiduciary, usufructuary or other like interests in property, (ii) an annuity charged upon property and a right to an annuity (not charged upon property) accruing to some other person on the death of the deceased.

In the case of a deceased not ordinarily resident in South Africa at the date of death, property excludes (i) immovable and movable property situated outside South Africa, (ii) debts enforceable only outside South Africa, (iii) goodwill, licence, patent and similar rights registered or enforceable only outside South Africa or attaching to a business located outside South Africa, (iv) stocks and shares in a body corporate which is not a company and stocks and shares in a company where change of ownership is not required to be registered in South Africa, and (v) rights to the income or proceeds from the property, debts, goodwill, etc., stocks and shares referred to above.

Property also includes deemed property (defined to include the proceeds of a domestic policy on the life of the deceased, benefits due and payable by any fund on or as a result of the death of the deceased or by virtue of the deceased’s membership of a fund (excluding annuities provided by an approved pension fund or retirement annuity fund), donations made by the deceased in contemplation of his death, and property which the deceased was competent to dispose of immediately prior to his death for his own benefit or for the benefit of his estate).

5.2. Taxable base

Special provisions apply in the determination of the value of property for estate duty purposes. Generally, the fair market value of the property is used, subject to certain exceptions, while other rules apply in other cases, for example in respect of the value of annuities charged against the deceased’s estate, unquoted shares and members’ interests in a private company held by the deceased at the time of death, or a fiduciary, usufructuary or like interest in the deceased’s estate.

Deductions permitted in determining the net value of an estate include death bed, tombstone and funeral expenses, debts due to South African resident individuals (including capital gains tax), administration expenses, foreign assets held by the deceased before becoming a South African resident for the first time, foreign debts, donations to tax-exempt public benefit organizations and other institutions, certain improvements made to the property, and property bequeathed to the surviving spouse.

5.3. Personal allowances

The dutiable amount of an estate is reduced by a standard deduction of ZAR 3.5 million on the net value of the estate.

Furthermore, the duty payable is reduced by any transfer duty paid on the acquisition of the property from the estate, as well as by a rebate for property included in the deceased’s estate which formed part of the estate of a person who died less than 10 years before the deceased.

5.4. Rates

Estate duty is imposed at the rate of 20% on the dutiable amount of the estate.
5.5. Double taxation relief

South Africa has concluded estate duty agreements with Botswana, Lesotho, Swaziland, the United Kingdom, the United States and Zimbabwe.

5.6. Gifts

Donations tax is levied at the rate of 20% on the value of property disposed of under a donation (including the gratuitous waiver or renunciation of a right) by a resident individual. Property is defined to include any right in or to property, movable, immovable, corporeal or incorporeal, wherever situated.

The value of property subject to the tax is generally the fair market value. However, special rules apply in the determination of the value of certain property or interests in property (e.g. fiduciary, usufructuary or other like interest).

Donations exempt from donations tax include:

1. A donation to a spouse under a registered ante-nuptial or post-nuptial contract or under a notarial contract entered into between the spouses adopting an accrual system;
2. A donation to a spouse not separated from the donor, i.e. donations between married persons are exempt from donations tax;
3. A donation made in contemplation of death;
4. A donation under which the benefit only passes to the donee on the death of the donor;
5. A donation cancelled within 6 months from the date upon which it took effect;
6. A donation of property situated outside South Africa if the property was acquired by the donor:
   a) before he became resident in South Africa for the first time;
   b) by inheritance or donation from a non-resident; or
   c) out of funds from the disposal of property referred to at (a) or (b) above, or replacement or substituted property;
7. Donations by or to certain bodies, persons, authorities, organizations, associations and institutions which are exempt from income tax, e.g. public benefit organizations;
8. Voluntary awards resulting from employment, included in the donee’s gross income;
9. Property disposed of under or in pursuance of a trust;
10. A donation of a right (other than a fiduciary, usufructuary or other like interest) of use or occupation of farming property to the donor’s child;
11. Donations made by a company which is a public company for income tax purposes;
12. Donations made by a company to another company that is a member of the same group of companies;
13. So much of the value of casual gifts made by a donor (other than an individual) during a tax year, as does not exceed ZAR 10,000;
14. So much of the value of property donated by an individual, as does not during a tax year exceed ZAR 100,000;
15. So much of any bona fide contribution made by the donor towards maintenance of any person as SARS considers to be reasonable; and

South Africa has concluded an agreement with the United Kingdom for the avoidance of double taxation with respect to donations tax and estate duty.

6. International Aspects

6.1. Resident individuals

An individual is a resident of South Africa if he:
– is ordinarily resident in South Africa; or
– if not ordinarily resident, is physically present in South Africa for a period or periods of at least 91 days, in aggregate, in the relevant tax year, as well as for a period or periods exceeding 91 days in aggregate during each of the preceding five years and for a period or periods exceeding more than 915 days, in aggregate, during those preceding 5 tax years.

However, this definition excludes any person who is deemed to be exclusively resident of another country for purposes of the application of any income tax treaty.

6.1.1. Foreign income and capital gains

South African resident individuals are taxed on worldwide income and on capital gains from the disposal or deemed disposal of capital assets, wherever situated.

All income (including employment income, business income, interest, rental income) received by a South African resident from domestic and foreign sources is subject to income tax at the applicable tax rate.

With the exception of the various exemptions and exclusions from taxable capital gains (see section 1.6.), foreign capital gains is included in total capital gains realized by an individual, which are subject to tax at the normal tax rates on 33.3% of the gain.

Individuals (excluding certain public officers) who remain resident while seconded abroad may be exempt from tax in respect of their foreign employment income from services rendered abroad during their period of absence from South Africa, provided that certain conditions are fulfilled (including absence from South Africa for a period or periods exceeding 183 full days in aggregate during any 12-month period commencing or ending during the relevant year of assessment, as well as for a continuous period exceeding 60 full days during that 12-month period).

Special rules also apply to the tax treatment of remuneration derived by a person as an officer or crew member of a ship.

Foreign dividend income of a resident is exempt from income tax when:
– the foreign dividends are declared by a listed company; or
– the resident holds at least 10% of the total equity share capital and voting rights in the company declaring the dividend (before 1 March 2012 the equity stake requirement was 20%); or
– the foreign dividend received derives from profits previously subject to tax in South Africa (except where the rate of tax was reduced under a tax treaty); or

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the foreign dividend derives from profits that were subject to tax in South Africa pursuant to the controlled foreign company (CFC) rules.

Taxable foreign dividends are subjected to a tax rate reduction mechanism that may result in an effective tax rate of 10% or lower. It appears that unilateral foreign tax credit relief is fully available against such foreign dividends taxable at a lower rate.

Capital gains of a resident in respect of foreign equity shares are exempt from capital gains tax if the resident held at least 10% of the equity shares and voting rights for a period of at least 18 months and disposes of the shares to a non-resident.

6.1.2. Foreign capital

There are no recurrent taxes on domestic or foreign capital derived by resident individuals.

6.1.3. Double taxation relief

The ITA 1962 provides general unilateral relief for double taxation suffered by South African residents by way of an ordinary foreign tax credit. The foreign tax credit is equal to the sum of foreign taxes on income proved to be payable to any foreign government without the right of recovery of the foreign tax by any person. Any excess foreign tax credits may be carried forward for a maximum period of 7 years.

From 1 March 2012, extraordinary unilateral foreign tax credit relief is also available in respect of foreign taxes imposed in respect of service fee payments where those payments are, in the view of the South African Revenue Service, from a source within South Africa. The extraordinary relief is also granted if foreign tax is imposed not in accordance with a double tax treaty. No carry-forward of any such excess foreign tax credits is allowed. Residents wishing to claim this extraordinary unilateral relief must file a special tax return within 60 days after the foreign tax was imposed or levied. It has been announced in February 2015 that this extraordinary relief will be repealed – no date has as of yet been announced.

Foreign dividend income received by a resident shareholder holding at least 10% of the participation rights is exempt and no foreign tax credit is thus available for direct foreign taxes on such exempt dividends, nor for any underlying foreign taxes.

Where no unilateral or bilateral relief is available for foreign taxes paid on income subject to South African income tax, the foreign taxes paid may be allowed as a deduction from taxable income (as opposed to a credit against the income tax liability), but SARS practice has varied over the years.

For a list of tax treaties in force, see the withholding tax rates chart in the Appendix.

6.2. Expatriate individuals

Apart from specific rules applicable to the tax treatment of non-resident individuals on income derived from South African sources, there is no special income taxation regime for expatriates in South Africa.

A person who ceases to be a resident is, subject to certain exceptions, deemed to have disposed of his assets at the time and is subject to capital gains on the deemed realization.

6.3. Non-resident individuals

An individual who does not meet the requirements for residence will be treated as a non-resident. An individual is a resident of South Africa if he:

– is ordinarily resident in South Africa; or
– if not ordinarily resident, is physically present in South Africa for a period or periods of at least 91 days, in aggregate, in the relevant tax year, as well as for a period or periods exceeding 91 days in aggregate during each of the preceding 5 years and for a period or periods exceeding more than 915 days, in aggregate, during those preceding 5 tax years.

However, this definition excludes any person who is deemed to be exclusively resident of another country for purposes of the application of any income tax treaty.

6.3.1. Taxes on income and capital gains

Unless otherwise indicated, a non-resident is subject to the normal income taxation rules for both the national and local income taxes described in sections 1. and 2., including the rates and the granting of personal deductions, allowances and credits (see section 1.7.).

The nexus for a non-resident to be subjected to income tax in South Africa, is based on the source of income earned. Generally, income or gains have their source within South Africa if an income earning activity is performed within South Africa or an asset is attributable to a permanent establishment located in South Africa (see further section 6.3.1.4.). In addition, statutory source rules apply from 1 January 2012 for the following specific categories of income:

– a dividend (i.e. declared by a resident company – the definition of a dividend further excludes a “foreign dividend”);
– interest (as defined in section 24J of the ITA 1962) or deemed interest (as contemplated in section 8E (2) of the ITA 1962) where that interest:
  – is attributable to an amount incurred by a person that is a resident, unless the interest is attributable to a permanent establishment which is situated outside South Africa; or
  – is received or accrues in respect of the utilization or application in South Africa by any person of any fund or credit obtained in terms of any form of interest-bearing arrangement;
  – a royalty that is attributable to an amount incurred by a person that is a resident, unless that royalty is attributable to a permanent establishment which is situated outside South Africa; or
  – a royalty that is received or accrues in respect of the use or right of use of or permission to use in South Africa any intellectual property (as defined in section 23I of the ITA 1962);
an amount incurred by a person who is a resident and received or accrues in respect of the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information, or the rendering of or the undertaking to render, any assistance or service in connection with the application or utilization of such knowledge or information, unless the amount so received or accrued is attributable to a permanent establishment which is situated outside South Africa;

an amount that is received or accrues in respect of the imparting of or the undertaking to impart any scientific, technical, industrial or commercial knowledge or information for use in South Africa, or the rendering of or the undertaking to render, any assistance or service in connection with the application or utilization of such knowledge or information;

an amount that is received or accrues in respect of the holding of a public office;

an amount that is received or accrues in respect of services rendered to or work or labour performed for or on behalf of any employer:

– in the national, provincial or local sphere of government;

– that is a constitutional institution listed in Schedule 1 to the Public Finance Management Act, 1999 (Act No. 1 of 1999);

– that is a public entity listed in Schedule 2 or 3 to that Act; or

– that is a municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

constitutes a pension or an annuity and the services in respect of which that amount is so received or accrued were rendered within South Africa: provided that if the amount is received or accrues in respect of services which were rendered partly within and partly outside South Africa, only so much of that amount as bears to the total of that amount the same ratio as the period during which the services were rendered in South Africa bears to the total period during which the services were rendered must be regarded as having been received by or accrued to the person from a source within South Africa;

constitutes an amount received or accrued in respect of services rendered outside South Africa:

– that person is a resident; and

– that asset is not attributable to a permanent establishment of that person which is situated outside South Africa; and

– the proceeds from the disposal of that asset are not subject to any taxes on income payable to any sphere of government of any country other than South Africa; or

– that person is not a resident and that asset is attributable to a permanent establishment of that person which is situated in South Africa; or

– is attributable to any exchange difference (determined in terms of section 24I of the ITA 1962) in respect of any exchange item as defined in that section to which that person is a party if:

– that person is a resident; and

– that exchange item is not attributable to a permanent establishment of that person which is situated outside South Africa; and

– that amount is not subject to any taxes on income payable to any sphere of government of any country other than South Africa; or

– that person is not a resident and that exchange item is attributable to a permanent establishment of that person which is situated in South Africa.

6.3.1.1. Employment income

Employment income earned by non-residents from rendering services in South Africa will be taxable in South Africa on the basis that the source of the income is located within South Africa. Conversely, earnings from services rendered outside South Africa will not be taxable even if paid by a South African employer.

Specific exemption for employment income earned by non-residents is available where such income is derived from any South African national or provincial government agency, provided that the income would be subject to tax in the employee’s residence country.

6.3.1.2. Business and professional income

Business and professional income

Business income derived by a non-resident from a source within South Africa will be taxable in South Africa, unless the individual is a resident of a country with which South Africa has concluded an income tax treaty and he does not have a permanent establishment or a fixed base (depending on the treaty in question) in South Africa for purposes of that treaty.

There are no special rules applicable to the deductibility of expenses incurred by non-residents in respect of their South African-source business or professional income. The rules applicable to residents generally apply to non-residents as well (see section 1.4.).

Draft legislation has been proposed in terms of which non-residents that receive payment from a South African source for technical and certain other services will be subject to a final withholding tax charged on a gross basis at source at the rate of 15% from 1 January 2016. It is uncertain whether this form of taxation will indeed proceed.

Entertainers and sportspersons

A final withholding tax applies in respect of amounts payable to non-resident entertainers and sportspersons in respect of any specified activity exercised or to be exercised in South Africa. The non-resident who receives or to whom such an amount accrues is liable for a final tax (known as the tax on foreign entertainers and sportspersons), which is levied at a rate of 15% on all amounts received or accrued (these amounts are otherwise specifically exempted from income tax).
Excluded from the withholding tax is a non-resident employee of a resident employer who is physically present in South Africa for a period or periods exceeding 183 full days in aggregate during any 12-month period commencing or ending during the year of assessment in which the specified activity is exercised.

The definition of “entertainer or sportsperson” is broad and includes any person who for reward:
- performs any activity as a theatre, motion picture, radio or television artiste or a musician;
- takes part in any type of sport; or
- takes part in any other activity which is usually regarded as of an entertainment character.

The obligation to withhold and pay over the tax is imposed on any resident who is liable to pay the gross amount to a non-resident entertainer or sportsperson. The payment of tax must be accompanied by a return in a prescribed form.

A non-resident on whose behalf an amount deducted or withheld has been paid to SARS is not entitled to recover the tax from the resident payer. A resident who has in his personal capacity paid an amount of tax for which a non-resident is liable has a statutory right to recover the tax so paid from the non-resident.

A resident who is primarily responsible for founding, organizing or facilitating a specified activity of an entertainer or sportsperson in South Africa, and who will be rewarded directly or indirectly for doing so, must notify SARS in a prescribed form of the specified activity within 14 days after the agreement has been concluded.

6.3.1.3. Investment income

From 1 April 2012 non-resident individual shareholders are liable for the dividends tax, which is charged at the rate of 15% on the amount of any dividends paid by a South African resident company or any foreign dividend paid by a non-resident company the shares of which are listed on a recognized South African securities exchange. Any company that declares and pays a dividend subject to the dividends tax must withhold the tax and pay it over to SARS. Dividends tax is imposed at the shareholder level and therefore is subject to tax treaty relief (see further Corporate Taxation section 6.3.1.).

Before 1 April 2012, non-residents enjoyed exemption from income tax in respect of any dividends received from a source within South Africa. Such dividends however gave rise to a second-tier corporate income tax (“secondary tax on companies”) for the resident declaring company, but this tax fell away with effect from 1 April 2012 (see Corporate Taxation section 3.1.).

From 1 March 2015, a withholding tax on interest derived from a source within South Africa applies. The tax is charged at the rate of 15% and certain exemptions are available, including in respect of bank interest (see Corporate Taxation section 6.3.2.).

Non-residents are subject to a final withholding tax of 15% on the gross amount of royalties, know-how payments and certain related service payment accruing to them and arising out of the use of the intellectual property in South Africa.

Generally, when a non-resident maintains a permanent establishment in South Africa or is physically present in the country for a period of more than 183 days during any fiscal year, the above-mentioned withholding taxes on interest and royalties will not apply. Instead, the non-resident would be liable to income tax, on a net basis, in respect of these categories of income under the general rules applicable to non-residents.

For the treaty rates, see the withholding tax rates chart in the Appendix.

6.3.1.4. Capital gains

Non-resident individuals are only taxed on the disposal or deemed disposal of:
- immovable property, or an interest in immovable property, situated within South Africa;
- shares in a company where 80% or more of the value of the assets of the company is attributable to immovable property situated within South Africa, and provided that the non-resident holds at least 20% of the company’s equity; and
- assets attributable to a permanent establishment of the non-resident located within South Africa.

Capital gains tax is triggered by a capital gains tax event (a so-called “disposal”). This includes the sale, scrapping or exchange of property, or where the person’s interest in a company, partnership or trust changes due to a value-shifting arrangement.

Capital gains tax is levied at normal income tax rates on 33.3% of the gain realized by a non-resident individual. For other details, see section 1.6.

6.3.2. Taxes on capital

No recurrent taxes on capital are imposed on non-resident individuals.

6.3.3. Inheritance and gift taxes

See section 5.

6.3.4. Administration

Non-resident individuals whose income from a South African source is subject to a final withholding tax are not generally required to file income tax returns. Specific reporting requirements must be met in case of the dividends tax if a reduction in withholding tax is claimed (e.g. pursuant to tax treaty relief).

In other cases, non-residents are subject to the same administrative requirements applicable to residents (see section 1.10.).