AN ANALYSIS OF THE IMPACT OF TAX CHANGES BETWEEN 1996 AND 2012 ON THE TAX BURDEN OF INDIVIDUALS IN SOUTH AFRICA

A thesis submitted in partial fulfilment of the requirements of the degree of

MASTER OF COMMERCE (TAXATION)

of

RHODES UNIVERSITY

By

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December 2011

Abstract

The objective of the research was to determine whether the changes made to the Income Tax Act, 58 of 1962 between 1996 and 2012, in respect of fringe benefits, allowances, deductions, tax tables and rebates, where these changes apply to individuals, have resulted in relieving the tax burden placed on individuals in South Africa.

The research was conducted by means of a critical analysis of documentary data with specific reference to the Income Tax Act, annual amendments to the Income Tax Act, statistics relating to tax collections, the National Budget and the Annual Budget Speeches as tabled by the Minister of Finance. These sources were utilised to analyse the amendments to the Act that have taken place over the last sixteen years, where they impact on the tax liability of an individual. A hypothetical example incorporating all the variables identified in the analysis of the tax amendments was used to provide a detailed analysis of the tax payable by an individual on an inflation-adjusted year-on-year basis.

The research found that, whilst personal income tax is still the largest contributor to the national budget of South Africa, its contribution has decreased from 40.2 percent in 1996 to 34.3 percent in 2010. This decrease is partly attributable to the extensive tax reforms undertaken by Government with respect to the tax tables, resulting in a reduction in the marginal tax rates and increased tax rebates which had the effect that the individual taxpayer (as illustrated in the hypothetical example) experienced a decrease in the average rate of tax. In contrast to this, the increase in the taxable income of the hypothetical taxpayer exceeded the average rate of inflation over the period. Furthermore, the actual revenue collected by the government from personal income tax has increased by approximately eleven percent per annum, which far exceeds the average inflation rate of 6.23 percent. The research indicated that this could be the result of the increase in the taxable value of fringe benefits, specifically medical aid contributions and company cars, as well as the inclusion of the full amount of allowances in taxable income and the limits placed on the deductions an individual may claim. The result is a broadening of the tax base of the individual taxpayer.

Therefore, although the government may have achieved its goal of a fairer tax system, the amendments made to fringe benefits, allowances and deductions have resulted in an increase in the average taxable income of individuals.

Key words:

Average rate of tax; company car allowance; fringe benefits; Income Tax Act 58 of 1962; Individual tax; medical aid fund contributions; National Budget Speech; pension fund contributions; personal income tax; rebates; retirement annuity fund contributions; Revenue Laws and Taxation Laws Amendment Acts; tax allowances; tax brackets; tax deductions; tax rates; tax tables; tax threshold

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1. Introduction

1.1 Context of the research

In the 1995/1996 financial year, taxes collected from individuals in South Africa comprised 40.5% of the total taxes collected by the Government, which demonstrates the burden on individual South African taxpayers (de Koker & Silke: 1995). In the National Budget Speech made on 12 March 1997 by the Minister of Finance, Trevor Manuel, the Government undertook to ensure that the tax system in South Africa would be "fair and equitable" and to try to rectify the situation where the tax burden fell disproportionately on individuals. The task that he set was to meet the objectives set out in the Third Interim Report of the Katz Commission (National Budget Speech: 1997), namely:

- to reduce the gradation of the marginal rate schedule;
- to reduce the number of marginal rate brackets;
- to raise the tax threshold; and
- to adjust for inflation.

It may appear that these objectives have been achieved, with the top tax bracket for individuals having dropped from 45% to 40% and the number of brackets having been reduced from ten to six. Furthermore in the 1995/96 tax year the tax brackets gradated by a mere R5 000 whereas in 2012 the gradation levels vary from R81 000 to R121 000. According to Smith (2002:13) the simplifying of the tax brackets has helped to reduce the phenomenon of bracket creep whereby "inflation related increases in income have the effect of pushing individuals into higher tax brackets with higher marginal rates, resulting in higher taxes on the same real level of income". The tax threshold for individuals has also increased steadily over the over the last 15 years from R14 605 (for persons under sixty five years of age) to R59 750 for the 2012 year of assessment. Furthermore, in his budget speech for the 2012 tax year, Finance Minister Pravin Gordhan indicated that the budget contained revisions to the personal income tax brackets and rebates, providing tax relief of R8.1 billion for individuals (National Budget Speech: 2011).

These changes cannot be viewed in isolation, however, and the impact of inflation on both the increasing thresholds and the gradation levels within the income tax brackets needs to be

carefully analysed. Clive Sharwood of Deloitte (Personal Finance: 2011) noted that after adjusting for inflation taxpayers would see little or no decrease in their tax liabilities for the 2012 year of assessment. In effect, taxpayers who earned up to R140 000 per annum would not benefit at all and taxpayers who earned R600 000 per annum would only receive a marginal benefit of R724 per annum Furthermore, the tax brackets only form part of the calculation to establish an individual's tax liability, the calculation of taxable income is the other vital component.

During the past sixteen years there have been a great number of revisions to the South African Income Tax Act, 58 of 1962 (hereafter referred to as "the Income Tax Act"), starting with the removal of gender discrimination by the Income Tax Act 21 of 1995 (de Koker & Silke: 1995). Prior to this amendment the Income Tax Act classified individuals as unmarried persons, married persons or married women. Married persons essentially meant married men and they were taxed at a lower rate than unmarried persons (who could be male or female). Unmarried persons were, in turn, taxed at a lower rate than married women. In addition there were also different primary rebates for the three categories and different provisions in respect of the deduction of contributions to retirement annuity funds when calculating taxable income (Budlender: 2009).

Most notably, in terms of the Revenue Laws Amendment Act 59 of 2000, the change from a source basis of taxation to a residence basis had the effect that residents of South Africa were to be taxed on their total worldwide income, irrespective of source. The other major change in terms of the Taxation Laws Amendment Act 5 of 2001 was the introduction of a Capital Gains Tax (contained in the Eighth Schedule to the Act). Although the definition of "gross income" in section 1 of the Income Tax Act excludes receipts of a capital nature, the introduction of Capital Gains Tax had the effect that individuals were required to include 25 percent of their capital gains on the disposal of assets in their taxable income from 1 October 2001.

These major changes have almost certainly impacted on individuals in terms of both their tax liability as well as the burden of maintaining the documentary evidence required to compute their taxable income. It is perhaps the less significant changes that occur on an annual basis within the Income Tax Act that more directly affect the individual taxpayer, however.

Gross income is the starting point for determining the tax liability of an individual and paragraph (i) of gross income, read with the Seventh Schedule to the Income Tax Act, includes in gross income the cash equivalent of any benefit or advantage granted to an individual in relation to employment. These benefits are colloquially known as "fringe benefits". Over the past sixteen years the South African Revenue Services has "declared war" on fringe benefits, firstly by ensuring full disclosure of any benefits paid by an employer to an employee on the employee's tax certificate and secondly by closing certain fringe benefit loopholes, particularly those relating to company cars and car allowances. Additional categories of fringe benefits have also been introduced into the Seventh Schedule relating to any payments by an employer to "benefit funds", as defined in section 1 of the Income Tax Act, and any payments incurred by the employer in respect of medical, dental and similar services incurred on behalf of the employee. The result of these amendments is that taxpayers will enter the "pay tax now claim deductions later" territory from 1 March 2011, placing an even larger burden of proof on individuals wanting to claim deductions on assessment (van Eeden: 2010).

In addition to the Seventh Schedule, section 8(1) of the Income Tax Act includes in the taxable income of an individual all cash allowances paid by an employer to an employee. This section was also radically modified in terms of the Taxation Laws Amendment Act 30 of 2002 whereby the previous provisions, that included in taxable income any allowances paid in respect of travelling, subsistence and other expenses incurred by an employee or the holder of an office, less any deemed expenditure, were amended to include in taxable income all cash allowances or advances paid to employees and the only deductions allowed against these amounts are those expended on travelling, subsistence or by reason of duties attendant upon the taxpayer's office (de Koker, Kolitz, Arendse & Silke, 2002: A15). Therefore the effect of the amendment is that the full amount of any allowance or advance for non-qualifying expenditure will constitute taxable income without being reduced by any expenditure incurred. In addition, the South African Revenue Services has paid particular attention to car allowances over the last few years and has closed a number of potential loopholes, most notably the inadvertent effect of the legislation that employees not travelling for business purposes could still claim "business" expenditure by applying a deemed cost in respect of a deemed mileage in terms of a standard table set out in a regulation. According to the 2010 Tax Statistics provided by National Treasury and the South

Africa Revenue Services, the travel allowance is the largest of all allowances claimed by individuals, comprising 50.5% of all allowances claimed in 2008. However, this allowance has decreased from 61.2% in 2006 and this should decrease even further after taking into account the new amendments to the Income Tax Act.

The effect of the tax amendments is that the income base for individuals on which tax is levied has been expanding, with more items being included for tax purposes and existing loopholes being closed.

Whilst the gross income definition identifies those items to be included in gross income, the general deduction formula, comprising the preamble to section 11 and section 11(a) read in conjunction with section 23 (which prohibits certain deductions from income), identifies the deductions that an individual may claim when calculating taxable income. The most notable change that has occurred in connection with individuals was the introduction of section 23(m) from 1 March 2002 in terms of the Taxation Laws Amendment Act 30 of 2002. According to the Minister of Finance, as stated in the 2002 Budget Review, this amendment was made in an attempt to try to simplify the taxation of income from employment by limiting the deductions available to employees (de Koker et al: 2002). The effect of section 23(m) is that the deductions claimed by an individual who earns mainly remuneration from employment, are limited to contributions to a pension (section 11(k)) or retirement annuity fund (section 11(n)), qualifying legal expenses (section 11(*c*)), a wear-and-tear allowance on equipment used for employment purposes (section 11(*e*)), the deduction of bad debts relating to unpaid remuneration that had accrued to the employee but had not been paid (section 11(*i*)), a provision for doubtful debts in respect of unpaid remuneration (section 11(j)), any deduction which is allowable under section 11 (*n*A) or 11(*n*B) in respect of refunds of salaries or restraint of trade receipts and any deduction which is allowable under section 11 (*a*) in respect of any premium paid by that person under a loss of income insurance policy (Huxham & Haupt: 2011).

It would therefore appear that the tax base for an individual has been extended to include items into gross income that sixteen years ago were not included, whereas the deductibility of expenses is becoming more limited. The question may therefore be posed whether the Government has achieved the goal of a "fairer" income tax system for individuals. Research on

the impact of the amendments to the taxation provisions relating to individuals over the last sixteen years will provide clarity on this issue.

1.2 Goal of the research

The goal of the research is to identify and analyse the changes to personal income tax over the last sixteen years and to investigate whether the changes that have taken place since 1996 have, in fact, resulted in relieving the burden placed on the South African individual taxpayer.

1.3 Methods, procedures and techniques

An interpretative research approach was adopted for the present research as it seeks to understand and describe (Babbie & Mouton: 2009). The research methodology applied can be described as a *doctrinal* research methodology. This methodology provides a systematic exposition of the rules governing a particular legal category (in the present case the Income Tax Act and subsequent legislative changes), analyses the relationships between the rules, explains areas of difficulty and is based purely on documentary data (McKerchar: 2008). The research was conducted in the form of an extended argument based on a critical analysis of documentary evidence.

The research included a review of the various amendments to the Act that have taken place over the last sixteen years, where they impact on the tax liability of an individual. The research focused on the changes to the tax rates applying to individuals, as well as changes to the deductions and to taxable fringe benefits over the last sixteen years. The research made use of statistics relating to tax collections, the National Budget and the Annual Budget Speeches as tabled by the Minister of Finance. An analysis was presented of the tax payable by an individual on an inflation-adjusted year-on-year basis taking into account the Income Tax Act applicable in a particular year of assessment. This analysis was presented quantitatively in the form of a hypothetical example incorporating all the variables identified in the analysis of the tax changes. The research also briefly analysed the proportion of tax collected from individuals in comparison with total taxes, taking into account major economic changes that affected the total tax collections.

The validity and reliability of the research and the conclusions was assured by:

- adhering to the rules of legal interpretation, as established by common law;
- placing greater evidential weight on legislation and the writings of acknowledged experts in the field;
- discussing all opposing viewpoints and arriving at a conclusion, based on a preponderance of credible evidence; and
- the soundness of the arguments.

As all the data used for this research is in the public domain, no ethical considerations needed to be taken into account.

1.4 Overview of chapters

To determine whether the income tax system for individuals is equitable the changes to personal income tax over the last sixteen years have been analysed. In Chapter 2 the tax rates applicable to individuals were analysed. This analysis included a review of the tax rates applicable over the last 16 years, the amendments made and the impact of inflation on the tax rates.

Chapter 3 focused on employment benefits paid to employees over and above their basic salary or wage ("fringe benefits"). With more than 1.6 million people receiving fringe benefits in the 2009 year of assessment, totalling R14.3 billion (National Treasury & South African Revenue Services, 2010) the impact of these on an individual's taxable income is substantial. The amendments to the Act, in respect of fringe benefits, over the last sixteen years were reviewed and documented.

Allowances are commonly used to structure salary packages to assist employees to reduce their tax liability at no additional cost to the employer. This has led to abuse of the allowance provisions and they have therefore received a great deal of scrutiny from the legislature over the last sixteen years. The changes that were made to allowances between 1996 and 2012 were therefore discussed in chapter 4.

Chapter 5 reviewed the various deductions available to the individual taxpayers and the amendments to the Income Tax Act that have taken place over the last sixteen years and how they impact on the tax liability of an individual.

In Chapter 6 the impact of the tax changes on the tax payable by an individual was analysed using a hypothetical example. This analysis calculated the tax payable by an individual on an inflation-adjusted year-on-year basis taking into account the Income Tax Act applicable in a particular year of assessment. The proportion of tax collected from individuals in comparison with total taxes was also analysed, taking into consideration major economic changes that have affected the total tax collections.

Chapter 7 concluded the research, summarising and discussing the research findings.

2. Rates of normal tax

2.1 Introduction

In terms of section 5(2) of the Income Tax Act, personal income tax is calculated by applying the tax rates, contained in the tax tables as prescribed annually by Parliament, to an individual's taxable income. These tax tables therefore form a vital component in the calculation of an individual's tax liability. Over the last sixteen years the government has embarked on a process of tax reform to try and achieve a tax system that is "fair and equitable" (National Budget Speech: 1997) and in particular to lighten the burden placed on individual taxpayers. This relief has, in most respects, taken the form of adjustments to personal income tax brackets and primary and secondary rebates (National Treasury & South African Revenue Services: 2010). Therefore the composition of the tax tables, the amendments made annually, as well as, the reasons for these amendments together with the rebates made available to taxpayers, need to be investigated to assist in determining whether the changes that have taken place have, in fact, resulted in relieving the burden placed on the South African taxpayer since 1995.

2.2 Rebates and tax thresholds

In terms of section 6 of the Income Tax Act a rebate shall be deducted from the normal tax payable of any natural person. In accordance with the 1996 amendments to remove gender bias, personal rebates were also simplified with the removal of the distinction between the rebate applying to married persons, unmarried persons and married women, as well as the removal of the child rebate. These have all been replaced by a rebate applying to natural persons (de Koker & Silke: 1995).

The section 6 rebates consist of a primary rebate which is applicable to all natural persons and a secondary rebate which is only applicable to natural persons who are 65 years and older on the last day of the year of assessment. In terms of the National Budget Speech made by the Minister of Finance, Pravin Gordhan, on 23 February 2011, from 1 March 2011 a third category of rebate will be introduced, which will only be available to taxpayers who are 75 years and older on the last day of the year of assessment.

These rebates are deducted from the normal tax payable by a natural person other than any normal tax payable in respect of any retirement fund lump sum benefits or retirement fund lump sum withdrawal benefits (from 1 March 1999 in terms of the Revenue Laws Amendment Act 60 of 2008). The rebates are revised annually and the amended rebates are presented in the budget speech by the Minister of Finance. These adjustments are usually inflationary adjustments. The rebates are apportioned in years of assessment when the taxpayer is born, dies or is declared insolvent.

As a result of these rebates, individuals will not be liable for tax if their tax liability is less than or equal to the rebates to which they are entitled. The maximum taxable income that would result in no tax being payable when applying the rates of tax for that year of assessment to the taxable income and deducting the rebates, is known as the tax threshold.

Example 2.1 Tax threshold 2012 year of assessment

	Under 65	Over 65	Over 70
	R	R	R
Taxable income (tax threshold)	59 750	93 150	104 261
Taxation payable	10 755	16 767	18 767
[Taxable income does not exceed R150 000, thus 0 + 18% of each R1]			
Rebates	(10 755)	(16 767)	(18 767)
Under 65	(10 755)	(10 755)	(10 755)
Over 65	-	(6 012)	(6 012)
Over 75	-	-	(2 000)
Taxation payable	Nil	Nil	Nil

As the tax threshold is dependent on the rate of tax applying to the lowest tax bracket, as defined in section 5 of the Income Tax Act, and the rebate in terms of section 6 of the Income Tax Act, it will vary for each year of assessment.

Table 2.1 Rebates and Tax Thresholds: 1996 to 2012

Years of Assessment	Persons under 65		Persons over 65		Persons over 75		Reference
	Rebate R	Threshold R	Rebate R	Threshold R	Rebate R	Threshold R	
1996	2 625	14 605	2 500	26 785	N/A	N/A	de Koker & Silke, 1995: C7 & A8
1997	2 660	15 580	2 500	27 905	N/A	N/A	de Koker & Silke, 1996: B14 & A8
1998	3 215	16 921	2 500	30 050	N/A	N/A	de Koker & Silke, 1997: B14 & B16
1999	3 515	18 500	2 660	31 950	N/A	N/A	de Koker & Silke, 1998: B13 & B15
2000	3 710	19 526	2 775	33 717	N/A	N/A	de Koker & Silke, 1999: B14 & B16
2001	3 800	21 111	2 900	36 538	N/A	N/A	de Koker, Kolitz, Arendse & Silke, 2000: B15 & B17
2002	4 140	23 000	3 000	39 154	N/A	N/A	de Koker, Kolitz, Arendse & Silke, 2001: B14 & B16
2003	4 860	27 000	3 000	42 640	N/A	N/A	de Koker, Kolitz, Arendse & Silke, 2002: B14 & B16
2004	5 400	30 000	3 100	47 222	N/A	N/A	de Koker & Silke, 2004: B14 &B16
2005	5 800	32 222	3 200	50 000	N/A	N/A	de Koker & Silke, 2005: B9
2006	6 300	35 000	4 500	60 000	N/A	N/A	SARS, 2005: 5
2007	7 200	40 000	4 500	65 000	N/A	N/A	de Koker & Silke, 2007: B10
2008	7 740	43 000	4 680	69 000	N/A	N/A	de Koker & Silke, 2008: B21

2009	8 280	46 000	5 040	74 000	N/A	N/A	de Koker, Williams & Silke, 2009: B8
2010	9 756	54 200	5 400	84 200	N/A	N/A	Huxham & Haupt, 2010: 213/4
2011	10 260	57 000	5 675	88 528	N/A	N/A	Huxham & Haupt, 2011: 949
2012	10 755	59 750	6 012	93 150	2 000	104 261	SARS, 2011: 2

2.3 Tax tables

The 1996 year of assessment was characterised by the removal of gender discrimination. Prior to this amendment the Income Tax Act classified individuals as unmarried persons, married persons or married women and each had their own schedule of taxes. These tax tables were replaced by one table for all natural persons.

In the 1995 year of assessment the tax rates for all categories of taxpayer (married persons, unmarried persons and married women) began at 17 percent on the first R5 000 of taxable income and the same applied for the 1996 year of assessment. Whereas the top bracket in 1995 was 40 percent for married women and 43 percent for unmarried persons and married persons, the top bracket in 1996 was 45 percent in respect of both married and unmarried individuals.

Table 2.2 Schedule of tax rates: 1996 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed 5 000	R0 + 17% of each R1
Exceeds R5 000 but does not exceed R10 000	R850 + 18% of the excess over R5000
Exceeds R10 000 but does not exceed R15 000	R1 750 + 19% of the excess over R10 000
Exceeds R15 000 but does not exceed R20 000	R2 700 + 20% of the excess over R15 000
Exceeds R20 000 but does not exceed R30 000	R3 700 + 21% of the excess over R20 000
Exceeds R30 000 but does not exceed R40 000	R5 800 + 31% of the excess over R30 000
Exceeds R40 000 but does not exceed R50 000	R8 900 + 42% of the excess over R40 000
Exceeds R50 000 but does not exceed R70 000	R13 100 + 43% of the excess over R50 000

Exceeds R70 000 but does not exceed R80 000	R21 700 + 44% of the excess over R70 000
Exceeds R80 000	R26 100 + 45% of the excess over R80 000

de Koker and Silke, 1995: C39

The removal of gender bias was considered a major step forward in the simplification of the tax schedule, but decreasing the overall tax burden on individual taxpayers still remained a challenge. In the National Budget Speech made on 13 March 1996 the Minister of Finance, Chris Liebenberg, noted that whilst government was committed to the process of decreasing the tax burden, all the amendments required to reduce the overall burden of personal income tax by broadening the tax base, reducing the number of tax brackets, reducing the maximum marginal rates, as well as the gradation of the marginal rate schedule, could not be achieved in a single year and therefore a gradual approach had to be adopted. Accordingly, over the next six years, significant amendments were made to the tax tables in an effort to meet these objectives.

2.3.1 1997 to 2002 year of assessment

For the 1997 year of assessment the focus, according to the National Budget Speech made by the Minister of Finance, Chris Liebenberg on 13 March 1996, was on "increasing the level of income at which the maximum marginal rate takes effect and continuing the process of tax relief for the lower and middle income earners". This was achieved by collapsing the bottom three tiers into one and accordingly the lowest tax bracket was now R15 000 versus R5 000 in 1996. Secondly the level at which the maximum marginal rate takes effect was increased to R100 000 from R80 000 in 1996. As a result of these amendments the number of tax brackets also reduced from ten to eight. Although these measures were adopted in an attempt alleviate the tax burden in respect of personal income tax, the total tax collections from individuals still increased by approximately 16 percent in 1997 from that collected in the 1996 year of assessment (National Treasury & South African Revenue Services: 2008). However this increase in taxes could partially be attributed to "fiscal drag" i.e. the increase in real tax revenue when inflation increases nominal income and pushes people into higher tax brackets in a progressive income tax system (London South East: 2011).

The phased approach to revising personal income tax continued in the 1998 year of assessment, with a further decrease in the number of tax brackets from eight to seven, with one tax bracket

being created for taxpayers who earn less than R30 000. This, the lowest level at which individuals are taxed, was taxed at a rate of 19 percent (compared to 17 percent for 1997). The restructuring of the tax brackets also resulted in additional relief being granted to individuals earning between R40 000 and R45 000 as they now fell into a lower tax bracket of 32 percent and not 41 percent (National Budget Speech: 1997).

In the National Budget Speech on 11 March 1998, the Minister of Finance, Trevor Manuel, announced that "in 1998/99 we will eliminate bracket creep and by doing so we will put R3.7 million back in the taxpayers' pocket" (National Budget Speech, 1998: 15). Bracket creep occurs when "inflation pushes wages and salaries into higher tax brackets. Therefore as salaries and wages rise under the influence of taxation they become more highly taxed even though in real terms the value of salaries and wages have not increased at all" (Wikipedia: 2011). As bracket creep affects lower and middle income earners particularly severely, much of the tax reform for 1999 year of assessment was in respect of individuals who earned R60 000 or less. The marginal rate in the tax bracket range from R46 000 to R60 000 was reduced from 41 percent to 39 percent and the number of tax brackets was reduced from seven to six. Essentially the tax brackets R30 000 to R35 000 and R35 000 to R45 000, from the 1998 year of assessment, were combined into one bracket and the tax rate of 30 percent applied to this bracket.

Further restructuring of the tax brackets and tax rates occurred in the 2000 year of assessment. Tax rates decreased for taxpayers earning between R46 000 and R50 000 from 39 percent to 30 percent, for taxpayers earning between R50 000 and R60 000 the rate decreased from 39 percent to 35 percent and for taxpayers earning between R60 000 to R70 000, the rate decreased from 43 percent 40 percent. The Minister of Finance, Trevor Manuel, indicated in his budget speech that these changes were intended to lighten the tax burden on "ordinary working people" (National Budget Speech, 1999: 38).

According to the Minister of Finance, Trevor Manuel, the Government's commitment to consistently reduce the tax burden on ordinary people was once again demonstrated by a revision of the tax brackets and rates in the National Budget Speech on 23 February 2000. All rates were decreased, with the lowest rate now being 18 percent (19 percent in 2000) and the highest bracket reduced from 45 percent to 42 percent. The gradation of the tax brackets was

also amended with the lowest bracket now at R35 000 (R33 000 in 2000) and the highest bracket being increased from R120 000 to R200 000.

Following on from the structural reform that took place from 1996 to 2001, the tax brackets were amended in the 2002 year of assessment, but all existing rates were maintained. These amendments were intended to provide tax relief to middle-income earners (2001 Budget Review: 2001).

The following table summarises the changes to the tax tables made from 1997 to 2002.

Table 2.3 Analysis of tax tables 1997 to 2002

Tax brackets			Marginal rates		
1997 Does not exceed R	2002 Does not exceed R	% increase	1997	2002	% increase
15 000	38 000	153%	17%	18%	6%
20 000		90%	19%		-5%
30 000	55 000	83%	21%	26%	2%
40 000		38%	30%		-13%
60 000	80 000	33%	41%	32%	-21%
80 000	100 000	25%	43%	37%	-21%
100 000	215 000	115%	44%	40%	-9%
100 000 and over	215 000 and over	115%	45%	42%	7%

2.3.2 2003 and 2004 year of assessment

In the 2000 Budget Speech, proposals were made regarding the introduction of a residence basis of taxation, as well as the introduction of a capital gains tax. The residence basis of taxation came into operation on 1 January 2001, which meant that all residents of South Africa were taxed on their worldwide income, irrespective of where the income was earned. Non-residents, however, were only taxed on their income if it was from a South African source. Capital gains tax was introduced from 1 October 2001 and therefore individuals were required to include 25 percent of their capital gains made on the disposal of assets in their taxable income. In terms of

the National Budget Speech made by the Minister of Finance, Trevor Manuel, on 20 February 2002, these changes, together with enhanced tax collection efforts, had the effect of broadening the tax base and therefore increasing the revenue associated with the tax collected from individuals. These increased revenues were to be passed back to the individual taxpayer through a decrease in tax rates in the 2003 year of assessment and a revision of the tax brackets in the 2003 and 2004 years of assessment.

In the 2003 year of assessment, the minimum marginal rate remained 18 percent, but all the other rates were reduced by 2 percent with the exception of the second bracket which was reduced from 26 percent to 25 percent; therefore the maximum marginal rate was now 40 percent. To provide further tax relief the gradation of the brackets were also amended. The tax relief was focused on middle to lower income earners with an anticipated tax reduction of 25 percent for taxpayers earning less than R150 000 and 14 percent to those earning between R150 000 and R300 000; taxpayers earning over R300 000 should also receive a 7 percent reduction in income tax (National Budget Speech: 2002).

Although the marginal rates remained unchanged in the 2004 year of assessment, the gradation of the tax brackets was amended to provide tax relief to the entire spectrum of individuals.

2.3.3 2005 to 2012 year of assessment

The marginal rates have remained constant since the 2004 year of assessment. Amendments have, however, been made to the gradation of the tax brackets to take the effects of inflation into account.

The increase in the tax brackets between 2005 and 2012 are illustrated in table 2.4.

Table 2.4 Personal Income Tax Brackets, 2005 to 2012

Brackets				Marginal rates	Percentage increase
2005 tax year		2012 tax year			
0	74 000	0	150 000	18%	102%
74 001	115 000	150 001	235 000	25%	104%
115 001	155 000	235 001	325 000	30%	133%

155 001	195 000	325 001	455 000	35%	133%
195 001	270 000	455 001	580 000	38%	115%
270 001	and over	580 001	and over	40%	115%

The lowest tax bracket has increased from R74 000 in 2005 to R150 000 in 2012 which represents a cumulative increase of 102%. The top tax bracket has increased from R270 000 in 2005 to R580 000 in 2012, which equates to a cumulative increase of 115% over the eight year period. These increases amount to approximately an 8% increase on an annual basis with the exception of the 2007 year of assessment when the brackets were increased by a minimum of 25 percent for lowest bracket (R80 000 to R100 000) up to an increase of 33 percent for the top bracket (R300 000 to R400 000). Personal income tax revenue, however, was still budgeted to increase by 15% in the 2007 year of assessment. This was primarily as a result of the strong economic growth experienced in South Africa and accordingly significant employment growth which saw the number of tax filers increase by about 700 000 over the previous two years (South African Revenue Services: 2006).

Whilst the proposals made by the Minister of Finance, Trevor Manuel, in the National Budget Speech on 15 February 2006 predicted that substantial tax relief would be passed on to the individual, the proposed savings would be partially offset by an increase in the percentage of car allowances subject to employees' tax, from 50 percent to 60 percent and the amended treatment of company car benefits whereby the company car rates for first or single cars were increased from 1.8% to 2.5%. Furthermore in the 2007 year of assessment the capped system was introduced for the deduction of medical aid contributions.

(Tax tables for the 1997 to 2012 years of assessment are set out in Annexure A.)

The amendments to the tax tables are summarised below:

Table 2.5 Tax table summary, 1996 to 2012

	Lowest tax bracket R	Highest tax bracket	Lowest tax rate	Highest tax rate	Number of brackets
1996	5 000	80 000	17%	45%	10
1997	15 000	100 000	17%	45%	8
1998	30 000	100 000	19%	45%	7
1999	31 000	120 000	19%	45%	6
2000	33 000	120 000	19%	45%	6
2001	35 000	200 000	18%	42%	6
2002	38 000	215 000	18%	42%	6
2003	40 000	240 000	18%	40%	6
2004	70 000	255 000	18%	40%	6
2005	74 000	270 000	18%	40%	6
2006	80 000	300 000	18%	40%	6
2007	100 000	400 000	18%	40%	6
2008	112 500	450 000	18%	40%	6
2009	122 000	490 000	18%	40%	6
2010	132 000	525 000	18%	40%	6
2011	140 000	552 000	18%	40%	6
2012	150 000	580 000	18%	40%	6

2.4 Tax rates and inflation

Substantial changes were made to the tax tables between 1996 and 2004. The maximum marginal rates were deceased from 45 percent to 40 percent, the number of brackets decreased from ten to six and the minimum rate of tax of 18 percent now applied to all income below R70 000. As a result of these major changes it is difficult to isolate the adjustments that were made to account for inflation. From 2005 the tax rates have remained consistent and amendments have been made to take the impact of inflation into account and to prevent bracket creep, therefore the 2005 to 2012 years of assessment where reviewed.

Inflation is the term used to denote the overall increase in prices and the corresponding fall in the purchasing power of the monetary unit (Library of Economics and Liberty: 2011). Therefore the purchasing power of an individual decreases as the inflation rates increase. To overcome this salaries and wages are often increased on a yearly basis to account for the effects of inflation. Where a person was earning R100 000 per annum and paid taxes at a rate of 20 percent, his or her after tax income will amount to 80 percent of his or her remuneration. If the salary is increased by an assumed inflation rate of 10 percent to R110 000 and the tax rate remains at 20 percent, the after tax earnings will remain at 80 percent of remuneration and the taxpayer's spending power remains the same.

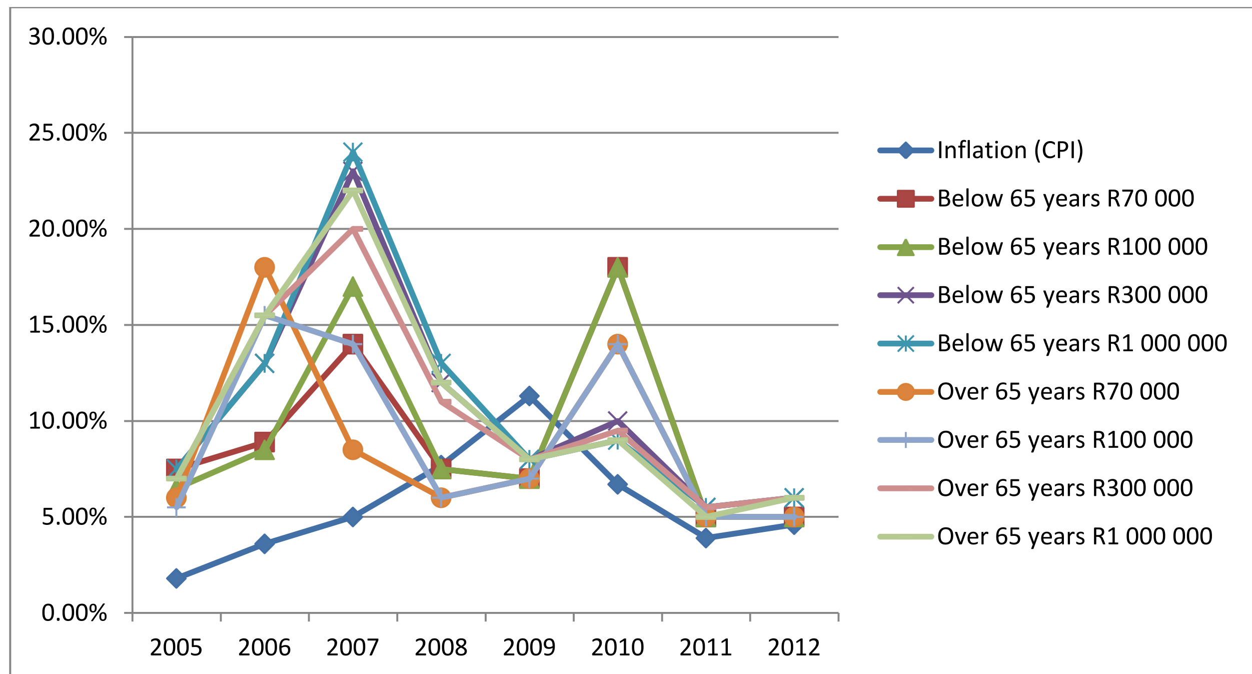
South Africa, however, has a progressive tax system which means that as incomes increase so does the tax rate. Therefore as inflation increases salaries individuals are pushed into higher tax brackets which results in a decrease in taxpayers' after tax earnings, i.e. bracket creep. In an attempt to alleviate bracket creep and to reduce taxes paid by individuals, the Government amends the tax tables on an annual basis. For a taxpayer, however, to experience an actual tax saving, the reduction in the tax rates will need to take into account the annual increases paid to individuals to keep up with inflation.

In his budget speech for the 2012 tax year, Finance Minister Pravin Gordhan indicated that the budget contained revisions to the personal income tax brackets and rebates, providing tax relief of R8.1 billion for individuals (National Budget Speech: 2011), but this was calculated before inflation. Therefore if an individual earned R600 000 in the 2011 year of assessment he would have paid tax of R169 670, for the 2012 year of assessment his tax would amount to R165 495, a saving of R4 175. Where the taxpayer's salary is adjusted for inflation of 4.8 percent his marginal saving is only R724 (Personal Finance: 2011). Therefore for the Government to ensure that individual taxpayers do in fact receive a tax saving the average rate of tax payable by an individual from year to year should be lower after taking the effects of inflation into account.

The graph below details the maximum percentage increase that may be applied to varying income levels from one year of assessment to another, to achieve the same average rate of taxation. If this percentage is below the inflation rate (CPI), an individual taxpayer who receives an inflation-related increase will pay a higher rate of taxation as a result of bracket creep and

therefore will not experience any tax savings. The tax brackets will also not account for the effects of inflation. Conversely, if the breakeven percentage exceeds the inflation rate, the taxpayer will experience tax savings up to that point.

Figure 2.1 Inflation and maximum percentage increase in taxable income



Based on Figure 2.1 above, with the exception of the 2008 and 2009 years of assessment, the adjustments made by the Government have not only accounted for inflation but have also resulted in individual taxpayers receiving additional tax savings. The 2008 and 2009 years of assessment were characterised by extraordinarily high periods of inflation as a result of the North American housing crisis that resulted in a global recession.

2.5 Conclusion

As demonstrated in this chapter, it may appear that the objective of Government to reduce the tax burden on individual taxpayers has been achieved. Although the rate at which taxes commence has increased from 17 percent to 18 percent, the bracket at which this level is applied has increased from a maximum of R5 000 to R150 000. Furthermore the tax threshold for persons under 65 years of age has increased by 308 percent from R14 605 to R59 700. Further tax relief is available for persons over 75 years of age in the form of an additional R2 000 rebate to be introduced in the 2012 year of assessment. Tax savings from tax rate reform have not only

been experienced by middle to low income earners, but the top tax rate for individuals has also dropped from 45% to 40% and the threshold at which this rate applies increased from R80 000 in 1996 to R580 000 in 2012.

The other objectives of government in respect of reforming the gradation of the brackets also appear to have been achieved with the differences between gradation levels in 2012 varying from R81 000 to R121 000 compared to a mere R5 000 in 1996. Furthermore the number of brackets has also been reduced from ten to six. The cumulative tax savings for the taxpayer in relation to these changes as reported annually in the national budget speech is reported to be approximately R130 billion rand over the 16 year period.

Whilst it is difficult to quantify the actual impact of these tax savings after taking into account the impact of inflation, it is clear from the analysis above that the amendments made to the tax brackets have taken the impact of inflation into account and have resulted in additional tax savings.

It is critical to note, however, that the tax brackets only form part of the calculation to establish an individual's tax liability, the calculation of taxable income being the other vital component. Significant amendments have been made to the Seventh Schedule of the Income Tax Act relating to fringe benefits, as well as to section 8(1), which includes in the taxable income of an individual all cash allowances paid by an employer. In an effort to ensure consistency and fairness, the Government has closed various tax loopholes pertaining to certain employee benefits but in the process the gross income base for individuals has been expanding, with more items being included for tax purposes and existing loopholes being closed (refer to chapters 3 and 4). These amendments must be taken into account when determining whether the tax burden on individuals has in fact been lightened.

3. Fringe benefits

3.1 Introduction

The taxable income of an individual is determined by starting with gross income and then deducting exempt income and allowable deductions; gross income is therefore the starting point for determining the tax liability of an individual. Employment benefits paid to employees over and above their basic salary or wage are colloquially known as "fringe benefits". These fringe benefits may be included in gross income in terms of paragraph (c) of the definition of gross income in section 1 of the Income Tax Act, , in terms of which amounts for services rendered are included. They may even be included in gross income by virtue of some special provision in the Income Tax Act. The majority of fringe benefits, however, will be included in terms of paragraph (i) of the gross income definition, which specifically includes in income "the cash equivalent, as determined under the provisions of the Seventh Schedule, of the value during the year of assessment of any benefit or advantage granted in respect of employment or to the holder of any office". Over the past sixteen years the government has "declared war" on fringe benefits by ensuring full disclosure of any benefits paid by an employer to an employee on the employee's tax certificate, by closing certain fringe benefit loopholes, particularly those relating to company cars, and by introducing additional categories of fringe benefits, in particular payments incurred by the employer in respect of medical, dental and similar services on behalf of the employee. These amendments need to be investigated to determine the effect on the tax burden of individuals.

3.2 The Seventh Schedule

The need to introduce paragraph (i) and the Seventh Schedule arose as the provisions in the general gross income definition and paragraph (c) were ineffective when valuing employment benefits given to an employee in a form other than cash. These deficiencies are clearly illustrated by two English cases. In *Tennant v Smith* (1892) AC150, a bank allowed one of its managers to live rent free in a house owned by the bank. The manager was not allowed to sublet the house and was not allowed to transact any business from the house other than that prescribed by the bank. The revenue authorities tried to include the rental value of the property in the manager's gross income, but the court held that the amount was not income as it was not

money or capable of being turned into money (Williams: 2006). In *Wilkins v Rogerson* (1961) Ch 133 the employer provided the employee with a suit of clothes. The revenue authorities sought to include the value of the new suit in the employee's income as they held that the benefit was in the nature of income as it could be turned into money at the value into which the taxpayer could have converted it. The amount was included in gross income but at the second-hand value of the suit, this being substantially less than the actual cost (Williams: 2006). With the introduction of the Seventh Schedule, whether a benefit can be converted into cash is irrelevant and the basis of valuation is now clearly defined. According to Williams (2006: 701) the Seventh Schedule to the Income Tax Act provides for the taxation of fringe benefits and has three principal objectives:

1. To define what employment-related benefits are taxable;
2. To lay down criteria by which such benefits are valued, in other words, to establish their cash equivalent;
3. To impose obligations on employers to withhold employees' tax on taxable benefits and to give information to the revenue authorities.

The following is a summary of the taxable benefits to be included in gross income for the 2012 year of assessment in terms of paragraph 2 of the Seventh Schedule:

- assets acquired for no consideration or for an inadequate consideration (paragraph 2(a) and paragraph 5);
- the right of use of an asset other than a motor vehicle or residential accommodation (paragraph 2(b) and paragraph 6);
- the right of use of a motor vehicle (paragraph 2(b) and paragraph 7);
- meals, refreshments and meal and refreshment vouchers (paragraph 2(c) and paragraph 8);
- residential accommodation (paragraph 2(d) and paragraph 9);
- free or cheap services (paragraph 2(e) and paragraph 10);
- low interest or interest-free loans (paragraph 2(f) and paragraph 11);
- housing subsidies (paragraph 2(g) and paragraph 12);
- housing subsidy schemes (paragraph 2(gA) and paragraph 12);
- payment of employee debts or release of employee from obligation to pay a debt (paragraph 2(h) and paragraph 13);

- contributions to medical schemes (paragraph 2(i) and paragraph 12A); and
- medical costs incurred by the employer in respect of employees and their dependents (paragraph 2(j) and paragraph 12B).

According to the 2008 Tax Statistics (a joint publication of National Treasury and the South African Revenue Service), 1 million individual taxpayers received fringe benefits in 2003. Based on the statistics available in 2010 this number grew to 1.2 million in 2006 and to over 1.6 million in 2009 (National Treasury & South African Revenue Services: 2010).

An analysis of fringe benefits granted from 2003 to 2009 shows that medical scheme contributions paid on behalf of employees is the largest of the fringe benefits, amounting to 46.5% of the total fringe benefits paid in 2009. This is followed closely by the granting to employees of the right to use a company car, with approximately 27.2% of total value of fringe benefits in 2009. (National Treasury & South African Revenue Services: 2008 and National Treasury & South African Revenue Services: 2010).

Table 3.1 Assessed individual taxpayers: Fringe benefits, 2003 - 2009

	Percentage of total fringe benefits per tax year						
Fringe benefit	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**
Asset acquired at less than actual value	3.4%	3.4%	3.4%	3.2%	2.6%	2.3%	1.5%
Right of use of motor vehicle	33.9%	33.5%	33.6%	34.1%	30.8%	29.6%	27.2%
Right of use of asset	0.3%	0.3%	0.4%	0.2%	0.2%	0.2%	0.2%
Meals and refreshments vouchers	0.1%	0.2%	0.3%	0.2%	0.2%	0.2%	0.2%
Free/cheap accommodation	11.5%	12.5%	13.0%	12.4%	7.5%	6.8%	7.3%
Free or cheap services	2.1%	2.4%	2.8%	2.7%	2.0%	2.1%	2.3%
Low or interest-free loans: house	4.8%	4.4%	2.5%	2.2%	1.3%	1.8%	1.9%
Payment of employees debt	7.3%	6.9%	7.8%	8.9%	7.7%	9.1%	12.0%
Bursaries and scholarships	0.9%	0.9%	0.8%	0.8%	0.5%	0.6%	0.5%
Medical aid paid on behalf of employee	34.9%	35%	35.1%	34.7%	46.8%	47.1%	46.5%
Other	0.8%	0.6%	0.4%	0.6%	0.2%	0.5%	0.3%
	100%	100%	100%	100%	100%	100%	100%

National Treasury & South African Revenue Services: 2008

National Treasury & South African Revenue Services: 2010

With over 73% of all fringe benefits granted relating to either medical aid contributions or company cars, it is hardly surprising that these are the two paragraphs of the Seventh Schedule that have received the greatest amount of scrutiny from the legislature. With the exception of inflationary increases to rand values and amendments relating to the introduction of section 8B (broad-based employee share plans) and 8C (vesting of employment-related equity instruments), no major amendments have been made to the other sections dealing with employment benefits.

3.3 Medical aid fund contributions (paragraph 2(i) and paragraph 12A)

Until the 1 April 1998, any contributions made by an employer to a medical aid fund on behalf of an employee were tax free. In terms of the Taxation Laws Amendment Act 30 of 1998, the Seventh Schedule of the Income Tax Act was amended and paragraphs 2(i) and 12A were introduced. The effect of the amendment was that any contributions paid by an employer to an employee's medical scheme would be taxed as a fringe benefit where the value of the contribution paid by the employer exceeded two thirds of the total contribution (that is, the sum of the contributions by both the employer and the employee) (de Koker & Silke: 1998). In terms of paragraph 12A(5) of the Seventh Schedule to the Income Tax Act, the benefit would not be taxable where the contribution was made on behalf of:

- a person who by reason of superannuation, ill-health or other infirmity retired from the employ of such employer; or
- the dependants of a person after such person's death, if such person was in the employ of such employer on the date of death; or
- the dependants of a person after such person's death, if such person retired from the employ of such employer by reason of superannuation, ill-health or other infirmity.

Prior to the amendment many employers paid 50% of employees' medical aid contributions and as the contribution did not attract tax as a fringe benefit, there were no tax implications for the employee. As medical costs escalated, however, companies began to pay a greater portion of the employees' medical costs and began to use these payments as a basis to structure employees' remuneration packages. In the 1998 National Budget Speech made by the Minister of Finance, Trevor Manuel, on 11 March 1998, he indicated that the reason for the introduction

of the provisions relating to the medical aid fringe benefit was to combat schemes whereby contributions to medical aids were being used to structure salary packages to reduce income tax.

The 1998 amendment might well have ensured that employees' tax was paid on one third of the medical aid benefits paid by their employer, but it did result in taxpayers receiving differing benefits based on their medical aid cover. In an attempt to have a more equitable system, further amendments were made to paragraph 2(i) and paragraph 12A of the Seventh Schedule in terms of the Revenue Laws Amendment Act, 31 of 2005. From 1 March 2006 the tax free benefit would now be limited to R500 per month for each of the first two beneficiaries and R300 per month for every additional beneficiary. The view of the legislature was that these changes provided "complete tax relief for more affordable medical aid packages for low and middle-income families, while restricting benefits for more expensive packages" (Budget Tax Proposal 2005/6, 2005: 7). Furthermore, these limits were in line with the section 18 deduction limit imposed for individuals who themselves bear the costs of medical aid (refer to chapter 5).

The limits to deductible medical aid contributions were amended to take account of inflationary increases for the 2008, 2009 and 2010 years of assessment (refer to Table 3.2).

Table 3.2 Medical Aid Limits

	2007	2008 [1]	2009 [2]	2010 [3]
Monthly ceiling for schemes with one beneficiary	R500	R530	R570	R625
Monthly ceiling for schemes with two beneficiary	R1 000	R1 060	R1 140	R1 250
Additional monthly ceiling for each additional beneficiary	R300	R320	R345	R380

1 de Koker & Silke: 2008
2 de Koker, Williams & Silke: 2009
3 Huxham & Haupt: 2010

With effect from 1 March 2010 the total contribution made by an employer to a medical aid on behalf of an employee is taxable. According to the Draft Explanatory Memorandum on the Draft Taxation Laws Amendment Bill, 2009, the dual medical scheme for deductions and fringe benefits gave rise to undue complexities and evasion. Taxpayers found the interplay between the limits imposed on their fringe benefits and their section 18 deduction to be confusing and, in

some circumstances, taxpayers evaded taxation by claiming the medical scheme deduction in their annual personal income tax returns even though these taxpayers had already obtained the benefit of the monthly exemption.

Example 3.1 Medical aid contribution fringe benefit amendments (Adapted from Huxham & Haupt: 2007)

Mr and Mrs Smith are both under the age of 65. They have two children aged 10 and 15. Mr Smith earns an annual salary of R150 000. Mr Smith is a member of the medical aid; his employer pays his monthly contributions of R2 000.

	1996	1997	2007	2011
	R	R	R	R
Salary (paragraph (c) gross income)	150 000	150 000	150 000	150 000
Medical aid contribution (paragraph 2(i) & 12A, Seventh Schedule)	Nil			
1997: R2 000 x 12 x ⅓		8 000		
2007: R2 000 x 12 – ((R1 000 + R300 + R300 x12))			4 800	
2011: R2 000 x 12				24 000
Taxable income	150 000	158 000	154 800	174 000

Note that whilst a taxpayer has to include the medical aid contribution paid by his employer in gross income he is entitled to a deduction in accordance with the limits described in section 18 of the Act (refer to chapter 5).

In line with the Government's aim to ensure that the system of receiving medical benefits was equitable, paragraph 2(j), in conjunction with paragraph 12B, was also introduced for all years of assessment commencing on 1 March 2006 in terms of the Revenue Laws Amendment Act, 31 of 2005. This amendment included in the income of employees any amount incurred by the employer in respect of any medical, dental and similar services, hospital services, nursing services or medicines provided to the employee or his or her spouse, child, relative or dependant. To assist low-income earners and their family members who could not afford even the most basic medical scheme package but who are entitled to employer-provided medical care, certain exemptions to this inclusion exist:

- the provision of medical treatments listed by the Minister of Health as prescribed minimum benefits (in terms of section 67 (1) (*g*) of the Medical Schemes Act, 1998 (Act

No. 131 of 1998)) provided to an employee, his or her spouse or children in terms of a scheme of the employer which

  - constitutes the carrying on of the business of a medical scheme; or
  - which does not constitute the carrying on of the business of a medical scheme, if the treatment provided in terms of that scheme or programme is available only to employees (and their spouses and children) of the employer, who are not members of a medical scheme registered under the provisions of the Medical Schemes Act 1998 (Act No. 131 of 1998);

- benefits received from an employer by:
  - a person who retired by reason of superannuation, ill-health or other infirmity;
  - dependants of an employee (who was an employee at the date of death) after his death;
  - dependants of a person after that person's death, if that person retired by reason of superannuation, ill-health or other infirmity;
  - a person who during the relevant year of assessment is entitled to a rebate under section 6 (2) (*b*) i.e. persons over 65 years of age;

- where the services are rendered by the employer to its employees in general at their place of work for the better performance of their duties.

In terms of the Small Business Tax Amnesty and Amendment of Taxation Laws Act 9 of 2006, paragraph 12B(3)(a)(ii) was amended to further exclude the total cost of any medical treatment (listed in any category of the prescribed minimum benefits determined by the Minister of Health) which is recovered from a medical scheme of which the employee is a beneficiary, where the scheme is provided to the employee by the employer but the employer does not carry on the business of a medical scheme.

Whilst the exclusions listed above helped to ensure that medical services received by employees, especially lower income earners, were exempt, further amendments were required to take into account medical services and medicines required by law to be supplied by the employer. Accordingly paragraph 12B of the Seventh Schedule was amended to include paragraph

12B(3)(aA) which now excludes any services rendered or medicines supplied for purposes of complying with any law of the Republic (de Koker & Silke: 2008).

3.4 Right of use of motor vehicle (paragraph 2(b) and paragraph 7)

In terms of paragraph 2(b) of the Seventh Schedule a taxable benefit arises when an employee is given the right of use of a motor vehicle by an employer for his private and domestic purposes, either for no consideration or for a consideration which is less than the value of such use, commonly referred to as a "company car" benefit. It is important to note that a taxable benefit will only arise where there is a link with private or domestic use. Where the taxpayer is not entitled to use the vehicle for private or domestic use, no benefit will arise. Private use includes travel between the taxpayer's place of residence and his or her place of employment.

The value of the benefit is determined in accordance with the provisions of paragraph 7 of the Seventh Schedule and is calculated on the excess of the value of private use over any consideration paid by the employee. Private use is calculated on a monthly basis on the "determined value" of the motor vehicle at 3.5%. This rate applies from 1 March 2011. Prior to that date the rates varied from 1.2% up to 4% depending on the year of assessment and the circumstances surrounding the right of use by the taxpayer.

The rules pertaining to company cars were amended substantially during the 2010 year of assessment. Over the past several years, the rules pertaining to car travel allowances had become steadily more restrictive and corresponding changes were required for the use of company cars to ensure that both sets of rules achieved roughly the same outcome so as to prevent arbitrage (Explanatory Memorandum on the Taxation Laws Amendment Bill: 2010). The details of these changes together with the salient features regarding the taxing of company cars are discussed in terms of the following:

- the determined value of the motor vehicle;
- the rates applying;
- allowable deductions; and
- The need to maintain accurate records.

3.4.1 Determined value

Until 1 March 2011, the general rule relating to the determined value of a motor vehicle was that it comprised the cost of the vehicle (in an arm's length transaction), excluding Value-Added Tax (VAT) and finance charges. Where the motor vehicle is leased by the employer in terms of a finance lease, the cost is the retail market value when the employer first obtained the right of use; if acquired under an instalment credit agreement, the cash value for VAT purposes. In all other cases the determined value is the market value of the motor vehicle when the employer first obtained the vehicle or the right of use thereof. However, where the employee is first granted the right of use of the vehicle 12 months or more after the employer first acquired the vehicle, the cost is reduced by 15% per annum on the reducing balance basis for each completed 12 month period. This concession does not apply where the vehicle is acquired from an associated institution and the employee concerned had the right of use of the vehicle prior to the acquisition. In this case, the determined value will be the value when the employee was first granted the right of use of the vehicle.

From 1 March 2011 the rules relating to the determined value have been adjusted in that the determined value now includes VAT. According to the Explanatory Memorandum on the Taxation Laws Amendment Bill, 2010, the reason for this is that the exclusion of VAT made little sense as the purchase of a vehicle by an employee includes VAT with no corresponding claim for an input tax credit. Furthermore, the inclusion of VAT in the determined value for a company car is now consistent with that of the present calculation for a car allowance.

3.4.2 Rates

The second step in calculating the value of the company car fringe benefit is the application of the appropriate rate to the determined value (multiplying the determined value by the monthly rate expressed as a percentage). The rate to be applied to the determined value is dependent on how many vehicles the employee is entitled to use and the purposes for which they are used (refer to table 3.3).

The percentage rates that applied in the 1996 year of assessment were 1.2% for single/first cars and 2% for additional vehicles. The rate differential arises as a result of the fact that, where an

employee is provided with one vehicle, the rate presumes that the employee may well incur some business travel, but the increased rate for the second vehicle presumes that its use is solely for private purposes (Explanatory Memorandum on the Taxation Laws Amendment Bill: 2010). In terms of the provisions contained in the Income Tax Act 28 of 1997 the company car rates were increased from 1.2% for single or first cars and 2% for second vehicles to 1.8% and 4% respectively commencing on 1 July 1997. In addition to this, paragraph 7(4)(a)(ii) was added to provide that where an employee has been granted the right of use of a vehicle and a travel allowance in respect of another vehicle, the value of the benefit for the vehicle provided by the employer was based on 4% of its determined value. Where, however, the employee claims actual business travel expenses (and not the deemed expenses provided in the regulation – "Fixing of rate per kilometre in respect of motor vehicles for the purposes of s 8(1)(b)(ii) and (iii)"), the value of the benefit was based on 1.8% of the determined value.

With effect from 1 March 2006 the company car rates for first or single cars were further increased from 1.8% to 2.5%. This change was necessary to align the fringe benefit values with the revised fixed cost tables for travelling allowances that were introduced on 1 March 2005 (Explanatory Memorandum on the Revenue Laws Amendment Bill: 2005).

From 1 March 2011 the monthly percentage rate for all employer-provided vehicles is 3.5%. According to the Explanatory Memorandum on the Taxation Laws Amendment Bill 2010, this is based on the presumption that all employee use is deemed to be private unless proved to the contrary, which then matches the revised car allowance rules which assume that all travel is private unless actual proof of business and private use is provided by way of a travel log book. Special rules apply where the vehicle's purchase price includes a maintenance plan. The 3.5% assumes that maintenance will be incurred directly by the employer, but a maintenance plan includes a maintenance cost in the purchase price and this therefore results in a double inclusion. Therefore where the purchase price includes a maintenance plan the percentage is 3.25% (Explanatory Memorandum on the Taxation Laws Amendment Bill: 2010).

Table 3.3 Company car rates

	1 March 1995 to 30 June 1997	1 July 1997 to 28 February 2006	1 March 2006 to 28 February 2011	1 March 2011 onwards	
				Maintenance plan excluded	Maintenance plan
One company car	1.2%	1.8%	2.5%	3.5%	3.25%
More than one company car used primarily for business purposes	1.2% [1]	1.8% [1]	2.5% [1]	3.5%	3.25%
More than one company car (not used primarily for business purposes)	1.2% [1]	1.8% [1]	2.5% [1]	3.5%	3.25%
	2% [2]	4% [2]	4% [2]	3.5%	3.25%
Company car and a car allowance for another car	N/A	4% [3]	4% [3]	3.5%	3.25%
Company car and a car allowance for the company car	1.2%	1.8%	2.5%	3.5%	3.25%

1. Used for the vehicle with highest determined value
2. Other vehicle(s) provided to employee by employer
3. Where the employee claims actual business travel in respect of the allowance, the value of the benefit will be based on 1.8% (1 July 1997 to 28 February 2006) or 2.5% (1 March 2006 to 28 February 2011) of the determined value

3.4.3 Allowable deductions

The monthly percentages above, together with the determined value of the motor vehicle, are only the starting point in calculating the value of the fringe benefit. An employee may claim a reduction in the taxable fringe benefit for any consideration paid to the employer and for certain expenses incurred.

Paragraph 7(2) of the Seventh Schedule provides that the cash equivalent of the benefit will be the value of the private use less any consideration paid by the employee for the right of use of the vehicle. Where an employee received a company car and a car allowance in terms of section 8(1)(b) of the Income Tax Act in respect of that company car, however, the employee may not reduce the value of the fringe benefit by any consideration paid by him for the right of use. This provision was amended from 1 March 2011 by the Taxation Laws Amendment Act 7 of 2010. Therefore, in terms of the Explanatory Memorandum on the Taxation Laws Amendment Bill, 2010, whilst an employee may still reduce the value of the fringe benefit by any consideration paid by him for the right of use of the vehicle, no reduction will be allowed for ongoing license fees, insurance, fuel and maintenance paid by the employee in respect of the vehicle as these costs are used to reduce the fringe benefit on assessment at year-end on an annual basis (see below). Furthermore, taxpayers cannot claim a double deduction in respect of both employer-provided cars and any claim against a car allowance granted in respect of employer provided motor vehicles; only the deductions described below will be allowed.

The allowable deductions in terms of the 1996 year of assessment were limited to R120 per month, where the employee bears the full cost of fuel, and R85 per month, where the employee bears the full cost of maintaining the vehicle. If the employee is required by his employer to bear a portion of the costs of licensing, insurance, fuel or maintenance, the Commissioner will allow a deduction of actual costs incurred, provided the employee received no allowances in terms of section 8(1)(b) and the R120 and R85 deductions were not claimed.

The monetary values of R120 and R85 were deleted in terms of the Revenue Laws Amendment Act 31 of 2005 and for years of assessment commencing on 1 March 2006 the percentage of the value of the vehicle which is taxed as a fringe benefit was to be adjusted (Explanatory

Memorandum on the Revenue Laws Amendment Bill: 2005). Therefore where the taxpayer bears the full cost of fuel, the percentage rate was reduced by 0.22% and 0.18% where he or she bears the full cost of maintenance. In addition, to remove the possibility of a taxpayer receiving a double deduction for fuel and maintenance costs where he also receives a travel allowance in respect of the same vehicle, the proviso to paragraph 7(4)((a) was amended to ensure that, in the situation where a taxpayer receives a travel allowance in respect of a company car, he or she may not claim the reductions of 0.22% or 0.18% for fuel and maintenance respectively.

These reductions fall away from 1 March 2011 and the only reduction to the percentage rate of 3.5% or 3.25% (where the vehicle's purchase prices includes a maintenance plan) is in respect of payments that are directly incurred by the employee for all of the costs of insurance, licence fees, fuel and maintenance. The deduction for insurance, licence fees and maintenance is determined by using the ratio of private use to total use against the actual costs incurred. The deduction for fuel is based on the deemed costs relating to private kilometres driven (i.e. the rate for fuel fixed by the Minister in the *Government Gazette* for the purposes of section 8(b)(1)(ii) and (iii)) multiplied by total private kilometres driven (Explanatory Memorandum on the Taxation Laws Amendment Bill: 2010).

3.4.4 Accurate records

In terms of paragraph 7(7) of the Seventh Schedule the Commissioner may also reduce the value placed on private use where the employee maintains accurate records of his private use and the distance travelled is less than 10 000 kilometres per annum. From 1 March 2011 the 10 000 kilometre rule is replaced with an across the board reduction where employees can prove their actual business kilometre usage (by means of a log book). Therefore, for example, where the kilometres driven by the employee show that the vehicle was used to the extent of 30% for business use, the result of applying the rate of 3.5% (3.25%) to the determined value of the vehicle is reduced by 30% (Explanatory Memorandum on the Taxation Laws Amendment Bill: 2010).

Example 3.2 Company car fringe benefit amendments

Mr Smith was given the free use of a motor vehicle by his employer. The vehicle cost the employer R114 000 (including VAT). Mr Smith bears the full cost of maintaining the vehicle, R150 per month. The employer bears all other costs. Mr Smith travelled 30 000 kilometers of which 18 000 were private. Mr Smith earns R150 000 per year.

	1996 to 1998 R	1999 to 2006 R	2007 to 2011 R	2012 R
Salary (paragraph (c) gross income	150 000	150 000	150 000	150 000
Company car (paragraph 2(b) and 7, Seventh Schedule)	13 380	20 580	27 840	46 800
Rate	1.2%	1.8%	2.5%	3.5%
Maintenance cost (2007)	-	-	(0.18%)	-
	1.2%	1.8%	2.32%	3.5%
Determined value	100 000	100 000	100 000	114 000
Monthly value	1 200	1 800	2 320	3 990
Maintenance cost (1996 & 1999)	(85)	(85)	-	-
Monthly value	1 115	1 715	2 320	3 990
Yearly value	13 380	20 580	27 840	47 880
Maintenance cost (2011) 18 000/30 000 x (150 x 12)	-	-	-	(1 080)
Less business use 2012 12 000 / 30 000 x R46 800	-	-	-	(18 720)
Taxable income	163 380	170 580	177 840	178 080

The amendments made to the company car rates have resulted in an increase in the value of the fringe benefit that is to be included in taxable income from R13 380 in 2006 to R46 800 in 2012. This is clearly s a result of the increase in the percentage to be applied to the determined value, from 1.2% in 1996 to 3.5% in 2012. Where the taxpayer utilised his company car for business purposes and an accurate logbook is maintained the value of this fringe benefit will be reduced.

3.5 Conclusion

The measures taken by government to limit the value of fringe benefits received by employees have to a certain extent been successful. The individual taxpayer now has to include in income all non-monetary benefits received from his employer and furthermore the onus rests with the employer to ensure full disclosure of these benefits. Whilst most of the amendments to the Seventh Schedule have been minor and, to account for inflation, amendments have been made to the paragraphs dealing with medical aid contributions and employer provided vehicles. Where medical aid contributions paid by an employer on behalf of an employee were not initially taxable, this benefit has now progressed from one third being included in gross income in the 1999 year of assessment to the full amount from 1 March 2010. Although the fringe benefit inclusion operates in conjunction with the section 18 deduction for medical aid contributions, the value of the deduction is limited to the capped amounts (refer to chapter 5). In addition to this the company car rates have also seen a major increase from 1.2 percent in 1996 to 3.5 percent from 1 March 2011. The amendment for the 2012 year of assessment does allow the taxpayer to reduce the value of the fringe benefit for business travel, but the changing rates do represent a significant increase in the value of the benefit. Therefore the amendments made to the Seventh Schedule have broadened the tax base of the individual taxpayer and have increased the burden on the taxpayers not only with respect to their tax liability but also in respect of the amount of documentary evidence required to be kept to allow taxpayers to claim legitimate deductions.

Whilst fringe benefits deal with the non-monetary benefits, allowances as dealt with in section 8(1) of the Income Tax Act are also commonly used to structure salary packages to assist employees to reduce their tax liability at no additional cost to the employer. Allowances have also received attention from the Government and the amendments made and their impact on the tax liability of an individual needs to be investigated (refer chapter 4).

4. Tax Allowances

4.1 Introduction

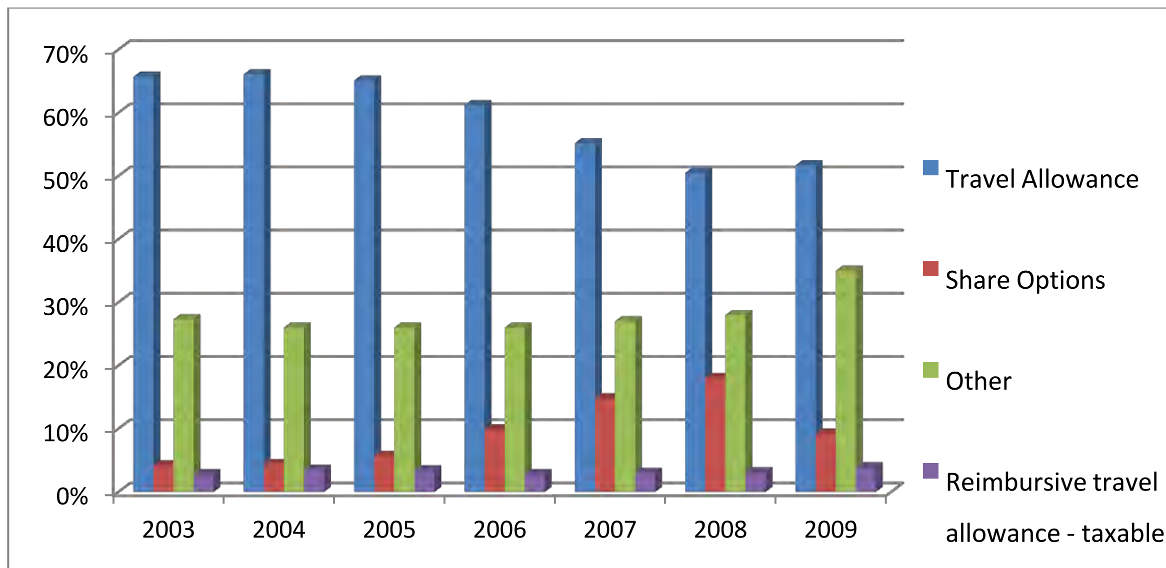
Whilst the non-monetary benefits from employment are dealt with in the Seventh Schedule, monetary benefits paid to employees, or allowances as they are commonly known, are dealt with in section 8(1) of the Income Tax Act. Allowances are commonly used to structure salary packages to assist employees to reduce their tax liability at no additional cost to the employer. According to the 2008 Tax Statistics and the 2010 Tax Statistics (A joint publication between National Treasury and the South African Revenue Services) an analysis of allowances claimed by individuals between the 2003 and 2009 years of assessment showed that allowances have increased by 71 percent from R35 720 million in the 2003 year of assessment to R61 080 million in the 2009 year of assessment. Allowances have therefore been subject to a great amount of scrutiny from the legislature over the past sixteen years. It is therefore necessary to discuss the changes that were made to allowances between 1996 and 2012, the reasons for these changes and to determine the impact that these changes have had on the tax burden of individuals in South Africa.

4.2 Outline of tax allowances

In the 1996 year of assessment section 8(1) of the Act specifically included in income so much of any amount paid by any person as an allowance or advance in respect of expenses incurred for travelling on business, or any other services, or any expenses incurred by reason of the holding of office, as were not actually expended, excluding any advance or allowance for entertainment which was included in gross income via paragraph (c)(iii) of the gross income definition in section 1 of the Act. Section 8(1) of the Income Tax Act was substantially modified in terms of the Taxation Laws Amendment Act 30 of 2002 and the various sections dealing with allowances to employees were all consolidated into section 8(1), including any allowances or advances in terms of paragraph (c)(iii) of the gross income definition in section 1 of the Income Tax Act.

According to the 2008 Tax Statistics and the 2010 Tax Statistics (A joint publication between National Treasury and the South African Revenue Services) an analysis of allowances allowed from 2003 to 2009 show that travel allowances make up the largest share of all allowances (refer to figure 4.1).

Figure 4.1 Individual taxpayers' allowances 2003 - 2009



It is therefore hardly surprising that the South African Revenue Services has paid particular attention to car allowances over the last few years and has closed a number of potential loopholes, most notably the potential loophole whereby employees not travelling for business purposes could be granted an allowance and could still claim "business" expenditure by applying a deemed mileage and deemed cost deduction. The closing of this loophole, in conjunction with the 2002 amendment which consolidated all allowance provisions in section 8(1), has changed the way allowances have been utilised by individuals over the last sixteen years and will therefore be reviewed in this chapter.

4.3 2002 amendments

Prior to the 2002 amendments individuals included in income any amount paid by any person as an allowance or advance in respect of expenses incurred for travelling on business, or any other services, or any expenses incurred by reason of the holding of office that were not actually expended in terms of section 8(1) of the Income Tax Act. In addition, paragraph (c)(iii) of the

gross income definition in section 1 of the Income Tax Act included in income any allowance or advance received by or accrued to an employee from his principal that the employee was required to utilise to defray entertainment expenditure. Where the amount received was an advance or reimbursement of actual entertainment expenditure incurred or to be incurred on the instruction of the principal and the employee could provide proof of the expenditure, no amount was included.

The effect of the amendments in terms of the Taxation Laws Amendment Act 30 of 2002 were that section 8(1)*(a)*(i) of the Income Tax Act was amended to bring within its ambit all allowances and advances paid by a principal to an employee or holder of an office, including entertainment allowances. Therefore allowances and advances were included in taxable income to the extent that they are not expended:

- on travelling on business;
- for accommodation, meals and incidental costs while such office holder or employee is obliged to spend a night away from his usual place of residence as a result of business or official purposes; or
- by reason of the duties attendant upon his or her public office (Explanatory Memorandum on the Taxation Laws Amendment Bill, 2002: 6).

Effectively the full amount of any and all allowances is to be included in gross income, subject to the exclusion of expenses incurred for travel, subsistence or public office. Furthermore section 11*(u)* of the Income Tax Act (see chapter 4) *"*which provides that taxpayers can claim entertainment expenses, which do not qualify as a deduction in terms of section 11*(a)*, to a maximum of R2 500, was amended to exclude employees and office holders who receive 'remuneration' as defined in the Fourth Schedule from claiming entertainment expenditure" (Explanatory Memorandum on the Taxation Laws Amendment Bill, 2002: 6). Therefore allowances such as those for entertainment or cell phones which had previously enjoyed a possible tax free status now became wholly taxable with no deduction allowed.

Section 8(1)(a)(ii) of the Income Tax Act, however, excludes any reimbursive allowances and advances where both of the following conditions are met:

- the reimbursement or advance must be expended by the employee on instruction of the principal in the furtherance of the principal's trade, and
- the recipient must produce proof to the principal that the expenditure was wholly incurred as required and must account to his principal for the expenditure (de Koker et al, 2002: A13).

To ensure the correct implementation and interpretation of the 2002 provisions it was necessary to distinguish between an allowance, advance and reimbursement. As a result Interpretation Note 14 of the Income Tax Act, dated 27 March 2003, (de Koker & Silke, 2004: E32) was issued by the South African Revenue Services, which defines these amounts as follows:

- An allowance is an amount of money granted by an employer to an employee in circumstances where the employer is certain that the employee will incur business-related expenditure on behalf of the employer, but where the employee is not obliged to prove or account for the business expenditure to the employer. The amount of the allowance is based on the expected business-related expenditure.
- An advance is an amount of money that is granted by an employer to an employee in circumstances where the employer is certain that the employee will incur business-related expenses on behalf of the employer, and where the employee is obliged to prove or account for the business-related expenditure to the employer. The amount of the advance is based on the business-related expenditure. Where the actual expenses incurred are less than the advance granted, the employer recovers the difference from the employee, and *vice versa*.
- A reimbursement of business expenditure occurs when an employee incurred business-related expenses on behalf of an employer out of his or her own pocket (ie. without having had the benefit of an allowance or an advance) and is subsequently reimbursed for this expenditure by the employer after having proved and accounted for the expenditure to the employer.

4.4 Travel allowance

In terms of section 8(1)(b) of the Income Tax Act a travel allowance may either be used by an employee for defraying expenses in respect of a motor vehicle used by the employee for business purposes or in respect of transport expenses incurred by the employee for business purposes. Any allowance or advance that is paid to an employee in respect of travelling is included in taxable income to the extent that the allowance has not been expended on business travel. Section 8(1)(b)(i) of the Income Tax Act also explicitly provides that travel between an employee's residence and his place of employment is considered to be private travel.

Where an employee uses his own vehicle for business purposes, the portion of the allowance expended for business purposes is deemed to be an amount calculated by applying the rate per kilometre determined in the manner prescribed by the Minister of Finance by a notice in the *Government Gazette* to the distance travelled during the year of assessment for business purposes, unless the taxpayer can furnish an acceptable calculation based on accurate data.

The anti-avoidance provision contained in section 8(1)(b)(iv) of the Income Tax Act provides that where a motor vehicle that is owned or leased by an employee is let by him or her to his or her employer, the rental and any expenditure paid by the employer is deemed to be a travel allowance received by the employee. In addition the rental is deemed not to have been received by the employee and therefore he or she will not be taxed on the rental but also will not be able to claim any deductions or allowances associated with the vehicle.

The taxpayer had the election when determining the portion of the allowance that relates to business travel to calculate his travel allowance as follows:

- actual kilometres and actual expenditure incurred;
- deemed kilometres and deemed rate per kilometre;
- actual kilometres and deemed rate per kilometre.

4.4.1 Rate per kilometre

The rate per kilometre can be determined either by using accurate data available based on actual expenditure incurred or by using what is colloquially known as the “deemed rate” per kilometre as prescribed by the Minister in the Gazette.

The calculation of the deemed rate per kilometre is determined by reference to the Schedule which is published in the *Government Gazette* by the Minister of Finance (Williams: 2006). In terms of the table the deemed rate per kilometre has three component parts, namely:

- the fixed cost, which is divided by the total distance travelled; if the vehicle is used for a period of less than 12 months during the year of assessment this is reduced proportionality based on the number of days used to 365 days;
- fuel cost where the recipient of the allowance has borne the full cost;
- maintenance cost where the recipient of the allowance has borne the full cost (Huxham & Haupt: 2010).

The deemed costs vary based on the value of the vehicle used by the employee. “Value” is defined in the Schedule as being:

- the original cost of the vehicle under a *bona fide* agreement of sale including VAT but excluding finance charges, or;
- the “cash value” in terms of section 1 of the Value-Added Tax Act, 1991 where the vehicle is leased by the employee in terms of a financial lease or acquired on the termination of the lease or purchased under instalment credit agreement i.e. cash cost including VAT, or;
- the market value at the time the recipient first obtain the right of use of the vehicle in any other case, plus a proportionate amount of VAT based on the market value (Huxham & Haupt: 2010).

The Schedule has been updated by the Minister to reflect current market values in terms of the following:

- Government notice 782, in *Government Gazette* no. 17170 dated 6 May 1996 for years of assessment commencing 1 March 1996.

- Government notice 194, in *Government Gazette* no. 20931 dated 25 February 2000 for years of assessment commencing 1 March 2000.
- Government notice 170, in *Government Gazette* no. 27332 dated 25 February 2005 for years of assessment commencing 1 March 2005.
- Government notice 177, in *Government Gazette* no. 28550 dated 24 February 2006 for years of assessment commencing 1 March 2006.
- Government notice 216, in *Government Gazette* no. 30796 dated 22 February 2008 for years of assessment commencing 1 March 2008.
- Government notice 548, in *Government Gazette* no. 34047 dated 25 February 2011 for years of assessment commencing 1 March 2011.

The amendments to the schedules are summarised below:

Table 4.1 Amendments to Schedule 1996 to 2012

	1 March 1995 to 28 February 1996	1 March 1996 to 28 February 2000	1 March 2000 to 28 February 2005	1 March 2005 To 28 February 2006	1 March 2006 to 28 February 2008	1 March 2008 to 28 February 2011	1 March 2011 onwards
Value of the vehicle							
• **Lowest bracket (R)**	16 000	16 000	30 000	40 000	40 000	40 000	60 000
• **Highest bracket (R)**	150 000	150 000	150 000	360 000	360 000	400 000	480 000
Fixed cost							
• **Lowest rate (R)**	8 770	10 118	16 916	14 489	15 364	14 672	19 492
• **Highest rate (R)**	[1] 54 783	[2] 57 456	[3] 62 677	99 240	100 011	116 012	119 683
Fuel cost							
• **Lowest rate (c)**	17.0	18. 8	23.1	34.5	47.3	58.6	64.6
• **Highest rate (c)**	26.0	27.5	29.4	59.8	77.1	110.3	113.1
Maintenance Cost							
• **Lowest rate (c)**	17.0	17.0	17.1	21.6	22.5	21.7	26.4
• **Highest rate (c)**	24.4	24.4	26.9	65.5	68.0	75.2	67.6

Where the value of the vehicles exceeds R150 000 fixed cost is the sum of:

1. R54 783 plus an amount of R3 512 for every R10 000 or part thereof by which the value of the vehicle exceeds R150 000
2. R57 456 plus an amount of R3 612 for every R10 000 or part thereof by which the value of the vehicle exceeds R150 000
3. R62 677 plus an amount of R3 874 for every R10 000 or part thereof by which the value of the vehicle exceeds R150 000

The detailed schedules are included in Annexure B.

Example 4.1 Calculation of the deemed rate per kilometre illustrating the amendments

Mr A receives a travel allowance of R6 000 per month from his employer. He travelled a total of 28 000 kilometres during year of assessment, of which 9 000 kilometres were for private travel. His vehicle cost him R200 000 (excluding VAT).

	1 March 1995 to 28 February 1996	1 March 1996 to 28 February 2000	1 March 2000 to 28 February 2005	1 March 2005 To 28 February 2006	1 March 2006 to 28 February 2008	1 March 2008 to 28 February 2011	1 March 2011 onwards
Deemed rate per kilometre based on R228 000							
Fixed cost per table	R82 879	R86 352	R93 669	R68 697	R69 072	R76 041	R66 440
Fixed cost per kilometre	296.0c	308.4c	334.5c	245.3c	246.6c	271.6c	237.3c
(fixed cost ÷ total km (28 000) x 365 / 365)							
Fuel	26.0c	27.5c	29.4c	51.1c	65.9c	81.5c	77.7c
Maintenance	24.4c	24.4c	26.9c	41.6c	43.8c	46.4c	35.0c
Deemed rate per kilometre	346.4c	360.3c	390.8c	338.0c	356.3c	399.5c	350.0c
Deemed business expense for 19 000 km	R65 816	R68 457	R74 252	R64 220	R67 697	R75 905	R66 500
The taxable portion of his travel allowance:							
Allowance	R72 000	R72 000	R72 000	R72 000	R72 000	R72 000	R72 000
Less deemed business expense	R65 816	R68 457	R74 252	R64 220	R67 697	R75 905	R66 500
Included in income	R6 184	R3 543	Nil	R7 780	R4 303	Nil	5 500

Where, however, the employee uses actual kilometres to determine his business travel and his business travel does not exceed 8 000 kilometres per year, the employee may use the rate of 126 cents (1996 year of assessment) to determine his business travel. This amount has been amended to reflect market realities as follows:

- 130 cents for years of assessment commencing 1 March 1996
- 153 cents for year of assessment commencing 1 March 2000
- 238 cents for year of assessment commencing 1 March 2005
- 246 cents for year of assessment commencing 1 March 2006
- 292 cents for year of assessment commencing 1 March 2008
- 305 cents for year of assessment commencing 1 March 2011

The deemed rate per kilometre cannot be used where the employee receives an allowance in respect of a company car (refer to chapter 3).

Until 1 March 2005 the deduction of actual expenses was not limited to any maximum amount, but in terms of the fixed cost table applicable to deemed rates, individuals were only entitled to claim expenditure based on a maximum value of the vehicle of R360 000. To ensure consistency in terms of the continued reform that took place in the area of travel allowances it was proposed that where employees were claiming actual expenses these too should be limited to a maximum vehicle value of R360 000 (Explanatory Memorandum on the Taxation Laws Amendment Bill: 2005). Therefore, in accordance with the changes promulgated in the Taxation Laws Amendment Act 9 of 2005, where an employee claimed amounts actually expended:

- Where the vehicle is leased, the total amounts of the lease payments cannot exceed the fixed cost per the table based on that vehicle's cash cost.
- Wear and tear on the vehicle is determined over a period of seven years and the cost of the vehicle is limited to R360 000.
- Finance charges incurred must be limited as to the amount incurred had the original debt been R360 000.

The ceiling of R360 000 was increased to R400 000 from 1 March 2008.

Example 4.2 Calculation of the actual rate per kilometre

Mr A receives a travel allowance of R8 000 per month from his employer. He travelled a total of 28 000 kilometers during year of assessment, of which 9 000 kilometers were for private travel. His vehicle cost him R500 000 (including VAT). He incurred finance charges on the cost of the vehicle at 11% per annum. He kept an accurate record of expenses and paid R18 000 for fuel, R12 000 for services and R6 000 on new tyres.

	Prior 1 March 2005	1 March 2005 to 28 February 2008	Post 1 March 2008
Actual expenditure	R	R	R
Finance charges:			
• Prior 1 March 2005: R500 000 x 11%	55 000		
• 1 March 2005: limited to R360 000 x 11%		39 600	
• 1 March 2008: limited to R400 000 x 11%			44 000
Fuel	18 000	18 000	18 000
Services	12 000	12 000	12 000
Tyres	6 000	6 000	6 000
Wear and tear:			
• Prior 1 March 2005: R500 000 ÷ 7 years	71 428		
• 1 March 2005: limited to R360 000 ÷ 7 years		51 429	
• 1 March 2008: limited to R400 000 ÷ 7 years			57 143
	162 428	127 029	137 143
Rate per kilometre (÷ 28 000km)	5.80	4.54	R4.90
The taxable portion of his travel allowance:			
Allowance	96 000	96 000	96 000
Less deemed business expense based on 19 000km	110 219	86 260	93 100
Included in income	Nil	9 740	2 900

4.4.2 Business kilometres

The taxpayer was entitled to claim his business travel based either on actual kilometres travelled or deemed kilometres travelled. When using actual kilometres travelled, the taxpayer would have to keep a detailed record of his business travel, i.e. a logbook.

Deemed business kilometres were calculated on the difference between the total actual kilometres travelled by an individual for the year of assessment (not exceeding 32 000 kilometres) and 12 000 kilometres, i.e. the first 12 000 kilometres were therefore deemed to be private travel (1996 year of assessment). Where the vehicle had only been used for a portion of the year the distances of 32 000 kilometres and 12 000 kilometres were reduced proportionally in the same ratio as the period of use for business purposes bears to twelve months. Furthermore where the taxpayer had used more than one vehicle interchangeably for business purposes the deemed kilometres of 32 000 and 12 000 were applied separately to each vehicle.

Example 4.3 Calculation using deemed kilometres

Mr A receives a travel allowance of R8 000 per month. He travelled 40 000 kilometres during the 1996 year of assessment but did not keep a log book.

Total kilometres limited to 32 000	32 000
Deemed private kilometres	(12 000)
Deemed business kilometres	20 000

Mr A receives a travel allowance of R8 000 per month for 9 months during the year of assessment. He travelled 40 000 kilometres during the 1996 year of assessment but did not keep a log book.

Total kilometres limited to 32 000 x 9/12	24 000
Deemed private kilometres (12 000 x 9/12)	(9 000)
Deemed business kilometres	15 000

Mr A receives a travel allowance of R8 000 per month. He travelled 20 000 kilometres during the 1996 year of assessment but did not keep a log book.

Total kilometres	20 000
Deemed private kilometres	(12 000)
Deemed business kilometres	8 000

Where the actual private kilometres travelled by a taxpayer were more than the deemed 12 000 private kilometres and therefore the actual business kilometres less than 20 000, the use of deemed kilometres presented an opportunity to save tax. Using the example of a total of 32 000 kilometres travelled during the year of assessment, if for example, actual private travel amounted to 30 000 kilometres, the deduction could be based on 20 000 deemed business kilometres instead of the actual 2 000 kilometres. As taxpayers could select whatever calculation method best suited them, a tax saving could be achieved.

In an attempt to minimise the use of travel allowances as a method for structuring salary packages, the Minister of Finance, Trevor Manuel, indicated in his budget speech on 12 March 1997 that the deemed private kilometres be increased from 12 000 to 14 000. He further indicated that the increase in the private kilometre threshold was to bring tax treatment of car allowances into line with the tax of the benefit relating to the private use of company cars (an effective increase in the rate from 1.2% to 1.8% - see chapter 3). This change was made affective from 1 March 1997 in terms of the Income Tax Act 28 of 1997.

The use of deemed mileage for the deduction of business travel continued to increase and as a result created an “unfair bias in the structuring of salary packages” (Explanatory Memorandum on the Taxation Laws Amendment Bill, 2005: 5), therefore as part of the reform in this area the deemed private kilometres were increased from 14 000 to 16 000 for years of assessment commencing on 1 March 2005 and again from 16 000 to 18 000 for years of assessment commencing on 1 March 2006.

In the Explanatory Memorandum on the Taxations Laws Amendment Bill, 2009 it was proposed that the deemed kilometre method be repealed. This method was originally introduced with the purpose of making tax computations for business travel simple and to assist with compliance and enforcement, but this method had led to manipulation by taxpayers who appeared to use the deemed mileage method as a way to ensure salary structuring to minimise income tax. Furthermore it resulted in taxpayers claiming commuting expenses that were generally of a private nature. In essence anyone who drove long distances (whether for private or business purposes) benefitted by claiming the deduction. This was not the intention of the provision and furthermore this was contrary to the environmental objectives of the country. The use of the deemed mileage method was therefore repealed for years of assessment commencing 1 March 2010 and deductions would have to be based on actual business kilometres in terms of an accurate log book.

4.5 Conclusion

The amendments made in terms of the Taxation Laws Amendment Act 30 of 2002 had a significant impact on how allowances were to be accounted for in an individual's taxable income. Prior to the amendments an individual had to include all allowances or advances received in taxable income, but where they had incurred expenses in relation to these allowances, only the net amount would then be taxable. From 1 March 2002, however, all allowances or advances paid to employees were included in taxable income and the only deductions permitted against these allowances are those where the amounts have been expensed on travelling, subsistence or by reason of duties attendant upon the taxpayer's office. This has resulted in a broadening of the tax base of an individual.

In addition, the South African Revenue Services seems to have paid particular attention to car allowances over the past few years and has closed a number of potential loopholes, most notably that employees not travelling for business purposes could still claim "business" expenditure by applying deemed mileage to calculate business kilometres travelled. This is no longer possible as from 1 March 2010 and all persons who receive a travel allowance must now keep a log book detailing business travel.

The amendments to allowances have extended the tax base of an individual with more items being included for tax purposes and existing loopholes being closed. Furthermore any possible deductions that may previously have been claimed by the taxpayer, in respect of allowances, in terms of section 11(a) of the Act have also been affected by amendments to the deductions claimable by individuals, most importantly, the introduction of section 23(m) of the Act (refer to chapter 5).

5. Deductions in arriving at taxable income

5.1 Introduction

Having determined the income of an individual the next step in determining the tax liability is to reduce income by all allowable deductions. Deductions may be claimed in terms of the general deduction formula, comprising the preamble to section 11 and section 11(a) read in conjunction with section 23 (which prohibits certain deductions from income), or certain other specific deductions that might not ordinarily have been allowed in terms of the general deduction formula. Whilst this should allow for a variety of deductions for the taxpayer the Taxation Laws Amendment Act 30 of 2002 resulted in various amendments which limited the deductions that may be claimed by individuals. Therefore a detailed discussion of the deductions allowed, together with a review of the amendments made to the amounts that individuals may deduct for income tax proposes, is vital in establishing whether the Government has achieved the goal of a "fairer" income tax system for individuals.

5.2 Deductions and the individual

In terms of the Income Tax Act the taxable income of an individual is calculated by taking income (as defined in section 1 of the Income Tax Act) less certain amounts allowed as deductions. These deductions fall into two categories:

1. general deductions in terms of the "general deduction formula": and
2. specific deductions.

The general deduction formula, as contained in the preamble to section 11 and section 11(a) of the Income Tax Act, allows the taxpayer, for the purposes of determining taxable income from the carrying on of a trade, to deduct "expenditure and losses", "actually incurred in the production of income", provided these are not of a capital nature. Section 11(a) must be read in conjunction with section 23 which prohibits certain deductions from income, most importantly section 23(g), where it is made clear that no deductions will be allowed to the extent that they have not been "laid out or expended for the purposes of trade".

In Port Elizabeth Electric Tramway Co Ltd v CIR, 8 SATC 13, 1936 CPD 241 the court held that the general deduction formula was made up of both these two tests. Therefore an individual would have to satisfy the requirements contained in both section 11(a) and section 23(g) before deducting the expenses incurred for income tax purposes. Prior to invoking the provisions of section 11(a) and section 23(g) an individual would have to meet the requirements contained within the preamble to section 11 which states that before an amount qualifies as a deduction a taxpayer will have to be carrying on a trade and be earning income from that trade.

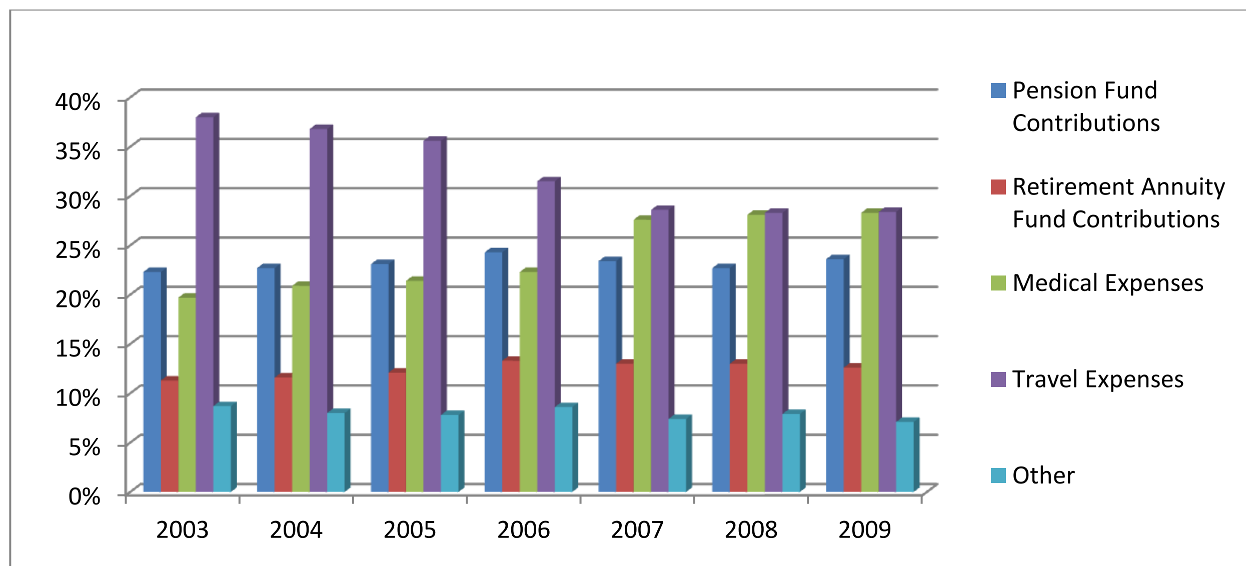
The concept of trade is fundamentally important when determining whether expenses incurred by a taxpayer will be deductible for income tax purposes. Individuals generally receive most of their income in the form of a salary, wages, pension or retirement payments and investment income (including interest, rental income and dividends). Some individuals, such as sole proprietors and partners in partnerships, may also have business income which is taxable as personal income (National Treasury & South African Revenue Services: 2010). The definition of trade in section 1 of the Income Tax Act, however, specifically includes "employment" as a trade i.e. "every profession, trade, business, employment, calling, occupation or venture, including the letting of any property...". Therefore it is clear that an individual who is employed and earning remuneration, is clearly carrying on a trade and earning income from that trade. Therefore, conceptually, an individual may claim business expenses incurred against employment income provided they are incurred in the production of income and are not of a capital nature.

Until the 2002 year of assessment, individuals were at liberty to deduct any expenses incurred in relation to their employment income, provided they met the requirements of the general deduction formula. The amendments in terms of the Taxation Laws Amendment Act 30 of 2002 restricted the deductions that individuals were eligible to claim. The most notable changes in respect of these amendments were the changes to entertainment allowances and expenditure, allowances in terms of section 8 of the Income Tax Act (refer to chapter 4) and the introduction of section 23(m).

In addition to the deductions that may be claimed in terms of the "general deduction formula", further specific deductions are also available to the taxpayer (mainly set out in sections 11 to 18A of the Income Tax Act) to allow for deductions that might not ordinarily be allowed in terms of the

general deduction formula. Section 23B of the Income Tax Act, however, specifies that an amount may only be claimed once as a deduction and not in terms of more than one provision in the Income Tax Act. Whilst travel expenses claimed against allowances in terms of section 8(1) of the Income Tax Act account for a substantial portion of the deductions claimed by individuals (approximately 32% over the period 2003 to 2009) this deduction is declining (from 38% in 2003 to 28% in 2009) due to the aggressive amendments made to the car allowance rules (refer to chapter 4). Contributions in respect of retirement funding (pension fund contributions and retirement annuity fund contributions) accounted for the largest share of deductions claimed by individual taxpayers over the period 2003 to 2009, an average of 35.6% (National Treasury & South African Revenue Services: 2008 and National Treasury & South African Revenue Services: 2010). In addition the deductions claimed in respect of medical expenses increased substantially from 22.3% in 2006 to 27.6% in 2007. This increase is clearly associated with the amendments to the medical deductions brought about by the Revenue Laws Amendment Act 31 of 2005.

Figure 5.1 Individual taxpayers: Deductions 2003 - 2009



National Treasury & South African Revenue Services, 2008: 53 and National Treasury & South African Revenue Services, 2010: 76

5.3 Prohibited deductions - section 23(m)

Until 1 March 2002 individuals were entitled to claim certain specified expenses, such as pension fund contributions (section 11(k)), retirement annuity fund contributions (section 11(n)), medical expenses (section 18), as well as other expenses that were incurred in the production of income.

According to the 2002 Budget Review, the legislature was of the opinion that salaried employees have very few expenses that truly relate to their production of income as most of their employment facilities are provided by the employer. Where such expenses were being claimed by employees, the quantification of these expenses and the split between non-deductible private use and deductible business use resulted in significant administrative burdens for both the taxpayer and the South African Revenue Services (National Treasury: 2002). Therefore, in an attempt to simplify the taxation system relating to employment, the Minister of Finance, Trevor Manuel indicated in the National Budget Speech made on 20 February 2002 that the deductions allowed to employees would be limited to the following:

- business travel deductions against a car allowance;
- medical expenses;
- contributions to pension and retirement annuity funds;
- donations to certain public benefit organisations;
- specific expenses against allowances of holders of public office; and
- wear and tear allowances on equipment.

This change was effected by the introduction of section 23(m) which disallows as a deduction "any expenditure, loss or allowance, contemplated in section 11, which relates to any employment of, or office held by, any person (other than an agent or representative whose remuneration is normally derived mainly in the form of commissions based on his or her sales or the turnover attributable to him or her) in respect of which he or she derives any remuneration, as defined in paragraph 1 of the Fourth Schedule", subject to the following exclusions:

- contributions to a pension or retirement annuity fund in terms of sections 11 (k) or (n);
- any allowance or expense in respect of legal expenses (section 11(c)), a wear-and-tear allowance (section 11(e)), bad debts (section 11(i)) and a provision for doubtful debts (section 11(j));
- any deduction which is allowable under section 11 (nA) or (nB) in respect of refunds of salaries or restraint of trade receipts. This amendment was introduced in terms of the Revenue Laws Amendment Act 60 of 2008 for years of assessment commencing 1 March 2009. At times employers make taxable payments to employees that are subject to resolutive conditions and on occasion employees are forced to return the amounts

initially received. While the initial payment to the employee is fully taxable, employees were not granted any tax deduction for sums repaid as a result of section 23(m). This amendment therefore allows as a deduction against taxable income employment-related benefits that are refunded (Explanatory Memorandum on the Revenue Laws Amendment Bill: 2008);

- any deduction which is allowable under section 11 (*a*) in respect of any premium paid by that person under a loss of income insurance policy; and
- in the case of employees earning their income solely or mainly in the form of commissions, any deduction which is allowable under section 11 (*a*) or (*d*) in respect of any rent of, cost of repairs of or expenses in connection with any dwelling house or domestic premises, to the extent that the deduction is not prohibited under paragraph (*b*). This paragraph was introduced in terms of the Revenue Laws Amendment Act 31 of 2005 for years of assessment commencing 1 March 2005. Once again the limitations imposed by section 23(m) had the unintended impact of denying legitimate business expenses, therefore the rules were amended to allow employees to deduct home office expenses provided the requirements of section 11(a) or (d) were applicable.

The impact of the provisions was clarified in Interpretation Note 13, of the Income Tax Act, issued on 27 March 2003 (de Koker & Silke, 2004: E29), where the following examples, taken from Annexure A (de Koker & Silke, 2004: E32), illustrated the workings of section 23(m).

1. An employee received a pensionable salary of R130 000. The employee contributed R9 750 to an approved pension fund and incurred –
   - entertainment expenses of R1 000;
   - cell phone airtime expenditure of R1 500; and
   - text book costs of R750,

   that are required for and relate directly to her profession.

   The restrictions of section 23(*m*) apply to the remuneration of R130 000. In terms of these restrictions the entertainment, cell phone and textbook expenditure are not permissible deductions. Section 23(*m*) continues, however, to permit a wear and

	tear allowance under section 11(*e*) in respect of the text book expenditure. The pension fund contribution remains deductible.
2.	Ms X received a salary of R100 000 and fees of R198 000 from a professional practice in which she trade (sic) as an independent contractor. She incurred expenses of R88 000 in relation to the professional practice. In relation to the salary income she incurred – • medical expenses of R3 000; • entertainment expenses of R1 000; • cell phone airtime expenditure of R1 500; and • bad debt of R8 333 for salary due but not paid by the liquidated employer. The expenses relating to the professional practice are deductible for tax purposes as they relate to income other than “remuneration”. The restrictions of section 23(*m*) apply to the salary of R100 000. In terms of these restrictions the entertainment and cell phone costs are not permissible deductions, and the bad debt of R8 333 may be considered for purposes of section 11(*i*) or (*j*) as it relates to remuneration. The medical expenses can be considered for deduction under section 18 of the Act.
3.	An employee received a pensionable salary of R40 000 and commission income of R130 000 on sales. The employee contributed R3 000 to an approved pension fund and incurred commission-related business expenses of R70 000. Since more than 50% of the employee’s remuneration consists of commission, the restrictions of section 23(*m*) do not apply. The R70 000 commission expenses may therefore be considered for deduction against the commission income of R130 000 in terms of section 11. The pension fund contribution is unaffected by the introduction of section 23(*m*) and remains deductible.
4.	An employee received a pensionable salary of R60 000 and commission of R60 000 on sales. The employee contributed R4 500 to a pension fund and incurred commission-related business expenditure of R10 000, consisting of telephone and

stationery costs.

Since not more than 50% of the employee's remuneration consists of commission, the restrictions of section 23(*m*) apply. The commission-related business expenditure of R10 000 can therefore not be considered for deduction under section 11. The pension fund contribution remains deductible.

5.4 Entertainment

Prior to 1 March 2002 any allowance or advance paid to an employee, other than a reimbursive allowance, for the purposes of defraying entertainment expenditure (including club subscriptions), was included in the gross income of an individual in terms of paragraph (c)(iii) of the definition in section 1 of the Income Tax Act. However, in terms of section 11(u) a taxpayer could deduct expenditure incurred for the purposes of entertainment if the expenditure was incurred in connection with the taxpayer's trade. The deduction was limited to a maximum of the lesser of:

- R2 500; or
- R300 plus 5% of taxable income (before this deduction) from the trade in respect of which the expenditure is incurred, to the extent that it exceeded R6 000 (Huxham & Haupt: 2000).

Where, however, the taxpayer was an employee who derived remuneration, the deduction was only granted if the Commissioner was satisfied that his or her duties regularly and necessarily involved incurring entertainment expenditure and he or she received an allowance in respect of the expenditure. The deduction in terms of 11(u) could not exceed the allowance. Section 23(i) furthermore disallows (and disallowed) the deduction of entertainment expenditure for salaried employees in terms of section 11(a).

Example 5.1 Entertainment expenditure (Huxham & Haupt, 2000: 328)

During the year ended 28 February 2000 Mrs Smithers was employed as a public relations officer. In terms of her service agreement she receives a cash salary of R80 000 per annum and an entertainment allowance of R20 000 per annum. The Commissioner is satisfied that her employment is of such a nature that she regularly and necessarily incurs entertainment expenditure. She incurred entertainment expenditure (funded out of her allowance) of R18 000 during the year.

	R
Tax computation	
Salary	80 000
Entertainment allowance	20 000
	100 000
Less: section 11(u) deduction: Actual expenditure of R18 000 limited to the lesser of:	
• R2 500, or	
• R5 300 (R300 + 5% of R100 000)	(2 500)
Taxable income	97 500

In terms of the Taxation Laws Amendment Act 30 of 2002, paragraph (c)(iii) of the gross income definition was deleted and all allowances were now included in gross income in terms of section 8 (refer to chapter 4). Furthermore, in line with the Legislature's attempt to simplify the taxation system relating to employment and limit the deductions claimable, section 11(u) was amended to provide that no expenditure in respect of entertainment may be claimed by a taxpayer who derives remuneration unless he is an agent or representative whose remuneration is mainly in the form of commission, therefore restricting the deduction of entertainment expenditure to qualifying agents and representatives.

As section 11(a) already allows for a deduction of entertainment expenditure, if incurred in the production of income, section 11(u) was found to be superfluous and was therefore deleted in terms of the Taxation Laws Amendment Act 16 of 2004 for years of assessment commencing 1 March 2005.

5.5 Medical, dental and physical disability expenses – section 18

An individual is entitled to a restricted deduction for expenses in relation to medical and dental care and in relation to a physical disability (medical expenses) in terms of section 18 of the Act. In the 1996 year of assessment the deduction granted to an individual was as follows:

- for persons aged under 65 the deduction is limited to so much of the medical expenditure as exceeds the greater of R1 000 or 5 percent of the taxable income (as determined before this calculation);
- for persons over 65 there is no limit;
- for a taxpayer where he, his spouse or one of their children (which includes step children and adopted children) is a "handicapped person", the deduction applies to all qualifying medical expenditure that exceeds R500.

Example 5.2 Medical expenditure (Huxham & Haupt, 2000: 140)

For the year ended 28 February 2000 Mr C has taxable income of R28 000 (before claiming the medical deduction). His qualifying medical expenses for the year amount to R1 600. He is under 65.

	R	R
Taxable income		28 000
Medical deduction (section 18)		
Expense	1 600	
Less greater of:		
• R1 000 or		
• R1 400 (5% of R28 000)	(1 400)	(200)
Taxable income		27 800

The limitation of R1 000 or 5 percent of taxable income for persons under 65 years of age was revised in terms of the Taxation laws Amendment Act 30 of 2002 to remove the R1 000 cap. In terms of the old rules where a taxpayer spent less than R1 000 on medical expenses and his income was less than R20 000 he was not entitled to any deduction, as 5 percent of taxable income only exceeds R1 000 at a taxable income of more than R20 000. By removing the R1 000 cap, taxpayers under 65 years of age could claim medical expenses incurred to the extent they

exceeded 5 percent of taxable income, even if the taxable income is less than R20 000 (de Koker et al: 2002).

Example 5.3 Medical expenditure (Adapted Huxham & Haupt: 2000)

For the year of assessment ended 28 February 2003 Mr C has taxable income of R28 000 (before claiming the medical deduction). His qualifying medical expenses for the year amount to R1 600. He is under 65.

	R	R
Taxable income		28 000
Medical deduction (section 18)		
Expense	1 600	
Less R1 400 (5% of R28 000)	(1 400)	(200)
Taxable income		27 800

The deductions allowed under section 18 received a major amendment in terms of the Revenue Laws Amendment Act 31 of 2005. For persons over 65 years of age no amendment was made and therefore all their medical expenses remained deductible. However, the major amendments were experienced by the other two categories of taxpayers. For a taxpayer who is handicapped or has a family member who is handicapped, the R500 exclusion was removed and all qualifying medical expenses were deductible from 1 March 2006. For all other taxpayers the deductions would now be split into two component parts; the first, in terms of section 18(2)(c)(i), relating to contributions to medical schemes and the second, in terms of section 18(2)(c)(ii), being qualifying medical expenses not recovered from a medical scheme and any contributions not allowed in terms of section 18(2)(c)(i). The taxpayer could now claim a deduction in respect of contributions made to a medical scheme in terms of section 18(2)(c)(i) to the extent that it did not exceed:

- R500 per month in respect of contributions for the taxpayer;
- R1 000 per month in respect of contributions for the taxpayer and one dependant; and
- where the taxpayer has more than one dependant, R1 000 per month for the taxpayer and his first dependant and additional R300 for every additional dependant.

These monetary thresholds are subject to periodic inflationary changes (refer to table 5.1).

The amounts allowed in respect of contributions to a medical scheme were reduced by any amount contributed by an employer on behalf of an employee to the extent that they had not been included in gross income in terms of paragraph 12A of the Seventh Schedule (refer to chapter 3).

The deduction allowed in terms of section 18(2)(c)(ii) (medical aid contributions disallowed in terms of section 18(2)(c)(i) and any other qualifying medical expenses not recovered from the medical aid) were (and presently are) allowed to the extent that the sum of these exceeds 7.5 percent of taxable income before this deduction. These amendments were effective from 1 March 2006.

Example 5.4 Medical expenditure (Adapted Huxham & Haupt: 2007)

Mr Smith and Mrs Smith are both under the age of 65. They have two children aged 10 and 15. For the year ended 28 February 2007 Mr Smith earns an annual salary of R150 000. Mr Smith is a member of the medical aid, his employer does not make any contributions on his behalf. Mr Smith paid the following expenses:

	R
• Medical aid contributions for himself and 3 dependents	24 000
• Hospital and doctors fees in respect of an operation to a child	1 200
• Expenses relating to illness (Mrs Smith)	200

	R	
Salary		150 000
Medical deduction (section 18(2)(c)(i))		
• Medical aid contributions	24 000	
• Limited to: (R1 000 + 300 + 300) x 12	19 200	(19 200)
		130 800
Medical deduction 18(2)(c)(ii)		
• Disallowed medical aid contributions	4 800	
• Expenses relating to the child	1 200	
• Expenses relating to Mrs Smith	200	
	6 200	nil
Limited to excess above 7.5% of R130 800	9 810	
Taxable income		130 800

The Explanatory Memorandum on the Taxation Laws Amendment Bill (2005) explained that the amendments should ensure a more equitable system with regard to medical deductions. Larger families will benefit from the capped tax deduction as it now caters for each person covered by the scheme, whilst restricting deductions for more expensive packages. Therefore as a result of a specific deduction being introduced for medical scheme contributions, the threshold of 5 percent was increased to 7.5 percent.

Table 5.1 Medical Aid Limits

	2007	2008 [1]	2009 [2]	2010 [3]	2011 [4]	2012 [5]
Monthly ceiling for schemes with one beneficiary	R500	R530	R570	R625	R670	R720
Monthly ceiling for schemes with two beneficiary	R1 000	R1 060	R1 140	R1 250	R1 340	R1 440
Additional monthly ceiling for each additional beneficiary	R300	R320	R345	R380	R410	R440

1 de Koker & Silke: 2008
2 de Koker, Williams & Silke: 2009
3 Huxham & Haupt: 2010
4 Huxham & Haupt; 2011
5 South African Revenue Services: 2011

The definition of a "handicapped" person included a person who is blind, deaf, or who requires a wheelchair, calliper or crutch as a result of a permanent disability, or who requires an artificial limb, or a person who suffers from mental illness. This "outdated" definition was amended in terms of the Revenue Laws Amendment Act 60 of 2008 to refer to a "person with a disability", which was thought to be more widely accepted and understood (Explanatory Memorandum on the Revenue Laws Amendment Bill: 2008). For the purposes of section 18(3) "disability" means a moderate to severe limitation of a person's ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if:

(*a*) the limitation has lasted or has a prognosis of lasting more than a year; and

(*b*) diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner.

Furthermore, the deduction in respect of “handicapped” persons contained no limit and, although it is understood that disabled persons tend to incur additional medical and related expenses, the Legislature felt greater certainty was required in defining the type of expenses that may be deductible for this class of taxpayer and provided a list drawn up by the South African Revenue Services in consultation with organisations representing persons with disabilities (Explanatory Memorandum on the Revenue Laws Amendment Bill: 2008).

A taxpayer’s “children”, as defined in section 18(4) of the Income Tax Act, means any child of the taxpayer (or his or her spouse) who was alive during any portion of the year of assessment, and who on the last day of the year of assessment:

- was unmarried and:
  - over the age of 18 years;
  - over the age of 21 years and was wholly or partially dependent for his or her maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year; or
  - over the age of 26 years and was wholly or partially dependent for his or her maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year and was a full-time student at an educational institution of a public character; or
- in the case of any other child, was incapacitated by a disability from maintaining himself or herself and was wholly or partially dependent for maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year

Example 5.5 Medical expenditure amendments 1996 to 2012 (Adapted Huxham & Haupt: 2007)

Mr Smith and Mrs Smith are both under the age of 65. They have two children aged 10 and 15. Mr Smith earns an annual salary of R150 000. Mr Smith is a member of the medical aid; his employer does not make any contributions on his behalf. Mr Smith paid the following expenses:

	R
• Medical aid contributions for himself and 3 dependents	24 000
• Hospital and doctors fees in respect of an operation to a child	1 200
• Expenses relating to illness (Mrs Smith)	200

	1996	2003	2007	2012
	R	R	R	R
Salary	150 000	150 000	150 000	150 000
Medical deduction (section 18)				
1996:				
R25 400 less greater of:	(17 900)			
• R1 000 or				
• R7 500 (5% of R150 000)				
2003:		(17 900)		
R25 400 less R7 500 (5% of R150 000)				
2007 and 2012				
Medical deduction (section 18(2)(c)(i))			(19 200)	(24 000)
• Medical aid contributions of R24 000				
• Limited to:				
○ 2007: (R1 000 + 300 + 300) x 12				
○ 2012: (R1 440 + 440+ 440) x 12				
	132 100	132 100	130 800	126 000
Medical deduction 18(2)(c)(ii)				
• Disallowed medical aid contributions	-	-	4 800	-
• Expenses relating to the child	-	-	1 200	1 200
• Expenses relating to Mrs Smith	-	-	200	200
			6 200	1 400
Limited to excess above 7.5% of R130 800	-	-	9 810	9 162
Taxable income	132 100	132 100	130 000	126 000

5.6 Pension fund contributions – section 11(k)

An individual who is an employee, holder of an office or a partner who is obliged to contribute to a pension fund as a result of employment or holding an office, is entitled to deduct his or her contributions to a pension fund in terms of section 11(k) of the Act, provided that the deduction does not exceed the greater of:

- R1 750, or
- 7.5 percent of retirement-funding employment income.

Any amounts in excess of the above limits are carried forward and allowed as a deduction when the retirement benefit is received.

Retirement-funding employment income is that portion of an individual's income that is taken into account when calculating the actual contribution to be made by him or her or on his or her behalf to a pension or provident fund and is defined in section 1 of the Act.

Example 5.6 Pension fund contributions (Stiglingh, Koekemoer, van Schalkwyk, Wilcocks, de Swardt, Jordaan: 2010)

Mr S aged 27, was employed throughout the year of assessment and received a salary of R48 400 for the year and a bonus of R5 000 on his birthday. He also received interest from a source within South Africa of R23 600. One of the conditions of his employment is that he is required to belong to FGH Pension Fund and he is required to contribute 8 percent of his monthly salary to this fund.

Salary		48 400
Bonus		5 000
Interest	23 600	
Less section 10(1)(i)(xv) exemption	(22 300)	1 300
		54 700
Less deductions		
Current pension fund contributions (8% x 48 400)	3 872	
Limited to greater of:		
• R1 750, or		
• 7.5% of R48 400	3 630	(3 630)
Taxable income		51 070

Until 1 March 1999 deductions to public sector funds were not limited in terms of the sub-section, but "in light of the Katz Commissions proposal that no difference should exist between the treatment of public and private sector funds", section 11(k) was amended to bring the deductibility of public sector funds in line with those of the private sector (de Koker & Silke, 1998: A17).

In terms of section 11(k)(ii) of the Income Tax Act any contributions made by an individual in respect of prior periods (back-payments) are also allowed as a deduction to the extent that they do not exceed R1 800. Any amounts in excess of this may be carried forward to the next year of assessment.

5.7 Retirement annuity fund contributions – section 11(n)

An individual may deduct his or her contributions to any retirement annuity fund in terms of section 11(n) of the Income Tax Act to the extent that it does not exceed the greatest of:

- 15 percent of non retirement-funding employment (as defined in section 1 of the Income Tax Act) derived by a taxpayer, less any assessed loss (clarified in terms of Revenue Laws Amendment Act 53 of 1999) and allowable deductions (excluding a lessor's expenditure on soil erosion in terms of section 17A, section 18 medical expenses, section 18A donations and expenses in terms of paragraph s12(1)(c) to (i) of the First Schedule (farming capital expenditure));
- R3 500 less any deductions allowed in terms of section 11(k) for current pension fund contributions; or
- R1 750.

The taxpayer may not create an assessed loss with this deduction and any deductions disallowed may be carried forward and qualify for a deduction in the next year of assessment, subject to the limits imposed.

Example 5.7 Retirement annuity fund contributions (Stiglingh et al: 2010)

Mr S aged 27, was employed throughout the year of assessment and received a salary of R48 400 for the year and a bonus of R5 000 on his birthday. He also received interest from a source within South Africa of R23 600. One of the conditions of his employment is that he is required to belong to FGH Pension Fund and he is required to contribute 8 percent of his monthly salary to this fund. Mr S also contributed R3 600 to a retirement annuity fund during the year.

	R	R
Salary		48 400
Bonus		5 000
Interest	23 600	
Less section 10(1)(i)(xv) exemption	(22 300)	1 300
		54 700
Less deductions		
Current pension fund contributions (8% x 48 400)	3 872	
Limited to greater of:		
• R1 750, or		
• 7.5% of R48 400	3 630	(3 630)
		51 070
Current retirement annuity fund contributions	3 600	
Limited to the greater of:		
• 15% of R6 300 (R5 000 + R1 300)	945	
• R3 500 – R3 630	Nil	
• R1 750	1 750	(1 750)
Taxable income		49 320

In terms of section 11(n)(i)(bb) of the Income Tax Act any contributions made by an individual in respect of payments for re-instatement purposes shall be allowed as a deduction to the extent that it does not exceed R1 800, provided that the amount would have qualified for a deduction had it been made in that year of assessment. Any amounts in excess of this may be carried forward to the next year of assessment.

5.8 Conclusion

The gross income definition identifies those items to be included in gross income. The general deduction formula, comprising the preamble to section 11 and section 11(a) read in conjunction with section 23 (which prohibits certain deductions from income), identifies the deductions that an individual may claim when calculating taxable income. The deduction of contributions to retirement funds In terms of sections 11(k) and 11(n) has not been amended since the 1996 year of assessment which calls into question whether the monetary limits imposed are still relevant, having not been increased to compensate for inflation, even though this may be counteracted by the percentage-based deduction (i.e. 7.5 percent of retirement funding employment for pension fund contributions and 15 percent of non-retirement funding employment for retirement annuity funds). In contrast to this, the deduction for qualifying medical expenses has been substantially amended, in part to try to achieve a more equitable system with regard to medical deductions; however these amendments resulted in the threshold for medical expenses of 5 percent of taxable income being increased to 7.5 percent, thereby resulting in a smaller potential deduction for individuals.

The most notable change, however, was the introduction of section 23(m) from 1 March 2002 in terms of the Taxation Laws Amendment Act 30 of 2002 whereby the deductions available to individuals in employment were severely limited. This is in sharp contrast to the situation prior to 2002 where individuals were at liberty to deduct any expenses incurred provided they met the requirements of the general deduction formula. It appears that the tax deductions available to an individual are being limited, which may well result in an additional tax burden. These deductions, together with the amendments introduced, will be further analysed in chapter 6 over the sixteen year period using an inflation-adjusted model on a year-on-year basis, taking into account the applicable Act per year of assessment to ascertain the actual impact on the individual tax payer.

6. Macro-economic factors and tax collections

6.1 Introduction

In the 1995/1996 financial year, taxes collected from individuals in South Africa comprised 40.5% of the total taxes collected by the Government, placing a heavy burden on the individual South African taxpayers. In an attempt rectify the situation whereby the tax burden fell disproportionately on individuals, the government has, over the last 16 years, embarked on a process of tax reform. In terms of the guidelines laid down by the Katz Commission (National Budget Speech: 1997) this process has included a reduction in the tax tables applying to individuals of the number of marginal rate brackets, a reduction in the maximum marginal rate, increasing tax thresholds and a reduction in the gradation of the marginal rate (refer to chapter 2). Whilst these objectives of the government have been achieved by the tax reforms introduced between 1997 and 2002 (refer to chapter 2) and the contribution to total taxes by individuals has decreased to 34.3 percent in 2010, personal income tax is still the largest contributor to the national budget of South Africa. This may partly be attributed to the amendments made to fringe benefits and allowances, closing tax loopholes and limiting the number of deductions that an individual can claim. These amendments have been discussed in detail in earlier chapters.

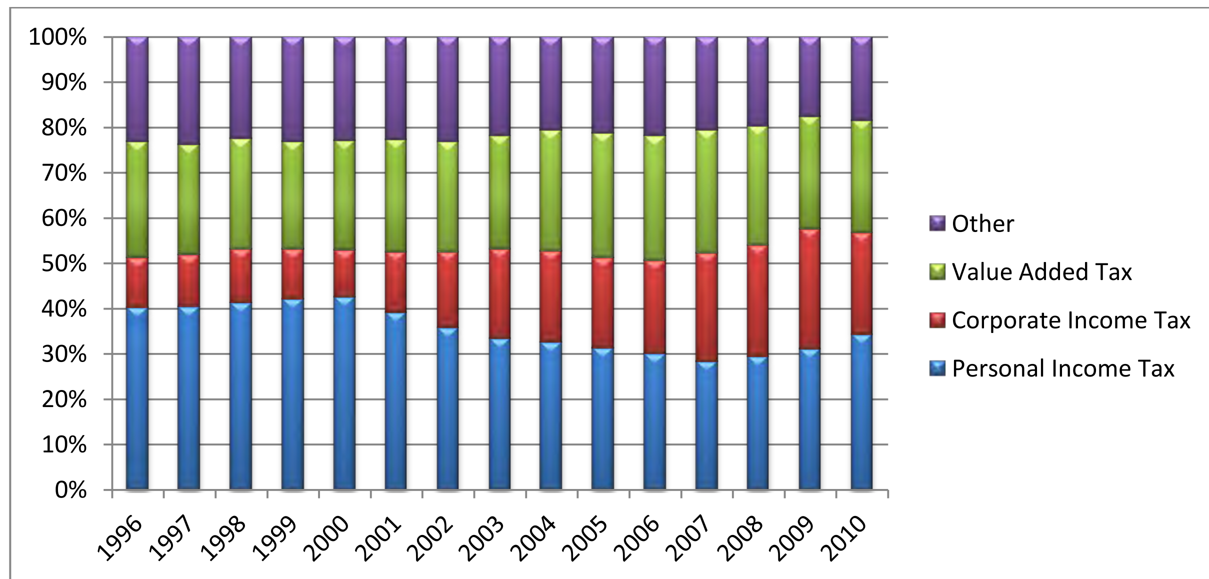
The present chapter provides an analysis of the tax payable by an individual on an inflation-adjusted year-on-year basis, taking into account the applicable Income Tax Act for each year of assessment. The proportion of tax collected from individuals will be compared with total tax collections whilst also considering any major economic political and social changes that might have affected the total tax collections.

6.2 Revenue collections

The majority of the national budget of South Africa is funded by three major taxes, namely, personal income tax, corporate income tax and value-added tax. These account for approximately 80% of the total national budget revenue. The balance comprises fuel levies, excise and customs duties (approximately 21 percent of taxes collected), as well as provincial taxes, transfer duties,

uncertified securities taxes and other sundry taxes (National Treasury & South African Revenue Services:, 2010).

Figure 6.1 Tax by main revenue source



National Treasury & South African Revenue Services, 2008: 16

National Treasury & South African Revenue Services, 2010: 39

Although personal income tax is still the largest contributor to the national budget, ranging from 40.2 percent in 1996 to a high of 42.6 percent in 2000 and to 34.3 percent in 2010 (refer to table 6.1), the percentage contribution has shown a decrease. This is mainly as a result of an increase in corporate tax contributions to the national budget. In the period under review South Africa experienced robust economic growth and higher commodity prices (National Treasury & South African Revenue Services: 2008) which resulted in corporate income tax revenue increasing from R70.8 billion in 2004/05 to R134.9 billion in 2009/10, a cumulative percentage increase of 90.6% or 13.8% per year, all while corporate tax rates decreased from 30% to 29% in 2005/06 and were further reduced to 28% in 2008/09. (National Treasury & South African Revenue Services: 2010). These increased revenues might have been passed on to the individual taxpayer by way of increased salaries and dividends. The salary increases are unlikely to have kept pace with the increases in company profits and dividends are exempt from tax.

Personal income tax, as a percentage of total taxes collected, may have shown a decline from 1996 to 2010, but the actual amounts collected from individuals have increased year on year.

Table 6.1: Rand amounts collected from individual taxpayers

Year of assessment	R millon	Percentage year-on-year growth	Average Inflation Rate
1996	51 179	14%	8.2%
1997	59 520	16%	7.%
1998	68 342	15%	8.0%
1999	77 734	14%	7.4%
2000	85 884	10%	4.2%
2001	86 478	1%	6.2%
2002	90 390	5%	5.4%
2003	94 337	4%	10.1%
2004	98 498	4%	4.3%
2005	110 982	13%	1.8%
2006	125 645	13%	3.6%
2007	140 578	12%	5.0%
2008	168 774	20%	7.7%
2009	195 115	16%	11.3%
2010	205 145	5%	6.7%

National Treasury & South African Revenue Services, 2008: 16

National Treasury & South African Revenue Services, 2010: 39

Annexure A

Personal income tax collections reflected a 300% increase from R51 179 million in 1996 to R205 145 million in 2010 (refer to table 6.1). This represents an average increase of 11% per year compared to the average inflation rate of 6.23% per year. These increases have been a "result of a combination of tax reforms, improved tax administration and tax compliance and robust economic growth. Tax reforms have been characterised by a reduction in marginal and average tax

rates, the broadening of the tax base, the closing of various tax loopholes and improved tax administration” (National Treasury & South African Revenue Services, 2008: iii).

The tax reforms also included the creation of the South African Revenue Service as a dedicated agency established to administer and collect taxes, which has resulted in improved tax administration and efficiency and the growth in the national tax base as more people became tax compliant (National Treasury & South African Revenue Services: 2008). The number of taxpayers has increased by 73 percent since 2003 and for the 2010 year of assessment almost six million individuals were registered for tax. It is important to note that this number excludes standard income tax on employees (SITE) only taxpayers who are not required to register with the South African Revenue Services. The efficiency of the South African Revenue Service is likely to have had a greater impact on the tax collections from incorporated taxpayers, rather than individuals.

Various amendments have been made to the Income Tax Act that have the effect of expanding taxable income for individuals, but it was the introduction of a residence basis of taxation and capital gains tax that led to an immediate broadening of the tax base in South Africa. These changes would have impacted all taxpayers registered within South Africa, however, the impact on individual taxpayers cannot be ignored.

From 1914, when South Africa first enacted income taxes in terms of the Income Tax Act no. 28 of 1914, tax was levied based on the source principle. That meant that tax was only levied on income whose source was in or deemed to be found in South Africa, irrespective of the residence of the taxpayer. The rationale for this is that, “if the natural resources of the Republic or the activities or its inhabitants produced wealth, then it was equitable for the state to receive a share of that wealth” (Kerguelen Sealing & Whaling Co Ltd v CIR 1939 AD 487 at 507 – 8, in Williams, 2006:28).

In the National Budget Speech made by the Minister of Finance, Trevor Manuel, on 23 February 2000, he indicated that the source basis of taxation was “increasingly out of line with international practice and inappropriate for the circumstances of the South African economy”. Under the source basis of taxation taxpayers had significant room for tax structuring either by resident taxpayers moving their funds into untaxed foreign source income or the use by non-residents of the “quasi-tax haven status” (Williams, 2006: 32) the source basis of taxation offered them.

Therefore from 1 January 2001 a residence basis of taxation was introduced whereby a resident is taxed on the total amount of income earned from all sources within the Republic or otherwise, i.e. on worldwide income, whereas a non-resident is only taxed on income sourced from within South Africa. The change to a residence basis of taxation was to "significantly broaden South Africa's tax base and limit opportunities for tax arbitrage" (National Budget Speech, 2000: 19).

In addition to this it was also proposed in the National Budget Speech made by the Minister of Finance, Trevor Manuel, on 23 February 2000 that a capital gains tax would be introduced in South Africa from 1 April 2001. Until this amendment was introduced South Africa had no capital gains tax and the gross income definition in section 1 of the Income Tax Act specially excluded from gross income "receipts or accruals of a capital nature". The Minister of Finance, Trevor Manuel, noted in the National Budget Speech on 23 February 2000 that, in fact, "[t]he absence of a capital gains tax encourages taxpayers to convert income that would ordinarily be taxable into tax-free capital gains". Furthermore, it would seem that the more affluent members of society would be in a position to take advantage of these tax structuring activities, therefore the absence of a capital gains tax resulted in unfair discrimination in favour of the rich (Williams: 2006). As a result of the introduction of Capital Gains Tax individuals were required to include 25 percent of their capital gains made on the disposal of assets in their taxable income from 1 October 2001. The cumulative liability raised for capital gains tax since inception on 1 October 2001 to the end of March 2010 for individuals was R11 181 million (National Treasury & South African Revenue Services, 2010: 9). This accounts for 41% of the total capital gains tax collected by the South African Revenue Services which is substantial, taking into account the fact that the company inclusion rate is 50 percent compared to 25 percent for individuals.

6.3 Analysis of income taxes from 1996 to 2012

To determine the impact on the taxpayer of the amendments made to the Income Tax Act over the last sixteen years an analysis of the tax payable by a hypothetical individual on an inflation-adjusted year-on-year basis, taking into account the applicable Income Tax Act per year of assessment is set out below. Due to the large number of variables involved in this calculation various assumptions have been made and these are all detailed below.

6.3.1 Employment income

It is assumed that the taxpayer earns a monthly salary and does not earn commission. According to 2008 Tax Statistics (a joint publication of National Treasury and the South African Revenue Service) approximately 95 percent of all personal income tax is collected through employees' tax (i.e. pay-as-you-earn). The remaining amounts are collected through provisional tax payments and on assessment of income tax returns by the South African Revenue Services. Furthermore taxpayers receive the majority of their income from salaries, wages and remuneration (approximately 68 percent) (National Treasury & South African Revenue Services, 2010).

Tax Statistics for 2008 (National Treasury & South African Revenue Services: 2008) and 2010 (National Treasury & South African Revenue Services: 2010) indicate that for the years of assessment from 2003 to 2009 a quarter of individual taxpayers are in employment, earning their income in the financing, insurance, real estate and business services sector. It is therefore assumed for the purposes of the calculation that the taxpayer is employed in this sector and earns the average income for this sector in the 1996 year of assessment. According to the Labour Statistics: Employment and salaries and wages (Summary) report number P0200, 1998, provided by Statistics South Africa, the average monthly salary in this sector at December 1996 was R6 728. The comparative figure for December 1995 is given as R6 059, which is based on the rate at December 1996, deflated using the consumer price index for 1995. For the purposes of the present analysis, the base salary for the 1996 year of assessment will be based on the average of the December 1996 and 1995 salary grossed up to 12 months, which equates to R76 722 per annum. This will be increased annually, on the first of March, by the inflation rate relevant to that year of assessment (refer to Annexure C: Inflation rates).

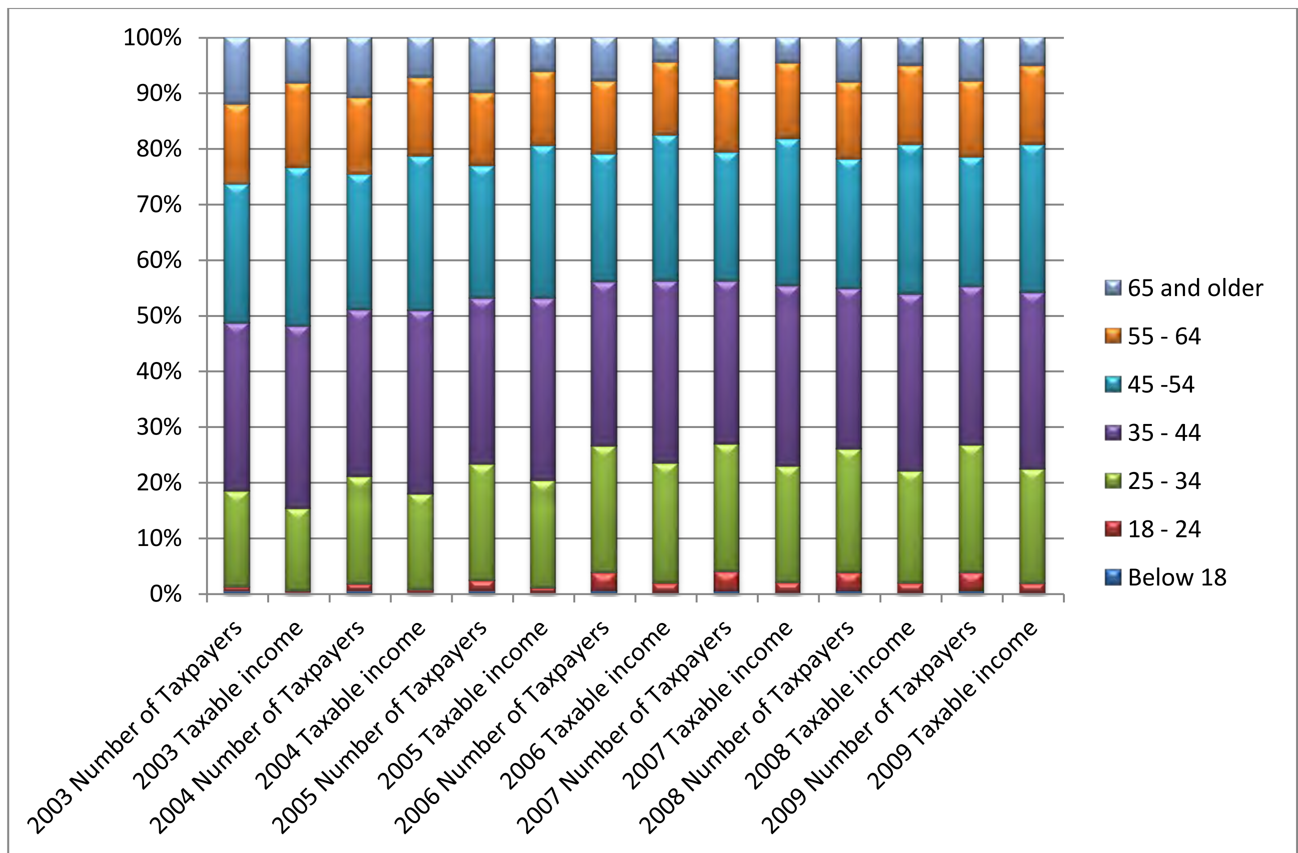
6.3.2 Gender

With the removal of gender discrimination from the Income Tax Act from the 1996 year of assessment, the gender of the taxpayer is not relevant to the calculation of an individual's tax liability.

6.3.3 Age of the taxpayer

The majority of taxpayers are between 25 to 54 years of age; approximately 30% of taxpayers fall into the age group 35 to 44 (refer to Chart 6.2). This group also represents approximately one-third of all taxable income earned by taxpayers in South Africa (National Treasury & South African Revenue Services: 2010). It is therefore assumed that the taxpayer in question falls in this age group. The taxpayer is therefore entitled to a primary rebate in terms of section 6 of the Income Tax Act, but no secondary rebate for persons 65 years of age and older.

Figure 6.2 Taxpayers by age group: 2003 to 2009



National Treasury & South African Revenue Services, 2008: 16

National Treasury & South African Revenue Services, 2010: 39

6.3.4 Fringe benefits

As the analysis of fringe benefits granted from 2003 to 2009 shows that medical scheme contributions paid on behalf of employees (46.5 percent) and granting the employees the right to

use a company car (27.2 percent) are the main fringe benefits granted to individuals, it will be assumed that the taxpayer receives both of these benefits from his employer.

The medical aid contributions, assumed to be paid by the employer on behalf of the employee, are sourced from the annual reports of the Registrar of Medical Schemes from 1996 to 2011 (Council for Medical Schemes: 1996 to 2011). This report summarises the contributions made by members to all medical schemes, as well as the number of beneficiaries on all registered schemes. The actual average contribution per member will be used in the present analysis. The average number of beneficiaries will be rounded to represent whole numbers. The average contributions and the number of beneficiaries are reflected in Annexure D – Monetary amounts.

Where the calculation involves the use of a company car or a car allowance, it is assumed that the employee is provided with or owns a Volkswagen Golf 1.6. The purchase price of the vehicle does not include a maintenance plan. It is also assumed that the vehicle is replaced every four years with an equivalent vehicle. It is assumed that the employer pays all expenses relating to insurance, maintenance, licensing and fuel for the vehicle. Refer to Annexure D – Monetary amounts, where the cost of the vehicle in 1996 and the replacement costs in 2000, 2004 and 2008 are reflected, based on the actual cost of the vehicle in those years.

6.3.5 Allowances

An analysis of allowances granted from 2003 to 2009 according to the 2008 Tax Statistics and the 2010 Tax Statistics (a joint publication between National Treasury and the South African Revenue Services) shows that travel allowances make up the largest share of all allowances. The taxpayer will therefore be assumed to receive a travel allowance as part of his remuneration. Because anti-avoidance provisions apply where a taxpayer receives both a company car and a car allowance and the number of variables involved, the tax analysis will deal with the situation where an individual has a company car as scenario A and a car allowance as scenario B. It is assumed that the taxpayer receives a monthly car allowance of R2 500 per month and travels 34 000 kilometres during the year of assessment of which 17 500 are for business purposes. The allowance is escalated on an annual basis in line with the average inflation rate (refer to Annexure D – Monetary amounts). It is assumed that the vehicle the taxpayer will purchase will be the same make and model and cost as

the company car provided by the employer to the employee and that it is also replaced every four years. It is also assumed that the taxpayer does not maintain a record of the expenses incurred in respect of the vehicle and that the standard table (refer to Annexure B) has been used to claim the relevant deductions.

The 2002 tax amendments had a major impact on how allowances were utilised by individuals to structure their salary packages. To illustrate the interrelationship between cash allowances with the available deductions, the taxpayer will be assumed to be paid a cell phone allowance to the value of R100 per month. The cost of the taxpayer's business calls will be assumed to amount to R120 per month. In addition the taxpayer is assumed to receive an allowance of R300 per month to defray entertainment expenditure incurred. The expenditure actually incurred is assumed to amount to R2 880 for the 1996 year of assessment. It is further assumed that the Commissioner is satisfied that the taxpayer's duties regularly and necessarily involve incurring entertainment expenses. The amount of these allowances is escalated annually in line with the average exchange rate (refer to Annexure D – Monetary amounts).

6.3.6 Deductions

As contributions to retirement funding accounted for the largest share of deductions claimed by individual taxpayers, the taxpayer will be assumed to contribute 8% of his or her salary to a pension fund and R250 per month to a retirement annuity fund. This will be adjusted annually by the inflation rate (refer to Annexure D – Monetary amounts).

6.3.7 Taxable income

Based on the information and assumptions detailed above, tax computations have been prepared for an individual taxpayer on a yearly basis, adjusted for inflation, taking into account the applicable Income Tax Act, tax tables and rebates for each year of assessment. These calculations are set out in Tables 6.2 and 6.3. The monetary amounts are detailed in Annexure D and a detailed tax calculation for the 1996 year of assessment in respect of scenario A and scenario B is set out in Annexure E. Due to the complexities and anti-avoidance provisions relating to taxpayers who received both the right of use of a company car and a car allowance, two scenarios have been

prepared. Scenario A represents the situation for a taxpayer who receives a company car (table 6.2) and scenario B for a taxpayer who receives a car allowance (table 6.3).

Table 6.2 and 6.3 reflect the taxable amounts and deductions available for the individual taxpayer, based on detailed tax calculations as illustrated in Annexure E.

Table 6.2 Calculation of taxable income 1996 to 2003: Taxpayer receives a company car (scenario A)

	Year of assessment							
	1996	1997	1998	1999	2000	2001	2002	2003
INCOME								
Salary	76 722	82 706	89 322	95 932	99 961	106 159	111 892	123 193
Medical aid (paragraph 2(i) Seventh Schedule)	N/A	N/A	N/A	2 616	3 104	3 961	4 665	5 373
Entertainment allowance (para (c) gross income)	3 600	3 881	4 191	4 501	4 690	4 981	5 250	0
Section 11(u) deduction	(2 500)	(2 500)	(2 500)	(2 500)	(2 500)	(2 500)	(2 500)	N/A
Company Car	5 399	5 399	7 199	8 099	10 285	10 285	10 285	10 285
DEDUCTIONS								
Pension fund contributions (section 11(k))	(5 754)	(6 203)	(6 699)	(7 195)	(7 497)	(7 962)	(8 392)	(9 239)
Retirement annuity fund contributions (section 11(n))	(1 750)	(1 750)	(1 750)	(1 907)	(2 337)	(2 509)	(2 655)	(2 349)
Section 8(1) Allowances								
Cell phone allowance	1 200	1 294	1 397	1 500	1 563	1 660	1 750	1 927
Less business expenses	(1 200)	(1 294)	(1 397)	(1 500)	(1 563)	(1 660)	(1 750)	0
Entertainment allowance	0	0	0	0	0	0	0	5 781
Medical expenses section (18)	0	0	0	0	0	0	0	0
TAXABLE INCOME	75 717	81 533	89 763	99 546	105 706	112 414	118 545	134 971
TAXATION PAYABLE	22 019	23 414	26 330	29 635	30 870	30 565	29 938	30 080

Table 6.2 Calculation of taxable income 2004 to 2011: Taxpayer receives a company car (scenario A) (continued)

	Year of assessment							
	2004	2005	2006	2007	2008	2009	2010	2011
INCOME								
Salary	128 490	130 803	135 512	142 288	153 244	170 560	181 988	189 085
Medical aid (paragraph 2(i) Seventh Schedule)	5 923	6 241	6 550	7 950	8 435	9 113	10 080	27 429
Company Car	16 552	16 552	16 552	22 989	29 868	29 868	29 868	29 868
DEDUCTIONS								
Pension fund contributions (section 11(k))	(9 637)	(9 810)	(10 163)	(10 672)	(11 493)	(12 792)	(13 649)	(14 181)
Retirement annuity fund contributions (section 11(n))	(3 771)	(3 419)	(3 465)	(5 564)	(5 992)	(6 669)	(7 116)	(7 394)
Section 8(1) Allowances								
Cell phone allowance	2 010	2 046	2 120	2 226	2 397	2 668	2 846	2 957
Less business expenses	0	0	0	0	0	0	0	0
Entertainment allowance	6 029	6 138	6 359	6 677	7 191	8 003	8 539	8 872
Medical expenses section (18)	0	0	0	0	0	0	0	(16 080)
TAXABLE INCOME	145 997	148 551	153 465	165 895	183 650	200 751	212 556	220 556
TAXATION PAYABLE	28 299	27 835	27 639	27 568	30 480	33 655	34 271	35 057

Table 6.3 Calculation of taxable income 1996 to 2003: Taxpayer receives a car allowance (scenario B)

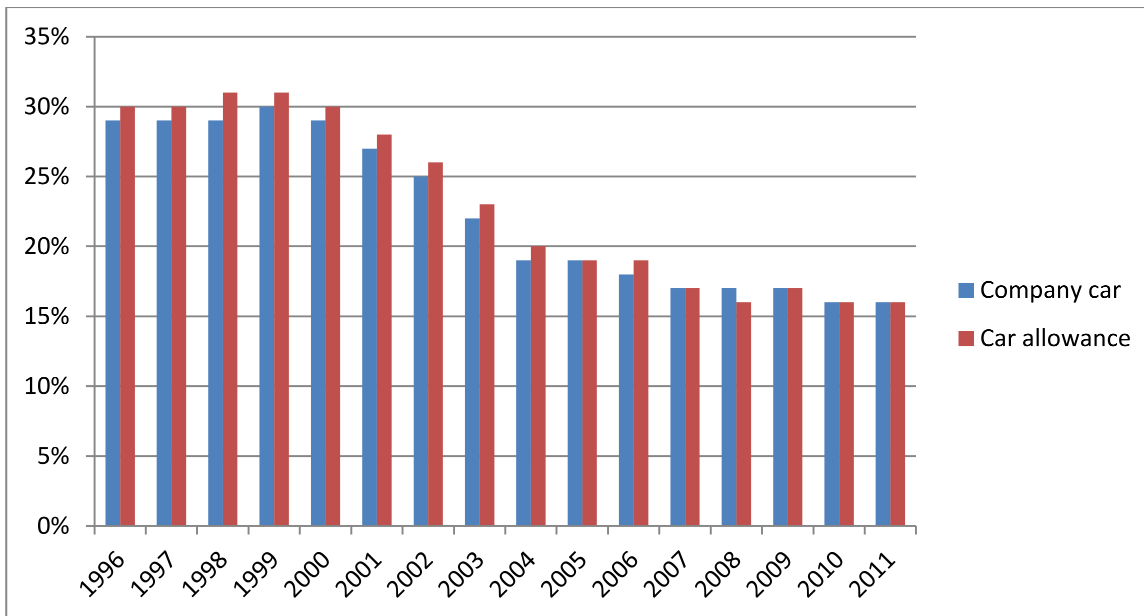
	Year of assessment							
	1996	1997	1998	1999	2000	2001	2002	2003
INCOME								
Salary	76 722	82 706	89 322	95 932	99 961	106 159	111 892	123 193
Medical aid (paragraph 2(i) Seventh Schedule)	N/A	N/A	N/A	2 616	3 104	3 961	4 665	5 373
Entertainment allowance (para (c) gross income)	3 600	3 881	4 191	4 501	4 690	4 981	5 250	0
Section 11(u) deduction	(2 500)	(2 500)	(2 500)	(2 500)	(2 500)	(2 500)	(2 500)	N/A
DEDUCTIONS								
Pension fund contributions (section 11(k))	(5 754)	(6 203)	(6 699)	(7 195)	(7 497)	(7 962)	(8 392)	(9 239)
Retirement annuity fund contributions (section 11(n))	(1 750)	(1 750)	(1 750)	(1 750)	(1 750)	(1 750)	(1 750)	(1 750)
Section 8(1) Allowances								
Cell phone allowance	1 200	1 294	1 397	1 500	1 563	1 660	1 750	1 927
Less business expenses	(1 200)	(1 294)	(1 397)	(1 500)	(1 563)	(1 660)	(1 750)	0
Entertainment allowance	0	0	0	0	0	0	0	5 781
Car allowance	30 000	32 340	34 927	37 512	39 087	41 511	43 752	48 171
Less business travel	(18 998)	(20 368)	(18 331)	(18 331)	(20 598)	(25 048)	(25 048)	(25 048)
Medical expenses section (18)	0	0	0	0	0	0	0	0
TAXABLE INCOME	81 320	88 106	99 160	110 785	114 497	119 352	127 869	148 408
TAXATION PAYABLE	24 591	26 306	30 465	34 580	34 738	33 341	33 667	34 783

Table 6.3 Calculation of taxable income 2004 to 2011: Taxpayer receives a car allowance (scenario B) (continued)

	Year of assessment							
	2004	2005	2006	2007	2008	2009	2010	2011
INCOME								
Salary	128 490	130 803	135 512	142 288	153 244	170 560	181 988	189 085
Medical aid (paragraph 2(i) Seventh Schedule)	5 923	6 241	6 550	7 950	8 435	9 113	10 080	27 429
DEDUCTIONS								
Pension fund contributions (section 11(k))	(9 637)	(9 810)	(10 163)	(10 672)	(11 493)	(12 792)	(13 649)	(14 181)
Retirement annuity fund contributions (section 11(n))	(1 750)	(1 750)	(1 750)	(5 564)	(5 992)	(6 669)	(7 116)	(7 394)
Section 8(1) Allowances								
Cell phone allowance	2 010	2 046	2 120	2 226	2 397	2 668	2 846	2 957
Less business expenses	0	0	0	0	0	0	0	0
Entertainment allowance	6 029	6 138	6 359	6 677	7 191	8 003	8 539	8 872
Medical expenses section (18)	0	0	0	0	0	0	0	(16 080)
Car allowance	50 243	51 147	52 988	55 638	59 922	66 693	71 161	73 937
Less business travel	(31 623)	(32 307)	(27 888)	(31 147)	(33 960)	(35 724)	(35 724)	(35 724)
TAXABLE INCOME	149 686	152 508	163 727	167 396	179 743	201 852	218 125	228 901
TAXATION PAYABLE	29 590	29 022	30 718	27 649	29 320	33 986	35 942	37 560

To determine the impact on the taxpayer of the tax calculations in table 6.2 and 6.3, the average rate of taxation (tax as a percentage of taxable income) per year of assessment has been calculated for both scenarios and is detailed in figure 6.3.

Figure 6.3 Average tax rate (Tax as percentage of taxable income)



The bar chart presented in Figure 6.3 reveals that the taxation paid by an individual as a percentage of taxable income has decreased from 29 percent for individuals receiving a company car, and 30 percent for individuals receiving a car allowance, to 16 percent in 2011. The major changes in the taxpayer's average rate of tax occurred from 1996 to 2003, a change of approximately 10 percentage points. From 2004 onwards the percentage contribution by individuals has remained relatively constant.

Included in the taxation paid in the 1996 year of assessment is an additional tax in respect of the transition levy. In the National Budget Speech of 1994, the Minister of Finance, Derek Keys indicated that the transition levy would be introduced in the 1995 year of assessment in an attempt to recover the transition costs incurred during the 1993 and 1994 transition process to democracy. The levy of 5 percent was imposed over a two year period commencing in the 1995 year of assessment at 3.33 percent of taxable income exceeding R50 000 (R175 000 for married women).

The balance of the levy of 1.67 percent was to be collected in the 1996 tax year from all taxpayers whose taxable income exceeded R50 000.

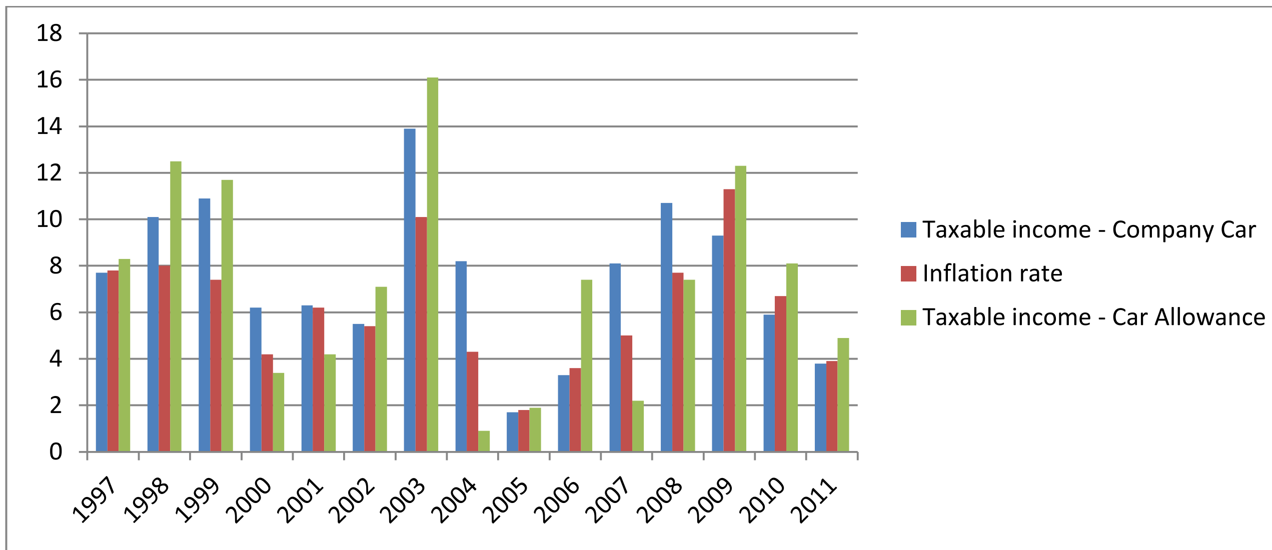
The reduction in average rate of tax from 1997 to 2004 was the result of the tax reforms undertaken by government. These reforms focused on restructuring the tax tables by reducing the number of marginal rate brackets, reducing the maximum marginal rate, increasing the tax thresholds, reducing the gradation of the marginal rate and increasing the primary and secondary rebates, resulting in an increase in the tax thresholds (refer to chapter 2). As a result, the hypothetical taxpayer used for the purposes of the research experienced a reduction in the marginal rate of the tax bracket into which his (or her) taxable income fell from 45% (for the taxpayer receiving a car allowance) and 44% (for the taxpayer receiving a car allowance) to 35% in 2004.

From 2005 to 2011 the average rate of taxation has remained fairly consistent. The marginal tax rates have remained constant since 2004, but amendments have been made to the gradation of tax brackets. The lowest tax bracket has increased from R74 000 in 2005 to R140 000 in 2011 which represents a cumulative increase of 89 percent. The top tax bracket has increased from R270 000 in 2005 to R552 000 in 2011, which equates to a cumulative increase of 104% over the seven year period. The relief provided to the taxpayer in terms of the amendments to the gradation of the tax brackets has, however, been partially offset by the amendments made to the company car benefits. The company car rates for first or single cars were increased from 1.8% to 2.5% and in respect of taxpayers who received car allowances, the standard cost schedule was amended, as well as the deemed kilometres, where deemed private use was increased from 12 000 kilometres to 16 000 and finally deleted in terms of the Explanatory Memorandum on the Taxation Laws Amendment Bill, 2009. Furthermore in the 2007 year of assessment the capped system for the deduction of medical aid contributions was introduced.

The average tax rate for the hypothetical taxpayer has decreased, but the taxable income has shown an increase year on year, as reflected in Figure 6.4. In nine out of the fifteen years, the increase in the taxable income in scenario A (where the taxpayer has the use of a company car) has outstripped the average rate of inflation, and in the case of scenario B (where the taxpayer receives

a car allowance), the increase in taxable income has outstripped the average inflation rate in ten out of the fifteen years.

Figure 6.4 Taxable income percentage increase versus inflation



The increase in the taxable income of the hypothetical taxpayer is partially due to the effects of inflation on monetary amounts, as is the case for 1997 year of assessment, but the amendments made to the Income Tax Act have also had an impact as follows:

- during 1998 year of assessment the company car rate was increased to 1.8 percent from 1.2 percent and the deemed private mileage for a car allowance was increased to 14 000 kilometres;
- from 1 March 1998 medical aid contributions paid by an employer were taxed as a fringe benefit, to the extent that the employer's contribution exceeded two thirds of the total contribution;
- the deemed standard cost schedule increased from 1 March 2000, but then remained the same for the 2001, 2002 and 2003 years of assessment;
- 2002 amendments to allowances resulted in no deduction being granted for entertainment expenses or cell phone usage;
- upgrading to a new vehicle, from 1 March 2003, at a higher cost, increases the fringe benefit value for a company car and the value of the business expenditure that may be claimed for a car allowance;

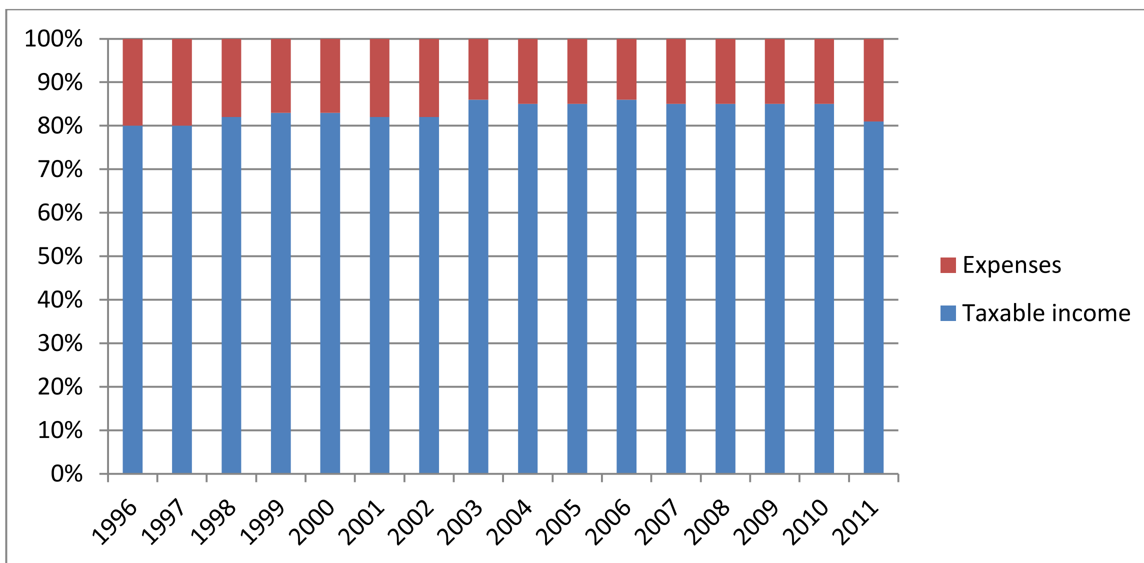
- deemed standard cost schedules were revised from 1 March 2005 and in particular the fixed cost value for the vehicle in question decreased (from R40 538 to R30 893) which decreased the value of business travel claimed as a deduction;
- from 1 March 2006 the company car rate increased from 1.8 percent to 2.5 percent;
- upgrading to a new vehicle, from 1 March 2007, at a higher cost, increases the fringe benefit value for a company car and the value of the business expenditure that may be claimed for a car allowance;
- the introduction of the medical aid capped fringe benefit from 1 March 2006 increased the value of the taxpayer's fringe benefit which also directly affected the quantum of the retirement annuity fund deductions.

Inflation will therefore account for part of the increase in taxable income year on year, but the amendments made to the Income Tax Act, together with the various choices a taxpayer makes in relation to motor vehicles, medical aid and allowances, will further affect the taxpayer's income. It is therefore evident that for taxpayers to remain in a tax advantageous situation year on year, tax planning must be undertaken.

The revisions made by the government over the last sixteen years have been to ensure a more equitable system of income tax for individuals by providing tax relief where an unfair burden has been placed on the individual and to ensure that tax loopholes are not manipulated by individuals in an attempt to reduce their tax liability. The closing of these tax loopholes has, however, had the effect of reducing the deductions individuals may claim and also increasing taxable income.

Figure 6.5 illustrates the percentage of taxable income and expenses as a percentage of total income utilising an average of both scenario A and B.

Figure 6.5 Taxable income and expenses as a percentage of total income



In respect of the hypothetical taxpayer, the ratio of taxable income to expenses has shown an increase from 80 percent in 1996 to 85 percent in 2010. The primary reason for this was the amendments in terms of the Taxation Laws Amendment Act 30 of 2002 whereby the full amount of any and all allowances were to be included in gross income in terms of section 8(1) of the Income Tax Act (subject to the exclusion of allowable expenses incurred for travel, subsistence or public office), as well as the introduction of section 23(m) of the Income Tax Act which limited the deductions that may be claimed by an individual (refer to chapter 4 and 5). The ratio of taxable income to expenses dropped to 81 percent in the 2011 year of assessment, primarily in the case of the hypothetical taxpayer as a result of the medical aid fringe benefit no longer being capped and the full amount being taxable. This in turn has lead to a bigger deduction in terms of section 18((2)(c)(i) of the Income Tax Act, as the medical aid contributions, although still capped, are not reduced by any amounts contributed by the employer not included in gross income. This relief is, however, likely to be temporary as a new system of medical tax credits is planned to come into effect from 1 March 2012.

6.4 Conclusion

The present chapter employed a hypothetical example to calculate the tax liability of an individual taxpayer from 1996 to 2011. The example was based on a number of limiting assumptions. Two

scenarios were illustrated: one where the employee was paid a cash allowance to compensate for the cost of using his or her private vehicle for business purposes and one where the employee was granted the use of a company car for both private and business purposes. All amounts were increased from the base year 1996 to reflect the average annual inflation rates. The taxpayer illustrated in the example experienced a decrease in his or her average rate of tax, but an increase in the percentage increase in taxable income compared to the average rate of inflation, as well as an overall decrease in the ratio of deductible expenses to total income. In interpreting these results, it is important to note that they are based on one hypothetical taxpayer earning income from employment only, and a limited range of employment benefits. This taxpayer cannot be representative of all individual taxpayers who earn higher or lower amounts of remuneration from employment or who earn investment or business income. The results have, nevertheless, illustrated the effect of the tax changes discussed in this thesis.

Personal income tax is still the largest contributor to the national budget of South Africa. Although the percentage contribution has decreased from 40.2 percent in 1996 to 34.3 percent in 2010, the actual amounts of revenue collected have increased by approximately 11% per year which far exceeds the average inflation rate of 6.23% per year. Therefore, although the objectives undertaken by government to ensure a fairer tax system by reducing the number of marginal rate brackets, reducing the maximum marginal rate, increasing the tax thresholds and reducing the gradation of the marginal rate have resulted in the average rate of taxation decreasing for an individual, the revenue collected from the individual taxpayer has still increased beyond that expected in terms of inflation. This is partly attributed to the major tax reforms that took place following the National Budget Speech made by the Minister of Finance, Trevor Manuel, on 23 February 2000 (the change to a residence basis of taxation and the introduction of capital gains tax), the various amendments made to fringe benefits and allowances to close the tax loopholes, the reduction of the range of available deductions, as well as the efficiency gains by the South African Revenue Service and the targeting of tax avoidance schemes, which have resulted in a broadening of the tax base and an increase in tax collections from individuals.

7. Conclusion

7.1 Goal of the research

The goal of the research was to identify and analyse the changes to personal income tax over the last sixteen years and to investigate whether the changes that have taken place have, in fact, resulted in relieving the burden placed on the South African individual taxpayer since 1996. An interpretative research approach was adopted via a systematic exposition of the Income Tax Act, and the various amendments to the Act that have taken place over the last sixteen years, where they impact on the tax liability of an individual. The research also made use of statistics relating to tax collections, the National Budget and the Annual Budget Speeches as tabled by the Minister of Finance. As the research was focused on the personal income tax the core focus areas identified were the tax rates applying to individuals (chapter 2), taxable fringe benefits (chapter 3), taxable allowances (chapter 4) and allowable deductions (chapter 5). Furthermore in chapter 6 an analysis was presented in the form of a hypothetical example which illustrated the tax payable by an individual on an inflation-adjusted year-on-year basis taking into account the Income Tax Act applicable in a particular year of assessment incorporating all the variables identified in the analysis of the tax changes. Chapter 6 also briefly analysed the proportion of tax collected from individuals in comparison with total taxes, taking into account major economic changes that affected the total tax collections.

7.2 Overview of the thesis findings

The tax tables form a vital component in the calculation of an individual’s tax liability; therefore in Chapter 2 the tax rates applicable to individuals were analysed. This analysis included a review of the tax rates applicable over the last 16 years, the amendments made and the impact of inflation on the tax rates. Major tax reforms were undertaken by Government with respect to the tax tables which resulted in a reduction in the number of marginal rate brackets from ten to six, a reduction in the maximum marginal rate from 45 percent to 40 percent, an increase in tax thresholds and a reduction in the gradation of the tax brackets. These amendments reduced the tax threshold for persons under the age of 65 years of age by 308 percent to R59 750 in the 2012 year of assessment and by 247 percent for persons over 65 years of age. Further tax relief is available from the 2012

year of assessment for persons over 75 years of age in the form of an additional R2 000 rebate resulting in the tax threshold for these persons being R104 261.

The tax brackets gradated by only R5 000 in 1996 whereas in 2012 the gradation levels vary from R81 000 to R121 000 and the threshold at which the maximum rate of 40 percent applies has increased from R80 000 in 1996 to R580 000 in 2012. These amendments also compensated for the impact of inflation by ensuring that the effect of bracket creep would be minimised.

An individual's tax liability has as its other component the calculation of taxable income, which consists of gross income less exempt income and allowable deductions. Included in gross income are employment benefits paid to employees over and above their basic salary or wage ("fringe benefits"). Significant amendments have been made over the last sixteen years to the taxation of fringe benefits in the Seventh Schedule of the Income Tax Act, specifically in relation to medical aid contributions and employer provided vehicles.

Medical aid contributions paid by an employer on behalf of an employee progressed from initially not being taxable, to one third being included in gross income in the 1999 year of assessment; this was then amended to allow a tax free portion limited to capped amounts depending on the number of beneficiaries from the 2007 year of assessment to the full amount being taxable from 1 March 2010. The value of the taxable benefit relating to company cars has also increased as a result of the substantial increase in the applicable rates, which increased from 1.2 percent in 1996 to 3.5 percent from 1 March 2011, although taxpayers may reduce the value of the benefit for business travel. These amendments made to the Seventh Schedule have increased the burden on the taxpayers with respect to their tax liability and also in respect of the documentary evidence required to allow taxpayers to claim legitimate deductions.

Non-monetary fringe benefits were dealt with in chapter 3 and chapter 4 focused on the amendments to monetary benefits paid to employees, or allowances as they are commonly known. Allowances are often used to structure salary packages to assist employees to reduce their tax liability at no additional cost to the employer. This has led to abuse of the allowance provisions and they have therefore been subject to a great deal of scrutiny from the legislature over the last sixteen years. In particular, the South African Revenue Services has closed a number of potential

loopholes relating to car allowances, most notably that employees not travelling for business purposes could still claim “business” expenditure by applying a deemed mileage to calculate business kilometres travelled. This is no longer possible as from 1 March 2010 and all persons who receive a travel allowance must now keep a log book detailing business travel.

Most notably, however, were the amendments in terms of the Taxation Laws Amendment Act 30 of 2002 which consolidated all allowance provisions in section 8(1) of the Income Tax Act. This amendment resulted in a broadening of the tax base of an individual as all allowances or advances paid to employees were now included in taxable income and the only deductions permitted against these allowances are those where the amounts have been expensed on travelling, subsistence or by reason of duties attendant upon the taxpayer’s office. This was in contrast to the earlier situation where an individual had to include all allowances or advances received in taxable income, but where they had incurred expenses in relation to these allowances, only the net amount would then be taxable.

In identifying and analysing the changes to personal income tax over the last sixteen years it is also necessary to investigate the possible deductions allowable to individual taxpayers as an individual’s calculation of taxable income consists of gross income less exempt income and allowable deductions. These deductions together with the amendments made were investigated and documented in chapter 5.

Deductions claimable by individuals in respect of contributions to retirement funds in terms of sections 11(k) and 11(n) have not been amended since the 1996 year of assessment, but in contrast to this, the deduction for qualifying medical expenses has been substantially amended, in part to try to achieve a more equitable system with regard to medical deductions. In 1996 taxpayers could only claim qualifying medical expenditure to the extent that it exceeded 5 percent of taxable income; the deduction from the 2007 year of assessment has two parts. Section 18(2)(c)(i) allows a taxpayer to claim all contributions to medical aid funds subject to certain maxima and section 18(2)(c)(ii) allows a further deduction for any amounts not recovered from the medial aid plus any contributions to the medical aid funds disallowed in terms of section 18(2)(c)(i), to the extent that this does not exceed 7.5 percent of taxable income. This amendment might result in a larger deduction for the taxpayer, but the introduction of section 23(m) from 1 March 2002 in terms of the Taxation Laws

Amendment Act 30 of 2002 resulted in other deductions available to individuals in employment being severely limited.

Prior to the 2002 amendment individuals were at liberty to deduct any expenses incurred provided they met the requirements of the general deduction formula. With the introduction of section 23(m) deductions for persons who derive income from employment are limited to contributions to a pension (section 11(k)) or retirement annuity fund (section 11(n)), qualifying legal expenses (section 11(*c*)), a wear-and-tear allowance on equipment used for employment purposes (section 11(*e*)), the deduction of bad debts relating to unpaid remuneration that had accrued to the employee but had not been paid (section 11(*i*)), a provision for doubtful debts in respect of unpaid remuneration (section 11(j)), any deduction which is allowable under section 11 (*n*A) or 11(*n*B) in respect of refunds of salaries or restraint of trade receipts and any deduction which is allowable under section 11 (*a*) in respect of any premium paid by that person under a loss of income insurance policy. The tax deductions available to an individual earning a salary have been limited, which may well result in an additional tax burden for the South African individual taxpayer.

The hypothetical example in Chapter 6, although based on a number of limiting assumptions, illustrated the effect of the tax changes discussed in chapters 2 to 5 of this thesis. The taxpayer, as illustrated in the example, experienced a decrease in his or her average rate of tax, but an increase in taxable income, compared to the average rate of inflation, as well as an overall decrease in the ratio of deductible expenses to total income.

The review of tax collections indicated that personal income tax is still the largest contributor to the national budget of South Africa. Although the percentage contribution has decreased from 40.2 percent in 1996 to 34.3 percent in 2010, the actual amounts of revenue collected have increased by approximately 11% per year which far exceeds the average inflation rate of 6.23% per year.

7.3 Concluding remarks

The Government has, over the last sixteen years, embarked on an extensive program of tax reform in South Africa. This has included major revisions to the Income Tax Act with respect to the treatment of allowances, fringe benefits and deductions in calculating taxable income, as well as

adjustments to the income tax tables and rebates. The objective of these amendments have been in part to alleviate the tax burden on individuals but also to close certain loopholes in the Income Tax Act and thereby to ensure equity amongst all taxpayers.

The changes to the income tax rates and rebates have been undertaken, in part, to compensate for inflation and to assist with bracket creep and the resulting fiscal drag, but changes have also been made to ensure that the tax system for individuals is "fair and equitable". This was to be achieved by amending the gradation of the tax brackets, reducing the marginal rates, reducing the number of tax brackets and increasing tax thresholds. These reforms have been achieved.

The tax reforms instituted resulted in tax rates being reduced over the last 16 years. In 1996 these ranged from 17 percent to 45 percent with all taxpayers earning more than R40 000 being taxed at 42%. These rates were modified from 1997 to 2003 and have remained consistent since then. The rates now range from 18 percent to a maximum of 40 percent. Although the minimum rate has increased from 17 percent to 18 percent, this increase has been negated by the increasing rebates and the fact that this rate now applies to taxpayers earning R150 000 or less compared to R5 000 in 1996. The reduction in the maximum marginal rate from 45 percent to 40 percent has seen income earners in the higher tax brackets also experiencing tax savings.

Although these changes have resulted in taxpayers reducing their average rate of taxation, it is also imperative for the Government to ensure that the amendments made to the tax tables take into account the effects of inflation and bracket creep. This too has been achieved, with the exception of the 2008 and 2009 years of assessment which were characterised by extraordinarily high periods of inflation as a result of the North American housing crisis that resulted in a global recession.

Therefore the amendments made to the tax tables and rebates have resulted in the reduction of the tax liability of an individual. This is further supported by the results of the hypothetical example in chapter 6. The average rate of taxation paid by an individual taxpayer has seen a significant decline from 29 percent for individuals receiving the use of a company car and 30 percent for individuals receiving a car allowance, to 16 percent in 2011, with the largest reduction in average taxes occurring between 1996 and 2003, a change of approximately 10 percentage points. This coincides with the period of aggressive restructuring of the tax tables.

Personal income tax is still the largest contributor to the national budget of South Africa. This contribution has declined from 40.2 percent in 1996 to 34.3 percent in 2010; however this is mainly due to an increase in corporate tax contributions to the national budget as a result of the robust economic growth and higher commodity prices experienced in South Africa. The actual amount of revenue collected from individuals has increased by approximately 11% per year which far exceeds the average inflation rate of 6.23% per year. When this is compared to the results of the analysis in chapter 6, the same pattern is noted with respect to the taxable income of the hypothetical individual, where the percentage increase in taxable income exceeded the average rate of inflation. In terms of this hypothetical analysis, this was primarily as a result of the tax reforms instituted with respect to fringe benefits, allowances and deductions allowed in the calculation of taxable income.

The Government has over the last 16 years “declared war” on fringe benefits, firstly by ensuring full disclosure on an employees’ tax certificate and by closing certain loopholes in the Income Tax Act. Employment benefits, other than salaries and wages, are included in taxable income in respect of paragraph (i) of the gross income definition (fringe benefits and the Seventh Schedule) or section 8(1) of the Income Tax Act which deals with allowances. The majority of amendments to fringe benefits have occurred with respect to medical aid contributions and company cars and this is hardly surprising considering that these benefits account for approximately 73 percent of all fringe benefits granted. Both these fringe benefits have experienced significant increases in the value that is to be included in gross income.

In addition to the stricter regulations pertaining to company cars, the Government has also paid particular attention to car allowances and allowances in general. These changes have resulted in fewer taxpayers been able to take advantage of car allowances and accordingly the value of car allowances included in taxable income has decreased from 61.2 percent in 2006 to 51.7% in 2009 (National Treasury & South African Revenue Services: 2010), with further decreases anticipated once the impact of the further amendment is experienced by the taxpayer.

The amendments to allowances have therefore extended the tax base of an individual with more items being included for tax purposes and existing loopholes being closed. Furthermore any possible deductions that may previously have been claimed by the taxpayer in respect of allowances

have also been affected by amendments to the deductions claimable by individuals, most importantly, the introduction of section 23(m) into the Income Tax Act, in terms of which the deductions available to individuals were severely limited. This is in sharp contrast to the situation prior to 2002 where individuals were at liberty to deduct any expenses incurred provided they met the requirements of the general deduction formula. It therefore is apparent that the restriction of the tax deductions available to an individual results in an additional tax burden on the individual taxpayer.

Although it is difficult to quantify the impact of these amendments on the personal income tax burden as a whole, the hypothetical example in chapter 6 illustrates the effect of these amendments on an individual taxpayer. The ratio of taxable income to expenses to has shown an increase from 80 percent in 1996 to 85 percent in 2010 and because of the significant amendments made to the fringe benefits and allowances this hypothetical taxpayer's tax base has broadened substantially.

Therefore the government may have achieved its goals of a fairer tax system by the reduction of the number of marginal rate brackets, a reduction in the maximum marginal rate, the increasing of tax thresholds, a reduction in the gradation of the marginal rate and ensuring that the tax table account for inflation, the amendments made to fringe benefits, allowances and deductions have resulted in the average taxable income of a taxpayer increasing.

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Annexure A – Tax tables

Table A1 Schedule of tax rates: 1997 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed 15 000	0 + 17% of each R1
Exceeds R15 000 but does not exceed R20 000	2 550 + 19% of the excess over R15 000
Exceeds R20 000 but does not exceed R30 000	3 500 + 21% of the excess over R20 000
Exceeds R30 000 but does not exceed R40 000	5 600 + 30% of the excess over R30 000
Exceeds R40 000 but does not exceed R60 000	8 600 + 41% of the excess over R40 000
Exceeds R60 000 but does not exceed R 80 000	16 800 + 43% of the excess over R60 000
Exceeds R80 000 but does not exceed R100 000	25 400 + 44% of the excess over R80 000
Exceeds R100 000	34 200 + 45% of the excess over R100 000

de Koker and Silke, 1996: B14

Table A2 Schedule of tax rates: 1998 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed 30 000	0 + 19% of each R1
Exceeds R30 000 but does not exceed R35 000	5 700 + 30% of the excess over R30 000
Exceeds R35 000 but does not exceed R45 000	7 200 + 32% of the excess over R35 000
Exceeds R45 000 but does not exceed R60 000	10 400 + 41% of the excess over R45 000
Exceeds R60 000 but does not exceed R70 000	16 550 + 43% of the excess over R60 000
Exceeds R70 000 but does not exceed R100 000	20 850 + 44% of the excess over R70 000
Exceeds R100 000	34 050 + 45% of the excess over R100 000

de Koker and Silke, 1997: B14

Table A3 Schedule of tax rates: 1999 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed 31 000	0 + 19% of each R1
Exceeds R31 000 but does not exceed R46 000	5 890 + 30% of the excess over R31 000
Exceeds R46 000 but does not exceed R60 000	10 390 + 39% of the excess over R46 000
Exceeds R60 000 but does not exceed R70 000	15 850 + 43% of the excess over R60 000
Exceeds R70 000 but does not exceed R120 000	20 150 + 44% of the excess over R70 000
Exceeds R120 000	42 150 + 45% of the excess over R120 000

de Koker and Silke, 1998: B13

Table A4 Schedule of tax rates: 2000 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed R33 000	0 + 19% of each R1
Exceeds R33 000 but does not exceed R50 000	6 270 + 30% of the excess over R33 000
Exceeds R50 000 but does not exceed R60 000	11 370 + 35% of the excess over R50 000
Exceeds R60 000 but does not exceed R70 000	14 870 + 40% of the excess over R60 000
Exceeds R70 000 but does not exceed R120 000	18 870 + 44% of the excess over R70 000
Exceeds R120 000	40 870 + 45% of the excess over R120 000

de Koker and Silke, 1999: B13

Table A5 Schedule of tax rates: 2001 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed R35 000	0 + 18% of each R1
Exceeds R35 000 but does not exceed R45 000	6 300 + 26% of the excess over R35 000
Exceeds R45 000 but does not exceed R60 000	8 900 + 32% of the excess over R45 000
Exceeds R60 000 but does not exceed R70 000	13 700 + 37% of the excess over R60 000
Exceeds R70 000 but does not exceed R200 000	17 400 + 40% of the excess over R70 000
Exceeds R200 000	69 400 + 42% of the excess over R200 000

de Koker, Kolitz, Arendse, and Silke, 2000: B15

Table A6 Schedule of tax rates: 2002 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed R38 000	0 + 18% of each R1
Exceeds R38 000 but does not exceed R55 000	6 840 + 26% of the excess over R38 000
Exceeds R55 000 but does not exceed R80 000	11 260 + 32% of the excess over R55 000
Exceeds R80 000 but does not exceed R100 000	19 260 + 37% of the excess over R80 000
Exceeds R100 000 but does not exceed R215 000	26 660 + 40% of the excess over R100 000
Exceeds R215 000	72 660 + 42% of the excess over R215 000

de Koker, Kolitz, Arendse, and Silke, 2001: B14

Table A7 Schedule of tax rates: 2003 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed R40 000	0 + 18% of each R1
Exceeds R40 000 but does not exceed R80 000	7 200 + 25% of the excess over R40 000
Exceeds R80 000 but does not exceed R110 000	17 200 + 30% of the excess over R80 000
Exceeds R110 000 but does not exceed R170 000	26 200 + 35% of the excess over R110 000
Exceeds R170 000 but does not exceed R240 000	47 200 + 38% of the excess over R170 000
Exceeds R240 000	73 800 + 40% of the excess over R240 000

de Koker, Kolitz, Arendse, and Silke, 2002: B14

Table A8 Schedule of tax rates: 2004 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed R70 000	0 + 18% of each R1
Exceeds R70 000 but does not exceed R110 000	12 600 + 25% of the excess over R70 000
Exceeds R110 000 but does not exceed R140 000	22 600 + 30% of the excess over R110 000
Exceeds R140 000 but does not exceed R180 000	31 600 + 35% of the excess over R140 000
Exceeds R180 000 but does not exceed R255 000	45 600 + 38% of the excess over R180 000
Exceeds R255 000	74 100 + 40% of the excess over R255 000

de Koker and Silke, 2003: B14

Table A9 Schedule of tax rates: 2005 Year of Assessment

Taxable income Where the taxable income -	Rates of tax
Does not exceed 74 000	0 + 18% of each R1
Exceeds R74 000 but does not exceed R115 000	13 320 + 25% of the excess over R74 000
Exceeds R115 000 but does not exceed R155 000	23 570 + 30% of the excess over R115 000
Exceeds R155 000 but does not exceed R195 000	35 570 + 35% of the excess over R155 000
Exceeds R195 000 but does not exceed R270 000	49 570 + 38% of the excess over R195 000
Exceeds R270 000	78 070 + 40% of the excess over R270 000

de Koker and Silke, 2004: B14

Table A10 Schedule of tax rates: 2006 Year of Assessment

Taxable income Where the taxable income -	Rates of Tax
Does not exceed R80 000	0 + 18% of each R1
Exceeds R80 000 but does not exceed R130 000	14 400 + 25% of the excess over R80 000
Exceeds R130 000 but does not exceed R180 000	26 900 + 30% of the excess over R130 000
Exceeds R180 000 but does not exceed R230 000	41 900 + 35% of the excess over R180 000
Exceeds R230 000 but does not exceed R300 000	59 400 + 38% of the excess over R230 000
Exceeds R300 000	86 000 + 40% of the excess over R300 000

Budget Tax Proposals, 2005: 5

Table A11 Schedule of tax rates: 2007 Year of Assessment

Taxable income Where the taxable income -	Rates of Tax
Does not exceed R100 000	0 + 18% of each R1
Exceeds R100 000 but does not exceed R160 000	18 000 + 25% of the excess over R100 000
Exceeds R160 000 but does not exceed R220 000	33 000 + 30% of the excess over R160 000
Exceeds R220 000 but does not exceed R300 000	51 000 + 35% of the excess over R220 000
Exceeds R300 000 but does not exceed R400 000	79 000 + 38% of the excess over R300 000
Exceeds R400 000	117 000 + 40% of the excess over R400 000

de Koker and Silke, 2006: B15

Table A12 Schedule of tax rates: 2008 Year of Assessment

Taxable income Where the taxable income -	Rates of Tax
Does not exceed R112 500	0 + 18% of each R1
Exceeds R112 500 but does not exceed R180 000	20 250 + 25% of the excess over R112 500
Exceeds R180 000 but does not exceed R250 000	37 125 + 30% of the excess over R180 000
Exceeds R250 000 but does not exceed R350 000	58 125 + 35% of the excess over R250 000
Exceeds R350 000 but does not exceed R450 000	93 125 + 38% of the excess over R350 000
Exceeds R450 000	131 125 + 40% of the excess over R450 000

de Koker and Silke, 2007: B20

Table A13 Schedule of tax rates: 2009 Year of Assessment

Taxable income Where the taxable income -	Rates of Tax
Does not exceed R122 000	0 + 18% of each R1
Exceeds R122 000 but does not exceed R195 000	21 960 + 25% of the excess over R122 000
Exceeds R195 000 but does not exceed R270 000	40 210 + 30% of the excess over R195 000
Exceeds R270 000 but does not exceed R380 000	62 710 + 35% of the excess over R270 000
Exceeds R380 000 but does not exceed R490 000	101 210 + 38% of the excess over R380 000
Exceeds R490 000	143 010 + 40% of the excess over R490 000

de Koker, Williams and Silke, 2008: B22

Table A14 Schedule of tax rates: 2010 Year of Assessment

Taxable income Where the taxable income -	Rates of Tax
Does not exceed R132 000	0 + 18% of each R1
Exceeds R132 000 but does not exceed R210 000	23 760 + 25% of the excess over R132 000
Exceeds R210 000 but does not exceed R290 000	43 260 + 30% of the excess over R210 000
Exceeds R290 000 but does not exceed R410 000	67 260 + 35% of the excess over R290 000
Exceeds R410 000 but does not exceed R525 000	109 260 + 38% of the excess over R410 000
Exceeds R525 000	152 960 + 40% of the excess over R525 000

Stiglingh, Koekemoer, Van Schalkwyk, Wilcocks, De Swardt, Jordaan, 2009: 1033

Table A15 Schedule of tax rates: 2011 Year of Assessment

Taxable income Where the taxable income -	Rates of Tax
Does not exceed R140 000	0 + 18% of each R1
Exceeds R140 000 but does not exceed R221 000	25 200 + 25% of the excess over R140 000
Exceeds R221 000 but does not exceed R305 000	45 450 + 30% of the excess over R221 000
Exceeds R305 000 but does not exceed R431 000	70 650 + 35% of the excess over R305 000
Exceeds R431 000 but does not exceed R552 000	114 750 + 38% of the excess over R431 000
Exceeds R552 000	160 730 + 40% of the excess over R552 000

Stiglingh, Koekemoer, Van Schalkwyk, Wilcocks, De Swardt, Jordaan, 2010: 1049

Table A16 Schedule of tax rates: 2012 Year of Assessment

Taxable income Where the taxable income -	Rates of Tax
Does not exceed R150 000	0 + 18% of each R1
Exceeds R150 000 but does not exceed R235 000	27 000 + 25% of the excess over R150 000
Exceeds R235 000 but does not exceed R325 000	48 250 + 30% of the excess over R235 000
Exceeds R325 000 but does not exceed R455 000	75 250 + 35% of the excess over R325 000
Exceeds R455 000 but does not exceed R580 000	120 750 + 38% of the excess over R455 000
Exceeds R580 000	168 250 + 40% of the excess over R580 000

South African Revenue Services, 2011: 2

Annexure B – Schedule of deemed rates

Table B1 Schedule of Deemed Rates Commencing 1 March 1995

FIXING OF RATE PER KILOMETRE IN RESPECT OF MOTOR VEHICLES FOR THE PURPOSES OF SECTION 8(1)(*b*)(ii) AND (iii) OF THE INCOME TAX ACT, 1962

[Government Notice 2004 *Government Gazette* 15208 of 22 October 1993]

Where the value of the vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R16 000	8 770	17.0	17.0
exceeds R16 000 but does not exceed R18 000	9 508	17.0	17.0
exceeds R18 000 but does not exceed R20 000	10 245	17.1	17.0
exceeds R20 000 but does not exceed R22 000	10 982	17.2	17.1
exceeds R22 000 but does not exceed R24 000	11 719	17.3	17.1
exceeds R24 000 but does not exceed R26 000	12 457	17.4	17.2
exceeds R26 000 but does not exceed R28 000	13 194	17.5	17.3
exceeds R28 000 but does not exceed R30 000	13 931	17.6	17.4
exceeds R30 000 but does not exceed R35 000	15 222	17.8	17.6
exceeds R35 000 but does not exceed R40 000	17 025	18.0	17.8
exceeds R40 000 but does not exceed R45 000	18 781	18.3	18.0
exceeds R45 000 but does not exceed R50 000	20 537	18.6	18.2
exceeds R50 000 but does not exceed R55 000	22 293	19.0	18.6
exceeds R55 000 but does not exceed R60 000	24 049	19.4	18.9
exceeds R60 000 but does not exceed R70 000	26 684	19.8	19.4
exceeds R70 000 but does not exceed R80 000	30 196	20.2	19.9
exceeds R80 000 but does not exceed R90 000	33 708	20.8	20.4
exceeds R90 000 but does not exceed R100 000	37 221	21.6	21.0
exceeds R100 000 but does not exceed R110 000	40 733	22.4	21.6
exceeds R110 000 but does not exceed R120 000	44 246	23.2	22.2
exceeds R120 000 but does not exceed R130 000	47 758	24.0	22.8
exceeds R130 000 but does not exceed R140 000	51 270	24.8	23.6
exceeds R140 000 but does not exceed R150 000	54 783	26.0	24.4

Where the value of the vehicles exceeds R150 000 –

a) The fixed cost shall be the sum of R54 783 plus an amount of R3 512 for every R10 000 or part thereof by which the value of the vehicle exceeds R150 000

b) The fuel cost shall be 26 cents per kilometre; and

c) The maintenance cost shall be 24.4 cents per kilometre

Table B2 Schedule of Deemed Rates Commencing 1 March 1996

FIXING OF RATE PER KILOMETRE IN RESPECT OF MOTOR VEHICLES FOR THE PURPOSES OF SECTION 8(1)(*b*)(ii) AND (iii) OF THE INCOME TAX ACT, 1962

[Government Notice 782 *Government Gazette* 17170 of 6 May 1996]

Where the value of the vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R16 000	10 118	18.8	17.0
exceeds R16 000 but does not exceed R18 000	10 875	18.8	17.0
exceeds R18 000 but does not exceed R20 000	11 632	18.9	17.0
exceeds R20 000 but does not exceed R22 000	12 389	18.9	17.1
exceeds R22 000 but does not exceed R24 000	13 147	19.0	17.1
exceeds R24 000 but does not exceed R26 000	13 904	19.1	17.2
exceeds R26 000 but does not exceed R28 000	14 661	19.2	17.3
exceeds R28 000 but does not exceed R30 000	15 418	19.3	17.4
exceeds R30 000 but does not exceed R35 000	16 744	19.5	17.6
exceeds R35 000 but does not exceed R40 000	18 623	19.7	17.8
exceeds R40 000 but does not exceed R45 000	20 429	20.0	18.0
exceeds R45 000 but does not exceed R50 000	22 235	20.3	18.2
exceeds R50 000 but does not exceed R55 000	24 042	20.7	18.6
exceeds R55 000 but does not exceed R60 000	25 848	21.1	18.9
Exceeds R60 000 but does not exceed R70 000	28 557	21.5	19.4
exceeds R70 000 but does not exceed R80 000	32 170	22.0	19.9
exceeds R80 000 but does not exceed R90 000	35 782	22.6	20.4
exceeds R90 000 but does not exceed R100 000	39 394	23.2	21.0
exceeds R100 000 but does not exceed R110 000	43 007	23.8	21.6
exceeds R110 000 but does not exceed R120 000	46 619	24.5	22.2
exceeds R120 000 but does not exceed R130 000	50 232	25.3	22.8
exceeds R130 000 but does not exceed R140 000	53 844	26.1	23.6
exceeds R140 000 but does not exceed R150 000	57 456	27.5	24.4

Where the value of the vehicles exceeds R150 000 –

a) The fixed cost shall be the sum of R57 456 plus an amount of R3 612 for every R10 000 or part thereof by which the value of the vehicle exceeds R150 000

b) The fuel cost shall be 27.5 cents per kilometre; and

c) The maintenance cost shall be 244 cents per kilometre

Table B3 Schedule of Deemed Rates Commencing 1 March 2000

FIXING OF RATE PER KILOMETRE IN RESPECT OF MOTOR VEHICLES FOR THE PURPOSES OF SECTION 8(1)(*b*)(ii) AND (iii) OF THE INCOME TAX ACT, 1962

[Government Notice 194 in Government Gazette 20 931 of 25 February 2000.]

Where the value of the vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R30 000	16 916	23.1	17.1
exceeds R30 000 but does not exceed R35 000	18 984	23.5	17.3
exceeds R35 000 but does not exceed R40 000	21 051	23.8	17.8
exceeds R40 000 but does not exceed R45 000	23 116	24.3	18.5
exceeds R45 000 but does not exceed R50 000	25 197	24.8	19.2
exceeds R50 000 but does not exceed R55 000	27 670	25.3	19.9
exceeds R55 000 but does not exceed R60 000	29 778	25.5	20.6
Exceeds R60 000 but does not exceed R70 000	33 873	25.9	21.3
exceeds R70 000 but does not exceed R80 000	38 102	26.1	22.2
exceeds R80 000 but does not exceed R90 000	40 538	26.3	22.7
exceeds R90 000 but does not exceed R100 000	44 535	26.5	23.4
exceeds R100 000 but does not exceed R110 000	48 533	26.8	24.1
exceeds R110 000 but does not exceed R120 000	51 110	27.5	24.8
exceeds R120 000 but does not exceed R130 000	54 990	28.1	25.5
exceeds R130 000 but does not exceed R140 000	58 803	28.9	26.2
exceeds R140 000 but does not exceed R150 000	62 677	29.4	26.9

Where the value of the vehicles exceeds R150 000 –

a) The fixed cost shall be the sum of R62 677 plus an amount of R3 874 for every R10 000 or part thereof by which the value of the vehicle exceeds R150 000

b) The fuel cost shall be 29.4 cents per kilometre; and

c) The maintenance cost shall be 26.9 cents per kilometre

Table B4 Schedule of Deemed Rates Commencing 1 March 2005

FIXING OF RATE PER KILOMETRE IN RESPECT OF MOTOR VEHICLES FOR THE PURPOSES OF SECTION 8(1)(*b*)(ii) AND (iii) OF THE INCOME TAX ACT, 1962

[Government Notice 170 in Government Gazette 27332 of 25 February 2005]

Where the value of the vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R40 000	14 489	34.5	21.6
exceeds R40 000 but does not exceed R60 000	19 869	36.2	22.4
exceeds R60 000 but does not exceed R80 000	25 068	36.2	22.4
exceeds R80 000 but does not exceed R100 000	30 893	40.7	27.8
exceeds R100 000 but does not exceed R120 000	35 578	40.7	27.8
exceeds R120 000 but does not exceed R140 000	40 732	40.7	27.8
exceeds R140 000 but does not exceed R160 000	46 157	45.0	37.7
Exceeds R160 000 but does not exceed R180 000	51 930	45.0	37.7
exceeds R180 000 but does not exceed R200 000	57 332	51.1	41.6
exceeds R200 000 but does not exceed R220 000	63 287	51.1	41.6
exceeds R220 000 but does not exceed R240 000	68 697	51.1	41.6
exceeds R240 000 but does not exceed R260 000	74 287	51.1	41.6
exceeds R260 000 but does not exceed R280 000	78 992	53.9	49.8
exceeds R280 000 but does not exceed R300 000	83 744	53.9	49.8
exceeds R300 000 but does not exceed R320 000	88 854	53.9	49.8
exceeds R320 000 but does not exceed R340 000	94 322	53.9	49.8
exceeds R340 000 but does not exceed R360 000	99 240	59.8	65.5
exceeds R360 000	99 240	59.8	65.5

Table B5 Schedule of Deemed Rates Commencing 1 March 2006

FIXING OF RATE PER KILOMETRE IN RESPECT OF MOTOR VEHICLES FOR THE PURPOSES OF SECTION 8(1)(*b*)(ii) AND (iii) OF THE INCOME TAX ACT, 1962

[Government Notice 177 in Government Gazette 28550 of 24 February 2006]

Where the value of the vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R40 000	15 364	47.3	22.5
exceeds R40 000 but does not exceed R60 000	20 910	49.4	26.2
exceeds R60 000 but does not exceed R80 000	25 979	49.4	26.2
exceeds R80 000 but does not exceed R100 000	31 513	54.8	30.5
exceeds R100 000 but does not exceed R120 000	36 978	54.8	30.5
exceeds R120 000 but does not exceed R140 000	41 771	54.8	30.5
exceeds R140 000 but does not exceed R160 000	47 512	57.2	39.8
Exceeds R160 000 but does not exceed R180 000	52 629	57.2	39.8
exceeds R180 000 but does not exceed R200 000	58 334	65.9	43.8
exceeds R200 000 but does not exceed R220 000	64 591	65.9	43.8
exceeds R220 000 but does not exceed R240 000	69 072	65.9	43.8
exceeds R240 000 but does not exceed R260 000	74 777	65.9	43.8
exceeds R260 000 but does not exceed R280 000	79 918	69.3	52.5
exceeds R280 000 but does not exceed R300 000	85 440	69.3	52.5
exceeds R300 000 but does not exceed R320 000	88 793	69.3	52.5
exceeds R320 000 but does not exceed R340 000	95 218	69.3	52.5
exceeds R340 000 but does not exceed R360 000	100 011	77.1	68.0
exceeds R360 000	100 011	77.1	68.0

Table B6 Schedule of Deemed Rates Commencing 1 March 2008

FIXING OF RATE PER KILOMETRE IN RESPECT OF MOTOR VEHICLES FOR THE PURPOSES OF SECTION 8(1)(*b*)(ii) AND (iii) OF THE INCOME TAX ACT, 1962

[Government Notice 216 *Government Gazette* 30796 of 22 February 2008.]

Where the value of the vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R40 000	14 672	58.6	21.7
exceeds R40 000 but does not exceed R80 000	29 106	58.6	21.7
exceeds R80 000 but does not exceed R120 000	39 928	62.5	24.2
exceeds R120 000 but does not exceed R160 000	50 749	68.6	28.0
exceeds R160 000 but does not exceed R200 000	63 424	68.8	41.1
exceeds R200 000 but does not exceed R240 000	76 041	81.5	46.4
exceeds R240 000 but does not exceed R280 000	86 211	81.5	46.4
exceeds R280 000 but does not exceed R320 000	96 260	85.7	49.4
exceeds R360 000 but does not exceed R360 000	106 367	94.6	56.2
exceeds R360 000 but does not exceed R400 000	116 012	110.3	75.2
exceeds R400 000	116 012	110.3	75.2

Table B7 Schedule of Deemed Rates Commencing 1 March 2011

FIXING OF RATE PER KILOMETRE IN RESPECT OF MOTOR VEHICLES FOR THE PURPOSES OF SECTION 8(1)(*b*)(ii) AND (iii) OF THE INCOME TAX ACT, 1962

[Government notice 548 in Government Gazette no. 34047 dated 25 February 2011]

Where the value of the vehicle	Fixed Cost R	Fuel Cost c	Maintenance Cost c
does not exceed R60 000	19 492	64.6	26.4
exceeds R60 000 but does not exceed R120 000	38 726	68.0	29.2
exceeds R120 000 but does not exceed R180 000	52 594	17.3	31.9
exceeds R180 000 but does not exceed R240 000	66 440	77.7	35.0
exceeds R240 000 but does not exceed R300 000	79 185	87.0	44.7
exceeds R300 000 but does not exceed R360 000	91 873	93.9	54.2
exceeds R360 000 but does not exceed R420 000	105 809	100.9	65.8
exceeds R420 000 but does not exceed R480 000	119 683	113.1	67.6
exceeds R480 000	119 683	113.1	67.6

Annexure C – Inflation Rates

Average inflation rate from 1 March to 28 February

Year of assessment	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Average Rate
1996	10.4	11.1	10.8	10.2	8.9	7.5	6.5	6.3	6.3	6.9	6.8	6.3	8.2
1997	6.1	5.5	5.7	6.8	7.3	7.5	8.3	9.0	9.2	9.3	9.4	10.0	7.8
1998	9.7	9.9	9.6	8.7	9.0	8.8	8.1	7.8	7.0	6.3	5.7	5.2	8.0
1999	5.4	5.0	5.1	5.3	6.6	7.5	9.0	8.9	9.3	8.9	8.9	8.7	7.4
2000	7.9	7.7	7.1	7.2	4.8	3.3	1.9	1.7	1.9	2.2	2.7	2.4	4.2
2001	3.4	4.6	5.1	5.1	6.1	6.9	7.1	7.0	7.0	7.0	7.1	7.8	6.2
2002	7.4	6.5	6.4	6.4	5.2	4.6	4.4	3.9	4.2	4.5	4.9	5.8	5.4
2003	6.3	7.4	7.7	8.0	9.7	10.4	11.1	13.0	12.9	12.4	11.6	10.2	10.1
2004	10.2	8.8	7.9	6.7	5.2	5.1	3.8	1.6	0.4	0.4	0.1	0.8	4.3
2005	0.4	0.3	0.5	1.2	1.6	1.0	1.3	2.4	3.7	3.3	3.0	2.6	1.8
2006	3.0	3.5	3.4	2.8	3.3	3.9	4.3	4.0	3.3	3.6	4.0	3.9	3.6
2007	3.4	3.3	3.9	4.9	5.0	5.5	5.3	5.4	5.4	5.8	6.0	5.8	5.0
2008	6.1	6.9	6.9	7.1	7.1	6.7	7.2	7.8	8.4	9.0	9.3	9.8	7.7
2009	10.6	11.1	11.7	12.2	13.4	13.7	13.1	12.1	11.8	9.5	8.1	8.6	11.3
2010	8.5	8.4	8.0	6.9	6.7	6.4	6.1	5.9	5.8	6.3	6.2	5.7	6.7
2011	5.1	4.8	4.6	4.2	3.7	3.5	3.2	3.4	3.6	3.5	3.7	3.7	3.9
2012	4.1	4.2	4.6	5.0	5.3	-	-	-	-	-	-	-	4.6

Source: Annual inflation on a monthly basis, 2011, Statistics South Africa

Annexure D – Monetary amounts

	Year of assessment							
	1996	1997	1998	1999	2000	2001	2002	2003
INCOME								
Salary	76 722	82 706	89 322	95 932	99 961	106 159	111 892	123 193
Medical aid • **Cost**	6 182	6 540	7 074	7 848	9 312	11 882	13 996	16 120
• **Number of beneficiaries**	3	3	3	3	3	3	3	3
Entertainment allowance	3 600	3 881	4 191	4 501	4 690	4 981	5 250	5 781
Cell phone allowance	1 200	1 294	1 397	1 500	1 563	1 660	1 750	1 927
Car allowance	30 000	32 340	34 927	37 512	39 087	41 511	43 752	48 171
Company Car – Cost incl VAT	42 745	42 745	42 745	42 745	54 280	54 280	54 280	54 280
EXPENSES								
Pension fund contributions	6 138	6 616	7 146	7 675	7 997	8 493	8 951	9 855
Retirement annuity fund contributions	3 000	3 234	3 493	3 751	3 909	4 151	4 375	4 817
Cell phone call costs	1 440	1 552	1 677	1 801	1 876	1 993	2 100	2 312
Entertainment expenditure	2 880	3 105	3 353	3 601	3 752	3 985	4 200	4 624

	Year of assessment							
	2004	2005	2006	2007	2008	2009	2010	2011
INCOME								
Salary	128 490	130 803	135 512	142 288	153 244	170 560	181 988	189 085
Medical aid • Cost	17 770	18 724	19 650	19 950	21 155	22 793	25 080	27 429
• Number of beneficiaries	2	2	2	2	2	2	2	2
Entertainment allowance	6 029	6 138	6 359	6 677	7 191	8 003	8 539	8 872
Cell phone allowance	2 010	2 046	2 120	2 226	2 397	2 668	2 846	2 957
Company Car – Cost incl VAT	87 360	87 360	87 360	87 360	113 500	113 500	113 500	113 500
Car allowance	50 243	51 147	52 988	55 638	59 922	66 693	71 161	73 937
EXPENSES								
Pension fund contributions	10 279	10 464	10 841	11 383	12 260	13 645	14 559	15 127
Retirement annuity fund contributions	5 024	5 115	5 299	5 564	5 992	6 669	7 116	7 394
Cell phone call costs	2 412	2 455	2 543	2 671	2 876	3 201	3 416	3 549
Entertainment expenditure	4 823	4 910	5 087	5 341	5 752	6 403	6 831	7 098

Source:

TransUnion, 2010; Council for Medical Schemes, 1996; Council for Medical Schemes, 1996/97; Council for Medical Schemes, 1998; Council for Medical Schemes, 2000; Council for Medical Schemes, 2002/3; Council for Medical Schemes, 2003/4; Council for Medical Schemes, 2004/5; Council for Medical Schemes, 2005/6; Council for Medical Schemes, 2006/7 ; Council for Medical Schemes, 2007/8; Council for Medical Schemes, 2010/11;

Annexure E – Tax computation

	1996 Scenario A	1996 Scenario B
GROSS INCOME		
Salary (paragraph (c) gross income definition	76 722	76 722
Medical aid (no tax implication)	Nil	Nil
Entertainment allowance (paragraph (c)(iii) gross income)	3 600	3 600
Less section 11(u) deduction: Actual expenditure of R2 880 limited to the lesser of:	(2 500)	(2 500)
• R2 500, or		
• R4 136 (R300 + 5% of R76 722)		
Company Car (paragraph 2(b) Seventh Schedule)	5 399	
R37 496 (cost excluding VAT) x 1.2% x 12		
TAXABLE INCOME	**83 221**	**77 822**
DEDUCTIONS		
Pension fund contribution (section 11(k))	(5 754)	(5 754)
R6 138 limited to the greater of:		
• 7.5% of retirement-funding employment (7.5% x 76 722 = 5 754)		
• R1 750		
Retirement annuity fund contributions (section 11(n))	(1 750)	(1 750)
R3 000 limited to the greater of:		
• 15 percent of non retirement-funding employment ((A) 15% x = 6 449 = 974; (B) 15% x 1 100 = 165)		
• R3 500 less any 11(k) deductions (R3 500 - 5 754 = Nil)		
• R1 750		
Section 8(1) Allowances		
Cell phone allowance	1 200	1 200
Deduction of R1 440 limited to allowance	(1 200)	(1 200)
Car allowance section 8(1)		30 000
Maximum deduction based on:		(19 000)
1. Actual business kilometers and deemed costs; or		

Deemed rate per kilometer based on value of R42 745 (cost including VAT)		
Fixed cost 18 781 / 34 000 x 365 / 365 — 55.2		
Fuel — 18.3		
Maintenance — 18.0		
91.5		
Actual business kilometers — 17 500		
Business expense — 16 013		
2. Deemed kilometers and deemed costs		
Deemed rate per kilometer based on value of R42 745 (cost including VAT)		
Fixed cost 18 781 / 32 000 x 365 / 365 — 58.7		
Fuel — 18.3		
Maintenance — 18.0		
95.0		
Total kilometers of 34 000 limited to 32 000 — 32 000		
Deemed private kilometers — 12 000		
Deemed business kilometers — 20 000		
Deemed business expenses (20 000 x 95.0c) — 19 000		
Medical expenses (no deduction as no expense incurred by the taxpayer)	Nil	Nil
TAXABLE INCOME	**75 717**	**81 318**
Tax per tax tables		
(A) R21 700 + 44% of the excess over R70 000	24 215	
(B) R26 100 + 45% of the excess over R80 000		26 693
Transition levy @ 1.667%	429	522
Rebate	(2 625)	(2 625)
TAX PAYABLE	**22 019**	**24 591**
Average rate of tax	29.1%	30.2%

	1997 Scenario A	1997 Scenario B
GROSS INCOME		
Salary (paragraph (c) gross income definition	82 706	82 706
Medical aid (no tax implication)	Nil	Nil
Entertainment allowance (paragraph (c)(iii) gross income)	3 881	3 881
Less section 11(u) deduction: Actual expenditure of R3 105 limited to the lesser of:	(2 500)	(2 500)
• R2 500, or		
• R4 435 (R300 + 5% of R82 706)		
Company Car (paragraph 2(b) Seventh Schedule)	5 399	
R37 496 (cost excluding VAT) x 1.2% x 12		
TAXABLE INCOME	**89 486**	**84 087**
DEDUCTIONS		
Pension fund contribution (section 11(k))	(6 203)	(6 203)
R6 616 limited to the greater of:		
• 7.5% of retirement-funding employment (7.5% x 82 706 = 6 203)		
• R1 750		
Retirement annuity fund contributions (section 11(n))	(1 750)	(1 750)
R3 234 limited to the greater of:		
• 15 percent of non retirement-funding employment ((A) 15% x = 6 780 = 1 017; (B) 15% x 1 381 = 207)		
• R3 500 less any 11(k) deductions (R3 500 - 6 203 = Nil)		
• R1 750		
Section 8(1) Allowances		
Cell phone allowance	1 200	1 200
Deduction of R1 552 limited to allowance	(1 200)	(1 200)
Car allowance section 8(1)		32 340
Maximum deduction based on:		(20 368)
2. Actual business kilometers and deemed costs; or		
Deemed rate per kilometer based on value of R42 745 (cost including VAT)		
Fixed cost 20 429 x 365 60.1		

34 000 365		
Fuel 20.0		
Maintenance 18.0		
98.1		
Actual business kilometers 17 500		
Business expense 17 168		
3. Deemed kilometers and deemed costs		
Deemed rate per kilometer based on value of R42 745 (cost including VAT)		
Fixed cost 20 429 x 365 / 32 000 365 63.8		
Fuel 20.0		
Maintenance 18.0		
101.8		
Total kilometers of 34 000 limited to 32 000 32 000		
Deemed private kilometers 12 000		
Deemed business kilometers 20 000		
Deemed business expenses (20 000 x 101.8c) 20 368		
Medical expenses (no deduction as no expense incurred by the taxpayer)	Nil	Nil
TAXABLE INCOME	**81 533**	**88 106**
Tax per tax tables		
(A) R25 400 + 44% of the excess over R80 000	26 075	
(B) R25 400 + 44% of the excess over R80 000		28 967
Rebate	(2 660)	(2 660)
TAX PAYABLE	**23 414**	**26 306**
Average rate of tax	28.7%	30.2%