



## **SA TAX SUMMARY**

### **1. Tax year**

The South African tax year runs from 1 March to 28/29 February.

### **2. Tax Rates**

Income is taxed in South Africa in accordance with progressive tax rates, i.e. higher income is taxed at higher rates.

### **3. Registration requirements for individual income tax**

All taxpayers who earn income exceeding R60 000 per annum are required to be registered as taxpayers with the South African Revenue Service (“SARS”). This process does not happen automatically on entering the country. Individuals who earn in excess of R10 000 in investment income are required to register as provisional taxpayers. In addition to these stipulated instances, SARS reserves the right to classify any taxpayer as a provisional taxpayer.

### **4. Tax returns and payment of taxes**

Tax returns are prepared annually and are typically due in the middle of July. Provisional taxpayers may be required to submit up to three provisional tax returns during the course of the year (August and February with an optional third return being due at the end of September).

In most instances employees’ tax (commonly referred to as PAYE) is withheld from earnings by employers on a monthly basis.

An assessment will be issued by SARS to each taxpayer who submitted a tax return. This serves as proof of taxes paid.

### **5. Basis of taxation**

The South African tax system is residence based. South African tax residents are subject to tax in South Africa on their worldwide income while non-residents are liable to tax in South Africa only in respect of income from South African sources.

#### ***Tax residence***

Tax residence is established either through being considered ordinarily resident in South Africa or through physical presence in South Africa over a period of six tax years.

Although “ordinarily resident” is not defined in the Act, it is held to be the country that you consider to be your real home, the country you will return to at the end of your “wanderings”.

An individual will trigger tax residence through physical presence during the sixth tax year of being physically present in South Africa if such individual was present in South Africa for more than 91 days during the current year of assessment and each of the 5 preceding years of assessment and present for a period exceeding 915 days in aggregate during the previous 5 years of assessment.

For ordinarily resident taxpayers, tax residence can be broken through a change in intention as substantiated by facts, typically on emigration from South Africa or at such time that an individual decides that he/she no longer considers South Africa to be his/her real home.

Individuals who established tax residence through physical presence will break tax residence through physical absence for a continuous period of 330 full days.

## **6. Capital Gains Tax**

Tax residents are subject to Capital Gains Tax (“CGT”) in South Africa on the disposal of their worldwide assets. Non-residents are subject to CGT in South Africa only on the disposal of fixed property, held directly or indirectly, located in South Africa.

On breaking tax residence, CGT will be payable on the deemed disposal of a tax resident’s worldwide assets (excluding South African fixed property), i.e. the growth in value from the date of establishing tax residence to the date of breaking tax residence will be regarded as a “capital gain” and CGT will be payable.

### ***Rate of CGT***

25% of the gain is included in the individual’s taxable income and taxed at the applicable marginal tax rate. An annual exclusion of R16 000 is currently applicable to the aggregate gain or loss in any particular year.

## **7. SA tax on earnings for services rendered in and outside SA**

As indicated above, non-resident for South Africa tax purposes are taxable in South Africa on income from a South African source or deemed to be from a South African source.

In terms of the principles laid down by the courts, any income earned in exchange for services rendered in South Africa, will be taxable in South Africa as the source is in South Africa.

Concerning other services that would be rendered outside South Africa, one needs to look at where the wits, skills and labour of the person providing the services are exercised. Should the wits, skills and labour be exercised in South Africa, the source of the income earned would be in South Africa.

## **8. Fringe benefit tax**

### ***Rental paid by your employer***

The provision of housing to an employee is generally considered to be a taxable fringe benefit, subject to certain conditions. In terms of the Act, the value of the benefit is the greater of the benefit determined in accordance with a remuneration based formula (generally applied where the use of a company owned house is provided), and the total amount of the rentals payable for such accommodation by the employer, or associated institution in relation to the employer, and any other expenditure defrayed by the employer in respect of such accommodation.

Where a cash housing allowance is granted to an employee, such allowance will be taxable as cash remuneration.

In the case of employer-provided accommodation, relief may be available in terms of Paragraph 9(7) of the Seventh Schedule in terms of which no taxable value shall be placed on any employer-provided accommodation while an employee is absent from his usual place of residence for the purposes of performing the duties of his employment. The length of time for which the benefit may continue to be provided tax-free is limited to two years.

The interpretation of sub-paragraph has been a contentious issue as the Act does not specifically define the phrase “away from his usual place of residence”.

It is however important that each individual expatriate employee’s particular circumstances be evaluated in order to determine whether Paragraph 9(7) of the Seventh Schedule can be applied.

### ***Use of motor vehicle provided by your employer***

Generally, when an employee is granted the use of company vehicle, that vehicle is essentially for the exclusive use of the employee and is used for both personal and business purposes.

The provision of a company motor vehicle constitutes a taxable benefit in the hands of the employee, which is taxed at a rate of 2.5% of the determined value of the vehicle

(excluding VAT) per month. Where an employee is granted the use of a second vehicle, the monthly taxable benefit is calculated at a rate of 4% of the determined value of the vehicle with the lower value, and 2.5% is applied to the determined value of the vehicle with the higher value.

The determined value is the original cost of the vehicle to the employer if this was obtained under a bona fide agreement of sale. Where the vehicle is held by the employer under a lease, the determined value of the vehicle is the retail market value of the vehicle at the time the employer first obtained the right of use of the vehicle. In any other case, the determined value of the vehicle is the market value of such vehicle at the time that the employer first obtained the vehicle or the right of use thereof.

### ***Medical contributions paid on behalf of your employer***

In terms of paragraph 12A(c) of the Seventh Schedule, the cash equivalent of the value of the taxable benefit made to the employer during the year of assessment indirectly or directly, to a medical aid scheme registered under the Medical Schemes Act no 131 of 1998, for the benefit of an employee or his dependents that exceeds R 1140 in respect of the employee and one dependent plus R 345 for every additional dependant.

Please note that medical insurance as per South African legislation does not qualify as a potential tax deduction from one's taxable income. Only medical aid schemes as defined by our legislation may be eligible as a deduction. Medical contributions made as well as expenses both in and out of South Africa not recovered by you from your medical scheme will be deductible from your taxable income, to the extent that they exceed 7.5 percent of your taxable income in South African.

### ***Pension fund and retirement annuity contributions***

If you contribute to a local pension or retirement annuity fund while in SA, you will be able to deduct the prescribed amount from your SA salary. For a pension fund, an amount of 7.5% can be deducted from your pensionable salary, and for a retirement annuity fund, the greater of 15% or R 3 500 can be deducted from your non-pensionable salary.

No deductions can be claimed in South African for any contributions made to foreign funds.

However, where the employer is liable to contribute to the foreign fund, the contribution by the employer would not attract tax in SA.

## **9. Death of an employee while working in South Africa**

Upon death of a non-resident in SA an estate duty amounting to 20% will be payable on any immovable property held in South Africa at the time of death.

There are various lump sums and implications that also need to be addressed if you were to contribute to a South African pension or retirement-annuity fund while you were in South Africa. Different treatments will arise depending on what type of policy it held.

## **10. Social Security**

SA does not currently have a social security system in place. SA individuals generally opt to take out private policies with regards to any pension, retirement annuity or provident fund scheme, or their current employer supplies one to them. Each is treated differently for tax purposes.

SA is in the process of implementing a Social Security system but this is likely only to be implemented in the next few years.

## **11. Exchange control restrictions**

Individuals considered resident for exchange control purposes are restricted in the amount of funds they are allowed to invest offshore. It should be noted that the concept of 'resident' as used for exchange control purposes differs from the concept of 'resident' for tax and immigration purposes.

## **12. Immigration considerations**

Subject to the Immigration Amendment Act 2004, no person shall enter or depart from the Republic at a place other than a port of entry and such person shall be in possession of a valid entry permit or visa.

A visitor's permit does not entitle a person to work in South Africa. However, under certain limited circumstances, as set out in Section 11(2) of the Immigration Amendment Act 2004, a person in possession of a valid visitor's permit may work in South Africa for a period not exceeding three months.

Work permits may be applied for either from abroad or from within South Africa, providing that the foreigner is in South Africa at the time of application and provided that the application is lodged with Home Affairs at least 30 days before the existing permit is due to expire. When applying from abroad, the individual must remain abroad until the permit is issued. Similarly, in order to apply from South Africa, the individual must be present in South Africa when submitting the application for a work permit.

Family members accompanying the work permit applicant will also be required to apply for the relevant temporary residence permits. Again, these applications may be lodged either in South Africa or abroad and application may be made as a family unit.

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