

GUIDE FOR EMPLOYERS IN RESPECT OF ALLOWANCES

2014 TAX YEAR

GUIDE FOR EMPLOYERS IN RESPECT OF
ALLOWANCES (2014 TAX YEAR)
PAYE-GEN-01-G03

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DISCLAIMER

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

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

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

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1 PURPOSE

- The purpose of this document is to assist employers in understanding their obligations relating to allowances paid or payable to their employees.

2 SCOPE

- This basic guide explains the methods to be applied by employers in respect of allowances paid or payable to employees and includes the legislation requirements as well as examples.

3 REFERENCES

3.1 LEGISLATION

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Section 8(1)(a) read with Section 8(1)(b), 8(1)(c), 8(1)(d) and 8(1)(f) of the Income Tax Act No. 58 of 1962 Section 1 of the Tax Administration Act No. 28 of 2011
Other Legislation:	None

3.2 CROSS REFERENCES

DOCUMENT #	DOCUMENT TITLE	APPLICABILITY
GEN-GEN-07-FAQ01	Medical Tax Credits - External FAQ.	All
PAYE-AE-06-G01	Guide for completion and submission of Employees' Tax certificates	All
PAYE-AE-06-G02	Guide for completion and submission of reconciliation declarations	All
PAYE-AE-06-G03	Guide for validation rules for fields applicable to reconciliation documents	All
PAYE-AE-06-G04	Guide for codes applicable to Employees' Tax certificates	All
PAYE-AE-06-G05	Guide for creation of CSV files – Employees' Tax certificate information	All
PAYE-AE-06-G06	Guide for PAYE e@syFile™ Employer for employee Income Tax registration or verification	All
PAYE-AE-06-POL01	Completion and submission of reconciliation documents	All
PAYE-AE-06-POL01-FAQ01	Completion and submission of CSV e@syFile™ Employer and ZipCentralFile reconciliation documents – External FAQ	All
PAYE-AE-06-POL01-FAQ02	Completion and submission of annual and interim reconciliation declarations – External FAQ	All
PAYE-GEN-01-G01	Guide for employers in respect of Employees' Tax deduction tables	All
PAYE-GEN-01-G01-A01	Weekly tax deduction tables	All
PAYE-GEN-01-G01-A02	Fortnightly tax deduction tables	All
PAYE-GEN-01-G01-A03	Monthly tax deduction tables	All
PAYE-GEN-01-G01-A04	Annual tax deduction tables	All
PAYE-GEN-01-G02	Guide for employers in respect of fringe benefits	All
PAYE-GEN-01-G03-A01	Rate per kilometre schedule	All
PAYE-GEN-01-G03-A02	Subsistence allowance in respect of foreign travel	All
PAYE-GEN-01-G04	Guide for employer in respect of Employees' Tax	All
SDL-GEN-01-G01	Guide for employers in respect of the SDL	All
SDL-GEN-01-G01-FAQ01	SDL frequently asked questions	All
UIF-GEN-01-G01	Guide for employers in respect of the UIF	All
UIF-GEN-01-G01-FAQ01	UIF frequently asked questions	All

4 DEFINITIONS AND ACRONYMS

4th Schedule	<ul style="list-style-type: none"> The Fourth Schedule to the Income Tax Act No.58 of 1962
7th Schedule	<ul style="list-style-type: none"> The Seventh Schedule to the Income Act No.58 of 1962
Alternate period	<ul style="list-style-type: none"> A period, whether of 12 months or not, commencing on the day following the last day of the preceding alternate period in relation to the employer and ending on a date falling not more than 14 days before or after the last day of February, or such greater number of days as the Commissioner, having regard to the circumstances of the case, may allow.
Annual equivalent	<ul style="list-style-type: none"> An amount equal to the sum of net remuneration multiplied by the ratio which a full year bears to the period in respect of which such net remuneration is payable.
Annual payment	<ul style="list-style-type: none"> An amount of net remuneration that is, in accordance with the employee's conditions of service or the employer's practice, paid once annually (as a lump sum without any reference to any period) to the employee or it is an amount that is calculated without reference to a period and does not exceed R60000.
Backdated salary	<ul style="list-style-type: none"> Salary, wage or similar remuneration (excluding a bonus) payable by the employer to an employee.
Balance of remuneration	<ul style="list-style-type: none"> Any amount of remuneration after deducting the allowable deductions for employees' tax purposes.
Commissioner	<ul style="list-style-type: none"> Commissioner for the South African Revenue Service
Employees' Tax	<ul style="list-style-type: none"> The tax required to be deducted or withheld by an employer in terms of paragraph 2 of the 4th Schedule from remuneration paid or payable to an employee.
Employee	<ul style="list-style-type: none"> An employee for employees' tax purposes is defines as — <ul style="list-style-type: none"> A natural person who receives remuneration or to whom remuneration accrues A person (including a company) who receives remuneration or to whom remuneration accrues by reason of services rendered by such person to or on behalf of a labour broker A labour broker A person or class or category of persons whom the Minister of Finance by notice in the Government Gazette declares to be an employee A personal service provider A director of a private company.
Employer	<ul style="list-style-type: none"> Any person who pays or is liable to pay a person an amount by way of remuneration including a person responsible for the payment of an amount by way of remuneration to a person under the provisions of a law or out of public funds or out of funds voted by parliament or Provincial Council. This definition excludes any person not acting as a principal but includes any person acting in a fiduciary capacity or in his/her capacity as trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or any other fund.
Holder of a public office	<ul style="list-style-type: none"> The President, Deputy President, a Minister, a Deputy Minister, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a Premier, a member of an Executive Council or a member of a provincial legislature;

	<ul style="list-style-type: none"> Any member of a municipal council, a traditional leader, a member of a provincial House of Traditional Leaders or a member of the Council of Traditional Leaders; and A person occupying the office of president, chairman or chief executive officer of any non-profit organisation, shown to the satisfaction of the Commissioner to be organised on a national or regional basis to represent persons with a common interest and the funds of which are derived wholly or mainly from subscriptions from members or donations from the general public.
PAYE	<ul style="list-style-type: none"> Pay-As-You-Earn
Relevant material	<ul style="list-style-type: none"> As defined per section 1 of the Tax Administration Act, means any information, document or thing that is foreseeable relevant for tax risk assessment, assessing tax, collecting tax, showing non-compliance with an obligation under a tax Act or showing that a tax offence was committed
SARS	<ul style="list-style-type: none"> South African Revenue Service
Tax period	<ul style="list-style-type: none"> In relation to any employer, as a period of 12 months ending on the last day of February of the relevant tax year or at the option of the employer, an alternate period, in respect of which remuneration is paid or has become due. In relation to an employee, a tax year (1 March to 28/29 February of the next year) or any unbroken period during the tax year — <ul style="list-style-type: none"> during which the employee was employed by one employer in the Republic in standard employment; or during which any annuity was paid or became payable to him/her by one employer; or such period as the Commissioner considers appropriate in the circumstances, where the Commissioner has in relation to the employment of any employee, issued a ruling to the employer.

5 ALLOWANCES

5.1 SUBSISTENCE ALLOWANCE

Reference to the Act	Section 8(1)(a) read with section 8(1)(c) of the Income Tax Act No. 58 of 1962 (the Income Tax Act).
Meaning	A subsistence allowance is any allowance given to an employee or a holder of any office for expenses incurred or to be incurred in respect of personal subsistence and incidental costs (for example, drinks).
Important	Compensation or an allowance paid to employees who reside far away from their normal place of employment or who do not spend the night away from home is not regarded as a subsistence allowance and is subject to Employees' Tax. This also applies in the case of a labour broker.
Amounts deemed to be expended	<p>Section 8(1)(c) of the Income Tax Act prescribes that the employee shall be deemed to have actually expended a certain amount (daily expenses in respect of meals and/or incidentals costs) where the employee is absent from his/her usual place of residence —</p> <ul style="list-style-type: none"> Where the accommodation to which the allowance or advance relates is in the Republic, an amount equal to the following is deemed to be expended for each day or part of a day in the period during which the employee is

absent from his/her usual place of residence —

- - Only incidental costs – R98
 - Meals and Incidental costs – R319.
- Where the accommodation to which the allowance or advance relates is **outside the Republic**, an amount equal to prescribed amount applicable to the relevant country is deemed to be expended for each day or part of a day in the period during which the employee is absent from his/her usual place of residence in accordance with the table for the country in which that accommodation is located, please refer to PAYE-GEN-01-G03-A02 - Subsistence allowance - foreign travel - external annexure.

The rates are for guidance purposes only. The rates for each tax year will be published by notice in the Government Gazette.

The amounts laid down in respect of travelling abroad will only apply to employees who are ordinarily resident in the Republic in respect of continuous periods spent outside the Republic.

Employer borne expenses

The amounts that shall be deemed to be expended do not apply to the extent that the employer has borne the expenses (otherwise than by way of payment or granting of an allowance or advance) in respect of which the allowance was paid for each day or part of a day.

Please note

A subsistence allowance is intended for abnormal circumstances and therefore an allowance of this nature cannot form part of the remuneration package of an employee. It is an amount paid by an employer to the employee **IN ADDITION** to the employee's normal remuneration.
For more information in this regard, please refer to Interpretation Note **No. 14** on the SARS website, www.sars.gov.za under Interpretation Notes/Income Tax.

If a subsistence allowance or advance is paid to an employee on or after 1 February 2006, the allowance or advance is deemed to become payable to the employee in the following month in respect of services rendered where such an allowance or advance was paid to the employee during any month in respect of a night away from his/her usual place of residence and that employee has not by the last day of the following month either spent the night away or refunded that amount to the employer.

Employees' Tax

Employees' Tax must not be deducted from the subsistence allowance, regardless of whether or not the deemed amounts and/or prescribed periods are exceeded.

IRP5/IT3(a) detail

The subsistence allowance must be reflected in full on the certificate under —

- code 3704 (for local travel) and/or code 3715 (for foreign travel) in cases where the deemed amounts and/or periods are exceeded
- code 3705 (for local travel) and/or code 3716 (for foreign travel) in cases where the deemed amounts and periods are not exceeded.

5.2 TRAVEL ALLOWANCE

Reference to the Act

Section 8(1)(b)

Meaning

A travel allowance is any allowance paid or advance given to an employee in respect of travelling expenses for business purposes.

Any allowance or advance in respect of travelling expenses not to have been expended on business travelling to the extent that it has been spent on private travelling (this includes travelling between the employee's place of residence and his/her place of employment), **shall be deemed not to have been actually expended on travelling on business.**

The following two situations are envisaged, namely —

- a **travel allowance** given to an employee to finance transport (for example, a set rate or amount per pay period)
- a **reimbursement** given to an employee based on actual business travel.

Reimbursive travel allowance

Where an allowance or advance is based on the actual distance travelled for business purposes (that is excluding private use), the amount expended on business is deemed to be the actual distance travelled, multiplied by the prescribed rate per kilometre fixed by the Minister of Finance.

Prescribed rate per kilometre

The current rate per kilometre fixed by the Minister of Finance is —

- R3.24 per kilometre; **OR**
- the **determined rate** (refer to the rate per kilometre schedule).

Vehicle let to the employer

Where an employee, his/her spouse or child owns or leases a motor vehicle (whether directly or indirectly by virtue of an interest in a company, trust or otherwise) and such vehicle is let to the employer or associated institution in relation to the employer, the sum of the rental paid by the employer together with any expenditure in respect of the vehicle which was borne by the employer, is deemed to be a travel allowance. This deemed travel allowance must be declared as such and the employee will be entitled to claim expenses incurred for business travel as a deduction on assessment.

Note: The rental received by the employee must not be declared as rental income but as a travel allowance. Although the employee obtains the right of use of the vehicle from his/her employer, he/she is not subject to tax on the benefit arising from the private use of such motor vehicle.

Combination of travel and reimbursive allowance

Where a travel allowance is paid in addition to a reimbursive allowance or vice versa, both amounts will be combined on assessment. This combined allowance will be treated as a travel allowance.

Employees' Tax

The table hereunder shows in which circumstances a travel allowance is subject to Employees' Tax and the relevant code under which it must be reflected on the IRP5/IT3(a) certificate.

Scenario	Must PAYE be deducted?	Code
A fixed allowance is paid	Yes	3701
Fuel and expenses paid by the employer (e.g. petrol, garage and maintenance cards).	Yes	3701
Reimbursed at not more than the prescribed rate per kilometre and travels not more than 8 000 kilometres. No other travel allowance is received	No	3703
Reimbursed at not more than the prescribed rate per kilometre and travels not more than 8 000 kilometres	No (reimbursement)	3702

Receives a travel allowance or certain expenses are paid for by the employer	Yes (fixed allowance)	3701
Reimbursed at not more than the prescribed rate per kilometre and travels more than 8 000 kilometres. No other travel allowance is received	No	3702
Reimbursed at not more than the prescribed rate per kilometre and travels more than 8 000 kilometres	No (reimbursement)	3702
Receives a travel allowance or certain expenses are paid for by the employer	Yes (fixed allowance)	3701
Reimbursed at a rate exceeding the prescribed rate per kilometre	No	3702

Employees' Tax 80% of the travel allowance paid to an employee is subject to the deduction of Employees' Tax. Where the employer is satisfied that at least 80% of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20% of the allowance is subject to the deduction of Employees' Tax effective 1 March 2011.

An allowance or advance which is based on the actual distance travelled for business purposes (reimbursive travel), is not subject to Employees' Tax but the unexpended portion may be subject to normal tax when the employee's Income Tax assessment is finalised.

IRP5/IT3(a) detail The **total travel allowance** (100%) must be reflected on the IRP5 certificate under code 3701.

The Employees' Tax deducted in respect of the travel allowance must be reflected as Pay-As-You-Earn (PAYE).

An allowance or advance which is based on the actual distance travelled for business purposes (reimbursive travel), is not subject to employees' tax but the **full amount** must be reflected on the IRP5 certificate —

- under code 3703 where the reimbursive allowance does not exceed 8 000 kilometres AND the prescribed rate per kilometre AND no other compensation is paid to the employee.
- under code 3702 where the reimbursive allowance **exceeds** 8 000 kilometres **OR** the prescribed rate per kilometre **OR** any other compensation is paid to the employee.

5.3 ALLOWANCE TO A HOLDER OF A PUBLIC OFFICE

Reference to the Act • Section 8(1)(d) and 8(1)(f)

Meaning Any allowance granted to the holder of a public office to enable him/her to defray expenditure incurred by him/her in connection with his/her office, to have been expended by him/her to the extent that he/she has actually incurred expenses for the purposes of his/her office in respect of —

- secretarial or duplicating services, stationery, postage or telephone calls
- the hire and maintenance of office accommodation

- travelling
- hospitality extended at any official or civic function which the holder of the office is by reason of the nature of such office normally expected to arrange
- Subsistence and incidental costs incurred.

Portion of salary deemed to be a public office allowance

Where it is expected from **the following office holders:**

- the President, Deputy President, a Minister, a Deputy Minister, a member of the National Assembly, a permanent delegate to the National Council of Provinces, a Premier, a member of an Executive Council, a member of a provincial legislature;

to defray any expenditure out of his/her salary, an amount equal to a portion of such salary is deemed to be an allowance to **the** holder of a public office. This is prescribed by the provisions in section 8(1)(f) and the amount is determined by the National Assembly or the President.

Where the employee has held a public office for less than 12 months, the portion of his/her salary which is deemed to be an allowance to a holder of a public office in terms of section 8(1)(f), must be apportioned to determine the amount relevant for the actual period for which the office was held. A part of a month shall be reckoned as a full month.

Employees' tax

Only a 50% portion of the allowance is subject to the deduction of Employees' Tax.

IRP5/IT3(a) details

The full allowance (100%) must be reflected under code 3708; and

All the other income components must be reflected under the relevant codes (e.g. salary, overtime, bonus, etc.).

Example

Holder of a public office not in standard employment: A holder of a public office receives an allowance of R4 000 per month to enable him to defray expenditure in respect of his office.

The portion of the allowance which is subject to the deduction of Employees' Tax is 50% and must be taxed at a rate of 25% as the holder of the public office is not in standard employment.

Employees' Tax deductible on R2 000 (R4 000 x 50%) at the rate of 25%	R500.00
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Example:

Holder of a public office in standard employment: A holder of a public office is employed as a permanent employee of the department where he holds the public office. His total salary is R200 000 per annum and the portion of his salary which is deemed to be a public office allowance in terms of section 8(1)(f) is R120,000 per annum.

The portion of the allowance which is subject to the deduction of Employees' Tax is 50% and must be taxed according to the tax tables as the holder of the public office is in standard employment.

Salary (R200 000 less R120 000)	80 000
Add: Public office allowance subject to employees' tax (R120 000 x 50%)	60 000
Total remuneration subject to the deduction of employees' tax	<u>140 000</u>

6 QUALITY RECORDS

- Completed forms as listed below —

Number	Title
IRP5/IT3(a)	Employee Income Tax certificate.

7 DOCUMENT MANAGEMENT

Designation	Name/Division
Business Owner:	GE: Enterprise Business Enablement
Policy Owner:	GE: Enterprise Business Enablement
Author:	Patricia Khoncha
Detail of change from previous revision:	Updated to include 2013 Budget Speech changes
Template number and revision	POL-TM-07 - Rev 3