
SOUTH AFRICAN REVENUE SERVICE

**GUIDE
ON
INCOME TAX
AND
THE INDIVIDUAL
(2012/13)**

Another helpful guide brought to you by the
South African Revenue Service



www.sars.gov.za

Guide on Income Tax and the Individual

Foreword

The purpose of this guide is to inform individuals who are South African residents of their income tax commitments under the Income Tax Act 58 of 1962 (the Act).

This guide does not attempt to reflect on every scenario that could possibly exist, but does attempt to provide clarity on the majority of issues that are likely to arise in practice. Issues not specifically addressed may be taken up with the South African Revenue Service (SARS) National Contact Centre, or your nearest branch office.

This guide is not meant to deal with the precise technical and legal detail that is often associated with taxation and should not, therefore, be used as a legal reference. It is not a binding general ruling under section 89 of Chapter 7 of the Tax Administration Act 28 of 2011 (TA Act).

Should you require additional information concerning any aspect of taxation you may –

- visit your local SARS branch;
- visit the SARS website at www.sars.gov.za;
- contact your own tax advisors;
- contact the SARS National Contact Centre –
 - if calling locally, on 0800 00 7277; or
 - if calling from abroad, on +27 11 602 2093 (between 08h00 and 16h00 on week days, South African time).

Comments on this guide may be sent to policycomments@sars.gov.za.

Prepared by

Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE

Date of 1st issue: March 2002

Date of 2nd issue: April 2005

Date of 3rd issue: March 2006

Date of 4th issue: March 2007

Date of 5th issue: March 2008

Date of 6th issue: May 2009

Date of 7th issue: January 2012

Date of 8th issue: November 2013

CONTENTS

Foreword	i
1. When is an individual liable for income tax?.....	1
2. What is a year of assessment for an individual?	1
3. What are some of the different kinds of income that an individual can be taxed on?	1
4. Do all individuals have to register as taxpayers and submit income tax returns?.....	1
4.1 Registration	1
4.2 Submission of income tax returns.....	2
4.3 Filing an income tax return.....	3
4.3.1 How to obtain an income tax return?	3
4.3.2 Pre-populated return	4
5. To whom is the income tax payable?.....	5
6. When is income tax payable?.....	5
7. What is employees' tax?	6
8. What proof does an employee have of tax deducted from his or her earnings?	7
9. What is provisional tax?	7
9.1 Who qualifies to be a provisional taxpayer?	7
9.2 When is provisional tax due?	8
9.3 How much provisional tax must be paid?	8
10. What happens on assessment?	9
11. Penalties	10
11.1 Administrative non-compliance penalties.....	10
11.2 Understatement penalties	11
12. Interest	11
13. Criminal offences	12
14. Conclusion.....	12
Annexure A – Scale of rates for the 2013 year of assessment.....	14
Annexure B – Example of how tax is calculated	17

1. When is an individual liable for income tax?

Individuals who receive taxable income in excess of a specific amount (known as the “tax threshold” amount) in a year of assessment are liable for income tax. The tax threshold amount for the 2013 year of assessment is R63 556 for individuals below the age of 65, R99 056 for individuals aged 65 years but under 75 and R110 889 for individuals aged 75 years and older. Once the tax threshold has been exceeded, tax is determined according to a sliding scale (known as marginal or statutory rates). The applicable rates for the 2013 year of assessment are enclosed in **Annexure A**.

2. What is a year of assessment for an individual?

A year of assessment for an individual consists of 12 months beginning on the first day of March of a specific year and ending on the last day of February of the following year. The 2013 year of assessment therefore started on 1 March 2012 and ended on 28 February 2013.

3. What are some of the different kinds of income that an individual can be taxed on?

Examples of an individual’s taxable income include –

- income from employment, such as, salaries, wages, bonuses, overtime, fringe benefits, and certain lump sums;
- income from a business or trade;
- income or profits arising from an individual being a beneficiary of a trust;
- director’s fees from companies or close corporations;
- investment income, such as interest and foreign dividends;
- rental income;
- income from royalties;
- annuities;
- pensions; and
- certain capital gains.

4. Do all individuals have to register as taxpayers and submit income tax returns?

4.1 Registration

An individual who becomes liable for any income tax or who must submit an income tax return must, within 21 business days of becoming liable, apply to SARS for registration in the prescribed form and manner.

SARS may require further particulars or documents from an individual in order to finalise the

registration.¹ In the event of a failure to provide all particulars and documents requested, SARS may regard that person as not having applied for registration until all the required details have been submitted. SARS is also permitted to register a person for tax if that person fails to apply for registration. A taxpayer who has not yet registered with SARS must complete an IT 77 registration form, obtainable from any SARS branch office or from the SARS website www.sars.gov.za.

4.2 Submission of income tax returns

Income tax returns must be submitted to SARS on an annual basis. This is carried out during a period known as “Tax Season”, which is the period during which tax returns can be obtained and submitted for assessment. The income tax return applicable to individuals is known as the ITR12 form. The tax season for the 2013 year of assessment opened on 1 July 2013. The period during which a return must be submitted has been set out in **4.3**.

Tax returns may be submitted –

- manually and mailed or placed in a SARS drop box;
- electronically at a SARS branch office; or
- through eFiling.

An individual must submit an income tax return if, during the 2013 year of assessment, he or she –

- receives income from employment (salary, wages etc.) from more than one employer and which exceeds the tax threshold (see **1** for the tax thresholds for the 2013 year of assessment);
- has a capital gain or capital loss exceeding R30 000;
- receives any taxable allowance or advance (such as a travel, subsistence, public office, computer or cellular telephone allowance);
- receives an income tax return from SARS or is requested in writing to furnish an income tax return regardless of the amount of income received or accrued;
- is resident in South Africa, and who –
 - held or owned any funds in foreign currency or assets outside South Africa, if their total value exceeded R100 000 at any time during the year of assessment;
 - had income or capital gains from foreign currency or assets outside South Africa that could be attributed under the Act;
 - held a participation right in a controlled foreign company;
- receives local interest in excess of the exemption thresholds, being R22 800 if the taxpayer is below the age of 65, and R33 000 if the taxpayer is 65 years or older; and
- receives income from any trade (irrespective of what the taxable income or assessed loss is), unless that individual's trade consists solely of employment.

¹ The TA Act allows SARS to ask a person to provide biometric information when a person applies to register or confirms a current registration. Biometric information includes fingerprints, facial recognition, vocal recognition and iris or retina recognition. Since biometric information is almost impossible to duplicate, unlike a signature for instance, it is an effective prevention against identity theft and fraud.

Employment income exclusion

An individual whose gross income consists solely of remuneration is **not** required to furnish a return for the 2013 year of assessment if all of the requirements listed below have been satisfied:

- The person did not receive any taxable allowance or advance (for example, a travel allowance, a subsistence allowance or a public office allowance);
- The remuneration was from a single source and did not exceed R250 000 for the year of assessment; and
- Employees' tax was correctly withheld in terms of the deduction tables prescribed by the Commissioner for SARS (the Commissioner).

4.3 Filing an income tax return

Every year, the Commissioner will give public notice by way of the *Government Gazette*, indicating who is required to furnish returns for the assessment of tax. The notice will also prescribe the period within which returns must be furnished for the years of assessment specified in that notice.

a. Manual submissions

You can manually complete the tax return, sign it and either mail it or hand it in at any SARS branch office. **Please note that the closing date for manual submissions was 27 September 2013.**

b. Electronic submissions

In order to use eFiling to complete and submit your tax return electronically you must register as an eFiler. Alternatively, a SARS employee can assist you in completing and submitting your tax return electronically at any branch office.

Please note that the closing date for electronic submissions is 22 November 2013 for non-provisional taxpayers. The closing date for provisional taxpayers is 31 January 2014.

Certain administrative penalties may be levied in terms of Chapter 15 of the TA Act where tax returns are submitted after the closing date. The amount of the penalties varies depending on the amount of taxable income of the taxpayer concerned. These penalties increase by the same amount on a monthly basis so it is crucial to ensure that the closing dates are adhered to. See **11** for more information.

4.3.1 How to obtain an income tax return?

SARS promotes the electronic submission of tax returns, as it allows for –

- the quick generation and submission of tax returns;
- easy payments; and
- interaction with SARS in a secure online environment.

An individual who wishes to file electronically or make use of a tax practitioner to do so, may obtain the ITR12 return, which can be personalised to suit the individual's unique tax requirements, from the SARS eFiling website **www.sarsefiling.co.za**. This is carried out by way of completing an online tax "wizard". An individual now also has the option of obtaining

and filing a return from a mobile device, by making use of the SARS eFiling App or by visiting the SARS Mobi site, <https://sarsefiling.mobi/>.

An individual who is required to submit an annual income tax return and wishes to do so manually must request the ITR12 return from the any SARS branch or by calling the SARS Contact Centre. This return can be tailored to meet that individual's specific tax needs. Taxpayers must ensure that all address particulars have been updated and that SARS has the very latest information, where applicable.

4.3.2 Pre-populated return

Once a request has been made for an ITR12, SARS will –

- customise the ITR12 according to the complexity of your tax affairs (that is, an income tax return will only contain the relevant fields for the completion of the return to suit your specific needs); and
- pre-populate the ITR12 with your personal information, as well as with the information contained in your IRP5/IT3(a) certificate(s) (for example, employment income, pension fund contributions, tax deducted).

On receipt of the pre-populated tax return, you must –

- verify the pre-populated information on the ITR12 against your IRP5/IT3(a) certificate(s);
- make changes to (or include) personal information which is new or which may have changed;
- complete the remaining relevant fields (for example, additional income and deductions);
- request a revised tax return either via eFiling, by visiting your local SARS branch office or by contacting the SARS Contact Centre if the return does not make provision for all the fields required; and
- submit the return –
 - manually to SARS, via mail or by placing the return in one of the designated drop boxes at the nearest branch office or designated drop-off area;
 - electronically to SARS via the eFiling website, the SARS Mobi site or via the SARS eFiling App; or.
 - Online at one of the SARS branch offices.

Note:

- (1) Your tax return (if submitted manually) must be signed by you. Failure to do so will result in your return being rendered outstanding, for which penalties could accrue.
- (2) When completing your return, you will require the following documentation in order to verify the existing, pre-populated information that appears in the return, as well as to complete any remaining portions of your tax return:
 - IRP5/IT3(a) certificate(s).
 - Certificates you received for local interest income earned.
 - Any other documentation relating to income received or accrued, such as remuneration that may not have been pre-populated, trade income, investment income, foreign income.

- Details of medical expenses paid and medical scheme contributions made.
- The relevant certificates reflecting your retirement annuity fund contributions made.
- A logbook and other documents in support of business travel expenses (if in receipt of a travel allowance).
- Any other documentation relating to the allowable deductions you wish to claim.

You are required to retain **ALL** relevant records, books of account or documents for a period of five years from the date upon which your tax return was received by SARS, or, if no return was required, for five years from the end of the year of assessment. These records may be kept in an “acceptable electronic form”². You must produce them should your return be subject to verification or audit.

The TA Act imposes a duty on a person to retain records, books of account or documents needed to comply with the Act. The duty to retain records does not rest only on taxpayers who are registered and who have filed a return, but is extended to include those who ought to but have not filed a return and those people who would have been obliged to file a return if not for an exemption or threshold. Failure or neglect to retain records as required under the TA Act is a criminal offence.

You are advised to visit your local SARS branch office or to alternatively contact the SARS Contact Centre if you have requested an income tax return but have not received it at least two months before the final closing date for submission.

For further information on registration or return submission, please refer to the SARS “Tax Season 2013” web page, found on the SARS website www.sars.gov.za.

5. To whom is the income tax payable?

The income tax is payable to SARS, which acts as an agent responsible for collecting taxes on behalf of the South African Government. SARS also makes use of withholding agents such as employers, who withhold employees' tax on SARS's behalf, and pay this to SARS on a monthly basis.

6. When is income tax payable?

The final income tax payable by a taxpayer can only be calculated once the total taxable income earned by the individual for the full year of assessment has been determined. This is normally only carried out after the end of the year of assessment when a taxpayer's income tax return has been processed and an assessment has been issued.

The government makes use of, amongst other things, income tax in order to fund social services such as education, health, security and welfare – with the funding thereof taking place primarily through SARS's collection and withholding of taxes. There are currently two main methods used by SARS to collect income tax, and these are –

- the withholding of employees' tax by an employer on remuneration paid to an employee; this is subsequently paid to SARS on a monthly basis; and

² As set out in GG 35733, dated 1 October 2012.

- the payment of provisional tax (by selected taxpayers), which is collected by SARS from the taxpayers on a six-monthly basis.

Employees' tax and provisional tax are not separate taxes, but are in existence to help relieve the tax burden that would exist on assessment, by spreading the payments over multiple periods instead of one lump sum payable at year-end. Provisional tax is covered in more detail in **9** of this guide, while employees' tax is discussed in **7**.

7. What is employees' tax?

Employees' tax is the tax that employers are required to withhold from the remuneration of employees (for example, salaries, wages, bonuses, etc.) and pay over to SARS on a monthly basis. Employees' tax is also referred to as "Pay As You Earn" (PAYE). The tax is withheld when remuneration is paid or becomes payable to the employees, for example, on a daily, weekly or monthly basis.

Employees' tax is therefore a withholding tax on employment income and will be offset against the employee's final income tax liability for the applicable year of assessment.

The following amounts **may be deducted from remuneration** before employees' tax is calculated:

- Pension fund contributions.
- Retirement annuity fund contributions.
- Medical aid contributions to a registered medical scheme if the individual is 65 years and older.³
- Any premium paid in terms of an insurance policy to the extent that it covers the employee against the loss of income as a result of illness, injury, disability or unemployment and for which all amounts payable in terms of that policy constitute or would constitute "income" as defined in the Act.
- So much of any donation made by the employer on behalf of the employee as does not exceed 5% of that remuneration after taking into account the above allowable deductions.

Commission, travel allowances and non-standard employment (part-time employment) income are subject to employees' tax irrespective of the amount received. Part-time employment normally refers to employment whereby a person works for an employer for less than 22 hours in a full week.

In instances where any of an employee's employment income is subject to employees' tax, the employee's final tax liability is assessed when SARS processes the income tax return that has been submitted by him or her for that applicable year of assessment.

³ The manner in which taxpayers under the age of 65 claim for medical expenses incurred and paid in the 2013 year of assessment has changed. You may qualify for a Medical Scheme Fees Tax Credit (see **10**) rather than deduct a medical allowance

8. What proof does an employee have of tax deducted from his or her earnings?

An employer must issue an employee with a receipt known as an employees' tax certificate (IRP5) where employees' tax was deducted from the employee's earnings. This certificate discloses, amongst other things, the total employment income earned for the year of assessment and the employees' tax that was deducted by the employer and paid over to SARS.

9. What is provisional tax?

An individual who derives income that does not constitute remuneration (for example, taxable interest, rental or business income) must pay what is known as provisional tax. Provisional tax is paid twice a year (or on a six-monthly basis). A third or "top up" payment can be made to avoid interest (refer 9.2). Provisional tax is intended to assist taxpayers in meeting their tax liabilities on an on-going basis as opposed to paying a large amount once a year, on assessment. The provisional tax paid (as occurs in the case of employees' tax) will be offset against the final income tax that the individual is required to pay for the year of assessment.

9.1 Who qualifies to be a provisional taxpayer?

A provisional taxpayer is –

- any individual who earns business income or farming income;
- any company or close corporation;
- any person who is notified by the Commissioner that he or she is a provisional taxpayer.

Any individual under the age of 65 who derives **taxable** interest, foreign dividends⁴ and rental income less than a specified total (R20 000 for the 2013 year of assessment) is exempt from the payment of provisional tax.

The **taxable** amount of interest is determined by deducting a specified exempt amount from the gross amounts received or accrued. The specified exemption for the sum of interest for the 2013 year of assessment is R22 800 where the individual is below the age of 65 and R33 000 where the individual is 65 years of age or older.

This means that an individual younger than age 65 who receives interest from a South African bank will only qualify as a provisional taxpayer for the 2013 year of assessment if the total interest received exceeds R42 800 (R22 800 + R20 000).

An individual who is 65 years of age or older is **exempt** from paying provisional tax if his or her taxable income for the 2013 year of assessment –

- will not exceed R120 000;
- will not be derived wholly or in part from the carrying on of any business; and
- will not be derived otherwise than from employment income (that is, salaries and wages), interest, dividends or rental of fixed property.

⁴ Local dividends will generally be subject to dividends tax. Dividends tax and income tax are two separate taxes. Dividends tax is effective from 1 April 2012. It is generally calculated at 15% of the amount of any dividend paid by any company (excluding headquarter companies) to you. The company or relevant intermediary will withhold the dividends tax and pay you the net amount.

9.2 When is provisional tax due?

Provisional tax for an individual is due as follows:

- *First payment* – six months after the beginning of the particular year of assessment. If the last day of August falls on a Saturday, Sunday or public holiday, the payment must be made no later than the last business day before the Saturday, Sunday or public holiday. For the 2013 year of assessment, the first payment was due on or before 31 August 2012.
- *Second payment* – on or before the last day of the year of assessment. As noted above, the payment must be made on the last working day of the month. For the 2013 year of assessment, the second payment was due on or before 28 February 2013.
- *A voluntary third or “top up” payment* – seven months after the end of the year of assessment. As noted above, the payment must be made on the last working day of the month. For the 2013 year of assessment, this payment was due on or before 30 September 2013. This voluntary payment is only necessary if the individual's taxable income is in excess of R50 000. Payment can be made to avoid liability to pay interest that will arise due to the final income tax not being settled within seven months after the end of the year of assessment.

9.3 How much provisional tax must be paid?

A provisional tax return (IRP6) must be completed by estimating the individual's total taxable income (which includes, amongst others, employment income, business income, taxable capital gains, interest and rentals) for the year of assessment and determining the income tax payable on the estimated taxable income.

The tax payable for the first payment must be half of the total estimated tax liability.

The estimate may not be lower than the individual's taxable income (as assessed by SARS) for the previous year of assessment, known as the basic amount, unless permission is obtained from SARS. In the event that an individual has no assessed taxable income for a previous year of assessment, the individual must estimate his or her taxable income for the current year of assessment as accurately as possible. SARS may request the individual to justify any estimate submitted and may increase the estimated amount if the individual is unable to justify the estimate.

The estimate for the second payment must be equal to the total liability for the year of assessment. Should a taxpayer underestimate his tax liability, an understatement penalty may be levied (refer to **11** for further detail).

The tax payable on the estimated taxable income for the year of assessment must be determined by applying the rate of income tax applicable to that amount of taxable income by making use of the statutory rates or by using the tax tables that are available in the *Reference Guide on Provisional Tax* (available on the SARS website www.sars.gov.za). Employees' tax, any **foreign taxes** paid or proved to be payable by the provisional taxpayer to the government of another country, and any provisional tax already paid during that year of assessment, can be deducted from the estimated provisional tax that is payable for the relevant provisional tax period.

10. What happens on assessment?

All income tax returns that are completed and submitted to SARS are processed. The assessment⁵ shows the final income tax liability on all of the taxable income (including, but not limited to, employment income, business income, taxable capital gains, interest and rental income) earned by the individual for the year of assessment.

Processing includes the following steps:

- The gross income received by or accrued to a South African resident from all over the world is added together to arrive at “gross income”.
- Amounts that are exempt from income tax are excluded from gross income.
- Allowable tax deductions such as current contributions to a retirement annuity fund, donations to approved public benefit organisations and in respect of which a section 18A certificate has been issued and wear-and-tear allowances are taken into account and deducted to arrive at “taxable income”. These deductions are subject to certain limitations as legislated.
- The resultant taxable income is used to determine the income tax due by applying the relevant statutory rates of tax.
- The individual’s income tax due is reduced by a primary rebate and, in the case of an individual who is 65 years of age but less than 75, by an additional secondary rebate, and a further rebate for an individual who is 75 years of age or older. These rebates (or portions of these rebates) are merely in existence to reduce the income tax due, but cannot result in a refund or credit situation. In other words, they are limited to the income tax due. The applicable rebates for the 2013 year of assessment are as follows:
 - Primary rebate: R11 440
 - Secondary rebate: R6 390
 - Tertiary rebate: R2 130
- A Medical Scheme Fees Tax Credit (MTC) may also be available to reduce an individual’s tax liability. An MTC is a rebate in respect of contributions made to a registered medical scheme by individuals below 65 years of age.⁶
- The PAYE and provisional tax paid (jointly referred to as “tax credits”) by the taxpayer during the year of assessment are finally deducted from the taxpayer’s income tax to arrive at the final income tax liability. This will result in a net amount that is either due by the taxpayer or which is refundable to the taxpayer.
- Note that foreign tax credits which are payable on foreign income which is subject to tax in South Africa may also be deducted from the income tax due by an individual, but they may not result in a refund. Any foreign tax credits not allowed in a particular year of assessment may be carried forward to the subsequent year of assessment, and are subject to certain restrictions.

See **Annexure B** for an example on how the tax liability is calculated.

⁵ Assessments are now predominantly regulated by the TA Act. An assessment is defined in the TA Act as the determination of the amount of a tax liability or refund through an assessment by SARS (administrative assessment).

⁶ For more information on the MTC, please see the *Guide on the Determination of Medical Tax Credits and Allowances*, available on the SARS website www.sars.gov.za.

11. Penalties

Individuals who do not comply with their obligations may be liable to certain penalties. The two broad categories of penalties introduced by the TA Act on 1 October 2012 are *administrative non-compliance penalties* in terms of Chapter 15 of the TA Act, intended mainly to promote compliance with the administrative provisions of a tax Act, and *understatement penalties* in terms of Chapter 16 of the TA Act, intended to punish and deter conduct that flouts the law. Each penalty is briefly explained below.

11.1 Administrative non-compliance penalties

The two types of penalties falling within this category are –

- fixed amount penalties; and
- percentage based penalties.

The fixed amount penalty may be levied in the event where a taxpayer fails to comply with an obligation imposed by or under a tax Act and which is listed in a public notice issued by the Commissioner. Currently the only non-compliance that could be subject to this penalty is failure by a natural person to submit an income tax return by the due date. These penalties are applicable for years of assessment commencing on or after 1 March 2006 where a person has two or more outstanding income tax returns for such years of assessment.

Fixed amount penalties are payable at a fixed rate per month. The amount of the penalty is dependent on the amount of taxable income received by a taxpayer in the preceding year of assessment; or on whether that individual is in an assessed loss position (see **Annexure A** for the table of administrative non-compliance penalties). The penalty increases every month by the same amount, up to certain maximums – 35 months, where the taxpayer's address is known to SARS; and 47 months, if the address is not known.

The following will attract percentage-based penalties:

- Failure to pay the provisional tax on the date required;
- Failure to submit a provisional tax estimate;
- Under-estimation of the second provisional tax estimate.

A taxpayer will be liable for a penalty of 10% on the late or non-payment of provisional tax.

In respect of the failure to submit an estimate on time, the penalty is 20% of the difference between actual taxable income, as finally calculated, and the provisional tax and employees' tax paid in respect of that taxable income.

The penalty for under-estimation is payable if the second provisional tax estimate is less than the amounts set out below:

- Taxable income in excess of R1 million:** the estimate may not be less than 80% of the taxable income as finally determined.
- Any other case:** the estimate may not be less than the lesser of –
 - 90% of the taxable income, as finally determined; and
 - the basic amount.

In the case of (i) above, the penalty will be 20% of the difference between the income tax payable on 80% of the taxable income as finally determined, and the amount of provisional tax and employees' tax paid by the end of the year of assessment in respect of that year.

In the case of (ii) above, the penalty will be 20% of the difference between the amount of provisional tax and employees' tax paid by the end of the year of assessment in respect of that year, and the lesser of –

- the amount of income tax payable on 90% of the actual taxable income as finally determined; and
- the amount of income tax payable on the basic amount.

In the case of taxpayers who fall into category (ii) above, no additional tax will be levied if the estimate of taxable income was greater than the basic amount.

11.2 Understatement penalties

Understatement penalties are levied in cases where more serious contraventions of a tax Act take place. The penalty is levied in terms of a prescribed table (see **Annexure B** for the understatement penalty percentage table) if one of the understatements listed below takes place which either prejudices SARS or the *fiscus*:

- A default in rendering a return;
- An omission from a return;
- An incorrect statement in a return; or
- If no return is required, the failure to pay the correct amount of 'tax'.

The understatement penalty could be up to 200% of the tax shortfall.

12. Interest

Interest at the prescribed rate may be charged under the following circumstances:

(a) Late payment

- If a taxpayer is late in paying his or her income tax that is due on assessment.
- If the provisional tax is not paid in full within the applicable prescribed period.

(b) Underpayment

If a taxpayer's taxable income exceeds R50 000 and the provisional tax paid in respect of a year of assessment is not sufficient to offset the taxpayer's assessed final income tax liability in full.

The prescribed rate of interest is fixed from time-to-time by the Minister of Finance. Currently the rate is 8.5% per annum.

13. Criminal offences

Criminal offences *relating to non-compliance* could be committed if an individual does not comply with an obligation imposed under a tax Act. The TA Act contains a comprehensive list of these obligations. These offences are committed if the person performs or fails to perform an act wilfully and without just cause. If convicted, the person is subject to a fine or to imprisonment for a period not exceeding two years. This category includes offences such as (but not limited to) –

- the failure register or notify SARS of a change of particulars when required;
- failure to retain records;
- failure or neglect to submit a return or document to SARS or issue a document to a person as required;
- failure to provide information, documents or material facts to SARS as and when required under a Tax Act; and
- obstructing or hindering a SARS official in carrying out his or her duties.

Criminal offences *relating to tax evasion* could be committed if a person intentionally evades tax or obtains an undue refund, or assists another person in such an endeavour. If convicted, that person may be subject to a fine or to imprisonment for a period not exceeding five years. This includes the making of false entries in books of account or returns without reasonable grounds for believing that entry to be true, providing false answers to information requests, and fraud.

Criminal offences *relating to secrecy provisions* could be committed if a SARS official (current or former) or the tax ombudsman, who have sworn an oath or taken a solemn declaration, and persons or entities to whom the information is disclosed, contravene the secrecy provisions. If convicted, these persons could be subject to a fine or imprisonment for a period not exceeding two years.

Criminal offences *relating to filing a return without authority* occur where a person –

- submits a return or other document to SARS under a forged signature;
- uses another person's electronic or digital signature without that other person's consent; or
- submits to SARS a communication on behalf of another person without that other person's consent.

A person convicted could be subject to a fine or imprisonment for a period not exceeding two years.

14. Conclusion

As has been noted in the previous Budget speeches by the Minister of Finance, the income tax payable by individuals can be reduced if everyone pays their fair share of income tax – the more of us who pay, the less we all have to pay!

It is therefore important that all individuals meet their income tax obligations and that cases of non-compliance are reported to SARS.

As a tax-compliant South African, you are responsible for everything good about our country. The income tax you pay enables Government to meet a host of economic and social development needs of our country and its people, thereby ensuring a better life for everyone.

It is hoped that this guide will contribute to greater clarity regarding the basic application and interpretation of the provisions of the Act pertaining to income tax and the individual.

ARCHIVED

Annexure A – Scale of rates for the 2013 year of assessment

Statutory rates of tax for the 2012/13 year of assessment

TAXABLE INCOME			RATES OF TAX			
R		R	R			R
0	–	160 000		18%	of each R1	
160 001	–	250 000	28 800	+	25%	of the amount above 160 000
250 001	–	346 000	51 300	+	30%	of the amount above 250 000
346 001	–	484 000	80 100	+	35%	of the amount above 346 000
484 001	–	617 000	128 400	+	38%	of the amount above 484 000
617 001	–	and over	178 940	+	40%	of the amount above 617 000

Rebates	Primary rebate	R11 440
	Secondary rebate (Additional for persons of 65 years or older)	R6 390
	Third rebate (Additional for persons of 75 years or older)	R 2 130

Tax thresholds	The tax thresholds at which liability for income tax commences, are –	
	• persons below 65 years	R63 556
	• persons 65 years but not yet 75	R99 056
	• persons 75 years or older	R110 889

Interest exemptions	• Persons below 65 years	R22 800
	• Persons 65 years or older	R33 000

Retirement fund lump sum benefits

There are two categories of lump sum benefits –

- Retirement fund lump sum benefits; and
- Retirement fund lump sum withdrawal benefits.

A retirement fund lump sum benefit refers to a lump sum from a pension, pension preservation, provident, provident preservation or retirement annuity fund upon either –

- Retirement;
- Death; or
- Termination of employment due to redundancy or an employer ceasing trade.

A retirement fund lump sum withdrawal benefit refers to a lump sum from any one of the abovementioned funds which is payable other than as a result of retirement, death, termination of employment or redundancy.

The amounts of R315 000 and R22 500 in the tables below, that is, the threshold where the lump sum payments become taxable, are only available to a taxpayer once-off. Lump sum benefits must therefore be aggregated – from 1 October 2007 in respect of retirement fund lump sum benefits and all severance benefits received or accrued from 1 March 2011, and from 1 March 2009 in respect of retirement fund lump sum withdrawal benefits.

Once all lump sum benefits are aggregated, the tax due is calculated in accordance with the respective tables below. Tax payable on previous lump sums is deducted from the total tax payable to arrive at the tax payable on the current lump sum.

Table for retirement fund lump sum benefits or severance benefits

TAXABLE INCOME	RATES OF TAX
Not exceeding R315 000	0% of the taxable income
Exceeding R315 000 but not exceeding R630 000	18% of the taxable income exceeding R315 000
Exceeding R630 000 but not exceeding R945 000	R56 700 plus 27% of the taxable income exceeding R630 000
Exceeding R945 000	R141 750 plus 36% of the taxable income exceeding R945 000

Table for retirement fund lump sum withdrawal benefits

TAXABLE INCOME	RATES OF TAX
Not exceeding R22 500	0% of the taxable income
Exceeding R22 500 but not exceeding R600 000	18% of the taxable income exceeding R22 500
Exceeding R600 000 but not exceeding R900 000	R103 950 plus 27% of the taxable income exceeding R600 000
Exceeding R900 000	R184 950 plus 36% of the taxable income exceeding R900 000

Table of amount of administrative non-compliance penalties

Assessed loss or taxable income for preceding year	Penalty
Assessed loss	R250
R0 - R250 000	R250
R250 001 - R500 000	R500
R500 001 - R1 000 000	R1 000
R1 000 001 - R5 000 000	R2 000
R5 000 000 - R10 000 000	R4 000
R10 000 000 - R50 000 000	R8 000
Above R50 000 000	R16 000

Understatement penalty percentage table

Behaviour	Standard case	If obstructive or if it is a repeat case	Voluntary disclosure after notification of audit	Voluntary disclosure before notification of audit
Substantial understatement	25%	50%	5%	0%
Reasonable care not taken in completing return	50%	75%	25%	0%
No reasonable grounds for tax position taken	75%	100%	35%	0%
Gross negligence	100%	125%	50%	5%
Intentional tax evasion	150%	200%	75%	10%

Annexure B – Example of how tax is calculated

An employee who is not yet 65 years of age and who is a resident of the Republic, received the following income for the period 1 March 2012 to 28 February 2013 (that is, the 2013 year of assessment):

	R
Pensionable Salary	180 000
Overtime	17 000
Bonus	15 000
Interest from South African Banks	24 000
Rental on fixed property	<u>17 000</u>
GROSS INCOME RECEIVED	<u>253 000</u>

The employee contributed R13 500 to a South African pension fund during the year of assessment.

Tax was deducted during the year of assessment as follows:

	R
Employees' tax	26 985
Provisional tax payments for the year of assessment	6 000

Calculation of taxable income:

Gross income received	253 000
Less: Exempt income:	
South African interest (limited to R22 800) (R22 800)	<u>230 200</u>
Income	<u>230 200</u>
Less: Deductions	
Current pension fund contributions	<u>(13 500)</u>
TAXABLE INCOME	<u>216 700</u>

The income tax payable on the taxable income of R216 700 is calculated by applying the statutory (marginal) rates of tax for the year of assessment ending 28 February 2013 (see the applicable table in **Annexure A**). This is determined as follows:

The taxable income of R216 700 falls within the taxable income bracket of R160 001 – R250 000 as per the table of rates.

As per the table of rates, the tax on the first R160 000 is	28 800
The tax on the amount above R160 000 is 25% of (R216 700 less R160 000)	
Therefore, 25% x R56 700 is	<u>14 175</u>
Normal tax payable	42 975
Less: Primary rebate	<u>(11 440)</u>
Net normal tax payable	31 535
Less: PAYE	(26 985)
Provisional tax paid	<u>(6 000)</u>
TAX LIABILITY (TAX REFUNDABLE ON ASSESSMENT – DUE TO YOU)	<u>(1 450)</u>