



22 January 2024

To: The National Treasury

240 Madiba Street
PRETORIA
0001

The South African Revenue Service

Lehae La SARS,
299 Bronkhorst Street
PRETORIA
0181

VIA EMAIL: **National Treasury** (2023AnnexCProp@treasury.gov.za),
 SARS (acollins@sars.gov.za)

Dear Colleagues,

**RE: ANNEXURE C PROPOSALS: SAIT PERSONAL & EMPLOYMENT TAXES
TECHNICAL WORK GROUP**

We attach the Annexure C proposals from the SAIT Personal & Employment Taxes Technical Work Group (the WG), as it pertains to technical proposals for possible inclusion in Annexure C of the 2024 Budget Review.

We value the opportunity to participate in the legislative process and would welcome further engagement where appropriate. Please do not hesitate to contact us should you need further information.

Yours sincerely,

SAIT Personal & Employment Taxes Technical Work Group

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Unless otherwise indicated all references to legislation are to sections the Income Tax Act 58 of 1962 (the ITA).

1. SECTION 12H - the additional deductions for learnership agreements

[Applicable provisions: Section 12H of the ITA]

1.1. Background

- 1.1.1. S12H of the Income Tax Act (ITA) provides additional deductions to employers hiring employees as part of qualifying learnership agreements. These additional deductions are intended as an incentive for employers to train employees to encourage skills development and job creation.
- 1.1.2. The training requirement has formal aspects to ensure that the training is real and meaningful. Hence, the training contracts qualifying for these deductions are learnership agreements and internships registered with sector education and training authorities (SETAs). The incentive exists during each year of the learnership with an additional incentive (i.e. completion allowance) allowed when (and if) the learner completes the learnership.
- 1.1.3. The amount of the incentive for learnerships depends on the education level (National Qualification Framework (NQF) level). Trainees at an NQF Level 6 and below (i.e. below a formal university degree) will receive an additional R40 000 deduction per year in which the learnership is undertaken and another R40 000 upon completion. Trainees at an NQF Level 7 and above (i.e. with a university degree or higher) will receive an additional R20 000 deduction per year in which the learnership is undertaken and another R20 000 upon completion.

1.2. Nature of the Problem

- 1.2.1. ***University graduates are not seeking additional NQF levels through their training programmes.***
 - 1.2.1.1. The current section 12H rules associated with university graduate trainee programmes (NQF Level 7 or above) are giving rise to unintended anomalies. In particular, the problem relates to the awarding of an NQF level upon completion of the programme. Only non-university trainees are interested in obtaining an NQF level upon completion of the programme. University graduates are typically not interested in obtaining another NQF level through a learnership as opposed to a university degree. The biggest issue relates to those tax graduates with an NQF Level 8 (postgraduate diploma/honours).



1.2.2. ***The definition of learnerships***

1.2.2.1. A section 12H applies only to a “registered learnership agreement”. This term is defined as an agreement registered under the Skills Development Act (SDA).

1.2.2.2. Under section 16 of the Skills Development Act, a learnership:

- Must have a structured learning component;
- Must have a structured workplace component;
- Must lead to a qualification registered with the South African Qualifications Authority
- Must be registered with the Department of Higher Education.

1.2.3. ***Professional Body Programmes***

1.2.3.1. Several professional bodies have article/internship programmes. These programmes have separate processes but are often linked to an NQF qualification only to satisfy the section 12H learnership deduction.

1.2.3.2. Law articles programmes (wholly outside)

Lawyers graduate with an NQF 8 level either with a general law degree or with a combined commerce and law degree. Lawyers then pursue a structured articles programme, along with a structured learning programme leading to a bar exam. Successful completion of the programme does not lead to qualification. Therefore, lawyers fall completely outside the Section 12H learnership system.

1.2.3.3. The South African Institute of Taxation (SAIT)

SAIT offers a tax articles programme that has optional linkage for the successful completion of an NQF programme. Most trainees under the SAIT articles programme already have an NQF level 8, but the programme allows for a new NQF level to be obtained while working. Hence, trainees for the SAIT articles programme can qualify for section 12H relief. Unfortunately, formal registration for an NQF via the Quality Council for Trades and Occupations (QCTO) becomes an expensive proposition, offsetting much of the section 12H benefit. The formal nature of the programme also adds several months of unnecessary processing time in terms of administration.

1.2.3.4. The South African Institute of Chartered Accountants (SAICA)

1.2.3.5. SAICA is in a similar situation as SAIT. The SAICA programme currently links itself to the completion of an NQF level even though most SAICA trainees already have an NQF Level 8 upon beginning of their



articles/internship. SAICA will soon be subjected to the same QCTO process as SAIT, thereby greatly increasing its cost of administration.

1.3. **Recommendation**

- 1.3.1. We recommend that the Section 12H incentive for university graduates (i.e. those with an NQF Level 7 and above) be modified. Trainees with an NQF level 7 and more should have a different set of requirements, as proposed below.
- 1.3.2. Trainees at this level should alternatively be allowed to pursue an articles programme leading to a new professional designation under the South African Qualifications Authority. More specifically, section 12H would require these university-level trainees to pursue a programme that:
- Has a structured learning component;
 - Has a structured workplace component; and
 - Leads to a designation registered with the South African Qualifications Authority.

End.