9. ROYALTIES, MINING AND INCOME TAXATION

Significant accounting judgements and estimates

The Group is subject to income taxes in South Africa. Significant judgement is required in determining the liability for income taxes due to the complexity of legislation. There are many transactions and calculations for which the ultimate tax determination is uncertain during the ordinary course of business. The Group recognises liabilities for anticipated tax audit issues based on estimates of whether additional taxes will be due. Where the final tax outcome of these matters is different from the amounts that were initially recorded, such differences will impact the income tax and deferred tax provisions in the period in which such determination is made.

The Group recognises the net future tax benefit related to deferred income tax assets to the extent that it is probable that the deductible temporary differences will reverse in the foreseeable future. Assessing the recoverability of deferred income tax assets requires the Group to make significant estimates related to expectations of future taxable income. Estimates of future taxable income are based on forecast cash flows from operations and the application of existing tax laws in each jurisdiction. To the extent that future cash flows and taxable income differ significantly from estimates, the ability of the Group to realise the net deferred tax assets recorded at the reporting date could be impacted.

The mining operations are taxed on a variable rate that increases as the profitability of the operation increases. The deferred tax rate used to calculate deferred tax is based on the current estimate of future profitability when the temporary differences will reverse based on tax rates and laws that have been enacted at the reporting date. Depending on the profitability of the operations, the deferred tax rate can consequently be significantly different from year to year. Calculating the future profitability of the operations is inherently uncertain and could materially change over time

Additionally, future changes in tax laws in South Africa could limit the ability of the Group to obtain tax deductions in future periods.

9. ROYALTIES, MINING AND INCOME TAXATION (continued)

Accounting policy

Income taxation comprises current and deferred tax. Current tax and deferred tax is recognised in profit or loss except to the extent that it relates to a business combination, or items recognised directly in equity or in other comprehensive income.

Current tax is measured on taxable income at the applicable statutory rate enacted or substantively enacted at the reporting date.

Deferred taxation is provided on temporary differences existing at each reporting date between the tax values of assets and liabilities and their carrying amounts. Substantively enacted tax rates are used to determine future anticipated effective tax rates which in turn are used in the determination of deferred taxation.

Deferred tax is not recognised for:

- temporary differences on the initial recognition of assets or liabilities in a transaction that is not a business combination and that affects neither accounting nor taxable profit or loss;
- temporary differences related to investments in subsidiaries to the extent that the Group is able to control the timing of the reversal of the temporary differences and it is probable that they will not reverse in the foreseeable future; and
- taxable temporary differences arising on the initial recognition of goodwill.

These temporary differences are expected to result in taxable or deductible amounts in determining taxable profits for future periods when the carrying amount of the asset is recovered or the liability is settled. The principal temporary differences arise from depreciation of property, plant and equipment, provisions, unutilised capital allowances and tax losses carried forward.

Deferred tax assets and liabilities are offset if there is a legally enforceable right to offset current tax liabilities and assets, and they relate to taxes levied by the same tax authority on the same taxable entity, or on different tax entities, but they intend to settle current tax liabilities and assets on a net basis or their tax assets and liabilities will be realised simultaneously.

Deferred tax assets relating to the carry forward of unutilised tax losses and/or unutilised capital allowances are recognised to the extent it is probable that future taxable profit will be available against which the unutilised tax losses and/or unutilised capital allowances can be recovered. Deferred tax assets are reviewed at each reporting date and are adjusted if recovery is no longer probable.

No provision is made for any potential taxation liability on the distribution of retained earnings by Group companies.

9.1 ROYALTIES

The Mineral and Petroleum Resource Royalty Act 2008 (Royalty Act) was promulgated on 24 November 2008 and became effective from 1 March 2010. The Royalty Act imposes a royalty on refined (mineral resources that have undergone a comprehensive level of beneficiation such as smelting and refining as defined in Schedule 1 of the Royalty Act) and unrefined (mineral resources that have undergone limited beneficiation as defined in Schedule 2 of the Royalty Act) minerals payable to the State. The royalty in respect of refined minerals (which include gold refined to 99.5% and above and platinum) is calculated by dividing earnings before interest and taxes (EBIT) by the product of 12.5 times gross revenue calculated as a percentage, plus an additional 0.5%. EBIT refers to taxable mining income (with certain exceptions such as no deduction for interest payable and foreign exchange losses) before assessed losses but after capital expenditure. A maximum royalty of 5% has been introduced on refined minerals. The effective rate of royalty tax payable for the year ended 31 December 2013 was approximately 2.1% of mining revenue (2012: 1.7%).

US dollar		Figures in million	SA rand	
2012	**2013**		**2013**	2012
(34.4)	**(43.2)**	Current year charge	**(414.6)**	(282.1)
(34.4)	**(43.2)**	**Total royalties**	**(414.6)**	(282.1)

notes to the consolidated financial statements

continued

for the year ended 31 December 2013

9. ROYALTIES, MINING AND INCOME TAXATION (continued)

9.2 MINING AND INCOME TAXATION

The components of mining and income taxation are the following:

US dollar		Figures in million	SA rand	
2012	**2013**		**2013**	2012
(52.2)	**(80.4)**	Mining tax	**(771.0)**	(428.3)
(1.0)	**(2.9)**	Non-mining tax	**(27.7)**	(8.1)
(2.8)	**(1.3)**	Company and capital gain tax	**(12.7)**	(22.8)
(1.9)	**0.2**	Prior year adjustment current tax	**1.6**	(15.6)
(57.9)	**(84.4)**	Total current tax	**(809.8)**	(474.8)
102.5	**57.7**	Deferred tax	**553.6**	839.8
44.6	**(26.7)**	**Total mining and income taxation**	**(256.2)**	365.0

Reconciliation of the Group's income tax to the maximum South African statutory mining tax rate of 34.0% (2012: 34%):

US dollar		Figures in million	SA rand	
2012	**2013**		**2013**	2012
		South African statutory tax rates		
		Mining tax[1]	**Y=34-170/X**	Y=34-170/X
		Non-mining tax[2]	**28.0%**	28.0%
		Company tax rate	**28.0%**	28.0%
(108.6)	**(69.2)**	Tax on profit before taxation at maximum South African statutory mining tax rate	**(664.5)**	(889.2)
34.5	**34.3**	South African mining tax formula rate adjustment	**329.6**	282.4
2.0	**(6.6)**	Rate adjustment to reflect the company tax rate of 28%	**(63.7)**	16.6
(10.9)	**(7.6)**	Non-deductible share-based payments	**(72.6)**	(89.6)
5.1	**0.1**	Net non-taxable income and non-deductible expenditure	**1.4**	41.3
122.5	**22.3**	Deferred tax release on reduction of rate[3,4]	**213.6**	1,003.5
44.6	**(26.7)**	**Mining and income taxation**	**(256.2)**	365.0

[1] Mining tax on mining income is determined according to a formula which takes into account the profit and revenue from mining operations. Mining taxable income is determined after the deduction of all mining capital expenditure, with the proviso that this cannot result in an assessed loss. Capital expenditure amounts not deducted are carried forward as unredeemed capital expenditure to be deducted from future mining income. Accounting depreciation is ignored for the purpose of calculating mining taxation. In the formula above, Y is the percentage rate of tax payable and X is the ratio of mining profit, after the deduction of redeemable capital expenditure, to mining revenue expressed as a percentage.

[2] Non-mining income consists primarily of interest income

[3] The change in the estimated long term deferred tax rate at which the temporary differences will reverse amounted to a tax credit of R213.6 million (US$22.3 million) during 2013.

[4] During the budget speech in February 2012, the minister of finance announced that secondary tax on companies (STC) will be abolished resulting in the abolishment of the STC inclusive mining tax formula. The result was that there is now only one mining tax formula, which resulted in a deferred tax credit of R1,003.5 million (US$122.5 million) during 2012.

9. ROYALTIES, MINING AND INCOME TAXATION (continued)

9.2 MINING AND INCOME TAXATION (continued)

At 31 December 2013, the Group had the following estimated amounts available for set-off against future income:

US dollar		Figures in million	SA rand	
2012	**2013**		**2013**	2012
		Tax losses		
17.1	**–**	Living Gold Proprietary Limited (refer to note 13)	**–**	146.4
1.2	**0.9**	Golden Oils Proprietary Limited	**9.7**	10.1
18.3	**0.9**	**Total gross tax losses**	**9.7**	156.5
		Deferred tax assets not recognised		
4.8	**–**	Living Gold Proprietary Limited (refer to note 13)	**–**	41.0
0.3	**0.3**	Golden Oils Proprietary Limited	**2.7**	2.8
5.1	**0.3**	**Total net tax losses**	**2.7**	43.8

These deductions are available to be utilised against income generated by the relevant tax entity and do not expire unless the tax entity concerned ceases to operate for a period of longer than one year. Under South African mining tax ring-fencing legislation, each tax entity is treated separately and as such these deductions can only be utilised by the tax entities in which the deductions have been generated. South African tax losses have no expiration date.