

# South Africa: Investor's Handbook 2012/13



**the dti**

Department:  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

**Deloitte.**

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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## Foreword

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It is with great pride that the Department of Trade and Industry (**the dti**) and Deloitte bring you this updated edition of *South Africa: Investor's Handbook*.

South Africa has a number of characteristics that make it a compelling investment destination on the African continent. The *Handbook* provides investors with a broad overview of the social, regulatory and economic environment in which they can expect to operate, highlighting the key features and investment incentives which we believe make doing business in South Africa an attractive proposition.

It is hoped that this publication will serve as the single most comprehensive and authoritative source of information for investors, exporters and businesses arriving at our shores. Please contact us for further information and advisory support (see contact details on the left).

The Department of  
Trade and Industry (**the dti**)

**Deloitte**  
South Africa

Printed on



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## Disclaimer

Unless otherwise stated, the information in this Handbook is based on conditions that existed in August 2012. The authors accept no responsibility for any errors this guide may contain, whether caused by negligence or otherwise, or for any loss, however caused, sustained by any person that relies on the information herein. While all attempts have been made to provide up-to-date statistics and other details, this Handbook is not exhaustive and readers are advised to consult with their advisors and/or the relevant government agency.

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## Value proposition

### Why invest in South Africa?

The South Africa of today is one of the most sophisticated, diverse and promising emerging markets globally. Strategically located at the tip of the African continent, South Africa is a key investment location, both for the market opportunities that lie within its borders and for the opportunity that exists as a gateway to the rest of the continent, a market of nearly 1 billion people.

South Africa is the economic powerhouse of Africa and it was admitted to the BRIC group of countries of Brazil, Russia, India and China (now called BRICS) in 2011.

South Africa has a wealth of natural resources (including coal, platinum, coal, gold, iron ore, manganese nickel, uranium and chromium).

It has world-class infrastructure, exciting innovation, research and development capabilities and an established manufacturing base.

South Africa has sophisticated financial, legal and telecommunications sectors, and a number of global business process outsourcing (BPO) operations are located in the country.

It has political and macro-economic stability, an abundant supply of semi-skilled and unskilled labour, and it compares favourably to other emerging markets in terms of the overall cost of doing business. For professional jobs, labour costs are less than half of the cost of European countries. For

manufacturing jobs, labour costs are around one-third cost of Europe.

One of the main reasons for South Africa becoming one of the most popular trade and investment destinations in the world is due to the country ensuring that it can meet specific trade and investment requirements of prospective investors.

The South African Government has introduced wide-ranging legislation to promote training and skills development and fast-track the building of world-class skills and competences.

South Africa's unrivalled scenic beauty and reputation for delivering value-for-money make it an attractive leisure and business travel destination.

It has a favourable demographic profile and its rapidly expanding middle class has growing spending power.

The special International Headquarter Company (IHQ) regime makes South Africa an attractive location for multinational companies wanting to invest into Africa.

South Africa has a host of investment incentives and industrial financing interventions that are aimed at encouraging commercial activity, and its trade rules favour a further expansion in South Africa's burgeoning levels of international trade.

# Fast facts and quick stats about South Africa<sup>1</sup>

## Political

- According to the Open Budget Index, South Africa has the most transparent budget in the world. (*International Budget Partnership*).
- South Africa is the only African country that is a member of the Group of Twenty (G20) countries.
- In the Economist Intelligence Unit (EIU)'s Survey of Democratic Freedom, South Africa ranks 31<sup>st</sup> out of 184 countries.
- According to the Global Competitiveness Report 2011/12, South Africa is the 34<sup>th</sup> most transparent in terms of government policymaking out of the 139 countries ranked.
- WorldAudit.org ranks South Africa as the 40<sup>th</sup> least corrupt nation out of 150 nations surveyed, ahead of Italy, Turkey, Brazil and Mexico. Transparency International ranks South Africa at 52 out of 150 countries.
- WorldAudit.org ranks South Africa as the 43<sup>rd</sup> most democratic country, ahead of India, Brazil, China and Russia, out of the 150 countries surveyed. The Freedom Institute places South Africa 29<sup>th</sup>.

- South Africa ranks as the 61<sup>st</sup> strongest state out of 177 countries in the Fund for Peace's Failed State Index 2010. The index measures state vulnerability based on 12 social, economic, political and military indicators.
- South Africa ranks 52 out of 150 countries on the Transparency International corruption list where 1 is the least corrupt. (*Economist*).
- In terms of the Global Competitiveness Report 2012, South Africa's biggest improvements over the past year have been: reliability of police services (South Africa moved from 104 to 95); brain drain (South Africa moved from 62 to 48); intensity of local competition (South Africa moved from 63 to 49); availability of latest technologies (South Africa moved from 51 to 39) and Gross National Savings as a % of Gross Domestic Product (GDP) (South Africa moved from 98 to 72).
- "Personal satisfaction" with the country's democracy rose from 49% in 2008 to 60% in 2011, according to the continent-wide Afrobarometer Research Group.

## Economic

- In 2012, at 5.5%, South African interest rates were at a 30-year low.
- South African tax revenue has increased from R100 billion in 1994 to R742.7 billion in 2011/12.
- South Africa's debt to GDP ratio is 32% (USA 100%, Japan 200%, and UK 90%). The World Bank recommends a ratio of 60%.
- South Africa exported 36.9% more vehicles in 2010 than 2009. South Africa is ranked 1<sup>st</sup> out of 142 countries in respect of regulation of security exchanges, according to the World Economic Forum Global Competitiveness Report 2011/12.
- The South African stock market rose 16.09% in 2010, ranking 8<sup>th</sup> out of the G20 nations and ahead of all of the G7 countries. (*Bespoke Investment Group*).
- South Africa is ranked 1<sup>st</sup> out of 142 countries in respect of regulation of security exchanges, according to the World Economic Forum (WEF) Global Competitiveness Report 2012/13.
- South Africa is ranked 1<sup>st</sup> in respect of auditing and reporting, according to the Global Competitiveness Report 2012/13.
- South Africa's banks rank 2<sup>nd</sup> in the world for soundness, according to the Global Competitiveness Report 2012/13.
- The South African Rand was the second best performing currency against the US Dollar between 2007 and 2011, according to Bloomberg's Currency Scorecard.
- South Africa ranked 1<sup>st</sup> in platinum output, 2<sup>nd</sup> in palladium output, 3<sup>rd</sup> in gold output, 6<sup>th</sup> in coal output and 9<sup>th</sup> in wool output. (*Economist*).
- South Africa is ranked 2<sup>nd</sup> out of 183 countries for good practice in protecting both borrowers and lenders when obtaining credit for business (*World Bank Doing Business Report 2011*).
- South Africa is ranked 10<sup>th</sup> out of 183 countries for good practice in protecting investors in business (*World Bank Doing Business Report 2011*).
- South Africa ranks 7<sup>th</sup> out of 45 countries in the "Big Mac Index 2012". The price of a Big Mac is 42% less in South Africa than in the USA. In Switzerland and Norway, it is 62% more.

<sup>1</sup> South Africa - The Good News. [www.sagoodnews.co.za](http://www.sagoodnews.co.za). Retrieved August 2012.

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- The Johannesburg Stock Exchange (JSE) ranks 16<sup>th</sup> in terms of “largest market capitalisation” and 19<sup>th</sup> in terms of largest gains (*Economist*).
- South Africa ranks 28<sup>th</sup> in terms of number of cars produced and 18<sup>th</sup> in terms of number of cars sold (*Economist*).
- South Africa is ranked 35<sup>th</sup> out of 183 countries for ease of doing business, according to *Doing Business 2012*, a joint publication of the World Bank and the International Finance Corporation.
- South Africa ranks 41<sup>st</sup> out of 192 countries in the *Economist's* “Biggest Exporters Index”.
- South Africa ranked 52<sup>nd</sup> out of 142 countries in the WEF's Global Competitiveness Report 2012/13.
- South Africa ranks in the top 20 countries for agricultural output.
- MTN has been ranked Africa's most valuable brand in the “BrandZ Top 100 Most Valuable Global Brands 2012 Survey”. MTN becomes the first and only African brand to make the list, debuting at position 88 in the world.

## Tourism

- South Africa ranks 24<sup>th</sup> in terms of tourist arrivals at 11.3 million (France 79 million, UK 28 million, Switzerland 8.5 million, India 5.2 million) (*Economist*).
- Cape Town was named the top tourist destination in the world in the 2011 Travellers Choice Destination awards.
- OR Tambo airport is the best airport in Africa, according to the World Airport Awards 2010/11. It was also in the top three most improved airports in the world for the same period.
- South Africa is ranked 66<sup>th</sup> out of 139 in the WEF's Travel and Tourism Competitiveness Report 2012/13.
- According to CNNGo (CNN's travel website), Cape Town is the 9<sup>th</sup> most loved city in the world in 2012.



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## Sport

- South Africa was the first African country to host the FIFA Soccer World Cup in 2010. It is only the second country in the world to have hosted the Cricket, Rugby Union and Soccer World Cups.
- In 2009, the Springboks became the first international team to be world champions in both 15-a-side and Sevens rugby.
- South Africa is home to the world's largest individually timed cycle race (the Cape Argus Cycle Race), the world's largest open water swim (the Midmar Mile) and the world's largest ultra-marathon (the Comrades Marathon).
- Five South Africans hold the world extreme swimming world record for swimming 2.5 kms around Cape Horn.
- Since the 1940s, South African golfers have won more golf majors than any other nation, apart from the United States.
- According to the *Cricketer* magazine, Newlands in Cape Town was second best Test match venue in the world in 2012. Lords was first.



- South Africa finished the 2012 London Olympic Games as Africa's best performing country, placing 24th on the medals table. With three golds, two silvers and one bronze medal, the London Olympics were South Africa's most successful Games since the country was readmitted to the Olympic fold at the 1992 Barcelona Olympics. South African swimmer Cameron van der Burgh, 24, set a new world record for the men's 100-metre breaststroke at the 2012 London Olympic Games. His record time, 58.46 seconds, shaved 0.12 seconds off the previous record of Australia's Brenton Rickard.
- As the first amputee to compete in the Olympics athletics competition, Oscar Pistorius rewrote the book on what is possible and was one of the leading stories of the Games. Not only did he compete in the 400 metres, he also made it to the semi-finals.

## Education

- South Africa has 30 000 schools (7 000 secondary, 23 000 primary). In 1994 only 12 000 had electricity. Now 24 000 have access to electricity.
- The University of South Africa (UNISA) is a pioneer of tertiary distance education and is the largest correspondence university in the world with approximately 300 000 students.
- South Africa's learner to teacher ratio improved from 1:50 in 1994 to 1:31 in 2010.
- The University of Pretoria's Gordon Institute of Business Science (GIBS) is the highest ranked African business school and is ranked 47<sup>th</sup> overall in the world (*Financial Times Executive Education rankings 2012*).
- According to the Times Higher Education World University Rankings 2011/12, University of Cape Town (UCT) is ranked the 103<sup>rd</sup> best university in the world. Stellenbosch is ranked 268 and Wits 274.
- According to the Global Competitiveness Report 2011/12, South Africa is ranked 13<sup>th</sup> out of 142 countries for its quality of management schools.

- 61% of South African primary school children and 30% of high school children receive free food as part of the school feeding scheme.

- The first Master of Business Administration (MBA) programme outside of the US was started by the University of Pretoria in 1949.
- Stellenbosch University was the first African university in the world to design and launch a microsatellite.
- 297 new Early Childhood Development (ECD) centres have been set up and registered in the first quarter of 2011.

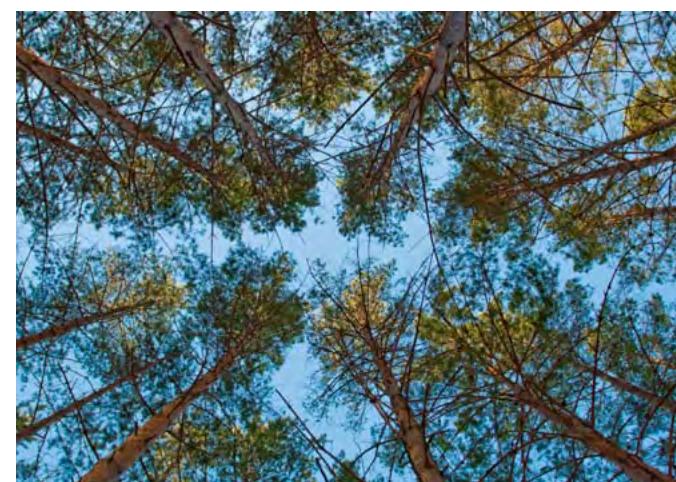


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## Environmental

- In 1991, South Africa became the first country in the world to provide full protection status for the Great White shark within its jurisdictional waters. Countries including the USA, Australia, Malta and Namibia followed suit later.
- In 2011, Cape Town was considered to have the 5<sup>th</sup> best Blue Sky in the world, according to the UK's National Physical Laboratory.
- Johannesburg ranked 2<sup>nd</sup> among countries from Asia-Pacific, Middle East and Africa in dealing with urbanisation and environmental challenges in 2011, in the MasterCard Insights Report on Urbanisation and Environmental Challenges.
- South Africa is the only country to house an entire floral kingdom (fynbos), one of only six on the planet.
- The Vredefort Dome (or Vredefort crater) in the Free State is the largest verified impact crater on Earth at between 250 km and 300 km in diameter and is estimated to be over 2 billion years old.

- South Africa has the highest level of international certification of its tree plantations in the world. Over 80% of South African plantations are certified by the Forest Stewardship Council (FSC). (*Paper Manufacturers Association of South Africa*).
- All paper in South Africa is produced from plantation grown trees, recycled paper or bagasse (sugar cane fibre). Fibre is not sourced from the wood of rainforests, indigenous or boreal trees. This is a myth, often wrongfully perpetuated by e-mail footnotes (*Paper Manufacturers Association of South Africa*).
- The proportion of the South African population using improved drinking water sources was 91% in 2010, up from 83% in 1990 (WHO/UNICEF, March 2012).



## Social and infrastructure

- South Africa's population is the 27<sup>th</sup> largest in the world (there are 230 countries, only 80 have a population in excess of 10 million).
- The current police to population ratio is approximately 1:308 (South African Police Service (SAPS) - April 2011). This ranks South Africa as the 9<sup>th</sup> best.
- There are 195 000 in the employ of SAPS. There are 411 000 in the employ of private security companies. Total 606 000. Divide by 49 000 000. Conclusion: for every 80 citizens there is someone looking after some or other aspect of safety and security. Or put differently, 1 250 security officials per 100 000 citizens (*Business Day*).
- The percentage of the South African population with access to clean drinking water increased from 62% in 1994 to 93% in 2011. Access to electricity increased from 34% in 1994 to 84% in 2011.
- In 2010, 13.5 million South Africans benefited from access to social grants, 8.5 million of which were children, 3.5 million pensioners and 1.5 million with disabilities. In 1994, only 2.5 million people had access to social grants, the majority of which were pensioners.
- Since 1994, 435 houses have been built each day for the poor.
- Two South African cities were voted among the world's "Top 100 Most Liveable Cities" in the 2010 study conducted by Mercer Human Resource Consulting. Cape Town was ranked 86<sup>th</sup> and Johannesburg 90<sup>th</sup>.
- South Africa ranks 8<sup>th</sup> out of 142 countries on the Legal Rights Index (*Global Competitiveness Report 2011*).
- South Africa ranks 30<sup>th</sup> out of 142 countries on property rights (*Global Competitiveness Report*).
- Johannesburg is ranked as the 87<sup>th</sup> largest city in the world. Tokyo is the largest with a population of 36 million (*Economist*).
- South Africa ranked 34 out of 192 countries in terms of infrastructure and 12<sup>th</sup> for our rail network.
- South African media ranks 38<sup>th</sup> out of 178 countries in the Worldwide Press Freedom Index 2010, higher than France, Italy, Spain, Portugal and all of the other BRICS countries.



- Out of 230 cities surveyed around the world, Johannesburg ranks the 151<sup>st</sup> and Cape Town the 171<sup>st</sup> most expensive city for expatriates to live in, according to the 2010 Cost of Living Standards Survey from Mercer Human Resource Consulting, ahead of Tokyo (2), Moscow (4), Hong Kong (8), London (17), Paris (17), Tel Aviv (19), Sao Paulo (21), Sydney (24), Rome (26), New York (27), Dubai (55) and Auckland (149).
- South Africa is the 19<sup>th</sup> largest producer of energy (*Economist*).
- South Africa has the 17<sup>th</sup> longest road network in the world and ranks 29<sup>th</sup> in terms of most used, but does not feature in terms of most crowded (*Economist*).
- South Africa ranks 25<sup>th</sup> in terms of most air travel (*Economist*).
- According to the Minister of Rural Development and Land Reform, Gugile Nkwinti, 90% of the land re-distributed to emerging farmers (approximately 930 farms) is lying fallow and unproductive.
- South Africa's rail network was ranked 11<sup>th</sup> in terms of longest networks and 9<sup>th</sup> in terms of millions of tons per km transported in 2012/13. (*Economist*).
- South Africa ranks 24<sup>th</sup> in terms of lowest divorce rate per 100 000 of population. (*Economist*).

### Miscellaneous

- South Africa has 11 official, state-wide languages, more than any other country.
- The only street in the world to house two Nobel Peace Prize winners is in Soweto. Nelson Mandela and Archbishop Desmond Tutu both have houses in Vilakazi Street, Orlando West. South Africa ranks 7<sup>th</sup> in terms of number of Nobel Peace prizes (*Economist*).
- Two of the world's most profoundly compassionate philosophies originated in South Africa: "ubuntu" (the belief in a universal bond of sharing that connects all humanity) and Gandhi's notion of "passive resistance" (*Satyagraha*), which he developed while living in South Africa.
- The Western Deep Level Mines are the world's deepest mines at approaching 4km.
- South Africa houses one of the three largest telescopes in the world at Sutherland in the Karoo.
- South Africa is the first (and to date only) country to build nuclear weapons and then voluntarily dismantle its entire nuclear weapons programme.
- South Africa rank 12<sup>th</sup> in terms of beer consumption (China 1, USA 2, Russia 3, Brazil 4 and Germany 5).
- South Africa has 45 million active cell phones (population 49 million), ranking in the top five globally in terms of cell phone coverage.
- South Africa has 66 colour TVs per 100 households, nine telephone lines per 100 population and 90 mobile telephone subscribers per 100 population (*Economist*).
- Two Cape Town restaurants are in the top 50 restaurants in the world according to the S.Pellegrino World's 50 Best Restaurants list 2010. La Colombe restaurant in Constantia, Cape Town, was voted the 12<sup>th</sup> best and Le Quartier Francais in Franschhoek came in at 31.
- South Africa has 8.5 computers per 100 population (UK 80, Spain 40, South Korea 47 and USA 80) (*Economist*).
- South Africa ranks 31<sup>st</sup> in terms of internet users per 1000 population (*Economist*).
- South Africa ranks 16<sup>th</sup> in terms of cinema visits per 1000 population (*Economist*).
- South Africa does not feature on the "brain drain" list of 20 countries (*Economist*).

## General information about South Africa



### Introduction<sup>2,3</sup>

The Republic of South Africa (also referred to as South Africa, SA or RSA) is a state in Southern Africa. It is a parliamentary republic comprising nine provinces which is located at the Southern tip of Africa.

South Africa is a constitutional democracy in the form of a parliamentary republic. It is one of the founding members of the African Union, and has the largest economy of all the members. It is also a founding member of the United Nations (UN) and NEPAD. South Africa is a member of the Commonwealth of Nations, Antarctic Treaty System, Southern African Development Community, South Atlantic Peace and Cooperation Zone, Southern African Customs Union, World Trade Organization, International Monetary Fund, Group of 77, G20, G8+5 and BRICS.

South Africa is known for diversity in cultures and languages. About 79.5% of the South African population is of black African ancestry divided among a variety of ethnic groups speaking different languages, nine of which have official status. South Africa also contains the largest communities of European, Asian, and racially mixed ancestry in Africa.

<sup>2</sup> [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa).

<sup>3</sup> SouthAfrica.info. <http://www.southafrica.info/about/facts.htm>. Retrieved August 2012

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### Official Name

Republic of South Africa.

### Capitals

Cape Town (legislative), Pretoria (administrative), Bloemfontein (judicial).

### Head of State

Mr Jacob Gedleyihlekisa Zuma - elected President of South Africa in 2009.

### Form of State

Federal, comprising a central government and nine provincial governments.

### Measures

Metric system.

### Electricity current

220 / 230 Volts AC50HZ.

### Time

GMT + 2 hours.

### Corporate information

(Business hours - a broadly based guideline).

Monday to Friday 08h00 to 17h00

Saturday 08h30 to 13h00

In metropolitan areas many large department stores are open until 17h00 and sometimes later on weekdays, and on Saturdays and Sundays from 09h00 to 13h00 (sometimes later).

### Fiscal year

1 March to 28 February.

### Banking hours

Monday to Friday 08h30 to 15h30

Saturday 08h00 to 11h00

The last working day of each month 08h30 to 15h30. Cash is readily available from Autoteller Machines (ATMs) 24 hours a day.

### Currency

The monetary unit is the South African Rand (Rand), equivalent to 100 cents (international symbol ZAR).

### Bank note denominations:

R200, R100, R50, R20, R10.

### Coin denominations:

R5, R2, R1, 50c, 20c, 10c, 5c.

### Public holidays 2012 / 2013<sup>4</sup>

1 May (Workers Day)

16 June (Youth Day)

9 August (National Women's Day)

10 August (School Holiday)

24 September (Heritage Day)

16 December (Day of Reconciliation)

17 December (Public Holiday)

25 December (Christmas Day)

26 December (Day of Goodwill)

1 January 2013 (New Year's Day)

21 March 2013 (Human Rights' Day)

22 March 2013 (School Holiday – Coastal)

29 March 2013 (Good Friday)

1 April 2013 (Family Day)

27 April 2013 (Freedom Day)

### Geography

South Africa is divided into nine provinces covering 1 221 037 km<sup>2</sup> (471 443 miles<sup>2</sup>).

Broadly speaking, South Africa comprises two main regions: an inland plateau fringed by coastal plain on three sides. The main industrial and commercial areas are centred in Cape Town, Durban, Johannesburg and Pretoria. The main harbours are Durban, Cape Town, Port Elizabeth, East London, Richard's Bay and Saldanha Bay. There are no commercially navigable rivers.

### Climate

Temperate, warm and sunny.

Summer 15°C to 35°C. Winter 0°C to 20°C.

Overall, dry. Annual rainfall, 464mm; world average, 857mm.

### Economic region

Sub-Saharan Africa.

### Official languages

Eleven official languages: Afrikaans, English, Ndebele, Sepedi, Sesotho, Seswati, Setswana, Tsonga, Venda, Xhosa and Zulu. Though English is commonly used in public and commercial life, it is only the fifth most-spoken home language. English is the business language.<sup>5</sup>

### Population<sup>6,7</sup>

Population 48.81 million (July 2012 estimate).

(44.8 million (Oct 2001 census)).

(Mid-2011 estimate: 50.6 million).

(Country comparison to the world: 26).

Growth rate: 0.412% (2012 estimate).

(Country comparison to the world: 217).



<sup>4</sup>The Public Holidays Act (Act No 36 of 1994) determines whenever any public holiday falls on a Sunday, the Monday following on it shall be a public holiday.

<sup>5</sup> [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa).

<sup>6</sup> Statistics South Africa website.

<sup>7</sup> World Bank Development Indicators Database. 2012.

## World Bank Indicators - Population

Economy <sup>8</sup>	
Completeness of birth registration (%) in South Africa	91.8
Death rate; crude (per 1,000 people) in South Africa	15.2
Age dependency ratio; old (% of working-age population) in South Africa	6.8
Age dependency ratio (% of working-age population) in South Africa	54.1
Age dependency ratio; young (% of working-age population) in South Africa	47.3
Birth rate; crude (per 1,000 people) in South Africa	21.8
Population ages 0-14 (% of total) in South Africa	30.7
Population ages 15-64 (% of total) in South Africa	64.9
Population ages 65 and above (% of total) in South Africa	4.4
Population female (% of total) in South Africa	50.6
Population growth (annual %) in South Africa	1.1

**Economy<sup>8</sup>**

Mixed economy, upper middle-income, emerging market. (Ranked 76<sup>th</sup> in the world in terms of GDP (PPP) in 2012/13 and considered a newly industrialised country).

Abundant supply of resources, well-developed financial, legal, communications, energy, and transport sectors, a stock exchange that ranks among the top twenty in the world and a modern infrastructure supporting an efficient distribution of goods to major urban centres throughout the entire region. Largest energy producer and consumer on the continent.

The South African Rand has in recent years been the most actively traded emerging market currency in the world. Principal international trading partners of South Africa (besides other African countries) include China, the USA, Germany, Japan, and the UK.

Main exports are metals and minerals. Machinery and transportation equipment make up more than one-third of the value of the country's imports. Other imports include automobiles, chemicals, manufactured goods and petroleum.

## Infrastructure<sup>9</sup>

South Africa has a modern and well-developed transport infrastructure. The roads are world-class. The air and rail networks are the largest on the continent and the country's ports provide a natural stopover for shipping to and from Europe, the Americas, Asia, Australasia and both coasts of Africa.

The transport sector has been highlighted by the Government as a key contributor to South Africa's competitiveness in global markets. It is increasingly being seen a crucial engine for economic growth and social development, and the Government has unveiled plans to spend billions of Rands to improve the country's roads, railways and ports.

To help boost private investment in South Africa's transport industry, the Department of Transport and the Treasury intends creating a single economic regulator within the next two years. The new regulator would provide certainty by overseeing the pricing of all transport infrastructure, including road, rail, maritime and aviation infrastructure.



<sup>8</sup> [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa).

<sup>9</sup> Sources: [www.thedi.gov.za](http://www.thedi.gov.za); [www.southafrica.info](http://www.southafrica.info).

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## Ports and shipping

Major shipping lanes pass along the South African coastline in the South Atlantic and Indian oceans. Approximately 96% of the country's exports are conveyed by sea, and the eight commercial ports are the conduits for trade between South Africa and its Southern African partners, as well as hubs for traffic to and from Europe, Asia, the Americas and the east and west coasts of Africa.

The state-owned Transnet National Ports Authority manages the country's ports. These are: Richards Bay and Durban in KwaZulu-Natal; East London, Port Elizabeth and the Port of Ngqura in the Eastern Cape; and Mossel Bay, Cape Town and Saldanha in the Western Cape. Durban is Africa's busiest port and the largest container facility in Southern Africa, while Richard's Bay is the world's largest bulk coal terminal.

According to reports, South Africa's official port operator, Transnet Port Terminals (TPT), has committed capital expenditure of R33 billion (US\$4.3 billion) over the next seven years to encourage economic growth and efficiencies in its port terminal management.<sup>10</sup>

## Roads

South Africa's total road network is about 754 000 km, of which over 70 000 km are paved or surfaced roads.

While the Department of Transport is responsible for overall policy, road-building and maintenance is the responsibility of the South African National Roads Agency (SANRAL), as well as the nine provinces and local governments. SANRAL is responsible for the country's network of national roads, which grew to over 20 000 km and an estimated value of over R40 billion in 2010.

Around 3 000 km of the national roads are toll roads. About 1 800 km of these are maintained by SANRAL, while the rest have been concessioned to private companies to develop, operate and maintain.

A multi-billion Rand freeway improvement scheme has significantly eased congestion on the roads in Gauteng, the country's busiest province.

## Railways

South Africa has an extensive rail network (ranked the 11<sup>th</sup> longest in the world) connecting with networks in the Sub-Saharan region. The country's rail infrastructure, which connects the ports with the rest of South Africa, represents about 80% of Africa's total.

Metrorail commuter services can be found in Cape Town, the Eastern Cape Province, Durban, and greater Johannesburg and Pretoria, focusing mainly on poorer South Africans.



Tourists and well-heeled passengers can travel on the Blue Train, one of the world's most famous luxury trains, while Shosholoza Meyl transports passengers between the country's major cities.

South Africa has also opened the door to private rail operators, with Transnet calling for private sector companies to operate branch railway lines, or feeder lines, which comprise some 35% of the country's national rail network. In his 2011 National Budget Speech, Finance Minister Pravin Gordhan announced an 18-year R86 billion programme to upgrade the country's rail transport infrastructure.

The Government has taken the safety of passengers seriously, increasing the number of railway police officers and building rail police stations in several stations in the Western Cape, KwaZulu-Natal and Gauteng. The Government also created a new rail and bus operator, the Passenger Rail Agency of South Africa (Prasa), by merging the operations of the South African Rail Commuter Corporation, Metrorail, Shosholoza Meyl and Autopax, the company that runs the Translux and City-to-City buses.

## Gautrain rapid rail link

The Gautrain is an 80 km rapid railway system in Gauteng, South Africa, which links Johannesburg, Pretoria and OR Tambo International Airport. This railway is intended to relieve the traffic congestion in

the Johannesburg-Pretoria traffic corridor and offer commuters a safe and viable alternative to road travel as Johannesburg has limited public transport infrastructure.<sup>11</sup>

The train offers international standards of public transport travelling at maximum speeds of 160 to 180 km per hour it will reach Pretoria from Johannesburg in less than 40 minutes. The minimum frequency between Johannesburg and Pretoria will initially be six trains per hour per direction and it will operate approximately 18 hours per day.

There are 10 stations, three of which are underground. The three main stations ("anchor stations") include: Johannesburg Park Station, OR Tambo International Airport and Pretoria. Other stations include: Centurion, Hatfield, Marlboro, Midrand, Rhodesfield, Rosebank and Sandton etc.

Secondary transport to and from stations and nearby destinations is provided by luxury buses. The trip between the airport and Sandton station will take less than 15 minutes. This purpose-designed service brings Gauteng in line with global practice which links cities by rail to international airports.<sup>12</sup>

The project was announced in 2000, before South Africa won the rights to host the 2010 FIFA World Cup, and in 2006 the province signed a 20-year Public Private Partnership (PPP)

<sup>10</sup> <http://www.sagoodnews.co.za/infrastructure/index.php>

<sup>11</sup> Business Report, 28 July 2011. <http://www.iol.co.za/business/business-news/gautrain-joburg-to-pretoria-line-ready-1.1107888>. Retrieved 28 July 2011.

contract with the Bombela Concession Co. Consortium, which includes Murray & Roberts, empowerment organisation Strategic Partners Group, Bombardier, Bouygues and various minority shareholders.<sup>13</sup> The Project is now managed as part of the Gauteng Department of Transport. Gautrain was initiated as one of 11 Blue IQ projects of the Gauteng Provincial Government (GPG).<sup>14</sup>

The first phase, the section between the airport, Sandton and Midrand, was completed in mid-2010, and by the end of September 2010, the Gautrain had transported a million passengers. The second phase (i.e. the line from Johannesburg to Pretoria) was completed and ready for commercial use by June 2011.

#### Airports and airlines

South Africa's main airport is OR Tambo (Johannesburg) International, and Cape Town International is the secondary airport. Other international airports – which do not handle intercontinental flights – include Durban International, Kruger Mpumalanga International Airport, Mafikeng International and Eastgate.<sup>15</sup> The smaller airports (i.e. Bloemfontein, Port Elizabeth, East London, George, Kimberly, Pilansberg and Upington) handle only domestic flights. The 10 airports are run by Airports Company South Africa (ACSA), and handle over 98% of the country's commercial air traffic.

South Africa's airports are not only for air travellers. OR Tambo International, for instance, is host to about 20 000 people who go to work there every day to provide the multiple services that tend to be taken for granted when visiting an airport. South Africa's airports are also the heart of a network of transport arteries for cars, trucks, buses, taxis and trains. Travellers are often accompanied by "meeters and greeters", adding to the community that goes to an airport to eat, drink, to browse in the shops, refresh and relax, and, of course, to fly.<sup>16</sup>

ACSA invested about R20 billion in South Africa's airports in the run-up to the 2010 FIFA World Cup, with major upgrades to Johannesburg's OR Tambo International Airport and Cape Town International Airport. The old Durban International Airport was replaced by King Shaka International Airport to the north of Durban, built at a cost of R7.9 billion. 21 Air traffic control centres, run by Air Traffic and Navigation Services, support operations that cover 145 licenced airports with paved runways and more than 580 aerodromes with unpaved runways. In 2009, 62 airlines, making 274 000 aircraft landings and carrying 16.5 million passengers (counting departures only), moved through South Africa's 10 principal airports.

The Airports Council International named Cape Town International the best airport in Africa in 2011. OR Tambo International is Africa's busiest airport and was named third best and King Shaka International fourth best airport on the continent.

South African Airways (SAA) is the largest air carrier in Africa, with connections to more than 20 cities across the continent. SAA also offers its customers 975 destinations in 162 countries and 18 100 flights daily.

#### World heritage sites

There are eight UNESCO World Heritage Sites in South Africa; namely:

<sup>17</sup>

- iSimangaliso Wetland Park (KwaZulu-Natal: cultural heritage).
- Robben Island (Western Cape: cultural heritage).
- Cradle of Humankind (Gauteng: cultural heritage).
- uKhahlamba Drakensberg Park (KwaZulu-Natal: mixed heritage).
- Mapungubwe Cultural Landscape (Limpopo: cultural heritage).
- Cape Floral Region (Western and Eastern Cape: natural heritage).
- Vredefort Dome (Free State: natural heritage).
- Richtersveld Cultural and Botanical Landscape (Northern Cape: cultural heritage).



<sup>12</sup> <http://www.gautrain.co.za/about/about-gautrain/gautrain/>

<sup>13</sup> [Railwaygazette.com](http://www.railwaygazette.com).

<sup>14</sup> <http://www.gautrain.co.za/about/about-gautrain/gautrain/>

<sup>15</sup> <http://www.southafrica.org.za/south-africa-info-airport-infrastructure.html>

<sup>16</sup> <http://www.acsa.co.za/home.asp?pid=53>

<sup>17</sup> <http://www.southafrica.net/sat/content/en/za/travel-tips-detail?oid=13515&sn=Detail&pid=156>

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## Art, culture and sport

### Art and culture <sup>19</sup>

The arts and culture of South Africa is as rich and diverse as the country itself. From music, dance, and literature to South African theatre, the country is more than a cultural hub. It is the abode of some of the most ancient and finest art in the world.

The Department of Arts and Culture of South Africa endeavours to safeguard and develop the country's cultural, artistic and linguistic heritage.

Interesting websites to visit are those of the Department of Arts and Culture (<http://www.dac.gov.za>) and Science and Technology (<http://www.dst.gov.za>) and the South African National Gallery (<http://www.iziko.org.za/sang>).<sup>20</sup>

**South African arts** - Historically speaking, the art community makes up a very small percentage of the total population due to limited education. With the lifting of the cultural boycott towards the end of the century, the South African artists got recognition in the international art world. Today South Africa is a storehouse of the oldest and finest rock paintings in the world in addition to the contemporary masterpieces and other works of arts and crafts that the country can be proud of. During the apartheid era, there was a huge diversity in South African art.

**South African music** - South African music is characterised by a fusion of local ideas with influences from other countries. Right from the days of colonisation, the indigenous people of the country were influenced by the Westerners and adopted their musical instruments and ideas. Today several pop and rock musicians have made their mark in the world of international music. Traditional music like Kwela of the forties and fifties are being redefined and even house music and techno-raves have found their individual variations in the local music culture.

**South African dance** - South Africa possesses a long tradition of fine classical ballet with the oldest dance company being the Cape Town City Ballet. In the post-apartheid era in South Africa, dance has attained the status of the primary means of artistic expressions. South African dance is characterised by its vitality and has gained much international acclaim. An increasing number of dance companies and choreographers are being invited overseas to perform at different festivals. Contemporary dance companies of South Africa include: Jazzart Dance Theatre (Cape Town), Free Flight Company (Johannesburg), Moving Into Dance (MID)- (Mophatong), the Soweto Dance Company, the Napac and Pact Dance Companies.

**South African theatre** - South Africa offers an endless variety of theatrical

experiences, ranging from the indigenous drama, dance, music and cabaret to the classical opera, ballet, West End and Broadway hits. South African theatre has an international reputation for being unique and top class. Major performing arts companies in South Africa include: State Theatre in Pretoria, Playhouse Company in Durban, ArtsCape in Cape Town, Market Theatre and Windybrow Theatre in Johannesburg.

**South African literature** - South Africa has some great writers and poets whose literary outputs have been acclaimed worldwide and have also won several major awards. These authors and poets have contributed greatly towards enriching the English literature. Renowned literary geniuses of South Africa include: Alan Paton, JM Coetzee, Allister Sparks, Nadine Gordimer and Zakes Mda.

### Sport <sup>21</sup>

Sports in South Africa have a passionate following, although remaining largely divided on ethnic lines.

Football (or "soccer" as it is known in South Africa) is the most popular sport in South Africa. It used to be the "Cinderella" sport in the days of apartheid and reflects the country's history and the struggle for democracy.<sup>22</sup> South Africa's soccer team is called "Bafana Bafana". South Africa hosted the 2010 FIFA World Cup, the first one hosted in Africa.

Cricket is the second most popular sport in South Africa. The national cricket team is nicknamed the "Proteas".

Other popular sports include: rugby union, boxing, hockey, surfing, netball and running. Rugby union is a popular sport among Afrikaners. The national rugby union team is nicknamed the "Springboks".

South Africa's sporting achievements goes wider than the "big three" sports, however. In a country of magnificent golf courses, for example, South Africa has bred some world-beating stars including Bobby Locke, Gary Player, Ernie Els, Retief Goosen, Trevor Immelman, Charl Schwartzel, Louis Oosthuizen and others. South Africa has also bred world champions among our swimmers, athletes, surfers, boxers, tennis players and more.<sup>23</sup>

South Africa was absent from international sport for most of the apartheid era due to sanctions, but started competing globally after the country's white electorate voted in a referendum in favour of a negotiated settlement of the apartheid question. The South African Government and SASCOC have been striving to improve the participation of the previously excluded majority in competitive sports.

<sup>19</sup> [123independenceday.com](http://123independenceday.com)

<sup>20</sup> [http://old.southafrica.co.za/coming\\_to\\_sa\\_37.html](http://old.southafrica.co.za/coming_to_sa_37.html)

<sup>21</sup> [http://en.wikipedia.org/wiki/Sport\\_in\\_South\\_Africa](http://en.wikipedia.org/wiki/Sport_in_South_Africa)

<sup>22</sup> <http://www.safarinow.com/cms/sport-in-south-africa/irie.aspx>

<sup>23</sup> <http://www.southafrica.info/about/sport/sportsa.htm>

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## Food and drink<sup>24,25</sup>

South Africa has a fantastic culinary tradition and its wines are famous throughout the world. The cuisine of South Africa is sometimes called "rainbow cuisine", as it has had a variety of multicultural sources and stages. The cuisine can be generalised as:

- Cookery practised by indigenous people of Africa such as the Sotho and Nguni-speaking people.
- Cookery that emerged from several waves of colonialisation and immigration introduced during the colonial period by people of Dutch, German, French and Indonesian descent (since 1652) Afrikaner, British descent (since 1805 and 1820 Settlers) and their slaves or servants. This includes the cuisine of the so-called Cape Malay people, which has many characteristics of Indonesia and cooking styles from neighbouring colonial cultures such as Portuguese Mozambique.
- South Africa also has a significant "eating out" culture. While there are some restaurants that specialise in traditional South African dishes or modern interpretations thereof, restaurants featuring other cuisines such as Moroccan, Chinese, West African, Congolese and Japanese can be found in all of the major cities and many of the larger towns. In addition, there are also a large number of home-grown chain restaurants, such as Spur and Dulce Cafe.
- There is also a proliferation of fast food restaurants in South Africa. While there are some international players such as McDonald's and Kentucky Fried Chicken active in the country, they face stiff competition from local chains such as Nando's and Steers. Many of the restaurant chains originating from South Africa have also expanded successfully outside the borders of the country.
- Typical South African foods and dishes include: Amasi, sour milk, mealie pap, biltong, biryani and bobotie, chutney, frikkadelle (meatballs), koeksisters, milktart, pumpkin fritters, potjiekos, rusks, tomato bredie, vetkoek and waterblommetjie bredie (water flower stew).
- Wine made from imported grape varieties such as chenin blanc, chardonnay, merlot and shiraz has been made in the Western Cape for three centuries. Two local specialities are Muscat d'alexandrie (made from hanepoot), a sweet dessert wine, and Pinotage, a uniquely South African cultivar developed from pinot noir and cinsaut (hermitage) grapes.
- South Africans are also prolific beer drinkers, especially when eating outdoors or watching sport. Maheu, a sorghum-based beer, is widely drunk in shebeens and beer halls.

<sup>24</sup> [http://en.wikipedia.org/wiki/South\\_African\\_cuisine](http://en.wikipedia.org/wiki/South_African_cuisine)

<sup>25</sup> <http://www.zuidafrika.nl/food-and-drink>

## Education<sup>26</sup>

South Africa's Constitution guarantees equality and non-discrimination, cultural freedom and diversity, the right to basic education for all and equal access to educational institutions.

The majority of pupils in South Africa attend government-assisted schools, under a single national system which is organised and managed on the basis of nine provincial sub-systems. However, private schools run by church denominations or private enterprises are an important feature of the educational system. Private school pupils generally follow the same syllabuses as their fellow pupils in government schools. The school year commences in January and ends in December.

During a child's school career, he/she will probably attend the following schools:

- Pre-primary: To become compulsory between six and seven in the near future.
- Primary: It is compulsory for children to start in the year they turn seven. Primary education usually takes seven years to complete.
- Secondary: This usually takes five years and most subjects can be taken on the higher or standard level (grade).

- Post-school and tertiary training: Provided countrywide by numerous universities, technical colleges, numerous teacher training colleges and a number of other institutions. UNISA offers correspondence courses world-wide.



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## Law

South African law is founded on the Roman-Dutch law, although aspects of our law (particularly the company laws and the law of evidence) have been heavily influenced by English law. General commercial legal practices relating to transactions and the drafting of commercial agreements are generally globally applicable and in line with developed countries.

There is a world-class and modern Constitution (including a Bill of Rights) in place which regulates human rights and all legislation.

Trade and industry is undertaken within the framework of a free enterprise economy. The courts are open to foreigners on exactly the same terms and conditions as South African citizens, although many commercial disputes are resolved through arbitration by agreement between the parties.

### Industrial relations

Any foreign employees working in South Africa for a South African employer will be protected by South African employment laws. The employment relationship will, therefore, be governed and regulated by South African employment law.

Trade unions remain an important force in South Africa, active in most industries, representing about 25% of the work force. The Congress of South African Trade Unions (COSATU) is the largest of three major trade union centres (COSATU, FEDUSA and NACTU) in South Africa.<sup>27</sup> A list of registered trade unions can be accessed at: [www.workinfo.com/registeredtradeunions.htm](http://www.workinfo.com/registeredtradeunions.htm) or [www.labourguide.co.za/general/registered-trade-unions-in-South-Africa](http://www.labourguide.co.za/general/registered-trade-unions-in-South-Africa).

Collective bargaining is regulated by the Labour Relations Act. The Labour Relations Act 66 of 1995 (the Act) promotes collective bargaining and, in particular, sectoral level collective bargaining, as the desired method of setting wages and conditions of employment. The Act strongly promotes centralised bargaining at industrial or sectoral level. Most collective bargaining occurs at employer level, but some industries are regulated by industry level bargaining councils where bargaining between employer and employee organisations will take place.

The Labour Relations Act also regulates and deals with dismissals or termination of employment, which must be both substantively and procedurally fair. Minimum terms and conditions of employment on the other hand is regulated by the Basic Conditions of Employment Act 75 of 1997.

### Immigration - Visas and permits<sup>28</sup>

South Africa's immigration system is regulated by the Immigration Act of 2002. This Act ensures that access to foreigners is granted in order to promote economic growth, while at the same time ensuring that security considerations are fully satisfied. An amendment Bill has been presented to amend the classes of work permits and a number of other administrative measures. These amendments are expected to be in place in early 2013. It is important to consult the Department of Home Affairs website ([www.dha.gov.za](http://www.dha.gov.za)) or offices for the latest regulations.

Currently the Act sets out the categories of permits available. There are three basic components to the South African system: visas, temporary residence permits and permanent residence permits.

In order to determine which would be the most suitable permit class to apply for, the applicant must approach a reputable immigration practitioner, the nearest South African embassy or the Department of Home Affairs in South Africa.

<sup>27</sup> [http://en.wikipedia.org/wiki/Trade\\_unions\\_in\\_South\\_Africa](http://en.wikipedia.org/wiki/Trade_unions_in_South_Africa)

<sup>28</sup> Department of Home Affairs

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## Visas

Some countries are exempt from obtaining visas before coming to South Africa, others not. Nationals from countries that are exempt from visas can enter South Africa and obtain a visitor's temporary residence permit at the port of entry (up to the limit of their visa exemption for visits that justify this form of entry, such as business meetings and holidays). Nationals that are not exempt from visas are required to obtain a visa at the South African embassy before they depart for South Africa.

As the list for visa exemptions can change without notice, it is advised that the applicants confirm their visa exemption status on the official website of the Department of Home Affairs at: [www.dha.gov.za/immigration-services/non-exempt-countries](http://www.dha.gov.za/immigration-services/non-exempt-countries).

Alternatively, contact the nearest South African embassy. A list for embassies is available at: [www.dfa.gov.za/consular-information](http://www.dfa.gov.za/consular-information).

### Temporary residence permits

There are various categories of temporary residence permits, ranging from visitor's permits for tourism to work permits. These permits are valid for periods of between three months and 24 to 36 months. Generally, the principle is to apply for the permit that most closely applies to your circumstances before coming to South Africa, at the relevant South African embassy or High Commission.

Aligned to the Immigration Act, the following categories of temporary residence permits can be applied for:

- Visitors permit.
- Study permit.
- Treaty permit.
- Business permit (to establish an own business or to invest in an existing business venture).
- Medical treatment permit.
- Relatives permit.
- Work permits.
  - Quota work permit
  - General work permit
  - Exceptional skills work permit
  - Intra-company transfer work permit.
- Retired persons permit.
- Corporate permit.
- Exchange permit .

Each of these categories have their own set of requirements. In order to obtain the relevant permit, these requirements must be met exactly as stipulated. In cases where some of the requirements mentioned in the regulations cannot be met, there is a mechanism that can be used to ask that these requirements be waived. To ascertain the list of requirements, it can be viewed at: [www.dha.gov.za/immigration-services/temporary-residence-permits](http://www.dha.gov.za/immigration-services/temporary-residence-permits), or a reputable immigration practitioner can be approached. There is a fee chargeable by the Government for the process of these permits. The relevant fees

are available at: [www.dha.gov.za/immigration-services/Price-list](http://www.dha.gov.za/immigration-services/Price-list).

### Work permits

For individuals who wish to apply for a work permit, four options are available.

An employer can apply for an **intra-company temporary residence work permit** if the employee is only required to work in South Africa for less than 24 months and is being transferred to a branch, subsidiary or affiliate abroad. It is important to note that this permit cannot be renewed. However, the Department of Home Affairs is currently looking at extending this two-year period to four years. Another option is the **general temporary residence work permit** if the employer has advertised the position in the format prescribed by law. Alternatively, the **quota temporary residence work permit** can be applied for if the post was not advertised but an individual falls within one of the categories of permits as determined by the critical skills list. The final permit for employment is the **exceptional skills permit** for those individuals whose qualifications or experience can be termed exceptional. Whether or not an individual is exceptionally skilled is determined on a case-by-case basis. For further information refer to: [www.services.gov.za](http://www.services.gov.za).

It is important to note that as the work permit applications can take time, the necessary planning must be done up front in order to avoid complications and delays when mobilising staff to South Africa.

### Permanent residence permits

The permanent residence permits are, as the name implies, permanent in nature. A worker can thus apply for a temporary residence permit or a permanent residence permit, if they qualify for the requirements set out in each class of application. The various classes are as follows:

#### *1. Foreigner with five years continuous work permit status*

This category applies to a foreigner who has been a holder of a work permit, including one issued under a corporate permit, for a period of five years and has proven to the satisfaction of the Director-General of Home Affairs that he or she has received an offer for employment.

#### *2. Spouse of a South African citizen or permanent resident for a continuous period of five years*

This category applies to a person who has been the spouse of a South African Citizen or permanent resident for a period of five years, provided that a good spousal relationship exists and on condition that the permit shall lapse if, within two years after the date of issue of the permanent residence permit, the relationship no longer exists, except in the case of death.

### **3. Child of a South African citizen or permanent resident under 21 years of age**

This section applies to the child of a South African Citizen or permanent resident under the age of 18 years. A permanent residence permit under this section is issued on condition that it shall lapse, unless an application for its confirmation is submitted within two years after the date on which the child turns 21 years of age.

### **4. Child of a South African citizen**

This section applies to the child of a citizen and no age restriction applies since the child of a South African citizen by birth or descent qualifies for South African citizenship on the basis of his/her parent's citizenship status. This category is applicable to South African citizens by naturalisation.

### **5. Worker**

A permanent residence permit may be issued to a foreigner of good and sound character that has received an offer for permanent employment.

### **6. Person possessing extra-ordinary skills or qualifications**

A foreigner who has demonstrated to the Director-General's satisfaction that he or she possesses extraordinary skills/qualifications, and to those members of such foreigner's immediate family determined by the Director-General under the circumstances or as may be prescribed.

### **7. Person who wishes to establish or invest in an existing business**

This category is applicable to a foreigner who intends to establish a business in the Republic, or who already holds a temporary residence permit to conduct a business in the Republic, or who intends to invest in an existing business in the Republic.

### **8. A refugee as referred to in Section 27(c) of the Refugees Act**

This category is applicable to Refugees as referred to in Section 27(c) of the Refugees Act, 1998 (Act No. 130 of 1998), subject to any prescribed requirement.

### **9. A retired person**

This category is applicable to a foreigner who intends to retire in the Republic, provided that such foreigner proves to the satisfaction of the Director-General that he or she has:

- The right to a pension, or an irrevocable annuity, or a retirement account which will give such a foreigner a minimum prescribed amount for the rest of his/her life; or
- That the person concerned has a minimum prescribed net worth.

### **10. Financially independent**

This category is applicable to a foreigner who has proven to the satisfaction of the Director-General she or he has a prescribed minimum net worth, and has paid a prescribed amount to the Director-General.

### **11. A relative of a South African citizen or permanent resident within the first step of kinship**

This category applies to a foreigner who is a relative of a citizen or a permanent resident within the first step of kinship.

A permanent residence application takes between one to two years to process. (An important point to note is that it is advisable to seek advice before applying for permanent residence as there could be tax and Reserve Bank implications.) The categories of permanent residence applications can be divided into those for workers and those who are not workers. It is important to ensure that the individual qualifies for a permanent residence permit before applying.

The requirements for the different classes of permanent residence can be viewed at: [www.dha.gov.za/Immigration services/Permanent residence permits](http://www.dha.gov.za/Immigration%20services/Permanent%20residence%20permits).

For additional information on permits and visas (published by the Department of Home Affairs) refer to: **Addendum 11: Immigration - Permits and visas**.

### **Immigration - Other practical aspects**

#### **Customs and excise regulations**

As a rule, immigrants are allowed to bring household goods and used equipment necessary for the practising of their professions into South Africa duty-free. (The required application forms can be obtained from any South African embassy or Mission). The importation of a vehicle is subject to more conditions, taxes and provisions. To import a foreign vehicle into South Africa, you will also need permission from the South African Bureau of Standards. It is recommended that you make use of a customs clearing agent's services where necessary.

For additional information on customs and excise regulations refer to: **Addendum 12: Customs and excise regulations – Guidelines for immigrants and travellers**.

#### **Registering a business in South Africa<sup>29</sup>**

To successfully register a business in South Africa the following procedures would be required:

- Decide on the type of business entity that you wish to form.
- Decide on a name for the enterprise (with at least two other alternatives).

<sup>29</sup> [www.cipro.co.za](http://www.cipro.co.za)

- Undertake a name search on the Companies Intellectual Property Registration Office (CIPRO) website ([www.cipro.co.za](http://www.cipro.co.za)) to ensure that your preferred name has not been reserved by another enterprise.
- Reserve your proposed name, by completing the relevant forms available from CIPRO.
- Draw up a business plan.
- Await a registration number for your proposed enterprise from CIPRO.
- After receiving your enterprise number, apply for your VAT number, Income Tax number, Pay-As-You-Earn (PAYE), Skills Development Levy (SDL) and Unemployment Insurance Fund (UIF) number from the South African Receiver of Revenue (SARS).
- Register your logo as a trade mark with CIPRO.
- Ensure that all of the enterprise's intellectual property has copyright on them.
- If you have a unique product that you would like to patent, register this as a patent with CIPRO.

For further information on registering a business in South Africa contact CIPRO at:

Website:	<a href="http://www.cipro.co.za">www.cipro.co.za</a>
	info@cipro.gov.za
Customer contact centre:	
Tel no:	0861 843 384
Fax no:	0861 843 888
International tel:	+27 12 394 9500
International fax:	+27 12 394 9501

Alternatively, the National Youth Development Agency (NYDA)'s guide on "Starting Your Own Business" can be downloaded from their website at: [www.youthportal.org.za](http://www.youthportal.org.za).

#### Opening a bank account in South Africa<sup>30</sup>

If you are a foreigner, opening a bank account in South Africa should not be a problem, as long as you are in possession of a valid work or residency permit. By law, South African banks are required to ask for proof of identity (you must be at least 18 years of age) and residential address. You will have to provide passport and proof of address (a utility bill usually suffices). You may also have to make an opening deposit of a significant amount.

The type of bank account that you will be able to open in South Africa depends on the type of permit that you have been issued with. Should you have a work permit, you will be able to open a normal resident

account with no restrictions. Should your entry visa not permit you to earn an income in South Africa, a non-resident account will be opened. This account is subject to the restriction of not permitting South African currency to be deposited i.e. can only be funded by foreign currency. In both instances you will require the following documentation:

- Valid passport with entry visa.
- Letter of introduction from your foreign bank.
- Three month's bank statements from your current bank.
- Proof of residential address.

Some exceptions may nonetheless be made.

A resident's account may only be opened by a person holding a valid residents permit.

Opening an account for a business in South Africa should not be a problem if and where your company has been registered in South Africa. The bank will most likely request providing the founding documents of the company, as well as proof of the company's operating address. However, these documents should be on hand after obtaining a business permit.

#### Note:

In accordance with South African law, a bank account may not be opened via the internet or over the phone. It would, therefore, be necessary to visit the bank in person and provide the correct documentation.

Credit and charge cards commonly accepted in South Africa include: Diners, Mastercard, Standard Bank Card, Visa and American Express. Cash can be drawn from most ATMs, with withdrawal fees varying from bank to bank. Traveller's cheques are also a fairly common form of accepted payment or exchange, also incurring variable commission fees. All major credit cards are accepted and South Africa possesses both a nationwide network of ATMs and a robust, rapidly growing online banking system. Daily withdrawal limits for ATM cards are usually capped at R2 000 (€218) with each withdrawal incurring a fee. This fee varies widely, depending on size of withdrawal and bank type.

A locally issued card is not required in order to draw cash. As long as the bank card is supported by VISA, MasterCard, American Express, Diners, VISA-Electron or Maestro, withdrawals of cash from local ATMs or directly from a local bank can be made. A maximum withdrawal amount of R2 000 per day applies. Transaction fees will vary from bank to bank, and fluctuate with the currency exchange rate.

<sup>30</sup><http://www.initiateimmigration.com/working-in-south-africa/bank-accounts/>

<sup>31</sup> <http://www.services.gov.za/services/content/Home/ServicesforForeignNationals/Permanentresidence/Applicationforabusinessperm...ZA?pid=10&tid=331#contactinfo>

<sup>32</sup> <http://bizconnect.standardbank.co.za/start/registrations-legalities/a-licence-to-trade.aspx>

<sup>33</sup> <http://www.propertyforsale.co.za/showArticle.php?type=buyerInfo&articleId=44>

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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Non-residents will naturally have to adhere to the same rules, regulations and processes which residents are subject to, should the non-resident not wish to purchase property in his or her individual name and alternatively purchase in the name of an entity (e.g. company or trust) then this entity would need to be locally registered and meet the requirements associated with the chosen entity, such as those contained in the Companies Act.

Should a non-resident not acquire property in an entity, then that money brought in will be represented as a loan to the local entity which would require exchange control approval. In most cases, however, property is registered in the name of the purchaser as an individual.

**Note:**

A non-resident is even permitted to purchase South African property over the internet, without even entering the country. However, should they intend to live on the property, they would need to comply with the Immigration Act, and have either a valid permit to temporarily remain in the country or be in possession of a permanent residency permit.

With regards to bringing foreign funds into South Africa for a property acquisition, foreign funds may be deposited into any nominated bank account in South Africa (usually the estate agent or transferring attorney's

trust account into which the deposit for the property and the balance of the purchase price is paid). When the non-resident transfers funds into a South African account from a foreign source, a record of such funds entering South Africa are kept (known as a "deal receipt"). This is an important piece of documentation that must be kept for purposes of repatriation of the funds.

As far as borrowing money in South Africa to purchase property, the South African Reserve Bank will consider all foreigners not having their domicile in South Africa to be non-residents, barring foreigners with South African work permits who will be considered residents for the duration of their work permit. Non-residents are thereby restricted in their borrowing ratio to 50% of the purchase price, while the remaining 50% must be brought into the country in cash from a foreign bank.

In order to qualify for a South African mortgage bond, the non-resident will need to provide proof of earnings and comply with the Financial Intelligence Center Act, which pertains to the non-resident's identification for money laundering purposes and involves production of certain documents such as passport and proof of residential address. In order for a non-resident to service repayments on a mortgage bond, he/she will need to open a non-resident account, which can be done from abroad or from within the country.

Other than the purchase price, the purchaser is usually liable for other costs including, for example, transfer duty (this is not payable if the seller is VAT registered), transfer fees, deeds office levies, pro-rata rates and taxes/sectional title levies, as well as the costs of obtaining a rates/levy clearance certificate.

If the property is not bonded, it will be in the purchaser's best interests to obtain insurance. This is compulsory if the property is bonded and normally arranged by that bank.

Where non-residents decide to sell the property, they will be allowed to remit the proceeds offshore. Money from a foreign source may be repatriated in due course according to South Africa's Exchange Control Regulations, together with any profit, proportionate to that non-residents share-holding in the property. On transfer to the non-resident purchaser of the property, the title deed will be endorsed "non-resident" and/or a "deal receipt" retained by the banking institution when the foreign funds were originally introduced into the country. (This facilitates the repatriation of the funds and profit on sale of the property.)

**Note:**

If the purchase was financed with funds borrowed in South Africa, that portion of the purchase price cannot be repatriated out of the country unless the bond has been settled in full.

Furthermore, if a foreigner takes up permanent residency in South Africa and signs a "Declaration and Undertaking" at a South African bank they will be considered a resident for exchange control purposes and only able to repatriate funds within five years of their immigration, following which they will be considered akin to a South African and subject to the same regulations and limitations. The repatriation of funds will be also be subject to Capital Gains Tax (CGT).

**Health insurance**<sup>34,35</sup>

It is recommended that immigrants take out medical/life insurance upon arrival in the country. Practically, this means securing your own private medical aid scheme, which depending upon the level of cover you select, will provide you with various options in the private healthcare sector. (It is strongly advised that when deciding on the type and extent of medical insurance, individuals should make sure that it covers all family present and future health requirements in South Africa.)

When buying private health insurance, South African, as well as international companies, should be considered.

<sup>34</sup> [www.justlanded.com](http://www.justlanded.com).

<sup>35</sup> <http://www.propertyforsale.co.za/showArticle.php?type=buyerInfo&articleId=44>

**Note:**

If you aren't covered by South African social security and need comprehensive private health insurance to obtain a residence permit, you must ensure that your health policy will be accepted by the authorities.

**South African companies** - The largest medical insurer in South Africa is Discovery Health ([www.discovery.co.za](http://www.discovery.co.za)). One of the smaller recommended healthcare providers is Selfmed ([www.selfmed.co.za](http://www.selfmed.co.za)).

**Foreign companies** - There are a number of foreign health insurance companies with agents or offices in South Africa or offering cover for people living in South Africa, including AXA PPP Healthcare ([www.axappphealthcare.co.uk](http://www.axappphealthcare.co.uk)), BUPA International ([www.bupa-intl.com](http://www.bupa-intl.com)), the Exeter Friendly Society ([www.exeterfriendly.co.uk](http://www.exeterfriendly.co.uk)) and HealthCare International ([www.healthcareinternational.com](http://www.healthcareinternational.com)).

**Note:**

Most international insurance companies offer health policies for different areas, e.g. Africa, Europe, worldwide excluding the US, and worldwide including the US. Most companies also offer different levels of cover, e.g. basic, standard, and comprehensive and "prestige".

Each level has a different limit on the total annual medical costs, the minimum usually being R2 million/€206,500 (although you're recommended to have much more cover, many companies provide cover of up to R7.5 million/€774,385 and some companies limit the charges for specific treatment or care such as specialists' fees, operations and hospital accommodation).

If you already have private health insurance in country other than South Africa, you may be able to extend it to include South Africa rather than taking out a new policy.

**South African business practices and etiquette**

For a comprehensive overview of common business practices and etiquette in South Africa refer to:

**Addendum13: South African business practices and etiquette.**

**How to apply for a police clearance certificate (PCC)**

For practical guidelines on how to apply for a police clearance certificate in South Africa refer to:

**Addendum14: How to apply for a police clearance certificate (PCC).**

**Choice of business entity**

The principal methods of doing business in South Africa are by using a:

- Company (public or private) incorporated under the Companies Act 71 of 2008).

- Personal liability company.
- Partnership.
- Business trust.
- Sole proprietorship.
- External company (branch of a foreign company).

**Note:**

1. South African law used to provide for a business entity type called Close Corporations (CCs) until the Companies Act 71 of 2008 came into force on 1 May 2011. CCs may no longer be created. However, existing CCs will continue to operate until they are converted into companies.
2. Companies operate on the basis of limited liability. As a general rule, members are not liable for the debts of a company. However, there are exceptions to this rule. Branches of foreign companies are accorded legal status in South Africa by virtue of registration as external companies but are not recognised as separate legal entities (except for exchange control purposes). Tax and other considerations affect the choice of a particular form of business entity. The most commonly adopted forms of doing business by foreign investors are private companies and branches.

**Stock exchange**

The JSE Ltd (JSE) is licenced as an exchange under the Securities Services Act, 2004, and is Africa's premier exchange. It has operated as a market place for the trading of financial products for nearly 120 years. In this time, the JSE has evolved from a traditional floor-based equities trading market to a modern securities exchange providing fully electronic trading, clearing and settlement in equities, financial and agricultural derivatives and other associated instruments and has extensive surveillance capabilities. The JSE is also a major provider of financial information. In everything it does, the JSE strives to be a responsible corporate citizen.

The JSE is a valuable commodity in South Africa's economic landscape. As South Africa's only full service securities exchange, it connects buyers and sellers in five different markets: equities, which includes a primary and secondary board; equity derivatives; agricultural derivatives; and interest rate instruments. The JSE holds a treasured position as one of the top 20 exchanges in the world in terms of market capitalisation (*JSE Brochure: JSE - Africa's premier exchange*).

The JSE provides companies with the opportunity to raise capital in a highly regulated environment through its markets: the Main Board and the Alternative Exchange (AltX). (The Main Board is for established larger companies, and the AltX is the breeding ground for vigorous younger companies that are to become the powerhouses of the future.) Listing on the JSE can provide a company many benefits including: access to capital to grow your business; an enhanced public profile; an ability to attach a value to your company; Black Economic Empowerment (BEE) deals are facilitated; and if you're an international company, a listing can be used as a springboard into the rest of Africa.

The JSE is regarded as a mature, efficient, secure market with world-class regulation, trading, clearing, settlement assurance and risk management. It has harmonised its listing requirements, disclosure and continuing obligations with those of the London Stock Exchange (LSE) and offers superb investor protection.

#### JSE securities exchange SA market capitalisation

*(Rand billion at period end June 2012)*

2005	2006	2007	2008	2009	2010	2011	2012
3,586.1	5,041.5	5,696.8	4,541.9	5,929.1	6,698.7	6,908.5	7,354.1

Future JSE developments envisaged may include:

- The creation of a market along the lines of the Alternative Investment Market on the London Stock Exchange or the Neuermarkt (in Frankfurt) for bracket venture capital and development boards.
- The introduction of tougher listing rules.
- The education and guiding of companies regarding the requirements of listing and the duties of a listed company.
- The introduction of free-float indices under the FTSE/JSE Africa Rand.
- The purchasing of the South African Futures Exchange.
- The demutualisation of the JSE and its listing.
- The creation of a financial reporting panel by the JSE Securities Exchange and the SA Institute of Chartered Accountants (SAICA), as advised by the Myburgh Commission.
- The creation of a pan-African exchange by initially enabling investors to trade in shares from Ghana, Namibia, Zimbabwe and Zambia. Later it intends to expand this across the rest of Africa.

#### Key economic data

##### Interest rates

Prime rate (August 2012):	8.50%
Repo rate (August 2012):	5.00%
R157 (August 2012):	5.62%
R186 (August 2012):	7.40%
Sabor (August 2012):	4.813%

(Source: Reserve Bank)

##### Currency

US\$ = R8.94 (November 2012)
£ = R14.26 (November 2012)
€ = R11.52 (November 2012)
US\$ = R7.562 (2011 average)

(Source: Reserve Bank)

##### Rate of inflation

CPI (October 2012):	5.6% y/y
PPI (September 2012):	4.2% y/y
(2011 average):	5.03%

(Source: Statistics South Africa)

##### Market capitalisation

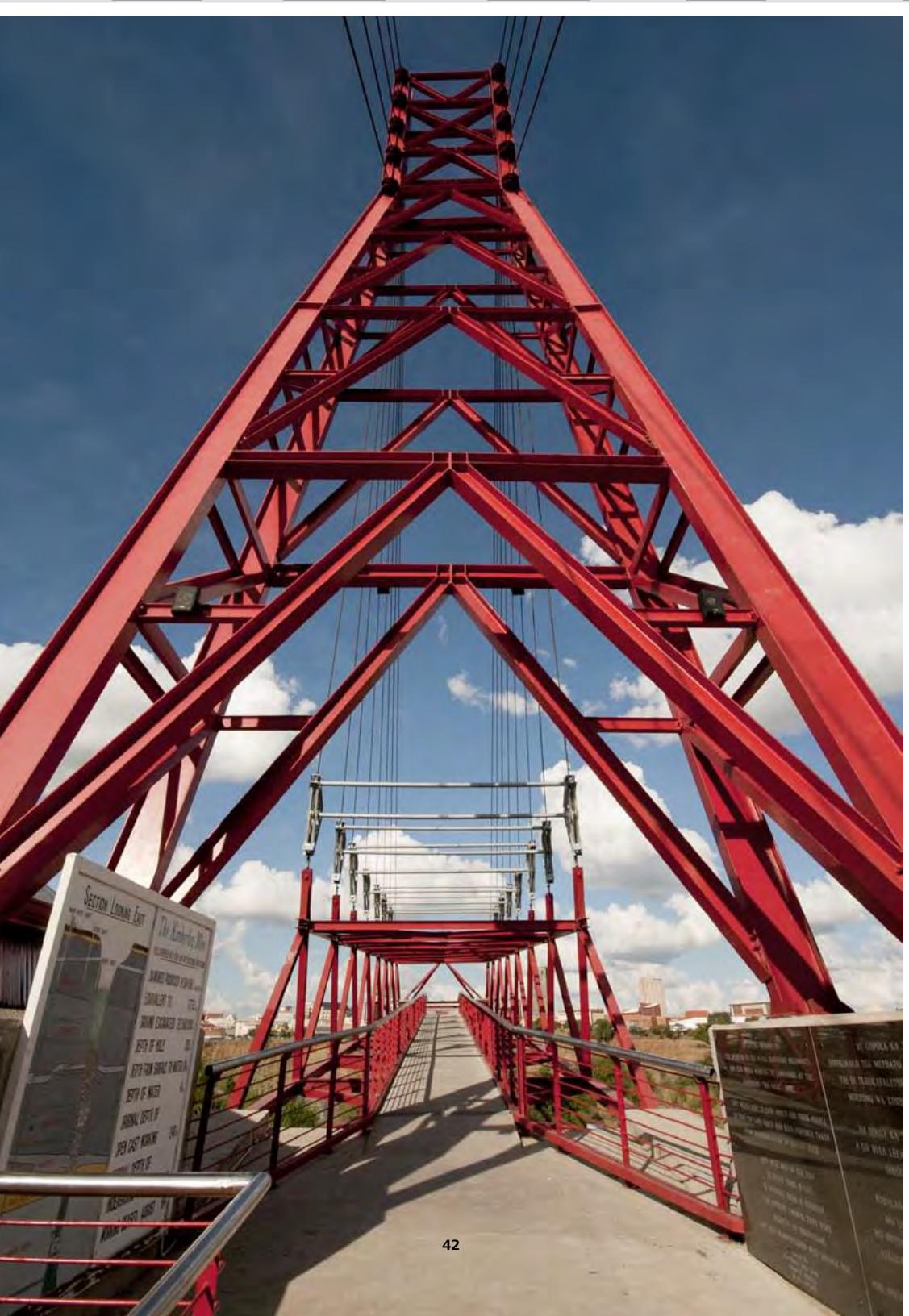
Market capitalisation (June 2012):	R7 354.1 billion
(Source: Johannesburg Stock Exchange)	

##### Other

GDP (2nd Quarter 2012):	3.2% q/q
(Ranking in terms of GDP size: 25th largest in the world)	

Unemployment (3rd Quarter 2012):	25.5%
(Doing business (2012 ranking): 35)	

(Source: Statistics South Africa)



## South Africa: An economic overview

### Key drivers of the South African economy<sup>36,37,38</sup>

South Africa's economy has traditionally been rooted in the primary sectors - the result of a wealth of mineral resources and favourable agricultural conditions. However, the economy has been characterised by a structural shift in output over the past four decades. Since the early 1990s, economic growth has been driven mainly by the tertiary sector - which includes wholesale and retail trade, tourism and communications. Now South Africa is moving towards becoming a knowledge-based economy, with a greater focus on technology, e-commerce and financial and other services.

Among the key sectors that contribute to the GDP and keep the economic engine running are manufacturing, retail, financial services, communications, mining, agriculture and tourism.

Increasingly the Green Economy is taking prominence as the country is moving away from traditional coal fired power stations to cleaner energy production. South Africa's strategy is to make cleaner, more efficient use of the country's abundant, low-cost coal reserves in the near term while at the same time expanding the use of low-emission energy technologies and renewables.

### Mining and minerals

South Africa is a world leader in mining. The country is famous for its abundance of mineral resources, accounting for a significant proportion of world production and reserves, and South African mining companies are key players in the global industry.

Apart from its prolific mineral reserves, South Africa's strengths include an extremely high level of technical and production expertise, and comprehensive research and development activities. South Africa is also home to the world's deepest mine, Western Deep Gold Mine in Gauteng, which delves 3.6 km into the earth.

The country has world-scale primary processing facilities covering carbon steel, stainless steel and aluminium, in addition to gold and platinum. It is also a world leader of new technologies, such as a ground-breaking process that converts low-grade superfine iron ore into high-quality iron units.

<sup>36</sup> The Department of Trade and Industry (the dti), Investors Handbook, 2009. [www.thedti.go.za](http://www.thedti.go.za).

<sup>37</sup> <http://www.mediaclubsouthafrica.com>.

<sup>37</sup> [www.southafrica.info](http://www.southafrica.info)

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With the growth of South Africa's secondary and tertiary industries, the relative contribution of mining to South Africa's GDP has declined over the past 10 to 20 years. Nonetheless, the industry is continually adapting to changing local and international world conditions, and remains a cornerstone of the economy, making a significant contribution to economic activity, job creation and foreign exchange earnings.

In 2009, according to the Chamber of Mines of South Africa, the industry contributed:

- 8.8% directly, and another 10% indirectly, to the country's GDP.
- Over 50% of merchandise exports, if secondary beneficiated mineral exports are counted.
- About 1 million jobs (500 000 directly).
- About 18% of gross investment (10% directly).
- Approximately 30% of capital inflows into the economy via the financial account of the balance of payments.
- 93% of the country's electricity generating capacity.
- About 30% of the country's liquid fuel supply.

Furthermore, in 2009, South Africa's

mining industry was the largest contributor by value to Broad-Based Black Economic Empowerment (B-BBEE) in the economy, in terms of the value of B-BBEE transactions completed.<sup>39</sup> South Africa is the world's biggest producer of gold and platinum. Mining remains an important foreign-exchange earner, with gold accounting for over one-third of exports. South Africa is also a major producer of coal, manganese, chrome, platinum, and diamonds, accounting for a significant proportion of both world production and reserves. In 2009, the country's diamond industry was the fourth largest in the world, with only Botswana, Canada and Russia producing more diamonds each year.

While holding the world's largest reserves of gold, platinum group metals and manganese ore, the country has considerable potential for the discovery of other world-class deposits in areas yet to be exhaustively explored. Its prolific mineral reserves include precious metals and minerals, energy minerals, non-ferrous metals and minerals, ferrous minerals and industrial minerals. Only two strategic minerals (crude oil and bauxite) are not available in the country.

In addition, South Africa has a high level of technical and production expertise, comprehensive research

and development (R&D) activities. The country also boasts world-class primary processing facilities for gold, platinum, carbon steel, stainless steel and aluminium.

Lucrative opportunities exist for downstream processing and adding value locally to iron, carbon steel, stainless steel, aluminium, platinum group metals and gold. A wide range of materials is available for jewellery, including gold, platinum, diamonds, tiger's eye, and a wide variety of other semi-precious stones.

For this purpose the Government has developed a minerals beneficiation strategy, which seeks to fundamentally transform the industry from being largely resource-based to knowledge-based. It also complements programmes of Government, such as the New Growth Path, NIPF (IPAP 2), energy security, skills development and others.

#### South Africa's financial sector

South Africa's financial services sector boasts dozens of domestic and foreign institutions providing a full range of services including commercial, retail and merchant banking, mortgage lending, insurance and investment.

The South African banking system is well developed and effectively regulated, comprising a Central Bank, a few large, financially strong banks

and investment institutions, and a number of smaller banks. Investment and merchant banking is competitive. The country's "big four banks" (Absa, First National Bank, Standard Bank and Nedbank) dominate the retail market.

The country's banking sector compares favourably with those of industrialised countries. Many foreign banks and investment institutions have set up operations in South Africa over the past decade. Electronic banking facilities are extensive, with a nationwide network of ATMs and internet banking facilities available.

Ongoing amendments to exchange controls, as well as financial market legislation, make South Africa an attractive investment prospect and brings it in line with international best practice. Past notable amendments have included, for example, the National Payment System Act of 1998 (which confers greater powers and duties on the South African Reserve Bank to provide clearing and settlement facilities, bringing the South African financial settlement system in line with international practice on settlement systems and systematic risk management procedures) and the introduction of payment clearing house agreements and agreements pertaining to settlement, clearing and netting agreements, and rules to create certainty and reduce systemic and other risks in inter-bank settlement.

<sup>39</sup> <http://www.southafrica.info/business/economy/sectors/mining.htm>.

Recent developments in South Africa's exchange control environment include among others, the withdrawal of the application process to make new outward foreign direct investments where the total cost of such investment does not exceed R50 million per company per year. Under this new dispensation, the responsibility for ensuring that the foreign investment purposes has been placed on the authorised dealer (i.e. a commercial bank) facilitating the transaction. South African companies who want to use this dispensation are still required to show anticipated benefits to South Africa as a result of the foreign direct investment.

Additional reforms proposed in 2011 included, removing controls on emigrant blocked assets. South African emigrants are currently allowed to take R8 million offshore upon emigration. The rest of the assets are blocked and may only be released upon the payment of a 10% exit levy. Treasury proposed releasing these blocked assets without any exit levy. Furthermore, regarding individuals, the R4 million lifetime limit increased to R4 million per calendar year, subject to compliance with all tax and financial integrity legislation. Investments above the proposed threshold would require the approval of the Financial Surveillance Department of the South African

Reserve Bank. Individuals (resident-natural persons) over the age of 18 years may avail of a single discretionary allowance of up to R1 million per calendar year (in the past, R750 000 per year). <sup>40</sup>

Regarding developments and trends within the financial sector, note that the global financial system is facing a multitude of risks, including spillover effects of the Euro-area debt crisis to other parts of the world; the risk of disorderly deleveraging by European and other banks; changes in the direction of capital flows; a sharp increase in oil prices; and concerns that the euro area will not survive in its current form. Prospects of higher global economic growth rates have also been dampened by the ever-present risk of negative feedback loops from the financial sector to the real economy. In addition, there are also risks specific to the South African economy and financial system. These risks include a possible slowdown in domestic economic growth as a result of slower global growth; a decline in house prices and higher unemployment; the unintended impact of the Basel III framework on banks and lending; and the risk of a downgrade of South Africa's credit rating. <sup>41</sup>

## Tourism <sup>42</sup>

Tourism is regarded as a modern-day engine of growth and is one of the largest industries globally. In addition to being a labour intensive industry, tourism holds potential to drive increases in export earnings in a trading environment that is generally less volatile than that of commodity exports.

In 2010, South Africa received approximately 8.1 million foreign tourists, of which 71% originated from Africa followed by Europe and the Americas. Total Foreign Direct Spend (excluding capital expenditure) by these tourists amounted to R72.6 billion in 2010. In the same year, it is estimated that

13.5 million South African adults took a total 29.7 million overnight trips resulting in Total Direct Domestic Spend of approximately R21 billion. This excludes the impact of an estimated 12.2 million adults that took an average of 18.6 day trips during 2010.

Over eight million tourists visited South Africa in 2011, a 3.3% increase over the 2010 World Cup year that would, if football-specific arrivals were not counted, have amounted to a 7.4% increase over 2010, well ahead of the global average of 4.4% annual growth. According to the World Travel and Tourism Council (WTTC), tourism was expected to directly contribute approximately 5% of South Africa's total GDP in 2011, with the total contribution (direct, indirect and induced) to GDP

expected to be in the order of 11.4% in the same year. The WTTC further expected tourism to directly support 594 000 jobs (4.5% of total employment) in 2011, with a total contribution of approximately 1.3 million jobs (10% of total employment).

Tourism Minister Marthinus van Schalkwyk has said that his department aims to increase South Africa's foreign tourist arrivals from seven million in 2009 to 15 million by 2020, at the same time growing tourism's contribution to the economy from R189 billion to R499 billion and creating 225 000 new jobs. <sup>43</sup>

Southern Africa's biggest tourism showcase, Indaba 2012, took place at Durban's International Convention Centre in May 2012. Despite a general flat to downward trend worldwide, South Africa's tourism industry has been performing strongly, a fact that is reflected in the more than 13 000 delegates from around the world attended.

Tourism continues to be earmarked as a priority growth area in South Africa's economic growth policies.

South Africa's advanced infrastructure combined with magnificent scenic beauty, rich biodiversity, sunny climate, cultural diversity and a reputation for delivering value for money experiences have made it one of the world's fastest growing tourism destinations.

<sup>40</sup> Moneyweb, October 2010 <http://www.moneyweb.co.za/mw/view/mw/en/page302588?oid=512957&sn=2009+Detail&pid=287226>.

<sup>41</sup> [http://us-cdn.creamermedia.co.za/assets/articles/attachments/39129\\_fsr\\_march\\_2012.pdf](http://us-cdn.creamermedia.co.za/assets/articles/attachments/39129_fsr_march_2012.pdf)

<sup>42</sup> International Congress and Convention Association, Stats SA, World Travel and Tourism Council and the dti.

<sup>43</sup> SAinfo reporter

With such an extensive tourism resource base, South Africa offers a variety of tourism experiences including:

- Eco-tourism: South Africa boasts four UNESCO Natural World Heritage Sites and has 21 National Parks (including the world famous Kruger National Park), many of which integrate with Transfrontier Conservation areas in the Southern African region. Accommodation options in national parks and private game reserves range from budget and self-catering camps to luxury lodges.
- Cultural tourism: The rich mix of cultures, each with its own traditions, music and art forms, combined with a unique socio-political history forms the basis of South Africa's diverse cultural tourism offering. South Africa has five UNESCO Cultural World Heritage Sites - three of which offer unique paleo-tourism experiences.
- Adventure tourism: South Africa offers world-class climbing, surfing, diving, hiking, horseback safaris, mountain biking, river rafting and other extreme activities - all supported by dedicated operators.
- Business tourism: With over 1 700 conference venues, a track record of successfully

hosting major international meetings, conferences and exhibitions, South Africa is a sought after business tourism destination. South Africa holds the 34th place in the world, and 1st place in Africa for the number of association meetings held in 2009, according to the International Congress and Convention Association (ICCA).

- Sports tourism: The combination of state-of-the-art sporting venues and facilities, successfully hosting the 2010 FIFA World Cup and a number of other international sport events, and South Africa's passion for sport make the country a top draw card for sports teams and spectators alike.

#### Agriculture

South Africa has a dual agricultural economy, with both well-developed commercial farming and more subsistence-based production in the deep rural areas. Agriculture (even though it has contributed only about 3% to the GDP in the past) is an important provider of direct and indirect employment. However, there are strong backward and forward linkages into the economy, so that the agro-industrial sector is estimated to contribute about 12% of the GDP.<sup>43</sup>

South Africa is not only self-sufficient in virtually all major agricultural products, but is also a net food exporter. Farming remains vitally

important to the economy and development of the Southern African region. Agricultural activities range from intensive crop production and mixed farming in winter rainfall and high summer rainfall areas to cattle ranching in the bushveld and sheep farming in the arid regions. Maize is most widely grown, followed by wheat, oats, sugar cane and sunflowers.

While 13% of South Africa's land can be used for crop production, only 22% of this is high potential arable land. The most important limiting factor is water availability. Rainfall is distributed unevenly across the country, with some areas prone to drought. Almost 50% of South Africa's water is used for agriculture, with about 1.3 million hectares under irrigation.

For the past five years, agricultural exports have contributed on average about 6.5% of total South African exports. Exports increased from 5% (1988) to 46% (2009) of agricultural production. However, South Africa is losing on its net trade balance on processed goods, owing to the growth in imports of processed goods. The largest export groups are wine, citrus, maize, grapes, sugar, apples, pears and quinces. Other important export products are undermatured ethyl alcohol, avocados, pineapples, dates, preserved fruit and nuts, as well as hides and skins.<sup>44</sup>

#### Production of imported field crops and horticultural products, 2010 ('000 t)

Maize	12 815
Wheat	1 518
Sugar cane	18 655
Grain sorghum	226
Groundnuts	100
Sunflower seed	509
Deciduous and other soft fruit	1 829
Citrus fruit	2 218
Subtropical fruit	655
Vegetables	4 458
Potatoes	1 947

**Source:** Directorate: Agricultural Statistics, Department of Agriculture, Forestry and Fisheries

South African agriculture and agribusiness have a number of competitive advantages, making the country both an important trading partner and a viable investment destination. Competitive advantages include, among others: world-class infrastructure, counter-seasonality to Europe, biodiversity (which allows for a vast and varied array of agricultural products), marine resources and extensive coastline commercially used both for conventional harvesting and for mariculture and aquaculture, competitive input costs particularly labour costs, trade agreements (South Africa's agriculture and agribusiness sector are benefiting from increased

<sup>43</sup> South Africa Yearbook 2010/11.

<sup>44</sup> <http://www.info.gov.za/aboutsa/agriculture.htm>

market access to its key trading partners, the European Union (EU) and the US, as well as to sub-Saharan countries, through a number of trade agreements) and deregulation and market freedom, having since the end of apartheid evolved from a highly regulated and protected industry to one free from all constraints, unsubsidised by Government.<sup>45</sup>

Recent developments in South Africa's agricultural sector worth noting include, among others, the following:

- In June 2010, President Jacob Zuma launched the Masibuyele i Emasimini mechanisation scheme, a food-production intensification programme, at Marapyane Village in Mpumalanga. This project affords black farmers a realistic chance to improve production, increase yields and gain access to domestic and global markets. The project also ensures the utilisation of fallow land and seeks to resuscitate collapsed land-reform projects. By March 2010, a further increase in the productive land as a result of Masibuyele Emasimini indicated a coverage of 36 223 hectares of land. In all, 42 430 households are benefiting from this intervention.
- A budget of R862,4 million for 2010/11, was allocated to the Comprehensive Agriculture

Support Programme (CASP) to address support for food production for subsistence and for the market. The Department of Agriculture, CASP outputs for the 2010/11 financial year included the establishment of 1 739 food-security projects; creation of 760 jobs; and training and improvement of knowledge and skills of 5 089 beneficiaries to ensure that 7 961 on-farm and off-farm infrastructure targets were completed and functioning.

- By mid-2010, the implementation of the Micro-Agricultural Financial Institutional Scheme of South Africa (Mafisa) was on course with eight accredited institutions operating as intermediaries retailing Mafisa loans. Funded projects include: cotton and groundnut farmers in the Taung irrigation scheme in North West; vegetable projects in Nwanedi, Limpopo; sugar-cane farmers in KwaZulu-Natal and livestock projects in the Northern Cape. Various job opportunities were created and to fast-track service delivery, a Mafisa call centre was established to assist with information dissemination.
- The Department of Agriculture, Forestry and Fisheries is a major role player in climate-change activities within the agricultural sector. The department's climate-change programmes

and policies are aligned with South Africa's National Climate-Change Response Policy. The Climate Change Sector Plan for Agriculture (Working Paper, April 2008) outlines measures of addressing agricultural sector challenges; namely, creating awareness of climate change and the effects of climate change; improving knowledge on climate change; increasing capacity to respond to climate change impacts; research; and funding research projects.<sup>46</sup>

#### Economic overview and outlook for 2012/13

##### Overview<sup>47</sup>

- The GDP of 2.7% in the first quarter of 2012 is slightly down from 3.2% in the fourth quarter of 2011. The world economy slowed in the first quarter of 2012 and this has been evident in activities such as trade performance.
- South African exports of goods and services were improving in all quarters of 2011. There was, however, a decline in both imports and exports in the first quarter of 2012.
- The South African trade balance over the past five quarters shows a negative balance, concluding that South Africa is importing

more goods and services than what it is exporting.

- Both the coal mining and other (non-coal) mining sectors were favourable in promoting South African export growth, based on year-on-year change.
- South Africa's trade with the BRIC countries (Brazil, Russia, India and China) over the past five quarters shows that more goods were imported than exported. Raw mining products comprise a large portion of exports to the BRIC countries.
- Diesel-powered trucks weighing less than five tonnes are a top commodity that South Africa exports to Africa.
- In African regions, SADC continued to maintain its trading position as a top South African trading partner in exports and imports, with massive value exported to Zambia, Zimbabwe and Mozambique.
- South Africa imported high volumes of crude oil from Africa, particularly Nigeria and Angola.
- The major Eastern Asia economies of China, Japan and India remain entrusted as driving trade partners for South Africa and import iron commodity.

<sup>45</sup> <http://www.southafrica.info/business/economy/sectors/agricultural-sector.htm#ixzz1zjKbt0h7>

<sup>46</sup> *Pocket Guide to South Africa 2010/11*

<sup>47</sup> *South Africa: Quarterly Trade Statistics First Quarter 2012* Prepared by the Statistical Analysis and Modelling Unit (SAM) for the Economic Research and Policy Co-ordination Unit (ERPC)  
The Department of Trade and Industry

## Global developments <sup>48</sup>

- After substantial improvements during late 2011 and early 2012, the outlook for the world economy has taken a turn for the worse during the second quarter of this year, with data releases relating to economic activity surprising prognosticators on the downside and financial markets correcting once again.
- With the major advanced economies' growth continuing to be lethargic and unsteady, investors had pinned their hopes on emerging markets providing support for the global economy. Recent data, however, shows considerable weakness in emerging market economies.
- The three major risks facing the global economy - a Eurozone financial crisis, a spike in oil prices and China hard lending - still preoccupy many businesses and governments.
- Global trade growth in 2011 was estimated to reach 5.7%, and is forecasted at 4.6% for 2012. This is a reduction and suggests that world trade is shrinking as a result of the sovereign financial crisis and the consequent austerity measures.

- The main short-term risks facing South Africa include lacklustre global demand for the country's exports, as global growth stays below trend for the next few years; and pressure on Government financial sources, with increased demands on Government to deliver on its infrastructural drive. The main structural constraints on the economy include the balance-of-payments restraint, a lack of skilled labour, low labour absorption, infrastructural shortages and poor public-service delivery. The balance-of-payments constraint is highlighted by South Africa's low savings propensity. This increases the country's dependence on foreign capital inflows to help finance future investment. The persistent current-account deficit, following from a high import propensity, is financed primarily with highly volatile portfolio flows. Exports lag on the back of low international competitiveness and capacity constraints.
- There is increasing concern about how well the domestic economy can support growth in the wake of weak global demand.

## Inflation <sup>49</sup>

- According to the South African Reserve Bank (SARB), inflation is forecast to revert to within the target by the third quarter of this year. CPI1 (for April 2012) came in slightly below market consensus at 6.1% compared to 6.0% in March.
- Core inflation is expected to peak at an average of 5.5% in the second quarter of 2013, marginally higher than the previous forecast, before moderating, and averaging 4.5% in the final quarter of 2014.
- Food inflation remained unchanged since March 2012, although this may be impacted in the months to come by an increase in global food prices as well as Rand weakness.



<sup>48</sup> Dti - Same as preceding footnote.

<sup>49</sup> [www.treasury.co.za](http://www.treasury.co.za)

## Forecast summary – monetary indicators<sup>50</sup>

(% unless otherwise indicated)

	2011 <sup>a</sup>	2012 <sup>b</sup>	2013 <sup>c</sup>	2014 <sup>c</sup>	2015 <sup>c</sup>	2016 <sup>c</sup>
Real GDP growth	3.1	2.8	3.5	3.8	4.0	4.2
Gross agricultural production growth	-0.4	2.8	3.0	3.5	3.6	3.7
Consumer price inflation (average)	5.0	5.3	4.2	4.5	4.8	5.0
Consumer price inflation (end-period)	6.3	5.2	4.1	4.5	5.0	5.3
Lending rate (average)	9.0	9.2	9.6	10.0	10.5	10.0
Government balance (% of GDP) <sup>d</sup>	-3.7 <sup>b</sup>	-5.6	-5.0	-3.8	-3.8	-3.1
Exports of goods fob (US\$ billion)	102.9	100.0	103.6	105.0	106.4	107.3
Imports of goods fob (US\$ billion)	100.4	105.6	108.1	109.6	111.3	112.2
Current-account balance (US\$ billion)	-13.7	-20.9	-18.0	-17.2	-15.7	-16.9
Current-account balance (% of GDP)	-3.4	-5.5	-4.8	-4.5	-4.1	-4.5
External debt (end-period; US\$ billion)	47.3 <sup>b</sup>	47.6	47.6	46.3	44.1	41.0
Exchange rate R:US\$ (average)	7.26	7.90	8.17	8.25	8.55	8.95
Exchange rate R:US\$ (end-period)	8.08	7.68	8.26	8.40	8.70	9.10
Exchange rate R:¥100 (average)	9.10	9.78	9.51	9.52	9.62	9.71
Exchange rate R:€ (end-period)	10.45	9.86	10.37	10.46	10.92	11.47

<sup>a</sup> Actual. <sup>b</sup> Economist Intelligence Unit estimates. <sup>c</sup> Economist Intelligence Unit forecasts.

<sup>d</sup> Fiscal years beginning April 1<sup>st</sup>.

## Forecast summary - business environment rankings<sup>51</sup>

Value of index <sup>a</sup>		Global rank <sup>b</sup>		Regional rank <sup>c</sup>	
2007-11	2012-16	2007-11	2012-16	2007-11	2012-16
6.02	6.26	47	52	7	7

<sup>a</sup> Out of 10.

<sup>b</sup> Out of 82 countries.

<sup>c</sup> Out of 17 countries: Algeria, Bahrain, Egypt, Iran, Israel, Jordan, Kuwait, Libya, Morocco, Qatar, Saudi Arabia, Tunisia, UAE, Angola, Kenya, Nigeria and South Africa.

## Conclusion

South Africa is highly integrated with the world economy, which plays a central role in shaping South Africa's long-term prospects. Since 2000, the world has experienced unusually strong economic cycles and shocks, and these have been reflected in domestic demand and GDP growth. According to SARS, while fiscal and monetary policy has remained supportive of growth, current growth rates are not fast enough to support the employment gains and poverty reduction that the country requires. This will require structural reforms to set the economy on a different growth trajectory that increases labour absorption, raises competitiveness and ensures that the benefits of growth are shared. In the near term, South Africa will continue to be affected by international trade and investment trends, and remain vulnerable to slowing global demand.<sup>52</sup>

## Trade summary - highlights<sup>52.1</sup>

- South Africa's top five trading partners in terms of exports (for the period first quarter 2011 to first quarter 2012) were China, the US, Japan, Germany and the UK. The top five trading partners in terms of imports (for the same period) were China, Germany, the US, Japan and Saudi Arabia.
- Combining the relative sector importance with that of annual growth showed that both the mining sectors – coal and other (non-coal) mining – contributed 4.2% of the total 5.3% growth in merchandise exports.

<sup>50</sup> Economist Intelligence Unit – Economic Outlook July 2012

<sup>51</sup> Economist Intelligence Unit – Economic Outlook July 2012

<sup>52</sup> www.sars.gov.za

<sup>52.1</sup> South Africa: Quarterly Trade Statistics

First Quarter 2012 Prepared by the Statistical Analysis and Modelling Unit (SAM) for the Economic Research and Policy Co-ordination Unit (ERPC) The Department of Trade and Industry

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- In terms of economic region, South Africa exported the most to the Asian continent, with R61.4 billion or 36% of the total goods exported for the first quarter of 2012.
- Overall, imports of goods recorded a decline of 3.49%, from R205 billion in the fourth quarter of 2011 to R198 billion in the first quarter of 2012. Imports of services showed a fairly constant level of approximately R140 billion from the first quarter of 2011 to the first quarter of 2012, with a dip to R114 billion in the third quarter of 2011.
- South Africa's trade balances for goods and services from first quarter 2011 to first quarter 2012 indicate a trade deficit.
- The trade deficit indicates that South Africa is importing more than what it is exporting, reaching a high negative record in the first quarter of 2012.
- The South African trade balance for services had a larger deficit compared to goods, except for the third quarter of 2011, which shows a sharp increase in the deficit. However, when the third quarter is ignored, a slight decline in the deficit is seen.

The goods side shows an increasing trade deficit, from a very low second quarter of 2011 of R10 billion to R55 billion in the first quarter of 2012.

The South African total trade balance depicts no clear trend, although it remains in negative territory.

In terms of commodities, the top 10 commodities exported from South Africa amounted to R61 billion. The top exported commodity was bituminous coal, not agglomerated, and in the first quarter of 2012 exports of this commodity amounted to R16.7 billion. This was followed by iron ore, concentrate, not iron pyrites, agglomerated, with a total of R9.9 billion. The top 10 commodities imported to South Africa amounts to R53.1 billion. The top imported commodity the period was petroleum oils, oils from bituminous minerals, crude, and in the first quarter of 2012 imports of this commodity amounted to R26.4 billion, followed by the motoring original equipment components, with a total of R11.6 billion.

- Trade with the BRIC countries (Brazil, China, India and China) represented an average of 10% of the total South African exports, and between 9% and 13% of all imports into South Africa over the period first quarter 2011 to first quarter 2012.
- South Africa's trade with BRIC countries for this period was dominated by China and India. China contributes between 65% and 70% of both imports and exports of the BRIC countries, while India contributes about 17% to 25% to the aggregate BRIC trade.
- The BRIC trade balance remained in negative territory over the period, showing an increase in the deficit from R2.4 billion in the first quarter of 2011 to R11.8 billion in the fourth quarter of 2011, followed by a slight decline to R9.5 billion in the first quarter of 2012. Both coal and other (non-coal) mining made a large contribution to the South African export to BRIC countries over the period under review, at roughly 70% of all BRIC exports. The basic iron and steel sector was the third-largest contributor to the exports at an average of 10% or R3 billion. Next on the rankings were the basic chemicals and basic non-ferrous metals sectors, at 5.3% and 4.2% respectively.





## Foreign trade

South Africa's trade agreements <sup>53, 54</sup>

### Overview

#### **Preferential market access agreements**

- Southern African Customs Union (SACU).
- Southern African Development Community (SADC) FTA.
- European Union / South Africa Trade, Development and Cooperation Agreement (EU/ SA TDCA).
- SACU-European Free Trade Association (EFTA) FTA.
- SACU-Southern Common Market (Mercosur) PTA.
- Bilateral agreements with Mozambique and Zimbabwe.

#### **Current trade negotiations**

- World Trade Organisation's Doha Development Agenda.
- SACU-India PTA.
- SADC-EAC-COMESA Tripartite FTA.

#### **Non-reciprocal agreements**

- Africa Growth and Opportunity Act (AGOA).
- South African products qualify for preferential market access (i.e. no or substantially reduced customs duty) under the Generalised System of Preferences (GSP).

<sup>53</sup> The Department of Trade and Industry (the dti), Republic of South Africa. International Trade & Economic Development Division. - compiled September 2012.

<sup>54</sup> Economist Intelligence Unit : Country Forecast - Updater: 11 March 2011.

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## South African trade agreements

The South African Government's economic development strategy aims to accelerate growth and industrial development along a path that generates decent jobs. The Government, through **the dti**, seeks to support the objectives of industrial development and upgrading, employment growth and increased value-added exports by negotiating trade agreements with other countries. The International Trade and Economic Development Division (ITED) within **the dti** is the section responsible for such trade negotiations.

These agreements take different forms. In the section below, we identify and briefly introduce the various trade agreements that South Africa is party to:

### ***The Southern African Customs Union (SACU)***

SACU was established in 1910 and is the oldest functioning customs union in the world. It has been renegotiated twice: in the late 1960s when Botswana, Lesotho and Swaziland became independent and after the inauguration of the democratic government in South Africa in 1994. The current members are Botswana, Lesotho, Namibia, South Africa and Swaziland. SACU seeks to maintain the free interchange of goods between member countries. It provides for a common external tariff for the common customs area.

All customs duties collected in the common customs area are paid into South Africa's national Revenue Fund. The Revenue is shared among members according to an agreed revenue-sharing formula.

The latest SACU Agreement came into force in July 2004. In terms of Article 31 of the new agreement, South Africa and other members of SACU jointly negotiate preferential trade agreements with third parties. SACU members have also agreed to a targeted work programme in five areas, namely: regional industrialization; review of the revenue-sharing formula to ensure a sustainable revenue-sharing mechanism that promotes development; development of a trade facilitation programme to improve border efficiency; unified engagement in trade negotiations; and establishing common institutions such as a Tariff Board and the Tribunal within an agreed policy framework.

***The Southern African Development Community (SADC)***  
The Trade Protocol of SADC, which established a free trade area among 12 SADC member states, was implemented on 1 September 2000. The aim of SADC is to create a "community" providing for regional peace and security, and an integrated regional economy. As a regional institution it has laid the basis on which regional planning and development in Southern Africa could be pursued. It

also provides the desired instrument by means of which member states should move along the path towards eventual economic integration. Furthermore, SADC forms one of the building blocks of the African Economic Community (AEC).

Implementation of the SADC Protocol on Trade began in 2000, following its signing in 1996. The liberalisation of tariffs has taken place at different rates. In general, more developed SADC countries have reduced tariffs faster than other member states. SACU removed most tariffs in 2000, while middle-income countries have gradually reduced their tariffs each year between 2000 and 2008. In relation to the least-developed countries, tariff reductions have generally been introduced during the latter part of the phase-down period.

From January 2008 onwards, when SADC attained the status of a FTA, producers and consumers do not pay import tariffs on more than 85% of all trade in community goods in the initial 12 countries implementing the SADC Trade Protocol. The 15% of trade, constituting the "sensitive list", is expected to be liberalised from 2009 to 2012 when SADC attains the status of a fully-fledged FTA with almost all tariff lines traded duty-free. Market integration in SADC is accompanied by cross-border infrastructural development (such as the spatial development initiatives) and sectoral co-operation that aims

to build and diversify the region's production structures.

SADC, together with COMESA and the EAC, has established an on-line Non-Tariff Barrier reporting and monitoring mechanism (<http://www.tradebarriers.org>) to facilitate eliminating non-tariff barriers. This mechanism has the potential to facilitate movement of goods and will lead to increased trade. Its effectiveness is, however, dependent on the full and active participation of the business community.

To determine whether a product originates in the region, and therefore qualifies for duty-free access to the SADC market, "Rules of Origin" have been agreed to by member states. To benefit from SADC trade preferences, exporters must obtain confirmation of origin through a "Certification of Origin", obtainable from competent authorities in member states' customs offices.

### ***The Common Monetary Area (CMA)***

The CMA links South Africa, Lesotho and Swaziland into a currency union, in which the South Africa Rand is the common currency. It is allied to SACU - see above. Namibia automatically became a member upon independence, but withdrew with the introduction of the Namibian dollar in 1993. However, Namibia has chosen not to pursue its own

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flexible exchange rate policy, and the Namibian dollar is at par with the South African Rand and there is no immediate prospect of change. The same is true with the lilangeni of Swaziland and the loti of Lesotho. The Rand continues to circulate freely in these countries, although it is strictly speaking not legal tender. Foreign exchange regulations and monetary policy throughout the CMA continue to reflect the influence of the South African Reserve Bank.

#### **SADC-EAC-COMESA Tripartite FTA (T-FTA)**

In 2009, the Members States of SADC, the EAC and COMESA initiated a wide-ranging initiative for integration that will be built on market integration, industrial development and infrastructure. In 2011, Members of the three groupings launched negotiations towards the Tripartite FTA (T-FTA). The FTA will, as a first phase, cover only trade in goods and core areas necessary to support that (such as Rules of Origin). Services and other trade-related areas will be covered in a second phase. Once concluded, the T-FTA will combine the markets of 26 countries with a population of nearly 600 million people and a combined GDP of US\$1 trillion, providing the market scale that could launch a sizeable part of the continent onto a new developmental trajectory. It is anticipated that these negotiations will be concluded by April 2014, with implementation of the T-FTA scheduled for 2015.

The T-FTA will form the basis for an Africa-wide FTA, which is expected to create a market of US\$2.6 trillion. This will address the challenge of small and fragmented economies in Africa. A larger, more integrated and growing market would enhance the interest of foreign investors in Africa and provide a basis for enhanced intra-African trade. This envisaged Continental FTA (C-FTA) will therefore widen and build on the integration initiatives already under way.

#### **EU-South Africa Trade, Development and Cooperation Agreement (TDCA)**

The TDCA between South Africa and the European Union was signed on 11 October 1999 and provisionally came into force on 1 January 2000, subject to ratification by the EU member states. The Agreement came into force on 1 May 2004 after it was ratified by all EU member states. In terms of the Agreement, by 2010, the EU is expected to liberalise 95% of its duties on South African originating products. In turn, by 2012, South Africa undertook to liberalise 86% of its duties on EU originating products. It means that only a limited number of product lines are not as yet subject to any of the regimes of tariff phase-down under the Agreement.

There is currently a review of the Agreement under way, which is aimed at broadening the scope of product coverage. This is taking place under the auspices of the Economic Partnership Agreement (EPA) negotiations between the SADC EPA configuration and the EC.

#### **SACU-EFTA FTA**

The FTA between SACU and the EFTA came into effect on 1 May 2008. It applies to trade relations between SACU and individual EFTA states covering trade in industrial goods (including fish and other marine products) and processed agricultural products. The Agreement also provides for future non-binding engagements on issues such as intellectual property, investment, trade in services and government procurement.

EFTA countries do not have a common agricultural policy and basic agricultural products were negotiated separately. Three Bilateral Agricultural Agreements were concluded between SACU and individual EFTA states, which form part of the main Agreement and came into force at the same time as the FTA.

On the EFTA side tariffs on industrial goods were eliminated upon entry into force of the Agreement; i.e. all customs duties on imports of originating products from SACU have been abolished. SACU shall progressively reduce customs on imports of originating products from the EFTA states.

The tariff reduction schedules are set out on the assumption that the Agreement came into force on 1 January 2006 and are not affected by any delays in the actual date on which the FTA came into force.

#### **The United States**

##### *Trade, Investment, Development and Cooperation Agreement (TIDCA)*

The TIDCA between SACU and the US is a co-operative framework agreement that makes provision for the two parties to negotiate and sign agreements relating to sanitary and phytosanitary measures (SPS), customs cooperation, and technical barriers to trade measures (TBT). It also establishes a forum of engagement between the two parties on any matters of mutual interest, including capacity-building and trade and investment promotion.

##### *Trade and Investment Framework Agreement (TIFA)*

TIFA is a bilateral agreement between South Africa and the US that was signed in 1999, but was dormant until a decision to revive it was taken in 2010. The Agreement provides a bilateral forum for the two countries to address issues of interest including AGOA, TIDCA, trade and investment promotion, non-tariff barriers, SPS, infrastructure and others. It is the main forum for bilateral engagement with the US on all trade-and-investment-related issues.

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## *African Growth and Opportunity Act (AGOA)*

AGOA is a unilateral assistance measure of the US government to increase trade and investment between the US and eligible sub-Saharan African countries, including South Africa. AGOA was signed into law on 18 May 2000 as Title 1 of The Trade and Development Act of 2000 in the US. AGOA extended the duty-free treatment under the US's Generalised System of Preference (GSP) programme. Importantly, AGOA eliminated most of the limitations of the GSP programme for sub-Saharan African countries, and expanded the product coverage of the GSP programme exclusively for products in sub-Saharan Africa. It has also made way for duty-free and quota-free access to the US market for apparel manufactured in sub-Saharan countries, of which the fabric, yarn and thread were of US origin. AGOA is set to expire in 2015.

## *SACU-Southern Common Market (Mercosur) PTA*

A preferential trade (or limited scope) agreement, covering about 1 100 product lines on each side of the border, was concluded in 2008 and signed in 2009. It is currently going through ratification procedures. It is not expected to enter into force before sometime in 2013.

## **Generalised System of Preferences (GSPs)**

### *What are GSPs?*

The Generalised System of Preferences (GSP) is a formal, non-reciprocal system of exemption from the more general rules of the World Trade Organisation (WTO). Specifically, it is a system of exemption from the "Most Favoured Nation" principle (MFN) that obligates WTO member countries to treat the imports of all other WTO member countries no worse than they treat the imports of their "most favoured" trading partner. In essence, MFN requires WTO member countries to treat imports coming from all other WTO member countries equally, that is, by imposing equal tariffs on them, etc.

GSP, however, exempts WTO member countries from MFN for the purpose of lowering tariffs for developing countries (without also doing so for rich countries). The idea of tariff preferences for developing countries was the subject of considerable discussion within UNCTAD in the 1960s. Among other concerns, developing countries claimed that MFN was creating a disincentive for richer countries to reduce and eliminate tariffs and other trade restrictions with enough speed to benefit developing countries.

## *GSP applied to SA exports*

South African products qualify for preferential market access (i.e. no or substantially reduced customs duty) to several countries under the GSP, including EU Member States, Japan, Canada and Russia.

### **Bilateral agreements**

#### *Mozambique Preferential Access Agreement*

This Agreement is a wide-ranging preferential arrangement regulating mine labour, railway and port matters and trade. A limited number of Mozambican goods receive tariff preference from South Africa, subject to quotas.

#### *Zimbabwe/South Africa Bilateral Trade Agreement*

An initial agreement between South Africa and Zimbabwe in 1964 provided for preferential rates of duty, rebates and quotas on certain goods traded between the two countries. Consensus on a new trade Agreement was reached in August 1996. In terms of the new Agreement, tariff and quota levels on textile imports into South Africa will be lowered. The Agreement also extends to a large number of other products, certain quotas for agricultural products.

## *World Trade Organization's Doha Development Agenda*

South Africa is a strong proponent of the principles of multilateralism, transparency and inclusiveness. We regard multilateralism as a necessary intergovernmental response to manage the challenges of globalisation and deepening interdependence among economies and societies around the world. The current playing field in world trade is still highly uneven and biased against developing countries' interests. In the WTO, South Africa therefore remains committed to concluding a Development Round based on the mandate agreed to in Doha. South Africa has built alliances with other like-minded developing countries to resist an outcome that is unfair, un-mandated and anti-development.

### **NEPAD**

South Africa, in collaboration with key African countries and as one of the NEPAD five initiating countries, has been at the forefront in developing NEPAD as Africa's premier development programme, in mobilising African and international support for NEPAD and in supporting NEPAD structures and processes.

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NEPAD, which was adopted in 2001, is aimed to promote and sustain socio-economic development and foster the adoption of policies that are in line with global practices. The primary objective of NEPAD is to eradicate poverty, halt the marginalisation of Africa in the globalisation process, to promote the empowerment and economic integration of women and to achieve the Millennium Development Goals (MDGs).

The implementation of NEPAD, in conjunction with the SADC Regional Indicative Strategic Development Plan (RISDP) as the regional expression of NEPAD, forms a critical pillar that contributes to the overall objective of the consolidation of the African Agenda. At a practical level NEPAD seeks to unlock the blockages relating to hard and soft infrastructure, stimulating economic activity through the various economic corridors, trade facilitation, Aid for trade and capacity building through innovative partnerships.

NEPAD provides unique opportunities for African countries to take full control of their development agenda, to work more closely together, and to cooperate more effectively with international partners. In this regard, NEPAD manages a number of programmes and projects in six theme areas, including:

- Agriculture and Food Security.
- Climate Change and National Resource Management.
- Regional Integration and Infrastructure.
- Human Development.
- Economic and Corporate Governance.
- Cross-cutting Issues, including Gender, Capacity Building and ICT.

#### **BRICS - Brazil, Russia, India, China and South Africa**<sup>55</sup>

##### **Overview**

BRICS refers to the economic alliance that includes Brazil, Russia, India, China and South Africa. It is believed South Africa's ascendance to the BRICS group of major emerging economies (on 13 April 2011) is a boost to the country's brand as a serious economic player and puts South Africa on the centre stage of global change, rather than on the sideline.

In addition, this partnership will not only benefit South Africa, but also the continent, as it will open up trade in Africa. Experts have made the point that the "S" in BRICS should actually stand for SADC, and not South Africa, referring to the Southern African Development Community of 15 African states, including Botswana, the DRC, Angola and Tanzania.

Membership would give Africa a stronger voice, not only within BRICS, but also across all international platforms in which the BRICS countries are individually represented.

The membership was the result of two years of in-depth planning and joint efforts by the public and private sector. The founding nations (Brazil, Russia, India and China), and now South Africa, are in a similar state of economic development, although South Africa ranks lower according to several significant indicators.

While it is agreed South Africa does not have a major world population size in comparison to the other BRICS member states, including the high-digit growth rates enjoyed by its BRICS partners, South Africa has many other positive attributes not to be undermined including, among others, South Africa's role as a major economic player in Africa, South Africa's mineral and industrial output, electricity generation capacity, road, rail, ports and communication infrastructure, sophisticated financial markets and service industries, South Africa's manufacturing capacity, membership in the G20, and level of industrialisation.

##### **History of South Africa's membership to BRICS**<sup>56</sup>

Political dialogue between the BRIC countries began in New York in September 2006, with a meeting of the BRIC foreign ministers. Four high-level meetings followed, including a

full-scale meeting in Yekaterinburg, Russia, in May 2008.

The BRIC countries met for their first official summit in June 2009, in Yekaterinburg, Russia, with Luiz Inácio Lula da Silva, Dmitry Medvedev, Manmohan Singh, and Hu Jintao, the respective leaders of Brazil, Russia, India and China, all attending. The core focus of the summit was related to improving the current global economic situation and discussing how the four countries can better work together in the future, as well as a more general push to reform financial institutions. There was also discussion surrounding how developing nations, such as those members of BRIC, could be better involved in global affairs in the future. In the aftermath of the summit the BRIC nations suggested that there was a need for a new global reserve currency that is "diversified, stable and predictable".

South Africa sought membership during 2010 and the process for formal admission began as early as August 2010.

South Africa was officially admitted as a member nation on 24 December 2010 after being formally invited by China and the other BRIC countries to join the group. The group was renamed BRICS to reflect the now-five-nation membership, with an "S" for South Africa appended to the acronym.

<sup>55</sup> <http://www.southafrica.info/global/BRICS/roundtable.htm> Nosimilo Ramela, 13 May 2011.

<sup>56</sup> SouthAfrica.info - New era as South Africa joins BRICS.

<sup>56</sup> Cooperation within BRIC Kremlin.ru. Retrieved on 2009-06-16. Archived 2009-06-19.

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President Jacob Zuma attended the 2011 BRICS summit in Sanya, Hainan province, China, as a full member. Following the 2012 Summit in India, South Africa will host the fifth BRICS Summit in 2013.

#### ***South Africa and the BRICS***

South Africa's membership of the BRICS has become a vital element of our global economic strategy. The economic engagement in BRICS is being built on three pillars. First, the BRICS countries have a shared interest in pursuing the reform of multilateral institutions for global governance to give greater voice to developing countries in these institutions and, thereby, enhance the legitimacy of the institutions themselves. In particular, we have strengthened coordination in the WTO's Doha Round as well as in forums where trade and investment issues arise.

The second pillar involves building intra-BRICS cooperation. On matters relating to trade and investment, we have highlighted the importance of working to build our industrial base, enhance value-added exports, and promote technology sharing, small business development and trade and investment promotion. Innovative proposals relating to the establishment of a BRICS-led Development Bank and the possible settlement of trade in domestic currencies have also been advanced. This bank will establish a mechanism to leverage new sources of investment

from the South to address financial bottlenecks of infrastructure and industrialization, while new sources of trade finance and the settlement of trade in domestic currencies will reduce transaction costs and support growth in intra-BRICS trade.

Third, South Africa has a direct interest in extending BRICS cooperation to support Africa's economic development agenda. The BRICS countries can contribute to Africa's development by increasing financial aid to build infrastructure and industrial capacity, and increasing imports of value-added manufactured products from the continent. The abundant natural resources of Africa, the growing consumer power of Africa's emerging middle class, and high growth rates offer an opportunity to build a more sustainable and mutually beneficial relationship with Africa in the next decades.



#### ***Member countries - Overview***<sup>57</sup>

The BRICS group is emerging as a world superpower in terms of international trade. The five countries are leading the world in growth, with each having its own unique "core competency" for making money, as follows:

##### *Brazil*

Brazil leads the world in improved utility efficiency, and is one of the few countries with a real plan for creating its own energy in sufficient amounts to meet its needs. The sugar-cane fields power excellent ethanol infrastructure, and the investment has proven to help improve the Brazilian economy with a comparative advantage in producing things cheaply.

##### *Russia*

Russia has an advantage in producing energy from its oil fields. Corruption creates a very dangerous risk that investors have priced into the market. Equities are cheap in Russia.

##### *India*

India is a very balanced portion of the BRICS group, with its power coming as a result of inexpensive labour in the services industries. Unfortunately, India currently has a negative dependency ratio, and recent upturns in wealth haven't registered to the older, poorer citizens.

##### *China*

China is leading the world in growth, but concerns about a rampant real estate market are beginning to cool investors' expectations in the short-run. A net exporter, most analysts expect that China will soon turn "consumptuous" as its consumer economy emerges. Its power, however, can be leveraged with its undervalued currency, the Renminbi.

##### *South Africa*

One of the most interesting of all the countries is South Africa. Mostly a "frontier" economy, South Africa has an excellent opportunity for growth in bringing up its uneducated, rural population. South Africa is regarded as one of the better countries in the least developed continents (Africa). In addition to South Africa's strong economy and developed infrastructure, the country's position as the gateway to the rest of Africa gives it a valuable role in BRICS.

<sup>57</sup> <http://www.investingblog.org/archives/831/bric-brics-economy-countries/>.

**Member countries - Vital statistics <sup>58</sup>**

Table 1: Key statistics of BRICS members

Member	Leader	Finance Minister	GDP current prices (US\$ billions)	GDP per capita (US\$ units)	HDI	Population(persons - millions)
Brazil	President Dilma Rousseff	Guido Mantega	2 449.760	12 465.306	0.718	196.526
Russia	President Vladimir Putin	Anton Siluanov	2 021.896	14 246.306	0.755	141.924
India	President Pranab Mukherjee	P Chidambaram	1 779.279	1 454.646	0.547	1 223.170
China	President Hu Jintao	Xie Xuren	7 991.738	5 898.565	0.687	1 354.861
South Africa	President Jacob Zuma	Pravin Gordhan	419.925	8 201.992	0.619	51.198

Table 2: Global rankings of BRICS members - Various categories <sup>59</sup>

	Brazil	Russia	India	China	South Africa
Area	5 <sup>th</sup>	1 <sup>st</sup>	7 <sup>th</sup>	3 <sup>rd</sup>	25 <sup>th</sup>
Population	5 <sup>th</sup>	9 <sup>th</sup>	2 <sup>nd</sup>	1 <sup>st</sup>	25 <sup>th</sup>
Population growth rate	107 <sup>th</sup>	221 <sup>st</sup>	90 <sup>th</sup>	156 <sup>th</sup>	158 <sup>th</sup>
Labour force	5 <sup>th</sup>	7 <sup>th</sup>	2 <sup>nd</sup>	1 <sup>st</sup>	34 <sup>th</sup>
GDP (nominal)	8 <sup>th</sup>	10 <sup>th</sup>	11 <sup>th</sup>	2 <sup>nd</sup>	28 <sup>th</sup>
GDP (PPP)	7 <sup>th</sup>	6 <sup>th</sup>	4 <sup>th</sup>	2 <sup>nd</sup>	25 <sup>th</sup>
GDP (nominal) per capita	55 <sup>th</sup>	54 <sup>th</sup>	137 <sup>th</sup>	95 <sup>th</sup>	71 <sup>st</sup>
GDP (PPP) per capita	71 <sup>st</sup>	51 <sup>st</sup>	127 <sup>th</sup>	93 <sup>rd</sup>	77 <sup>th</sup>
GDP (real) growth rate	15 <sup>th</sup>	88 <sup>th</sup>	7 <sup>th</sup>	5 <sup>th</sup>	117 <sup>th</sup>
Human Development Index	73 <sup>rd</sup>	65 <sup>th</sup>	119 <sup>th</sup>	89 <sup>th</sup>	110 <sup>th</sup>
Exports	18 <sup>th</sup>	11 <sup>th</sup>	16 <sup>th</sup>	1 <sup>st</sup>	36 <sup>th</sup>
Imports	20 <sup>th</sup>	17 <sup>th</sup>	11 <sup>th</sup>	2 <sup>nd</sup>	34 <sup>th</sup>
Current account balance	47 <sup>th</sup>	5 <sup>th</sup>	169 <sup>th</sup>	1 <sup>st</sup>	179 <sup>th</sup>
Received FDI	11 <sup>th</sup>	12 <sup>th</sup>	29 <sup>th</sup>	5 <sup>th</sup>	31 <sup>st</sup>
Forex	7 <sup>th</sup>	3 <sup>rd</sup>	6 <sup>th</sup>	1 <sup>st</sup>	33 <sup>rd</sup>
External debt	28 <sup>th</sup>	24 <sup>th</sup>	26 <sup>th</sup>	23 <sup>rd</sup>	45 <sup>th</sup>
Public debt	47 <sup>th</sup>	122 <sup>nd</sup>	29 <sup>th</sup>	98 <sup>th</sup>	88 <sup>th</sup>
Electricity consumption	9 <sup>th</sup>	4 <sup>th</sup>	5 <sup>th</sup>	1 <sup>st</sup>	14 <sup>th</sup>
Number of mobile phones	5 <sup>th</sup>	4 <sup>th</sup>	2 <sup>nd</sup>	1 <sup>st</sup>	25 <sup>th</sup>
Number of internet users	5 <sup>th</sup>	7 <sup>th</sup>	4 <sup>th</sup>	1 <sup>st</sup>	44 <sup>th</sup>
Vehicle production	6 <sup>th</sup>	19 <sup>th</sup>	7 <sup>th</sup>	1 <sup>st</sup>	24 <sup>th</sup>
Military expenditures	12 <sup>th</sup>	5 <sup>th</sup>	10 <sup>th</sup>	2 <sup>nd</sup>	43 <sup>rd</sup>
Active troops	14 <sup>th</sup>	5 <sup>th</sup>	3 <sup>rd</sup>	1 <sup>st</sup>	59 <sup>th</sup>
Rail network	10 <sup>th</sup>	2 <sup>nd</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	12 <sup>th</sup>
Road network	4 <sup>th</sup>	8 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	18 <sup>th</sup>

<sup>58</sup> IMF. [www.imf.org](http://www.imf.org). Retrieved August 2012.

<sup>59</sup> The Economist. "How Solid are the BRICs?" Global Economics. <http://www2.goldmansachs.com/ideas/brics-how-solid-doc.pdf>. Retrieved 2010-09-21.

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## Exchange controls

Exchange control is administered by the South African Reserve Bank (SARB) which has delegated powers to Authorised Dealers (banks licenced to deal in foreign exchange).

South Africa does not impose exchange controls on non-residents, but exercises exchange controls over residents and transactions entered into between residents and non-residents.

For exchange control purposes, a "resident" is a person (a natural person or legal entity) whether of South African or any other nationality, who has taken up residence, is domiciled or registered in South Africa.

There are, in principle, no restrictions on foreign investors acquiring companies or businesses in South Africa. The introduction of capital or the acquisition of shares does not require SARB approval, but the acceptance of foreign loans by South African residents (including a South African subsidiary or branch of a foreign company) is subject to prior approval being obtained. Approval is required for the repayment of foreign loans by South African residents.

There are no thin capitalisation rules imposed in terms of exchange controls but the rate of interest payable on foreign loans will be limited in terms of SARB policies, although after approval has been

granted, interest is freely transferable from South Africa. The extent to which non-residents and entities, in which non-residents have an interest of 75% or more, may avail of local financial assistance in South Africa for local working capital purposes, is unrestricted; however, local financial assistance for financial transactions and the acquisition of residential property is restricted in terms of exchange controls.

The sale, or redemption proceeds, of assets owned by non-residents may be freely transferred from South Africa.

Dividends declared by South African subsidiaries of foreign companies, and profits distributed by a branch of a foreign company operating in South Africa, may be remitted abroad.

Residents (including resident entities) may remit payment for services actually rendered by non-residents, provided that the fees payable are not calculated on the basis of a percentage of turnover, income, sales or purchases (i.e. based on a direct charge method).

Payments to be made in respect of transfer pricing or cost sharing or cost allocation arrangements (i.e. based on an indirect charge method) require SARB approval.

The remittance of licence fees / royalties is subject to approval being granted by the SARB and / or the dti.

Payment for imports may be made through an Authorised Dealer, against the submission of documentation evidencing the receipt of the merchandise in South Africa.

The receipt of export proceeds by residents is controlled. Foreign currency export proceeds must be repatriated and offered for sale to an Authorised Dealer within 30 days of receipt. Exporters may grant credit of up to 180 days where it is the norm and on application to the Authorised Dealer credit terms may be extended.

Residents (natural persons) over the age of 18 years may avail of a single discretionary allowance of up to R1 000 000 per calendar year which may be utilised for any one or all of the following categories of allowances: travel (both holiday and business travel), maintenance payments, gifts or loans to non-residents, study allowance, alimony and child support payments, wedding expenses and foreign capital allowance. Residents (natural persons) under the age of 18 years may avail of travel facilities within a limit of R200 000 per calendar year.

Individuals resident in South Africa, who are taxpayers of good standing and over the age of 18 years, are permitted to remit capital abroad to invest within a limit of R4 million per calendar year, or alternatively, hold foreign currency deposits with an

Authorised Dealer.

Foreign nationals temporarily resident in South Africa may, subject to completing formalities through an Authorised Dealer, conduct their affairs on a resident basis while resident in South Africa and may expatriate accumulated earnings or capital introduced.

Investment	Comments
Listed securities	No restrictions
Real estate	No restrictions
Equity investment	No restrictions
Loans	All foreign loans subject to approval

### Note:

\*Local borrowing, including normal trade credit or financial assistance availed of for local working capital purposes, of a South African company in which non-residents have at least 75% ownership or controls, is not limited.

\*\*Local financial assistance granted to emigrants and companies in which non-residents have an interest of 75% or more is restricted in respect of the acquisition of residential properties by non-residents or affected persons, and any other financial transaction, such as portfolio investments by non-residents, securities lending, hedging, repurchase agreements etc. In these cases, a ratio of 100% of invested, or shareholder funds, applies.

## Repatriation of funds

Type	Comments
Dividends	No restrictions
Interest	No restrictions **
Royalties	12% withholding tax*
Equity Investments	No restriction**
Loans subject to approval	Readily granted**

\*Assumes no double tax treaty relief exists.

\*\*Provided exchange control approval was obtained on initial investment

### Dividends

Dividends are freely remittable (provided the dividend will not cause the business to be "over borrowed"). The remitting bank may call for an auditor's report.

### Interest

Provided exchange control approval has been obtained in advance, in respect of the loan and the interest payable. In other words, approval is required for the receipt of the loan and if prior approval for the loan has been obtained, interest may be paid without separate approval. Repayment of capital is subject to separate approval.

### Royalties

Provided the royalty agreement has been approved by the SARB and / or the dti and provided the application for approval to remit the royalty is supported by the auditor's certificate.

### Management fees

For exchange control purposes management fees are freely remittable, provided the fee is not based on a percentage of sales, turnover, purchases etc. A detailed invoice specifying the services and the basis of the fee must be submitted to the entity's bankers when effecting payment.

### Importing and exporting

#### Overview <sup>60</sup>

The South African trade balance over the past year shows a negative balance, concluding that South Africa is importing more goods and services than what it is exporting

In 2011, South Africa's total exports to the rest of the world grew by 19.2% to R691.5 billion, with exports destined for China, Japan, the US and other African markets making up the largest contributions to this growth performance. Imports into South Africa from the rest of the world grew by 23.9% to R726.2 billion in 2011, with this growth associated mainly with imports from China, the US, Germany and Saudi Arabia.

The top export categories included precious stones and metals (mainly platinum, gold and, to a much lesser extent, diamonds), ores slag and ash (largely iron ore and, to a much lesser extent, chrome and manganese), mineral fuels (mostly coal and refined petroleum), iron and steel products,

as well as motor vehicles, parts and accessories.

The top import categories included mineral fuels (largely crude oil and refined petroleum), machinery and equipment (mostly computers, printing equipment, heavy equipment and steam turbines), electrical machinery and electronic equipment, as well as motor vehicles, parts and accessories.

### Total imports and exports

Year	Imports	Exports
2007	R561.60 bn	R491.39 bn
2008	R727.89 bn	R656.13 bn
2009	R541.52 bn	R513.87 bn
2010	R585.55 bn	R590.05 bn
2011	R723.43 bn	R707.34 bn

Source: SARS year-on-year trade balance

### Top 10 imported and exported commodities - 2011 (by Rand value)

Major Imports		Major Exports	
1	Petroleum oils and oils obtained from bituminous minerals, crude	1	Gold, Non-monetary: Other semi-manufactured forms
2	Distillate fuel	2	Iron ores and concentrates, agglomerated
3	Petrol	3	Bituminous coal
4	Other vehicles of a cylinder capacity exceeding 1 500 cm <sup>3</sup> but not exceeding 3 000 cm <sup>3</sup>	4	Platinum, unwrought or in semi-manufactured forms, other
5	Cathodes and sections of cathodes	5	Platinum, Unwrought or in powder form
6	Unrefined copper; copper anodes for electrolytic refining	6	Ferro-chromium: Containing by mass more than 4% of carbon
7	Original equipment components: For motor cars of heading 87.03	7	Chromium ores and concentrates
8	Aircraft exceeding 15 000 kg	8	Other vehicles of a cylinder capacity exceeding 1 500 cm <sup>3</sup> but not exceeding 3 000 cm <sup>3</sup>
9	Tobacco, partly or wholly stemmed or stripped	9	Iron ores and concentrates, non-agglomerated
10	Cobalt ores and concentrates	10	Filtering or purifying machinery and apparatus for gases: other

<sup>60</sup> <http://www.idc.co.za/media-room/articles/233-statistical-update-on-south-africa-s-economic-sectors>

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## Import and export procedures<sup>61</sup>

Customs procedures affect new business operations in many areas. Most firms rely on imports for initial capital equipment and for needed production materials and supplies. Exporting firms rely on timely clearances to expedite shipments and for documentation to secure rebates.

### Import permits

Most goods may be imported into South Africa without restriction. However, the importation of certain goods specified by government notice is only permitted subject to the issuance of an import permit. All second-hand goods, including waste and scrap of whatever nature, require an import permit. For goods subject to restriction, importers must be in possession of the required permit before the goods are shipped.

The International Trade Administration Commission of South Africa (ITAC) controls the issuing of permits. Additional and prior authorisation may be required from other departments with jurisdiction over the control of the goods in question. The permit can be acquired within three days, depending on the nature of the application.

For a complete list of goods currently subject to import control, an importer should approach the ITAC. There is no fee applicable. Permits are valid for 12 months from date of issue.

Applications should be filed at least two weeks prior to the date of shipment in order to ensure approval in time for shipment.

### Export permits

A number of products are subject to export control and licensing. Exporters should apply directly to the government agency that controls the specific permit in question. Currently, restrictions exist on strategic goods (exhaustible resources); agricultural products and metal waste and scrap. Metal scrap must first be offered to downstream manufacturers at a discount to the price at which it can be exported (15% discount for non-ferrous; 7.5% for ferrous). If manufacturers turn down the offer, an export permit may be issued.

### Registration as importer/exporter

All importers and exporters in South Africa are required to register with the Commissioner of the South African Revenue Service (SARS). Form DA 185 (plus the relevant annexures) for importers and exporters, as well as clearing agents and warehouse licencees, must be completed and submitted to SARS.

Forms are to be submitted to the SARS office closest to the area in which the applicant's head office is situated. Upon registration, applicants are issued with a unique customs code number. The registration process normally takes about two to three weeks.

SARS has recently amended their rules around foreign entities (not registered in South Africa) that wish to register for customs purposes.

Foreign entities ("foreign principals") can register with Customs (i.e. register as importer and/or exporter), provided they simultaneously nominate a local representative ("registered agent") located in the Republic of South Africa to act on their behalf in relation to any business activity which relates specifically to Customs.

### Customs clearance procedures

#### Import process

The clearance of imported goods generally takes a maximum of 24 hours for airfreight and two to three days for sea freight, depending on the port of entry. All required documentation must be submitted to Customs and Excise before goods can be cleared through customs.

Most transactions are covered by a bill-of-entry (Form SAD500).

Other required documentation includes:

- Commercial invoice.
- Prescribed certificate of origin when preferential duty rates are claimed.
- Negotiable copy of bill of lading or equivalent document.
- Import permit, if required.
- Rebate permit 470.03 (if applicable) for raw materials to be processed and re-exported.
- Payment, by a bank guaranteed cheque, for all applicable duties and taxes (incl. VAT), if not qualified for a deferment.

Import shipments may be cleared through customs prior to the goods arriving at a South African port. In order to avoid unnecessary delays, an importer may wish to submit an application for a tariff determination for products where the tariff heading is unknown or under dispute. These can be acquired from the Commissioner in Pretoria (submitted through the relevant branch office).

In the case of sea freight, once customs has been cleared, the importer must pay dues to Harbour Revenue, and receive a wharfage order. The importer then pays the operator and receives a release. At this point, the importer can go to the terminal and collect his goods. Use of a freight forwarder is strongly recommended.

<sup>61</sup> the dti Investor's Handbook, 2009. [www.thedti.go.za](http://www.thedti.go.za). Retrieved August 2012.

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Freight forwarders commonly apply for all licences and registration numbers. They can apply for tariff determinations and provide assistance in properly classifying goods. Through the use of technology, they can clear goods quicker than an individual investor, and provide inland transport for the goods to reach the investor.

Importers need to be aware that, although the freight forwarder will assist them with the clearance process, the ultimate responsibility for the correct clearance of the goods remain theirs.

#### **Export process**

All required documentation must be submitted to Customs and Excise before goods can be cleared through Customs. Most transactions are covered by a Bill of Entry, Form SAD500. Customs can process paperwork within 24 hours.

All exports must reflect payment from the receiver of the goods. Other required documentation includes:

- Export invoice.
- Transport document.
- Export permit (if required).

#### **Electronic processing**

Most Customs offices accept electronic versions of required documentation to expedite the clearance process. SARS may request that the electronic version be supported by additional

documentation. The importer and/or the freight forwarder need to keep all customs-related documentation for a period of at least five years.

To facilitate clearance, Customs and Excise, in coordination with Transnet Port Terminals (previously Portnet) and Transnet Freight Rail (previously Spoornet), has also introduced electronic processing for the clearance of containerised cargo through a select number of district offices. Customs electronically communicates its instructions directly to the depot or terminal operators.

#### **Deferment of payment scheme**

A deferment scheme is available to qualified importers that allow the deferment of applicable import duties, and VAT. Payment is generally deferred for 30 days with seven days to settle the account. To apply for deferment, importers may apply to the local Customs Controller.

Required documentation includes:

- Application for deferment.
- Statement of income.
- Balance sheet.

The local controller will make its recommendation to the Commissioner. Following approval, the applicant will be required to submit additional documentation, including a signed agreement and any required surety bond.

#### **Duty drawback scheme**

A duty drawback scheme provides refunds for import duties paid on materials used in the production of goods exported. Manufacturers may apply for refunds after the final product is exported. Manufacturers must provide proper documentation to reconcile imported materials with exports.

#### **Bonded warehouses**

Secure bonded warehouse facilities are available at all points of entry and may be used to store imported goods without payment of duties until required for use, resale, or re-export.

Goods withdrawn from a bonded warehouse are liable for the duty applicable only if cleared out of bond for home consumption.

Manufacturing under rebate programme: SARS also administers a programme for manufacturing under rebate, whereby manufacturers may claim a rebate on imported materials used in the production of goods for export.

Imported materials must be used within 12 months. This facility is exclusively export driven, and to qualify manufacturers must have secure facilities on their premises for the storage of dutiable materials. The designated area is subject to inspection by Customs.

It is recommended that building plans be submitted to Customs prior to construction to ensure that all requirements are met. Upon approval,

manufacturers are also required to provide a surety bond. The bond amount is usually determined by SARS. The entire process can take from two weeks to two months, depending on the length of time required to obtain the bond.

Manufacturers are required to submit reconciliation statements to Customs within 12 months of the date of importation of imported materials.

#### **Clearing agents**

Clearing agents/customs brokers are available throughout South Africa to attend to all formalities necessary for the clearance of goods through customs, including any required permits, documentation, payment of duties, port charges, forwarding and transport costs.

#### **Customs duty planning**

Customs duty planning can provide significant savings for businesses locating to South Africa whether through immediate reduction in amounts of customs duty payable, improved cash flow, or by streamlining procedures and reducing overhead costs.

It is essential that businesses locating to South Africa consider specialist advice at an early stage to ensure that suitable planning opportunities are identified and maximum savings are achieved; especially since certain provisions are dependent on pre-approval from the authorities concerned.

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Listed below are brief outlines of the main areas in which businesses locating to South Africa may obtain savings through customs duty planning:

#### **Stage consignment procedures**

These can benefit businesses importing capital equipment in separate consignments. Instead of classifying all the components separately, and completing full customs entries for each consignment, they may be classified as component parts of one functional unit. The customs duty applicable to the functional unit will therefore be applied, that could result in one, low customs duty, instead of many different customs duty rates, several of which might be quite high. Import documentation would also be reduced.

#### **Customs valuation**

The South African Customs and Excise Act provides for a range of additions to, and deductions from, the transaction value of goods used to determine the value for customs duty purposes of imported goods. Careful planning will ensure that the lowest legal value can be used, thus reducing the overall duty bill. Where there is trade between related parties and SARS' Customs find that the transaction value is too low for customs duty purposes, SARS can increase the transaction value. It is therefore important to ensure that the correct customs value is agreed with SARS.

#### **Tariff classification**

Tariff classification of imported goods is the responsibility of the importer, even if entrusted to a clearing agent. Classification determines the rate of customs duty payable, permit and licensing requirements and entitlement to preferential customs duty rates or rebates of duty. Customs planning enables businesses to identify lower duty liabilities and avoid import restrictions that should not apply to the product.

#### **Inward processing relief**

A full rebate of the customs duty and VAT exemption is provided for goods for processing and re-exportation. Processing includes from simple repacking of goods to the most complicated manufacturing process. Certain accounting requirements have to be followed but careful planning can reduce these requirements to a minimum.

#### **Industrial Development Zones (IDZs)**

Following the publication of the IDZ Regulations in December 2000, the Coega (near Port Elizabeth), East London, Richard's Bay and Johannesburg International Airport IDZs have been designated.

The intention of IDZs is to provide investors in the zone with direct links to an international port and the facility to import inputs and goods into the zone customs duty-free and exempt from VAT. Each zone will have dedicated customs support for faster processing of customs documentation.

IDZs are suitable for export-orientated production. Finished goods sold into South Africa could have import status i.e. it could be subject to the same customs duties and taxes applicable to any other import.

Investors will qualify for all incentives available to South African companies (other than the Export Marketing and Investment Assistance Programme).

#### **Customs and excise warehouses**

These warehouses allow the deferment of the payment of customs duties and import VAT on goods subject to customs duty. Payment is only due at the time the goods are removed from the warehouse. Certain manufacturing operations may also be undertaken in these warehouses subject to special prior approval being received from the Customs authorities.

Special dispensations are applicable to exporters if the goods are not subject to customs duty.

#### **Anti-dumping, countervailing and safeguard measures**

ITAC conducts anti-dumping, countervailing and safeguard investigations in terms of the International Trade Administration Act. Anti-dumping, countervailing and safeguard duties can be imposed in addition to the prevailing rate of customs duty applicable to the product being imported. Safeguard quotas can be imposed in the case of safeguard investigations.

A product is considered dumped

when it is exported to the Southern African Customs Union (SACU) at a price that is less than its normal value. The normal value is defined as the domestic selling price of a product in the country of export or,

in the absence of domestic sales, exports to another country or a constructed normal value.

Countervailing duties are imposed in the case of subsidies by a foreign Government in an effort to make their exports more competitive.

Safeguard measures are imposed when there is a surge in imports of a specific product. In all three instances it must be shown that it has caused injury to the relevant South African industry before final measures can be introduced. The anti-dumping and countervailing duties can be country and / or company specific and are imposed for a period of five years.

Safeguard measures will apply to imports from all countries, although least developed countries can be excluded. Proper planning can ensure that the product is not subject to anti-dumping, countervailing or safeguard investigation. When being party to an anti-dumping, countervailing or safeguard investigation, it is essential that exporters, importers and manufacturers (South African and foreign) cooperate with the investigating authority in order to get the best dispensation.

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### ***Interpretation of trade agreements and "rules of origin"***

It is important to constantly monitor the changing trading environment and to develop informed marketing strategies. Companies are advised on compliance with the "Rules of Origin" provisions of the various trade agreements and assisted in mitigating risks in this area. South Africa is a beneficiary to various trade agreements such as the free trade agreements with the European Union (EU), European Free Trade Area (EFTA), the Southern African Development Community (SADC) and the Africa Growth and Opportunity Act (AGOA), which makes it an ideal location to target large developed markets.

### **Customs accreditation**

The SARS "accreditation initiative" was introduced in February 2002, and aimed to eradicate illegitimate trade and simultaneously facilitate legitimate trade within South Africa.

Accreditation allows SARS to grant accredited status to those businesses registered under the Customs Act and which meet defined criteria.

Benefits include:

- Simplified procedures such as electronic clearances support a paperless environment and lead to quicker turnaround times.
- Consulting with business to improve customs processes.

- Less human intervention in customs transactions.

The local trading industry did not embrace this concept due to the lack of real benefits. SARS in turn has not got around to conducting customs compliance inspections to verify compliance declarations made by applicants and, as a result, the application process became somewhat of a "paper-exercise".

SARS subsequently amended the accreditation programme and published two documents to aid applicants in understanding and assessing their compliance status with the accredited criteria namely:

- Request for information and self-assessment (document number SC-CF-06-A1).
- Quick reference guide to accreditation (document number SC-CF-07).

The documents were released due to the fact that the actual application for accreditation (the DA186) was very vague and did not provide any guidance as to what was required in order to qualify for accreditation.

The application process has, hence, been updated and applicants now need to complete the self-assessment prior to applying for accreditation on the DA186. If the self-assessment reveals that the applicant is not in a position to apply for accreditation, SARS will (together with the applicant) draw up a "Compliance Improvement

Plan" to assist the applicant to improve their compliance levels and, hence, meet the qualifying criteria for accreditation.

If the self-assessment reveals that the applicant meets the criteria for accreditation, the completed self-assessment (together with the DA186) needs to be submitted to SARS. SARS will verify the details and confirm whether or not accredited status has been granted. In the event that it is not granted, the applicant can participate in the Compliance Improvement Programme.

If SARS grant accredited status to the applicant, the applicant will be required to sign an accreditation agreement in order to complete the process and receive the benefits available under accreditation.

The applicant needs to be aware that ongoing compliance reviews by SARS will be conducted. Should the applicant's compliance levels fall, the accredited client status can be cancelled or suspended upon review.

Lastly, industry should be aware that SARS is currently looking at revising the accreditation initiative to bring it in line with the Authorised Economic Operator (AEO) concept, which was introduced by the World Customs Organisation (WCO). This revised accreditation is known as the SARS "Preferred Trader Initiative" (PTI).

Customs Modernisation has established a PTI that is currently undertaking a pilot with importers and exporters

from key economic sectors identified by Government. The aim is to improve trade facilitation and economic protection of key industries, as well as raise voluntary compliance and increase efficiency for SARS. The intent of the PTI is to create partnerships between Customs and Business, linking specific demonstrated and audited compliance levels. "Preferred trader" forms part of the revised accreditation approach within SARS. This will award clients with a new status, which will also introduce an "account manager approach" to approved preferred traders.

SARS believes that about 80% of trade volume is undertaken by clients who should be able to demonstrate their compliance, and therefore be considered "low risk" and potentially suitable for accreditation. The mutual benefit is that customs operations at the entry/exit points of South Africa should then be able to focus on high risk consignments and allow greater facilitation to its accredited clients.

The programme is dependent upon developing a solid Customs audit capability supported by its core legal, policy, people, process and systems infrastructures. To achieve this, the PTI has developed draft audit and account management policies, procedures and standard operating procedures to guide the new programme. These are being tested by the pilot, and will be formalised in legislative rules and policy within the next year. A new accreditation policy is also being developed that will specify formal

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benefits for clients linked to their compliance levels. This is in line with the EU's AEO programme, which SARS is aligning with due to the fact that the EU countries are our largest trading partners.

The assurance audits will perform tests that will score compliance against specific measures and standards. This approach will also facilitate mutual recognition from international Customs Administrations for their local status.

The new accreditation process requires the companies to complete a detailed self-assessment questionnaire that represents a due diligence report of their own compliance. SARS validates each company's declaration through an audit that performs a combination of internal systems tests and sampling of compliance.

SARS has undertaken initial discussions with neighbouring countries to help them adopt and deploy the SARS Customs Draft Accreditation Policy into an aligned Regional Accreditation and Audit Programme.

### ***Proposed benefits of the accreditation policy***

Proposed benefits of the accreditation policy include, among others:

- Reduced interventions.
- Upgraded service model for participants.
- Simplified procedures linked to accreditation (dependent on new systems and legislative provisions).

SARS is also busy with an AEO benchmarking programme, which will assist in the finalisation of the accreditation programme. The formal launch of the new accreditation programme, which includes the "preferred trader status", will coincide with legal and policy announcements in the coming year.

### **Re-write of the Customs Act**

After nearly 10 years of behind the scenes planning, SARS on 30 October 2009 published the:

- Tax Administration Bill (TAB).
- Customs Control Bill (CCB).
- Customs Duty Bill (CDB).

The main aim of the re-write is to modernise customs systems in order to facilitate legitimate trade. The new Customs Bills are in line with international trends and compliant with South Africa's commitments. The new Bills are largely based on the Revised Kyoto Convention, which provides a "blueprint" for a modern Customs organisation.

### **Latest changes**

While a few new concepts have been introduced, many of the changes see familiar concepts being revised with a lot of new terminology added to ensure that the Acts (and their guidelines) are in line with international protocols.

Some of the major changes to be introduced through the new Customs legislation include:

- SARS' ability to assess a duty liability has been lengthened from two to three years, which will make potential exposures much bigger than in the past.
- Provision has been made for a "self-assessment" by importers and exporters.
- Provision has been made for the "fast-tracking and simplified procedures" for accredited traders.
- Provision is made for advanced rulings.
- Goods now have to be cleared within three, not seven, days. Given that clearing agents are already accredited with SARS and communicate with them electronically, we don't see this causing any problems at our ports.
- Period for goods to be stored in a customs warehouse ("bond store") has been reduced from 24 to 12 months.
- Accredited status holders now have to renew this status every three years.
- In addition the benefits of accreditation have been more clearly defined.
- Companies registered with SARS will need to renew their registration every three years.
- The administration procedures have been clarified, including which forms are necessary and what the time frames are.
- SARS will have far greater powers in terms of recovering debt owed to the state, including powers to arrest, being able to use a certain level of force, and being able to carry firearms.
- The provisions for the classification and valuation of goods have been expanded upon.

#### Note:

It is anticipated that the draft Excise Bill, as well as rules and regulations to these new Bills, will be released for public comment during 2012. SARS is aiming to have all the new Bills enacted into law by the end of the 2012 calendar year.

#### Overview of the the dti

**the dti** Vision is of a South Africa that has a vibrant economy, characterised by growth, employment and equity, built on the full potential of all citizens. To achieve this, **the dti** has become an outwardly focused, customer-centric organisation.

#### Purpose

**the dti**'s Mission is to:

- Promote structural transformation, towards a dynamic industrial and globally competitive economy.
- Provide a predictable, competitive, equitable and socially responsible environment, conducive to investment, trade and enterprise development.
- Broaden participation in the economy to strengthen economic development.
- Continually improve the skills and capabilities of **the dti** to effectively deliver on its mandate and respond to the needs of South Africa's economic citizens.

#### Key strategic objectives

The key strategic objectives of **the dti** are:

- To facilitate transformation of the economy to promote industrial development, investment, competitiveness and employment creation.
- Build mutually beneficial regional and global relations to advance South Africa's trade, industrial policy and economic development objectives.
- Facilitate broad-based economic participation through targeted interventions to achieve more inclusive growth.
- Create a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner.
- Promote a professional, ethical, dynamic, competitive and customer-focused working environment that ensures effective and efficient service delivery.

These five strategic objectives will be achieved through the collective effort of **the dti**'s divisions and agencies, which are linked through a value chain to generate public value for economic citizens and to deliver products and services for their clients and stakeholders. These products and services include policy, legislation and regulation, finance and incentives, information and advice, and partnerships.

**the dti** will also achieve its objectives through the pursuit of a more targeted investment strategy, improved competitiveness of the economy, broadened economic participation of previously disadvantaged individuals to the mainstream economy and policy coherence.

#### National Industrial Policy Framework (NIPF)

In January 2007, Cabinet adopted the NIPF which sets out Government's broad approach to industrialisation with the following core objectives:

- To facilitate diversification beyond our current reliance on traditional commodities and non-tradable services. This requires the promotion of increased value-addition characterised particularly by movement into non-traditional tradable goods and services that compete in export markets, as well as against imports.

- The long-term intensification of South Africa's industrialisation process and movement towards a knowledge economy.
- The promotion of a more labour-absorbing industrialisation path with a particular emphasis on tradable labour-absorbing goods and services and economic linkages that catalyse employment creation.
- The promotion of a broader-based industrialization path characterised by the increased participation of historically disadvantaged people and marginalised regions in the mainstream of the industrial economy.
- Contributing to industrial development on the African continent, with a strong emphasis on building its productive capacity.

Guided by the NIPF, the implementation of industrial policy is to be set out in an Industrial Policy Action Plan (IPAP).

## Regulatory requirements in South Africa

In August 2007, Cabinet approved the first: 2007/08 IPAP, which reflected chiefly "easy-to-do" actions. The 2007/08 IPAP has largely been implemented. However, there has been a growing recognition that industrial policy needs to be scaled up from "easy-to-do" actions to interventions that we "need-to-do" to generate a structurally new path of industrialisation.

A process of intensive consultation and analysis (led by the Minister of Trade and Industry) has culminated in a revised IPAP for the 2010/11 to 2012/13 financial years. It was recognised that a one-year IPAP is too short a period and that future IPAPs will be for a three-year rolling period, updated annually and with a 10-year outlook on desired economic outcomes. The 2012/13 to 2014/15 IPAP represents a significant step forward in our industrial policy efforts. As it is reviewed and updated annually, it will be continuously strengthened and up-scaled.



### Corporate regulations

#### Introduction

The Companies Act, 2008 (the Act), constitutes a completely new corporate law for South Africa, and replaces the Companies Act, 1973 (as amended by the Corporate Laws Amendment Act) and amends the Close Corporation Act, 1984.

The Act is characterised by flexibility, simplicity, transparency, corporate efficiency and regulatory certainty. It is drafted in plain language, and is not as detailed and prescriptive as the current Act. Companies are allowed flexibility to change certain requirements to suit their specific circumstances.

The Act came into effect on 1 May 2011.

#### Different forms of companies

The Act provides for the classification of companies into either profit companies or non-profit companies.

Non-profit companies, which are the successors to the current section 21 companies, have to comply with a set of principles that relate mainly to the purpose or objects and policies of the company, matters related to directors and members, fundamental transactions and the winding up of non-profit companies. Also, the Act exempts non-profit companies from certain provisions of the Act.

With regard to profit companies, the Act distinguishes between four different types of companies, namely:

Private company	Personal liability company
A company that is not a state-owned company, and its Memorandum of Incorporation prohibits it offering any of its securities to the public, and restricts the transferability of its securities.	The company and the directors are jointly and severally liable for any debts and liabilities of the company.
State-owned company	Public company
An enterprise, registered as a company, which falls within the meaning of "state-owned enterprise" in terms of the Public Finance Management Act, or is owned by a municipality.	A company that is not a state-owned company, private company or personal liability company.

#### Transparency and accountability

The Act requires companies to adhere to a number of measures to ensure transparency and accountability.

##### Among others, all companies are required to:

Have at least one office in the Republic, and to register the address of such office (or its principal office) with the Commission.

Keep certain records in written or electronic form for a period of seven years.

Keep accurate and complete accounting record.

Prepare annual financial statements.

Submit an annual return, including a copy of its annual financial statements and any other prescribed information. The content of this report is prescribed in Regulations to the Act.

The Act requires public companies and state-owned companies to have audited financial statements. Certain categories of other companies may be required by the Minister in Regulations to have their annual financial statement audited. All companies that are not required (either in terms of the Act, or by Regulations) to have their financial statements audited may opt to either have their annual financial statements

audited voluntarily or to have it independently reviewed. Regulations set out exactly what is meant by independent review, what standards should be used, what professional qualifications are required for reviewers, etc.

#### Enhanced transparency and accountability

Although all companies are subject to transparency and accountability requirements (as set out above), public companies and state-owned companies are obliged to appoint a company secretary and an audit committee (comprising at least three members). All companies that are obliged to have audited financial statements must appoint an independent auditor. All other private companies, personal liability companies and non-profit companies may choose to include these enhanced transparency and accountability requirements in their respective Memoranda of Incorporation.

## Company finance

The authorisation and classification of shares, the numbers of authorised shares of each class, and the preferences, rights, limitations and other terms associated with each class of shares, must be set out in the company's Memorandum of Incorporation, and may only be changed by special resolution of the shareholders.

However, directors are given special powers in that the board of the company may (except if the Memorandum of Incorporation provides otherwise) change the number of authorised shares of any class of shares or to classify or reclassify any shares.

The interests of minority shareholders are protected by requiring shareholder approval for shares and options issued to directors and other specified persons, or financial assistance for share purchases.

## Capital adequacy

The Act introduces a new arrangement for capital adequacy. This arrangement abolishes the concept of par value shares and nominal value shares, and requires a solvency and liquidity test. In terms of this test, when one considers all reasonably foreseeable financial circumstance of the company at a particular point in time, the company's total assets fairly valued should equal or exceed its total liabilities (including contingent

liabilities) fairly valued and it should be clear that the company will be able to pay its debts as they become due in the course of business for a period of 12 months thereafter.

A new framework for debentures provides companies with significant freedom to create financial instruments.

## Governance

A range of matters are dealt with, including a shareholder's right to be represented by proxy, notice for and conduct at meetings, election of directors, disqualification of persons to be directors, removal of directors, board committees and board meetings, director's personal financial interests, standards of directors' conduct, liability of directors and prescribed officers, and the indemnification of directors.



## Standards of directors conduct

Directors of all types of companies are required to meet the same standards of conduct and behaviour as defined in the Act.

**A person, acting in the capacity of director, must exercise his powers and perform his/her functions:**

In good faith and for a proper purpose.

In the best interest of the company.

With the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions and having the general knowledge, skill and experience of that director.

## Director liability

Directors of a company may be held jointly and severally liable for any loss, damage or costs sustained by the company as a result of a breach of the director's fiduciary duty or the duty to act with care, skill and diligence. In addition, a director may also be held liable where he or she:

- Acts in the name of the company without the necessary authority.
- Is part of an act or omission while knowing that the intention was to defraud shareholders, employees or creditors.
- Signs financial statements that are false or misleading in a material respect.

- Issues a prospectus that contains an untrue statement.

The strict standards of directors conduct and liability are somewhat tempered by the fact that companies are allowed to advance funds to cover the expense of litigation against directors, to indemnify directors in certain circumstances or to purchase insurance to protect either the director or the company. Directors may never be indemnified for liability resulting from willful misconduct or willful breach of trust.

The standard of conduct, and the provisions relating to personal liability, also applies to "prescribed officers". A prescribed officer is any person that exercises general executive control over and management of the whole, or a significant portion, of the business and activities of the company.

## Takeovers and fundamental transactions

Fundamental transactions are transactions that would fundamentally alter a company, including the disposal of substantially all of its assets or undertaking, a scheme of arrangement, or a merger or amalgamation.

The Takeover Regulation Panel is tasked with regulating affected transactions. The Minister published takeover regulations to regulate the detail requirements for fundamental transactions.

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The Act provides detailed rules pertaining to notification and the process for share purchases, and includes provision for the compulsory acquisition of minority shareholding in a takeover. The current regime with regard to mandatory offers and "squeeze out" have, for the most part, been retained (with some adjustments), while the rules pertaining to mergers and amalgamations have been clarified and amended significantly.

The process for approval of transactions that would fundamentally alter a company is set out in the Act. Fundamental transactions require approval by special resolution adopted by shareholders. In any fundamental transaction, dissenting minority shareholders are given a remedy in that they may demand that they be paid fair value for their shares (appraisal rights).

#### **Business rescue**

The Act provides for a process to rescue companies that are financially distressed. A company is in financial distress when it is likely to be insolvent in the near future.

Business rescue proceedings may be initiated either by ordinary company resolution, or failing that, a court order.

Business rescue proceedings entail the appointment of a business rescue practitioner to supervise the company and its management on a temporary basis. During this time a moratorium is placed on the rights of claimants against the company. The business rescue practitioner is tasked with the development and implementation of a plan to rescue the company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company continuing to exist on a solvent basis.

The Act recognises the interests of all affected persons (which might be either a shareholder, a creditor, trade union or the employees of the company), and provides for their respective participation in the development and eventual approval of a business rescue plan.

The business rescue plan is either adopted or rejected by all parties with voting interests (which include creditors, employees and shareholders, depending on the circumstances). A business rescue plan that has been adopted is binding on the company, the creditors and every holder of the company's securities. Where the plan is rejected, the company will be liquidated.

#### **Enforcement**

A number of statutory bodies are established to enforce the provisions of the Act:

##### **Companies and Intellectual Property Commission (CIPC) is responsible for:**

- Monitoring proper compliance with this Act by companies and directors.
- Receiving and investigating complaints concerning alleged contraventions of this Act.
- Promoting the reliability of financial reports by investigating non-compliance with financial reporting standards.
- Registering and de-registering companies, directors, business names and intellectual property rights.

##### **Companies Tribunal is responsible for:**

- Assisting in the resolution of disputes where any person applies to the Companies Tribunal for relief as an alternative to applying to a court. An arbitration decision by the Companies Tribunal is binding on the Commission or the Takeover Regulation Panel.

##### **Takeover regulation panel is responsible for:**

- Regulating fundamental transactions.

##### **Financial reporting standards council is responsible for:**

- Consulting with the Minister of Trade and Industry on the making of regulations establishing financial reporting standards.

## King III

### Introduction

Boards of directors are confronted with many difficult decisions on a regular basis. The right choice is not always obvious. The King Report on Governance for South Africa 2009 (King III) provides a list of best practice principles to assist and guide directors to make the right choice for their company. Although King III refers to "companies" and "directors", the principles apply to all institutions, including public sector institutions.

The best practice principles have become an indispensable guide on corporate governance to directors, executives and regulators alike. King III provides guidance to all corporate entities on various governance related aspects, including:

- Ethical leadership and corporate citizenship.
- Boards and directors.
- Audit committees.
- The governance of risk.
- The governance of information technology (IT).
- Compliance with laws, rules, codes and standards.
- Internal audit.
- Governing stakeholder relationships.
- Integrated reporting and disclosure.

### *King III and the Companies Act*

The new Companies Act codifies the standard for directors' conduct and regulates the liability of directors where the standard is not met. Directors are obliged to act in good faith, in the best interest of the company and with the required level of skill and diligence. These standards will be enforced by the CIPC, and shareholders and other stakeholders of a company will hold the company and its directors accountable.

In contrast, there is no statutory obligation on companies to comply with King III. The underlying intention of King III is not to force companies to comply with recommended practice (King II required companies to "comply or explain"), but rather for companies to "apply or explain". Directors are accountable for the governance and well-being of the company, and to the body of shareholders. Where directors opt not to implement the recommended practices as set out in King III, they should be able to explain their reasoning and motivation to the shareholders.

As directors can be held personally liable for non-compliance with their statutory duties as set out in the Companies Act, they need to ensure that each and every decision is taken with care. Indeed, every decision counts. Most, if not all of the recommended best practice principles set out in King III relate to the legislative duties of directors

to exercise powers to perform their functions in good faith and for a proper purpose in the best interest of the company. In addition, they should do it with the degree of care, skill and diligence that may reasonably be expected of a director. As such, King III constitutes a valuable guide to directors and other office bearers to ensure compliance with the provisions of the Companies Act. It is recommended that directors pay close attention to the enumerated principles, and aim to apply all such principles. Of course, where they choose not to apply a particular principle, they should be able to explain that decision to shareholders.

### *Focus of King III*

King II highlighted corporate citizenship and integrated sustainability, the so-called triple bottom line, in terms of which companies needed to account not only for economic and financial issues, but also for social and environmental issues. King III builds on this principle by emphasising sustainability. Directors have accountability to shareholders and an obligation to all stakeholders (including shareholders) to ensure that the company's resources are utilised so as to ensure the continuing viability of the company. This involves not only environmental sustainability (resource management with an eye on future needs), but also issues such as social responsibility (ensuring a positive impact on the community within which the company operates),

respect for human rights, and the effective management of stakeholder relationships (including the utilisation of alternative dispute resolution mechanisms to resolve potential disputes efficiently, expeditiously and inexpensively).

A focus on sustainability will not only positively impact a company's risk management, but also its strategic planning processes. Governance, strategy, risk, performance and sustainability have become intrinsically linked, and directors should ensure that the company's strategy accounts for sustainability issues. Directors also need to ensure adequate sustainability reporting to all stakeholders.

King III also points out that the economic value of a company can no longer be based on the balance sheet only. Rather, the economic value will be impacted by a range of non-financial issues such as brand and reputation, stakeholder relations and goodwill, an evolving and forward looking strategy, environmental sustainability, social responsibility, quality of governance, etc.

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### **What's new in King III**

Although the King III Report builds on the pertinent issues as raised in King I and King II, the promulgation of the Companies Act, as well as the focus on sustainability necessitated the inclusion of or renewed emphasis on a number of issues. These include:

- Integration of strategy, sustainability and governance.
- A number of matters concerning the board and directors, such as the composition of the board, duties for the chairperson and the Chief Executive Officer (CEO), the board appointment process, director development, remuneration, and performance assessment of directors.
- Clearly defined role and functions of the audit committee.
- While not a new concept, emphasis on the risk-based approach to internal audit and the strategic positioning of the internal audit function within the company.
- Inter-relation between risk management and the company's strategic and business processes.
- The concept of combined assurance.
- Alternative dispute resolution and stakeholder relationships.
- IT governance and IT risk management.

- Compliance with laws and regulations.
- Integrated reporting and disclosure.

A number of issues discussed in King II have subsequently been incorporated in the Companies Act, and since these matters are now legislated, they are no longer expressly dealt with in King III. These matters include the business judgment rule, distinction between audit and non-audit services, enforcement of financial reporting standards, and the need for enforcement of the recommended principles.

#### **Boards and directors**

King III confirms the role of the Board as the focal point for corporate governance. The board has collective responsibility to provide and ensure good governance. As such, it is the responsibility of the directors to ensure, among others, that the company:

- Operates ethically and with integrity, and as a responsible corporate citizen.
- Considers the interests of the community within which it operates.
- Integrates governance, strategy, risk, performance and sustainability.
- Complies with laws and regulations.

- Identifies and manages risks.
- Employs structures and processes to ensure the integrity of its integrated reporting.

Although the directors are ultimately accountable for adherence to appropriate best practice principles, the direct responsibility of the Board is focused on the design and adoption of adequate policies, inculcating the required culture to adhere to such policies, and the subsequent oversight of the implementation of such policies. Management bears responsibility for the implementation of policies, strategy, business plans and the like.

In order to ensure the effective functioning of the Board, King III proposes a unitary board structure comprising executive, non-executive and independent non-executive members. The majority should be non-executives, of whom the majority should be independent. The Board should be chaired by an independent non-executive director. The CEO of the company should not also fulfil the role of the Chair of the Board.

King III further proposes a formal election and induction process for new Board members, ongoing director development, and emphasises the importance of effective Board performance. It also provides guidance on remuneration of directors and executives, and the composition and responsibility of Board committees.

King III proposes that the Boards of all companies establish audit,

risk, remuneration and nominations committees, and be assisted by a competent company secretary.

#### **Audit committee**

Although the Companies Act prescribes the composition and functions of the audit committee for certain categories of companies, King III proposes that all companies should appoint an audit committee. The audit committee should comprise at least three members and all members should be independent non-executive directors. The committee as a whole should have sufficient qualifications and experience to fulfil its duties, and should be permitted to consult with specialists or consultants after following an agreed process. The terms of reference of the audit committee should be approved by the Board.

The functions of the audit committee in relation to the external auditor include:

- The nomination of the external auditor for appointment and to verify the independence of the auditor.
- Determining the audit fee and the scope of the appointment.
- Ensuring that the appointment complies with the requirements of the Companies Act.
- Determining the nature and extent of non-audit services.
- Pre-approving any contract for non-audit services.

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The board may delegate certain aspects of risk management and sustainability to the audit committee. King III introduces the concept of integrated reporting (which combines financial and sustainability reporting) and allows for the board to delegate the review of integrated reporting to the audit committee. In this regard, the audit committee should recommend to the board the need to engage external assurance providers to provide assurance on the accuracy and completeness of material elements of integrated reporting.

King III adopts a wide approach to the audit committee's responsibility for financial risk and reporting to include:

- Financial risks and reporting.
- Review of internal financial controls.
- Fraud risks and IT risks as it relates to financial reporting.

King III further introduces the combined assurance model. In terms of this model, assurance should be done on three levels, i.e. management, internal assurance providers and external assurance providers. The audit committee should ensure that a combined assurance model is applied to provide a coordinated approach to all assurance activities.

#### ***Internal audit***

King III advocates a risk-based approach to internal audit. In order for internal audit to contribute to the attainment of strategic goals, the internal audit function should be positioned at a level within the company to understand the strategic direction and goals of the company. It should develop a programme to test the internal controls *vis-à-vis* specific risks. The internal audit function should provide assurance with reference to the adequacy of controls to identify risks that may impair the realisation of specific goals, as well as opportunities that will promote the achievement of the company's strategic goals.

As an internal assurance provider internal audit should form an integral part of the combined assurance model. It should provide a written assessment of internal controls and risk management to the board, and specifically on internal financial controls to the audit committee.

#### ***Governance of risk***

King III emphasises the fact that risk management should be seen as an integral part of the company's strategic and business processes. The board's responsibility for governance of risk should be set out in a risk management policy and plan. The board should consider the risk policy and plan, and should monitor the whole risk management process.

While the board remains responsible for the risk management policy and the determination of the company's risk appetite and risk tolerance, management is responsible for the design, implementation and effectiveness of risk management.

The board should receive combined assurance regarding the effectiveness of the risk management process.

The board may assign its responsibility for risk management to the risk committee. Membership of this committee should include executive and non-executive directors. Where the company decides to assign this function to the audit committee, careful consideration should be given to the resources available to the audit committee to adequately deal with governance of risk in addition to its audit responsibilities.

#### ***Stakeholder management and alternative dispute resolution***

King III proposes that companies institute measures to ensure that they are able to proactively manage the relationships with all their stakeholders, including shareholders. The company should encourage constructive stakeholder engagement. The board should strive to achieve the correct balance between the interests of all its various stakeholder groupings and promote mutual respect between the company and its stakeholders.

Alternative dispute resolution has become a trend worldwide, and not merely an alternative to the judicial system. Rather, alternative dispute resolution can be used as a management tool to manage and preserve stakeholder relationships and to resolve disputes expeditiously and inexpensively. This approach is in line with the directors' duty to act in the best interest of the company and their duty of care. The inclusion of dispute resolution clauses in contracts, as well as the utilisation of formalised alternative dispute resolution channels, is recommended.

#### ***IT governance***

As IT systems have become such an integral part of doing business, King III provides specific guidelines to ensure effective IT governance. It is necessary for directors to ensure proper IT governance, the proper alignment of IT with the performance and sustainability objectives of the company, and the proper management of operational IT risk, including security. The risk committee may be assigned responsibility to oversee the management of IT risk. In addition, the audit committee should consider IT as it relates to financial risk and reporting.

**Compliance with laws, rules, codes and standards**

The board is responsible for overseeing the management of the company's compliance risk. The board should ensure awareness of and compliance with laws, rules, codes and standards throughout the business. In turn, management is responsible for the implementation of an effective compliance framework and processes, and for the effective management of the company's compliance risk. The board may mandate management to establish a compliance function to implement measures and procedures to ensure that the board's policy on compliance is implemented.

**Integrated reporting and disclosure**

King III proposes integrated reporting to ensure that all stakeholders are able to assess the economic value of the company. This entails the integration of the company's financial reporting with sustainability reporting and disclosure. The board should ensure that the positive and negative impacts of the company's operations, as well as plans to improve the positives and eradicate the negatives, are conveyed in the integrated report. King III suggests that the board may delegate oversight of the integrated report to an appropriate committee (either the audit committee or a sustainability committee). The audit committee should oversee the provision of independent assurance over sustainability issues and should assist the board by reviewing the integrated reporting and disclosure to ensure that it does not contradict financial reporting.

**Timeline for implementation**

King III is effective from 1 March 2010.

**Retention of records**

Record type	Retention period (years) originals
<b>Accounting records</b>	
<b>Books of prime entry</b>	
<ul style="list-style-type: none"> <li>Cash books, creditors ledgers, fixed asset registers, general ledgers, journals, petty cash books, purchase journals, sales journals, subsidiary journals and ledgers, as well as supporting schedules to such books of account, etc.</li> </ul>	15 (Originals if microfilmed - 5 years)
<ul style="list-style-type: none"> <li>Vouchers, working papers, bank statements, costing records, creditors invoices and statements, debtors invoices and statements, goods received notes, journal vouchers, payrolls, purchase orders and invoices, railage documents, salary and wage registers, sales tax records, tax returns and assessments, etc.</li> </ul>	7
<b>Employee records</b>	
<ul style="list-style-type: none"> <li>Expense accounts, payrolls, employee tax returns etc.</li> </ul>	7
<b>Statutory and share registration records</b>	
<ul style="list-style-type: none"> <li>A copy of its Memorandum of Incorporation.</li> </ul>	Indefinite
<ul style="list-style-type: none"> <li>A record of its directors, including all its current directors, as well as past directors (information on past directors should be kept for a period of seven years after the past director retired from the company).</li> </ul>	7*

\* In terms of section 24(1) of the 2008 Companies Act.

Record type		Retention period (years) originals
<b>Statutory and share registration records</b>		
• Copies of all reports presented at an annual general meeting of the company, for a period of seven years after the date of any such meeting.	Minimum 7 years from date of last meeting	
• Annual financial statements and accounting records, for seven years.	Minimum 7	
• Notices and minutes of all shareholders meetings, including all resolutions adopted by them, and any document that was made available by the company to the holders of securities in relation to each such resolution, for seven years.	Minimum 7	
• Copies of any written communications sent by the company to all holders of any class of the company's securities, for a period of seven years.	Minimum 7 years from date on which each communication was issued	
• Minutes of all meetings and resolutions of directors, or directors' committees, or the audit committee, for a period of seven years.	Minimum 7 years from date each resolution adopted	
• A securities register or its equivalent in the case of a profit company, or a member's register in the case of a non-profit company that has members.	Minimum 7	
• A record of the company secretary and auditor (if applicable).	Always keep updated	
<b>Other documents</b>		
<b>Customs and Excise Act</b>		
• Import and export documentation.	5	
<b>Compensation for Occupational Injuries and Diseases Act</b>		
• Records of wages paid, time worked and payment for piece work and overtime, and of any particulars prescribed for at least four years after the date of last entry in those records.	7**	

\*\* In terms of section 24(1) of the 2008 Companies Act.

Record type		Retention period (years) originals
<b>Insolvency Act</b>		
• The insolvent's record of his transactions.		3
<b>Occupational Health and Safety Act</b>		
• The following records must be kept in terms of OHS Act:		5
- A copy of the Act (if there are more than 19 employees).		
- An incident register.		
- Certificate of compliance.		
- First aid certificate (valid for three years).		
<b>Value Added Tax Act</b>		
• Books of account, recording the supply of goods to or by the vendor, invoices, tax invoices, credit and debit notes, bank statements, deposit slips, stock lists and paid cheques.		5
- Information in book form - five years from last entry.		
- Computerised records must be kept in printout form, not just on disk or tape.		
<b>Capital Gains Tax</b>		
• All records pertaining to capital transactions:		
- Where a taxpayer was never required to register.		5
- Where a taxpayer determined a taxable gain or assessed capital loss, the retention period starts from the date on which the Commissioner received the return.		4

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## Labour regulations <sup>62</sup>

### Overview

The South African employment relationship between an employer and an employee, as well as the terms and conditions of employment that apply to such a relationship, is governed by the following sources:

- The common law.
- The employment contract or letter of appointment.
- Employment policies and procedures.
- Collective agreements concluded with trade unions or organised labour.
- Sectoral determinations and bargaining council agreements that regulate basic conditions of employment in a specific industry.
- Legislation.

The employment relationship is fundamentally governed by the employment contract. Employment policies and procedures generally supplement the employment contract by incorporating their provisions into the contract. The employment contract is, however, always subject

to sectoral determinations, bargaining council agreements and employment legislation that provide minimum standards, rights and entitlements to the employment relationship.

Some of the most important terms and conditions of employment that must be adhered to in South Africa from an employment law perspective, include the following:

- An employee's ordinary hours of work should not exceed 40 hours in any one week or nine hours in a day. Any work over this will constitute "overtime" work.
- Any time worked by employees after the completion of their ordinary hours will constitute overtime, and will have to be paid at one and one half times the employee's ordinary rate.
- If an employee, however, earns in excess of a certain threshold per annum (which is currently R149 736) such an employee will not qualify for overtime pay.
- Every employee will be entitled under the Basic Conditions of Employment Act (BCEA) to three consecutive weeks' paid annual leave.

- In terms of the BCEA, an employee will be entitled to 30 day's paid sick leave in a three year cycle.
- In the event that an employee is required to work on a public holiday which falls on a day which otherwise is an ordinary working day for such an employee, the employee will have to be paid at one and one-third times the employee's ordinary rate.
- An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at 1.5 times the employee's wage for each hour worked.
- An employee will be granted three day's paid leave during an annual leave cycle which the employee is entitled to take for family reasons (family responsibility leave).

The above constitute some of the most important terms and conditions of employment regulated by the BCEA.

### Employment law - General

There are numerous Acts that impact on the employment relationship in South Africa, which are discussed briefly below.

#### The Labour Relations Act (LRA)

- The LRA seeks to govern how the parties to an employment relationship interact with each other. It sets out how the terms and conditions of employment will be negotiated, formulated and applied.
- The primary objective of the LRA is to realise and regulate the fundamental rights of workers as entrenched in the Constitution, the most important of those rights being the right to fair labour practices.
- In respect of the employment relationship, the LRA promotes fairness as the basis of all interaction between employers and employees, regardless of the status of the employee.
- Any action taken by an employer against an employee is required to be both substantively and procedurally fair.
- Substantive fairness alludes to the reason behind any action. In short there must be a justifiable and acceptable reason for any action instituted against an employee.

<sup>62</sup> South African Labour Employment Guide. [www.labourguide.co.za](http://www.labourguide.co.za). Retrieved 10 August 2012.

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- Procedural fairness refers to the manner in which any action is taken or implemented. Procedural fairness can be regarded as the "rights" of the worker in respect of the actual procedure. An example of procedural fairness in a case of alleged misconduct would be that the employee should be allowed a reasonable period of time to be allowed to prepare a response to an allegation. In many instances, the LRA sets out the procedure to be followed by an employer in effecting an action, for example, a retrenchment or dismissal. In such circumstances, the employer is obliged to follow a prescribed procedure in order to ensure that it acts within the law. Failing this, the employer could be faced with a claim for unfair conduct and the risk of financial compensation to the employee.
- The underlying principle of the LRA is "fair play" and "equity". The dispute resolution bodies created by the LRA (the CCMA and Labour Court) are given wide powers in determining whether parties have acted fairly in regulating or terminating an employment relationship.
- Some of the major issues addressed by the LRA are for instance:

- Freedom of association and general protections.
- Collective bargaining.
- Strikes and lockouts.
- Workplace forums.
- Trade unions and employers organisations.
- Dispute resolution.
- Unfair dismissals and unfair labour practice.

#### **The Basic Conditions of Employment Act (BCEA)**

- The BCEA gives effect to the constitutional right of fair labour practices by establishing and enforcing basic minimum conditions of employment, and regulating the variation of such conditions.
- The BCEA prescribes minimum conditions of employment applicable to:
  - Working time: Ordinary hours, overtime, meal intervals, night work, work done on Sundays and public holidays.
  - Leave: Annual leave, sick leave, family responsibility leave and maternity leave.

- Particulars of employment and remuneration: written particulars, informing employees of rights, record keeping, payments, deductions and calculation of remuneration.
- Termination of employment: Notice of termination, payments on termination, severance pay and certificates of service.
- It is obligatory for every employer to provide the minimum terms and conditions as prescribed by the BCEA.
- Employers are, however, entitled to provide employees with conditions of service that are more favourable than those set out in the BCEA.
- It is important to note that many employers are required by law to register with industry specific bargaining councils which dictate the terms and conditions applicable to employees in that industry. In certain instances, a main agreement regulating a particular industry will be applicable and may provide for more favourable terms and conditions of employment.

#### **The Employment Equity Act (EEA)**

- The aim of this Act is to promote equal opportunity and fair treatment in employment through the elimination of unfair discrimination.
- Affirmative action measures must be implemented to redress disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories of employment.
- The Act is aimed at the elimination and prohibition of unfair discrimination.
- Positive steps must be taken by an employer to eliminate unfair discrimination in any employment policy or practice.
- No one may unfairly discriminate, directly or indirectly, against an employee in any policy or practice on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, birth or HIV status.
- In terms of the EEA, job applicants are given the same protection as employees.

- It is not unfair discrimination to: take affirmative action measures consistent with the purposes of the EEA and/or distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.
- Employers must implement affirmative action measures for people from designated groups. Designated groups mean: black people (African, Coloureds and Indians), women and people with disabilities.

#### Occupational Health and Safety Act No. 85 of 1993

- The Occupational Health and Safety Act requires an employer to bring about and maintain, as far as reasonably practicable, a work environment that is safe and without risk to the Health and Safety of its workers.
- This means that the employer must ensure that the workplace is free of hazardous substances, such as benzene, chlorine and microorganisms, articles, equipment and processes that may cause occupational injury, damage, disease or ill health.
- Where this is not possible, the employer must inform workers of the hazards and risks present in the workplace. The employer must also educate employees on how these may be prevented, and

how to work safely. Protective measures for a safe workplace must also be provided.

- The Occupational Health and Safety Act does not expect of the employer to take sole responsibility for health and safety.
- The Act is based on the principle that hazards and risks in the workplace must be addressed by communication and cooperation between the employer and the employees. The employer and employees must share the responsibility for health and safety in the workplace, and work together to mitigate all hazards and risks. Both parties must pro-actively participate to identify dangers and develop control measures to make the workplace safe.
- The employer and the workers are required by the Occupational Health and Safety Act to be involved in a system where health and safety representatives may inspect the workplace regularly and then report to a Health and Safety committee. The Health and Safety committee must in turn make recommendations to the employer about the improvement of health and safety in the workplace.

- To ensure that this system works, every worker must know his or her rights and duties as contained in the Act.

#### Skills Development Act (SDA)

- The SDA has the objective of providing a framework to devise and implement national, sectoral and workplace strategies to develop and improve the skills of the South African workforce.
- The aim is to provide for recognised occupational qualifications. A levy for the funding of skills development of 1% is imposed on employers for this purpose (Skills Development Levies Act 1999). This means that 1% of a company's wage bill is spent on the education and training of their employees, but 80% of this levy may be claimed back if the training is performed by suitably registered trainers.
- Employers who have paid the skills levy can claim skills grants from their industry Sector Education and Training Authority (SETA).

#### Employee rights - Dismissals<sup>63</sup>

Every employee has the right not to be unfairly dismissed. The Labour Relations Act (No. 66 of 1995) recognizes three grounds on which a termination might be legitimate. These are the conduct of the employee, the capacity of the employee, and

the operational requirements of the employer's business.

Requirements for fair dismissals:

- There must always be a fair reason for the dismissal.
- The dismissal must have been affected in accordance with a fair procedure.

When an employer contemplates dismissing one or more employees for reasons based on operational requirements the employer must consult with the employee/ representative.

During consultation the parties should reach consensus on the following:

- Appropriate measures to avoid the dismissals.
- Minimise the number of dismissals.
- Change the timing of the dismissals.
- To mitigate the adverse effects of the dismissals.
- The method for selecting the employees to be dismissed.
- The severance pay for dismissed employees.

<sup>63</sup> <http://www.labourguide.co.za>

The employer must disclose in writing to the other consulting party all relevant information, but are not limited to:

- The reasons for the proposed dismissals.
- The alternatives that the employer considered before proposing the dismissals; and the reasons for rejecting each of those alternatives.
- The number of employees likely to be affected and the job categories in which they are employed.
- The proposed method for selecting which employees to dismiss.
- The time when, or the period during which, the dismissals are likely to take effect.
- The severance pay proposed.
- Any assistance that the employer proposes to offer to the employees.

For further information on employee rights – dismissals, refer to:

**Addendum 17: Employee rights - Labour Relations Act Schedule 8: Code Of Good Practice: Dismissal.**

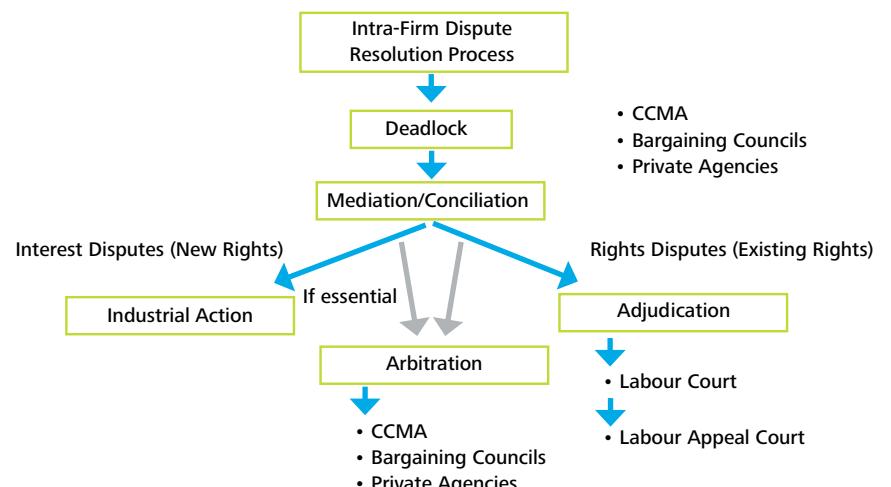
#### Dispute resolution<sup>64</sup>

The Labour Relations Act (LRA) regulates individual and collective employment relations. It created the institutions and processes for dispute resolution. These institutions include the Commission for Conciliation, Mediation and Arbitration (the CCMA) and the Labour Courts.

The CCMA has the power to licence private agencies and bargaining councils to perform any or all of its functions. This allows parties in dispute the choice of which institutions to assist them although the bargaining council where it exists for parties is always the first institution of engagement and if there is no bargaining council then the CCMA has jurisdiction.

The figure below shows the structure of the dispute resolution system in South Africa. If there is a deadlock in a dispute at the firm level, the parties to a dispute must refer their dispute to conciliation. The procedure of processing disputes takes into account the different kinds of labour disputes. The process makes a specific distinction between disputes of interests and disputes of rights. Classification of disputes is important because it determines which resolution technique to use in resolving the dispute. The use of industrial action in relation to interest disputes is considered appropriate as a method of last resort.

Figure 1: Structure of dispute resolution in South Africa



<sup>64</sup> <https://www.labour.gov.za>

## Conciliation<sup>65</sup>

Conciliation is a process where a Commissioner meets with the parties in dispute, and explores ways to settle the dispute by agreement. At conciliation a party may appear in person or only be represented by a director or employee of that party or any member, office bearer or official of that party's registered trade union or registered employer's organisation. The meeting is conducted in an informal way.

The Commissioner may begin by meeting jointly with the parties and asking them to share information about the dispute. Separate meetings between the commissioner and each party may also be held. Parties are encouraged to share information and to come forward with ideas on how their differences can be settled.

A Commissioner is given wide functions in conciliation. The Commissioner may determine a process which may include mediation, facilitation or making recommendations in the form of an advisory arbitration award. A commissioner may cause persons and documents to be subpoenaed, and has the power to enter and inspect premises and seize any book, document or object that is relevant to the dispute. The Commissioner's role is to try to resolve the dispute within 30 days of it being referred to the CCMA.

If the dispute is settled, an agreement will normally be drawn up and that ends the matter. The Commissioner will issue a certificate recording that the dispute has been settled.

### Note:

Parties should ensure that internal procedures and processes have been exhausted prior to making a referral to the CCMA. The Labour Relations Act encourages parties who are in dispute to first attempt to try and reach an amicable solution to the dispute by exploring internal mechanisms.

## Arbitration

When conciliation fails, a party may request the CCMA to resolve the dispute by arbitration. At an arbitration hearing, a Commissioner gives both parties an opportunity to fully state their cases. The Commissioner then makes a decision on the issue in dispute. The decision, called the "arbitration award", is legally binding on both parties. Attempts must generally be made to resolve the dispute through conciliation. If it cannot be resolved by conciliation, the parties can go to arbitration or the Labour Court, the Act specifies which dispute goes to which process.

In an arbitration hearing the party in dispute may appear in person or be represented by a legal practitioner, a director or employee of the party or

any member, office-bearer or official of the party's registered trade union or registered employers' organisation. Lawyers are not normally allowed to represent parties in arbitrations over dismissal disputes. They can be used though if the Commissioner and the parties consent, or if the Commissioner decides that it is unreasonable to expect a party to deal with the dispute without legal representation.

The decision of the Commissioner is legally binding on the parties and it ends the dispute. Arbitration awards are sent to the parties within 14 days of the arbitration.

### Note:

Pre-arbitration conference: By agreement between the parties or when so directed by the Director or a Senior Commissioner, the parties to the proceedings must hold a pre-arbitration conference to:

- Determine facts in dispute, common cause facts, issues to be decided, and relief claimed.
- Exchange documents that will be used in the arbitration.
- Draw up and sign a minute of the pre-arbitration conference.

For more information on dispute resolution procedures in South Africa refer to: **Addendum 18: Dispute resolution procedures in South Africa.**

## Broad-Based Black Economic Empowerment (B-BBEE)

### What is B-BBEE?

B-BBEE is the South African Government's policy to drive and encourage economic transformation. The policy is aimed at empowering "black" people and redresses the inequalities of the past. Black people in South Africa include Africans, Asians and persons of mixed race. Women of all races are also seen to be previously disadvantaged and B-BBEE encourages the empowerment of all women.

### Why should your business be B-BBEE compliant?

At the outset it should be stated that Broad-Based Black Economic Empowerment Act, No. 53 of 2003 (B-BBEE Act) does not require private and public companies to comply with its requirements. However, compliance with the B-BBEE Act would be highly beneficial. Some of the benefits are:

- Additional points will be awarded to companies that have a certain level of B-BBEE compliance when calculating scores for the awarding of tenders by government organisations in South Africa. This is in terms of the Preferential Procurement Policy Framework Act No.5 of 2000.

<sup>65</sup> <http://www.ccma.org.za/Display.asp?L1=32&L2=13>

- Clients will leverage their suppliers B-BBEE rating in order to achieve a higher B-BBEE rating for their companies in the possibility of acquiring Government tenders. This means that your clients are more likely to want to contract with a supplier who is B-BBEE compliant.

#### How does your business achieve a suitable B-BBEE rating?

Fortunately for your business, new companies established in South Africa are deemed to have a level 4 B-BBEE status by default for their first year of trading. A level 4 status is suitable for doing business with the Government. This means that your business is between 65% and 75% compliant with the B-BBEE Act. Your percentage will be calculated according to the criteria taken from the generic "scorecard" which can be found in the B-BBEE Act.

Your B-BBEE rating will be determined according the following criteria taken from the generic scorecard:

#### Ownership

The ownership indicator is an indicator of the percentage share of economic benefits and voting rights held by black persons. The B-BBEE Act provides that multinational companies may acquire ownership points through Equity Equivalent Contributions (EEC), which are measurable against the value of the operations in South Africa.

An example of an EEC would be a programme that supports the National Skills Development Strategy.

#### Management control

This indicator refers to the percentage of black persons in executive management and on the board of Directors. This is intended to ensure that black people are represented at the levels of management where they will have influence in the strategic direction and core management of the enterprise.

#### Employment equity

This indicator looks at black employees as a percentage of staff in a company. This is aimed at bringing about equitable representation of black people in all occupations and at all levels of business organisation.

#### Preferential procurement

This is an indicator that looks at purchases from organisations with good B-BBEE ratings.

#### Skills development

This is an indicator that looks at the skills spend on black employees for education, learnership and internships as a total percentage of the total payroll.

#### Enterprise development

This obliges government departments and state-owned entities to procure services from suitably black empowered companies. Private entities are encouraged to procure services from black empowered entities as well.

#### Corporate social investment (CSI)

This criterion covers contributions made in uplifting and benefiting beneficiaries in gaining access to the economy, as well as uplifting and providing services to accessing the economy. It is calculated as a percentage of the net profit after tax.

Your business points are then totalled and based on your total points your B-BBEE status is determined.

B-BBEE status	Qualification on the generic scorecard	B-BBEE recognition level
Level 1 contributor	100 points on the generic scorecard	135%
Level 2 contributor	85 but less than 100 points	125%
Level 3 contributor	75 but less than 85 points	110%
Level 4 contributor	65 but less than 75 points	100%
Level 5 contributor	55 but less than 65 points	80%
Level 6 contributor	45 but less than 55 points	60%
Level 7 contributor	40 but less than 45 points	50%
Level 8 contributor	30 but less than 40 points	10%
Non-compliant contributor	Less than 30 points	0%



Fortunately for your business, new companies established in South Africa are deemed to have a level 4 B-BBEE status by default for their first year of trading. A level 4 status is suitable for doing business with the Government.

It should be kept in mind, that if your businesses turnover is between R5 and R35 million a year, the Qualifying Small Enterprise (QSE) scorecard will be utilised instead of the generic scorecard. The QSE Scorecard is less onerous and only four criteria need to be fulfilled.

Specific charters exist for certain sectors in South Africa and will apply to your business if you are involved in these sectors. The sectors are:

- The financial sector.
- The construction sector.
- Property sector.
- Agricultural sector.
- Marketing, communications and advertising sector.
- Aviation sector.
- Tourism sector.

B-BBEE goals are best set over a number of years rather than as a shot-gun approach. Advice should be sought by businesses wanting to establish offices in South Africa regarding this often complex and misunderstood piece of South African legislation.

### B-BBEE procurement<sup>66</sup>

Section 217 of the Constitution of the Republic of South Africa, states that when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective. Furthermore, it stipulates the need to implement a procurement policy that will provide for categories of preference in the allocation of contracts; and the protection or advancement of persons, or categories of persons disadvantaged by unfair discrimination.

The Preferential Procurement Policy Framework Act (PPPFA) was enacted as a result of the aforementioned section of the Constitution. The PPPFA stipulates that when Government assesses contracts, it must take into account a preference point system which prescribes functionality, price and reconstruction development programme (RDP) goals.

The preference point system determines that: For contracts below R500 000, 80 points will be allocated for price and functionality and the remaining 20 points for RDP goals; for contracts above R500 000, 90 points will be allocated for price and functionality and 20 points for RDP goals.

In December 2006, when the B-BBEE Codes of Good Practice were approved for gazetting, Cabinet directed the dti and National Treasury to amend the PPPFA, so as to advance the objectives of the B-BBEE Act and its related strategy, as these two pieces of legislation were not appropriately aligned. This process led to the amendment of the Preferential Procurement Regulations as interim measures to align themselves to the B-BBEE Codes of Good Practice.

Although the B-BBEE Act does not place a legal onus on the private sector to comply with its provisions, it does, however, place a legal onus on organs of state to contribute to B-BBEE, including among other aspects, when developing and implementing a preferential procurement policy.

In addition to achieving the 20 points allocated to the preferential procurement element of the Codes of Good Practice, government entities must procure goods and services from companies with a good B-BBEE status. This has a trickle-down effect which applies pressure on all suppliers and service providers to meet these standards. The impact that this cascading implementation has on procurement in general is the increase in market access for black companies.

The (interim measures) draft regulations proposed the 80/20 preference point system for the procurement of goods and services with a Rand value of R1 million, and a 90/10 preference point system for the procurement of goods and services with a Rand value of above R1 million, to strengthen the contribution of small,

medium and micro-sized enterprises (SMMEs).

Furthermore, the draft proposed the allocation of point systems on the following basis: With regard to the 80/20 principle, 20 points are allocated to a bidder in respect of its B-BBEE status level, as contemplated in the draft. Further, with regard to the 90/10 principle, 10 points are allocated in respect of the bidder's B-BBEE status level.

#### Note:

The Minister of Trade and Industry, Dr Rob Davies, has gazetted the B-BBEE Codes of Good Practice, signalling the start of a 60-day public commentary period in which business and members of the public can submit their comments for consideration. The Gazette follows the unveiling of the Codes, which took place on 2 October 2012 in Midrand.

Key changes in the revised Codes include: adjusted B-BBEE scorecard in accordance with Government's key priorities; reduction of scorecard elements from seven to five; enhanced recognition status of black-owned Exempted Micro Enterprises (EMEs); introduction of threshold requirements for priority elements of ownership, skills development and enterprise and supplier development; and the revision of thresholds for EMEs, Qualifying Small Enterprises and Large Enterprises.

66 <http://www.thedti.gov.za>.

## National Empowerment Fund (NEF)

### Overview

The NEF was established by the National Empowerment Fund Act No. 105 of 1998 (NEF Act), to promote and facilitate black economic equality and transformation. Its mandate and mission is to be the catalyst of B-BBEE. Specific objectives of the NEF are as follows:

- To foster and support business ventures pioneered and run by black enterprises.
- To improve the universal understanding of equity ownership among black people.
- To contribute to the creation of employment opportunities.
- To encourage the development of a competitive and effective equities inclusive of all persons in South Africa.
- To encourage and promote savings, investments, and meaningful participation by black people.
- To provide black people with opportunity of, directly or indirectly, acquiring shares or interest in private business enterprises.
- State allocated investment (SAIs) that are being restructured or in private business enterprises.
- To generally employ schemes businesses and enterprises as

may be necessary to achieve the objectives of the NEF Act.

The NEF's role is to support B-BBEE. As the debate concerning what constitutes meaningful and sustainable B-BBEE evolves, the NEF anticipates future funding and investment requirements to help black individuals, communities and businesses achieve each element of the Codes of Good Practice. These include a focus on preferential procurement, broadening the reach of black equity ownership, transformation in management and staff and preventing the dilution of black shareholding.

The NEF differentiates itself not only with a focused mandate for B-BBEE, but by also assuming a predominantly equity-based risk to maximise the Empowerment Dividend. Reward should balance the risk with the application of sound commercial decisions to support national priorities and Government policy such as the Accelerated and Shared Growth Initiative for South Africa (AsgiSA) or targeted investments through the dti's Industrial Policy Framework. The work of the NEF therefore straddles and complements other Development Finance Institutions (DFIs) by allowing the organisations to work in close collaboration.

### Products and services

#### *The iMbewu fund*

This fund is designed to promote the creation of new businesses and the provision of expansion capital to early stage businesses. The iMbewu Fund aims to cultivate a culture of entrepreneurship by offering debt, quasi-equity and equity finance of up to R20 million comprising:

- Entrepreneurship finance.
- Procurement finance.
- Franchise finance.
- Rural and community development projects.

#### *Rural and community development*

The rural and community development projects facilitate community involvement in projects promoting social and economic upliftment. In accordance with the B-BBEE Act, it aims to increase the extent to which workers, cooperatives and other collective enterprises own and manage business enterprises. Also it supports the B-BBEE Act objectives of empowering local and rural communities.

#### *The corporate fund*

This fund is designed to improve access to B-BBEE capital and has three products - Acquisition Finance, Project finance and Expansion Finance. These products provides capital to black-owned and managed enterprise,

black entrepreneurs who are buying equity shares in established white-owned enterprises, project finance and B-BBEE businesses that are or going to be listed on the JSE. Funding ranges from R5 million to R100 million and details of the three products are provided below:<sup>67</sup>

- Acquisition finance  
This product caters for BEE applicants seeking to buy equity in existing business and provides funding from R5 million to R100 million.
- Project finance  
This product provides capital of R5 million to R25 million per project for BEE applicants seeking to participate in medium-sized green-fields projects with total funding requests of between R10 million and R200 million.

- Expansion capital  
NEF will provide funding of R5 million to R100 million to entities that are already black-empowered, but seek expansion capital to grow the business.

- Capital markets  
This product invests in BEE enterprises, particularly those owned by black women that seek to list on the JSE or AltX market.

<sup>67</sup> [www.nefcorp.co.za/Funding%20Solutions/Products%20Services.aspx](http://www.nefcorp.co.za/Funding%20Solutions/Products%20Services.aspx)

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- Liquidity and warehousing

This product assists BEE shareholders who need to sell a portion of all their shares (as minority stakes in utilised firms are hard to sell). Also acquires and temporarily warehouses these shares before selling them to new BEE shareholders where existing financing structures are costly and/or inefficient.

- Strategic projects finance

The strategic project finance will facilitate the acquisition of the equity in large strategic projects where NEF assumes the role of BBE partner. The NEF will warehouse equity on behalf of the BEE participants with the aim of drawing transformation within large national projects of a strategic nature.

*Strategic projects fund*

It provides Venture Capital Finance to develop South Africa's new and strategic industrial capacity within sectors identified by Government as the key drivers to economic growth.

*Non-financial business support*

- Pre-investment business support unit

Applications for funding may be submitted by excellent entrepreneurs who, however, may struggle to navigate the necessary application procedures and manage their businesses. The NEF therefore assists with funding advice, business planning and general assistance to help ensure that applications are of sufficient quality to complete all steps in the application process.

- Post-investments business support unit

Black businesses need to be robust and self-sustaining for B-BBEE to succeed. Recognising this fact, the NEF established structures to monitor its clients for risk and provide advice when needed. Although start-ups are inherently higher risk, the rewards for success are job creation and increased capital for further start-ups.

- Legal Services Unit (LSU)

The LSU provides legal services to the entire NEF and drafts legal agreements, assists with due diligence reviews and registers necessary documents.

**Intellectual property**

**Introduction** <sup>68</sup>

Intellectual Property (IP) is anything created by the mind, which is capable of being protected against use by another person, whether in terms of South African law or foreign Intellectual property law and including any rights in such creation but excludes copyrighted work such as a thesis, dissertation, article, handbook or any other publication, which in the ordinary course of business is associated with academic work.

South Africa is a signatory, member state of all of the major international intellectual property treaties and conventions, including:

- The Paris Convention.
- The Paris Cooperation Treaty.
- The Berne Convention.
- International Convention for the Protection of New Varieties of Plants (UPOV).
- The WIPO Copyright Treaty.

South African IP law is governed by: The Intellectual Property Laws Amendment Act 38 of 1997 and the Intellectual Property Rights from Publicly Financed Research and Development Act No. 51 of 2008.

There are various forms of IP that may be protected:

**Patents**

(Patents Act No. 57 of 1978)

- A patent is a certificate issued by the state and grants the patentee a monopoly in an invention for a limited period of time.
- An invention may include an article, apparatus, product, device, process, or method.
- A patent may be granted for an invention provided that the invention is:
  - New;
  - Involves an inventive step; and
  - Is useful or applied in trade, industry or agriculture.
- Similar to a portion of land, a patent may be sold, licensed or rented.
- It is important to note that the novelty requirement is worldwide. An invention for which patent protection is wished to be claimed should have never been made available to the public anywhere else in the world.
- The Act excludes a number of things from being patentable inventions, including methods of treatment on humans or animals and methods for doing business.

<sup>68</sup> [www.moorepatent.co.za](http://www.moorepatent.co.za)

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## Trade marks

(Trade Marks Act No. 194 of 1993)

- A trade mark is a mark used or proposed to be used by a person in relation to goods or services to distinguish these goods or services from the same kind of goods or services connected in the course of trade with any other person.
- A trade mark may consist of a number of signs, including a logo, name, signature, word, letter, numeral, shape, configuration, pattern, ornamentation, colour or container. However, it is essential for the mark to be represented graphically through writing, drawing, photography or any other visual depiction.
- A trade mark registration lasts for a period of 10 years and is renewable every 10 years thereafter.
- Trade marks are territorial and should be registered in the country in which exclusive rights are wished to be claimed, unless the proprietor can proof that it is a well-known mark.
- Protection of well-known marks (whether registered or unregistered) is incorporated in the Act under the Paris convention.
- Currently, the registration process in South Africa is about two years from the date of filing

an application. Therefore, it is advisable that an availability search is conducted prior to filing an application to avoid wasting time and costs.

## Designs

(Designs Act No. 195 of 1993)

- Design protection may be obtained for either an aesthetic design which relates to the appearance of an article to which the design is applied, or a functional design which relates to the appearance of an article dictated by the function which the article is to perform, or both.
- In order to qualify for Design registration:
  - Aesthetic designs must be new and original.
  - Functional designs must be new and not common place in the art in question.
- It is important to note that the novelty requirement is worldwide. The design in question has to be absolute novel and thus has never been made available to the public anywhere else in the world.
- Furthermore, an article to which the design is applied has to be intended to be multiplied by an industrial process to be registerable under the Designs Act.
- Aesthetic design registrations last for a maximum period of 15 years and functional design

registrations for a maximum period of 10 years from the date of registration thereof or from release date, whichever date is earlier, subject to the payment of the prescribed renewal fee.

## Counterfeit goods

(Counterfeit Goods Act No. 37 of 1997)

- This Act provides protection to the owners of trade marks, copyright and others, against the trade in counterfeit goods and further against the unlawful application, to goods, of the subject matter of their respective intellectual property rights and against the release of goods of that nature (so-called counterfeit goods) into the channels of commerce.
- Protection measures for these owners include:
  - Prohibiting of certain acts in relation to counterfeit goods, as well as the possession of counterfeit goods in certain circumstances.
  - Penalties in relation to offences in that regard.
  - Authorisation to South African Police Services to enter premises, search for, and seize and remove (suspected) counterfeit goods for detention, pending the finalisation of civil or criminal proceedings.

- Authorisation to the Commissioner for Customs and Excise to seize and detain counterfeit goods, or suspected counterfeit goods, imported into or entering the Republic, and to provide for incidental matters.

## Copyright

(Copyright Act No. 98 of 1978)

- The owner of a copyrighted work is given the exclusive right to perform certain specified acts in respect of his work, or to authorise others to do so, and therefore the right to prevent unauthorised persons from performing those acts. Only certain categories of works qualify for copyright protection and are listed in the Act as the following:
  - Literary works.
  - Musical works.
  - Artistic works.
  - Cinematograph films.
  - Sound recordings.
  - Broadcasts.
  - Programme-carrying signals.
  - Computer programmes.
  - Published editions.
- The maximum duration of copyright protection is 50 years, but commencement of this period varies according to the type of work.

- With the exception of cinematographic films, no registration of copyright is possible in South Africa. In order for copyright to subsist in a work, it must be original and reduced to material format.

#### Plant Breeders' Rights

(Plant Breeders' Rights Act No. 15 of 1976)

- In terms of this Act, a Plant Breeders' Right (PBR) may be granted for any variety of plant provided that the variety is new, distinct, uniform and stable. The variety of the plant must also be one that is recognised by the Act.
- Plant breeder rights are a form of intellectual property rights that may be applied for by 'breeders' only, included in the definition of a breeder is a successor in title.
- South Africa is a member of the International Convention for the protection of new varieties of plants.
- PBRs for vines and trees are granted for a period of 25 years and for all other varieties, 20 years from the date on which a certificate of registration of the PBR is issued.

The effect of the protection by the grant of a PBR is that any person intending to undertake production/reproduction, conditioning for the purpose of propagation, sale or any other form of marketing,

exporting and importing, and stocking of propagating material of the relevant variety or harvested material (including plants, which was obtained through the unauthorised use of propagating material of the relevant variety); shall obtain prior authorisation by way of a licence.

#### Trade secrets

Trade secrets are protected by common law which also contains remedies for passing-off and unlawful competition.

Any information that is sufficiently valuable and secret, and can afford an actual or potential advantage to other users and which can be used in the operation of business or enterprise is a trade secret.

Where information is public knowledge or is generally known within the specific industry, it does not fall within the ambit of being a trade secret.

#### General

- The Companies Act No. 71 of 2008 provides for the registration of any name as a defensive company name and for the renewal of that registration. If the application is granted, the name shall be registered for a period not exceeding two years or to renew the registration of the name in question for a period not exceeding two years, as the case may be.

- It is possible to enforce intellectual property rights by institution of legal proceedings. The type of remedies available include: interdicts (injunctive relief), orders of infringement, delivery-up of infringing goods, and damages, and other.
- It is also possible to license intellectual property rights. In case of payment of royalties to a non-resident licensor, exchange control approval may be required.
- Regulations were issued in 2006 to deal with ".co.za" domain name disputes through cost-effective online arbitration.

#### Consumer protection law

##### Application of the Consumer Protection Act (CPA)

The CPA, the ground-breaking legislation which came into effect on 24 October 2010, imposes varying levels of obligations on suppliers, importers, distributors and manufacturers, all participants in the supply chain. Although the consumer rights under the CPA (the Act) only came into effect on 24 October 2010, organisations should be aware that certain of the provisions affect all goods supplied from 24 April 2010.

The CPA covers any transaction regarding the supply of goods and services in South Africa or the promotion (i.e. advertisement) of such goods and services concluded

after 1 April 2011 (the CPA was enacted into law on 1 April 2011) between a supplier and a consumer. The Act replaces the provisions of five previous Acts in a new and simplified manner. It is designed, in part, to address an historical power imbalance between consumers and providers by strengthening consumers' rights in their dealings with providers.<sup>69</sup>

There are nine basic consumer rights, all of which have important implications not only for the consumer, but also the supplier.

#### Note:

The CPA will apply to transactions between a supplier and a consumer regarding product liability from 24 April 2010.

The CPA defines "goods" to include anything marketed for human consumption; a tangible object including any medium on which anything is or may be written or encoded; any literature; music; photograph; motion picture; game; information; data; software; code or other intangible product written or encoded on any medium; or a licence to use any such intangible product and a legal interest in land or any other immovable property.

<sup>69</sup> <http://jacobson.co.za/2012/03/does-the-consumer-protection-act-apply-to-residential-leases/>

The definition of "services" includes any work or undertaking performed by one person for the direct or indirect benefit of another and subject to certain exceptions, the provision of any education, information, advice or consultation, any banking services; related or similar financial services, or the undertaking, underwriting or assumption of any risk by one person on behalf of another; the transportation of an individual or any goods and the provision of any accommodation or sustenance and other similar services.

Establishing whether or not conduct is excluded is a complicated process since most exclusions are based on whether or not certain other legislation applies to goods or services.

There are nine key consumer rights provided for in the CPA, namely the: Right to Equality in the Consumer Market and Protection Against Discriminatory Marketing Practices; Right to Privacy; Right to Choose; Right to Disclosure of Information; Right to Fair and Responsible Marketing; Right to Fair and Honest Dealing; Right to Fair, Just and Reasonable Terms and Conditions; Right to Fair Value, Good Quality and Safety; and Right to Accountability by Suppliers.<sup>70</sup>

Broadly, the Act seeks to protect consumers who are natural persons and small businesses. The wide definitions of the terms "goods" and "transactions" in the Act are clearly intended to provide significant

protection to the "man in the street" and small enterprises. The Act does have certain exclusions related to goods or services supplied to the State, under credit agreements in terms of the National Credit Act (NCA), services under an employment contract, collective bargaining agreements and most financial services governed by FAIS and insurance services.

**Note:**

The CPA has introduced some far-reaching changes to lease agreements for immovable property. Specifically for ordinary people, the changes effect the maximum duration (24 months) and grants the parties certain rights of cancellation.

The lessee (consumer) may terminate the lease at any time after giving 20 business days' notice, effectively one month. The lessor must give 20 business day's notices to cancel for a "material failure to comply with the agreement" and must give 40 to 80 days' notice that the agreement is coming to end. After expiry, the lease continues on a month-to-month basis unless the lessee agrees to a further fixed term.<sup>71</sup>

**Themes**

The Act has broad themes running through it, each dealing with specific issues consumers might face. What follows is a brief explanation of these themes:

**Limited exclusions**

Parts and goods which may be supplied under an excluded transaction (such as a credit agreement) are still covered by the Act, it is merely the provision of the service during the entering into of the agreement (such as the actual credit agreement and its entering into) which is excluded; not the good supplied/sold.

**Strict liability**

Probably the most dramatic aspect of the Act is the strict liability and warranty provisions which the Act brings about in respect of goods sold to consumers and which have far-reaching financial and stockholding implications for all organisations involved in supply chain. The liability for damages caused by faulty goods is based on strict liability, meaning a consumer will not have to prove any element of negligence to succeed in its claim. In addition, the Act now provides that an affected consumer can claim economic loss in receipt of damage to them or their property. This can no longer be excluded by contract.

**Automatic warranty**

The Act introduces an automatic six-month warranty on all goods supplied and an automatic warranty of three months on all services. Practically, this means that all goods supplied have a legally imposed warranty of at least six months

and three months respectively (irrespective of what any contact between the parties says where this period is shorter). The nature of the warranty is even more far-reaching, as it allows the consumer the choice of having the goods replaced, repaired or refunded. This warranty will have significant implications for business.

**Extension of obligations**

Certain provisions, such as the warranty and liability provisions of the Act, are even more onerous on the business world in that these provisions are jointly and severally applicable to each of the retailer, importer, distributor and manufacturer. No party to the supply chain is free of liability when it comes to dealing with the consumer.

**Direct marketing**

When a supplier approaches a consumer in order to market his or her product, the timing or the manner in which the consumer buys is therefore controlled by the supplier. Direct marketing must be strictly managed, with a register of those consumers who do not want to receive such marketing and the regulations to the Act will prescribe times during and days on which marketing may not be sent to consumers.

<sup>70</sup> <http://www.pitneybowes.co.za/Media-Room/Press-releases/Archive/The-Consumer-Protection-Act-Suppliers-Part-1.shtml>

<sup>71</sup> [http://www.eaab.org.za/article/how\\_the\\_consumer\\_protection\\_act\\_will\\_affect\\_lease\\_of\\_property](http://www.eaab.org.za/article/how_the_consumer_protection_act_will_affect_lease_of_property)

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All marketing must have a method by which the consumer can indicate that they no longer want to receive such direct marketing. Consumers may not be charged in any way for opting out of receiving direct marketing material. Also, agreements arising out of certain types of direct marketing have an automatic cooling off period of five days during which the consumer is entitled to cancel the transaction without any penalty.

#### **Fixed term contracts and contractual content**

Between 80 and 40 days before the expiry of a fixed-term agreement, a notice must be sent to the consumer advising them of this and indicating the implications of renewal of the agreement. What is concerning is that despite any provision in any agreement to the contrary, the consumer may cancel a fixed-term agreement upon expiry of the agreement without paying any penalty or at any other time, by giving the supplier 20 business days' notice in writing or in some other recorded manner.

#### **Customer loyalty programmes**

There are stringent information requirements around what must be communicated to members of such customer loyalty programmes. Benefits claimed using the programme must now be equal to those products or services which can be purchased for cash, except for a total of 90 days during a calendar year on which differentiation is permitted.

#### **Franchise agreements**

Considerable protection is afforded to those entering into franchise arrangements as franchisees. Franchise agreements allow for the use of another firm's successful business model. Significant information must be provided to the franchisee at the time that the agreement is entered into, the franchisee is afforded a cooling off period during which the cancellation of the transaction is permitted and the franchisee has greater protection when it comes to having to purchase supplies from those suppliers dictated by the franchisor.

#### **Return of goods**

The Act makes provision for four instances in which goods may be returned:

- Direct marketing cooling-off period.
- Where goods have not been seen before the purchase.
- Where the goods do not fulfil their particular purpose.
- Where there is an implied warranty of quality of the goods.

Provision is made that any return of goods, for a reason other than a fault on the part of the consumer, must be paid for by the supplier of those goods. In addition, if goods are delivered to the incorrect address or an address other than agreed, at a time other than that agreed,

ownership in those goods will pass to the person to whom they were delivered. What this means is that the missing of agreed delivery times and dates will have to be strictly managed to avoid goods from becoming "unsolicited goods", for which there are significant consequences.

#### **Unsolicited goods**

If a consumer does not expressly or implicitly request the performance of a service or the delivery of goods and the goods are delivered, or the service performed, these are unsolicited goods. This includes "demo" goods which sales people may leave with a consumer. The management of such goods will have to be stringent since, if no clear periods for use of the goods are agreed with the consumer, and clear steps are not taken by the supplier of the goods to reclaim such goods, ownership of these goods could pass to the consumer.

#### **Enforcement**

To enforce the Act, the Consumer Protection Tribunal (the CPT) has been formed. The CPT has been given aggressive investigative powers to ensure that it too can investigate practices which appear to be contrary to the spirit of the CPA, despite a consumer not reporting such practices.

The offences listed in the CPA are numerous and the penalties for non-compliance are substantial. The Act imposes fines up to a R1 million (or 10% of turnover, whichever is the

higher) for each offence. The wide reach of the provisions means that the possibility of frequent offences is high and thus the amount of fines which an organisation could be liable for could be considerable.

It will be imperative for organisations to take the first step to determine the extent to which the Act applies to them so that the new business risks which the Act creates can be determined and mitigated. The solution will have to be organisation-wide, working through each of the organisation's functional areas so as to standardise compliance while optimising business productivity and the operational requirements of the organisation.

#### **Competition law**

The Government sought to redress the past economic imbalances that resulted from excessive concentrations of ownership and control, inadequate restraints against anti-competitive trade practices and unjust restrictions on participation by all South Africans in the country's economy. As a result, the Competition Act No. 89 of 1989 (the Act) was enacted and replaced the previous Maintenance and Promotion of Competition Act No. 96 of 1979. A number of the sections of the Act commenced on 30 November 1998, and the remaining sections came into effect on 1 September 1999.

The Act is applicable to all economic activity within or having an effect within the Republic of South Africa and thus has far-reaching consequences for local and foreign businesses operating within South Africa. It seeks to regulate prohibited practices i.e. restrictive horizontal and vertical practices and abuse of a dominant position in the market, and to control mergers.

The purposes of the Act (as stated in section 2 of the Act) are the promotion and maintenance of competition in South Africa in order to:

- Promote the efficiency, adaptability and development of the economy.
- Provide consumers with competitive prices and product choices.
- Promote employment and advance the social and economic welfare of South Africans.
- Expand opportunities for South African participation in world markets and recognise the role of foreign competition in the republic of South Africa.
- Ensure that small- and medium-sized enterprises have an equitable opportunity to participate in the economy.

- Promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

**Note:**

In many respects, the principles of South Africa's competition law are similar to those of other major jurisdictions such as Canada, the European Union and the US.

However, South African competition law differs from foreign models in that the focus is not purely on competition issues, but also on certain public interest and social goals, such as the promotion of small businesses, the interests of employees and B-BBEE.<sup>72</sup>

The Act establishes the Competition Commission, the Competition Tribunal and the Competition Appeal Court, which bodies aim to fulfil the purposes of the Act.

The functions of the Competition Commission include:

- The investigation and evaluation of alleged contraventions of Chapter 2 of the Act (i.e. restrictive practices or abuse of dominant position).
- The authorisation, prohibition or referral of mergers.

- The implementation of measures to increase market transparency and the development of public awareness of the provisions of the Act.

The Competition Tribunal adjudicates on any prohibited conduct, such as restrictive practices or abuse of dominant position. The Competition Tribunal also hears appeals from or reviews any matters that have been investigated, controlled and evaluated by the Competition Commission.

The Competition Appeal Court may review any decision of the Competition Tribunal and adjudicates appeals from the Competition Tribunal.

The Competition Commission's Corporate Leniency Policy, which was introduced in 2004, aims to eradicate and prevent cartel activity. In addition, the Competition Amendment Act No.1 of 1999, which is still to come into effect, seeks to hold any director or manager of a firm personally accountable if they cause the firm to take part in cartel conduct.

The Competition Tribunal may impose an administrative penalty of up to 10% of a firm's annual turnover in South Africa and its exports from South Africa in the event that the firm engages in conduct specified in the Act, including any prohibited practices, failure to give notification of a merger or the implementation of a merger without the requisite approval

or in contravention of a condition or decision of either the Competition Commission or the Competition Tribunal. Furthermore, in the event of the prior implementation of a merger, the Competition Tribunal may order the divestiture of any assets acquired as a result of the merger transaction.

**Competition law developments**

African countries are increasingly adopting competition law (including merger control which is on the rise). One of the main challenges faced by companies expanding operations throughout the African continent is therefore monitoring different competition law legislation and developments taking place to the regulatory regimes of a number of African countries. Continent-wide competition law training and compliance is therefore essential.<sup>73</sup>

**Environmental law**

**Overview of South African environmental law**

The right to an environment which is not harmful to one's health or wellbeing is entrenched in the Bill of Rights of the Constitution of the Republic of South Africa, 1996 (the Constitution). This provision places the burden on the Government of South Africa to take reasonable legislative and other measures to ensure that this environmental right is attained and protected. Thus, since the Constitution came into

<sup>72</sup> South Africa - The Good News. [www.sagoodnews.co.za](http://www.sagoodnews.co.za). Retrieved August 2012.

<sup>73</sup> Jason van Dijk is an associate at Norton Rose SA.

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effect, the Government has enacted various pieces of legislation in order to comply with this Constitutional duty. Existing legislation has been updated and, together with the new legislation, creates the environmental regulatory framework.

### **The National Environmental Management Act**

The National Environmental Management Act, No. 107 of 1998 (NEMA), is the overarching environmental statute that lays the foundation for other environmental legislation in South Africa. The Act aims to place people and their needs (physical, psychological, developmental, cultural and social) at the forefront of its concerns.

Section 2 of NEMA contains general principles that apply to the actions of all organs of state involved in decision-making or activities which may have a significant impact on the environment. The principles as set out in section 2 of NEMA, serve as general frameworks within which any implementation and environmental management must take. These general principles include:

- The concept of co-operative decision-making.
- The best practice principles of sustainable development and environmental management.
- Integrated environmental management.

If a listed activity has commenced or continues to be conducted without the requisite environmental authorisation, an application can be made for the rectification of such unlawful commencement or continuation. Such a rectification application is subject to the payment of an administrative fine not exceeding R1 million.

- Community-based environmental decision-making.
- The precautionary principle.
- The "polluter pays" principle.

In terms of NEMA, certain identified activities may not commence unless and until an environmental authorisation has been obtained from the relevant environmental authority. These identified activities are listed in the Environmental Impact Assessment (EIA) Regulations.

The answer as to whether any specific activity triggers the need for an environmental authorisation is always a question of fact and will depend on various factors, including the size and nature of the operation, and whether any previous operations have been conducted on the site. It is an offence for anyone to commence a listed activity without being granted an environmental authorisation for the activity. A person convicted of an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

NEMA includes the so-called "duty of care" provision, in terms of which any person who causes, has caused or may cause significant environmental pollution or degradation must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring or, insofar as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment. This duty of care applies, among others, to owners of land, persons in control of land or premises, or anyone who has the right to use the land or premises on which any listed activity may be performed or undertaken, which activity causes, has caused or is likely to cause significant pollution or degradation of the environment.

This duty of care has also given rise to the use of administrative tools, called directives, by environmental authorities. A directive is essentially an order from the responsible environmental authority to a person to do or cease from doing a specific activity or process which is having, has had or may have a significant negative impact on the environment. Should the person fail to comply with the conditions contained in the directive, the environmental authority is empowered to take any necessary remediation measures and then to claim the reasonable costs of such measures from the responsible person.

Environmental management inspectors, referred to as the "Green Scorpions", are tasked to carry out the policing of certain specific environmental legislation. The Green Scorpions have very wide powers of inspection, search and seizure, and arrest.

### **The Environment Conservation Act**

The Environment Conservation Act No. 73 of 1989 (ECA) preceded and has largely been repealed by NEMA. The provisions that have survived deal with, among other incidental issues, protected natural environments, limited development areas, regulations on noise, vibration and shock, general regulatory powers and various provisions relating to offences and penalties.

### **Other environmental legislation**

The legislation discussed below is not exhaustive of all environmental legislation currently enacted in South Africa. Instead it serves to illustrate the diversity and extent of current legislation dealing with environmental-related matters.

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### ***The National Water Act No. 36 of 1998***

The National Water Act introduced a shift away from South Africa's previous water regime, which was mainly regulated by riparian rights and permits issued in certain instances under the Water Act, 1956. It aims to fundamentally reform the past laws relating to water resources as these laws were discriminatory and not suitable to conditions in South Africa. The new Act enforces the idea that water is a natural resource that belongs to all South Africans. Under this Act, water is to be protected, used, developed, conserved, managed and controlled as a whole.

The National Water Act placed all fresh water in South Africa under the custodianship of the Department of Water Affairs (DWA). As a result, most uses of water in South Africa, where water is taken from a water resource, require a permit issued in terms of section 21 of the National Water Act in order to be legally compliant.

A water resource includes a water course, surface water, an estuary or aquifer. Certain very small uses of water do not require a permit. These include the domestic use of water and watering of gardens.

In addition to regulating the use of water, the National Water Act regulates the pollution of water resources. The National Water Act also includes duty of care provisions, similar to those contained in NEMA.

### ***The National Environmental Management: Air Quality Act No. 39 of 2004 (NEMAQA)***

The object of NEMAQA is to protect the environment by providing reasonable measures for:

- The protection and enhancement of air quality throughout South Africa.
- The prevention of air pollution and ecological degradation.
- Securing ecologically sustainable development.

In addition, NEMAQA introduces more stringent air quality controls in comparison to the previous Atmospheric Pollution Prevention Act No. 60 of 1965.

On 31 March 2001, the Department of Environmental Affairs (DEA) published a list of activities which result in atmospheric emissions that have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, and minimum emission standards for those listed activities.

No person may conduct any of the listed activities without a provisional atmospheric emission licence or an atmospheric emission licence issued by a metropolitan or district municipality in terms of NEMAQA.

### ***The National Environmental Management: Biodiversity Act No. 10 of 2004 (NEMBA)***

The aims of NEMBA include the management and conservation of South Africa's biological diversity, ensuring that indigenous biological resources are used in a sustainable manner, and promoting the fair and equitable sharing of benefits arising from bio-prospecting involving indigenous biological resources. NEMBA also gives effect to ratified international agreements affecting biodiversity, such as the Convention on International Trade in Endangered Species (CITES).

### ***The National Environmental Management: Integrated Coastal Management Act No. 24 of 2008 (Integrated Coastal Management Act)***

The Integrated Coastal Management Act was enacted to determine the coastal zone of South Africa, to provide for the coordinated and integrated management of the coastal zone by all spheres of Government, and to preserve, protect, extend and enhance the status of coastal public property as being held in trust by the state for and on behalf of all South Africans.

### ***The National Environmental Management: Protected Areas Act No. 57 of 2003 (NEMPA)***

NEMPA provides for the declaration and management of protected areas, to promote the sustainable use of protected areas for the benefit of all people. The system of protected areas in South Africa comprises:

- Special nature reserves, nature reserves (including wilderness areas) and protected environments.
- World heritage sites.
- Specially protected forest areas, forest nature reserves and forest wilderness areas.
- Mountain catchment areas.



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### ***The National Environmental Management: Waste Act No. 59 of 2008 (NEMWA)***

NEMWA was enacted to reform the laws regulating waste management by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development so as to protect health and the environment.

A person conducting a waste management activity, including (without limitation) the accumulation and storage of waste, the collection and handling of waste, the transportation of waste, and the treatment of waste, requires a waste management licence to be issued in terms of NEMWA. The remediation of contaminated land is also provided for in NEMWA.

### ***The Hazardous Substances Act No. 15 of 1973***

The Hazardous Substances Act provides for the regulation of substances which, by their nature or chemical composition, may cause injury or ill health to or death of a person. The Hazardous Substances Act aims to regulate all aspects of such hazardous substances, including the storage, transport, handling, dumping, labelling, manufacture, packaging and sale of such substances. The Hazardous Substances Act groups the various substances into different categories according to their nature. Compliance with the Hazardous Substances Act is

therefore mandatory for any person undertaking any activity in connection with such hazardous substances.

The Hazardous Substances Act relies on the South African National Standards (SANS), which provides the necessary detailed description of the various substances according to their groupings. The SANS Codes and the Hazardous Substances Act overlap with the EIA Regulations to determine what falls within the definition of hazardous substances for the purposes of determining whether and when an environmental authorisation is necessary under the EIA Regulations.

### ***The National Heritage Resources Act No. 25 of 1999***

The National Heritage Resources Act introduces an integrated and interactive system for the management of South Africa's national heritage resources. The Act also establishes the South African Heritage Resource Agency for the coordination and promotion of the management of heritage resources at a national level.

A heritage resource is any place or object of cultural significance. A heritage object may include any movable property of cultural significance, including archaeological, palaeontological, rare geological specimens or meteorites. Heritage places include any area, site, building, open space or park.

Where a site is being developed in an urban area and a building of more than 60 years old needs to be demolished or altered, the provisions of the National Heritage Resources Act may be triggered. If this is the case then a heritage impact assessment will need to be undertaken and permission may need to be obtained from the responsible heritage authority.

In the event that a site is being permitted in a rural area, and where a heritage object is discovered (for example a grave site), the National Heritage Resources Act may similarly be triggered. Heritage resources include heritage places and heritage objects.

### ***The Conservation of Agricultural Resources Act No. 43 of 1983***

This Act would be considered by authorities when determining the purposes of land use and land planning. The authorities would then need to consider whether it is more appropriate for such land to be developed as industrial land or whether such land should be kept as agricultural land. This consideration often arises when land is being developed in a pre-urban area.

### ***The Marine Living Resources Act No. 18 of 1998***

The objectives and principles of the Marine Living Resources Act include the conservation of marine living resources and the preservation of marine biodiversity, the minimisation of marine pollution, the need to restructure the fishing industry to address historical imbalances and to achieve equity within all branches of the fishing industry.

### ***The National Radioactive Waste Disposal Institute (established by act in Parliament, Act No. 53 of 2008)***

The Act applies to all radioactive waste in South Africa that is to be disposed of in an authorised waste disposal facility. The Act also provides for the establishment of the National Radioactive Waste Disposal Institute, which shall be responsible for the management of radioactive waste on a national basis.



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## South Africa's response to climate change

### National carbon reduction commitments

At the United Nations (UN) Conference of the parties in Copenhagen (COP15) in December 2009, President Jacob Zuma announced the Government's commitment to combating global climate change. He announced South Africa's commitment to reduce national carbon emissions by 34% by 2020 and 42% by 2025 against a "business as usual" growth trajectory based on forecasts contained within the Government's "Long-term Mitigation Scenarios."

This process of regular meetings to further the ratifying countries commitment to reduce carbon emissions continued in 2011 at the Conference of Parties in Durban, South Africa. In Durban, governments took a decision to work on a new global agreement to come into effect in 2020. Under the new global agreement, South Africa may be required to take on emission reduction targets. Durban also saw the extension of the Kyoto Protocol to 2017. This extension was not supported by all countries and saw a number of countries withdraw from commitments under this international agreement.

### Climate change policy, regulation and incentives

In the 2012 Budget Review, National Treasury again came out in support of placing a price on greenhouse gas emissions. National Treasury believes a modest carbon tax will begin to price emissions so that the external costs resulting from such emissions start to be incorporated into production costs and consumer prices. This will also create incentives for changes in behaviour and encourages the uptake of cleaner-energy technologies, energy-efficiency measures, and research and development of low-carbon options.

It is proposed in the 2012 Budget Documentation, that a carbon tax will be implemented in 2013/14 at a rate of R120 per ton of carbon dioxide equivalent (CO<sub>2</sub>e) on direct emissions in line with the Climate Change Response White Paper approved by Cabinet in 2011. The rate will increase by 10% per annum. All companies will receive a tax-free threshold of at least 60% initially. Trade-exposed and energy-intensive industries may receive a higher tax-free threshold. Companies need to ensure that they have calculated their carbon footprint and that they have understood the potential carbon tax liability on their business.

In South Africa, we have also seen the introduction of incentives to support the mitigation of greenhouse gas emissions and the growth of the green economy. An example of this is the Independent Power Producers (IPP) Procurement Programme which is run by the Department of Energy. This programme is the reformed Renewable Energy Feed in Tariff and is referred to as the REBID. The objective is to secure 3 725 MW of renewable energy onto the national grid through five bidding rounds.

This process effectively supports the creation of an industry designed to support the country's demand for electricity through Independent Power Producers (IPPs). South Africa has seen two successful bidding rounds under this programme with over 66% of the target being reached (2 459 MW secured). The projects selected in the first round are expected to achieve financial close in 2012 and start construction thereafter.

The Government has indicated that funding amounting to R800 million has been set aside over the next three years for "green economy" initiatives. Above this, an additional allocation for research into energy-efficiency technologies is proposed.

In October 2011, the Government released the National Climate Change Response White Paper. One of the challenges for business highlighted by the White Paper is the introduction of "ambitious and mandatory" energy efficiency targets for industry sectors. Although it may take some time to set these targets, business needs to ensure that it starts to measure its current energy consumption and investigate energy reduction opportunities now before it is mandated and non-compliance is costly.

In advance of national climate change legislation, the Government has introduced incentives through the tax system which seek to promote energy efficiency and exempt the sale of carbon credits from income tax.

### The clean development mechanism

As a signatory to the UN Framework Convention on Climate Change (UNFCCC) and the associated Kyoto Protocol, South Africa is eligible to host projects registered under the Clean Development Mechanism (CDM).

CDM was developed with two objectives in mind. The first is to assist developing countries or non-industrialised countries to achieve sustainable development goals while reducing greenhouse gas emissions. The second objective is to assist developed countries in meeting their reduction commitments.

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In order for developed countries to meet their commitments, the CDM allows for the trading of emission reductions between developed and developing countries. Developed countries can register emission reduction projects under the CDM and earn Certified Emission Reductions (CERs) or "carbon credits". These credits can be sold to developed countries and traded on the European Emissions Trading System (EU-ETS). Purchasing carbon credits allows developed countries to meet their targets while at the same time financing emission reductions in developing countries.

South Africa's attraction for foreign investment in CDM projects lies largely in its legacy of coal-fired power stations. More than 90% of South Africa's power generation comes from coal, the dirtiest of all fossil fuels, with carbon dioxide emissions of approximately one kilogram per kilo-Watt-hour. As a result, South Africa's electricity emissions per kilo-Watt-hour are twice that of the UK where their mix of power generation includes natural gas, nuclear, renewables and coal. Where a CDM project in South Africa displaces 1MW of grid electricity for every tonne of carbon dioxide abatement (earning 1 CER), it takes 2MW of UK grid electricity displacement to reduce carbon dioxide emissions by one tonne (earning 1 CER). This makes South Africa an attractive location for a CDM project.

A further reason for locating a CDM project in our country is that South Africa has the highest emissions of greenhouse gases in Africa, making up 40% of the continent's total emissions. As such, this unfavourable state of affairs means that the opportunity for large-scale greenhouse gas emission reductions is great.

The CDM scheme was established under the Kyoto Protocol. At COP17 in Durban, it was decided that the Kyoto Protocol will be extended to 2017. This means that the CDM will continue to exist beyond 2012. However, the market (price and demand) for the CERs post-2012 from projects in South Africa is not certain. The European Commission has placed limitations on the type of credits they will allow into their local emissions trading scheme post-2012. These limitations exclude certain types of projects that are not registered before the end of 2012 in developing countries.

With these uncertainties surrounding the market for CERs, it is worth investigating opportunities outside the CDM. There are a number of countries that are investigating bilateral trading. A good example of this is the Japanese Government that will purchase carbon credits from projects in South Africa outside of the CDM. There is significant funding available for projects that reduce greenhouse gas emissions. New schemes are also emerging to

fund emission reduction projects. It is important to ensure that these funding and incentive opportunities are explored for any new capital project in South Africa. The carbon market is viewed by governments as essential to achieving the global target of limiting greenhouse gas emissions. Hence, it is likely that we will see significant growth and developments within this market in the next few years.

#### Environmental impact assessment <sup>74</sup>

South Africa's new Environmental Impact Assessment (EIA) regulations aimed at improving the efficiency and effectiveness of the process of reporting on environmental activities, announced the Department of Environmental Affairs (DEA), came into effect in August 2010.

EIA is a pro-active and systematic process where potential environmental impacts associated with certain activities, positive and negative, are assessed, investigated and reported. The process also contributes in achieving the objectives of an integrated environmental management. EIA serves to inform officials about planned activities, and the conditions which authorisation of such activities should be subject to.

The revised regulations are the result of a consultative process (published by Minister of Water and Environmental Affairs in Government Gazette 33306, 18 June 2010) and replace the

National Environmental Management Act EIA regulations of 2006, and its associated listing notices.

As mentioned, the revised regulations signal an important step towards a more efficient and effective EIA system which seeks to streamline the EIA process. They also introduce an approach where impacts associated with a sensitive environment are treated with more care, and according to the DEA, this is achieved through the introduction of a Listing Notice dedicated to activities planned for predefined sensitive areas. The lists of activities requiring environmental authorisation prior to commencement have also been revised. This was a major focus of the amendment process as the EIA system was burdened by large numbers of applications associated with insignificant activities.

#### Information, communication and technology law

##### Introduction

South Africa is fairly new to the world of Information, Communication and Technology (ICT) law; however, we are advancing towards alignment with our international counterparts. Highlighted below is a handful of South African ICT legislation.

<sup>74</sup> Themba Makamo, *New EIAs to improve efficiency of environmental reporting*, August 2010 [http://www.sagoodnews.co.za/environment/new\\_eias\\_to\\_improve\\_efficiency\\_of\\_environmental\\_reporting.html](http://www.sagoodnews.co.za/environment/new_eias_to_improve_efficiency_of_environmental_reporting.html).

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## The Electronic Communications and Transactions Act 25 of 2002 (ECTA)

ECTA gives effect to the validity of data messages in terms of South African law, in the evidentiary context, as well as in terms of records retention legislation. In addition, ECTA contains provisions on facilitating electronic commerce in South Africa and contains various consumer protection provisions in instances where other legislation (an example of which is the Consumer Protection Act) does not apply.

In terms of the legal requirements that play a role when one deals with data messages, ECTA describes how to ensure admissibility and evidential weight of data messages by prescribing the implementation of security measures in order to ensure that the integrity of the data message remains intact.

Furthermore, ECTA gives effect to the retention of data messages in an electronic format. Thus, in terms of other South African legislation that refers to the retention periods and records to be retained, ECTA allows that these records may be retained in electronic format.

### Regulation of Interception of Communication and Communication-Related Information Act (RICA)

The main purpose of RICA is to regulate the interception of certain communications, monitor certain signals and radio frequency spectrums and to provide certain communication-related information. In addition, RICA regulates making applications for, and issuing directions, authorising the interception of communications and the release of communication-related information under certain circumstances. RICA provides a general prohibition on the interception of communications, but does provide various exceptions to its provisions. In addition, RICA regulates the provision of real-time or archived communication and the process by which it should be handled.

### Electronic Communications Act (ECA)

The ECA was enacted to promote convergence in the broadcasting, broadcasting signal distribution and telecommunications sectors and in order to provide a legal framework for the convergence of these sectors.

Any service provider that wishes to engage in the broadcasting or telecommunications industry must comply with the ECA and apply for the relevant licensing in terms of our law. The Independent Communications

Authority of South Africa Act (ICASA Act) works in tandem with the ECA, due to the fact that ICASA is the authority that will grant licences in terms of the broadcasting and telecommunications industry.

### Protection of Personal Information Bill (PPIB)

The PPIB will be the first privacy legislation of its kind in South Africa. The PPIB contains various principles that organisations in South Africa or engaging in the provision of services in South Africa will have to comply with. These principles relate to the processing of personal information by an organisation in relation to the general life cycle of information therein. The PPIB is applicable to personal information processed from the time that such personal information is created all the way until the deletion of the personal information.

The PPIB necessitates the creation of a regulator that will be in charge of compliance with the principles outlined in the PPIB. Subsequent to this, organisations need to appoint an information officer to handle their compliance prerequisites in terms of the PPIB.

In addition, PPIB will have an effect on direct marketing practices within South Africa. The PPIB requires an "opt-in" model for direct marketing, whereas the ECTA (mentioned above) merely required "opt-out" model with respect to direct marketing. Due to

the PPIB being subject to approval by Parliament, the direct marketing provisions may change.

In terms of personal information that is be processed across borders, the PPIB describes the compliance requirements for the manner in which cross-border information flow should be undertaken by an organisation.

### General

In terms of effecting ICT legal compliance initiatives in the South African context, it is regarded as common practice to implement principles of the King III Report, as well as having due regard to the ISO standards governing information security and business continuity.



## Land regulations

### Right to property

The Bill of Rights in the Constitution of the Republic of South Africa Act No. 108 of 1996 (the Constitution), contains a right to property clause. This right was included in the Constitution in order to protect a person's real rights in property, including ownership, lease, mortgage, lien and servitude. In terms of this property clause, no one may be arbitrarily deprived of property. In addition, should the state expropriate property it is required to pay compensation to the landowner, and any expropriation must either be for a public purpose or in the public interest.

### Ownership and rights in land

A person may not enter into a verbal agreement for the sale of property. Instead, the Alienation of Land Act No. 68 of 1991 stipulates the requirements for the valid sale of property, including that the agreement must be in writing and signed by the parties to the transaction or their authorised representatives. Furthermore, the Division of Agricultural Land Act No. 95 of 1986 places restrictions on the subdivision of agricultural land.

The Deeds Registries Act No. 47 of 1937, as amended (the Deeds Registries Act), governs the registration of rights in land and any

subdivision thereof, bonds, servitudes (right or use of or a right of way over land), leases, and the registration of antenuptial contracts.

A duly qualified and admitted attorney and conveyancer is required to prepare a deed of transfer, mortgage bond, or certificate of title in order for such document to be capable of being attested, executed and registered by a registrar of deeds in a deeds registry office.

Ownership in land may be transferred from one person to another only by means of a deed of transfer executed or attested by the registrar of deeds. Other real rights in land, such as a long-term lease, may be transferred from one person to another only by way of a deed of cession attested to by a duly qualified and admitted attorney and notary public and registered by the registrar.

The transfer of ownership in land is subject to certain taxes, duties and fees. These include:

- Conveyancing fees payable to the conveyance.
- Transfer duty or VAT.
- A deeds registry fee.

Transfer duty is governed by the Transfer Duty Act No. 40 of 1949. Transfer duty is calculated based on the value of the property. If vacant land is transferred, transfer duty will be calculated on the value

of the land. If an existing home is transferred (i.e. land and buildings), transfer duty is calculated on the value of the land and the buildings. From 23 February 2011, no transfer duty is payable on properties with a value below R600 000 (previously, R500 000). For property values above R600 001, the rate of transfer duty will be reduced from 5% up to R1 million to 3% up to R1 million. For properties costing more than R1 million the rate is R12 000 plus 5% on the value between R1 million and R1.5 million and for properties over R1.5 million the duty will be R37 000 plus 8% above that figure.

Transfer duty on acquisitions of properties by persons other than natural persons, was 8% of the value of the property but following this year's 2011 Budget amendments, the revised structure will now also apply to close corporations, companies and trusts. If property is purchased from a developer that is registered for VAT, such a transaction is exempt from transfer duty and the purchaser will instead pay VAT on the purchase price of the property.

In terms of the Sectional Titles Act No. 95 of 1986, as amended (the Sectional Titles Act), buildings may be divided into sections and common property. The Sectional Titles Act makes provision for the individual ownership of a section and for joint ownership of the common property. Bodies corporate may also

be established under the Sectional Titles Act to apply rules in order to ensure that the use of the common property is controlled. The transfer of ownership of sections and the registration of sectional mortgage bonds over sections is recorded in the sectional title register at the relevant deeds registry office.

South African law also provides for a person to hold a share in a share block scheme operated by a share block company. In terms of a share block scheme, the holder of a share is given certain rights or interest in the use of immovable property, which includes land and any building erected or to be erected on the land. The powers, rights and restrictions on the operation of such companies and schemes are regulated under the Share Blocks Control Act No. 59 of 1980, as amended, and no registration takes place in the deeds registry.

In terms of the Mineral and Petroleum Resources Development Act No. 28 of 2002, as amended (MPRDA), South Africa's mineral and petroleum resources are not capable of individual ownership. Instead, such resources belong to the nation and the state is the custodian thereof. The objects of the MPRDA include the provision for security of tenure in respect of prospecting, exploration, mining and production operations and to ensure that the holders of mining and production rights contribute to the socio-economic development

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of the communities in which they conduct their operations. The Mining Titles Registration Act No. 16 of 1967 regulates the registration of mineral and petroleum titles in the Mineral and Petroleum Titles Registration Office.

Environmental issues relating to land are regulated under the National Environmental Management Act No. 62 of 2008 (NEMA) and regulations. In particular, the Environmental Impact Assessment Regulations (EIA Regulations) published under the NEMA list activities that may not commence before an environmental authorisation has been obtained from the Department of Environment or the relevant provincial authority, as the case may be. Such identified activities are deemed to have a potentially negative impact on the environment and may result in pollution and degradation of the environment. An environmental authorisation issued for these listed activities may stipulate conditions under which the authorisation has been issued and any such conditions must be adhered to.

#### Building regulations and standards

The purpose of the National Building Regulations and Building Standards Act No.103 of 1977, as amended (the National Building Regulations and Building Standards Act), is to promote consistency in the law applicable to the construction of buildings in each local authority's jurisdiction and prescribes standards for building in this regard.

The South African Bureau of Standard's Code of Practice: The Application of the National Building Regulations (SABS 0400) is important in the implementation of the National Building Regulations and Building Standards Act.

The National Building Regulations set out the specifications that must be met in respect of 21 requirements, including (without limitation) structural design, lighting and ventilation, site operations, roofs and fire protection.

#### Site development <sup>75</sup>

Although the procedures for developing a site are generally consistent throughout the country, the individual municipality or local authority defines the specific steps an investor must take. In most cases, the approval of plans, the assessment of environmental impact, and the provision of utilities (including water, sewerage, and electricity) is handled exclusively by the municipality concerned.

In general, in areas where land is already serviced and no upgrades are required, utility hook-ups are fairly simple and swift. Where capacity upgrades or servicing is required, the wait for connections may be longer.

For further information and an overview on site development procedures in South Africa, refer to: **Addendum 15: Site development procedures in South Africa.**

#### Building permits <sup>76</sup>

The municipal authority with jurisdiction over the particular site, will issue building permits. Each municipality has its own application process. Most applications must meet both the national building regulations and standards as set out in the National Building Regulations and Building Standards Act and regulations thereto, and the building codes of the relevant municipality.

Decisions to consult with exterior bodies (such as the Department of Health, local fire department, the Department of Environmental Affairs, and the Department of Water Affairs) are made by the engineer in the local authority.

The following areas are included in the approvals:

- Fire.
- Pollution control.
- Health impact.
- Frontage works.
- Elevation control.
- Drainage and coastal engineering.
- Roads.
- Sanitation.
- Sewerage reticulation.
- Structures.

Once plans are approved, the municipality conducts a minimum of five inspections of the building site. Some municipalities conduct more, especially in the case of a multi-storey building. Other inspections may be carried out from time to time, depending on the specifics of the building.

#### Land acquisition <sup>77</sup>

South Africa has a proactive land acquisition policy based on a quantified or non-quantified need or demand. In other words, the state can buy/secure suitable land that is available, on offer or have been targeted for land reform, before or after beneficiaries have been identified and quantified which can be achieved either programmatically or at a project level.

At a project level, the need or demand may or may not be quantified in terms of identified beneficiaries. In some cases, this may be quantified in terms of specific programmes and there is an indication of what type of land is needed as the need is very specific e.g. a set number of labour tenant claims are registered.

The state in this case may simply purchase the land based on the number of claims registered in the office and then commence proper planning with the selected beneficiaries.

<sup>75</sup> South Africa: Investor's Handbook 2010 [www.thedti.gov.za](http://www.thedti.gov.za).

<sup>76</sup> South Africa: Investor's Handbook 2010 [www.thedti.gov.za](http://www.thedti.gov.za).

<sup>77</sup> <http://www.info.gov.za>

In terms of the programmatic approach, land needs of potential beneficiaries are to be identified in a specific area and matched with suitable and available land in that area. The programmatic approach is therefore based on area development planning; ultimately culminating in an area development plan that will clearly stipulate the land needs.

The primary methods of acquisition employed by the South African Government in terms of its policy include expropriation, auctions and market transactions/negotiated transfers.

For a detailed overview of land acquisition processes in South Africa refer to: **Addendum 16: Land acquisition processes in South Africa**.

Alternatively, SANRAL's Land Acquisition Guideline Manual can be accessed on their website at: [http://www.nra.co.za/content/Land\\_Acquisition\\_Guideline\\_Manual\\_for\\_consulting\\_engineers.pdf](http://www.nra.co.za/content/Land_Acquisition_Guideline_Manual_for_consulting_engineers.pdf).



#### Note:

The South African Government has indicated it intends to acquire 30% of arable land from the hands of commercial white farmers by 2014. However, according to the Minister of Rural Development and Land Reform, Gugile Nkwinti, this is both overambitious and impossible. Acquiring 30% of the 82 million hectares of arable land from white farmers would cost over R40 billion, which is currently not available.

#### Environment assessments

Depending on the nature of the activities, some applications for building permits may require an environmental impact assessment to be carried out in terms of the EIA Regulations under NEMA. An environmental consultant must carry out the assessment at the expense of the landowner. Some investors have recently carried out social impact assessments as well. It has been estimated that the environmental impact assessments cost up to 5% of the investment.

#### Electricity connection <sup>78</sup>

Eskom, a state-owned enterprise, generates most of the electricity in South Africa. Eskom sells to local authorities, who act as redistributors. The local redistributors, in turn, supply the majority of electricity to end-users.

There are approximately 450 local redistributors. Eskom sells directly to the end-user:

- When the local redistributor is unable to meet the needs of heavy electricity users; or
- When no local redistributor has jurisdiction over a particular geographic area.

#### Procedures <sup>79</sup>

The application and installation procedures are simple and swift for a site with an existing structure and an adequate electrical supply already in place (where no equipment upgrades or added infrastructure is required). An application for the supply of electricity should be submitted to the nearest Eskom sales office at least seven days prior to the requested connection date. Connection fees range from R2 000 to R4 000, depending on the category of service (standard users, off-peak users or peak users). A cash deposit or bank guarantee may also be required to cover costs in event of non-payment.

Eskom is also able to meet the needs of investors who require capacity upgrades, such as for energy-intensive factories. For capacity upgrades, the waiting time depends on the availability of the size of transformer required. Costs are also dependent on the size of the upgrade. The utility is also able to supply "Greenfield" sites in serviced areas. However, investors

should prepare their applications well in advance, as installation can take up to 24 months for large projects. Investors may submit either an application for the supply of electricity or a letter of requirements to the nearest Eskom office. Eskom will provide an estimated quote of installation costs within 14 days of the initial application. The quote is subject to negotiation.

#### Water connection <sup>80</sup>

Local municipalities generally provide water connections. Connection times are usually fast, with the exception of those sites not serviced. The time required for connection times to serviced sites ranges from one day to two weeks. Times required for connection to unserviced sites ranges from one month to one year and more.

#### Telephone connection

South Africa currently has two telecommunications network operators, namely Telkom and Neotel. Telkom was, until recently, the only fixed line telecommunications network operator in South Africa. Neotel is a new entrant to this market in South Africa and at present offers coverage across 80% of South Africa.

<sup>78</sup> South Africa: Investor's Handbook 2010 [www.thedi.gov.za](http://www.thedi.gov.za).

<sup>79</sup> South Africa: Investor's Handbook 2010 [www.thedi.gov.za](http://www.thedi.gov.za).

<sup>80</sup> South Africa: Investor's Handbook 2010 [www.thedi.gov.za](http://www.thedi.gov.za).

Both Telkom and Neotel offer various solutions for individuals, as well as small, medium and large businesses. The options available for businesses include voice, internet, data hosting and value-added services.

With effect from 1 August 2012, Telkom's business line installation fee increased to R551.69 (including VAT), with a monthly rental of R191.84 (including VAT). The other digital subscriber line (DSL) options available to business customers are set out in the following table:<sup>81</sup>

DSL	Installation fee (incl. VAT)	Monthly rental
Fast (up to 1024 kbps)	R705.20	R165
Faster (up to 2 048 kbps)	R705.20	R299
Fastest (up to 4/10 mbps)	R705.20	R425

## Banking

### Banking licences

A company wishing to conduct banking operations in South Africa has three alternatives. All of these require the approval of the Registrar of Banks, who heads up the Banking Supervision Department of the Reserve Bank.

The three main banking establishment options are:

- A separate banking company.
- A branch of an international bank.
- A representative office of an international bank.

To establish a separate banking company, the investor must begin by incorporating a public company with the Registrar of Companies. A bank of which the business consists solely of trading in financial instruments shall manage its affairs in such a way that the sum of its primary and secondary capital, its primary and secondary unimpaired reserve funds and its tertiary capital in the Republic does not at any time amount to less than the greater of:

- R250 000 000; or
- An amount which represents a prescribed percentage of the sum of amounts relating to the different categories of assets and other risk exposures and calculated in such a manner as may be prescribed by the central bank from time to time.

The investor must then supply the information required by the Regulations to the Banks Act with the application form BA 002 for a banking licence. The following information must be included:

- Details of the applicant and the proposed bank, including notice of registered office and postal address of company.
- Memorandum and Articles of Association.
- Certificate of incorporation.
- Business Plan (including predominant business activities planned, schematic representation of group structure, dividend policy, auditors, risk management policy and names of directors and executive directors).
- A number of Banks Act returns, referred to as "BA Returns", to forecast the position for the ensuing year are required. The forecast BA Returns required are those dealing with the balance sheet, off-balance sheet activities, income statement, liquidity risk, capital adequacy, trading risk, and restriction on investments, loans and advances.
- Curriculum vitae of proposed directors and executive officers and completed BA returns relating to the fit and proper requirements of the directors and executive officers (BA020).
- The reasons for the applicants desire to acquire the shares in question in the bank or controlling company concerned.

<sup>81</sup> [www.telkom.co.za](http://www.telkom.co.za); [www.neotel.co.za](http://www.neotel.co.za).

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Should a foreign bank seek to establish a subsidiary or a branch in South Africa, the procedures are similar to those for other investors set out above.

However, foreign banks are also required to include the following with their application:

- Foreign Bank Holding Company Resolution approving proposed formation of a subsidiary bank.
- Letter of Comfort and Understanding from foreign bank holding company.
- Letter from the foreign bank's home regulatory authority to the effect that it has no objections to the application and that it will comply with certain minimum standards of supervision.
- Board Minutes from the holding company empowering an official to sign all documents relating to the application. Approval time for a banking company, a foreign subsidiary or a branch depends on the quality of the application. Banking licences are not transferable.
- All requirements relating to a Foreign Bank establishing a branch in South Africa can be found in forms BA009 and BA023 of the Regulations relating to the Bank's Act.

The requirements for establishing a Representative Office are less onerous and it takes considerably less time to obtain approval for a Representative Office. Representative Offices cannot take deposits, but can merely act as information conduits to the parent company. Form BA010 of the Regulations relating to the Bank's Act sets out the requirements in greater detail.

For more information, please contact:

The Registrar of Banks  
South African Reserve Bank  
Telephone: +27 12 313 3196  
Facsimile: +27 12 313 3758  
Website: [www.reservebank.co.za](http://www.reservebank.co.za)

The main sources of short-, medium- and long-term financing for companies are commercial banks. Funding an investment by way of a loan is tax efficient (i.e. if the funds are used for the purposes of a trade and in the production of income, the interest paid on the loan should be tax deductible subject to the transfer pricing and the capitalisation provisions).

## Types of loans

### ***Mortgage loans***

Each commercial bank applies its own policy in the granting of a mortgage over a commercial property. The factors that it takes into account include the value of the buildings, based on a professional valuation undertaken by the bank, and where they are situated; the affordability of the applicant; and other credit lending obligations imposed on the bank by the regulators. Normally, South African banks lend about 80% of the value of a commercial property, but this can vary from one bank to another depending on individual circumstance.

### ***Secured/unsecured loans***

The most common way for a business to finance its working capital is through a credit facility. A commercial bank might be prepared to grant this credit facility on an unsecured basis depending on the financial standing of the company, taking into account, for example, whether the business has sufficient assets and cash generation ability to service the credit extension. Alternatively, the bank might require security for the credit provided, in the form of, for example, personal guarantees by the directors, physical security such as a bond over an unbounded property, or a cession of the book debts of the company.

As far as "discounting and factoring" is concerned, South African banks will also, in some cases, be prepared to discount, for example, foreign bills, trade bills, bankers' acceptances or promissory notes.

There are also a number of institutions, many associated with the banks that undertake factoring, where the institution will advance money against the client's debtors' book. Normally, factoring gives a better rate than a normal bank cession over a debtors' book, but that also depends on the quality of the book. Factoring is also commonly known as securitisation.

### ***Corporate finance***

The commercial divisions of the major banks offer standard lending products to medium-sized companies. There are also corporate finance divisions in the major banks, or specialised corporate finance institutions, which offer tailor-made solutions for larger or more complex needs, such as the financing requirements of multinationals or listed companies.

### ***Export finance and guarantees***

Commercial banks will assist with export credits, guarantees and letters of credit. The Credit Guarantee Insurance Corporation of South Africa administers an export credit insurance scheme on behalf of the dti.

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### State assistance

The state-owned Industrial Development Corporation (IDC) provides financing to the private sector to facilitate commercially sustainable industrial development and innovation to the benefit of South Africa and Southern Africa. Finance is in the form of equity, quasi equity and medium-term loan finance. Interest rates are competitive, risk-related and are based on the prime bank overdraft rate.

The IDC offers specific financing products:

- *Bridging finance:* For entrepreneurs who have secured firm contracts except for construction contracts - with Government and/or the private sector and which have short-term financing needs.
- *Financing for empowerment:* For emerging industrialists/ entrepreneurs who wish to acquire a stake in formal business by way of management buy-ins or buy-outs, leveraged buy-outs or strategic equity partnerships.
- *Financing for small- and medium-sized mining and beneficiation:* Is aimed at small-and medium-sized mining and beneficiation activities and jewellery manufacturing activities.
- *Financing for the development of the techno-industry:* Is aimed at entrepreneurs in the IT, telecommunication, electronic and electrical industries wanting to develop or expand their business.
- *Financing for the development of agro industries:* For entrepreneurs in the agricultural, food, beverage and marine sectors wanting to expand and develop their businesses.
- *Financing for the development of the tourism industry:* Is aimed at commercial projects in the medium to large sectors of the tourism industry.
- *Financing for the expansion of the manufacturing sector:* Is aimed at entrepreneurs wishing to develop or expand their manufacturing business and create new or additional capacity.
- *Wholesale finance:* For intermediaries looking for wholesale funding to lend to individual entrepreneurs.
- *Financing for the export of capital goods:* To manufacturers and providers of exported capital goods or services. The aim is to provide competitive US dollar and Rand financing to prospective foreign buyers of equipment.
- *Import credit facilities:* For local importers of capital or services requiring medium- to long-term import credit facilities.
- *Short-term trade finance facilities:* For exporters looking for short-term working capital facilities to help them facilitate export orders.

- *Project finance:* Aimed at large projects in the Metals, Petro and Chemical Manufacturing, Agriculture, Minerals and Mining, and Energy market sectors.

### Restrictions on South African borrowing by foreign companies

A South African company in respect of which 75% or more of its capital, assets or earnings may be paid to the benefit of a non-resident of South Africa, or of which 75% or more of its voting power, power of control, capital assets or earnings are vested in or controlled by or on amount that it may borrow from South African lenders, is known as an "affected company". Local borrowing for these purposes is widely defined and includes virtually all forms of borrowing and financing facilities, e.g. bank loans, overdrafts, facilities and finance leases, but does not include normal trade credit extended by suppliers of goods or services.

The borrowing limit is based on a pre-set formula. For companies that are 100% foreign-owned, the local borrowing limit is 100% of the effective capital of the South African company. Effective capital includes share capital, share premium, retained earnings, shareholders' loans to the extent that these are in proportion to shareholding, deferred tax and the minimum trade credit granted to the local company by its overseas affiliates, to the extent it can be viewed as a permanent intra-group facility. For example, if a South African subsidiary is 100% foreign-owned, it will be allowed

to borrow up to 300% of its shareholder investment. If the share capital (including share premium) amounts to R2 million and the shareholders loans amount to R4 million, The total shareholder investment would amount to R6 million.<sup>82</sup>

The percentage of effective capital that may be borrowed is:  $(100\% + [\% \text{ local participation} \div \% \text{ foreign participation}] \times 100)$ .

Affected companies applying for local finance must complete the MP79 form, which discloses the assets and liabilities of the applicant company prior to the granting of the financial assistance. On application, the assets and liabilities of a number of South African companies under common control can be aggregated for the purposes of establishing the maximum level of local borrowings that may be granted to the group, such that an individual company may be "over borrowed", provided that the group as a whole is in aggregate within the borrowing limit for the group.

The South African Reserve Bank will not permit the remittance of profits or repayment of loans where, as a result of such remittance, the local borrowing limit will be exceeded and will require local borrowings to be reduced before remittance.

<sup>82</sup> [www.Saica.co.za/integritax/2005/1311:local borrowings restrictions and black economic empowerment companies](http://www.Saica.co.za/integritax/2005/1311:local borrowings restrictions and black economic empowerment companies).



## South African taxation

### Corporate taxation

#### Income tax

The principal source of direct tax revenue in South Africa is income tax.

South Africa has a residence-based system of taxation:

- South African residents are therefore taxed on their worldwide income, subject to a number of exceptions.
- Non-residents are taxed on income earned from a South African source.
- The question of residency needs to be addressed in the light of any double taxation agreements.
- Any company, which is either incorporated in, or effectively managed from South Africa, is deemed to be a South African resident for tax purposes.
- Domestic companies are taxed at a flat rate of 28%. From years of assessment commencing on or after 1 April 2012, branches of foreign companies which have their effective management outside South Africa will also be taxed at a rate of 28% (prior to this date they were subject to taxation on South African-sourced profits at a rate of 33%). Trusts (other than special trusts) are taxed at a rate of 40%.

#### Capital gains tax

Residents of South Africa are liable for Capital Gains Tax (CGT) on capital gains made on the disposal of their worldwide capital assets:

- The inclusion rate for capital gains is 33.3% (25% prior to 1 March 2012) in respect of individuals and special trusts, and 66.6% (50% prior to 1 March 2012) in respect of companies and other trusts. The maximum effective tax rate is therefore 13.3% (previously, 10%) for individuals, 18.6% (previously, 14%) for companies and 26.7% for trusts.
- Exposure to CGT for non-residents is largely limited to disposals of South African real estate or assets of a branch business.
- Where a change of residence status is brought about, that person/company will need to establish the market value of their assets at the date they are deemed to become South African residents for tax purposes. This market value becomes the base cost which is used to calculate the capital gains upon disposal of capital assets in future. The subsequent cessation as a South African tax resident, may result in a deemed disposal for CGT.

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## Exempt entities and Public Benefit Organisations (PBOs)

Receipts and accruals of PBOs are exempt from income tax to the extent that the receipts and accruals are not from business or trading activities, or, are from central integral, occasional or approved business or trading activities:

- Certain trading activities are totally tax free. Certain trading activities are partially taxable.
- The PBO can deduct the greater of R200 000 and 5% of its total receipts and accruals for the year.
- PBOs may register as a vendor for VAT purposes in order to claim VAT inputs on supplies made to it.
- Donations to PBOs are exempt from donations tax and bequests to PBOs are exempt from estate duty. Donations or bequests to PBOs are further not viewed as disposals for CGT purposes.
- Similar provisions exist for other exempt entities such as government departments, municipalities and the like.

## Secondary tax on companies (STC)

- Prior to 1 April 2012, in addition to the normal corporate income tax at a rate of 28% (as from 1 April 2008, previously 29%) STC applied.

- However, STC was abolished on 1 April 2012 and replaced with a shareholders dividend tax of 15%.
- This brings the taxation of dividends in line with international practice.
- Historically, STC was calculated on the net amount of dividends declared at a rate of 10% (as from 1 October 2007).

## Dividend tax (DT)

- The new dividend withholding tax (which came into effect on 1 April 2012 and replaced STC) will be levied at a rate of 15% (initially proposed at a rate of 10%) on dividends declared by domestic companies and shares of non-resident companies that are listed on the JSE.
- The 15% rate may be reduced under an appropriate double tax agreement.
- Dividend payments to the Government, provincial administrators or municipalities, domestic retirement funds, a rehabilitation company or trust, PBOs, various exempt bodies and domestic companies will be exempt, and foreign persons will be eligible for tax treaty relief. Exempt shareholders will have to certify their exemption status.

- In respect of in-specie dividends, the distributing company (not the shareholder) will bear the liability, although it will be subject to similar exemptions and treaty relief as cash dividends. The major implication is likely to be an administrative issue for companies whose dividends normally flow through "regulated intermediaries" (i.e. in the case of in-specie dividends) as the administrative burden will be upon the company itself.
- The proposed Value Extraction Tax (VET) which would have been a 15% charge on deemed dividends (or "value extractions"), *in lieu of* dividends tax has been withdrawn. Instead, the "dividend" definition has been broadened, which essentially means that value-transfers (understood as "deemed dividends") may still be taxed. The big difference will be that value-transfers will be subject to the normal withholding rules (as opposed to creating a tax cost for the company).
- A dividend will be deemed to be paid on the earlier of the date on which the dividend is paid or becomes payable by the company that declared the dividend.

## Foreign dividends

- Foreign dividends are subject to income tax in the hands of South African residents.
- A foreign dividend means any dividend received or accrued from any company which is a "foreign company" (a company which is not a resident of South Africa). A resident means any company which is incorporated, established or formed, or has its place of effective management in South Africa, but excluding any company which is deemed to be exclusively a resident of another country for double tax treaty purposes.
- In certain cases, a foreign dividend is exempt from income tax in the hands of a South African resident. The exemptions currently have included, *inter alia*:
  - Where the resident recipient (in the case of a company, together with any other company in the same group of companies) holds at least 20% of the total equity share capital and voting rights of the foreign company;
  - Foreign dividends distributed out of profits which have been or will be taxed in South Africa (unless the profits are exempt or taxed at a reduced rate as a result of the application of a double tax treaty) or out of profits which

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arose directly or indirectly from any dividends declared by a resident company (local dividends, foreign dividends) paid out of income, which has been included in the income of the resident recipient as a result of the application of the controlled foreign company provisions;

- A foreign dividend which accrues to a South African equity unit trust (not being a property unit trust), and is distributed to a unit holder as a foreign dividend. (Note that this exemption will change on 1 April 2012 to only exclude dividends on foreign shares that are listed on the JSE.)
- Several significant changes have been proposed this year, including that all foreign dividends will effectively become subject to the same 15% level of tax.
- In addition, the exemptions for foreign dividends are to be reformulated substantially. Two specific exemptions and one general exemption have been proposed. The two specific exemptions are the existing "participation exemption" (although the participation threshold is to be reduced to 10%) and the existing controlled foreign company exemption.

• A general blanket exemption of 25/40 for natural persons, and 13/28 for companies and trusts, is proposed, for all otherwise taxable foreign dividends. The result will be that the maximum effective tax rate is essentially limited to 15%. However, substantial restrictions and prohibitions will apply to corporate shareholders in respect of shares not actually owned, or certain categories of trading stock, borrowed shares, etc.

• Furthermore, the foreign dividend will be exempt if that foreign dividend is received by or accrues to a person in respect of a listed share and does not consist of a distribution of an asset in specie.

• Dividends retained by collective investment schemes (i.e. not distributed to unit holders within a period of 12 months) will be taxed as ordinary revenue, and will thus not be subject to dividends tax.

• Section 10B dealing with the abovementioned exemptions in respect of foreign dividends applies from 1 March 2012, and is applicable in respect of dividends received or accrued on or after that date in so far as it applies to any person that is a natural person, deceased estate, insolvent estate or special trust; and with effect from 1 April 2012, and applicable in respect of dividends received or accrued on or after that date in so far as it applies to any person that

is a person other than a natural person, deceased estate, insolvent estate or special trust.

**Tax losses**

- A tax loss incurred by a company in any business activity may generally be carried forward and set off against future profits until exhausted, provided that the company continues to trade during each year of assessment.
- However, the losses earned by a foreign branch of a South African resident company cannot be set off against income from a South African source (ring-fencing applies).

**Withholding tax (WHT)**

- Profits remitted by or branch of a foreign company are not subject to withholding tax.
- A new withholding tax on interest paid to non-residents has been introduced with effect from 1 January 2013. Currently, the Income Tax Act provides for a near blanket exemption where non-residents earn South African interest.
- The new withholding tax will be levied at a rate of 15% and will be payable by the last day of the month following the month during which the interest is paid.
- Certain exemptions will still apply, including government bonds, listed debt, debt owed by a local bank, local dealer and brokerage accounts and local collective investment schemes. Interest paid by headquarter companies will also be exempt. The withholding tax will not apply to non-residents who are currently not eligible for the interest exemption (i.e. individuals spending in excess of 183 days per year in South Africa and non-residents carrying on business through a South African Permanent Establishment (PE)).
- A 15% withholding tax applies in respect of gross payments made to non-resident entertainers and sportspersons performing in South Africa.
- A withholding tax is imposed on the proceeds of the sale of fixed property by non-residents where the proceeds exceed R2 million. The amounts to be withheld by the purchaser from payments made to the non-resident seller are:
  - Where the seller is a natural person - 5% of the amount payable.
  - Where the seller is a company - 7.5% of the amount payable.
  - Where the seller is a trust - 10% of the amount payable.



- A withholding tax of 12% applies to royalties. The withholding tax does not apply to amounts derived by non-resident companies from a branch or agency in South Africa, or to amounts relating to the use of certain copyrights in printed publications, or royalties paid to any controlled foreign company. This rate of 12% may be reduced in terms of the relevant double tax treaties as set out on the next page. (It is proposed that the rate of 12% will increase to 15% and will apply to all royalties paid after 1 January 2013.)

Reduced WHT rate once DTA is applied			
Recipient's country of residence	Reduced rate	Recipient's country of residence	Reduced rate
Algeria	10%	Lesotho	10%
Australia	10%	Luxembourg	0%
Austria	0%	Malaysia	5%
Belarus	5% <sup>1</sup> /10%	Malta	10%
Belgium	0%	Mauritius	0%
Botswana	10%	Namibia	10%
Brazil	10% <sup>2</sup>	Netherlands	0%
Bulgaria	5% <sup>8</sup> /10%	New Zealand	10%
Canada	6%/10% <sup>3</sup>	Nigeria	7.5%
China	7%/10% <sup>7</sup>	Norway	0%
Croatia	5%	Oman	8%
Cyprus	0%	Pakistan	10%
Czech Republic	10%	Poland	10%
Denmark	0%	Russian Federation	0%
Finland	0%	Seychelles	0%
France	0% <sup>4</sup>	Singapore	5%
Germany	0% <sup>4</sup>	Slovak Republic	10%
Ghana	10%	Spain	5%
Greece	5%/7% <sup>5</sup>	Swaziland	10%
Hungary	0%	Sweden	0% <sup>4</sup>
India	10%	Switzerland	0%
Indonesia	10%	Taiwan	10%
Iran	10%	Tanzania	10%
Ireland	0%	Tunisia	10%
Israel	0% <sup>4</sup> /4.2% <sup>6</sup>	Turkey	10%
Italy	6%	Uganda	10%
Japan	10%	Ukraine	10%
Korea	10%	United Kingdom	0%
Kuwait	10%	United States of America	0%

**Notes:**

1. The 5% rate applies to royalties paid for the use of industrial, commercial or scientific equipment or transport vehicles.
2. The reduced 10% rate only applies in relation to royalties arising other than from the use of, or the right to use trademarks.
3. The rate is reduced to 6% in respect of copyright royalties and other like payments in respect of any literary, dramatic, musical or other artistic work (but excluding royalties in respect of films or videos or other means of reproduction for use in television broadcasting), or royalties for the use of computer software, or for the use of any patent or any industrial, commercial or scientific information (excluding information in connection with rental/franchise agreements). In any other case, the rate is reduced to 10%.
4. Reduced rate only applies if the royalty is taxed in the recipient's country of residence.
5. The maximum rate is 5% on copyright royalties, including films and TV or radio media, and 7% for any patent, trade mark, design, model, plan, secret formula or process, and industrial, commercial or scientific equipment or information.

6. The rate is 4.2% (15% of the corporate tax rate) for royalties on cinematographic or television films.
7. The rate is reduced to 7% in respect of royalties for the use or right of use of any industrial, commercial or scientific equipment.
8. The 5% rate applies to copyrights for cultural, dramatic, musical and other artistic work (other than for use with television) and industrial, commercial or scientific equipment.
9. Generally, the above reduced rates do not apply where the recipient of the royalty trades through a permanent establishment in South Africa with which the right or property giving rise to the royalties is effectively connected.

**Tax deductions and allowances**

In addition to the general tax deduction that is permitted in terms of section 11(a) of the Income Tax Act, for business expenditure that is not of a capital nature and that is incurred in the production of income, specific tax deductions and allowances may be allowed. In the context of a business, these include:

**Expenditure and losses incurred before commencement of trade**

Taxpayers are entitled to a deduction for pre-trade costs incurred before the commencement of trade. "Pre-trade costs" are not defined but they would include costs such as advertising and marketing promotion, insurance, accounting and legal fees, rent, telephone, licences and permits, market research and feasibility studies, but exclude costs such as the purchase of buildings and motor vehicles, and pre-trade research and development expenses. Pre-trade costs incurred before the commencement of trade can only be set off against income from that trade.

**Allowance in respect of future expenditure on contracts**

Section 24C of the Income Tax Act permits the matching of receipts with corresponding future expenditure where such receipts arise in advance of the expenditure concerned. This is found in the practice of construction contracts. The section 24C allowance is typically calculated by taking the gross profit percentage applied to the receipts to date on the contract, less the costs allowed on the contract to date. The allowance should not exceed the receipts, and should not create an overall loss. The allowance deducted in the current year shall be deemed to have accrued or been received in the following year of assessment, and as a result shall be included in taxable income in the following year.

**Plant and machinery**

New or unused plant and machinery acquired, and used in a process of manufacture, can be depreciated for tax at the rate of 40% in the first year and 20% in the following three years. With regard to other capital assets, a wear and tear allowance may be claimed on fixed assets which are not structures or works of a permanent nature and do not qualify for other capital allowances. Write-off periods acceptable to SARS are detailed in terms of published Interpretation Notes (INs).

**Transmission of electricity**

An allowance equal to 5% (20-year straight-line basis) is permitted on the cost incurred by a taxpayer in respect of any assets for the transmission of electricity. The assets must be owned by the taxpayer and brought into use for the first time by the taxpayer and used directly by the taxpayer for the transmission of electricity.

**Industrial buildings**

Wear and tear is normally not allowed on buildings or other structures of a permanent nature. However, an allowance equal to 5% (20-year straight-line basis) of the cost to the taxpayer of industrial buildings or of improvements to existing industrial buildings used in a process of manufacture (other than mining or farming) is granted.

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### **Commercial buildings**

An allowance equal to 5% (20-year straight-line basis) is permitted of the cost to the taxpayer of new and unused buildings or improvements to buildings (other than the provision of residential accommodation). For the purposes of the 5% allowance, to the extent a taxpayer acquires part of a building without erecting or constructing that part, the following percentages below will be deemed to be the cost incurred:

- 55% of the acquisition price, in the case of part of a building being acquired.
- 30% of the acquisition price, in the case of an improvement being acquired.

### **Deductibility of interest**

Interest may be incurred on loan funding provided by local and foreign lenders. South Africa's thin capitalisation and transfer pricing rules may restrict the deductibility of interest.

### **Research and development**

A deduction of research and development (R&D) expenditure will be allowed at a rate of 150% of expenditure incurred on activities undertaken in South Africa directly for purposes of:

- The discovery of novel, practical and non-obvious information; or
- The devising, developing or creation of any invention;

design, computer programme or knowledge essential to the use of that invention, design or computer programme, which is of scientific or technological nature and intended to be used by the taxpayer in the production of income.

A deduction in respect of any new and unused building, machinery, plant, implement, utensils or article or improvements thereto brought into use for the first time by the taxpayer for R&D purposes, will be allowed at the rate of:

- 50% of the cost of the asset in the first year of assessment it is brought into use.
- 30% of the cost in the first succeeding year.
- 20% of the cost in the second succeeding year of assessment.

#### **Note:**

Section 11D of the Income Tax Act (for R&D expenditure) has been rewritten with the major change being the requirement that R&D projects be pre-approved in order to qualify for the additional allowances.

### **Learnership allowance**

An allowance of R30 000 per annum is available as a deduction by employers for each registered learnership agreement. A completion allowance of a further R30 000 is available on completion.

Where the learnership is two years or longer, the completion allowance will be the number of years times R30 000. Learners with a disability qualify for an additional R20 000 allowance. The learnership tax incentive is scheduled to expire in September 2016.

### **Transfer pricing and thin capitalisation**

Transfer pricing issues in South Africa are regulated by section 31 of the Income tax Act supported by SARS Practice Note No. 7 (PN 7).

South Africa follows the OECD (Organisation for Economic Cooperation and Development) guidelines on transfer pricing and uses the "arm's length" standard/principle to test transactions between connected persons.

In determining an arm's length price/consideration, the five transfer pricing methods recommended by OECD are used. These include:

- Comparable uncontrolled price (CUP) method.
- Resale price (RP) method.
- Cost plus (CP) method.
- Profit split (PS) method.

- Transactional net margin method (TNMM).

Although there is no legislative requirement for organisations to prepare transfer pricing policies and documentation for South Africa, the risk of an adverse transfer pricing audit from SARS is increased in the absence of such documentation. In view of the above, it is critical that any transactions between a foreign entity and any related SA entity be considered from a transfer pricing perspective.

The rules on thin capitalisation, which apply to financial assistance granted by non-resident entities to SA tax resident related parties, are contained in section 31 of the Act, supported by SARS Practice Note No.2 (PN 2). In terms of PN 2, a debt-to-equity ratio of 3:1 is currently permitted.

For inbound loans, the accepted/"safe-harbour" interest rate is the SA prime lending rate plus 2% for Rand-denominated loans and relevant interbank rate plus 2% for loans denominated in foreign currency.

The entire transfer pricing provisions have been replaced. Although the revised provisions were to come into effect on 1 October 2011, the implementation has been delayed and slightly revised provisions came into effect on 1 April 2012, effecting years of assessment commencing on or after 1 April 2012.

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The amendments have been made to align the provisions more closely with OECD guidelines. A revised Interpretation Note is to be issued to provide some guidance.

Furthermore, the new section 31 no longer deals separately with the thin capitalisation rules. Instead thin capitalisation rules have been merged into the general transfer pricing rules.

This means that the thin capitalisation rules will also apply to local branches of foreign companies.

Annual disclosure and adjustments for arm's length prices will shift from SARS to the taxpayer.

#### Management fees

Authorised Dealers may effect payments in terms of agreements where the parties to the agreement are unrelated i.e. none of the parties have any direct/indirect interest or shareholding in each other. Where payments for management services are to be effected in terms of an agreement and the agreement is between two related parties, an application will have to be submitted to the Financial Surveillance Department of the Reserve Bank for approval.

If the fee is calculated as a percentage of turnover, profits, sales, expenses etc. it requires exchange control approval and while it will not normally be permitted, consideration will be given to it and approval may be forthcoming provided the application is supported by documentation stating that the payments will be

in compliance with South African transfer pricing rules. In the case of minimum payments or upfront payments, it may be more difficult to obtain approval.

Only in the case where an agreement relates to the local manufacture under licence, will it be necessary to refer such a matter to **the dti**, which will then consider it in terms of its policy.

#### Corporate rules

The corporate rules provide relief for transactions between group companies or between shareholders and their company.

In this regard a "group of companies" is defined as two or more companies in which one company (the controlling group company) directly or indirectly holds shares in at least one other company (the controlled group company) to the extent that:

- At least 70% of the equity shares of each controlled group company are directly held by the controlling group company or one or more controlled group companies or any combination thereof; and
- The controlling group company holds at least 70% of the equity shares in at least one controlled group company.

#### Note:

For purposes of the corporate rules, the definition of "group of companies" excludes any company that does not have its place of effective management in South Africa.

The rules cover the following transactions:

- Asset-for-share transactions.
- Amalgamation transactions.
- Intra-group transactions.
- Unbundling transactions.
- Liquidation, winding-up and deregistration.

Each of the rules has qualifying criteria and anti-avoidance provisions. The rules provide for relief from income tax, CGT, transfer duty, securities transfer tax and STC in certain circumstances. VAT relief may also be obtained if certain conditions apply.

Because of concerns that the tax base is being eroded through the use of the corporate rules, provisions have been introduced that may deny the deduction of interest incurred on borrowings arising from a transaction in terms of the corporate rules in certain circumstances, unless a directive has been obtained from SARS that the provisions will not apply.

A transferor and transferee may enter into a written agreement that the relevant provisions do not apply in the

case of asset-for-share transactions, intra-group transactions and liquidation transactions. With regard to amalgamation and unbundling transactions, the corporate rules will apply unless the parties form part of the same group of companies and jointly elect for the rules not to apply. Full particulars of any transaction falling within these provisions must be disclosed in the taxpayer's tax return for the tax year in which the transaction takes place.

Special rules apply for determining contributed tax capital where shares are issued in terms of the rules.

#### Controlled foreign companies

Also included in the income of a South African resident is a proportional amount of the net income (including capital gains) earned by a controlled foreign company (CFC). A CFC is any foreign company where South African residents directly or indirectly hold more than 50% of the total participation rights or more than 50% of the voting rights in that company. The proportionate income of the CFC to the participation rights held by the resident will be included in the income of the resident where the resident has participation or voting rights of 10% or more. The income is grossed up and the tax paid in the foreign country may be offset against the South African tax payable. The income of the CFC is to be determined as if the South African Income Tax Act applied to such entity.

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There are rules in respect of interest, royalties and rental paid to other CFCs of the resident. These exclusions are as follows:

- Where the net income of the CFC is attributable to a business establishment in a foreign country provided that the business establishment effectively operates at arm's length (subject to certain restrictions).
- Where the net income of the CFC is included in its SA taxable income.
- Foreign dividends declared to a CFC by another CFC.
- Interest, royalties or rental income payable to a CFC by another CFC and exchange differences between such parties, where the entities are part of the same group of companies.
- Capital gains to the extent that the asset disposed of (subject to exclusions) is attributable to any business establishment of a CFC that forms part of the same group of companies as the CFC.

South African shareholders in relation to CFCs may make the following elections:

- South African shareholders who, together with any connected persons, hold an interest of at least 10% but not 20% or more in a CFC may elect (on a year-by-
- In recent years, it was announced

year basis) to have their pro rata share of the CFCs income taxed, even though this income may be otherwise excluded. Foreign tax credits for underlying taxes paid may be claimed against this income but no excess credits may be generated.

- South African shareholders with an interest of at least 10% but not 20% or more in a foreign company which is not a CFC may elect (on a year-by-year basis) to treat their interest as a CFC interest. The South African shareholder will be taxed on the foreign income and will be entitled to claim foreign tax credits. Any subsequent distribution of profits will not be taxed.
- In 2011, there were substantial revisions to the taxable versus tax-free nature of the activities associated with a CFC. The revised rules eliminate the current transfer pricing penalty but more explicitly require an arm's length analysis when determining whether income is attributable to exempt active business activities. The anti-avoidance rules have also been revised to better target the tainted activities of concern and eliminate the use of discretionary trusts (and other forms of de facto ownership) employed to undermine the CFC regime.

that cell companies would be the target of anti-avoidance legislation. The Act has been amended to achieve this result by treating each cell of an offshore cell company as a separate company for purposes of the CFC regime. The net result of this segregated treatment is to ensure that CFC status is measured on a cell-by-cell basis, thereby triggering a greater likelihood of CFC treatment.

#### **Hybrid equity instruments, hybrid debt instruments and third party backed shares**

Public debate on section 45 of the Act, and private equity acquisitions, has highlighted the need to improve the classification of corporate financing. The main problem is the erroneous classification of certain instruments as "debt" to generate interest deductions for the debtor, when such instruments more accurately represent equity financing.

Similarly, in some private equity transactions, where creditors receive exempt interest income, the deductibility of interest payments deprives the fiscus of revenue.

Excessive debt can also give rise to excessively risky transactions that may represent "credit risk" for the domestic market. To address these concerns, Government will enact a revised set of reclassification rules deeming certain debt to be equivalent to shares.

The Draft Taxation Amendment Bill, 2012, sets out various proposals to the sections dealing with hybrid debt instruments, hybrid equity instruments and third party backed shares.

These sections are anti-avoidance sections and are consistently being amended to ensure that the instruments are correctly classified as debt or equity, that South African companies remain internationally competitive in terms of funding and that these anti-avoidance sections do not impact negatively on commercial transactions.

#### **Debt used to fund share acquisitions**

Unlike most countries, South Africa does not allow for interest to be deductible when debt is used to acquire shares. Section 45 has been used as an indirect acquisition technique to facilitate the deduction of interest payments by allowing debt to be formally matched against underlying assets as opposed to shares. Given the acceptance of section 45 as an indirect share acquisition tool, it is now proposed that the use of debt to directly acquire controlling share interests of at least 70% be allowed. However, the interest associated with this form of debt acquisition of shares, will be subject to the same SARS approvals that do apply to section 45 acquisitions of assets other than shares.

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## Headquarter company regime

The headquarter company regime is a significant development directed at establishing South Africa as a jurisdiction of choice for investments into Africa. Essentially, the regime provides for a relaxation for headquarter companies of the controlled foreign company and arm's length rules, and for dividends declared by these companies to benefit from the same exemptions available to foreign dividends. For this purpose the following areas of tax relief will be granted to entities qualifying as headquarter companies (or their shareholders where applicable):

- Foreign subsidiaries of headquarter companies will not be treated as CFCs under the normal rules and, therefore, no "net income" of any CFC can be imputed to a headquarter company.
- Dividends declared by the headquarter company will be exempt dividends tax i.e. dividends received from a headquarter company will be taxable or exempt in the same way as foreign dividends.
- Headquarter companies engaged in financial assistance, will enjoy relief from the transfer pricing provisions to a certain extent (however, note that a new section is introduced, dealing with the ring-fencing of interest incurred by headquarter companies for the purposes of claiming a tax deduction).
- Interest paid or owed by a headquarter company to a foreign person, to the extent that it relates to back-to-back lending arrangements, will be exempt from the withholding tax on interest.
- A headquarter company will be treated as a foreign company for the purposes of the capital gains tax participation exemption for the benefit of qualifying shareholders disposing of their interest in such headquarter company.
- A resident company will qualify as a headquarter company if the following criteria are met:
  - If, during the relevant year and all prior years, each shareholder (together with related group companies) held 10% or more of the equity shares and voting rights in that company;

- If, at the end of the relevant year and all prior years, 80% or more of the cost of the total assets of the company was attributable to equity shares in, loans to, or intellectual property licensed to any foreign company in which the company (together with related group companies) held at least 10%; provided that in determining the total assets of the company, there must not be taken into account any amount in cash or in the form of a bank deposit payable on demand; and
- Where the gross income of the company exceeds R5 million, if 50% or more of the gross income of the company consisted of dividends, interest, royalties or fees from any foreign company contemplated above or of proceeds from the disposal of shares in such foreign company or the above intellectual property.

A headquarter company must submit to the Minister an annual report providing the Minister with the information that the Minister may prescribe within such time and containing such information as the Minister may prescribe.

## Other

### **Cross-border interest exemption**

A withholding tax on interest paid to a foreign person that is not a CFC, will be introduced with effect from 1 January 2013 at a rate of 15% (initially proposed at a rate of 10%). Certain exemptions will apply (e.g. to interest received or accrued from headquarter companies and any interest received or accrued to a non-resident from another non-resident subject to certain requirements etc.).

### **Regional gateway initiatives**

The Act removes the potential for double taxation by South African multinationals operating abroad through a variety of legislative measures, such as the use of a revised source system, and through the addition of special tax credits in the case of foreign withholding taxes imposed on South African-sourced management fees.

### **Functional currency rules**

With effect from years of assessment commencing on or after 1 January 2011, certain entities, including branches, CFCs and headquarter companies (where South African Rand is not their functional currency), will be allowed to rely on their "functional currency" (i.e. the currency of the "primary economic environment in which the business operations are conducted") for tax purposes.

## Partnerships

Partnerships are not treated as separate taxable entities. Each partner is taxed only on his or her share of the partnership's taxable income.

## Mining, insurance and farming

Special rules apply to mining and insurance companies and to farming activities.

## Government Islamic bonds

The 2011 Budget introduced a proposed tax framework to be enacted that will allow for Government to issue Islamic bonds (i.e. Sikuks). The regime will essentially allow for asset-based financing with the yield giving rise to tax that is equivalent to interest. These bonds will serve as the standard for risk-free Islamic financing within South Africa.

## Incentives

Government has revised a number of pre-existing tax incentives. Firstly, the requirements associated with venture capital company incentive, will be greatly eased to encourage pooling of investments for junior mining and small business. Secondly, the industrial policy incentive will be enhanced for projects located within industrial development zones (IDZs) to support the objectives of the Industrial Policy Action Plan (IPAP) and the New Growth Path. Thirdly, the R&D incentive now requires a pre-approval system to curtail avoidance while providing enhanced certainty for legitimate projects. Lastly, the film

allowance for film owners has been converted into an exemption so as to encourage film profit (as opposed to the current emphasis on costs).

## Calculating taxable income

Gross income	<ul style="list-style-type: none"> <li>Receipts/accruals of a South African resident.</li> <li>Receipts/accruals sourced or deemed to be sourced in South Africa accruing to a non-resident.</li> </ul>
Less: Exempt income	<ul style="list-style-type: none"> <li>E.g. Dividends**.</li> </ul>
Less: Allowable deductions	<ul style="list-style-type: none"> <li>All non-capital expenses incurred in South Africa in the production of income.</li> </ul>
Less: Other tax allowances	<ul style="list-style-type: none"> <li>Refer summary of tax incentives.</li> </ul>
	<ul style="list-style-type: none"> <li>Other capital allowances on: <ul style="list-style-type: none"> <li>Plant and machinery.</li> <li>Buildings and improvements to buildings etc.</li> </ul> </li> </ul>
Plus: Taxable capital gain*	
Equals: Taxable income	

\* Capital gains are taxed with effect from 1 October 2001.

\*\* "Foreign" dividends (those derived from profits generated from non-South African sources) accruing or paid after 23 February 2000 are, subject to certain exceptions, no longer exempt from South African tax. "Local" dividends will continue to be exempt from tax.

## Current rates of taxation

Current central taxes	Government	Rates
• Company tax (non-mining)		28%
• Dividend tax		15%
• Micro businesses rate for entities with an annual turnover of <= R1 million (elective provision and conditions apply)	R0 - R150 000	0%
	R150 001 - R300 000	1% of each R1 above R150 000
	R300 001 - R500 000	R1 500 + 2% of amount > R300 000
	R500 001 - R750 000	R5 500 + 4% of amount > R500 000
	R750 001 and above	R15 500 + 6% of amount > R750 000
• Small business corporation rate for entities with an annual turnover of <= R14 million	R0 – R63 556	0%
	R63 557 - R350 000	7%
	R350 001 +	R20 051 + 28%
• Branch profit tax 28%	As from 1 April 2012	previously 33%
• Maximum individual tax rate for taxable income of R617 001: R178 940 + 40% of the amount above R617 001		

Current central taxes	Government	Rates
VAT	On goods and services (exemptions apply)	14%
Other taxes:	<ul style="list-style-type: none"> <li>Capital Gains Tax (from 1 October 2001)</li> <li>Customs and excise</li> <li>Donations tax (20%)</li> <li>Estate duty/tax (20%)</li> <li>Transfer duty on real estate transactions not subject to VAT: <ul style="list-style-type: none"> <li>The transfer duty exemption threshold is to be increased from R500 000 to R600 000</li> <li>For properties acquired under purchase agreements concluded on or after 23 February 2011, the transfer duty rates applicable will be as follows: <ul style="list-style-type: none"> <li>First R600 000 consideration 0%</li> <li>R600 001 to R1 000 000 3%</li> <li>R1 000 000 to R1 500 000 5%</li> <li>Excess over R1 500 000 8%</li> </ul> <p>These rates will be applicable to both natural and legal persons (CCs, companies and trusts).</p> </li> </ul> </li> <li>Fuel levies</li> <li>Motor vehicle licence</li> <li>Electricity levies</li> <li>Plastic bag levies</li> <li>Incandescent light bulb levies</li> <li>Municipal taxes on owners of real estate</li> <li>Skills development levy</li> <li>Airport taxes</li> <li>Environmental levy</li> <li>Road accident fund levy</li> </ul>	

### Passive holding companies

A new passive holding company tax regime was introduced to eliminate perceived tax arbitrage opportunities relating to passive income between companies set up by individuals and the individual themselves. This regime came into effect from the commencement of years of assessment commencing on or after 1 January 2011.

However, with the introduction of dividend WHT at 15%, the passive holding company regime will most likely be abandoned.

### Provisional tax

A first provisional tax payment is calculated using the basic amount, which is the taxable income per the last year of assessment in relation to which a notice of assessment was issued. With effect from the year of assessment ending on or after 1 March 2009, if the above-mentioned assessment is in respect of a period that ends more than one year after the latest year of assessment in relation to such estimate, the basic amount determined shall be increased by an amount equal to 8% per annum of that amount, from the end of such year to the end of the year of assessment in respect of which the estimate is made.

With effect from the years of assessment ending on or after 1 March 2009:

- In the event that a provisional taxpayer's taxable income is more than R1 million, a 20% penalty will be levied where a provisional taxpayer's second provisional tax payment is based on a taxable income that is less than 80% of the taxpayer's actual taxable income for that year.
- In the event that a provisional taxpayer's taxable income is equal to or less than R1 million, a 20% penalty will be levied where a provisional taxpayer's second provisional tax payment is based on a taxable income that is less than 90% of the taxpayer's actual taxable income for that year.

#### Note:

Where the amount of any estimate is not within the abovementioned 80% or 90% of the taxpayer's actual taxable income for that year, and the Commissioner is satisfied that the amount of any estimate was seriously calculated with due regard to the factors having a bearing thereon, and was not deliberately or negligently understated, or if the Commissioner is partly so satisfied, the Commissioner may in his or her discretion remit the additional tax or part thereof.

## Tax administration

### Note:

The Tax Administration Act 28 of 2011 was promulgated on 4 July 2012. Most sections came into effect on 1 October 2012.

### Tax registration <sup>83</sup>

Any company or any CC which becomes liable for any normal tax or becomes liable to submit any return of income in terms of section 66 of the Income Tax Act No. 58 of 1962, is required to register as a taxpayer in terms of section 67 of the Act. Any such person must register as a taxpayer at SARS within 60 days after so becoming a taxpayer by completing an IT77(C) form. A registered taxpayer is required to complete and submit the annual returns of income in a prescribed form within the stipulated period.

The following entities are required to register as taxpayers for corporate income tax (CIT) purposes:

- Listed public companies.
- Unlisted public companies.
- Private company.
- Close corporations.
- Co-operatives.
- Other - Small business corporations (an entity with an annual turnover of less than R14 million).

Companies, including CCs, co-operatives and Body Corporates, are taxed at a rate as announced in the Budget Speech in February of each year and are required to submit a Return of Income: Companies and Close Corporations (IT14) within 12 months from the date on which their financial year ends. Small business corporations benefit from a staggered tax rate, and can write-off the cost of certain manufacturing assets in the year in which it is brought into use for the first time, or alternatively can register for turnover tax for micro-businesses.

For the current tax rates for companies, CCs and small business corporations refer to the tax tables above. For guidelines on how to complete your company tax return (IT14) visit the SARS website at: [www.sars.gov.za/home.asp?pid=4150&tid=658.s=pubs](http://www.sars.gov.za/home.asp?pid=4150&tid=658.s=pubs).

### Tax year

The tax year is the same as the corporation's accounting year.

### Filing requirements

Companies are required to file their income tax returns annually, within 12 months of the company's financial year-end. Advance payments of tax (provisional tax) must be made twice a year, based on estimates of the final tax amount, the first payment during the first six months of the company's financial year and the second before the end of the year.

Where the provisional tax payments are less than the final tax liability, a third provisional tax return may be submitted, accompanied by an additional payment of provisional tax, within six months after the end of the tax year.

### New corporate income tax return processes and procedures <sup>84</sup>

SARS is seeking to enhance tax compliance by companies and CCs through the verification and reconciliation of the various declarations made to SARS. An aspect of this includes the introduction of the Supplementary Declaration for Companies and Close Corporations (IT14SD).

The IT14SD is a structured Adobe form (in both PDF and Flex formats) and is intended to reconcile financial information across tax types and customs. The IT14SD consists of the PAYE, Income Tax, VAT and customs reconciliation schedules that must be reconciled and submitted by the taxpayer, where applicable. The IT14SD will be pre-populated with the following fields: income tax reference number, year of assessment and case number.

The IT14SD can be submitted through one of the following channels: eFiling, SARS branches, drop boxes at SARS branches and/or by post. SARS encourages corporate taxpayers to complete and submit their IT14SD electronically via eFiling (to register, go to SARS website at: [www.sarsfiling.co.za](http://www.sarsfiling.co.za)).

### Penalties

Penalties and interest are imposed for failure to comply.



<sup>83</sup> <http://www.sars.gov.za>

<sup>84</sup> <http://www.sars.gov.za>

### **Voluntary disclosure**

An interim Voluntary Disclosure Programme (VDP) provided taxpayers with an opportunity to identify any existing tax exposures and to regularise their tax affairs without fear of interest and penalties. The interim VDP programme ran from 1 November 2010 to 31 October 2011, and was aimed at all taxes administered by SARS. A permanent legislative framework for voluntary disclosure, that applies to all tax types, is included in the Tax Administration Act. The main purpose of such a framework is to enhance voluntary compliance in the interest of the good management of the tax system and the best use of SARS' resources. It seeks to encourage taxpayers to come forward and avoid the future imposition of understatement penalties, other administrative penalties and interest.



### **Double taxation agreements (DTAs)**

Existing comprehensive agreements		
Algeria	Indonesia	Poland
Australia	Iran	Portugal
Australia Protocol (2008)	Ireland Protocol (February 2012)	Romania
Austria Protocol (March 2012)	Israel	Russian Federation
Belarus	Italy	Rwanda
Belgium	Japan	Saudi Arabia
Botswana	Korea	Seychelles
Brazil	Kuwait	Singapore
Bulgaria	Lesotho	Slovak Republic
Canada	Luxembourg	Spain
China (People's Republic of)	Malawi	Swaziland
Croatia	Malaysia Protocol (March 2012)	Sweden Protocol (March 2012)
Cyprus	Malta	Switzerland (New treaty - entry into force 27 January 2009)
Czech Republic	Mauritius	Taiwan
Denmark	Mexico	Tanzania
Egypt	Mozambique	Thailand
Ethiopia	Namibia	Tunisia
Finland	Netherlands	Turkey
France	Netherlands Protocol (2008)	Uganda
Germany	New Zealand	Ukraine
Ghana	Nigeria	United Kingdom* United Kingdom Protocol (October 2011)
Greece	Norway	United States of America
Hungary	Oman	Zambia
India	Pakistan	Zimbabwe

\* The United Kingdom treaty was extended to Grenada and Sierra Leone. \* United Kingdom agreement includes Granada and Sierra Leone at a rate of 12% withholding tax for royalties. For non-treaty countries the withholding tax rate in respect of royalties and know-how payments is currently 12%. This will increase to 15% with effect from 1 January 2013.

**Ratified by South Africa but not by treaty partner**

Democratic Republic of Congo, Gabon, Germany (renegotiated) Kenya and Sudan.

**Treaties signed but not ratified**  
Oman (Protocol).

**Customs Agreements on Mutual Administrative Assistance in force**

Algeria, Canada, China (People's Republic of), France, India, Mozambique, Netherlands, United Kingdom and United States of America.

**VAT Agreements on Mutual Administrative Assistance in the process of negotiation or finalised but not yet signed**

Botswana, Lesotho, Malawi, Namibia, Swaziland, Zambia, and Zimbabwe.

**Tax Information Exchange**

**Agreements in process of negotiation or finalised but not yet signed**

Argentina, Barbados, British Virgin Island, Brunei Darussalam, Costa Rica, Dominica, Georgia, Gibraltar, Jamaica, Lichtenstein, Multilateral Southern African Development Community Agreement on Assistance in Tax Matters, Liberia, Liechtenstein, Monaco, Netherlands Antilles, Saint Kitts and Nevis, Turks and Caicos Islands.

**Note:**

- In addition to the above agreements in force is the IBSA (India/Brazil/South Africa) Tax Cooperation Agreement (date of entry into force is October 2007).
- The rates provided are merely a guide and some DTA's provide for alternative rates to be applied in specific circumstances.
- With effect from 1 January 2013, Government proposes to coordinate and streamline the procedures, rates, and times for all withholding taxes, including the adoption of a uniform rate of 15%.

**Treaties in the process of negotiation or finalised but not signed**

Angola		
Austria**	Lithuania	Senegal
Bangladesh	Luxembourg**	Seychelles**
Belgium**	Malawi*	Serbia
Botswana**	Malaysia**	Singapore*
Brazil**	Madagascar	Sri Lanka
Cameroon	Malawi*	Swaziland**
Chile	Malta**	Switzerland**
Cuba	Mauritius*	Syria
Cyprus**	Morocco	Turkey**
Czech Republic*		
Estonia	Mozambique**	United Arab Emirates
Germany**	Namibia*	Vietnam
India**	Hong Kong	
Indonesia**	Isle of Man	
Kuwait**	Norway**	Zambia*
Latvia	Oman**	Zimbabwe*
Lesotho*	Qatar	

\* Indicates that a Treaty is already in existence which is currently under negotiation to be renewed or updated. The existing agreements remain effective until the new agreements enter into force.

\*\* Protocol still to be finalised.

## Transaction taxes

### Value added tax (VAT)

The principal source of indirect taxation revenue in South Africa is VAT.

The standard rate of VAT is 14%. Exports, certain foodstuffs and other supplies are zero-rated, and certain supplies are exempt (mainly certain financial services, residential accommodation and public transport).

Any person that carries on an "enterprise" in South Africa for VAT purposes and that makes taxable supplies above a certain threshold is obliged to register as a VAT vendor. Investment in South Africa, both by a branch or through a subsidiary, will constitute an "enterprise" and will therefore require VAT registration.

VAT (output tax) is levied at 14% on the value of any supplies made by a vendor, unless such supplies qualify for a zero rating (for example, supplies physically rendered outside of South Africa are subject to VAT at the zero rate) or are exempt from VAT.

Any VAT charged to the vendor by suppliers, as well as VAT levied on the importation of goods, will generally be deductible as an input tax credit by the vendor.

VAT returns are generally submitted every two months but businesses with an annual turnover in excess of R30 million, must submit monthly returns. Returns must be submitted within 25 days after the end of the tax period. Payment in full must accompany the return.

#### Transfer duty

For properties acquired under purchase agreements concluded on or after 23 February 2011, the transfer duty rates applicable will be as follows:

Rates of duty*	Duty payable
Acquisition of property by all persons:	
• First R600 000 of consideration	0%
• R600 001 to R1 000 000	3%
• R1 000 000 to R1 500 000	R12 500 + 5%
• R1 500 001 and over	R37 000 + 8%

\* These rates will be applicable to both natural and legal persons (CCs, companies and trusts).



#### Note:

Where the sale of fixed property attracts VAT, no transfer duty is payable. Where the transfer of fixed property is not subject to VAT (at either the standard or zero rate), transfer duty is payable. The indirect acquisition of residential property by way of the acquisition of shares, member's interest in a CC, or a contingent right in a discretionary trust is subject to transfer duty. Subject to amending legislation, companies (and trusts) will now be subject to the same progressive rate of transfer duty as natural persons. As part of this change, taxpayers engaged in asset-for-share rollovers (e.g. upon formation of a company) will now additionally obtain relief from transfer duty. Where a company, CC or trust owns residential property and the shares, members' interest or beneficiaries are changed or sold, it will be deemed that a sale of immovable property has occurred and transfer duty will apply.

#### Securities transfer tax (STT)

STT is levied at a rate of 0.25% on every transfer of securities issued by a CC or company incorporated, established or formed in South Africa and foreign incorporated companies listed on a licensed exchange.

Transfers include the transfer, assignment or cession, or disposal in any other manner of a security, but exclude any event that does not result in the change in beneficial ownership; the issue of a security;

and cancellation, or redemption where the corporate existence is being terminated.

#### Note:

The "broker-member exemption" will be temporarily expanded to provide relief for all broker-members acting in their capacity as principal. This amendment applies from 1 January 2011 until the close of 31 December 2012. The purpose of this temporary adjustment is to review current commercial practices on the JSE. Upon completion of this review, the broker-exemption will be explicitly revised so as to apply solely to situations where STT would otherwise inhibit JSE liquidity.

#### Estate duty

Estate duty is payable on the dutiable amount of a deceased estate. In general, the estate of a person who was ordinarily resident in South Africa at the date of his death includes all his assets irrespective of where they are situated. In addition, an asset which is located in South Africa may be subject to estate duty even though the owner was not ordinarily resident in South Africa at the date of his death.

An estate consists of all the property of a person at the date of his death, including limited rights in property (such as a usufruct) and deemed property. Deemed property includes the following, whether or not the proceeds accrue for the benefit of the deceased's estate:

- Domestic policies of insurance on the life of the deceased.
- Lump sum payments received on death from pension, provident or retirement annuity funds (annuities payable from pension and retirement annuity funds are not dutiable).
- Accruals under the Matrimonial Property Act.

The deductions allowed in terms of section 4 of the Estate Duty Act in calculating the dutiable amount of an estate include:

- Liabilities of the estate, including funeral and administration expenses.
- Certain foreign assets held by the deceased.
- Charitable and certain other bequests.
- Property which is inherited by the surviving spouse (a spouse includes heterosexual or same sex life partners and spouses married under any recognised system of religious law).

- Any CGT payable by the estate (death triggers a disposal for CGT purposes).

A R3.5 million abatement is deducted from all estates, regardless of personal circumstances. Estate duty is payable on the resultant dutiable amount of the estate of a person at the rate of 20%.

#### Donations tax

Donations tax is payable where a donor donates property valued in excess of R100 000 per annum (R10 000 in the case of donors other than natural persons). The tax is levied at a rate of 20% on such excess and is payable by the donor. Where spouses are married in community of property, a donation made by one spouse out of the joint estate will be deemed to be made in equal shares by each spouse. Donations tax is only payable where the donor is an individual resident in South Africa or is a "private company" (for tax purposes) which is either incorporated in, or managed and controlled in South Africa. Public companies are exempt from donations tax.

A "donation" includes any gratuitous disposal of property or waiver of a right. Certain donations are exempt from tax. They include:

- Donations between spouses.
- Donations cancelled within six months from the date they took effect.
- Donations made by public companies.
- Donations to approved public benefit organisations and recreational clubs.
- Donations by, to or for any traditional council, traditional community or tribe.
- Donations between group companies where the recipient is a resident of South Africa.
- Donations of property situated outside the Republic provided certain conditions are present.

A "deemed donation" is any disposal of property for a consideration which in the opinion of SARS is not an adequate consideration. In the case of a deemed donation, the value of the property for donations tax purposes is reduced by any consideration given by the donee.

#### Other taxes

##### Taxes on fuel\*

	Fuel levy	Excise duty	Total
Petrol	197.50c per litre	4c per litre	201.50c per litre
Diesel	182.50c per litre	4c per litre	186.50c per litre

\* With effect from 4 April 2012.

The Road Accident Fund Levy increased by 8c per litre from 80.0c to 88.0 c per litre on petrol and diesel (effective 4 April 2012). A diesel refund system provides for a refund of fuel and road accident fund levies paid on diesel used in certain qualifying industries. The qualifying industries are coastal shipping (conveyance of goods by ship between the coastal ports of South Africa or the common customs area), commercial fishing, farming, forestry, mining, the National Sea Rescue Institute, offshore mining and rail. The diesel refund system is also available to off-shore vessels conducting research in support of the marine industry, coastal patrol vessels and vessels employed to service fibre-optic telecommunication cables along the coastline of Southern Africa. Bioethanol remains outside the fuel tax net, but is still subject to VAT at the standard rate.

### ***Electricity levy***

An electricity levy has been increased to a rate of 3.5c/kWh on the sale of electricity generated from non-renewable sources. The levy is collected at source by the producers or generators of electricity.

### ***Carbon emissions tax (CET)***

The tax (effective 1 September 2010) is levied at a rate of R75 for each gram per kilometre of carbon dioxide produced over and above a set amount of 120g/km. The tax is paid only once, on the date of acquisition of a vehicle, and is also only payable in respect of new vehicles. From 1 March 2011 the tax was extended to cover new motor vehicles for the transport of goods with carbon emissions in excess of 175g/km. Following public consultation, Government has revised its concept design for CET and a second draft policy paper on carbon tax is to be published. Proposed design features include: percentage-based rather than absolute emissions thresholds below which the tax will not be payable, a higher tax-free threshold for process emission, additional relief for trade-exposed sectors, the use of offsets by companies to reduce their carbon tax liability and phased implementation.

### ***Energy efficiency incentive***

The incentive allows taxpayers to claim an allowance for energy saving achieved in production of income. An energy savings certificate from SANEDI is required to claim the allowance and calculated based on a basic formula, as follows:

Savings in kWh x applied rate /2 (or a denominator determined by the Minister).

The rules for savings are set by the Department of Energy Regulation and the applied rate represents the lowest feed-in-tariff set by National Energy Regulator guidelines. Savings is largely measured by comparing baselines from the start versus end of the year. The allowance will come into effect on a date announced by the Minister.

### ***Gambling taxes***

The 2011 Budget proposed a gambling tax (to be introduced with effect from 1 April 2012), whereby gambling winnings which exceed R25 000 will be subject to a 15% final withholding tax. However, following broad consultation, this proposed withholding tax (now effective from 1 April 2013) based on gross gambling revenue will take the form of an additional 1% national levy on a uniform provincial gambling tax base. A similar tax base will be used to tax the National Lottery.

### ***Personal taxation - Individuals***

#### **Income tax**

South African residents are taxed on worldwide income.

Non-residents are taxed on their South African-source income and on capital gains from the disposal of immovable property and assets of a permanent establishment in South Africa.

At present, interest from a South African-source paid to a non-resident will not be taxable in South Africa if the person is outside South Africa for more than 183 days in the tax year and does not conduct a business in South Africa.

An individual is resident if he/she is "ordinarily resident" in South Africa, or is physically present in South Africa for more than 91 days during the current and each of the preceding five tax years, and is physically present in South Africa for a period exceeding 915 days in the aggregate in the preceding five tax years.

#### **Tax registration<sup>85</sup>**

Where individuals fall into any of the following categories (below), for the 2012 tax season submission of a personal income tax return (ITR12) will be required:

- If you are under 65 years of age and received an income of more than R59 750 (this amount will increase to R63 556 during the

year of assessment 1 March 2012 to 28 February 2013 i.e. for the 2013 tax season) from one or more sources or received more than R120 000 from a single source of employment, during the year of assessment 1 March 2011 to 29 February 2012.

- If you are between 65 and 75 years of age and received an income of more than R93 150 (R99 056 for the 2013 tax season) from one or more sources or received more than R120 000 from a single source of employment, during the year of assessment 1 March 2011 to 29 February 2012.
- If you are over 75 years of age and received more than R104 261 (R110 889 for the 2013 tax season) from one or more sources or received more than R120 000 from a single source of employment, during the year of assessment 1 March 2011 to 29 February 2012.
- If you conducted any trade in South Africa.
- Received an allowance such as a travel, subsistence or Office Bearer Allowance (check section 8(1)(a) of the Income Tax Act if unsure).

<sup>85</sup> [www.sars.gov.za](http://www.sars.gov.za)

- Hold any funds or assets outside South Africa that have a value of more than R50 000.
- Have a local capital gain/loss exceeding R20 000.
- Received any income or capital gain in a foreign currency.
- Held any rights in a CFC.
- Received an income tax return or you were requested to submit a return for the year in question.

**Note:**

The term "trade" includes every profession, trade, business, calling, occupation or venture, including the letting of any property, but excluding any employment income.

There are various ways in which personal income tax taxpayers can complete and submit their returns; namely:

- eFiling which is the most convenient and quickest way.
- Filing electronically at a branch where SARS staff will help.
- Completing the return(s) in writing and posting it to us or dropping it off in a SARS drop box.

For further information regarding how to submit a personal income tax return, refer to **Addendum 19: How to submit your personal income tax return**. Alternatively, this document can be accessed on SARS website at:

[www.sars.gov.za/Tools/Documents/DocumentDownload.asp?FileID](http://www.sars.gov.za/Tools/Documents/DocumentDownload.asp?FileID).

A more comprehensive guide on how to complete and submit an ITR12 return is available on the SARS website at: [www.sars.gov.za](http://www.sars.gov.za) (under Tax Types>Income Tax>Tax Season 2012).

The tax deadlines for individuals for the 2012 tax season (i.e. for years of assessment from 1 March 2011 to 29 February 2012) are as follows:

- The deadline for all taxpayers who submit their tax return manually, by posting it or dropping it off in a SARS drop box, is 28 September 2012.
- The deadline for all taxpayers who submit their returns electronically at a SARS branch is 23 November 2012.
- Non-provisional taxpayers who submit their returns via eFiling have until 23 November 2012.
- Provisional taxpayers who submit their returns via eFiling have until 31 January 2013.

**Note:**

The deadlines for the 2013 tax season (i.e. 1 March 2012 to 28 February 2013) have not yet been published.

### Tax rates and rebates

Tax rates and rebates (2012/13)		
Individuals, estates, special trusts (years of assessment commencing 1 March 2012)		
Taxable income as exceeds	But does not exceed	Tax payable
R	R	R
0	160 000	18%
160 001	250 000	28 800+ 25%
250 001	346 000	51 300+ 30%
346 001	484 000	80 100+ 35%
484 001	617 000	128 400+ 38%
617 001+		178 940+ 40%
Other trusts:		40%

### Tax rates and rebates (2012/13)

Rebates - Natural persons (years of assessment commencing 1 March 2012)	
Primary rebate - All individuals	R11 440
Age rebate*	
Secondary rebate (65 years and older)	R6 390
Third rebate (75 years and older)	R2 130

\* Additional to primary rebate.

<p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• Rates are progressive to maximum rate of 40%.</li> <li>• The tax year for individuals runs to the end of February. Tax returns must be filed by a date published annually by SARS.</li> <li>• All taxpayers who earn income exceeding R60 000 per annum are required to be registered as taxpayers with 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.</li> <li>• The tax threshold is R63 556 for individuals below 65 years of age, and R99 056 for individuals aged between 65 years, and 75 years of age and R110 889 for individuals aged 75 years and older.</li> <li>• Rebates are a credit against tax payable. Rebates are available only to natural persons and not to companies, CCs and trusts, and must be apportioned where a taxpayer is assessed for a period of less than a year.</li> <li>• Taxpayers may be entitled to a foreign tax credit (rebate) for foreign tax paid, where income from foreign sources was subject to tax in a foreign country and in South Africa.</li> </ul>
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## Taxable income

Taxable income is gross income less exempt income and allowable deductions. Gross income from employment includes all remuneration in cash or in kind, including bonuses, allowances and taxes reimbursed or paid on the employee's behalf.

## Deductions and allowances

Subject to certain restrictions, deductions are granted for medical expenses, contributions to pension and retirement annuity funds, certain donations, travel and motor vehicle expenses and certain other qualifying expenses.

## Exemptions

### *Interest and foreign dividends*

Interest and foreign dividends earned by individuals who are under 65 years of age, are exempt from income tax up to a maximum of R22 800 per annum. The exemption for individuals 65 years and older is R33 000 per annum. However, the maximum exemption available in respect of foreign interest and foreign dividends (included in the R22 800/ R33 000 limit) is R3 700. The R3 700 exemption applies first to foreign dividends and then to foreign interest. Interest earned by non-residents from South African investments is generally exempt from income tax in South Africa. In addition, there is no withholding tax in respect of interest paid to non-residents.

## Note:

This exemption will not apply with regards to dividend tax as from 1 April 2012. Also, generally foreign dividends received by individuals from foreign companies (where the shareholding is less than 10% in the foreign company) are as from 1 April 2012, taxable at a maximum effective rate of 15%. No deductions are allowed for expenses incurred to produce the foreign dividends.

Interest is exempt where earned by a non-resident who is physically absent from South Africa for 183 days or more per annum, and that person is not carrying on business in South Africa. For years of assessment commencing on or after 1 January 2010, amounts received by or accrued to a portfolio of a collective investment scheme, or distributed from amounts received or accrued by a collective investment scheme, will be included and will retain its character in the hands of the unit holder.

## Dividends

- Residents: Dividends other than foreign dividends are exempt from income tax in the hands of South African residents.
- Non-residents: Dividends are exempt from income tax and not subject to any withholding tax.

## Note:

A dividend withholding tax replaced STC on 1 April 2012. Under the new dividend tax regime resident individuals will be taxed at 15% on dividends declared by domestic companies. Dividend payments to domestic companies, retirement funds and PBOs will be exempt. The tax has a mechanism under which the paying company (or intermediary) withholds the tax and provides for transitional STC credits. Non-resident persons are eligible for tax treaty benefits.

## Retirement savings

Certain retirement lump sum savings payments made to employees or holders of an office are taxed in terms of a special formula and may qualify for a R315 000 exemption. The special dispensation applies mainly where such lump sum payments are made upon death or retirement. Given circumstances where lump sums are paid out after retirement (e.g. the conversion of a post-retirement annuity into a lump sum), such lump sum payouts are now subject to the same treatment. In addition, where retirement savings from a deceased are converted from an annuity to a lump sum after death for the benefit of another party, the special tax treatment will apply to such secondary succession of retirement lump sums.

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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### ***Retrenchment packages***

The past R30 000 exemption was repealed from 1 March 2011. It is proposed that retrenchment lump sum payments be treated in the same manner as retirement payments, but the legislation giving effect to this proposal has not yet been passed.

### ***Foreign social security and pension payments***

Social security payments received by South African residents from another country are exempt from tax in South Africa. There is also currently an exemption for pensions received from a source outside South Africa in respect of past employment outside South Africa.

### ***Remuneration for services rendered outside South Africa***

South African residents working abroad for more than 183 days over a 12-month period, and for a continuous period of more than 60 days during that period, are exempt from income tax on remuneration for services rendered while abroad.

### ***Other exemptions***

Further exemptions include: Disability pensions, compensation for occupational injuries and diseases, UIF payments, alimony, government grants and scrapping payments etc. (subject to certain conditions being met).

### ***Deductions***

The Income tax Act permits the deduction of certain expenses incurred in the carrying on of an individual's trade. "Trade" includes a profession, trade, business, employment, calling, occupation or venture, including the letting of property. Certain activities may not be regarded as "carrying on of trade" (the most common being investments in dividend and interest-bearing stocks and income from pensions and annuities). In order for an expense incurred in the carrying on of trade to be tax-deductible either:

- The expense must comply with the requirements of the general deduction formula (a "general deduction"); or
- The expense must specifically be allowed as a deduction under a section of the Act (a "specific deduction").

### ***General deductions***

General deductions are permitted under what is called the "general deduction formula". The general rule is that if an expense does not comply with the requirements of the formula, it will not be deductible, unless specifically allowed by another section of the Act. Where an expense qualifies for a deduction under both the general formula and a specific section, it may only be deducted once.

In terms of the general deduction formula, the following requirements must be fulfilled before an expense can be deducted:

- The amount must have been actually incurred or there must be an actual loss.
- The taxpayer must be legally liable to pay the amount.
- The expense, or loss, must have been incurred during the year of assessment in respect of which it is claimed.
- The expenditure must be incurred in the production of income.
- The expenditure must be of a revenue and not a capital nature.
- The expense must be expended for the purposes of trade.

### ***Specific deductions***

Those expenses that qualify for a deduction under a specific section of the Act need only meet the requirements of the specific section and do not have to meet the requirements of the general deduction formula. Specific deductions include the following:

### ***Medical expenses***

The Act converts expenditures associated with medical aid contributions into tax credits. The proposed credit is R230 per member and R230 per the first dependant and R154 for each additional dependant thereafter. For individuals aged over 65 years, or under 65 years of age

where the taxpayer, spouse or child is physically or mentally handicapped: All expenses are deductible.

### ***Note:***

- Previously, for individuals aged under 65 years, medical expenses (including medical aid contributions that exceed the capped amounts detailed below) were deductible to the extent that they exceed 7.5% of taxable income (before the medical deduction). In addition, a capped tax deduction for medical aid contributions was allowed on a monthly basis.
- Medical contributions: All employer contributions are treated as a fringe benefit with the employee being eligible for deductions to the extent of their medical scheme contributions up to the capped amounts.
- From 1 March 2014, additional medical deductions will be converted into tax credits at a rate of 25% for taxpayers aged below 65 years. Employer contributions to medical schemes on behalf of ex-employees will be deemed a taxable fringe benefit. Taxpayers 65 years and older and those with qualifying disabilities or disabled dependents will be able to convert all medical scheme contributions in excess of three times total allowable tax credits plus additional expenses into a tax credit of 33%.
- National Health Insurance is to be phased in over a period of 14 years. Funding options to be considered include a payroll tax (payable by employers), an increase in the VAT rate and a surcharge on individuals' taxable income.

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#### *Donations to PBOs*

Donations to certain approved PBOs qualify for a tax deduction. These organisations include those involved in specified welfare, humanitarian, health care, education and development, conservation, environment and animal welfare, and certain low income housing and land reform activities. The tax deduction is limited to 10% of taxable income (before the deduction of donations and medical expenses).

#### *Pension fund contributions*

- Current: Maximum deduction is the greater of:
  - R1 750; or
  - 7.5% of remuneration from "retirement-funding employment".
- Arrear: Maximum R1 800 (excluding former members of a non-statutory force or service).

#### **Note:**

Provident fund contributions made by an individual are not deductible for tax purposes.

#### *Retirement annuity fund contributions*

- Current: Maximum deduction is the greatest of:
  - 15% of net income, excluding income from "retirement-funding employment"; or
  - R3 500, less deductible current pension contributions; or
  - R1 750.
- Reinstatement: R1 800.



#### **Note:**

Proposed changes to the taxation of retirement fund contributions (to take effect from 1 March 2014) include the following:

- A taxable fringe benefit will now arise in the hands of the employee in relation to an employer's contribution to a retirement fund. Currently, this contribution on behalf of an employee is made without tax consequences to the employee.
- Individuals will then be able to claim a deduction of up to 22.5% of their taxable income for contributions to pension, provident and retirement annuity funds (currently more limited deductions are allowed, only in relation to the employee's contribution to a pension fund or retirement annuity fund).
- Two thresholds for the deduction will be established - a minimum annual deduction threshold of R20 000 and a maximum annual deduction threshold of R250 000. If the taxpayer is over 45, maximum annual deduction threshold is limited to R300 000.

#### *Income continuation premiums*

Premiums on income protection insurance policies are deductible. A pro-rata deduction (in relation to the extent that the amounts payable constitute income) may be claimed for any portion of a single insurance premium that relates to income protection.

#### *Limitation of employee deductions*

Only the following expenses may be deducted by individuals, except where the employee's remuneration is wholly or mainly derived in the form of commissions based on sales or turnover:

- Business travel deduction against travel allowance.
- Certain medical expenses.
- Contributions to a pension and/or retirement annuity fund.
- Donations to certain PBOs.
- Specific expenditure against allowances of holders of public office.
- Home office expenses under certain circumstances.
- Loss of income caused by illness, injury, disability or unemployment.
- Premium paid of an insurance policy.
- Wear-and-tear allowances on equipment.

## Other tax features

### Retirement fund lump sum benefits

The tax scale brackets applicable to retirement fund lump sum benefits derived on retirement, death or retrenchment (and now also to severance benefits from the employer) have been improved from 1 March 2011, with the maximum tax rate moving from R300 000 to R315 000.

#### Note:

On the commencement of years of assessment commencing on or after 1 January 2012, tax-free transfers of retrenchment benefits to preservation funds will be allowed. Retirement and pre-retirement lump sums is taxed on a cumulative basis.

### Long-term insurance

From 1 March 2012, employer-paid premiums in respect of employer group income protection policies, will be deemed to be a payment made by the employee to the extent that the premium is taxed as a fringe benefit in the hands of the employee. This will ensure that the employee can claim a monthly deduction for Pay-As-You-Earn (PAYE).

### Severance benefits

Severance benefits (e.g. retrenchment benefits paid by an employer) must (with effect from 1 March 2011) be aggregated with lump sum benefits from retirement funds and be taxed according to the appropriate scale.

### *Ring-fencing of losses from certain trades*

Losses from certain trades conducted by individual taxpayers who are subject to the maximum marginal tax rate (i.e. annual taxable income exceeding R617 000, excluding any loss from trade) are ring-fenced in certain circumstances and such losses may only be offset against income from that trade. A trade subject to the ring-fencing means:

- A trade that has generated losses for at least three tax years out of the previous five years (only losses incurred from 1 March 2004 onwards will be taken into account); or
- Any one of the specifically listed trades; namely, sporting activities, dealing in collectibles, the rental of residential accommodation, vehicles, aircraft or boats (as defined in the Eighth Schedule of the Income Tax Act) unless at least 80% of the accommodation or asset is used for at least half of the tax year by persons who are not relatives of the taxpayer, farming or animal-breeding on a part-time basis, any form of performing or creative arts, gambling or betting, and the showing of animals in competitions.

Even if the above requirements are met, the ring-fencing will not apply if the taxpayer can show that the

business has a reasonable prospect of generating taxable income (other than a taxable capital gain) within a reasonable period. This exemption will, however, not apply if the taxpayer has incurred an assessed loss from that trade (other than farming) during at least six out of the prior 10 years, including the current tax year (only losses incurred from 1 March 2004 onwards will be taken into account).

### *Capital gains tax*

Tax residents are subject to 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.

33.3% (25% prior to 1 March 2012) of the gain is included in the individual's taxable income and taxed at the applicable marginal tax rate. The general annual capital gains exclusion for individuals and special trusts is R30 000 (was R20 000 prior to 1 March 2012). The exclusion on death is R300 000 (was R200 000 prior to 1 March 2012) and disposal of primary residence exclusion is R2 million of gain or loss on disposal (R1.5 million of gain; or R2 million

of proceeds prior to 1 March 2012). The exclusion amount on disposal of small business (when person is over 55) is R1.5 million (R900 000 prior to 1 March 2012).

### *Married persons*

Married individuals are generally taxed as separate taxpayer, except for:

- Where income is received by or accrued to a spouse in consequence of a donation, settlement, or disposition by the other spouse, which will be deemed to be income of the spouse who made the donation, settlement, or disposition where done for purpose of avoiding tax;
- Where income is derived by one spouse from the other spouse, a partnership, private company where the other spouse is a connected person, or derived from a trade that is connected to the trade carried on by the other spouse, will be taxed in the hands of the other spouse to the extent of the amount of income is excessive; and
- Where the persons are married in community of property, the net rental income from property, or interest income by both persons is deemed to accrue in equal portions to each spouse. Any other income that does not fall within the joint estate is taxed in the hands of the spouse entitled thereto.

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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## Employment tax

South African employment taxes comprise employees' tax (PAYE), skills development levies (SDL) and unemployment insurance fund (UIF) contributions.

Employees' tax is payable to SARS monthly at prescribed tax rates in respect of any remuneration payable by an employer to an employee. SDL are also payable to SARS monthly and are calculated at 1% of the remuneration payable to the employee. SDL does not, however, apply to employers with an annual payroll of less than R500 000. UIF contributions are payable to SARS monthly and are calculated at 2% of the remuneration payable to the employees, subject to a maximum limit.

As a general rule, if an employer is required to withhold employees' tax in respect of an amount paid to a person, that employer would, subject to certain limited exceptions, also be required to withhold SDL and UIF in respect of that amount.

The employment tax rules essentially provide that, unless the person to whom the payment is made qualifies for specific tax relief, an "employer" is obliged to withhold employees' tax in respect of "remuneration" paid/payable to an "employee" if that employer is:

- A resident of South Africa; or
- A non-South African resident, but has a "representative employer" in South Africa.

Entities listed below would be regarded as an "employer" for South African employment tax purposes:

- A foreign holding company and/or any branch/PE it may establish in South Africa.
- Any South African subsidiary company of the above foreign holding company and/or any branch/PE it may establish in South Africa.
- Any South African resident sub-contractor.
- Any non-South African resident sub-contractor who has established a PE in South Africa.
- Any non-SA resident sub-contractor who has not established a PE in South Africa, but has an office or carries on a business in South Africa.

The above parties/employers would therefore be obliged to withhold employees' tax from the amounts paid to the persons who render services to them, unless the person to whom the payment is made qualifies for specific tax relief. Each employer should, on an individual basis, determine whether the person to whom the payment is made qualifies for tax relief. This assessment depends

on a number of factors, including whether the person is a SA resident or non-SA resident and an individual or a corporate entity. If the person qualifies for tax relief, no employees' tax needs to be withheld from payments made to that specific person. If, however, no tax relief applies, the employer will be obliged to withhold employees' tax from the amount paid to that person.

### Note:

- The employers listed above will be required to register for employees' tax, SDL, and UIF, and submit monthly employment tax returns and payments to SARS.
- All persons (individuals and corporate entities, SA residents and non-SA residents) who are liable for income tax in South Africa, would also be required register as taxpayers and must, where required, submit annual income tax returns. As a general rule, all the individuals rendering services on projects in South Africa for more than 183 days, would be required to register for income tax.
- Various fringe benefits and allowances may be provided to the employees as part of their remuneration packages on a tax efficient basis if certain conditions are met.

- Temporary employees ("non-standard employees") are not taxed based on standard tax rates for employees' tax purposes. Employers must deduct employees' tax at a rate of 25% from the taxable remuneration paid to temporary employees. No tax is deducted if the temporary employee works at least five hours on a specific day and the daily rate of pay is less than the equivalent of the annual tax threshold.

- Failure by an employer to comply with its employment tax obligations may result in significant penalties and interest being imposed by SARS.

## Pay-As-You-Earn (PAYE)

PAYE ensures that an employee's income tax liability is settled in a continuing fashion, at the same time that the income is earned. The advantage of this is that the tax liability for the year is settled over the course of the whole year of assessment.

## Incentives and industrial financing

### Unemployment insurance fund (UIF)

Every employer will be liable to pay a monthly contribution to UIF, which is based on a monthly gross remuneration paid to employees up to a limit of R12 478. The employer will contribute 1%, and the employee will (by means of a deduction from salary) contribute 1% of remuneration up to the limit. Remuneration for purposes of calculating UIF excludes the following:

- Non-employment related payments (such as annuity or pension payments).
- Payments made to labour brokers that hold a valid exemption certificate.
- Retrenchment payments.
- Lump sums paid from pension, provident, or retirement annuities.
- Restraint of trade payments.
- Commission.
- Payments made to juristic persons (such as companies).
- Payments to independent contractors.

Employees that are excluded from contributing toward UIF, but must still be reported in the return, are:

- Temporary workers (working less than 24 hours per month).
- Employees in the national or provincial sphere of government.

- Foreign employees that will be repatriated at the end of the service/employment contract term.
- Employees with no taxable income, or commission only.
- Learners under contract (in terms of Skills Development Act).

### Skills development levy (SDL)

The employer is liable to monthly pay a 1% levy against the total amount of remuneration paid by that employee, where the employer's annual payroll exceeds R500 000. Generally, the total value of remuneration paid is used to calculate the levy, but excludes the following:

- Amounts paid to independent contractors.
- Reimbursement payments to employees.
- Pensions paid.
- Remuneration of learners under contract.

### Overview <sup>86</sup>

South African government departments offer an array of incentive schemes to stimulate and facilitate the development of sustainable, competitive enterprises.

A variety of these incentive schemes seek to support the development or growth of commercially viable and sustainable enterprises through the provision of either funding or tax relief. Most of the incentives are housed within the dti, with a few others in other government departments.

The incentive schemes are broadly classified into three categories, as follows:

- Concept and Research & Development Incentives (CRD): These are incentives available to private sector enterprises that invest in the creation, design and improvement of new products and processes. Such businesses conduct investigative activities with the intention of making a discovery that can either lead to the development of such new products and processes or to the improvement of existing products.

- Capital Expenditure Incentives (CEI): These are incentives for companies that want to acquire or upgrade assets in order either to establish or expand the business' productive capacity.

- Competitiveness Enhancement Incentives (ECA): These are investments that facilitate increased competitiveness, sustainable economic growth and development in a specific sector.

#### Note:

The three categories generally mirror the stages involved in project development.



<sup>86</sup> Source: Information provided by the dti, Industrial Development Corporation (IDC) and Economic Development Department. Website: [www.investmentincentives.co.za](http://www.investmentincentives.co.za). Retrieved August 2012.

## Investment and enterprise development incentives

(ECA) Critical Infrastructure Programme (CIP) <i>(Managed by the dti)</i>	
<b>Objective:</b>	Support the competitiveness of South African industries by lowering business costs and risks and to provide targeted financial support for physical infrastructure that will leverage strategic investment with a positive impact on the economy.
<b>Applicability:</b>	New or expanding enterprises investing in infrastructure such as roads, railways, electricity transmission and distribution, water pipelines, telecommunication networks, sewage systems etc. Available to municipalities, public sector enterprises and private enterprises.
<b>Benefit:</b>	Cash grant incentive that covers between 10% and 30% of the infrastructure development costs.
(ECA) National electrification programme (municipal) <i>(Managed by the Department of Energy)</i>	
<b>Objective:</b>	To provide capital subsidies to municipalities to address the electrification backlog of permanently occupied residential dwellings, the installation of bulk infrastructure and rehabilitation of electrification infrastructure.
<b>Applicability:</b>	All metro, district and local municipalities in South Africa.
<b>Benefit:</b>	Conditional grant allocations are made to municipalities each year and are published in the Division of Revenue Act.

## (ECA) Municipal Infrastructure Grant (MIG)

*(Managed by the Department of Provincial and Local Government)*

<b>Objective:</b>	To supplement municipal capital budgets through the funding of basic municipal infrastructure backlogs for the provision of basic services to primarily service poor households. This infrastructure must be provided in such a way that employment is maximised and opportunities are created to support enterprise development.
<b>Applicability:</b>	All metro, district and local municipalities in South Africa.
<b>Benefit:</b>	Conditional grant allocations are made to municipalities each year and are published in the Division of Revenue Act.

## (ECA) Neighbourhood Development Partnership Grant (NDPG)

*(Managed by National Treasury)*

<b>Objective:</b>	To create enabling economic infrastructure in dormitory townships across South Africa that will attract private sector investment.
<b>Applicability:</b>	All metro, district, and local municipalities in South Africa.
<b>Benefit:</b>	Benefits are in the form of the technical assistance grant and the capital assistance grant, to assist municipalities in implementing community facility projects that are not presently funded through the equitable share or other grants.

## (ECA) Local Economic Development (LED) programme

*(Managed by the Department of Provincial and Local Government)*

<b>Objective:</b>	Creating an enabling environment for investment into the area and encouraging the development of the market to facilitate linkages between established and emerging sectors.
<b>Applicability:</b>	Local government, private sector enterprises, enterprises forming partnerships with government agencies, donors and other enterprises aiming to develop clusters to strengthen their sector.
<b>Benefit:</b>	Up to 70% grant-based funding available for certain identified areas.

### (ECA) Business Process Services (BPS) incentive

(Managed by the dti)

<b>Objective:</b>	To attract investment in the BPS sector that creates employment opportunities through off-shore activities.
<b>Applicability:</b>	Local and foreign investors (new and expanding projects) that create jobs in South Africa to serve offshore clients.
<b>Benefit:</b>	A total grant of up to R112 000 per offshore job created claimable against operational expenditure. The grant will be payable over a period of three years. Additional bonus structures will be applicable for projects creating more than 400 or 800 offshore jobs respectively.

### (CEI) Manufacturing Investment Programme (MIP)

(Managed by the dti)

<b>Objective:</b>	To encourage local and foreign capital investment in productive qualifying assets (plant and machinery, land and buildings (owned or rented), commercial vehicles).
<b>Applicability:</b>	Enterprises investing capital in new projects.
<b>Benefit:</b>	A tax exempt cash grant of between 10% and 30% of the qualifying investment cost up to a maximum grant of R30 million.

### (CEI) Foreign Investment Grant (FIG)

(Managed by the dti)

<b>Objective:</b>	To encourage foreign businesses to invest in manufacturing companies by assisting in the cost of transporting productive qualifying assets to South Africa.
<b>Applicability:</b>	South African incorporated companies with a foreign direct shareholding of at least 50%. Qualifying costs associated with transporting new plant and machinery (excluding vehicles) from abroad. FIG is conditional on the approval of a project under the MIP.
<b>Benefit:</b>	The lower of the actual qualifying transportation costs or 15% of the cost of new plant and machinery acquired abroad, limited to R10 million.

### (CEI) Tourism support programme

(Managed by the Department of Tourism)

<b>Objective:</b>	To stimulate growth within the tourism industry.
<b>Applicability:</b>	The establishment of new or the expansion of existing tourism facilities.
<b>Benefits:</b>	A tax exempt cash grant of between 10% and 30% of the qualifying investment cost up to a maximum grant of R30 million.

### Industrial policy projects

(Managed by the Department of Trade and Industry (the dti))

The tax incentive is intended to promote local and foreign direct investment in industrial policy projects in South Africa and is legislated in terms of section 12I of the Income Tax Act (the Act).

R20 billion has been allocated for additional tax deductions under this new incentive, with a focus on large industrial projects.

Manufacturing assets must be used in South Africa and qualify for a deduction in terms of section 12C(1)(a), 13 or 13 quat which covers plant or machinery that will be brought into use for the first time by the taxpayer and will be used in a process of manufacture and the cost for the construction or refurbishment of buildings if certain conditions are met.

A project will be allocated points based on the following criteria if it:

1. Upgrades an industry within the Republic by:
  - i. Utilising innovative processes; or
  - ii. Utilising new technology that result in improved environmental protection as a result of:
    - a) Improved energy efficiency.
    - b) Cleaner production technology.
2. Generates general business linkages by acquiring goods or services from small, medium and micro enterprises.
3. Creates direct employment.
4. Provides skills development in the Republic; or
5. Is located in an IDZ.

<b>Benefit:</b>	<p>Additional tax allowance of 55% of the cost of any manufacturing asset used in a qualifying industrial policy project determined to have preferred status; or 35% of the cost of any manufacturing asset used in any other qualifying industrial policy project limited to:</p> <ul style="list-style-type: none"> <li>• R900 million in the case of any Greenfield project with preferred status.</li> <li>• R550 million in the case of any other Greenfield project.</li> <li>• R550 million in the case of any Brownfield project with preferred status.</li> <li>• R350 million in the case of any other Brownfield project.</li> <li>• Cost of training provided to employees in the furtherance of the Industrial Policy Project. The training allowance may not exceed R36 000 per employee and R20 million in the case of projects with qualifying status or R30 million in the case of projects with preferred status.</li> </ul>
<b>Minimum investment required to qualify for this incentive:</b>	<ul style="list-style-type: none"> <li>• R200 million in the instance of a Greenfield project.</li> <li>• The higher of R30 million or 25% of the value of the manufacturing assets in the case of Brownfield projects.</li> </ul>
<b>(CEI) Automotive Investment Scheme (AIS)</b> <i>(Managed by the dti)</i>	
<b>Objective:</b>	To grow and develop the automotive sector by increasing plant production volumes and strengthening the automotive value chain.
<b>Applicability:</b>	Light motor vehicle and automotive component manufacturers.
<b>Benefits:</b>	A taxable grant of between 20% and 30% of the value of the qualifying investment in productive assets.

<b>(ECA) Location film and television production incentive</b> <i>(Managed by the dti)</i>	<p><b>Objective:</b> To encourage and attract large budget films and television productions that will contribute towards South Africa's economic development and international profile and increase foreign direct investment.</p> <p><b>Applicability:</b> Foreign-owned qualifying productions with Qualifying South African Production Expenditure (QSAPE) of R12 million and above.</p> <p><b>Benefit:</b> Rebate of 15% of the QSAPE to qualifying productions and the benefit is capped at R10 million.</p>
<b>(ECA) South African film and television production and co-production incentive</b> <i>(Managed by the dti)</i>	<p><b>Objective:</b> To support the local film industry and to contribute towards employment opportunities in South Africa.</p> <p><b>Applicability:</b> Local productions and official treaty co-productions with a total production budget of R2.5 million and above.</p> <p><b>Benefit:</b> Rebate of 35% for the first R6 million, and 25% for the remainder of the qualifying production expenditure capped at a maximum rebate of R10 million.</p>
<b>(ECA) The Tourism Enterprise Support Programme (TEP)</b> <i>(Managed by the Department of Economic Development and Tourism)</i>	<p><b>Objective:</b> To encourage and facilitate the growth and expansion of tourism enterprises.</p> <p><b>Applicability:</b> Large operators, investors, SMMEs and historically disadvantaged entrepreneurs and enterprises (HDEs).</p> <p><b>Benefit:</b> The programme assists in obtaining the requisite professional services such as ISO/SABS quality certification, debt and equity finance, proper business planning, packaging, legal advice, technology needs and marketing. The TEP also provides aftercare to SMMEs to be sure they have the planning, production and management capacity to deliver as per the contract or market demand.</p>

**(ECA) PSOM business incentive: Dutch programme for cooperation with emerging markets**

*(Funded by Ministry of Foreign Affairs, Development Cooperation)*

<b>Objective:</b>	To provide opportunities for Dutch companies to expand investments and trade relations with South Africa.
<b>Applicability:</b>	Dutch companies that wish to invest in South Africa in partnership with a local South African company. The grant is also available for companies based in emerging markets (such as South Africa) investing into Mozambique and Uganda.
<b>Benefit:</b>	Grants contributing up to 50% of total project costs up to a maximum of €1.5 million.

**(CEI) Isivande Women's Fund (IWF)**

*(Managed by the dti)*

Isivande Women's Fund (IWF) is an exclusive women's fund established by the **the dti** Gender and Women Empowerment Unit in partnership with Old Mutual Masisizane Fund. The fund aims at accelerating women's economic empowerment by providing affordable, usable and responsive finance than is presently the case. IWF targets formally registered, 60% women-owned and/or managed enterprises that have been existing and operating for two or more years with a loan range of R30 000 - R2 million.

<b>Objective:</b>	The fund improves and expands access to finance to woman entrepreneurs by lending and investing in woman enterprises and generating income that will improve their living standards.
<b>Applicability:</b>	The IWF targets formally registered, 60% women-owned and/or managed enterprises that have been in existence for at least two years. It also focuses on professional women with feasible business ideas, high potential survivalists, micro enterprises and co-operatives on a case-by-case basis. The fund pursues deals involving start-up funding, business expansions, business rehabilitation and turnaround franchises and bridging finance.
<b>Benefit:</b>	Loan range from R30 000 - R2 million and the loan repayment period is maximum five years.

**Competitive enhancement incentives**

**(ECA) Black Business Supplier Development Programme (BBSDP)**

*(Managed by the dti)*

<b>Objective:</b>	To improve the sustainability of black-owned enterprises by providing funding to increase the competitiveness of the businesses.
<b>Applicability:</b>	Companies that are majority black-owned (51% or more), have an annual turnover of between R250 000 and R35 million and have a predominantly black management team. The entity must have a minimum trading history of one year.
<b>Benefit:</b>	The programme provides grants up to a maximum of R1 million in total which will be limited to a payment of R800 000 for tools, machinery and equipment and limited to a payment of R200 000 for business development and training interventions.

**(ECA) The Co-operative Incentive Scheme (CIS)**

*(Managed by the dti)*

<b>Objective:</b>	To promote co-operatives by improving the viability and competitiveness of the co-operative enterprises by lowering the cost of doing business.
<b>Applicability:</b>	Any entity incorporated and registered in South Africa in terms of the Co-operatives Act.
<b>Benefits:</b>	Matching grant of 90% up to a maximum of R300 000 for costs relating to business development services, business profile development, feasibility studies/market research, start-up requirements etc.

(ECA) Clothing and Textile Competitiveness Programme (CTCP) - Production Incentive (PI)													
(Managed by the Industrial Development Corporation (IDC))													
<b>Objective:</b> To structurally change the clothing and textile industry by providing funding assistance for enterprises to invest in competitiveness improvement interventions.													
<b>Applicability:</b> Clothing manufacturers, textiles manufacturers, Cut, Make and Trim (CMT) operators, footwear manufacturers, leather goods manufacturers and leather processors.													
<b>Benefit:</b> The incentive comprises two components, namely an Upgrade Grant Facility, which is meant to focus on competitiveness improvement and an Interest Subsidy for Working Capital Facility, which is meant to support working capital requirements resulting from past and future upgrading interventions. The grant is limited to a benefit ceiling, which is calculated as 7.5% of a company's manufacturing value addition.													
(ECA) The Clothing and Textile Competitiveness Improvement Programme (CTCIP)													
(Managed by the IDC)													
<b>Objective:</b> To stimulate the competitiveness of the South African clothing and textile manufacturing sector by encouraging world-class manufacturing initiatives aimed at improving people, processes and products.													
<b>Applicability:</b> Competitiveness improvement projects undertaken on an individual company level or on a cluster level.													
<b>Benefit:</b> Cost-sharing grant of 75% of project costs for cluster projects and 65% of project costs for company-level projects. The cluster project grant will be limited to R25 million per approved cluster and the company-level grant will be limited to R2.5 million per approved company.													

(ECA) Jobs fund	
(Managed by the Development Bank of Southern Africa)	
<b>Objective:</b>	To co-finance public and private sector projects that will significantly contribute to job creation.
<b>Applicability:</b>	The Fund will, on a competitive basis, consider co-financing proposals from private sector, non-governmental organisations, government departments and municipalities that show economic development potential linked to sustainable job creation.
<b>Benefit:</b>	<p>Matching grant funding determined as follows:</p> <ul style="list-style-type: none"> <li>Private sector enterprise development initiatives: Applicant to provide matching funding on a 1:1 ratio. The minimum grant size will be R5 million, implying a minimum overall project size of R10 million.</li> <li>Public sector enterprise development initiatives: Applicant to provide matching funding on a 0.2:1 ratio. The minimum grant size will be R5 million, implying a minimum overall project size of R6 million.</li> <li>Infrastructure Initiatives: Applicant to provide matching funding on a 1:1 ratio. The minimum grant size will be R10 million, implying a minimum overall project size of R20 million.</li> <li>Private sector support for work-seekers initiatives: Applicant to provide matching funding on a 1:1 ratio. The minimum grant size will be R3 million, implying a minimum overall project size of R6 million.</li> <li>Public sector support for work-seekers initiatives: Applicant to provide matching funding on a 0.2:1 ratio. The minimum grant size will be R3 million, implying a minimum overall project size of R3.6 million.</li> </ul>

## Export incentives - Non-industry specific

<b>(ECA) Export Marketing and Investment Assistance (EMIA) scheme</b>																									
<i>(Managed by the dti)</i>																									
<b>Objective:</b>		To assist South African exporters in establishing export markets for their products and to attract foreign investment into South Africa through the following schemes: National Pavilions, Individual Participation in exhibitions, Outward Investment and selling missions, Inward buying and investment missions, Individual inward missions, Foreign direct investment and primary market research.																							
<b>Applicability:</b>		Available to all enterprises registered with the Commissioner of Customs and Excise with special terms for SMMEs.																							
<b>Benefit:</b>		<p>A portion of specified costs relating to:</p> <ul style="list-style-type: none"> <li>• Travel (economy class).</li> <li>• Daily subsistence.</li> <li>• Transportation of samples for specific events.</li> <li>• Development of marketing materials for specific events.</li> <li>• Exhibition costs relating to stand rental, stand design and set up costs.</li> <li>• Costs of brochures.</li> </ul>																							
<b>(ECA) Sector specific assistance scheme</b>																									
<i>(Managed by the dti)</i>																									
<b>Objective:</b>		Develop new export markets, broaden the specific industry export base, increase participation of B-BBEE and SMME companies in the export process.																							
<b>Applicability:</b>		Approved export councils, registered industry associations and joint actions groups.																							
<b>Benefit:</b>		A matching grant of between 50% and 80% of the cost to support the development of the partnerships.																							

<b>(ECA) Capital projects feasibility programme (previously SA capital goods feasibility study fund)</b>																									
<i>(Managed by the dti)</i>																									
<b>Objective:</b>		To facilitate feasibility studies that are likely to lead to projects that will increase South African exports and stimulate growth for local capital goods and services.																							
<b>Applicability:</b>		South African-registered companies.																							
<b>Benefit:</b>		An advance up to a maximum of 50% of study costs for projects outside Africa and 55% for projects in Africa.																							
<b>(ECA) Steel rebate</b>																									
<i>(Funded by South African Iron and Steel Institute)</i>																									
<b>Objective:</b>		To promote the development of the value-added steel-processing industry in South Africa as an expanding market for locally produced primary steel products, to enhance South Africa's foreign currency earnings and increase employment opportunities.																							
<b>Applicability:</b>		Exporters (situated in SACU) of fabricated steel products where 20% value has been added.																							
<b>Benefit:</b>		Rebates based on the value of exports, currently at R135 per ton of net steel content (VAT exclusive) provided by steel suppliers.																							
<b>(ECA) Customs rebate and drawback provisions</b>																									
<i>(Managed by the International Trade Administration Commission of South Africa (the dti))</i>																									
<b>Objective:</b>		Promote manufacturing and exporting of South African goods.																							
<b>Applicability:</b>		Importers, exporters and manufacturers.																							
<b>Benefit:</b>		Rebate or drawback of customs duties on imported goods, raw materials and components used in manufacturing or processing of goods for export.																							

### (ECA) Industrial Development Zones (IDZs)

*(Managed by the dti)*

<b>Objective:</b>	To promote manufacturing and increase the competitiveness of South African exports.
<b>Applicability:</b>	All manufacturers and exporters located in the Customs Controlled Area (CCA) designated zones of IDZs.
<b>Benefit:</b>	Rebate of customs duties, exemption of VAT on imported goods, raw materials and components used in manufacturing and processing goods for export and exemption of VAT on services provided in CCAs.
<b>Developments:</b>	To support the objectives of the Industrial Policy Action Plan and the New Growth Path, businesses making Greenfield and Brownfield investments qualify for tax relief subject to approval being granted by the dti. Greenfield investments in IDZs qualify for additional relief. Government will be considering expanding incentives for labour-intensive projects in IDZs.

### (ECA) Value Added Tax (VAT) - Export incentives

*(Managed by the South African Revenue Service)*

<b>Objective:</b>	To encourage exports from and investment in South Africa.
<b>Applicability:</b>	Exporters, registered as VAT vendors in South Africa.
<b>Benefit:</b>	A vendor may supply movable goods at the zero rate, where the vendor consigns or delivers the goods to an address outside South Africa.  Requirements as outlined in VAT Interpretation Notes 30 (Issue 2), 31 or the Export Incentive Scheme (1998) should be complied with. Alternatively the "qualifying purchaser" may claim a refund of the VAT from the VAT refund administrator upon the exit of the goods from South Africa.

### (ECA) Value Added Tax (VAT) - Industrial Development Zones (IDZs)

*(Managed by the dti)*

<b>Objective:</b>	To encourage industrial development and investment in South Africa and to stimulate trade and job creation.
<b>Benefit:</b>	The South African VAT Act allows a vendor to charge VAT at the zero rate on various types of supplies of goods or services to a Customs Controlled Area (CCA) enterprise or an IDZ operator. VAT Interpretation Note 40, which was released by SARS, clarifies the VAT treatment of the supply of goods and/or services to and/ from a CCA enterprise or IDZ operator in an IDZ.

### (ECA) Value Added Tax - Licensed customs and excise storage warehouse

*(Managed by the South African Revenue Service)*

<b>Objective:</b>	To limit the VAT registration and administrative burden for non-residents in South Africa.
<b>Benefit:</b>	Non-residents do not have to register and charge VAT on supplies within such storage warehouses. Non-residents applying to be registered and zero rating their supplies will be able to claim back any VAT incurred in relation to such zero-rated supplies.

## Export incentives - Industry specific

(ECA) Clothing and Textile Competitiveness Improvement Programme (CTCIP) <i>(Managed by the IDC)</i>													
<b>Objective:</b>													To build capacity in manufactures and in other areas of the apparel value chain in South Africa to effectively supply to the major retailers, as well as to grow South African-based clothing and textile manufacturers to be globally competitive.
<b>Applicability:</b>													Small and large to medium-sized companies in clothing and textile manufacturing or support, supplier and/or customer organisations to these entities. The effective date for receipt of applications under this programme is 1 April 2009, for a period of five years, ending in 2014.
<b>Benefit:</b>													Investment support to both local- and foreign-owned entities: <ul style="list-style-type: none"> <li>A matching grant incentive of 75% of project cost on cluster projects and 65% of project cost for company-level projects.</li> <li>Excludes costs in machinery, equipment, commercial vehicles, land and buildings in an existing clothing and textile production facility.</li> <li>The extent of the incentive for projects on company level will be 65% of eligible project cost up to a maximum of R2.5 million over five years.</li> <li>The cluster grant will support the development of such clusters through the provision of 75:25 matching grants: 75% from the CTCIP grant and 25% from the cluster participants.</li> <li>Grant support for each approved partnership will be limited to a cumulative ceiling of R25 million.</li> <li>Grants made by the programme will be made exclusive of VAT.</li> </ul>

(ECA) Motor Industry Development Programme (MIDP) <i>(Managed by the dti)</i>													
<b>Background:</b>													The MIDP is a voluntary incentive scheme designed to save motor vehicle industry participants money, in the form of a reduction on import duties payable to SARS Customs. In 2005, the dti started to review the programme's success and identify gaps and shortcomings arising from its implementation. After an appeal from the Australian automotive leather seat industry to the World Trade Organisation (WTO) stating that SA was non-compliant with the WTO's agreement on subsidies and countervailing measures, the review incorporated a revision of the existing MIDP to amend the existing programme with SA's multilateral obligations. This gave rise to the proposed Automotive Production and Development Programme (APDP) to be implemented on 1 January 2013.
<b>Objective:</b>													<ul style="list-style-type: none"> <li>To increase local economic productivity by encouraging fewer model productions.</li> <li>To increase international competitiveness of the South African motor industry by assisting in reducing the cost of goods in the form of import duty savings.</li> <li>Encouraging foreign currency earnings through increased exports and promoting foreign investment with the aim of creating and retaining jobs.</li> </ul>
<b>Applicability:</b>													Motor vehicle assemblers, component manufacturers and associated exporters.
<b>Benefits:</b>													There are three import duty reducing incentives currently available: <ul style="list-style-type: none"> <li>Duty-free Allowance (DFA): Exclusive to motor vehicle assemblers on production of motor vehicles for the domestic market;</li> <li>Import Rebate Credit Certificates (IRCCs): Export performance-based incentive to be used against imported motor vehicles and components; and</li> <li>Productive Asset Allowance (PAA): Investment-based incentive linked to investments in buildings, machinery, equipment and tooling to be used in manufacturing of motor vehicles and related components (valid until June 2009).</li> </ul>

### (ECA) Automotive Production and Development Programme (APDP)

*(Managed by the dti)*

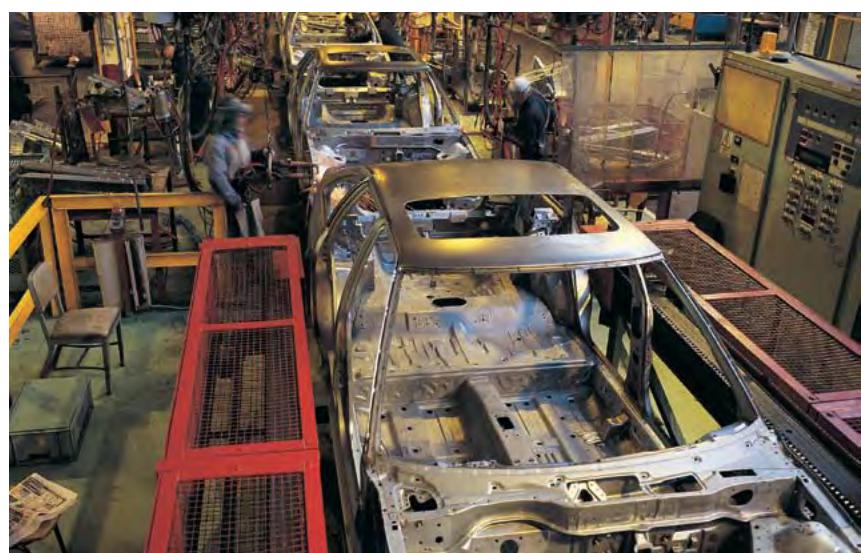
<b>Background:</b>	On 1 January 2013, the APDP will replace the existing MIDP. The APDP objectives include the following: <ul style="list-style-type: none"> <li>Stimulate expansion of automotive vehicle production to 1.2 million vehicles per annum by 2020 with associated deepening of the components industry.</li> <li>Achieve better balance between domestic and export sales to supply growing domestic demand.</li> <li>Expand value-added investment, employment and net government revenue (directly and via multiplier effect).</li> <li>Make a large positive contribution to the balance of payments.</li> </ul>
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<b>Benefits:</b>	The following benefits will be available under APDP: <ul style="list-style-type: none"> <li>AIS: Investment-based incentive linked to investments in buildings, machinery, equipment and tooling to be used in manufacturing of motor vehicles and related components to increase plant production volumes and strengthening of the automotive value chain.</li> <li>Production Incentive (PI): Incentive available to final manufacturers based in the Southern African Customs Union (SACU) and will be based on value added in the production process of qualifying automotive components.</li> <li>Local Assembly Allowance (LAA): The LAA will be replacing the Duty-Free Allowance (DFA). This incentive will cover all vehicles assembled within South Africa irrespective of their market focus.</li> </ul>
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### (CEI) Automotive Investment Scheme (AIS): Valid from 1 July 2009

*(Managed by the dti)*

<b>Objective:</b>	To encourage investment in the motor industry sector by manufacturers of specified light motor vehicles and automotive components with the aim of encouraging the localisation of components fitted to new or replacement motor vehicle models, encouraging manufacturers to achieve economies of scale by increasing plant production volumes, encouraging upgrading in manufacturing processes and strengthening the automotive value chain.
<b>Applicability:</b>	Motor vehicle assemblers and automotive component manufacturers associated in motor vehicle assemblers supply chain.
<b>Benefit:</b>	20% taxable cash grant of the value of the investment in productive assets, approved by the dti, spread equally over a three-year period. An additional taxable cash grant, 5% or 10 % over and above the 20% taxable cash grant is available to projects found to be strategic by the dti.



### (ECA) Production Incentive (PI) with effect from 1 January 2013

(Managed by the IDC)

The PI is an incentive available to final manufacturers based in the Southern African Customs Union (SACU) and will be based on value added in the production process of qualifying automotive components. The PI will basically be calculated on the sales invoice of the final manufacturer less the value of imports and local materials introduced by itself or by other manufacturers in the manufacturing chain. 25% of certain material will be deemed to have a local content.

**Applicability:** Motor vehicle assemblers and automotive component manufacturers associated in motor vehicle assemblers supply chain.

**Benefit:** 55% and 60% of the production incentive calculated to non-vulnerable and vulnerable industries reducing by 1% annually.

### (ECA) Local Assembly Allowance (LAA)

(Managed by the dti)

The LAA will be replacing the Duty-free Allowance (DFA). This incentive will cover all vehicles assembled within South Africa irrespective of their market focus.

**Applicability:** Exclusive to motor vehicle assemblers on production of motor vehicles for the domestic market.

**Benefit:** The incentive will commence with 20% in 2013, reducing by 1% each year until 2015, at which it will remain at 18 % until 2020.

### Industrial financing

#### (ECA) Food, beverage and agro industries

(Managed by the IDC)

**Objective:** Promote the establishment of permanent infrastructure in the agricultural and aquaculture sectors and establish new or expand existing undertakings in the food and beverages sector.

**Applicability:** Focus areas are:

- Horticulture primary agricultural sector.
- Food processing sector.
- Agro-industrial sector.
- Beverage sector.
- Fishing and aquaculture sectors.

**Minimum finance requirement:** More than R1 million in debt and/or more than R5 million in equity.

**Benefit:** Competitive, risk-related interest rates are based on the prime bank overdraft rate.

#### (ECA) Chemicals, textiles and allied industries

(Managed by the dti and IDC)

**Objective:** To stimulate development and sustainable global competitiveness.

**Applicability:** Focus areas are:

- Upstream and basic chemicals.
- Ceramic, concrete and stone products.
- Cosmetics and detergents.
- Fine and speciality chemicals.
- Glass products.
- Recycling.
- Rubber products.
- Plastic products.

**Minimum investment requirements:**

- For chemicals and allied industries a minimum loan size of R1 million at a prime linked interest rate; and
- Minimum equity amount is R5 million at a minimum of 8% real after-tax IRR.

**Benefit:** Competitive, risk-related interest rates are based on the prime bank overdraft rate.

(ECA) Mining and beneficiation <i>(Managed by the IDC)</i>														
<b>Objective:</b>	Assistance for small and medium-sized mining and beneficiation activities and jewellery manufacturing.													
<b>Applicability:</b>	<p>Focus areas are:</p> <ul style="list-style-type: none"> <li>• Financial and technical assistance for the development of mining, beneficiation and metals projects in South Africa and the rest of the continent.</li> <li>• Financial assistance for junior and emerging mining houses and mining-related activities such as contract mining.</li> <li>• Facilitating the acquisition of mining assets by historically disadvantaged persons (HDPs).</li> <li>• Developing the South African jewellery manufacturing industry and optimising value-addition beneficiation opportunities.</li> </ul>													
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.													
(ECA)Wood and paper industries <i>(Managed by the IDC)</i>														
<b>Objective:</b>	To be the key player in the generation of a balanced, integrated and internationally competitive forest products sector within the Southern African region.													
<b>Applicability:</b>	<p>Focus areas are projects and investments in the following industries:</p> <ul style="list-style-type: none"> <li>• Forestry.</li> <li>• Pulp and paper.</li> <li>• Furniture.</li> <li>• Sawmilling, board production, etc.</li> <li>• Renewable energy.</li> </ul>													
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.													

(ECA) Healthcare <i>(Managed by the IDC)</i>														
<b>Objective:</b>	To support and develop businesses in both the healthcare and education sectors in South Africa and the rest of the continent. These include the financing of Greenfield projects, expansions and acquisitions and combinations thereof.													
<b>Applicability:</b>	<p>Focus areas are:</p> <ul style="list-style-type: none"> <li>• Manufacturing of medical equipment.</li> <li>• Medical schemes administration and medical schemes management.</li> <li>• Medical and dental practice activities.</li> <li>• Clinics and related services.</li> <li>• Hospital services.</li> <li>• Human health services.</li> <li>• Management services of the above businesses.</li> <li>• Buy-ins or take-overs by B-BBEE partners of the above existing businesses.</li> </ul>													
<b>Note:</b>	Preference is given to Greenfield projects, expansions and rehabilitations; projects exhibiting economic merit in terms of profitability and sustainability; projects which have a significant development impact (e.g. rural development, empowerment, job creation); financing of fixed assets and the fixed portion of growth in working capital, buy-ins or take-overs by HDIs and businesses led by competent management team members.													
<b>Minimum requirements:</b>	<ul style="list-style-type: none"> <li>• Minimum loan amount is R1 million at a prime linked interest rate.</li> <li>• Minimum equity amount is R5 million at a minimum of 8% real after tax IRR and 30% of upside portion.</li> <li>• Compliance with international environmental standards.</li> <li>• Shareholders/owners are expected to make a significant financial contribution.</li> </ul>													
<b>Benefit:</b>	Competitive, risk-related interest rates based on the prime bank overdraft rate.													

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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## (ECA) Metal, transport and machinery products

(Managed by the IDC)

**Objective:** To develop and support viable downstream metal producers with a focus on the automotive, other transport, structural and fabricated metal, as well as the machinery sectors.

**Applicability:** Focus areas are:

- Basic iron, steel and non-ferrous fabricated metal products.
- Plant, machinery and equipment.
- Motor vehicles, components and accessories.
- Diverse transport products such as boats, planes and trains.

### Note:

Preference is given to financing of fixed assets and the fixed portion of growth in working capital requirements and projects/ businesses which have a significant developmental impact (e.g. rural development, empowerment, job creation).

**Minimum investment requirements:**

- Minimum loan amount is R1 million at a prime linked interest rate.
- Minimum equity amount is R5 million at a minimum of 8% real after tax IRR and 30% of upside portion.
- Shareholders/owners are expected to make a significant financial contribution.

**Benefit:** Competitive, risk-related interest rates based on the prime bank overdraft rate.

## (ECA) Technology industry

(Managed by the IDC)

**Objective:** Development and expansion of technology intensive businesses in information technology (IT), telecommunication, electronic and electrical industries.

**Applicability:** Entrepreneurs in the IT, telecommunication, electronic and electrical industries wanting to develop or expand their businesses. New technology ventures with strong local or foreign technology partners and proven technology.

**Minimum investment requirements:**

- Minimum loan amount is R1 million at a prime linked interest rate.
- Minimum equity amount is R5 million at a minimum of 8% real after tax IRR and 30% of upside portion.
- Shareholders/owners are expected to make a significant financial contribution.

**Benefit:** Competitive risk-related interest rates based on the prime bank overdraft rate.

## (ECA) Tourism finance

(Managed by the IDC)

**Objective:** To contribute to Government's strategy for the tourism industry, participate in the establishment of good-quality hotels in South Africa and the rest of Africa and diversify the portfolio into other subsectors such as cultural and heritage products, arts and crafts and business tourism.

**Applicability:** Focus on asset-based finance, with the bulk of the portfolio invested in the accommodation sector.

**Preference is given to:**

- Projects that show profitability and sustainable commercial viability.
- Financing of fixed assets and capital expenditure.
- A product or facility for which there is an identifiable demand from a quantifiable market.
- Projects which have a significant developmental impact (i.e. job creation, empowerment and rural development).

**Minimum financing requirement:** R1 million.

**Benefit:** Competitive risk-related interest rates based on the prime bank overdraft rate.

## (ECA) Transportation

(Managed by the IDC)

<b>Objective:</b>	Focuses on proactively identifying and developing market opportunities that result in the promotion of entrepreneurship, facilitation of transport links and access to financial services.
<b>Applicability:</b>	<p>Focus areas are:</p> <ul style="list-style-type: none"> <li>Transport services (road, freight, logistics, maritime, aviation and bus sector).</li> <li>Financial services (retail banking, acquisitions and commercial micro-finance).</li> <li>Other (security services, listed retail acquisitions and catering services).</li> </ul>
<b>Preference is given to:</b>	<p>Emerging or established entrepreneurs wishing to raise finance for:</p> <ul style="list-style-type: none"> <li>A minimum loan of R1 million.</li> <li>A minimum of R500 000 for bridging facilities for specific contracts.</li> <li>A minimum of R5 million for equity-related transactions.</li> </ul>
<b>Benefit:</b>	Competitive risk-related interest rates based on the prime bank overdraft rate.

## (CRD) Venture capital

(Managed by the IDC)

<b>Objective:</b>	To facilitate the development and commercialisation of technology-rich South African Intellectual Property (IP) that is unique from a global perspective.
<b>Applicability:</b>	<ul style="list-style-type: none"> <li>IP owned by the company.</li> <li>Development of IP done in-house.</li> <li>IP that is patentable (if not patentable, should provide some form of sustainable competitive advantage).</li> <li>Management teams must include people with all the required key competencies.</li> <li>Key founding shareholders should be involved in the business on a full-time basis.</li> <li>Business should display good prospects of being economically viable.</li> </ul>
<b>Benefit:</b>	Equity funding of between R1 million and R30 million per project (maximum first round funding of R15 million with the right, but not obligation, to provide follow-on funding up to maximum of R30 million).

## Industrial participation

### Note:

The Department of Public Enterprises (DPE) established a Competitive Supplier Development Programme (CSDP), which is responsible for finding innovative ways to leverage state-owned enterprises (SOE) procurement to build local world-class manufacturing capabilities, both to supply the SOE with capital goods in their build programmes and to gain access to the global value chains of the SOEs' first tier multi-national suppliers. This project also coordinates supplier industry support measures across Government, involving the **dti**, DST and the IDC. Another key component of this project is creating world-class procurement practices in the SOE, through training and certification.

<b>The ultimate goals of the CSDP are:</b>	<ul style="list-style-type: none"> <li>To contribute to the AsgiSA aims of increasing economic growth, employment creation, skills development and B-BBEE.</li> <li>To develop local industries to supply participating SOEs with high-quality, globally-competitive goods and services.</li> <li>To improve the quality, efficiency and cost-effectiveness of the services provided by the SOEs, as a result of their obtaining more-competitive goods and services from local suppliers.</li> <li>To improve the competitiveness of the SOEs as a result of savings resulting from their sourcing from innovative, responsive and more competitive suppliers.</li> </ul>
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## (ECA) Defence Industrial Participation Programme (DIP)

(Managed by the **dti**)

<b>Objective:</b>	The process where purchases of the Department of Defence are used as a leverage to oblige a foreign seller of defence commodities/services to do defence-related business in South Africa on a reciprocal basis in order to advance military strategic and defence-related industrial imperatives.
<b>Applicability:</b>	Mandatory on all foreign defence purchases above US\$2 million.
<b>Requirements (defence purchases):</b>	<ul style="list-style-type: none"> <li>Exceeding US\$2 million but less than US\$10 million: Require a DIP obligation of up to 50%.</li> <li>Exceeding US\$10 million: Require a DIP obligation of at least 50% and a National Industrial Participation obligation of at least 30%.</li> </ul>

## Social responsibility

### (ECA) DANIDA business-to-business programme

(Managed by KHULA Enterprise Finance LTD)

<b>Objective:</b>	To develop and strengthen business opportunities and create jobs for eligible entrepreneurs from previously disadvantaged communities.
<b>Applicability:</b>	Development support is provided to commercially viable businesses, based on the formation of business partnerships between black-owned/controlled South African companies and Danish business enterprises.
<b>Benefit:</b>	Support for expenses relating to the transfer of management and business skills, technology from Danish to South African companies and to provide access to financing for the South African company. Khula may issue up to 100% guarantee to the financial institution that will issue a loan for the procurement of shares, purchase of machinery and capital equipment for the business.
<b>(ECA) DEG Public Private Partnership (PPP)</b>	
<b>Objective:</b>	Provides co-financing for private sector activities in developing countries that positively affect sustainable development and social upliftment.
<b>Applicability:</b>	Projects that lead up to or accompany investment, the transfer of technology and entrepreneurial know-how, training of employees and raising social and environmental standards. Companies partnering with, or related to, companies of the European Union, Norway and Switzerland.
<b>Benefit:</b>	Up to a maximum of 50% of the costs of an individual activity not exceeding €200 000 per project.

### (ECA) Woman Economic Empowerment Financial Assistance (Incentives)

#### Bavumile (Bavumile)

(Managed by the dti)

South African women are gifted and talented in both designing and crafting fashionable products for both the local and the international markets, mainly promoting South African "Culture and Heritage". However, one of their greatest challenges is to produce quality products that can easily occupy the shelves of many local and international retail shops, boutiques thus catching the eye of the buyer.

Responding to the above, and further implementing the objectives of interventions proposed by two strategies (being the Engendering AsgiSA and the draft Strategic Framework on Gender and Women's Economic Empowerment), "Bavumile" is being introduced.

Bavumile will ensure the quality production of cultural products that are commercially viable and produced by women. By imparting relevant skills and expertise, various products will be identified; prototypes developed, with the manufacturing processes placed in the most efficient order and product developed, thus made ready to different retail shops for consumption.

<b>Objective:</b>	The primary objective is to upgrade the basic skills of woman with home-based enterprises to produce quality, commercially viable, crafts and other culturally-based products.
<b>Applicability:</b>	Find and recruit woman currently involved in creative, clothing and textile industries, with skills in embroidery, weaving, netting, sewing and beading.
<b>Benefit:</b>	Provide specialist skills training and additional training in packaging, customer service, basic bookkeeping and establishing an enterprise or co-operative.

## Tax incentives

Preferential corporate tax rate for small business	
<i>(Managed by the South African Revenue Service)(ECA)</i>	
<b>Objective:</b>	To encourage small/medium business development in South Africa.
<b>Applicability:</b>	Qualifying small/medium businesses with a turnover for the year of assessment that does not exceed R14 million are eligible (for years of assessment commencing on or after 1 April 2012).
<b>Benefit (taxable income):</b>	<ul style="list-style-type: none"> <li>• R0 – R63 556 = 0%.</li> <li>• R63 557 - R350 000 = 7%.</li> <li>• Over R350 001 = R20 051 + 28% of amount greater than R350 000.</li> </ul>
(CRD) Research and development	
<i>(Managed by the South African Revenue Service and the Department of Science and Technology)</i>	
<b>Objective:</b>	To stimulate scientific or technological research and development.
<b>Applicability:</b>	Expenditure incurred in the discovery of novel, practical and non-obvious information or devising, developing or creating any invention, design or computer programme or any knowledge essential to the use of the invention, design or computer programme.
<b>Benefit:</b>	Deduction increased to 150% for expenditure incurred on or after 2 November 2006. Accelerated allowance on research and development assets.

(CEI) Depreciation	
<i>(Managed by the South African Revenue Service)</i>	
<b>Objective:</b>	To stimulate investment in capital assets.
<b>Applicability:</b>	<ul style="list-style-type: none"> <li>• Plant and machinery.</li> <li>• Manufacturing or similar process (new or unused).</li> <li>• Hotel equipment.</li> <li>• Farming.</li> <li>• Buildings: <ul style="list-style-type: none"> <li>- Industrial (manufacturing or similar process).</li> <li>- Hotels.</li> <li>- Hotel refurbishments.</li> </ul> </li> </ul>
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>• New or unused (Plant and Machinery): <ul style="list-style-type: none"> <li>- 40% per annum - 1<sup>st</sup> year.</li> <li>- 20% per annum - 2<sup>nd</sup> to 4<sup>th</sup> years.</li> </ul> </li> <li>• Used (Plant and Machinery): <ul style="list-style-type: none"> <li>- 20 % per annum.</li> </ul> </li> <li>• Hotel equipment: <ul style="list-style-type: none"> <li>- 20% per annum.</li> </ul> </li> <li>• Farming and production of renewable energy: <ul style="list-style-type: none"> <li>- 50% - 1<sup>st</sup> year.</li> <li>- 30% - 2<sup>nd</sup> year.</li> <li>- 20% - 3<sup>rd</sup> year.</li> </ul> </li> <li>• Hotel refurbishment: <ul style="list-style-type: none"> <li>- 5% per annum for external refurbishments.</li> <li>- 20% per annum for internal refurbishments.</li> </ul> </li> </ul>
Special depreciation allowances on manufacturing buildings vary between 2% per annum and 10% per annum. Wear and tear rates vary for assets not used as part of the manufacturing process.	

## (ECA)Urban development allowances

(Managed by the South African Revenue Service)

<b>Objective:</b>	To counter decay and stimulate urban regeneration.
<b>Applicability:</b>	All taxpayers refurbishing a building within a designated urban development zone or taxpayers constructing a new commercial or residential building in such a zone.
<b>Benefit:</b>	<p>The following allowances are available:</p> <ul style="list-style-type: none"> <li>In the case of the erection of new buildings or extensions or additions thereto, the allowance is equal to 20% of the cost incurred, which is deductible in the year of assessment the building is brought into use solely for the purposes of the taxpayer's trade; and 8% of that cost in each of the 16 succeeding years of assessment.</li> </ul> <p>The total cost can, therefore, be claimed over 11 years.</p> <ul style="list-style-type: none"> <li>In the case of improving an existing building, the allowance is equal to 20% of the cost incurred; deductible for the first time in the year of assessment the improved part is brought into use solely for the purposes of the taxpayer's trade, and 20% for each succeeding year of assessment.</li> </ul> <p>The total cost can therefore be claimed over five years.</p>



## (ECA)Infrastructural development

(Managed by the South African Revenue Service)

<b>Objective:</b>	To encourage investment in infrastructure.
<b>Applicability:</b>	Taxpayers involved in the erection of pipelines, transmission lines and railway lines.
<b>Benefit:</b>	<p>A tax deduction is granted in respect of any new or unused affected assets owned by the taxpayer. The allowances are as follows:</p> <ul style="list-style-type: none"> <li>Pipelines used to transport natural oil: 10% of the cost per annum.</li> <li>All other affected assets.</li> </ul>

## (ECA)Public private partnerships

(Managed by National Treasury)

<b>Objective:</b>	Encouragement of the private sector to invest in infrastructure in partnership with the public sector.
<b>Applicability:</b>	Grants received by the Government and utilised by the taxpayer to effect improvements to state-owned property, in pursuance of the terms of the relevant lease agreement with the state.
<b>Benefit:</b>	<p>The receipt of qualifying Government grants is exempt from tax. In addition, a tax allowance is available in respect of such improvements actually effected by the taxpayer. The allowances are as follows:</p> <ul style="list-style-type: none"> <li>25 years; or</li> <li>Spread over the period of the lease, whichever is shorter.</li> </ul>

## (ECA)Rolling stock depreciation

(Managed by the South African Revenue Service)

<b>Objective:</b>	Encouragement of infrastructural development of rail transportation.
<b>Applicability:</b>	Rolling stock, this is understood to mean trains, carriages and the like.
<b>Benefit:</b>	Deduction of 20% per annum of the cost incurred in respect of rolling stock brought into use on or after 1 January 2008.

<b>(ECA) Environmental expenditure deductions</b> <i>(Managed by the South African Revenue Service)</i>													
<b>Objective:</b> Provide relief for the depreciation of environmental expenditure.													
<b>Applicability:</b> Environmental treatment and recycling assets and environmental waste disposal assets ancillary to a manufacturing process.													
<b>Benefit:</b> <ul style="list-style-type: none"> <li>Environmental treatment and recycling assets: <ul style="list-style-type: none"> <li>40% per annum 1<sup>st</sup> year.</li> <li>20% per annum 2<sup>nd</sup> to 4<sup>th</sup> year.</li> </ul> </li> <li>Environmental waste disposal assets: <ul style="list-style-type: none"> <li>5% per annum.</li> </ul> </li> </ul>													
<b>(ECA) Commercial buildings depreciation</b> <i>(Managed by the South African Revenue Service)</i>													
<b>Objective:</b> Provide relief in respect of commercial buildings.													
<b>Applicability:</b> Buildings (and improvements) used wholly or mainly in the production of income, where building is owned by the taxpayer.													
<b>Benefit:</b> <ul style="list-style-type: none"> <li>5% depreciation per annum on new or unused buildings (and improvements).</li> <li>Specifically excludes buildings used in the provision of residential accommodation.</li> </ul>													
<b>(ECA) Carbon-reducing charges</b> <i>(Managed by the South African Revenue Service)</i>													
<b>Objective:</b> To take advantage of the Clean Development Mechanism (CDM) opportunities of the Kyoto Protocol.													
<b>Applicability:</b> Companies that receive revenue from Certified Emission Reductions (CERs).													
<b>Benefit:</b> Revenue derived from primary CERs (from CDM projects) is tax exempt. This applies to all revenue received in respect of disposals on or after 11 February 2009.													

<b>(ECA) Energy expenditure allowances</b> <i>(Managed by the Department of Energy)</i>													
<b>Objective:</b> To provide relief for the depreciation of energy-efficient equipment.													
<b>Applicability:</b> Energy-efficient equipment.													
<b>Benefit:</b> Energy-efficient equipment to be given an additional allowance of up to 15%, subject to conditions. Effective date still not determined.													
<b>(ECA) Oil and gas income tax incentives</b> <i>(Managed by the South African Revenue Service)</i>													
<b>Objective:</b> To provide tax incentives to oil and gas companies involved in incidental trades in South Africa.													
<b>Applicability:</b> Oil and gas companies.													
<b>Benefit:</b> Tax incentives to be provided to oil and gas companies that are involved in incidental trades inside South Africa.													
<b>(ECA) Underwater telecommunication cable allowances</b> <i>(Managed by the South African Revenue Service)</i>													
<b>Objective:</b> To provide relief for the depreciation of underwater telecommunication cables.													
<b>Applicability:</b> Underwater telecommunication cables.													
<b>Benefit:</b> 5% depreciation allowance over 20 years.													
<b>(ECA) Film rebate subsidies</b> <i>(Managed by the dti)</i>													
<b>Objective:</b> To provide tax exemptions to investor-owner film producers.													
<b>Applicability:</b> Investor-owner film producers.													
<b>Benefit:</b> Tax exemptions to be granted to investor-owner film producers.													

(CRD) Support Programme for Industrial Innovation (SPII)																												
<b>Objective:</b>	Promote technology development in South Africa through provision of financial assistance to all South African registered enterprises in manufacturing or software development that engage in development of innovative, competitive products and/or processes.																											
<b>(CRD) SPII matching scheme</b>																												
<i>(Managed by the IDC)</i>																												
<b>Applicability:</b>	<p>The Matching Scheme is available to all South African registered Small and Medium Enterprises (SME): (employees &lt; 200, turnover &lt; R51 million, assets &lt; R19 million) in the private sector that are engaged in a manufacturing or an information technology related project.</p> <p>The Matching Scheme is also available to large companies. A large company is as defined in the Small Business Act of 2003.</p>																											
<b>Benefit:</b>	<ul style="list-style-type: none"> <li>For SMEs: A grant of between 50% to 75% of the qualifying cost incurred during the technical development stage up to a maximum of R3 million per project. For enterprises with &lt;25% black shareholding - the grant amount is 50%, for enterprises with &gt;25% ≤50% black shareholding or women/ physically challenged shareholding - the grant amount is 65%, and for enterprises with black shareholding &gt;50% - the grant amount is 75%.</li> <li>For large companies: A grant of 50% of the qualifying cost incurred during the technical development stage up to a maximum of R30 million per project. The incentives for B-BBEE and women participation provided under both the Product Process Development (PPD) and Matching Schemes do not apply to large companies.</li> </ul>																											

(CRD) SPII - Partnership scheme																												
<i>(Managed by the IDC)</i>																												
<b>Applicability:</b>	All private sector enterprises engaged in a manufacturing or an IT-related project.																											
<b>Benefit:</b>	A conditional repayable grant of 50% of the qualifying cost incurred during development activity with a minimum grant amount of R3 million per project, repayable on successful commercialisation of the project.																											
<b>(CRD) SPII - Product process development scheme</b>																												
<i>(Managed by the IDC)</i>																												
<b>Applicability:</b>	All small and micro private sector enterprises (employees less than 50, turnover less than R13 million, total gross assets less than R5 million) whose members are actively involved in the management of a business that is engaged in a manufacturing or an information technology-related project.																											
<b>Benefit:</b>	A grant of between 50% and 85% of the qualifying cost incurred during the technical development stage with a maximum grant amount of R1 million per project. For enterprises with <25% black shareholding - the grant amount is 50%. For enterprises with >25% ≤50% black shareholding or women/ physically challenged shareholding - the grant amount is 75%. For enterprises with black shareholding >50% - the grant amount is 85%.																											

(CRD) Technology and Human Resources for Industry Programme (THRIP)													
(Managed by the National Research Foundation and the dti)													
<b>Objective:</b> To boost South African industry by supporting research and technology development, and by enhancing the quality and quantity of appropriately skilled people.													
<b>Applicability:</b> THRIP supports all companies undertaking science, engineering and technology (SET) research in collaboration with educational institutions and will consider the support of projects in which the primary aim is to promote and facilitate scientific research, technology development, and technology diffusion, or any combination of these.													
<b>Benefit:</b> THRIP will contribute between 30% and 50% of the funds invested by a company in research projects. For all SMME and all SMME and B-BBEE partners the THRIP funding will contribute between 100% and 200% of the funds invested. The maximum level of THRIP funding per grant holder will be set at R8 million across any number of projects per annum.													

(CRD) Innovation Fund (IF)													
(Funded by the Department of Science and Technology)													
<ul style="list-style-type: none"> <li><b>Advancement Programme (TAP):</b> Invests in research and development from proof-of-idea/science to proof-of-concept, and is open to publicly funded institutions (including higher education institutions and science councils), small and medium-sized businesses, and any consortia consisting of these.</li> </ul>													
<ul style="list-style-type: none"> <li><b>Missions in Technology Programme (MiTech):</b> A public-private partnership programme for the development of technology platforms.</li> </ul>													
<ul style="list-style-type: none"> <li><b>Seed Fund:</b> Invests in early commercialisation/start-up activities to take a technology that is at proof-of-concept / prototype to the market.</li> </ul>													
<ul style="list-style-type: none"> <li><b>Patent Support Fund for SMEs:</b> To assist in absorbing the cost of protecting their intellectual property through patent registration.</li> </ul>													
<ul style="list-style-type: none"> <li><b>Patent Support Fund-Technopreneur:</b> This fund supports the filing of at least a South African provisional patent application in respect of technological inventions by individuals, so-called techno-entrepreneurs, where such inventions have commercial merit and a prototype can be developed in under 12 months.</li> </ul>													
<ul style="list-style-type: none"> <li><b>Patent Support Fund for Research Institutions:</b> Provides subsidy to publicly funded institutions (higher education institutions and science councils) for costs incurred in filing and prosecuting patent applications, and maintaining patents.</li> </ul>													
<ul style="list-style-type: none"> <li><b>Patent Incentive Scheme:</b> A scheme to encourage patent protection through cash incentives to inventors in publicly funded institutions (higher education institutions and science councils) who obtain patents for their inventions.</li> </ul>													
<b>Benefit:</b> The IF uses a flexible returns structure be it royalty, equity, convertible loans or combinations thereof, structured as appropriate for each investment.													

(CEI) Manufacturing Competitive Enhancement Programme (MCEP)													
(Managed by the Department of Trade and Industry (the dti))													
<b>Objective:</b> To provide a credible support package to stabilise and grow output, employment and confidence in the manufacturing sector in the face of uncertain local and export market conditions arising from the global economic crisis.													
<b>Applicability:</b> Providing assistance for participants in the manufacturing and engineering sector, including conformity assessment agencies. Please note that this incentive programme will not be available to start-ups or companies without at least one year's manufacturing track record. It is, however, important that all enterprises that are in the manufacturing value chain should take cognisance of MCEP as it may affect them, whether directly or indirectly.													
<b>Benefit:</b> Applicants will be assigned a benefit ceiling based on entity level manufacturing value add, which the applicant will have to claim through the seven sub-programmes of the MCEP within a two-year period. MCEP consists of two categories, a production incentive and industrial financing loan facilities. The two categories have seven components in terms of which an applicant can benefit from MCEP. These are: <ol style="list-style-type: none"> <li>1. Production Incentive:               <ul style="list-style-type: none"> <li>• Capital Investment.</li> <li>• Green Technology and Resource Efficiency Improvement.</li> <li>• Enterprise Level Competitiveness Improvement.</li> <li>• Feasibility Studies.</li> <li>• Cluster Competitiveness Improvement.</li> </ul> </li> <li>2. Industrial Financing Loan Facilities:               <ul style="list-style-type: none"> <li>• Pre- and Post-dispatch Working Capital Facility.</li> <li>• Industrial Policy Niche Projects Fund.</li> </ul> </li> </ol> The cash benefit, based on the MVA, which is available through the above listed nine components will amount to the following percentages of the calculated MVA:													

Asset Value	MVA Benefit
100% Black Shareholding	15%
< R5 million	15%
> R5 million but < R30 million	12%
> R30 million but < R200 million	10%
> R200 million	7%
It is also important to note that an applicant can apply for a combination of the seven components of MCEP and that the benefits can be substantial. As example, benefits for capital investment and green technology and resource efficiency improvements are capped at R50 million per component.	



## Contacts in South Africa

### Business information services

#### **The Department of Trade and Industry (the dti)**

Private Bag X274, Pretoria, 0001  
**Tel:** 0861 843 384/+27 12 394 1568  
**International:** +27 12 394 0337  
**Local:** +27 11 341 1600  
**Fax:** 0861 843 888  
**Email:** [contactus@thedi.gov.za](mailto:contactus@thedi.gov.za)  
[www.thedi.gov.za](http://www.thedi.gov.za)

#### **The National Empowerment Fund (NEF)**

P O Box 31, Melrose Arch, Melrose North, 2076  
**Tel:** +27 11 305 8000  
**Fax:** +27 11 305 8001  
[www.nefcorp.co.za](http://www.nefcorp.co.za)

#### **Development Bank of Southern Africa (DBSA)**

P O Box 1234, Halfway House, 1685  
**Tel:** +27 11 313 3911  
**Fax:** +27 11 313 3086  
[www.dbsa.org](http://www.dbsa.org)

#### **Industrial Development Corporation (IDC)**

P O Box 784055, Sandton, 2146  
**Tel:** +27 11 269 3000  
**Fax:** +27 11 269 3116  
[www.idc.co.za](http://www.idc.co.za)

#### **Khula Enterprise Finance Limited**

P O Box 28423, Sunnyside, 0132  
**Tel:** +27 12 394 5560 / 5900  
**Fax:** +27 12 394 6560  
Sharecall: 086 005 4852  
[www.khula.org.za](http://www.khula.org.za)

#### **Small Enterprise Development Agency (Seda)**

Box 56714, Arcadia, 0007  
**Tel:** +27 12 441 1000  
**Fax:** +27 12 441 2064  
[www.seda.org.za](http://www.seda.org.za)

#### **Business Leadership**

P O Box 7006, Johannesburg, 2000  
**Tel:** +27 11 356 4650  
**Fax:** +27 11 726 4705  
[www.businessleadership.org.za](http://www.businessleadership.org.za)

## Banking<sup>87</sup>

### Registered banks - Locally controlled

Institution		Telephone
1.	ABSA Bank Limited	+27 11 350 4000
2.	African Bank Limited	+27 11 256 9000
3.	Capitec Bank Limited	+27 21 809 5900
4.	FirstRand Bank Limited	+27 11 282 8000
5.	Imperial Bank Limited	+27 11 372 6500
6.	Investec Bank Limited	+27 11 286 7000
7.	Marriott Merchant Bank Limited (acquired by Grindrod)	+27 31 333 6600
8.	MEEG Bank Limited (deregistered)	+27 43 702 9600
9.	Nedbank Limited	+27 11 294 4444
10.	Peoples Bank Limited	+27 11 669 3265
11.	Rennies Bank Limited	+27 11 407 3000
12.	Sasfin Bank Limited	+27 11 809 7500
13.	UBank Limited	+27 11 518 5000
14.	The Standard Bank of South Africa Limited	+27 11 636 9111

### Registered banks - Foreign controlled

Institution		Telephone
1.	Albaraka Bank Limited	+27 31 364 9000
2.	Habib Overseas Bank Limited	+27 11 834 7441
3.	HBZ Bank Limited	+27 31 267 4400
4.	Mercantile Bank Limited	+27 11 302 0300
5.	The South African Bank of Athens Limited	+27 11 634 4300

### Registered branches

Institution		Telephone
1.	ABILLION AMRO Bank N.V (sold to Sanlam)	+27 11 685 2000
2.	Bank of Baroda	+27 21 784 0715 0133
3.	Bank of China Johannesburg Branch	+27 11 520 9600
4.	Bank of Taiwan South Africa Branch	+27 11 880 8008
5.	Barclays Bank Plc, South Africa Branch	+27 11 772 7000
6.	Calyon (trading as Calyon Corporate and Investment Bank) (now, Crédit Agricole)	+27 11 448 3300
7.	China Construction Bank (Johannesburg Branch)	+27 11 520 9400
8.	Citibank N.A.	+27 11 944 1000
9.	Commerzbank Aktiengesellschaft	+27 11 486 0565
10.	Deutsche Bank AG	+27 11 775 7000
11.	HSBC Bank International Ltd (Johannesburg Branch)	+27 11 6764216
12.	JPMorgan Chase Bank (Johannesburg Branch)	+27 11 507 0300
13.	Société Générale	+27 11 778 4380
14.	Standard Chartered Bank (Johannesburg Branch)	+27 11 217 6600
15.	State Bank of India	+27 11 778 4500

### Registered mutual banks

Institution		Telephone
1.	GBS Mutual Bank	+27 46 622 7109
2.	VBS Mutual Bank	+27 15 516 3542 or +27 15 516 4410

<sup>87</sup> [www.reservebank.co.za](http://www.reservebank.co.za)

## Foreign banks - Representative offices

Institution		Telephone
1.	American Express Limited	+27 11 294 444
2.	Banca di Roma	+27 11 784 7758
3.	Banco BPI, SA	+27 11 622 4376/86
4.	Banco Espírito Santo e Comercial de Lisboa	+27 11 616 5382/9
5.	Banco Privado Português, S.A.	+27 11 666 1605
6.	Banco Totta & Açores SA	+27 11 616 3156/7
7.	Bank Leumi Le-Israel BM	+27 11 328 1700
8.	Bank of America, National Association	+27 11 305 5555
9.	Bank of Cyprus Group	+27 11 784 3941
10.	Barclays Private Bank Limited	+27 11 772 7000
11.	Bayerische Hypo-und Vereinsbank Aktiengesellschaft	+27 11 5604900
12.	Belgolaise Bank	+27 11 883-3861 or +27 11 884 6931
13.	BILLIONP Paribas Johannesburg	+27 11 0882100/1
14.	China Everbright Bank, South African Representative Office	+27 11 440 3941
15.	Commerzbank AG	+27 11 486 0565
16.	Crédit Industriel et Commercial	+27 11 646 0930/47
17.	Credit Suisse First Boston (Europe) Limited sold to First South securities (Pty) Ltd	+27 11 505 0003
18.	Credit Suisse (South Africa) (Pty) Ltd	+27 21 415 7880
19.	Dresdner Bank AG (sold to Commerzbank)	+27 11 380 0600
20.	Dresdner Kleinwort Wasserstein Limited (sold to Commerzbank)	+27 11 380 0600

## Foreign banks - Representative offices

Institution		Telephone
1.	First Bank of Nigeria	+27 11 784 9922 or +27 11 784 9925
2.	Fortis Bank (Nederland) N.V. Deregistered	+27 11 883 3861 or +27 11 884 6931
3.	Gerrard Private Bank (Isle of Man) Limited Deregistered (Fairbairn Private Bank now owned by Nedbank)	+27 11 480 1691
4.	Gerrard Private Bank Deregistered (now Fairbairn Private Bank Limited owned by Nedbank(Jersey) Limited)	+27 11 480 1698
5.	Hellenic Bank Limited	+27 11 783 0155
6.	Kredietbank SA Luxembourgeoise	+27 21 905 4958
7.	Millenium BCP	+27 11 622 0847 or +27 11 622 0857

## Banks in liquidation

Institution		Telephone
1.	Islamic Bank Limited (in final liquidation)	+27 11 484 7860
2.	Regal Treasury Private Bank Limited (in liquidation)	+27 12 344 4315 or +27 11 839 3920

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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## Chambers of commerce and industry

### Afrikaanse Handelsinstituut (AHI)

P O Box 35100, Menlo Park, 0102  
**Tel:** +27 12 348 5440  
**Fax:** +27 12 348 8771  
[www.ahi.co.za](http://www.ahi.co.za)

### Foundation for African Business and Consumer Services (FABCOS)

P O Box 8785, Johannesburg, 2000  
**Tel:** +27 11 036 6348  
**Fax:** 086 639 2956  
[www.fabcos.co.za](http://www.fabcos.co.za)

### National African Federation of Chambers of Commerce (NAFCOC)

P O Box 784880, Sandton, 807 5063  
**Tel:** +27 11 807 9816  
**Fax:** +27 11 268 2942  
[www.nafcoc.org.za](http://www.nafcoc.org.za)

### South African Chamber of Commerce and Industry (SACCI)

P O Box 213, Saxonwold, 2132  
**Tel:** +27 11 446 3800  
**Fax:** +27 11 446 3804  
[www.sacci.org.za](http://www.sacci.org.za)

### Business Unity South Africa (BUSA)

P O Box 652807, Benmore, 2010  
**Tel:** +27 11 784 8000/1/2/3  
**Fax:** +27 11 784 8004/086 609 8248  
[www.busa.org.za](http://www.busa.org.za)

## Investment promotion agencies

### Trade and Investment South Africa (TISA)

Private Bag X84, Pretoria, 0001  
**Tel:** +27 12 394 3014 / for enquiries 0861 843 384  
**Fax:** +27 12 394 4016  
[www.thedti.gov.za](http://www.thedti.gov.za)

### Durban Investment Promotion Agency (DIPA)

P O Box 1203, Durban, 4000  
**Tel:** +27 31 336 2540/40  
**Fax:** +27 31 336 2641  
[www.dipa.co.za](http://www.dipa.co.za)

### City of Johannesburg

P O Box 1049, Johannesburg, 2000  
**Tel:** 086 056 2874  
**Fax:** +27 11 339 3677  
[cgis@joburg.org.za](mailto:cgis@joburg.org.za)  
[www.joburg.org.za](http://www.joburg.org.za)

### Free State Development Corporation (FDC)

P O Box 989, Bloemfontein, 9301  
**Tel:** +27 51 400 0800  
**Fax:** +27 51 447 0929  
[www.fdc.co.za](http://www.fdc.co.za)

### Gauteng Economic Development Agency (GEDA)

P O Box 2200, Saxonwold 2132 Johannesburg, 2107  
**Tel:** +27 11 327 2000  
**Fax:** +27 11 327 7000  
[www.geda.co.za](http://www.geda.co.za)

### Investment North West

P O Box 6352, Rustenburg, 0300  
**Tel:** +27 14 594 2570  
**Fax:** +27 14 594 2575/6  
[www.inw.org.za](http://www.inw.org.za)

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### Mpumalanga Investment Initiative

P O Box 3881, Nelspruit, 1200  
**Tel:** +27 13 752 5384  
**Fax:** +27 13 752 5385  
<http://tbc-world.com> or [www.mii.co.za](http://www.mii.co.za) (site still being tested)

### Trade and Investment KZN (TIK)

P O Box 4245, Durban, 4000  
**Tel:** +27 31 368 9600  
**Fax:** +27 31 368 5888  
[www.tikzn.co.za](http://www.tikzn.co.za)

### Trade and Investment Limpopo

P O Box 3490, Polokwane, 0700  
**Tel:** +27 15 295 5171  
**Fax:** +27 15 295 5197  
[www.til.co.za](http://www.til.co.za)

### Wesgro

P O Box 1678, Cape Town, 8000  
**Tel:** +27 21 487 8600  
**Fax:** +27 21 487 8700/5  
[www.wesgro.co.za](http://www.wesgro.co.za)

### Eastern Cape Development Corporation (ECDC)

P O Box 11197, Southernwood, East London, Eastern Cape, South Africa, 5213  
**Tel:** +27 43 704 5600  
**Fax:** +27 43 704 5700  
[www.ecdc.co.za](http://www.ecdc.co.za)

### Northern Cape Department of Economic Affairs & Tourism

Private Bag X5054, Kimberley, 8300  
**Tel:** +27 53 839 4000  
**Fax:** +27 53 832 9464  
<http://economic.ncape.gov.za>

### Government departments

**Department of Home Affairs Republic of South Africa**  
Private Bag X114, Pretoria, 0001  
**Tel:** 0800 2044 76 (Hotline) (local)  
+27 12 432 6648  
[www.dha.gov.za](http://www.dha.gov.za)

**Department of International Relations and Cooperation**  
Private Bag X152, Pretoria, 0001  
**Tel:** +27 12 351 0002  
**Fax:** +27 12 388 7384  
[www.dirco.gov.za](http://www.dirco.gov.za)

**The Department of Trade and Industry (the dti)**  
Private Bag X274, Pretoria, 0001  
**Tel:** 0861 843 384/+27 12 394 1568  
**International:** +27 12 394 0337  
**Local:** +27 11 341 1600  
**Fax:** 0861 843 888  
**Email:** [contactus@thedi.gov.za](mailto:contactus@thedi.gov.za)  
[www.thedi.gov.za](http://www.thedi.gov.za)

**International Trade Administration Commission of South Africa (ITAC)**  
Private Bag X753, Pretoria, 0001  
**Tel:** +27 12 394 3590/0861 843 384  
**Fax:** +27 12 394 0597  
**Customer Contact Centre:** 0861 843 384  
**Email:** [info@itac.org.za](mailto:info@itac.org.za)  
[www.itac.org.za](http://www.itac.org.za)

**Companies and Intellectual Property Commission (CIPC)**  
P.O.Box 429, Pretoria 0001  
**Companies Call Centre:** 086 100 2472  
**Tel:** +27 12 394 9500  
**Fax Number:** 086 517 7224  
**International Fax:** +27 12 394 9501  
**Email:** [info@cipc.co.za](mailto:info@cipc.co.za)  
[www.cipc.co.za](http://www.cipc.co.za)

## Acronyms and abbreviations

### The Commissioner of South African Revenue Services (SARS)

Private Bag X923, Pretoria, 0001  
**Tel:** (+27 12) 422 4000  
**Fax:** (+27 12) 422 6848  
[www.sars.gov.za](http://www.sars.gov.za)

### The South African Reserve Bank (SARB) (Exchange Control and Securities)

P O Box 427, Pretoria, 0001  
**Tel:** (+27 12) 313 3911  
**Fax:** (+27 12) 313 3197/3929  
[www.resbank.co.za](http://www.resbank.co.za)

### Deloitte

#### Johannesburg

Deloitte Place, The Woodlands, 20 Woodlands Drive, Woodmead, Sandton 2052, South Africa  
Private Bag X6, Gallo Manor, Johannesburg 2052  
**Tel:** (+27 11) 806 5000  
**Fax:** (+27 11) 806 5003

#### Cape Town

1st Floor, The Square, Cape Quarter, 27 Somerset Road  
Green Point, Cape Town 8005, South Africa  
**Tel:** (+27 21) 427 5300  
**Fax:** (+27 21) 674 3076

#### Regional offices

**Pretoria:** (+27 12) 482 0000  
**Durban:** (+27 31) 560 7000  
**East London:** (+27 43) 721 1336  
**Pietermaritzburg:** (+27 33) 347 0362  
**Port Elizabeth:** (+27 41) 398 4000  
**Richards Bay:** (+27 35) 789 1912

ACSA	Airports Company South Africa
AEC	African Economic Community
AEO	Authorised Economic Operator
AGOA	Africa Growth and Opportunity Act
AHI	Afrikaanse Handelsinstituut
AIS	Automotive Incentive Allowance
AltX	Alternative Exchange
ANC	African National Congress
APDP	Automotive Production and Development Programme
AsgISA	Accelerated and Shared Growth - South Africa
ATM	Autoteller Machine
AU	African Union
AV/av	Average
B-BBEE	Broad-Based Black Economic Empowerment
BBSDP	Black Business Supplier Development Programme
BCEA	Basic Conditions of Employment Act
BEE	Black Economic Empowerment
BLNS	Botswana, Lesotho, Namibia and Swaziland Member States
BILLION/billion	Billion
BOP	Balance of Payments
BPO&O	Business Process Outsourcing and Offshoring
BRICS	Brazil, Russia, India, China and South Africa (Developing Country Grouping)
BUSA	Business Unity South Africa
CC	Close Corporation

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CCA	Customs Controlled Area
CCMA	Commission for Conciliation, Mediation and Arbitration
CDM	Clean Development Mechanism
CEO	Chief Executive Officer
CERs	Certified Emission Reductions/carbon credits
CFA	Commission for Africa
CFC	Controlled Foreign Company
CGT	Capital Gains Tax
CIP	Critical Infrastructure Programme
CIPC	Companies and Intellectual Property Commission
CIS	Cooperation Incentive Scheme
CITES	Convention on International Trade in Endangered Species
CMA	Common Monetary Area
COP15	UN Conference of the Parties in Copenhagen
COP17	Conference of the Parties
COSATU	Congress of South African Trade Unions
CP	Cost Plus
CPA	Consumer Protection Act
CPT	Consumer Protection Tribunal
Corp	Corporation
CPI	Consumer Price Index
CPIX	Consumer Price Index Excluding Mortgage Interest Payments
CTCIP	Clothing and Textile Competitiveness Improvement Programme
CUP	Comparable Uncontrolled Price

DANIDA	Danish South African Business to Business Programme
DBSA	Development Bank of Southern Africa
DEA	Department of Environmental Affairs
DEG -	Deutsche Investitions- und Entwicklungsgesellschaft mbH.
DEPP	Developmental Electricity Pricing Programme
DFA	Duty-free Allowance
DFIs	Development Finance Institutions
DIPP	Defence Industrial Participation Programme
DPE	Department of Public Enterprises
DRC	Democratic Republic of Congo
DSL	Digital Subscriber Line
DT	Dividend Tax
<b>the dti</b>	The Department of Trade and Industry
DTT	Deloitte Touche Tohmatsu
ECD	Early Childhood Development
ECDC	Eastern Cape Development Corporation
ED	Estate Duty
EEA	Employment Equity Act
EEC	Equity Equivalent Contributions
EFTA	European Free Trade Area
e.g.	For example
EIA	Environmental Impact Assessment
EIU	Economic Intelligence Unit
EMIA	Export Marketing and Investment Assistance
et al.	et alii (and others)
EU-ETS	European Emissions Trading System
EU / SA FTA	European Union / South African Free Trade Agreement

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FABCOS	Foundation for African Business and Consumer Services
FAX/fax	Facsimile
FEDUSA	The Federation of Unions of South Africa
FDI	Foreign Direct Investment
FIFA	International Federation of Football Association/ Fédération Internationale de Football Association
FIG	Foreign Investment Grant
FMCG	Fast Moving Consumer Goods
FTA	Free Trade Agreement
FTSE	"Footsie" Share Index
GAAP	Generally Accepted Accounting Practice
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GEAR	Growth Employment and Redistribution Strategy
GES	Global Employment Services
GHG	Greenhouse Gas
GNI	Gross National Income
GMT	Greenwich Mean Time
GSP	General System of Preferences
G7	Group of Seven Industrialised Nations (France, Germany, Italy, Japan, United Kingdom, United States and Canada)
G8	Group of Eight (formerly the G6 or Group of Six)

G8+5	Group of Eight plus Five (Group of leaders consists of the heads of government from the G8 nations (Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States), plus the heads of government of the five leading emerging economies (Brazil, China, India, Mexico and South Africa)
G20	Group of Twenty Finance Ministers and Central Bank Governors (Argentina, Australia Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, Republic of Korea, Turkey, United Kingdom, United States and European Central Bank)
HDEs	Historically Disadvantaged Entities / Entrepreneurs
HDI	Historically Disadvantaged Individuals
HDPs	Historically Disadvantaged Persons
HR	Human Resources
hr	hour(s)
IAS	International Accounting Standards
ICT	Information and Communication Technology
IDC	Industrial Development Corporation of South Africa Limited
IDZs	Industrial Development Zones
i.e.	id est (that is)
IF	Innovation Fund
IFRS	International Financial Reporting Standards
IIA	Industrial Investment Allowance
IOR-ARC	Indian Ocean Rim Association for Regional Cooperation
IMF	International Monetary Fund
IPAP	Industrial Policy Action Plan

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IPCC	Intergovernmental Panel on Climate Change
IPPs	Independent Power Producers
ISO	International Organisation for Standardisation
IRBA	Independent Regulatory Board of Auditors
IRCCs	Import Rebate Credit Certificates
IRR	Internal Rate of Return
IT	Information Technology
ITAC	International Trade Administration Commission
ITED	International Trade and Economic Development Division
IRCC	Import Rebate Credit Certificate
IWF	Isivande Women's Fund
JI	Joint Implementation
JHB	Johannesburg/Joburg
JSE	Johannesburg Securities Exchange SA
km	Kilometres
LAA	Local Assembly Allowance
LED	Local Economic Development
LRA	Labour Relations Act
LSE	London Stock Exchange
LSU	Legal Services Unit
MBA	Master of Business Administration Programme/Degree
MDGs	Millennium Development Goals
MEIBC	Metal and Engineering Industry Bargaining Council

MFN	Most Favoured Nation principle
MiTech	Missions in Technology Programme
MIDP	Motor Industry Development Programme
MIG	Municipal Infrastructure Grant
MIGA	Multilateral Investment Guarantee Agency
NAFCOC	National African Federation of Chambers of Commerce
NAM	Non-Aligned Movement
NACTU	National Council of Trade Unions
NDPG	Neighbourhood Development Partnership Grant
NEF	National Empowerment Fund
NEPAD	New Partnership for Africa's Development
NIP	The National Industrial Participation
NIPF	National Industrial Policy Framework
NIPP	National Industrial Participation Programme
OECD	Organisation for Economic Cooperation and Development
PAA	Productive Asset Allowance
PAYE	Pay-As-You-Earn
PBO	Public Benefit Organisation
PBRs	Plant Breeders Rights
PI	Production Incentive
PII	Partnership for Industrial Innovation
PN 2	Practice Note No.2
PN 7	Practice Note No.7
Pop.	Population

PPP	Purchasing Power Parity	
Prasa	Passenger Rail Agency of South Africa	
PS	Profit Split	
PSOM	Programme for Cooperation with Emerging Markets	
PTI	Preferred Trader Initiative	
PTIF	Public Transport Infrastructure	
QSAPE	Qualifying South African Production Expenditure	
RAND	South African Rand Currency	
R&D	Research and Development	
REFIT/REBID	Department of Energy's Renewable Energy Feed in Tariff	
RFI	Retail Financial Intermediaries	
RISDP	Regional Indicative Strategic Development Plan	
ROO	Rules of Origin	
RP	Resale Price	
RSA	Republic of South Africa	
SA	South Africa	
SAA	South African Airways	
SABS	South African Bureau of Standards	
SACOB	South African Chamber of Business	
SACU	Southern African Customs Union	
SADC	Southern African Development Community	
SAICA	South African Institute of Chartered Accountants	
SANRAL	South African National Roads Agency	
SAP	Systems Application Protocol	

SAPS	South African Police Service
SARB	South African Reserve Bank
SARS	South African Revenue Service
SACP	South African Communist Party
SDL	Skills Development Levy
SDP	Supplier Development Programme
SET	Science Engineering and Technology
SFFP	Staple Food Fortification Incentive Scheme
SIP	Strategic Investment Programme
SITE	Standard Income Tax on Employees
SMEDP	Small Medium Enterprise Development Programme
SMEs	Small Medium Enterprises
SMME	Small, Medium and Micro Enterprises
SOE	State-owned Enterprises
SPII	Support Programme for Industrial Innovation
SPS	Phyto-sanitary measures
SSAS	Sector-Specific Assistance Scheme
SSP	Skills Support Programme
STC	Secondary Tax on Companies
STT	Securities Transfer Tax
TAP	Advancement Programme
TAX/tax	Taxation
TBT	Technical Barriers to Trade
TCIDP	Textile and Clothing Industry Development Programme
TD	Transfer Duty
TDCA	EU-South Africa Trade, Development and Cooperation Agreement

## Addendums: Indicative costs and other practical aspects of doing business and living in South Africa

TEP	Tourism Enterprise Support Programme
TEL/tel	Telephone
T-FTA	SADC-EAC-COMESA Tripartite FTA
THRIP	Technology and Human Resources for Industry Programme
TIDCA	Trade, Investment and Development Cooperation Agreement
TIFA	Trade and Investment Framework Agreement
TISA	Trade and Investment South Africa
TNMM	Transactional Net Margin Method
UIF	Unemployment Insurance Fund
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNFCCC	United Nations Framework Convention on Climate Change
UNISA	University of South Africa
UPOV	International Convention for the Protection of New Varieties of Plants
US	United States
USA	United States of America
USAID	US Agency for International Development
USTR	US Trade Representative
VAT	Value Added Tax
VET	Value Extraction Tax
WEF	World Economic Forum
WCO	World Customs Organisation
WHC	Widely Held Company
WTO	World Trade Organisation
ZAR	South African Rand Currency (International Notation)

### Addendum 1: Telecommunication costs

#### Telkom call rate charges<sup>88</sup>

The following tables provide an overview of the new Telkom rates for 2012 (effective 1 August 2012).

#### Postpaid call charges (0-50km) Local:

	2011 Rates		2012 Rates (with effect from 1 August 2012)	
	Standard time	Callmore time	Standard time	Callmore time
Minimum charge	57.0 c	57.0 c	unchanged	
Per minute rate *	42.0 c	20.7 c	unchanged	
Talktime for minimum charge	81 seconds	166 seconds	unchanged	

\* Actual calls are charged per second with a minimum charge per call.



<sup>88</sup> <http://mybroadband.co.za/news/telecoms/53803-telkoms-new-prices-full-details.html>

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#### Postpaid call charges (>50km) Long distance:

	2011 Rates		2012 Rates	
	Standard time	Callmore time	Standard time	Callmore time
Minimum charge	57.0 c	57.0 c	unchanged	
Per minute rate *	57.0 c	28.5 c	unchanged	
Talktime for minimum charge	60 seconds	120 seconds	unchanged	

\* Actual calls are charged per second with a minimum charge per call.

#### PrepaidFone call charges (0-50km) Local:

	2011 Rates		2012 Rates	
	Standard time	Callmore time	Standard time	Callmore time
Minimum charge	79.0 c	79.0 c	83.0 c	83.0 c
Per minute rate *	57.3 c	27.3 c	60.2 c	28.7 c
Talktime for minimum charge	83 seconds	174 seconds	unchanged	

\* Actual calls are charged per second with a minimum charge per call.

\* The surcharge for PrepaidFone Waya-Waya increase from 63c to 66c per call.

#### PrepaidFone call charges (>50km) Long distance:

	2011 Rates		2012 Rates	
	Standard time	Callmore time	Standard time	Callmore time
Minimum charge	87.5 c	87.5 c	unchanged	
Per minute rate *	R1.08	54.0 c	unchanged	
Talktime for minimum charge	49 seconds	97 seconds	unchanged	

\* Actual calls are charged per second with a minimum charge per call.

\* The surcharge for PrepaidFone Waya-Waya increase from 63c to 66c per call.

#### International outgoing calls:

##### Calls to some popular International fixed line destinations

	2011 Rates		2012 Rates	
	Peak Time	Global Off-peak time	Peak Time	Global Off-peak time
Minimum charge:	R0.57	R0.57	unchanged	
	2011 Rates		2012 Rates	
Price per minute:	Peak Time	Global Off-peak time	Peak Time	Global Off-peak time
UK	R0.60	R0.60	unchanged	unchanged
USA	R0.60	R0.60	unchanged	unchanged
Canada	R0.70	R0.70	unchanged	unchanged
France	R0.80	R0.80	R0.75	R0.75
Australia	R0.80	R0.80	R0.75	R0.75
Portugal	R1.04	R0.80	R0.97	R0.72
Germany	R1.20	R0.90	R1.12	R0.81
Botswana	R1.52	R1.30	R1.43	R1.17
India	R1.37	R1.11	R1.16	R0.93
Namibia	R1.31	R1.13	R1.17	R1.01
Zimbabwe	R1.68	R1.55	R1.58	R1.46

\* These charges are also applicable to PrepaidFone and WorldCall; actual calls are charged per second with a minimum charge per call.



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#### Other charges:

	2011 Rates		2012 Rates	
	Residential	Business	Residential	Business
<b>Installation</b> (new line)	R520.46	R520.46	R551.69	R551.69
<b>Monthly rental</b> (analogue line)	R139.97	R191.84	R148.37	R203.35
<b>ISDN 2a</b> (per month)	R255.08	R354.29	R270.39	R375.55
<b>Fast DSL</b> (up to 1 024 kbps per month)	R152.00	R152.00	R165.00	R165.00
<b>Faster DSL</b> (up to 2 048 kbps per month)	R289.00	R289.00	R299.00	R299.00
<b>Fastest DSL</b> (up to 4/10 mbps per month)	R413.00	R413.00	R425.00	R425.00
<b>DSL Installation</b>	R665.29	R665.29	R705.20	R705.20
<b>Do broadband bundles:</b>			<b>Monthly rental</b>	
<b>Do Basic</b> – Fast DSL + 5GB			R219.00 – unchanged	
<b>Do Advanced</b> – Faster DSL + 10GB			R395.00 – unchanged	
<b>Do Premium</b> – Fastest DSL + 20GB			R554.00 – unchanged	
<b>Product Bundle Name</b>	<b>do Uncapped Standalone Incl. VAT</b>	<b>DSL Price Incl. VAT</b>	<b>*Bundle Discount Incl. VAT</b>	<b>Bundle Price Incl. VAT</b>
do Uncapped Basic 1024 kbps	R219.00	R165.00	R35.00	R349.00
do Uncapped Advanced 2048 kbps	R369.00	R299.00	R89.00	R579.00
do Uncapped Premium 4Mbps	R699.00	R425.00	R95.00	R1,029.00
do Uncapped Premium Plus 10Mbps	R1 399.00	R425.00	R125.00	R1 699.00

\* do Bundle discounts apply only to associated ADSL line speeds in a bundle.

#### Telkom Closer:

Closer 1 (Weekender Plan)	Closer 2 (Evening and Weekend Plan)	Closer 3 (Anytime Plan)
Line rental; Call Answer or Identicall; RingBack; Contact Me	Line rental; Call Answer or Identicall; RingBack; Contact Me	Line rental; Call Answer or Identicall; RingBack; Contact Me
Std time: 49c per minute; 49c minimum local & LD; 1st 30 local minutes free	49c per minute; 49c minimum local & LD; 1st 30 local minutes free	1 300 free minutes; per-second billing for fixed-to-mobile calls
Callmore time: R1.40 per call local & LD up to an hour on weekdays; Free weekend calls local & LD up to an hour; 60 free local Internet minutes	Unlimited local & LD calls up to an hour; 60 free local Internet minutes	Free up to 1 hour; per-second billing for fixed-to-mobile calls
A 10% fixed discount to the 30 most popular international fixed-line destinations	A 10% fixed discount to the 30 most popular international fixed-line destinations	A 10% fixed discount to the 30 most popular international fixed-line destinations
Current: R158.00	Current: R177.00	Current: R333.00
New: R167.00	New: R185.00	New: R341.00

#### PrepaidFone:

	2011 Rates	2012 Rates
Installation (new line)	R300.00	R318.00
Installation (Waya-Waya)	R300.00	R318.00
Monthly rental	R72.07	R76.39
Weekly rental	R16.63	R17.62
Annual rental (Waya-Waya)	R152.90	R168.20

**Outgoing calls to mobile/cellular services from postpaid and PrepaidFone:**

To Vodacom, MTN, Cell C & 8.ta

	2011 Rates		2012 Rates	
	Peak time	Off-peak time	Peak time	Off-peak time
First minute	R1.40	R1.12	R1.35	R1.08
Every 30 seconds thereafter	R0.70	R0.56	R0.68	R0.54

**Public payphone call charges: coin and cardphones:**

	2011 Rates		2012 Rates	
	Unit charge	Metering periods	Standard time	Callmore time
Unit charge	R0.50			unchanged
Metering periods		Standard time	Callmore time	
Local (0-50km)	46.7 seconds	82 seconds		unchanged
LD (>50km)				
Mobile/cellular	13.9 seconds	18.4 seconds	14.5 seconds	19.1 seconds

**Vodacom Business Call package information<sup>40</sup>**

***Business Call*  
*Contract package***

Subscription Fee (per month)	R185.00
Connection Fee	R97.00
SIM Fee	R99.00
Domestic Calls	
Vodacom to Vodacom (peak)	R1.76
Vodacom to Vodacom (off-peak)	R0.95
Vodacom to Other (peak)	R2.30
Vodacom to Other (off-peak)	R1.15
General Service Calls (peak)	R1.76
General Service Calls (off-peak)	R0.95
Happy Hours	R1.49
International Calls	
Telkom Rate (peak)	R1.76
Telkom Rate (off-peak)	R0.95
Value Added Services	
Value Added Services (peak)	R2.15
Value Added Services (off-peak)	R1.15
Inclusive Minutes	None
MORE Minutes	Low
SMS and MMS	
SMS (peak)	R0.80
SMS (off-peak)	R0.35
MMS (all-day)	R0.80 per 300KB
Premium Rated SMS	R0.90 - R50.15
International SMS	R1.74
International OPCO SMS	R1.00
Video Calls	
Video calls to Vodacom (peak)	R1.60
Video calls to Vodacom (off-peak)	R0.95

<sup>40</sup> Source: <http://www.vodacom.co.za>.

Cell C Business Chat Package <sup>89</sup>

	Business Chat standard	Business Chat 400	Business Chat 700	Business Chat 1000
Contract length (months)	1.12 or 24	1.12 or 24	1.12 or 24	1.12 or 24
Connection fee	R114	R114	R114	R114
Monthly fee	R185	R650	R1100	R1500
Included monthly airtime	none	400 anytime	700 anytime	1000 anytime
Peak call per month				
Cell C to Cell C	R1.65	R1.43	R1.43	R1.43
Cell C to other mobiles	R2.00	R1.79	R1.75	R1.70
Cell C to Telkom	R1.15	R1.15	R1.15	R0.99
International calls*	R1.15 + Telkom peak - 20%	R1.75 + Telkom peak - 20%	R1.75 + Telkom peak - 20%	R1.75 + Telkom peak - 20%
SMS per message	R0.80	R0.80	R0.80	R0.80
Off-peak call per month				
Cell C to Cell C	R0.95	R0.90	R0.90	R0.90
Cell C to other mobiles	R1.10	R1.10	R1.10	R1.10
Cell C to Telkom	R0.95	R0.90	R0.90	R0.90
International calls*	R0.95 + Telkom off-peak - 20%			
SMS per message	R0.36	R0.36	R0.36	R0.36

Addendum 2: Fuel costs

Latest fuel prices: 2012<sup>90</sup>

2012 (RSA c/litre)	South African Fuel Price History						
	2012 Prices (RSA c/litre)						
	Petrol 93 Unleaded	Petrol 95 Unleaded	Diesel 0.05% Sulphur	Diesel 0.005% sulphur	Illumium Paraffin	Average Exchange Rate Rands/ US\$	Dated Brent Crude
<b>2012</b>							
Jan	590.550	598.550	681.630	687.030	669.128	8.2122	107.96
Feb	624.5506	632.550	680.630	685.030	666.128	8.0841	110.42
Mar	648.170	656.170	686.630	690.030	670.128	7.6790	126.39
Apr	687.570	694.570	706.630	712.030	691.128	7.6193	125.42
May	711.170	718.170	711.630	716.030	700.128	7.8536	120.18
Jun	653.990	660.990	684.630	689.030	679.128	8.1031	110.27
July	571.570	582.570	628.630	634.030	621.128	8.4189	95.22
Aug	597.950	608.950	647.630	654.030	636.128	8.2657	102.04



<sup>89</sup> <http://www.cell.co.za/packages/businesschat>.

## World-wide fuel price comparison<sup>91</sup>

1 American gallon = 3.785 litres

1 Imperial gallon = 4.540 litres

Currency converter = <http://www.oanda.com/convert/classic>

### World- Wide Fuel List

Country	Leaded Petrol		Unleaded Petrol		Diesel	LPG	Currency	Per
	Price	Octane Rating	Price	Rating				
Argentina	-	-	6.189	95	5.639	-	ARS	litre
			6.739	97				
Australia	-	-	1.489	95	1.530	-	AUD	litre
Germany	-	-	1.642	95	1.469	-	EUR	litre
			1.668	98				
India	-	-	77.93	91	43.31	33.37	INR	litre
Japan	-	-	147.46	90	127.29		JPY	litre
			158.17	100				
Kenya	-	-	121.13	93	108.44	-	KES	litre
Mozambique	-	-	47.52	-	36.81	-	MZM	litre
Russia	-	-	28.1429.5032.14	92	26.64	14.70	RUB	litre
				95				
				98				
South Africa (Coastal)	11.92	95	11.87	93	10.78	-	ZAR	litre
	LRP		11.92	95				
South Africa (Gauteng)	12.05	93	12.05	93	11.03	-	ZAR	litre
	LRP		12.22	95				
United Kingdom	-	-	1.384	95	1.443	0.776	GBP	litre
			1.461	98				
United States of America	-	-	3.666	87	3.964	-	USD	Am. gal
			3.834	89				
			3.973	91				
			3.211	E85				

## Addendum 3: Water tariffs

The national and regional water tariffs/charges for 2011/12 for the Western Cape, Eastern Cape, Free State and Gauteng can be obtained directly from the Department of Water Affairs or alternatively accessed on their website at:

[www.dwaf.gov.za/Projects/WARMS/Revenue/charges2011.aspx](http://www.dwaf.gov.za/Projects/WARMS/Revenue/charges2011.aspx).

## Addendum 4: Cost of living comparison<sup>92</sup>

The tables below provide a price comparison of groceries (food, drinks and household items) and fuel/gas in South Africa compared to the USA, UK and Germany.

**Table 1**

### Groceries: Food, drinks and household items

Household product	Lean beef mince	Chicken breasts(1kg)	Cherry tomatoes (400g)	Swiss cheese/ emmenthal (100g)	Plain flour	White bread toast (700g)	Large free range eggs (6)	Full cream milk (2l)
South Africa	R59.95	R52.90	R16.99	R21.99	R9.69	R10.45	R12.95	R17.95
USA	\$6.50	\$4.99	\$4.99	\$2.19	\$2.69	\$1.00	\$2.79	\$3.29
SA equiv.	\$8.69	\$7.67	\$2.46	\$3.19	\$1.40	\$1.51	\$1.88	\$2.60
UK	£4.79	£9.90	£0.93	£1.54	£1.48	£1.35	£1.78	£1.66
SA equiv.	£5.41	£4.78	£1.53	£1.99	£0.88	£0.94	£1.17	£1.62
D/A	6.99€	7.49€	0.99€	2.29€	0.49€	0.70€	2.49€	1.98€
SA equiv.	6.27€	5.53€	1.78€	2.30€	1.01€	1.09€	1.35€	1.88€

<sup>91</sup> AIT/FIA Information Centre - OTA.

<sup>92</sup> ExpatCapeTown.com. Cost of Living Comparison - updated 15 March 2012.

Household product	South Africa	USA	SA equiv.	UK	SA equiv.	D/A	SA equiv.
Tuna chunks in brine	R9.99	\$1.90	\$1.45	£1.00	£0.90	1.49€	1.04€
Nutella hazelnut chocolate spread (400g)	R35.99	\$5.29	\$5.21	£1.40	£3.25	1.95€	3.76€
Palmolive/l'oreal shower gel (250ml)	R24.29	\$2.40	\$3.52	£1.00	£2.19	1.15€	2.54€
Dishwashing powder (2kg)	R95.99	\$4.99	\$13.91	£4.60	£8.67	5.55€	10.04€
Toilet paper (9 rolls)	R53.99	\$8.69	\$7.82	£3.89	£4.88	2.99€	5.65€
Pampers active fit 4, 62-66pc	R173.99	\$22.99	\$25.21	£9.99	£15.71	12.99€	18.20€
Local spring water (5l)	R15.99	\$1.50	\$2.32	£1.00	£1.44	1.50€	1.67€
12 Coca-cola cans (330ml)	R26.79	\$5.39	\$3.88	£6.18	£2.42	3.99€	2.80€
Nescafe gold blend (200g)	R79.99	\$6.99	\$11.59	£5.99	£7.22	9.49€	8.37€
Absolut vodka (70cl)	R161.99	\$21.95	\$23.47	£16.89	£14.63	14.99€	16.94€
Dog food (1.5kg)	R60.99	\$5.99	\$8.84	£2.96	£5.51	3.79€	6.38€

Table 2

*Fuel and gas/petrol*

Household product	South Africa	USA	SA equiv.	UK	SA equiv.	D/A	SA equiv.
Diesel (1l)	R9.18	\$0.59	\$1.33	£1.38	£0.83	1.43€	0.96€
Petrol unleaded/normal (1l)	R9.48	\$0.61	\$1.37	£1.32	£0.86	1.61€	0.99€



Overall, it is difficult to calculate an average cost of living in South Africa, as it depends on an individual's circumstances and lifestyle. Food costs in South Africa are similar to those in most other western European countries, although you may need to modify your diet. A budget of R2 000 to R3 000 (€200 to €310) feeds two adults well for a month, excluding fillet steak, caviar and alcohol (other than a moderate amount of inexpensive beer or wine). On the other hand, it is possible to live frugally in South Africa if you are willing to forego luxuries and "live off the land".

A list of the approximate minimum monthly major expenses for an average single person, couple and family of four is shown in the table below. If you work in South Africa, you need to deduct the appropriate percentage of your salary for income tax and social security contributions. The numbers in brackets refer to the notes following the table.

Item	Monthly Costs (R)		
	Single	Couple	Family Of Four
Housing (1)	3 500	4 500	6 000
Food (2)	1 750	2 500	4 000
Utilities (3)	300	400	700
Leisure (4)	800	1 250	2 000
Transport (5)	700	800	1 100
Insurance (6)	400	600	1 000
Clothing	300	600	1 200
<b>Totals</b>	<b>7 750</b>	<b>10 650</b>	<b>16 000</b>

**Notes:**

(1) Rent or mortgage payments for a modern or modernised apartment or house in an average suburb, excluding major cities and other high-cost areas. The properties envisaged are a studio or one-bedroom apartment for a single person, a two-bedroom property for a couple, and a three-bedroom property for a family of four. (2) Doesn't include luxuries or expensive alcoholic drinks. (3) Includes electricity, gas, water, telephone, and pay (e.g. satellite) TV and heating costs. (4) Includes all entertainment, restaurant meals, sports and holiday expenses, plus newspapers and magazines. (5) Includes running costs for an average family car, plus third party insurance, annual taxes, petrol, servicing and repairs, but excludes depreciation or credit purchase costs. (6) Includes "voluntary" insurance such as supplementary health insurance, household, third party liability, travel, car breakdown and life insurance, equipment, electrical and electronic goods, computers and photographic equipment) abroad can also yield savings.

**Addendum 5: Education costs**

South Africa has a single national education system, organised and managed by the National Department of Education. South Africa also has numerous private schools. The table below provides an indicative cost of private schooling in South Africa.

For further information regarding schools (private, public and boarding schools) and schooling fees, contact:

- The National Department of Education: 0800 202 933  
Tel: +27 12 357 3000 or  
[www.education.gov.za](http://www.education.gov.za)
- The South African Schools Network:  
[www.southafricanschools.net/](http://www.southafricanschools.net/)

## The American International School of Johannesburg <sup>93</sup>

### Tuition schedule (2012/13 school years)

The Board of Directors has approved the following tuition and fee rates for the 2012/13 academic year:

Plan A		Plan B		
Annual schedule		Semester schedule		
100% due before Aug 1, 2012		60% due before Aug 1, 2012	40% due before Jan 1, 2013	Total semester schedule
Pre-K	\$6 148+	\$3 873+	\$2 582+	\$6 455+
	79 613	R50 156	R33 437	R83 594
Elementary K- 5	\$8 197+	\$5 164+	\$3 443+	\$8 607+
	106 151	R66 875	R44 583	R111 459
Middle school 6 - 8	\$9 581+	\$6 036+	\$4 024+	10 060+
	R124 072	R78 165	R52 110	R130 276
High school 9 - 12	\$10 646+	\$6 707+	\$4 471+	\$11 178+
	R137 858	R86 851	R57 900	R144 751

### Notes:

#### 1. Advance deposit

For each returning student, an advance deposit of \$1 000 must be paid by 1 June. The deposit will be adjusted against the tuition invoice

#### 2. Application fee - New students only

All students applying to attend AISJ must pay a non-refundable fee of R2 500 (or the US Dollar equivalent on the day of payment). No application will be processed until this fee has been received.

#### 3. Capital fee - New students and students entering kindergarten

This is a non-refundable, one-time fee of R60 000, which must be paid before new students attend school. Payment of this fee is necessary to secure a seat for the student at AISJ. This fee is applicable to all new students in Kindergarten through Grade 12.

#### 4. Capital fee - Returning students only

All returning students pay a non-refundable, non-proratable annual fee of R56 500 which must be paid in full before 1 August 2012, and is applicable to students in Grade 1 through Grade 12. Students who are returning to AISJ after an extended absence and have previously paid the one-time New Students Capital Fee are considered returning students for purposes of the Capital Fee.

#### 5. Tertiary education<sup>47</sup>

Higher education institutions are autonomous; the Government subsidises institutional funding on the basis of research output and student population. The Department of Education provides a national framework for the implementation of the Government's educational policies. Four South African universities, Cape Town, Witwatersrand, KwaZulu-Natal, and Tshwane rank among the top 500 in the world, with the University of Cape Town judged the best of the four.

<sup>93</sup> Source: [www.aisj-jhb.com](http://www.aisj-jhb.com).

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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The University of South Africa (Unisa) offers distance learning.

Their fees are depicted in the tables below:<sup>94</sup>

#### Distance learning: Unisa

Description	Semester	Total	Minimum amount payable on registration	Due by 15 March 2012	Due by 15 May 2012	Due by 15 August 2012
Subjects in Education, Law, Libraries, Museums, Psychology, Administration and Social Services						
Half module	Year	R807.00	R360.00		R220.00	R227.00
Module	S1	R1 614.00	R750.00	R864.00		
	S2	R1 614.00	R750.00			R864.00
	Year	R1 614.00	R750.00		R434.00	R430.00
Full-year course/paper	Year	R3 228.00	R1 460.00		R888.00	R880.00
Full-year course/paper 36 SAQA	Year	R4 842.00	R2 200.00		R1 322.00	R1 320.00
Description	Semester	Total	Minimum amount payable on registration	Due by 15 March 2012	Due by 15 May 2012	Due by 15 August 2012
Subjects in Business; Commerce and Management Sciences; Computer Science and Data Processing; Language, Linguistics and Literature; Philosophy; Religion and Theology; and Social Sciences Studies						
Half module	Year	R759.00	R360.00		R199.00	R200.00
Half module	S1	R1 518.00	R750.00	R768.00		
	S2	R1 518.00	R750.00			R768.00
	Year	R1 518.00	R750.00		R378.00	R390.00
Full-year course/paper	Year	R3036.00	R1 460.00		R796.00	R780.00
Full-year course/paper 36 SAQA	Year	R4 554.00	R2 200.00		R1 177.00	R1 177.00

Description	Semester	Total	Minimum amount payable on registration	Due by 15 March 2012	Due by 15 May 2012	Due by 15 August 2012
Subjects in Architecture and Environment Design; Engineering and Engineering Technology; Home Economics; Industrial Arts, Trades and Technology; Mathematical Sciences; and Physical Education, Health Education and Leisure						
Module	Year	R723.00	R360.00			R363.00
	S1	R1 446.00	R750.00	R696.00		
	S2	R1 446.00	R750.00			R696.00
	Year	R1 446.00	R750.00		R350.00	R346.00
Full-year course/paper	Year	R2 892.00	R1 460.00		R722.00	R710.00
Full-year course/paper 36 SAQA	Year	R4 338.00	R2 200.00		R1 038.00	R1 100.00
Description	Semester	Total	Minimum amount payable on registration	Due by 15 March 2012	Due by 15 May 2012	Due by 15 August 2012
Subjects in Agriculture and Renewable Natural Resources; Arts, Visual and Performing Arts; Health Care and Health Sciences and Life Sciences and Physical Sciences						
Half module	Year	R665.00	R360.00		R155.00	R150.00
	S1	R1 330.00	R750.00	R580.00		
	S2	R1 330.00	R750.00			R580.00
	Year	R1 330.00	R750.00		R300.00	R280.00
Full-year course/paper	Year	R2 660.00	R1 460.00		R600.00	R600.00
Full-year course/paper 36 SAQA	Year	R3 990.00	R2 200.00		R890.00	R900.00

<sup>94</sup> [www.unisa.co.za](http://www.unisa.co.za)

## Addendum 6: Cost of office space and industrial land

The Rode Report analyses most property transactions and reports on most sectors of the property market in the major, and some secondary cities in South Africa. It covers, *inter alia*, trends and levels of rentals and standard capitalisation rates by property type, grade, node/township, the listed real estate market, building construction costs and building activity. The following excerpts from the 2012 Rode Report provide an indication of the cost of office space and industrial land in South Africa:

### Addendum 6.1: Market rental rates for office buildings<sup>95</sup>

Market rental rates for office buildings Quarter 2011:4 Rands per rentable m <sup>2</sup> , gross leases (excl. VAT)				
Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Johannesburg CBD		77.50	62.50	43.00
Braamfontein		77.50	77.50	65.00
Sandton CBD	180.00	148.33.33	94.50	85.33.00
Dunkeld West	128.20	120.00	93.00	87.67.00
Wierda Valley	132.00	109.75	95.50	84.00
Randburg Ferndale	83.00	73.00	68.00	64.00
Rivonia	115.00	98.08	88.60	77.00
Rosebank	158.33	111.33	91.60	82.00
Ilovo	131.33	116.00	98.00	82.00
Ilovo Boulevard	133.00	117.33	104.75	84.00
Chiselhurston	114.50	110.00	96.75	84.00
Parktown	96.00	89.33	80.25	68.00
Richmond/Millpark	-	79.00	77.50	65.50
Bedfordview	110.00	110.50	95.00	80.00
Bruma	-	105.00	87.50	75.00
Meadowbrook	-	-	-	-
Woodmead	117.67	110.50	93.20	84.00
Sunninghill	110.33.00	97.60	87.20	78.75

### Market rental rates for office buildings

Quarter 2011:4

Rands per rentable m<sup>2</sup>, gross leases (excl. VAT)

Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Bryanston/ Epsom	133.33	118.33	93.00	83.00
Fourways	133.75	118.33	93.00	83.00
Houghton	115.67	106.00	90.67	86.75
Melrose Arch	189.00			
Hydepark	124.67	121.67	101.67	78.33
Eastgate		80.00	56.00	53.00
Ormonde	88.50	79.00	69.50	69.00
Midrand	96.33	88.50	75.25	71.75
Hendrik Potgieter Corridor		88.00	79.00	71.33
Pretoria		80.00	75.00	60.00
Lynnwood Glen		90.00	80.00	70.00
Lynnwood	94.00	87.00	77.50	67.50
Lynnwood Manor	105.00	100.00	82.50	60.00
Lynnwood Ridge	120.00	115.00	86.50	75.00
Faerie Glen	115.33	104.67	85.00	60.00
Val de Grace		72.00	68.00	
Menlyn	137.50	117.33	97.50	75.00
Menlo Park	125.00	110.00	92.50	70.00
Brooklyn/ Waterkloof	142.50	117.00	93.33	75.00
Nieuw Muckleneuk	130.00	123.33	95.00	70.00
Hatfield	124.50	120.00	91.00	60.00
Centurion	112.00	102.50	93.33	60.00
Highveld Technopark	145.00	120.00	95.00	70.00

<sup>95</sup> Rode's Report 2012(pp.30 – 31). [www.rode.co.za](http://www.rode.co.za).

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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Market rental rates for office buildings Quarter 2011:4 Rands per rentable m <sup>2</sup> , gross leases (excl. VAT)				
Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Sunnyside	105.00	95.00	80.00	60.00
Arcadia	100.00	88.33	75.00	65.00
Murrayfield	100.00	85.00	71.50	55.00
Nelspruit		120.00	100.00	80.00
Polokwane	160.00	125.00	95.00	80.00
Bloemfontein				
CBD		97.50	75.00	55.00
Westdene	115.00	106.67	77.67	63.33
Durban CBD		82.50	52.50	40.00
Durban Berea		105.00	90.00	72.50
Essex Terrace	95.00	91.67	81.67	71.67
Westway	122.50	116.67	105.00	
La Lucia Ridge	125.00	122.50	105.00	
Westville	120.00	00.00	87.50	75.00
Pinetown	80.00	70.00	60.00	50.00
Port Elizabeth				
East London		75.00	50.00	41.12
East London dec.	11.00	87.50	65.00	42.50

Rands per rentable m <sup>2</sup> , gross leases (excl. VAT)				
Location	Grade A+	Grade A mean	Grade B mean	Grade C mean
Cape Town CBD	127.50	98.75	78.00	60.00
Sea Point	100.00	83.33	76.25	57.67
V&A Portswood Ridge	141.67	115.00	100.00	80.00
Granger Bay	155.00	102.50		
Salt River	100.00	90.00	56.00	40.00
Woodstock	102.50	88.75	75.00	60.00
Observatory	87.50	80.00	67.50	61.67
Mowbray	112.50	81.67	70.00	70.00
Kenilworth (Racecourse)	120.00	95.00	81.67	60.00
Rondebosch/Newlands	116.67	93.75	75.00	65.00
Wynberg	100.00	76.67	66.67	57.50
Westlake	113.00	96.00	78.33	67.50
Tokai	100.00	87.50	71.67	65.00
Claremont Lower	110.00	88.33	72.50	62.50
Claremont Upper	120.00	96.67	73.33	
Hout Bay	90.00	80.00	62.50	60.00
Noordhoek (Sun Valley)	90.00	70.00	50.00	40.00
Pinelands	100.00	80.00	65.00	50.00
Athlone	90.00	70.00	50.00	40.00
Milnerton	90.00	82.50	50.00	40.00
Century City	127.50	100.00	85.00	75.00
Maitland	90.00	67.50	60.00	40.00
Goodwood (N1 City)	100.00	78.33	65.00	50.00
Tygerberg Hills	115.00	93.33	77.50	62.50
Bellville CBD		87.50	70.00	50.00
Tyger Valley area	105.00	95.33	82.50	70.00
Durbanville	110.00	90.00	80.00	80.00
Airport	120.00	100.00	85.00	
Kuils River				40.00
George	65.00	55.00	47.50	45.00

Addendum 6.2: Mean market values for serviced and level industrial stands<sup>96</sup>

Mean market values for serviced and level industrial stands Quarter 2011:4 (R/m <sup>2</sup> excl. VAT)					
Location	Area: in m <sup>2</sup>				
	1 000	2 000	5 000	10 000	Vacancy
Central Witwatersrand	719	703	692	687	1.8
West Rand	696	696	685	642	1.0
East Rand	708	731	732	711	1.4
Pretoria	675	619	671	627	1.7
Nelspruit	900	895	775	588	2.8
Durban	1.157	1.128	1.068	1.007	2.0
Cape Peninsula	1.168	1.092	986	928	2.5
George	-	-	-	-	-
Port Elizabeth	630	632	5719	523	2.4
Bloemfontein	304	290	237	157	1.4



<sup>96</sup> Rode's Report 2012 (pp. 94 - 105). [www.rode.co.za](http://www.rode.co.za).

Addendum 6.3: Typical gross outgoings (costs) for prime office buildings<sup>97</sup>

Typical gross outgoings for prime office buildings			
(As reported by brokers) Quarter 2011:4			
R/rentable m <sup>2</sup> per month			
Location	Mean	SD	n
<b>Johannesburg decentralised nodes:</b>			
Sandton	26.50	6.24	4
Dunkeld West	24.00	5.29	3
Wierda Valley	24.00	5.29	3
Randburg Ferndale	21.00	3.61	3
Rivonia	20.20	0.45	5
Rosebank	27.25	4.27	4
Illovo	27.00	7.21	3
Illovo boulevard	28.33	5.77	3
Chiselhurston	28.67	7.09	3
Parktown	25.50	4.93	4
Richmond/Milpark	19.25	8.50	4

<sup>97</sup> Rode's Report 2012. [www.rode.co.za](http://www.rode.co.za).  
Rode's Report 2012 (pp. 38-40). [www.rode.co.za](http://www.rode.co.za).

Typical gross outgoings for prime office buildings (As reported by brokers) Quarter 2011:1 R/rentable m <sup>2</sup> per month			
Location	Mean	SD	n
Bedfordview	19.67	1.530	3
Bruma	19.67	1.530	3
Meadowbrook	N/A	N/A	N/A
Woodmead	20.75	1.50	4
Sunninghill	20.50	1.00	4
Bryanston/epsom	24.00	1.73	3
Fourways	23.00	2.45	4
Houghton	28.33	8.50	3
Melrose Arch	36.00	1.73	3
Hydepark	24.00	1.73	3
Eastgate/Kramerville	19.67	1.53	3
Ormonde	20.00	N/A	N/A
Midrand	20.00	0.00	3
Hendrik Potgieter Corridor	20.67	1.15	3
Pretoria decentralised nodes:			
Lynnwood Glen	13.50	2.12	2
Lynnwood	12.50	3.54	2
Lynnwood Manor	17.50	3.54	2
Lynnwood Ridge	15.00	0.00	2
Faerie Glen	12.50	3.54	2
Val de Grace	15.00	N/A	1
Menlyn	25.00	14.14	2
Menlo Park (Brooks St.)	13.50	2.12	2
Brooklyn/Waterkloof	14.25	6.01	2
Nieuw Muckleneuk	14.25	6.01	2
Hatfield	12.50	3.54	2
Centurion	11.00	3.61	3
Highveld Technopark	12.50	3.54	2

Typical gross outgoings for prime office buildings (As reported by brokers) Quarter 2011:4 R/rentable m <sup>2</sup> per month			
Location	Mean	SD	n
Arcadia	12.00	0.00	2
Murrayfield	8.00	n/a	1
Nelspruit	20.00	n/a	1
Polokwane	17.00	n/a	1
Bloemfontein CBD	11.83	1.59	3
Westdene	17.50	3.54	2
Durban decentralised nodes:			
Durban Berea	28.00	0.00	2
Essex Terrace	28.00	2.65	2
Westway	30.00	0.00	3
La Lucia Ridge	33.50	2.12	2
Westville	29.33	1.15	3
Pinetown	23.50	4.95	2
Hillcrest-Kloof (Upper Highway)	n/a	n/a	0



Typical gross outgoings for prime office buildings (As reported by brokers) Quarter 2011:4 R/rentable m <sup>2</sup> per month			
Location	Mean	SD	n
Port Elizabeth CBD	11.50	n/a	1
East London CBD	n/a	n/a	0
East London decentralised	n/a	n/a	0
<b>Cape Town CBD:</b>			
Sea Point	28.33	2.89	3
V&A Portswood Ridge	30.00	0.00	3
Granger Bay	30.00	0.00	3
Salt River	20.00	5.00	3
Woodstock	21.67	5.77	3
Observatory	25.00	0.00	2
Mowbray	24.33	6.03	3
Kenilworth (Racecourse)	25.00	n/a	1
Westlake	25.00	n/a	1
Tokia	22.00	n/a	1
Claremont Lower	21.00	5.66	2
Claremont Upper	n/a	n/a	2
Hout Bay	25.00	0.00	2
Noordhoek (Sun Valley)	22.00	n/a	1
Pinelands	21.67	5.77	3
Athlone	20.00	n/a	1
Milnerton	20.00	n/a	1
Panorama	22.00	n/a	1
Rondebosch/ Newlands	22.00	n/a	2
Wynberg	25.00	n/a	1
Maitland	22.50	3.54	2

Typical gross outgoings for prime office buildings (As reported by brokers) Quarter 2011:4 R/rentable m <sup>2</sup> per month			
Location	Mean	SD	n
Goodwood (N1 City)	17.00	7.07	2
Tygerberg Hills	25.00	n/a	1
Bellville CBD	17.50	10.61	2
Tyger Valley area	19.50	7.78	2
Durbanville	22.00	n/a	1
Mitchell's Plain	n/a	n/a	n/a
Airport	n/a	n/a	0
Kuilsriver	n/a	n/a	0
George	4.4	0.85	2

#### Addendum 6.4: Flat rentals for standard units<sup>99</sup>

Flat Rentals: Standard Units Quarter 2011:4 Average Rands per month				
Location	Bachelor	1-Bed	2-Bed	3-Bed
	Mean	Mean	Mean	Mean
Johannesburg average	R2.584	R3.306	R4.222	R4.954
Germiston average	R1.699	R2.115	R2.850	R2.811
Pretoria average	R2.454	R2.807	R3.504	R4.066
Nelspruit average	R1.600	R3.153	R3.894	R4.951
Durban average	R2.830	R3.337	R4.148	R5.124
Cape Town average	R2.568	R3.220	R4.105	R5.255
Port Elizabeth average	R2.256	R2.582	R3.128	R3.791
East London average	R2.347	R2.490	R2.996	R3.358
Bloemfontein average	R1.779	R2.360	R3.008	R3.744

<sup>99</sup> Rode's Report 2012 (pp.102 - 113). [www.rode.co.za](http://www.rode.co.za).

#### Addendum 6.5: Flat rentals for upmarket units <sup>98</sup>

Flat Rentals: Upmarket Units Quarter 2011:4 Average Rands per month				
Location	Bachelor	1-Bed	2-Bed	3-Bed
	Mean	Mean	Mean	Mean
Johannesburg average	R3.001	R4.298	R5.326	R6.045
Germiston average	R1.850	R2.392	R2.796	R3.250
Pretoria average	-	-	-	-
Centurion average	R3.588	R4.133	R4.986	R6.264
Nelspruit average	R2.000	R3.472	R4.379	R5.735
Durban average	R3.238	R4.152	R5.200	R7.049
Cape Town average	R3.414	R4.223	R5.549	R7.380
Port Elizabeth average	R2.610	R3.066	R3.563	R4.320
East London average	R2.658	R2.906	R3.356	R3.813
Bloemfontein average	-	-	-	-



#### Addendum 7: Other costs in South Africa <sup>100</sup>

SA Rands		
Cape Town		
Accommodation		
5-star hotel	per person sharing	R2 000
3-star hotel	per person sharing	R400
Standard Holiday Inn,		
3-star hotel	per person sharing	R350
Guest house/B&B (5-star)	per person sharing	R550
Budget accommodation	per person sharing	R200
Backpacking/youth hostel	per person	R70
Drink		
Premium red wine	Bottle: 750ml	R130
Good quality everyday red wine	Bottle: 750ml	R30
Premium white wine	Bottle: 750ml	R85
Good quality everyday		
White wine	Bottle: 750ml	R25
Local beer	Can: 375ml	R5
Imported beer (Heineken)	Can: 375ml	R8
Scotch Whisky (Bells, J&B)	Bottle: 750ml	R130
Soft drinks (Coca-Cola)	Bottle/can: 375ml	R5
Hotel/restaurant wine	Bottle	add 100%+
Hotel/restaurant wine	by the glass	R12+
Hotel/restaurant beer	375ml local can/bottle	R8
Hotel/restaurant beer	500ml local draft	R10
Hotel/restaurant Scotch Whisky	tot	R15+
Hotel/restaurant Soft drinks	Bottle/can: 375ml	R7+
Food		
Top restaurant	starter, main, dessert: p/p	R200
A memorable meal	main, starter/dessert: p/p	R120
Steakhouse rump steak	500g	R70
Family restaurant: fish		R60
Family restaurant: Pasta/Pizza	p/p	R45
Coffee Shop breakfast	"English" breakfast	R30
Sandwich take-out	a variety of fillings	R12

<sup>98</sup> Rode's Report 2012 (pp.102 - 113). [www.rode.co.za](http://www.rode.co.za).

<sup>100</sup> <http://capeinfo.com/costs-in-cape-town> (Last updated 3 June 2012).

SA Rands		
<b>Cape Town</b>		
<b>Main attractions</b>		
Table Mountain Cableway Buy online	adult: child (under 18): child (under 4)	R180 R90 Free
Robben Island	adult: child (under 18):	R220 R110
Kirstenbosch Buy online	adult: child (6 - 17):	R37 R10
Cape Point	adult: child (under 11):	R80 R20
Chapman's Peak Drive	toll road: per car	R30
<b>Entertainment and leisure</b>		
Cinema tickets	per person	R35
Round of golf	per person, from	R100+
<b>Transport</b>		
Airport Shuttle	one way, per person	R130
Direct Transfer	Wide range of economical options	
Taxi	per km	R9
Car rental	per day	R250
<b>Tours</b>		
Full day peninsula tour	per person	R700
Full day winelands tour	per person	R700



SA Rands		
<b>Johannesburg</b>		
<b>Accommodation</b>		
5-star hotel	per person sharing	R2 000
3-star hotel	per person sharing	R400
Standard Holiday Inn, 3-star hotel	per person sharing	R350
Guest house/B&B (5-star)	per person sharing	R550
Budget accommodation	per person sharing	R200
Backpacking/youth hostel	per person	R70
<b>Drink</b>		
Premium red wine	Bottle: 750ml	R130
Good quality everyday red wine	Bottle: 750ml	R30
Premium white wine	Bottle: 750ml	R85
Good quality everyday white wine	Bottle: 750ml	R25
Local beer	Can: 375ml	R5
Imported beer (Heineken)	Can: 375ml	R8
Scotch Whisky (Bells, J&B)	Bottle: 750ml	R130
Soft drinks (Coca-Cola)	Bottle/can: 375ml	R5
Hotel/restaurant wine	Bottle	add 100%+
Hotel/restaurant wine	by the glass	R12+
Hotel/restaurant beer	375ml local can/bottle	R8
Hotel/restaurant beer	500ml local draft	R10
Hotel/restaurant Scotch Whisky	tot	R15+
Hotel/restaurant Soft drinks	Bottle/can: 375ml	R7+
<b>Food</b>		
Top restaurant	starter, main, dessert: p/p	R200
A memorable meal	main, starter/dessert: p/p	R120
Steakhouse rump steak	500g	R70
Family restaurant: fish		R60
Family restaurant: Pasta/Pizza	p/p	R45
Coffee Shop breakfast	"English" breakfast	R30
Sandwich take-out	a variety of fillings	R12

SA Rands		
<b>Johannesburg</b>		
<b>Main attractions</b>		
Apartheid Museum	adult: child (under 18):	R40 R25
Gold Reef City	adults and scholars: toddlers (under 1.3m):	R150 R100
Constitutional Court		Free
Liliesleaf		Free
Cradle of Humankind	Maropeng Visitors' Centre: Adults Children 4 - 14 Combination - Maropeng and Sterkfontein Caves: Adults Children 4 - 14	R115 R65 R190 R110
<b>Entertainment and leisure</b>		
Cinema tickets	per person	R35
Round of golf	per person, from	R100+
<b>Transport</b>		
Gautrain	OR Tambo - Sandton, single	R100
Direct Transfer	Wide range of economical options	
Taxi	per km	R9
Car rental	per day	R250

**Note:**

The prices quoted are average prices throughout the year. Peak season (Christmas/New Year) in coastal cities can be much higher, but Johannesburg doesn't have a peak season at all. And suburbs can be cheaper while rural areas are frequently much cheaper. In addition the costs chosen are middle-of-the-road costs within the different parameters.

**Addendum 8: National remuneration data<sup>101</sup>**

National remuneration guide	
Job category	National salary range (per annum)*
Cleaner	R73 640 - R90 994
Messenger/Driver	R110 120 - R135 910
Telephonist - Level 1	R120 213 - R148 999
Telephonist - Level 3	R159 363 - R196 710
Receptionist - Level 1	R117 425 - R145 452
Receptionist - Level 2	R134 604 - R166 308
Secretary - Level 1	R164 165 - R202 829
Secretary - Level 3	R218 951 - R270 519
Personal Assistant - Level 1	R221 293 - R273 401
Personal Assistant - To CEO	R362 552 - R448 120
Human Resources (HR) Manager - Level 1	R604 696 - R746 396
Human Resources (HR) Manager - Level 2	R759 378 - R939 994
Graphic Artist / Designer - Junior	R254 149 - R313 803
Graphic Artist / Designer - Senior	R420 406 - R519 346
Clerk (General) - Level 1	R108 992 - R134 523
Clerk (General) - Level 3	R167 569 - R207 019
Chartered Accountant (Qualified) - Level 3	R554 598 - R684 493
Chartered Accountant (Qualified) - Level 5	R741 213 - R915 392

\*The range of figures provided relate to guaranteed pay (viz. basic plus all benefits).

<sup>101</sup> Based on data provided by Deloitte Human Capital (February 2012).

Regional differences in remuneration					
Regional variances from the national norm*					
Region	Mid-managerial/high level specialist	Specialised/skilled senior supervisory	General staff/clerical supervisory	Lower skilled/hourly rated	Overall average
National	100	100	100	100	100
Cape Town and Environs	102	100	101	100	101
Durban and Environs	101	96	102	99	100
East Rand	107	106	104	106	106
Eastern Cape	94	93	93	92	93
Free State	92	91	90	88	90
Johannesburg	109	108	107	105	107
Limpopo Province	93	90	91	93	92
Midrand	106	105	106	102	105
Mpumalanga	99	94	97	95	96
Northern Cape	90	89	94	89	91
North West Province	96	92	92	94	94
Other KwaZulu-Natal	95	101	95	97	97
Pretoria	105	104	103	101	103
Vaal Triangle	100	103	99	104	102
West Rand	103	97	100	96	99
Western Cape	98	99	98	98	98

\*Regional variances from the national norm (indexed at 100).

Regional differences in remuneration (comparative ratios)*	
Region	National (100)
Cape Town and Environs	101
Durban and Environs	100
East Rand	106
Eastern Cape	93
Free State	90
Johannesburg	107
Limpopo Province	92
Midrand	105
Mpumalanga	96
Northern Cape	91
North West Province	94
Other KwaZulu-Natal	97
Pretoria	103
Vaal Triangle	102
West Rand	99
Western Cape	98

\*Regional variances from the national norm (indexed at 100).

## Addendum 9: Transportation costs for goods

### Addendum 9.1: Rail <sup>102</sup>

#### Transnet freight rail, rail charge levy

**Note:**

The Transnet freight rail, rail charge levy information is made available here to enable Transnet freight rail customers to verify amounts on their statements.



#### Transnet freight rail, rail charge levy %

Levy Components	Effective date	Effective date	Effective date
	2012-04-01	2012-04-01	2012-05-09
Diesel	Diesel fuel price adjustments	0.000%	0.000%
Electricity	Electrical Energy price adjustments	0.000%	0.000%
Exchange	Foreign Currency exchange rate adjustments	0.000%	0.000%
Steel	Steel price adjustments	0.000%	0.000%
Total levy applicable 2 <sup>nd</sup> Wednesday of month		0.000%	0.000%

## Detail for levy components

Constants	Diesel-price examples	Effective date	Effective date	Effective date
		2012-04-01	2012-04-01	2012-05-09
R	Energy (Diesel) Component of Rail price (P1 to P3)	8.000%	8.000%	8.000%
NP	New Diesel price Diesel Levy	R1088.970	R1088.970	R1098.370
BPx	Diesel Basis price adjusted yearly as on 1 April YYYY	R1088.970	R1088.970	R1088.970
Ix	Diesel Levy Applicable 2nd Wednesday of month	0.0000%	0.0000%	0.0000%

Constants	Electricity % examples	Effective date	Effective date	Effective date
		2012-04-01	2012-04-01	2012-05-09
RP	Energy (Electricity) component of rail price	7.8000%	7.800%	7.800%
S	Cumulative electricity increase/ decrease margin	0.000%	0.000%	0.000%
Sbe	Electricity price increase	0.000%	0.000%	0.000%
	Electricity levy			
Ax	Electricity basis adjusted yearly as on 1 April YYYY	0.000%	0.000%	0.000%
Ix	Electricity levy applicable 2nd Wednesday of month	0.000%	0.000%	0.000%

<sup>102</sup> Source: <http://www.spoornet.co.za>

Addendum 9 2· Road 103

### *Toll tariffs*

## N1 toll road tariffs (Effective 23 March 2012)

N1: Johannesburg - Cape Town				Operator	Class I	Class II	Class III	Class IV
Grasmere	Main line	Main line	N ramp	Grasmere - Louisrus				
Vaal	Kroonstad - Bloemfontein	Louisrus - Kroonstad	Intertoll	Intertoll	Intertoll	Intertoll	Intertoll	Intertoll
Verkeerdevlei	Uncor	Uncor	Uncor	Uncor	Uncor	Uncor	Uncor	Uncor
Huguenot	R27.00	R39.00	R45.00	R7.00	R7.00	R14.00		
	R75.00	R78.00	R85.00	R20.50	R20.50	R41.00		
	R117.00	R117.00	R103.00	R24.00	R24.00	R48.00		
	R190.00	R164.00	R137.00	R31.50	R31.50	R63.00		

<sup>103</sup> [www.nra.co.za/live/content.php?Item\\_ID=202](http://www.nra.co.za/live/content.php?Item_ID=202)



N1: Pretoria - Beit Bridge (Great North Rd)				Capricorn			
Operator	Intertoll	Main line	Main line	Operator	Intertoll	Main line	Main line
Louis Trichardt - Beit Bridge	Intertoll	Intertoll	Intertoll	Pietersburg - Louis Trichardt	Intertoll	Intertoll	Intertoll
R6.50	R11.00	R9.50	R20.00	R8.50	—	R31.00	R32.00
R11.00	R19.00	R17.00	R36.00	R15.00	—	R83.00	R87.00
R16.00	R27.00	R23.00	R50.00	R21.00	—	R115.00	R102.00
R27.00	R50.00	R36.00	R81.00	R35.00	—	R138.00	R127.00

*N2 toll road tariffs  
(Effective 23 March 2012)*

N2: Durban - Port Shepstone (Sth Coast Rd)				Oribi			
Operator	Intertoll	Main line	Ramp	Operator	Intertoll	Main line	Ramp
Umtentweni	Intertoll	Intertoll	Ramp	Umtentweni	Intertoll	Intertoll	Ramp
R6.00	R32.00	R13.00	R5.00	R9.50	R4.00	R8.00	R4.00
R4.00	R12.00	R61.00	R27.00	R9.50	R26.00	R8.50	R8.50
R59.00	R14.00	R72.00	R31.00	R12.00	R35.00	R11.00	R21.00
R86.00	R22.00	R108.00	R42.00	R16.00	R52.00	R16.00	R31.00

N2: Durban - Empangeni (North Coast Rd)				Tongaat			
Operator	Intertoll	Main line	Ramp	Operator	Intertoll	Main line	Ramp
K Shaka Aport	Intertoll	Intertoll	Intertoll	K Shaka Aport	Intertoll	Intertoll	Intertoll
Mvoti	Intertoll	Intertoll	Intertoll	Mvoti	Intertoll	Intertoll	Intertoll
Mandini	Intertoll	Intertoll	Intertoll	Mandini	Intertoll	Intertoll	Intertoll
Dokodweni	Intertoll	Intertoll	Intertoll	Dokodweni	Intertoll	Intertoll	Intertoll
Mtunzini	Intertoll	Intertoll	Intertoll	Mtunzini	Intertoll	Intertoll	Intertoll
Tolcon	Tolcon	Tolcon	Tolcon	Tolcon	Tolcon	Tolcon	Tolcon
R25.00	R6.00	R32.00	R13.00	R5.00	R9.50	R4.00	R8.00
R4.00	R12.00	R61.00	R27.00	R9.50	R26.00	R8.50	R8.50
R59.00	R14.00	R72.00	R31.00	R12.00	R35.00	R11.00	R21.00
R86.00	R22.00	R108.00	R42.00	R16.00	R52.00	R16.00	R31.00

N2: Garden Route				Operator	Concor	Concor	W Ramp	Main line
							E Ramp	E Ramp
Tsitsikamma				Eiansbos River - Platbos	Eiansbos River - Platbos			
				Concor	Concor	Concor		
							Class I	Class II
							Class III	Class IV

Main line	Main line	Main line	W Ramp	Main line
Warden - Fiere	Villiers - Warden	Heidelberg - Villiers	Eiansbos River - Platbos	
Tolcon	Tolcon	Tolcon		
R50.00	R47.00	R34.00	R36.00	R36.00
R78.00	R81.00	R53.00	R91.00	R91.00
R123.00	R108.00	R80.00	R217.00	R217.00
R180.00	R153.00	R115.00	R307.00	R307.00

*N3 toll road tariffs  
(Effective 14 March 2011)*

N3 Johannesburg - Durban					Operator	Class I	Class II	Class III	Class IV
De Hoek									
Wilge									
Tugela									
R50.00	R47.00	R34.00	R36.00	R36.00					
R78.00	R81.00	R53.00	R91.00	R91.00					
R123.00	R108.00	R80.00	R217.00	R217.00					
R180.00	R153.00	R115.00	R307.00	R307.00					

Mooi	Mariannhill	Mainline	Treverton	S ramp	N ramp	Main line	Ramp	Ramp	Ramp
		Key Ridge - Paradise Valley		Mooi River - Cedara	Mooi River - Cedara	Frere - Cedara	Ladysmith - Escort	Harrismith - Ladysmith	
Tugela East	Bergville	Intertoll	Tolcon	Tolcon	Tolcon	Tolcon	Tolcon	Tolcon	Tolcon
		R8.00	R11.00	R25.00	R11.00	R35.00	R15.00	R31.00	
Bergville	Tugela East	R15.00	R26.00	R60.00	R26.00	R86.00	R18.00	R51.00	
		R19.00	R26.00	R84.00	R36.00	R120.00	R33.00	R76.00	
Tugela East	Bergville	R28.00	R49.00	R114.00	R49.00	R163.00	R50.00	R106.00	

N4 Pretoria - Lobatse (Botswana Border)								Quagga			
Swartruggens				Kroondal				Marikana		Pelindaba	
Main line		Ramp		Main line		Ramp		Brits		Doornpoort	
Rustenburg	Local destinations	Mooienooi - Rustenburg	Local destinations	Brits - Mooienooi	Local destinations	Brits - Mooienooi	Local destinations	Bakwena	Bakwena	Bakwena	Bakwena
Bakwena	Bakwena	Bakwena	Bakwena	Bakwena	Bakwena	Bakwena	Bakwena	Bakwena	Bakwena	Bakwena	Bakwena
R71.00	R10.00	R15.00	R10.00	R9.50	R10.00	R10.00	R10.00	R10.00	R4.00	R3.00	R3.00
R177.00	R24.50	R36.00	R24.50	R33.00	R25.00	R25.00	R25.00	R25.00	R7.50	R5.50	R5.50
R215.00	R27.00	R41.00	R27.00	R37.00	R29.00	R29.00	R29.00	R29.00	R11.00	R8.00	R8.00
R253.00	R32.00	R49.00	R32.00	R43.00	R35.00	R35.00	R35.00	R35.00	R14.00	R11.00	R11.00

N4 Pretoria - Maputo (Mocambique)							Operator	Class -	Class =	Class III	Class IV
Diamond Hill		Donkerhoek		Cullinan		Valtaki					
Main line		Main line		Main line		E ramp	W ramp	W ramp	Main line	Pretoria - Mpumalanga border	
Eastern section Mpumalanga		Middle section Mpumalanga		Western section Mpumalanga							
Machado		Middelburg		Ekindustria		TrAC	TrAC	TrAC	TrAC	TrAC	
Nkomazi	R48.00	R64.00	R43.00	R15.00	R20.00	R11.00	R8.50	R22.00	R22.00	R35.00	R111.00
	R97.00	R176.00	R92.00	R23.00	R28.00	R18.00	R12.00	R67.00	R67.00	R34.00	R111.00
	R141.00	R256.00	R140.00	R32.00	R41.00	R26.00	R18.00				
	R203.00	R36600	R183.00	R64.00	R92.00	R43.00	R34.00				

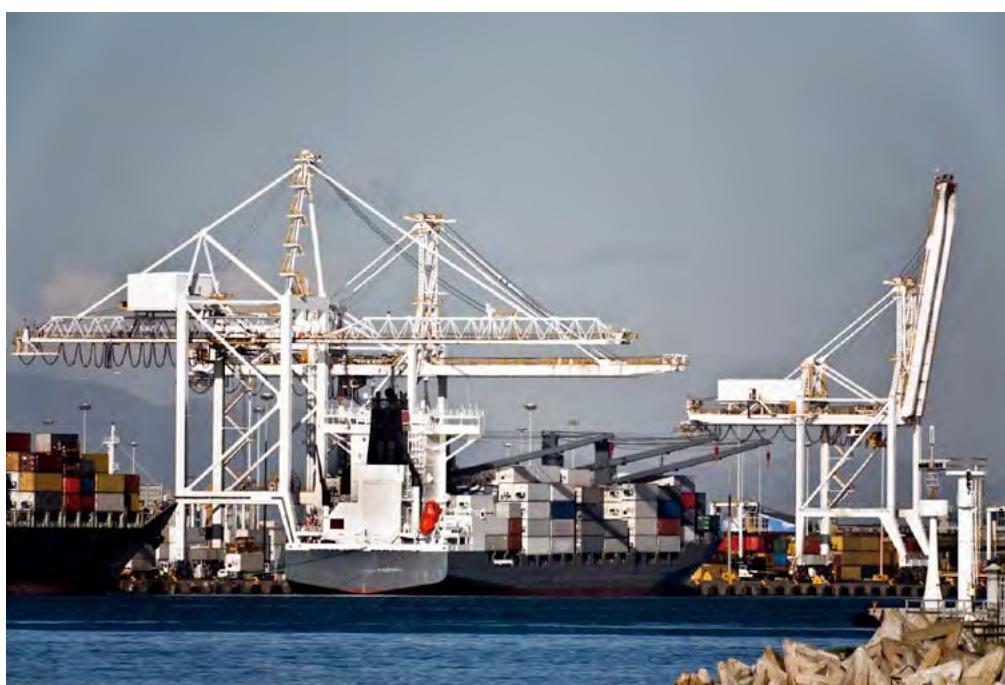
### *N17 toll road tariffs*

(Effective 23 March 2012)

N17: Krugersdorp - Oshoek (Swaziland Border)							Operator	Class -	Class =	Class III	Class IV
Trichardt		Leandra		Brakpan		Gosforth					
Main line	Ramp	Main line	Main line	Main line	Main line	W ramp	E ramp	Main line			
				Brakpan Interchange - Ancor Rd	Dalpark - Ancor Rd	R Airport Rd - Rosettenville Rd	R Airport Rd - Heidelberg Rd	Rosettenville Rd - Heidelberg Rd			
Intertoll	Intertoll	Intertoll	Intertoll	Intertoll	Intertoll	Intertoll	Intertoll	Intertoll			
R25.00	R14.00	R15.00	R25.00	R6.50	R8.00	R4.50	R4.00	R8.50			
R63.00	R35.00	R38.00	R63.00	R13.00	R16.00	R9.50	R14.00	R23.00			
R94.00	R53.00	R56.00	R94.00	R17.00	R21.00	R13.00	R16.00	R25.00			
R125.00	R70.00	R75.00	R125.00	R23.00	R29.00	R17.00	R21.00	R35.00			

### Addendum 9.3: Sea

For international and domestic shipment costs refer to: Transnet - National Port Authority Tariffs (effective 1 April 2012), [www.transnetnationalportsauthority.net](http://www.transnetnationalportsauthority.net).



#### Addendum 9.4: Air <sup>104</sup>

Domestic and International airfreight costs can be obtained directly from South African Airways, SAA Cargo Services.

Contact SAA Cargo Services at:

Tel: +27 11 978 1119

Toll Free: +27 800 002 869

#### **Domestic Airfreight Tariffs\***

\*Effective 1 April 2012 till 31 March 2013

#### **Passenger flights SAA\*\***

- General freight: R64.50 - min charge: common rated R5.30 (excl. JNB-DUR-JNB, R3.46 per kg).
- Express freight: R93.91 - min charge: common rated R18.65 (excl JNB-DUR-JNB, R10.14 per kg).
- Valuable cargo: R301.00 - min charge: 200% of Express Rate (express rates X 2).
- Motor vehicles: on request: DGR fees apply.
- Motorbikes: on request: DGR fees apply.

*\*\*Minimum charges will not be included in the calculation of discounts.*

#### **SA Express**

Minimum charges as per passenger flights: General freight rate R7.48 (excl George\* George R5.30\*) Day express rate R18.65.

#### *Class commodities*

Human remains	200% of express rates
Livestock	100% of express rates
Day old poultry	150% of express rates
Dangerous goods	200% of express rates
Valuable cargo	200% of express rates
Vulnerable cargo	Express rate plus R268.75 handling fee

#### *Starlight Express rates*

BFN/GRJ road feeder available: R3.66 (PLZ-GRJ) and R9.40 (JNB-BFN)

	CPT	DUR	ELS	JNB	PLZ
CPT		R26.35	R25.11	R21.93	R12.57
DUR	R26.35		R12.57	R12.31	R26.84
ELS	R25.11	R12.57		R25.11	R12.57
JNB	R21.93	R12.31	R25.11		R22.96
PLZ	R12.57	R26.84	R12.57	R22.96	

<sup>104</sup> [http://www.flysaa.com/Journeys/cms/ZA/Saa\\_Cargo\\_new/flysaa\\_cargo\\_customer\\_service.html](http://www.flysaa.com/Journeys/cms/ZA/Saa_Cargo_new/flysaa_cargo_customer_service.html).

### Additional charges

- AWB amendment fee (after acceptance): R172.00.
- Airline security charge per kg: R0.15 (all customers, all cargo, non-commissionable).
- Part 108 Screening: R0.16 per kg, min R11.00 (applicable to all non-regulated agents).
- AWB fee - all services: R40.31 (not applicable to customers spending more than R500 000 per month domestically).

### AWB fee

Styraight express: R118.25 per AWB (not applicable to customers spending more than R500 000 per month domestically).

### Discount structure\*\*\*



### Addendum 10: Cost of electricity in major centres

#### Cape Town <sup>105</sup>

Proposed schedule of electricity tariffs for 2012/13 \*

\* All tariffs below are exclusive of VAT and based on a proposed increase of 11%.

1 Domestic tariffs			
1.1	Domestic (>450 kWh received per month)	Block 1 (<= 600kWh)	118.06
	Energy Charge (c/kWh)	Block 2 (> 600kWh)	137.98
1.2	Lifeline (<450 kWh average received) Energy Charge (c/kWh) (Any FBE received forms part of the Block 1 receipt)	Block 1 (0 - 150 kWh) Block 2 (150.1 - 350 kWh) Block 3 (350.1 - 600 kWh) Block 4 (> 600 kWh)	64.93 89.95 118.06 137.98
2 Commercial tariffs			
2.1	Small Power		
2.1.1	Small Power 1 (>1000 kWh average per month) Service Charge (Rand per day) Energy Charge (c/kWh)		19.16 103.40
2.1.2	Small Power 2 (<1000kWh average per month) Energy Charge (c/kWh)		161.68
2.2	Large Power		
2.2.1	Low Voltage Service Charge (Rand per day) Energy Charge (c/kWh) Demand Charge (R/kVA)		31.91 54.21 161.31
2.2.2	Medium Voltage Service Charge (Rand per day) Energy Charge (c/kWh) Demand Charge (R/kVA)		31.91 50.39 150.03
2.3	Time of Use -MV Service Charge (Rand per day) Energy Charge - High Demand (c/kWh) Energy Charge - Low Demand (c/kWh) Demand Charge (R/kVA)	Peak Standard Off-Peak Peak Standard Off-Peak	255.46 67.55 36.77 72.53 45.00 31.91 81.03

<sup>105</sup> [www.capetown.gov.za/.../Cityadvisesresidentsofelectricity1July2012....](http://www.capetown.gov.za/.../Cityadvisesresidentsofelectricity1July2012....)

108 Source: Department of Home Affairs. <http://www.home-affairs.gov.za>. Retrieved August 2012.

Between R20 000 and R50 000 per month	5%
Between R50 000 and R150 000 per month	10%
Between R150 000 and R250 000 per month	15%
Between R250K and R500K per month	20%
Over R500K per month	Negotiable

\*\*\*Discounts are based on domestic spend only and exclude minimum shipments and surcharges per company per month (provided that the account is settle within term).

#### International/regional rates

International/regional rates can be made available on request.

2.4	Time of Use -HV (new)		
	Service Charge	Rand per day	5 210.00
	Energy Charge - High	Peak	247.80
	Demand (c/kWh)	Standard	65.52
		Off-Peak	35.67
	Energy Charge – Low	Peak	70.35
	Demand (c/kWh)	Standard	43.65
		Off-Peak	30.95
	Demand Charge (R/Kva)		81.03
3	Lighting tariffs		
3.1	Street Lighting and Traffic Signals	R/100W/burning hour	0.1134
3.2	Private Lights	R/100W/burning hour	0.1238
4	Other tariffs		
4.1	Wheeling tariff (c/kWh)	Firm	14.07
		Non-firm	8.64

All figures exclude VAT.

#### Johannesburg <sup>106</sup>

The following charges shall be effective from 1 July 2012:

Description		2011/12	2012/13
Domestic Life-line 1 - Energy (c/kWh)	0 < 300 kWh	70.52	78.28
Domestic Life-line 2 - Energy (c/kWh)	301 < 500 kWh	70.52	78.28
Domestic Life-line 1 - Conventional(c/kWh)	0 < 300 kWh	74.28	82.45
Domestic Life-line 2- Conventional (c/kWh)	301 < 500 kWh	74.28	82.45
Domestic 2 - prepaid	500 < 1 000 kWh	94.82	107.15
Domestic 3 - prepaid	1001 < 2000 kWh	96.75	109.33
Domestic 4 - prepaid	2001 < 3000 kWh	99.09	111.97
Domestic 5 - prepaid	> 3001 kWh	100.33	113.37
Domestic single phase - Service Charge (R/m)	60 A	307.04	322.39
Domestic single phase - Service Charge (R/m)	80 A	321.24	337.30
Domestic single phase - Energy (c/kWh)	0 < 500 kWh	79.31	89.62
	501 < 1 000 kWh	80.65	91.13
	1001 < 2000 kWh	81.99	92.65
	2001 < 3000 kWh	83.98	94.90
	> 3001 kWh	84.99	96.04
Domestic three phase - Service Charge (R/m)	60 A	353.34	371.01
Domestic three phase - Service Charge (R/m)	80 A	377.13	395.99
Domestic three phase - Energy(c/kWh)	0 < 500 kWh	79.31	89.62
	501 < 1 000 kWh	80.65	91.13
	1001 < 2000 kWh	81.99	92.65
	2001 < 3000 kWh	83.98	94.90
	> 3001 kWh	84.99	96.04
Domestic single phase-(Seasonal) - Service charge(R/m)	60 A	307.04	322.39
Domestic single phase-(Seasonal) - Service charge(R/m)	80 A	321.24	337.30
Domestic single phase-(Seasonal) - Energy(c/kWh)	Summer		
	0 < 500 kWh	83.19	94.00
	501 < 1 000 kWh	84.47	95.45
	1001 < 2000 kWh	85.77	96.92

<sup>106</sup> [www.sapra.org.za/index.php?...id...electricity-tariffs](http://www.sapra.org.za/index.php?...id...electricity-tariffs)

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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Description			2011/12	2012/13
	2001 < 3000 kWh	87.05	98.37	
	> 3001 kWh	88.33	99.81	
	<b>Winter</b>			
	0 < 500 kWh	125.19	141.46	
	501 < 1 000 kWh	127.13	143.66	
	1001 < 2 000 kWh	129.06	145.84	
	2001 < 3 000 kWh	131	148.03	
	> 3001 kWh	132.95	150.23	
Domestic three phase-(Seasonal) - Service charge(R/m)	60 A	315.48	331.25	
Domestic three phase-(Seasonal) - Service charge(R/m)	80 A	336.72	353.56	
Domestic three phase-(Seasonal) - Energy(c/kWh)	<b>Summer</b>			
	0 < 500 kWh	83.18	93.99	
	501 < 1 000 kWh	84.47	95.45	
	1001 < 2 000 kWh	85.76	96.91	
	2001 < 3 000 kWh	87.05	98.37	
	> 3001 kWh	88.34	99.82	
	<b>Winter</b>			
	0 < 500 kWh	125.18	141.45	
	501 < 1 000 kWh	127.12	143.65	
	1001 < 2 000 kWh	129.07	145.85	
	2001 < 3 000 kWh	131.01	148.04	
	> 3001 kWh	132.95	150.23	
Agricultural - Service Charge (R/m)	<50 kVA	461.1	530.27	
	>50 kVA	539	619.85	
Agricultural - Energy (c/kWh)	<b>Summer</b>	75.1	86.37	
	<b>Winter</b>	113.1	130.07	
Robot Intersections - Energy (c/kWh)		133.97	152.73	
Streetlight and Billboard per luminaire		150.19	171.22	

Description			2011/12	2012/13
	Business - prepaid 1 (<50 kVA) Flat		122	137.86
	Business - prepaid 2 (<100 kVA) Flat		122	137.86
	Business - Service Charge (R/m)	<50 kVA	426.9	482.40
	Business - Service Charge (R/m)	<100 kVA	516.5	583.65
	Business - Service Charge (R/m)	<500 kVA	693.8	783.99
	Business - Service Charge (R/m)	>500 kVA	1 025.6	1 158.93
	<b>Business - Energy (c/kWh)</b>	<b>Summer</b>		
	0 < 500 kWh	106.4	120.23	
	501 < 1 000 kWh	111.36	125.84	
	1001 < 2 000 kWh	114.02	128.84	
	2001 < 3 000 kWh	115.58	130.61	
	> 3001 kWh	116.38	131.51	
	<b>Winter</b>			
	0 < 500 kWh	168.88	190.83	
	501 < 1 000 kWh	170.22	192.35	
	1001 < 2 000 kWh	174	196.62	
	2001 < 3 000 kWh	176.7	199.67	
	> 3001 kWh	177.8	200.91	
	Reactive energy for LPU (c/kVAh)		11.56	12.95
	LPU Low Voltage - Service Charge (R/m)		1 241.5	1 390.48
	kWh LPU Low Voltage - Energy (c/kWh)	<b>Summer</b>	57.56	64.47
		<b>Winter</b>	85.15	95.37
	kVA LPU Low Voltage - Demand Charge (R/kVA)	<b>Summer</b>	168.67	188.91
	kVA LPU Low Voltage - Demand Charge (R/kVA)	<b>Winter</b>	177.12	198.37
	LPU Medium Voltage - Service Charge (R/m)		2 484.1	2 782.19
	kWh LPU Medium Voltage - Energy (c/kWh)	<b>Summer</b>	53	59.36
		<b>Winter</b>	78.39	87.80
	kVA LPU Medium Voltage - Demand Charge (R/kVA)	<b>Summer</b>	168.67	188.91
	kVA LPU Medium Voltage - Demand Charge (R/kVA)	<b>Winter</b>	177.12	198.37
	<b>Time Of Use</b>			
	LPU Low Voltage - Service Charge(R/m)		9 095.2	10 186.62

kWh LPU Low Voltage - Energy (c/kWh)		<b>Summer</b>													
		Peak	84.94	95.98											
		Standard	62.69	70.84											
		Off-peak	51.94	57.13											
		<b>Winter</b>													
		Peak	184.43	208.41											
		Standard	87.49	98.86											
		Off-peak	54.84	60.32											
KVA LPU Low Voltage - Demand charge (R/m)		<b>Summer</b>	145.24	162.67											
		<b>Winter</b>	153.51	171.93											
LPU Medium Voltage - Service Charge (R/m)			11 185.3	12 527.54											
kWh LPU Medium Voltage - Energy (c/kWh)		<b>Summer</b>													
		Peak	75.39	85.19											
		Standard	56.42	63.75											
		Off-peak	46.72	51.39											
		<b>Winter</b>													
		Peak	177.15	200.18											
		Standard	68.52	77.43											
		Off-peak	49.32	54.25											
KVA LPU Medium voltage - Demand charge		<b>Summer</b>	130.66	146.34											
KVA LPU Medium voltage - Demand charge		<b>Winter</b>	138.08	154.65											
LPU High Voltage - Service Charge (R/m)			11 278	12 631.36											
kWh LPU High Voltage - Energy (c/kWh)		<b>Summer</b>													
		Peak	60.39	68.24											
		Standard	44.55	50.34											
		Off-peak	36.93	40.62											
		<b>Winter</b>													
			137.15	154.98											
		Standard	54.38	61.45											
		Off-peak	38.98	42.88											
KVA LPU High Voltage - Demand charge (R/m)		<b>Summer</b>	108.01	120.97											
KVA LPU High Voltage - Demand charge (R/m)		<b>Winter</b>	113.4	127.01											

## Durban<sup>107</sup>

### **Business tariffs**

*Commercial Time Of Use (CTOU)\**

*\*This tariff is designed for business and industrial customers with a notified maximum demand of 100 kVA and below. (Prices are effective 1 July 2012 and exclude VAT).*

Commercial Time of Use (CTOU)	High season (c/kWh)			Service charge (Rands)
	Peak	Std	Off-peak	
For customers with notified max demand less than 100kVA only	242.68	101.38	46.53	205.00
Low season (c/kWh)				Service charge (Rands)
	Peak	Std	Off-peak	
	99.48	78.51	44.04	205.00

### *Business and general credit tariffs (Scale 1)*

Typical customer	Commercial and Industrial		
Service charge	The service charge is fixed and is payable per month to recover related costs		
Service charge		Energy costs	
Service charge (R)	149.69	Energy charge (c/kWh)	114.08
VAT	20.96	VAT	15.97
Total	170.65	Total	130.05

### *Business and general (Scale 005/006/007) – now discontinued*

Typical customer	Commercial and industrial		
Service charge	The service charge is fixed		
Energy charge		This energy charge is a flat rate charge	
Energy charge (R)	149.69	Energy charge (c/kWh)	116.17
VAT	20.96	VAT	16.26
Total	170.65	Total	1

<sup>107</sup> [www.durban.gov.za/Tariffs](http://www.durban.gov.za/Tariffs)

### Large power user tariffs

#### Industrial Time Of Use (ITOU)

This tariff is designed for customers with an notified maximum demand greater than 100kVA. Customers opting for this tariff benefit if they can shift their energy usage away from peak periods and towards standard/off-peak periods.

(Prices are effective 1 July 2012 and exclude VAT).

Industrial Tome of Use (ITOU)		Amount
Peak	High demand season (June - August)	205.38 (c/kWh)
		59.48 (c/kWh)
		35.58(c/kWh)
Peak	Low demand season (September - May)	63.25 ((c/kWh)
		42.02 (c/kWh)
		31.75 (c/kWh)
Network demand charge (R/kVA)	61.69 (based on actual demand)	
Network access charge (R/kVA)	18.72 (based on notified max demand)	
Service charge	R2 158.32	
Voltage surcharge		Voltage % Surcharge
		275 kV 0
		132 kV 2.25
		33 kV 3.00
		11 kV 10.5
		6.6 kV 12.75
		400 V 22.5

### Residential tariffs

#### Residential Time Of Use (RTOU)\* (Prices are effective 1 July 2012 and exclude VAT)

Residential Time of Use (RTOU)	Non-seasonal (c/kWh)		Service charge	
	Peak	Std	Off-peak	(Rands)
	150.79	75.32	55.80	80.48

\*This tariff allows residential customers, typically with a consumption greater than 1 000 kWh per month, to benefit from lower energy costs should they be able to shift their loads away from peak periods and towards standard/off-peak periods.

#### Free Basic Electricity (FBE)\* Energy Costs

Energy Charge (c/kWh)	75.41	65 kWh free per month
VAT	10.56	
Total	85.97	

\* This tariff is currently available to indigent customers who consume less than 150 kWh per month. All customers on this tariff will be eligible to 65 kWh of free electricity on a monthly basis. An online monitoring system is currently in place that identifies customers who qualify for FBE based on their average electricity usage. Customers who consume more than an average of 150 kWh per month will not be eligible for FBE. FBE tokens must be collected on a monthly basis.

## Addendum 11: Immigration – Permits and visas<sup>108</sup>

### 1. Where to apply for a residence permit

Any foreigner who wants to enter South Africa must apply for the appropriate residence permit at:

- The South African diplomatic representative in his/her country of normal residence, or
- At a South African diplomatic representative in an adjoining or nearby foreign country if there is no South African diplomatic representation in the applicant's country of normal residence.

Applications for residence permits are processed and finalised at the foreign offices of the Department of Home Affairs. Arrangements to travel to South Africa must only be made once the temporary residence permit has been issued.

The Immigration Act makes provision for a foreigner to apply to the Director-General in the prescribed manner and on the prescribed form (DHA 1740) to change his or her status or the conditions attached to his or her temporary residence permit, or both such status and conditions, as the case may be, while in the Republic.

Applications for permanent residence may be lodged at South African diplomatic representatives abroad or at regional offices of the department

inside the country provided that such an applicant is in possession of a valid temporary residence permit.

All applicants must:

- Have a valid passport. The passport must be valid for a minimum of 30 days after the intended stay.
- Ensure the temporary residence permit is valid at all times.

### 2. Price list

#### Temporary residence permits

Visitor's permit	R425
Business permit	R1 520
Work permits (quota, general, exceptional skills, intra-company transfer)	R1 520
Corporate permits	R1 520
Study permits	R425
Exchange permits	R425
Retired persons' permits	R425
Relatives' permits	R425
Medical treatment permits	R425

### 3. Permanent residence permits

R1 520

#### Note:

Applications for Spouses of South African Citizens, dependent children and recognised Refugees do not require payment of the processing fee.

### 4. Forms

Visas	
BI-84 – Visa application	
Photo specifications	
Types of visas	
BI-1784 - Visas for medical treatment	
BI-1738 - Visas for working in the entertainment industry, Visas for compliance of Treaty conditions	
Visas for cultural / economic / social exchange programmes, Extending your visa	
BI-84 - Visas for attending a conference	
Visas for crew (maritime)	
Temporary residency	
BI-1738 – Temporary residence application	
Types of temporary residence permits	
BI-1738 - Work Permits, Study Permits, Exchange Permits, Retired Persons' Permits, Relatives' Permits, Medical Treatment Permits	
Permanent residence	
BI-947 - Direct Residency Permits, Residency-on-Other-Grounds Permits	
Refugee status & asylum	
BI-1590 - Applying for refugee / asylum-seeker status	

<sup>108</sup> Source: Department of Home Affairs. <http://www.home-affairs.gov.za>. Retrieved August 2012.

Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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## 5. Exempt persons (from visas for South Africa)

The citizen who is a holder of a national passport (diplomatic, official and ordinary) of the foreign countries / territories / international organisations listed below, are not required to hold a visa when reporting to an immigration officer for an examination at a South African port of entry, subject to the terms and conditions set out in this list, including *inter alia*, the intended period of stay in the Republic.

- The holder of a national South African passport, travel document and document for travel purposes.
- The citizen who is a holder of a national passport (diplomatic, official or ordinary) of the following countries / territories / international organisations is not required to hold a visa in respect of purposes for which a visitor's permit may be issued or by virtue of being a person contemplated in section 31(3)(b) [accredited in SA] for an intended stay of 90 days or less and when in transit:

African Union Laissez Passer	Italy	United Kingdom of Great Britain and Northern Ireland
Andorra	Jamaica	British Islands Bailiwick of Guernsey and Jersey, Isle of Man. British Oversees Territories namely:
Argentina	Japan	Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, St Helena and Dependencies (Ascension Island, Gough Island and Tristan da Cunha), Pitcairn, Henderson, Ducie and Oeno Islands, the Sovereign Base Areas of Cyprus South Georgia and South Sandwich Islands and the Turks and Caicos Island.
Australia	Liechtenstein	Uruguay
Austria	Luxemburg	Venezuela
Belgium	Malta	United States of America (except in diplomatic staff due to assume duty at the Embassy and Consulates of the USA in SA)
Botswana	Monaco	Trinidad & Tobago (only ordinary passport holders)
Brazil	Namibia (only ordinary passport holders)	Zambia (90 days per annum)
Canada	Netherlands	
Chile	New Zealand	
Czech Republic	Norway	
Denmark	Paraguay	
Ecuador	Portugal	
Finland	San Marino	
France	Singapore	
Germany (except in diplomatic staff due to assume duty at the Embassy and Consulates of Germany in SA)	Spain	
Greece	St Vincent & the Grenadines	
Iceland	Sweden	
Ireland	Switzerland	
Israel	Tanzania (90 days per year)	
	Trinidad & Tobago (only ordinary passport holders)	
	Zimbabwe	

- The citizen who is a holder of a national passport (diplomatic, official and ordinary) of the following countries / territories / international organisations is not required to hold a visa in respect of purposes for which a visitor's permit may be issued or by virtue of being a person contemplated in section 31(3)(b) [accredited in SA] for an intended stay of 30 days or less and when in transit:

Antigua and Barbuda	Hong Kong [only with regard to holders of Hong Kong British National Overseas passports and Hong Kong Special Administrative Region passports]	Maldives
Bahamas (only ordinary passport holders)		Mauritius
Barbados		Mozambique
Belize		Namibia
Benin		Peru
Bolivia		Poland
Cape Verde		Seychelles
Costa Rica		Slovak Republic
Cyprus		South Korea
Gabon		Swaziland
Guyana		Thailand
		Turkey

- Agreements have also been concluded with the following countries for holders of diplomatic and official passport holders.

Citizens who are holders of **diplomatic, official and service passports** of the following countries do not require visas in respect of purposes for which a visitor's permit may be issued or by virtue of being a person contemplated in section 31(3)(b) [accredited in SA] for the **period indicated** and transit:

Albania (120 days)	Egypt (30 days)	Paraguay (120 days)
Algeria (30 days)	Ghana (90 days)	Poland (90 days)
Angola (90 days)	Guinea (90 days)	Romania (90 days)
Belarus (90 days)	Hungary (120 days)	Russian Federation (90 days)
Bulgaria (90 days)	India (90 days)	
China (PROC) (30 days) (only diplomatic passport holders)	Ivory Coast (Cote d'Ivoire) (30 days)	Rwanda (30 days)
Cyprus (90 days)	Kenya (30 days)	Slovak (90 days)
Comoros (90 days)	Mexico (90 days)	Slovenia (120 days)
Croatia (90 days)	Madagascar (30 days)	Thailand (90 days)
Cuba (90 days) (diplomatic, official & service)	Morocco (30 days)	Tunisia (90 days)
	Mozambique (90 days)	Vietnam (90 days)
	Namibia (30 days)	

- Notwithstanding this Schedule, a foreigner whose visa exemption has been withdrawn shall comply with the visa requirements until notified by the department that his or her visa exemption has been re-instated by the department on petition or of its own accord.
- Visas are not required by passport holders of Lesotho, Swaziland, Botswana, Namibia, Zambia and Malawi who are entering the Republic as commercial heavy-duty vehicle drivers, provided their visits do not exceed 15 days and on condition that they can produce a letter confirming their employment with a transport company on entry.

The same principle applies to Zimbabwean commercial heavy-duty vehicle drivers, except that their sojourn may not exceed 30 days at a time. The aforementioned does not apply to commercial heavy-duty vehicle drivers who transport goods for a South African transport company. Such drivers must be in possession of a valid work permit.

- Staff members of the Southern African Development Community (SADC) who travel on SADC laissez-passers are exempt from visa requirements for bona fide official business visits up to 90 days and transit.

The following categories of the UN, as well as their spouses, dependent

relatives and other members of the households are exempt from visa requirements when visiting the Republic for periods not exceeding 90 days for purposes for which a visitor's permit may be issued, and for official business purposes and transits and when accredited for placement at a UN mission in the Republic for the duration of their accreditation, provided they are in possession of the relevant letters or identification documents to identify themselves at ports of entry as personnel of an UN agency.

- Holders of UN Laissez-passers.
- Volunteers attached to the UN.
- Persons involved in any UN agency.
- Persons performing services on behalf of the UN.

Members of military forces attending any military related matters with the South African National Defence Force are exempt from visa and study permit requirements, irrespective of their duration of stay provided they are in possession of letters of invitation from the SANDF as well as letters of consent from the military force of which they are members.

## 6. Frequently Asked Questions (FAQs)

Questions	Answers
Can the capital requirements for a business permit be reduced or waived?	The capital requirements above may be reduced or waived in respect of the following types of industries/businesses: <ul style="list-style-type: none"> <li>Information and Communication Technology.</li> <li>Clothing and textile manufacturing.</li> <li>Chemicals and bio-technology.</li> <li>Agro-processing.</li> <li>Metals and minerals refinement.</li> <li>Automotive manufacturing.</li> <li>Tourism.</li> <li>Crafts.</li> </ul>
What must I do if my qualifications are in a foreign language?	If the qualifications are in a foreign language, you must have the documents translated into one of the official languages by a sworn translator (and provide proof of registration of the translator).
What are the specifications for an advertisement?	The original advertisement of the post/position as it appeared in the national printed media. The advertisement must comply with regulation 16(5): <ul style="list-style-type: none"> <li>Reflect the full particulars of the relevant newspaper or magazine as well as date on which the advertisement was published.</li> <li>Stipulate the minimum qualifications and experience required to fill the position.</li> <li>Clearly define the position and the duties to be performed.</li> <li>Measure at least 60mm by 60mm.</li> <li>State the closing date for applications.</li> <li>Should not be older than three months at the time of application for a work permit. This period is calculated from the closing date of advert.</li> </ul>

## Addendum 12: Customs and excise regulations – Practical guidelines for immigrants and travellers <sup>109</sup>

### Note:

Whether arriving in South Africa by air, sea or land, all travellers (including immigrants) will have to pass through customs control. If found with undeclared, restricted or prohibited goods; you could be fined or even face prosecution. Below is a quick guide to bringing goods in and out of the country.

### 1. Duty-free goods

You can bring the following goods into South Africa without paying customs duty or VAT:

#### Consumable goods in accompanied baggage

- Cigarettes - up to 200 per person.
- Cigars - up to 20 per person.
- Cigarette or pipe tobacco - up to 250g per person.
- Perfume - up to 50ml per person.
- Eau de toilette (scented liquid lighter than cologne) - up to 250ml per person.
- Wine - up to 2 litres per person.
- Spirits and other alcoholic beverages - up to 1 litre in total per person.

If you are departing from a different port, the inspection report will be forwarded to the office where the deposit was lodged, and a cheque will be posted to the address you provided.

People under 18 can claim this

duty-free allowance on consumable goods - with the exception of alcohol and tobacco products - provided the goods are for their personal use.

#### Medicines

You are allowed to bring in one month's supply of pharmaceutical drugs or medicines for your personal use. Any other pharmaceutical drugs or medicines must be accompanied by a letter or certified prescription from a registered physician, and have to be declared.

#### Personal effects, sport and recreational equipment

You can bring in personal effects, sport and recreational equipment, either as accompanied or unaccompanied baggage, for your own use during your visit. In the case of very expensive articles, you may be required to lodge a cash deposit to cover the potential duty/tax on their re-export. The deposit will be refunded on departure after a customs officer has inspected the items and verified that they are being re-exported. You should notify the customs office at which the deposit was lodged at least two days before departure to ensure that the refund is ready.

#### Additional goods

In addition to the personal effects and consumables duty-free allowances, you are allowed to bring in new or used goods in accompanied baggage to the value of R3 000. (This is valid only once per person per 30-day period.)

#### 2. Once over duty-free limit

Once the above limits are exceeded, all goods brought into South Africa are subject to the payment of customs duty and VAT – including goods bought duty-free on aircraft or ships or in duty-free shops.

- For goods of up to R12 000 in value, you will have the option of paying customs duty at a flat rate of 20%. Flat-rated goods are also exempt from payment of VAT. This is valid only once per person per 30-day period.
- People under 18 can opt for the flat rate assessment, provided the goods are for their personal use.
- Once you're over the additional R12 000 limit - or if you waive the flat rate option - then duty will be assessed and paid on each individual item you're carrying, and an additional 14% VAT will be charged.
- Goods that do not qualify for the flat rate assessment include:
  - Firearms.
  - Goods for commercial purposes.

- Consumable goods in excess of the quantities detailed above.
- Goods or gifts carried on behalf of other people. Not only are these subject to duties and taxes, but they may also require an import permit.

#### 3. Goods that have to be declared

Certain goods are restricted, and may only be brought into South Africa if you have the necessary authority or permit, and these must be declared on arrival. They include any firearms, as well as:

- Currency - South African bank notes in excess of R5 000, gold coins, coin and stamp collections, and unprocessed gold.
- Endangered plants and animals - Species of plants or animals that are listed as endangered, whether they are alive or dead, as well as any parts of or articles made from them.
- Food, plants, animals and biological goods - All plants and plant products, such as seeds, flowers, fruit, honey, margarine and vegetable oils. Also animals, birds, poultry and products thereof, such as dairy products, butter and eggs.
- Medicines - You are allowed to bring in one month's supply of pharmaceutical drugs or medicines for your personal

<sup>109</sup> <http://www.southafrica.net/sat/content/en/za/travel-tips-detail?oid=18161&sn=Detail&pid=17563>

use. Any other pharmaceutical drugs or medicines must be accompanied by a letter or certified prescription from a registered physician, and have to be declared.

#### 4. Goods prohibited

It is illegal to bring the following goods into South Africa:

- Narcotics - Any narcotic or psychotropic substances, including drugs such as cannabis, heroin, cocaine, mandrax or ecstasy; or any paraphernalia relating to their use.
- Any fully automatic, military or unnumbered weapons, as well as explosives, fireworks or weapons of mass destruction.
- Any poison and other toxic substance.
- Cigarettes with a mass of more than 2kg per 1 000.
- Any goods to which a trade description or trade mark is applied in contravention of any law (e.g. counterfeit goods).
- Unlawful reproductions of any works subject to copyright.
- Any prison- or penitentiary-made goods.

#### 5. Which channel to choose through South African customs control: Red or green?

##### *Green channel*

Choose the green channel if:

- You have nothing to declare.
- Your goods qualify for the duty-free allowances detailed above.
- You are not carrying goods or gifts on behalf of others.
- You are not carrying restricted or prohibited goods.
- You are not carrying commercial goods (goods brought in for trade purposes).

##### *Red channel*

If you can't tick all the above, then choose the red channel. If you are in any doubt, still choose the red channel and ask the customs officer for assistance.

##### **Note:**

Where the red/green channel system is not in operation, report directly to a customs officer and declare all the goods in your possession.

#### 6. To be on the safe side

- Always declare all goods in your possession.
- Produce receipts for goods purchased abroad (including goods bought duty-free on aircraft or ships or in duty-free shops).
- If you are unsure of the value of goods which you should declare, ask for assistance from the customs officer on duty.

##### **Note:**

If in any doubt as to whether the goods you intend to bring into South Africa are restricted, contact your nearest South African embassy or High Commission abroad.

#### 7. Travellers in transit

- Travellers in transit to countries outside the Southern African Customs Union (SACU) do not have to comply with customs formalities in South Africa. This applies only if you have been booked from an airport outside the SACU, and you are not travelling to your final destination by road.
- These passengers may not leave the transit area of the airport between flights. Their baggage will automatically be transferred from their international flight.

##### **Note:**

Customs officials may still search travellers in transit and their baggage for any illegal drugs or counterfeit goods. Anyone found with such goods will be detained and handed over to the SAPS for prosecution.

#### 8. VAT refunds for tourists

- VAT at a rate of 14% is levied on the purchase of most goods in South Africa. However, as a foreign visitor you may apply for a refund of the VAT you pay while in the country – provided you apply before you depart.
- To apply, make sure you get tax invoices for your purchases which you can present to VAT Refund Administrators at your point of departure. If he/she is not available, present your goods to a customs officer, who will inspect the goods, stamp your invoices and deliver them to the VAT Refund Administrator, who will correspond with you on the matter.

For full information on how and where to apply for VAT refunds, visit: [www.taxrefunds.co.za](http://www.taxrefunds.co.za).

## 9. How much money can be brought in/taken out?

- As a foreign visitor, you can bring in up to R5 000 in South African currency (Rands), plus an unlimited amount in foreign currencies and traveller's cheques, provided you declare this on arrival.
- On departure, you can also take out R5 000 in South African currency (Rands), and up to the amount in foreign currencies and traveller's cheques that you declared when you arrived (provided you didn't stay more than 12 months).

## 10. Duty-free temporary imports

- South Africa acceded to the ATA Convention in 1975. Foreign visitors (companies and individuals) can therefore approach their local chambers of commerce for advice regarding the issuing of an ATA Carnet for the temporary import of certain goods in a simplified method, for example, in the case of broadcasters or sponsors of international sporting events taking place.

## Addendum 13: South African business practices and etiquette<sup>110</sup>

### General aspects

- On the whole, Western business rules and etiquettes are generally adhered to in South Africa. Nevertheless, African business practices are important and play an important role in shaping South Africa's business culture and practices.
- Generally speaking, money is looked upon differently in African culture. Africans see it as something that is necessary for sustenance, but anything beyond what can suffice is seen as unnecessary, although with the continued integration of Western values and norms this is changing. In the West, the business world encourages accumulation of possessions and of wealth.
- Another important difference in the business cultures of the two areas is planning. Western cultures carefully chart and examine moves months or even years ahead of schedule. Whereas, African culture prefers that a final decision be preceded by full consultation of all parties before being implemented.
- Greetings in South Africa vary from culture to culture. In most cases, a firm handshake will do the trick, but every culture has its own preference. Note, that

English-speakers, on the whole, are likely to be more formal and polite, while black South Africans embrace informality and more personal greetings.

### Working practices

- Schedule business appointments as far in advance as possible, and always confirm the appointment by calling the day before.
- Formal meetings and appointments usually begin and end on time.
- Use titles and surnames to address people.
- South Africans are transactional and do not need to establish long-standing personal relationships before conducting business.
- Appointments should generally be made starting at 9am.
- Do not rush deals. South Africans are very casual in their business dealings.
- Business cards have no formal exchange protocol.
- Dress conservatively, particularly for initial meetings with new business associates.

### Working relationships

- For the most part, South Africans prefer to do business with those they have met previously.
- A vital part of African culture is respect for one's ancestors and elders. It is deemed highly offensive to most South Africans if the proper respect for an elder is not shown, especially in more rural areas.
- If your company is not known in South Africa, a more formal introduction may help you gain access to decision-makers and not be shunted off to gatekeepers.
- Networking and relationship building are crucial for long-term business success.
- Most businessmen are looking for long-term business relationships.
- There are major differences in communication styles depending upon the individual's cultural heritage.
- Most South Africans, regardless of ethnicity, prefer face-to-face meetings to more impersonal communication mediums such as e-mail, letter or telephone.

<sup>110</sup> <http://www.initiateimmigration.com/working-in-south-africa/business-practices/>

## Business practices

- On the whole, titles are not used in South African business settings. However, some honorary doctorates may wish to be addressed in this way.
- Initial meetings for South African companies are about establishing personal rapport and developing mutual trust, two vital elements in South African business culture.
- The overall aim during business negotiations in South Africa is to reach a general consensus. South Africans prefer to see a fair, win-win situation where all sides gain something from the deal.
- Don't be surprised if your South African business colleagues ask what may seem to be personal questions about your way of life after a relatively brief period of time.

## Business meeting etiquette

- Appointments are necessary and should be made as far in advance as possible.
- It may be difficult to arrange meetings with senior level managers on short notice, although you may be able to do so with lower-level managers.
- It is often difficult to schedule meetings from mid-December to mid-January or the two weeks

surrounding Easter, as these are prime vacation times.

- After a meeting, send a letter summarising what was decided and the next steps.

## Business negotiations

- It is imperative to develop mutual trust before negotiating.
- Do not interrupt a South African while they are speaking.
- South Africans strive for consensus and win-win situations.
- Include delivery dates in contracts. Deadlines are often viewed as fluid rather than firm commitments.
- Start negotiating with a realistic figure. South Africans do not like haggling over price.
- Decision-making may be concentrated at the top of the company and decisions are often made after consultation with subordinates, so the process can be slow and protracted.

## Dress etiquette

- Business attire is becoming more informal in many companies. However, for the first meeting, it is best to dress more conservatively.
- Men should wear dark-coloured, conservative business suits.

- Women should wear elegant business suits or dresses.
- South Africans of urban cultures generally wear Western dress.
- Dress well in public, it will be expected by your South African host.

## Addendum 14: How to apply for a police clearance certificate (PCC)<sup>111</sup>

### Note:

This service is available to people who require confirmation on their criminal status for emigration purposes or for working abroad. A certificate will be issued stating whether any criminal offences are recorded against the applicant. The taking of the fingerprints is performed at the nearest police station, prior to the analysis thereof and the issuing of the certificate. The issuing of a clearance certificate is the sole responsibility of the SAPS Criminal Record Centre in Pretoria.

## Process

- The applicant must provide a full set of their fingerprints, preferably taken at their nearest police station.
- The applicant's full name, surname, date of birth, place of birth and identity number (if

available) must also be recorded on the fingerprint form.

- A copy of the applicant's ID document/passport must accompany the application. The applicant must present their ID at the police station as proof of identity will be required.
- South African citizens living outside the Republic may apply at any police station in that country or at the South African embassy. Fingerprints should be taken on the official fingerprint forms of the specific country. The fingerprint form must be signed by the person who took the fingerprints. The application must be accompanied by a completed set of fingerprints and a copy of the applicants ID or passport.
- If the applicant provides his/her cell phone number (currently only South African) on the application for a PCC he/she will be provided with an sms indicating that application was received and the reference number that will be allocated to his/her certificate. The applicant can then determine, by making use of the reference number provided, when his/her PCC has been finalised at the Police Clearance office by making use of the facility on the SAPS website.

<sup>111</sup> [http://www.saps.gov.za/\\_dynamicModules/internetSite/faqBuild.asp?myURL=272](http://www.saps.gov.za/_dynamicModules/internetSite/faqBuild.asp?myURL=272)

- The police station where the applicant applied will forward the complete application to the Criminal Record Centre. Alternatively, the applicant may deliver the completed application in person or mail the application to:

**The Head of the South African Criminal Record Centre**  
**(For attention: Police Clearance Certificates)**  
**Private Bag X308**  
**Pretoria**  
**Gauteng**  
**South Africa**  
**0001**

The application may also be delivered by courier to:

**The Head of the South African Criminal Record Centre**  
**(For attention: Police Clearance Certificates)**  
**Bothongo Plaza West**  
**CRC Client Service Centre**  
**1st Floor, Room 14**  
**271 Schoeman Street**  
**Pretoria**  
**Office Hours 7:30 - 16:00 (Monday - Friday)**

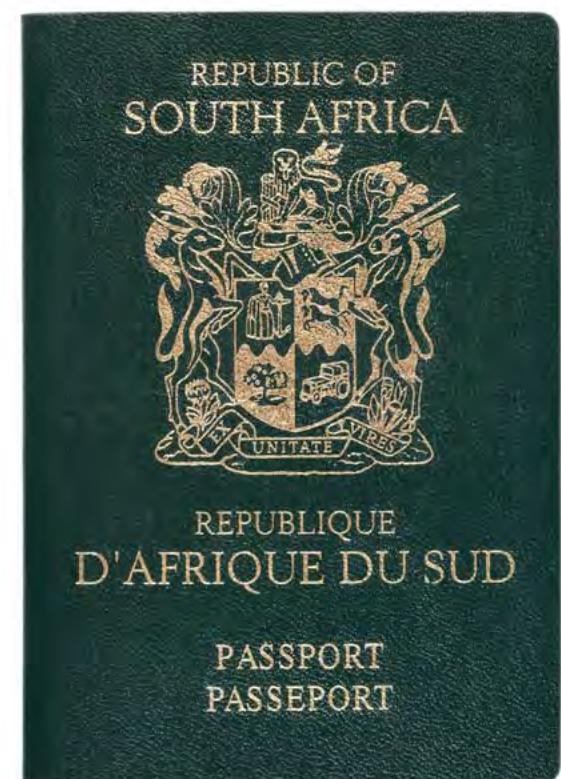
#### Cost

- This service is rendered at R59 per application payable by bank guaranteed cheques bankers draft or electronic payment into the SAPS account (ABSA cheque account number 4054522787; Branch code 632005; Swift code ABSA ZAJJ) in the favour of the National Commissioner of SAPS.
- In the case of an electronic payment, the initials and surname of the applicant should be indicated as the reference. The letters PCC must be added as reference, which will indicate that the payment is for a PCC.
- An applicant who prefers to make an electronic payment abroad, can approach any bank who can make a telegraphic transfer and request that the relevant fees be paid into above mentioned bank account. Proof of payment must be sent to this office before the processing of the application will take place.
- On completion, the certificate will be mailed to the applicant by post. Individuals abroad are responsible for their own postage. Applicants can arrange for the certificate to be collected via courier service at their own expense. A PCC can be reissued within six months of the original application yet an additional cost of R59 will be required. After six months of the date of the original application a new application must be submitted.

Contact information:	
Tel South Africa:	+27 12 393 3928
Tel International:	+27 12 393 3928
Fax number South Africa:	+27 12 393 3909
Fax number International:	+27 12 393 3909
E-mail addresses:	crc-nameclear@saps.org.za
	crc.clientserv.sec@saps.org.za
	crc.client@saps.org.za

#### Note:

The average time to render this service will take approximately 14 working days from the day that the complete application is received at the Criminal Record Centre until the Clearance Certificate is issued.



#### Addendum 15: Site development procedures in South Africa <sup>112</sup>

Procedure	Agency	Time to Complete	Associated Costs
1. Submit site development/building plans to Municipality for approval.  Three copies of all plans are circulated internally among several departments within the municipality (usually zoning, water, structural, land survey, drainage/sewage, fire, and health departments). Site development plans may be approved first, which allows the company to start preliminary work on site. Building plans are usually approved by the time the site is ready for construction. The approved plans are returned to the company with all forms required in the future attached: notification of excavation, concrete work (if applicable), plumbing/sewage, and electrical work. The cost is determined by the municipality based on a sliding scale. The company has the option to call beforehand and request an estimate in about one to two days. By law, the time limit for plan approval is 30 days, but the municipality commonly extends the time, so the procedure can take up to three months to complete.	Municipality	90 days	R6 000

Procedure	Agency	Time to Complete	Associated Costs
2. Submit copy of building plans to Telkom to apply for telephone connection.  Telkom reviews the plans and marks its requirements and where the connection is to be made. The application states when the service is required. This procedure can be done simultaneously with the previous one.	Telkom SA Limited	20 days	R600
3. Submit occupational health and safety plan.	Municipality	7 days	No charge
4. Pay road repair deposit*.  BuildCo must pay a deposit in case any damage is done to public roads during construction.		30 days	R1 500
5. Submit notification of completion of excavation/foundation work.  A notification form is attached to the approved plans.	Municipal Building Inspectorate	1 day	No charge
6. Receive inspection of excavation and foundations work.	Municipal Building Inspectorate	1 day	No charge
7. Submit notification of completion of sewage/plumbing work.	Municipal Building Inspectorate	1 day	No charge
8. Receive inspection of sewage and plumbing.  This inspection takes place before closing up.	Municipal Building Inspectorate	1 day	No charge

<sup>112</sup> <http://www.doingbusiness.org/data/exploreeconomies/south-africa/dealing-with-construction-permits/>

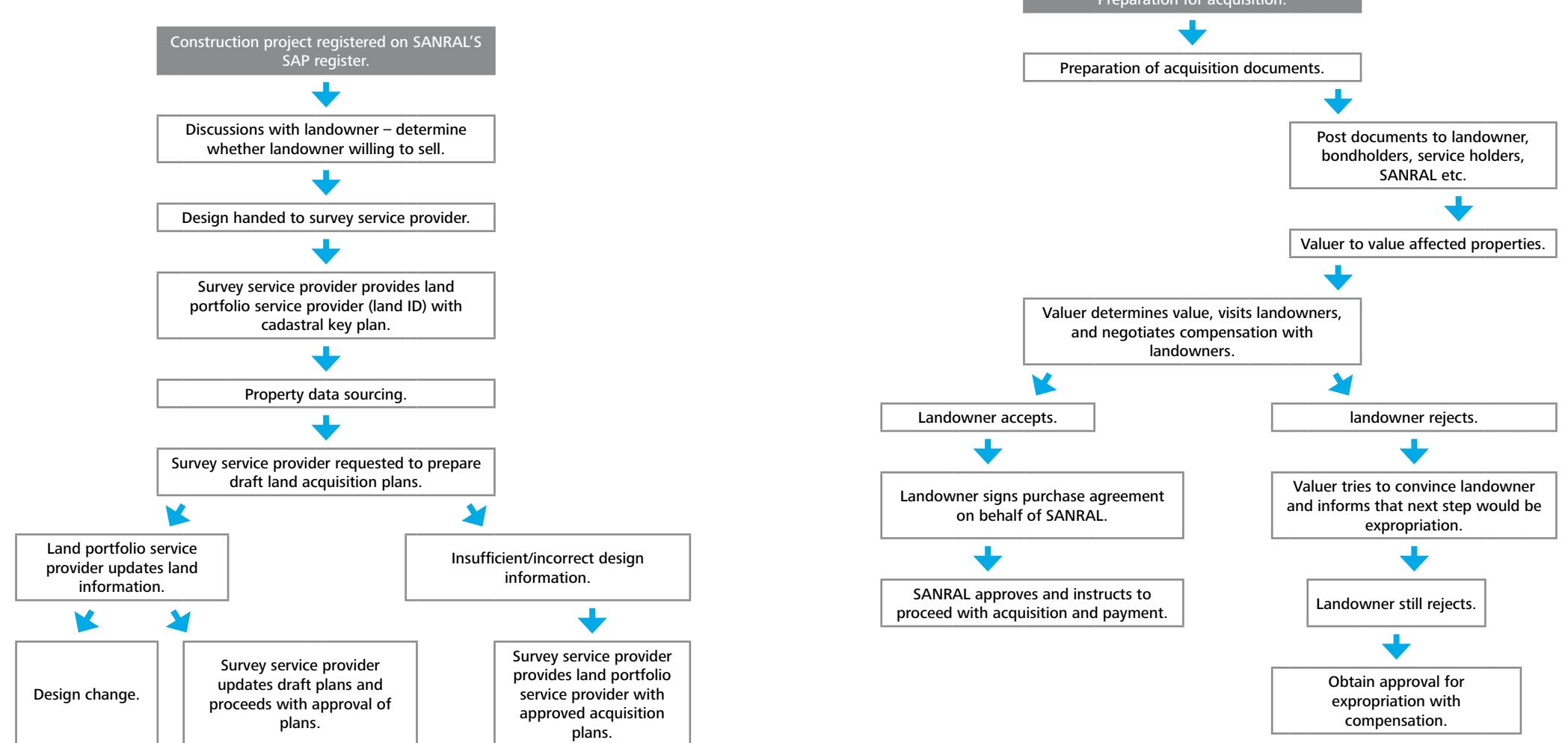
Author's contact details	Foreword	Contents	Value proposition	Fast facts and quick stats about South Africa	General information about South Africa	South Africa: An economic overview	Foreign trade	Regulatory requirements in South Africa	South African taxation	Incentives and industrial financing	Contacts in South Africa	Acronyms and abbreviations	Addendums: Indicative costs and other practical aspects of doing business and living in South Africa	Beyond auditing	National Anthem
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Procedure	Agency	Time to Complete	Associated Costs
9. Submit certificate of compliance (plumbing, sewage).  The company is required to submit an official certificate, issued by a registered plumber, confirming that the plumbing work has been completed according to the applicable legislation and standards. Self-certification is done by a certified professional.	Municipality	1 day	No charge
10. Apply for water and sewerage connection.  The service should not be provided until the certificate of compliance has been submitted. This procedure can be done simultaneously with the previous one.	Municipal Building Inspectorate	30 days	R1 350
11. Obtain telephone connection*.  This procedure can be done simultaneously with previous ones.	Telkom SA Limited	1 day	R1 650

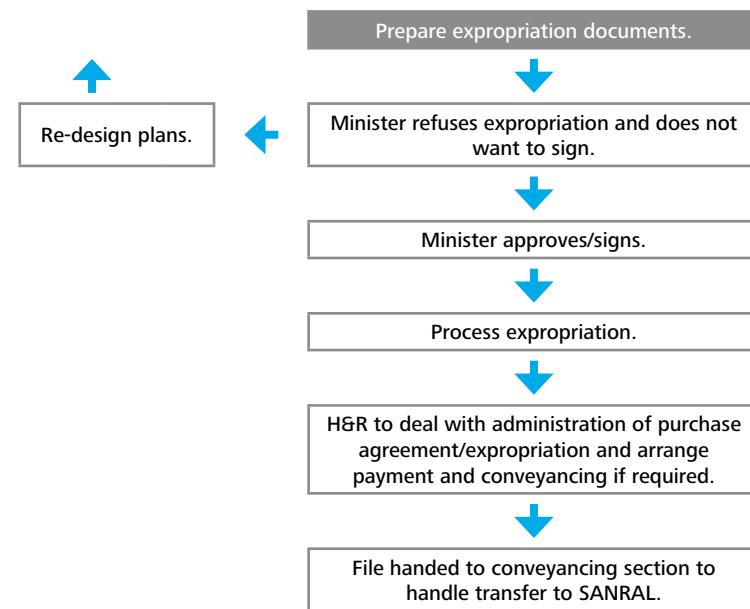
Procedure	Agency	Time to Complete	Associated Costs
12. Receive final inspection by municipal authorities.  The inspection is a prerequisite to obtaining the occupational certificate. Usually a preliminary inspection could have taken place shortly before construction is completed, in which case the final inspection is just a formality. Obtaining the occupational certificate would be issued after this process.	Municipality	1 day	No charge
13. Obtain Occupational Certificate.  This certificate is issued after the final inspection by the municipal authorities has been carried out and certifies that the building complies with the national and municipal building regulations.	Municipality	1 day	No charge

\* This procedure can be done simultaneously with previous ones.

Addendum 16: Land acquisition processes in South Africa <sup>113</sup>



<sup>113</sup> SANRAL Land Acquisition Guidelines. [www.nra.co.za/.../Land\\_Acquisition\\_Guideline\\_Manual\\_for\\_consulti](http://www.nra.co.za/.../Land_Acquisition_Guideline_Manual_for_consulti). Retrieved August 2012.



Addendum 17: Employee rights - Labour Relations Act Schedule 8: Code Of Good Practice: Dismissal <sup>114</sup>

#### Code Of Good Practice: Dismissal

Labour Relations Act (ACT 66 OF 1995 as amended)

#### Schedule 8

This Code of Good Practice is neither published nor sold by the South African Labour Guide. All Codes of Good Practice are available free of charge from the Commission for Conciliation, Mediation and Arbitration at 20 Anderson Street, Johannesburg, or from any of their branch offices.

#### 1. Introduction

- (1) This Code of Good Practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. For example, the number of employees employed in an establishment may warrant a different approach.
- (2) This Act emphasises the primacy of collective agreements. This Code is not intended as a substitute for the employer's disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum.

- (3) The key principle in this Code is that employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

#### 2. Fair reasons for dismissal

- (1) A dismissal is unfair if it is not effected for a fair reason and in accordance with a fair procedure, even if it complies with any notice period in a contract of employment or in legislation governing employment. Whether or not a dismissal is for a fair reason is determined by the facts of the case, and the appropriateness of dismissal as a penalty. Whether or not the procedure is fair is determined by referring to the guidelines set out below.
- (2) This Act recognises three grounds on which a termination of employment might be legitimate. These are: the conduct of the employee, the capacity of the employee, and the operational requirements of the employer's business.

<sup>114</sup> [www.labourguide.co.za](http://www.labourguide.co.za)

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(3) This Act provides that a dismissal is automatically unfair if the reason for the dismissal is one that amounts to an infringement of the fundamental rights of employees and trade unions, or if the reason is one of those listed in section 187. The reasons include participation in a lawful strike, intended or actual pregnancy and acts of discrimination.

(4) In cases where the dismissal is not automatically unfair, the employer must show that the reason for dismissal is a reason related to the employee's conduct or capacity, or is based on the operational requirements of the business. If the employer fails to do that, or fails to prove that the dismissal was effected in accordance with a fair procedure, the dismissal is unfair.

### 3. Misconduct

#### Disciplinary procedures prior to dismissal

(1) All employers should adopt disciplinary rules that establish the standard of conduct required of their employees. The form and content of disciplinary rules will obviously vary according to the size and nature of the employer's business. In general, a larger business will require a more formal approach to discipline. An employer's rules must create certainty and consistency in the application of discipline. This requires that the standards of

conduct are clear and made available to employees in a manner that is easily understood. Some rules or standards may be so well established and known that it is not necessary to communicate them.

(2) The courts have endorsed the concept of corrective or progressive discipline. This approach regards the purpose of discipline as a means for employees to know and understand what standards are required of them. Efforts should be made to correct employee's behaviour through a system of graduated disciplinary measures such as counselling and warnings.

(3) Formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for an employer to deal with minor violations of work discipline. Repeated misconduct will warrant warnings, which themselves may be graded according to degrees of severity. More serious infringements or repeated misconduct may call for a final warning, or other action short of dismissal. Dismissal should be reserved for cases of serious misconduct or repeated offences.

#### Dismissals for misconduct

- (4) Generally, it is not appropriate to dismiss an employee for a first offence, except if the misconduct is serious and of such gravity that it makes a continued employment relationship intolerable. Examples of serious misconduct, subject to the rule that each case should be judged on its merits, are gross dishonesty or willful damage to the property of the employer, willfully endangering the safety of others, physical assault on the employer, a fellow employee, client or customer, and gross insubordination. Whatever the merits of the case for dismissal might be, a dismissal will not be fair if it does not meet the requirements of section 188.
- (5) When deciding whether or not to impose the penalty of dismissal, the employer should, in addition to the gravity of the misconduct, consider factors such as the employee's circumstances, including length of service, previous disciplinary record and personal circumstances, as well as the nature of the job and the circumstances of the infringement itself.
- (6) The employer should apply the penalty of dismissal consistently with the way in which it has been applied to the same and other employees in the past, and consistently as between two or more employees who participate in the misconduct under

consideration.

### 4. Fair procedure

(1) Normally, the employer should conduct an investigation to determine whether there are grounds for dismissal. This does not need to be a formal inquiry. The employer should notify the employee of the allegations using a form and language that the employee can reasonably understand. The employee should be allowed the opportunity to state a case in response to the allegations. The employee should be entitled to a reasonable time to prepare the response and to the assistance of a trade union representative or fellow employee. After the inquiry, the employer should communicate the decision taken, and preferably furnish the employee with written notification of the decision.

(2) Discipline against a trade union representative or an employee who is an office bearer or official of a trade union should not be instituted without first informing and consulting the trade union.

(3) If the employee is dismissed, the employee should be given the reason for dismissal and reminded of any rights to refer the matter to a council with jurisdiction or to the Commission or to any dispute resolution procedures established in terms of a collective agreement.

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(4) In exceptional circumstances, if the employer cannot reasonably be expected to comply with these guidelines, the employer may dispense with the dismissal procedures.

#### 5. Disciplinary records

Employers should keep records for each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer, and the reasons for the actions.

#### 6. Dismissals and industrial action

(1) Participation in a strike that does not comply with the provisions of Chapter IV is misconduct. However, like any other act of misconduct, it does not always deserve dismissal. The substantive fairness of dismissal in these circumstances must be considered in the light of the facts of the case, including:

- (a) The seriousness of the contravention of this Act.
- (b) Attempts made to comply with this Act.
- (c) Whether or not the strike was in response to unjustified conduct by the employer.

(2) Prior to dismissal the employer should, at the earliest opportunity, contact a trade union official to discuss the course of action it intends to adopt. The employer should issue an ultimatum in clear

and unambiguous terms that should state what is required of the employees and what sanction will be imposed if they do not comply with the ultimatum. The employees should be allowed sufficient time to reflect on the ultimatum and respond to it, either by complying with it or rejecting it. If the employer cannot reasonably be expected to extend these steps to the employees in question, the employer may dispense with them.

#### 7. Guidelines in cases of dismissal for misconduct

Any person who is determining whether a dismissal for misconduct is unfair should consider:

- (a) Whether or not the employee contravened a rule or standard regulating conduct in, or of relevance to, the workplace; and
- (b) If a rule or standard was contravened, whether or not:
  - (i) The rule was a valid or reasonable rule or standard.
  - (ii) The employee was aware, or could reasonably be expected to have been aware, of the rule or standard.
  - (iii) The rule or standard has been consistently applied by the employer.
  - (iv) Dismissal was an appropriate sanction for the contravention of the rule or standard.

#### 8. Incapacity: Poor work performance

(1) A newly hired employee may be placed on probation for a period that is reasonable, given the circumstances of the job. The period should be determined by the nature of the job, and the time it takes to determine the employee's suitability for continued employment. When appropriate, an employer should give an employee whatever evaluation, instruction, training, guidance or counselling the employee requires rendering satisfactory service. Dismissal during the probation period should be preceded by an opportunity for the employee to state a case in response and to be assisted by a trade union representative or fellow employee.

- (2) After probation, an employee should not be dismissed for unsatisfactory performance unless the employer has:
  - (a) Given the employee appropriate evaluation, instruction, training, guidance or counselling.
  - (b) After a reasonable period of time for improvement, the employee continues to perform unsatisfactorily.
  - (3) The procedure leading to dismissal should include an investigation

to establish the reasons for the unsatisfactory performance and the employer should consider other ways, short of dismissal, to remedy the matter.

(4) In the process, the employee should have the right to be heard and to be assisted by a trade union representative or a fellow employee.

#### 9. Guidelines in cases of dismissal for poor work performance

Any person determining whether a dismissal for poor work performance is unfair should consider:

- (a) Whether or not the employee failed to meet a performance standard.
- (b) And if the employee did not meet a required performance standard, whether or not:
  - (i) The employee was aware, or could reasonably be expected to have been aware, of the required performance standard.
  - (ii) The employee was given a fair opportunity to meet the required performance standard.
  - (iii) Dismissal was an appropriate sanction for not meeting the required performance standard.

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**10. Incapacity: Ill health or injury**

(1) Incapacity on the grounds of ill health or injury may be temporary or permanent. If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the incapacity or the injury. If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all of the possible alternatives short of dismissal. When alternatives are considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee. In cases of permanent incapacity, the employer should ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability.

(2) In the process of the investigation referred to in subsection (1) the employee should be allowed to the opportunity to state a case in response and to be assisted by a trade union representative or fellow employee.

(3) The degree of incapacity is relevant to the fairness of any dismissal. The cause of the incapacity may also be relevant.

In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for an employer to consider.

(4) Particular consideration should be given to employees who are injured at work or who are incapacitated by work-related illness. The courts have indicated that the duty on the employer to accommodate the incapacity of the employee is more onerous in these circumstances.

**11. Guidelines in cases of dismissal arising from ill health or injury**

Any person determining whether a dismissal arising from ill health or injury is unfair should consider:

- (a) Whether or not the employee is capable of performing the work; and
- (b) If the employee is not capable:
  - (i) The extent to which the employee is unable to perform the work.
  - (ii) The extent to which the employee's work circumstances might be adapted to accommodate disability, or, where this is not possible, the extent to which the employee's duties might be adapted.
  - (iii) The availability of any suitable alternative work.

**Addendum 18: Dispute resolution procedures in South Africa**<sup>115</sup>

**1. Steps that follow the referral of a labour dispute**

- (a) In the event of an unfair dismissal, the dispute must be referred within 30 days of date of dismissal/final decision to dismiss.
- (b) In case of an unfair labour practice, the dispute must be referred within 90 days. Should a referral not be made within the stipulated time limits an application for condonation must be brought, indicating good reasons for the late referral.
- (c) The dispute must be referred to a bargaining council/statutory council with jurisdiction. Should no such council exist, the dispute must be referred to the Commission for Conciliation, Mediation and Arbitration (CCMA).
- (d) The Council or CCMA will then attempt to resolve dispute through conciliation.
- (e) If the dispute remains unresolved or 30 days have passed, then a certificate is issued indicating the nature of the dispute and that the dispute is unresolved.
- (f) The bargaining council/CCMA must arbitrate the matter if it is related to misconduct, incompetence, incapacity, constructive dismissal, dismissal for an unknown reason, or an unfair labour practice.

**2. Remedies in cases of unfair dismissal**

- (a) Reinstatement; and/or
- (b) Compensation: maximum 12 month's remuneration in case of unfair dismissal and maximum 24 months' remuneration should the dismissal be automatically unfair.
- (c) Urgent interim relief (e.g. an interdict).
- (d) In case of automatically unfair dismissal – any order which is appropriate under the circumstances.

**3. Consequences of termination of employment**

**3.1 Rights and duties**

- (a) Employees' rights acquired before termination remain intact. e.g. salaries in arrears, accrued leave, medical benefits, retrenchment benefits etc. still remain payable.

<sup>115</sup> [http://www.law24.com/index.php?option=com\\_fastcontent&view=layman&Itemid=168&domid=slubc/9kmdb/bteeb/g7mfb/th1rb](http://www.law24.com/index.php?option=com_fastcontent&view=layman&Itemid=168&domid=slubc/9kmdb/bteeb/g7mfb/th1rb)

### 3.2 Wrongful/unfair termination

(a) Should the employer be guilty of a breach of contract, contractual remedies will become available to employee. These include claims for specific performance in terms of the contract and claims for damages. e.g. should an employee be appointed in terms of a fixed-term contract and the employer decide to terminate the contract at any time prior to the termination date agreed upon, such an employee could claim that the contractual stipulations must be adhered to, or otherwise claim that the employer pay the salaries he or she would have been entitled to had the contract run its full course.

(b) In case of an unfair dismissal (where there was no fair reason for the dismissal or the employer followed an unfair procedure) employees are entitled to the remedies provided in the Labour Relations Act, namely reinstatement and/or monetary compensation.

(c) A claim in terms of the Labour Relations Act does not abrogate the employee's common law entitlement. Therefore, should the dismissal have been unfair and also constitute a breach of contract, the employee would be entitled to claim on both grounds.

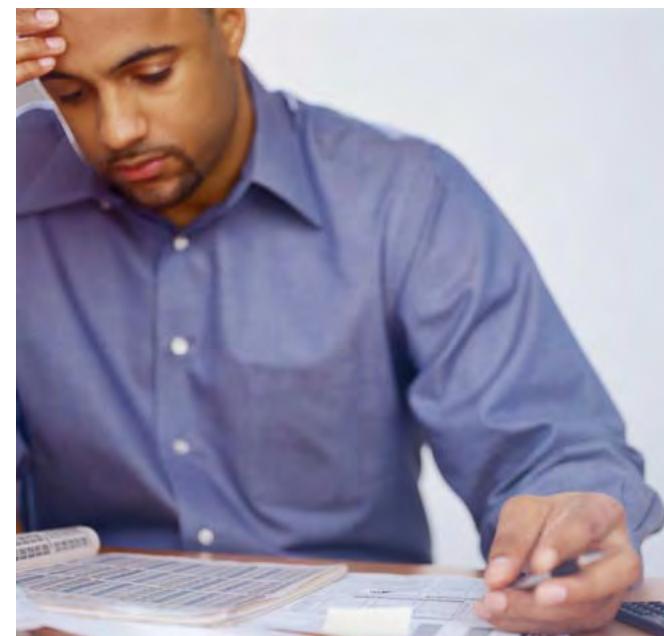
### Addendum 19: How to submit your personal income tax return <sup>116</sup>

#### How to submit your return (ITR12)

There are various ways in which you can complete and submit your return.

This tax season you can be good at tax by choosing the option that suits you best:

- eFiling: The most convenient and quickest way to do it.
- Filing electronically at a branch.
- Completing your return in writing and posting it or dropping it off in a SARS drop box.



#### • eFiling

1.	Register at <a href="http://sarsfiling.co.za">sarsfiling.co.za</a> if you haven't already done so. Join the over 2.3 million people who already enjoy the speed, convenience and ease of SARS eFiling. If you are already registered for eFiling, simply login with your eFiling username and password.	6.	Next, you have to declare your investment income. If you made any local or foreign taxable gains or losses, fill in the taxable capital gains you made. Declare any other income you earned. If you earned business or professional income or even rental income, you need to fill in the "Local business, trade and professional income" section.
2.	Once you have successfully registered or logged on, you will find your Income Tax Return (ITR12) already populated with your personal information if your employer has provided SARS your IRP5 information. If not, you can try again at a later date by clicking on the "Refresh IRP5 Data" button.	7.	Record your annual medical expenses if you paid your own medical scheme contributions from your bank account and/or any other medical expenses that you did not recover from a medical scheme. Declare your retirement annuity and income protection payments. Claim your work-related travel expenses against your travel allowance.
3.	You can then complete a questionnaire on the first page of the ITR12, which will create all the fields you need to complete in your return.	8.	Once you have completed your tax return, click "Save online" and then use our online tax calculator to get an indication of your assessment.
4.	The second page is for your personal details and you should check the pre-populated information and make changes where necessary. Make sure that you complete or verify all mandatory and relevant fields. One of these is the field for banking details. SARS cannot pay a refund (if applicable) if it has incorrect banking details.	9.	When you're ready to submit the return to SARS, just click on the "File" button. If something is incorrect or incomplete, eFiling will prompt you to correct it. An eFiling step-by-step guide to your ITR12 is available on the SARS website <a href="http://www.sars.gov.za">www.sars.gov.za</a> to assist you with the completion and submission of your tax return.
5.	The third page has information about your salary and tax deductions.	10.	You will receive your ITA34 Notice of Assessment within 48 hours on your eFiling profile assuming your return was completed correctly and honestly. The notice will indicate what you owe SARS or what SARS owes you by way of a refund.

<sup>116</sup> [www.sars.gov.za/Tools/Documents/DocumentDownload.asp?FileID](http://www.sars.gov.za/Tools/Documents/DocumentDownload.asp?FileID)

- **Filing electronically at a SARS branch**

Staff at SARS branches are ready to assist taxpayers who prefer to file their returns at their nearest SARS branch.

The following supporting documents are required:

- Your original ID or passport, plus a certified copy or, in the absence of an ID/passport, an affidavit together with a temporary ID/passport.
- Original bank statement with bank stamp that is not older than three months.
- Original proof of residential address not older than three months with your name and residential address (e.g. municipal account).
- Medical aid certificates and receipts/retirement annuity certificates.
- Your IRP5/IT3(a) certificate(s), which you will receive from your employer.
- Travel logbook (if you receive a travel allowance).
- Tax certificates that you received in respect of investment income IT3(b).
- Completed confirmation of diagnosis of disability (ITR-DD) (if applicable).
- Information relating to capital gain transactions (if applicable).
- The approved Voluntary Disclosure Programme (VDP) Agreement between yourself and SARS for years prior to 17 February 2010 (where applicable).
- Financial statements (if applicable, e.g. business income).
- Any other documentation relating to income you received or deductions you want to claim.

**Note:**

Any changes to banking details will be verified before updating your banking profile. Any refunds due to you (if applicable) will be processed only after your banking details are verified.

Further information on the process to provide banking details is available on the SARS website [sars.gov.za](http://sars.gov.za).

- **Post or SARS branch drop box**

If you choose manual submission (completing your tax return in writing) then you need to call the SARS Contact Centre on: 0800 00 SARS [7277] or visit a SARS branch and order your Income Tax Return (ITR12). It will then be posted to you.



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## Addendum 20: South Africa's top 20 listed companies for 2012 <sup>117</sup>

	Company	Description
1	Famous Brands	In May 2012, Famous Brands unveiled its financial 2012 results. During the year the group went through the 2 000 barrier in terms of number of outlets and the total at year-end stood at 2 043. Viewed against the backdrop of a consumer still feeling the pinch from higher fuel and food prices, the group did well to increase its headline earnings per share by 15%. An interesting observation in the narrative was that, though the number of consumers increased across the food services category, the frequency of visits declined by 10% to their lowest level in 12 years and in line with 2005. But Famous Brands management isn't capitulating to any of these background pressures. Instead it is centralising its procurement function, allowing it to become an even lower cost producer. It is going into new market segments, identifying new joint venture partnerships and continuing to leverage the synergies from its supply chain.
2	Coronation	In an investment market characterised by nervousness, concern and generally pedestrian returns, Coronation fund managers stand out as an outperformer. In the six months to March 2012, it grew its assets under management by 28% to R296 billion. Net inflows of funds for the period were strong at R19,1 billion. At the regular "beauty parades" of fund managers, it once again received a collection of awards, including the Morningstar South Africa's best large fund house.
3	Kumba Iron Ore	Though Kumba is a favourite holding among institutional fund managers, a few negatives continue to hang over this stock. The valuation (P:E ratio of just over 10 times) appears stretched at a time when the global iron ore price is falling. Also, it is exposed to a degree of legal risk in its ongoing dispute with government and ArcelorMittal South Africa. Only once the court case has been decided will it be possible to make a reasoned assessment of its operational forecast

	Company	Description
4	Mix Telematics	Mix Telematics operates successfully in the niche market of vehicle tracking and fleet management solutions. Its well-known brand from a consumer perspective is Matrix vehicle tracking. The group operates in 111 countries, helping customers to reduce risk. At the time of writing, it had released a trading statement for the year ended March 31, 2012, with headline earnings per share expected to rise by between 37% and 42%.
5	EOH	If ever there was a classic case of the old adage that success breeds success, it is shown in EOH. Between 2003 and 2012, headline earnings per share have grown from 15,5c to 126,9c, a compound annual growth rate of 25%. And this earnings growth pattern is reflected in the virtually exponential rise in its share price. No longer a small company in terms of market capitalisation, EOH is now coming up against some of the larger players in the IT industry.
6	Kagiso Media	In the fiercely competitive world of the media, this black-owned and operated company stands out as a lesson in how to do things right, first time every time. Though somewhat more subdued than last year's interim results, it still managed to increase revenue by 15% and pretax profit by 13% for the six months to December 2011. Earlier this year, it made an offer to acquire Juta & Company, which was accepted, subject to regulatory approval.
7	Exxaro	Exxaro remains a firm favourite among local investors. Strong earnings growth in recent years has resulted in the share being rated on a very undemanding P:E ratio of around 10 times. Coal operations are being expanded and Exxaro's 20% stake in Sishen Iron Ore Company provides the group with stable funding for its expansion. It has exchanged its mineral sands businesses for a 38,5% stake in Tronox, a pigment producer based in the US.

<sup>117</sup> <http://www.fm.co.za/specialreports/rankings/2012/06/28/fm-top-20-companies>

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	Company	Description
8	ARM	Patrice Motsepe's company doesn't disappoint investors and yet ARM doesn't appear to have the kind of institutional following it deserves. Interim results to December 2011 were ahead of expectations. The only real negative was at Nkomati, which produced a loss of R128 million in the first six months of the financial year. ARM believes implicitly in the longevity of the commodity supercycle and continues to expand its commitment to invest in the business.
9	WBHO	WBHO is regarded by many institutional fund managers as the best firm in the construction sector. Until recently, it had an unbroken earnings track record spanning over 15 years. So for its earnings to decline, as they did in the year to June 2011, highlights the parlous state of the local construction industry. For the six months to December 2011, revenue rose by 16,5%, operating profit was down by 15,2% and earnings per share declined by 8,6%.
10	Basil Read	Like its peers in the construction sector, Basil Read has not escaped the problems currently afflicting the industry. For the 12 months to December 2011, revenue rose by 16% to R6.2 billion, but operating profit fell 24% to R281 million and headline earnings per share slumped by 33% to 139,7c. But the order book was up 65% to R14 billion, with the group starting to see significantly more activity in power generation, mining and infrastructure. Also, roads tenders appear to be increasing as provinces are tasked with urgently improving the condition of SA's road network. One of the more interesting contracts awarded to the group last year is a R3,1 billion contract to construct and operate an airport on the island of St Helena in the South Atlantic.
11	Cipla Medpro	Cipla Medpro is one of the fastest growing pharmaceutical companies in SA and is a leading supplier of chronic medications to the public and private sectors. Its genesis goes back to 1993 with the founding of Medpro Pharmaceutica. It arrived on the JSE after merging with JSE-listed Enaleni Pharmaceuticals in 2005. Though its much larger peers in the pharmaceutical sector (Aspen and Adcock-Ingram) are sitting on p:e ratios of almost 22 times and 13 times respectively, its PE is a comparatively lowly nine times. This is perhaps why it has attracted the attention of Cape Town investment house Allan Gray, whose clients now own 10% of Cipla Medpro.

	Company	Description
12	Steinhoff	Steinhoff controls JD Group in SA and is the second largest integrated home furnishings retailer in Europe after Ikea. Group CEO Markus Jooste has achieved much since the group listed on the JSE in the late 1990s and yet the local investor community still seems reluctant to confer a premium rating on this stock. Steinhoff intends listing its European business in London, Paris or Frankfurt soon, and it is possible this may coincide with a capital raising exercise.
13	Litha Healthcare	Litha has been around in various guises for the past 20 years, though only listed under the name "Litha" since 2006. Through a variety of acquisitions, it has bulked up enormously and is now a serious player in the SA healthcare industry. It has interests in the biotechnology, medical devices and consumables and pharmaceutical industries. Its most recent acquisition of Paladin SA's Pharmaplan could have profoundly positive implications for Litha.
14	Capitec	For the past three years, doomsayers have been predicting that Capitec's explosive growth would come to an end. It seems like a big ask to expect the company to keep on delivering, until one delves more deeply into the reasons for its success. By not proliferating its product base and concentrating on a limited range of low-cost banking products, Capitec is growing its client base while reducing its already low cost-to-income range even further.
15	Illovo	Illovo Sugar is arguably the leading African low-cost sugar and downstream products producer. No longer confined to SA, it has 15 operations across six African countries. In the year to March 31 2012, operating profit rose by 31% and headline earnings per share by 18%, even though sales volumes were 5% lower. Notably, besides dampened sales volumes, sales to the European Union increased by 52%. Across the board, prices were firm.

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	Company	Description
16	Woolworths	After years of trying to put its clothing business on the same level as its food business, Woolies appears to have finally managed to achieve this goal. During the recession of 2009, Woolies Food cleverly managed to stem the tide of market share loss by selective price promotions and when the economy picked up, so did Woolies Food's market share. Its financial services division has an exceptionally clean book and is poised for significant growth.
17	Clicks	After recording very strong earnings growth for the past few years, Clicks' interim results to February 2012 were somewhat disappointing. Turnover grew by less than 7% and headline earnings per share grew by only 7,5%. Supermarkets have made the health and beauty segment very competitive. Surprisingly, the Musica division managed to hold its own, even though its traditional market is facing stiff competition from the Internet.
18	Oceana	There are few fishing companies around these days, due to significant consolidation in this difficult and volatile industry. There were at least half a dozen listed fishing firms 20 years ago, but today it's just Oceana. Interim results to end March 2012 were strong, with headline earnings up by 21%. All three operating divisions turned in good results. The group is in the process of acquiring the fishing and cold storage businesses of the Lusitania group.
19	Spur Corp	Spur operates mainly in what is referred to as the casual dining market. Apart from the long established Spur Steak Ranches, it also operates Panarotti's, John Dory and the recently acquired DoRego's. It's been battling in the UK, Ireland and Australia, where economic conditions remain challenging. Expansion in the rest of Africa, however, looks promising. For the six months to December 2011, headline earnings per share rose by 20,2%.
20	Spar	Though Spar is more of a distribution company in comparison with its peers Shoprite and Pick n Pay in the food & drug retailers sector, its performance gets compared by investors as if it operated in the same space. In its interim figures to end March 2012, sales grew by 136% but gross margin fell from 8% to 7,9%. Its liquor retailing operation, Tops, was the star performer, recording 19,7% sales growth. Build-It, the home improvement division, also performed well, with turnover growing by 19,2%. Recognising that location is everything in the world of retail, Spar recently took the decision to buy sites from franchisees who wanted to sell, rather than let these sites end up in the hands of their competition.

## Beyond auditing

"Deloitte" in South Africa is a name that is synonymous with a dedication to excellence in the fields of auditing, consulting, financial advisory, risk management and tax services.

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### National Anthem

Nkosi sikelel' iAfrika,  
Maluphakanyisw' uphondo lwayo,  
Yizwa imithandazo yethu,  
Nkosi sikelela, thina lusapho lwayo.

Morena boloka setjhaba sa heso,  
O fedise dintwa la matshwenyeho,  
O se boloke, O se boloke setjhaba sa heso,  
Setjhaba sa South Afrika - South Afrika.

Uit die blou van onse hemel,  
Uit die diepte van ons see,  
Oor ons ewige gebergtes,  
Waar die kranse antwoord gee.

Sounds the call to come together,  
And united we shall stand,  
Let us live and strive for freedom,  
In South Africa our land.

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