

DRAFT INTERPRETATION NOTE

DATE:

ACT : INCOME TAX ACT 58 OF 1962

SECTION : SECTION 10(1)(cE)

SUBJECT : INCOME TAX EXEMPTION: REGISTERED POLITICAL PARTY

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Preamble

In this Note unless the context indicates otherwise –

- **“CGT”** means capital gains tax, being the portion of income tax payable by a taxpayer on a taxable capital gain arising from the disposal of assets determined under the Eighth Schedule;
- **“Constitution”** means the Constitution of the Republic of South Africa, 1996;
- **“Commission”** means the Electoral Commission established under section 3 of the Electoral Commission Act;
- **“Commissioner”** means the Commissioner for the South African Revenue Service appointed under section 6 of the South African Revenue Service Act 34 of 1997, or the Acting Commissioner designated under section 7 of that Act;
- **“Companies Act”** means the Companies Act 71 of 2008;
- **“Electoral Act”** means the Electoral Act 73 of 1998 that, amongst other things, regulates elections of the National Assembly, the provincial legislatures and municipal councils;
- **“Electoral Commission Act”** means the Electoral Commission Act 51 of 1996 that, amongst other things, makes provision for the establishment and composition of an Electoral Commission to manage elections for national, provincial and local legislative bodies and referenda; and to make provision for the establishment and composition and the powers, duties and functions of an Electoral Court;
- **“Electoral Matters Amendment Act”** means the Electoral Matters Amendment Act 14 of 2024 that, amongst other things, amends the Political Funding Act;
- **“Funds”** as defined in section 1 of the Political Funding Act mean the Multi-Party Democracy Fund and the Political Representatives Fund;
- **“Income Tax Act”** means the Income Tax Act 58 of 1962;
- **“NPO Act”** means the Nonprofit Organisations Act 71 of 1997;
- **“PAIA”** means the Promotion of Access to Information Act 2 of 2000 that, amongst other things, gives effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights;

- **“Political Funding Act”** means the Political Funding Act 6 of 2018 that, amongst other things, provides for, and regulates, public and private funding of political parties, independent candidates¹ and independent representatives;²
- **“registered party”** as defined in section 1(1) of the Electoral Commission Act means any party registered under section 15 of that Act;
- **“Regulations for the Registration of Political Parties”** mean the regulations made by the Commission under section 23 of the Electoral Commission Act published in Government Notice Regulation 13 in *Government Gazette* 25894 of 7 January 2004;
- **“Regulations on Party Liaison Committees”** mean the regulations made by the Commission under section 23 of the Electoral Commission Act published in Government Notice Regulation 824 in *Government Gazette* 18978 of 19 June 1998;³
- **“Schedule”** means a Schedule to the Income Tax Act;
- **“SDL”** means skills development levy;
- **“SDL Act”** means the Skills Development Levies Act Act 9 of 1999;
- **“STT”** means securities transfer tax;
- **“STT Act”** means Securities Transfer Tax Act 25 of 2007;
- **“TA Act”** means the Tax Administration Act 28 of 2011;
- **“Trust Property Control Act”** means the Trust Property Control Act 57 of 1988;
- **“UIF”** means unemployment insurance fund;
- **“VAT”** means value-added tax;
- **“VAT Act”** means the Value-Added Tax Act 89 of 1991; and
- any other word or expression bears the meaning ascribed to it in the Act.

All guides, public notices and returns referred to in this Note are available on the SARS website at www.sars.gov.za. Unless indicated otherwise, the latest version of these documents should be consulted.

¹ The term “independent candidate” as defined in section 1 of the Political Funding Act, inserted by section 3(d) of the Electoral Matters Amendment Act, means a South African citizen contesting an election and who is not nominated on a list of a party.

² The term “independent representative” as defined in section 1 of the Political Funding Act, inserted by section 3(d) of the Electoral Matters Amendment Act, means an independent candidate with representation in the national or a provincial legislature.

³ The term “political liaison committee” was inserted by section 1(f) of the Electoral Amendment Act and means a committee established under the Regulations on Political Liaison Committees published under the Electoral Commission Act. Section 12 of the Interpretation Act provides that if legislation is repealed and replaced, any reference to the old Act, is deemed to be to the replaced Act. Any reference to the deleted term “party liaison committee” should therefore be a reference to the inserted term “political liaison committee”.

1. Purpose

This Note provides guidance on the interpretation and application of the exemption from income tax under section 10(1)(cE) of the receipts and accruals of any political party registered under section 15 of the Electoral Commission Act.

2. Background

According to the Constitution, all adult citizens are entitled to vote in elections for any legislative body created by the Constitution.⁴ Citizens are also assured the right to free, fair, and regular elections for these bodies.⁵ Additionally, the Constitution guarantees each citizen's right to make political choices, which encompasses –⁶

- forming a political party;
- participating in the activities of a political party or recruiting its members; and
- campaigning on behalf of a political party or a particular cause.

Chapter 9 of the Constitution⁷ establishes certain state institutions to support and uphold constitutional democracy. Amongst these, the Commission is specifically identified, with its constitutional duties including –⁸

- overseeing the conduct of elections for national, provincial, and municipal legislative bodies as required by national legislation,
- ensuring that these elections are conducted freely and fairly,⁹ and
- declaring the outcomes of such elections within the shortest period allowed by national legislation.

The Constitution also states that the Commission is granted further powers and functions as determined by national legislation.¹⁰ The Electoral Commission Act was enacted to give effect to this constitutional requirement by formally establishing the Commission¹¹ and outlining its extended powers and functions.¹² These include, amongst other things, compiling and maintaining a register of political parties,¹³ as well as fostering liaison and co-operation with political parties,¹⁴ independent representatives, and independent candidates.

In *My Vote Counts NPC v Minister of Justice and Correctional Services and another*,¹⁵ the Constitutional Court recognised that political parties and independent candidates are the constitutionally designated means for attaining public office. However, it was observed that running a successful campaign for public office typically requires significant financial resources. Many candidates lack sufficient funding to conduct an effective campaign without outside support. While the State does offer some financial

⁴ Section 19(3) of the Constitution.

⁵ Section 19(2) of the Constitution.

⁶ Section 19(1) of the Constitution.

⁷ Section 181(1)(f) of the Constitution.

⁸ Section 190 of the Constitution.

⁹ Section 19(2) of the Constitution.

¹⁰ Section 190(2) of the Constitution.

¹¹ Section 3(1) of the Electoral Commission Act.

¹² Section 4 of the Electoral Commission Act.

¹³ Section 5(1)(f) of the Electoral Commission Act.

¹⁴ Section 5(1)(g) of the Electoral Commission Act.

¹⁵ 2018 (5) SA 380 (CC) at 1 and 31.

assistance to political parties for their activities, including campaigning, this support seems to fall short of which is actually needed to operate an effective political organisation or election campaign. As a result, there is a need for considerable financial contributions from the private sector or individuals to bridge the gap.

An independent candidate or representative, based on the definitions of “party”, “independent candidate”, and “independent representative” in the Electoral Commission Act, do not qualify for this exemption. Therefore, this Note focuses exclusively on registered political parties, as they are currently the only entities eligible for the exemption under section 10(1)(cE).

3. The law

Section 10(1)(cE)

10. Exemptions.—(1) There shall be exempt from normal tax—

(cE) the receipts and accruals of any political party registered in terms of section 15 of the Electoral Commission Act, 1996 (Act No. 51 of 1996);

4. Application of the law

The receipts and accruals of any registered political party (see **6**) are exempt from income tax¹⁶ under section 10(1)(cE) (see **8**). This exemption is automatic, does not require any application or approval, and is not subject to the Commissioner’s discretion. As a result, the Commissioner does not issue confirmation letters regarding this exemption. As long as the political party is registered under the Electoral Commission Act, all its receipts and accruals are automatically exempt from income tax.

While section 10(1)(cE) uses the board term “any political party”, its scope may be limited by the context or subject matter.¹⁷ It is therefore important to clearly determine what constitutes a political party registered under the Electoral Commission Act, as these registered parties not only benefit from full income tax exemption but also from being exempt from certain other taxes and duties (see **9**).

5. Meaning of political party

The words “political party” are not defined in the Income Tax Act and should therefore be interpreted according to its ordinary meaning, based on the context in which it appears.¹⁸ The *Collins Dictionary* describes “political party” as –¹⁹

“an organization of people who share the same views about the way power should be used in a country or society (through government, policy-making, etc)”.

¹⁶ The term “normal tax” as defined in section 1(1) means income tax referred to in section 5(1).

¹⁷ *CIR v Ocean Manufacturing Ltd* 1990 (3) SA 610 (A), 52 SATC 151 at 161.

¹⁸ Kellaway, E. A. (1995). *Principles of legal interpretation of statutes, contracts and wills* at page 224. Butterworths South Africa. Also, see Steyn, L. C. (1981). *Die uitleg van wette* (Fifth Edition) pages 4 to 7. Juta and Company (Pty) Ltd.

¹⁹ www.collinsdictionary.com/dictionary/english/political-party [Accessed 13 November 2025].

The Constitutional Court in *Minister of Defence and Military Veterans v Thomas*²⁰ held that, generally, definitions from other statutes should not be used to interpret a different statute. When Parliament defines a term within in a statute, it signals an intention for that term to have a specific, not an ordinary meaning. However, if other statutes address similar subject matter, their definitions may be relevant, depending on the context and subject matter.

Section 10(1)(cE) of the Income Tax Act refers to political parties that are registered under the Electoral Commission Act. While the Electoral Commission Act does not specifically define “political party”, it does provide a definition for term “party”. Therefore, when interpreting and applying section 10(1)(cE) of the Income Tax Act, it is appropriate to rely on the definition of “party” in the Electoral Commission Act, considering its purpose and context.

The term “party” as defined in the Electoral Commission Act means –²¹

“any registered party, and includes any organisation or movement of a political nature which publicly supports or opposes the policy, candidates or cause of any registered party, or which propagates non-participation in any election.”

The Electoral Commission Act defines the term “registered party” to mean any party registered under section 15 of that Act.²²

In *My Vote Counts NPC v Minister of Justice and Correctional Service and another*, Mogoeng CJ held the following:²³

“A juristic person is by the way an entity or association that possesses attributes such as perpetual succession, the capacity to acquire certain rights apart from its members and to sue or be sued in its name or through its institutional head. This legal personality status is conferrable either by legislation or the common law. Legislation that creates an entity like a university or state-owned enterprise ordinarily bestows legal personality upon that entity. And it is a statutory precondition for the incorporation or registration of some entities that they be juristic persons with the legal capacity to sue or be sued. Other entities could derive their legal personality from their constitutions.

Political parties are neither created by legislation nor required by any legislation to be juristic persons. But, they can in terms of their constitutions clothe themselves with juristic personality, including the capacity to sue or be sued. In all probability, most political parties are juristic persons.”

Political parties typically publish an official election manifesto setting out their policy positions, such as on the economy, healthcare, education, and unemployment, which they commit to implementing if elected. These manifestos are made accessible to the public through various means, including the parties’ official websites and media outlets.²⁴

²⁰ 2016 (1) SA 103 (CC).

²¹ Section 1(1) of that Act.

²² As above.

²³ 2018 (5) SA 380 (CC) at 64 and 65.

²⁴ People’s Assembly. (13 May 2024). *Manifestos ahead of the national elections 2024*. Available online at www.pa.org.za/blog/manifestos-ahead-national-elections-2024#:~:text=An%20election%20manifesto%20serves%20as,the%20foundation%20for%20its%20campaign [Accessed 13 November 2025].

Some political parties create independent entities to conduct activities like political education and training. However, these separate entities do not qualify for exemption under section 10(1)(cE) of the Income Tax Act unless they can prove²⁵ that they are registered as political parties under the Electoral Commission Act (see 6).

Additionally, political parties may form different organisational structures or campaign teams to run election campaigns or support internal leadership contests. The receipts and accruals of these campaign teams are also not eligible for exemption under section 10(1)(cE) of the Income Tax Act.

6. Registration of a political party

To register a political party under the Electoral Commission Act, an application²⁶ must be submitted to the chief electoral officer²⁷ using the required format and procedure.²⁸ The application must include a deed of foundation,²⁹ adopted at a meeting and signed by the required number of qualified voters,³⁰ and a constitution.³¹

The constitution³² must as a minimum set out the –³³

- executive structure of the political party;
- procedure for electing the executive;
- decision-making process and the roles of office bearers;
- minimum requirements for membership;
- internal disciplinary procedures, and
- requirements for audited financial statements.

Once a political party has been registered, the chief electoral officer issues a registration certificate.³⁴ The key details³⁵ of this registration are then published in the *Government Gazette*.³⁶ From that point forward, the party is recognised as a “registered party”.

²⁵ Section 102(1)(a) of the TA Act.

²⁶ Section 15(1) of that Act.

²⁷ The term “chief electoral officer” as defined in section 1(1) of the Electoral Commission Act read with section 12(2)(a) of that Act, means the head of the administration of the Commission.

²⁸ The application form according to paragraph 2(1)(a) of the Regulations for the Registration of Political Parties must be substantially similar to Annexure 1 to those Regulations.

²⁹ Annexure 6 to the Regulations for the Registration of Political Parties provides a specimen deed of foundation.

³⁰ Section 15(3)(a) of the Electoral Commission Act read with paragraph 3 of the Regulations for the Registration of Political Parties.

³¹ Section 15(3)(c) of the Electoral Commission Act.

³² A registered party under section 17(3) of the Electoral Commission Act must submit to the chief electoral officer a copy of any amendments to its constitution within two months from the amendments being effected.

³³ Paragraph 2(2) of the Regulations for the Registration of Political Parties.

³⁴ Section 15(7) of the Electoral Commission Act.

³⁵ The particulars which must be published in the *Government Gazette* are set out in paragraph 6 of the Regulations for the Registration of Political Parties, which amongst other things, includes the name of the party, date of registration of the party, and a reference number.

³⁶ Section 15(5) of the Electoral Commission Act.

The chief electoral officer maintains a register that records all registrations, renewals, cancellations, changes to party names, abbreviated names, distinguishing marks or symbols.³⁷

A political party can be registered under the Electoral Commission Act at different levels, each granting specific rights, namely, on –³⁸

- national level allowing the registered party to contest elections for the National Assembly, provincial legislatures, district metropolitan and local councils throughout South Africa;
- provincial level allowing the registered party to contest elections for the provincial legislature, as well as district, metropolitan, and local councils within a that specific province;
- metropolitan level allowing the registered party to contest elections in a particular metropolitan municipality; or
- district level allowing the registered party to contest elections in a specific district municipality and all local municipalities within that district.

A registered party is entitled to –³⁹

- representation on a party liaison committee;⁴⁰
- receive free access to any voters' roll⁴¹ compiled and maintained by the Commission;
- have its name, abbreviation, and distinguishing mark or symbol protected by the Commission; and
- contest an election.⁴²

If a registered party does not have representation in a legislative body, such as the National Assembly, a provincial legislature, or a municipal council, it must renew its registration each year before the end of January, provided it has not dissolved and continues to operate.⁴³ This renewal requires a written declaration from an executive officer of the party, which must be submitted to the chief electoral officer.⁴⁴

³⁷ Paragraph 7(1) of the Regulations for the Registration of Political Parties.

³⁸ Section 15(1) of the Electoral Commission Act.

³⁹ Paragraph 8 of the Regulations for the Registration of Political Parties.

⁴⁰ Party liaison committees under paragraph 6 of the Regulations on Party Liaison Committees will serve as vehicles for consultation and co-operation between the Commission and the registered parties concerned on all electoral matters, aimed at the delivery of free and fair elections. Paragraph 2 on the Regulations on Party Liaison Committees sets out the establishment and representation of party liaison committees in the national, provincial, or local sphere of government.

⁴¹ The term "voters' roll" as defined in section 1 of the Electoral Act means the national common voters' roll compiled under section 5 of that Act.

⁴² Section 26(a) of the Electoral Act.

⁴³ Section 15(6) of the Electoral Commission Act.

⁴⁴ Paragraph 10 of the Regulations for the Registration of Political Parties.

The Commission has the authority to cancel a party's registration under the following circumstances:⁴⁵

- If it determines that the party is no longer active.
- If it believes the party does not intend to participate in any elections.
- If the party notifies the Commission that it has dissolved or plans to dissolve on a certain date.⁴⁶
- If the party is not represented in the National Assembly, a provincial legislature, or a municipal council, and has not participated in any general election at the national, provincial, or municipal level since its registration or last representation.
- If the party amends its deed of foundation or constitution to include prohibited provisions, such as promoting violence or hatred, or restricting membership based on grounds of race, ethnic origin, or colour.⁴⁷

If the Commission cancels a political party's registration, the party will lose its exemption under section 10(1)(cE) and will be regarded as a normal taxpayer from that date. A political party will therefore be liable for tax on all its taxable income, namely, gross income less exempt income and allowable deductions, at the rate applicable to companies,⁴⁸ which is currently 27%.⁴⁹

7. Funding

Political parties need financial resources to carry out their fundamental functions at all stages, namely, before, during, and after elections. This issue is addressed in *My Vote Counts NPC v Minister of Justice and Correctional Services and another* where the following was held:⁵⁰

“Although the State does provide some financial assistance to political parties for the activities which include campaigns, it appears to be a far cry from what is in fact needed to meet the demands of running a proper political machinery or electoral campaign. The inadequacy underscores the need for substantial monetary aid from private sector or individuals.”

⁴⁵ Section 17(1) of the Electoral Commission Act.

⁴⁶ The notification must be in the form of a declaration by the leader of the party. See paragraph 13 of the Regulations for the Registration of Political Parties.

⁴⁷ The Commission must serve a notice on the party giving it an opportunity to withdraw or change the offending amendment. If no corrective steps are taken by the party within three months of the notice the Commission may cancel its registration. Section 17(1)(d) read with section 17(2) of the Electoral Commission Act.

⁴⁸ Paragraph (d) of the definition of “company” in section 1(1).

⁴⁹ The Minister of Finance under section 5(2)(a) may announce different tax rates in the national annual budget. The tax rates are published annually in the Rates and Monetary Amounts and Amendment of Revenue Laws Act.

⁵⁰ 2018 (5) SA 380 (CC) at 3.

The framework for political finance includes the following two main components.⁵¹

- Political party finance, which covers both cash and non-cash contributions, as well as expenses related to the everyday operations of political parties. This includes costs such as administration, salaries, office rentals, party member training, internal meetings, policy development, and outreaches to the public.
- Campaign finance involving all forms of contributions and expenditure, cash or non-cash made by or for political parties and candidates⁵² specifically for election purposes. This includes spending on campaign rallies, temporary office rentals, door-to-door canvassing, campaign communications and transportation, as well as the creation of party-branded materials and advertising across various media platforms.

Political parties obtain financial support from a variety of sources (see **8**) and may use these funds for several purposes, including organising campaign rallies, which can involve costs for transportation, promotional materials, pamphlets, food parcels, venues, and audio equipment, investing in media and advertising, such as election posters, billboards, and media coverage, distributing handouts, like branded t-shirts, caps, pens, and blankets, covering personnel expenses, paying for office rentals, managing administrative tasks and meetings, or handling legal costs.⁵³

7.1 Statutory regulatory framework of political funding

7.1.1 Political Funding Act

To strengthen multi-party democracy, the Constitution mandates that national legislation must ensure political parties in national and provincial legislatures receive funding that is both fair and proportional.⁵⁴ The Political Funding Act fulfils this constitutional requirement and applies to all registered political parties (see **6**).⁵⁵ Amongst its objectives, the Political Funding Act, establishes rules for public and private funding of political parties,⁵⁶ restricts certain types of donations, requires

⁵¹ Ndamase, S. (2020). *Policy brief on party and campaign finance in South Africa's 2019 elections* at page 11. Electoral Institute for Sustainable Democracy in Africa. Available online at <https://eisa.org/storage/2023/05/policy-brief-2019-party-campaign-finance-south-africa-elections-eisa.pdf> [Accessed 13 November 2025].

⁵² The term “candidate” as defined in section 1 of the Electoral Commission Act means any person whose name appears on a list of nominations by any registered party to become a member of the National Assembly or any provincial legislature under the Constitution and the Electoral Act. The term “candidate” as defined in section 1 of the Electoral Act means a South African citizen contesting an election, or a South African citizen nominated on a list of a party contesting an election, as the context requires.

⁵³ Ndamase, S. (2020). *Policy brief on party and campaign finance in South Africa's 2019 elections* at page 12. Electoral Institute for Sustainable Democracy in Africa. Available online at <https://eisa.org/storage/2023/05/policy-brief-2019-party-campaign-finance-south-africa-elections-eisa.pdf> [Accessed 13 November 2025].

⁵⁴ Section 236 of the Constitution provides that political parties represented in national and provincial legislatures must receive public funding, allocated on an equitable and proportional basis.

⁵⁵ Section 14(1) of that Act.

⁵⁶ The term “political party” as defined in section 1 of the Political Funding Act includes any entity that accepts donations principally to support or oppose any registered political party or its candidates, in an election as defined in section 1 of the Electoral Act.

mandatory disclosure of private donations exceeding a set threshold,⁵⁷ and increases accountability of political parties to their constituents regarding financial matters.

The Political Funding Act provides the following:

- Donations to political parties can be made in cash or as in-kind contributions.⁵⁸
- Political parties may decline any donation or allocation from the Multi-Party Democracy Fund for any reasons.⁵⁹
- All donations exceeding a total of R200 000⁶⁰ in a financial year⁶¹ must be disclosed⁶² to the Commission by political parties.⁶³
- Private donors (individuals or entities) may contribute up to R30 million⁶⁴ per year per to any political party.⁶⁵
- Political parties are not allowed to accept donations from⁶⁶ foreign governments, foreign government agencies, any organ of state, state-owned enterprises, or criminal sources.⁶⁷
- Donations from foreign persons⁶⁸ or entities⁶⁹ are only permitted if they are intended for training, skills development, or policy development by a political party.⁷⁰
- Members of a political party may only accept donations on behalf of the party.⁷¹

⁵⁷ The thresholds referred to in section 8(2) and 9(1) of that Act are prescribed in Schedule 2, which sets out the Regulations on Political Funding, 2017, in accordance with section 24 of that Act.

⁵⁸ See the definitions of the term “donation” and “donation in kind” in section 1 of that Act. A donation, however, excludes a membership fee or any levy imposed by the party on its elected representatives as well as any funds from the National Assembly and provincial legislatures.

⁵⁹ Section 8A of that Act.

⁶⁰ See Proclamation Notice Regulation 275 *Government Gazette* 53182 of 18 August 2025.

⁶¹ The term “financial year” as defined in section 1 of the Political Funding Act means an accounting period of a year that ends on 31 March each year.

⁶² Section 9 of that Act. The Commission is required on a quarterly basis to publish the disclosed donations.

⁶³ Section 9(1) of that Act.

⁶⁴ See Proclamation Notice Regulation 275 *Government Gazette* 53182 of 18 August 2025.

⁶⁵ Section 8(2) of the Political Funding Act.

⁶⁶ Section 8 of that Act.

⁶⁷ Section 8(3) of that Act.

⁶⁸ The term “foreign person” is defined in section 1 of that Act.

⁶⁸ Section 8(3) of that Act.

⁶⁹ The limit on donations from foreign entities is R5 000 000 within a financial year. See section 8(5) read with paragraph 8 in Schedule 2 to the Political Funding Act.

⁷⁰ Section 8(1)(4) of that Act. The limit on such donations is R5 000 000 within a financial year. See section 8(5) read with paragraph 8 in Schedule 2 to the Political Funding Act.

⁷¹ Section 10 of that Act.

The Political Funding Act creates the following two Funds,⁷² both managed by the Commission:⁷³

- The Political Representatives Fund,⁷⁴ which provides funding to represented political parties⁷⁵ mainly using money allocated from parliamentary appropriations.⁷⁶
- The Multi-Party Democracy Fund,⁷⁷ which provides funding to represented political parties from private sources, whether within or outside South Africa.⁷⁸

The Commission allocates money at prescribed intervals⁷⁹ from the Funds, using a specific formula⁸⁰ to represented political parties that must be used solely for activities that support the proper functioning of a political party within a modern democratic system.⁸¹

A political party is required to deposit all donations, membership fees, and levies into a bank⁸² account held in the political party's name. Any funds allocated from the Funds must be placed in a separate account.⁸³

A political party is required to appoint an office-bearer or official to serve as its accounting officer. If the political party has representation in the National Assembly, or a provincial legislature, it must also appoint an auditor who is registered and practising under the Auditing Professions Act⁸⁴ to audit its financial records and statements.⁸⁵

7.1.2 Promotion of Access to Information Act

The leader of a political party, or any person authorised by the leader,⁸⁶ is required by the PAIA to create and keep records for at least five years of all donations, above the threshold prescribed in the Political Funding Act, received principally to support or oppose any registered political party. These records must also include the identities of the donors and must be made available every quarter.⁸⁷

⁷² The term "Funds" is defined in section 1 of the Political Funding Act.

⁷³ Section 5(1) of the Political Funding Act.

⁷⁴ Section 2(1) of the Political Funding Act.

⁷⁵ The term "represented political party" as defined in section 1 of the Political Funding Act means a political party with representation in the national or provincial legislatures.

⁷⁶ Section 2(3)(a) of the Political Funding Act.

⁷⁷ Section 3(1) of the Political Funding Act.

⁷⁸ Section 3(3)(a) of the Political Funding Act.

⁷⁹ Section 6(7) of the Political Funding Act.

⁸⁰ Section 6 of the Political Funding Act.

⁸¹ Section 7 of the Political Funding Act deals with the usage of such money.

⁸² A bank registered under the Banks Act 94 of 1990.

⁸³ Section 12(1)(a) and (b) of the Political Funding Act.

⁸⁴ Act 26 of 2005.

⁸⁵ Section 12(1)(c) and (d) of the Political Funding Act.

⁸⁶ Section 52A(1) read together with the term "head" defined in section 1 of the PAIA.

⁸⁷ Section 52A of the PAIA.

8. Income tax exemption

Section 10(1)(cE) provides an absolute exemption from income tax on all receipts and accruals of any registered political party. The following are non-exhaustive examples of receipts and accruals of a registered political party:

- Membership fees and levies from elected representatives.
- Funds provided by the National Assembly or provincial legislature for financial and administrative purposes.
- Donations from the public or private individuals.
- Bequests.
- Allocations by the Commission from the Funds.
- Donations from foreign persons or entities.
- Investment income.
- Income from sources like affiliated organisations, party-owned businesses or events such as gala dinners.

The receipts or accruals envisaged are those that fall within the definition of “gross income”.⁸⁸ For any year of assessment,⁸⁹ gross income is the total worldwide income, whether in cash or another form, that a resident receives or to which it accrues. Generally, receipts or accruals of a capital nature, such as *bona fide* donations (see **9.1**), are excluded from gross income,⁹⁰ unless specifically included by law.⁹¹

If a receipt or accrual of a capital nature is not expressly included in the definition of “gross income”, it does not fall under the receipts and accruals envisaged in the opening words of section 10(1)(cE) and does not require exemption. Instead, such a receipt or accrual of a capital nature are considered when determining a taxable capital gain.⁹² While a taxable capital gain may be subject to income tax, the exemptions in section 10 do not apply to it, since a taxable capital gain is included directly in taxable income,⁹³ and not as part of “income”, which is gross income less exempt income.⁹⁴ Paragraph 63 of the Eighth Schedule outlines when capital gains and losses for exempt persons can be disregarded (see **9.1**).

⁸⁸ The term “gross income” is defined in section 1(1).

⁸⁹ The term “year of assessment” as defined in section 1(1) generally means any year or other period for which any tax or duty leviable under the Act is chargeable.

⁹⁰ The term “donation” is defined in section 55(1) for purposes of donations tax and means any gratuitous disposal of property including any gratuitous waiver or renunciation of a right.

⁹¹ Paragraphs (a) to (n) of the definition of “gross income” in section 1(1).

⁹² The term “taxable capital gain” as defined in section 1(1) means an amount determined in accordance with paragraph 10 of the Eighth Schedule.

⁹³ Paragraph (b) of the definition “taxable income” in section 1(1).

⁹⁴ Section 26A.

An amount, other than receipts and accruals of a capital nature, will constitute gross income if it is received by or accrued to a taxpayer⁹⁵ during any year or period of assessment. It was held in *CIR v Genn & Co (Pty) Ltd*⁹⁶ that simply having physical control over money or money's worth does not necessarily mean a receipt for gross income purposes.

Although the Act does not define the words "received" or "accrued", case law clarifies that an amount is "received" only if it is for the person's own behalf and own benefit,⁹⁷ and it "accrues" when the person has an unconditional right to it.⁹⁸ An amount is included in gross income in the year of assessment it is either received or accrues, whichever happens first.⁹⁹

Non-monetary receipts or accruals can also be regarded as amounts for gross income,¹⁰⁰ unless they are capital in nature and not specifically included in the definition. In such cases, their value should be included in gross income in the year of assessment they are received or accrued.

9. Exemption from other taxes

Registered political parties are not only exempt from income tax on their receipts and accruals, but also benefit from exemptions from specific other taxes and duties, as considered below.

9.1 Capital gains tax

CGT is the portion of income tax that applies to profits made from the disposal of assets, as determined under the Eighth Schedule. In certain cases, capital gains and losses may be disregarded. CGT is complex, and a full explanation of all its aspects extends beyond the scope of this Note.¹⁰¹

If a registered political parties disposes of an asset, any capital gain or loss, must be disregarded, provided the amount constituting gross income of whatever nature would be exempt from income tax under section 10(1)(cE).¹⁰² Since all receipts and accruals of qualifying registered political parties are exempt from income tax, these parties are not liable for CGT when they disposal of assets.

⁹⁵ The term "taxpayer" as defined in section 1(1) means any person chargeable with any tax leviable under the Act.

⁹⁶ 20 SATC 113.

⁹⁷ *Geldenhuis v CIR* 1974 (3) SA 256 (C), 14 SATC 419.

⁹⁸ *Lategan v CIR* 1926 CPD 203, 2 SATC 16; *Ochberg v CIR* 1933 CPD, 6 SATC 1.

⁹⁹ *SIR v Silverglen Investments (Pty) Ltd* 1969 (1) SA 365 (A), 30 SATC 199.

¹⁰⁰ *C SARS v Brummeria Renaissance (Pty) Ltd* 2007 (6) SA 601 (SCA), 69 SATC 205. Also, see Interpretation Note 58 "The Brummeria Case and the Right to Use Loan Capital Interest Free".

¹⁰¹ For commentary, see the *Comprehensive Guide to Capital Gains Tax*.

¹⁰² Paragraph 63 of the Eighth Schedule.

9.2 Donations tax

Donations tax is payable¹⁰³ on the value of any property wheresoever situated disposed of by donation, whether directly or indirectly, and whether held in trust or not, by a resident¹⁰⁴ (the donor) to another person (the donee),¹⁰⁵ unless an exemption¹⁰⁶ applies. The rate is –¹⁰⁷

- 20% if the total value of property disposed of under a taxable donation since 1 March 2018 until the date of that donation does not exceed R30 million;¹⁰⁸ and
- 25% for any value above R30 million.¹⁰⁹

A donation is any gratuitous disposal of property, whether cash or non-cash, and also any gratuitous waiver or renunciation of a right, such as the waiver of a debt.¹¹⁰ If property is disposed of for less than its market value, the difference may be treated as a donation if the Commissioner is satisfied that the consideration was inadequate.¹¹¹

The term "property"¹¹² is broad and covers both movable and immovable property, corporeal (tangible) and incorporeal (intangible), legal rights, stocks, money, notes, patents, copyrights, and even animals.¹¹³ Money is considered property because it serves as a medium of exchange or unit of account.

The donor is responsible for paying donations tax, but if the tax is not paid within the prescribed period, both the donor and the donee are jointly liable.¹¹⁴

Certain donations are exempt from donations tax. Specifically, donations made by or to any registered political party contemplated in section 10(1)(cE) are not subject to donations tax.¹¹⁵

9.3 Skills development levy

The SDL is a compulsory levy used to fund education and training, as set out in the SDL Act. SARS is responsible for collecting this levy. Employers who provide training to their employees may be eligible to receive grants from the relevant Sector Education and Training Authority (SETA).¹¹⁶

¹⁰³ Section 54.

¹⁰⁴ The term "resident" is defined in section 1(1).

¹⁰⁵ The term "donee" is defined in section 55(1).

¹⁰⁶ Section 56.

¹⁰⁷ Section 64.

¹⁰⁸ Section 64(1)(a)(i).

¹⁰⁹ Section 64(1)(a)(ii).

¹¹⁰ The term "donation" is defined in section 55(1).

¹¹¹ Section 58(1).

¹¹² Section 55(1).

¹¹³ van der Merwe, C. G. (31 January 2014). Things. In *Law of South Africa (LAWSA) 27* (Second Edition Volume) in paragraph 50. My LexisNexis [online].

¹¹⁴ Section 59.

¹¹⁵ Section 56(1)(h).

¹¹⁶ For commentary, see the *External Guide – Guide for Employers in respect of Skills Development Levy* and Interpretation Note 10 "Skills Development Levy Exemption: Public Benefit Organisations".

Every employer must under the SDL Act¹¹⁷ pay an SDL equal to 1% of the leviable amount,¹¹⁸ calculated on the total amount of remuneration paid or payable or deemed to be paid or payable by an employer¹¹⁹ to its employees¹²⁰ during any month. This remuneration is calculated in the same way remuneration is calculated for employees' tax, under the Fourth Schedule, with certain exclusions.¹²¹

A registered political party is exempt from the payment of SDL if it is registered as an employer (see **10.2**) and its total annual payroll will not exceed R500 000 in the next 12 months.¹²²

10. Compliance with other taxes and duties

Despite registered political parties been exempt from income tax under section 10(1)(cE), they are still required to meet the obligations and conditions related to other applicable taxes and duties. An overview of the most common taxes and duties that may apply is considered below.

10.1 Dividends tax

The provisions for dividends tax are contained in sections 64D to 64N and apply to all dividends paid by companies, except for headquarter companies. While dividends tax is part of the Income Tax Act, it is treated as a separate tax from income tax.¹²³

Dividends tax is levied at the rate of 20%¹²⁴ on dividends paid by resident companies.¹²⁵ It also applies to certain foreign dividends, specifically when the dividend is not a distribution of an asset *in specie* and is paid by a foreign company on a listed share.¹²⁶ The person who benefits from the dividend, referred to as the beneficial owner,¹²⁷ is responsible for the dividends tax on cash dividends.

When a company declares and pays a dividend, it must withhold the dividends tax amount, unless the dividend consists of a distribution of an asset *in specie*, in which case the company itself may be liable for dividends tax if no exemption applies.

Exemptions from dividends tax on cash dividends are contained in section 64F, and exemptions for dividends *in specie* are contained in section 64FA(1). It is not the responsibility of the company or regulated intermediary¹²⁸ paying the dividend to

¹¹⁷ Section 3(1) of that Act.

¹¹⁸ Section 3(3) of the SDL Act.

¹¹⁹ The term "employer" is defined in section 1(1) of the SDL Act and includes an "employer" as defined in the Fourth Schedule.

¹²⁰ The term "employee" is defined in section 1(1) of the SDL Act and includes an "employee" as defined in the Fourth Schedule.

¹²¹ See section 3(4) of the SDL Act for the exclusions.

¹²² Section 4(b) of the SDL Act.

¹²³ For commentary, see the *Comprehensive Guide to Dividends Tax*.

¹²⁴ Section 64E(1).

¹²⁵ A reduced or zero rate may apply under specific circumstances.

¹²⁶ The term "listed share" as defined in section 1(1) means a share that is listed on an exchange as defined in section 1 of the Financial Markets Act 19 of 2012 and licensed under section 9 of that Act. A listed share could therefore include a share in a foreign company whose shares are listed on a South African exchange.

¹²⁷ The term "beneficial owner" is defined in section 64D.

¹²⁸ The term "regulated intermediary" is defined in section 64D. A regulated intermediary is generally an entity that temporarily holds a dividend paid by a company before it is paid over to the ultimate beneficial owner.

determine who the beneficial owner of a dividend is and whether that person qualifies for an exemption from dividends tax.

A registered political party can hold shares in a company and receive dividends from those shares. However, a registered political party that is a beneficial owner of the dividends, is not exempt from paying dividends tax.

10.2 Employees' tax

Employees' tax, commonly known as Pay-As-You-Earn or PAYE, is dealt with in the Fourth Schedule.¹²⁹ Its purpose is to ensure that an employee's income tax liability is settled while remuneration is earned, preventing a large tax bill on assessment. Employees' tax deducted serves as an income tax credit that is set off against the income tax liability¹³⁰ of an employee, calculated on an annual basis, to determine the employees' final income tax liability for a year of assessment.

Every employer, whether resident in South Africa, a non-resident conducting business through a permanent establishment in the country, or a representative employer, who pays or becomes liable to pay an amount of remuneration¹³¹ to any person must deduct and withhold employees' tax.¹³² The amount of PAYE to be deducted or withheld is calculated using the tax deduction tables issued by the Commissioner. Each month, the employer must submit a monthly return, the EMP 201 form, and pay the employees' tax within seven days after the month in which the deduction was made.

Additionally, employers must issue employees with an employees' tax certificate, IRP 5, if PAYE was deducted or withheld from the employee's remuneration,¹³³ which discloses the total remuneration earned during a year of assessment, the employees' tax, and unemployment insurance fund contributions (see **10.6**) deducted.

Registered political parties are not exempted from this requirement. If any employees of a registered political party are liable for income tax, the party must register for PAYE within 21 business days¹³⁴ of becoming an employer,¹³⁵ using the application form EMP 101e.¹³⁶ If already registered for another tax type on **eFiling**, the party can register for PAYE as part of the single registration process.¹³⁷

¹²⁹ For commentary, see the *External Guide – Guide for Employers in respect of Employees' Tax*.

¹³⁰ Paragraph 28 of the Fourth Schedule.

¹³¹ The term "remuneration" is defined in paragraph 1 of the Fourth Schedule.

¹³² Paragraph 2(1) of the Fourth Schedule.

¹³³ Paragraph 14 of the Fourth Schedule.

¹³⁴ See section 244 of the TA Act for a discussion on deadlines.

¹³⁵ Paragraph 15(1) of the Fourth Schedule read with Chapter 3 of the TA Act.

¹³⁶ For commentary, see the *External Guide – Guide for Completion of Employer Registration Application*.

¹³⁷ For commentary, see the *External Guide – How to Complete the Registration, Amendments and Verification Form (RAV01)*.

10.3 Securities transfer tax

The STT Act requires that STT of 0,25%¹³⁸ be levied on the taxable amount¹³⁹ of every security¹⁴⁰ transferred,¹⁴¹ by a close corporation,¹⁴² a company¹⁴³ incorporated in South Africa, or a foreign company listed on an exchange.¹⁴⁴

The administrative provisions dealing with the payment of STT are contained in the Securities Transfer Tax Administration Act.¹⁴⁵ All STT payments must be made electronically using the SARS e-STT system.¹⁴⁶

While section 8(1) of the STT Act contains certain exemptions, registered political parties are not exempt. As a result, STT must be paid when a security is transferred to a registered political party.

10.4 Transfer duty

Transfer duty is levied under the Transfer Duty Act¹⁴⁷ on a sliding scale on the value of any property¹⁴⁸ acquired by any person. This duty will apply only if the property transaction does not qualify as a taxable supply for VAT purposes.¹⁴⁹ The applicable rates range from 0% to 13% for all persons.¹⁵⁰ Typically, the responsibility for paying the transfer duty falls on the person acquiring the property (the transferee).

Registered political parties are required to pay transfer duty when they acquire property, as they do not qualify for an exemption from the payment of transfer duty.

¹³⁸ Section 2(1) of the STT Act

¹³⁹ Sections 3(1), 4, 5 and 6 of the STT Act determine the relevant taxable amount.

¹⁴⁰ The term “security” as defined in section 1 of the STT Act means any share or depository receipt in a company, or any member’s interest in a close corporation.

¹⁴¹ The term “transfer” is defined in section 1 of the STT Act and save for certain exclusions, includes the transfer, sale, assignment or cession or disposal in any other manner of a security or the cancellation or redemption of that security.

¹⁴² The term “close corporation” as defined in section 1 of the STT Act means a “corporation” as defined in section 1 of the Close Corporation Act 69 of 1984.

¹⁴³ The term “company” as defined in section 1 of the STT Act means any corporation, or company incorporated, established, or formed by or under any law.

¹⁴⁴ For commentary on STT and the electronic submission of STT declarations and payments on the e-STT system via **eFiling**, see *Taxation in South Africa* and the *External Reference Guide – Securities Transfer Tax*.

¹⁴⁵ Act 26 of 2007.

¹⁴⁶ Sections 3(2) and 5 of the STT Administration Act.

¹⁴⁷ Act 40 of 1949.

¹⁴⁸ See definition of “property” in section 1(1) of the Transfer Duty Act.

¹⁴⁹ For commentary on transfer duty in general and the processing of transactions on **eFiling**, see the *External Guide – Guide for Transfer Duty via eFiling* and the *Transfer Duty Guide*.

¹⁵⁰ Section 2(1)(b) of the Transfer Duty Act.

10.5 Unemployment insurance fund contributions

The UIF provides temporary financial support to workers who become unemployed or are unable to work because of maternity or adoption leave or illness, or in the event of death, to the dependants of a deceased contributor.¹⁵¹

The unemployment insurance system in South Africa is regulated by the Unemployment Insurance Act¹⁵² and the Unemployment Insurance Contributions Act (UIC),¹⁵³ which outline the benefits available to contributors and the imposition and collecting of UIF contributions.

Employers are required to pay UIF contributions amounting to 2% of the remuneration paid or payable to employees each month, subject to specified exclusions, with 1% contributed by the employee and 1% contributed by the employer. Contributions are not required on any portion of an employee's monthly remuneration paid or payable by an employer that exceeds R17 712 or R212 544 annually.¹⁵⁴

Registered political parties that pay remuneration to employees are generally required to make UIF contributions unless they qualify for certain exemptions.

The UIF contributions must be paid to the UIF office of the Department of Employment and Labour¹⁵⁵ or to SARS within seven days after the end of the month in which the deduction was made. Payment options include **eFiling**, electronic funds transfer (EFT), or visiting a branch of an approved banking institution.¹⁵⁶

10.6 Value-added tax

VAT is an indirect tax levied under the VAT Act. In South Africa, the standard VAT rate is 15% and applies to most supplies and services, including imports. Some goods and services are subject to VAT at the zero rate when supplied in South Africa and on exports to other countries. Certain goods are also exempt when supplied in or imported into South Africa. VAT is payable only on imported services that are acquired for non-taxable purposes.

VAT is levied on an inclusive basis, which means that any prices marked on products in stores, and any prices advertised or quoted, must include VAT if the supplier is a vendor. Supplies that attract VAT at either the standard or zero rate are called "taxable supplies". Any person that makes taxable supplies above the compulsory registration threshold or has been allowed to register voluntarily for VAT is referred to as a "vendor". A vendor includes a person that is liable to register for VAT, even if that person has not actually registered.

¹⁵¹ Section 2 of the Unemployment Insurance Act.

¹⁵² Act 63 of 2001.

¹⁵³ Act 4 of 2002.

¹⁵⁴ Section 6(2) of the UIC Act, read with Government Notice 475 in *Government Gazette* 44641 of 28 May 2021 effective from 1 June 2021.

¹⁵⁵ Information is available from the Department of Labour's website at www.labour.gov.za.

¹⁵⁶ For commentary, see the *Guide for Employers in respect of the Unemployment Insurance Fund*.

If a registered political party falls within the definition of an “association not for gain” as defined in the VAT Act¹⁵⁷ and complies with the requirements for compulsory or voluntary registration such a registered political party will be treated like any other business making taxable supplies and will be liable to register and account for VAT according to the normal VAT rules applying to all vendors. There, however, are a few special provisions applying to associations not for gain.¹⁵⁸

For specific VAT-related issues, a ruling application can be submitted by e-mail to VATRulings@sars.gov.za.¹⁵⁹

11. Section 18A tax-deductible receipts

Section 18A allows taxpayers to deduct *bona fide* donations, but only if those donations are actually paid or transferred during a year of assessment to organisations approved by the Commissioner for purposes of section 18A. If an organisation is not approved under section 18A, even if it is exempt from income tax under any other section of the Act, it cannot issue section 18A receipts for donations it receives.

Political parties do not qualify for section 18A approval.¹⁶⁰ As a result, donations made to registered political parties are not tax-deductible under section 18A(1), and these parties are not permitted to issue section 18A receipts¹⁶¹ to donor taxpayers. Donor taxpayers who receive such invalid section 18A receipts cannot use them to claim a deduction under section 18A(1) in determining their taxable income.

12. Reporting requirements

12.1 Income tax returns

Each year, the Commissioner publishes a public notice in the *Government Gazette*¹⁶² listing the persons who must submit an income tax return.¹⁶³ This includes every company and trust that is resident during that particular year of assessment, subject to certain conditions outlined in the public notice.

¹⁵⁷ Section 1(1) of the VAT Act.

¹⁵⁸ For commentary on VAT and “associations not for gain”, see the *VAT 414 – Guide for Associations not for Gain and Welfare Organisations*.

¹⁵⁹ For commentary, see the *VAT Ruling Process Quick Reference Guide*.

¹⁶⁰ For commentary, see the *Basic Guide to Section 18A Approval*, the *Tax Exemption Guide for Public Benefit Organisations in South Africa*, the *Tax Exemption Guide for Institutions, Boards or Bodies*, and the *Guide to Section 18A Approval for a Department in the National, Provincial and Local Sphere of Government*.

¹⁶¹ A section 18A receipt is a receipt with mandatory information issued by an organisation approved by the Commissioner for purposes of section 18A potentially entitling the donor taxpayer to an income tax deduction for *bona fide donations* actually paid or transferred during a year of assessment to that section 18A-approved organisation.

¹⁶² For the public notice relating to the 2025 year of assessment, see Government Notice 6217 in *Government Gazette* 52712 of 23 May 2025.

¹⁶³ Section 25 of the TA Act read with section 66(1).

The term “company” as defined includes any association¹⁶⁴ formed in South Africa to serve a specified purpose, beneficial to the public or a section of the public.¹⁶⁵ Registered political parties established and governed by a constitution fall under this definition and are required to submit income tax returns.

When a political party registers for income tax, it is allocated a taxpayer reference number,¹⁶⁶ which must be included when filing returns and any document submitted to SARS.

Income tax returns must be submitted annually, even if the registered political party’s exemption means there is no tax liability. Income tax returns can be obtained from **eFiling**, at any SARS Service Centre, or from the SARS National Service Centre.

The return must be a full and true return,¹⁶⁷ and signed by authorised representative (see **13.4**) of the political party. The person signing the return is considered to be aware of the statements made in the return.¹⁶⁸

Not receiving an income tax return does not remove the obligation to submit one.¹⁶⁹ A person who wilfully and without cause refuses or neglects to submit a return or document to SARS is guilty of an offence and can be fined or imprisoned for up to two years if convicted.¹⁷⁰

The annual public notice issued by the Commissioner also sets out the deadline for submitting income tax returns for the relevant year of assessment specified in that notice. These returns can be submitted either manually or electronically via **eFiling**.

Political parties are not required to include supporting documents when submitting their income tax returns, however, if any supporting documentation is needed to verify information in the return, the party will be notified accordingly.

¹⁶⁴ LAWSA describes an association as founded on a basis of mutual agreement, it therefore will come into being, if the individuals who propose forming it have the serious intention to associate and agree on the essential characteristics and objectives of the *universitas* or unincorporated association, which is usually manifested by the approval and adoption of a constitution. See Pienaar, G. P. (28 February 2015). Association. In *Law of South Africa (LAWSA) 2* (Third Edition Volume) in paragraph 155. My LexisNexis [online].

¹⁶⁵ Paragraph (d) of the definition of “company” in section 1(1).

¹⁶⁶ The term “taxpayer reference number” is defined in section 1 of the TA Act and means the reference number referred to in section 24 of the same Act.

¹⁶⁷ Section 25(2) of the TA Act.

¹⁶⁸ Section 25(3) of the TA Act.

¹⁶⁹ Section 25(4) of the TA Act.

¹⁷⁰ Section 234(2)(d) of the TA Act.

13. Administrative provisions

SARS is responsible for the administration of the TA Act under the control and direction of the Commissioner.¹⁷¹ To fulfil this role, the Commissioner is empowered to obtain any information that could impact a person's tax liability for any tax period¹⁷² or event,¹⁷³ or that relates to the person's obligation either personally or on behalf of another person, to comply with a tax Act.¹⁷⁴ Additionally, the Commissioner may also perform any other administrative duties necessary to implement the provisions of the tax Act.¹⁷⁵

13.1 Furnishing of information

SARS, in administering the TA Act, may require a taxpayer to provide any relevant information or material, either verbally or in writing, that SARS requires.¹⁷⁶ If someone other than the taxpayer is asked, the request is limited to records or documents that person should reasonably have regarding the taxpayer.¹⁷⁷

The Commissioner is also empowered to request any person deemed able to furnish information about a registered political party to –

- answer any questions;
- provide access to books of account, records, or other documents for inspection; or
- meet with a SARS representative to present documents for examination.

A person who wilfully and without just cause refuses or neglects to furnish, produce or make available any document or thing, or reply to or answer truly and fully any questions requested by SARS is guilty of an offence and can fined or imprisoned for up to two years if conviction.¹⁷⁸

13.2 Changes in registered particulars

A registered political party is required to notify SARS whenever there are changes to its registered details, such as postal, physical, or electronic addresses, the representative taxpayer (see **13.4**), or banking information, to keep SARS records up to date.¹⁷⁹

The registered political party must also inform SARS of the name of its public officer and the address for the delivery of notices or documents,¹⁸⁰ as well as report any changes to the public officer or the service address within 21 business days of the change.¹⁸¹

¹⁷¹ Section 3(1) of the TA Act.

¹⁷² Section 3(2)(a)(i) of the TA Act.

¹⁷³ Section 3(2)(a)(ii) of the TA Act. The term "tax event" as defined in section 1 of the TA Act means an occurrence, which affects or may affect the liability of a person to tax.

¹⁷⁴ Section 3(2)(a)(iii) of the TA Act.

¹⁷⁵ Section 3(2)(h) of the TA Act.

¹⁷⁶ Section 46(1) of the TA Act.

¹⁷⁷ Section 46(3) of the TA Act.

¹⁷⁸ Section 234(2)(h) of the TA Act.

¹⁷⁹ Section 23 of the TA Act.

¹⁸⁰ Section 249(1) of the TA Act.

¹⁸¹ Section 249(2)(b) of the TA Act.

A person who wilfully and without just cause refuses or neglects to notify SARS of a change in registered particulars is guilty of an offence and can be fined or imprisoned for up to two years if convicted.¹⁸²

13.3 Record-keeping

Registered political parties must keep their records for five years.¹⁸³ The records, books of account, or documents that must be kept and retained can include any written, audio, or visual, or other types of information, whether in paper or electronic form. In certain situations, records must be kept for longer.¹⁸⁴ For example, when there is an ongoing SARS audit or investigation the relevant records, books of account, or documents must be kept until the audit or investigation is concluded, or the five-year period has passed, whichever is later.¹⁸⁵

To ensure records are secure and easily accessible for SARS inspections or audits, registered political parties must keep and retain them in their original form, organised, and in a safe location.¹⁸⁶

When records are kept electronically,¹⁸⁷ they must comply with the Electronic Record-Keeping Rules,¹⁸⁸ which require that electronic records remain in their original form¹⁸⁹ and be accessible and readable by SARS within a reasonable time. The rules also cover where records are stored, maintaining system documentation, and procedures for storage, backups, and conversions.¹⁹⁰

A person who wilfully and without just cause fails or neglects to retain records is guilty of an offence and can be fined or imprisoned for up to two years if convicted.¹⁹¹

13.4 Representative taxpayer

A registered political party, typically formed as an association of persons and governed by a constitution, acts through a representative who is responsible for ensuring the party's tax compliance and managing its tax obligations. This representative taxpayer¹⁹² must be a natural person residing in South Africa and may include a person who manages and controls the party's income in a fiduciary¹⁹³ capacity.

¹⁸² Section 234(2)(a) of the TA Act.

¹⁸³ Section 29(3) of the TA Act.

¹⁸⁴ Section 32 of the TA Act.

¹⁸⁵ Section 32(a) of the TA Act.

¹⁸⁶ Section 30 of the TA Act.

¹⁸⁷ Section 255 of the TA Act.

¹⁸⁸ See Government Notice 787 in *Government Gazette* 35733 of 1 October 2012.

¹⁸⁹ A document will under section 14 of the Electronic Communications and Transactions Act 25 of 2002 be regarded as being in original form if the integrity of the data is maintained, for example, when it is complete and unaltered.

¹⁹⁰ For commentary, see the *Electronic Communications Guide*.

¹⁹¹ Section 234(2)(e) of the TA Act.

¹⁹² The term "representative taxpayer" is defined in section 1(1).

¹⁹³ The word "fiduciary" means a person who holds a position of trust or responsibility including decision-making powers over the affairs of a registered political party.

A representative taxpayer, under the TA Act, is a person who acts as an agent to pay another person's tax liability and includes a person who is a representative taxpayer under the Act.¹⁹⁴ Every person who becomes or ceases to be a representative taxpayer under the Act, except a company's public officer, must notify SARS within 21 business days, using the form prescribed by the Commissioner.¹⁹⁵

Any person who wilfully and without just cause refuses or neglects to appoint a representative taxpayer, notify SARS of the appointment, or change of a representative taxpayer is guilty of an offence and can be fined or imprisoned for up to two years if convicted.¹⁹⁶

A representative taxpayer is personally liable for any tax that should have been paid to SARS in that capacity, or for any amount that was disposed of instead of being paid.¹⁹⁷ Any assessment issued to a representative taxpayer for any tax is considered to be made only in that capacity.¹⁹⁸

A taxpayer¹⁹⁹ remains responsible for all tax obligations under a tax Act when the representative taxpayer fails to fulfil the required responsibilities or duties.²⁰⁰

For a registered political party, the representative taxpayer can be any officer-bearer or official, such as the treasurer or accounting officer, who is appointed to manage the party's financial affairs.

For tax purposes, a registered political party is considered as a company (see **12.1**). Therefore, the same rules and requirements that apply to a company's public officer also apply to the party's representative taxpayer.

Every company carrying on business or with an office in South Africa must always have an individual that is a resident as its representative.²⁰¹ This person²⁰² should be a senior official or, if none are available, another suitable person approved by SARS.²⁰³ The representative is appointed by the company or by an authorised agent or legal practitioner²⁰⁴ and is known as the public officer, who is responsible for tax-related matters under a tax Act, and may face penalties for any company defaults.²⁰⁵

¹⁹⁴ The term "representative taxpayer" is defined in section 1 of the TA Act and assigned meaning in section 153(1) of that Act.

¹⁹⁵ Section 153(2) of the TA Act.

¹⁹⁶ Section 234(2)(b) of the TA Act.

¹⁹⁷ Section 155 of the TA Act.

¹⁹⁸ Section 154(2) of the TA Act.

¹⁹⁹ The term "taxpayer" is defined in section 1(1).

²⁰⁰ Section 153(3) of the TA Act.

²⁰¹ Section 246(1) of the TA Act.

²⁰² Section 246(2) of the TA Act.

²⁰³ Section 246(2)(a) of the TA Act.

²⁰⁴ The term "legal practitioner" as defined in section 1 of the TA Act, which was inserted by section 14 of the Tax Administration Laws Amendment Act 43 of 2024 and came into operation on 24 December 2024, the promulgation of that Act, means a legal practitioner as defined in section 1 of the Legal Practice Act 28 of 2014. The term "legal practitioner" as defined in the Legal Practice Act means an advocate or attorney admitted and enrolled under sections 24 and 30 of that Act, respectively.

²⁰⁵ Section 246(5) of the TA Act.

A person cannot be appointed as a public officer if disqualified²⁰⁶ under the Trust Property Control Act,²⁰⁷ the NPO Act,²⁰⁸ or the Companies Act.²⁰⁹ The use of the disjunctive word “or” means that a person will be disqualified from being appointed as a public officer if that person has been disqualified under either one or a combination of those Acts.

The grounds for disqualification of a person authorised²¹⁰ as a trustee under the Trust Property Control Act, the grounds of disqualification of a person from being appointed or elected as an officer-bearer²¹¹ under the NPO Act, as well as the grounds of disqualification of a person as a director²¹² of a company under the Companies Act are similar and therefore summarised below.

A person will be disqualified if that person –

- is an unrehabilitated²¹³ insolvent;²¹⁴
- has been prohibited by a court to be a director of a company, or declared by a court to be delinquent²¹⁵ under the Companies Act or the Close Corporations Act;²¹⁶
- is prohibited under any law or any public regulation to be a director of a company;²¹⁷
- has been removed from an office of trust, on the grounds of misconduct involving dishonesty;²¹⁸

²⁰⁶ Section 246(8) of the TA Act which was inserted by section 30 of Tax Administration Laws Amendment Act 18 of 2023 and came into operation on 22 December 2023, the date of promulgation of that Act.

²⁰⁷ Section 6 of that Act.

²⁰⁸ Section 25A of that Act.

²⁰⁹ Section 69 of that Act.

²¹⁰ A trustee is a person appointed under a trust instrument and who may act in that capacity only if authorised to do so in writing by the Master of the High Court under section 6 of the Trust Property Control Act.

²¹¹ Generally, any person elected to office, such as the chairperson, vice-chairperson, treasurer, secretary, or any person appointed to the management or executive committee who may act in a fiduciary capacity.

²¹² Any person appointed under section 66(2)(b) of the Companies Act, as a director or alternative director.

²¹³ Section 69(11) of the Companies Act empowers the court to exempt a person from the grounds of disqualification set out in section 69(8)(b) of that Act.

²¹⁴ Section 6(1A)(a) of the Trust Property Control Act, section 25A(1)(a) of the NPO Act and section 69(8)(b)(i) of the Companies Act.

²¹⁵ A declaration of delinquency may be made under section 162 of the Companies Act or under section 47 of the Close Corporations Act 69 of 1984.

²¹⁶ Section 6(1A)(b) of the Trust Property Control Act, section 25A(1)(b) of the NPO Act and section 69(8)(a) of the Companies Act.

²¹⁷ Section 6(1A)(c) of the Trust Property Control Act, section 25A(1)(c) of the NPO Act and section 69(8)(b)(ii) of the Companies Act.

²¹⁸ Section 6(1A)(d) of the Trust Property Control Act, section 25A(1)(d) of the NPO Act and section 69(8)(b)(iii) of the Companies Act.

- has been convicted, in South Africa or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount under the Companies Act²¹⁹ for theft, fraud, forgery, perjury or an offence –²²⁰
 - involving fraud, misrepresentation or dishonesty, or money laundering, terrorist financing or proliferation financing activities;²²¹
 - in connection with the promotion, formation, or management of a company,²²² or in connection with consenting to act or acting as a director when ineligible or disqualified;²²³ or
 - under the Trust Property Control Act, the NPO Act, the Companies Act, the Insolvency Act,²²⁴ the Close Corporations Act, the Competition Act,²²⁵ the Financial Intelligence Centre Act,²²⁶ the Financial Markets Act,²²⁷ the Prevention and Combating of Corrupt Activities Act,²²⁸ the Protection of Constitutional Democracy Against Terrorist and Related Activities Act,²²⁹ or the TA Act;²³⁰
- is subject to a resolution adopted²³¹ by the Security Council of the United Nations;²³² or
- is an unemancipated minor or is under a similar legal disability.²³³

Public registers are kept by the –

- Master of the High Court recording persons who have been disqualified from serving as trustees, when a court order under the Trust Property Control Act or another law is issued;²³⁴

²¹⁹ Section 69 of the Companies Act.

²²⁰ Section 6(1A)(e) of the Trust Property Control Act, section 25A(1)(e) of the NPO Act and section 69(8)(b)(iv) of the Companies Act.

²²¹ Section 6(1A)(e)(i) of the Trust Property Control Act, section 25A(1)(e)(i) of the NPO Act and section 69(8)(b)(iv)(aa) of the Companies Act. See section 1 of the Financial Intelligence Centre Act 38 of 2001 for definition of those terms.

²²² Section 69(2) or (5) of the Companies Act.

²²³ Section 6(1A)(e)(ii) of the Trust Property Control Act, section 25A(1)(e)(ii) of the NPO Act and section 69(8)(b)(iv)(bb) of the Companies Act.

²²⁴ Act 24 of 1936.

²²⁵ Act 89 of 1998.

²²⁶ Act 38 of 2001.

²²⁷ Act 19 of 2012.

²²⁸ Act 12 of 2004.

²²⁹ Act 33 of 2004.

²³⁰ Section 6(1A)(e)(iii) of the Trust Property Control Act, section 25A(1)(e)(iii) of the NPO Act and section 69(8)(b)(iv)(cc) of the Companies Act.

²³¹ Chapter VII of the Charter of the United Nations, which provides for financial sanctions entailing the identification of persons or entities against whom member states of the United Nations must act specified in the resolution.

²³² Section 6(1A)(f) of the Trust Property Control Act, section 25A(1)(f) of the NPO Act and section 69(8)(v) of the Companies Act.

²³³ Section 6(1A)(g) of the Trust Property Control Act, section 25A(1)(g) of the NPO Act and section 69(7)(b) of the Companies Act.

²³⁴ Section 6(1H) of the Trust Property Control Act.

- Nonprofit Organisations Directorate recording persons who have been disqualified from serving as office-bearers, when a court order under the NPO Act or another law is issued;²³⁵ and
- Companies and Intellectual Property Commission recording persons who have been disqualified from serving as directors, or on probation, issued by a court order under the Companies Act or another law.²³⁶

If a company's public officer is not eligible for appointment either because the requirements are not met or SARS has notified the company that the person is unsuitable the company must notify SARS in writing of a new appointment within 21 business days.²³⁷ If a public officer is not appointed as required, the public officer will automatically be assigned to the first eligible person in the following order of priority, namely, the –²³⁸

- managing director or equivalent;
- financial director or equivalent;
- company secretary;²³⁹
- director²⁴⁰ or prescribed officer²⁴¹ with the largest shareholding;
- director or prescribed officer with the longest tenure; and
- senior employee according to the company's reporting hierarchy.

If none of the eligible persons can be appointed as the public officer, SARS has the authority to designate any suitable person for that purpose.²⁴²

If a company is placed under business rescue in accordance with the Companies Act, the business rescue practitioner becomes the representative taxpayer.²⁴³ Should the company go into voluntary or compulsory liquidation, the appointed liquidator or liquidators assume all duties and responsibilities of the public officer for the duration of the liquidation.²⁴⁴

²³⁵ Section 25A(9)(a) of the NPO Act.

²³⁶ Section 69(13) of the Companies Act.

²³⁷ Section 246(7) of the TA Act

²³⁸ Section 246(3) of the TA Act, which was amended by section 31(b) of the Tax Administration Laws Amendment Act 43 of 2024 and came into operation on 24 December 2024, the date of promulgation of that Act.

²³⁹ The duties of a company secretary are set out in section 88 of the Companies Act.

²⁴⁰ A "director" as defined in section 1 of the Companies Act refers to anyone who serves on a company's board as described in section 66, including alternate directors and any person occupying the position of a director or alternate director, regardless of their official title. An "alternate director" is a person elected or appointed to temporarily serve as a board member in place of a specific director.

²⁴¹ The term "prescribed officer" as defined in section 1 of the Companies Act means a person who, within a company, performs any function that has been designated by the Minister, the member of the Cabinet responsible for companies, under section 66 (10) of that Act.

²⁴² Section 246(3)(b) of the TA Act.

²⁴³ Paragraph (a) of the definition of "representative taxpayer" in section 1(1) and section 248(2) of the TA Act.

²⁴⁴ Section 248(1) of the TA Act.

A company is required to always have a public officer and must maintain an address for the service or delivery of notices.²⁴⁵ Any changes to the public officer or the address for service or delivery of notices must be reported to SARS within 21 business days of the change.²⁴⁶

13.5 Objection and appeal

If a registered political party disagrees with an assessment,²⁴⁷ it may first request SARS to provide the reasons for the assessment before submitting an objection.²⁴⁸ The request must be made in the prescribed form and manner and submitted to SARS within 30 days²⁴⁹ from the date of the assessment.

A political party can object to an assessment²⁵⁰ in accordance with Chapter 9 of the TA Act read with the “rules”²⁵¹ published in the *Government Gazette*. The objection must be lodged within 80²⁵² business days²⁵³ after –²⁵⁴

- receiving the notice with the requested reasons for the assessment, if applicable;²⁵⁵
- receiving a notice issued by SARS confirming that the reasons requested have been provided;²⁵⁶ or
- the date of the assessment.

The objection must be submitted on the prescribed form and must clearly set out and include –²⁵⁷

- the specific part or amount of the assessment being disputed;
- the grounds of the assessment²⁵⁸ being disputed; and
- supporting documents to substantiate the grounds of objection not previously provided to SARS for the disputed assessment.

²⁴⁵ Section 249(2)(a) of the TA Act.

²⁴⁶ Section 249(2)(b) of the TA Act.

²⁴⁷ The term “assessment” as defined in Rule 1 includes, for purposes of the rules, a decision referred to in section 104(2) of the TA Act.

²⁴⁸ Rule 6 deals with reasons for an assessment.

²⁴⁹ The term “day” in Rule 1 means a “business day” as defined in section 1 of the TA Act.

²⁵⁰ For commentary, see Interpretation Note 15 “Exercise of Discretion in case of Late Objection or Appeal”.

²⁵¹ The rules for objections and appeals are formulated under section 103 of the TA Act and published in Government Regulation Notice 3146 in *Government Gazette* 48188 of 10 March 2023. For further commentary, see the *Dispute Resolution Guide: Guide on the Rules Promulgated in terms of Section 103 of the Tax Administration Act, 2011* and the *Alternative Dispute Resolution: Quick Guide*.

²⁵² Rule 7(1) was amended from 30 to 80 days, effective from 10 March 2023.

²⁵³ The term “business day” is defined in section 1 of the TA Act.

²⁵⁴ Rule 7 deals with objections.

²⁵⁵ Rule 7(1)(a) read with Rule 6.

²⁵⁶ Rule 7(1)(a) read with Rule 6(4).

²⁵⁷ Rule 7(2).

²⁵⁸ The term “grounds of assessment” as defined in Rule 1, for purposes of the rules includes any grounds for a decision referred to in section 104(2) of the TA Act, and reasons for assessment provided by SARS contemplated in Rule 6(5).

SARS will consider the objection and may either disallow it or allow it completely or in part.

If the objection is disallowed and the party is not satisfied with the outcome, it may submit to SARS a written appeal against the disallowance of the objection within the prescribed period.²⁵⁹

14. Conclusion

Section 10(1)(cE) provides an automatic exemption from income tax for all receipts and accruals of any political party registered under the Electoral Commission Act, no application or approval from the Commissioner is required.

Registered political parties are not allowed to issue section 18A receipts to donor taxpayers for any donations received.

All reporting and administrative requirements under the Act and TA Act must be met.

It is the responsibility of the political party to prove²⁶⁰ its registration under the Electoral Commission Act and compliance with the relevant requirements for purposes of the income tax exemption considered in this Note. The registered political party must keep sufficient evidence to support its status and the view taken²⁶¹ and if SARS requests it, this proof must be provided in an acceptable form.

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²⁵⁹ Rule 10.

²⁶⁰ Section 102 of the TA Act.

²⁶¹ Section 29 of the TA Act.