

# SOUTH AFRICA

As per 1 January 2018

## EXPATRIATE AND EMPLOYER TAX COMPLIANCE AND ADVISORY

<b>Personal Income Tax Rates – Employment Income</b>	<p>Progressive personal income tax rates from 0% – 45%</p> <p>Tax thresholds for 2019/2020 Tax year; if younger than 65 years ZAR 79,000; if 65 years of age or older ZAR 122,300; 75 years and older, this threshold is ZAR 136,750</p>
<b>Tax period</b>	<p>1 March to the following 28/29 February</p>
<b>Tax residency / Domicile according to domestic law</b>	<p>Established through either physical presence or through being considered ordinarily resident in South Africa.</p> <p>Physical presence test: where an individual is not ordinarily resident, he/she will be considered to be resident in South Africa if he/she is physically present in the Republic for a period exceeding 91 days during the current year of assessment as well as during each of the five preceding years of assessment, and he/she was physically present in the Republic for a period exceeding 915 days (or part-days) in aggregate during those preceding five years. Where a person who became resident by virtue of physical presence in South Africa, is outside the Republic for a continuous period of 330 full days after ceasing to be physically present in the Republic, that person will be deemed not to have been resident from the day he/she ceased to be physically present in the Republic.</p> <p>The concept of ordinarily resident is not defined in domestic law and is widely held (based on case law) to be the country which an individual considers to be his/her real home. i.e. the place where his permanent place of abode is, where his belongings are stored, which he leaves for temporary absences and to which he regularly returns after such absences. If the taxpayer is habitually and normally resident in South Africa, apart from temporary or occasional absences of long or short duration or if he/she decides to settle permanently in South Africa, South Africa is recognized as being his/her real home and the individual will become a resident by virtue of ordinary residence immediately.</p>
<b>Tax registration</b>	<p>Required if tax resident.</p> <p>If non resident, only if gross income from South African source or deemed to be from South African source.</p>
<b>Employment income definition</b>	<p>Any remuneration and benefits in cash or in kind received by an employee for services rendered under an employment agreement (e.g. reimbursement or payment of tax, school fee reimbursements, benefits in kind, cost of living allowances, home leave reimbursements, housing allowances).</p>
<b>Examples of tax exemption</b>	<p>Reimbursements of properly documented business expenses (including business trip expenses, per diems, etc.) are not taxable.</p> <p>Employer provided residential accommodation: For purposes of determining the value of the taxable benefit relating to employer-provided accommodation, no rental value is placed on any accommodation provided by an employer to an employee while he/she is away from his/her usual place of residence outside of South Africa, provided the employee was physically present in South Africa: 1) for a period of less than 90 days during that tax year; or 2) for a period not exceeding two years from his/her date of arrival for purposes of performing his/her employment duties. The concession above is limited to ZAR 25,000 per month during which the accommodation was provided during the tax year, for up to 2 years. This provision will only apply if that employee was not present in South Africa for a period exceeding 90 days during the tax year immediately preceding the date of arrival in South Africa. If these conditions are not met, the benefit is fully taxable. The value of the taxable</p>

	<p>benefit will be, where the accommodation is obtained by the employer in terms of an arm's length rental agreement, the lower of the actual cost incurred by the company, less any consideration paid by the employee, or the result of a remuneration based formula. Reimbursement of costs to relocate employee and his/her family not taxable. Relocation allowances not exempt from tax unless employee can provide documentary proof of expenses.</p>
<b>Specific expatriate concession</b>	No special tax concessions
<b>Income of board members</b>	Depending on functions performed in the company
<b>Tax returns</b>	<p>The deadlines for submission of individual annual income tax returns for the 2019 tax year. Deadlines published annually. Filing season 1 July 2019 and closes on 4 December 2019 for non provisional taxpayers who uses efilng and 31 January 2020 for provisional taxpayers who uses efilng. Non-submission of an income tax return will attract an administrative non-compliance penalty.</p> <p>Provisional tax returns: first provisional tax return – six months after the particular year of assessment (last business day of August); second provisional tax return – on or before last day of the particular year of assessment (last business day of February)</p>
<b>Tax payments</b>	<p>Annual return once assessed the taxpayer is notified of any taxes outstanding or refund due.</p> <p>Tax is due by the date specified on the assessment, typically 30 days from the date on which the assessment is issued.</p> <p>Provisional tax for an individual is due as follows:</p> <ul style="list-style-type: none"> <li>• First payment – six months after the beginning of the particular year of assessment (last business day of August)</li> <li>• Second payment – on or before the last day of the year of assessment (last business day of February)</li> <li>• A voluntary third or “top-up” payment – seven months after the end of the year of assessment</li> </ul>
<b>Tax on real estate property</b>	<p>Transfer Duty: duty is paid by the purchaser on the acquisition of immovable property and differentiates on the rate for individuals or entities. Natural persons: progressive rates 0% – 13% depending on the value of the property.</p> <p>Value-Added Tax (VAT): currently VAT in South Africa is charged at 15%. Buying property from a registered vendor is subjected to VAT.</p> <p>Capital Gains Tax (CGT) is applicable when an asset is disposed of which arises in a loss or a gain. Residents and non-residents are liable to pay CGT on the disposal of immovable property or an interest an immovable property held as investment. Certain indirect interests in immovable property such as shares in a property company are deemed to be immovable property. The first ZAR 2million of any capital gain or loss on the disposal of a “primary residence” is disregarded.</p> <p>Withholding tax is levied on the disposal by a non-resident of any immovable property in South Africa as an advance payment of tax on the seller's actual account of normal tax liability. The amount to be withheld:</p> <ul style="list-style-type: none"> <li>• 7.5% where the seller is a natural person;</li> <li>• 10% where the seller is a company; and</li> <li>• 15% where the seller is a trust</li> </ul> <p>Estate duty is levied on property of residents and South African property of non-residents less allowable deductions. The duty is levied on the dutiable value of an estate at a rate of 20% on the first R30 million and at a rate of 25% above R30 million. A basic deduction of R3.5 million is allowed in the determination of an estate's liability for estate duty as well as deductions for liabilities, bequests to public benefit organisations and property accruing</p>

to surviving spouses.

## TAX TREATIES

Employment income / income from board members

Most of South Africa's tax treaties based on Model OECD

## INTERNATIONAL SOCIAL SECURITY

Cross border employments

Not applicable

Exception under Art 16 of Reg. 883/2004

Not applicable

and Art 17 of Reg. 1408/71

Social Security Cost as % from gross salary and absolute amounts

Not applicable

## IMMIGRATION

Work permit

All foreign persons require a Work Permit should they wish to work in South Africa. The Work Permits are divided into 2 categories. Firstly Short Term Work Permits which are for a working period of 3 months or less. Secondly Long Term Work Permits which may be applicable for up to 5 years. Applicants must comply with specific criteria provided by the Department of Home Affairs, and applications must be submitted at the South African Embassy in the applicants country of residence.

Visa

Visa requirements are regulated by 3 categories dependant upon the person's country of citizenship:

1. Citizens of countries listed in Category 1 are not required to apply for a visa and will be issued with a visa for up to 3 months at the port of entry. All EU countries fall into this category with the exception of Hungary and Poland.
2. Citizens of countries listed in Category 2 are not required to apply for a visa and will be issued with a visa of up to 30 days at the port of entry. Hungary and Poland fall into this category.
3. Citizens of countries that do not fall into the above 2 categories must apply for a visa at the South African Embassy in their country of residence or origin.

Residency permits / registration certificate

All foreign persons will have to apply for Residency permits should they wish to reside on a permanent basis in South Africa. There are a number different categories which apply to Permanent Residence applications.

Driving license

A driving license issued in any country other than South Africa is valid to drive within South Africa if the foreign driving license was issued on a date on which the holder thereof has not been permanently or ordinarily resident in South Africa. A person is permanently resident in South Africa a citizen or has been granted a permanent residency permit. A person is ordinarily resident in South Africa if he/she is in South Africa on an extended visit of more than three months on a contract of employment (not just visiting). The permanent residence requirement does not apply to a holder of a diplomatic permit or a treaty permit.

STOCK OPTION PLAN

Specific tax treatment including gains on vesting in taxable remuneration. There are complex rules to determine the vesting date.

## ARTICLE 15 OF THE OECD MODEL

183 days

The days of physical presence will be accounted per calendar year, tax year or 12 month period (depends on tax treaty).

**Notion of employer**

Economic and formal employer

**Existence of a permanent establishment**

The definition of a permanent establishment is determined in the tax treaty