

VIP PAYROLL

The leader in payroll & hr services

Payroll Pocket Guide

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



2012/13

Quick Reference

Subsistence Allowance

Travel inside RSA - incidentals only	R93
Travel inside RSA - meals and incidentals	R303
Travel outside RSA - meals and incidentals	Schedule of limits per country

Reimbursed Kilometres (Travel)

Current rate is R3.16 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)

As from 1 March 2011 the official rate is equal to the SA Reserve Bank repurchase rate plus 1%. The repurchase rate was 5.5% from 1 March 2011.

UIF Limit - R149 736 per annum, R12 478 per month or R2 879.53 per week.

OID Limit - R277 860 per annum (for 2011/2012).

The limit for 2012/2013 has not yet been promulgated.

BCEA Earnings Threshold - R172 000 per annum as from 1 July 2011.

Medical Tax Credits

- R230 for main member
- R230 for first dependant
- R154 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 is above R100 000 p/a. If the remuneration is R100 000 or less, the first R10 000 of the bursary is exempt.



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

Payroll Pocket Guide

as at March 2012

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

DISCLAIMER

This document includes amendments to the Income Tax Act (1962) up to and including the Taxation Laws Amendment Act No 24 of 2011. 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, VIP makes no warranties or representations as to the suitability of 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, www.vippayroll.co.za, or the SARS website, www.sars.gov.za, for updated information. An updated pocket guide is available to VIP clients in the Customer Zone on our website throughout the year.



Possibility to Change

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

This Payroll Pocket Guide includes only the most important topics regarding Employees Tax. For more information, refer to the EMP10 Guidelines for Employers as well as the SARS website: www.sars.gov.za

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

A legal entity for tax law purpose is:

- a public company, or
- a private company, or
- a closed corporation, or
- 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, 4th 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, 4th 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
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
- ☐ **2** [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.
- ☐ **3** [

If (1) and (2) are 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) are 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 stating 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:

- 33% for a Personal Service Provider company and
- 40% 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:

- ☐ 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**
- ☐ 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

- ☐ 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, 4th 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), 4th 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),
- at the option of the employer, income replacement policy contributions which the employee has paid directly and supplied proof thereof annually, not subject to any limit,
- contributions made by an employee to a registered medical scheme that are processed on the payroll if the employee is 65 or older. (see Deductions, section 5),
- at the option of the employer, contributions to a registered medical scheme which the employee has paid directly and supplied proof of, if the employee is 65 or older. (see Deductions, section 5) and
- 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), 4th 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, 4th 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, 4th 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) – Employee's 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 R3.16 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 8000 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.

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 - 60 000	19 492	73.7	25.7
60 001 - 120 000	38 726	77.6	29.0
120 001 - 180 000	52 594	81.5	32.3
180 001 - 240 000	66 440	89.6	36.9
240 001 - 300 000	79 185	102.7	45.2
300 001 - 360 000	91 873	117.1	53.7
360 001 - 420 000	105 809	119.3	65.2
420 001 - 480 000	119 683	133.6	68.3
480 000+	119 683	133.6	68.3

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: 1 + 2	
5	Fixed cost	Look up in table	
6	Fixed cost per kilometre	Calculate: 5 / 4	
7	Fuel cost per kilometre	Look up in table	
8	Maintenance cost per kilometre	Look up 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 log book 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 limits for subsistence allowances for the 2012/2013 tax year:

Travel within the Republic:

- R93 per day for incidental expenses only and
- R303 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 R93 and R303 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 Dismissal, Retrenchment or Retirement

Employer paid gratuities paid due to the dismissal, retrenchment or retirement 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 R315 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 which 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,
- 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 year of assessment is above R100 000, then the full amount of the bursary is taxable (i.e. no exempt portion) irrespective of whether the value of the bursary is above or below R10 000.
- If the employee's remuneration is R100 000 or less, then
 - the first R10 000 (per annum) of the bursary is exempt
 - the excess above R10 000 (per annum) of the bursary is taxable.

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. The exempt portion must be reported against the new code 3815 from March 2012.

5. TAX DEDUCTIBLE DEDUCTIONS (Paragraph 2(4), 4th 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. The total premium paid by the employee is tax deductible and is allowed to the extent that the premium pays towards disability cover. These policies do not have a tax deductible limit.



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

5.3 Employee Medical Aid Contributions (also Section 18 and Section 6(A))

From 1 March 2012, only employees who are 65 years and older is entitled to a Medical Aid tax deductible deduction. Employers must take into account contributions paid by an employee, as well as the employer which is taxed as a fringe benefit, to a registered medical scheme before calculating the employee's tax liability.

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.

5.3.1 Medical Tax Credits

From 1 March 2012, Medical Aid is no longer a tax deductible deduction for employees who are younger than 65.

An employee who is younger than 65 is entitled to medical tax credits in respect of medical scheme contributions paid by the employee. Employers must take into account contributions paid by an employee, as well as the employer which is taxed as a fringe benefit, to a registered medical scheme.

The monthly medical tax credit amounts are:

- R230 for the main member,
- R230 for the first dependant and
- R154 for each additional dependant.

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



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,
- 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.

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 the motor vehicle is:

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

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% 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,

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



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 the greater of:

- any rent payable by the employer and other expenditure in respect of the accommodation, or
- an amount determined according to the 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 = R59 750 from 1 March 2011 (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, studies, etc. 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.

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 and the place where the employee is stationed.

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 less 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. If the employee, his or her spouse or child is a person with a disability, the contribution claims on assessment are limited to the contribution amount that exceeds four times the medical tax credit, and the full value of medical expenses can be claimed. If the employee is 65 or older, the full value of their monthly contributions as well as all the medical expenses can be claimed.

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 are limited to the expenses that exceed 7.5% of the employees' 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 costs deemed to be paid by the employee in respect of the employee, his or her spouse and child, and
- 3813 - medical costs deemed to be paid by the employee in respect of other relatives or dependants.

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.

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 and UIF. 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 EMP201 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 & 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 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 – Tax Types – PAYE. Download “The Account Management Guide” series.

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,
- R315 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.

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,
 - premiums paid to compensate for loss of income,
- subscriptions to professional societies,
- travelling expenses and
- medical expenses.

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. 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 the submission of a Declaration of all employees each month.

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

10.1 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.

10.2 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.

10.3 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 R149 736 per annum, R12 478 per month or R2 879.53 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.

11. 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.

11.1 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.

11.2 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.

11.3 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.

11.4 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.

12. 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 the 31st of March of each year.

12.1 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.

12.2 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 cc.

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.

12.3 OID Limit

The OID limit for the 2011/2012 tax year is R277 860.

The limit for the 2012/2013 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 1 March 2012)
3808	Payment of Employee's Debt (reinstated from 1 March 2012)
3809	Taxable Bursaries or Scholarships (reinstated from 1 March 2012)
3810	Company Contribution to Medical Aid
3813	Cost related to Medical Services paid by Company
3815	Non-taxable Bursaries or scholarships (Excl) (reinstated from 1 March 2012)

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
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



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.

Gross Remuneration Codes

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

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
4141	UIF Employee and Employer contribution
4142	SDL contribution
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

2012/13 Tax tables

Individuals in Standard Employment and Special Trusts

Taxable Income (R)		Rate of Tax (R)	
0	- 160 000		18% of taxable income
160 001	- 250 000	28 800	+ 25% of taxable income above 160 000
250 001	- 346 000	51 300	+ 30% of taxable income above 250 000
346 001	- 484 000	80 100	+ 35% of taxable income above 346 000
484 001	- 617 000	128 400	+ 38% of taxable income above 484 000
617 001 and above		178 940	+ 40% of taxable income above 617 000

Tax Rebates

Primary Rebate	R11 440
Secondary - Persons of 65 and older	R6 390
Tertiary - Persons of 75 and older	R2 130

Tax thresholds

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

Persons under 65	R63 556
Persons of 65 - 74 years	R99 056
Persons of 75 years and older	R110 889

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 - 33% of each R1

Trusts (other than a special trust) - 40% of each R1



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



info@vippayroll.co.za www.vippayroll.
co.za