

Sage in Africa

# Swaziland/Eswatini Tax Summary 2021-2022

A short guide for payroll and HR professionals navigating the latest employees' tax legislation in Swasiland/Eswatini

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# Terminology

All references to 'he', 'his', 'him' or 'himself' includes 'she', 'her' or 'herself' 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 purpose of this document is to address employee's tax and includes references to the Income Tax Order where applicable.

All references made to Swaziland includes Eswatini.

## Employees' Tax (PAYE)

The employer must withhold employees' tax from all remuneration paid or payable to an employee during the tax year, and the Second Schedule to the Income Tax Order has 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.

Income tax is source-based, therefore income from a source within, or deemed to be within Swaziland is taxable in Swaziland.

The Second Schedule to the Income Tax Order requires three elements to be present before employees' tax can be withheld for payment to the SRA:

- an employer
- paying remuneration
- to an employee.

### Definitions & Employees' Tax Concepts

#### **Tax Year**

1 July – 30 March

#### **Revenue Service**

Eswatini Revenue Authority (ERS)

[www.ers.org.sz](http://www.ers.org.sz)

## **Amounts Deemed to have Accrued in Swaziland**

An amount accrued to any person shall be deemed to have accrued from a source situated in Swaziland where it has accrued to such person in respect of –

- any service rendered or work or labour done by such person in the carrying on in Swaziland of any trade, whether the payment for such service or work or labour is made or is to be made by a person resident in or out of Swaziland,
- any service rendered by such person to, or work or labour done by, such person for or on behalf of the Government and in accordance with an agreement of employment with the Government notwithstanding that such service is rendered or that such work or labour is done outside Swaziland,
- any pension or annuity granted to such person in respect of services performed in Swaziland wheresoever payment of such pension or annuity is made and wheresoever the funds from which payment is made are situate: Provided that if any pension or annuity is granted in respect of services performed partly in Swaziland and partly elsewhere only that part which bears to the whole amount of such pension or annuity the same ratio as the period of service in Swaziland bears to the total period of service in respect of which such pension or annuity was granted shall be deemed to have accrued from a source within Swaziland,
- any business carried on by such person (being a person who is ordinarily resident in Swaziland, or a company which is incorporated, managed, or controlled in Swaziland) as owner or charterer of any aircraft, wheresoever such aircraft may be operated,
- any service rendered or work or labour done by such person, being a person ordinarily resident in Swaziland, as an officer or a member of the crew of any aircraft referred to in the above bullet notwithstanding that such service is rendered or such work or labour is done outside Swaziland, and wheresoever payment for such service or work or labour is made or is to be made, and
- any amount, which has been paid by any person as an allowance or advance to a director, manager, employee, or other person in respect of expenses of travelling, entertainment or other service, as the Commissioner is not satisfied was actually expended by the recipient on such travelling, entertainment or in the performance of such service, shall be deemed to be part of the taxable income of the recipient.

(section 11)

## **Employer**

Employer means any authority or person (including any person acting in a fiduciary capacity or in his capacity as a trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, provident fund, retirement annuity fund or any other fund) who pays or is liable to pay to any person other than a company any amount by way of remuneration, and any company.

The expression ‘any authority or person’ refers to the principal or the legal representative of the

principal and extends to Departments of the Government, local authorities, hospitals, churches, charities, schools and other organisations or entities.

“representative employer” means in the case of –

- any company, the public officer of such company, or, in the event of such company being placed in liquidation or under judicial management, the liquidator or judicial manager, as the case may be,
- any local authority or like authority or any body corporate or unincorporate (other than a company or a partnership) any manager, secretary, officer, or other person responsible for paying remuneration on behalf of such council, board, authority, or body,
- a person under legal disability, any guardian, curator, administrator, or other person having the management or control of the affairs of the person under legal disability, or
- any employer who is not ordinarily resident in Swaziland, any agent of such employer having authority to pay remuneration;

Provided that nothing in this definition shall be construed as relieving any person from any liability, responsibility or duty imposed upon him by the Second Schedule.

(paragraph 1, Second Schedule)

## **Employee**

Employee means any person (other than a company) who in respect of employment, receives remuneration from an employer or to whom remuneration accrues, including –

- any former employee who receives remuneration which accrued before the termination of the contract of employment,
- any person who receives remuneration or to whom remuneration accrues by reason of any services rendered by such person to or on behalf of a labour broker,
- any labour broker,
- any personal service company, and
- any personal service trust.

Employment means –

- the position of an individual in the employ of another person, or
- a directorship of a company, or
- a position entitling the holder to a fixed or ascertainable remuneration,

- or a public office.

Please note: Refer to the Explanatory Notes in the SRA PAYE Guide for Employers and Legal Notice No.37 of 2005 for more information on the definition of ‘employee’ and ‘employment’ and in determining the status of an employee.

(paragraph 1, Second Schedule)

### **Labour Broker**

Means any person who conducts or carries on any business whereby such person for reward provides a client of such business with other persons to render a service or perform work for such client, or to procure such other persons for the client, for which services or work such other persons are remunerated by such person.

Please note: Refer to the Explanatory Notes in the SRA PAYE Guide for Employers for more information on the definition of ‘labour broker’.

(paragraph 1, Second Schedule)

### **Personal Service Company**

Means any company (other than a company which is a labour broker), where any service rendered on behalf of such company to a client of such company is rendered personally by any person who is an associate in relation to such company, and —

- such person would be regarded as an employee of such client if such service was rendered by such person directly to such client, other than on behalf of such company; or
- such person or such company is subject to the control or supervision of such client as to the manner in which the duties are performed or are to be performed in rendering such service and must be mainly performed at the premises of the client; or
- where more than eighty per cent of the income of such company during the year of assessment, from services rendered, consists of or is likely to consist of amounts received directly or indirectly from one client of such company, in relation to such client,

except where such company throughout the year of assessment, employs three or more full-time employees who are on a full-time basis engaged in the business such company of rendering any such service, other than any employee who is an associate in relation to such person or such company.

Please note: See the definition of associate and refer to the Explanatory Notes in the SRA PAYE Guide for Employers for more information on the definition of ‘personal service company’.

(paragraph 1, Second Schedule)

## **Personal Service Trust**

Means any trust (other than a trust which is a labour broker), where any service rendered on behalf of such trust to a client of such trust is rendered personally by any person who is an associate in relation to such trust, and —

- such person would be regarded as an employee of such client if such service was rendered by such person directly to such client, other than on behalf of such trust; or
- such person or such trust is subject to the control or supervision of such client as to the manner in which the duties are performed or are to be performed in rendering such service and must be mainly performed at the premises of the client; or
- where more than eighty per cent of the income of such trust during the year of assessment, from services rendered, consists of or is likely to consist of amounts received directly or indirectly from one client of such trust, in relation to such client,

except where such trust throughout the year of assessment, employs three or more full-time employees who are on a full-time basis engaged in the business such trust of rendering any such service, other than any employee who is an associate in relation to such person or such trust.

Please note: See the definition of associate and refer to the Explanatory Notes in the SRA PAYE Guide for Employers for more information on the definition of ‘personal service company’.

(paragraph 1, Second Schedule)

## **Associate**

‘Associate’ means any person, not being an employee, who acts or is likely to act in accordance with the directions, requests, suggestions, or wishes of another person whether or not they are in a business relationship and whether those directions, requests, suggestions or wishes are communicated to the first-mentioned person, including —

- a relative of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions, or wishes of the other person,
- a partner of the person, unless the Commissioner is satisfied that neither person acts in accordance with the directions, requests, suggestions, or wishes of the other person,
- a partnership in which the person is a partner where the person, either alone or together with an associate or associates controls fifty per cent or more of the rights to income or capital of the partnership either directly or through one or more interposed companies, partnerships, or trusts,
- the trustee of a trust under which the person or an associate benefits or may benefit,
- a company in which the person, either alone or together with an associate or associates, controls fifty per cent or more of the voting power in the company either directly or through one or more interposed companies, partnerships, or trusts,

- where the person is a partnership, a partner in the partnership who, either alone or together with an associate or associates, controls fifty per cent or more of the rights to income or capital of the partnership either directly or through one or more interposed companies, partnerships, or trusts,
- where the person is the trustee of a trust, any other person or an associate of such other person who benefits or may benefit under the trust,
- where the person is a company —
  - a person who, either alone or together with an associate or associates, controls fifty per cent or more of the voting power in the company, either directly or through one or more interposed companies, partnerships, or trusts; or
  - another company in which the person referred to in subparagraph (i), either alone or together with an associate or associates, controls fifty per cent or more of the voting power in that other company, either directly or through one or more interposed companies, partnerships, or trusts.

(section 2)

### **Fees / Allowances Payable to Non-Executive Directors / Members of Statutory Boards**

Payments made to non-executive directors/members of statutory boards are classified as remuneration and are subject to the deduction of employees' tax.

Employers are directed to deduct employees' tax (PAYE) on allowances, fees and any other remuneration payable to such non-executive directors or Members of Statutory or other similar Boards (including Members of Executive Committee of NGO's or Councils of similar bodies or entities). The withholding rate of tax that must be applied on the amounts payable to such persons is 33%, which is the top marginal rate applicable to individuals. The withholding rate takes into account that such persons may have other sources of income in addition to the fees/allowances etc. being paid.

Since the amounts payable to the members of board of directors or similar entities are subject to the deduction of employees' tax, employees' tax certificates must be issued to such employees within the stipulated period in accordance with the requirements of paragraph 13 of the Second Schedule.

(SRA PAYE Guide for Employers)

### **Remuneration**

Remuneration means any amount of income which is paid or is payable to any person by way of salary, leave pay, allowance, wage, overtime pay, bonus, gratuity, commission, fee, emolument, pension, superannuation allowance, honorarium, retiring allowance or stipend, whether in cash or otherwise and whether or not in respect of services rendered, including -

- any amount received/accrued as an annuity,

- any amount including any voluntary awards, so received or accrued in respect of services rendered or to be rendered,
- any amount including any voluntary awards so received or accrued,
  - in commutation of amounts due under any contract of employment or service,
  - in respect of relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment or of any appointment (or right or claim to be appointed) to any office or employment,
- the annual value of any benefit or advantage accruing by way of employment, including that of any quarters, board, or residence: Provided that in calculating the gross income of any person—
  - the value of any free medical attention or cash allowances for medical expenses provided for or paid to any employee or the holder of an office or appointment shall not be included,
  - any free passage by rail, steamer or air provided for an employee or the holder of an office or appointment at the commencement of such employment, office or appointment shall not be included if the duration of such employment, office or appointment is two years or more or where it is less than two years, if such employment, office, or appointment is not subject to renewal,
  - any free passage by rail, road, steamer, or air provided for an employee or the holder of an office or appointment shall, on termination of such employment, office or appointment, not be included if the employee or holder of such an office or appointment permanently returns to his place of recruitment,
  - fifty per cent of the total amount paid by an employer during any year of assessment directly or indirectly, by way of contribution to any approved bursary scheme for the benefit or educational assistance of the children of any employee or dependants of such employee shall not be included,

for the purpose of the above bullet, a taxable benefit shall be deemed to have been granted by an employer to his employee in respect of the employment contract between the employer and the employee, if—

- a loan has been granted to the employee, whether by the employer or by any other person by arrangement with the employer, and either no interest is payable by the employee on such loan or interest is payable by him thereon at a rate lower than the official rate of interest, or
- the employer has paid any subsidy in respect of the amount of interest or capital repayments payable by the employee in terms of the loan, or

- the employer has in respect of any loan granted to the employee by any lender, paid to such lender any subsidy, being an amount which, together with any interest payable by the employee on such loan, exceeds the amount of the interest which, if calculated at the official rate of interest, would have been payable on such loan,
- so much of any amount, which has been paid by any person as an allowance or advance to a director, manager, employee, or other person in respect of expenses of travelling, entertainment or other service, as the Commissioner is not satisfied was actually expended by the recipient on such travelling, entertainment or in the performance of such service, shall be deemed to be part of the taxable income of the recipient,
- any amount by way of allowance received by or accrued to a public servant, a Member of Parliament, a Minister, or a member of a statutory or other similar body, but excluding reimbursive allowances for appropriate official purposes,
- any amount received by or accrued to any person as compensation for any restraint of trade imposed on such person,
- fifty percent of the amount by which the value of shares issued to an employee under an employee share acquisition scheme at the date of issue exceeds the consideration, if any, given by the employee for the shares, including any amount given as consideration for the grant of a right or option to acquire the shares (employee share acquisition scheme means an agreement or arrangement under which a company is required to issue shares in the company to employees of the company or of an associated company or a company who is required to issue shares to a trustee of a trust under the trust deed the trustee is required to transfer the shares to employees of the company or of an associated company),
- an amount of any gain derived by an employee on disposal of a right or option to acquire shares under an employee share acquisition scheme (employee share acquisition scheme means an agreement or arrangement under which a company is required to issue shares in the company to employees of the company or of an associated company or a company who is required to issue shares to a trustee of a trust under the trust deed the trustee is required to transfer the shares to employees of the company or of an associated company),
- fifty per cent of the total amount paid by an employer during any year of assessment directly or indirectly, by way of contribution to any approved bursary scheme for the benefit or educational assistance of the children of any employee or dependants of such employee, but not including —
- any annuity under an order of divorce or decree of judicial separation or under any agreement of separation,
- any amount paid or payable to an employee wholly in reimbursement of expenditure actually incurred by such employee in the course of his employment; or

- any amount paid or payable to any person in respect of services rendered or to be rendered by him as a domestic or private servant where the income tax payable on such taxable income for the year of assessment is equal to or less than the amount of the personal tax rebate allowed to such person.

(paragraph 1, Second Schedule)

### **Balance of Remuneration**

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

- Any current contribution by the employee concerned to any pension fund established by law or approved by the Commissioner General or approved provident fund limited to 10% of an employee's pensionable salary in any year of assessment. In the case of current contributions made by Members of Parliament to the members of parliament and Designated Office Bearers Pension Fund such contributions are limited to 15% of the member's pensionable salary.
- The employee's statutory contributions to Eswatini National Provident Fund (ENPF) must also be deducted before determining employees' tax as the fund falls within the ambit of the definition of 'pension fund', since the definition of 'pension fund' includes a provident fund established by law and the tax deduction limit is limited to the statutory contribution limit.

(paragraph 2, Second Schedule)

## **Allowances, Advances, Reimbursements & Other Remuneration**

Any amount paid by an employer to an employee, as an allowance, is included in remuneration and taxable, subject to the rules below.

(paragraph 1, Second Schedule and Legal Notice No.4 of 2007)

### **Allowance / Advance for Travelling, Entertainment or Other Services**

Where an allowance or advance is paid by the employer to an employee in respect of expenses for travelling, entertainment or other service, as is not actually expended for official purposes, will be regarded as taxable in the hands of the employee. The value of the benefit is determined according to the following formula:

$A = (B - C)$ , where

A is the taxable benefit,

B is the actual amount paid by the employer to the employee, and

C is the justifiable official expense incurred by the employee.

Where an employee incurs expenditure on travel, entertainment or other service while on the

employer's business and the latter reimburses such employee the precise amount of his expenditure and where the employer pays an allowance in respect of the use of the employee's private vehicle for the employer's business at fixed rates per kilometre (which rates approximate the rates published by AA of South Africa), the amount so received is not income in the hands of the employee but merely a reimbursement of expenses, which the employee incurred on behalf of his employer. Provided that if an employee receives a fixed allowance towards the running costs of a vehicle and also receives a 'distance travelled allowance' as contemplated in this paragraph, then such fixed allowance shall be taxable in full.

Note that since in terms of the law, there must be clear evidence that the allowance was paid to meet or reimburse expenses incurred by the employee in the performance of employee's duties. This requires the employee to produce proof to the employer that such expenditure was actually incurred and has been accounted for.

(Legal Notice No.4 of 2007)

### **Allowance / Reimbursement for Medical Expenses**

Cash allowances for medical expenses provided for or paid to any employee or the holder of an office or appointment shall not be included in remuneration where the free medical allowance or reimbursement is available to all non-casual employees on equal terms. Provided that where a reimbursement or cash allowance is provided for or paid to an employee in respect of medical expenses, the employee must produce proof to the employer that such expenditure was actually incurred and has been accounted for.

'Medical expenses' includes a premium or other amount paid for medical insurance and contribution to a medical aid fund.

(Legal Notice No.4 of 2007)

### **Leave Pay**

If an employee gets an advance payment of salary when going on leave and the payment covers two tax years, the entire leave payment shall accrue in the first tax year. This should be treated as an annual bonus on the payroll.

(SRA PAYE Guide for Employers)

### **Arbitration Awards**

An employer must ascertain from the SRA the amount of employees' tax to be deducted from an amount awarded in respect of a settlement agreement or a court order before such amount is paid to the employee or former employee. An application form must be submitted to the SRA by the employer for the amount awarded to an employee or former employee in respect of CMAC and Industrial Court awards. A copy of the court order or settlement agreement must accompany the application form.

Please refer to the SRA PAYE Guide for Employers for more information for the three different categories of Industrial and CMAC awards.

(SRA PAYE Guide for Employers)

## **Severance Allowance**

In terms of section 34(1) of the Employment Act, certain categories of persons, whose employment is terminated, shall be granted, as part of the benefits accruing under the contract of service, a severance amounting to ten working days' wages for each completed year of service in excess of one year in respect of the period of continuous employment with the employer.

The categories of persons to whom severance shall be paid are as follows:

- persons who are retired in terms of section 36(k) of the Employment Act, having reached the normal age for retirement in the undertaking,
- persons who are declared redundant in terms of section 36(j) of the Employment Act,
- persons by award of the Industrial Court in terms of the Industrial Relations Act in respect of an employee whose services the court has held to have been terminated unfairly.

The following categories of persons are not entitled by law to be paid a severance allowance-

- persons who resign their employment voluntarily, and
- persons whose employment has been terminated fairly.

An employer who elects, ex-gratia, to make any payment to either of the two categories mentioned above shall treat such payment as normal income for the purposes of taxation as it does not qualify as a severance allowance.

The tax-free element of severance allowance only applies to completed years in service in excess of one year, any amount in excess of completed years in service does not qualify for the exemption.

Wages for the purpose of severance allowance calculations, mean the wages payable to the employee at the time his service were terminated (section 34(5) of the Employment Act). Where such wages are calculated other than on a daily basis, such wages should be converted to a daily basis for the purpose of severance allowance calculations.

If the severance allowance is a bona fide severance allowance and qualifies according to the rules above, it will be exempt. The employer must apply for a tax directive before paying the severance allowance.

For more information, please refer to Legal Notice No.181 of 2004 in the PAYE Guide for Employers.  
(Legal Notice No.170 of 2004)

## **Notice Pay**

Notice is the period given to an employee by an employer, before the employee leaves the employment, to enable that employee to look for alternative employment or to prepare himself otherwise. Notice therefore applies where the services of an employee are terminated at either party's initiative.

In order to determine the meaning of notice pay in relation to section 12(1)(j)(iii) of the Order,

reference must be made to section 33(5) of the Employment Act. This section states that an employer or employee may terminate the employment contract and instead of the employee serving notice, the terminating party shall pay the other party an amount equal to the basic wage that the employee would have earned had notice been served in terms of section 33. Therefore, notice pay for the purposes of section 12(1)(j)(iii), is the amount paid to an employee when the stipulated period of notice is not served on termination of employment.

The period of notice that an employee will be required to serve will be stipulated in the contract of employment, or there may be a collective agreement under which it is specified.

Circumstance under which notice applies:

- Where the services of an employee are terminated at the employer's initiative –
  - retrenchments or any general reduction in staff, including closing down of business,
  - general incompetence,
  - termination of service at the instance of both parties, for example on retirement, and
  - termination of service for which no suitable justification can be applied, for example where the employee leaves employment voluntarily on retirement and on resignation.

Circumstance under which the exemption on notice pay will not apply -

- If it is established that an amount purporting to be notice pay is not actually notice pay, for instance when notice has already been served, there is no reason to make further payment in this respect. Therefore, before an exemption for genuine notice pay is granted, it must be established from the contract or collective agreement, the period of notice that the employee was expected to serve. Such period must correspond with the amount paid in lieu of notice.
- Any other amount paid as “additional notice pay”. This may be an amount that the employer elects to give the employee in excess of the actual notice pay calculated in relation to the period of notice above.
- Where an employee has been dismissed.
- On the death of an employee.

If the notice pay is a bona fide notice pay and qualifies according to the rules above, it will be exempt. The employer must apply for a tax directive before paying the notice pay.

For more information, please refer to Legal Notice No.181 of 2004 in the PAYE Guide for Employers.  
(Legal Notice No.181 of 2004)

## **Amounts Payable to Employees on Redundancy or Retirement**

Section 12(1)(j)(iv) of the Order, provides an exemption on any lump sum referred to in section 7(c) of the definition of “gross income” as does not exceed sixty thousand emalangeni (30 thousand was amended to 60 thousand). The exemption is available when the termination of the employee’s service is due to:

- the employer having ceased carrying on trade in respect of which such employee was employed (which may occur as a result of the closing down of the business or liquidation), or
- such employee having become redundant in consequence of the employer having effected a general reduction or reduction of a particular class of employees, or
- the employee having reached the retiring age or the termination of employment of such is due to ill-health or infirmity.

The amount in excess of E60 000 is taxable. The employer must apply for tax directive before paying such redundancy/retirement payment.

For more information, please refer to Legal Notice No.180 of 2004 in the PAYE Guide for Employers.

(Legal Notice No.180 of 2004)

## **Free Passage to Employees or Holder of Office or Appointment**

Any free passage by rail, steamer or air provided for an employee or the holder of an office or appointment at the commencement of such employment, office or appointment shall not be included in remuneration if the duration of such employment, office or appointment is two years or more or where it is less than two years, if such employment, office or appointment is not subject to renewal, is exempt from tax.

The exemption of free passage is premised on the notion that the provision of such outward passages though made under a term of the contract of employment is something antecedent to the employment per se. It is distinct from the employment as not to be a benefit or advantage granted or enjoyed in respect of the employment. In other words, the free passage provided at the expense of the employer at commencement of employment is not a benefit or advantage to the employee. The employee is not better off as a result of it.

The employee’s remuneration starts when such an employee commences work at the place of employment. To have such a person as an employee, the employer, has originally to take him to the place of employment. All that the employee has enjoyed is that the employee has employment. The value of that is what the employee earns at it.

Note that this differs from a case in which in the course of employment the employee is entitled to be taken to and from a place for the purpose of enjoying leave. Such situations are not excluded from income tax, as they do not fall within the wording of the proviso.

For the exemption to apply, the law requires that the duration of such employment, office or appointment should be two years or more. However, where the duration is less than two years such employment, office or appointment must not be subject to renewal.

If the employee at the termination of the contract does not permanently return to his place of recruitment, then such allowances or free passages provided at the expense of the employer would constitute a benefit or advantage to the employee and therefore taxable.

Please refer to Legal Notice No.171 of 2004 for more information.

(Legal Notice No.171 of 2004)

### **Approved Bursary Scheme Payments**

Fifty per cent of the total amount paid by an employer during any year of assessment directly or indirectly, by way of contribution to any approved bursary scheme for the benefit or educational assistance of the children of any employee or dependants of such employee is included in remuneration.

‘Approved bursary scheme’ means a bursary scheme operated by an employer which is registered with the Commissioner and approved by him in respect of the year of assessment in question upon the following terms and conditions and such others as he may determine —

- that the bursaries under the scheme are awarded on merit according to need to enable students to pursue secondary or high school education at public educational institutions,
- that the children of all employees of the employer are eligible for such bursaries,
- that a bursary awarded to any recipient shall not exceed four thousand five hundred Emalangeni per annum,
- that a bursary scheme is governed by properly defined rules which, together with and amendments thereto, are approved by the Commissioner.

‘Child’ means —

- any child, step-child or adopted child of the taxpayer of whom he has the custody and whom he wholly maintains, provided that in the case of an adopted child such child shall have been adopted by the taxpayer —
  - under the Adoption of Children Act, No. 64 of 1952,
  - in accordance with Swazi customary law, provided that proof of such adoption is supported by a certificate under the signature of a person appointed in writing and gazetted by the Minister for Home Affairs either generally or specially for such purpose, or
  - under the law of any country other than Swaziland, provided that the Commissioner is satisfied that the adopted child is under such law accorded the status of a legitimate child of the adoptive parent and the adoption was made at a time when the taxpayer was resident in such country.

(section 2 and paragraph 1, Second Schedule)

### **Tax Directives for Lump Sums**

A tax directive is issued by the Commissioner General to instruct the employer to deduct/withhold employees' tax from certain payments where the prescribed tax tables do not cater for certain lump sums.

The employer must apply for a tax directive to ascertain the amount of PAYE that must be deducted/withheld before paying such lump sum.

When applying for a tax directive, the employer must ensure that the correct application form is used according to the lump sum reason and nature of the amount payable to the employee/member of the fund. A directive must be obtained from the SRA in each of the following lump sum payments:

- arbitration award,
- severance allowance,
- notice pay,
- amounts payable due to redundancy or retirement,
- payment of gratuity,
- bonus on termination,
- amount in commutation of pension on termination of employment,
- lump sum amounts from pension, provident and benefit funds, and
- any amount received as compensation for any restraint of trade imposed on such person.

Please refer to Legal Notice No.146 of 2004 in the SRA Guide for Employers for more information.

(paragraph 9(3), Second Schedule, Legal Notice No.146 of 2004 in the SRA PAYE Guide for Employers)

### **Tax Directives for Remuneration**

A tax directive is issued by the Commissioner General to instruct the employer to deduct/withhold employees' tax from certain payments where the prescribed tax tables do not cater for remuneration.

- Where a person who has been unemployed for a lengthy period resumes working, it is possible that deductions in accordance with the tables will cause hardship. In such cases the Commissioner General may issue a directive to the employer to deduct less tax than shown in the tables.
- Where the Commission is satisfied that circumstances warrant a variation of the basis for the determination of employees' tax to be deducted from remuneration of an employee, he may

agree with the employer as to the basis of determination of the amounts to be applied by such employer.

- The Commissioner may, having regard for the circumstances of the case, issue a directive authorising the employer to refrain from deducting any employees' tax or to deduct a specified amount or specified rate to alleviate hardship due to illness or other circumstances or to correct an error in the calculation of an employees' tax. The employer must comply with such directive.

The following rules relate to a tax directive:

- a tax directive is only valid for the tax year or period stated thereon,
- the employer should only act upon the original copy of a directive,
- under no circumstances should the employer deviate from the instructions of the directive,
- the employer must apply the percentage of employees' tax as indicated on the tax directive prior to taking into account allowable deductions for employees' tax purposes (e.g., pension Please refer to Legal Notice No.146 of 2004 in the SRA Guide for Employers for more information.

(paragrpah 11, Second Schedule and SRA PAYE Guide for Employers)

## Exempt Income

All items exempt from remuneration for PAYE purposes are -

- the salaries and emoluments of any person in respect of services rendered to the Government of any country other than Swaziland if that person is not ordinarily resident in Swaziland or is ordinarily resident solely for the purpose of performing such services,
- war pensions or gratuities,
- so much or any amount received by or accrued to any person as is proved to the satisfaction of the Commissioner to be a bona fide bursary granted to enable to assist such person to study at a recognised educational or research institution,
- any amount received by or accruing to an employee on a bona fide termination of employment in respect of –
  - commutation of a pension payable from a pension fund,
  - amounts due from a provident fund or benefit fund,
  - any amount payable, as determined in terms of the provisions of the Employment

Act as severance allowance or notice pay (see Legal Notice No. 170 of 2004),

- the first E60 000 of a lump sum amount so received or accrued in commutation of amounts due under any contract of employment or service and/or in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment or of any appointment (or right or claim to be appointed) to any office or employment, payable by reason of –
  - the termination or impending termination of the employee's service due to the employer having ceased carrying on the business in respect of which the employee was employed,
  - the employee having become redundant in consequence of the employer having affected a general reduction or a reduction of a particular class of employees, or
  - the employee having reached the retiring age or termination of employment of such employee is due to ill health or infirmity,

provided that any lump sum amount in excess of the E60 000 shall be charged tax under section 6 (see Legal Notice No. 180 of 2004)

- any amount (other than his actual salary) received by or accrued to a public servant which the Government has undertaken shall be exempt from normal tax by the terms of its written agreement with such servant and any amount from whatsoever cause arising received by or accrued to a public servant which the Government has undertaken shall be exempt from normal tax by the terms of its written agreement with the Government of another state,
- any amount received by or accrued to any person in respect of services rendered in Swaziland which the Government has undertaken shall be exempt from normal tax by the terms of its written agreement with the Government of another state or with an international or world organisation or body,
- any allowances additional to salary payable to any public servant or representative of the Government in respect of his appointment or office if such allowances are payable and his duties are performed outside Swaziland;
- any amount, other than the actual salary and benefits received by, or accrued to, an expatriate lecturer whom the Government has undertaken shall be exempt from normal tax in terms of a written agreement with the University of Swaziland, or an approved college or institution of higher learning,
- any annuity under an order of divorce or decree of judicial separation or under any agreement of separation,
- any amount paid or payable to an employee wholly in reimbursement of expenditure actually incurred by such employee in the course of his employment,

- any amount paid or payable to any person in respect of services rendered or to be rendered by him as a domestic or private servant where the income tax payable on such taxable income for the year of assessment is equal to or less than the amount of the personal tax rebate allowed to such person, and
- certain fringe benefits (refer to taxable benefits for more information).

(section 12 and paragraph 1, Second Schedule)

## Fringe Benefits

A benefit by an employer to an employee means a benefit that is provided by an employer, by an associate of the employer, or by a third party under an arrangement with the employer and is provided to an employee or to an associate of the employee.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### Free and Subsidised Housing

- Where a benefit provided by an employer to an employee consists of accommodation or housing, the value of the benefit is the open market rent of the accommodation or housing, reduced by any payment made by the employee for the benefit. Provided that where the employer owns the accommodation or housing, the value of the benefit is the rental benefit value of the accommodation or housing determined in accordance with the table in Annexure A, the valuations depend on the size and location of the house.
- Where an employer rents from an employee the employee's private residence and then grants such employee free or cheap occupation thereof, the rental is deemed to be a taxable benefit, the value of the benefit to the employee is the rental received.
- Where an employer provides accommodation or housing to employees on a sharing basis, the rental benefit value shall be determined *pro rata*.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### Private Use of Motor Vehicle

- Where a benefit provided by an employer to an employee consists of the use, or availability for use, of a motor vehicle (including any aircraft or helicopter) wholly or in partly for the private purposes of the employee, the value of the benefit is calculated according to the following formula:
- $(20\% \times A \times B/C) - D$ , where -

- A is the market value of the motor vehicle at the time when it was first provided for the private use of the employee,
  - B is the number of days in the year of assessment on which the motor vehicle was used or available for use for private purposes by the employee for all or a part of the day,
  - C is the number of days in the year of assessment,
  - D is any payment made by the employee for the benefit.
- The market value of the car is the cost to the employer at the time it was first provided to the employee. The market value of second-hand cars is shown in the Auto Dealer's Guide<sup>1</sup>. For vehicles that were purchased in Swaziland, this value may be adjusted to 110/114 (96.5%) or 112/114 (98.25%) of the Guide value, depending on the rate of Value Added Tax in force in Swaziland at the time the vehicle was purchased.
  - where an employee is provided with more than one vehicle, taxable benefits will be evaluated on an individual basis.

Employee assisted with purchase of vehicle, as part of perks from employment:

Where an employee purchases a personal vehicle with assistance from the employer as part of a benefit or advantage accruing by way of employment, the fixed allowances given towards the costs of the vehicle are taxable benefits.

Employee using personal vehicle on employer's business:

Where an employee uses a personal vehicle on employer's business, the annual value of benefits attributable to such an employee for use of the vehicle for private purposes will be determined in accordance with the following formula:

$$A = B - \frac{(C \times D)}{E}$$

Where,

- A is the amount to be included in taxable income,
- B is the car allowances received (car allowance defined as all cash allowances plus market value of any free benefit i.e., free fuel),
- C is the actual expenditure on fixed and running costs (net of any recoupments), or is the deemed fixed and running costs, where accurate records are not kept,
- D is the business mileage as recorded in a logbook or number record; or the deemed business mileage of 6 000 kilometres where accurate records are not kept,
- E is the total mileage; or deemed total mileage of 24 000 kilometres where accurate records are not kept.

**Deemed expenditure is determined on the following basis**

<b>Fixed Cost</b>	25% of the original cost to the taxpayer of the vehicle each year	
<b>Running cost per kilometre</b>	Up to 1600cc	54c per km
	1600cc to 2000cc	76c per km
	Over 2000cc	85c per km

Monthly PAYE will be deducted on the basis of the formula using the deemed expenditure and mileage. However, since the employee is required to keep a record of the mileage in respect of business and private travel, at year end the actual figures can be used and the necessary adjustment can be made.

The above will only apply if:

- the employee is, in terms of the written contract of employment, required to have such a vehicle for the performance of employee's duties,
- the size and type of vehicle relates to the duties to be performed in terms of the written contract of employment,
- the employee is, in terms of the contract of employment, required to provide the employer with such details and evidence which would reasonably be expected of him as to the actual expenditure incurred in respect of fixed, capital and running costs,
- the employee uses the vehicle for the business of the employer,
- the employee is required to keep a record of the mileage in respect of business and private travel.

The costs of the vehicle mean the costs of the vehicles, as quoted by the manufacturer or what the purchaser paid, and any additions and accessories such as air-conditioning, radio-tape, burglar alarm et cetera, excluding finance charges.

Where an employee owns or leases a motor vehicle and rents it to the employer, the rental paid by the employer and any expenses borne by employer in respect of the vehicle are deemed to be an allowance in respect of travelling expenses which has been paid to the employee.

Example:

The employee is required to use his 1800cc motor vehicle in the business of the employer. The value of the Motor Vehicle is E250 000. The employer provides the employee with an E80 000.00 annual car allowance to meet both fixed and running costs of the employee.

$$A = \frac{B - (C \times D)}{E}$$

$$B = \text{E80 000}$$

$$C = \text{Fixed cost (25\% of E250 000) E62 500}$$

Running cost (24 000 x 76 cents) E18 240

E80 740

D = 6 000 km

E = 24 000 km

A =  $80\,000 - \frac{(80\,740 \times 6\,000 \text{ km})}{24\,000 \text{ km}}$   
80 000 – 20 185

The taxable benefit = E59 815

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Provision of Domestic Assistants**

Where a benefit provided by an employer to an employee consists of the provision of a domestic assistant, the value of the benefit is the remuneration paid to the domestic assistant in respect of the services rendered to the employee.

It is expected that the value of this benefit will not be less than the minimum wages as set out in the Wages Act or Legal Notice issued in terms thereof for the regulation of wages.

‘Domestic assistant’ includes a chauffeur, cook, domestic servant, gardener, housekeeper, housemaid, nursemaid, security guard, bodyguard or other domestic assistant.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Utilities**

Where a benefit provided by an employer to an employee consists of the reimbursement or discharge by an employer of an employee’s utilities expenditure, the value of the benefit is the amount of the reimbursement or discharge, if separately metered.

Where the utilities are not metered and paid separately, 10% of the housing benefit value for each service.

‘Utilities expenditure’ means any expenditure for fuel, power, water, sewerage, or telephone in respect of an employee’s place of residence.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Children’s Educational Assistance Benefit**

Where a benefit provided by an employer to an employee consists of the provision of educational assistance in connection with the education of an employee’s children, the value of the benefit is the cost of the benefit to the employer for providing such educational assistance.

In many instances, the children’s educational assistance benefits are paid by employers on a lump sum basis and at irregular intervals, for example, at the end of each academic year. Employers are

permitted to use their discretion and to operate PAYE provisions in relation to such payments, after consultation with the employees concerned so as not to cause undue hardship to such employees.

Employers should ensure, however, that the full amount of PAYE due on the children's educational benefits paid to each employee is deducted within the year of assessment.

'Educational assistance' means a contribution or financial aid, or subsidy granted to the children of the employee by the employer to enable or assist such children to study at a recognized educational institution, and including school fees, boarding fees and other educational expenses paid by the employer on account of the education of the employee's children.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Soft Loans**

A taxable benefit accrues to an employee where:

- a loan is granted to an employee and either the employee pays no interest on the loan or pays interest at less than the official rate of interest,
- an employer has paid a subsidy in respect of capital repayment or interest on a loan, or
- an employer pays a lender a subsidy in respect of capital repayment or interest on a loan to an employee.

For the purposes of above paragraph:

- In respect of any other loan, the value of the taxable benefit for any year of assessment shall be the interest on the loan calculated at the official rate less the amount of interest (if any) that the employee actually incurred during the year of assessment.
- In respect of a loan whose duration is two years or more and in respect of which the repayment amount is a fixed periodic or monthly instalment calculated to amortize the loan over a future period, the value of the benefit for the year of assessment shall be the difference between the redemption amount actually incurred or paid by the employee and the redemption amount that would have been payable if the redemption amount had been determined over the same future period using the official rate of interest.

'Official rate of interest' in relation to a year of assessment, means the Central Bank of Swaziland discount rate as at the commencement of the year of assessment.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Meals, Refreshments or Entertainment**

Where a benefit provided by an employer to an employee consists of the provision of any meal, refreshment, or entertainment, the value of the benefit is the cost to the employer of providing the meal, refreshment, or entertainment.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Debt Waivers**

Where a benefit provided by an employer to an employee consists of waiver by the employer of an obligation of the employee to pay or to repay an amount owing to the employer or to any other person, the value of the benefit is the amount of the payment or repayment waived.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Property Transfers**

Where a benefit provided by an employer consists of the transfer or use of property or the provision of services, the value of the benefit is the market value of the benefit, reduced by any payment made by the employee for the benefit.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Employer Contributions to a Medical Benefit Fund on Behalf of Employees**

Where an employer makes a contribution to a medical benefit fund on behalf of an employee, any such amount that has been paid by the employer during any year of assessment, directly or indirectly, by way of contribution or payment to such fund for the benefit of any employee or the dependents of any such employee, which exceeds two thirds of the total contribution or payment in relation to such employee or dependents during such period, shall be deemed to be part of the taxable income of such employee for that year of assessment.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Miscellaneous Benefits**

The value of any benefit provided by an employer to an employee that is not covered in the previous paragraphs is the market value of the benefit, reduced by any payment made by the employee for the benefit.

The following will be included:

- free medical attention or any allowance, or reimbursement of an employee's medical expenses not exempt, and
- the value of free passages by rail, steamer or air for an employee if not exempt.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

### **Exempt Fringe Benefits**

The following benefits are exempt from tax and do not form part of the remuneration of an employee:

- The value of any free medical attention or any allowance or reimbursement of an employee's

medical expenses where the free medical attention, allowance or reimbursement is available to all non-casual employees on equal terms. Where a reimbursement or cash allowance is provided for or paid to an employee in respect of medical expenses, the employee must produce proof to the employer that such expenditure was actually incurred and has been accounted for.

- The value of any free passage by rail, road, steamer or air provided for an employee or the holder of an office or appointment –
  - at the commencement of such employment if the duration of such employment is two years or more; or where it is less than two years, if such employment is not subject to renewal; and/or
  - on termination of such employment where the employee or holder of an office or appointment permanently returns to his place of recruitment.
- The value of any meal or refreshment provided in a canteen, cafeteria, or dining room operated by or on behalf of an employer solely for the benefit of employees and which is available to all non-casual employees on equal terms.
- The value of a benefit (after taking into account the frequency with which similar benefits are provided by the employer) is so small that it makes accounting for it unreasonable or administratively impracticable.
- The value of any transportation of employee's children provided by the employer solely for the benefit of employees and which is available to all non-casual employees on equal terms.
- The benefit of a low interest or no interest on loan granted to an employee is excluded from gross income in respect of any casual loan not exceeding in aggregate E3 000 at any one time during the year of assessment.

(section 7(f), Legal Notice No.4 of 2007 and SRA PAYE Guide for Employers)

## Tax Deductions

### **Eswatini National Provident Fund (ENPF)**

The employee's statutory contributions to the Eswatini National Provident Fund (ENPF) must be deducted from remuneration to calculate balance of remuneration as the fund falls within the ambit of the definition of a "pension fund". The definition of a "pension fund" includes a provident fund established by law.

The contribution to the ENPF is 10% of the employee's actual wage (5% employee contribution and 5% company contribution) and has a maximum contribution equal to the tax deduction limit. The tax deduction limit for the contribution to the Eswatini National Provident Fund (ENPF) is:

Period	Total Contribution per month	Employee and employer contribution per month
Jan 2010 – Dec 2010	E130	E65
Jan 2011 – Dec 2011	E140	E70
Jan 2012 – Dec 2012	E150	E75
Jan 2013 – Dec 2013	E160	E80
Jan 2014 – Dec 2014	E170	E85
Jan 2015 – Dec 2015	E190	E95
Jan 2016 – Dec 2016	E210	E105
Jan 2017 – Dec 2017	E230	E115
Jan 2018 – Dec 2018	E250	E125
Jan 2019 – Dec 2019	E270	E135
Jan 2020 – Dec 2020	E290	E145
Jan 2021 – Dec 2021	E310	E155
Jan 2021 – Dec 2021	E330	E165

Please note: The limit for the 2021/2022 tax year is E1 920: E155 x 6 months (July 2021 – December 2021 plus E165 x 6 months (January 2022 – June 2022).

Please note that if the contribution period is less than a month, the maximum contributions are limited to the following for July – December 2021:

- if the employee contributed for one week or less the total maximum contribution is E72.50 per month (E36.25 for the employee and E36.25 for the employer),
- if the employee contributed for more than one week but not more than a fortnight, the total maximum contribution is E155.00 per month (E77.50 for the employee and E77.50 for the employer),
- if the employee contributed more than a fortnight, the total maximum contribution is E310.00 per month (E155.00 for the employee and E155.00 for the employer).

(paragraph 2, Second Schedule)

### Pension Fund

If an employee contributes towards an approved pension fund, the tax deduction amount is limited to 10% of an employee's pensionable salary in any year of assessment. In the case of a Member of Parliament the remuneration will be reduced by the contribution made to the Members of Parliament and Designated Office Bearers Pension Fund not exceeding 15% of the pensionable salary of such a member.

(paragraph 2, Second Schedule)

## Rates of Normal Tax

An employer is obliged to use the tax tables for determining the tax to be withheld from any payment of remuneration unless the employer has a tax directive from the Commissioner General or written authority from the Commissioner to use some other method.

### Annual Table

Taxable Income			Tax Payable			
0	-	100 000	0	+	20%	ever
100 001	-	150 000	20 000	+	25%	over
150 001	-	200 000	32 500	+	30%	over
200 001 and over			47 500	+	33%	over

(section 6 and Third Schedule)

### Rates of Normal Tax for part-Time Employees

For the purposes of employee's tax, "part-time employee" means a person who is not in your full time employ and who is not remunerated as a full-time employee for any services rendered. The expression excludes unskilled labourers whose remuneration does not exceed E3 416.67 on a monthly basis.

The rates of withholding tax prescribed hereunder shall apply in the determination of employees' tax to be deducted on any amount payable by way of remuneration to a part-time employee in any year of assessment:

Taxable Income			Tax Payable
0	-	8 333	20%
8 334	-	12 500	25%
12 501	-	16 666	30%
16 667 and over			33%

Please note: When applying these rates, the rebates should not be taken into account. Part-time employees are still required to file returns of income at the end of a year of assessment. Tax rebates will be granted on assessment in these cases. Employees' tax certificates must be issued to such employees within the stipulated period in accordance with the requirements of paragraph 13 of the Second Schedule.

What constitute part-time remuneration:

- casual payments for irregular services rendered,
- fees paid to part-time lecturers,
- honoraria paid to office-bearers of bodies, clubs, societies etc,

- remuneration paid for occasional services rendered, and
- any payment that cannot be regarded as full-time remuneration.

What constitute part-time remuneration:

- fees paid to professional persons such as medical practitioners, attorneys, advocates, accountants, auditors, architects, and quantity surveyors etc., that is, fees paid to a person for services rendered by him in the course of any trade conducted by him, and
- remuneration paid to a person whose contract of employment requires that person to work during either the morning or afternoon only of each working day.

(SRA PAYE Guide for Employers)

### **Rates of Normal Tax for Scholars and Full-Time University Students**

Where a scholar or full-time student is employed during his vacation or in a part-time capacity, employees' tax must be deducted from his remuneration. Employers must obtain completed PAYE 2 forms from such students and endorse them "full-time students", employed during vacation or "parttime". If the aggregate remuneration will exceed E41 000 for the tax year concerned, the employer must deduct employees' tax.

(SRA PAYE Guide for Employers)

### **Additional Tax / Voluntary PAYE**

Some employees who have other sources of income may find that they have to pay large amounts of tax at the end of the year. To reduce the amount payable at year-end, employees may request their employers to deduct additional employees' tax from their remuneration (i.e. an amount over that prescribed in the tables). A tax deduction directive is not required in such circumstances but the request to the employer should be in writing.

(paragraph 2(2), Second Schedule)

## **Tax Rebates**

### **General Tax Rebate**

When applying the tax tables the following should be taken into account:

- tax payable by a natural person will be reduced by a tax rebate amount not exceeding E8 200 per tax year,
- employees 60 years and older qualify for a further secondary rebate of E2 700 per tax year,
- the tax rebate does not apply in the case of redundant or retiring individuals.

If the employment period is less than the full tax year, the tax rebate shall be the same ratio such period bears to the full tax year.

Please note that the general tax rebate should not be taken into account when calculating PAYE for part-time employees, the tax rebate will be granted on assessment.

(section 8 and Third Schedule)

### **Additional Tax Rebate**

An additional rebate of up to 10% of the amount contributed by an employee towards a provident fund is allowed subject to an overall annual limit of E360.

(section 8)

## **Graded Tax**

Graded tax is an annual levy payable by adults in Eswatini. Below is the schedule to the Graded Tax Act which reflects the rates of taxation applicable to employees:

<b>Rates of taxation</b>	<b>Annual graded tax</b>
A person not in receipt of income or whose income does not exceed E300 a year	4.20
A person in receipt of income exceeding E300 a year but not exceeding E450 a year	6.00
A person in receipt of income exceeding E450 a year but not exceeding E600	12.00
A person in receipt of income exceeding E600 a year	18.00

- The rate for all Eswatini adults whose income is more than E600.00 per year, is E18 per annum and this is payable via the first PAYE remittance system.
- The rate for an adult male person not in receipt of income is E4.20 per annum.
- Female adults not in receipt of an income are not obliged to pay graded tax.

(Graded Tax Act)

## **Reconciliations and Payments**

### **Monthly Reconciliations and Payments**

Remittance of the Monthly PAYE Declaration:

The PAYE Monthly Declaration Return must be submitted to the Department of Taxes each month. It contains a summary of Tax Information for the specific month within the current tax year.

The employees' tax must be paid over to the SRA within seven days after the end of the month during which the amount was deducted. Where the employer has registered for e-filing, such P.A.Y.E should be remitted within 14 days after the end of the month during which such amount was deducted.

The e-tax system can be used to electronically submit PAYE monthly declarations, viewing of returns and submission of an enquiry. For more information click [here](#).

(Second Schedule)

### **Annual Reconciliations and Tax Certificates**

Annual Electronic PAYE Reconciliation and PAYE05 Tax Certificates:

Every employer is required to render to the Commissioner a return after the end of the year of assessment, showing the names and address of all persons who during the period of assessment were employees in relation to the employer and the total remuneration paid to or accrued to each employee in respect of such period and the total amount of employees' tax withheld from the remuneration of each employee during the year. The deadline for submitting salary reconciliations at the end of the tax year is the 30<sup>th</sup> of September.

Tax certificates must be issued to an employee within –

- 14 days after the end of the tax year,
- where the employee has ceased to be an employee of the employer, within 14 days after the date the employee has ceased to be an employee,
- where the employer has ceased to be an employer in relation to all employees, within 7 days after the date on which he ceased to be an employer, or
- within such further period as Commissioner may approve.

(Second Schedule)

## Annexure A

Rental category	Floor area	Area A Taxable benefit Per month	Area B Taxable benefit Per month	Area C Taxable benefit Per month
<b>Prime location</b> 3-5 bedrooms 2-3 bathrooms Double garage Servant quarters Secure perimeter <b>1 500 sq.m and above lot</b>	250 sq.m and above	<b>E</b> 4 607	<b>E</b> 3 915	<b>E</b> 2 740
As above, but smaller	200 sq.m and above	4 145	3 524	2 465
3 bedrooms 2 bathrooms a garage servants quarters secure perimeter <b>700 sq.m and above lot</b>	150sq.m and above	3 686	3 133	2 193
<b>Lesser than prime location</b> 3 bedrooms 1-2 bathrooms <b>700sq.m and above lot</b>	120sq.m and above	3 190	2 710	1 899

Rental category	Floor area	Area A Taxable benefit Per month	Area B Taxable benefit Per month	Area C Taxable benefit Per month
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3 bedrooms 2 bathrooms a garage servants quarters secure perimeter <b>700 sq.m and above lot</b>	150sq.m and above	3 686	3 133	2 193
<b>Lesser than prime location</b> 3 bedrooms 1-2 bathrooms <b>700sq.m and above lot</b>	120sq.m and above	3 190	2 710	1 899

# Eswatini National Provident Fund (ENPF)

Every contributing employer and eligible employee are obliged under the Swaziland National Provident Fund Order to contribute to the ENPF.

## Definitions

### **Employer and Contributing Employer**

Employer means the person whom an employee has entered into a contract of service or of apprenticeship and who is responsible for the payment of the wages of the employee.

The Minister may, for the purpose of the initial registration of any class or description of employers, by order published in the Gazette, declare that such class or description of employers shall not be contributing employers until the date specified therein. A contributing employer who ceased to be an employer or one or more eligible employees shall thereupon cease to be a contributing employer.

### **Employee and Eligible Employee**

Employee means any person who –

- is employed in Swaziland under any contract of service or apprenticeship with an employer, whether the contract is express or implied, oral or in writing, and whether he is employed by way of manual labour, clerical work or otherwise, or
- or is ordinarily resident in Swaziland and is employed outside Swaziland under any such contract of service with an employer in Swaziland by whom he is paid.

Eligible employee means any person under a contract of service, provided that a casual employee, or a person who is not a citizen of Swaziland or a person who is an employee in an expected employment mentioned in the Second Schedule of the Swaziland National Provident Fund Order (see Annexure B) shall not be so eligible.

## ENPF Contribution

The statutory ENPF contribution means the amount designated by order of the Minister published in

the Gazette.

The contribution is –

- 5% of wages for the employee contribution (limited to the statutory limit), and
- 5% of wages for the employer contribution (limited to the statutory limit).

Therefore, the total contribution is 10% of wages, limited to the statutory limit.

‘Wages’ means any remuneration in money paid to an employee under his contract of service or apprenticeship, as the case may be, and includes any allowance paid by the employer to the employee, either directly or by implication, in respect of the cost of living and any payment of wages in lieu of notice or termination of employment.

<b>Period</b>	<b>Total Contribution per month</b>	<b>Employee and employer contribution per month</b>
Jan 2019 – Dec 2019	E270	E135
Jan 2020 – Dec 2020	E290	E145
Jan 2021 – Dec 2021	E310	E155
Jan 2022 – Dec 2022	Must still be published	Must still be published

Please note that if the contribution period is less than a month, the maximum contributions are limited to the following for July 2021 – December 2021:

- if the employee contributed for one week or less the total maximum contribution is E72.50 per month (E36.25 for the employee and E36.25 for the employer),
- if the employee contributed for more than one week but not more than a fortnight, the total maximum contribution is E155.00 per month (E77.50 for the employee and E77.50 for the employer),
- if the employee contributed more than a fortnight, the total maximum contribution is E310.00 per month (E155.00 for the employee and E155.00 for the employer).

## Monthly Return and Payment

Every contributing employer must submit the NPF200 form and pay the monthly ENPF contributions within 21 days after the end of the month in which it was deducted/contributed.

## Annexure B

### SECOND SCHEDULE

#### (Section 7)

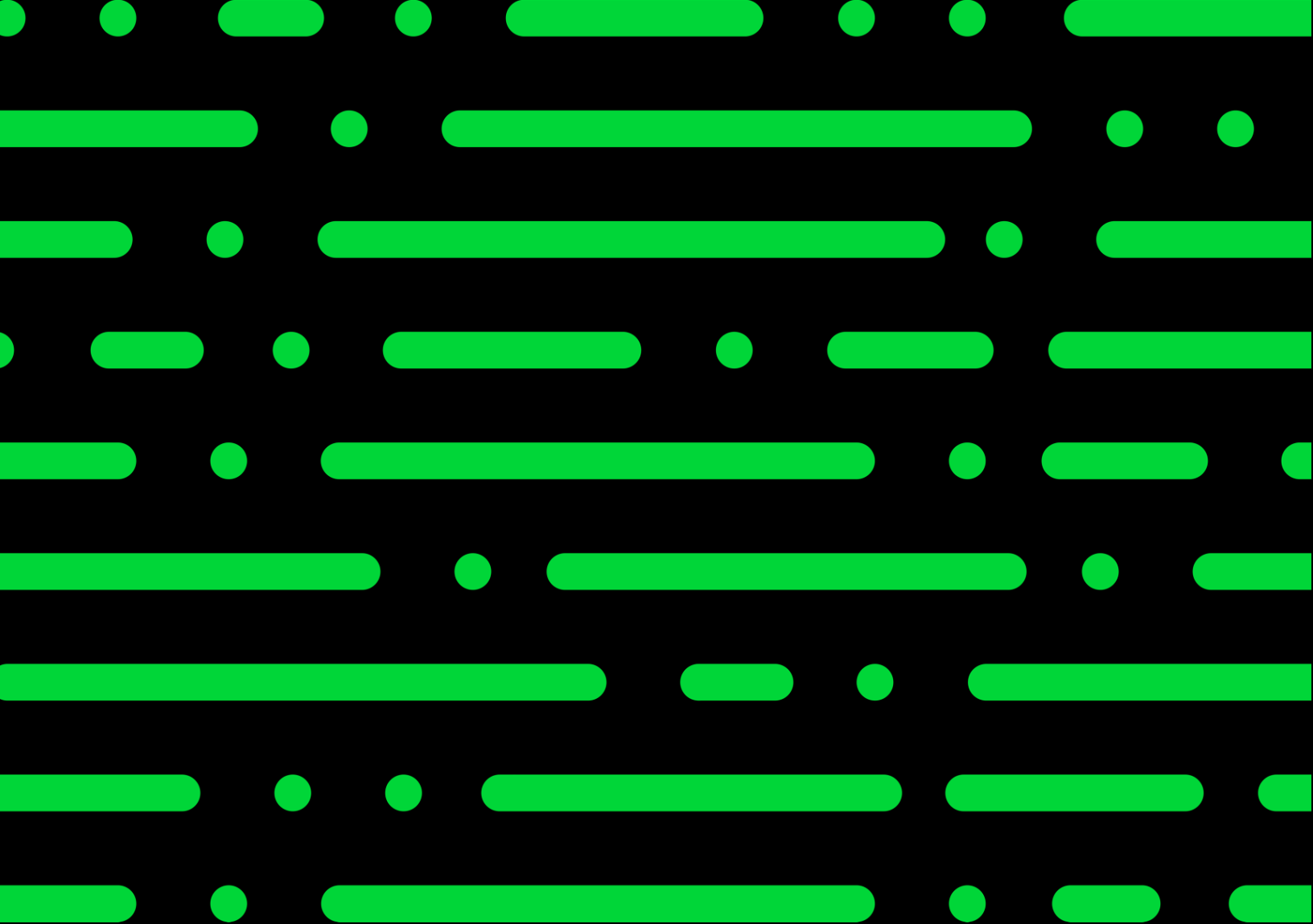
#### EXCEPTED EMPLOYMENT

1. Persons entitled to exemption from contribution to social security schemes under any International Convention.
2. Employment by virtue of which employees are eligible for pension benefits under the Pensions Act No. 3 of 1968.
3. Persons serving on probation and whose service would, on being confirmed in appointment, qualify as service for pension under the Pensions Act No. 3 of 1968.
4. Employment by virtue of which employees are eligible for benefits under the Unified Teaching Service pension scheme.
5. Employment by a university or college by virtue of which the employee is entitled to receive benefits under any superannuation scheme approved by the Minister in writing.
6. Whole-time students of any university or institution offering further education or vocational training who obtain temporary employment while on vacation from such a university or institution.
7. Persons who, having left school, take temporary employment while waiting to be admitted to such a university or institution for a whole-time course:  
Provided that the admission to a university or institution for a whole-time course occurs within two years from the date the person left school and took up such temporary employment. (Added L.N.138/1996.)
8. Domestic servants employed in private households.

## Sources

- Income Tax Order
- Employment Act
- Graded Tax Act
- SRA website: <http://www.sra.org.sz>
- SRA PAYE Guide for Employers
- Legal Notice No.4 of 2007

- Legal Notice No.171 of 2004
- Legal Notice No.170 of 2004
- Legal Notice No. 181 of 2004
- Legal Notice No.180 of 2004
- Legal Notice No.146 of 2004
- Legal Notice No.37 of 2005
- The Swaziland National Provident Fund Order
- Legal Notice No.171 of 2014
- LGN-10/17/IV/38
- Legal Notice No.140 of 2020



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