

EXTERNAL GUIDE

GUIDE FOR EMPLOYERS IN RESPECT OF FRINGE BENEFITS

TABLE OF CONTENTS

| | | |
|----------|--|-----------|
| 1 | PURPOSE | 3 |
| 2 | SCOPE | 3 |
| 3 | OBLIGATIONS OF THE EMPLOYER | 3 |
| 4 | TAXABLE BENEFITS | 4 |
| 4.1 | ACQUISITION OF AN ASSET AT LESS THAN THE ACTUAL VALUE | 4 |
| 4.2 | RIGHT OF USE OF AN ASSET | 5 |
| 4.3 | RIGHT OF USE OF A MOTOR VEHICLE FOR PRIVATE OR DOMESTIC PURPOSES | 7 |
| 4.4 | MEALS, REFRESHMENTS AND MEAL AND REFRESHMENT VOUCHERS | 10 |
| 4.5 | ACCOMMODATION | 11 |
| 4.6 | FREE OR CHEAP SERVICES | 14 |
| 4.7 | LOW INTEREST OR INTEREST FREE DEBT | 15 |
| 4.8 | SUBSIDIES IN RESPECT OF DEBT | 16 |
| 4.9 | EMPLOYER CONTRIBUTIONS TO INSURANCE POLICIES SCHEMES | 17 |
| 4.10 | EMPLOYEE'S DEBT OR RELEASE FROM OBLIGATION TO PAY DEBT | 18 |
| 4.11 | MEDICAL SCHEME CONTRIBUTIONS PAID BY AN EMPLOYER | 19 |
| 4.12 | MEDICAL COSTS INCURRED BY AN EMPLOYER | 20 |
| 5 | BENEFITS GRANTED TO RELATIVES OF EMPLOYEES AND OTHERS | 21 |
| 6 | VALUATION OF CONTRIBUTIONS MADE BY EMPLOYERS TO PENSION OR PROVIDENT FUND | 22 |
| 7 | VALUATION OF CONTRIBUTIONS MADE BY EMPLOYERS TO BARGAINING COUNCIL | 23 |
| 8 | REFERENCES | 23 |
| 8.1 | LEGISLATION | 23 |
| 8.2 | CROSS REFERENCES | 23 |
| 9 | DEFINITIONS AND ACRONYMS | 24 |

1 PURPOSE

- The purpose of this document is to assist employers in understanding their obligations relating to determining the cash equivalent of the value of a taxable fringe benefit as provided for in the Seventh Schedule to the Income Tax Act.

2 SCOPE

- This basic guide explains the methods to be applied by employers in determining the taxable fringe benefit and includes the legislative requirements as well as examples.

3 OBLIGATIONS OF THE EMPLOYER

Meaning:

An obligation is placed on the employer to determine the cash equivalent of the value of a taxable benefit.

The Commissioner may, if no determination is made or if such determination appears to him or her to be incorrect, re-determine such cash equivalent:

- Issue the employer with a notice of assessment in terms of section 95 of the Tax Administration Act for the unpaid amount of Employees' Tax that is required to be deducted or withheld from such cash equivalent; or
- Upon assessment of the liability for normal tax of the employee to whom such taxable benefit has been granted.

Associated institution granting benefits:

Where any associated institution in relation to any employer grants a benefit to an employee as a reward for services rendered, it constitutes a taxable benefit deemed to be granted by the employer to the employee.

Certificates by employers:

The employer must determine the cash equivalent of the value of the taxable benefit granted by the associated institution to the employee as if he/she has granted the relevant benefit.

Every employer must deliver an IRP5/IT3(a) certificate to the employee. The nature of the taxable benefit and the cash equivalent of the value thereof must be reflected on the IRP5/IT3(a) certificate.

Annual statement by employer:

Where the employer fails to comply with this requirement, a penalty equal to 10% of the cash equivalent of the value of the taxable benefit or 10% of the amount by which the cash equivalent is understated may be imposed.

The employer must declare that all taxable benefits enjoyed by their employees are included in the certificate issued to employees.

Offence:

This declaration forms part of the Employer Reconciliation Declaration (EMP501) that must be submitted annually by all employers.

Any person who makes issues or causes to be made or issued, knowingly possesses, uses or causes to be used any IRP5/IT3 (a) certificate which is false, shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding twelve months.

4 TAXABLE BENEFITS

4.1 ACQUISITION OF AN ASSET AT LESS THAN THE ACTUAL VALUE

Reference to the Act: Paragraphs 2(a), 2A and 5 of the Seventh Schedule

Meaning: A taxable benefit shall be deemed to have been granted if any asset consisting of any goods, commodity, financial instrument or property of any nature (other than money) is acquired by an employee from the employer, any associated institution or from any person by arrangement with the employer, for no consideration or for a consideration less than the value of the asset.

Value to be placed on the benefit: For the purposes of the calculation of a taxable benefit, a partner is deemed to be an employee of a partnership.

The value to be placed on the asset is the market value thereof the time the employee acquired the asset.

- **However**, where the asset is a:
 - Movable property and the employer acquired the asset in order to dispose of it to the employee; the value to be placed on the asset is the cost thereof to the employer.
 - Trading stock of employer, the value to be placed on the asset is the lower of the cost thereof to the employer or the market value.
 - For marketable securities, the value to be placed on the asset is the market value.
 - An asset which the employer had the right to use prior to acquiring ownership thereof (for example, a leased asset on which the employer had the right to acquire ownership at the end of the lease agreement), the value to be placed on the asset is the market value.

Reducing the value of the benefit: With effect from 01 March 2014 a taxable fringe benefit may arise where the employee acquires an asset from the employer at less than the market value.

No value: Relief for low cost housing will have no value if the:

- The remuneration proxy of the employee in respect of the year of assessment of acquisition does not exceed R250, 000 per annum;
- The market value of the immovable property to the employee on the date of acquisition is not more than R450, 000; or
- If the employee is not a connected person in relation to the employer.

Where assets are presented to the employee as an award for bravery or for long service, the value determined is reduced by the lesser of the cost to the employer of all such assets so awarded to the relevant employee during the tax year and R5 000. For example, if the value of the asset is R5 600, only R600 will be taxable and reflected on the IRP5/IT3 (a) certificate.

Assets (other than cash) disposed of to an employee in the following circumstances are not regarded as a taxable benefit (under paragraph 5 of the Seventh Schedule):

- Fuel or lubricants supplied for use in a motor vehicle where the private use of such vehicle is brought into account as a taxable benefit according to other provisions of the Schedule (in other words, a company vehicle).
- Meals, refreshments, vouchers, board, fuel, power or water which are brought into account as taxable benefits according to other provisions of

the Schedule.

- Marketable securities acquired by the employee in exercising any right to acquire such marketable security, as is contemplated in section 8A of the Income Tax Act.
- Any gain made by the employee from the disposal of any qualifying equity share or any right or any interest in the qualifying equity share, as contemplated in section 8B of the Income Tax Act.
- Any amount made by the employee in respect of the vesting of the equity share acquired by that employee by virtue of his/her employment as contemplated in section 8C of the Income Tax Act.

Employees' tax:

Employees' tax must be deducted in the month during which the employee acquires the asset. If the amount of employees' tax to be deducted is excessive in relation to the employee's remuneration for that month, the deduction of the tax in respect of the benefit may be spread over the balance of the tax year during which the benefit accrued to the employee.

IRP5/IT3(a) details:

The cash equivalent of the benefit must be reflected under code **3801**.

Examples:

- Prizes given to an employee by an employer or any other person by arrangement with the employer, for sales performance, outstanding work, etc.
- Benefits enjoyed by employees according to an agreement whereby employees are provided with credit cards and may purchase goods.
- In cases where the employer arranges for the employee to acquire an asset from any other person at a discount, a benefit accrues to the employee.
- The provision of security for the protection of the private home of an employee in the form of the installing of an alarm system, burglar bars or the provision of armed response.

4.2 RIGHT OF USE OF AN ASSET

Reference to the Act:

Paragraphs 2(b) and 6 of the Seventh Schedule

Meaning:

Prescribes that a taxable benefit shall be deemed to have been granted where an employee is granted the right of use of any asset (other than residential accommodation or any motor vehicle) for private or domestic purposes, either free of charge or for a consideration which is less than the value of such use.

Value to be placed on benefit:

Where the employer is leasing/hiring the asset: The amount of the rental payable by the employer for the period during which the employee has the use of the asset.

Where the employer owns the asset: An amount calculated for the period during which the employee has the use of the asset, at the rate of 15% per annum on the lesser of the cost of the asset to the employer or the market value of the asset at the date of commencement of the period.

Sole right of use of the asset is granted to the employee: Where an employee is granted the sole right of use of the asset for a period extending over the useful life of the asset or a major portion thereof, the value to be placed on the use of the asset shall be the cost thereof to the employer.

The taxable benefit will be deemed to have accrued to the employee on the date on which he was first granted the right of use of such asset.

No value: Exemptions in respect of assets used for private or domestic purposes are applicable when one of the following criteria is met:

- The private use is incidental to the use of the asset for the employer's business
- The asset is provided by the employer as an amenity for recreational purposes for the use of his/her employees in general at his/her place of work
- Any equipment or machine that the employer allows his/her employees in to use in general from time to time for short periods where the value of the private use of the asset does not exceed an amount determined on a basis as set out in a public notice issued by the Commissioner
- The asset consists of telephone or computer equipment which the employee uses mainly for the purposes of the employer's business
- Books, literature, recordings or works of art.

Note: The no value rule in terms of paragraph 6(4) will not apply in respect of clothing with effect from 1 March 2018.

Employees' tax: The cash equivalent of the benefit must be apportioned and is deemed to have accrued on a monthly or weekly basis during the year at the same intervals that the employee receives his/her cash remuneration, except in respect of those cases where the employee is granted the sole right of use of the asset during its useful life or a major portion thereof.

As the latter benefit is deemed to accrue on the date on which he/she was first granted the right of use of such asset, employees' tax must be deducted from the full value of the benefit during that specific month.

IRP5/IT3(a) details: The cash equivalent of the benefit must be reflected under code **3801**.

Examples:

The employer rents an asset:

The employer rents a caravan from a third party and makes it available to the employee for a holiday.

The employer pays R100 per day for 10 days, which amounts to R1 000 rent paid by the employer.

The rent amount (R1 000) is subject to employees' tax and the employer must deduct the employees' tax from the R1 000 at the same intervals at which the employee is remunerated for the relevant period of use.

The employer owns the asset:

The employer owns a caravan which he makes available to the employee for a holiday of 10 days.

The employer paid R60 000 on the date he bought the caravan but the market value of the caravan on the date he made it available for use by the employee is R40 000.

- The taxable benefit amount is the lesser of:
 - $15\% \times R60\,000 \div 365 \times 10 \text{ days} = R247$ (cost of the asset to the employer), or
 - $15\% \times R40\,000 \div 365 \times 10 \text{ days} = R164$ (market value of the asset on the commencement date of the period of use).

The R164 would be subject to employees' tax and the employer must deduct the employees' tax from the employee at the same intervals at which the employee is remunerated for the relevant period of use.

4.3 RIGHT OF USE OF A MOTOR VEHICLE FOR PRIVATE OR DOMESTIC PURPOSES

Reference to the Act: Paragraphs 2(b) and 7 of the Seventh Schedule
Section 8(1)(b)(ii) and (iii), 23A(1)

Meaning: A taxable benefit shall be deemed to be granted where employee is granted the right of use of any motor vehicle for private or domestic purposes. The cash equivalent of value of taxable benefit shall be so much of value of private use of such vehicle as exceeds any consideration given by employee to employer for use of such vehicle during such period, other than consideration in respect of cost of licence, insurance, maintenance or fuel in respect of such vehicle.

The value of a taxable benefit shall be calculated on a monthly basis or each part of a month during which the employee was entitled to the use of the vehicle for private purposes (including travelling between the employee's place of residence and his or her place of employment or any other travelling done for his or her private or domestic purposes).

Dealer billing price means: The recommended selling price of a motor vehicle as determined by the manufacturer or importer in the Republic in respect of the selling of motor vehicles to motor vehicle dealers and motor vehicle rental companies.

Determination of retail market value Where any motor vehicle is manufactured, obtained or acquired or right of use of any motor vehicle is obtained by employer, retail market value shall be determined as follows:

Manufacturers or importers i.r.o **new or demo motor vehicles**

| Tax Period | Determination |
|----------------------------------|---|
| 1 March 2015 to 29 February 2016 | Dealer billing price (excluding VAT) reduced by 10% |
| 1 March 2016 to 28 February 2017 | Dealer billing price (excluding VAT) reduced by 5% |
| 1 March 2017 to 28 February 2018 | Dealer billing price (excluding VAT) |
| 1 March 2018 onwards | Dealer billing price (including VAT) |

Manufacturers or importers i.r.o **pre-owned motor vehicle**

| Tax Period | Determination |
|----------------------------------|---|
| 1 March 2015 to 28 February 2018 | The cost to the employer to acquire the motor vehicle (excluding any finance charge, interest or VAT). Where employer acquired motor at no cost, the market value plus any costs of repairs incurred for purpose of granting employee right of use. Section 23C of IT Act will apply to any employer who is also a VAT vendor, (i.e. employer will reduce market value by input tax amount). |

Manufacturers or importers i.r.o **pre-owned motor vehicle**

| Tax Period | Determination |
|----------------------|--|
| 1 March 2018 onwards | The cost to the employer to acquire the motor vehicle (excluding any finance charge, interest) and including VAT. Where the employer acquired the motor at no cost, the market value (including VAT) plus any costs of repairs incurred for the purpose of granting an employee the right of use. |

Dealers or rental companies i.r.o **new or demo motor vehicles**

| Tax Period | Determination |
|----------------------------------|--------------------------------------|
| 1 March 2015 to 28 February 2018 | Dealer billing price (excluding VAT) |
| 1 March 2018 onwards | Dealer billing price (including VAT) |

Dealers or rental companies i.r.o pre-owned motor vehicle

| Tax Period | Determination |
|----------------------------------|--|
| 1 March 2015 to 28 February 2018 | The cost to the employer to acquire the motor vehicle (excluding finance charges, interest or VAT). |
| | Where the employer acquired the motor vehicle at no cost, the market value plus any cost of repairs incurred for the purpose of granting an employee the right of use. Note: section 23C of the IT Act will apply to any employer who is also a VAT vendor, (i.e. the employer will reduce the market value by the input tax amount). |
| 1 March 2018 onwards | The cost to the employer to acquire the motor vehicle (excluding finance charges, interest) and including VAT. |
| | Where employer acquired the motor at no cost, the market value (including VAT) plus any costs of repairs incurred for purpose of granting an employee the right of use. |

| Tax Period | Determination |
|----------------------|--|
| 1 March 2015 onwards | The price of acquisition paid by respective employer (including VAT) |

In any other cases (i.e. excluding motor vehicle manufacturers, importers, dealers or rental companies)

Note: The retail market value as determined by the Minister by Regulation. This regulation came into operation on 1 March 2015.

Where the employer has granted an employee the right of use of a motor vehicle and a **limit was placed on the value of such vehicle to be acquired** for this purpose by the employer and the employee makes a contribution towards the purchase price of a more expensive vehicle, the determined value shall be the determined value as at the date on which the employee was granted the right of use of such motor vehicle for the first time.

Where an employee and the motor vehicle allocated to him / her are both **transferred to an associated institution**, the determined value of the motor vehicle must be determined as on the date that the employee first became entitled to the right of use of such vehicle.

Where the employer acquired the right of use of the motor vehicle –

- Under a lease; or
- Under a lease and ownership was acquired by the employer on the termination of the lease (excluding an “operating lease” as defined in section 23A(1)),

The value shall be:

- The retail market value at the time the employer first obtained the right of use of the motor vehicle; or
- The cash value if the lease was a lease in terms of para(b) of the definition of “instalment credit agreement” in section 1 of the VAT Act.

If the employer acquired the vehicle or the right of use of the vehicle (other than a motor vehicle acquired under an operating lease as defined in section 23A (1) 12 months or more before the date on which the employee is granted the right of use of the vehicle, a depreciation allowance must be deducted from the value of the vehicle as determined.

The allowance is calculated according to the reducing balance method at the

rate of 15% for each completed period of 12 months, calculated from the date on which the employer first obtained such vehicle or the right of use thereof to the date on which the employee was first granted the use of the vehicle.

Example: A motor vehicle dealer acquired a new vehicle for R114 000 (including VAT) on 1 January 2013. Employee A uses the vehicle for 30 months from 1 January 2013 where after the right of use was granted to employee B.

- With regard to employee A, the retail market value of a motor vehicle for the period he has the use of the vehicle is R114 000 (inclusive of VAT).
- With regard to employee B, the retail market value of the vehicle is calculated as follows:

| | |
|--|---------------|
| Cost price on 01/01/2008 | |
| Less: depreciation allowance for period 01/01/2013 to 31/12/2013 (R100 000 x 15%) | 15 000 |
| Less: depreciation allowance for period 01/01/2014 to 31/12/2014 (R85 000 x 15%) | 12 750 |
| The retail market value on 01/01/2015 | <u>72 250</u> |

Depreciation allowance only granted for each completed period of 12 months.

For each month during which the employee is entitled to use the vehicle for private purposes, the value is 3,5% of the determined value of the motor vehicle.

Important:

Effective from 1 March 2013, the percentage rate for all employer-provided vehicles will be 3.5% per month of the vehicle's determined value.

However, vehicles with maintenance plans included within the purchase price at the time of purchase will trigger only a 3.25% of the determined value of the motor vehicle.

With effect from 1 March 2013, the value of the fringe benefit for vehicles under operating leases as defined in section 23A(1) is, in terms of paragraph 7(4)(a)(ii) is the actual cost to the employer incurred under that operating lease and the cost of fuel in respect of that vehicle.

Use of motor vehicle for a period less than a full month

Where the employee has the use of the vehicle for part of a month, the amount of the value for private use, must be determined in the same ratio as the number of days the employee had the use of the vehicle to the total number of days in the month.

Where the employee does not receive a travel allowance or advance in respect of the vehicle and the employee:

- For each month during which the employee is entitled to use the vehicle for private purposes, the value is:
 - 3.5% of the determined value of the motor vehicle
 - Where the employer has granted an employee with the right of use of more than one motor vehicle at the same time and they are all used by the employee primarily for business purposes during the year of assessment,
 - the value of the private use shall be deemed to be the value of the private use of the vehicle having the highest value of private use or such other vehicle as decided by the Commissioner upon the application of the taxpayer.

The private use of a motor vehicle by the employee shall be deemed to have no value, if:

- The vehicle is available to and is used by other employees of the employer in general and the private use of the vehicle by the employee is infrequent or is merely incidental to the business use and the vehicle is not normally kept at or near the residence of the employee concerned when not in use outside business hours; or
- The nature of the employee's duties are such that he/she is regularly required to use that vehicle for the performance of such duties outside his/her normal hours of work and he/she is not permitted to use such vehicle for private purposes other than:
 - Travelling between his/her place of residence and place of work, or
 - Private use which is infrequent or is merely incidental to its business use.

If the employee keeps an accurate record of the distance travelled for business purposes, the Commissioner must upon the assessment of the employee's liability for normal tax for the year of assessment:

- The value placed on the private use of the vehicle must be reduced by an amount that bears to that calculated value the same ratio as the number of kilometres travelled for the business purposes bears to that calculated value the same ratio as the number of kilometres travelled for business purposes bears to the total amount of kilometres travelled in such vehicle during that year of assessment.

The cash equivalent of the benefit accrues monthly and employees' tax must be deducted.

Employees' tax:

The full value of the taxable benefit must be reflected under code 3816 where motor vehicle was acquired by the employer under an "operating lease" on the IRP5/IT3 (a) tax certificate as in the past.

IRP5/IT3(a) details:

Code 3866 MUST be used for foreign services income. Code **3816** and **3866** are valid from the 2014 year of assessment.

Where it is an employer-owned motor vehicle, the taxable benefit must be reflected under code **3802**.

4.4 MEALS, REFRESHMENTS AND MEAL AND REFRESHMENT VOUCHERS

Reference to the Act:

Paragraph 2(c) and 8 of the Seventh Schedule

Meaning:

A taxable benefit shall be deemed to have been granted where the employee has been provided with any meal or refreshment or voucher entitling him/her to any meal or refreshment, either free of charge or for a consideration which is less than the value of such meal, refreshment or voucher.

Value to be placed on the benefit:

The amount of the cost to the employer less any consideration paid by the employee.

No value:

Shall be placed on:

- Any meal or refreshment supplied by an employer to his/her employees in any canteen, cafeteria or dining room operated by or on behalf of the employer and patronised wholly or mainly by his/her employees or on the business premises of the employer.
- Any meal or refreshment supplied by an employer to any employee during business hours or extended working hours or on special occasions.

- Any meal or refreshment enjoyed by an employee in the course of providing a meal or refreshment to any person whom the employee is required to entertain on behalf of the employer.
- Board and meals provided with accommodation. They are dealt with as part of the accommodation benefit.

Employees' tax: Employees' tax must be deducted from the cash equivalent of the benefit.

IRP5/IT3(a) details: The cash equivalent of the benefit must be reflected under code **3801**.

Example: The employer pays R20 a meal for his employees at a dining place close to where his business is situated. He provides each employee with 20 coupons per month for which the employee must pay R160 (R8 per coupon). One meal can be enjoyed at the dining place for each coupon. The taxable value of the benefit is calculated as follows:

| | | |
|----------------------------|-----|-------------------------|
| Cost to the employer | 400 | (20 coupons x R20 each) |
| Less: cost to the employee | 160 | (20 coupons x R 8 each) |
| Taxable benefit | 240 | |

4.5 ACCOMMODATION

Reference to the Act: Paragraphs 2(d), 9 and 10A of the Seventh Schedule

Meaning: A taxable benefit shall be deemed to have been granted where the employer has provided the employee with residential accommodation either free of charge or for a rental consideration which is less than the value of such accommodation.

Cash equivalent: Any residential accommodation supplied by the employer is valued as follows:

Rental value for the yearR xxx
 Less: amount paid by the employee ... R xxx
 Value of benefitR xxx

The formula:
$$(A - B) \times \frac{C}{100} \times \frac{D}{12}$$

- Symbols to the formula:**
- A = represents the remuneration proxy derived by the employee in the previous year of assessment. Remuneration proxy means –
 - Remuneration as defined in paragraph 1 of the Fourth schedule in respect of the preceding year of assessment (excluding the previous year's value of the taxable residential accommodation);
 - Where the employee was employed by the employer concerned for the whole of the preceding year, the full remuneration;
 - If the previous year's remuneration is less than the 365 days, the remuneration needs to be grossed up to 365 days;
 - If the employee was not employed in the previous year, the first month's remuneration needs to be grossed up to 365 days.
 - B = represents an abatement equal to an amount of R79,000 provided that the abatement is reduced to ZERO where:
 - The employer is a private company and the employee or his/her spouse controls the company or is one of the persons controlling the company, whether control is exercised directly as a shareholder in the company or as a shareholder in any other company, or
 - The employee, his/her spouse or minor child has a right of option or pre-emption granted by the employer or any other person by arrangement with the employer or any associated institution in relation to the employer, whereby the employee, his/her spouse or

minor child may become the owner of the accommodation, whether directly or indirectly by virtue of a controlling interest in a company or otherwise.

- C = 17, or if the accommodation consists of a house, flat or apartment consisting of at least four rooms –
 - C = 18 if such accommodation is unfurnished and power or fuel is supplied by the employer, or such accommodation is furnished but power or fuel is not supplied by the employer.
 - C = 19 if such accommodation is furnished and power or fuel is supplied by the employer.
- D = represents the number of full months in relation to the tax year during which the employee was entitled to the occupation of the accommodation for.

An employee will be deemed to have an interest in the accommodation if:

- Such accommodation is owned by the employee or a connected person in relation to such employee;
- Any increase in the value of the accommodation in any manner (directly or indirectly) accrues for the benefit of the employee or a connected person in relation to such employee; or
- Such employee or a connected person in relation to such employee has a right to acquire the accommodation from his/her employer.

The formula will be used:

- Where the employee has an interest in the accommodation.

Where the accommodation is obtained by the employer or associated institution at an arm's length transaction with an unconnected person; and the full ownership does not vest in the employer or associated institution

The rental value shall be the lower of -

- The amount determined in terms of the formula; and
- The amount of expenditure incurred in respect of accommodation.

Note: This provision came into effect from 1 March 2015

Holiday accommodation:

The value of the benefit to be placed on such accommodation shall be -

- Where the accommodation is hired from unconnected person:
 - Rental payable and any amounts chargeable in respects of meals, refreshments or any services relating to such accommodation ; or
 - In any other case, the prevailing rate per day that such accommodation is let to any unconnected person.

Commissioner's discretion:

Where, by reason of the situation, nature or condition of the accommodation or any other factor, the Commissioner is satisfied that the rental value is less than the rental value determined in terms of subparagraphs 3 and 4 of paragraph 9, he/she may determine such rental value at a lower rate/amount which he/she considers fair and reasonable. An application for a directive for employees' tax purposes should be made to SARS. This directive must be renewed annually.

Employee granted more than one residential accommodation:

Where more than one residential accommodation, at different places has been made available to the employee, which he/she is entitled to occupy from time to time while performing his/her duties, the amount of the value of the unit with the highest rental value over the full period during which the employee was entitled to occupy more than one unit, must be included in his/her gross income.

No value:

Shall be placed on any accommodation away from an employee's usual place

of residence:

- In the Republic, while such employee is absent from his/her usual place of residence in the Republic, for the purpose of performing the duties of his/her employment. This provision shall not apply to any residential unit where more than one residential accommodation at different places has been made available to the employee which he/she is entitled to occupy from time to time while performing his/her duties.
- Outside the Republic for a period not exceeding two years from date of arrival of that employee in Republic for the purposes of performing duties of his/her employment or if that accommodation is provided to employee during the year of assessment and that employee is physically present in the Republic for a period of less than 90 days in that year.
- These provisions do not apply:
 - If the employee was present in the Republic for a period exceeding 90 days during the year of assessment immediately preceding the date of arrival of that employee in the Republic
 - To the extent that the cash equivalent of the value of the taxable benefit derived from the occupation of the residential accommodation exceeds an amount equal to R25,000 multiplied by the number of months during which the employee was away.

Employees' tax:

The cash equivalent of the benefit must be calculated during the year at the same intervals at which the employee receives his/her cash remuneration and employees' tax must be deducted.

IRP5/IT3(a) details:

The cash equivalent of the benefit must reflect under code **3805**.

Examples:

Employer owns the accommodation: The employee was in the employer's employ for the full previous tax year. His salary was R7 800 per month.

The employer owns accommodation and supplies the employee with unfurnished accommodation that consists of at least four rooms. The employee uses the accommodation for the full year and pays R200 rent per month. All other expenses in respect of the accommodation are borne by the employer.

The value of the taxable benefit must be determined as follows:

$$\begin{array}{rcl} R93\ 600\ (A) - R79\ 000\ (B) \times \frac{18(C)}{100} \times \frac{1(D)}{12} & = & R219 \\ \text{Less: rental paid by employee for the accommodation} & & \underline{R200} \\ \text{Taxable benefit per month} & & \underline{\underline{R19}} \end{array}$$

Employer rents the accommodation: Use the same example above but here the employer rents the accommodation from the owner at an arm's length transaction; with an unconnected person; and the full ownership does not vest in the employer, at a cost of R1 000 per month. The employee uses the accommodation for the full year and pays R150 rent per month.

The value of the taxable benefit is the lower of the formula or rental paid, and is determined as follows:

$$R93\ 600\ (A) - R79\ 000\ (B) \times \frac{18(C)}{100} \times \frac{1(D)}{12} = R219$$

OR,

$$\text{Monthly rental paid by the employer} = R1,000$$

$$\text{Taxable benefit per month} = R219 - R150 = R69$$

4.6 FREE OR CHEAP SERVICES

Reference to the Act: Paragraph 2(e) and 10 of the Seventh Schedule

Meaning: A taxable benefit shall be deemed to have been granted if any service has at the expense of employer been rendered to employee (whether by employer or by some other person) and that service has been utilised by employee for his/her private or domestic purposes and no consideration or an inadequate consideration has been given by the employee.

Value to be placed on the benefit: **If any travel facility** granted by employer engaged in business of conveying passengers for reward by sea or air, to enable employee or his/her relative to travel to any destination outside Republic for private purposes, an amount equal to lowest fare payable by any passenger utilising such facility less any amount paid by employee or his/her relative. Forward and return journey is regarded as one journey. **If rendering of any other service**, cost to employer in rendering such service or having service rendered, less any amount paid by employee.

Example: If an educational institution such as a university or technikon provides free or cheap tuition to the children of personnel, a taxable benefit arises. The value that must be placed on the benefit is the marginal cost involved in the tuition of the additional person. If the employee makes a contribution that is equal to or more than the marginal cost, no taxable benefit accrues.

No value: Shall be placed on any:

- Travel facility granted by an employer engaged in the business of conveying passengers for reward by land, sea or air, to enable any employee, his/her spouse or minor children to travel, to any destination - In Republic or to travel overland to any destination outside Republic; or Outside Republic if such travel was undertaken on a flight or voyage made in ordinary course of employer's business and such employee, spouse, or minor child **was not permitted** to make a firm advance reservation of the seat or berth occupied by him/her.
- Transport service rendered to employees in general for conveyance of such employees from their home to place of employment and vice versa.
- Communication service provided to an employee if the service is used mainly for the purposes of the employer's business.
- Services rendered to employees at their place of work:
 - For better performance of their duties
 - As a benefit to be enjoyed by them at their place of work
 - For recreational purposes at work or a place of recreation, other than at place of work that is for the use of employees in general.
- Provision of parking for motor vehicles of personnel at their place of work is not a taxable benefit.
- Travel facility granted by employer to spouse or minor child of employee if employee is:
 - For duration of his/her employment stationed for purposes of employer's business at a specific place in Republic further than 250 kilometres away from his/her usual place of residence in Republic;
 - Required to spend more than 183 days during the tax year at that specific place; and such a facility is granted in respect of travel between the employee's usual place of residence in the Republic and that specific place where the employee is so stationed.

Employees' tax: Employees' tax must be deducted from the cash equivalent of the benefit.

IRP5/IT3(a) detail: The cash equivalent of the benefit must be reflected under code **3806**.

4.7 LOW INTEREST OR INTEREST FREE DEBT

Reference to the Act: Paragraph 2(f), 10A and 11 of the Seventh Schedule

Meaning: Prescribes that a taxable benefit shall be deemed to have been granted if a debt (other than a debt for purposes of the payment of any consideration in respect of any qualifying equity share in terms of section 8A by the employee, the payment of any securities transfer tax payable in respect of that share or a debt in respect of which a subsidy is payable has been incurred by the employee), whether in favour of the employer or in favour of any other person by arrangement with the employer or any associated institution in relation to the employer and either no interest is payable by the employee or interest is payable at a lower interest rate in comparison to the official rate of interest.

Value to be placed on the benefit: The amount of interest that would have been paid on the amount owing in respect of debt during the year of assessment if any interest had been paid at the official rate, less such amount of interest (if any) actually incurred by the employee.

Shall be placed on the benefit derived in consequence of:

- No value:**
- A debt owed by any employee to his/her employer if such debt or the aggregate of such debts does not exceed the sum of R3 000 at any time. Debt owed contemplated in this exclusion are short-term debts granted at irregular intervals to employees and not all debts owed merely because they are less than R3 000. A taxable benefit would arise if the debt owed granted on a regular basis to all employees or a certain category of employees notwithstanding the fact that the debt owed does not exceed R3 000.
 - Granting of debt to enable employee to further his/her own studies.
 - With effect from 1 March 2019, debt owed to the employer as a result of a loan granted by that employer to that employee which does not exceed R450,000 if –
 - the debt was assumed for the purposes of acquiring immovable property by the employee;
 - the market value of the immovable property acquired does not exceed R450,000 in relation to the year of assessment during which the property was acquired;
 - the remuneration proxy of the employee does not exceed R250,000 in relation to the year of assessment during which the loan is granted; and
 - the employee is not a connected person in relation to the employer.

Deemed Debt: If a financial institution (e.g. bank) provides debt to its employees at same rate as to its customers on the same conditions and under same circumstances, no taxable benefit will accrue if such customer rate is below official interest rate.

If a low interest or interest free debt is provided to a director of a company or to a member of a close corporation, no taxable benefit will accrue if such debt is, for example, provided only as a result of the director's shareholding and not in respect of any services rendered. In such a case, the interest on the debt owed will not be deductible in the hands of the company or close corporation.

Paragraph 10A of the Seventh Schedule makes provision for the benefits granted to employees under a certain type of housing scheme, to be deemed to constitute a debt owed. Under this type of scheme, the employee's house is acquired by and registered in the name of his/her employer. The employee is in terms of the agreement with the employer either entitled or obliged to

acquire the house, either on termination of his/her service or after the expiration of a fixed period at a price stated in such an agreement. The employee is granted the right to occupy the house and as a consideration in respect of his/her occupation pays a rental to the employer, which is calculated as a given percentage of the cost of the house to the employer. This scheme is in effect identical to the granting by the employer of a low-interest housing debt and is in terms of Paragraph 10A to be treated as such.

Deemed interest: Where the employee ultimately purchases the house from the employer, which will probably be at a price considerably lower than its then market value, the difference between the market value and the purchase price will not be subject to tax in the hands of the employee, provided that the purchase price is not lower than the market value of the house on the date on which the original agreement was concluded between the employer and the employee.

Accrual of taxable benefit: Where the debt owed by the employee to the employer is used by the employee to produce income, for example where the employee uses the money to purchase fixed property from which he/she derives rental income, the cash equivalent of the taxable benefit which is included in the employees' taxable income, will be deemed to be interest actually paid by him/her and will be allowed as a deduction from the income earned.

Employees' Tax: A portion of the cash equivalent is, for employees' tax purposes deemed to have accrued to an employee where:

- Interest on the debt owed becomes payable by the employee at regular intervals during the tax year, on each date during the year on which interest becomes payable
- Interest on the loan becomes payable at irregular intervals or where interest is not payable, on the last day of each period during the year in respect of which any cash remuneration becomes payable to the employee.

IRP5/IT3(a) details: The amount that is subject to employees' tax is determined by calculating the interest at the official rate for the portion of the year mentioned above, reduced by the amount of interest (if any) actually payable by the employee for the portion in question.

The official interest rate means a rate of interest that is equal to the country's repurchase rate plus 100 basis points. For an example, if the country's repurchase rate is 7%, the official interest rate will be 8% (7% plus 100 basis points).

An alternative method for the calculation of the cash equivalent for Employees' Tax and for normal tax purposes may be used if the Commissioner is satisfied that such method achieves substantially the same result as the prescribed methods.

The cash equivalent of the benefit must be reflected under code **3801**.

4.8 SUBSIDIES IN RESPECT OF DEBT

Reference to the Act: Paragraphs 2(g), 2(gA) and 12 of the Seventh Schedule

Meaning: That a taxable benefit shall be deemed to have been granted if the employer has paid any subsidy in respect of the amount of interest or capital repayments payable by the employee in terms of any debt.

That a taxable benefit shall be deemed to have been granted if the employer

has made a payment to a third party in respect of the granting by that party of a low interest or interest free debt to an employee. Such payment would be deemed to be a subsidy.

- Value of the benefit:** The amount of any subsidy paid by the employer in respect of the amounts of interest or capital repayments
- Employees' tax:** The full amount of the subsidy in respect of any debt is subject to the deduction of employees' tax.
- IRP5/IT3(a) details:** The cash equivalent of the benefit must be reflected under code **3801**.

4.9 EMPLOYER CONTRIBUTIONS TO INSURANCE POLICIES SCHEMES

Reference to the Act: Paragraphs 2(K) and 12C of the Seventh Schedule

Meaning: In terms of the amendments to paragraph 2(k) of the Seventh Schedule to the Income Tax Act, any direct or indirect contribution by an employer to an insurer in respect of insurance benefits for the benefit of an employee, his spouse, children, dependent or nominee will constitute a taxable fringe benefit in the employees' hands. The cash equivalent of this taxable benefit is calculated in accordance with the new paragraph 12C of the Seventh Schedule and is the total cost incurred by the employer in respect of any premium payable.

This paragraph shall not apply where the total cost is in respect of an insurance policy that relates to an event arising solely out of and in the course of and in the course of employment of the employee.

Value to be placed on the benefit: The amount of any expenditure incurred by the employer in respect of premiums paid under a policy of insurance during that year of assessment.

Where a portion of any expenditure incurred by the employer cannot be attributed to the employee for whose benefit the premium is paid, the benefit will be the total amount of expenditure incurred by the employer for the benefit of all employees divided by the number of employees in respect of whom the expenditure is incurred, during the year of assessment.

Employees' tax: The taxable benefit must be indicated under the income code 3801 on the 2013 IRP5/IT3 (a) certificates.

4.10 EMPLOYEE'S DEBT OR RELEASE FROM OBLIGATION TO PAY DEBT

Reference to the Act: Paragraphs 2(h) and 13 of the Seventh Schedule
Section 11F

Meaning: A taxable benefit shall be deemed to have been granted if employer has paid an amount owing by employee to a third party, whether directly or indirectly, without requiring employee to make any payment for amount paid or employer has released employee from an obligation to pay an amount owing by employee to employer. Where the amount owed by employee to employer has prescribed, the employer shall be deemed to have released employee from his/her obligation of paying debt unless the Commissioner is satisfied that it was not the intention of employer to transfer the benefit to employee. This excludes medical contributions made by employer or medical costs incurred by employer.

Value to be placed on the benefit: The amount paid by the employer including the amount paid by the employer on behalf of the employee to a retirement annuity fund or amount of the debt from which employee has been released. There is no limitation on method by which this debt may have been arisen or the size of the debt.

No value: Shall be placed on the taxable benefit under the following circumstances:

- The employer has paid subscription fees to a professional body if such membership of such body is a condition of the employee's employment
- Insurance premiums indemnifying an employee solely against claims arising from negligent acts or omissions on part of the employee in rendering services to the employer
- Any portion of the value of a benefit which is payable by a former member of non-statutory force or service as defined in the Government Employees Pension Law, 1996 to the Government Employees' Pension Fund.

No value shall be placed on the benefit should the new employer grant a low interest or interest free debt to the employee in order to enable him/her to recompense the previous employer, such new debt owed cannot be regarded as a study loan in respect of which no benefit is considered to arise.

However, a refund of any bursary, debt in respect of studies or similar assistance by an employer on behalf of his/her employee to the employee's previous employer, is not regarded as a taxable benefit, if:

- The employee's previous employer made a grant on condition that the employee rendered service to the employer for an agreed period.
- On termination of service before the expiration of the period agreed upon, the employee is liable to refund an amount to his/her previous employer.
- Upon accepting employment with a new employer, outstanding amount is refunded to previous employer by new employer on behalf of the employee.
- The employee consequently is liable to work for the new employer for a period not shorter than the remaining period which he/she should still have worked for the previous employer.

Note: A scholarship, which is subject to repayment if certain written conditions are not met, is treated as a bona fide scholarship or bursary until the conditions are not fulfilled. In the tax year in which such conditions are not fulfilled, the amount of the scholarship will be regarded as a debt and any benefit that the employee may have received will constitute a taxable benefit.

Employees' tax: Employees' tax must be deducted from the cash equivalent during the month in which the benefit accrues to the employee. If however the amount of employees' tax to be deducted is excessive in relation to the employee's monthly remuneration for that month, the deduction of the tax in respect of the benefit may be spread over the balance of the tax year during which the benefit accrued to him/her.

IRP5/IT3(a) details: The cash equivalent of the benefit must be reflected under code **3808**.

Examples: Payment by employers of a portion or the whole of an employee's mortgage bond payment, credit card account, clothing account, etc., is fully subject to tax notwithstanding the fact that the payment is made by the employer directly to the institution or supplier.

Where an employee changes employment and is obliged to repay a study debt or a bursary to his/her previous employer, the new employer may pay this debt on behalf of the employee. Such a payment constitutes a benefit to the employee, which must be taxed in full.

4.11 MEDICAL SCHEME CONTRIBUTIONS PAID BY AN EMPLOYER

Reference to the Act: Section 6A
Paragraphs 2(i) and 12A of the Seventh Schedule

Meaning: A taxable benefit shall be deemed to have been granted where the employer contributes directly or indirectly to a medical scheme on behalf of an employee and his/her dependants.

Value to be placed on the benefit: The amount of the contribution or payment by the employer (directly or indirectly) to a medical scheme for the benefit of the employee and dependants of such employee for any period.

The amount of contributions paid by the employer on behalf of an employee who is 65 years and older and is still in the employ of such employer, it is a taxable fringe benefit with effect from 1 March 2012.

However, where an employee has retired from the employ of such employer, irrespective of the age of the employee and the employer continues to pay contributions on behalf of that retired employee, the 'no value' fringe benefit still applies.

Appropriate portion cannot be attributed to the relevant employee: In cases where the contribution or payment is made by the employer in such a manner that an appropriate portion thereof cannot be attributed to the relevant employee, in other words, where the employer makes a lump sum payment to the scheme in respect of all employees or a class of employees, the amount of that contribution or payment in relation to that employee and his/her dependants is deemed to be an amount equal to the total contribution or payment by the employer to the scheme during the relevant period for the benefit of all employees and their dependants divided by the number of employees in respect of whom the contribution or payment is made.

If the apportionment of the contribution or payment amongst all employees does not reasonably represent a fair apportionment of that contribution or payment amongst the employees, the Commissioner may on application by the taxpayer, decide that the apportionment be made in such other manner as is fair and reasonable.

No value: Shall be placed on the benefit, if the payment by the employer is made on

behalf of:

- A pensioner (a person who by reason of superannuation, ill-health or other infirmity retired from the employ of such employer); or
- The dependants of a pensioner after the death of the pensioner, (if such pensioner retired from the employ of such employer by reason of superannuation, ill-health or other infirmity); or
- The dependants of a deceased employee after such employee's death, if such deceased employee was in the employ of the employer on the date of death.

Employees' tax: Employees' tax must be deducted during the month in which the benefit accrues.

IRP5/IT3(a) details: The fringe benefit value taxed in the hands of the employee must be added to the value of code **4005** as it is deemed in terms of Section 18(5) to have been paid by the employee if the benefit was included in the employee's remuneration.

Employer's medical scheme contributions made for the benefit of the employee must be reported under:

- Code 3810 (fringe benefit value)
- Code 4474 where the employee is not a retired employee or the contributions were not made for the benefit of the dependants of a deceased employee
- Code 4493 where the "no value" provisions apply in respect of the relevant employee/former employee.

4.12 MEDICAL COSTS INCURRED BY AN EMPLOYER

Reference to the Act: Paragraphs 2(j) and 12B of the Seventh Schedule

Meaning: A taxable benefit shall be deemed to have been granted where the employer, directly or indirectly, incurred any amount (other than a medical scheme contribution paid to a registered medical scheme) in respect of medical, dental and similar services, hospital services, nursing services or medicines provided to the employee, his/her spouse, child, relative or other dependant.

Value to be placed on the benefit: Amount incurred by employer (directly/indirectly) in respect of any medical, dental, similar services, hospital services, nursing services or medicines in respect of employee, his/her spouse, child or other relative or dependents.

Appropriate portion cannot be attributed to the relevant employee: Where payment is made in manner that an appropriate portion thereof cannot be attributed to employee, his/her spouse, children, relatives and dependents, the amount of that payment in relation to that employee and his/her spouse, children, relatives and dependents is deemed to be, amount equal to total amount incurred by employer during relevant period in respect of all medical, dental and similar services, hospital services, nursing services or medicines for benefit of all employees, spouses, children, relatives and dependents divided by number of employees who are entitled to make use of those services.

No value: On any benefit resulting from provision of medical treatment listed in any category of prescribed minimum benefits determined by Minister of Health in terms of section 67(1)(g) of Medical Schemes Act no. 131 of 1998, which is provided to employee, his/her spouse or children in terms of a scheme or programme of that employer, which:

- Constitutes carrying on of business of medical schemes if that scheme

- or programme is approved by Registrar of Medical Schemes as being exempt from complying with requirements of medical schemes
- Does not constitute the carrying on of the business of medical schemes, if that employee and his/her spouse and children, are:
 - Not beneficiaries of a medical scheme registered under the Medical Schemes Act no. 131 of 1998
 - Beneficiaries of such medical scheme and the total cost of that treatment is recovered from that medical scheme.
- Where the services are rendered or the medicines are supplied for purposes of complying with any law of the Republic.
- Derived from an employer by:
 - A person who by reason of superannuation, ill-health or other infirmity retired from the employ of that employer
 - The dependants of a person after that person's death, if that person was in the employ of that employer on the date of death
 - The dependants of a person after that person's death, if that person retired from the employ of that employer by reason of superannuation, ill-health or other infirmity
 - An employee who is 65 years or older
- Where the services are rendered by the employer to its employees in general at their place of work for the better performance of their duties.

Employees' tax: Employees' tax must be deducted during the month in which the benefit accrues.

IRP5/IT3(a) details: The information in respect of taxable benefit must reflect under codes:

- Code 3813 — cash equivalent of the benefit (costs paid on behalf of the employee, whether the expenses were paid in respect of an immediate family member or other relatives/dependants of the employee).
- Code 4024 — medical costs deemed to be paid by the employee.

5 BENEFITS GRANTED TO RELATIVES OF EMPLOYEES AND OTHERS

Reference to the Act: Paragraph 16 of the Seventh Schedule

Meaning: Employee is deemed to be granted a taxable benefit by his/her employer if, as a reward for services rendered or to be rendered by the employee:

- Employer has granted a benefit or advantage directly or indirectly to a relative of the employee; or
- Anything done by employer under any agreement, transaction or arrangement so as to confer any benefit or advantage upon any person other than the employee, whether directly or indirectly

The benefit or advantage would have been a taxable benefit if it had been granted to employee in terms of paragraph 2. Provisions of this paragraph shall not apply where benefit has been taxed in the hands of the employee already.

6 VALUATION OF CONTRIBUTIONS MADE BY EMPLOYERS TO PENSION OR PROVIDENT FUND

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| Reference to the Act: | Paragraphs 2(l) and 12D of the Seventh Schedule Section 11F |
| Meaning: | <p>An employee is deemed to have been granted a taxable benefit by his/her employer if, the employer has made contributions or paid any amount to the pension or provident fund on behalf of the employee excluding any amount which is transferred as surplus as defined in the Pension Funds Act.</p> <p>This paragraph is deemed to have come into operation with effect from 1 March 2017.</p> <p>An employee is deemed to have been granted a taxable benefit by his/her employer if, the employer has made contributions to retirement annuity fund.</p> |
| Value to be placed on the benefit: | <p>For defined contribution components, the value of the taxable fringe benefit will be the value of the amount contributed or paid by the employer for the benefit of an employee who is a member of that fund.</p> <p>Where the fund member category is other than only defined contribution components, the value of the taxable fringe benefit must be determined in accordance with the formula.</p> <ul style="list-style-type: none">• X = represent the amount to be determined• A = represents the fund member category factor in respect of the fund member category of which the employee is a member• B = represents the amount of the retirement funding income of the employee• C = represents the sum of the amount contributed by the employee to the fund in terms of the rules of the fund, excluding any additional voluntary contributions contributed to the fund by the employee and buyback in respect of that year of assessment. |
| No value: | <p>The above formula must be contained in a contribution certificate and must be submitted to the employer by the board of the fund.</p> <p>No value must be placed on any contribution made by an employer to a fund if the benefit is –</p> <ul style="list-style-type: none">• For the retired member of that fund; or• In respect of dependants, nominees of a deceased member of that fund. |
| Contribution Certificates: | <p>The board of a fund must provide the employer with the certificates of the employees who are the members of a fund:</p> <ul style="list-style-type: none">• No later than one month before the commencement of the year of assessment in respect of which the certificates is issued;• Where there were amendments to the rules of the fund, one month after the day on which those amendments become effective;• Where there was an error in the calculation of the fund member category factor, the corrected certificate will have effect from the first day of the month following the month during which that corrected certificate was received; or• Where the fund member category factor changed during the year of assessment, the certificate must be provided to the employer no later than one month after the day on which those changes become effective. |

7 VALUATION OF CONTRIBUTIONS MADE BY EMPLOYERS TO BARGAINING COUNCIL

Reference to the Act: Paragraphs 2(m) and 12E of the Seventh Schedule

Meaning: An employee is deemed to have been granted a taxable benefit by his/her employer if, the employer has made contributions to the Bargaining Council.

Value to be placed on the benefit: The value of the taxable fringe benefit will be the value of the amount contributed or paid by the employer for the benefit of an employee to the Bargaining Council.

Where the bulk contribution is made by the employer and the employer is unable to determine the value of a taxable benefit per employee, the taxable value per employee shall be the total contributions divided by number of employees.

Exclusion: This excludes contributions made by employer to a pension or provident fund on behalf of the employee. Employee's direct contribution to the Bargaining Council will not be subject to PAYE.

8 REFERENCES

8.1 LEGISLATION

| TYPE OF REFERENCE | REFERENCE |
|---|---|
| Legislation and Rules administered by SARS: | Seventh Schedule to the Income Tax Act No. 58 of 1962: Paragraph 2(a) to 2(m) and 3,4,5,6,7,8,9,10,11,12,12A,12B,12C,12D,12E,13,16,17,18,19 of the Seventh Schedule, Sections 10(1) and 6A Tax Administration Act No. 28 of 2011: Section 1 The Employment Tax Incentive Act No. 26 of 2013 |
| Other Legislation: | None |

8.2 CROSS REFERENCES

| DOCUMENT # | DOCUMENT TITLE |
|---------------------|--|
| PAYE-GEN-01-G01 | Guide for employer in respect of Employees' Tax Deduction Tables |
| PAYE-GEN-01-G01-A01 | Weekly tax deduction tables |
| PAYE-GEN-01-G01-A02 | Fortnightly tax deduction tables |
| PAYE-GEN-01-G01-A03 | Monthly tax deduction tables |
| PAYE-GEN-01-G01-A04 | Annual tax deduction tables |
| PAYE-GEN-01-G03 | Guide for Employers in respect of allowances |
| PAYE-GEN-01-G03-A01 | Rate per kilometre schedule |
| PAYE-GEN-01-G03-A02 | Subsistence allowance in respect of Foreign Travel |
| PAYE-GEN-01-G05 | Guide for Employers in respect of Employment Tax Incentive |
| PAYE-GEN-01-G14 | Guide for employer in respect of Employees' Tax (2020 Tax Year) |
| SDL-GEN-01-G01 | Guide for employers in respect of the SDL |
| UIF-GEN-01-G01 | Guide for employers in respect of UIF |

9 DEFINITIONS AND ACRONYMS

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| Alternate period | A period, whether of 12 months or not, commencing on the day following the last day of the preceding alternate period in relation to the employer and ending on a date falling not more than 14 days before or after the last day of February, or such greater number of days as the Commissioner, having regard to the circumstances of the case, may allow. |
| Annual payment | An amount of net remuneration that is, in accordance with the employee's conditions of service or the employer's practice, paid in a lump sum to the employee or it is an amount that is calculated without reference to a period. |
| Associated institution | Includes any fund established solely or mainly for providing benefits for employees or former employees of the employer or for employees or former employees of the employer and any company which is in terms of paragraph (a) or (b) an associated institution in relation to the employer. |
| Bargaining Council | Any Bargaining Council established under section 27 of the Labour Relations Act No. 66 of 1995 |
| Commissioner | The Commissioner for the South African Revenue Service. |
| Employee | <p>For Employees' tax and SDL defined as:</p> <ul style="list-style-type: none"> • Natural person who receives remuneration or to whom remuneration accrues; • Person (including a company) who receives remuneration or to whom remuneration accrues by reason of services rendered by such person to or on behalf of a labour broker; • Labour broker; • Person or class or category of persons whom the Minister of Finance by notice in the Government Gazette declares to be an employee; • Personal service provider; • Director of a private company. <p>For UIF purposes defined as:</p> <ul style="list-style-type: none"> • Any natural person who receives any remuneration or to whom remuneration accrues in respect of services rendered or to be rendered by that person but excluding an independent contractor. <p>Taxable benefit purposes defined as:</p> <ul style="list-style-type: none"> • Any person who receives remuneration or to whom remuneration accrues and includes any director of a company but excludes persons who retired before 1 March 1992 except for purposes of the provisions which deal with the payment of an employee's debt or the release of an employee from an obligation to pay a debt. |
| Employees' tax | An amount of tax that an employer must deduct from all regular or periodic payments (remuneration), paid or which becomes payable to an employee |
| Employer | Any person who pays or is liable to pay a person an amount by way of remuneration including a person responsible for the payment of an amount by way of remuneration to a person under the provisions of a law or out of public funds or out of funds voted by parliament or Provincial Council. This definition excludes any person not acting as a principal but includes any person acting in a fiduciary capacity or in his/her capacity as a trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or any other fund. |
| Equity instrument | Means a share or a member's interest in a company, including: <ul style="list-style-type: none"> • An option to acquire such a share, part of a share or member's interest; • Any financial instrument that is convertible to a share or member's |

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| | <p>interest; and</p> <ul style="list-style-type: none"> Any contractual right or obligation the value of which is determined directly or indirectly with reference to a share or member's interest. |
| ETI Act | Employment Tax Incentive Act No. 26 of 2013 |
| Fourth Schedule | The Fourth Schedule to the Income Tax Act No 58 of 1962. |
| Gain | A gain for purposes of a broad based employee share plan and qualifying equity instruments means the amount by which any amount received by or accrued to the employee from the disposal exceeds the consideration given by the employee for the qualifying equity share, right or interest. |
| Labour broker | Natural person who conducts/carries on any business whereby such person for reward provides a client of such business with other persons (or procures other persons) to render a service or to perform work for client, for which services or work of such other persons are remunerated by such person. |
| Lump sum benefit Section 1 | Means a retirement fund lump sum benefit or retirement fund lump sum withdrawal benefit. |
| Net remuneration | <p>The balance of remuneration, excluding the following:</p> <ul style="list-style-type: none"> Special remuneration paid/payable to any mine worker as contemplated in section 5(9); Remuneration received by employee who incurred deductible expenses in production of income (the quantum of expenses can only be determine on assessment); Remuneration which is under the provisions of Section 7(2) deemed to be income that accrued to the spouse of the employee; Remuneration not derived: <ul style="list-style-type: none"> From standard employment; or by way of an annuity provided or payable by a pension fund, pension preservation fund, provident fund, provident preservation fund or benefit fund; Remuneration paid or payable to a director of a company or member of a close corporation; Travel allowance which is subject to Employees' Tax (80% portion); An allowance granted to the holder of any public office, which is subject to employees' tax (50% portion); Remuneration derived by an employee in respect of which such employee is entitled to set off an assessed loss under Section 20(1); and Any retirement fund lump sum benefit or retirement fund lump sum withdrawal benefit. |
| PAYE | Pay-As-You-Earn (employees' tax) |
| Prescribed rate | In relation to any interest payable, means such rate as the Minister may from time to time fix by notice in the Gazette in terms of section 80(1) (b) of the Public Finance Management Act, 1999 (no. 1 of 1999): Provided that where the Minister fixes a new rate in terms of that Act, that new rate will apply from the first day of the second month following the date on which that new rate came into operation. |
| Remuneration for Employees' purposes for tax | <p>Remuneration for Employees' Tax purposes is defined as any amount of income which is paid or is payable to any person by way of any salary, leave pay, wage, overtime pay, bonus, gratuity, commission, fee, emolument, pension, superannuation allowance, retiring allowance or stipend, whether in cash or otherwise and whether or not in respect of services rendered, including:</p> <ul style="list-style-type: none"> Restraint of trade payments; An amount, including a voluntary award, received or accrued in commutation of amounts due in terms of a contract of employment or service; An amount received or accrued in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of an office or employment or of an appointment; An allowance or advance paid to an employee in respect of |

accommodation, meals or other incidental costs while the employee is by reason of the duties of his/her office obliged to spend at least one night away from his/her usual place of residence in the Republic is deemed to become payable to the employee in following month in respect of services rendered. This deeming provision applies where such an allowance or advance was paid to an employee during any month in respect of a night away from his/her usual place of residence and that employee has not by the last day of the following month either spent the night away from his/her usual place of residence or refunded that allowance or advance to the employer;

- 50 percent of the amount of any allowance referred to in section 8(1)(d) granted to the holder of a public office contemplated in section 8(1)(e), 80 percent of the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, provided that where the employer is satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of the amount of such allowance or advance must be included;
- 80 percent of the amount of the taxable benefit as determined in terms of paragraph 7 of the Seventh Schedule, provided that where the employer is satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of such amount must be included;
- 100 per cent of so much of the amount paid or granted as an allowance or advance in terms of section 8(1)(b)(iii) as exceeds the amount determined by applying the rate per kilometre for the simplified method in the notice fixing the rate per kilometre under section 8(1)(b)(ii) and (iii) to the actual distance travelled;
- Any gain determined in terms of section 8B, which must be included in that person's income under that section;
- Any amount determined in terms of section 8C which is required to be included in the income of that person;
- Any amount deemed to be income accrued to that person in terms of section 7(11).
- Fringe benefits received in terms of the Seventh Schedule to the IT Act;
- A gratuity received by or accrued to a person from his/her employer because such person obtained a university degree or diploma or has been successful in an examination;
- Any amount deemed to be income accrued to that person by way of a dividend contemplated in paragraphs (dd), (ii), (jj) and (kk) of the proviso to section 10(1)(k)(i);

but not including:

- Amounts paid to common law independent contractors, but excluding amounts paid to common law independent contractors who do not employ three or more qualifying employees and are required to render services mainly at premises of client and are subject to control or supervision of any person as to manner in which their duties are performed or as to the hours of work.

This exclusion does not apply to:

- Person who receives any remuneration or to whom any remuneration accrues by reason of any services rendered by such person to or on behalf of a labour broker;
- Any labour broker;
- Any personal service provider; or
- A person who is not ordinarily resident in South Africa.
 - Pension or additional pension under Social Assistance Act.

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| | <ul style="list-style-type: none"> ▫ Disability grant or additional or supplementary allowance under the Social Assistance Act. ▫ Grant or contribution under provisions of Section 89 of Children's Act. ▫ Amounts paid to employee, wholly in reimbursement of expenditures actually incurred by such employee in course of employment. ▫ Annuity in terms of an order of divorce or decree of judicial separation or agreement of separation. |
| Remuneration for SDL proposes | <p>Remuneration for SDL purposes is defined as remuneration for Employees' Tax purposes (this means after taking the allowable deductions into account which the employer may have deducted for purposes of calculating employees tax, including remuneration of employees who earn less than the tax threshold), but does not include any of the following amounts:</p> <ul style="list-style-type: none"> • An amount paid or payable to any labour broker or any person declared by the Minister of Finance by notice in the Government Gazette as an employee to whom a certificate of exemption has been issued by SARS in terms of paragraph 2(5) of the Fourth Schedule; • An amount paid or payable to any person by way of pension, superannuation allowance or retiring allowance; • An amount contemplated in paragraphs (a), (d), (e) or (eA) of the definition of gross income in Section 1 of the Income Tax Act; and • An amount payable to a learner in terms of a contract of employment contemplated in Section 18(3) of the Skills Development Act |
| Remuneration for UIF contribution proposes | <p>Remuneration for UIF purposes is defined as remuneration for employees' tax purposes (before taking any allowable deductions into account which the employer may have deducted for purposes of calculating employees' tax), but does not include any amount paid or payable to an employee:</p> <ul style="list-style-type: none"> • By way of pension, superannuation allowance or retiring allowance; • That constitutes an amount contemplated in Paragraphs (a), (cA), (d), (e) or (eA) of the definition of gross income in Section 1 of the Income Tax Act; • By way of commission. |
| Remuneration proxy | <p>Remuneration proxy means –</p> <ul style="list-style-type: none"> • Remuneration as defined in para 1 of Fourth schedule in respect of previous year of assessment; • If previous year's remuneration is less than 365 days, the remuneration needs to be grossed up to 365 days; • If the employee was not employed in the previous year, the first month's remuneration needs to be grossed up to 365 days. |
| Representative employer | <p>Representative employer contemplated in the 4th Schedule means:</p> <ul style="list-style-type: none"> • In the case of the company, the public officer of that company, or, in the event of such company being placed in liquidation or under judicial management, the liquidator or judicial manager, as the case may be; • In the case of any municipality or anybody corporate or unincorporated (other than a company or a partnership), any manager, secretary, officer or other person responsible for paying remuneration on behalf of such municipality or body; • In the case of a person under legal disability, any guardian, curator, administrator or other person having the management or control of the affairs of the person under legal disability; or • In the case any employer who is not resident in the Republic, any agent of such employer having authority to pay remuneration. <p>The representative employer is not relieved from any liability, responsibility or duty of the employer and is therefore, subject to the same duties, responsibilities and liabilities as the employer.</p> |

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| Restricted equity instrument | <p>An equity instrument:</p> <ul style="list-style-type: none"> • Which is subject to any restriction (other than a restriction imposed by legislation) that prevents the employee from freely disposing of that equity instrument at market value; • Which is subject to any restriction that could result in the employee forfeiting ownership or the right to acquire ownership of that equity instrument otherwise than at market value or being penalised financially in any other manner for not complying with the terms of the agreement for the acquisition of that equity instrument; • If any person has retained the right to impose a restriction contemplated in the first two instances above, on the disposal of that equity instrument; • Which is an option contemplated in the definition of equity instrument and where the equity instrument which can be acquired in terms of that option will be a restricted equity instrument; • Which is a financial instrument contemplated in the definition of equity instrument and where the equity instrument to which that financial instrument can be converted will be a restricted equity instrument; • If the employer has at the time of acquisition by the employee of the equity instrument undertaken to: <ul style="list-style-type: none"> ▫ Cancel the transaction under which that taxpayer acquired the equity instrument; or ▫ Repurchase that equity instrument from the employee at a price exceeding its market value on the date of repurchase; or ▫ Which is not deliverable to the taxpayer until the happening of an event, whether fixed or contingent |
| Retirement-funding employment | The part of remuneration as is taken into account in the determination of the contributions made by the employee or on his/her behalf to a pension fund or provident fund (where the employee is a member of or contributed to) established for the benefit of employees of his/her employer from whom such remuneration is derived. |
| SARS | The South African Revenue Service |
| SDL | Skills Development Levy |
| SETA | Sector Education and Training Authority |
| Seventh Schedule | The Seventh Schedule to the Income Tax Act No 58 of 1962. |
| SIC | Standard Industrial Classification |
| Standard employment | <p>Any employment where an employee (including scholars and students), is required to render services to a single employer for a period of at least 22 hours in every full week provided that no regard shall be had to:</p> <ul style="list-style-type: none"> • Periods of temporary absence of the employee due to leave or exceptional circumstances; or • Any temporary reduction in working hours imposed by the employer, for instance due to a reduction in the demand of the company's product, the employer imposes a temporary working week of less than 22 hours. |
| Tax period | <p>Means, in relation to employees' tax, skills development levies as determined in section 3 of the SDL Act and contributions as determined in section 6 of UIC Act, the period in respect of which the amount of tax payable must be determined under the relevant tax Act.</p> <ul style="list-style-type: none"> • In relation to any employer, as a period of 12 months ending on last day of February of relevant tax year or at option of employer, an alternate period, in respect of which remuneration is paid or has become due. • In relation to an employee, a tax year (1 March to 28/29 February of next year) or any unbroken period during the tax year: <ul style="list-style-type: none"> ▫ During which the employee was employed by one employer in the Republic in standard employment; or ▫ During which any annuity was paid or became payable to him/her by one employer; or ▫ Such period as the Commissioner considers appropriate in the |

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| | circumstances, where the Commissioner has in relation to the employment of any employee, issued a ruling to the employer |
| Taxable benefit | A voluntary or otherwise benefit contemplated in the Seventh Schedule, but excluding any: <ul style="list-style-type: none"> • Benefit, the amount or value of which is specifically exempt from normal tax in terms of Section 10; • Benefit provided by a benefit fund in respect of medical, dental and similar services, hospital services, nursing services and medicines; • Lump sum benefit payable by a benefit, pension, pension preservation fund, provident fund or provident preservation fund, as defined in Act; • Benefit or privilege received by or accrued to a person contemplated in section 9(2)(g) or (h) stationed outside Republic which is attributable to the person's services rendered outside the Republic; • Severance benefit. |
| UI Commissioner | The Unemployment Insurance Commissioner |
| UIC Act | The Unemployment Insurance Contributions Act |
| UIF | Unemployment Insurance Fund |
| Year of assessment | The year of assessment for taxpayers covers a period of 12 months. For individuals and trusts, the commencement date of the year of assessment starts on 1 March and ends on the 28/29 February each year. For Companies and Close Corporations the year of assessment is the applicable financial year. |

DISCLAIMER

The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the guide should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.

For more information about the contents of this publication you may:

- Visit the SARS website at www.sars.gov.za
- Visit your nearest SARS branch
- Contact your own tax advisor/tax practitioner
- If calling from within South Africa, contact the SARS Contact Centre on 0800 00 SARS (7277)
- If calling from outside South Africa, contact the SARS Contact Centre on +27 11 602 2093 (only between 8am and 4pm South African time).