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TAX AND STATUTORY UPDATE AND REFRESHER

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IBDO

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DRAFT LAWS AMENDMENT BILL 2023

DRAFT LAWS AMENDMENT BILL 2023

TAX REGISTRATION FOR FOREIGN EMPLOYERS

► Requirement to withhold PAYE

- The distinction between resident and non-resident employer removed
- Non-resident employers required to withhold PAYE

► PAYE registration

- Non-resident employers have to register for PAYE as they are required to withhold PAYE
- Process a South African payroll and submit returns








Potential administrative nightmare for foreign institutions with SA partnerships



DRAFT LAWS AMENDMENT BILL 2023

TWO-POT SYSTEM

How does this work?

-  From 1 March 2024, one-third will be allocated to savings and two-thirds to the retirement pot
-  Savings can be accessed once a year for emergencies (not certain what would indeed constitute this)
-  Minimum of R2 000 withdrawal will be allowed per tax year
-  All retirement savings to date will be governed using the existing rules
-  At retirement, any of the savings pot not used will be allocated to the lump sum portion and can be withdrawn
-  On 1 March 2024, the lower of 10% or R25 000 will be used as a start of the savings pot that individuals can use
-  The retirement pot will not be accessible until retirement

REFRESHER TOPICS

VISTING PROFESSORS

Tax as employees or independent contractors



Dominant impression test independent contractor vs employees



Highly likely that the individual would be an employee, therefore subject to PAYE



Benefits i.e., accommodation and travel would be taxable



Accommodation benefit may be exempt (90-day rule)



Where the individual is an independent contractor, potential PAYE withholding obligation and registration



SA payroll to be run and PAYE paid by the offshore employer

HOME OFFICE ALLOWANCES (AND CLAIMS)

REQUIREMENTS TO CLAIM HOME OFFICE EXPENSES

In terms of the section 23(b) the below requirements should be met:

If the room is regularly and exclusively used for the purposes of your trade; and



If more than 50% of your remuneration consists of commission or variable payments based on your work performance, more than 50% of those duties must be performed otherwise than in an office provided by your employer.

If your remuneration consists only of a salary and similar remuneration, your duties must be mainly performed in this part of the home. It, therefore, means you must perform more than 50% of your duties in your home office; or



HOME OFFICE ALLOWANCES (AND CLAIMS) CONT.

TYPES OF EXPENDITURE THAT CAN BE CLAIMED



BELOW ARE THE TYPICAL EXPENSES THAT CAN BE CLAIMED:

1

Rent of the premises

2

Interest on a bond

3

The cost of repairs to the
premises

4

Other expenses in connection
with the premises - including
wear and tear in terms of
section 11(e) of the act.

HOME OFFICE ALLOWANCES (AND CLAIMS) ^{CONT.}

SUPPORTING DOCUMENTS THAT MAY BE REQUIRED BY SARS IN AN AUDIT

Below are the typical documents that SARS may request when a taxpayer claims a home office claim:



A letter from your employer stating that you were permitted to work from home



Proof that more than 50% of your duties/work was performed in your home office. In this regard, you will need to provide records of the dates you worked from home and from your employer's office during the tax year



A copy of your home's floor plan showing that the space is a dedicated home office



Photographs showing the space that is specifically equipped for work



The underlying apportionment calculation showing how you calculated the amount reflected on the tax return



Documentation to prove the actual expenses incurred (e.g., lease agreement, bond statements, bills from the municipality, etc.)



BURSARIES TO EMPLOYEES AND RELATIVES OF EMPLOYEES

TAX IMPLICATIONS OF BURSARIES TO EMPLOYEES (SECTION 10(1)(Q))

Bursary is exempt if the following is in place?

- ▶ The bursary is provided to an employee to study at a recognized educational or research institution
- ▶ The employee is required to reimburse the employer in case they fail to complete their studies
- ▶ There is no limit as to the amount of bursary that can be provided to the employee
- ▶ There is no remuneration limit for what the employee should be earning





BURSARIES TO EMPLOYEES AND RELATIVES OF EMPLOYEES ^{CONT.}

TAX IMPLICATIONS OF BURSARIES TO RELATIVES OF EMPLOYEES (SECTION 10(1)(QA))

Bursary is exempt if the following is in place?

The employee in question must not earn more than R600 000 per annum

The bursary for studies will be exempt if they don't exceed the following amounts and the relative in question is not disabled:

- ▶ Grade R to Grade 12: **R20 000**
- ▶ Tertiary education: **R60 000**

The bursary for studies will be exempt if they don't exceed the following amounts and the relative in questions is disabled:

- ▶ Grade R to Grade 12: **R30 000**
- ▶ Tertiary education: **R90 000**

TAX DIRECTIVES

WHEN TO APPLY FOR A TAX DIRECTIVE

When a lump sum payment is made to an employee, a tax directive should be sought



SARS STATEMENT OF ACCOUNT

WHY IS THIS CRITICAL?



Ensure that returns are submitted on time and captured as such by SARS



Payments are captured on time by SARS



No unallocated payments of the SARS PAYE account



Deal with journals in case of late payments or late submission



Ensure that the PAYE status is clear



REAL TIME PROCESSING AND REPORTING

WHY IS THIS IMPORTANT?



SARS will introduce monthly reconciliation from the 2025 tax year



This will replace the bi-annual reconciliation currently submitted in October and May each year



This means that, all payments made to employees should be processed in real time



This ensure real time reporting



This requires real time processing



All payments need to be processed in the month the payment is made



Wage types and coding also need to be accurately captured and updated on the payroll system timeously



A photograph of a diverse group of people in a meeting or workshop. Several individuals have their hands raised, indicating active participation. The scene is brightly lit by natural light from a large window in the background. The image is partially overlaid by a dark grey triangle on the right and a red triangle at the bottom right.

QUESTIONS FROM THE PARTICIPANTS

REFUND OF OVERPAYMENT OF AMOUNTS

WHY IS THIS IMPORTANT?



Question

- ▶ What happens when an employee has been overpaid and has to return the funds?
- ▶ Should the funds be gross or net?



Response

The refund amount should be gross, as the actual amount paid to the individual was the gross amount

- ▶ PAYE was withheld merely as required by law, the actual benefit to the employee is the gross amount
- ▶ This also ensures that the employee's income is reflected correctly
- ▶ Helps avoid prejudice by having the employee in a different tax bracket.

EMPLOYMENT TAX INCENTIVE REMUNERATION



Question

- ▶ Which deductions can be processed in arriving at remuneration for ETI purposes



Response

- ▶ ETI Act does not define or prescribe what deductions can be made against remuneration other than just define what is monthly remuneration
- ▶ Therefore, because the ETI is a deduction against PAYE, it would then be prudent to then use remuneration as calculated for PAYE purposes in arriving at the remuneration amount for ETI Act.

QUESTIONS?



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