

EXTERNAL GUIDE

GUIDE FOR EMPLOYERS

IN RESPECT OF

THE UNEMPLOYMENT INSURANCE

FUND

REVISION HISTORY TABLE

| Date | Version | Description |
|-------------|---------|--|
| 06-11- 2020 | 7 | Include new registration requirements from the UI Commissioner |
| 24-02-2021 | 8 | Tax Administration Laws Amendment Act, No. 24 of 2020 and 2021 Budget Speech |
| 13-09-2021 | 9 | Updated include new thresholds effective from 1 June 2021 |
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1 PURPOSE

- The purpose of this document is to assist employers in understanding their obligations relating to Unemployment Insurance Contributions Act No 4 of 2002.

2 SCOPE

- This basic guide explains the legislative requirements applicable to employers for the deduction and payment of unemployment insurance contributions.
- The Unemployment Insurance Contributions Act (UIC Act) provides for the imposition and collection of the contributions to the Unemployment Insurance Fund and is administered by the Commissioner for the South African Revenue Service (SARS).
- This guide is limited to the process that is applicable to employers who are registered as employers with SARS.
- Employers who are registered with the Unemployment Insurance Commissioner (UI Commissioner) must contact the UI Commissioner directly.

3 BACKGROUND

What is Unemployment Insurance Fund

- The Unemployment Insurance Fund (UIF) has been established in order to provide short term relief to workers when they become unemployed or are unable to work because of illness, maternity or adoption leave and also to provide relief to the dependants of a deceased contributor in terms of the UI Act.
- The UIF provides five types of benefits:
 - Unemployment benefits;
 - Illness benefits;
 - Maternity benefits;
 - Adoption benefits;
 - Dependants' benefits.

4 GOVERNING LEGISLATION

Reference to the Act

Paragraphs of the Fourth Schedule to the Income Tax Act
Chapters of the TA Act
Sections of the UIC Act

Meaning

- The paragraphs of the Fourth Schedule referred to in this publication are governed by the Income Tax Act (IT Act) , the Sections are governed by the UIC Act and the sections under the relevant Chapters are governed by the Tax Administration Act (TA Act). References to sections governed by the IT Act are specifically indicated.
- The following provisions of the (TA Act) have been made applicable for the purposes of UIC:
 - The administration thereof;
 - Returns, the production of information, relevant material or things, enquiries, searches and seizures and evidence on oath;
 - Assessments, objections and appeals;
 - The payment, recovery or refund of any contribution, interest and penalty;
 - Representative taxpayers and representative employers;
 - Reporting of unprofessional conduct;

- Transactions, operations or schemes for avoiding or postponing liability;
- Jurisdiction of Courts.

5 REGISTRATION AND DEREGISTRATION

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| Reference to the Act | Sections 8(1), 9(1) and 10 of the UIC Act Paragraph 15(3) of the Fourth Schedule Chapter 3 of the TA Act |
| Meaning | <ul style="list-style-type: none"> • In terms of section 10(1) of the UIC Act, employers are required to register with SARS or UI Commissioner for the purposes of paying UIF contributions. • Registration at SARS: Employers who are – <ul style="list-style-type: none"> ▫ Required to pay PAYE, ▫ Required to pay SDL, or ▫ Have voluntarily registered with SARS; MUST register with SARS for purposes of paying UIF contributions to SARS Commissioner as per section 8(1) of the UIC Act. • Register at UI Commissioner’s office (NOT SARS): The following employers must register at the UI Commissioner’s office for purposes of paying UIF contributions as per section 9(1) of the UIC Act: <ul style="list-style-type: none"> ▫ An employer who is NOT required to register with SARS for employees’ tax purposes in terms of the Fourth Schedule; ▫ An employer who has NOT registered voluntarily with SARS as an employer in terms of the Fourth Schedule; ▫ An employer who is NOT liable for the payment of Skills Development Levy (SDL) in terms of the Skills Development Levies Act, 1999. • However, all employers contemplated in sections 8(1) and 9(9) are required to submit to the Unemployment Insurance Commissioner, such information relating to its employees as the Minister may prescribe by the regulation on a monthly basis. For this purpose, the UI Commissioner requires all employers to be registered with the UI Commissioner! THIS IS NOT FOR PURPOSES OF PAYING UIF CONTRIBUTIONS. • With effect from 01 February 2020, all new employers must therefore register with the UI Commissioner, including those employers who are required to registered with SARS for purposes of paying UIC to SARS. • Employer may register, submit returns and employee information and pay UIC via the the UI Commissioner’s online service available on www.ufiling.co.za. Employers required to register and pay UIC to SARS may do so via the SARS online service on www.efiling.co.za. • Should the employer be registered with SARS and there is no prospect of becoming liable for PAYE and/or SDL in the near future, the employer should deregister with SARS and register with the UI Commissioner. • It should be noted that the employer does not have any discretion as to whether to register with either the UI Commissioner or SARS for purposes of paying UIC. The liability of the employer to register and pay PAYE and/or SDL, or whether or not the employer has registered voluntarily with SARS, will determine with whom the employer must be registered for purposes of paying UIF contributions. |

- Change of registered details: In terms of section 23 of the TA Act, a taxpayer must communicate any changes to registered particulars to SARS within 21 business days.
- In terms of paragraph 15(3) of the Fourth Schedule, an employer shall within 14 days after ceasing to be the employer, notify the Commissioner in writing of the fact of the employer having ceased to be the employer.
- In terms of section 8(2A) of UIC Act, the employer must render a return by such date or dates prescribed by the Commissioner by notice in the Gazette. If during any such period the employer ceases to carry on business in respect of which the employer has paid or becomes liable to pay UI contribution or ceased to be an employer, the employer must within 14 days after the date on which the employer has so ceased to carry on that business or to be an employer, or within such longer time as the Commissioner may approve, render such return as the Commissioner may prescribe.

6 DUTY TO CONTRIBUTE

Reference to the Act Sections 4 and 5 of the UIC Act

Meaning

- Contributions to the UIF are compulsory contributions payable in terms of the UIC Act to fund the benefits available to workers in terms of the UI Act. SARS started collecting the UIC from 1 April 2002 and transfers these contributions to the UIF.

Who must contribute to the fund

- Every employer and every employee to whom the UIC Act applies, must on a monthly basis contribute to the UI Fund.

Exclusions

- The UIC Act applies to all employers and employees, other than :
 - Where an employee is employed by the employer for less than 24 hours a month;
 - Employees in the national and provincial spheres of Government who are officers or employees as defined in section 1(1) of the Public Service Act, 1994;
 - The following holders of public office:
 - the President, Deputy President, a Minister, Deputy Minister, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a Premier, a member of an Executive Council or a member of a provincial legislature; and
 - any member of a municipal council, a traditional leader, a member of a provincial House of Traditional Leaders and a member of the Council of Traditional Leaders.

7 DETERMINATION OF THE CONTRIBUTION

Reference to the Act Section 6 of the UIC Act

Meaning

- The amount of the contribution payable:
 - by an employee, must be 1% of the remuneration paid / payable to him/her by his/her employer;
 - by an employer, in respect of any one of its employees, must be 1%

of the remuneration paid / payable to that employee.

- The employer must pay the total contribution of 2% (1% contributed by the employee and 1% contributed by the employer) to SARS on a monthly basis within the prescribed period.
- Threshold for determining the UI contribution – this threshold is determined by the Minister of Finance by notice in the *Gazette*.
- A contribution shall not apply to so much of the remuneration paid or payable by an employer to an employee, as exceeds:

| Effective date | Amounts |
|----------------------------------|---------------------------------------|
| With effect from 1 April 2002 | R8 099 per month (R97 188 annually) |
| With effect from 1 April 2003 | R8 836 per month (R106 032 annually) |
| With effect from 1 October 2005 | R10 966 per month (R131 592 annually) |
| With effect from 1 July 2006 | R11 662 per month (R139 944 annually) |
| With effect from 1 February 2008 | R12 478 per month (R149 736 annually) |
| With effect from 1 October 2012 | R14 872 per month (R178 464 annually) |
| With effect from 1 June 2021 | R17 712 per month (R212 544 annually) |

| DETERMINATION OF UIC | | RELEVANT ACT |
|----------------------|---|--|
| Step one: | Determine total remuneration | Section 1, definition of “remuneration” of UIC Act |
| Step two: | LESS: Exclusions <ul style="list-style-type: none"> • pension, superannuation allowance or retiring allowance; • that constitutes an amount contemplated in paragraphs (a), (cA), (d), (e) or (eA) of the definition of gross income in section 1 of the Income Tax Act; • by way of commission. | Section 1, definition of “remuneration” of UIC Act |
| == | Remuneration for UIC purposes | |
| Step three | Remuneration x relevant percent | Section 6 of UIC Act |
| == | Unemployment insurance contribution to be paid to SARS via the EMP201 declaration. | |

8 DEDUCTION OF CONTRIBUTION

Reference to the Act Section 7 of the UIC Act

Meaning

- The employer must on a monthly basis deduct or withhold the amount of the employee's contribution from the remuneration paid or payable to that employee during that month.

- If remuneration is paid at intervals other than on a monthly basis, the employer must deduct the employee's contributions on such other basis as coincides with the intervals of remuneration paid by the employer to the employee. However, contributions remains payable to SARS on a monthly basis.
- The employer **may not**:
 - Deduct amounts that are in excess of the amount of the contribution due by the employee;
 - Seek or receive a fee from the employee for complying with the UIC Act;
 - Deduct arrear contributions from the employee after the end of the financial year during which it was payable.

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| 9 PAYMENT OF CONTRIBUTIONS TO SARS |
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Payments

- Contributions deducted must be paid to SARS within seven (7) days after the end of the month in respect of which the contributions are payable. Where the 7th day of the following month falls on a Saturday, Sunday or public holiday, the last work day prior to the 7th day becomes the final due date for payment of the contributions.
- The employer must, together with the payment, submit a return (EMP 201) reflecting the amount of the payment and such other particulars as the Minister of Finance may prescribe.

Channels for requesting the EMP201 declarations

- EMP201 can be requested via one of the following channels:
 - eFiling;
 - e@syFile™ Employer;
 - SARS branch;
- Upon issuing of EMP201 by SARS, a PRN will be pre-populated. The PRN is a 19 digit reference number that must be used by an employer to reference payment to the EMP201.
- With effect from 1 April 2016, manual tax forms and payments will no longer be accepted by SARS.
- Please refer to GEN-PAYM-01-G01 - SARS Payment Rules - Reference Guide obtainable from the SARS website www.sars.gov.za .

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| 10 INTEREST ON LATE PAYMENTS |
|-------------------------------------|

Reference to the Act

Section 12 of the UIC Act
 Chapters 12 of the TA Act

Meaning

- An employer who fails to pay the full amount of any contribution with the period prescribed by the UIC Act, must pay interest on the outstanding amount.
- Interest will be calculated at the “prescribed rate” as defined in section 1 of the IT Act.
- Interest will commence from the day following the last day for payment to the day that payment is received either by SARS or the UI Commissioner.

11 PENALTIES ON DEFAULT

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| Reference to the Act | Section 13 of the UIC Act Chapters 15 of the TA Act |
| Meaning | <ul style="list-style-type: none">• If any contribution remains unpaid after the last day of payment, a penalty of 10% will be imposed of the unpaid amount.• SARS or the UI Commissioner may remit the penalty or any portion thereof in accordance with the provisions of the Chapter 15 of the TA Act. |

12 ESTIMATED ASSESSMENTS

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| Reference to the Act | Chapter 8 of the TA Act |
| Meaning | <ul style="list-style-type: none">• The Commissioner may in terms of Chapter 8 of the TA Act estimate the amount of contribution due by the employer where the employer fails to submit a return as required or where the employer submits a return or information that is incorrect or inadequate.• An employer shall be liable to the Commissioner for the payment of the amount of any employees' contribution so estimated as if such amount was deducted or withheld as contemplated in section 8.• Any estimate of the contribution payable by an employer shall be subject to objection or appeal. |

13 REFUNDS

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| Reference to the Act | Section 7(5) the UIC Act Chapter 13 of the TA Act |
| Meaning | <ul style="list-style-type: none">• If it becomes known to the employer that the payment made in respect of the UI contribution was not due and payable or was in excess of the amount due or payable, the employer must refund the employee such amounts, despite the amount not having been refunded to the employer by the Commissioner. In terms of Chapter 13 of the TA Act, an amount becomes refundable by SARS to the relevant employer, if the amount of any contribution, interest or penalty paid by that employer was not due or payable or is in excess of the amount due or payable.• In terms of section 190 of the TA Act, a person is entitled to a refund of:<ul style="list-style-type: none">▫ an amount properly refundable under a tax Act and if so reflected in an assessment; or▫ the amount erroneously paid in respect of an assessment in excess of the amount payable in terms of the assessment.• In terms of the IT Act, the SARS Commissioner may refuse to authorise a refund until a taxpayer furnishes any returns that are outstanding under the Act. |

14 OBLIGATION OF EMPLOYER TO SUBMIT RECONCILIATION (EMP501)

Reference to the Act Paragraph 14(3) of the Fourth Schedule.
Chapter 4 of the TA Act

- Meaning**
- Paragraph 14(3) of the Fourth Schedule prescribes that an employer is obliged to furnish a reconciliation statement showing details of the total amount of Employees' Tax deducted or withheld as well as the details of IRP5/IT3(a)s issued during the tax year.
 - The purpose of the reconciliation is to:
 - reconcile the amount of contributions that were declared and paid over to SARS on the EMP201s, with the total amount of contributions to UIF reflected on the IRP5/IT3(a)s issued for that tax year;
 - Justify all issued, cancelled, lost and destroyed IRP5/IT3(a)s.
 - The EMP501 must be submitted:
 - by such date or dates prescribed by the Commissioner by notice in the *gazette*; and
 - if the employer ceases to carry on any business or other undertaking in respect of which the employer has paid or becomes liable to pay remuneration to any employee or otherwise ceases to be an employer, within 14 days after the date on which the employer has so ceased to carry on that business or undertaking or to be an employer, as the case may be;
 - or within such longer time as the Commissioner may approve, render to the Commissioner a return.

15 RECORD KEEPING

Reference to the Act Paragraph 14(1) of the Fourth Schedule
Chapter 4 of the TA Act

- Meaning**
- In terms of paragraph 14(1) of the Fourth Schedule every employer must keep a record of remuneration paid and UIC deducted in respect of each employee. This register must contain personal particulars, financial details and income tax reference number of each employee.
 - Chapter 4 of the TA Act states that such records must be maintained in such form, including any electronic form, as may be prescribed by the Commissioner in a public notice.
 - Furthermore, records must be kept for a period of 5 years from the date of the submission of the return and from the end of the relevant tax period where the taxpayer is required to submit a return but has not submitted such return.
 - The records must be available for inspection purposes by SARS or UIF officials. Employers' declaration information on an electronic medium or manual form must also be kept for the prescribed period.

16 DECLARATION INFORMATION

Reference to the Act Section 10 of the UIC Act
Chapter 3 of the TA Act

- Meaning**
- In terms of section 10(1) of the UIC Act, the employer must apply for registration to the Commissioner, in accordance with Chapter 3 of the TA Act
 - The UIF has established an employer/worker database in which all employment details of the workers are stored. This database eliminates paper-based operations including the previous "Blue card" system and the potential for fraudulent claims as each claimant can be pre-qualified for benefits even before such claimant reports to the UIF offices.
 - The UIF has various methods available through which employers can provide such worker's employment details to the fund. This includes sending the information manually to the fund by submitting a UI-19 form. Employers who have electronic payrolls may send their information electronically in the specified format as prescribed by the UI Commissioner.
 - The UI-19 form and details regarding the specified format may be obtained from the specification document on the UIF website www.uif.gov.za.
 - Irrespective of where the employer is registered for payment (SARS or the UI Commissioner), the UI-19 declaration must **ONLY** be submitted to the UI Commissioner.

17 OFFENCES

Reference to the Act Chapter 17 of the TA Act

- Meaning**
- Any person commits an offence if that person:
 - Fails to submit a return or document to SARS or issue a document to a person as required;
 - Fails or neglects to register or notify SARS of a change in registered particulars as required in terms of Chapter 3 of the TA Act;
 - Fails or neglects to retain records as required by the Tax Administration Act;
 - Submits a false certificate or statement under Chapter 4 of the Tax Administration Act;
 - Refuses or neglects to take an oath or make solemn declaration.
 - A person convicted of such an offence will be liable to a fine or imprisonment for a period not exceeding two years.

18 REFERENCES

18.1 LEGISLATION

| TYPE OF REFERENCE | REFERENCE |
|---|--|
| Legislation and Rules administered by SARS: | Income Tax Act, No. 58 of 1962 Tax Administration Act No. 28 of 2011 Unemployment Insurance Contributions Act, No. 4 of 2002 Skills Development Levies Act, No. 9 of 1999 |

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| Other Legislation: | None |
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18.2 CROSS REFERENCES

| DOCUMENT # | DOCUMENT TITLE |
|-----------------|--|
| PAYE-GEN-01-G13 | Guide for Employer in respect of Employees' Tax for 2019 |
| PAYE-GEN-01-G05 | Guide for Employers in respect of Employment Tax Incentive |
| SDL-GEN-01-G01 | Guide for Employers iro the SDL – External Guide |
| GEN-PAYM-01-G01 | SARS Payment Rules – Reference Guide |

19 DEFINITIONS AND ACRONYMS

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| Commissioner | Means the Commissioner or the Acting Commissioner for the South African Revenue Service (SARS) |
| EMP201 | Monthly Employer Declaration |
| EMP501 | Employer Reconciliation Declaration |
| Employee | Section 1 of the UIC Act defines an employee as any natural person who receives any remuneration or to whom remuneration accrues in respect of services rendered or to be rendered by that person but excluding an independent contractor. |
| Employer as defined in Fourth Schedule | Any person who pays or is liable to pay a person an amount by way of remuneration including a person responsible for the payment of an amount by way of remuneration to a person under the provisions of a law or out of public funds or out of funds voted by parliament or Provincial Council. This definition excludes any person not acting as a principal but includes any person acting in a fiduciary capacity or in his/her capacity as a trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or any other fund. |
| Employer as defined in UIC Act | means an employer as defined in paragraph 1 of the Fourth Schedule and includes a "representative employer" as defined in the Fourth Schedule. |
| Fourth Schedule | The Fourth Schedule to the Income Tax Act, No. 58 of 1962 |
| IT Act | The Income Tax Act No. 58 of 1962. |
| PAYE | Pay As You Earn, also known as employee's tax. |
| Relevant material | As defined per section 1 of the Tax Administration Act means any information, document or thing that is foreseeable relevant for tax risk assessment, assessing tax, collecting tax, showing non-compliance with an obligation under a tax Act or showing that a tax offence was committed |
| Remuneration for purposes of UIC Act | means remuneration as defined in paragraph 1 of the Fourth Schedule, but does not include any amount paid or payable to an employee – <ul style="list-style-type: none"> • by way of pension, superannuation allowance or retiring allowance; • which constitutes an amount contemplated in paragraphs (a), (cA), (d), (e) or (eA) of the definition of gross income in section 1 of the Income Tax Act; or • by way of commission. |
| Representative employer | Representative employer contemplated in the Fourth Schedule means: <ul style="list-style-type: none"> • In the case of the company, the public officer of that company, or, in the event of such company being placed in liquidation or under judicial management, the liquidator or judicial manager, as the case may be; • In the case of any municipality or any body corporate or unincorporated (other than a company or a partnership), any manager, secretary, officer or other person responsible for paying remuneration on behalf of such municipality or body; • In the case of a person under legal disability, any guardian, curator, administrator or other person having the management or control of the affairs of the person under legal disability; or • In the case any employer who is not resident in the Republic, any agent of such employer having authority to pay remuneration. <p>The representative employer is not relieved from any liability, responsibility or duty of</p> |

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| | the employer and is therefore, subject to the same duties, responsibilities and liabilities as the employer. |
| SARS | The South African Revenue Service. |
| Seventh Schedule | The Seventh Schedule to the Income Tax Act, No. 58 of 1962 |
| TA Act | Tax Administration Act No.28 of 2011 |
| UI Act | The Unemployment Insurance Act No. 63 of 2001 |
| UI Commissioner | Unemployment Insurance Commissioner. |
| UIC | unemployment insurance contributions |
| UIC Act | The Unemployment Insurance Contributions Act No. 4 of 2002 |
| UIF | Unemployment Insurance Fund |

DISCLAIMER

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

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

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