

2025 / 2026



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Tax Pocket Guide.

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# Tax Services

We advise clients on a comprehensive range of tax related matters including tax risk policy formulation or review to ensure alignment to overall risk management strategy of your organisation, in country tax compliance, compliance with international tax laws and regulations, effective tax planning and related advisory service across a wide range of businesses and sectors.

Our experienced team is well equipped to provide up to date practical solutions to suit our client's needs. Therefore, whether you are seeking advice on the tax implications of a merger or acquisition, our tax specialists have the know-how and the extensive experience to meet your specific needs.

## We specialise in:

- **Corporate Tax services:** Tax compliance, mergers and acquisitions, taxation of share incentive schemes, dividends tax, cross border transactions, tax dispute resolution and litigation.
- **Global Mobility and Employees' Tax:** Review and advise on tax treatment of international assignments, review of design, implementation and disclosure of cost-to-company, evaluating HR policies amongst others.
- **Value-Added-Tax (VAT) services:** Assistance with the compilation of procedures manuals, the design and implementation of appropriate internal controls to facilitate the proper management of all indirect tax compliance issues and the training of staff. Offer advice on the impact on the proposed VAT modernization.
- **Transfer Pricing services:** Compliance services that include drafting of transfer pricing policies that are compliant with local legislation and the regulations of the organization for Economic Co-operation and Development (OECD) where applicable.
- **International tax services:** Advising on tax implications of financing agreements entered into by related entities and non-related entities in different countries. Advising on and reviewing of effective management risks, cross-border

transactions, controlled foreign company risks, new group structures, efficiency of existing group structures and tax nexus risks, amongst others.

- **Customs and Excise:** Assistance with registration, licensing and accreditation, imports and exports planning, performing supply chain reviews, customs and excise reviews and assessments, customs and excise duty reliefs, disputes and training.
- **Tax Technology and Data Analytics:** serve as the lynchpin of our tax approach. Recognizing the substantial volume of tax data transactions, any strategy neglecting the incorporation of technology and data analytics/science techniques is certain to lack rigor. In alignment with this principle, we have devised an approach that extensively utilizes the development of tools for Tax Computation, Transfer Pricing Risk Assessment and data analytics solutions or VAT Analytics, Fixed Assets and PAYE.

In this regard for further details on our service offerings, visit our website [www.sng-granthornton.co.za](http://www.sng-granthornton.co.za)

## Use of this guide:

All the information contained in this guide is correct as at the time of publication, i.e. on 12 March 2025. The information used was obtained from the Budget Speech delivered by the Minister of Finance on 12 March 2025.

The information contained in this guide is for general guidance only and is not intended as a substitute for specific advice in considering the tax effects of particular transactions.

Whilst every care was taken in drafting this guide, we accept no liability for the consequences of any actions taken by readers based on the contents hereof.

## Individuals and special trusts

### Tax rates for the year of assessment: 2025/2026 Tax rates

Tax rates (year of assessment ending 28 February 2026)

Taxable Income (R)	Rate of Tax (R)
1 – 237 100	18% of taxable income
237 101 – 370 500	42 678 + 26% of taxable income above 237 100
370 501 – 512 800	77 362 + 31% of taxable income above 370 500
512 801 – 673 000	121 475 + 36% of taxable income above 512 800
673 001 – 857 900	179 147 + 39% of taxable income above 673 000
857 901 – 1 817 000	251 258 + 41% of taxable income above 857 900
1 817 001 and above	644 489 + 45% of taxable income above 1 817 000

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1 817 001 and above	644 489 + 45% of taxable income above 1 817 000

### Tax Rebates and Thresholds 2025/2026

Age	Rebates (R)	Thresholds (R)
Primary (below 65)	R17 235	R95 750
Secondary (65 and older)	R9 444	R148 217
Tertiary (75 and older)	R3 145	R165 689

### Tax rebates and thresholds 2024/2025

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Primary (below 65)	R17 235	R95 750
Secondary (65 and older)	R9 444	R148 217
Tertiary (75 and older)	R3 145	R165 689

### Trusts other than special trusts

#### Tax rates for the year of assessment: 2025/2026

Tax rate (year of assessment ending 28 February 2026) – 45%

#### Tax rates for the year of assessment: 2024/2025

Tax rate (year of assessment ending 28 February 2025) – 45%

## Exemptions

### Interest

- Interest from a South African source earned by any natural person under 65 years of age, up to R23 800 (2025: R23 800) per annum, and persons 65 and older, up to R34 500 (2025: R34 500) per annum, is exempt from taxation.
- Interest is exempt where earned by non-residents who are physically absent from South Africa for at least 182 days during the 12-month period before the interest and the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa.

### Foreign Dividends

Most foreign dividends received by any person from foreign companies (shareholding of less than 10% in the foreign company) are taxable at a maximum effective rate of 20%.

No deductions are allowed for expenditure to produce foreign dividends.

### Local Dividends

Dividends received by individuals from South African companies are generally exempt from income tax, but dividends tax, at a rate of 20%, is withheld by the entities paying the dividends to the individuals. Dividends earned from equity instruments issued by the employer in terms of the employment agreement including share incentive trust distributions are not exempt, subject to certain exclusions.

### Dividends from REIT

Dividends paid by a real estate investment trust (REIT) to a resident are subject to income tax. Non-residents in receipt of those dividends are only subject to dividends tax.

### Tax free savings account

Tax free savings accounts were introduced from 1 March 2015 as a measure to encourage household/ individual savings. Individuals will be allowed to open multiple tax-free savings accounts, however, they may only contribute up to a maximum of R 36 000 into these accounts within any given year. A lifetime contribution limit of R500 000 will apply. The returns accruing to these accounts will not be subject to income or dividends tax. Amounts within the tax-free savings accounts may be withdrawn at any time. Where an individual contributes in excess of the prevailing annual or lifetime contribution limit in any year, a "penalty" (additional income tax) of 40 per cent on the amount of excess contribution will be levied by SARS on the individual.

### Dividends from REIT

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### Restricted Deductions (Employees) Employees or holders of office are restricted to deducting the following expenditure from their remuneration:

Employees or holders of office are restricted to deducting the following expenditure from their remuneration.

- Bad debts
- Deductions in respect of contributions to a pension fund or retirement annuity fund
- Donations to certain Public Benefit Organizations
- Doubtful debts allowance

- Home office expense, subject to requirements
- Legal expense
- Medical expense in respect of qualifying expenses
- Refunded awards for services rendered and refunded restraint of trade awards as from 1 March 2008
- Wear and tear allowance

## Deductions (Individuals)

### Retirement fund contributions

Amounts contributed to pension, provident and retirement annuity funds during a tax year are deductible by members of those funds.

Amounts contributed by employers and taxed as fringe benefits are treated as contributions by the individual employee.

The deduction is limited to 27.5% of the greater of:

- Remuneration for PAYE purposes, or
- Taxable income (both excluding retirement funds lump sum and severance benefits)

Furthermore, the deduction is limited to a lower of R350 000 or 27.5%. Any contributions exceeding the limitations are carried forward to the next tax year and deemed to be contributed in that following year.

### Medical and disability expenses

In determining tax payable, individuals are allowed to deduct—

- Monthly contributions to medical schemes (a tax rebate referred to as a medical scheme fees tax credit) up to R364 (2024: R347) for the individual who paid the contributions and the first dependent on the medical scheme and R246 (2024: R234) for each additional dependent; and in the case of—
  - An individual who is 65 and older, or if that person, his or her spouse or child is a person with a disability, 33.3% of qualifying medical expenses paid and borne by the individual and an amount by which medical scheme contributions paid by the individual exceed 3 times the medical scheme fees tax

credits for the tax year.

- Any other individual, 25% of an amount equal to qualifying medical expenses paid and borne by the individual and an amount by which medical scheme contributions paid by the individual exceed 4 times the medical scheme fees tax credits for the tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).

### Donations

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

### Allowances

#### Subsistence allowances and advances

Where recipients are obliged to spend at least one night away from their usual place of residence on business and the accommodation to which that allowance or advance relates is in the Republic and the allowance or advance is granted to pay for—

- Meals and incidental costs, an amount of R570 (2025: R548) per day is deemed to have been expended;
- Incidental costs only, an amount of R176 (2025: R169) for each day which falls within the period is deemed to have been expended.

Where the accommodation to which that allowance or advance relates is outside the Republic, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website under Legal Counsel / Secondary Legislation / Income Tax Notices.

## Travelling allowance

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

Value of the Vehicle (including VAT)	Fixed Cost (R p.a)	Fuel Cost (c/km)	Maintenance Cost (c/km)
0 – 100 000	33 940	146.7	47.4
100 000 – 200 000	60 668	163.8	59.3
200 000 – 300 000	87 497	177.9	65.4
300 000 – 400 000	111 273	191.4	71.4
400 000 – 500 000	135 048	204.8	83.9
500 000 – 600 000	159 934	234.9	98.5
600 000 – 700 000	184 867	238.9	110.5
700 000- 800 000	211 121	242.9	112.5
Exceeding 800 000	211 121	242.9	112.5

**Note:** 80% of the travelling allowance 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. 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 the subject of a maintenance plan).

The fixed cost must be reduced on a pro-rata basis if the vehicle for business purposes for less than a full year. The actual distance travelled during a tax year and the distance travelled for business purposes substantiated by a log book are used to determine the costs which may be claimed against a travelling allowance.

### Alternatively:

- 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 R4.76 per kilometre, regardless of the value of the vehicle.
- This alternative is not available if other compensation in the form of an allowance or reimbursement (other than for parking or toll fees) is received from the employer in respect of the vehicle.

## Fringe Benefits

### 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 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 logbook divided by the actual distance travelled during the tax year.
- On assessment further relief is available for the cost of license, insurance, maintenance, and fuel for private travel if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a logbook.

### Interest-free or low-interest loans

The difference between interest charged at the official rate and the actual amount of interest charged, is to be included in gross income. Residential accommodation

### Residential accommodation

The value of the fringe to be included in gross income is the lower of the benefit calculated by applying a prescribed formula or the cost to the employer if the employer does not have full ownership of the accommodation. The formula will apply if the accommodation is owned by the employer, but it does not apply to holiday accommodation hired by the employer from non-associated institutions.

### Solar Panel Tax Incentive for Individuals

Individuals can claim a rebate of 25% of the cost of solar PV panels. The cost of the solar PV panels on which the rebate can be claimed is limited to R15 000 and the claim period is also limited from 1 March 2023 to 29 February 2024. Only new and unused solar panel with minimum capacity of 275W per panel can qualify for rebates with certain conditions.

### Retirement fund lump sum withdrawal benefits

Taxable Income (R)	Rate of Tax (R)
1 – 27 500	0% of taxable income
27 501 - 726 000	18% of taxable income above 27 500
726 001 - 1 089 000	125 730 + 27% of taxable income above 726 000
1 089 001 and above	223 740 + 36% of taxable income above 1 089 000

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal (including assignment in terms of divorce order). Tax on a specific retirement fund lump sum withdrawal benefit (x) is equal to:

Tax determined by applying the tax table to the aggregate of that lump sum X plus all other retirement lump sum withdrawal benefits accruing from March 2009, all retirement fund lump sum benefits accruing from October 2007 and all severance benefits received or accruing from March 2011; less tax determined by applying the tax table to the aggregate of all retirement fund lump sum withdrawal benefits accruing before lump sum X from 2009, all retirement lump sum benefits accruing from October 2007 and all severance benefits received accruing from March 2011.

### Retirement fund lump sum benefits or severance benefits

Taxable Income (R)	Rate of Tax (R)
1 – 550 000	0% of taxable income
550 001 - 770 000	18% of taxable income above 550 000
770 001 – 1 155 000	39 600 + 27% of taxable income above 770 000
1 050 001 and above	143 550 + 36% of taxable income above 1 155 000

Retirement fund lump sum benefits consists of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to attaining the age of 55 years, sickness, accident, injury, incapacity, redundancy or termination of employer's trade. Severance benefits consist of lump sums from or by arrangement with an employer due to relinquishment, termination, loss, repudiation, cancellation or variation of a person's office or employment.

Tax on a specific retirement fund lump sum benefit or a severance benefit (Y) is equal to:

- Tax determined by applying the tax table to the aggregate of that lump sum or severance benefit Y plus all other retirement fund lump sum benefits accruing from October 2007, and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all other severance benefits received or accruing from March 2011; less
- Tax determined by applying the tax table to the aggregate of all retirement fund lump sum benefits accruing before lump sum Y from October 2007, all retirement fund lump sum withdrawal benefits accruing from March 2009 and all severance benefits received or accruing before severance benefit Y from March 2011

## Two-Pot System

Effective 1 September 2024 the retirement system was reformed with the introduction of the two-pot system. All monies that were invested in a retirement fund until 31 August 2024 are placed in a vested pot and no new contributions will be allowed in this component from 1 September 2024 going forward.

All contributions made from the effective date are split into two components, i.e., the savings component and the retirement component.

- Two thirds of the contributions paid will go to the retirement component. These funds cannot be accessed before retirement from the fund. The investment is preserved until retirement age and no withdrawals will be allowed prior to retirement.

- One third of the contributions paid will go to the savings component and the funds can be accessed once a tax year. Withdrawals from this component cannot be less than R2 000 and they are subject to tax at the marginal rates.

The savings component also receives a one-time seedling amount from the vested component, which is the lesser of 10% of the vested component or R30 000.

## Provisional Tax

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 exempt from the payment of 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.

In addition to the annual tax return, as a provisional taxpayer you need to file the following:

### First provisional tax return

The first provisional tax return and payment thereof (if any) are due within six months of the beginning of the year of assessment. The payment is one half of the total tax in respect of the estimated taxable income for the tax year is payable.

### Second provisional tax return

The second provisional tax return and payment hereof (if any) are due on the last day of the year of assessment. The payment is the total tax in respect of the estimated taxable income for the tax year's payable.



### A two-tier model applies depending on the taxpayer's taxable income:

- Actual taxable income of R1 million or less - To avoid any penalty the basic amount may be used. If a lower estimate is used, this must be within 90% of the taxable income finally assessed.
- Actual taxable income exceeds R1 million - To avoid any penalty the estimate must be within 80% of the taxable income, excluding retirement fund lump sums, finally assessed.

If the above requirements are not met, a penalty of 20% is levied on the difference between the estimated tax and 90% of the actual tax (where the taxable income is R1 million or less), or 80% of the actual tax (where the taxable income exceeds R1 million), less the PAYE and provisional tax paid in the year of assessment. The penalty may be waived if the taxpayer can prove that due care has been taken in seriously calculating the estimate.

### Third provisional payment

Third provisional payments must be made before 30 September in the case of a taxpayer with a February year end and within seven months of other year ends to avoid interest being charged.

**Deceased estates are not provisional taxpayers.** Provisional tax returns showing estimation of total taxable income for the year of assessment are required from provisional taxpayers.

### Dividends Tax

Dividends tax is a final tax on dividends at a rate of 20%, paid by resident companies and non-resident companies in respect of shares listed on the JSE.

Dividends are tax exempt if the beneficial owner of the dividend is a South African company, retirement fund or other exempt person. Non-resident beneficial owners of dividends may benefit from reduced tax rates in limited circumstances.

The tax is to be withheld by companies paying the taxable dividends, or by regulated intermediaries in the case of dividends on listed shares. The tax on dividends in kind (other than in cash) is payable and is borne by the company that declares and pays the dividend. Under Dividends Tax, dividend payments to foreign residents may be subject to a reduced rate where the relevant Double Taxation Agreement (DTA) between South Africa and their country of residence provides for such.

This normally requires the foreign beneficial owner to be a company and to hold a specified percentage of the share capital of the South African company paying the dividend. With reference to Oil and Gas companies, the tax rate of dividends on any dividend that is paid by an oil and gas company out of amounts attributable to its oil and gas income is nil.

In order to qualify, the foreign resident needs to declare their status (by way of a "declaration" and "undertaking") to the company declaring the dividend or the regulated intermediary involved - if they do not the withholding agent is required to withhold tax at the full rate.

## Other Withholding Taxes

In limited circumstances the applicable tax rate may be reduced in terms of a tax treaty with the country of residence of a non-resident.

### Royalties

A final tax at a rate of 15% (2025: 15%) is imposed on the gross amount of royalties from a South African source payable to non-residents.

### Interest

A final tax at a rate of 15% (2025: 15%) is imposed on interest from a South African source payable to non-residents. Interest is exempt if payable by any sphere of the South African government, a bank or if the debt is listed on a recognized exchange.

Paragraph 3(2) of the Tenth Schedule provides that notwithstanding Part IVB of Chapter 2 of the Act, the rate of withholding tax on interest as contemplated in that Part may not exceed zero per cent of the amount of any interest that is paid by an oil and gas company, with regard to loans applied to fund capital expenditure relating to exploration and post exploration in terms of an oil and gas right.

## Corporate Tax

### Income tax: Companies

#### For years of assessment ending before 31 March 2023

Type	Rate of Tax
Companies	27% of taxable income

### Income tax: Small Business Corporations

#### Financial years ending on any date between 1 April 2025 and 31 March 2026

Taxable Income (R)	Rate of Tax (R)
1 – 95 750	0% of taxable income
95 750 – 365 000	7% of taxable income above 95 750
365 001 – 550 000	18 848 + 21% of taxable income above 365 000
550 001 and above	57 698 + 27% of the amount above 550 000

## Foreign entertainers and sports-persons

A final tax at the rate of 15% (2025: 15%) is imposed on gross amounts payable to non-residents for activities exercised by them in South Africa as entertainers or sportspersons.

### Disposal of immovable property

A provisional tax is withheld on behalf of non-resident sellers of immovable property in South Africa, to be set off against the normal tax liability of the non-residents.

The tax to be withheld from payments to the non-residents are at a rate of 7.5% for a non-resident individual, 10% for a non-resident company, and 15% for a non-resident trust that is selling the immovable property.

### Residence Basis of Taxation

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

## Financial years ending on any date between 1 April 2024 and 31 March 2025

Taxable Income (R)	Rate of Tax (R)
1 – 95 750	0% of taxable income
95 750 – 365 000	7% of taxable income above 95 750
365 001 – 550 000	18 848 + 21% of taxable income above 365 000
550 001 and above	57 698 + 27% of the amount above 550 000

Currently gross income threshold for small business corporation is limited to R20 million effective from 1 April 2013.

## Turnover Tax for Micro Businesses

### Financial years ending on any date between 1 March 2025 and 28 February 2026

Taxable Income (R)	Rate of Tax (R)
0 – 335 000	0% of taxable turnover
335 001 – 500 000	1% of taxable turnover above 335 000
500 001 – 750 000	1 650 + 2% of taxable turnover above 500 000
750 001 and above	6 650 + 3% of taxable turnover above 750 000

### Financial years ending on any date between 1 March 2025 and 28 February 2026

Taxable Income (R)	Rate of Tax (R)
0 – 335 000	0% of taxable turnover
335 001 – 500 000	1% of taxable turnover above 335 000
500 001 – 750 000	1 650 + 2% of taxable turnover above 500 000
750 001 and above	6 650 + 3% of taxable turnover above 750 000

## Capital Allowances /Incentives

Description	Allowance Rate
Machinery and Equipment	
Farming or production of renewable energy - s12B	50%/30%/20%
Enhanced allowance for machinery/equipment used in production of renewable energy - S12BA	
Solar PV brought into use for the first time between 1 March 2023 and 28 February 2025	-125%

### Battery electric and hydrogen-powered vehicle S12V

#### New and unused assets or improvements 150%

The asset must be brought into use on or after 1 March 2026 and before 1 March 2036, used mainly in the production of battery electric and hydrogen-powered vehicles. The allowance is calculated on the cost of the vehicle.

#### Plant and Machinery S12E - small business.

Non-manufacturing asset- allowance claimed under section 11(e) or Over period of 3 years 50%, 30% and 20%

## Manufacturing Equipment

New and unused manufacturing equipment acquired on or after 1 March 2002	40%/20%/20%/20%
Used manufacturing equipment	20%
Manufacturing equipment brought into use for the first time on or after 1 April 2001, and used directly in the process of manufacturing (Small businesses only)	100%

## Manufacturing Equipment

Expenditure of a capital nature actually incurred in that year of assessment in respect of exploration in terms of an oil and gas right	100%
Expenditure of a capital nature actually incurred in that year of assessment in respect of post exploration in respect of an oil and gas right	50%

## Research and Development

Plant and equipment acquired on or after 1 January 2012	50%/30%/20%
A deduction equal to 150% of expenditure incurred directly for Research & Development	
The section has been extended until 31 December 2033	

## Buildings

### Industrial (manufacture or similar process)

- Commenced 1/7/96 – 30/9/99 10%
- After 1 January 1989 5%

**Other** 2%

New and unused commercial buildings (and improvements) on or after 1 April 2007 5%

## Computers

Personal	33%
Mainframe servers	20%

## Software

Purchased software	33%
Self-developed software	100%
Vehicles	25%
Furniture and Fittings	16.7%

## Furniture and Fittings

The sunset date for learnership allowances provided for in section 12H was extended to 31 March 2027.

As from 9 February 2016, certain companies trading in a special economic zone will qualify for:

- a lower company tax rate of 15%
- an enhanced new and unused building allowance at a rate of 10%
- an enhanced employment incentive for all employees, without an age restriction, earning below R60 000 per annum.

In order to qualify the company must be formed and effectively managed in South Africa and generate at least 90% of its income within the zone. This incentive ceases to apply to any year of assessment commencing the later of 1 January 2031 or ten years after the commencement of trading in the special economic zone.

### South Africa's Industrial Development Zones- Customs Control Area Compliance and benefits

The three main IDZ in South Africa is Coega (in Eastern Cape), East London (in Eastern Cape) and Dube (in KwaZulu-Natal). Below a short summary of the three zones. Why does SA have IDZ? According to the Department of Trade and Industry (DTI), 'the South African government, in an effort to reposition itself in the world economy, established the Industrial Development Zones (IDZ) Programme. The Programme's main focus was to attract Foreign Direct Investment (FDI) and export of value-added commodities.'

Customs controlled areas: An SEZ or any part thereof may be designated as a Customs controlled area. There may be more than one (1) Customs controlled area within a single SEZ. These areas are controlled by Customs to the extent for those activities that require registration or licensing in terms of the Customs and Excise Act, 1964 and only the premises where these activities are executed will be controlled by Customs.

#### Customs Rebate provisions Applicable:

- Any imported goods by a registered Customs controlled area Enterprise into the Customs controlled area may be imported under rebate item 498.01 of Schedule No. 1.
- Such imported goods by a registered SEZ Operator for use in the construction and maintenance of the infrastructure of a Customs controlled area in an SEZ may be imported under rebate-item 498.02 of Schedule No. 1. However, Infrastructure is limited to the basic structural elements permanently installed in a Customs controlled area, e.g. sanitation, electricity, roads, bridges and buildings.
- Goods may be entered under any Schedule 3 rebate item by a Customs controlled area Enterprise as contemplated in rule 21A.01 of the Customs and Excise Rules, However,
  - The Customs controlled area Enterprise complies with:
  - Any notes to that item and notes to Schedule No. 3;
  - Section 75 of the Customs and Excise Act; and
  - VAT is paid on goods imported by the Customs controlled area Enterprise under any item in Schedule No. 3.

## Income Tax

### Relaxing the assessed loss restriction rule under certain circumstances

The Act generally allowed taxpayers to set off assessed losses brought forward from prior years to be set off against taxable income in the current year of assessment. An assessed loss restriction rule was introduced in April 2022 to restrict the offsetting of assessed losses carried forward to 80% of taxable income in the current year of assessment.

The limitation of the assessed loss will not apply where a company has taken steps to liquidate, wind up or register within 36 months, and does not withdraw these steps during that same period.

### Urban development zone incentives

The urban development zone tax incentive was introduced in 2003 to address urban decay within inner cities. It is proposed to extend the incentive by five years to 31 March 2030.

### Energy-efficiency tax incentive

The Act provides a tax incentive for businesses that implement energy efficiency measures. The deduction of energy efficiency savings is calculated at 95 cents per kilowatt hour or kilowatt hour equivalent. Before making a deduction under section 12L during any year of assessment, the taxpayer must have a certificate from the South African National Energy Development Institute (SANEDI) that confirms and provides proof of energy savings in their possession.

It is proposed to extend the incentive by five years to 31 December 2030.

## International Tax

### Clarifying the translation for hyperinflationary currencies

The net income of a controlled foreign company (CFC) is determined in the currency used by that CFC for financial reporting (the functional currency) and is translated to rands at the average exchange rate for that foreign tax year.

An “exchange item” is treated as not attributable to any permanent establishment of the CFC if the currency used for financial reporting is that

of a country with an official rate of inflation of 100 per cent or more throughout the foreign tax year.

However, in contrast to the intention that a hyperinflationary functional currency not be used for translation purposes, section 9D(2A)(k) of the Income Tax Act requires the local currency to be used. It is proposed that the rules be changed so that this section does not allow the use of a hyperinflationary functional currency for translation purposes.

### Clarifying the 18-month period in relation to shareholdings by group entities

In 2023, tax legislation was amended to require an 18-month holding requirement for the participation exemption on the foreign return of capital similar to the participation exemption relating to the disposal of shares in a foreign company.

However, the test for the holding period for a foreign return of capital does not cover the situation where more than one company in a group of companies was holding the shares during the 18-month period. It is proposed that the holding period rules be amended to cater for this situation.

### Clarifying the rebate for foreign taxes on income in respect of capital gains

Section 6quat of the Income Tax Act provides that a taxpayer should get credit for the taxes paid in the relevant foreign jurisdiction but limits this to the South African tax on the amount taxed in South Africa. According to the foreign tax credit rules dealing with foreign dividends, the tax exempt portion must not be taken into account when determining the allowable foreign tax credit.

However, the rules dealing with capital gains have no corresponding provision for the non-taxable portion of the capital gain. It is proposed that section 6quat be amended to explicitly allow for a full foreign tax credit against tax payable in South Africa on a capital gain for taxes payable in the relevant foreign jurisdiction on the disposal of an asset.

### **Aligning the section 6quat rebate and translation of net income rule for CFCs**

Foreign taxes payable by a CFC must be translated to rand at the average exchange rate for the year of assessment, of the resident having an interest in the CFC, in which an amount of net income of the CFC is included in the income of that resident. However, the net income of the CFC must be translated by applying the average exchange rate for the foreign tax year of the CFC. A mismatch arises when the year of assessment of the resident and the foreign tax year of the CFC are different.

To address this anomaly, it is proposed that the Income Tax Act align the years used to translate net income and foreign tax payable by referring to the foreign tax year of the CFC. The proposed amendment will come into operation on 31 December 2024 and applies in respect of foreign tax years of CFCs ending on or after that date.

### **Refining the definition of “exchange item” for determining exchange differences.**

Certain financial arrangements that include preference shares are eroding the tax base due to a mismatch because some elements of the arrangement result in an exchange loss for tax purposes, while gains on the preference shares are not being taken into account for tax purposes. Government proposes to address the tax leakage associated with these financial arrangements by extending the definition of “exchange item” to include shares that are disclosed as financial assets for purposes of financial reporting in terms of IFRS.

### **Reviewing the interaction of the set-off of assessed loss rules and rules on**

### **exchange differences on foreign exchange transactions**

When determining taxable income, the Income Tax Act enables taxpayers to set off their balance of assessed losses carried forward from the preceding tax year against their income, provided that the taxpayer continues trading. The interaction between the assessed loss set-off and exchange differences rules mean that a foreign exchange loss on an exchange item may not be set off in future years against gains from the same exchange item if the trading requirement is not met.

It is proposed that consideration be given to ring-fencing all foreign exchange losses on exchange items from a future year of assessment.

### **Implementing the global minimum corporate tax**

The introduction of global minimum tax rules in line with the Organisation for Economic Co-operation and Development’s base erosion and profit-shifting framework is expected to increase corporate tax collection. The income inclusion rule will enable South Africa to apply a top-up tax on profits reported by qualifying South African multinationals operating in other countries with effective tax rates below 15 per cent.

The domestic minimum top-up tax will enable SARS to collect a top-up tax for qualifying multinationals paying an effective tax rate of less than 15 per cent in South Africa. The GloBE Minimum Tax Act (GMT Act), 2024 is deemed to have come into operation on the 1st January 2024, and qualifying MNE’s are required to apply the provisions of the GMT Act in the fiscal year beginning on or after that date (1 January 2024), meaning it has retrospective application.



## Multilateral Instrument (MLI)<sup>1</sup>

The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) helps implement these measures in existing bilateral tax treaties quickly and efficiently. It aims to prevent treaty abuse, improve dispute resolution, address artificial avoidance of permanent establishment status, and counter hybrid mismatch arrangements.

The MLI, which covers 100 jurisdictions, came into force on July 1, 2018. South Africa ratified the MLI on September 30, 2022, and it became effective for the country on January 1, 2023. Jurisdictions that have signed the MLI can choose which tax treaties to modify and which provisions to adopt, reflecting these decisions in their "MLI Position".

South Africa listed 76 tax treaties under its MLI Position, and as of now, 50 of these treaties have been ratified. As a result, these treaties will incorporate the BEPS-related measures without needing to be renegotiated. Links to additional documents and media statements are provided for more information.

A list of the agreements under South Africa's MLI Position that may be modified by the MLI is available on SARS website. The table will be updated as treaties are signed, ratified, and consultations are completed.

## Taxation of Capital Gains

**Capital gains on the disposal of assets are included in taxable income.**

### Financial years ending on any date between 1 March 2024 and 28 February 2025

Category of taxpayer	Inclusion rate %	Effective Rate %
Individuals, special trusts and individual policy holder funds.	40.0	18
Other trusts	80.0	36
Companies	80.0	21.6

### Financial years ending on any date between 1 March 2023 and 29 February 2024

Category of taxpayer	Inclusion rate %	Effective Rate %
Individuals, special trusts and individual policy holder funds.	40.0	18
Other trusts	80.0	36
Companies	80.0	22.6

**Events that trigger a disposal include a sale, donation, exchange, loss, death and emigration. The following are some of the specific exclusions:**

- R2 million gain/loss on the disposal of a primary residence
- Personal use assets (Certain exclusions apply)
- Retirement benefits
- Payments in respect of original long-term insurance policies.

An annual (non-cumulative) exclusion of R40 000 capital gain/loss is granted to individuals and special trusts. The exclusion granted to individuals is R300 000 in the year of death.

Small business exclusions of capital gains for individuals (at least 55 years of age) of R1.8 million when a small business with a market value not exceeding R10 million is disposed of.

<sup>1</sup>South African Revenue Services (15 February 2024). Multilateral Instrument <https://www.sars.gov.za/legal-counsel/international-treaties-agreements/double-taxation-agreements-protocols/multilateral-instrument-ml/>. (Date of Access: 13 February 2025).



## Other Taxes, Duties and Levies

### Value Added Tax (VAT)

VAT is imposed on the supply of goods or services made by a vendor in the course or furtherance of its enterprise carried on it. Government proposes to increase the VAT rate by 0.5% in 2025/26 and by a further 0.5% in 2026/27. Certain items that are supplied by a vendor are exempt for VAT purpose and other items are charged with VAT at zero percentage.

The basket of zero-rated items will be expanded to include canned vegetables, edible offals of sheep, poultry and other animals, and dairy liquid blends in order to mitigate the impact of the increase in VAT rate

A vendor making taxable supplies of more than R1 million per annum is obliged to register for VAT. A vendor making taxable supplies of more than R50 000, but not more than R1 million per annum, may apply for voluntary registration.

The proposed changes to be made in terms of the following:

#### **Providing vat relief for non-resident lessors of parts of ships, aircraft or rolling stock required to deregister as a result of recent amendments to the vat act**

Previously, foreign lessors of parts of ships, aircraft or rolling stock were required to register for VAT since they were not covered under the proviso (xiii) exclusion in the definition of "enterprise". The amendment to the VAT Act that was effective from 1 January 2023 implied that such foreign lessors were now required to deregister due to the addition of the words "or parts directly in connection thereto" to the proviso (xiii) to the definition of "enterprise" in section 1(1) of the VAT Act.

This resulted in an unintended consequence of such vendors now facing an output tax liability under section 8(2) of the VAT Act, which was purely as a result of the legislation being amended. It is proposed that the VAT Act be amended to provide relief from this unintended consequence. The proposed amendments will come into effect on 1 January 2025.

#### **Clarifying the vat treatment of supply of services to non-resident Subsidiaries of companies based in the republic**

In terms of section 11(2)(e) of the VAT Act, where services are supplied to non-residents of the Republic, such services are presumed to be consumed outside the Republic and attract VAT at the zero rate, unless the services are supplied directly in connection with fixed or movable property in the Republic at the time the services are rendered. If the non-resident or any other person to whom the services are supplied is present in the Republic at the time the services are rendered, subject to certain exceptions.

In the case of foreign subsidiaries of South African companies, where the subsidiary is incorporated in a foreign country and has a fixed and permanent place of business in the foreign country with no presence in the Republic but is nevertheless a "resident of the Republic" as defined in section 1(1) of the VAT Act. However, Paragraph (b) of the definition in the Act deems a person, other than a natural person, to be a resident of the Republic if it has its place of effective management in the Republic.

Thus, any service supplied to such foreign subsidiary by the South African company, being a vendor, does not qualify for the zero rate under section 11(2)(e) of the VAT Act. Furthermore, because these foreign subsidiaries have no activities in the Republic, they are not conducting an enterprise and cannot register as vendors in the Republic. The effect is that the VAT charged on these supplies becomes a cost to these businesses.

In order to correct this unintended consequence, it is proposed that the VAT Act be amended to exclude such foreign subsidiaries from the definition of "resident of the Republic" in section 1(1) of the VAT Act. The proposed amendments will come into effect on 1 April 2025.

## Reviewing the foreign donor funded project regime

In terms of section 1(1) of the VAT Act, a foreign donor funded project ("FDFP") means a project established in terms of an official development assistance agreement to supply goods or services to beneficiaries, to which the government of the Republic of South Africa (the Republic) is a party. To ease the administrative burden on the implementing agents, it is proposed that implementing agents register one branch for VAT purposes that encompasses all FDFPs that such implementing agency is responsible to "implement, operate, administer or manage".

The proposed amendments will come into effect on 1 April 2025.

## Vat claw-back on irrecoverable debts subsequently recovered

Currently, section 22(2) of the VAT Act only allows for a claw-back of a deduction made as referred to in section 22(1) of the VAT Act. However, the introduction of section 22(1A) of the VAT Act in 1997, specifically allows a deduction to the recipient of a transfer of account receivables at face value, on a non-recourse basis, where any amount of such receivable has been written off by the recipient, limited to the amount that the recipient has paid for the face value of the account receivable that was transferred to the recipient.

It is proposed that the claw-back provided by section 22(2) of the VAT Act should be extended to any tax amount written off by such a recipient, which is subsequently recovered, as envisaged under section 22(1A) of the VAT Act. The proposed amendments will come into effect on 1 April 2025.

## Transfer Duty

Transfer duty is payable by all persons and entities on the acquisition of property on transactions, which are not subject to VAT at the following rates:

Value of property (R)	Inclusion rate %
1 – 1000 000	0%
1000 001 – 1 375 000	3% of the value above R1000 000
1 375 001 – 1 925 000	R11 250 + 6% of the value above R1 375 000
1 925 001 – 2 475 000	R44 250 + 8% of the value above R1 925 000
2 475 001 – 11 000 000	R88 250 + 11% of the value above R2 475 000
11 000 001 and above	R1 026 000 + 13% of the value exceeding 11 000 000

## Customs and Excise

The levying and collection of customs and excise duties is subject to the Customs and Excise Act 91 of 1964 (the CEA). The CEA includes the Schedules to the CEA (commonly referred to as the Tariff Book) and the Customs and Excise Rules, 1995 (as amended). Customs duties are levied on goods imported into South Africa and, in the case of scrap metals, scrap metals exported from South Africa. Excise duties are levied on high-volume consumables such as alcoholic beverages, tobacco (Sin Taxes), petroleum products and other non-essential/luxury goods (e.g., motorcycles, yachts, cosmetics, electronics etc.).

The Customs and Excise levy will remain unchanged for the 2025/2026

## Excise Duties

Excise duties include specific excise duties and ad valorem excise duties (at value), normally referred to as "Sin & Luxury Taxes". Specific Excise Duties and Ad Valorem Duties are levied on certain locally manufactured and on the importation of the same class or kind. Excise duties are based on the specific quantity or volume, or unit of the product concerned, whilst Ad Valorem Duties are based on "The Value" of the goods so manufactured or imported. The excise duties on the below table will have some increases in percentage, while the "Fuel Levy" on petroleum (fuel) levy goods has once again not increased. The impact of this increase is as follows:

	Old excise	New excise
Product	Duty rate	Duty rate
Malt beer	141,26 / litre of absolute alcohol (230,51/ average 340ml can)	141,26 / litre of absolute alcohol (230,51/ average 340ml can)
Traditional African beer	8,34c / litre	8,34c / litre
Traditional African beer powder	36,54c / kg	36,540c / kg
Unfortified wine	R4,96 / litre	R5,24 / litre
Fortified wine	R8,77 / litre	R8,77 / litre
Sparkling wine	R17,33 / litre	R18,22 / litre
Ciders and alcoholic fruit beverages	R127,50 / litre of absolute alcohol (216,51c / average 340ml can)	R127,50 / litre of absolute alcohol (216,65c / average 340ml can)
Spirits	R262,69 / litre of absolute alcohol (R88,46/ 750ml bottle)	R262,69 / litre of absolute alcohol (R88,46/ 750ml bottle)
Cigarettes	R20,79 / 20 cigarettes	R21,76 / 20 cigarettes
HTPs sticks	R16,57 / 20 sticks	R16,57 / 20 sticks
Cigarette tobacco	R23,37 / 50g	R24,34 / 50g
Pipe tobacco	R7,53 / 25g	R7,53 / 25g
Cigars	R125,88 / 23g	R125,88 / 23g

## Fuel Levy

The fuel levy is levied on any petroleum products manufactured in and imported into South Africa. The levy is paid in addition to any customs and excise duties that are due. The levy rates for fuel are listed under Part 5A of the Schedules to the CEA. The fuel levy rate is the sum of the general fuel levy and the carbon fuel levy combined, there will be no increases for the 2025/2026

The result is a rate remaining for the fuel levy at 395 cents per litre of Petrol and 381 cents per litre of Diesel.

### **Diesel Rebate on RAF**

**As a result of the electricity crisis and its impact on.**

The Carbon Tax Act, Act No 15 of 2019 (the CTA) came into law on 01 June 2019. In terms of the CTA, any person who performs an activity above a specified threshold resulting in greenhouse gas (GHG) emissions is a taxpayer and may be liable for carbon tax in South Africa.

Since carbon taxes are administered as environmental levies under the CEA, a taxpayer must license as an excise client with SARS, submit an environmental levy account annually and make payment for carbon tax dues via e-filing. The carbon tax liability shall be calculated at the rate of carbon tax listed under Part 3F of Schedule 1 of the CEA.

The previous carbon tax rate is R190 per tonne of carbon dioxide equivalent has been revised. Effective 01 January 2025, the carbon tax rate will be R236 per tonne, any new rate will apply on GHG emissions conducted during the period 01 January 2025 to 31 December 2025.

Effective 2 April 2025 the carbon fuel levy will increase to 14 cents per litre for petrol and 17 cents per litre for diesel. The carbon tax cost recovery quantum for the liquid fuels sector increased from 0.66c/litre to 0.69c/litre, as from 1 January 2024.

The first phase of the carbon tax remains as 31 December 2025 (initially 31 December 2022) and the second phase will start from 2026 onwards. Taxpayers are warned that the large allowances currently enjoyed in the first phase will begin to fall away in the second phase. Moreover, exporters and taxpayers who export carbon-intensive goods can expect to face border-taxes in export markets like the European Union. South African companies are encouraged to develop plans to reduce their emissions in the next 10 years to avoid steep taxes

### **The Health Promotion Levy (Sugary Beverages Levy )**

The Health Promotion Levy (HPL) came into law on 01 April 2018. HPL is a levy applicable on the import and manufacture of sugary beverages and their preparations (concentrates), when used in the process of manufacture of sugary drinks, in South Africa. The levy applies to sugary drinks containing 4 grams per 100ml.

Therefore, the first 4 grams of sugar is free. Sugary drinks and concentrates liable to carbon tax are listed under Part 7A of Schedule 1 of the CEA. Since inception of the HPL, the applicable levy rate has been 2.21 cents per grams of sugar in excess of 4 grams per 100 ml contained in a finally mixed sugary drink.

### **Electricity:**

To promote further investments in renewable energy, this budget proposes an increase in the limit for renewable energy projects that can qualify for the carbon offsets regime, from 15 megawatts to 30 megawatts.

### **Donations Tax**

Donations tax is levied at a flat rate of 20% on the value of property not exceeding R20 million disposed through a donation. However, the amount of donations exceeding R30 million is taxed at a rate of 25%. Donations tax applies to any individual, company or trust that is a resident as defined in Section 1 of the Income Tax Act, 1962. A donation tax is not payable if the total value of donations for a year of assessment does not exceed R10 000 for companies, trusts and R100 000 for individuals.

### **Securities Transfers Tax**

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

### Tax on International Air Travel

R190 per passenger departing on international flights excluding flights to Botswana, Lesotho, Namibia and Swaziland, in which case the tax is R100.

### Skills Development Levy

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

### Unemployment Insurance Fund Contributions

Unemployment insurance contributions are payable monthly by employers on the basis of a contribution of 1% by employers and 1% by employees, based on employees' remuneration below a certain amount. Employers not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

### SARS Interest Rates

Rate of interest (from 1 June 2023)	Rate
Fringe benefits - interest-free or low-interest loan (official rate)	9.25% p.a.
Rates of interest (from 1 September 2023)	Rate
Late or underpayment of tax	11.75% p.a.
Refund of overpayment of provisional tax	7.75% p.a.
Refund of tax on successful appeal or where the appeal was conceded by SARS	11.75% p.a.
Late payment of VAT	11.75% p.a.
Customs and Excise	11.75% p.a.

### Summary of penalties and interests imposed by the Tax Administration Act (TAA)

#### Fixed Penalty – non compliance

The table below contains fixed monthly penalties imposed by the TAA for non-compliance. Where SARS is in possession of the taxpayers current address, the penalty is limited to 35 months and 47 months in any other case. The amount of penalty is based on the taxpayer's taxable income or assessed loss for the preceding year of assessment.

Item	Assessed loss or taxable income for "preceding year" (R)	Rate
(i)	Assessed loss	250
(ii)	0 - 250 000	250
(iii)	250 001 - 500 000	500
(iv)	500 001 - 1 000 000	1 000
(v)	1 000 001 - 5 000 000	2 000
(vi)	5 000 001 - 10 000 000	4 000
(vii)	10 000 001 - 50 000 000	8 000
(viii)	Above 50 000 000	16 000

## Understatement Penalty

The TAA provides for a tax penalty to be imposed on the taxpayer where tax has been understated. The tax penalty is based on the behaviour and the conduct of the taxpayer per the table below:

Item	Behaviour	Standard case	If obstructive, or if it is a 'repeat case'	Voluntary disclosure after notification of audit	Voluntary disclosure before notification of audit
(i)	'Substantial understatement'	10%	20%	5%	0%
(ii)	Reasonable care not taken in completing return	25%	50%	15%	0%
(iii)	No reasonable grounds for 'tax position' taken	50%	75%	25%	0%
(iv)	Impermissible avoidance	75%	100%	35%	0%
(v)	Gross negligence	100%	125%	50%	5%
(vi)	Intentional tax evasion	150%	200%	75%	10%



## Percentage-based penalty

Tax	Incident	Penalty
Income Tax	When a South African resident buys immovable property from a nonresident seller and does not withhold and pay the fixed percentage to SARS	10%
Provisional Tax	Actual taxable income more than R1 million and estimate below 80%	20% of the difference between normal tax calculated on the 80% of actual taxable income and the employees tax and provisional tax paid by the end of the year of assessment
	Actual taxable income is R1 million rands or less and the estimate is less than 90% and the basic amount	(i) 20% of the difference between the lesser of-(aa) the normal tax calculated at 90% of the actual taxable income and (bb) the normal tax calculated in respect of the taxable income equal to the basic amount and; (ii) the employees tax and provisional tax paid by the end of the year of assessment
	Late or non-payment of provisional tax	10% of amount not paid tax
	Taxpayer fails to file an estimate	20%
Employers & employees' tax	Employees tax not paid, the employer will be liable for a penalty	10%
	UIF contributions not paid by the employer will attract a compulsory penalty	10%
VAT	Failing to pay by the 25th (for e-filers, last business day of the month for non-e-filers)	10%

## Transfer Pricing

Increasing economic globalization has shaped revenue authorities in various jurisdictions to focus on matters pertaining to transfer pricing. Transfer pricing, a global tax move spearheaded by the Organization for Economic Co-Operation and Development (OECD) combats profit-shifting through its BEPS – Base Erosion and Profit Shifting.

South Africa is not a member of the OECD but follows many of its guidelines. As member of The Group of Twenty (G20), South Africa aligns with international standards and recommendations set by the OECD, contributing to global discussions on economic policy, development, and other key issues. Through this participation, South Africa supports and adheres to many OECD initiatives aimed at promoting economic growth, sustainable development, and good governance.

The South African legislature enacted section 31 of the Income Tax Act as a transfer pricing anti-avoidance section. SARS published Practice Note 7 which provides additional guidance to taxpayers on determining core transfer pricing principles like the arm's length pricing. In addition, SARS issued an interpretation note regarding the definition of an "associated enterprise" and the treatment of inter-group loans. This interpretation note provides valuable

guidance that can be relied upon when interpreting the relevant legislation. Transfer Pricing regulations apply to South African taxpayers, including South African branches of foreign companies, that have cross-border transactions with "connected person" and or "associated enterprise" as described in section 31 (1) (a) of the Income Tax Act.

The inclusion of "associated enterprises" in section 31 was affected on 1 January 2023 as contemplated by Article 9 of the Model Tax Convention on Income and Capital. The reference to 'associated enterprises' in the South African transfer pricing regulations has broadened the transfer pricing scope to include transactions conducted with foreign persons that as significant influence on the pricing through its direct or indirectly participate in the management, control or capital of the South African entity or vice versa.

## Transfer Pricing Documentation Requirements

South Africa implements OECD's three-tiered approach in respect to documentation comprising of a country-by-country (CbC) report, a master file as well as a local file. The Customs and Excise levy will remain unchanged for the 2025/2026

### Local file

Mandatory filing of a BEPS Action 13 compliant master file and local file for a particular year is required of taxpayers that have aggregated cross border related party transactions (without offsetting) exceeding or reasonably expected to exceed ZAR100 million for a financial year. If this threshold is met, a master file and local file should be prepared and filed with SARS. The mandatory filing is effective for years of assessment commencing on or after 1 October 2016 and must be submitted within 12 months of the end of the taxpayer's financial year.

In determining whether the ZAR100 million mandatory filing threshold has been met, besides the usual cross border related party transactions (for example sales, purchases, service fees, royalties and interest), regard must also be given to balance sheet items including (but not limited to) the capital balances of loans, long-outstanding trade balances that could be construed to be financial assistance, and certain types of dividends paid or received.



A taxpayer meeting the threshold must also prepare and submit the relevant transfer pricing documentation. Taxpayers that meet the threshold are required to retain documentation for individual cross border related party transactions exceeding, or reasonably expected to exceed, ZAR5 million in terms of the record keeping requirements outlined in SARS Public Notice No. 1334.

Taxpayers that do not meet the ZAR100 million threshold should still be able to support their cross border related party transactions in compliance with the regulations set out in section 31 of the Income Tax Act.

### **CbC report**

A taxpayer is required to submit a CbC report if it is the ultimate parent company of an MNE group with consolidated revenue exceeding EUR 750 million (approx. ZAR 10 billion). If the South African entity is not the ultimate parent, it may still need to submit the report if designated as the reporting entity.

The CbC report provides key financial data about a multinational enterprise (MNE) group, including revenue, profit, taxes paid, employees, and assets, for each tax jurisdiction in which it operates.

### **Master file**

A master File is prepared by the ultimate parent company of an MNE Group whose consolidated turnover exceeds ZAR 10 billion (EUR 750 million). The master file includes an overview of the group's business operations, the groups global transfer pricing policies and conduct.

If a taxpayer meets the local file submission threshold, a copy of the master file must be submitted alongside the local file

### **Penalties**

Where SARS is of the view that a taxpayer's transfer pricing arrangement does not reflect arm's length consideration, section 31(2) of the Income Tax Act allows SARS to adjust the taxpayer's taxable income to reflect the arm's length consideration (primary adjustment). This will give rise to corporate tax of 27% on the primary adjustment.

As an additional consequence, SARS will make a secondary adjustment in the form of a deemed dividend in specie equal to the primary adjustment, which is subject to dividend withholding tax at 20%. Since the deemed dividend is punitive by nature, any Double Tax Agreement relief that would normally be applicable to dividends will not be applicable to the secondary adjustment.

Understatement penalties may be applicable to the under-declaration of tax payable as a result of the primary adjustments. Understatement penalties are levied in terms of Section 223 of the TAA at a rate that ranges between 0% and 200%. The applicable rate is dependent on the circumstances that gave rise to the understatement, such as fault, omission, incorrect disclosure or misrepresentation, and whether the taxpayer has previously been guilty of any of the above.

In addition, Interest on underpayment of provisional tax may be imposed in terms of section 89quat of the Income Tax Act.

An administrative penalty of up to ZAR16,000 may be charged for each month that the required documentation is outstanding, due to late or non-submission of transfer pricing documentation where submission thresholds are met. This penalty is based on the assessed taxable income or loss for the preceding year.

## Advance Pricing Agreements

The advance pricing agreement (APA) legislation is outlined in Part IA of the Income Tax Act. The purpose of the APA legislation is to promote tax certainty in respect of affected transactions that will prevent or minimise double taxation and associated dispute resolution procedures.

The APA framework is aimed to apply only to “affected transactions” as defined in section 31 of the Income Tax Act. The framework only provides for bilateral APAs, and there currently is no suggestion whether unilateral and/or multilateral APAs will also be provided for in the legislation.

## Insights

### *ABD Limited v Commissioner for the South African Revenue Service*

Currently, South African case law on transfer pricing is scarce, with the few cases that have been heard primarily focusing on the technical aspects of section 31 of the Income Tax Act. In 2024, a court case addressed the application of the arm’s length principle, which is fundamental to transfer pricing.

The case of *ABD Limited v Commissioner for SARS*, involved ABD Limited, the appellant, that charged its operating companies a royalty rate of 1% for the right to use its intellectual property between 2009 and 2012 to which SARS contended that the 1% was not an arm’s length royalty. SARS contended that ABD Limited should have charged a variable royalty rate to each entity within the group based on the country, seeking an adjustment to reflect the variable rates.

The court ruled that ABD Limited’s 1% royalty rate reflected the application of the arm’s length principle. This conclusion was based on the analysis performed based on the Comparable Uncontrolled Price (CUP) method employed by ABD Limited. The CUP method analysis was based on a contract between ABD Limited and an independent party (Cyprus). The case highlights the importance of having documentary evidence to support the transfer pricing strategy, including solid legal arguments and comprehensive annual transfer pricing documentation, such as the local file, master file, and relevant comparability analysis.



<sup>2</sup> [2024] ZATC 2 (14 February 2024) *ABD Limited v Commissioner for the South African Revenue Service* (14302) [2024] ZATC 2 (14 February 2024) (saflii.org) (Date of Access: 5 February 2025).

## Budget Highlights

- No change to personal income tax brackets, rebates and medical credit.
- Excise duties on alcohol will increase between 6.7 and 7.2 per cent, while duties on tobacco products will increase between 4.7 and 8.2 per cent.
- No changes to the general fuel levy and road accident fund levy.
- Producers of electric vehicles in South Africa will be able to claim 150 per cent of qualifying investment spending as an incentive to aid the transition to new energy vehicles.
- Plastic bag levy to increase to 32 cents per bag from 1 April 2024.
- Two-pot retirement reform was implemented on 1 September 2024.
- It is proposed that changes be made to the rules that currently exempt lump sums, pensions and annuities from cross-border retirement funds. The current treatment of may result in double non-taxation, particularly where South Africa is granted the taxing right by treaty.
- Government proposes tax increases totaling R15 billion in 2024/25 to alleviate immediate fiscal pressures.
- South Africa will implement a global minimum corporate tax, with multinational corporations subject to an effective tax rate of at least 15 per cent, regardless of where its profits are located.
- Gross debt requirement will increase from R5.21 trillion in 2023/24 to R6.29 trillion in 2026/27. The debt is expected to stabilize at 75.3% of the GDP in 2025/26.
- Debt-service costs have been revised from R15.7 billion to R356 billion in 2023/24 due to the higher budget deficit. The debt-service costs will account for over 20% of the revenue.
- Total consolidated government spending will amount to R6.62 trillion over the next three years, and the social wage will take up 59.4 per cent of total non-interest spending over this period.
- The bulk of the spending is allocated to general services (R747.7 billion trillion), learning and culture (R480.6 billion) and social development (R387.3 billion).
- The majority of funding for new and urgent priorities is provided through reprioritization and reallocation of existing baselines.

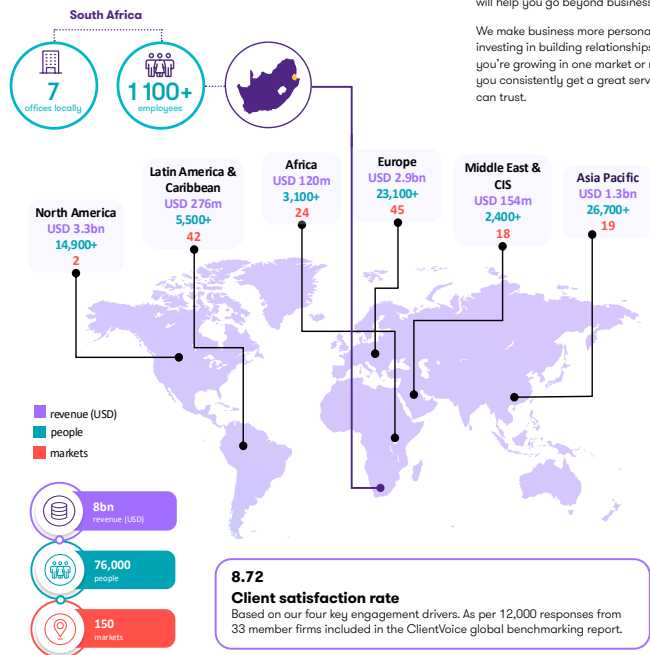
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