

Sage VIP Payroll Pocket Guide 2015/16

A complete reference guide covering legislative matters that affect the payroll practitioner in South Africa

Quick Reference

Subsistence Allowance

Travel inside RSA - incidentals only	R109
Travel inside RSA - meals and incidentals	R353
Travel outside RSA - meals and incidentals	Schedule of limits per country

Reimbursed Kilometres (Travel)

Current rate is R3.18 per kilometre.

Long Service Award

The first R5 000 of the asset given to an employee is free from tax. The value of the asset that exceeds R5 000 is taxed as an Acquisition of an Asset.

Official Interest Rate (Low and Interest Free Loans)

Reserve Bank repurchase rate plus 1% from 1 March 2011. The repurchase rate is 5.75% as from August 2014.

UIF Limit - R178 464 per annum, R14 872 per month or R3 432 per week as from 1 October 2012.

OID Limit - R332 479 per annum for 2014/2015.

The limit for 2015/2016 has not yet been promulgated.

BCEA Earnings Threshold - R205 433.30 per annum as from 1 July 2014.

Medical Tax Credits

• R270 for main member • R270 for first dependant • R181 for each additional dependant.

Bursaries

A bona fide bursary, enabling a person to study at a recognised educational or research institution.

Open bursary: Exempt from tax.

Closed bursary: Exempt if granted to an employee and the employee agrees to repay the employer if the employee does not complete the studies. Also exempt if granted to a relative of an employee, unless the employee's remuneration for the previous year of assessment was above R250 000. If the remuneration for the previous year of assessment was R250 000 or less, the first R10 000 of the bursary is exempt for an NQF level 1-4 qualification, and the first R30 000 of the bursary is exempt for an NQF level 5-10 qualification.



The following limits may change during the year: Official interest rate, UIF limit, OID limit and BCEA earnings threshold.

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DISCLAIMER

This document includes amendments to the Income Tax Act (1962) up to and including the Taxation Laws Amendment Act 2014. It also includes the proposed budget changes although these had not yet been promulgated at the time of printing.

Although care has been taken with the preparation of this document, Sage HR & Payroll makes no warranties or representations as to the suitability or quality of the documentation or its fitness for any purpose and the client uses this information entirely at own risk.

The purpose of this document is to address employees' tax and only include references to income tax where applicable.

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Key to Icons



Helpful Hints

General information to assist with the practical application of a topic.



Budget Proposals

Changes to these items were proposed in the budget, but were not yet promulgated at print time. Please visit our website or the SARS website, www.sars.gov.za for updated information.



Possibility to Change

These items may change during the course of the year. Please visit our website or the SARS website, www.sars.gov.za for updated information.

1. Terminology

All references to 'he' or 'his' includes 'she' or 'her' in the case of a female taxpayer, and 'it' or 'its' refers to a taxpayer other than an individual, and is not intended to be discriminatory.

The word 'company' when used in the context of the Income Tax Act, 1962 includes a closed corporation, and the term 'director of a private company' includes a member of a closed corporation who performs the same duties.

A person includes both a natural person and a legal entity.

A natural person for tax law purposes is:

- an individual,
- a sole proprietor, or
- a partner in a partnership.

A legal entity for tax law purpose is:

- a public company,
- a private company,
- a closed corporation,
- a trust, or
- any divisional council, municipal council, village management board or like authority.

2. Definitions & Employees' Tax Concepts

Employees' tax is an advance payment against the liability for income tax at the end of the tax year, and is collected through a system of employees' tax and provisional tax payments. The employer must withhold employees' tax from all remuneration paid or payable to an employee during the tax year, and the Fourth and Seventh Schedules to the Income Tax Act have been devoted to this requirement.

Remuneration and employees' tax are thus merely estimates to allow the advance collection of income tax on a regular and equitable basis.

The Fourth Schedule to the Income Tax Act requires three elements to be present before employees' tax can be withheld for payment to SARS:

- an employer
- paying remuneration
- to an employee.

2.1 Employer (Paragraph 1, Fourth Schedule)

An employer is defined by the Fourth Schedule as being any person who pays or is liable to pay any person (natural or legal) any amount by way of remuneration.

2.2 Employee (Paragraph 1, Fourth Schedule)

An employee is defined by the Fourth Schedule as:

- any person, excluding a company, who receives/accrues any remuneration,
- any person who receives remuneration for services rendered to or on behalf of a labour broker,
- any labour broker,
- any class or category of person declared by notice in the Gazette to be an employee,
- any personal service provider, and
- any director of a private company.

2.2.1 Labour Broker

A labour broker is any natural person who for reward:

- provides a client with other persons to render a service or perform work for the client, or

- procures other persons for a client, and remunerates those other persons for their services to or work done for the client.



A labour broker must always be processed on the payroll, whether in possession of an IRP30 or not. Note that a labour broker for employees' tax purposes can only be a **natural** person.

If the labour broker is not in possession of an IRP30 exemption certificate issued by SARS, employees' tax must be withheld from the payment made to the labour broker.

All payments made to labour brokers must be reported on either an IRP5 or an IT3(a) against code 3617.

2.2.2 Personal Service Providers (PSP)

A company or trust is classified as a Personal Service Provider if:
(tick the appropriate blocks)

- ☐ 1 [any services are rendered personally to a client of the company or trust by a connected person to the company or trust,
- And**
- [the person would be regarded as an employee had he rendered the services directly to the client (i.e. not through the company/trust),
- Or**
- ☐ 2 [the service must be performed mainly at the premises of the client and the service provider is subject to control and supervision as to the manner in which the service is performed,
- Or**
- more than 80% of the income of the company or trust from services rendered consists, or is likely to consist of amounts received from any one client,
- Except**
- ☐ 3 [if the company or trust throughout the year of assessment employs 3 or more employees who are on a full time basis rendering the service on behalf of the company, other than a shareholder or member of the company or trust or a connected person to such person.

If (1) and (2) is ticked, the company or trust is a PSP.

If only (1) or (2) is ticked, the company or trust is **not** a PSP.

If (3) is ticked, the company or trust is **not** a PSP, even if (1) and (2) is ticked.

If the only ground on which the entity is declared to be a PSP is the “80% of service income” rule, the entity may supply the client an annual affidavit that it does not receive 80% of its service income from any one client, and the client may rely on this affidavit in good faith.

A Personal Service Provider is taxed at a rate of:

- 28% for a Personal Service Provider company and
- 41% for a Personal Service Provider trust.



A company that is **not** a personal service provider must not be loaded into the payroll, nor receive a tax certificate.

2.2.3 Independent Contractors and ‘Deemed Employees’

When dealing with natural persons only, an amount paid for services rendered is excluded from remuneration if the payment is made to:

- a resident of South Africa **and**
- the payment is for services rendered in the course of carrying on any independent trade.

A person will **not** be an Independent Contractor (i.e. is an employee for employees’ tax purposes) if he:

- | | | |
|--------------------------|---|--|
| <input type="checkbox"/> | 1 | is not a resident of South Africa, or
renders services to or on behalf of a labour broker, or
is a labour broker, or
is a personal service provider, or |
| <input type="checkbox"/> | 2 | if services must be performed mainly at the premises of the person paying for or requesting the service and the service provider is subject to control and supervision as to the manner in which the duties are performed or to the hours of work. |

Except

- | | | |
|--------------------------|---|---|
| <input type="checkbox"/> | 3 | if the person throughout the year of assessment employs 3 or more employees who are on a full time basis rendering the service on behalf of the person, other than connected person to such person. |
|--------------------------|---|---|

If (1) is selected at any time, the person is **not** an Independent Contractor.

If only (2) is selected, the person is **not** an Independent Contractor.

If (2) and (3) are selected, the person is an Independent Contractor.

The amount paid for services rendered by an individual who is determined not to be an Independent Contractor is deemed to be remuneration and is subject to PAYE.



Report all remuneration paid to an Independent Contractor on the tax certificate against code 3616.

2.3 Remuneration (Paragraph 1 and Paragraph 11A, Fourth Schedule)

Remuneration is defined as any amount of income which is paid or payable by way of any salary, leave encashment, wage, overtime pay, bonus, gratuity, commission, fee, voluntary award, lump sum payment, annuity, emolument, pension, superannuation allowance, retiring allowance or stipend, whether in cash or otherwise, and whether or not in respect of services rendered.

In addition to the general definition above, the following items are specifically included in remuneration:

- annuities,
- any amount received for services rendered by virtue of any employment or the holding of any office,
- restraint of trade payments,
- any amount received in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment, excluding lump sum awards from a pension, provident or retirement annuity fund,
- lump sum benefits from a pension, provident or retirement annuity fund,
- any amount received in commutation of amounts due under any contract of service,
- the cash equivalent of any fringe benefits calculated in accordance with the provisions of the Seventh Schedule, except the user of motor vehicle fringe benefit (see Fringe Benefits, section 6),
- an allowance or advance included in taxable income by section 8(1)(a)(i), other than a travel, subsistence or public office allowance,
- 80%/20% of any travel allowance,
- 80%/20% of the cash equivalent of the user of motor vehicle fringe benefit,

- 50% of any allowance granted to the holder of a public office to defray expenditure incurred for the purposes of his office,
- gains made by the exercise, cession or release of any right to acquire marketable security as contemplated in section 8A,
- gains made from the disposal of any qualifying equity share as contemplated in section 8B, and
- gains made as a result of the vesting of any equity instrument as contemplated in section 8C.

The following items are specifically excluded from the definition of remuneration:

- amounts paid in respect of services rendered by a person ordinarily resident in South Africa in the course of any trade carried on independently,
- any pension payable under the Aged Persons Act, 1967 or the Blind Persons Act, 1968,
- any disability grant or allowance under the Disability Grants Act, 1968,
- any grant or contribution under the Children's Act, 1960,
- any amount paid to an employee wholly in reimbursement of expenditure actually incurred by the employee in the course of his employment, and
- any annuity under an order of divorce or decree of judicial separation, or under any agreement of separation.

2.3.1 Balance of Remuneration (Paragraph 2(4), Fourth Schedule)

The amount of employees' tax to be withheld from the employee is calculated on the balance of remuneration, which is the remuneration remaining after deducting:

- current and arrear contributions to approved pension fund schemes and retirement annuity funds that are processed on the payroll, within specified limits (see Deductions, section 5),
- at the option of the employer, current and arrear contributions to approved retirement annuity funds by the employee for which proof was provided, within specified limits (see Deductions, section 5),
- any donation by the employee, made by the employer for which the employer received a S18A(2)(a) receipt, within specified limits (see Deductions, section 5).



Employees' tax calculated in terms of a directive is based on remuneration and not on the balance of remuneration.

2.3.2 Net Remuneration (Paragraph 11B(1), Fourth Schedule)

Net remuneration is calculated by excluding certain items from balance of remuneration. These items include amongst other:

- remuneration paid to employees who are not in standard employment (temporary employees),
- remuneration paid to a director of a private company or a member of a close corporation,
- travel allowances,
- public office allowances,
- annuities from benefit funds, and
- lump sums from retirement funds.

2.3.3 Deemed Remuneration and Directors of Private Companies (Paragraph 11C, Fourth Schedule)

Amendments to the Fourth Schedule to the Income Tax Act that came into effect on 1 March 2002 included directors of private companies (and members of close corporations according to section 1 of the Income Tax Act) in the definition of 'employee'. It also removed the exclusion of payments made to directors from the definition of 'remuneration', thereby including these payments in remuneration.

The concept of 'deemed remuneration' for directors was also introduced with effect from 1 March 2002. Deemed remuneration is calculated according to the following formula:

$$Y = T / N$$

where

Y is the amount to be determined,

T is the balance of remuneration of the previous year of assessment, excluding:

- termination lump sums,
- retirement lump sums or withdrawal benefits,
- amounts in terms of commutation of amounts under an employment contract, and
- gains made in terms of sections 8A, 8B or 8C on the Income Tax Act that were included in remuneration.

N is the number of completed months the employee was employed by that company in the previous year of assessment.

If the balance of remuneration for the previous year of assessment is not yet determined, then T is the balance of remuneration of the year preceding the previous year of assessment, increased by 20%.

If the balance of remuneration for the preceding year of assessment has also not yet been determined, you need to apply for a directive from SARS.

Employees' tax is calculated on the highest value when actual and deemed remuneration is compared.

With effect from 1 March 2004, no deemed remuneration will be applicable if more than 75% of "T" in the formula consists of fixed monthly payments.

A director can apply for a hardship directive (IRP3d) when the actual remuneration of the previous year is significantly larger than the estimated remuneration for the current year.

2.4 Residence Based Taxation (Section 1)

From 1 March 2001 the "Residence Based" taxation system replaced the "Source Based" taxation system that was previously used in South Africa.

The residence based system states that an employee must be taxed on his world-wide income in the country where he is resident. Note that citizenship is not equivalent to residency - a non-South African citizen can become a resident of South Africa by virtue of the physical presence test, and is then liable for income tax in South Africa on his world-wide income. Non-residents must be taxed on income derived from a source within South Africa.

According to section 1 of the Income Tax Act, a person can either be ordinarily resident or a 'deemed' resident by means of the physical presence test.

2.4.1 Ordinarily Resident

The courts have interpreted "ordinarily resident" to mean the country to which the individual would normally return to from his wanderings. It would be the country where the individual's usual or principal residence is located.

2.4.2 "Deemed" Resident - Physical Presence Test

An individual who is not ordinarily resident during the year of assessment will be deemed to be a resident if he is physically present in South Africa:

- for more than 91 days in aggregate in the current year of assessment and
- for more than 91 days in aggregate in each of the five preceding years of assessment and
- for more than 915 days in aggregate during the five preceding years.

If a person who is a “deemed” resident leaves South Africa for at least 330 continuous days, the person will not be a “deemed” resident effective from the first day he left South Africa.

2.5 Standard Employment and Temporary Employees (Paragraph 11B, Fourth Schedule)

Employees are in standard employment if they work 22 hours or more per week. Employees are also in standard employment if less than 22 hours per week are worked and no other job is held. The employer must have a written declaration from the employee that no other job will be held during the period that the employee is employed by the current employer.

Employees that work less than 22 hours per week and have more than one job are in non-standard employment, and are called temporary employees.

Examples of temporary employees are:

- casual commissions paid, such as “spotters” fees,
- payments to casual workers for irregular or occasional services rendered, or
- fees paid to part-time lecturers.

Employees in non-standard employment are taxed at a rate of 25% of the balance of remuneration. If the following criteria apply, no tax may be deducted:

- at least 5 hours on a specific day are worked, and
- the daily rate of pay is less than the daily equivalent of the annual tax threshold.

Employees in standard employment are taxed by applying the latest table of Statutory Rates of Tax to their annualised balance of remuneration.

There is a special ruling for labour-only sub contractors in the building industry only, whereby the employer must withhold 6% of remuneration for PAYE, 2% of UIF remuneration for UIF contributions and 1% of the leviable amount for skills development levy. The directive number for this ruling is CON181356.

2.6 Directives

Tax directives are issued in accordance with paragraph 9(1) of the Fourth Schedule. Tax directives are always issued in relation to a specific tax year. The tax directive percentage already takes into account expense claims and deductions that may be claimed on assessment – therefore, the tax directive percentage must be applied to remuneration and not balance of remuneration (i.e. before deducting tax deductible deductions from remuneration).

The following tax directive application forms are available:

IRP3(a) – Gratuities paid by the employer,

IRP3(b) – Hardship directives – tax deducted at a fixed percentage,

IRP3(c) – Hardship directives – a fixed amount of tax to be deducted,

IRP3(d) – Hardship directives for deemed remuneration of directors, and

Form A to D – various lump sum benefits payable by funds.

Tax according to directives are not “final” tax, and is recalculated taking into consideration total income on assessment.

3. Allowances, Advances, Reimbursements & Other Remuneration

3.1 Allowance

An allowance is granted to an employee where the employer is certain that business related expenses will be incurred by the employee, but where the employee does not have to account for expenses to the employer. The value of the allowance is based on the expected business-related expenditure.

3.2 Advance

An advance is paid in lieu of business expenses an employee will incur and for which the employee must provide proof to the employer. The value of the allowance is based on the expected business-related expenditure. The difference between the advance and the actual expense will be recovered by either the employer or the employee.

3.3 Reimbursement

A reimbursement is a repayment by the employer to the employee for business-related expenditure incurred by the employee on instruction by the employer and is subject to proof of the expenditure.

3.4 Travel Allowance (Section 8(1)(b))

A travel allowance is granted to an employee in respect of travelling expenses for business purposes. This is a fixed allowance that the employee receives every pay period, regardless of actual business kilometres travelled in that period.

Private travel includes travelling by the employee between his place of residence and his place of employment or business, as well as any other travelling done for his private purposes.

Any travel expenses paid or reimbursed (other than a reimbursement for actual business kilometres travelled) by the employer, whether paid for directly or by issuing a garage or petrol card, are regarded as a travel allowance. For PAYE purposes, SARS requires the deduction of PAYE from 80% of a travel allowance, unless the employee uses the vehicle at least 80% for business, then SARS requires the deduction of PAYE from 20% of

a travel allowance. The full travel allowance must be disclosed on the employee's tax certificate against code 3701.

3.4.1 Reimbursive Travel Allowance

Reimbursements calculated using the actual business kilometres travelled are not regarded as being a travel allowance, regardless of the rate per kilometre used or the distance travelled. These reimbursements are excluded from remuneration, and are never subject to PAYE. However, reimbursements that are reported against code 3702 are assessed for income tax purposes at the end of the tax year.

The determined rate per kilometre used for the reimbursement of business kilometres should be a rate no greater than R3.18 or the rate derived from the rate per kilometre schedule (the "prescribed rate") published by SARS, and is one of the factors used to determine the code against which the reimbursement must be reported.

Report the reimbursement on the tax certificate against code 3702 if:

- the rate of reimbursement exceeds the prescribed rate, or
- more than 8000 business kilometres are reimbursed in the tax year, or
- a travel allowance is paid in addition to the reimbursed amount.



SARS adds code 3702 to code 3701 on assessment, and the employee must claim his business travel expenses against the total amount.

Report the reimbursement on the tax certificate against code 3703 if:

- the rate of reimbursement is less than the prescribed rate, **and**
- less than 8 000 business kilometres are reimbursed in the tax year, **and**
- no travel allowance is paid in addition to the reimbursed amount.



Code 3703 will not be assessed, and the employee will not have to claim business travel expenses on his annual return. If code 3702 is used, the employee must claim business travel expenses on his annual return, whether the employee has a 3701 travel allowance or not. Code 3703 may not be reflected on an IRP5/IT3(a) certificate together with code 3701 and/or 3702 from the 2014 year of assessment.

3.4.2 Estimating a Travel Allowance for an Employee

It is to the advantage of an employee who is required to travel for business purposes to have a realistically estimated travel allowance paid to him during the tax year.

If the allowance is too low, it is possible that the travel expenses claimed on assessment will exceed the allowance. If business travel expenses are claimed that are more than the allowance, only expenses up to the amount of the allowance will be granted, and the employee will be effectively penalised.

If the allowance is excessive and not based on realistic estimates, it can be seen by SARS to be an abuse, and disallowed as a travel allowance.

The calculation of a realistic travel allowance should be done in the same way that SARS will assess the allowance at the end of the tax year. Three elements are required to calculate the travel allowance:

- an estimate of the business kilometres to be travelled in the year,
- an estimate of the private kilometres to be travelled in the year and
- the rate per kilometre applicable to the value of the car.

3.4.3 Establishing the Rate per Kilometre of the Vehicle

The determined value of the vehicle is the original purchase price including VAT but excluding finance charges and interest. Use this value to look up the position of the vehicle used for the travel in the table.

The rates per kilometre are divided into three components on the schedule, namely fixed cost, fuel cost and maintenance cost.

The fixed cost element covers the cost of depreciation, loss of interest, licensing and insurance for the year, and must be divided by the total kilometres (private and business) travelled in the tax year to give a fixed cost rate per kilometre.

The fuel and maintenance costs are given as a rate per kilometre, and must be added to the fixed cost rate per kilometre only where the employee bears the cost of these items.

Value of the Vehicle (including VAT) R	Fixed Cost R/annum	Fuel Cost c/km	Maintenance Cost c/km
0 – 80 000	26 105	78.7	29.3
80 001 – 160 000	46 505	87.9	36.7
160 001 – 240 000	66 976	95.5	40.4
240 001 – 320 000	84 945	102.7	44.1
320 001 – 400 000	102 974	109.9	51.8
400 001 – 480 000	121 886	126.1	60.8
480 001 – 560 000	140 797	130.4	75.6
560 000 +	140 797	130.4	75.6

Diagram to estimate a travel allowance for an employee

1	Value of car (incl. VAT)	Supplied by employee	
2	Estimated private kilometres	Supplied by employee	
3	Estimated business kilometres	Supplied by employee	
4	Total estimated kilometres	Calculate: 2 + 3	
5	Fixed cost	Lookup in table	
6	Fixed cost per kilometre	Calculate: 5 / 4	
7	Fuel cost per kilometre	Lookup in table	
8	Maintenance cost per kilometre	Lookup in table	
9	Total cost per kilometre	Calculate: 6 + 7 + 8	
10	Travel allowance	Calculate: 3 x 9	

This calculated allowance is an annual value. It is further suggested that an additional value is added to the allowance in order to accommodate a variance from the estimated kilometres used in the calculation.

Note that if the employer reimburses the employee for business kilometres travelled in **addition** to granting a travel allowance, then the value of the annual travel allowance as calculated above should be reduced by the estimated value of the reimbursements.

3.4.4 Travel Allowance on Assessment

If the employee retained supporting documentation (i.e. proof of actual expenditure and a logbook of business kilometres travelled), then the actual expenditure can be claimed on assessment, but limited to the value of the allowance. The actual number of business kilometres travelled is used to calculate the claim and the prescribed rate per kilometre can be used, or actual costs can be used to determine a true rate per kilometre.

If no supporting documentation is retained, the employee will not be able to claim any expense on assessment.

The claim is always limited to the value of the travel allowance (which for assessment purposes is the total of codes 3701 and 3702).



Individuals wanting to claim business travel expenses **must** keep a logbook from March 2010. Keep at least the following information: date of travel, start and end destinations, reason for travel (e.g. client you went to see), business kilometres travelled.

3.5 Subsistence Allowance (Section 8(1)(c))

In order to qualify for a subsistence allowance, the employee must be required to spend at least one night away from his usual place of residence. Subsistence allowance payments are excluded from remuneration and are never subject to PAYE, irrespective whether the actual payment exceeds the limits.

Payments that exceed the limits will be assessed by SARS.

The following are the deemed expense amounts for subsistence allowances for the 2015/2016 tax year:

Travel within the Republic:

- R109 per day for incidental expenses only, and
- R353 per day for meals and incidental expenses.

Travel outside the Republic:

- A schedule of rates per country, published on the SARS website.

Subsistence allowances for local travel up to the values of R109 and R353 per day must be reported against code 3714. If the value of the allowance exceeds these daily limits, the full value of the allowance must be reported against code 3704.

Subsistence allowances for travel outside South Africa up to the values indicated in the schedule per country must be reported against code 3714. If the value of the allowance exceeds these daily limits, the full value of the allowance must be reported against code 3715.

Codes 3704 and 3715 must also be used if the employer pays any of the actual costs in terms of which the allowance was granted. Employers should in fact reduce the daily limit by the value of the actual costs paid by the employer.

An employee may be given a subsistence advance in lieu of nights the employee will spend away from his usual place of residence. The employer has to reconcile the advance by the following month. If the employee did not travel as intended, the advance has to be repaid to the employer or the advance must be taxed in full as a general allowance or salary.

3.6 Share Incentive Schemes

The purpose of this section is to clarify the taxation of shares and share incentive schemes (as part of remuneration on the payroll), and not to detail the complex issues surrounding the setup of these schemes. Note that certain shares may again be taxable at a later stage (as part of income on assessment).

3.6.1 Taxation of Gains made in respect of Rights to Acquire Marketable Securities (Section 8A)

According to paragraph 11A of the Fourth Schedule, an employer must apply for a directive on the gain made from the exercise, cession or release of any right to acquire any marketable security according to section 8A. The rights in terms of this section would have been acquired before 26 October 2004.

The difference between the amount paid and the market value at date of exercise, cession or release is the gain that must be taxed. Process the gain against IRP5 code 3707 and process the tax according to the directive against IRP5 code 4102.

3.6.2 Taxation of Broad-Based Employee Share Plans (Section 8B)

According to paragraph 11A of the Fourth Schedule, an employer must deduct normal tax on the gain made from the disposal of any qualifying equity share, or any right or interest in a qualifying equity share according to section 8B.

Process the gain against IRP5 code 3717. The gain must be taxed as an annual/periodic earning. Where the employee is not in employment of the employer, tax of 25% must be deducted.

3.6.3 Taxation of Vesting of Equity Instruments (Section 8C)

According to paragraph 11A of the Fourth Schedule, an employer must apply for a directive on the gain made from the vesting of any equity instrument according to section 8C. These equity instruments would have been acquired on or after 26 October 2004.

The gain must be processed against IRP5 code 3718, and the tax according to the directive against IRP5 code 4102.

3.7 Arbitration Awards

Arbitration awards are generally awarded due to unfair dismissal, termination of the employment contract prior to the expiry date or due to unfair labour practices. Amounts paid due to unfair dismissal and early termination of the contract is remuneration and is taxable on the payroll. Amounts paid due to unfair labour practice might be included in remuneration.

Apply for a directive on arbitration awards. The taxable portion of the award must be taxed as a periodic/annual earning and reported against IRP5 code 3608. The non-taxable portion of the award must be processed against IRP5 code 3602.

3.8 Lump Sum Payments - Gratuities due to Retrenchment, Retirement or Death

Employer paid gratuities paid due to the retrenchment, retirement or death of an employee is taxed according to the same rules as retirement fund lump sums from March 2011. Retirement fund lump sum benefits and severance benefits are subject to a cumulative exemption of R500 000. The employer is required to apply for a directive in order to establish the exempt amount. The gratuity must be paid out against IRP5 code 3901, and the tax according to the directive against IRP5 code 4115.

Note that notice pay and leave payments that the employee is entitled to may not form part of the amount declared on the tax directive application.

3.9 Back Pay (Antedated Salaries)

Backdated salaries may relate to current and prior tax years. Tax on the total amount must be determined in relation to the current tax rates.

The portion of the back pay that relates to the current tax year, must be reported against IRP5 code 3601. The portion of the back pay that relates to any prior tax year must be reported against IRP5 code 3907, which is taxed as a periodic/annual earning.

In order to facilitate the employee's assessment, the employer must provide the employee with a schedule indicating the value of remuneration and its apportionment to applicable tax years.

4. Exempt Income

All items that are exempt from income are also exempt from remuneration for PAYE purposes, and include:

- war pension,
- payment of compensation in respect of diseases contracted by persons employed in mining operations,
- disability pension,
- workmen's compensation (OID),
- social security under the social security system of any other country,
- pension received from a source outside the RSA,
- income replacement policy pay-outs as from March 2015,
- unemployment insurance payments (UIF), and
- loss of office lump sums (subject to tax directive).

In addition to the above, the following items are also exempt but must be reported on the payroll.

4.1 Uniform Allowance (Section 10(1)(nA))

The value of a special uniform given by an employer to an employee or so much of an allowance made by the employer to the employee in lieu of any such uniform, as is reasonable, is exempt from income, provided that as a term of his employment, the employee is required while on duty to wear the special uniform and it is clearly distinguishable from ordinary clothing. The amount paid as an allowance must not be subjected to employees' tax, and must be reported against code 3714 on the tax certificate.

4.2 Relocation Allowance (Section 10(1)(nB))

Expenses may arise as a result of the transfer of an employee from one place to another.

The following expenses borne by the employer are exempt from tax:

- the expenses of transporting the employee, members of his household and their personal goods from the previous place of residence to the new place of residence,
- the expense of hiring residential accommodation in a hotel or elsewhere for the employee or members of his household for a period of 183 days after the transfer took effect, and

- those costs that the Commissioner may allow that have been incurred by the employee in respect of the sale of his previous residence and in settling into permanent accommodation at his new place of residence.

The following items are exempt from tax if the employer reimburses the employee for:

- registration of a mortgage bond and legal fees,
- transfer duty,
- cancellation of a mortgage bond, and
- an agent's fee on the sale of the employee's previous residence.

The following 'settling-in' costs are also exempt from tax. If no reimbursement is made it is acceptable if the equivalent of one month's basic salary, in addition to the regular salary, is paid to the employee to cater for these expenses:

- new school uniforms,
- replacement of curtains,
- motor vehicle registration fees, and
- telephone, water and electricity connection.



All relocation allowance values must be reported against code 3714 – Other allowances (Excl), whether paid through the payroll or not.

If the employer pays for the following two items, these amounts are subject to employee's tax, and must be reported on the tax certificate against code 3713 (Other allowances - taxable):

- loss on the sale of a previous residence, and
- architect's fees for the design of a new residence.

4.3 Foreign Employment Income (Section 10(1)(o))

The income of a person who is outside South Africa for purposes of rendering services for or on behalf of his employer for a period which is in aggregate more than 183 days during any 12 month period, and which includes a period of more than 60 continuous days during that 12 month period, is exempt from income tax. This income must be reported against the foreign employment income codes on the tax certificate, with nature of person "A" or "B".

4.4 Bursaries and Scholarships (Section 10(1)(q))

A bona fide bursary or scholarship granted to any person (i.e. an “open” bursary) to study at a recognised educational or research institute is exempt from tax.

If the bursary or scholarship is granted to an employee (i.e. a “closed” bursary), it will be exempt from tax as long as the employee agrees to repay the employer if the employee fails to complete the course of study. No repayment is necessary if the failure directly results from death, ill-health or injury.

If the bursary or scholarship is granted to an employee’s relative (i.e. a “closed” bursary):

- if the employee’s remuneration for the previous year of assessment was above R250 000, then the full amount of the bursary is taxable (i.e. no exempt portion) irrespective of the value of the bursary.
- if the employee’s remuneration for the previous year of assessment was R250 000 or less, then
 - the first R10 000 (per annum) of the bursary is exempt if it is for basic education (NQF level 1-4) or the first R30 000 (per annum) of the bursary is exempt if it is for higher education (NQF level 5-10).

Where the employee was not employed by the employer for the whole of the preceding year, the remuneration he/she received from the employer for the portion of the year he/she was employed by the employer, must be calculated pro rata for the full 365 days.

If the employee was not employed by the employer for any portion of the preceding year, the employee’s remuneration for the first month he/she is employed by the employer, must be calculated pro rata for a full 365 days.

If the bursary is taxable, it must be taxed as a fringe benefit (even though bursaries are not specified in the Seventh schedule which deals with fringe benefits), and reported against code 3809 for basic education and code 3820 for higher education. The exempt portion must be reported against code 3815 for basic education and code 3821 for higher education.

4.5 Lump Sum Compensation for Occupational Death (Section 10(1)(gB)(iii))

Compensation paid in respect of the death of any person where that death arises out of and in the course of the employment, will be exempt from

income tax if it:

- was paid in addition to any compensation in terms of the Compensation for Occupational Injuries and Diseases Act,
- does not exceed an amount of R300 000, and
- was paid by the employer of that person.

An IRP3(a) directive application form must be submitted to SARS irrespective of the amount that will be paid.

The tax portion according to the directive must be reflected against IRP5 code 4115 and the lump sum payment is reflected against IRP5 code 3922.

5. Tax Deductible Deductions (Paragraph 2(4), Fourth Schedule)

5.1 Employee Pension Fund and Retirement Annuity Contributions (also Section 11(k) and Section 11(n))

Pension and retirement annuity contributions have tax deductible limits that must be applied by the employer. The employee may contribute more than these limits, but he will only receive the tax benefit up to the statutory limit. Any contributions made by the employee in excess of the limits will reduce the taxable value of any lump sum paid in future.



The employer contribution to a RA that is taxed as a fringe benefit, is a deemed employee contribution and may be taken into account when calculating the tax deductible RA value.

5.1.2 Retirement Funding Employment (RFI)

In order to determine the statutory limits for the deduction of pension fund and retirement annuity contributions, one must determine the value of Retirement Funding Income (RFI). RFI is essentially the amount of remuneration taken into account in the determination of the contributions made by an employee or employer to a pension or provident fund, and includes the full amount of the travel and public office allowance if these allowances are taken into account to determine the contribution.

Non-Retirement Funding Income is the income, as defined for RFI, which remains once RFI is allocated according to the rules of the applicable pension or provident fund. There is thus a “pool” of income available for RFI accumulation and the rules of the pension or provident fund will determine the value of this “pool” that must accumulate as RFI.

Pension

The total annual deduction allowed is limited to the greater of:
R1 750, or 7.5% of RFI.

Arrears pension

The total annual deduction allowed is limited to R1 800.

Retirement Annuity

The total annual deduction allowed is limited to the greatest of:
R1 750, or 15% of Non-RFI, or R3 500 less allowed pension deduction.

Arrears Retirement Annuity

The total annual deduction allowed is limited to R1 800.

5.2 Income Replacement Policies

An income replacement policy is a policy that covers the employee against loss of income as a result of illness, injury, disability or unemployment. From March 2015, premiums towards an income replacement policy are no longer a tax deductible deduction.

5.3 Employee Medical Aid Contributions (Section 6A)

From 1 March 2014, Medical Aid is no longer a tax deductible deduction for employees who are 65 or older. If an employee contributes towards a Medical Aid, the employee will be entitled to a tax credit amount.

5.3.1 Medical Tax Credits

An employee is entitled to a medical tax credit in respect of medical scheme contributions paid by the employee, irrespective of the employee's age.

The monthly medical tax credit amounts are:

- R270 for the main member,
- R270 for the first dependant, and
- R181 for each additional dependant.

Medical tax credits (rebates) must be deducted from the employee's normal tax calculated for the month.

Where the contributions are not processed on the payroll (i.e. the employee belongs to a private medical aid), employers may at their option take into consideration contributions to a registered medical scheme which the employee has paid directly and supplied proof of.



The medical tax credit amounts have not yet been promulgated at time of printing.

5.4 Payroll Giving

Employers must take into consideration any donation made by the employee that is paid over by the employer on behalf of the employee and for which the employer is issued a S18A(2)(a) tax receipt.

The maximum value of any donation that may be deducted from remuneration is limited to 5% of balance of remuneration, before taking into account the payroll giving deduction.

6. Fringe Benefits

The term fringe benefit refers to payments made to employees in a form other than cash. A taxable benefit is deemed to have been granted by the employer to the employee if such benefit is granted as a reward for services rendered or to be rendered.

The Income Tax Act specifies in the Seventh Schedule how to calculate the value of the benefit that accrues to the employee for employees' tax purposes. The Commissioner uses market value for some types of benefits, cost price for others and special formulae for the rest.

6.1 Acquisition of an Asset at Less than the Actual Value (Paragraph 5, 7th Schedule)

A taxable benefit arises where an employee acquires an asset consisting of any goods, commodity, financial instrument or property of any nature (other than money), either for no consideration or for a consideration that is less than the value of the asset.

The **value** of the taxable benefit is the market value of the asset at the time the employee acquires the asset, less any consideration given by the employee. The cost of the asset must be used instead, where:

- the asset is movable property (other than marketable securities or an asset which the employee had prior use of) and was acquired to dispose of it to the employee, or
- the asset was held as trading stock (other than marketable securities), unless the market value is less than the cost, then use the market value.

No value is placed on:

- fuel and lubricants supplied for the use of a company car (including a petrol card),
- an asset awarded as a long service award or bravery award up to R5 000.

Long service is defined as an initial unbroken period of service of at least 15 years and any subsequent unbroken period of service of at least 10 years.

As from 1 March 2014 no value is placed on immovable property that is acquired by the employee, provided the following conditions are met:

- the remuneration of the employee for the year of assessment prior to which the employee acquires the immovable property was R250 000 or less, and
- the market value on the date of acquisition of the immovable property is

R450 000 or less, and

- the employee should not be a connected person in relation to the employer.

6.2 Right of Use of an Asset (Paragraph 6, 7th Schedule)

A taxable benefit arises where an employee has been granted the private or domestic use of any asset either free of charge or for a consideration that is less than the determined value of the use. The value of the taxable benefit is the determined value of the private or domestic use of the asset, less any consideration given by the employee for its use during that period and any amount spent by him on its maintenance or repair.

The determined value is either:

- the amount of the rental/lease if the asset is hired or leased by the employer, or
- if the employer owns the asset, 15% per annum of the lesser of the cost to the employer or the market value of the asset when the employee is first granted the use of the asset.

The calculated value is an annual value that must be apportioned to each month in the tax year.

No value is placed on the asset if:

- the private use is incidental to the business use,
- it is provided as an amenity or for recreational purposes at the place of work or for the use of employees in general,
- it is equipment or machines which the employees in general may use from time to time,
- it is telephone or computer equipment which the employee mainly uses for business purposes, or
- it consists of books, literature, recordings or works of art.

Use of the employer's motor vehicle or accommodation is dealt with separately.

6.3 Right of Use of Motor Vehicle (Paragraph 7, 7th Schedule)

A taxable benefit arises where an employee is granted the right to use the employer's motor vehicle. Private use includes travelling between the employee's place of residence and his place of work, as well as other private travel.

The **determined value** of a motor vehicle which is acquired or manufactured by the employer before March 2015 is:

- the cost of the vehicle to the employer, excluding finance charges and interest **but including VAT borne by the employer and the value of any maintenance plan**, if the vehicle was acquired under a sales agreement,
- the retail market value, **including VAT borne by the employer and the value of any maintenance plan**, at the time the employer first obtained the use of the vehicle if the vehicle was acquired under a lease (other than an operating lease), or
- in any other case, the market value of the vehicle, **including VAT borne by the employer and the value of any maintenance plan**, at the time the employer first obtained the right to use the vehicle.

From March 2015, the value to be used as the determined car value is the retail market value as determined by the Minister in a regulation, including VAT borne by the employer and the value of any maintenance plan but excluding finance charges and interest. This paragraph is only applicable to vehicles acquired or manufactured from March 2015.



“Borne” means that if VAT was applicable, the employer was not entitled to an input tax credit for the related VAT.

Maintenance plan is defined as a contractual obligation undertaken by a provider to underwrite the costs of all maintenance of that motor vehicle, other than costs related to top-up fluids, tyres or abuse of the vehicle. The obligation is for at least 3 years and 60 000 kilometres from the date the provider undertakes the contractual obligation, and may terminate when either condition is met.

Depreciation of 15% according to the reducing-balance method is allowed for each completed 12 month period from the date the **employer first** obtained the vehicle or the use of the vehicle, to the date the **employee was first** granted the use of the vehicle. This means that an employee who had the use of a vehicle, then stopped using the vehicle and later started using the vehicle again, must be taxed on the determined value that was calculated the first time and is not entitled to any further depreciation.

The **fringe benefit value** placed on the private use of a motor vehicle for each month or part of a month during which the employee was entitled to the private use is:

- 3.5% of the determined value of the motor vehicle, or

- 3.25% of the determined value if the determined value includes the value of a maintenance plan, or
- in the case of an operating lease, the actual rental cost to the employer (including VAT) and the fuel cost,

less any consideration given by the employee, other than consideration in respect of license, insurance, maintenance or fuel cost.

An **operating lease** is a rental contract which includes all the following conditions:

- the employer must rent the vehicle from a company that is in the business of renting cars,
- the vehicle may be rented by the public for a period of less than a month,
- the cost of maintaining the vehicle must be borne by the rental company and
- the risk of the loss or damage must not be assumed by the employer.



In order for individuals to claim a reduction in the fringe benefit value, claim for costs such as license, insurance, maintenance or fuel, it is required that a **logbook** is kept. The claims may now only be made on assessment.

Note that the kilometres travelled by a judge from his home to court, will be seen as business kilometres from 1 March 2011.

No value is placed on the private use of the employer's vehicle if:

- it is a "pool" car that is available to be used by employees in general, the private use is infrequent or incidental to the business use and the vehicle is not normally kept at or near the residence of the employee, or
- the employee's duties require him to use the vehicle regularly outside normal working hours, and the private use is infrequent or incidental to the business use.

6.4 Meals, Refreshments and Meal and Refreshment Vouchers (Paragraph 8, 7th Schedule)

A taxable benefit arises when an employee has been provided with a meal or refreshment or with a voucher entitling him to a meal or refreshment either free of charge or for a consideration less than the value of the meal or refreshment. The **value** of the taxable benefit is the cost to the employer less any consideration paid by the employee.

No value is placed on the meal if:

- it is provided in a place mainly or wholly patronised by the employees or a

- place on the employer's premises, or
- it is provided during business hours, extended business hours or on a special occasion.

6.5 Residential Accommodation (Paragraph 9, 7th Schedule)

Residential accommodation provided to an employee either free of charge or for a consideration that is less than its determined rental value gives rise to a taxable benefit. The residential accommodation may be furnished or unfurnished, and it may be provided with or without fuel, power or water.

The **value** of the taxable benefit in respect of residential accommodation must be the determined rental value less any consideration paid by the employee.

The rental value to be determined is an amount calculated using the following formula:

$(A - B) \times C / 100 \times D / 12$ where:

- A = remuneration in the previous year, excluding travel allowance, the taxable value of a company car, and the taxable value of free or cheap residential accommodation
- B = R73 650 from 1 March 2015 (subject to certain exclusions)
- C = 17 unless the accommodation consists of at least 4 rooms
 - = 18 if unfurnished and power or fuel is supplied by the employer
 - = 18 if furnished and no power or fuel is supplied by the employer
 - = 19 if furnished and power or fuel is supplied by the employer
- D = the number of completed months in the year of assessment during which the employee is entitled to the accommodation



The value of "B" has not yet been promulgated at time of printing. Please verify this value before doing the calculation.

The meaning of a "room" for the purposes of the above formula has been interpreted by SARS as being a "separate part of the inside of a building". A "room" does not only include bedrooms, but all rooms such as bathrooms, toilets, living rooms, bedrooms, kitchens and studies. Each "room" in an open plan area that is clearly distinguishable must also be counted as a separate room.

The formula must be applied where:

- full ownership of the accommodation vests in the employer, or
- full ownership of the accommodation does not vest in the employer, and
 - it is customary for the employer in the industry concerned to provide free or subsidised accommodation, and
 - it is necessary for the employer to provide free or subsidised accommodation:
 - for the proper performance of their duties, or
 - as a result of the frequent movement of the employees, or
 - as a result of the lack of employer owned accommodation, and
 - the benefit is provided solely for business purposes, or
- the employee has an interest in the accommodation.

If the employer supplies the employee with residential accommodation and

- the employer obtained the accommodation from an unconnected party in terms of a transaction at arm's length and
- the ownership of the accommodation does not vest in the employer,

then the fringe benefit value should be the **lower** of

- the amount calculated with the formula or
- the expenditure incurred in respect of that accommodation by that employer (cost to the employer).

No value is placed on any accommodation provided in **South Africa** to an employee who is away from his usual place of residence in **South Africa**.

No value is placed on accommodation provided to an employee whose usual place of residence is **outside South Africa**:

- for a period that does not exceed 2 years from date of arrival in South Africa to perform the duties of his employment, or
- if the employee is in South Africa for less than 90 days in the year of assessment.

The accommodation will however **be taxable**:

- if the employee was in South Africa for more than 90 days in the year of assessment preceding the date of arrival in South Africa to perform the duties of his employment, or
- to the extent that it exceeds the limit of R25 000 per month.

6.6 Free or Cheap Holiday Accommodation (Paragraph 9(4), 7th Schedule)

The **value** of any holiday accommodation provided by an employer is:

- the rent and expenses paid relating to such accommodation in relation to the period it was occupied, if the accommodation is hired by the employer, or
- in any other case, the rate at which the accommodation could normally be let to any person who is not an employee.

6.7 Free or Cheap Services provided by the Employer (Paragraph 10, 7th Schedule)

The **value** consists of the employer's cost in rendering such a service less any amount paid by the employee, unless the employer's business is to convey passengers **by sea or air** where travel to destinations **outside South Africa** is valued at the lowest fare payable less any amount paid by the employee.

No value is placed on:

- travel facilities provided by an employer, who is in the business of conveying passengers, to his employee, his spouse or minor child to travel to:
 - any destination in South Africa, **or**
 - any destination outside South Africa with overland travel, **or**
 - any destination outside South Africa with air or sea travel, if they are on stand-by,
- general transport provided to and from employees' homes to work,
- any communication service used mainly for business (e.g. 3G cards),
- any service rendered at work for the better performance of duties or for recreational purposes, **or**
- any travel facility provided by an employer to the spouse or minor child if:
 - the employee is stationed more than 250km away from home for the duration of the term, **and**
 - the employee must spend more than 183 days per year away from his usual place of residence for business, **and**
 - the travel is between the employee's usual place of residence in RSA and the place where the employee is stationed in RSA.

6.8 Low or Interest-Free Loans (Paragraph 11, 7th Schedule)

A taxable benefit arises when a loan has been granted to the employee:

- either by the employer or by arrangement by the employer, or
- with no interest being payable by the employee, or with interest at a rate lower than the official rate of interest.

The benefit value is the amount of interest determined by calculating the interest at the official rate of interest, and deducting the interest actually paid, and may be applied on a regular basis, or at the end of the tax year.

The official rate of interest is equal to the repurchase rate plus 1% from 1 March 2011.



The repurchase rate may change during the tax year.

No taxable value is calculated for a low interest loan:

- if it is a 'casual' loan and does not exceed R3 000 **at any time**
- if it is a loan to enable the employee to study

Note that the limit of R3 000 is not an annual limit. No taxable value need be calculated if the low interest loans are casual and irregular, and the total of these loans at any point in time is not more than R3 000.

Be aware that under certain conditions, loans granted by employers fall under the provision of the National Credit Act. It is recommended that employers remove their exposure to the Act by outsourcing the granting of loans to financial institutions whose business it is to provide loans.

6.9 Medical Aid Contributions (Paragraph 12A & 12B, 7th Schedule)

A taxable benefit arises when the employer pays the contributions of an employee to a medical scheme if the employee is **not retired** from such employer, **irrespective of the employee's age**. The value of the benefit is equal to the value of the monthly employer contribution.

An employee is retired if the employee leaves the employment of such employer due to superannuation (reaching normal retirement age according to the rules of the employer's superannuation fund), ill-health or other infirmity.

This taxable fringe benefit must be taken into account as remuneration for employees' tax purposes and is deemed to be a medical aid contribution paid by the employee. As from 1 March 2014, if the employee is **65 or older** or if the employee, his or her spouse or child is a person with a **disability**,

the claims on assessment are limited to 33.3% of the contribution amount that exceeds three times the medical tax credit plus 33.3% of the value of the medical expenses as a tax credit that reduces income tax.

If the employee is **younger than 65**, the contribution claims on assessment will be limited to the contribution amount that exceeds four times the medical tax credit, and the medical expenses to be claimed in total are limited to 25% of the expenses that exceed 7.5% of the employee's taxable income.

Employers are required to report employer medical scheme contributions against the following codes:

- 4474 – medical scheme contributions for all employees, regardless of age, who are not retired from the employ of such employer, and
- 4493 – medical scheme contributions for all employees retired from such employer.

Where an employer paid medical costs in respect of any medical, dental or similar services, hospital services, nursing services and prescribed medicine on behalf of an employee, his or her spouse, child, other relative or dependant, such payments are regarded as taxable fringe benefits.

Employers are required to report the expense paid against the following codes:

- 4024 - medical services costs deemed to be paid by the employee in respect of the employee, his or her spouse or child, and
- 3813 - medical services costs incurred on behalf of an employee.

The medical expenses reported against code 4024 are added to the expenses already reflected against code 3813 on the tax certificate.

6.10 Benefits in Respect of Insurance Policies
(Paragraph 12C, 7th Schedule)

This taxable benefit arises where an employer pays any premiums towards an insurance policy which is directly or indirectly for the benefit of the employee or his or her spouse, child, dependant or nominee. When an insurance policy is in the name of the employer (employer-owned), this paragraph is applicable and the employee should be taxed on the fringe benefit. This paragraph only applies to products supplied by an **insurer**. This paragraph does not apply in respect of an insurance policy that relates to an event arising solely out of and in the course of employment of the employee.

In the case where the policy is in the name of the employee (employee-owned), it falls within the scope of Release from Debt fringe benefit.

6.11 Payment of Debt or Release from Debt (Paragraph 13, 7th Schedule)

This taxable benefit arises when the employer has

- directly or indirectly paid an amount owing by the employee to a third person without requiring the employee to reimburse him, or
- released the employee from an obligation to pay an amount owing by the employee to him.

The taxable value is the amount the employer paid or the amount of debt from which the employee was released.

Note that any subscriptions paid to a professional body by the employer on behalf of the employee has no taxable value as long as the membership of such body is a condition of the employee's employment.

7. Monthly Reconciliation and Payments

In order to facilitate a seamless reconciliation at the end of the tax year, it is important to ensure that your payroll is reconciled on a monthly basis.

- Ensure that payroll values reflect all input document values.
- Ensure that the following figures balance before rolling into a new period; net salaries paid, third party payments made, reports printed and exports completed.

SARS introduced a new EMP201 monthly declaration process in order to align it with the already changed annual reconciliation processes. The use of the new form was compulsory from July 2010.

- The EMP201 serves as a remittance advice. It acts as a payment declaration in which the total payment is declared with the allocations for PAYE, SDL, UIF and ETI (if applicable). A unique payment reference number is used to link the payment to the payment allocation. Payments must be made before or on the seventh day of the next month.
- The EMP201 allows adjustments to previously submitted declarations, or reallocate credits.
- All payments go through a clearing account and are allocated according to the liabilities stated on the EMP201. Over- or under-payments as well as unallocated payments can easily be picked up on the EMPSA and can be corrected using the Reconciliation Assistant.

The three bank accounts for PAYE, SDL and UIF will be consolidated into the PAYE account (SARS – PAYE). Employers will thus only make one payment.

8. Annual Reconciliation and Tax Certificates

In terms of the Fourth Schedule to the Income Tax Act, an employer must submit a tax certificate to SARS at the end of the tax year for every employee as defined above. IRP5s must be issued for those employees from whom employees' tax has been withheld during the tax year, and IT3(a)s for those employees from whom no employees' tax has been withheld.

Employers are not allowed to issue employees with their tax certificates until the EMP501 reconciliation is completed and copies of both the return and the tax certificates have been submitted to SARS. The e@syFile employer software must be used in order to submit reconciliations and tax certificates to SARS.

SARS may levy a penalty of up to 10% of the total amount of employees' tax due for the year of assessment if the submission of the EMP501 return and tax certificates is not done by the last day of the filing season.



Comprehensive guides are available on the SARS website. Go to www.sars.gov.za – Types of Tax – PAYE.

9. Income and Assessment

Income tax is the Government's main source of income and is levied in terms of the Income Tax Act 58, 1962 (the IT Act). All persons that earn taxable income in a tax year (or a year of assessment) are subject to income tax.

Where the payroll deals with remuneration, SARS deals with income on assessment. Remuneration makes provision for very specific income and deductions to be taken into consideration when calculating PAYE, where income is concerned with the total amount of income and deductions and also makes provision for certain claims to be made against income.

9.1 Gross Income

Gross income in a year of assessment is broadly defined as:

- for a resident person - the total amount, in cash or otherwise, received or accrued to him, from all sources (world-wide income) and
- for a non resident person - the total amount, in cash or otherwise, received or accrued to him, from a source within South Africa.

The following are items related to employment that are specifically included:

- annuities
- amounts paid for services rendered
- compensation for any restraint of trade
- compensation for loss of office
- lump sum payments from benefit funds
- amounts due under service contracts that are commuted
- payments for knowledge or information (royalties)
- fringe benefits

9.2 Exempt Income

Exempt income is income that is free from income tax. For employment purposes, the most important exempt items are the following:

- alimony and maintenance,
- qualifying bursaries and scholarships,
- qualifying relocation benefits,
- **R500 000** of a qualifying retirement award and fund lump sums (directive required),

- employment outside of the Republic (more than 183 days in aggregate including a continuous period of at least 60 days),
- interest received up to specified limits,
- unemployment insurance benefits,
- uniforms and uniform allowances,
- disability and war pensions,
- Occupational Injuries and Diseases Act compensation,
- income replacement policy pay-outs,
- R300 000 of an occupational death lump sum (directive required).

9.3 Deductions from Income

Deductions are the amounts that have been incurred as expenses in the production of income, and that are deductible from income in terms of the Income Tax Act. These amounts are specified in sections 11 to 19, and section 23 of the Income Tax Act, and together form the general deduction formulae.

Some of the items that are allowed as a deduction (subject to limits), include:

- amounts that are excluded from the limitation of section 23(m) of the IT Act, and may be claimed as a deduction against employment income by all employees, namely:
 - contributions to a pension or a retirement annuity fund,
 - legal expenses in respect of employment,
 - depreciation of assets used for employment income, such as computers and cell phones,
 - bad debts in respect of employment,
- subscriptions to professional societies, and
- travelling expenses.

Medical expenses (subject to certain limits) will be allowed as a tax credit that reduces the tax as from 1 March 2014.

Some of the items that are not allowed as a deduction, include:

- cost incurred in the maintenance of the taxpayer,
- domestic or private expenses,
- interest, penalties and taxes,
- expenses incurred to produce exempt income, and

- expenses relating to employment income (section 23(m)) received for any employment or office held. This does not apply to an agent or representative whose remuneration is mainly derived in the form of commission based on sales or turnover attributable to that person, nor does it apply to an independent contractor.

10. Employment Tax Incentives (ETI)

The Employment Tax Incentive Act came into effect on 1 January 2014. It has an initial effective period of three years which will end on 31 December 2016. The Act is administered by SARS.

The purpose of the Act is to encourage and incentivise employers to hire young and less experienced work-seekers. It reduces the cost to employers of hiring young people through a cost-sharing mechanism with government. In practical terms it means that the employer will now receive an incentive for employing the youth, subject to certain conditions, which will be in the form of a reduced monthly PAYE liability.

10.1 Employer

The employer is eligible to receive the tax incentive if the employer:

- is a private sector employer registered for employees' tax (PAYE),
- is not in the national, provincial or local sphere of government,
- is not a public entity listed in Schedule 2 or 3 of the Public Finance Management Act (other than those public entities designated by the Minister of Finance by Notice in the Gazette),
- is not a municipal entity, and
- is not disqualified by the Minister of Finance due to displacement of an employee or by not meeting such conditions as may be prescribed by the Minister by regulation.

10.2 Employee

An individual is a qualifying employee if he/she:

- has a valid South African ID, a valid asylum seeker permit or an ID in terms of Section 30 of the Refugees Act,
- is 18 to 29 years old by the end of the month (please note that the age limit is not applicable if the employee renders services inside a special economic zone (SEZ) to an employer that is operating inside the SEZ, or if the employee is employed by an employer that operates in an industry designated by the Minister of Finance),
- was employed by the employer or an associated person to the employer on or after 1 October 2013, and
- the employee must earn at least the minimum wage as specified by the sectoral determination, collective agreement or bargaining council. If no

wage regulating measure is applicable, the employee must earn at least R2 000 for a full month (160 employed hours).

The employee will not qualify if he/she:

- is a domestic worker,
- is a “connected person” to the employer or
- earns remuneration of R6 000 or more during the month.



By the time of printing, no special economic zone (SEZ) was published and no industry was designated by the Minister of Finance.

10.3 Incentive Amount

The incentive will be available for a maximum of 24 incentive months per qualifying employee, broken up into a ‘first 12 months’ period and a ‘next 12 months’ period’.

Monthly Remuneration	First 12 Incentive Months	Next 12 Incentive Months
R 0 - R2 000	50% of Monthly Remuneration	25% of Monthly Remuneration
R 2 001 - R4 000	R 1 000	R 500
R 4 001 – R6 000	Formula: $R1\ 000 - (0.5 \times (\text{Monthly Remuneration} - R4\ 000))$	Formula: $R500 - (0.25 \times (\text{Monthly Remuneration} - R4\ 000))$

The incentive must be determined every month by identifying who the qualifying employees are and by doing the above calculation.

In determining the first or the second 12-month period, only the months in which the employee was a qualifying employee are taken into account. For example, the employee may be a qualifying employee in the first three months but not a qualifying employee in the fourth and the fifth months. If the employee is a qualifying employee in the sixth month, the sixth month is month number four as far as the 12-month period is concerned. If the employee is employed by an associated person, it will be seen as employment at one employer and must be taken into consideration for determining the 24 incentive month period.

The monthly remuneration to be used in the above calculation is the following:

- if an employee is employed for 160 hours or more in a month, then it is the actual amount of remuneration paid to the employee in a month (no gross-up),
- if an employee is employed for less than 160 hours in a month the monthly remuneration is calculated as follows:
Remuneration earned in the month / hours employed x 160.

10.4 Unavailability of the Incentive Amount

An employer is not allowed to reduce the PAYE payable in respect of a month if the employer, on the last day of the month,

- failed to submit any return or
- has any tax debt outstanding except if
 - an agreement has been concluded for a deferral payment,
 - an agreement has been concluded for compromise of a tax debt,
 - a tax debt has been suspended pending an objection or appeal, or
 - the tax debt is less than R100.

10.5 Incentives Carried Forward

The incentive amounts can be rolled-over to the next month in 3 instances:

- if the incentive amount available exceeds PAYE due in a month,
- if the employer did not claim the amount entitled to, or
- if the employer was not allowed to reduce the employees' tax payable due to outstanding tax returns or SARS debt.

The incentive amount may be carried forward for future use subject to certain conditions.

10.6 Reimbursement of Carried Forward Incentive Amounts

If the employer is tax compliant, the ETI due to the employer will be reimbursed at some stage during the next 6 month cycle. An ETI refund will only be paid if an employer is tax compliant. This means that all tax returns must have been submitted and there should be no outstanding tax debt when the employer reconciliation documents (EMP501 and IRP5/IT3(a)s) are received and processed by SARS. If the employer is not tax compliant at the end of the 6 month cycle, the excess amount will be reimbursed when the employer becomes tax compliant. If the employer fails to be tax compliant within the next six months, the excess amount will be permanently lost.

11. Unemployment Insurance Fund (UIF)

The Unemployment Insurance Contributions Act is administered by SARS and legislates who should pay UIF contributions and how much.

The Unemployment Insurance Act is administered by the Department of Labour and legislates the payment of benefits as well as the submission of a Declaration of all employees each month.

Both Acts define who are employees as well as remuneration for UIF purposes.

11.1 Employee

Both UIF Acts define an employee as “... any natural person who receives remuneration, or to whom remuneration accrues, in respect of services rendered or to be rendered by that person, but excludes an independent contractor.”

In principle, an employee for the Fourth Schedule is usually an employee for UIF, but there are some differences:

- all legal entities are excluded from UIF,
- common law independent contractors are excluded even if they are included as “deemed employees” by the Fourth Schedule,
- all employees must contribute irrespective of residency or citizenship, but only those contributors with an RSA bar-coded ID number will be able to claim benefits, and
- domestic workers and seasonal workers were included as employees from April 2003 with special conditions for domestic workers only.

Excluded from contributions only (must be included in the Declaration):

- learners employed according to Section 18(2) of the Skills Development Act,
- employees who work less than 24 hours per month,
- employees in the national and provincial spheres of government,
- persons who will be repatriated at the end of the period of service,
- the President, Deputy President, a Minister, Deputy Minister, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a Premier,
- a member of an Executive Council or a member of a provincial legislature,
- any member of a municipal council, a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders.

11.2 UIF Remuneration from which the Contribution must be Calculated

UIF Contributions must be based on remuneration as defined in the Fourth Schedule to the Income Tax Act, but excluding:

- pension, superannuation allowance or retiring allowance,
- annuities,
- payments to a labour broker in possession of an IRP30 exemption certificate,
- amounts paid for loss of employment, such as retrenchment pay and payments for commutation of office,
- voluntary awards in respect of relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment,
- once-off payments such as lump sum payments from pension, provident or retirement annuity funds,
- restraint of trade payments, and
- commission.

As can be seen from the above, remuneration received in respect of “ongoing employment” services rendered (with the exception of commission), is used for the calculation of UIF contributions. “Non employment” related remuneration is excluded.

Note that the gains made from sections 8A, 8B and 8C share schemes, as well as lump sums emanating from other sources than benefit funds are included in remuneration for UIF purposes.

Because remuneration as defined in the Fourth Schedule of the Income Tax Act is used for UIF remuneration, this includes only the taxable value of the travel allowance, use of motor vehicle fringe benefit and the public office allowance.

11.3 UIF Contributions

If the employee is not excluded as an employee, then both the employer and the employee must contribute monthly at a rate of 1% of UIF remuneration up to the current limit.

Employees earning over the current limit of R178 464 per annum, R14 872 per month or R3 432 per week must pay contributions at the limited amount.

If the employer is registered with SARS for PAYE purposes, the UIF contribution must be paid to SARS, otherwise to UIF.

12. Skills Development Levies (SDL)

The purpose of the skills development legislation is to improve the skills level of the South African workforce by increasing the levels of investment in education and training in the labour market.

The Skills Development Act of 1998 is administered by the Department of Labour, and brought into being the concepts of SETAs, monthly levies and various grants to incentivise employer participation.

The Skills Development Levies Act of 1999 is administered by SARS, and deals only with the calculation and payment of the monthly levy by employers. The levy first became payable from 1 April 2000 at a rate of 0.5% of the “leviable” amount, and this was increased to 1.0% from 1 April 2001.

12.1 Employer

All employers registered with SARS for employees tax purposes in terms of the Fourth Schedule must register with SARS for skills development, irrespective of whether they are excluded from paying the levy by one of the following conditions:

- any public service employer in the national or provincial sphere of government,
- any national or provincial public entity, if 80% or more of its funding comes from government,
- any religious or charitable institution,
- any municipality in possession of a certificate of exemption, and
- any employer where the total annual remuneration for the next 12 months is not expected to exceed R500 000.

12.2 Employee

An employee, for skills development levy purposes, is defined exactly the same as for the Fourth Schedule definition, excluding:

- a labour broker to whom an exemption certificate has been issued and
- a learner as defined in the Skills Development Act.

12.3 SDL Remuneration (Leviable Amount)

The leviable amount is based on the balance of remuneration as defined in the Fourth Schedule to the Income Tax Act, but excluding:

- pensions, superannuation allowances or retiring allowances,

- annuities,
- payments for the relinquishment, termination or loss of office or employment and
- lump sum payments from a pension, provident or RA fund.

Note that only lump sums from benefit funds are excluded. Other types of lump sums related to continuing employment (such as back-dated pay increases) are not excluded.

12.4 Skills Development Levy

Skills Development Levies are paid on a monthly basis to SARS at a rate of 1% of the leviable amount.

Since inception of the legislation, there has been a VAT portion of the levy which employers can claim as input VAT on their VAT returns. From 1 April 2005, SETAs were required to deregister as VAT vendors, and the VAT portion could no longer be claimed. Equally, grants paid by the SETA to the employer no longer contain a VAT portion to be paid over.

13. Occupational Injuries And Diseases (OID)

This Act provides a system of “no fault” compensation whereby employees are entitled to compensation irrespective of who caused the problem.

At the same time, employees are prohibited from instituting damages claims against their employer and certain categories of fellow employees.

The categories of claimants to whom benefits become payable are:

- employees who suffer a temporary disability,
- employees who suffer a permanent disability, and
- dependants of employees who die as a result of occupational injuries or diseases.

Employers must complete and submit the annual W.As 8 return by 31 March each year.

13.1 Employee

An employee is broadly defined as “any person who has entered into or works under a contract of service or of apprenticeship or learnership, with an employer”, including casual employees, directors and members of close corporations.

Excluded as employees are:

- persons undergoing military service or training,
- members of the Permanent Force while defending the Republic,
- members of the Police Force while defending the Republic,
- a person who contracts for the carrying out of work and himself contracts other persons to perform such work,
- legal entities,
- common law independent contractors and
- a domestic employee in a private household.

The reference to “works under a contract of service” is interpreted in practice to exclude common law independent contractors.

13.2 Earnings to be Included for the OID Annual Return (W.As 8)

The W.As 8 form gives an interpretation of the Act for items that must be included, and those that must be excluded from the calculation of the employees’ earnings.

Included are:

- overtime of a regular nature, but not intermittent or irregular overtime,

- bonus of any kind, including incentive bonuses and annual bonuses,
- commission, even though the amount may vary from month to month,
- the cash value of food and quarters supplied to staff,
- tangible fringe benefits (those that you can touch) such as a company car and free or cheap accommodation,
- travel and other allowances paid regularly,
- where the employee is remunerated in accordance with a package of benefits, all items forming part of the package, other than employer contributions such as medical aid contributions and
- earnings/drawings paid to a working director of a private company or members of a closed corporation.

Excluded are:

- payments of a reimbursive nature,
- overtime worked occasionally,
- payments for specific non-recurring tasks which do not form part of an employee's normal duties,
- ex gratia payments,
- intangible fringe benefits such as the taxable portion of medical aid contributions by the employer, and
- payments to cover special expenses such as subsistence and travelling costs.

Note that the regulations to the OID Act clearly exclude travel and subsistence allowances, which is in contradiction to the interpretation on the W.As 8 annual return form.

13.3 OID Limit

The OID limit for the 2014/2015 tax year is R332 479.

The limit for the 2015/2016 tax year has not yet been gazetted.

IRP5 Codes

Normal Income Codes

3601	Income
3602	Income (Excl)
3603	Pension (reinstated from 2012/2013)
3605	Annual Payment
3606	Commission
3608	Arbitration Award
3610	Annuity from a RAF (reinstated from 2012/2013)
3611	Purchased Annuity
3613	Restraint of Trade
3614	Other Retirement Lump Sums
3615	Director's Remuneration
3616	Independent Contractors
3617	Labour Brokers (PAYE/IT)

Allowance Codes

3701	Travel Allowance
3702	Reimbursive Travel Allowance (IT)
3703	Reimbursive Travel Allowance (Excl)
3704	Subsistence Allowance - Local Travel (IT)
3707	Share Options Exercised (Section 8A)
3708	Public Office Allowance
3713	Other Allowances
3714	Other Allowances (Excl)
3715	Subsistence Allowance - Foreign Travel (IT)
3717	Broad-based Employee Share Plan (Section 8B)
3718	Employee Equity Instruments (Section 8C)

Fringe Benefit Codes

3801	General Fringe Benefits
3802	Right of Use of Motor Vehicle
3805	Free or Cheap Accommodation (reinstated from 2012/2013)
3806	Free or Cheap Services (reinstated from 2012/2013)
3808	Payment of Employee's Debt (reinstated from 2012/2013)
3809	Taxable Bursaries or Scholarships - Basic Education
3810	Company Contribution to Medical Aid
3813	Cost related to Medical Services paid by Company
3815	Non-taxable Bursaries or Scholarships - Basic Education

- 3816 Use of Motor Vehicle acquired via Operating Lease
- 3820 Taxable Bursaries or Scholarships – Further Education
- 3821 Non-taxable Bursaries or Scholarships – Further Education

Lump Sum Codes

- 3901 Gratuities (retirement/retrenchment)
- 3902 Pension or Retirement Annuity Fund Lump Sum (resignation, transfer or surplus apportionment) (Not valid from 2009/2010)
- 3903 Pension or Retirement Annuity Fund Lump Sum on retirement or death before 1 October 2007 (Not valid from 2009/2010)
- 3904 Provident Fund Lump Sum (resignation, transfer or surplus apportionment) (Not valid from 2009/2010)
- 3905 Provident Fund Lump Sum on retirement or death before 1 October 2007 (Not valid from 2009/2010)
- 3906 Special Remuneration (e.g. proto-teams)
- 3907 Other Lump Sums (e.g. Backdated salaries extended over previous tax year, non approved funds)
- 3908 Surplus Apportionments on or after 1 January 2006 and exempt employer policy proceeds from March 2012
- 3909 Unclaimed Benefits paid by Fund
- 3915 Pension, Provident or Retirement Annuity Fund Lump Sum Benefits paid on or after 1 October 2007
- 3920 Lump Sum Withdrawal Benefits from retirement funds after 28 February 2009
- 3921 Living Annuity and Section 15C Surplus Apportionments accruing after 28 February 2009
- 3922 Compensation Lump Sum i.r.o death in the course of employment

Gross Remuneration Codes

- 3696 Gross Non-Taxable Income
- 3697 Gross Retirement Funding Employment Income
- 3698 Gross Non-Retirement Funding Employment Income



To report foreign income, add a value of 50 to all normal income, allowance, fringe benefit and lump sum codes, except 3614, 3617, 3908, 3909, 3915, 3920, 3921 & 3922.

Deduction Codes

4001	Current Pension Fund Contributions
4002	Arrear Pension Fund Contributions
4003	Current and Arrear Provident Fund Contributions
4005	Medical Aid Contributions
4006	Current Retirement Annuity Fund Contributions
4007	Arrear (re-instated) Retirement Annuity Fund Contributions
4018	Premiums Paid for Loss of Income Policies
4024	Medical Services Costs Deemed Paid for Immediate Family
4026	Arrear Pension Fund Contributions - Non-Statutory Forces
4030	Donations Paid by the Employer to the Organisation
4474	Employer's Medical Aid Contributions
4493	Employer's Medical Aid Contributions i.r.o. Retired Employees
4497	Total Deductions

Employee's Tax Deduction and Reason Codes

4101	SITE
4102	PAYE
4115	Tax on Retirement Lump Sum Benefits
4116	Medical Scheme Fees Tax Credits taken into account for PAYE purposes
4118	Employment Tax Incentive
4141	UIF Employee and Employer contribution
4142	SDL contribution
4149	Total Tax, UIF and SDL (excluding 4116 value)
4150	01 - Invalid from March 2002
	02 - Earn Less than the Tax Threshold
	03 - Independent Contractor
	04 - Non Taxable Earnings (including nil directive)
	05 - Exempt Foreign Employment Income
	06 - Directors Remuneration - Income Determined in the Following Tax Year
	07 - Labour Broker with IRP30
	08 - No Tax to be withheld due to Medical Scheme Fees Tax Credit allowed
	09 - No withholding of tax on shares possible

2015/16 Tax tables

Individuals in Standard Employment and Special Trusts

Taxable Income (R)			Rate of Tax (R)	
0	-	181 900		18% of taxable income
181 901	-	284 100	32 742	+ 26% of taxable income above 181 900
284 101	-	393 200	59 314	+ 31% of taxable income above 284 100
393 201	-	550 100	93 135	+ 36% of taxable income above 393 200
550 101	-	701 300	149 619	+ 39% of taxable income above 550 100
701 301	and above		208 587	+ 41% of taxable income above 701 300

Tax Rebates

Primary Rebate	R13 257
Secondary - Persons of 65 and older	R7 407
Tertiary - Persons of 75 and older	R2 466

Tax thresholds

The tax thresholds, at which liability for normal tax commences, are:

Persons under 65	R73 650
Persons of 65 - 74 years	R114 800
Persons of 75 years and older	R128 500

Individuals in Non-Standard Employment (Temporary Workers)

- Withhold PAYE at a rate of 25% for an employee who is paid by the day, and who works less than 5 hours per day or is paid more than the daily equivalent of the tax threshold.
- Otherwise no employee's tax is to be withheld (for an employee who is paid by the day, who works at least 5 hours per day, and is paid less than the daily equivalent of the tax threshold).

Personal Service Provider Companies

Companies - 28% of each R1
Trusts (other than a special trust) - 41% of each R1



The tax rates have not yet been promulgated at the time of printing

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