Hogan Lovells

Tax Guide 2014/15

South Africa

Individuals and Trusts – Tax Rates

1 March 2014 to 28 February 2015

Individual Taxpayers and Special Trusts

Taxable Income	Rate of Tax
R0 – 174 550	18% of taxable income
R174 551 – 272 700	R31 419 + 25% of taxable income above R174 550
R272 701 – 377 450	R55 957 + 30% of taxable income above R272 700
R377 451 – 528 000	R87 382 + 35% of taxable income above R377 450
R528 001 – 673 100	R140 074 + 38% of taxable income above R528 000
R673 101 and above	R195 212 + 40% of taxable income above R673 100

Trusts other than special trusts: 40% of taxable income

Tax rebates and deductions

Rebates	2013	2014
Primary rebates – individuals	R12 080	R12 726
Secondary rebate – individuals over 65	R6 750	R7 110
Tertiary rebate – individuals over 75	R2 250	R2 367

Tax threshold	2013	2014
Under 65 years of age	R67 111	R70 700
65 years of age to 75 years of age	R104 611	R110 200
75 years of age and over	R117 111	R123 350

Medical and disability expenses

Allowable medical and disability expenditure deductions consist of:

Medical scheme fees tax credit

- Monthly contributions to medical schemes are deductible up to a maximum of R257 (if main member of scheme or first dependant). A further R172 is deductible in respect of each additional dependant.

Older than 65 or person, spouse or child with disability

- 33% of all qualifying medical expenditure paid and borne by individual.
- An amount by which medical scheme contributions paid by the individual exceeds 3 times the medical scheme fees tax credit for the tax year.

Any other person

- 25% of all qualifying medical expenditure paid and borne by individual.
- An amount by which medical scheme contributions paid by the individual exceeds 4 times the medical scheme fees tax credit for the tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).

Transfer Duty

Rates for Transfer Duty

Property value	Rates of tax
R0 – 600 000	0%
R600 001 – 1 000 000	3% of the value of the property above R600 000
R1 000 001 – 1 500 000	R12 000 + 5% of the value above R1 000 000
R1 500 001 and above	R37 000 + 8% of the value of the property above R1 500 000

Companies – Income Tax Rates

Local companies and branches of foreign companies are subject to income tax at rate of 28%

Micro Business

Turnover	Rates of tax
R0 – 150 000	0% of turnover
R150 001 – 300 000	1% of taxable turnover above R150 000
R300 001 – 500 000	R1 500 + 2% of taxable turnover above R300 000
R500 001 – 750 000	R5 500 + 4% of taxable turnover above R500 000
R750 001 and above	R15 500 + 6% of taxable turnover above R750 000

Small Business Corporation

Taxable Income	Rates of tax
R0 – 70 700	0%
R70 701 – 365 000	7% of taxable income above R70 700
R365 001 – 550 000	R20 601 + 21% of taxable income above R365 000
R550 001 and above	R59 451 + 28% of taxable income above R550 000

Dividends

Dividends Tax

A South African tax resident company has an obligation to withhold and pay to the SARS 15% of the value of any dividend paid, subject to certain exemptions.

- If the shareholder to which the dividend is payable is a South African tax resident company, the company declaring the dividend is not obliged to withhold 15% of the value of the dividend payable. Similarly if the shareholder is a retirement fund, public benefit organisation or other exempt person, the company declaring the dividend is not obliged to withhold the 15%.

- Please note that non-South African tax resident companies which have shares listed on the JSE will be obliged to withhold 15% of the dividend declared, subject to certain exemptions.
- In limited circumstances non-resident beneficial owners of dividends may enjoy relief in terms of a double taxation treaty.

Foreign dividends

- Expenditure incurred to produce foreign dividends are not allowed as a deduction in determining taxable income.
- Where an individual holds less than 10% shareholding in a foreign company, in most cases dividends received by such individuals will be taxable at a maximum effective rate of 15%.
- A so-called "participation exemption" may be available where shareholding in the foreign company exceeds 10%.

Retirement Fund Lump Sum Benefits or Severance Benefits

Taxation of withdrawal benefits

Withdrawal Amount	Rates of tax
R0 – 25 000	0% of withdrawal amount
R25 001 – 660 000	8% of withdrawal amount above R25 000
R660 001 – 990 000	R114 300 + 27% of withdrawal amount above R660 000
R990 001 and above	R203 400 + 36% of withdrawal amount above R990 000

Retirement fund lump sum withdrawal benefits are lump sum payments made by pension, preservation pension, provident preservation, provident and retirement annuity funds and includes the assignment of any "pensions interest" payable in terms of a divorce order from the above fund to a non-member's spouse.

The tax payable on a lump sum withdrawal benefit ("X") is equal to:

The tax is determined by applying the above tax table to the aggregate of "X" plus all other retirement fund withdrawal benefits paid since October 2009, all retirement fund lump sum benefits paid since October 2007, plus all severance benefits paid since March 2011.

Less

The tax determined by applying the above tax table to the aggregate of all retirement lump sum withdrawal benefits accrued before “X” from March 2009 plus all retirement fund lump sum benefits accrued since October 2007 plus all severance benefits accrued since March 2011.

Taxation of retirement benefit lump sums on retirement

Lump Sum Amount	Rates of tax
R0 – 500 000	0% of taxable income
R500 001 – 700 000	18% of lump sum amount above R500 000
R700 001 – 1 050 000	R36 000 + 27% of lump sum amount above R700 000
R1 050 001 and above	R130 500 + 36% of lump sum amount above R1 050 000

Lump sum cash benefits include benefits from all pension, preservation pension, provident, preservation provident and retirement annuity funds on death, retirement or termination of employment due to redundancy or termination of employer’s trade.

Severance benefits means lump sum cash benefits paid by the employer to an employee due to the employee’s relinquishment, termination, loss, repudiation, cancellation or variation of an employee’s office or employment.

Tax on specific retirement lump sum benefits or severance benefits lump sum or severance benefits (“Y”) is equal to:

The tax determined by applying the above tax table to the aggregate of amount “Y” plus all other retirement fund lump sum benefits accrued from October 2007 plus all lump sum withdrawal benefits accrued since March 2009 plus all other severance benefits accrued from March 2011.

Less

The tax determined by applying the above tax table to the aggregate of all retirement lump sum benefits accruing before “Y” from October 2007 plus all retirement fund withdrawal benefits accruing from March 2009 plus all severance benefits accruing before severance “Y” from March 2011.

Interest Exemptions

Exemptions in respect of taxable interest (from a South African source) earned by an individual	2013	2014
Under 65 years of age	R23 800	R23 800
65 years of age and over	R34 500	R34 500

Schedule of Values for Travelling Allowances

Where no records of actual costs are kept, the rates per kilometre that may be used in determining the allowable deduction for business travel are determined using the following table:

Value of vehicle (incl VAT)	Fixed cost	Fuel cost	Maintenance cost
	(p.a.)	c/km	c/km
R0 – 80 000	R25 946	92.3	27.6
R80 001 – 160 000	R46 203	103.1	34.6
R160 001 – 240 000	R66 530	112.0	38.1
R240 001 – 320 000	R84 351	120.5	41.6
R320 001 – 400 000	R102 233	128.9	48.8
R400 001 – 480 000	R120 997	147.9	57.3
R480 001 – 560 000	R139 760	152.9	71.3
Exceeding 560 000	R139 760	152.9	71.3

Note

- For the purposes of calculating PAYE, 80% of the travelling allowance must be included in the employee's remuneration. The percentage is reduced to 20% if the employer is satisfied that no less than 80% of the use of the vehicle for the year of assessment will be for business purposes.

- If the employee has not borne the full cost of fuel used in the vehicle, no fuel 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), no maintenance cost may be claimed.
- The fixed cost must be reduced on a pro-rata basis if the vehicle is used for business purposes only for a portion of the year.
- The costs which may be claimed against a travelling allowance are determined with reference to the actual distance travelled during a tax year and the distance travelled for business purposes substantiated by a log book.

Alternatively

- No tax is payable on an allowance paid by an employer to an employee, up to the rate of 330 cents per kilometre, regardless of the value of the vehicle, if an employee has travelled 8 000 kilometres or less, in a year of assessment.
- If an employee received other compensation in the form of a reimbursement or allowance in respect of the vehicle, this alternative will not be available.

Fringe Benefits Tax – Employer-owned Vehicles

The right of use of an employer-owned vehicle by an employee:

- The value of the monthly fringe benefit (the taxable value) is normally calculated as 3.5% of the vehicle's determined value.
- The determined value is equal to the cost price of the vehicle in the hands of the employer, acting in an arms' length transaction, including VAT, but excluding finance charges.

  However:

  – where the vehicle is the subject of a maintenance plan at the time that the employer acquired the vehicle, the taxable value is 3.25% of the determined value; and

  – where the vehicle was acquired by the employer under an operating lease, the taxable value is the cost that the employer incurred under the operating lease in addition to the cost of the fuel.
- 80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE. This percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the vehicle for the tax year will be for business purposes.
- On assessment, the fringe benefit is reduced by the ratio of the distance travelled for business purposes substantiated by a log book divided by the actual distance travelled during the tax year.
- On assessment, further relief is available for the cost of licensing, insurance, maintenance and fuel for private travel if the full cost has been borne by the employee and if the

distance travelled for private purposes is substantiated by a log book.

Estate Duty

Estate duty is payable by South African tax residents and is levied on South African property owned by non-residents.

- Abatement: R3,5m.
- Any amount exceeding the abatement amount, plus allowable deductions, will be taxed at a flat rate of 20%.

Deductions include

- Liabilities of the deceased at date of death (including any CGT liability);
- Bequests to public benefit organisations; and
- Property bequeathed to a spouse.

Please note that if the deceased was married in community of property, only half of the value of the joint estate is taken into account for estate duty purposes.

Donations

Donations tax is applicable to donations made by any South African tax resident.

Individuals can donate R100 000 per annum and juristic persons can donate R10 000 per annum as a casual gift without incurring any donations tax liability.

Any donations (individually or in aggregate) above these amounts will attract donations tax at a flat rate of 20% on the value of the property donated.

Donations between spouses are not subject to donations tax. Similarly, donations to certain public benefit organisations and between South African group companies are not subject to donations tax.

Capital Gains Tax (CGT)

- Taxable income includes a portion of the capital gains made on the disposal of assets.

Effective CGT rates

Taxpayer	Maximum effective rate (%)
Individuals and special trusts	13.3
Other trusts	26.6
Ordinary companies	18.6
Branch of a foreign company	18.6

Tax base

- Residents – disposal of assets owned anywhere in the world.
- Non-residents – disposal of immovable property situated in South Africa, disposal of shares in certain companies that own immovable property in South Africa and disposal of the business assets of a permanent establishment in South Africa.
- "Disposal" includes sale, donation, exchange, loss, death and emigration.

Base Cost

- Assets acquired before 1 October 2001: value as at 1 October 2001.
- Assets acquired on or after 1 October 2001: costs incurred in acquiring or creating the asset and capital expenditure incurred on the asset after 1 October 2001.

Exclusions

- Individual R30 000 per annum.
- In the year of death of an individual R300 000.
- Special trusts R30 000 per annum.
- Most personal use assets.
- On the disposal of a primary residence, the first R2 million is not subject to CGT.
- Payment from insurance policies: only to the original beneficial owner.
- Retirement benefits.
- Small businesses – If an individual, over the age of 55 years of age, disposes of a small business, the market value of which does not exceed R10 million, the first R1.8 million of the capital gain will not be subject to tax.

Withholding Taxes

Royalties

A final tax at a rate of 12% is imposed on the gross amount of royalties from a South African source payable to non-residents. The tax rate increases to 15% with effect from 1 January 2015.

Interest

A final tax at a rate of 15% is imposed on interest from a South African source payable to non-residents with effect from 1 January 2015.

Dividend

A final tax at a rate of 15% is imposed on dividends from a South African source payable to non-residents with effect from 1 April 2012.

Value-Added Tax (VAT)

Standard rate remains at 14%.
Registration threshold: If the vendor achieves or is likely to achieve taxable supplies of R1 million per annum registration is required. Voluntary registration may be applied for if a vendor makes taxable supplies of between R50 000 and R1 million per annum.

Transfer Pricing (TP)

Currently TP occurs between cross border related parties. The 2014 budget did not make reference to the introduction of domestic TP, as it did in the past.

The 2014 budget stated that the current secondary adjustment for TP, which is in the form of a deemed loan, is an administrative burden, both for the taxpayers and SARS.

It is recommended that the TP provision be amended to state that the secondary adjustment is deemed to be a dividend or capital contribution depending on the facts and circumstances.

Customs

The customs modernisation programme has eliminated the need for paper-based documents to be generated and issued to taxpayers. The documents that are legally required will be aligned with the modernised customs processes and procedures.

Other Taxes

Skills Development Levy (SDL) and Unemployment Insurance Contributions (UIF)

Contributions to UIF and SDL are equal to 1% of "remuneration". SDL is payable by the employer only. Employers with an annual "remuneration" expense of less than R500 000 are exempt from paying SDL. Both the employee and employer are liable to pay UIF.

Securities Transfer Tax (STT)

STT is payable at a rate of 0.25% on the transfer (also cancellation or redemption in certain instances) of all securities of companies incorporated in South Africa. The amount of STT payable is calculated with reference to the higher of the consideration paid for the securities by the purchaser or the market value thereof as at the date of transfer. It is also payable on the transfer of a member's interest in a close corporation. Several exemptions are applicable.

Fuel and Road Accident Fund levies

The general fuel and Road Accident Fund levies are set to increase by 12c/l and 8c/l, respectively, on diesel and petrol effective from 2 April 2014.

www.hoganlovells.com

Hogan Lovells has offices in:

Alicante
Amsterdam
Baltimore
Beijing
Brussels
Budapest*
Caracas
Colorado Springs
Denver
Dubai
Dusseldorf
Frankfurt
Hamburg
Hanoi
Ho Chi Minh City
Hong Kong
Houston
Jakarta*
Jeddah*
Johannesburg
London
Los Angeles
Luxembourg
Madrid
Miami
Milan
Moscow
Munich
New York
Northern Virginia
Paris
Philadelphia
Prague
Rio de Janeiro
Riyadh*
Rome
San Francisco
São Paulo
Shanghai
Silicon Valley
Singapore
Tokyo
Ulaanbaatar
Warsaw
Washington, DC
Zagreb*

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses.

The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members.

For more information about Hogan Lovells, the partners and their qualifications, see www.hoganlovells.com.

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney advertising.

© Hogan Lovells 2014. All rights reserved.

* Associated offices