ACCESS
South Africa
A Guide to doing business in South Africa
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1. Introduction

“With over 50 million people and slightly bigger than Holland, Belgium, Italy, Greece and Germany combined, South Africa is blessed with a stimulating economy that includes mining, IT and building opportunities that seek to engage entrepreneurial companies to help develop the country. For the visitor, South Africa offers, sun-kissed beaches and access to large herds of wildlife, plus abundant flora and fauna and developed wine estates. For sure, it is the powerhouse of Sub-Saharan Africa.”

David McCarthy, UBS South Africa, Director
With a population of more than 50 million and onward access to 900 million in the Sub-Saharan African market, South Africa has seen dramatic and extraordinary transformation in its fortunes since democracy in 1994. Since then the country has seen unparalleled growth. During 2010 this growth continued at 3% supported by a rise in global demand – for minerals especially – a recovery in domestic demand and that year’s football World Cup. Moreover, the Economist Intelligence Unit is forecasting growth of 4% for the country to 2015.

Why this market is important
It is ranked 34th out of 183 countries for ease of doing business by the World Bank, and it is also the gateway to the extensive Sub-Saharan African region. It is the region’s economic powerhouse, accounting for 30% of total GDP. Foreign investors have been attracted by the political and economic stability in the country, and the onward access it provides to other countries in the region. In short, South Africa’s time has come.

Purpose of the report
The objective of Access: South Africa is to give practical and up-to-date information on the market for Irish companies. Here you will find useful, easy-to-digest advice on the critical aspects of doing business in South Africa for companies at all levels in their business development within the country. This guide covers:

- how to get started for early-stage exporters
- the business culture and how it significantly differs from Ireland
- routes to market, analysing all the options, including selling directly from Ireland to partnering with local providers
- key legal issues, tax and visa considerations
- how to sell to government at municipal, state and provincial level

How it was compiled
This report is based on the practical experience and knowledge of highly successful people in the market, by specialists in areas such as taxation and marketing. It is informed by the lessons learned by the many Irish business people who have succeeded in South Africa. The report also includes commentary from a number of these people.

Access: South Africa is intended to be of use to a wide audience; from companies thinking of exporting to South Africa for the first time, to those already selling in the market and wishing to examine strategic options for further growth.
2. Critical Success Factors

“South Africa is not only a fast growing and developing market offering great opportunities to Irish companies, it is also the gateway to markets across Africa.”

Fred Klinkenberg, Manager South Africa Enterprise
South Africa is well managed with a financially sound structure. It is one of the world’s youngest democracies and has a stable and growing economy with a GDP of $349.6 billion. A recent report from Merrill Lynch rated South Africa as one of three countries with the most promising growth forecast over the next decade. Ongoing infrastructural investment and healthy consumer spending are driving this trend.

South Africa is classed as a middle-income country with an abundant supply of resources, well-developed financial, legal, communications, energy, and transport sectors. Its modern infrastructure supports efficient distribution of goods to major urban centres throughout the entire region.

Commercial opportunities are plentiful in a range of sectors, particularly finance, software and telecoms. Irish companies are investing heavily in South Africa, with currently 156 organisations currently exporting there. Some 30 companies have taken the step of establishing a local presence; Enterprise Ireland client companies employ more than 13,000 people in South Africa.

**Business culture**

The Republic of South Africa is frequently referred to as The Rainbow Nation owing to the population’s multicultural diversity. Understanding its culture and how it is emerging from its troubled past is essential to making a success of your business there.

South Africa can be incredibly rewarding for a business but it is also a market that demands considerable time and effort. Patience is the key; while individual sectors vary, you can expect to spend a year or longer from making initial contacts through to closing the first deal.

English is the primary language of business in South Africa and many of the customs around legal and tax affairs are based on an Anglo-Saxon model, but the market is nonetheless very different to our own and you will need to be acutely aware of those cultural nuances as you are likely to encounter people from a variety of ethnic backgrounds.

- Networking and relationship-building are crucial to doing business in South Africa
- In South Africa, personal relationships are valued and initial meetings are often used to establish a rapport and to gauge mutual trust
- Whenever possible, schedule face-to-face meetings to discuss business in preference to communicating by email, letter or telephone
- Schedule business appointments in advance, ideally a month or more prior to visiting – this is crucial if you will be flying from Ireland
- Confirm appointments by calling the day before
- It may be difficult to arrange meetings with senior-level managers on short notice
• Avoid scheduling meetings from mid-December to mid-January or the weeks surrounding Easter, as these are prime holiday times

• Many South Africans have a relaxed approach to timekeeping. While you may be kept waiting, you should make a point of arriving for meetings on time

• Working hours in South Africa are typically Monday to Friday, 8-8.30 am to 5pm

• Respect for elders and seniors is a crucial part of African culture. Failure to show this is considered offensive

• Greeting styles in South Africa vary according to the person’s ethnic heritage

• Common practice at a first meeting is to offer a firm handshake and to maintain eye contact

• English-speaking South Africans tend to adopt a polite and formal manner of address

• Black South Africans are generally less informal and more personal when greeting those they do not know

• For female associates, it is best to wait for the woman to offer their hand first

• It is good practice after a meeting to send an email summarising what was decided and the next steps.

Getting ready to export

Developing Your Business Proposition

While South Africa is a growing market and receptive to companies investing in it, the proviso is that there must be a key differentiator about the business, whether around service, product or delivery mechanism. The key to becoming established in South Africa is to be innovative, particularly in the knowledge-based sectors such as information technology. The place to differentiate is in niche spaces such as call centres, IT, e-learning, whereas well-established sectors like banking generally provide fewer opportunities to do so.

• Me-too products that compete purely on price are unlikely to be well received – South Africans prefer to give their business to an indigenous company

• Do differentiate on professional service, better backup services and more innovative products

• Be clear on what your proposition is

• Understand the structure of government – avail of local partners to help you in networking
Marketing And Communications

• Corporate marketing material is important in establishing your credentials for South African customers

• Brochures do not need to be elaborately produced: some company background, a product overview and contact details will suffice

• Business cards are vitally important at the introduction stage

• When presented with a business card, take a moment to study it before putting it carefully into a jacket pocket

• Breakfast briefings are a popular way of introducing your company and making contacts

Negotiating the Deal

• South Africans typically prefer to do business with people they have already met

• Introductions from a known third party can help to reach key decision-makers

• Initial meetings are unlikely to lead to decisions; they may be attended by a large number of people and it may be difficult to gauge who in attendance has the final say

• In South Africa, the pace of business is slower – do not show frustration if progress stalls

• Do not speak loudly or interrupt a South African while they are speaking

• Include delivery dates in contracts, as deadlines are often viewed as fluid rather than commitments to be honoured

• Start negotiating with a realistic figure

• Avoid aggressive bartering over price

• South Africans seek consensus and win-win situations where all parties gain.

NEED TO KNOW
Generally, communication styles in South Africa will differ according to the individual’s cultural ancestry. Many English-speaking South Africans are often reserved and conservative in how they speak, with the aim of avoiding conflict. People from an Afrikaaner background can be more direct and even blunt, which they consider as being forthright and honest. This means that they will often not hesitate to say “no” to others in public.
Advice from successful exporters
There are many Irish companies who are successful exporters to South Africa and that number is growing. We asked a selection of these successful exporters some questions:

• How did they become established in the market
• What did they learn
• What do they know now that they wish they had known then

Here are their responses:

Daon, Joe Flynn, VP of sales EMEA

“We provide identity assurance solutions, which include biometrics, to provide government & commercial organisations with high levels of assurance that people are who they say they are. Our focus in South Africa is on national civil programs, police systems & financial services. Our new smartphone mobile authentication technology IdentityX is driving opportunity in the financial services space. Daon partners with System Integrators (SI’s) on these opportunities. Our products are typically components of an overall solution. All our business in South Africa is done via the partner network. We have a direct sales force to create awareness of our brand and our products with the end client and the partner community. Our partners include Gijima, Dimension Data, Accenture, Tsohle and eBooth – the last two are smaller players but very niche in biometrics and security and identity.

SA is a good market for Daon. It is part of the commonwealth and culturally (language, media, sports) there is a positive reception for the Irish. English is one of the key business languages. My experience of the market is now 12+ years so I have a reasonable understanding of the sensitivities around it.

It is important to prepare well for entering the SA market, know who your target market is and find out who the key technology partners are for these organisations. Plan to create business relationships both with the end client and the partner network. This will involve perhaps six to eight trips per year to the country. If possible hire a local consultant on a part-time basis who is experienced in your sector within South Africa; these people can accelerate your market entry and help build your profile in SA. Patience is very important, and you need to take the approach of committing to SA market for three to five years to deliver business. South Africans like to see that you’re committed to the market, and have invested in working with local partners. Focus initially on creating brand and product awareness, and a pipeline will develop over time.

Black Economic Empowerment (BEE) is a key strategy for government in SA which focuses on the bringing the black majority into the economic mainstream. It’s important to be aware of this and to build local teams and partners with this in mind as many tenders will require BEE compliance.”
Clarigen, Bernie Cullinan, CEO

“Clarigen provides an online HR, [human resources] management solution, tailored for the needs of the South African market. We have been operating there since January 2011. Some of our key customers in the market are Digicall, PBO, DLA and RediSolutions.

We had previous familiarity with the market. Digicall, a South African business process outsourcing company, took a stake in Clarigen in December 2010. Our entry into the market was based on leveraging their strength in the South African market. We haven’t set up a separate vehicle for SA. Our structure is in essence a branch, which is very heavily supported by Digicall. Creating a base there has been tremendously facilitated by the strength of Digicall and their commitment to the success of Clarigen in the SA market. For an early-stage company moving into a new market, without previous experience in this market, it has been a very fortuitous approach. The biggest delay in this process was in getting approval from the central bank in South Africa for the foreign exchange approval required to do the investment in Clarigen by Digicall.

The connection was all to do with rugby! One of our Directors, Michael Keenan, knew Peet VanJaarsveld, who is the CFO of Digicall and is now Clarigen’s Chairman, from the time when Peet worked in Ireland for four years as general manager of the Abbott Laboratories plant in Longford. Digicall had been contemplating an investment in Europe, particularly the UK and when Peet, Willem deClercq (Digicall’s CEO) and Altmann Allers (Chairman and principal shareholder in Digicall) came to Ireland in November 2009 to watch Ireland beat South Africa in the Autumn series, they got together that day and the germ of the discussion was born.

For other Irish companies looking to establish in South Africa, I think it is very important to target your geographical point of entry as well as your market sector – it is likely that Johannesburg and the wider Gauteng province will be the area to focus on initially. One of the advantages of the SA market is that it is dominated by a number of very strong industries, particularly mining and financial services. That helps clarify your focus and ensure that you can develop a local competency quickly in your chosen sector. There are also a number of Irish people in key positions in organisations in South Africa who are both very supportive to Irish companies entering the market and whose experience and roles can help companies. An Irish network is shortly to be launched which will be very important for Irish companies to connect with.

The economy is strong, and although it has been going through some challenging times recently, those challenges are not a serious hindrance to growth. The economy has the very strong underpinning of its wealth of natural resources and a very well managed financial infrastructure. There are excellent opportunities for companies that can supply products and services which help South African companies deliver on their regulatory requirements and also those that can take advantage of the very significant investment made by Government and organisations in increasing human capability. So whether they are products that help reduce the administrative burden of the regulatory environment, can increase the capability of people through e-learning content, or provide innovative approaches to improving processes in organisations, this is an excellent market opportunity. South Africa is a very price-sensitive market, so you must ensure that your cost structure can support this – make sure you know your selling price before committing to investing in the market.”
FTI Finance, Eddie Fogarty, Managing Director,

"FTI Finance is a specialist treasury company providing treasury management, consultancy, systems and treasury training. We have been active in South Africa since 2006, when we undertook a large project on behalf of the National Treasury to review treasury management in 15 of the largest state-owned enterprises and to do a benchmarking exercise against international best practice.

Based on that experience, we decided to pursue other opportunities, especially in the treasury systems sector. Today, our treasury system is installed in South African Post Office (SAPO) and the Land and Agricultural Bank (LandBank) and used for their treasury management. To support this business and pursue other opportunities, we have set up a subsidiary, Fikon Treasury and IT, and located this in Centurion. Given the geographic distance, we felt this step was important to give clients the confidence to rely on our systems, and also to meet BEE requirements. We saw this as a better approach than just working with a local partner and also gave us better control and ultimately better financials. If you’re working with a local partner, you can end up over-sharing the revenue simply to comply with BEE and that’s an area to be aware of in South Africa. Our view is that we can best meet the BEE criteria through a local partnership or by having our own subsidiary or branch there. Key to success is having a local person who genuinely understands the local situation, knows how to take things forward and is pro-active in doing that. And you need to take the time to find the right person.

It was relatively straightforward to set up a subsidiary. The shared British-style business protocol and legal structures have a benefit when it comes to doing something like this. There are big similarities between business in South Africa and what we would be already familiar with. To set this up, we worked with the partner company of our Dublin auditors and tax advisers. We found that the most important thing was the ability to win the business, with the tax considerations being secondary. Given the distance between Ireland and South Africa, it’s probably a market that more suits software and products rather than pure services, because if you’re doing consulting in reality that means Dublin staff on the ground. Software means Dublin people on the ground only some of the time, with increasing reliance on local staff being feasible.

While it’s definitely a relaxed business culture, I wouldn’t interpret that to mean lax on time, standards or anything like that. The South African way of wearing a tie is to leave it on the back of your chair! Meetings tend to be large in number. It’s very inclusive and it’s about looking for everybody’s point of view. South Africans are quite open, quite direct, and they give a lot of feedback, I would feel. Irish people are very well received. You’re not dealing with inscrutable people who keep their cards close to their chest. It’s a long process, though. After meetings you do have to temper your optimism; everything takes longer than you expect. Overall we’re happy with the client base that has been built up and positive about the pipeline."
Sysnet Global Solutions, Gabriel Moynagh, General Manager

“We started in South Africa about three years ago. We had an opportunity to do some consultancy for Nedbank – our clients are usually in banking or payment services provision. We saw our opportunity as a good chance to establish in the market. We set up a serviced office last year in Cape Town with two people there. Before then, we flew people down, deals were done with the Irish office and it’s only lately that we’ve had the local people on site.

The first piece of advice is, if you’re looking for local people, get a good headhunting agency to find them for you. If we weren’t headhunting, we would have to recruit and then train them. That’s what we found. The second thing is you need to decide quickly if it’s going to be a market that suits you. If you keep flying people back and forth, it becomes very expensive.

We established our office in Cape Town, away from the business hub, because the employees that we found were based there. It would have been more appropriate to be based in Johannesburg, so we had to fly them for meetings and site visits. It just involved clever project management in terms of making sure things were booked in advance and that we weren’t just jumping on a plane the next day.

I’m sure we’ve lost business in the past because we weren’t locally based at the time. It is a market that rewards face-to-face contacts. Certainly in the banking and compliance industry, everybody knows everybody, and if you get a good reputation it’s a lot easier to get more deals. We have a very select target list, we knew exactly who we were going to talk to. We questioned them about the market, how strictly enforced was the compliance issue, how under pressure were key decision makers.

BEE didn’t affect us but it came up as an issue. We had to fill out certain forms to be excused from it based on our current size and penetration in the market. If we grow much more in South Africa, it’s inevitable that we’re going to have to deal with that. In terms of tax, we were advised in South Africa from a local accountancy firm which we found very helpful. That’s something you would definitely need to do, to get an understanding of the local ways of doing things.”
ESBI, Annraoi Caffrey, Project Manager

“In the early 2000s after a series of power shortages, Eskom, the equivalent of the ESB in South Africa, came to realise there was an urgent need for electrical power and they didn’t have sufficient skillsets to satisfy those demands. I got involved as part of the team as the project manager to manage a team of mainly technical and also project management advisers to assist with the new build and the capital expansion project.

Obviously you have to watch the risk of causing offence. I suppose we Irish are good because we wouldn’t have any historical racial issues. I was going in without any judgements. It is very difficult without spending some time with the individuals and their teams to understand the dynamics and to appreciate how systems were working. Be prepared to put in the time, or be prepared to go through a number of levels or people of equal level in order to get a decision. Let’s say, from a decision-making perspective it normally goes to some form of committee rather than one individual. I tend to agree that the people are informal – very approachable, very open.

There’s significant emphasis on racial ratios in projects. It’s actually a key performance metric to have these ratios achieved. All government work is through the tendering process, and one of the requirements is that your company is rated as a BEE-compliant or majority black ownership and there’s a lot of emphasis on employing black females. It is a pass/fail criterion.

We had to manage our own visas. If you are going to ‘interface’ meetings, you can get your passport stamped on entry or a 90-day visitor permit but if you do intend being there in excess of that kind of time, a work permit is required. They would be quite strict on immigrants coming in and working where they would deem they have the skills to fill those positions. You have to identify specialist needs which we were able to do, but, it’s quite transparent.

Although the business hub is in the Gauteng province, with the ability to commute I think it’s manageable to live in Cape Town and still satisfy that need to work with the business district. From a work-life balance perspective, you’re only two hours away by plane. You could stay in the Cape, leave for work in Johannesburg on Monday morning, come back Thursday evening and work from home the following day. That’s especially useful if you’ve got your family with you.”
Brandtone, Padraig McBride, CFO

“Brandtone provides consumer profiling and hyper-targeted mobile marketing services to leading FMCG companies across emerging markets. During 2011 we have run campaigns in South Africa on behalf of Kelloggs, Kimberly-Clark, SAB Miller, and Unilever.

South Africa is a natural hub from which to expand into other African markets. It’s a good location to secure first business in Africa and to lead your ambitions to hub into other markets like Kenya, Angola and Nigeria. Many major bands in Africa (particularly the FMCGs, Banks and Telcos) are headquartered out of South Africa. Also, if you are doing business in South Africa our experience is that you must base your local office in Johannesburg, the business capital of the country.

In terms of doing business, while we’ve noticed no particular business etiquette, and South Africans are very straight up in terms of telling you what they really think, you can’t do business over the phone: you have got to get in front of people. There are five of us on the senior management team and one to two of us would be down in South Africa every week to support our locally based South African General Manager and the team, and drive the business along. You have to spend time on the ground to develop relationships and move opportunities along in an organised and structured manner. Also, quick and detailed follow up is key and critical to winning credibility with potential clients and service providers. Always do what you say or commit to doing.

In terms of doing business with, for example, FMCG clients, timing is critical. Our experience is that FMCG clients with a 31 December year end typically budget and plan their activities for the following year in September/October of each year. You have to meet with them and work on getting into their budget plans in advance of this timing. For example trying to speak with a potential client in May/June and get business in the same calendar year is highly unlikely. If you have not signed up to deliver the particular piece of business by the end of say June, it most likely will not happen until the following calendar or financial year.

Proper planning including tax planning is very important in terms of rolling out operations into South Africa, and we invested significant time in setting up our tax structure correctly at the outset, including detailed transfer pricing analysis, to ensure we have an tax efficient tax structure. For example, we took the specific decision to registered our Irish trading company in South Africa from a VAT (only) perspective, to ensure that we avoided trapped VAT on charges between our South African subsidiary and our Irish trading company – which invested in and build out our proprietary technology. This process was complex and time-consuming, but putting appropriate structures in place from the outset is key, particularly when you are invoicing and dealing with leading global companies.”
“Fineos originally went to South Africa opportunistically. We provide software specifically to organisations where they use enterprise systems to support the claims function. That’s not just pure insurance companies, it takes us into government agencies such as claims on personal injury. Our major customer is the Road Accident Fund, a government-run agency in South Africa that covers any bodily injury claims relating to motor accidents. That relationship is going into its fifth year, and the system is fully live about 18 months. It triggered us to do some research about the market size and opportunity and we judged it to be a good place to try.

We tend to focus, as a company, on ex-colonial countries. It’s partly because of the language, and also the financial rules and regulations tend to be similar so we’re not talking about massive amounts of redevelopment. We started a campaign three years ago and we managed it from Ireland. Some people advise booking meetings well in advance but I don’t think we experienced issues with the timescale in that way. We made sure we got a full week’s worth of meetings before we committed to the flights. In general our experience was once you got to know people, they would accept meetings fairly quickly. They seem willing to talk openly and there was lots of interest in our product so in terms of setting up meetings, it was absolutely fine.

For meetings and initial trips, you don’t need to worry about visas and so on. In terms of employing local people, we found as long as we proved we were committed to doing that at the start of the project, it wasn’t a blocker at the sales stage. From coming in to the market for the first time, you don’t have to set it up. We have someone on the ground now but I wouldn’t say it’s essential, although in our case that will need strengthening over time. We’ve taken on a director who set up a South Africa organisation and the director of that is a South African national. We certainly had to go down that route.

For marketing, we would always adjust the message to the market conditions – not because it’s South Africa but because insurers are facing different issues and pain points than in Australia, for example. We did a lot of breakfast briefings and we used local associations. On some of the trips we would visit not just prospects but we used the likes of Deloitte and IBM as hosts. We found these meetings were well attended, by senior people.

I would absolutely agree you need to take a patient approach to the market. We’ve had a lot of meetings that looked promising early on, but six-to-nine months later nothing had changed. In reality, there are many layers of checks and balances. Maybe it’s the buying process out there but sometimes you can’t get to a person who can make the decision.”
3. Starting in the South African market

“South Africa is very positive to the Irish; the green flag works well.”
Joe Flynn, VP of Sales EMEA, Daon
Introduction
Seek first to understand, then seek to be understood

Don’t assume that your sector is the same in South Africa as in Ireland or Europe. Research thoroughly, seeking to understand the similarities and differences between this and other markets. Determine how you can fit in and add value for prospective customers.

Knowing your competition
• Who are your rivals in the market and how do their offerings compare with and differ to yours?

• Is the market dominated by a few strong players or fragmented with many small competitors?

• Knowing your customers

• What is your target market?

• What need, shortcoming or business challenge does your business address? (be sure that this is framed in a way that is relevant to South African prospects)

• Who are the relevant decision makers – their title and responsibilities?

If there is an obvious gap in the market find out why. There are hundreds of examples where companies act to fill such gaps only to discover that they existed in the first place for good reason.

Clarifying your value proposition
Why should a prospect buy from you over the competition? What makes your offering superior? What is the unique selling point? Your business has to have a value proposition to cut through the clutter and separate you from the competition. This may seem basic but it is essential that you can communicate succinctly how you can create value for a customer. Pay particular attention to framing your proposition in a South African-centric way.

Your key advantage or ‘Unique Selling Point’ is a benefit that is unique to your offering. It is something that:

• Provides a solution to your clients’ pain point that they cannot get elsewhere.

• It is a positive benefit, being something your prospects need

• It can be stated simply

• It can be communicated verbally and visually.
You must communicate all the USPs not just as they relate to the product; e.g. expertise in subject matter can be a USP.

Understanding where you are positioned in the South African market and having a consistent message about your company, whether it is towards existing or potential clients, employees, investors or the public at large is critical in achieving recognition and credibility as a respected enterprise.

Maximising your resources

Introduction
Researching the South African market for your product or service will get you so far but a certain amount of intuitive decision making is necessary when formulating your business development strategy in a new market. The level of resources (both human and financial) you are prepared to invest clarifies your level of commitment to the market and also may create a ceiling on your possible success. If you are under-resourced from the outset it will be difficult to win deals.

It can be helpful to avail of market insiders who have experience of the South African business environment. Enterprise Ireland can connect you with resources, and a newly formed group, Business Ireland-South Africa, aims to foster relationships and networking opportunities between Irish people already resident in South Africa and Irish businesses coming to the market for the first time.

Financial Resources
If you start with a realistic sales forecast and work backwards you should determine a realistic budget for your business development needs in South Africa in the short and long term. Create a P&L for the South African SBU to monitor the resources used against target sales achieve. You also need to think about where you will get these resources if you do not have a surplus in your current budget.

The long-term aim will be to establish a successful operation in the South African market (or in a particular province within the country). In the short term, however, there may be a significant amount of time before you start to generate revenue in the market. Making a plan from the outset dividing your short-term (1 year), medium-term (1-3 years) and longer-term (5 years +) targets will enable you to plan for a fluctuating revenue cycle.

Human Resources
In South Africa, customers see having staff based in-country as a sign of commitment to the market. In some cases it is also a requirement. From your company’s perspective, having resources permanently in the market can greatly accelerate your progress. Leads can be followed up on straight away rather than on the next trip. It will also bring you closer to the major developments taking place in the market.
Geography
South Africa is a vast country spanning 1,219,912 km sq and it has three capitals: Cape Town, (legislative); Pretoria (administrative) and Bloemfontein (judicial). The business and industrial hub is concentrated primarily in the Gauteng province, which includes Johannesburg and nearby Pretoria. The majority of advanced development is found in those two cities, along with Durban, Port Elizabeth and Cape Town. Gauteng is likely to be the base of operations for many, but not necessarily all, Irish companies who set up a direct presence in the country.

Though flying domestically is relatively inexpensive, it is advisable to determine a limited geographical area as your initial target in South Africa. When deciding this you need to think of where your company is best placed to secure a South African sales reference site. Do you have relationships with MNCs in Europe that also operate in South Africa? Does a particular province have a legislative imperative making it positively biased towards your offering? Is there a particular hub in the country for your sector?

Advance market research, along with assistance from Enterprise Ireland offices, can assist you in gaining a South African insight on your offering. Employees who are-long term South African residents can also help in this regard. Another approach worth considering is adding a South African member to your board to get that crucial market insight. This is more important in some industries than in others.

Developing your marketing strategy

Introduction
Marketing strategies that work in Ireland or elsewhere may not necessarily work in South Africa but this is a good starting point. Pick the two or three strategies that were most effective and gave you the best results. Focus your efforts here and make any adjustments needed to adapt to the local market. For established companies, a rule of thumb says that 30% of the marketing budget goes to prospects, 10% goes to your general market or region, and 60% goes to existing customers. However, at market entry this may look very different and 60% of your budget may target qualified prospects. New exporters without a track record in South Africa may have to spend even more initially due to the demands of developing your brand and market presence.

A useful approach may be to learn from the market entry experiences of other clients. More experienced clients are generally willing to share their learning. Enterprise Ireland can make the relevant introductions for you if you are interested in this.

A good way to start formulating strategy is by reviewing the past year’s strategy and performance. Some areas to look at include:

- What worked and what did not work?
- How did you generate your Irish sales and can you apply this technique in South Africa?
• Which methods were the most profitable?
• How did people find you?
• What customer needs did you satisfy?
• What marketing efforts produced little or no results?

Enterprise Ireland can work with you on agreeing the most efficient and cost-effective sales channel for your product or service. These options are dealt with in more detail in the Routes to Market section of this guide.

Communicating your business proposition

Introduction
Communication doesn’t begin with the launch of your product or service: it starts the moment you begin to talk about your ideas with anyone else. As soon as you decide you want to enter the South African market, you will need to adapt your communications policy. Success in this new market will only happen if you can put across to prospects what you can provide in any and all circumstances.

Presentations
The following may help you to prepare a presentation for the South African market:

Always customise the presentation for each prospect
Although this may seem very basic, many companies fail to invest the time to adequately customise their presentation to the prospect they are presenting to. A practical way to do this is by incorporating their logo into the demo showing them exactly how the product would look should they buy it. The point of doing this is to demonstrate the fit between your offering and the potential client’s business. Make it easy for them to imagine working with you.

Understanding client problems
What are the pain points your clients are experiencing? List the various problems in some detail, in order of priority, to show you understand their business and the issues they face.

Solutions and results
How do the products or services you provide address the problems listed? Again, list them one by one in detail and be specific in discussing these problems. Let the customer know exactly how your product or service addresses their issues and how they result in solutions that mean something to them.

Why our company?
Your prospective client has many choices in solving their problems, so let them know why your approach/solution/results/experience makes you the best choice. Do you guarantee results? Is it your industry specialisation? Let them know your unique competitive advantage and illustrate your company’s strengths vis-à-vis your competitors.
Short case studies
Think through the many times you have provided similar solutions to past clients. Let the prospective client know the problem with which your client was faced, the solution you provided and the results that ensued.

Working with us
Let your prospective client know exactly how you work in order that they know upfront what they can expect from you. What is the process? When do you start work? What do you typically do first? What are the payment terms? It pays not to be overly aggressive on this; as has been stated elsewhere, South Africans prefer a consensus where everyone wins.

Remember that PowerPoint is only a support
If you are using PowerPoint, remember that it is an aid or tool only. Don’t rely on it to make your presentation for you. The ability to present with impact is a prerequisite in any market; the slides you use should be brief, with key points or graphics to support what you say.

Emphasising the business case
Use figures and statistics backing up your business case. Avoid focusing solely on the merits of your capability or technical features. Be sure to address in clear terms the return on investment your proposition offers.

Building market presence

Introduction
At the point of entry into South Africa, it is highly likely that your company or brand may be almost totally unknown in the marketplace. This potentially means having to spend far more on marketing than your competitors, especially domestic ones. Many of Enterprise Ireland’s export clients fall under the knowledge economy heading. If your business is about selling knowledge or technically sophisticated products or services, it is extremely important to use all opportunities to engage in the latest discussion and developments in South Africa. Webinars, industry forums and trade shows/conferences all allow you to do this. In the beginning, webinars in particular are a cheaper alternative to tradeshows and conferences (especially considering the cost and time involved in travel) but it is recommended that you strike a balance between using technology and making contacts face to face. However as our case studies (see the chapter ‘Critical Success Factors’) show, in South Africa there is no substitute for meeting people.

In information/technologically intensive sectors your first step in carving out a presence in the market should involve identifying the key opinion leaders in the industry. These could be journalists, academics, industry analysts or consultants. A simple way to identify these individuals is to see who’s speaking at any of the major industry conferences. Engaging opinion leaders and gaining their support can boost your business’ credibility especially when you have yet to build your own reputation.
This is especially important in advance of securing your first South Africa sales reference site. Though you may already be very successful in other markets, South Africans will want to see proof that your offering works in their market.

**Conclusions**

- Be clear about what your value proposition is and be prepared to pitch your business
- Know the business case behind your offering
- Customise your pitch to your target client
- Understand where you can most easily get a first sales reference site and whether your company is best suited to a particular geographical area
- Engage the key opinion leaders in your industry
- Prepare and follow up appropriately to maximise your exposure at trade shows.
4. Routes to market

“South Africa is a natural hub for other African markets. It’s a good place to start your discussions and to lead your ambitions to hub into other markets like Kenya and Nigeria. A lot of the major brands in Africa would have their headquarters in South Africa.”

Padraig McBride, CFO, Brandtone
Introduction
In this section we look at some of the options for serving the market in South Africa.

Direct from Ireland
While distant from Ireland – flight times can be up to 12 hours – the South African market can be served remotely by the early-stage exporter who does not wish to set up a permanent base at the initial stage. The time difference of GMT+2 means South Africa is only one hour ahead of Ireland, which is an advantage for companies providing service and support to clients. However, the preference among many South African organisations is to work with locally based providers where possible, so your options are soon likely to become a choice between working with a partner, or setting up either a branch or subsidiary.

Working with partners
This option can be particularly useful in South Africa, both because the market is remote from Ireland and because the cultural differences mean your business can benefit from an experienced partner who knows the territory and has the contacts. If you plan to tender for government contracts but don’t have the resources to allocate full-time staff to the market, then going via a partner is a must. You will need to ensure that partner complies with BEE (Black Economic Empowerment) legislation. (This is a very important area and it is covered in more depth in the section on legal issues in South Africa.)

When appointing a partner:

• Don’t just rely on your impressions from a meeting
• Do your due diligence properly, know who you’re doing business with
• Consider using a forensic accounting firm – there are plenty in South Africa – to examine a prospect’s books

Third-party distribution
Agents
In South Africa, the terms ‘agent’ and ‘distributor’ have a very specific meaning. In the strict legal sense, an agent is a person who, for and on behalf of a principal, either introduces a third party to the principal by soliciting orders from the third party, or concludes contracts with the third party on behalf of the principal. The normal reward for an agent is a commission, which is received from the principal.
Key considerations in appointing an agent in South Africa are:

- Appoint an agent who knows your market well
- South Africa’s business sector is relatively small, and companies have established methods of procurement that differ from sector to sector
- Consider national distribution. South Africa is a vast landmass divided into nine provinces. Smaller agents tend to operate provincially, as they do not have the infrastructure to support operations in other provinces
- You may need to appoint an agent in each of the larger cities – Johannesburg, Cape Town, Port Elizabeth and Durban – to cover each of the respective provinces
- Larger companies who take on agencies often have an office in each of the major centres, making any agency agreement easier to control
- Check whether your South African-based agent can handle business in other Southern African countries on your behalf.

**Distributors**
A distributor buys and holds stock of a product, usually in return for exclusive rights to sell the product in a particular area or to a particular type of customer.

- In South Africa, agreements with a distributor are similar to those with an agent
- Price and delivery terms will differ because the distributor is a principal
- When appointing a distributor in South Africa, the same considerations apply as when appointing an agent.

**Establishing a local presence**
The advantage to setting up a direct presence is that it gives you more control over your destiny in the market from both an operational and a financial standpoint. However when selling to certain sectors, you will be obliged to comply with BEE legislation and you should factor this into your strategy and your hiring plans. If you intend to hire individuals in the country with specific technical skills, your best option is to engage with a headhunting agency to make a suitable offer to a South African national, otherwise the onus will be on you to recruit and train the person.

Don’t decide on your structure until you have considered the tax implications, and seek the advice of a professional services firm before making your decision. For more on this subject, please refer to the section on legal issues in South Africa.

- Irish companies tend to set up as subsidiaries or branches
- Joint ventures for Irish companies tend to be uncommon in South Africa; they are primarily used in public-private partnerships such as large infrastructure projects.

- Most foreign investors set up a private company (Pty [Ltd]) because there are relatively few annual formalities associated with running one.

- Private companies must have at least one director and shareholder and membership is restricted to 50.

- They cannot offer or transfer shares to the public.

- Directors do not have to be South African residents or nationals.

- Foreign companies wishing to establish a local branch office in South Africa must register the branch as an external company with the Registrar within 21 days of establishing an office.

- There is no condition that a percentage of shares be held locally and government approval is not required.

- When establishing a business in South Africa you must obtain a business licence from the local authority, which is valid indefinitely.

**NEED TO KNOW**

South Africa’s company registration office (CIPRO) can be prone to backlogs, so you should factor this into your timing. However if you retain a locally based tax advisor, they may be able to intervene on your behalf to speed up the process.
5. Legal issues in South Africa

“South Africa is a good place to do business, there’s a good entrepreneurial culture and it is truly a gateway for Africa – Irish companies should exploit that opportunity. The general feeling is that Africa’s time has come.”

Dermot Gaffney, Director, KPMG
**Introduction**

South Africa’s legal system is similar to Ireland’s in many respects. The country’s common law is based on a combination of the English and Dutch models. It is a highly regulated society, and you can expect significant amounts of paperwork in your compliance efforts. However, all official documents and application forms are in English and this makes your task easier.

Certain key areas of legislation differ substantially from the Irish business environment, such as Black Economic Empowerment and exchange controls. Careful planning for these and other aspects well in advance will smooth your journey into South Africa.

**Black Economic Empowerment**

You cannot do business in South Africa for any length of time without encountering Black Economic Empowerment (BEE). More than a piece of legislation to be complied with, it is the key instrument in the government’s strategy to redress the inequalities of the past and to drive a far-reaching change in South African society. In a business context its role is to enhance the participation of the black majority in South Africa’s economy. BEE has been a key driver of recent corporate activity, such as mergers and acquisitions. It’s estimated that 52% of South African privately-held businesses will go through a change in ownership in the next decade.

In practical terms, what BEE means for an Irish company looking to do business over a prolonged period in South Africa is this: whether working through a partner or establishing a representative office, there will need to be significant black involvement at all levels of the company in order to comply with the B-BBEE Act, No. 53 of 2003. Companies must obtain certification and codes of good practice are typically measured on a scorecard against seven criteria: Ownership, Management, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development and Socio-Economic Development.

There are nine pieces of legislation around this initiative, which can be obtained from the Department of Trade and Industry’s web portal at [http://bee.thedti.gov.za/](http://bee.thedti.gov.za/). The site includes the legal requirements of BEE, provides help in understanding BEE scorecards, and houses a national registry of company BEE profiles. Irish businesses can also source

BEE-compliant companies for networking purposes through this portal.

- Tendering for all government work requires that your company is rated as a BEE-compliant or having majority black ownership
- Achieving the correct racial ratios in projects is a key performance metric
- The Code of Practice places a lot of emphasis on employing black females
- Complying with BEE is a pass/fail criterion in many business opportunities
**NEED TO KNOW**

Fronting – the practice of misrepresenting black involvement in the business – is actively discouraged and may in some cases constitute fraud. Typical fronting practices include appointing black people to jobs purely for tokenism, or using companies that have favourable BEE status as intermediaries.

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**Setting up a company**

According to the World Bank, setting up a business in South Africa involves six procedures and takes on average 22 days. South Africa’s government has removed almost all investment approval processes in recent years to focus on data collection and monitoring via registration and reporting processes. There is no limit on the amount of foreign ownership in firms, except in banking and the media. South Africa’s Companies Act sets out comprehensive regulations and requirements for conduct of affairs and liquidation of all entities that operate in South Africa.

- Different entity structures encounter different legal requirements. In general, you should consider the following key areas:
  - Legal status and limited liability – the legal status of the entity determines the level of liability and associated risks for the entity.
  - Registration requirement and penalties – penalties are enforced on companies which fail to register with the Companies and Intellectual Property Commission (‘CIPC’). Investors should comply with applicable registration requirements within the specified timeframes to avoid unnecessary penalties.
  - Financing alternatives – different types of entity are allowed different forms of finance (debt only or equity and debt). This has a massive impact on the flexibility of the funding and total of expenses (eg interest expense) for the entity.
  - Requirement of audit – depending on the type of entity, the entity may have to be audited on an annual basis.
  - Annual returns – depending on the type of entity, annual returns may need to be submitted to the Companies and Intellectual Property Commission (CIPC). The annual fee varies for different types of entities.

**Regulations for importers**

South Africa is a member of the World Trade Organisation (WTO) and follows the Harmonised System of import classification. There is free exchange of trade between South Africa and the four countries comprising the Southern African Customs Union: Botswana, Lesotho, Namibia, and Swaziland. There is also substantially free trade between South Africa and the EU.

- Traders are subject to exchange control approval, administered by the South African Reserve Bank.
- Bonded warehouses are available at various points of entry.
South African banks can accommodate all international transactions and are situated throughout the country.

Most goods may be imported into South Africa without restrictions but the Department of Trade and Industry is empowered to regulate, prohibit or ration imports.

Import permits are required only for specific categories of goods and must be obtained from the Director of Import and Export, prior to the date of shipment.

Failure to produce a required permit could result in the imposition of penalties.

**Tax**

Businesses exporting to South Africa for the first time should spend time understanding the legal requirements, tax regulations, foreign exchange control and certain other statutory regulations or obligations to be met. This helps avoid unnecessary penalties and administration costs, and achieve tax savings in the long term. There are specific tax impacts on different entity set-ups. In order to establish an entity structure with long-term tax savings, an investor should consider the following:

- General principles, such as whether an entity is resident or non-resident, taxed on worldwide income or African-sourced income only, provide guidance on the type of income to be taxed.
- General rate of tax is 28% for South African companies.
- Branches in South Africa are taxed at 33%.
- Disposal of certain local assets or worldwide assets (depending on the type of entity) could attract capital gains tax.
- Tax deductions such as interest, royalties, foreign exchange gains and losses etc vary, depending on the tax status of the entity.
- When a foreign company advances financial assistance to a connected party in South Africa and the resident company’s interest-bearing foreign debt is excessive in relation to its equity share capital, thin capitalisation rules may apply.

Further information on this subject is given in Appendix 1 "Information brochure on the South African tax and exchange control environment" from KPMG.

**Exchange controls**

Coming from Ireland, exchange controls may seem unfamiliar and even daunting, but it can be managed. While it’s not a major barrier to business, nonetheless it’s an important subject to deal with to ensure money doesn’t become trapped between South Africa and Ireland. For example, lending money from Ireland without the required approval, would mean the South African entity would be unable to repay the loan.

- There are generally no restrictions on local borrowings, there are a few instances where restrictions will be applicable.
• Foreign loans to a South African company require approval from the Exchange Control Authorities before acceptance
• Interest payment can be remitted abroad but this is also subject to the Exchange Control Authorities’ approval
• Payment of management fees abroad is subject to the approval of an Authorised Dealer and certain fees need to be supported by a transfer pricing analysis
• Dividends can be remitted abroad to non-resident shareholders
• Repatriation of profits is subject to certain exchange control requirements
• Using South Africa as a head office for operations throughout Africa could result in numerous exchange controls being active within the group’s business
• Exchange controls vary from ownership requirements to basic control of the money in and out of a country
• Exchange controls are detailed. Governments in Africa are regularly revising these requirements in the hope of attracting foreign investors to expand operations into Africa.

**NEED TO KNOW**
To avoid the possibility of trapped currencies, make a distinction in a contract between what is to be delivered onshore (eg, services such as consultancy, installation or training) and what is provided offshore from Ireland (eg, product development). Price separately for what is delivered onshore versus offshore to make the demarcation clearer: for example, request payment for the offshore work in euro or dollars and the onshore work in rand.

**VAT**
South Africa has a standard VAT rate of 14% on taxable supplies. However, VAT registration is only required if the total taxable supplies exceed R1 million (€89,437) in a 12-month period. Even though the standard rate is 14%, there are some exempt supplies and zero-rated supplies outlined in the VAT Act.

**Immigration/visa**
South Africa operates a visa system. For Irish companies at an early stage of expanding into the country, initial ‘interface’ meetings require only having your passport stamped on entry or obtaining a 90-day visitor permit.

• Travellers should ensure their passport is valid for at least six months from their intended date of departure
• EU citizens travelling to South Africa without at least two blank pages in their passports – or with damaged documents – are likely to face immediate deportation

• If you intend staying more than 90 days for a project, you will require a work permit from the Department of Home Affairs which lasts for a year and may be extended on application.

**NEED TO KNOW**

The South African system is strict on allowing immigrants to enter the country and to work where the authorities would deem the necessary skills are within the local market to fill those positions. You must identify specialist needs to the Department which cannot ordinarily be filled by local staff.
6. Growth sectors

“If you haven’t been here, you will find that the infrastructure in the major centres is first-world – the roads, the office blocks… It’s the big surprise for people coming to South Africa for the first time.”

Mark Peters, WITS Business School, Director
Introduction
South Africa’s economy is expected to grow by more than 4% expected in 2011 alone, and several sectors in particular are poised to develop strongly in the coming years. Enterprise Ireland has identified key areas of opportunity where Irish companies are well placed to deliver products and services. Moreover, it bears repeating that South Africa is the ideal location as a gateway for further expansion into Africa – a market of more than 900 million people.

Telecoms
South Africa’s telecoms network is 99% digital – the largest and most advanced of its kind on the African continent. Its mobile communications infrastructure is said to be the fourth most advanced in the world.

- Africa has more mobile subscribers than fixed-line telecoms customers
- Throughout the region as a whole there are 375 million mobile subscribers
- By 2012 there are expected to be more than 700 million mobile users
- 18% of South Africans use mobile phones to transfer money.

Education and training
Africa is one of the fastest growing regions in the world for e-learning and the geographical size of the market and the appetite for education crosses both the public and private sectors. A shortage of skilled and technically trained labour in the region presents one of the best opportunities for Irish companies in this sector. These include:

- Basic business and IT skills
- Vocational training
- Collaborative programmes in higher education, especially with a value-added component
- Supply of educational equipment.

Financial services
Backed by a sound regulatory and legal framework, South Africa’s financial services sector is one of the most stable in the world.

- South Africa has domestic and foreign institutions providing a range of services across commercial, retail and merchant banking, mortgage lending, insurance and investment.
- It is the third largest market worldwide for Irish financial services software providers.
ICT
South Africa may be officially considered a developing market but in ICT terms it is no follower, with strong technology adoption in many sectors and many leading indigenous companies such as Dimension Data and Gijima. The market research company Gartner has identified several trends driving technology in South Africa:

- Improving bandwidth
- The country’s position as a gateway to Africa
- Continued growth in data storage
- Government involvement
- BEE imperatives are promoting partnerships
- Customer preference for working with local vendors and open source technology
- Skills issues among end-users
- Regulatory overlap
7. Selling to the Government in South Africa

“The public sector is large and public procurements are an important route to new business. They can be time-consuming processes, sometimes stop/start and you need to have a good tendering process to be successful. It is important to really understand the client situation and what the key people are looking for.”

Eddie Fogarty, Managing Director, FTI Finance
**Introduction**

South Africa’s government sector is a major consumer of goods and services and as such is likely to be an important market for many Irish companies. In this section we briefly outline its structure and offer advice on successfully working with the country’s public procurement system.

The South African government estimates it will need to invest approximately R1 trillion (€89.3bn) over the long term, and between 2011 and 2014 alone, spending is forecast to reach R850bn (€76bn), primarily on energy and transport projects. In the South African infrastructure report from Business Monitor International, the infrastructure value is expected to grow from €5.2 billion in 2010 to €10.2 billion in 2015, forecast as a 2%-share of GDP.

**Structure**

South Africa is a constitutional democracy with a three-tier system of government and an independent judiciary. The three layers in South Africa’s government are: national, provincial and municipal. All have legislative and executive authority in their own spheres and are defined in the Constitution as ‘distinctive, interdependent and interrelated’. If you’re trying to build a market in South Africa, it helps to understand the local structures and government relationships.

**General procurement guidelines**

There are five core principles of behaviour in South Africa’s public procurement process also known as the Five Pillars. These are:

- Value for money
- Open and effective competition
- Ethics and fair dealing
- Accountability and reporting
- Equity.

**Tips for exporters**

- Direct sales from Ireland tend not to be successful in the government sector
- Bidding for work at a national government level can be a slow process. The municipal and provincial sectors are often faster
- IT Procurement at the National level must be done through the State Information Technology Agency (SITA)
- There is value in Irish companies being listed on SITA’s preferred bidder and Transversal tender listings
- Partners and agents can be critical in helping to progress decisions with buyers
• Provincial government has significant spend by Irish standards

• BEE compliance is essential when selling to the government sector – either your South African partner or your local office must have a BEE scorecard

• Annual government budgets are typically decided by October – Budgets and Strategic Plans for all departments (Municipal, Provincial and National) are available on applicable Government websites.

• From November to January – South African summer time – there tends to be little activity

• Significant weighting is given to training and up-skilling local people, which can help in a sales cycle

• All layers of government including State Owned Enterprises spend significantly on IT services. Exposure to the Public Finance Management Act (PFMA) and Municipal Finance Management Act (MFMA) is critical for Irish companies looking to do direct sales with Government in SA.

• Many of the local integrators are very strong in the public procurement market. They act as partners and trusted advisors to government

• Many of these local companies provide not just hardware and software but consulting, change management and outsourcing expertise

• To become known in procurement circles, attending networking events is strongly advised

• There are large events every two months in cities like Cape Town, Durban, Johannesburg and Pretoria

• Use partner-driven events to build awareness for your brand, among the partner’s account executives and Government end-user customers.
8. How Enterprise Ireland can help you succeed in South Africa

“Great place, great people, great opportunities.”
Annraoí Caffrey, Project Manager, ESBI
Enterprise Ireland is committed to assisting clients in entering new markets and expanding your business in your current markets. A team of experienced marketing professionals are ready to help you through Enterprise Ireland’s overseas network of over 30 offices. Enterprise Ireland can help you build your business across South Africa. An overview of our service offering is listed below:

**Pre-Visit Support**
We can provide:

- A sector overview
- A validation of the opportunity for your product/service
- An evaluation of your market entry strategy
- Suggested channels to market
- Competitor analysis
- Relevant contacts/suggested itinerary
- Summary of relevant market information resources.

**In-Market Support**
Services available include:

- Scheduled appointments with market contacts including government
- Office facilities/sales incubator units
- Facilitation of buyer visits to Ireland
- Product launches/workshops at Enterprise Ireland offices/Irish embassy/consulates
- Networking opportunities at events held at EI offices, or the Irish embassy in South Africa
- Public relations support and press release service
- Trade fairs/trade missions
- Market development support to access new regions/sectors in South Africa
- Introductions to local development agencies for setting up in South Africa
- Introductions to third-party professional service providers including legal, marketing/PR and recruitment services.
Access to External Expertise and Advice

International Mentors: Enterprise Ireland has built up an excellent network of individuals in South Africa who are available to work with Irish client companies on developing their business. International mentors are individuals who work with your company on a one-to-one basis. The role of the mentor is to listen and advise, to suggest options, and help you to prioritize opportunities. The mentor gives you a fresh and objective perspective that is backed by significant in market experience – while you remain in the driving seat throughout. Depending on your individual requirements, mentors can advise you on all key areas of company development, including:

- More targeted sales and marketing
- Staff development and team building
- Expansion into new export markets
- Better management and financial systems
- Improved production and logistics
- Attracting outside investment
- Strategic business planning
- Management succession.

Ministerial Events
Throughout the year Enterprise Ireland organizes a number of initiatives which are led by government representatives. These can include trade missions, trade shows, buyer lunches, press conferences etc. These are excellent opportunities for your company to be highly profiled with customers and in the wider media.

Financial Assistance
Enterprise Ireland client companies may be eligible to receive financial assistance towards the cost of researching or travelling to the market. For more information, speak with your Development Adviser.

DISCLAIMER
Information in this publication is intended to provide only a general outline of the subjects covered. It should neither be regarded as comprehensive nor sufficient for making decisions, nor should it be used in place of professional advice. Enterprise Ireland accepts no responsibility for any loss arising from any action taken or not taken by anyone using this material. Readers are encouraged to consult with professional advisors for advice concerning specific matters before making any decision.

When it was written
Compiled throughout September and October 2011, this report is up to date with the latest available research and findings.
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Appendix 1
Information Brochure on the South African tax and exchange control environment from KPMG
Information brochure on the South African tax and exchange control environment
# Contents

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1 General

The content of this document provides a summary of some of the more significant South African tax and exchange control implications to consider when an entity incorporated outside South Africa (a “Foreign Entity”) acquires shares in a South African entity.

Notice: The information contained in this document is provided for general information purposes only. It does not constitute legal or other professional advice. Whilst reasonable steps have been taken to ensure the accuracy and integrity of information contained in this document, we accept no liability or responsibility whatsoever if any information is, for whatever reason, incorrect. We further accept no responsibility for any loss or damage that may arise from reliance on information contained in this document.

This document is based on our interpretation of the current South African income tax law as contained in the South African Income Tax Act No. 58 of 1962 (“the Act”) as well as the exchange control rules and regulations. These principles are subject to change occasioned by future legislative amendments and court decisions. Such changes may impact on the outcome of our analysis and conclusions. You are therefore cautioned to keep abreast of such developments and are most welcome to again consult us for this purpose.
## 2 Salient features of a South African private company

<table>
<thead>
<tr>
<th>Feature</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal status</strong></td>
<td>A private company is a separate legal entity from its foreign shareholder/s.</td>
</tr>
<tr>
<td><strong>Registration</strong></td>
<td>A private company is registered with the Companies and Intellectual Property Registration Office (“CIPRO”). It is, registered as a separate and distinct legal entity and has its own unique registration number.</td>
</tr>
<tr>
<td><strong>Financing alternatives</strong></td>
<td>A private company can raise finance either in the form of debt or equity, or a combination thereof.</td>
</tr>
<tr>
<td><strong>Corporate tax rate</strong></td>
<td>Private companies are subject to tax on their taxable income at a statutory rate of 28%. The taxable income of a company is determined by deducting exempt income and allowable deductions from its gross income, as defined in the South African Income Tax Act No. 58 of 1962, as amended (“the Act”).</td>
</tr>
<tr>
<td><strong>Remittance of profits</strong></td>
<td>South Africa imposes an additional Secondary Tax on Companies (“STC”) at the rate of 10% on any net dividends declared. The effect of the additional 10% STC on net dividends declared, is that the effective corporate tax of a company which distributes 100% of its retained earnings as a dividend, is approximately 34.55%.</td>
</tr>
<tr>
<td><strong>Deductions</strong></td>
<td>Dividends declared are not deductible for tax purposes, whereas interest paid on debt financing is usually tax deductible provided that certain requirements are met.</td>
</tr>
<tr>
<td><strong>Allowances</strong></td>
<td>Private companies may be subject to the thin capitalisation rules in respect of foreign interest-bearing debt, which can limit the tax deductibility of interest on debt financing.</td>
</tr>
<tr>
<td><strong>Exchange Control</strong></td>
<td>Taxpayers are allowed certain capital allowances on assets and expenditure incurred, specifically catered for in the Act. Wear and tear allowances are also permitted in respect of fixed assets used by the company in the production its income.</td>
</tr>
<tr>
<td><strong>VAT</strong></td>
<td>A private company is required to register for VAT where the total value of its taxable supplies exceeds certain limits.</td>
</tr>
<tr>
<td><strong>Transfer pricing</strong></td>
<td>Transfer pricing rules apply to all inter-group (ie between connected persons, as defined), cross-border transactions entered into by the company.</td>
</tr>
</tbody>
</table>
3 **Limited Liability**
A private company is a separate legal entity, distinct from its foreign shareholder/s.

The implications of this are:
• a private company bears the liability and risks relating to its actions, dealings and business transactions; and
• the subsidiary’s liability is separate from that of its shareholders.

4 **Registration Requirements**
There are generally no legal restrictions on the percentage foreign shareholding in a South African incorporated company. Once incorporated, the private company is subject to the provisions of the Companies Act.

The liability of shareholders for the debts of the local company is, save for limited exceptions relating to reckless trading, limited to the amount of the issued share capital of the company. One (or, if required, more) director must be appointed to the board, however there is no requirement that such director(s) must be based in South Africa, or be a South African citizen. A South African resident public officer must however be appointed.

5 **Financing alternatives**
South African companies may be funded by debt, and may raise finance by issuing shares. Whilst a shareholder enjoys ownership of the shares in the company, an investor who lends funds does not.

5.1 **Debt versus equity: business considerations**
An important advantage of debt over equity is the greater flexibility which debt provides. Debt can be introduced from any company within a group, or from a financial institution or any other third party. In addition, debt can be varied as a group’s funding requirements change, whereas any change in equity, particularly a decrease, can be a complex procedure. Furthermore, debt can be converted to equity but not *vice versa*.

In weighing the relative merits of debt versus equity funding, consideration must be given to factors such as the ability of the enterprise to service the interest payments and to repay the original capital amount. In respect of equity funding, issues of control and the potential for equity funding to dilute the control of the existing shareholders must be considered. In addition to business considerations, there is also thin capitalisation and exchange control issues that need to be considered (see 6.2.4 and 9 below).
5.2 Debt versus equity: tax implications

5.2.1 Dividends

Dividends declared by a South African resident company are not deductible for tax purposes and are subject to STC at a rate of 10%. STC is levied on the net amount of dividends declared during the dividend cycle. The “net amount” is the amount by which dividends declared by a company exceed the sum of dividends (other than certain exempt dividends) accruing to or received by the company during the particular dividend cycle.

STC is a tax on the company declaring the dividend. It is not a withholding tax imposed on the recipient of the dividend. Therefore, it is noteworthy that not all double taxation agreements will grant a foreign tax credit to the foreign recipient of the dividend in respect of the STC paid in South Africa. (Legislation has been enacted, but will only become effective from 1 April 2012, when STC will be repealed and replaced with a dividend withholding tax.)

5.2.2 Interest payments

Interest on loans is deductible provided the money is used for the purpose of earning income. Interest on money borrowed to generate income that is not subject to tax, eg exempt income, is not tax deductible.

Any interest received by an off-shore holding company from a South African company is currently exempt from South African income tax, unless that off-shore holding company carries on a business through a permanent establishment in South Africa. Thus, to the extent that interest is received from a South African private company, as a subsidiary of the off-shore holding company, such interest will be exempt from tax in South Africa. (The 2010 Taxation Laws Amendment Bill proposed a new withholding tax on interest paid to non-residents. All interest received by or accrued to a foreign person will be subject to a final withholding tax at the rate of 10 per cent. That is, unless such interest is exempt from the withholding tax or subject to a reduced rate of tax as a result of relief provided by a double tax treaty (“DTA”). The expected effective date of this new tax is 1 January 2013).

It should further be noted that, in terms of the Act, the interest on any form of interest bearing arrangement must be spread over the term of the instrument by applying the compounding accrual (yield to maturity) basis. This has the effect that the interest is incurred/accrued on a day-to-day basis over the period of the loan.
6 Taxation

6.1 General principles

South Africa has adopted a residence basis of taxation, in terms of which residents are taxed on their worldwide income. The Act defines a “resident” to include, \textit{inter alia}:

\begin{quote}
\textit{“[A]ny person (other than a natural person) which is incorporated, established or formed in the Republic or which has its place of effective management in the Republic, but does not include any person who is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the governments of the Republic and that other country for the avoidance of double taxation;”}
\end{quote}

Therefore, in the absence of the application of a DTA, which may provide otherwise, a private company incorporated in South Africa, would be subject to tax in South Africa on its worldwide income. We refer you to Annexure A summarising the various countries with which South Africa has a DTA in place.

As stated above, the corporate tax rate applicable to a company is currently 28%. To the extent that a company declares a dividend to its shareholders, that company will, in addition to corporate tax, also be liable for STC at the rate of 10% on the net amount of the dividend declared. Therefore the effective rate of tax applicable to a company, which declares 100% of its earnings as a dividend, is approximately 34.55%.

The following example illustrates the above comments:

<table>
<thead>
<tr>
<th></th>
<th>Company R</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxable income</td>
<td>1 000</td>
</tr>
<tr>
<td>Normal tax</td>
<td>(280)</td>
</tr>
<tr>
<td></td>
<td>720</td>
</tr>
<tr>
<td>STC on dividends*</td>
<td>(65.50)</td>
</tr>
<tr>
<td>After tax return</td>
<td>654.50</td>
</tr>
<tr>
<td>Effective tax rate</td>
<td>34.55%</td>
</tr>
</tbody>
</table>
6.2 Tax treatment of specific items

General

Pre-tax profits may be extracted from a South African resident private company by the foreign holding company, *inter alia*, by way of royalties, management fees or interest on loans. Such payments are, however, subject to South Africa’s transfer pricing rules, which require South African resident persons to trade on an arm’s length basis with foreign related parties. Potentially these payments may also be subject to exchange control approval. The payment of interest on non-resident, related party loans is furthermore subject to the thin capitalisation provisions contained in the Act.

Management fees, dividends and interest payments to non-residents are currently not subject to withholding tax in South Africa.

6.2.1 Royalties

Royalties (including know-how payments) derived from a South African source or deemed South African source, are taxable in South Africa in the recipient’s hands. In respect of non-resident recipients, the tax is withheld at source, in South Africa.

Royalty or similar payments made by a local private company to its foreign holding company, in respect of intellectual property or know-how made available by the Foreign Entity for use in South Africa are generally tax deductible in the hands of the subsidiary. The royalty will be subject to a 12% withholding tax in South Africa on the amount received by or accrued to that Foreign Entity. The rate at which tax are to be withheld may be reduced in terms of a DTA, if applicable and subject to prior approval from South African Revenue Service (“SARS”) as well as from the DTI in certain circumstances (in the case of local manufacturing). The quantum of the royalty payment is also subject to South Africa’s transfer pricing rules.

6.2.2 Directors’ fees

Directors’ fees are subject to tax in South Africa if they are earned by persons resident in South Africa, or if they are earned by non-residents from a source in South Africa.

There is a presumption that the source of directors’ fees is the location of the head office of the company, where, generally, directors will exercise their powers.

6.2.3 Interest

A private company is permitted to deduct interest paid to a foreign holding company in respect of loans made available by the Foreign Entity. The deductibility of the interest will, however, be subject to the thin
capitalisation rules contained in the Act. Furthermore, the quantum of the interest payment(s) will be subject to South African transfer pricing rules.

The remittance of interest to a Foreign Entity by the South African private company will with effect from 1 January 2013 be subject to a 10% withholding tax.

6.2.4 Thin capitalisation

Broadly, the thin capitalisation provisions of the Act apply to financial assistance (such as the granting, assignment and cession of interest-bearing foreign debt) advanced by a foreign parent company to its private company in South Africa, whether directly or indirectly.

Thin capitalisation applies where a resident company's interest-bearing foreign debt is excessive in relation to its equity share capital. As a general rule the SARS will not regard a company as thinly capitalised provided its interest-bearing foreign debt to fixed capital ratio does not exceed a ratio of 3:1.

SARS may disallow a deduction for interest relating to foreign debt that falls outside of this ratio. In addition, the disallowed interest may be treated as a dividend and, consequently, will be subject to STC. For exchange control purposes, however, these rates may be further limited (See 9.2 below). From 1 October 2011, the 3:1 debt to equity ratio is to be abolished and be replaced by an arm’s length test rate that is based on the Organisation for Economic Co-operation and Development (“OECD”) methodologies. A market related analysis is to be performed in order to determine whether the connected persons are trading at arm’s length.

6.2.5 Transfer pricing

South African transfer pricing legislation was introduced in 1995. In August 1999 SARS issued Practice Note Number 7 (“the Practice Note”). The Practice Note contains guidelines for the application and interpretation of transfer pricing rules in South Africa. The Practice Note is based on the Guidelines of the OECD (“the OECD Guidelines”). Currently, transfer pricing is a high priority for SARS.

The overriding principle of the transfer pricing legislation is that all cross border intra group transactions between resident and non-resident connected persons should be conducted on an arm’s-length basis.

In determining the tax liability of a taxpayer, SARS may adjust pricing to reflect what it regards as an arm’s-length price for the supply or acquisition of goods or services involved. The onus is on the taxpayer to prove that the price was an arm’s-length price.

Regarding the interest rate on the debt falling within the recommended ratio, SARS has indicated that prime plus 2% on a Rand denominated
loan and the relevant interbank rate plus 2% on a foreign denominated loan would not be regarded as excessive.

Typically the excessive portion of the price may be subject to STC since the payment would be regarded as a deemed dividend in terms of section 64C of the Act.

6.2.6 Foreign-owned South African branches

Branches in South Africa are subject to tax at a rate of 33%. In the 2011 national budget speech, the Minister of Finance mentioned the possible reduction in the 33% tax rate for branches.

If a Foreign Entity elects to carry on business in South Africa through a branch, the Foreign Entity and the branch constitute one legal entity. If the Foreign Entity makes its intellectual property or know-how available to its branch, the payment of a royalty by the branch to the head office will not be tax deductible in the hands of the branch in South Africa.

6.2.7 Trading losses

Where, in any year of assessment, the allowable deductions of the taxpayer as determined by the Act exceed total income, an assessed loss arises. The loss may be carried forward to subsequent years of assessment to be set off against future income. However, where a company does not carry on a trade in any year of assessment, it is not entitled to carry forward the assessed loss from the previous tax year and the assessed loss is lost forever. A company may accordingly carry forward an assessed loss indefinitely provided it carries on a trade in each year of assessment. Losses may not be carried back to previous years of assessment.

6.2.8 Group relief

Whilst the Act does contain group relief provisions in defined circumstances, these do not extend to the set off of assessed losses of one group company against the income of another.

These group relief provisions are limited to group re-organisations and amalgamations and provide for a deferral of the tax, subject to certain specific requirements being met.

7 Capital Gains Tax

In line with the residence basis of tax, all South African residents are subject to capital gains tax (“CGT”) in South Africa on the disposal of their worldwide assets. Non-residents (such as the local branch of an external company) are also subject to CGT but only in respect of specific assets.
Non-residents are subject to CGT on gains realised on the disposal of:

- Immovable property situated in South Africa,
- The assets of a permanent establishment (or branch) in South Africa; and
- The shares in a company where, broadly, 80% of the market value of the shares is attributable to immovable property situated in South Africa.

CGT is levied for resident companies, on 50% of the net capital gain calculated at the company tax rate of 28%, resulting in an effective rate of 14%, and in the case of a local branch of an external company CGT is levied, on 50% of the gain calculated at the tax rate of 33%, resulting in an effective rate of 16.5% for that year of assessment.

8 **Value-Added Tax (“VAT”)**

VAT is levied in respect of the following categories of transactions:

- the supply of goods or services by a vendor (includes any person required to be registered for VAT) in the course or furtherance of any enterprise carried on by him;
- the importation of any goods into South Africa; and
- the importation of imported services.

It is important to note that a “person” registers for VAT and not an enterprise. For VAT purposes the term “person” includes any natural person, a body of person (corporate or unincorporated), any company or close corporation, a trust fund, local authorities, and deceased or insolvent estates, whether a resident of South Africa or not.

It follows that where a Foreign Entity trades through a private company in South Africa the private company will be liable for VAT registration where the total turnover in respect of taxable supplies exceeds the threshold of R1 million for a 12 month period.

Further, where a Foreign Entity (i.e. the main business) conducts its business partly in South Africa through a branch, such main business is for VAT purposes, deemed to be carried on by a person separate from the South African branch in circumstances where the main business and branch can be separately identified and an independent system of accounting is maintained for the branch in South Africa. It follows that, under these circumstances, only the South African branch, and not the main business, will be liable to VAT registration in South Africa. Consequently, only supplies made by the branch independently from the main operation should be taken into account to determine whether or not the R1 million annual threshold has been exceeded and only the activities of the South African branch would form part of the South African VAT registered person.
To register a person, who is not a resident of South Africa for VAT purposes, such person has to appoint a representative vendor and open a bank account with a South African registered banking institution for purposes of the enterprise carried on in South Africa. However, current procedures do allow for such person to make use of a third party’s bank account under certain circumstances.

Currently, the standard rate of VAT to be levied on the supply of goods or services by a vendor is 14%. There are provisions for the application of the zero rate to the supply of certain goods or services. Also, certain goods or services are subject to a VAT exemption and the most notable of these are the supply of certain financial services.

The provisions of the VAT Act regarding registration, charging and accounting for output tax and claiming input tax applies equally to a private company and a branch of the Foreign Entity operated as a “separate person” in South Africa.

9 Exchange Control

9.1 Remittance of income

Income derived from investments in South Africa is generally transferable to foreign investors, subject to the following restrictions:

9.1.1 Management fees

The payment of a management fee by a South African resident company to a Foreign Entity or beneficiary based on an invoice which sets out the nature of the services rendered is typically not subject to exchange control approval, unless the fees are calculated as a percentage of turnover, sales income or purchases or are payable in advance.

9.1.2 Royalties

Agreements for the payment of royalties and similar payments for the use of technical know-how, patents and copyrights require the prior approval of the Financial Surveillance Department of the South African Reserve Bank (“SARB”), as well as of the Department of Trade and Industry in certain instances.

Any royalty payment made to the non-resident licensor must be substantiated by an auditor’s report confirming the basis of calculation of the royalty and the existence of a valid agreement between the licensor and resident licensee. Exchange control is not in favour of minimum payments should the royalty not reach a certain amount during a specific period. The royalty payable should therefore be in proportion to the production or sales achieved.

The royalty payments are usually calculated as a percentage of the manufacturing cost or a percentage of the net ex-factory selling price,
excluding any taxes such as VAT. A distinction is however made by the government department concerned between royalty agreements covering consumer goods and those for intermediate and capital goods. For consumer goods, a royalty of up to 4% of the ex-factory selling price is generally regarded as acceptable. In the case of intermediate and capital goods a payment of up to 6% may be considered favourably.

9.1.3 Dividends

Dividend distributions are freely remittable abroad. However, a director’s representation letter, an auditor’s covering letter and financial statements are required.

9.2 Loans to resident companies from abroad

The following considerations apply:

• the acceptance of foreign loan funds by a local entity requires the approval of the exchange control authorities at SARB;

• there is a minimum period of approximately six months for the holding of a foreign loan;

• no repatriation guarantees will be given by exchange control;

as mentioned in 6.2.4 above, SARS will generally allow loans from non-residents to a resident connected person with interest charged at prime plus 2% on a rand denominated loan and relevant inter-bank rate plus 2% on a foreign denominated loan in terms of the thin capitalization rules. However for exchange control purpose, different restrictions and procedures apply depending on whether the loan finance from overseas is from a non-resident branch, from non-resident shareholders or from any other non-resident. Irrespective of the category, interest on a loan from a non-resident is freely remittable offshore provided that the loan facility and the interest rate have been approved by SARS. Interest in respect of foreign loan funding can be remitted abroad, provided the exchange control authorities of the SARB have previously approved the loan facility, the re-payment terms and the interest rate charged on the loan. Generally an interest rate calculated at prime is acceptable by the SARB.

• exchange control may consider requests to borrow from non-shareholders; and

• forward cover can be obtained for the repayment of foreign loans.

9.3 Foreign Direct Investments

In terms of a Circular issued by the SARB in August 2010, Authorised Dealers may approve on application outward foreign direct investments up to R500 million per company per calendar year.
The guidelines and limitations set out below will, however, apply to these outward foreign direct investments.

### 9.3.1 Investment into newly established and newly acquired foreign companies

Where the foreign direct investment is used to establish or require a new foreign company, the following guidelines are to be adhered to:

- Passive real estate investments (residential and commercial) are excluded from the dispensation.
- At least 10% of the foreign target entity’s voting rights must be obtained.
- The proposed investment must be in the same line of business as that of the applicant company.
- An outline of the anticipated benefits must be provided.
- The approved offshore entities (domiciled outside the Common Monetary Area (“CMA”)) may not acquire any assets or make loans to entities within the CMA. Thus, creating a “loop structure”.
- South African owned Intellectual Property (“IP”) may not be transferred by way of a sale, assignment or cession and/or the waiver of rights in favour of non residents in whatever form, directly or indirectly, without the prior approval of the SARB.
- Where goods are exported from South Africa, the applicants are obligated to receive the full currency proceeds in South Africa within 6 months from the date of shipment. Furthermore, all fee receipts due to the applicants should be repatriated to South Africa and be accounted for in an approved manner within 30 days of such funds being received by the applicant.
- The applicants may not change their approved equity interest in the offshore company nor may their voting rights in the aforementioned company be diluted below 10%. The nature of the foreign business operations may also not be changed without the SARB’s specific prior approval and the transfer of any additional working capital from South Africa is subject to a fresh application being submitted to the SARB.
- Should the applicants wish to dispose of their equity interest in the foreign company and for such a disposal to be permissible, the sale of the foreign entity must have been concluded on an arm’s length basis, at a fair and market related price, (payable upfront and no extended credit terms are allowed) and the net sale proceeds must within 30 days of receiving same, be sold to a South African Authorised Dealer for conversion to Rand, under advice to the SARB. A copy of the relative sale agreement must accompany such advice/application.
• The applicants are allowed, without prior approval of the SARB, to expand their offshore business via an existing or newly established offshore entity, through the acquisition of further assets/equity interests offshore, provided such acquisitions are in the same line of business. The expansion must be financed without recourse to South Africa through foreign borrowings or by the employment of profits earned by their offshore company.

No recourse to South Africa may occur to fund or guarantee such offshore expansion and all expansion plans must be placed on record with the Control within 30 days of such expansion taking place.

• South African corporate entities who receive dividends from approved offshore subsidiaries/associate companies (ie dividends declared out of normal trading income of a non-capital nature) may freely retain such dividend proceeds offshore and use it for any purpose provided the application of such dividends does not create any recourse to South Africa. Similarly any dividends that in future are repatriated to South Africa may be retransferred abroad at any time and be used for any purpose, provided that no further recourse to South Africa is created.

• Dividend proceeds may, however, under no circumstances be utilised to fund investments/loans into the CMA, for any purpose whatsoever, via a loop structure, except if invested in approved inward listed instruments based on foreign reference assets or issued by foreign entities, listed on the Johannesburg Securities Exchange or the Bond Exchange of South Africa, respectively.

• The SARB must also on an annual basis be advised of all dividends declared by the offshore operation(s), the amounts repatriated to South Africa or alternatively the dividend amounts retained abroad together with an indication of how such funds were utilised offshore.

• Where guarantees from South Africa have been authorised by an Authorised Dealer and in the event of such guarantee(s) being called up, full details of the circumstances giving rise to the implementation of such guarantee must immediately be forwarded to the SARB.

• The original share certificates of the foreign holding company (where applicable) and the foreign target investment company must be lodged with the Authorised Dealer approving the investment within 30 days of having acquired the offshore shares and such shares may not be released without the Authorised Dealer’s prior approval (In instances where the South African applicant need the foreign shares as collateral for foreign borrowings/debt abroad, the shares certificates may be released by the Authorised Dealer for the specific purpose stated including the disposal of foreign investments as outlined under point (e) above).
• The audited Financial Statements of all approved foreign companies’ together with an outline of the benefits to South Africa must on an annual basis be furnished to the Authorised Dealer approving the request for onward delivery to the SARB.

• Where the criteria as set out above are not adhered to, the SARB reserves the right to call upon the foreign investment to be disposed of and for the proceeds to be repatriated to South Africa.

9.3.2 Investment into newly established foreign branches and offices

Where the foreign direct investment is used to establish new foreign branches or offices, the guidelines are in most instances similar to those mentioned in relation to newly acquired foreign companies.

10 Statutory Taxes and Contributions (Additional information)

10.1 Creation duty

In terms of the Companies Act, ‘creation duty’ is levied upon the formation of a new company and on any subsequent increase of share capital.

The amount of creation duty payable upon formation of a company would depend on the amount of share capital that is stated as having been authorised in the company’s statutory documents. Moreover, to the extent that the authorised share capital of that company has to be increased for whatsoever reason, creation duty will also be levied.

Creation duty is levied at a rate of 0.5% (ie R5 for every R1 000 of share capital, or part thereof).

10.2 Securities transfer tax

Save for certain very limited exceptions (relating to documents signed before 1 July 2008) there are no stamp duties payable on documents in South Africa. Securities transfer tax is payable on the transfer of securities (i.e. shares).

10.3 Transfer duty

A new transfer duty regime was introduced on 23 February 2011 which is applicable to transactions concluded after this date. This regime is applicable to companies and trusts which pay transfer duty in terms of the sliding scale, and no longer at 10% or 8% as was previously charged.

Properties acquired under a purchase agreement concluded on or after 23 February 2011 will be subject to the following rates:
<table>
<thead>
<tr>
<th>Value of property</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 to R600 000</td>
<td>0%</td>
</tr>
<tr>
<td>R600 001 to R1 000 000</td>
<td>3% of value above R600 000</td>
</tr>
<tr>
<td>R1 000 0001 to R1 500 000</td>
<td>R12 00 plus 5% of value above R1 000 000</td>
</tr>
<tr>
<td>R1 500 001 and above</td>
<td>R37 000 plus 8% of value exceeding R1 500 000</td>
</tr>
</tbody>
</table>

10.4 Skills Development Levy (“SDL”)

Every employer is obliged to pay a monthly skills development levy for the purposes of funding the education and training of the South African workforce. SDL is calculated at the rate of 1% of the total remuneration paid or payable, or deemed to be paid or payable, by an employer to its employees during any month, and is payable by every employer who’s annual remuneration paid to all employees is expected to exceed ZAR 500 000. It is an employer contribution.

10.5 Employees’ Tax

All South African resident employers (or resident representative employers in the case of employers who are not a resident) are required to register in South Africa with SARS for employees’ tax. Employers are obliged to withhold PAYE (Pay As You Earn) and SITE (Standard Income Tax on Employees) from remuneration paid or payable to employees on a monthly basis. The aforementioned amounts must be paid to SARS on a monthly basis by no later than the last working day before the 7th of the month, following the month in which the remuneration was paid. The amount to be withheld is calculated in accordance with prescribed tables.

The determination of whether or not the local entity would be required to withhold employees’ tax depends largely on the residence status of the entity as well as the nature of the employees’ relationship with the local entity.

As SARS is currently extremely vigilant with regard to employees’ tax issues and as the penalties for non-compliance are severe, it is important that monthly employees’ tax be withheld where there is any doubt in the above regard.

10.6 Unemployment Insurance Fund (‘UIF’) Contributions

UIF contributions are a form of social security payable by both the employer and the employee. The UIF provides unemployment benefits, illness allowances and death benefits to covered employees and their dependants. Both employer and employee are required by law to make a contribution of 1% of the employee’s remuneration. However, the 2% contribution is only levied on the first R 12 478 of employee remuneration during a month.
Where an employee is an expatriate employee and is in South Africa for the purpose of carrying out a contract of service, he/she will be excluded from contributing to UIF, provided that the contract indicates that he/she will be repatriated at the end of his/her assignment.

10.7 Compensation for Occupational Injuries and Disease Act ("COIDA")

An employer is required to make contributions in terms of the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993. The purpose of the levy is to provide compensation for injury/disability caused by accident or occupational diseases contracted by employees in the course of their employment or death benefits arising where death occurs as a result of injuries sustained in the course of the deceased’s employment.

These contributions are based on a fixed percentage of remuneration per employee and are payable annually upon assessment by the Commissioner (based on the return submitted by the employer on the 31st of March of that year), and differ from industry to industry. The rates are generally low and are determined in accordance with the level of danger in the industry. These contributions are required by the employer only, up to a maximum employee remuneration threshold of ZAR 277 860 per annum (from 1 April 2011).