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lssue71 July/August 2018



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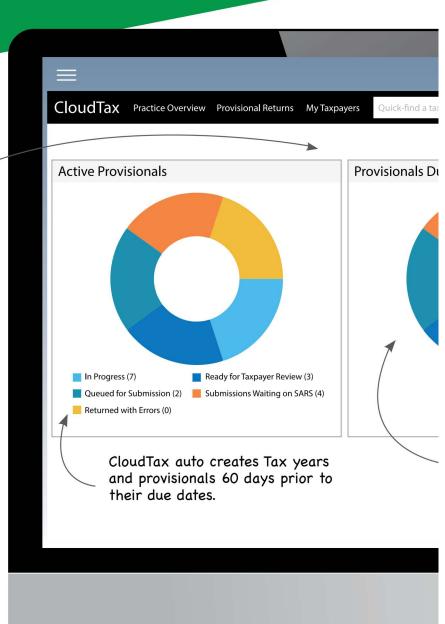


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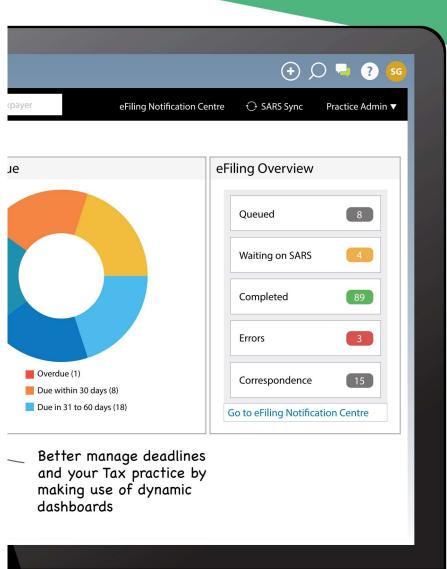
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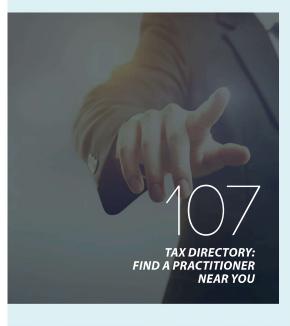
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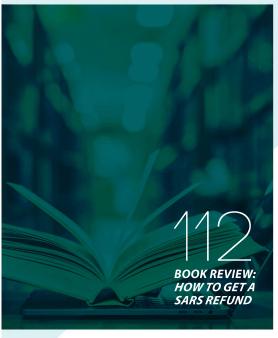


CONTENTS

JULY/AUGUST 2018 * ISSUE 71







PART ONE

This quick guide is designed to shine a light on completing the sections of the individual income tax return (ITR12) correctly. We take you through each section of the form with helpful notes. Let us show you the way!



Taxpayer Information



Employee Tax Certificate Information



Taxpayer Information: Income



Local Business



Taxpayer Information: Deductions

PART TWO

This section provides a deeper insight into important topics relating to income and allowable deductions claimed by a taxpayer. You will also find other useful tips relating to Tax Season.

- 34 Notes from SARS this Tax Season
- **36** Before-you-start checklist
- **40** The importance of using a registered accountant
- 42 Things to look out for on your IRP5
- **46** Independent contractors vs employees
- **50** Tax and pension annuities
- **52** The latest on fringe benefits
- **56** Tax-free investment products to consider
- **58** The tax benefits of collective investment schemes
- **60** How to invest in REITs
- 64 What happens when you earn two salaries?
- 68 Residential rentals: the risks and rewards
- **70** Are you eligible to claim a home office deduction?
- 74 Claiming medical credits
- 78 Aligning the tax treatment of various retirement funds
- **82** How travel allowances work
- 86 Can tax paid on employee benefits be refunded?
- 88 Donations: The feel-good way to reduce tax liability
- 90 Why use a tax practitioner?
- 92 Common mistakes when completing your return
- 95 How to handle an assessment
- 98 The SARS refund process
- 101 Income tax return FAQs





9

Subscribe and WIN!

There are loads of vouchers up for grabs! Turn to page 9 for details.



Message From the CEO



ver the past several years, I have witnessed the *TaxTalk* magazine go from strength to strength. Readers have come to expect a continuing flow of differing high-end authors addressing relevant tax topics.

The magazine also comes with an increasing set of special features. Of immediate interest is this July/August issue, which has now effectively become an annual personal income tax return (ITR12) guide. This guide is not only of use to practitioners but also to everyday individuals who have no special tax expertise. In particular, this edition contains a line-by-line guide for the personal income tax return and a synchronised set of articles containing key recurring tax issues relating to the personal income tax return.

The main purpose of this ITR12 guide is to address core issues faced by most individual taxpayers when filing their returns. The guide is not intended to be exhaustive but to act as a plain English alternative to more detailed guides.

This special edition was introduced in 2017 and has been improved for greater use. Expect more editions of this nature in future years. Also expect a continuing stream of value additions as the magazine evolves.

Keith Engel
Chief Executive Officer
South African Institute of Tax Professionals

Notes From the EDITOR

e are excited to launch our second income tax return edition and are thrilled to have the magazine available in-store for purchase. We trust the edition will be of great value to you this Tax Season.

To help you make the most out of this special edition, please take note that this edition is made up of two parts:

Part 1 includes screenshots of the ITR12 form with accompanying notes that highlight important information relating to specific sections of the form.

Part 2 includes detailed information in the form of articles that offer a deeper insight on key topics relating to the ITR12 form.

At the back of the magazine, we have also included our annual tax directory which highlights some practitioners across the country – for taxpayers seeking assistance with their return. We remind all taxpayers to ask the question and ensure that their accountant is registered! For more, go to page 40.

Lastly, we have loads of vouchers to give away for those who hurry and subscribe to the magazine today. The vouchers entitle you to one of the following: a luxurious night spa package at Mangwanani African Spa or R1 000 off any purchase at takealot.co.za. Limited vouchers available, so be sure you're first in line! Turn to page 9 for details.

Tania Wolson

Edito





Tell us what you think. Questions and suggestions can be sent to editor@thesait.org.za

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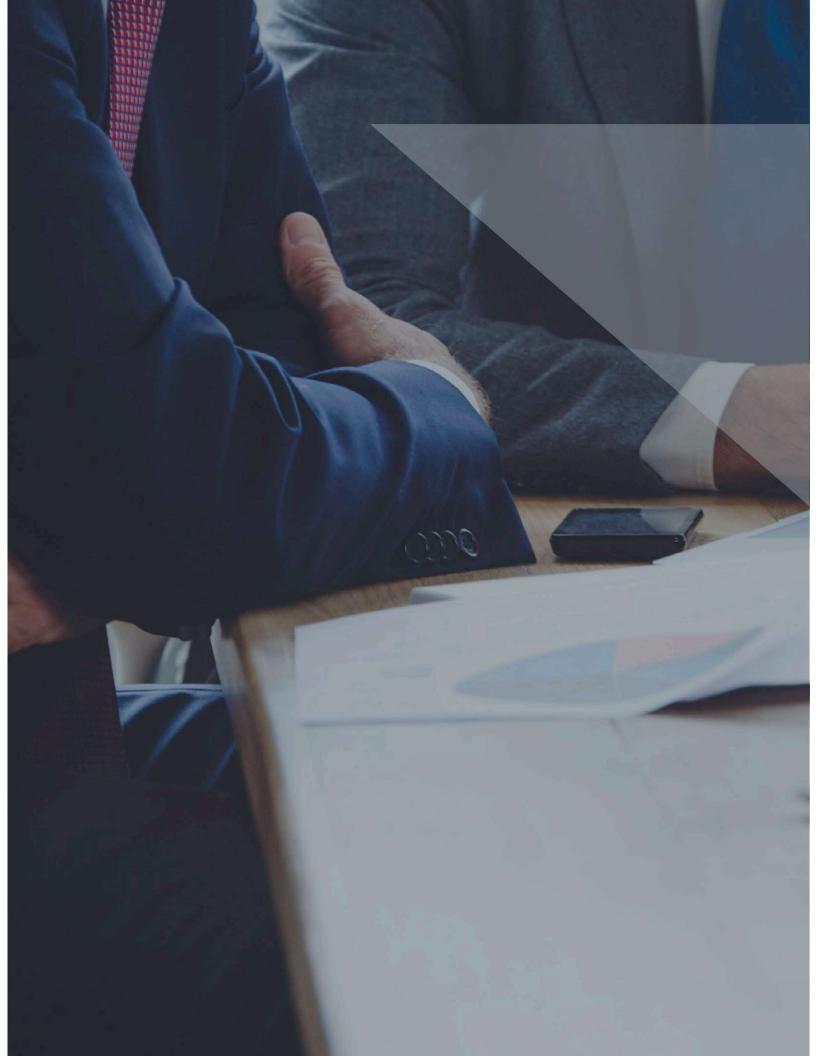
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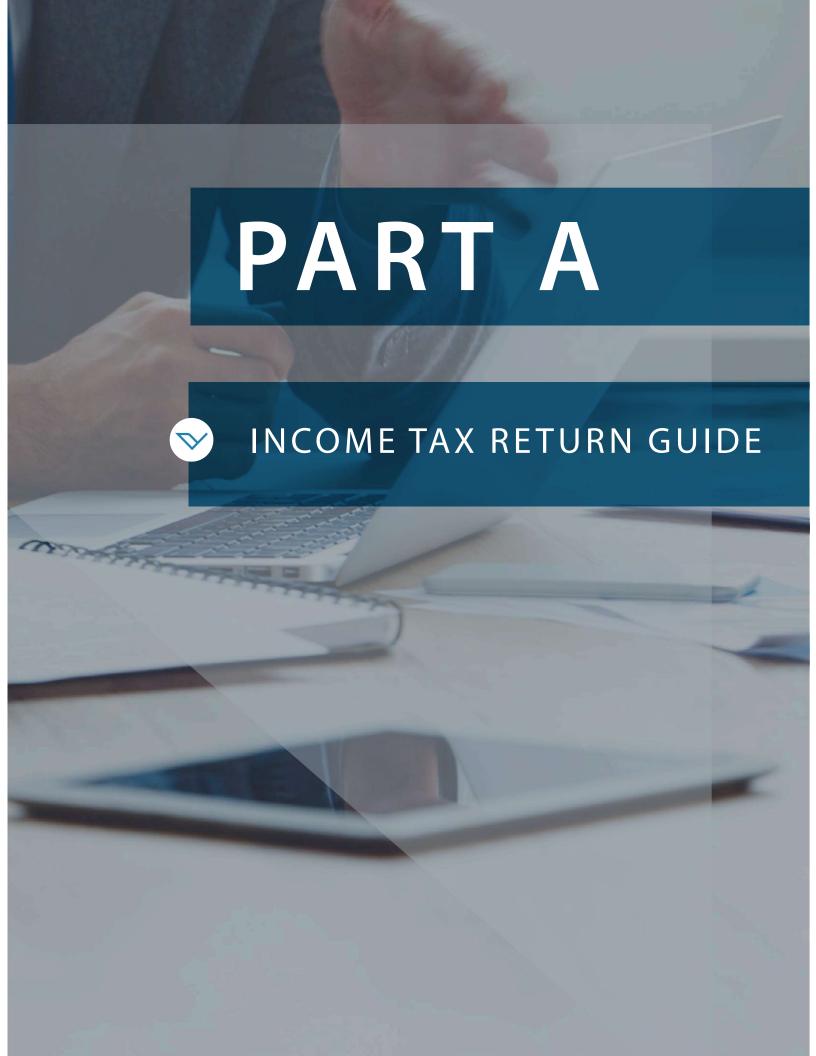


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NAVIGATING THE ITR12

▶ WITH NOTES FROM KEITH ENGEL, DANIEL BAINES AND THE TAXTIM TEAM



TAXPAYER INFORMATION / PG 14

Ensure your personal details and banking details are 100% accurate. The legally binding declaration in this section of the form will confirm all your tax, income and deductions for the year of assessment.

EMPLOYEE TAX CERTIFICATE



SARS will prepopulate this section based on the information provided to SARS by your employer/pension fund via your IRP5/IT3 (a) certificates.

TAXPAYER INFORMATION INCOME / PG 18



You must declare the income received for the year of assessment, including investments, interest, foreign income, capital gains and rental income.



LOCAL BUSINESS / PG 22

The segment accounts for local business, trade and professional income information. It is applicable to sole proprietors and those who earn any professional, freelance, independent contractor or business income including partners in a partnership.





TAXPAYER INFORMATION DEDUCTIONS / PG 26



Certain deductions need to be taken into account, such as medical deductions, retirement contributions and travel claims.

GETTING STARTED

About eFiling

SARS eFiling is the official online tax return submission portal which is directly linked to SARS' internal systems and allows you to update your personal details at the click of a button.

You can submit most tax forms to SARS via eFiling. eFiling seems to be an all-time favourite for individual taxpayers who want to receive an immediate response after submitting their annual returns to SARS. The vast majority of individual taxpayers now submit via eFiling (either directly from home or with assistance from SARS branches).

How to register for eFiling

To submit a tax return via eFiling, you must first register as an individual on the eFiling registration page by using your tax number, name and surname, ID number, address and banking details. SARS can take up to 21 days to register your profile.

Once you have registered, you must log in to your profile and check whether you can access a tax form. If you cannot, your profile might first need to be verified by SARS. The verification step is usually dealt with internally by SARS. Your profile should be active within 21 working days. If your profile has not been activated after 21 working days, it could be that you need to go to a SARS branch with your FICA documents (i.e., copy of ID document and proof of address less than three months old).

We, however, suggest that you call SARS 48 hours after you created your eFiling profile to check if they need you to go into your nearest SARS office anyway. The verification process is normally triggered as a result of details provided during registration that differ from those on SARS' internal system.

How to submit your tax return

Once your profile has been activated, go to sarsefiling.co.za and click on the green "Login" button (located in the top right-hand side of the webpage). You will be asked to enter your eFiling username and password, which you should have received from SARS after registration. Once you are logged in to your eFiling profile, click on "Returns" (located on the left) > "Returns Issued" > "Personal Income Tax (ITR12)". Click on "Request Return" (located on the right of the screen) and then select the tax year, which is 2018 for the year ended on 28 February 2018.

The form normally takes a minute or so to load. As soon as the form opens, you can go ahead and start completing your return. You can save the return at any time by clicking on the "Save" button at the top of your PDF form. When you are happy that the form has been correctly populated, you can click "Submit".

Recovery of password and username

If you forget your eFiling password, SARS allows you to reset the password via the following channels:

- Requesting a password hint via the eFiling website
- Resetting the password yourself on the site
- Calling the call centre

If you want to use the self-service option, go to sarsefiling.co.za, click on "Login" and then click on "For a reminder of your Login Name or to reset your password click here". Select "I forgot my password" and then select "I would like to unlock my account and/or reset my password using my security questions".

TAXPAYER

INFORMATION



Personal details, contact details and address details

It is important that you declare your correct and current details to SARS as they might need to contact you regarding your return or any refunds they might owe you. Ensure that you provide an active email address, a current cell phone number and your current residential and postal address. Any incorrect details might delay any refunds, while SARS tries to track you down. Assessments sent to a wrong address without your knowledge may also give rise to unintended difficulties with SARS (including mooted penalties and interest for the perceived failure to properly respond).

Your marital status should be correctly stated on the return as this could have an impact on your declared investment or rental income, especially because income may have to be split for tax purposes between you and your spouse if married in community of property.

Tax practitioner details

If you employ someone to submit your return for you, make sure that they are registered with a recognised controlling body (RCB) and SARS. You can check their registration status on the SARS website by entering their tax practitioner registration number; SARS should then confirm their full name and surname and that they are registered. Take note that the number should start with "PR", followed by a seven digit number (PR-XXXXXXXX).





You can also validate the membership of a tax practitioner who is registered with SAIT through a quick Google search by entering the practitioner's name and the word "tax". This should result in their member profile appearing with a link to the SAIT website.

Note that someone who is not a registered tax professional may provide you with advice or assistance regarding your tax return. However, they may not charge you money for doing so and they are not allowed to file on your behalf. Be very wary of tax preparers who automatically promise refunds, especially if they are expecting payment via those refunds. Many unscrupulous preparers falsely claim refunds without documentary evidence, leaving unsuspecting taxpayers in conflict in SARS. If a refund is received, a large part of it ends up in the hands of the preparer.

When a registered practitioner submits your return, ensure that the practitioner does not add their contact details in the section meant for your contact details. This could be problematic if SARS needs to get hold of you (with possible penalties and interest due to your perceived non-responsiveness).

Тахрау	(Income Tax Act, No. 58 of 1962, as amended) Taxpeyer Ref No.	Year of Assessment 2 0 1 8	ITR12
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First Name			
Other Name			
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No.		Passport Issue Date (CCTTMMDD)	
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-	with an "X" if you declare that you do not have an email address Declaration		
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Outdated or incorrect banking details are prominent causes for both refund delays and taxpayers being asked to appear at a SARS branch to validate their credentials. Double check the banking details to ensure they are 100% accurate, Another useful tip is to ensure that your employer accurately captures your banking details on your IRP5.

SARS is only able to add your personal banking details on their system and not third-party account, credit card or investment account details. If you would like to change your banking details at any stage, you can either go to a SARS branch or update these details via eFiling. However, if you choose to update these details via eFiling, you might still be required to go to a SARS office if they are unable to compare the details that you captured on eFiling to a third party, such as your IRP5 or the actual bank where you hold an account.

If you are having problems with your refund being paid out, you should check that your details on eFiling are valid. You can do this by clicking on the "Organisations" tab at the top of your eFiling screen; you will then click on "SARS Registered Details" followed by "Maintain SARS Registered Details". Click on "I agree" and when the new page has loaded click on "My bank accounts". This page will inform you whether your banking details with SARS are valid. If they are not, you will need to contact SARS and rectify this before the refund will be paid.



EMPLOYEE

TAX CERTIFICATE

INFORMATION

mployee Tax Certificate Info	mation [iiti 5711 5	(d)]	
oloyer Name			
ificate No.		Year of Asse (CCYY)	essment PAYE Ref No.
come Received		Income Received continued	Tax Credits and / or Employer / Employee Contribution
Amount	Source Code	Amount Source Code	PAYE R 41
		Non-Taxable Income	PAYE on Lump Sum Benefit
		R 3 6 9 6	R , 41
		Gross Employment Income (Taxable)	Employee and Employer UIF Contribution
		R 3699	R , 4
			Employer SDL Contribution
	-		
		Deductions / Contributions / Information	Total Tax, SDL and UIF
		R	R Medical Scheme Fees Tax Credit
		R	R 4
		R	Additional Medical Scheme Fees Tax Credit
		R	R 4
		R	Reason for Non-Deduction of Employees' Tax 4
		R	Pay Periods
		R	Periods in Year of Assessment ,
		R	No. of Periods Worked ,
		R	Period Employed From (CCYYMMDD)
		R	Period Employed To (CCYYMMDD)
		R	Directive Numbers
		R Total Deductions / Contributions	Directive No.
		R 4 4 9 7	Directive No.
			Directive No.





IRP5

The IRP5 section records the income you have earned from an employer or received from a pension fund during the last tax year (note that a tax year for an individual runs from1 March to 28 February each year). Your employer is required to declare to SARS the income they paid you, along with the amount of tax the employer has deducted from your salary. The employer should also issue you with a hardcopy of your IRP5 after the tax year has ended. If there are errors on the IRP5, such as an incorrect source code, your employer needs to correct the code and reissue the IRP5.

The IRP5 information on the ITR12 should be automatically populated by SARS. If this is not the case, the taxpayer needs to speak to his or her employer and find out if the reconciliation was done. SARS will not allow the taxpayer to make changes to the information on the IRP5.

Remember, you may have more than one IRP5 for a certain tax year, depending on the number of employers you had. The IRP5 will contain the period during which you worked for each employer, the tax year for which the income is applicable and the amounts paid to you. Each type of amount will be indicated by a source code. The following are some examples of the source codes applied:

- A salary is source code 3601
- A bonus is source code 3605
- A travel allowance is source code 3701
- Other allowance is source code 3713
- Commission is source code 3606
- A medical fringe benefit is source code 3810

The IRP5 should show the total income you received for the tax year and any deductions your employer set-off against the tax calculation (before the employer deducted tax from your income). Common deductions include the following:

- Employee pension contributions (source code 4001)
- Employee retirement annuity contributions (source code 4006)
- Employee provident fund contributions (source code 4003)
- Medical aid contributions (source code 4005)

To check if your employer actually declared (and paid over) the tax deducted from your salary during the year, the IRP5 on eFiling should reflect the PAYE source code 4102.

To check for which tax year the income on the IRP5 reflects, look at the top part of the document which will indicate the year of assessment. The IRP5 will also indicate when the employer completed the IRP5 and sent it off to SARS; this is called the transaction year.

Tax Directives

- If you received a lump sum from a retirement fund during the tax year, you should have a directive number which is reflected at the bottom of your IRP5. If you are a commission earner, you may also have a directive number reflected at the bottom of your IRP5. A tax directive is simply an official instruction from SARS to your fund manager or employer to deduct tax at a set rate determined by SARS for your individual case. Other common instances where you may have received a tax directive:
 - Severance/retrenchment payout
 - Employee share scheme payout
 - If you have applied to SARS for a fixed amount directive due to "financial hardship"

FOR MORE ON HOW TO USE YOUR IRP5 TO COMPLETE THE ITR12 TURN TO PAGE 42



TAXPAYER

INFORMATION:



INCOME

Investment income

This portion of the return is mainly directed toward local interest, foreign dividends and foreign interest as well as other forms of foreign income. Given that this guide is directed toward individuals with little or no foreign investment activities, this guide only covers the first three.

NOTE FOR TAXPAYERS MARRIED IN COMMUNITY OF PROPERTY

An important point of confusion arises in the case of investment income when couples are married in community of property. Should you be married in community of property, the amounts received by you and your spouse in respect of local interest, foreign interest and foreign dividends must be added together and entered as a single amount. For example, if you earned R50 000 from investment income in the financial year and your spouse earned R70 000, you need to enter the joint total of R120 000 on your return.

The total amount must be completed on both spouses' ITR12s, as the SARS system will programmatically split the amount. If any investment income is specifically excluded from the communal estate, this needs to be indicated with ar "X" in the applicable box.

FOR MORE ON INVESTMENTS

TURN TO PAGE 58



Local interest income

This section includes interest from a bank account or a local investment, such as a unit trust. The interest to be captured will be on your IT3(b) tax certificate which is issued to you by the bank or the applicable financial institution. If you have bank accounts and investments at more than one financial institution, you should receive an IT3(b) from each institution.

In terms of your tax return ending at the close of February 2018, there is a R23 800 annual local interest exemption (for those under 65 years of age) and a R34 500 exemption (for those 65 years of age and older).

All interest must be included on the return even if exempt (SARS will automatically exclude this amount on their systems). Moreover, even if you earn less than the exempt amount, you still need to report all the interest that you earned on the ITR12 as reflected on the IT3(b). To repeat, SARS will fully apply the exemption during the assessment.

Foreign interest

Foreign interest

This is the interest received from a foreign investment. The interest must be converted to Rands using the average exchange rate for the year, and included in the taxable income. SARS' average exchange rate tables can be found on the SARS website. This amount is not subject to any annual interest exemption. Refer to the IT3(b) form from your bank for any interest with the source code 4218.

Foreign tax credits on foreign interest

This is the foreign tax withheld from interest received on a foreign investment. Refer to the IT3(b) form from your bank for foreign tax credits with the source code 4113. These credits ensure that the same interest is not taxed by SARS if already taxed by another country.

Taxpayer Information - Income	Foreign Income (excl. Investment income and CGT and amount received (accrued as a beneficiary of a trust(s), or deemed to
Investment Income (excl. Exempt Dividends) and any amount	have accrued in terms of s7) - Rands only, unless cents specified R 4111
received/accrued as a beneficiary of a Trust(s), or deemed to have accrued in terms of s7)	Foreign Rental (from the letting of fixed property(ies)) - Profit
Note: All the investment income must be declared (even if you are married in community of	R 4288 Foreign Tax Credits Refunded / Discharged
property). SARS will do the required apportionment(s) and / or apply the applicable exemptions.	Foreign Rental (from the letting of fixed property(les)) - Loss Specify the portion of the amount so refunded / discharged as was previously allowed
Interest earned by a non-resident qualifying for an exemption i.t.o s10(1)(h) must be declared under 'Amounts considered non-taxable'	by SARS as a rebate
	Foreign Tax Credits on Foreign Rental Income
Local Interest - Rands only, no cents	Specify the portion of the amount so refunded / discharged as was previously allowed by SARS as a deduction in terms of s6quat (1C)
Local Interest	Business / Trading - Profit (excluding rental income derived from the letting of R 4249
R 4201	fixed property(ies)) Specify the portion of the amount so refunded / discharged as was previously allowed
Foreign Interest - Rands only, unless cents specified	R 4222 by SARS as a deduction in terms of s6quat(10) from foreign income
Foreign Interest	Business / Trading - Loss (excluding rental income derived from the letting of fixed property(ies)) 4291
R 4218	R 4223
	Farming - Profit
Foreign Tax Credits on Foreign Interest	R 0192
R 4113	Faming - Loss
Foreign Dividends - Rands only, unless cents specified	R 0193
Gross Foreign Dividends subject to SA normal tax	Royalties - Profit
R	R 4278
7210	Royalties - Loss
Foreign Tax Credits on such Foreign Dividends	R 4279
R 4112	Controlled Foreign Company (CFC) - Share of Profit
Distribution from a Real Estate Investment Trust (REIT)	R 4230
Distribution 4238	Income reflected on a South African IRP5/IT3(a) certificate that was subject to tax outside the RSA.
Dividends deemed to be income in terms of s8E and s8EA	R 4235
Annual section of the	Other - Profit (Excluding Rental from the letting of fixed property(ies))
Dividends deemed to be income in terms of s8E and s8EA	R 4228
R 4292	Other - Loss (Excluding Rental from the letting of fixed property(ies))
	R 4229

Foreign dividends

Gross foreign dividends

This includes the dividends received on a foreign investment. The amount converted to Rands and included in your taxable income. Refer to the IT3(b) form from your bank for foreign dividend income with the source code 4216.

Foreign tax credits on such foreign dividends

This is the foreign tax withheld from foreign dividends received. Refer to the IT3(b) form from your bank for foreign tax credits with the source code 4112. These credits ensure that the same dividend is not taxed by SARS if already taxed by another country.

Distributions from a real estate investment trust (REIT)

Distributions from REITs are included in your taxable income. Refer to the IT3(b) form from your bank for amounts with the source code 4238. REITs typically make annual distributions to their unit holders.





lote: The annual exclusion and inclusion rate and carry forward losses will be		
alculated by SARS.	Does the transaction relate to a primary residence? If Yes, indicate whether the primary residence is held icinet? Y N	
Determination of Local Gain / Loss - Rands only, no cents	Is the primary residence held in a partnership?	
loos the transaction relate to a primary recidence?	If Yes, state the percentage held , , , , %	
If Yes, indicate whether the primary residence is held jointly? Y N	Mark here with an "X" to confirm that the full amounts relating to proceeds and base cost of the primary residence are declared.	Note: Where a unique identifier was allocated to this trade in the previous year, please
Is the primary residence held in a partnership?	Does any exemption/tollover other than primary residence Y N N	complete that allocated number. Also ensure that the description above is the same as the previous year.
If Yes, state the percentage held , 96	Proceeds	Unique Identifier
Aark here with an "X" to confirm that the full amounts relating to receeds and base cost of the primary residence are declared.	R	R
Does any exemption/rollover other than primary residence Y N	Base Cost	Income - Rands only, no cents
exemption apply to this transaction?	R	Rental income
Proceeds	Primary Residence and Other Exclusions (excl. annual exclusions)	R
R	R	Expenditure - Rands only, no cents
lase Cost	Gain	Accounting Fees
Primary Residence and Other Explusions (excl. annual exclusions)	R 4252	R
	Or Loss	Agency Fees
Sein	R 4253	R
4256	Foreign Tax Credits in respect of Foreign Capital Gain / Loss	Bad Debts
TLOSS 4200	R 4114	R
3 4251	Local Rental Income from the Letting of Fixed Property (ies)	Depreciation
1201	(Excluding amounts received / accrued as a beneficiary of a trust(s), or deemed to have accrued in terms of x7)	R
	(Note: If in a parthership, declare full partnership financial details. Should you have incurred expenditure for your own account relating to the partnership and which is not reflected in the financial statements of the partnership, such expenditure should be claimed under "Other Deductions".	Electricity / Roters and Toxes

Sales and Other Disposals (Capital gain / loss)

If you sell or dispose of assets (e.g. land and other immovable property as well as shares, unit trusts and REITs), the sale or other disposal will trigger the capital gains tax (CGT) unless you regularly dispose of assets of the same nature. A capital gain arises when you dispose of an asset for proceeds that exceed its base cost. A capital loss arises when you dispose of an asset for proceeds that are less than the base cost. Stated more loosely, you have a capital gain when you receive more revenue from the sale than the asset's cost (and a loss when the cost of the asset exceeds revenue from the sale).

Example: Thabo purchases vacant land in 2014 for a total cost of R450 000 and sells the land in June 2017 for R800 000 after deciding not to build on the land. The capital gain in this case is R350 000 (R800 000 – R450 000). If he instead sold the land for R200 000, he would report a capital loss of R250 000 (R200 000 – R450 000).

Capital gain paperwork

Examples of supporting documents which SARS may ask to see include a deed of sale as well as invoices from lawyers, building contractors, estate agents and surveyors.

The proceeds, costs and capital gain on investments (such as shares and unit trusts) will be reflected on an IT3(c) certificate from the investment house,

The CGT calculation takes into account all direct and indirect proceeds from the disposal. The sales proceeds would be reduced by estate agent's commission and other selling costs. The cost aspect of the calculation takes into account all acquisition costs associated with property as well as any improvements. Note that repairs and maintenance expenditure is not included in the base cost as it is not a capital expenditure.

CGT is calculated separately but is, in fact, part of the overall income tax system. The only difference is how capital gains and losses are taken into account. All net capital gains and losses are added up. If the result is a net gain for an individual, 40% of the gain is added to overall taxable income. If the result is a net capital loss, the capital loss does not reduce taxable income but is carried forward and set off against capital gains arising in future years.

Lastly:

- Proceeds from the sale of personal use assets, such as a car or jewellery, are exempt from capital gains tax and do not need to be declared.
- Individual taxpayers are entitled to an annual R40 000 capital gains exclusion. This
 means that if your capital gains for the tax year are R40 000 or below you will not
 pay capital gains tax. The gains should however still be declared and SARS should
 automatically take the exclusion into account.

NOTE FOR TAXPAYERS MARRIED IN COMMUNITY OF PROPERTY

As with the investment income section, if you are married in community of property, the gross amounts received by both spouses relating to disposals must be added together. The total amount must be completed in the ITR12s of both spouses, as the SARS system will programmatically split the amount. If there are disposals that are specifically excluded from the communal estate, this needs to be indicated with an "X" in the applicable box.

Sale of the primary residence

Special rules apply when you sell your home (i.e., primary residence). A gain (or loss) on the home is disregarded (exempt). However, this relief applies only for net gains or losses up to R2 million (any excess gain or loss remains in the tax system).

If you jointly own a property with your spouse or other party, you need to indicate this with an "X" in the applicable box. The full proceeds and cost must still be declared. SARS will then split the proceeds and cost and allocate 50% of the primary residence exclusion to the gain on assessment.

Determination of foreign gain / loss

This section applies to the sale of foreign properties and investments that the taxpayer may hold offshore. The proceeds and costs related to the disposal of these assets need to be converted to Rands and disclosed. The same rules will apply here as those that pertain to the disposal of local assets.

Local rental income

This part of the return deals solely with net rental yields (typically from the letting of residential property (e.g., rental income earned via Airbnb). The sale of rental property typically gives rise to capital gain / loss covered in the prior part of the return.

Description / Unique Identifier

The requested unique identifier is a number allocated by SARS. Refer to the prior year's ITA34 assessment for your reference number. If this is the first year of declaring this income, then you can leave the unique identifier field blank.

Insurance	Determination of Profit / Loss Rands only, no cents	Turnover / Sales
R	Taxable Profit	R
Interest / Finance Charges	R 4210	Income Reflected on an IRP5/IT3(a) regarded to be Trading Income
R	Taxable Loss	R
Levies Paid	R 4211	Cost of Sales
R	Should the loss incurred be excluded (ring-fenced) for the calculation of your tax liability?	R
Repairs / Maintenance	v	Gross Profit
R	Are you in a partnership?	R
Other	State the profit / loss	Gross Loss
R	If YES Percentage , , , , , , , , , , , , , , , , , , ,	R
Description	L Mark here with an "X" if variable ratios should be applied for the sharing of income and/or expenses.	
	Local Business, Trade and Professional Income (other than Rental Income from Letting of Fixed Property(ies) and distributions received / accrued as beneficiary of a trust(s), or deemed to have accrued in terms of s7)	Determination of profit / loss The overall profit/loss is automatically
	Note: If in a partnership, declare full partnership financial details. Should you have incurred expenditure for your own account relating to the partnership and which is not reflected in the financial statements of the partnership, such expenditure should be claimed under "Other Deductions".	calculated and populated in the ITR12.
	Description	If the rental property has generated a loss
TOTAL		for the year, SARS will either carry it forward
R		(i.e., "ring-fence" it and off-set it against rental
		profits in future years, or alternatively they
		may allow the loss to be set off against other
	Note: Where a unique identifier was allocated to this trade in the previous year, please complete that allocated number. Also ensure that the description above is the same as the previous year.	income earned in the current year by the taxpayer. SARS will apply the complicated
	Unique Identifier	tall pary on or the rim apply the complication

Income

This segment includes all rental received or accrued (i.e., due even if unpaid) arising in the tax year at issue.

Expenditure

Accounting fees

This includes the fees paid to an accountant or bookkeeper for services such as invoicing and cash collection. Invoices may be required as supporting documentation.

Agency fees

This involves the fees paid to a rental administrator / estate agent who manages the rentals. Invoices may be required as supporting documentation.

Bad debts

If rental income (accrued) has not been collected and it is very unlikely that it will be paid by the tenant, the rental income can be written off as bad debt (i.e., an expense). You can only capture an amount here if the corresponding rental income is also captured. Emails or lawyers' letters between the taxpayer and the debtor may be required as supporting documentation to prove the amount is uncollectable.

Depreciation

Depreciation involves wear and tear on the rental property furniture. Note, the building itself generally does not qualify for a wear and tear allowance.

Insurance

The only insurance that is claimable is homeowner's insurance and insurance on the mortgage bond. Insurance on household contents is not claimable. The invoice or contract reflecting the premium paid may be required as support should SARS so request.

Interest / finance charges

Only the interest or finance portion of the bond payment is deductible (not the entire monthly instalment, which includes repayment of loan capital). The mortgage bond statement from the bank may be required as supporting documentation.

Repairs / maintenance

The expenditure allowed here is the money spent to restore something that was broken to its previous condition.

Be careful not to take into account amounts spent on improvements as this is a capital cost and, therefore, would not be deductible for tax. Unlike repairs and maintenance, improvements increase the cost of the asset when disposing of the property.

Given this distinction, it is important to determine the nature of the expense. You can consult a tax practitioner if you are unsure.

Other

Some examples of other expenses include software expenses, marketing costs and low value assets.



"ring-fencing" provisions of the Income Tax

Act when making this decision.

LOCAL

BUSINESS



Local Business

(Sole Proprietors, Freelancing and Independent Contractors)

This section typically applies to individuals who run their own business (sole proprietorship) or who do freelancing or contract work on the side. These forms of income are often generated in addition to earning a salary (such as teaching). Examples may include consulting, freelance website design and tutoring.

Description / Unique Identifier

The unique identifier is a number allocated by SARS. Refer to the prior year's ITA34 (assessment) for the reference number, if applicable.

Income

Income reflected on an IRP5/IT3(a) regarded to be trading income

This is intended for independent contractors with source code 3616 on one or more IRP5s. Make sure that you have a document for each different person / entity paying you and that these documents cover the full amounts to which you are entitled.

Expenditure

List all operating expenses incurred during the tax year. If the business is a VAT vendor, only the expenses should be captured (not the VAT) because the VAT will be claimed back. If the business is not a VAT vendor, expenses to be captured include VAT (because the VAT cannot be claimed back).

Depreciation

Depreciation represents a non-cash outlay stemming from the decline in value of business assets (e.g. vehicles and machinery) arising from business use over time. Tax depreciation would include wear and tear to the assets used in the business.

Entertainment

It is important to keep invoices as a back-up (together with the names of the people and purposes of the meetings).

Salaries and wages

Salaries and wages paid to your staff should be captured here. Any payments to yourself will not constitute a salary.

Other

Some common expenditure items would include office supplies, internet cost, computer parts and software costs. Note that items less than R7 000 can be expensed as low-value assets while assets above this amount should be capitalised and written off over their useful lives.



	Insurance	Determination of Profit / Loss Rands only, no cents	Turnover / Sales
	R	Taxable Profit	R
	Interest / Finance Charges	R 4210	Income Reflected on an IRP5/IT3(a) regarded to be Trading Income
	R	Taxable Loss	R Cost of Sales
	Levies Paid R	R 4211 Should the loss incurred be excluded (ring-fenced) for the Y N	R R
	Repairs / Maintenance	calculation of your tax liability?	Gross Profit
	R	Are you in a partnership?	R
	Other	State the profit / loss percentage , , , %	Gross Loss
	R Description	Mark here with an "X" if variable ratios should be applied	R
		for the sharing of income and/or expenses. Local Business, Trade and Professional Income (other than	
		Rental income from Letting of Fixed Property(ies) and distributions received / accrued as a beneficiary of a trust(s), or deemed to have	
		accrued in terms of s7)	
		Note: If in a partnership, declare full partnership financial details. Should you have incurred expenditure for your own account relating to the partnership and which is not reflected in the financial statements of the partnership, such expenditure should be claimed under 'Other	
		Deductions*	
	TOTAL	Description	
	R		
		Note: Where a unique identifier was allocated to this trade in the previous year, please complete that allocated number. Also ensure that the description above is the same as the	
		previous year. Unique Identifier	
		Income - Rands only, no cents	
 -	Income Other Than Turnover		Expanditure - Cards only on carts (Carlinual)
 	Income Other Than Turnover		Expenditure - Rands only, no cents (Continued) Other
		R Entertainment	SIN -
	R	R Entertainment R	Other
	R	R Entertainment	Other R
	R	Entertainment R Insurance R Interest / Finance Charges	Other R
	R Description Relating to Other	R Entertainment R Insurance R Interest / Finance Charges R	Other R
	R Description Relating to Other	Entertainment R Insurance R Interest / Finance Charges	Other R
	Description Relating to Other TOTAL R	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs	Other R Description Relating to Other
	Description Relating to Other TOTAL R Expenditure - Rands only, no cents	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R	Other R
	Description Relating to Other TOTAL R	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R	Other R Description Relating to Other TOTAL
	R Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid	Other R Description Relating to Other TOTAL R Accounting Profit R
	Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost R	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid R	Other R Description Relating to Other TOTAL R Accounting Profit R Accounting Loss
	R Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid R Repairs / Maintenance	Other R Description Relating to Other TOTAL R Accounting Profit R Accounting Loss R
	Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost R Bad Debts R Bank Charges	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid R Repairs / Maintenance R Royalties and License Fees	Other R Description Relating to Other TOTAL R Accounting Profit R Accounting Loss R Adjustments: Add Back- Rands only, no cents
	Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost R Bad Debts R Bank Charges R	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid R Repairs / Maintenance R Royalties and License Fees R	Other R Description Relating to Other TOTAL R Accounting Profit R Accounting Loss R
	Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost R Bad Debts R Bank Charges	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid R Repairs / Maintenance R Royalties and License Fees R Salaries and Wages	Other R Description Relating to Other TOTAL R Accounting Profit R Accounting Loss R Adjustments: Add Back-Rands only, no cents Depreciation
	Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost R Bad Debts R Bank Charges R Capital Allowances R Commission paid	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid R Repairs / Maintenance R Royalties and License Fees R Salaries and Wages R	Other R Description Relating to Other TOTAL R Accounting Profit R Accounting Loss R Adjustments: Add Back-Rands only, no cents Depreciation R Disallowable Foreign Expenses R
	Description Relating to Other TOTAL R Expenditure - Rands only, no cents Accounting Fees R Administration Cost R Bad Debts R Bank Charges R Capital Allowances R	Entertairment R Insurance R Interest / Finance Charges R Lease Payment R Legal Costs R Provision for Doubtful Debts R Rental Paid R Repairs / Maintenance R Royalties and License Fees R Salaries and Wages R Telephone R	Other R Description Relating to Other TOTAL R Accounting Profit R Accounting Loss R Adjustments: Add Back-Rands only, no cents Depreciation R Disallowable Foreign Expenses

Travel Costs - Foreign

Finance Charges
R

Note: Use this section to declare any amounts that have not been addressed by previous sections.	Amounts accrued to you as an exclusive deemed resident of another country in terms of a double taxation agreement between RSA and that other country	Contributions made to a TFI during this year of assessment
Remuneration from Foreign employer for services rendered in SA	R	R 42
R 4236	Exempt Amount i.t.o. s 10(1)(o)	Amounts transferred from a TFI to another during the year of assessment
	R	R 42
Royalties - Profit	Donations	Amounts transferred out of a TFI during the year of assessment
4212	R	R
Royalties - Loss	Exempt Local and Foreign Dividends	Amounts withdrawn out of a TFI during the year of assessment
4213	R	
Other	Interest earned by a non-resident i.t.o. s 10(1)(h)	R 42
8 4214	R	Net return on Investment - Profit
	Inheritances	R 42
Description Relating to Other	R	Net return on Investment - Loss
	Foreign Pension	R 42
	R	Interest
	Other	R 42
	R	Dividends
	Description Relating to Other	R 42
		Capital Gain
		R 42

Amounts considered non-taxable

Working Overseas

(Exempt amount in terms of section 10(1)(0))
This relates to income earned by South African residents under a foreign employment contract. It does not apply to independent contractors or freelancers who work overseas.

If a taxpayer spends 183 days out of South Africa (with 60 days of these being continuous and unbroken), the foreign income may be exempt from South African tax if certain conditions are met.

A proposal by the Finance Minister in February 2017 to limit the foreign employment exemption has been signed into law. This will greatly restrict the exemption but will only come into effect as of 1 March 2020.

Donations (received by you)

If you receive a donation (i.e., a gift in cash or even a physical item), you need to disclose this gift on the return. However, you can safely assume that the receipt of a gift is tax free. But, the party providing the gift (i.e. the donor) may be subject to the Donations Tax of 20% (mainly if the donor has made gifts in excess of R100 000 over the course of the year). This tax should have been reported or paid separately by the donor via an IT144 return. This issue is not of concern in terms of your ITR12 return.

Local (and foreign) dividends

Local dividends (i.e., dividends from South African companies) are exempt from income tax. However, they are subject to a 20% dividends withholding tax payable to SARS by the company declaring the dividend. The tax has already been taken from the dividend you

received so the dividend is not of concern in terms of your ITR12 return. Foreign dividends (especially from foreign unit trusts and other small shareholdings) are taxable, although are subject to a partial exemption if certain conditions apply.

Inheritances

Like donations, these amounts are tax free in the hands of the recipient. However, the amounts should be disclosed (even though untaxed). There may be estate duty payable by the deceased's estate

Tax free investments

Tax free savings accounts were introduced to encourage South African households to save by exempting interest and other forms of passive income in special tax free investment accounts.

There is, however, an annual limit of R33 000 which a person can save and any shortfall you missed for the year cannot be carried over to the next year. A lifetime limit of R500 000 also applies.

Should you exceed any of these limits, SARS could penalise you by up to 40% of the over-invested amount. Should your savings for the year be more than the R33 000 limit and the excess was caused by you reinvesting your return in the investment, you will not be penalised and you will still be able to invest R33 000 the following year.

You can also invest a maximum of R33 000 per year for your children. This will be deducted from their annual limit.

You would need to obtain the IT3s forms from the funds in which you invested. Complete the details based on the IT3s in the ITR12 next to the appropriate columns.



Become a Tax Advisor (SA)

Apply for SAIT's Tax Professional Occupational Certificate Qualification (NQF8)

Entrance Requirements: NQF6 Qualification

Preferred Requirement: Bcom (Honours) in Tax; HDip Taxation or Equivalent Qualification in Tax



Apply to enrol for the Tax Professional Occupational Certificate by emailing education@thesait.org.za and completing the application form

The Tax Professional Qualification consists of three components that need to be completed before being admitted to write the final exam



Knowledge Component

The Knowledge Component is completed through studies at a Training Institution that is specifically accredited to offer this qualification.



Practical Skills Component

The Practical Skills Component is completed through studies at an Accredited Skills Development Provider.



Alternative Route:

Students from non-accredited providers can complete the Knowledge and Practical Skills Component by writing the SAIT Initial Test of Competence (Entry Exam)



Workplace Component

The Workplace Experience Component is obtained in the workplace with a SAIT Accredited Workplace Provider. Candidates will complete the Training Logbook under the guidance of a training supervisor.



Candidates from non-accredited providers can apply fo Recognition of Prior Learning of their Training Logbook

FINAL STEP TO TAX ADVISOR (SA) DESIGNATION

External Integrated Summative Assessment (EISA)

Apply to write the final exam by emailing education@thesait.org.za



Pass EISA

Congratulations! You have completed the Tax Professional Occupational Certificate (NQF8). You now have access to SAIT Membership on advisory level and your designation is Tax Advisor (SA).

SAIT EDUCATION AND STANDARDS DEPARTMENT: education@thesait.org.za



TAXPAYER

INFORMATION:

DEDUCTIONS

Taxpayer Information - Deductions	Indicate the number of medical schemes to which you paid the contributions in respect of such dependent(s)?	Are you, your spouse or any of your qualifying children a y x N
Medical Deductions - Rands only, no cents	Details of Medical Scheme	If 'Yes', has this the disability been confirmed by a duly registered medical practitioner as prescribed?
Medical expenditure (including medical scheme contributions made by you or your employer towards a medical scheme where you are the principal / main member)	Medical Scheme Name:	Indicate the number of qualifying person(s) with a disability. Details of Disability
Nere you the principal Anain member of a medical scheme which you and / or your employer made conhibutions? I will now many medical scheme(e) were you at the principal / main sember during this year of assessment?	Medical Scheme Membership Number	Indicate the person with the disability with an "X" below; Yourself Spouse Qualifying Child Is the disability a (mark with an "X" below);
Details of Medical Scheme	State the total number of dependents per month:	Temporary Disability Permanent Disability
Madical Scheme Membership Nureber	Mar Apr May Jun Jul Aug	Specify the date on which the latest ITR-DD for this person was confirmed by a duly registered practitioner (CCYYMMDD) Registered Medical Practitioner Practice Number
	Sep Oct Nov Dec Jan Feb State the total amount of medical scheme contributions paid on behalf of any immediate family member(s) who is dependent on you for family care and support	State any medical expenses paid by you that was claimed from your medical scheme and effected on the medical certificate. (other than physical impairment or disability expenses)
State the total number of dependants (including yourself) per month: fair Apr Mey Jun Jul Aug	R 4005 State any medical expenses paid by you that was claimed from your medical scheme and reflected on the medical certificate. (other than physical impairment or disability expenses)	Retirement Contributions - Rands only, no cents
Ost Nov Dec Jan Feb	Expenses not reflected on any medical certificate	To howmany Retrement Annuity policy(ses) did you or your employer contribute during this year of assessment? Total contributions for this rear of assessment assessment 400
tate the Medical contributions made by yourself and or your employer to this scheme. 4005	State any qualifying medical expenses paid by you that was not claimed from any medical scheme and not reflected on any medical scheme certificate (other than physical inociment or disability expenses)	Details of Policy(ies)
itate any medical expenses paid by you that was claimed from your medical scheme and reflected on the medical certificate. (other than physical impairment or disability xpenses)	R 4034	Name of the Fund
4020	Physical Impairment	
Medical expenditure (including medical scheme contributions where you are not the principal / main member of the medical scheme) in respect of any immediate family member who is dependent on you for family care and support	State any qualifying physical impairment expenses paid by you and not recovered from any medical scheme(s) and not included above. R 4022 Disnability	Policy Number Contributions made to this policy R

		Employer Provided Vehicle: Other than the Operating Lease - Rends only, no cents: Did you use a logbook to determine your business km travelled? Y N					
	Did you use a logbook to determine your business trn travelled? Y N Did you use a						
	Did you use a logbook to determine your business km travelled? Vehicle Registration N				LI	TI	T
	Purchase Agreement Lease Agreement Car Make					-	
	Vehicle Registration No. Car Model						_
	Car Make						\perp
	Year Manufact		-	rice or	r Cash Va	ilua	
	Car Model		3				\perp
	Fringe Benefit \	Value	1	T			T
	Date of Purchase Cost Price or Cash Value Organic of	Kilometres Travelle	d				
	R Starting Date	(CCYYMMDD)	П	┰	$\overline{\Box}$	$\overline{\Box}$	┯
	Details of Kilometres Travelled	(CCYYMMDD)		+	+	+	\pm
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	Finance Charges R vehicle provide	od by your employer?		1011701	STATE OF THE PARTY		N
	Other R I						





Medical deductions

The medical aid section ensures that your medical tax credit was calculated correctly by your employer.

In the 2018 tax year, you are given a credit of R303 for the main member and one additional member, and R204 for every member thereafter. Thus, if your employer paid your medical contributions over to the medical fund on your behalf and you have two other people that you support on your medical aid, your employer should pay you a medical tax credit of R303+R303+R204 if you had three members on your medical aid.

You must ensure that you include the total contributions made by yourself and your employer in your return. You must not just add the contributions that were paid directly by yourself.

You also need to ensure that you complete the number of members per month that belonged to the scheme, including yourself. If you paid for medical aid via your employer as a deduction from your salary, you would also need to complete this section including the name and policy number of the scheme. You would also need to indicate how many medical aid schemes you belong to.

The medical aid section is split between your own scheme and any scheme for which you pay that relates to others who are not on your medical scheme. This situation typically arises when a taxpayer is covering the expenses of a separate medical aid scheme utilised by an elderly family member.

If you had out-of-pocket medical expenses for which you were not reimbursed from the medical aid scheme, you may seek to claim these expenses. This will potentially increase your medical tax

credit but this effort is only worthwhile pursuing if these expenses are fairly large. In particular, these expenses must amount to more than 7.5% of your taxable income to receive a deduction against your tax liability. Note that more generous tax rules exist to assist those who are impaired or disabled or have such family members.

If you are unsure whether your out-of-pocket expenses exceed 7.5% of your taxable income, just include them in the relevant blocks and let SARS do the calculation.

Retirement contributions

Add all the contributions you made to a retirement annuity and put them on the return. You can retrieve these amounts from the tax certificate sent to you by your investment house. You need to include the name of the fund and your fund number when completing this section. Each retirement annuity policy must be captured separately, with the grand total added up at source code 4006. These contributions can instead be reflected as part of your IRP5 if your employer so allows. The advantage of placing these contributions on the IRP5 is an immediate reduction of payroll tax instead of waiting for a refund from SARS after filing an ITR12 return.

Note this section is for contributions to a retirement annuity fund only. It does not include contributions to a pension or provident fund (which appear on your IRP5) and do not need to be captured again in this section.

Travel claim

If your IRP5 has a source code 3701 or 3702 on the income section, you are receiving a travel allowance from your employer. You can claim the tax back for the kilometres you travelled for business purposes during the year.

However, you need to ensure that you keep an accurate logbook with details of who you went to visit and the opening and closing kilometre readings per trip.

You also need to make sure that you have kept a record of the expenses you incurred (e.g., insurance, maintenance, licence fee) and that you submit these invoices or slips if requested by SARS. Failure to keep proper records may result in these expenses being disallowed. As a conceptual note, many of the rules relating to these deductions are designed to ensure that travel allowances are not claimed for daily commuting expenses of employees mainly stationed in one location. (i.e., travel between home and office is considered private travel and cannot be included in your business mileage claim).

FOR MORE ON MEDICAL CLAIMS, RETIREMENT CONTRIBUTIONS AND TRAVEL REIMBURSEMENTS *TURN TO PAGES 74,*

78 AND 82



Employer Provided Vehicle: Operating Lease - Rands only, no cents	Other Deductions - Rands only, no cents	Other Deductions - Rands only, no cents (Cont.)
Did you use a logbook to determine your business km travelled? Y N	Expenses against local taxable subsistence allowance	Section 8C losses
Vehicle Registration No.	R 401	R 40:
Fringe Benefit Value R	Expenses against foreign taxable subsistence allowance	R
Details of Kilometres Travelled	R 401	
Starting Date (CCYYMMDD)	Depreciation	R 40
	R 402	trementation and a part southly total exemplication as a ref (WeXth ferrorand
Closing Date (CCYYMMDD)	Home Office Expenses	s 8A/8C gains and dividends)
Opening Kilometres	R 402	Remaineration (5 00/00 gains) taxed on the 3 but comply with exemption in terms of
Closing Kilometres	Travel Expenses (no allowance - commission income)	s10(1)(o)(ii). (This amount is restricted to s 8A/8C gains, excluding dividends)
Total Kilometres	R 401	
	Amounts Refunded i.t.o. s11(nA) and 11(nB)	Other
Business Kilometres	R 404	
2 - 2	Allowable Accountancy / Administration Expense	Description Relating to Other
Donations allowable in terms of s18A to approved organisations – Rands only, no cents	R 404	3
	Legal expenses i.t.o. s11(c)	
otal amount donated during the year of assessment	R 404	4
R 4011	Bad debt/Provision for doubtful debt	
Complete the details of the organisation(s) to whom donations	R 404	5
were made:	Use of motor vehicle	710
PBO Number	R	5 (
Amount donated to this organisation		Investments in Venture Capital Companies (VCC): s12J – Rands only, no cents
R		Total amount invested in Venture Capital Companies in exchange for shares during the year
		of assessment
		R 40:
		Complete the details of the investment(s) made below:



FOR MORE ON DONATIONS
TURN TO PAGE 88

Donations to Public Benefit Organisations (PBOs)

Donations to SARS approved PBOs may be deductible if the PBO is viewed as a "Part II" PBO under the 9th Schedule to the Income Tax Act. Religious organisations typically fall outside of "Part II" and education and training typically falls within. Deductions can only be claimed based on section 18A certificates issued by the PBO. The information on the certificates must be used to complete this section. These certificates need to have a PBO number, beginning with a 9. Include each donation separately.

Other deductions



You can only enter an expense amount under this set of blocks if a local taxable subsistence allowance is part of your salary package (i.e., it appears under source code 3704 on your IRP5.). Only in these instances can you claim against the allowance and reduce the tax payable by providing proof of the travel expenditure and by entering the expense claim here. If, however, your employer reimburses you at the SARS "deemed rate" the reimbursement is tax free and you cannot claim a deduction against it.



Expenses against foreign taxable subsistence allowance

As with expenses against local taxable subsistence allowances, taxpayers can only enter an amount if a foreign taxable subsistence allowance has been received and appears under source code 3715 on your IRP5. The rules in this area essentially operate the same as for domestic subsistence.

Depreciation

This would be for wear and tear on assets used by the taxpayer for tasks related to their job. Examples of these assets would include cell phones or laptops (provided these were purchased by the taxpayer). Only the portion of the asset that is used for business purposes may be claimed. Note that SARS may require a letter from the taxpayer's employer, confirming that the asset was used for the purpose of performing work.

Travel expenses

These are travel expenses for commission earners whose commission is reflected on an IRP5 under source code 3606. Note that the commission must be 50% or more of the total remuneration to qualify for this deduction. Taxpayers must also provide a logbook as proof of their business travels.

Taxpayers who earn a travel allowance which is reflected under source code 3701 or 3702 on their IRP5 must not complete this field.

Taxpayers need to disclose their travel expenses within the travel claim against the allowance section of the ITR12.

Repayments to employers (amounts refunded in terms of section 11(nA) and section 11(nB))

This category relates to taxed amounts which an employee received from his or her employer but subsequently had to repay to his or her employer, often due to a breach of an agreement. Examples of these payments include maternity leave, restraint of trade payments, and bonuses. This amount has already been taxed and therefore included as income on the employee's IRP5. In order to reverse the tax already paid, the employee can claim a deduction under section11(nA) or (nB).

If SARS requests supporting documents, the taxpayer may need to provide a letter from their employer to confirm the amount was repaid as well as proof of payment

Allowable accountancy / administration expenses

You can deduct the costs of preparing your tax return as long as you are not a salaried employee.

Legal expenses in terms of section 11(c)

Legal expenses can only be claimed if they relate to a legal dispute in which the winnings will be declared as part of your income. For example, if a Commission for Conciliation, Mediation and Arbitration (CCMA) settlement amount was paid out to you and taxed as normal income, the related legal fees would be allowed as a deduction. It would be best to consult a tax practitioner to discuss the nature of the legal fees incurred.

Bad debts / provision for doubtful debts

Usually, this field is only completed when your employer has included an amount on your IRP5 but has not paid the amount to you (and does not intend to do so).

Home office expenses

Salaried employees may be eligible to claim home office expenses, provided certain conditions are met. Examples of home office expenses include rent, interest on a mortgage bond, water and electricity, and cleaning expenses. These expenses must generally be pro-rated appropriately based on the floor space (i.e., the square meterage).



Other deductions

Section 8C losses

These are losses on shares that have been vested in terms of an employee share incentive scheme. It would be best to consult a tax practitioner to discuss the nature of these schemes or the administrator running these share schemes.

Qualifying criteria for claiming section 10(1)(0)

This section must be completed by those taxpayers who have earned income under a foreign employment contract and have, therefore, claimed a 4041 deduction (i.e., amounts taxed on IRP5, but which comply with exemptions in terms of section 10(1)(o) within the "Other Deductions" section). You will be required to complete the details of the foreign employment and the time spent inside and outside of South Africa.

Other

Under this heading, commission earners would claim any other expenses they had paid when earning commission.

Statement of local assets and liabilities

Pure salaried employees need not complete this section of the return. This section of the return is reserved for directors of companies, members of close corporations, taxpayers who run their own business (i.e., sole proprietors, freelancers and independent contractors) and taxpayers who earn foreign income. Therefore, salaried employees who earn after-hours consulting income would be required to complete this section. The statement is for the taxpayer's personal assets, which must be declared at cost, and personal liabilities, which must be declared at their current value.

SARS uses this information to determine whether the taxpayer has declared all of their income. For example, if the taxpayer's asset base increases by R800 000 but their income declared remains the same as the prior year, this inconsistency will flag to SARS that the taxpayer may have under-declared income.

Local Assets

Fixed property

Fixed property amounts include the cost price of a primary residence and other properties used for investment purposes, including the cost of renovations and improvements.

Shares in a private company

Share amounts involve the cost price paid for shares purchased in a private company.

Loan Accounts

This is the value of loans due to you (generally to be repaid over a period exceeding 12 months).

Financial instruments

This is the cost price of shares or unit trusts purchased. Check the statements from the financial institutions for these details.

Net capital of business, trade, profession or farming This amount is the assets less the liabilities of the taxpayer's business, and is applicable to sole proprietors and freelancers.

Debtors

These are amounts due to you, to be repaid in the short term, i.e., within 12 months.

Local Liabilities

Mortgage Bonds

This would be the balance of your house mortgage at the end of the year.

Loan accounts

This is the value of loans due by you (generally to be repaid over a period exceeding 12 months).

Creditors

These are amounts due by you, to be repaid in the short term, i.e., within 12 months.

Foreign Assets and Liabilities

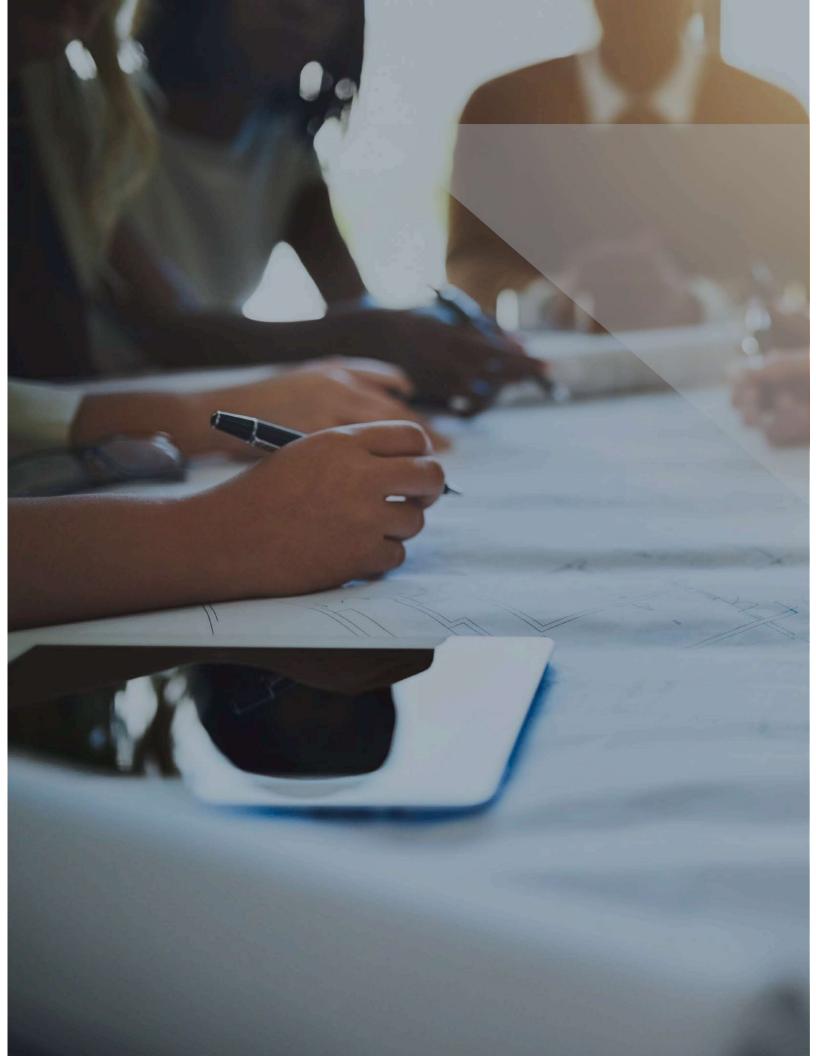
Here you would give the Rand equivalent of any assets or liabilities you may have in another country.

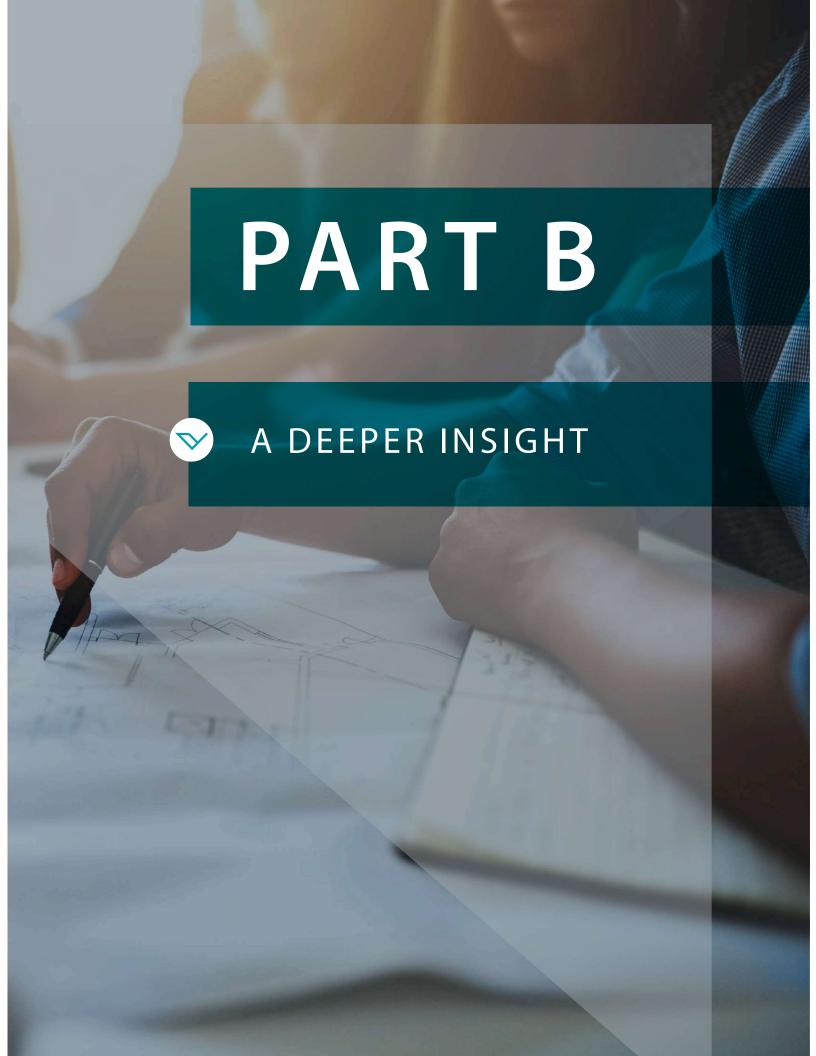
Period of Unemployment

You need to indicate to SARS the number of unbroken periods for which you were unemployed. For example, if you worked from 1 July to 31 December only, then you would have two unbroken periods of unemployment: 1 March to 30 June and 1 January to 28 February. If you were not working on 1 March, then make this the first day of your unemployment. If you are still not working on 28 February, then make this date the last day in the return. SARS uses this information to check back to the periods covered in the IRP5s you have submitted. If you do not have an IRP5 which covers the full 12-month period of assessment and do not complete this section, they may gross up your IRP5 income on assessment so that it covers a full year.



Employer Provided Vehicle: Operating Lease - Rands only, no cents Did you use a logbook to determine your business km travelled? Y N N Vehicle Registration No. Pringe Benefit Value R Details of Kilometres Travelled Starting Date (CCYYMMDD) Closing Date (CCYYMMDD) Opening Kilometres Closing Kilometres Total Kilometres Business Kilometres Business Kilometres Donations allowable in terms of s18A to approved organisations — Rands only, no cents Total amount donated during the year of assessment.	Cother Deductions - Rands only, no cents Expenses against local taxable subsistence allowance R	Other Deductions - Rands only, no cents (Cont.) Section 8C losses R
Complete the details of the organisation(s) to whom donations were made: PBO Number Amount donated to this organisation R	Bad debt/Provision for doubtful debt R	Investments in Venture Capital Companies (VCC): s12J – Rands only, no cents Total amount invested in Venture Capital Companies in exchange for shares during the year of assessment. R
Name of SARS approved VCC VCC number Date of issue of VCC shares (CCYYMAND) Amount invested in Verture Capital Company in exchange for shares during the year of assessment R Recoupment in respect of Venture Capital Company(VCC) shares Sold: s12J —Rands only, no cents Amount recoped in respect of VCC shares sold, for which a tax deduction was allowed R 4245	Statement of Local Assets and Liabilities -Randsonly, no cants Local Assets (all roost) Fixed Properties and all Improvements to Properties R Interpretation of the Company or Member's Interest in Close Corporation R Interpretation of the Company or Member's Interest in Close Corporation R Interpretation of the Company or Member's Interest in Close Corporation R Interpretation of the Company or Member's Interest in Close Corporation R Interpretation of the Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's Interest in Close Corporation R Interpretation of Company or Member's	Cocal Assets (at cost) continued Other Assets R Total Local Assets R Local Liabilities Mostgage Bonds R Lon Accounts R Sank Overdraft R Statement of Foreign Assets and Liabilities - Rands only, no cents Note: The foreign currency value at cost must be translated to Rand using the exchange rate as at the end of the tax year when the asset was acquired. Total Foreign Assets R Total Foreign Assets R
Periods of Unemployment Unemployed from (CCYYMMDD) Unemployed to (CCYYMMDD)		





TAX SEASON 2018 NOTES FROM SARS

▶ SARS MEDIA

Tax Season 2018 is upon us and SARS has offered some advice to make the process of submitting your ITR12 simpler and to make being tax compliant easier.



1 July 2018 marks the official start of Tax Season for South Africans. This is the period where millions of taxpayers submit their income tax returns (ITR12s) to SARS to reconcile their income for the previous financial year.

Typically, the Tax Season would run for five months, ending in November, but this year, SARS has taken the decision to end Tax Season on 31 October 2018, which is three weeks earlier, to allow more time for finalising audits before the calendar year ends. In the past, the audit process has been a contentious point between SARS, taxpayers and the Tax Ombud. In an attempt to alleviate taxpayer frustration, the Tax Season timeframes were shortened.

Tax practitioners urged to use SARS eFiling

SARS would like to urge tax practitioners to utilise the eFiling platform as it has been designed to cater for tax practitioner submission requirements. By using eFiling you will avoid the long queues at our branches during Tax Season, thus saving you valuable time.

SARS branches will therefore not accept income tax return (ITR12) submissions from tax practitioners submitted via a SARS branch. In consultation with the registered controlling bodies (RCBs), we created service channel offerings that are available on the SARS website (www.sars.gov.za). These service channel offerings have also been provided to the RCBs for distribution to their members via their communication channels.

Employers requesting income tax numbers from job seekers

It has come to SARS' attention that job seekers are being asked for taxpayer reference numbers in order to be considered for job opportunities.

While SARS will readily assist persons who approach our branches to register, such processes are placing an unnecessary burden on both the prospective employees and on SARS branches.

Firstly, SARS does not require a person to have a taxpayer reference number prior to being employed for the first time. Secondly, SARS provides employers with a number of employer-friendly avenues to register employees for income tax. These registration options do not require employees to visit a SARS branch. They are: "By using eFiling you will avoid the long queues at our branches during Tax Season, thus saving you valuable time."

- Registering your appointed employee individually using SARS e@syFile™ Employer (Individual ITREG).
- Registering your appointed employee individually using Employee Registration – New Application on SARS eFiling under your organisation profile.
- Registering your appointed employees via the automatic bulk registration process (Bulk ITREG) by using SARS e@syFile™ Employer to submit your PAYE interim and annual reconciliation (EMP501) in August or February of each year.
- Registering your appointed employee using the bulk bundle registration (Bundled ITREG) available on SARS e@syFile™ Employer. This allows you to register up to 100 employees at a time (limited to 1 000 employees per month).

In order to streamline the process of obtaining a taxpayer reference number for your employees, SARS encourages employers to use the options mentioned above.

Who should submit an income tax return (ITR12)?

Some taxpayers do not need to submit income tax returns. You do not need to submit a return if all the criteria below apply:

- Your total employment income / salary for the year (March 2017 to February 2018) before tax (gross income) was not more than R350 000.
- You only received employment income / salary for the full year of assessment (March 2017 to February 2018) from one employer.
- You have no other form of income (e.g., car allowance, business income, taxable interest or rental income or income from another job).
- You do not want to claim for any additional allowable tax-related deductions (e.g., medical expenses, retirement annuity contributions, travel expenses).

You can also visit www.sars.gov.za and click on "Do you need to submit a return" on our Tax Season page to check if you need to submit an income tax return. If you don't have internet access you can consult your registered tax practitioner or call our Contact Centre on 0800 00 7277.

The many advantages to making use of SARS eFiling

eFilers are given more time to make their submissions
Taxpayers / Tax representatives can save the ITR12 form and
submit it later, which will give them more time to review the
information to be submitted to SARS.

eFilers have a full history of all submissions, payments and electronic correspondence available at a click of a button

The system allows a taxpayer / tax representative to view the history of submissions made of the ITR12 form on the system for their convenience.

eFilers can receive SMS and email notifications to remind them when submissions are due

SMS and email notifications assist taxpayers / tax representatives in the submission process by ensuring that returns are submitted before the due date.

The simplicity of the process results in fewer errors and creates a quicker processing cycle for individuals and business. There are embedded functions within the ITR12 form such as pre-populating fields, pop-up warning messages when incorrect information is completed and simplified navigation. These functions are there to assist you whilst editing the ITR12 form which results in fewer errors made during your return process.

eFilers can revise the return declaration of their initial ITR12 Income tax return

This function allows the taxpayer / tax representative to resubmit incorrect information (ITR12 income tax return) submitted to SARS resulting in an accurate assessment.

eFiling MobiSite and App

The SARS eFiling MobiSite and SARS eFiling App will be made available during Tax Season 2018 and this will be communicated in the media. The app is free and can be downloaded from the app store on your phone or mobile device. You will be able to complete and submit your ITR12 from the app as you would from your computer or laptop.



Service with a smile

As a revenue administrator, it is our responsibility to provide quality and responsive service to all taxpayers and traders. By doing so, the experience taxpayers will have is that of ease of transacting with SARS which will ultimately lead to improved compliance and optimal use of our resources.

Service excellence and ease of compliance will in turn also increase revenue collection which is the ultimate mandate handed down from government to SARS.

The SARS Service Charter, which has been under review for some time now, will also serve as the backbone to the service excellence which taxpayers will experience when interacting with SARS – not only during Tax Season but going forward. Much scrutiny and consultation took place when reviewing the SARS Service Charter and not only will enhanced service delivery times be a focal point for all staff on the frontline but ease in being tax compliant paired with system enhancements and training initiatives will accentuate what taxpayers feel when they deal with SARS.

WHAT DOCUMENTS DO YOU NEED BEFORE COMPLETING

BEFORE COMPLETING YOUR TAX RETURN?

ANNELIE LAAGE

This article aims to provide you with a checklist of information and documents required to make your ITR12 completion as painless as possible.

ome of you might have heard of the adage "a fine is a tax for doing wrong, a tax is a fine for doing well." Each tax season it's the same thing: Random documents suddenly become important, dates on documents have a deeper meaning and acronyms like IRP5, IT3(b) and PAYE are all the rage. And each year it's the same scramble to find documentation and receipts, kilometres travelled and supporting documentation. The following checklist will help prepare you for your next ITR12 submission.

Details of your banking particulars

Without accurate banking details, SARS is unable to issue you with a refund.

Checklist

Bank confirmation letter

IRP5/IT3(a) Employee tax certificate

These certificates are issued if you received remuneration-related income, such as a salary and travel allowance, and incurred typical remuneration-related expenditure such as pension fund contributions, medical aid contributions and retirement annuity

contributions. Your employer has a legal obligation to provide you with an employees' tax certificate. The IRP5/IT3(a) information is submitted to SARS by your employer via the EMP501 employer reconciliation process, therefore the required information will be pre-populated on your return. You need to compare the IRP5/IT3(a) certificates against the pre-populated information to ensure that the information is correct. The medical schemes tax credit is also included in the IRP5 next to source code 4116 if your medical contributions were paid by your employer or if you provided proof to your employer of medical aid contributions made by you.

Checklist

✓ IRP5/ IT3(a) documents

Prior year tax return and assessment

To ensure completeness and accuracy, use the prior year tax return submitted as a base for determining code sections applicable to your tax calculation for the current year.

Checklist

✓ ITR12 and ITA34 (prior year)

Investment income (local interest income, foreign interest income, foreign dividends)

You will receive an IT3(b) certificate from financial institutions that will reflect investment income earned by you. Although individual taxpayers qualify for a local interest exemption of R23 800, or R34 500 if you are older than 65 years, you need to declare the full amount of local interest earned on your ITR12 return and SARS will apply the interest exemption on assessment.

Checklist

✓ IT3(b) documents

Travel allowance details

Taxpayers claiming against a travel allowance are required to keep a logbook of actual business kilometres travelled. You can refer to the SARS website for a logbook that you can use to record distances travelled. The following minimum information relating to business kilometres travelled needs to be maintained:

- Opening kilometres (refer to prior year submitted tax return closing kilometres)
- Closing kilometres
- Date on which the travel took place
- The to and from destinations
- The kilometres travelled
- The reason for the travel

Remember: Expenses incurred to travel to and from your place of residence are considered private expenses and are not deductible.

Travelling expenses may be claimed either on actual expenses incurred or at a fixed cost rate (based on the purchase price of your vehicle as well as kilometres travelled).

You are required to maintain accurate records relating to the following costs if you choose to base your travelling expenses on the actual expenses incurred:

- Fuel and oil
- Maintenance and repairs
- Insurance and licence fee
- Wear and tear (limited to purchase price of R560 000 over seven years) or lease payments
- Finance charges
- Other

If your employer provided you with a vehicle, the value of the fringe benefit can be reduced on the date of assessment by maintaining an accurate logbook of distances travelled for business purposes and by maintaining accurate records of the costs for fuel and oil, maintenance and insurance paid by you.

Checklist

Logbook

Proof of invoices for qualifying costs incurred

Your medical scheme fees and qualifying medical expenses

You need to obtain a statement from the medical scheme indicating the following:

- Your portion paid on contributions
- The number of beneficiaries per month
- The total amount of claims submitted to the fund that were not refunded to you

If you have incurred qualifying medical expenses that were not submitted to (or recoverable from) your medical scheme you need to prepare a list and maintain the proof that these amounts were incurred and paid. Refer to the definition in the Income Tax Act of a "qualifying medical expense".

Should you claim medical expenses based on a disability then an ITR-DD (Confirmation of Disability) form needs to be completed and signed.

Checklist

Medical scheme statement

A list of qualifying medical expenses (retain proof of payment)

ITR-DD form in case of a disability

Married in community of property

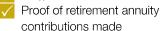
If you are married in community of property, it is important that you indicate your marital status correctly on the first page of your return. Investment income (interest income and dividend income), rental income from letting of property and capital gains accrue 50:50 to you and your spouse. However, on your tax return, you need to declare the full amount of interest, dividends, rental income and capital gains earned by you and your spouse and SARS will perform the apportionment.

Income tax certificates received from the financial institution for retirement annuity contributions made

The institution to which your contributions are made will issue a certificate (e.g., an IT3(f) income tax certificate) confirming the total contributions made for the year. You must retain proof of your retirement annuity contributions made.

Checklist

IT3(f) certificate



Information relating to capital gain transactions

To support the calculation of the base cost of the capital asset sold, the following documents need to be maintained.

Checklist

- Documentation supporting the acquisition cost
- Invoices supporting valuation costs incurred
- Invoices supporting direct costs of acquisition or disposal
- Invoices in support of costs to defend legal title
- Costs incurred with regards to improvements or enhancements to the value of the asset
- Purchase agreement
- Invoices supporting valuation costs, invoices supporting direct costs of acquisition or disposal (such as remuneration paid to valuer, auctioneer, consultant, legal advisor, transfer costs, certificate of electrical installation, stamp duty, advertising costs to find a seller or a buyer, sales commission, installation costs)
- Invoices in support of legal fees incurred in resisting expropriation, invoices in support of alterations and improvements provided that the improvements are still reflected in the state of the asset on the date of disposal
- To support the proceeds of the asset sold, the sales agreement needs to be retained

"Taxpayers claiming against a travel allowance are required to keep a logbook of actual business kilometres travelled."

Commission-related expenditure

Documents and receipts for commission-related expenditure (including a logbook to claim business travel expenses)

Trading and farming activities

√ Financial statements

Donations

Checklist

Section 18A certificates for all qualifying donations made

Expenses against local and/or foreign subsistence allowance

If you incurred expenses in respect of which you received a subsistence allowance you need to maintain a detailed schedule.

Checklist

- A detailed schedule contains the following information:
 - The period in respect of which the expenses were claimed
 - The destination where the money was spent
 - The total number of days for which expenses were claimed
 - Specify whether local or foreign expenditure
 - Receipts for the expenses must be retained in support of the claim, should they be requested by SARS



Home office expenses

The deduction of any expenses in respect of any residence or domestic premises is prohibited, except where a part of the residence or premises is occupied for purposes of trade. In order to substantiate such a claim for home office expenses, supporting documentation needs to be maintained.

Checklist



A service contract with your employer that stipulates that you must, in terms of the requirements of the service contract, maintain a study at your private residence. A schedule detailing the following must be prepared and retained for a period of five years, should SARS request it:

- The nature of the occupation and why it is necessary to maintain a study at home
- Does your employer place an office at your disposal at the workplace?
- Full details of any restrictions in the use of this office are to be furnished, as well as a letter of confirmation from your employer
- Is the work of such a nature that you are expected to work at home after hours?
- Full details of how frequently the home study is used as well as a statement confirming the use thereof is required from your employer
- Are you required to use the home study to interview or supply information to clients or employees after hours?

- Is the home study specifically equipped for purposes of the trade?
- Is the study used regularly and exclusively for your work?
- To what extent is the study indispensable to the proper carrying out of your tasks?

Accounting or administration fees for the completion of your income tax return

These fees can be claimed when business income or any of the following income sources are applicable: commission, local interest, royalties, other receipts and accruals, foreign dividends, foreign interest, other foreign income, pension annuity, retirement annuity, purchased annuity.

Checklist



Invoice for professional fees which were actually paid or are payable for the completion of the income tax return

Although this information is needed to complete your ITR12, no documentation needs to be attached to the return when submitting it to SARS. You are required to keep all supporting documentation for five years from the date of submission of the return.

Let's take the "pain" out of "painful" this tax season by getting all the necessary documents ready before taking to eFiling.

THE IMPORTANCE OF USING A REGISTERED ACCOUNTANT

▶ DANTE LUDOLF & SIBUSISO THUNGO

Two perspectives confirm the importance of using a registered accountant this Tax Season.

FROM THE PERSPECTIVE OF A TAXPAYER

When the email arrived in my mailbox, an email from my tax lady reading IRP5 and EMP501, I thought that a server had crashed and was sending me some strange HTML code to solve and unravel on my lonesome.

Upon further inspection, I realised that this was not the case and that instead what had been sent to me was a tax certificate, and I now had to do something with it.

There was also a banner at the bottom of the email notifying me that Tax Filing Season is set to start on the 1st of July 2018, and that it would be in my best interest to start getting my things ready for said season. What things, pray tell?

So I set to googling, as a millennial so often does, to try and decipher the whys, hows and whens that were missing from the alarming but seemingly routine email I had received.

TaxTim was able to alert me to the fact that an IRP5 was indeed a tax certificate, and SARS provided me with a 48-page document that was supposed to shed light on my issue, but only left me more confused and bemused than before.

So the next option was to call a friend: not unlike the last resort contestants used on *Who Wants to Be A Millionaire*, but this time I didn't have my sights set on millions. Instead, they were just set on making sure that I wouldn't have to cough up any more money than I needed to.

Unfortunately this option proved just as fruitless, as most young people (myself very much included) have professional resources like my above-mentioned tax lady. While it is a modern marvel that we are so easily coupled with these professionals to help us navigate the complexities of a tax return (thanks Internet), it was alarming to me that we know so little of the processes and procedures involved in actually doing so.

We entrust people to handle various parts of our personal and professional lives, and we trust that they will do so to the best of their abilities. I would surely be at a loss were someone to ask me to fix a broken carburettor, and would be doubly so were I required to submit my own returns.

Then, it dawned on me: Carburettors aside, was there a barometer of some sorts that could help to identify which accountants would be able to render a better service than others? Could I base my decision to do business with person a and not with person b on something other than a referral or hinted at good rates?

Much like doctors don't really have Google Reviews for me to consult pre-appointment, the people submitting our taxes also didn't seem to have a 2018-friendly way for me to evaluate my decisions. Except of course, that they do. It all lies with regulation.

Turns out, accountants can submit themselves to regulatory authorities that govern their professional conduct and ensure that they act in accordance with industry-wide ethical standards. I, as a member of the tax-paying public, didn't know that.

In an industry so foreign to me, it is good to know that there are measures that a professional tax person can take to make sure that they put their best foot forward and to show their peers and potential clientele that they agree to do their work as per the principles set out by their professional body of choice.

These are things that we should probably have been taught during those terribly effervescent Life Orientation lessons in high school but, alas, never were. So it's up to us to help each other shed some light on the intricacies involved in finding the right accountant and gauging their worth.

And honestly, ask yourself, in this economy where our inability to access home loans is said to be due to the fact that we eat too much avocado toast, can we really afford to not have a registered accountant handling our hard-earned cash?

Wondering how to check if your practitioner is duly registered? Flip back to page 14 for details.



"We entrust people to handle various parts of our personal and professional lives, and we trust that they will do so to the best of their abilities."

FROM THE PERSPECTIVE OF THE OFFICE OF THE TAX OMBUD

As part of professionalising the tax profession in South Africa, amendments to tax legislation regarding registration requirements for tax practitioners in the country were introduced in terms of section 240 of the Tax Administration Act. This section provides that every natural person must register with a recognised controlling body if he or she:

- provides advice to another person with respect to the application of a tax Act; or
- completes or assists in completing a return by another person.

Simply put, it means a person cannot be regarded as a tax practitioner in South Africa without belonging to a recognised controlling body. SARS must recognise a controlling body as stipulated in terms of section 240A of the Tax Administration Act.

Recognised controlling bodies

An institution or body that wishes to be recognised as a controlling body must apply to SARS and ensure that, after having been approved as a recognised controlling body, it complies with SARS' requirements. A recognised controlling body must maintain minimum educational qualification and experience requirements; continuing professional education requirements; codes of ethics and conduct; and disciplinary codes and procedures in respect of its members. Since SARS introduced the new provisions in 2012, a noticeable decline in the number of registered practitioners in the country has been reported. This decline proves that there were individuals who were practising unduly notwithstanding that they had PR numbers issued by SARS. Some practitioners engaged in unbecoming practice by claiming fictitious expenses or making false declarations on income tax returns or VAT returns in order to claim refunds that were not due. The list of all the approved recognised controlling bodies is published on the SARS website at www.sars.gov.za.

It is therefore very clear that one is not allowed to practise as a practitioner in South Africa without meeting the stipulated requirements – most importantly being a member of a recognised controlling body. On the other hand, it must be noted that merely being a member of a recognised controlling body does not imply that a person can practise as a tax practitioner; verifiable working experience within the field of tax must be proven. In addition, a qualifying individual must ensure that he or she participates in continuing professional development. The tax environment changes from time to time; therefore anyone practising professionally must continuously read relevant material in order to keep abreast of tax matters.

Verification of tax practitioners by controlling bodies

Each year, the recognised controlling bodies are required to verify their members with SARS. Failure to do so may result in the suspension of members' practitioner numbers (commonly known as a PR Number) by SARS. The responsibility does not only lie with the recognised controlling body to ensure that their members comply with SARS' stipulated requirements; registered practitioners have a responsibility to ensure that they are operating under the correct tax practitioner's eFiling profile and that they act in accordance with the expected professional conduct. Failure to have a correct eFiling profile may result in many challenges for the practitioner, which may in turn cause unnecessary frustration for them whilst executing their duties. Employees and clients will also be affected since the profile will not be utilisable. It is therefore advisable for practitioners to ensure that they verify and update their personal information via eFiling using the Registration Amendments and Verification form (RAV001).

Unacceptable conduct by tax practitioners

Unacceptable behaviours by practitioners include:

- Withholding a client's eFiling profile due to outstanding fees.
 This may result in the client being non-compliant due to late submission of returns.
- Charging contingency fees for submitting income tax or VAT returns. It is crucial for newly registered practitioners to approach their controlling body for guidance relating to fees, as there is currently no legislation or gazetted document on how to charge for tax services.
- Using SARS' logo as part of email signatures and on letterheads is prohibited as the logo is the intellectual property of SARS and remains for exclusive use by SARS.

It must be noted that section 241 of the Tax Administration Act allows a senior SARS official to lodge a complaint with a recognised controlling body in the event where a person who carries on a profession that is governed by the body acted or omitted to do anything that contravenes a rule or code of conduct for the profession. This also applies where a professional acted in an inappropriate manner with the aim of assisting taxpayers to avoid their tax obligations.

T

FROM IRP5 TO TAX ASSESSMENT

IRP5s are somewhat like family: they can cause you a lot of headaches but you can't (and probably don't want to) live without them. This article aims to provide logical guidance to enable you to make 2018 the year in which you conquer the unavoidable "family reunion" which is the Tax Season.

ADV. CARIEN VAN DIJK

ith the opening of the 2018 Tax Season creeping up on South Africans, some people are faced with the burning question of "What is the point of an IRP5?" and others wonder "How do I go about using my IRP5 to complete the Individual Tax Return?" Some people tend to avoid the question and related anxiety of dealing with their tax returns altogether. This is much the same as trying to avoid those yearly family reunions and trying to manoeuver through the cheek pinches and the extremely personal questions.

Segment 1: Getting to know the family tree

Before attending a family reunion, it is wise to catch up on recent family history. Similarly, it is important to get introduced to the IRP5 certificate, to understand how it works and the pitfalls to watch out for.

The IRP5 certificate is a summary of all the remuneration (including allowances and benefits) provided to an employee by an employer during a tax year. This will exclude amounts paid outside the payroll, for example, the reimbursement of a pure non-travel business expense that is paid to the employee via the general ledger.

Below are quick navigation guides to a general IRP5.



Certificate number is generated by the employer.

_ \		
Employ	ee Information	RPINF01
Employee Number	EMP001	
Surrente / Trading Name	SURNAME]
First Two	FIRST NAMES	1
Initials	FIN Nature of A Code of Sinh 19540914 IDNo 5409140064088 Ref No.]
Alternate identification []
Atemete Identification No		
Pensporti Pennit No.	Pleasport Country (Country Co	
Sus Tel [0 1 1 3 2 5 9 8 7 4 FEX NO. Col No. 0 8 2 3 6 5 1 2 5 6	$\Pi\Pi$
Bus Tel No. Context Erreil	EMAIL@ADDRESS.CO.ZA	
Employee .	kidress Details - Residential	
Unit No.	2 Complex (COMPLEX RESIDENTIAL	
Street No.	3 2 Street Name S T R E E T N A M E	
Suburb/ Debict	SUBURB DIISTRICT	
City/Town	CITY Code 0001 Code ZA	

The employee information is entered by the employer. Update your information with your employer and SARS.

Information should be kept updated and accurate to avoid admin penalties from SARS.

This reflects the start date of employment and the period of employment at the specific employer in the relevant tax year.



Directives are obtained to determine the tax on payments such as gratuities, retrenchments, commission and retirement fund withdrawals.



Each income / allowance / benefit paid to the employee has their own unique source code determined by SARS in a BRS Guideline issued annually.

Source codes have specific requirements and trigger certain tax implications.



This section indicates the totals of all the remuneration earned and divides income into taxable and non-taxable.



This section indicates the employer and employee contributions, such as retirements funds and medical aid funds

The specific source code will trigger allowable pre-tax deductions / tax credits.



In this section, the totals of PAYE and <u>SDL are indicated</u>.

The PAYE determined by a tax directive will be included under source code 4102 unless it relates to a lump sum benefit (source code 4115).

Medical tax credits are indicated separately.

"An employer is obliged by law to issue IRP5 certificates to all its employees after payroll reports have been submitted to SARS."

An employer is obliged by law to issue IRP5 certificates to all its employees after payroll reports have been submitted to SARS (in the form of an EMP501 declaration). The information from the IRP5 will then be prepopulated when compiling the individual's ITR12 on eFiling. However, sometimes there are issues that arise in practice, which require caution. SARS has the right to hold a taxpayer (in this case an employee) liable for any outstanding tax debt or tax returns, regardless of the circumstances. The most frequent issues that arise are as follows:

The information from the IRP5 is not prepopulated on eFiling

This is mostly the result of non-submission or unsuccessful submission of an EMP501 by the employer. The employer's payroll practitioner needs to be informed to take the necessary steps to rectify. This must be done in time to ensure that submission can occur within the Tax Season.

Often the demographic information reflected on the IRP5 and the information on the SARS systems are not the same (changes might have occurred since the previous assessment). Then SARS cannot match enough information to prepopulate the ITR12.

The IRP5 prepopulates on eFiling, but no IRP5 certificate has physically been received by the employee from the employer

The submission of the EMP501 might have resulted in errors on the e@syfile system or the employer may be in the process of doing a resubmission to correct certain errors. Although the IRP5 is prepopulated on eFiling, SARS may still require verification by requesting submission of the IRP5 received from the employer. The payroll practitioner must again be notified to rectify the problem in time for submission before Tax Season ends. However, in the case where the employer is not able to provide the IRP5, it is advisable for the employee to provide SARS with an affidavit and to attempt to complete the tax return using payslips or bank statements as a method of declaring the income accordingly.

"It is imperative that the contents of your IRP5 be reviewed before completing the ITR12."

Segment 2: The sibling called IT3(a) certificate

The difference between an IRP5 and an IT3(a) is that the latter does not reflect a tax deduction but instead reflects a reason code as to why no PAYE was deducted. The IT3(a) is intended to summarise all payments made to deemed employees (in the tax sense and not necessarily in the labour law sense), to employees earning non-taxable remuneration or to other parties as indicated by SARS. An example of this would be individual contractors supplying services to a company. All payments to them must be declared to SARS via the IT3(a). It is therefore evident that an employment relationship is not always required. A reporting responsibility may be placed by SARS on the company or employer to enable SARS to obtain information on earnings by such persons for audit and other purposes.

Segment 3: Meet the dreadful twins

Circumstances can lead to persons receiving more than one IRP5, for example when they have worked for more than one employer in the same tax year. Why would this ever be a dreadful situation? Mainly because the PAYE calculated and deducted by each respective employer is based on the remuneration paid by them separately. This could lead to insufficient PAYE deducted and a shortfall due on assessment.

When an employer calculates the PAYE monthly, it uses the progressive tax table and determines the relevant tax rate on the remuneration it pays. Once the employee moves to a second employer, the PAYE calculated by that employer may be at a different tax rate. During assessment, SARS will combine all the income received by the taxpayer, calculate the PAYE and deduct the PAYE already paid. If there is a shortfall, it will result in the employee being liable to additional tax to be paid to SARS on assessment.

This problem can be managed upfront by requesting the new employer to increase the PAYE deduction monthly or by keeping a monthly provision to cover the eventual shortfall.

Segment 4: The family dinner

Sitting down for a family dinner and exposing yourself to all the personal questions by your curious family members is similar to the completion of the ITR12 return. As mentioned in Segment 1, certain source codes (and answers provided on your questionnaire in the first part of the ITR12) will trigger sections for completion, and possible submission of documents for verification purposes. It is therefore imperative that the contents of your IRP5 be reviewed before completing the ITR12, to ensure that the IRP5 accurately indicates the remuneration you received and that the correct source codes were used accordingly.

The most common source codes that will trigger additional sections for completion are:

DESCRIPTION
Income earned whilst
working abroad
Medical aid contributions
Retirement annuity
contributions (on payroll)
Travel allowance
Reimbursement for travel
Subsistence allowance
(local or foreign)

Below is an indication of the documentation that SARS might request for verification or audit purposes:

- IRP5/IT3(a)
- Medical aid certificate
- Retirement annuity certificate
- Investment income certificate / IT3(b)
- Completed logbook
- Other reports to confirm rental or trade income or expenses claimed

After submission of the ITR12 to SARS an IT34 assessment will be issued, which will indicate whether an amount of tax is payable to SARS or a refund is due to the taxpayer. Any disputes arising afterwards can be submitted for resolution within a prescribed timeframe.

Can you afford not using a professional?





INDEPENDENT CONTRACTORS VERSUS EMPLOYEES

For tax and legal purposes, it is important that employers distinguish between employees and independent contractors. Let us demystify the distinction.



KOBUS MULLER

oes being an independent contractor (as opposed to a salaried employee) make it possible to have a huge legal saving on income tax? This question taxed the minds of employers, employees, and independent contractors alike for several years until the court case *ITC 1718, 64 SATC 43* and the Circular Minute No. 22 of 1999, issued by

Before 1999, employers employed employees, some at the maximum tax rate of 45% while the corporate rate was 30% at that time. Many structures were put into place in which employers and employees would agree that the employees would resign and on the same date be appointed as "independent contractors". An ex-employee then formed a company of which he or she was the only director and employee and rendered the same service under the same conditions to the ex-employer. The employee paid R45 000 in tax on gross remuneration of R100 000 and the "independent contractor" company paid R30 000 in tax on the same amount of R100 000. By implementing this structure there was a R15 000 tax saving for the ex-employee and the new company could also reduce its taxable income by claiming certain tax-deductible expenses. (These expenses could not be deducted by salaried employees.)

This practice came to an end after SARS issued Circular 22 and several changes were made to the Fourth Schedule to the Income Tax Act. These were aimed at preventing employees from operating in the guise of independent operators. Whilst the aim of flushing out employees from the thickets of so-called independence is both understandable and laudable, in doing so the legislation has made life difficult for thousands of genuine independent contractors and those who use their services.



The latest changes were issued by SARS in Interpretation Note 17 (issue 4) dated 14 March 2018.

This article will specifically focus on individuals who are South African residents but will not deal with companies, non-residents or labour brokers.

To fully understand the extent of this topic, it is recommended that some of the definitions in the Income Tax Act be thoroughly read and understood.

"Employee", "employer" and "remuneration"

It is the responsibility of the employer to determine whether the provisions of exclusionary subparagraph (ii) of the definition of "remuneration" are applicable and whether payments are subject to employees' tax. Not only is this responsibility set by the provisions of the Fourth Schedule, but it is also the employer that is in the best position to evaluate the facts and the actual situation.

An employer that has incorrectly determined that a worker is an independent contractor is liable for the employees' tax that should have been deducted, as well as concomitant penalties and interest. The employer has the right to recover the tax paid from the employee.

There are two statutory tests to determine whether a person rendering services is an employee or an independent contractor, and they are both conclusive in nature. Note that the second test overrides the first test.

The first test

The first test is a provision deeming that a person will not carry on a trade independently if both parts of the test are satisfied.

The first part

The first element is that the services or duties are required to be performed mainly (which is a quantitative measure of more than 50%) at the premises of the client. The "client" referred to must be carefully considered. The statutory tests refer to the premises of either the person:

- i. by whom the amount is paid or payable; or
- ii. to whom such services are rendered or will be rendered.

This means that if the services are rendered mainly at the premises of either of these parties, who are not necessarily the same person, this part of the statutory test is satisfied. This type of arrangement may, for example, occur with third party arrangements such as waitrons receiving tips, or with labour brokers.

The second part

The second element of the test is whether the worker is subject to the:

- control of any other person as to the manner that the worker's duties are or will be performed, or as to the hours of work; or
- ii. supervision of any other person as to the manner that the worker's duties are or will be performed, or as to the hours of work.

The control-or-supervision part of this test refers to "any" person. This is wide, and could include the payer of the amount, the recipient of the service or any other person who has a contractual right to control or supervise the person in respect of those specific services.

If either (i) or (ii) above applies (that is, control or supervision), the second element of the first test is satisfied. It is not necessary for both control and supervision to be applicable in a particular situation.

If the first test is met, the person is deemed not to be carrying on a trade independently, with the result that the amount paid is deemed to be "remuneration" and will be subject to employees' tax, unless the second test is met.

The second test

A person who employs three or more full-time employees, who are not connected persons in relation to him or her and are engaged in his or her business throughout the particular year of assessment, is deemed to be carrying on a trade independently.

This test is the overriding test in subparagraph (ii) of the exclusions from the definition of "remuneration". It will take precedence over the first test, even if the requirements of the



REELANCE

"There are two statutory tests to determine whether a person rendering services is an employee or an independent contractor."

first test have been satisfied, and over the common law position. A "connected person" in relation to a natural person means any relative and any trust of which the natural person or the relative is a beneficiary. "Relative" in relation to any natural person means the spouse of the person or anybody related to him or her or to the spouse within the third degree of consanguinity, or any spouse of anybody so related. For the purpose of determining the relationship between any child referred to in the definition of a "child" in section 1(1) of the Act and any other person, the child is deemed to be related to its adoptive parent within the first degree of consanguinity.

In the event that the second test is satisfied, the person will be deemed to be carrying on a trade independently, and the amount earned will not be "remuneration" as defined and will consequently not be subject to employees' tax.

It is possible that a person could meet the first test, and be deemed not to be carrying on an independent trade, but also meet the second test and then be deemed to be carrying on an independent trade. As stated above, the second test overrides the first test.

From above it follows that:

- A person rendering services to an employer is a person who qualifies to be an independent contractor if he or she also renders a service to another company (employer) and he or she:
 - does not have to perform the service mainly at the premises of the client; and
 - is not subject to the control of any person as to the way in which the duties are or will be performed, or as to the hours of work;
 - c. employs three or more full-time employees, who are not connected persons in relation to him or her and are engaged in his or her business throughout the particular year of assessment.

If all three these conditions are met, the independent contractor will qualify as such and no employees' tax should be deducted from the amount paid to him or her.

If neither a. and b. are satisfied but c. applies, the conditions are still met. If a. is satisfied but not b., the conditions are still met because both a. and b. must be met.

2. Working part time for two or more employers

Should someone render services for more than one employer or client, the above test must be applied to each separate client.

It might happen that for one client someone might qualify but for some of the other clients not. One client might insist that the work must be done on the client's premises and that the contractor is subject to control. If the contractor does not have three or more full-time employees, the contractor is deemed not to be independent and for this client he or she will be an employee and employees' tax must be deducted from payment for the services rendered. Other clients might not insist on work being done at their premises and they also do not have control over the work. For such clients the independent contractor provisions will apply, and no employees' tax must be deducted.

3. Retired and semi-retired persons rendering services

In this current day and age people live longer and so it happens that many people are still capable of doing very good work after "retirement age". If such a person is rendering services to one or more clients or employers, the same test per employer must be done as mentioned in paragraph 1 above.

There is a big difference between the tax treatment of "independent contractors" that prevailed before 1999 and what is allowed in 2018 and for that reason, expert advice should always be sought before employers do their planning.

The Tax Faculty





Tax season is fast approaching – be proactive and stay up to date with recent tax changes that will affect individual tax returns in 2018. Our Tax Issues for Individuals (ITR12) seminar will walk you through the notable areas of the return and key points to take note of.

THE COURSE WILL DEAL WITH THE FOLLOWING

PRESENTER

Daylan Staude Senior lecturer: Post graduate taxation Faculty of Management and Commerce (University of Fort Hare)

REGIONS

9 July | Durban

10 July | Cape Town

11 July | Port Elizabeth

12 July Kempton Park

17 July | Johannesburg

18 July | Pretoria

19 July | Webinar









We look at why taxpayers may be required to pay in tax on pensions or annuities on assessment and how they can avoid a repetition of this each year.

MARC SEVITZ

Why do I have to pay in if I earn a small pension annuity?

During the tax filing season, many tax practitioners will receive numerous queries as to why pensioners and those who have retired are now suddenly required to pay money into SARS. Retired taxpayers who are settling into their retirement no longer receive monthly payslips which show PAYE deductions. When, as is increasingly happening, they are asked to settle an amount with SARS every year it is usually an unexpected financial shock. Pensioners who find themselves in this situation are often forced to pay over money they thought belonged to them and they are at a loss as to why this happens.

Before we go on to explain why this occurs, let's just take one step back to clarify how this pension annuity income arises in the first place. Taxpayers can save for retirement by contributing to a pension, provident or retirement annuity fund (or even a combination of these). These taxpayers will enjoy a tax benefit whereby their contributions will qualify for a tax deduction of up to 27.5% of the greater of their taxable income or remuneration (limited to R350 000 per year).

On retirement, those taxpayers who contributed to a pension fund or retirement annuity fund

may withdraw up to one-third of their savings as a lump sum and must use the remaining two-thirds to buy a monthly pension or annuity (provident-fund members can withdraw their entire benefit as a lump sum). The exception is that when the total value of the fund is R247 500 or less, the taxpayer can withdraw the balance in full and is not obliged to purchase the annuity.

It is this monthly pension or annuity that the taxpayer receives on retirement that we will explore in more detail below.

Pensioners often receive several annuities, pensions or some other form of monthly income from their previous employer or a fund each month. In most instances, each amount received (when looked at individually) falls below the tax threshold, especially if the taxpayer is older than 65 years. However, when all the amounts are added together, taxpayers actually find themselves having earned more than the tax-free threshold and therefore tax is owed to SARS. Such taxpayers then find themselves having to suddenly pay SARS on assessment. And, many of these taxpayers, relying on their monthly income, do not have the money to pay the tax owed and thus find themselves in financial trouble.

Example of multiple annuities resulting in tax owed

Taxpayer A is 67 years of age and receives three different IRP5s or IT3(a)s from the following sources based on her monthly income:

Retirement Annuity Fund (RAF)
= R5 000 per month
Pension Fund = R3 000 per month
Living Annuity = R4 000 per month
Total Income = R12 000 per month
Annual Income = R144 000

The tax threshold for Taxpayer A is R117 300, given her age. However, on each individual IRP5 or IT3(a), the annual amount received is less than R117 300. See below:

Annual RAF = R60 000 Annual Pension Fund = R36 000 Annual Living Annuity = R48 000

Therefore, the entity behind each of these funds would not have withheld any tax to pay it over to SARS. This is because each fund would not have been aware that the taxpayer also receives other amounts and would have assumed that the annuity it pays is the only income received. However, when all the amounts received are added together, the taxpayer actually earned R144 000 throughout the financial year. This is greater than the tax-free threshold for a 67-year-old taxpayer, i.e., R117 300.

Thus, for the tax year ended 2018, using the tax tables, R4 806 tax should be paid on the total annual income.

As a result, when Taxpayer A files her tax return for the tax year ended 28 February 2018, she is required to pay tax of R4 806. At this stage, she is unsure as to why this is the case as none of the funds withheld any tax.

"When all the amounts are added together, taxpayers actually find themselves having earned more than the tax-free threshold and therefore tax is owed to SARS."

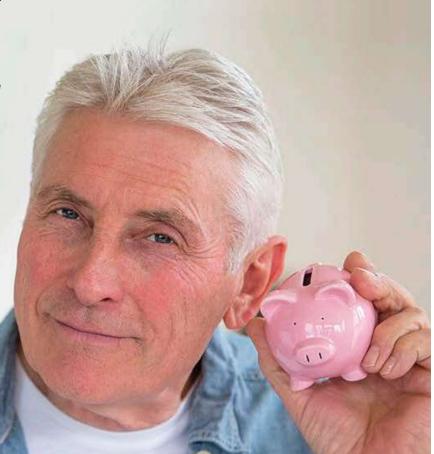
Takeaway

Taxpayers must always be aware that if they receive income from multiple funds or entities, they would need to add up all the income received to determine whether any tax would be owed to SARS.

Below are three methods which can be used to avoid facing a nasty tax bill at the end of the financial year:

- Advise one or more of the funds that you receive other income and ask them to withhold a portion for tax before making the monthly payment.
- 2. Calculate how much tax would be owed on the total amount received and put away a monthly amount yourself in the bank so that you can easily pay SARS when the amount is due. If you choose this option, you will benefit from the interest that the money you set aside will accumulate before you have to make the payment to SARS.
- Register as a provisional taxpayer and settle an amount with SARS every six months based on the eventual tax owed.

By following any of the above methods, taxpayers will not be caught off guard and will be able to pay the taxes owed to SARS without any hassle.



RECENT CONTRIBUTE OF THE RECENT CONTRIBUTE OF

Fringe benefits seem like a good idea: Things your employer gives you for free. But working out the tax implications of these non-cash payments can be an arduous task. The article discusses the main changes to fringe benefits in recent years.

▶ ROB COOPER

 n layman's terms, fringe benefits are taxable benefits or rewards granted in a non-cash form by an employer to an employee in return for services
 rendered.

Unlike cash, fringe benefits can have different values depending on which method of valuation is used. Therefore, in order to have clarity for tax calculation purposes, not only must there be certainty on the types of taxable fringe benefits, but also on the valuation of such benefits.

The Seventh Schedule to the Income Tax Act was introduced in 1984 to firstly identify the various fringe benefits, and secondly to prescribe rules that determine the cash equivalent value of the non-cash fringe benefit.

There are 12 main categories of fringe benefits that are dealt with in lengthy and complex paragraphs in the Seventh Schedule. Whereas all of the fringe benefits have taxable values, under certain circumstances some of the fringe benefits have an effective zero taxable value, thereby making them appear as non-

taxable fringe benefits. It should be noted that these concessions are still classified as fringe benefits, as opposed to instances where a particular fact set is specifically excluded from falling within the ambit of a fringe benefit.

Due to their complexity, it is simply not possible to deal with all of the different types of fringe benefits here. Only the five fringe benefits that have been amended in recent years are discussed:

- 1. Medical scheme contributions
- 2. Income protection scheme contributions
- 3. Retirement fund contributions
- 4. Provision of uniforms

MEDICAL SCHEME

CONTRIBUTIONS

5. Low-interest loans to employees

Medical Scheme Contributions

The "deduction" method of providing tax relief in respect of contributions to a medical scheme registered under the Medical Schemes Act was replaced in stages, starting from 2012, by means of a tax rebate called the medical tax credit.

The value of the medical tax credit is based on the number of medical scheme dependants, not on the value of the contribution to the medical scheme. Because the rebate method takes the main member's marginal tax rate out of the equation, taxpayers with the same number of medical scheme dependants will get the same tax relief, irrespective of the value of the contribution, or the income level of the taxpayer.

Note that the medical tax credit values have in the past been adjusted regularly at the start of each tax year to compensate for inflation. From 2019 onwards, in line with National Treasury's intention to re-allocate the tax relief on contributions to medical schemes to help fund the National Health Insurance project, only very small increases will be made.



The payroll calculates the medical tax credit from the number of medical scheme dependants and reduces the PAYE of the employee if either the employer or the employee contributes to a medical scheme.

Where an employee pays a medical scheme directly, the employer may (but subject to proof of payment provided by the employee) choose to allow the medical tax credit to be applied in the payroll, thereby granting the employee the benefit of the medical tax credit every month instead of annually on assessment at the end of the tax year.

Employees who are "legally retired" "Legally retired" includes:

- Employees who retired because of superannuation, ill-health or other infirmity
- The medical scheme dependants of a deceased "legally retired" employee
- The medical scheme dependants of an employee who died while still employed

If an ex-employer contributes to a medical scheme on behalf of a "legally retired" exemployee, a fringe benefit is created, but it is then given a zero value as a concession to assist these individuals.

Tax Certificate Codes

tax year.

The codes to be used to report medical scheme contributions and associated amounts on tax certificates are as follows (refer to table below).

From March 2016, the legislation was amended to provide that payrolls must calculate the additional medical tax credit for employees over 65 years of age to assist their monthly cash flow. A final calculation will be done on assessment which will take any "actual" medical expenses declared in the ITR12 into account.

"The medical tax credit is based on the number of medical scheme dependants."

	TAX CERTIFICATE CODES MEDICAL SCHEME CONTRIBUTION				
ACTIVITY	NOT "LEGALLY RETIRED"	CODE	"LEGALLY" RETIRED	CODE	
EMPLOYER-PAID CONTRIBUTION	Rx	4474	Rx	4493	
FRINGE BENEFIT VALUE	Rx	3810	Zero		
EMPLOYEE-DEEMED CONTRIBUTION Rx		4005			
EMPLOYEE-PAID CONTRIBUTION	Ry	4005			
MEDICAL TAX CREDIT	Rz	4116			

Contributions to employer-owned group life policies

The purpose of the reforms to employer-owned group life policies (including income protection policies) is to ensure a uniform tax treatment of contributions and payouts for life and disability plans. In essence, the model is based on the contribution generating a tax-deductible expense for the employer, and a taxable fringe benefit for the employee, followed by an exempt pay-out irrespective of the type of pay-out.

Before 1 March 2015, the only exception was employerowned income protection policies where contributions to income protection policies were tax deductible and the pay-outs were taxable.

Income protection policies are made available by insurance companies to provide protection to individuals for loss of income due to disablement (temporary and permanent), illness or unemployment of an individual who is either the policyholder, or who is the employee of the policyholder (the employer).

Income protection policies are either employer-owned (group schemes), or individually-owned, and if the insured event arises, the pay-out can be in the form of a lump sum or monthly annuity income.

Taxation Rules

As from 1 March 2015, income protection policies are taxed under the "Premium not deductible, Pay-out not taxed" principle.

Employer-paid premiums to employer-owned income protection policies result in a fringe benefit of the same value as the premium being raised on the employee and reported on the tax certificate against the general fringe benefit code 3801.

In direct contrast to the requirements up to February 2015, as from 1 March 2015 the fringe benefit resulting from an employer-owned income protection policy no longer results in a deemed employee-paid premium, followed by a matching deduction. Similarly, employers can no longer process a deduction for premiums paid by an employee to an employee-owned income protection policy in the payroll.

As from 1 March 2015, where an insured event arises, the pay-out (irrespective of whether it is in the form of a lump sum or monthly annuity income) is not taxed.

Retirement Fund Contributions

Prior to 1 March 2016, there were substantially different tax rules for contributions to, and pay-outs from, pension, provident and retirement annuity funds.

After many years of thorough and transparent investigation by National Treasury, it was decided to change retirement fund provisions to:

- Standardise the tax rules for contributions and payouts
- Improve the tax relief to encourage individuals to save more for their retirement
- Encourage members to preserve their retirement savings for their golden years

Taxation Rules

From 1 March 2016, the tax rules for contributions to retirement funds (pension, provident and retirement annuity funds) were standardised as follows:

- A taxable fringe benefit arises in respect of employer-paid contributions to a retirement fund on behalf of an employee that increases the employee's remuneration.
 - The fringe benefit value is equal to the contribution value if it is a defined contribution fund and is calculated by using a formula if it is a defined benefit fund (discussed beneath).

"There are 12 main categories of fringe benefits that are dealt with in lengthy and complex paragraphs in the Seventh Schedule."

 A deduction is allowed that to a greater or lesser degree offsets the increase to remuneration resulting from the fringe benefit. The deduction is limited by a percentage cap of 27.5% of the higher of remuneration (in the payroll) and taxable income (on assessment), and a monetary cap of R350 000 per annum. (The deduction provisions are not discussed in this article.)

As a matter of interest, the legislation was amended from 1 March 2018 to make it clear that payrolls must apply the annual monetary cap of R350 000 as a pro rata limit per month.

Retirement funding income and defined benefit funds

From 1 March 2016, the sole purpose of the concept of retirement funding income in the Income Tax Act is its use as variable "B" in the formula that must be used to calculate the fringe benefit value of the employer-paid contribution to a defined benefit retirement fund. Note that a "defined benefit retirement fund" includes a hybrid fund, and a retirement fund with an underpin.

The fringe benefit ('X') is calculated by using the formula: $X = (A \times B) - C$

Where:

- "A" is the fund member category factor (specified by the Contribution Certificate)
- "B" is the employee's retirement funding income
- "C" is the employee's contribution to the fund (excluding voluntary contributions and buybacks)

The value of the fringe benefit for contributions to a defined benefit fund will therefore not be the same as the value of the employer-paid contribution.

Provision of uniforms

If, as a condition of their employment, an employee is required to wear a special uniform while on duty which is clearly distinguishable from ordinary clothing, the legislation exempts from tax the following:

- The value of any such uniform given to the employee by his employer
- Any allowance paid by the employer to the employee in lieu of any such uniform

Paragraph 6 of the Seventh Schedule provides that a fringe benefit value must be calculated and applied if an

employee has been granted the right to use any asset of the employer (which could include clothing), with some concessions where the fringe benefit value is given a zero value (i.e. no employees' tax).

One of these concessions provides that the incidental use of the employer's asset results in a zero-value fringe benefit. Some inventive employers have applied this concession to the supply of normal clothing for use by their employees without deducting fringe benefit tax from their pay.

From 1 March 2018, the following proviso has been added to the relevant provision to close this loophole: "Provided that this item shall not apply in respect of clothing".

Low-interest loans to employees

A taxable benefit arises when a loan has been granted to an employee either by the employer or by any other person arranged by the employer, and at an interest rate that is lower than the official rate of interest which is linked to be 1% above the repo rate.

The fringe benefit value is the difference in the amount of interest to be paid. This is determined by calculating the interest at the official rate of interest, less the actual interest raised. This value may be applied on a regular basis, or at the end of the year of assessment.

There are two exceptions. The fringe benefit has no value in the case of:

- Casual loans (loans made infrequently and for an amount less than R3 000)
- Study loans to assist employees to study (no monetary limit).

Note that due to the new requirements placed on lenders by the National Credit Act, employers are advised to:

- Stop the practice of granting loans to employees, and to rather encourage employees to follow the normal lending route and approach a recognised lending institution, or
- Not raise interest on the loan, in which case the employee will be taxed on the fringe benefit value.







DISCOURAGE YOU FROM INVESTING?

In the current economic environment, and with the high tax rates, it is important to use all the tax breaks provided by law. One such tax-free benefit is a tax-free investment product.

► MARELIZE LOFTIE-EATON

t is very important for everyone in South Africa to start saving at an early age, to budget monthly, to pay off debt as soon as possible and to not buy unnecessary things. To facilitate saving, National Treasury introduced a tax exemption for income earned or accrued on specific investment products, which means all returns earned from these products will not be subject to any tax. These products are called tax-free investments.

Most financial institutions (like banks, investment brokers and insurance companies) provide one or more tax-free investment products to the public. These products vary from cash fixed deposits and unit trusts referencing various underlying assets (such as shares), to insurance policies. Your broker or banker will be able to give you more detail on their products, as financial institutions can choose the products they offer.

The tax-free investment exemption became effective on 1 March 2015 after which taxpayers could make contributions to tax-free investments not exceeding R30 000 in any tax year. This limit was increased to R33 000 from 1 March 2017. The contribution limit applies to a natural person or deceased estate across all product providers. This aspect is not clear to the wider public and most people make the mistake of investing more than R33 000 across assorted products. Any product provider is compelled to limit the contribution to their specific product to R33 000 but a product provider cannot be held liable for any over contributions that a taxpayer makes on other tax-free investment products. To ensure that they treat their clients fairly, some product providers limit the contribution across more

than one product offered by that product provider. Currently a taxpayer cannot contribute more than R500 000 over his or her lifetime.

A taxpayer exceeding the allowable contribution per annum will pay a 40% penalty on the amount contributed in excess of the contribution limit. It is the responsibility of the taxpayer to ensure that the annual and lifetime limit is not exceeded. SARS receives information from all product providers and it will be impossible to hide any tax-free investments from them. Due to the high penalty percentage, SARS will be monitoring this very closely.

Product providers and products are governed by the Financial Sector Conduct Authority (which replaced the Financial Services Board on 1 April 2018) and the published regulations make this a well-regulated product. Despite the regulations, a product provider can still set different rules in their terms and conditions. Examples are that no new investment can be done within the last five days of the tax year or that no withdrawal can be made before the 30-day maturity date of an investment. These terms and conditions cannot override the obligations of the regulations but can be instituted for administrative ease for the product provider.

To correctly complete your tax return (ITR12), indicate your contribution to a tax-free investment as the amount you invested in that product. The interest, dividends and capital gains earned on these products will be exempt from tax. Where this return on investment is added to or re-invested in the tax-free investment account or

"A taxpayer can move the tax-free investment from one product provider to another without attracting tax and without the transfer being seen as a contribution."

product, it will not be treated as a contribution. If, however, you make a contribution and then withdraw monies from a tax-free investment product, the withdrawal will not reduce the amount reflected as a contribution for that tax year. When you make a R33 000 contribution in any tax year and during that same year you withdraw R20 000 of the R33 000 contribution, you cannot contribute part of or the full R20 000 again as the contribution limit of R33 000 has been reached before the withdrawal.

Effective 1 March 2018, a taxpayer can move the tax-free investment from one product provider to another without attracting tax and without the transfer being seen as a contribution. It is imperative that the monies are transferred directly from one tax-free investment to another tax-free investment. If the money is withdrawn and then contributed to another tax-free investment, it will not be regarded as a transfer but a new contribution and it will have the same nasty consequence as the excess contributions described above.

To transfer the tax-free investment from one product provider to another, you must first open a tax-free investment account with the new product provider to ensure that you can provide a tax free investment account number to the financial institution from whom the monies are transferred (your existing tax free investment product provider). Once you have made a request and all the information of the new product provider has been received, the current product provider will transfer the monies to the new tax-free investment product provider. A tax-free investment transfer certificate will then be issued to you and the new product provider.

When creating an ITR12 tax return form on eFiling the following question will come up: "Were there any transactions (contributions, transfers, withdrawals, income received/accrued) on any Tax-Free Investments held by you during this year of assessment?"

Mark "Y" (for yes) if you invested in a tax-free investment product. A product provider will issue an IT3(s) certificate that is similar to an IT3(b) issued for interest earned on a normal non-tax free investment account. Use the information reflected on your IT3(s) certificate to complete the Tax Free Investment section on the ITR12.

The fees charged on tax-free investments were discussed by National Treasury with all product providers before the products were launched to ensure that the fees are lower than normal investments to make these products more affordable for investors.

Contrib	utions m	ade to a	TFI duri	ng this	year of	assessn	nent			
R										4219
Amoun	ts transf	erred fro	m a TFI	to anoth	er dur	ing the ye	ear of a	assessme	ent	
R										4246
Amoun	ts transf	erred ou	of a TFI	during	the ye	ar of ass	essme	nt		
R										4247
Amoun	ts withdr	awn out	of a TFI	during (he yea	r of asse	ssmen	t		
R					T					4248
Net ret	urn on In	vestmer	t - Profit							
R					T		П			4239
Net ret	urn on In	vestmer	t - Loss							
R										4240
Interest	t									
R			T		T		Т		II	4241
Divider	nds					15. 11.	(V,87), V			
R										4242
Capital	Gain									
R			T		T		T			4243
-			•	-	-		-			

The tax-free investment incentive provides high value to parents who want to start saving on behalf of their minor children and to students and lower income earners who want to save. It can also be beneficial to middle income earners. When it comes to top earners, however, it does not really provide a benefit as the maximum annual contribution is very low. The rationale behind this initiative is to encourage savings where people do not save. It cannot be used as a "structuring" tool to get an exemption on income as the investment is made with after tax money.

Whether the tax-free investment product initiative achieves its purpose to encourage South Africans to save is yet to be seen. In the cash investment space, it is relatively easy to withdraw cash when monies are needed. Therefore the withdrawal rate is high. With shares and unit trust tax-free investments, the withdrawal rate is much lower. No formal research has been done to determine the demographics of those investors that do withdraw in the short term.

Thomas Piketty said, "My premise is not to tax to destroy the wealth of the wealthy; it's to increase the wealth of the bottom and the middle class."

The best investment is therefore a tax-free investment! Don't snooze or you will lose!

COLLECTIVE INVESTMENT SCHEMES: WHAT ARE THE TAX BENEFITS?

We look at collective investment schemes as long-term savings vehicles and at the tax aspect of various ways of investing.

➤ ALEWEYAH PRICE (with thanks to Faried Boltman, Head of Investment Operations at Old Mutual Unit Trust)



ollective investment schemes are considered flexible long-term savings vehicles. They allow an average and potentially unsophisticated investor to pool funds with other investors. This empowers investors to make investments in and gain exposure to both the listed and unlisted financial markets in South Africa and abroad. Due to lack of funds, expertise or knowledge they may otherwise not have been able to access these markets in their individual capacities. Furthermore, investment in collective investment schemes offers an opportunity to diversify investments.

Unitholders are able to transfer units to other people, entities and other savings vehicles like pension funds. The most common way of exiting from a collective investment scheme is to transact directly with the scheme, which then repurchases the units and pays cash to the exiting investor. If there is insufficient cash the collective investment scheme will sell assets in order to raise cash to pay exiting investors.

Collective investment schemes are managed by CIS management companies which operate under strict regulations set and administered by the Financial Sector Conduct Authority (previously the Financial Services Board). In South Africa, collective investment schemes may take the legal form of either a company or trust; although generally a trust structure is offered.

Collective investment schemes are not unique to the South African market. Globally these types of savings vehicles are often tax transparent or flow through vehicles for tax purposes.

There are a large variety of collective investment schemes available in South Africa. This allows investors to diversify their investments as well as their risk appetite. Examples of collective investment schemes include balanced funds or

multi-asset funds which invest in equities, debt instruments and other assets. Equity funds invest in equity; fixed income funds invest mainly in debt instruments. Money market funds generally invest in short-dated debt instruments. There are also declared collective investment schemes and hedge funds but they are not discussed here. Worldwide funds may invest in both local and offshore assets.

Fee structure

There are certain expenses which would be incurred by the investor at the time of investing into the collective investment scheme or when divesting from the collective investment scheme. These could include the fees incurred on the use of an intermediary. Once-off entry fees (also called manager's charges) could be charged at the time of investment by the management companies. Some management companies may charge manager's charges on exit to deter divestments within a specified timeframe.

In terms of the Collective Investment Schemes Control Act, certain expenses are permitted to be deducted from the collective investment scheme. These expenses are deducted from the income earned in the collective investment scheme. If there is insufficient income in the collective investment scheme it will be deducted from its capital. These expenses include annual service and governance costs charged to the collective investment scheme by management companies and other regulated entities such as trustees and auditors.

Each management company is required to produce a minimum information document for each collective investment scheme it manages on a quarterly basis. The minimum information document discloses the fees charged by the management company to each collective investment scheme.

The service fees charged by management companies to manage and administer the collective investment scheme

may vary depending on the nature of the collective investment scheme as well the type of investments held by it. Equity funds may be charged higher fees than bond funds because equities may be riskier and require greater investment analysis. Passively managed funds like index-tracker funds (tracking indices such as the ALSI), may be charged lower fees than actively managed funds which seek to utilise investment expertise to outperform benchmarks.

Compulsory charges, such as brokerage on the acquisition of assets and securities transfer tax, are capitalised to the costs of the assets of the collective investment scheme.

Although the above-mentioned fees are not regulated, competitive market pricing plays a role in the quantum of fees charged. These fees are also subject to VAT.

Prior to making an investment it is thus worthwhile to consider and review the minimum information documents of the various collective investment schemes.

Distributions

In terms of its trust deed, a collective investment scheme must distribute income to its unitholders. The regularity of distributions is driven by the type of collective investment scheme. These distributions can be made monthly, semi-annually or annually. When distributions are made annually they must be made at the financial year-end of the collective investment scheme.

Income distributions may consist of interest (local and foreign), other income (e.g., scrip-lending fees, contracts for difference income, manufactured dividends) and dividends (local and foreign).

Tax implications of income received

For purposes of South African tax a collective investment scheme must distribute its income to unitholders within 12 months of receipt. Furthermore, section 25BA of the Income Tax Act also provides that if these amounts are not distributed, they will be taxed in the collective investment scheme at 45% in the case of a trust or 28% in the case of a company. This cost would be spread across all unitholders as it would be borne by the collective investment scheme. In terms of paragraph 61(3) of the Eighth Schedule to the Income Tax Act, collective investment schemes are exempt from capital gains tax. This exemption allows the collective investment scheme to reinvest the full proceeds from the disposal of assets. Therefore, no tax will arise within a collective investment scheme if it distributes all income earned (net of fees) and all its gains are capital in nature.

IT3 certificates issued by management companies to their clients reflect the income earned from their collective investment scheme investments. This income must be included in their tax returns. Distributions by a collective

investment scheme to unit holders retain their nature, so dividends passing through a collective investment scheme will still be dividends in the collective investment scheme unitholders' hands. Any income that is distributed to the unitholders will be taxed in their hands and must be included in their ITR12s.

The interest component received from the collective investment scheme will be included in the total interest income of the taxpayer and the excess over and above the interest exemption will be taxed at marginal tax rates in their hands. Any South African sourced dividends that are distributed by the collective investment scheme will be subject to dividends withholding tax.

Tax implications of disposing of units in a collective investment scheme

When a taxpayer acquires units in a collective investment scheme for long-term savings purposes, any associated costs are not considered to be deductible in determining that taxpayer's taxable income. These costs do however form part of the taxpayer's base cost for capital gains tax purposes. Any increase in the market value of these units will be subject to capital gains tax on disposal and must be disclosed in the capital gains tax section of the ITR12.

Growth in comparison to other savings vehicles

The table below provides a high-level tax synopsis of the amounts invested in different savings vehicles in SA.

TAX SYNOPSIS OF DIFFERENT SAVINGS VEHICLES

	INVESTMENT OPTIONS				
AMOUNTS RECEIVED OVER THE LIFE OF THE INVESTMENT	Collective Investment scheme	Pension	Endowment product from a life insurer		
INVESTMENT/CONTRIBUTION	Non-deductible for tax purposes, however, this should qualify as base cost of units for CGT purposes for unitholders	Deductible subject to certain limits	Non-deductible		
INCOME DURING TERM OF INVESTMENT	Taxable in unitholder's hands when distributed	Tax free	Taxable inside life insurer		
GROWTH IN ASSETS	Exempt from CGT in collective investment scheme Deferred until collective investment scheme units are sold by unitholders	Tax free	CGT inside life insurer		
DISPOSAL/WITHDRAWAL/ MATURITY OF INVESTMENT	Taxed at CGT rates	Subject to income tax either on a lump sum or on an annuity	Tax free provided taxpayer is not a trader in policies		

The viability of these different investment options must be considered in light of the needs and risk appetite of individual investors.

REIT INVESTMENT VEHICLES

FROM AN SA INVESTOR'S POINT OF VIEW

Real estate investment trusts (REITs) are a relatively new phenomenon in the South African space. We look at what they are, how to invest in them and note the tax consequences of some forms of funding.



► ANITA RUMBOLL

n 2013, the JSE specifically introduced listing requirements for South African real estate investment trusts (SA REITs), and South African income tax legislation applicable to REITs was introduced at the same time. Simplistically, SA REITs are South African companies (and could include, in certain cases, trusts), the shares of which are listed on the JSE in terms of their listing requirements. These companies own and manage real estate portfolios and should, among other things, comply with requirements such as:

- Maintaining a gross asset value of at least R300 million
- Deriving at least 75% of the revenue of the group (and individual entities making up the group) from rental revenue
- Distributing at least 75% of its distributable profits to shareholders by no later than four months after the financial year ends

In broad terms, an investment in an SA REIT allows an investor to participate in the benefits of owning property assets without directly owning or managing these properties and potentially with a lower initial capital outlay.

How to invest in a REIT

As the shares in SA REITs are listed on the JSE, an investor will invest in these stocks on a similar basis to other listed stocks by opening a brokerage account with a JSE accredited stockbroker. From a South African income tax perspective, the investor needs to evaluate how the acquisition of the investment is funded. Depending on the method of funding, there may be different tax consequences for the investor and these may increase the overall cost of the investment for the investor. In the analysis that follows, we comment specifically on interest bearing loan funding.

What can you expect in annual distribution?

As stated above, one of the requirements is that an SA REIT must distribute at least 75% of its distributable profits annually: a significant portion of its profits are distributed to its shareholders annually. In practice, it is our experience that many of the annual SA REIT distributions exceed 75%.

The distributable profit is defined by the JSE as:

- i. "gross income, as defined in terms of the Income Tax Act:
- ii. less deductions and allowances that are permitted to be deducted by a REIT in terms of the Income Tax Act, other than the qualifying distribution (as defined in terms of section 25BB of the Income Tax Act, because the qualifying distribution effectively amounts to the distributable profit)."

Practically, many of the REITs calculate their distribution with reference to the available cash profits taking into account the requirement above.

From an economic perspective, SA REITs are generally exposed to a relatively regular income stream, as the properties owned by the REITs are supported by lease agreements producing rental income which may increase/grow on an annual basis. This provides security to the investor looking for regular income streams.

Income tax considerations in relation to REIT distributions received by SA investors

SA REITs fall within the ambit of the South African Income Tax Act and are therefore subject to the income tax laws and regulations. However, SA REITs also have a special income tax dispensation, which is contained in section 25BB of the Act. There is a



"Depending on the method of funding there may be different tax consequences for the investor which may increase the overall cost of the investment for the investor."

common misconception that SA REITs are exempt from income tax or that SA REITs are merely a conduit for rental income to be received by the investor. This, however, may not be the case as section 25BB merely legislates the income tax treatment of distributions and certain deductions and disposals.

As SA REITs fall within the ambit of the Act, and are therefore subject to the income tax laws and regulations, it is our experience that REITs are seeking specialists to navigate the complexities of the SA REIT income tax position. However, when executed optimally, an SA REIT should have sufficient income tax deductions to reduce its taxable income to nil rand.

From a South African investor's perspective, the beneficial income tax dispensation afforded to SA REITs entails that distributions received by the South African investor will not be exempt and will be included in the South African investor's taxable income. A distribution from an SA REIT should, therefore, be specifically included in the South African investor's income and should be correctly reflected in the annual income tax return (whether an individual, trust or corporate investor). As the distributions are taxable in the hands of a South African investor, the dividend, when received from an SA REIT company, will not be subject to withholding tax on dividends.

The ultimate South African investor will receive a taxable distribution from the investment in SA REITs, and in some instances offshore commercial property. The South African investor in a REIT therefore benefits from economy of scale, industry expertise and group synergies compared to a direct property investment.

Interest bearing funding to acquire an investment in an SA REIT investments

A question often raised is whether any interest paid in respect of the financing of an investment in an SA REIT share will be deductible against the taxable distribution received from the REIT.

Generally, an interest deduction is determined in terms of section 24J of the Income Tax Act. In particular, section 24J(2) of the Act deals with the income tax deduction of the incurral and accrual of interest, derived from carrying on any trade, if the interest is incurred in the production of the taxpayer's income.

Accordingly, the following requirements should, *inter alia*, be satisfied in order to deduct the interest incurred:

- The amount must be incurred in the production of income:
 This requirement should be satisfied as the investor will receive taxable REIT distributions;
- A trade must be carried on: This requirement may be more difficult to satisfy as generally the passive holding of investments would not constitute the carrying on of a trade. However, if the investor is actively managing her or his investment portfolio the trade requirement may be met in certain situations. This aspect may also be an issue for loan funded share schemes established by REITs for their employees.

When an investor seeks to deduct interest incurred in relation to a loan funded acquisition of an investment in an SA REIT it is recommended that the investor obtains tax advice based on the investor's specific facts and circumstances in order to determine the tax implications of the interest incurred.

It should also be noted that the burden of proof to defend the deductibility of the interest, in response to a SARS query or audit, will be on the investor in terms of section 102 of the Tax Administration Act. It is therefore recommended that the supporting facts are carefully analysed and documented in order to support such a deduction.

What happens when the SA investor sells an investment in SA REIT shares?

Assuming the South African investor holds the SA REIT shares as a capital investment (and not as trading stock), the South African investor will be subject to capital gains tax as determined in accordance with the Eighth Schedule to the Income Tax Act.

Following the interest discussion earlier, it should be noted that the Eighth Schedule allows for one third of the interest incurred in financing of the acquisition of listed shares to be included in









the base cost of the shares. This is, however, only to the extent that the interest was not deducted by the taxpayer in determining their taxable income. This can be illustrated as follows:

Mr X acquired 100 SA REIT shares on 1 March 2015 for a total cost price of R100 000. Mr X financed these shares with a bank loan and incurred interest of R30 000 up to the date of sale. Mr X has not deducted any interest in relation to the investment in prior years' tax returns. Mr X sold the shares on 28 February 2018 for proceeds of R200 000. The tax consequences on the sale of the shares will be the following:

Proceeds: R200 000

Base cost: R110 000 (R100 000 + (R30 000/3)) **Capital gain:** R90 000 (proceeds less base cost)

Taxable capital gain of R36 000 (capital gain at 40% inclusion rate for natural persons)*

Assuming a marginal tax rate of 45% a tax liability of R16 200 will result.

* Please note that the impact of other capital gains/losses and the annual exclusion for natural persons was disregarded in this example. In the case of an investment by a trust the inclusion rate will be 40% and for a company 80%.

Also note that any broker fees, transfer duties, etc. incurred by the taxpayer should form part of the base cost for purposes of determining the capital gain.

In summary

An investment in an SA REIT offers South African investors a unique investment opportunity. However, investors should be aware of the specific income tax implications when considering the acquisition of these investments and when dealing with these investments. The income tax considerations are also relevant in evaluating the net return on investment in relation to SA REIT shares. The net return attracts income tax at the investor level compared to an investment in other local shares that distributes exempt dividends but is subject to dividends withholding tax (based on a rate of 20%).

"There is a common misconception that SA REITs are exempt from income tax."



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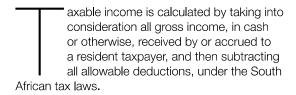
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WHAT HAPPENS WHEN YOU HAVE A SECOND INCOME?

MAYA NIKOLOVA

The South African tax system is based on a progressive tax rate table, meaning that the more taxpayers earn, the higher the marginal tax rate and the more tax is payable on assessment. We discuss the income tax implications for taxpayers who earn supplementary income in addition to remuneration.



An employer is liable, under the provisions of the Fourth Schedule to the Income Tax Act, to deduct employees' tax (PAYE) on behalf of employees and must pay the amounts so deducted to SARS. Furthermore, the Act requires all registered employers to issue IRP5 certificates to their employees, for a relevant tax year, in which all income, allowable deductions and tax paid are stated.

Individuals who earn only remuneration, or a salary, from an employer are not allowed many deductions for tax purposes. An exception is if, for instance, the employee is granted a travel allowance. In that case, the employee must substantiate business travel to SARS with a logbook.

The Fourth Schedule also defines provisional taxpayers, which includes all taxpayers "who derive income by way of— (ii) any amount which does not constitute remuneration or an allowance or advance...", as well as remuneration received from an employer who is not registered for employees' tax.

Taxpayers who earn supplementary income such as consultancy, teaching, or other services income, in their own capacity as providers of the aforementioned services, are therefore by definition categorised as provisional taxpayers.

The perspective to be analysed is therefore the income tax implications for taxpayers who earn supplementary income in addition to remuneration.

SARS issued a publication on their website (http://www.sars.gov.za/TaxTypes/PIT/Pages/Income-from-two-sources.aspx) relating to income from two sources. In this publication, taxpayers are effortlessly guided on the tax consequences of receiving income from more than one source, as well as on options available to them to arrange for additional tax payments. The basis considered is an individual who receives both remuneration and pension incomes, where PAYE was deducted from both incomes.

We will, however, examine circumstances where a taxpayer receives a second income but no PAYE is deducted therefrom because the second income is not remuneration.

Additional income sources

If a taxpayer receives additional income such as consulting fees or other service fees, this is considered as income from a trade. Trade is defined in the Income Tax Act and "includes every profession, trade, business, employment, calling, occupation or venture...". According to section 11, the Act allows the deduction of "expenditure and losses actually incurred in the production of the income, provided such expenditure and losses are not of a capital nature". Taxpayers are therefore permitted to claim a deduction of their allowable expenses from their income from a trade.





Practical application

The practical application of this is that only expenses related to taxpayers' additional income can be claimed as deductions in their income tax returns. These expenses would include, for instance, telephone and cell phone expenses if the taxpayer made calls to clients; travel costs; computer, printing, stationery and internet costs; and some home office expenses. The expenses must be typical to the nature of the taxpayer's trade and incurred in the production of the freelance income. It is very important to highlight that the expenses must be proven by the taxpayer, as section 102 of the Tax Administration Act lays the burden of proof on the taxpayer to demonstrate that an amount is exempt, or non-taxable, or may be deducted or set off.

Another significant aspect to consider is that the taxpayer may claim the relative expenses only in proportion to the additional income. That is, for example, only cell phone calls made to the respective clients may be claimed, not the total cell phone bill for a billing period. The same would apply to other claimable deductions.

After considering the gross additional income received, or accrued to them, less the allowable deductions, the person arrives at their taxable second income, which must be taken into account to calculate the person's total tax liability.

		25
	4	
The following example illustrates the practical application:		
REMUNERATION INCOME		R250 000
INCOME FROM TRADE	R75 000	R62 200
LESS:		
ALLOWABLE DEDUCTIONS	- R12 800	
COMPUTER EXPENSES	- R1 800	
PRINTING AND STATIONERY	- R2 500	
TELEPHONE COSTS	- R3 500	
TRAVEL EXPENSES	- R5 000	
TOTAL TAXABLE INCOME		R312 200
NORMAL TAX PAYABLE		R53 130 *
LESS: TAX PAID (PAYE WITHHELD BY EMPLOYER)		R 35 742 *
ADDITIONAL TAX TO BE PAID ON ASSESSMENT		R17 387

^{*} Income rates for 2018 tax year.



In the said example, the taxpayer, pursuant to receiving the additional income from trade, migrated to a higher income tax bracket. This results in additional tax to be paid on assessment, as the PAYE deducted by the employer is insufficient to cover the full tax liability of the taxpayer.

In the above case, SARS is entitled to raise penalties and interest on assessment with regard to the underpayment of income tax by the taxpayer.

How to avoid penalties and interest

To avoid a situation where penalties and interest are imposed by SARS, as discussed above, the person must register to become a provisional taxpayer and submit provisional tax returns in August and February each tax year, ensuring that adequate tax is paid. If income tax is overpaid, SARS will on assessment pay interest on the amount overpaid.

Paragraph 2 of the Fourth Schedule to the Income Tax Act allows a resident taxpayer to arrange with the respective employer to deduct additional PAYE. This option is, however, mostly suited to employees who earn a second income that is reflected on an IRP5 certificate. In other words, the person receives remuneration from two or more employers. In that case, the person is exposed to higher income tax rates, due to "moving up" in the progressive tax rate table.

If the taxpayer's second income is income from trade and not from remuneration, then, he or she is a provisional taxpayer, as defined, and is obliged to be registered as such. They must then submit provisional tax returns twice a year and make two provisional tax payments for each year of assessment.

The Fourth Schedule to the Act also requires taxpayers to estimate their taxable income in a specific manner and provides for penalties for underpayment on provisional tax as a result of underestimation. It is thus vital that taxpayers with a second income, such as consultancy, or professional services rendered, not only register as provisional taxpayers but also accurately estimate their total taxable income in their provisional tax returns. This will enable them to avoid unnecessary penalties and interest imposed by SARS.

"The expenses must be typical to the nature of the taxpayer's trade and incurred in the production of the freelance income."

Last points

Taxpayers are advised to precisely complete the first page of their personal income tax returns (ITR12) on SARS' eFiling platform, and to provide the required information accurately as this will determine the relevant sections which will be generated on the income tax return. Typically, under the heading "Local Business, Trade and Professional Income" the question whether income was derived from local business, trade, or profession, other than rental income from letting of fixed property, should be answered "Yes".

It is always recommended that taxpayers use the services of qualified and registered tax practitioners, who will be able to provide quality tax services and advise on all tax-related matters. Tax practitioners' fees are also expense-deductible for income tax purposes in respect of taxpayers who earn income from trade.



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STREAM 2: PAYROLL AND EMPLOYEES TAX

DAY 4: 13 SEPTEMBER 2018

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RESIDENTIAL RENTALS:

THE RISKS AND REWARDS



Should the tax consequences of renting out a garden flat deter homeowners from earning some extra income? We weigh up the risks and rewards of residential rentals.

NATASHA WILKINSON

n an economy which is under significant pressure, more individuals are seeking ways to earn additional income by renting out property.

While the additional income is welcomed, there are tax consequences (both positive and negative) for the additional rental income earned. Where our tax laws are not properly applied, the renting of property may be seen to rather carry more risks than rewards. But is it really the case?

Background

As soon as an individual (landlord) rents out a property and earns rent, this rental income is subject to being taxed. This is so whether the property takes the form of, for example, a holiday home, guesthouse or the sub-letting of only a part of a house. In the case of a landlord who is a tax resident in South Africa, all rental income earned abroad must also be disclosed to SARS.

The rental income earned by the landlord will then be added to any other taxable income earned by the landlord for the year of assessment in question. Not only will the rental income be subject to tax but also any other amounts earned by the landlord from the property rental (such as lease premiums paid upfront by a tenant).

When a landlord applies a deposit to, for example, repair any damage to the property rented, the deposit amount must also be disclosed to SARS as part of the rental income earned by the landlord.

Therefore, the total rental income earned from the property must be disclosed to SARS, regardless of whether there are expenses which can be claimed or are claimed.

The (many) risks

Imprisonment, penalties and interest

Where the total rental income earned by the landlord is not fully disclosed to SARS, the landlord may face criminal prosecution, penalties and/or interest for the incorrect disclosure of information to SARS. If this is the case, the landlord should ensure that this position is corrected on an urgent basis with SARS through the Voluntary Disclosure Programme.

Increased taxable income

While the total rental income must be disclosed to SARS, the landlord's ultimate taxable income (and therefore tax payable to SARS) may be reduced by the expenses incurred. These expenses may be claimed as a tax deduction, provided that the expenses are:

- Wholly incurred in the production of the rental income
- Not capital in nature
- Not of a personal nature
- Claimed in the correct year of assessment and that there is proof that such expenses were incurred by the landlord

Where expenses are claimed that do not comply with the above requirements, the landlord faces the risk of the expenses being disallowed as a deduction from taxable income, resulting in higher taxable income than anticipated. Examples of expenses which may be claimed include rates and taxes, bond interest and insurance costs.

It is also important to bear in mind that the proof of the expenses must not only be available at the time that the landlord's income tax return is completed but must also be kept for a period of at least five years thereafter. This ensures that there is compliance with the Tax Administration Act, and also that the expenses are not disallowed by SARS if an audit or verification is done a number of years after the submission of the income tax return.

Apportionment

Where the whole property is not rented out (for example, where only one bedroom is rented to a tenant), the area which is leased must be divided by the total area of the whole property in order for an apportionment percentage to be calculated.

If an expense is incurred in respect of any remaining bedroom, this expense cannot be allowed as a deduction because it does not relate to the area which is rented out and cannot be said to be incurred in the production of rental income, for example.

If SARS discovers that an apportionment has not already been applied by the landlord, SARS will apply its own calculated apportionment ratio after adding penalties and interest. The landlord will then need to dispute this apportionment ratio (if it is not correct), which may take a substantial period of time to finalise.

Ring-fencing

Often, landlords are faced with a situation where their expenses exceed the income earned. This resultant loss is generally available to be set-off against other income earned by the landlord, unless the loss is ring-fenced.

Ring-fencing is a specific anti-avoidance mechanism used by SARS to ensure that the landlord is not merely using the rented property as a mechanism to incur losses and reduce the tax payable, without substantiation. In order to prevent the ring-fencing provisions in the Income Tax Act from applying, the landlord must prove that she or he is conducting a *bona fide* trade. This is usually a very involved process and SARS is often reluctant for the ring-fencing provisions not to apply, where it is initially of the view that they do in fact apply.

The rewards

Where all of the above risks are averted, the landlord can sleep well at night knowing that she or he has made additional income and is taxed solely on profit (after allowable and proven rental expenses have been deducted from the income).

The outcome

The reward can be substantial and, where our tax laws are applied correctly, the reward outweighs the risks.

A general overview of our tax laws shows that there are many risks involved in renting out property. However, to the well-informed landlord who adheres to all tax law requirements, the rental of property becomes far less tedious and risky. Landlords are therefore always advised to seek thorough advice from a tax professional to ensure that they reap the just reward of renting out property.

"While the total rental income must be disclosed to SARS, the landlord's ultimate taxable income (and therefore tax payable to SARS) may be reduced by the expenses incurred."



HOME OFFICE DEDUCTIONS

► NICCI COURTNEY-CLARKE

Salaried employees who work from home may be able to claim a home office deduction if certain conditions apply.



ork culture has evolved massively and "flexible employment" has become the new buzz term. Many workers are given the option to work from home to avoid productive time being lost due to the daily commute to an office. SARS allows such employees to deduct their home office expenses within the "Other Deductions" section of the ITR12 form. However, all this is only allowed under certain specific conditions.

It is important to understand that the situation is different for sole proprietors or freelancers who also work from home. They can automatically deduct all their home office expenses and do not need to work through the same stringent set of conditions applied to employees to see whether they qualify for a deduction. The relevant portion of home office expenses can simply be reflected within the "Local Business, Trade and Professional Income" section of the ITR12 form.

What are the requirements to deduct home office expenditure?

- The employer must allow the employee to work from home.
- The employee must spend more than half of their total working hours working from their home office.
- The employee must have an area of their home which is used exclusively for this purpose. For example, employees who meet clients in their

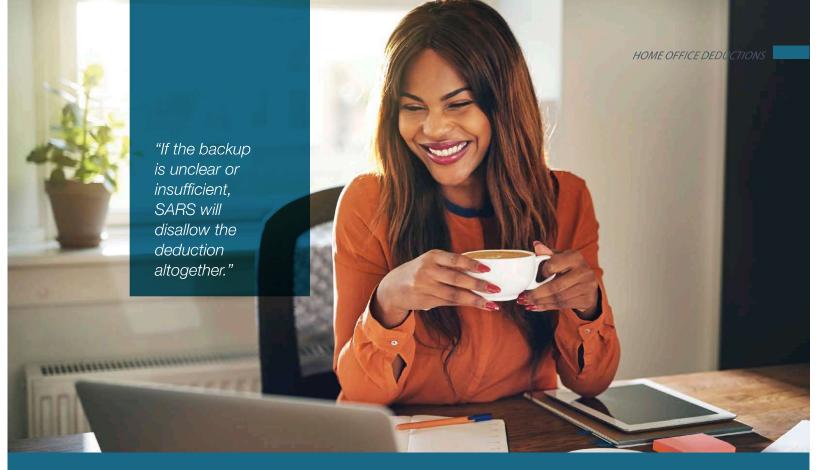
- dining room at home would not qualify. A separate office, which is used specifically for the employee's work, must be maintained to qualify for the deduction.
- The office must be specifically equipped for the employee's trade, i.e., it must be specially fitted with the relevant instruments, tools and equipment required for the employee to perform his or her work.

What expenses can be deducted?

Firstly, one must look at the employee's remuneration structure to see whether he or she:

- Earns more than 50% of total remuneration either from commission or some other variable form based on work performance; or
- Is a normal salaried employee with variable payments or commission making up less than 50% of his or her total remuneration.

The first group (i.e., commission earners) can claim pro-rated deductions based on rent, interest on mortgage bond, repairs to the premises, rates and taxes, cleaning, wear and tear, and all other expenses relating to their house. In addition, they can also take other commission-related business expenses, such as telephone, stationery and repairs to the printer, into account.



The second group (i.e., salaried employees with variable payments or commission making up less than 50% of their total remuneration) can only claim pro-rated deductions based on rent, interest on mortgage bond, repairs to the premises, rates and taxes, cleaning, wear and tear, and all other expenses relating to their house.

How to calculate the home office deduction

First calculate the total square meterage of the home office in relation to the total square meterage of the house and then convert this to a percentage. Then, apply this percentage to the home office expenditure to calculate the portion that is deductible.

Let us look at an example

Anne is a graphic designer who works for Company A. Her remuneration only consists of a salary. Her company promotes a flexible work culture and allows Anne to work from home three days a week. She has a separate office at home which is fitted with a computer and printer, which she uses exclusively for her graphic design job. The computer and printer were purchased two years ago for R12 000 and R8 000, respectively. Her office is 20m² and the floor space of her entire home, including the office, is 200m².

Let us assume that SARS allows for a three-year depreciation period for the computer and printer.

Also, during the tax year, she incurs the following expenditure:

R120 000 interest on mortgage bond

R36 000 rates and electricity
R36 000 cleaning costs

R5 000 roof repairs

R12 000 cell phone expenses

Based on the above, Anne qualifies for a home office deduction. The square meterage of her home office (20m²) is 10% in relation to her house (200m²).

Therefore, Anne's home office deduction for the tax year can be calculated as follows (note that since she is not a commission earner, her cell phone expenses are not deductible):

10% x (R120 000 + R36 000 + R36 000 + R5 000) = R19 700

The importance of supporting documents

SARS often requests supporting documents from taxpayers to backup their home office deductions. Taxpayers must be aware that they have to submit scanned copies of invoices, as well as all relevant calculations (a spreadsheet or list of expenses will not suffice). They must also ensure that the supporting documents can easily be reconciled with the home office claim on their ITR12. If the backup is unclear or insufficient, SARS will disallow the deduction altogether.

Beware of the impact of your home office deduction on capital gains tax

While people are eager to claim the home office tax deduction in order to reduce their taxable income (and ultimate tax liability), few people understand the negative tax impact a home office will have on the calculation of their capital gains tax when they sell their property one day.

When taxpayers sell the home in which they live, there is a primary residence exclusion of R2 million. This means the first R2 million of the capital gain (or loss) is excluded for the purposes of working out capital gains tax. All individual taxpayers receive an additional R40 000 capital gains exclusion per year.

However, if the taxpayer worked from home and used part of the house as an office, the Income Tax Act requires the capital gain to be apportioned between primary residence use and business use. This apportionment must take into account the length of time that the home office was used as a portion of the entire period of ownership, as well as the size of the home office compared to the size of the entire property.

Let us look at an example

Isabel purchased a home in February 2006 for R1.2 million. In February 2014, she carried out renovations for R300 000 to add on an office from where she worked until she sold her home in February 2018. The office space made up approximately 10% of her total house space (i.e., it was 10 m², while her entire home was 100 m²) and she therefore claimed 10% of her house running costs as a tax deduction against her business income.

She lived in this home until February 2018 when she sold it for R3.5 million. Her taxable income for 2018 was R500 000.

The capital gains calculation

Proceeds: R3 500 000

Base cost: R1 200 000 + R300 000 = R1 500 000

Capital gains (proceeds – base cost): R3 500 000 – R1 500 000 = R2 000 000

Portion of the capital gains attributable to the property's use as a home office (10% for 4 years out of 12 years):

 $R2\ 000\ 000 \times 4/12 \times 10\% = R66\ 666$

Portion of the capital gains attributable to the property's use as a primary residence:

R2 000 000 - R66 666 = R1 933 334

Less primary residence exclusion: R1 933 334 – R2 000 000 = nil.

Total capital gains: R66 666

Less: annual capital gains exclusion: R66 666 - R40 000 = R26 666

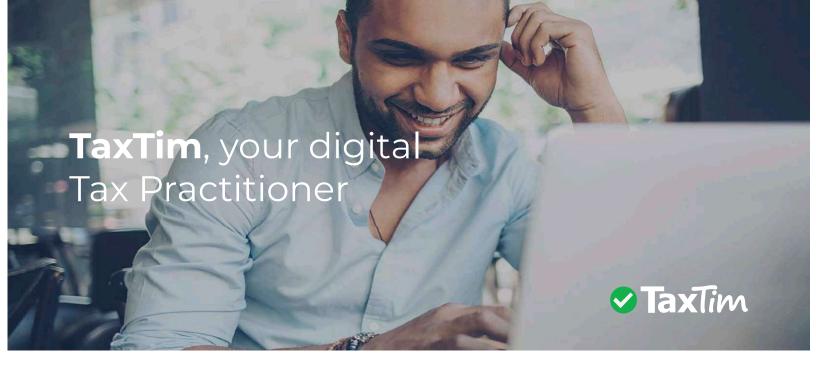
The inclusion rate for capital gains is 40% for individuals. This means that 40% of the gains (i.e., R26 666 \times 40% = R10 666) is added to Isabel's taxable income and will be taxed at her marginal rate of tax.

If we assume her marginal tax rate is 36%, then approximately R3 840 capital gains tax will be payable (i.e., R10 $666 \times 36\%$).

If Isabel had not used part of her residence as a home office, the capital gains tax on the disposal of her property would have been nil due to the primary residence exclusion being applied to the total gain of R2 million.

Isabel would have to compare the amount of capital gains tax (R3 840) with her annual tax saving from the home office deduction to decide which is more advantageous from a tax perspective. It seems likely that it would be worthwhile for Isabel to claim home office expenditure annually, because the tax benefits would outweigh the capital gains tax she would need to pay on disposal.

Note that on Isabel's ITR12, she must report the details of the property sale as two separate transactions. This is done by indicating in the opening wizard that two disposals took place. This will open up two capital gains/loss sections so that the details of each can be captured separately. For the primary residence exclusion to be correctly applied, she must pro-rate the proceeds and the base cost for each disposal, so as to reflect the primary residence portion separately from that of the non-primary residence portion.



TaxTim is an innovative, SARS eFiling integrated online tax assistant that helps South African individuals and SMEs to understand their taxes and complete and submit tax returns quickly, easily and with confidence.

In March 2011, TaxTim co-founder Evan Robinson had a problem. He had assumed he could complete his own tax return with confidence and ease. He was wrong. After hours of stress and frustration, he set up a meeting with his friend Marc Sevitz. Marc was a tax professional and knew all about tax. He made the process quick and easy. Evan thought "What if I could put Marc's brain in a machine, then put it online, so that everyone could have their very own affordable tax man to help them?" With initial seed funding from Google and some hard work, the two created TaxTim.

Service Offering of TaxTim

TaxTim services are available to Individuals and Small Businesses offering ITR12, ITR14 and IRP6 tax returns. Our quick and easy package selector will seamlessly help taxpayers select the return most suited for you. All tax returns are priced and categorised according to what would be best suited for your needs.

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Head over to **TaxTim.com** for more information about your Tax Health Score and all our other features.



MEDICAL AID CREDITS

▶ NICCI COURTNEY-CLARKE & ALICIA HUMAN



In 2012, SARS changed the way it treats medical expenses on the income tax return. Instead of allowing your medical aid contributions to be deducted against your taxable income, a medical credit was introduced.

axpayers who contribute to a medical aid now qualify for a tax credit which is deducted from their overall tax liability. The medical tax credit consists of the following two amounts:

- 1. The medical scheme fees tax credit
- 2. The additional medical expenses tax credit

What is the medical scheme fees tax credit?

This rebate applies to the fees paid by a taxpayer to a registered medical scheme for benefits to the taxpayer, and their dependants. The main member as well as the first dependant on the medical aid will receive a monthly tax credit of R303 (for the 2018 tax year) and any additional dependants will receive a monthly tax credit of R204 (for the 2018 tax year).

If you are paying your contributions via your employer, i.e., as a deduction from your salary or wages, your employer is obliged to use the credit system to adjust your monthly PAYE tax accordingly. If you contribute to a medical aid independently from your employer, you will receive the tax credit on assessment when you complete your tax return.

What is the additional medical expenses tax credit?

This tax credit comprises the following two parts:

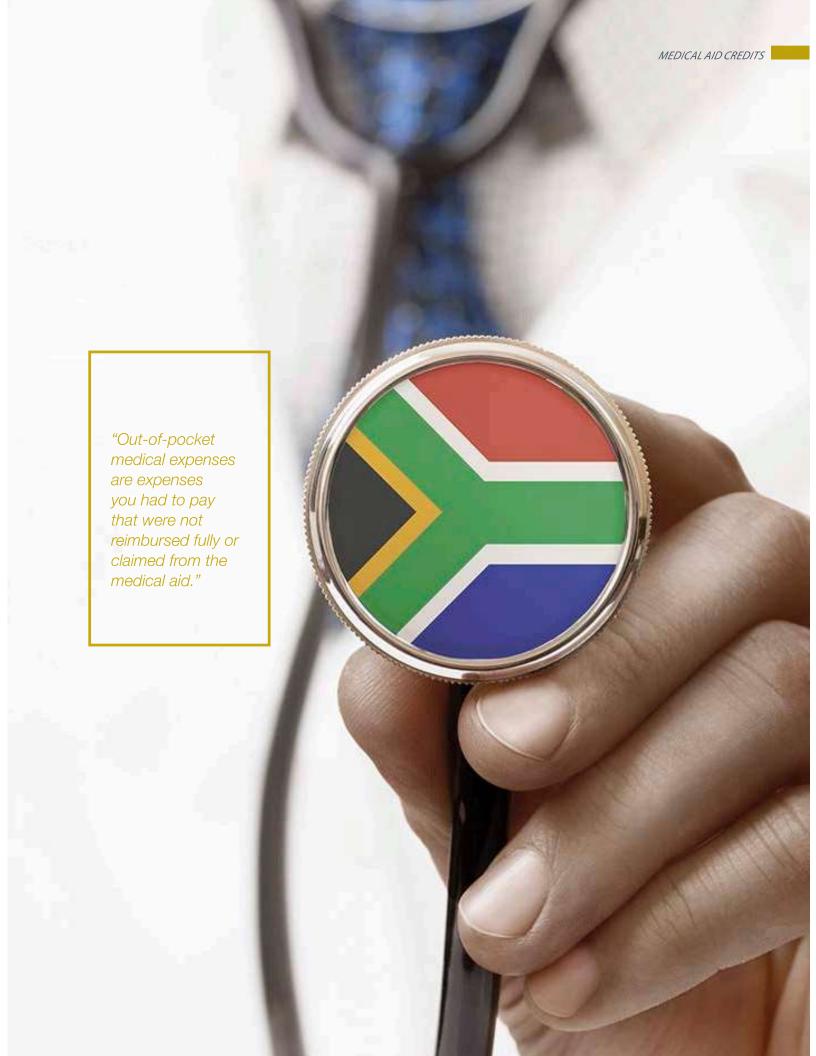
- 1. Out-of-pocket medical costs
- 2. Excess medical aid contributions

Out-of-pocket medical expenses are expenses you had to pay that were not reimbursed fully or claimed from the medical aid. The types of expenses that would qualify include amounts paid for the following medical bills:

- Registered medical practitioner
- Hospital
- Nursing home
- Dentist
- Optometrist
- Homeopath
- Naturopath
- Osteopath
- Herbalist
- Physiotherapist
- Chiropractor
- Orthopaedist
- Home nursing by a registered nurse or when it is supplied by a nursing agency
- Midwife
- Prescription medicine

If these expenses were incurred outside South African borders and you still have proof of it, you can also declare it under the "out-of-pocket expenses" section.

It is important to note that over-the-counter medicines, such as cough syrups, headache tablets or vitamins, do not qualify as medical expenses, unless specifically prescribed by a registered medical practitioner and acquired from a pharmacist.



To calculate the additional medical expenses tax credit, special formulas are used. The specific formula to use depends on your age and whether you or one or more of your dependants has a disability.

CALCULATIONS FOR ADDITIONAL MEDICAL EXPENSES TAX CREDIT

AGE AND DISABILITY STATUS	FORMULA
Under 65, without disability	25% of (the total contributions paid to the medical scheme - [4 x Medical Scheme Fees Credit]) + (the qualifying medical expenses paid - 7.5% of taxable income)
Under 65, with disability	33,3% of (the total contributions paid to the medical scheme – [3 x Medical Scheme Fees Credit]) + the qualifying medical expenses paid
65 or over, with or without disability	33,3% of (the total contributions paid to the medical scheme – [3 x Medical Scheme Fees Credit]) + the qualifying medical expenses paid

Below are some examples:

Example 1

Richard is 60 years old and contributes R50 000 to a medical aid per year for himself, his wife and their two children. Neither he nor any of his dependants have a disability. His taxable income for the year was R200 000. He paid R36 000 for medical treatments which were not claimed from his medical aid for the year as his medical aid savings had run out.

The calculation of his total medical credit for the 2018 tax year will be as follows:

Medical scheme fees tax credit (R303 + R303 + R204 + R204) x 12 = R12 168

Additional medical expenses tax credit Excess medical aid contributions: R50 000 - (R12 168 x 4) = R1 328

Out-of-pocket expenses: R36 000 - (R200 000 x 7.5%) = R21 000

Additional medical expenses tax credit: $(R1\ 328 + R21\ 000) \times 25\% = R5\ 582$

Total Medical Credit: R12 168 + R5 582 = R17 750

Example 2

Jane is 68 years old and contributed R24 500 to a medical aid for the year for herself only as she has no dependants. Her out-of-pocket expenses were R40 000.

The calculation of her total medical credit for the 2018 tax year will be as follows:

Medical scheme fees tax credit R303 x 12 = R3 636

Additional medical expenses tax credit Excess medical aid contributions: R24 500 - (3 x R3 636) = R13 592 Out-of-pocket expenses: 33% x (R13 592 + R40 000) = R17 846

Total Medical Credit: R3 636 + R17 846 = R21 482

Beware of your medical credit being rejected by SARS

If you do have medical expenditure included on your tax return, it is very likely that SARS will request supporting documents from you to backup your medical claim.

It is extremely important that the correct documents are submitted to ensure your medical claim is not rejected by SARS and the medical tax credit disallowed, which will result in you having a whole lot more tax to pay.

If you have indicated you belong to a medical aid, you need to submit the medical aid tax certificate for the relevant tax year which you received from the fund.

If you have indicated that you have out-of-pocket expenses paid by you personally, which were not submitted to the medical aid, you need to submit all of your medical invoices and receipts as backup.

NOTES FROM GENESIS MEDICAL SCHEME

Medical dependants include:

- Your husband or wife.
- Your child or stepchild.
 - Younger than 18 years of age.
 - Younger than 21 years of age and is/was partly or entirely dependant on you and is/was not yet liable to pay normal tax for the year.
 - Younger than 26 years of age and is/was partly or entirely dependant on you, is/was not yet liable to pay normal tax and is a full-time student.
 - Is any age and is/was unable to care for themselves because of a disability, is not liable for normal tax for that year and is partly or entirely dependant on you.
- Any family member you are financially responsible for.
- A person who your registered medical scheme or fund recognises as a dependant.

What counts as a disability?

Moderate to severe mental, physical, hearing, intellectual, communication or vision disabilities count as "disabilities" for tax purposes. You and a registered medical professional must complete and submit the ITR-DD form in order to qualify as having a disability.

Once you know the basics, medical scheme fees tax credits are actually quite simple and easy to understand.

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RETURBATENT:

KEEPING UP WITH CONTRIBUTIONS AND RECORDS

Saving for retirement can hold tax benefits. We take a closer look at how this works in practice.

► ISABEAU BRINCKER

ith effect from 1 March 2016, National Treasury implemented a number of retirement fund and tax reforms with the aim to harmonise and simplify the retirement savings regime. Although the annuitisation of benefits was postponed by two years, the Income Tax Act was nevertheless amended with effect from 1 March 2016, with the possibility of a revision of these provisions if agreement is not reached by the end of the two-year period. The intention is to align the tax treatment of contributions to pension funds, provident funds and retirement annuity funds (collectively referred to as 'retirement funds') and to encourage retirement savings.

In order to calculate the taxable income of a natural person for the year of assessment ended 28 February 2018, the amended legislation is relevant and it is important to properly record all retirement fund contributions, whether they qualify for a deduction in the 2018 year of assessment or not.

As from 1 March 2016, the income tax deduction in relation to contributions to a pension fund, provident fund and retirement annuity fund was standardised as one uniform deduction applying across all funds. Section 11F of the Act contains the provisions for this deduction and in calculating the deduction available to a natural person, a two-step approach is necessary.

Step one The maximum deduction available to a taxpayer must be determined in accordance with the formula prescribed by section 11F. In terms of this formula, the annual deduction available during a year of assessment is limited to the lesser of the following three amounts: 1. R350 000; 27.5% of the higher of that person's: 2. remuneration, excluding any retirement lump sum benefit or severance payment; or taxable income, excluding any retirement lump sum benefit or severance payment, before taking into account the deductions under section 11F or 18A (donations to public benefit organisations); and The amount of taxable income (see (b)(ii) above) less taxable capital gains. Note that taxable capital gains are included for purposes of calculating the amount of taxable income in paragraph (b)(ii) above, but are specifically excluded from the calculation in paragraph (c) above. Paragraph (c) effectively limits the amounts calculated under paragraphs (a) and (b) so that the deduction under section 11F cannot create an assessed loss. The maximum deduction possible is R350 000. Step two As a second step, taxpayers must determine the aggregate amount of retirement fund contributions made by them or for their benefit during that year of assessment. The following amounts contributed to a retirement fund (collectively the "aggregate qualifying contributions") may qualify for a deduction from the taxpayer's taxable income in a particular year of assessment: Amounts contributed by the member in terms of the relevant rules of the retirement fund during the current year of assessment ("own contributions"); Amounts contributed by the member's employer for the benefit of the member, which have been treated as a taxable

fringe benefit to that member during the

current year of assessment ("deemed

Own contributions and/or deemed

contributions which in any prior year

terms of section 11F, were not deducted

were not allowed as a deduction in

contributions"); and

"Taxpayers must take due care to correctly disclose retirement fund contributions in their income tax return."

in calculating the taxable lump sum on retirement or withdrawal from a retirement fund by that member and did not result in annuity income being exempt: in other words, contributions not yet utilised to reduce taxable income ("carried forward contributions").

If the amount of aggregate qualifying contributions in a year of assessment is less than the annual available deduction for that vear of assessment, then the taxpaver could consider making an additional contribution to a retirement annuity fund, provided that the contribution is paid before 28 February. The annual available deduction is a tax efficient manner in which to save for retirement since all contributions up to this amount constitute an investment for the benefit of the taxpayer on a pre-tax basis. It is advisable that taxpayers consider their position annually and well in advance of 28 February should they want to make any retirement annuity fund contributions so as to qualify for a deduction of the full annual available deduction in situations where the aggregate qualifying contributions do not exceed the limit.

If the aggregate qualifying contributions in a year of assessment exceed the annual available deduction, then such excess is carried forward and will be taken into account as carried forward contributions for purposes of determining the succeeding year's aggregate qualifying contributions. Otherwise the excess will be treated as a deduction in determining the taxable portion of any lump sum payments from a retirement fund to a taxpayer. It follows that contributions in excess of the annual available deduction will ultimately be taken into account to reduce taxable income (in the form of a deduction or exemption) for income tax purposes.

"Taxpayers who have made contributions to a retirement annuity fund will have to disclose this information separately on the ITR12."

Excess contributions

Whether or not an annual contribution in excess of the annual available amount (effectively a post-tax saving) is an effective saving mechanism depends on the particular circumstances. Although such excess contributions are funded from after tax earnings in the year of payment, they are nevertheless carried forward for deduction in the succeeding years of assessment. This is done either by way of a section 11F deduction and/or by way of deduction from lump sum payments on retirement or withdrawal from the fund and/or an exemption of annuities. As is the case with contributions that qualified for a deduction, any growth on such contribution will accumulate on a tax exempt basis in the retirement fund up to retirement and/ or withdrawal, when lump sum benefits and annuity payments to the member from the fund will be subject to income tax. Factors other than tax should also be taken into account in deciding whether to make contributions in excess of the annual available deduction, such as the cost effectiveness of the retirement saving product, the balanced risk profile which such product is required to have due to applicable regulations and limited access to the funds.

Accurate filing

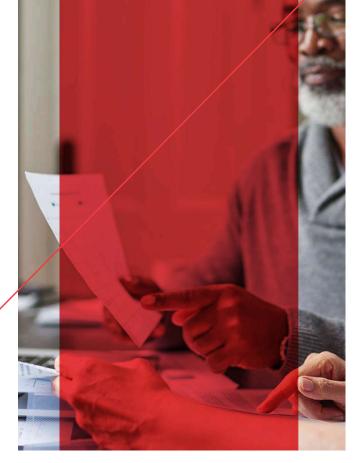
Taxpayers must take due care to correctly disclose retirement fund contributions in their income tax return (ITR12). This is important not only for purposes of correctly calculating the deduction under section 11F, but also to ensure that carried forward contributions are registered on the SARS systems for automatic carry forward.

Contributions administered through the payroll system of a member's employer will be included on the taxpayer's employee income tax certificate (IRP5). A copy of the IRP5 is submitted directly to SARS by the employer and it is used to pre-populate the taxpayer's ITR12 in as far as employment income and deductions are concerned. Own and deemed contributions to a pension fund

and/or provident fund will be reflected under the deductions / contributions section on the IRP5, respectively under source codes 4001 and 4003. Deemed contributions to any retirement fund (i.e. contributions by the taxpayer's employer which are taxed as a fringe benefit) will also be disclosed as a taxable fringe benefit (source codes 3817, 3825 or 3828) under the "Income received" section on the IRP5. It should be noted that the amounts disclosed as retirement fund contributions on the IRP5 will be the full amount contributed. For IRP5 disclosure purposes, the amount is not limited to the annual available deduction amount. This is necessary to ensure a proper audit trail of carried forward contributions. For taxpayers using eFiling, the retirement fund contributions included on the IRP5 will be pre-populated (under the employee tax certificate section) on the ITR12. Provided that the information on the ITR12 agrees with the IRP5 (which should generally be the case), no additional disclosure and/or documentation should be required from the taxpayer in relation to employment retirement fund contributions.

Documentary proof

Taxpayers who have made contributions to a retirement annuity fund will have to disclose this information separately on the ITR12. Such disclosure is required irrespective of whether an employer has taken such contributions into account for employees' tax purposes. In such case contributions will be reflected under the deductions / contributions section of the IRP5 under source code 4006. When requesting an ITR12 on eFiling, the taxpayer must indicate that a contribution was made to a retirement annuity fund. If the taxpayer indicates that contributions were made to a retirement annuity fund, the ITR12 will be issued containing a retirement annuity fund contribution section to be completed by the taxpayer. If contributions were made to more than one retirement annuity fund, the details of each policy must be disclosed separately. SARS normally subjects retirement annuity fund contributions to verification and the taxpayer will be required to submit the contribution certificate to SARS.



Keeping record

Importantly, only contributions to retirement funds made in the current year are disclosed in the ITR12 and the taxpayer must disclose the total contribution, irrespective of the limitations in section 11F. SARS' assessment system automatically calculates the deduction allowable under section 11F by applying the deduction formula to the aggregate qualifying contributions for the relevant year of assessment, and automatically brings forward (from the preceding year of assessment) and/or carries forward (to the succeeding year of assessment) any carried forward contributions (i.e., contributions which did not qualify for deduction in prior years and/or the current year).

Carried forward contributions are automatically calculated by SARS' assessment system and reflected as "amount brought forward from previous year" and/ or "amount c/f to next year" in the retirement fund contributions section of the notice of assessment (ITA34). It is advisable for the taxpayer to confirm that the carried forward amount as reflected on the ITA34 agrees with the taxpayer's own records and calculations: this is the amount which will be used by SARS to determine the aggregate qualifying contributions in subsequent years, as well as the deduction available when determining the taxable portion of lump sum payments from retirement funds. Should the carried forward contributions not be accurately captured as part of the return and assessment process, the taxpayer will have to keep accurate records and adequate proof of such amounts for ultimate deduction against lump sum payments or to exempt annuities.



hanges have recently been made to the tax rules and tax treatment of reimbursive travel allowances for employees. These mostly administrative changes are effective from 1 March 2018 (for the 2019 tax year). We also consider the similarities and distinctions between claiming travel costs as an employee or as an independent contractor.

What is new?

The changes impact how employers calculate PAYE related to reimbursive travel allowances. A reimbursive travel allowance is an allowance paid to an employee for actual business kilometres travelled.

Prior to 28 February 2018, there was no PAYE withholding requirement, nor tax, on actual tax assessment for the employee, where:

- an employee travelled less than 12 000 business kilometres per annum;
- the employee received no other business travel compensation; and
- the reimbursive rate was less than the prescribed SARS rate (i.e., R3.55 for the 2018 tax year).

From 1 March 2018, the two main changes may be summarised as:

- 1. Where an employee is reimbursed using a rate higher than the prescribed rate, the differential between the SARS prescribed rate and the reimbursive rate will be subject to PAYE, irrespective of the business kilometres travelled. This change means that employers need to carefully look at their reimbursement rates, as a rate above the threshold becomes subject to PAYE. This may actually result in a lower employee take-home pay than with simple reimbursement at the SARS accepted rate. Put differently, not only will the employer save with a lower rate but the employee's take-home pay will also be more.
- 2. There is now also a new tax-free treatment altogether. Where the employee is reimbursed using a rate lower than the prescribed rate and receives no other business travel compensation, irrespective of the kilometres travelled, the reimbursement will not attract PAYE, but will also not be taxable on the employee's personal tax return. This means that employers must take great care, and do the computation, before giving a travel allowance. Put differently, a travel allowance may actually cause the employee to pay tax on the reimbursement. This means a travel allowance may no longer be a tax planning opportunity but may increase the employee's tax burden.

The changes have not altered employees' ability to claim against a travel allowance, nor have they introduced a new requirement needed to compute a travel allowance claim.

Travel allowance deduction: the employee perspective

The travel allowance "deduction" operates on the premise that an allowance is included in a person's taxable income (see

"SARS reserves the right to audit and query the content and information recorded by the taxpayer."

section 8(1)(a)(i) of the Income Tax Act), to the extent that the allowance has not actually been expended on business travel (see section 8(1)(a)(i)(aa)). This conundrum often leads tax practitioners and SARS officials to seek understanding from established practices and SARS guides. To summarise section 8, private travel is taxable and business travel is not taxable.

It is also interesting to note that the term "travel", whether private or business travel (see section 8(1)(b)(ii)), specifically relates to travel by motor vehicle – "an engine powered road going vehicle", as contained in SARS Interpretation Note 14. Motorcycle enthusiasts are not excluded from this definition, as further explained in Interpretation Note 14.

More on the car

In practice, it is often the case that an employee who receives a travel allowance owns the vehicle used for travel. Does this mean that a travel allowance claim is disallowed, where an employee has received a travel allowance and has made use of, for example, a parent's vehicle? No, section 8 does not limit nor disallow the claim against the travel allowance. It is not imperative that the car in question should be owned by the employee.

However, where an employee receives a travel allowance and has made use of a company-provided car, no tax claim against the travel allowance (in terms of travel for business purposes) will be allowed (see section 8(1)(a)(i)(aa)). This notion appears to be a harsh approach, when considering that an employee is also taxed on the fringe benefit arising from the use of a company-provided motor vehicle – according to paragraph 7(2)(b)) of the Seventh Schedule to the Income Tax Act.

Tax deduction against a right of use of motor vehicle

Not all is lost. Although a deduction against a travel allowance is not possible under section 8, a reduction of the fringe benefit constituted by use of an employer-provided vehicle can still be claimed. Like section 8(1)(a)(i), the claim against a fringe benefit under paragraph 7(2)(b)) of the Seventh Schedule has been worded similarly. Like the travel allowance claim, the reduction of the fringe benefit operates on the premise that the fringe benefit is included in a person's taxable income. In this case the fringe benefit can be reduced to the extent that the benefit has been actually expended on travelling on business.

It is nothing personal, it is just business

How does one prove or illustrate that travel was for business? A taxpayer is able to discharge the onus of proof that travel, with a private vehicle, was for business purposes through keeping a logbook (see section 8(1)(b)(i)) and recording the necessary information related to business travel. SARS has provided an acceptable format.

According to the *SARS eLogbook Guide* for 2017/2018, the bare minimum information required to claim a tax deduction is the following:

- The date of business travel
- The business kilometres travelled
- The business travel details (where to and the reason)

It is not necessary to keep record of the details of private travel. (This was not the case during the 2015, 2016 and 2017 years of assessments, as per the respective 2015, 2016 and 2017 SARS eLogbook Guides.)

This significant change has provided taxpayers with administrative relief. As long as the logbook can discharge the taxpayer's onus of proof, it will be acceptable.

How important is the logbook?

Keeping an accurate and detailed logbook can be cumbersome. However, with SARS adopting a more robust position in conducting audits, keeping an accurate logbook is absolutely critical. A travel allowance "deduction" can be disallowed on the grounds of the slightest inconsistency or error. The travel logbook is how the taxpayer discharges the onus of proof of business travel. Whilst the law does not specifically require a format in which the onus must be discharged, the SARS logbook format is generally recommended as the path of least resistance.

Analysing the opening and closing odometer readings or matching the taxpayer's service book readings to the logbook are not SARS' only tactics to determine the authenticity and accuracy of business travel claims. According to one of our colleagues, an ex-SARS auditor, the distance travelled between the office and the client can be verified using Google Maps.

Is the first trip always excluded?

The "travel between home and work" exclusion has caused interpretation problems for as long as can be remembered. The law clearly determines that private travelling includes "travelling between ... place of residence and ... place of employment or business" (see section 8(1)(b)(i)). Where a consultant travels from an employer's branch office (not the consultant's usual place of employment) to a friend's house, the travel is considered private. Where a consultant stops to see a client en route to his or her place of employment, the travel between home and the client's premises would be private. However, the trip from the client to the place of employment would then be business travel.

Which method is best?

There are two methods of calculating the deductible amount against the travel allowance, i.e., actual costs method and deemed costs method. Each method has its own set of requirements.

The actual costs method

This method requires accurate information in the form of receipts, tax invoices and other relevant source documents. For the purpose of finance charges (section 8(1)(b)(iiiA)(bb)(B))



and wear-and-tear expenses (section 8(1)(b)(iiiA)(bb)(A)) the maximum vehicle value is R595 000.

The qualifying deduction is based on computing actual expenditure per kilometre and multiplying it with the business kilometres.

For example:

Mr X owns a vehicle valued at R120 000 and incurred the following expenses:

Fuel costs R8 000

Wear-and-tear expenses R17 143 (120 000 \div 7)

Maintenance costsR4 000Insurance costsR2 400Finance chargesR12 000Licence costR400Total costsR43 943

Mr X travelled a total of 22 000 km, of which 4 000 km were for business purposes, as evidenced by his logbook. Mr X received a total travel allowance of R19 200 for the 2017 year of assessment. As a result, Mr X would be able to claim R7 990 (4 000 km \div 22 000 km x R43 943) as a deduction against his travel allowance.

(Example adapted from SILKE: South African Income Tax 2018.)

The deemed costs method

The deemed costs method comprises three components: the fixed costs, the fuel costs and the maintenance costs. SARS provides a table from which the taxpayer determines the appropriate deemed cost elements based on the vehicle value. The table can be found on SARS' website and is revised annually. Taxpayers that want to claim using this method must bear maintenance costs and fuel costs themselves.

For example:

Fuel costs per kilometre R1.018

Maintenance costs per kilometre R0.412

Fixed costs component R2.315

(figures - cost scale table: R120 000 vehicle)

Total cost per kilometre R3.745



In using this method, Mr X would be able to claim R14 980 (4 000 km x R3.745 per km) as a deduction against his travel allowance. In our experience, the deemed costs method requires less administration and is almost always more favourable than the actual costs method.

Travel allowance deduction: the independent contractor perspective

What is the difference between employees' and independent contractors' deductions?

Due to the nature of the contract between an independent contractor and a client, the provision of a travel allowance would be unusual. An independent contractor would usually recover business travel costs incurred by invoicing or charging a disbursement fee.

An independent contractor, as explained in Interpretation Note 17, is an individual or person similar to an entrepreneur – someone clearly distinguishable as an "employer", and not an "employee".

Implications of travel costs deduction

Section 8 does not cater for an independent contractor. Consequently, an independent contractor can rely on section 11(a) to obtain a deduction for travel costs. The burden of proof is placed on the independent contractor (section 102 of the Tax Administration Act) and relevant source documents, including a logbook, would need to be provided. The position may be summarised as follows:

- The independent contractor does not need a travel allowance or reimbursement to claim and any amounts received by the independent contractor for business travel will form part of their gross income.
- The tax deduction is effectively claimed in the same way as an employee with a travel allowance by using the actual costs method, with a logbook indicating the portion of business travel.

Further to the above, the R595 000 limit for wear-and-tear and finance costs per section 8(1)(b)(iiiA)(bb)(A) and (B) is not applicable to an independent contractor. The vehicle wear-and-tear expense is claimed separately as a capital allowance under section 11(e) instead of section 11(a).

For example:

Mr X bought a vehicle valued at R620 000, on 1 March 2017. Mr X incurred the following expenses:

Fuel costs R12 000

Wear-and-tear expenses (claimed under section 11(e) – see below)

Maintenance costsR6 000Insurance costsR2 400Finance chargesR22 000Licence costR800Total costsR43 200

Mr X travelled a total of 22 000 km, of which 4 000 km were for business purposes, as evidenced by his logbook. As a result, Mr X would be able to claim R7 855 (4 000 km \div 22 000 km x R43 200) as a business travel expense against his gross income. In addition, Mr X would be able to claim a R22 545 wear-and-tear capital allowance – according to section 11(e), read together with IN47 – calculated as follows:

 $(R620\ 000 \div 5 \times (12\ months \div 12\ months)) \times (4\ 000\ km \div 22\ 000\ km) = R22\ 545$

When all is said and calculated

The maintenance of a logbook remains imperative, as clearly noted in the *SARS Travel Logbook Guide*. SARS reserves the right to audit and query the content and information recorded by the taxpayer. The logbook must be retained for at least five years.

Although fundamental differences exist in the treatment of the travel costs for an employee and for an independent contractor, both are required to maintain an up to date logbook and other supporting source documents.

A claim against a travel allowance is disallowed where an employee uses a company-provided car and receives a travel allowance. However, a taxpayer may claim a deduction from the fringe benefit arising from the provision and use of a company car for business travel.

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REIMBURSEMENTS MADE TO AN EMPLOYER:

Can a tax deduction be claimed?

Sometimes employees receive taxable benefits like study fees that later have to be repaid to the employer. Can the tax already paid on this benefit be refunded?

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n employee may receive amounts from their employer that have to be refunded at a later date. Some examples are refunds of study fees, maternity leave and retention bonuses. Often, the reason for the refund is that the employee did not meet the contractual obligations to their employer in respect of the benefit granted.

This situation could occur where the employee received study fees on condition that he or she completes a qualification. If the employee fails to do so, the employee would have to repay the amount of the fees to the employer. Another example is maternity leave. Female employees often have to remain in employment for a set period after taking maternity leave. If she fails to do so, she would have to pay an agreed amount to her employer.

Your next question would be whether the employee can get a deduction for the amount refunded to their employer. A deduction is allowed to an employee per section 11(nA) of the Income Tax Act, if the requirements are met.

The receipt (e.g., study fees) must have been previously included in taxable income, i.e. the employee had to pay tax on the amount when it was received in a previous year of assessment. Taxable income is the amount remaining after reductions in the form of exemptions and deductions. It follows that amounts that are exempt would not be included in taxable income, and a deduction for the employee's subsequent refund will not be allowed. For example, a refund of a bursary that qualifies for

an exemption under section 10(1)(q) would not qualify for the deduction.

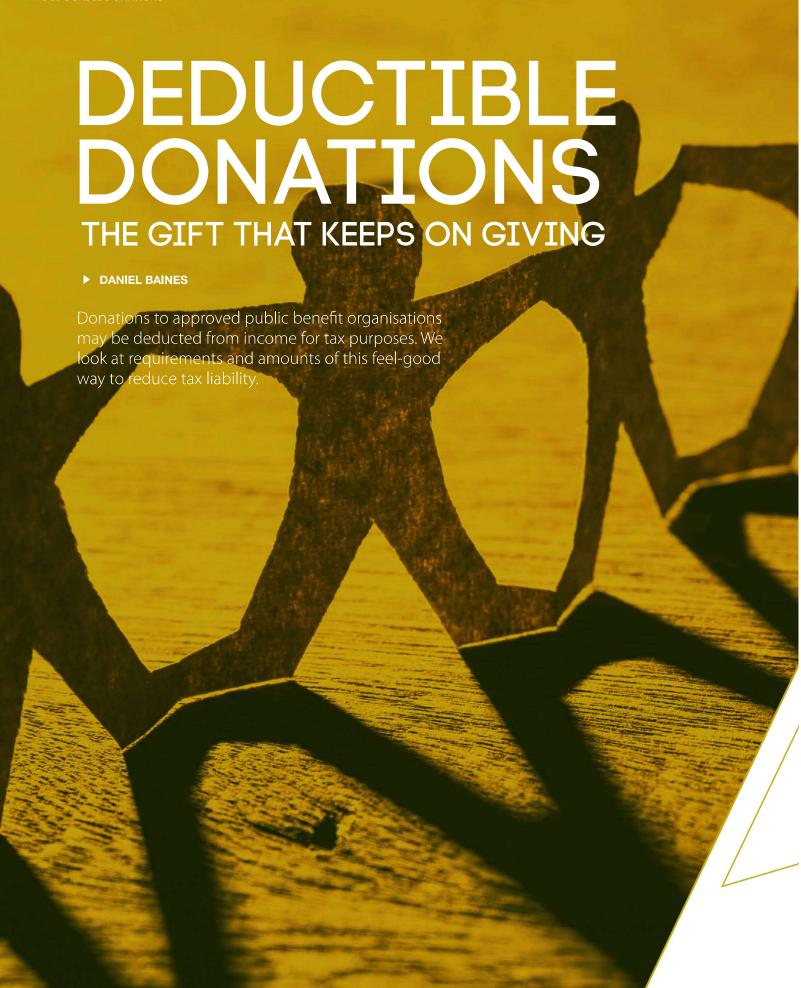
A taxable receipt from the employer would have been included on the employee's IRP5 and the employer would have previously withheld employee's tax (PAYE). When the refund occurs, the employer will not change the IRP5 relating to the refund. Instead, the employee must claim the section 11(nA) deduction on submission of their assessment.

The refund must be deducted from the employee's taxable income in the year of assessment that the refund has been made. The deduction applies only to cash that has been refunded, not to any other asset. UIF and SDL amounts originally paid cannot be deducted in terms of section 11(nA). The deduction is limited to the contractual amount that was agreed to be refunded. It is also limited to the amounts previously included in taxable income. This means that if the refund made by the employee includes an amount of interest charged on the original amount granted, the interest would not qualify for the deduction as it was not previously included in taxable income.

Restraint of trade repayments

There is a deduction that deals specifically with repayments made by the employee in terms of a restraint of trade agreement. This would occur if an employee breached the restraint of trade agreement on leaving the employment and had to repay any, or all, of the amount received. The employee would be allowed to claim a deduction in terms of section 11(nB) in respect of the amount that was previously included in the employee's gross







onations made by individuals to certain public benefit organisations can result in the individual reducing his or her tax liability upon submission of their annual tax return. This potential reduction in tax liability is dependent on the donation being made to a SARS approved section 18A public benefit organisation. An example of an approved public benefit organisation is the Animal Welfare Society of South Africa.

When an individual donates to such an entity, the entity should issue the individual with a section 18A certificate. This is important as it provides the details that will be included in the individual's tax return and SARS may request the taxpayer to submit the certificate in order for the deduction to be approved.

The following is an example of the reduction in tax liability that an individual may receive upon making a donation to an approved organisation (based on the tax tables for the 2018 tax year):

Example 1

No donation made

Taxable income R500 000

Tax liability R129 459 (excluding rebates)

Donation made

Taxable income R500 000

Less donation R40 000 (not more than 10% of taxable income)

New taxable income R460 000

Tax liability R115 059 (excluding rebates)

In this example, the individual has reduced his or her tax liability by R14 400 or 36% of the amount donated.

The greater your taxable income, the greater benefit you have when donating to a charity. This is illustrated by the following example:

Example 2

No donation made

Taxable income R1 000 000

Tax liability R328 624 (excluding rebates)

Donation made

Taxable income R1 000 000

Less donation R40 000 (not more than 10% of taxable income)

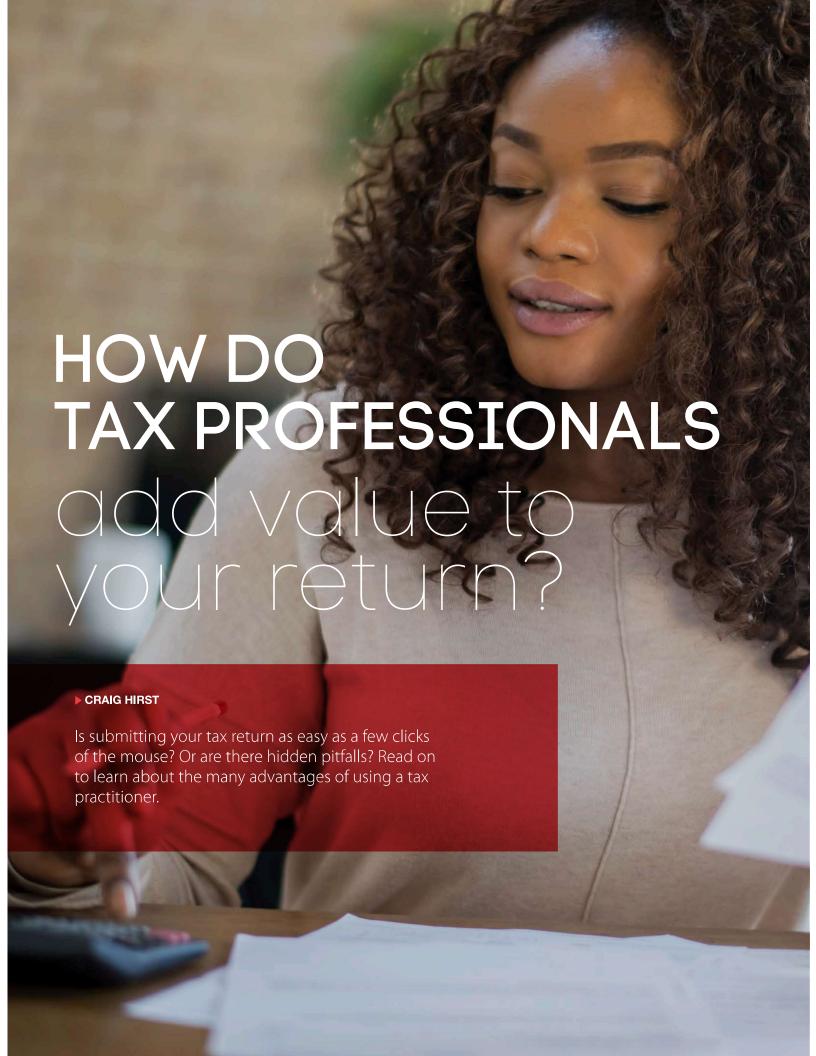
New taxable income R960 000

Tax liability R312 224 (excluding rebates)

The taxpayer with a taxable income of R1 000 000 has reduced his or her tax liability by R16 400 by donating R40 000. The taxpayer reduces his or her tax liability by 41% of the amount donated. This is because the taxpayer's marginal tax rate is 41%. Compare this with the first example where the taxpayer reduced their tax liability by 36% of the amount donated. This is because the taxpayer's marginal rate of taxation in that example is 36%.

The amounts of R14 400 and R16 400 will be paid out as a refund by SARS upon submission of the individual's tax return, provided the individual can produce a section 18A certificate. Please note the payment of a refund will depend on each person's overall tax situation, but the taxpayer will always receive a reduction in tax liability.

Donating to a charity of your choice has great benefits, both in terms of the reduction in tax liability as well as the contribution made to society. When donating to an approved public benefit organisation, it is important to request the section 18A certificate. SARS will deny the deduction of the donation if this cannot be produced upon assessment. The taxpayer must also ensure that the certificate has the requisite information as required by SARS, such as the charity's PBO number.





Filing has made compiling and filing a tax return physically an easier process for taxpayers. That in itself is a very good step forward and an improvement on the cumbersome manual tax filing process of old.

It is SARS' intention to make tax filing easier and more accessible in order to improve compliance and drive up collection. For this, eFiling is a wonderful tool. When you listen to SARS' advertising in the lead-up to the opening of tax season, it really does sound like tax has been made easy to do using eFiling. The vision of "making tax easier" for the man on the street is also aimed to drive down tax compliance costs for taxpayers, which is another good thing for the taxpayer.

It is this electronic advancement that is often seen as the main reason why many taxpayers feel that it is now much easier to try and file their own tax returns. Their thinking is that if they can just fill out the "simple" blocks step by step, the computer will take care of the rest and the process will start and stop right there.

When taxpayers unknowingly get something wrong in the process of filing their tax returns themselves – as opposed to using a tax practitioner to file for them – this can have severe negative outcomes.

In practice we hear taxpayers complain about how they thought eFiling would sort everything out for them because it was made out to be an easy process. Granted, if the return filed is a very basic return and it is assessed without any review or further communication needed with SARS, then it can look like a very simple process with no need for professional help. But, this is far from the truth for many taxpayers who have slightly more complicated financial lives. It is the fundamental lack of knowledge of tax law, systems and SARS administration and communication that can catch unsuspecting taxpayers out and often cost them dearly in penalties.

Taxpayers file their returns themselves in the hope of getting to the correct tax assessment but it does not always work out well for them. What follows is a list of things that taxpayers lack or get wrong in the process of filing a return.

Completing a tax return accurately

Filling out the income tax return has become easier only in the sense that information from an IRP5 has been prepopulated on the taxpayer's return. But an IRP5 is only the start of a process dealing with paperwork and declarations for allowances and claims for tax purposes. You will have noticed how tax in general has become more complicated over the years. A tax professional can see that by simply observing how the tax guides have become thicker and thicker over the years.

SARS' consultants cannot guarantee the best outcome for a taxpayer

Taxpayers often make their way to a SARS branch during tax season, looking for free help and hoping that they have brought

the correct information. They trust that the SARS consultant will advise them accordingly. The reality is that it is not SARS' job to consult and get the best outcome for a taxpayer. SARS will help based on what is presented to them only. This often results in allowances (for example, a car allowance) not being properly claimed for and costing the taxpayer at assessment.

Knowing all about tax assessments and tax law

Taxpayers do not know how to check a tax assessment and they therefore miss out on the most critical step in assessing if they are paying too much tax or receiving the highest refund possible. How can a taxpayer successfully check an assessment if they do not know and understand the tax law behind it? They are then at the mercy of the SARS system to get it right for them.

Providing the correct supporting documentation

Taxpayers are not clued up on what supporting documentation entails. When SARS reviews and asks for documentation, the taxpayer often has no clue as to how to properly present information to SARS to get the desired result. This sees SARS often reversing expenditure claimed, which can then often result in severe penalties being applied for underpayment. This is the most common issue we deal with when helping to fix problems caused by taxpayers filing their own returns.

Objecting to assessments

Taxpayers do not know how to object to an assessment properly. They sometimes do not know how to check the assessment in order to object in the first place. Then, due to lack of training and experience in this area, they do not know how to present an objection to ensure a successful outcome.

In my experience of dealing with many taxpayer issues over the years, it is not possible for a taxpayer to successfully file a tax return year after year without help from a professional. Due to lack of knowledge the taxpayer will not be able to confirm the tax outcome. Somewhere over the years the taxpayer will go wrong in one or more of the five steps mentioned above. The amount to be paid, or potentially paid, in such a case will almost always be much higher than the fees that would have been paid to a tax professional to get the job done right the first time. The result is that the fix-up by the tax professional can, in the end, cost the taxpayer three or four times more.

The only positive for tax professionals is that, after the problems have been fixed at SARS and money has hopefully flowed back into taxpayers' pockets, they may gain an appreciative and willingly paying customer for many years to come.

THE BIGGEST ITR12 FAILS

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As challenging as filing your tax return can be, be sure to take the time to avoid the typical recurring mistakes. Check your tax return against this list of the seven most common errors.

Completing the tax return without obtaining supporting documents

Many individuals wrongly believe that an IRP5 tax certificate is the only supporting document needed when completing the ITR12 for individual tax returns. Not only are there a number of other supporting documents you will probably need, depending on your tax affairs, but you are also required to keep them safely in your possession for at least five years, in case SARS needs access to them in the future.

The documents required include the following:

- IRP5/IT3(a) certificate from your employer (if you have had more than one employer in the tax year, you need an IRP5 from each employer)
- Medical aid certificate as well as documents required for amounts claimed in addition to those covered by your medical aid
- Pension and retirement annuity certificates
- Proof of your banking details (a taxpayer must provide a bank statement not more than three months old and it must also be stamped by the bank). If a taxpayer cannot provide a bank statement he or she must provide an original letter, on a letterhead from the bank, reflecting the bank account details and the date the account was opened (the bank statement or the bank letter should clearly show

the name of the bank, the name of the account holder, the type of account, the account number, the branch code and the date)

- Travel logbook for taxpayers who received a travel allowance
- Tax certificates (IT3(b)) which you received in respect of investment income
- Completed confirmation of diagnosis of disability (ITRDD form) for taxpayers or dependents with a disability
- Information relating to capital gain transactions, if applicable

An individual who incurred medical expenses that were not covered by the medical aid must ensure that they have the prescription or diagnosis from a medical practitioner and the actual proof of payment for the qualifying medical expenses. Medical expense invoices or statements will not meet the requirements of SARS. (Note that a diagnosis of disability must be done by a qualified medical practitioner to confirm the physical disability status of a taxpayer or dependants with a disability.)

If a taxpayer fails to submit supporting documents requested by SARS, an adverse assessment will be done. This might leave the taxpayer owing money to SARS. Individuals must ensure that they have the supporting documents before they complete and submit the ITR12 tax return.













Assuming you will automatically get a refund

Most individual are motivated to file their tax returns when they believe that they will get a refund from SARS. On the contrary, taxpayers are required to file an ITR12 if they exceed a certain income threshold (for 2018, it is R350 000.00) or if they have more than one employer.

Taxpayers should avoid using the services of people who guarantee a refund from SARS. An even worse situation is a taxpayer who understates or overstates income in their pursuit of a refund. This is a criminal offence.

Using the wrong source codes

Many adverse assessments are the result of the use of wrong source codes. Individuals should take extra care when completing the ITR12 tax return because each source code has a different tax implication. For instance, certain income received by the taxpayer might be exempt from tax; however, if a taxpayer uses a source code for taxable income, he or she will be assessed for tax.

If the wrong source codes were used, it will leave the taxpayer with the burden of submitting a notice of objection. This process is technical in nature and, as a result, the taxpayer might have to pay for the services of a tax practitioner.

Source codes can be found on the SARS website by following this link at: sars. gov.za/TaxTypes/PIT/Tax-Season/Pages/Find-a-Source-Code.aspx

Not understanding the ITR12 return fields on eFiling

Taxpayers often complain that the online ITR12 has too few fields to complete all the information compared to the manual ITR12 tax return. It is important to note that the ITR12 tax return available on eFiling must first be generated by correctly answering the applicable questions on the first page, when starting a return on the return wizard. For example, the first page will ask a taxpayer if he or she incurred medical expenses. If the taxpayer selects a "no" on this question, the relevant medical expenses field will not be created.

Some common questions asked on eFiling include:

- How many certificates did you receive?
- Did you make any retirement annuity fund or income protection contributions? (Select "Y" or "N".)
- Do you want to claim expenditure against a travel allowance? (Select "Y" or "N".)
- Did you receive remuneration for foreign services rendered? (Select "Y" or "N".)

Not declaring other income received during the year of assessment

All the income received by an individual during a specific tax year must be declared on the ITR12 tax return. Employees usually only declare income reflecting on IRP5 tax certificates and ignore income received from other sources, such as rental income.

A taxpayer who did in fact earn other income not reflected in his or her IRP5 and does not declare it on the ITR12 will be faced with a dilemma when SARS asks for bank statements as part of the supporting documents. His or her bank statements will show that the taxpayer indeed received other income which was not declared to SARS and SARS will issue an assessment which

TAX RETURN FAILS





is adverse to the said individual. The adverse consequences of such an assessment include charging severe penalties for understating income.

Taxpayers have a tax obligation to ensure that a full and accurate disclosure is made of all their relevant information, including all income received, as required in the income tax return. Misrepresentation, neglect or omission to submit a return or supplying false information is liable to penalties, additional assessments and, in some cases, criminal prosecution.

Provisional taxpayers failing to file provisional tax returns

Some taxpayers are automatically registered as provisional taxpayers. This, in turn, creates an obligation for them to file provisional tax returns as well as the final ITR12 tax return. Failing to file the provisional tax return when it becomes due will make the taxpayers liable for interest and penalties.

There is no formal registration needed to be a provisional taxpayer. A provisional taxpayer is any person who derives income, other than from employment; or any person who is notified by the commissioner that he or she is a provisional taxpayer.

Directors of private companies and members of close corporations are regarded as employees; therefore, they are not required to automatically be registered as provisional taxpayers unless they have income that falls within the scope of provisional income.

A provisional taxpayer is required to submit two provisional tax returns (IRP6) in a year of assessment, based on estimated taxable income. The first return is due by 31 August and the second by 28 or 29 February. "The easiest and quickest way to file ITR12 tax returns is online by using SARS' eFiling."

Choosing to manually submit

When completing an ITR12 return, a taxpayer should use an electronic submission through eFiling. The easiest and quickest way to file ITR12 tax returns is online by using SARS' eFiling. However, taxpayers must first register for eFiling on the SARS eFiling website.

There are a number of advantages to eFiling. For instance, the taxpayer is given the opportunity to save their return and file it later when they are ready to do so. Taxpayers also have the opportunity to use the tax calculator function to receive a pre-assessment of their submission, before a final assessment is done. Furthermore, a return filed via eFiling makes it easier to respond to a SARS audit or verification. Submitting a return through eFiling also gives taxpayers a full history of all submissions, payments and electronic correspondence available at the click of a button. In addition, submission via eFiling saves taxpayers time as they will no longer have to wait in long queues at a SARS office when the tax filing season commences.

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HOW TO DEAL WITH SARS QUERIES AND ASSESSMENTS

Queries from SARS can take various forms and require appropriate responses from taxpayers. We look at ways to deal with these queries to best effect.



► SUZANNE SMIT & RUAAN VAN EEDEN

axpayers will undoubtedly relate to the various challenges which arise during a query by SARS. The challenges may range from significant management time, financial resources and capacity constraints, to more substantial challenges such as the availability of the requested information; employees or key personnel who had intricate knowledge of the specific matter and who have since resigned; as well as the potential lack of skilled resources to deal with or interact with SARS auditors.

Taxpayers are increasingly immersed in SARS correspondence in an attempt to mitigate potential additional assessments and reduce the risk of an audit. Corporate taxpayers with a mature tax policy and sufficient resources are almost compelled in the current day and age to set up a dedicated tax department to deal with the constant influx of queries, whilst still allowing for business continuity.

Queries from SARS can take many different forms and, for purposes of this article, they refer to either an inspection, verification or audit as set out in section 40 of the Tax Administration Act, which could either be on a random or risk assessment basis.

In the context of an audit in terms of the Tax Administration Act, the tax administrative process follows a reasonably predictable sequence of events. This requires a taxpayer to be vigilant as to the prescribed time periods, responses and documentary requirements. An aspect often overlooked at the commencement of an audit is the potential for future tax litigation. All steps taken at commencement and during an audit will become crucially relevant where procedural matters come into question, which they often do.



"An aspect often overlooked at the commencement of an audit is the potential for future tax litigation."

Selection for audit

As stated above, and based generally on a random selection or a flagged enforcement or industry specific risk, SARS initiates an audit on a taxpayer. With reference to risk assessments, SARS primarily relies on information completed in annual tax returns and accumulated data over several years of assessment, including advance reporting of perceived risk areas through the reportable arrangement regime.

From a cross-border perspective, South Africa collects and provides valuable taxpayer information as a result of various international agreements entered into. As of 5 April 2018, according to the Organisation for Economic Co-operation and Development, South Africa shares information with 61 jurisdictions and receives information from 78 jurisdictions.

Informing the taxpayer of the commencement of an audit

There is currently no legal obligation on SARS to inform a taxpayer of the commencement of an audit. In practice though, taxpayers would generally be notified of an audit via eFiling. In the case of large corporate taxpayers, contact is often made directly with public officers or representative taxpayers.

The absence of notification has been addressed through the 2018 Budget proposals where it has been proposed to notify a taxpayer at the start of an audit as part of efforts to keep all parties informed. The proposed upfront notification, if passed into law, would assist taxpayers to plan and adequately deploy financial and management resources in advance.

Request for relevant material

In general, all sources of income should be verifiable and all deductions substantiated with "relevant material", which is defined in section 1 of the Tax Administration Act as "... any information, document or thing that in the opinion of SARS is foreseeably relevant for the administration of a tax Act ..." The definition is particularly wide and SARS may therefore request any relevant material which may be 'foreseeably' relevant for the administration of a tax Act.

"Relevant material" as defined may or may not be relevant to the audit and due to the broad and subjective nature of the definition, it would be very difficult to refute relevance within the ambit of this definition. In addition to books of account, e.g., annual financial statements, trial balances and management accounts, the definition of "relevant material" places a great emphasis on source documents in support of the books of account. Source documents may include signed contracts with ancillary tax invoices and receipts relating to the contracts; bank statements; policy documents relevant to a specific tax period; resolutions and minutes of board meetings; specific calculations and estimations; electronic correspondence leading to concluding a transaction; or a specific decision or general notes relating to key meetings. In essence, a source document would be any document in addition to the books of account which may either prove a particular income source or substantiate a specific deduction claimed in a tax return.

It is therefore crucial, especially for corporate taxpayers, to invest in an effective data storage solution which is easily accessible and which makes information and documents easily retrievable, even for new resources who may join a taxpayer after a specific tax period in question. Individual taxpayers should be meticulous in filing their books of account, documents and source documents in respect of specific tax periods and it would be prudent to ensure that backed up copies are easily accessible and retrievable.

A contentious issue which often arises when SARS requests relevant material relates to legal professional privilege. With reference to R (Prudential plc and another) v Special Commissioner of Income Tax and Another [2013] UKSC 1 the Supreme Court of the United Kingdom held that legal professional privilege is not extended to non-lawyers. There have been several cases in South Africa in the past two decades addressing this issue. In Van der Heever v die Meester en Andere 1997 (3) SA 93 (T), the court held that legal professional privilege was extended to salaried legal advisors in the private sector, for example a tax advisory firm. This precedent was confirmed in Mohamed v The President of the Republic of South Africa 2001 (2) SA 1145 (CC) in which Judge Hoffman held as follows: "to limit the scope of legal professional privilege to clients and lawyers in private practice is not, in my view, justified in law".

The precedent only extends, however, to an attorney or an advocate providing legal advice acting confidentially in his or her professional capacity and not for criminal or fraudulent purposes. It does not, for example, extend to a chartered accountant assisting a taxpayer with tax advice. Several other cases also followed the *Van der Heever and Mohamed* cases, but the precedent as set out above remains. Should a taxpayer assert legal professional privilege, the process as set out in Section 42A of the Tax Administration Act would apply and the taxpayer would need to follow this to the letter and disclose the required information accordingly.

"It is recommended to formally appoint a tax advisor or tax attorney as soon as possible and before the assessment is issued."

It would be prudent for taxpayers to confirm in advance of receiving tax advice whether it will be subject to legal professional privilege before being able to rely on it when SARS requests relevant material. Legal professional privilege is an exceptional assertion and should not to be claimed without just cause, and certainly not for frivolous reasons.

Informing the taxpayer of the progress of an audit

In terms of section 46 of the Tax Administration Act, SARS is obliged keep the taxpayer informed of the progress of an audit. Section 42 of the Act provides that a SARS official involved in or responsible for an audit must provide the taxpayer with a report indicating the stage of the completion of the audit in the form and manner prescribed by the Commissioner in a Public Notice.

SARS issued Public Notice No.788 on 1 October 2012 in *Government Gazette* No. 35733 in terms of which a taxpayer is entitled to a status update of an audit within 90 days after commencement of the audit and within intervals of 90 days thereafter. The report must include a description of the current scope of the audit, the stage of completion of the audit and relevant material still outstanding from the taxpayer.

Letter of findings stage

Once SARS has taken the information into account and the audit has been concluded, SARS is obliged to issue a letter of audit findings addressed to the taxpayer. The taxpayer then has 21 business days to respond to the letter of audit findings, i.e., the taxpayer may either agree or disagree (fully or partially) with SARS' findings. In terms of section 42(3) of the Tax Administration Act and based on the complexity of the audit, the taxpayer may request additional time to respond to the letter of audit findings.

SARS is obliged to take the taxpayer's response to the letter of audit findings into account before deciding whether or not to issue an assessment. This obligation is derived from the Promotion of Administrative Justice Act (PAJA). PAJA gives effect to the right to administrative action that is lawful, reasonable and procedurally fair, as well as to the right to written reasons for administrative action as contemplated in section 33 of the Constitution of the Republic of South Africa (the Constitution). If SARS is confident that there are adequate reasons to issue an assessment, after taking the response into account, it may then proceed to raise an assessment. The taxpayer may request reasons for raising an assessment in line with PAJA if it is not immediately clear or apparent from the assessment.

Taxpayers should carefully consider the letter of audit findings before responding to it comprehensively. If documents or information is required, taxpayers should confirm with the specific SARS auditor in writing if

(electronic) copies would be acceptable whilst originals (where applicable) are retained. Any reservations, counter-arguments or additional explanations relating to the letter of audit findings should be included (with case law and any other authority where possible) as this would be the last opportunity for a taxpayer to respond to SARS before an assessment is potentially raised. A thorough response may just mitigate an additional assessment.

Assessment stage

If SARS is confident that an assessment is justified, the assessment should then include adequate reasons for raising the assessment. A taxpayer that is aggrieved by the assessment, despite the reasons provided by SARS, may then proceed to object, within 30 business days, to the assessment in terms of section 103 of the Tax Administration Act.

The objection should include valid grounds of objection formulated through a well-reasoned and legally sound argument to defend the particular tax position taken. If SARS does not agree with the taxpayer's grounds of objection and either wholly or partially disallows the objection, the taxpayer may then appeal to either the Tax Board or Tax Court (with an option to opt in for alternative dispute resolution). The alternative dispute resolution proceedings should be held confidentially and without prejudice and this procedure is well-served where there is a dispute of fact, as opposed to a difficult interpretive issue.

Conclusion

It is important for taxpayers to familiarise themselves with SARS' powers and obligations, as well as taxpayers' rights and obligations in terms of the Tax Administration Act. Responses to letters of audit findings should be carefully considered and if the query relates to a complex tax issue, it is recommended to formally appoint a tax advisor or tax attorney as soon as possible and before the assessment is issued.

The move to a full self-assessment system will seek to open up more enforcement capacity for SARS, which will result in an increase in queries. The "audit-ready" taxpayer will be able to address queries more effectively, reducing the risk of assessments being raised.

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THE SARS REFUND PROCESS



NICO THERON AND DENISE ROODT

Sometimes taxpayers receive assessments stating that they are entitled to a refund, only to be informed that their tax affairs are subject to an audit or verification. Read on to learn about the SARS refund process.

eing assessed to a refund only to be selected for an audit/verification is often perceived as being similar to giving a child an ice cream only to tell her she can't have it yet and that you may decide to take it back.

Since SARS is within its rights to withhold a refund of a particular tax year if that year is under audit or verification, the ice cream analogy above will ring true for many taxpayers. Sometimes, however, SARS also incorrectly withholds refunds – like telling a child she can have an ice cream, only to put it out of her reach.

In this article, we discuss the link between refunds and audits and how a taxpayer can approach an audit or verification to ensure its expeditious finalisation, as well as when taxpayers are entitled to interest on income tax refunds. We will also look at when a refund is due despite a pending audit or investigation and some of the remedies available to secure payment of a refund being incorrectly withheld.

The link between tax audits and tax refunds

A tax refund arises simply as a result of the overpayment of tax by the taxpayer through the employees' tax or provisional tax systems. In our experience, taxpayers will overpay tax through one of these systems for various reasons, including:

- The fear of being penalised for underestimating provisional tax
- Employers or taxpayers taking an overly prudent approach to the calculation of the employees' tax or provisional tax respectively

- Employees claiming medical tax credits or deductions or retirement annuity fund contributions not taken into account by their employers when calculating their PAYE
- Employees claiming for business travel
- Assessed losses from trading activities being set off against employment income
- Claiming an exemption on the final return that was not taken into account under the provisional tax or employees' tax system

SARS can select the taxpayer for audit on any consideration relevant to the proper administration of a tax Act, including on a random or risk assessment basis. Suffice it to say that a taxpayer in a refund position will arguably always be a consideration relevant to the proper administration of a tax Act or at least an indicator of risk. Best be prepared to deal with it!

How to approach a tax audit or verification

Most audits or verifications start with a request for relevant material. In the "simple cases" where SARS asks for specific documents, dealing with the audit or verification is a simple exercise. In this instance, you can simply give SARS the information they are asking for (assuming it actually exists and is available). In our experience, it also helps to prepare an easy to follow index and to properly cross reference the documents provided in response to SARS' request – almost like preparing an audit file.

While providing something like an audit file may be considered by some as "marking your own









"A taxpayer in a refund position will arguably always be a consideration relevant to the proper administration of a tax Act or at least an indicator of risk."

homework", doing so has various benefits, including benefits associated with bigger picture dispute resolution strategies.

Problems arise where SARS does not ask for specific documents, such as in standard verification requests where the taxpayer is asked to provide "Any other documents relevant to your declaration". What is SARS asking for? What are you supposed to give them?

Stated simply, they are ultimately asking the taxpayer to give them the documents or material necessary to discharge the taxpayer's onus of proof in respect of declarations made in the tax return. What relevant material the taxpayer would have to give SARS will depend on the particular return and particular facts. The following example serves to illustrate a typical response to a vague request:

Example

Assume a taxpayer claimed an assessed loss from residential rental activities on the tax return (not ring fenced), has one IRP5 and gets assessed to a refund. Shortly after the assessment is issued, the taxpayer receives a "verification of income tax return" notice. In the notice, SARS requests:

- "IRP5/IT3(a) employee income tax certificates in respect of remuneration income and lump sums from your employer/pension fund;
- IT3 certificates (for example IT3(b) and (c)'s) from financial institutions in respect of interest and capital gains;
- Medical scheme certificates and receipts;
- Income protection and retirement annuity certificates:
- Your travel logbook and/or invoices or detailed calculation in respect of travel claims: and
- Any other documents relevant to your declaration."

In this example, the taxpayer must obviously provide a copy of the IRP5. While SARS indeed has a copy of the IRP5, suffice it to say that employers often make corrections to the certificates, resulting in mismatches. SARS did not ask for anything in particular relating to the loss from rental activities. Does that mean the taxpayer does not have to give SARS anything in that regard? Some might argue the taxpayer would indeed not have to provide anything or that the information request is unlawful. In our experience, however, unless the taxpayer is prepared to litigate or enter into a dispute with SARS, the path of least resistance would be to give SARS something.

The typical approach in this example would be to provide SARS with at least an income statement that actually ties in with the figures in the return. A typical "incorrect" response would be to bury SARS in paper work: invoices, bank statements and schedules with no or confusing headings that relate to invoices included somewhere in a pile of papers uploaded to eFiling, in between other irrelevant documents. More often than not, this approach results in additional assessments (whether rightly or wrongly so) that extinguish the refund and in the imposition of understatement penalties.

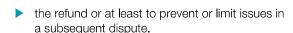
Providing SARS with an income statement may, and normally does, result in more specific requests from SARS. For example, SARS may request detail of repairs and maintenance, reflecting the amount incurred, date incurred and the nature of the repairs and maintenance. The typical "incorrect" response is a pile of invoices that do not tie into the repairs and maintenance expense on the income statement. A better response is a schedule (that actually ties in with the income statement), breaking down the repairs and maintenance expenses with cross referenced invoices in support of each item on the schedule. Laborious indeed but, in our experience, arguably the quickest way to expedite the audit or verification and to secure











What about interest on delayed refunds?

Natural persons who are provisional taxpayers are entitled to interest on overpayment of provisional tax (provided the taxable income for the year exceeds R50 000 or the excess provisional tax paid is at least R10 000) despite the refund being withheld as a result of an audit or verification. Interest should be calculated from the last day of September (in the majority of cases) following the tax year in question up to the date that SARS pays the refund. Interest must be calculated at 6% (as at the date of drafting this article).

Natural persons who are not provisional taxpayers are not entitled to interest on refunds arising in consequence of over deduction of employees' tax.

When is a refund due despite an audit or verification?

As stated above, if SARS is conducting an audit on the refund in respect of which a taxpayer seeks payment, the refund is not required to be paid yet. In these circumstances, however, taxpayers could try to provide SARS with acceptable security in which case the refund must be released (provided the security is acceptable to SARS) and despite the audit or verification not being concluded at such time. If, however, SARS is conducting an audit on a different tax year than the one in which the refund arises, SARS may not withhold payment of the refund on the basis of the audit on the other tax year alone.

There have been allegations that SARS has deliberately withheld tax refunds, so that it could reach its revenue target. In this regard, according to the Tax Ombud, Judge Bernard Ngoepe, "for the past three years, the office has consistently been flagging this problem as an emerging systemic issue", and his office has undertaken an investigation after an escalation of complaints between 2016 and 2017. In the report signed off by then Finance Minister Malusi Gigaba and presented to then SARS Commissioner, Tom Moyane, the Ombud concluded: "it is clear that the system allows for SARS to unduly delay payment of verified refunds to taxpayers in certain circumstances. This has become a systemic issue. The system does not sufficiently protect taxpayers".

What if SARS does not pay a refund that is required to be paid?

Obvious remedies include approaching the Complaints Management Office or the Tax Ombud. In our experience, however, these remedies are sometimes not fruitful. In these cases, a more drastic option would be to institute litigation proceedings against SARS. In conclusion, if you get assessed to a refund only to be selected for audit or verification, do not be surprised. In fact, be prepared. If the matter is dealt with effectively and efficiently, you will get to have the ice cream sooner rather than later. But you should also know when SARS is simply placing the ice cream out of your reach. In this case you would be wise to seek help.

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The Tax Helpline service is available exclusively to SAIT members. Log your tax-related technical queries via www.thesait.org.za



We present some of the questions most frequently presented to SAIT and TaxTim about income tax, and the tax experts' answers to them.

Q How do I file if I am unable to obtain an IRP5 from my employer?

You could check on your eFiling profile, or call SARS, to see if your employer submitted one for you. If they did, it is possible to go ahead and submit your tax return on eFiling. However, it would be advisable to rather go to your nearest SARS branch with your documents (i.e., payslips, bank statements and an affidavit in which you explain that you did not receive your IRP5 from your employer). SARS will pull your IRP5 from their records, compare it to your documents and then submit your tax return for you. The reason we suggest you visit SARS (rather than simply submitting), is to avoid issues down the line should SARS request documents from you. If this happens and you cannot provide an IRP5, SARS will disallow your PAYE credits altogether and you'll have further delays to resolve this.

However, if there is no IRP5 under your profile, you will unfortunately have no choice but to go into your nearest SARS branch with the same documents noted above. SARS will estimate an assessment for you based on the documents you provide. Taxlim

How can I pay SARS?

Q How is my Airbnb rental income taxed?

You can pay SARS via an electronic funds transfer. You cannot add SARS as a personal beneficiary on your account but they are listed as a predefined beneficiary on all local banks. You can make once-off payments to SARS, depending on the type of tax you need to pay (i.e., provisional tax, assessed tax, PAYE or VAT).

In order to find the exact payment details, you can draw a Statement of Account and then scroll down to the remittance advice at the bottom, which will contain the outstanding amount as well as the payment details. It is very important to use the correct payment reference number as reflected on the Statement of Account so that SARS can allocate your payment correctly to your account. This is always a 19-digit number which starts with your 10-digit tax reference number. The numbers or letters that follow will depend on the type of tax you are paying. STaxlim

Will my bitcoin profits be taxed?

Yes, you are liable to pay tax on your bitcoin profits. SARS recently issued a notice stating that bitcoin is to be treated as a normal share trade. So, if you are trading it for speculative purposes with the intention of making a profit, then the gains and losses will be treated as a revenue transaction and taxed the same as normal income, for example salary. If, however, you hold it for three to five years for investment purposes, then the gains would be treated as if they were normal capital gains on sale. Taxlim

The rental income and related expenses must be declared in the rental income section of the ITR12. All costs incurred in earning the rental income are deductible. These would include electricity, water, rates, levies, Airbnb platform expenses, agent's commission, accountant fees as well as the interest on the mortgage bond. Repairs and maintenance expenditure on the property can also be claimed. Remember this is different from improvement or renovation costs which are not deductible but are added to the base cost of the property to reduce capital gains tax on the sale in future. Taxlim



I pay the medical aid contributions for my mother-inlaw and her mother, who are financially dependent on me. They are the main members but I pay the premium. Can I claim this?

Yes, you can claim medical contributions you pay for somebody who is financially dependent on you. In the ITR12, there is a separate section in the Medical part which requests you to enter details of a medical aid (where you are not the main member) which you pay for a dependant. **Taxlim**

I don't belong to a medical aid but I have claimed for medical expenses. Why don't I see these reducing my tax on assessment?

SARS applies a complicated formula to work out your medical credit and, as a general rule, your additional "out-of-pocket expenses" need to be greater than 7.5% of your taxable income in order for you to receive a medical credit. Therefore, even though you did pay for qualifying medical expenses and have all the relevant documents to prove the costs, you may not see a medical credit on assessment if they are not substantial enough. Taxīim

• How is my 13th cheque or bonus taxed?

There is no special tax rate for a bonus payment. It is simply added to your salary and taxed per the normal PAYE rates. The bonus sometimes pushes taxpayers into a higher tax bracket which may result in what seems like an alarmingly high amount of tax being withheld. Employers use different ways to calculate the tax on these ad hoc payments and some produce more accurate results than others. If you do end up overpaying tax on your bonus, the correct tax will be calculated on assessment and you will receive a refund. **Taxīim**

I am a commission earner with fluctuating income every month. How can I manage my PAYE deductions?

You can apply for a tax directive, which is an instruction from SARS to your employer for your tax to be deducted at a set, fixed rate each month. SARS will not consider an application for a tax directive if you don't submit a detailed income and expense statement with it.

Remember, though, that a tax directive is based on income estimation: it is not your full or final tax liability. Your annual tax assessment, based on actual earnings, will determine the total tax due, which may or may not result in a further amount payable to SARS. **TaxTim**

Q I work for an overseas company that does not have an office or branch in South Africa. They pay me my gross salary in Euros. How do I manage my tax affairs?

Since they are not registered as an employer in South Africa, you will not be able to pay tax via the PAYE system. You will need to register as a provisional taxpayer in order to pay tax twice a year on your earnings. **TaxTim**

Q Based on section 7C loans, we wish to confirm the following: A trustee can donate R100 000 per year to beneficiaries. Based on an 8% interest rate, this means that there is effectively no donations tax for loans below R1 250 000. Now the beneficiary has a loan of R100 000. Is this subject to donations tax of R1 600 if this loan is treated as an interest free loan?

Some comments are necessary. Section 7C applies where the person who provided the loan, advance or credit to the trust is a natural person and a person who is a connected person in relation to the trust. A trustee would not, in his or her capacity as a trustee, be a connected person in relation to the trust.

It would not be correct to say that where the section 7C(3) amount is less than R100 000 no donations tax applies. A taxable donation, by any person, is only subject to donations tax if the aggregate of the amounts donated during the year of assessment exceeds R100 000. It is where the section 7C amount determined on the last day of the year of assessment, together with the other donations made during the year of assessment, is R100 000 or less that no donations tax arises.

From the facts it is clear that the amount was not donated to the trust, but to a beneficiary of the trust. A beneficiary of the trust is a person who is a connected person in relation to the trust.

Section 7C(1), after its amendment last year, applies where a person (the beneficiary in this instance) acquires a claim to an amount owing by a trust in respect of a loan, advance or credit referred to in section 7C(1), and that person (the beneficiary) is then, for purposes of section 7C, treated as having provided a loan, advance or credit to that trust. We submit that the beneficiary acquired the loan – by way of donation that is. Sait

My client is a travel agent. The car rental company they use has a loyalty programme. Every time a customer books a car, the employee who booked the car gets 1 moola. 1 moola = R1 to use on a "credit card" received from the vehicle rental company. Should the rewards received by the employees for booking the vehicles be included in their personal income tax?

The incentive received has a cash value (see 69 SATC 205 -Brummeria) and falls into the definition of "gross income" as contained in section 1 of the Income Tax Act, and should be included as income in a taxpayer's income tax return. Satt

 My client is registered for provisional income tax as she owns her own company. She does work for customers in her company capacity as well as in her personal capacity. In her personal capacity, she is a well-known journalist and in her business capacity, she does web design and development. When she works for a customer, she tells the customer not to deduct PAYE for her jobs or for her three-month journalistic stints at local news companies. Yet they have deducted PAYE from her and paid it over to SARS. She is worried this will have a negative effect when it comes to tax filing season, as she is seen as a provisional taxpayer in the eyes of SARS.

You mentioned that the individual also renders services through a company. We accept that no guidance is required in respect of those services. The income that she takes from that company will more likely than not be remuneration, subject to the withholding of employees' tax.

From an income tax point of view an employer - employee relationship exists the moment remuneration is paid. Generally speaking, a person making payment to an individual (in respect of services rendered) by way of a fee would have an obligation to deduct employees' tax from that payment unless the individual rendered the services in the course of a trade carried on independently (as required by proviso (ii) to the definition of "remuneration" in paragraph 1 of the Fourth Schedule to the Income Tax Act) by him or her. But note that, in this regard, a person will be deemed NOT to carry on a trade independently if the services are required to be performed mainly at the premises of the person by whom payment is made or the person to whom the services are rendered AND the person rendering the services is subject to the control or supervision of any other person as to the manner in which the duties are performed or as to her or his hours of work.

As explained, in the current practice generally prevailing (issue 4), it "is the responsibility of the employer to determine whether the provisions of exclusionary subparagraph (ii) of the definition of "remuneration" are applicable and whether payments are subject

to employees' tax." It is SARS' view that the employer "is in the best position to evaluate the facts and the actual situation".

The interpretation note deals with the statutory tests (including how to apply the statutory tests) and the common law dominant impression test. The flow diagram on page 19 of the interpretation note is useful.

The general principle was explained as follows by Judge Streicher in the Niselow case. The Judge said that "... an employee is a person who makes over his or her capacity to produce to another; an independent contractor, by contrast, is a person whose commitment is to the production of a given result by his or her labour ..." The judge then concluded by saying that the relationship between the parties must remain one in terms of which the person doing the work undertook to produce a certain result and not to render personal services to a person paying for them, to be a contract in terms of which independent services are rendered.

The fact that the individual may be a provisional taxpayer is

If employees' tax was withheld from payments to your client it will not have a negative effect when her return is filed. The return allows for the amounts reflected on an IRP5 to be "deducted" from the income declared in the trade part – it avoids the amount being taxed twice. The employees' tax paid will have been taken into account when the provisional tax was paid. Satt

 I am struggling to confirm the main changes on the new section 11F that has replaced section 11(k). What is the difference between these sections?

Under section 11(k) you could deduct contributions to pension funds. Under section 11(n) you could deduct contributions to retirement annuity funds. You got no deductions for contributions to provident funds. So they decided to unify these deductions, and did so by introducing section 11F.

You now look at your total contributions to all three kinds of funds together. You may deduct these contributions up to the lesser of:

- 27.5% of the higher of your remuneration or your taxable income (excluding the PBO donation deduction in section 18A), or
- R350 000.

If your total contributions are less than R350 000 or the 27.5%, you may claim only the amount of the contributions. Satt



TAX APPs

We rounded up some of the tax apps available to simplify life for taxpayers and tax professionals. Here they are!

TAX EXPENSE TRACKER

www.taxtim.co.za

Staying organised is the only way to maximise your tax refund when tax season comes around. You need to provide proof of all your expenses to claim everything you can as a deduction on your tax return.

Use TaxTim's handy Tax Expense Tracker to find out what you can deduct, keep track of your allowable expenses and view consolidated reports month-by-month or at year end. Store a photo of your receipt with every expense.

Just another way TaxTim makes tax easy.

COST: Free.

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hApp-e-tax

www.hApp-e-tax.co.za

hApp-e-tax is a professional South African income tax legislation App. Its many features include: South African Income Tax Act. Tax Administration Act, Interpretation Notes, Double Taxation Agreements (DTAs), comprehensive definitions lists, over 120 tax topics, personalised notes and personalised information folders. It has an intuitive search function and fast navigation. The App does not require internet connection and provides free, real-time updates. Designed by a highly qualified South African tax expert for professional tax consultants, accountants, lawyers, CEOs, CFOs, financial experts, bookkeepers, students. Within a few months since its launch the app has sold hundreds of copies and has received rave reviews!



COST: R489 (SAIT members get 20% off this price), with a 90 day free trial – you only pay after 90 days.

HOW TO DOWNLOAD: Apple App Store or Google Play Store.

PKF TAX GUIDE

www.pkf.co.za

The PKF Tax Guide provides offline support that enables tax professionals to obtain a summary of tax information. The app allows for the simplification of complex tax provisions and grants quick access to information regarding domestic and international taxes.



The app currently includes:

- the PKF SA Tax Guide
 - » Updated on an annual basis and released on the day of the Budget Speech
 - » Contains the latest South African tax rules over a wide range of taxes such as income tax (including capital gains tax, donations tax, dividends tax and withholding taxes), VAT, transfer duty and estate duty.
 - » Contains the following useful tools:
 - SARS interest rates applicable both historically and as at the date of publication
 - Withholding tax rates applicable in respect of dividends, interest and royalties as determined in accordance with the relevant double taxation agreements
 - IRP5 code table
- The PKF Africa Tax Guide
 - » Effectively summarises the various taxes applicable in 27 African countries and is extremely useful for entities that operate in Africa
- The PKF World Wide Tax Guide
 - » Effectively summaries the various taxes applicable in more than 120 countries.

COST: FREE

HOW TO DOWNLOAD: Currently only available on Apple devices and can be downloaded from the Apple App Store.

LITTLE LOGBOOK GLOBAL

www.littlelogbook.net

Little LogBook is a mileage tracking application, specifically developed for SARS and business mileage claims, with no monthly or annual fees. Turn your mileage into money with accurate electronic GPS trip data and greatly reduce administration, with automated categorising of business and private activities. View vehicle activity, routes travelled, speed along the route and generate a multitude of reports in .pdf, .csv, .xls and .kml.



COST: R1 149

HOW TO DOWNLOAD: Simply go to our website www.littlelogbook.net or click on the download link http://www.littlelogbook.net/downloads.asp

SATAX CALCULATOR

www.dapps.co.za

SA Tax Calculator is a quick and easy way to calculate your personal income tax. It was launched in 2012 and specifically designed for South Africans. With nearly 100 000 downloads SA Tax Calculator is the most popular South African personal tax calculator.



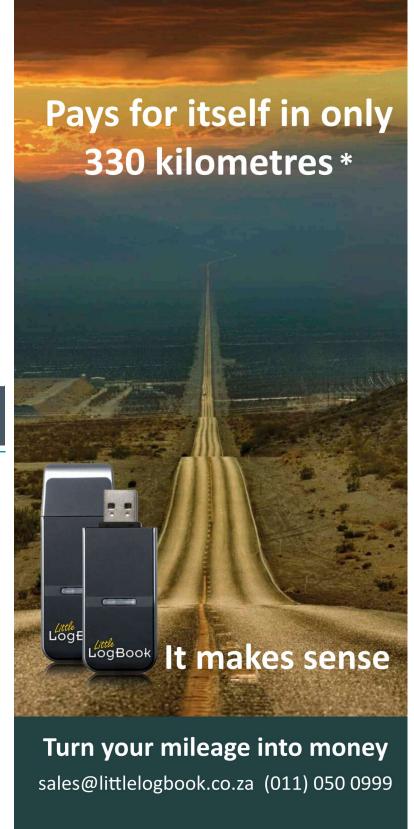
SA Tax Calculator helps you calculate the amount of PAYE that you need to pay on your monthly income along with your take home pay and easily compares it to previous years.

Features:

- Calculate monthly tax
- Calculate take home pay
- Quick reference to tax tables
- Graph tax comparison
- Compare monthly tax to previous years
- Advance calculations that include pension fund, travel allowance and UIF

COST: FREE

HOW TO DOWNLOAD: Android Play Store.





* based on SARS Prescribed Reimbursement rate for 2018-2019 Tax Season - R3.61

TAXPLANNER

www.taxbox.co.za/package/taxbox-taxplanner

TaxPlanner is a product of Tax Box Solutions Pty Ltd, a software application for individual tax calculations and administration.

Analyse, plan, administer and prepare your clients' tax the quick, accurate and convenient way. The ideal, easy to use, client database application, saving you time and money.

Prepare your clients' tax in advance prior to assessment. All tax calculations with all applicable rules built in. As you enter information, the calculations are done instantly and displayed on the screen, and this powerful feature alone can save you hours providing "What If?" analysis.

As the tax knowledge is built into the application, detailed calculation breakdowns on company owned vehicles; medical expenses, contributions and fringe benefits; lump sum benefits and pay outs; and much more, are available to the user.

Other features are Business Income Assessment, Investment Income, Provisional Tax Calculations, Asset and Liability and Cash Flow Analysis.

Additional secretarial software is SecForms for managing all your important client information, making client company information retrieval quick and easy.

Also for keeping track of reference numbers for registrations, income tax, VAT and PAYE; company resolutions and amendments.

Built-in reminders of when CIPC annual returns fall due.

Documenting who the directors and/or shareholders are.

Share register and certificate issuing.

Demo can be downloaded here: http://www.taxbox.co.za/downloads/SecFormsSetup.exe

COST: R950 to R7 000 (dependent on database capacity)

HOW TO DOWNLOAD: The TAXBOX Demo can be downloaded here: http://www.taxbox.co.za/downloads/19SLSetup.exe



www.journeyorganizer.co.za

taxbox

The oh-so-simple way to get a SARS refund - and pay less tax!

You can pay less tax, and get a sizeable SARS refund if you're self-employed, a business owner or a corporate employee incurring travel expenses in the production of income, or if you receive a travel allowance – but only if you keep a SARS-compliant travel logbook.

Journey Organizer makes it oh-so-simple to keep to a SARS-compliant logbook – on your smartphone! Simply plug the dongle into your vehicle's 12V socket, download the app to your smartphone, and pair the two via Bluetooth. Journey Organizer will automatically log your travel and time data, and flagging a trip for business is as simple as pushing a button on the device or recategorising the trip from the app.

The dongle doubles as a high-current USB port to charge other devices and ensures minimal mobile device battery-drain. There is no need to enable location services for the app, or the need for a PC as JO is fully mobile. Accurate travel reports are generated instantly from your smartphone. And your data is safe, even if you lose your phone. JO is backed by a full 24-month warranty.

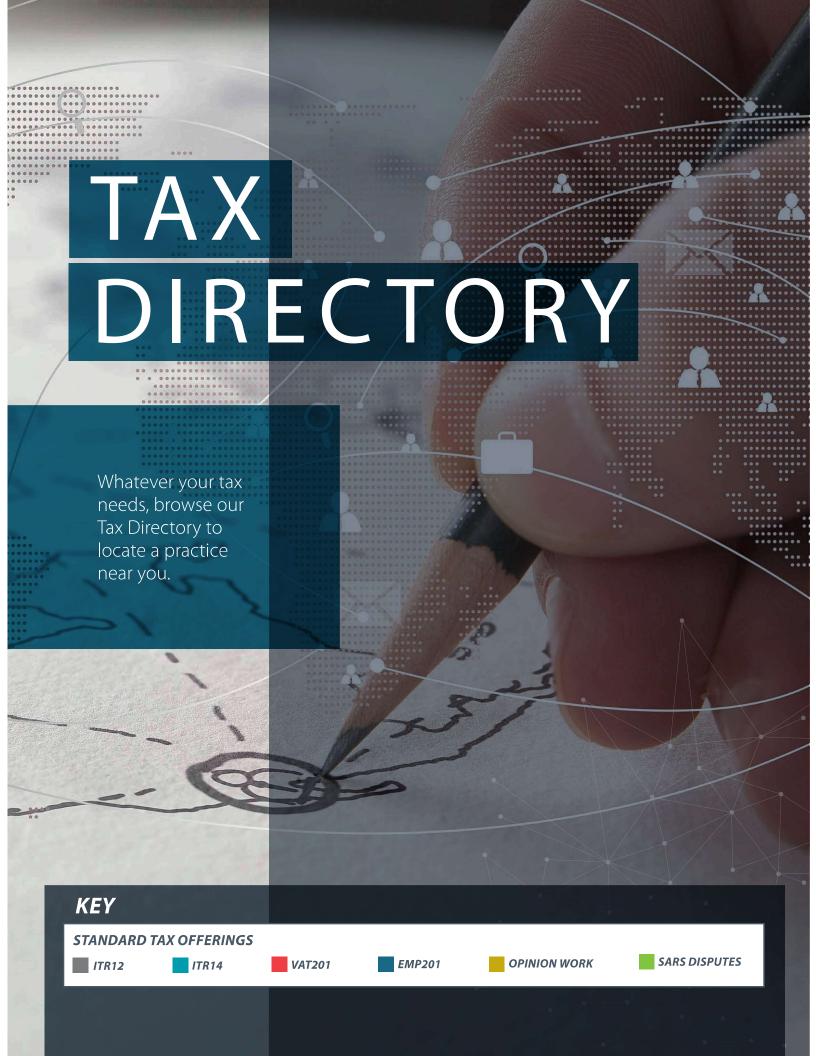
Cost: R1 195. The JO hardware is a once off purchase to cover the hardware costs. Download the JO App and start using JO immediately without any payment for the first 12 months. Thereafter, users will be charged a fee of R29.00/m for each registered JO hardware unit. T&Cs apply.

COST: R1 195. The JO hardware is a once off purchase to cover the hardware costs. Download the JO App and start using JO immediately without any payment for the first 12 months. Thereafter, users will be charged a fee of R29.00/m for each registered JO hardware unit. T&Cs apply.

HOW TO DOWNLOAD: Google Play Store or Apple App Store.







FREE SATE



FINAPEX FINANCIAL SERVICES

Zana Potgieter, Director



074 990 4484



zana@finapex.co.za



finapex.co.za

FinApex strives to provide an accurate & timely record of all your taxation & other financial transactions. FinApex promises that our clients will be aware of all the necessary compliance guidelines during these transactions. Fin Apex has the ability to bring a comprehensive knowledge of the financial sector, which changes from time to time.

RANKING OF STANDARD TAX OFFERINGS:











BAZINGAWORX (PTY) LTD

Gareth Hardy, Director



083 675 8228



gareth@eticlaim.co.za



eticlaim.co.za

BazingaWorx is an employment tax incentive (ETI) specialist. We focus on clients who have existing payroll systems & already claimed ETI. We assist clients in accessing the unclaimed benefit & we also ensure there are no ETI losses going forward.

RANKING OF STANDARD TAX OFFERINGS:











CREST TRUST HOLDING INC

Ian Brink, Managing Director





ian@ctrust.co.za



a ctrust.co.za

At CREST TRUST we comprehend the inevitability of death & its ensuing uncertainty. particularly financial insecurity. For this reason, our specialised unit, Crest Trust Fiduciary Services, was established to render support to clients in their time of bereavement, in addition to extensive estate planning.

CRESTTRUST not only assists with the drafting of wills & the administration of deceased estates, but also plans ahead in terms of the registration of trusts, relevant contracts, codicils & other legally binding agreements that come into effect in the event of death or contested

CREST TRUST also discharges an important supporting role in the areas of estate planning &

We offer specialised tax advice on estate duty, VAT, CGT, transfer duty & related taxes as a supporting service to our core business of fiduciary services above, as well as the legal auditing & management of trusts; comprehensive estate planning & structuring; & the drafting of fiduciary-related contracts & agreements.



GENEVA MANAGEMENT **GROUP**

Mr Ruaan van Eeden, Managing Director



011 268 1560



ruaan@gmgfinancial.com



gmgfinancial.com

 $\mathsf{GMG's}\ \mathsf{highly}\ \mathsf{experienced}\ \mathsf{tax}\ \mathsf{practitioners}\ \mathsf{provide}\ \mathsf{bespoke}\ \mathsf{tax}\ \&\ \mathsf{exchange}\ \mathsf{control}\ \mathsf{solutions}$ in a complex domestic & international business environment. GMG's global reach & integrated advisory through to implementation approach, positions us at the forefront of client risk mitigation & opportunity identification.

RANKING OF STANDARD TAX OFFERINGS:





HSFM & TAX CONSULTANCY CC

Alister van Zyl, Member



011 056 6090



alistervz@hsfm.co.za



hsfm.co.za

With offices in Johannesburg & Port Elizabeth, HSFM provides a professional accounting & taxation service to individuals & small to medium business corporations. We work closely with clients, providing them with the necessary services to survive in today's competitive market. Optimum results are achieved through excellence.

RANKING OF STANDARD TAX OFFERINGS:









JOTLAD CONSULTING 'Dipo Ajibade, Director

011 399 5355

dipo@jotlad.co.za



jotlad.co.za

We provide excellent tax-related services to our clients, & carefully interpret & apply relevant laws. We take reasonable care in completing all returns & respond promptly to audit-related queries or letters of audit findings. We are reliable & diligent.

RANKING OF STANDARD TAX OFFERINGS:









M XULU AND ASSOCIATES

& Associates Loutjie Steenberg, Executive Assistant



0875501881/ 0813285482



loutjie@mxuluandassociates.co.za



mxuluandassociates.co.za

M Xulu and Associates specialises in tax, management consulting & business advisory. This incorporates payroll management, training & skills development, capital raising & financial planning, business turnaround & rescue, corporate governance, statutory compliance (i.e., UIF, COID & CIPC registrations & returns), B-BBEE advisory, tax consulting & debt counselling & rescue to mention but a few services that we offer including other professional services.

RANKING OF STANDARD TAX OFFERINGS:













MFG ACCOUNTANTS INC.

Paul Andrew Cassells, Director





MEG Accountants Incorporated is a multi-disciplined firm of registered auditors/chartered accountants practicing in Lynnwood, Pretoria.

Our directors & associates are all registered as tax practitioners with SARS. Our tax personnel enjoy many years of experience in the tax field, including:

- Tax return preparation
- Monthly, provisional or annual tax returns
- Tax compliance
- Objections & dispute resolutions
- Understanding of tax matters
- Assisting with all tax audits
- Tax planning

RANKING OF STANDARD TAX OFFERINGS:





NK ACCOUNTING SERVICES

Nikki Kennedy, Master Tax Practitioner (SA); Professional Accountant (SA); ACMA, CGMA



012 665 3574



nikki@nkaccounting.co.za



nkaccounting.co.za

We provide financial & management accounting, taxation & payroll services. Contact us for your personal income tax return – we will quide you to ensure all relevant income & deductions are covered. We pride ourselves in providing professional, quality services.





NOBLE PROSPERITY PTY

Renate Jute, Director



072 434 9880



renate@noblegroup.co.za



noblegroup.co.za

Specialising in trust accounting & administration since 2001, I have dealt with over 7 000 trusts. As an educated Certified Financial Planner & Executor of Estate, I believe in a holistic approach to tax, estate & financial planning – ensuring your prosperity. Services include: trust accounting & administration, estate planning, executor of estates services, financial coaching & opinion work.



SHAMU BOOKKEEPING SERVICES (PTY) LTD

Mike Herholdt, Managing Director





mike@shamubookkeeping.co.za @ shamubookkeeping.co.za



Shamu Bookkeeping Services has offices in Johannesburg & the Vaal Triangle. We offer complete comprehensive tax & accounting services to both personal & corporate clientele. All we require from you, the taxpayer, is full disclosure.

We specialise in the preparation & submission of simple & complex personal tax submissions, & this for a nominal fee starting from R285 (exclusive of VAT). Your fee is based purely on the content of your tax submission & is quoted to you in advance. The fee you are quoted is the fee you pay, no hidden costs or add-ons at a later stage.

We will also assist you with any SARS disputes or SARS objections or appeals, should you feel that SARS may have misinterpreted the facts of your tax submission(s). Our tax professionals & practitioners are on hand to assist you with any SARS matters.

We have staff on hand to assist you or your employees with registering on SARS eFiling so that they may have continued access to their tax affairs in years to come.

We attend to assist with all businesses & corporate company tax returns, VAT201 returns, ${\it EMP201\&EMP501\ returns.} We have become proactive in assisting tax payers with dealing with$ ITR14SD & dividends tax returns.

RANKING OF STANDARD TAX OFFERINGS:











TAX CONSULTING SOUTH AFRICA

Christopher Renwick, Admitted Attorney



011 467 0810



admin@taxconsulting.co.za



taxconsulting.co.za

Comprehensive SARS dispute resolution assistance for tax practitioners, accountants & lawyers. Specialist support on your clients' complex & large quantity items, securing quicker & better legal outcomes. Includes SARS processes & resolving matters through tax board, tax court & high court.

RANKING OF STANDARD TAX OFFERINGS:









UNICUS TAX SPECIALISTS SA

Nico Theron, Founder



012 880 0549 076 396 4375



ntheron@unicustax.co.za



unicustax.co.za

Unicus Tax Specialists SA is a niche tax advisory service firm specialising in corporate income tax & VAT, more specifically in the context of VDP applications, tax opinions, tax dispute resolution, advance tax rulings & non-binding private opinions.

RANKING OF STANDARD TAX OFFERINGS:





VENTER DE JAGER (PRETORIA) INCORPORATED

Gerhard van der Berg, Director



012 346 1043



info@vdjpretoria.co.za



vdjpretoria.co.za

As a registered tax practice, VDJ is equipped to deal with all tax needs, ensuring clients receive the most up-to-date information. VDJ can assist with the registration of all tax types, submission of returns, reviewing of assessments & submission of objections.

RANKING OF STANDARD TAX OFFERINGS:











REVELATION CONSULTING

Leslie Bernard Chetty



031 207 6675



lbchetty@revcon.co.za



www.revcon.co.za

Revelation Consulting has been working with SARS over the past 20 years & is extremely conversant with the various tax acts & SARS systems. Revelation Consulting has a proud history of resolving many tax audits & disputes.

RANKING OF STANDARD TAX OFFERINGS:









WORLDWIDE TAX SOLUTIONS (SOUTH AFRICA AND UNITED KINGDOM)

Teresa Seaton, Master Tax Practitioner & Accountant





teresa@worldwidetax.co.uk



worldwidetax.co.za

We focus on the application of relevant tax & accounting laws both locally & internationally. We deal with all accounting & tax-related issues pertaining to local individuals, companies, expatriates, off-shore oil industry personnel, commercial divers, off-shore riggers, & both local & foreign-going seamen. We focus on all accounting & tax issues pertaining to individuals, close corporation, companies, insolvent estates, deceased estates, trusts, nonprofit companies, public benefit organisations, emigrations, etc. We offer presentation to individuals & companies on the "Education of Taxes" & "Soft Skills" ranging from selfdevelopment to strategic management. Our personnel have extensive operation knowledge on South African, UK, Australian & Canadian taxation system. We have a branch in the United Kingdom dealing with all queries relating to HMRC & assisting South Africans living abroad with their SARS queries. We liaise with SARS on all dispute & legal related matters including payroll structure & strategic company portfolio planning. We aspire to be a company that is focused, well integrated, flexible, accountable, proud, motivated, skilled & professional.

RANKING OF STANDARD TAX OFFERINGS:





RILASCAN ACCOUNTANT

Simphiwe Malaza, Director



018 465 7465 / 079 9670 879



simphiwe@rilascan.co.za



www.rilascan.co.za

Getting tax matters off the hook has never been easier thanks to the accessibility of reliable service from Rilascan Accountants. We cater for SMEs and assist with filing their tax returns hassle-free. Our prices are very competitive and we enjoy representing our clients (section 153 of the TAA).

RANKING OF STANDARD TAX OFFERINGS:









WESTERN CAPE



AFRICORP AFRICORP ACCOUNTING

Lelanie Murphy, Director



083 234 5092



lelanie@africorpsolutions.co.za



africorpaccounting.co.za

Africorp Accounting is a niche South African tax & accounting firm with services that are complimented by an expert team consisting of chartered accountants, master tax practitioners, admitted attorneys & legal advisors, We offer a comprehensive tax accounting solution, while attending to secretarial duties & payroll obligations.

RANKING OF STANDARD TAX OFFERINGS:





DLR GROUP PW Esterhuizen, CA(SA) TEP RA



086 187 3255



pieter.esterhuizen@dlr.global



dlr.global

The DLR Group is an international financial advisory business. Our main focus is family & business advisory. We offer a variety of wealth, fiduciary, local & international tax, & accounting related services. The new merged DölbergLumenrock was established in 2017 with our oldest office established in 1914. We have offices all around Southern Africa.

RANKING OF STANDARD TAX OFFERINGS:











FINTAX

Diane Pardoe, Accountant and Tax Consultant



021 782 5575



dianedavpic@iafrica.com



fin-tax.co.za

An accounting/tax consultancy which has been in operation for the past 20 years, offering top quality accounting & tax advice & expertise to suit both individuals & companies. Services include monthly/yearly income tax/PAYE/VAT submissions, CIPC registrations, drafting of financial statements & IRP5 recons.

RANKING OF STANDARD TAX OFFERINGS:









FIDATO PTY LTD

Morné le Roux, MTP SA



Maximise growth, minimise risk, save time & money.

FIDATO (Pty) Ltd was founded in Cape Town almost two decades ago with a focus on tax legal advice & business restructuring.

Today, we have a track record of delivering superior long-term returns to our clients across South Africa & abroad with a value-driven approach to maximise growth and reduce risk. Proactively in tune with market trends & tax regulations, we anticipate new entrants & disruptive trends, & ensure your business can respond to regulation in both a pragmatic & optimistic manner.

Our industry expertise extends across corporate governance, tax risk, holistic payroll tax structures, asset optimisation, individual compliance & investor support across South Africa and abroad. We focus on mitigating your tax exposure, improving operational efficiency & enhancing overall cash flow to help you lead in the markets where you compete.

Our promise – The savings our advice affords will far outweigh the cost.

RANKING OF STANDARD TAX OFFERINGS:







BENDELS CONSULTING THE TAX AND DISABILITY SPECIALIST

Richard Rogers, Director



Bendels Consulting provides specialist disability tax services to individuals where there is a disability in the family. Our key focus is on the complex tax treatment of medical & disability expenses. In particular, we aim to ensure that qualifying taxpayers obtain all applicable tax relief in respect of current, future & prior years. As disability tax specialists, we have a greater understanding of the nature, challenges & expenses associated with disabilities & we know the importance of ensuring that non-discretionary expenditure translates to tax relief. We have also written & spoken extensively in this specialist area, including speaking on national radio, expert articles in the press, & presentations at special needs schools, care centres, hospitals, government forums, universities, & non-government organisations.

Director, Richard Rogers, obtained his MCom (Taxation) Degree with his thesis topic being the tax relief that is available to families where there is a person with a disability. Richard has also been selected as one of the Nelson Mandela Bay Business Chamber's Top 40 Under 40 Achievers. Each member of the Bendels Consulting team is passionate about all matters relating to disability & securing tax relief for qualifying taxpayers.

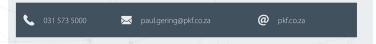
RANKING OF STANDARD TAX OFFERINGS:





PKF SA

Paul Gering, Tax Partner



PKF's professional services include: Registrations (income tax, VAT, PAYE, SDL, UIF); completion of individual, company & trust tax returns; calculation & submission of provisional tax returns; tax clearances (Tender/Good standing/ Foreign Investment); tax directives (gratuities/fixed percentages); completion & submission of dividend tax returns & withholding tax on interest returns; completion & submission of VAT201 returns; completion & submission of IT145D returns; assisting clients in various administrative tasks such as updating personal & banking details with SARS; assisting clients with SARS audits of all tax types; assistance with the dispute resolution process (which includes the preparation & lodging of objections, appeals, requests for remission of penalties, requests for suspension of payment, requests for a reduced assessment or the withdrawal of an assessment, attendance at ADR hearings, & representing taxpayers at the Tax Board or Tax Court); & tax consulting/advisory services (which includes providing written tax opinions on various tax topics such as the interpretation on the application of specific tax provisions, corporate restructuring, estate planning & trust structuring; obtaining of advanced tax rulings; & assisting with the preparation of transfer pricing policy documents).

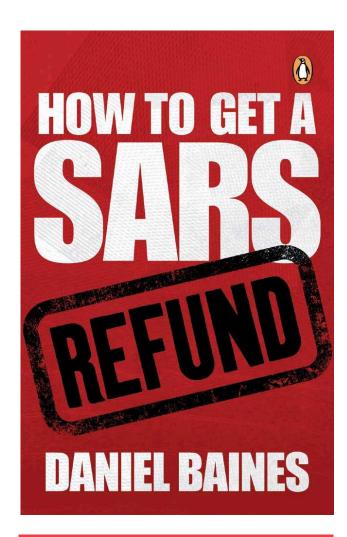


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To ensure your practice is listed in our next Tax Directory, send a mail to editor@thesait.org.za for details and pricing.

HOW TO GET A SARS REFUND INCREASE YOUR CHANCES OF GETTING A REFUND FROM SARS!

With plenty of informative, practical examples, *How to Get a SARS Refund* sets out in a simple, effective way how to get the most bang for your buck from the taxman.



PUB DATE: APRIL 2018
PRICE: R124.00
EXTENT: 80 PP.
BINDING: SOFTCOVER

f you derive your income from salaried employment and wish to utilise the tax laws in South Africa to minimise your tax liability and maximise your refund from the South African Revenue Service (SARS) upon filing your annual tax return, this book is for you.

How to Get a SARS Refund will help you understand why you are taxed the amount that you are, and will assist you in reducing your tax liability. It will also help you to navigate your way through the annual income tax return for individuals (ITR12) as you complete your return via eFiling. Topics covered include the basics of understanding individual tax, deductions from taxable income and medical tax credits. The guide also deals with the following types of taxes a salaried taxpayer may become liable for:

- Dividends tax
- Tax on interest earned
- Capital gains tax
- Provisional tax

KEY POINTS

- Will help readers understand why they are taxed the amount that they are
- Will assist the reader to reduce their tax liability
- Increases the reader's chances of getting a refund from SARS
- Allows readers to arrange their personal finances in a tax-efficient manner
- Accessible and easy to understand for the layperson
- Written by a tax expert

THE AUTHOR

Daniel Baines is an admitted attorney with a Bachelor of Arts, LLB and MCom (in taxation) from Rhodes University. He currently works as a Tax Consultant for Mazars, is a regular contributor of tax articles to *The Herald* newspaper and has had five of his tax articles published in the *Sunday Times*.





Key Juta TAX REFERENCES and ONLINE RESEARCH SOLUTIONS

Legislation
 Expert commentary
 Supplementary information
 Case law







Current annual single-user sub: R6,674

Tax (Juta's Practice Collection)

R Engels-Van Zyl, J Roeleveld, O Mollagee, M Benetello (Current Authors - Juta's Income Tax); M Botes (Juta's Value-Added Tax); Juta Law Editors

A comprehensive source on tax, Tax in the Juta's Practice Collection online series includes Juta's Income Tax, Juta's Value-Added Tax, relevant legislation and tax-law cases as well as back issues of Juta's Tax Law Review. The two publications at the core of Juta's Tax Library are unique in presenting a section-by-section analysis and commentary on the Income Tax and Value-Added Tax Acts. User-friendly indexing, referencing and overviews as well as graphic aids and hypertext links enhance the incisive analysis. The entire spectrum of tax Statutes, secondary legislation and supplementary material such as SARS Interpretation Notes, Binding Rulings, General and Practice Notes are available in this library for ease of reference and research.









Approx.

1,120 pages









Current annual

Juta's Value-Added Tax

Online Loose-leaf

M Botes

This subscription resource, available online and in or loose-leaf format, offers a userfriendly approach to the legislation. It contains the Value-Added Tax Act 89 of 1991 with a section-by-section commentary and extensive cross-referencing within the text. The commentary deals with the actual words and phrases used in the Act. Reference to other major works on value-added tax in South Africa facilitates further research, and flow charts provide a simple and quick visual reference to the contents of various sections and subsections of the Act.















Approx. 2,700 pages



(print)



Current annual single-user sub: R3,995

Juta's Income Tax

R Engels-Van Zyl, J Roeleveld, O Mollagee, M Benetello (Current Authors); D M Davis, G Urquhart (Founding Authors)

Juta's Income Tax contains the Income Tax Act 58 of 1962 and provides a section-bysection commentary thereon combined with concise overviews where appropriate, comprehensive indexing and cross-referencing to case law and other sources. The use of graphic aids and extensive examples make the text accessible and easy to understand.









Online 1,600 pages

SAIT Compendium of Tax Legislation 2018 (Volumes 1 and 2)

Juta Law Editors

This unique annual publication incorporates all promulgated and proposed amendments as published in the 2017 Amendment Bills, aided by Juta's prelex and pendlex, as at 1 January 2018. A useful digest of tax cases from 2007 to 2018 is also included. New features in this issue are the Quick Finder Tools (containing a number of useful lists) and Work Sheets for Notes to promote the more practical use of the Compendium. The relevant supplementary material has been incorporated in Volume 2. Available in print (volume 2 accessible online) and as a Web PDF.







Soft cover 680 pages

Juta's Indirect Tax 2018

Juta Law Editors

Juta's Indirect Tax is a consolidated source of all current and pending indirect tax Acts and related supplementary material. Relevant promulgated and proposed amendments have been incorporated, updated as envisaged by the 2017 Amendment Bills as at 1 January 2018. Juta's prelex and pendlex enable the reader to view the legislative history at a glance.







Soft cover 316 pages R394

Street Smart Taxpayers: A Practical Guide to Your Rights in South Africa

B Croome, J Croome

Street Smart Taxpayers explains the processes SARS must follow when working with taxpayers throughout the various stages of the tax process, and identifies the remedies available to taxpayers.











eBook 1,056 pages R1,161

Tax Administration 2e

B Croome, L Olivier

This book sets out the rules of tax collection, showing how areas of law interrelate and noting best international practice. It provides clear and authoritative guidance on aspects such as the registration and submission of tax returns, assessments, requests for information, penalties and interest, privilege, reportable arrangements, dispute resolution, advance tax rulings and remedies.

Prices include 15% VAT, exclude courier delivery, if applicable. Valid until 30 June 2018. *Online multiple-user licence pricing is available on request.

For further details and to order these titles visit our website or contact: Juta Customer Services • email orders@juta.co.za • call 021 659 2300 • fax 021 659 2360







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To find out how our expertise can benefit you and your clients, call 011 778 6600 or send an email to info@privatewealth.sanlam.co.za.

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PRIVATE Wealth