example, long-term insurers. These products do not qualify for an MTC in South Africa, similarly if a foreign product is marketed by an entity that is not regulated under legislation that is similar to the MS Act, it will not quality for an MTC.

A South African employer who makes contributions to a foreign medical scheme in respect of an employee has the obligation to determine whether the legislation which governs such foreign scheme is similar to the provisions of the MS Act and whether such contributions will therefore qualify for an MTC.

**Example 4 – Contributions to a foreign medical scheme**

*Facts:*

AC lives in South Africa and is liable to tax in South Africa. AC paid monthly contributions of R2 000 to British Health. The contributions are for AC, AC's spouse and their children. They are all considered dependants under the rules of the medical scheme. British Health is not registered as a medical scheme under the MS Act, but is registered under similar laws in the United Kingdom.

*Result:*

The total monthly contributions of R24 000 for the year of assessment are regarded as qualifying contributions.

Contributions made by a taxpayer to *any* registered medical scheme in respect of him- or herself and any dependant[9] will be a qualifying contribution. It is not a requirement that the spouse or dependant, for example, be admitted as a dependant on the *taxpayer's* medical scheme in order for the taxpayer to qualify for an MTC. It is a requirement that they merely be admitted on *any* registered medical scheme.

**Example 5 – Contributions to different medical schemes**

*Facts:*

GE paid monthly contributions of R2 500 to ABC Health SA, a registered medical scheme. The contributions are for himself, his spouse and their two children. They are all considered dependants under the rules of the medical scheme. GE also paid monthly contributions of R1 500 to Tip Top Health (a registered medical scheme) for his mother who is dependent on GE for family care and support, and is a dependant as defined in section 1 of the MS Act.

*Result:*

The total monthly contributions of R48 000, that is, R30 000 (R2 500 × 12) + R18 000 (R1 500 × 12), are regarded as qualifying contributions in GE's hands in that applicable year of assessment.

## 2.3 Medical scheme fees tax credit

The MTC is set at a fixed amount **per month**. Since the MTC is a "rebate" and not a "deduction", it is not refundable and cannot exceed the amount of normal tax payable.

An employer that effects payment of the medical scheme fees is obliged to take into account the MTC when calculating the employees' tax to be deducted or withheld from employees'

9 Section 1 of the MS Act.

remuneration.[10] This is usually carried out using the various payroll systems. The MTC may be taken into account *at the option of the employer* where the employer does not effect payment of the medical scheme fees, and if proof of payment of those fees has been furnished to the employer. Taxpayers who have not had their MTC taken into account may submit a tax return to take advantage of the credit.

## 2.4 Amount of medical scheme fees tax credit to be deducted from tax due

The MTC for the year of assessment commencing on or after 1 March 2014 is as follows:[11]

- R257 in respect of benefits to the taxpayer;
- R514 in respect of benefits to the taxpayer and one dependant; or
- R514 in respect of benefits to the taxpayer and one dependant, plus R172 for every additional dependant,[12]

for each **month** in that year of assessment for which contributions are paid. The MTC reflected above will apply to qualifying taxpayers irrespective of their age and whether they are disabled or not.

**Example 6 – Determination of MTC**

*Facts:*

AG (aged 45) paid contributions of R5 000 per month to ABC Health SA, a registered medical scheme. The contributions are for AG, AG's spouse and their two children. They are all considered dependants under the rules of the medical scheme.

| | |
|---|---|
| *Result:* | R |
| Contributions made by AG to ABC Health SA (R5 000 × 12) | 60 000 |
| **MTC calculation** | |
| Taxpayer and one dependant | 514 |
| *Plus:* R172 for every additional dependant (R172 × two children) | 344 |
| Total monthly credit | 858 |
| The MTC to be deducted from normal tax payable by AG for the 2015 year of assessment: (R858 × 12) | 10 296 |

R10 296 represents the *maximum* MTC rebate for the year of assessment.

**Example 7 – Effect of MTC on tax payable**

*Facts:*

For the 2015 year of assessment, LM (aged 47) paid R1 700 per month in medical scheme contributions and did not incur any other medical expenses during the year. LM's taxable income for the 2015 year of assessment is R120 000. LM is the main member of the medical scheme, and has one dependant registered on that scheme.

10 Paragraph 9(6) of the Fourth Schedule to the Act.
11 Section 6A(2)(*b*), read with section 4(1), of the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2014.
12 Section 6A(2)(*b*).

| *Result:* | R |
|---|---|
| **MTC calculation** | |
| Total contributions: R1 700 × 12 | 20 400 |
| MTC: Member and one dependant = R514 per month, thus:<br>R514 × 12 months = R6 168 *maximum* rebate for the year of assessment | |
| **Calculation of net normal tax** | |
| Normal tax on R120 000 (at 18%) | 21 600 |
| *Less*: Primary rebate | (12 726) |
| | 8 874 |
| *Less*: MTC | (6 168) |
| Net normal tax due | 2 706 |

The MTC is a rebate against taxes payable and is, as a result, limited to the tax payable before the offset of employees' tax and provisional tax. The MTC can accordingly not create a refund, nor can any excess be carried forward to the next year of assessment.

**Example 8 – MTC may not create refund**

*Facts:*

For the 2015 year of assessment, BA (aged 67) paid R2 500 per month for 10 months in medical scheme contributions and did not incur any other medical expenses during the year. BA's taxable income is R95 000 for the 2015 year of assessment. BA is the main member of the medical scheme, and has two dependants registered on that scheme.

| *Result:* | R |
|---|---|
| Contributions paid to the medical scheme for the 2015 year of assessment:<br>R2 500 × 10 | 25 000 |
| **MTC calculation** | |
| Member and two dependants<br>R514 + R172 = R686 per month<br>R686 × 10 months = R6 860 *maximum* MTC rebate | |
| **Tax due** | |
| Normal tax on R95 000 (at 18%) | 17 100 |
| *Less*: Primary rebate | (12 726) |
| | 4 374 |
| *Less*: MTC (R6 860 limited to R4 374)* | (4 374) |
| Net normal tax due | 0 |

* a rebate may not create or increase a refund

# 3. Part B – Section 6B rebate (additional medical expenses tax credit)

## 3.1 Background

The AMTC is a rebate against taxes payable and is, as a result, limited to the tax payable before the offset of employees' tax and provisional tax. The AMTC can accordingly not create a refund, nor can any excess be carried forward to the next year of assessment.

All taxpayers (taxpayers under 65, taxpayers over 65 and taxpayers with a disability) could qualify to claim an AMTC, however, the extent to which these qualifying medical expenses can be taken into account to calculate the AMTC is different depending on the category within which a taxpayer falls, as explained in more detail below.

## 3.2 Qualifying persons for whom expenses may be claimed

The additional medical tax expenses credit can be claimed by a person in respect of that person and any of his or her dependants as defined.

### 3.2.1 The meaning of "dependant"

There are two definitions for the term "dependant" one of which applies in relation to the MTC, and the other which applies to the AMTC. When determining a "dependant" for purposes of the AMTC, the definition of dependant in section 1 of the MS Act as well as the definition of "dependant" in section 6B(1) will apply.[13]

A "dependant" as defined in section 6B(1) means –

> (*a*) a person's spouse;
>
> (*b*) a person's child and the child of his or her spouse;
>
> (*c*) any other member of a person's family in respect of whom he or she is liable for family care and support; and
>
> (*d*) any other person who is recognised as a dependant of that person in terms of the rules of a medical scheme or fund contemplated in section 6A(2)(*a*)(i) or (ii),
>
> at the time the fees contemplated in section 6A(2)(*a*) were paid, the amounts contemplated in paragraph (*a*) and (*b*) of the definition of "qualifying medical expenses" were paid or the expenditure contemplated in paragraph (*c*) of that definition was incurred and paid.

The definition of "dependant" in section 6B(1) has been widened and now includes any other member of a person's family in respect of whom the person is liable for family care and support.[14]

### 3.2.2 The meaning of "spouse"

"Spouse"[15] in relation to any person, means a person who is the partner of that person –

> (*a*) in a marriage or customary union recognised in terms of the laws of the Republic;

[13] The definition of "dependant" in section 6B(1) also includes the definition of "dependant" as contained in section 1 of the MS Act.

[14] The phrase "any other member of a person's family" includes relations by blood, adoption and marriage etc.

[15] Section 1(1).

(*b*) in a union recognised as a marriage in accordance with the tenets of any religion; or

(*c*) in a same-sex or heterosexual union which the Commissioner is satisfied is intended to be permanent.

### 3.2.3 The meaning of "child" for purposes of the additional medical expenses tax credit

A "child"[16] as defined in section 6B(1) means –

a person's child or child of his or her spouse who was alive during any portion of the year of assessment, and who on the last day of the year of assessment—

(*a*) was unmarried and was not or would not, had he or she lived, have been—

(i) over the age of 18 years;

(ii) over the age of 21 years and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of such year; or

(iii) over the age of 26 years and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of such year and was a full-time student at an educational institution of a public character; or

(*b*) in the case of any other child, was incapacitated by a disability from maintaining himself or herself and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of that year;"

## 3.3 Qualifying medical expenses

### 3.3.1 Expenditure incurred inside the Republic

Expenses paid by a taxpayer during the year of assessment to any duly registered –

(i) medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor, or orthopaedist for professional services rendered or medicines supplied to the person or any dependant of the person;

(ii) nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of services of such nurse, midwife or nursing assistant) in respect of the illness or confinement of the person or any dependant of the person; or

(iii) pharmacist for medicines supplied on the prescription of any person mentioned in subparagraph (i) for the person or any dependant of the person,

will be taken into account in determining the AMTC, provided these expenses have been paid for the taxpayer or any dependant of the taxpayer.

[16] Includes children adopted by any person under the law of the Republic; or under the law of any country other than the Republic, provided the adopted person is under such law accorded the status of a legitimate child of the adoptive parent and the adoption was made at a time when the adoptive parent was ordinarily resident in such country [refer to the definition of "child" in section 1(1)].

In order for the expenses to qualify for the AMTC, the expense must not have been recoverable by the taxpayer from any person, for example, from the taxpayer's medical scheme or an insurer under a top-up medical insurance plan.

**Example 9 – Expenditure not recoverable from medical scheme**

*Facts:*

BA belongs to a registered medical scheme, to which Dr F (who is a duly registered medical practitioner) submitted a claim of R1 000 for consultation fees. The medical scheme only paid R600 of this expense, resulting in BA having to pay the remaining R400.

*Result:*

The difference of R400 (R1 000 less R600) that was not paid by the medical scheme but paid by BA is regarded as a "qualifying medical expense" and will be taken into account when the AMTC is determined.

**Example 10 – Payment to an unregistered medical practitioner**

*Facts:*

BB paid R1 000 to C for a medical consultation. C is a final-year medical student.

*Result:*

The payment of R1 000 is not a "qualifying medical expense" and will not be taken into account when the AMTC is determined, as the amount which BB paid was not to a duly registered medical practitioner.

**Example 11 – Non-prescription medicine**

*Facts:*

BC purchased headache tablets off-the-shelf at the local pharmacy for R50.

*Result:*

As the headache tablets were not prescribed by a duly registered medical practitioner, nor did the expense incurred relate to a physical impairment which is prescribed by the Commissioner, the R50 is not regarded as a "qualifying medical expense" and will not be taken into account when the AMTC is determined.

### 3.3.2 Expenditure incurred outside the Republic

Expenses for medical services and supplies that have been incurred outside South Africa[17] may be taken into account in the determination of the AMTC during a year of assessment if they –

- have been paid during that year of assessment, and
- are substantially similar to qualifying medical services rendered or medicines supplied in South Africa.

[17] Section 6B(1), definition of "qualifying medical expenses" paragraph (*b*).

### 3.3.3 Qualifying disability expenditure

Only expenditure prescribed by the Commissioner and which is necessarily incurred and paid for by the taxpayer in consequence of a disability, qualifies for an AMTC under section 6B, but is subject to certain limitations. These expenses are set out in the *List of Qualifying Physical Impairment or Disability Expenditure, published by SARS on 1 March 2012* (see **Annexure B**).

A "disability"[18] means –

> a moderate to severe limitation of a person's ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if the limitation—
>
> (*a*) has lasted or has a prognosis of lasting more than a year; and
>
> (*b*) is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner.

The expense must be ***in consequence of*** a disability suffered by the taxpayer or any dependant of the taxpayer. The expense will only qualify if it was ***necessarily incurred*** and paid by the taxpayer.[19]

The terms **"necessarily incurred"** and **"in consequence of"** are not defined in the Act; therefore, they retain their ordinary meaning. "Necessary" is defined as "required to be done…needed", while "consequence" is defined as "a result or effect; as a result".[20] In their context within the Act, these phrases mean that there must be a direct link between the expenditure incurred and the disability, and the item or service acquired must be necessary to alleviate or support such disability. This means that a prescribed expense does not automatically qualify for an AMTC by mere reason of its listing.

For example, if a person in a wheelchair buys a hand-held GPS, the cost of the hand-held GPS will not qualify for an AMTC even though the expense has been prescribed (listed) by the Commissioner. This is because the hand-held GPS is not directly connected to this person's disability and is hence neither necessarily incurred, nor incurred in consequence of the disability. In the case of a person who is, for example, visually impaired, the cost of the hand-held GPS may qualify for a deduction.



#### (a) Prescribed diagnostic criteria for a disability

For each of the impairments in the definition of a "disability" in section 6B, the Commissioner has prescribed diagnostic criteria. These criteria seek to assess the functional impact of the impairment on a person's ability to perform daily activities and not the diagnosis of a medical condition. These criteria are discussed below:

*Vision*

The minimum requirement for a person to be classified as a blind person is –

- visual acuity in the better eye with best possible correction, less than 6/18 (0.3); and
- visual field 10 degrees or less around central fixation.

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[18] Section 6B(1).

[19] Section 6B(1), definition of "qualifying medical expenses" paragraph (*c*).

[20] Concise Oxford English Dictionary. Edited by Catherine Soanes and Angus Stevenson. 11th ed. Oxford University Press.

"6/18" means that, what a person with normal vision can read at 18 metres, the person being tested can only read at 6 metres.

"Best possible correction" refers to the position after a person's vision has been corrected by means of spectacles, contact lenses or intraocular (implanted) lenses.

*Communication*

A person is regarded as having a moderate to severe communication disability if, despite appropriate therapy, medication or suitable devices, one or more life activities (as listed below, pending age appropriateness), is substantially limited, that is, more than merely inconvenient or bothersome. In other words, if one or more of the following apply, the individual will be regarded as suffering from a moderate to severe communication disability:

- Inability to make self-understood to familiar communication partners using speech in a quiet setting.
- Inability to make self-understood to both familiar or non-familiar communication partners and incapability of meeting appropriate communication needs for his or her age by using speech, in less than 30 intelligible words.
- Problems in understanding meaningful language by familiar communication partners that lead to substantial difficulty in communicating.
- The need to rely on augmentative or alternative communication (AAC), including unaided (for example, sign language or other manual signs) or aided means of communication (ranging from communication boards to speech generating devices).



*Physical*

A person is regarded as a person with a disability if the impairment is such that the person is –

- unable to walk, for example, a wheelchair user;
- only able to walk with the use of assistive devices, for example, callipers, crutches, walking frames and other similar devices;
- able to walk without the use of assistive devices, but with a degree of difficulty, for example, persons with Cerebral Palsy, Polio (that is, persons who require an inordinate amount of time to walk); and
- functionally limited in the use of the upper limbs.

*Mental*

With the exclusion of intellectual disability, a person is regarded as having a mental disability if that person has been diagnosed (in accordance with accepted diagnostic criteria as prescribed in the *Diagnostic and Statistical Manual IV-TR (DSM-IV-TR)*) by a mental health care practitioner who is authorised to make such diagnosis, and such diagnosis indicates a mental impairment that disrupts daily functioning and which moderately or severely interferes or limits the performance of major life activities, such as learning, thinking, communicating and sleeping, amongst others.

A moderate impairment means a Global Assessment Functioning Score (GAF-Score) of 31 to 60. A severe impairment means a GAF-Score of 30 and below.

*Hearing*

The term "hearing impairment" refers to the functional limitations resulting from a hearing impairment. Hearing impairment is a sensory impairment that will influence verbal communication between speaker and listener.

An ***adult*** is considered moderately to severely hearing impaired when the hearing loss, without the use of an amplification device, is described as follows:

- Bilateral hearing loss with a pure tone average equal to or greater than 25 dBHL in each ear.
- Unilateral hearing loss with pure tone average equal to or greater than 40 dBHL in the affected ear.

A ***child*** is considered moderately to severely hearing impaired when the hearing loss, without the use of an amplification device, is as follows:

- Bilateral hearing loss with a pure tone average greater than 15 dBHL in each ear.
- Unilateral hearing loss with a pure tone average equal to or greater than 20 dBHL in the affected ear.

**Notes:**

- Hearing impairment is an abnormal or reduced function in hearing resulting from an auditory disorder.
- A child is a person who is not over the age of 18 years.
- Amplification devices include hearing aids, implantable devices and assistive listening devices.
- Pure Tone Average (PTA): average of hearing sensitivity thresholds (in decibel hearing level) to pure tone signals at 500Hz and 1000Hz, 2000Hz and 4000Hz of each ear.
- Bilateral hearing loss is a hearing sensitivity loss in both ears.
- Unilateral hearing loss is a hearing sensitivity loss in one ear only.



*Intellectual*

A person is regarded as having an intellectual disability if he or she has a moderate to severe impairment in intellectual functioning that is accompanied by a significant limitation in adaptive functioning in at least two of the following skill areas:

- Communication
- Self-care
- Home living
- Social or interpersonal skills
- Use of community resources
- Self-direction
- Functional academic skills, work, leisure, health and safety

A moderate impairment means an intelligence quotient (IQ) of 35 to 49. A severe impairment means an IQ of 34 and below.

### (b) Confirmation of disability (ITR-DD form)

A person who wishes to claim an AMTC for disability expenses must complete a Confirmation of Diagnosis of Disability form (**ITR-DD**), which is available on the SARS website (**www.sars.gov.za**).The ITR-DD must not be submitted with the annual income tax return, but must be retained for compliance purposes in the event of a SARS audit.[21] The ITR-DD needs to also be completed and endorsed by a duly registered medical practitioner[22] every five years where the disability is of a more permanent nature. If the disability is ***temporary***, the ITR-DD will only be valid for one year, which effectively means that a new ITR-DD must be completed for each year of assessment during which a disability claim is made.

A disability will be regarded as being temporary in nature if that disability is expected to last for ***less than*** five years.

**Part A** of the ITR-DD must be completed by the person with the disability. To ensure that there is no breach of patient-doctor confidentiality, it is important that the authorisation in Part A is duly signed by the person with the disability. The ITR-DD must be signed by a parent, guardian or court-appointed curator, as the case may be, if the person with the disability is a minor, or is physically or mentally unable to do so.

**Part B** of the ITR-DD must be completed by a duly registered medical practitioner who is qualified to express an opinion regarding the person's disability. The practitioner needs to complete the appropriate diagnostic criteria.

In **Part C** of the ITR-DD the registered medical practitioner must –

- indicate and describe if the functional limitations with respect to performing activities of daily living are regarded as either "mild" or "moderate to severe";
- indicate if the disability has lasted, or is expected to last for a continuous period of more than 12 months; and
- sign the declaration.

Examples of duly registered medical practitioners specially trained to deal with a particular disability include the following:

| | |
|---|---|
| Vision: | Practitioner trained to use a Snellen chart (for example, an optometrist or ophthalmologist). |
| Hearing: | Practitioner trained to perform or conduct a battery of the diagnostic audiometry tests (for example, an ear, nose and throat specialist or an audiologist). |
| Speech: | Speech-language pathologist. |

21 Section 31 of the Tax Administration Act, 2011.

22 Registered with the Health Professions Council of South Africa and specially trained to deal with the applicable disability.

| | |
|---|---|
| Physical: | Orthopaedic surgeon, neuro surgeon, physiotherapist or occupational therapist. |
| Intellectual: | Psychiatrist or clinical psychologist. |
| Mental: | Psychiatrist or clinical psychologist. |

See **3.6.2** for a detailed discussion of how the AMTC is determined for persons with a disability.

### 3.3.4 Expenses relating to a physical impairment

Taxpayers are also permitted to take into account qualifying physical impairment expenditure in calculating the AMTC.

The term "physical impairment" is not defined in the Act. However, in the context of section 6B(1), it is regarded as a disability that is less restraining than a "disability" as defined. This means the restriction or limitation on the person's ability to function or perform daily activities ***after maximum correction*** is less than a "moderate to severe limitation". Maximum correction in this context means appropriate therapy, medication and use of devices.

Physical impairments will, for example, include –

- bad eyesight;
- hearing problems;
- paralysis of a portion of the body; and
- brain dysfunctions such as dyslexia, hyperactivity or lack of concentration.

Diabetes and asthma are recognised as medical conditions and not as physical impairments.

Once again, the expense must be ***in consequence of*** a physical impairment suffered by the taxpayer or any dependant of the taxpayer. The expense will only qualify if it was ***necessarily incurred*** and paid by the taxpayer.[23] For a discussion on the terms, "in consequence of" and "necessarily incurred", please refer to **3.3.3**.

**Example 12 – Necessarily incurred, in consequence of**

*Facts:*

JC purchased a wig for R2 500. It is not known why the wig was purchased, as JC has not suffered any abnormal hair loss as a result of disease, accident or medical treatment. It appears JC suffers solely from male pattern baldness.

[23] Section 6B(1), definition of "qualifying medical expenses" paragraph (*c*).

*Result:*

Although the expense of a wig is prescribed by the Commissioner, the expenditure of R2 500 is not a qualifying expense, as the expense is not necessarily incurred in consequence of a physical impairment (male pattern baldness cannot be regarded as a physical impairment).

A taxpayer will be able to claim an AMTC if he or she or any of his or her dependants has a physical impairment that is not a "disability" as defined. These qualifying expenses will, however, be subject to the 7,5% limitation (see **3.6.3**).[24]

## 3.4 Timing of claim for qualifying medical expenses

Qualifying medical expenses can only be claimed in the year of assessment during which they are actually **paid**. Expenses can be incurred during a year of assessment but may not necessarily be paid in that same year of assessment. This will, for example, be the case where the obligation to pay expenses have been incurred towards the end of a year of assessment but have only been paid in the subsequent year of assessment, or where medical expenses are incurred on account and the instalments are only paid in the subsequent year of assessment.

## 3.5 Contributions and qualifying medical expenses deemed to be paid by the taxpayer

Contributions to a medical scheme and qualifying medical expenses paid by a person other than the taxpayer[25] will **not** be taken into account when the AMTC is determined, except for –[26]

- qualifying contributions and medical expenses paid by the estate of a deceased taxpayer for the period up to the date of the taxpayer's death. These costs are deemed to have been paid by the taxpayer on the day before the taxpayer's date of death; and
- qualifying contributions and medical expenses paid by an employer of a taxpayer, to the extent that the amount has been included in the income of the taxpayer as a taxable benefit.[27]

## 3.6 Amount of additional medical expenses tax credit to be deducted from tax due

The calculation of the AMTC to which a person is entitled, is determined based on the following categories:

- Taxpayers aged 65 years and older (see **3.6.1**)
- Taxpayers with a disability (see **3.6.2**)
- Taxpayers under the age of 65 (see **3.6.3**)

These are discussed below.



[24] Section 6B(3)(*c*). This limitation does not apply to taxpayers aged 65 years and older.
[25] See **4** of this guide for practical application.
[26] Section 6B(4).
[27] As provided in paragraph 2(*j*), read with paragraph 12B.

### 3.6.1 Taxpayers aged 65 years and older

Persons aged 65 years and older are no longer entitled to claim all their qualifying medical expenses as a deduction against taxable income.[28] Instead, they may qualify for the AMTC for persons over 65. In order to qualify, the taxpayer must be 65 years of age or older, or would have been 65 years of age or older had the taxpayer died on the last day of the year of assessment. A person who is 65 years of age or older may claim the following AMTC:

Qualifying medical expenditure paid during the year of assessment, amounting to –[29]

- 33,3% of the fees paid to a medical scheme or qualifying foreign fund as exceeds three times the amount of the MTC[30] to which that person is entitled; plus
- 33,3% of qualifying medical expenses[31] paid (out-of-pocket expenses).

To simplify this calculation, the following formula can be used:

**33,3% × {[A – (3 × B)] + C}**

in which formula—

**"A"** represents fees paid to a medical scheme or qualifying foreign fund for the year of assessment;

**"B"** represents the MTC for the year of assessment; and

**"C"** represents all qualifying medical expenses paid during the year of assessment.



**Example 13 – Calculation of AMTC for person who is 65 years of age or older**

*Facts:*

For the 2015 year of assessment, AZ (aged 67) earned a pension income of R215 000 (from which employees' tax of R21 693 was withheld) and annuity income of R42 000. AZ incurred and paid the following medical expenses:

- R3 100 per month for medical scheme contributions for him and his wife.
- R6 250 for out-of-pocket expenses relating to prescription items and visits to duly registered medical practitioners.
- R2 500 for spectacles (that were not covered by the medical scheme) for a physical impairment.
- R500 for medical consultation fees incurred to rush a friend to the emergency room following an accident (the friend is not a dependant of AZ).
- R280 for a consultation with a general practitioner on 20 February 2015. The amount was paid by AZ on 2 March 2015.

All amounts were correctly reflected on AZ's IRP5, and AZ was not entitled to any exemption or deduction during the 2015 year of assessment.

[28] As was previously allowed under the provisions of section 18(2).
[29] Section 6B(3)(*a*).
[30] Section 6A(2)(*b*).
[31] Section 6B(1), definition of "qualifying medical expenses".

| *Result:* | R |
|---|---|
| Total contributions (R3 100 × 12) | 37 200,00 |
| **MTC calculation** | |
| MTC: (R514) × 12 | 6 168,00 |
| **Calculation of tax liability** | |
| Taxable income (R215 000 + R42 000) | 257 000,00 |
| Normal tax on R215 000 (as per tax tables) | 52 031,50 |
| *Less*: Primary rebate | (12 726,00) |
| | 39 305,50 |
| *Less*: Secondary rebate | (7 110,00) |
| | 32 195,50 |
| *Less*: MTC (section 6A rebate) | (6 168,00) |
| | 26 027,50 |
| *Less*: AMTC (section 6B rebate) (see calculation below) | (9 139,52) |
| Net normal tax | 16 887,98 |
| *Less*: Employees' tax | (21 693,00) |
| Due to AZ | (4 805,02) |

**Calculation of AMTC**

A = R37 200 (contributions to a medical scheme)

B = R6 168 (MTC)

C = R8 750 (qualifying medical expenses of R6 250 + R2 500) [Note 1]

*Formula to calculate AMTC:*

*AMTC = 33,3% × {[A – (3 × B)] + C}*

= 33,3% × {[R37 200 – (3 × R6 168)] + R8 750}

= 33,3% × [(R37 200 – R18 504) + R8 750]

= 33,3% × (R18 696 + R8 750)

= 33,3% × R27 446

= R9 139,52

**Notes:**

1. The expense of R500 for the friend who had to be rushed to the emergency room does not qualify since the friend is not a dependant of AZ. The R280 for the consultation with a general practitioner will also not be considered for the 2015 year of assessment since it was paid during the 2016 year of assessment.

### 3.6.2 Taxpayers with a disability

Section 6B(3)(*b*) recognises, as qualifying medical expenditure, amounts (other than expenditure recoverable by the taxpayer or his or her spouse) necessarily incurred and paid by the taxpayer in consequence of a disability suffered by him or her, his or her spouse or his or her child.

The following AMTC may be claimed in respect of qualifying medical expenditure paid during the year of assessment:[32]

- 33,3% of the fees paid to a medical scheme or qualifying foreign fund as exceeds three times the amount of the MTC[33] to which that person is entitled; plus
- 33,3% of qualifying medical expenses[34] paid (out-of-pocket expenses).

To simplify this calculation, the following formula can be used:

**33,3% × {[A – (3 × B)] + C}**

in which formula—

**"A"** represents fees paid to a medical scheme or qualifying foreign fund for the year of assessment;

**"B"** represents the MTC for the year of assessment; and

**"C"** represents all qualifying medical expenses paid during the year of assessment, including disability expenditure.

**Example 14 – Calculation of the AMTC for a person with disability**

*Facts:*

During the 2015 year of assessment, Y (aged 34) earned a salary of R280 000 (excluding any taxable benefit). Y contributed R46 900 towards ABC Medical Aid Scheme, of which the employer paid R24 000. Y's employer withheld employees' tax of R44 386 from Y's remuneration of R304 000 (R280 000 + R24 000), after accounting for the MTC. Y has an ITR-DD, completed and signed by a duly registered medical practitioner, confirming that Y's 4-year old daughter, who is a person with a disability since she has a mild-to-severe hearing impairment in both ears. Y claims R32 691 [Note 1] for two hearing aids for the daughter and also other allowable out-of-pocket medical expenses of R9 232. Y has kept proof of all expenses, and is the main member on the ABC Medical Aid Fund, with two dependants – a spouse and daughter. All amounts were correctly reflected on Y's IRP5 certificate, and Y was not entitled to any exemption or deduction during the 2015 year of assessment.



32 Section 6B(3)(*b*).
33 Section 6A(2)(*b*).
34 Section 6B(1), definition of "qualifying medical expenses".

| *Result:* | R |
|---|---|
| **MTC** | |
| (R514 + R172) × 12 | 8 232,00 |
| **Tax liability** | |
| Income (R280 000 + R24 000) [Note 2] | 304 000,00 |
| Taxable income | 304 000,00 |
| Normal tax on R304 000 | 65 347,00 |
| *Less:* Primary rebate [Section 6(2)(*a*)] | (12 726,00) |
| | 52 621,00 |
| *Less:* MTC [Section 6A(2)] | (8 232,00) |
| | 44 389,00 |
| *Less*: AMTC [Section 6B(3)(*b*)] (see calculation below) | (21 354,29) |
| Net normal tax | 23 034,71 |
| *Less:* Employees' tax | (44 386,00) |
| Due to Y | (21 351,29) |

**Calculation of AMTC**

A = R46 900 (contributions to a medical aid or fund)

B = R 8 232 (MTC)

C = R41 923 (qualifying medical expenses of R32 691 + R9 232)

*Formula to calculate AMTC:*

*AMTC = 33,3% × {[A – (3 × B)] + C}*

= 33,3% × [R46 900 – (3 × R8 232)] + R41 923

= 33,3% × [R46 900 – R24 696] + R41 923

= 33,3% × (R22 204 + R41 923)

= 33,3% × R64 127

= R21 354,29

**Notes:**

1. The payment for the two hearing aids will be a qualifying medical expense since the amount was necessarily incurred and paid for the taxpayer's child in consequence of the child's physical disability.
2. The amount paid by the employer for the employee's benefit represents a taxable benefit under paragraph 2(*j*), read with paragraph 12B. This amount must be included in gross income.

The AMTC for disability may only be claimed if the taxpayer, his or her spouse, or his or her child is disabled.[35] An AMTC in respect of disability is not available if dependants other than the taxpayer, his or her spouse, or his or her child is disabled – such as a parent. In cases where the AMTC is claimed for such dependants, the expenses incurred and paid will be considered, but will be subject to the 7,5% limitation[36] as discussed in **3.6.3**.

### 3.6.3 Taxpayers under the age of 65 without a disability

In addition to the MTC, a taxpayer who is under 65 years of age will be entitled to an AMTC that is limited to 25% of the amount by which the sum of the amounts listed below exceeds 7,5% of the taxable income (excluding retirement fund lump sum benefits, retirement fund lump sum withdrawal benefits, and severance benefits)[37] before taking into account this AMTC:

(i) All contributions made by the taxpayer to a registered medical scheme (in respect of the taxpayer, his or her spouse and any dependant) that exceeds **four times** the MTC; and

(ii) Actual qualifying medical expenses (including physical impairment expenses) paid by the taxpayer and not recoverable from the medical scheme in respect of the taxpayer, his or her spouse or child and any dependant.

In (ii) above, the following expenses must be taken into account in the determination of the AMTC:

- All qualifying out-of-pocket medical expenses relating to services and prescribed supplies; and
- Expenses relating to a physical impairment (if applicable).

To simplify this calculation, the following formula can be used:

$$25\% \times \{[A - (4 \times B)] + C] - (7{,}5\% \times D)\}$$

in which formula—

**"A"** represents fees paid to a medical scheme or fund for the year of assessment;

**"B"** represents the MTC for the year of assessment;

**"C"** represents all qualifying medical expenses paid during the year of assessment; and

**"D"** represents taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit).



35 Section 6B(3)(*b*).
36 Unless the taxpayer is 65 years of age or older, where the 7,5% limitation will not apply.
37 Section 6B(3)(*c*).

**Example 15 – Taxpayer under 65 with no disability**

*Facts:*

During the 2015 year of assessment, Y (aged 34) earned a salary of R300 000 (excluding any taxable benefit). Y contributed R46 900 to ABC Medical Aid Scheme. Y's employer paid R24 000 of the R46 900. Y's employer withheld employees' tax of R50 386 from Y's remuneration of R324 000 (R300 000 + R24 000), after accounting for the MTC. All amounts were correctly reflected on Y's IRP5 certificate, and Y was not entitled to any exemption or deduction during the 2015 year of assessment.

Y is claiming allowable out-of-pocket medical expenses of R19 232 as well as R2 691 incurred and paid for over-the-counter medication for a physical impairment (the expenses appear on the prescribed list). Y has kept proof of all expenses. Y is the main member on ABC Medical Aid Fund and has two dependants.



| *Result:* | R |
|---|---|
| Total contributions paid | 46 900,00 |
| **MTC Calculation** | |
| MTC: (R514 + R172) × 12 | 8 232,00 |
| **Tax liability** | |
| Taxable income (R300 000 + R24 000) [Note 1] | 324 000,00 |
| Normal tax on R324 000 | 71 347,00 |
| *Less*: Primary rebate | (12 726,00) |
| | 58 621,00 |
| *Less*: MTC | (8 232,00) |
| Net normal tax | 50 389,00 |
| *Less*: AMTC (see calculation below) | (2 898,75) |
| | 47 490,25 |
| *Less:* Employees' tax | (50 386,00) |
| Due to Y | (2 896,25) |

**Calculation of AMTC**

A = R46 900 (contributions to a medical aid or fund)

B = R8 232 (MTC)

C = R21 923 (qualifying medical expenses of R19 232 + R2 691)

D = R324 000 (represents taxable income, excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit)

*Formula to calculate AMTC:*

$$\begin{aligned} AMTC &= 25\% \times \{[A - (4 \times B)] + C] - (7{,}5\% \times D)\} \\ &= 25\% \times \{[(R46\ 900 - (4 \times R8\ 232)] + R21\ 923] - (7{,}5\% \times R324\ 000)\} \\ &= 25\% \times [(R46\ 900 - R32\ 928) + R21\ 923] - R24\ 300 \\ &= 25\% \times (R35\ 895 - R24\ 300) \\ &= 25\% \times R11\ 595 \\ &= \underline{R2\ 898{,}75} \end{aligned}$$

**Notes:**

1. The amount paid by the employer for the employee's benefit represents a taxable benefit under paragraph 2(*j*), read with paragraph 12B. This amount must be included in income



**Example 16 – Taxpayer under 65 with no disability**

*Facts:*

During the 2015 year of assessment, X (aged 38) earned a salary of R280 000 (excluding any taxable benefit). X contributed R42 000 towards ABC Medical Aid Scheme. X's employer paid R18 000 of the R42 000. X's employer withheld employees' tax of R38 458 from X's remuneration of R298 000 (R280 000 + R18 000), after accounting for the MTC. All amounts were correctly reflected on X's IRP5 certificate, and X was not entitled to any exemption or deduction during the 2015 year of assessment.

X is claiming allowable out-of-pocket medical expenses of R14 866. X has kept proof of all expenses. X is the main member on ABC Medical Aid Fund and has four dependants – a spouse and three children.

| *Result:* | R |
|---|---|
| Total contributions | 42 000,00 |
| **MTC Calculation** | |
| MTC: (R514 + R172 + R172 + R172) × 12 | 12 360,00 |
| **Calculation of tax liability** | |
| Taxable income (R280 000 + R18 000) [Note 1] | 298 000,00 |
| Normal tax on R298 000 | 63 547,00 |
| *Less*: Primary rebate | (12 726,00) |
| | 50 821,00 |
| *Less*: MTC | (12 360,00) |
| | 38 461,00 |
| *Less*: AMTC (see calculation below) | (nil) |
| Net normal tax | 38 461,00 |
| *Less*: Employees' tax | (38 458,00) |
| Amount due by X | 3,00 |

**Calculation of AMTC**

A = R42 000 (contributions to a medical aid or fund)

B = R12 360 (MTC)

C = R14 866 (qualifying medical expenses)

D = R298 000 (represents taxable income - excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit)

*Formula to calculate AMTC:*

$$
\begin{aligned}
\mathit{AMTC} &= \mathit{25\% \times \{[A - (4 \times B)] + C] - (7{,}5\% \times D)\}} \\
&= 25\% \times \{[\text{R}42\,000 - (4 \times \text{R}12\,360)] + \text{R}14\,866] - (7{,}5\% \times \text{R}298\,000)\} \\
&= 25\% \times [(\text{R}42\,000 - \text{R}49\,440)^{*} + \text{R}14\,866] - \text{R}22\,350 \\
&= 25\% \times [(\text{R}42\,000 - \text{R}42\,000) + \text{R}14\,866] - \text{R}22\,350 \\
&= 25\% \times (\text{R}14\,866 - \text{R}22\,350) \\
&= 25\% \times \text{nil} \\
&= \underline{\text{R nil}}
\end{aligned}
$$

* This amount is limited to R42 000, as it can never exceed the actual contributions paid.

**Notes:**

1. The amount paid by the employer for the employee's benefit represents a taxable benefit under paragraph 2(*j*), read with paragraph 12B. This amount must be included in gross income.

An AMTC may not create or increase an assessed loss, since it is not a deduction, but a tax rebate.

Note that, when determining the AMTC, an assessed loss brought forward from a previous year of assessment must first be set off against the taxable income of the current year of assessment before calculating the 7,5% limitation.



**Example 17 – Claim for physical impairment expenditure**

*Facts:*

During the 2015 year of assessment, X (aged 38) earned a salary of R280 000 (excluding any taxable benefits). X contributed R42 000 towards ABC Medical Aid Scheme. X's employer paid R18 000 of the R42 000. X's employer withheld employees' tax of R42 586 from X's remuneration of R298 000 (R280 000 + R18 000), after accounting for the MTC. All amounts were correctly reflected on X's IRP5 certificate, and X was not entitled to any exemption or deduction during the 2015 year of assessment.

X is claiming allowable out-of-pocket medical expenses of R14 866 as well as R9 450 incurred and paid for over-the-counter medication because of a physical impairment (the expenses appear on the prescribed list). X has kept proof of all expenses. X is the main member on ABC Medical Aid Fund and has two dependants – a spouse and one child.

| *Result:* | R |
|---|---|
| Total contributions | 42 000,00 |
| **MTC calculation** | |
| MTC: (R514 + R172) × 12 | 8 232,00 |
| **Calculation of tax liability** | |
| Taxable income | 298 000,00 |
| Normal tax on R298 000 | 63 547,00 |
| *Less*: Primary rebate | (12 726,00) |
| | 50 821,00 |
| *Less*: MTC | (8 232,00) |
| | 42 589,00 |
| *Less*: AMTC | (2 760,00) |
| Net normal tax | 39 829,00 |
| *Less*: Employees' tax | (42 586,00) |
| Amount due to X | (2 757,00) |

**Calculation of AMTC**

A = R42 000 (contributions to a medical aid or fund)

B = R8 232 (MTC)

C = R24 316 (qualifying medical expenses of R14 866 + R9 450)

D = R298 000 (represents taxable income - excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit)

*Formula to calculate AMTC:*

*AMTC = 25% × {[A – (4 × B)] + C] – (7,5% × D)}*

= 25% × {[R42 000 – (4 × R8 232)] + R24 316] – (7,5% × R298 000)}

= 25% × [(R42 000 – R32 928) + R24 316] – R22 350]

= 25% × (R33 388 – R22 350)

= 25% × R11 038

= R2 760



# 4. How to claim the medical scheme fees tax credit and additional medical expenses tax credit

## 4.1 Persons registered for income tax

The following documentation must be retained for audit purposes when an MTC or AMTC is claimed for a year of assessment:

- Proof of contributions paid to a registered medical scheme or to any other funds registered under similar provisions in the laws of any other country. Contributions paid to a registered medical scheme will be reflected on the medical aid certificate.
- A statement from the medical scheme indicating the total amount of claims submitted to the fund that were not refunded to the taxpayer or paid by the scheme to the

service provider. The medical statements, which are generally released by each medical scheme in February or March each year, usually reflect the total amount for the year of assessment. Taxpayers could be asked to prove that they have paid the amounts disclosed on the medical aid certificates.

- A completed list of amounts not submitted to or recoverable from the taxpayer's medical scheme, together with proof of such amounts incurred and paid.
- In cases where receipts have been made out in the name of a dependant, or contributions or fees in respect of a dependant have been made to a different medical aid to the one to which the taxpayer belongs, SARS will accept a sworn affidavit in which the taxpayer indicates that the contributions, fees or qualifying expenses claimed for the dependant, have actually been paid by the taxpayer (either directly or indirectly).
- A letter from the taxpayer's medical scheme, stating that the benefits allocated to certain medical procedures are exhausted, when applicable.
- A duly completed and signed Confirmation of Disability (ITR-DD) form, if applicable.

The aforementioned documentation as well as receipts must not be submitted with the annual income tax return, but must be stored and made available on SARS's request, in the event that a taxpayer is required to substantiate the medical claims. A taxpayer is required to keep records such as receipts, paid cheques, bank statements, deposit slips and invoices for five years from the date of submission of the return.[38] However, in cases where objections and appeals have been lodged against assessments, the taxpayer must keep all records and data relating to the assessments under objection or appeal until such time that the objection or appeal has been finalised, even if the timeframe for finalisation exceeds five years.

## 4.2 Persons not registered for income tax

Taxpayers who are not required to submit tax returns are generally either employees, or are taxpayers whose income is below the tax threshold. These taxpayers may have an MTC or AMTC that was not taken into account during the year of assessment. The mere submission of a tax return will have no effect on the taxpayer's tax liability if the employer has already taken the MTC into account. The MTC will also not create a refund if the taxpayer has no liability for normal tax.

Taxpayers must request an income tax return at the local SARS branch office, via the SARS Contact Centre or online through the SARS eFiling website **(www.sarsefiling.co.za)** if there is an MTC or AMTC that has not been taken into account, and if the taxpayers wish to apply for a refund. Should the MTC or AMTC result in a reduction of the tax paid, the taxpayer will become entitled to a refund.



[38] Section 29(3) of the Tax Administration Act.

## 5. How to object to the disallowance of an medical scheme fees tax credit or additional medical expenses tax credit

A taxpayer who claimed an MTC or AMTC and who is aggrieved with the assessment issued may object to it. The objection must be in the prescribed form "Notice of Objection" (NOO) which can be obtained via eFiling or at a SARS branch office. The NOO, which states the grounds on which the objection is lodged, must reach the relevant SARS branch office where the taxpayer is on register for income tax within 30 business days after the date of the assessment, or "due date".[39]

The relevant documentation as discussed in **4.1** must be submitted together with the objection. Further information regarding the objection and appeal procedure is available on the SARS website (**www.sars.gov.za**) and is set out in the *SARS Guide on Tax Dispute Resolution*.

## 6. Other information

### 6.1 Relief of customs and excise duty on a motor vehicle adapted for a physically disabled person

The full customs or excise duty on motor vehicles may, by specific permit, be claimed as a rebate under the conditions prescribed by the International Trade Administration Commission (ITAC) (imported vehicles) or SARS (locally manufactured vehicles), after consultation with the South African National Council for the Blind, the Deaf Federation of South Africa, the South African Federation for Mental Health, the National Council for Persons with Physical Disability in South Africa or Epilepsy South Africa or of a body which is affiliated to the Council, Federation or League concerned. These vehicles, including station wagons (but excluding racing cars), must be principally designed for the transport of persons and adapted or be adapted so that they can be driven solely by a physically disabled person. The following conditions apply in this regard:

(a) The adaptation of the motor vehicle must be of such a nature that the physically disabled driver of the motor vehicle has easy access to all controls necessary to drive such a vehicle.

(b) The permit may not be issued within five years of the issue of a previous permit to such disabled person.

(c) Permits may, however, be issued within a shorter period provided that proof is submitted that the motor vehicle previously entered under rebate of duty was stolen or written off by the licensing authorities.

(d) If the vehicle is offered, advertised, lent, hired, let under a lease agreement, pledged, given away, exchanged, sold or otherwise disposed of within five years from the date of entry under rebate items 460.17, 630.20 or 630.22, such foregoing acts shall render the vehicle liable to the payment of duty on a *pro-rata* basis.

The full rebate of either customs or excise duty of such vehicles is regulated as follows:

- Imported vehicles: Part 2 of Schedule 4 to the Customs and Excise Act 91 of 1964, rebate item 460.17, tariff heading 87.00 rebate code 04.02 (transport) and tariff heading 87.03 rebate code 02.04 (to be driven).
- Locally manufactured vehicles: Part 2 of Schedule 6 to the Customs and Excise Act, rebate item 630.20 (transport) and 630.22 (to be driven).

[39] Section 104(5) of the Tax Administration Act, read with the Rules promulgated under section 103 of that Act (GN 550 in *Government Gazette* 37819, dated 11 July 2014).

## Annexure A – The law

### Section 6A of the Income Tax Act 58 of 1962

**6A. Medical scheme fees tax credit—**(1) A rebate, to be known as the medical scheme fees tax credit, must be deducted from normal tax payable by a person who is a natural person.

(2) (*a*) The medical scheme fees tax credit applies in respect of fees paid by the person to—

(i) a medical scheme registered under the Medical Schemes Act; or

(ii) a fund which is registered under any similar provision contained in the laws of any other country where the medical scheme is registered.

(*b*) The amount of the medical scheme fees tax credit must be—

(i) R257, in respect of benefits to the taxpayer;

(ii) R514, in respect of benefits to the taxpayer and one dependant; or

(iii) R514, in respect of benefits to the taxpayer and one dependant, plus R172 in respect of benefits to each additional dependant

for each month in that year of assessment in respect of which those fees are paid.

(3) For the purposes of this section, any amount contemplated in subsection (2) that has been paid by—

(*a*) the estate of a deceased person is deemed to have been paid by the person on the day before his or her death; or

(*b*) an employer of the person is, to the extent that the amount has been included in the income of that person as a taxable benefit in terms of the Seventh Schedule, deemed to have been paid by that person.

(4) For the purposes of this section a **"dependant"** in relation to a person means a "dependant" as defined in section 1 of the Medical Schemes Act.



### Section 6B of the Income Tax Act 58 of 1962

**6B. Additional medical expenses tax credit.—**(1) For the purposes of this section—

**"child"** means a person's child or child of his or her spouse who was alive during any portion of the year of assessment, and who on the last day of the year of assessment—

(*a*) was unmarried and was not or would not, had he or she lived, have been—

(i) over the age of 18 years;

(ii) over the age of 21 years and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of such year; or

(iii) over the age of 26 years and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of such year and was a full-time student at an educational institution of a public character; or

(*b*) in the case of any other child, was incapacitated by a disability from maintaining himself or herself and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of that year;

**"dependant"** means—

(*a*) a person's spouse;

(*b*) a person's child and the child of his or her spouse;

(*c*) any other member of a person's family in respect of whom he or she is liable for family care and support; and

(*d*) any other person who is recognised as a dependant of that person in terms of the rules of a medical scheme or fund contemplated in section 6A(2)(*a*)(i) or (ii),

at the time the fees contemplated in section 6A(2)(*a*) were paid, the amounts contemplated in paragraph (*a*) and (*b*) of the definition of "qualifying medical expenses" were paid or the expenditure contemplated in paragraph (*c*) of that definition was incurred and paid;

**"disability"** means a moderate to severe limitation of any person's ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if the limitation—

(*a*) has lasted or has a prognosis of lasting more than a year; and

(*b*) is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the Commissioner;

**"qualifying medical expenses"** means—

(*a*) any amounts (other than amounts recoverable by a person or his or her spouse) which were paid by the person during the year of assessment to any duly registered—

(i) medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopedist for professional services rendered or medicines supplied to the person or any dependant of the person;

(ii) nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of the services of such a nurse, midwife or nursing assistant) in respect of the illness or confinement of the person or any dependant of the person; or

(iii) pharmacist for medicines supplied on the prescription of any person mentioned in subparagraph (i) for the person or any dependant of the person;

(*b*) any amounts (other than amounts recoverable by a person or his or her spouse) which were paid by the person during the year of assessment in respect of expenditure incurred outside the Republic on services rendered or medicines supplied to the person or any dependant of the person, and which are substantially similar to the services and medicines contemplated in paragraph (*a*); and

(*c*) any expenditure that is prescribed by the Commissioner (other than expenditure recoverable by a person or his or her spouse) necessarily incurred and paid by the person during the year of assessment in consequence of any physical impairment or disability suffered by the person or any dependant of the person.

(2) A rebate, to be known as the additional medical expenses tax credit, must be deducted from the normal tax payable by a person who is a natural person.

(3) The amount of the additional medical expenses tax credit must be—

(*a*) where the person is entitled to a rebate under section 6(2)(*b*), the aggregate of—

(i) 33,3 per cent of so much of the amount of the fees paid by the person to a medical scheme or fund contemplated in section 6A(2)(*a*) as exceeds three times the amount of the medical scheme fees tax credit to which that person is entitled under section 6A(2)(*b*); and

(ii) 33,3 per cent of the amount of qualifying medical expenses paid by the person;

(*b*) where the person, his or her spouse or his or her child is a person with a disability, the aggregate of—

(i) 33,3 per cent of so much of the amount of the fees paid by the person to a medical scheme or fund contemplated in section 6A(2)(*a*) as exceeds three times the amount of the medical scheme fees tax credit to which that person is entitled under section 6A(2)(*b*); and

(ii) 33,3 per cent of the amount of qualifying medical expenses paid by the person; or

(*c*) in any other case, if the aggregate of—

(i) the amount of the fees paid by the person to a medical scheme or fund contemplated in section 6A(2)(*a*) as exceeds four times the amount of the medical scheme fees tax credit to which that person is entitled under section 6A(2)(*b*); and

(ii) the amount of qualifying medical expenses paid by the person,

exceeds 7,5 per cent of the person's taxable income (excluding any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit and severance benefit), 25 per cent of the excess.

(4) For the purposes of this section, any amount contemplated in subsection (3) or the definition of "qualifying medical expenses" that has been paid by—

(*a*) the estate of a deceased person is deemed to have been paid by the person on the day before his or her death; or

(*b*) an employer of the person is, to the extent that the amount has been included in the income of that person as a taxable benefit in terms of the Seventh Schedule, deemed to have been paid by that person.

**Annexure B – The prescribed list of expenditure**

**The prescribed list of expenditure for purposes of disability and physical impairment is set out below:**

**NATURE OF EXPENSE**

**PERSONAL ATTENDANT CARE EXPENSES**

1. Expenditure that is incurred and paid for purposes of special care, for special services to assist, guide, care for a person with a physical impairment or disability, regardless of the place the services are rendered (for example home, nursing home, retirement home etc.).

   Examples of expenditure in this category include nursing services, special care for a person with a disability etc.

   This will include salaries paid to care attendants, agency fees if the care attendant is provided by an agency as well as fees for professional services performed by, for example, nursing homes.

   **Examples:**

   - The parents of a child with a disability employ someone **primarily** to care for and look after the needs of the child who incidentally assists with general housekeeping activities. The salary paid to such person will qualify. However, if the parents employ the person **primarily** to perform housekeeping activities who incidentally assists with the child, the salary paid to such person will not qualify.
   - Actual living-in expenses: Electricity, food and water incurred and paid by the taxpayer for the care attendant. SARS would generally allow the living-in expenses incurred and paid by the taxpayer, if the aggregate amount of such expenses does not exceed 10% of the annual salary payable to a care attendant up to a limit of 50% of the annual domestic worker minimum wage under Area A of the Sectoral Determination 7 for Domestic Workers (currently R18 076.08).

   **Exclusions:**

   - The spouse, parent or child is excluded as a care attendant. For example, if the wife is a person with a disability and the husband looks after her, the amount paid to the husband by the wife will not qualify for a deduction.
   - Any living-in expenses for a person with a disability and any other living-in expenses other than food, electricity and water for a care attendant. For example, the taxpayer cannot claim for the space (for example room) used by the person with a disability in the house.

2. Training for workers and or parents and related expenditure.

   Examples of expenditure in this category include special courses, training undergone by the parents or care attendant who will care for a person with a disability.

**TRAVEL & OTHER RELATED EXPENSES**

Expenditure in this category refers to reasonable travelling expenses (including accommodation, where applicable) incurred and paid by the taxpayer to acquire goods or services (including maintenance of such goods) required by a person with a physical impairment or disability.

**Please remember that the qualifying travel expenses are limited to goods or services required as a consequence of disability. For example, if a person with a disability goes to the doctor with flu, the travelling expenses for this trip do not qualify for a deduction.**

**Examples:**

1. Reasonable travelling expenses (including accommodation) incurred and paid for the person to attend a place that trains him or her in the handling of service animals (including hearing and guide dogs) and other aids or supporting devices.

2. Transportation costs specifically incurred and paid for a learner with a disability who attends a specialised school in instances where such school is not available within the 10 km radius from where the person lives.

3. Reasonable transportation costs incurred and paid to transport a person with a disability to and from home to a protective workshop or day care centre if the following conditions are met:
   - The person must, due to the nature of his or her disability, have no reasonable prospect of finding employment in the open labour market;
   - The person must need daily care and supervision;
   - The person must be a "child" as contemplated in section 18(4) of the Act, who has a "disability" as defined in section 18(3) of the Act; and
   - The protective workshop or day care centre must be a public benefit organisation (PBO) approved by SARS under section 30(3) of the Act.

4. Transportation costs incurred and paid for repairs and maintenance to aids and other supporting devices. For example, if the person takes a wheelchair to the manufacturer for maintenance or repairs, the travelling expenses will be deductible.

5. Transportation costs and other related expenses (for example boarding) paid for an assistant or care attendant away from the primary residence of a person with a disability. For example, if the person with a disability is going away on business or on holiday accompanied by a care attendant, the actual cost of air travel, train, bus or taxi for the care attendant will be deductible. No travelling expenses will be deductible under section 18 of the Act if the taxpayer uses his or her own vehicle or hires a vehicle for the trip.