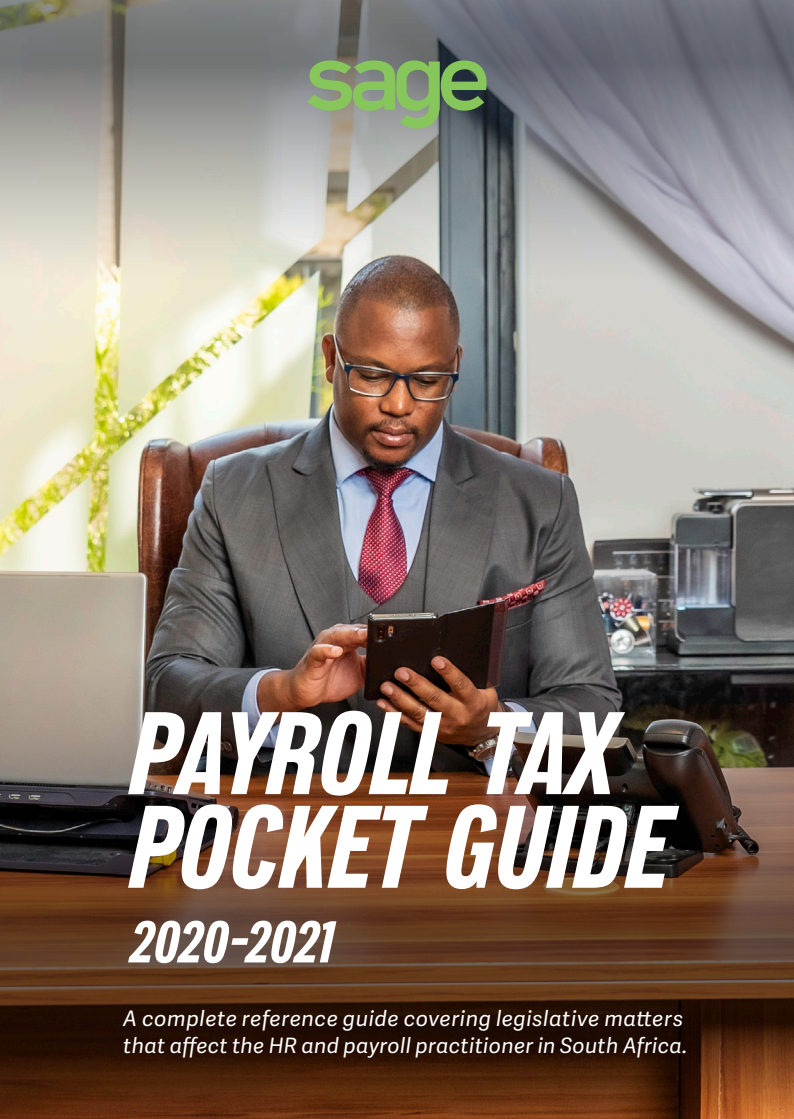

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PAYROLL TAX POCKET GUIDE

2020-2021

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

Quick Reference

Subsistence Allowance

Travel inside RSA – incidentals only	R139 per day/part of a day
Travel inside RSA – meals and incidentals	R452 per day/part of a day
Travel outside RSA – meals and incidentals	Schedule of limits per country

Reimbursed Kilometres (Travel)

Current rate is R3.98 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.

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.

Official Interest Rate (Low and Interest Free Loans/Debts)

Reserve Bank repurchase rate plus 1% from 1 March 2011. The repurchase rate was 6.50% from August 2019 and decreased to 6.25% from February 2020.

UIF Limit – R14 872 per month as from 1 October 2012.

OID Limit – The limit for 2020/2021 has not been published at the time of printing.

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

Medical Scheme Fees Tax Credits

• R319 for main member • R319 for first dependant • R215 for each additional dependant.

Closed Bursaries Exemption Thresholds

Employee's remuneration proxy: R600 000

Relative without a disability

NQF Level 1 - 4/Grade R - 12: R20 000
NQF Level 5 - 10: R60 000

Family member with a disability

NQF level 1 - 4/Grade R - 12: R30 000
NQF level 5 - 10: R90 000
(See Exempt Income, section 4)

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

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Key to Icons

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

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

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

DISCLAIMER

This document includes amendments to the Income Tax Act (1962) up to and including the Taxation Laws Amendment Act 2019, and the Tax Administration Laws Amendment Act 2019. It also includes the proposed budget changes although these have not yet been promulgated at the time of printing.

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

The purpose of this document is to address employees' tax and includes references to the Income Tax Act where applicable.

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

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

A natural person for tax law purposes is:

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

A legal entity for tax law purpose is:

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

2. Definitions & Employees' Tax Concepts

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

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

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

- an employer
- paying remuneration
- to an employee.

2.1 Employer (paragraph 1, Fourth Schedule)

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

2.2 Employee (paragraph 1, Fourth Schedule)

An employee is defined by the Fourth Schedule as:

- any person (including a director of a private company/member of a close corporation), 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, and
- any personal service provider.

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.

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*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 a labour broker **with** an IRP30 must be reported on the tax certificate against code 3619, and all payments made to a labour broker **without** an IRP30 must be reported on the tax certificate 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

☐ **2**
- 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 or supervision as to the manner in which the service is performed,

  Or

- more than 80% of the income of the company or trust from services rendered consists, or is likely to consist of amounts received from any one client,

Except

☐ **3** if the company or trust throughout the year of assessment employs 3 or more employees who are on a full-time basis rendering the service on behalf of the company or trust, other than a shareholder or member of the company or trust or a connected person to such person.

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

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

If (3) is ticked, the company or trust is **not** a PSP, even if (1) and (2) 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 that it does not receive 80% of its service income from any one client, and the client may rely on this affidavit in good faith.

A personal service provider is taxed at a rate of:

- 28% for a personal service provider company, and
- 45% for a personal service provider trust.

*A company or trust 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 or 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.

2.2.4 Non-Executive Directors (SARS Binding General Ruling 40)

SARS issued Binding General Ruling 40 to clarify the employees' tax consequences of income received by a non-executive director (NED) effective 1 June 2017.

The ruling confirms that **resident** non-executive directors are not common law employees and that no control or supervision is exercised by the company over the manner in which an NED performs his duties or the NED's hours of work. The fees received for services rendered as an NED do not constitute remuneration and no PAYE must be withheld.

This applies to a non-executive director of a private and a public company.

The resident NED may request the employer to deduct voluntary PAYE from payments made to him.

*This is **not applicable to non-resident** NED's. Fees earned for services rendered by a non-resident NED are seen as remuneration and PAYE must be withheld.*

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

Remuneration is defined as any amount of income which is paid or payable by way of any salary, leave pay, wage, overtime pay, bonus, gratuity, commission, fee, 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 use 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 use of motor vehicle fringe benefit,
- 100% of the portion of reimbursive travel allowance that exceeds the prescribed rate per kilometre (rate per kilometre for the simplified method, fixed by the Minister of Finance by notice in the Gazette) as from March 2018,
- 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,
- gains made as a result of the vesting of any equity instrument or return of capital as contemplated in section 8C, and
- certain dividends in respect of section 8C equity instruments.

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 Remuneration Proxy (section 1)

Remuneration proxy is the remuneration as defined in the Fourth Schedule, derived by an employee from an employer during the year of assessment immediately preceding that year of assessment.

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

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

2.3.2 Balance of Remuneration (paragraph 2(4), Fourth Schedule)

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

- contributions to approved pension fund schemes, provident fund schemes and retirement annuity funds that are processed on the payroll, within specified limits (see Tax Deductions, section 5),
- at the option of the employer, contributions to approved retirement annuity funds by the employee for which proof was provided, within specified limits (see Tax 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 Tax Deductions, section 5).

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

2.3.3 Variable Remuneration (section 7A, 7B and paragraph 2(1B), Fourth Schedule)

Generally, remuneration is taxable on accrual or receipt, whichever event occurs first. However, in the case of 'variable remuneration', PAYE must be withheld on the date which the amount is paid to the employee.

Variable remuneration is defined as:

- overtime;

- bonuses;
- commission;
- an allowance or advance paid in respect of transport expenses such as a travel allowance;
- leave paid out;
- reimbursive travel allowance;
- any night shift allowance;
- any standby allowance, and
- certain business reimbursements.

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, that is, where the services are actually rendered.

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 of assessment.

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

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

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

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

Examples of temporary employees are:

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

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

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

Employees in standard employment are taxed by applying the latest rates of normal tax (statutory tables) to their annualised balance of remuneration.

Standard employment in the paragraph above has been deleted from the Income Tax Act effective March 2016. However, these guidelines are now contained in the 'SARS Guide for Employers i.r.o. Employees Tax' and 'Other Employment Tax Deduction Tables'.

If an employee's tax is withheld at the non-standard employment rate and changes to standard employment rates during the tax year (or vice versa), a separate tax certificate must be created/submitted. Please note that this does not apply to a fixed percentage tax directive.

2.6 Directives

Tax directives are issued in accordance with paragraph 9(1), 9(3), 10, 11 and 11A of the Fourth Schedule, authorising employers how to deduct employees' tax from certain remuneration. Tax directives are always issued in relation to a specific tax year.

The following tax directive application forms are available:

IRP3(a) – Gratuities paid by the employer,

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

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

IRP3(s) – Share options: section 8A or 8C amounts,

IRP3(q) – Variation in the deduction/withholding of employees' tax, and

Form A to E – Various lump sum benefits payable by funds.

A tax directive specifying a fixed percentage already takes into account expense claims and deductions that may be claimed on assessment, therefore, the tax directive must be applied to remuneration and not balance of remuneration (i.e. before deducting tax deductions from remuneration).

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) and paragraph (cB) of the definition of remuneration, Fourth Schedule)

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/fuel 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 (section 8(1)(b) and paragraph (cC) of the definition of remuneration, Fourth Schedule)

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. From March 2018, 100% of the portion of the reimbursive travel allowance that exceeds the prescribed rate per kilometre of R3.98 (rate per kilometre for the simplified method, fixed by the Minister of Finance by notice in the Gazette) is included in remuneration and subject to PAYE.

The portion of the reimbursive travel allowance that does not exceed the prescribed rate per kilometre of R3.98 is excluded from remuneration and not subject to PAYE.

Report the full reimbursive travel allowance on the tax certificate against code 3703 if:

- the rate of reimbursement **does not** exceed the prescribed rate per kilometre, **and**
- the employee **does not** receive any other form of compensation for travel.

Code 3703 will not be assessed, and the employee will not have to claim business travel expenses on his annual return. Code 3703 may not be reflected on a tax certificate together with code 3701, 3702 and/or 3722 from the 2019 year of assessment.

Report the full reimbursive travel allowance on the tax certificate against code 3702 if:

- the rate of reimbursement **does not** exceed the prescribed rate per kilometre, **and**
- the employee **does** receive any other form of compensation for travel.

The value of code 3702 is not included in remuneration, but will be assessed and the employee must claim business travel expenses on his annual return. SARS adds code 3702 to 3701 on assessment, and the employee must claim the business travel expenses against the total amount.

Report the reimbursive travel allowance on the tax certificate against code 3702 **and** 3722 if:

- the rate of reimbursement **does** exceed the prescribed rate per kilometre (whether the employee receives any other form of compensation for travel, or not).

The value for code 3702 is the portion of the reimbursive travel allowance

that **does not exceed** the prescribed rate per kilometre and is not included in remuneration. The value for code 3722 is the portion of the reimbursive travel allowance that **exceeds** the prescribed rate per kilometre and is included in remuneration.

SARS adds code 3702 to 3722 on assessment, and the employee must claim business travel expenses against the total amount. If the employee is paid a travel allowance in addition to the reimbursive travel allowance, SARS adds codes 3702 and 3722 to code 3701 on assessment, and the employee must claim his business travel expenses against the total amount.

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 – 95 000	31 332	105.8	37.4
95 001 – 190 000	55 894	118.1	46.8
190 001 – 285 000	80 539	128.3	51.6
285 001 – 380 000	102 211	138.0	56.4
380 001 – 475 000	123 955	147.7	66.2
475 001 – 570 000	146 753	169.4	77.8
570 001 – 665 000	169 552	175.1	96.6
exceeding 665 000	169 552	175.1	96.6

Diagram to estimate a travel allowance for an employee

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

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

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

3.4.4 Travel Allowance on Assessment

If the employee retained supporting documentation (i.e. proof of actual expenditure and/or 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, 3702 and 3722).

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

3.5 Subsistence Allowance (section 8(1)(c) and paragraph (bA) of the definition of remuneration, Fourth Schedule)

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 in South Africa. Subsistence allowance payments are excluded from remuneration and are never subject to PAYE, irrespective whether the actual payment exceeds the limits.

Payments that exceed the limits will be assessed by SARS.

The following are the deemed expense amounts for subsistence allowances for the 2020/2021 tax year:

Travel within the Republic:

- R139 per day/part of a day for incidental expenses only, and
- R452 per day/part of a 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 R139 and R452 per day or part of a 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 or any accrual or receipt of a return of capital, according to section 8C. These equity instruments would have been acquired on or after 26 October 2004.

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

Dividends which are not exempt in terms of section 10(1)(k)(i): proviso (dd), (ii), (jj) and (kk) are seen as remuneration from which PAYE must be withheld according to the directive.

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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 using application form IRP3(a). 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.

In practice, these directives might be issued indicating the PAYE amount to be withheld from the arbitration award. In this case, reflect the lump sum against code 3907 and the PAYE against code 4102.

3.8 Severance Benefit Lump Sums - Gratuities due to Retrenchment, Retirement or Death

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

Any amount paid/payable due to services rendered should not be included in the severance benefit amount on the tax directive application, for example, bonuses, pro-rata bonuses, notice pay, and leave paid out.

3.9 Back Pay / Antedated Salaries (section 7A)

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 employer is required to apply for a directive in order to establish the PAYE to be withheld from the portion of the back pay that relates to any prior tax year. The portion of the back pay that relates to any prior tax year must be reported against IRP5 code 3907 and the tax according to the directive against IRP5 code 4102.

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

4. Exempt Income

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

- war pension,
- payment of compensation in respect of diseases contracted by persons employed in mining operations,
- disability pension,
- workmen's compensation (OID),
- social security under the social security system of any other country,
- pension received from a source outside the RSA,
- income replacement policy pay-outs,
- payment from insurance policies subject to certain conditions,
- 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 (incurred by the employer or reimbursed 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 temporary 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 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 paid by the employer are exempt from tax:

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

Certain remuneration 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 full days during any 12-month period, and which includes a period of more than 60 full continuous days during that 12-month period, is exempt from income tax to a limit of one million rand for the tax year. Foreign employment income exceeding the one-million-rand limit for the tax year is included in remuneration and subject to PAYE. Foreign employment income must be reported against the foreign employment income codes on the tax certificate. This exemption is subject to certain exclusions.

The one-million-rand limit for the tax year applies from 1 March 2020. IRP5 code 3652 may not be used for any remuneration item that might qualify for the exemption under section 10(1)(o)(ii).

The Minister of Finance announced an increase in the exemption limit effective 1 March 2020 to R1.25 million per tax year during the 2020 budget speech. The increase in the exemption limit has not been promulgated.

4.4 Bursaries and Scholarships (section 10(1)(q) and section 10(1)(qA))

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** with or without a disability (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 without a disability** (i.e. a "closed" bursary):

- if the employee's remuneration proxy is above R600 000, then the full amount of the bursary is taxable (i.e. no exempt portion) irrespective of the value of the bursary.
- if the employee's remuneration proxy is R600 000 or less, then the first R20 000 (per annum) of the bursary is exempt if it is for basic education (up to NQF level 4) or the first R60 000 (per annum) of the bursary is exempt if it is for higher education (NQF level 5-10).

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

If the bursary or scholarship is granted to an **individual with a disability who is a family member of an employee** who is liable for the family care and support of that individual (i.e. a "closed" bursary):

- if the employee's remuneration proxy is above R600 000, then the full amount of the bursary is taxable (i.e. no exempt portion) irrespective of the value of the bursary.
- if the employee's remuneration proxy is R600 000 or less, then the first R30 000 (per annum) of the bursary is exempt if it is for basic education (up to NQF level 4) or the first R90 000 (per annum) of the bursary is exempt if it is for higher education (NQF level 5-10).

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 3829 for basic education and code 3831 for higher education. The exempt portion must be reported against code 3830 for basic education and code 3832 for higher education.

The disability must be a disability according to the diagnostic criteria prescribed by the Commissioner and diagnosed by a duly registered medical practitioner.

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

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

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

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

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

5. Tax Deductions (paragraph 2(4), Fourth Schedule)

5.1 Employee Contribution Towards Retirement Funds (also see section 11F)

Any employee contributions (employee and deemed employee contributions) towards a retirement fund (pension, provident and retirement annuity) are tax deductible, subject to a limit which 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.

For the purpose of this paragraph, a partner in a partnership must be deemed to be an employee of the partnership.

The employer contribution to a retirement fund which is taxed as a fringe benefit, is a deemed employee contribution and must be taken into account when calculating the tax deductible value.

5.1.1 Statutory Limits

The total annual deduction for any contributions (including buy-back & voluntary contributions) towards retirement funds are limited to the lesser of:

- 27.5% of remuneration (excluding severance benefits and retirement fund lump sums), or
- R350 000.

The above limit is applied to the employee contributions (employee and deemed employee contributions) towards all retirement funds and not separately to each fund.

In the case where the employee has contributed towards a retirement annuity and provided proof to the employer (private retirement annuity), the employer may give the benefit to the employee, at the option of the employer.

5.2 Payroll Giving (Employee Donations)

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 employee donation tax deduction.

6. Medical Tax Credits

Medical tax credits must be taken into account in the calculation of normal tax payable by a natural person who pays fees to a medical scheme registered under the Medical Scheme Act (or a medical aid registered under similar provisions contained in the laws of that country) for the benefit of himself and/or his dependant/s. The medial scheme fees tax credits are allowed as rebates, reducing the PAYE liability of an individual.

The medical tax credits consist of a two-tier system:

- medical scheme fees tax credit, and
- additional medical expenses tax credit.

If medical scheme fees are shared by taxpayers in respect of their dependants, the medical scheme fees tax credit (and additional medical expenses tax credit) should be split/allocated between the taxpayers proportionally to the contribution made by each taxpayer.

For medical tax credit purposes, 'dependant' means –

- a person's spouse,
- a person's child and the child of his spouse,
- any other member of a person's family in respect of whom he is liable for family care and support, and
- any other person who is recognized as a dependant of that person in terms of the rules of a medical scheme or fund.

6.1 Medical Tax Credits on the Payroll (paragraph 9(6), Fourth Schedule)

If an employee or employer contributes towards a medical aid for the benefit of the employee or his dependant/s, the employee will be entitled to a tax credit amount.

Medical tax credits must be deducted from the employee's tax calculated for the month.

The employer contribution to a medical aid which is taxed as a fringe benefit, is a deemed employee contribution.

Where the contributions are not processed on the payroll (i.e. the employee contributes towards 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. In this case, the private medical aid contributions value must be reported against IRP5 code 4005.

6.1.1 Medical Scheme Fees Tax Credits (section 6A)

An employee is entitled to a medical scheme fees tax credit in respect of medical scheme contributions paid or deemed paid by the employee for himself and/or his dependants, irrespective of the employee's age. The medical scheme fees tax credit is not related to the contributions made but is a fixed amount per month based on the number of medical scheme beneficiaries. Medical scheme fees tax credits must be reported against IRP5 code 4116.

The monthly medical scheme fees tax credit amounts are:

- R319 for the main member,
- R319 for the first dependant, and
- R215 for each additional dependant.

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

6.1.2 Additional Medical Expenses Tax Credits (section 6B)

An employee who is 65 years or older on the last day of the year of assessment, is entitled to additional medical expenses tax credit in respect of medical scheme contributions paid or deemed paid by the employee for himself and/or his dependants.

The additional monthly tax credit is 33.3% of the medical scheme contributions (employee contributions and fringe benefit) which exceed three times the amount of the medical scheme fees tax credit to which the employee is entitled to (see section 6.1.1). Additional medical expenses tax credits must be reported against IRP5 code 4120.

6.2 Medical Scheme Fees Tax Credits and Additional Medical Expenses Tax Credits on Assessment (section 6A and 6B)

Any medical scheme fees tax credits not already applied on the payroll, will be allowed on assessment in respect of qualifying medical scheme fees paid by the natural person for the benefit of himself or his dependant/s.

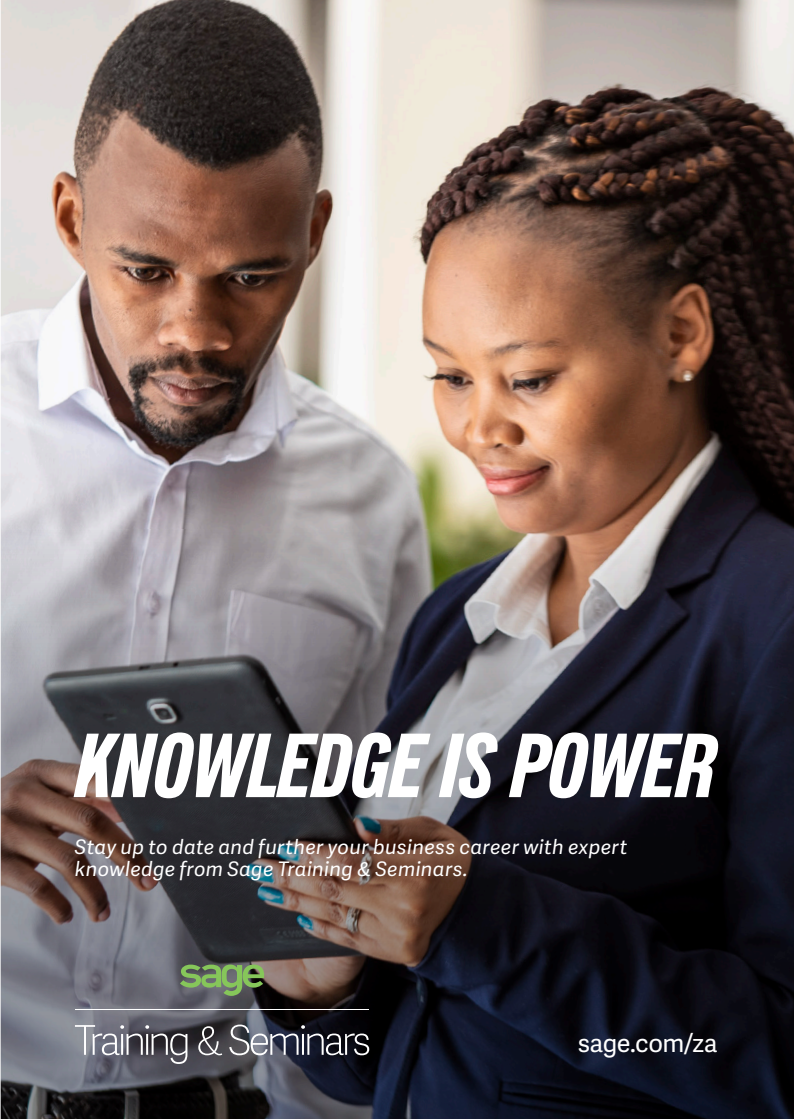
Additional medical expenses tax credits are grouped into three categories on assessment. The additional medical expenses tax credit allowed on assessment is limited to –

- if the person is 65 years or older, 33.3% of the contribution amount that exceeds three times the medical scheme fees tax credit plus 33.3% of the qualifying medical expenses paid,
- if the person, his or her spouse or child is a person with a disability,

33.3% of the contribution amount that exceeds three times the medical scheme fees tax credit plus 33.3% of the qualifying medical expenses paid, and

- if the employee is younger than 65 (without a disability), 25% of the aggregate of –
  - the total contributions paid by the person to a medical scheme as exceed four times the amount of medical scheme fees tax credit to which that person is entitled, plus
  - all qualifying medical expenses paid, less
  - 7.5% of taxable income (excluding any retirement fund lump sums and severance benefit).

A list of qualifying medical expenses is available on the SARS website. Go to www.sars.gov.za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7. 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.

Where any associated institution in relation to the employer grants a benefit to an employee as a reward for services rendered, it constitutes a taxable benefit deemed to be granted by the employer to the employee.

'Associated institution' means where the employer is a company, any other company which is associated with that employer by reason of the fact that both companies are controlled directly or indirectly by substantially the same persons.

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.

For the purposes of this section, a partner in a partnership is deemed to be an employee of the partnership.

7.1 Acquisition of an Asset at Less than the Actual Value (paragraph 5, Seventh Schedule)

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

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

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

No value is placed on:

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

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

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

- the remuneration proxy of the employee is R250 000 or less, and
- the market value on the date of acquisition of the immovable property is R450 000 or less, and
- the employee should not be a connected person in relation to the employer.

7.2 Right of Use of an Asset (paragraph 6, Seventh 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 (which does not exceed a value determined by the Minister in a public notice),
- it is telephone or computer equipment which the employee mainly uses (more than 50%) for business purposes, or
- it consists of books, literature, recordings or works of art.

This paragraph does not apply to clothing.

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

7.3 Right of Use of Motor Vehicle (paragraph 7, Seventh Schedule)

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

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

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

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

From March 2015, the value to be used as the determined car value is the retail market value as determined by the Minister in a regulation. The regulation is only applicable to vehicles acquired or manufactured from March 2015. Please see Government Gazette 38744 and 42961 for more information.

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

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

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

the private use is:

- 3.5% of the determined value of the motor vehicle, or
- 3.25% of the determined value if the determined value includes the value of a maintenance plan, or
- in the case of an operating lease, the actual rental cost to the employer (including VAT borne by the employer) and the fuel cost.

The fringe benefit value placed on private use is reduced by any consideration given by the employee, other than consideration in respect of license, insurance, maintenance or fuel cost.

Where the employee has the use of the vehicle for part of a month, the amount for private use, must be determined in the same ratio as the number of days the employee had the use of the vehicle to the total number of days in the month.

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

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

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

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

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.

No reduction on the fringe benefit value is allowed if the vehicle is temporarily not used for private purposes.

For PAYE purposes, SARS requires the deduction of PAYE from 80% of the fringe benefit value, unless the employee uses the vehicle at least 80% for business, then SARS requires the deduction of PAYE from 20% of the fringe benefit value. The full use of motor vehicle fringe benefit value must be disclosed on the employee's tax certificate against code 3802 or 3816.

7.4 Meals, Refreshments and Meal and Refreshment Vouchers (paragraph 8, Seventh 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,
- it is provided during business hours, extended business hours or on a special occasion, or
- if it is enjoyed by an employee in the course of providing a meal or refreshment to any person whom the employee is required to entertain on behalf of the employer.

7.5 Residential Accommodation (paragraph 9, Seventh Schedule)

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

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

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

(A - B) x C/100 x D/12 where:

A = remuneration proxy (excluding residential accommodation fringe benefit)

B = R83 100 from 1 March 2020 (subject to certain exclusions)

C = 17 unless the accommodation consists of at least 4 rooms

= 18 if unfurnished and power or fuel is supplied by the employer
= 18 if furnished and no power or fuel is supplied by the employer
= 19 if furnished and power or fuel is supplied by the employer

D = the number of completed months in the year of assessment during which the employee is entitled to the accommodation.

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

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

If the employer supplies the employee with residential accommodation, and

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

then the fringe benefit value should be the lower of

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

The formula must be applied where the employee has an interest in the accommodation.

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.

7.6 Free or Cheap Holiday Accommodation (paragraph 9(4), Seventh Schedule)

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

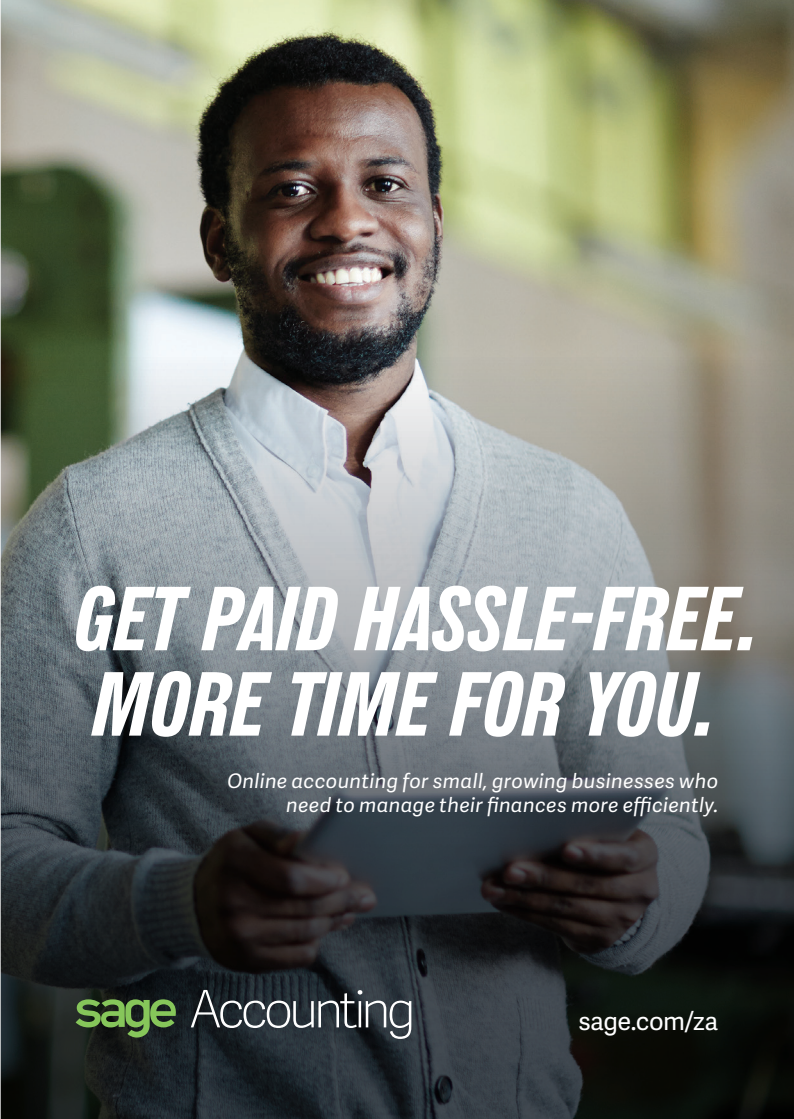
- the rent and expenses paid relating to such accommodation in relation to the period it was occupied, if the accommodation is hired by the employer, or
- in any other case, the rate at which the accommodation could normally be let to any person who is not an employee.

7.7 Free or Cheap Services Provided by the Employer (paragraph 10, Seventh 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 (please refer to SARS Binding General Ruling 50 for more information),
- any communication service used mainly (more than 50%) for business (e.g. 3G cards),
- any service rendered at work for the better performance of duties or for recreational purposes, or
- any travel facility provided by an employer to the spouse or minor child if:
  - the employee is stationed more than 250km away from home for the duration of the term, **and**
  - the employee must spend more than 183 days per year away from his usual place of residence for business, **and**
  - the travel is between the employee's usual place of residence in RSA and the place where the employee is stationed in RSA.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7.8 Low or Interest-Free Loans/Debts (paragraph 11, Seventh Schedule)

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

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

The repurchase rate may change during the tax year.

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%.

No taxable value is placed on the low/interest free loan:

- if it is a 'casual' loan/s and the total balance does not exceed R3 000 **at any time**,
- if it is a loan to enable the employee to study, or
- if it was assumed for the purpose to acquire immovable property if all the below conditions are met:
  - the loan does not exceed R450 000,
  - the market value of the immovable property acquired does not exceed R450 000 in relation to the year of assessment during which the loan was granted,
  - the remuneration proxy of the employee does not exceed R250 000 in relation to the year in which the loan was granted, and
  - the employee is not a connected person in relation to the employer.

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

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

7.9 Medical Aid Contributions (paragraph 12A, Seventh 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.

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

- 4474 – medical scheme contributions, regardless of age, who are not retired from the employ of such employer.
- 3810 - the value against code 4474 is also reflected against the fringe benefit code 3810, and must subsequently be included in the total medical scheme contribution code 4005 as the fringe benefit is deemed to be an employee contribution.
- 4493 – medical scheme contributions for employees retired from such employer.

7.10 Medical Costs Incurred by the Employer (paragraph 12B, Seventh Schedule)

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 spouse, child, other relative or dependant, such payments are regarded as taxable fringe benefits.

No value is placed on:

- treatments listed by the Minister of Health as prescribed minimum benefits in terms of a medical scheme -
    - run by the employer as a business,
    - or if not run as a business, the person must not be a beneficiary of another medical scheme, or if they are, the total cost must be recovered by the employer from the medical scheme,
- services rendered or medicines supplied for the purpose of complying with any law of the Republic, or
- benefits derived by

    - a person who by reason of superannuation, ill-health or other infirmity retired from the employ of that employer,
    - the dependants of a person after that person's death if that person was in the employ of that employer on the date of death,
    - the dependants of a person after that person's death if that person retired from the employ of that employer by reason of superannuation, ill-health or other infirmity, or
    - an employee who is 65 years or older, or
- where the services are rendered by the employer to its employees in general at their place of work for the better performance of their duties.

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

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

7.11 Benefits in Respect of Insurance Policies (paragraph 12C, Seventh Schedule)

This taxable benefit arises where an employer pays any premiums towards an insurance policy which is directly or indirectly for the benefit of the employee or his or her spouse, child, dependant or nominee. When an insurance policy is in the name of the employer (employer-owned), this paragraph is applicable and the employee should be taxed on the fringe benefit. This paragraph only applies to products supplied by an **insurer**.

This paragraph does not apply in respect of an insurance policy that relates to an event arising solely out of and in the course of employment of the employee.

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

7.12 Employer Contributions Towards Retirement Funds (paragraph 12D, Seventh Schedule)

A taxable benefit arises when the employer contributes to a retirement fund (pension, provident or retirement annuity) on behalf of the employee. The fringe benefit will be deemed to be paid by the employee for income tax purposes. There will be **no fringe benefit** if the employer contributes towards a retirement fund on behalf of an

- employee who retired from the fund, or

- in respect of dependants or nominees of a deceased member of the fund.

The value of the fringe benefit is determined by the type of retirement fund.
There are three types of funds: defined contribution, defined benefit and hybrid funds.

7.12.1 Defined Contribution Fund

This is a fund which consists solely of defined contribution components. Contributions towards this fund can be directly linked to the benefit the member is entitled to.

The fringe benefit value is equal to the actual employer contribution towards the defined contribution fund.

In practice, retirement annuities are seen as defined contribution funds.

7.12.2 Defined Benefit Fund

Defined benefit funds have retirement benefits that are calculated according to the rules of the fund where the value of the contributions to the fund may not be an accurate reflection of the benefits that may be received by the retirement fund member.

The monthly fringe benefit value is calculated with a formula:

X = (A X B) - C

Where,

X Represents the fringe benefit amount to be determined.

A Represents the fund member category factor in respect of each employee. This is obtained from the fund.

B Represents the retirement-funding income of the employee (see 'retirement funding income').

C Represents the sum of the amounts contributed by the employee to the specific fund in terms of the rules of the fund in respect of the year of assessment.

This will only include the actual employee contribution and not the deemed employee contribution.

The additional voluntary contributions made by the employee or "buy- back" to purchase additional years of service is not included in the value of 'C'.

7.12.3 Hybrid Fund

These funds consist of a combination of components (defined contribution, defined benefit, underpin and/or risk components).

The value of the fringe benefit is calculated with the same formula which is used to calculate the fringe benefit for a defined benefit fund. The fund calculates a category factor which takes all the components into account.

This factor is applied to calculate the monthly fringe benefit.

7.12.4 Retirement Funding Income (RFI)

Retirement funding income (RFI) is the amount of remuneration taken into account in the determination of the contributions made by an employer (or the fund itself) to a pension or provident fund. It includes the full value of a travel allowance and a public office allowance if these allowances are taken into account to determine the contribution.

7.13 Employer Contributions Towards Bargaining Councils (paragraph 12E, Seventh Schedule)

A taxable benefit arises when the employer contributes towards a scheme or fund administered by the bargaining council for the benefit of the employee. The value of the benefit is equal to the value of the monthly employer contribution.

Please note that this section does not apply to retirement fund contributions.

Employers are required to report the contributions against the following codes:

- 4584 - employer's bargaining council contributions, and
- 3833 - taxable benefit i.r.o. employer's bargaining council contributions paid for the benefit of the employee.

7.14 Payment of Debt or Release from Debt (paragraph 13, Seventh 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.

8. 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.
- The EMP201 (monthly declaration) serves as a remittance advice. It acts as a payment declaration in which the total payment is declared with the allocations for PAYE, SDL, UIF and ETI (if applicable). A unique payment reference number (PRN 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. If the 7th falls on a weekend or public holiday, the payment must be made before or on the last business day before the weekend or public holiday.
- The EMP201 can be submitted through the latest version of the e@syFile™ Employer application or the eFiling website. The EMP201 is submitted per calendar month, for example 2020/03 refers to March 2020.
- Adjustments can be made to previously submitted EMP201 declarations, unless an EMP501 reconciliation has already been submitted for the month in question, then adjustments must be made on a revised EMP501 reconciliation.
- Over- or under-payments as well as unallocated payments can easily be picked up on the EMPSA and can be corrected if necessary.
- A penalty of 10% of the total liability owing to SARS will be imposed on late or outstanding payments and in addition to the penalty, interest is payable at the prescribed rate on any late payments.
- The three bank accounts for PAYE, SDL and UIF are consolidated into the PAYE account (SARS – PAYE). Employers will thus only make one payment.

9. Annual Reconciliation and Tax Certificates

In terms of the Fourth Schedule to the Income Tax Act, an employer must submit a tax certificate to SARS at the end of the tax year for every employee as defined above. IRP5(a)'s 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 employer can submit the EMP501 reconciliation through –

- the latest version of e@syFile™ Employer,
- the eFiling website (limited to a maximum of 50 tax certificates), or
- manually at a SARS branch (maximum of 5 tax certificates).

The EMP501 must reconcile the following values in order to be successful –

- the values of the EMP201 submitted for that reconciliation period,
- EMP201 payments made for that reconciliation period, and
- the total values of PAYE, UIF, SDL and ETI (if applicable) on the tax certificates.

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

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

10. 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.

10.1 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 some of the 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), and
- fringe benefits.

10.2 Exempt Income

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

- alimony and maintenance,
- qualifying bursaries and scholarships,
- qualifying relocation benefits,
- R500 000 of a qualifying retirement award and fund lump sums (directive required),
- foreign employment income up to a limit of one million rand per tax year (more than 183 full days in aggregate including a continuous period of at least 60 full days in any 12 months),

- interest received up to specified limits,
- unemployment insurance benefits,
- uniforms and uniform allowances (subject to certain conditions),
- disability and war pensions,
- Occupational Injuries and Diseases Act compensation,
- income replacement policy pay-outs, and
- R300 000 of an occupational death lump sum (directive required).

10.3 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, provident or a retirement annuity fund,
    - legal expenses in respect of employment,
    - depreciation of assets used for employment income, such as computers and cell phones,
    - bad debts in respect of employment,
    - subscriptions to professional societies, and
    - travelling expenses.

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.

11. Employment Tax Incentives (ETI)

The Employment Tax Incentive Act came into effect on 1 January 2014. The initial effective period was three years but it was extended to end on 28 February 2029. The Act is administered by SARS.

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

11.1 Employer

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

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

11.2 Employee

An individual is a qualifying employee if he/she:

- has a valid South African ID, a valid asylum seeker permit or an ID in terms of Section 30 of the Refugees Act,
- is 18 to 29 years old by the end of the month (please note that the age limit is not applicable if the employee renders services mainly (more than 50%) within a special economic zone (SEZ) to an employer that carries on trade within the SEZ who is a qualifying company as contemplated in the Income Tax Act under the SEZ regime, or if the employee is employed by an employer that operates in an industry designated by the Minister of Finance),
- was employed by the employer or an associated person to the employer on or after 1 October 2013, and
- the employee must earn at least the minimum wage as specified by the sectoral determination, collective agreement or bargaining council. If no wage regulating measure is applicable, the employee must earn at least R2 000 for a full month (160 or more employed and remunerated ordinary hours).

The employee will not qualify if he/she:

- is a domestic worker, or
- is a "connected person" to the employer, or
- earns remuneration of R6 500 or more during a full month (160 or more employed and remunerated hours).

With effect from 1 August 2018, the Minister of Finance designated six special economic zones (SEZs), namely: Coega Special Economic Zone, Dube Tradeport Special Economic Zone, East London Special Economic Zone, Maluti-a-Phofung Special Economic Zone, Richards Bay Special Economic Zone and Saldanha Bay Special Economic Zone.
From March 2020, in order to claim ETI for employees of any age due to the SEZ criteria, the company should be a qualifying company as contemplated in the Income Tax Act under the SEZ regime.

11.3 Incentive Amount

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

Monthly Remuneration	First 12 Incentive Months	Next 12 Incentive Months
R 0 – R1 999.99	50% of Monthly Remuneration	25% of Monthly Remuneration
R 2 000 – R4 499.99	R 1 000	R 500
R 4 500 – R6 499.99	Formula: R1 000 – (0.5 x (Monthly Remuneration – R4 500))	Formula: R500 – (0.25 x (Monthly Remuneration – R4 500))

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

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

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

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

Remuneration refers to remuneration as defined in paragraph 1 of the Fourth Schedule, see section 2.3.

If the employee was not employed and remunerated for at least 160 hours in a month, the monthly ETI amount should be pro-rated in the same ratio.

11.4 Unavailability of the Incentive Amount

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

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

11.5 Incentives Carried Forward

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

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

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

11.6 Reimbursement of Carried Forward Incentive Amounts

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

period, the excess amount will be reimbursed when the employer becomes tax compliant. If the employer fails to be tax compliant within the next six months, the excess amount will be permanently lost.

Monthly claims can only be made up to the date of each 6-monthly reconciliation period after which no further claims for that reconciliation period will be allowed. In certain instances, the excess will become available as a refund.

11.7 Declaring ETI on the EMP201 and EMP501

ETI amounts cannot be increased for a previous month. If the ETI amounts were understated on a previous EMP201, those ETI values should be added to the current month's EMP201 values, provided that the month is in the same 6-month reconciliation period. Any ETI values not declared within the 6-month reconciliation period will be permanently forfeited.

If ETI was overstated on a previous EMP201, the employer must revise that specific month's EMP201 (or resubmit the EMP501 if an EMP501 reconciliation was already submitted for that period) and make the shortfall payment to SARS, irrespective if the month for which the correction is made is in the same 6-month reconciliation period, or not. Please note that this may influence the roll-over amounts (if applicable) of the following months.

SARS implemented an automated ETI refund payment at the beginning of December 2017 (this is according to the SARS Tax Practitioner Connect Issue 10 electronic newsletter). The 'ETI not utilised' after each 6-month reconciliation period will automatically be paid into the employer's account once the EMP501 reconciliation has been submitted, the employer's banking details have been validated and if the employer is tax compliant. If the employer is not tax compliant by the end of the next 6-month reconciliation period, the 'ETI not utilised' will be permanently forfeited. Employers can view the reason for a non-compliant status on the "My Compliance Page (MCP)" on eFiling – this should be confirmed on a regular basis.

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12. 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 Employment and Labour and legislates the payment of benefits as well as the submission of a Declaration of all employees each month.
Both Acts define who are employees as well as remuneration for UIF purposes.

12.1 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, 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):

- employees who work less than 24 hours per month,
- employees in the national and provincial spheres of government,
- 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, and
- 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.

From March 2018, learners employed according to section 18(2) of the Skills Development Act, and persons who will be repatriated at the end of the period of service are no longer excluded from UIF contributions and must contribute towards UIF.

12.2 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,
- any amount, including a voluntary award 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 (including return of capital and certain dividend amounts) 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, and 100% of the portion of reimbursive travel allowance that exceeds the prescribed rate of R3.98

12.3 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 R14 872 per month 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.

13. 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 Higher Education and Training, 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.

13.1 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.

13.2 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.

13.3 SDL Remuneration (Leviable Amount)

The leviable amount is based on the balance of remuneration, 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.

13.4 Skills Development Levy

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

14. Occupational Injuries And Diseases (OID)

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

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

The categories of claimants to whom benefits become payable are:

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

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

14.1 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.

14.2 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 close corporation.

Excluded are:

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

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.

14.3 OID Limit

The OID limit for the 2020/2021 tax year has not been published at the time of printing.

IRP5 Codes

Normal Income Codes

3601 Income
3602 Non-taxable income (Excl)
3603 Pension
3605 Annual payment
3606 Commission
3607 Overtime
3608 Arbitration award
3610 Annuity from a RAF
3611 Purchased annuity
3613 Restraint of trade
3614 Other retirement lump sums
3616 Independent contractors
3618 Annuity from a provident/provident preservation fund
3619 Labour brokers with exemption certificate (IT)
3620 Resident NED directors fees (IT)
3621 Non-resident NED directors remuneration (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 (PAYE/IT)
3714 Other allowances (Excl)
3715 Subsistence allowance - foreign travel (IT)
3717 Broad-based employee share plan (section 8B)

3718 Employee equity instruments (section 8C)
3719 Par (dd) of the proviso to S10(1)(k)(i) dividends
3720 Par (ii) of the proviso to S10(1)(k)(i) dividends
3721 Par (jj) of the proviso to S10(1)(k)(i) dividends
3722 Reimbursive travel allowance (PAYE/IT)
3723 Par (kk) of the proviso to S10(1)(k)(i) dividends

Fringe Benefit Codes

3801 General fringe benefits
3802 Use of motor vehicle (not operating lease)
3805 Free or cheap accommodation
3806 Free or cheap services
3808 Payment of employee's debt
3809 Taxable bursaries/scholarships to a non-disabled person – basic education
3810 Taxable benefit i.r.o medical aid employer contribution
3813 Cost related to medical services paid by employer
3815 Non-taxable bursaries/scholarships to a non-disabled person – basic education
3816 Use of motor vehicle acquired via operating lease
3817 Taxable benefit i.r.o pension fund employer contribution
3820 Taxable bursaries/scholarships to a non-disabled person – further education
3821 Non-taxable bursaries/scholarships to a non-disabled person – further education
3822 Non-taxable acquisition of immovable property
3825 Taxable benefit i.r.o provident fund employer contribution
3828 Taxable benefit i.r.o retirement annuity employer contribution
3829 Taxable bursaries/scholarships to a disabled person – basic education
3830 Non-taxable bursaries/scholarships to a disabled person – basic education
3831 Taxable bursaries/scholarships to a disabled person – further education
3832 Non-taxable bursaries/scholarships to a disabled person – further education

3833 Taxable benefit i.r.o bargaining council employer contribution

3834 Non-taxable loan to purchase immovable residential property

Lump Sum Codes

3901 Gratuities (retirement/retrenchment/death)

3906 Special remuneration (e.g. proto-teams)

3907 Other lump sums (e.g. backdated salaries extended over previous tax year, non approved funds)

3908 Exempt policy proceeds

3909 Unclaimed benefits paid by fund

3915 Pension, provident or retirement annuity fund lump sum benefits paid on or after 1 October 2007

3920 Lump sum withdrawal benefits from retirement funds after 28 February 2009

3921 Living annuity and section 15C surplus apportionments accruing after 28 February 2009

3922 Compensation lump sum i.r.o death in the course of employment

3923 Transfer of unclaimed benefits

3924 Transfer on retirement

Deduction and Employer Contribution Codes

4001 Total pension fund contributions paid **and** 'deemed paid' by employee

4003 Total provident fund contributions paid **and** 'deemed paid' by employee

4005 Total medical aid contributions paid **and** 'deemed paid' by employee

4006 Total retirement annuity fund contributions paid **and** 'deemed paid' by employee

4024 Medical services costs deemed paid i.r.o employee and/or immediate family

4030 Employee donations paid by the employer to the organisation

4472 Employer's pension fund contributions

4473 Employer's provident fund contributions

4474 Employer's medical aid contributions

4475 Employer's retirement annuity contributions

4493 Employer's medical aid contributions i.r.o. retired employees

4497 Total deductions

4582 Remuneration inclusion used in section 11F deduction (specific codes included)

4583 Remuneration (for foreign services) inclusion used in section 11F deduction (specific codes included)

4584 Employer's bargaining council contributions

4585 Employer's pension fund contributions i.r.o. employees who have retired from the fund

4587 Exempt foreign employment income taken into account by the employer for PAYE purposes

Employee's Tax Deduction and Reason Codes

4102 PAYE

4115 Tax on retirement lump sum and severance benefits

4116 Medical scheme fees tax credits taken into account for PAYE purposes

4120 Additional medical expenses tax credit taken into account for PAYE purposes

4118 Employment tax incentive (ETI value)

4141 UIF employee and employer contribution

4142 SDL contribution

4149 Total tax, UIF and SDL (excluding 4116 and 4120 value)

4150 Reason code for IT3(a)

- 02 – Earn less than the tax threshold
- 03 – Independent contractor or directors fees for RSA resident NED
- 04 – Non taxable earnings (including nil directive)
- 05 – Exempt foreign employment income
- 06 – Directors remuneration - income determined in the following tax year
- 07 – Labour broker with IRP30
- 08 – No tax to be withheld due to medical scheme fees tax credit allowed and/or additional medical expenses tax credit allowed if employee ≥ 65 (only valid from 2016/2017)
- 09 – No withholding of tax on shares possible

To report foreign income, add a value of 50 to all normal income, allowance, fringe benefit and lump sum codes, except 3614, 3617, 3621, 3908, 3909, 3915, 3920, 3921, 3922 & 3923.

2020–2021 Tax Tables

Individuals in Standard Employment and Special Trusts

Taxable Income (R)	Rate of Tax (R)
0 – 205 900	18% of taxable income
205 901 – 321 600	37 062 + 26% of taxable income above 205 900
321 601 – 445 100	67 144 + 31% of taxable income above 321 600
445 101 – 584 200	105 429 + 36% of taxable income above 445 100
584 201 – 744 800	155 505 + 39% of taxable income above 584 200
744 801 – 1 577 300	218 139 + 41% of taxable income above 744 800
1 577 301 and above	559 464 + 45% of taxable income above 1 577 300

Tax Rebates

Primary	R14 958
Secondary – Persons of 65 and older	R8 199
Tertiary – Persons of 75 and older	R2 736

Tax Thresholds

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

Persons under 65	R83 100
Persons of 65 - 74 years	R128 650
Persons of 75 years and older	R143 850

Personal Service Providers (PSP)

Companies - 28% of each R1
Trusts (other than a special trust) - 45% of each R1

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

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DISCLAIMER

This document includes amendments to the Income Tax Act (1962) up to and including the Taxation Laws Amendment Act 2019, and the Tax Administration Laws Amendment Act 2019. It also includes the proposed budget changes although these had not yet been promulgated at the time of printing.

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

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