

Value Added Tax:

General:

1. If the taxpayer can claim VAT then cost price excludes VAT
 2. If taxpayer can't claim then include VAT
 3. Market value = Inclusive of VAT reduce by actual input not 14/114
 4. VAT exemption takes preference over zero rating
 5. Input VAT is on purchases (outgoing money)
 6. Output VAT is on sales (Incoming money)
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Registration For VAT:

Compulsory:

1. Taxable supplies more than R 1 000 000
2. Prior 12 month period from the end of the month
3. Next 12 month period from the beginning of the month
4. Foreign electronic services > R50 000

Voluntary:

1. Taxable supplies more than R50 000 and less than R 1 000 000
2. During prior or next 12 month period

“Supply” excludes VAT

Accounting Basis:

Invoice Basis: Earlier of invoice and payment date. Automatic on any supply more than R100 000

Payments Basis: Account for VAT on payment only if:

1. Association is not for gain
 2. Public authority/ municipality
 3. Foreign exchange service provider
 4. Person is voluntarily registered and taxable supplies are < 50 000
 5. Natural person and taxable supplies < 2,5 million in 12 months
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Time and Value of Supply:

Time: Earlier of date invoice is issued and date payment is received

Value: Consideration = money = amount of money

Consideration = not money = open market value at time of supply including VAT

VAT Levied:

1. S7(1)(a): Supply of goods/services:

Output VAT at 14% or 0% unless exempt

2. S7(1)(b): Importation of goods:

Non BLNS: (Customs + 10% customs duty value + customs duty value) x 14%

BLNS: (Customs duty value x 14%)

In Bond Supply: Vat is levied at the greater of consideration for in bond supply x 14%

And [Customs duty value + 10% Customs duty value + Customs duty] x 14%
(Input Vat)

3. S7(1)(c): Importation of services:

Value of supply is the greater of consideration for supply and open market value

May only be claimed on non taxable supplies only

Zero Rated Supplies:

1. Exported goods:

- Direct Export (0%):
 - Movable goods
 - Consigned/delivered in export country
 - And documentary proof
 - Own baggage/transport/ cartage contractor
 - Second hand goods where notional input tax was previously claimed
 - 90 days to get all documentation together or taxed at 14% from earlier of payment or invoice date
- Indirect Export (14%):
 - Second hand goods where notional input tax was claimed levy 14% VAT but only the difference may be claimed as a refund by the recipient

2. Exported Services:

- Transportation
- Ancillary services to exported goods
- Services rendered outside SA
- Services rendered in SA to non residents

3. Sale of a Going Concern:

Agree in writing that:

- Income earning activity at time of transfer
- All assets necessary for carrying on the enterprise are disposed of
- At time of contract agree that consideration is inclusive of VAT at 0%
- Both parties are registered VAT vendors

4. Other Zero Rated Supplies:

- Supply of goods/services for agricultural/ farming use
- Supply of gold coins (Kruger rands) issued by the Reserve bank
- Certain basic foodstuffs
- Fuel levy goods (petrol and diesel and certain crude oil products - not aircraft fuel)

Exempt Supplies:

1. Financial Services:

- Excluding: (VAT will be levied on):
 - All fee based financial services
 - Underwriting issue of a share/ members interest
 - Supply of a cheque book
 - Merchants discount

The zero rating of financial services when performed outside SA or to a non resident takes precedence over the exemption

3. Residential Accommodation:

- Excludes commercial accommodation:
 - Lodging together with domestic goods/services
 - For an unbroken period of 28+ days
 - Attract VAT on 60% of the value of supply
 - If resides for less than 28 days = supply x 14%

2. Donated Goods and Services:

- Supply of goods/services not for gain
- Supply of goods made/ manufactured from material of which 80% of the value was donated

Notional Input Tax:

- Acquire second hand goods from person making non taxable supplies
- Input tax = $14/114 \times$ lesser of cost and open market value
- Only claim notional input tax to the extent that payment has been made
- No documentary proof is required for purchases less than R50

Input VAT:

- >95% for taxable supplies - claim 100% input tax
- <95% apportion input tax

Deemed Supplies:

1. Fringe Benefits:

- Not a Company Car = Cash equivalent of the fringe benefit x 14/114 x taxable supply
- Company Car
 - a) Motor car = 0.3% x determined value
 - b) Other vehicle = 0.6% x determined value
 - c) Determined Value: Excluding VAT and finance charges
 - 0.3%/0.6% x determined value
 - Less costs paid by employee (R85 per month in employee bears all maintenance)
 - x 14/114
 - x Taxable use
 - x Months used

3. Cease Being A Vendor:

- Output tax is levied on unpaid balances owing to suppliers or creditors
- Only on amounts less than 12 months old
- Only to the extent that output tax has not been raised
- Value of deemed supply of goods and rights = Lesser of cost and open market value on date of cessation
- Relief: Deregister as taxable supplies are less than R1 mil or R 50 000. Must be paid within 6 months

4. Payments Exceeding Consideration:

- Vendor receives payment exceeding consideration amount
- Output VAT must be levied on the excess amount
- Unless repaid within 4 months
- Time of supply - 4 month period
- If the excess is later refunded - claim as input tax

2. Indemnity Payments:

- Payment is deemed to be consideration received for a supply of a service to the extent that it relates to a loss incurred in the course of carrying on an enterprise
- Only applicable when:
 - payments are not related to taxable supplies
 - Insurer pays out cash
- Not applicable to:
 - Payments received by the vendor that relates to:
 - a) Total reinstatement

4. Supplies to a Branch or Main Business Outside SA:

- Vendor is deemed to make a supply of goods and services in the course of enterprise if:
 - a) Branch/ main business is separately identified
 - b) And has an independent accounting system
 - c) Supply is then zero rated

Denial Of Input Tax:

1. Entertainment:

- Provision of any food, beverages, accommodation, entertainment
- Of any kind
- By a vendor
- Directly/ indirectly
- To anyone
- In connection with an enterprise carried on by him

2. Club Subscriptions:

- Membership fee of sporting social and recreational clubs

3. Motor Car:

- Includes any minibus double cab light delivery vehicle
- And any other motor vehicle of any kind
- Normally used on public roads
- Has 3 or more wheels
- Constructed/ converted wholly/ mainly for the carriage of passengers
- Exceptions:
 - Vehicles capable of carrying only 1 and more than 16 passengers
 - Vehicles with an unladen mass of 3500kg +

Income and Source:

Gross Income Definition:

1. Total Amount:

- **Lategan:** Amount does not only include cash, but any form of asset
- **Butcher Bros:** If asset does not have a monetary value it is not included in gross income
- **CIR vs People Stores:** 'Amount' includes any property with monetary value

2. In cash or otherwise

3. Received by/ accrued to

Received by:

- **Geldenhuis vs CIR:** Amount must be received by person for own benefit
- **Pyott Ltd:** Deposits received placed in account out of the taxpayers control is not included in gross income
- **MP Finance Group vs SARS:** Amount received with the intention of retaining them for own benefit notwithstanding that in law they are immediately repayable - receipts

Accrued To:

- **Lategan:** Accrue to = entitled to = included in gross income in the year of assessment it is accrued
- **People Stores Wallis Bay:** Confirms Lategan decision
- **Mooi vs SIR:** Accrued to means unconditionally entitled to

4. In favour of such person:

- **CIR vs Witwatersrand Association of Racing Clubs**

5. From a source within the republic

6. Not of a capital nature

Subjective Tests:

- **CIR vs Stott:** Intention is the most dominant test, mere fact that asset is sold at a profit does not indicate a change in intention
- **Natural Estates, Richmond Estates, Founders Hill:** Something more is required to indicate a scheme of profit making
- **Levy:** Mixed intentions: find dominant intention
- **Nussbaum:** If neither purpose is dominant - dual purpose is included in gross income

Objective Tests:

- Manner of acquisition
- Manner of disposal
- Period held
- Continuity
- Occupation of taxpayer
- No change in ownership
- Legal nature of transaction
- Nature of asset
- Carrying on a trade: Scheme of profit making

7. In the year of assessment

Special Inclusions:

1. **Annuities:** Exemption when taxpayer purchases annuity. Normal annuities are included
2. **Alimony/ Maintenance:** Receiving spouse receives the exemption
3. **Services:** For rendering of services regardless of account paid into
4. **Restraint of Trade:** Receiving - Include in income, Paying - Deduction
5. **Lease Premium:** Receive- Include, Paying - Deduction at lower of $x/25$ and $x/\text{lease period}$
6. **Leasehold Improvements:** Fair value 100% inclusion for receiver, payment $x/\text{remaining useful life}$
7. **Dividends:** local and foreign
8. **Compensation for Loss of Office:**
9. **Fund Benefits**
10. **Fringe Benefits**
11. **Subsidies and Grants**
12. **Recoupments**

Exempt Income:

1. Local Interest Exemption:

- 65+ = 34 500
- -65 = 23 800

2. Amounts Received From Tax Free Investments:

- Investments where CGT, dividends, and interest are exempt.
- Maximum contribution of R30 000 per annum
- and R500 000 over a lifetime.
- If maximum is exceeded, 40% of excess is included in GI

3. Employment Outside the Republic:

- Working On A Ship: Exempt if outside the republic for more than 183 days in the year
- Working Abroad: Exempt if working for employer abroad for more than 183 days of which 60 days are consecutive. 12 months from the day you leave.

4. Bursaries and Scholarships:

- Must be bona fide, assist a person to study at a recognised educational, research institute
- Non Employee: Bona fide, Exempt
- Employee: If he agrees to payback if unsuccessful, Exempt
- Relative of Employee: Remuneration proxy of > 250 000 no exemption
< 250 000
NQF Level 1-4 = 10 000 Exemption
NQF Level 5-19 = 30 000 Exemption

5. Foreign Dividends:

- Participation Exemption: shareholder holds at least 10% equity and voting rights, dividends must be in respect of equity shares
- JSE Listed Shares: Declaring company is listed on the JSE
- Ratio Exemption: Company = dividends x 13/28
Trusts, Estates, Natural Persons = dividends x 26/41

If deducted by the paying company no participation and country to country exemption may be claimed but JSE listed shares and ratio exemption may still be claimed

Variable Remuneration:

1. **Payment Received:** Deemed to accrue to employee on date paid
2. **Expenditure Incurred:** Deemed to be incurred on date paid
3. Overtime, Bonus, Commission, Leave payout, Travel allowance

Residency:

1. Double Tax Agreement:

- Exclusively a resident of another country due to a DTA?
- Yes = Non resident
- No = Ordinarily resident?

2. Ordinarily Resident:

- Levene vs CIR: Some degree of certainty
- Cohen vs CIR: Country to which a person would naturally return to from his wanderings
- CIR vs Kuttel: 'Ordinarily resident' is narrower than resident. It is where a person normally resides apart from temporary absences. Usual/principle residence.

3. Physical Presence Test:

Not ordinarily a resident in RSA during any period in that year and:

- > 91 days in current year of assessment
- > 91 days in previous 5 years of assessment
- > 915 days in previous 5 years of assessment

Will be a resident in year 6 if all requirements are met

Cease being a resident if at least 330 full continuous days are spent outside RSA

Deductions:

General Deduction Formula:

1. Carrying on a trade
2. Expenditure and losses
3. Actually incurred
4. During the year of assessment
5. In the production of income
6. Not of a capital nature
7. Expended/ laid out for the purpose of trade (S23(g))

Prepaid Expenses:

1. Goods/services are supplied within 6 months after year of assessment. yes = no limit, No =
2. Is the aggregate of all the amounts subject to S23H less than R100 000 yes = No limit
No = Limited to the amount utilised in the current year

Prohibited Deductions:

- a) Taxpayer maintenance
- b) Domestic/ private expenditure
- c) Recoverable expenses
- d) Income tax + interest penalties
- e) Transfers to reserves
- f) Expenditure incurred to produce exempt income
- g) Non trade expenditure
- h) Notional interest
- i) Amounts deducted from retirement benefits
- k) Labour brokers
- l) Restraint of trade
- m) relating to employment
- o) Fines, bribes, penalties

Pre Trade Expenditure:

1. Start up costs incurred before trading commences are deductible in the next year of assessment once income has been derived
2. Start up costs incurred once the entity has commenced trading are deductible in the current year once income has been derived
3. Normal costs incurred once trading has commenced: deductible under s11-19 in current year

Contributions to Pension, Provident, Benefit Funds by Employer

1. Deductible during year of assessment
2. No medical aid deduction - section 11(a) only

Special Deductions:

1. **Legal Expenses:** Taxable if wins, deductible if lost. Incurred in carrying on a trade.
2. **Restraint of Trade:** Deductible if receiver is taxed. Lesser of 1/3 payment of payment/ years of restraint
3. **Repairs:** Repair item used for trade. S23C may prohibit, S23H may limit
4. **Bad Debts:** Amount of bad debts must previously be included in income. Debt due to taxpayer
5. **Doubtful Debt:** 25% of list or $Y = M \times N$
6. **Pension Fund Contributions**
7. **Fund Contributions by Employers**
8. **Annuities to Former Employees/ Partners/ Dependants**
9. **RAF Contributions**
10. **Repayment of Employee Benefits**
11. **Repayment of Restraint of Trade**
12. **Donations**
13. **Credit Agreements/ Debtors Allowance**
14. **Future Expenditure on Contracts**

Annuities Paid to Former Employees on Retirement

1. **Former Employees:** Deductible if they retired due to: old age, ill health, infirmity
2. **Dependant of Former Employee:** Deductible if person was dependant immediately prior to death
3. **Former Partners:** Retired because of old age, ill health, infirmity. Partner for more than 5 years. Amount paid is reasonable in terms of partners services and partnerships profits. Payment must not be in lieu of anything else such as goodwill. must be a genuine annuity

Donations:

1. Permits the deduction of:
 - Bona fide donation in cash/ property
 - To any public benefit organisation
 - Where s18A certificate was received
 - Limited to 10% of taxable income before RAF lumps and RAF withdrawal benefit
 - From 1 March 2014 balance of donations not deducted may be carried forward

Suspensive Sales:

[Amount owing less doubtful debt + bad debt allowance] x [gp/sales x100]

Future Expenditure on Contracts:

Amount received this year, deduction this year, GI next year

Assessed Losses:

1. Natural person? Yes.
2. One trade making a loss to be off set against another trade? Yes.
3. Taxpayer taxed at highest rate? Yes
4. Suspect Trade? Yes
 - Sport
 - Dealing with collectables
 - Rental of residential accommodation, vehicles, boats (80% to non relatives for at least 6 months)
 - Showing animals
 - Creative arts
 - Gambling
5. Exclusion rule: Prove that there is a reasonable prospect of deriving taxable income within a reasonable period of time
6. Exclusion rule cannot be relied on if losses made in 6/10 last years

Capital Allowances:

Wear And Tear (S11(e)):

1. Write off cost over useful life
2. Apportioned
3. If cost is less than R7000 write off the full amount in 1 year
4. Non manufacturing assets - Elect s11e or 50%/30%/20%

Manufacturing Assets (S12C):

1. New and unused asset: 40/20/20/20
2. Used asset: 20/20/20/20
3. Not apportioned
4. Cost = lower of actual cost and market value
5. Aircrafts and ships = 20/20/20/20 only
6. Moving costs written off in equal instalments over remaining useful life

Small Business Corporations (S12E):

1. 100% deduction in year taken into use for the first time
2. 50/30/20 for non manufacturing assets
3. Moving expenses are written off over remaining useful life

Commercial Buildings (S13quin)

1. 5% on lesser of cost and market value
2. Not apportioned
3. Improvements > contractual improvement amount the difference cannot be claimed under s13quin
4. If part of a building is owned x55% (cost x 55% x 5%)

Residential Buildings (S13sex):

1. 5% on lower of cost and market value
2. Not apportioned
3. Additional 5% deduction if low cost unit
4. If part of a building is owned =55%
5. If improvements are made x30%
6. **Requirements to be met for a residential building:**
 - a) Must be the owner
 - b) New/ unused
 - c) Solely used or the purpose of trade
 - d) During the year of assessment
 - e) Owns at least 5 residential units in SA

Manufacturing Buildings (S13):

1. 5% on cost
2. Not apportioned
3. Entity can elect to not include the recoupment in gross income, instead use to reduce the cost of a replacement building

7. Requirements to be met for a low cost unit:

Stand Alone Unit:

- a) Cost \leq R300 000
- b) Monthly rental \leq 1%cost

Low Cost Apartment:

- a) Cost \leq R350 000
- b) Monthly rental \leq 1%cost

Low Cost Units Loaned to Employees (S13sept):

1. 10% on outstanding amount
2. Recoupment as soon as an amount is repaid at the lesser of:
 - Amount repaid
 - Deduction claimed in previous years not yet recouped
3. Requirements to be met:
 - a) Applicable on or after 21 October 2008
 - b) No requirements contractually other than the property must be disposed of to the employer in the event of termination of employment
 - c) Effected by an interest free loan
 - d) Disposal is for an amount equal to/ less than actual cost of the unit + land

Lease Premiums (11f):

1. Total premium / Lease period limited to 25 years
2. Apportioned
3. Early termination of lease: remaining deduction is not received

Leasehold Improvements (S11g):

1. Contract amount/ Lease period limited to 25 years
 2. Apportioned
- Amount spent > contract amount - S13 deduction manufacturing building
Early termination: Deduct unclaimed portion

Lesser Claims Leasehold Improvements (S11h):

1. Include in Gross income (per par (g) or (h)) full amount per contract
2. Deduction:
 - Amount in lease contract
 - less amount capitalised at 6% over lease period

Acquisition of Intellectual Property (S11gC):

1. No deduction on trademarks purchased
2. Invention/ patent = 5% deduction
3. Design = 10% deduction
4. If less than R5000 full deduction in the year purchased

Registration/ Renewal of Intellectual Property (S11gB):

1. Fully deductible in year paid
2. Not apportioned

Deferred Recoupment:

Replacement Asset is a Depreciable Asset:

1. Calculate at the same rate of old asset
2. Tax allowance (current year)/ Total tax allowances
= % recoupment added to gross income

Replacement Asset is Disposed of:

1. Include remainder of deferred recoupment in gross income immediately

Cease to Use Replacement Asset in Trade:

1. Include remainder of deferred recoupment in gross income immediately

Taxpayer Fails to Bring Replacement Asset Into Use Within Prescribed Period:

1. Include recoupment immediately
2. and interest at prescribed rate from date of disposal to inclusion

Deemed Recoupment (S8(4)(k)):

1. Deemed to be recovered/ recouped at market value of asset on that date

Loss on Disposal of Assets (S11o):

1. Deduct if wear and tear was claimed and asset has been disposed of
2. Asset has a useful life of <10 years
3. Only get the deduction if S11o is elected

Capital Gains Tax:

Base Cost of Assets Acquired Before Valuation Date:

1. Value at 01/10/01 + Par20 expenses on/after 01/10/01
2. Value = Higher of:
 - Market value method
 - 20% proceeds
 - Time apportionment

Which Method To Calc Valuation Date Value:

1. Proceeds > Total par20 expenses/ Expenses can't be determined = Par26
2. Proceeds < Total par20 expenses = Par27
3. Asset = Instrument (S24J) = Par28
4. Asset = Identical asset + weighted average was used par26 and par27 can't be used.

Base Cost of Assets Acquired After Valuation Date:

Par20 Expenses:

- a) Purchase price
- b) Valuation costs
- c) Direct cost of acquisition
- d) Costs to establish, defend or maintain legal title
- e) Improvements if reflected at time of disposal
- f) Value of option
- g) 1/3 Interest - listed share (excludes S240)
- h) Asset received as a fringe benefit
- i) Advertising

Par26: Proceeds > Par20 Expenses:

1. Select highest:
 - Market value
 - 20% (Proceeds less costs from before 01/10/01)
 - Time apportionment
2. Loss Rule 1:
 - Proceeds <= market value
 - VDV = Proceeds - par20 expenses after 01/10/01
 - Limit loss to Rnil

Par20 Expenses Must Be Reduced By:

1. Amount allowed as a deduction in taxable income (capital allowances, deductions, scrapping allowance)
2. Amount recovered/ recoverable/ paid by another person
3. Expense not yet paid and not due in year of assessment

Par27: Proceeds < Total Par20 Expenses:

1. Determined market value on 01/10/01
2. Par20 costs before 01/10/01 >= proceeds
3. Par20 costs before 01/10/01 > market value
4. Loss Rule 2:
 - Yes to 2 and 3
 - Higher of market value and proceeds less Par20 costs after 01/10/01
5. Loss Rule 3:
 - No to 2 and 3
 - Lower of market value and TAB
6. Loss Rule 4:

Standard TAB Formulae:

When expenses are incurred before 01/10/01 only:

$$Y = [B + [(P-B) X N]] / [T + N]$$

Y= Valuation date value

P= Proceeds on disposal

T= # of years asset is owner after 01/10/01

B= Par20 costs before 01/10/01

N= # of years asset owned before 01/10/01

N is limited to 20 years if costs incurred in more than 1 year of assessment prior to 01/10/01

Treat part of the year as a full year

When expenses incurred before and after 01/10/01: (Adjust proceeds):

$$P = R X [B / (A+B)]$$

R= Proceeds in terms of par35 on sale of asset (less selling expenses less recoupment when non depreciable)

A= Amount of par20 expenditure on/after 01/10/01

B= Amount of pa20 expenditure before 01/10/01

Reduce proceeds by selling expenses before calculating TAB - only for TAB

Primary Residence Exclusion (Par45):

1. Proceeds < R2mil: disregard capital gain or loss - R2mil Gross rule
2. Proceeds > R2mil: disregard first R2mil on disposal - R2mil gain rule
3. Gain/ gross rules only apply to natural persons and special trusts unless they are not ordinarily a residence in the residence for period held after 01/10/01 or the residence is used for business

Limitation on Size of Land (adjustments to gain rule)(Par46):

If the land on which the residence is situated is > 2 hectares the exclusion only applies to the portion of the land that is:

1. ≤ 2 hectares of land
2. Used mainly for domestic purposes
3. Disposed of at the same time as the residence

Uninterrupted Ordinary Residence (adjustments to gain rule)(Par47):

1. Qualifying person dispose of interest in residence
2. Is/ was primary residence
3. Not ordinarily reside in residence throughout the period after 01/10/01 or date of purchase until date of disposal
4. A portion of capital gain/loss is disregarded:
Capital gain/loss subject to the R2mil exclusion
= period ordinarily reside in residence after 01/10/01
/ [total period after 01/10/01] x Total capital gain/loss

Exceptions to Par47 (Par48):

The following absences if < 2 years are not regarded as absences for par47:

1. Primary residence offered for sale and vacated due to acquisition of new primary residence
2. Primary residence being erected
3. Accidental rendered uninhabitable
4. Death of person

Part Used For Trade Purposes (adjustments to gain rule)(Par49):

Only the portion not used for trade qualifies for the exemption

If trade use >50% there is no primary residence exclusion

Exceptions to Par49 (Par50):

If trade = Temporary letting of property and continually absent from primary residence for 5 years or less - adjustment for trade is necessary if:

1. Stayed in residence continuously for 1 year before or after it was let
2. AND no other reduce was their primary residence during the period

AND temporarily absent from RSA or was on business in SA at location > than 250km from residence

Personal Use Assets:

1. Disregard any capital gain/loss on disposal of asset used for purposes
2. Other than carrying on a trade (excludes gains/loss on gold coins/ immovable property)
3. Only applicable to natural persons and special trusts

Disposal of Small Business Assets (Par57):

Applies to any natural person disposing of an active business asset. R1 800 000 Cumulative exclusion over the lifetime of a natural person:

Qualify if:

1. Held for a continuous period of more than 5 years prior
2. Natural person must have been involved in the operations of small business
3. Natural person is either 55 years or older, or disposal was in consequence of ill health, other infirmity, superannuation or death

Roll Over Relief Possibilities:

1. Involuntary disposals
2. Reinvestment in replacement assets
3. Transfer between spouses

CGT Calculation:

1. Calculate recoupment
2. Par 26,27,28?
3. Calculate valuation date value
4. Calculate proceeds
5. Loss rule 1,2,3,4

Involuntary Disposals (Par65):

1. Taxpayer elects Par65
2. Asset is destroyed, lost etc
3. Compensation/ proceeds \geq base cost
4. Full proceeds must be reinvested in a replacement asset
5. Conclude contract within 12 months
6. Bring into use within 3 years (6 month extension period)
7. Non depreciable asset: tax when the replacement asset is sold
8. Depreciable asset: capital gain x [capital allowance in current year/ total capital allowance]
9. If capital gain has not yet been taken into account when replacement asset is disposed of - take into account immediately

Transfer

Between Spouses(Par67):

1. Wife donates/ sells to husband:
 - Wife: deemed disposal at base cost - no gain (proceeds = base cost)
 - Husband: deemed to have acquired asset:
 - a) On same date as wife
 - b) For same amount as wife
 - c) To use the asset in the same way as his wife
2. Effect = CGT is deferred as though the

Reinvestment in Replacement Asset (Par66):

1. Not applicable to land and buildings
2. Taxpayer elects
3. Asset qualified for a capital allowance
4. Proceeds \geq base cost
5. Full proceeds reinvested in a replacement asset
6. Replacement asset qualifies for allowance
7. Conclude contract within 12 months
8. Bring into use within 3 years of disposal
9. Capital gain is included per allowances of replacement asset
10. Recognise balance of gain immediately when asset is disposed of

Disposal of Assets Calculation:

Proceeds (amount received less recoupment)
 Less Base cost
 Cost price
 Less accumulated capital allowances
 Less scrapping allowance

Capital loss/ gain

Less primary residence exclusion (ltd to R2mil)

Capital gain/loss

Less annual exclusion (ltd to R30 000)

Taxable capital gain x 33.3% or 66.6%

FIGURE TO INCLUDE IN TAXABLE INCOME

Adjustments to R2mil Gain Rule: Primary Residence

Capital gain on buildings	xxx
Capital gain on 2 hectares of land (total gain on land x 2/ total hectares of land)	xxx
	TOTAL A
Ordinary residence (total A x period reside after 01/10/01/ total period)	TOTAL B
Non trade purposes (Total B x non trade %)	TOTAL C

Total C = Primary residence exclusion

Partnerships:

Joubert vs Tarry and Co (1915 TPD):

1. Each partner must contribute something
2. Business is conducted for the joint benefit of all partners
3. Objective is profits
4. Legally valid partnership agreement/ contract in writing
5. Partnership bank account
6. Customers/ creditors noticed of existence of partnership

Accruals(S24H):

1. Income received/ accrued to partnership is deemed to accrue to the partners in profit share ratio on the same date
2. Expenses/ allowances in respect of such receipts/ accruals are deemed to be those of the partners
3. Partners are liable for tax individually - can be set off against other income in the partners hands

Types of Partnerships:

1. Ordinary:
 - share in profit/loss
 - jointly responsible for liabilities incurred by all partners
2. Extraordinary:
 - share in profit/loss
 - identity kept secret
 - doesn't participate in daily running of business
 - liability limited to specific amount contributed

Limited Partner:

1. Allowable deductions are limited to the sum of (cumulative - YOY):
 - Capital contributed
 - + any income/ accruals from partnership
 - amount not deductible is carried forward

Connected Persons:

1. Income tax: Any other member of the partnership and any connected person in respect of any member
2. VAT: If the partnership is a vendor then any partner and any connect person in respect of any partner

Special Rules:

1. Capital account
2. Partners taxed on profits earned
3. Partner dies/resigns = end of partnership
4. Partner sells goodwill = mostly capital in nature
5. Sold for annual profit share = taxable (par a gross income)
6. Paid as annuity = seller: taxed, buyer: no deduction

Calculating Income Tax of

Partners and the Partnership:

1. Income received by partners for services rendered to partnership - treated as 3rd party in partnership calculation. gross income of the partner
2. Who incurred expenses and purchased assets: Partnership = partnership calc Partner = partner calc
3. Items subject to exemptions/ exclusions for natural persons directly in partners calc
4. Attributed profit/ loss in profit sharing ratio

Small Business Corporations:

1. Closed corporation or company
2. Shareholders: all natural persons at all times in YOA
3. Don't have shares in other companies/ CCs
 - Exception: Listed shares, CIS, Shelf companies, Companies in liquidation
4. Gross income: does not exceed R20mil - gross income as defined, pro rata if not full 12 months (part of a month = full month)

5. Not more than 20% of total receipts/ accruals (excluding capital nature) and capital gains is:
 - Investment income
 - Income from rendering of a personal service
6. Not a personal service provider
7. Test for SBC every year

Trusts:

Founding of Trusts:

Inter vivos: During the lifetime of founder, trust deed.

Mortis causa: Testamentary, will.

Tax Consequences of Transferring an Asset to a Trust:

1. **Sale:** Seller = CGT, Trust = Transfer duty
2. **Donation:** Donor = CGT Donations Tax, Trust = Transfer Duty
3. **Bequest:** Deceased = CGT Estate Duty

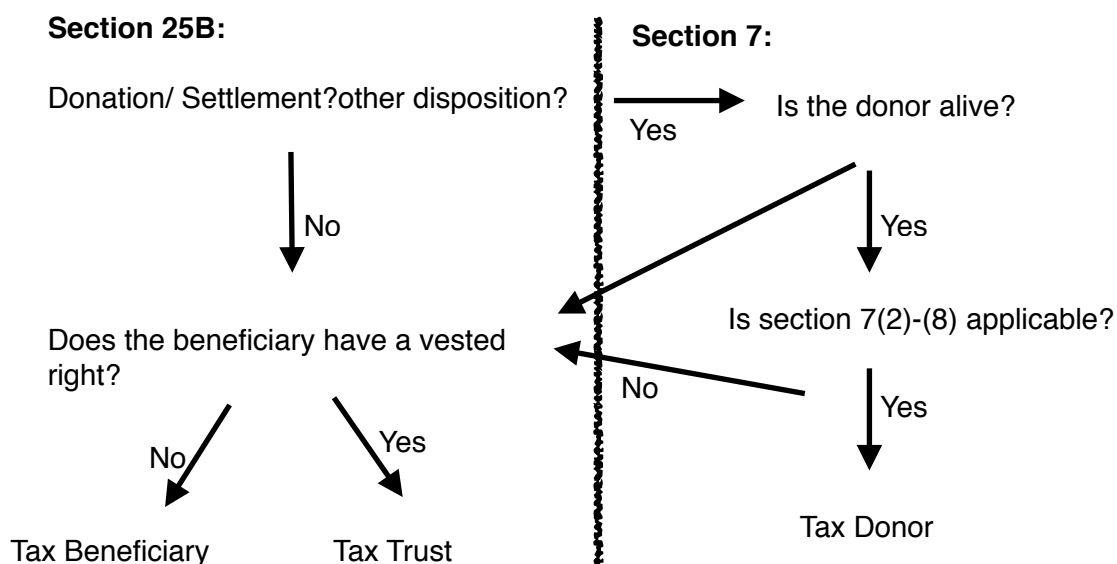
Vested Right:

1. Yes = trust is not taxed, S7 donor or beneficiary is taxed
2. No = Beneficiary is not taxed, S7 donor or trust is taxed
3. Distribution vs Vesting: Vesting does not always give rise to distributions. Amounts can accumulate in trust for the benefit of the beneficiary. Distribution leads to vesting (trustees distribute to beneficiaries)

Persons Liable For Tax On Income Earned by Trust:

Consider the following sections of the Act in order:

1. Amount taxable in the hands of the **donor** (S7(2) - 7(8))
2. Amount taxable in the hands of the **beneficiary** (S25B(1) and (2) with S7(1))
3. Amount taxable in the hands of the **trust** (S25B(1))



Section 7:

Section:	Information:	Who Is Taxed:
<i>7(1): Vested Right:</i>		Tax person who has a vested right to income. <ul style="list-style-type: none"> • Distributed to person • Accumulated for that person
<i>7(2): Married Couples:</i>	If the donors main objective is the reduction/postponement/avoidance of donors tax liability	income is deemed to be the income of the donor spouse and is taxable in the hands of the donor spouse
<i>7(3): Parents and Minors:</i>	Parent donates to their minor child	Deemed income in the hands of the donor parent - both distributions to the minor and the retained income of the minor
<i>7(4): Cross donation, Parent and Minor</i>	Parent A donates asset to Child B Parent B donates asset to Child A	Income is taxed in the hands of the parents of the minor receiving. Parent A is taxed on Child A Parent B os taxed on Child B
<i>7(5): Conditions, Discretionary Trust (No one has a vested right)</i>	If there are conditions with regard to an assets earnings or the trust	Retained income and distributed amounts = vested in beneficiary Until the event occurs tax the donor. If the donor dies tax the beneficiary
<i>7(6): Retention of Control:</i>	Beneficiary has a vested right but donor has the power to revoke/ conferred upon another	Tax donor, person with the power to revoke and the donor are the same person
<i>7(7): Donation of Income:</i>	Donor retains ownership or regains ownership later but donates income (holds property and donates rental income)	Taxable in the hands of the donor (as rental income)
<i>7(8): Donations Between Residents and Non Residents</i>	Donor is a resident and beneficiary is a non resident and the income would have constituted income and liable for tax in SA if beneficiary was a resident	Tax donor. Not applicable if the non resident is a PBO or a CFC

Section 25B:

1. Calculate taxable income of the beneficiary first
2. Carry over excess to trust (if expenses > income) - deemed deduction in terms of S25B(5)
3. If the trust cannot fully utilise excess, carry over the remainder to the beneficiary for the next year

Taxable Income of a Trust:

1. Local dividend exemption applies
2. Foreign dividend exemption applies
3. No interest exemption
4. No s10(1)(k) deduction on dividends paid in annuities

Donations:

1. Donations tax: Annual exclusion = R100 000 Rate = 20%
2. CGT: Proceeds = market value
3. Add part of the donations tax which related to capital gain to base cost
4. Trust is deemed to acquire at market value

Bequests:

1. CGT: Taxpayer is deemed to dispose of asset at market value
2. Exemption in year of death = R300 000
Estate deemed to receive assets at market value (base cost for estate)
Estate transfers assets to beneficiary (disposal at amount = to base cost)
3. Estate duty abatement: R 3 500 000 Rate = 20%

Annuities:

1. When receipt is in this form S10(2)(b) prohibits S10(1)(h) and S10(1)(k) deductions
 - **S10B(3) Exemption:** Foreign dividends exemption
 - **S10(1)(i) Exemption:** Local interest exemption (max 23800/ 34500)
 - **S10(1)(k)(i) Exemption:** Local dividend exemption

Amounts Not Distributed (SIR vs Rosen):

1. Accumulated income in trust loses its identity
2. Thus only retains its identity if distributed to beneficiary in the same year of assessment
3. Amount can only be taxed once

Conduit Pipe Principle (Armstrong vs CIR):

1. Income retains its identity until it is taxed
2. Distributions deemed to consist pro rata of different types of income earned unless the trust deed provides otherwise

Anti Avoidance Provision - S23F(1):

Taxpayer incurred expenditure in connection with the acquisition of trading stock which was:

1. Not disposed of during the year (not included in gross income)
2. Not held at year end (not in closing stock)

Any S11a deduction - not allowed in year of assessment in which it actually incurred

Deemed to have been incurred during year of assessment in which:

1. Trading stock was disposed of
2. Value of trading stock is included in closing stock
3. By reason of loss, destruction or cancellation of agreement that trading stock will never be disposed of/ included in closing stock - S11(o) deduction is deferred.

Anti Avoidance Provision - S23F(2):

Taxpayer disposed of trading stock but the full selling price does not accrue to him in current year of assessment

Any S11a deductions during the year or any previous year - deemed to be recovered or recouped
Taxpayer is allowed a S11a deduction to the extent that the selling price accrues to him (included in gross income S23F(2))

Any amount disregarded - deducted when further income accrues in the future - S23F(2A)

Or during year of assessment in which it can be shown that the future income will never accrue to him (deduct remaining portion) - S23F(2B)

Gross Income Par jA:

1. Any amount received or accrued during YOA
2. From disposal of any asset
3. Manufactured, produced, constructed or assembled by that person
4. Which is similar to any other asset manufactured, produced, constructed or assembled by that person for purposes of manufacture sale or exchange

Shares:

- Shares may not be reduced below cost
- Cost = Acquisition costs + Commission paid to agents + Brokers fees + Marketable securities tax paid on acquisition

Farming Taxable Income:

Calculation:

INCOME DERIVED FROM FARMING OPERATIONS	XXX
Produce Sales	xxx
Livestock Sales	xxx
Cost of produce/ livestock used for private purposes	xxx
Livestock donated by the taxpayer (at market value on date of donation)	xxx
Livestock given as rations to employees (at market value on date given)	xxx
LIVESTOCK AND PRODUCE ON HAND AT THE END OF THE YEAR	XXX
Livestock: Calculated at standard costs/ adopted standard values Produce: Calculated at the lower of cost and market value	xxx
LIVESTOCK AND PRODUCE ON HAND AT THE START OF THE YEAR	(XXX)
Livestock inherited is calculated at market value on date inherited	(xxx)
Donations to the taxpayer are included at market value on donation date	(xxx)
Purchased Livestock:	
Test 1:	
Farming income xxx	
Add closing stock xxx	
Less opening stock (xxx)	
Allowable deduction: XXX	(xxx)
Test 2:	
Excess not claimed xxx (Actual cost - test 1 deduction)	
Add opening stock xxx	
Less closing stock at market value (xxx)	
Allowable deduction: XXX (Limited to Rnil)	
FARMING EXPENDITURE AND ALLOWANCES	(XXX)
Deemed expense incurred: Rations to employees (amount included in GI)	(xxx)
General farming expenses	
• Salaries	
• Loans	
• Fertilisers and manures	
• Small items (less than R7000)	(xxx)
WEAR AND TEAR AND S12B ALLOWANCES	(XXX)

NET FARMING INCOME	XXX
CAPITAL DEVELOPMENT EXPENDITURE	(XXX)
Fencing	(xxx)
Dams and boreholes	(xxx)
Farm road construction	(xxx)
Excess development expenditure to be included in income Sum of all capital development expenditure deducted Add back to have a net effect of 0	xxx
TAXABLE INCOME FROM FARMING OPERATIONS	XXX
OTHER TAXABLE INCOME	XXX
Interest income	xxx
Rental income	xxx
LESS EXEMPTIONS	(XXX)
Interest exemption	(xxx)
TOTAL TAXABLE INCOME/ ASSESSED LOSS	XXX

Development Expenditure - Par 12(1):

Par 12(1) Limitation:

Capital development expenditure deduction is limited to net farming income (cannot create a loss)
Exceptions (can create a loss)

Can Create A Loss:

- a) Eradication of noxious plants
- b) Prevention of soil erosion

Cannot Create A Loss:

- c) Dipping tanks
- d) Dams, irrigation schemes, boreholes
- e) Fences
- f) Erection/ extension of buildings used in farming (not repairs)
- g) Planting of trees, shrubs etc for the production of grapes/ fruit, nuts
- h) Building of roads and bridges
- i) Carrying of electric power from a main transmission line

- Excess is carried forward to next year
- Reduce count carried forward by recoupments on par 12(1) moveable assets

Requirements:

1. Expenses incurred by farmer personally
2. In connection with own farming operations
3. Do not have to be the owner of the farm

Recoupment:

1. S8(4)(a) recoupment not applicable to the 1st schedule
2. Recoupment under Par 12(1B)(a) on moveable assets
3. Remember that this recoupment will reduce the excess expenditure carried forward first
4. If moveable asset is disposed by donation or at less than market value - consideration is deemed to be market value

Interest:

Calculating Interest:

1. Calculate interest per annum
 2. Pro rata for current year based on days
 - NB if payments are every 6 months then pro rata on 183 days not 365
 3. Subtract payments before calculating interest
 4. Add total interest to principle to calculate interest for next year
 5. Or use Amortisation on financial calculator
 6. If investment matures in current year there are no interest consequences for that year?
 7. If taxpayer is married in community of property only include 50% of interest in taxable income calculation
-

Section 24J Requirements:

1. Investment must meet the definition of an income instrument (holder) or an instrument (issuer)
2. An income instrument in the case of a person other than a company is any instrument which:
 - a) Will be held(or is reasonably likely to be held) for more than one year
 - b) AND was issued/ acquired at a discount or a premium or bears deferred interest

Forex:

Calculating Gain/Loss:

1. Done at:
 - Year end
 - Settlement date
 2. On foreign loan:
 - Recognise a gain/loss on the spot rate
 3. On a FEC:
 - Recognise a gain/loss on FEC rate at year end
 - Recognise a gain/loss on difference between FEC and spot rate on settlement date
 4. Defer calculation of gain/loss to year that the asset is taken into use
 - Calculate gain/loss between transaction date and translation date (year end of transaction year) recognised in the year taken into use
 - Calculate gain/loss between translation date and realisation date
-

Calculating the Cost of the Asset:

1. Use the spot rate on FOB date
2. Add customs
3. Add import duties
4. Add transport costs
5. Add input VAT if not a VAT vendor

Wear and Tear is calculated on this cost of the asset

Calculate gain/ loss individually with individual rates when dividing

Gains and Losses:

FEC gain - Add to taxable income

Spot rate gain - Subtract from taxable income

Dividends:

Dividends Tax:

1. 1 April 2012
 2. Tax on the shareholder
 3. Withholding tax at 15%
-

Dividend in Specie:

1. Liability of the company
 2. Trading stock has a recoupment at market value
 3. Capital asset has a recoupment and CGT
-

Capital Asset As Dividend In Specie:

1. Calculate tax value
2. Calculate recoupment
3. Calculate capital gain/loss

TAX VALUE	RECOUPMENT	CAPITAL GAIN/LOSS
Cost	Selling Price Market Value Limited to cost	Proceeds Selling Price Less Recoupment
Less Allowance Year 1	Less Tax Value	Less Base Cost Cost Less allowances
Less Allowance Year 2		Capital Gain x 33.3/66.6
Tax Value	Recoupment	Taxable Capital Gain

Liable For Dividends Tax:

1. The beneficial owner of the dividend is liable for the tax
 2. However the company declaring the dividends withholds the tax and pays it to SARS
 3. Payment must be made by the end of the month following declaration
-

Dividend Definiton:

1. An amount transferred
2. By a company that is a resident
3. For the benefit of a person who owns a share in the company
4. And the transfer was in respect of such share

Individuals

Calculation:

GROSS INCOME	
Salary	xxx
Bonus	xxx
Local dividends	xxx
Foreign dividends	xxx
Local Interest	xxx
Foreign interest	xxx
Fringe benefits (cash equivalent amount)	xxx
Recoupments	
LESS EXEMPT INCOME	
Local dividends - fully exempt s10(1)(k)	(xxx)
Foreign dividends - ratio (26/41), participation, listed exemption	(xxx)
Local interest -limited to 23 800 or 34 500	(xxx)
INCOME	XXX
LESS DEDUCTIONS	(xxx)
ASSESSED LOSS CARRIED FORWARD FROM PREVIOUS YEAR	(xxx)
LESS PENSION FUND CONTRIBUTIONS: Limited to the greater of: >1750 >Salary x 7.5% (salary only)	(xxx)
LESS PENSION FUND ARREAR CONTRIBUTIONS: Limited to 1800 per year excess is carried forward to next year deemed as an amount paid in that year	(xxx)
SUBTOTAL	XXX

RETIREMENT ANNUITY FUND CONTRIBUTIONS DEDUCTION: Limited to the greater of: >1750 >3500 - Current pension fund contribution deduction > 15% of subtotal >Excess is carried over to the next year >Excess cannot create or increase a loss	(xxx)
LESS RETIREMENT ANNUITY FUND ARREAR CONTRIBUTIONS: Limited to 1800 per year excess is carried forward to next year deemed as an amount paid in that year	(xxx)
NET ALLOWANCES: Travel Allowance Subsistence Allowance	xxx
TAXABLE CAPITAL GAIN <u>Proceeds:</u> Consideration received: xxx Less recoupment: (xxx) XXX <u>Less Base Cost:</u> Cost xxx Less Allowances (xxx) (XXX) = Capital gain xxx Annual exclusion (30 000) =Taxable Capital Gain x 33.3% =Inclusion of capital gain XXX	XXX
SUBTOTAL 2	XXX
DONATIONS - limited to 10% subtotal 2	(xxx)
TAXABLE INCOME	XXX
TAX PER TAX TABLES	XXX
LESS PRIMARY AND SECONDARY REBATE	(xxx)

LESS S6A MEDICAL CREDIT	(xxx)
R270 per month for first two dependants R181 per month for all other dependants	
LESS S6B MEDICAL REBATE:	
<u>>65 or disabled:</u>	
Contributions (employee and employer)	
Less (3xS6A credit)	
Add qualifying medical expenses(must be paid not just incurred)	
xxx * 33.3%	(xxx)
<u><65 and not disabled:</u>	
Contributions (employer and employee)	
Less (4xS6A credit)	
Add Qualifying expenses	
Less 7.5% Taxable income	
xxx * 25%	
LESS EMPLOYEE'S TAX PAID	(xxx)
LESS PROVISIONAL TAX	(xxx)
INCOME TAX PAYABLE	XXX

Fringe Benefits

Assets Acquired At Less Than Actual Value:

Cash Equivalent = Value of asset *LESS* consideration paid by employee

Value of asset is usually market value on the date given to the employee

Long Service Award:

If Less Than 15 Years: Benefit = Market Value

If More Than 15 Years: Benefit = Market value *Less* Lower of Cost to Employer and R5000

Right of Use of Sundry Assets:

Cash Equivalent = Value of Private Use *LESS* Consideration Paid By Employee

Value of Private Use:

1. If the asset is leased = Rental paid
 2. Asset is owned by employer = 15% x [Lessor of cost and market value on date of use] pro rata by months
 3. Granted use over the full useful life = Cost price
-

Meals and Refreshments:

Cash Equivalent = Cost to Employer *LESS* consideration paid by employee

1. Incurred during business hours / special occasions
 2. Entertaining clients
 3. On the businesses premises
-

Free or Cheap Services:

Cash Equivalent = Cost to employer *LESS* Consideration paid by employee

Low Interest Loans:

Cash Equivalent = Interest payable at official rate *LESS* Interest actually paid by employee

Housing Subsidies:

Cash Equivalent = Subsidy amount

Medical Aid Contributions:

Cash Equivalent = Employer contribution

Costs Relating to Medical Services:

Cash Equivalent = Cost to employer

Benefits in Respect of Insurance Policies:

Cash Equivalent = Cost to employer

Travel Allowance:

Cash Equivalent = Allowance received LESS Portion used for business travel

- Cost includes VAT excludes finance cost
- Own car used for business purposes
- Cash equivalent is listed to actual allowance

Portion Used For Business:

Actual business km x the higher of deemed and actual cost per km

Actual Costs Include:

Owned Vehicle:

1. Total cost is limited to R560 000
2. Wear and tear over 7 years limited to R480 000
3. Finance costs limited to R480000
4. Fuel
5. Licensing costs
6. Insurance
7. Repairs and services

Leased Vehicle:

1. Lease payment ltd to fix cost of deemed cost price category tables
2. Fuel
3. Licensing costs
4. Insurance
5. Repairs
6. Service costs

Deemed Cost Includes:

1. Determine the value of the vehicle including VAT
2. Determine rate per km
 - Fixed cost per km - Apportion for days if not held for full year
 - Fuel
 - Maintenance

If less than 8000km (business only) has been travelled for the year the taxpayer may elect to use the higher of deemed and R3.18 per km

Anti Avoidance Rule:

If an employee owns or leases a vehicle and leases it to the employer, the employer is deemed to grant right of use the the employee S8(1)(b)(iv)

- Rental and other costs paid by the employer are deemed to be a travel allowance paid to employee
 - Rental payments are deemed to not have been received/ accrued to the employee - not in GI
 - No fringe benefit for right of use of motor vehicle
-

Subsistence Allowance:

Cash Equivalent = Allowance LESS Portion Expended for Business Purposes

- No deduction is allowed if substance allowance is structured into salary package
- If employee has no accurate records or proof used deemed costs

Portion Expended For Business Purposes:

Actual

= Actual Costs

Deemed

= Incidental cost at R115 per day

= Meals and incidental cost at R372 per day

= Travel abroad: SARs rate per country

Allowances to Public Officers:

Cash Equivalent = Allowance LESS Permitted expenditure included in taxable income

Right of Use of Motor Vehicle:

Cash Equivalent = Value of Private Use LESS Consideration paid by employee

Value of Private Use:

3.5% or 3.23% x Determined Value x Number of Months

- Maintenance plan = 3.25%
- If two vehicles are held both primarily for business only calculate 3.5/3.25 on the highest determined value
- If two vehicles are held not for business purposes calculate 3.5/3.25 on both
- Monthly calculation - if less than 1 month apportion by days
- Include VAT
- If not told assume no maintenance plan - 3.5%
- If employer holds vehicle for more than 12 months before given to employee deduct 15% (reducing balance) depreciation for each 12 months (on cost)

Amount Included In Taxable Income:

Taxable amount = Cash equivalent less adjustments on assessment

S7(7): Cash equivalent x business km/ actual km (Employee must keep a logbook)

S7(8): Actual cost for license maintenance insurance x Private km/ Total km

Fuel per deemed cost table x Private km (Employee had to carry expenses)

- Apportion license insurance maintenance pads by the employee on private km travelled
- Deduct private km fuel if employee bears expense

Residential Accommodation:

$$\text{Cash Equivalent} = (A - B) \times C/100 \times D/12$$

A = Remuneration proxy (last years salary)

B = Abatement (R73 650)

- When employer is a private company controlled by the employee, his spouse, or his minor child abatement is limited to zero

C = 17:

- At least 4 rooms
- Neither power nor furnishing provided by employer

18:

- More than 4 rooms
- Either furnishings or power provided by the employer

19:

- More than 4 rooms
- Power and furnishings provided by the employer

D = Number of months

If the employer does not own the property select the lower of the formula or rent paid (by the employee for the number of months used in D)

Employee's Tax:

Calculation:

REMUNERATION	XXX
Salary Monthly amount	xxx
Fringe Benefits Monthly amount Excluding right of use of motor vehicle	xxx
Right of Use of Motor Vehicle Will be included only in months for which the right was received <u>Cash Equivalent Value:</u> Deemed value (cost including VAT) x 3.5% if there is no maintenance plan x3.25% if there is a maintenance plan x80% if used mainly for private purposes x20% if used mainly for business purposes	xxx
Travel Allowance Will be included only in the months in which it was received If the employee reimburses the allowance it is not included <u>Cash Equivalent Value:</u> Travel allowance per month x 80% of used mainly for private purposes x 20% of used mainly for business purposes	xxx
Subsistence Allowance Will be included in the month after the allowance is allowed If the employee was away for business or reimburses the allowance exclude	xxx
DEDUCTIONS	(XXX)
Pension Fund Contribution Employee contributions only Monthly contribution limited to the higher of: 1750/ 12 7.5% x salary or retirement funding employment income for the month	(xxx)
Retirement Annuity Fund Contribution Employer and Employee (Separately) Only deduct if the employer is aware the employee has a RAF Monthly contribution limited to: 1750/12 3500/12 - pension fund contribution deduction 15% x non retirement funding employment income for the month	(xxx)
Donations Only if the donation was made by the employer on behalf of the employee Limited to 5% of balance of remuneration before donations	(xxx)

BALANCE OF REMUNERATION (Monthly figure)	XXX
ANNUAL EQUIVALENT (Monthly figure x 12)	XXX
ANNUAL EQUIVALENT (Monthly figure x 12)	XXX
Tax Per Tax Tables	xxx
Less Primary Secondary Tertiary Rebates	(xxx)
Less Section 6A Medical Credit	(xxx)
EMPLOYEES TAX ON REMUNERATION EXCLUDING ANNUAL PAYMENTS	XXX
EMPLOYEES TAX PER MONTH (Tax payable / 12)	xxx

ANNUAL EQUIVALENT (Monthly figure x 12)	XXX
Plus Annual Payment (Bonus)	xxx
Tax Per Tax Tables	xxx
Less Primary Secondary Tertiary Rebates	(xxx)
Less Section 6A Medical Credit	(xxx)
EMPLOYEES TAX ON REMUNERATION INCLUDING ANNUAL PAYMENTS	XXX

Employees Tax on Remuneration Including Annual Payments	xxx
Employees Tax on Remuneration Excluding Annual Payments	(xxx)
EMPLOYEES TAX ON ANNUAL AMOUNT	xxx
EMPLOYEES TAX ON ANNUAL AMOUNT PER MONTH (Annual / 12)	xxx
TOTAL EMPLOYEES TAX FOR MONTH ANNUAL PAYMENT IS RECEIVED	XXX
Monthly employees tax excluding annual amounts + Employees tax on annual amounts	

Independent Contractor:

- Remuneration excludes payments to independent contractors therefore these amount are not subject to employees tax
- If the requirements are not met the person is an employee and employees tax must be withheld from him unless an exemption certificate is received

Requirements for an Independent Contractor:

1. The person has at least 3 or more employees during the year of assessment (Deemed)
2. Services are rendered mainly off the clients premises
3. The person does not render his service under the control or supervision of the client

Part Time or Casual Employees:

1. Not standard employment
2. Employees tax calculated at a flat rate of 25%

Labour Broker:

- A labour broker is not liable for employees tax if they have an exemption certificate
- If a certificate is held clients will withhold the tax on payments made to the brokers

Requirements For An Exemption Certificate:

1. Must carry on an independent trade
2. Must be a registered provisional taxpayer
3. Must be registered as an employer
4. Must have submitted all returns required

Exemption Will Not Be Met If:

1. More than 80% of gross income is from one client unless there are 3+ employees
2. The services of another labour broker are provided to the client
3. They are contractually obligated to provide a specified employee to render any service to the client

Personal Service Provider

Service rendered personally by a connected person on behalf of a company to a client of the company and:

1. Connected person would be regarded as an employee
2. OR service was rendered mainly at the clients premises and under the clients supervision and control
3. OR More than 80% of gross income is from one client

If a company is a PSP they are subject to withholding of employees tax at 28%

However if the above definition is met but employs 3+ people in the year of assessment except connected persons the company is not a PSP and is not subject to employees tax

Retirement Benefits:

Annuity:

Employee:

1. Taxed - Par a of gross income
2. Exemptions:
 - Purchased annuity - S10A
 - Non deductible element of compulsory annuities - S10C
 - From 1 March 2014
 - Compulsory annuities
 - Certain funds only allow 1/3 in lump sum, 2/3rds must be taken in the form of annuity

Employer:

Deductible in terms of S11m if:

1. Paid to **former employee** that **retired** on grounds of **old age, ill health, or infirmity** (S11(m)(i))
2. Paid to **dependents** of former employee/ partner - must be a dependant **immediately prior to death** of employee/ partner (S11(m)(iii))
3. Paid to former partner (S11(m)(ii)) - all requirements must be met

Lump Sums Received From Employer:

Compensation for Loss of Office:

Amount in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment.

1. Severance Benefit
 - Column 1
 - Favourable tax scale
2. Other
 - Column 3
 - Progressive tax scale
3. Payment due to death is deemed to have accrued to person immediately before death

Not Applicable to:

1. Amounts from:
 - Pension fund
 - Provident fund
 - Retirement annuity fund
2. Annuities - Par a
3. Restraint of trade payments - par cA

Amounts Due Under Contract of Employment:

1. Amount received or accrued in commutation of amounts due under any contract of employment or service
2. Commutation = replacement/ substitution
3. Obsolete - Par d covers most cases

Lump Sums Received From Funds:

	Pension Fund	Provident Fund	Retirement Annuity Fund
Membership obliged	Yes	Yes	No
Tax deduction for contribution	S11(k)	None	S11(n)
Lump sum on retirement	Max 1/3	100% until 29/02//2016	Max 1/3
Lump sum taxable on retirement	Yes	Yes	Yes

2/3rd Rule:

If $2/3 \leq R50\ 000$ the full amount may be taken as a lump sum

Changes for 2017 Year of Assessment:

1. All funds may only take 1/3 as lump sum
 - The new 1/3rd rule will not apply to the balance in the fund at 1 March 2016
 - New 1/3rd limitation is not applicable to persons 55 years old +
2. 2/3rd rule: Amount changes from R50 000 to R165 000
3. S11(n) has been deleted and S11(k) has been amended to include a deduction for Pension fund, Provident fund and Retirement annuity fund contributions

Basics:

1. Fund benefits meet the definition of gross income but:
 - Use special table
 - No rebates
 - May use s6A and 6B credits to reduce tax
 - Fund benefits do not affect the deductions of RAF and Donations S18A
2. Included in terms of Par(e) of gross income - Include net amount (after deductions)

Employee's Tax:

1. Fund is seen as an employer
2. Therefore the fund must deduct employees tax - from monthly pension and lump sum
3. SARS issues a directive which tells funds what specific tax (% or amount) to deduct

What is a Lump Sum:

A determined or ascertainable amount received from pension provident or retirement annuity fund

Retirement Lump Sums Benefit - Par (e):

Retirement / Death/ Qualifying retrenchment
Column 1 - Favourable tax scale

What is Retirement:

- Pension fund - Rules of the fund
- Retirement annuity fund, Provident fund - 55 Years or Permanently incapable

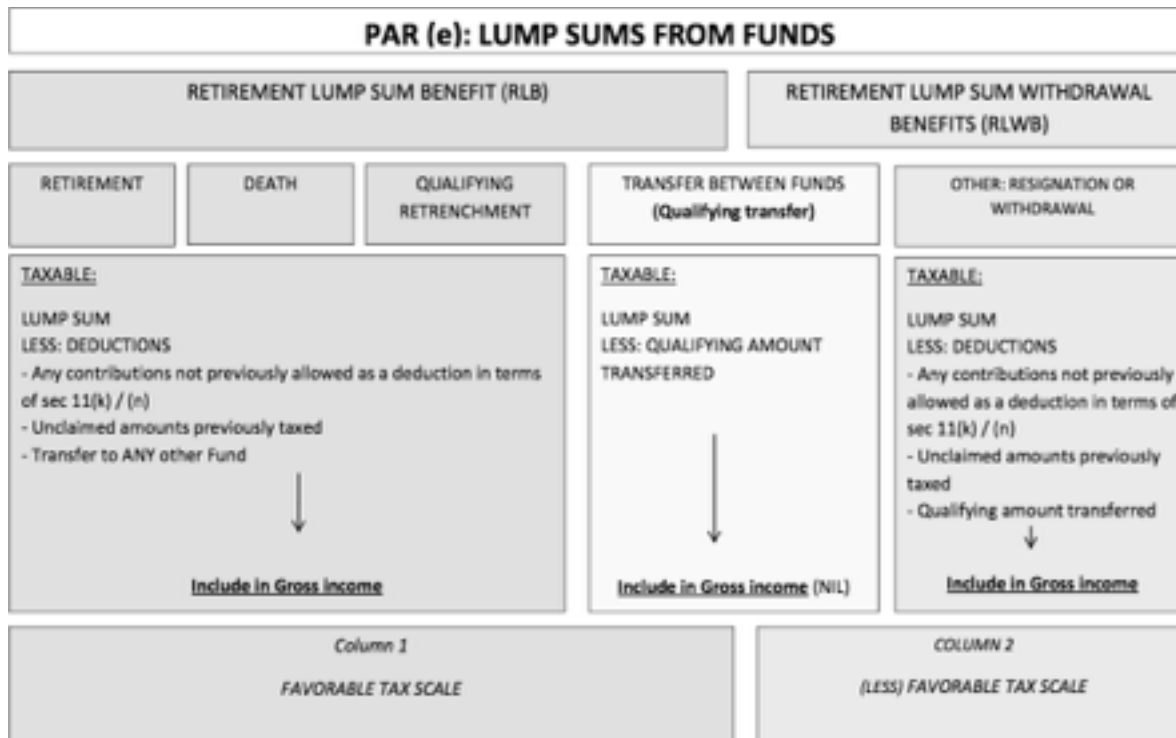
What is Qualifying Retrenchment:

Termination of service due to:

- Employer ceased to carry on or intent to cease carrying on the trade
 - **Or** Employee is redundant - general reduction in personnel/ class
- And never held more than 5% of shares in the company

The Incident Determines the Tax Treatment:

1. Retirement
2. Termination of employment or service (retrenchment)
3. Resignation
4. Death



Retirement Lump Sum Withdrawal Benefits:

Resignation/ Withdrawal

Column 2 - (less) favourable tax scale

Fund from which retirement lump sum withdrawal benefit was received	Fund to which specific transfer can be made
Pension Fund	Pension fund, Provident fund, Retirement annuity fund
Provident Fund	Pension fund, Provident fund, Retirement annuity fund
Pension Preservation Fund	Pension fund, Provident fund, Pension preservation fund, Provident preservation fund, RAF
Provident Preservation Fund	Provident fund, Pension preservation fund, Provident preservation fund, RAF
Retirement Annuity Fund	Retirement annuity fund

Using The Table Cumulatively:

1. **Aggregate current** lump sum and **all prior** lump sums
 - Prior = Pre retrenchment lump sums (On or after 01/03/2009)
 - Retirement lump sums (On or after 01/10/2007)
 - Severance benefit (On or after 01/03/2011)
2. **Apply Table** (applicable to current lump sum) to aggregate amount from 1
3. **Subtract** a **hypothetical tax** amount ‘paid’ on **prior lump sums** (calculated from the same table as 2)

Provisional Tax:

Provisional Taxpayer:

Includes:

1. Any person (other than a company) who derives by way of income any amount which does not constitute remuneration or an allowance or advance contemplated in section 8(1)
2. Any company
3. Any person who is notified by the Commissioner that he or she is a provisional taxpayer

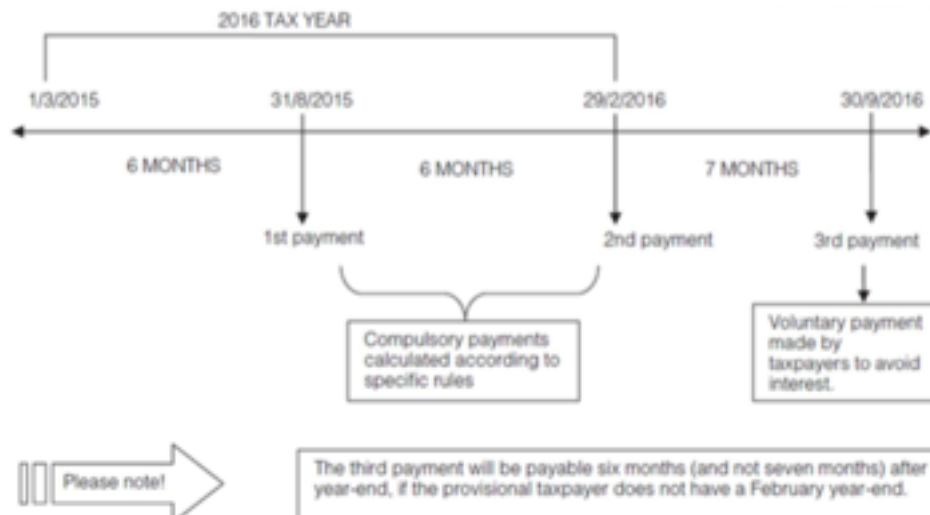
Excludes:

1. Public benefit organisations
2. Recreational club
3. Any body corporate, share block company or association of persons
4. Any person whose liability for normal tax are required to be made under section 33
5. Natural person who does not derive any income from the carrying on of any business if:
 - Taxable income does not exceed the tax threshold
 - Taxable income which is derived from interest, dividends, foreign dividends and rental of fixed property does not exceed R30 000
6. A small business funding entity
7. A deceased estate

When to Register:

Section 22(2)(a) of the Tax Administration Act - 21 business days

Overview:



Estimate of Taxable Income:

Taxpayers Estimate:

- Estimate of total taxable income in respect of the year of assessment which provisional tax is or may be payable
- Excludes retirement lump sum benefits, retirement lump sum withdrawal benefit or any severance benefit received
- May not be less than the basic amount

Basic Amount:

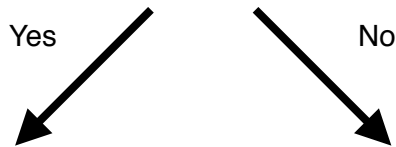
- Estimate submitted by a provisional taxpayer other than a company
 - The taxpayers taxable income as assessed by the commissioner for the latest preceding year of assessment

LESS:

- the amount of any taxable capital gain
- The taxable portion of any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit
- Any amount contemplated in Par (d) of gross income definition

Latest Preceding Year of Assessment:

Has the notice of assessment of the previous year been received not less than 14 days before submission of current estimate?



Basic Amount = Taxable
Income of Previous year
of assessment

Basic Amount = Taxable
Income in Older
Assessment

Inflate by 8% per year if:

- Current estimate made more than 18 months after end latest preceding year of assessment
- Current year of assessment ends more than 12 months after end of latest preceding year of assessment

First Payment:

Estimated Annual Taxable Income May not be less than basic amount	xxx
Tax on Estimated Taxable Income	xxx
Less: Primary/ Secondary/ Tertiary Rebate	(xxx)
Less: Section 6A and 6B Medical Credits	(xxx)
Estimated Tax Payable for the Year	xxx
Divide by 2: Tax for the First 6 Months	xxx
Less: Employees Tax for First 6 Months	(xxx)
Less: Section 6quat Credit	(xxx)
First Provisional Tax Payment	xxx

Second Payment:

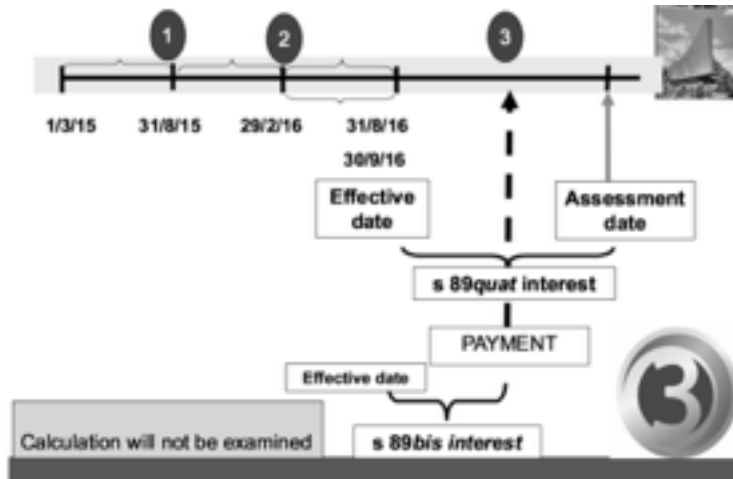
Calculate tax payable on estimated taxable income - Par20 penalty if underestimated

Estimated Annual Taxable Income May be below basic amount but risk of under estimate penalty	xxx
Tax on Estimated Taxable Income	xxx
Less: Primary/ Secondary/ Tertiary Rebate	(xxx)
Less: Section 6A and 6B Medical Credits	(xxx)
Estimated Tax Payable for the Year	xxx
Less: First Provisional Tax Payment	xxx
Less: Employees Tax for 12 Months	(xxx)
Less: Section 6quat Credit	(xxx)
Second Provisional Tax Payment	xxx

Third Payment:

Any provisional taxpayer may for the purpose of avoiding or reducing his liability for any interest which may become payable by him in respect of any year of assessment under section 89quat, elect to make an additional payment of provisional tax in respect of such year.

If any additional payment of provisional tax contemplated is paid after the end of the period ending on the effective date in relation to the said year as determined under section 89quat (1), such payment shall be deemed for the purposes of section 89bis (2) to be an amount of provisional tax which was payable within the said period.



Late Payment Penalty:

10% of the Amount not Paid

Underestimate of Second Payment Penalty:

Taxable income excludes retirement lump sum benefits, Retirement lump sum withdrawal benefits and severance benefits

Taxable Income > R 1 Million:

1. Actual taxable income > R 1 million
2. **And** estimate < 80% of actual taxable income
3. Penalty:
 - 20% of the difference between:
 - The amount of normal tax calculated at the applicable rates for the year of assessment after taking into account any rebates deductible in respect of a taxable income equal to 80% of such taxable income
 - **And** The amount of employees tax and provisional tax paid by the end of the year of assessment

Taxable Income < R 1 Million:

1. Estimate < 90% of actual taxable income
 2. **And** estimate < Basic amount of second estimate
 3. Penalty:
 - 20% of the difference between the lesser of:
 1. The amount of normal tax calculated at the applicable rates for the year of assessment after taking into account any rebates deductible in respect of a taxable income equal to 90% of such taxable income
 2. The amount of normal tax calculated in respect of a taxable income equal to such basic amount at the applicable rates after taking into account any rebates deductible un the determination of normal tax payable
 - And the amount of employees tax and provisional tax in respect of the year of assessment paid by the end of the year of assessment
-

Late Submission of Estimate Penalty:

1. The provisional taxpayer shall be deemed to have submitted an estimate of an amount of nil taxable income
 2. Unless the estimate in respect of the relevant provisional payment is submitted prior to the date of the subsequent provisional payment under paragraph 21, 23 or 23A.
-

Double Penalty:

Any penalty imposed under subparagraph (1) in respect of a year of assessment must be reduced by any penalty imposed under paragraph 27 (1) (late payment)

Capital Gains Tax and Provisional Tax:

First Payment:

1. Basic amount (excluding CGT gain in prior year and current year)
- Or**
2. Estimated taxable income (including current year's capital gain)

Second Payment:

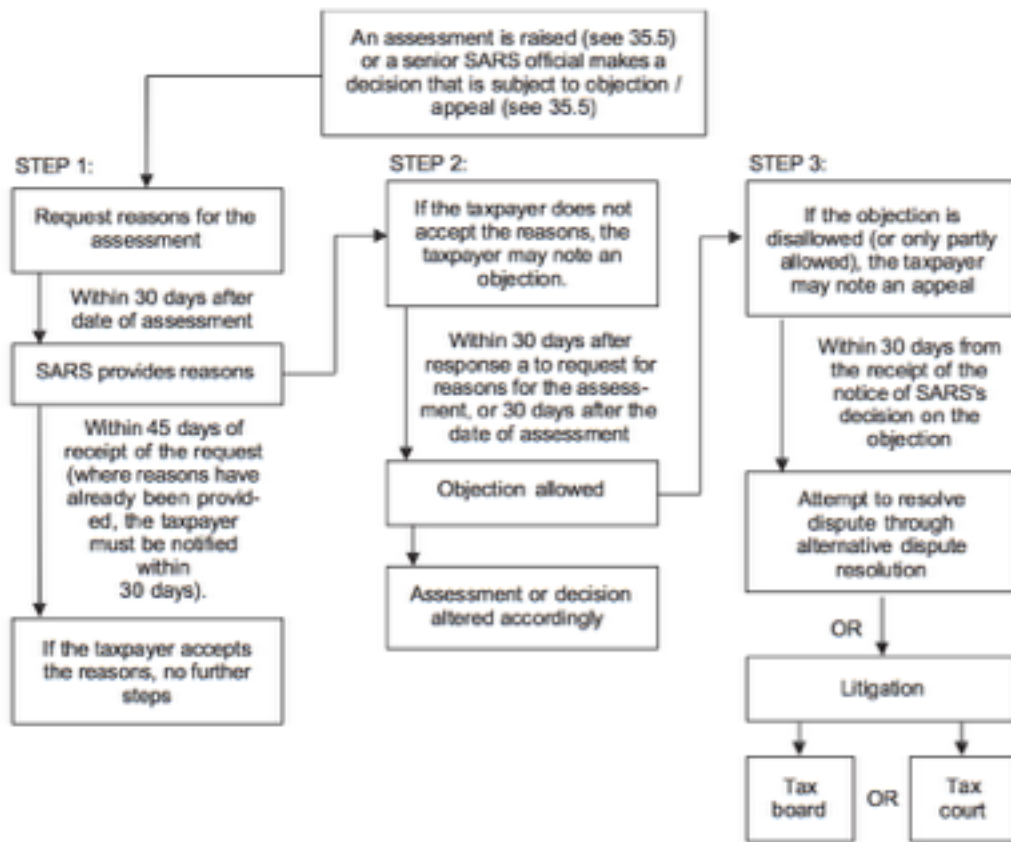
1. Basic amount (excluding CGT gain in prior year and current year)
- Or**
2. Estimated taxable income (including current year's capital gain)

Third Payment:

1. Actual taxable income (including current year's capital gain)

Objection and Appeal:

Steps in the Dispute Resolution Process:



Definitions:

Date of Assessment - TAA s1:

- By SARS: Date of issue of notice of assessment
- Self assessment:
 - Return = Date return is submitted
 - No return = Date of last payment of tax

Days- Rules of the Court:

- Rules refer to 'days'
- Days = Business days in TAA

Business Days - TAA s1:

- Excludes Saturdays, Sundays, Public Holidays and 16 December - 15 January

Reasons for Assessment - Rule 6:

- Taxpayer requests reasons for assessment within 30 days after the date of assessment
- Commissioner has:
 - 30 days to inform taxpayer if he believes no further reasons are necessary
 - 45 days after receipt of taxpayers notice to provide adequate reasons

Objection Not Satisfied - Rule 7:

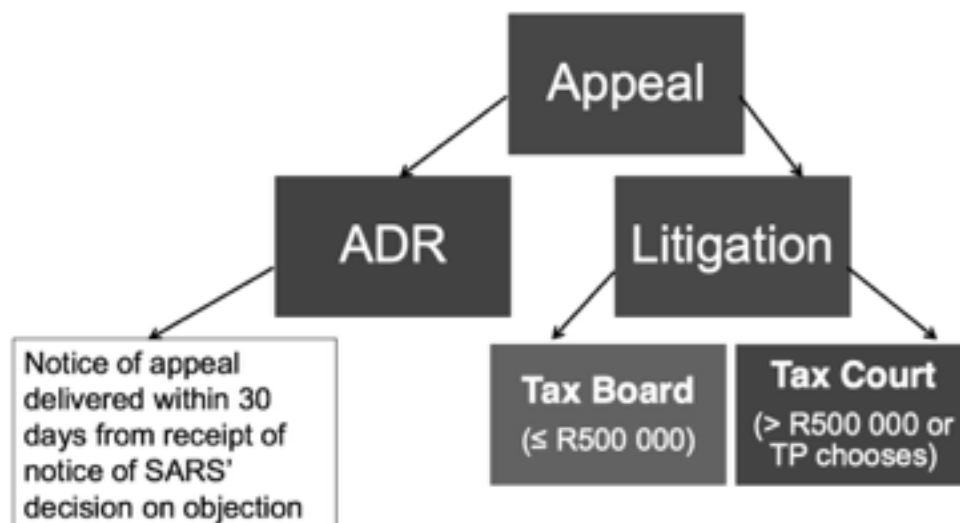
- Taxpayer is not satisfied
 - Object to assessment within 30 days after:
 - Date of assessment
 - Date of reasons/notice that reasons have already been provided
 - SARS must reply within 60 days after receipt of NOO/ADR1
-

How to Object - Rules 7 and 9:

- Prescribed forms:
 - NOO: Personal income tax, PAYE (only penalties), Corporate income taxpayers
 - ADR 1: Trusts, STC, VAT, PAYE (assessments)
 - Prescribed time
 - Detail grounds
 - Address to receive notice of decision (if not using e-filing)
 - Signed
 - Delivered to commissioner
 - 20 days to amend objection if not accepted
-

Appeal Against Assessment:

Taxpayer is not satisfied: Commissioner disallowed the objection



How to Appeal - Rule 10:

- Prescribed forms:
 - NOA: Personal income tax, Admin penalties, Corporate income taxpayers in respect of an assessed tax
 - ADR 2: Corporate income taxpayers not in NOA (ie VAT and PAYE)
- Prescribed time
- Detail grounds
- Address to receive notice of decision
- Signed
- Delivered to Commissioner

Alternative Dispute Resolution (ADR) - Rule 13:

- Mutual agreement
- Proceedings on appeal are suspended (while in ADR)
- Process:
 1. On ADR 2/NOA indicate wish to use ADR procedures
 2. Within 30 days of notice of receipt of appeal, commissioner informs taxpayer if allowed
 3. ADR proceedings must proceed within 30 days after receipt of notice of appeal
 4. ADR proceedings must be finalised 90 days after notice from commissioner that ADR is allowed
 5. Commissioner appoints person to facilitate proceedings
 6. Taxpayer/ representative (ie if taxpayer is a company) must be personally present
 7. Resolved when one party accepts another interpretation/ parties agree to settle the matter

Anti-Avoidance:

Tax Evasion:

- Illegal activities, deliberately undertaken by a taxpayer to free himself from a tax burden
 - Subject to penalties
-

Tax Avoidance:

- Arrange tax matters in a legal manner to reduce income and tax payable