

EXTERNAL REFERENCE GUIDE

REBATE (TAX CREDIT) IN RESPECT OF FOREIGN TAXES ON INCOME FROM A SOURCE WITHIN THE REPUBLIC

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REBATE IN RESPECT OF FOREIGN TAXES
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1 PURPOSE

- The purpose of this guide is to provide guidelines to taxpayers with regard to section 6quin rebate claimed in terms of section 6quin of the Income Tax Act. This section came into effect on 1 January 2012.

2 SCOPE

- This guide prescribes all legal requirements and the manner in which a taxpayer can claim foreign tax credit withheld or imposed on an amount earned from a source within the Republic for services rendered by a resident of the Republic.

3 REFERENCES

3.1 LEGISLATION

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Income Tax Act No. 58 of 1962 Tax Administration Act No. 28 of 2011 (effective from 1 October 2012)
Other Legislation:	None
International Instruments:	None

4 DEFINITIONS AND ACRONYMS

DTA	Double Tax Agreement
IT	Income Tax No.58 of 1962
MAP	Mutual Agreement Procedure
PAYE	Pay As You Earn
SARS	South African Revenue Service
SLA	Service Level Agreement

5 INTRODUCTION

- The amount of income must have arisen from a source within the Republic and received by or accrued to a resident.
- The tax credit for services rendered within the Republic may be in respect of an amount of tax levied by any sphere of the government of any country -
 - Other than the Republic, and
 - With which the Republic has concluded a Double Tax Agreement (DTA).
- Where a DTA is not concluded between the Republic and the other country a tax credit may also be in respect of the amount of tax imposed in terms of the laws of that country.
- The rebate amount will be limited to the lesser of –
 - The amount of normal tax attributable to the amount received or accrued; or
 - The amount of tax levied and withheld; or
 - The amount of tax imposed.
- Section 6quin rebate (tax credit) is determined according to income-stream and excess credits cannot be carried over to subsequent years. For example, where a taxpayer has derived income from multiple services, such as engineering services, management services, etc. the tax credit will be determined

based on each income stream. If there is any balance remaining, such balance will be forfeited. That is, it cannot be set-off against income from another service or carried forward to future years.

6 HOW DO I CLAIM SECTION 6QUIN REBATE (TAX CREDIT)

- Taxpayers must submit declarations in respect of section 6quin within 60 days from a date determined by the Minister by notice in the *Gazette* to SARS Head Office (International Tax Division). Applications must be sent via email to "6quin@sars.gov.za".
- SARS will not allow a rebate/tax credit in terms of section 6quin if the taxpayer did not, within 60 days from a date determined by the Minister by notice in the *Gazette*, submit to the Commissioner a declaration in such a form as may be required by the Commissioner.
- Where there is a Double Tax Agreement (DTA) in force between the Republic and the other country, SARS Head Office will upon the receipt of the declaration, initiate the Mutual Agreement Procedure (MAP) with the foreign country concerned to ensure that the tax withheld was not in violation of the existing DTA.
- Once a MAP is completed, SARS Head Office will communicate the outcome to the taxpayer.
- Where there is no DTA between the Republic and the other country, a copy of the relevant section of the tax Act of that country must be submitted to SARS together with the declaration. The tax law of that country must provide for the imposition of such withholding tax.
- The amount of tax levied or imposed will be translated to the currency of the Republic, based on the average exchange rate on the last day of the year of assessment in which tax was levied and withheld or imposed.
- Should the amount of tax levied and withheld or imposed subsequently be refunded or otherwise discharged, an amount limited to the amount of the tax rebate is deemed to be an amount of normal tax payable by that resident in respect of that subsequent year of assessment.
- Either section 6quin tax credit or 6quat (1C) deduction can be claimed and **not** both.

7 LAYOUT AND FEATURES OF THE 6QUIN DECLARATION

7.1 SECTIONS OF THE DECLARATION

- The 6quin declaration is divided into eleven sections, namely:
 - Particulars of Taxpayer;
 - Contact details;
 - Postal Address;
 - Declaration;
 - Tax Practitioner Details;
 - Foreign tax withheld in terms of s6quin (1)(a) or (1)(b);
 - Withholding Tax Details;
 - Contact Person in Foreign Tax Authority Details;
 - Contact Details;
 - Postal Address of Foreign Tax Authority; and
 - Notes.

7.1.1 Particulars of Taxpayer

Income Tax Ref No. **FTW 01**

SARS **DECLARATION OF FOREIGN TAX WITHHELD**
(Section 6quin of the Income Tax Act)

Particulars of Taxpayer

Surname

First Name Initials

Registered Name

Trading Name

Date of Birth (CCYYMMDD) ID No. Passport No. Passport Country (e.g. South Africa = ZAF)

Passport Issue Date (CCYYMMDD) Company / CC / Trust Reg No.

- Income tax reference number must be completed by the taxpayer, it is a mandatory field.
- Particulars of taxpayer must be completed in this section.
- In the case of a company/trust, registered or trading name must be completed. Trading name is the name known by the suppliers or customers and it may be different from the registered name.
- ID No., passport number or Company/CC/Trust reg. number must be completed.

7.1.2 Contact Details

Contact Details

Home Tel No. Cell No.

Fax No. Bus Tel No.

Email

- Taxpayer contact details must be completed.
- Email address must be provided as well to enable Legal and Policy Division: International Tax to email the confirmation letter to the taxpayer.

7.1.3 Postal Address

Postal Address

Postal Code

- Postal details of the taxpayer must be completed in this section.

- Gross Income and Foreign Tax Withheld amounts must be completed in a foreign currency.
- Pertaining to the question “Does the law of the foreign country provide for the imposition of such withholding tax?” If the answer is “Yes”, a copy of the relevant section must be provided.

7.1.8 Contact Person in the Foreign Tax Authority Details

Contact Person in Foreign Tax Authority Details	
Have you approached the relevant Revenue Authority and raised your concern regarding the tax levied?	Y <input type="checkbox"/> N <input type="checkbox"/>
Date Concern Raised (CCYYMMDD)	<input type="text"/>
Branch office of Revenue Authority	<input type="text"/>
Name of Revenue Official	<input type="text"/>

- Have you approached the relevant Revenue Authority and raised concern regarding the tax withheld/imposed? If the answer is “Yes”; provide the date.
- Name of the branch of Foreign Revenue Authority must be completed.
- Name of the revenue official at the branch must be completed.

7.1.9 Contact Details

Contact Details			
Cell No.	<input type="text"/>	Bus Tel No.	<input type="text"/>
Fax No.	<input type="text"/>		
Email	<input type="text"/>		

- Contact numbers of the revenue official must be completed.
- Complete his/her email address too.

7.1.10 Postal Address of Foreign Tax Authority

Postal Address of Foreign Tax Authority	
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
Postal Code	<input type="text"/>

- Postal address of Foreign Tax Authority as well as the postal code must be completed.

Notes
<ul style="list-style-type: none"> • No rebate will be allowed if this declaration is not fully completed and submitted within 60 days from the date on which the amount of tax was withheld • Please note that no rebate can be claimed under section 6quin if the resident claims a deduction under section 6quat(1C) • Please provide documentary proof in respect of foreign taxes paid (for example, assessments, receipts and tax certificates) • Separate declarations must be submitted for each agreement concluded • If foreign authority was approached please inform SARS of the outcomes and furnish relevant correspondence.

- Please familiarise yourself with the notes.

8 DOCUMENT MANAGEMENT

Designation	Name / Division
Business Owner:	Group Executive: Centralised Processing Operations (CPO)
Policy Owner:	Executive: Enterprise Business Enablement (EBE)
Author:	Patricia Khoncha
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