

# Topical Namibian tax considerations - from a Mining perspective

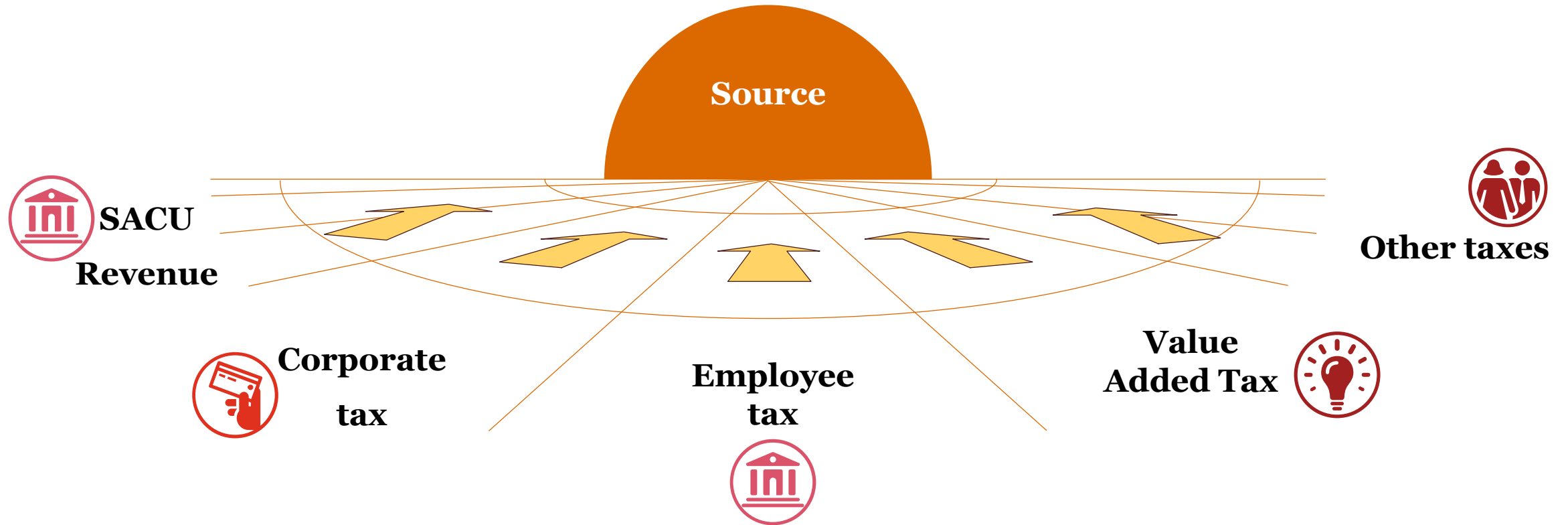
## *April* 2018



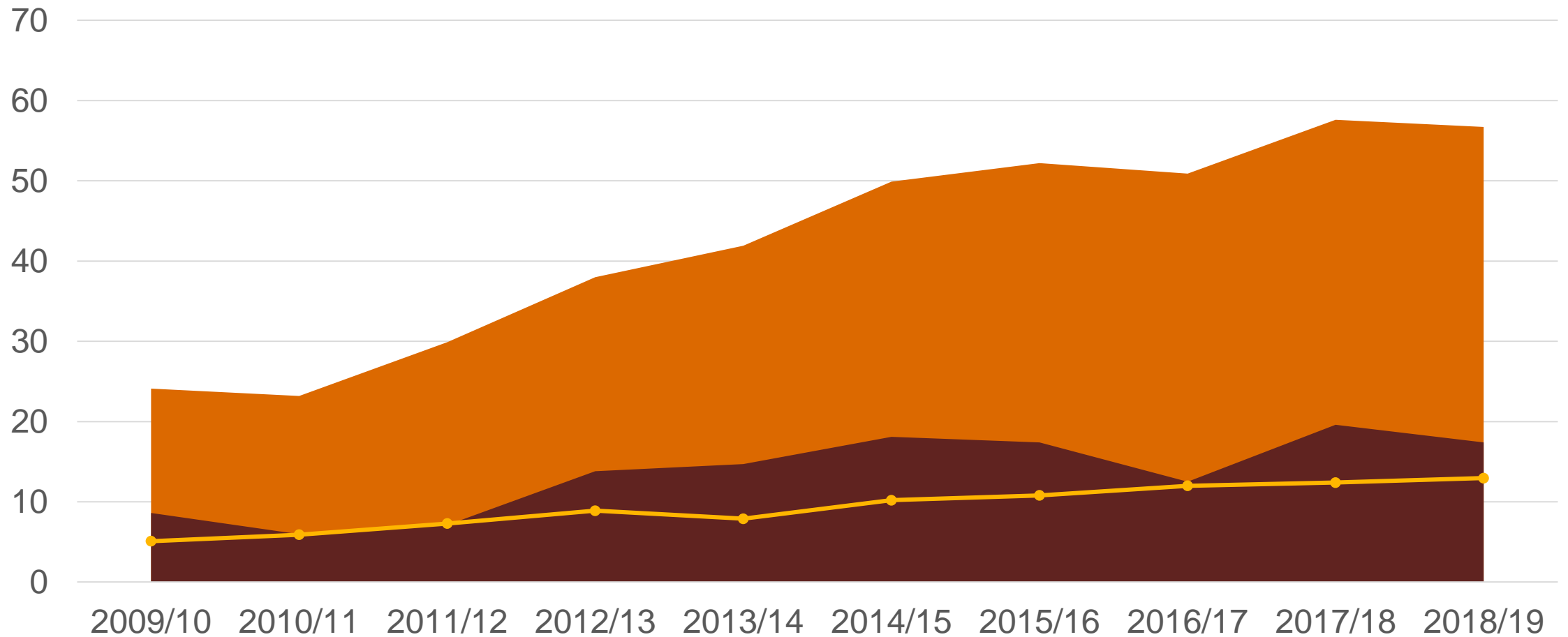
# Agenda

Time	Topic	Presenter
20 minutes	Q&A discussion on <ul style="list-style-type: none"><li>• Mining income tax contribution</li><li>• Value Added tax</li><li>• Employee tax</li><li>• Corporate Tax</li></ul>	Combined contribution: Chantell and Riana
10 minutes	Open floor commentary/questions	Combined contribution: Chantell and Riana

# Namibian Tax revenue



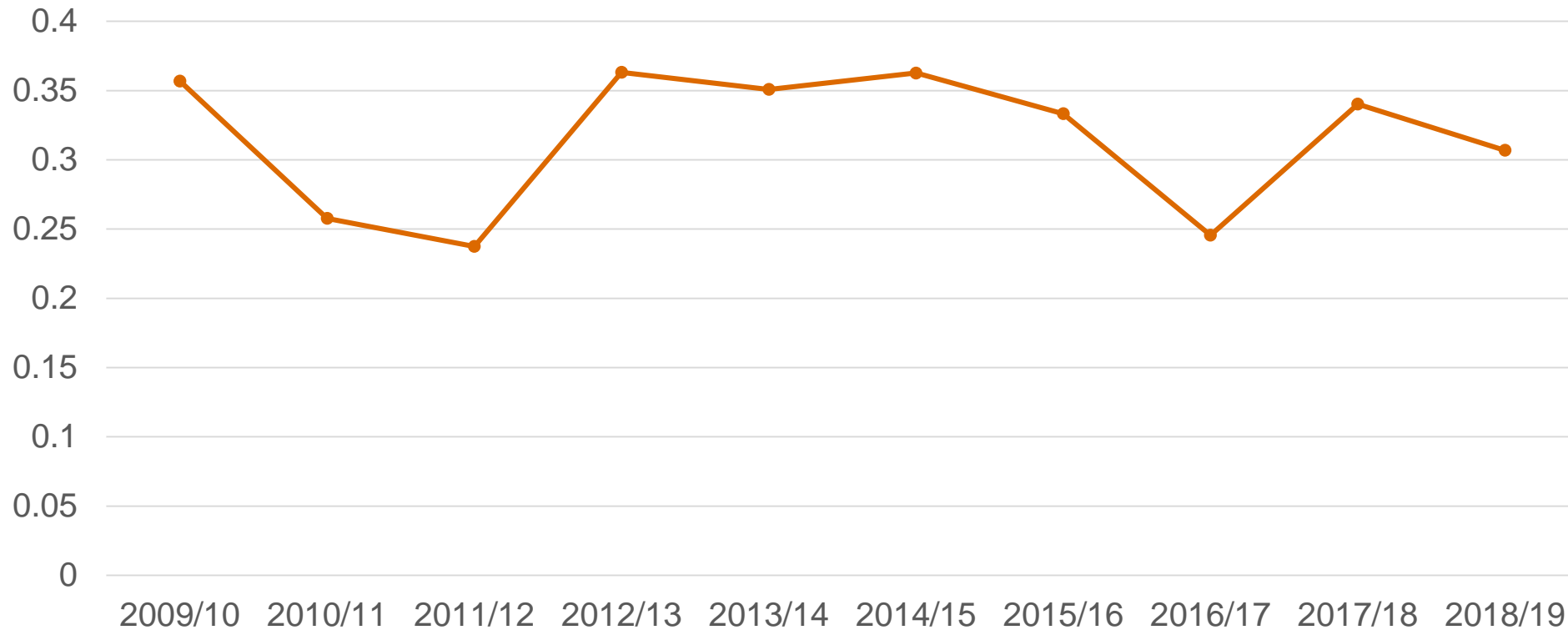
## ***Total Tax Revenue, SACU revenue and Corporate Tax revenue: 2009/10 to 2018/19: N\$(B)***



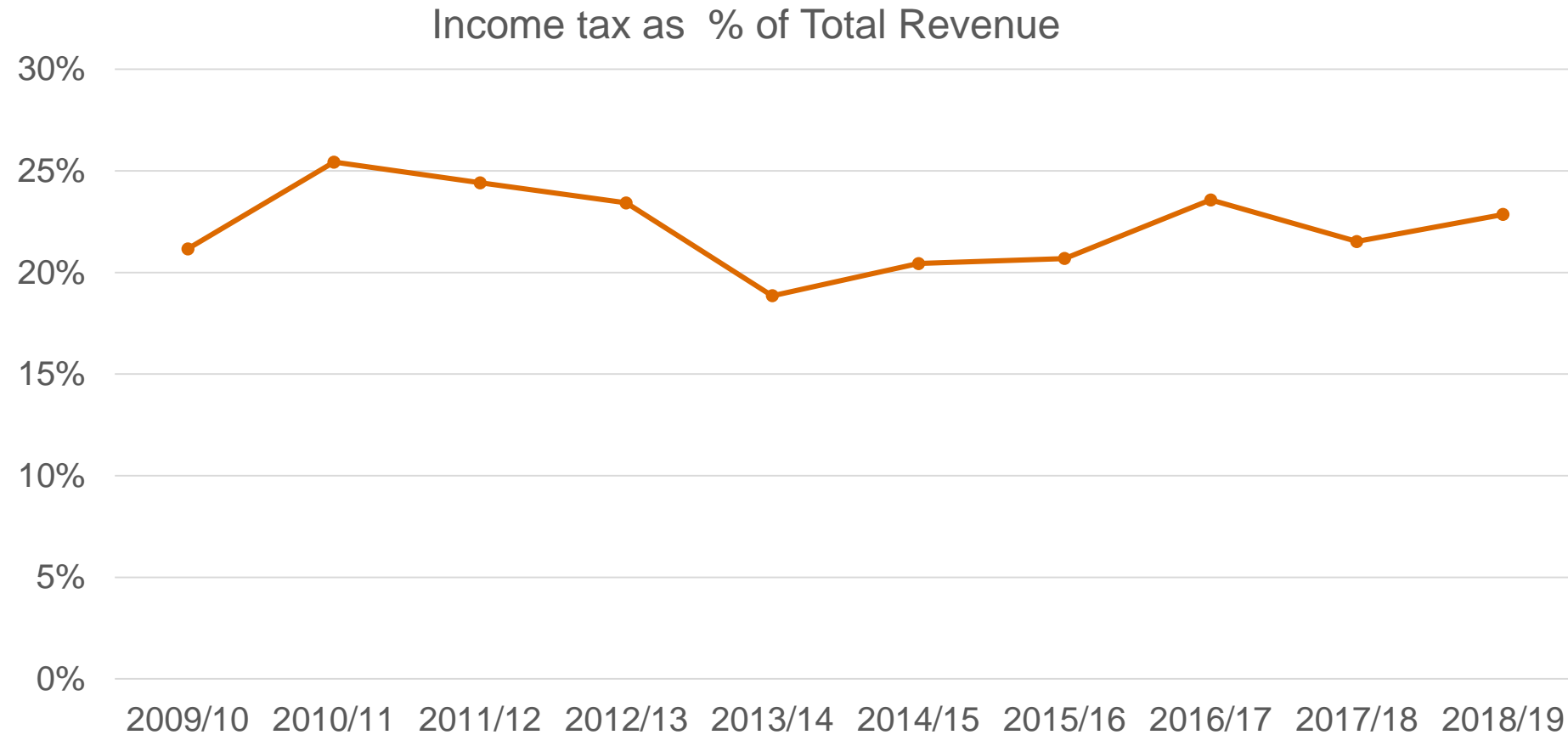
# ***SACU and Corporate Tax as % of Total Revenue***



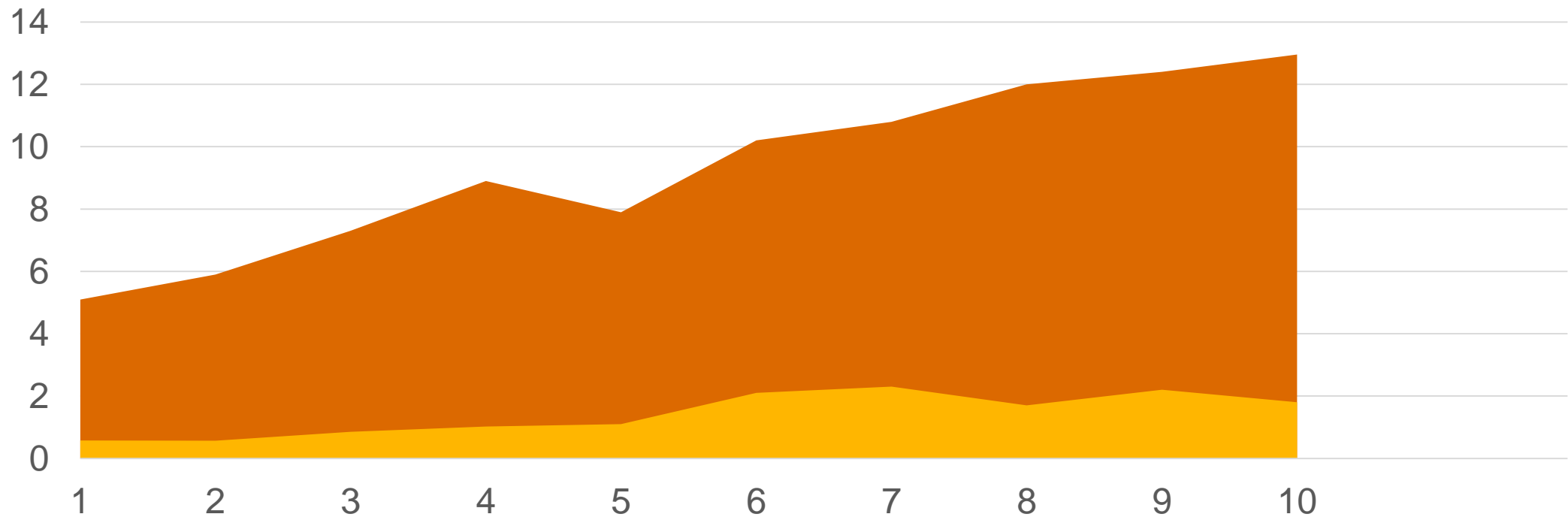
SACU revenue as % of Total Revenue



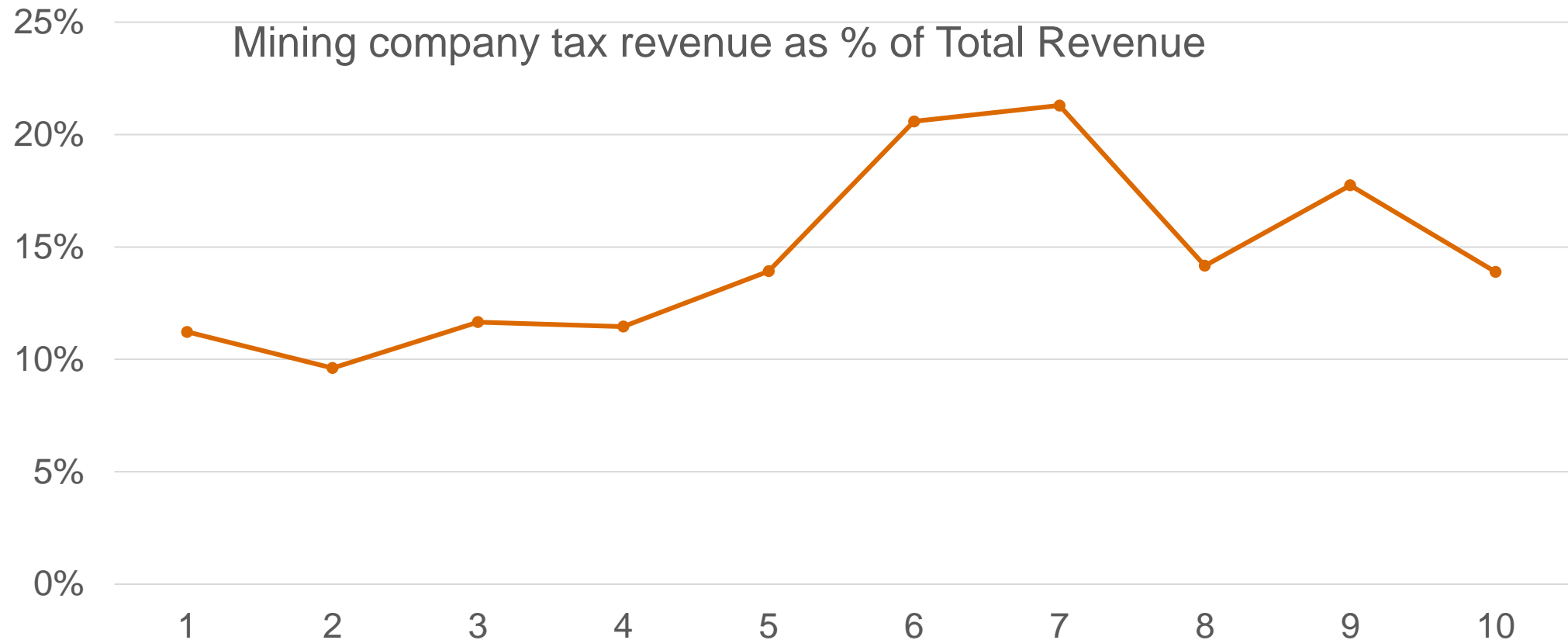
# ***SACU and Corporate Tax as % of Total Revenue***



## ***Corporate Tax revenue – mining companies contribution 2009/10 to 2018/19: N\$(B)***

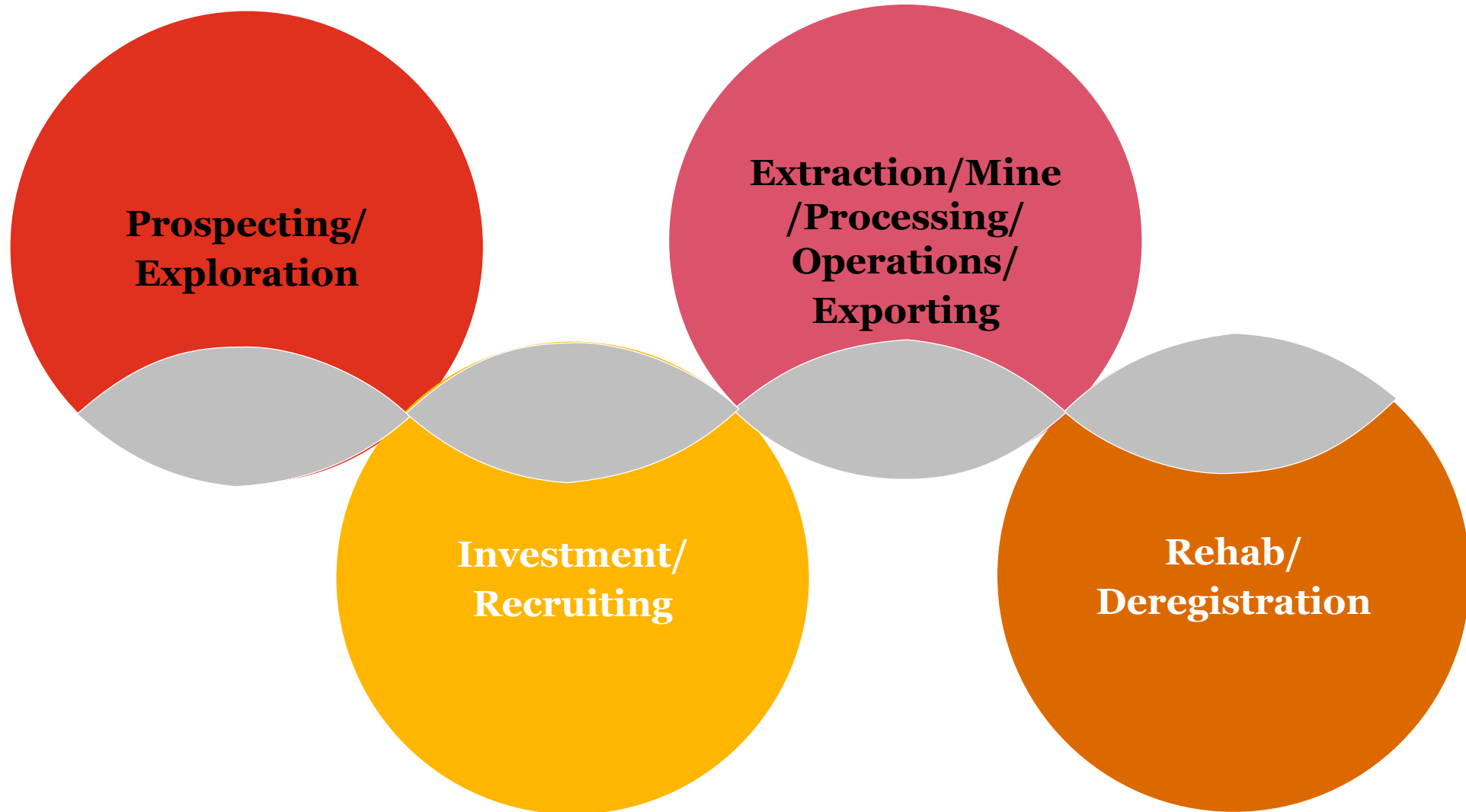


## ***Corporate Tax revenue and mining companies contribution: 2009/10 to 2018/19: N\$(B)***

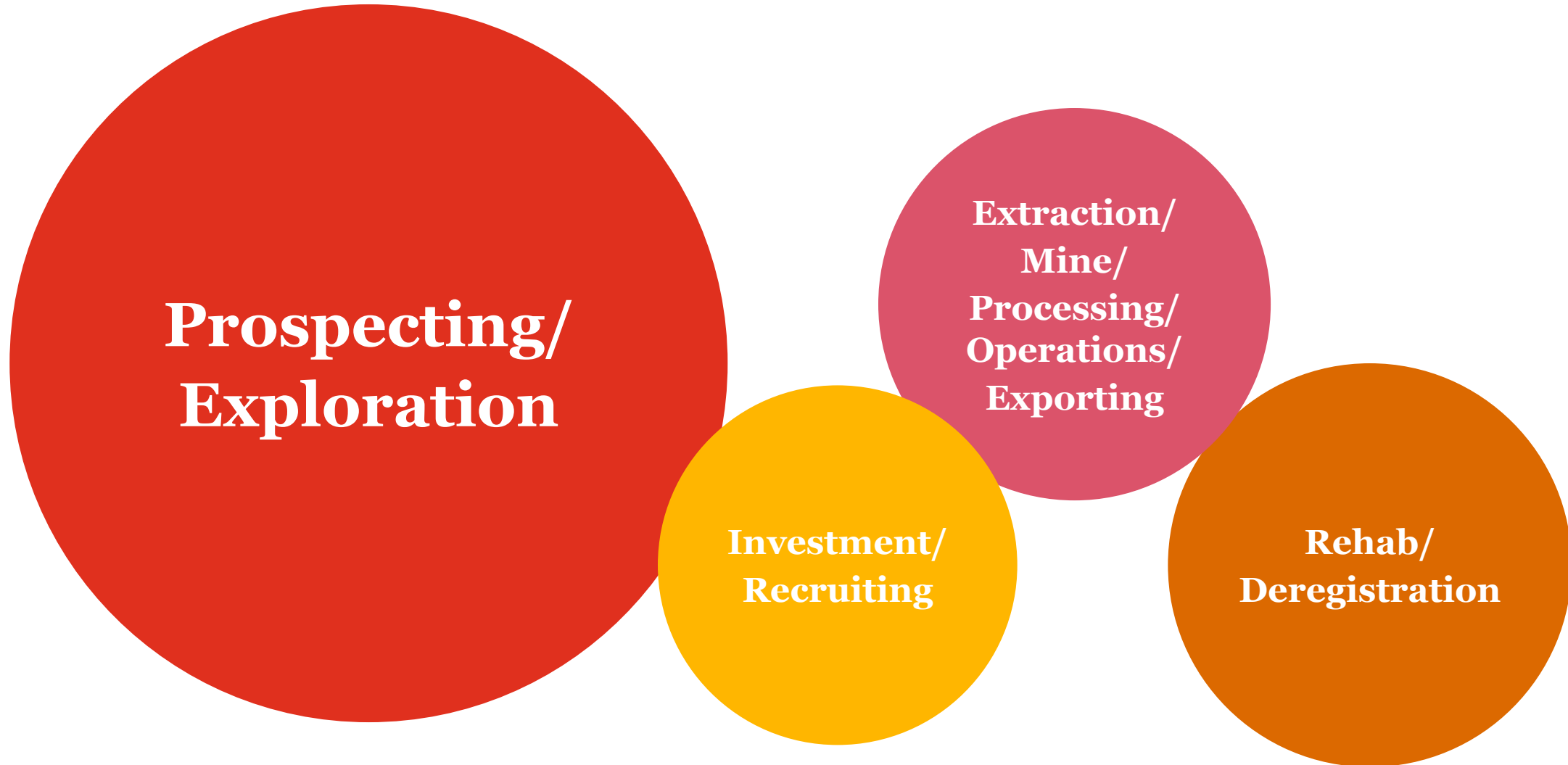




## ***The mining process***



## ***The mining process***




# ***VAT registration***

## **Voluntary and Mandatory registration**




- N\$0-N\$200K = Voluntary registration




- N\$200K – N\$500K = Compulsory registration



- VAT on exploration costs?



- No deferment of input tax



- Denied input tax



## ***Voluntary Registration***

Taxable supplies >  
N\$200,000



## ***The mining process***



## ***International Assignees***

- All earnings earned in Namibia are generally taxed in Namibia (source)
- Gross up (fringe benefit)
- If double tax treaty exists between home country and Namibia conditions of treaty may provide tax relief to the individual.
- General treaty requirements: In respect of employment in Namibia remuneration shall be taxable in the home country only if all three of the below conditions apply:



Person is present in Namibia for period **less than 183** aggregate days in a 12 month period; **AND**



Remuneration is paid by an **employer** who is **not a resident** of Namibia; **AND**



Remuneration is **not borne** by a **permanent establishment** or a **fixed base** which the employer has in Namibia.

## ***The mining process***



## ***Interest income earned from mining operations***



- Part of mining operations and taxed at 37.5%?
- Separately taxed as non-mining at 32%?
- Look at underlying nature of the interest, is it really interest or is it dividends and capital growth?
- Ignore accounting treatment, look at real nature
- Know the product and speak to your investment advisor



# ***Transfer Pricing***

## **Section 95A of the Income Tax Act**

- All transactions between;
- cross-border;
- connected persons;
- should be conducted at arm's length (i.e market related prices).

## **Profit follows:**

- Functions undertaken
- Risks undertaken
- Assets utilised



# *Thin Capitalisation – What is the rule?*

## **1) Debt : Equity Ratio should be 3:1 on interest bearing loans between related parties**

- Equity = Fixed capital includes:
  - Share capital
  - Share premium
  - Accumulated profits (Capital and Revenue)
  - Permanent owner's capital (where no share capital)
  - Reduce by any reserves and increase by any losses
- Debt = Interest bearing loans and other financial assistance

### **Consequence of getting the ratio wrong:**

- Excessive interest disallowed as income tax deduction
- Interest, penalties

# Zero Rated Sales

Direct export of goods from Namibia **01**

**Sch. III**

**0%**

Services to a non-resident not in Namibia  
at the time the services are supplied  
(restrictions to this provision)

**02**

# Recap

## Denied Inputs

The following input tax claims are prohibited by the VAT Act:

- **Passenger vehicles, except**  
(no matter if for business use)

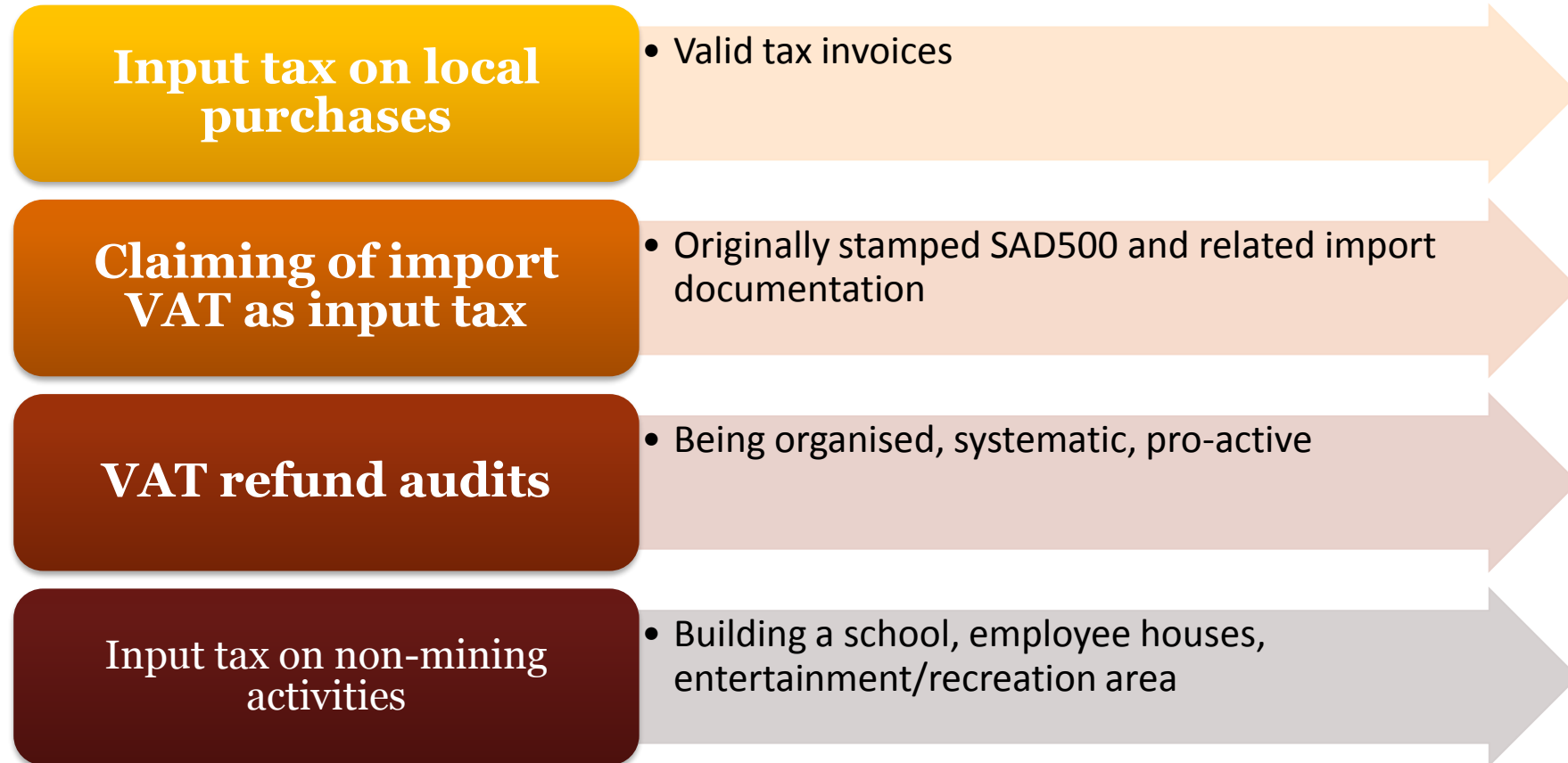
*dealers, tour operators, rental companies,  
short-term insurers,  
charitable organizations,  
children's' home, old-age home, orphanage*

- **Entertainment** (food (meals to staff / crew), beverages, tobacco, accommodation amusement, recreation or hospitality of any kind)  
**Except**

*tour operators,  
entertainment business,  
part of transport services  
(being taxable supplies)*



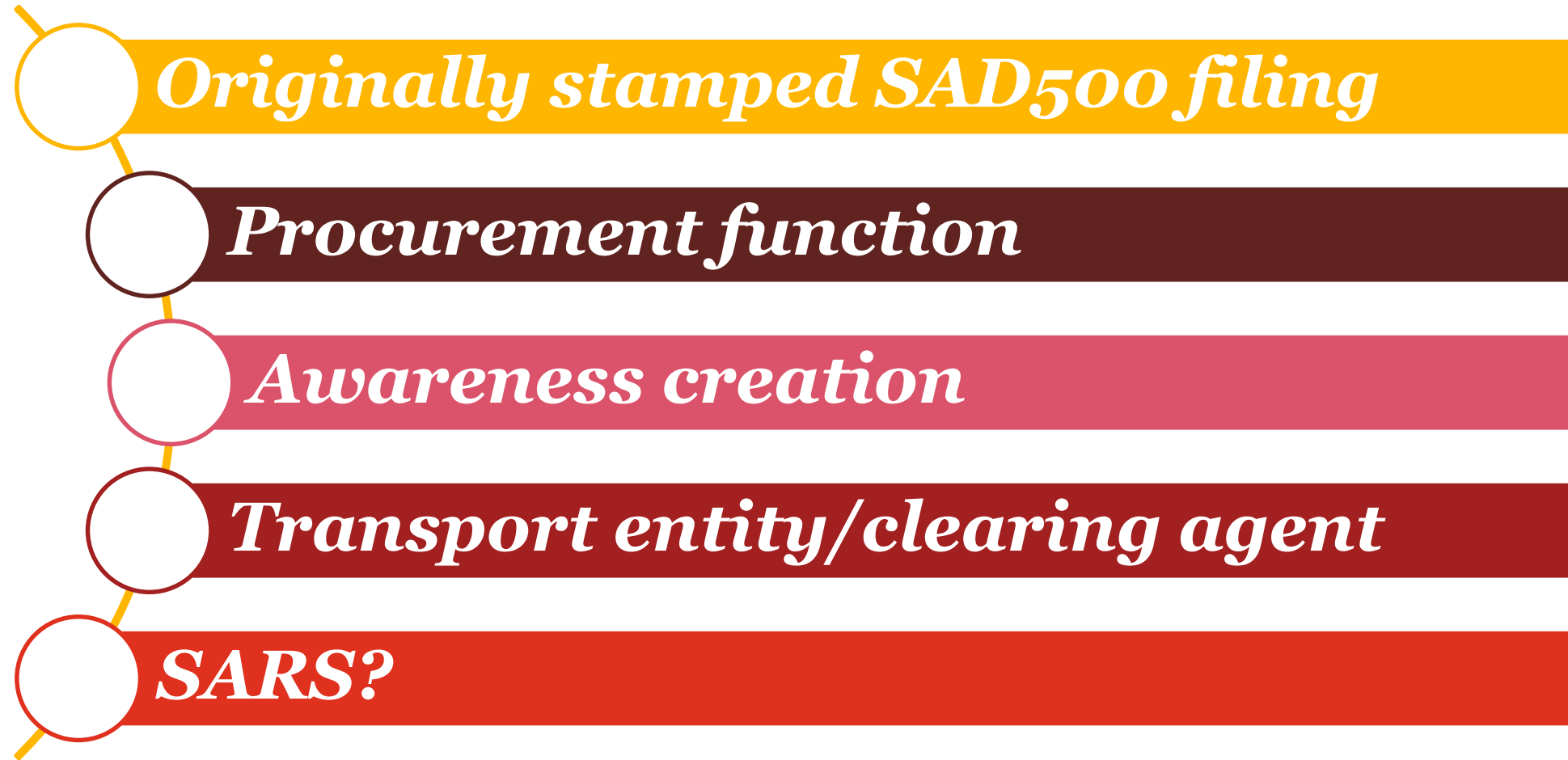
***Document retention – all of these have a N\$ value...  
...the art is not in filing but in retrieving....***



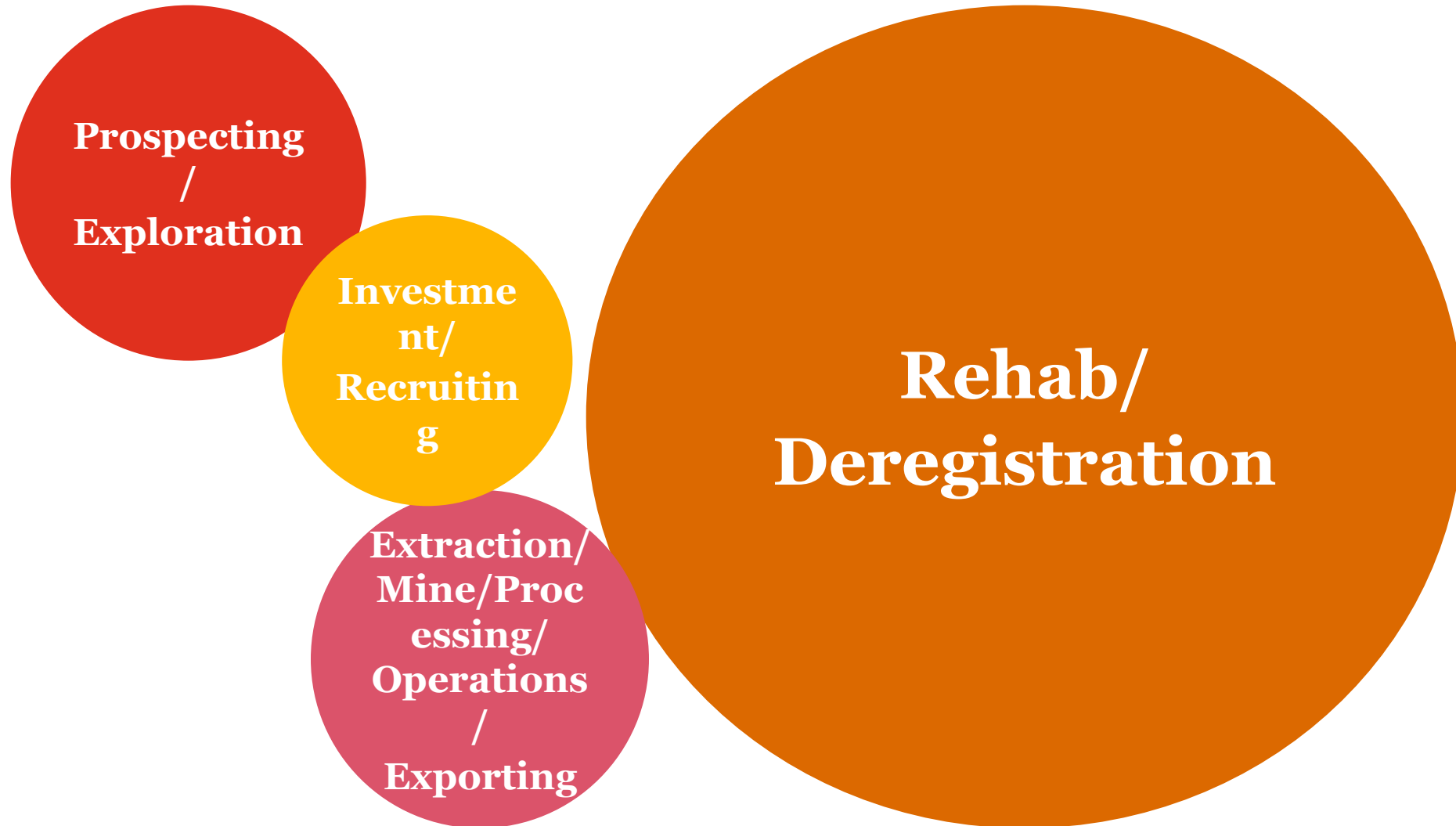
## ***A tax invoice to contain the following: (Awareness, Staff training, new recruits)***

- ☑ The word “tax invoice” must appear prominently
- ☑ Name, address and registration number of the supplier
- ☑ Name and address of the recipient
- ☑ Individual serialised number and date
- ☑ Description of goods or services
- ☑ Quantity or volume
- ☑ The consideration excluding tax, the total amount of tax charged and the total consideration
- ☑ Must be in English

## ***Import documentation – Ready for a Customs audit?***

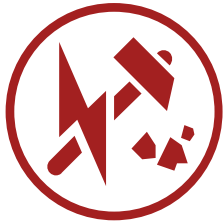


## ***The mining process***





## ***Specific inclusions– Paragraph (o) of gross income definition***

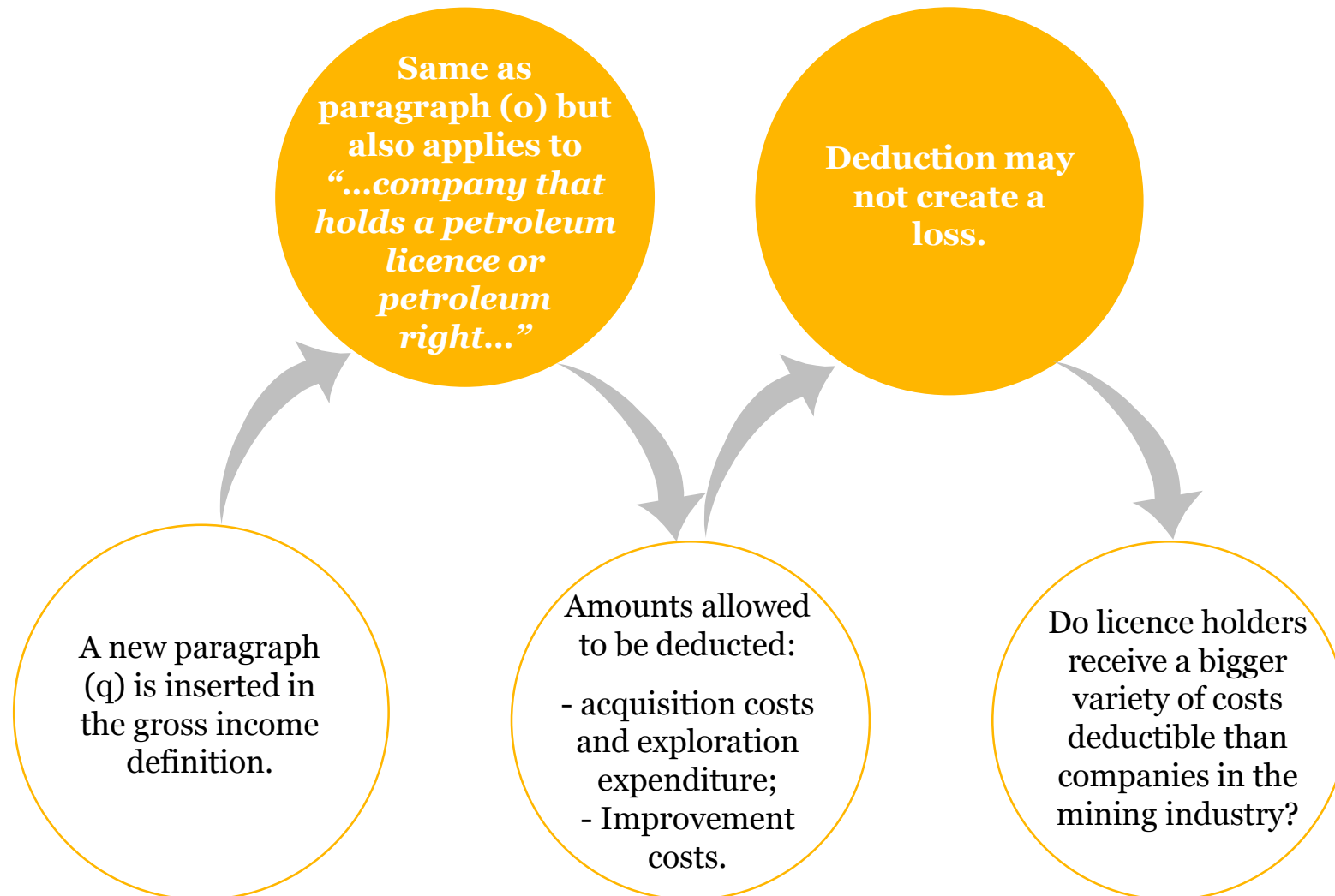


**The definition of “mineral licence” in Section 1.**

***“ any mineral licence as defined in the Minerals (Prospecting and Mining) Act, 1992 (Act No 33 of 1992)”***

*“any amount received or accrued, whether in money or in kind, as consideration (or payment of like nature) or the open market value by way of a sale, donation, expropriation, cession, grant or other alienation or transfer of ownership of a mineral licence or right to mine minerals in Namibia, **and includes a sale, donation, expropriation, cession, grant or any other alienation or transfer of ownership of **any** share or member’s interest in a company that holds a mineral licence or mineral right whether **directly, or indirectly, less the acquisition cost of the mineral licence or mineral right, but the acquisition cost of the licence or right may not create a loss**”***

## ***Specific inclusions– Paragraph (q) of gross income definition***



## ***Rehabilitation Expenditure – Section 18***

The deduction of expenses incurred and/or a provision for rehabilitation

Old legislation no longer applicable

Do while still busy with operations so it can be argued as expense incurred in production of income

Alternative – contributions to not for profit organisation qualifying for exemption under the Income Tax Act



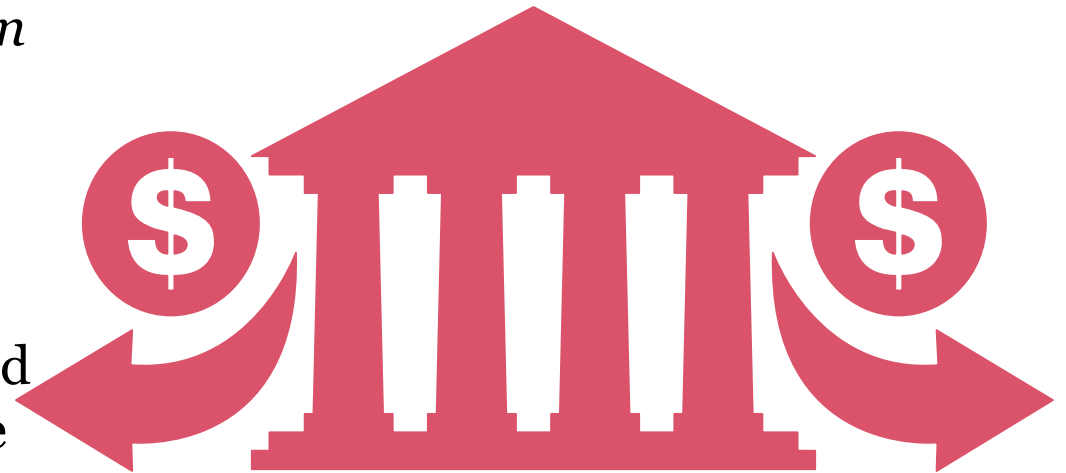
## ***Rehabilitation Trust – Section 16(1)(f)(i)(cc)***

The establishment of such a **rehabilitation trust** **may** obtain **tax exemption** under **s16(1)(f)(i)(cc)**

– “*the receipts or accruals of any company, trust, etc..... if its **sole or principal object** is to engage in or promote **nature conservation** or animal protection activities*”

Thus, if such exemption has been obtained for such rehabilitation trust, the **provision of funds** received by such trust will **not be taxable** in the hands of the trust.

However, any **returns received by such trust on investments** made by the trust may be taxable in the hands of the trust depending on the nature of the investments.



## ***Business Restructuring – VAT effects***

### **Share / member's interest sale**

- Non-supply = not subject to VAT (**look out for 2018/2019 proposed VAT amendment**)

### **Going Concern Sale**

- **15** % supply unless approval obtained for **0** %

### **Asset Sale**

- **15** % supply unless Input VAT was denied (non-supply)**Asset Sale**

### **VAT and Import VAT deregistration**

- **15** % deemed supply market value of capital goods still on hand (property?)

# Thank you



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