

# The Professional

## The main tax proposals for 2020/21 are:

- Providing personal income tax relief through an above-inflation increase in the brackets and rebates.
- Further limiting corporate interest deductions to combat base erosion and profit shifting.
- Restricting the ability of companies to fully offset assessed losses from previous years against taxable income.
- Increasing the fuel levy by 25c/litre, consisting of a 16c/litre increase in the general fuel levy and a 9c/litre increase in the RAF levy, to adjust for inflation.
- Increasing the annual contribution limit to tax-free savings accounts by R3 000 from 1 March 2020.
- Increasing excise duties on alcohol and tobacco by between 4.4 and 7.5 per cent.

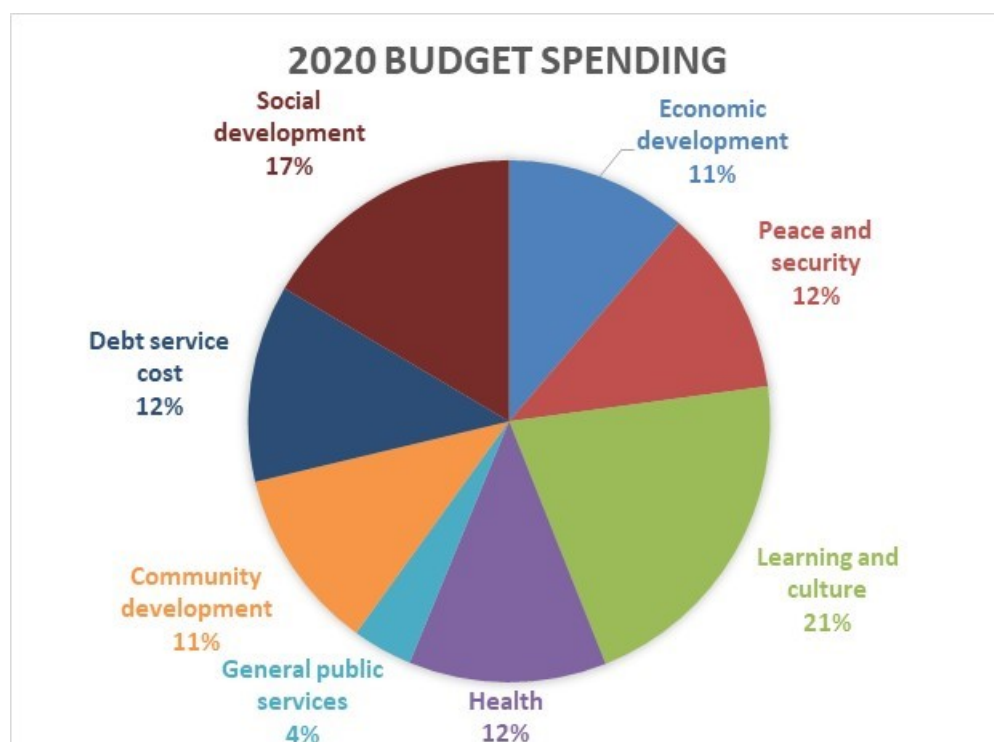
## Inside this issue:

Tax tables	2
Deductions and allowances	4
Fringe benefits	6
Corporate tax	8
Environmental tax	9
Individuals	10
Business	11
International	13
VAT	14
Tax Administration	15
Learnerships and grants	16
IAC News	18
Inside Story	6

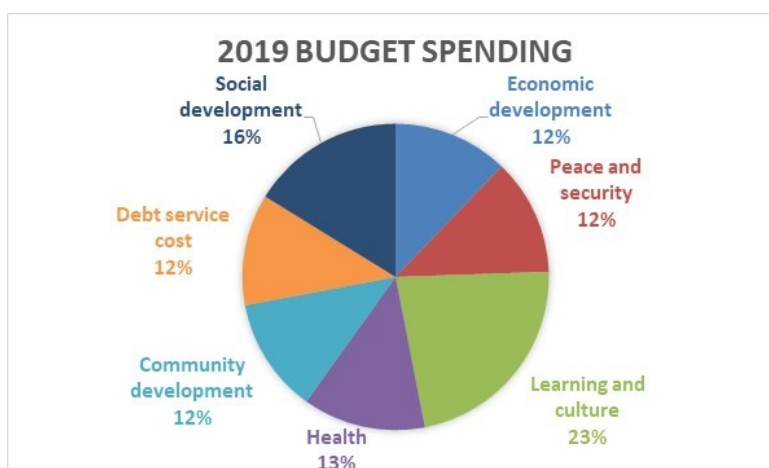
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## 2020 National Budget



Significant increase in Social Development expenditure (R31.1 billion) and Debt service costs (R27.1 billion)



## Personal income tax and special trusts

One of the main tax proposals was to provide personal income tax relief through above-inflation adjustments in all brackets as well as an increase in rebates.

2019/20		2020/21	
Taxable income (R)	Rates of tax	Taxable income (R)	Rates of tax
R0 - R195 850	18% of each R1	R0 - R205 900	18% of each R1
R195 851 - R305 850	R35 253 + 26% of the amount above R195 850	R205 901 - R321 600	R37 062 + 26% of the amount above R205 900
R305 851 - R423 300	R63 853 + 31% of the amount above R305 850	R321 601 - R445 100	R67 144 + 31% of the amount above R321 600
R423 301 - R555 600	R100 263 + 36% of the amount above R423 300	R445 101 - R584 200	R105 429 + 36% of the amount above R445 100
R555 601 - R708 310	R147 891 + 39% of the amount above R555 600	R584 201 - R744 800	R155 505 + 39% of the amount above R584 200
R708 311 - R1 500 000	R207 448 + 41% of the amount above R708 310	R744 801 - R1 577 300	R218 139 + 41% of the amount above R744 800
R1 500 001 and above	R532 041 + 45% of the amount above R1 500 000	R1 577 301 and above	R559 464 + 45% of the amount above R1 577 300

## Rebates and tax thresholds

2019/20		2020/21	
<b>Rebates</b>		<b>Rebates</b>	
Primary	R14 220	Primary	R14 958
Secondary	R7 794	Secondary	R8 199
Tertiary	R2 601	Tertiary	R2 736
<b>Tax threshold</b>		<b>Tax threshold</b>	
Below age 65	R79 000	Below age 65	R83 100
Age 65 and over	R122 300	Age 65 and over	R128 650
Age 75 and over	R136 750	Age 75 and over	R143 850

## SARS Interest rates

### Rate of interest from 1 February 2020

Fringe benefits: Interest-free or low-interest loan (official rate)

Rate per annum

7.25%

### Rate of interest from 1 February 2020

Late or underpayment of tax

10%

Refund of overpayment of provisional tax

6%

Refund of tax on successful appeal or where the appeal was conceded by SARS

10%

Refund of VAT after the prescribed period

10%

Late payment of VAT

10%

## Transfer duty

Transfer duty brackets were adjusted to take into account inflation.

Property value (R)	2019/20 Rates of tax	Property value (R)	2020/21 Rates of tax
R0 - R900 000	0% of property value	R0 - R1 000 000	0% of property value
R900 001 - R1 250 000	3% of property value above R900 000	R1 000 001 - R1 375 000	3% of property value above R1 000 000
R1 250 001 - R1 750 000	R10 500 + 6% of property value above R1 250 000	R1 375 001 - R1 925 000	R11 250 + 6% of property value above R1 375 000
R1 750 001 - R2 250 000	R40 500 + 8% of property value above R1 750 000	R1 925 001 - R2 475 000	R44 250 + 8% of property value above R1 925 000
R2 250 001 - R10 000 000	R80 500 + 11% of property value above R2 250 000	R2 475 001 - R11 000 000	R88 250 + 11% of property value above R2 475 000
R10 000 001 and above	R933 000 + 13% of property value above R10 000 000	R11 000 001 and above	R1 026 000 + 13% of property value above R11 000 000

## Excise duty

Product	Current excise duty rate	Proposed excise duty rate
Malt beer	R102.07/ litre of absolute alcohol (173,51c / average 340ml can)	R106.56/ litre of absolute alcohol (181,15c / average 340ml can)
Traditional African beer	7,82c / litre	7,82c / litre
Traditional African beer powder	34,70c / kg	34,70c / kg
Unfortified wine	R4.20 / litre	R4.39 / litre
Fortified wine	R7.03 / litre	R7.34 / litre
Sparkling wine	R13.55 / litre	R14.36 / litre
Ciders and alcoholic fruit beverages	R102.07/ litre of absolute alcohol (173,51c / average 340ml can)	R106.56/ litre of absolute alcohol (181,15c / average 340ml can)
Spirits	R204.15 / litre of absolute alcohol (R65.84 / 750ml bottle)	R213.13 / litre of absolute alcohol (R68.73 / 750ml bottle)
Cigarettes	R16.66 / 20 cigarettes	R17.40 / 20 cigarettes
Cigarette tobacco	R18.73 / 50g	R19.55 / 50g
Pipe tobacco	R5.39 / 25g	R5.79 / 25g
Cigars	R89.72 / 23g	R96.45 / 23g

## Estate duty

Estate duty is levied on the property of residents and the 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 to surviving spouses.



## Retirement fund lump sum withdrawal benefit

Retirement fund lump sum withdrawal benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on withdrawal (including assignment in terms of a divorce order). The tax table in respect thereof remained the same as the 2019/20 year's.

Taxable Income (R)	Rate of tax
0—25 000	0% of taxable income
25 001—660 000	18% of taxable income above 25 000
660 001—990 000	114 300 + 27% of taxable income above 660 000
990 001 and above	203 400 + 36% of taxable income above 990 000

## Retirement fund lump sum benefits or severance benefits

Retirement fund lump sum benefits consist of lump sums from a pension, pension preservation, provident, provident preservation or retirement annuity fund on death, retirement or termination of employment due to attaining the age of 55 years, sickness, accident, injury, incapacity, redundancy or termination of the employer's trade. Severance benefits consist of lump sums from or by arrangement with an employer due to relinquishment, termination, loss, repudiation, cancellation or variation of a person's office or employment.

Tax on a specific retirement fund lump sum benefit or a severance benefit (lump sum or severance benefit) is equal to –

- the tax determined by the application of the tax table to the aggregate of the benefit plus all other retirement fund lump sum benefits accruing from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all other severance benefits accruing from March 2011; less
- the tax determined by the application of the tax table to the aggregate of all retirement fund lump sum benefits accruing before lump sum from October 2007 and all retirement fund lump sum withdrawal benefits accruing from March 2009 and all severance benefits accruing before severance benefit from March 2011.

Taxable Income (R)	Rate of tax
0—500 000	0% of taxable income
500 001—700 000	18% of taxable income above 500 000
700 001—1 050 000	36 000 + 27% of taxable income above 700 000
1 050 001 and above	130 500 + 36% of taxable income above 1 050 000

## Provisional tax

A provisional taxpayer is any person who earns income by way of remuneration from an unregistered employer, or income that is not remuneration, or an allowance or advance payable by the person's principal. An individual is not required to pay provisional tax if he or she does not carry on any business, and the individual's taxable income:

- Will not exceed the tax threshold for the tax year; or
- From interest, dividends, foreign dividends, rental from the letting of fixed property, and remuneration from an unregistered employer will be R30 000 or less for the tax year. Deceased estates are not provisional taxpayers



**Retirement is a blank sheet of paper. It is a chance to redesign your life into something new and different.**  
**Patrick Foley, Winning at Retirement**

## Deductions

### Retirement fund contributions

Amounts contributed to pension, provident and retirement annuity funds during a year of assessment are deductible by members of those funds. Amounts contributed by employers and taxed as fringe benefits are treated as contributions by the individual employees. The deduction is limited to 27.5% of the greater of the amount of remuneration for PAYE purposes or taxable income (both excluding retirement fund lump sums and severance benefits). The deduction is further limited to the lower of R350 000 or 27.5% of taxable income before the inclusion of a taxable capital gain. Any contributions exceeding the limitations are carried forward to the immediately following year of assessment and are deemed to be contributed in that following year. The amounts carried forward are reduced by contributions set off against retirement fund lump sums and retirement annuities.

### Medical and disability expenses

In determining tax payable, individuals are allowed to deduct:

- Monthly contributions to medical schemes (a tax rebate referred to as a medical scheme fees tax credit) by the individual who paid the contributions up to R319 for each of the first two persons covered by those medical schemes, and R215 for each additional dependant; and
- In the case of an individual who is 65 years and older, or if an individual, his or her spouse, or his or her child is a person with a disability, 33.3% of the sum of qualifying medical expenses paid and borne by the individual, and an amount by which medical scheme contributions paid by the individual exceed three times the medical scheme fees tax credits for the tax year; or
- In the case of any other individual, 25% of an amount equal to the sum of the qualifying medical expenses paid and borne by the individual, and an amount by which medical scheme contributions paid by the individual exceed four times the medical scheme fees tax credits for the tax year, limited to the amount which exceeds 7.5% of taxable income (excluding retirement fund lump sums and severance benefits).

### Donations

Deductions in respect of donations to certain public benefit organisations are limited to 10% of taxable income (excluding retirement fund lump sums and severance benefits). The amount of donations exceeding 10% of the taxable income is treated as a donation to qualifying public benefit organisations in the following tax year.



*"For many, retirement is a time for personal growth, which becomes the path to greater personal freedom."*

**Robert Delamontagne**

## Subsistence allowance

Where the recipient is obliged to spend at least one night away from his or her usual place of residence on business, and the accommodation to which that allowance or advance relates is in the Republic of South Africa, and the allowance or advance is granted to pay for:

- Meals and incidental costs, an amount of R452 per day is deemed to have been expended
- Incidental costs only, an amount of R139 for each day, which falls within the period, is deemed to have been expended.

Where the accommodation to which that allowance or advance relates is outside the Republic of South Africa, a specific amount per country is deemed to have been expended. Details of these amounts are published on the SARS website [www.sars.gov.za](http://www.sars.gov.za), under Legal Counsel / Secondary Legislation / Income Tax Notices.

## Tax-free savings accounts

The annual limit on contributions to tax-free savings accounts will be increased from R33 000 to R36 000 from 1 March 2020.





## Fringe benefits

### Employer-owned vehicles

The taxable value is 3.5% of the determined value (the cash cost including VAT) of each vehicle per month.

Where the vehicle is

- The subject of a maintenance plan when the employer acquired the vehicle the taxable value is 3,25% of the determined value; or
- acquired by the employer under an operating lease, the taxable value is the cost incurred by the employer under the operating lease plus the cost of fuel

80% of the fringe benefit must be included in the employee's remuneration for the purposes of calculating PAYE.

The percentage is reduced to 20% if the employer is satisfied that at least 80% of the use of the motor vehicle for the tax year will be for business purposes

On assessment, the fringe benefit for the tax year is reduced by the ratio of the distance travelled for business purposes, substantiated by a log book, divided by the actual distance travelled during the tax year

On assessment further relief is available for the cost of license, insurance, maintenance and fuel for private travel, if the full cost thereof has been borne by the employee and if the distance travelled for private purposes is substantiated by a log book.

### Loans

The difference between interest charged at the official rate, and the actual amount of interest charged, is to be included in gross income.

### Residential accommodation

The value of the fringe benefit to be included in gross income is the lower of the benefit calculated by applying a prescribed formula, or the cost to the employer if the employer does not have full ownership of the accommodation.

The formula will apply if the accommodation is owned by the employee, but it does not apply to holiday accommodation hired by the employer from non-associated institutions.

*You can fool all  
the people  
some of the  
time and some  
of the people  
all the time, but  
you cannot fool  
all the people  
all the time.  
Abraham  
Lincoln*

## Withholding taxes

In limited circumstances, the applicable withholding tax rate may be reduced in terms of a tax treaty with the country of residence of a non-resident.

### Royalties

A final tax, at a rate of 15%, is imposed on the gross amount of royalties from a South African source payable to non-residents.

### Interest

A final tax, at a rate of 15%, is imposed on interest from a South African source, payable to non-residents. Interest is exempt if payable by any sphere of the South African government, a bank, or if the debt is listed on a recognised exchange.

### Foreign entertainers and sportspersons

A final tax, at the rate of 15%, is imposed on gross amounts payable to non-residents, for activities exercised by them in South Africa as entertainers or sportspersons.

### Disposal of immovable property

Tax is provisionally withheld on behalf of non-resident sellers of immovable property in South Africa, to be set off against the normal tax liability of the non-residents. The tax to be withheld from payments to the non-residents is at a rate of 7.5% for a non-resident individual, 10% for a non-resident company, and 15% for a non-resident trust that is selling the immovable property.





## Income Tax—Small Business Corporations

Taxable income (R)	Rate of tax
1-83 100	0% of taxable income
83 101 –365 000	7% of taxable income above 83 100
365 001—550 000	19 733 + 21% of taxable income above 365 000
550 001 and above	58 583 + 28% of the taxable income above 550 000



## Turnover tax for Micro Businesses

Taxable turnover (R)	Rate of tax
1-335 000	0% of taxable income
335 001—500 000	1% of taxable income above 335 000
500 001—750 000	1 650 + 2% of taxable income above 500 000
750 001 and above	6 650 + 3% of the taxable income above 750 000

*No matter how busy you are, you must take time to make the other person feel important.*  
**Mary Kay Ash**

## Capital gains tax

Capital gains on the disposal of assets are included in taxable income. The maximum effective rate of capital gains tax is: individuals and special trusts 18%, companies 22.4% and other trusts 36% .

Events that trigger a disposal include a sale, donation, exchange, loss, death and emigration.

The following are some of the specific exclusions:

- R2 million gain or loss on the disposal of a primary residence
- Most personal use assets
- Retirement benefits
- Payments in respect of original long-term insurance policies
- Small business exclusion of capital gains of R1.8 million for individuals (at least 55 years of age), when a small business with a market value not exceeding R10 million is disposed of
- Annual exclusion of R40 000 capital gain, or capital loss is granted to individuals and special trusts
- Instead of the annual exclusion, the exclusion granted to individuals is R300 000 for the year of death.





## Excessive corporate interest deductions

Government proposes to restrict net interest expense deductions to 30 per cent of earnings for years of assessment commencing on or after 1 January 2021.

This measure will address a typical form of base erosion and profit shifting by multinational corporations.

This practice involves artificial-

ly inflating company debt and or the interest rate on that debt to a related party in another jurisdiction with a lower corporate income tax rate.

The resulting interest payments are deducted in South Africa, reducing the domestic tax base and effectively shifting profits to be taxed at a lower rate offshore.

Consultation on the design of this limitation has already begun and a discussion document is available on the National Treasury website.

The closing date for comments is 17 April 2020.

***If you don't  
have time to do  
it right, when  
will you have  
time to do it  
over?***

**John Wooden**

## Taxing multinational firms

In today's digital economy, many businesses are able to generate significant profits in a country, without a physical presence.

The Organisation for Economic Co-operation and Development (OECD) secretariat has proposed a unified approach to taxing multinational firms.

This approach considers multinationals as a whole, and recognizes that consumers and intangible assets contribute to global profits.

Under the proposal, multinationals would be required to report a portion of their global profits in all countries where they have a sustained

and material market presence. The proposal forms the basis for negotiations and South Africa participates in these discussions as a member of the OECD's inclusive framework steering group.

## Limiting the use of assessed losses

When a company's tax-deductible expenses exceed its income, it records an assessed loss. Often, the loss is carried forward to the next year and is offset against taxable income in that year. Over the past few years, there has been an international trend to restrict this practice.

Government proposes broadening the corporate income tax base by restricting the offset of assessed losses carried forward to 80 per cent of taxable income, for years of assessment commencing on or after 1 January 2021.

This is viewed as a reasonable approach that affects all businesses equally, rather than restricting the number of years for carrying forward assessed losses, which would disproportionately hurt businesses with large initial investments or long lead times to profitability.

## Exporting scrap metal

Export taxes are limited by trade agreements and may lead to unfair trade practices. South Africa has generally avoided such taxes. Government is however aware that unfair trade practices have put some key industries under pressure.

Government will consult with affected industries on the introduction of export taxes on scrap metal, which could replace the current price preference system.

Proposed export taxes will apply to ferrous metals at the rate of R1 000 per tonne, aluminium at R3 000 per tonne, red metals at R8 426 per tonne, and other waste and scrap metals at R1 000 per tonne.

This reform aims to improve the availability of better quality scrap metal at affordable prices for domestic foundries and mills. Consultation has already begun and is expected to be concluded by the end of May 2020, for consideration in the annual tax bills.





## Excise proposals

### Heated tobacco products

Heated tobacco products produce aerosols containing addictive substances and other chemicals that are inhaled by users.

These products are not currently subject to excise duty.

Government will introduce a new category or tariff sub-heading for heated tobacco products in the schedule of excise duties, to be taxed at a rate of 75 per cent of the cigarette excise rate with immediate effect.

### Electronic cigarettes

Electronic cigarettes are different to heated tobacco products as they do not contain tobacco, but they do contain nicotine or other chemicals.

Currently, electronic cigarettes are not taxed. Globally, policymakers are looking at regulating and taxing these products due to concerns about their health effects.

Government intends to tax electronic cigarettes in 2021.

### Alcohol and Tobacco

Taxes on alcohol and tobacco are determined within a policy framework that targets the excise duty burden.

Government will increase most excise duties by an amount that matches expected inflation of 4.4 per cent for 2020/21, and by 6 per cent in the case of sparkling wine and 7.5 per cent for pipe tobacco and cigars.



## Carbon tax and other environmental taxes

### Carbon tax

The carbon tax rate will increase by 5.6 per cent for the 2020 calendar year. This increase includes an annual inflation rate of 3.6 per cent plus two percentage points in line with the Carbon Tax Act (2019).

Accordingly, the carbon tax rate will increase from R120 per tonne of carbon dioxide equivalent to R127 per tonne of carbon dioxide equivalent.

### Vehicle purchase tax

In line with global vehicle emission standards and the shift to low-carbon, fuel-efficient vehicles, government

proposes to increase the vehicle emissions tax rate for passenger cars to R120 per gram of carbon dioxide emissions per kilometre (gCO<sub>2</sub>/km) and R160 gCO<sub>2</sub>/km for double cabs. The threshold will be adjusted from 120 gCO<sub>2</sub>/km to 95 gCO<sub>2</sub>/km for passenger vehicles to align with the Euro 6 emission standards. These amendments will take effect from 1 April 2020.

### Incandescent globe tax

Government proposes to increase the incandescent light bulb levy by R2 from R8 to R10, effective 1 April 2020, to encourage the uptake of more

energy-efficient light bulbs.

### Plastic levy

The National Treasury will consult on extending the current levy on plastic bags to all single-use plastics used for retail consumption, including plastic straws, utensils and packaging. Changes will be implemented in 2021.

Government proposes to raise the plastic bag levy from 12 to 25 cents per bag effective 1 April 2020.

A review of the current levy, including a clarification of the tax treatment of compostable bags, will be undertaken.

*Lost time is  
never found  
again.  
Benjamin  
Franklin*

## Environmental Fiscal Reform

Government is preparing to publish an environmental fiscal reform review paper. It will explore the potential for new environmental taxes and reforms to existing instruments, such as:

- Restructuring the general fuel levy to include a local air pollution emissions component.
- Alleviating traffic congestion through road pricing charges and design options for an annual carbon dioxide tax on vehicles, in collaboration with the Department of Transport and provincial governments.
- Reviewing inefficient fossil fuel subsidies, including the VAT zero-rating of transport fuels.
- Considering product taxes on electrical and electronic waste.
- Reviewing the tax treatment of company cars to incentivize use of more fuel-efficient vehicles.





## Foreign remuneration exemption

Government will increase the cap on the exemption of foreign remuneration earned by South African tax residents to R1.25 million per year from 1 March 2020.

Some advisors have recommended emigration, as recognised by the Reserve Bank, as a way to break tax residency. However, this is only one factor considered by SARS. Government wants to encourage all South Africans working abroad to maintain their ties to the country. Consequently, this concept of emigration will be phased out by 1 March 2021.

## PAYE reform

The legal framework and administration of pay-as-you-earn (PAYE) will be reviewed with a view to implementing a more modern, automated process for employers that is easy to understand, access and maintain. The reform is intended to promote accurate and timely withholding from employees and payments to SARS. It is expected to reduce the administrative burden for employers, payroll administrators and SARS. In addition, employees will be able to monitor their tax obligations during the course of the year, and the annual return process for employers will be simplified. Over time, this reform is likely to mean that most individual salaried taxpayers will not have to file personal tax returns.

**Most people  
spend more  
time and  
energy going  
around  
problems than  
in trying to  
solve them.  
Henry Ford**



## Proposed amendments for individuals

### Travel reimbursement

If an employee spends a night away from home for business purposes, an employer may reimburse the employee for meals and incidental costs.

This reimbursement is not taxed, provided the amount does not exceed the amount published by the Commissioner of the South African Revenue Service (SARS) in the notice and the expense was incurred on the instruction of the employer, in the furtherance of the employer's trade.

An anomaly arises when an employee purchases meals and incurs incidental costs during a day trip for work, but the employer has not explicitly instructed the employee to do so. To address this anomaly, it is proposed that the legislation be amended to exclude reimbursement expenses incurred by an employee for meals and incidental costs during a business day trip, provided the employer's policy allows for such reimbursement.

### Contributions to retirement funds

Paragraphs 5(1)(a) and 6(1)(a) of the second schedule to the Income Tax Act make provision for a deduction of retirement fund contributions that did not qualify for a deduction in terms of section 11F of the Act.

These paragraphs refer to "own contributions", which inadvertently prevents employer retirement fund contributions on behalf of employees (made on or after 1 March 2016) from qualifying for a deduction under either paragraph.

It is proposed that the legislation be amended to remove this anomaly.

### Anti-avoidance rules for trusts

In 2016, anti-avoidance measures were introduced to address the transfer of growth assets to trusts using low interest or interest-free loans, which was done to avoid estate duty on the asset's subsequent growth in value.

In 2017, these rules were

strengthened to prevent the transfer of growth assets through low interest or interest-free loans made to companies owned by trusts.

It was found that some taxpayers are undermining the adjusted rules by subscribing for preference shares in companies owned by trusts that are connected to the individuals.

To stop this new form of abuse, it is proposed that the rules preventing tax avoidance through the use of trusts be amended

### Employment tax incentive

If the amount available to be claimed by a compliant employer in respect of the monthly employment tax incentive (ETI) is not claimed in that respective month, it can be claimed in the following month. Any unclaimed monthly ETI must be claimed by August or February, whichever is the last month of each reconciliation period. If the monthly ETI is not claimed by that time, the compliant employer forfeits that amount. However, if a non-compliant

## Proposed amendments for individuals (continued)

employer did not claim any ETI for an employee they were entitled to claim for, the employer is able to claim the ETI in any subsequent month when it becomes compliant. This creates an anomaly because non-compliant employers benefit more than compliant employers. It is proposed that the legislation be amended to address this anomaly.

### Employer provided bursaries

Addressing an anomaly in the tax exemption of employer-provided bursaries A number of employer bursary schemes seek to reclassify ordinary remuneration as a tax-exempt bursary granted to the dependants of an employee. Government proposes to close this loophole. These amendments will take effect on 1 March 2020.



## Proposed amendments for business (general)

### Assets in exchange for debt issued

The Income Tax Act sets out rules for the tax treatment of “share for share” and “asset for share” transactions, as well as value-shifting arrangements under these transactions. The Act contains a rule to determine the base cost of assets acquired by a company in exchange for the issue of debt by that company.

The interaction between the specific base cost rule for debt issued on the acquisition of assets and the Act’s general provisions for determining the base cost creates unintended consequences. Some taxpayers are of the view that the specific rule overrides other anti-avoidance measures dealing with disposals between connected individuals. To address these concerns, it is proposed that the legislation be amended.

### Corporate reorganisation rules

Current corporate reorganisation rules allow for the tax-neutral transfer of assets between companies that are part of the same group. These provisions contain anti-avoidance measures to limit the abuse of these rules through:

- Early disinvestment in transferred assets
- External distribution of intra-group sale proceeds
- Transfers of assets and assumption of related debt
- De-grouping the group of companies that entered into an intra-group sale.

In 2019, the legislation was amended to clarify the interaction between the anti-avoidance rules for degrouping a group of companies and the anti-avoidance rules for the early disinvestment in transferred assets. However, the interaction between the anti-avoidance rules for de-grouping, and rules for the transfer of assets and the assumption of related debt may result in double taxation. It is proposed that the legislation be amended to address this anomaly.

### Rollover relief for unbundling transactions:

The Income Tax Act makes provision for rollover relief where shares of a resident company (referred to as an unbundled company) that are held by another resident company (referred to as an unbundling company) are distributed to the shareholders of that unbundling company in accordance with the effective interest of those shareholders.

However, these unbundling transactions are subject to an anti-avoidance rule that excludes the shareholders and the unbundling company from benefitting from the rollover relief if 20% or more of the shares in the unbundled company are held by non-residents – either alone or together with individuals connected to those non-residents – after the transaction. This rule aims to limit the extent to which taxpayers can distribute tax-free shares in resident companies to non-residents.

The current rule unfortunately creates a loophole. To close this loophole, it is proposed that the legislation be amended to make provision for the 20% rule to apply irrespective of whether non-resident shareholders are connected to each other or not.

*Time stays long  
enough for  
anyone who  
will use it.  
Leonardo da  
Vinci*





## Doubtful debt

### Non-bank taxpayers with security

The Income Tax Act sets out specific criteria for determining a doubtful debt allowance deduction for non-bank taxpayers that are not applying IFRS 9 to debt for financial reporting purposes. In this case, an age analysis of debt is used to determine a 25 per cent and 40 per cent deduction allowance for the doubtful debt. However, these deductions do not account for the taxpayer's debt security.

It is proposed that the determination of deductions in respect of secured debt arrears owed to non-bank taxpayers not applying IFRS 9 should be reviewed.

### Impairments for banking regulated taxpayers

The Income Tax Act makes provision for the specific tax treatment of doubtful debt owed to taxpayers subject to prudential banking regulations. However, unlike the rules relating to non-banks, bank rules do not only restrict the allowance to be granted to a debt that would have been deductible if it had become a bad debt.

As a result, certain impairments such as financial guarantee contracts that would otherwise not be deductible in terms of the Act's bad debt deduction provisions are deductible in terms of IFRS 9. This creates unintended consequences.

It was therefore proposed that the determination of deductions in respect of impairments under IFRS 9 should be reviewed.

### Leasing businesses

Taxpayers conducting a leasing business (lessors) and applying IFRS 9 for financial reporting purposes cannot claim a doubtful debt allowance because lease receivables are specifically excluded. This creates unintended consequences.

It was therefore proposed that changes be made in the tax treatment of doubtful debts for both banking regulated and other taxpayers to exclude lease receivables that have not been received or accrued.

**Forever is  
composed of  
nows.  
Emily  
Dickinson**

## Reviewing business incentives

### Special economic zone tax incentive

The special economic zone (SEZ) tax incentive regime rules are contained in two separate provisions of the Income Tax Act. The first deals with the criteria for determining what constitutes a company, under the SEZ tax regime, that qualifies to be taxed at a rate of 15 per cent instead of 28 per cent.

In addition, this provision includes a sunset clause which originally stated that the provision will no longer apply for years of assessment starting on or after 1 January 2024. Following the late enactment of the Special Economic Zones Act (2014), the clause was amended to add that the provision will no longer apply for years of assessment after a 10-year period determined from the date when a qualifying company started trading in an SEZ.

The second provision provides for an accelerated capital allowance for a building owned and used by a qualifying company in the production of its income within an SEZ. This provision has a sunset clause of the year of assessment starting on or after 1 January 2024.

Government proposes to amend the sunset clauses for sections 12R and 12S to clearly stipulate an end date for these incentives. No company would be eligible for approval beyond these dates. The end date would also provide government with a natural point for reviewing these incentives to determine whether they should be continued.

### Venture capital company tax incentive

The venture capital company tax incentive regime has a sunset clause of 30 June 2021. Government will review the effectiveness, impact and role of this regime to ascertain whether the incentive should be discontinued.

### Airport and port assets, rolling stock and loans for residential units

The National Treasury proposes introducing a 28 February 2022 sunset date for tax incentives dealing with airport and port assets, rolling stock, and loans for residential units. Government will review each of these incentives before the sunset date to determine whether they should be extended.



## International organisations

### Immunity from taxation

South Africa is a member of many internationally recognised organisations. The international agreements underpinning these memberships make provision for these international organisations to be immune from taxation in South Africa.

The Income Tax Act makes provision for such exemptions, but it is proposed that amendments be made to all tax acts to make provision for these exemptions and ensure South African legislation aligns

with international agreements.

### Foreign donor-funded projects

Changes were made to the Income Tax Act in 2006 to make provision for the tax treatment of foreign donor-funded projects in terms of the Official Development Assistance Agreement.

Given that some of these projects were entered into long ago, it has come to government's attention that the interaction between the provi-

sions of the Act and the provisions of the Official Development Assistance Agreement creates unintended consequences.

It is proposed that amendments be made to the legislation to address these concerns.



## Proposed international tax amendments

### Change of residence

Capital gains tax is levied when a person ceases to be a South African tax resident. When a company ceases to be a resident, there is a deemed disposal of its assets that triggers capital gains tax. Despite these rules, residents that hold shares in the company could subsequently dispose of the shares and qualify for a participation exemption for the sale of company shares.

It is proposed that amendments be made to the legislation to close this loophole.

### Foreign dividends received by residents

The participation exemption rules for foreign dividends do not contain a similar limitation for general foreign dividends exemption rules. This limitation denies tax exemption for foreign dividends if there is a deductible expense or reduction that is determined directly or indirectly with reference to a dividend.

For example, where a resident owns 20 per cent of the

shares in an unlisted foreign company, no tax is imposed on the foreign dividends, even though these dividends arose from amounts that previously qualified for a tax deduction.

To address this concern, it is proposed that changes be made to the legislation.

### Withdrawing retirement funds upon emigration

Individuals are currently able to withdraw funds from their pension preservation fund, provident preservation fund and retirement annuity fund upon emigrating for exchange control purposes through the Reserve Bank.

The concept of emigration as recognised by the Reserve Bank will however be phased out.

It is proposed that the trigger for individuals to withdraw these funds be reviewed. Any resulting amendments will come into effect on 1 March 2021.

### Transferring dual-listed shares abroad

A resident individual or company that owns a listed domestic security is not permitted to export that security without approval. This approval requirement is one of the exchange control provisions that will be phased out. As a result, government proposes that these events be deemed a disposal that would attract capital gains tax or normal tax. If the person or company remains a tax resident, they would be liable for tax on further gains when the security is sold in future.

*If you spend  
too much time  
thinking about  
a thing, you'll  
never get it  
done.*

**Bruce Lee**







## Proposed VAT changes

### Definition of “telecommunication services” for electronic services regulations

With effect from April 2019, the regulations prescribing electronic services were changed to broaden the scope of electronic services that are subject to VAT. However, the definition of “telecommunication services” in the regulations currently contains an incorrect reference that creates unintended consequences. It is proposed that further changes be made to the regulations to address these consequences.

### Intermediaries—VAT accounting basis options available for intermediaries

In terms of section 54(2B) of the VAT Act (1991), certain supplies made by an underlying foreign electronic services supplier are deemed to be made by the intermediary, who is then required to levy and account VAT on these supplies.

Section 15(2)(a)(vii) of the VAT Act allows a vendor that is a foreign electronic services supplier to apply to the SARS Commissioner to account for VAT on a payment basis. However, it does not allow a vendor that is an intermediary to account for VAT on this basis. It is proposed that an intermediary vendor be allowed to account for VAT on a payment basis.

### Corporate reorganisation rules

Section 8(25) of the VAT Act ensures that transactions entered into between a group of companies have no VAT consequences. This is achieved by treating the supplier and the recipient of goods or services as the same person, provided the relevant rollover relief provisions of the Income Tax Act are met.

The income tax relief provisions may not apply to the transfer of certain assets, which means that their transfer will also not qualify for the VAT relief, even though the assets form part of the entire transaction.

This limitation of relief creates unintended consequences for VAT. The entire transaction could qualify for VAT relief under the going-concern provisions, but are excluded because the transaction falls within the ambit of the corporate reorganisation rules, which automatically require the provisions of section 8(25) of the VAT Act to apply.

It is proposed that changes be made in the relief provisions in section 8(25) of the VAT Act to address these limitations.

### Section 72 arrangements and decisions

In 2019, changes were made in section 72 of the VAT Act, which deals with the SARS Commissioner's discretion to make arrangements or decisions regarding the application of the VAT Act to specific situations where the manner in which a vendor or class of vendors conducts their business leads to difficulties, anomalies or incongruities. These changes have an impact on the arrangements and decisions made before 21 July 2019. To address these concerns, government will review the impact and the role of these arrangements and decisions to ascertain whether they should be discontinued or extended in accordance with the new provisions of section 72.

### Irrecoverable debts

Where a vendor, who is required to account for VAT on an invoice basis, has made an input tax deduction for the VAT they were charged on a taxable supply and that vendor has not paid the full consideration within a 12-month period, that vendor will be required to account for output tax on the unpaid amount. The VAT Act provides clarity on the time of supply within which such output tax is to be declared. However, there is uncertainty regarding the value of supply rule that applies in certain circumstances.

It is proposed that clarity be provided in the legislation to address the uncertainty.

*All our  
sweetest hours  
fly fastest.  
Virgil*





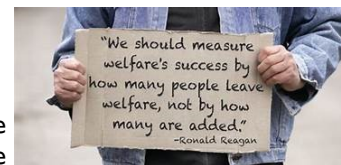
## Public Benefit Organizations—Audit certificates

If a public benefit organisation fails to comply with specific requirements for receiving tax-deductible donations, SARS may regard these donations as taxable income for the organisation.

If the failure is not addressed within a reasonable period, the receipts issued by the organisation will no longer be valid for claiming tax deductions.

The sanctions do not apply to the requirement that an organisation conducting

mixed activities, some of which qualify for the issue of receipts and some of which do not, obtain an audit certificate for the use of the funds for which receipts have been issued. It is proposed that this be corrected.



## Tax administration proposed amendments

### Estimated assessments

SARS may issue an estimated assessment to a taxpayer who does not file a return.

The assessment may only be disputed if the relevant return is filed and SARS has failed to revise the assessment in light of the return.

This ensures that all the facts are available when the assessment is revisited and that the dispute resolution timelines that would otherwise apply may be relaxed in appropriate circumstances. It is proposed that this approach be extended to cases where specific relevant material was requested from a taxpayer on

more than one occasion, without an adequate response.

### Withholding PAYE refunds

SARS may refuse to authorise a refund until a taxpayer furnishes any outstanding returns. A similar but broader provision exists in the Employment Tax Incentive Act (2013). Given the tight integration between the PAYE, skills development levy, unemployment insurance contributions and employment tax incentive systems, it is proposed that this power also apply to the Skills Development Levies Act (1999) and the Unemployment Insurance Contributions Act

(2002).

It is also proposed that the similar provisions across tax legislation be reviewed to determine if they can be consolidated into a single provision applicable to all tax types under the Tax Administration Act.

### Withholding refunds during criminal investigation

The Tax Administration Act provides that SARS may withhold a refund until such time that the refund is verified, inspected or audited. It is proposed that this provision be extended to include criminal investigations.

*Let the refining  
and improving  
of your own life  
keep you so  
busy that you  
have little time  
to criticize  
others.  
H. Jackson  
Brown Jr.*

## Interest and foreign dividends

### Interest exemption

Interest from a South African source, earned by any natural person under 65 years of age, up to R23 800 per annum, and persons 65 and older, up to R34 500 per annum, is exempt from income tax.

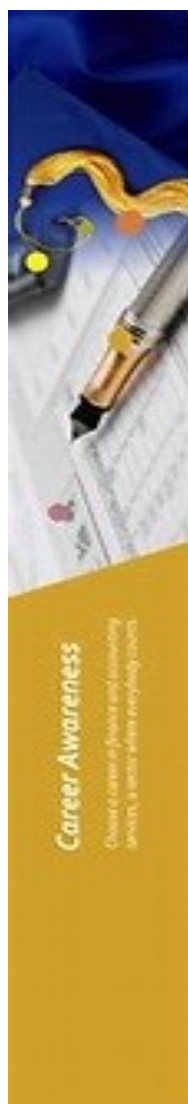
Interest earned by non-residents, who are physically absent from South Africa for at least 183 days during the 12

month period, before the interest accrues and the interest bearing debt is not effectively connected to a fixed place of business in South Africa, is exempt from income tax.


### Foreign dividends

Most foreign dividends received by individuals from foreign companies (shareholding of less than 10% in the foreign company) are taxable at a maximum effective rate of 20%. No deductions are allowed for expenditure to produce foreign dividends





## Register FASSET Learnerships to benefit from grants





higher education  
& training  
Department  
Higher Education and Training  
REPUBLIC OF SOUTH AFRICA

### Learnership & Workplace Based Learning Programme Agreement

Learning programme details

*Please complete the details of the Learnership if it is a non-Fasset registered Learnership OR select the Fasset registered Learnership (X):*

**Non-Fasset Learnerships**

X	No	Title	NQF Level	Learnership Code	Qualification SAQA ID
	34	Diploma: Management (IAC Accounting Officer)	6 Pre 2009	01/Q010029/00/420/6	67694
SETA responsible for Learnership:		FASSET	Quality Assurance Body responsible for qualification:	The Institute of Accounting and Commerce	

**Fasset registered Learnerships**

X	No	Title	NQF Level	Learnership Code	NLRD No	Professional Body
	34	Diploma: Management (IAC Accounting Officer)	6	01/Q010029/00/420/6	67694	Prakash Singh (021) 761-6211 / 062 321 4860 ceo@iaca.co.za

## Skills Development—Mandatory Grants

The Skills Development Levies Act (No 9 of 1999) (SDLA) established a compulsory levy scheme for the purpose of funding education and training.

The Department of Higher Education and Training (DHET) in conjunction with the various Setas, is responsible for administering the Act, while the South African Revenue Service (SARS) is responsible for the collection of levies.

### How to register for the SDL

All liable organisations register for the SDL via the EMP101 form (application for registra-

tion) for which SARS issues an EMP103 form (notice of registration) on successful registration of the employer.

If the firm already has an SDL number and the firm's payroll is in excess of R500,000 per annum, the employer is to submit monthly returns via the EMP201 form. SARS issues an EMP213 as remittance advice. If the firm already has an SDL number and the firm's payroll is less than R500,000 per annum, no information (a nil return) is submitted on the next EMP201 form. With e-filing, SARS greys out the SDL field. Should the employer become SDL paying subse-

quently, they must advise SARS of this (to free up the greyed area).

### Amounts payable

The amount payable is calculated as 1% of the total amount of remuneration paid to employees. Any prescribed exclusions that are not leviable are subtracted from the total remuneration.

### Skills Development Plan

Employers can claim 20% of total levy contributions annually through the submission of an approved Skills Development Plan (SDP). The SDP is submitted online and is due by



## Learnership agreement registration procedures

### Employers registered with FASSET

The following steps should be followed to register learnerships:

1. Apply for accreditation as an accredited workplace training provider with the IAC.
2. Register the learner with the IAC.
3. Sign an employment contract with the learner
4. Sign a Learnership Agreement with the learner
5. Submit the Learnership Agreement to FASSET with the following supporting documents:
  - \* Proof of learner registration with the professional body or AQP, if applicable
  - \* Employer accreditation status with the IAC
  - \* Copy of the learner's em-

ployment contract

- \* Certified copy of the learner's ID document.
- \* Please note that learnership regulations require FASSET to decide if it will register the agreement within 7 days of receipt and to register the learnership agreement within 21 days of that decision.
- \* If the agreement has any outstanding information, the learnership agreement will be returned to the employer, accompanied by a letter indicating reasons for non-registration. The employer may resubmit the learnership agreement, together with all required documentation
- \* If all the required documents are attached, FASSET will issue the employer with a Confirmation letter. The Confirmation letter may be used to claim the

SARS income tax deduction.

### Employers not Registered with FASSET

The following steps should be followed if an employer is not registered with FASSET but wish to implement a FASSET learnership:

1. The employer should contact the relevant professional body (e.g. IAC) or FASSET to become an accredited workplace provider.
2. Once accredited, the employer completes their SETA's learnership agreement.
3. The employer submits the learnership agreement to their SETA.
4. The Learnership Agreement will be registered by the other SETA

***Tough times  
never last, but  
tough people  
do.***

**Robert H.  
Schuller**

## Skills Development—Mandatory Grants

latest 30 April of each year. FASSET uses SDP information to determine sector skills needs and revises its skills development strategy accordingly. Accuracy of data is therefore of the utmost importance.

### Mandatory Grant

The criteria for the acceptance and payment of the Mandatory Grant by FASSET are as follows:

- Employer registered with FASSET.
- SDL payments to SARS up to date.
- SDP (based on regulated format as published in the Government Gazette) correctly completed and submitted in the format required by FASSET.

- Deadline for submission is 30 April, or within 6 months of new employers registering for the SDL.
- Authorized signatories have signed where required
- Proof of the company's banking details submitted (i.e. a cancelled cheque, bank statement or letter from the bank) in instances where such details have been changed

A new employer is one that has been operating for less than six months. In this case, FASSET requires an EMP 103 form from SARS as proof that the organisation is new. In an organisation where there are no employees FASSET also accepts a nil return.

### Grant Payment Schedule

Grant payments are made via a direct EFT into the organisation's bank account. Mandatory grant payments are paid in August, November, February and May.

FASSET can only pay the grants if the employer's current banking details are correct. An original stamped letter issued by the bank, or an original cancelled cheque, is required to process any changes in banking details.

Please contact the PQA Department (011) 476-8570 with any enquiries





## FASSET Discretionary Grants

The FASSET Board determines the areas of strategic importance for the sector by assessing the information from Mandatory Grant applications, the Sector Skills Plan (SSP) and other research conducted from time to time. In addition to this background research and information, the National Skills Development Strategy (NSDS), coordinated by DHET, guides the development of strategic areas within FASSET's sector. The following benefits are available:

Employer discretionary grants	Levy-paying employers	Non-levy paying employers
Bursary grant	Yes	Yes
Placement grant (Learnership)	Yes	Yes
National student financial aid scheme	Yes	Yes
NLEG	Yes	Yes

*I must govern  
the clock, not  
be governed by  
it.*

**Golda Meir**

## What's new at SARS?

- Draft Interpretation Note on Public Benefit Organisations: Provision of residential care for retired persons—Comments due 30 April 2020
- Draft Interpretation Note on doubtful debts and accompanying documents—Comments due 31 March 2020
- Draft Binding General Ruling on unbundling of unlisted company: Impact on non-qualifying shareholders—Comments due 31 March 2020
- Interpretation Note 44 (Issue 3) - Public Benefit Organisations: Capital Gains Tax
- Interpretation Note 16 (Issue 3) - Exemption from tax: Foreign employment income
- Tax Guide for Share Owners (Issue 7)
- Guide on Venture Capital Companies

## Death announcement—D Majola

Mr Daryl Siyanda Majola

1984 - 2019

We learned with regret of the death of our valued member, Mr. Daryl Siyanda Majola.

On behalf of our Board, Staff and Members we would like to express our sincere condolences to the Majola family.

Please keep the family in your thoughts and prayers

Our  
Deepest  
Condolences



## Welcome to our new members

**Congratulations to our new members and those who upgraded their designations \***

### **Certified Business Rescue Practitioner**

<b><u>Membership Number</u></b>	<b><u>Surname</u></b>	<b><u>Name</u></b>
624146 (TA)(CTP)*	Bekker	Charl Francois

### **Financial Accountant in Practice /Certified Tax Practitioner**

<b><u>Membership Number</u></b>	<b><u>Surname</u></b>	<b><u>Name</u></b>
655696 (FAP)(CTP)	Kotelo	Morake
655694 (FAP)(CTP)	Dixon	Michelle Anthea
655695 (FAP)(CTP)	Kate	Kyle

### **Certified Tax Practitioner**

<b><u>Membership Number</u></b>	<b><u>Surname</u></b>	<b><u>Name</u></b>
655699(CTP)	Mhlonipheni Wiseman	Zwane

### **Technical Accountants/Certified Tax Practitioner**

<b><u>Membership Number</u></b>	<b><u>Surname</u></b>	<b><u>Name</u></b>
655433(TA)(CTP)	Percival	Kyle James

### **Technical Accountant**

<b><u>Membership Number</u></b>	<b><u>Surname</u></b>	<b><u>Name</u></b>
655703(TA)	Khathutselo Washington	Ramaru

### **Academia Member**

<b><u>Membership Number</u></b>	<b><u>Surname</u></b>	<b><u>Name</u></b>
655704	Latief	Azmatullah

### **Approved Training Centre**

<b><u>Membership Number</u></b>	<b><u>Name</u></b>
655700/ATC13	Imtiaz Karolia
655701/ATC014	CS Boshomane Accountants

### **Students on Learnership**

<b><u>Membership Number</u></b>	<b><u>Surname</u></b>	<b><u>Name</u></b>
655697	Nxele	Samukelisiwe
655698	Nzana	Nobuhle Nolwazi

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**Compliance**

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**Information Technology**

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**CEO & Technical**

Prakash Singh  
ceo@iacsa.co.za

**Office Hours:**

Monday - Thursday  
08:00 - 16:00  
Friday  
08:00 - 15:30

**www.iacsa.co.za**

**A dynamic world-class professional accounting institute**

**Vision**

To be a dynamic world class Professional Accounting Institute (incorporating related fields) at the forefront of technology and an integrated approach to the profession.

**Mission**

It is the aim of the Institute to be recognised as the pre-eminent Professional Body for Accountants and other related professionals by actively promoting the effective utilization and development of qualified professionals, through the achievement of excellence in standards of professional competence and socially acceptable ethical conduct amongst its members, through a dynamic integrated approach to the legislative and environmental arena.

**Accredited IAC Learnership**

Department of Labour  Republic of South Africa

**LEARNERSHIP REGISTRATION  
CERTIFICATE**

Learnership Registration Number: 01Q010029004206

Title: Diploma: Management (IAC Accounting Officer) Level 6

Awarded to

**FASSET**

(Financial and Accounting Services SETA)

This is to certify that the above mentioned Learnership is registered with  
the Department of Labour, effective Wednesday, 10 June 2009  
and that it complies with the Regulations in terms of Sections 36, 16(d), 17(3) and 17(6)  
of the Skills Development Act 1998 (Act No. 97 of 1998)

  
Director General: Department of Labour

Certificate No. 01413