Introduction to Taxation

“Taxes are the price we pay for a civilized society.”

- Oliver Wendell Holmes, Jr.

**Taxation** is a financial charge imposed on people.

**Taxation** is a means whereby the state collects funds to pay for public services.

All tax laws should conform to the **Maxims of Taxation**

<table>
<thead>
<tr>
<th>EQUITY</th>
<th>1. Everyone ought to contribute towards the support of the government in proportion to their income.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CERTAINTY</td>
<td>2. The tax to be paid by each individual ought to be certain, not arbitrary.</td>
</tr>
<tr>
<td>CONVENIENCE</td>
<td>3. Taxes ought to be levied in such a manner and at the time most convenient to the contributor.</td>
</tr>
<tr>
<td>ECONOMY</td>
<td>4. The collection cost of taxes ought to be as low as possible.</td>
</tr>
</tbody>
</table>

The South African National Treasury is responsible for setting tax laws.

South African law follows judicial precedent.

**What governs South African Tax?**

- The Constitution – *Supreme law.*
- Courts – *Clarify tax regulations, determined by interpretation.*
- Regulations & Notices – *Documents issued by SARS stating discretionary or delegated regulation; same weighting as legislation.*
- Interpretation Notes – *Guidance of SARS practice; the commissioner could change his practice at any time; not necessarily laws.*

**South African Tax Legislation**

South African Revenue Service (SARS) is responsible for collecting tax.

South Africa’s tax system is determined by the laws that the Commissioner of SARS must administer.

Important tax legislation:

- The Income Tax Act 58 of 1962
- The VAT Act 89 of 1991
- The Customs Act 91 of 1964

**Interpretation of Statutes:**

1. Literal Interpretation
   - Contra fiscum
2. Intention of legislature
3. Court decisions (Hierarchy basis)
   - Supreme Court of Appeal
   - High Court
   - Tax Court
   - Tax Board
Annual Budget

- Each year the Minister of finance presents the annual budget to the Parliament.
- The total expenditures of the government for the fiscal year are announced and the manners in which the expenditures are to be funded.
- Expenditure is mainly funded by means of taxation and the balance is funded by loans and sundry government funding.
- The government fiscal year is for the period 1 April to the 31 March of the following year.

<table>
<thead>
<tr>
<th>TAX REVENUE 2013/14</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fuel duties 5%</td>
</tr>
<tr>
<td>Other 7%</td>
</tr>
<tr>
<td>Corporate Income tax 19%</td>
</tr>
<tr>
<td>Excise duties 3%</td>
</tr>
<tr>
<td>VAT 27%</td>
</tr>
<tr>
<td>Customs duties 5%</td>
</tr>
<tr>
<td>Personal Income tax 34%</td>
</tr>
<tr>
<td>Other 7%</td>
</tr>
</tbody>
</table>

Types of Taxation

<table>
<thead>
<tr>
<th>Direct Tax</th>
<th>Indirect Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imposed on a person.</td>
<td>Imposed on a transaction.</td>
</tr>
<tr>
<td><em>Normal Tax:</em></td>
<td><em>Collected by intermediaries on behalf of SARS.</em></td>
</tr>
<tr>
<td>- Income Tax</td>
<td>- Value-Added Tax</td>
</tr>
<tr>
<td>- Capital Gains Tax (CGT)</td>
<td>- Transfer Duty</td>
</tr>
<tr>
<td>- Dividends Tax</td>
<td>- Securities Transfer Tax</td>
</tr>
<tr>
<td>- Donations Tax</td>
<td>- Customs and Exercise Duty</td>
</tr>
<tr>
<td>- Turnover Tax</td>
<td>- Withholding Taxes</td>
</tr>
<tr>
<td>- Estate Duty</td>
<td>- Estate Duty</td>
</tr>
</tbody>
</table>
Indirect Taxes

*Imposed on a transaction.*

*Collected by intermediaries on behalf of SARS.*

**Value Added Tax**
- Indirect tax
- Levied at either 0% or 14% - *Flat rate; irrespective of income*
- Levied on the supply of goods or services
- Collected by a VAT vendor on behalf of SARS
  
  *Generally a VAT vendor is able to claim an input tax when he acquires goods or services from other vendors.*
- Governed by Value-Added Tax Act of 1991

**Transfer Duty**
- Indirect tax
- Transfer Duty is payable by a purchaser when he buys fixed property situated in South Africa.
- Transfer duty payable is based on a sliding scale between 0% and 8%.
  
  *The higher the price, the higher the transfer duties imposed.*
- Governed by Transfer Duty Act of 1949

**Securities Transfer Tax**
- Indirect tax
- Securities Transfer Tax (STT) is payable at a rate of 0.25% on the value of any shares purchased.
- STT is paid on both listed and unlisted shares.
- Governed by Securities Transfer Tax Act of 2007 – *fairly new tax*
Direct Taxes

*Imposed on a person.*

Taxes levied by the Income Tax Act

*Separate taxes governed by one piece of legislation.*

- Normal Tax
- Dividends Tax
- Donations Tax
- Turnover Tax
- Withholding Taxes

Dividends Tax

- Direct tax
- Came into effect on 1 April 2012 and replaced STC.
- Tax of 15% on dividends received by a shareholder from a South African company.
  
  *Only individuals are subject to dividends tax.*
- The company withholds the dividends tax from the dividend payment to shareholder.
  
  *Dividends received by individual are net of tax.*
- Dividends are then exempt from Normal Tax – see module 2 (Exemptions)

Donations Tax

- Direct tax
- Certain donations made by persons are subject to a tax of 20% of the value of the donations.
- Only donations made, which are larger than R1000.
- Certain exclusions; for example excludes the maintenance donations made for the wellbeing of a person.
Turnover Tax

- Direct tax
- Combines various taxes as one tax.
- Turnover tax is a simplified tax system aimed at making it easier for micro businesses to comply with their tax obligations.
- The turnover tax system replaces Normal Tax, VAT, Provisional Tax, Capital Gains Tax and Dividends Tax.
- Turnover tax is worked out by applying a tax rate to the taxable turnover of a micro business.
- Turnover tax is available to qualifying:
  - individuals (sole proprietors)
  - partnerships
  - close corporations
  - companies
  - co-operatives: with an annual qualifying turnover of R1million or less.

Specific reasons can disqualify you from the turnover tax system.

- The rates are as follows for 1 April 2013 to 31 March 2014:

<table>
<thead>
<tr>
<th>Turnover</th>
<th>Marginal Rates for 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 – R150 000</td>
<td>0%</td>
</tr>
<tr>
<td>R150 001 – R300 000</td>
<td>1% of each R1 above R150 000</td>
</tr>
<tr>
<td>R300 001 – R500 000</td>
<td>R1 500 + 2% of the amount above R300 000</td>
</tr>
<tr>
<td>R500 001 – R750 000</td>
<td>R5 500 + 4% of the amount above R500 000</td>
</tr>
<tr>
<td>R750 001 and above</td>
<td>R15 500 + 6% of the amount above R750 000</td>
</tr>
</tbody>
</table>
Withholding Taxes (plural)

- Direct tax
- Protections of tax base
- Payments made to non-residents are commonly subject to a withholding tax.
- Withholding taxes are payable by the resident who makes the payment to the non-resident.
- Employees tax (PAYE) and Dividends Tax are also forms of withholding taxes which SA residents are subject to.
- Withholding tax on Royalties
  - s35 & 49A - 49G
  - 12% (from 1 January 2015 15%)
- Withholding tax on payments for immovable property acquired from a non-resident
  - s35A
  - 5% to 10%
- Withholding tax on payments to non-residents sports persons and non-resident entertainers
  - s47D - 47E
  - 15%
Normal Tax

- Direct tax
- Normal Tax is levied by the Income Tax Act.
- Normal tax is determined according to the taxable income of a person earned during the year of assessment.

- Taxable income is therefore the base on which normal tax is calculated.
- Person: includes but not limited to: natural persons, companies, close corporations, trusts, insolvent & deceased estates, organisations & clubs

- Year of assessment:
  Individuals: 1 March – 28 February
  Company/Non-natural person: financial year

- Tax rate for companies and CCs is a flat rate of 28%
- Tax rates for natural persons depend on level of taxable income

Taxable Income Framework

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Income</td>
<td>XXX</td>
</tr>
<tr>
<td>Less: Exempt Income</td>
<td>(XXX)</td>
</tr>
<tr>
<td>Income</td>
<td>XXX</td>
</tr>
<tr>
<td>Less: Deductions</td>
<td>(XXX)</td>
</tr>
<tr>
<td>Add: Taxable Portions of Capital Gains</td>
<td>XXX</td>
</tr>
<tr>
<td>Taxable Income</td>
<td>XXX</td>
</tr>
</tbody>
</table>

Taxable Income x Tax Rate (28%) = Normal tax
# Taxable Income Framework

| Gross income | - starting point of the taxable income calculation.  
| | *Prerequisite for a person to be subject to normal tax.*  
| | - The total amount in cash or otherwise received by,  
| | accrued to or in favour of a person during the year  
| | or period of assessment excluding receipts and  
| | accruals of a capital nature.  
| Less: **Exempt Income** (not subject to Normal Tax) | - an amount included in gross income but then  
| | exempted from normal tax in terms of section 10 of  
| | the Income Tax Act.  
| | - an amount **must be included in gross income before**  
| | it can be exempted.  
| | - Examples of exemptions:  
| | Dividends: Local dividends received  
| | (full dividends exempt)  
| | *A tax payer should never be subject to double tax.*  
| | Interest: Natural persons qualify for the following  
| | interest exemptions:  
| | Natural persons under 65: R23 800  
| | Natural persons 65 & older: R34 500  
| Income |  
| Less: **Deductions** (Deductions will be discussed in Module 3) | - expenditure or losses incurred by the taxpayer for  
| | which a deduction is granted under the Income Tax  
| | Act.  
| | - expenditure may qualify for deduction in terms of  
| | - General deduction formula  
| | - Special deduction  
| Add: **Taxable portions of CGT** (CGT will be discussed in Module 4) | - Since 1 October 2001, the Income Tax Act requires  
| | a taxpayer who disposes of an asset where the  
| | asset was capital in nature to include such taxable  
| | capital gain on that disposal in taxable income.  
| Taxable Income |  

**Normal Tax = Taxable Income x Tax Rate**
# Normal Tax

S5(1) establishes the liability for normal tax

<table>
<thead>
<tr>
<th>Person</th>
<th>Rate</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural persons</td>
<td>18% to 40%</td>
<td>YOA - 28/2</td>
</tr>
<tr>
<td></td>
<td>Tax tables - “rebates”</td>
<td></td>
</tr>
<tr>
<td>Trusts</td>
<td>40%</td>
<td>YOA - 28/2</td>
</tr>
<tr>
<td>South African Companies/CC</td>
<td>28%</td>
<td>Financial year end</td>
</tr>
<tr>
<td>South African branches of foreign companies</td>
<td>28%</td>
<td>Financial year end</td>
</tr>
<tr>
<td>Small business corporations</td>
<td>0%, 7%, and 28%</td>
<td>Financial year end</td>
</tr>
</tbody>
</table>

## How to calculate tax

<table>
<thead>
<tr>
<th>Taxable Income</th>
<th>Rates of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceeds R</td>
<td>But does not exceed R</td>
</tr>
<tr>
<td>0</td>
<td>165 000 18% of taxable income</td>
</tr>
<tr>
<td>165 001</td>
<td>258 750 29 808 + 25% of taxable income above 165 000</td>
</tr>
<tr>
<td>258 751</td>
<td>358 110 53 096 + 30% of taxable income above 258 751</td>
</tr>
<tr>
<td>358 110</td>
<td>500 940 82 904 + 35% of taxable income above 358 110</td>
</tr>
<tr>
<td>500 941</td>
<td>638 600 132 894 + 38% of taxable income above 500 941</td>
</tr>
<tr>
<td>638 601</td>
<td>185 205 + 40% of taxable income above 638 600</td>
</tr>
</tbody>
</table>
Rebates

- Only natural persons are entitled to rebates
- Reduction in normal tax, not taxable income

*Important: The rebates are subtracted from normal tax and NOT from Taxable Income.*
- Updated annually
- Reduction in tax payable
- Types of rebates available:
  1. Normal Tax Rebates - s6
  2. Medical Scheme Tax Credits - s6A and s6B
  3. Foreign Tax Rebates

1. Normal Tax Rebates – s6

- Are apportioned for partial periods of assessment:
  - Birth, death, declared insolvent
  - If would have been 65 at end of full year then will receive secondary rebate
  - Becoming/ceasing to be resident, commencing /terminating employment does NOT result in partial period
- Effect: what taxable income results in nil tax payable?
  A rebate cannot create a negative tax position. Limit = 0 tax payable

<table>
<thead>
<tr>
<th>Tax payer category</th>
<th>Rebate</th>
</tr>
</thead>
<tbody>
<tr>
<td>All individual tax payers receive a primary rebate</td>
<td>R12 080</td>
</tr>
<tr>
<td>Individuals 65 years or older on last day of year of assessment also receive a secondary rebate</td>
<td>R6 750</td>
</tr>
<tr>
<td>Individuals 75 years or older on last day of year of assessment also receive a tertiary rebate</td>
<td>R2 250</td>
</tr>
</tbody>
</table>

2. Medical Scheme Fees Credit

- Taxpayers under 65 also receive a tax credit for monthly medical contributions.
- A taxpayer will receive a monthly tax credit of:
  R242 for one member of the medical scheme.
  R484 for the taxpayer and one dependent.
  R162 for each additional dependent.
Methods for collecting normal tax:

**Employees Tax**
- Deducted on a monthly basis from employees’ salaries by their employers.
- PAYE

**Provisional Tax**
- Provisional taxpayers (persons who earn taxable income which is not remuneration) are normally required to make two provisional tax payments per year.

**Amount due to/Recoverable from SARS:**
At the end of the year of assessment the following should occur:
1. The taxable income of a person must be determined
2. The normal tax on taxable income is calculated
3. Rebates (if applicable) are subtracted from normal tax to determine a person’s normal tax liability
4. The final step is to determine the amount due to (or recoverable from) SARS by subtracting the tax already paid (employees tax and provisional tax payments) from the normal tax.

**Normal Tax Liability**

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<tr>
<th>Description</th>
<th>Amount</th>
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<td>Taxable Income</td>
<td>XXX</td>
</tr>
<tr>
<td>Tax per tax tables</td>
<td>XXX</td>
</tr>
<tr>
<td>Less: Rebates</td>
<td>(XXX)</td>
</tr>
<tr>
<td>Normal Tax</td>
<td>XXX</td>
</tr>
<tr>
<td>Less: Provisional Tax</td>
<td>(XXX)</td>
</tr>
<tr>
<td>Less: Employees Tax</td>
<td>(XXX)</td>
</tr>
<tr>
<td><strong>Normal Tax Liability</strong></td>
<td>XXX</td>
</tr>
</tbody>
</table>