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Budget Watch
Managing Disruption
Budget 2017/8 Tax Guide

KPMG

Income Tax: Individuals and Special Trusts

Tax Rates (year of assessment ending 28 February 2018)

Taxable income		Rates of tax		
R	R	R		R
0 -	189 880		18% of each	1
189 881-	296 540	34 178+	26% of the amount above	189 880
296 541-	410 460	61 910+	31% of the amount above	296 540
410 461-	555 600	97 225+	36% of the amount above	410 460
555 601-	708 310	149 475+	39% of the amount above	555 600
708 311-	1 500 000	209 032+	41% of the amount above	708 310
1 500 001	and above	533 625+	45% of the amount above	1 500 000

Tax Thresholds

Age	Threshold (R)
Below age 65	75 750
Age 65 to below 75	117 300
Age 75 and over	131 150

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

Tax Rebates

- Primary rebate for natural persons - R13 635
- Secondary rebate for natural persons aged 65 to below 75 - R7 479
- Tertiary rebate for natural persons aged 75 and older - R2 493

Which individuals must submit returns

The Commissioner annually gives public notice of the persons who are required to furnish returns for the assessment of normal tax within the period prescribed in that notice (likely to be issued in June 2017).

Currently, the following persons must furnish an income tax return:

Every natural person:

- who carried on any trade in South Africa (other than solely in his or her capacity as an employee);
- to whom a travel allowance was paid or granted (other than an amount reimbursed or advanced and whose gross income exceeded R73 650 for individuals under 65 years old); or
- R114 800 for individuals older than 65 years but under the age of 75; or
- R128 500 for individuals 75 years or older;
- who had capital gains or losses exceeding R30 000;
- who is a resident and held any funds in foreign currency or owned any assets outside South Africa, if the total value of those assets exceeded R225 000 at any stage during the year of assessment;
- who is a resident and to whom any income or capital gains from funds in foreign currency or assets outside the Republic could be attributed;
- who is a resident and held any participation rights in a controlled foreign company; or
- to whom an income tax return is issued or who is requested by the Commissioner in writing to furnish a return, irrespective of the amount of income of that person.

Natural persons are not required to furnish a return if their gross income consist solely of:

- income, other than from an allowance or advance, from one single source which does not exceed R350 000 and employees' tax has been deducted or withheld in terms of the deduction tables prescribed by the Commissioner;
- interest from a source in South Africa not exceeding R23 800 in the case of a natural person below the age of 65 years; or R34 500 in the case of a natural person aged 65 years or older; and
- dividends and the natural person was a non-resident during the year of assessment.

Capital Gains Tax (CGT): Individuals

Inclusion rate: 40%
Statutory rate: 0% - 45%
Effective rate: 0% - 18%

Exemptions / Exclusions from CGT

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

Allowances and deductions

Subsistence Allowances and Advances

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

- Meals and incidental costs, an amount of R397 per day is deemed to have been expended.
- Incidental costs only, an amount of R122 for each day which falls within the period is deemed to have been expended.

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

Travel Allowance

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

PAYE must be withheld by the employer on 80% of the allowance granted to the employee. The percentage may be reduced to 20% PAYE withholding if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes.

Where the employee has borne the full cost of licence, insurance, maintenance and fuel, the employee may claim a deduction at the time of preparing his/her income tax return for business kilometres travelled and will be taxed on the portion of the claimed as a deduction.

Where the distance travelled for business purposes does not exceed 12 000 km per annum, no tax is payable on an allowance paid by an employer to an employee up to the rate of 355 cents per km, regardless of the value of the vehicle.

This alternative is not available if other compensation in the form of an allowance or reimbursements is received from the employer in respect of the vehicle.

Employees' Tax and Reimbursement of Travel expenses

It has been proposed that only the portion of the travel expenses reimbursed by an employer which exceeds the rate or distance fixed by the Minister of Finance by notice in the Gazette should be regarded as remuneration for purposes of determining employees' tax.

Travel Table

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

Value of the vehicle (including VAT) R	Fixed cost (R/p.a)	Fuel cost (c/km)	Maintenance cost (c/km)
0 – 85 000	28 492	91.2	32.9
85 001 – 170 000	50 924	101.8	41.2
170 001 – 255 000	73 427	110.6	45.4
255 001 – 340 000	93 267	118.9	49.6
340 001 – 425 000	113 179	127.2	58.2
425 001 – 510 000	134 035	146.0	68.4
510 001 – 595 000	154 879	150.9	84.9
exceeding 595 000	154 879	150.9	84.9

Fringe benefits

Company Car / Employer Owned Vehicles

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

Employer provided residential accommodation

A taxable fringe benefit arises where an employer provides an employee with residential accommodation either free of charge, or for a consideration which is less than the "rental value".

The taxable value will be equal to the lower of the cost to the employer in providing the accommodation and the amount calculated with reference to the formula, where the employer-provided accommodation is leased by the employer from an unconnected third party.

Exemptions

Interest and dividend income

Under 65 years of age – The first R23 800 of interest income is exempt.
Over 65 years of age – The first R34 500 of interest income is exempt.

Interest is exempt where earned by non-residents who are physically absent from South Africa for at least 181 days during the 12 month period before the interest accrues and the debt from which the interest arises is not effectively connected to a fixed place of business in South Africa of that non-resident. Also refer to the section on Tax Free Investments.

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

Foreign interest and dividends

There is no exemption in respect of foreign sourced interest income.
Where an individual holds less than 10% of the equity share capital of a foreign company, which distributes a dividend, the dividend will be taxed at a maximum effective rate of 20% as determined by a formula, effective 1 March 2017.

Foreign remuneration exemption

Where an employee works abroad for more than 183 days and more than 60 consecutive days in a 12-month rolling period, that foreign remuneration is exempt from tax in South Africa. It has been proposed that this exemption be adjusted so that foreign employment income will only be exempt from tax if it is subject to tax in the foreign country.

Fringe benefit exemption for employer provided bursaries

It is proposed that the income eligibility threshold applicable to employees, in respect of bursaries granted to their relatives, be increased from R400 000 to R600 000. The monetary limits for bursaries are as follows:

- R15 000 to R20 000 for education below NQF level 7;
- R40 000 to R60 000 for qualifications at NQF level 7 and above; and
- A higher limit will be considered for those with disabilities.

Deductions from Income (individuals)

Contributions to Pension, Provident and Retirement Annuity Funds

As from 1 March 2016, employer contributions to South African retirement funds for the benefit of employees are deemed to be a taxable fringe benefit in the hands of the employees. Depending on the nature of the fund, the fringe benefit is either the actual cash value of the contribution or the result of a formula. The employee will be deemed to have made contributions to the value of the fringe benefit.

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

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

New proposals:

- **Preservation of benefits after reaching normal retirement dates**: It is proposed, subject to fund rules, that transfers of retirement interests be allowed from a retirement fund to a retirement annuity fund.

- **Tax-exempt status of pre-March 1998 build-up in public-sector funds**: It is proposed that the current provision for the tax-free transfer of pre-March 1998 lump sum benefits from a public-sector fund to a pension fund be extended to subsequent transfers of these lump sum benefits to another pension fund.

- **Removing time limit to join an employer umbrella fund**: It is proposed, subject to the fund rules, that the current 12 month time limit to allow existing employees to join a newly established employer umbrella fund be removed to encourage employees to contribute towards their retirement.

- **Annual R350 000 limitation**: It is proposed that clarity be provided in that the annual monetary limit should be spread over the tax year.

Donations to certain Public Benefit Organisations

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

Approval process for tax exempt deductions received by public benefit organisations

The Income Tax Act sets out the requirements for approval for tax exempt status and tax deductibility of donations. It is proposed that the approval process in respect of tax deductible donations received by public benefit organisations be confirmed.

Assistance for international donor funding

The provisions of the Income Tax Act provide for specific relief in respect of international donor funding received. The tax treatment of such donor organisations is however not aligned. It is proposed that tax changes be made to align the income tax treatment of such international donor funding organisations.

Retirement and Savings Reforms

Benefits from Pension, Provident or Retirement Annuity Funds

The minimum threshold required for annuitisation for pension and retirement annuity funds remains at R247 500.

Reminder: The annuitisation requirement for provident funds has been postponed until 1 March 2018.

Tax-Free Investments

The annual contribution limit of R30 000 cash has been increased to R33 000 . The lifetime contribution limit of R500 000 remains.

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

Medical and disability expenses

Taxpayers may deduct from their tax liability a tax credit of R303 for the first two beneficiaries and R204 for each additional beneficiary, in respect of medical aid contributions.

Taxpayers 65 years and older and those under the age of 65 years with disabilities or with disabled dependents may deduct an additional tax credit equal to 33,3% of the sum of:

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

Taxpayers under the age if 65 years may deduct 25% of the sum of:

1) qualifying medical expenses; and
2) an amount by which the contributions paid exceeds four times (4x) the medical tax credits for the year.

limited to the amount which exceeds 7.5% of taxable income (excluding retirement lump sums and severance benefits).

Taxation of lump sum benefits

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

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

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

Retirement fund lump sum withdrawal benefits

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

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

These tax tables apply cumulatively to retirement and severance lump sums benefits.

Companies and Employers

Corporate Tax Rates

Type	Rates of Tax
	2017/18
Companies	
Resident Company	28%
Non-resident Company	28%
Personal Service Provider Company	28%
Gold mining, oil & gas, and long-term insurance companies are subject to special rules and tax rates	
Small Business Corporations [1]	
R0 – R75 750	0% of taxable income
R75 751 – R365 000	7% of taxable income above R75 750
R365 001 – R550 000	R20 248 + 21% of taxable income above R365 000
R550 001 and above	R59 098 + 28% of taxable income above R 50 000
Micro Businesses [2]	
R 0 – R335 000	0% of taxable turnover
R335 001 – R500 000	1% of taxable turnover above R 335 000
R500 001 – R750 000	R1 650 + 2% of taxable turnover above R500 000
R750 001 and above	R6 650 + 3% of taxable turnover above R750 000
Withholding Taxes [3]	
Dividends	20% [4]
Interest paid to non-residents	15%
Royalties paid to non-residents	15%
Amounts paid to non-resident entertainers and sportspersons	15%
Disposal of fixed property by non-residents	Individuals: 7.5% Companies: 10% Trusts: 15%

1. Applicable in respect of financial years ending on any date between 1 March 2017 and 28 February 2018.
2. Micro businesses have the option of making payments for turnover tax, VAT and employees' tax bi-anually.
3. Most withholding taxes payable by non-residents are subject to DTA relief.
4. Applicable with effect from February 2017.

Which companies must submit returns

The Commissioner annually gives public notice of the persons who are required to furnish returns for the assessment of normal tax within the period prescribed in that notice (likely to be issued in June 2017).

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

- every company, trust or other juristic person, which is a resident;
- every company, trust or other juristic person, which is not a resident, and –
  - which carried on a trade through a permanent establishment in the Republic;
  - which derived income from a source in the Republic; or
  - which derived any capital gain or loss from a source in the Republic;
- every company incorporated, established or formed in the Republic, but which is not a resident as a result of the application of any agreement entered into with the Government of any other country for the avoidance of double taxation.

Capital Gains Tax

Effective CGT rates

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

Payroll Taxes and Levies

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

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

Unemployment Insurance Fund ("UIF")

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

Both the employer and the employee are required to make a contribution of 1% each of the employee's remuneration (up to the threshold) on a monthly basis (i.e. a total of 2%). Employers (including non-resident employers) not registered for PAYE or SDL purposes must pay the contributions to the Unemployment Insurance Commissioner.

Skills Development Levy ("SDL")

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

Employment Tax Incentive ("ETI")

The ETI has been extended to 28 February 2019.

The ETI is available to eligible employers in respect of qualifying employees. Amongst other criteria, in the relevant month the employee must not be less than 18 years old and not more than 29 years old, and must receive remuneration less than R6 000 in respect of that month.

The maximum amount of the incentive that can be claimed per qualifying employee for the first twelve months is R1 000 per month (thereafter R500 per month for the next twelve months).

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

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

Employee Share Schemes

The taxation of equity instruments acquired by employees or directors by virtue of their employment or position as a director is primarily governed by the provisions of section 8C of the Income Tax Act. As a follow-on from existing anti-avoidance legislation, the interaction between section 8C and the provisions of the Eighth Schedule that exclude gains arising from the vesting or disposal of a restricted equity instrument from capital gains tax, will be clarified.

Anti-Avoidance: Trusts

In 2016, an anti-avoidance measure (section 7C) was introduced. The section deems any interest foregone in respect of low-interest or interest-free loans to a trust to be donations that are subject to donations tax at a rate of 20 per cent.
The anti-avoidance measure will be extended to cover instances where taxpayers are making low-interest or interest-free loans to companies owned by a trust. In addition, it is proposed that the anti-avoidance rule should not apply to trusts that are not used for estate planning, e.g. employee share scheme trusts and certain trading trusts.

Remedial action for bargaining councils

Some bargaining councils have not deducted employees' tax in respect of certain payments to members. The tax treatment of sick-leave payments and income generated within the councils may also have been incorrect. Although these funds have been non-compliant for an extended period of time, a certain level of relief will be considered because of the unique circumstances of this case. However, the bargaining councils that have defaulted are expected to be fully compliant and will not be afforded relief in future.

Value - Added Tax

- Standard rate 14%
- VAT registration threshold remains at R1 000 000
- VAT voluntary registration threshold remains at R50 000.

Corporate Income Tax

Debt reductions and capitalisations

A number of amendments are proposed in relation to section 19 of the Income Tax Act read with paragraph 12A of the Eighth Schedule to the Income Tax Act. These include:
- The waiver of inter group debts by dormant companies or companies in business rescue will no longer trigger tax recoupments;
- The tax consequences on the waiver of debts by mining companies will be aligned with non-mining companies; and

Corporate Income Tax

- Conversions of debt capital to equity will be permitted, capitalised interest claimed as a deduction will however be recouped.

Anti-avoidance measures: Artificial repayment of debt

Specific anti-avoidance measures will be introduced targeting schemes where the debt reduction provisions in section 19 are circumvented by creditors subscribing for shares in a debtor in order to enable the debtor to pay the creditor. The shares are then sold to the shareholder of the debtor company.

Anti-avoidance measures: Share buy-backs

Specific anti-avoidance measures targeting share sales disguised as share buy-backs will be introduced in 2017.

Anti-avoidance measures: Dividend stripping

The existing dividend stripping provisions in the Income Tax Act will be extended to cater for dividend stripping schemes where the loan funding for schemes is provided by a third party.

Anti-avoidance measures: In duplum rule and low interest / interest free loans

Tax rules relating to low interest and interest free loans will be amended to exclude the application of the 'in-duplum rule' (in terms of which interest on a debt ceases to accrue once the total amount of the interest equals the outstanding principal debt).

Anti-avoidance measures: Contributed tax capital

Specific anti-avoidance measures will be introduced to target schemes that increase the contributed tax capital which is available for the tax-free distribution to foreign parent companies.

Assumption of contingent debt under the corporate reorganisation rules

The corporate reorganisation rules in relation to the assumption of debts will be amended to specifically cater for the assumption of contingent liabilities.

Corporate reorganisation rules and Real Estate Investment Trusts ("REITs")

The corporate reorganisation rules in relation to allowance assets will be amended to allow the provisions to apply to REITs.

Collateral and securities lending arrangement provisions

The existing collateral and securities lending provisions will be amended to include listed foreign government bonds.

Mining environmental funds

Amendments will be made to the mining environmental rehabilitation income tax provisions to cater for the financial provisioning regulations published in terms of the National Environmental Management Act. In addition, measures targeting abuse of the tax deductible contributions to these funds will be introduced.

Corporate income tax

Partial ownership of land donated under land reform initiatives

Further refinements will be made to the donations tax and capital gains tax exemptions for land reform initiatives, to provide for the partial ownership of land.

Venture capital companies

The venture capital company provisions will be refined to encourage investment. Provisions relating to investment returns and the qualifying company test will be amended.

Micro businesses growing into small and medium sized enterprises

The transition from the turnover tax applicable to micro businesses to the tax on taxable income applicable to small business corporations can trigger additional tax liabilities. Administrative penalties applicable to such businesses will be reduced to assist with the transition.

Other Incentives

A review of the industrial projects programme will be undertaken before any decision is taken to extend the programme beyond its 2017 end date.

Tax Calendar

Provisional tax – individuals / companies

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

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

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

A provisional taxpayer is any person who earns income other than remuneration from a registered employer or an allowance or advance payable by the person's principal. An individual is exempt from the payment of provisional tax if he/she does not carry on any business and his/her taxable income:

- Does not exceed the applicable annual tax threshold; or
- Is derived solely from interest, dividends, and rental from the letting of fixed property, and does not exceed R30 000 per year.

It terms of current practice, should the Commissioner determine that a taxpayer should be a provisional taxpayer, SARS will alert that taxpayer of his/her provisional tax status through individual notice.

This is often the case for employees who receive remuneration from foreign services from which employees' tax has not been withheld. The absence of withholding as relates to foreign paid remuneration results in sizable tax payments upon assessment. It has been proposed that in future such notice will only be given by way of public notice in the Government Gazette.

Deceased estates are not provisional taxpayers.

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

The following penalties may be imposed:

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

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

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

International Tax

Withholding Taxes

The rates may be reduced by the provisions of a relevant Double Tax Agreement ("DTA"). It is no longer necessary to obtain SARS approval to qualify for a reduced rate under an applicable DTA. Rather the foreign recipient of the royalty or the interest should provide a declaration to the payor confirming that the DTA rate applies. SARS has released the prescribed form pertaining to the declaration for interest and royalty withholding tax.

International Tax

Dividends

Dividends tax is a final tax. The dividends tax rate increases from 15% to 20% from 22 February 2017. The tax is levied on the dividends paid by a resident company and by a non-resident company in respect of shares listed on the JSE. To the extent that the dividend does not consist of a distribution of an asset *in specie*, the beneficial owner of the dividend is liable for the dividends tax in respect of the dividend.

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

Royalties

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

Interest

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

Withholding tax on immovable property sales by non-residents

To align with the effective capital gains tax rate, it is proposed to increase the withholding tax on immovable property sales by non-residents from 5% to 7.5% for individuals, 7.5% to 10% for companies and 10% to 15% for trusts.

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

Following the endorsement of a package of measures to curb base erosion and profit shifting of profits to low-tax countries, the BEPS project is now being implemented. Many countries, including South Africa, have begun incorporating the preventative measures into domestic legislation.

Multilateral instrument

South Africa is among the countries and jurisdictions that have reached consensus on the multilateral instrument capable of incorporating tax treaty-related BEPS measures into the existing network of bilateral treaties. The multilateral instrument was adopted in November 2016.

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

Permanent establishment status
South Africa's future tax treaty negotiations will take the recommendations dealing with the fragmentation of activities and avoidance of permanent establishment status through specific activity exemptions into account.
The aim is to prevent entities artificially avoiding their status as a permanent establishment by breaking up their cohesive business into smaller operations.

Mutual agreement procedure: dispute resolution
The South African treaty model will be updated to incorporate the minimum standards. However, South Africa has not committed to mandatory binding mutual agreement procedure arbitration.

Automatic exchange of information
South Africa has committed to adopting the Automatic Exchange of Financial Account Information with global revenue authorities as from 1 September 2017.

Interest deductions
Efforts will be strengthened to curb excessive debt financing, which erodes the tax base. A review of the current interest deduction limitations will take place in light of OECD recommendations.

Transfer pricing
The current transfer pricing guidance will be updated to align with the OECD Transfer Pricing Guidelines and to incorporate new guidance on the arm's length principle and an agreed upon approach to the pricing of difficult to value intangibles.

Country-by-Country Reporting ("CbC Reports")
For years of assessment commencing on or after 1 January 2016, South African Multi National Enterprises meeting local filing requirements must submit their CbC Reports with SARS within 12 months from the end of the relevant year of assessment. The CbC Reports will provide SARS and other governments with the necessary information to identify transfer pricing risks.

Foreign member funds targeted for investment into Africa

It is proposed that the South African government will establish foreign member funds to enable local and foreign fund managers to establish and manage funds targeted for investments into the rest of Africa and the world.

To make foreign member funds attractive, they will benefit from a special tax dispensation. Foreign investors investing in the funds for onward investment into the rest of Africa or elsewhere will be exempt from withholding tax on interest. However, fees earned by local asset managers and collective investment scheme managers for investment management services will be subject to tax in South Africa.

Domestic treasury management companies

In 2013, amendments were made in the Income Tax Act to make provision for qualifying domestic treasury management companies to be eligible for tax relief in respect of foreign currency gains and losses. The qualifying criteria for domestic treasury management companies in relation to tax residence will be reviewed as they are overly restrictive.

Controlled foreign companies and offshore trusts

The 2015 Budget Review announced that measures would be introduced on the treatment of foreign companies held by interposed trusts. However, no specific countermeasures were introduced in this regard. It is now proposed that specific countermeasures be introduced to curb abuses.

Tax implications of acquisition of foreign intellectual property by South African multinationals

The relaxation of the limitations currently placed on the deductibility of payments made to a foreign person for the use or right to use tainted intellectual property will be considered.

Inbound foreign dividends

The exemption and rates for inbound foreign dividends will be adjusted in line with the new dividends tax rate, with effect from years of assessment commencing on or after 1 March 2017.

Exchange control

It is proposed that Reserve Bank approval will no longer be required for intellectual property transactions, and that the “loop structure” restrictions for such transactions be lifted, where they are at arm’s length and at a fair market price.

Customs and Excise

Update on customs legislation

More delays can be expected in the implementation of the proposed Customs Control Act (2014) and the Customs Duty Act (2014) due to amendments being considered resulting from further comments received from external stakeholders during public consultations.

Specific Customs and Excise duties

With effect from 22 February 2017, specific customs and excise duties are increased. On most alcoholic beverages the rate increased by between 6.1% and 9.5% (excluding traditional African beer and beer powder which remain unchanged). The rate of duty on tobacco products and cigars increased by between 8% and 9.5%.

General Fuel Levy and Road Accident Fund Levy

The General Fuel Levy for 2017/18 is increased by 30c/li to 315c/li and 300c/li for petrol and diesel, respectively. The Road Accident Fund Levy will increase by 9c/li to 163c/li. These increases will take effect on 5 April 2017.

Customs and Excise proposals:

- Possible amendment of legal authorisation for sharing trade statistics with organs of state to be reviewed for its appropriateness.
- Amendments will be considered for the provisions in the Tax Administration Laws Amendment Act (2016) for the marking, tracking and tracing of locally manufactured and imported tobacco products to account for further implementation requirements.
- The 2015 Budget announced a comprehensive review of the administration of the diesel refund, which requires the delinking of the diesel refund from the VAT system and the creation of a standalone diesel refund administration. A discussion paper outlining the options for a simplified administration system was published for public comment on 15 February 2017. The legislative amendments to give effect to the separation of the diesel refund system will be developed following public consultations.
- Government proposes to implement tax on sugary beverages, to be administered through the Customs and Excise Act (1964), with a proposed rate 2.1c/gram for sugar content in excess of 4g/100ml, of which 50 per cent will apply to concentrated beverages.

Environmental Taxes

Tyre Levy

With effect from 1 October 2016, a levy of R2.30/Kg was introduced in respect of imported and locally manufactured tyres. In respect of imports, this levy will apply on all imported tyres, whether or not fitted to wheel rims or vehicle. No changes were announced in the 2017 budget.

Plastic bag Levy

From effect from 1 April 2016, the environmental levy payable in respect of plastic bags (shopping bags) is 8 cents per bag. No changes were announced in the 2017 budget.

Electric filament lamps levy

From 1 April 2016, the environmental levy payable in respect of electric filament lamps is R6.00 per globe. No changes were announced in the 2017 budget.

Carbon dioxide emissions tax

From 1 April 2016, the carbon dioxide emissions tax is R140.00 per g/km CO^2 emissions exceeding 175g/km in respect of passenger cars and double cabs, respectively. No changes were announced in the 2017 budget.

Transfer Duty and Securities Transfer Tax

Transfer Duty

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

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

Securities Transfer Tax (STT)

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

Estate Duty And Donations Tax

Estate Duty

A flat rate of 20% remains payable on all property of residents and South African property of non-residents. A basic deduction of R3.5 million is allowed in the determination of an estate's liability for Estate Duty as well as deductions for liabilities, bequests to Public Benefit Organisations ("PBO") and property accruing to surviving spouses.

Donations Tax

A flat rate of 20% remains payable. The first R100 000 of property donated in each year, by a natural person, is exempt from donations tax. For taxpayers who are not natural persons, exempt donations are limited to casual gifts not exceeding a total of R10 000 per annum. Donations between spouses, South African group companies and donations to PBOs are exempt from donations tax.

Administrative Non-Compliance Penalties

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

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

As at 22 February 2017, only the failure by a natural person to submit an income tax return (subject to further conditions) and the failure by a reporting financial institution to submit returns in relation to the intergovernmental agreement to implement the United States of America's Foreign Account Tax Compliance Act, were listed.

Understatement Percentage-Based Penalties

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

*To be reduced to 0% in relation to the special voluntary disclosure programme

Understatement Percentage-Based Penalties

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

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

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

Voluntary Disclosure Programme

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

An eleven-month **special** voluntary disclosure programme relating to income tax defaults and exchange control contraventions is available for certain persons. Applications may be submitted from 1 October 2016 until 31 August 2017. The SVDP(tax) seeks to include in taxable income 40% of the high watermark of the assets between 1 March 2010 and 28 February 2015. Tax relief includes 0% understatement penalties and SARS will not institute criminal charges. The exchange control levy will be 5% where the regularised assets are remitted to South Africa. The exchange control levy will be 10% where the regularised assets are left offshore. The relief will apply to exchange control contraventions which occurred prior to 29 February 2016.

SARS Interest Rates

Effective 1 April 2016	
Fringe benefits – interest free or low interest loans	8.0% p.a.
Effective 1 July 2016	
Late or underpayments of tax	10.5% p.a.
Refund of overpayments of provisional and employees' tax	6.5% p.a.
Refund of tax on successful appeal, or where the appeal was conceded by SARS	10.5% p.a.
Refund of VAT after prescribed period	10.5% p.a.
Late payments of VAT	10.5% p.a.
Underpayments of Customs and Excise Duties	10.5% p.a.

Accrual of interest

It is proposed that the interest payable by SARS will be deemed to accrue to the recipient on the date of the payment from SARS.

Tax Dispute Resolution and Controversy Services

We know the processes

We know the people

We get the results

Dealing with tax disputes can mean uncertainty and complexity. KPMG has the experience to help you take control of the dispute resolution process.

We work with our clients to help lessen the likelihood of a challenge or audit before a dispute arises and to resolve those matters that ultimately become the subject of a dispute.

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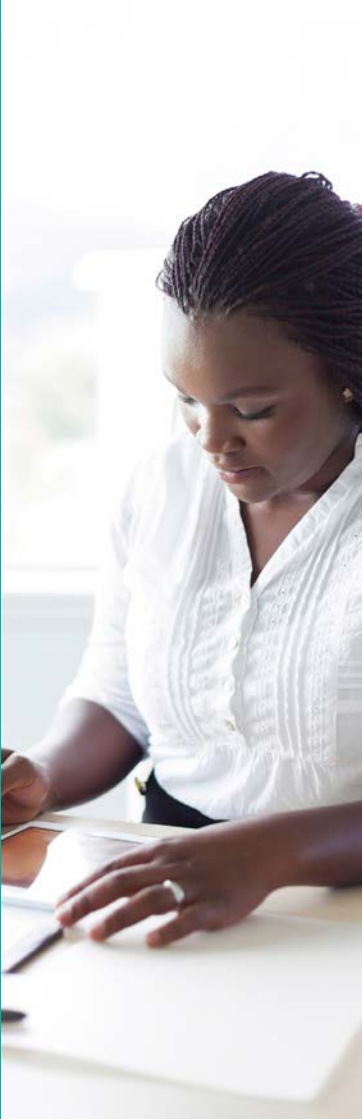

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