

1975

## South Africa

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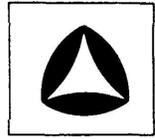
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TOUCHE ROSS INTERNATIONAL

**business study  
south africa**





# south africa

## Contents

CHAPTER 1 – SOUTH AFRICA IN BRIEF  
CHAPTER 2 – INVESTMENT FACTORS  
CHAPTER 3 – LABOUR CONDITIONS  
CHAPTER 4 – BUSINESS PRACTICES AND INFORMATION  
CHAPTER 5 – FORMS OF BUSINESS ENTITIES  
CHAPTER 6 – ACCOUNTING AND AUDITING  
CHAPTER 7 – TAXATION IN SOUTH AFRICA

NOTE: The amounts quoted in this Business Study are in South African Rand, written R. At the time of writing, the approximate Rand exchange rates with other currencies were:

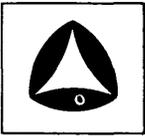
R1 =	U.S.S	1.15
R1 =	0.55 (Sterling)	
R1 =	French Francs	5.01
R1 =	Deutsche Marks	2.94
R1 =	Swiss Francs	3.02
R1 =	Japanese Yen	3.47

Readers should check for any subsequent variations in these rates.

## **Preface**

This is one of the series of Business Studies designed for the use of Touche Ross professional staff in all countries and for interested clients. Users of this Study must ascertain that the information contained here has not been superseded by later developments. Specific business questions or problems may have legal and tax ramifications that are beyond the scope of this Business Study and the assistance of professional advisers is recommended. Suggestions for revisions should be sent to Touche Ross International Executive Office (page 154).

October 31, 1975



# Introduction

South Africa lies at the southern end of the African continent, and is perhaps best known for its gold and diamond production and its wild life. Little is generally known about other aspects of its economy and its development. This Business Study seeks to give the reader an understanding of the country generally, its economy, and its business practices and customs.

In many respects South Africa is a fortunate country. It is one of the best-endowed countries of the world in mineral resources; it has substantial reserves of unskilled labour in whose future development lies considerable potential; and it enjoys a good climate. In the past, South Africa's potential has been recognized by foreign investors, particularly from the United Kingdom. In more recent years, Western European and United States investors have been taking a keener interest in the country's economy. In general, the foreign investor has been well rewarded.

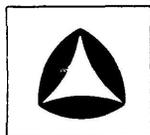
Political considerations have been a factor affecting foreign investors, and these have tended to ebb and flow with the times. Foreign investors must evaluate this factor, as must be done when considering an investment in most other countries.

South African Governments have always welcomed and encouraged foreign investment. They have recognised that to continue developing the country's material resources and to stimulate industry, foreign capital and "know-how" are needed, and will be needed for many years to come.

Traditionally, White South Africans and immigrants have formed the country's skilled labour force, while Black South Africans (the Bantu people) have undertaken unskilled work. This traditional pattern has changed in recent years. The wages of Black South Africans have improved, the skilled jobs available to them have increased and, if this trend continues, their contribution to the South African economy will increase significantly.

The partners of Goldby, Compton & MacKelvie, the South African member firm of Touche Ross International, prepared this Business Study.

Alexander Berger  
Director of International Publications  
October 31, 1975



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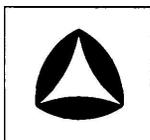
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# South Africa in Brief

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- PRINCIPAL CITIES
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- TOURISM
- THE SOUTH AFRICAN GOVERNMENT
- CURRENCY UNIT AND RATES OF EXCHANGE
- THE SOUTH AFRICAN ECONOMY
- MEMBERSHIP IN INTERNATIONAL ORGANISATIONS

## SOUTH AFRICA IN BRIEF

The Republic of South Africa consists of four provinces on the mainland of southern Africa. These provinces are the Cape, Natal, Orange Free State, and Transvaal. In addition, South Africa is responsible for the administration of the mandated territory of South West Africa. A fact not generally known is that the only really viable seaport on the coast of South West Africa, Walvis Bay, does not belong to that territory but is part of the Cape province.

## BACKGROUND ON SOUTH AFRICA

**Area.** South Africa's area, excluding South West Africa, is 472,979 square miles, which is larger than the combined area of France, Germany, Italy, and Portugal. Large parts of the country are sparsely populated or virtually uninhabited. The independent state of Lesotho is an enclave entirely surrounded by South African territory. The areas of the provinces and South West Africa in square miles are:

Cape	277,113
Natal	33,578
Orange Free State	49,838
Transvaal	112,450
South West Africa	317,887

**Distances From Other Countries.** Because of its position at the southern tip of Africa, distances to other countries are significant. For example, the air mileage to London is 6,100,9000 to New York, 4,400 to Rio, and 6,600 to Sydney. Internally, Cape Town, the southernmost city, is some 900 miles from Johannesburg and Pretoria.

**Terrain.** South Africa's coastline has few indentations and natural harbours. Generally, the land rises very sharply from the coast to the plateau known as the "Highveld". The largest city, Johannesburg, is nearly six thousand feet above sea level. On the eastern side of the country, the rise to the plateau is marked by the Drakensberg mountain range, which extends for hundreds of miles from the Transvaal, through

# South Africa in Brief

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Natal, Lesotho, and the Eastern Cape. The maximum height of these mountains is 11,500 feet.

**Climate.** In general, South Africa enjoys a temperate sunny climate, with three principal climatic regions. Cape Town and the Western Cape have a Mediterranean climate with winter rainfall, while Johannesburg and other higher areas have dry winters and a summer rainfall. The third region is the subtropical climate of the Natal coast and the Transvaal "Lowveld". The mean average variation in temperatures in the various seasons is a little under 20 degrees Fahrenheit.

The average annual rainfall of 17½ inches is heaviest on the east coast and in the mountains, and declines to almost nothing in the northwest coastal areas. The population is concentrated in the eastern half of the country and in the southern coastal areas where the rainfall is generally adequate. The daily average number of hours of sunlight is between 7½ and 9½, and the following average annual hours of sunshine are of interest in this context:

London	1,480
Paris	1,740
Washington	2,200
Southern California	2,600
French and Italian Riviera	2,700
Johannesburg	3,150

**The Seasons.** The seasons are the reverse of those in the Northern Hemisphere:

Spring	September
Summer	October – March
Autumn (Fall)	April
Winter	May – August

Climatic statistics for the principal cities are noted below:

## Average Temperatures (Fahrenheit)

	Summer		Winter		Annual Average Rainfall (inches)
	Max.	Min.	Max.	Min.	
Johannesburg	78°	59°	62°	39°	27.9
Cape Town	79°	58°	64°	46°	20.0
Durban	81°	67°	73°	52°	39.7
Pretoria	82°	61°	68°	36°	28.0
Port Elizabeth	77°	61°	68°	45°	24.1
East London	77°	64°	70°	50°	34.0
Bloemfontein	84°	59°	61°	36°	22.3
Kimberley	86°	65°	68°	36°	16.1

# south africa

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**History.** South Africa was inhabited by a sprinkling of nomadic people, the Bushmen and Hottentots, until the seventeenth century, when the Dutch established a halfway station on the route from Europe to the East. As the European population built up in the south, there was a movement of African (Bantu) tribes from the north, and the first contact was made towards the end of the eighteenth century in the Eastern Cape. Britain annexed the Cape during the Napoleonic Wars and an inflow of British colonists followed. In 1836, elements of the original Dutch population, who became dissatisfied with British rule in the Cape, embarked upon the Great Trek and opened up the hitherto virtually unexplored hinterland. In doing so, they clashed with African tribes and endured many hardships in establishing various independent republics in the Transvaal, Orange Free State and Natal.

The course of South African history in the nineteenth century was marked by a series of conflicts among the various population groups, including the African tribes themselves. The discovery of diamonds in 1870 and the Witwatersrand gold fields in 1886 resulted in a substantial inflow of entrepreneurs and fortune-seekers whose interests were, in many instances, at variance with those of Dutch origin who had left the Cape to seek independence. These conflicts intensified and eventually culminated in the Anglo-Boer War of 1899-1902, which the British won after suffering comparatively significant losses. In 1910, the Union of South Africa was formed by the union of the four provinces and in 1961 it became the Republic of South Africa, severing its ties with the British Commonwealth.

The Afrikaans language is derived from Dutch and owes its origins to the original Dutch colonists. It has, however, developed over the years into a distinctive language and, although retaining much of the original Dutch influence, is today different in many respects. On the other hand, South Africans of British origin have retained English as their main language.

Prior to the discovery of diamonds and gold, the economy was essentially agricultural. Thereafter it became mining orientated. Since the Second World War, industrial development has reduced the reliance on mining and has made for greater self-sufficiency.

## THE SOUTH AFRICAN PEOPLE

**Population.** South Africa has a wide variety of racial groups. Apart from a handful of Bushmen, the indigenous people have virtually

# South Africa in Brief

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vanished. The estimated total current population of 24,000,000 is made up of the following groups:

Europeans (Whites)	4,300,000
Africans (Bantu or Blacks)	16,800,000
Coloureds (of mixed racial origin)	2,200,000
Indians and other Asiatics	700,000

The concentration of the population of these groups has largely followed historical events, resulting in the heaviest concentration of Coloureds in the Western Cape, Indians in Natal, and Africans on the eastern seaboard and in the north. Overall density of population is fifty persons per square mile, with a substantial percentage of the population living within fifty miles of Johannesburg. The annual growth rate of population is 2.6 per thousand.

**Education.** Literacy among Whites is virtually 100 per cent. Among the other groups, it varies between 40 and 80 per cent, with an average of 65 to 70 per cent depending upon location and ethnic group. Education is compulsory to the age of sixteen for Whites, and a substantial majority of children in the other groups attend at least primary school. Education below university level is virtually free for the White, Coloured, and Indian population groups. Bantu school education is significantly subsidised by the Government but is not free. Considerable strides have been made in recent years in providing education and educational facilities for the Bantu peoples. Whereas in 1955 only some 45% of Bantu children between 7 and 15 years (870,000 pupils) were at school, by 1973 this percentage had increased to nearly 75%, and total enrolment has now reached almost 3.25 million pupils.

There are a number of private schools, mostly denominational, which conform to Government requirements for curricula and examinations and, but for small Government subsidies, are financed from fees charged.

The school year runs from January to December and is broken up into three or four terms. The main summer vacation is not normally longer than five weeks.

**Languages.** There are two official languages in South Africa, English and Afrikaans. In addition, the new African homeland territories are adopting their own languages. Most people understand and speak English and Afrikaans, which are compulsory subjects in White schools. About 65% of the White population is primarily Afrikaans-speaking. In South West Africa, German is frequently spoken and used in addition to English and Afrikaans.

**Religion.** There is no State church, and twenty-two major world religions claim adherents in South Africa. Most Afrikaans-speaking South Africans are members of the Dutch Reformed Churches, which have over two million adherents. Other denominations include the Anglican, Catholic, Methodist, Presbyterian, Jewish, Apostolic and Hindu religions.

**Style of Life.** Living standards vary among the various ethnic groups and between urban and rural dwellers. White South Africans enjoy a standard of living equal to that in other developed countries. This standard is higher than that of the other population groups, but the living standards of the other groups are improving fairly rapidly and are considerably better than those elsewhere in Africa.

South Africans take a keen interest in outdoor activities and sports, and there are many facilities available.

**Housing.** By tradition, the majority of White South Africans have purchased their own homes, usually with financial assistance provided by building society long-term mortgage loans. However, in recent years the growth of the urban population has led to the building of more flats (apartment buildings), and now a growing number of the urban population rent or own their own flats (apartments).

Industrialisation and the consequent increase in work opportunities enticed many of the Bantu to make for the cities. This migration soon led to vast urban and peri-urban slums. However, since 1947 over 400,000 houses have been built for the Bantu, and the urban slums have now been virtually cleared.

## PRINCIPAL CITIES

The principal cities and their population composition, published in the 1974 Official South African Municipal Year Book, are:

	White	Other	Total
Johannesburg	432,000	837,000	1,269,000
Durban	201,000	589,000	790,000
Cape Town	239,000	513,000	752,000
Pretoria	320,000	271,000	591,000
Port Elizabeth	126,000	280,000	406,000
Germiston	76,000	218,000	294,000
Bloemfontein	65,000	90,000	155,000
Pietermaritzburg	46,000	97,000	143,000
East London	55,000	82,000	137,000
Kimberley	32,000	91,000	123,000

# South Africa in Brief

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## NATURAL RESOURCES

**Minerals.** South Africa is one of the best-endowed countries in mineral resources. These resources cover a wide range; the only major natural resources not found are crude oil and bauxite (aluminium). The principal resources include:

Antimony	Fluorspar	Lime	Tin
Asbestos	Gold	Manganese	Titanium
Chrome	Gypsum	Nickel	Uranium
Coal	Iron ore	Platinum	Vanadium
Copper	Iron pyrite	Salt	Vermiculite
Diamonds	Lead	Silver	Zinc

A complete picture of South Africa's mineral wealth requires that its output be viewed in comparative terms. South Africa produces more than 70% of the free world's gold, controls the world's diamond market, and is rich in many strategic minerals such as uranium. South Africa is the largest generator of electric power in Africa, and because of its readily accessible coal supplies, the cost of power is low by comparison with most countries.

Although South Africa has not yet proved any economic deposits of crude oil, it has an advanced complex for producing petrol and related chemicals from coal, and substantial expansion is planned. In contrast with other developed countries, only some 20% of its energy requirements depend on outside sources of oil. Considerable sums are being spent on oil exploration, both on land and offshore.

**Fishing.** South Africa has been among the six foremost fishing nations for a number of years, and is the second largest exporter of fish meal and the largest producer of canned pilchards (similar to herring) in the world.

Its fishing industry is, therefore, important, not only to South Africa, but on an international scale. Its frozen and canned fish, frozen rock lobster tails, fish meal, and other products are in demand in international markets.

**Forests.** Indigenous timber is very sparse, but extensive afforestation schemes have been developed in many areas by the Government and private enterprise (see **Forestry** in Chapter 2).

**Water Resources.** South Africa is not well endowed with water resources. In the eastern half of the country and on the southern coastal belt, the rainfall is generally adequate, but drought conditions

occur from time to time because of sporadic rainfall. Towards the west, the rainfall becomes sparser and more unreliable and many rivers in these areas do not flow the year round. The major rivers are the Orange, Vaal, and Tugela, and they constitute the main sources of water. In the summer rainfall areas, the rainfall is characterised by electric storms and heavy downpours.

The Government has taken steps to meet the water supply needs of the country. Among other conservation projects, three major dams are planned on the Orange River, and one of them, the Hendrik Verwoerd Dam, has been completed and the second is under construction. For the first time, there will be the facility to generate a significant amount of hydroelectric power from these dams. By means of tunnels and canals, a considerable area of additional land will be brought under irrigation. Another scheme has been completed to bring water over the mountains from the Tugela River in Natal to provide for the growing needs of the Witwatersrand (extending approximately 30 miles to the east and 25 miles to the west of Johannesburg) and neighbouring areas.

A scheme similar to the Orange River project has been started in South West Africa to bring water and power from the Kunene River to Windhoek and other areas.

## **TOURISM**

South Africa is richly endowed with tourist attractions, including a variety of natural beauty, colourful peoples, sunny climate, and an unsurpassed variety of fauna and flora. The Kruger National Park game preserve covers no less than 8,000 square miles, enabling visitors to see a wide variety of wild life in its natural environment. In addition, there are many other game parks. At the other end of the country, the Cape Peninsula contains more species of indigenous plant life than any other area of the world.

## **THE SOUTH AFRICAN GOVERNMENT**

South Africa was a member of the British Commonwealth of Nations until 1961, when it became an independent Republic with a new constitution. Its form of government is broadly patterned on that of the United Kingdom.

**Executive Powers.** The State President holds formal executive power acting on the advice of the Executive Council but, in practice, the Prime Minister and his Cabinet carry out the executive functions. The

# South Africa in Brief

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Prime Minister is the leader of the party in power and his Cabinet must be appointed from Members of the House of Assembly or the Senate. Pretoria is the Administrative Capital of the country.

**Legislative Powers.** The House of Assembly has 171 members. One member is elected from each electoral district, which vary from approximately 10,000 registered voters in rural areas to 18,000 in urban areas. In addition, six representatives from South West Africa enjoy equal parliamentary rights with those elected in the Republic. The Senate, which is the Upper House and largely a house of review, consists of 55 members who are elected by the House of Assembly and the Provincial Councils for five-year terms on the basis of a predetermined number per province.

The legislative power is vested in Parliament, which consists of the State President, Senate, and House of Assembly, which hold their parliamentary sessions in Cape Town, the Legislative Capital.

**Method of Voting.** All White citizens of South Africa over 18 years are entitled to vote, and in each constituency the candidate receiving the highest number of votes becomes the elected member of Parliament for that constituency. Candidates usually stand for election after nomination by a political party, but may stand as independent candidates. The party having a majority of members elected to the House of Assembly is invited by the State President to form the Government.

**Introduction of Proposed Laws.** To become law, a bill must obtain a majority vote in both Houses of Parliament. Bills are introduced in the House of Assembly and, having been passed, must be approved by the Senate. On final signature by the State President, a bill becomes law.

**Provincial Governments.** Each of the four provinces has a Provincial Council which deals with education, health, roads, vehicle registration, municipal affairs and other local matters. All other matters are dealt with by the Central Government. An Administrator appointed by the State President is the Chief Executive officer of each Provincial Council. Members of the Provincial Councils are elected on the same basis as members of the House of Assembly.

**Local Authorities.** Each city and town is administered by an elected council. Peri-urban areas are administered by local boards or councils appointed by the provincial Administrators or, in certain areas, elected by residents.

**Political Parties.** Three political parties are currently represented in Parliament. They are the National Party, which has been in power since 1948; the United Party, which is the main opposition party; and the Progressive Reform Party.

**Coloureds.** The 2,200,000 Coloureds of South Africa are represented by a Coloured Representative Council, which meets in Cape Town. The Council comprises 40 members elected by Coloured Voters and 20 nominated by the Government. The Council has powers to legislate in a fairly limited field – education, housing, and other matters related specifically to the Coloured community.

**Indians.** The 620,000 Indians are governed in a manner similar to the Coloureds, and have a South African Indian Council with 15 elected members and 15 Government-appointed members. The Council has powers similar to those of the Coloured Representative Council.

**Bantu.** Each Bantu ethnic group has been allocated a specific area or areas of South Africa and, in general, the areas so allocated are those in which the various ethnic groups originally established themselves. These areas are referred to as Bantu Homelands and are governed by various types of Councils, their nature and powers depending upon the stage of independence achieved by each particular Homeland. The South African Government's policy is that each Homeland should be assisted and encouraged to achieve a maximum degree of independence within the South African framework as a whole. In order to encourage development in the Homelands, substantial taxation and other investment incentives and financial assistance are available to investors in these areas. It is also the Government's policy that each Homeland should become self-governing in that its elected Parliament should have complete control over its own internal affairs. Any tax-paying citizen over 18 years or any citizen over 21 years is entitled to vote in the election of representatives to various Homeland legislative bodies. Of the 16,800,000 total Bantu population, 46% live in the Homelands and 54% live in White areas. Those living in White areas are, however, entitled to vote in the elections in their respective Homelands.

**Judiciary.** The highest court of the country is the appellate division of the Supreme Court, which sits in Bloemfontein. Subsidiary to this Court are various provincial and local divisions of the Supreme Court. The judiciary exercises its powers entirely independently of the legislature of the country. Judges are appointed by the Government and may be removed only by a majority of both Houses of Parliament on the grounds of misbehaviour or incapacity.

# South Africa in Brief

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Minor cases are dealt with by Magistrates Courts, which are part of the Civil Service.

**South West Africa.** This is a separate territory, administered by South Africa under a mandate of the former League of Nations. The territory is represented in the South African House of Assembly by six elected members. South West Africa has its own legislative assembly with slightly more extensive powers than those of the Provincial Councils. The population is approximately 750,000 of which 91,000 are White, 45,000 are Coloured, and the remainder are Bantu.

## CURRENCY UNIT AND RATES OF EXCHANGE

**Currency Unit.** In 1961, South Africa decimalised its currency and adopted the Rand (R), comprised of 100 cents, as the official monetary unit. Prior to 1961, the South African monetary unit was the pound (£), which was linked to the £ Sterling, and was quoted at parity with the £ Sterling. On decimalisation of the South African currency, the £ was regarded as being too large a unit and the Rand was adopted on the basis of R2 being equivalent to £1.

**Rates of Exchange.** Between 1949 and December 1971, a parity rate of R1 = \$1.40 (or £1 = \$2.80) was maintained with the United States dollar. In December 1971, the Rand was devalued by 12.28% in terms of gold and by 4.76% against the U.S. dollar to R1 = \$1.333. In October 1972, the Rand severed its traditional link with Sterling, devalued by 4.2% in terms of gold and linked to the United States dollar at R1 = \$1.27732. Since then there have been a number of changes in the United States dollar rate of exchange, and until recently the parity rate of exchange had been R1 = \$1.40. On September 1, 1975, the Rand devalued by 17.9% against the U.S. dollar, establishing a parity rate of R1 = \$1.15. The £ Sterling exchange rate varies daily in relation to its value to the U.S. dollar, and the present rate is approximately R1.81 = £1. Rates of exchange with major foreign currencies are quoted daily in newspapers.

## THE SOUTH AFRICAN ECONOMY

South Africa has a free enterprise economy, originally almost entirely based on the diamond and gold mining industries and, to a certain extent, on agriculture. However, in more recent years, significant industrial development has taken place and has led to the establishment

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of a large manufacturing industry. Also, the mining and processing of other minerals have become of major importance.

Although South Africa covers only 4% of the total area of Africa and accounts for 6% of its population, by 1970 it was responsible for more than 20% of Africa's total production, 30% of its exports, and 25% of its imports. Its industry is more developed and diversified than that of any other African country and it produces three times as much steel as the rest of the continent. In addition, its railways handle almost 60% of the total rail traffic of Africa, 44% of all motor vehicles in Africa are in South Africa, and 60% of Africa's power is generated in South Africa.

Until the 1870's, southern Africa was principally inhabited by farmers and wool was the main export. This pattern of economic life was first modified by the discovery of diamonds in the 1870's, and later by the discovery of gold in the 1880's. These industries brought sufficient foreign exchange into the country to expand the economy to other industries and South Africa became an attractive investment area for overseas capital. The later discovery of other base minerals offers significant potential for the further development of secondary manufacturing industries. Employment in manufacturing is well over one million persons and the manufacturing industry contributes more than a quarter of the national income. Industrial development is being encouraged on the borders of the Bantu Homelands to provide employment for the local population.

**Government Ownership.** The Central Government, Government-controlled public utility corporations, and municipalities own and operate most of the public utilities, including electricity, telephones, water supply, radio, television and the majority of urban public transport. The Central Government also owns and operates the railways, the national airline, the harbours, certain road transport services as part of the railways administration, and the major steel plant – the South African Iron and Steel Industrial Corporation. Through the Government-owned Industrial Development Corporation, the Central Government controls the only oil-from-coal plant (the South African Coal, Oil and Gas Corporation), and the major South African shipping company – the South African Marine Corporation (known as Safmarine). The South African Reserve Bank and the Land and Agricultural Bank are also controlled by the Central Government. Most other sections of business and industry are privately owned.

**Balance of Payments.** South Africa's visible balance of trade, excluding gold, has always been in deficit. Gold sales have, however, substantially contributed to balancing this deficit.

# South Africa in Brief

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**Economic Statistics.** The following statistics indicate the size and trends of the South African economy:

	1970	1971	1972	1973	1974
Consumer Price Index (1963 = 100)	125.40	132.50	141.10	154.60	172.60
Gross Domestic Product (R billions)	12.52	13.87	15.63	18.80	22.38
Gold and Foreign Reserves (R millions at December 31)	807	651	1,088	976	909

The gold content of gold and foreign exchange reserve, which normally ranges from 50% to 60% of the total, was valued at U.S. \$35 per ounce until November 8, 1971, at \$38 from November, 1971 to September 1972 and thereafter at \$42.22.

**Inflation.** The average rate of inflation during 1974 increased to 11.6%, compared with 9.6% in the previous year. The principal causes of the increase were:

1. The sharp rise in the price of imported goods (including oil), which averaged 23%.
2. Increases in the prices of food and housing services.
3. The upward adjustment in prices of Government price-controlled products, including steel, timber, and bricks.
4. Excess demand experienced in the first three quarters.
5. General salary and wage increases.

**Imports and Exports.** The following are statistics, in R millions, of South Africa's imports and exports for some recent years. Published export figures exclude gold sales but, because of their significance, they are reflected below and are totalled with exports. Oil, and defence imports regarded as strategic, are not included in these statistics.

	Imports	Exports	Gold Sales	Total
1970	2,540	1,534	830	2,364
1971	2,878	1,541	893	2,434
1972	2,820	2,014	1,160	3,174
1973	3,275	2,421	1,789	4,210
1974	4,914	3,353	2,620	5,973

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**Direction of Trade.** South Africa's main trading partner has traditionally been the United Kingdom, but the pattern, particularly in regard to imports, is showing signs of change. The following statistics, in R millions, indicate South Africa's trade with other countries in 1974:

	<b>Exports</b>	<b>Imports</b>
United Kingdom	961.5	823.1
Africa	453.6	241.2
West Germany	318.5	926.8
Other E.E.C. countries	410.6	667.7
Japan	354.9	601.1
United States of America	238.5	811.8
Canada	86.4	69.5
Other south and southeast Asia	91.8	79.3
Australia	32.1	87.0
Other	404.7	606.5
<b>Total</b>	<b><u>3,352.6</u></b>	<b><u>4,914.0</u></b>

**Composition of Trade.** The composition of exports and imports in 1973 and 1974 indicates their nature. All statistics are in R millions:

	<b>Exports</b>	
	<b>1973</b>	<b>1974</b>
Diamonds, precious metals	478.7	779.4
Processed base metals	362.4	477.5
Raw farm and fish products	325.4	455.2
Prepared foodstuffs, beverages, tobacco	275.8	435.6
Raw mineral products	218.0	295.0
Wool and textiles	206.2	152.5
Machinery and vehicles	139.2	174.9
Chemicals, plastics, rubber	102.5	139.6
Hides, skins and furs	70.4	55.2
Pulp, paper, and paper products	66.6	77.1
Other materials and manufactures	29.0	49.9
Unclassified	147.1	260.7
	<b><u>2,421.3</u></b>	<b><u>3,352.6</u></b>

# South Africa in Brief

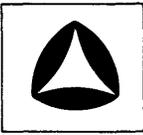
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	Imports	
	1973	1974
Machinery and electrical equipment	977.6	1,323.7
Vehicles, aircraft and other transport	601.5	789.3
Chemical products, resins and plastics	396.4	729.5
Textiles, clothing and footwear	345.1	496.1
Processed base metals	244.3	508.3
Raw mineral products	38.6	98.3
Food, beverages, tobacco and farm products	197.0	288.1
Wood and paper products	170.1	268.9
Precision instruments and watches	129.3	180.7
Building materials, ceramics and glass	45.8	61.1
Precious stones and metals	32.1	42.7
Other	97.6	127.3
	<u>3,275.4</u>	<u>4,914.0</u>

## MEMBERSHIP IN INTERNATIONAL ORGANISATIONS

South Africa is a charter member of the United Nations and is represented on some of that body's subsidiary organisations, such as the World Health Organisation. Field Marshall Smuts, then South African Prime Minister, played a significant role in the formation of the United Nations, and he personally wrote the preamble to its Charter. He previously participated in the establishment of the League of Nations.

South Africa is a founder member of the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (the World Bank), and the International Finance Corporation. It is also a member of other international organisations, including the International Postal Union, the International Air Transport Association (IATA), the International Convention for the Protection of Industrial Property and the International Copyright Union. It is a member state of the General Agreement on Tariffs and Trade (GATT).



# Investment Factors

- INVESTMENT INCENTIVES
- EXCHANGE CONTROLS AND FOREIGN INVESTMENT
- FOREIGN TRADE REGULATIONS
- PATENTS, INDUSTRIAL DESIGNS, TRADE MARKS AND COPYRIGHTS
- FINANCIAL AND CREDIT INSTITUTIONS
- THE MINING INDUSTRY
- MANUFACTURING INDUSTRY
- AGRICULTURE AND FORESTRY
- THE JOHANNESBURG STOCK EXCHANGE
- GENERAL REGULATION OF BUSINESS

## INVESTMENT FACTORS

**Attitude Towards Foreign Investment.** As a young country whose expanding economy provides ample scope for investment, South Africa welcomes foreign capital investment as an essential factor in the continued growth and prosperity of the country. It is, therefore, the policy of the South African Government to encourage investment by providing an attractive investment climate. This is achieved in a number of ways, including the protection of private enterprise, the maintenance of political stability, the promotion of labour peace, and the provision of necessary basic services.

**Classification of Foreign Investment.** Foreign investment statistics published by the South African Reserve Bank classify foreign investment into direct and indirect investment. Direct investment covers foreign investments of 25% or more in local companies and investments in local branches of foreign companies. Indirect investment relates to portfolio investment in shares of local listed companies, shareholdings of less than 25% in unlisted companies, and loans to both the private and Government sectors.

**Extent of Foreign Investment.** Foreign investment has played, and continues to play, a significant role in the development of the South African economy. The United Kingdom has always been the largest source of foreign investment and, as a result, strong financial ties have been established with that country.

The following table shows the sources of direct investment, total indirect investment, and total foreign investment for 1972, the latest year for which statistics have been published, and the four preceding years. All statistics are in R millions:

	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>
Sterling area	2,136	2,403	2,645	2,968	3,235
Dollar area	530	596	675	843	928
Western Europe	392	474	586	678	697
Other areas	28	29	37	36	35
Total direct investment	<u>3,086</u>	<u>3,502</u>	<u>3,943</u>	<u>4,525</u>	<u>4,895</u>
Indirect investment	<u>1,476</u>	<u>1,488</u>	<u>1,875</u>	<u>2,508</u>	<u>2,891</u>
Total foreign investment	<u><u>4,562</u></u>	<u><u>4,990</u></u>	<u><u>5,818</u></u>	<u><u>7,033</u></u>	<u><u>7,786</u></u>

# Investment Factors

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Of the total 1972 foreign investment of R7,786 million, R6, 780 million was invested in the private sector. The following is an analysis of that investment by industry in R millions:

Manufacturing	2,284
Mining	1,355
Financial companies	954
Wholesale and retail trade	945
Banking	345
Insurance	228
Other	669
	<u>6,780</u>

The sources of the 1972 indirect investment, in R millions, are:

Sterling area	1,108
Dollar area	522
Western Europe	1,208
Other	53
	<u>2,891</u>

## INVESTMENT INCENTIVES

South Africa has provided political stability, steady growth of its economy, comparative freedom from labour unrest, rapid improvement in the standard of living of all population groups, and an abundant supply of minerals and other raw materials; these ingredients offer an attractive investment climate. It is also noteworthy that no private sector corporation, whether locally or foreign controlled, has ever been nationalised in South Africa.

**General Policy.** The South African Government's policy traditionally has been one of actively promoting and encouraging foreign investment. In this regard, the New Industries Committee, under the auspices of the Department of Commerce and Industries, and the Department of Planning are prepared to examine, from the national economic viewpoint, proposals for the establishment of new industries and expansion projects, and to furnish entrepreneurs with advice on their proposals. The Government's specific incentives to attract foreign investment and to channel it into areas considered beneficial are discussed in the following pages.

**Tax Incentives.** South Africa's income tax law provides general tax benefits to manufacturers and producers, particularly those located in the decentralised areas of the country. These benefits are available to

both foreign and domestic investors. The specific tax benefits, which may be considered incentives and are discussed in Chapter 7, include:

1. Double taxation agreements with foreign countries.
2. Special allowances granted to manufacturers.
3. Special allowances granted to exporters in respect of market development expenditure.
4. Investment and initial allowances for new machinery acquired and factory buildings erected.

**Incentives for Decentralised Industries.** As a result of historical and geographical factors, the country's industrial development is highly centralised in the main metropolitan areas. Approximately 80% of the gross production of secondary industry takes place in the four main industrial areas; namely, the Southern Transvaal complex in the vicinity of Johannesburg, the Western Cape in the vicinity of Cape Town, the Port Elizabeth area, and the Durban area. These constitute only 3% of the total area of the country. To encourage decentralisation of industry in approved areas, attractive incentives, in the form of concessions, are offered by the Government.

By far the greatest reservoir of labour in the country is found in the Bantu Homelands and, for this reason, the decentralisation programme is aimed mainly at creating employment opportunities for the Bantu in their Homelands and adjacent areas, which are referred to as "Border Areas". The Government is eager to decentralise manufacturing industries employing relatively large numbers of Non-White workers. However, with a view to developing well-balanced industrial complexes in decentralised areas, capital-intensive industries as well as service industries are encouraged to locate in these areas. It should be noted that industrialists are free to select whichever areas they prefer, although large water consumers are encouraged to base their operations in the Eastern Cape and Natal where water resources are relatively abundant.

The Government-owned Industrial Development Corporation of South Africa Limited (IDC) was established in 1940 with the object of facilitating and promoting the establishment of new industries, and the extension and improvement of existing ones. It provides medium-and long-term loans and may guarantee loans from other sources. The IDC may take a share of a company's equity capital, but usually with the ultimate intention of disposing of it as soon as the venture is securely established.

The Government's policy of encouraging industrial development in the Border Areas is implemented through the IDC. In more recent

# Investment Factors

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years, the Government-owned Bantu Investment Corporation (BIC) and Xhosa Development Corporation (XDC) were established to further economic, particularly industrial, development in the Bantu Homelands. The IDC and the BIC and XDC, in co-operation with the Government, offer the following incentives to achieve these objectives:

1. Financial assistance, specifically loans at favourable interest rates, is granted from funds provided by the Government through the agency of the IDC, the BIC, and the XDC. Such assistance is administered by these corporations whose responsibility it is to satisfy themselves regarding the economic viability of each project.
2. In the Bantu Homelands, the BIC or the XDC will provide land and buildings on a rental basis. For the remaining capital requirements, except housing, up to 50% will be provided by the Government through these corporations. The investors' contributions are negotiated with the relevant corporation.
3. In the Border Areas, loans of up to 80% of the value of land and buildings and up to 45% of the cost of machinery and working capital, excluding housing, will be provided by the Government through the IDC. In these instances, the investors' contributions are negotiated with the IDC.
4. Loans granted are subject to the provision of acceptable security, with the understanding that a first mortgage will constitute such security in the case of loans by the IDC for financing the cost of land and buildings. Companies with foreign shareholders must comply with the Exchange Control regulations in regard to loans received (see page 22).
5. The rates of interest on loans and the rates of interest applied in determining lease rentals are particularly favourable for the first ten years. Depending on the area, interest rates on loans are between 1½% and 7½% below the Government long-term internal security interest rate (currently 10%) plus ½%. Interest rates applied in determining lease rentals are between 1½% and 4½% below that Government security interest rate plus ½%. After the ten-year period, both the loan and lease interest rates are the same as prevailing Government long-term internal security interest rates.
6. The XDC provides housing for White personnel in certain towns in the Transkei Homeland at an annual rental of 2½% of the cost of dwellings. In other decentralized areas, the IDC provides loans of up to R23,000 per unit for housing of White personnel. These loans are repayable over a maximum period of 20 years and interest is charged at rates not higher than 2½% below prevailing building society first mortgage interest rates.

Other incentives offered by the Government to encourage industrial development in the Bantu Homelands and Border Areas include significant rail transport rebates on goods manufactured in these areas, cash grants towards the approved costs of moving from certain other areas to those areas and, in certain restricted instances, harbour charge rebates on goods shipped through East London to other South African ports.

Certain additional initial (see page 114), investment (see page 118), and other tax allowances (see page 120), are available in Bantu Homelands and Border Areas.

**Tariff Protection.** Tariff protection of viable industries has been a consistent feature of South Africa's economic policy. Although relatively high duties within the framework of South Africa's obligations under the General Agreement on Tariffs and Trade (GATT) have been imposed to stimulate development in certain sectors of industry (for example, the textile and motor vehicle industries), the overall level of tariff duty is moderate. In determining the extent of tariff protection, the Board of Trade and Industries takes into consideration the effective foreign competition, the protection required to make local industry fully competitive, the number of units in the industry, and the financial results of operations.

**Restrictions on Foreign Investment.** With the exception of banking and insurance, no restrictions are imposed on the type or extent of investments open to foreigners. The Government does not, in principle, favour foreign control of banking institutions, and proposals have been made to limit foreign ownership of banks to 50%.

Changes affecting the operation of foreign insurance companies are being implemented. Foreign insurance companies, which have previously operated on a branch basis, are to be required to conduct their operations through subsidiary companies. These new regulations will automatically apply to the local operations of any foreign insurance organisations wishing to establish businesses in South Africa. In addition, the Government does not favour foreign shareholdings in excess of 50% of any new insurance company.

Restrictions affecting both local and foreign investors also apply to those activities owned or controlled by the State, which include railways, harbours, internal airways, and electricity.

# Investment Factors

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## EXCHANGE CONTROLS AND FOREIGN INVESTMENT

The Government's policy has been, and continues to be, to encourage foreign investment. It recognises that capital investment by foreigners is necessary and desirable for the continued development of the country for many years to come. The country's exchange control regulations are primarily designed to protect its gold and foreign exchange reserves while, at the same time, recognising the desirability of encouraging permanent foreign investment. In particular, the unrestricted remittance of profits to foreign shareholders from available cash funds has been a basic concept of the exchange control regulations and there is no indication that this policy will undergo any major change.

**Administration of Exchange Controls.** The exchange control regulations are administered by the South African Reserve Bank through the agency of authorised dealers in foreign exchange. The only authorised dealers are the commercial banks and certain other banking institutions. All approaches to the exchange control authorities must be made through bankers, and a bank official will normally be present at any interview with the authorities.

**Transactions Subject to Exchange Control.** With the exception of the introduction of equity share capital, virtually all foreign currency transactions require the prior approval of Exchange Control or an authorised dealer. Certain transactions, within the authority delegated by Exchange Control, may be approved by authorised dealers, but in all other instances the approval of Exchange Control must be obtained.

Although Exchange Control follows certain basic policies, a great degree of flexibility is built into the system in that the authorities exercise substantial discretionary powers in approving or rejecting applications falling outside their basic policies and referred to them for special consideration. Many factors influence the approval or rejection of such applications. Some of the major factors are:

1. The strength of the country's gold and foreign exchange reserves at the time.
2. The strategic implications involved in the application.
3. The extent to which the establishment of a particular industry will reduce imports.
4. The contribution to exports resulting from the establishment of a particular industry.
5. The importation of "know-how" not previously available.

Exchange Control, through the agency of authorised dealers, relaxes or tightens its controls as economic conditions change.

The basic policies followed by Exchange Control have been established for some time, and it seems unlikely that they will be significantly altered in the foreseeable future. Particulars of the more important basic policies are discussed below.

**Equity Share Capital.** Prior approval of Exchange Control is not required for the transfer of funds into South Africa through normal banking channels for investment in the equity share capital of South African companies, whether or not their shares are listed on the Johannesburg Stock Exchange. It is, however, required that the share certificates be endorsed as being non-resident owned.

There are no restrictions on the sale of foreign owned equity investments in South African companies to other non-residents. The proceeds of sale of such investments to South African residents and liquidation distributions accruing to non-residents are subject to "blocking" procedures, whereby the proceeds are credited to Blocked Rand bank accounts in the names of the non-residents. These blocked funds may be utilised only for the following purposes:

1. To purchase shares or other securities on the Johannesburg Stock Exchange.
2. To tender for non-resident bonds at a maximum discount of 15%. These bonds are issued by the Government, are redeemable at par after five years, and the redemption proceeds are freely remittable to the non-resident holder. They are also negotiable and transferable between non-residents.
3. To purchase Government, municipal, and public utility securities redeemable not less than five years from the date of purchase. They must be held for a minimum period of five years and, thereafter, the redemption proceeds are freely remittable to the non-resident holder.
4. In the purchase of securities listed on the Johannesburg Stock Exchange for sale on a foreign stock exchange (usually the London Stock Exchange which lists a substantial number of South African companies' shares) by way of an arbitrage transaction. The proceeds of sale become available to the seller in the foreign country, and thereby provide a means of repatriating capital without delay. The costs involved can be substantial and, besides brokerage and marketable securities taxes, depend upon the United Kingdom investment dollar premium rate and the price

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differentials between the two stock exchanges. Non-residents of the United Kingdom are not affected by the investment dollar premium.

The discount referred to in 2 above and the interest on securities referred to in 3 above are tax-free. The transfer of Blocked Rand balances from one non-resident to another was previously not permitted except through the purchase and sale of listed securities. However, recent changes in regulations allow the transfer of blocked balances between non-residents.

**Foreign Loans.** South African companies or individuals may not accept foreign loans without the prior approval of Exchange Control. In principle, Exchange Control favours the financing of local subsidiaries of foreign parent companies by way of permanent share capital. It would normally approve the capitalisation of a non-resident owned South African company by way of share and loan capital, if it can be shown that the cost of fixed assets will be financed from the company's issued share capital and that any loan capital is required only to provide working capital of a temporary nature. Exchange Control does not usually favour financing by way of loan capital in excess of permanent share capital.

When Exchange Control agrees to a loan by a foreign parent to its local subsidiary, it will not normally give any advance undertaking that repayment will be approved at, or after, a particular time. The borrower is required to make application for approval when it is desired to make repayment, and Exchange Control considers the application in the light of the company's local borrowings and the circumstances prevailing at that time.

In circumstances where South African companies wish to raise foreign loans from banks or similar institutions or by public issues, Exchange Control's prior approval must be obtained and, if granted, advance approval of capital repayments will be given.

Subscriptions by non-residents for redeemable preference shares or debentures are also regarded by Exchange Control as being foreign loans.

**Interest Payments on Foreign Loans.** Interest on foreign loans can be remitted without difficulty, provided that interest rates are not abnormal.

**Current Account Transactions.** Payments for imports are freely remittable to non-residents, but the approval of Exchange Control is required for the payment of all other current account transactions.

**Local Borrowings.** South African companies, in which non-residents own or control 25% or more of the voting securities, capital, or earnings, are subject to local borrowing restrictions enforced by Exchange Control. The permissible local borrowings of such companies are expressed as a percentage of total funds invested, which include paid-up capital, share premiums, retained earnings, reserves created from trading and realised capital profits, and shareholders' loans. The following formula is applied:

$$25\% + \frac{(\text{Percentage South African shareholding})}{(\text{Percentage foreign shareholding})} \times 25 = X\%$$

By way of example, where a company is 60% foreign-controlled, its permissible local borrowings would be 41 2/3% of its total funds invested, calculated as follows:

$$25\% + \frac{(40)}{(60)} \times 25 = 41 \frac{2}{3}\%$$

In determining the permissible local borrowing percentage, any local shareholders' loans in excess of that proportion of total shareholders' loans, which their ownership of the capital bears to the total capital, are regarded as being a local borrowing and not as part of the funds invested. However, any such excess relating to foreign shareholders' loans is included in total funds invested. Exchange Control will normally accept any "hard core" of any current account balance owing by a South African subsidiary to its parent or affiliated companies for inclusion in funds invested. Under recent regulations, Exchange Control has discretion to interpret local borrowing as including, in certain circumstances, leasing of assets, leaseback of property, and factoring of receivables.

**Dividend Payments.** Dividends declared out of profits earned after December 31, 1959 are freely remittable to the country of domicile of any non-resident shareholder in a South African company. However, where the payment of dividends to non-residents will increase a company's local borrowings, the dividends may not be remitted without Exchange Control approval. Approval is normally granted if Exchange Control is satisfied that, after payment of dividends, local borrowings will remain within the permissible percentage of funds invested.

**Royalties and Similar Payments.** All royalty, "know-how", or similar agreements with non-residents are subject to the prior approval of Exchange Control. The agreements are referred to the Department of Industries to determine whether or not the "know-how" warrants the expenditure of foreign exchange and whether the rate of royalty is

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reasonable in the circumstances. After initial approval of royalty and similar agreements, remittances can subsequently be effected without difficulty through normal banking channels, but the initial approval is limited to a period of between five and ten years.

**Branch Operations.** Where a foreign company operates through a branch, as opposed to a local subsidiary, Exchange Control views the branch as if it were a wholly-owned subsidiary, and it is subject to the same controls and restrictions. That portion of the branch liability to its head office, which is required for the permanent financing of the branch operation, is regarded as the equivalent of equity share capital, and the remaining indebtedness may be allocated between loan capital and current account. The remittance of branch profits is treated in exactly the same manner as dividend remittances of a subsidiary company.

**Foreign Assets and Export Proceeds.** All South African companies and individuals are required to disclose particulars of any foreign assets owned to Exchange Control, and are not entitled to retain such assets without Exchange Control approval. The proceeds of goods exported must be remitted within six months, but applications for extensions may be made.

**Purchase of Foreign Securities by South Africans.** As a general rule, individuals resident in South Africa are not permitted to purchase foreign securities. The purchase of foreign securities by South African companies is subject to approval by Exchange Control.

**Annual Financial Statements.** All companies, which have local borrowings and in which non-residents have interests of 25% or more, and all branches of foreign companies with local borrowings are required to submit copies of their audited annual financial statements to Exchange Control through their bankers.

## FOREIGN TRADE REGULATIONS

The Customs and Excise Act, 1964 provides for the levy of duties, and for rebates, refunds, and drawbacks of duty.

The Secretary for Customs and Excise administers the Act, interprets its Schedules, and directs the implementation of its provisions through local Controllers of Customs and Excise and other officers.

South Africa is a member of GATT (General Agreement on Tariffs and Trade) and has participated in all tariff-reduction negotiations.

South Africa has no free ports or zones. Botswana, Lesotho, and Swaziland are signatories to the Southern Africa Customs Agreement and, consequently, there is generally a free flow of goods between South Africa and these countries.

**Import Tariff.** All goods exported to South Africa are subject to duty unless the goods are specifically exempted. Tariff policies are regulated by the Board of Trade and Industries.

The tariff classifications and rates of duty are voluminous, and it is not practicable to summarise them. The Brussels Tariff Nomenclature is used for main tariff classifications.

Various Schedules of the Customs and Excise Act comprise the tariff and set out the classifications of goods and the rates of duty; they cover customs duty and also excise, sales, and anti-dumping duties.

**Customs Duty.** Customs duty is levied on the free on board price of goods or their domestic value in the exporting country, whichever yields the higher duty.

Part 1 of the First Schedule to the Act sets out the general rates of duty, the lower rates applicable to all countries which are members of GATT, and the following exceptions:

1. Preferential rates of duty on certain classes of goods produced or manufactured in, and imported from, Canada, Sri Lanka, the Republic of Ireland, New Zealand, the United Kingdom, and territories which were nonself-governing Colonies, Protectorates or Mandated Territories of the United Kingdom in 1932.
2. Most favourable rates of duty on certain classes of goods produced or manufactured in a country with which a customs agreement has been concluded.

In broad terms, general rates average 20%, preferential rates range from 0% to 20%, and most-favoured-nation rates range from 3% to 20%, all of which are subject to certain exceptional higher rates ranging up to 55%. A number of goods are duty-free; for example, many items of plant and machinery, medical and hospital supplies, and raw materials and minerals. The general policy is that duty is imposed on those goods exported to South Africa that are also locally produced.

In 1974 revenue from customs duty totalled R282,000,000.

Should there be ambiguity in regard to the classification or rate of duty on specific goods, prospective exporters or South African

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importers can make written application for advance rulings to:

The Secretary,  
Department of Customs and Excise,  
Private Bag X47,  
Pretoria.

Detailed information covering packing of goods, invoicing instructions, marking of country of origin, prohibited or restricted goods and the like is obtainable at the abovementioned address or any local Controller's office.

**Excise Duty.** Excise duty is levied in accordance with Part 2 of the First Schedule to the Act on certain classes of goods manufactured in, or imported into, the country (see Chapter 7 for details).

Excise duty is levied on the importer and, where imports are subject to this duty, it is levied in addition to customs duty.

**Sales Duty.** Part 3 of the First Schedule sets out the rates of sales duty, and the classes of goods manufactured in, or imported into, the country which are subject to the duty. Sales duty is chargeable in addition to any customs or excise duty levied on the same classes of goods under Parts 1 and 2 of the First Schedule. Further information on sales duty is available in Chapter 7.

**Anti-Dumping Duty.** Anti-dumping duties are chargeable on a wide variety of goods specified in the Second Schedule to the Act, if such goods have originated in, or have been imported from, a country named in that Schedule. Examples of goods on which the duty has been imposed are chemicals, medicines, tools, motor vehicle parts, textiles and salt. Anti-dumping duties were introduced to protect goods produced or manufactured in South Africa against competition from foreign goods which could otherwise be imported and sold in the country at unfairly low prices. In determining whether these duties should be imposed and, if so, the extent of the duty, cognisance is taken of the differential between export prices of the imported goods and their current domestic values, bounties payable, and low freight rates and currency depreciation in the producing or exporting country. Even if these factors do not apply, a special anti-dumping duty may be imposed on imported goods which are offered for sale in South Africa in wholesale quantities at prices that are less than the foreign domestic value plus all freight, insurance, landing, transport and delivery charges and any customs duties. Anti-dumping duties are chargeable in addition to any other duties that may be levied on the goods.

Application for the imposition of the duty is made by local industry to the Board of Trade and Industries, which usually acts expeditiously against dumping and other forms of disruptive competition.

**Refunds and Rebates of Duty.** The Act provides for certain rebates, refunds, or drawbacks of duty according to the character of the ultimate consumer in South Africa or the eventual use to which the goods are put.

*Rebates of Customs Duty.* Rebates are granted under the Third Schedule to the Act on the classes of goods referred to in that Schedule, and which are imported for use in the industries specified.

General rebates of customs duty are granted in the Fourth Schedule on certain specified goods imported for consumption by designated organisations, such as the State, local authorities, public hospitals, certain educational or scientific institutions, and approved cultural, charitable, or welfare organisations. Rebates are also granted on goods imported by immigrants, tourists, returning residents and other passengers for personal use, but subject to stipulated limitations. They are also granted on certain specified goods imported for the industrial and commercial purposes specified in the Schedule. Temporary rebates of customs duties may be granted under specific permit given by the Secretary for Industries, but within the limits stated in Part 2 of the Fourth Schedule.

*Drawbacks of Customs and Anti-Dumping Duties.* Drawbacks are authorised in the Fifth Schedule on certain imported goods which have been used in the manufacture, processing, finishing, equipping, or packing of the products specified in the Schedule, and which have been subsequently exported. Drawbacks of these duties are also allowed on imported goods which have thereafter been exported in the same condition.

*Rebates, Refunds, and Drawbacks of Excise Duty.* These are granted under the Sixth Schedule on specified excisable goods which have been supplied for the use of the persons, institutions or bodies (such as the State, local authorities, public hospitals, heads of state, foreign diplomatic representatives, and certain educational, scientific and similar institutions) set out in the Schedule. They are also granted on certain excisable goods which have been exported or used in the manufacturing processes specified in the Schedule or in the manufacture of certain products which have been subsequently exported.

*Rebates and Refunds of Sales Duty.* These are granted under the Seventh Schedule on specified dutiable goods which have been supplied for the use of the persons, institutions, or bodies (including the State,

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public hospitals, State schools and certain educational and religious bodies) set out in the Schedule. They are also allowed on certain dutiable goods which are exported or are incorporated in other dutiable goods manufactured in South Africa.

*Refunds of Anti-Dumping Duty.* Sections 75 and 76 of the Act provide for the refund of anti-dumping duties. A claim for a refund of duty erroneously levied on goods not subject to the duty, or otherwise overcharged, must be lodged within two years from the date on which the duty was paid.

**Import Controls.** South Africa's trade policy is designed to promote domestic industrial expansion while controlling the outflow of foreign exchange for balance-of-payments reasons.

All importers are required to be registered with the Director of Imports and Exports by category of goods handled, such as consumer goods, capital goods, or industrial raw materials.

Allocation of import permits among the broad component categories of goods is determined several times a year, with the first determination made at the beginning of each calendar year.

Various types of permit are granted, upon application, by the Director of Imports and Exports, Private Bag X192, Pretoria, two of the most common of which are discussed below.

*General Merchandise Permits.* These permits are granted annually and are valid for the calendar year of issue and the ensuing three months. The 1975 permits are based on 80% of the total imports in 1974, but application for increases may be made at any time to the Director of Imports and Exports.

Where an existing business wishes to import goods for the first time, its first import permit is generally based on 10% of the total cost of goods sold in the previous year, but applications for an increase may be made. When a newly-established business intends to import goods, its first permit is granted on the basis of an estimate of the cost of the goods to be imported; application for an increase also may be made.

Many categories of goods imported do not require a permit. The free-import lists are published from time to time in the Government Gazette, the current list appearing in Number 4536 of December 13, 1974.

*Special Permits.* These permits may be granted at any time for the import of specific capital goods, or specific quantities of goods, such as spare parts and raw materials.

**Export Controls.** South Africa actively promotes the export of goods. Export permits are granted by the Director of Imports and Exports and are required only for those categories of goods listed from time to time in the Government Gazette. The current list appearing in Number 3074 of April 23, 1974, names the following categories of goods:

- Agricultural and pastoral products (not foodstuffs).
- Chemicals and allied products.
- Metals and minerals and their manufactures.
- Arms, ammunition, military equipment and articles thereof.
- Electrical equipment and precision instruments.
- Transport, excavating, and conveying equipment.
- Industrial machinery and equipment.
- Miscellaneous, including coffee, fertiliser, jute products, paper and paper products, and polyethylene piping.

**Export Aids.** The South African Government provides various forms of assistance to exporters.

Various export incentives and facilities are offered to bona fide exporters who apply to the Department of Commerce. The criteria taken into account when an application is considered include potential and past export performance, the volume of export engaged in or planned, the intensity of international competition, and whether export assistance will increase exports and/or create new markets.

Assistance available includes income tax allowances for market development expenditure as discussed in Chapter 7; cash grants based on the value of certain goods exported under the finance charges aid scheme; post-shipment finance under the export finance scheme administered by the Industrial Development Corporation (IDC) and the Credit Guarantee Insurance Corporation in conjunction with the Department of Commerce; and aids for the creation of production capacity for exports at reduced rates, as provided by the IDC. The South African Railways will also consider reduced rail rates for export goods to offset the disadvantage of long haulage for exporters. Concessions are also granted in respect of primary market research, warehousing abroad, and visiting buyers.

The Export Promotion Division of the Department of Commerce is primarily responsible for the promotion and development of export trade, and maintains the "Export Trade Directory" which is sup-

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plemented by an intermittent publication, "Export Offers". It also publishes the brochure "Incentives and Export Facilities".

Information may be obtained by writing to the Regional Representative, Department of Commerce, Private Bag X84, Pretoria, or to the Regional Representatives in Cape Town, Durban, or Port Elizabeth.

## PATENTS, INDUSTRIAL DESIGNS, TRADE MARKS AND COPYRIGHTS

The laws of South Africa relating to patents, designs, trade marks, copyright, trade descriptions, business names, and performers' rights have, by consolidation or amendment in recent years, been updated and further modernisation is ahead. Legislation has been proposed to protect the general public against false trade descriptions, the forged or deceitful use of marks, and nondisclosure of the proprietor's identity on business premises and documents.

**Patents.** South Africa is a signatory of the Paris Union Convention for the Protection of Industrial Property, and residents of other convention countries are entitled to a one-year priority right for patents. This means that if a patent is applied for in another convention country, a subsequent patent application filed in South Africa within one year will be dated at the date of the earliest application.

Patent protection in South Africa is strong. Foreigners who apply for a patent should engage the services of a local patent specialist.

The application for a patent is made to the Registrar of Patents and must be accompanied by drawings. No search is made for originality of the invention, but all accepted applications are advertised in the monthly Patent Journal, and any person may oppose the grant of a patent, but only on grounds specified in the Patents Act, 1952.

The grant of letters patent is entered by the Registrar in the Register of Patents. The term of a patent is 16 years, but provisions exist under which the term can be lengthened on the grounds of inadequate rewards from the use of the patent. Applications to extend the term are fairly common, and extensions of up to ten years have been obtained in exceptional cases. The cost of a patent is nominal. The filing costs range from R100 to R150 and an annual maintenance fee commencing in the fourth year of R6.

The Patents Act contains a provision enabling assignment or licensing of a patent to be of zonal effect within the country. For example, an assignment or licensing can be restricted to one or more provinces; however, this provision is little used.

Patent rights can be assigned or licensed, and can devolve by operation of law. It is strongly recommended that all such assignments be registered, as they may be inadmissible as evidence if not registered.

The Patents Act contains provisions for compulsory licensing. However, obtaining such a license is a long and expensive process and the Commissioner of Patents (a Judge of the Supreme Court) has not so far granted such a license.

The Act provides that the Commissioner of Patents or the Supreme Court shall hear any dispute between an employer and employee regarding their respective rights in an invention of the employee, and may apportion the rights involved between the parties.

The Patents Act is expected to be superseded by a new Act within two years. The new Act is expected to increase the term of a patent to twenty years, and to abolish the right to apply for an extension of the term, except for patents granted under the existing Act.

Patent protection in South Africa does not provide protection in South West Africa; separate registration there is required.

**Designs.** The Designs Act, 1967, enables an application to be made to the Registrar of Designs for the registration of any new or original design relating to the pattern, shape, configuration, or ornamentation of the whole or any part of an article of manufacture intended to be multiplied by an industrial process. The application may be refused by the Registrar, but only on the limited grounds prescribed in the Act, and such refusal is subject to appeal to the Supreme Court. The registration of a design is effective from the date of the application, and is evidenced by a certificate of registration issued by the Registrar. Licences may be granted by the proprietor of a registered design, but a compulsory licence may be ordered by the Supreme Court upon application by any person who has been unable to obtain a licence on reasonable terms and who shows that the design is not being applied to a reasonable extent in South Africa. A person may acquire a registered design by assignment, transmission, or operation of law, or he may acquire an interest as mortgagee, licensee, or otherwise. He may apply to the Registrar for registration of such title or interest. Design protection is for five years from the date of registration but, on application, the term may be extended by two further five-year periods.

**Trade Marks.** Under the Trade Marks Act, 1963, trade marks may relate either to goods or to services. To be registered in terms of the Act, they must be inherently distinctive or capable of becoming distinctive and, depending upon the category into which they fall, they are

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registered in Part A or Part B of the Register. Applications are considered by the Registrar of Trade Marks, and his refusal to accept an application is subject to appeal to the Supreme Court. If an application is accepted, it must be advertised and may then be opposed by any person. These opposition proceedings may, with the consent of the parties, be heard and determined by informal proceedings before the Registrar or, alternatively, by formal proceedings before the Registrar, whose decision is subject to appeal to the Supreme Court. The duration of a trade mark is ten years, but it may be renewed indefinitely for further ten-year periods, on payment of prescribed renewal fees.

In certain instances where deception or confusion of the public might result, a trade mark is not assignable or transmissible. Any assignment or transmission of a trade mark must be reported to the Registrar for registration. The use of a registered mark by a person other than the proprietor is authorised in the Act, subject to the registration of that person as a "registered user" of the trade mark and compliance by the parties with statutory requirements intended mainly to ensure adequate control of the quality of the user's products. Registration of a proposed "registered user" would be refused if it appeared to the Registrar that such permitted use of the trade mark would be contrary to the public interest or tend to facilitate trafficking in a trade mark.

**Copyrights.** Under the Copyright Act, 1965, copyright does not require registration, nor is any form of registration possible. There is, therefore, no irrefutable presumption of knowledge of the existence of copyright on the part of any person infringing a copyright, and bona fide ignorance may be a good defence against a claim for damages.

Copyright protection is given to a wide range of literary, dramatic, musical or artistic works, sound recordings, cinematograph films, broadcasts by the South African Broadcasting Corporation, and published editions of works. Copyright under the Act arises in respect of original matters emanating from an individual who is a citizen of, or is resident or domiciled in, South Africa, or from a corporation incorporated in South Africa. However, in certain instances copyright may subsist only if the first publication or edition of a work takes place, or the sound recording is made, or the cinematograph film is first issued, in South Africa. The State President may, by proclamation, apply any provision of the Act to the protection of works, films, sound recordings, or broadcasts first published or made in a foreign country, or emanating from persons who are citizens of, or are resident or domiciled in, or from a corporation incorporated in, that foreign country. Subject to certain qualifications, this copyright protection has been granted to countries which are members of the Berne Convention. Where publica-

tion first takes place in the United States of America (which is not a Berne Convention country), copyright protection in South Africa can be obtained through simultaneous publication in a Berne country, such as Canada. Assignment of copyright may be total or partial in respect of existing or future works, but must be in writing and signed by, or on behalf of, the assignor. Copyright is also transmissible by testamentary disposition or by operation of law. A licence of copyright does not have to be in writing unless it is an "exclusive licence", when it must be in writing and signed by, or on behalf of, the copyright owner. Copyright continues to subsist for fifty years after the end of the calendar year in which:

1. The author of a literary, dramatic, musical, or artistic work (other than a photograph) dies.
2. A photograph is first published.
3. A sound recording is made.
4. A cinematograph film is approved by the appropriate Censorship or Control Board, or, if not so approved, is first published.

The publisher's copyright in a published edition of a work endures for only twenty-five years from the end of the calendar year in which the edition is first published.

The Performers' Protection Act, 1967, prohibits any broadcast; or public communication; or the making or reproduction of any fixation of any performance; by an actor, singer, musician, dancer, or other person who plays in or performs literary or artistic works without the consent of the performer.

## FINANCIAL AND CREDIT INSTITUTIONS

South Africa has a sophisticated financial and credit system similar to those of other developed countries; however, the financial influence of the United Kingdom has left its imprint on South African financial institutions. Significant aspects of the country's financial and credit systems are discussed in the following pages.

**South African Reserve Bank.** This bank was established by Act of Parliament in 1921 as the country's central bank. The bank's entire issued capital is publicly owned with no stockholder being permitted to hold more than ½%. The board of directors is appointed partly by the Government and partly by the stockholders. Stockholders are entitled to a maximum dividend of 10%, and the balance of the profits, after the transfer of 10% to reserve, is payable to the Government.

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The Reserve Bank performs all the usual functions of a central bank. It issues bank notes; acts as banker to the commercial banks, other banking institutions and the Government; purchases all newly mined gold from the mining industry; holds the country's gold and foreign exchange reserves; and acts as lender of last resort to commercial banks and other banking institutions, including the discount houses. Banking institutions are required to maintain reserve balances with the Reserve Bank based on their short-term, medium-term and long-term liabilities to the public; these balances are interest-free. In certain circumstances the Reserve Bank may, with the consent of the Treasury, also require banking institutions to maintain supplementary "liquid assets" in the form of cash balances with it or with the National Finance Corporation.

The interest rate structure is influenced by the bank rate, which is the rate at which the Reserve Bank discounts first-class bills for the commercial banks and which governs the rates of interest chargeable by those banks on overdrafts and other facilities. Under special powers, the Reserve Bank may lay down maximum rates of interest payable by banking institutions on deposits placed with them.

The country's exchange control regulations are administered on behalf of the Treasury by the Reserve Bank through the agency of the commercial banks and certain other banks which are authorised dealers in foreign exchange.

The Bank issues a quarterly statistical bulletin, which includes much useful information concerning the country's trade and finances.

**National Finance Corporation of South Africa.** This corporation was established by Act of Parliament in 1949, primarily to develop a short-term money market in South Africa but, with the advent of the discount houses, this function has largely been assumed by these institutions. The Corporation acts as a borrower of last resort to all financial institutions and to the public generally, accepting minimum deposits of R100,000. It also accepts call money from State departments and, as has previously been indicated, banking institutions may maintain a proportion of their supplementary "liquid asset" requirements in the form of deposits with it. Its funds are principally invested in treasury bills and in short-dated Government and public utility corporation securities.

**Legislation Affecting Financial Institutions.** Banks, insurance companies, building societies, pension funds and other types of institutions, in whose financial soundness the public is vitally interested, are regulated by law. Banks are required to maintain as "liquid assets" prescribed ratios of their short, medium and long-term liabilities to the

public. Insurance companies, pension funds, and certain other institutions are required to invest a proportion of their assets in "prescribed investments". Generally speaking, "prescribed investments" include Government, municipal and public utility corporation fixed-interest securities, while "liquid assets" comprise short-dated Government and certain public utility securities and cash assets. Also, the Building Societies Act requires these societies to maintain "liquid assets" and "prescribed investments", but the Minister of Finance is authorised to suspend the provision requiring the holding of "prescribed investments". The legislative controls over the aforementioned institutions are vested in the Registrar of Financial Institutions who exercises wide specified and discretionary powers with the primary objective of protecting the interests of the public. He is also the Registrar of banks, insurance companies, building societies, pension funds, and certain other financial institutions.

**Number and Ownership of Banking Institutions.** The number and type of banking institutions registered under the Banks Act is:

Commercial banks	9
General banks	18
Merchant banks	10
Discount houses	3
Hire-purchase banks	2
Savings banks	8
	<u>50</u>

In general, the monetary authorities do not favour the registration of additional banking institutions. This approach appears to be based on the principle that there is a sufficient number of banks to adequately provide for the needs of the community and that a proliferation of small banking institutions will not provide the stability and security desirable to safeguard the interests of the public.

The two largest commercial banks are subsidiaries of United Kingdom banks. Of the next two largest commercial banks, the shares of one are held almost entirely by South African shareholders and, while the other was at one stage a subsidiary of a Netherlands' bank, virtually all its shares are now locally owned. These four banks are significantly larger than the five other commercial banks, four of which are foreign controlled. With the exception of two general banks, four merchant banks and one hire-purchase bank, which are foreign controlled or are subsidiaries of foreign controlled commercial banks, the remaining banking institutions are locally owned. In principle, the Government does not favour foreign control of banking institutions. As noted

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previously, proposals have been made to reduce the foreign shareholdings of foreign controlled banks to 50%.

**Commercial Banks.** The commercial banks provide a full range of banking services, including cheque current account facilities, acceptance of term deposits, discount of bills, foreign exchange and local cash transfers and advances in the form of overdrafts on cheque current accounts. The commercial banks are the principal source of short-term finance. The usual short-term method of borrowing is an overdraft on current account. Subject to limits dictated by normal banking criteria, including security provided, financial standing of borrowers, and availability of funds, they undertake to honour cheques drawn on current accounts up to agreed limits. Interest cost to the borrower is calculated on the actual day-to-day overdraft, not on the entire overdraft available. Interest is debited to the overdraft account monthly, and is not payable separately so long as the overdraft remains within the agreed limit. Commitment fees, normally at the rate of 1% per annum, are usually charged on significant unutilised facilities.

Overdraft financing is a form of short-term financing that provides the maximum degree of flexibility to the borrower. Most overdraft facilities are granted for a year and are stated as being repayable on demand thereafter. However, in practice, and provided that the bank continues to be satisfied regarding the financial standing of the borrower, these facilities are often extended from year to year on what is virtually a permanent basis.

Attention is drawn to the Exchange Control limitations on local borrowings by companies in which non-residents have interests of 25% or more (see page 23).

Certain of the commercial banks have general bank, merchant bank, and hire-purchase bank subsidiaries.

**General, Hire-Purchase, and Savings Banks.** With two notable exceptions, general banks do not offer cheque accounts. Of the two exceptions, one is a large bank and, together with the four largest commercial banks, ranks among the five largest banking institutions. A general bank is one engaged in general banking business, which may include the type of business carried on by hire-purchase and savings banks. Hire-purchase banks finance instalment purchases of assets, while savings banks grant personal loans and loans against the security of fixed property. The acceptance of deposits is common to all these banks.

**Merchant Banks.** The merchant banks perform functions similar to

those of investment banks in other countries. Their services include:

1. Acceptance of call and short-term deposits.
2. Purchase and sale of bills and Government, municipal, and public utility corporation securities.
3. Financing of trade transactions, usually by way of acceptance credits.
4. Advising on, underwriting, and acting as issuing houses to public equity and other issues, and arranging private placings of issues.
5. Assisting in company mergers and acquisitions.
6. Dealing in foreign exchange.
7. Managing investment portfolios.
8. Arranging foreign loans for local companies and undertakings.

**Discount Houses.** The discount houses discount and deal in bills, negotiable certificates of deposit, and acceptances. They deal in treasury bills and short-dated Government, municipal and public utility corporation securities. They accept call deposits from banks, building societies, and mining houses against security of short-dated securities, and these deposits rank as liquid assets in the hands of the depositing bankers for statutory requirements.

The discount houses are, in essence, the core of the South African money market. They make active markets in the various securities in which they invest and trade high levels of these securities with a wide range of financial institutions and other investors.

**Insurance Companies.** Insurance companies are significant in the South African financial structure, and are important sources of both long-term and short-term funds. Mortgages and private issues of securities are often placed with insurance companies. They are regulated by legislation and are required to invest substantial portions of their assets in Government, municipal, and public utility corporation securities.

**Mortgage Participation Schemes.** These schemes are regulated by legislation and many of them are managed and controlled by banks and trust companies. Their purpose is to permit individuals or companies to participate in mortgage loans of varying amounts. There is a stipulated minimum period of five years for investments of this nature, and thereafter funds are usually withdrawable on three to six months' notice. Interest rates are subject to control by the Registrar of Financial Institutions. These schemes are a significant source of long-term mortgage borrowing.

# Investment Factors

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**Finance Companies.** A number of finance companies provide credit for the purchase of cars, appliances and furniture, leasing of assets, factoring of receivables, personal loans, and second mortgage loans. Finance and other companies which have more than 20 depositors or total deposits exceeding R500,000 are required to register under the Banks Act, and are consequently subject to the provisions of that Act relating to liquid assets, prescribed investments, and deposits with the Reserve Bank.

**Building Societies.** Building societies provide the substantial majority of mortgage loans for domestic housing and apartment buildings. Their funds are derived from savings accounts, term deposits, and various forms of fixed dividend shares. The building societies make a significant contribution to the financial structure of the country and have grown substantially in recent years. They receive deposits from the general public, including statutory bodies, local authorities, companies, and other institutions. The majority of mortgage loans by building societies are repayable over approximately 20 years by monthly instalments covering both interest and capital repayment. The Building Societies Act regulates the affairs of these institutions.

**Industrial Development Corporation of South Africa Limited (IDC).** The IDC is a Government-owned corporation created by Act of Parliament to establish, promote, and assist in the financing of new and existing industrial undertakings. Although the IDC has some substantial subsidiaries, principally the only oil-from-coal plant and the Safmarine shipping company, its concept is to assist in developing industries but not to seek or retain control of these enterprises. It also attempts not to become involved in the management of undertakings to which it provides assistance, but will do so if necessary. In the IDC context, "industrial undertaking" is interpreted in broad terms and, in particular, embraces the beneficiation of natural resources and the importation of "know-how".

Before agreeing to assist in developing or financing any undertaking, the IDC makes a thorough investigation of its viability, employing technical experts for this purpose. The assistance given to undertakings can be in the form of equity participation, participating preference shares, secured or unsecured loans, convertible loans, or debentures. It provides financial assistance on normal commercial terms.

The IDC has, in a number of instances, provided substantial financial assistance for the development of local industry in partnership with large foreign companies.

As has been previously discussed under "Incentives for Decentralised Industries", the IDC provides financial assistance in the industrial development of the Border Areas.

**Bantu Investment and Xhosa Development Corporations.** These are Government corporations specifically established to encourage and assist industrial development in the Bantu Homelands. The basis on which any investment in these areas is made must be agreed upon in advance between the investor and these corporations. Any investment is for a limited period, and the investor is required to sell his equity interest in the undertaking to one of these corporations, or to the local population, after 20 to 30 years, at a realistic valuation on a basis agreed upon in advance.

Whites or White-controlled companies are not permitted to own land or buildings in the Bantu Homelands, but suitable long-term leasehold land and buildings are provided by these corporations for industrial and commercial development at rentals based on interest rates substantially below normal interest rates. Loan capital for plant and equipment and working capital are available to investors at low rates of interest. The financial assistance provided by these corporations has been discussed under *Incentives for Decentralised Industries*.

**Credit Guarantee Insurance Corporation of Africa Limited.** The shareholders of this company are the Industrial Development Corporation (IDC) and leading insurance companies and banks. Its purpose is to insure normal commercial credit risks in both the export and domestic markets. In conjunction with the IDC, it insures commercial and political risks involved in exporting capital goods on extended credit terms.

**Land and Agricultural Bank of South Africa.** This bank is Government owned and provides finance to individual farmers at low rates of interest. It also makes loans to agricultural co-operative societies which, in turn, provide credit facilities to farmers pending the harvesting of their crops.

## THE MINING INDUSTRY

South Africa is the largest Free World producer of gold, gem diamonds, platinum, chrome, manganese, vanadium, and antimony. It also has vast resources of coal, iron ore and uranium. It is consequently evident that the mining industry is extremely important, not only in the South African economy, but also in those of other developed countries. De Beers Consolidated Mines Limited, the world's largest producer of gem diamonds, controls the Central Selling Organisation which markets a major portion of the world diamond production.

**Mining Houses and Mining Companies.** The South African mining houses are probably unique in their method of operation. The mining houses themselves are essentially investment companies which provide

# Investment Factors

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central administrative, technical, and other related services to the mining companies within their "groups". In this context, the expression "group" does not imply the usual parent-subsidiary relationship through effective financial control and, in certain instances, mining companies are managed, through an historical association, by a mining house having an insignificant shareholding in the mining company concerned.

There are seven major mining houses, all with their head offices in Johannesburg, and virtually all the significant gold, platinum, diamond and coal mining companies fall within their groups. In addition, significant base mineral mining companies and industrial, commercial and financial companies form part of these groups, and they also are provided with administrative, technical, and other services by the mining houses.

The traditional mining house approach to the establishment of gold and other mining companies is that the mining houses, often on a joint venture basis with other mining houses, spend substantial sums on prospecting particular areas. In the event that prospecting reveals a viable mining proposition, a mining company is formed to specifically mine the area and the joint venture participants are issued shares in the company at par by way of reimbursement for prospecting expenditure incurred and for the mineral rights over the property. They may also subscribe for additional shares at par. Further shares are then offered for public subscription at a premium, the magnitude of which is dependent upon an assessment of the profitability of the mining property. The mining houses might either retain their shareholdings once the shares are listed or sell a portion of them. The leading mining house in the prospecting joint venture usually provides the new mining company with administrative and technical management services and the company, although not a subsidiary, becomes part of that "group".

A current estimate of the cost of establishing a new gold mine to mill 135,000 tons of ore per month from an initial depth of 6,500 feet, and eventually to a depth of 11,000 feet, is R127 million. This estimate takes no account of future cost escalation over the five years it takes to bring a new mine to the production stage.

The established basis of mine accounting in South Africa involves no charge against profits for amortisation of the developed mining property, or for depreciation of plant and equipment. Instead, profits are appropriated by way of a charge against earnings until the company's issued share and loan capital, and the profits so appropriated, equal total capital expenditure. The remaining profits are available for distribution as dividends. As mines are wasting assets, the merit of this

practice is that dividend distributions approximate profits available in cash. The view is taken that retention of cash in respect of amortisation and depreciation charges until the end of a mine's life is not warranted in the case of a wasting asset. Consequently, it is recognised that dividends distributed by mining companies include an element of capital repayment.

The main sources of income of the mining houses are dividends from mining and other companies, administrative and technical fees, share-dealing profits, and interest income.

Substantial sums are deposited with the mining houses at call or on a short-term basis by the various mining and other companies in their respective groups. These funds, together with the mining houses' own funds, constitute a significant source of finance to the community as a whole through their investment on a short-term, and sometimes a longer-term, basis.

In the postwar years, the mining houses have sought to diversify their investments into the industrial, commercial, and financial areas. A number of the mining houses have significant foreign interests in mining and other fields.

**Independent Mining Companies.** A number of independent mining companies are not part of the mining house group system but, with a few notable exceptions, they are the smaller mining companies.

**Mining Group Investment Companies.** Within the mining group structure, a number of substantial listed investment companies have investments in a variety of mining, industrial, commercial, and financial companies — within and outside their own particular mining house groups. In a number of instances, these companies have significant investments in the mining houses themselves and, conversely, the mining houses usually have significant shareholdings in those investment companies.

**Chamber of Mines of South Africa.** The Chamber of Mines is a service organisation for the mining industry, and its members comprise the mining houses and the various major gold, diamond, platinum and coal mining companies. Certain other mining companies are also members. The Chamber is an extremely influential organisation and its views are widely respected in Government, financial and other circles. In addition to generally coordinating the interests and efforts of the mining industry, its activities include the training of miners, the recruitment of mine labour, the last stage refining of all gold produced in the country (through the Rand Refinery Limited), the international promotion of industrial and other uses of gold (through International Gold Corporation Limited), the sale of gold Kruger Rand coins internationally and

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the calcining of all uranium oxide produced (through Nuclear Fuels Corporation of South Africa (Proprietary) Limited). It represents the mining companies in wage negotiations with employees and the mining industry generally in negotiations with the Government. It also carries out research on behalf of the mining industry, provides technical, legal, and other services and administers an accident insurance company covering mine employees.

**Mining Expertise.** The gold mining industry has developed considerable expertise in deep level mining, and South African companies have been engaged to undertake shaft sinking and other mining operations in a number of countries. South Africa's gold is mined at depths ranging up to 12,000 feet.

**Foreign Investment in Mining.** There is significant foreign investment in the South African mining industry and, in particular, in the shares of the various listed gold, platinum, and diamond mining companies. United Kingdom, United States, and other European investors have substantial interests in many of these companies. Capital for new gold mines has traditionally been raised both in South Africa and abroad. The shares of the major South African mining and mining financial companies are listed on both the Johannesburg and London Stock Exchanges and certain of them are also listed on European stock exchanges.

**Mineral Sales.** The following 1974 mineral sales, in R millions, indicate the significance of South Africa's mining industry:

Gold	2,620
Copper	223
Coal (including anthracite)	200
Diamonds	143
Manganese	78
Asbestos	54
Nickel	47
Iron ore	35
Limestone	29
Vanadium	27
Antimony	20
Phosphates	17
Tin	12
Granite	11
Silver	8
Other	405
	<u>3,929</u>

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Platinum and uranium sales are not separately published and are included in "Other." Excluding gold, diamonds, and silver, of total sales of R1,158 million, export sales accounted for R707 million and local sales for R451 million.

## MANUFACTURING INDUSTRY

It is not possible to describe in detail the entire manufacturing industry in South Africa, but the following table of production, imports, and exports (in R millions) for 1972 gives an indication of the nature of industrial production, its volume, and imports and exports within particular sectors. The average annual growth rate percentage of production between 1957 and 1971 is also given for each sector and in total.

	Production	Imports	Exports	Growth Rate %
Processed foodstuffs	1,639	92	399	5.9
Beverages and tobacco	447	1, 15	17	6.1
Textiles	549	186	69	9.4
Knitting mills	111	33	1	15.6
Clothing	340	15	32	7.2
Footwear	126	8	6	4.4
Wood and wood products	208	29	4	5.6
Furniture	157	3	2	4.4
Paper and paper products	300	73	30	9.4
Printing, publishing, and allied industries	198	40	5	11.0
Leather and leather products	35	10	4	1.8
Rubber products	148	14	5	7.4
Basic industrial chemicals	340	200	56	8.6
Miscellaneous chemicals	120	23	23	8.4
Pharmaceutical preparations	240	42	13	9.6
Mineral products (non-metallic)	393	32	12	6.8
Basic iron and steel	461	38	111	8.9
Basic non-ferrous metals	206	11	16	8.6
Metal products	751	82	45	6.3
Machinery (excluding electrical)	253	505	57	3.8
Electrical machinery and equipment	351	204	20	8.3
Transport equipment	149	123	18	5.3
Motor vehicles	602	357	24	14.8
Miscellaneous	559	200	158	15.0
	<u>8,683</u>	<u>2,335</u>	<u>1,127</u>	8.0

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The 1975 year has been one of slower growth. It appears that the overall real growth rate of 7.2% in 1974 is likely to be halved in 1975.

## AGRICULTURE AND FORESTRY

**Agriculture.** Agriculture has always been significant in the South African economy and contributes a substantial portion of the country's exports. Agricultural products include:

1. Maize in the higher inland areas.
2. Sugar, citrus, and tropical and subtropical fruits in the warm Natal coastal area and Eastern Transvaal "lowveld", with some citrus also in the Cape.
3. Deciduous fruits (grapes, peaches, pears, apples, apricots, plums) in the Western Cape.
4. Wheat in the Western Cape and Orange Free State.
5. Sheep and wool in the inland areas of the Cape, Natal, and Orange Free State.
6. Cattle, dairy products, poultry, vegetables, potatoes, groundnuts, sunflower seeds, grain sorghum, tobacco, cotton, tea, coffee, chicory, and sisal in various areas.

There is a significant wine industry in the Western Cape, and South African wines, sherries, and brandies are exported.

The value of agricultural production, in R millions, for the 1972/3 and 1973/4 seasons were:

	1972/3	1973/4
<b>Field Crops:</b>		
Maize	167	553
Wheat	123	138
Grain sorghum	10	34
Sugar (cane)	92	112
Groundnuts	21	71
Tobacco	21	30
Sunflower seed	16	27
Other	81	118
	<u>531</u>	<u>1,083</u>

# south africa

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## Horticulture:

Viticulture (wine)	53	50
Citrus fruit	41	51
Tropical fruit	19	21
Deciduous and other fruit	77	93
Vegetables	61	71
Potatoes	28	47
Other	18	19
	<u>297</u>	<u>352</u>

## Livestock Products:

Wool	142	136
Poultry and eggs	90	112
Cattle	241	308
Sheep	105	113
Pigs	36	42
Fresh milk	96	114
Dairy products	63	47
Other	28	35
	<u>801</u>	<u>907</u>
Total	<u>1,629</u>	<u>2,342</u>

Agricultural exports (in R millions) for 1973, the latest year for which official statistics are available, were:

Wool	167
Mohair	12
Karakul pelts	23
Hides and skins	42
Maize and maize products	77
Preserved fruit and jams	80
Deciduous fruit	41
Sugar	106
Citrus fruit	44
Groundnuts	10
Other	<u>184</u>
	<u>786</u>

**Forestry.** None of South Africa's pine, eucalyptus and wattle forests is indigenous; all have been established by private enterprise and the

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Government. Pine and eucalyptus forests are located principally on the Eastern Transvaal escarpment, in Natal, and in the Western Cape, while wattle is grown mainly in Natal. Pine forests mature in approximately thirty years, and supply the bulk of the country's softwood requirements for building and other purposes. Eucalyptus is used mainly as mining timber, and matures for this purpose in about eight years; it is also used for power transmission and telephone poles in outlying areas, but the period of maturity is longer for these purposes. Wattle bark is used mainly in the tanning industry and a substantial portion of production is exported. In 1972, the afforested areas of pine, eucalyptus, and wattle were 522,000 hectares (1,290,000 acres), 337,000 hectares (833,000 acres), and 162,000 hectares (400,000 acres) respectively. Other than relatively small areas of poplar, which provide the country's requirements for match manufacture, there is no other significant afforestation.

There is little indigenous hardwood timber, and certain species are protected. Virtually all hardwood requirements are imported.

## THE JOHANNESBURG STOCK EXCHANGE

During the latter part of the nineteenth century, the discovery of diamonds in large quantities, followed shortly thereafter by the discovery of the world's largest gold-bearing ore body, led to the formation of a substantial number of limited liability companies in South Africa. The shares of these companies were bought and sold by the general public, and invitations were extended to subscribe for new issues.

A number of stock exchanges were formed and, at one stage in the 1880's, 40 active exchanges were in operation. Amalgamations of certain of these exchanges and the cessation of operations of others led to a reduction in the number of active exchanges, and today the Johannesburg Stock Exchange is the only stock exchange operating in South Africa. The Stock Exchange Control Act of 1947 and subsequent amendments provide legislative control over the Exchange, its members, and their dealings with the public. In addition, the rules of the Exchange regulate the conduct of members and certain other matters. The Committee of the Stock Exchange is comprised of fifteen elected stockbroker members and one Government-appointed representative.

**Listing Requirements.** A company seeking a listing on the Johannesburg Stock Exchange must make application through a sponsoring broker. Generally, an existing company seeking a listing must be able to show a satisfactory profit history for the preceding three years, with a

current profit level of at least R160,000 before taxes. This is not a rigid requirement and is not applied to newly formed mining companies and in certain other circumstances. In determining whether or not a listing will be granted, the Stock Exchange Listings Committee seeks to protect the interests of investors in regard to the financial prospects of the company concerned. Other requirements are:

1. A subscribed capital of at least R500,000 comprised of not less than 1,000,000 shares.
2. 30% of the first million shares must be held by the public and an agreed percentage of any balance.
3. The number of shareholders must be at least 300.

**Prelisting Statement.** A prelisting statement must be prepared in terms of the rules of the Exchange and, after approval by the Listings Committee, the statement is published for the information of the investing public. In addition, if the company wishes to make a new issue of shares to the public, the requirements of the Companies Act must be complied with in regard to the publication of a prospectus.

**Termination or Suspension of Listing.** The listing of the shares of a company may, at any time, be terminated by the Committee of the Stock Exchange if it is of the opinion that the continuation of the listing would not be in the interests of the public. Representations against termination may, however, be made by the company concerned.

The Committee may also suspend the listing of a company's shares if it considers that it is thereby protecting the interests of investors.

A company may, for acceptable reasons, make application for the suspension of listing of its shares.

**Number of Listings and Market Capitalisation.** Approximately 900 companies list their securities on the Exchange. In addition, some 500 Government, municipal, and public utility corporation securities are listed. The market capitalisation at September 30, 1975 of listed ordinary shares and convertible preference shares and debentures was R20,228,681,000.

**Acquisitions and Mergers.** If a company wishes to acquire the shares or assets of another company or to effect a merger, the Committee of the Johannesburg Stock Exchange must be informed of the proposals. In the case of protracted negotiations, the listings of the shares of the company or companies concerned may, depending upon the circumstances, be suspended until negotiations have been completed.

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Where the acquisition or disposal of assets by a company is in excess of 10% of shareholders' funds, a circular, which requires the prior approval of the Committee and sets out full details of the proposals, must be sent to all shareholders.

**Control.** The Stock Exchange, through its rules and the Stock Exchange Control Act, exercises a considerable degree of control over the activities of stockbrokers. Where stockbrokers advance funds to clients for the purchase of securities or sell securities short for clients, they are required to ensure that, at all times, they hold "minimum cover". The minimum cover required consists of listed securities having a market value of at least twice the amount advanced or twice the amount required to buy in against any short sale. The interests of clients who permit stockbrokers to hold their securities are protected by strict regulations requiring stockbrokers to deposit such securities with registered banks and to specifically identify them as being the property of the clients concerned. Stockbrokers are not permitted to pledge clients' securities for their own bank overdraft or other loan facilities except, with clients' consent, in instances where stockbrokers have advanced funds to clients to purchase securities, and then only to the extent that such advances are twice covered by the value of the securities so pledged. Also, cash funds held by stockbrokers for clients must be deposited with a trustee company of the Stock Exchange.

The Stock Exchange rules lay down the minimum assets required of a broker and also require each broker to have a half-yearly audit conducted by an auditor approved by the Registrar of Financial Institutions. Copies of the half-yearly report of the auditor must be submitted to the Committee of the Stock Exchange and to the Registrar of Financial Institutions. The Stock Exchange rules also require auditors of stockbroker firms to conduct four counts of securities each year, two counts coinciding with the last day of each halfyear and two surprise counts. Surprise counts are, however, required only where stockbroker firms hold securities in safe custody for clients. A Stock Exchange Guarantee Fund has been established to protect the interests of the public in instances where stockbroker firms fail.

## GENERAL REGULATION OF BUSINESS

Two important legislative measures effectively control monopolistic and other undesirable business activities in South Africa.

**Price Control Act.** This Act establishes the office of Price Controller who may from time to time:

- a. fix the maximum price at which any goods may be sold by any person to any other person,
- b. fix the maximum price at which any person may purchase any goods from any other person,
- c. fix the maximum charge that may be made by any person for any specified service, and
- d. prohibit any person from making any charge for any specified service.

The Act provides for the display of the maximum prices which may have been fixed by the Price Controller and for severe penalties to be imposed on any person contravening the price control regulations. The Price Controller will fix maximum prices if representations are made to him by members of the public or the Government and he considers the representations to be justified. The Price Controller will also consider representations for increases in previously fixed prices. Importers are usually allowed to pass on increases in prices of imported articles. The prices of locally manufactured goods are fixed to allow the manufacturer a profit before taxes and interest paid of approximately 18% of capital employed.

Maximum prices of a number of basic commodities have been fixed under the price control regulations. These include many building materials such as bricks, galvanised iron products, cement, lime, glass, paints, structural and joinery timber, and sanitary ware and fittings. Coal, fertilizers, certain basic foodstuffs, dairy products, tyres (tires), petrol (gasoline), and certain household appliances are also subject to price control.

**Regulation of Monopolistic Conditions Act.** This Act provides for the prevention or control of monopolistic conditions and other incidental matters. Monopolistic conditions are defined in the Act to include:

- a. every business practice or method of trading, including any method of fixing prices,
- b. every agreement, arrangement or understanding, whether legally enforceable or not, between two or more persons,
- c. every act or omission on the part of any person, whether acting independently or in concert with any other person, and
- d. every situation arising out of the activities of any person or class or group of persons,

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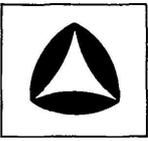
which by directly or indirectly restricting competition has, or is calculated to have, the effect of:

- a. restricting the output of any commodity, or
- b. limiting the facilities available for the production or distribution of any commodity, or
- c. preventing the production or distribution of any commodity by the most efficient and economical means, or
- d. enhancing or maintaining prices, or
- e. preventing or retarding the development or introduction of technical improvements or the expansion of existing markets or the opening up of new markets, or
- f. preventing or restricting the entry of new producers or distributors into any branch of trade or industry, or
- g. preventing or retarding the adjustment of any branch of trade or industry to changing circumstances.

Where reference is made to "distribution" in this definition, it is defined to include storage, transportation, insurance, banking, purchase and sale.

The provisions of the Regulation of Monopolistic Conditions Act are not applied in such a manner as to:

- a. limit any right derived under the Patents, Designs, Trade Marks and Copyright Acts, or
- b. prevent organisations of employees from protecting the interests of their members by entering into agreements or arrangements with employers, or
- c. prevent any co-operative society or any other body of producers of agricultural products from regulating the production or distribution of any agricultural commodity which has not undergone a process of manufacture.



# Labour Conditions

- EMPLOYMENT OF FOREIGNERS
- LABOUR-MANAGEMENT RELATIONS
- TERMS AND CONDITIONS OF EMPLOYMENT

- FRINGE BENEFITS
- SOCIAL SECURITY SYSTEM
- LEVIES ON EMPLOYERS OF BANTU WORKERS

**Level of Employment.** The last census in 1970 showed that approximately 37% of South Africa's 21 million people were economically active. This work force was employed as follows:

	Bantu	Other	Total
Agriculture, forestry and fishing	28%	3%	31%
Mining and quarrying	8%	1%	9%
Manufacturing	6%	6%	12%
Electricity, gas and water	1%	—	1%
Construction	3%	2%	5%
Commerce and finance	4%	7%	11%
Transport and communication	2%	3%	5%
Services	13%	6%	19%
Unspecified	5%	2%	7%
	<u>70%</u>	<u>30%</u>	<u>100%</u>

Unemployment is almost nil among the country's skilled labour force. Unskilled labour is freely available in decentralised industrial areas, but its availability in urban industrialised areas is government controlled.

**Availability of Labour.** In view of the shortage of skilled labour in South Africa, prospective investors would be well advised to survey the labour market for the particular skills required.

The method of obtaining prospective employees varies with the type of labour required. White labour is normally recruited through advertising in newspapers and trade journals and through private employment bureaus.

Non-White labour may be recruited for employers by Labour Boards in various cities. The mining industry, through the Chamber of Mines, has its own organisation for recruiting labour both within South Africa and in neighbouring countries.

**Labour Mobility and Turnover.** Fifty-two percent of the country's population is in the rural areas, and recent years have seen a marked increase in the flow of unskilled Bantu workers from the rural areas to the urban industrialised centres. As a result, the Government has found it necessary both to promulgate laws restricting the movement of the population from rural to urban areas and to actively develop and

# Labour Conditions

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encourage industry in the undeveloped rural areas. The purpose of these measures is to provide employment for Bantu workers near their homes and thereby avoid an influx of Bantu into urban areas, with its attendant slum problems. Since 1947, slum conditions in urban areas have been virtually eliminated by the construction of urban township housing for Bantu workers.

**Along** with the high level of employment, labour turnover is high, and both skilled and unskilled labour generally seek the highest rewards for their services.

Certain types of work in some geographical areas are reserved for particular population groups under the practice of job reservation.

**Immigration.** White immigrants are arriving in South Africa at the rate of about 2,000 per month. Approximately two-thirds come from the United Kingdom and a majority of the balance is from Europe and Australasia.

Because of the increasing demand for skilled manpower in the professional, commercial, and technical fields, and the need to train unskilled Bantu, the country desperately needs immigrants. The Government encourages immigrants by arranging for and paying a significant part of their transportation to South Africa, and by providing initial accommodation. The cost to each immigrant of air passage from Europe is less than R50, after taking the Government's contribution of R200 into account.

This assistance, which is not usually granted to persons who leave for South Africa before they have been approved as immigrants, is granted only once. Immigrants from Rhodesia, Mozambique, Angola, and other adjacent territories are not eligible for assistance.

## EMPLOYMENT OF FOREIGNERS

Foreigners wishing to work in South Africa should in the first instance obtain information from the South African Embassy or Consulate-General in their own country. Persons living in countries where South Africa is not represented should apply directly to the Secretary for Immigration, P.O. Box 2072, Pretoria.

A number of pamphlets giving information on South Africa are available in foreign countries in the language of the country concerned. As noted, financial assistance encourages the immigration of skilled workers.

Temporary work permits for a period of up to six months, which may be extended for a further four periods of six months each, can be obtained with a minimum of "red tape".

To obtain permanent residence, a foreigner will need the following documents when completing the required application form for a permanent residence permit:

1. A passport and an international vaccination certificate.
2. Photographs.
3. Birth certificate.
4. Medical reports (not more than six months old).
5. Police certificate and character references.
6. Marriage certificate, or final divorce decree, or death certificate of late spouse.
7. Educational, trade, and/or professional certificates.
8. Work references or certificates of service (covering at least the last five years).
9. Offer of employment where employment has been prearranged.
10. Proof of financial resources (if retiring to South Africa or self-employed).
11. Consent of both parents (if under the age of 21).

After reaching South Africa, a foreigner must immediately register for employment with a regional office of the Department of Immigration.

## LABOUR-MANAGEMENT RELATIONS

**System of Arbitration.** All employers' associations and employee trade unions, with the exception of Bantu trade unions, are entitled to be registered under the Industrial Conciliation Act, 1956. Under the same statute, employer and employee associations may register an Industrial Council, which consists of an equal number of representatives from both associations, to negotiate terms of employment for a particular industry. The agreements negotiated by these councils may deal with any matter of mutual interest and may be given the force of law and, in certain circumstances, these agreements may also be extended to Bantu workers. Where industries are not controlled by an Industrial Council Agreement, a wage determination, governing conditions of employment and wage rates, may be made by the Government-appointed Wage Board, after hearing evidence from the interested parties.

Strikes and lockouts are illegal during the term of an Industrial Council Agreement and during the first year of a wage determination

# Labour Conditions

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made in respect of an industry not falling within the jurisdiction of an Industrial Council.

Legal machinery for the settlement of Bantu labour disputes has also been set up. Works committees comprised of Bantu employees may be formed in an establishment. These bodies may make representations to the employers on behalf of Bantu workers. Liaison committees, with equal representation from Bantu employees and employers, may be formed to discuss matters of mutual interest. Regional Bantu Labour Committees are appointed to represent the interests of the Bantu in their respective areas, and a Central Bantu Labour Board has been established to protect and support the interests of all Bantu employees in the case of disputes. Works and liaison committees may call in the Regional Bantu Labour Committees to assist in settling disputes in individual establishments. Failure to settle disputes at the regional level can lead to appeals to the Central Board for possible reference to the Wage Board, which may determine the matter. When an Industrial Council proposes to discuss matters affecting Bantu employees, the Central Bantu Labour Board must be given due notice of the meeting. A representative of this Board will then attend the meeting and later report to the Minister of Labour on the conditions that emerge so far as the Bantu are concerned. The Minister may then decide whether or not the particular Industrial Council Agreement will be extended to Bantu employees. If he is not satisfied, he may decline to extend the agreement to Bantu employees and may refer the matter to the Wage Board for a determination.

Strikes and lockouts are very infrequent by comparison with other industrialised nations, and this can be attributed mainly to the effective consultative and arbitration machinery.

Industrial Councils have been established for all the major industries. At the end of 1974 there were 174 registered trade unions.

**Wage Levels.** Wage determinations and Industrial Council Agreements for various industries merely specify minimum conditions. Because of the overall labour shortage, general conditions of service (including wages) are normally substantially higher than the minimums prescribed in the relevant wage regulating measures.

## TERMS AND CONDITIONS OF EMPLOYMENT

Conditions of employment are regulated by Industrial Council Agreements or wage determinations, common law, individual employee contracts, the Factories Act, and the Shops and Offices Act.

**Wage and Salary Rates.** Minimum wage rates are set only for certain industries and occupations, and the minimums differ from industry to industry and from area to area. Areas with lower minimum wages are generally those with lower cost of living. The highest minimums are in the areas of Johannesburg and Pretoria, and the somewhat lower minimums are in the areas of Cape Town, Durban, and Port Elizabeth. However, because of the shortage of labour in South Africa, actual wage rates paid are usually considerably higher than the prescribed minimums.

Hourly-paid employees are generally paid weekly, and salaried employees are paid monthly.

The following is a guide to the wages paid to skilled workers in the Johannesburg area in 1975:

	<b>Minimum Prescribed Weekly Wage</b>	<b>Approximate Weekly Earnings</b>
	<b>Rand</b>	<b>Rand</b>
Building industry (bricklayer, carpenter, plumber)	77	105-115
Electrical industry (electrical wiremen)	70	100-110
Printing and newspaper industry (machine operator)	79	108-118
Iron, steel and engineering industry (fitter, turner, welder)	85	130-140
Motor industry (mechanics)	63	113-123

The average monthly salaries in the Johannesburg area in 1975 for an employee with approximately ten years' experience are as follows:

	<b>Rand</b>
Copy-typist	375— 425
Private secretary	450— 550
Male clerk	500— 600
Female clerk	400— 500
Chartered accountant	1,200—1,500
Geologist	1,000—1,250
Draughtsman	600— 850

Certain employers pay a bonus to employees, generally around Christmas time, which is also the most popular vacation period. This bonus can range from two weeks' pay to 10% of annual salary.

# Labour Conditions

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**Overtime Pay.** Overtime is limited to a maximum of ten hours per week in the case of industrial employees and generally to six hours per week in the case of employees who fall under the Shops and Offices Act, 1964, but exemptions are quite freely granted for longer overtime. The Shops and Offices Act applies only to comparatively lowly paid shop and office employees. Overtime of both industrial employees and shop and office employees is payable at a minimum rate of one and one-third of the normal hourly rate. Overtime on Sundays and public holidays must generally be paid at twice the normal rates.

**Working Hours.** Normal working hours are limited to a maximum of 46 hours per week. Working hours in practice range from 7½ to 8½ hours per day, or from 37½ hours to 42½ hours per five-day week. Continuous-shift work is commonly employed, and normal hourly rates usually apply to night-shift work.

**Meal Allowances.** Industrial Council Agreements usually require a meal, or an adequate meal allowance, to be provided only to a female required to work overtime. The allowance must be paid at a time that enables the worker to purchase the meal and consume it before commencing work.

A number of factories and some offices provide canteen facilities on a free or a subsidised basis.

**Sick Leave.** Workers are generally entitled to 12 days' sick leave, paid at full rates, during each 12 months. In practice, most employees are allowed to accumulate unused sick leave, and Industrial Council Agreements and wage determinations lay down varying provisions in this regard. Employers are usually entitled to demand a medical certificate for any absence from work of more than two consecutive days.

**Equal Pay for Women.** Factory workers are generally paid a rate for the job, irrespective of sex. In commerce, in particular, women have generally been paid at lower rates than men. Recently, however, this trend appears to be changing and women, although not earning the same salaries as men, are being better paid. With the shortage of skilled manpower, opportunities for women are increasing.

**Annual Leave (Vacation).** Annual leave must be at least two weeks for each 12 months of continuous service. In practice, however, most employees are given three weeks' annual leave, and more senior employees often receive four weeks' leave. Many industries have an annual

2 to 3 week "shut down" during the Christmas/New Year period. Consequently, industrial workers are generally required to take their leave at this time each year.

**Long Service Leave.** Some Industrial Council Agreements provide an extra week of leave, in addition to the annual leave entitlement, after a period varying from five to ten years' service in the industry. In some instances, this leave is restricted to the specified period of service with one firm.

**Termination of Employment.** Employers may, under normal circumstances, employ and dismiss staff without restraint. In certain industries, however, employers may employ only trade union members. Both employers and employees are required to give notice of intention to terminate employment. The notice period must usually be a minimum of one week in the case of weekly-paid employees and one month in the case of monthly-paid employees. Other periods are, however, provided in some Industrial Council Agreements and, under the Shops and Offices Act, the period of notice is two weeks for monthly-paid employees earning less than R3,600 per year in the main urban areas and lesser amounts in other areas. The termination of employment entitles an employee to payment for any accrued leave.

**Workmen's Compensation Insurance.** All employers are compelled by law to insure all workmen earning R7,260 or less annually against sickness or injury resulting from their employment. To this end, a State-controlled Workmen's Compensation Fund has been established to levy assessments on employers and pay benefits in respect of claims arising from job-related accidents and sickness.

Workmen's Compensation assessments are made on employers annually and are based on a percentage of the total wages paid during the preceding year, subsequently adjusted to actual wages paid for the year assessed. This percentage depends on the nature of employment and degree of risk involved, and may vary between 0.05% for professional work and 7% for rock drilling and tunnelling.

As a preventive measure against accidents, various laws lay down minimum safety requirements in factories, building sites, and other risk environments.

## FRINGE BENEFITS

South African employees tend to receive increased fringe benefits as they advance in status. The usual fringe benefits include company cars

# Labour Conditions

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or transport allowances, superannuation funds, health insurance, training schemes, and bonus and profit sharing schemes. Company cars are usually provided only to more senior employees. The variety of labour groups and fringe benefits offered make it difficult to generalise about the total cost of fringe benefits. The legally-required benefits are insignificant. However, most employers do provide pension and medical benefits, the cost of which normally ranges up to 10% of basic remuneration.

**Superannuation Schemes.** A majority of non-Bantu workers belong to superannuation schemes providing retirement benefits. These are, in many instances, administered and controlled by the respective industries, but a considerable number of company schemes are either self-administered or are funded by insurance companies. Membership of pension or provident funds is often a condition of employment and contributions are usually made in equal shares by employer and employee. Bantu workers are, however, becoming increasingly interested in superannuation schemes of one type or another, and many employers are establishing superannuation schemes for Bantu employees.

Pension funds, which provide for monthly pension payments on retirement, are generally favoured, while provident funds, which provide lump-sum payments on retirement, are less favoured. Employees' pension fund contributions are allowed as deductions in determining individuals' taxable incomes, but provident contributions are allowed only in determining abatements for individual income tax purposes.

**Accommodation.** Mining and industrial companies in outlying areas usually provide accommodation for employees free or at a nominal charge.

## SOCIAL SECURITY SYSTEM

South Africa has a system that provides a variety of welfare services to the community. Social security benefits, other than unemployment benefits, are paid from the country's consolidated reserves and not from direct levies on taxpayers. The benefits include assistance for the blind or handicapped, war and disability pensions, old age pensions, aid to ex-prisoners, and measures against juvenile delinquency, drug dependancy, and the like.

**Medical and Health Insurance.** Medical insurance is available to all sectors of the population through nonprofit medical aid societies.

These societies, while operated privately, are controlled by legislation. Societies may pay in full for major services, which include surgical, anaesthetic, blood transfusion and like services, and a maximum of 80% for consultative, dental and general medical services. Medical fees are generally lower for society members. Monthly contributions are normally shared by members and employers; the scale of contributions varies with the number of dependants and salary scales. Medical aid contributions are allowed in determining abatements for individual taxation purposes.

Most Bantu are not members of medical aid schemes, but they receive virtually free medical attention and hospitalisation in provincial hospitals. In many instances, individual mining companies and mining groups have their own hospitals for Bantu employees, and free hospitalisation and treatment are provided.

**Unemployment Insurance.** A State-controlled Unemployment Insurance Fund is maintained from State grants and from compulsory contributions by employers and employees. Contributions are payable only for permanent employees whose earnings do not exceed R6,760 annually.

The fund provides for benefits, on a sliding scale based on the latest level of earnings, for workers who are unemployed for various reasons. Certain other benefits, covering illness allowances and maternity grants, are also available. Weekly contributions range from 2 cents to 22 cents, and are shared by employer and employee. Benefits range from R2,45 to R20,30 per week. Increases in contributions and benefits are expected in the near future.

## LEVIES ON EMPLOYERS OF BANTU WORKERS

Two basic levies are imposed on employers of all Bantu workers. These levies must be paid by the employer without contribution by the employee.

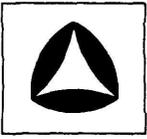
**Transport Levy.** This levy is only on employers in defined areas and varies from approximately 10c to 20c per employee per week, depending upon the area. The levy is paid monthly into a State controlled fund which is applied in subsidising Bantu transport.

**Services Levy.** A consolidated services levy is payable by all employers of Bantu labour. The levy varies from 50c to R1,50 per month per Bantu employee, depending on the area and whether or not

# Labour Conditions

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the employer provides accommodation. Levies are paid to Regional Bantu Administration Boards, which apply the funds collected in meeting their expenses and developing housing, roads, and other facilities in the various Bantu areas falling within their jurisdictions.



# Business Practices and Information

- TRAVEL AND COMMUNICATIONS
- HOURS OF BUSINESS

- COST OF LIVING
- BUSINESS HOLIDAYS
- WEIGHTS AND MEASURES

Business practices and customs in South Africa are much the same as in the United Kingdom and the United States. The visiting businessman will find his South African counterpart friendly and interested in business and world events.

Sport and outdoor activities are an important part of the South African way of life. The main spectator sports are rugby, soccer, cricket, car and horse racing, and tennis. Golf, tennis, and squash are popular individual sports.

**Entertainment.** Visitors from abroad will find the usual forms of entertainment. English is widely used in entertainment (plays, films and radio), and in newspapers and other publications. Tribal dancing by Bantu mine workers in the vicinity of Johannesburg on Sunday mornings could well be of particular interest to visitors.

**Dining.** Restaurants and hotels provide interesting and varied menus, and food compares favourably with western standards. The price of meals is generally less than in the United States and Europe, and South African wines are also less costly than wines in most other countries. It is not unusual for visitors to be entertained in private homes.

**Best Travel Months.** Because of the temperate climate on the inland plateau, almost any time is suitable for visits to Johannesburg and Pretoria, although the months of April and May are usually extremely pleasant. The summer months, from October to March, are hot and humid in Durban and in the Kruger National Park area, and it is preferable to arrange visits to these parts from April to September when climatic conditions are pleasant and little rain may be expected. On the other hand, the Cape coastal area from Cape Town to Port Elizabeth is a winter rainfall area, and November to April (sometimes extending to May) is most suitable for visits to this part of the country. Mid-December to mid-January is a popular vacation period at coastal resorts and should be avoided in visiting coastal areas.

**Immunisation and Travel Documents.** Visitors require a valid passport, and those from countries other than the United Kingdom, Canada, Ireland, Liechtenstein, Switzerland, and certain countries in the vicinity of South Africa must obtain visas in their own countries

# Business Practices and Information

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from South African consulates or embassies. No foreigner may take up employment without obtaining a work permit, but no difficulty is usually experienced in obtaining these permits. A smallpox vaccination certificate is required from all countries and other immunisations may be required of visitors from infected areas.

**Getting to South Africa.** South Africa is approximately nineteen hours by air from New York and a little more than twelve hours from London. Adequate hotel accommodation is available from R20 to R30 per day, excluding meals. Overseas visitors are permitted to bring in, duty-free, 1 litre bottle of liquor, 1 litre bottle of wine, 400 cigarettes, and one-third of a litre of perfume.

**Transportation Within South Africa.** The only national airline (South African Airways) provides an adequate travel network between major cities. Business travel to major cities is customarily by air, while less significant areas may be reached by car, rail, charter aircraft, or minor airline companies. Airports are close to major cities. The roads between major cities, and even in outlying areas, are generally good, and car travel is popular. The "Blue Train", which runs between Johannesburg and Cape Town, is a luxurious train service, and the 24-hour trip could well provide a visitor with a restful and comfortable journey. The "Drakensberg Express" provides comparable overnight luxury service between Johannesburg and Durban.

**Time Factors.** South African time is two hours in advance of Greenwich Mean Time and six hours ahead of New York City time. Time is standard throughout the country and is not varied between summer and winter.

**Languages.** English and Afrikaans are the two official languages in South Africa. As both languages are used, English-speaking visitors will experience no difficulty. A number of different Bantu languages are spoken by the various tribal groups.

**Currency.** South Africa's currency was decimalised in 1961, when the Rand (R) was adopted as the unit of currency. The Rand is comprised of 100 cents, and cents are written as R0,07 or with a small c (7c). South African currency is issued in the following denominations:

Rand notes: 1, 2, 5, 10  
Cent coins: ½, 1, 2, 5, 10, 20, 50

No restriction is placed on the amount of foreign currency visitors

# south africa

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may bring into the country, but they are limited to R50 in South African currency. On departure, visitors must declare the amount of foreign currency they are taking with them. This is restricted to the amount brought in and, to take out currency in excess of this amount, a bank should be approached for a permit. Only R50 in South African currency may be taken out. It is recommended that visitors bring the bulk of their funds in the form of travellers cheques, which can be cashed virtually anywhere. Credit cards, especially American Express, Diners Club, and Barclay Card, are accepted at most major hotels, restaurants, and retail stores.

**Hours of Business.** Minor differences in the business hours noted below occur in various cities:

*Office and Government Hours.* Most offices are open from 8:30 a.m. to 1 p.m. and from 2 p.m. to 4:30 p.m. Monday to Friday. Few offices are open on Saturdays.

*Banking Hours.* Commercial banks open for business at 9 a.m. Monday to Friday and close at 3 p.m., except on Wednesday when they close at 1 p.m. On Saturdays they are open from 9 a.m. to 11 a.m.

*Retail Stores.* Most retail stores are open from 8:30 a.m. to 5 p.m. Monday to Friday, and on Saturday from 8:30 a.m. to 1 p.m. With the exception of small food shops, stores are closed on Saturday afternoons and Sunday.

**Communications.** Mail is delivered daily, excluding Sundays. The airmail service between major cities is good, but mail to outlying areas usually takes some time to reach its destination. International airmail services are reasonably good, particularly to Europe and the United States, but surface mail should generally be avoided. The following are examples of the cost and approximate delivery times of air mail letters:

To	Cost	Time
U.S.A.	20 cents per 10 grams (1/3 oz.)	5 to 6 days
U.K.	15 cents per 10 grams (1/3 oz.)	3 to 4 days

Most businesses rent post office boxes to obtain their mail more quickly. A postal code system is in use.

International cables or internal telegrams may be sent from any post office or private telephone. Telex services are available, but there is often some delay in installation because of a shortage of lines.

# Business Practices and Information

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The telephone service is operated by the post office. There is direct dialling between major cities, to the United Kingdom, and to certain European countries. A three-minute call to the United Kingdom costs R7,20 and to the United States R7,80. Because of a shortage of lines resulting from an ever-increasing demand for telephones, individuals may experience considerable delays in obtaining telephones, but businesses are given priority and delays are not usually significant.

**Cost of Living.** The cost of living in South Africa is, in many respects, less than in the United States and Europe although, in common with most countries, it has increased substantially in recent years. Food prices and rentals are relatively cheap, while clothing prices, other than imported clothing, are comparable with those in the United States and the United Kingdom. Domestic appliances and cars are, however, expensive. A medium-sized popular family car costs approximately R4,500.

**Business Holidays.** The following are the official public holidays, but not all are observed by certain industries. Holidays falling on a Sunday are observed on the following Monday.

January 1	New Year's Day
March/April	Good Friday/Easter Monday
May (varies)	Ascension Day
May 31	Republic Day
September 1	Settlers' Day
October 10	Kruger Day
December 16	Day of the Covenant
December 25	Christmas Day
December 26	Boxing Day

**Business Cards.** The use of business cards is increasing, but is not as prevalent as in other countries. Most professional men do not use business cards.

**Dates.** The sequence of writing dates is day-month-year. The inscription 6/7/75 is read as July 6, 1975, not June 7, 1975.

**Tipping.** Tipping for personal services is customary. It is usual to tip porters, taxi drivers, waiters, room maids, barbers, hairdressers, and petrol pump attendants. The majority of hotels and restaurants add a 10% service charge to accounts, but, in addition, it is usual to provide a small tip to restaurant waiters who provide good service. Where a bill is rendered, it is not uncommon to use 10% of the bill as a standard for

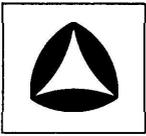
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tips. The magnitude of tipping for personal service is somewhat less in the outlying areas than in the major cities.

**Weights and Measures.** The metric system of weights and measures, known as the International System of Units, has recently been introduced in South Africa.

**Electric Current.** Electric current is on a semistandard system of 220/240 volts – 50 cycles A.C., with some areas operating on 250 volts. The electric outlet requires a three-pronged 15 amp. plug. Major hotels provide 110 volts with two-pronged sockets for electric razors.



# Forms of Business Entities

- PRINCIPAL BUSINESS ENTITIES
- SOLE PROPRIETORSHIP
- PARTNERSHIPS
- COMPANIES (CORPORATIONS)
- FINANCIAL STRUCTURE
- MANAGEMENT OF COMPANIES
- DISSOLUTION OF COMPANIES AND JUDICIAL MANAGEMENT
- BRANCH OF A FOREIGN CORPORATION
- OTHER ENTITIES

## PRINCIPAL BUSINESS ENTITIES

The principal business entities used in South Africa are:

Sole proprietorship

Partnership

Corporation or company incorporated in terms of the Companies Act

Branch of a foreign company

Other: Joint venture

Co-operative society

Mutual fund

The more usual form of business entity adopted by a foreign investor commencing business in South Africa is a corporation, usually referred to as a company. One Companies Act governs all South African companies; the provinces do not regulate business entities. The choice of a particular form of business entity involves tax and other considerations, and foreign investors normally require professional service and advice in this matter.

## SOLE PROPRIETORSHIP

A sole proprietorship refers to any business undertaking conducted by one person in his own right. It is not a legal entity apart from the person concerned and no legal formalities are required to effect formation. The business may be conducted under any name, but the name may not include either the words "limited" or "incorporated". All contracts must, however, be entered into in the name of the person concerned. A sole proprietorship has unlimited liability, and any income derived therefrom is taxable in the owner's hands.

This form of business entity is not usually considered by foreign investors in view of the unlimited liability, the high rate of individual taxation above a certain income level, and the difficulty involved in raising capital.

# Forms of Business Entities

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## PARTNERSHIPS

No separate statutes govern the formation and operation of partnerships. They are governed by common law, but the terms and conditions set out in a partnership agreement take precedence. While it is not essential to draw up a formal partnership agreement, it is desirable that this be done so as to clearly record the rights and duties of each partner and the terms and conditions of the partnership.

The Companies Act restricts a profit-making partnership to a maximum of twenty partners. This restriction does not, however, apply to a partnership of members of certain organised professions which have obtained the necessary Government exemption.

Partnerships may carry on business under any name, but the name may not include either the words "limited" or "incorporated". A partnership is not a legal entity apart from its members but can, in certain instances, sue and be sued in its own name. Partnership property is owned in common by the partners in undivided shares and, on termination of a partnership, is returned to the individual partners in the proportions in which it was originally contributed, unless the partners have expressly agreed otherwise.

In general, partners are jointly and severally liable for all the debts of a partnership, provided that they were incurred in the name of, and with the authority of, the partnership. An individual partner cannot, however, be sued personally on a partnership obligation while the partnership is still in existence; proceedings must be instituted against the partnership as a whole.

The extent of each partner's authority to bind the partnership to third parties may be expressed or implied. All partners, however, have implied authority to do all acts incidental to the proper conduct of the partnership business, irrespective of what the partners may have expressly agreed upon among themselves. Any restriction on a partner's authority is legally effective only if the outside party was aware of such restriction.

There are several forms of partnership entities which provide for undisclosed partners and partners whose liability may be limited. These are similar to limited partnerships in other countries, but they are rarely used in South Africa.

## COMPANIES (CORPORATIONS)

The formation, management, and dissolution of corporations are regulated by the Companies Act, No. 61 of 1973, which came into

effect on January 1, 1974, and entirely replaced the previous Companies Act. The Companies Act is administered by the Registrar of Companies. A company may be formed for almost any legal purpose and once formed has an unlimited life. No distinction is made between domestic-owned and foreign-owned companies incorporated in South Africa.

**Foreign (External) Companies.** The Companies Act requires that a company or other association of persons incorporated outside South Africa, having established a place of business in South Africa, must register as an external company. "Place of business" is defined in the Companies Act as *any place where the company transacts or holds itself out as transacting business and includes a share transfer or share registration office.*

Within twenty-one days of having established a place of business in South Africa, a foreign company must file the following documents with the Registrar of Companies:

1. A certified copy of its memorandum of association or the equivalent document, and copies of any subsequent amendments. If the memorandum is not in one of the official languages of South Africa, a notarially certified translation in one of those languages must be filed.
2. A notice specifying the registered office and postal address of the company.
3. The name and address of the auditor of the company in South Africa and a statement of the auditor's consent to act as such.
4. A notice stating the financial year of the company.
5. A list of its directors, its local manager, and local secretary, with their addresses and occupations.
6. In respect of each director, his consent to act as such.
7. The name and address of a person or persons resident in South Africa (but not necessarily a South African national) authorised to accept service of process or notice on the company.
8. Proof of payment of the annual duty (see page 73).

An external company is obliged to keep accounting records and must, within six months after the end of every financial year, file with the Registrar of Companies a copy of the annual financial statements of both its South African Branch and the company as a whole. The South African Branch's financial statements must include the local auditor's report thereon. There are other requirements listed in the Companies

# Forms of Business Entities

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Act concerning trade catalogues, trade circulars, business letters, and the exhibiting of the company's name. External companies are specifically authorised to own immovable property in South Africa.

**Types of Companies.** Companies are either public companies, in which case the word "Limited" must be the last word in their names, or private companies, whose names must end with the words "(Proprietary) Limited". In both cases, the abbreviations "Ltd" or "(Pty) Ltd." are acceptable. A public company, as its name implies, may offer shares to the public, must have at least seven members (shareholders), and must file its annual financial statements with the Registrar of Companies, where they are open to inspection by the public. A private company, on the other hand, cannot offer its shares to the public; its articles of association must restrict the transfer of its shares; it can have either one or more members, but it may not have a membership exceeding fifty persons (exclusive of persons who are in the employ of the company); and it is not required to file its annual financial statements with the Registrar of Companies. The Companies Act provides for the conversion of a private company to a public company, and vice versa.

Only shares of public companies may be listed on a stock exchange. The private company is the entity commonly formed by foreign investors.

**Organising a Company.** Before a company is formed, one or more promoters may engage in preliminary negotiations and enter into contracts on behalf of the company to be formed. However, any contracts entered into prior to incorporation are not binding on the new company unless subsequently ratified by the company. The Companies Act requires that the memorandum of association of a company must contain the ratification of such contracts as one of its objects.

A minimum of seven persons, each of whom must subscribe for at least one share, is required to form a public company. Only one subscriber is required in the case of a private company.

A company is registered and incorporated by filing the following documents with the Registrar of Companies:

1. Approved application for reservation of name. Approval of the proposed name of a company must be obtained from the Registrar prior to proceeding with registration. Certain names will not be acceptable, including those similar to other registered names or those considered undesirable or deceptive.

2. The memorandum of association. This is the fundamental constitution under which the company is granted incorporation. The memorandum of association must include the company's name, its objects (generally, in broad terms), details of its share capital, the number of shares which each subscriber undertakes to take up, and a statement to the effect that the liability of shareholders is limited. The memorandum must be signed by all subscribers, whose signatures must be witnessed. The names, addresses, and occupations of each subscriber must also be stated.
3. The articles of association. These are the rules that regulate a company's internal operations, including the rights of shareholders. A company may prepare its own articles of association, or may adopt model articles contained in the Companies Act. Any portions of the model articles insofar as they are applicable and are not excluded or modified by the company's articles, are deemed to apply.
4. A notice of the registered office and postal address of the company.
5. A power of attorney signed by the subscribers to the memorandum in favour of the person filing the documents.
6. The written consent of the auditor to act, if an auditor has been appointed at that stage.

If the Registrar is satisfied with the documents submitted, he will register the memorandum and articles of association and issue a certificate of incorporation.

At this point, a company is legally formed, but it may not commence operations or exercise borrowing powers until the Registrar of Companies issues a "Certificate to Commence Business". To obtain this, a company is required to file the following additional documents with the Registrar:

1. A written statement of opinion by each director that the capital of the company is adequate for the purposes of the company or, if any director is of the opinion that it is inadequate, the reasons therefor and the manner in which, and the sources from which, the company is to be financed and the extent thereof.
2. Proof of payment of annual duty.
3. Written consents of directors to act.
4. The written consent of the auditor to act (if not already filed).

# Forms of Business Entities

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5. Name, address, nationality, particulars of directorships in other companies, occupation, and other data of each director and officer of the company.

In addition to the above requirements, public companies which have issued a prospectus must file an affidavit by the secretary or a director to the effect that:

1. Every director has paid to the company the amount owed for the shares to be taken up by him.
2. The shares paid for in cash have been issued for an amount not less than the minimum subscription stated in the prospectus.
3. No money is repayable to applicants for any shares, which have been offered to the public, by reason of the company's inability to obtain a stock exchange listing.

Upon receipt of a "Certificate to Commence Business", a company may legally commence operating.

**Contents of the Prospectus.** Public companies may offer shares or other securities to the public only if such offer is accompanied by a prospectus, which must be registered by the Registrar of Companies prior to its issue. The Act contains numerous provisions to ensure that prospective purchasers of shares obtain prescribed accurate information from the prospectus. The prospectus must include, inter alia:

1. A report by the auditor on the assets and liabilities and profits and losses of the company and its subsidiaries, if any.
2. A general description of the business carried on by the company and its subsidiaries.
3. Information about directors and management.
4. The history, state of affairs, and prospects of the company.
5. The purpose of the offer.
6. Particulars of the share capital of the company.
7. Options granted in respect of the company's shares.
8. Shares issued, or to be issued, otherwise than for cash.
9. Particulars of property acquired or to be acquired for shares.
10. Payments to promoters.
11. Details of material contracts entered into by the company.
12. Details of material interests of directors and promoters in the promotion of the company, such as their interests in any assets acquired within stipulated periods, or to be acquired.

14. A statement by the directors as to the adequacy of the capital.

**Costs of Incorporation.** The costs and expenses of incorporation of a local company include:

*Legal Costs.* These vary with the complexity of the company. The minimum is approximately R300, and includes printing of the memorandum and articles. Larger and more complex companies entail higher legal fees. The costs of registering and incorporating a public company are invariably considerably higher than those incurred in registering and incorporating a private company.

*Capital Duty.* This duty is payable on the amount of the initial authorised share capital and on any subsequent increases. The rate of capital duty payable is 25 cents per R100 or part thereof, with a minimum of R10.

*Stamp Duty on Share Certificates.* This duty is payable on the original issue of share certificates and is based on the issue price of the number of shares included in each certificate. The duty is levied at the rate of 5 cents per R20 or part thereof.

*Registration Fee.* This fee is payable on registration of the memorandum and articles. A basic fee of R25 is payable, plus an additional fee at the rate of R2,50 for each R1,000 or part thereof of authorised share capital.

*Other Fees.* In addition to the above costs and duties, other fees payable include small amounts for document registration and filing and other statutory requirements.

**Annual Duty.** Both locally incorporated companies and foreign corporations having branches in South Africa are required to pay an annual duty. The minimum annual duty is R50, and this is increased by R2,50 for each R10,000, or part thereof, by which the total of their issued share capital and any share premium (or stated capital in the case of no par value shares) exceeds R200,000.

**Auditors.** All companies, whether private, public, or external, are required to appoint auditors, whose main function is to report to shareholders on the annual financial statements. Auditors' rights and duties are governed by the Companies Act and the Public Accountants' and Auditors' Act (see Chapter 6).

# Forms of Business Entities

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## FINANCIAL STRUCTURE

No minimum capital requirements are contained in the Companies Act. The authorised share capital of a company must be detailed in its memorandum of association. Such authorised share capital may be divided into shares having a par value or shares having no par value. The Companies Act requires that all shares of a particular class must consist of either the one type or the other. A company may increase its authorised share capital if so authorised by its articles of association and the increase is approved by a special resolution of shareholders. A company may issue so much of its authorised share capital as it deems fit, and its issued shares constitute its paid-up capital. Companies are no longer permitted to issue partly-paid shares, but partly-paid shares issued prior to the new Companies Act continue in existence.

A company may reduce such portion of its authorised share capital as has not been issued, if so authorised by its articles of association and the reduction is approved by a special resolution of shareholders. If, however, a company wishes to reduce its paid-up capital it must, in addition to the above, provide an affidavit to the effect that it has no creditors or that all the creditors of the company have agreed to the reduction. If a company cannot provide this affidavit, then it can reduce its paid-up capital by passing the necessary special resolution and obtaining the sanction of the Supreme Court. The types and classes of shares must be specified in the memorandum of association.

**Ordinary Shares.** These are the most common form of shares. They may be divided into various classes with varying rights to dividends and votes.

**Preference Shares.** These shares carry preferential rights to participate in the distribution of dividends or capital or both up to specified amounts. They may be issued with or without voting rights, or with voting rights conditional upon certain events. Preference shares may or may not be cumulative with regard to unpaid dividends.

A company may issue preference shares which are redeemable at par or at a premium at a specified date, within a specified period, or at the option of the company. Such shares may be redeemed only out of retained profits, which would otherwise have been available for dividends, or out of the proceeds of a fresh issue of shares. Only fully paid-up preference shares may be redeemed. If they are redeemed out of profits, an amount equal to their par value must be transferred to a "capital redemption reserve fund", which is regarded as part of the paid-up capital of the company.

Preference shares, unless redeemable at specified times, are not favoured by investors. Convertible preference shares, which are convertible to ordinary shares on predetermined conditions, are considerably more popular. The conversion of preference to ordinary shares does not involve any charge against retained profits.

**Deferred Shares.** These shares are, in essence, a category of ordinary shares which are not usually entitled to dividends until all other classes of shares have received specified amounts of dividend.

**Share Warrants.** A public company may, if so authorised by its articles of association, issue share warrants in respect of any of its paid-up shares. A share warrant entitles the bearer to the shares specified therein, and transfer of ownership is effected by delivery of the share warrant. These are, however, very rarely issued, and their issue by companies whose shares are listed on the Johannesburg Stock Exchange is not permitted.

**Issue of Shares.** The conditions relating to the issue of shares by companies are:

1. Shares may be owned by individuals, companies, and other legal entities. A company is not permitted to allot or issue any shares unless the full issue price has been paid to and received by the company.
2. A company may allot or issue its shares subject to the conditions that:
  - a. A private company may not offer its shares to the public.
  - b. A public company may offer its shares to the public only if the offer is accompanied by a prospectus complying with the requirements of the Companies Act.
3. Shares may be issued for cash or in exchange for assets.
4. Shares having a par value may be issued at par, at a premium, or at a discount. Any shares issued at a discount must, however, comply with certain legal requirements and such issue must be sanctioned by the Supreme Court. The premium received on the issue of shares must be reflected in a non-distributable reserve termed "Share Premium Account", which is regarded as being part of the paid-up capital of the company. The share premium account may be utilised to pay for unissued shares which can be issued as fully-paid capitalisation shares (share dividend to shareholders), to write off preliminary formation or share issue

# Forms of Business Entities

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- expenses, or to provide for the premium on redemption of preference shares or debentures.
5. The whole proceeds of an issue of shares of no par value is regarded as paid-up capital and must be reflected in an account termed the "Stated Capital Account".
  6. The power to issue shares is vested in the company and, by resolution of shareholders, may be vested in the directors of the company. Such resolution must specify the terms and conditions under which the directors may issue such shares. The authority vested in the directors is valid only until the ensuing annual general meeting, but can be renewed from time to time.
  7. A company may not purchase its own shares or those of its holding (parent) company. A company may also not lend money or provide any financial assistance or security for the purchase of its own or its holding company's shares, except where lending money is its ordinary business or where it is to enable employees, other than directors, to purchase shares.
  8. Companies may offer options to subscribe for their shares at predetermined prices and times, subject to certain limitations.

**Liability of Shareholders.** In most cases, shareholders in both public and private companies are liable only for their actual investment plus any amounts unpaid on their shares. Such liability is identical with the liability of corporate shareholders in other countries. If, however, the number of shareholders of a public company falls below seven, any shareholder who is aware of this situation becomes liable for certain of the company's debts in certain circumstances.

Charitable, religious, educational, recreational, or cultural organisations may incorporate themselves as companies limited by guarantee. The liability of a member of this type of company is limited to the amount specified in its memorandum and arises only in the event of the company's affairs being wound up.

**Rights of Shareholders.** In general, all shareholders have a right to attend, speak, and vote at general meetings of a company. The rights attaching to holders of various types of shares are usually set out in the articles of association of a company.

*Voting.* In most instances, the articles provide that preference shareholders are not entitled to vote unless their dividends are in arrears or a meeting is convened for the purpose of altering the rights attaching to their shares. When voting is by a show of hands, each shareholder is

entitled to only one vote, irrespective of the number of shares held. On a poll, shareholders are entitled to a vote for each share held. Five shareholders, or shareholders holding one-tenth of the total votes present at a meeting, may demand a poll. Since the introduction of the new Companies Act, companies are not permitted to issue non-voting shares (other than preference shares) or shares of a particular class with differing voting rights. Certain companies incorporated under the previous Companies Act have non-voting shares or shares of a particular class with differing voting rights, but this situation has been allowed to continue.

*Dividends, Liquidation, and Other Rights.* Shareholders are entitled to share in the profits of a company by way of dividends, to share in surplus assets on liquidation, to obtain copies of the memorandum and articles of association, and to receive a copy of the annual financial statements. They also have the right to inspect certain statutory registers of the company.

*Alteration of Rights.* The rights of shareholders embodied in the memorandum or articles of association cannot easily be changed. They can be altered only if the memorandum or articles provide for such alteration, and they must be effected by special resolution. Any shareholder who considers that he has been prejudiced by a variation of his rights is entitled to apply for relief to the Supreme Court which, if it considers the complaint justified, can issue any order it deems fit.

*Special Resolutions.* Under the provisions of the Companies Act, a special resolution is required for certain specified purposes. Briefly, a special resolution is a resolution passed at a general meeting of a company by not less than three-fourths of the shareholders present in person or represented by proxy. A quorum for such a meeting is one-fourth of the total votes to which all shareholders are entitled.

*Annual General Meeting.* An annual general meeting of shareholders must be held each year within six months of the closing date of a company's financial year, but not later than fifteen months after its previous annual general meeting. The first such meeting must be held within eighteen months from the date of incorporation.

*General Meetings.* General meetings may be held from time to time when called by the directors of a company or, subject to its articles, by two or more shareholders holding at least one-tenth of the issued share capital. Directors must call a general meeting if so requested by 100

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members or members holding one-twentieth of the company's capital which carries voting rights.

*Prejudicial Acts.* Shareholders also have the right to apply to Court for relief if they feel that any act or omission is unfairly prejudicial, unjust, or inequitable to them or to any section of shareholders. If the Court considers the complaint justified, it may make any order it deems fit.

*Proceedings Against Directors.* Where a company has suffered a loss or damages, or has been deprived of a benefit as a result of a wrong or breach of trust or faith committed by any director or officer, and the company has not instituted proceedings against such person to recover the damages or loss, any shareholder may require and compel the company to institute proceedings against such director or officer.

**Debentures and Unsecured Notes.** A debenture is a document acknowledging or creating a debt, and relates to borrowings by a company. A company, if authorised by its memorandum or articles, may create and issue debentures which can either be secured or unsecured. The term "unsecured notes" is applied to unsecured borrowings, in respect of which negotiable certificates of title are issued.

Secured debentures are usually secured by a mortgage bond over fixed property or by a notarial bond over movable property. All bonds must be registered in a deeds registry.

Debentures and unsecured notes normally bear interest at fixed rates and are redeemable on specified dates. In certain instances, companies issue debentures and unsecured notes which are convertible into ordinary shares on specified predetermined conditions.

## MANAGEMENT OF COMPANIES

**Board of Directors.** The number of directors of a company is determined by its articles of association. The Companies Act requires every public company to have at least two directors and every private company at least one director. Corporate bodies, minors, and certain other persons, such as insolvents or persons convicted of certain criminal acts, are disqualified from appointment. A prospective director must file a consent to act with the Registrar of Companies before he can be validly appointed. No appointment as a director can be effective until the Registrar has acknowledged receipt of the consent to act as a director. The articles of a company may also require a director to hold

a specified number of qualification shares in the company. Directors need not be resident in South Africa nor need they be South African nationals.

Every company is required to keep a register of directors and officers, in which are recorded personal data, dates of appointment, and details of other companies of which its directors are directors. A central register of directors and officers is maintained by the Registrar of Companies. Appointments of directors at meetings of shareholders must, except with the unanimous agreement of the meeting, be voted on separately. Retirement, eligibility for reelection, and any other conditions governing the appointment and terms of office of directors are usually set out in the articles.

The powers of a company are vested in its directors as a board, and are exercised at board meetings in accordance with the procedures laid down in its articles. The articles may give the board power to delegate its powers or to appoint a managing director. Minutes must be kept of all directors' and managers' (principal executive officers) meetings. Board decisions are by majority vote and the articles may or may not provide that the chairman has a casting vote. Board meetings need not be held in South Africa.

The Companies Act and common law impose a number of rights and duties on directors and impose certain restrictions on their powers, on their dealings with and on behalf of the company, and on their dealings in the listed shares and other securities of the company.

Directors' fees are determined by the articles or at the annual general meeting. Directors' fees and other remuneration payable to directors must be disclosed in the annual financial statements.

**Annual Financial Statements.** Directors are required to prepare annual financial statements for submission to shareholders and holders of other securities in a company, and for approval at the company's annual general meeting. Annual financial statements comprise a balance sheet, an income statement, a statement of source and application of funds, a directors' report, and an auditor's report. Where a company has subsidiaries, the annual financial statements must, in most instances, include a consolidated balance sheet and a consolidated income statement. Annual financial statements, other than the auditor's report, must be approved by the board of directors and signed on its behalf by two directors or one director if there is only one. For further information see Chapter 6.

**Legal Reserves.** There are no reserves which are legally required. The

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articles may require certain reserves to be created and the directors may freely establish reserves at their discretion.

**Dividends.** Dividends may be declared and paid only from profits of a company. The articles usually set out the manner in which dividends are to be declared. Usually the directors are authorised to declare interim dividends and to propose final dividends, which are authorised at the annual general meeting. The articles of listed companies normally authorise directors to declare both interim and final dividends. A company is not obliged to distribute any of its profits by way of dividends, nor is there any limitation on the amount of its past or current profits which may be declared as dividends.

**Audit Requirements.** See Chapter 6.

## DISSOLUTION OF COMPANIES AND JUDICIAL MANAGEMENT

A company may be dissolved in several ways: compulsory liquidation on order by the Court, voluntary liquidation at the request of shareholders or creditors, or de-registration by the Registrar in the case of a defunct company. In all instances, certain legal formalities prescribed by the Companies Act must be complied with.

**Compulsory Liquidation.** A company's affairs may be wound up by the Court on several grounds. These include:

1. The company is unable to pay its debts.
2. Seventy-five percent of the issued share capital of the company is lost or has become useless for the business of the company.
3. The company has not commenced its business within a year of its incorporation or has suspended its business for a whole year; in the case of an external company, it has ceased to carry on business or has been dissolved in the country in which it was incorporated.

In a compulsory liquidation, the Court appoints a liquidator who takes over the company's assets, terminates operations, makes payment to creditors, distributes any remaining surplus to shareholders, and applies to the Court for final dissolution.

**Voluntary Liquidation.** A company, other than an external company, may be wound up voluntarily by a liquidator appointed by the shareholders, provided that satisfactory security is furnished to the Master of the Supreme Court for the payment of the company's debts.

Should the security required not be furnished, the company's affairs may be wound up by a person appointed by the creditors of the company.

**De-registration.** The Registrar of Companies may de-register a company if he has reason to believe that the company is not carrying on business or is not in operation. He is required to send two notices to the company concerned and, if no reply is received, he must publish a notice in the Government Gazette to the effect that the company will be de-registered within three months unless a valid objection is received. In addition, should a company, for a period of more than two years, fail to lodge with the Registrar the annual return required by the Companies Act, the Registrar may proceed to effect de-registration in the manner described above. A company may request de-registration itself by submitting to the Registrar a written statement signed by all directors to the effect that the company has ceased to carry on business and has no assets or liabilities.

In the event of the de-registration of a company, the liability, if any, of every director, officer, and shareholder continues, and may be enforced as if de-registration had not occurred.

**Judicial Management.** Should any company, by reason of mismanagement or for any other cause, be unable to meet its obligations, or is prevented from becoming a successful concern, and there is a reasonable probability that these shortcomings may be corrected, the Court may grant a judicial management order. In judicial management, the payment of pre-judicial management claims of creditors is suspended and the company is afforded the opportunity to improve its financial position.

The application for a judicial management order may be made by the company, its shareholders, or its creditors. The Court appoints a judicial manager who assumes the management of the company in such manner as he deems best for the interests of the shareholders and creditors of the company. At any time, the judicial manager, or any person having an interest in the company, may apply to the Court to cancel the order and divest the judicial manager of his functions. In the event that judicial management is successful, the Court will terminate judicial management and the company will revert to its normal status. In the event that it is not successful, it is usually followed by the liquidation of the company.

## BRANCH OF A FOREIGN CORPORATION

With the exception of banking and insurance companies, any

# Forms of Business Entities

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company incorporated outside South Africa may establish a place of business and carry on its activities in South Africa without being required to form a separate locally-registered company. No special Government consent is required for a foreign investor to register such a business.

Banks and insurance companies are required to form local companies, and their establishment is subject to approval by the Registrar of Financial Institutions. In general, foreign investment in excess of 50% of the equity of banks and insurance companies is not favoured.

The establishment of a branch of a foreign corporation requires registration of the foreign corporation as an "external company" in terms of the Companies Act. The application for registration must be accompanied by the information required by the Act (see page 73).

A branch of a foreign corporation has the same rights as a company incorporated in South Africa, and is not required to appoint a local board of directors.

**Cost of Organising a Branch.** The costs and expenses for the local registration of a branch are:

1. Legal costs. The minimum legal costs involved, assuming the registration of the branch is relatively routine, are approximately R300.
2. Other fees. Other fees payable by branches include a registration fee of R50 and small amounts for document registration, filing, and other statutory requirements.

**Other Considerations in Establishing a Branch.** Unless special conditions apply, the incorporation of a local subsidiary company (adopted by many foreign companies) is often preferable to the establishment of a branch for various psychological and practical reasons. Briefly, these include:

1. In the case of a branch, copies of the audited annual financial statements of both the branch and the foreign corporation must be filed with the Registrar of Companies. No such filing is required by a South African incorporated subsidiary registered as a private company.
2. Annual duty is payable on the total share capital, share premium and stated capital of the foreign corporation. In the case of a South African incorporated subsidiary, the duty is payable only on its share capital and share premium or stated capital (see page

- 73). The annual saving can be substantial for a large foreign corporation.
3. Both a branch and a local subsidiary are taxed at the same rates and only on profits derived from South African sources, but there is a different basis for determining the non-resident shareholders' withholding tax on dividends (see page 133). From a practical viewpoint, it is often easier to substantiate as tax deductible an intercompany charge to a subsidiary, as opposed to an allocation of indirect expense to a branch. In the case of an expense allocation, the tax authorities might well require the submission of a copy of the foreign corporation's financial statements in support of the branch income tax return, and may also require a detailed analysis of various expenses.
  4. From a psychological viewpoint, there is probably a general feeling in Government and other circles that a locally incorporated subsidiary has a more enduring investment in the country's economic development than a branch.

## OTHER ENTITIES

**Joint Ventures.** Joint ventures are not common in South Africa except in the field of mineral exploration. Joint ventures are, in effect, partnerships formed by agreement between the parties, and the common law relating to partnership would normally apply. Joint ventures are usually formed for a specific purpose rather than for continuing business. Should two or more parties wish to establish a continuing business on a joint basis, they would normally incorporate a separate company for that purpose.

**Co-operative Societies.** Co-operative societies must register under the Co-operative Societies Act and are subject to control by the Registrar of Co-operative Societies, with whom copies of annual financial statements and certain other information must be filed annually.

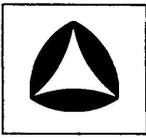
There are two types of societies: trading co-operatives and agricultural co-operatives. Trading co-operatives are in the nature of general stores for the benefit of members but, with the advent of the large chain store groups, their significance has waned. Agricultural co-operatives, as their name implies, are concerned with agricultural requirements and produce, and their significance has increased over the years. "Closed" co-operative societies, which may be either trading or agricultural, are not permitted to supply goods to, or receive produce from, persons other than their members. The taxation of co-operative societies is dealt with on page 131.

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There are a number of large agricultural co-operative societies. In general, they supply members with agricultural requirements and receive and market members' produce. They also obtain loans from the Government-owned Land and Agricultural Bank for the purpose of providing credit to farmers until crops can be harvested.

**Mutual Funds.** Mutual funds are open-end trusts, and are required to register under the Unit Trusts Control Act. They are administered by management companies, which must have minimum capital of R600,000, and must also register under the Act. Funds issue units which are bought and sold by the public at prices determined daily in relation to the market value of their underlying investments. Their resources are invested mainly in listed shares, and they are required to hold at least 15% of their assets in Government and other approved securities. The income of mutual funds is invariably distributed in full to unit holders. The Act permits property mutual funds to hold shares in property companies, but their management companies must have minimum capital of R1,000,000.



# Accounting and Auditin

- ORGANISATION OF THE ACCOUNTING PROFESSION
- ACCOUNTING PRINCIPLES AND PRACTICES
- LEGAL REQUIREMENTS IMPOSED ON COMPANIES
- AUDITING
- FINANCIAL STATEMENT PRESENTATION

As much of the initial capital investment in South Africa stemmed from the United Kingdom, the early accountancy profession tended to follow the accounting practices and principles of that country. In more recent years, the increase in United States investment and the general influence of that country have had a significant bearing on the development of the profession. Also, the influence of the international accounting firms, many of which have been established in South Africa for a considerable time, has assisted in the development of high standards of accounting and auditing.

Reporting standards, especially in the case of listed companies, have tended to be ahead of minimum legal disclosure requirements and the Companies Act, 1973, which came into force on January 1, 1974, has attempted to embody disclosure requirements not greatly different from the best existing practices. An Accounting Development Foundation has recently been established under the aegis of the National Council of Chartered Accountants, with support from the business community, to research and promulgate sound accounting principles for the guidance of corporate management and the profession.

## ORGANISATION OF THE ACCOUNTING PROFESSION

There are at present some 6,000 Chartered Accountants (S.A.), all of whom must be members of at least one of the four provincial societies of chartered accountants. The societies themselves are members of the National Council of Chartered Accountants (S.A.), which is the body mainly concerned with professional standards and post-qualification education and training. The provincial societies were all founded in the period 1900/1910, whereas the National Council was formed with limited objectives in 1945, but has been particularly active since the early 1960's.

Some 2,600 of the 6,000 Chartered Accountants (S.A.) are in public practice and, in terms of the Public Accountants' and Auditors' Act, 1951, must be registered with the Public Accountants' and Auditors' Board. They are thereby entitled to use the designation "Registered Public Accountant". The Board is a statutory body entrusted with

# Accounting and Auditing

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registration, educational, and disciplinary responsibilities. The majority of the Board members are appointed by the four provincial societies, and there are also two university representatives and four senior Government appointees, including the Secretary for Inland Revenue and the Registrar of Companies. The term "Registered Public Accountant" is seldom, if ever, used, as virtually all Registered Public Accountants are Chartered Accountants (S.A.) and prefer that designation because of the standing it enjoys.

**Educational Standards of Chartered Accountants.** Registration with the Public Accountants' and Auditors' Board and membership of a provincial society can be approved only if the applicant has served articles of clerkship registered with the Board, and has passed the final qualifying examination set by the Board.

Articles of clerkship refer to the period of professional practical training which prospective chartered accountants are required to undertake in a practitioner's office. For university graduates, the period is three years and for non-graduates the period is five years.

During their period of articles, non-graduates are required to attend university on a part-time basis to obtain a Bachelor of Accounting or equivalent degree in accordance with a syllabus laid down by the Board. Only after graduating are they entitled to write the final qualifying examination set by the Board.

Graduates who received a degree before entering into articles usually have not taken sufficient technical accounting and other courses to meet the Board's requirements. Consequently, they are generally required to attend university on a part-time basis and pass university examinations before they can write the Board's final qualifying examination.

All education is consequently in the hands of the universities and, to ensure a uniform standard, the final qualifying examination is conducted by the Board. Educational standards are high. In recent years, some 600 to 800 candidates have written the qualifying examination annually, and the pass rate has varied from approximately 50% to 65%.

The Board permits only firms affording a sufficiently broad field of experience and training to offer articles. The Board also regulates the quota of articulated employees per firm; the quotas are governed by the number of partners and their periods of professional experience.

**Professional Qualifications of Auditors.** The Companies Act requires all companies to appoint auditors. Only persons registered with the Public Accountants' and Auditors' Board may be appointed auditors to companies or carry out any other auditing functions. Prior to the

Board's formation in 1951, a uniform qualifying examination was conducted by a general examining board of the four provincial societies of chartered accountants. All Chartered Accountants (S.A.) automatically qualified for registration with the Board on its formation, together with a few persons holding other professional qualifications and having the required auditing experience. Today, virtually all practising accountants registered with the Board are Chartered Accountants (S.A.). Since the formation of the Board, only persons who have passed its qualifying examination are eligible for registration. Members of the Chartered Institutes in the United Kingdom, Canada, Australia, and Ireland, the American Institute of Certified Public Accountants, the New Zealand Society of Accountants, and the Rhodesia Society of Chartered Accountants qualify for registration on passing the Board's special examination on South African law.

**Professional Rules and Ethics and Their Enforcement.** The provincial societies are statutory bodies and have power to discipline any member, whether in public practice or not, who fails to comply with their common rules of professional conduct. The Board is primarily responsible for disciplining Registered Accountants in public practice, and provincial societies must refer cases involving practitioners to the Board. The Board lays down disciplinary rules and defines improper conduct, and its rules and definition have been adopted by the provincial societies. Improper conduct covers soliciting for work, breach of confidence and, generally, any action discreditable to the profession. Punishments range from a warning to permanent disqualification from registration.

## ACCOUNTING PRINCIPLES AND PRACTICES

South Africa is an associate member of the International Accounting Standards Committee, and is thus committed to the standard accounting practices which it recommends.

The Companies Act, 1973, requires that financial statements must fairly present the state of affairs of a company and the results of its operations in conformity with generally accepted accounting practice. The reference to generally accepted accounting practice was anticipated, and resulted in the formation by the National Council of Chartered Accountants (S.A.) of two bodies: the Accounting Practices Committee (A.P.C.), and the Accounting Practices Board (A.P.B.).

The A.P.C. was formed in 1970, and is responsible solely to National Council. It is entrusted with producing, exposing, and examining comment on statements of standard accounting practice. Eleven exposure

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drafts have been published to date. It was realised, however, that, for accounting practices to be generally accepted, the consenting opinions of many bodies, other than the profession, were required. This led to the formation in 1973 of the A.P.B., which is solely a reviewing, not a drafting, body, and is composed of representatives from the profession (National Council and the Board), the Johannesburg Stock Exchange, the Chamber of Mines, and organised commerce and industry.

A statement of standard accounting practice is exposed by the A.P.C. to all chartered accountants, the constituent bodies of the A.P.B., and all listed companies. Comment on exposure drafts is sifted by the A.P.C., and amended statements are submitted to National Council (major amendments would be re-exposed). When approved by National Council, the statement goes to the A.P.B. and, if accepted, becomes recognised as generally accepted accounting practice.

A statement covering the disclosure of accounting policies was approved by the A.P.B. in November, 1973. It follows broadly on the lines of the similar United Kingdom statement, and is not in conflict with the views of the International Accounting Standards Committee. Broadly, any deviation from four fundamental concepts (going concern, matching, consistency, and prudence) must be noted, and accounting policies material in determining income and financial position must be disclosed.

The following are the main areas in which local reporting practices may differ from those applied in other countries, especially the United States and the United Kingdom.

**Inventories.** Disclosure of considerable detail is now required by the Companies Act. Inventories must be classified into categories covering finished goods, merchandise, work in progress, contracts in progress, raw materials and supplies, or any other appropriate categories. In regard to the method of valuing inventories, there must be stated:

1. Whether it is consistent with the previous year.
2. Whether it is the lower of cost or net realisable or replacement value, or any other expressly stated value.
3. The accounting bases used in determining their value.
4. Whether the values assigned to work in progress and contracts in progress include both direct costs and overheads. Also, whether profits or losses have been taken to account and, if so, to what extent.
5. In regard to spares held for maintenance purposes, the method employed in providing for obsolescence.

The LIFO method of inventory valuation, which is permitted for tax purposes on certain conditions, has not been widely used, but appears to be receiving more attention as a result of inflation in recent years.

**Fixed Assets and Depreciation.** The revaluation of fixed assets to reflect current value, as opposed to historical cost, is acceptable accounting practice. Surpluses on revaluation are carried to non-distributable reserves, which may be used in capitalisation share issues (share dividends).

Fixed assets must be stated at cost or valuation, and the year of any valuation must be disclosed. In respect of fixed assets revalued in a particular year, the financial statements for that year must disclose the names and qualifications of the appraisers and the bases of valuation used.

In regard to land and buildings, the financial statements are required to disclose their descriptions and locations, dates of acquisition, purchase price, and cost of additions annually since the dates of acquisition or valuation. Alternatively, where a company holds more than five properties, it is permitted to maintain a register reflecting the required information. The register is available for examination, and in such case the financial statement disclosures are not required.

Plant and machinery may be depreciated on the straight line or the declining balance method. The straight line method is generally regarded as preferable, and is applied by most listed companies and the more significant private companies. Many of the individually-owned private companies tend to depreciate at rates allowed for tax purposes. In cases where plant and machinery are revalued, it is usual to provide depreciation on the revalued amounts, but tax depreciation is allowed only on historical cost.

Industrial buildings, particularly in the case of listed companies, are normally depreciated. For tax purposes, depreciation on historical cost is allowed on a straight line basis of 2% annually on industrial buildings erected after March 25, 1959. Other buildings are not normally depreciated and do not usually qualify for any annual tax depreciation allowance. For book purposes, depreciation of revalued industrial buildings is usually provided on the revalued amounts.

See Chapter 7 for a fuller discussion of tax depreciation.

**Investments.** The notes to the financial statements are required to disclose directors' valuations of unlisted investments or, alternatively, specified information concerning the results of companies in which unlisted shares are held. The names of all companies in which shares are

# Accounting and Auditing

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held must be disclosed, together with the number of shares in each company, or, alternatively, the percentages of individual shareholdings to total book or market value of aggregate listed or unlisted investments.

**Accounting for Income Tax.** In past years, timing differences between reported profits and taxable income were usually ignored, and the tax charged against profits was invariably the tax due to be paid. However, in recent years there has been a growing recognition of tax allocation accounting where there are material differences between reported profits and taxable income, and this practice is advocated in a recent Accounting Practices Committee exposure draft.

**Assets on Lease.** Disclosure must be made of annual lease charges in respect of assets other than fixed property which, if owned by the company, would have been subject to a charge for depreciation.

**Directors' Remuneration.** All fees paid to directors and the total of all other emoluments, including salaries and the values of any fringe benefits received by directors, whether in full-time employment or not, must be disclosed.

**Consolidation Practices.** Annual financial statements must include either:

1. Financial statements of the parent company and separate consolidated financial statements including all subsidiaries, or
2. Financial statements of the parent company and of each subsidiary, or
3. Financial statements of the parent company, consolidated financial statements of the parent company and certain subsidiaries and consolidated financial statements of other subsidiaries.

There is no requirement that "goodwill" arising on consolidation be amortised over any particular period. It may be carried at cost until an obvious diminution in value takes place, or it may be written off immediately, or over a period.

Poolings of interests for mergers have been infrequently applied in the past but, with the introduction of the new Companies Act, are effectively prohibited.

## LEGAL REQUIREMENTS IMPOSED ON COMPANIES

The law relating to companies was substantially amended by the Companies Act, 1973, which came into force on January 1, 1974. It is,

in many respects, similar to legislation governing limited liability companies in the United Kingdom. The Act governs both public and private companies.

**Accounting Records.** Every company is required to keep in one of the official languages (English or Afrikaans) such accounting records as are necessary fairly to present the state of affairs and business of the company and to explain the transactions and financial position of the trade or business of the company, including:

1. Records showing the assets and liabilities of the company.
2. A register of fixed assets.
3. Records containing detailed entries of all cash received and paid out and of the matters in respect of which receipts and payments take place.
4. Where the business of the company involves goods, records of all goods sold and purchased and, except for ordinary retail trade, records showing the goods and the buyers and the sellers thereof in sufficient detail to enable the nature of those goods and those buyers and sellers to be identified.
5. Records of annual inventory counts.

**Annual Financial Statements.** The Companies Act requires that the directors of a company prepare annual financial statements, that they be sent to all shareholders, and that they be approved at the annual general meeting. Annual financial statements consist of:

1. A balance sheet and, if a company has subsidiaries, a consolidated balance sheet.
2. An income statement and, if a company has subsidiaries, a consolidated income statement.
3. A statement, and where applicable a consolidated statement, of source and application of funds.
4. Notes, if any, to the financial statements.
5. A directors' report.
6. An auditor's report.

The financial statements must, in conformity with generally accepted accounting practice, fairly present the state of affairs of the company and its business at the end of the financial year concerned and the results of its operations for that financial year. They must also include at least the matters prescribed by, and comply with the other requirements of, the Companies Act.

# Accounting and Auditing

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Annual financial statements, excluding the auditor's report, must be approved by the directors and signed by two directors or, if there is only one director, by that director.

Companies with subsidiaries are, in most instances, also required to prepare group (consolidated) annual financial statements in addition to those of the company.

A copy of the annual and, where applicable, group annual financial statements must be sent to every shareholder and holder of other securities of a company at least twenty-one days before a company's annual general meeting. In addition, public companies are also required to file a copy with the Registrar of Companies.

If a public company has not issued its financial statements within three months of the end of its financial year, the directors must prepare provisional annual financial statements for the shareholders. Provisional annual financial statements must disclose the profit or loss for the year, together with certain other information relative to the company's affairs, and are not required to be audited.

Every public company must send an interim report (unaudited) to all its shareholders. This report must include the results of its operations, and if appropriate its consolidated results, for the first six months of its financial year, and must be despatched within three months of the close of the half-year.

**Annual General Meetings.** All meetings of shareholders are known as general meetings, and there is one class of general meeting known as the annual general meeting, which must be held within stipulated dates, as noted in Chapter 5. Written notice of an annual general meeting must be given to shareholders at least twenty-one days before the date of the meeting.

The business of an annual general meeting includes consideration of the financial statements for the immediately preceding financial year and the election of directors. In addition, shareholders have the opportunity of seeking information concerning the operations of the company.

## AUDITING

The profession seeks to maintain high standards of auditing, and the training and education of Chartered Accountants (S.A.) are directed at achieving those standards. The majority of auditors extend their examinations to attendance at physical counts of inventories, to test

checking the physical existence of fixed assets, and to verifying accounts receivable by direct confirmation with debtors.

**Auditor's Duties Regarding Annual Financial Statements.** In terms of the Companies Act, it is the duty of the auditor of a company to:

1. Examine the annual financial statements and group annual financial statements to be laid before its annual general meeting.
2. Satisfy himself that proper accounting records, as required by the Companies Act, have been kept by the company and that proper returns, adequate for the purposes of his audit, have been received from branches not visited by him.
3. Satisfy himself that the minute books and attendance registers in respect of meetings of the company and of directors and managers have been kept in proper form.
4. Satisfy himself that a register of interests of directors and officers of the company in contracts has been kept, and that the entries therein are in accordance with the minutes of directors' meetings.
5. Examine or satisfy himself as to the existence of any securities of the company.
6. Obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of carrying out his duties.
7. Satisfy himself that the company's annual financial statements are in agreement with its accounting records and returns.
8. Examine and satisfy himself that group annual financial statements comply with the requirements of the Companies Act.
9. Examine such of the accounting records of the company and carry out such tests in respect of such records and such other auditing procedures as he considers necessary, in order to satisfy himself that the annual financial statements fairly present the financial position and the results of operations in conformity with generally accepted accounting practice, applied on a basis consistent with that of the preceding year.
10. Satisfy himself that statements made by the directors in their report do not conflict with a fair interpretation, or distort the meaning, of the annual financial statements and accompanying notes.
11. Comply with any other duty imposed on him by the Companies

# Accounting and Auditing

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Act, and comply with any applicable requirements of the Public Accountants' and Auditors' Act.

**Auditor's Report.** When the auditor has satisfactorily completed his examination of the financial statements, he must report to shareholders on the annual financial statements. The following is the usual form of unqualified audit report for a group of companies:

We have examined the annual financial statements and group annual financial statements set out on pages to . In our opinion, these statements fairly present the financial position of the company and of the group at 30th June, 197X and the results of their operations for the year then ended in the manner required by the Companies Act, 1973.

The above form of report is regarded by most auditors as implying, by virtue of the provisions of the Companies Act, that the annual financial statements are prepared in accordance with generally accepted accounting practice applied on a basis consistent with that of the preceding year. Certain firms, however, include reference to generally accepted accounting practice and consistency in their reports, and refer to notes dealing with any variations.

**Appointment and Removal of Auditors.** The appointment of an auditor may be made at the time the company is incorporated and, if not made at that time, the directors are required to appoint an auditor within twenty-one days of the date of incorporation. In both instances, the written consent of the auditor to his appointment must be filed with the Registrar of Companies.

The first auditor holds office until the conclusion of the first annual general meeting of a company. At the first and any subsequent annual general meeting, the auditor is deemed to be reappointed without any resolution being passed, unless:

1. He is not qualified for reappointment, or
2. He has been removed by a resolution, of which special notice has been given, passed by 75% of the shareholders present in person or represented by proxy, or
3. He has given notice in writing of his unwillingness to be reappointed.

In practice, auditors are often requested to resign after a change of control, and usually do so without insisting on compliance with the provisions of the Companies Act. An auditor must notify a company in writing of his intention to resign, and must deliver to the company an

affidavit to the effect that he has no reason to believe that, in the conduct of the affairs of the company, a material irregularity has taken place or is taking place which has caused, or is likely to cause, financial loss to the company or any of its shareholders or creditors.

A casual vacancy in the office of auditor must be filled by the directors within thirty days. The remuneration of the auditor is determined by agreement with the company.

**Material Irregularities.** The responsibilities of auditors in regard to material irregularities are governed by the Public Accountants' and Auditors' Act. If the auditor of a company or any other undertaking has reason to believe that a material irregularity has taken place, he is required to report the irregularity in writing to the directors or other persons in charge. A material irregularity is defined as one which has caused, or is likely to cause, financial loss to the company or undertaking, or to any of its creditors, shareholders, or members. If the irregularity is not rectified, or adequate steps are not taken to recover any loss, within thirty days of the despatch of the auditor's report, the auditor is required to report the matter to the Public Accountants' and Auditors' Board. The Board is empowered to disclose particulars of the irregularity to any attorney-general or any officer of the State and, where the circumstances warrant it, the Board normally does so. A number of prosecutions have resulted from this procedure. Auditors are afforded statutory protection against any legal action which might be brought against them in carrying out their responsibilities in regard to material irregularities.

## FINANCIAL STATEMENT PRESENTATION

Companies must issue financial statements in either English or Afrikaans, although listed companies must make their financial statements available in both languages.

The annual financial statements of companies are required to disclose at least the information called for in Schedule 4 to the Companies Act. There is no universal or required format for financial statements. In recent years, the majority of financial statements have been presented in vertical form, although a small number continue to use the conventional two-sided balance sheet, with assets on the right and liabilities on the left. Companies are required to disclose sales turnover, and cost of sales is sometimes stated even though not legally required.

The following specimen financial statements are presented as one among a number of possible formats.

# Accounting and Auditing

## ABC MANUFACTURING COMPANY LIMITED

### BALANCE SHEET – 30TH JUNE, 197X

	<u>Notes</u>	<u>197X</u>	<u>197Y</u>
<u>Capital employed:</u>			
<u>SHAREHOLDERS' FUNDS</u>		3,478,146	3,244,167
Share capital	2	1,977,904	1,955,904
Share premium	3	154,952	138,452
Non-distributable reserve	4	275,000	275,000
Distributable reserves	5	1,070,290	874,811
<u>LONG TERM LIABILITY</u>		130,161	149,793
Secured loan			
<u>DEFERRED TAXATION</u>		183,769	159,369
Provision for deferred taxation			
		R3,792,076	R3,553,329
<u>Employment of capital:</u>			
<u>FIXED ASSETS</u>		1,383,230	1,041,230
Property, plant and equipment			
<u>INVESTMENTS</u>		527,976	522,076
Listed and unlisted			
<u>NET CURRENT ASSETS</u>		1,880,870	1,990,023
<u>Current assets</u>		3,834,627	3,892,174
Inventories	10	1,292,100	1,095,213
Accounts receivable		1,834,712	1,912,416
Cash at bankers and on hand		707,815	884,545
<u>Current liabilities</u>		1,953,757	1,902,151
Accounts payable		1,841,340	1,800,047
Taxation		52,417	42,104
Shareholders for dividend		60,000	60,000
		R3,792,076	R3,553,329

## ABC MANUFACTURING COMPANY LIMITED

### INCOME STATEMENT – YEAR ENDED 30TH JUNE, 197X

	Notes	197X	197Y
OPERATING PROFIT		1,496,359	1,466,834
Sales	11	12,657,128	10,972,124
Less cost of sales	12	11,160,769	9,505,290
INVESTMENT INCOME		157,088	119,171
Listed investments		114,171	95,000
Unlisted investments		42,917	24,171
		1,653,447	1,586,005
Less			
EXPENSES	12	1,152,707	1,090,419
Selling, administrative and financial			
PROFIT BEFORE TAXATION		500,740	495,586
Less			
TAXATION		205,261	203,851
South African normal taxation		180,861	176,726
Provision for deferred taxation	7	24,400	27,125
PROFIT FOR YEAR		295,479	291,735
Less			
APPROPRIATIONS		150,000	150,000
Transfer to general reserve		50,000	50,000
Dividends	13	100,000	100,000
RETAINED PROFIT FOR YEAR		145,479	141,735
RETAINED PROFIT AT BEGINNING OF YEAR		824,811	683,076
RETAINED PROFIT AT END OF YEAR		R970,290	R824,811

# Accounting and Auditing

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ABC MANUFACTURING COMPANY LIMITED

NOTES TO FINANCIAL STATEMENTS – 30TH JUNE, 197X

## 1. ACCOUNTING POLICIES

- (a) The basis of valuation of inventories is consistent with that adopted in the previous year and is the lower of cost or net realisable value. Cost has been determined on the first-in first-out basis. Work in progress and finished goods include direct labour and material costs and variable factory overheads.
- (b) Depreciation of plant and equipment and vehicles has been calculated on a straight line basis over the estimated useful lives of the assets concerned. No depreciation of land and buildings has been provided.
- (c) Liabilities in foreign currencies have been expressed in South African currency at the approximate rates of exchange ruling at the year end.

## 2. SHARE CAPITAL

	197X		197Y	
	<u>No. of shares</u>	<u>Nominal value</u>	<u>No. of shares</u>	<u>Nominal value</u>
Authorised in shares of R1 each	2,000,000	2,000,000	1,978,000	1,978,000
Less Unissued	<u>22,096</u>	<u>22,096</u>	<u>22,096</u>	<u>22,096</u>
In issue	<u>1,977,904</u>	<u>R1,977,904</u>	<u>1,955,904</u>	<u>R1,955,904</u>

The directors have the authority, until the forthcoming annual general meeting, to issue the unissued shares on such terms and conditions as they may determine.

## 3. SHARE PREMIUM

	<u>197X</u>	<u>197Y</u>
Balance at beginning of year	138,452	138,452
Arising during the year on the issue of 22,000 shares at a premium of 75 cents per share	<u>16,500</u>	-
Balance at end of year	<u>R154,952</u>	<u>R138,452</u>

#### 4. NON-DISTRIBUTABLE RESERVE

The non-distributable reserve represents the unrealised surplus arising on the revaluation of the freehold property (note 8(b)).

#### 5. DISTRIBUTABLE RESERVES

	197X	197Y
General reserve	100,000	50,000
Balance at beginning of year	50,000	—
Transfer during year	50,000	50,000
Retained profit	970,290	824,811
	R1,070,290	R 874,811

#### 6. LONG TERM LIABILITY

The loan of R130,161 (197Y: R149,793) is secured by first mortgage over the company's freehold property. The capital sum is repayable in seven annual instalments of RX. Interest is payable quarterly in arrear at the rate of 12% per annum.

#### 7. DEFERRED TAXATION

Deferred taxation is provided at current tax rates on the excess of tax depreciation allowances over depreciation charged against income.

#### 8. FIXED ASSETS

(a) Fixed assets comprise:

	197X	197Y
Freehold property at valuation, with subsequent additions at cost	1,000,000	600,000
Plant and equipment	350,230	390,230
At cost	452,000	452,000
Less Depreciation	101,770	61,770
Motor vehicles	33,000	51,000
At cost	50,000	70,000
Less Depreciation	17,000	19,000
	R1,383,230	R1,041,230

# Accounting and Auditing

## 8. FIXED ASSETS (continued)

(b) The freehold property comprises land, with factory buildings thereon, situated at 123 Second Street, Jeppe, Johannesburg, and is subject to a first mortgage as described in note 6. On 30th June, 196X the property was valued by Smith & Sons, Sworn Appraisers, on a going concern basis. Details of the freehold property are as follows:

	<u>197X</u>	<u>197Y</u>
Land at valuation at 30th June, 196X	100,000	100,000
Buildings	900,000	500,000
At valuation at 30th June, 196X	400,000	400,000
Subsequent additions at cost:		
Years ended 30th June – 197Y	100,000	100,000
– 197X	400,000	—
	<u>R1,000,000</u>	<u>R600,000</u>

## 9. INVESTMENTS

	<u>197X</u>	<u>197Y</u>
(a) Book values:		
Listed:		
Shares at cost less amounts written off	234,000	234,000
Unlisted:		
Shares at cost less amounts written off	122,076	122,076
Unsecured loans	171,900	166,000
	<u>R 527,976</u>	<u>R522,076</u>
(b) Market and directors' valuations:		
Market value of listed shares	519,100	500,000
Directors' valuations:		
Unlisted shares	219,000	208,000
Unsecured loans	171,900	166,000
	<u>R 910,000</u>	<u>R874,000</u>

## ABC MANUFACTURING COMPANY LIMITED

### NOTES TO FINANCIAL STATEMENTS – 30TH JUNE, 197X

#### 9. INVESTMENTS (continued)

(c) The company's listed and unlisted shareholdings are:

	197X	197Y
	No. of shares	No. of shares
Listed		
XYZ Company Limited	2,500	2,500
PQR Investments Limited	7,000	7,000
Unlisted		
JT Sales (Proprietary) Limited	100	100
LM Investments (Proprietary) Limited	10,000	10,000

#### 10. INVENTORIES

	197X	197Y
Raw materials	443,176	482,195
Work in progress	524,180	217,799
Finished goods	324,744	395,219
	R1,292,100	R1,095,213

#### 11. TURNOVER

Turnover comprises net sales as reflected in the income statement, and is stated after deduction of related discounts.

#### 12. COST OF SALES AND EXPENSES

The following items, which require separate disclosure, are included in cost of sales and expenses:

	197X	197Y
Auditors' remuneration	18,350	15,525
Audit fees	16,000	14,000
Taxation services	2,000	1,200
Expenses	350	325
Depreciation of fixed assets	51,398	52,000

# Accounting and Auditing

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ABC MANUFACTURING COMPANY LIMITED

NOTES TO FINANCIAL STATEMENTS – 30TH JUNE, 197X

## 12. COST OF SALES AND EXPENSES (continued)

	<u>197X</u>	<u>197Y</u>
Directors' emoluments	56,000	42,000
Fees	4,000	4,000
Managerial services	42,000	38,000
Compensation for loss of office	10,000	—
Interest paid on loan	16,972	19,346
Leasing charges	5,200	4,800

## 13. DIVIDENDS

	<u>197X</u>	<u>197Y</u>
Paid on X X 197X	40,000	40,000
Proposed	60,000	60,000
	<u>R100,000</u>	<u>R100,000</u>

## 14. CAPITAL EXPENDITURE COMMITMENTS

	<u>197X</u>	<u>197Y</u>
Expenditure contracted for	175,000	250,000
Approved by directors but not yet contracted for	210,000	175,000
	<u>R385,000</u>	<u>R425,000</u>

The above expenditure will be financed from the company's own resources.

## 15. CONTINGENT LIABILITIES

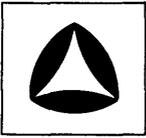
There are contingent liabilities in respect of guarantees of R150,000 (197Y: R160,000), issued by the company.

# south africa

## ABC MANUFACTURING COMPANY LIMITED

### SOURCE AND APPLICATION OF FUNDS STATEMENT YEAR ENDED 30TH JUNE, 197X

	<u>197X</u>	<u>197Y</u>
<b>SOURCE OF FUNDS</b>		
From operations:		
Profit before taxation	500,740	495,586
Less Taxation	<u>205,261</u>	<u>203,851</u>
Profit after taxation	295,479	291,735
Non cash items:		
Depreciation	51,398	52,000
Deferred taxation	<u>24,400</u>	<u>27,125</u>
Total funds from operations	371,277	370,860
Proceeds of issue of shares	38,500	-
Proceeds from disposal of fixed assets	6,602	-
Decrease in working capital	<u>109,153</u>	<u>-</u>
	<u><u>R525,532</u></u>	<u><u>R370,860</u></u>
<b>APPLICATION OF FUNDS</b>		
Dividends paid and proposed	100,000	100,000
Additions to buildings	400,000	100,000
Repayment of long term loan	19,632	19,632
Increase in investments	5,900	-
Increase in working capital	<u>-</u>	<u>151,228</u>
	<u><u>R525,532</u></u>	<u><u>R370,860</u></u>
<b>CHANGES IN WORKING CAPITAL – INCREASES (DECREASES)</b>		
Current assets		
Inventories	196,887	114,123
Accounts receivable	( 77,704)	9,716
Cash at bankers and on hand	<u>(176,730)</u>	<u>6,267</u>
	<u>( 57,547)</u>	<u>130,106</u>
Current liabilities		
Accounts payable	( 41,293)	35,213
Taxation	( 10,313)	( 14,091)
Shareholders for dividend	<u>-</u>	<u>-</u>
	<u>( 51,606)</u>	<u>21,122</u>
Increase (decrease) in working capital	<u><u>R(109,153)</u></u>	<u><u>R151,228</u></u>



# Taxation in South Africa

- COMPANY INCOME TAXATION
- GROSS INCOME
- EXEMPT INCOME
- ALLOWABLE DEDUCTIONS
- TAX INCENTIVES
- COMPANY TAX RATES AND PAYMENT OF TAXES
- SPECIAL TAX TREATMENT OF PARTICULAR BUSINESSES
- TAXATION OF OTHER TYPES OF ENTITIES
- WITHHOLDING TAXES ON PAYMENTS TO NON-RESIDENT COMPANIES AND INDIVIDUALS
- INDIVIDUAL INCOME TAXATION
- GROSS INCOME OF INDIVIDUALS
- EXEMPT INCOME OF INDIVIDUALS
- ALLOWABLE DEDUCTIONS AND ABATEMENTS – INDIVIDUALS
- INDIVIDUAL INCOME TAX RATES
- TAX RETURNS – FILING, PAYMENT AND OBJECTION PROCEDURES
- MISCELLANEOUS TAXES
- EXCISE DUTY
- SALES DUTY
- STAMP DUTIES
- TRANSFER DUTY ON REAL ESTATE
- DONATIONS (GIFT) TAX
- DEATH DUTIES
- INCOME TAX IN SOUTH WEST AFRICA

## TAXATION IN SOUTH AFRICA

South Africa has three levels of government, each of which imposes its own taxes. The major taxing authority is the Central Government, which allocates funds to the provinces to finance the public expenditure for which they are responsible. Central Government taxes include income taxes on individuals and companies, donations tax, death duties, customs and excise duties, sales duty, transfer duties on real estate and share transactions, annual company duty, and various stamp duties.

In addition to receiving allocations from the Central Government, the four provinces impose entertainment and other taxes and motor vehicle licence fees. Provincial authorities are responsible for specified items of public expenditure, including roads, education and hospitals.

The main source of municipal income is assessment rates, which are levied annually on the owners of real estate. This income is used for municipal administration and essential services, such as garbage disposal, street construction and maintenance, transport services, recreation facilities and the like.

**Income Tax Legislation.** The liability to pay income and donations taxes, and the principles determining the income on which tax is payable, are set out in the Income Tax Act, 1962, with subsequent annual amendments (hereafter referred to as the Act). Tax rates are fixed annually at the same time as any amendments of principle are effected. The Act covers company taxes in both the Republic of South Africa

# Taxation in South Africa

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and the territory of South West Africa, and the taxation of individuals in South Africa.

Published South African income tax case law is of significance in interpreting sections of the Act which might otherwise be subject to differing interpretations in particular circumstances. In addition, because of similarities in legislation, the case law of Australia, New Zealand, Rhodesia and, to a lesser extent, the United Kingdom and United States, is sometimes of persuasive value, although obviously not binding on South African courts.

Many principles of income taxation apply to both individuals and companies. There is, however, a fundamental difference in tax rates; individuals are subject to progressive rates based on magnitude of income, while companies are taxed at flat rates. Certain types of businesses receive special tax treatment. These are discussed on pages 123 to 132.

In broad terms, taxable income is gross income less exempt income and allowable deductions. This applies to both individuals and companies, but individuals are entitled to certain deductible abatements from taxable income and the appropriate tax rates are applied to the remaining taxable amount.

**International Tax Treaties.** South Africa has concluded tax treaties for the avoidance of double taxation and the prevention of tax evasion with the following countries:

United Kingdom	Malawi
United States	Swaziland
Rhodesia	Botswana
Sweden	Lesotho
Canada	Switzerland
South West Africa	West Germany
The Netherlands	

In addition, limited agreements in respect of profits derived from international sea and air transport have been concluded with:

Denmark	Belgium
Norway	Portugal
Finland	Ireland
Israel	Greece
Italy	Japan
France	Brazil

The first group of double taxation agreements is fairly comprehensive in scope; the principal provisions of most relate to dividend, interest, and royalty payments from one contracting state to another. Where these provisions conflict with the Act, the treaties predominate.

**Tax Havens.** Tax havens are not extensively used by South African companies or individuals. Certain local companies with international operations do use tax havens, but only for those operations.

**Outline of Income Taxation.** The following is a concise summary of the basic elements of income taxation in South Africa:

1. Resident and non-resident individuals and companies are taxed only on income from South African sources. An exception to this general rule is that resident individuals are taxed on dividends from foreign sources, except in certain special circumstances.
2. Taxable income consists of gross income less exempt income and allowable deductions. Individuals are allowed certain deductible abatements in determining taxable amount.
3. Dividend receipts from local and foreign companies are excluded from the taxable incomes of companies.
4. Taxpayers are divided into two basic categories for income tax purposes:
  - a. Individuals – taxed at progressive rates.
  - b. Companies – taxed at 41% of taxable income, plus a loan levy of 2% of taxable income refundable within 7 years with tax-free simple interest at 5% per annum.
5. Companies are divided into private and public companies only for undistributed profits tax purposes. Foreign-controlled companies are exempt from this tax.
6. Withholding taxes are imposed on interest and dividends due or remitted to non-residents (see page 133). Withholding also applies to royalty, “know-how” and similar accruals to non-residents (see page 134). Other types of income earned by non-residents from South African sources, including branch profits (see page 131), are not subject to withholding taxes.
7. Capital gains are not taxed. However, certain sales that are considered in other countries as giving rise to capital gain are regarded as being gross income subject to income tax. Specifically, profits from the sale of any assets, including property and securities, acquired for the purpose of resale at a profit are taxable at the same rates as ordinary income. If the same assets were acquired as genuine investments, or for purely domestic purposes, or for the main purpose of producing periodic investment income, profits arising on their sale are regarded as being of a capital nature and are not taxable.

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8. A husband's and wife's incomes are combined for tax purposes and a single assessment is made on the husband at the tax rate applicable to married persons. Single persons are taxed at higher rates.
9. Assessed tax losses of individuals and companies in any one year are carried forward to future years and are diminished until exhausted by future taxable income or are increased by future losses. Losses cannot be carried back.

## COMPANY INCOME TAXATION

Company income tax is levied on the taxable income of all companies that are not exempted. Taxable income is gross income less exempt income and allowable deductions. Taxable income rarely agrees with book profit because certain income is exempt and tax-deductible expenses and allowances differ from book expense. The required presentation to the tax authorities starts with book profit and lists the adjustments required for tax purposes.

**Definition of Company.** The definition of a company for income tax purposes effectively includes all companies and other formal bodies and associations, but excludes amateur sporting associations and clubs which derive their income solely from transactions with members and prohibit the distribution of their profits to non-members. Although this definition is extremely wide, a considerable number of organisations fall within the definition and their income is specifically exempted from income tax. These include superannuation funds, municipalities, public utility corporations, certain Government and quasi-Government bodies, the State, charities, ecclesiastical organisations, educational institutions and other organisations of a similar nature.

**Year of Assessment.** A company's year of assessment coincides with its financial year for accounting purposes. The official tax year ends on the last day of February and any company wishing to end its financial year on any other date, or wishing to change the closing date of its financial year, must obtain the tax authorities' permission. Such permission is invariably given.

**Tax Losses.** Assessed tax losses are carried forward to the subsequent tax year. Companies lose this benefit, however, if they do not operate during such subsequent year. Also the carry forward of a tax loss may not be permitted if there has been a change in shareholding of a com-

pany which, in the opinion of the tax authorities, was solely or mainly for the purpose of utilising the loss. There is no time limit for the carrying forward of tax losses provided that the company continues to operate. There is no provision for carrying tax losses back to previous years.

**Groups of Companies.** The South African income tax law has no provision for taxing a holding company and its subsidiaries on a group basis. Each company in a group is taxed as a separate entity, and tax losses incurred by companies within a group cannot be set off against the taxable incomes of others.

**Public Officer.** Each company is required to appoint a “public officer” who represents the company in all dealings with the Revenue Department. In the case of default by the company, the public officer is liable to penalties set out in the Act, although all actions in his representative capacity are deemed those of the company which he represents.

## GROSS INCOME

Gross income includes all receipts or accruals, excluding those of a capital nature, from sources within or deemed to be within South Africa. Income from foreign sources is therefore not included in gross income unless, in terms of the Act, its source is deemed to be South African. Receipts of a capital nature are specifically excluded from gross income, and capital profits are consequently not subject to income tax.

**Source of Income.** The question of source is one of fact and must be determined from the circumstances of each case. In general, however, it is the originating cause of the income which determines source rather than the locality of the payer. By way of example, the source of loan interest received is the place where the loan funds were made available to the borrower, and not the place from which the borrower makes his interest payments. Also, the source of income derived from employment or services rendered is regarded as being South African if the services were rendered in South Africa.

In addition, certain types of income not covered by the above test are deemed by the Act to have accrued from a South African source. The most important of these are:

1. Contracts for the sale of goods. If a contract for the sale of goods is entered into in South Africa, the proceeds of the sale are

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deemed to have accrued from a South African source, irrespective of where the goods were manufactured or the place of delivery.

2. Royalties and “know-how”. If the rights to patents, trade marks, copyrights and the like in respect of which royalties accrue are used in South Africa, the resulting income is deemed to have a South African source. “Know-how” payments to foreigners for importing scientific, technical, industrial or commercial knowledge or information for use in South Africa and for rendering services in connection with the use of such knowledge or information are deemed to be from a South African source.
3. Interest on loans to and deposits with banks. Interest earned on loans to and deposits with South African banks is deemed to have a South African source, irrespective of where the loan or deposit was made or the interest was paid. Interest receivable by local residents on deposits with or loans to foreign banks is deemed to be from a South African source.
4. Dividends. Dividends accruing to South African residents from foreign sources are deemed to have a South African source (unless acquired prior to taking up residence), except in the case of dividends from the United States which enjoy exemption under the tax treaty with that country.

**Dividends.** Dividends received from both South African and foreign sources are included in gross income, but dividends received by companies are exempt from income tax and it is not therefore relevant to discuss the case law relating to the source of dividend income. In short, all dividends received by companies are not subject to income tax.

**Interest.** Except for the interest referred to in item 3 above, only interest received from South African sources is included in gross income.

**Capital Gains.** Receipts of a capital nature are not included in gross income and, consequently, any capital profits arising therefrom are not subject to income tax. There is no capital gains tax in South Africa and capital profits are therefore entirely tax-free. In some circumstances, however, gains arising from what would seem to be transactions in capital assets are taxable because they are regarded as income gains and not capital gains. These circumstances arise when a taxpayer acquires capital assets with the intention of reselling them at a profit instead of for business use. The only tax criterion is the intended purpose at acquisition. The holding period of an asset normally has no tax effect, but could be indicative of the original intention of the taxpayer.

**Inventory Valuation.** The expression “trading stock” is normally used in South Africa when referring to inventories, and is the term used in tax laws. For tax purposes, the value of trading stock at the beginning of the year of assessment is deducted from taxable income as determined, and the value of stock at the end of the year is added. This treatment corresponds with recognised accounting practice.

In terms of the Act, trading stock must be valued at cost to the taxpayer, less a reasonable deduction for damage, deterioration, general decrease in market value, or other such reason. The determination of these deductions is at the tax authorities’ discretion but, in practice, inventory valuations reflected in audited financial statements are seldom queried by the tax department. Such deductions are not, however, permitted in respect of shares held by one company in another and which, in the case of sharedealing companies, constitute stock in trade.

The Act does not specify the method or methods by which the cost of trading stock is to be determined. It does, however, specifically permit a taxpayer to adopt the LIFO method of valuation provided that stock records satisfactory to the tax authorities are maintained and that certain other conditions are complied with. Having once adopted the LIFO method of valuation, a taxpayer may change from that method only with the tax authorities’ consent and subject to any conditions they may impose.

**Non-Resident Companies.** For income tax purposes, companies not registered in South Africa are included in the definition of company, if they derive income from South African sources. In determining assessable income, it does not matter where these companies are managed or controlled, nor does the extent of their South African operations influence the position. Income derived by non-resident companies from South African sources is included in gross income and is assessed to tax in the normal way.

## EXEMPT INCOME

Exempt income is income that is specifically deductible from gross income in determining a company’s income. Allowable deductions are deducted from income in determining taxable income.

**Dividend Income of Companies.** All dividends received, whether from South African or foreign companies, are exempt income in the hands of a company and are therefore not taxable. This exemption is

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based on the principle that dividends are paid from taxed profits and any further tax would result in taxing the same profits twice.

**Other Exempt Income.** The income of certain bodies or organisations referred to under *Definition of Company* is exempt. The only other exemption of consequence to a company relates to the tax-free interest on the loan levy, which is imposed by the Act at the rate of 2% of taxable income, and is refundable within seven years.

## ALLOWABLE DEDUCTIONS

**General Rules for Deductions.** The general rule is that all expenses incurred in the production of income are allowable. In this context, it is important to appreciate that "income" means the income remaining after deducting exempt income from gross income. In addition, all deductions claimed must be wholly or exclusively expended for the purposes of trade. Expenses of a private or capital nature, or those incurred to produce exempt income, are not allowable deductions.

The Act permits the deduction of all expenditure incurred in South Africa in the production of income and so much of expenditure, other than that of a capital nature, incurred outside South Africa as may be allowed by the tax authorities. In practice, no difficulty is experienced in claiming non-South African expenses genuinely incurred in the production of income.

Deductions are allowed in the year that expenses are legally due, even if not paid or payable in that year. Expenses arising from the creation of provisions relating to expense in respect of which no legal liability has been incurred during a particular year are not allowed in the year of establishing the provisions, but only in the year in which such liability is incurred. By way of example, a provision for normal holiday pay, which accrues to employees proportionately to days worked over a year, is an allowable deduction, whereas a provision for bonus pay, which will be granted to employees only at the discretion of the employer at some future date, is not deductible until paid.

**Amortisation.** No deductions are allowed for the amortisation of wasting assets, goodwill, or leasehold improvements. Leasehold improvements are, however, deductible over the period of the lease or 25 years, whichever is the lesser, if the lessee is obliged to effect such improvements under the lease and the premises are used in the production of income.

Mining companies are not permitted to amortise the cost of mining rights or mining properties and similar principles apply to quarries.

Special treatment is, however, accorded to other mining assets (see page 125).

**Patents, Designs, Trade Marks and Copyrights.** The costs of acquiring or developing patents, designs, trade marks, copyrights and other property or rights of a similar nature used in a taxpayer's business can be amortised. The periods over which they may be amortised are those considered by the tax authorities as being their probable duration, or 25 years, whichever is the lesser. The cost of renewing registration and similar expenses are deductible. Royalty payments are also deductible.

**Depreciation of Buildings.** In general, depreciation of buildings is not deductible for tax purposes. However, annual depreciation at the rate of 2% on cost is allowed on buildings used wholly or mainly in a process of manufacture and erected after March 24, 1959, and on buildings erected after March 14, 1961 and used wholly or mainly in a process of manufacture or any other process which, in the opinion of the tax authorities, is of a similar nature. An equivalent depreciation allowance is permitted on hotel buildings erected after March 1, 1960. These depreciation allowances are also available to the owners of buildings leased for manufacturing and hotel purposes, but are only applicable to industrial buildings erected after March 14, 1961 and hotel buildings erected after December 31, 1963.

The tax authorities interpret a process similar to a process of manufacture in fairly broad terms. Photography, for example, is regarded as being a process similar to manufacture. It is also noteworthy that, where a factory, a separate office building, and a staff canteen are erected on the same site, the office building and canteen are regarded as buildings used in a process of manufacture and qualify for the annual depreciation allowance.

**Depreciation of Other Assets.** Depreciation of machinery and equipment used by a taxpayer in the production of income is deductible for tax purposes.

Where any machine is mounted on or affixed to a foundation, which in the opinion of the tax authorities is an integral part of that machine, depreciation on the cost of the foundation is allowed at the same rate as the machine.

Depreciation can be claimed only by the owner of an asset. Thus, only the owner of a leased asset, not the user, can deduct depreciation. Assets subject to hire-purchase agreements (a form of terms purchase) are legally owned by the financier until completion of instalment payments, when ownership passes to the hirer. These assets are, however,

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considered to be owned by the hirer for tax purposes, and he is entitled to depreciate them. Finance charges relating to capital assets acquired under hire-purchase agreements are not deductible, but are included in the cost of the assets for tax depreciation purposes.

Depreciation is not allowed on intangible assets such as company preliminary and formation costs, or the costs incurred in the issue of share capital; nor are they allowable deductions.

**Initial Allowance on Machinery.** An initial allowance of 25% of the cost is granted in respect of new or unused machinery used directly in a process of manufacture or any other process which, in the opinion of the tax authorities, is of a similar nature. The allowance is granted in the year in which the machinery is brought into use, and is not reduced for less than a full year's use. The allowance may, at the discretion of the Minister of Finance, be increased up to 40% of cost in economic development areas. The allowance is also available to a lessor of machinery used by a lessee in a process of manufacture. Hotel equipment also qualifies for an initial allowance (see page 129).

**Rates of Depreciation.** With the exception of the 2% allowance on industrial and hotel buildings, rates of depreciation are not laid down in the Act. The Act merely states that depreciation, which is referred to as "wear and tear", is allowed at such rates as the tax authorities consider reasonable.

In the case of machinery and hotel equipment (see page 118) qualifying for the initial allowance, cost is reduced by that allowance and tax depreciation is calculated on the remaining balance.

The following are the rates of depreciation, on a diminishing-balance basis, which are acceptable to the tax authorities without negotiation:

Machinery	10%
Motor vehicles – cars	20%
Motor vehicles – trucks	25%
Office equipment	15%
Office furniture	7½%

These rates may be increased by negotiation if it can be shown that increases are justified in particular circumstances. Where assets are subject to unusually heavy wear and tear, the tax authorities will accept increased depreciation rates. When longer than normal shifts are worked, increased rates are normally granted.

The tax authorities are also prepared to grant allowances on a "straight line" basis where agreement can be reached in regard to the

estimated useful lives of the assets concerned. It is not unusual for "straight line" depreciation to be granted at the rate of 10% on machinery.

**Sales of Assets.** When an asset on which depreciation, or the initial machinery allowance and depreciation, has been allowed is sold, scrapped, destroyed, or otherwise disposed of, the consideration received in excess of the depreciated value, after deduction also of the initial allowance, is treated as follows:

1. That portion which represents a recoupment of depreciation and the initial allowance is included in gross income in the year of sale.
2. Any amount in excess of original cost is a capital profit and is not taxable.

If the consideration received is less than the depreciated value of the asset, the loss is deductible in the year of sale. The same principles apply to industrial and hotel buildings on which the 2% annual depreciation allowance is permitted.

**Legal Expenses.** The purpose for which legal fees and other legal costs are incurred determines whether or not they are deductible. Deductions are permitted from income in respect of legal expenses incurred by a taxpayer in the ordinary course of his business operations, provided that they are not of a capital nature. Legal expenses incurred in the protection of income, the prevention of diminution of income, the prevention of an increase in deductible expense, and the avoidance or prevention of losses, other than capital losses, are deductible. Legal expenses relating to recovery of debts, defending claims for faulty merchandise, wage disputes and similar operating matters are therefore fully deductible. However, legal expenses relating to the formation of companies, issues of share capital, registration of mortgages, transfer of real estate and defending actions arising from non-business activities are not deductible. Legal expenses incurred in acquiring depreciable assets may be capitalised as part of the cost and depreciation claimed thereon.

**Repairs and Replacements.** Expenses incurred on repairs of property occupied for the purpose of trade, or from which income is receivable, and on the repair of machinery and other equipment employed by the taxpayer for the purposes of his trade are deductible. Repairs must be carefully distinguished from work which is new or which results in an addition or an improvement to the original structure or equipment. Expenses involving additions and improvements are not deductible. Costs incurred to place newly acquired assets in working condition must be capitalised.

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**Bad and Doubtful Debts.** Bad debts are deductible from income provided that the debt is owed to the taxpayer and has been included in income in the current or any previous year of assessment.

The tax authorities have discretion to permit an annual allowance for doubtful debts. The allowance is usually granted at a rate not exceeding 25% of listed doubtful debts. It is deductible from income in the year in which it is granted and is included in income in the following year.

**Donations.** In general, donations are not deductible. Exceptions are donations to universities, certain technical colleges, and the National Study Loans and Bursaries Fund. The deductibility of these donations is limited to 5% of a company's taxable income for the year.

**Taxes.** With the exception of the taxes levied under the Income Tax Act, all taxes, rates, and duties relating to a company's business operations are normally deductible.

**Staff Retirement Funds.** Employers' contributions to approved pension, provident, and similar staff retirement funds are deductible to the extent of 10% of the remuneration of each employee. Contributions in excess of 10% may still be deductible, but require approval by the tax authorities.

**Interest Expense.** Like other expenses, interest must be incurred in the production of income to be deductible. Interest expense incurred in the purchase of fixed assets used in a taxpayer's business for the purpose of producing income is deductible. Conversely, interest paid on a loan for the purchase of vacant land unrelated to the taxpayer's business is not deductible.

In general, no distinction is drawn between interest paid on funds used as working capital or to purchase fixed assets. However, only interest paid on funds used to produce taxable income is deductible. Thus, interest paid on borrowings used to purchase shares in other companies, or invested in assets that produce non-South African source income, is not deductible (see below).

**Expenses Relating to Non-Taxable Income.** It is important to appreciate the significance of "expenditure incurred in the production of income" in relation to interest and other expense. In terms of the Act, "income" consists of gross income less exempt income. It follows that expenses incurred in producing revenue which is not included in gross income, or revenue that is exempt income (and is consequently de-

ducted from gross income in arriving at income), are not expenses incurred in producing "income", and are consequently not deductible.

This principle is particularly important in regard to interest expense incurred to obtain funds to purchase shares in other companies, or to finance loans to foreigners or to purchase assets producing non-South African revenue. Because the dividend revenue that the shares produce is exempt income, the related interest expense is not deductible. Also, because the interest income on the loans to foreigners and the trading revenue from the assets purchased are from non-South African sources, they are not included in gross income, and the related interest expense is consequently not deductible.

Expenses of a general nature which are not directly attributable to non-taxable or taxable revenue are usually apportioned. In the case of a company receiving non-taxable dividend revenue and other taxable revenue, expenses not directly attributable to either type of revenue are normally apportioned in proportion to revenue. Only that proportion of the total expense apportioned to taxable revenue is deductible from that revenue in arriving at taxable income. The basis of apportioning such expense may be negotiated with the tax authorities, who are normally receptive to sound arguments justifying a more favourable basis. The same principles apply to expenses, whether of a specific or general nature, that can be attributed to non-income producing assets, but different bases of apportionment may be applied in determining non-deductible expense.

**Borrowing Expenses.** Fees, commissions, and other expenses incurred in raising loans are generally regarded as being of a capital nature, except in the case of banks and similar organisations which borrow and offer funds in the ordinary course of business.

**Losses of Prior Years.** A tax loss incurred in any business activity can be carried forward to offset any income in the following year or to increase any loss in that year. However, if a company ceases to trade in the succeeding year and consequently derives no income, any brought-forward tax loss is forfeited. Thus, provided a company continues to trade, tax losses may be carried forward indefinitely. Individuals can carry tax losses forward indefinitely, irrespective of whether they derive income in succeeding years. In neither case can losses be carried back to prior years.

When a company is liquidated or de-registered, any tax loss is forfeited. The value of any benefit received by a taxpayer as the result of a compromise with creditors in respect of liabilities incurred in the ordi-

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nary course of trade must be deducted from any tax loss brought forward.

Where the tax authorities are of the opinion that an agreement or change in shareholding of any company has been entered into or effected solely or mainly to obtain tax benefits from any assessed tax loss, the set-off of the tax loss against future income may be disallowed.

## TAX INCENTIVES

The Government has introduced several tax incentives to encourage investment in manufacturing, hotels and economic development areas and to stimulate exports.

**Export Market Development Expenditure (EMDE).** Expenditure directly incurred in the export of South Africa's goods and services, other than gold, silver, and diamonds, is fully deductible for tax purposes and, in addition, is eligible for a further tax allowance. The rates of this additional allowance are 75% or 100% of EMDE. The 100% allowance applies where the current year's export turnover exceeds the adjusted basic export turnover (the average of the three lowest annual export turnovers in the last five years) by more than 10%. The 75% allowance applies in all other circumstances.

Expenditure eligible for the EMDE allowance includes research into the marketing of goods overseas (travelling, hotel, and similar expenses), overseas advertising, furnishing samples, special export packaging, bringing prospective buyers to South Africa, the cost of tenders and quotations, commissions paid on exports, and special discounts to foreign purchasers, agents, and distributors.

Export incentives are also available under the "finance charges aid scheme" for exporters. Under this scheme, tax-free interest rebates can be claimed from the Department of Commerce in respect of finance charges relating to exports.

**Investment Allowances.** A non-recurring investment allowance of 30% of cost is granted in respect of new or unused machinery used directly in a process of manufacture or any other process which, in the opinion of the tax authorities, is of a similar nature. If the assets are leased and are used for manufacturing purposes, the lessor is entitled to claim the investment allowance. The allowance may, at the discretion of the Minister of Finance, be increased up to 65% of cost in economic development areas.

Non-recurring investment allowances on buildings used wholly or mainly for manufacturing or similar purposes are granted at the rate of

20% of cost, or up to 45% of cost in economic development areas. Lessors of these buildings qualify for the allowance. The allowance is also granted on improvements to existing buildings.

The allowance in respect of manufacturing machinery is deductible in the year in which the particular assets are brought into use. The building investment allowance is deductible in the year in which the buildings are first used.

Investment allowances are additional to initial allowances on machinery and do not reduce the cost of assets on which tax depreciation is allowed. Any recoupment of investment allowance on the sale of an asset is not taxable. For investment allowances granted to hotels see page 129.

**Scientific Research.** Operating expenditure for scientific research related to a taxpayer's business is fully deductible in the year incurred. The research may be carried out by the taxpayer or by a research institute. As an incentive to encourage research, capital expenditure on buildings and equipment used exclusively for scientific research may be written off in equal annual amounts over four years but, to qualify for this concession, the research must be undertaken by the taxpayer himself.

Any recoupment of scientific research expenditure, whether of an operating or a capital nature, is not taxable.

**Beneficiation Allowance.** A special beneficiation allowance may be granted by the Minister of Finance to industrialists who produce for export raw materials derived from base minerals mined in South Africa, and who apply advanced beneficiation processes for the purpose of producing such raw materials. The allowance takes the following form:

1. An allowance of up to 20% of the cost of new machinery brought into use between March 27, 1975 and June 30, 1980, and used directly in a beneficiation process.
2. An allowance of up to 15% of the cost of buildings, the erection of which commences during the same period, and which are brought into use wholly or mainly for a beneficiation process by not later than June 30, 1981. The allowance is also applied on the same basis to improvements to buildings.

The beneficiation allowance is granted in addition to any other allowances or deductions to which a taxpayer is entitled.

A beneficiation process is a process whereby a base mineral is refined or processed to yield an intermediate product which has a value higher

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than the value of the base mineral. If the intermediate product is subject to a further process, this may also qualify as a beneficiation process. A simple purification process or a physical process resulting merely in a change of shape is excluded.

**Employees' Housing.** A taxpayer is entitled to a deductible allowance of 25% of the cost incurred in the erection of employees' housing or of any amount donated or loaned to an employee for the purpose of erecting his own house. The maximum allowance is limited to R2,500 for any one dwelling.

**Export of Capital Goods.** Exporters of capital goods may be granted an allowance in respect of medium- and long-term credit extended to foreign purchasers if the debts concerned are not insured. The taxpayer is normally permitted to deduct 100% of such outstanding debts in the year in which they arise, and this allowance is included as income in the following year.

**Economic Development Areas.** In general terms, economic development areas include the Border Areas adjoining the Bantu Homelands and the Bantu Homelands themselves. Various special allowances are granted at the discretion of the Minister of Finance to industrialists who establish manufacturing plants in these areas. Briefly, these allowances cover:

1. An allowance of up to 10% of the cost of electric power and water.
2. An allowance of up to 10% of the transport costs incurred in South Africa in respect of raw and other materials used in the taxpayer's trade and in respect of goods manufactured by the taxpayer.
3. An allowance for additional or abnormal administrative or manufacturing costs in consequence of the transfer of a factory from another area to an economic development area.
4. An allowance in respect of the cost of employees' housing not exceeding 35% of such cost in the year of completion and an allowance of 10% of such cost in each of the succeeding nine years. These allowances are in lieu of the allowances referred to under *Employees' Housing*.
5. Development allowances to industrialists who establish new industrial undertakings or extend existing ones in these areas. These

allowances are in the form of a reduction of the tax payable by the taxpayer and are calculated as follows:

- a. 20% to 40%, depending upon the economic development area, of wages paid to Bantu or, in certain instances, Coloured employees in each of the first seven full financial years after establishment.
- b. 30% of cost, or of tax value in the case of transfers from other areas, of manufacturing plant at the end of the first financial year after establishment; this allowance is claimable as a reduction of tax payable in three equal instalments over three successive years.
- c. Where an industrialist does not fully utilise the loan facilities available to him through the Industrial Development Corporation, the Xhosa Development Corporation, or the Bantu Investment Corporation (see page 17), or where those Corporations decide not to make the full loan facilities available, the interest reduction (between 1½% and 7½%) on the unutilised facilities or the facilities not made available, less tax thereon, can be claimed by the industrialist in reduction of his tax liability. An industrialist is entitled to the tax reduction for a period of ten years in a Bantu Homeland and for seven years in Border Areas, and any unutilised portion thereof may be carried forward from year to year within the periods specified, but not thereafter.

Tax reductions under a. and b., which cannot be utilised in a particular year because the industrialist has no tax liability or has a tax liability less than the reductions, may be claimed as a tax-free cash grant to the extent that it is not possible to utilise them. There is also provision for the utilisation of the tax reductions under a., b., and c. by the holding company of a decentralised wholly-owned subsidiary, or by the head office of a decentralised branch, in instances where a subsidiary or branch is unable to utilise the reductions in full or in part. Cash grants in place of tax reductions will not, however, be paid to the extent that tax reductions to which a wholly-owned subsidiary or branch is entitled can be utilised by its holding company or head office, nor will they be paid in respect of any unutilised tax reduction relating to interest under c.

Industrialists, who avail themselves of the development allowances under item 5 above, are not entitled to the increased initial (see page 114) and investment (see page 118) allowances in economic development

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areas, or to the allowances in respect of electric power and water and housing under items 1 and 4 above.

## COMPANY TAX RATES AND PAYMENT OF TAXES

**Tax Rates.** The tax rates are announced annually by the Minister of Finance in his budget speech, which is usually delivered towards the end of March. The company tax rates are then fixed for companies whose financial years end between March 31 of that year and April 1 of the following year.

South African rates of tax for companies whose financial years end during the year ending March 31, 1976, are:

1. *Normal Tax.* Income tax is described as normal tax in the Act. The rate is 40% of taxable income plus a surcharge of 2½% of the tax payable, giving an effective rate of 41%.

2. *Loan Levy.* A loan levy is imposed at the rate of 5% of normal tax before the addition of the surcharge. This amounts to 2% of taxable income and, together with normal tax, requires a total cash outlay of 43% of taxable income. The levy is refundable within seven years with tax-free simple interest at 5% per annum.

3. *Undistributed Profits Tax.* This tax is payable at the rate of 25% of the amount by which distributable income exceeds dividends distributed. Companies in which non-residents own 50% or more of the equity share capital, companies which are wholly-owned subsidiaries of such companies, and certain other companies are exempt from this tax. The exemptions for foreign-owned companies and their wholly-owned subsidiaries apply only where the shares in such companies have been owned throughout a period of twelve months commencing six months before and ending six months after the company's financial year-end. However, with normal allowances and a special allowance of 55% of trading profit, undistributed profits tax is effectively only ½% of taxable income of companies (other than investment companies) which distribute no dividends; it is therefore not significant. On the other hand, dividend income of locally controlled private investment companies must be fully distributed to shareholders to avoid the tax, and local public companies are allowed a deduction of 35% of dividends received in determining distributable income.

**Payment of Taxes.** Companies are classified as "provisional taxpayers" and, as such, are required to make two provisional payments in respect of normal tax and loan levy during each financial year. Payments must be made at the end of the first six months of a company's

financial year and at the end of its financial year. These provisional payments are usually based on actual taxable income for the previous financial year, but may be reduced so long as they are within 10% of the final assessed tax liability for the year. If provisional payments are not within this limit, penalties are payable on the difference. Half the calculated tax is payable at the end of the first six months and the other half at the year-end. After submitting its return of income for the year, the actual tax payable for the year is assessed by the tax authorities. Any underpayment is then payable, and any overpayment is carried forward for set-off against future provisional payments.

## SPECIAL TAX TREATMENT OF PARTICULAR BUSINESSES

Certain taxpayers receive special tax treatment. Most general tax rules apply to these businesses, but special tax treatment has been superimposed in the following cases:

**Shipowners and Aircraft Operators.** Non-resident shipowners and aircraft operators, unless they are able to render separate financial statements acceptable to the Secretary for Inland Revenue in respect of their South African businesses, are deemed to have derived South African taxable income equal to R20 in respect of every R200 of income received from the embarking of passengers and the loading of freight in South Africa. Double taxation agreements have, however, been concluded with the United States, the United Kingdom, and a substantial number of the major trading nations whereby one country will not tax profits from shipping or aircraft operated by a resident of the other country.

South African residents and companies registered, managed, or controlled in South Africa are, subject to certain conditions, entitled to the following allowances in respect of ships and aircraft purchased:

	Ships	Aircraft
Special initial allowance – new ships or aircraft		
Percentage of cost	40%	40%
Annual depreciation allowance –		
Percentage of cost	10%	25%
Reserve for expenditure on future repairs permitted	Yes	No

**Insurance Companies.** For taxation purposes, the business conducted by insurance companies is divided into two separate components, long-

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term and short-term, and entirely different bases are applied in determining the taxable income derived from each component. In essence, long-term insurance business comprises life, annuity, and similar business, while short-term business means any insurance business other than long-term, and includes fire, accident, marine, and motor insurance.

In very general terms, the taxable income derived from long-term business is determined at 30% of gross income from local and foreign investments relating to South African long-term business, plus 30% of gross income from local investments relating to non-South African long-term business. It is noteworthy that taxable income is based on a percentage of gross investment income, including dividend income, and that no expense relating to long-term business is deductible in determining taxable income.

Taxable income from short-term insurance business is, broadly speaking, determined by deducting all expenditure related to that business (including claims paid and allowances for unexpired risks, but excluding expenditure attributable to dividend income) from net premium income and other income related to short-term business (including investment income other than dividend income).

The aforementioned principles apply equally to mutual and non-mutual insurers and to both South African subsidiaries and branches of foreign insurers.

**Farming and Timber Farming.** The main concession to individuals or companies conducting farming operations relates to their ability to deduct certain development expenditure in determining taxable income. Deductible development expenditure includes expenditure incurred on dams, irrigation schemes, farm buildings including domestic buildings for employees, the establishment of orchards or vineyards, the planting of perennial plants, road and bridge building, and electric power supply.

Development expenditure is deductible only to the extent of the profit from farming operations and any balance remaining is carried forward from year to year, together with additional expenditure in subsequent years, until the profit from farming operations is sufficient to absorb any balance so brought forward, together with any development expenditure in the current year.

Timber farmers and companies carrying on timber farming operations are entitled to deduct all expenditure incurred in the establishment and maintenance of forests in the year in which such expenditure is incurred. Unlike other farmers, there is no limitation on this deduction, even though it will result in a tax loss which can be set off against taxable income from sources other than timber farming. How-

ever, if taxable income derived from other sources is insufficient to absorb this tax loss, it is carried forward to the succeeding year.

In regard to livestock farmers, other than companies, livestock on hand at the beginning and end of each year is valued at predetermined or elected standard values, which are normally substantially lower than market prices, and purchases are deductible at cost. In respect of companies, livestock must be valued at either cost or market value, whichever is elected, and natural increase is valued at market value.

**Mining Operations.** It is not possible to deal in depth with the various taxation provisions relating to mining operations but the following are the general principles involved in the taxation of income derived from mining operations. For taxation purposes, mining operations are segregated into gold mining, diamond mining, natural oil mining, and other mining operations, but there are certain basic principles which are applicable to all mining operations.

*Capital Expenditure:*

1. Capital expenditure includes expenditure on shaft-sinking, mine equipment, machinery, mine buildings and employees' housing, and expenditure on development, general administration, management and loan interest prior to the commencement of production or during any period of non-production, but does not include the cost of the mining property or mineral rights or option monies paid in respect thereof.
2. With effect from their financial years ending after January 1, 1974, all mining companies, whether gold, diamond, natural oil or other, are permitted to deduct capital expenditure on the following bases in determining their taxable incomes:
  - a. In the first year or period in which production commences — all capital expenditure incurred up to the end of that year or period.
  - b. In subsequent years — the capital expenditure incurred during each year.
3. Where mining companies had unamortised balances of capital expenditure at December 31, 1973 which, under the previous basis of amortising capital expenditure, were due to be carried forward and set off against income in subsequent years on the various bases previously laid down, the unamortised balances are now deductible in the following manner:
  - a. Gold mines — over the estimated life of the mine or over four years, whichever is the shorter period (only gold mines which

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commenced production prior to 1946 are affected; those which commenced production after 1946 have been allowed to deduct capital expenditure on the basis now common to all mining companies).

- b. Other mines – up to December 31, 1974, over the estimated life of the mine or over thirty years, whichever is the shorter period – after December 31, 1974, over the estimated life of the mine or over five years, whichever is the shorter period (diamond mines and certain copper mines are not affected as they, also, have previously enjoyed the benefit of immediate deduction of capital expenditure).

## *Gold Mining Companies:*

1. Deep-level gold mines and gold mines granted a State mining lease after August 17, 1966 are entitled to certain additional capital expenditure allowances by way of the addition of specified percentages to certain components of capital expenditure.
2. The rate of tax payable on taxable income derived from mining for gold, subject to a more favourable formula where such taxable income does not exceed R40,000, is determined in accordance with the formula:

$$y = 60 - \frac{360}{x} \text{ plus a surcharge of 5\%}$$

In the above formula,  $y$  represents the percentage rate of tax and  $x$  is the ratio expressed as a percentage which the taxable income from gold mining bears to the gross income from gold mining. In respect of gold mines granted a lease after August 17, 1966, 480 is substituted for 360 in the above formula. The effect of this formula is that taxation of gold mining companies absorbs 56.4% of gross revenue (55.2% where 480 is substituted in the formula) and bears 60% of costs of production; in addition a 5% surcharge is payable on the tax so calculated.

3. Income from gold mining includes any income derived from silver, osmiridium, uranium, pyrites and other minerals recovered in the course of mining for gold.
4. In order to mine for gold and other precious metals, including uranium, mining leases must be obtained from the State and are subject to the payment of a lease consideration to the State. The lease consideration for new mines is currently in accordance with the formula:

$$y = 15 - \frac{120}{x}$$

In this formula,  $y$  is the percentage of profit payable to the State and  $x$  is the percentage of profit to gross income. Lease considerations are deductible as an expense in determining taxable income derived from mining for gold or other precious metals.

5. A loan levy, refundable within seven years and carrying tax-free simple interest at 5% per annum, is payable at the rate of 5% of the tax payable before the addition of the surcharge.

### *Diamond Mining Companies:*

1. Taxable income derived from diamond mining operations is taxed at the rate of 45% plus a surcharge of 10% of the tax payable.
2. Mining leases must also be obtained from the State covering the right to mine diamonds and other precious stones. Lease considerations payable to the State have recently been in accordance with the following formulae:

$$y = 10 - \frac{80}{x} \text{ for diamond fissures}$$

$$y = 30.5 - \frac{244}{x} \text{ for diamond mines (pipes)}$$

In these formulae,  $y$  and  $x$  have the same meanings as in the lease formula relating to gold and other precious metals. Alluvial workings are also subject to lease consideration which, like other mining leases, is determined by the State on a similar basis. Lease considerations are deductible as an expense in determining taxable income from diamond mining or mining for other precious stones.

3. A loan levy, refundable within seven years and carrying tax-free simple interest at 5% per annum, is due at the rate of 5% of the tax payable before the addition of the surcharge.
4. An export duty is levied at the rate of 15% (10% on diamonds mined in South West Africa) of the value of rough and uncut diamonds exported.

### *Natural Oil Mining Companies:*

1. Capital expenditure includes the cost of laying pipelines from the mining location to a maritime terminal or a refinery. In addition, an annual allowance of 6% of certain capital expenditure is granted.
2. The rate of tax is 50% of taxable income derived from mining for natural oil and 40% of taxable income derived from mining for natural gas.

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3. In respect of mining for natural oil and gas, the State's total annual receipts in the form of taxation, lease consideration, transfer duties, and any other type of taxation are determined as follows:
  - a. Natural Oil:

38% of the profit from the first 2 million tons sold per annum; 44% of the next 2 million tons; 48% of the next 6 million tons; 50% of the excess over 10 million tons.
  - b. Natural Gas:

40% of the profit.
  - c. Percentage of Income:

In the event that 3½% of total annual income from the sale of natural oil and natural gas exceeds the sum of the amounts determined in accordance with a. and b. above, the applicable tax is 3½% of total annual income, but is limited to 50% of taxable income.
4. A discount in perpetuity of 50% of the tax payable, as outlined above, will be granted to the first discoverers of oil both on land and off-shore. An equivalent discount will be granted to the first discoverers of natural gas, but is limited to a period of ten years.
5. No loan levy is payable.
6. Any portion of a dividend declared by any company that has been derived from mining for natural oil or natural gas is exempt from the non-resident shareholders' withholding tax.

## *Other Mining Companies:*

1. The rate of tax is the same as that applicable to non-mining companies (i.e., 40% of taxable income plus a surcharge of 2½% of the tax payable – a total of 41%).
2. A loan levy, refundable within seven years and carrying tax-free simple interest at 5% per annum, is payable at the rate of 5% of the tax payable before the addition of the surcharge (amounts to 2% of taxable income).

## *South West African Mining Operations:*

1. Gold, diamond, natural oil and natural gas mining companies conducting mining operations in South West Africa are taxed on virtually the same basis, in respect of mining income derived from that country, as companies carrying on such mining operations in South Africa.

2. Other mining companies carrying on mining operations in South West Africa are, in the year in which production commences, entitled to deduct the total capital expenditure incurred up to the close of that year, and are entitled to deduct further capital expenditure in the year incurred. The rate of tax is the same as that applicable to income derived by non-mining companies from South West African sources (i.e., 35% of taxable income plus a surcharge of 2½% of the tax payable – total of 35.875%).
3. A loan levy, refundable within seven years and carrying tax-free simple interest at 5% per annum, is payable at the rate of 5% of the tax payable before the addition of the surcharge (amounts to 1.75% of taxable income).

*Prospecting Expenditure:*

1. Expenditure on prospecting, whether or not in areas forming part of the property being mined by a mining company, is deductible from income from mining operations.
2. Prospecting expenditure incurred by exploration companies is deductible in the year incurred, and the proceeds of sale of mining claims or mining rights are included as income in the year of sale.

**Hotels.** Hoteliers are taxed on the same basis as other taxpayers, but are entitled to certain special allowances designed to promote the hotel industry. These allowances are briefly summarised as follows:

1. Hotel Equipment (machinery, equipment, utensils, and articles used in hotels):
  - a. A non-recurring investment allowance of 20% of the cost of new equipment.
  - b. A non-recurring initial allowance of 15% of the cost of new equipment; depreciation for tax purposes is calculated on cost reduced by this allowance.
2. Hotel Buildings and Improvements (erected after December 31, 1963):
  - a. A non-recurring investment allowance of 10% of cost.
  - b. An annual allowance of 2% of cost.
  - c. An annual grading allowance, ranging from 2% of cost for one-star hotels to 8% for five-star hotels, for the first five years, and thereafter an annual allowance of 2% of cost for one-star and 3% for other hotels.

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- d. The effect of these allowances is to permit 110% of the cost of new hotels to be written off, for income tax purposes, over 13 years for five-star, 15 years for four-star, 16 years for three-star, 18 years for two-star and 23 years for one-star hotels.

**Township Developers.** In cases where plots are sold by township developers subject to the condition that transfer is passed only on payment of the full purchase price, or portion thereof, the full purchase price is deemed to have accrued to the seller on entering into the agreement of sale. At the end of each year the seller is, however, entitled to claim, as an allowance deductible from taxable income, the estimated unrealised profit included in outstanding receivables. The allowance so calculated is included in taxable income in the following year and is recalculated at the end of that year.

In addition, township developers are entitled to claim as an allowance that proportion of estimated future development expenditure which the number of plots sold to the end of the year concerned bears to the total number of saleable plots in the township; this allowance also is included in taxable income in the following year and is recalculated at the end of that year.

**Investment Companies.** To qualify as an investment company which is not taxed on profits on the sale of investments, as opposed to a sharedealing company which is taxed on such profits, it is normally necessary for a company's articles of association to prohibit dividend distributions out of profits on the sale of investments. Even if such a prohibition is written into a company's articles of association, it is a question of fact and intention as to whether such profits are of a capital or revenue nature.

Dividends received by a company are not taxable and any expense relative thereto is therefore not deductible in determining taxable income; expense is allocated between dividend income and interest or other taxable income, including sharedealing income if the company is taxed as a sharedealer.

For undistributed profits tax purposes, all public companies are entitled to a deduction of 35% of dividend income, but private companies are not entitled to a similar deduction and must consequently distribute their entire dividend income, less expense applicable thereto, or incur liability for undistributed profits tax.

**Hire-Purchase Traders.** Hire-purchase traders are entitled to claim a special deductible allowance which has the effect of subjecting to tax only that portion of gross profit derived from hire-purchase transac-

tions as has been received in cash. This allowance is included in taxable income in the following year and is recalculated at the end of that year.

**Co-operative Societies.** In determining taxable income of a “closed” co-operative trading society, any bonus distributed to members is deductible to the extent that it does not exceed 10% of the total value of business conducted with its members in any year.

The income of any co-operative agricultural society, other than income derived from transactions with non-members, is exempt from income tax. Bonuses or dividends distributed to members, to the extent that they represent additional consideration for produce sold or reduction of expense, are taxable in their hands. Co-operative societies are taxed at the rates applicable to companies.

**Foreign Branches of South African Companies.** Branches of South African companies carrying on business in foreign countries are not subject to South African income tax on their foreign earnings as these are not from a South African source.

**South African Branches of Foreign Companies.** South African income tax is payable at company rates on profits earned from South African sources by branches of foreign companies carrying on business in the country.

Branch profits remitted to a branch’s foreign head office are not subject to non-resident shareholders’ withholding tax, but dividends distributed by such companies’ head offices are subject to this tax on that proportion of such dividends as profits from South African sources bear to profits from all sources. However, unless the amounts involved are substantial, no attempt is usually made to collect this tax. Subject to reductions in terms of the provisions of the double taxation agreements with certain countries, the rate of non-resident shareholders’ tax is 15% of dividends distributed.

**Mutual Funds.** Income of mutual funds distributed to unit holders is exempt from tax in the funds’ hands. Income distributed to unit holders retains its identity as between dividend and other income and is taxed accordingly in the hands of unit holders. Undistributed dividend income is exempt from income tax, but income tax is payable on other undistributed income at company rates. The distributed income of property mutual funds is similarly taxed in the hands of unit holders, except that dividends from shares in wholly-owned property companies are not regarded as dividends and are consequently fully taxable in the hands of unit holders. Property companies, all of whose shares are held

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by property mutual funds, are not taxable on income distributed as dividends. Income of property mutual funds not distributed to unit holders is taxed in the funds' hands at rates applicable to unmarried individuals.

## TAXATION OF OTHER TYPES OF ENTITIES

**Partnerships.** Partnerships are not taxable entities. The taxable incomes of partnerships are allocated among the individual partners and their shares of such taxable income, together with any other income accruing directly to them, are taxed in their hands.

**Trusts.** In instances where the income of a trust accrues for the benefit of specified individuals in determinable proportions, such income is taxed in the hands of the beneficiaries, and the trust itself is not liable for tax. Where, however, any portion of the income of a trust cannot be attributed to a particular individual or individuals, the trust is itself taxed on that portion at the rate applicable to an unmarried individual.

**Companies in Liquidation.** Taxable profits earned during liquidation are taxed in the same manner as profits earned prior to liquidation. Liquidation distributions to shareholders are regarded as being dividends to the extent that they represent distributions of income. Distributions that represent capital profits, or the return of share premium or share capital, are capital receipts and are not taxable.

**Certain Exempt Organisations.** The following organisations or institutions are among those exempt from income tax by virtue of their nature:

1. Pension, provident, and retirement annuity funds.
2. Medical aid funds and friendly societies.
3. Clubs and amateur sporting associations (except that the investment income of clubs is taxable in certain circumstances).
4. Ecclesiastical, charitable, and educational institutions.

## WITHHOLDING TAXES ON PAYMENTS TO NON-RESIDENT COMPANIES AND INDIVIDUALS

In general, non-residents are liable for tax on all income derived from South African sources. Payers of dividends, interest, and royalties to non-residents are required to withhold taxes at appropriate rates, and are themselves liable for failing to do so. The amounts so withheld must be forwarded to the tax authorities within specified times.

**Dividends.** Non-resident companies and individuals not carrying on business in South Africa are subject to the non-resident shareholders' withholding tax of 15% on all dividends received from South African companies. The tax withheld must be paid to the tax authorities within 30 days. Tax treaties vary the rate of tax for individuals and companies resident in the following countries:

- a. Switzerland – 7½% of the dividend income.
- b. The United Kingdom – 5% provided that the recipient is a United Kingdom company controlling at least 25% of the voting power of the South African company.
- c. The Netherlands – as for the United Kingdom.
- d. West Germany – 7½% provided that the recipient is a West German company controlling at least 25% of the voting power of the South African company.

Subject to any applicable double taxation treaties, non-resident individuals carrying on business in South Africa are subject to ordinary income tax on their South African dividend receipts and are not required to pay the non-resident shareholders' tax. Non-resident companies carrying on business in South Africa do not pay non-resident shareholders' tax on their South African dividend receipts and, because dividends received by companies are exempt income, no annual income tax is payable on these receipts. Such companies, however, become liable for undistributed profits tax through carrying on business in South Africa.

**Interest.** Non-residents are liable for a non-resident withholding tax on interest received from South African sources. The rate of tax is 10% and must be paid to the tax authorities within fourteen days of the date on which interest accrues. There are certain exemptions including interest paid by the Government, the provinces, local authorities, Electricity Supply Commission, and South African Broadcasting Corporation, and interest on any bill of exchange or promissory note handled by a bank.

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Both non-resident companies and individuals deriving interest income from South African sources are subject to the normal South African income tax on such interest, and may be required to file South African income tax returns reflecting these interest receipts. Generally, however, it is only in instances where interest income is significant that this requirement is enforced. Should the assessed tax liability on the return submitted exceed the 10% withholding tax, the non-resident concerned is required to pay the excess. However, if the assessed tax liability is less than the 10% withholding tax, no refund is payable.

**Royalties.** Any person or undertaking which incurs a liability to make payment of a royalty to a non-resident is required to withhold tax on such royalty. Payment to the tax authorities of the tax withheld must be made within 14 days of the end of the month in which the liability accrues. The tax so withheld is only a payment on account of the tax due by a non-resident who is not absolved from filing an annual income tax return covering his total income from South African sources.

The royalty withholding tax is calculated at the rate of 41% on 30% of the royalty payable, giving an effective rate of 12.3% on the total royalty.

In general, the tax authorities do not enforce the provisions of the Act requiring non-resident recipients of royalties from South African sources to submit tax returns and appear to be willing to accept tax at the rate of 12.3%. This situation also appears to be acceptable to non-resident companies deriving royalty income from South Africa. However, should any non-resident file a return under which his assessed tax liability is less than the tax withheld, he is entitled to a refund.

In terms of the tax treaties between South Africa and Switzerland and The Netherlands, royalties due to residents of those countries are not taxable in South Africa. Conversely, royalties due to South African residents are not taxable in those countries.

*Definition of Royalties.* The definition of royalty under the South African tax law is very broad. It includes any amount deemed to have accrued to any person from a South African source by virtue of:

1. The use or the right to use in South Africa any patent, design, trade mark, copyright, model, pattern, plan, formula or process, or any other property or right of a similar nature.
2. The use or right to use in South Africa any motion picture film, or any film or video tape or disc for use in connection with television, or any sound recording or advertising matter used or

intended to be used in connection with such motion picture film, film, or video tape or disc.

3. The imparting of or the undertaking to impart any scientific, technical, industrial, or commercial knowledge or information for use in South Africa, or the rendering of or the undertaking to render, any assistance or service in connection with the application or utilisation of such knowledge or information.

It is important to note that the definition of royalty also includes “know-how” payments, but does not include royalties and similar payments in respect of the operation of mines or quarries or the extraction of natural resources.

## **INDIVIDUAL INCOME TAXATION**

Individual income is broadly classified into income from employment and income from other sources. Employment income is, in general, subject to withholding by employers on the Pay As You Earn (PAYE) system. Individuals who earn income from other sources must pay provisional (estimated) taxes twice annually on August 31 and February 28 in respect of each tax year ending February 28. Both employees and provisional taxpayers are required to file annual returns disclosing their full income for each tax year ending February 28, and PAYE and provisional payments are credited against their respective assessed tax liabilities for the year.

The basis of determining an individual’s taxable income is identical to that applied in arriving at a company’s taxable income. Taxable income is the amount remaining after deducting exempt income and allowable deductions from gross income from a South African, or a deemed South African, source. Certain abatements relating to marital status, number of children and dependants and medical and insurance expense are deducted from taxable income to give the taxable amount. The appropriate sliding scale tax rates are applied to the taxable amount to give the tax payable.

## **GROSS INCOME OF INDIVIDUALS**

The gross income of individuals is determined basically in the same manner as the gross income of a company. As in the case of a company, an individual’s gross income includes the total amount received or accrued (whether in cash or otherwise) during a year of assessment, excluding receipts or accruals of a capital nature and those from non-South African sources (except where they are deemed to be from a South African source).

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**Taxation of Foreign Income.** The most significant principle of South African taxation is that only income from a South African source, or a deemed South African source, is taxable. The place of residence of an individual, or a company, is of consequence only in regard to the deeming provisions relating to source of income and establishing whether certain income is exempt.

**Dividends.** Dividends received from all sources, whether South African or not, are included in the gross income of individuals resident in South Africa. Dividends from foreign sources are included by virtue of the deeming provisions of the Act. However, where a South African resident receives dividends from a non-South African company on shares acquired before he became ordinarily resident in South Africa, and in certain other circumstances, these dividends are exempt from South African tax (see the heading *Exempt Income of Individuals* later in this Chapter). In addition, varying percentages, but not less than 33 1/3%, of non-exempt dividends are deductible in arriving at the taxable incomes of individuals (see *Allowable Deductions and Abatements* later in this Chapter).

In terms of the tax treaty with the United States, all dividends received by South African residents from United States companies are exempt from South African tax. Similar exemptions do not apply to dividends from companies of other countries.

**Income from Employment.** Any income received by an individual from employment in South Africa is subject to South African tax. The principle involved is that, if the services are rendered in South Africa, the source of income is South African, no matter where payment for those services is made. Conversely, if services are rendered outside South Africa on behalf of a South African company or business, the income in respect of those services is not taxable in South Africa, even though the company or business may be allowed to deduct the related expense. Special provision is, however, made in the Act to cover earnings of individuals ordinarily resident in South Africa during periods of temporary absence. Their earnings are taxable if the services are rendered for or on behalf of their South African employers.

The remuneration of persons ordinarily resident in South Africa for services rendered as members of the crew of ships or aircraft of South African operators is deemed to be wholly from a South African source.

Special provision is made in respect of persons engaged in prospecting for oil or carrying on mining operations off the coast of South Africa. If the services are rendered upon, beneath or above the

“continental shelf”, the remuneration is deemed to be from a South African source.

**Business Income.** If any individual, whether resident in South Africa or not, derives income from a business carried on in South Africa, he is liable for South African tax on that income. However, if any portion of such income is from a non-South African source, he is taxable only on the portion from a South African source.

**Foreign Temporary Residents.** Any foreigner who receives income from employment or services rendered in South Africa is subject to South African tax on those earnings, and is required to file an income tax return. In practice, however, this requirement is not usually enforced in respect of individuals who visit the country for relatively short periods and who are not paid for their services by South African companies or businesses. Virtually all South Africa’s tax treaties with other countries exempt residents of those countries from South African tax on income from employment or services rendered in South Africa if:

1. They are present in South Africa for a period or periods not exceeding in aggregate 183 days in any year of assessment (ending on February 28), and
2. The services are performed for, or on behalf of, an employer of the other country.

There are minor variations in the various tax treaties, but the two requirements referred to are incorporated in most treaties. Reference should, however, be made to the individual treaties to establish their exact requirements. In particular, the treaty with the United States requires that such individual’s remuneration be subject to tax in that country.

Tax treaties including provisions of this nature have also been concluded with the United States, United Kingdom, Canada, Switzerland, the Netherlands, West Germany, Sweden, Rhodesia, Malawi, and South West Africa.

**Income of Husband and Wife.** The income of husbands and wives are combined and the husband is taxed at married rates on the combined income.

**Benefits in Kind.** All benefits from employment, whether received in cash or in kind, are taxable and fall for inclusion in gross income. The benefits received by employees by way of company cars, free houses,

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and the like are taxable. The extent of such benefits is negotiable with the tax authorities and, in the case of free company cars used for both business and private purposes, the taxable benefit to an employee has been fixed at amounts approximating R400 per annum, but can well depend upon the circumstances of individual cases.

**Entertainment and Other Allowances.** Employers paying employees or officers entertainment or other allowances are required to approach the tax authorities to determine the taxable portion, if any, of such allowances. Should any employer not do so, the full allowance must be treated as taxable for PAYE purposes, but the employee can claim such expenditure as he can justify against the allowance in submitting his income tax return.

**Lump-Sum Payments from Superannuation Funds.** Lump-sum payments from pension, provident, and retirement annuity funds, less certain tax-free portions, are included in gross income. Formulae related to earnings, length of service, and contributions determine the tax-free portions of these payments up to a limit of R40,000.

## EXEMPT INCOME OF INDIVIDUALS

The Act lays down certain income which is exempt and which is deductible in arriving at "income" and taxable income. There is a considerable variety of exempt income, the more significant of which is discussed below.

**Dividends Received by Non-Residents.** Dividends received from South African companies by persons not ordinarily resident nor carrying on business in South Africa are exempt from South African income tax. The non-resident shareholders' withholding tax is the only tax payable by foreign investors on South African dividends (see page 133).

**Dividends from Foreign Companies.** Dividends received by an individual ordinarily resident in South Africa from non-South African companies are exempt from South African income tax if the shares in respect of which the dividends are received were acquired:

1. Before he became ordinarily resident in South Africa for the first time.
2. By inheritance.
3. By donation from a non-resident.

4. Out of funds from any business carried on by him outside South Africa.
5. Out of funds resulting from the disposal of shares acquired in any of the above ways.

**Interest.** Interest received by non-residents not carrying on business in South Africa is exempt in respect of securities (including Treasury Bills) issued by the Government, municipalities, the Rand Water Board, and the Electricity Supply Commission.

There are numerous exemptions, in many instances up to specified amounts, in respect of interest received from various Government savings and premium bonds and building society subscription and tax-free shares. Both residents and non-residents are normally entitled to these exemptions.

**Retirement Payments.** Lump-sum retirement payments (other than from superannuation funds) to employees or office bearers are free of tax up to R12,000 in any of the following circumstances:

1. The recipient has attained the age of 55 years in the case of males or 50 years in the case of females.
2. The tax authorities are satisfied that the termination of employment or office is due to superannuation, ill-health or other infirmity.
3. In the case of a female, the tax authorities are satisfied that she has terminated her employment or office to marry.

## ALLOWABLE DEDUCTIONS AND ABATEMENTS – INDIVIDUALS

In general, any expenditure incurred in the production of income is deductible from income, but any expense incurred in earning non-taxable income (i.e., income not included in gross income or exempt income) is not deductible.

**Dividends.** A percentage of non-exempt dividends is deductible. The percentage is 100% where taxable income (including the full amount of all non-exempt dividends) does not exceed R2,600, and is reduced by 6% for every R200 of taxable income in excess of R2,600. Where taxable income exceeds R4,600, the deduction is 33 1/3%.

**Superannuation Fund Contributions.** Employees are permitted to deduct their contributions to recognised pension funds up to an annual amount of R1,500. If they also contribute to retirement annuity funds

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(which are usually administered by insurance companies and are designed primarily for self-employed individuals), they are permitted to deduct contributions to both, subject to an overall maximum of R3,000. Contributions to provident funds, which provide lump-sum payments on retirement, are not deductible but, together with insurance premiums and medical insurance contributions, qualify for an abatement (see below). Self-employed individuals are entitled to deduct contributions to retirement annuity funds up to a limit of R3,000.

**Interest Paid.** Only interest paid in earning income is deductible. Interest paid on borrowings to finance the purchase of taxable dividend-producing share investments is deductible, but only to the extent of the taxable portion of those dividends. Interest paid on an individual's private dwelling is not deductible as it is a domestic expense and does not produce income. On the other hand, interest paid on a rent-producing property acquired as an investment is deductible.

**Wife's Earnings.** A married man is entitled to deduct up to R750 of his wife's earnings from employment or business.

**Alimony.** Individuals divorced prior to March 22, 1962 are entitled to deduct alimony payments to former spouses who are taxable on these receipts. Individuals divorced on or after that date are not entitled to this deduction and their former spouses are not taxed on the alimony received.

**Donations.** Donations to universities, certain technical colleges, and the National Study Loans and Bursaries Fund are deductible up to R500 or 2% of taxable income, whichever is the greater. Other donations are not deductible.

**Domestic and Personal Expenses.** No domestic or personal expenses are deductible. All expenses involved in maintaining a home, assessment rates on domestic property, school and university fees, costs of getting to and from work, and similar personal expenses are not allowable deductions.

**Abatements.** The following abatements are allowed as deductions from taxable income:

1. Primary abatement:

Married person	R1,200
Single person	R 700
  
2. Health and insurance abatement:

Medical expenses less recoveries, insurance premiums, and provident fund contributions to a maximum of:	
Married	R 700
Single	R 600
  
3. Child abatements:

For each of the first two children	R 500
For each child in excess of two	R 600
For each child born during the year	R 200
  
4. Dependant abatements:

In respect of each dependant (other than wife and children) who is not wholly dependant	R 100
In respect of each dependant (other than wife and children) who is wholly dependant and in respect of whose maintenance at least R250 is expended by the taxpayer during the tax year	R 250
  
5. Additional primary abatement:

In respect of taxpayers over 60, married or unmarried	R 600
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The total abatements to which a taxpayer is entitled are reduced by R2 for every R10 by which taxable income exceeds R5,000.

## INDIVIDUAL INCOME TAX RATES

The taxable amount is the amount remaining after deduction of exempt income, allowable deductions, and abatements from gross income. The tax rates for individual taxpayers are progressive for the first R28,000 of taxable amount of married individuals and for the first R24,000 of taxable amount of unmarried individuals. Thereafter the rate is 63% for both married and unmarried individuals.

# Taxation in South Africa

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The following table of taxes payable (in South African Rands taking account of primary abatements only) for the tax year ending February 29, 1976 illustrates the progression of rates for persons under the age of 60 years.

Taxable Amount	Married	Single
2,000	199	252
4,000	420	535
6,000	693	924
10,000	1,491	2,047
15,000	2,961	3,937
20,000	4,956	6,352
24,000	6,930	8,662
25,000	7,476	9,292
28,000	9,240	11,182
30,000	10,500	12,442
35,000	13,650	15,592
40,000	16,800	18,742

Farmers are entitled, if they so elect, to average their income over a number of years and are taxed at rates applicable to their average income.

## TAX RETURNS – FILING, PAYMENT, AND OBJECTION PROCEDURES

The following tax matters apply to all taxpayers (companies and individuals) in the sequence listed:

1. Payment of "Pay As You Earn" (PAYE) deductions from salaries and wages, or payment of provisional tax by provisional taxpayers twice annually.
2. Submission of return of income by taxpayer.
3. Issue of assessment by tax authorities.
4. Payment of amount shown as due in assessment form.
5. Filing an objection if tax assessment is disputed by taxpayer.

**Tax Years.** The tax year of all individuals ends on February 28, except in a few instances where certain classes of taxpayers may elect June 30. A company's tax year ends on the same date as its financial year.

**Filing of Tax Returns.** Individuals' returns of income must be filed within 60 days of a date published by the Secretary for Inland

Revenue. This date is normally in mid-March, and taxpayers who are unable to file their returns by mid-May may apply for extensions, which are usually granted for a number of months.

Companies whose financial years end during that particular calendar year are also required to file their returns of income within 60 days of the same published date but this is, in practice, of effect only in respect of companies whose financial years end before February 28 in the calendar year concerned. Companies with year-ends on or before February 28, which are unable to file returns before mid-May, and those whose financial years end later during the calendar year must apply for extensions of time for submitting their returns. These are usually granted for periods up to six months without question.

Husbands and wives file a single return in the husband's name, which covers their combined incomes.

**Tax Return Information Requirements.** All individuals liable for tax and all companies must file returns of income. Tax return forms are mailed to all registered taxpayers, but individuals not registered, or any taxpayers who do not receive forms, are required to obtain them from the tax authorities. Particulars of all income, property transactions, deductions claimed, and donations made or received in excess of R1,000 must be included in an individual's return of income.

A company must include the following with or in its tax return:

1. Balance sheet and income statement.
2. Any special reports by the auditor relating to the financial statements.
3. A computation of taxable income.
4. Schedules reflecting particulars of tax depreciation and initial and investment allowances claimed.
5. Particulars of:
  - a. Non-taxable amounts credited in the income statement.
  - b. Special allowances not claimed in the income statement.
  - c. Disallowable expenses included in the income statement.
  - d. Loans and advances not in the ordinary course of business or at rates of interest below normal commercial rates.
  - e. Increases or decreases in provisions and reserves.
  - f. Capital profits on the sale of properties, shares, rights, and other assets.
  - g. Payments to non-residents in respect of interest, royalties, or "know-how".
  - h. Travelling expenses outside South Africa.

# Taxation in South Africa

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- i. Remuneration to directors of a private company and their relatives.
- j. Shareholdings of, and dividends paid to, shareholders of private companies.

Each company must appoint a resident Public Officer who assumes responsibility for the accuracy of the tax return, and on whom any notice or demand is served.

**Assessment of Tax Due.** Individual tax returns make provision for individuals to calculate their own tax if they so wish, but company tax returns require companies to calculate their tax liability. However, both in the case of individuals and companies, tax returns are checked by tax department assessors who prepare an official "assessment" showing: taxable income, tax payable, payments received on account by way of PAYE deductions from employees' earnings or provisional tax payments, the final balance due by or to the taxpayer, and the due date of payment.

**Payment of Taxes.** Previous reference has been made to the system of half-yearly provisional payments by companies and the PAYE and half-yearly provisional payment systems for individuals. These constitute payments on account of the tax finally assessed. Any amounts underpaid are payable by the taxpayer on the due date of assessment, and overpayments are generally held for credit against future provisional payments due by provisional taxpayers or refunded in the case of other individual taxpayers.

**Disputed Assessments.** A taxpayer may dispute the correctness of an assessment (including certain discretionary decisions of the Secretary for Inland Revenue). The procedure for objection by the taxpayer requires that a written objection be filed within twenty-one days after the date of the notice of assessment. The taxpayer's objection to the tax authorities must specify in detail his grounds for objecting. If the objection is disallowed, the taxpayer may appeal to a Special Court for income tax appeals. Should the taxpayer not be satisfied with the decision of this Special Court, he may appeal to the Supreme Court, as may the tax authorities. However, the Supreme Court will deal only with questions of law; it will not hear arguments on the facts of the tax matter.

Significant matters about which disputes may arise with the tax authorities, and certain of the legal presumptions involved include, but are not limited to, the following:

**Non-Arm's-Length Transactions.** The Income Tax Act contains a provision about any non-arm's-length scheme, operation, or transaction that will result in the reduction, postponement, or avoidance of liability for tax. If the Secretary for Inland Revenue is satisfied regarding its non-arm's-length nature and that the resultant tax implications were its sole or one of its main purposes, he is empowered to assess the taxpayer for tax as if the scheme, operation, or transaction had not been entered into. Any such action by the Secretary is subject to objection and appeal by the taxpayer to the Special Income Tax Court and thereafter, at the instance of the taxpayer or the Secretary, to the Supreme Court. The Act provides however, that, if it is proved in the court proceedings that a reduction, postponement or avoidance of tax resulted, it is presumed that the sole or one of the main purposes was such reduction, postponement, or avoidance of tax, unless the contrary is proved by the taxpayer.

These provisions are far reaching, and taxpayers must be cognisant of their implications. The provisions do not prevent a taxpayer from organising his affairs in such a manner as to minimise his tax liability. They are designed to prevent a taxpayer from entering into a scheme that would not normally be entered into by unrelated persons dealing with each other in arm's-length transactions. As an example, it often occurs that a subsidiary company has a tax loss while related companies have taxable profits. Since each company is taxed as a separate entity, the tax loss cannot be set off against the taxable profits of the related companies. In these circumstances, management might be tempted to seek ways to transfer income to the loss company. Such a transfer would be open to attack by the tax authorities if it were on a non-arm's-length basis.

**Utilisation of Tax Losses.** As has been previously explained, a tax loss can be carried forward and set off against future profits until exhausted. The Act provides, however, that, where any change in ownership of the shares of a tax loss company takes place and the Secretary is satisfied that its shares were acquired solely or mainly for the purpose of utilising its tax loss to avoid or reduce the tax liability of

# Taxation in South Africa

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the company, or any other company or person, the Secretary may disallow the set-off of the brought-forward tax loss against future income of the company. Such disallowance also is subject to objection and appeal, but in any consequent court proceedings the Act provides that a change of ownership resulting in the avoidance or reduction of tax is presumed to have been for the sole or main purpose of utilising the tax loss, unless the contrary is proved by the taxpayer.

**Tax Clearances When Leaving South Africa.** Individuals leaving the country permanently or indefinitely are usually required to file interim returns of income and pay any taxes due before departure. Visitors from abroad are not required to obtain a tax clearance before leaving the country. However, if taxable income from South African sources has been derived by them during their stay, the tax authorities have the right to demand a return of income, issue an assessment, and require payment of any tax due before departure.

Non-resident owners or charterers of ships or aircraft embarking passengers or loading cargo in South Africa, and having no recognised agent in South Africa, may be required to pay tax on the estimated income so derived prior to the clearance of the ship or aircraft.

## MISCELLANEOUS TAXES

None of the miscellaneous taxes by the Central Government, the provinces, and local authorities duplicate each other. There are numerous direct and indirect taxes imposed by the various levels of government, including excise, sales, and stamp duties; land taxes; transfer duties on fixed property (real estate); trading and other licences; and entertainment taxes. These taxes are usually allowable deductions for income tax purposes when incurred in the course of the production of income.

## EXCISE DUTY

Excise duty is levied on certain classes of goods manufactured in, or imported into, the country as set out in Part 2 of the First Schedule to the Customs and Excise Act, 1964. Excise duty is levied in addition to sales duty, and in respect of imported goods in addition to sales and

customs duty. Examples of excise duty levied are as follows:

Item	Duty
Mineral waters	70 cents per 100 litres
Beer from malt	on a sliding scale from 2.042 cents per 100 litres on annual production up to 4½ million litres to 2.702 cents per 100 litres on annual production in excess of 36 million litres
Wines:	
unfortified	132 cents per 100 litres
fortified	1758 cents per 100 litres
sparkling	3364 cents per 100 litres
Ethyl alcohol:	
wine base	54514 cents per 100 litres
non-wine base	62257 cents per 100 litres
Cigars	120 cents per kilogram
Cigarettes	56 cents per kilogram, plus 7½ cent stamp per 10 cigarettes
Tobaccos	213 cents per kilogram plus 7½ cent stamp per 50 grams or part thereof
Petrol: regular	4412 cents per 1000 litres
90 grade and above	5325 cents per 1000 litres

In addition, excise duty is levied on motor vehicles in accordance with weight and value and at varying rates on kerosine, and aviation and other power fuels.

## SALES DUTY

Sales duty is levied on a wide variety of locally-manufactured and imported goods, mainly consumer goods, as set out under eighteen main category headings in Part 3 of Schedule 1 to the Customs and Excise Act, 1964. Sales duty is levied on imports on the free on board price or their domestic value in the exporting country, whichever yields the higher duty, plus 15% of such price or value, plus the cost of carriage from the place of entry to the market for consumption, plus any non-rebated customs duty. The duty on locally-manufactured goods is levied on the manufacturer's price to an independent whole-

# Taxation in South Africa

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salers. Sales duty classifications and rates, which are subject to exceptions, are summarised as follows:

a.	Luxury goods	20%
b.	Semi-luxury goods	15%
c.	Durable goods	12½%
d.	Semi-durable goods	5%
e.	Vehicles, aircraft, and parts thereof; vessels and certain associated transport equipment	7½% to 20%

Non-luxury foodstuffs, footwear, and clothing, and medicines are exempt from sales duty.

Sales duty is levied on the local manufacturer of dutiable goods or the importer of such goods. Where goods have already attracted duty in a previous manufacturing process, the duty previously paid is deductible.

Sales tax returns and payments must be made on a monthly basis to the Department of Customs and Excise.

## STAMP DUTIES

Stamp duties are imposed by the Central Government and are uniform throughout the country. In general, most legal documents and agreements are subject to stamp duty. Examples of documents which are subject to stamp duty and the rates of duty payable are:

	Cents
1. Cheques – irrespective of amount	2
2. Bills of exchange or promissory notes – every R100 of value	5
3. Mortgage bonds – for every R100 of debt secured	20
4. Hire-purchase agreements	30
5. Leases – on every R 100 of the aggregate amount of rent payable where the lease period:	
does not exceed 5 years	25
exceeds 5 but not 10 years	40
exceeds 10 but not 20 years	55
exceeds 20 years	70

6.	Share and debenture certificates: On original issue – on every R20 of nominal value	5
	On registration of transfer – on every R10 of value of consideration (if transfer of ownership is not registered within 6 months, triple duty is payable)	10
7.	Life insurance policies – for every R100 of the aggregate sum insured	5
8.	Transfer deed relating to fixed property – where value or consideration exceeds R7,000, R17,50, and for every R100 in excess of R7,000	75
9.	Agreements in respect of which no other duty is specifically provided by the Stamp Duties Act (covering agreements of a general nature)	30

Note: In place of the stamp duty payable on the registration or transfer of shares and debentures, a marketable securities tax of 1% of the consideration is payable by both the buyer and seller on transactions through a stockbroker.

## TRANSFER DUTY ON REAL ESTATE

A transfer duty is levied by the State on all transfers of ownership of fixed property. The duty is normally calculated at a percentage of the purchase price or, in the case of a non-arm's-length transaction or where there is no purchase consideration, on a fair market value of the property. Differing rates of duty are applied to individuals and companies as follows:

1.	Individuals:	
	First R20,000	1%
	Excess over R20,000	3%
2.	Companies:	
	Total purchase price	5%

## DONATIONS (GIFT) TAX

This tax is payable under the Income Tax Act by a donor on the cumulative value of assets gratuitously disposed of, including any gratuitous waiver or renunciation of a right. The principal exemptions from this tax are:

1. Donations between spouses (if not separated).
2. Donations to any institution for the advancement of science or art, or of a charitable, educational or ecclesiastical nature.

# Taxation in South Africa

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3. Aggregate annual casual gifts up to R1,000.
4. Donations to taxpayer's children, up to an amount of R10,000 multiplied by the number of children. Where there is more than one child, the total amount may be given to one child only or may be allotted to each child in whatever ratio the taxpayer chooses.
5. Donations by non-resident companies or individuals to South African companies or individuals.
6. Donations by public companies.

Donations tax is calculated at progressive rates on the cumulative value of donations, varying from 3% on cumulative values up to R8,000 to 25% on cumulative values in excess of R90,000. Donations made on or after March 24, 1955 to an individual's survivors are included in his estate on death, and donations tax paid thereon is deducted from the estate duty payable in respect of those donations.

## DEATH DUTIES

The estate of any person ordinarily resident in South Africa at the time of death is liable for the payment of estate duty if the net value of the estate exceeds a certain amount. All the assets, wherever situated, are included in the estate and liabilities are deductible in determining the net value. The dutiable amount of the estate is determined by deducting non-dutiable assets and abatements from the net value.

In addition, the dutiable amount includes donations, valued at the date of such donations, made to the survivors of the donor on or after March 24, 1955, but the duty thereon is recoverable from the donees, subject to deduction therefrom of the amount of any donations tax previously paid in respect of those donations. Estate duty liability is determined by applying the appropriate rate of estate duty to the dutiable amount. The dutiable amount of an estate is arrived at as follows:

Net value of estate

Less

Non-dutiable assets:

Proceeds of life insurance policies  
(limited to R35,000)

Value or proceeds of any Government securities on which interest is exempt from income tax, and Land Bank debentures (limited to an aggregate of R70,000, less proceeds of life insurance above)

**Abatements:**

Primary	25,000
Surviving spouse (R25,000)	
Surviving children (R25,000 each)	
Predeceased child leaving children or spouse who has not remarried (R25,000 each)	

**Dutiable amount**

The rates of estate duty are as follows:

<b>DUTIABLE AMOUNT</b>	<b>RATE OF DUTY</b>
Up to R 10,000	10%
Over R 10,000 up to R 25,000	R 1,000 + 15% on excess over R 10,000
Over R 25,000 up to R 50,000	R 3,250 + 17½% on excess over R 25,000
Over R 50,000 up to R 75,000	R 7,625 + 20% on excess over R 50,000
Over R 75,000 up to R 100,000	R 12,625 + 22½% on excess over R 75,000
Over R 100,000 up to R 150,000	R 18,250 + 25% on excess over R 100,000
Over R 150,000 up to R 200,000	R 30,750 + 27½% on excess over R 150,000
Over R 200,000 up to R 250,000	R 44,500 + 30% on excess over R 200,000
Over R 250,000 up to R 300,000	R 59,500 + 32½% on excess over R 250,000
Over R 300,000	R 75,750 + 35% on excess over R 300,000

The duty calculated in accordance with the above rates is subject to reduction at varying rates if it is payable on assets on which estate duty has been previously paid in the estate of a person who died not more than ten years before the deceased.

There is one important exception to the general rule that foreign assets of whatever nature are included in the estate of a resident. The exception relates to assets situated outside South Africa and acquired by the deceased before he became resident in South Africa for the first time, or which were inherited by the deceased or donated to the deceased by a non-resident. Any death duties paid to a foreign state in respect of assets outside South Africa included in the dutiable amount are deductible from the estate duty payable. The estates of non-residents having assets in South Africa are subject to South African estate duty on the South African assets only, calculated in the normal manner. South Africa has, however, entered into agreements with certain other countries to avoid the payment in both countries of death duties on the same assets.

# Taxation in South Africa

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## INCOME TAX IN SOUTH WEST AFRICA

**Companies Income Tax Legislation.** The provisions of the South African Income Tax Act, with the exception of those relating to the non-resident shareholders' withholding tax on dividends, apply in determining the taxable incomes of South West African companies, but the rate of tax is lower.

**Company Tax Rates.** Companies deriving taxable income from South West African sources pay income tax at the rate of 35% of taxable income plus a surcharge of 2½%, giving an effective rate of 35.875%. In addition, a loan levy is imposed at the rate of 5% of tax payable before the addition of the surcharge; this amounts to 1.75% of taxable income and, together with income tax, requires a total cash outlay of 37.625% of taxable income. The loan levy is refundable within seven years and earns tax-free simple interest of 5% per annum.

South West Africa imposes non-resident shareholders' withholding tax on dividends paid by South West African companies to non-resident shareholders, including those resident in South Africa. The rate of tax is 12½%. South West African residents suffer the deduction of South African withholding tax on dividends from South African companies at the rate of 15%.

**Individuals — Income Tax Legislation.** South West Africa has retained the right, under its own Income Tax Ordinance, to impose income tax on individuals deriving taxable income from that country.

The provisions of the South West African Income Tax Ordinance relating to the determination of the taxable incomes of individuals are largely similar to those of the South African Income Tax Act. However, the following exceptions should be noted:

1. There are no provisions relating to the exclusion from taxable income of portions of lump-sum payments from superannuation funds.
2. Retirement payments (other than from superannuation funds) are free of tax up to R9,000.
3. Allowable deductions in respect of pension fund contributions are limited to R1,000 per annum, and combined pension fund and retirement annuity fund contributions are deductible up to R2,000 per annum.
4. The deduction in respect of a wife's earnings is limited to R500.
5. Married persons whose taxable incomes do not exceed R2,500 are exempt from tax, while single persons are exempt up to R1,500.

**Individual Tax Rates.** Income tax, at lower rates than in South Africa, is imposed on taxable incomes up to R42,000 at progressive rates in respect of both married and single persons. Thereafter the rate is 58% for married and 59% for single persons. Tax is imposed on taxable income, which is the amount remaining after deduction of exempt income and allowable deductions from gross income.

Rebates of tax, by way of deduction from calculated tax, are given in place of abatements permitted under the South African Income Tax Act. The primary and child tax rebates are:

Primary rebate:	
married	R 150
single	R 100
Children:	
for each child	R 45

The following table of taxes payable (in South African Rands), taking only primary rebates into account, illustrates the progression of rates for the year ended February 29, 1976:

Taxable Income	Married	Single
1,571	—	—
2,571	—	75
4,000	110	200
6,000	320	430
10,000	1,100	1,250
15,000	2,480	2,680
20,000	4,100	4,350
24,000	5,580	5,870
25,000	5,980	6,280
28,000	7,220	7,550
30,000	8,100	8,450
35,000	10,480	10,880
40,000	13,100	13,550
42,000	14,120	14,690

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