



# A 360 degree view of Individual Taxpayers

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- Who is required to submit an ITR12?
- When will a natural person be a provisional taxpayer?
- How should non-taxable receipts be treated?
- How should exempt receipts be treated?
- How will the tax calculation and the completion of an ITR12 be impacted if spouses are married in community of property? Also, how will this affect the tax consequences arising when a spouse passes away?
- What deductions can be claimed against allowances and how should these flow into the ITR12?
- When can home office expenses be claimed and how should the deduction be calculated?
- Specific issues related to commission earners and deductions claimable by these taxpayers
- Specific issues related to a rental trade and the deductions available against the income earned (as well as related losses)
- When will losses realised by a taxpayer be ring-fenced?
- How should annuity income and lump sums from employers (including severance benefits) be treated?
- How should receipts as beneficiary of a trust be dealt with in the tax calculation and declared in the ITR12?
- How should disposals of capital assets be dealt with? What exclusions are available? In particular, what tax consequences will arise on the disposal of a primary residence?
- How should a taxpayer's contributions to retirement funds be treated? How will the deduction be calculated and how should it be declared on the ITR12?
- How will a taxpayer's donations impact the calculation of taxable income and how should it be declared on the ITR12?
- What rebates can be claimed by a taxpayer related to contributions to a medical aid as well as other medical costs incurred?

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# Introduction: Who is required to submit an ITR12?



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# Persons not required to submit a return

- Although a taxpayer still has to register for income tax, he/she is not liable to submit a return for the 2019 year of assessment if he/she does not have any deductions to claim and if his/her gross income consists solely of gross income described in one or more of the following:
  - Remuneration income that:
    - Is for the full year of assessment;
    - Is paid or payable from one single source (e.g. one employer);
    - Does not exceed R500 000;
    - Does not include any allowance or advance (example travel allowance, public office allowance); and
    - Employees' tax has been deducted or withheld in terms of the deduction tables prescribed by the Commissioner.
  - Interest income from a source in the Republic not exceeding:
    - R23 800 in the case of an individual below the age of 65 years; or
    - R34 500 in the case of an individual aged, or above the age of, 65 years
    - R23 800 in the case of the estate of a deceased person
  - Dividends and the individual was a non-resident for the 2019 year of assessment
  - Amounts received or accrued from a tax free investment
- Please note: If a taxpayer earned remuneration for foreign services rendered, the taxpayer is required to submit a return for the 2019 year of assessment (even if the amount is below R500 000)

# When will a natural person be a provisional taxpayer?

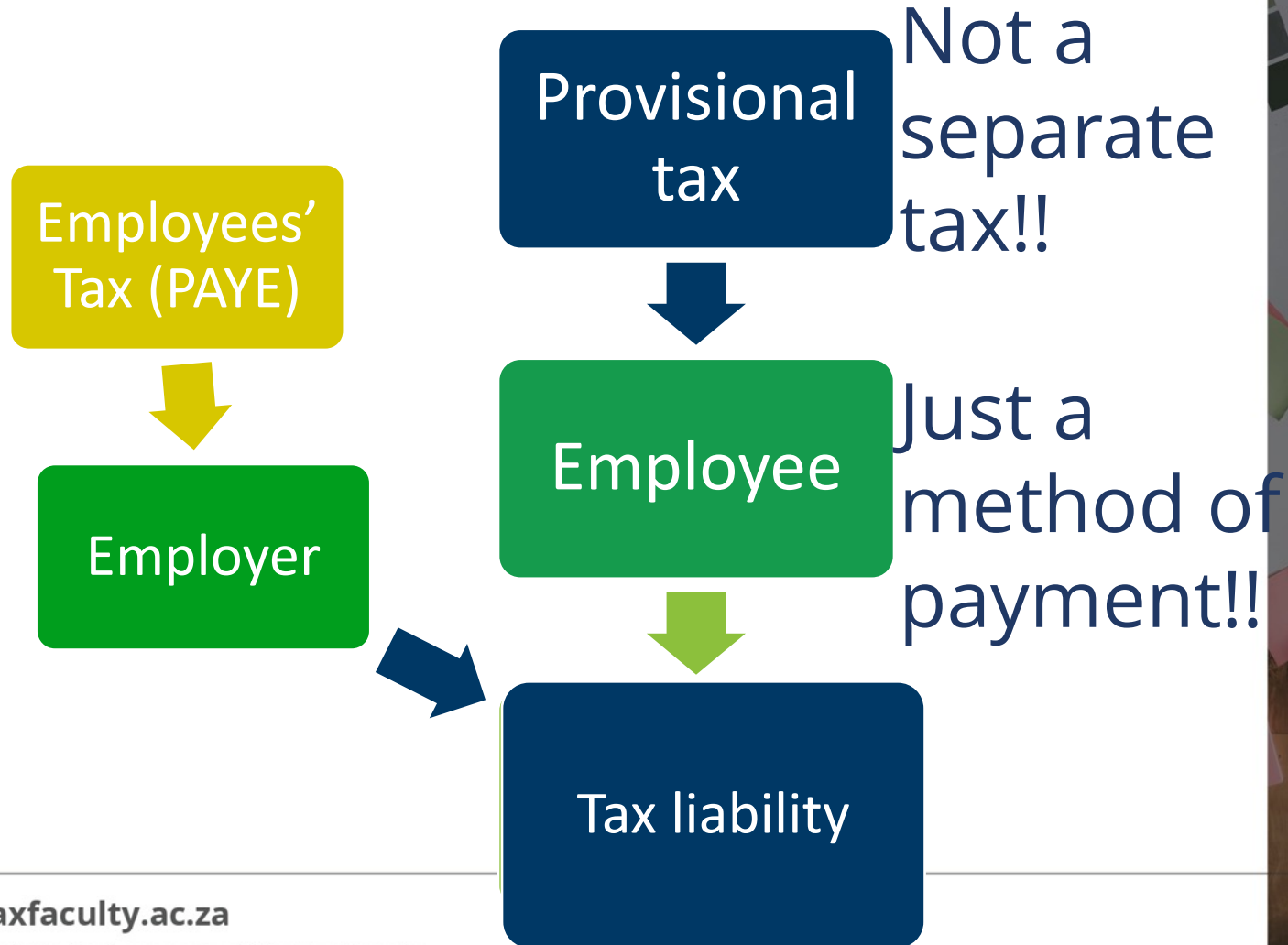


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# Bigger picture



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# Who are provisional taxpayers? (Paragraph 1)

## Natural persons

- Person who derives income other than remuneration or an allowance or advance
- Person who is notified by the Commissioner that he/she is a provisional taxpayer
- Excluding: A person exempt from provisional tax per paragraph 18
- What about directors of private companies and members of CCs???
  - No longer employees
  - Therefore, now provisional taxpayers

# Exclusions

- Natural person who does not derive any income from the carrying on of any business AND
  - the taxable income of that person for the relevant year of assessment does not exceed the tax threshold; OR
  - the taxable income of that person for the relevant year of assessment which is derived from interest, dividends, foreign dividends and rental from the letting of fixed property does not exceed R30 000
- Small business funding entity

Taxpayer's age	2021 year of assessment	2020 year of assessment
Taxpayer < 65	R83 100	R79 000
Taxpayer between 65 and 75	R128 650	R122 300
Taxpayer ≥ 75	R143 850	R136 750

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# Compliance

When must a return be submitted?

	28 February 2021 year-end
First payment	31 August 2020
Second payment	28 February 2021
Third payment	30 September 2021

- IRP6 return must be completed for provisional taxpayers
- What if the total amount of tax due is R0?
  - IRP6 return IS required
- What if the taxable income is R0?
  - IRP6 return IS NOT required
- What happens if a taxpayer fails to submit an IRP6 return?
  - The Commissioner may estimate the taxable income and determine the tax payable (paragraph 19(2))

# How should non-taxable receipts be treated?



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# Working

- Examples
  - Donation received
  - Inheritance received
- Must be declared

**Amounts Considered Non-Taxable** (Excluding amounts received / accrued as a beneficiary of a trust(s), or deemed to have accrued in terms of s7)

Did you receive any income that you consider non-taxable?

Y

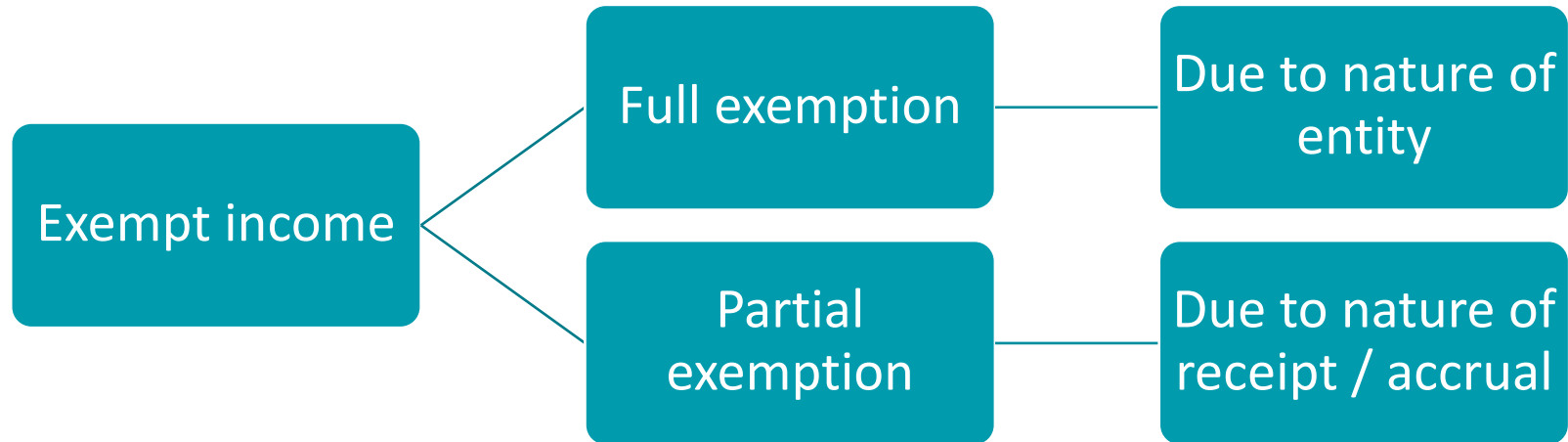
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## How should exempt receipts be treated?

# Types of exemptions



# Exempt bodies

Section	Description
10(1)(a) and (bA)	Receipts of the Government, provincial administrations and municipalities
10(1)(c)(iii), 10(1)(c) (iv) and (v)	The salary of foreign diplomats and foreign domestic or private servants
10(1)(cE)	Registered political parties
- 10(1)(cG) -	Foreign owners or charters who are non-resident operators of ships / aircrafts in South Africa
10(1)(cN)	Public benefit organisations (PBO) approved by the Commissioner
10(1)(cO)	Recreational clubs approved by the Commissioner
10(1)(e)(i)	All <u>levies</u> received by the body corporate of sectional title units or share block companies. Any <u>other income</u> (e.g. interest or rental income) in excess of R50 000 is subject to tax

# Exempt receipts related to pensions and compensation

- The following pensions will be exempt from normal tax:
  - Section 10(1)(c)(ii) – Pension payable to State President, Vice State President or their widows
  - Section 10(1)(g) – War pensions or pension payable due to disease related to mining
  - Section 10(1)(gA) and 10(1)(gB) – Specific disability pension and other compensation
  - Section 10(1)(gC) – Lump sum or annuity paid to resident from source outside SA in relation to employment outside SA
    - Only if paid to a resident from foreign fund
    - Apportion amount based on number of years that services were rendered in SA
  - Lump sum / Annuity x  $\frac{\text{Number of years of services rendered in SA}}{\text{Total number of years that services were rendered}}$

# Exempt receipts related to benefits

- Section 10(1)(mB) – Receipt in terms of the Unemployment Insurance Act (TERS benefit)
- Uniforms
  - Exempt ito s 10(1)(nA) if:
    - The employee must wear the uniform exclusively for work purposes; AND
    - The uniform can clearly be distinguished from ordinary clothing
  - Receipt of uniform or uniform allowance will be exempt (as long as it is reasonable)
- Relocation benefits
  - Exempt ito s 10(1)(nB):
    - Moving costs (employee and his/her family and personal effects)
    - Costs of sale of previous residence and acquisition of new residence
    - Renting temporary accommodation for the employee and his/her family for a maximum of 183 days
- Fringe benefits
  - Broad-based employee share plans and share incentive scheme awards (unvested)



# Other exempt receipts related to employment

## Bursaries or scholarships (section 10(1)(q))

Exempt: bona fide scholarship or bursary granted to assist or enable any person to study at a recognised educational or research institution

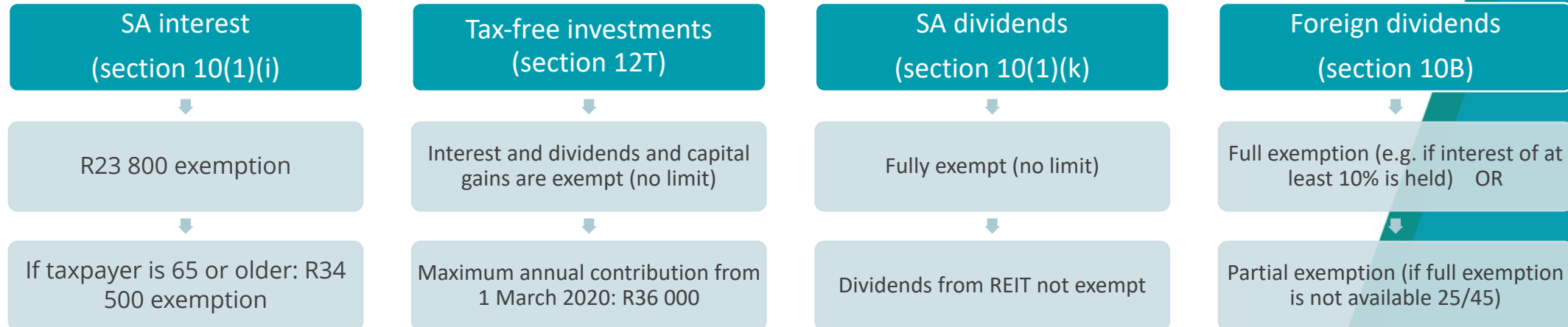
1. Open bursary – 100% exempt
2. Bursary for employee to further his/her studies – 100% exempt (requirement to reimburse employer)
3. Bursary to a family member of an employee – Partial exemption
  - Employee's remuneration proxy  $\leq$  R600 000
    - Able-bodied learner
      - NQF level 1 – 4 : R20 000 per bursary per year
      - NQF level 5 – 10 : R60 000 per bursary per year
    - Disabled learner (with a disability as defined in section 6B)
      - NQF level 1 – 4 : R30 000 per bursary per year
      - NQF level 5 – 10 : R90 000 per bursary per year
  - Be careful!
    - 2020 Budget speech: A number of employer bursary schemes seek to reclassify ordinary remuneration as a tax-exempt bursary granted to the dependants of an employee
    - Proposal: Government proposes to close this loophole, with amendments effective on 1 March 2020

# Section 10(1)(o) – Exemption related to employment outside South Africa

Services rendered outside SA by resident

- To resident or non-resident employer
- If outside SA for > 183 full days during a 12 month period of which 60 days must be continuous
- From 1 March 2020 this will become a partial exemption of R1.25million if the requirements are met
- Exemption only for normal tax (not SDL etc)
- Interpretation Note 16 (issue 3) for more guidance:  
<https://www.sars.gov.za/AllDocs/LegalDoclib/Notes/LA/IntR-IN-2012-16%20-%20Exemption%20Foreign%20Employment%20Income>

# Interest and dividends



# Other exemptions

- Section 10(1)(u) – Alimony, allowance or maintenance for taxpayer in divorce proceedings after 21 March 1962
- Section 10A – Capital element of a purchased annuity
  - Exempt portion =  $\frac{\text{CP (capital)}}{\text{Total proceeds}} \times \text{Annuity}$

No need to complete section 10(1)(i) exemption Applied automatically

Did you receive exempt local and/or foreign dividend income? Y  N

**Amounts Considered Non-Taxable** (Excluding amounts received / accrued as a beneficiary of a trust(s), or deemed to have accrued in terms of s7)

Did you receive any income that you consider non-taxable? Y  N

**Amounts Received/Accrued Considered Non - Taxable – Rand only, no cents**(Excluding amounts received / accrued as a beneficiary of a trust or deemed to have accrued in terms of s7)

Amounts accrued to you as an exclusive deemed resident of another country in terms of a double taxation agreement between RSA and that other country

R

Exempt Amount in terms of s10(1)(o)

R

Donations

R

Exempt Local and Foreign Dividends

R

Interest earned by a non-resident in terms of s10(1)(h)

R

Inheritances

R

Foreign Pension

R

Other

R

Description Relating to Other



How will the tax calculation and the completion of an ITR12 be impacted if spouses are married in community of property?  
Also, how will this affect the tax consequences arising when a spouse passes away?



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# Treatment of income

- Passive income that forms part of the joint estate
  - Aggregate and split 50/50
  - E.g. interest, dividends, rental income
  - Regardless in whose name the investment is (unless specifically excluded from the joint estate)
  - Does this split feature on the ITR12?

Marital  
Status

Not Married

Married in Community of Property

Married out of Community of Property

- Income specifically excluded from the joint estate or income from rendering of services
  - Included in the taxable income of only one spouse

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# Treatment of exemptions

- Exemptions that are per person – claimable in full by each spouse
  - Section 10(1)(i) interest exemption
  - R100 000 general exemption related to donations
  - CGT annual exclusion of R40 000
  - CGT small business asset exclusion of R1 800 000

# Treatment of rebates

- Personal rebates (section 6(2))
  - Claimable by each spouse in full
- Estate duty abatement of R3 500 000
  - Unused portion carried over to the surviving spouse
  - Spouses married in and out of community of property
- Section 6A Medical credit
  - Claimable only by the main member of the medical aid
- Section 6B Medical credit
  - Claimable by the spouse who is actually incurring the out-of-pocket medical expenses

# What deductions can be claimed against allowances and how should these flow into the ITR12?



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# Subsistence allowance: Basic working

- When an employee must **spend at least one night away** from usual residence for business purposes
  - Usual residence must be in SA
  - Not applicable for allowance received to move to a new place of residence (since no usual residence exists at that point in time)
- An anomaly arises when an employee purchases meals and incurs incidental costs during a day trip for work, but the employer has not explicitly instructed the employee to do so
- 2020 proposal: legislation to be amended to exempt reimbursement expenses incurred by an employee for meals and incidental costs during a business day trip, provided the employer's policy allows for such

# Calculation

- Can claim costs against allowance received
  - Actual accommodation, meals and other incidental costs (records must be kept)  
OR
  - Deemed cost for each day or part of a day that a recipient is away from usual residence for business purposes
    - In SA:
      - meals and incidental costs: R452 (2020: R435) per day
      - incidental costs only: R139 (2020: R134) per day
  - Outside SA: Tables (convert to Rand using average exchange rates)
  - Therefore, only ACTUAL costs allowed for accommodation (no deemed option)
  - Can only claim for *ad hoc* allowances, not applicable if salary is structured to include a fixed monthly subsistence allowance
  - Can only claim if costs are incurred by employee (if incurred by employer, no deduction against allowance)

# Example 1: Employer pays for some meals

During the 2021 year of assessment B was required to travel within South Africa for business purposes. B spent five nights away from home and returned home on the sixth day. B's employer paid the hotel accommodation costs and breakfast costs. Guests at the hotel were not obliged to eat breakfast at the hotel but on the days they did, the hotel would add the cost of the breakfast ordered to their hotel bill. B settled the hotel bill (accommodation cost of R4 250 and breakfast of R429) using his personal credit card and was subsequently reimbursed by his employer.

The employer also paid B an allowance of R450 per day to enable him to pay for other meals and incidental costs. B received a total allowance of R2 700.

B did not keep any supporting documentation for his expenditure on meals and incidental costs, apart from the cost of breakfast.

*(Source: Interpretation Note 14 Issue 4 adapted)*

# Conclusion

The reimbursement of R4 679 (R4 250 + R429) is not included in B's taxable income.

The total amount deemed to have been actually expended on meals and incidental costs is R2 712 (R452 per day as per the relevant *Government Gazette* × six days) less the breakfast expenditure of R429 borne by the employer by way of a reimbursement, that is, R2 283.

Accordingly, the taxable portion of the allowance which must be included in B's taxable income is R417 (R2 700 – R2 283).

## Example 2: Employer pays for some meals

During the 2021 year of assessment D was required to travel within South Africa for business purposes. D spent five nights away from home and returned home on the sixth day. D's employer paid for the hotel accommodation. The hotel provides bed and breakfast accommodation and levies a single inclusive charge irrespective of whether or not guests eat breakfast. D settled the hotel bill totalling R4 800 using his personal credit card and was subsequently reimbursed by his employer.

The employer also paid D an allowance of R450 per day to pay for other meals and incidental costs. D received a total allowance of R2 700 and did not keep any supporting documentation for expenditure on meals and incidental costs.

*(Source: Interpretation Note 14 Issue 4 adapted)*



# Conclusion

The reimbursement of R4 800 is not included in D's taxable income.

The total amount deemed to have been actually expended on meals and incidental costs is R2 712 (R452 per day as per the relevant *Government Gazette* × six days). The *Gazetted* amount does not need to be reduced for the cost of breakfast because, with bed and breakfast accommodation, the full charge levied by the service provider is considered to be a cost of accommodation.

Accordingly, the taxable portion of the allowance which must be included in taxable income is Rnil (R2 700 – R2 712 limited to R2 700).

# Travel allowance: Basics

- Fixed travel allowance
  - Employee receives the same monthly amount, regardless of how many km's he/she travels for business purposes
- Reimbursive travel allowance
  - Employee receives the allowance based on the actual distance travelled for business
  - Therefore, the employee first has to travel for business purposes and will then receive the reimbursive allowance based on actual data
  - Previously: not subject to PAYE
  - Now, excess above R3,98 per km will be subject to PAYE (interestingly: 100% inclusion)

# What is business travel and what is private travel?

## Private

- Tax consultant employed by a law firm in Johannesburg travels from home in Pretoria to the law firm's office- the travel between home and the office
- Assistant employed to work as a shop assistant at a V&A Waterfront store in Cape Town (the employer has stores all over South Africa, including other stores in the Cape Town area) travels from a friend's house to the V&A Waterfront store - the travel between the friend's house and the store
- Assistant employed to work as a shop assistant at a V&A Waterfront store in Cape Town for two days a week and the Canal Walk Store in Cape Town for three days a week (the employer has stores situated all over South Africa, including other stores in the Cape Town area) travels from home to a store - the travel between home and the Canal Walk Store, or the V&A Waterfront store as appropriate

## Business

- Employee whose place of employment is in Johannesburg leaves the office at lunch time to attend a business conference in Krugersdorp - the travel between the office and the conference venue in Krugersdorp
- Consultant stops to see a client en route to his place of employment -the travel between home and the client's premises and the travel after the meeting from the client's premises to the office
- Sales assistant normally works at an employer's store in the V&A Waterfront, Cape Town travels directly from home to the employer's store in George to assist with an annual stock count - the travel between home in Cape Town and George
- Employee located in Kimberley is required to assist a client in Upington over a five-day period - the travel from Kimberley to Upington
- Computer programmer, is allowed to work from home on a permanent basis (that is, the home office is the place of employment) travels to a client's premises to discuss system requirements and functionality - the travel from the home office to the clients' premises

# Fixed travel allowance

- Portion that is expended for business purposes is effectively tax free
  - Can only be claimed if log book is kept
  - Therefore, the private part is taxable
  - If travel allowance is received in respect of a vehicle that is also a company car as defined in paragraph 7 (i.e. It is one and the same vehicle)
    - Full travel allowance is included in taxable income
    - No deductions are allowed against the travel allowance
- Travelling between home and court of law = business travel for a judge

# Deemed rate/km 2020/2021

$\Sigma$  = total deemed cost/km

Value of the vehicle (including VAT)	Fixed cost	Fuel cost	Maintenance cost
<i>R</i>	<i>R per annum</i>	<i>c per km</i>	<i>c per km</i>
0 - 95 000	31 332	105.8	37.4
95 001 – 190 000	55 894	118.1	46.8
190 001 – 285 000	80 539	128.3	51.6
285 001 – 380 000	102 211	138.0	56.4
380 001 – 475 000	123 955	147.7	66.2
475 001 – 570 000	146 753	169.4	77.8
570 001 – 665 000	169 552	175.1	96.6
Exceeding 665 000	169 552	175.1	96.6

Total fixed cost must be divided by total km's travelled  
(business and private) and converted to cents

Only if FULL cost borne  
by the employee

# Deemed rate: Fixed cost component

- Total fixed cost  
Total km's travelled
- Total km's travelled = All travel (i.e. Business and private)
- Must be converted to cents (other components in table are quoted in cents)
- Total fixed cost is a value per annum
  - Therefore, must be apportioned on a daily basis if travel allowance is received for less than the full year
- Represents total wear-and-tear / lease instalments, interest, licence and insurance for the year of assessment

# Actual rate/km

- If accurate records are kept of actual expenses incurred, a taxpayer can also claim actual expenses against the travel allowance received
- How is the “cost” that can be deducted against the allowance calculated?
  - Leased vehicle (finance or operating lease) – Total lease expense is used and must be limited based on the fixed cost in the table
  - Vehicles owned – Wear-and-tear must be determined over 7 years, cost of vehicle limited to R665 000
- Actual costs also includes fuel, maintenance, insurance, finance charges, licence costs and toll fees
- All actual costs are aggregated and divided by the total km’s travelled
- Business km’s x actual rate/km = Actual cost which is then deducted from the travel allowance received

# Reimbursive travel allowance

- Based on actual distance travelled
- Use deemed cost per table or actual cost if records are kept
- Fixed rate or 398c / km
  - Total business km's < 12 000
    - 12 000km not apportioned for less than a year
    - If > 1 vehicle is used for business travel – Total business travel of all vehicles must be aggregated together
  - AND No other travel allowance or reimbursement may be paid to the employee (other than parking fees and toll fees)
  - If fixed travel allowance and reimbursive travel allowance are received
    - Both amounts will be aggregated and treated as travel allowance
    - Cannot use fixed rate method above



# Anti-avoidance

- Vehicle is owned / hired by employee, spouse or child and let to employer, employer then gives right of use of the vehicle to the employee
  - Rental paid and expenditure incurred by employer = Travel allowance paid to employee
  - Rental deemed not to have been received (and therefore no costs are deductible against such “rental”)
  - Deemed that the employee has not received the right of use of the vehicle (taxed as travel allowance, cannot also be taxed as fringe benefit, otherwise double tax will arise)

# ITR12

Do you want to claim a deduction against a travel allowance?

Y  N

How many vehicles should be used in the calculation?

## Travel Claim Against Allowance – Rands only, no cents

Did you use a logbook to determine your business km travelled?

Y  N

Indicate with an 'X' below whether the vehicle was acquired by way of:

Purchase Agreement

Lease Agreement

Vehicle Registration No.

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

### Taxpayer Information – Deductions(Continue)

Car Make

Car Model

Date of Purchase (CCYYMMDD)  Cost Price or Cash Value R

#### Details of Kilometres Travelled

Starting Date (CCYYMMDD)

Closing Date (CCYYMMDD)

Opening Kilometres

Closing Kilometres

Total Kilometres

Business Kilometres

#### Where Records of Actual Expenditure Were Kept

Fuel and Oil R

Maintenance and Repairs R

Insurance and License Fees R

Wear and Tear R

Or Lease Payment R

Finance Charges R

Other R

#### Employer Provided Vehicle: Other than an Operating Lease – Rands only, no cents

Did you use a logbook to determine your business km travelled? Y  N

Vehicle Registration No.

Car Make

Car Model

Year Manufactured  Cost Price or Cash Value R

Fringe Benefit Value R

#### Details of Kilometres Travelled

Starting Date (CCYYMMDD)

Closing Date (CCYYMMDD)

Opening Kilometres

Closing Kilometres

Total Kilometres

Business Kilometres

#### Full Cost Incurred by the Employee (No reimbursement by the Employer)

Were you fully or partially reimbursed by your employer in respect of the following expenses?

Insurance Y  N  R

License Fees Y  N  R

Maintenance Y  N  R

Fuel Y  N

Was a maintenance plan included in the cost price or cash value of the vehicle provided by your employer? Y  N

#### Employer Provided Vehicle: Operating Lease – Rands only, no cents

Did you use a logbook to determine your business km travelled? Y  N

Vehicle Registration No.

Fringe Benefit Value R

#### Details of Kilometres Travelled

Starting Date (CCYYMMDD)

Closing Date (CCYYMMDD)

Opening Kilometres

Closing Kilometres

Total Kilometres

Business Kilometres



# When can home office expenses be claimed and how should the deduction be calculated?



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# Home office expenses

## Examples

- rent of the premises or interest on bond;
  - cost of repairs to the premises;
  - other expenses in connection with the premises such as water and electricity, cleaning, gardening, property rates, security, etc.
  - cost related to phones or data;
  - stationery;
  - office equipment; and
  - wear-and-tear
- 
- Interpretation Note 28 Issue 2

# Question 1: Does it fall within the scope of section 11?

**11. General deductions allowed in determination of taxable income.**—For the purpose of determining the taxable income derived by any person from carrying on any trade, there shall be allowed as deductions from the income of such person so derived—

(a) expenditure and losses actually incurred in the production of the income, provided such expenditure and losses are not of a capital nature;

(b) – (c) . . . . .

(d) expenditure actually incurred during the year of assessment on repairs of property occupied for the purpose of trade or in respect of which income is receivable, including any expenditure so incurred on the treatment against attack by beetles of any timber forming part of such property and sums expended for the repair of machinery, implements, utensils and other articles employed by the taxpayer for the purposes of his trade;

- Section 11 doesn't distinguish between taxpayers in employment, taxpayers that are holding an office or other taxpayers
- Most costs incurred would fall within the scope of section 11, unless capital in nature
- However, must meet the requirements of section 11 AND not be prohibited by section 23 in order to be claimed

# Question 2: Is it prohibited in terms of section 23?

**23. Deductions not allowed in determination of taxable income.**—No deductions shall in any case be made in respect of the following matters, namely—

(m) subject to paragraph (k), any expenditure, loss or allowance, contemplated in section 11, which relates to any employment of, or office held by, any person (other than an agent or representative whose remuneration is normally derived mainly in the form of commissions based on his or her sales or the turnover attributable to him or her) in respect of which he or she derives any remuneration, as defined in paragraph 1 of the Fourth Schedule, other than—

(i) any contributions to a pension or retirement annuity fund as may be deducted from the income of that person in terms of section 11F;

(ii) any allowance or expense which may be deducted from the income of that person in terms of section 11(c), (e), (i) or (j);

(iiA) any deduction which is allowable under section 11(nA) or (nB);

(iii) any deduction which is allowable under section 11(a) in respect of any premium paid by that person in terms of an insurance policy, to the extent that—

(aa) it covers that person against the loss of income as a result of illness, injury, disability or unemployment; and

(bb) the amounts payable in terms of that policy as contemplated in item (aa) constitutes or will constitute income as defined; and

(iv) any deduction which is allowable under section 11(a) or (d) in respect of any rent of, cost of repairs of or expenses in connection with any dwelling house or domestic premises, to the extent that the deduction is not prohibited under paragraph (b);

- The prohibition in section 23(m) is applicable if the taxpayer receives remuneration derived from employment or the holding of an office
  - Deductions claimable by the taxpayer will then be limited to the deductions listed in this section
  - i.e. rental, repairs and expenses incurred in relation to a dwelling, house or domestic premises in terms of section 11(a) and 11(d) and wear-and-tear in terms of section 11(e)
- The prohibition in section 23(m) is not applicable where the remuneration is derived mainly (i.e. more than 50%) from commission based on sales or turnover

# Question 2: Is it prohibited in terms of section 23?

**23. Deductions not allowed in determination of taxable income.**—No deductions shall in any case be made in respect of the following matters, namely—

(a) .....

(b) domestic or private expenses, including the rent of or cost of repairs of or expenses in connection with any premises not occupied for the purposes of trade or of any dwelling-house or domestic premises except in respect of such part as may be occupied for the purposes of trade: Provided that—

(a) such part shall not be deemed to have been occupied for the purposes of trade, unless such part is specifically equipped for purposes of the taxpayer's trade and regularly and exclusively used for such purposes; and

(b) no deduction shall in any event be granted where the taxpayer's trade constitutes any employment or office unless—

(i) his income from such employment or office is derived mainly from commission or other variable payments which are based on the taxpayer's work performance and his duties are mainly performed otherwise than in an office which is provided to him by his employer; or

(ii) his duties are mainly performed in such part;



# Question 2: Is it prohibited in terms of section 23?

Impact of section 23(b):

- Even though an expense meets the criteria of section 11(a) or 11(d) and is not prohibited in terms of section 23(m), the expense can only be claimed if not prohibited by section 23(b)
- The part of the home in respect of which a claim is submitted must be occupied for purposes of a “trade”, as defined in section 1.
- The part that is so occupied must be specifically equipped for purposes of the trade.
- The part must be regularly and exclusively used for purposes of the trade.
- If the trade is employment or the holding of an office, the income derived from this trade must be mainly (>50% of total income from employment or office) commission or other variable payments which are based on the taxpayer’s work
  - performance, and the taxpayer’s duties were not performed mainly (> 50%) in an office provided by his or her employer; or
  - the taxpayer’s duties must be performed mainly (> 50%) in that part of the private premises occupied for purposes of trade.

Employees who earn commission but who spend the majority (i.e. >50%) of their time on the road visiting clients perform their duties mainly at their clients’ premises and as a result they do not qualify for a deduction under section 23(b).

# What is meant with “must be specifically equipped”?

- Collins English Dictionary
  - “*specific*” means “relating to a specified or particular thing”
  - “*equip*” means “to furnish with”
- The Concise Oxford English Dictionary
  - “*specific*” means “relating uniquely to a particular subject”
  - “*equip*” means “supply with the items needed for a particular purpose”
- I.e. in order for a part of a private home to be considered “specifically equipped” for the purposes of trade, that part must be fitted with the instruments, tools and equipment required to conduct that trade
- E.g. must include a mechanic’s tools, architect’s drawing board or doctor’s examination room equipment
- What about taxpayers who meet clients at their homes?
  - Deduction cannot be claimed if they meet their clients in their dining rooms or sitting rooms
  - Separate office is required

# What is required in order to qualify as being used “regularly” and “exclusively” for trade?

- Concise Oxford Dictionary
  - “regularly” means “done or happening frequently”
  - “exclusively” means “excluding or not admitting other things; excluding all but what is specified”
- Regular use will depend on the specific facts and circumstances
- What about a home office that is maintained and only used occasionally, for example, once on a weekend due to the taxpayer maintaining separate business premises?
  - Not frequently enough to constitute “regular” use
- “Exclusive use” means the part used for trade may not be used for any other purpose other than the taxpayer’s trade
- A deduction is not permitted where it is evident that the taxpayer conducts any activities of a private nature in the part used for trade
  - E.g. kids can use the home office to do homework

# Case study 1 (not mainly commission)

Y is an employee, who is in receipt of a salary of R50 000, commission of R20 000 and a travel allowance of R3 000 a year. Y is obliged in terms of her employment contract to work from home since her employer does not provide her with an office at work. She maintains a home office which she has specifically set up for the purposes of her employment duties. The home office is used regularly and exclusively for the purposes of work. Her duties are performed mainly in the home office.

The total area (square metres) of the home study is 20 m<sup>2</sup> in relation to the total area of her house which is 200 m<sup>2</sup>. The percentage area of the home office in relation to the total area of the house is 10% (20/200). She had purchased a computer for R12 000 and incurred computer repair costs of R2 000, an office desk for R2 000 and an office chair for R800 for the home office. The interest on her household bond amounts to R25 000 a year. The rates and taxes for the year are R2 500. The renovation costs amount to R5 000. Y contributes R5 000 a year to a pension fund and has also incurred commission-related business expenses of R9 000 consisting of cell phone expenses and stationery costs.

# Conclusion

Since more than 50% of Y's total income consists of a salary, the restrictions imposed by section 23(m) will apply. Although she meets the requirements of section 23(b), that is, she maintains a home office which is regularly and exclusively used for the purposes of earning income, the home office has been specifically equipped and is mainly used for the purposes of her trade. Y will be limited under section 23(m) to the following deductions:

- Pension fund contributions of R5 000, subject to the limits imposed by section 11F
- Wear-and-tear allowance under section 11(e) for the computer, office desk and office chair.
- Travel deduction.
- Interest on bonds of R2 500 ( $R25\ 000 \times 10\% = R2\ 500$ ).
- Rates and taxes of R250 ( $R2\ 500 \times 10\% = R250$ ).
- Renovation costs of R500 ( $R5\ 000 \times 10\% = R500$ ).

Disallowed in terms of section 23(m):

- Cell phone expenses and stationery costs of R9 000.
- Repair costs of computer of R2 000.

# Case study 2 (mainly commission)

X is an employee who is in receipt of commission income of R50 000, a salary of R20 000 and a travel allowance of R3 000 a year. X is obliged in terms of his employment contract to work from home since his employer does not provide him with an office at work. He maintains a home office which he has specifically set up for the purposes of his employment duties. The home office is used regularly and exclusively for the purposes of work. His duties are performed mainly in the home office.

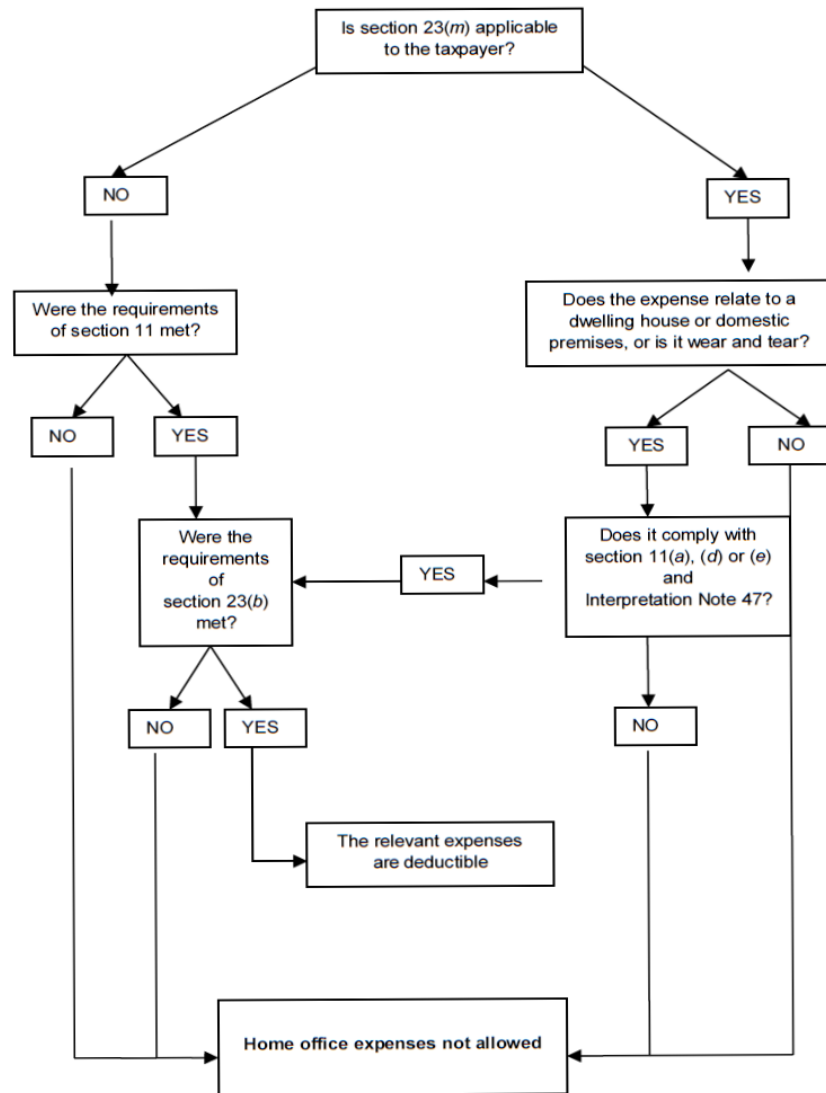
The total area (square metres [m<sup>2</sup>]) of the home study is 20 m<sup>2</sup> in relation to the total area of his house which is 200 m<sup>2</sup>. The percentage area of the home office in relation to the total area of the house is 10% (20/200). He had purchased a computer for R12 000, an office desk for R2 000 and an office chair for R800 for the home office. The interest on his household bond amounts to R25 000 a year. The rates and taxes for the year amount to R2 500. X contributes R5 000 a year to a pension fund and had also incurred commission-related business expenses of R9 000 consisting of cell phone expenses and stationery costs.

# Conclusion

Since more than 50% of X's total income consists of commission, the restrictions imposed by section 23(m) will NOT apply. Furthermore, he maintains a home office which is regularly and exclusively used for the purposes of earning income. The home office has been specifically equipped for the purposes of his trade and is mainly used by him to perform his duties. X can therefore claim a deduction for the following:

- Pension fund contributions of R5 000, subject to the limits imposed by section 11F
- Cell phone expenses and stationery expenses of R9 000.
- Wear-and-tear allowance under section 11(e) for the computer, office desk and office chair.
- Travel deduction.
- Interest on bond of R2 500 ( $R25\ 000 \times 10\% = R2\ 500$ ).
- Rates and taxes of R250 ( $R2\ 500 \times 10\% = R250$ )

\* 10% of the total area of the house relates to the home office. Therefore 10% of the interest on bond and rates and taxes will be allowed as a deduction.





# Link with CGT!!

- If home office expenses were claimed as deductions, this might impact the portion of the capital gain on the disposal of the home that will qualify for a primary residence exclusion
- Deemed “non-residential use

# Example 1

Alfredo owns a five-bedroomed house in Oranjezicht, Cape Town. In 1998 after the last of his children had left home, he decided to convert the residence into a guesthouse. He set aside 4 of the bedrooms for guests, while he and his wife kept the remaining bedroom for their personal use. The market value of the residence on 1 October 2001 was R5 million. On 28 February 2018 Alfredo disposed of the residence for R6,5 million. During the period since valuation date Alfredo managed to let out the 4 bedrooms 60% of the time. During the remaining 40% of the time the bedrooms were vacant, but available for letting. The floor area of the 4 bedrooms was 120 m<sup>2</sup>, while the total area of the residence was 300 m<sup>2</sup>.

The guests had the use of the lounge, dining-room, kitchen and swimming pool. Alfredo did not, however, claim any expenditure for normal tax purposes on these shared facilities as he regarded the guests' use as incidental. Alfredo adopted the market-value method for determining the valuation date value of the residence.

*(Source: SARS Comprehensive guide to CGT)*

# Conclusion

Overall capital gain:

Proceeds	R6 500 000
Less: Base cost	(R5 000 000)
Capital gain	R1 500 000

Floor area used for business and private purposes:

Business	120m <sup>2</sup>
Private	180m <sup>2</sup>
Total	300m <sup>2</sup>

Allocation of overall capital gain between business and private portions:

Business  $R1\ 500\ 000 \times 120 / 300 = R600\ 000$

Private  $R1\ 500\ 000 \times 180 / 300 = R900\ 000$

The capital gain attributable to the primary residence portion is reduced to nil by the exclusion of R2 million (R900 000 – R2 000 000). The business portion of the gain of R600 000 will be subject to CGT in full, less the annual exclusion provided it has not been used against other capital gains.

# Explanation

Although the 4 bedrooms were let only 60% of the time, they were nevertheless set aside exclusively for business use even when not occupied. They cannot therefore be regarded as having been used for domestic purposes. The position might have been different had Alfredo used those rooms for domestic purposes for 11 months of the year and let them for only one month while he went on his annual vacation. In that case it would have been acceptable to subject only 1/12 of the gain attributable to the 4 bedrooms to CGT.

In this example, the Commissioner has not attributed any part of the capital gain to the shared use areas such as the kitchen, lounge and dining room. What would have happened if Alfredo had claimed a portion of the rates, electricity and other expenses attributable to the shared use areas against the rent he derived? In that event the Commissioner would have regarded a similar portion of those areas as being used for business purposes. And if more than 50% of the entire residence was used for business purposes Alfredo would not have been entitled to the primary residence exclusion. In that event the residence would not have been used 'mainly' as a primary residence as defined. It suffices to say that it is difficult to lay down hard and fast rules for apportionment of the overall capital gain or loss in situations such as this. Each situation must be judged on its merits.

# Example 2

Yolandi acquired a residence after valuation date for R350 000 and resided in it for ten years. During this time she operated her media relations consulting business from the premises. Approximately 35% of the floor space was used for business purposes. Yolandi also claimed 35% of her current costs as a business expense against her business income for tax purposes. As an opportunity arose for her to expand her business 10 years after she had acquired the property, she purchased another residence in which to live and converted her old residence into business premises. Fifteen years after converting the property she sold it for R2 650 000. Improvements over the years and all other costs associated with the acquisition and disposal of the property amounted to R250 000.

*(Source: SARS Comprehensive guide to CGT)*

# Conclusion

Proceeds upon disposal	R2 650 000
<i>Less:</i> Base cost (R350 000 + R250 000) <u>000</u> )	<u>(R600 000)</u>
Capital gain	R2 050 000
<i>Less:</i> Part in respect of period not ordinarily resident (R2 050 000 × 15 / 25)	<u>(R1 230 000)</u>
	R820 000
<i>Less:</i> Part partially used for trade purposes (R820 000 × 35%)	<u>(R287 000)</u>
Capital gain attributable to portion used as a primary residence R533 000	

Yolandi will be able to exclude R533 000 of the total capital gain realised under the primary residence exclusion. The balance, or R1 517 000 will be subject to CGT and will be aggregated with any other capital gains or losses arising in the year of disposal before the annual exclusion is applied.

Specific issues related to a rental trade and the deductions available against the income earned (as well as related losses)



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# Basic principles

What is meant with “residential rental”? Rental of:

- holiday homes
- bed-and-breakfast establishments
- guesthouses
- renting a section of your home, e.g. a room or a garden flat
- dwelling houses and
- other similar residential dwellings

Rental income includes:

- Monthly instalments payable by lessees
- Lease premium payments (gross income paragraph (f))
- Deposits paid by lessees – typically won't be taxed if merely received by the lessor if there is an obligation on the lessor to refund the deposit at a later stage; will typically become taxable once applied by the lessor



# Which expenses can be deducted against rental income?

- Expenses incurred during the period that the property was let can be applied as reductions against rental income
- Only expenses incurred in the production of that rental income can be claimed
- Capital expenses (such as improvements) and private expenses won't be allowed as a deduction
- Permissible expenses must be apportioned where less than 100% of the property is rented out
  - The area which is let must be divided by the total area of the dwelling (including garages and outbuildings)

## Examples

- rates and taxes
- bond interest
- advertisements
- agency fees of estate agents
- insurance (only homeowner's insurance and not insurance for household contents)
- garden services
- repairs in respect of the area let (timing of the repair cost incurred = NB)
- security and property levies

# Section 13sex allowance

- For any residential building or residential unit
- NOT apportioned
- Only claimable by the owner of the building
  - Will it be claimable on voluntary improvement cost incurred by a lessee?
- Requirements
  - Construction of the buildings commenced on/after 21 October 2008 **AND**
  - Residential units must be new and unused **AND**
  - Residential units must be located within South Africa **AND**
  - Residential units must be used exclusively for trade purposes (which could include letting to an employee) **AND**
  - Only claimable if at least five residential units are owned and used according to the requirements above

# Calculation of the allowance

- Allowance must be based on the lower of cost price or market value
- 5% allowance
- Allowance is NOT apportioned
- In the case of “low-cost” residential units, the allowance is increased to 10%
  - When is a unit a “low-cost” unit?

Stand-alone unit	Apartment
Maximum cost price of R300 000	Maximum cost price of R350 000
Monthly rental does not exceed 1% of the initial cost price (increased by 10% per annum)	Monthly rental does not exceed 1% of the initial cost price (increased by 10% per annum)

# Example

Z lets two rooms within Z's main home on a bed-and-breakfast basis. Each bedroom has its own en-suite bathroom. The total area of the house (including garages and outbuildings) is 420 square metres, while the area which is let, is 120 square metres.

The area let expressed as a percentage of the total area of the house, is 28.57% ( $120/420 \times 100$ ).

Z's total rental income for the 2020 year of assessment was R50 000

<b>Expenses</b>	<b>Rand</b>	<b>Expenses apportioned to the area rented (28.57%)</b>
Rates and taxes	R 9 600	R 2 743
Garden services	R 10 000	R 2 857
Security	R 2 000	R 571
Interest on bond	R 60 000	R 17 142
Advertisements (related solely to rental trade)	R 1 000	R 1 000
Insurance	R 6 000	R 1 714
Improvements to garage	R 5 000	R -
Repairs in respect of the area let - water damaged carpets	R 12 000	R 12 000
<b>Total Expenses</b>	<b>R 105 600</b>	<b>R 38 027</b>

# Explanation

- Expenses for advertisements are incurred 100% in the production of rental income, and are thus allowed in full. There is no need to apportion this expense.
- Improvements to the garage are capital/private expenses and are not incurred in production of rental income. In other words, these are not permissible expenses, and will thus not be allowed as a deduction at all.
- Expenses for repairs to water damaged carpets are incurred in the production of rental income and are thus allowed as a deduction. Since the expense is only for repairs in relation to the area let, there is no need to apportion these expenses.
- The total expenses to be set off against rental income amounts to R38 027. The difference between the rental income and the expenses is essentially the rental profit – in this case, R11 973 (R50 000 less R38 027).
- The source code to be used on the income tax return for a rental profit is 4210 and is 4211 for a rental loss.
- The rental profit or loss will be split 50:50 when married in community of property
- Note that the full amount after expenses must be reflected on the income tax return, as SARS will programmatically apportion the rental profit or loss 50:50.

# Limitations

- Not limited by section 23A
- Ring-fencing per section 20A might be applicable (suspect trade)

# ITR12

Did you derive income from the letting of fixed property(ies)?(Excluding amounts received / accrued as a beneficiary of a trust(s), or deemed to have accrued in terms of s7)

Y  N

From how many separate rental activities did you derive income?



# ITR12

## Local Rental Income from the Letting of Fixed Property (ies) (Excluding amounts received / accrued as a beneficiary of a trust(s), or deemed to have accrued in terms of s7) (continue)

Description

Note: Where a unique identifier was allocated to this trade in the previous year, please complete that allocated number. Also ensure that the description above is the same as the previous year.

Unique Identifier

## Income – Rands only, no cents

Rental Income

R

## Expenditure – Rands only, no cents

Accounting Fees

R

Agency Fees

R

Bad Debts

R

Depreciation

R

Electricity / Rates and Taxes

R

## Expenditure – Rands only, no cents (continued)

Insurance

R

Interest / Finance Charges

R

Levies Paid

R

Repairs / Maintenance

R

Other

R

Description

TOTAL

R

## Determination of Profit / Loss – Rands only, no cents

Taxable Profit

R  4210

Taxable Loss

R  4211

Should the loss incurred be excluded (ring-fenced) for the calculation of your tax liability? Y  N

Are you in a partnership? Y  N

If YES [ State the profit / loss percentage OR  ,  % ]

Mark here with an "X" if variable ratios should be applied for the sharing of income and/or expenses.

# When will losses realised by a taxpayer be ring-fenced?



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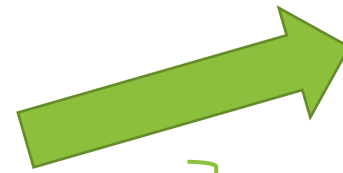
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# Basic principles

- Deductions and allowances > Income
- Therefore, first apply section 11(a) and section 23(g) and claim deductions
  - Thereafter apply section 20A – Section 20A doesn't impact the deductibility of amounts
- Section 20A might ring-fence the assessed loss
  - Only applicable to individual taxpayers
  - Assessed loss realised in Trade 1 cannot be set off against taxable income realised in Trade 2

# Aspects to consider

- Aspect 1 [section 20A(2)] – The maximum marginal rate of tax requirement
- Aspect 2 [section 20A(2)(a) and (b)] – The “three-out-of-five-years” requirement or alternatively, the “listed suspect trade” requirement
- Aspect 3 [section 20A(3)] – The “facts and circumstances” test (the escape clause)
- Aspect 4 [section 20A(4)] – The “six-out-of-ten-years” requirement (the “catch all” provision)



Test this requirement by ignoring the assessed loss (adding it back) – i.e. what the tax rate would be by disregarding the assessed loss

Requirements  
“AND” test!

Your way out!

Section 20A will be applied, regardless of whether the escape clause is available (i.e. this overrides, but is not applicable to farming)

# “Three out of five years” requirement

- Applicable to a trade that does not constitute a “suspect trade”
- Current year and four preceding years
- Assessed loss in a minimum of three
- What about the following situation?

2020	Assessed loss R100 000
2019	Assessed loss R80 000
2018	Assessed loss R110 000

Do you have to wait for five years to pass? NO!

- Assessed losses from 2005 y.o.a. taken into account
- Only triggers ring-fencing from the current y.o.a. when requirements are met – doesn’t impact set-off of assessed losses in prior periods

# Example

On 1 March 2016 an individual commenced carrying on a trade that is not listed as a suspect trade under section 20A(1)(b). The trade produced assessed losses as follows:

- 2017: (R80 000);
- 2018: (R100 000);
- 2019: (R120 000);
- 2020: (R140 000)

After adding back the assessed losses the taxpayer meets the maximum marginal tax rate requirement only in 2020.

*(Source: SARS Guide on Ring-Fencing of Assessed Losses adapted)*

# Conclusion

- The taxpayer only meets the maximum marginal tax rate requirement in 2020.
- Thus, although the taxpayer met the “three-out-of-five-years” pre-requisite in 2019, the assessed loss for 2019 could not be ring-fenced because the first pre-requisite (the maximum marginal rate of tax pre-requisite) was not met in that year.
- In the 2020 year of assessment the taxable income after adding back the assessed loss for that year exceeded the level at which the maximum marginal rate of tax becomes payable.
- The “three-out-of-five-years” pre-requisite has been met in 2020, since assessed losses were incurred in 2018, 2019 and 2020.
- The assessed losses in 2018 and 2019 are counted for the purposes of the pre-requisite notwithstanding that the taxpayer’s taxable income was below the level at which the maximum marginal rate of tax is payable in those years.
- However, only the 2020 assessed loss will be subject to potential ring-fencing.

# What is a suspect trade?

- Sport (excluding racehorse ownership sporting activities)
- Dealing in collectibles (such as art, antiques, coins, etc)
- Rental of residential property (including holiday homes, guesthouses, bed-and-breakfasts, etc), unless 80% or more is used by lessees who are not relatives of the lessor AND the property is leased by them for at least 6 months of the year
- Rental of vehicles, aircraft or boats, unless 80% or more is used by lessees who are not relatives of the lessor AND the property is leased by them for at least 6 months of the year
- Animal showing
- Farming or animal breeding unless it is carried out on a full-time basis
- Performing or creative arts (excludes investment in commercial film)
- Gambling or betting (includes card playing, lottery purchases, sports betting and gambling at a casino) excludes speculating in securities)

6 months need not be continuous





# Example

During the 2020 year of assessment, B, for the first time let two rooms within her main home on a bed-and-breakfast basis. Each bedroom has its own en-suite bathroom. The total area of the house (including garages and outbuildings) is 420 square metres, while the area, which is let, is 120 square metres. The rooms were let to persons who are not relatives to B for a total of 300 days during the year of assessment. B incurred an assessed loss from this activity.

*(Source: SARS Guide on Ring-Fencing of Assessed Losses adapted)*

# Conclusion

- The area let to non-relatives, expressed as a percentage of the total area of the house, is 28.57% ( $120/420 \times 100$ ).
- Since it does not comprise at least 80% of the property, the rental activity is a suspect trade for the 2020 year of assessment.
- Even though the rental is for a period in excess of 6 months (300 days / 365 days), the activity will still be a suspect trade for the 2020 year of assessment because both requirements for exclusion have not been met.

# The escape clause – The facts and circumstances test

Section 20A(3) provides that *“The provisions of subsection (1) do not apply ... where that trade constitutes a business in respect of which there is a reasonable prospect of deriving taxable income (other than taxable capital gain) within a reasonable period...”*

Therefore, even though the requirements are met, ring-fencing will not be applicable

What is a business?

- Consider aspects such as the size or scale of the activities, whether the activities are planned and organised, whether they are regular and continuous, whether the object is to make a profit and whether property (movable or fixed) was acquired

# “Reasonable” prospect and “reasonable” period

- Depends on the specific facts and circumstances
- What is considered to be “reasonable” will depend on the nature of the trade / business
- Not subjective (i.e. intention of the taxpayer) – rather apply objective factors, such as:
  - The proportion of gross income derived from a specific activity in relation to the allowable deductions incurred in carrying on the specific trade
  - The level of activities carried on by the taxpayer or the amount of expenses incurred in respect of advertising, promoting or selling in carrying on the specific trade
  - The trade must be carried on in a commercial manner considering the number of full-time employees, the location of the premises where the business is carried on, the equipment used exclusively for trade, time spent at the business premises
  - The number of years of assessment in which assessed losses were incurred in carrying on the trade in relation to the total number of years that the taxpayer has conducted the specific trade, taking into account any unexpected events giving rise to any of the assessed losses and the nature of the business involved
  - The business plans of the taxpayer as well as any changes thereto, to ensure that taxable income will be derived from carrying on that trade in future
  - The extent to which assets attributable to the specific trade are used or are available for use by the taxpayer or any relatives for private use

# Automatic ring-fencing – “Six-out-of-10-years” rule

- Section 20A(4) provides that the “facts and circumstances” escape clause in section 20A(3) is not available where the taxpayer has incurred an assessed loss in at least six out of the last ten years of assessment, including the current year of assessment.
- Not applicable to farming.
- In the year of assessment in which the rule applies the assessed loss will be permanently ring-fenced. The “facts and circumstances” test can, therefore, no longer be used to avoid ring-fencing, despite it having been avoided in earlier years of assessment.
- The ring-fenced assessed loss must be carried forward and will only be available for set-off against future income from the same trade.
- The first year of assessment in which this rule can apply is 2010, assuming that successive assessed losses, have been incurred in the 2005 to 2010 years of assessment.

Source: SARS Guide Ring Fencing of Assessed Losses arising from certain trades conducted by Individuals

Maximum marginal tax rate if > R1.5m



6/10 year rule is relevant for all trades except farming  
"Escape clause" not available if 6/10 rule is applicable

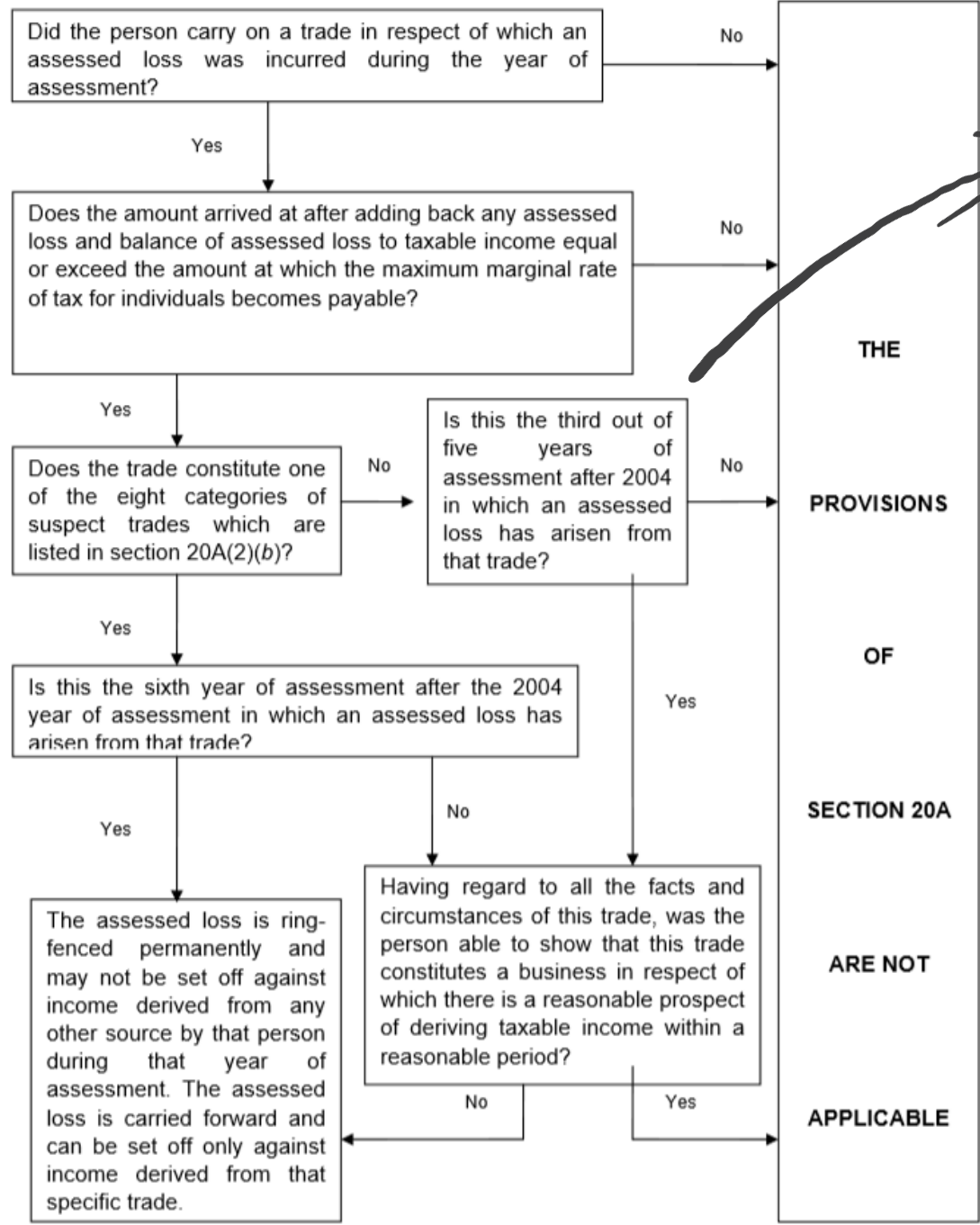


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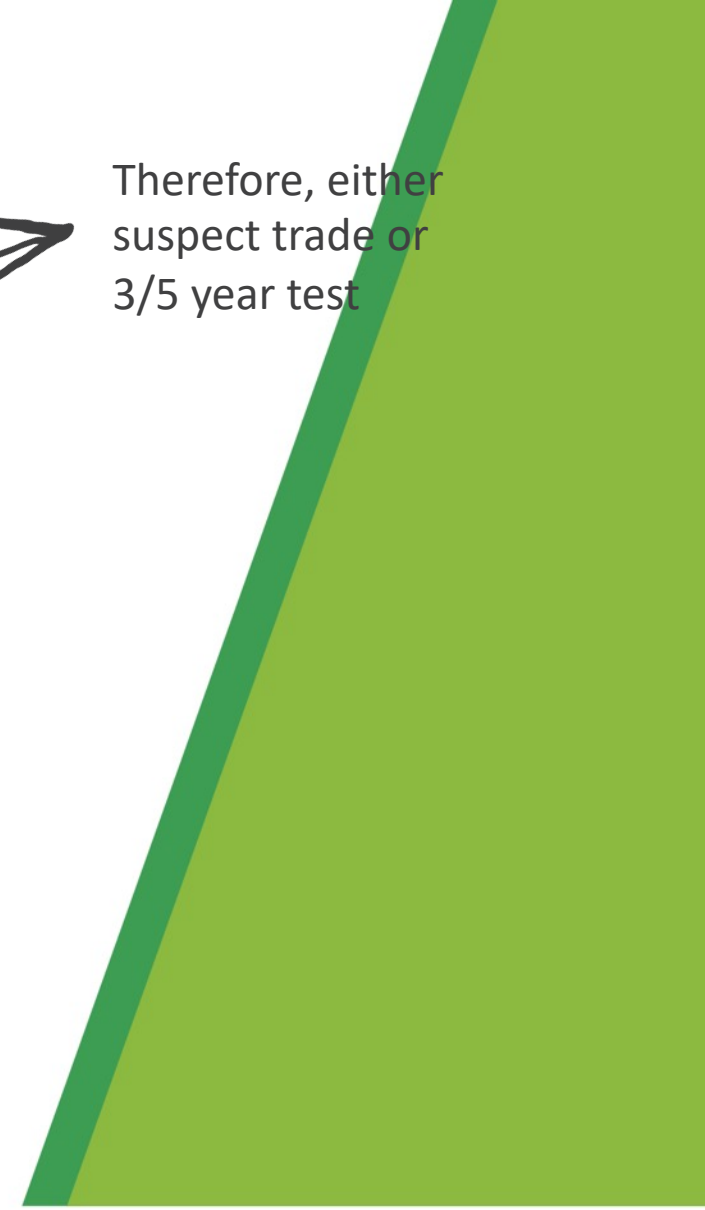
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Annexure – Checklist (flowchart) for the application of the ring-fencing provisions



Therefore, either suspect trade or 3/5 year test



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# Interesting factors to consider

- Some activities can be deemed to be a single trade
  - Mostly farming, but could also be applicable to other activities
- “Income” from a trade includes section 8 recoupments
- Tax directive in terms of Paragraph 11 of the Fourth Schedule
  - An employee who has incurred an assessed loss may, therefore, apply for a tax directive which would enable the employer to deduct the assessed loss from the employee’s remuneration in arriving at the amount of employees’ tax to be withheld
  - IRP 3(c)
- A taxpayer who has been issued with an assessment which ring-fences an assessed loss, has a right to object to the assessment if not satisfied with the decision made by SARS
  - In the event that the objection is disallowed or partially disallowed, that taxpayer has the right to lodge an appeal against such disallowance or partial disallowance.

# How should annuity income and lump sums be treated?



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# Section 11F Deduction: Basics

- Importance of this deduction
- Which contributions will qualify?
  - Aggregate all pension, provident and retirement annuity fund contributions during the year
    - Who must make the contributions?
- Can a taxpayer claim the total value of contributions?
  - No, subject to a limit
  - Excess is carried forward to the following year of assessment

[www.taxfaculty.co.za](http://www.taxfaculty.co.za) Exception: Some provident fund contributions

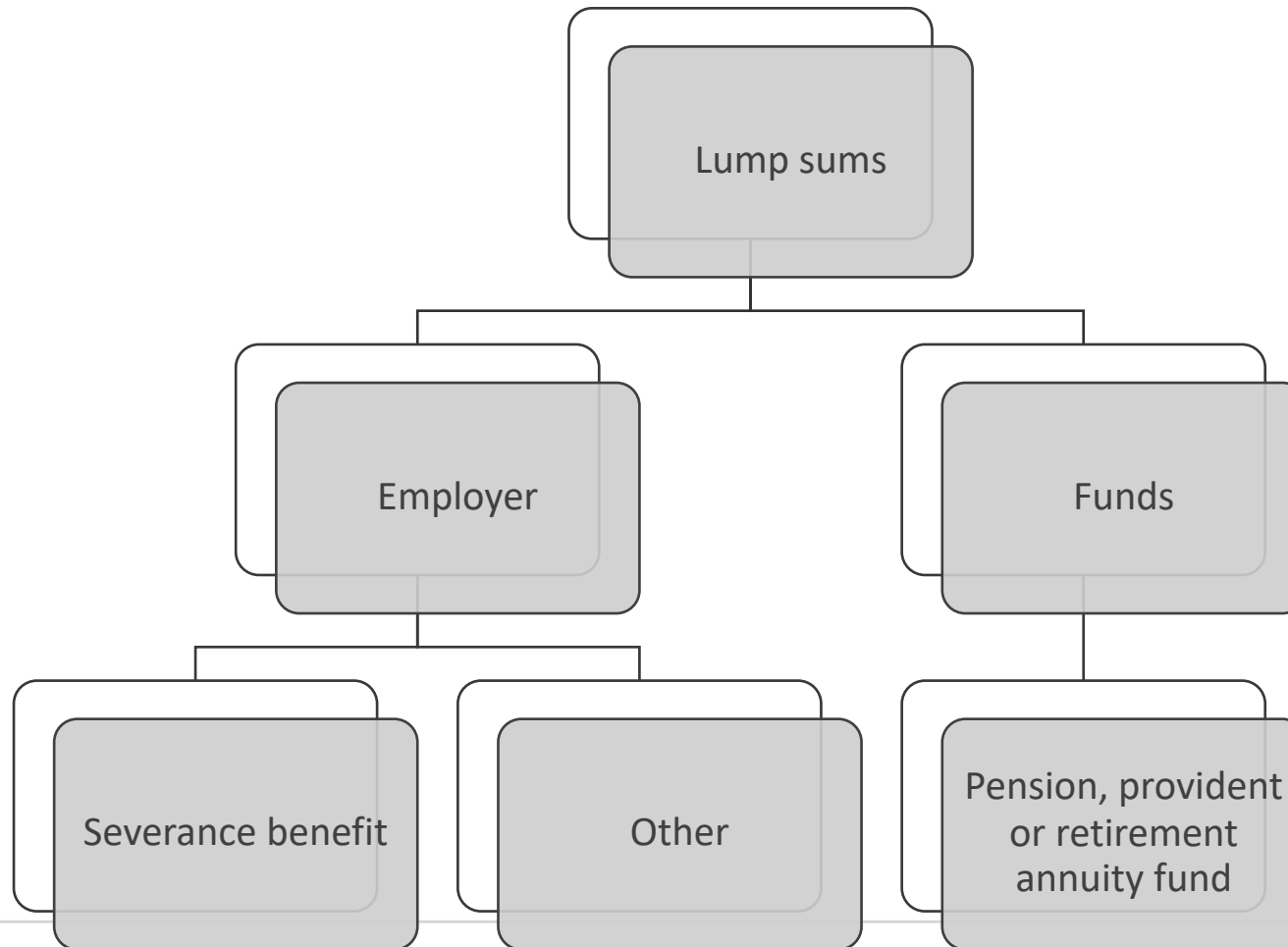
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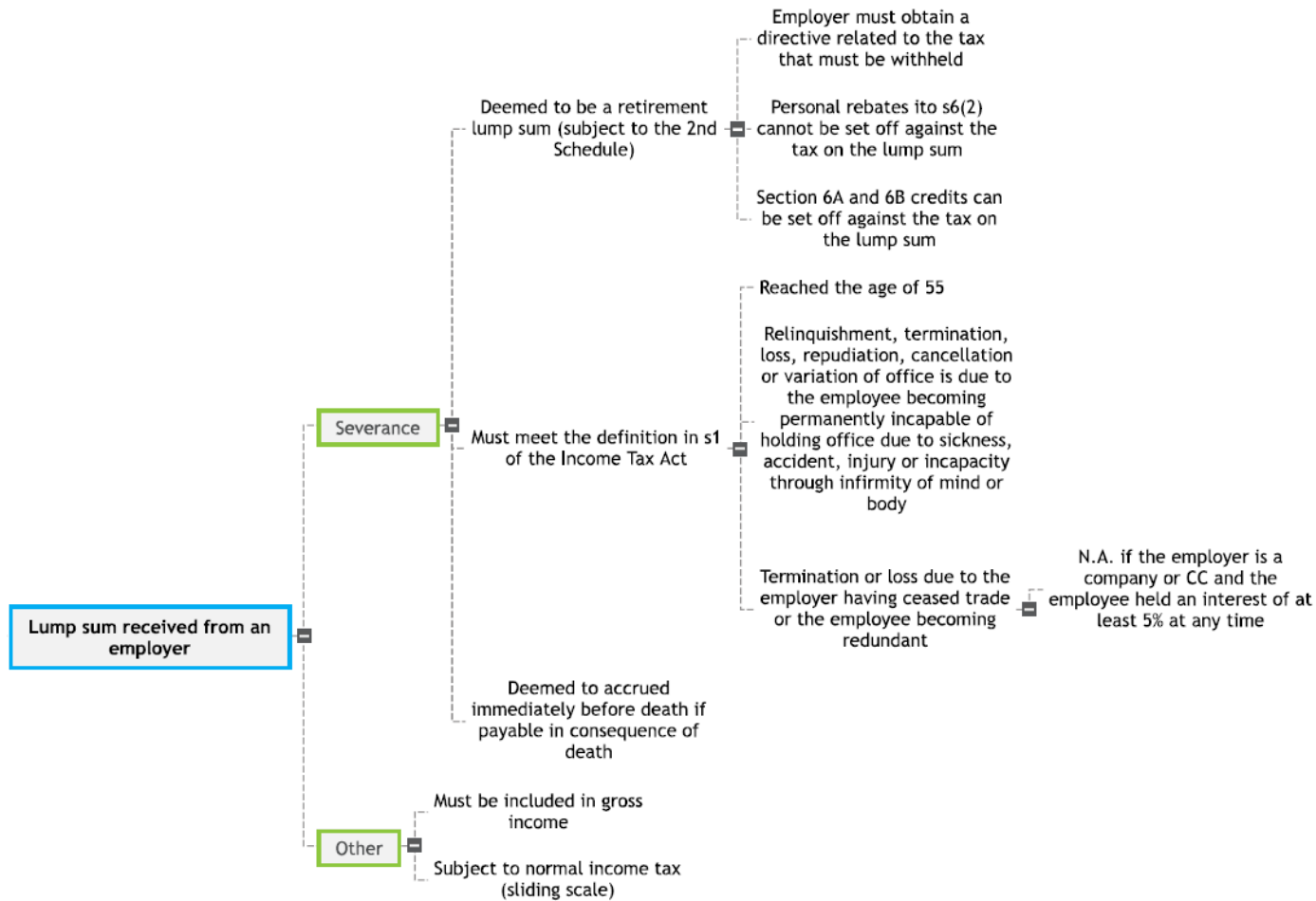
# Section 11F Calculation

- Employer's contributions = Fringe benefit
  - Defined contribution plan – Rand value of contribution
  - Defined benefit plan – Actuarial valuation
- Aggregate total contributions (employer and employee contribution) limited to the **lower** of:
  - R350 000; or
  - 27.5% x **greater** of:
    - Taxable income (including taxable capital gains); or
    - Remuneration
  - Taxable income (excluding taxable capital gains)

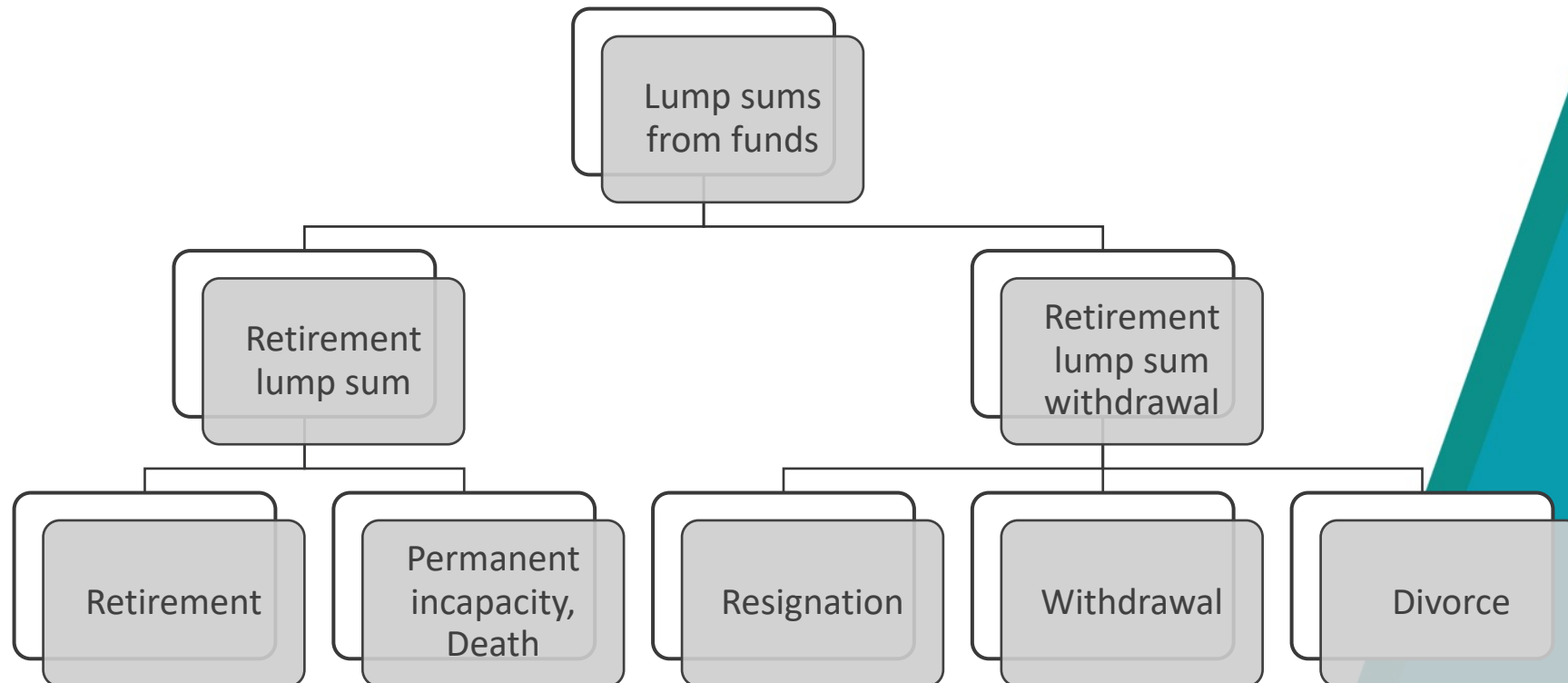
# Types of lump sums



# Lump sums from employers



# Lump sums from funds



Type of event = NB

# Lump sums from funds: Basic working of the Second Schedule

- Taxed on the net (taxable) value of the lump sum
- Provisions of paragraph 2(1) is subject to section 9(2)(i) – source rules
  - Section 9(2) only applicable to non-residents – include the portion related to services rendered in SA
  - Residents are taxed on world-wide income (possibly make use of a section 10(1)(gC) exemption)
    - Only applicable if the fund is registered outside SA AND services were rendered outside SA
- Primary, secondary and tertiary rebates cannot be set-off against the normal tax payable on a lump sum
- Section 6A and section 6B medical credits can be set off against the normal tax payable on a lump sum

# What is “retirement”?

- Retire’ = becoming entitled to annuity / lump sum benefit
- ‘Retirement date’ = date on which a member / nominee or dependant of a deceased member becomes entitled to annuity / lump sum
- Taxpayer retires when he/she reaches the ‘normal retirement age’ / passes away
- ‘Normal retirement age’ =

Pension Fund and Provident Fund	Date on which the member becomes entitled to retire from employment for reasons other than sickness, accident, injury or incapacity through infirmity of mind or body
RAF, Pension Preservation Fund, Provident Preservation Fund	Date that the member attains 55 years of age
Any fund	Date on which the member becomes permanently incapable of carrying on his / her occupation due to sickness, accident, injury or incapacity through infirmity of mind or body (no age requirement)

# Payment as consequence of “death”

- Deemed to have accrued to that person immediately prior to the death of that person
- Therefore, will be included in his/her last assessment
- Death benefit is often paid directly to a beneficiary
  - Tax payable on the lump sum may be recovered from the person to whom the lump sum benefit accrues
  - Practice: Recovery is done by the executor of the deceased estate
- Heir receives the right to an annuity.
  - Heir can then elect to substitute the annuity for a lump sum
  - Lump sum is then lump sum deemed to accrue to the deceased
- No lump sum benefit is deemed to accrue to the deceased on death:
  - Dependants or nominees elected to receive an annuity; or
  - Lump sum is paid into a Pension Preservation Fund or Provident Preservation Fund as an unclaimed benefit



# Retirement fund lump sum benefit calculation

Gross lump sum	Rxxx
Less deductions	<u>(Rxx)</u>
Taxable lump sum (subject to the lump sum tax tables)	<u>Rxxx</u>

- Deductions in terms of paragraph 5 or 6  $\leq$  Gross lump sum
  - Why?
- In the case of retirement of retirement
  - Deductions in terms of paragraph 5
- In the case of withdrawal
  - Deductions in terms of paragraph 6

# Paragraph 5 and 6 deductions

- ▶ Contributions to the fund which were not allowed in terms of sections 11F
- ▶ Divorce order: Amount transferred for the benefit of the taxpayer to another fund as a result of an election by the non-member spouse
- ▶ Qualifying transfers from one fund to another
- ▶ Transfers on/after normal retirement age but before retirement
- ▶ Amount, to the extent that it was paid / transferred to a Pension Preservation Fund or Provident Preservation Fund as an unclaimed benefit, if it was subject to tax prior to that transfer or payment
- ▶ The exempt portion of Public Sector Pension Funds

# Retirement tax tables

Taxable income from lump sum benefits	Rate of tax
Not exceeding R500 000	0% of taxable income
Exceeding R500 000 but not exceeding R700 000	R0 plus 18% of taxable income exceeding R500 000
Exceeding R700 000 but not exceeding R1 050 000	R 36 000 plus 27% of taxable income exceeding R700 000
Exceeding R1 050 000	R 130 500 plus 36% of taxable income exceeding R1 050 000

# What is a “withdrawal benefit”?

- Pension fund, pension preservation fund, provident fund, provident preservation fund or retirement annuity fund:
  - Assigned in terms of a divorce order
  - Transferred for the benefit of that person to any fund, from any fund of which that person is or previously was a member
  - Amounts, received by or accrued to that person by way of a lump sum benefit from any fund

# Payment in connection with divorce order

- Amendment on 13 September 2007
  - Can deduct an amount awarded to a spouse in terms of a divorce order when the divorce order is granted (previously, only when the benefit accrues)
- Spouse can choose between having the benefit paid out or having it transferred to a fund for his/her benefit
- Within 45 days from receiving the divorce order – Fund must request the non-member spouse to choose between payment and transfer
- Non-member spouse must choose within 120 days
- Fund must affect the payment within 60 days after receiving notification of the non-member spouse's choice
- If the non-member spouse fails to make an election, the fund must make payment to the non-member spouse within 30 days after the expiry of the 120 day period
- Non-member spouse will pay tax on this amount (value of payment less paragraph 6 deductions)

# Withdrawal benefit tax tables

Taxable income from lump sum benefits	Rate of tax
Not exceeding R25 000	0% of taxable income
Exceeding R25 000 but not exceeding R660 000	18% of taxable income exceeding R25 000
Exceeding R660 000 but not exceeding R990 000	R114 300 plus 27% of taxable income exceeding R660 000
Exceeding R990 000	R203 400 plus 36% of taxable income exceeding R990 000

# Summary of calculation

## Step 1 Cumulative lump sum

- Current lump sum
- Withdrawal benefits between 1 March 2009 and current lump sum
- Retirement lump sums between 1 October 2007 and current lump sum
- Severance benefits between 1 March 2011 and current lump sum

## Step 2 Cumulative tax payable

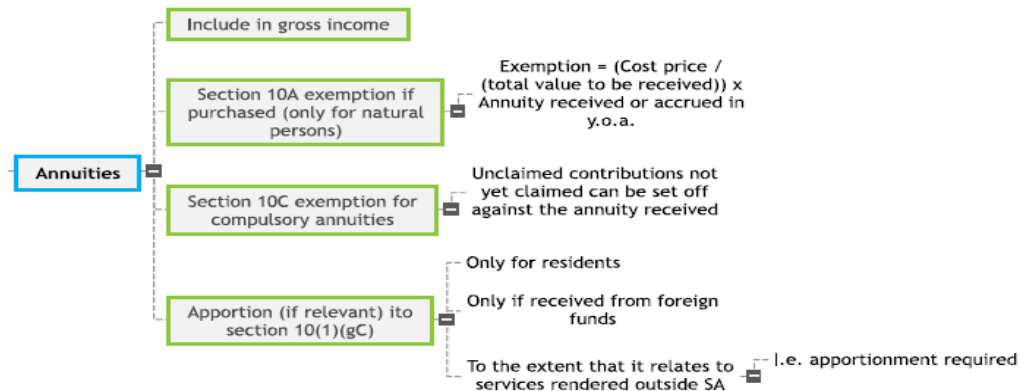
- Most recent lump sum = Retirement lump sum
  - Retirement lump sum tax tables
- Most recent lump sum = Withdrawal benefits
  - Withdrawal benefit tax table

## Step 3 Reduce by: Tax on prior lump sums

- Tax on lump sums before current lump sum
  - Retirement lump sum tables / Withdrawal benefits tables based on nature of current lump sum

# Annuities: Basic working

- Gross income definition paragraph (a) special inclusion
- Could be paid by a fund, employer, insurance policy, trust, etc.
- What are the characteristics?
- Annuities are fully taxable (subject to section 10A or 10C)
  - Income that funds the annuity loses its nature
  - E.g. section 10(1)(k) will not be applicable





# ITR12

- IRP5 section of ITR12

# EXAMPLE

Employee Income Tax Certificate				IRP5		
Transaction year	2018	Period of reconciliation	201802	Year of assessment	2018	
Certificate number	2020557150/08847/18					
Employer Information						
Company Name	[REDACTED]					
Address	[REDACTED]					
Trading Name	[REDACTED]					
PAYE ref. no.	740012346	SDL ref. no.	L740012345	UIF ref. no.	U740012345	
Employee Information						
Surname	Farhan	Employee code	8847			
Name	Pillay	Initial	F			
Date of birth	31 08 1952	ID number	5208310028087			
Business tel nr	011 888 7777	Tax reference number	2020557150			
Cell nr	072 259 9458					
Employee Address Details - Residential						
14 Rest Avenue Rosebank 2112						
Employee Remuneration Bank Account Details						
Account holder name	F Pillay	Account Number	64312345			
Bank Name	ABSA	Account type	Cheque			
Branch Name	ABSA Universal					
Branch Number	105214					
Pay Periods						
Periods in year of assessment					12	
Number of periods applicable					6	
Start date					01/09/2017	
End date					28/02/2018	
Tax Certificate Information						
Description					Amount	Code
Income received						
Income - Annuity					48 000.00	3610
Income - Lump sum					690 000.00	3614
PAYE - Annuity					-	4102
PAYE - Lump sum					34 500.00	4115

# How should receipts as beneficiary of a trust be dealt with in the tax calculation and declared in the ITR12?

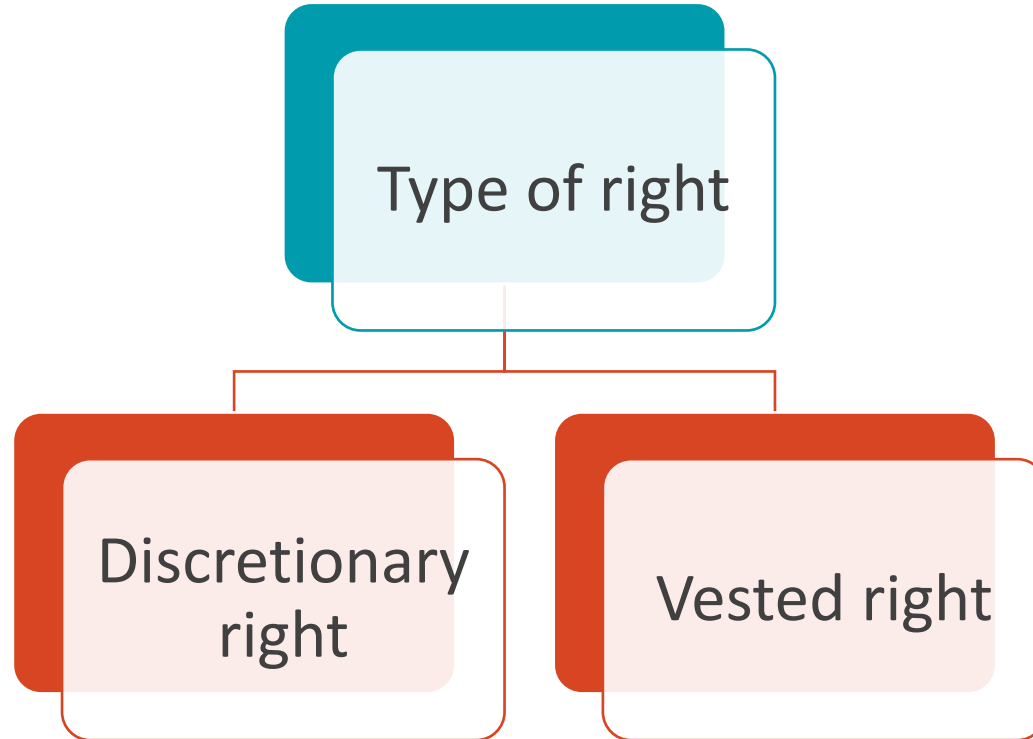


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# Nature of rights



# Vested right

- Vesting implies accrual
- Therefore, beneficiaries will be taxed on the income and capital
  - Unless income is attributed to the donor
- Cash flow is irrelevant
- The right has a determinable value
- The right is not contingent

# Discretionary right

- Contingent right
- There is an expectation about a receipt, but no certainty
- The distribution might never realise
- Tax beneficiary when discretion is exercised and amount distributed
  - Unless attributed to the donor

# What happens when a donation is made?

- Donations tax might be due on the donation;
- Recoupments might arise when an allowance asset is donated to a trust; and
- Capital gains tax consequences might arise on the disposal of a capital in nature item to a trust
  
- AND: A risk arises of the donor being taxed on income attributed to his/her donation if a “donation, settlement or other disposition” is made
  - WHY?
  - Various anti-avoidance principles
  - Can only be applied if the donor is still alive
  - What if spouses married in community of property make a donation out of the joint estate?

# What is a “donation, settlement or other disposition”?

- Gratuitous disposal
- Value must be attached to the “donation, settlement or other disposition”

## Why is this important?

Outright donation

- Market value of what was donated

Sale below market value

- Difference between the market value and the actual selling price

Financing below market-related rates

- Can a value be attached to this?

# Interest-free or low interest rate financing

C:SARS v Brummeria Renaissance (Pty) Ltd and Others

The court determined that there is a value attached to making use of financing without needing to pay for it

C:SARS v Woulidge

The court determined that an interest-free or low-interest rate loan provided constitutes a continuous donation for purposes of section 7. The attribution rules contained in section 7 must, therefore, be considered

The value attached to this donation is equal to the interest saving, i.e. the difference between the interest that would have been levied (had the transaction been market-related) and the interest that was actually levied

- This is the maximum value that a donor can be taxed on and is the limit of trust income and trust capital that can be attributed to the donor
- The portion of the limit not taxed, is carried over to the following year of assessment and added to the limit in the following year of assessment



# Summary of attribution rules

	<b>Income Tax</b>	<b>CGT</b>
Spouses	7(2)	68
Minor children	7(3) en 7(4)	69
Conditional vesting	7(5)	70
Revocable vesting	7(6)	71
Resident benefiting a non-resident	7(8)	72

# Working of section 7(2)

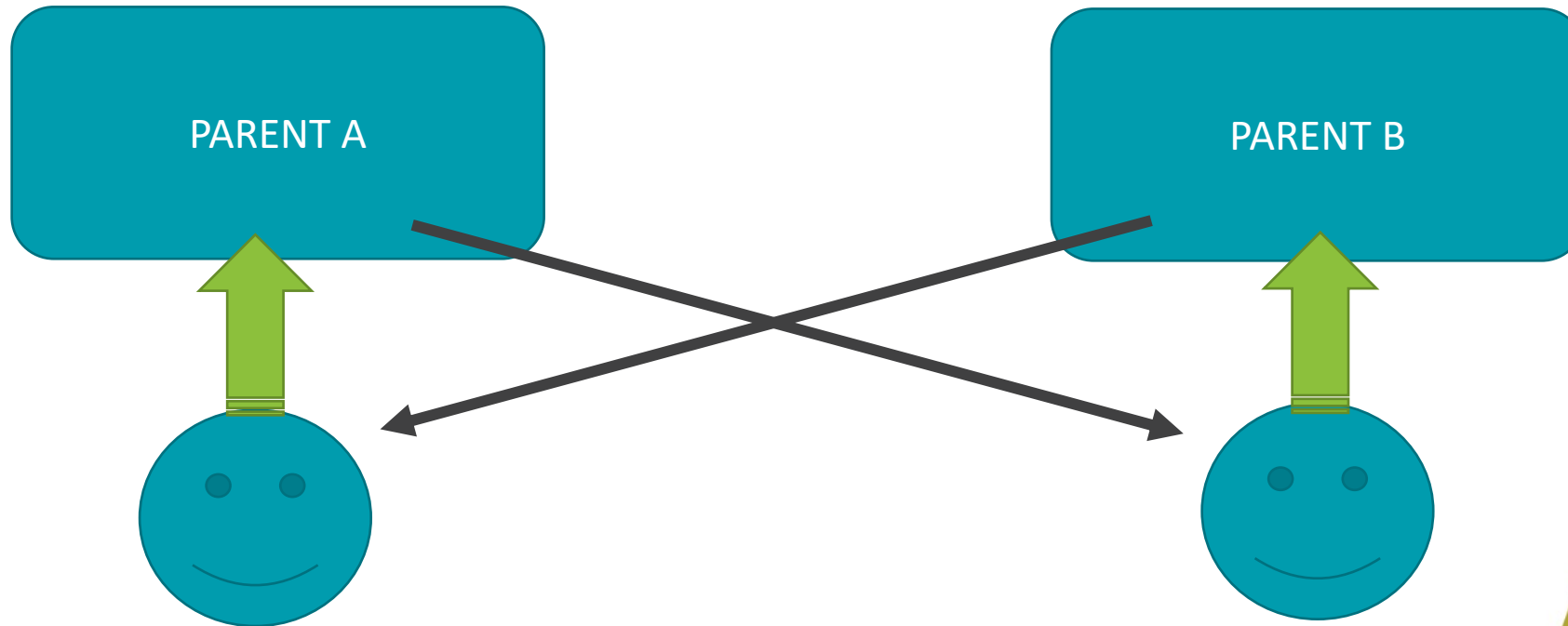
- One spouse makes a donation, settlement or other disposition
- Income is received by / accrues to the other spouse
- If the sole or main purpose was to avoid / reduce / postpone tax
  - Original spouse (who made the donation, settlement or other disposition) will be taxed on the income
  - As if received by / accrued to the original spouse
- If the sole or main purpose was NOT to avoid / reduce / postpone tax
  - Spouse who received the income or to whom the income accrued, will be taxed
- Income retains its nature
  - Spouse can claim exemptions if available

# Section 7(3)

- Income of the parent who make the donation, settlement or other disposition, if:
  - Received by / accrued to the minor child or stepchild; *or*
  - Expended for the maintenance, education or benefit of the minor child or stepchild; *or*
  - Accumulated for the benefit of the minor child or stepchild
- Meaning of minor child?
  - < 18 years AND unmarried
  - ✘ grandchild
  - ✓ adopted child
  - ✓ stepchild
  - Minor for a part of the year of assessment?
  - How will someone become a major?
- Spouses married in community of property?

# Section 7(4)

Anti-avoidance



# Working of section 7(5)

- Income is only distributed when a specific event happens or a stipulation or condition is met
  - Stipulation or condition can be:
    - Certain / fixed (death); or
    - Uncertain / contingent (reaching a certain age, marriage, having a child)
  - Who should impose the stipulation or condition?
    - What if the person imposing the stipulation or condition has passed away?
    - Will be applied for as long as the donor is still alive
  - *Hullet v CIR*
    - Exercise of discretion by a trustee is deemed to be a stipulation or condition

# Working of section 7(5)

- Income of person who make the donation, settlement or other disposition, until the earlier of:
  - Happening of a specific event; or
  - Death of that person
- What income will the donor be taxed on?
  - Income that didn't vest and that was retained in the trust
- What if that income is then actually distributed in a following year of assessment?

# Section 7C

- Applicable from 1 March 2017 where:
  - Loan or advance or credit is granted
  - Interest-free or below market-related interest rates
    - When is interest below market-related interest rates?
    - From 1 June 2020: 4.75%
  - By a connected person of the trust that is a natural person (or at his instance a company which is a connected person of the natural person)
  - To the trust (or a connected person of the trust)
- Exclusions? Various, such as loans subject to transfer pricing or dividend tax
- Also applicable to all existing loans
- Over and above the attribution rules that are applicable to income related to donations

# Connected person of a trust

(a) in relation to a natural person—

(i) any relative; and

(ii) any trust of which such natural person or such relative is a beneficiary;

(b) in relation to a trust—

(i) any beneficiary of such trust; and

(ii) any connected person in relation to such beneficiary;



# Working of section 7C

- Deemed continuous donation
- Effective date of the donation: 28 February
  - For as long as the loan is in place and capital is outstanding on the loan
  - What if no balance is outstanding on 28 February?
  - What if there was movement on the loan balance?
- Value = Interest saving on the loan
  - How is this calculated?
  - Can the donations exclusion be set off against this?

# Legal and compliant ways to avoid section 7C

- Charge interest @ the official interest rate
  - Interest expense?
- Write-off the loan
  - Capital gain and loss?

# Paragraph 38

- Donation; OR
- Disposal not measurable in money; OR
- Disposal to a connected person not at arms length
  - What does this mean?
- Deemed disposal @ MV
  - Proceeds for seller
  - Base cost for buyer
- Normal exclusions should be taken into account against the capital gain / loss so arising

# Paragraph 39

- Capital loss ring-fenced PER CONNECTED PERSON
- Carry over until capital gain is realised with the same connected person
- Could it ever be lost?

# ITR12

Was any income distributed to you / vested in you as a beneficiary of a trust, or deemed to have accrued in terms of s7 ?

Y  N

Indicate the number of trust(s) applicable?

**Trust Income – Income distributed to you / vested in you as a beneficiary of a trust or deemed to have accrued in terms of s7**

Trust Name

Trust Registration Number

Trust Tax Reference Number

 10

**Details of local income**

Local Remuneration

R

Local Annuities

R

Local Interest

R  4201

Distributions from Real Estate Investment Trust/s (REIT)

R  4238

Local Capital Gain / Loss

R

Local Rental Income from the letting of fixed property(ies)

R  4210

Dividends deemed to be income in terms of s8E and s8EA

R  4292

Local Business and Trading Income (excluding Rental Income from letting of fixed property(ies) and income from Farming Operations)

R

Income from Local Farming Operations (IT48)

R

**Details of local income (continue)**

Deemed Annuity

R  3611

Other Local Income

R

**Details of foreign income**

Foreign Interest

R  4218

Foreign tax credits on foreign interest

R  4113

Foreign Dividends

R  4216

Foreign tax credits on foreign dividends

R  4112

Foreign Capital Gain / Loss

R

Foreign tax credit i.r.o. capital gain / loss

R  4114

Foreign Farming

R  0192

Foreign tax credits on foreign farming income

R  4119

Other Foreign Income

R  4220

Foreign tax credits on other foreign income

R  4110

**Amount Considered Non-Taxable**

Amount

R



How should disposals of capital assets be dealt with? What exclusions are available? In particular, what tax consequences will arise on the disposal of a primary residence?



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# Basic CGT format

Capital gains (para 3)	XX
Less : Capital Losses (para 4)	(x)
Subtotal	XX
Less : Annual exclusion (para 5)	(x)
Aggregate capital gain (para 6)	XX
Less : Assessed capital loss carried forward (para 9)	(x)
Net capital gain (para 8)	XX
Inclusion rate	
Taxable capital gain (para 10)	

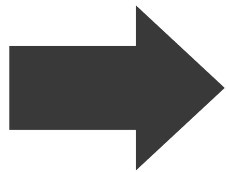


# Proceeds

- Amount received or accrued due to a disposal
- Only cash?
- Reduced by amount included in gross income
- If it is payable in a later period?

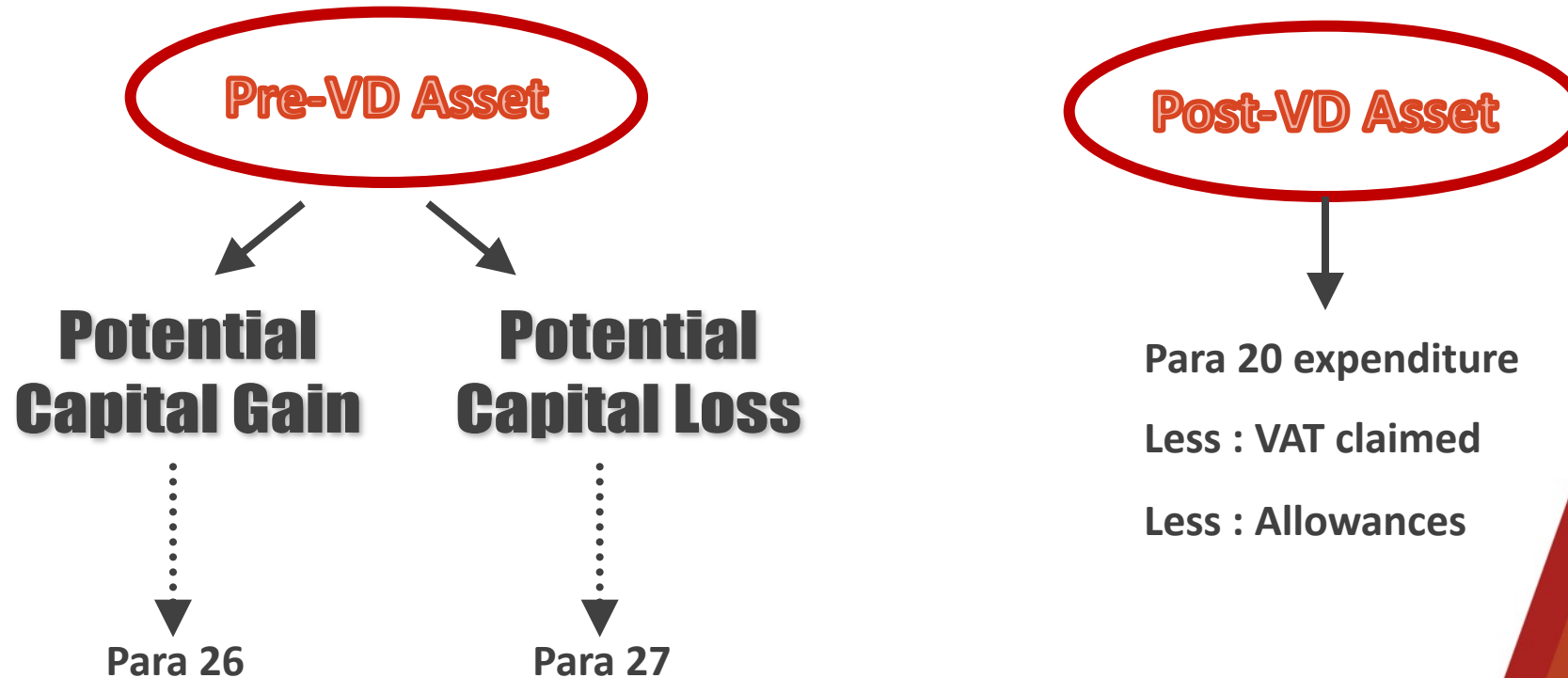
# Anti-avoidance (paragraph 38)

- Donation; *or*
- Disposal for consideration not measurable in money;  
*or*
- Disposal to connected person not at arm's length



Disposed at market value AND  
Acquired at market value

# Base cost



# Paragraph 20(1) and 20(2)

- General principle: Amount that can be taken into account in more than one way by applying different paragraphs in the Schedule, can only be included in the determination of the capital gain or loss **once**
- Base cost of an asset is the sum of
  - Cost of acquisition
  - The expenditure actually incurred in effecting an improvement to or enhancement of the value of that asset ~~if that improvement or enhancement is still reflected in the state or nature of that asset at the time of its disposal~~
  - Cost of valuation for CGT purposes
  - Expenditure incurred on acquisition or disposal of the asset
  - Holding costs of business assets and listed shares
  - Certain amounts subject to normal tax
- Base cost excludes
  - Borrowing costs, repairs, insurance ...
    - for assets other than business assets and listed shares

# Special inclusion in paragraph 20

Gross income definition : par (i)

An employee acquires a second-hand computer from his employer for R3 000 when the market value thereof is R5 000.

Solution:

Fringe benefit (included in GI)    R2 000

BC of asset:

Actual cost incurred		R3 000
Amount included in gross income i.t.o. par (i)	<u>R2 000</u>	
TOTAL		R5 000

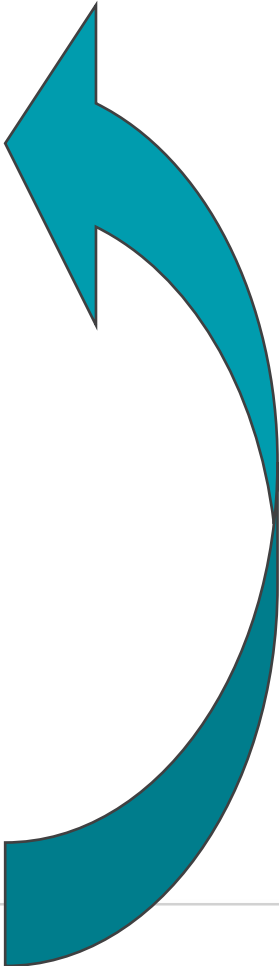
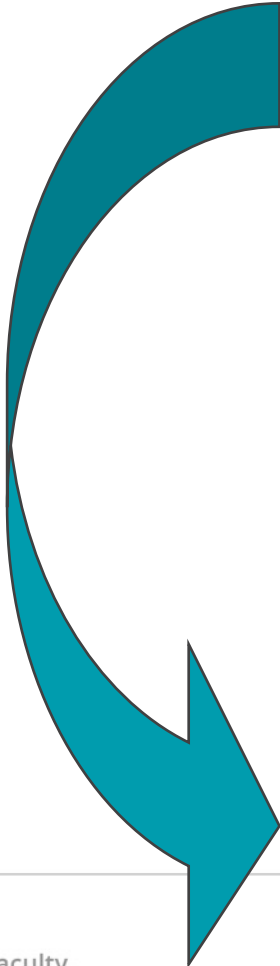
# General definition of a disposal

- the sale, donation, expropriation, conversion, grant, cession, exchange or any other alienation or transfer of ownership of an asset;
- the forfeiture, termination, redemption, cancellation, surrender, discharge, relinquishment, release, waiver, renunciation, expiry or abandonment of an asset;
- the scrapping, loss, or destruction of an asset; → **Stolen, fire**
- the vesting of an interest in an asset of a trust in a beneficiary;
- the distribution of an asset by a company to a shareholder;
- the granting, renewal, extension or exercise of an option;
- < in value of a person's interest in a company, trust or partnership as a result of a value shifting arrangement.

**Dividends**

# Basic working of deemed disposals

Deemed disposed at Market value



Get it back immediately at a cost equal to that Market value





# CGT events: deemed disposals (para 12)

- Events resulting in deemed disposals include
  - Taxpayer commencing or ceasing to be a resident
  - Asset ceasing to be personal use asset







# Resident Non-resident

Deemed disposal of all assets, except the assets that a non-resident will be taxed on

	<b>Movable asset</b>	<b>HOLIDAY HOME</b>
Deemed disposal?		
If disposed of later?		

# Non-resident Resident

Deemed disposal of all assets, except the assets that a non-resident will be taxed on

	<b>Movable asset</b>	<b>HOLIDAY HOME</b>
Deemed disposal?		
If disposed of later?		

# Personal use assets

- Any asset used by a natural person or special trust mainly (i.e. >50%) for purposes other than the carrying on of a trade
- What is NOT a personal use asset? (para 53(3))
  - An aircraft with an empty mass exceeding 450 kg;
  - A boat exceeding ten meters in length;
  - Any fiduciary, usufruct or other similar interest, the value of which decreases over time;
- If an allowance is paid for the use of the asset for business purposes
  - Treated as being used mainly for purposes other than the carrying on of a trade
  - i.e. = Personal use asset
  - E.g. car, cell phone

# Personal use asset



# Business



Dispose @ MV



CGT

Disregarded ito par 53



BC = MV



CGT when finally disposed of

Business asset  
asset



Personal use



Dispose @ MV



CGT



BC = MV



CGT when finally disposed of  
Disregarded ito par 53

# Primary residence exclusion: Basic working

- R2 000 000 exclusion **per residence**
- What about the annual exclusion?
- Owned and occupied by a natural person and/or special trust in which a natural person or a beneficiary of a special trust:
  - Ordinarily reside as his or her main residence; **and**
  - Use it mainly for domestic purposes
- Is it applicable against gains or losses?

# Exclusion apportionment: Example 1

## One residence

Natural person 1 50% interest $R2\ 000\ 000 \times 50\%$ = R1 000 000	Natural person 2 30% interest $R2\ 000\ 000 \times 30\%$ = R600 000	Natural person 3 20% interest $R2\ 000\ 000 \times 20\%$ = R400 000
--	--	--

# Exclusion apportionment: Example 2

## One residence

Natural person 1

50% interest

$$\begin{aligned} &R2\,000\,000 \times 50/80 \\ &= R1\,250\,000 \end{aligned}$$

Natural person 2

30% interest

$$\begin{aligned} &R2\,000\,000 \times 30/80 \\ &= R750\,000 \end{aligned}$$

Company 3

20% interest

**NO EXCLUSION!!**



# When do you apportion the gain/loss

- PLEASE NOTE: GAIN/LOSS IS APPORTIONED, NOT PRIMARY RESIDENCE EXCLUSION!
- Qualifying size
- Period ordinarily resident
- Non-residential use

# Qualifying size

- The exclusion will apply to land which:
  - Does not exceed 2 hectares **AND**
  - Is used together with the residence mainly for domestic or private purposes **AND**
  - Is disposed of at the same time and to the same person as the residence

# Deemed period ordinarily resident

- Residence remains unoccupied, but deemed to be ordinarily resident for max of 2 years
  - Offered for sale and vacated the residence due to (intended) acquisition of a new primary residence **OR**
  - Residence being constructed on land acquired for purpose of being used as primary residence **OR**
  - Accidentally rendered uninhabitable, e.g. flood, earthquake **OR**
  - Death of the person
- ✓ more than 1 primary residence
- Apportion if > than 2 years

# Example

Xolani was transferred from Knysna to Cape Town and struggled to sell her home in Knysna. In the meantime, she acquired a home in Cape Town and was able to eventually sell her Knysna home 18 months later.

## Conclusion:

Under para 48(a) Xolani is treated as having been ordinarily resident in the Knysna home during the 18 months that it was on the market. No apportionment of any capital gain or loss on disposal of the Knysna home is therefore required.

*(Source: SARS comprehensive guide on CGT)*

# Period apportionment: Non-residential use

- i.e. used for carrying on a trade by the person holding an interest in the primary residence
- Applies only to the owner, not by that person's spouse!! (provided that >51% in total used as primary residence)
- Exception : Trade = temporary letting as defined (see following slides)
  - No apportionment necessary

# Period apportionment: Temporary letting

- Treat as primary residence for a period of up to 5 years, i.e. no apportionment necessary if:
  - Person (owner, spouse, beneficiary) used the residence as primary residence for a continuous period of 1 year before and 1 year after the period of letting **AND**
  - No other residence treated as primary residence **AND**
  - Temporarily absent from SA or employed/engaged in carrying on a business in SA >250 km away from residence
- What if period > 5 years?

# Example

On 1 March 2005 Mary acquired a residence at a cost of R1 million which she used as her primary residence until 29 February 2012. On 1 March 2012 she moved out of the residence and let it to a tenant at a monthly rental. The letting of the residence continued until 1 March 2017 when Mary disposed of the residence for proceeds of R4 million.

*(Source: SARS comprehensive guide on CGT)*

# Conclusion

The overall capital gain on disposal of the residence is R4 million – R1 million = R3 million. Mary held the residence for a total period of 12 years. She used the residence as a primary residence for 7 years and let it for 5 years. It follows that 7 / 12 of the capital gain of R3 million will qualify for the primary residence exclusion while the remaining 5 / 12 will not. This does not constitute temporary letting as defined (requirements not met) Mary's capital gain will therefore be determined as follows:

Tainted capital gain R3 million × 5 / 12	R1 250 000
Capital gain attributable to primary residence R3 million × 7 / 12	R1 750 000
Overall capital gain before exclusion	R3 000 000
Capital gain attributable to primary residence before exclusion	R1 750 000
Less: Primary residence exclusion R2 million limited to capital gain (R1 750 000)	
Capital gain on primary residence portion	-
Capital gain on tainted portion	R1 250 000
Total capital gain	R1 250 000



# Proceeds ≤ R2 million

- Ordinarily resident throughout period of ownership;  
AND
- Used solely for private and domestic purposes
- Disregard capital gain
  - Not applicable to losses (loss can be claimed)

**What happens to the R2 million exclusion?**

# Paragraph 15

- An aircraft with an empty mass exceeding 450 kg;
- a boat exceeding ten meters in length;
- any fiduciary, usufruct or other similar interest, the value of which decreases over time;
- any lease of immovable property;
- any time-sharing interest or any share in a share block company with a fixed life, the value of which decreases over time; or
- any right or interest in any of the above-mentioned assets

Specifically excluded from personal use assets ito par 53(3),  
Therefore ✓ gain/loss  
But, para 15 ✗ loss  
Therefore, only gain

# Small business asset exclusion

- R1 800 000 exclusion per lifetime of a natural person if:
  - an active business asset of a small business owned by that natural person as a sole proprietor; *or*
  - an interest in each of the active business assets of a business, which qualifies as a small business, owned by a partnership, upon that natural person's withdrawal from that partnership to the extent of his or her interest in that partnership; *or*
  - an entire direct interest in a company (which consists of at least 10 per cent of the equity of that company), to the extent that the interest relates to active business assets of the business, which qualifies as a small business, of that company
- Provided that
  - MV of all assets on the date of disposal < R10 million
  - at the time of the disposal, that person held for his or her own benefit that active business asset, interest in the partnership, or interest in the company (as the case may be) for a continuous period of at least five years prior to that disposal; *and*
  - was substantially involved in the operations of the business of that small business during that period; *and*
  - has attained the age of 55 years; *or*
  - the disposal is in consequence of ill-health, other infirmity, superannuation or death.

# What is an active business asset?

Immovable asset	Movable asset
To the extent used for business purposes	Wholly and exclusively (100%) for business purposes
I.e. %	I.e. all or nothing
E.g. land and buildings	Excluding: <ul style="list-style-type: none"><li>• Financial instruments</li><li>• Assets held to generate annuity income, rental income, forex gains or royalty income</li></ul>

# Qualifying for the exclusion

- Capital gain must be realized within 24 months after disposal
- > 1 small business
  - Include the capital gain of all businesses when claiming the R1 800 000 exclusion, provided that the market value of all of the active business assets < R10 000 000

# Example

Ben, aged 65, owns 50% of ABC (Pty) Ltd and is also its managing director. On 28 February 2018, with the object of retiring from the business, he concluded an agreement for the sale of his 50% interest to Edward for R2 million. Ben had acquired his shares in 2005 at a cost of R200 000. The balance sheet of ABC (Pty) Ltd as at 28 February 2018 appeared as follows:

Goodwill	R2 000 000
Factory building	R6 000 000
Plant and machinery	R1 000 000
Trading stock	R500 000
Trade debtors and employee advances	R300 000
Bank account	R200 000
	R10 000 000
Less: Creditors	(R6 000 000)
Net asset value	R4 000 000
Ben's share (50%)	R2 000 000

Ben does not own any other businesses and has not made use of the exclusion under para 57 in earlier years. He does, however, own a single property from which he derives rental income. The property is valued at R2 million.

# Conclusion

- Capital gain: R2 000 000 – R200 000 = R1 800 000 (before applying the exclusion under para 57)
- Financial instruments (therefore, not active business assets)
  - Trade debtors and employee advances (R300 000)
  - Bank balance (R200 000)
  - Total: R500 000
- The remaining assets (R9 500 000) qualify as active business assets
- Therefore, the portion of the capital gain not qualifying for exclusion under para 57 is  $R500\ 000 / R10\ 000\ 000 \times R1\ 800\ 000 = R90\ 000$
- The portion of the gain that will qualify for the exclusion is R1 710 000 and this is reduced to Rnil by applying the exclusion
- Ben can make use of the remaining exclusion of R90 000 (R1 800 000 – R1 710 000) if he disposes of any other active business assets of another small business within 24 months of the disposal of his shares

*(Source: SARS Comprehensive guide on CGT)*

# Disposals by married persons

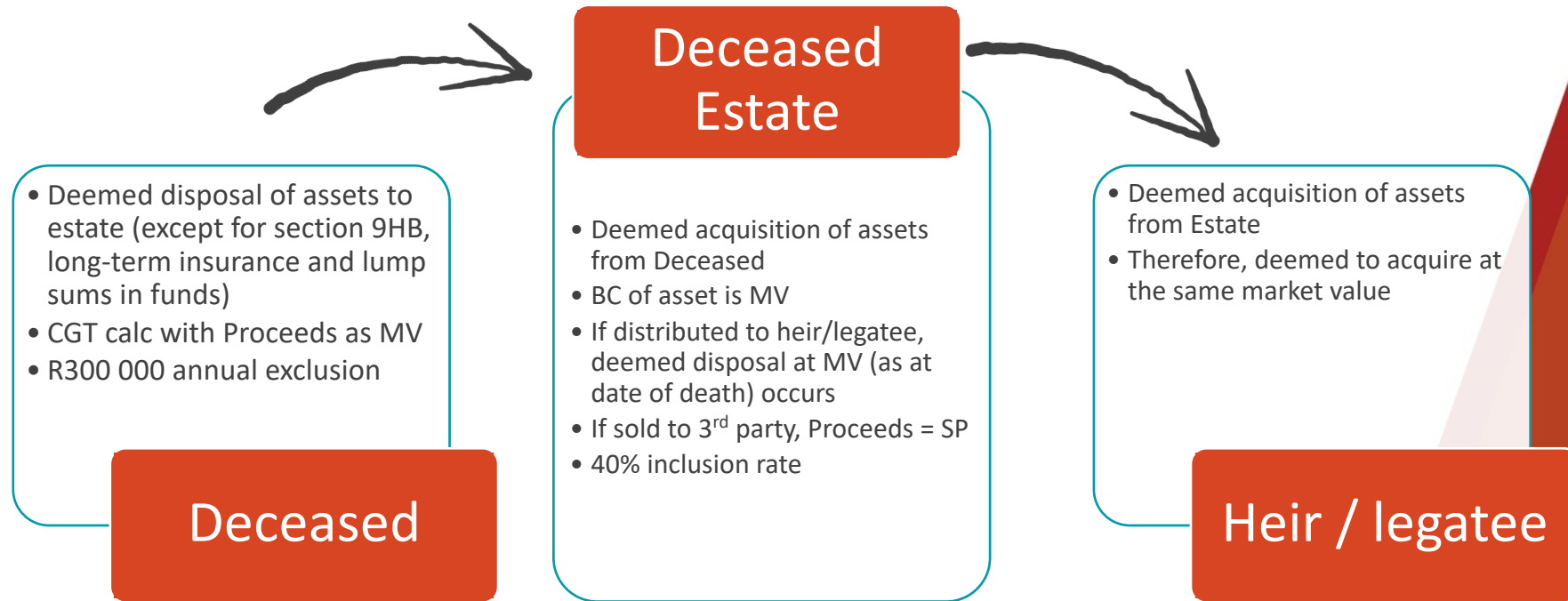
If part of the joint estate	If not part of the joint estate
Assumption if married in community of property	Assumption if married out of community of property
50% disposal by Spouse A	100% disposal by Spouse A
50% disposal by Spouse B	0% disposal by Spouse B

## Section 9HB roll-over

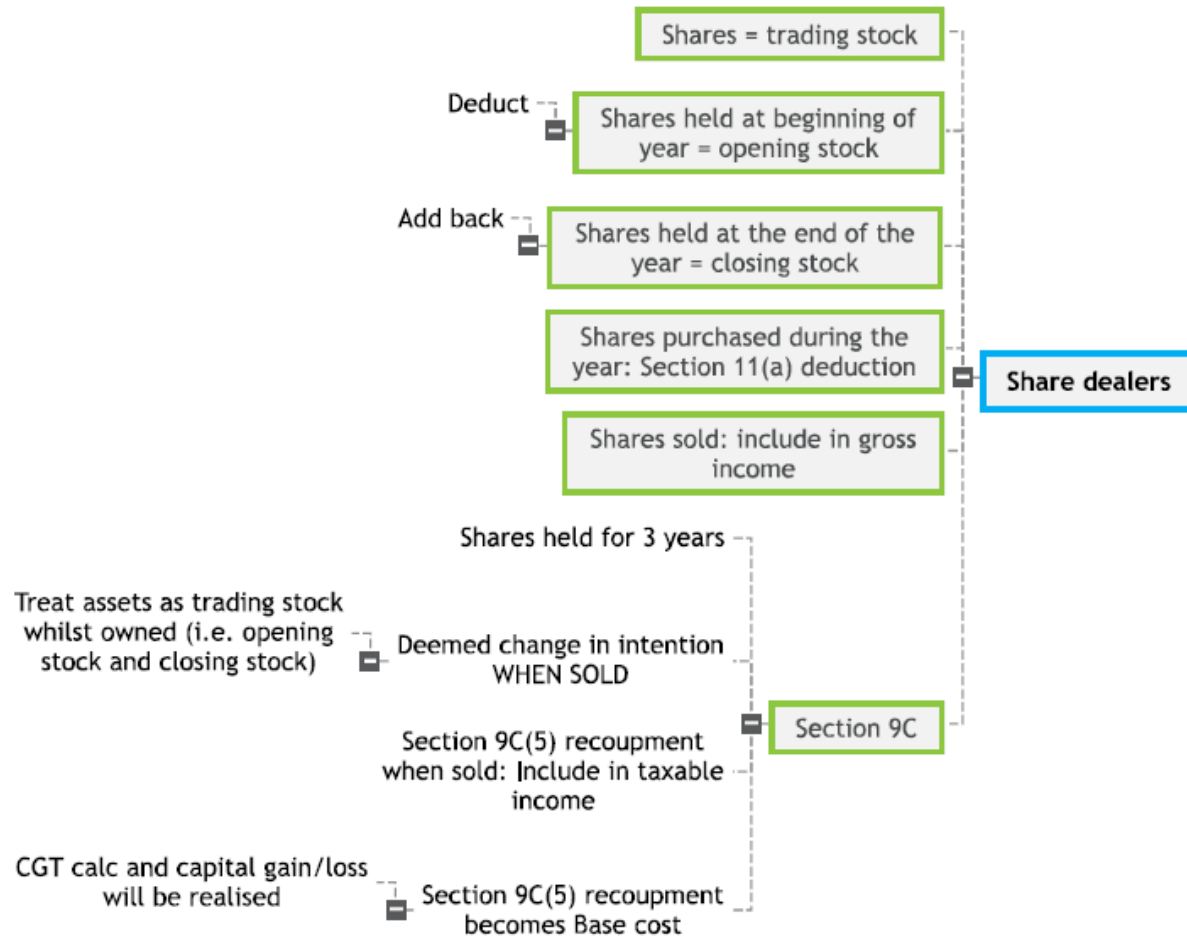
1. Acquired on the same date
2. Acquired at the same cost
3. Incurred costs on the same dates
4. Used in the same manner



# Deceased taxpayer



# Share dealers



# ITR12

## Capital Gain / Loss (Excluding amounts received / accrued as a beneficiary of a trust(s), or deemed to have accrued in terms of s7)

Did you dispose of any local assets attracting capital gain or loss? Y  N

How many disposals (shares to be combined as one disposal) took place?

Did you dispose of any foreign assets attracting capital gain or loss? Y  N

How many disposals (shares to be combined as one disposal) took place?

**Capital Gain / Loss** (Excluding amounts received / accrued as a beneficiary of a trust/s, or deemed to have accrued in terms of s7)

Note: The annual exclusion and inclusion rate and carry forward losses will be calculated by SARS.

**Determination of Local Gain / Loss**

– Rands only, no cents

Does the transaction relate to a primary residence? Y  N

If Yes, indicate whether the primary residence is held jointly? Y  N

Is the primary residence held in a partnership? Y  N

If Yes, state the percentage held    ,   %

Mark here with an 'X' to confirm that the full amounts relating to proceeds and base cost of the primary residence are declared.

Does any exemption/rollover other than primary residence exemption apply to this transaction? Y  N

Proceeds

R

Base Cost

R

Primary Residence and Other Exclusions (excl. annual exclusions)

R

Gain

R                      4250

Or Loss

R                      4251

**Determination of Foreign Gain / Loss** – Rands only, unless cents specified (Excluding amounts received / accrued as a beneficiary of a trust(s), or deemed to have accrued in terms of s7)

Does the transaction relate to a primary residence? Y  N

If Yes, indicate whether the primary residence is held jointly? Y  N

Is the primary residence held in a partnership? Y  N

If Yes, state the percentage held    ,   %

Mark here with an 'X' to confirm that the full amounts relating to proceeds and base cost of the primary residence are declared.

Does any exemption/rollover other than primary residence exemption apply to this transaction? Y  N

Proceeds

R

Base Cost

R

Primary Residence and Other Exclusions (excl. annual exclusions)

R

Gain

R                      4252

Or Loss

R                      4253

Foreign Tax Credits in respect of Foreign Capital Gain/Loss

R                      ,   4114

# How will a taxpayer's donations impact the calculation of taxable income and how should it be declared on the ITR12?



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# Section 18A deduction

- Only for qualifying donations
  - Section 18A certificate received
- Limited to 10% of taxable income
  - PAYE: Limited to 5% of the subtotal of balance of remuneration
- Excess: Carried forward and can be deducted in the next year (subject to the limit)

# IT144



INCOME TAX  
INKOMSTEBELASTING

IT 144  
IB 144

Declaration by donor / donee  
Verklaring deur skenker / begiftigde

**Part 1: Particulars of donor:**  
**Deel 1: Besonderhede aangaande die skenker:**

1

Surname  
Van

First names  
Voorname

Address  
Adres

Postal code  
Poskode

Identity number  
Identiteitsnommer

Income tax reference number  
Inkomstebelastingverwysingsnommer

Marital status:  
Huweliksstatus:

Unmarried  
Ongetroud

Married in community of property  
Getroud binne gemeenskap van goed

Married out of community of property  
Getroud buite gemeenskap van goed

3

If donor is married in community of property  
Indien u binne gemeenskap van goedere getroud is, is die skenking uit die bates van die gesamentlike boedel gemaak?

YES / JA

NO / NEE

If YES, did your spouse complete and submit an IT144 regarding his/her share of the donation?  
Indien JA, het u gade 'n IB144 voltooi en ingestuur ten opsigte van sy/haar gedeelte van die skenking?

YES / JA

NO / NEE

---

**Part 2: Particulars of donee:**  
**Deel 2: Besonderhede aangaande die begiftigde:**

2

Surname  
Van

First names  
Voorname

Address  
Adres

Relationship to donor:  
Verwantskap aan skenker:

Postal code  
Poskode

Identity number  
Identiteitsnommer

Income tax reference number  
Inkomstebelastingverwysingsnommer

---

**Part 3: Particulars of donation:**  
**Deel 3: Besonderhede aangaande skenking:**

1	Description of donation, e.g. Cash, goods, services, etc. Beskrywing van skenking, bv. kontant, goedere, aandele, vaste eiendom (verstrekte volle besonderhede), ens.	How donated, e.g. copy Wysse van skenking, bv. Skenkingsakke, (heg afskrifte aan)	Value of donation Waarde van skenking	2	3
				Particulars of the donee (person receiving the donation)	

3

If the donor is married in community of property, the donor needs to declare whether the donation was made out of the joint estate and also whether the spouse has also completed an IT144

# IT144



INCOME TAX  
INKOMSTEBELASTING

IT 144  
IB 144

**Declaration by donor / donee**  
**Verklaring deur skenker / begiftigde**

**Part 1: Particulars of donor:**  
**Deel 1: Besonderhede aangaande die skenker:**

Surname Van	<input type="text"/>	Address Adres	<input type="text"/>
First names Voorname	<input type="text"/>		
		Postal code Poskode	<input type="text"/>
Identity number Identiteitsnommer	<input type="text"/>	Income tax reference number Inkomstebelasting verwysingsnommer	<input type="text"/>
Marital status: Huwelikstatus:	<input type="checkbox"/> Unmarried Ongetroud	<input type="checkbox"/> Married in community of property Getroud binne gemeenskap van goed	<input type="checkbox"/> Married out of community of property Getroud buite gemeenskap van goed
<p>1 Value of the donation as determined using the specific valuation methods applicable to the type of property donated.</p>			
<p>2 Indicate the basis of the valuation.</p>			

**Part 3: Particulars of donation:**  
**Deel 3: Besonderhede aangaande skenking:**

Date of donation Datum van skenking	Description of donation, e.g. Cash, goods, shares, fixed property (furnish full particulars), etc. Beskrywing van skenking, bv. kontant, goedere, aandele, vaste eiendom (verstrek volle besonderhede), ens.	How donated, e.g. Notarial deed, (attach copy) Wyse van skenking, bv. Skenkingsakte, (heg afskrifte aan)	Value of donation Waarde van skenking	Basis of valuation, e.g. Market value, appraisalment, etc Basis van waardering, bv. markwaarde, skatting, ens

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# IT144



INCOME TAX  
INKOMSTEBELASTING

IT 144  
IB 144

## Declaration by donor / donee Verklaring deur skenker / begiftigde

Part 4: Particulars of other donations:  
Deel 4: Besonderhede aangaande ander skenkings:

**1** The donor is not required to indicate which exemptions can be applied. The SARS office will allocate the applicable exemptions.

Part 5: Declaration  
Deel 5: Verklaring:

I, the above-mentioned donor, hereby declare that the information furnished in this declaration is true and correct.  
Ek, die bogenoemde skenker, verklaar hiermee dat die inligting verstrek in hierdie verklaring waar en juist is.

Signature / Handtekening \_\_\_\_\_ Date / Datum \_\_\_\_\_

I, the above-mentioned donee, acknowledge receipt of the donation as stated in Part 3 above.  
Ek, die bogenoemde begiftigde, erken ontvangs van die skenking soos vermeld in Deel 3 hierbo.

Signature / Handtekening \_\_\_\_\_ Date / Datum \_\_\_\_\_

FOR OFFICE USE: Year of assessment: \_\_\_\_\_

Total value of all donations made	R _____
Less: Exemptions - section 56	R _____
Cumulative taxable value	R _____
Donations tax	R _____
Less: Previously paid	R _____
<b>NOW PAYABLE</b>	R _____
Add: Interest from _____ to _____	R _____
Receipt number	_____
Date	CCYY - MM - DD

**1**

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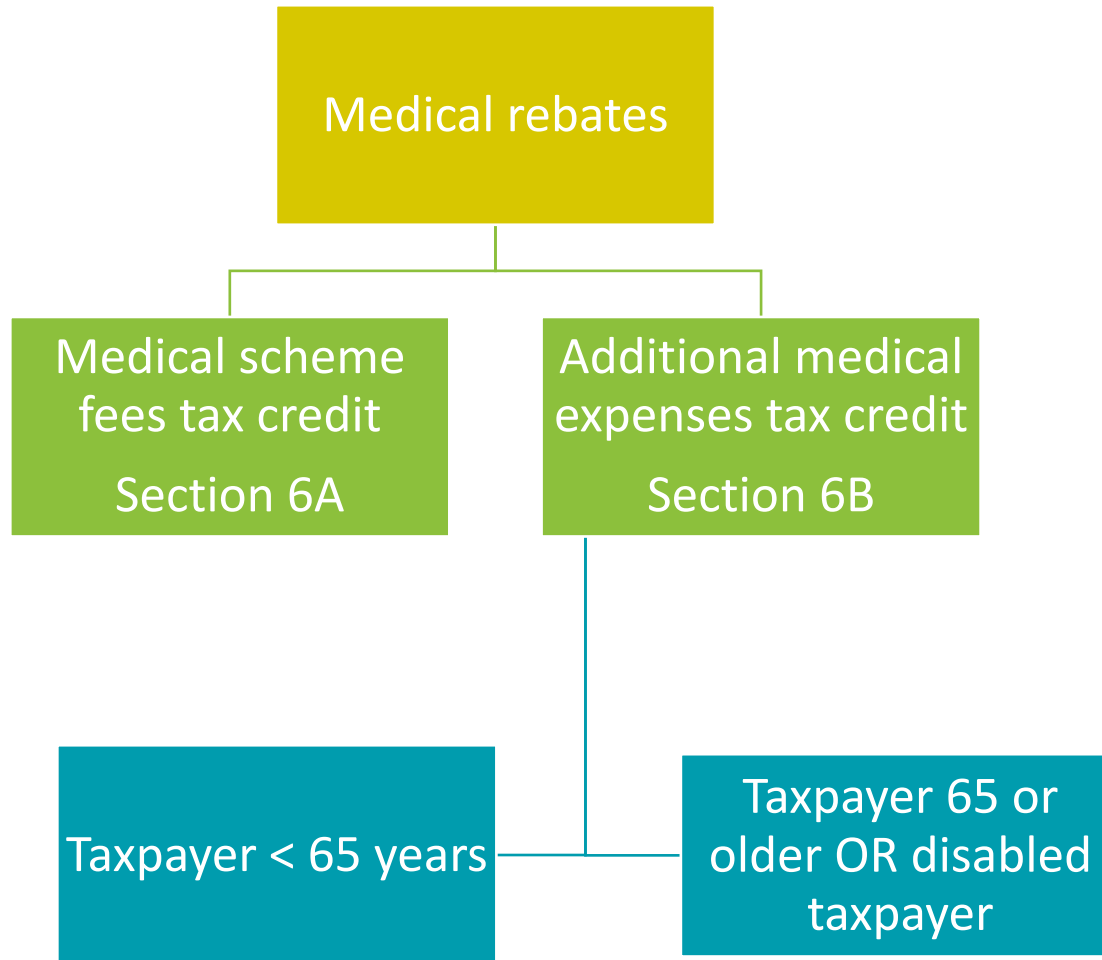
# What rebates can be claimed by a taxpayer related to contributions to a medical aid as well as other medical costs incurred?



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# Medical scheme fees tax credit

## Section 6A

	2020/2021	2019/2020
For the main member	R319	R310
For the first dependant	R319	R310
For any additional dependant thereafter	R215	R209

# Who is a “dependant” for purposes of section 6A and section 6B?

“(a) a person’s spouse (in a marriage or customary union recognised in terms of the laws of the Republic; in a union recognised as a marriage in accordance with the tenets of any religion; or in a same-sex or heterosexual union which is intended to be permanent)

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

(c) any other member of a person’s family (relations by blood, adoption and marriage etc.) in respect of whom he or she is liable for family care and support; or

(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),

# What is meant with a “child”?

- A person who, on the last day of the year of assessment,
- (a) was unmarried and not
  - (i)  $\geq 18$  years;
  - (ii)  $> 21$  years and 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)  $> 26$  years and wholly or partially dependent for maintenance 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 and has not become liable for the payment of normal tax in respect of that year

# Principles related to section 6A

- Only claimable by the person who actually paid
- If paid by employer and constituted a fringe benefit
  - Deemed to have been incurred by the taxpayer, i.e. section 6A can be claimed
- Section 6A rebate is claimable against taxes payable and is, as a result, limited to the tax payable before the offset of employees' tax and provisional tax
  - Therefore, can never create a refund, nor can any excess be carried forward to the next year of assessment
- What if the taxpayer is not a member of a registered medical scheme, but pays fees for a dependant person, and that dependant person is a member of a registered medical scheme?
  - Section 6A credit can be claimed
  - An example of such a case might be where the taxpayer pays fees in respect of a parent that is dependent on him or her
- What if more than one taxpayer contributes?
  - Apportion section 6A credit
  - $\frac{\text{Contributions payable by the person}}{\text{Total contributions payable}} \times \text{Total section 6A credit}$



# Examples

## Example 1

X, a friend of Y, paid monthly contributions of R1 000 to Excellent Health SA, a registered medical scheme. The amounts were paid for Y and Y's spouse and children, who are not dependants of X.

Y may not claim a section 6A credit for the amounts paid by X. X may also not claim a section 6A credit for the amounts paid for Y, since the contributions have not been paid for X or a dependant of X.

## Example 2

X paid a monthly premium of R249 to the LMN GAP Cover Fund, underwritten by ABC Life Assurance Ltd. The monthly premium is paid for X and X's spouse. The LMN GAP Cover Fund is not a registered medical scheme.

The total premiums of R2 988 for the year of assessment are not regarded as qualifying contributions, as these amounts have not been paid to a registered medical scheme.

*(Source: SARS guide on the determination of medical tax credits)*

# Contributions to foreign medical aids

AC lives in South Africa and is liable to tax in South Africa. AC paid monthly contributions of R2 000 to British Health Corporation, which is not registered as a medical scheme under the MS Act, but is registered under similar laws in the United Kingdom. The contributions are for AC, AC's spouse and their children. They are all considered "dependants" as defined in section 6B(1).

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

*(Source: SARS guide on the determination of medical tax credits)*

# Example: More than one person contributing

M, aged 80, is a member of a registered medical scheme. M is reliant on her two children, X and Y, for family care and support. M's monthly medical scheme contributions of R5 000, were paid by X and Y, in an equal share, during the 2021 year of assessment. M is a "dependant" as defined in section 6B(1) of both X and Y. Neither X nor Y is a member of a medical scheme.

Contributions payable by M to the registered medical scheme ( $R5\ 000 \times 12$ )	R60 000
Contributions paid by X on behalf of M (half of R60 000)	R30 000
Contributions paid by Y on behalf of M (half of R60 000)	R30 000

Section 6A for one dependant	R319
------------------------------	------

Total Section 6A credit for the 2021 year of assessment ( $R319 \times 12$ )	R3 828
--	--------

The Section 6A to be deducted from normal tax payable by each of X and Y for the 2021 year of assessment:

$R30\ 000 / R60\ 000 \times R3\ 828$	R1 914
--------------------------------------	--------

R1 914 represents the *maximum* Section 6A rebate that each of X and Y may claim for the 2021 year of assessment.

*(Source: SARS guide on the determination of medical tax credits)*

# Additional medical expenses tax credit - Section 6B

Taxpayer younger than 65	Taxpayer 65 and older OR Taxpayer with a disabled person who is a dependant on the medical aid
Contributions to the medical aid during the year of assessment	Contributions to the medical aid during the year of assessment
Less: 4 x section 6A rebate	Less: 3 x section 6A rebate
Subtotal	Subtotal
Add: Out-of-pocket medical expenses	Add: Out-of-pocket medical expenses
Less: 7.5% of taxable income	
Subtotal	Subtotal
REBATE = Subtotal x 25%	REBATE = Subtotal x 33.3%

# What is “out-of-pocket” medical expenses?

- Must have been PAID by the taxpayer during the current y.o.a.
- Any expense NOT covered by the medical aid that relates to:
  - “(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 for the main member or any dependant
- Example:
  - BC purchased headache tablets off-the-shelf at the local pharmacy for R50.
  - As the headache tablets were not prescribed by a duly registered medical practitioner, nor was the expense prescribed by the Commissioner in consequence of a physical impairment, the R50 is not regarded as a “qualifying medical expense” and will not be taken into account when the Section 6B rebate is determined.

# Will “out-of-pocket” medical expenses incurred outside SA qualify?

- Expenses for medical services and supplies that have been incurred outside South Africa may be taken into account in the determination of the Section 6B credit if:
  - The expense has been paid during that year of assessment, and
  - The expense is substantially similar to qualifying medical services rendered or medicines supplied in South Africa.

# Example

During the 2020 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 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

*(Source: SARS guide on the determination of medical tax credits)*

# Conclusion

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

B = R14 964 (Section 6A credit) (R310 + R310 + R209)

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 Section 6B credit =  $25\% \times \{[A - (4 \times B)] + C\} - (7,5\% \times D)$*

$= 25\% \times \{[R42\ 000 - (4 \times R14\ 964)] + R14\ 866\} - (7,5\% \times R298\ 000)$

$= 25\% \times [(R42\ 000 - R59\ 856)^* + R14\ 866] - R22\ 350$

$= 25\% \times [(R42\ 000 - R42\ 000) + R14\ 866] - R22\ 350$

$= 25\% \times (R14\ 866 - R22\ 350)$

$= 25\% \times \text{nil}$

$= \text{R nil}$



# Example

For the 2020 year of assessment, AZ (aged 67) earned a pension of R215 000 and annuity income of R42 000. AZ incurred and paid the following medical expenses:

- R3 100 per month for medical scheme contributions for AZ.
- 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 2020. The amount was only paid by AZ on 2 March 2020.

*(Source: SARS guide on the determination of medical tax credits)*

# Conclusion

A = R37 200 (contributions to a medical scheme)

B = R310 x 12 = R3 720 (Section 6A credit)

C = R8 750 (qualifying medical expenses of R6 250 + R2 500)

*Formula to calculate the Section 6B credit* = 33,3% × {[A – (3 × B)] + C}

= 33,3% × {[R37 200 – (3 × R3 720)] + R8 750}

= 33,3% × [(R37 200 – R11 160) + R8 750]

= 33,3% × (R26 040 + R8 750)

= 33,3% × R34 790

= R11 585,07

The expense of R500 for the friend who had to be rushed to the emergency room is not a qualifying medical expense since the friend is not a dependant of AZ. The R280 paid for the consultation with a general practitioner will also not be considered a qualifying medical expense in the 2020 year of assessment since it was paid during the 2021 year of assessment, and can thus only be claimed in the 2021 year of assessment.

# Expenses related to disability

- 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
- 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
  - Therefore, a prescribed expense does not automatically qualify for an AMTC by mere reason of its listing
- Example: If a person with a disability, who has no visual impairment, purchases a hand-held Global Positioning System (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. *(Source: SARS guide on the determination of medical tax credits)*

# ITR-DD

- A person who wishes to claim a Section 6B rebate for disability expenses, must first complete a Confirmation of Diagnosis of Disability form (**ITR-DD**) to allow a registered medical practitioner to diagnose the disability before the taxpayer submits an income tax return
- 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
- ITR-DD must be completed and endorsed by a duly registered medical practitioner 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
  - Disability is deemed temporary if it is expected to last > 5 years

# ITR12

Did you pay any medical expenditure (including medical scheme contributions made by you or your employer towards a medical scheme where you are the principal / main member)?

Y  N

Did you pay any medical expenditure (including medical scheme contributions where you are not the principal / main member of the medical scheme) in respect of any immediate family member who is dependent on you for family care and support?

Y  N

## Taxpayer Information – Deductions

### Medical Deductions – Rands only, no cents

**Medical expenditure (including medical scheme contributions made by you or your employer towards a medical scheme where you are the principal / main member)**

Were you the principal / main member of a medical scheme to which you and/or your employer made contributions? Y  N

In how many medical scheme(s) were you the principal / main member during this year of assessment

#### Details of Medical Scheme

Medical Scheme Name:

Medical Scheme Membership Number

State the total number of dependants (including yourself) per month:

Mar	Apr	May	Jun	Jul	Aug
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Sep	Oct	Nov	Dec	Jan	Feb
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

State the Medical contributions made by yourself and / or your employer to this scheme.

R

State any medical expenses paid by you that was claimed from your medical scheme and reflected on the medical certificate. (other than physical impairment or disability expenses)

R

**Medical expenditure (including medical scheme contributions where you are not the principal / main member of the medical scheme) in respect of any immediate family member who is dependent on you for family care and support**

Were any of the immediate family member(s) dependant(s) of a medical scheme(s) to which you paid the contributions? Y  N

Indicate the number of medical schemes to which you paid the contributions in respect of such dependant(s)?

#### Details of Medical Scheme

Medical Scheme Name:

Medical Scheme Membership Number

State the total number of dependants per month:

Mar	Apr	May	Jun	Jul	Aug
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Sep	Oct	Nov	Dec	Jan	Feb
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

State the total amount of medical scheme contributions paid on behalf of any immediate family member(s) who is dependent on you for family care and support

R

State the amount of the medical expenses paid by you that was claimed from the medical scheme and reflected on the medical certificate (other than physical impairment or disability expenses)

R

#### Expenses not reflected on any medical certificate

State any qualifying medical expenses paid by you not claimed from any medical scheme and not reflected on any medical scheme certificate (other than physical impairment or disability expenses)

R

#### Physical Impairment

State any qualifying physical impairment expenses paid by you and not recovered from any medical scheme(s) and not included above.

R

#### Disability

Are you, your spouse or any of your qualifying children a person with a disability? Y  N

If 'Yes', has the disability been confirmed by a duly registered medical practitioner as prescribed? Y  N

Indicate the number of qualifying person(s) with a disability:

#### Details of Disability

Indicate the person with the disability with an "X" below:

Yourself  Spouse  Qualifying Child

Date of birth of person with disability (CCYYMMDD)

Indicate the severity of the disability with an "X" below:

Moderate Disability  Severe Disability

Specify the date on which the latest ITR-DD for this person was confirmed by a duly registered practitioner (CCYYMMDD)

Registered Medical Practitioner Practice Number

State the qualifying disability expenses paid by you i.r.o yourself, your spouse and qualifying children and not recovered from any medical scheme and not included in any expenses claimed above

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## Questions??



“ Education is the passport to the future, for tomorrow belongs to those who prepare for it today ”  
-Malcom X -

## DISCLAIMER:

Nothing in this presentation should be construed as constituting tax advice or a tax opinion. An expert should be consulted for advice based on the facts and circumstances of each transaction/case. Even though great care has been taken to ensure the accuracy of the answer, neither SAIT nor The Tax Faculty accept any responsibility for consequences of decisions taken based on this query and answer. It remains your own responsibility to consult the relevant primary resources when taking a decision.

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