

The main tax proposals for 2021/22 are:

- Providing personal income tax relief through an above-inflation increase in the brackets and rebates.
- Limiting corporate deductions to increase the tax base.
- Increasing the fuel levy by 26c/litre, consisting of a 15c/litre increase in the general fuel levy and a 11c/litre increase in the RAF levy, to adjust for inflation.
- The company tax rate will reduce to 27% for years of assessment commencing on or after 1 April 2022.

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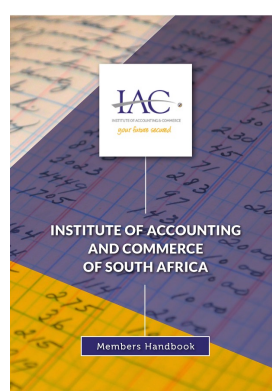
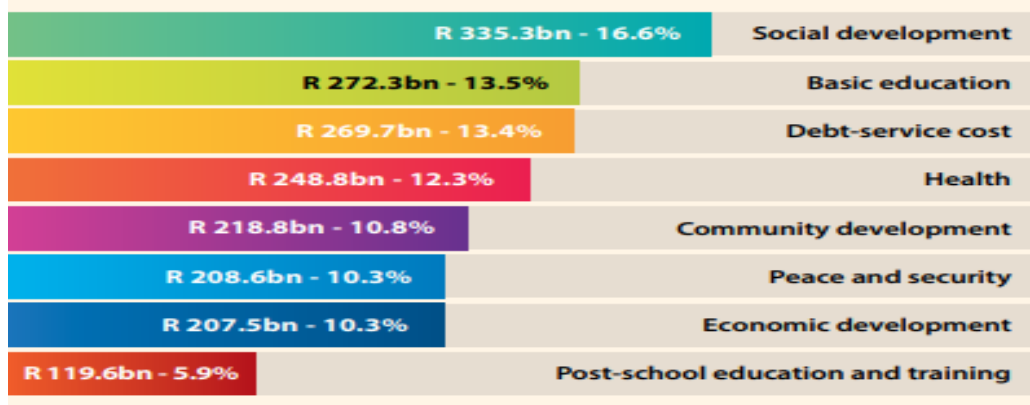
28 February 2021

2021 National Budget

The gross revenue for 200/21 is expected to be 10.6% lower than in the previous fiscal year and R213.2 billion lower than projected in the 2020 Budget. Government indicated that it would not introduce measures to increase tax revenue in the 2021 Budget and previously announced increases amounting to R40 billion will also be withdrawn.

Government expects a gradual recovery in revenue over the medium term. The tax-to-GDP ratio now stands at 24.6%. A strong and sustained economic rebound will be required for this ratio to return to pre-COVID rate of 26.3%. The main tax proposals for 2021/22 include above-inflation increases in personal tax brackets and rebates, an 8% increase in excise duties on tobacco and alcohol products, and inflation-linked general fuel levy and Road Accident Levy increases.

GOVERNMENT SPENDING IN 2021/22



The new IAC Member's Handbook is now available on the IAC's webpage.

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.

2021/2		2020/21	
Taxable income (R)	Rates of tax	Taxable income (R)	Rates of tax
R0 - R 216 200	18% of each R1	R0 - R205 900	18% of each R1
R216 201-R337 800	R38 916 + 26% of the amount above R216 200	R205 901 - R321 600	R37 062 + 26% of the amount above R205 900
R337 801-R467 500	R70 532 + 31% of the amount above R337 800	R321 601 - R445 100	R67 144 + 31% of the amount above R321 600
R467 501-R613 600	R110 739 + 36% of the amount above R467 500	R445 101 - R584 200	R105 429 + 36% of the amount above R445 100
R613 601-R782 200	R163 335 + 39% of the amount above R613 600	R584 201 - R744 800	R155 505 + 39% of the amount above R584 200
R782 201-R1 656 600	R229 089 + 41% of the amount above R782 200	R744 801 - R1 577 300	R218 139 + 41% of the amount above R744 800
R1 656 601 and above	R587 593 + 45% of the amount above R1 656 600	R1 577 301 and above	R559 464 + 45% of the amount above R1 577 300

Rebates and tax thresholds

2021/22		2020/21	
Rebates		Rebates	
Primary	R15 714	Primary	R14 958
Secondary	R8 613	Secondary	R8 199
Tertiary	R2 871	Tertiary	R2 736
Tax threshold		Tax threshold	
Below age 65	R87 300	Below age 65	R83 100
Age 65 and over	R135 150	Age 65 and over	R128 650
Age 75 and over	R151 100	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

4.5%

Rate of interest from 1 February 2020

Late or underpayment of tax

7%

Refund of overpayment of provisional tax

3%

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

7%

Refund of VAT after the prescribed period

7%

Late payment of VAT

7%

Transfer duty

Transfer duty brackets were adjusted to take into account inflation.

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

Excise duty

Product	2021/22 excise duty rate	2020/21 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	R4.74 / litre	R4.39 / litre
Fortified wine	R7.92 / litre	R7.34 / litre
Sparkling wine	R15.51 / litre	R14.36 / litre
Ciders and alcoholic fruit beverages	R115.08/ litre of absolute alcohol	R106.56/ litre of absolute alcohol
Spirits	R230.18 / litre of absolute alcohol	R213.13 / litre of absolute alcohol
Cigarettes	R9.39/ 10 cigarettes	R8.70/ 10 cigarettes
Cigarette tobacco	R422.34/kg	R391.69/kg
Pipe tobacco	R250.22kg	R231.69/kg
Cigars	R4 528.85/kg	R 4 193.62/kg

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 2020/21 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

"Success is often achieved by those who don't know that failure is inevitable."
Coco Chanel



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, under Legal Counsel / Secondary Legislation / Income Tax Notices.

UIF Contribution ceiling

The ceiling for contributions to the Unemployment Insurance Fund (UIF) has not been increased in the last four years, despite the increase in the benefit ceiling. The UIF's benefit provision in the last year has assisted 13.9 million workers. In these circumstances, the continued relief for employees who retain jobs and higher salaries is no longer appropriate.

The contribution ceiling will therefore return to be in line with the benefit ceiling and set at R17 711.58 per month from 1 March 2021.





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.

“There’s no shortage of remarkable ideas, what’s missing is the will to execute them.”

Seth Godin

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
1-87 300	0% of taxable income
87 301 –365 000	7% of taxable income above 87 300
365 001—550 000	19 439 + 21% of taxable income above 365 000
550 001 and above	58 289 + 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

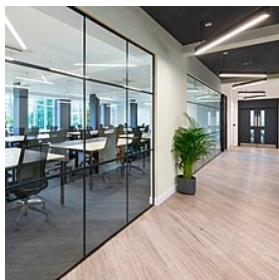
Capital gains tax

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.



“Good business leaders create a vision, articulate the vision, passionately own the vision, and relentlessly drive it to completion.”
Jack Welch

Corporate income tax reforms

Government intends to reduce the number of tax incentives, expenditure deductions and assessed loss offsets, with the aim of lowering the corporate income tax rate over the medium term. These changes are expected to enhance efficiency, transparency and fairness in the business tax system, while facilitating economic growth through improved investment and competitiveness.

Although corporate income tax is paid by the business, the burden of this tax is ultimately borne by three parties – the owners of capital, labour (through wages) and consumers (through prices). By implication, reducing the rate can have a positive effect on wages and employment, while promoting additional investment.

South Africa has a relatively high corporate tax rate in comparison with similar countries and trading partners. High tax rates reduce competitiveness and create an incen-

tive for profit shifting to lower-tax jurisdictions. Tax incentives illustrate a persistent trade-off in tax policy: the narrower the tax base, the higher the tax rate required to raise a given level of revenue. Tax incentives often undermine the principles of a good tax system, which should be simple, efficient, equitable and easy to administer.

Reducing the extent of tax incentives for individuals and companies will provide the fiscal room to lower the corporate tax rate, which is aimed at benefiting all businesses, employees and consumers. Tax incentives and some expenditure deductions provide favourable tax treatment to certain taxpayers or groups of taxpayers, and inevitably result in the creation of vested interests and lobby groups. The 2021 Budget proposes to either limit or let lapse those tax incentives that erode the equity of the tax system or do not meet their intended objectives.

Amending the timeframes of compliance requirements for industrial policy projects

Industrial policy projects approved in terms of section 12I of the Income Tax Act must comply with specific requirements within specified timeframes. The impact of the COVID-19 pandemic has hindered these projects from meeting the compliance criteria within the required time periods. Government will, therefore, consider amending the time period within which assets must be brought into use, along with the section 12I compliance period. This is aimed at accommodating approved industrial policy projects that have bona fide reasons for non-compliance with section 12I requirements due to business-related disruptions caused by the COVID-19 pandemic.

Individuals, employment and savings

The personal income tax brackets and rebates will increase by 5 per cent, providing relief to households by ensuring that inflation does not automatically increase the individual tax burden due to tax bracket creep.

An inflationary adjustment will apply to the value of medical tax credits, which will increase from R319 to R332 for the first two members, and from R215 to R224 for all subsequent members.

The minimum value for paid-up retirement annuities has not been adjusted since 2007/08. This value will increase from R7 000 to R15 000 from 1 March 2021.

Long-service awards

The Income Tax Act permits an employer to grant a long-service award (in the form of an asset or a non-cash benefit) to an employee as a no value fringe benefit provided that the value of this award does not exceed R5 000. Currently, employers recognize long service through awards in a variety of forms that could be considered non-cash benefits. Therefore, it is proposed that the current provisions be reviewed to consider other awards within the same limit granted to employees as long-service awards.

Employment tax incentive

The employment tax incentive (ETI) is aimed at reducing the cost of hiring youth between the ages of 18 and 29 years old. It allows employers to reduce for the first two years in which they employ qualifying employees with a monthly remuneration of less than R6 500, subject to certain limitations. Some taxpayers have devised certain schemes using training institutions to claim the ETI for students. To counter this abuse, it is proposed that the definition of an “employee” be changed in the Employment Tax Incentive Act to specify that work must be performed in terms of an employment contract that adheres to record-



Individuals, employment and savings

keeping provisions in accordance with the Basic Conditions of Employment Act. These amendments will take effect from 1 March 2021.

Deceased estate assets

When a person dies, the Estate Duty Act provides for the assets of the person to be transferred to the estate of the deceased before the assets are distributed to their heirs.

The Act also provides for the executors to administer this estate, which includes preparing and submitting the liquidation and distribution account to the Master of the High Court Office, and submitting the relevant tax returns – including payment of the estate duty – to SARS.

Legally, the liquidation and distribution account must remain open for inspection in the Master of the High Court Office for 21 business days.

Once the liquidation and distribution account is finalized, the personal right of the heirs to claim delivery of the assets is triggered. At present, there is a timing uncertainty around when the heirs are regarded as having acquired an asset from the estate of the deceased.

To clarify the time of disposal of this personal right, it was proposed to change the legislation to regard the date when the liquidation and distribution account becomes final as the disposal date.

Cession of right to receive an asset

The Income Tax Act specifies certain amounts to be included in “gross income”, which is defined in section 1, and certain disposals that are regarded as donations in terms of section 56.

Some taxpayers have devised schemes to undermine both the abovementioned provisions. These schemes entail a service provider (for example, an employee or independent contractor) ceding the right to receive or use an asset to be received from the person to whom the services are rendered.

The right is generally ceded to a family trust for no consideration. In these instances, the service provider will be able to circumvent the gross income provisions as the asset would have been ceded to the trust before a value can be attached to it.

In addition, the service provider will not be liable for donations tax, as it appears as though they are disposing of a worthless asset and are therefore not liable for donations tax until the services have been rendered and the employer transfers the asset to the cessionary.

Moreover, the service provider will not be entitled to the asset and therefore cannot be regarded as having disposed of it.

In order to address these kinds of schemes, changes were proposed to the abovementioned tax provisions.

Loan transfers between trusts

Anti-avoidance measures were introduced in 2016 to curb 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. Further changes were made in 2017 and 2020 to counter new attempts to undermine these rules.

Some taxpayers may continue to undermine the current

rules by transferring loans – which finance high-value assets – between trusts, where the founder of one trust is related to one or more beneficiaries of the other trust. To curb this abuse, it was proposed that further changes be made to these anti-avoidance rules.

Acquiring annuities on retirement

On retirement, a member of a retirement fund may receive an annuity. The annuity is to be provided with the balance of the member's retirement interest following commutation (where the member is allowed to take, or commute, a lump sum equal to a maximum of one-third of the retirement interest on retirement).

The retirement fund can provide the annuity by paying it directly to the member, or purchasing it from a South African registered insurer in the name of the fund or purchasing it in the name of the retiring member. If a member opts to receive an annuity, the full value of their retirement interest following commutation must be used to provide either of the abovementioned annuities.

Therefore, a member is prohibited from using their retirement interest to acquire various annuities. To increase flexibility for a retiring member and maximize the retirement capital available to provide for an annuity, it was proposed to expand the amount of retirement interest that may be used to acquire annuities.



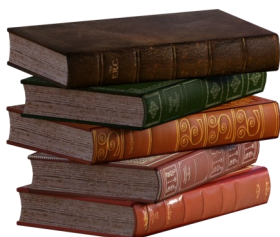
***“It is difficult,
but not
impossible, to
conduct strictly
honest
business.”
Mahatma
Gandhi***





“When you are a leader, your job is to have all the questions. You have to be incredibly comfortable looking like the dumbest person in the room. Every conversation you have about a decision, a proposal, or a piece of market information has to be filled with you saying, “What if?” and “Why not?” and “How come?”

Jack Welch



Retirement provisions

Retirement withdrawal—ceasing tax residency

When an individual ceases to be a South African tax resident, retirement funds are not always subject to withdrawal tax.

Government is considering the tax treatment of retirement interest when an individual ceases to be a South African tax resident, but retains his/her investment in a South African retirement fund, and only withdraws from the retirement fund when he/she dies or retires from employment.

Section 9(2)(i) of the Income Tax Act deems such amounts to be from a South African source, thus remaining within South African tax jurisdiction despite the individual no longer being a South African tax resident.

The challenge arises when the individual ceases to be a South African tax resident before he/she retires and becomes a tax resident of another country. When that individual withdraws from the retirement fund, due to the application of the tax treaty between South Africa and the other country, the retirement fund interest will be subject to tax in the other country as the individual will, in terms of the tax treaty, be regarded as a tax resident in that other country. The provisions of the tax treaty between South Africa and the new resident country will result in South Africa forfeiting its taxing rights. To address this anomaly, government proposes changing the legislation as follows.

When the individual ceases to be a South African tax resident, the retirement fund interest will form part of the assets that are subject to retirement withdrawal tax. The individual will be deemed to

have withdrawn from the fund on the day before he/she ceases to be a South African tax resident.

If the individual ceases to be a South African tax resident but leaves his/her investment in a South African retirement fund and only withdraws from the retirement fund when he/she dies or retires from employment, then the retirement withdrawal tax (including associated interest) payment will be deferred until payments are received from the retirement fund or as a result of retirement.

When the individual eventually receives payments from the fund, the tax will be calculated based on the prevailing lump sum tables or in the form of an annuity. A tax credit will be provided for the deemed retirement withdrawal tax as calculated when the individual ceased to be a South African tax resident.

Transfers between retirement funds by members who are 55 years or older

The Income Tax Act stipulates that any transfer by a member of a pension, provident or retirement annuity fund (who has opted to retire early) into a similar fund would be considered a taxable transfer. The policy in this regard is not intended to tax transfers from a less to a more restrictive fund, or between similar funds. To address this anomaly, government proposes allowing tax-free transfers into more or similarly restrictive funds by members who have already opted to retire.

Employer contributions to a retirement fund

From 1 March 2016, all employer contributions to a retirement fund on behalf of employees were considered taxable fringe benefits for the employees.

If the contribution contains a defined benefit component, the fringe benefit is to be calculated in accordance with the Seventh Schedule of the Income Tax Act and the employer must provide the employee with a contribution certificate.

An anomaly arises in instances where a retirement fund provides both a retirement benefit in relation to the defined contribution component and a self-insured risk benefit.

The current interpretation of the legislation would result in the classification of the total contribution to the fund as a defined benefit component because self-insured risk benefits are not considered a defined contribution component.

It is proposed that self-insured risk benefits be classified as a defined contribution component to ensure that retirement funds that provide both defined contribution component retirement benefits and self-insured risk benefits can provide the fringe benefit value based on the actual contribution.

Industrial policy projects

Industrial policy projects approved in terms of section 12I of the Income Tax Act must comply with specific requirements within specified timeframes. Due to the impact of the COVID-19 pandemic, some projects were not able to meet the compliance criteria within the prescribed period.

Government will therefore consider amending the time period within which the relevant asset must be brought into use along with the compliance period. This is aimed at accommodating approved industrial policy projects that have bona fide reasons for not complying with Article 12I requirements due to business disruptions caused by COVID restrictions.



Withholding tax exemption

The Income Tax Act contains specific provisions dealing with withholding tax on royalties and interest. According to the rules on withholding tax on interest, no withholding tax applies if the foreign person submits a declaration that he/she is, according to an agreement for the avoidance of double taxation ("DTA"), exempt from the tax. Currently, there is no similar exemption for royalties. It was proposed that the tax legislation be amended to address this anomaly.

VAT proposals

Super fine maize meal

Schedule 2 part B of the VAT Act provides for a list of zero-rated items, which include the following grades of maize meal: super maize meal, special maize meal, sifted maize meal or unsifted maize meal. The grading of maize products is regulated by Agricultural Products Standards Act (1990), which allows for 18 grades of maize products, including those mentioned above to be zero rated.

In 2016, another grade of maize meal, super fine maize meal, was added to the list regulated by the Agricultural Products Standards Act.

To align the VAT Act with the Agricultural Products Standards Act, it is proposed that schedule 2 part B of the VAT Act be amended to include super fine maize meal in the list of grades of maize meal that qualify for zero rating.

Gold

The 2020 Budget Review noted that schemes and malpractice to claim undue VAT refunds have been detected in the value chain relating to gold

exports.

It is proposed that regulations providing for a domestic reverse charge mechanism for industry, under section 74(2) of the VAT Act, be issued.

It is also proposed that the mechanism be included in the VAT Act to deal with such malpractice. Under the mechanism, a vendor that acquires gold from another vendor would declare and pay to SARS the VAT charged on the acquisition.

Insurance

The New Insurance Act (2017) categorizes insurance policies into life and non-life policies, and makes provision for micro-insurance.

The VAT Act currently addresses the VAT treatment of both life (referred to as "long-term insurance policy" in the VAT Act) and non-life (referred to as "insurance" in the VAT Act) policies. However, it does not make provision for micro-insurer conducting a micro-insurance business.

It is proposed that the VAT Act be amended to make provision for the VAT treatment of micro-insurance.

Temporary letting of residential property

Property developers are entitled to deduct input tax on the VAT costs incurred to build residential property for sale. However, where the developer is unable to sell the residential property and temporarily leases it out until a buyer is found, the developer is required to make an output tax adjustment based on the open market value of the property when the property is let for the first time.

An announcement was made in the 2010 Budget Review to investigate and determine an equitable value and rate of claw-back for developers as the current treatment is disproportionate to the exempt temporary rental income. However, no subsequent changes were made to the VAT Act. It is proposed that the VAT Act be amended to resolve this matter.

"Failure is simply the opportunity to begin again, this time more intelligently."
Henry Ford





Carbon tax

Clarifying renewable energy premium beneficiaries

In the first phase of the carbon tax until 31 December 2022, renewable electricity purchases can be offset against the carbon tax liability of electricity generators that are liable for the carbon tax.

Concerns have been raised that the Carbon Tax Act is unclear about who is eligible for the renewable energy premium tax deduction.

To address this concern, it is proposed that changes be made to section 6(2)(c) of the Carbon Tax Act to clarify that only entities that conduct electricity generation activities and purchase additional primary renewable energy directly under the Renewable Energy Independent Power Procurement Programme or from private independent power producers with a power purchase agreement are eligible to claim the tax deduction for their renewable energy purchases. The amendment will take effect from 1 January 2021.

Amount of renewable energy premium deduction

It is also proposed that changes be made in the Carbon Tax Act to include a formula for calculating the amount of the renewable energy premium, which will be deducted as follows:

$$D = Q_p \times r$$

Where

- D = Renewable energy deduction
- Q_p = quantity of renewable energy purchased (kilowatt hour)
- R = rate (rand) for technology, as per the renewable energy notice gazetted in June 2020.

Fugitive emissions activities

The Carbon Tax Act defines the tax base in terms of section 4(1), where companies use company-specific emission methodologies to calculate their greenhouse gas emissions, and section 4(2), where country-specific emission factors or default emissions factors prescribed by the Intergovernmental Panel on Climate Change (IPCC) in its 2006 guidelines can be used to calculate emissions.

In 2019, changes were made in the Carbon Tax Act to replace section 4(2)(b)(iii), which provides the formula and applicable emission factors to be used to calculate fugitive emissions. This covered emission activities, IPCC Code 1B1 for solid fuels including coal mining and handling, and IPCC Code 1B2 for oil and natural gas in the 2006 guidelines. However, IPCC activity Code 1B3 for other emissions from energy production was unintentionally excluded from section 4(2).

To ensure alignment between the greenhouse gas emissions covered under sections 4(1) and 4(2) of the Carbon Tax Act, it is proposed that an additional category be included under the Carbon Tax Act to cover the IPCC code 1B3 activities for other emissions from energy production.

Carbon capture and sequestration

The Carbon Tax Act allows taxpayers to deduct sequestered emissions as verified and certified by the Department of Environment, Forestry and Fisheries from their fuel combustion-related greenhouse gas emissions for a tax period. This covers carbon capture and storage in geological reservoirs and biological seques-

tration. Government has clarified that for combustion activities where carbon capture and storage technologies are used, the net greenhouse emissions should be reported to the Department of Environment, Forestry and Fisheries.

To address possible double benefits for the same sequestered emissions, it is proposed that the definition of greenhouse gas emissions sequestration be amended to remove carbon capture and storage in geological reservoirs from the scope of the deduction.

In November 2020, the Department of Environment, Forestry and Fisheries published a methodological guideline for quantifying greenhouse gas emissions sequestration in the forestry industry. Due to concerns about the permanence of sequestered emissions in harvested wood products and the robustness of the available emissions calculation methodologies, it is proposed that only actual forestry plantation sequestered emissions should be eligible for the deduction under the Carbon Tax Act.

Carbon budget allowance

The Department of Environment, Forestry and Fisheries has gazetted the extension of the voluntary carbon budget system, which became effective from 1 January 2021 and ends on 22 December 2022, and the piloting of new methodologies for determining company-level carbon budgets.

Section 12(1) of the Carbon Tax Act permits a taxpayer to claim a carbon budget allowance of 5 per cent if they participate in the carbon budget system during or before the

“Leadership is a potent combination of strategy and character. But if you must be without one, be without the strategy.”
Norman Schwarzkopf



Carbon tax

tax period.

To address any ambiguity due to the new voluntary carbon budget system, it is proposed that reference to “before the tax period” be replaced with the specific timeframe for the carbon budget (that is, 1 January 2021 to 31 December 2022), as determined by the department.

Waste tyre emissions

The Carbon Tax Act covers greenhouse gas emissions from waste incineration emissions and the relevant emission factors for different types of waste fuels are set out in schedule 1 of the Act. There seem to be uncertainty whether emissions due to the use of waste tyres are subject to the carbon tax as Schedule 1 does not include a waste tyre fuel type and the relevant emission factors.

The schedule is aligned with the technical guidelines of the Department of Environment, Forestry and Fisheries, which do not include emission factors for waste tyres. The Department of Environment, Forestry and Fisheries will develop appropriate emission

factors for waste tyres for possible inclusion in the 2022 Budget Review

Schedule 2 amendments

In September 2020, the Department of Environment, Forestry and Fisheries gazetted the amended National Greenhouse Gas Emission Reporting Regulations, including new activities required to report emissions and changes to emissions reporting thresholds. To ensure alignment between the activities covered under the Carbon Tax Act and the amended regulations, the following changes are proposed in schedule 2 of the Carbon Tax Act. These amendments will take effect from 1 January 2021

Changes to thresholds

1A2m brick manufacturing: threshold change from 4 million to 1 million bricks/month Emissions now reportable:

- 2A4a ceramics, 2A4b soda ash, and 2A4d other (production capacity \geq 50 tonnes/month)
- 2B10 chemicals industry other (production capacity \geq 20 tonnes/month)

- 2C7 metal industry other (production capacity \geq 50 tonnes/month)
- 2G1B electrical equipment (production capacity \geq 50 kilograms/year)

Inclusion of new activities

1A2n manufacture of ceramic products by firing, in particular roofing tiles, tiles, stoneware or porcelain (production capacity \geq 5 tonnes/day)

Exempted reportable activities

- 3A2 manure management (threshold: 40 000 places for poultry)
- 3C1a biomass burning in forest lands, 3C4 direct nitrous oxide emissions from managed soils, and 3C5 indirect nitrous oxide emissions from managed soils (owning \geq 100 hectares of plantation)
- 3D1 harvest wood products (harvest wood products produced from timber harvested from forest owner registered for reporting [see threshold defined in 3B1a and 3B1b])
- 5B other (none)



**“Whenever
you see a
successful
business,
someone once
made a
courageous
decision.”
Peter F.
Drucker**

Criminal prosecution for negligence

The IAC National CPD Zoom Session on the 20th February 2020 addressed some of the administrative tax legislation which tax practitioners should take note of. Some negligent errors or omissions on tax returns submitted may now lead to criminal prosecution with a fine or imprisonment of up to two years without requiring SARS to prove intent.

Some very common “mistakes” may lead to formal prosecution, including but not

limited to:

- Failure to register details with SARS or to notify them of any changes to details.
- Failure to appoint a representative taxpayer or to notify SARS of such appointment or a change in representative taxpayer.
- Failure to submit a return when required to do so.
- Failure to retain all relevant substantiating records.
- Failure to provide any information as and when requested by SARS to do so.
- Failure to appear and comply when requested by SARS to attend a meeting or a hearing in order to give evidence.
- Failure to comply with a directive or instruction from SARS.

- Failure to disclose any material information to SARS or failure to provide SARS with any notification as required under any Tax Act.
- Failure to pay an amount on another taxpayer’s behalf in settlement of tax debt when notified by SARS.



Customs and Excise Duty Proposals

Scrap metal

In 2020, export tax on scrap metals was introduced in the Customs and Excise Act. It was envisaged that this export tax would take effect from 1 March 2021. The export tax on scrap metals was aimed at replacing the current price preference system, which was introduced in 2013. It is proposed that the effective date of the export tax on scrap metals be postponed to 1 August 2021 to allow SARS and taxpayers' systems to be ready and because the price preference system has been extended to 31 July 2021 or the date on which the export tax is fully implemented at a rate that is higher than 0 per cent, whichever date comes first.

Consolidated air cargo

Section 6(1)(hC) of the Customs and Excise Act authorizes the Commissioner to make rules prescribing the places where de-grouping depots may be established, to which air cargo may be removed from a transit shed before due entry for certain activities.

The provisions, however, do not currently contemplate the consolidation of air cargo at

de-grouping depots for export. It is proposed that section 6(1)(hC) be amended to regulate the consolidation of air cargo for export at de-grouping depots.

Accreditation system

SARS is amending the current accreditation system to more closely reflect the requirements of the SAFE Framework of Standards issued by the World Customs Organisation. In light of these developments, it is proposed that the Customs and Excise Act be amended accordingly.

Minimum thresholds for payment of refunds and underpayments of duties

Section 76(5) of the Customs and Excise Act makes provision for the minimum thresholds for the payment of refunds by SARS, which are 50 cents for goods imported by post, R5 for goods imported and R2 in the case of excisable goods.

In turn, section 47(1) provides for the same minimum thresholds in respect of underpayments of customs duties by taxpayers.

To ease the administrative burden on SARS and taxpay-

ers, it is proposed that these minimum thresholds be increased.

Customs uniform

According to Section 79(1)(e) of the Customs and Excise Act, anyone who pretends to be an officer is guilty of an offence and liable on conviction to a fine or imprisonment. The Act does not specifically deal with the unlawful use or possession of a customs uniform as an offence. It is proposed that section 79 be amended to include this as an offence.

Diesel refunds

These public consultations were postponed as a result of the COVID-19 pandemic and resultant lockdown restrictions. To maintain the momentum of the review process, SARS revised the draft legislation to incorporate relevant comments and technical inputs received from various stakeholders. The second draft was published on 9 February 2021 for public comment and will, where necessary, be informed by virtual industry-specific consultations during the year.

*"If you don't
drive your
business, you
will be driven
out of
business."*

B. C. Forbes

Tax administration proposals

Tax-deductible donations

Currently, the information required with regards to receipts issued for tax-deductible donations is limited and entities issuing the receipts are not required to provide third-party data on the donations to SARS on a systematic basis.

SARS has detected that receipts are being issued by entities that are not approved to do so. To ensure that only valid donations are claimed

and to enhance SARS' ability to pre-populate individuals' returns, it is proposed that the information required in the receipts be extended and third-party reporting be extended in future to cover the receipts issued.

Dividends tax refunds

SARS will only pay a valid refund of dividends tax if the claim is submitted within three years from the date of payment of a cash dividend. However, the corresponding peri-

od for a dividend in kind ends three years from the date of payment of the tax. It is proposed that the period within which a taxpayer may claim a dividends tax refund for in-kind dividends also be determined with reference to the date of payment of the dividend.

Period allowed to replace sold livestock

Farmers are allowed to deduct the cost of livestock purchased, within a fixed peri-



Tax administration proposals

od, to replace livestock sold in a previous year of assessment on account of drought, fire or other specified reasons, by reopening the assessment for the previous year of assessment.

It is proposed that the period during which assessments may be reopened and document retention requirements be aligned.

Non-compliance penalties: Failure to submit six-monthly employees' tax returns

SARS may impose a penalty for the non-submission of the six-monthly employees' tax returns by employers. The penalty is calculated as a percentage of the employees' tax for the period covered by the return. Where the employees' tax for the period is not known to SARS, due to the non-submission of monthly or six-monthly returns, the penalty can only be imposed retrospectively. This undermines the purpose and deterrent effect of the non-compliance penalty.

It is proposed that SARS be enabled to raise the penalty on an alternative basis in such cases, for example through an estimate of the employees' tax with an adjustment once the actual employees' tax is known.

Provisional taxpayers with years of assessment of six months or shorter

Provisional taxpayers are required to make provisional tax payments within six months after the commencement of a year of assessment and then again by the end of the year of assessment.

Currently, no provision is made for instances where a taxpayer has a short year of assessment, whether by reason of death, ceasing to be a tax resident, a company being incorporated during a year or a change of a company's financial year.

It is proposed that a first provisional tax payment and return not be required when the duration of a year of assessment does not exceed six months.

Review of advance tax ruling system

Taxpayers may approach SARS to obtain advance rulings on proposed transactions, which are binding on SARS, to enhance taxpayer certainty.

SARS has invited public comment on the advance tax ruling process for binding rulings to assess whether it can be improved. Legislative amendments may be required to give effect to improvements identified during the consultation process.

Review of voluntary disclosure programme

Taxpayers may approach SARS to regularize their tax affairs to avoid criminal prosecution, understatement penalties and certain administrative non-compliance penalties.

The voluntary disclosure provisions will be reviewed in 2021 to ensure that they align with SARS' strategic objectives and the policy objectives of the programme.



“Talent can be hired, money has to be earned.”
Vishnu

Withdrawal of retirement benefits upon emigration

From 1 March 2021, taxpayers will no longer be able to access their retirement benefits upon completion of the emigration process through the South African Reserve Bank, commonly referred to as “financial emigration”.

After this date, taxpayers will only be able to access their retirement benefits if they can prove they have been non-resident for tax purposes for an uninterrupted period of three years. Importantly, taxpayers can still access their retirement benefits under the old dispensation if they filed their financial emigration application on or before 28 February 2021. If this deadline was missed, the retirement benefits will be locked in for a period of at least three years.

Employer-provided bursaries

The Income Tax Act makes provision for the exemption of bona fide bursaries or scholarships granted by employers to employees or their relatives. Historically, employees used this exemption as a mechanism to structure their remuneration package to reduce their tax liability.

The exemption will no longer apply where the employee's remuneration package is subject to an element of salary sacrifice; that is where any portion of their remuneration is reduced or forfeited as a result of the grant of such a bursary or scholarship.





**“Executive
ability is
deciding
quickly and
getting
somebody else
to do the
work.”
Earl
Nightingale**

New Bills passed

The IAC National CPD Zoom Session on the 20th February 2020 addressed some of the new tax bills passed which tax practitioners should take note of.

Estimated assessments

The terms under which SARS may issue an assessment based on an estimate has been expanded. SARS may now issue an estimated assessment where the taxpayer fails to respond to a request from SARS for relevant material. The amendment also bars the taxpayer from lodging an objection against the estimated assessment until the taxpayer responds to the request for material.

Doubtful debt

The doubtful debt allowance provision has been amended to bring parity between taxpayers that apply IFRS 9 and those who do not.

Where the taxpayer does not apply IFRS 9, the amount of

the allowance is calculated after taking into account any security that is available in respect of that debt.

Foreign employment

Due to the travel restrictions under the Covid-19 pandemic, the days requirement for the foreign employment exemption has been reduced from 183 days in aggregate to 117 days.

The relaxation only applies to the aggregate number of days and the requirement that more than 60 of the days spent outside South Africa must have been consecutive remains applicable.

This amendment is not a permanent fixture and will only apply to any 12-month period for the years of assessment ending from 29 February 2020 to 28 February 2021.

ETI

The Employment Tax Incentive Act has been amended to encourage tax compliance.

The amendment determines that excess ETI claims of employers that are non-compliant from a tax perspective will no longer be rolled over to the end of the PAYE reconciliation period.

Anti-avoidance—trusts

The anti-avoidance rules aimed at curbing tax-free transfers of wealth to trusts have been strengthened to prevent persisting loopholes.

The amendment is directed at structures where individuals subscribe for preference shares with no, or a low rate of return in a company owned by a trust connected to the individual.

Ongoing changes to these rules significantly impacts on the tax efficiency of trust structures.

Tax practitioners—managing risk

The Commission of Inquiry into Tax Administration and Governance by SARS made 27 recommendations to address governance failures at the institution. To date, the Commissioner for SARS has implemented 14 of these recommendations, including re-establishing the Large Business Centre, and units focusing on litigation, compliance and integrity. The performance of the previous executive committee was reviewed, and operational policies related to VAT refunds, settlements and debt collection contracts are being amended.

It is clear that Treasury and SARS is focused on improving compliance which means that tax practitioners should be

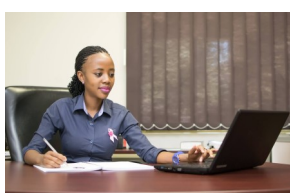
vigilant to ensure that they and their clients are not at risk.

The following practical steps can be followed to reduce risks:

- Engagement letters are crucial and should clearly set out the scope of work as well as the relevant limitation of liability.
- The tax practitioner is ultimately responsible for the deliverable, regardless of whether the mistake was made by a clerk or any other person employed by the tax practitioner. Oversight is very important as well as training and development of staff to ensure that everyone is up-to-date with the

latest legislative changes as well as policy documents issued by SARS.

- Multi-level reviews are very important, not only to identify errors, but also as a training tool.
- Manual (Excel) bookkeeping should only be used for micro clients and clear audit trail should be retained, including sign-offs and calculation sheets.
- Notify the client before submitting information to SARS and ensure that clients know how much is due and what the payment due date is.
- Be aware of any potential scope-creep and re-



Tax practitioners—managing risk

negotiate terms earlier, rather than later,

- Keep the client informed and do not try to hide “bad news” as most clients would prefer to know their potential exposure.
- Take time to get to know the client. This will build trust and help identify “outliers” which should be discussed with the client.
- Be honest and do not oversell your skills, experience and capabilities. If it is a complex tax matter on a matter you have not worked on before, rather refer or obtain tax support from an experienced consultant, with authorization from the client.
- Keep detailed records, including minutes of meetings with the client as well as correspondence with SARS.
- Attend CPD sessions and regularly visit the SARS website to identify new policy publications.
- Ensure that you have a business continuity policy and that staff is aware of the policy and their responsibilities in respect thereof.
- Prepare a risk register for your practice in which gaps are identified, actions are noted and regularly monitor the status of the risk register.



What's new at SARS?

- Discussion document: Deductions in respect of improvements to land and buildings not owned by the taxpayer—Comments due by 30 April 2021
- Status overview of international treaties and agreements updated 1 March 2021
- Legislative amendments to retirement funds promulgated and became effective on 1 March 2021. This includes annuitization of provident funds, free portability of retirement funds, emigration withdrawals, retirement annuities, commutation of living annuities for terminating trusts, ROT (SRI) enhancement and requests for previously issued directives for individuals and tax practitioners.
- Draft Interpretation Note 59 (Issue 2) – Tax treatment of the receipt or accrual of government grants—Comments due 23 April 2021
- Updated Employers Guide to the AA88 Third Party Appointment Process - The changes relate to the latest payment rules. Published on 25 February 2021.

The special power of attorney form must now be accompanied by certified copy of the taxpayer's identity document; a certified copy of representative taxpayer's identity document; and an affidavit from the taxpayer authorizing the representative taxpayer to act on his/her behalf. The affidavit to, at a minimum, include the identity number of the representative and the tax number of the taxpayer.

Tax research and reviews

The following areas were identified for tax research and reviews:

Upstream petroleum

Two large gas finds near Mossel Bay underline the potential for additional exploration, development and production of South African petroleum resources. To move towards a fairer and more certain fiscal and regulatory regime, the National Treasury and the Department of Mineral Resources and Energy will

publish a discussion paper on potential tax reforms.

Research and development

The research and development tax incentive has evolved since it was introduced in 2006, and expires on 1 October 2022. The National Treasury and the Department of Science and Innovation will publish a discussion paper in 2021 to invite public comment on the future of the incentive.

Travel allowance

In light of the large-scale migration to working at home over the past year, the National Treasury will review current travel and home office allowances to investigate their efficacy, equity in application, simplicity of use, certainty for taxpayers and compatibility with environmental objectives. In recognition of the potential effect on salary structuring, this will be a multi-year project.





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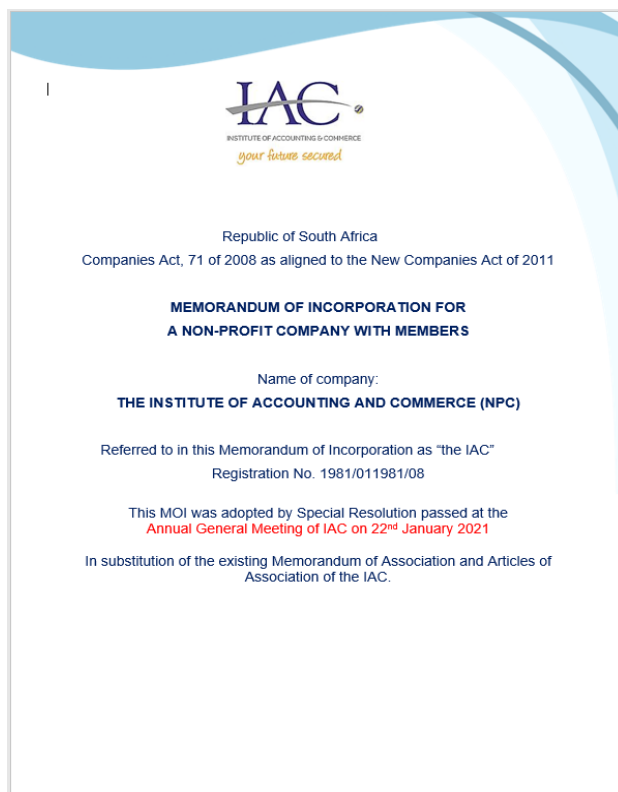
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IAC Memorandum of Incorporation



The IAC has re-aligned its MOI to the New Companies Act of 2011. The MOI was approved by Members at the AGM of 22 January 2021 and accepted by CIPC on 08 February 2021. The updated MOI can be found on the IAC website.

CPD opportunities

2021 National CPD Sessions

20 February - Gauteng 08h30
13 March - Western Cape 08h30
17 April - Eastern Cape 08h30
22 May - Free State 08h30
19 June - Gauteng 08h30
17 July - Western Cape 08h30
21 August - Eastern Cape 08h30
18 September - Free State 08h30
16 October - Gauteng 08h30
20 November - Western Cape 08h30



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