



**Pax Practice: On the Move – SARS Operations 1 of 8
Provisional Tax and the Fourth Schedule**

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YOUR KEY TO THE TAX COMMUNITY

Some useful links

- www.acts.co.za
- www.sars.gov.za
 - Under “Legal & Policy” will find a current copy of the Act, all Practice Notes and all cases
- Specific to Prov Tax
 - SARS > Tax Types > Provisional Tax
 - <http://www.sars.gov.za/home.asp?pid=75349>

Some thoughts

- SARS is wanting to move to a “real time” prov tax system
- Are looking at different options.
- May become monthly...

1. Who is a provisional taxpayer?

- Salaried employee (R800k pa) with gross rental of R80 000 (taxable R25 000) and local dividends of R1 million
- Salaried employee (R800k pa) with gross rental of R80 000 (taxable R45 000) and local dividends of R1 million
- Consultant over 65 (R65k pa) with a pension of R350 000
- Consultant over 65 (R65k pa)
- Deceased estate
- Body Corporate
- Individual beneficiary of a trust with no distribution this year.

Practice management risks

- See how easy it is for the status to change year on year?
- How well do you know your clients?
- Are you asking the right questions?
- Have you put together a risk profile for your clients as to their status and how easy it is for it to change?
- Key consequences of getting it wrong?
 - Different filing deadlines for prov/non prov taxpayers.
 - Administrative non compliance penalties.
 - Late payment penalties, interest and underestimation penalties

Summary of risks – assuming amounts correct

	Is Prov, but didn't submit	Is not Prov, but did submit
Tax return due	January	October
Administrative non compliance penalty	Low risk	Yes
Late payment penalty	Yes, for P1, P2	No
Underestimation penalty	Yes	No
Interest	Yes	No

2. Basic amount

- Remember – an assessment becomes valid 14 days after it's issued. The count to your IRP 6 is from date of issue of IT34 and date of submission of IRP 6 – not the submission deadline.
- Consequence of getting it wrong?
 - P1 – other than the amount being incorrect and a possible late payment penalty, not much.
 - P2:
 - Lose the safe harbour of “basic amount”
 - The previous years taxable income has to be increased by 16%
 - Possible underestimation penalties along with late payment penalties and interest

Practice management risks

- Are you keeping track of IT34 dates?
- Are your clients giving you the information timeously?
- Are you getting enough information to check whether basic amount is actually still a safe harbour for your clients?

Rebates and credits

- Can I take medical (s6A and s6B) into account?
- Can I take the s6C solar credit into account?

- Answer to all – yes as per law.

Practice management risk

- Section 6A – this is easy to calculate and fairly stable. Low risk to include.
- Section 6B:
 - For over 65's and disabled – also easy to calculate and verify. Low risk to include
 - Under 65's? How confident are you in their taxable income and the 7,5% reduction of the credit?
- Section 6C: How confident are you that the taxpayer has actually ticked the boxes to qualify for the rebate?
- Consequence of getting it wrong? Late payment penalty and potentially higher underestimation penalty

Which is worse – submitting late or paying late?

- 2 key issues:
 - Paying late triggers a late payment penalty (10% of amount not paid)
 - Submitting too little triggers the underestimation penalty (20% on the difference between the minimum required submission and what was actually paid)

Scenario

- Mrs A has no cash, so simply doesn't submit a P2.
- Consequence:
 - After 4 months, she is deemed to have submitted a Rnil P2.
 - When she submits her IT12, a underestimation penalty of 20% would be levied.
- Mrs A has no cash, but still submits her P2 (on time or before the 4 months are up).
- Consequence:
 - A late payment penalty of 10%

Scenario

- Mrs A doesn't know her exact figures, so doesn't submit her P2, but makes a payment of her estimate before P2 due date.
- Consequence:
 - After 4 months, she is deemed to have submitted a Rnil P2.
 - When she submits her IT12, a underestimation penalty of 20% only on the outstanding balance.
- Mrs A doesn't know her exact figures, so doesn't submit her P2, but makes a payment of her estimate before P2 due date. She submits her P2 before the 4 months are up. Consequence:
 - A late payment penalty of 10% only on the outstanding balance.

Practice management issues

- Payment is more important than paperwork.
- Submitting late is better than submitting nothing.

Top up payments – are they worth it?

- Remember the *s89quat* interest...

Full detail

Table 4.5 Personal income tax rates and bracket adjustments

2022/23		2023/24	
Taxable income (R)	Rates of tax	Taxable income (R)	Rates of tax
R0 - R226 000	18% of each R1	R0 - R237 100	18% of each R1
R226 001 - R353 100	R40 680 + 26% of the amount above R226 000	R237 101 - R370 500	R42 678 + 26% of the amount above R237 100
R353 101 - R488 700	R73 726 + 31% of the amount above R353 100	R370 501 - R512 800	R77 362 + 31% of the amount above R370 500
R488 701 - R641 400	R115 762 + 36% of the amount above R488 700	R512 801 - R673 000	R121 475 + 36% of the amount above R512 800
R641 401 - R817 600	R170 734 + 39% of the amount above R641 400	R673 001 - R857 900	R179 147 + 39% of the amount above R673 000
R817 601 - R1 731 600	R239 452 + 41% of the amount above R817 600	R857 901 - R1 817 000	R251 258 + 41% of the amount above R857 900
R1 731 601 and above	R614 192 + 45% of the amount above R1 731 600	R1 817 001 and above	R644 489 + 45% of the amount above R1 817 000
Rebates		Rebates	
Primary	R16 425	Primary	R17 235
Secondary	R9 000	Secondary	R9 444
Tertiary	R2 997	Tertiary	R3 145
Tax threshold		Tax threshold	
Below age 65	R91 250	Below age 65	R95 750
Age 65 and over	R141 250	Age 65 and over	R148 217
Age 75 and over	R157 900	Age 75 and over	R165 689

Source: National Treasury

Now what?

- Calculate the tax liability of Whelping based on the following information:
 - Sales of R290 000
 - Purchases of R 80 000
 - Interest received of R 10 000
 - Salaries paid of R 6 000
 - Bank charges of R 1 000

- On the assumption it's a natural person over 75
- On the assumption it's a natural person under 65
- On the assumption it's a company

Now what

	Over 75	Under 65	Company
Income:	290 000	290 000	300 000
Sales	290 000	290 000	290 000
Interest received	-	-	10 000
Less deductions:	87 000	87 000	87 000
Purchases	80 000	80 000	80 000
Salaries	6 000	6 000	6 000
Bank charges	1 000	1 000	1 000
Taxable Income:	203 000	203 000	213 000
Tax liability	36 540	36 540	57 510
Rebate	29 824	17 235	
Normal tax liability	6 716	19 305	57 510

Medical credits

	2024	2023
	(R)	(R)
Taxpayer and first dependant, each	364	347
Each additional dependant	246	234

Additional credit for natural persons

- s6B Credits for qualifying medical expenses
 - If over 65: (Medical scheme contributions – 3 times the s6A credit)*33,3% + qualifying medical expenses*33,3%
 - If disabled: (Medical scheme contributions – 3 times the s6A credit)*33,3% + qualifying medical expenses*33,3%
 - Everybody else: ((Medical scheme contributions – 4 times the s6A credit) + qualifying medical expenses less 7,5% of taxable income before retirement amounts)*25%

Example

- Calculate the tax liability of Joe based on the following information:
 - Salary of R200 000
 - Provident fund contribution of R18 000 for the year
 - Medical aid contributions of R36 000 for the year
 - Qualifying medical expenses of R8 000
- On the assumption he's over 65
- On the assumption he's under 65
- On the assumption he's under 65 with 3 dependants

Example

	<u>Over 65</u>	<u>Under 65</u>	<u>Under 65</u>
Income:	254 000	254 000	254 000
Salary	254 000	254 000	254 000
Less deductions:	18 000	18 000	18 000
Provident fund	18 000	18 000	18 000
Taxable Income:	236 000	236 000	236 000
Tax liability	42 480	42 480	42 480
Rebate	26 679	17 235	17 235
s6A	4 368	4 368	14 640
s6B	10 288	2 207	-
Normal tax liability	<u>-</u>	<u>18 670</u>	<u>10 605</u>

s6A is simply monthly amount times 12 for number of dependants

s6B

	<u>Over 65</u>	<u>Under 65</u>	<u>Under 65</u>	
Medical aid contribution	36 000	36 000	36 000	A
s6A credit	4 368	4 368	14 640	B
Remaining	22 896	18 528	-	A - 3/4*B
Qualifying medical expenditure	8 000	8 000	8 000	
Subtotal	30 896	26 528	8 000	
7,5% limit	N/A	17 700	17 700	
	30 896	8 828	-	
s6B credit	<u>10 288</u>	<u>2 207</u>	<u>-</u>	

Where to find the rules

- Defn of “provisional tax payer” 4th Schedule
- Para 17 (who and on what rates)
- Para 19 what does the prov tax return have to based on?
- Para 20 and 20A Additional taxes
- Para 21 and 23 How to calc the taxes
- Para 23A Third Prov payments
- Para 27 Late payment penalty
- AS-IT-PT-01-G1 – Provisional Tax – External Reference Guide (with Annexures) has examples

Who must register for Prov Tax?

- Provisional Taxpayer =
 - Any person (other than a company) who has income other than remuneration, any remuneration from an unregistered employer or an allowance
 - Any company; and
 - Any person who is notified that they are a prov taxpayer

Who must register for Prov Tax?

- Provisional Taxpayer DOES NOT=
 - PBO's
 - Recreational club (properly registered)
 - Body Corporate, Share Block Company
 - Deceased Estate
 - Small business funding entity
 - Natural persons who does not derive any income from carrying on of a business, if
 - Taxable income < tax threshold OR
 - Taxable income from interest, foreign divs, non registered remuneration and rental < R30 000

General Principles

- Calculations are always done using the tax rates relevant for the relevant year of assessment.
- Where the Commissioner has increased an estimate, payment due has to be done on the increased amount. (No objection)
- Commissioner has the option to issue tax tables (similar to the PAYE ones) that must be used for calcs.
- If you fail to submit an estimate, Commissioner may make one for you.
- Commissioner can ask you to justify an estimate and then change it.

Definitions:

- **Basic amount: Taxable income from most recent assessment**
 - For individuals adjust for the following:
 - Taxable capital gains
 - Lump sum benefits and severance benefits
 - All lump sums received from employers (para d) (effective 1 March 2015)
 - For companies adjust for the following:
 - Taxable capital gains

Definitions: - cont

- If the assessment is more than 18 months AND in respect of a tax period that ends more than one year ago, interest will be added at 8% pa.
 - Assessment must have been received >14 days ago
 - If Commissioner has put an amount on form, may use that – deleted effective 1 March 2015

Basic amount examples

What is the basic amount in the following scenarios?

Taxpayer	Prov tax payment	Last period assessed	Date assessment received	Info on form
Mr A	P1 2024	2022	15/01/2023	Blank
Co B (Dec YE)	P1 2024	2023	17/06/2023	Blank
Mr A	P2 2024	2022	15/01/2023	Blank
Co B (Dec YE)	P2 2024	2023	17/06/2024	Blank
Mr C	P1 2024	2023	25/08/2023	Blank
Mr D	P2 2024	2023	02/02/2024	R100 000

Definitions: - cont

- Estimate: Total taxable income for the year of assessment which will be earned by the taxpayer excluding lump sum and severance benefits
- Submission time frame:
 - If not submitted within the last day of four months after the last day of the year of assessment the taxpayer is deemed to have submitted a nil assessment

Para 21/23 Payment 1:

- Based on estimate, which can't be less than “basic amount” UNLESS agreed to by Commissioner.
- Due at end of 6 months of YOA
- Calculation: $\text{Tax liability}/2 - (\text{PAYE} + \text{rebate} + \text{any prov tax made})$
- Penalties: Para 27 – late payment: 10% of the amount not paid at the applicable prov tax date (references TAA)
- Interest: s89bis

Example:

- Mrs B has taxable income of R260 000 reflected in her 2023 assessment, which was issued on the 1st August 2023.
- She has also paid PAYE of R10 000 for the 6 month period ending August 2023. Calculate her first provisional payment for 2024.

Example:

Basic Amount	260 000
Tax per table:	48 632
Less rebate:	<u>(17 235)</u>
Tax liability	<u>31 397</u>
Divide by 2	15 698
Less credit amount	<u>(10 000)</u>
1st Provisional payment due	<u><u>5 698</u></u>

If she misses this payment, interest at the prescribed rate would be calculated from the 1st of September until the 28th of February. In addition, para 27 would add an additional penalty of R569(10%).

How would this change for a company?

- Tax rate would be a flat 27%
- No Rebate
- Credit amount? If a Personal Service Provider, could still have PAYE...

- Prov Tax would therefore be?
 - R260 000 @ 27% = R70 200/2= R 35 100
 - Could be R25 100 if PSP with PAYE

How would this change for a company?

- Based on estimate of taxable income
 - For taxpayers with TI UP TO R1 million:
 - Estimate used is lesser of basic OR 90% of actual income
 - For taxpayers with TI GEATER THAN R1 million:
 - Estimate of actual
- Due at end of YOA
- Calculation: Tax liability – (PAYE + s6quat rebate + any prov tax made)
- Penalties:
 - Underestimate
- Interest: s89bis
- Late payment penalty will be netted off against underestimate penalty

Example:

- Mrs B has taxable income of R260 000 reflected in her 2023 assessment, which was issued on the 1st August 2023.
- She has also paid PAYE of R19 000 for the 2024 YOA
- She estimates that her actual income for the 2024 YOA will be R281 000

Example:

Estimate of taxable income	281 000
Tax per table:	54 092
Less rebate:	<u>(17 235)</u>
Tax liability	<u>36 857</u>
Less credit amount	
PAYE	19 000
Prov 1	5 698
	<u> </u>
2nd Provisional payment due	<u><u>12 158</u></u>

Please remember: P2 is based on ESTIMATE! Minimum rules just apply to avoid additional taxes.

How would this change for a company?

- Tax rate would be a flat 27%
- No Rebate
- Credit amount? If a Personal Service Provider, could still have PAYE...

- Prov Tax would therefore be?
 - $R281\ 000 @ 27\% = R75\ 870 - R35\ 100 = R40\ 770$

Underestimate penalty:

- For taxpayers with TI UP TO R1 million:
 - Actual is less than the lesser of basic OR 90% of actual income
- For taxpayers with TI GEATER THAN R1 million:
 - Actual is less than 80% of actual
- Calculation:
 - Penalty = 20% of (Tax on 80% of actual income – employees tax – prov tax payments)
 - Calculation of taxable income does not include lump sum benefits and severance benefits
 - Reduced by any para 27 late payment penalties
 - NB: If you can prove a serious effort at estimation, Commissioner has discretion to waive

Example

- Mrs C actual income for the 2024 YOA will be R1,800,000. She submits an estimate of R 1 million.
- She has also paid PAYE of R140 000 for the 2024 YOA. Her 1st provisional payment was R150 000

Underestimate penalty:

	P2 return	80% of actual
Estimate of taxable income	1 000 000	1 440 000
Tax per table:	314 236	494 636
Less rebate:	(17 235)	(17 235)
Tax liability	<u>297 001</u>	<u>477 401</u>
Less credit amount		
PAYE	140 000	140 000
Prov 1	150 000	150 000
		7 001
2nd Provisional payment due	<u>7 001</u>	<u>180 400</u>
BUT! 80% of 1 600 000	<u>1 440 000</u>	
Penalty:		36 080

Underestimate penalty:

Estimate of taxable income
Tax per table:
Less rebate:
Tax liability
Less credit amount

PAYE

Prov 1

2nd Provisional

BUT! 80% of 1 600 000

Penalty:

P2 return	80% of actual
-	1 440 000
-	494 636
-	(17 235)
-	<u>477 401</u>
140 000	140 000
150 000	150 000
	-
-	<u>187 401</u>
1 440 000	
	37 480

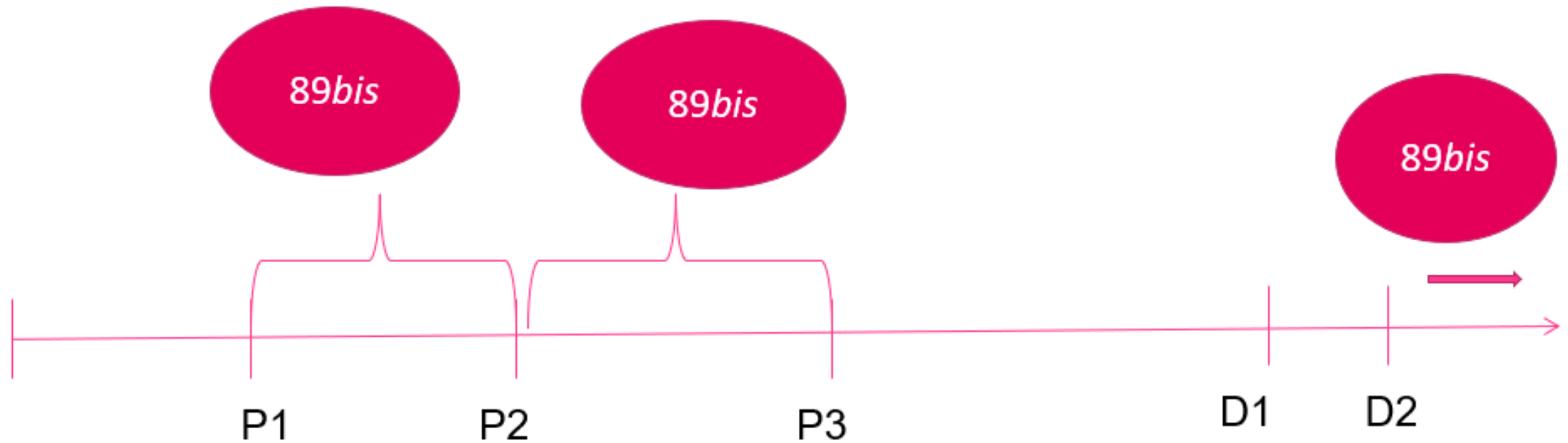
3rd payment – voluntary/top up

- Due 6 months after end of YOA:
 - EXCEPT: for natural persons and companies with Feb year ends – 7 months
 - This is known as the effective date
 - From effective date onwards, s89 quat interest is charged.

	1st Prov	2nd Prov	3rd Prov	Assessment date
Due date	6 months into YOA	End of YOA	6 months after YOA (7 months for Feb YE)	When SARS issues assessment
Payment calc	Tax liability/2 – credit amount	Tax liability – credit amount	Tax liability – credit amount	Tax liability – credit amount
Based on	Basic amount	80% of actual income (if TI is < R1 mil, basic or 90% of actual)	Actual income	SARS's assessment of actual taxable income
Interest	S89bis	S89bis	S89quat or S89bis	S89bis
Penalties	S27	S27, s20	None (voluntary)	None

S89 bis interest

- Charged whenever a REQUIRED payment is not made
- Rate = prescribed rate
- Based on = Payment that should have been made
- Duration: From day after required payment to date of next required payment



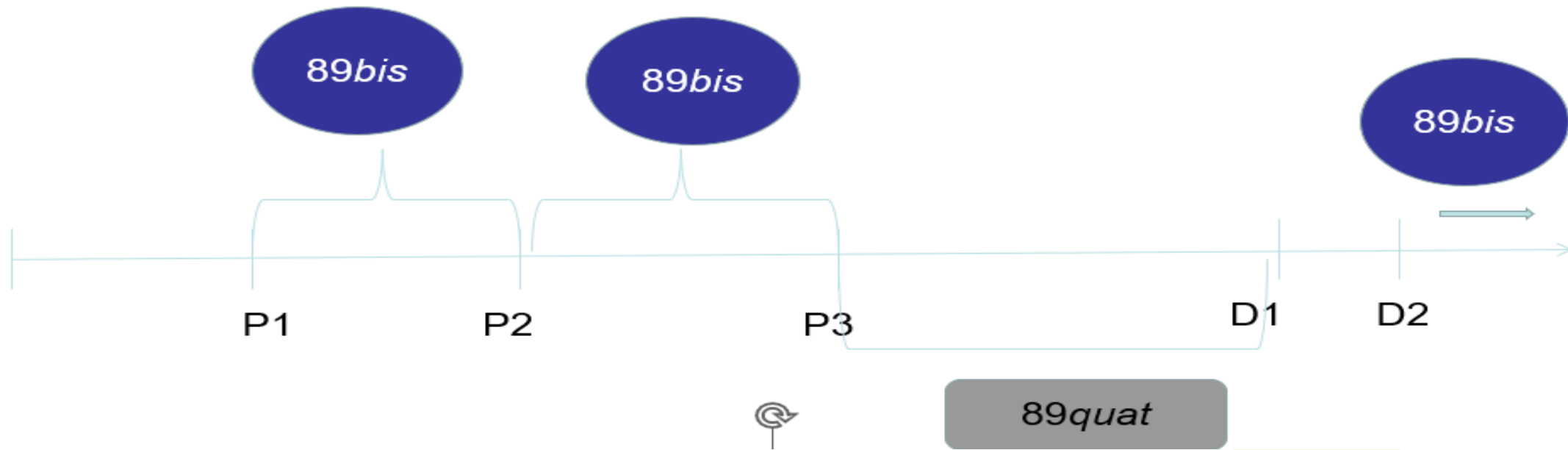
$$R10\ 000 \times 8,5\% \times 182/365$$

if however a payment is made in the middle of the period, then the interest calc would be:

$$R10\ 000 \times 8,5\% \times 91/365$$

S89 quat interest

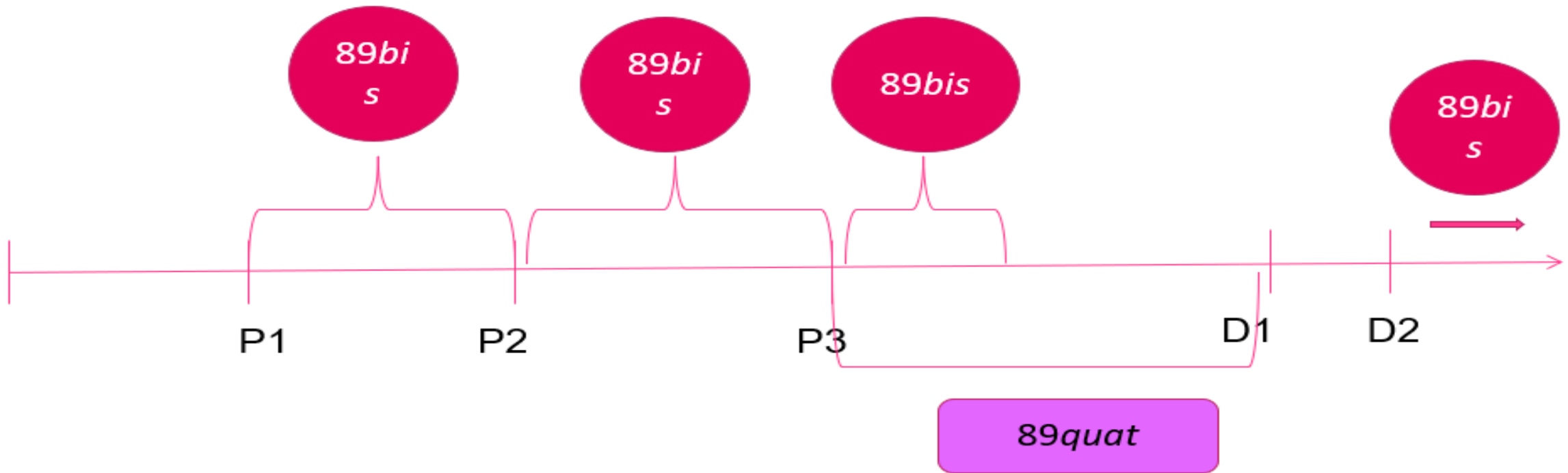
- ONLY payable between 3rd prov and assessment date
- Rate = prescribed rate
- Duration = Day after 3rd prov to date assessment received
- Based on = **NORMAL TAX – CREDIT AMOUNT**
 - Normal tax = assessed tax for the year + any additional taxes (para 20 or 20A)
 - Credit amount = Provisional payments + employees tax paid + s6quat rebates
INCLUDING payments made before assessment is received.



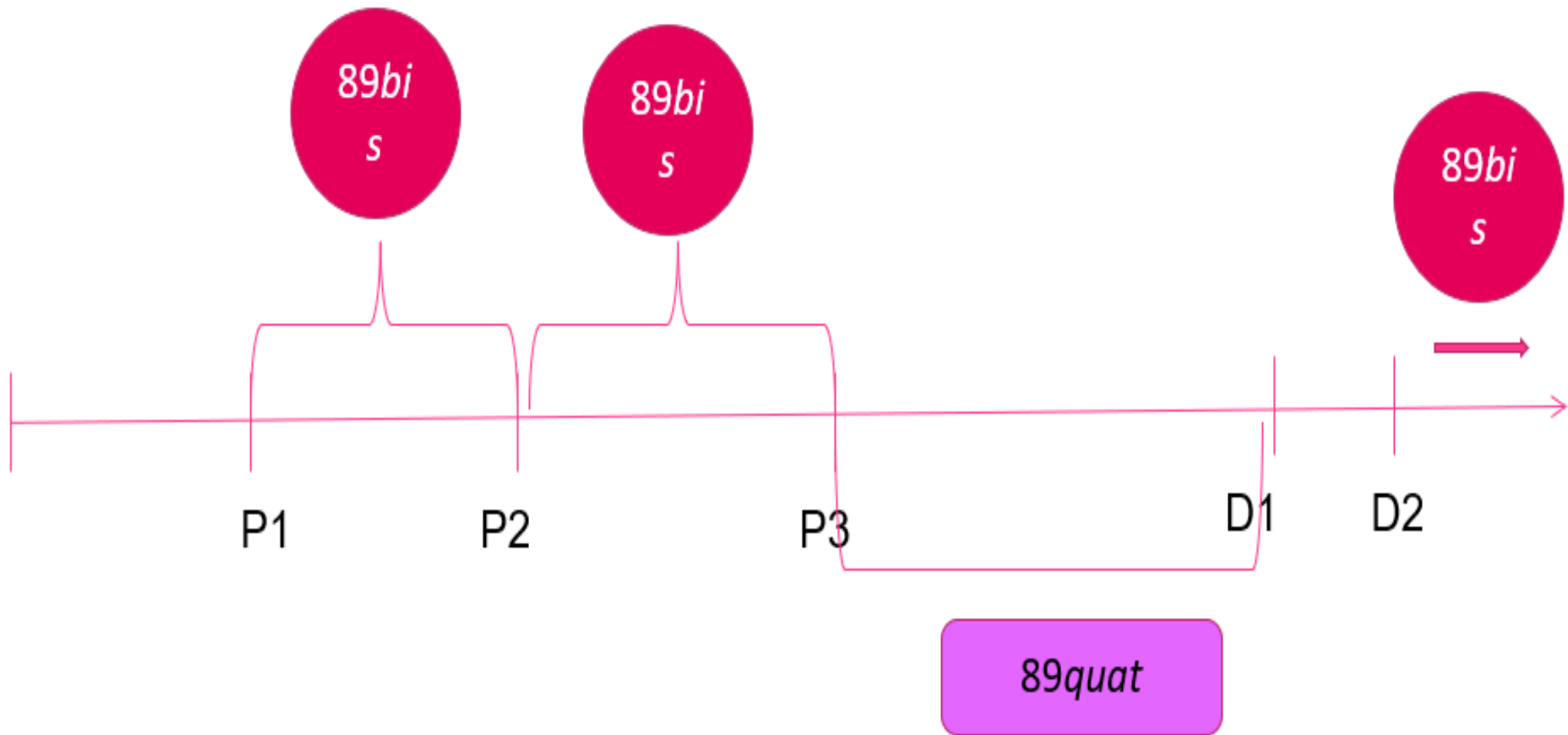
- This is calculated on the amount either owing by or due to the taxpayer. So on the assumption that the P3 amount is R30 000, then the *89quat* interest payable would be $R30\ 000 \times 8,5\% \times 200/365$.
- NB: Additional taxes have interest charged on them!
- Now presume a payment of R10 000 made 15 days after P3. How does the calculation change?

Admin obligations - TAA

- S180: Liability for persons who control/ manage the financial affairs of a taxpayer AND a senior SARS official is satisfied of negligence or fraud
 - Group Financial Manager of Co A forgets to run the PAYE payments for a month. GFM is PERSONALLY liable for the tax if a SARS official deems it negligence or fraud.
- S183: Any person who KNOWINGLY helps a taxpayer get rid of assets to avoid paying taxes also becomes personally liable.
- S181 and s182 could also potentially apply. Both give SARS a right of recovery against the recipient.
 - S181 deals with winding up of companies
 - S182 deals with connected persons who receive assets for no/inadequate consideration from taxpayers



- A deemed *89bis* is now charged on the AMOUNT PAID. So there will be interest of $R10\ 000 \times 8,5\% \times 15/365$
- *89quat* interest of $R20\ 000 \times 8,5\% \times 200/365$ will also be charged.
- Remember: All payments made are deemed to be made on P3 date!



- P3 due is still R30 000, however now I make a payment of R40 000 15 days after P3 date

Admin obligations

- You are required to register for Prov Tax within 21 days of meeting the criteria (TAA Chapter 3 rules)

Key things to remember

- For P1, must still be based on estimate for the FULL year, including CGT.
 - In practice, no underestimate penalty, but remember the Commissioners discretion!
- For P2:
 - Paperwork is less important than payment!
 - Commissioner tends not to remit underestimate penalties if you are not paying on 100% of estimate.
 - Penalties all work off payment. Have I mentioned how important the payment is yet?
- P3 is voluntary!
 - If you do your tax return before the P3 period is up, please remember to code your payment as Prov Tax, not Assessed Tax

Relevant Interpretation/Practice Notes

- Interpretation Note 1: Provisional Tax estimates

Disclaimer

- This seminar is presented for information purposes only and does not constitute tax advice. Please contact your tax practitioner for advice tailored to your specific circumstance

Thank you