

International Assignment Services Taxation of International Assignees

South Africa



Country: South Africa

Introduction: International assignees working in South Africa

Step 1: Understanding basic principles

Step 2: Understanding the South African tax system

Step 3: What to do before you arrive in South Africa

Step 4: What to do when you arrive in South Africa

Step 5: What to do at the end of the year

Step 6: What to do when you leave South Africa

Step 7: Other matters requiring consideration

Appendix A: Rates of tax

Appendix B: Typical tax computation

Appendix C: Double-taxation agreements

Appendix D: South Africa contacts and offices

Additional Country Folios can be located at the following website: www.pwc.com/ias/folios

Introduction: International assignees working in South Africa

Tax residents are subject to tax on their worldwide income (subject to certain exemptions); whereas nonresidents are subject to tax on South African actual or deemed source income.

Residents are subject to tax on worldwide gains (with certain exclusions). Nonresidents are subject to tax on gains arising on immovable property situated in South Africa and assets of a permanent establishment or fixed base in South Africa through which that person undertakes business activities in South Africa.

The folio is not intended to be a comprehensive guide. It merely attempts to give an overview of the issues, to identify common problems that may arise when a person is sent to work in South Africa, and to deal with practical planning. Accordingly, professional advice should be sought before making important decisions.

Further information can be obtained from our contacts and offices listed in Appendix D.

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Step 1: Understanding basic principles

The scope of taxation in South Africa

- 1 Tax residents are taxed on their worldwide income. Nonresidents are taxable on their South African source income (actual or deemed source).
- 2 Two tests will apply to determine whether or not a person is tax resident in South Africa. The **first test** relates to the ordinary residence of the individual; natural persons who are ordinarily resident in South Africa will automatically be regarded as tax resident. As is the case with the term 'source', the term 'ordinarily resident' is not defined in the Income Tax Act. The courts have held that a person's place of ordinary residence will be regarded as the country to which he would naturally and as a matter of course return to after his wanderings. In contrast with other countries it might be called his usual or principal country of residence and it would be described more aptly than other countries as his real home.
- 3 The **second test** will apply to individuals who are considered not ordinarily resident in South Africa and will take the form of a physical presence test. In terms of this test, a natural person (i.e., an individual) will be viewed as resident where he/she is physically present for the following periods:
 - (i) More than 91 days in aggregate in the year of assessment under consideration; and
 - (ii) More than 91 days in aggregate during each of the five years of assessment preceding the year of assessment under consideration; and
 - (iii) More than 915 days in aggregate during the five preceding years of assessment.
- 4 It should be noted that a person who is deemed to be exclusively resident in another country, for the purposes of the application of a relevant double tax agreement ("DTA") concluded with that other country and South Africa, will not be considered resident in South Africa.
- 5 In the case of employment income, the 'actual' source will normally be where the duties and obligations under a service contract are required to be performed by the employee, irrespective of who is responsible for remunerating the employee or where such remuneration is paid. If the services are rendered in South Africa, the income arising therefrom will be from a South African source, and hence subject to tax in South Africa. The source of income is relevant for nonresident individuals taxed on a source basis.
- 6 Relief from double taxation is granted under tax agreements, as well as unilaterally in terms of tax credit provisions in the South African Income Tax Act.
- 7 Other taxes for which individuals may become liable are:
 - Value-added tax (VAT);
 - Donations tax (tax residents only);
 - Estate duty;

- Transfer duty on the transfer of immovable property not subject to VAT and annual rates payable to local government bodies on immovable property;
- Duty on various documents and on transfer of locally registered shares;
- Skills Development Levy- payable by the employer on a monthly basis. The levy is to provide training for the previously disadvantaged communities and is calculated as 1% of the net remuneration payable to the employee;
- Workmen's compensation – payable on an annual basis by employers, based on a formula per business type;
- Licenses (TV, cars, dogs, etc.).

8 The gains arising on the sale of certain capital assets will be subject to tax on capital gains. See below for more details.

9 No social security taxes are levied, although employees and their employers are each obliged to contribute to the State Unemployment Insurance Fund (UIF). Both parties are required to make a monthly contribution calculated as 1% of the remuneration paid to the employee, subject to a maximum remuneration ceiling of R149,736 p.a. / R12,478 pm. UIF is not payable by expatriate employees who have the right to return to their home country after the end of their time bound employment contract.

The tax year

10 The tax year for individuals covers the period starting on or after 1 March and ending on the last day of February following.

Method of calculating South African tax

11 The South African taxable income of a taxpayer is currently computed as follows:

Total receipts and accruals*	X,XXX
Less: Capital receipts and accruals	(X,XXX)
Gross income	X,XXX
Less: Exempt income	(X,XXX)
Income	X,XXX
Less: Deductions and allowances	(X,XXX)
Add: Taxable portion of capital gains	X,XXX
Taxable income	X,XXX
Tax (per tables, calculated on taxable income)	X,XXX
Less: Rebates	(X,XXX)
Less: Foreign taxes paid/payable on foreign source income	(X,XXX)
Tax payable	X,XXX

* Taxable amounts are taxed on the earlier of the date of accrual (when the taxpayer becomes entitled to the income) or receipt.

12 Taxpayers (other than companies) fall into two categories, for normal tax, i.e.:

- Natural persons; and
- Persons other than natural persons (i.e., trusts, insolvent estates and estates of deceased natural persons).

13 There is a single graduated tax table for natural a person, which includes special trusts and testamentary trusts for minor children as well as deceased estates of natural persons. The rates of tax for the tax year ending 28 February 2010, and the taxable income to which these rates apply, are outlined in Appendix A.

A special trust is one created solely for the benefit of a person who suffers from a mental illness or serious physical disability that incapacitates such a person from earning sufficient income to maintain him/herself.

Rebates

All taxpayers are entitled to a primary rebate, which for the tax year ending 28 February 2010 is R9,756. An additional age rebate of R5,400 (for the 2010 tax year) is applicable to taxpayers aged 65 or over.

Husband and wife

14 A single tax table applies to all natural persons. Husband and wife are treated as separate taxpayers and each completes his or her own income tax return.

Source of income

15 Source is not defined in the South African Income Tax Act. Certain deemed source rules apply and a number of tests have been developed by the courts for the determination of the source of income. For example, the South African courts have ruled that the source of remuneration from services rendered or employment is the place where the services are rendered.

16 Although the territorial connecting factor for levying South African tax is residence, the 'ordinary residence' of an individual is also relevant in terms of certain deeming source provisions, and donations and estate taxes. Most of the deeming provisions apply for passive or investment income and where the taxpayer is ordinarily resident in South Africa, and generally not to international assignees. In most cases, short-term international assignees should not be regarded as ordinarily resident, and in many cases may also avoid being resident (in terms of the physical presence test).

Foreign tax relief

17 Relief for foreign taxes is provided in the case of the taxation in South Africa of foreign source income/capital gains. In the case of a nonresident, income tax is currently levied in South Africa on a source/deemed source basis only, and therefore would not be entitled to a credit should foreign taxes be levied on taxable South African source income.

18 This can lead to a possibility of double taxation of income in the expatriate's hands if, for example, his or her home country levies tax on a residence/nationality basis (and he or she remains taxable in the home country) or worldwide basis. Generally speaking, relief should be given for South African taxes paid in the home country either in terms of domestic law or double-taxation agreement.

Double-taxation agreements

19 Double-taxation agreements (DTAs) between South Africa and a number of countries may provide further tax relief to nonresidents (See Appendix C).

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Step 2: Understanding the South African tax system

In general

20 Foreign nationals working in South Africa typically have income in the following forms:

- Employment income;
- Investment income;
- Own business (self-employment) income.

Taxation of foreign nationals

Employment income

21 An amount, including a voluntary award, received by or accrued to a person in respect of or by virtue of rendering services or employment or the holding of office, will be employment income. It also includes the value of benefits or advantages granted in respect of services, employment or the holding of office. The benefits or advantages are generally referred to as fringe benefits. Employment income (remuneration) thus includes salaries, wages, bonuses, allowances, pensions, certain commissions and annuities, gratuities, lump sum payments, and fringe benefits.

22 Excluded, from the definition of remuneration, are fees etc. received for independent services that are rendered where the recipient of the income is not subject to control or supervision with regard to the manner in which the work is done or to the hours of work (where the relevant services are required to be performed mainly at the premises of the client). Where the services are not performed mainly at the client's premises, control and supervision is generally not a determining factor in assessing whether the services are independent. This exclusion from remuneration applies only where that person rendering such services is a resident. Payments to non-residents are regarded as remuneration for the purposes of applying the provisions relating to the withholding of employees' taxes. It should also be noted that most personal service companies/trusts, i.e. companies/trusts established to provide the services of a particular person, are treated as employees for the purposes of taxation.

Source of employment income

23 Nonresident employees will be taxed on employment income derived from a South African source, irrespective of where, when and by whom paid. As a general rule, the source of employment income is where the relevant employment or services have been rendered. Where it is considered that the duties performed/services rendered overseas are incidental to those performed in South Africa, the dominant originating cause (i.e., source) of such income derived therefrom may be regarded as being South Africa. In certain circumstances, double tax agreements exempt employment income from tax in South Africa.

24 Where a nonresident individual is employed by a non South African employer and that employer requires the employee to render services both inside South Africa and abroad, only that portion of the remuneration attributable to services rendered inside South Africa will be from a South African source and taxable in South Africa. However, when the taxpayer is resident in South Africa he will be subject to tax on his worldwide employment income, subject to relief by virtue of DTAs and section 10(1)(o) of the Income Tax Act (foreign employment exemption).

25 The exemption provided by of virtue section 10(1)(o) applies in the case of the amount of specific types of remuneration received by an individual working outside of South Africa in respect of the services rendered outside South Africa if such person was outside the Republic:

- For a period exceeding 183 full days in aggregate during a 12-month period commencing or ending during a year of assessment; and
- For a continuous period exceeding 60 full days during such period of 12 months.

The above exemption does not apply to persons who render services to any employer in national or provincial government (i.e. so called government employees).

Remuneration packages

26 Normally a remuneration package consists of one or more of the following components:

- Basic salary;
- Allowances;
- Fringe benefits;
- Contributions and premiums.

27 The overall cost of employment can include allowances and fringe benefits. This will generally not be challenged by the South African Revenue Service (SARS) as long as it is reasonable in relation to the type of work performed and the particular circumstances.

28 The most common allowance is in respect of business travel. Business related expenditure actually incurred on travel might be deducted from the allowances for income tax purposes, subject to certain limits. A person may be required to substantiate his or her expenditure claims for travel.

29 Fringe benefits are set out in the income tax legislation and include benefits in the form of assets acquired at less than full value, the private use of assets, such as a motor vehicle, bursaries and educational assistance, debts paid or waived by employers, accommodation benefits, interest-free or low interest loans, meals and refreshment, employee share or stock schemes, and free or cheap services.

30 These benefits are generally valued at the cost to the employer supplying them, although in some cases they are valued in terms of stipulated formulae. The value of a benefit is reduced by the consideration (if any) given by the employee for the benefit.

31 It is common in South Africa for employees and employers to make contributions to privately administered retirement funds and medical plans and to pay premiums for group life and accident insurance plans. In some instances the contributions and premiums paid by the employee are deductible by him for tax purposes.

32 Remuneration package structuring can achieve limited tax savings (see below).

Deductions

33 There are limited deductions from employment income, some of which have been referred to above. Employees (including personal service companies) deriving remuneration are prohibited from deducting expenditure relating to their employment unless specifically permitted in terms of the legislation. Allowable expenses include wear and tear on certain assets, legal expenses, income protection insurance, pension and retirement annuity contributions (subject to certain limits).

Other permissible expenditure includes a limited amount for medical expenditure and donations to public benefit organizations.

Employees' tax

34 Employees' tax is income tax an employer must deduct from remuneration paid to an employee, and pay over to SARS. It is designed to ensure that income tax on remuneration is paid as it is earned. The payment of tax is spread over the whole year, obviating having to pay a substantial lump sum of tax after the end of the tax year when the annual assessment is received. A disadvantage is the loss of interest-earning potential.

35 Employees' tax has two components:

- PAYE (Pay As You Earn); and
- SITE (Standard Income Tax on Employees).

PAYE

36 In terms of the PAYE system, an employer is obliged to deduct income tax from remuneration as it is paid, and to pay the tax over to the SARS. The amount of PAYE tax deducted is calculated in accordance with prescribed tables.

37 The decision to have employees' tax deducted does not rest with the employee. Subject to certain exceptions, when a person receives remuneration or remuneration accrues to a person, the remuneration is subject to accounting of PAYE. This includes amounts paid to personal service companies.

SITE

38 SITE is a component of employees' tax but differs from PAYE, as it is either a final or minimum tax on remuneration up to R60,000 in a tax year in certain circumstances or where the annual equivalent of the amount earned during part of a tax year does not exceed R60,000. Where reference is made to SITE being deductible from certain remuneration and PAYE being deductible from other remuneration, it should be borne in mind that both deductions represent payments of income tax.

39 SITE does not apply to all types of income, but only to 'net remuneration', as defined, received from standard employment. The objective of SITE is to ensure that the tax deductions made by an employer are, as far as possible, equal to the employee's final normal tax liability, thus obviating the need for an employee who is only subject to SITE to submit a tax return at the end of the tax year. It follows that SITE correctly deducted is not refundable. It has been proposed that the law should be amended to provide that SITE payments should be refundable in instances where the employee has not worked for a full tax year (the SITE system assumes that a SITE only employee will work for a full year and this can result in a taxpayer paying income tax even though he/she may earn below the tax threshold for a given tax year).

40 Under the SITE system, an individual is relieved of the obligation to submit an income tax return if:

- His taxable income consists solely of net remuneration (broadly speaking, remuneration less deductions allowed for retirement fund contributions);
- His net annualized remuneration for the tax year does not exceed R60,000; and
- The prescribed amount of SITE has been deducted from the remuneration.

41 The total amount of employees' tax (SITE and PAYE) deducted during the year, should more or less equal the final income tax liability on his remuneration for the tax year.

Taxation of investment income

42 Foreign nationals working in South Africa who are not resident in South Africa (i.e., not ordinarily resident and not resident under the physical presence test) are not taxed on their non-South African source investment income. South African investment income will be subject to South African income tax. A number of rules apply for determining the source of different kinds of investment income.

Interest

43 There is no South African withholding tax on interest. There is an exemption from tax on South African source interest income in the hands of non-residents in certain circumstances. Residents are taxable on their worldwide interest, subject to an interest exemption.

The interest (including foreign interest and foreign dividends) exemption (2009/10) is limited to the following maximums:

- Persons 65 years and older (R30,000);
- Persons under 65 (R21,000).

The first R3,500 of the above exemption applies firstly to foreign dividends and foreign interest and thereafter to South African interest.

Dividends

44 Dividends from a South African source are, subject to certain technical exceptions, exempt from tax. Foreign investment income is not included as taxable income for persons who are not resident in South Africa. Residents are taxable on the foreign interest and dividends, subject to the aforementioned investment exemption.

45 There is currently no South African withholding tax on dividends. In general, dividends from South African companies are not taxed in the hands of residents or non-residents. It has been proposed that a 10% withholding tax will be applied to dividends paid. This withholding tax will not be refundable and it will replace the 10% secondary tax on companies (STC) currently payable by companies on payment of dividends.

46 Expenditure incurred in the production of local dividend income (e.g., interest on loans to purchase shares) is not deductible for income tax purposes, as it is not expenditure incurred in the production of income.

Royalties and know-how

47 An amount received by or accrued to a person for the right of use in South Africa of a patent, trademark, design, model, copyright, pattern, plan, formula, process, or any property of a similar nature, is deemed to have been received or accrued from a South African source and is therefore taxable in South Africa. This also applies for amounts received or accrued for imparting any scientific, technical, industrial or commercial knowledge or information for use in South Africa. It does not matter where payment is made or where the person who makes the payment is resident.

48 A withholding tax of 12% (which is a final tax) is levied on the incurral of the obligation to pay such amounts to non-residents, but may be subject to DTA relief (see Appendix C).

Other investment income

49 For non-residents, all other investment income (e.g., rental income) will generally be fully taxable if from a South African source. The general rule is that the source of rental income is located where the relevant property is located.

50 Generally speaking, expenditure incurred to produce investment income will only be deductible in so far as the investment income is taxable.

Capital gains

51 Tax on capital gains ("CGT") applies in respect of disposals of capital assets on or after 1 October 2001. The legislation is intended to tax the gain arising after 1 October 2001, and therefore the base cost of the asset on the implementation date is of great importance.

52 Different rules apply for assets acquired before 1 October 2001 and those acquired on or after this date; generally taxpayers who dispose of assets acquired before the valuation date may determine the base cost of the assets on the basis of:

- Market value on 1 October 2001; or
- 20 percent of disposal proceeds; or
- A time-based apportionment, i.e., the total gain is apportioned over the period the asset was held before and after 1 October 2001.

53 The taxpayer is well advised to give careful consideration to the method he elects to determine the base cost of the asset, particularly as the time-based apportionment basis can only be applied once the asset is disposed of, which may be several years after 1 October 2001. There is a three-year window to prepare valuations of assets as at 1 October 2001. The taxpayer will therefore only be able to compare the gain based on time-based apportionment and market value after the disposal. Losses arising as a result of market valuations are restricted.

54 CGT will be levied at a maximum effective rate of 10 percent on individuals and special trusts, 14 percent for companies, 16.5 percent for permanent establishments, for example, foreign branches and 20% for trusts other than special trusts. The aforementioned rates are based on the tax rates applicable for the 2009 tax year. For South African tax residents a gain on the disposal of any worldwide asset will potentially be liable to CGT. Nonresidents will only be subject to tax on the disposal of:

- Immovable property located in South Africa and, in some cases, disposal of an indirect interest in such property, and/or
- Assets of a permanent establishment through which a trade is carried on in South Africa.

55 There are a variety of exclusions from CGT that are applicable to individuals. These include, amongst others:

- Primary residence – a natural person and a special trust are entitled to have the first R1.5 m of the gain or loss made on the sale of their primary residence excluded. The R1.5 m primary residence exclusion was increased from R1m to R1.5m effective from 1 March 2006. In addition, from the 2010 tax year, individuals will be exempted from capital gains tax on the sale of a primary residence where the proceeds do not exceed R2m. Non-residents may also qualify for these exclusions provided that they can evidence that the South African property constitutes their primary residence.
- Personal use assets – a gain or loss on disposal of many personal use assets by a natural person is excluded to the extent that the assets were used for purposes other than trade.

56 When an individual becomes tax resident in South Africa he is deemed to have sold and reacquired his assets on the day prior to commencing residence in South Africa. Thus there is an adjustment in base cost to market value at the day prior to commencing residence. On ceasing to be resident in South Africa individuals are deemed to have sold their assets on the day prior to becoming non-resident. Thus for those emigrating or otherwise ceasing to be

tax resident in South Africa there is an exit charge applied on the deemed sale of their assets (except those assets chargeable to tax on non-residents).

57 Different assets have different valuation/calculation rules. In the case of foreign fixed property the gain is calculated in foreign currency and then converted to Rands. The gain on listed shares, unit trusts etc, is calculated by valuing the assets in Rands on acquisition/deemed acquisition date and valuing the assets in Rands at the date of deemed/actual disposal. There have been numerous amendments relating to the exchange rate to be used for translation purposes since the introduction of CGT to date – we recommend that professional advice be sought in this regard on a case by case basis. In addition complex regulations relating to foreign currency assets were introduced effective 1 March 2003 which would require professional assistance.

58 There is an annual exemption of R17,500 of gain (2010 tax year). On death, all an individual's assets subject to capital gains tax are deemed to have been sold at their market value (subject to certain exemptions such as assets passed to a surviving spouse). There is an increased annual exemption of R120,000 in the year of death (2010 tax year).

Capital Gains Withholding tax

59 The SA tax legislation contains provisions that require any person who purchases SA immovable property from a non-resident, to withhold tax from the purchase consideration and pay this over to the SA tax authorities. This tax is not a final tax, and a non-resident should file a tax return to properly return the gain for tax purposes and pay any additional tax/claim any refund due.

Taxation of self-employment income

60 Self employment income is derived from an unincorporated business, partnership, trade, or profession. Persons earning self-employment income may, for example, include partners in a partnership, non-salaried directors, and persons earning commission or professional fees, or income from independent services. If the services are provided through an incorporated body (e.g., a company, close corporation, or trust), the incorporated body may, under certain circumstances, be regarded as a personal service company or trust, which may result in certain adverse tax consequences, for example, the fees charged being subject to PAYE by the customer, and limited deductions by the company, close corporation, or trust (generally speaking only amounts that comprise remuneration will be tax deductible).

61 An amount received or accrued from self-employment will be taxable in South Africa. Non-residents will only be taxable on South African source self-employment income.

Source of self-employment income

62 The source of business income is where the business is carried on or where the business capital is employed, whichever is dominant. An amount received by or accrued to a non-resident for services rendered or work or labor done (even outside South Africa) in the carrying on of any trade in South Africa, would be from a South African source and, therefore, taxable in South Africa. The taxability of such income may be affected by the application of the relevant DTA.

A resident would be taxable on his/her worldwide income which would include income from carrying on a trade in South Africa.

63 With regard to directors' fees, a distinction is drawn between directors' fees for attending meetings or acting in a non-executive capacity, and remuneration in the form of salary paid to an executive director as an employee. The source of remuneration paid to a director in the form of salary is determined by the rules applicable to employment income, i.e., where the services are rendered (see above). Where a non-resident derives directors fees in his/her

capacity as a member of a board of director of a company which is a resident of South Africa, South Africa would, subject to the provisions of the relevant DTA, have the right to tax such income.

Fringe benefits

64 As no employer/employee relationship exists between the person rendering the independent service and the person paying for such service, the fringe benefits provisions of the income tax legislation are not applicable to a self-employed person. Neither is PAYE nor SITE.

Deductions

65 Non-capital expenditure or losses, incurred both inside and outside South Africa, in the production of income (gross income less exempt income) is allowed as a deduction against the income of a person carrying on trade in South Africa, provided the expenditure or loss was:

- Actually incurred;
- During the tax year claimed;
- In the production of (taxable) income;
- Not of a capital nature.

Provisional tax

66 Provisional tax is the payment of the income tax liability for a tax year in instalments. This avoids having to make substantial tax payments on assessment after the end of the tax year. Provisional tax may be compared to employees' tax deducted from the remuneration of an employee.

67 A taxpayer must register as a provisional taxpayer if he or she derives income other than remuneration, above a certain limit. Taxpayers below the age of 65 who derive taxable interest, dividends and rental income in excess of a specified amount (R20,000 for the 2010 tax year) will need to register as provisional taxpayers. In the case of individuals 65 years and older who derive only the aforementioned income and no income from the carrying on of a business, will be exempt from provisional tax, provided the income so earned does not exceed R120,000.

As from 1 March 2006 a director of a private company or a member of a close corporation (cc) no longer needs to register as a provisional taxpayer simply due to his status as being a director or member of a close corporation.

68 Provisional tax payments are based on estimated taxable income for the tax year and are made no later than the last day of August and February of each tax year. Provisional taxpayers with taxable income in excess of R50,000 may make a third (top up) payment no later than seven months after the end of the tax year, to avoid interest on the underpayment of income tax for the tax year. For these taxpayers an underpayment of income tax will result in interest on the underpayment. The interest runs from seven months after the end of the tax year until the underpayment is settled. The interest is not deductible for income tax purposes. Interest is paid to taxpayers on an overpayment of provisional tax and this interest is taxable. This, however only applies if the overpayment exceeds the actual income tax liability by more than R10,000 or where the person's taxable income exceeds R50,000.

Tax rates and rebates

Tax rates

69 Income tax for individuals (2009/10) is levied on a graduated scale at rates which vary between 18% and 40%.

70 Other relevant tax rates are as follows:

	Tax Rate
VAT	14% or 0%
Donations tax	20%
Estate duty	20%
Withholding tax on royalties (subject to DTA relief)	12%
Withholding tax on foreign sportspersons and entertainers	15%

Specific issues affecting foreign nationals

General

71 Generally speaking, foreign nationals working in South Africa on short-term assignments should not become ordinarily resident, and depending upon the period of the assignment, may avoid becoming resident.

Non-resident foreign nationals working in South Africa are subject to tax on South African-source employment and investment income, and gains arising on the disposal of immovable property situated in South Africa. Resident foreign nationals are taxable on worldwide income and capital gains.

Double-taxation agreements

72 The tax position of a non-resident may be affected by a double-taxation agreement between South Africa and the assignee's country of residence. In terms of such agreements, it is possible that a non-resident's remuneration earned in South Africa will not be taxable, depending on the period of time spent in South Africa, the residence of the employer and other factors. A list of countries with which South Africa has a double-taxation agreement is contained in Appendix C.

Foreign entertainers and sportsperson

73 Legislation has been introduced effective from 1 August 2006 which subjects payments to a non-resident entertainer or sportsperson to a 15% final withholding tax of the gross receipts and accruals for services as an entertainer or sportsperson in South Africa.

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Step 3: What to do before you arrive in South Africa

Work permits

74 Apart from the normal visa requirements for entering South Africa, all foreign nationals wishing to work in South Africa will have to comply with the requirements and apply for one of the work permits listed in the Immigration Amendment Act. Such work permits will be issued with certain conditions and may only be renewed in certain cases, subject to any special conditions applied to the initial work permit. Application forms can be obtained from any South African Embassy abroad or from any office of the Department of Home Affairs in South Africa.

75 Categories of work permit include general, corporate, intra-company transfer, quota and exceptional skills. The most commonly applied for are general work permit and intra-company transfers.

Application for a general work permit

76 This refers to the application by an employer to employ in South Africa a non South African citizen or non South African permanent resident who is currently not an employee of the intended employer or related company.

77 In addition to the duly completed official application form, additional information is required, including, inter alia;

- Full birth certificate for applicant and accompanying adults and minors;
- Medical report;
- A radiological report;
- Marriage certificate, if applicable;
- Divorce certificate, if applicable;
- Offer of employment from the company in South Africa;
- Proof from the company making the offer of steps taken to obtain the services of a South African citizen or approved immigrant, e.g., newspaper clippings or advertisements in the local media or trade journals;
- Police clearance certificate from country of origin and other countries where the applicant has lived for more than a prescribed period of time;
- Current passport valid for at least eighteen months with sufficient blank pages for the necessary permits to be affixed to;
- Proof of qualifications evaluated by the South African Qualifications Authority.

78 If any of the required documentation is in a language other than English, it must be translated into English by a certified translator.

79 This process can take 8 to 12 weeks if the foreign national complies with all the requirements.

80 The department of Home affairs charges a non-refundable processing fee.

Application for permits on the basis of an intra-company transfer

81 An intra-company transfer work permit may be issued by the Department of Home Affairs to a foreigner who is employed abroad by a business operating in South Africa in a branch, subsidiary or affiliate relationship and who by reason of his or her employment is required to conduct work in South Africa.

82 In addition to the duly completed official application form additional information will be required.

Customs and temporary residents

83 Foreign nationals working in South Africa temporarily or on a contract basis may import personal and household effects free of customs duty and VAT. These include household furniture and effects and other movable articles, equipment necessary for the exercise of a calling, trade or profession, television and hi-fi sets and other household appliances. All of these items must be for personal use only, and must not be disposed of within a period of six months from the date of entry. These goods may not remain in South Africa on a permanent basis and must be returned and/or re-exported overseas upon departure from South Africa, unless the person has permanent resident status or citizenship in South Africa (permanent residency should be sanctioned by the Department of Home Affairs).

84 An inventory of all imported personal belongings together with temporary work permits and passports must be furnished. Custom Forms DA 304 and P1.160 must be completed and clearance obtained from South African Customs for these assets. This clearance will normally be obtained by a shipping agent arranging the transfer of the assets and must be obtained prior to the goods arriving in South Africa.

85 Pets may not enter South Africa unless a permit has been issued by the Department of National Health and Population Development.

86 Should a foreign national wish to bring a motor vehicle into South Africa for personal use, it is necessary to apply to Customs for permission to import the vehicle on a temporary basis. A deposit (or guarantee) will need to be lodged with Customs equivalent to the customs duty, ad valorem (excise tax) and import VAT before the vehicle may be imported; these amounts will be refunded to you once proof is furnished that the vehicle has left the country permanently, or permanent residence is granted, save for the import VAT which is still payable. The vehicle should remain in South Africa for the duration approved by the customs controller on the provisional payment form DA 70.

87 However, should the vehicle be imported on a permanent transfer of residence, an import permit would be required, allowing for the vehicle to be imported free of customs and other importation duties, subject to very specific conditions.

88 The following example shows the formula used to calculate the import taxes on the importation of a motor vehicle into South Africa:

	Tax Amount (ZAR)
Import value (commercial value of vehicle abroad)	100,000.00
Customs duty (34% on import value)	34,000.00
Ad valorem duty. A percentage, at a sliding rate (limited to a maximum rate of 20%) (5.29% used in this example) x (the import value, Plus 15%, plus import duty)	7,882.10
VAT (14% x (import value, plus 10% of import value, Plus import duty and ad valorem duty))	21,263.49
Total import taxes due for which security has to be given	63,145.59

89 This amount is refunded to the individual or the security is cancelled when the individual repatriates the vehicle. If he disposes of the vehicle in South Africa during his temporary period of residence here, the full import taxes become payable and an import permit must be obtained.

Structuring remuneration packages

90 Some companies offer their employees a complete expatriate remuneration package while they are working in South Africa. In addition to regular salary, commissions, bonuses, etc., the package may compensate the employee with a number of overseas allowances and benefits for the additional costs and inconvenience of living in another country. Alternatively, a gross remuneration package may be agreed upon and, within limits, the employer will leave the components of the package to be chosen by the employee. In the latter case, it is essential that employer and employee agree on the structure and that such agreement be reduced to writing.

91 In either case it is essential that all relevant taxation issues be considered prior to determination of the remuneration package. The South African fringe benefits legislation contains a number of concessions and exemptions, which may provide tax advantages without increasing the cost to the employer. The granting of certain allowances may make the remuneration package more tax effective. Careful planning is therefore required before finalizing your remuneration package. A PricewaterhouseCoopers tax specialist will gladly assist with remuneration package planning.

92 Some of the fringe benefit provisions that may provide tax relief are set out below.

Medical expenditure

93 Generally, a foreign national is liable for his/her own medical expenditure, irrespective of whether the medical service is provided by the state or not. Foreign nationals are well advised to become a member of a medical plan, either through their employer or as an independent member.

94 Medical, dental, or similar expenditure as well as handicap expenditure actually paid during the tax year qualifies for a limited deduction for income tax purposes. Examples of medical expenditure that may be deducted (which excludes amounts recovered from your medical plan) are payments to a registered medical practitioner, dentist, optometrist, nursing home or hospital, and a pharmacist for prescribed medicines. Such expenditure incurred outside South Africa, other than that recovered from a medical plan, is also deductible.

95 Taxpayers may claim a deduction for medical expenses incurred including contributions to a medical aid fund (local and foreign), subject to the following limits (the legislation below is applicable as for 2009/10):

- A basic deduction limit for contributions to a medical aid fund registered in terms the South African Medical Schemes Act. The basic deduction limits for contributions are capped as follows:
 - R625 per month for the taxpayer or;
 - R1,250 per month if the contributions are for the benefit of the taxpayer and one dependant or;
 - R1,250 for the taxpayer and one dependant and R380 per month for each additional dependant.
- The limit is reduced by any amount contributed by an employer to any medical scheme if that amount is not included in the taxpayer's income.
- The balance of the medical aid contributions, including the total contribution paid to a foreign fund, and the qualifying medical expenditure is deductible to the extent that it exceeds 7.5% of the taxpayer's taxable income. However, persons over the age of 65 or taxpayers with a handicap in the family may deduct qualifying expenditure in full.

96 As an employer's medical aid fund contributions, made for the benefit of an employee, can usually be deducted in full by the employer, it may be tax effective for only the employer to contribute to the medical plan for the benefit of the employee. The rules of the medical plan, as well as the conditions of service for the employee, must be such that the contributions made by the employer cannot be construed as the payment of a debt by the employer on the employee's behalf. The payment of an employee's debt by the employer is a taxable fringe benefit in the hands of the employee. The amount of the contribution made by an employer to a South African medical plan on behalf of an employee which exceeds the capped amounts as listed above is a taxable benefit in the hands of the employee.

Furthermore as from 1 March 2006, any amount incurred by an employer in respect of any medical, dental and similar service, hospital services, nursing services or medicines provided to the employee or his spouse, child, relative or dependent will constitute a taxable fringe benefits.

Retirement funding and social security

97 The following payments made to funds that have been approved by SARS may, up to the following limits, be deducted for income tax purposes:

- Pension fund contributions made by an individual - the greater of:
 - R1,750, or
 - 7.5% of remuneration from retirement-funding employment.
- Retirement annuity fund contributions made by an individual - the greatest of:
 - 15% of non-retirement-funding employment income after deducting certain expenditure, or
 - R3,500 less any amount allowed as a deduction for pension fund contributions, or
 - R1,750.

98 Contributions by an individual to a pension, retirement or social security plan established by agreement between the employer and trustees for the benefit of the employer's employees are tax deductible, subject to the limits described above, provided that the fund has been approved by SARS.

99 Upon withdrawal of a member (prior to retirement or death) from a South African pension, provident or retirement annuity fund, the first R22,500 of cumulative pre-retirement lump sum is tax-free and deductible from the tax-free benefit available in respect of lump sum benefits; thereafter tax on pre-retirement lump sum benefits is levied on a graduated scale at rates which vary from 18% to 36%.

Foreign incentive payments

100 Often, foreign employees are paid an incentive bonus (or retainer) to work in South Africa and/or to return to their home country. A foreign incentive bonus paid to work in South Africa is taxable in South Africa. A foreign incentive bonus paid to return home is not generally taxable in South Africa (not being from a South African source), provided that the employee is not tax resident in South Africa, the payment is made in bona fide circumstances and the cost is borne by a non-South African employer.

Relocation costs

101 Where an employee is transferred from one location to another, the relocation costs borne by the employer should not give rise to a taxable benefit in the employee's hands. Costs incurred or reimbursed by an employer to relocate an employee to South Africa may include:

- The expense of transporting the individual, members of his household and their personal possessions from the previous place of residence to the new residence;
- Expenses incurred in settling into permanent residential accommodation at the new place of residence, e.g., cost of soft furnishings such as curtains and carpets and painting the house. (An employer can grant such a settling-in allowance of up to one month's basic salary, instead of reimbursing actual costs);
- The expense of providing residential accommodation for the individual and members of his household for a period of up to 183 days, until permanent residential accommodation is obtained. (See below).

The SARS will accept an amount representing one month's basic salary as paid tax-free, to meet the costs of settling in. No evidence of the expenditure needs to be provided.

Home leave expenses

102 The assignment contract may provide that an employer will bear the expense of home leave for an employee and his/her family, say, once a year.

103 The payment of traveling costs by an employer for the employee and his/her family to and from the home country for leave purposes will be a taxable benefit in the employee's hands. The employee's ticket may be tax-free, however, provided it can be justified as being primarily for business purposes.

Allowances

104 As a general rule, allowances, subject to certain maxima, granted to an employee by an employer to meet business expenditure are taxable in South Africa, but only to the extent that they are not so expended. Allowances to meet purely domestic or private expenditure, such as the cost of living, are taxable.

Motor vehicles

105 Where an employee needs a motor vehicle to perform his or her duties, a vehicle can be provided by the employer in one of two ways:

- Granting an employee an allowance to meet the costs or expenditure of running the employee's own vehicle for business purposes; or
- Granting the employee the use of a motor vehicle supplied by the employer.

106 A travel allowance can be a fixed amount, a fluctuating amount based on the actual business travel, or a combination of the two. An employee may set off business travel expenses against the allowance on submission of his/her tax return. These expenses can be actual costs incurred or deemed costs, calculated in accordance with prescribed tables. Only the unexpended portion of the allowance will therefore be taxable in the employee's hands. There have been significant tax amendments in respect of claiming travel related expenses, which are aimed at curbing the abuse of the above structuring tool.

These include increases to the deemed distance formula in respect of private travel and capping of the deemed cost table in respect of the cost of the vehicle used.

107 When the right of the use of a car is provided by an employer to an employee (for both business and private use), the value of the taxable benefit per month is 2.5% (and 4% in the case of a second car not primarily used for business) of the determined value of the vehicle. This percentage is reduced by 0.22 and 0.18 respectively if the employee bears the full cost of fuel or maintenance.

Accommodation

108 There are rules for determining the taxable value of the private or domestic use of accommodation provided by an employer. The taxable value of residential accommodation which is not owned by the employer or an associated institution will be an amount equal to the cost to the employer (i.e., rents paid and other expenses defrayed in order to provide such accommodation). The valuation based on the cost to the employer will not apply where:

- It is customary for an employer in the industry concerned to provide free or subsidized accommodation to its employees; and
- It is necessary for the particular employer, having regard to the kind of employment, to provide free or subsidized accommodation; and
- The benefit is provided for bona fide business purposes, other than the obtaining of a tax benefit.

109 With effect from 1 March 2008, where the employer provides residential accommodation to an employee and that employee is away from his usual place of residence outside of South Africa (as is usually the case with an expatriate employee), there will be no taxable benefit for the first 24 months of the assignment. However, if the person has been in South Africa for a period exceeding 90 days in the 12 months immediately prior to the start of the assignment, the exemption will generally not be applicable. The maximum monthly tax-free amount is capped at R25,000. Any costs in excess of this cap will be taxable.

110 In the case where an employee owns accommodation in South Africa, any subsidy or allowance paid to that employee to meet the costs of owning or maintaining the accommodation will be a taxable benefit in the hands of the employee.

Double establishment costs

111 While in South Africa, employees may find themselves in a position where it is necessary to maintain two residences: one in South Africa and one in the home country. An allowance received by an employee to meet these costs will be a taxable benefit in South Africa, but in the past, the costs (not exceeding the amount of the allowance) of maintaining the residence abroad have been claimed as deductible expenses in South Africa. It should be noted that recently the SARS has sought to tax the allowance without relief for the expenses incurred.

Education

112 Bona fide scholarships or bursaries granted to a person to study at a recognized educational or research institution are exempt from income tax in the hands of the recipient in South Africa. Where the bursary or scholarship is granted by an employer to an employee or a relative thereof, this exemption will, under certain circumstances, not apply.

Tax equalization payments

113 Expatriate remuneration packages often contain a tax equalization provision designed to ensure that employees working abroad have the same take-home pay in the foreign country as they would have had in their home country on similar packages. If the taxes paid exceed the normal home country taxes which would have been payable, equalization payments are made to the employees.

114 Tax equalization payments made to employees for services rendered in South Africa are taxable in South Africa. A continuous gross-up method is used to calculate the taxable benefit.

Foreign currency payments

115 To determine an individual's South African tax liability, foreign currency receipts and accruals for South African services must be converted into Rands. As indicated above, there have been numerous changes to the exchange rate to be used for translation purposes.

Timing of departure and arrival

116 Although it is not always possible to plan the date of departure from the home country and arrival in South Africa, and vice versa, the timing of these events has a bearing on the tax position of an international assignee in both South Africa and the home country.

117 From a South African perspective, it is important to time arrival and departure to avoid becoming tax resident, or to ensure that tax residence is lost on the date of departure. The criteria for residence were set out previously. It is possible to be resident from the beginning of the sixth tax year of physical presence, or if the assignment dates are planned this can be extended to the beginning of the seventh tax year of physical presence.

118 Also, if the criteria (in terms of the physical presence test) for residence are satisfied, residence for a tax year can be lost from the date of departure, but only if that person then spends a continuous period of 330 days physically absent from South Africa. Should that person enter South Africa again (even on vacation), this may trigger a resumption of tax residence for the tax year in which he or she left South Africa, from the date that they left South Africa for the first time to the start of the period of absence which qualifies for the exemption, or the end of that tax year, whichever is earlier.

119 It is also important to note that the timing of periods of physical presence and absence is an important tool to ensure that resident employees can take advantage of the exemption for foreign source employment income (see above).

120 Double-taxation agreements may also provide shelter from South African tax in certain circumstances. Generally speaking, South Africa's DTAs follow the OECD model, and provide for exemption from South African tax for employment income derived by a resident of the other contracting state provided that certain conditions are met.

121 The first condition is that the employee must be present in South Africa for a period of less than 183 days in the South African tax year. More recent DTA require the employee to be present for less than 183 days in any twelve month period commencing or ending during the year of assessment. Other conditions are that the employee be remunerated by a foreign company, and such remuneration not be borne by a fixed place of business or permanent establishment which that employer has in South Africa.

122 With careful planning, it is possible for a resident of a country with which South Africa has a DTA to work in South Africa for 12 months without becoming liable for South African income tax. If the payment of bonuses and other amounts fall within these periods, they can also escape South African tax. This will not apply for new treaties entered into (e.g., the treaty with the United States), as in the new treaties the requirement is that the individual not be present in South Africa for more than 183 days beginning or ending in any 12-month period. Consequently, the listed period is not restricted to a fiscal year and an individual physically present in South Africa for more than six months would not be protected from South African tax.

123 Income tax on individuals is imposed on a graduated scale; the higher the taxable income of an individual, the higher the rate of tax, subject to certain maxima. In some cases it may be possible to reduce an employee's average tax rate for the period that the employee is employed in South Africa by spreading the income over more than one tax year.

Other matters

124 General matters an international assignee should consider and attend to prior to leaving for South Africa include the following:

- Consider South Africa's tax system and the impact that it will have;
- Consider the tax position in the home country during the period of absence and make appropriate arrangements to comply with all requirements. This may include the claiming of tax credits and the submission of tax returns, as well as obtaining provisional non-resident rulings from the date of departure;
- Review home country social security, medical insurance and sick pay rules in the light of your employment in South Africa;
- Consider whether absence from the home country will affect your membership in benefit plans run by the employer, for example, share option or retirement plans;
- If capital gains tax is levied in the home country, consider whether the deferral of a disposal of a capital asset until cessation of residence in the home country for tax purposes would avert home-country taxation of the gain, and also consider whether the gain may be taxable in South Africa;
- Consider the possible re-arrangement of your investment portfolio.

125 There are numerous non-tax matters which should also be attended to prior to moving to South Africa, including:

- Work and residence permits;
- Insurance coverage, both personal and property;
- Change of address notifications;
- Granting of power of attorney where appropriate;
- Having the shipment of personal and household goods coincide as nearly as possible with your arrival in South Africa;
- Motor vehicle license requirements;
- Apply for an international driver's license.
- Notifications to banking and financial institutions and arrangements for continuation of payments, e.g., payments on mortgage bonds, life assurance premiums, and lease payments;
- Children's education;
- Rental or sale of home country residence. If the residence is not sold, consider matters relevant to the letting of the home, for example the appointment of an agent and arrangements for the maintenance of the property;
- Storage of assets not required in South Africa;
- Booking of initial accommodation in South Africa;
- Finalization of outstanding accounts and debts, including taxes;

- Travel itinerary;
- Preparation of wills. Also consider the nomination of death benefits under the employer's life cover arrangements, if any;
- Care and transport of domestic pets and South African health and quarantine rules;
- Consider the effect of South African exchange control regulations and exchange rates on transfer of funds to and from South Africa (see below).

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Step 4: What to do when you arrive in South Africa

Bank account

126 In order to open a bank account in South Africa, foreign nationals who come to South Africa on secondment or who are recruited by a South African company on a definite contract are required to make several declarations for exchange control purposes.

127 In addition to these declarations, the following will need to be provided. The detailed requirements will depend upon the particular rules and regulations of the bank concerned:

- Reference letter of current overseas bank;
- Copy of passport and work permit;
- A copy of the relevant employment contract or letter of secondment; or
- A letter from the local employer stating:
 - Particulars of the employee's earnings;
 - Confirmation that the employee has been seconded to South Africa or is employed under contract;
 - The terms of employment (if a copy of the employment contract is not provided).

Registration as a taxpayer

128 An employee rendering services in South Africa is liable to register as a taxpayer with the local office of SARS.

129 Application for registration must be made in person or in writing to the office concerned, using a prescribed form. Upon registration, SARS will advise of the income tax reference number allocated.

130 An employee may, together with his employer, also be required to make Unemployment Insurance Fund (UIF) contributions. These contributions are calculated at the rate of 1% of remuneration. The registration for and deduction of UIF contributions will normally be done by the employer. It is however advisable for the employee to confirm with the employer that the registration has been effected. It should be noted that foreign national temporarily working in South Africa will generally be exempt from the payment of UIF.

131 It is incumbent on the employee to register as a provisional taxpayer if he is liable for the payment of provisional tax. Such application for registration must be made within 30 days from the date of becoming liable to provisional tax.

132 An individual receiving self-employment income may find it necessary to register:

- As a taxpayer;
- As a provisional taxpayer;
- For the payment of skills development levies;

- As an employer for income tax, employees' tax and UIF;
- As a vendor for VAT purposes.

133 A PricewaterhouseCoopers tax specialist listed in Appendix D will gladly be of assistance in this regard.

134 South Africa does not have a social security system or national health care program. It is therefore advisable to become a member of a medical plan. To join a retirement plan is sometimes compulsory and may be advantageous.

Other matters

135 The following non-tax issues need to be dealt with after arriving in South Africa:

- Register motor vehicles with the appropriate local government body. This can usually be undertaken in the town or city where you will reside. A motor vehicle imported into South Africa must be registered with the appropriate authorities within 21 days of entering the country, or in --certain instances within 21 days of expiry of an internationally acceptable license for the vehicle;
- Take out insurance for motor vehicles, personal possessions and property;
- Open bank accounts and arrange other financial matters.

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Step 5: What to do at the end of the year

Tax returns

136 An individual will generally be required to submit an income tax return if he:

- Receives net remuneration exceeding R60,000 for the year; or
- Receives income which is not remuneration, for example business, investment, rental, or farming income; or
- Is required by SARS to submit a return.

137 Individuals should collate all records necessary to complete the tax return including those forms detailing remuneration for the tax year (form IRP5 and (if required) form IT3). Even if an individual is not paid in South Africa there may still be a requirement for the employer to prepare and submit these and other year-end forms to SARS.

138 An income tax return (ITR12 form) is issued after the end of the tax year to registered taxpayers. An information brochure is supplied with the return to assist in completing it. If an individual is registered as a taxpayer but has not received a return, it is the individual's responsibility to obtain one.

139 The income tax return has to be completed and returned to SARS within the prescribed period (normally 60 days). If the return cannot be submitted on time, an extension should be applied for in writing.

140 If a tax return is received, it must be completed and returned to SARS even though the individual may not have any taxable income in that particular tax year. A PricewaterhouseCoopers tax expert will gladly be of assistance in completing and submitting income tax returns.

Notice of assessment

141 An income tax assessment will be issued after submission of an income tax return.

142 If an individual does not agree with the calculation of the taxable income, the tax assessed or the tax rebates allowed, he may lodge an objection to the assessment. There is a set procedure for dispute resolutions which need to be adhered to. This includes the request for reasons for the assessment within 30 days of a date shown on the assessment. If SARS concedes an error based on this request, it will correct the matter and issue a revised assessment. If, however, SARS disagrees the matter will follow the prescribed objection procedure.

Payment of taxes

143 Where the final tax liability in the notice of assessment exceeds the tax paid, the balance of the tax will be due and payable as prescribed on the assessment. If tax paid exceeds the tax liability, the amount will be refunded, together with interest if the taxpayer is registered as a provisional taxpayer and the taxable income exceeds R50,000. This interest is taxable.

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Step 6: What to do when you leave South Africa

Reporting departure

144 Upon completion or termination of an employment contract the employer must repatriate the assignee in terms of the undertaking given to Home Affairs. The employer must inform Home Affairs of all repatriations or desertions.

Tax matters

145 A final interview with a PricewaterhouseCoopers tax specialist prior to departure from South Africa will enable all the relevant South African tax issues to be identified and the appropriate action taken to ensure that:

- The assignee has complied with the tax requirements; and
- Appropriate tax planning opportunities are pursued.

146 There is no formal income tax clearance certificate to be obtained by contract workers or expatriate employees who were temporarily employed in South Africa, as is the case with emigrants. If the final tax liability has not been settled before the assignee's departure from South Africa, SARS has the right to declare a person in South Africa to be the agent. The person so declared to be the agent (usually the employer) is then required to make payment of any taxes due out of the assignee's funds held by the agent.

147 Tax planning opportunities exist in the year of departure from South Africa. Common issues which arise include:

- Avoiding tax residence;
- Timing the receipt and accrual of salary and bonuses to take advantage of the most favorable tax rates prevailing in either South Africa or your home country;
- Timing the date of departure to achieve the lowest effective tax rate on income from retirement funds;
- Provision of benefits to assist the relocation.

Transferring funds abroad

148 Foreign nationals, i.e. contract and tour-of-duty workers are defined as natural persons from countries outside the Common Monetary Area who are temporarily resident in the Republic, excluding those on holiday or business visits. When taking up temporary residence in South Africa, foreign nationals are required to declare in writing to an Authorised Dealer whether they hold any foreign assets, and if so, give an undertaking that they will not place such assets at the disposal of a third party normally resident in South Africa.

149 Once the above requirement has been complied with, foreign nationals are permitted to deal freely with their foreign assets and retain such assets offshore. From a local perspective, foreign nationals may operate a bank account on a residence basis and may borrow funds locally to purchase residential property, although local borrowing restrictions will apply.

150 In addition, foreign nationals are permitted to:

- Transfer funds accumulated during their stay in South Africa abroad provided that the source of the funds can be substantiated and the value of such funds is reasonable in relation to the income generated in South Africa; and
- Re-transfer abroad any capital which has been introduced into South Africa provided that the original introduction of such funds can be substantiated.

151 The South African portion of estates of persons who at the time of death were domiciled outside South Africa can be remitted abroad in full to beneficiaries permanently resident outside South Africa.

Selling your South African residence

152 The disposal of residential property, held as a capital asset and registered in the name of the individual that occupied the property, may have tax implications for the seller. The CGT exclusion relating to gain made on the sale of a primary residence may not apply to non-residents –please refer to point 55 above. Should the primary residence exemption not apply, the gain (calculated in Rands) arising on the sale of the primary residence by a non-resident will be subject to capital gains tax. It is unlikely to be a taxable transaction for VAT purposes. A capital profit on the sale of your residential property may be remitted to your home country. If the sale is effected by an estate agent, commission of approximately 7% (negotiable) (plus VAT at 14%) is payable. This amount is a cost of disposal and may be deducted from proceeds for the purposes of calculating tax on capital gains. Payment of transfer duty on the value of the property is for the account of the purchaser. There is a withholding tax of 5% which applies on the sale of a South African situated fixed property by a non-SA tax resident. The purchaser (irrespective of the tax residency status) must withhold tax only if the purchase consideration in respect of the acquisition of the immovable property in aggregate exceeds R2 million. However, the non-SA tax resident (seller) may apply to the South African tax authorities for a directive that no tax or a reduced tax be withheld by the purchaser on the disposal of the South African situated fixed property (subject to certain requirements).

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Step 7: Other matters requiring consideration

Other matters

153 You should appoint a person to handle outstanding issues after your departure from South Africa. This may for instance be necessary:

- If your residence is not sold before departure;
- For handling outstanding tax matters such as submitting a final income tax return;
- For claiming tax credits due by SARS or paying the final tax liability.

Exchange controls

154 South Africa has exchange control regulations. The commercial banks in South Africa are agents of the South African Reserve Bank (SARB) for certain foreign exchange purposes. When all necessary declarations are lodged with such agent, they permit foreign nationals to deal freely with their foreign assets and not require the transfer to South Africa of income earned on such assets. Foreign nationals are free to purchase residential property, although borrowing restrictions apply. Foreign nationals in possession of valid work or temporary resident permits allowing them to work may borrow funds locally, subject only to bank risk assessment and banking practice.

155 Contract and tour-of-duty workers are, for exchange control purposes, treated as residents of South Africa. That means, for example, that foreign nationals temporarily working in South Africa can keep bank accounts or obtain funds from financial institutions for the purchase of a house in the same way as a resident. However, such persons are also treated as non-residents with regard to foreign assets and repatriations.

156 When a person ceases to be a contract worker (for example on return to the home country), it will be necessary to ensure that local borrowing restrictions (applicable to non-residents) are not breached. This may happen, for example, should a person purchase property when working in South Africa and have bank borrowing that is more than 50% of the cost of the property when that person leaves South Africa.

General requirements

157 The following general requirements for foreign contract workers must be met: declare whether foreign assets are owned and, if so, give a written undertaking that they will not be placed at the disposal of a South African resident. The declaration must be submitted to an authorized dealer (commercial bank) indicating your country of origin. The income earned on such declared foreign assets is not required to be transferred to South Africa.

158 The bank may request a copy of the relevant employment contract or letter from the South African or foreign employer, confirming the terms of employment. A copy of the passport with the relevant work/temporary permit will need to be provided to the bank.

159 The day-to-day banking facilities of contract workers must be conducted on a resident basis, and savings from income may be remitted to the home country on a regular basis, provided the savings are reasonable in relation to the earnings.

Remittance of funds

Dividends and trading profits

160 Trading profits and dividends earned on investments are generally transferable to non-resident beneficiaries.

Interest

161 The remittance of interest by an exchange control resident to non-residents may be allowed upon production of evidence of indebtedness, provided the rate is reasonable as compared with current interest rates and past practice and that the indebtedness (such as a loan) has been approved by the SARB.

Directors' fees

162 Companies of which directors are non-residents (including previous residents) are entitled to remit director's fees to them upon submission to an authorized dealer of a resolution by the board of the company concerned confirming the fees payable.

Management fees and royalties

163 Payments to nonresidents for the use of patents, designs, trademarks, etc., require the prior approval of the SARB which will have to be satisfied that such payments are merited. Requests to pay royalties for the local manufacture under license from nonresidents must be referred to the Department of Trade and Industries in Pretoria. A withholding tax on royalties is deducted before remittances are affected, subject to DTA relief.

164 Management fees may be paid to a nonresident on production of an invoice showing the basis of the calculation. Fees based as a percentage of turnover or profits will not generally be permitted.

Air fares for overseas visitors

165 Where a South African resident company bears the cost of overseas executives visiting South Africa, the return airfare may be paid to a travel agent/airline outside of South Africa.

Kruger Rands

166 Nonresidents may export up to 15 Kruger Rands which have been purchased with proceeds from the introduction of foreign currency in South Africa.

Alimony

167 Alimony, supported by an order of the court, may be remitted by an exchange control resident to a nonresident beneficiary. An authorized dealer may allow up to R7,000 per month in addition to the amount awarded by the court.

Entertainers and sportspersons

168 Amounts received by or accrued to entertainers or athletes, for activities performed in South Africa, will be taxable. In terms of non-resident entertainers and sportspersons, there is a withholding tax on payments made to them at a flat rate of 15%.

169 The 'entertainer and sportsmen' article contained in a number of South African tax treaties grants the right to tax income from the rendering of services by such persons to the source state, irrespective of whether the services are of a dependent or an independent nature. This article generally prevents double taxation of the income. Persons covered by this article include public entertainers, such as theatre, motion picture, radio or television artistes, musicians, and athletes.

170 No SARB approval is required for amounts payable to visiting artistes and sportspersons under an appropriate contract for their services in South Africa provided that the payment takes place after the services have been completed. Prepayments may only be credited to an account (which may be overseas), the release of such funds allowed proportionally only on completion of each performance. In all cases, authorized dealers will not permit payments to be made from South Africa unless the recipient is in possession of a tax clearance certificate issued by SARS confirming that satisfactory arrangements have been made for the payment of South African taxes on their income.

Estate duty

171 Estate duty at the rate of 20% is payable on the worldwide estate of any person who is ordinarily resident in South Africa at the date of death, and only on assets located in South Africa of persons not ordinarily resident in South Africa. Estates left to surviving spouses, and the first R3.5 million of taxable estates, are exempt from estate duty. The estate duty exemption was increased to R3.5 m from R2.5m as from 1 March 2007.

172 South Africa is a party to double death duty agreements with certain countries designed to avoid double death or estate duties.

International taxation

173 In this folio, a number of tax planning opportunities have been identified, which may help to reduce the tax liability in South Africa and in the home country. Because of the specialized nature of international taxation and the potentially disastrous tax consequences that ill-considered actions can have for an expatriate employee, expatriates should seek professional advice in this regard, preferably before leaving for, or otherwise upon arrival in, South Africa. A tax specialist of PricewaterhouseCoopers, listed in Appendix D, can be contacted for advice in this regard.

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Appendix A: Rates of tax

Personal income tax rates

Tax rates for the tax year ending 28 February 2010 are as follows (in ZAR):

Taxable income over	Not over	Tax on Column 1	Percentage on excess
0	132,000	0	18%
132,000	210,000	23,760	25%
210,000	290,000	43,260	30%
290,000	410,000	67,260	35%
410,000	525,000	109,260	38%
525,000	and above	152,960	40%

Retirement fund lump sum - Withdrawal benefits

Tax rates for the tax year ending 28 February 2010 are as follows (in ZAR):

Lump sum amount over	Not over	Tax on Column 1	Percentage on excess
0	22,500	0	Exempt
22,500	600,000	22,500	18%
600,000	900,000	103,950	27%
900,000	and above	184,950	36%

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Appendix B: Typical tax computation

Tax Computation (2009/2010 year of assessment)

Example: married person, 35 years, no children, first year of assignment.

Tax computation	ZAR	ZAR
Salary	280,000	
Housing (monthly rental of R4,000) paid by employer (1)	-	
Motor vehicle (provided by employer, valued at R100,000) (R100,000 X 2.5%) X 12	30,000	
Medical aid (non-contributory; 100% of contribution paid by employer (R16,320)) (2)	1,320	
Pension fund (non-contributory; 100% of contribution paid by employer to a South African registered fund (R18,000))	-	
Interest (R35,000 less first R21,000)	14,000	
Taxable income	14,000	325,320
Tax thereon		
First R290,000	67,260	
Thereafter, at 35%	12,362	
Subtotal tax	12,362	79,622
Less: primary rebate		(9,756)
Tax payable		69,866

(1) Generally speaking, the taxable value of residential accommodation which is not owned by the employer or an associated institution in relation to the employer will be an amount equal to the cost to the employer (i.e., rentals paid and other expenses defrayed in order to provide such accommodation). Residential accommodation provided to an expatriate employee up to a cost of R25,000 per month will be tax free for the first 24 months of the assignment.

(2) The amount of the contribution made by an employer to a medical aid scheme on behalf of an employee which exceeds the capped amount applicable to the employee. The capped amount in respect of the employee is R1,250 per month as the contributions are for the benefit of the taxpayer and one dependant.

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

[MENU](#)

Appendix C: Double-taxation agreements

Double tax agreements are in force, or in the course of re-negotiation or finalization, between South Africa and the countries set out below:

Algeria	Finland	Malaysia	Sierra Leone (4)
Angola (1)	France	Malta	Slovak Republic
Australia	Gabon (3)	Mauritius (1)*	Spain
Austria	Germany (3)*	Mexico (2)	Sri Lanka (1)
Bahrain (1)	Ghana	Morocco (1)	Sudan (3)
Bangladesh (1)	Greece	Mozambique	Swaziland
Belarus	Grenada (4)	Namibia (1)*	Sweden
Belgium	Hungary	Netherlands (1)*	Switzerland
Botswana	India	New Zealand	Syria (1)
Brazil	Indonesia	Nigeria (3)	Taiwan
Bulgaria	Iran	Norway	Tanzania
Cameron (1)	Ireland	Oman	Thailand
Canada	Israel	Pakistan	Tunisia
Chile (1)	Italy	Poland	Turkey
China	Japan	Portugal	Uganda
Croatia	Kenya (1)	Qatar (1)	Ukraine
Cuba (1)	Korea	Romania	UAE (1)
Cyprus	Kuwait	Russian Federation	United Kingdom
Czech Republic	Latvia (1)	Rwanda (3)	United States
Denmark	Lesotho (1)*	Saudi Arabia	Vietnam (1)
DRC (3)	Lithuania(1)	Senegal (1)	Zambia (1)*
Egypt	Luxembourg	Serbia & Montenegro (1)	Zimbabwe (1)*
Estonia (1)	Madagascar (1)	Seychelles	
Ethiopia	Malawi (1)*	Singapore (1)*	

Notes:

(1) The double tax agreements between South Africa and these countries have been negotiated or finalized but not signed.

(2) The double tax agreement between South Africa and the country has been signed but not ratified.

- (3) Ratified in South Africa but not fully ratified.
- (4) 1946 DTA with the UK extended to cover this country.
- (*) Treaty under re-negotiation

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

MENU

Appendix D: South Africa contacts and offices

Contacts

Alan Seccombe

Johannesburg

Tel: [27] (11) 797 4110

Fax: [27] (11) 209 4110

Email: alan.seccombe@za.pwc.com

James Whitaker

Cape Town

Tel: [27] (21) 529 2638

Fax: [27] (21) 529 8838

Email: james.whitaker@za.pwc.com

Offices

Johannesburg

PricewaterhouseCoopers Inc

2 Eglin Road

Sunninghill 2157

South Africa

Tel: [27] (11) 797 4000

Fax: [27] (11) 797 5800

Cape Town

PricewaterhouseCoopers Inc

1 Waterhouse Place

Century City

Cape Town 7441

South Africa

Tel: [27] (21) 529 2000

Fax: [27] (21) 529 3300

Last Updated: December 2009

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

MENU

