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Tel: (021) 761 5955  
Fax: (021) 762 0864

Email: [admin@verryn.co.za](mailto:admin@verryn.co.za)  
Website: [www.verryn.co.za](http://www.verryn.co.za)



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### Provisional Income Tax Due 26 February: Do's and Don'ts for Companies

*"The only thing that hurts more than paying an income tax is not having [an income on which] to pay an income tax" (Thomas Dewar)*

Provisional tax is not a separate tax but rather a method of payment used to collect in advance some of a taxpayer's income tax payable for the year. SARS calls it "an advance payment of a taxpayer's normal tax liability" and notes in its External Guide for Provisional Tax that provisional tax liability "will prevent a large amount of tax due by you on assessment, as your tax liability will have been spread over a period of time prior to the issue of such assessment".



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Two provisional tax payments are compulsory each year, one six months into the year of assessment (first period) and one on or before the end of the year of assessment (second period). There is also an option to make an additional third or top-up payment, seven months after the end of the year of assessment – unless your year end is anything other than end of February in which event you have only six months for the top-up payment (third period).

**Provisional Tax Periods – Examples**

Financial Year End	First Period	Second Period	Third Period
(Most commonly) 28 Feb 2021	Six months from the commencement of the year of assessment	Six months up to the last day of the year of assessment	Seven months after the last day of the year of assessment
28 Feb 2021	1 Mar 2020 - 31 Aug 2020	1 Sep 2020 - 26 Feb 2021	30 Sep 2021
Date other than 28 Feb 2021	Six months from the commencement of the year of assessment	Six months up to the last day of the year of assessment	Six months after the last day of the year of assessment
E.g. 31 May 2021	1 Jun 2020 – 30 Nov 2020	1 Dec 2020 – 31 May 2021	30 Nov 2021

The provisional return for the first period is forward-looking, requiring companies to estimate their taxable income for the year ahead and then paying tax on this estimate in advance.

The provisional return for the second period is retrospective, since by the year end there is more certainty regarding what exactly the income for the year was, and the tax payable thereon.

While provisional tax payments spread a corporate taxpayer's income tax liability over two or even three payments, it also increases a company's tax risk. It creates additional tax filing obligations such as completing and submitting a provisional tax return (IRP 6) twice per year, as well as increasing the risk of attracting penalties, notably underestimation penalties. Furthermore, researchers have found that provisional tax is the most burdensome tax for small businesses, and that penalties and interest incorrectly raised by SARS are the most onerous aspect thereof.

Given that taxpayers will find themselves under greater scrutiny and subject to more punitive measures from SARS in 2021, here are some important insights regarding what companies should - and should not - be doing to minimise their provisional tax liability and to avoid the hefty penalties and interest that can apply.

**Provisional Tax – Do's and Don'ts**

- **Don't file late**

A provisional return must be submitted by all provisional taxpayers. Even if your company owes no tax, a 'nil' return (i.e. taxable income is equal to zero) must be filed on time.

For companies with a financial year ending on 28 February 2021, the next due date for provisional tax returns and payments is 26 February 2021, as the last day for submission (28 February) falls on a weekend.

Also remember that if an IRP6 is filed more than four months after the deadline, SARS considers a 'nil' return to have been submitted. Unless the company's actual taxable income is really zero, it will result in the underestimation penalty being imposed, in addition to a late payment penalty and interest.

- **Don't pay late**

The failure to make payment on time will result in an immediate late payment penalty, calculated at 10% of the provisional tax amount, whether it is not paid or simply paid late. For example, if the amount payable is R150,000 and is not received by SARS on the due date, a R15,000 penalty will become due immediately.

Furthermore, interest will be levied on the outstanding amount and will continue to accrue until it has been paid in full. The interest is calculated at the prescribed rate, which is the rate of interest fixed by the Minister of Finance by notice in the Government Gazette and is currently 7% - the lowest in 40 years.

- **Don't under-estimate your annual income**

Estimating the annual taxable income just six months into the year is rarely an easy task. Fortunately, under-estimating income for the first period does not attract a penalty, but the second estimate must

be quite accurate (within 80 – 90% of the actual taxable income) to avoid the underestimation penalty.

The underestimation penalty is calculated depending on the taxable income, and the percentage of under-estimation as detailed in the table below.

#### Underestimation penalties

Taxable Income	Up to R1 million	More than R1 million
Penalty imposed if:	Second period estimate is less than 90% of the actual taxable income AND also less than the basic amount (taxable income assessed for latest preceding year of assessment)	Second period estimate of taxable income for the year of assessment is less than 80% of actual taxable income
Penalty rate:	20%	20%

Interest will also be levied on the underpayment of provisional tax as a result of under estimation.

- **Do be proactive**

To avoid an underestimation penalty and interest, it is crucial to take proactively all the necessary steps to correctly calculate the estimated taxable income for the year of assessment.

Make certain that all sources of income are included. The estimated taxable income means gross income less exempt income plus all amounts included or deemed to be included in taxable income under the Act, for example, the amount of taxable capital gains.

Ensure that all rebates and amounts allowed to be deducted or set off are also factored in, including provisional payments already made for the year.

Also make sure, if you claimed for COVID-19 provisional tax relief, that the company qualifies before factoring in this cash flow relief and ensure such relief is calculated correctly.

Government's temporary provisional tax relief measures came into effect in April 2020 and allowed qualifying taxpayers to defer a portion of the payment of their first and second provisional tax liability to SARS, without SARS imposing administrative penalties and interest on the deferred amounts.

#### Example - COVID-19 Provisional Tax Relief

	Estimated Total Tax Liability	First Period – to 31 Aug 2020	Second Period - to 26 Feb 2021	Third Period – to 30 Sep 2021
Current Law	R800,000	50% R400,000	50% R400,000	Voluntary
Temporary Relief	R800,000	15% R120,000	50% R400,000	35% R280,000

*Adapted from SARS' External Guide for Provisional Tax*

Claiming this provisional tax relief while not meeting the qualifying requirements will result in normal penalties and interest being applied to the provisional account.

- **Do maintain common sense and accurate records**

A relatively accurate estimate of taxable income for the year of assessment is expected for the second period. As SARS says: "the calculation must be one which has been carefully considered and is thoughtful, earnest and sincere..." and the amount of the estimate must be determined "sensibly and by careful reasoning and judgment, in a mathematical manner, and using experience, common sense and all available information".

Keep accurate records of all the calculations and source documents used. SARS may ask you to justify your estimate and can increase it if they are dissatisfied with the amount. The increase of the estimate is not subject to an objection or appeal.

- **Do call in professional assistance**

The provisions of the sub-sections of Section 89 and of the 4th Schedule to the Income Tax Act are daunting and can be confusing. Nevertheless, provisional taxpayers are ultimately responsible for their tax affairs and may therefore need expert tax advice to comply with the regulations and to avoid substantial penalties and interest.

Companies with complicated returns, including various sources of income or expenses, should consider engaging a CA(SA) tax specialist to assist them in preparing and/or reviewing their income tax return prior to submission to avoid issues which may be raised by SARS at a later date. Similarly, where penalties and interest have already been imposed and levied, taxpayers may need expert assistance to successfully make a request for the remission of penalties and interest to SARS.

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## Sales Reps Are the Lifeblood of Your Business – 10 Interview Questions To Ask

***“Sales are contingent upon the attitude of the salesman – not the attitude of the prospect” (W. Clement Stone)***



With the world experiencing its toughest business environment in decades, your sales reps are the people who more than anyone else need to not only embody the company and its values, but also be capable of delivering on their job specifications every time they step in front of a client. They are the employees that people will first judge your company on, and often it's the impression they make that will build or break your business.

As well as being able to convert sales, these critical employees also need to gather feedback, accurately communicate your client messages and analyse the market to ensure your products are best placed. This is a critical series of skills that require a very particular person. Unfortunately the world is full of extremely charismatic people, who on the surface may appear to be exactly what you need and who, in the long run, will only end up damaging your brand and costing you sales.

So how do you find the person with the right temperament, the right abilities and the right mindset? These are the ten questions you should be asking every sales rep candidate you interview.

### **1. Walk me through a successful sales process. What is your role?**

On the surface this is a simple question. Everyone can guess that a sales employee's role is to sell things, but do they know they are also supposed to gather information, build relationships and represent the company values and ideals? If not, they either do not have experience or simply do not understand what they have applied for.

### **2. Why are you interested in this role as a salesperson?**

The right sales candidate will speak about the challenge of sales, the people-centric aspects of the job, the relative independence or the competitive aspect. A poor candidate will either start speaking about the high salary, or quickly give away the fact that they don't know much about what they have applied for.

### **3. Tell me in detail about a sale you made where you think your sales pitch was perfect.**

With a sales rep you are looking for five qualities and this question will test them all. Confidence, diligence, honesty, thoughtfulness, and a positive attitude are all an important part of being a sales rep and how they handle their “perfect sale” will quickly illustrate all of these things. Did they connive to get the sale? Did they go above and beyond for a client? And do they tell this story in a way that you buy it as a perfect sale?

### **4. Tell me about a time you had to deal with a complaint from a customer. What happened, and how did you resolve it?**

Both the first and second parts of this question are equally important. How the candidate describes what happened can indicate the kind of person they are. Do they blame others for the problem? If

they take no ownership of the problem and instead point to accounts, another rep, the client or even their boss making a mistake without adding in their own culpability then they may not have the emotional maturity to truly handle conflicts.

How they resolved it will show you the kind of person they are under pressure. Did they still make the sale? Did they build the relationship with the client? Did they manage to come to a solution that still helped the company they work for or did they simply cave and give the client everything they wanted?

**5. *Tell me about a time you missed a sale or a big opportunity. What was it and what happened?***

Similar to the previous question this one speaks to emotional maturity and the ability to learn from mistakes. A candidate who cannot explain why they lost the opportunity and what they could have done differently hasn't spent time thinking about that problem and will likely not do so when faced with the problem again. These candidates will never be among your top sellers as the ability to learn and evolve is of utmost importance in sales.

**6. *How do you stay motivated?***

Sales can be a frustrating and sometimes thankless job and self-motivation is therefore an important skill. What you are looking for here is any believable method that does not involve the mention of salary or bonuses. Being interested in a bonus is not a problem by itself, but being able to pick yourself up and do the kind of job that makes a top sales rep cannot be linked only to salary.

**7. *Why would you choose our brand over others?***

Coming into an interview is just like entering a client's office as a sales rep. You are selling yourself and need to be prepared. This question will quickly reveal the level of effort a candidate is prepared to go to, to get the job. It will also give you an idea of just how hard working they are, and how much effort they will put in when learning about your company, your products and your goals.

**8. *How long are you willing to fail at this job before you succeed?***

This is a tough question that forces the candidate to think out of the box and improvise an answer they couldn't have prepared for. Beyond determining how they would handle setbacks, this question will give you an insight into their expectations, and ability to plan for and handle failure. Do they hope to engage in training, will they seek out answers or are they prepared to sit back and learn on the job as problems arise? There is no right answer but it will definitely help the interviewer determine culture fit and potential.

**9. *What's the most interesting thing about you that's not on your CV?***

A sales rep needs to be a people person. Small talk and the ability to connect on unexpected questions is an important skill. How they improvise here is how they will improvise when asked a tough question by a potential client. What's important here is how the person answers and not just what they say. Are they able to speak personally? Tell a good story? And be convincing? Perhaps their hobby or story wouldn't normally be interesting to you, but did they sell it as an interesting thing? Did they intrigue you? If the answer is yes, then you have found an important clue to how they will be out on the streets representing your brand.

**10. *Can you remember a time when a problem arose and you weren't able to contact your manager? How did you handle this situation and who did you turn to for help?***

This question speaks to the candidate's initiative and potential for leadership. Are they capable of thinking on their feet? Did they make a sound judgement that day? Being able to act alone without asking questions of seniors and doing the right thing would show they have both of these valuable traits.

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## **Independent Non-Executive Directors: A Value-Add for Your SME?**

Many small and medium-sized enterprises (SMEs) are owned



and managed by the founder(s), sometimes with the involvement of family members, and in the early stages of the life of a small or medium-sized company there would seem to be little reason or motivation to appoint independent non-executive directors to the board. However, as an entity grows in size, complexity and, hopefully, market share, there may well be a need for, and advantage in, having diversity and independence of thought in the direction of the company.



All members of the board, whether executive, non-executive or independent non-executive have a legal duty to act with independence of mind in the best interests of the organisation.

### ***Firstly, what exactly is an “independent non-executive director”?***

The Companies Act and King IV define a director as “a member of the board of a company, as contemplated in section 66”. There is no definition in the Act of ‘Independent’ or ‘non-executive’. Accordingly, all directors have the same responsibilities.

King IV, however, explains independence as follows: “*When used as the measure by which to judge the appearance of independence, or to categorise a non-executive member of the governing body or its committees as independent, it means the absence of an interest, position, association or relationship which, when judged from the perspective of a reasonable and informed third party, is likely to influence unduly or cause bias in decision-making*”.

### ***Why appoint independent non-executives?***

- Appointing independent non-executive directors does not, in itself, ensure the entity’s governance is enhanced.
- However, establishing a well-balanced governing body is a meaningful step towards good governance. The King IV code states: “The governing body should comprise the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities objectively and effectively”.
- Bringing in additional skills, experience and thought to the leadership of the entity has the potential of enhancing the ability of the board, recognising and dealing with risks and opportunities, and even lifting quality and effectiveness of the deliberations in the board.
- Non-executive or independent non-executive directors are charged with maintaining an arms-length relationship with management, exhibiting professional scepticism and bringing independent judgment to bear on issues of strategy, risk management, performance and resources including key appointments and standards of conduct. Non-executive directors may not have any operational capacity within the entity; no employment relationship; not be a major supplier or major customer and should not be rewarded on the basis of the entity’s performance.
- **An entity recognised for its strong ethical and effective governance will likely attract more business as a trusted partner.** After all, while a company requires a licence from CIPC (Companies Intellectual Property Commission) to commence business, it also needs a Social License to Operate!

### ***What should the independent non-executive director bring to an SME?***

- Someone, as mentioned above, who will bring specific skills and a range of business experience of relevance to the entity. While it may be helpful to have experience in the entity’s particular industry, diversity of experience in other sectors such as, for example, the financial sector, could add value.
- Clearly, an understanding of the business and the industry is essential in order to make a positive contribution. A non-executive director is expected to make a creative contribution to the board by providing objective and constructive challenge and advice.
- Owners and management of an SME should not seek to appoint independent non-executives who will simply reflect management’s views, but accept that honest, respectful and robust challenge should be expected and encouraged.

### ***What qualities should you seek in an independent non-executive director?***

Clearly, an independent non-executive director should exhibit appropriate behaviour, have a strong ethical stance with absolute integrity; a disciplined and dedicated approach to the role together with a good understanding of the requirements of good governance, controls and risk and opportunity management.

A knowledge and understanding of the regulatory environment of the entity together with the key players and risks in the supply chain and customer base (the entity's market) is an added advantage.

### ***What should you offer a new appointee to your board?***

Any new independent non-executive should insist on an induction programme together with appropriate Directors' and Officers' indemnity cover.

Realistically, most SMEs may not be able to offer competitive fees, compared to large or listed companies. Both the Institute of Directors in South Africa and PricewaterhouseCoopers issue useful annual guides to directors' fees. SMEs should consider making use of this resource in determining the level of fees they are able to afford.

Furthermore they need to consider how the fees are determined i.e. per meeting attended; a retainer regardless of meeting attendance or a combination of both – retainer plus per meeting attended. The SME should also undertake annual director's performance evaluation.

A non-executive and independent non-executive director needs to balance the contribution they can make in considering an appointment where the fees are, perhaps, not quite at the level they expect. Serving on NPO (Non-Profit Organisation) and SME boards is an opportunity to 'put back' their experience and skills. They should consider the responsibility and risks they undertake against the potential contribution they can make to these essential sectors of the economy.

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## **How to Find and Secure Tenders for Your Small Business – 5 Expert Tips**

***“There are no secrets to success. It is the result of preparation, hard work and learning from failure”  
(Colin Powell)***

The obvious starting points to securing tenders would be the likes of B-BBEE certification and company registration, but from an operational perspective – there are things suppliers can do to find relevant tenders, and to put themselves in a better position to benefit from them.



SMEs with appropriate capability, capacity, experience, and will may benefit by considering tendering for business opportunities, either on their own or in partnership with other SMEs or larger entities. Where an SME has particular skills, competency, experience and so on, they may be in a position to offer a larger organisation a competitive edge in a tender. Winning and completing a tender, either alone or in partnership, benefits the entity putting it on the map and growing its confidence, experience, ability and, hopefully, profitability.

The Covid-19 pandemic has forced organisations and institutions to be more proactive and creative. As a result, even the likes of the Centre for Entrepreneurship at the University of Pretoria has launched the National SMME Support Portal to help small businesses tender during this difficult period.

For qualifying small businesses to stand a better chance of securing suitable tenders, they should consider these expert tips:

### **1. Start by registering on the right database**

SMMEs should start by registering as suppliers on the Central Supplier Database (CSD). This is a database where all the information, pertaining to all the suppliers that either do business or intend on doing business with the government is kept. Government entities consult this database when looking for suppliers.

Once registered, small businesses may then be invited to participate both in tenders and also receive Requests for Quotations (RFQs). Of course, it is imperative that an SME has carefully thought through what its qualifications are before tendering.

## 2. Check the E-Tender portal

The government places all the tenders on this electronic portal as the starting point for alerting potential suppliers. This is the first place registered suppliers should peruse for relevant tenders as all municipalities, constitutional institutions and government departments upload their tenders here.

Another option is to look up tenders in newspapers and government departments' websites, which is more time consuming.

## 3. Consider using tender notification services

Small businesses can subscribe to tender notification services. These service providers ease the process of searching for the right tenders. These automated services try to match qualifications listed by subscribers with the specifications of the published tenders. These agencies then send the subscribed suppliers notifications of close matches, making it easier for busy SMMEs to compete for suitable tenders.

## 4. Verify tenders to avoid scams

The government has repeatedly advised suppliers to verify tenders before engaging them.

"Companies are therefore advised to verify all the RFQs and orders by calling the respective departments using the departmental contact details listed on their respective websites to verify authenticity prior to responding to any RFQs or orders to avoid falling prey to these fraudsters", reads the warning on various governmental websites.

## 5. Avoid experiments, avoid implosion

When looking for relevant tenders, suppliers are advised to look for operations for which they have appropriate experience, ability and capacity to avoid causing their "own demise".

SAICA's Senior Executive: Public Sector, Julius Mojapelo warned "any uncalculated expansion, whether it's tendering or getting into a new market, will always have risks. The key is, SMMEs should avoid tendering on things they have never done on their own."

He further explained that this was simply because government projects are usually on a larger scale.

**Ask your accountant to guide you through the lucrative tendering process - don't be left behind.**

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## Your Tax Deadlines for February 2021

- 5 February – Monthly PAYE submissions and payments
- 15 February – Extended Filing season 2020 deadline for Provisional Taxpayers
- 25 February - VAT manual submissions and payments
- 25 February - Excise Duty payments
- 26 February- Personal Income Tax Provisional Tax payments
- 26 February - VAT electronic submissions and payments
- 26 February – Corporate Income Tax Provisional Tax payments





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