

**GUIDE FOR EMPLOYERS
IN RESPECT OF ALLOWANCES
(201**2** TAX YEAR)**

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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.
- Please refer to VDP-EMP-01-G1 guidelines for the treatment of the Pay As You Earn (PAYE) for Voluntary Disclosure Programme (VDP) purposes.

3 REFERENCES

3.1 LEGISLATION

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<p>Income Tax Act No. 58 of 1962: Sections 1, 5(1), 5(1A), 5(2), 5(9), 5(10), 6, 7A, 8(1), 8A-C, 9(1)(e), 9(1)(g), 10(1)(g), 10(1)(gA)-(gC), 10(1)(mB), 10(1)(nA)-(nE), 10(1)(o), 10(1)(p), 10(1)(q), 10(1)(r), 11(a), 11(k), 11(n), 18(1), 18(2), 18A, 69(1), 74, 74A-D, 75, 75A, 75B, 77, 79A, 79B, 80-88, 88A-H, 89bis, 89ter-sept, 91-94, 102-108, 111 and 112; Second Schedule all paragraphs; Fourth Schedule paragraphs 1 to 16 and 28 to 30; Seventh Schedule all paragraphs; Interpretation Notes 3, 4, 5, 7, 8, 14, 16, 17, 26, 27, 34, 35, 55 and 62 and Practice Notes 17 and 25 and General Note 35.</p> <p>Skills Development Levies Act No. 9 of 1999: Sections 1 to 6, 7A and 11 to 13</p> <p>Unemployment Insurance Contributions Act No.4 of 2002: Sections 1, 3, 4, 5, 6, 7, 8, 9A, 10, 12, 13 and 14</p> <p>Voluntary Disclosure Programme and Taxation Laws Second Amendment Act, 2010 (Act No. 8 of 2010)</p>
Other Legislation:	<p>Aged Persons Act No. 81 of 1967</p> <p>Blind Persons Act No. 26 of 1968</p> <p>Disability Grants Act No. 27 of 1968</p> <p>Children's Act No. 33 of 1960: Section 89</p> <p>Companies Act No. 61 of 1973: Chapter VI</p> <p>Marine Traffic Act No. 2 of 1981: Section 1</p> <p>Public Finance Management Act No. 1 of 1999: Section 80(1)(b)</p> <p>Skills Development Act No. 97 of 1998: Section 18(2) and (3)</p> <p>Social Assistance Act No. 13 of 2004: Sections 4, 5, 6, 9, and 10</p> <p>Medical Schemes Act No. 131 of 1998: Section 67(1)(g)</p> <p>Pension Funds Act No. 24 of 1956: Section 15B and 15C</p> <p>Long-term Insurance Act, 1998 (Act No. 52 of 1998)</p>

3.2 CROSS REFERENCES

DOCUMENT #	DOCUMENT TITLE	APPLICABILITY
AS-PAYE-05	Guide in respect of Employees' Tax	All
AS-PAYE-05-G1	Guide in respect of Employees' Tax Deduction Tables	All
AS-PAYE-05-G1-A1	Weekly tax deduction tables	All
AS-PAYE-05-G1-A2	Fortnightly tax deduction tables	All
AS-PAYE-05-G1-A3	Monthly tax deduction tables	All
AS-PAYE-05-G1-A4	Annual tax deduction tables	All
AS-PAYE-05-G2	Guide for Employers in respect of Fringe Benefits	All
AS-PAYE-05-G3-A1	Rate per kilometre schedule	All
AS-PAYE-05-G3-A2	Subsistence Allowance in respect of Foreign Travel	All
AS-PAYE-13	Policy: Completion and submission of reconciliation documents	All

DOCUMENT #	DOCUMENT TITLE	APPLICABILITY
AS-PAYE-13-G1	Guide: Completion and submission of employees' tax certificates (includes annexures)	All
AS-PAYE-13-G2	Guide: Completion and submission of reconciliation declarations (includes annexures)	All
AS-PAYE-13-G3	Guide: Validation rules for fields applicable to reconciliation documents	All
AS-PAYE-13-G4	Guide: Codes applicable to employees' tax certificates	All
AS-PAYE-13-G5	Guide: Creation of CSV files – employees' tax certificate information	All
AS-PAYE-13-G6	Guide for PAYE e@syfile for Employee IT Registration or Verification	All
AS-SDL-01	Quick reference guide on SDL	All
AS-UIF-01	Quick reference guide on UIF	All
VDP-EMP-01-G1	Treatment of PAYE for VDP Purposes	All

4 DEFINITIONS AND ACRONYMS

4th Schedule	<ul style="list-style-type: none"> Fourth Schedule to the Income Tax Act.
7th Schedule	<ul style="list-style-type: none"> Seventh Schedule to the Income Tax Act.
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.
CC	<ul style="list-style-type: none"> Close corporation.
Commissioner	<ul style="list-style-type: none"> Commissioner for the South African Revenue Service.
Employees' tax:	<ul style="list-style-type: none"> An amount of tax that an employer must deduct from all regular or periodic payments (remuneration), paid or which becomes 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. An employee for UIF purposes is defined as any natural person who receives any remuneration or to whom remuneration accrues in respect of

	services rendered or to be rendered by that person but excluding an independent contractor
Employer:	<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 principle 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; 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.
Personal service provider:	<ul style="list-style-type: none"> Any company or trust, where any service rendered on behalf of such company or trust to a client of such company or trust is rendered personally by any person who is a connected person in relation to such company or trust, and – <ul style="list-style-type: none"> such person would be regarded as an employee of such client if such service was rendered by such person directly to such client, other than on behalf of such company or trust; or where those duties must be performed mainly at the premises of the client, such person or such company or trust is subject to the control or supervision of such client as to the manner in which the duties are performed or are to be performed in rendering such service; or where more than 80% of the income of such company or trust during the year of assessment, from services rendered, consists of or is likely to consist of amounts received directly or indirectly from any one client of such company or trust, or any associated institution in relation to such client, except where such company or trust throughout the year of assessment, employs three or more full-time employees who are on a full-time basis engaged in the business of such company or trust of rendering any such service, other than any employee who is a shareholder or member of the company or trust or is a connected person in relation to such person.
SARS	<ul style="list-style-type: none"> South African Revenue Service.
SDL	<ul style="list-style-type: none"> Skills Development Levy.
SITE	<ul style="list-style-type: none"> Standard Income Tax on Employees.
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.

	<ul style="list-style-type: none"> • 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.
UI Commissioner	<ul style="list-style-type: none"> • Unemployment Insurance Commissioner.
UIC Act	<ul style="list-style-type: none"> • Unemployment Insurance Contributions Act.
UIF	<ul style="list-style-type: none"> • Unemployment Insurance Fund.
VDP	<ul style="list-style-type: none"> • Voluntary Disclosure Programme

5 ALLOWANCES

5.1 SUBSISTENCE ALLOWANCE

Reference to the Act	Section 8(1)(a) read with Section 8(1)(c)
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) 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 — <ul style="list-style-type: none"> ▫ Only incidental costs – R 88; or ▫ Meals and Incidental costs – R 286. • 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. <p>The rates are for guidance purposes only. The rates for the each tax year will be published by notice in the Gazette.</p> <p>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.</p>
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 number 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; and / or
- code 3705 (for local travel) and / or code 3716 (for foreign travel) in cases where the deemed amounts and periods are not exceeded.

Example

An employee is sent to India by his employer to market a product for the company and he is absent from his usual place of residence for a total period of 3 weeks. The employer pays the actual cost of the employee's lodging and furthermore pays the employee an allowance of US\$130 per day for meals and incidental costs.

The employer does not need to deduct employees' tax but the full amount of the allowance must be reflected under code 3714 on the IRP 5 certificate as a non-taxable subsistence allowance as the daily allowance does not exceed the prescribed rate per day.

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).

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); and
- a **reimbursement** given to an employee based on actual business travel.

Reimbursive travel

Where an allowance or advance is based on the actual distance travelled for

allowance 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 —

- **R3.05** 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 are 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 with effect from the 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 IRP 5 certificate under code 3701.

The employees' tax deducted in respect of the travel allowance must be reflected as PAYE, even where the rest of the employee's remuneration is only subject to SITE.

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 IRP 5 —

- 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.

Example

Monthly determination of employees' tax: A monthly paid employee (under 65) receives a fixed monthly travel allowance of R500 in addition to his monthly salary of R3 600.

Salary	3 600
Add: 80% of the travel allowance which is subject to employees' tax (R500 x 80%)	400
Total amount which is subject to the deduction of employees' tax	<u>4 000</u>

A re-calculation must be done at the end of the tax period to determine the employees' tax deductible from the travel allowance as the travel allowance is only subject to the deduction of PAYE and not SITE.

Tax period is shorter than a tax year: A monthly paid employee (under 65) receives, in addition to his normal salary, a monthly travel allowance. He is in the employer's employment from 1 March to 31 January (11 months). His remuneration and employees' tax details are as follows:

Month	Salary (A)	Travel allowance (B)	80% of travel allowance (C)	Total of A + C (D)	Employees' tax on D
March	R5 300	R500	R400	R5 700	R 130
April	R5 300	R500	R400	R5 700	R 130
May	R5 300	R500	R400	R5 700	R 130
June	R5 300	R500	R400	R5 700	R 130
July	R5 500	R500	R400	R5 900	R 166
August	R5 500	R500	R400	R5 900	R 166
September	R5 500	R500	R400	R5 900	R 166
October	R5 800	R500	R400	R6 200	R 220
November	R5 800	R500	R400	R6 200	R 220

December	R5 800	R500	R400	R6 200	R 220
January	R5 800	R500	R400	R6 200	To be calculated
TOTAL	R60 900	R5 500	R4 400	R65 300	R 1 678

Determine the annual equivalent of the salary (R60 900 ÷ 11 x 12)		66 436
Add: annual equivalent of 80 % of travel allowance (R4 400 ÷ 11 x 12).....		<u>4 800</u>
		<u>71 236</u>
Tax on R71 236 according to the annual table is R2 064.		
Tax on R66 436 according to the annual table is R1 205.		
Tax on R65 300 (R60 900 + R4 400) calculated:		
R2 064 ÷ 12 x 11	1 892	1 892
Less: tax on R60 900 calculated: R1 205 ÷ 12 x 11	1 105	
PAYE on 80% of the travel allowance (R4 400)	<u>.787</u>	
Less: employees' tax deducted for March to December	1 678	
Employees' tax deductible for January	<u>.214</u>	

The IRP 5 certificate must be completed as follows:

Salary	Travel allowance	Gross remuneration	SITE	PAYE	Total tax
R60 900	R 5 500	R66 400	R 45	R 1 847	R 1 892

- The full amount of the travel allowance of R5 500 received during the tax period must be reflected on the IRP 5 / IT 3(a) certificate and not only the portion that is subject to the deduction of employees' tax.

Although the employee's annual equivalent of his net remuneration (salary) does not exceed R60 000 for the relevant tax period, he must nevertheless submit an income tax return as he received a travel allowance that is excluded from the definition of net remuneration.

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; and
- subsistence and incidental costs incurred.

Portion of salary deemed to be a public office allowance

Where it is expected from 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 to defray any expenditure out of his / her salary, an amount equal to a portion (currently R40 000) of such salary is deemed to be an allowance to a 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.

- Some local authority council members are temporary employees (not in standard employment) in receipt of an allowance only. If only an allowance is paid to such an employee, 50% of the total allowance is deemed as remuneration from which employees' tax must be recovered at a rate of 25%.
- If the allowance is paid to a member who is a full-time employee (in standard employment), to reimburse him / her for expenses which were incurred in respect of official duties, the tables must be applied on 50% of the total allowance.

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%	500.00
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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 R40 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 R40 000)	160 000
Add: Public office allowance subject to employees' tax (R40 000 x 50%)	20 000
Total remuneration subject to the deduction of employees' tax	180 000

6 QUALITY RECORDS

- Completed forms as listed below —

Number	Title
IRP 5 / IT 3(a)	Employees' tax certificate.

7 DOCUMENT MANAGEMENT

Designation	Name / Division
Business Owner:	GE: Enterprise Business Enablement
Policy Owner:	GE: Enterprise Business Enablement
Author:	Cathy Rossouw
Detail of change from previous revision:	2011 Budget updates
Template number and revision	POL-TM-07 - Rev 3