

**Occupational Certificate Tax Professional  
Final Test of Competence Syllabus  
(EISA assessment)**

**Student Study Guide**

# **TAX PROFESSIONAL: FINAL TEST FOR COMPETENCY (EISA Assessment)**

**[3 October 2018]**

## **I. Objective**

The objective of the final test in respect of the tax professional programme is to ensure that trainees have mastered the core compliance and advisory skills required of a trainee who has completed their “apprentice” period of work. The final examination is mainly designed for students that have completed their learnership period of employment (i.e. 2-3 years of work experience). The learnership is predicated on graduation of an NQF Level 7 or 8 university programme (typically with a B. Com major or an LL.B) with an honours in tax preferred (NQF Level 8).

## **II. Conceptual Coverage - Tax**

### **A. Overview**

Trainees are expected to have an enhanced understanding of the subject matter areas previously covered in the Initial Test for Competency. The final exam will accordingly cover the initial subject areas at a more detailed and practical level. The main emphasis of the examination continues within the income tax arena with a wider understanding of the value-added tax and the tax administration tax acts. Most other taxes within the final examination will only require an awareness / superficial level understanding.

The subject matter of the final exam is almost mainly limited to domestic natural persons and companies, but (unlike the Initial Test for Competency) some basic understanding is required so trainees can cope with (or properly refer) cross border issues intermittently arising in domestic practice. In addition to the above, trainees must have some familiarity with domestic trusts as well as a limited familiarity with partnerships and a few other special entities (e.g. public benefit organisations).

### **B. Arrangement of materials**

Unlike the syllabus of many tax programmes, the syllabus for the Tax Professional Programme has been specifically arranged in a logical order rather than a mere numerical or random approach. Tax act sections need to be understood in a practical and transactional setting. The material is accordingly grouped into conceptual and transactional subsystems better tailored for everyday use.

### **C. Income Tax**

Trainees are expected to have an in-depth understanding of the basic conceptual pillars associated with income tax as well as an introductory understanding of certain speciality subsystems in a world of increasing tax subspecialists. Tax professionals are no longer one homogeneous body performing the same work. Compliance specialists differ from advisory

and advisory falls into multiple categories (e.g. wealth planning, international, mergers & acquisitions and payroll).

These pillars ensure that trainees have an advanced understanding of core income tax provisions that can be applied to real-life problems expected of mid-level tax specialists. This advanced understanding includes an ability to interpret and apply the law at a detailed level. Trainees must not only know the applicable tax acts but also have a nuanced understanding of judicial and SARS interpretations. This outline of materials is set out below:

### **Core Conceptual Pillar I: Overall Income Tax Calculation**

Trainees must understand the core formula associated with the income tax calculation to determine taxable income as applied to a specific taxpayer at a specified tax rate. This formula essentially acts as the “spinal cord” for the income tax system. More specifically, this pillar mainly covers the net profit (i.e. taxable income) formula, tax rates, identification of key taxpayer types, and the nature of annual tax periods.

### **Core Conceptual Pillar II: General Inflows & Outflows**

This pillar covers general revenue flows and outflowing expenditures. These flows include items, such as services, general rentals and related operational expenses. At issue in a tax sense is whether and when to account for these items as well as the calculation of amounts.

**Part A:**        Gross Income / Exempt Income: The income tax formula begins with the calculation of receipts and accruals. These receipts and accruals are taken into account during one or more years of assessments under the general “gross income” formula definition (before paragraph (a)). Special additional inclusions of gross income exist to override the potential treatment of certain receipts and accruals as capital in nature and further special inclusions can be found elsewhere in the income tax act (via paragraph (n) of the section 1 “gross income” definition). In a limited number of cases, certain exemptions exist (under section 10). These exemptions can be in regards to a whole entity (e.g. a sphere of government) or in regards to particular categories of receipts and accruals (e.g. dividends).

**Part B:**        Deductions and Assessed Losses: The income tax formula then allows deductions to be subtracted so as to determine “taxable income”. Deductions are initially found in section 11(a) under the general deduction formula associated with trading activities. Special deductions also exist in other paragraphs of section 11 or are derived from other sections of the income tax act (with section 11(x), thereby bringing these other sections technically into operation). Deductions may stem from expenditures incurred during the current year of assessment or as excess deductions from prior years (known as assessed losses).

### **Core Conceptual Pillar III: General Property Disposals**

The disposal of property operates differently in a tax sense from the general flow of revenue and expense outlined in Pillar II. Properties of this nature fall into three practical groups: immovable property, movable property and intellectual property.

- Part A:** Character Determination of Overall Disposal: In terms of income tax, each of these property groups will typically be classified as trading stock, capital assets and allowance assets for tax purposes. The question of classification is generally based on facts-and-circumstance (e.g. ordinary versus capital) and must be determined upfront because each classified group has its own system of determining gain or loss (as well as the impact on tax rates).
- Part B:** Disposals of an ordinary nature: The disposal of assets giving rise or ordinary gain and loss is generally referred to as trading stock. Trading stock largely consists of business inventory but may also consist of others assets held largely for disposal (as opposed to assets held for use or long-term investment).
- Part C:** Disposals of a capital nature: The disposal of capital assets fall entirely under the capital gain system of the 8<sup>th</sup> Schedule. These extensive rules have their own system of deemed disposals, value determinations, anti-loss rules and exclusions.
- Part D:** Impairing Allowance / Depreciable Assets and Subsequent Disposals: Allowance assets fall under a mix of ordinary revenue / loss and capital gain / loss. In the main, allowances assets are capital assets that can be depreciated / amortized over the life of the asset, thereby generating a stream of ordinary deductions. This system of depreciation / amortization is roughly akin to the financial accounting system of impairment. The disposal of these assets give rise to a mix of ordinary and capital consequences.

### **Core Conceptual Pillar IV: Tax Avoidance**

Although the tax law has a strong preference for hard objective rules over (subjective (e.g. intention-based) rules, concerns have grown that clever tax planners can misuse those rule so that the technical wording works against the underlying intention. In this Pillar, trainees focus on the judicial doctrine of substance-over-form, the general anti-avoidance rule and other longstanding subjective anti-avoidance rules.

### **Core Conceptual Pillar V: Unique Subsystems**

The tax law contains many subsystems in addition to the core conceptual systems outlined above. Each of these subsystems is self-contained – some defer or accelerate gains and losses while others ensuring appropriate matching principles. The purpose of this core pillar is to introduce a staple array of unique subsystems that commonly apply to local business activities (e.g. as a company operation or as a sole proprietorship).

- Part A:** Capital and allowance asset rollovers and deferrals: The tax system contains various rollover / deferral regimes. In these regimes, gain or loss is disregarded upon disposal when certain conditions apply. These conditions typically require a reinvestment in comparable assets or a transfer within the same economic unit. The deferred gain / loss will only be triggered upon a subsequent disposal.
- Part B:** Government grants: Grants may be exempt, but the use of government funds can hardly be viewed as a taxpayer expenditure incurred. This subsystem ensures that the direct or indirect receipt of government funds is not reduced in value by the burden of tax. However, taxpayers cannot claim a deduction to the extent expenses are subsidised by government grants nor can assets purchased with subsidised funds be considered a taxpayer cost.
- Part C:** Leases: Commercial leases are a frequent method of business occupation. Under this subsystem, there is a dual impact – a deduction for the rent paid by the commercial lessee (i.e. tenant) and gross income for the commercial lessor (i.e. a landlord). Other dual systems are required in the case of lease premiums and lessee improvements on lessor land.
- Part D:** Foreign currency: South African businesses regularly utilise foreign currency in the case of imports and exports as part of everyday operations. Taxation of foreign currency is very unique among asset classes in that foreign currency gains and losses are generally taken into account annually even if not disposed of (i.e. still held at annual year-end).
- Part E:** Provisional tax (Advanced tax payments): In addition to the annual tax return, business are generally required to file a minimum of two provisional tax payments before final tax is due. Individual employees may also be required to file this form of provisional tax in addition to monthly salary pay-as-you-earn if significant sources of income exist outside of standard employment. Provisional taxes paid are applied against final taxes due. Care must be taken to pay these provisional taxes timely to avoid penalties and interest.

## **Part VI: Introductory Specialties**

In addition to the core pillars above, trainees should have a broader understanding of certain specialty areas that are expected of most mid-level trainees. While most trainees may find that only certain of these specialties are of use on a daily basis, a basic understanding of these areas is intermittently required for peripheral use and engagement with other tax experts. The introductory specialties outlined below form the basis of areas of expertise that is the main object of certain tax professionals.

- ***Specialty 1 – individual Returns:*** Tax preparation for individual tax returns (IT12s) is a specific line of activity for many practitioners. Tax returns for most individuals differ significantly from business returns. – many deductions are denied to prevent private / personal consumption while also containing special relief measures and incentives to assist middle and lower-income families save or cover core needs.

- Special net calculations: Individual tax returns contain a number of special automatic relief measures designed to mitigate taxation of middle and lower-income workers. These include the primary rebate and the annual exclusion.
- Special deduction limitations, medical credits and capital gain adjustments: Individuals cannot deduct private expenses or expenses that can easily masquerade as private expenses. On the other hand, government provides relief for medical aid or the sale of the home and other personal effects.
- Family (attribution) rules: The starting point for the tax system is to treat each individual as a wholly independent taxpayer even if those individuals are part of the same family economic unit. While this principle eases administration, the tax law contains certain attribution rules to prevent the artificial shifting of income from high-income earners to low-income earners merely to mitigate tax. In other cases, special allocations of income are required to represent the various forms of marriage (community of property, ANC with accrual and without accrual).
- Retirement funds: Government has created a whole array of retirement fund rules in order to facilitate long-term savings so that individuals have savings upon retirement. Under this system, contributions are generally deductible, the growth is tax-free while in a fund and tax occurs on pay-out. This deferred tax effectively arises only upon retirement consumption.
- General savings: Individuals have an array of savings products to choose from them – each of which offer a tax outcome. For most middle and upper-income earners, these savings products entail institutional savings products, such as bank interest, collective investment schemes, endowment products offered by insurers and investment units in real estate investment trusts.
- **Specialty II – Payroll**: The taxation of individual salary earners are effectively split into two as a practical matter. Individual taxpayers must file their own independent tax returns (IT12s) at year-end as outlined above. In addition, individual employee salaries must be taxed on a monthly basis. This monthly tax obligation falls on the employer with certain tax specialists solely dedicated to payroll and the related monthly related payment of tax.
  - Employees’ Tax (Pay-As-You-Earn Withholding): Employers must withholding tax on salaries on a monthly basis to be paid over seven days after every month. Most withholding is fairly straight-forward. However, special concerns do arise, such as employment versus independent contractor status, part-time and occasional employees and irregular payments.
  - Fringe benefits: Salary comes in many forms. Salary can come as a bonus, accrued and sick leave, exit payments and often disguised as an allowance (e.g. travel, entertainment and subsistence). Salary can also be in the form of cash or in-kind – all of which has a value. The purpose of the tax rules is largely to value these fringe benefits in a simplified manner with special relief mechanisms for certain government preferred priorities (e.g. bursaries).
- **Specialty III – Introductory Companies (Share & Debt Financing and Small Business)**: Most profit-making business in South Africa operate as a company. Companies are separate

taxpayers whose operations are taxed accordingly. One unique aspect of companies is the relationship between the company and its owners (i.e. shareholders). It is these transactions between the company and its shareholders that forms the basis of many company tax specialists.

- Company tax structure and formations: The first stage of the shareholder / company relationship entails the company's formation. This stage entails the transfer of cash and assets to a newly formed company in exchange for newly issued shares. This formation can be taxable or tax-free (i.e. tax-deferred via the reorganisation rollover rules). This area also includes some basics about the securities transfer tax.
- Taxation of company distributions to its shareholders: One of the primary functions of a company is to produce profits for its shareholders that can be distributed as dividends. Alternatively, distributions can be made that represent a return of capital (i.e. the initial investment). In tax, the shareholders can freely choose whether they want the profits first or a return on the initial investment. Dividends are taxed at a flat 20 per cent rate. Return of capital distributions reduce the base cost in shares and / or trigger capital gains tax.
- Debt financing: Besides equity investments, the second major source of funding for companies is debt borrowed from banks and other sources. Debt gives rise to income and deductions in terms of interest with no impact in terms of the initial and subsequent full payment. A myriad set of consequences arise for both creditor and debtor in terms of bad debt write-offs and full cancellations.
- Small and micro-businesses: The tax system provides a special set of reduced rates for small business companies with reduced amounts of net income. This small business company regime is heavily used for companies with turnovers of up to R20 million. Another regime incentive exists for micro-business with these businesses subject to tax at very reduced rates on a turnover basis.
- Select incentives and industries: Though not a core concept, trainees should be aware of the notable business tax incentives. These incentives include urban development zones, research and development enhanced deductions, enhanced investment and training deductions for industrial projects and special economic zones. Trainees should also be roughly familiar with some of key tax features of farming and mining.
- ***Specialty IV – Wealth Planning (Lifetime and Death Transfers)***: Wealth planning is a combination of estate preservation, investment growth and tax minimisation. Tax practitioners can be specifically dedicated to wealth preservation while others find themselves assisting their small and entrepreneurial clientele with preservations as the businesses reach maturity.
  - Taxation of donations: Donations trigger both an income tax consequence and a Donations Tax consequence. In terms of income tax, the donation of an asset generally triggers capital gain based on the fair value of the asset less the tax cost. In terms of the Donations Tax, the charge generally triggers a 20 per cent charge (less the R100 000 annual exemption).

- **Taxation at death:** Death has a similar dual consequence to donations. The death of an individual generally triggers gain or loss on all assets held immediately before death. Death also triggers the Estate Duty at 20 per cent. This 20 per cent charge largely falls on the net value (gross assets less debts owed) of the estate.
- **Trusts:** One core feature of estate planning is a trust. Trusts can preserve wealth for multiple generations and remove growth from a person's estate before death. Many small and medium South African companies are held by domestic trusts established by a founding business owner or entrepreneur. Trusts are a flexible vehicle in terms of income allocation with income being allocable to various beneficiaries and the trust itself.
- ***Specialty V – International:*** International tax is a well-established tax practitioner subspecialty, which has long been in existence even before transfer pricing. Trainees are expected to be aware of some of the recurring rubrics of international tax, including the concept of tax residence, source, withholding of payments transmitted abroad and foreign tax credits. It is not uncommon for many of even the smallest tax practitioners to be requested to file a return on behalf of South Africans working abroad.

#### **D. Indirect Tax**

##### **1. VAT Overview and initial formalities**

Trainees are expected to understand the basic mechanics of “output and input” calculations required for VAT 201 returns. They must also understand the underlying purpose of the VAT system. This understanding must include a solid foundation of the basic concepts of standard rated, zero rated and exempt supplies.

Trainees must additionally understand the initial formalities associated with VAT. These initial formalities include:

- ***Registration:*** Trainees must understand how clients can register for VAT to become a VAT vendor – including “who may” / “who must” register for VAT and when registration must occur. This understanding requires a basic knowledge of the definition of “enterprise” for general private sector activities as well as the rules relating to taxable turnover that form part of the “enterprise” calculation.
- ***Tax periods:*** VAT vendors are required to submit VAT 201 returns periodically throughout the year. Most VAT vendors must submit returns every two months or every month.

##### **2. Basic VAT compliance in terms of taxable supplies**

Trainees must understand basic VAT 201 return calculations as well as the time periods for filing returns (e.g. monthly and bi-monthly). Trainees are expected to have the knowledge to service small or medium size companies as well as individual businesses in terms of making these calculations. Trainees must further understand the input and output calculations required for goods (both trading stock and capital) as well as for services in respect of purchaser / clients. These input / output calculations will include the basics associated with imports and exports.

### 3. Common VAT Zero Rated and Exempt Supplies

Trainees must be familiar with recurring zero-rated and exempt supplies that often arise in the small and medium business sector. In terms of zero-rated goods, trainees must be aware of the list of zero rated goods (e.g. for food and fuel) and the zero-rated claims for direct exports.

Trainees must know the basics associated with exempt supplies, especially the supply of transport, education, residential rentals and straight-forward financial services (e.g. credit / debt, shares and currency). Of further importance is how to account for (i.e. exclude) direct inputs associated with exempt outputs.

### 4. Frequently Recurring Special Circumstances

Beyond the core concepts outlined above, VAT (like the Income Tax) contains a number of special rules and subsystems. These subsystems are designed to extend the VAT into unique circumstances. Recurring circumstances of this kind include second-hand goods, employee motor cars, irrecoverable debts and fixed property rentals.

### 5. Special Rules for VAT Administration

VAT contains its own rules pertaining to administration. Tax periods are more recurring (generally bi-monthly or monthly). Most notably, the key to any VAT system are refunds to ensure that the VAT does not effectively apply to business-to-business transactions. Another key feature of VAT is the required accuracy of VAT invoices, especially in terms of claiming input credits.

### 6. Other Indirect Taxes

Two other indirect taxes are intertwined with the VAT – Transfer Duty and Customs Duty. The purchase of residential property by private parties for personal use fall solely within the Transfer Duty. Purchases of residential property from VAT vendors triggers the VAT, and VAT vendors purchasing from private parties can claim the Transfer Duty as an input credit. Customs Duty applies to the import of goods, and these imports must be coo-ordinated with the VAT. Customs is based on three concepts – origin, classification and valuation.

#### ***E. Core Pillars – Tax Administration***

One core recurring area in regards to taxation is administration (e.g. the Tax Administration Act). Trainees must have a solid understanding of tax administrative rules that have become a regular part of ordinary tax practice. These areas include:

- Tax registration.
- Tax returns and basic record-keeping.
- Tax assessments

- Initial stages of dispute.
- Penalties and interest.

### **III. Conceptual Coverage – Accounting**

Tax professionals need to have a solid understanding of basic accounting in order to ensure that financial numbers are properly translated into required annual tax returns (e.g. IT14 (companies) and IT12 (sole proprietors)). In particular, entering tax professionals must:

- Be familiar with the terms and concepts contained within core accounting statements regarding profit and loss (e.g. the statement of profit and loss and other comprehensive statement of income);
- Be familiar with terms and concepts regarding balance sheet assets and liabilities (e.g. the statement of financial position); and
- Be familiar with the general concepts associated with trial balances and general ledgers.

These concepts include the distinction between current and non-current assets / liabilities, the basics of equity (e.g. share capital versus debt), impairments and similar financial basics. Tax professionals must additionally be familiar with commonplace terminology and processes (e.g. the meaning of a deferred tax account and the general role of IFRS). In terms of reading, tax professionals should be able to rely on their books used in university relating to financial accounting.

## ***Core Conceptual Pillar I: Overall Income Tax Calculation***

<b>Silke Text</b>	
<p><u>Technical Construct</u></p> <ul style="list-style-type: none"> <li>• Chapter: 1.1 Overview</li> <li>• Chapter: 1.2 Tax base</li> <li>• Chapter: 1.3 Tax rate structure</li> <li>• Chapter 2.5.3: The tax base of normal tax for natural persons and companies</li> <li>• Chapter 2.6: Comprehensive example</li> <li>• Chapter 19.2.2: Taxation of company profits</li> </ul> <p><u>Tax policy primer</u></p> <ul style="list-style-type: none"> <li>• Chapter 1.4: Principles of taxation</li> </ul>	
<b>Tax Act Sections / Judicial Decisions</b>	
<b>Concept</b>	<b>Specific Sections</b>
Normal Tax Authority	Income Tax Act: Section 5(1) and (2)  Judicial decision: <ul style="list-style-type: none"> <li>• SIR v Silverglen Investments (Pty) Ltd</li> </ul>
Normal Tax Components	Income Tax Act: Section 1(1) the definitions of: <ul style="list-style-type: none"> <li>• “normal tax”</li> <li>• “taxable income”</li> <li>• “income”</li> <li>• “tax”</li> </ul> Rates and Monetary Amounts Amendment Bill (Act No. 14 of 2017 for the 2018 Assessment Year) <ul style="list-style-type: none"> <li>• Paragraph 1</li> <li>• Paragraph 2</li> <li>• Paragraph 3 (Up through (a))</li> </ul> Judicial decision: <ul style="list-style-type: none"> <li>• Natal Joint Municipal Pension Fund v Endumeni Municipality [2012] ZASCA 13 (15 March 2012)</li> </ul>
Capital Gains Inclusion	Income Tax Act: <ul style="list-style-type: none"> <li>• Section 26A</li> <li>• Eighth Schedule (skim)</li> </ul> See also Silke Chapter 17.1 (CGT Overview)  Judicial Decision: <ul style="list-style-type: none"> <li>• CSARS v Stepney Investments (Pty) Ltd</li> </ul>
Taxable Entities	Income Tax Act: Section 1(1) the definitions of: <ul style="list-style-type: none"> <li>“company” (paragraphs (a) and (f))</li> <li>“person”</li> <li>“trust”</li> </ul> Judicial decisions:

	<ul style="list-style-type: none"> <li>• CIR v Witwatersrand Association of Racing Clubs</li> <li>• CIR v Friedman and Others NNO</li> </ul>
Year or period of assessment	<p>Silke Chapter 3.5</p> <p>Income Tax Act:</p> <ul style="list-style-type: none"> <li>• Section 1(1) the definitions of: “financial year”, “return” and “year of assessment”</li> <li>• Section 66(13) (without regard to the provisos)</li> </ul>
Connected Persons	<p>Silke Chapter 13.2.1</p> <p>Income Tax Act: Section 1(1) the definitions of:</p> <ul style="list-style-type: none"> <li>• “connected person”</li> <li>• “relative”</li> <li>• “spouse”</li> </ul> <p>SARS interpretation: Interpretation Note 67 (issue 3)</p>

### ***Core Conceptual Pillar II: General inflows and outflows***

#### **Part A: Gross / Exempt Receipts & Accruals**

<b>General Gross Income Definition</b>		
Income Tax Act: Section 1 “gross income definition” (opening paragraph before (a) but disregarding (ii) dealing with non-residents)		
<b>Silke Chapters</b>		<b>Authoritative Interpretations</b>
3.1	The definition of ‘gross income’	
3.3	Amount in cash or otherwise	CSARS v Brummeria Renaissance (Pty) Ltd
3.4 (opening)	Received by or accrued to	
3.4.1	Meaning of ‘received by’	MP Finance Group CC v CSARS CSARS v Cape Consumers (Pty) Ltd
3.4.2	Meaning of ‘accrued to’	Cactus Investments (Pty) Ltd; CIR v People's Stores (Walvis Bay) (Pty) Ltd Mooi v SIR Gud Holdings (Pty) Limited v CSARS
3.4.3	Valuation of receipt or accrual	CSARS v KWJ Investment (142/2017) [2018] ZASCA 81 (31 May 2018) South Atlantic Jazz Festival (Pty) Ltd v CSARS

3.4.7	Disposal of income after receipt or accrual  See also section 7(1) and 7(7)	CIR v Witwatersrand Association of Racing Clubs SIR v Silverglen Investments (Pty) Ltd CSARS v KWJ Investment (142/2017) [2018] ZASCA 81 (31 May 2018)
3.4.8	Time of accrual of interest payable by SARS  Section 7E	
<b>Exclusion for Receipts and Accruals of a Capital Nature</b>		
General concept: Silke Chapter 3.6 Receipts and accruals of a capital nature		
Income Tax Act: Section 1 “gross income definition” (opening paragraph before (a) but disregarding (ii) dealing with non-residents)		
Note: The capital versus ordinary nature of asset disposals is covered in the opening of Core Pillar III		
3.6.15	Gambling Paragraph 60 of the Eighth Schedule	Paragraph 12.9 in the SARS CGT guide.
3.6.10	Damages and compensation (CGT)	Stellenbosch Farmers’ Winery v CSARS and Fourie Beleggings v CSARS Bos v CSARS
3.6.17	Gifts, donations and inheritances	

<b>Special Inclusions in Gross Income (e.g. Capital Overrides)</b>		
<b>Silke Chapters</b>	<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
4.1	Specific inclusions in gross income	Section 1(1) “gross income definition” (opening paragraph before (a) but disregarding (ii) dealing with non-residents)
4.2	Annuities	Section 1(1): The proviso to paragraph (a) of the definition of “gross income” (focus on basic annuities)  See also living annuities and section 10A purchased annuities

4.4	Services	Section 1(1): Paragraph (c) of the definition of “gross income”  The proviso to paragraph (c)	Stevens v CSARS SIR v Somers Vine CSARS v Kotze CSARS v Professional Contract Administration CC Van Heerden and Others v State
4.5	Restraint of trade (see also 3.6.20 (Restraint of trade))	Section 1(1): paragraph (cB) of the definition of “gross income”	
4.6	Services – Compensation for loss of office	Section 1(1): paragraph (d) of the definition of “gross income”  Severance benefits: See also Appendix B and Paragraph 9(c) of Schedule I to the Rates and Monetary Threshold Act of 2017	IN 26: Taxation of CCMA and Labour Court awards to employees and former employees
4.8	Services – Commutation of amounts due	Section 1(1): paragraph (f) of the definition of “gross income”	
4.10	Compensation for imparting knowledge and information	Section 1(1): paragraph (gA) of the definition of “gross income”	
4.12	Fringe benefits	Section 1(1): paragraph (i) of the definition of “gross income” Skim Seventh Schedule	Anglo Platinum Management Services v SARS
4.19	Amounts deemed to be receipts or accruals and section 8(4)(a) recoupments	Section 1(1): paragraph (n) of the definition of “gross income”  See also section 8(4)(a)	Omnia Fertilizer Limited v CSARS CSARS v Pinestone Properties CC

<b>Exempt Entities and Receipts / Accruals</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
5.1	Introduction	Section 10(1) (opening line)	
5.6.1	Governments, governmental and local authorities  [Entity Exemption]	Section 10(1)(a); (bA); (bB); (c); (t) and	

5.6.6	Semi-public companies and boards  [Entity Exemption]	Section 10(1)(t) and (zE)	
5.11.2	Promotion of research  [Entity exemption]	Section 10(1)(cA) ( <i>light review only</i> )	
5.7.2	Public benefit organisations	Section 10(1)(cN) ( <i>light review only</i> )  Ninth Schedule (Part I) ( <i>light review only</i> )	
5.3 (opening) and 5.3.1	Exemptions relating to dividends and Dividends from resident companies  See also 4.14  [Receipt / Accrual Exemption]	Section 10(1)(k)(i) (before all the provisos)  See also Section 1(1): paragraph (k) of the gross income definition  Note: Many of these dividends may instead be subject to the dividends withholding tax (see Part VIII of the Income Tax Act)	
	Exemptions related to:	The nature of the person: REIT (aa) Company (ff), (gg) and (hh) The nature of the instrument: Restricted instruments (dd); (jj) and (kk) Anti-avoidance: In consequence of a session (ee) In respect of services rendered (ii)	
5.4.2	Unemployment insurance benefits  [Receipt / Accrual Exemption]	Section 10(1)(mB)	

5.5.1	Bursaries and scholarships (but only in respect of non-employees)  [Receipt / Accrual Exemption]	Section 10(1)(q) (before the proviso) and (qB) (before the proviso)	See page 39 for a detailed coverage – here it is a light review only.
5.11.4	War pensions and wards for diseases and injuries (but only disability and compensation)  [Receipt / Accrual Exemption]	Section 10(1)(gA): disability pension; and (gB)(i): Compensation for Occupational Injuries and Diseases Act; (gB)(iii): compensation where death arose out of and in the course of employment; and (gB)(iv): Road Accident Fund	

### Part B: Deductible / non-deductible expenses and excess tax losses

<b>The General (Section 11) Deduction Formula: Core Principles</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
6.1 6.3 (opening)	Introduction General deduction formula	Section 11 (opening paragraph) and (a)  Section 23(g)	Warner Lambert SA (Pty) Ltd v CSARS
6.2	The meaning of 'carrying on a trade'	Section 11 (opening paragraph) and (a)  See also: Section 1(1) the definition of "trade"	Burgess v CIR CSARS v Smith
6.5.7	Non-trade expenditure	Section 23(g)	Warner Lambert SA (Pty) Ltd v CSARS
6.5.1	Private maintenance expenditure	Section 23(a) See also 11 (opening) and (a)	CIR v Hickson
6.3.1	Expenditure and losses	Section 11 (opening paragraph) and (a) Section 1 (definition of "trade")	Port Elizabeth Tramway Company Ltd v CIR Joffe & Co (Pty) Ltd v CIR CSARS v Labat
6.3.2 (opening)	'Actually incurred'	Section 11 (opening paragraph) and (a)	Edgars Stores Ltd v CIR
6.5.5	Provisions and reserves	Section 23(e)	CIR v Golden Dumps (Pty) Ltd

	See also: 6.10.3 Provisions for anticipated losses or expenditure		SIR v Charkay Properties (Pty) Ltd
6.5.3	Recoverable expenditure	Section 23(c)  <u>Note:</u> Section 8(4)(a) applies if recovered but not previously denied under section 23(c)	Oosthuizen and Another v Standard Credit Corporation Limited
6.5.8	Notional interest	Section 23(h)	
6.3.3	'During the year of assessment'	Section 11 (opening paragraph) and (a)	Caltex Oil (SA) Ltd v SIR Purpose of expenditure: Warner Lambert SA (Pty) Ltd v CSARS CIR v Giuseppe Brollo Properties (Pty) Ltd. Warner Lambert SA (Pty) Ltd v CSARS CSARS v Mobile Telephone Networks Holdings (Pty) Ltd Sub Nigel v CIR
6.3.4	'In the production of income'	Section 11 (opening paragraph) and (a)	
6.5.6	Expenditure incurred to produce exempt income	Section 23(f) See also section 10(1)(k)(i)(before all provisos)	CSARS v Mobile Telephone Networks Holdings (Pty) Ltd CIR V Nemojim
6.3.5	'Not of a capital nature'	Section 11(opening paragraph) and (a)  Note: Incurrals of a capital nature may be added to the cost / base cost of assets (see Pillar III)	BPSA (Pty) Ltd v The Commissioner for SARS
<b>The General (Section 11) Deduction Formula: Ancillary Principles</b>			
6.4	Prepaid expenditure	Section 23H(1) (other than provisos (cc) and (3))	
6.5.4	Interest penalties and taxes	Section 23(d)	
6.6	Prohibition against double deductions	Section 23B(1) through (3)	
6.8	Excessive expenditure	Section 11 (opening paragraph) and (a) and 23(g)	Tax case 12262

6.9	Cost of assets and VAT	Section 23C(1) (before the proviso)	
6.10.6	Fines	Section 11 (opening paragraph) and (a) Section 23(o)	IN 54 (Issue 2) Deductions: Corrupt activities, fines and penalties
12.2.7	Variable remuneration Employees' tax (focus on variable remuneration)	Section 7B  See also Employees' Tax Withholding	Paragraph 1.4 Explanatory Memorandum on the Taxation Laws Amendment Bill, 2012 10 December 2012

<b>The General (Section 11) Deduction Formula: Specific Expenses as Applied</b>			
6.10.1	Advertising	Section 11 (opening paragraph) and (a)	CIR v Pick 'n Pay Wholesalers (Pty) Ltd
6.10.2	Copyrights, inventions, patents, trademarks and know how	Section 11 (opening paragraph) and (a)  See also section 11(gB) and (gC) (deductions as a capital allowance) and section 11D (research and development incentive)	
6.10.3	Damages and compensation	Section 11 (opening paragraph) and (a)	COT v Rendle
6.10.4	Education and continuing education	Section 11 (opening paragraph) and (a)	Smith v SIR
6.10.5	Employment and services rendered	Section 11 (opening paragraph) and (a)	
6.10.10	Losses: Fire, theft and embezzlement (trading stock to be discussed under Pillar III)	Section 11 (opening paragraph) and (a)	IN 80 The income tax treatment of stolen money
6.10.11	Losses – Loans, advances and guarantees	Section 11 (opening paragraph) and (a)	Sentra-Oes Koöperatief Bpk v KBI Stone v SIR

<b>Special "Section 11" Deductions</b>			
<b>Note: the special provisions override the general ones.</b>			
<b>Silke Chapters</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
12.3	Legal expenses	Section 11(c)	CSARS v Thor Chemicals SA (Pty) Ltd

	See also Silke Chapters 6.10.8 (Legal expenditure) and 6.10.9 (Legal expenditure: Of a capital nature)		Income Tax Case No 1837 - 71 SATC 177
12.2.1	Restraint of trade payments  See also 3.6.20 (Restraint of trade)  See also Silke Chapter 6.5.11 (Restraint of trade)	Sections 11(cA) and 23(l)	Interpretation Note 7: Restraint of trade payments
12.4 (opening)	Repairs	Section 11(d)  Note: Repairs can alternatively viewed as improvements that add to cost (see Pillar III)	
12.5	Bad debt	Section 11(i) – one sided concession  Note: Reverses prior unpaid accrual or invoices – see also Company Financing Subsystem in terms of debt financing	SIR v Kempton Furnishers (Pty) Ltd
12.6	Doubtful debts	Section 11(j)  Note: Reverses prior unpaid accrual – see also Company Financing Subsystem in terms of debt financing	
12.2.5	Annuities to former employees (disregard partners and dependants)	Section 11(m)(i)	

<b>Special Deductions “Outside Section 11”</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
12.1:	The special deductions, the general deduction formula and prohibited deductions	Section 11(x)	
6.2.1	Pre-trade expenditure and losses	Section 11A	Interpretation Note 51 (June 2018)
12.2.3	Deduction of medical lump sum payments	Section 12M	
12.9	Donations to public benefit organisations	Section 18A(1)(opening paragraph), (a)(i), not exceeding (B) (10% limit) and (2), (2A)(a)  Part II of the 9 <sup>th</sup> Schedule ( <i>light review only</i> )  Note: Assume only cash contributions	
12.11	Future expenditure on contracts	Section 24C (but see section 23(e))	Interpretation Note 78: Allowance for future expenditure on contracts Income tax case: 13772 and 10723

<b>Assessed (Excess) Losses</b>			
<b>Silke Chapters</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
12.12 (opening)	Assessed losses	Section 20(1) (without regard to the provisos) and (2)	
12.12.1	Assessed losses – Balance set off by taxpayers other than companies	Section 20(1)(without regard to the provisos), (2) and (2A) See also section 1 (definition of “trade”)	CSARS v Megs Investments (Pty) Ltd and Another Robin Consolidated Industries Ltd v CIR CSARS v Dunblane (Transkei) (Pty) Ltd

12.12.2	Assessed losses – Balance set off by companies	Section 20(1)(without regard to the provisos) and (2)  See also section 1 (definition of “trade”)	Interpretation Note 33 (Issue 5) Assessed losses: Companies: The 'trade' and 'income from trade' requirements
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### ***Core Conceptual Pillar III: Disposal of Assets***

#### Part A: Character Determination of Overall Disposal

Ordinary Versus Capital Disposals of Property		
Section 1(1): Definition of “gross income: (before paragraph (a))		
<b>Silke Chapters</b>		<b>Authoritative Interpretations</b>
3.6	Receipts and accruals of a capital nature	
3.6.1	Nature of an asset	SARS v Volkswagen of South Africa (Proprietary) Limited Wyner v C:SARS CIR v Nel
3.6.2	Intention of a company	CSARS v Capstone 556 (Pty) Ltd
3.6.3	Business conducted with a profit making purpose	CIR v Pick 'n Pay Employee Share Purchase Trust CSARS v Capstone 556 (Pty) Ltd
3.6.4	Selling an asset to best advantage	
3.6.5	Realisation of a capital asset	CSARS Volkswagen of South Africa (Proprietary) Limited Stellenbosch Farmers' Winery v CSARS
3.6.6	Change of intention	Natal Estates - example
3.6.7	Mixed purpose	
3.6.8	Secondary purpose	
3.6.9	Realisation company	CSARS v Founders Hill
3.6.11	Isolated transactions	
3.6.13	Copyrights, inventions, patents, trademarks, formulae and secret processes	
3.6.19	Kruger Rands	
3.6.21	Share transactions (disregard employees' share trusts and portfolios in a collective investment scheme)	

14.10	Deemed capital receipts from the disposal of shares  (limit to section 9C(1) and (2) discussion)	Section 9C(1) and (2)	
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Part B: Disposals of an ordinary nature

<b>Trading Stock: Basics</b>			
<b>Notes: section 11(a) applies on purchase and gross income on inclusion</b>			
<b>Silke Chapters</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
14.1	(Introduction (definition of 'trading stock')	Section 22(1) and (2) ( <i>light review</i> )  See also Section 1 (definition of "trading stock") See also section 11(a) ( <i>upon purchase</i> ) See also section 1 (opening paragraph of the "gross income" definition) (upon sale)	CSARS v Foskor Richards Bay Iron & Titanium (Pty) Ltd & another v CIR Ernst Bester Trust v CSARS CIR v AA The Motorist Publications (Pty) Ltd
4.2	Closing stock	Section 22(1)(excluding (b))	<i>Richards Bay Iron and Titanium (Pty) Ltd and Another v CIR (1996 AD 58 SATC 55) Only the discussion relating to trading stock.</i>
14.3	Opening stock	Section 22(2)	
14.4	Cost price of trading stock (ignore controlled foreign companies)	Section 22(3)(opening and (i)) See also section 22(3)(iA) and (ii) ( <i>light review</i> )	
6.9	Cost of trading stock and VAT	Section 23C(1) (before the proviso)	
4.13	Proceeds from the disposal of certain assets	Section 1(1) paragraph (jA) of the definition of "gross income"	Interpretation Note 11 (Issue 4) Trading stock: Assets not used as trading stock
14.5	Trading stock acquired for no consideration	Section 22(4) and paragraph 12 of the Eighth Schedule.	

6.10.10	Losses: Fire, theft and embezzlement (focus on trading stock)	Section 11 (opening) and (a)	
12.10	Allowance for outstanding debt: Credit arrangements and debtor's allowance (suspensive sales)	Section 24	Interpretation Note 48 (Issue 3) Instalment credit agreement and debtors' allowance
14.7	(Anti-avoidance provisions)	Section 23F Limit to section 23F(1) Goods in transit – purchased but not held	CSARS v Marula Platinum Mines Ltd Income Tax Case No 1847 73 SATC 126
<b>Trading Stock: Special Lines of Business</b>			
14.8	Contractor's work in progress	Section 22(2A) and 22(3A)	Nussbaum?? Or cases
14.11	Share dealers	Section 22 (as above)	
3.6.21	Share transactions	Refer to section 9C	

### Part C: Disposals of a capital nature

<b>Capital Gains Tax: Overall Construct within the Taxable Income Calculation</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
17.1	Overview	Section 26A	
17.2	The scope of CGT		
17.3 (opening)	Persons liable for CGT		
17.3.1	Residents	Paragraph 2(1) of the 8 <sup>th</sup> Schedule (excluding subparagraph (b)) The focus will be on immovable property.	Paragraph 4.2
17.5	Determination of taxable capital gain and assessed capital losses  See also 17.13 Final step in the CGT calculation and changes to capital gains or losses in	Paragraph 3 (opening line and subparagraph (b)) of the 8 <sup>th</sup> Schedule Paragraph 4 (opening line and subparagraph (b)) of the 8 <sup>th</sup> Schedule Paragraph 5 of the 8 <sup>th</sup> Schedule (annual exclusion)	SARS Comprehensive CGT Guide – paragraphs 3.5 – 3.6  Paragraphs 5.7 - 5.9  New Adventure Shelf 122 (Pty) Ltd v CSARS (SCA)

	subsequent years (disregarding 17.13)	Paragraph 6 of the 8 <sup>th</sup> Schedule Paragraph 7 of the 8 <sup>th</sup> Schedule Paragraph 8 of the 8 <sup>th</sup> Schedule Paragraph 9 of the 8 <sup>th</sup> Schedule (excluding subparagraph (b)) Paragraph 10 of the 8 <sup>th</sup> Schedule (excluding subparagraph (b)) Section 26A	
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**Capital Gains Tax: Basic Gain / Loss Calculation Upon Disposal**

17.4	The basic rules of CGT	Paragraphs 3(a) and 4(a)	
17.6	(The definition of asset)	Paragraph 1 (definition of an “asset”)	GB Mining and Exploration SA (Pty) Ltd v CSARS
17.7 (opening)	Disposals		
17.7.1	Disposal events	Paragraph 11(1) of the 8 <sup>th</sup> Schedule (excluding subparagraphs (d) through (g))	Paragraph 6.1.1 and 6.1.2
17.7.2	Non-disposals	Paragraph 11(2)(subparagraph (a)) of the 8 <sup>th</sup> Schedule	SARS CGT Guide – paragraph 6.1.2
17.7.4	Time of disposal	Paragraph 13 of the 8 <sup>th</sup> Schedule (excluding subparagraph (1)(a)(iiA), (1)(a)(iiB), (1)(a)(iii), (1)(a)(vi), (1)(a)(vii), (1)(a)(viii), (1)(e), (1)(f) and (1)(g))	Paragraph 6.3

17.8	(Base cost)	Paragraph 20(1) ( <i>light review only</i> )	CSARS v Capstone 556 (Pty) Ltd
17.8.1	Qualifying expenditure included in base cost	Paragraph 20(1) (opening), (1)(a), (1)(b), (1)(c) (but not (vii) through (ix)), (1)(d) and (1)(e) of the 8 <sup>th</sup> Schedule	Paragraphs 8.1 – 8.5 and 8.7 – 8.12 CSARS v Stepney Investments (20192/14) [2015] ZASCA 138 (30 September 2015)
17.8.2	(Qualifying expenditure excluded from base cost)	Paragraph 20(2) of the 8 <sup>th</sup> Schedule (excluding (c))  See also section 23C (VAT adjustment)	Paragraph 8.16

17.8.3	Reduction of base cost	Paragraph 20(3) of the 8 <sup>th</sup> Schedule (excluding subparagraphs (a)(ii), (b)(ii), (b)(iii) and (c))	Paragraph 8.17, 8.18 and 8.19
17.8.5	Cancellation of contracts	Paragraphs 11(2)(o) and 20(4) of the 8 <sup>th</sup> Schedule	Paragraph 8.20
17.8.6	Limitation of expenditure	Paragraph 21 of the 8 <sup>th</sup> Schedule	Paragraph 8.23
17.8.14	Identical assets	Paragraph 32(1), (4)(b) and (6)  Note: Only apply these rules in respect of shares (not any other assets)	
17.8.15	Part-disposals	Paragraph 33 (disregarding any pre-2001 effective date assets and (3)(c))	SARS CGT guide – paragraph 8.37
17.9	Proceeds (opening)	Paragraph 35(1) and (4)	CSARS v Capstone 556 (Pty) Ltd New Adventure Shelf 122 (Pty) Ltd v CSARS (SCA)
17.9.1	Amounts excluded from the definition of 'proceeds'	Paragraph 35(3) of the 8 <sup>th</sup> Schedule	Paragraph 9.1.3 and 9.1.4 New Adventure Shelf 122 (Pty) Ltd v CSARS Attieh v CSARS [2016] ZAGPJHC 371 (11 August 2016)

### Capital Gains Tax: Special Rules

#### Deeming Disposals, Values and Trapped Losses

17.7(8) and (9)	Deemed disposals (but only deemed disposals when switching to and from trading stock)	Paragraph 12(2)(c) and (3) of the 8 <sup>th</sup> Schedule  See also section 22(8) (skim) and Silke 14.6 Goods taken from stock or distributed as a dividend	SARS CGT guide – paragraph 6.2.2
17.9.6	Disposals and donations not at arm's length or to a connected person	Paragraph 38(1) of the 8 <sup>th</sup> Schedule See also paragraph 11(1)(a) of the 8 <sup>th</sup> Schedule	Paragraphs 9.4.1 – 9.4.3 GB Mining v Commissioner: SARS

		See also section 22(8) (skim) and Silke 14.6 Goods taken from stock or distributed as a dividend	
17.10.5.9	Capital losses on disposals to connected persons (trapped losses)	Paragraph 39(1), (2) and (3)(a) of the 8 <sup>th</sup> Schedule	Paragraph 9.5
<b>Exclusions</b>			
17.10.2	Other exclusions (focus only on compensation for personal injury, illness or defamation)	Paragraph 59 of the 8 <sup>th</sup> Schedule	
17.10.2	Other exclusions (focus only on gambling, games and competitions)	Paragraph 60 of the 8 <sup>th</sup> Schedule	
17.10.2	Other exclusions (focus only on donations to public benefit organisations)	Paragraph 62 (opening) and (b) of the 8 <sup>th</sup> Schedule  See also section 18A(3) and (3A) and Silke Chapter 7.4.2 Donations to public benefit organisations and other qualifying beneficiaries (limited solely to Donations in kind)	Paragraph 12.11
17.10.2	Other exclusions (focus only on exempt persons)	Paragraph 63 of the 8 <sup>th</sup> Schedule	Paragraph 12.12
17.10.2	Other exclusions (focus only on assets used to produce exempt income)	Paragraph 64 of the 8 <sup>th</sup> Schedule (disregarding (b))	

Part D: Impairing Allowance / Depreciable Assets and Subsequent Disposals

<b>Allowance / Depreciable Assets: Tax Impairments</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
13.1	Overview	None required	
13.2	Core concepts		
13.2.1	Connected persons	Section 1 “connected person definition	SIR v Safrenmark (Pty) Ltd
13.2.2	Machinery, plant, implement, utensil or article	Sections and 11(e) and 12C(1) (light review)	
13.2.3	Process of manufacture	Section 12C(1) (light review)	
13.2.4	Depreciable asset	Paragraph 1 “depreciable asset	
12.4	Repairs	Section 11(d)	Interpretation Note 74 (Issue 2)
17.8.1	Qualifying expenditure included in base cost	See also paragraph 20(1)(e) of the 8 <sup>th</sup> Schedule	
13.3.1	Wear-and-tear allowance  Appendix E (Write-off periods acceptable to SARS)	Section 11(e) (excluding subparagraph (iA) and (iiiA))	Interpretation Note 47: Binding General Ruling 7 Flemming v KBI CIR v African Products Manufacturing Co Ltd
13.3.3	(Movable assets used by manufacturers, for research and development or by hotelkeepers, and ships, aircraft and assets used for the storage and packing of agricultural products) <i>(focus only on plant or machinery used by the taxpayer, excluding leased assets and reductions for periods in which trade was not included in income</i>	Section 12C(1)(but not (1)(bA), (c), (d) through (g)) taking into account only assets acquired on or after 1 January 2017 Section 12C(2), (4A) and (6)	Blue Circle Cement Ltd v CIR Ovation Recording Studios (Pty) Ltd v CIR

13.4	Allowances on immovable assets	No reading of act sections required	SARS guide to building allowances
13.4.1	Buildings and improvements: Annual allowance	Section 13(1) (opening), (a), (d), (dA), (f) and (proviso (b)), (9)(definition of "improvements")	SIR v Eaton Hall (Pty) Ltd  African Detinning Works (Pty) Ltd v SIR
13.4.5	Commercial buildings	Section 13quin(1) and (7)	CIR V Le Sueur
13.4.3	Residential units	Section 1 (definition of "residential unit") Section 13sex(1) (excluding the proviso) and (8)	
13.8	Intellectual property (disregard research and development)	Sections 11(gB) and (gC)	

<b>Disposal of Allowance Assets</b>			
13.10.1	Recoupments: General recoupment provision) ( <i>focus solely on section 8(4)(a) on disposal of section 11(e), 12C, 13 13quin and 13sex assets</i> )	Section 8(4)(a)	Omnia Fertilizer Limited v CSARS CSARS v Pinestone Properties CC
13.11	Alienation, loss or destruction allowance	Section 11(o)	Interpretation Note 60 (Issue 2)

### **Conceptual Pillar IV: Tax Avoidance**

	<b>Silke Chapter</b>	<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
32.1	Distinction between tax evasion and avoidance		
32.2	Impermissible tax avoidance arrangements	Section 80A, 80B and 80L (disregard sections 80C through 80K)	

32.7	Substance over form an simulated transactions		<i>Commissioner SARS v Bosch</i> (394/2013)[2014] ZASCA 171 (19 November 2014)
32.3	Reportable arrangements	Sections 34 through 39 of the Tax Administration Act (light review only)	
32.4	Assessed losses	Section 103(2)	CSARS v Digicall Solutions (Pty) Ltd Conshu (Pty) Ltd v CIR
32.5	Case law on section 103(2)		
17.12.1	Value-shifting arrangements	Paragraph 1 “Value shifting arrangement” Definition Paragraph 23 See also paragraphs 11(1)(g) and 35(2)	CGT guide: Paragraphs 21.3; 4.1.9; 8.14; 8.25 and 9.1.2

### ***Conceptual Pillar V: Unique Subsystems***

#### **Part A: Capital and Allowance Assets Rollovers and Deferrals**

<b>Silke Chapters</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
17.10.3.3	Transfer of assets between spouses	Paragraph 67 of the 8 <sup>th</sup> Schedule	
17.10.3.1	Involuntary Disposals	Paragraph 65 of the Eighth Schedule	Paragraph 13.1 of the Comprehensive Guide to Capital Gains Tax (Issue 6)
17.10.3.2	Reinvestment in replacement assets	Paragraph 66 of the Eighth Schedule	Paragraph 13.2 of the Comprehensive Guide to Capital Gains Tax (Issue 6)
13.10.3	Recoupments: Deferred recoupment of allowances	Section 8(4)(e), (eA) – (eE)	
17.12.3	Reacquired financial instruments	Paragraph 42(1) of the 8 <sup>th</sup> Schedule	

## Part B: Government Grants

Silke Chapters		Tax Act Sections	Authoritative Interpretations
3.6.22	Subsidies	Section 1: Before paragraph (a) of the gross income definition	
4.17	Government grants	Section 1: Paragraph (1C) of the gross income definition	
5.8.3	Amounts received in respect of government grants	Section 12P (but not (2)(b), (2A) and (6)(b))  See also section 10(1)(y) Section 22(4) – trading stock	

## Part C: Leases

Silke Chapters		Tax Act Sections	Authoritative Interpretations
4.9	Lease premiums (lessor income)	Paragraph (f) of the definition of gross income in section 1(1).  See also section 1: Gross income definition before paragraph (a)	
13.7.1	Lease premiums (lessee deductions)	Section 11(f)  See also section 11(a)	
4.11	Leasehold improvements (lessor income)	Paragraph (h) of the definition of gross income in section 1(1).	
13.7.2	Leasehold improvements (lessee deductions)	Section 11(g)	
13.7.3	Relief for lessor (lessor's special allowance)	Section 11(h)	
17.12.4	Leasehold improvements	Paragraphs 13(1)(b) and 33(3)(c)	
13.10.6	Recoupments: Acquisition of hired assets	Section 8(5): (a) and (b): Rent paid, subsequently applied to reduce purchase price.	

		(bB): Lessor acquires the asset after termination of the lease.	
13.7.4	Deductions in respect of improvements not owned by the taxpayer	Section 12N(1) (light review)	

#### Part D: Foreign Currency

Silke Chapters		Tax Act Sections	Authoritative Interpretations
15.1	Overview		
15.2 (opening)	Translation of foreign currency amounts		Interpretation Note 101
15.2.1	Definitions	Section 1: Definitions of “average exchange rate” and “spot rate”	
15.2.2	General translation rule (focus solely on section 25D(1) and (3) and Note 1)	Section 25D(1) and (3)	4.12.1 Determination of taxable income in foreign currency
15.3 (Opening)	Specific translation rule: Exchange differences on exchange items  <i>(Focus only on foreign cash and foreign denominated loans)</i>	Charging provision: Section 24(2)  Calculation: Section 24I(3)	Comprehensive Guide to Capital Gains Tax (Issue 6): Paragraph 19.1, 19.3, 19.4 and 19.5 of the
15.3.1	Identify the exchange item and determine if s 24I applies	Subsection (1) definitions:	Interpretation Note 101: Paragraph 4.12.2 Assets disposed of or acquired in foreign currency
15.3.2	Determine the ruling exchange rate	Definitions of “exchange item”	
15.3.3	Calculate the foreign exchange differences <i>(ignore bad debts)</i>	(Step 1), “ruling exchange rate” (step 2) “exchange difference” (step 3)	
15.7	Specific transaction rule: Disposal and acquisition of assets	Paragraph 43(1), (1A) and (7) of the 8 <sup>th</sup> Schedule  Note: Foreign currency itself is not an “asset” (see the “asset” definition in paragraph 1 of the 8 <sup>th</sup> Schedule)	

## Part E: Provisional Tax (Advanced Payments)

<b>Provisional Tax Non-employment</b>			
<b>Silke Chapters</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
11.1	Introduction		
11.2	Important definitions	<p>The definition of provisional taxpayer (disregarding all the exclusions other than (dd)(B)) in paragraph 1 of the 4<sup>th</sup> Schedule</p> <p>Paragraph 17 of the 4<sup>th</sup> Schedule (<i>review lightly</i>)</p> <p>Section 22(2)(a) of the Tax Administration Act</p>	
11.3	Registering for provisional tax	Skim section 22 of the Tax Administration Act	
11.4	Provisional tax periods	<p>Paragraph 21(1) (other than (a)(ii) and (b)(ii)) of the 4<sup>th</sup> Schedule</p> <p>Paragraph 23 (other than (ii)) of the 4<sup>th</sup> Schedule</p>	
11.5	Estimates of taxable income (for the first and second provisional tax payments)	<p>Paragraph 19(1) (disregarding the proviso to subparagraph (d) and paragraph (e)) of the 4<sup>th</sup> Schedule</p> <p>Paragraph 19(3) of the 4<sup>th</sup> Schedule</p>	<p>Interpretation Note 1 (Issue 2)</p> <p>Provisional tax estimates</p>
11.7	Provisional tax payments for persons other than companies	Sample application of paragraph 21 of the 4 <sup>th</sup> Schedule	
11.8	Provisional tax payments for companies	Sample application of paragraph 21 of the 4 <sup>th</sup> Schedule	
11.9.1	Late payment penalty	<p>Paragraph 27 of the 4<sup>th</sup> Schedule</p> <p>Note the denial of deductions for</p>	

		penalties under section 23(d)	
11.9.2	Underpayment penalty	Paragraph 20 of the 4 <sup>th</sup> Schedule  Note the denial of deductions for penalties under section 23(d)	
11.10.1	Interest in respect of the late payment of provisional tax	Section 89bis(2)	
11.10.2	Interest on the underpayment and overpayment of provisional tax	Section 89quat(1) (disregarding the definition of normal tax) Section 89quat(2) and (4)	
11.10.3	Additional provisional tax payments	Paragraph 23A of the 4 <sup>th</sup> Schedule	

### ***Introductory Specialisations***

#### ***Introductory Specialisation I: Individual Returns***

<b>Natural persons: Net Calculations</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
<b>Chapter No.</b>	<b>Chapter Title</b>		
7.1	Overview and framework	Paragraph 1 of Schedule I to Rates and Monetary Amounts and Amendment of Revenue Laws (Rates of normal tax) (2017)	
7.2 (opening)	Calculation and normal tax payable		
7.2.1	The section 6(2) rebates	Section 6(1) and (2)	
17.4	The basic rules of CGT (Annual exclusion)	Paragraph 5 of the 8 <sup>th</sup> Schedule	

Note: The above table should be read in light of Conceptual Pillar I: Overall Income Tax Calculation

<b>Natural persons: Deduction limitations</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
<b>Chapter No.</b>	<b>Chapter Title</b>		
6.5.1	Private maintenance expenditure  See also 6.5.7 Non-trade expenditure	Section 23(a)  See also section 23(g)	
6.5.2	Domestic or private expenses	Section 23(b)	Interpretation Note 28
6.5.12	(opening): Deductions  See also 7.4 Deductions (opening)	Section 23(m)	BGR40 – Remuneration paid to non-executive directors Income Tax Case No 1837 - 71 SATC 177 Commissioner, SARS v Akharwaray
6.10.4	Education and continuing education	Section 11 (opening paragraph) and (a)	CIR v Golden Dumps (Pty) Ltd Edgars Stores Ltd v CIR CSARS v Labat
7.4.1	Contributions by members to retirement funds	Section 11F(1) through (3)	
7.4.2	(opening): Donations to public benefit organisations (disregard the other qualifying beneficiaries)	Section 18A(1)(opening paragraph), (a)(i), not exceeding (B) (10% limit) and (2), (2A)(a)  Part II of the 9 <sup>th</sup> Schedule ( <i>light review only</i> )	Basic Guide to Tax-Deductible Donations (Issue 2) Paragraphs 1, 2, 3, 4, 7 and 8
7.1.1	Assessed losses – Ring-fencing of losses of natural persons from certain trades	Section 20A(1) Section 20A(2), (3) and (4) ( <i>light review of subsections only</i> )	SARS: Guide on the Ring-Fencing of Assessed Losses Arising from Certain Trades Conducted by Individuals

<b>Tax Rebates (Credits)</b>			
7.2.2	Sections 6A and 6B medical credits	Section 6A(1), (2) (excluding subsections (a)(ii) and (4)) Section 6B(1) through (3)	The SARS guide: Guide on the Determination of Medical Tax Credits (Issue 9)  Paragraphs 2.1, 2.2, 2.3 and 2.4, 3.2, 3.6.1 and 3.6.3

<b>Natural persons: Special capital gain adjustments</b>			
17.10.2	Other exclusions (1)	Paragraph 53 of the 8 <sup>th</sup> Schedule (excluding (3)(f), (3)(g), (3)(h) and 4))	Paragraph 12.2
17.10.5.1	Certain personal-use aircraft, boats, rights and interests	Paragraph 15 of the 8 <sup>th</sup> Schedule	Paragraph 7.1 of the Capital Gains Tax Guide
17.10.1 (other than 17.10.1.4)	Primary residence exclusion	Paragraphs 44 through 50 of the 8 <sup>th</sup> Schedule	Paragraph 11.2.2, 11.5, 11.6, 11.7, 11.8 and 11.9
17.10.2	Other exclusions (4)	Paragraph 57 of the 8 <sup>th</sup> Schedule	SARS CGT guide – paragraph 12.6

<b>Family Rules</b>			
7.5 (opening)	Taxation of married couples	Section 1: Definition of a spouse	
7.5.1	Deemed inclusion	Section 7(2)	
7.5.2	Taxation of married couples Expenditure and allowances	Section 7(2A) and (2C) Section 25A	

7.5.3	'Income' for the purpose of the deeming provisions		Commissioner for Inland Revenue v Simpson [1949] 4 All SA 460 (A)
7.5.4	Expenditure and allowances	Section 7B(2)	
17.10.4	Attribution of capital gains (focus solely on paragraph 68)	Skim paragraph 68(1) and (2) of the 8 <sup>th</sup> Schedule	SARS CGT guide paragraph 15.3
17.7.5	(Disposals by spouses married in community of property)	Paragraph 14 of the 8 <sup>th</sup> Schedule	Paragraphs 6.4 – 6.5
7.6	Separation, divorce and maintenance orders (disregard the discussion pertaining to minimum individual reserves and pre-1962 divorces)	Section 1(1) (paragraph (b) of the "gross income" definition) Section 10(1)(u)	
17.10.3.3	Transfer of assets between spouses	Paragraph 67(1) and (2)(b) of the 8 <sup>th</sup> Schedule	Repeat from the Conceptual Pillar V dealing with rollovers
7.7	Minor children	Section 7(3) and (4)	Ovenstone v Secretary for Inland Revenue CSARS v Woulidge (SCA)
17.10.4	Attribution of capital gains (focus solely on paragraph 69)	Skim paragraph 69 of the 8 <sup>th</sup> Schedule	SARS CGT guide paragraph 15.4

<b>Retirement Fund Savings</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
<b>Chapter No.</b>	<b>Chapter Title</b>		
<ul style="list-style-type: none"> <li>• Deductible contributions (Part 1 – entry into the retirement system)</li> </ul>			
7.4.1	Contributions by members to retirement funds	Section 11F(1) through (3)	Entry – see individuals
12.2.2	Fund contributions by employers	Section 11(l)	
<ul style="list-style-type: none"> <li>• Tax-free build-up within the fund (Part 2 – growth within the retirement system)</li> </ul>			
5.2.8 First bullet	Approved funds and associations	Section 10(1)(d) (opening and (i))	
<ul style="list-style-type: none"> <li>• Retirement annuity and lump sum pay outs (Part 3 – retirement fund yield)</li> </ul> <p>Note:</p> <p>(1) Focus solely on private sector pension funds, provident funds and retirement annuity funds making cash pay outs to beneficiaries.</p> <p>(2) Focus solely on lifetime pay outs to former employees in respect of domestic sourced services.</p> <p>(3) Disregard discussions pertaining to other funds, fund switching and life policy pay outs.</p>			
9.3	Fund benefits	<p>Definitions of pension fund, provident fund and retirement annuity fund (light review) contained within section 1 and paragraph 1 of the 2<sup>nd</sup> Schedule</p> <p>See also section 1: Paragraph (e) of the definition of gross income as well as paragraph 2(1) of the 2<sup>nd</sup> Schedule (light review)</p> <p>Paragraph 4(1) of the 2<sup>nd</sup> Schedule</p>	
9.3.1	Retirement fund lump sum benefits (focus solely on retirement, death and loss of office or employment)	Retire definition in Paragraph 1 of the 2 <sup>nd</sup> Schedule Paragraph 2(1) (opening), (a) (but	

		not (a)(iii) of the 2 <sup>nd</sup> Schedule Paragraph 5(1) (opening) and (a) of the 2 <sup>nd</sup> Schedule	
9.3.2	Retirement fund lump sum withdrawal benefits (focus solely on “other cases”)	Paragraph 2(1)(b)(ii) of the 2 <sup>nd</sup> Schedule Paragraph 6(1) opening and (a) of the 2 <sup>nd</sup> Schedule	
Appendix B	Rates if tax and other information	Paragraph 9(a) and 9(b) of Schedule I to Rates and Monetary Amounts and Amendment of Revenue Laws (2017)	
17.10.2	Other exclusions (2)	Paragraph 54 of the 8 <sup>th</sup> Schedule	Paragraph 12.3
9.2.1	Compensation for termination of employment or office	Paragraph 9 of Schedule I to Rates and Monetary Amounts and Amendment of Revenue Laws (2017)	
9.4	Exemption of compulsory annuities	Section 10C	
4.2	Annuities (focus solely on living annuities)	Section 1: Paragraph (a) of the gross income definition  See also section 10(2)(b)	Notice in Terms of Paragraph (b) of the Definition of 'Living Annuity' in Section 1 of the Act Published under GN 290 in GG 32005 of 11 March 2009

<b>Institutional Savings</b>			
5.2.1	Interest	Section 10(1)(i)	
5.2.3	Amounts received from tax-free investments	Section 12T(1) through (5) and (7)	
17.10.2(9)	Other exclusions: Collective investment scheme in securities	Paragraph 61	

5.2.6	Collective investment schemes	Section 25BA(1) (disregard (b))  Note: Focus solely on local interest and dividends distributed within 12.	
5.3.2	REIT distributions	Section 1 (definition of a REIT); Proviso (aa) of Section 10(1)(k)(i)	
17.10.2(3)	Other exclusions: Long-term assurance policies exclusions	Paragraph 55(1) (disregard (b) through (f) and (2))	
4.2	Annuities (disregard living annuities)	Section 1: Paragraph (a) of the gross income definition  See also section 10(2)(b)	
5.2.4	Purchased annuities	Section 10A(1) (definitions of “annuity amount”, “annuity contract”, “expected return” and paragraph (a) of the “purchaser” definition) Section 10A(2) Section 10A(3) (opening line) and (a)	
5.2.7	Proceeds from insurance policies (not employment related)  [Receipt / Accrual Exemption]	Section 10(1)(gl)	
6.5.17	Premiums in respect of insurance policies against illness, injury, disability, unemployment or death of that person	Section 23(c)	
None	N/A	Section 10(3)	

***Introductory Specialisation II: Employer Payroll***

<b>Employees' Tax (Pay-As-You-Earn Withholding)</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
<b>Chapter No.</b>	<b>Chapter Title</b>		
<b>Withholding Mechanics</b>			
10.1	Introduction	Paragraph 2(1) of the 4 <sup>th</sup> Schedule	
10.5	Employee's tax	Paragraphs (2)(1), (2) and (4) of the 4 <sup>th</sup> Schedule Paragraph 9(6) of the 4 <sup>th</sup> Schedule	
10.11.2	Obligation to deduct and pay over tax	Paragraph 6(1) of the 4 <sup>th</sup> Schedule Section 213(1) of the Tax Administration Act	Vacation Exchanges International (Pty) Ltd v CSARS
<b>Key Elements</b>			
10.3	Employee (disregard non-resident employees)	The definition of "employee" in terms of (a) in paragraph 1 of the 4 <sup>th</sup> Schedule	
10.8.1	Independent contractors	Definition of remuneration in terms of the exclusion in subparagraph (ii) in paragraph 1 of the 4 <sup>th</sup> Schedule	Income Tax Case No 1787 67 SATC 142 CSARS v Professional Contract Administration CC Interpretation 17 (Issue 3) Employees' tax: Independent contractors
10.8.2	Labour brokers	Definition of labour broker in paragraph 1 of the 4 <sup>th</sup> Schedule Definition of employee in terms of (b) and (c) of the 4 <sup>th</sup> Schedule Paragraph 2(5) of the 4 <sup>th</sup> Schedule	
10.8.3	Personal service providers	Definition of employee in terms of (e) of the 4 <sup>th</sup> Schedule	
10.4	Employer	The definition of employer in paragraph 1 of the 4 <sup>th</sup> Schedule	
10.2 (opening)	Remuneration ( <i>focus solely on the 4<sup>th</sup> Schedule provisions listed</i> )	The definition of "remuneration" (excluding (b), (c), (d), (e), (f) and (g) and the	

		exclusions) in paragraph 1 of the 4 <sup>th</sup> Schedule	
10.2.1	Fringe benefits	The definition of “remuneration” in terms of (b) in paragraph 1 of the 4 <sup>th</sup> Schedule	
<b>Special Circumstances</b>			
10.5	Variable remuneration Employees’ tax (focus solely on variable remuneration)	Section 7B  Paragraph 2(1B) of the 4 <sup>th</sup> Schedule  See also the general deduction formula – ancillary principles	Paragraph 1.4 Explanatory Memorandum on the Taxation Laws Amendment Bill, 2012 (10 December 2012)
10.7	Part-time, casual and temporary employees	Paragraph 13(2)(b) and (3) of the 4 <sup>th</sup> Schedule	Paragraph 14.4 of the Guide for Employers in respect of Employees’ Tax
10.11.3	Irregular remuneration	Paragraph 9(3) of the Fourth Schedule	
10.2.2	Directors’ fees	The definition of “employee” in terms of (g) in paragraph 1 of the 4 <sup>th</sup> Schedule	

<b>Employment Benefits</b>			
Note: These rules build off the section 1 “gross income” definition (especially received or accrued in respect of services) and the definition of “remuneration” in paragraph 1 of the 4 <sup>th</sup> Schedule			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
8.1	Overview	No tax act section reading required	
<b>Employee Allowances</b>			
8.2 (opening)	Allowances	Section 8(1)((a)(i) (before the exclusions) Section 8(1)(a)(ii) and (iii)	Interpretation Note 14 (issue 3)
8.3.1	Travel allowances (excluding anti-avoidance rule) and Appendix C	Section 8(1)(a)(i)(aa) Section 8(1)(b) (excluding (iiiA)(aa) and (iv))	GN 195 Government Gazette 40660 of 3 March 2017)

		See also definition of remuneration in terms of (cA) and (cC) of the 4 <sup>th</sup> Schedule	BGR23: Travel allowance – fuel cost to an employee who receives a petrol or garage card
8.3.2	Subsistence allowance and Appendix F	Section 8(1)(a)(i)(cc) Section 8(1)(c)  See also definition of remuneration in terms of (bA) (excluding (i)) of the 4 <sup>th</sup> Schedule	GN 194 Government Gazette 40660 of 3 March 2017)  BGR 22: Subsistence allowance – amounts deemed to be expended for business purposes
Employee Fringe Benefits			
8.4	Seventh Schedule benefits	Section 1 (paragraph (i) of the “gross income” definition) Paragraph 2 of the 7 <sup>th</sup> Schedule ( <i>lightly review</i> ) See also definitions of employee and employer in paragraph 1 of the 7 <sup>th</sup> Schedule	
8.4.1	Benefits granted to relatives of employees and others	Paragraph 16 of the 7 <sup>th</sup> Schedule	
8.4.4	Assets acquired at less than actual value	Paragraph 2(a) of the 7 <sup>th</sup> Schedule Paragraph 5(1) and (2) of the 7 <sup>th</sup> Schedule	

8.4.6	Right of use of motor vehicles	Paragraph 2(b) of the 7 <sup>th</sup> Schedule Paragraph 7(1) (excluding the provisos to (1)) Paragraph 7(2), (4), (5), (7) and (8) See also paragraph 1 (paragraph (cB) of the “remuneration”	Interpretation Note 72 Right of use of motor vehicles
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		definition) of the 4 <sup>th</sup> Schedule	
8.4.7	Meals, refreshments and meal and refreshment vouchers	Paragraph 2© and 8 of the 7 <sup>th</sup> Schedule	
8.4.8 and 8.4.9	Residential and holiday accommodation	Paragraphs (2) and 9 of the 7 <sup>th</sup> Schedule	
8.4.10	Free or cheap services	Paragraph 2(e) of the 7 <sup>th</sup> Schedule Paragraph 10 (excluding (2)(a), (bA) and (d)) of the 7 <sup>th</sup> Schedule	BGR42: No-value provision in respect of transport services Interpretation Note 77 Taxable benefit: Use of employer-provided telephone or computer equipment or employer-funded telecommunication services
8.4.11	Low-interest debts	Paragraph 2(f) of the 7 <sup>th</sup> Schedule Paragraph 11 (other than (3) and (5))	
8.4.13	Release from or payment of obligation	Paragraph 2(h) of the 7 <sup>th</sup> Schedule Paragraph 13	
8.4.14	Contributions to medical schemes	Paragraph 2(i) of the 7 <sup>th</sup> Schedule Paragraph 12A (excluding (2) and (3)) of the 7 <sup>th</sup> Schedule	
8.4.17	Contributions by an employer to retirement funds (focus solely on defined contribution plans)	Paragraph 2(l) of the 7 <sup>th</sup> Schedule Paragraph 12D(1)(the definitions of “defined contribution component” and “fund member category”) and (2) of the 7 <sup>th</sup> Schedule  Section 11F(4)	
Employee Exemptions			
5.4.3	Employment: Uniforms and uniform allowances	Section 10(1)(nA)	
5.4.4	Employment: Relocation benefits	Section 10(1)(nB)	

5.5.1	Bursaries and scholarships (disregard bursaries and scholarships dedicated to disabled persons)	Section 10(1)(q)	
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***Introductory Specialisation III: Companies (Share & Debt Financing and Small Business)***

<b>Company Tax Structure and Formations</b>			
<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
<b>Chapter No.</b>	<b>Chapter Title</b>		
<b>Overview of Two-Tier Structure</b>			
19.1	Overview		
19.2 (opening)	Taxation of Companies		
19.2.1	Companies for income tax purposes (focus solely on domestic for-profit private and public companies)  See also 19.5.1 Close corporations	Paragraphs (a), (d) and (f) of the definition of company in section 1	
19.2.2	Taxation of company profits		
<b>Company Formations</b>			
20.2.2	Taxable and Tax-Free Formation:  Shares issues (disregard changes in rights)	Paragraph 11(2)(b)(i) of the 8 <sup>th</sup> Schedule	
	Taxable Formation: Person transferring assets to the company in exchange for shares	Paragraph 11(1)(a) of the 8 <sup>th</sup> Schedule Paragraph 13(1)(a) of the 8 <sup>th</sup> Schedule Paragraph 20(1)(a) of the 8 <sup>th</sup> Schedule	Binding private ruling 288
20.2.1.1	Taxable Formation: Issuing of shares for	Section 40CA (disregarding (b))	SARS v. Labat Africa Ltd

	consideration other than cash		Paragraph 8.40 of SARS's CGT guide
20.5.1.1	Tax-free Formation: Domestic asset-for-share transaction (qualification)	Section 42(1) (paragraph (a) of the definition of an "asset-for-share transaction" without regard to the proviso) Section 42(1) (paragraph (a) and (c) within the definition of "qualifying interest")	
20.5.1.3	Tax-free Formation: Exclusions from the scope of section 42 (focus on "election-out")	Section 8A (disregarding (b))	
20.4.2	Tax-free formation: Asset classification for purposes of the corporate rules	Definitions of allowance asset, asset, capital asset and trading stock in section 41(1)	
20.5.2.1	Tax-free formation: Person who transferred the asset and acquired equity shares in the company	Section 42(2) (disregarding (bb) of section 42(2)(a)(i) and the closing proviso) Section 42(3) disregard (paragraph (c) and the references to REITs)	
20.5.2.2	Company that acquired the asset		

#### Securities Transfer Tax

<b>Silke</b>		Alternative Reading: Securities Transfer Tax
Chapter No.	Chapter Title	
29.1	Introduction	Securities Transfer Tax as described under the "Types of Tax" on the SARS website
29.2	Imposition of STT	
29.3	Important definitions	
29.6	Exemptions from STT (focus solely on company reorganisations)	
29.7	Securities Transfer Tax: Payment of tax	

#### Taxation of Company Distributions to Shareholders

<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		

19.2.3	Tax implications of distributions by companies		
19.3.1	Definition of a dividend	Definition of dividend in section 1 (disregarding (ii) and (iii))  See also returns of capital below	Comprehensive Guide to Dividends Tax (Issue 2)
19.3.2	Taxation of dividends	Section 1 (paragraph (k) of the “gross income” definition) Section 10(1)(k)(i) (excluding all provisos)	
Dividends Tax			
19.3.3	Taxation of dividends		
19.3.4	Dividends tax: Dividends subject to dividends tax	Section 64E(1)(a) (disregard (ii))  Section 64D (definitions of “beneficial owner” and “dividend” excluding paragraph (b))	Comprehensive Guide to Dividends Tax (Issue 2) Paragraph 2.2 (excluding 2.2.6) and 2.3.1 and 2.3.2.  Paragraph 3.1, 3.1.1, 3.2 and 3.2.2.
19.3.5	Dividends tax: Liability for dividends tax and withholding obligation	Section 64EA Section 64G(1) (disregarding (b))  See also section 64E(3)	Comprehensive Guide to Dividends Tax (Issue 2) Paragraph 5.1, 5.2 and 5.3 (all subparagraphs included).
19.3.6	Dividends tax: Exemptions from dividends tax (focus solely on dividends paid to domestic companies, government and PBOs)	Section 64F(1)(opening), (a), (b) and (c) Section 64FA(1) (disregarding (b) through (d))  See also section 64G(2) (disregarding (b) and (c))	Comprehensive Guide to Dividends Tax (Issue 2) Paragraph 4.1
19.3.9	Dividends tax: Timing	Section 64E(2)	

19.3.10	Dividends tax: Payments of dividends tax and returns	Section 64K	Comprehensive Guide to Dividends Tax (Issue 2) Paragraph 7.1, (7.1.1 – 7.1.4)
17.11.1.1	Company distributions (dividends): Company level consequences	Paragraph 75 and sections 8(4)(k)(ii) and 22(8)(b)(iii)  Silke 13.10.2 and 14.6 (focus solely on dividends in specie in terms of both segments)	
Return of Capital Distributions			
19.4.1	Definition of contributed tax capital (focus solely on domestic companies and post-2011 calculations)	Paragraph (b) and Reductions (other than (cc) in the definition of contributed tax capital in section 1	
19.4.2	Returns of capital	Definition of return of capital in section 1 (disregarding (b) and the exclusions of (i) and (ii))	Comprehensive Guide to Dividends Tax (Issue 2) – paragraph 18.4.1
17.11.1.2	Company distributions: Shareholder level consequences (focus solely on paragraph 76B distributions on or after 2012 without regard to pre-valuation shares)	Paragraph 76B(2) and (3) of the 8 <sup>th</sup> Schedule	Comprehensive Guide to Dividends Tax (Issue 2) – paragraph 18.8
17.11.1.1	Company distributions (return of capital): Company level consequences  Same rule as for <i>in specie</i> company dividends	Paragraph 75 and sections 8(4)(k)(ii) and 22(8)(b)(iii)  Silke 13.10.2 and 14.6 (focus solely on dividends in specie in terms of both segments)	Comprehensive Guide to Dividends Tax (Issue 2) – paragraph 18.2

Debt Financing
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Note: For purposes of determining the tax consequences of the lender, assume the lender is non-financial institution. For purposes of determining the tax consequences of the borrower, assume that the debt is borrowed by non-financial institutions (but possibly from a bank).

<b>Silke</b>		<b>Tax Act Sections</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
16.1	Introduction		
16.2 (overview)	Debt instruments (Initial loan and fully repayment)		Genn & Co. (Pty) Ltd v. CIR
16.2.1 (opening)	Common principles that apply to lenders and borrowers		
16.2.1.1	Application of section 24J	Section 24J(1) (paragraphs (c) and (d) in terms of the definition of instrument)  Section 24J(12); see also section 1 (gross income definition) and section 11(a)	
16.2.1.2	Meaning of interest	Section 24J(1) (definition of interest (disregarding (c)))	
16.2.1.3	Timing provisions of section 24J: Yield to maturity method	Section 24J(1) (definitions of “term”, “accrual period”, “accrual amount”, “initial amount and adjusted initial amount”, “yield to maturity”)	16.2.1.3
16.2.2	Lender perspective: Taxability of interest received or accrued	Section 24J(3) (disregarding (b))	
16.2.3	Borrower perspective: Deductibility of interest incurred (disregarding 16.2.3.4 interest incurred on loans to acquire shares in a controlled company)	Section 24J(2) (disregarding (b))	
16.2.1.4	Timing provisions of section 24J: Alternative methods	Sections 24J(2)(b) and 24J(3)(b) Section 24J(1) (alternative method definition)	

Debt and Accrued Instruments: Cancellations and Write-Offs

Note: For purposes of these provisions, assume that debt is wholly or partially cancelled or written off for no consideration (substitutions for different from of debt or other consideration such as shares is out of scope).

12.5	<u>Creditor impact:</u> Bad debt	Section 11(i)  Note: Reverses prior unpaid accrual – see also Special (11) deductions	
12.6	<u>Creditor impact:</u> Doubtful debts	Section 11(j)  Note: Reverses prior unpaid accrual – see also see also Special (11) deductions	
17.10.5.8	<u>Creditor impact:</u> Debt owed by connected person	Paragraphs 11(1)(b) and 56 of the 8 <sup>th</sup> Schedule	
17.8.4 (opening)	<u>Debtor impact:</u> Concession or compromise in respect of debt	Paragraph 12A(1) (definition of concession or compromise (disregarding (b)) of the 8 <sup>th</sup> Schedule Paragraph 12A(1) (definition of debt) of the 8 <sup>th</sup> Schedule	Interpretation Note 91 Reduction of debt
17.8.4.1	<u>Debtor impact:</u> Is there a debt benefit?	Paragraph 12A(1) (definition of debt benefit disregarding subparagraphs (a)(ii) and (b)) of the 8 <sup>th</sup> Schedule	Interpretation Note 91 Reduction of debt
17.8.4.2	<u>Debtor impact:</u> What was the purpose of the debt (what was the debt used for)?	Paragraphs 12A(2), (3) and (4) of the 8 <sup>th</sup> Schedule	Interpretation Note 91 Reduction of debt
17.8.4.4	<u>Debtor impact:</u> The interaction between the provisions of paragraph 12A (reducing base cost when debt is reduced) and paragraph 20(3) (reducing base cost when the underlying expenditure is reduced)	Paragraph 20(3)(b) of the 8 <sup>th</sup> Schedule	Interpretation Note 91 Reduction of debt

13.10.7	<u>Debtor impact:</u> Recoupments: Concession or compromise regarding a debt	Section 19(1) (definitions of “allowance asset”, “capital asset”, “concession or compromise” (disregarding (a)(ii) and (b)) Section 19(2), (3), (4), (5) and (6)  See also section 8(4)(a)	Interpretation Note 91 Reduction of debt
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Small Business Corporation (Chapter 13 and 19)			
	Silke	Tax Act Sections	Authoritative Interpretations
19.5.4	Small business corporations and Appendix B (Rates of Tax and Other Information)	Section 12E(4)(excluding (ii)(bb) through (ii)(gg) and (iv) of the “small business corporation” definition)  Paragraph 5 of the Rates and Monetary Amounts Amendment Bill (Act No. 14 of 2017 for the 2018 Assessment Year)	Interpretation Note 9 (Issue 7) Small business corporations
13.3.4	Small business corporations	Section 12E(1) and (1A)	Interpretation Note 9 (Issue 7) Small business corporations

Turnover Tax for Micro Business			
(Awareness Understanding Only)			
	Silke Chapters	Tax Act Sections (Lightly Review Only)	
23.3.1	Persons specifically included as qualifying micro-businesses	Skim paragraph 2 of the 6 <sup>th</sup> Schedule	
23.3.2	Persons specifically excluded as qualifying micro-businesses	Skim paragraph 3 of the 6 <sup>th</sup> Schedule	
23.2	Qualifying turnover	Skim the qualifying turnover definition of paragraph 1 of the 6 <sup>th</sup> Schedule	
23.5	Taxable turnover	Skim paragraphs 5, 6 and 7 of the 6 <sup>th</sup> Schedule	
23.6	Levying of turnover tax	Paragraph 8 of the Rates and Monetary Amounts Amendment Bill (Act No. 14 of	

		2017 for the 2018 Assessment Year)
23.9	Interaction of the 6 <sup>th</sup> Schedule with other taxes	Skim sections 10(1)(zJ) and 64F(h) Skim paragraph 57A of the 8 <sup>th</sup> Schedule

<b>Notable Business Incentives</b>		
<b>(Awareness Understanding Only)</b>		
<b>Silke Chapters</b>		<b>Tax Act Sections (Lightly Review Only)</b>
13.8	Intellectual property and research and development	Section 11D
12.2.8	Learnership agreements	Section 12H
13.4.2	Urban development zones	Section 13quat
13.9.2	Industrial policy project allowance	Section 12I
19.5.5	Companies operating in special economic zones	Sections 12R and 12S

***Introductory Specialisation IV: Wealth Planning (Lifetime and Death Transfers)***

Tax Implications of Donations
Income Tax Impact of Donations

<b>Silke Chapters</b>		<b>Income Tax</b>	<b>Authoritative Interpretations</b>
17.7.1	Disposal events (focus solely on donations)	Paragraph 11(1)(b) of the 8 <sup>th</sup> Schedule	
17.9.6	Disposal and donations not at arm's length or to a connected person (focus solely on donations)	Paragraph 38(1) of the 8 <sup>th</sup> Schedule	
14.6	Goods taken from stock or distributed as a dividend in specie (focus solely on donations)	Section 22(8)(b)(i)	
13.10.2	Recoupments: Donations, asset in specie distributions or the disposal of assets to connected persons (focus solely on donations)	Section 8(4)(k)(i)	
17.10.2	Other exclusions (10)	Paragraph 62(b) of the 8 <sup>th</sup> Schedule	
17.10.3.3	Transfers of assets between spouses  See rollovers above	Paragraph 67(1) of the 8 <sup>th</sup> Schedule	
<b>Donations Tax</b>			
<b>Silke Chapters</b>		<b>Donations Tax</b>	<b>Authoritative Interpretations</b>
26.1	Overview		
26.2	Levying of donations tax	Sections 54 and 64(1)	'Welch's Estate v CSARS Ogus v SIR
26.3.1	Property	Definition of property in section 55(1)	
26.3.2	Donation	Definition of donation in section 55(1)	The Abraham Krok Trust v SARS
26.3.3	Donee	Definition of donee in section 55(1)	
26.5	Deemed donations	Section 58(1)	

26.7.1	Exemptions (solely in respect of the paragraphs listed)	Paragraphs (a), (b), (e), (h), (l) and (n) in section 56(1)	The Abraham Krok Trust v SARS
26.7.2	General exemption for a donor other than a natural person	Section 56(2)(a)	
26.7.3	General exemption for a natural person	Section 56(2)(b)	
26.8	Donations by spouses married in community of property	Section 57A	
26.11	Payment and assessment of tax	Section 59 Section 60(1)	

<b>Tax Implications of Death</b>			
Income Tax Impact of Death			
<b>Silke Chapters</b>		<b>Income Tax</b>	<b>Authoritative Interpretations</b>
17.11.4	The deceased and the deceased estate	Skim sections 9HA and 25	
25.3	Deceased taxpayers	Skim section 9HA	
25.3.2	Capital gains tax	Paragraph 5(2) of the 8th Schedule	
Estate Duty			
<b>Silke Chapters</b>		<b>Estate Duty Sections (Lightly Review Only)</b>	
27.1	Overview	Skim section 2 Skim First Schedule (Rate of Estate Duty) before the proviso	
27.2	Calculation of the dutiable amount and the estate duty payable	Skim section 3(1)	
27.3	Property	Skim section 3(2)	
27.4 (opening)	Property deemed to be property	Skim section 3(3)(opening)	
27.4.1	Domestic policies of insurance on the life of the deceased	Skim section 3(3)(a)	
27.4.3	A claim against the surviving spouse in terms of section 3 of the Matrimony Property Act	Skim section 3(3)(cA)	
27.6 (opening)	Allowable deductions	Skim section 4 (opening)	

27.6.1	Funeral and death-bed expenses	Skim section 4(a)
27.6.2	Debts due within South Africa	Skim section 4(b)
27.6.8	Bequests to certain charitable bodies	Skim section 4(h)
27.6.15	Amounts to accruing to the surviving spouse	Skim section 4(q)
27.6.16	Abatement	Skim section 4A(1) and (2)
27.9	Marriage in community of property	

Trusts			
Silke Chapters		Tax Act Sections	Authoritative Interpretations
Trust Types			
24.1	Overview		
24.2	Creation of the trust		
24.3 (opening)	Different types of trusts		
24.3.1	Ordinary trust	Section 1(1) definition of trust  Paragraph 2 of the Rates and Monetary Amounts Amendment Bill (Act No. 14 of 2017 for the 2018 Assessment Year)  Paragraph 10(c) of the 8 <sup>th</sup> Schedule (inclusion rate)	
24.3.2	Special trust	Section 1(1) definition of special trust Paragraph Paragraph 1 of the Rates and Monetary Amounts Amendment Bill (Act No. 14 of 2017 for the 2018 Assessment Year)  Paragraph 10(a) of the 8 <sup>th</sup> Schedule	
Trust Income / Gain Allocations and Distributions			
24.4	The nature of the income received and distributed by trusts (disregard the discussion relating to an annuity)	Section 25B(1) and (2)  Skim section 7 (see relevant portions below)	SARS CGT guide – paragraph 14.5.3

24.5	Person(s) liable for tax on the income earned by trusts		
24.7	Deductions and allowances	Section 25B(3)	
24.8	Limitation of losses	Skim Section 25B(4), (5) (disregard (b), and (6))	
24.9 (opening)	Capital gains tax: Disposal by a trust for capital gains tax purposes		
24.9.1	Disposal to a third party	Skim paragraph 11, 20 and 35 of the 8 <sup>th</sup> Schedule (review paragraphs listed for the Core Conceptual Pillar III)	
24.9.2	Vesting of an interest in a trust asset in a beneficiary (light review only)	Skim paragraphs 11(1)(d) and 13(1)(a)(iiA)	SARS CGT guide – paragraph 14.7.1
24.10	Capital gains tax: Treatment of capital gains in respect of a disposal by a trust (disregard non-resident beneficiaries and donor considerations)	Paragraph 80(2) of the 8 <sup>th</sup> Schedule  Skim paragraph 80(1) of the 8 <sup>th</sup> Schedule	SARS CGT guide – paragraph 14.11 and 14.11.1
24.11	Capital gains tax: Treatment of capital losses in respect of a disposal by a trust	Skim paragraphs 80(1) and (2) of the 8 <sup>th</sup> Schedule	SARS CGT guide – paragraph 14.11 and 14.11.1
24.13	Comprehensive example (disregard the non-resident (Keith) and the foreign property)		
Reallocation of Income / Gain to Different Parties			
24.6	Liability of the donor for tax on income		
24.6.1	Donation, settlement or other disposition	Section 7(9)  See also section 58(1)	CIR v Simpson
24.6.4	Retained income not vested due to stipulation or condition	Section 7(5)	SIR v Sidley

17.10.4	Attribution of capital gains (focus solely on paragraph 70)	Skim paragraph 70 of the 8 <sup>th</sup> Schedule	SARS CGT guide – paragraph 15.5
24.6.5	Amount vested that could have been revoked	Section 7(6)	
17.10.4	Attribution of capital gains (focus solely on paragraph 71)	Skim paragraph 71 of the 8 <sup>th</sup> Schedule	SARS CGT guide – paragraph 15.6
24.6.6	Donation of the right to income	Section 7(7)	
17.10.4	Attribution of capital gains (focus solely on paragraph 72)	Skim paragraphs 72 of the 8 <sup>th</sup> Schedule	SARS CGT guide – paragraph 15.7
24.10	Capital gains tax: Treatment of capital gains in respect of a disposal by a trust (disregard non-resident beneficiaries and focus solely on donor considerations)		
<b>Loans to Trusts</b>			
Note: The facts involved will solely relate to a loan by a domestic individual made directly to a domestic trust.			
26.6	Interest-free and low-interest loans to trusts or companies (disregard loans to and from companies and the exclusions from section 7C)	Section 7C(1) (disregard (b) and (ii)) Section 7C(2) Section 7C(3)  Skim Section 7D Section 7C(5)(d)	

### ***Introductory Specialisation V: International***

Introductory International Taxation			
Silke Chapters		Tax Act Sections	Authoritative Interpretations
21.1	Overview		
21.2	Principles of South African taxation of cross-border transactions		

21.4 (opening)	Tax treaties		OECD Model tax treaty
21.4.1	Integration with domestic law	Skim section 108	
Tax Residence			
3.2 (opening)	Resident and non-resident		
3.2.1	Residence of natural persons	Paragraph (a) of the definition of resident in section 1	
3.2.2	Residence of persons other than natural persons	Paragraph (b) of the definition of resident in section 1	
21.4.2	Application and scope (focus solely on persons covered)	Article 4 of the OECD Model Tax Treaty	
South African Versus Source			
21.3	Source		CIR v Lever Brothers & Unilever Ltd
21.3.1	Source of dividend income	Section 9(2)(a) and (4)(a)  See also section 64E(1), 64EA, 64G(1) and (3) – Dividends Tax	
21.3.2	Source of interest income	Section 9(2)(b) and (4)(a)	
Foreign Activities in South Africa (Inbound)			
21.5.2.1	Common features of withholding taxes imposed in respect of payments (focus solely on interest: withholding tax)	Section 50B(1)(a) Section 50E(1) and (3)	
21.5.2.5	Withholding tax on interest	Sections 50D(1) (disregard (c) and (d))	
21.4.3.2	Dividends	Article 10(1) and (2) of the OECD Model Tax Treaty	
21.4.3.3	Interest	Article 11(1) and (2) of the OECD Model Tax Treaty	
South African Activities Abroad (Outbound)			
21.6.1	South African taxation of income of residents		
21.6.2 (opening)	Specific exemptions available to residents		

	in respect of foreign sourced amounts		
21.6.2.1	Exemption of certain foreign dividends and capital gains	Section 10B(2) (opening) and (a) Section 10B(3)(limited to natural person and company shareholders)  Skim Paragraph 64B(1)	
21.6.2.2	Exemption for foreign employment income  See also Silke 5.4.9 Employment: Outside South Africa	Section 10(1)(o)(ii) (disregarding provisos (A) and (B))	Interpretation Note 16 (issue 2)
21.6.3	Rebates and deductions for foreign tax		
21.6.3.1	Rebate for foreign tax (disregard the overall limitation)	Section 6quat(1) (disregarding (b) and (f)) Section 6quat(1A) (disregarding (b), (f) and the provisos) Section 6quat(4)	Interpretation note 18

### ***Introductory Specialisation V: Indirect Tax***

<b>VAT: Overview and Initial Formalities</b>		
<i>Subject Matter</i>	<b><i>SARS VAT 404 (Guide for Vendors) and VAT Forms</i></b>	<i>Alternative: Precise Citations from the VAT Act and Binding SARS interpretations</i>
General description of VAT	<ul style="list-style-type: none"> <li>▪ Preface and Chapter 1 of the VAT 404 (Guide for Vendors)</li> </ul>	Not applicable

Registration as a VAT vendor	<ul style="list-style-type: none"> <li>▪ Chapter 2.1 (only), 2.2, 2.3.1, 2.3.7, 2.3.8, 2.3.9, 2.4, 2.5 and 2.6.</li> <li>▪ VAT Form 101</li> </ul> <p>Regulation issued in terms of section 74(1) read with section 23(3)(b)(ii) of the Value-Added Tax Act, 1991</p> <p>BGR 41 (Issue 2): VAT treatment of non-executive directors Commissioner for SARS v De Beers</p>	<ul style="list-style-type: none"> <li>▪ VAT Section 1(1) (definitions of “enterprise” (but not (ii), (iv) nor (vi) and (“vendor” (but not the proviso)).</li> <li>▪ VAT Section 23(1), (3)(but not (a)), and (4).</li> <li>▪ VAT Section 24(1) through (4), and (7).</li> <li>▪ VAT Section 25 (but not I through (g)).</li> </ul>
VAT Return Periods (i.e. Category of VAT vendors)	<ul style="list-style-type: none"> <li>▪ Chapter 3.1, 3.1.1, 3.12, 3.1.3 and 3.2.1.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 27(1) (Categories A, B, C and D), (2)(a) and (b), (3)(but not (b) and (c)), (4).</li> </ul>
Invoice or payments basis of accounting	<ul style="list-style-type: none"> <li>▪ Chapter 4.1, 4.2 and 4.3 and 4.5.3.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 15(1), (2)(but not (a)), (2A).</li> </ul>

<b>Basic VAT Compliance in Terms of Taxable Supplies</b>		
<i>Subject Matter</i>	<b>SARS VAT 404 (Guide for Vendors) and VAT Forms</b>	<i>Alternative: Precise Citations from the VAT Act and Binding SARS interpretations</i>
Basic VAT calculations	<ul style="list-style-type: none"> <li>▪ Chapter 5.1, 5.2.1, 5.2.8 and 5.3.1.</li> <li>▪ Chapter 8.1, 8.2, 8.3, 8.3.2, 8.4.1, 8.4.2 and 8.4.</li> <li>▪ Chapter 10.2.</li> </ul> <p>Stellenbosch Farmers’ Winery v CSARS</p> <p>BGR16 – standard apportionment method CSARS v De Beers</p>	<ul style="list-style-type: none"> <li>▪ VAT Section 1(1) (definitions of “consideration”, “goods” (but not (b) nor (c)), “input tax” (but not (c)), “output tax”, “services” and “supply”).</li> <li>▪ VAT Section 7(1)(but not (b) nor (c)).</li> <li>▪ VAT Section 9(1) and (2)(d).</li> <li>▪ VAT Section 10(2).</li> <li>▪ VAT Section 16(1), (2)(a), (3)((a)(opening) and (i)), (b), (g), (the proviso to (3)), (4).</li> <li>▪ VAT Section 17(1)(opening) and (proviso (i)).</li> <li>▪ VAT Section 64 and 65</li> <li>▪ Interpretation Note 49 (Issue 2) (relating to input documentation)</li> <li>▪ Interpretation Note: No. 56 (issue 2)(2014) (recipient created debit and credit notes)</li> </ul>

		<ul style="list-style-type: none"> <li>▪ VAT Practice Note: No. 2 (1991) (debit and credit notes)</li> <li>▪ Interpretation Note: No. 82: Input tax on motor cars</li> <li>▪ Interpretation Note: No. 92: Documentary proof prescribed by the Commissioner</li> </ul>
Returns	<ul style="list-style-type: none"> <li>▪ VAT 201 return</li> </ul>	
Imports	<ul style="list-style-type: none"> <li>▪ Chapter 12.2.1, 12.2.2, 12.2.3 and 12.2.4.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 7(1)(b).</li> <li>▪ VAT Section 13(1) and (2).</li> <li>▪ VAT Section 16(2)((opening) and (d)), 16(3)(opening), (a)(iii) and (b)(ii).</li> </ul>
Successive supplies (e.g. rentals of movable properties)	<ul style="list-style-type: none"> <li>• Chapter 5.2.3, 5.2.4 and 5.3.3</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 9(3)(a) and (b).</li> <li>▪ VAT Section 10(6)</li> <li>▪ VAT Section 16(3)(a)(iiA).</li> </ul>

<b>Common Zero-Rated and Exempt Supplies</b>		
<i>Subject Matter</i>	<b>SARS VAT 404 (Guide for Vendors) and VAT Forms</b>	<i>Alternative: Precise Citations from the VAT Act and Binding SARS interpretations</i>
Basic zero-rated supplies (e.g. Exports of goods / services, food and fuel)	<ul style="list-style-type: none"> <li>▪ Chapter 6.3, 6.3.1 and 6.3.2.</li> <li>▪ Chapter 12.1 (but not 12.1.3).</li> </ul> <p>XO Africa Safaris v CSARS IN 42 (Issue 2): The supply of goods and/or services by the travel and tourism industry IN 85: The Master Currency case and the zero-rating of supplies made to non-residents</p>	<ul style="list-style-type: none"> <li>▪ VAT Section 1 (definition of “exported” (paragraph (a)).</li> <li>▪ VAT Section 11(1)((opening), (a)(i), (g), (h) and (j)).</li> <li>▪ VAT Schedule 2.</li> <li>▪ Regulations 316 (Gazette No. 37580)(2 May 2014) (Part One: Paragraphs 1, 2 and 3); Part Two – Section A: Paragraphs 8 and 9)</li> <li>▪ Interpretations Note: No. 30 (issue 3) (2014) (documentation for exports)</li> <li>▪ Interpretation Note: No. 31 (issue 3) (2013) (documentation for general zero-rating)</li> </ul>
Zero-rated supply – the sale of a going concern	<p>Section 11(1)(e) and 18A</p> <ul style="list-style-type: none"> <li>▪ (section 8(7) and 8(15)).</li> </ul>	<ul style="list-style-type: none"> <li>▪ IN 57: Sale of an enterprise or part thereof as a going concern</li> </ul>
Basic exempt supplies	<ul style="list-style-type: none"> <li>▪ Chapter 7.1, 7.3, and 7.6</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 2(1)((opening) up to (f)), (2)(iii) and (iv)).</li> </ul>

	TCT Leisure v The Commissioner for the South African Revenue Services	<ul style="list-style-type: none"> <li>▪ VAT Section 12((opening), (a), (g) and (h).</li> <li>▪ VAT Section 17(1)(but not the proviso (ii) and (iii)).</li> </ul>
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<b>Frequently Recurring Special Circumstances</b>		
<i>Subject Matter</i>	<b>SARS VAT 404 (Guide for Vendors) and VAT Forms (except as otherwise indicated)</b>	<i>Alternative: Precise Citations from the VAT Act and Binding SARS interpretations</i>
Second-hand goods	<ul style="list-style-type: none"> <li>▪ Chapter 4.5.4.</li> <li>▪ Chapter 8.3.4.</li> <li>▪ Chapter 13.6.1.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 1(1) (definitions of “second-hand goods” (only paragraph (a)), and “goods” (but not (i) and (ii) of the goods not to include)).</li> <li>▪ VAT Section 16(2)(c) and (3)(a)(ii)(aa).</li> <li>▪ VAT Section 20(8)</li> </ul>
Irrecoverable debts (reversal of prior invoices)	<ul style="list-style-type: none"> <li>▪ Chapter 9.1, 9.2 and 9.3.</li> <li>▪ Chapter 13.7.1, 13.7.2 and 13.7.3.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 22(1)(before the first proviso) and (3)(before the proviso).</li> </ul>
Connected Person Rules	<ul style="list-style-type: none"> <li>▪ Chapter 5.2.2 and 5.3.2.</li> <li>▪ Chapter 6.1 and 6.2.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 9(2)(a).</li> <li>▪ VAT Section 10(4).</li> </ul>
Fixed Property sales and rentals	<ul style="list-style-type: none"> <li>▪ Chapter 2.1.6, 4.5, 5.2.5 and 5.3.4.</li> <li>▪ Chapter 7.2.</li> <li>▪ Chapter 8.3.3.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 1(1) (definitions of “commercial property”, “domestic goods and services”, and “dwelling”).</li> <li>▪ VAT Section 9(3)(d).</li> <li>▪ VAT Section 10(10).</li> <li>▪ VAT Section 12(c).</li> <li>▪ VAT Section 16(3)(a)(ii)(bb), (4)(a) and (b).</li> <li>▪ VAT Section 18B.</li> <li>▪ Transfer Duty Act Sections: Section 1(1) (definitions of “date of acquisition” excluding paragraph (b) and of “residential property”), 2(1), 3(1), and 9(15).</li> </ul>
Leasehold improvements	Section 8(29), 9(12) and 18C.	Paragraph 6.1. Clarifying the value added tax treatment of leasehold improvements (2017 Explanatory Memorandum).
Employee use of motor	<ul style="list-style-type: none"> <li>▪ Chapter 5.3.6.</li> <li>▪ Chapter 8.5, 8.5.1 and 8.5.3.</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 1(1) (definitions of “entertainment”, and “motor car”).</li> <li>▪ VAT Section 10(13), and (23).</li> </ul>

cars and entertainment		<ul style="list-style-type: none"> <li>▪ VAT Section 17(2)(a)(but not proviso (iii), (v), (vi), (vii) and (ix); 17(2)(b); 17(2)(c)(but not proviso (iii)).</li> <li>▪ VAT Section 18(3).</li> <li>▪ Regulation, Government Gazette Notice 2835 (1991)</li> </ul>
Short-term insurance payouts	<ul style="list-style-type: none"> <li>▪ Chapter 7.3.3 and 7.4 of the (VAT 421) Guide for Short-Term Insurance</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 8(8)</li> </ul>

<b>Special Rules for VAT Administration</b>		
<i>Subject Matter</i>	<b>SARS VAT 404 (Guide for Vendors) and VAT Forms</b>	<i>Alternative: Precise Citations from the VAT Act and Binding SARS interpretations</i>
Tax Invoices, Debit / Credit Notes	<ul style="list-style-type: none"> <li>▪ Chapter 8.3.5</li> <li>▪ Chapter 13.1, 13.2 and 13.3</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 20(1), (4), (5) and (6)</li> <li>▪ VAT Section 21(1), (2) and (3)</li> </ul>
VAT returns, payments and refunds	<ul style="list-style-type: none"> <li>▪ Chapter 10.1, 10.3 (only), 10.4 (all) and 10.7</li> <li>▪ VAT 201 Return</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 28</li> <li>▪ VAT Section 44(3)(but not the proviso), (7), and (10); see also VAT section 16(5)</li> </ul>
Special VAT Records Required	<ul style="list-style-type: none"> <li>▪ Chapter 16.5 (only)</li> </ul>	<ul style="list-style-type: none"> <li>▪ VAT Section 55</li> </ul>

<b>Transfer Duty</b>		
<b>Silke</b>		<b>Transfer Duty Sections (Lightly Review Only)</b>
28.1	Introduction	
28.2	Imposition of transfer duty	Skim section 2(1)
28.3.1	General (property definition)	Skim the property definition in section 1 (excluding paragraphs (e), (f) and (g))
28.3.2	Interest in a residential property company	Skim the residential property company definition in section 1 (excluding paragraph (b))
28.5	Value on which transfer duty is payable	Skim section 5(1)

28.7	Exemptions from transfer duty	Section 9(1)(paragraphs (e) through (l)) Section 9(15)
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<b>Customs Duty</b>	
<b>Silke</b>	<b>Customs Duty Sections (Lightly Review Only)</b>
30.1	Introduction
30.2	Different types of customs and excise duties (skim)
30.3	Basic concepts of customs duty
30.3.1	The value of the imported goods (customs valuation)
30.3.2	The classification of the imported goods (tariff classification) (skim)
30.3.3	The origin of the imported goods (originating country) (skim agreements)
30.4	Customs duty calculations
30.5	Rebates, drawbacks and refunds
30.6	Anti-dumping and countervailing duties

### *Basics of Tax Administration*

<b>Tax Administration</b>			
<b>Silke</b>		<b>Tax Act Sections The Tax Administration Act</b>	<b>Authoritative Interpretations</b>
Chapter No.	Chapter Title		
33.1.1	Tax administration		
33.1.2	Application of the Act		
		Section 1 of the Act: The definitions of “business day”; “date of assessment”; “document”; “information”; “official publication”; “public notice”; “relevant material”; “return”; “self- assessment”; “tax period” and “taxpayer”.	
33.1.5	Tax Ombud		
33.2	Tax registration	Skim section 22	
33.3.1	Form and date of submission	Skim section 25(1), (2) and (4)	
33.3.2	Signing a tax return	Section 25(3)	
33.3.4	Third party returns	Skim section 26	
33.4.1	Duty to keep records	Section 29	
33.5.1	Introduction	Sections 91	

		Skim sections 96 and 97	
33.5.2	Additional assessment	Section 92	
33.5.3	Reduced assessments	Section 93	
33.5.6	Withdrawal of an assessment	Section 98	
33.5.7	Limitation for issuing assessments	Section 99	
33.5.8	Finality of assessment	Section 100	
33.7.1	Representative taxpayer	Sections 153, 154 and 155	
33.7.2	Withholding agent	Sections 156 and 157	
33.8.3	Payment of tax pending objection or appeal	Skim section 164	
33.8.6	Instalment payment agreement	Skim sections 167 and 168	
33.8.7	Refunds of excess payments	Skim section 190	
33.8.8	Refunds subject to set off and deferral	Skim section 191	
33.9.4	Liability of third party appointed to satisfy tax debts	Skim section 179	
33.10	Penalties		
33.10.1	Administrative non-compliance penalties	Sections 210 and 211 Section 213	
33.10.4	Understatement penalty	Sections 221 (other than the definition of impermissible avoidance arrangement) Sections 222 and 223	
33.12.1	Burden of proof	Section 102	
33.12.2	Dispute resolution process		SARS Dispute Resolution Guide - Issue 1: paragraphs 1 and 2
33.12.3	Reasons for the assessment	Rule 6 of the "Rules"	SARS Dispute Resolution Guide - Issue 1: paragraph 5
33.12.4	Dispute resolution process	Section 104 Skim sections 105 and 106 Rule 7 of the "Rules"	Government Gazette 37819. SARS Dispute Resolution Guide - Issue 1: paragraphs 5.1 and 5.2; 6.1 – 6.6.

33.16.1	Registration of tax practitioners	Sections 239 and 240	
33.16.2	Recognised controlling body		
33.18	Tax compliance status	Section 256	