Tax Rules Made Simple
2015/2016
The Payroll Administrator’s Legislative Guide to Effective Day-to-Day Payroll Management

March 2015

www.labournet.com
Disclaimer

The purpose of this document is to address Employee / Employer tax rules and tax processes to enable users of this information to better understand these often complex tax laws / rules at a level which enables them to apply these laws / rules in an appropriate manner. As far as possible reference has been made to the relevant Acts for each topic discussed in this document.

This document includes amendments to the Income Tax Act (1962) up to and including the most recent Amendments to this Act. It also contains information related to the most recent amendments as defined by the Minister of Finance in his Annual Budget Speech. It must be noted that although the amendments defined in the most recent Budget Speech have been included herein, these amendments were not as yet promulgated by the time this document was printed. Great care has been taken to ensure that the information contained herein is up to date, accurate and relevant each time this document is printed.

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As Employee related tax matters are often of a complex nature we encourage users to gain a second and independent opinion on items which are not clear after having read the information contained herein.

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Introduction

1. Purpose of the “Tax Rules Made Simple” guide

This “Tax Rules Made Simple” guide is intended to provide a general overview of the most pertinent payroll related taxes. This is provided to clients with the main aim of assisting them to better understand the tax consequences of payroll related transactions. This guide is updated on an annual basis, and each update details any amendments or proposed amendments to legislation affecting the calculation and / or disclosure of payroll taxes.

2. 2015/2016 Tax Tables

The tax rates for 2015/2016 tax year are as follows:

<table>
<thead>
<tr>
<th>Taxable income (R)</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 – R181 900</td>
<td>18% of each R1</td>
</tr>
<tr>
<td>R181 901 – R284 100</td>
<td>R32 742 + 26% of the amount above R181 900</td>
</tr>
<tr>
<td>R284 101 – R393 200</td>
<td>R59 314 + 31% of the amount above R284 100</td>
</tr>
<tr>
<td>R393 201 – R550 100</td>
<td>R93 135 + 36% of the amount above R393 200</td>
</tr>
<tr>
<td>R550 001 – R701 300</td>
<td>R149 619 + 39% of the amount above R550 100</td>
</tr>
<tr>
<td>R701 301 +</td>
<td>R208 587 + 41% of the amount above R701 300</td>
</tr>
</tbody>
</table>

Rebates

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary (all taxpayers)</td>
<td>R13 257</td>
</tr>
<tr>
<td>Secondary (65 years and over)</td>
<td>R7 407</td>
</tr>
<tr>
<td>Tertiary (75 years and older)</td>
<td>R2 466</td>
</tr>
</tbody>
</table>

Tax threshold

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 65 years</td>
<td>R73 650</td>
</tr>
<tr>
<td>65 years and over</td>
<td>R114 800</td>
</tr>
<tr>
<td>75 years and older</td>
<td>R128 500</td>
</tr>
</tbody>
</table>

Official Interest Rate 6.75% (1 August 2014)
## 3. 2014/2015 Tax Tables

<table>
<thead>
<tr>
<th>Taxable income (R)</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 – R174 550</td>
<td>18% of each R1</td>
</tr>
<tr>
<td>R174 551 – R272 700</td>
<td>R31 419 + 25% of the amount above R174 550</td>
</tr>
<tr>
<td>R272 701 – R377 450</td>
<td>R55 957 + 30% of the amount above R272 700</td>
</tr>
<tr>
<td>R377 451 – R528 000</td>
<td>R87 382 + 35% of the amount above R377 450</td>
</tr>
<tr>
<td>R528 001 – R673 100</td>
<td>R140 074 + 38% of the amount above R528 000</td>
</tr>
<tr>
<td>R673 101 +</td>
<td>R195 212 + 40% of the amount above R673 100</td>
</tr>
</tbody>
</table>

### Rebates
- Primary (all taxpayers): R12 726
- Secondary (65 years and over): R7 110
- Tertiary (75 years and older): R2 367

### Tax threshold
- Below 65 years: R70 700
- 65 years and over: R110 200
- 75 years and older: R123 350

Official Interest Rate 6.75% (1 August 2014)

## 4. 2013/2014 Tax Tables

<table>
<thead>
<tr>
<th>Taxable income (R)</th>
<th>Rates of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 – R165 600</td>
<td>18% of each R1</td>
</tr>
<tr>
<td>R165 601 – R258 750</td>
<td>R29 808 + 25% of the amount above R165 600</td>
</tr>
<tr>
<td>R258 751 – R358 110</td>
<td>R53 096 + 30% of the amount above R258 750</td>
</tr>
<tr>
<td>R358 111 – R500 940</td>
<td>R82 904 + 35% of the amount above R358 110</td>
</tr>
<tr>
<td>R500 941 – R638 600</td>
<td>R132 894 + 38% of the amount above R500 940</td>
</tr>
<tr>
<td>R638 601+</td>
<td>R185 205 + 40% of the amount above R638 600</td>
</tr>
</tbody>
</table>

### Rebates
- Primary (all taxpayers): R12 080
- Secondary (65 years and over): R6 750
- Tertiary (75 years and older): R2 250

### Tax threshold
- Below 65 years: R67 111
- 65 years and over: R104 611
- 75 years and older: R117 111
Definitions / Abbreviations

The below listed tax terms, are used in this document and are essential to one’s understanding of Employee’s Tax:

- **Annual Equivalent:** (calculated in cases where the EE has not rendered services for a specific ER for the full tax year). This is the amount of remuneration that the EE would have received had they rendered services for the full tax year and is calculated as follows:
  - \((\text{Year to date earnings/number of periods worked}) \times \text{total number of periods in the tax year.}\)

- **Balance of Remuneration:** This is the EE’s taxable remuneration after the ER has deducted the following allowable deductions:
  - Current and arrear pension fund or RA contributions made by the ER to an approved scheme;
  - Current and arrear pension fund or RA contributions made by the EE to an approved scheme (provided there is proof of payment – deductible at the ER’s discretion);
  - Contributions to an Income Protection Policy made by the EE (provided there is proof of payment – deductible at the ER’s discretion);
  - Contributions by an ER to an Income Protection or Key Man policy (provided that such premiums are treated as FBs);
  - Donations made by the EE (provided the certificate required in terms of Section 18A(2)(a) can be furnished).

- **Employee:** A person is considered an EE if any of the following conditions are met:
  - They receive remuneration (this however excludes a company);
  - Remuneration is received for services rendered to or on behalf of a labour broker;

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>EE</td>
<td>Employee</td>
</tr>
<tr>
<td>ER</td>
<td>Employer</td>
</tr>
<tr>
<td>MA</td>
<td>Medical Aid</td>
</tr>
<tr>
<td>RA</td>
<td>Retirement Annuity</td>
</tr>
<tr>
<td>MV</td>
<td>Market Value</td>
</tr>
<tr>
<td>FB</td>
<td>Fringe Benefit</td>
</tr>
<tr>
<td>ETI</td>
<td>Employment Tax Incentive</td>
</tr>
</tbody>
</table>
o They are a labour broker;
o They have been declared, by notice in the Government Gazette, to be an EE;
o They are a personal service provider;
o They are a director of a private company.

• **Employee's Tax:** The amount of tax that the ER is required to deduct from any paid or payable to EE's.

• **Employer:** Any person / entity who pays or is liable to pay remuneration or any amount by way of remuneration to another person.

• **Employment Tax Incentive:** An incentive where an ER is able to claim with respect to the employment of first time youth workers.

• **Holder of a Public Office:** An individual is considered a Holder of a Public Office under the following circumstances:
o They are the President/Deputy President, Minister/Deputy Minister, a member of the National Assembly, permanent delegate to the National Council, a Premier, a member of an Executive Council or a member of a provisional legislature;
o They are a member of a municipal council, a traditional leader, a member of a provincial House of Traditional Leaders;
o They occupy the office of president, chairman or CEO of a non-profit organisation.

• **Independent Contractor:** An individual who renders services for another and is not subject to the control or supervision of the person for whom they render services with regards to the manner in which such services are to be rendered (i.e. they act independently of the person for whom such services are rendered).

• **Labour Broker:** Any natural person who provides a client with people to render services on their behalf. The people procured by the labour broker are then remunerated by the labour broker for the services rendered by them to the client.

• **Non-retirement funding income:** Taxable income received by an EE which is not used in calculating the EE's contribution to a pension or provident fund.

• **Official Interest Rate:** The SARS official Interest Rate is determined by the current Repo Rate set by the Reserve Bank of South Africa. This rate is the Repo Rate plus 1%.
- **Personal Services Provider (PSP):** A company or trust will be defined as a PSP under any of the following circumstances:
  - A connected person to the trust/company personally renders services for a client of the trust/company;
  - The person rendering the services would have been considered an EE had they rendered services directly to the client;
  - The services are to be performed mainly at the premises of the client and the person rendering the services is subject to control and supervision;
  - More than 80% of the company/trust’s income for services rendered consists of income received from 1 client;
  - A company/trust will however not be considered a PSP if it employs 3 or more people during the year of assessment (provided that such people employed are not connected persons to the company/trust).

- **Prescribed rate:** Such rate which the Minister may, from time to time, fix by notice in the Government Gazette (this rate relates to interest payable).

- **Remuneration:** This is defined as any amount of income paid/payable to an EE, such amount includes the following payments:
  - Salary/Wages;
  - Bonuses;
  - Leave encashment;
  - Amounts received for overtime;
  - Commission/any type of fee;
  - Gratuity receipts;
  - Annuities;
  - Emoluments;
  - Pension;
  - Voluntary awards;
  - Stipends;
  - Superannuation allowances;
  - Retirement allowances;
  - Lump sum payments;
  - Directors remuneration;
  - Restraint of trade payments;
  - Amounts received in terms of an employment contract;
  - Amounts received in terms of the relinquishment, loss, termination or cancellation of an office or employment;
  - Travel allowance;
  - 100% of any other allowances received;
  - Fringe benefits received;
o Gratuities received due to the fact that the EE obtained a degree or was successful in an exam;
o Gains determined in terms of Section 8B/8C.

• **Remuneration specifically excludes any of the following amounts:**
o Amounts paid to an Independent Contractor (provided they are not subject to the supervision or control of any person with regards to the manner in which their duties are performed);
o Pensions or additional pensions received under the Social Assistance Act;
o Disability grants or additional disability grants received under the Social Assistance Act;
o Grants or contributions received under Section 89 of the Children’s Act;
o Amounts paid to an EE to reimburse them for expenses actually incurred in the course of employment;
o Allowances or advances received in terms of an order of divorce or decree of separation;
o Medical Aid paid on behalf of a pensioner:

• **Remuneration (Variable):** Any remuneration that will vary from pay period to pay period. Includes, but is not limited to:
o Leave Pay;
o Overtime;
o Commission;
o Bonuses;
o Travel reimbursements.

• **Retirement Funding Income (RFI):** The EE’s remuneration that is taken into account when determining their contributions to a pension or provident fund.

• **Tax Directive:** Tax directives are issued by SARS to instruct the ER on how to deduct Employee’s Tax in cases where the prescribed tax tables do not cater for certain forms of remuneration or payments. When calculating the Employee’s Tax due, ER’s must apply the rate stated on the directive issued. The following is applicable with regards to tax directives:
o The directive is only valid for 1 year or the period stated thereon
o ER may not act on photocopies of directives
o ER’s may not deviate from the instructions stated on the directive
• Tax Directives can be obtained by submitting the relevant forms to SARS and can be applied for under the following circumstances:
  o The ER pays gratuities (upon retirement, retrenchment or superannuation)
  o Employee’s Tax is to be deducted from remuneration earned by commission agents or a personal services provider
  o An Independent contractor receives income
  o In cases of hardship
  o When a pension, provident or retirement annuity fund makes a lump sum payment
Exempt Income

Exempt income includes any cash or allowances received by an EE from an ER which are not subject to Employee's tax. These amounts are included in the EE's gross income and then exempted when calculating the EE's taxable remuneration. Amounts exempt from Employee's tax include Uniforms, Transfer or Relocation Costs, amounts received from a Share Scheme, Bursaries as well as certain amounts received by expatriate EE's.

1. Uniforms

Governed by Section 10(1)(nA) of the Income Tax Act

BRIEF OVERVIEW

- Uniforms worn by EE's for employment purposes may be exempt from EE's tax.

IMPORTANT NOTES

- Uniforms will not be subject to EE's tax provided all of the following provisions are met:
  - It is an employment condition that the EE wears a uniform while on duty;
  - The uniform is clearly distinguishable from ordinary clothing.

IRP5 INFORMATION

- Full value of the uniform or allowances granted to be reflected on IRP 5 (code 3714: Other Non-Taxable Allowances)

EXAMPLES

Mr. A works as an engineer for Company B and while on site he is required to wear protective gear (i.e. overalls, safety boots and safety helmet). Company B grants Mr. A an allowance of R2,000 for the acquisition of the protective gear.

The gear worn by Mr. A is distinguishable from his everyday clothes and as a result, the allowance granted to him to acquire the uniform is exempt from tax.
2. Transfer or Relocation Costs

Governed by Section 10(1)(nB) of the Income Tax Act

BRIEF OVERVIEW

- The ER bears expenditure in connection with the relocation of the EE from one place of employment to another;
- The costs are incurred in relation to the appointment of a new EE, or transfer or termination of an existing EE;
- A transfer which does not require the change of residence will not fall within the provisions of this section (i.e. such amount will not be exempt).

IMPORTANT NOTES

- Transfer/relocation costs are not subject to EE’s tax where the following provisions are met:
  - The costs were incurred in relation to the transportation of the EE/their household/their personal goods from their previous residence to their new residence;
  - Costs, allowed by the Commissioner; incurred by the EE with respect to the sale of their previous residence as well as those incurred when settling into their new residence;
  - Costs incurred with respect to the rental of temporary accommodation occupied while the EE is in search of permanent accommodation (such expenses are exempt for a maximum period of 183 days after the EE’s transfer).
- The following costs (actually incurred by the EE) will be exempt from EE’s tax if the EE is reimbursed by the ER:
  - Bond registration and legal fees paid in respect of the registration of their new residence;
  - Transfer duty paid in respect of the new residence;
  - Cancellation fees paid in respect of cancelling the bond on the previous residence;
  - Agent’s commission paid on the sale of the previous residence.
- Settling-in costs reimbursed to the EE by the ER are also exempt from tax;
- An amount not exceeding 1 month’s basic salary may be paid, tax free, to an EE to cover the following settling-in costs:
  - New school uniforms;
  - Replacement of curtains;
  - Motor vehicle registration fees;
  - Telephone, water and electricity connection fees.
• Payments made by the ER for the following items will however result in a FB in the EE’s hands (i.e. they will be subject to EE’s tax):
  o Payments to reimburse the EE for any loss incurred when selling their previous residence;
  o Architect’s fees for the design or alteration of the new residence.

**IRP5 INFORMATION**

• Full value of the relocation costs incurred are to be reflected on IRP 5:
  o Code 3714 (Other Non-Taxable Allowances) for non-taxable amounts
  o Code 3713 (Other Taxable Allowances) for taxable amounts

**EXAMPLES**

Mr. B works for Company C in Durban. The company then decides to transfer Mr. B to their Johannesburg branch. The company makes arrangements for Mr. B and his family to be relocated to JHB.

The company pays for the families’ flights as well as the costs related to the sale of Mr. B’s DBN home. They also assist Mr. B with the costs related to the acquisition of a new house in JHB.

The above mentioned costs incurred by Company C will be exempt from tax in Mr. B’s hands.
3. Share Schemes

Governed by Section 8C, 10(1)(nE) and 10(1)(nH) of the Income Tax Act

**BRIEF OVERVIEW**

- An amount received by an EE under a share incentive scheme operated for the benefit of EE’s (including any taxable benefits) may be exempt from EE’s tax.
- Share schemes include the Director’s Share Schemes and the Standard Broad Based Equity Share Schemes.

**IMPORTANT NOTES**

- All EE share schemes, with the exception of a Broad Based Equity Share Scheme, will result in a FB if the EE acquires the shares for less than the MV;
- The Broad Based Equity Shares are limited to EE’s who:
  - Do not participate in any other equity schemes with the ER;
  - Who are employed on a permanent basis for at least one year;
- The plan must entitle at least 80% of EE’s to participate in the plan;
- Shares up to a cumulative R50 000 for the current and previous four years may be acquired by an EE tax free;
- Amounts received from a Broad Based Equity share incentive scheme operated for the benefit of EE’s will be exempt under the following conditions:
  - The amount is received upon the cancellation of a transaction under which the EE purchased the shares under the scheme;
  - The amount is received upon repurchase (by the EE) at a price not exceeding the selling price to them under the scheme;
  - The EE does not receive compensation for consideration in excess of the purchase price actually paid for the shares;
- Gains from the disposal of equity shares are taxable as follows:
  - If disposed of before 5 years it must be added to remuneration for normal taxation;
  - If disposed of after 5 years it must not be added to remuneration and the gains will be taxed as Capital Gains Tax;
- The following is not considered a disposal:
  - Where the equity share is exchanged for another qualifying equity share;
  - On the death of the shareholder;
  - On the insolvency of the shareholder;
- Dividends received from such a share scheme will however be subject to a dividend withholding tax;
- The dividend withholding tax is currently 15% of the gross dividend received.
IRP5 INFORMATION

• The exempt amount received should be reflected on the IRP 5 (code 3714: Other Non-Taxable Allowances)
4. Bursaries and Scholarships

Governed by Section 10(1)(q) of the Income Tax Act

BRIEF OVERVIEW

• Granted by ER or associated institution;
• Granted to EE, or a relative of an EE;
• Granted to assist or enable studying at a recognised educational institution.

IMPORTANT NOTES

• Exempt unless following apply:
  o EE will not reimburse ER in the event that studies are not completed (excludes inability to conclude studies due to death, illness or disability);
  o Granted to a relative and EE's proxy remuneration is in excess of R250 000;
  o Bursary to a relative to the extent that it exceeds R10 000 during tax year for education up to and including NQF level 4 (matric or grade 12 equivalent, provided the EE's proxy remuneration is not in excess of R250 000. Should the proxy remuneration exceed R250 000, the full bursary is taxable); or
  o Bursary to a relative to the extent that it exceeds R30 000 during tax year for education above NQF level 5 and upwards (provided the EE's proxy remuneration is not in excess of R250 000. Should such proxy remuneration exceed R250 000, the full bursary is taxable).
• The following is applicable in the event a bursary was granted to an EE's relative and the EE's proxy remuneration exceeds R250 000 during the tax year:
  o The full bursary becomes taxable;
  o The period when the bursary or a portion thereof was non-taxable needs to be recalculated and the bursary is to be fully taxed;
  o The non-taxable codes previously used need to be revised and the full bursary is to be reflected under the taxable code.
• On the job training which is job related (for the benefit of the ER) does not result in a FB;
• In the event that an amount received as a bursary does not comply with any of the above listed exemption conditions, the amount will be treated as a FB;
• Loans granted to EE's for study purposes are not regarded as a scholarship or bursary, but are treated as low or interest free loans upon which no value is placed;
• Should the EE not be required to repay the loan; it will be seen as a payment of EE's debt and is taxed as an annual payment;
• A reward for completing a qualification is seen as payment of EE's debt;
• Any bursaries granted to an EE which may need to be repaid due to non-fulfillment of the agreement will be treated as a bursary until the breach in contract where it will then be treated as a low or interest-free loan;
• Amount resulting in a FB is treated as an annual amount – subject to EE’s tax.

**IRP5 INFORMATION**

- The information with regards to bursaries or scholarships is to be reflected as follows on the IRP5:
  - Code 3809/3859 - Taxable Bursaries & Scholarships
  - Code 3815/3865 - Non-Taxable Bursaries & Scholarships
  - Code 3820/3870 - Taxable Bursaries & Scholarships - Further Education
  - Code 3821/3871 - Non-Taxable Bursaries & Scholarships - Further Education

**EXAMPLES**

Mr. A and Mrs. B both work for Company C. They are both awarded a scholarship of R37 000 to enable each of their children to study at a university. Mr. A’s proxy remuneration for the year amounts to R250 000 and Mrs. B’s amounts to R280 000.

As Mr. A’s proxy remuneration is not in excess of R250 000, he will be entitled to the R30 000 exemption. As a result, R7 000 (37 000 – 30 000) should be reflected as a taxable amount on his IRP 5 and R30 000 reflected as non-taxable.

Mrs. B’s proxy remuneration is in excess of R250 000, she is therefore not entitled to the R30 000 exemption. The full R37 000 should be reflected as taxable on her IRP 5.
5. Expatriate Employees – Inbound

Governed Interpretation Note 3 and 4 to the Income Tax Act

**BRIEF OVERVIEW**
- This applies to non SA tax residents from another country physically rendering services in SA;
- Inbound expatriates are required to file tax returns, they may however be exempt from filling if they or their ER has obtained a ruling from SARS.
- Inbound expatriates who are required to file tax returns will be required to register as a tax payer and receive a Tax Reference Number.

**IMPORTANT NOTES**
- SA tax residency can be triggered in one of two ways:
  - Physical presence test (applied if an EE is not ordinarily resident);
  - Ordinarily resident.
- Ordinarily resident – EE decides to make SA his official home (decides to settle down permanently in SA and leave only for short periods of time – i.e. holidays or business travel);
- Physical presence based on days EE physically present in SA. Residency triggered if all of the below apply (triggered after 6 consecutive tax years in SA):
  - EE physically present in SA for more than 91 days during the current tax year;
  - EE physically present in SA for more than 91 days during each of the preceding 5 tax years;
  - Cumulative days of physical presence over the preceding 5 tax years exceeds 915 days.
- For the physical presence test, a day shall include a part day (days in transit through SA will however be excluded);
- If an EE is deemed to be an SA tax resident by virtue of the physical presence test, they are deemed to be resident from the beginning of the 6th tax year;
- When applying the physical presence test, an EE will cease to be considered a SA tax resident if they are physically absent from SA for 330 consecutive full days;
- An individual who is deemed to be exclusively resident in another country (after having applied the provisions of the relevant Double Tax Agreement) will not be treated as a South African tax resident;
- If EE is non-resident they are only taxed on income from a source in SA (i.e. employment income received for services rendered in SA – income is apportioned for workdays inside & outside SA);
- A travel logbook detailing the EE’s days in and outside SA (indicating which of these days were work and non-work days) is to be kept by the EE;
- If the EE is resident then all their employment income is taxable.
EXAMPLES

Mr. V is a Dutch national who has been assigned to work in South Africa for a 3 year period. Mr. V was, during the month of March, present and rendering services in SA for half the month. His total monthly salary is R200 000, he also received a travel allowance in the amount of R4 000.

Due to the fact that he only rendered services in SA for half the month, only half of his salary is taxable in SA. An amount of R100 000 (200 000/2) should be reflected as taxable on his IRP 5, the remainder should be reflected as non-taxable. The travel allowance relates purely to services rendered in SA and is therefore not to be apportioned.
6. Expatriate Employees – Outbound

** Governed by Section 10(1)(o)(ii) of the Income Tax Act **

** BRIEF OVERVIEW **

- Applies to a SA tax resident physically rendering services in another country;
- Outbound expatriates will only be exempt from filing tax returns in SA if they have lived outside SA with a certain degree of permanence and have no intention of returning to the country.

** IMPORTANT NOTES **

- As an SA tax resident, an individual is taxable on worldwide income;
- Employment income for services rendered outside SA will be exempt from SA tax if all of the below conditions are met:
  - EE physically outside SA for more than 183 full days (183 day period is to fall within any 12 month period starting or ending during the tax year);
  - EE is physically outside SA for a period exceeding 60 consecutive full days during the 12 month period mentioned above.
- If employment income is not subject to the above exemption, EE will be allowed a tax credit for taxes paid in the foreign country (allowed upon assessment);
- A travel logbook detailing the EE’s days in and outside SA (indicating which of these days were work and non-work days) is to be kept by the EE.

** EXAMPLES **

Mr. C is a South African on assignment in China for a 7 month period during the year of assessment. He is stationed in China for the full 7 month period and will only return to SA upon the end of the assignment. While in China he received remuneration (for services rendered in China) in the amount of R800 000.

As Mr. C was outside SA for a period exceeding 183 full days as well as a period exceeding 60 consecutive days, the remuneration received for services rendered in China is exempt from tax in SA.
Allowances

An Allowance is any amount granted by an ER to an EE and such amount is granted over and above the EE’s salary. Allowances are normally granted with the aim of assisting the EE with business-related expenses. Allowances can fall into any of the following categories: Subsistence; Travel; Allowances for holders of Public offices and other specific allowances.

1. Subsistence Allowance

**Governed by Section 8 (1)(a) and 8(1)(c) of the Income Tax Act**

**BRIEF OVERVIEW**

- Granted to EE for expenses incurred for personal subsistence or incidental costs;
- Granted if EE spends at least 1 night away from their normal residence for business purposes;
- EE is allowed to deduct actual subsistence expenses incurred from the allowance received;
- The deduction allowable can be based on deemed or actual expenses incurred.

**IMPORTANT NOTES**

- Subsistence allowances are not subject to Employee’s tax unless such allowance was granted and not expended by the EE for subsistence purposes and further to this, the allowance is not refunded to the ER;
- The EE is allowed to deduct expenses incurred from the allowance received (deduction allowed upon completion of the EE’s annual tax return);
- The deduction allowed is based on either actual or deemed expenditure;
- EE deemed to have actually expended a certain daily amount (for meals/incidental costs) if the EE is absent from their usual place of residence;
- If the EE was away from their usual residency but still within SA, the deemed daily amounts are as follows:
  - R109 for incidental costs only (as at 1 March 2015);
  - R353 for meals and incidental costs (as at 1 March 2015).
- If the EE was away from their usual residency and is outside SA, the deemed daily amounts are based on the rates prescribed per the specific country (rates differ per country – see Annexure A);
- This allowance is intended for abnormal circumstances and can therefore not form part of an EE’s remuneration package (i.e. it is granted in addition to the EE’s normal remuneration);
- In order to deduct actual expenses incurred, the EE must provide proof of the expenses incurred;
- The amount of the allowable deduction is however limited to the actual allowance received;
• If a subsistence is paid regularly for more than six months, then it is no longer seen as a subsistence allowance and must be added to normal income.

**IRP5 INFORMATION**

• Full allowances to be reflected on IRP 5
  o Code 3704 (Subsistence Allowance – local travel) or 3715 (Subsistence Allowance – foreign travel) where the deemed amounts are exceeded
  o Code 3705 (Subsistence Allowance – non-taxable local travel) or 3716 (Subsistence Allowance – non-taxable foreign travel) where the deemed amounts are not exceeded

**EXAMPLES**

Mr. D is sent to India by his ER. He is as a result away from his usual place of residence for a 3 week period. His ER pays his actual accommodation costs and also grants him a daily allowance of US$85 for meals and incidental costs. Mr. D did not keep any proof of expenses incurred.

The allowance granted is therefore not subject to EE’s tax as it is not in excess of the deemed US$92 daily rate.
2. Travel Allowance

Governed by Section 8 (1)(b) of the Income Tax Act

BRIEF OVERVIEW

- Granted for business related travel in the following forms:
  - Travel allowance (granted to finance transport costs);
  - Reimbursive allowance (granted to reimburse actual business travel expenses incurred by an EE).

IMPORTANT NOTES

- 80% of the Travel Allowance value is to be included in taxable remuneration;
- If ER is satisfied that at least 80% of such allowance will be used for business purposes then the ER is allowed to include only 20% of the value of the travel allowance in taxable remuneration;
- Reimbursive allowances are based on actual km travelled by EE (calculated by multiplying actual business km by the prescribed rate);
- Prescribed rate determined by Minister (based on either of the below):
  - R3.18 per km;
  - Determined rate (based on vehicle value as well as the fixed, fuel and maintenance costs – Annexure B).
- Travel reimbursements are taxable if any of the below criteria are met:
  - The business kilometres reimbursed exceed 8 000km for the year;
  - The business kilometres are reimbursed at a rate in excess of R3.18/km;
- If the EE has a company owned fuel, garage or maintenance card, the amount used on the card is added to the travel allowance and taxed on the 80% or 20% rule.
- The EE is required to keep detailed log book (detailing business & private travel – logbooks available on the SARS website);
- If no log book is kept, EE may not claim any deductions against the allowance;
- Deductions are only claimable for business related travel (claimable when EE submits their annual return);
- Deductions claimable can be based on actual or deemed amounts;
- In the event that the deduction is based on actual amounts, the following is applicable:
  - The EE needs to keep records of the total distance travelled (for business and personal purposes) as well as the actual expenses incurred – proof of expenses incurred is to be retained;
  - The EE is allowed to deduct the following costs:
    - Wear and tear;
    - Maintenance and repairs;
Vehicle licence costs;
Insurance;
Finance charges;

- In the event that the deduction is based on deemed amounts, the EE is to apply the rates stipulated in Annexure B (fuel and maintenance costs are only deductible if the full costs were borne by the EE);
- An EE will however not be allowed to claim any deductions against the Travel Allowance if they receive the right to use a company car as well as a travel allowance in respect of the same vehicle (any deductions for business travel must be claimed against the FB arising for the right to use the company car);
- Travel between the EE's home and place of work is deemed to be private travel;

IRP5 INFORMATION

- Full travel allowances including petrol, garage and maintenance cards, to be reflected on IRP 5 under code 3701 (Travel Allowance)
- Full reimbursive allowances to be reflected on IRP 5
  - Code 3703 (Reimbursive Travel Allowance) if all of the below conditions are met:
    - Business km not exceed 8 000km
    - Rate EE reimbursed at does not exceed the prescribed rate
    - EE not receive any other allowances
  - Code 3702 (Reimbursive Travel Allowance) if any of the below conditions are met:
    - Business km exceed 8 000
    - Rate EE reimbursed at exceeds the prescribed rate
    - EE receives another travel related allowance

EXAMPLES

Mr. W travels extensively for business purposes, as a result he receives a monthly travel allowance of R2 000.

When calculating the total monthly EE's tax due by Mr. W R1,600 (R2,000 * 80%) of the travel allowance should be included in his taxable monthly remuneration. When preparing his IRP 5 an amount of R24,000 (R2,000 * 12) should be reflected under code 3701.
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<thead>
<tr>
<th>Scenario</th>
<th>Must PAYE be deducted</th>
<th>Code</th>
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</thead>
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<td>A fixed allowance is paid</td>
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<td>3701</td>
</tr>
<tr>
<td>Fuel and expenses paid by the Employer (e.g. petrol, garage and</td>
<td>Yes</td>
<td>3701</td>
</tr>
<tr>
<td>maintenance cards).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reimbursed at not more than the prescribed rate per kilometre and</td>
<td>No</td>
<td>3703</td>
</tr>
<tr>
<td>travels not more than 8 000 kilometres. No other travel allowance is</td>
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<td></td>
</tr>
<tr>
<td>received</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reimbursed at not more than the prescribed rate per kilometre and</td>
<td>No (Reimbursements)</td>
<td>3702</td>
</tr>
<tr>
<td>travels not more than 8 000 kilometres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Receives a travel allowance or certain expenses are paid for the</td>
<td>Yes (Fixed allowance)</td>
<td>3701</td>
</tr>
<tr>
<td>Employer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reimbursed at not more than the prescribed rate per kilometre and</td>
<td>No</td>
<td>3702</td>
</tr>
<tr>
<td>travels more than 8 000 kilometres. No other travel allowance is</td>
<td></td>
<td></td>
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<tr>
<td>received</td>
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<tr>
<td>Reimbursed at not more than the prescribed rate per kilometre and</td>
<td>No (Reimbursements)</td>
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<tr>
<td>travels more than 8 000 kilometres</td>
<td></td>
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<tr>
<td>Receives a travel allowance or certain expenses are paid for the</td>
<td>Yes (Fixed allowance)</td>
<td>3701</td>
</tr>
<tr>
<td>Employer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reimbursed at a rate exceeding the prescribed rate per kilometre</td>
<td>No</td>
<td>3702</td>
</tr>
</tbody>
</table>
3. Holder of a Public Office

**Governed by Section 8 (1)(d) and 8(1)(f) of the Income Tax Act**

**BRIEF OVERVIEW**
- Granted to holder of a public office to allow or enable them to defray expenses incurred in performing their duties.

**IMPORTANT NOTES**
- 50% of the allowance received is subject to EE’s tax;

**IRP5 INFORMATION**
- Full allowances to be reflected on IRP 5 under code 3708 (Public Officer Allowance)

**EXAMPLES**

Mr. H is a Holder of a Public Office, he receives a monthly allowance of R4 000 to enable him to defray his business expenses.

When calculating the total monthly EE’s tax due by Mr. H R2 000 \((4 000 \times 50\%)\) of the allowance should be included in his taxable monthly remuneration. When preparing his IRP 5 an amount of R48 000 \((4 000 \times 12)\) should be reflected under code 3708.
4. Other Specific Allowances

Governed by Section 8 (1) of the Income Tax Act

BRIEF OVERVIEW

• The EE receives an allowance from the ER and such Allowance does not fall into any of the above discussed categories.

IMPORTANT NOTES

• Any other allowances received should be lumped together and reflected under the relevant codes.
• Any allowance not detailed in the above section, should be taxed at 100%.

IRP5 INFORMATION

• Full allowances to be reflected on IRP 5:
  o Code 3713 (Other Taxable Allowances) for taxable allowances
  o Code 3714 (Other Non-Taxable Allowances) for non-taxable allowances

EXAMPLES

Mr. C receives an allowance to purchase uniform for work purposes. The uniform includes shirts, ties and formal pants (it is not distinguishable from his everyday clothes).

The allowance received by Mr. C represents a taxable allowance and is subject to EE's tax.
Fringe Benefits

Fringe benefits include any benefit, reward for services or advantage granted by an ER to an EE by virtue of the EE’s employment. Fringe benefits include the following:

• Allowing an EE to acquire an asset at less than Market Value (MV);
• Granting the EE the right to use a Motor Vehicle or Other Asset;
• Providing the EE with Meals, Refreshments, Accommodation or Services;
• Granting the EE a Loan or Subsidy;
• ER contributions to the EE’s MA or Insurance Policies;
• Settling the EE’s debt, Medical Expenses and/or releasing the EE from any debt.

1. Acquisition of an Asset at less than MV

Governed by Paragraph 2(a) and 5 of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• EE is granted an asset consisting of goods, commodities or property (excluding cash or any money used on a day-to-day basis as legal tender);
• Asset granted is valued at its MV at the time it is acquired by the EE;
• If asset is movable property acquired by ER so as to dispose to EE – asset is valued at its cost to the ER;
• Trading stock is valued at the lower of cost or MV.

IMPORTANT NOTES

• FB is the MV of the asset less any consideration paid by the EE;
• The provision of the following assets will not result in a taxable benefit:
  o Fuel or lubricant supplied for use in a motor vehicle (provided use of the vehicle is accounted for as a FB);
  o Provision of an asset that is accounted for as a FB under any of the other provisions of the 7th schedule;
  o Marketable securities accounted for under section 8A.

IRP5 INFORMATION

• The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801: General FB)
• EE’s tax is to be accounted for during the month the EE acquires the asset but can be spread over the remainder of the year.
EXAMPLES

Mrs. S is awarded a watch by her ER for excellent service during a tight deadline period. The watch cost the ER R5 000 (its MV at the time it was granted to the EE was R5 000).

Mrs. S is therefore deemed to have acquired a FB valued at R5 000.
2. Right to Use an Asset

Governed by Paragraph 2(b) and 6 of the 7th Schedule to the Income Tax Act

**BRIEF OVERVIEW**

- EE is deemed to receive taxable benefit if ER grants them right to use an asset for private or domestic purposes (excludes use of accommodation/vehicle);
- Assets granted to the EE include the likes of cell phones or laptops;
- Value placed on such use is determined as follows:
  - ER leasing/hiring asset – amount payable by ER while EE granted use of asset;
  - ER owns asset – 15% on the lower of cost to ER or MV on the date EE commences use;
  - Sole right of use granted to EE – cost to ER if EE granted use over a period extending over the assets useful life.

**IMPORTANT NOTES**

- No FB will arise under the following circumstances:
  - Private use is incidental; (Incidental means that if more than 50% of the total use of the asset is for business purposes)
  - The asset is provided by the ER as an amenity for recreational purposes for the use of his/her EE's in general at his/her place of work
  - Equipment the ER allows the EE's to use from time to time for a short period of time, and the value of the private use is negligible;
  - The assets consists of a computer or telephone which is to be used or required to be used mainly for business purposes;
  - The provision of books, literature, recordings or art works.
- The cash value of the benefit is to be apportioned in cases where the asset was not used for a full month.

**IRP5 INFORMATION**

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3803: Use of an asset)

**EXAMPLES**

Mrs. C is granted the right to use a caravan for a 10 day holiday period. The caravan is rented by her ER from a third party at R100 per day.

Mrs. C is therefore deemed to have received a FB in the amount of R1 000 \((100 \times 10)\)
3. Right to Use a Motor Vehicle

Governed by Paragraph 2(b) and 7 of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• EE is granted right to use a motor vehicle for private or domestic purposes;
• Private use includes travel to and from EE's home and place of work.

IMPORTANT NOTES

• The determined value of the vehicle is determined as follows:
  o Acquired under a bona fide sale agreement – original cost to ER (excludes finance and interest charges, but includes VAT, provided the ER was not allowed to claim a VAT input);
  o If a limit is placed on the value of the vehicle the EE can obtain and the EE makes contribution to a more expensive vehicle, contributions made by EE must be deducted from the cost price of the vehicle;
  o If a vehicle is obtained under any other manner (i.e. it is a gift) – MV of vehicle at the time right of use is obtained.
• If an EE is granted vehicle for more than 12 months after the ER obtained the vehicle, the determined value of the vehicle must be reduced by 15% for each completed 12 month period (reducing balance method);
• Value of the FB is calculated as 3.5% of the determined value (for each month the EE uses the vehicle);
• In instances where the vehicle is subject to a maintenance plan, the FB is valued at 3.25% of the determined value (provided that it was subject to the plan when acquired by the ER);
• The value of the FB must be reduced by any consideration paid by the EE for the private use of the vehicle;
• If the EE is granted use of the vehicle for less than a month, the value of the FB is to be apportioned for the period that the EE was granted use;
• 80% of the FB must be included in the EE’s taxable remuneration;
• If ER is satisfied that at least 80% of such benefit will be used for business purposes then the ER is allowed to include only 20% of the allowance in taxable remuneration;
  o It must be noted that the full 100% will be taxed on assessment if the EE does not keep a valid log book;
• In the event that the EE is granted the right to use more than 1 vehicle simultaneously, each vehicle the EE is entitled to use is to be accounted for as a separate FB;
• No taxable FB arises under the following circumstances (all circumstances need to be met):
  o Vehicle is available for use by other EE’s and private use is incidental or in frequent and the vehicle is not kept at EE’s premises outside of business hours;
EE required to use vehicle for work purposes outside of business hours (EE not allowed to use vehicle for private purposes or private use is infrequent or incidental).

- Upon completion of their annual tax return, the EE will be allowed to deduct their business related travel from the value of the FB;
- The EE may also deduct any fuel, insurance, licence or maintenance costs incurred by them for business related travel (these costs are however only deductible if they were fully incurred by the EE);
- In order to claim this deduction, the EE is required to keep a detailed logbook.

**Vehicle subject to operating lease – Section 23A(1) of the Income Tax Act**

- This determined value will now be based on the on-going rental paid by the ER, provided the vehicle is leased from a third party at arm’s length (i.e. the cost incurred or paid by the ER);
- The lease is to contain the following characteristics for the above provision to apply:
  - The vehicle is to be rented from the lessor in the lessor’s ordinary course of business;
  - The vehicle may be leased by the general public for periods of less than 1 month;
  - Maintenance costs are to be borne by the lessor;
  - The risk of loss is to be borne by the lessee (i.e. the ER);
- In the event that the ER bears the fuel costs on such vehicle, a travel allowance is to be accounted for;
- The 80% / 20% rule applies to this value as per normal owned motor vehicles;

**IRP5 INFORMATION**

- The cash equivalent of the benefit where the motor vehicle is owned by the ER is to be reflected on the IRP 5 (code 3802: Use of a Motor Vehicle)
- The cash equivalent of the benefit where the motor vehicle was obtained under an operating lease is to be reflected on the IRP5 (code 3816: Use of motor vehicle acquired by employers via “Operating Lease”)
EXAMPLES

Company G acquires a vehicle for an amount of R280 000 (inclusive of VAT). This vehicle is granted to Mr. U and he uses it accordingly (Mr. U uses the vehicle for the full tax year and is granted use thereof immediately after the company acquires it). Mr. U’s log book shows that he must be taxed at 80% of the value. The monthly value of the FB obtained by Mr. U is calculated as follows:

\[(280 000 \times 3.5\%) \times 80\%\]
\[= R7 840\]

Company H acquires a vehicle under an operating lease for an amount of R 5 600 per month (inclusive of VAT). This vehicle is granted to Miss X who uses it accordingly. Miss X keeps a log book to show that she can be taxed at 80% of the value of the vehicle. The monthly value of the FB obtained by Miss X is calculated as follows:

\[5 600 \times 80\%\]
\[= R4 480\]
4. Provision of Meals and Refreshments

Governed by Paragraph 2(c) and 8 of the 7th Schedule to the Income Tax Act

**BRIEF OVERVIEW**

- EE granted a meal, refreshment or voucher entitling them to a meal / refreshment
- Value of benefit is cost to ER less any consideration paid by EE.

**IMPORTANT NOTES**

- No FB will arise under the following circumstances:
  - Meal/refreshment supplied in ER’s canteen (canteen is operated by or on behalf of the ER);
  - Provided to EE during business hours or extended business hours or on a special occasion;
  - When EE entertains on behalf of ER;
  - Meals provided with accommodation.

**IRP5 INFORMATION**

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801)

**EXAMPLES**

An ER pays R20 a meal for his EE’s to eat at an establishment close to his place of business. Each EE is granted 20 coupons a month for which they pay R8 a coupon. The value of the FB to be included in each EE’s monthly taxable remuneration is:

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost to ER</td>
<td>R400</td>
</tr>
<tr>
<td>Less: Cost to EE</td>
<td>R160</td>
</tr>
<tr>
<td>FB value</td>
<td>R240</td>
</tr>
</tbody>
</table>
5. Accommodation

Governed by Paragraph 2(d) and 9 of the 7th Schedule to the Income Tax Act

**BRIEF OVERVIEW**

- **EE granted residential accommodation;**
- **Value of benefit is the greater of the formula or cost to ER:**
  - Formula – \((A-B)\times(C/100)\times(D/12)\);
  - \(A\) = remuneration factor (i.e. annualised remuneration received in the previous tax year);
  - \(B\) = 73,650 (i.e. Tax threshold for the year – official confirmation normally sent after the budget speech);
  - \(C\) = 17/18/19 (i.e. Depends on type of accommodation supplied);
  - \(D\) = number of months accommodation granted during the tax year.
- Amount for \(B\) reduced to zero if:
  - ER is private company and EE controls company;
  - EE/ their spouse or minor child has right to become the owner of the accommodation;
- Value for \(C\) is determined as follows:
  - 17 – accommodation consists of at least 4 rooms;
  - 18 – accommodation consists of at least 4 rooms and any of the below apply:
    - It is unfurnished and ER pays for power or fuel (i.e. electricity);
    - It is furnished and ER does not pay for power or fuel.
  - 19 – accommodation consists of at least 4 rooms, is furnished and the ER pays for fuel and power.

**IMPORTANT NOTES**

- The value placed on accommodation occupied on a temporary basis is determined as follows:
  - Hired by ER – rental payable as well as any amounts charged for meals & refreshments;
  - Owned by ER – rate at which accommodation would normally be let out to a person other than an EE;
- When calculating the remuneration factor, the following amounts should be excluded:
  - 80% of any Travel Allowance received;
  - The taxable Use of Motor Vehicle and accommodation FB’s;
  - Income from an associated institution (provided the EE is not a controlling shareholder of the ER).
- If ER rents accommodation to EE and EE has an interest in such accommodation the value of the benefit is the greater of the formula or the costs incurred by ER.
- EE deemed to have interest in accommodation if:
  - It is owned by the EE or their connected person;
Increase in value of accommodation accrues (whether directly or indirectly) to the EE;

EE or their connected person has right to acquire accommodation.

- The formula will be used under the following circumstances and valuation based on actual cost will not be used if all 3 criteria are met:
  - It is customary for ER to provide EE’s with accommodation;
  - It is necessary for ER to provide free/cheap accommodation;
  - Benefit is provided for bona fide purposes (i.e. not provided to obtain a tax benefit).

- If an EE is entitled to use more than 1 accommodation in different locations, accommodation with the highest value will be used to determine the FB included in their taxable remuneration;

- No FB will arise if:
  - EE is absent from usual place of residence (while still within the SA borders) for business purposes. This will however not apply if the EE is entitled to use more than 1 residential unit;
  - EE is outside SA for a period not exceeding 2 years from date of arrival of EE in SA for business purposes or EE is physically present in SA for less than 90 days during the tax year (applicable to inbound expatriates). This will however not apply if:
    - EE was physically present in SA for a period exceeding 90 days during the year of assessment immediately prior to their arrival in SA;
    - To the extent that the cash equivalent of the benefit exceeds R25 000 per month that the accommodation is occupied.

IRP5 INFORMATION

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3805: Accommodation)

EXAMPLES

Mr. X was employed by his ER for a full tax year and he received a monthly salary of R7 800. The ER provides Mr. X with unfurnished accommodation (owned by the ER and consisting of at least 4 rooms). Mr. X uses the accommodation for the full tax year and pays rental of R200 per month for use thereof. The value of the monthly FB received by Mr. X is:

\[
((A - B) \times (C/100) \times (D/12)) - 200 \text{ (paid by Mr. X)}
\]

\[
=((7 800 \times 12) - 63 556) \times (18/100) \times (1/12)) - 200 \text{ (rental paid by Mr. X)}
\]

\[
= R250.66
\]
6. Low Cost Housing

Governed by Paragraph 5 of the 7th Schedule and the new definition of Remuneration Factor is Section 1 of the Income Tax Act

BRIEF OVERVIEW

- Where an ER transfers an asset to an EE for less than the MV or for free a FB is raised
- Sometimes ER's transfer housing to EEs for less than the MV where rental agreements were in place as per the SA Mining Charter, now giving a new FB;
- Rented houses are often sold to EE's for less than the MV.

IMPORTANT NOTES

- No FB will arise if both of the following conditions apply:
  - The EE's annual remuneration does not exceed R250 000;
  - The value of the house, whether purchased or built, does not exceed R450 000.
- If the above are not met and an EE purchases the house for less than the MV, the FB will be the difference between the MV of the house and the amount paid by the EE.

IRP5 INFORMATION

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801: General fringe benefit)

EXAMPLES

XYZ mining sells a house valued at R350 000 to Mr. A for the price of R250 000. Mr. A’s remuneration for the previous year was R190 000.

There will be no FB value for Mr. A as he is within the remuneration limit and the value of the property is within the MV limit.

XYZ mining also sells a house valued at R350 000 to Mrs. B for the price of R 250 000. Mrs. B’s remuneration for the previous year was R450 000.

Mrs. B will have a FB value of R100 000 \( (350 \text{ 000} - 250 \text{ 000}) \) due to her remuneration being over the allowable limit.
7. Free or Cheap Services

Governed by Paragraph 2(e) and 10 of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• ER provides EE with a service and EE utilises service for private or domestic purposes;
• Such services include, among others, network access for a telephone/cell phone or the internet;
• The following values are placed on the benefits:
  o Travel facility – if ER is in the business of transporting people by sea/air and EE travels to a destination outside SA – lowest fare payable by any passenger less amount paid by the EE;
  o Other services – cost to ER to render service less amount paid by EE.

IMPORTANT NOTES

• No FB will arise if:
  o ER is in the business of transporting people by land, sea or air and the EE travels to:
    ▪ Destination in SA or travels overland to a destination outside SA;
    ▪ Destination outside SA by air made in the EE’s ordinary course of business (provided EE is not allowed to make an advance reservation).
  o ER transports EE’s from place of work and home;
  o Communication services provided to EE if used mainly for ER’s business (i.e. internet access or use of a telephone/cell phone);
  o Services rendered at the EE’s place of work to ensure better performance of duties;
  o Provision of parking at the EE’s place of work;
  o Travel facility granted by ER to EE’s spouse/minor child if the following apply:
    ▪ EE is more than 250km away from their normal place of residency (EE still within SA borders);
    ▪ EE required to spend more than 183 days at this location during the specific tax year;
    ▪ The facility is provided in respect of travel between the EE’s usual place of residency in SA and the location where the EE is stationed.
  • In the event that an EE is granted a cell phone contract entitling him / her to free minutes, the value of a free minute is calculated as follows:
    o [monthly subscription – (market value of cell phone/contract period) /total free minutes].
**IRP5 INFORMATION**

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3806: Services)

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**EXAMPLES**

The University of Y grants its EE’s free/cheap tuition for their children.
The value of the benefit is the marginal costs involved in the tuition of the additional person.

Any EE making use of this service is deemed to have received a FB.
A FB will however not arise if the EE pays a consideration in excess of the marginal cost.

Mr. W is an EE at University X and his daughter is allowed to complete a course at the University free of charge. It costs the University R5 000 per month to educate 1 student and R6 900 to educate 2 students (the marginal cost to educate an additional person is therefore R1 900 (6 900 – 5 000).)

A FB in the amount of R1 900 is to be included in Mr. W’s monthly taxable remuneration.
8. Low or Interest Free Loans

Governed by Paragraph 2(f), 10A and 11 of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• ER grants an EE a loan and interest on the loan is charged at a rate below the official interest rate;

• The FB is valued as the difference between the interest that would have been paid had such interest been charged at the official rate (see Annexure C for official rates) and the actual interest paid by the EE.

IMPORTANT NOTES

• Any loans granted by the ER to the EE fall under the National Credit Act (even if exempted from registering with the NCR);

• An ER is exempt from registering with the National Credit Regulator if:
  o The company does not charge interest;
  o The company has less than 100 credit agreements; or
  o The total credit book is less than R 500 000;
  o The loans are incidental and become loans if the EE fails to repay the advance in the stipulated time;

• ER’s have the obligation to check the EE’s credit record and affordability before awarding the loan;

• No FB will arise under the following conditions:
  o The ER grants casual loans to the EE’s and the aggregate of such loans does not exceed R3 000;
  o The ER grants the EE a loan to enable them to further their studies;
  o A financial institution grants loans to its EE’s and interest is levied at the same rate as the rate applicable to its clients (irrespective of whether such rate is below the official rate);
  o Loan granted to the director of a company if such loan is as a result of the director’s shareholding and by virtue of any services rendered (in such cases the company will not be allowed to deduct the interest);

• In cases where the EE’s house is acquired and registered under the ER’s name and the EE is entitled/obliged to acquire the house from the ER at an agreed price; further to the above the EE occupies the house and pays rental to the ER (calculated as a given percentage of the cost of the house to the ER). Such housing schemes are then deemed to be the granting of a low-interest housing loan;
• When the EE ultimately acquired the house from the ER, the difference between the purchase price & MV will not be subject to tax in the EE’s hands provided the purchase price is not lower than the house’s MV on the date the original agreement was concluded.

**IRP5 INFORMATION**

• The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801)

**EXAMPLES**

Mr. J is granted a loan of R10 000 by his ER. Interest on the loan is payable at 2%, while the official interest rate is 6.75%. The monthly FB received by Mr. J is calculated as follows:

- **Official rate:** \( \frac{(10 000 \times 6.75\%)}{12} \) = R56.25
- **Interest levied:** \( \frac{(10 000 \times 2\%)}{12} \) = R16.67
- **FB received:** R39.58
9. Loan Subsidies

Governed by Paragraph 2(g), 2(gA) and 12 of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• ER pays a subsidy in respect of any amount of interest or capital due by an EE on a loan.

IMPORTANT NOTES

• A FB is deemed to arise if the ER makes a payment to a third party in respect of a low/interest free loan granted by the third party to the EE;
• The FB is valued at the amount of the subsidy paid by the ER.

IRP5 INFORMATION

• The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801)

EXAMPLES

Mr. J obtains a loan of R50 000 from a Bank and interest thereon is levied at 6.5%. Normal interest is levied at 13%, and Mr. J is charged interest at the lower rate because his ER has agreed to subsidise the difference.

As the interest paid by the EE and ER are in excess of the official rate of interest, a FB will arise and the monthly value of such FB is calculated as follows:

\[(50 000 \times (13\% - 6.5\%))/12 = R270.83\]
10. Employer Contributions to Insurance Policies

Governed by Paragraph 2(k) and 12C of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

- ER pays premiums to an insurer on the EE’s behalf for life, disability or income protection.

IMPORTANT NOTES

- These provisions apply to both direct and indirect premium payments;
- The insurance is paid for the benefit of the EE/their spouse/child/dependent/nominee;
- The FB is valued at the amount of the insurance premiums paid by the ER;
- No policy premiums paid by the EE are tax deductible;
- Life and disability policies included in a company pension or provident scheme must be reported separately (This is now a FB)
- Payouts to the EE will be tax free

IRP5 INFORMATION

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801: General FB)

EXAMPLES

Mr. J is an EE at ABC Corporation. ABC pays monthly insurance premiums in the amount of R800 on Mr. J’s behalf.

A FB will arise and the monthly value of such FB is R800.
II. Settlement of Employee Debt or Release from Debt

Governed by Paragraph 2(h) and 13 of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

- ER pays an amount owing by the EE to a third party (without requiring the EE to repay such amount) or the EE is released from an obligation to pay a debt due to the ER;
- Settling of MA contributions is however excluded.

IMPORTANT NOTES

- The FB is valued at the amount paid by the ER to the third party or the amount of debt from which the EE is released;
- No FB will arise in the following circumstances:
  - ER pays subscriptions to a professional body on the EE’s behalf (provided such membership is a condition of the EE’s employment);
  - New ER grants an EE a low/interest free loan allowing the EE to compensate their previous ER (the new loan cannot be regarded as a study loan);
  - Refund of a study loan by a new ER to a previous ER provided:
    - Previous ER granted the loan provided the EE render services for an agreed period;
    - EE is liable to refund the previous ER upon termination of services prior to the expiration of the agreed period;
    - Upon taking up employment with the new ER, the new ER refunds any outstanding amounts to the old ER;
    - EE is then liable to work for the new ER for a period not shorter than the remaining period which should have been worked for the previous ER.

IRPS INFORMATION

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3808: Employee’s Debt)

EXAMPLES

Company C provided Mr. K with a loan of R150 000. To date Mr. K has repaid an amount of R100 000 and is unable to repay the outstanding R50 000. Company C then decides to release Mr. K from the obligation to repay the outstanding amount.

Mr. K is therefore deemed to have received a FB in the amount of R50 000
12. Long Service and Bravery Awards

Governed by Paragraph 2(a), Paragraph 5(2)(b) and Paragraph 5(4) of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• ER pays an amount or gives a gift to the EE to reward long service with the company;
• ER pays an amount or gives a gift to the EE to reward bravery by the EE.

IMPORTANT NOTES

• The FB is valued at the amount paid by the ER to the EE or the MV of the gift given to the EE;
• Long service is defined as:
  o the initial unbroken period of service of at least 15 years;
  o any subsequent unbroken period of service of not less than 10 years:
    ■ This means the subsequent ten years of service after the initial long service
• The FB value for both long service and bravery may be reduced by the lesser of:
  o The cost to the ER of the asset or amount awarded as a gift to the EE;
  or
  o R5 000.
• Unbroken period of service is accepted by SARS as an unbroken period of employment for one ER. Transfer of employment between associated ER does not qualify as unbroken service.

IRP5 INFORMATION

• The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801: General Fringe Benefit)

EXAMPLES

Mr. A has worked continually for ABC (Pty) Ltd for 15 years. The company buys Mr. A a watch to reward him for long service to the company. The watch cost the company R 8 500.

Mr. A is deemed to have received a FB to the value of R3 500. (8 500 – 5 000)
13. Medical Aid Contributions

Governed by Paragraph 2(i) and 12A of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• ER contributes to a Medical Scheme on the EE’s behalf (whether directly or indirectly);
• The FB is valued at the amount of the contribution made by the ER.

IMPORTANT NOTES

• Where ER makes lump sum contributions on behalf of all EE’s, the total contribution shall be divided by the number of EE’s such contribution was made for – this amount will therefore be the value of the FB for each EE;
• Please see section regarding medical aid deductions for relevant codes and examples;
• Contributions paid by an ER who pays pensioners (over 65 or disability) who are not employed are excluded from taxable income.
14. Medical costs incurred by employer

Governed by Paragraph 2(j) and 12B of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

• ER incurred medical expenses on behalf of an EE/their spouse, relative, child or dependent (whether directly or indirectly);
• The FB is valued at the amount incurred by the ER.

IMPORTANT NOTES

• No FB will arise under the following circumstances:
  o The EE/his spouse, relative, child or dependent is provided with a medical treatment that is listed in a category of the prescribed minimum benefits as determined by the Minister of Health and such treatment is provided in terms of a scheme of the ER:
    ▪ Which constitutes the carrying on of the business of a medical scheme if the scheme is approved as exempt from complying with the requirements of medical schemes;
    ▪ Which doesn’t constitute the carrying on of a business of medical schemes if the EE/their spouse, children are not beneficiaries of a medical aid or they are beneficiaries and the total cost of such treatment is recovered from the scheme;
  o Services are rendered or medicines supplied so as to comply with the laws of SA;
  o Where such services are derived from an ER by:
    ▪ Person who retired by reason of ill-health, infirmity or superannuation;
    ▪ Dependents of a retired EE (EE retired for reasons stated above);
    ▪ Dependents of an EE after death of the EE and such EE was still employed with the ER at date of death;
    ▪ An EE who is over 65 (provided they have retired and are no longer employed by the ER);
    ▪ Where services are rendered by the ER at their place of work so as to improve EE’s performance.

IRP5 INFORMATION

• Reported on IRP 5 as follows:
  o 3813 (Medical Services Cost) for cash equivalent of the FB
  o 4024 (Medical Services Cost deemed to be paid by EE) for medical costs deemed to be paid by EE
15. Compensation and Incentives

Governed by Paragraph 2(a), Paragraph 5 of the 7th Schedule to the Income Tax Act

BRIEF OVERVIEW

- ER pays an amount or gives a gift to the EE to reward good service;
- ER pays an amount or gives a gift as an incentive to the EE for achieving their goals;
- The same rules apply as for the acquisition of an asset.

IMPORTANT NOTES

- The FB is valued at the amount paid by the ER to the EE or the MV of the gift given to the EE.

IRP5 INFORMATION

- The cash equivalent of the benefit is to be reflected on the IRP 5 (code 3801: General Fringe Benefit)

EXAMPLES

Mr. X is a sales EE for Company Z. He is consistent in exceeding his targets so the company rewards him with a weekend away. The cost of the weekend to the company is R5 400. The amount of the FB is R5 400.
Other Types of Income

EE’s at times receive amounts (not discussed in any of the above sections) from their ER. Some of these amounts are normally not received at regular intervals and include items such as tips, gratuities, stipends, overtime and leave pay.

Timing of variable income receipts – Section 7B(1) of the Income Tax Act

- The taxable event for certain variable payments has been deemed to be when the payment is made to the EE (no longer the earlier of receipts or payment);
- The above principle applies to the following variable payments:
  - Leave pay;
  - Overtime;
  - Commission;
  - Bonuses;
  - Travel reimbursements.
- The difficulties with this will occur at tax year end where 2 tax years will have to be taken into account when planning the payment;
I. Stipends

Governed by Paragraph 1 of the 4th Schedule to the Income Tax Act

BRIEF OVERVIEW

- Stipends are periodic payments normally granted to students or researchers;
- These amounts are normally granted to help with the deferral of education or research related expenses.

IMPORTANT NOTES

- Any educational or research related expenses incurred by the student or researcher are deductible from the amount received (deduction claimable when the individual completes their annual tax return);
- In the event that the stipend is granted for genuine expenses and such amount does not exceed the expenses incurred by the recipient then such amount need not be reported to SARS (this is due to the fact that the net effect of deducting the expenses is nil and the amount is therefore not taxable);
- If the stipend received is in excess of the expenses incurred, the net amount after deducting the educational or research expenses, is therefore taxable (i.e. stipends that accommodate the covering of expenses over and above educational or research expenses).

IRP5 INFORMATION

- In the event that the stipend is taxable, it should be reported on the IRP 5 under code 3601 (Income)

EXAMPLES

Mr C, a doctoral student at University W is granted a monthly stipend of R5 000 to assist with the deferral of his expenses. For the month of November, Mr C incurred the following expenses:

- Study related travel: R800
- Acquisition of text books: R1 050
- Fees: R2 000

Due to the fact that the stipend received is in excess of the educational related expenses incurred by Mr C, R1 150 \((5 000 - 800 - 1 050 - 2 000)\) of the stipend is taxable.
2. Tips or Gratuities

Governed by Paragraph 1 of the 4th Schedule to the Income Tax Act & Binding Class Ruling 027

BRIEF OVERVIEW

• These amounts are normally received by EE’s in the hospitality or recreational industry;
• Such amounts are normally received from guests or customers.

IMPORTANT NOTES

• Tips are received by virtue of an EE’s employment and are therefore included in the EE’s gross income;
• Binding Class Ruling 027 was issued on 14 February 2011 and it detailed the following:
  o In cases where tips received by EE’s are held by the ER for safekeeping and paid to the EE at a later date, such amounts will not be included in the EE’s taxable remuneration provided the following conditions are complied with:
    ■ EE’s are not entitled to receive tips;
    ■ EE’s are required to declare all tips received and such tips are to be handed over to the ER for safekeeping;
    ■ All tips declared are received by the EE in their bank account together with their monthly salary;
    ■ Terminated EE’s are still entitled to all tips received prior to termination.
  o This Binding Class Ruling is valid for 5 years as of August 2010;
• Tips complying with the requirements of BCR 027 will not be subject to EE’s tax, but will be taxed upon assessment when the EE completes their annual tax return.

IRP5 INFORMATION

• All taxable tips are to be reflected on the IRP 5 under code 3601 (Income)

EXAMPLES

Mrs X a waitress at Eats R Us received tips in the amount of R1 050 during the month of March. These tips were kept by her ER for safekeeping and paid to her together with her March salary.

Due to the fact that the tips were kept by the ER for safekeeping, the R1 050 will not be included in her taxable remuneration.
3. Overtime

Governed by Paragraph 1 of the 4th Schedule to the Income Tax Act & Section 10 of the Basic Conditions of Employment Act

BRIEF OVERVIEW

- Overtime is payable to an EE if and when they render services to the ER in excess of the agreed working hours;
- Working overtime is voluntary and such should be agreed between the ER and EE.

IMPORTANT NOTES

- The maximum overtime that an EE can work (in accordance with the Basic Conditions of Employment Act) is 3 hours per day or 10 hours per week;
- Overtime is to be remunerated at a rate of 1.5 times the normal rate;
- Overtime on a Sunday or Public Holiday is to be remunerated at a rate of 2 times the normal rate;
- Amounts received for overtime are to be taxed in the same manner as the EE’s regular salary.

IRP5 INFORMATION

- All amounts received for overtime are to be reflected on the IRP 5 under code 3601 (Income)

EXAMPLES

Mr J worked a total of 9 hours overtime as agreed with his ER. Of the 9 hours, 4.5 hours was worked on Saturday and 4.5 hours on Sunday. Mr J’s normal hourly rate is R173.36.

The amount to be included under code 3601 for overtime is as follows:

- Saturday: R1 170.18 \((173.36\times1.5\times4.5)\)
- Sunday: R1 560.24 \((173.36\times2\times4.5)\)

Total overtime: R2 730.42 \((1 170.18 + 1 560.24)\)
4. Leave Pay (Leave Encashment)

**BRIEF OVERVIEW**

- Leave pay is any amount that the ER is required to pay to the EE due to the fact that the EE accumulated leave days over a period and such leave days were not taken by the EE.

**IMPORTANT NOTES**

- Leave pay accrues over the EE’s employment period and is taxable under any of the following circumstances:
  - The EE dies;
  - The EE leaves the ER;
  - The ER and EE enter into an internal agreement that all accumulated and unused leave is to be paid out;
- The amount to be taxed is based on any unused leave days that accrued to the EE;
- Amounts received as leave pay must be paid out at the rate applicable when such leave encashment is due and payable to the EE;
- Tax due on leave pay is to be calculated in the same manner as tax on bonuses;
- The value of leave pay must be calculated at EE’s current remuneration rate.

**IRP5 INFORMATION**

- All amounts received as leave pay are to be reflected on the IRP 5 under code 3605 (Annual payment).

**EXAMPLES**

Mrs G resigns from ABC Ltd, upon resignation she has accumulated a total of 26 unused leave days which accrued over a 3 year period. Of the 26 days, 6 relate to year 1, 8 to year 2 and 12 to year 3. Her daily rates in respect of the 3 years are as follows:

- Year 1: R250
- Year 2: R300
- Year 3: R350

Her total leave payout to be reflected under code 3605 is as follows: R9 100 (26*350)
5. Arbitration Awards

 Governed by Paragraph 1 of the 4th Schedule to the Income Tax Act

**BRIEF OVERVIEW**

- These amounts are awarded due to unfair dismissal, termination of employment prior to expiry of the employment contract or unfair labour practices by the CCMA or Labour Court.

**IMPORTANT NOTES**

- Such amounts are to be included in the EE’s taxable remuneration;
- A directive, stipulating the rate at which tax on such amounts is to be calculated, is to be applied for;
- Arbitration awards are to be taxed as annual payments (i.e. tax due is to be calculated in the same manner as tax on bonuses);
- Amounts received as a result of unfair labour practices may be non-taxable.

**EXAMPLES**

Mrs. T is unfairly dismissed, after following the relevant procedures, she is awarded an amount of R8 000 as a result of the unfair dismissal.

An amount of R8 000 is to be included on her IRP 5 under code 3608.
6. Back Pay

Governed by Paragraph 1 of the 4th Schedule to the Income Tax Act

BRIEF OVERVIEW

• These amounts are received when an EE receives an increase and such increase is back dated.

IMPORTANT NOTES

• Amounts received as back pay are to be treated in the same manner as the EE’s normal cash salary;
• Amounts received as back pay are taxed as normal income.
• Back pay that spans 2 tax years should in theory be taxed in the year it was meant for i.e. If an EE receives 4 months back pay where 2 months were in the previous tax year and 2 in the current tax year, then the 2 months in the previous year should be taxed at that year’s rates and the balance at the current tax year’s rates. However, this may now be taxed under the variable income rule which means that the back pay will be taxed when it is physically paid.

IRP5 INFORMATION

• All amounts received for overtime are to be reflected on the IRP 5 under code 3601 (Income)
7. Restraint of Trade

Governed by Paragraph 1 of the 4th Schedule to the Income Tax Act
Paragraph (cA) of the definition of gross income Section 1

BRIEF OVERVIEW

• Payment to limit or prevent a person’s ability to engage in a particular business or seek employment that could adversely affect his/her departing from employer.

IMPORTANT NOTES

• Amounts received by a natural person, labour broker not in possession of an exemption certificate or a personal service provider are fully taxable;
• The amount is included in Gross Income if an employment relationship is maintained and to be taxed accordingly as income unless a tax directive is provided.

IRP5 INFORMATION

• All amounts received for overtime are to be reflected on the IRP 5 under code 3613 (Restraint of Trade)
8. Severance Pay

Governed by Paragraph 9(3) of the 4th Schedule to the Income Tax Act
Section 10(1)(gB) of the Income Tax Act
Severance benefit definition and Gross Income definition in Section 1

BRIEF OVERVIEW

- A payment in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of the person’s employment.

IMPORTANT NOTES

- Payment is classified as severance payment if:
  - The person has attained the age of 55 years;
  - The relinquishment, termination, loss, repudiation, cancellation or variation is due to the person becoming incapable of holding their employment due to sickness, accident, injury or incapacity through illness of mind or body;
  - The termination or loss is due to:
    - The ER having ceased or planning to cease carrying on a trade in which the person was employed;
    - The person becomes redundant in the consequence of a general reduction in personnel or a reduction in a particular class by the ER;
    - Unless the said person at any time held more than 5% of the issued share capital or member’s interest in the company.

- The payment of any severance amount paid following the death of a person must be deemed to be an amount accrued to the person immediately prior to their death;
- Payments to any person in respect of death is exempt from tax if the payment does not include:
  - The amount of pension paid in respect of death or disablement caused by an occupational injury or disease contracted by the person before 1 March 1994;
  - Does not exceed the amount of R300 000; or
  - The amount was paid in terms of the Road Accident Fund Act.
- Leave payments are not included in severance payments;
- The ER must apply for a tax directive for the amount payable.

IRP5 INFORMATION

- The full amount must be reflected on the IRP5 under code 3901 (Gratuities)
- The tax amount must be reflected on the IRP5 under code 4115 (Tax on retirement lump sum and severance benefits)
9. Compensation for Occupational Death

Governed by Section 10(1)(gB)(iii) of the Income Tax Act

**BRIEF OVERVIEW**

- A lump-sum payment that accrue after 1 March 2011 from a compensation fund in respect of:
  - Lump sum compensation paid by the ER as a direct result of an occupational death of an EE in accordance with the Compensation for Occupational Injuries and Diseases Act.

**IMPORTANT NOTES**

- The amount of the lump sum payment is under the proviso that the amount that becomes payable in consequence or following the death of a person must be deemed to be an amount which accrued to the person immediately prior to their death;
- The ER must apply for a tax directive from SARS;
- The payment is exempt if:
  - The benefit was paid in terms of the Occupational Injuries and Diseases Act;
  - The ER must pay the amount;
  - A maximum of R300 000 is exempt.

**IRP5 INFORMATION**

- The full amount must be reflected on the IRP5 under code 3922 (Compensation i.r.o. death during employment)
- The tax amount must be reflected on the IRP5 under code 4115 (Tax on retirement lump sum and severance benefits)
10. Director’s Remuneration

 Governed by Employee definition in Paragraph 1, Paragraph 9(5), 11C and 2(1) of the 4th Schedule to the Income Tax Act and the Company definition in Section 1 of the Income Tax Act

BRIEF OVERVIEW

• The definition of an EE includes a director of a private company or member of a CC;
• Any remuneration paid to such directors or members of CC’s is subject to EE’s tax.

IMPORTANT NOTES

• For an EE to be liable for director’s tax the following must apply:
  o The EE must be a registered director of a private company or member of a CC; and
  o The EE’s monthly remuneration in the last year must be less than 75% in fixed remuneration;
• If the EE, who is a director, does not meet both criteria they must be taxed as a normal EE;
• If the EE, who is a director, meets both criteria, then the deemed method of taxation must be used;
• The deemed method of taxation is as per the following formula prescribed in Paragraph 11C of the 4th Schedule:

\[ Y = \frac{T}{N} \]

  o Y – The amount to be determined
  o T – The balance of remuneration paid or payable to the director by that company in respect of the last tax year of that director, less any amount included in that remuneration:
  ▪ Relating to the relinquishment, termination, loss, repudiation, cancellation or variation of any office or employment;
  ▪ which are lump sum benefit payments received from a retirement fund;
  ▪ in commutation of amounts due under any contract of employment or service;
  ▪ which are gains made by the exercise, cession or release of any right to require any marketable security;
  ▪ which are gains made from the disposal of any qualifying equity share;
  ▪ which are gains made from the vesting of any equity instrument.
N – The number of completed months in the tax year in respect of which T was derived;

if the remuneration for the year proceeding the last tax year has also not been determined as yet, then the company must request the Commissioner to determine the remuneration for the purposes of the formula.

• **Note:** Where the remuneration of the director for the last tax year has not yet been determined for purposes of T in the formula, T shall then be determined based on the balance of remuneration paid/payable by the company to the director in respect of the preceding tax year increased by an amount equal to 20% of that remuneration and N shall be the number of completed months which the director was employed by that company during that preceding tax year:

- The director must be taxed on the higher of the deemed or actual remuneration;
- Where the deemed is higher than actual, the director will pay the tax on actual and the company on the difference;
- Where actual is higher than deemed, the director is liable for the tax;
- The company can claim the tax they paid on behalf of the director from the director to the company;
- The amount paid by the company for the EE’s tax of the director is NOT deemed as a loan;
- A director is not entitled to a tax certificate in respect of the amount of EE’s Tax paid by the company on the deemed remuneration if the company has not recovered the EE’s Tax from the director;
- Where a director ceases to be a director during a tax year, but remains employed by the company, the deemed formula must not be used for the balance of the tax year and the normal taxation will apply, and only one tax certificate is necessary;
- Where a new director is appointed to a company during a tax year, who was NOT an EE of the company, the normal taxation will apply for that year;
- Where a new director is appointed to a company during a tax year, who WAS an EE of the company, the deemed remuneration formula must be used.

**IRP5 INFORMATION**

Only the actual salary for the director must appear on the IRP5 under code 3615 (Director’s remuneration)

All other remuneration (bonus, allowances, benefits, etc.) must be reflected against the existing codes

The full PAYE paid, by both the director and the company, must be shown on the IRP5
EXAMPLES

Mr. F is a director of a private company. He qualifies for director’s tax as he receives less than 75% of his remuneration from a fixed income. In the current month he earns a remuneration of R 25 000. In the previous year his remuneration was R 300 000 for 10 months of service. What will his deemed remuneration be and how will he be taxed?

300 000 / 10
= R30 000

The deemed remuneration is R30 000 which is more than the actual remuneration of R 25 000. The tax will be calculated on the deemed remuneration, but Mr. F will only pay the tax on the actual remuneration and the company will pay the difference between the tax on the deemed remuneration and actual remuneration.
Allowable Deductions (Statutory)

When calculating an EE’s taxable remuneration, certain amounts or contributions made by the EE are allowed as deductions. Amounts allowable as deductions include pension and retirement annuity contributions as well as certain insurance premiums. The allowed MA deductions from the period of March 2011 to February 2012 have however been replaced by the new MA tax credit (discussed below).

Retirement Funding Instruments

Retirement funding instruments are used by EE’s as a mechanism to provide an income stream once they retire. The following retirement funding instruments may be used by EE’s: Provident Funds, Pension Funds or Retirement Annuity Funds. An EE may receive payments from such funds and such payments are receivable either prior to or upon reaching retirement age.

Non-deductible retirement contributions

- Non-deductible portions of the EE’s retirement contributions are to be allowed as a reduction of receipts stemming from any retirement instruments irrespective of whether or not the amount is received as a lump sum or annuity (this reduction was previously only allowed against lump sum receipts);
- The reduction will apply under the following circumstances:
  - In the event that the receipt is an annuity, the EE is not allowed to be a subsequent holder of such annuity (i.e. the EE is to be the original or first holder of the annuity);
  - The reduction principle is to be applied on a “first-come-first-serve” basis;
  - The funds from which the retirement amounts received originate from will have no bearing on the application of the reduction principle.
## 1. Pension Fund Contributions

Governed by Paragraph 2(4)(a) of the 4th Schedule and Section 11(k) of the Income Tax Act

### BRIEF OVERVIEW
- EE contributions to a pension fund are deductible from the amount of remuneration received by the EE.

### IMPORTANT NOTES
- Current contribution deduction limited to greater of:
  - R1 750;
  - 7.5% of retirement funding income.
- Arrear contribution deduction limited to R1 800;
- Current contributions in excess of the allowable limit may not be carried forward to the following tax year;
- Arrear contributions in excess of the allowable deduction may be carried forward to the following tax year.

### IRP5 INFORMATION
Reported on IRP 5 as follows:
- Code 4001 (Current Pension Fund Contributions) for current contributions
- Code 4002 (Arrear Pension Fund Contributions) for arrear contributions

### EXAMPLES
Mrs. E contributes to a pension fund and has monthly retirement funding income in the amount of R29 000. Her total monthly deduction is limited to the greater of:

- R 1 750
- R 2 195 (29 000*7.5%)

Her allowable deduction may therefore not exceed R2 195 per month
2. Retirement Annuity Contributions

Governed by Paragraph 2(4)(b), 2(4)(bA) of the 4th Schedule and Section 11(n) of the Income Tax Act

BRIEF OVERVIEW

• ER may (at their discretion) deduct EE contributions to an RA fund when calculating the EE’s taxable remuneration;
• The EE is however required to provide proof of payment.

IMPORTANT NOTES

• Current contribution deduction limited to greater of:
  o R1 750;
  o R3 500 minus the pension deduction allowed;
  o 15% of non-retirement funding income.
• Arrear contribution deduction limited to R1 800;
• Current and arrear contributions in excess of the allowable limits may be carried forward to the following tax year.

IRP5 INFORMATION

Reported on IRP 5 as follows:
• Code 4006 (Current RA Contributions) for current contributions
• Code 4007 (Arrear RA Contributions) for arrear contributions

EXAMPLES

Mrs. Y contributes to both a pension and RA fund. She has monthly non-retirement funding income in the amount of R26 000 and was allowed a pension fund deduction in the amount of R2 100. Her allowable RA deduction is limited to the greater of

R1 750
R1 400 (3 500 - 2 100)
R3 900 (26 000*15%)

Her allowable deduction may therefore not exceed R3 900 per month
3. Medical Aid

Governed by paragraph 2(4) of the 4th schedule and Section 18 of the Income Tax Act

Medical tax credit – Section 6A of the Income Tax Act

- From 1 March 2012, the following will be applicable with regards to medical aid contributions:
  - The tax credits will be allowed as a deduction from normal tax payable;
  - These new provisions will apply to taxpayers over the age of 65 from 1 March 2014.
- Applies to all MA contributions made by any person (over 65 included from 1 March 2014);
- Monthly credit is as follows (from 1 March 2015):
  - R270 per month for 1 member;
  - R540 per month for 2 members;
  - Additional R181 per month for each member in excess of 2.
- Contributions to MA by an ER on EE’s behalf will result in a taxable FB (regardless of the EE’s age – EE over the age of 65 who is no longer employed or is on a disability pension will not be deemed to have received a FB);
- If EE or dependant has a disability, they are allowed the following deductions (over and above the MA tax credit):
  - Contributions to MA that are in excess of 4 times the MA credit;
  - Additional MA expenses paid;
  - Medical expenses incurred outside SA.
- Person under 65 & no disability, allowed to deduct the following aggregate amount (over and above the MA tax credit):
  - Contribution to MA that are in excess of 4 times the MA credit; plus
  - Additional medical expenses in excess of 7.5% of taxable income (determined prior to MA deduction).
**IRP5 INFORMATION**

Reported on IRP 5 as follows:

- Code 4005 (MA Contributions) for EE MA contribution (to include FB value for EE above 65 as this is deemed to have been paid by the EE)
- Code 4474 (ER MA Contributions in respect of EE’s not included in code 4493) for ER MA contribution
- Code 4493 (ER Contributions in respect of EE’s for which no FB arises) for ER MA contribution not resulting in a FB
- Code 3810 (MA Contributions) for FB arising
- Code 4116 (Medical Tax Credit) for the Medical aid tax credit

**EXAMPLES**

Mr. T (below 65 years) earns a monthly salary of R16 040. He contributes R937 to a pension fund and R2 563 to a MA (contributions are made for him and 3 dependents)

<table>
<thead>
<tr>
<th>Description</th>
<th>Current Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary</td>
<td>16 040</td>
</tr>
<tr>
<td>Pension deduction*</td>
<td>(937)</td>
</tr>
<tr>
<td>Taxable income</td>
<td>15 103</td>
</tr>
<tr>
<td>Tax payable</td>
<td>1 803</td>
</tr>
<tr>
<td>MA tax credit**</td>
<td>(902)</td>
</tr>
<tr>
<td>Total tax payable</td>
<td>901</td>
</tr>
</tbody>
</table>

* limited to 1 203 (16 040*7.5%)

** tax credit (270+270)+(181+181)
4. Insurance Policies

Governed by Section 10(1)(gG) of the Income Tax Act and Paragraphs 2(e), 2(k) and 12C of the 7th Schedule and Paragraphs 2(4) of the 4th Schedule of the Income Tax Act.

BRIEF OVERVIEW

• An EE has any type of policy either owned by themselves or by the ER;
• The policies include, key man, income protection, life and disability, etc;
• All policies to now be treated the same.

IMPORTANT NOTES

• If paid and owned by the ER and the EE is the beneficiary:
  o Amount paid by the ER is a FB to the EE;
  o Amount paid by the ER can be deducted by the ER from company tax;
  o Amount paid by EE is not deductible;
  o The pay-out will be tax free.
• If paid and owned by the EE:
  o Are not tax deductible;
  o The pay-out will be tax free.
• There is no transition period and existing policies will fall under this ruling.

IRPS INFORMATION

The FB amount must be reported on the IRP5 under code 3801 (General fringe benefit)

EXAMPLES

Mrs. S has a life policy which the company is paying for. Mrs. S’s family is the beneficiary of the policy. The company pays R285 per month for the policy. The FB value is R285 and in the event of the policy paying out, the pay-out will be tax free.
ALLOWABLE DEDUCTIONS (OTHER)

EE's whose remuneration consists mainly of commission are allowed to deduct additional amounts from their remuneration. Such deductions are however only allowed when the EE completes their annual tax return. Examples of these allowable deductions include office expenses incurred by the EE.

1. Commission Earners

Governed by Section 11(a) and 23(m) of the Income Tax Act

BRIEF OVERVIEW

• Such an EE is authorised or delegated to enter into business transactions on the ER’s behalf;
• The compensation received by the EE for transacting on the ER’s behalf is calculated as a percentage of the ER’s sales or turnover.

IMPORTANT NOTES

• Commission payments are to be included in the EE’s taxable remuneration;
• The following is applicable in cases where the EE receives both commission and a salary:
  o If the EE is in possession of a tax directive, the ER is required to deduct EE’s tax in accordance with the instructions stated on the tax directive;
  o If the EE is not in possession of a tax directive, the ER is required to deduct EE’s tax in accordance with the applicable tax rates.
• Tax directives can be obtained by completing and submitting the relevant form (forms can be obtained from SARS or online via eFiling);
• In the event that the EE’s income is derived mainly (more than 50%) in the form of commission, the EE is allowed to deduct a portion of expenditure incurred in generating the commission income (such deduction is allowed when the EE completes their annual tax return);
• In the event that the EE’s income is not derived mainly from commission, the EE is only allowed to deduct the following amounts (provided they were incurred in the production of their employment income and are not capital in nature):
  o Contributions to a Pension or Retirement Annuity Fund;
  o Legal expenses;
  o Wear and tear;
  o Bad debts;
  o Doubtful debts;
EXAMPLES

Miss G is a commission earner which is calculated as 10% of total turnover generated. She generates R52 000 in a month. She does earn a basic salary of R 5 000 per month. She does not have a tax directive. She has expenses for the month totaling R2 500 in respect of generating the turnover. What is the taxable amount she will be taxed on and can she claim the expenses?

Commission = 52 000 x 10%
            = R5 200

Taxable Income = R5 000 + R5 200
                = R 10 200

Commission percentage of income = 5 200 / 10 200 x 100
                                  = 51%

Miss G can claim the full expense of R2 500 as her commission is more than 50% of her income.
2. Home Office Costs

Governed by Section 11(a), 11(d), 23(b) and 23(m) of the Income Tax Act

BRIEF OVERVIEW

- Home office expenses include:
  - Rental;
  - Interest on bond;
  - Repairs to premises;
  - Telephone expenses;
  - Rates & taxes;
  - Cleaning;
  - Office equipment;
  - Wear and tear;
  - Office stationery;
  - Other premises related expenses.

IMPORTANT NOTES

- In order to deduct home office expenses, the following conditions must be met:
  - The expense is not capital in nature;
  - The expense was incurred in the production of income (i.e. employment income);
  - The part of the home for which the claim is submitted must be used for trade purposes (i.e. the production of the EE's employment income);
  - The respective space must be specifically equipped for trade purposes;
  - The respective space must be used regularly and exclusively for trade purposes;
  - The income derived from such trade must be mainly (more than 50%) commission or other variable payment (based on the EE's performance);
  - The EE's duties were not performed mainly at an office provided by the ER (i.e. the EE's duties must be performed mainly (more than 50%) in the part of the private premises occupied or equipped for trade purposes).

- In the case where the EE does not earn more than 50% of income from commission, the following can be claimed:
  - Pension up to the regular deductible limits;
  - Wear and tear of equipment;
  - Travel;
  - Interest on bonds;
  - Rates and Taxes;
  - Renovation costs;
  - The rental cost of the home office calculated at a ratio of the total building.

- Where the EE does earn more than 50% from commission, the following can be claimed:
o All of the above;
o All expenses relating to the generation of income.
• The claims are done with the annual assessment.

EXAMPLES

Mr. X is an EE who earns a commission income of R75 000 and a salary of R25 000 per year. Mr. X has to work from home as his ER does not furnish him with an office. He has set up a home office specifically for the work he has to complete and to generate his commission. He works mainly in his home office. The total area of his office is 20 m² and the total area of his house is 200 m². To set up his home office he purchased a computer for R10 500, a desk for R1 500 and a chair for R550. The interest on the bond is R35 000 per year and the rates and taxes for the year are R3 500. Mr. X contributes R5 000 a year to a pension fund and incurred commission generating expenses of R8 500 for stationery costs and telephone expenses.

The following can be claimed by Mr. X because he earns more than 50% in commission:
• Pension fund contributions - R5 000
• Telephone and stationery expenses – R8 500
• Wear-and-tear on the equipment
• Any travel deduction
• Interest on the bond – 35 000 x 10% (20/200) = R350
• Rates and taxes – 3 500 x 10% = R350

Mrs. Y is an EE who earns a commission income of R20 000 and a salary of R75 000 per year. Mrs. Y has to work from home as her ER does not furnish her with an office. She has set up a home office specifically for the work she has to complete. She works mainly in her home office. The total area of her office is 20 m² and the total area of her house is 200 m². To set up her home office she purchased a computer for R10 500, a desk for R1 500 and a chair for R550. The interest on the bond is R35 000 per year and the rates and taxes for the year are R3 500. Mrs. Y made renovations to the house including the office with a cost of R5 000. Mrs. Y contributes R5 000 a year to a pension fund and incurred expenses of R8 500 for stationery costs and telephone expenses.

The following can be claimed by Mrs. Y because she earns less than 50% in commission:
• Pension fund contributions - R5 000
• Wear-and-tear on the equipment
• Any travel deduction
• Interest on the bond – 35 000 x 10% (20/200) = R350
• Rates and taxes – 3 500 x 10% = R350
• Renovation costs – 5 000 x 10% = R500

The following cannot be claimed by Mrs. Y:
• The telephone and stationery costs;
• Any repair costs if incurred.
Independent Contractors

The difference between EE's and independent contractors can be established by analyzing the nature of the employment contract and establishing the objective of such contract (i.e. looking at the legal nature of the contract). In establishing the nature of a contract, one can apply the Statutory and Common Law test.

I. Statutory Test

Governed by Interpretation Note 17 to the Income Tax Act

BRIEF OVERVIEW

• When establishing whether or not an EE is an Independent contractor, the provisions of the Statutory test are to be applied first;
• Should any of the provisions be complied with, it is not necessary to apply the provisions of the Common Law Test.

IMPORTANT NOTES

• An individual who employs three of more EE’s throughout the year of assessment and these EE’s are not connected persons, is deemed an independent contractor;
• An individual will, by virtue of the Statutory test, be deemed to be an Independent contractor if the first condition and any of the remaining two conditions apply:
  o They are not required to provide the service mainly at the client’s premises; and
  o They are not subject to the control of any other person with regard to the manner in which their duties are to be performed as well as the hours they are required to work;
  o They are not subject to the supervision of any other person with regard to the manner in which their duties are to be performed as well as the hours they are required to work.
• The Statutory test is conclusive in nature;
• In the event that an individual is an Independent contractor, the amounts paid are not added to remuneration for tax purposes.
2. Common Law Test

Governed by Interpretation Note 17 to the Income Tax Act

**BRIEF OVERVIEW**
- The Common Law test is based on the “dominant impression” of the employment relationship;
- This test is applied if the Statutory test is not conclusive.

**IMPORTANT NOTES**
- This test determines the dependence or independence of an individual;
- The test assist in establishing whether or not there has been any acquisition of productive capacity;
- Please see Annexure E for the application of the Common Law test;
- In the event that an individual is an Independent contractor, they are required to obtain a tax directive and EE’s tax is to be withheld in accordance with the tax directive.

**IRP5 INFORMATION**
Income received by an Independent Contractor is to be reflected on the IRP 5 under code 3616 (Independent Contractor)

**EXAMPLES**

Mr. D is an independent contractor, according to the common law test. Mr. D provides his services mainly at his client’s premises and is subject to the control or supervision of the client. Mr. D does not employ three or more employees who are not connected EE’s.

Mr. D will not be an independent contractor, due to the statutory test, because:
- He performs the duty mainly at the client; and
- He is under the control or supervision of the client.

Even though Mr. D is an independent contractor under the common law test, EE’s tax will be deducted from the amounts paid to him. This remuneration will be reflected against IRPS code 3616. If Mr. D did not qualify as an independent contractor under the common law test the remuneration will be reflected against code 3601 on the IRP5.
Retirement Funds

There are three main retirement fund engines available, each having their own rules and processes. There are times EE’s wish to or are forced to withdraw these amounts.

I. Provident Funds

Governed by the 2nd Schedule to the Income Tax Act

BRIEF OVERVIEW

- A Provident Fund is any fund approved by the Commissioner and formed for the benefit of EE’s (excludes any Pension or Retirement Annuity Funds);
- ER and EE contributions to a Provident fund are neither taxable nor deductible;
- A tax liability will however arise when the fund makes a payment to the EE.

IMPORTANT NOTES

- An EE is allowed to retire from or leave a Provident Fund prior to reaching retirement age, provided they are leaving the fund due to the fact that they are leaving their ER;
- Any amounts received prior to reaching retirement age will be taxed as lump sum withdrawal benefits (see Annexure F for applicable tax rates);
- Once an EE has reached retirement age, they are allowed to take the full amount of the benefits accumulated as a lump sum;
- Any amounts taken as a lump sum upon reaching retirement age will be taxed as a lump sum severance benefit (see Annexure G for the applicable tax rates);
- A tax directive should be obtained when the EE receives a lump sum (directive will detail amount received as well as the tax to be withheld thereon).
2. Pension Funds

Governed by the 2nd Schedule to the Income Tax Act

BRIEF OVERVIEW

- A Pension Fund is any pension scheme established by law for the benefit of EE's;
- Contributions to a Pension Fund are deductible when determining the EE's taxable remuneration (see section on Allowable statutory deductions);
- A tax liability will however arise when the fund makes a payment to the EE.

IMPORTANT NOTES

- An EE is allowed to retire from or leave a Pension Fund prior to reaching retirement age, provided they are leaving the fund due to the fact that they are leaving their ER;
- Any amounts received prior to reaching retirement age will be taxed as lump sum withdrawal benefits (see Annexure E for applicable tax rates);
- Once the EE has reached retirement age, a maximum of one-third (1/3) of the benefit accumulated in the fund may be taken as a lump sum;
- The remaining two-thirds (2/3) of the accumulated benefit is to be taken as an annuity over the EE's remaining life;
- Any amounts taken as a lump sum upon reaching retirement age will be taxed as a lump sum severance benefit (see Annexure F for the applicable tax rates);
- Any amounts received as an annuity will be included in the EE's gross income and is therefore subject to tax;
- A tax directive should be obtained when the EE receives a lump sum (directive will detail amount received as well as the tax to be withheld thereon).
3. Retirement Annuity Funds

Governed by the 2nd Schedule to the Income Tax Act

BRIEF OVERVIEW

• A Retirement Annuity Fund is any fund approved by the Commissioner and formed for the benefit of EE’s (excludes any Pension or Provident Funds);
• Contributions to a Retirement Annuity Fund are deductible when determining the EE’s taxable remuneration (see section on Allowable statutory deductions);
• A tax liability will however arise when the fund makes a payment to the EE.

IMPORTANT NOTES

• An EE is **not** allowed to retire from or leave a Retirement Annuity Fund prior to reaching retirement age;
• Once the EE has reached retirement age, a maximum of one-third (1/3) of the benefit accumulated in the fund may be taken as a lump sum;
• The remaining two-thirds (2/3) of the accumulated benefit is to be taken as an annuity over the EE’s remaining life;
• Any amounts taken as a lump sum upon reaching retirement age will be taxed as a lump sum severance benefit (see Annexure F for the applicable tax rates);
• Any amounts received as an annuity will be included in the EE’s gross income and is therefore subject to tax;
• A tax directive should be obtained when the EE receives a lump sum (directive will detail amount received as well as the tax to be withheld thereon).
Tax Incentives for Companies

There are two areas where ER's are able to gain tax incentives. These incentives are there to encourage the ER to employ certain individuals in certain circumstances.

I. Learnership Agreements

Governed by Section 12H of the Income Tax Act

BRIEF OVERVIEW

- The incentive is to encourage ER's to train EE's through an official learnership;
- This incentive is deductible from the company taxable income.

IMPORTANT NOTES

- Learnership Agreement:
  - A learnership Allowance is applicable to registered learnership agreements entered into between a learner and an Employer before 1 October 2016.
  - A registered learnership agreement means a learnership agreement that is registered in accordance with the Skills Development Act.
  - A learnership that is registered within 12 month after the last day of the year of assessment in which it was entered into, must be deemed to have been registered on the day it was entered into.
  - The agreement must be entered into pursuant to a trade carried on by the Employer

- Annual Allowance:
  - R30 000 (R50 000 for an person with a disability) - in respect of every completed 12 month period
2. Employment Tax Incentive

Governed by the Employment Tax Incentive Act

BRIEF OVERVIEW

- The incentive is to encourage ER’s to provide first time employment to the youth of South Africa;
- This incentive is deductible from the monthly PAYE payable to SARS.

IMPORTANT NOTES

- The ETI is effective from 1 January 2014 and is applicable to any qualifying EE employed from 1 October 2013;
- The ETI stops on the 31 December 2016;
- Any ER who is registered for PAYE (to withhold tax from an EE) as per the 4th schedule of the Income Tax act is eligible to receive the employment tax incentive with the following exceptions:
  - National, provincial or local government of the Republic of South Africa;
  - Public entities listed in Schedule 2 or 3 to the Public Finance Management act, unless the entity designated by the Minister of Finance by notice in the Government Gazette;
  - Municipal entities defined in section 1 of the Local Government Municipal Systems Act.
- In addition, the following ER’s will be disqualified from receiving the incentive:
  - Those disqualified by the Minister of Finance for displacing EE’s for the purpose of receiving the incentive;
  - Those who do not meet conditions as the Minister of Finance, after consulting the Minister of Labour, prescribes by regulation including –
    - Conditions based on the training of EE’s;
    - Conditions based on the classification of trade in the most recent Standard Industrial Classification Code issued by Statistics South Africa.
- Eligible ER’s who do not comply fully with the provisions set out in the act, or try to dismiss and re-hire, or use any means to displace EE’s to gain the incentive will be penalised and may be disqualified by the Minister of Finance from receiving the incentive.
- To qualify an EE is a qualifying EE if the EE:
  - Is between the ages of 18 and 29 years of age at the end of any month for which the incentive is claimed;
  - Is employed by an ER who has a fixed place of business within a special economic zone designated by the Minister of finance and the EE’s renders services to the ER mainly within that zone; or
  - Is employed by an ER in an industry designated by the Minister of Finance, after
consultation with the Minister of Labour and the Minister of Trade and Industry, by notice in the Government Gazette;

- Is in possession of a valid South African Identity Document; or
- Is in possession of an asylum seeker permit;
- With relation to the ER, is not a connected person to the ER (e.g. not a family member of the owner);
- Is not a domestic worker;
- Was employed by the ER or associated person of the employer on or after 1 October 2013;
- Is not an EE of any ER excluded from receiving the ETI.

- A qualifying EE must be employed at the minimum wage of the industry employed in, and where there is no minimum wage, the minimum wage to qualify will be R2 000 per month;
- An ER is able to claim the ETI for the first 24 qualifying months per qualifying EE from 1 January 2014;
- The amount of the ETI is 50% of the monthly remuneration with a limit of R1 000 per month for the first 12 qualifying months and 25% of the monthly remuneration with a limit of R500 for the second 12 qualifying months;
- The amount of the ETI based on the remuneration is:
  - R 2 000 or less, an amount of 50% (1st 12 months) or 25% (2nd 12 months) of the monthly remuneration;
  - More than R 2 000 but less than R 4 001, an amount of R 1 000 (1st 12 months) or R500 (2nd 12 months);
  - More than R 4 000 but less than R 6 001, an amount determined by the following formula:
    \[
    X = A - (B \times (C - D))
    \]
    In which formula –
    - “X” is the monthly ETI;
    - “A” is the amount of R 1 000 (1st 12 months) or R500 (2nd 12 months);
    - “B” is the number 0.5 (1st 12 months) or 0.25 (2nd 12 months);
    - “C” is the EE’s monthly remuneration;
    - “D” is the amount of R 4 000.
  - More than R 6 000, an amount of Nil.
- The ETI is only calculated on monthly remuneration;
- EE’s who earn less than R2 000 do not qualify for the ETI unless they work in an industry where there is a wage regulating rule;
- Weekly and fortnightly wage EE’s remuneration must be for a whole month, meaning it is possible for the EE’s not to qualify for the ETI in 5 week or 3 fortnight months;
- The ETI is claimed by deducting the ETI amount from the PAYE on the EMP201 each qualifying month;
If an employer employs a qualifying employee for less than 160 hours in a month, the employment tax incentive to be received in respect of that month, in respect of that qualifying employee must be an amount that bears to the total amount calculated in the same ratio as the number of hours that the qualifying employee was employed by the employer in that month bears to the number 160.

<table>
<thead>
<tr>
<th>Days worked</th>
<th>ETI amount determined by applying the table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Working days per month</td>
<td></td>
</tr>
</tbody>
</table>

If the ETI amount is more than the calculated PAYE, the balance can be rolled over to the following month for up to 6 months;

If there is an amount owing to the ER after the 6 months, SARS will issue a reimbursement.

**IRP5 INFORMATION**

If the EE is on the ETI scheme an X is recorded on the IRP5 under code 3026 (Employee is on the ETI scheme);

If the EE is an Asylum seeker the “Nature of Person” code M must reflect on the IRP5 under code 3020 (Nature of Person);

The ER industry code must reflect on the IRP5 under code 3263 (SIC7) – If the EE’s code is different from the ER code, otherwise the ER code will is used as the default;

The ER special economic zone code must reflect on the IRP5 under code 3264 (SEZ) – If the EE is different from the code at ER level;

The total amount of ETI claimed by the ER for the EE must reflect on the RP5 under code 4118 (ETI) – Must have a value if 3026 has an X and cannot be negative.

**EXAMPLES**

Mr. Y is 24 years of age and is employed for the first time by a company who is eligible for the EE tax incentive. Mr. Y is a qualifying EE who earns R4 500 per month. The tax incentive will be calculated as follows for the month:

\[
\begin{align*}
A &= R1\ 000 \\
B &= 0.5 \\
C &= R4\ 500 \\
D &= R4\ 000 \\
X &= 1\ 000 - (0.5 \times (4\ 500 - 4\ 000)) \\
&= R750
\end{align*}
\]
Other Payroll Taxes

Statutory requirements like BCEA, UIF, SDL and COIDA are also seen as a form of payroll taxes. It is for this purpose that SARS collects the UIF and SDL.

1. Unemployment Insurance Fund

Governed by the Unemployment Insurance Contributions Act

In the 2015 budget speech a special proposal for UIF was mentioned. A substantial reduction in UIF contributions can be expected but this will only be finalised during the course of 2015/2016 tax year.

BRIEF OVERVIEW

- Unemployment insurance is an insurance against the loss of employment through means not the fault of the EE;
- Both the ER and the EE must contribute towards the UIF on a monthly basis.

IMPORTANT NOTES

- UIF remuneration is the same as taxable remuneration excluding:
  - Pension, superannuation allowance or retiring allowance;
  - Any amount received by annuity;
  - Any amount for restraint of trade;
  - Any amount related to loss of employment like a severance package;
  - Any lump sum payment from a retirement fund;
  - Commissions;
- Tax deductible items do not reduce the amount of the UIF remuneration;
- Both the ER and the EE are obliged to pay 1% of the UIF remuneration up to the limit;
- The maximum amount on which the UIF is calculated is R178 464 per annum or R14 872 per month or R3 432 per week. Subject to change in the 2015/2016 tax year

IRP5 INFORMATION

The total UIF contribution, i.e. 2% (EE 1% plus ER 1%), must be recorded on the IRP5 under code 4141 (UIF contribution)
**EXAMPLES**

Mrs. J is an EE for ABC Wholesalers. She earns R5 000 per month salary, commission of R2 500, and a travel allowance of R1 200. Calculate the UIF payable by the ER and the EE.

\[
\text{UIF Remuneration} = 5\,000 + 1\,200 \\
= 6\,200
\]

\[
\text{UIF} = 6\,200 \times 1\%
\]

\[
= R62
\]

Both the ER and the EE will pay R62 for UIF to SARS.

If the UIF remuneration was more than R14 872 for the month, then the UIF would have been R 148.72 for the ER and the EE.
2. Skills Development Levy

Governed by the Skills Development Levies Act

BRIEF OVERVIEW

- The SDL is to pay for the enhancement of EE skills through training and education;
- Each ER who qualifies pays the levy on behalf of their EEs.

IMPORTANT NOTES

- SDL remuneration is the same as taxable remuneration as defined in the 4th schedule of the Income Tax Act, excluding:
  - Amounts paid to persons who have an exemption certificate for taxation from the Minister of Finance, mostly labour brokers;
  - Amounts paid from pension, superannuation allowance or retiring allowance;
  - Any amount received by annuity;
  - Any amount for restraint of trade;
  - Any amount related to loss of employment like a severance package;
  - Any lump sum payment from a retirement fund;
  - Amounts paid to registered learners in a learnership;
- The amount payable to SARS is 1% of the SDL remuneration by the ER.

IRP5 INFORMATION

The SDL contribution must be recorded on the IRP5 under code 4142 (SDL contribution)

EXAMPLES

Mrs. J is an EE for ABC Wholesalers. She earns R5 000 per month salary, commission of R2 500, and a travel allowance of R1 200. Calculate the UIF payable by the ER and the EE.

SDL Remuneration = 5 000 + 2 500 + 1 200 (salary + commission + travel)  
= 8 700

SDL = 8 700 x 1%  
= R87

The ER will pay R87 for SDL to SARS.
3. Compensation for Occupational Injuries and Diseases

Governed by the Compensation for Occupational Injuries and Diseases Act

BRIEF OVERVIEW

- The COID is a fund to ensure EEs against occupational injuries and diseases;
- The fund provides for compensation when an EE is injured or contracts a disease while on the job.

IMPORTANT NOTES

- COID Remuneration is deemed as earnings of all types (before deductions) due to an EE, cash or in kind, and includes:
  - Salaries and/or Wages
  - Cost of Living Allowance
  - Bonuses (incentive or otherwise)
  - Overtime payments (regular)
  - A guaranteed 13th cheque
  - Housing Allowance
  - Commissions (only if given to an EE who also has a basic salary, and not agents or contractors)
  - Cash value of meals and accommodation provided to an EE
  - Any other payment due to an EE in accordance with the EE’s contract of service
- COID remuneration excludes:
  - Subsistence Allowance (reimbursive in nature)
  - Travelling Allowance (reimbursive in nature)
  - Occasional Overtime
  - Ex Gratia Payments
  - Occasional Payments
  - Company Contributions to Medical Aid, Pension or Provident funds
  - Once-off (non-recurring) payments made to an EE which falls outside the scope of his service contract or for tasks which fall outside the scope of the EE’s normal duties.
- The remuneration has an annual limit of R 332 479
- This remuneration must be declared to the OID commissioner by the end of March each year;
- The amount is then determined on assessment by the OID department of the Department of Labour;
- This amount is paid directly to the commissioner by the ER.
## Annexures

**Annexure A - Subsistence Allowance rates per country**

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<td>100</td>
</tr>
<tr>
<td>St. Kitts &amp; Nevis</td>
<td>US $</td>
<td>227</td>
</tr>
<tr>
<td>St. Lucia</td>
<td>US $</td>
<td>215</td>
</tr>
<tr>
<td>St. Vincent &amp; The Grenadines</td>
<td>US $</td>
<td>187</td>
</tr>
<tr>
<td>Sudan</td>
<td>US $</td>
<td>200</td>
</tr>
<tr>
<td>Suriname</td>
<td>US $</td>
<td>107</td>
</tr>
<tr>
<td>Swaziland</td>
<td>Rand</td>
<td>818</td>
</tr>
<tr>
<td>Sweden</td>
<td>Swedish Krona</td>
<td>1 317</td>
</tr>
<tr>
<td>Switzerland</td>
<td>S Franc</td>
<td>201</td>
</tr>
<tr>
<td>Syria</td>
<td>US $</td>
<td>185</td>
</tr>
<tr>
<td>Taiwan</td>
<td>New Taiwan $</td>
<td>3 505</td>
</tr>
<tr>
<td>Country</td>
<td>Currency</td>
<td>Maximum deemed expended amount</td>
</tr>
<tr>
<td>---------------------</td>
<td>--------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>US $</td>
<td>97</td>
</tr>
<tr>
<td>Tanzania</td>
<td>US $</td>
<td>129</td>
</tr>
<tr>
<td>Thailand</td>
<td>Thai Baht</td>
<td>4,956</td>
</tr>
<tr>
<td>Togo</td>
<td>Euro</td>
<td>78</td>
</tr>
<tr>
<td>Tonga</td>
<td>Pa'anga</td>
<td>251</td>
</tr>
<tr>
<td>Trinidad &amp; Tobago</td>
<td>US $</td>
<td>213</td>
</tr>
<tr>
<td>Tunisia</td>
<td>Tunisian Dinar</td>
<td>198</td>
</tr>
<tr>
<td>Turkey</td>
<td>Euro</td>
<td>101</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>US $</td>
<td>125</td>
</tr>
<tr>
<td>Tuvalu</td>
<td>Australian $</td>
<td>339</td>
</tr>
<tr>
<td>Uganda</td>
<td>US $</td>
<td>111</td>
</tr>
<tr>
<td>Ukraine</td>
<td>Euro</td>
<td>131</td>
</tr>
<tr>
<td>United Arab Emirates</td>
<td>Dirhams</td>
<td>674</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>B Pounds</td>
<td>102</td>
</tr>
<tr>
<td>Uruguay</td>
<td>US $</td>
<td>144</td>
</tr>
<tr>
<td>USA</td>
<td>US $</td>
<td>143</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>Euro</td>
<td>80</td>
</tr>
<tr>
<td>Vanuatu</td>
<td>US $</td>
<td>166</td>
</tr>
<tr>
<td>Venezuela</td>
<td>US $</td>
<td>294</td>
</tr>
<tr>
<td>Vietnam</td>
<td>US $</td>
<td>88</td>
</tr>
<tr>
<td>Yemen</td>
<td>US $</td>
<td>94</td>
</tr>
<tr>
<td>Zambia</td>
<td>US $</td>
<td>119</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>US $</td>
<td>141</td>
</tr>
<tr>
<td>Other countries not listed</td>
<td>US$</td>
<td>215</td>
</tr>
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## 2. Annexure B – Determined Rate for Travel Allowance

(Effective 1 March 2015)

<table>
<thead>
<tr>
<th>Vehicle value</th>
<th>Fixed cost (R)</th>
<th>Fuel cost (c)</th>
<th>Maintenance cost (c)</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 – R80 000</td>
<td>25 946</td>
<td>92.3</td>
<td>27.6</td>
</tr>
<tr>
<td>R80 001 – R160 000</td>
<td>46 203</td>
<td>103.1</td>
<td>34.6</td>
</tr>
<tr>
<td>R160 001 – R240 000</td>
<td>66 530</td>
<td>112.0</td>
<td>38.1</td>
</tr>
<tr>
<td>R240 001 – R320 000</td>
<td>84 351</td>
<td>120.5</td>
<td>41.6</td>
</tr>
<tr>
<td>R320 001 – R400 000</td>
<td>102 233</td>
<td>128.9</td>
<td>48.8</td>
</tr>
<tr>
<td>R400 001 – R480 000</td>
<td>120 997</td>
<td>147.9</td>
<td>57.3</td>
</tr>
<tr>
<td>R480 001 – R560 000</td>
<td>139 760</td>
<td>152.9</td>
<td>71.3</td>
</tr>
<tr>
<td>R560 001 +</td>
<td>139 760</td>
<td>152.9</td>
<td>71.3</td>
</tr>
</tbody>
</table>
### Annexure C – Official interest rates

<table>
<thead>
<tr>
<th>Date From</th>
<th>Date To</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>01.03.1985</td>
<td>30.11.1985</td>
<td>18%</td>
</tr>
<tr>
<td>01.12.1985</td>
<td>31.12.1987</td>
<td>15%</td>
</tr>
<tr>
<td>01.01.1989</td>
<td>31.05.1989</td>
<td>13%</td>
</tr>
<tr>
<td>01.06.1989</td>
<td>30.04.1990</td>
<td>16%</td>
</tr>
<tr>
<td>01.05.1990</td>
<td>31.07.1992</td>
<td>19%</td>
</tr>
<tr>
<td>01.08.1992</td>
<td>31.12.1992</td>
<td>17%</td>
</tr>
<tr>
<td>01.01.1993</td>
<td>31.01.1994</td>
<td>15%</td>
</tr>
<tr>
<td>01.02.1994</td>
<td>31.08.1995</td>
<td>14%</td>
</tr>
<tr>
<td>01.09.1995</td>
<td>30.11.1998</td>
<td>16%</td>
</tr>
<tr>
<td>01.12.1998</td>
<td>30.04.1999</td>
<td>19%</td>
</tr>
<tr>
<td>01.05.1999</td>
<td>31.08.1999</td>
<td>16%</td>
</tr>
<tr>
<td>01.09.1999</td>
<td>29.02.2000</td>
<td>14.50%</td>
</tr>
<tr>
<td>01.03.2000</td>
<td>30.09.2001</td>
<td>13%</td>
</tr>
<tr>
<td>01.10.2001</td>
<td>28.02.2002</td>
<td>10.50%</td>
</tr>
<tr>
<td>01.03.2002</td>
<td>31.08.2002</td>
<td>11.50%</td>
</tr>
<tr>
<td>01.09.2002</td>
<td>28.02.2003</td>
<td>13.50%</td>
</tr>
<tr>
<td>01.03.2003</td>
<td>30.06.2003</td>
<td>14.50%</td>
</tr>
<tr>
<td>01.07.2003</td>
<td>31.08.2003</td>
<td>13%</td>
</tr>
<tr>
<td>01.09.2003</td>
<td>30.11.2003</td>
<td>12%</td>
</tr>
<tr>
<td>01.12.2003</td>
<td>29.02.2004</td>
<td>9.50%</td>
</tr>
<tr>
<td>01.03.2004</td>
<td>31.08.2004</td>
<td>9%</td>
</tr>
<tr>
<td>01.09.2004</td>
<td>31.08.2005</td>
<td>8.50%</td>
</tr>
<tr>
<td>01.09.2005</td>
<td>31.08.2006</td>
<td>8%</td>
</tr>
<tr>
<td>01.09.2006</td>
<td>28.02.2007</td>
<td>9%</td>
</tr>
<tr>
<td>01.03.2007</td>
<td>31.08.2007</td>
<td>10%</td>
</tr>
<tr>
<td>01.09.2007</td>
<td>29.02.2008</td>
<td>11%</td>
</tr>
<tr>
<td>01.03.2008</td>
<td>31.08.2008</td>
<td>12%</td>
</tr>
<tr>
<td>01.09.2008</td>
<td>28.02.2009</td>
<td>13%</td>
</tr>
<tr>
<td>01.03.2009</td>
<td>31.05.2009</td>
<td>11.50%</td>
</tr>
<tr>
<td>01.06.2009</td>
<td>31.06.2009</td>
<td>9.50%</td>
</tr>
<tr>
<td>Date From</td>
<td>Date To</td>
<td>Rate</td>
</tr>
<tr>
<td>------------</td>
<td>-------------------</td>
<td>--------</td>
</tr>
<tr>
<td>01.07.2009</td>
<td>31.08.2009</td>
<td>8.50%</td>
</tr>
<tr>
<td>01.09.2009</td>
<td>30.09.2010</td>
<td>8%</td>
</tr>
<tr>
<td>01.10.2010</td>
<td>28.02.2011</td>
<td>7%</td>
</tr>
<tr>
<td>01.03.2010</td>
<td>31.07.2012</td>
<td>6.50%</td>
</tr>
<tr>
<td>01.08.2012</td>
<td>31.01.2014</td>
<td>6%</td>
</tr>
<tr>
<td>01.02.2014</td>
<td>31.07.2014</td>
<td>6.50%</td>
</tr>
<tr>
<td>01.08.2014</td>
<td>Until change in Repo rate</td>
<td>6.75%</td>
</tr>
</tbody>
</table>

**NOTE:** The official interest rate is calculated as the Repo Rate set by the South African Reserve bank plus 1 percentage point.

4. **Annexure D – IRP 5 codes**

- Please note that all codes in brackets are to be used in cases where the amount relates to income received for foreign services rendered.

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Explanation</th>
</tr>
</thead>
</table>
| 3020 | Nature of Employee        | A = Individual with an identity or passport number  
B = Individual without an identity or passport number  
C = Director of a private company / member of a CC  
D = Trust  
E = Company / CC  
F = Partnership  
G = Corporation  
H = Personal Service Provider  
M = Asylum Seekers  
N = Retirement Fund Lump Sum Recipient / Pensioner  
If Type of Certificate is ITREG, then Nature of Person may only be A, B, C or N |
| 3026 | Box to indicate that the certificate contains an ETI value | • Optional  
• May not be completed for Nature of Person N  
Note:  
• Must not be displayed on certificate that will be issued to EE |
### NORMAL INCOME

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>3601</td>
<td>Income</td>
<td>Amount paid or payable to an EE for services rendered</td>
</tr>
<tr>
<td>3602</td>
<td>Income</td>
<td>Any non-taxable income received by an EE</td>
</tr>
<tr>
<td>3605</td>
<td>Annual payment</td>
<td>Amounts such as bonuses, leave pay or merit awards</td>
</tr>
<tr>
<td>3606</td>
<td>Commission</td>
<td>Amount derived mainly in the form of commission</td>
</tr>
<tr>
<td>3608</td>
<td>Arbitration award</td>
<td>The taxable portion of a settlement agreement between the ER &amp; EE</td>
</tr>
<tr>
<td>3610</td>
<td>Annuity from RAF (PAYE)</td>
<td>A monthly annuity paid by a RAF to any person</td>
</tr>
<tr>
<td>3611</td>
<td>Purchased annuity</td>
<td>The taxable portion of interest received on an annuity purchased from a RAF</td>
</tr>
<tr>
<td>3613</td>
<td>Restraint of trade</td>
<td>Restraint of trade income paid to an EE</td>
</tr>
<tr>
<td>3614</td>
<td>Other retirement lump sums</td>
<td>A retirement lump sum payment from any fund</td>
</tr>
<tr>
<td>3615</td>
<td>Directors remuneration</td>
<td>Remuneration paid to a director or a private company or member of a close corporation</td>
</tr>
<tr>
<td>3616</td>
<td>Independent contractor</td>
<td>Remuneration paid to an Independent contractor</td>
</tr>
<tr>
<td>3617</td>
<td>Labour Brokers</td>
<td>Remuneration paid to a Labour Broker</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Explanation</td>
</tr>
<tr>
<td>-----------</td>
<td>----------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>3701/(3751)</td>
<td>Travel allowance</td>
<td>Allowance/advance paid in respect of business related travel</td>
</tr>
<tr>
<td>3702/(3752)</td>
<td>Reimbursive travel allowance</td>
<td>Reimbursement for business km exceeding 8 000 for the tax year</td>
</tr>
<tr>
<td>3703/(3753)</td>
<td>Reimbursive travel allowance</td>
<td>Reimbursement for business km not exceeding 8 000 for the tax year</td>
</tr>
<tr>
<td>3704/(3754)</td>
<td>Subsistence allowance – local travel</td>
<td>Allowance for expenses incurred for meals and incidental costs which exceeds the deemed amounts</td>
</tr>
<tr>
<td>3707/(3757)</td>
<td>Share options exercised</td>
<td>Any amount in terms of a qualifying equity share disposed of or gain made under a scheme operated for the benefit of employees</td>
</tr>
<tr>
<td>3708/(3758)</td>
<td>Public office allowance</td>
<td>Allowance granted to the holder of a public office</td>
</tr>
<tr>
<td>3713/(3763)</td>
<td>Other allowances</td>
<td>Allowances not falling into any of the other codes – taxable</td>
</tr>
<tr>
<td>3714/(3764)</td>
<td>Other allowances</td>
<td>Allowances not falling into any of the other codes – non-taxable</td>
</tr>
<tr>
<td>3715/(3765)</td>
<td>Subsistence allowance – foreign travel</td>
<td>Allowance for expenses incurred for meals and incidental costs which exceeds the deemed amounts</td>
</tr>
<tr>
<td>3717/(3767)</td>
<td>Broad-based EE share plan</td>
<td>Amount received from the disposal of any qualifying share</td>
</tr>
<tr>
<td>3718/(3768)</td>
<td>Vesting of equity instruments</td>
<td>Gain in respect of the vesting of any equity instrument</td>
</tr>
</tbody>
</table>
### FRINGE BENEFITS

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>3801/(3851)</td>
<td>General fringe benefits</td>
<td>EE granted a FB not falling into any of the below codes</td>
</tr>
<tr>
<td>3802/(3852)</td>
<td>Use of motor vehicle acquired by employer NOT via Operating Lease</td>
<td>Right to use a motor vehicle NOT under an “operating lease”.</td>
</tr>
<tr>
<td>3805/(3855)</td>
<td>Accommodation</td>
<td>Free or cheap accommodation or holiday accommodation</td>
</tr>
<tr>
<td>3806/(3856)</td>
<td>Services</td>
<td>Free or cheap services</td>
</tr>
<tr>
<td>3808/(3858)</td>
<td>Employee’s debt</td>
<td>Payment of an employee’s debt or release of an employee from an obligation to pay a debt</td>
</tr>
<tr>
<td>3809/(3859)</td>
<td>Taxable Bursary or scholarship</td>
<td>EE granted a bursary or scholarship which is taxable</td>
</tr>
<tr>
<td>3810/(3860)</td>
<td>Medical aid contributions</td>
<td>MA contribution on the EE’s behalf</td>
</tr>
<tr>
<td>3813/(3863)</td>
<td>Medical services costs</td>
<td>Medical costs incurred on the EE’s behalf</td>
</tr>
<tr>
<td>3815/(3865)</td>
<td>Non-taxable Bursaries or scholarships</td>
<td>Exempt portion of bursaries or scholarships</td>
</tr>
<tr>
<td>3816/(3866)</td>
<td>Use of motor vehicle acquired by employer via “Operating Lease”</td>
<td>Taxable value of the FB for the right to use of motor vehicle under “Operating Lease” agreement.</td>
</tr>
<tr>
<td>3820/(3870)</td>
<td>Taxable Bursaries or scholarships – Further Education</td>
<td>EE granted a bursary or scholarship which is taxable for Further Education (NQF levels 5 to 10)</td>
</tr>
<tr>
<td>3821/(3871)</td>
<td>Non-taxable Bursaries or scholarships – Further Education</td>
<td>EE granted a bursary or scholarship which is non-taxable for Further Education (NQF levels 5 to 10)</td>
</tr>
<tr>
<td>3822/(3872)</td>
<td>Non-taxable Fringe Benefit – Acquisition of Immovable Property</td>
<td>An employee receives immovable property which is tax free</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Explanation</td>
</tr>
<tr>
<td>------------</td>
<td>------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>3901/(3951)</td>
<td>Gratuities</td>
<td>Gratuities paid by an ER to an EE</td>
</tr>
<tr>
<td>3906/(3956)</td>
<td>Special remuneration</td>
<td>Any type of special remuneration (i.e. proto-teams)</td>
</tr>
<tr>
<td>3907/(3957)</td>
<td>Other lump sums</td>
<td>Other lump sums (i.e. backdated salaries) including lump sum payments from unapproved funds</td>
</tr>
<tr>
<td>3908</td>
<td>Surplus appointments</td>
<td>Surplus appointments after 1 January 2006 paid in terms of the Pension Funds Act</td>
</tr>
<tr>
<td>3909</td>
<td>Unclaimed benefits</td>
<td>Unclaimed benefits prior to 1 March 2009 (General note 35)</td>
</tr>
<tr>
<td>3915</td>
<td>Retirement lump sum benefits and lump sum payments in respect of involuntary termination of employment</td>
<td>Lump sum payments accrued after 1 October 2007 from a fund in respect of retirement or death</td>
</tr>
<tr>
<td>3920</td>
<td>Lump sum withdrawal benefits</td>
<td>Lump sum payments accrued after 28 February 2009 from a retirement fund in respect of withdrawal</td>
</tr>
<tr>
<td>3921</td>
<td>Living annuity and section 15C surplus appointment (PAYE)</td>
<td>Lump sum payments accrued after 28 February 2009 from a retirement fund in respect of withdrawal due to surplus appointments</td>
</tr>
<tr>
<td>3922</td>
<td>Compensation IRO death during employment</td>
<td>Lump sum payments accruing after 1 March 2011 from a compensation fund in respect of withdrawal after death</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Explanation</td>
</tr>
<tr>
<td>-------</td>
<td>------------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>3696</td>
<td>Gross non-taxable income</td>
<td></td>
</tr>
<tr>
<td>3697</td>
<td>Gross retirement funding income</td>
<td></td>
</tr>
<tr>
<td>3698</td>
<td>Gross non-retirement funding income</td>
<td></td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Explanation</td>
</tr>
<tr>
<td>-------</td>
<td>--------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>4001</td>
<td>Current pension fund contributions</td>
<td></td>
</tr>
<tr>
<td>4002</td>
<td>Arrear pension fund contributions</td>
<td></td>
</tr>
<tr>
<td>4003</td>
<td>Provident fund contributions</td>
<td></td>
</tr>
<tr>
<td>4004</td>
<td>Medical aid contributions</td>
<td></td>
</tr>
<tr>
<td>4005</td>
<td>Current RA contributions</td>
<td></td>
</tr>
<tr>
<td>4006</td>
<td>Public office allowance</td>
<td></td>
</tr>
<tr>
<td>4007</td>
<td>Arrear RA contributions</td>
<td></td>
</tr>
<tr>
<td>4008</td>
<td>Premiums paid on insurance policies</td>
<td></td>
</tr>
<tr>
<td>4024</td>
<td>Medical service costs deemed to be paid by the EE</td>
<td></td>
</tr>
<tr>
<td>4026</td>
<td>Arrear pension fund contributions – Non statutory forces (NSF)</td>
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</tr>
<tr>
<td>4030</td>
<td>Donation paid by ER on EE’s behalf</td>
<td></td>
</tr>
<tr>
<td>4474</td>
<td>ER medical aid contributions in respect of EE’s not included in code 4493</td>
<td></td>
</tr>
<tr>
<td>4493</td>
<td>ER medical aid contributions in respect of EE’s for which no FB arises</td>
<td></td>
</tr>
<tr>
<td>4497</td>
<td>Total deductions/contributions</td>
<td></td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td>Explanation</td>
</tr>
<tr>
<td>-------</td>
<td>----------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>4101</td>
<td>SITE</td>
<td>(Effectively no longer applies.)</td>
</tr>
<tr>
<td>4102</td>
<td>PAYE</td>
<td></td>
</tr>
<tr>
<td>4115</td>
<td>Tax on lump sums</td>
<td></td>
</tr>
<tr>
<td>4116</td>
<td>Medical tax credit</td>
<td></td>
</tr>
<tr>
<td>4118</td>
<td>Total ETI for employee (theoretical)</td>
<td></td>
</tr>
<tr>
<td>4141</td>
<td>UIF contribution (ER &amp; EE contribution)</td>
<td></td>
</tr>
<tr>
<td>4142</td>
<td>SDL contribution</td>
<td></td>
</tr>
<tr>
<td>4149</td>
<td>Total tax, SDL and UIF</td>
<td></td>
</tr>
</tbody>
</table>
| 4150  | • 01/1 = Invalid from 1 March 2002  
      • 02/2 = Earn less than tax threshold  
      • 03/3 = Independent Contractor  
      • 04/4 = Non-taxable earnings (include nil directives)  
      • 05/5 = Exempt foreign employment income  
      • 06/6 = Directors remuneration – income qualified in the following year of assessment  
      • 07/7 = Labour broker with valid IRP 30 |
### 6. Annexure E – Common Law test

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Suggests Employee Status</th>
<th>Suggests Independent Contractor Status</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NEAR CONCLUSIVE Control manner/ Exclusive Acquisition.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Control of Manner of working</td>
<td>Employer instructs (has right to) which tools/equipment, or staff, or raw materials, or routines, patents, technology</td>
<td>Person chooses which tools/equipment, or staff, or raw materials, or routines, patents, technology</td>
</tr>
<tr>
<td>Payment Regime</td>
<td>Payment at regular intervals/ by a rate ( \times ) time period, but regardless of output or result.</td>
<td>Payment by a rate ( \times ) timeperiod but with reference to results, or payment by output or “results in a time period”.</td>
</tr>
<tr>
<td>Person who must render the service</td>
<td>Person obliged to render service personally, hires &amp; fires only with approval</td>
<td>Person, as employer; can delegate to, hire &amp; fire own employees, or can subcontract</td>
</tr>
<tr>
<td>Nature of obligation to work</td>
<td>Person obliged to be present, even if there is no work to be done</td>
<td>Person only present and performing work if actually required, and chooses to</td>
</tr>
<tr>
<td>Employer (client) base</td>
<td>Person bound to an exclusive relationship with one employer (Particularly for independent business test)</td>
<td>Person free to build a multiple concurrent client base (esp. if tries to build client base - advertises etc)</td>
</tr>
<tr>
<td>Risk/Profit &amp; Loss</td>
<td>Employer bears risk (pays despite poor performance/ slow markets) (particularly for independent business test)</td>
<td>Person bears risk (bad workmanship, price hikes, time over-runs)</td>
</tr>
<tr>
<td>INDICATOR</td>
<td>SUGGESTS EMPLOYEE STATUS</td>
<td>SUGGESTS INDEPENDENT CONTRACTOR STATUS</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>PERSUASIVE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Extent of Control</strong></td>
<td>Instructions/Supervision</td>
<td>Employer instructs on location, what work, sequence of work, etc. or has the right to do so</td>
</tr>
<tr>
<td></td>
<td>Person determines own work, sequence of work, etc. Bound by contract terms, not orders as to what work, where, etc</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reports</td>
<td>Control through oral/written reports</td>
</tr>
<tr>
<td></td>
<td>Person not obliged to make reports</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Training</td>
<td>Employer controls by training the person in the employer's methods</td>
</tr>
<tr>
<td></td>
<td>Worker uses/trains in own methods</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Productive time (Work hours, work week)</td>
<td>Controlled or set by employer/Person works full time or substantially so</td>
</tr>
<tr>
<td></td>
<td>At person’s discretion</td>
<td></td>
</tr>
<tr>
<td><strong>RELEVANT</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Labels, clauses, compliance, economic circumstances, “resonant” of</strong></td>
<td>Obliged to approach an Employment agency of labour broker to obtain new work (particularly for independent business test).</td>
<td>Has other clients, continues trading. Was a labour broker or independent contractor prior to this contract</td>
</tr>
<tr>
<td></td>
<td>Has other clients, continues trading. Was a labour broker or independent contractor prior to this contract</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Industry Norms, Customs</td>
<td>Militate against independent viability Make it likely Person is an employee.</td>
</tr>
<tr>
<td></td>
<td>Will promote independent viability Make it likely Person is an independent contractor or labour broker.</td>
<td></td>
</tr>
<tr>
<td>INDICATOR</td>
<td>SUGGESTS EMPLOYEE STATUS</td>
<td>SUGGESTS INDEPENDENT CONTRACTOR STATUS</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>RELEVANT Labels, clauses, compliance, economic circumstances, “resonant” of</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tools, materials, stationery, etc</td>
<td>Provided by employer; no contractual requirement that Person provides</td>
<td>Contractually/ necessarily provided by Person</td>
</tr>
<tr>
<td>Office/ Workshop, Admin/ secretarial, etc</td>
<td>Provided by employer; no contractual requirement that Person provides</td>
<td>Contractually/ necessarily provided by Person</td>
</tr>
<tr>
<td>Integration/Usual premises</td>
<td>Employer’s usual business premises</td>
<td>Person’s own/leased premises</td>
</tr>
<tr>
<td>Integration/ Usual business operations</td>
<td>Person’s service critical/ integral part of employer’s operations</td>
<td>Person’s services are incidental to the employer’s operations or success</td>
</tr>
<tr>
<td>Integration/ Hierarchy &amp; Organogram</td>
<td>Person has a job designation, a position in the employer’s hierarchy</td>
<td>Person designated by Profession or Trade, no position in the hierarchy</td>
</tr>
<tr>
<td>Duration of Relationship</td>
<td>Open ended/ fixed term &amp; renewable, ends on death of worker</td>
<td>Limited with regard to result, binds business despite worker’s death</td>
</tr>
<tr>
<td>Threat of termination/ Breach of contract</td>
<td>Employer may dismiss on notice (LRA equity aside), worker may resign at will (BCEA aside)</td>
<td>Employer in breach if it terminates prematurely. Person in breach if fails to deliver product/ service</td>
</tr>
<tr>
<td>Significant Investment</td>
<td>Employer finances premises, tools, raw materials, training, etc</td>
<td>Person finances premises, tools, raw materials, training, etc</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>Especially if designed to reward loyalty</td>
<td>Person not eligible for benefits</td>
</tr>
<tr>
<td>Bona fide expenses or statutory compliance</td>
<td>No business expenses, travel expenses and/or reimbursed by employer. Registered with trade/professional Association</td>
<td>Over-heads built into contract prices. Registered under Tax/Labour Statutes &amp; with trade/professional Association</td>
</tr>
</tbody>
</table>
### 6. Annexure F – Lump sum withdrawal benefits

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 – R25 000</td>
<td>0%</td>
</tr>
<tr>
<td>R25 001 – R660 000</td>
<td>18% of taxable income above R25 000</td>
</tr>
<tr>
<td>R660 001 – R990 000</td>
<td>R114 300 + 27% of taxable income above R660 000</td>
</tr>
<tr>
<td>R990 001 +</td>
<td>R203 400 + 36% of taxable income above R990 000</td>
</tr>
</tbody>
</table>

### 7. Annexure G – Lump sum severance benefits

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>R0 – R500 000</td>
<td>0%</td>
</tr>
<tr>
<td>R500 001 – R700 000</td>
<td>18% of taxable income above R500 000</td>
</tr>
<tr>
<td>R700 001 – R1 050 000</td>
<td>R36 000 + 27% of taxable income above R700 000</td>
</tr>
<tr>
<td>R1 050 001 +</td>
<td>R130 500 + 36% of taxable income above R1 050 000</td>
</tr>
</tbody>
</table>
Other Useful Tax Publications

The following publications, as well as the SARS website, may also be consulted:

- SILKE: South African Income Tax (written by M Stiglingh and published by Butterworth);
- International Tax: A South African Perspective (written by L Oliver and published by Blue Weaver Marketing);
- Notes on South African Income Tax (written by Huxham and published by Huxham & Haupt).

LabourNet Solutions:

- Recruitment
- PSIberHRM
- LabourNet Payroll
- PSIberLite
- PSIberWorks
- Talent Management
- Training & Development
- Transformation
- Health & Safety
- Industrial Relations
- Litigation
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