

## NEED MORE HELP?

- Call 0860 12 12 18
- Visit [www.sars.gov.za](http://www.sars.gov.za) or visit any SARS branch

## COMPREHENSIVE GUIDE FOR THE IT12C RETURN IN RESPECT OF THE 2007 YEAR OF ASSESSMENT.

### INTRODUCTION

This guide has been provided as a supplement to the completion guide distributed with the annual income tax returns. The purpose of this guide is to give detail of the various sections of the Income Tax Act that will be applied during the assessment process of the IT12C income tax returns.

The guide is structured in such a way that it will be possible to access and download a section thereof based on the particular subject being addressed. It is therefore divided into the following main categories based on the flow of the IT12C income tax return:

- General
- Personal details of the taxpayer
- Income received and/or accrued
- Income tax credits relating to IRP/IT3(a) certificates
- Deductions
  - Medical
  - Retirement contributions
  - Other qualifying deductions
  - Travel claims against a travel allowance
- Foreign income
  - Foreign interest
  - Foreign dividends
  - Foreign trading
  - Foreign farming
  - Other foreign income
  - Income from a CFC
  - Foreign tax credits
- Capital Gains
- Other receipts and accruals
- Other qualifying deductions
- Directors of company's/ members of close corporations
- Deductions and allowances
- Statement of assets and liabilities
- Additional declarations
- Trading income (including rental)
- Farming income

### GENERAL

#### WHO MUST COMPLETE A RETURN?

##### The registered taxpayer

Anyone who receives a Personal Income tax return MUST complete it and submit it to SARS. You must complete it even if you are no longer working or receiving an income or receive an income below R60 000 per annum. If you receive a return and you do not receive any income you must still complete and submit the return. In the "Income Received" section of the return you must indicate the amount received as a "0" and insert the source code 3601.

Anyone who is registered as a taxpayer. If you are registered and did not receive a return in the mail it is your responsibility to obtain a return from SARS.

##### If you did not receive a return in the mail you should either:

Register on-line on [www.sarsefiling.co.za](http://www.sarsefiling.co.za) to electronically access and submit your return; or  
Download a return from the SARS website [www.sars.gov.za](http://www.sars.gov.za) by completing the following mandatory information:

- The year of assessment (as this version of the return can also be used for the completion of returns relating to prior years of assessment)
- Your income tax reference number
- Your ID number (if you are a South African resident)
- Your passport number (if you are not a South African resident)
- Your date of birth. The date of birth must be completed in the following sequence "ccyymmdd".
- Your surname and initials; or
- Phone the SARS Call Centre at 0860 12 12 18; or
- Approach your local SARS office.

##### SITE taxpayers (not registered for tax but claiming a refund based on medical expenses, retirement annuity contributions or income protection contributions)

If your monthly salary income for the year of assessment did not exceed R5 000 per month, or your IRP5/IT3(a) certificate only indicates a SITE deduction (code 4101) no amount is recorded in respect of PAYE (Code 4102), you probably will not be registered for income tax purposes.

If however you did incur medical expenses, make retirement annuity contributions or contributions to protect your income, and such contributions or expenses were not taken into account by your employer you could qualify for a refund.

A way to establish whether these amounts were taken into account by your employer is to look at your IRP5. If the following amounts and source codes listed below appear on your IRP5 then it probably was taken into account by the employer prior to calculating the amount of SITE to be withheld.

- Code 4006 – Retirement annuity contributions
- Code 4018 – Income protection contributions
- Codes 4025 and 4005 – providing that the amount indicated next to code 4005 does not exceed the amount indicated as code 4025.

If, however, you are not sure whether;

- The correct amounts were taken into account by your employer or
- The amounts were not taken into account by your employer (the abovementioned codes do not appear on your certificate); or
- Your contributions or expenses incurred exceed the amounts reflected on the IRP5/IT3(a); you need to approach your local SARS office to issue you with a return.

## BY WHEN MUST YOU COMPLETE AND SUBMIT THE RETURN?

The completed form must be submitted to SARS on or before the due date published each year. SARS publishes the due date each year in the Government Gazette and embarks on an extensive publicity campaign to inform taxpayers of the deadline each year. In 2007 the individual returns must be submitted by the 31 October 2007.

As the electronic completion and submission of returns is the option preferred by SARS, taxpayers will however have the opportunity of submitting their returns electronically to SARS, either by using the e-Filing option or by submitting it electronically at one of the SARS branch offices, until 31 January 2008 without being penalised for the late submission of their returns.

## METHODS IN WHICH THE RETURN CAN BE SUBMITTED

- Verify the correctness of the printed details and if they are Even though you might have received a return in the mail you do not have to complete and submit this return, as SARS has made available various options that can be used for the completion and submitting of returns. These options are as follows:
- Register as an eFiler on the SARS website [www.sarsefiling.co.za](http://www.sarsefiling.co.za) and follow the detailed registration process. Should you need assistance with the registration process you can contact the eFiling helpdesk at telephone number 0860 709709.
- Any of the SARS branch offices can assist you in completing and submitting the return electronically without registering as eFiler.
- You can access and complete an electronic return on the eFiling website without registering as an eFiler. You will however not be able to submit this return electronically. After completing the return on-line you will be able to print it, sign it, and either mail it or hand it in at your local SARS office.
- You can access, complete the mandatory fields and print a return from the eFiling website to complete it manually without registering as an eFiler. You will however not be able to submit this return electronically. After completing the return manually you must sign it, and either mail it or hand it in at your local SARS office.
- You can manually complete the return mailed to you, sign it and either mail it or hand it in at your local SARS office.

## WHO MUST USE THE IT12C RETURN?

The IT12C return is a more comprehensive return than the IT12S and makes provision for the declaration of all sources of income of individuals that will be included in taxable income. You must complete an IT12C return if you received salary income and you were in receipt of:

- More than three IRP5/IT3(a) certificates; or
- A travel allowance and used more than two vehicles for calculating your travel claim; or
- Commission income; or
- Directors remuneration; or
- You received income as an independent contractor; or
- Labour broker income; or
- Foreign income or allowance; or
- Any income that is not salary related; or
- Trading income (including rental income); or
- Any farming income

Should you have received an IT12C return and you do not receive any income that warrants the submission of an IT12C it is not necessary to obtain an IT12S return. Complete the IT12C return that was issued to you, as SARS will during the assessment process change the return type to be issued for the subsequent year based on the income declared in the current return.

## DOCUMENTATION YOU WILL NEED FOR THE COMPLETION OF YOUR RETURN

- Verify the correctness of the printed details and if they are To complete the return you will need the following documentation:
- Details of your banking particulars
- Your IRP5 and IT3(a) certificates (if applicable)
- The certificates you received for local interest income, foreign interest and foreign dividends, in respect of yourself, if you are unmarried or married out of community of property, or the certificates received by yourself and your spouse if you are married in community of property
- The documentation relating to medical expenditure such as the medical statement (if you belong to a medical fund) you received from

- your medical fund at the end of February and proof of other medical claims not submitted to the medical fund
- The certificate received from the financial institution to which you are making contributions for retirement annuities
- If you are in receipt of a travel allowance the details to calculate your travel claim i.e. your opening and closing kilometre reading and details of your business travel and/or costs
- All information relating to capital gain transactions
- Documentation and receipts relating to commission related expenditure
- All information relating to the letting of assets
- Financial statements in respect of trading and farming activities (if applicable)
- Any other documentation relating to income that must be declared or deductions that you want to claim.

Please note that although you will be using the documentation to complete your return NO documentation must be attached to your return when you submit it to SARS.

You will however be required to keep ALL the documentation for at least a period of five years after the date of submission of your return, as SARS could within a five-year period ask you to submit the documentation to verify the information declared by you.

## COMPLETING THE RETURN

Indicate your preferred means of contact by marking the applicable Use a black or a blue pen to complete the return and keep your writing within the spaces provided. Do NOT strike through the squares that do not apply.

Please do not use correcting fluid if you have made a mistake. We request that you do not fold your return as it will delay the process of assessing your return.

You must complete all relevant parts of the return. Any incomplete return will be sent back to you and will be marked as “not submitted” until you send it in fully completed. This could result in penalties for the late submission of your return.

## YOUR SIGNATURE

A personal income tax return is a legal declaration by individual taxpayers to SARS stating all the income they received during a specific tax year (a tax year runs from 1 March of each year until the last day of February the next year).

It also declares all the tax they have paid by way of monthly SITE and PAYE deductions by their employers.

As such, it allows SARS to make a final assessment of whether the taxpayer has met all their income tax obligations for the year – or whether they have paid too much tax (in which case they will receive a refund) or too little (in which case they will be required to make an additional payment).

You are obliged to ensure that a full and accurate disclosure is made of all relevant information as required in the income tax return. Misrepresentation, neglect or omission to furnish such return, or furnishing false information, is liable to penalties and/or additional assessments (together with interest) and/or prosecution.

After you have completed the return you must read the declaration on the front page of the return and sign it. It is acceptable to have your return completed by someone else such as a bookkeeper, accountant, tax advisor or friend but you are responsible for the entries on the form and therefore you must always sign the return.

Please note that if the return is not signed by you it will be returned to you and regarded as not having been received. This could result in penalties for the late rendition of your return.

If you are registered as an e-Filer and submitting your return electronically, your password received during registration as an e-Filer, will serve as your digital signature.

## PERSONAL DETAILS OF THE TAXPAYER

column reflects the amount you have received. These are the Year of assessment:

- For electronic submission (eFiling): You will only be able to complete and submit a return via the eFiling website in respect of the 2006 and 2007 years of assessment.
- Downloading the return from the web: You will have to complete this field as it will not be printed on the return. Years of assessment 1999 to 2007 can be entered.
- Completion of the return received via the mail: If you are completing the return that was mailed to you will not be required to complete this field as SARS would have pre-printed the information.

### Tax reference number:

- For electronic submission (eFiling): This field will already be filled in and you therefore do not have to complete it.
- Downloading the return from the web: You will have to complete this field as it will not be printed on the return. If you do not have the information available to complete this field you will not be able to make use of this method of submission. You can contact the SARS Call Centre on 0860 12 12 18 for your tax reference number. Please have your ID number and other personal particulars on hand when you call.
- Completion of the return received via the mail: If you are completing the return that was mailed to you will not be required to complete this field as SARS would have pre-printed the information

### Identity number:

- For electronic submission: If your identity number appears on the return you must still complete the number in the squares to the right for SARS to verify the number.

- Online completion for the return on the web: You must complete this field if you are a South African resident.
- Completion of the return received via the mail: If your identity number has been printed on the return you must still complete the number in the squares to the right for SARS to verify the number.

### Passport number:

- This number must only be completed if an identity number is not available

### Date of birth

- For electronic submission: If your date of birth has been printed on the return you must still complete the date in the squares to the right for SARS to verify the date. Fill in your date of birth starting with the year in which you were born, followed by the month and then the day of the month i.e. 19990403.
- Online completion for the return on the web: This field must be completed. Fill in your date of birth starting with details of the year in which you were born, followed by the month and then the day of the month i.e. 19990403.
- Completion of the return received via the mail: If your date of birth has been printed on the return you must still complete the date in the squares to the right for SARS to verify the date. Fill in your date of birth starting with the year in which you were born, followed by the month and then the day of the month i.e. 19990403.

### Personal details

- For electronic submission: Verify the correctness of the printed details and if they are incorrect update with the correct details. If no details are printed in this section you need to complete all the applicable fields with the relevant details
- Online completion for the return on the web: Verify the correctness of the printed details and if they are incorrect update with the correct details. If no details are printed in this section you need to complete all the applicable fields with the relevant details
- Completion of the return received via the mail: Verify the correctness of the printed details and if they are incorrect use the white blocks to the right of the printed details to fill in the correct information. If no details are printed in this section you need to complete all the applicable fields with the relevant details

### Marital status:

Mark the applicable "y" or "n" block with an "X" and if married indicate whether you are married in community of property or out of community of property by marking the applicable box with an "X". It is imperative that the information relating to your marital status as at 28 February 2007 is indicated correctly as it could impact on the result of your assessment.

### Address information

- Verify the correctness of the printed details and if they are incorrect use the white blocks to the right of the printed details to fill in the correct information.
- If no details are printed in this section you need to complete all the applicable fields with the relevant details
- Work address
  - Please complete the work address details of your current employer
  - If you had more than one job for the period 1 March 2006 to 28 February 2007, fill in the address details of your main employer - that could be where you worked the most hours. If you are no longer employed leave this field blank.

### Bank account information

SARS has adopted a policy of issuing all refunds by way of electronic transferring of funds. It is therefore imperative that you make sure that the banking details reflected are correct or if no details are printed that you complete the details in full.

- Verify the correctness of the printed details and if they are incorrect use the white blocks to the right of the printed details to fill in the correct information.
- If no details are printed in this section you need to complete all the applicable fields with the relevant details

Electronic transfers of refunds are effected using the branch number and not the name of the bank. You are therefore not required to fill in the name of the branch at which you transact.

**NOTE:** No refund will be paid into the bank account of a third party or agent.

### Preferred means of contact

Indicate your preferred means of contact by marking the applicable block by using the numbers 1 to 5. The number 1 indicates the most preferred option whilst 5 indicates the least preferred option. Please ensure that the information relating to the option you chose is correctly reflected on this return, i.e. if you selected to be contacted by e-mail that the e-mail address is correctly reflected in the "Personal Detail" section on page one of this return.

Depending on circumstances, SARS might not make use of your selection as for the means of contact.

### Tax practitioner information

If you make use of the services of a tax practitioner to complete your return this information should be completed by the tax practitioner. If you do not use a tax practitioner this section must be left blank.

Tax practitioners should note that the contact details not requested in this section of the return would be obtained by SARS through the SARS Tax Practitioners registration database.

## INCOME RECEIVED

rtificates. This form allows for three certificates and is therefore The income that must be declared in this section refers to income that

will be reflected on an IRP5 or IT3(a) certificate. If you received a return and you do not receive any income you must still complete and submit the return. In the "Income Received" section of the return you must indicate the amount received as a "0" and insert the source code 3601.

An IRP 5 certificate will be issued by an employer or an institution from which income was distributed and will be issued where tax (SITE and/or PAYE) was withheld. An IT3(a) certificate will also be issued by an employer or an institution from which income was distributed but it will be issued where no tax (SITE and/or PAYE) was withheld. The IT3(a) will present a reason for non deduction of tax.

Examples of income/benefits, which must be included in your return:

- Wages and salaries
- Service and fringe benefits
- Allowances
- Overtime
- Options/Rights to purchase shares, etc.
- Pensions
- Gratuities/Lump sum payments
- Bonuses
- Restraint of trade payments
- Annuities
- Directors fees
- Incentive awards
- Commission

### Wages and salaries

Wages and salaries are usually reflected as code 3601 on an IRP5 or IT3(a) certificate received from your employer.

### Service and fringe benefits

Fringe benefits usually refer to payments made to employees but do not necessarily constitute cash payments made. For example an employee may be offered the use of a company car in lieu of a portion of his cash salary. These fringe benefits will be reflected on the IRP5 or IT3(a) by source codes starting with the numbers 38 followed by two more numbers. The use of motor vehicle fringe benefit will be identified by source code 3802.

### Allowances

Allowances will be reflected on the IRP5 or IT3(a) by source codes starting with the numbers 37 followed by two numbers. Some reimbursive allowances will not be included in the gross income of the taxpayer as they are non-taxable allowances. An example of such an allowance is the reimbursive subsistence allowance, which will be reflected as code 3705 on the IRP5 or IT3(a) certificate. Because the allowance is not included in the gross income of the taxpayer an amount cannot be claimed as a deduction against such an allowance.

### Overtime

Overtime will be reflected as code 3607 on the IRP5 or IT3(a) certificate.

### Options/Rights to acquire marketable securities

Handicapped expenses refer to a blind person, a deaf person, or a Gains made by a director or employee in respect of the exercise, cession or release of a right to acquire marketable securities, i.e. securities, stock, debentures, shares, options or other interests capable of being sold on a stock exchange or otherwise (this also includes shares, etc. in private companies), must be declared as income if that right was awarded either in the capacity as a director or former director or in respect of services which have been rendered or are still to be rendered by him / her as an employee to an employer.

When the taxpayer exercises his/her right the employer will apply for a tax directive to the applicable SARS office to ascertain the amount of tax to be withheld. The amount to be included in the gross income of the taxpayer will be reflected as source code 3707 or 3718 on the IRP5/IT3(a) certificate.

In section 8B of the Income Tax Act provision is made for the issuing of shares in terms of a broad based employee share plan. To promote long-term, broad-based employee empowerment special tax rules have been introduced to allow for the tax-free treatment of "qualifying" shares acquired by employees, even though the shares may be acquired without cost, or at a discount. In order for a share to qualify it must satisfy two requirements, namely;

- It must be acquired in terms of a broad-based employee share plan, and
- The total shares received under the plan by the employee may not exceed R9 000 in value during any three-year period.

When these shares are disposed of special rules will apply. If the employee sells the shares within five years from the date the shares were granted the employer will include the proceeds as income on the IRP5 issued to the employee. This amount will be indicated as source code 3717 on the IRP5/IT3(a) certificate.

If however the employee sells the shares after a period of five years the employees gain will be of a capital nature and such employee will have to declare the disposal as a capital gain transaction.

### Pensions

A pension from the private sector must be declared if the services in respect thereof were rendered in the Republic of SA for at least two

years out of the ten years immediately preceding the date on which the pension became payable for the first time.

If the pension was awarded for services rendered within and outside the Republic of SA only that portion of your pension in respect of services rendered in the Republic will be deemed to be from a source in, and subject to tax in the RSA.

Pensions awarded by the Government, Transnet, Provincial administrations and local authorities are taxable in full.

Pensions will be reflected as code 3603 on the IRP5/IT3(a) certificate.

### Exempt pensions

The following pensions are exempt from tax:

- War veteran's pensions;
- Compensation paid under any law in respect of diseases contracted by persons employed in the mining industry;
- Disability pensions paid under Section 2 of the Social Assistance Act;
- Any compensation paid in terms of the Compensation for Occupational Injuries and Diseases Act;
- Amounts received under the social system of another country; and
- Pensions from a source outside the Republic which are not deemed to be from a RSA source as described under pensions above.

### Gratuities/Lump sum payments

A payment received in respect of a gratuity or a lump sum will be reflected as a code starting with the number 39 and followed by two more numbers. A lump sum payment received from a pension fund on resignation or retirement will be reflected as code 3901 on the IRP5/IT3(a) certificate.

### Bonuses

This will be reflected as code 3605 on the IRP5/IT3(a) certificate.

### Restraint of trade payments

Any payment received on or after 23 February 2000 in respect of restraint of trade will constitute income of the person to whom it is paid. This would apply to any person who -

- Is a natural person; or
- Is or was, a labour broker, other than a labour broker in respect of which a certificate of exemption has been issued.

This amount will be reflected as code 3613 on the IRP5/IT3(a) certificate.

### Annuities

A purchased annuity consists of a taxable and a non-taxable amount. The taxable portion will be reflected as code 3611 on the IRP5/IT3(a) certificate whilst the non-taxable portion will be reflected as code 3612. The pension received in respect of a retirement annuity will be reflected as code 3610 on the IRP5/IT3(a) certificate.

### Director's remuneration

This amount will be reflected as code 3615 on the IRP5/IT3(a) certificate.  
nature).

### Incentive awards

These amounts are usually supplementary to your salary and are included in the definition of remuneration contained in the Fourth Schedule to the Income Tax Act. The amounts will either be included in the code 3601 or alternatively be reflected as code 3605 on your IRP5/IT3(a) certificate.

### Commission income

Prior to the introduction of section 23(m) an employee or holder of an office could under certain circumstances have been entitled to claim a deduction under section 11 of the Income Tax Act. With effect from 1 March 2002 this is, with a few exceptions, no longer possible. Expenditure, losses and allowances that would be deductible or capable of setting off against other sections of the Act are still permissible. For example, subsistence and traveling expenses under section 8(1)(b) or (c) or the expenses listed under section 8(1)(d) of the Act in respect of holders of public office.

The prohibition on deductions applies to expenditure, loss or allowance, which relate to the employment of any person or an office held by any person. The term employment refers to an employer-employee relationship. The holding of an office generally flows from an appointment, like a Minister in the Cabinet, whereas the holding of employment flows from a contract.

An independent contractor is therefore not affected by the prohibition on the deductions. The prohibition of deductions applies to natural persons only. The prohibition applies to expenditure, losses and allowances that relate to "remuneration" as defined in the Fourth Schedule to the Act. An employee or office holder in receipt of two or more streams of income may thus be in a situation where the deduction of expenditure, losses or allowances relating to the "remuneration" stream is prohibited, while it remains deductible relating to another trade.

The following expenses and allowances are still deductible:

- Any contribution to a pension or retirement annuity fund may be deducted from the income of that person in terms of sections 11(k) and/or (n);
- Any allowance or expense which may be deducted from the income of that person in terms of section 11(c), (e), (i) or (j) - legal fees, depreciation, bad debts and provision for doubtful debts; and

- Any deduction which is allowable under section 11(a) in respect of any premium paid by that person in terms of a insurance policy
  - o Which covers that person solely against the loss of income as a result of illness, injury, disability or employment; and
  - o In respect of which all amounts in terms of that policy constitutes or will constitute income as defined. (This means that the premiums on an insurance policy than also includes benefits or coverage other than the loss of income, or also includes benefits or coverage following incidents other than illness, injury, disability or unemployment are not deductible.)
- Any expenses incurred to acquire and maintain a home office. Such expenditure will only be considered in special circumstances. Please refer to the section in this guide dealing with the deductions for a home office.

An agent or representative whose remuneration is normally derived mainly (more than 50%) in the form of commission based on sales or turnover that are attributable to that agent or representative, is excluded from the provisions of section 23(m). This means that should the commission income exceed 50% of remuneration the expenses incurred may be considered.

The term attributable to him/her refers to an agent or representative whose remuneration is normally derived mainly in the form of commission based on sales.

For purposes of section 23(m) the term “agent”, “representative” and “commission” should be interpreted as follows:

- “Agent” – a person authorised or delegated to transact business for another.
- “Representative” – one who presents another or others.
- “Commission” – a percentage of sales or turnover of the person on behalf of whom the agent or representative is acting.

To determine which part of the remuneration received by the taxpayer does not relate to commission income the total amount of remuneration must be calculated excluding the non-taxable reimbursive allowances. This amount is represented by the gross remuneration (3699) indicated on the particular IRP5 certificate.

The following example illustrates this.

### Example 1

A taxpayer receives the following income:

3601	Salary	R200 000
3605	Annual payment	40 000
3701	Travel allowance	70 000
3704	Subsistence-taxable	6 000
3705	Subsistence-not tax	3 000 (reimbursive amount)
3713	Other allowances	10 000
3810	Medical benefit	4 500
3606	Commission	R300 000
3699	Gross remuneration	R630 500

To determine whether section 23(m) should be applied 50% of the 3699 code (gross remuneration) must be calculated and if the commission income (code 3606) exceeds the result of the 50% calculation, deductions in terms of section 11 will be considered, thus section 23(m) will not be applicable.

In the example above the gross remuneration (3699) is R630 500. An amount of R315 250 represents 50% of the gross remuneration and must now be compared with the amount received in respect of commission. As the commission income is only R300 000 which is less than R315 250 section 23(m) will be applicable.

### Example 2

A taxpayer receives the following income:

3601	Salary	R200 000
3605	Annual payment	40 000
3701	Travel allowance	70 000
3704	Subsistence-taxable	6 000
3705	Subsistence-not tax	3 000 (reimbursive amount)
3713	Other allowances	10 000
3810	Medical benefit	4 500
3606	Commission	R350 000
3699	Gross remuneration	R680 500 (This amount refers to the taxable retirement funding plus the taxable non-retirement funding income.)

In the example above the gross remuneration (3699) is R680 500. An amount of R340 250 represents 50% of the gross remuneration and must now be compared with the amount received in respect of commission. As the commission income is R350 000 which is more than R340 250 section 23(m) will not be applicable and the deductions claimed by the taxpayer can be considered.

If a taxpayer received commission income based on sales from the same or connected employer and the commission income did not represent more than 50% of the taxpayer’s income, the restrictions in terms of section 23(m) will apply as illustrated in the following examples;

### Example 3

A taxpayer received pensionable salary of R40 000 and commission income of R130 000 on sales. The taxpayer contributed R3 000 to an approved pension fund and incurred commission related business expenses of R70 000. Since more than 50% of the taxpayer's remuneration consists of commission, the restrictions of section 23(m) do not apply. The R70 000 commission-related expenses might therefore be considered. The pension fund contribution is unaffected by the introduction of section 23(m) and remains deductible.

### Example 4

A taxpayer received pensionable salary of R60 000 and commission of R60 000 on sales. The taxpayer contributed R4 500 to a pension fund and incurred commission related expenses of R10 000. Since not more than 50% of the taxpayer's remuneration consists of commission, the restrictions of section 23(m) apply and only the expenses not prohibited in terms of section 23(m) are deducted from the commission.

In the case where the taxpayer worked for 2 employers during the year and he/she received salary income from the one and commission income from the other, and the employers are not connected to one another, the contractual arrangements from unconnected sources will be considered on their own.

### Example 5

For the period 1 March 2006 to 31 August 2006 a taxpayer received salary income of R300 000 from employer A in respect of which cell phone airtime expenses of R3 00 were incurred. For the period 1 September 2006 to 28 February 2007 the taxpayer received commission income of R250 000 from employer B (which is not connected to employer A) and incurred commission-related expenses of R30 000. In this case section 23(m) will prohibit certain deductions in relation to the remuneration received from employer A (salary) but does not prohibit the deduction of expenses incurred in relation to the income received from employer B (commission income).

Documentation proving the income is normally and mainly received in the form of commission must be retained for a period of five years after the date of the submission of the return.

## Exceptions

### Mainly and normally in the form of commission

A taxpayer receives remuneration, which includes commission income, and although the commission income is less than 50% of the gross remuneration received he/she usually derives remuneration mainly and normally in the form of commission (in excess of 50%). In other words, the taxpayer's remuneration is normally in the form of commission which is in excess of 50% of gross remuneration, with the exception of the relevant year of assessment, the deductions claimed in the production of income could be considered.

### Non-executive directors

There is a perception that the income received by non-executive directors should not be subjected to the limitations prescribed in section 23(m). This is however not correct as the term non-executive director in fact still remains a director and as such the income received will be considered directors remuneration and will therefore be subject to section 23(m).

For further information please refer to the Interpretation Note 13 available on the SARS website [www.sars.gov.za](http://www.sars.gov.za) or contact your local SARS office.

### Marriages in community of property

Income received or accrued from carrying on any trade (excluding the letting of fixed property), will be deemed to be the income of the spouse who is carrying on the trade. Where the spouses are trading in partnership, the income will, subject to the anti-avoidance provisions, accrue in the agreed profit-sharing ratio. Any benefit paid by a pension, provident or retirement annuity fund is deemed to be trade income and will be taxed in the hands of the member or past member of the fund. Any annuity received as a result of a purchased annuity, as defined in Section 10A of the Income Tax Act, is also deemed to be trade income and will be taxed in the hands of the person to whom the annuity is payable.

Income received or accrued otherwise than from the carrying on of any trade (e.g. interest), including rental from the letting of fixed property, in respect of assets forming part of the communal estate, is deemed to accrue to the spouses in equal portions. Where the income doesn't accrue to the communal estate, it will be included in the income of the spouse who owns the asset (this income must be clearly identified).

Where any spouse's income is deemed to be the income of the other spouse, any deductions or allowances relating to that income will be allowed in the same proportion in which the income is taxed.

## Completion of the "Income Received" section of the return

An IRP5/IT3(a) certificate consists of various sections, one of them relating to income. The information relating to this section of the IRP5/IT3(a) is the information required to complete this section of the return. The type of income source such as salary or overtime will be indicated by the source code as reflected in the first column of the certificate. The amount relating to the particular source code will be reflected in the last column of the IRP5/IT3(a). The information in these two columns must be used to complete the return. The return makes provision to fill in the amount first and then the corresponding source code. If the taxpayer is in receipt of more than one IRP5/IT3(a) the amounts of the corresponding source codes must be added together to be reflected as one amount on the return. Please make sure that all codes are filled in the return whether it refers to a taxable or non-taxable code as the SARS systems are programmed to deal with all codes correctly.

### Example:

A taxpayer receives two IRP5 certificates. On the one certificate an amount of R100 000 in respect of code 3601 is reflected. The second IRP5 certificate reflects an amount of R75 000 next to the code 3601. On the income tax return only one entry will appear as



code 3601 and the amount reflected will be R175 000 (R100 000 – certificate one + R75 000 certificate two).

The same procedure must be applied in respect of all the codes reflected on the IRP5/IT3(a) certificates received by the taxpayer. It must be noted that if the taxpayer received more than three certificates the IT12S return may not be completed but the taxpayer must request an IT12C return for completion.

The “Income Received” section of the return makes provision to record eight different source codes. Should your IRP5/IT3(a) certificates reflect more than eight different source codes you will need to add the amounts relating to some of the codes together to complete your return. Care must however be taken as to which codes are added together to ensure that the calculation of tax liability is not impacted. It is therefore suggested that the amounts relating to the following source codes are added together:

- Source code 3610, 3605 and 3607 - reflect as source code 3601
- All codes starting with 38 except code 3810 - reflect as source code 3801
- No codes starting with a 37 should be added together.

Should you still have problems in combining amounts please phone the SARS Call Centre on 0860 12 12 18 or contact your local SARS office to assist you in the completion of this section. Please have all the certificates relating to the various sources at hand when contacting the Call Centre or the local SARS office.

### Gross retirement funding income

It is important that this amount is completed correctly as it could impact the amount that will be allowed as a pension deduction. The amount can be found on the IRP5/IT3(a) certificates received from your employer. It can be found in the gross remuneration section of the certificate next to the code 3697. Where more than one certificate was received the total amount of all the amounts reflected next to code 3697 on the certificates must be used to complete the return.

If no amount appears on the certificate for code 3697 or no such source code appears on the certificate you need to use the “Income section” of the certificate to determine the amount. In the “Income section” of the certificate there is a column with the heading RF IND. This column indicates whether a certain amount was retirement funding when a “Y” is inserted in this column. By adding all the “Y” indicated amounts together you can determine the amount that should be filled in next to code 3697 on your return. Please note that if you received more than one certificate you need to follow this procedure in respect of all certificates received.

In determining the amount you must either make use of the 3697 amount reflected on the certificates OR calculate the amount on a particular certificate by looking at the indicator in the RF IND column. Under no circumstances must you use both to calculate the amount, because overstating the 3697 code could impact the amount allowed as a deduction in respect of retirement annuity contributions.

### Investment income

The IT12C return makes provision for the declaration of local interest income on page 2 of the return whilst foreign interest and foreign dividends must be declared in page 3 of the return. If you are married IN community of property all local interest income must be declared in this section. This will include the income in respect of yourself, your spouse and your minor children. The gross amounts received must be reflected, as the exemptions as well as the 50% split will be applied programmatically by SARS.

The exemption applicable to the 2007 year of assessment is R16 500 for persons under the age of 65 years and R24 500 for persons 65 years of age and older. The interest exemption will be offset against foreign dividends, foreign interest and local interest received. The exemption on foreign investments, i.e. foreign dividends and foreign interest, is however, limited to R2 500 and will be offset in the following order: foreign dividends, foreign interest and local interest, as illustrated in the following example in respect of a taxpayer under the age of 65 years.

All investment income received by or accrued to you or your minor children must be declared (including investment income which has not been paid to you but has been utilised, accumulated or re-invested for you or your minor children’s benefit). Where interest is claimed as a deduction against investment income received, full particulars (i.e. amounts invested / borrowed, interest rates, date of each loan and investment) must be retained for a period of five years after submission of the return.

### Example

Should you have received R19 100 investment income that is made up of R2 000 in respect of foreign dividends, R900 in respect of foreign interest and R16 200 in respect of local interest, the interest exemption will be applied as illustrated in the following example.

FOREIGN DIVIDEND INCOME RECEIVED The R2 000 foreign dividend income received will be exempt, as it is less than R2 500. The balance of R500 (R2 500 – R 2 000) will be offset against the foreign interest received.	R2 000
FOREIGN INTEREST RECEIVED R900 foreign interest has been received, of which R500 will be exempt (the balance not offset against foreign dividends). R400 will therefore be included in taxable income	R900
The total exemption in respect of investment income is R16 500 of which R2 500 has already been utilised against foreign investment income. The balance of R14 000 will now be offset against the R16 200 received in respect of local interest, leaving a balance of R2 200 that will be included in taxable income.	R16 200
RESULT OF CALCULATION - included in taxable income In the determination of tax liability an amount of R2 600 will be included as taxable investment income. The R400 not exempt on foreign investment income plus the R2 200 in respect of local investment income.	R2 600

If however the foreign investment income in aggregate was less than R2 500 the balance of the R2 500 could be utilised against taxable local investment income.

### Income of Minor children

You are liable for the payment of tax on any income which has been received by or accrued to or in favour of any of your minor children if such income arises from a donation, settlement, or other disposition by - (i) you; or (ii) any other person, if you made a donation, settlement or gave some consideration directly or indirectly in favour of the other person or his family.

Your minor child will, however, be liable for tax on income which is received or accrues to him/her independently of yourself; in his own right, for example, bona fide salary and investment income derived from his/her own funds i.e. from money inherited by him/her or received as a gift from any person other than the person mentioned in (i) and (ii) above or from any other source. Should your minor child's taxable income be sufficient to render him/her liable for tax, you, as the legal guardian, must register him/her for income tax purposes and obtain and submit a return on his/her behalf.

### Main source of income

If you are in receipt of salary income and it constitutes your main source of income you must use the table below to complete this field. If however your main source of income is not derived from salary you must consult the Source Code Booklet on the SARS website [www.sars.gov.za](http://www.sars.gov.za) to complete this filed.

Source code	Description
3534	Agencies and other services
3501	Agriculture, forestry and fishing
3511	Bricks, ceramics, glass cement and similar products
3523	Catering and accommodation
3509	Chemicals and chemical, rubber and plastic products
3505	Clothing and footwear
3510	Coal and petroleum goods
3520	Construction
3527	Educational services
3519	Electricity, gas and water
3525	Financing, insurance, real estate and business services
3503	Food drink and tobacco
3506	Leather, leather goods and fur (excluding footwear and clothing)
3514	Machinery and related items
3529	Medical, dental other health and veterinary services
3535	Members of CC/Director of company
3512	Metal
3513	Metal products (except machinery and equipment)
3502	Mining, stone and quarrying work
3518	Other manufacturing industries
3508	Paper, printing and publishing
3532	Personal and household services
3526	Public administration
3531	Recreational and cultural services
3528	Research and scientific institutes
3522	Retail trade
3517	Scientific, optical and similar equipment
3530	Social and related community services
3533	Specialised repair services
3504	Textiles
3516	Transport equipment (except vehicle, part and accessories)
3524	Transport storage and communication
3515	Vehicle, parts and accessories
3521	Wholesale trade
3507	Wood, wood products and furniture

## INCOME TAX CREDITS RELATING TO IRP/IT3(a) CERTIFICATES

This is the only section in the return where provision is made for reflecting amounts in Rands and Cents.

To complete this section you again need your IRP5/IT3(a) certificates. The IT12C return makes provision for the declaration of information in respect of three certificates. If you are in receipt of more than three certificates you will have to acquire an additional schedule. To obtain such an IT12C - I schedule you can download it from the SARS eFiling website [www.sarsefiling.co.za](http://www.sarsefiling.co.za). Although the amounts relating to similar income source codes may be added together, it is not the case with the information relating to SITE and PAYE. All relevant information must be completed in respect of each IRP5/IT3(a) separately. You must therefore complete the information in respect of the first three certificates on your return and the rest on the schedule. The schedule makes provision for the declaration of information relating to ten certificates. Once the schedule is completed the relating question on page three of the return must be completed and the schedule attached to the return prior to submission.

You are required to fill in the following information in this section of the return.

- If you only received one IRP5 or IT3(a) certificate you will only have to complete the first section. You will be required to fill in the IRP5/IT3(a) certificate number, which is located in the top left hand corner of the certificate. If you were issued with a duplicate certificate you will find that the certificate carries two certificate numbers. The number that you must fill in is the one listed next to the original certificate number.
- The PAYE reference number is located directly below the certificate number. In the case of an IRP5 the number will always start with a "7".
- The gross income is located in the section of the certificate that deals with gross remuneration as illustrated below.

## GROSS REMUNERATION

CODE / KODE	DESCRIPTION / BESKRYWING	AMOUNT / BEDRAG
3695	GROSS TAXABLE ANNUAL PAYMENTS	
3696	GROSS NON-TAXABLE INCOME	
3697	GROSS RETIREMENT FUNDING INCOME	
3698	GROSS NON-RETIREMENT FUNDING INCOME	
3699	GROSS REMUNERATION	*

\* This is the amount that must be completed in the Gross Income- Code 3699 line of your return

- The tax calculation information section on the certificate reflects the "periods in year" as well as "periods worked". This is the information that you must use to fill in the return/schedule.
- If you received an IT3(a) it will not necessarily indicate the "periods in year" and the "periods worked". If the information is not available the fields must be left blank on the return/schedule.
- At the bottom of your certificate you will find two lines indicating Standard Income Tax on Employees (SITE) next to code 4101 and Pay As You Earn (PAYE) next to code 4102. The amounts next to these codes must be filled in separately in the boxes provided for SITE -(code 4101) and PAYE -(code 4102) on the return. Remember in this section you need to fill in the Rands as well as the cents.

If you received an IT3(a) certificate there will be no deduction for SITE or PAYE on the certificate. In this case the applicable fields on the return must be left blank.

## DEDUCTIONS MEDICAL - section 18

In accordance with the changes legislated in section 18 of the Income Tax Act (this section deals with the amount allowable in terms of medical expenditure) every person belonging to a medical fund, approved in terms of the Medical Schemes Act 131 of 1998 or if outside RSA, a fund that is approved in terms of similar legislation. Taxpayers will qualify for a medical deduction based on the number of dependants for whom he/she subscribes (contribute) to a medical fund. This deduction is referred to as the capped amount. The capped amount is calculated on a monthly basis as follows:

- R500 for each month in the year of assessment in respect of which the contributions were made for benefits for yourself;
- R1 000 for each month in the year of assessment in respect of which the contributions were made for benefits for yourself and one dependant;
- Where those contributions are made with respect to yourself and more than one dependant, R1 000 in respect and yourself and one dependant plus R300 for every additional dependant for each month in the year of assessment in respect of which those contributions were made.

The capped amount will be reduced by any contributions paid by the employer not included in the remuneration of such employee.

A further calculation will be made based on the other medical expenditure incurred and the balance of the contributions not considered in the calculation of the capped amount.

The amount that can be allowed on assessment will be calculated programmatically by SARS.

No limitation will be placed on the medical expenditure actually incurred by you if:

- You are 65 years of age or older; or
- Where you, your spouse, or child is a handicapped person as defined.

If you are under the age of 65 years you will be granted a deduction based on;

- The number of persons (dependants) for whom you make contributions to a medical fund, plus;
- So much of the contributions that have not been allowed under the capped regime as well as other medical expenditure not recoverable from the medical fund that in aggregate does not exceed 7.5% of your taxable income prior to the calculation of the medical deduction.

## NON-RECOVERABLE MEDICAL EXPENSES

Claim the following amounts ACTUALLY PAID BY YOURSELF and not recovered from your medical aid in respect of yourself, your spouse and your qualifying children or stepchildren:

- Services rendered and medicines supplied by a registered medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopedist;
- Hospitalisation in a registered hospital or nursing clinic;
- Home nursing by a registered nurse;
- Medicines prescribed by a registered physician and acquired from a registered pharmacist; and
- Medical expenses incurred and paid outside the Republic.

## PHYSICAL DISABILITY

Claim the amount of expenses incurred and not recovered from your medical aid and supply details of how the amount was calculated. Please specify the nature of the disability suffered by yourself, your spouse or qualifying children (e.g. glasses, diabetes, etc.). Retain all correspondence relating to any claims for a period of five years after submission of the return.

## HANDICAPPED PERSON

A "HANDICAPPED PERSON" is a blind person, a deaf person, a person who as a result of a permanent disability requires a wheelchair, calliper or crutch to assist him/her to move from one place to another or a person who requires an artificial limb. It also includes a person who suffers from a mental illness as defined in the Mental Health Act, 1973 (Act No. 18 of 1973).

**Blind person** - A letter on a letterhead confirming the diagnosis and classification of the taxpayer signed by a professional person trained to use a Snellen chart.

**Deaf person** - Four categories are statistically kept by DEAFSA (Deaf Federation of South Africa), namely persons who are profoundly deaf, persons who are severely hard of hearing, persons who are moderately hard of hearing and persons who have a mild hearing loss. For purposes of the Income Tax Act a person who is profoundly deaf or a person who is severely hard of hearing, as tested without a hearing aid, will be a person whose hearing is impaired to such an extent that hearing cannot be used as primary means of communication. Confirmation of the severity of deafness from DEAFSA or a similar institution must be retained.

**Mental illness** - Confirmation must be retained, by way of a medical report, from either a psychiatrist or a registered psychologist, clearly stating that such person is mentally ill as defined by the Mental Health Act. This confirmation must be done on a yearly basis and retained for a period of five years after submission of the return.

## THE FOLLOWING EXAMPLES WILL ILLUSTRATE HOW THE CALCULATION WILL BE APPLIED BY SARS DURING THE ASSESSMENT PROCESS:

### Example 1: Employer contributes in excess of capped amount

Mr Taxpayer makes contributions in respect of himself and 3 dependants for 12 months of the year of assessment and incurred medical expenses not covered by the fund to the amount of R9 500. The capped amount will be R1 000 plus R300 in respect of the 3rd and 4th dependant = R1 600 per month. The capped amount in respect of the full year of assessment will therefore equal R19 200.

The total contributions payable by Mr Taxpayer for the year of assessment is R36 000, of which R24 000 is paid by his employer. The amount of R24 000 paid by the employer will be reflected as code 4474 on Mr Taxpayers' IRP5 certificate. The employer paid more than the capped amount of R19 200 thus resulting in a taxable fringe benefit to the amount of R4 800. This amount of R4 800 will be reflected as code 3810 in the income section of the IRP5 certificate. This amount of R4 800 will be considered deemed contributions made by the employee.

On assessment a recalculation of the medical will take place taking into account the fact that the employers' contributions exceeded the calculated capped amount and no unlimited deduction in respect of contributions will thus be considered. The other medical expenditure amounting to R9 500 plus the deemed contributions of R4 800 will, however, be subjected to the 7.5% limitation calculation to determine whether any additional amount can be considered as a deduction.

If the taxpayer earned a salary of R150 000 per year and made contributions to a pension fund to the amount of R11 250 his IRP5 should reflect the following income and deduction codes:

3601	Salary	R150 000	
3810	Medical fringe benefit	4 800	
4005*	Employees medical contributions	16 800	(12 000 + 4 800)
4474	Employers medical contributions	24 000	
4001	Pension contributions	11 250	

- The amount reflected next to the code 4005 will constitute the contributions actually paid by the taxpayer plus the amount deemed to have been made by the taxpayer. The deemed amount equals the amount in excess of the capping amount, which in this example is R4 800 (see second paragraph of example).

In this case the medical calculation on assessment will be as follows:

As Mr Taxpayer made contributions in respect of himself/herself and 3 dependants for all 12 months of the year of assessment the capping amount will be R1 000 plus R300 in respect of the 3rd and 4th dependant = R1 600 per month. The capped amount in respect of the full year of assessment will therefore equal R19 200.

As the employer contributes in excess of the capped amount of R19 200 and the R19 200 is not included in the gross remuneration reflected on the IRP5, the taxpayer would therefore in this case not qualify for the deduction of the capped amount. The balance of the employer's contribution of R4 800 was, however, included in the gross remuneration of the taxpayer and will, now together with the other expenditure, qualify as a deduction after the application of the limitation of 7.5% of taxable income prior to the deduction of medical expenditure.

Medical contributions	R36 000
Minus: The employers contributions	24 000
	12 000
Plus: Employers contribution included in gross	4 800
Other expenditure	9 500
Amount subject to the limitation	R26 300
Taxpayers' gross remuneration	R154 800
	(R150 000 + R4 800)
Minus: Pension contributions	11 250
Income prior to the medical deduction	R143 550
Thus 7.5% of income (calculated limitation)	R10 766
Amount subject to limitation	R26 300
Calculated limitation	R10 766
Amount allowable as deduction	R15 534

**Please note that the calculations illustrated above will be performed programmatically by SARS. In the completion of the deduction section of the return you must ensure that you complete the amount next to the code 4005 using the information reflected on the IRP5 certificate. Should no amount appear on the IRP5 certificate next to the code 4005 although your medical fund contributions are paid over via your employer it probably means that the employers contribution are equal to the capped amount as calculated by the employer.**

### Example 2: Employer contributes less than capped amount

As in the scenario above Mr Taxpayer made contributions in respect of himself and 3 dependants for all 12 months of the year of assessment. The capped amount will be R1 600 per month [R1 000 plus R600 (300 x 2) in respect of the 3rd and 4th dependant]. The capped amount in respect of the full year of assessment will therefore equal R19 200.

The employer contributes R12 000 which is less than the capped amount of R19 200 and the R12 000 is not included in the gross remuneration reflected on the IRP5. Mr Taxpayer will therefore qualify for a deduction of R7 200 in respect of the capped amount, being the difference between the capped amount of R19 200 and the R12 000 paid by the employer. The other expenditure of R9 500 plus the balance of the contributions that was not allowed as a deduction in terms of the capped amount, will qualify as a deduction after the application of the limitation of 7.5% of taxable income prior to the deduction of medical expenditure.

The calculation will be as follows:

Medical contributions	R36 000
Minus: The employers contributions	12 000
	24 000
Minus: Deduction in respect of capped amount	7 200
Medical contribution subject to limitation	R16 800
Plus: Other expenditure	9 500
Amount subject to the limitation	R26 300
Taxpayers' gross remuneration	R150 000
Minus: Pension contributions	11 250
Income prior to the medical deduction	R138 750
Thus 7.5% of income (calculated limitation)	R10 406
Amount subject to limitation	R26 300
Calculated limitation	R10 406
Amount allowable as deduction (after limitation)	R15 894
Plus: Deduction in respect of capped amount	7 200
Total deduction for medical	R23 094

**Example 3:  
Employer makes NO contributions**

The contributions and amounts are the same as for example 1 except for the fact that no contributions are made by the employer.

The calculation will be as follows:

Medical contributions	R36 000
Minus: The employers contributions	0
	36 000
Minus: Deduction in respect of capped amount	19 200
Medical contribution subject to limitation	R16 800
Plus: Other expenditure	9 500
Amount subject to the limitation	R26 300
Taxpayers' gross remuneration	R150 000
Minus: Pension contributions	11 250
Income prior to the medical deduction	R138 750
Thus 7.5% of income (calculated limitation)	R10 406
Amount subject to limitation	R26 300
Calculated limitation	R10 406
Amount allowable as deduction (after limitation)	R15 894
Plus: Deduction in respect of capped amount	19 200
Total deduction for medical	R35 094

All the examples above refer to the capped amount being based on the same number of beneficiaries belonging to the medical fund in respect of all 12 months within the year of assessment. Should the number of beneficiaries vary it will impact the calculation of the capped amount as this calculation is based on a month-to-month basis as illustrated in the example below:

A taxpayer contributes to a medical fund in respect of the following beneficiaries:

Month	Taxpayer and first dependant	Taxpayer and more than one dependant	Capping amount
March	1 + 1 = 1 000	1 = 300	R1 300
April	1 + 1 = 1 000	2 = 600	R1 600
May	1 + 1 = 1 000	2 = 600	R1 600
June	1 + 1 = 1 000	2 = 600	R1 600
July	1 + 1 = 1 000	2 = 600	R1 600
August	1 + 1 = 1 000	2 = 600	R1 600
September	1 + 1 = 1 000	4 = 1 200	R2 200
October	1 + 1 = 1 000	4 = 1 200	R2 200
November	1 + 1 = 1 000	4 = 1 200	R2 200
December	1 + 1 = 1 000	4 = 1 200	R2 200
January	1 + 1 = 1 000	4 = 1 200	R2 200
February	1 + 1 = 1 000	4 = 1 200	R2 200
Totals	R12 000	R10 500	R22 500

In this case the capping amount that needs to be applied in respect of the calculations above would be R22 500.

**To enable SARS to calculate your allowable deduction it is important that you complete this section correctly and in full.**

Get the statement you received from your medical fund and your IRP5 / IT3(a) certificates as this will assist you in filling in this section.

**State the number of members and dependants for whom contributions were made**

The information required refers to the contributions that you paid to the medical fund that you belong to for the period 1 March 2006 to 28 February 2007, in respect of yourself and the other persons (dependants) that are covered by the fund. This information is usually reflected on the medical statement that you received from your medical fund at the end of February.

**Did the number change during the year of assessment?**

The next block needs to be completed by inserting an X in either "yes" or "no" where you are asked whether the number of persons changed during the year of assessment, which is from 1 March 2006 to 28 February 2007.

**If yes, state the total number of members and dependants per month**

If the number of persons for whom you made contributions did not change and you have ticked the “no” box you do not need to fill in the number of members and dependants for the year. If however it did change and you have ticked the “yes” box you must fill in the number of members and dependants per month.

Provision has been made for all twelve months of the year of assessment starting with “M” for March as the year of assessment starts on 1 March 2006. You must then indicate the number of persons for whom you made contributions for each month of the year. If for example you made contributions in respect of yourself, your spouse and two children you will have to enter the number 4 in the block representing March. If it remained the same for April you will again fill in the number 4 in the block marked with “A” that represents April. If however in May you now make contributions in respect of yourself, your spouse and 3 children you will fill in the number 5 in the block representing May. This is the process you need to follow in respect of all the months up to and including February 2007.

### State your medical fund contributions

Contributions paid by your employer on your behalf

- If contributions on your behalf were paid to the medical fund by your employer you will find the information on your IRP5 /IT3(a) certificate. You will find the information in the section of the certificate dealing with “deductions”. It will be recorded next to the code 4005 on the IRP5.

Contributions paid by yourself i.e. via your cheque account or debit order

- If you pay your contributions yourself you will find this amount on the medical statement you received from the medical fund at the end of February.

### State your qualifying medical expenses not recovered from the medical fund

If you belong to a medical fund you will find the amount for the medical expenses that you have not recovered from the medical fund on the medical statement you received from your medical fund at the end of February. The statement may reflect two amounts that were not covered by the fund. However, the statement will clearly indicate the amount that will qualify for income tax purposes. This is the amount to be used together with the amount of the claims that you did not submit to the Medical fund due to the fact that you have exceeded the limits in respect of certain procedures.

The Income Tax Act makes provision for consideration of any contributions made by a taxpayer in respect of him/herself, spouse and any dependant as defined in the Medical Schemes Act. With regard to any other medical expenditure the Income Tax Act however excludes such amounts unless it was incurred in respect of the taxpayer, spouse and qualifying children as defined by the Income Tax Act. Medical funds distinguish between expenditure relating to the taxpayer, spouse and qualifying children and other dependants by referring to the expenditure relating to other dependants as expenditure in respect of “special dependants”. The amounts in respect of such “special dependants” do not qualify as a deduction and must not be filled in on your return.

### Physical disability expenditure

The Income Tax Act makes provision that you can claim any expenditure necessarily incurred and paid in consequence of any physical disability suffered by the taxpayer, his or her spouse or child. The amount incurred and not recovered from the medical fund should therefore be reflected next to code 4022 and not next to the code 4020. The necessary proof of payment of such expenditure must be retained for a period of five years.

### Handicapped expenditure

If based on the definition of handicapped described in this brochure, you, your spouse or child are considered to be handicapped the amount of expenditure incurred in consequence of the handicap must be declared next to the code 4023 and not next to the code 4020. The necessary proof of payment of such expenditure must be retained for a period of five years.

Should you not have incurred any handicapped expenditure although you, your spouse or child are considered to be handicapped, you must fill in R1 expenditure next to the code 4023.

## RETIREMENT CONTRIBUTIONS

### Current pension contributions - section 11(k)(i)

Use the amount next to the code 4001 on your IRP5/IT3(a) certificate. If you received more than one certificate the amounts reflected next to the code 4001 on the various certificates must be added together and the aggregate amount completed on the return.

On assessment the amount claimed will programmatically be limited by SARS as follows:

Maximum deduction per taxpayer is, the greater of

R1 750; or

7,5% of the remuneration received from “Retirement funding employment” during the year of assessment. (7,5% of the gross remuneration as shown on the IRP5/IT3(a) certificate, unless this includes income which, according to the rules of the relevant pension fund, does not constitute retirement funding remuneration.)

“Retirement-funding employment”:

Is the holding of an office by someone who is a member of a pension or provident fund.

Only income that was taken into account in determining the member’s contribution to the relevant fund, counts for this purpose.

In most cases, allowances, fringe benefits and bonuses paid by employers, are not regarded as income from retirement-funding employment and are not taken into account when calculating pension fund contributions.

### **Arrear pension fund contributions – section 11(k)(ii)**

This amount will be reflected on your IRP5/IT3(a) certificate next to the code 4002.

The maximum deduction per person is R1 800 per year of assessment. Any excess will be carried forward to the subsequent year of assessment.

### **Arrear pension fund contributions for the former Non-Statutory forces – section 11(k)(ii)(aa)**

In recognition of service for the former non-statutory forces, the Rules of the Government Pension Fund make provision for the purchasing of backdated pension contributions. No limitation will during the assessment process be placed on these contributions. This amount will be reflected next to the code 4026 on the IRP5/IT3(a) certificate.

### **Current contributions to an approved retirement annuity fund -section 11(n)(aa)**

Use the certificate you received from the institution to which you made the contributions to complete the return. The maximum deduction permitted per year of assessment is limited to the greater of -

- 15% of taxable income, excluding income from retirement-funding employment. When determining taxable income, the following deductions must NOT be taken into account:
    - o Capital development expenditure (farming);
    - o Donations;
    - o Retirement annuity fund contributions;
    - o Medical and dental expenses;
    - o Expenditure in respect of soil erosion works; or
  - R3 500 less allowable pension fund contributions; or
  - R1 750.
- Claim your actual contributions, as the calculation will be done by SARS.

Any excess will be carried forward to the succeeding year of assessment.

Only contributions made by you as a member of a retirement annuity fund will be considered as a deduction, i.e. you may not claim contributions made on behalf of a third party, e.g. your wife or child.

### **Arrear contributions to an approved retirement annuity fund - section 11(n)(bb)**

Claim your actual contributions (maximum amount allowed per year of assessment is R1 800). Any excess will be carried forward to the succeeding year of assessment.

### **Other qualifying deductions**

In terms of the Income Tax Act only certain deductions are allowable if you earn a salary. Some of these deductions such as pension and retirement annuity contributions have already been addressed in this guide. The remaining deductions that qualify, providing expenses were incurred, are the following:

#### **Subsistence allowance**

Should your allowance be reflected as code 3704 (local) you need to determine the amount claimed based on the actual amounts expended or the amount deemed to be expended in terms of Section 8(1)(c)(ii) of the Income Tax Act. Claim the amounts expended next to the code 4017, on page two of your return.

If however you received a foreign subsistence allowance, the allowance should be indicated as a code 3715 or 3754 on your IRP5/IT3(a) certificate. Claim the amounts expended next to the code 4019, on page three of your return.

A schedule detailing the following must be prepared and retained for a period of five years to substantiate your claim:

- The period in respect of which expenses were claimed;
- The destination where the money was spent;
- The total number of days in respect of which expenses were claimed; and
- Specify whether local or foreign expenditure.

Receipts for the amounts must be available to prove your claim, if requested by SARS.

Enter the amount calculated next to the codes 4017 (local) and code 4019 (foreign) on page two and three of the return respectively.

### **Donations to an approved Section 18A Public Benefit Organisation**

Use the amount reflected on the receipt you received. Remember the amount will only qualify as a deduction if the receipt states that it is issued in terms of Section 18A of the Income tax Act.

### **Income protection insurance contributions**

If you made any contributions to protect your income you should receive a certificate from the institution to which the contributions were made. Deductions will be considered in respect of policies where it covers you against the loss of income as a result of illness, injury,



disability or unemployment and the amount payable in terms of the policy constitutes or will constitute income as defined.

Enter the amount next to the code 4018 on your return.

### Depreciation - section 11(e)

Section 11(e) makes provision for the taxpayer to claim an amount representing the diminishing value of an asset owned by the taxpayer and used for the purpose of his/her trade.

If therefore, you own an asset such as a computer and you are obliged to use the asset regularly to perform tasks relating to your job you will be entitled to claim depreciation on the asset. The amount calculated must be filled in next to the code 4027 on your return.

Paragraph 6 of Practice Note 19 further makes provision that where, "small items" that normally functions on its own and not an individual item that forms part of a set, is acquired and the cost thereof exceeds R2 000, such amount can be written off in the year in which the asset is acquired.

Receipts or proof of purchase and payment of such items must be retained for a period of five years to substantiate your claim, should SARS call for it.

### Home office expenses - section 11(a)

The deduction of any expenses relating to any residence or domestic premises is prohibited except in respect of such part as may be occupied for purposes of trade. Such part of the premises will only be regarded as being used for trade if:

- It is specifically equipped for purposes of your trade; and
- It is used regularly and exclusively for such purposes.

If the income against which the deduction is claimed flows from the holding of employment or an office no deduction is allowable unless:

- Your income from such employment or office is derived mainly from commission or other variable payments which are based on your work performance and your duties are mainly performed otherwise than in an office which is provided to you by your employer; or
- Your duties are mainly performed in the study at your private residence.

The following guidelines are given with regard to a claim for a home study. Full details in support of your claim must be retained for a period of five years after submission of your return. Documentation in substantiation of the claim is to be kept and only submitted on request.

- There must be a direct relationship between the incurring of the expenses on a study and the production of income.
- You must, in terms of the requirements of a service contract with your employer, be required to maintain a study at your private residence.
- The study may be used only for business purposes.
- A schedule detailing the following must be prepared and retained for a period of five years should SARS call for it.
  - What is the nature of your occupation and why is it necessary to maintain a study at your home?
  - A copy of your service contract, service regulations or personnel code.
  - Does your employer place an office at your disposal at your workplace? Full details of any restrictions in the use of this office are to be furnished, as well as a letter of confirmation from your employer.
  - Is your work of such a nature that you are expected to work at home after hours? Full details of how frequently you use the home study as well as a statement confirming the use thereof is required from your employer.
  - Are you required to use the home study to interview or supply information to clients or employees after hours?
  - Is your home study specifically equipped for purposes of your trade?
  - Is your study used regularly and exclusively for your work?
  - To what extent is the study indispensable to the proper carrying out of your tasks?

- Should you qualify for a deduction the amount should be calculated on the following basis:

A / B x Total costs, where

A = the area in m<sup>2</sup> of the area specifically equipped and used regularly and exclusively for trade;  
B = the total area in m<sup>2</sup> of the residence (including any outbuildings and the area used for trade the residence), and  
Total costs = the costs incurred in the acquisition and upkeep of the property (excluding expenses of a capital nature).

Repairs specifically made to the study will not be apportioned, but allowed in full.

Repairs to the building in general are not included in total costs.

### Other expenses

#### Legal costs - section 11(c)

Legal cost directly related to your salary package that will result in receipt of an amount that is taxable can be claimed. All proof substantiating the claim must be available on request.

#### Bad and doubtful debt - section 11(i) and (j)

These deductions will only be the exception and can only apply if your employer has issued you with an IRP5/IT3(a) where the amount is included as income received and you in fact have not received the applicable amount.

### Reduction in value of benefit in respect of the private use of your employer's motor vehicle

The taxable benefit which arises from the private use of a motor vehicle supplied by an employer is based on the assumption that the distance covered for private use (including travel between home and work) amounts to 10 000 km for the year. If you have travelled less than 10 000 km and have kept accurate records in the form of a logbook, a copy of which must be retained for a period of five years, you may claim a deduction under "other".

The reduction in the value of the benefit will not apply where more than one vehicle was made available to you at the same time and only the benefit of the more expensive vehicle has been taken into account as a fringe benefit, unless less than 10 000 km have been travelled with both vehicles individually.

### Holders of a public office - section 8(1)(d)

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 is deemed to have been expended to the extent that he/she has actually incurred expenses for the purpose of his/her office in respect of -

- Secretarial services, telephone, stationery, office accommodation, postage, travelling or hospitality extended at any official or civic function which the holder of such office is by reason of such office normally expected to arrange; and
- Subsistence and incidental costs while away from his/her usual place of residence.

### Commission income expenditure - section 11(a)

If your remuneration is derived normally and mainly in the form of commission and you have incurred expenditure that is not specifically addressed above such expenditure items, with the exclusion of travel expenditure, must be added together and the amount filled in next to the code 4016 (other).

If you have incurred any travel expenditure and you do not receive a travel allowance the amount of the claim must be calculated and filled in on page three of the return next to the code 4015 in the "Other Qualifying Deduction" section.

You must however retain all calculations, receipts and other supporting documentation for a period of five years.

### TRAVEL CLAIM AGAINST ALLOWANCE - SECTION 8(1)(b)

This section must only be completed if you are in receipt of a travel allowance. If you did not receive a travel allowance this section must be left blank. A travel allowance will be reflected on your IRP5/IT3(a) certificate next to the codes 3701 and/or 3702.

### Did you use a log-book in the determination of business kilometres travelled?

You need to indicate whether you made use of a logbook to determine the business kilometres travelled. This must be indicated in respect of each vehicle that you used for business purposes.

Should you calculate your travel claim based on actual kilometres travelled, such kilometres must be substantiated by way of a log-book. The log-book must be retained for a period of five years should SARS request it. The following minimum information relating to business kilometres travelled should be reflected:

- Date on which you travelled.
- The destination to and from.
- The kilometres travelled.
- The reason for the travel.

Expenses incurred by a taxpayer in travelling to and from his place of business from his residence are considered private expenses and are thus not deductible. If a taxpayer conducts his business from his/her home, his/her home should, with regard to his/her travels there from, be treated as the place of business. Thus kilometres travelled in travelling from his/her home to perform business would be considered as business kilometres travelled e.g. commercial travellers who work from home and who have to travel from job to job.

### If you did not keep records of kilometres travelled?

Where no accurate records have been kept of the actual business kilometres travelled, **deemed business kilometres** (section 8(1)(b)(ii) of the Income Tax Act) will programmatically be calculated. The deemed business kilometres are calculated as follows:

*Actual kilometers travelled (limited to 32 000km)*

*Less*

*The deemed kilometers of 18 000*

Furthermore, the deemed business kilometres can never exceed 14 000 km.

If the vehicle was used for business purposes for a period of less than 12 months, the distance of 18 000 km, must be reduced pro rata in respect of the period the vehicle was used for business purposes.

Where the recipient of an allowance has, during the whole or any portion of the year of assessment, used more than one vehicle interchangeably for business purposes, and one or more of such vehicles was not used primarily for business purposes, the 18 000/32 000 km will be applied separately to each motor vehicle. Where travelling expenses are claimed for two vehicles that were used

interchangeably during the year for business purposes, and a logbook was kept in respect of only one vehicle, the 18 000 km deemed private kilometres, must be applied in respect of the other vehicle.

### Starting date and closing date

Indicate the period in respect of which the vehicle(s) was used during the period 1 March 2006 to 28 February 2007 by completing the start and closing date for each vehicle separately.

### Calculation of the travel claim

To enable SARS to calculate your travel claim it is imperative that you complete the following information:

- Starting and closing kilometres;
- The business kilometres travelled;
- The cost price or cash value of the vehicle; and
- The vehicle registration number.

**Please note that without this information SARS will not be in a position to calculate the travel claim and will therefore not consider any travel claim.**

### Travelling expenses may be claimed based on one of the following methods:

(i) Where no records of actual expenditure have been kept:

- In this case the kilometer rate provided for in the Income tax Act will programmatically be applied during the assessment process.

(ii) Where records of actual expenditure have been kept:

- Use the receipts in respect of the actual expenditure incurred to complete the line items provided for in the return.

### TRAVELLING EXPENSES BASED ON THE KILOMETRE RATE

During the assessment process the fixed cost scale will programmatically be applied in the calculation of the travel claim based on the information declared in the income tax return. The following Fixed Scale of Cost table will be applied:

Where the value of the vehicle -	Fixed cost R	Fuel cost c	Maintenance cost
does not exceed R40 000	15 364	47,3	22,5
exceeds R40 000 but does not exceed R60 000	20 910	49,4	26,2
exceeds R60 000 but does not exceed R80 000	25 979	49,4	26,2
exceeds R80 000 but does not exceed R100 000	31 513	54,8	30,5
exceeds R100 000 but does not exceed R120 000	36 978	54,8	30,5
exceeds R120 000 but does not exceed R140 000	41 771	54,8	30,5
exceeds R140 000 but does not exceed R160 000	47 512	57,2	39,8
exceeds R160 000 but does not exceed R180 000	52 629	57,2	39,8
exceeds R180 000 but does not exceed R200 000	58 334	65,9	43,8
exceeds R200 000 but does not exceed R220 000	64 591	65,9	43,8
exceeds R220 000 but does not exceed R240 000	69 072	65,9	43,8
exceeds R240 000 but does not exceed R260 000	74 777	65,9	43,8
exceeds R260 000 but does not exceed R280 000	79 918	69,3	52,5
exceeds R280 000 but does not exceed R300 000	85 440	69,3	52,5
exceeds R300 000 but does not exceed R320 000	88 793	69,3	52,5
exceeds R320 000 but does not exceed R340 000	95 218	69,3	52,5
exceeds R340 000 but does not exceed R360 000	100 011	77,1	68,0
exceeds R360 000	100 011	77,1	68,0

The scale per kilometre for the fixed cost must be divided by the total amount of kilometres travelled during the year of assessment. If the vehicle was used for business purposes for a period shorter than a year, the fixed cost component must be reduced, pro rata. Fuel and maintenance cost rates are read from the schedule.

As the scale per kilometre in the above mentioned schedule is based on the value of the vehicle, it is important that a taxpayer should determine the value of his/her vehicle in accordance with one of the following guidelines:

Value" in relation to a motor vehicle means –

- Where the vehicle was acquired by a taxpayer under a bona fide agreement of sale or exchange, the original cost thereof to him/her, including any VAT paid but excluding any finance charges or interest payable by him/her in respect of the acquisition thereof; or
- Where the vehicle is held under a financial lease by a taxpayer, as the recipient of an allowance, or was held by a taxpayer under a lease and he acquired ownership on termination of the lease, the cash value thereof as determined for VAT purposes, plus any VAT paid by the lessor; or
- In any other case, the market value of the motor vehicle at the time the taxpayer, as the recipient of an allowance, first obtained the

vehicle or the right of use thereof, plus any value-added tax payable on that value.

### Example 1 – One vehicle for the full year

You own a vehicle with a value of R52 000 and receive a travelling allowance of R3 000 per month for the full tax year. During the year of assessment, you travelled 45 000 kilometres and did not keep accurate records of the business or private kilometres.

The amount of the claim will be calculated programmatically as follows:

Total distance travelled	45 000 km
Deemed total kilometres (cannot exceed 32 000 km)	32 000 km
Deemed Private kilometres	-18 000 km
Deemed Business kilometres	14 000 km
Total allowance received for the year	R36 000

Fixed cost as per Fixed Cost Schedule R20 910

Apply the formula:

$$\frac{\text{Fixed cost as per schedule}}{\text{Total distance travelled}} \times \frac{\text{No. of days used}}{365}$$

$$= \frac{R20\,910}{45\,000\text{km}} \times \frac{365}{365} \times 100$$

= 46,5c

Fixed Cost per Kilometre	=	46,5c
Add Fuel cost element (per schedule)	=	49,4c
Add Maintenance cost (per schedule)	=	26,2c
Total cost per kilometre	=	122,1c

Multiply the total cost by the deemed business kilometres

$$(14\,000\text{ km} \times 122,1\text{c})/100 = R17\,094$$

This is the amount that will be programmatically calculated and that will be considered as a travel claim. If, however, the calculated amount exceeds the allowance received, the claim will programmatically be limited to the amount of the allowance.

### Example 2 – Two vehicles for part of the year

All the details are the same as in example 1, except that you used the vehicle for 6 months (183 days), during which you travelled 18 000 km. Thereafter, you purchased a new vehicle for R105 000, and travelled 11 000km during the 6 months (182 days) following the purchase (i.e. the balance of the year).

The amount of the claim will be calculated programmatically as follows:

#### VEHICLE 1

Total distance travelled	18 000 km
Deemed total kilometres (cannot exceed 32 000 x 6/12 months)	16 000 km
Deemed Private kilometre (18 000 x 6/12 months)	-9 000 km
Deemed Business kilometres	7 000 km
Total allowance received for the year	R36 000

Fixed cost as per Fixed Cost Schedule R20 910

Apply the Formula

$$= \frac{R20\,910}{18\,000\text{km}} \times \frac{183}{365} \times 100$$

= 58,2c

Fixed Cost per kilometre	=	58,2c
Add Fuel cost as per schedule	=	49,4c
Add Maintenance cost as per schedule	=	26,2c
Total cost per kilometre	=	133,8c

Multiply the total cost per kilometre by the deemed business kilometres

$$(7\,000\text{ km} \times 133,8\text{c})/100 = R9\,366$$

In other words, you are entitled to claim a deduction of R9 366 on your first vehicle. This claim will be added to the amount calculated in respect of vehicle 2. Only then can it be determined whether or not the total claim exceeds the allowance received for the particular year of assessment.

## VEHICLE 2

Total distance travelled	11 000 km
Deemed total kilometres (cannot exceed 32 000 x 6/12 months)	11 000 km
Deemed Private kilometre (18 000 x 6/12 months)	-9 000 km
Deemed Business kilometres	2 000 km
Total allowance received for the year	R36 000

Fixed cost as per Fixed Cost Schedule R36 978

Apply the Formula

$$= \frac{R36\,978}{11\,000\text{km}} \times \frac{182}{365} \times 100$$

$$= 167,6c$$

Fixed Cost per kilometre = 167,6c

Add Fuel cost as per schedule = 54,8c

Add Maintenance cost as per schedule = 30,5c

Total cost per kilometre = 252,9c

Multiply the total cost per kilometre by the deemed business kilometres

$$(2\,000 \text{ km} \times 252,9c) / 100 = R5\,058$$

In other words you are entitled to claim a deduction of R5 058 for your second vehicle.

Total Deduction Claimed in respect of the full year:

$$R9\,366 + R5\,058 = R14\,424$$

As the total amount of the claim does not exceed the allowance received the amount will be considered as a deduction.

## TRAVELLING EXPENSES BASED ON ACTUAL EXPENDITURE

Complete the line items under the applicable heading on the return

### Fuel and Oil

Calculate the amount of fuel and oil expenses incurred for the period 1 March 2006 to 28 February 2007. Remember to retain proof of expenditure for a period of five years after the date of submission of the return.

### Maintenance and repairs

Calculate the amount of expenses incurred for the period 1 March 2006 to 28 February 2007. Remember to retain proof of expenditure for a period of five years after the date of submission of the return.

### Insurance and licence

Calculate the amount of expenses incurred for the period 1 March 2006 to 28 February 2007. Remember to retain proof of expenditure for a period of five years after the date of submission of the return.

### Wear and tear

Where a person claims actual expenses (and can furnish accurate data), there is now a limitation on the amount he may claim for lease payments, finance charges and wear and tear. However, this limitation occurs only where the taxpayer is in receipt of an allowance.

When a taxpayer claims actual expenses for travel purposes, he is also entitled to claim wear and tear on the vehicle. However, wear and tear can only be claimed where the taxpayer actually owns the vehicle (i.e. it is not leased). Where a vehicle was acquired during the year of assessment, wear and tear will only be allowed pro rata. The value of the vehicle when calculating wear and tear is usually the cost price, including VAT and excluding finance charges or interest.

The wear and tear allowance must be determined over a period of 7 years from the date of original acquisition, and the cost must be limited to R360 000.

### Example:

Mr. James purchased a motor vehicle on 1 March 2006 for R400 000. He is claiming actual costs incurred for business travel purposes. He is entitled to claim wear and tear on his vehicle. He receives an allowance from his employer.

The wear and tear, which the taxpayer is entitled to for the 2007 year of assessment, must be calculated as follows:

The cost of the vehicle may not exceed R360 000. The R400 000 is thus limited to R360 000, and wear and tear is calculated on this legislated limitation:

$R360\ 000/7\ \text{years} = R51\ 428\ \text{per annum}$

### Wear and tear if vehicle was required prior to 2006

If the car was acquired (and wear and tear claimed) prior to the 2006 year of assessment, the taxpayer needs to determine the remaining number of years (of wear and tear claimable) as well as the value of the vehicle at the start of the 2006 year of assessment.

#### Example:

Mr. Y purchased a car on 01/03/2002 with a value of R250 000, which he uses for business purposes. During the 2007 year of assessment, he received a travel allowance amounting to R25 000.

The value of the vehicle on 01/03/2005 would be the original value less wear and tear previously allowed. If the vehicle was purchased in the 2003 year of assessment, it would have been depreciated over 5 years\*, as this was the original wear and tear rate as per practice note 19 in the Income tax Act. In other words:

Original Value	R250 000
Less Wear & Tear: 2003 (R250 000/5 years*)	(R 50 000)
Value: 01/03/2003	R200 000
Less Wear & Tear: 2004 (R250 000/5 years*)	(R 50 000)
Value: 01/03/2004	R150 000
Less Wear & Tear: 2005 (R250 000/5 years*)	(R 50 000)
Value: 01/03/2005	R100 000

In other words, in the 2006 year of assessment, the value of the vehicle is R100 000, and 3 years of wear and tear have already been allowed. Therefore, in the 2006 to 2009 years of assessment, the wear and tear will now be calculated over the remaining 4 years (7 less 3 years already claimed), based on the Income Tax Value of R100 000. Wear and Tear:  $R100\ 000/4\ \text{years} = R25\ 000$

### Lease payments - Section 8(1)(b)(iiiA)(aa)

Where a person does not actually purchase the vehicle, but leases it, the lease payments for the period that the vehicle was used for business may also be allowed as a deduction. However, there is a limitation here too. Section 8(1)(b)(iiiA)(aa) provides that the lease payments may not in any year of assessment exceed an amount of the fixed cost for the category of vehicle used. You can therefore only claim either lease payments or wear and tear on the same vehicle.

### Finance charges

The vehicle's value excludes finance charges, but the taxpayer may claim the applicable amount separately. However, a limitation has also been placed on the finance charges that may be claimed. The finance charges must be limited to an amount which would have been incurred had the original debt (cost of the vehicle) been R360 000.

### Other expenses

If you incurred any other expenses not specifically addressed these must be declared in this section and proof of such expenditure incurred retained for a period of five years.

## FOREIGN INCOME (EXCLUDING CGT)

### Residence basis of taxation

With effect from years of assessment commencing on or after 1 January 2001, the income tax system in South Africa changed from a source based system to a residence basis of taxation. Residents are subject to tax on worldwide income, subject to certain exemptions and non-residents remain taxable on South African source income or deemed source income.

Resident, in respect of an individual, means:

- A person who is ordinarily resident in South Africa. The term "ordinarily resident" means the country to which a person would naturally and as a matter of course return from his or her travels; or
- A person who has been present in South Africa for more than 91 days in the current tax year and in each of the five preceding tax years and who has been present in South Africa for more than 915 days over the five preceding tax years, in which case that person will be a resident with effect from the first day of the relevant year of assessment. For this purpose a day includes a part of a day.
- Where such person is continuously outside South Africa for a period of 330 full days the person will no longer be regarded as a resident, or
- Where the person is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the government of the Republic and that other country for the avoidance of double taxation.

Foreign income received by or accrued to a resident individual is taxable. The following income types are, however, exempt from tax in terms of Section 10(1)(o)(ii) of the Income Tax Act:

- Remuneration derived in respect of services rendered for an employer outside South Africa if the employee is outside South Africa for a period exceeding 183 days in any 12-month period and is outside South Africa for a continuous period of 60 days during the 12 month period and the services were rendered during the period. This provision does not apply to employees of national,

- provincial or local governments and to employees of certain public entities;
- Any amount received or accrued under the social security system of another country;
- Any pension received or accrued from a source outside South Africa that is not deemed to be from a South African source.

### Foreign investment income

If you received any foreign interest or foreign dividend income it must be declared here.

Please note that the gross amounts must be declared, as SARS will programmatically apply the 50% split if you are married in community of property. SARS will also apply the exemption programmatically. The exemption applicable to the 2007 year of assessment for foreign interest and foreign dividends is a total amount of R2 500 out of the total exemption of R16 500 if you are under the age of 65 years and R24 500 if you are 65 years and older. The exemption will be applied to foreign dividends and the balance against foreign interest. Refer to the section dealing with investment income for more information.

Any foreign tax credits withheld from foreign investment income must be declared in the corresponding section of the return. Please note that the gross amount of credits must be declared, as SARS will apply the 50% apportionment if married in community of property. It must also be noted that the foreign credits in respect of foreign interest and foreign dividends must be declared separately.

You also need to indicate whether you chose to be taxed on net foreign dividends. If yes, the amount received must be declared after setting off the withholding tax. No foreign tax credits will be considered if the election is "yes".

For further details refer to the Interpretation Note No. 18 on the SARS website [www.sars.gov.za](http://www.sars.gov.za) or contact your local SARS office.

### Total taxable foreign income

Calculate the amount of foreign income received by using the information contained in the applicable financial statements/certificates. Please note that although financial statements drawn up in another currency will be acceptable as substantiating documentation, if requested, the amounts declared must be translated to the currency of the Republic.

### Foreign currency translation

A resident who derives income measured in a foreign currency must, in translating the taxable income to Rand, make an election between either -

- The spot rate; or
- The average exchange rate for the relevant year of assessment

The average exchange rates can be obtained from the SARS website [www.sars.gov.za](http://www.sars.gov.za). / forms / Income Tax / Average exchange rates for a year of assessment.

- The following average exchange rates were available as at 28 February 2007 and can be used for conversion purposes to SA currency, where the information was supplied in a foreign currency by the taxpayer.

SA rand per Us dollar	7.0375
SA rand per British pound	13.0527
SA rand per Euro	8.8514
SA rand per Australian dollar	5.2805
SA rand per Canadian dollar	6.1084
SA rand per Hong Kong dollar	0.8931
SA rand per Indian Rupee	0.1534
SA rand per Japanese Yen	0.0594
SA rand per Swiss Franc	5.5858

Please note that only the main currencies are addressed in this document and should rate of another country be applicable it can be obtained from any of the local merchant banks the exchange

### Proof of payment of foreign taxes

The under-mentioned serve as examples of proof that will be accepted as proof of payment, if requested, in respect of foreign taxes paid:

- Where foreign tax has been withheld at source – the original documentation issued by the applicable institution.
- Where foreign tax has not been withheld at source – an assessment or receipt issued by the relevant tax authority.

Limitation of foreign credits (section 6quat)

Foreign tax credits will be limited to the South African tax payable in relation to the foreign income received by applying the following formula:

$$\frac{\text{Foreign taxable income} \times \text{Normal tax payable}}{\text{Total taxable income}}$$

### CAPITAL GAINS/LOSSES (CGT)

In order to give effect to the proposals relating to Capital Gains Tax (CGT), an Eighth Schedule was added to the Income Tax Act. The

Schedule determines a taxable gain or assessed loss and Section 26A of the Act provides that a taxable gain is included in taxable income. The CGT provisions became effective from 1 October 2001.

### Determining a capital gain or a capital loss

A CGT event is triggered by the disposal of an asset. Unless such disposal or deemed disposal occurs, no gain or loss arises. CGT applies to all assets disposed of on or after 1 October 2001 (valuation date). Only the gain or loss accruing from 1 October 2001 to date of disposal will fall within the CGT regime.

- An asset is defined as widely as possible and includes any property of whatever nature and any interest therein.
- A disposal covers any event, act, forbearance or operation of law, which results in a creation, variation, transfer or extinction of an asset. It also includes certain events treated as disposals, such as the change in the use of the asset. (Paragraphs 65 and 66 of the Eighth Schedule to the Income Tax Act make provision for the election of tax relief in respect of reinvestment and involuntary disposals in respect of assets disposed of on or after 22 December 2003. For more information refer to the Explanatory Memoranda on the Revenue Laws Amendment Bill (71 of 2003), which is available on the SARS website [www.sars.gov.za](http://www.sars.gov.za)).
- Once an asset is disposed of the amount that is received or which accrues to the seller of the asset constitutes the proceeds from the disposal.
- The base cost of the asset is generally the expenditure actually incurred in acquiring the asset together with expenditure directly related to its improvement and direct costs in respect of its acquisition and disposal and certain holding costs. The base cost does not include any amounts otherwise allowed as a deduction for income tax purposes.

### What is the base cost of an asset held on 1 October 2001?

In order to exclude the portion of the gain relating to the period before 1 October 2001 any one of the following methods may be used:

- 20% of the proceeds upon realisation can be deemed to be the cost (no records, market value cannot be determined); OR
- Market value of the asset as at 1 October 2001 (the "valuation date"); OR
- Time apportionment method.

THE ACT LAYS DOWN VARIOUS REQUIREMENTS THAT APPLY WHEN THE MARKET VALUE METHOD IS USED:

### Time limit for performing valuations

All valuations should have been done by 30 September 2004. If you therefore have a valuation certificate that was issued after 30 September 2004, such valuation certificate cannot be used for the determination of the base cost of an asset.

### Retention periods for valuation certificates

Should the market valuation of base cost method be adopted, the valuation certificate must be retained for a period of five years after the submission date of the return in which the disposal of the asset is declared.

### Loss and gain limitation rules

Certain rules, which are beyond the scope of this brochure, are in place to limit losses and gains when the market value is used. These rules prevent the creation of fictitious losses from inflated valuations and prevent hardship when assets are sold above market value on 1 October 2001, but below original cost. More information can be obtained in the CGT Guide available on the SARS website [www.sars.gov.za](http://www.sars.gov.za).

### Time apportionment method

This method may be used when a person/entity has records of the date of acquisition and the cost of the asset. The following formula is used to determine the time apportionment base cost of the asset:

Original cost + Gain x  $\frac{\text{Period held before valuation date}}{\text{Period held before and after valuation date}}$

Improvements or additions made before 1 October 2001 are assumed to have taken place when the asset was acquired. The period before 1 October 2001 is limited to 20 years. Additions to an asset after valuation date are added to base cost (not apportioned). Where no additions or improvements have taken place prior to valuation date, the 20-year limit does not apply.

More information can be obtained from the CGT Guide pages 188 to 200 available on the SARS website ([www.sars.gov.za](http://www.sars.gov.za)).

## EXCLUSIONS

### Primary residence exclusion

The first R1, 5 million capital gain or loss of a primary residence will, in the case of an individual or special trust type A (as defined in Section 1 of the Income Tax Act), be disregarded for CGT purposes. In other words, where a capital gain or loss exceeds R1, 5 million, the excess would be subject to CGT.

In order for a residence to qualify as a primary residence:

- The interest must be held by a natural person or a special trust type A;
- That person, beneficiary or spouse of either such persons must ordinarily reside therein as their main residence; and
- The residence must be used mainly for domestic purposes.

A primary residence includes the land upon which it is actually situated and may include other adjacent land that is used mainly for domestic or private purposes in association with that residence. The total of all the land may, however, not exceed two hectares. This could also include unconsolidated adjacent land, provided that, upon disposal of the primary residence, any unconsolidated land is



disposed of at the time and to the same person as the primary residence itself.

The primary residence exclusion will not be calculated programmatically by SARS. You must therefore make provision in your calculation for off setting the amount applicable to the primary residence exclusion prior to declaring the aggregate amount of gain or loss.

The primary residence exclusion will not be applied programmatically and must therefore be taken into account prior to the declaration of the profit/loss.

### Annual exclusion

The annual exclusion of a natural person and a special trust type A in respect of the 2007 year of assessment is R12 500. All capital gains and/or losses are added together and thereafter the total amount of such capital gains and/or losses is reduced by the annual exclusion of R12 500, limited to the amount of the gain/loss, should the gain/loss be less than R12 500.

Where a natural person dies during the year of assessment, that person's annual exclusion for the 2007 year of assessment is increased to R60 000.

The annual exclusion will be applied programmatically by SARS.

**NOTE:** The exclusion applies to gains as well as losses.

### Inclusion rate

#### The inclusion rate

Where a net capital gain for the current year of assessment has been determined, such amount is multiplied by the inclusion rate (25%) to determine the taxable capital gain, which is to be included in the taxable income for the year of assessment. This will however be done programmatically during the assessment process.

**NOTE:**

A capital loss can be offset only against a capital gain.

## OTHER RECEIPTS AND ACCRUALS

### Royalties/other

The income that must be declared here relates to income that will be included in taxable income, to calculate tax liability such as Royalties. If you did receive income from royalties you must use the source codes 4212 (profit) and 4213(loss). If the income is anything other than royalties the source code 4214 must be used.

Please note that if you received income distributed from a trust, such income retains its identity and should therefore be declared in the specific part of the return relating to the source of the income prior to distribution from the trust.

### Farming activities

You also need to indicate whether you received any income from farming activities by marking the "Yes" or "No" block accordingly. If you did receive farming income you need to complete the farming schedule on page five of this return. If you did not receive a return with five pages, you must contact you local office or the SARS call Centre at 0860 12 12 18 for assistance.

If you are submitting your return electronically via eFiling, a fifth page will automatically be made available. You could also on the SARS eFiling website, [www.sarsefiling.ca.za](http://www.sarsefiling.ca.za) obtain an IT12C return that will make provision for a fifth page.

### Directors of company's/members of close corporations

As a director of a company or a member of a close corporation you are obliged to submit a statement of assets and liabilities when completing your return. It is therefore important that you answer the Yes, No question to enable SARS to ensure that you are issued with the correct return that makes provision for the required information.

## INFORMATION - DEDUCTIONS AND ALLOWANCES

The information in respect of the following must be completed for verification and reporting purposes:

### Research and Development - Section 11D

Although you only need to indicate on the return whether you submitted the required information to the Department of Science and Technology, you also need to have the following information prepared and available, if requested.

- The amount spent on scientific or technological research and development for the purpose of:
  - o The discovery of novel practical and non obvious information of a scientific and technological nature
  - o The devising, developing or creating of any inventions, any design or computer or other similar property
- Capital expenditure on building, machinery, plant, implement or utensil:
  - o Year in which building, machinery, utensil was first put into use
  - o Percentage proportion of building /machinery / plant etc.

- The amount of government grant received for purpose of scientific or technological research and development

### Learnership agreements - Section 12H

A deduction will be considered where a registered learnership agreement is entered into with a learner in the course of any trade carried on by an employer. The deduction will be considered in respect of the registration and completion of such registered learnership agreement as defined in Section 12H of the Income Tax Act.

More favourable allowances were introduced from 1 July 2006 in respect of disabled learners. Basically the original allowance is 150% of the annual salary of an existing learner employee with a disability (up to a maximum allowance of R40 000) and 175% for a person with a disability who only becomes employed by the employer after entering into the learnership agreement (up to a maximum of R50 000). When the disabled person completes the learnership, the allowance is 175% of their annual salary (up to a maximum amount of R50 000).

Where a registered learnership agreement or contract of apprenticeship is terminated prior to the completion of such agreement or contract as defined in Section 12H(5) of the Income Tax Act, the amount allowed as a deduction shall be deemed to have been recovered or recouped by the employer.

### Urban development zones - section 13quat

A deduction will be allowed as an allowance in respect of the cost of the erection, extension, addition or improvements of any commercial or residential building within an approved urban development zone, to be used solely for the purpose of that trade. The deduction will cease where the building ceases to be used solely for the purpose of trade or if it was sold. The allowable amount will be calculated as follows:

- Refurbishment of a building - 20% straight-line depreciation allowance over a 5-year-period (where the existing structural or exterior framework is preserved).
- Construction of a new building - 17 year write-off period (20% in the first year and 5% per annum thereafter for the next 16 years).
- A deduction will also be allowed to first buyers who buy from a bona-fide developer. The first buyer, although not having incurred the actual cost of construction or refurbishment, could qualify for the tax incentive and be able to claim an allowance on a percentage of the purchase price as prescribed in Section 13quat which is deemed to be attributable to the buyer's construction or refurbishment costs.

Where a building or part of a building is purchased from a developer the following must be available:

- The purchase price of that building or part thereof;
- The amount of the purchase price deemed to be the cost incurred in terms of subsection (3A);
- A certificate from the developer (UDZ 3) confirming that the requirements in terms of Section 13quat have been met.

The following forms must be completed and retained for a period of five years after submission of the return in which the amount was claimed:

- UDZ 1: Deduction claimed in terms of s13quat: Erection or extension of or addition to or improvement of a building/part of a building within an Urban Development Zone
- UDZ 2: Deduction claimed in terms of s13quat: Purchase of a building/part of a building within an Urban Development Zone
- The UDZ 4: Developer information form must be submitted to SARS Head Office, Legal section.

#### NOTE:

Either UDZ 1 or UDZ 2 form will have to be retained for a period of five years

### ADDITIONAL DECLARATIONS

In this section you need to indicate the following:

#### More than 3 IRP5/ IT3(a) certificates

You need to indicate the amount of certificates received by you. Should you have received more than three certificates you must complete an IT12C - I schedule and attach the schedule to your return. The schedule makes provision for you to declare the tax credit information in respect of more than three certificates. Although the tax credit information is declared on the schedule, the income reflected on the fourth and subsequent certificates must be completed on page two of the return in the "Income Received" section. Please note that the amounts of all corresponding sourced codes must be added together and declared.

#### Did you make use of more than two vehicles to calculate your claim against your travel allowance?

Here you need to indicate how many vehicles you used in calculating your claim. If more than two you need to complete the IT12C - II schedule and attach it to your return. The schedule makes provision for you to declare the relating information in respect of a further three vehicles.

#### Indicate the number of sources from which you received trading/rental income that you consider a single trade

The return makes provision for you to declare information in respect of two trades. If you therefore received income from more than two trades that you do not consider as a single trade you need to indicate it here and complete an IT12C - III schedule in respect of each additional trade. Please also refer to the information in the "Local business, trade and Professional Income" section of this brochure.

## STATEMENT OF ASSETS AND LIABILITIES

The completion of the statement of assets and liabilities is mandatory if you:

- Are a director of a company or a member of a close corporation;
- Received income from business, trading or professional activities (including rental);
- Received farming income.

You are required to list all your local assets and liabilities and to declare the aggregate amount in respect of foreign assets and foreign liabilities.

## LOCAL BUSINESS, TRADE AND PROFESSION (INCLUDING RENTAL)

The information required refers to the activities in respect of local business, trade and/or profession carried on by yourself for your own account and not as an employee.

Prepare complete financial information in respect of each local business, trade or profession carried on by you.

### Dual-purpose expenditure

- Some of the expenses you incurred may be partly personal and partly business. These may include amounts paid for fuel and oil, rent, electricity, telephone, car maintenance, repairs, insurance, interest and overseas travelling expenses. The personal portion of these expenses is not deductible as business expenditure and must be allocated accordingly. Full details of your calculations must be retained for a period of five years.
- Reasonable allocation - It's not easy to determine what portion of dual-purpose expenditure should be allocated to the business and what portion to non-business activities. No rule can be prescribed, but the allocations must be reasonable.
- As regards travelling expenses, an apportionment according to distances actually travelled for private and business purposes must be made.

### Capital expenditure

In general, capital expenditure is an amount paid or a debt incurred for the acquisition, improvement or restoration of an asset. However, capital expenditure is not necessarily confined to assets - expenditure designed to extend the scope of a business, as distinct from maintenance or expenditure incurred to create or to protect a source of income or to acquire an enduring advantage for the benefit of trade, is regarded for tax purposes as expenditure of a capital nature.

Examples of capital expenditure:

- Land and building (including transfer costs);
- Additions, alterations and improvements to any assets used by the business, for example: buildings, plant, machinery, furniture and fittings, etc.;
- Cost of material, labour and installation of capital assets;
- Goodwill;
- Expenditure to eliminate competition;
- Expenditure to protect capital or assets, including rights; and
- Legal expenses referring to capital or assets.

### Trading stock taken for private use

If such goods have already been accounted for in your books, this adjustment must not again be taken into account in the determination of your taxable income. A note must be made on the statement, which must be retained for five years, indicating the value of the goods and how this was accounted for.

### Legal expenses

Any expenses, other than those of a capital nature, in respect of any dispute or action at law, which were actually incurred in the production of income or which arose in the course of or by reason of the ordinary operations undertaken by you in the carrying on of your trade, may be claimed as a deduction. Details must be retained.

### General expenses

General or sundry expenses claimed in your accounts must be detailed in a separate statement and expenses contained therein, which are not allowable. Such statement must be retained for inspection purposes.

### Private use of business premises

If you or any member of your family occupied, free of charge, part of the premises from which your business or profession is carried on, only the expenditure in respect of the portion used for business purposes can be claimed.

### Depreciable asset allowance

Section 11(o) provides for an election in respect of the deduction of any loss incurred as a result of the alienation, loss or destruction of any asset that qualified for a capital allowance or deduction provided that the expected useful life of that asset for tax purposes did not exceed ten years. The deduction must be equal to the difference between the amount received or accrued from the disposal and the cost price of the asset.

Where an asset was brought into use during a non-taxable period, that period must be taken into account in the determination of the deduction provided for in terms of Section 11(o).

NOTE: Cognisance must be taken of the provisions of paragraph 65 and paragraph 66 of the Eighth Schedule to the Act that came

into operation on 22/12/2003.

### Expired lease agreements

If, at the expiry of a lease agreement in respect of moveable assets, such assets -

- Were sold and the proceeds paid to you;
- Were transferred to you free or for some consideration; or
- Any other benefit accrued to you in these circumstances, full details must be retained.

Copies of documentation from the relevant financial institution must be retained.

### Recoupment of expenditure

Any items of expenditure or losses, which were allowed as deductions in the determination of your taxable income for the current or a previous year of assessment and recovered or recouped during this year of assessment must be reflected, if not already accounted for in your financial accounts.

### Reserves

Details of all reserves which were not disclosed as such in your balance sheet must be retained showing the amounts transferred to reserve during the year of assessment and indicating where those amounts were debited in the accounts.

### Interest paid

If interest has been paid the information regarding the purpose for which the capital on which it is payable was utilized must be retained.

### Finance charges

These must not, for wear and tear purposes, be added to the cost price of assets purchased, but must be shown separately.

### Cost of trips abroad

If the amount claimed as travelling expenses includes the cost of trips abroad, you need to retain details as to who undertook the trip and the purpose thereof as well as details of the expenses and itinerary.

### Drawings and capital accounts

Retain details of the sources and amounts credited to these accounts.

### Bad and doubtful debts

Retain full details with regard to source, amounts, dates, nature of debt and reasons for regarding debt as bad.

In the case of doubtful debts a similar list must be retained and the amount claimed, as an allowance in respect of such debts must be shown.

### Ring fencing of assessed losses of certain trades

With effect from the 2005 year of assessment Section 20A provides that, subject to certain tests, an assessed loss incurred by a natural person may not be set off against any income derived by the person otherwise than from carrying on that trade. The effect is that trading losses will in certain circumstances and/or in respect of certain identified trades, be subject to potential ring fencing unless the "facts and circumstances test" provided for in subsection (3) indicates that the trade constitutes a business in respect of which there is a reasonable prospect of deriving taxable income within a reasonable period of time.

A pre-requisite for the application of Section 20A is that, in the year in which the ring-fencing is applied, the taxpayer's taxable income (before taking into account the set off of any assessed loss incurred in carrying on any trade during that year of assessment and the balance of an assessed loss carried forward from the previous year) equals or exceeds the amount at which the maximum marginal tax rate chargeable in respect of individuals becomes applicable. In respect of the 2007 year of assessment the maximum marginal tax rate will apply to taxable income in excess of R400 000.

In the case of certain identified trades listed in Section 20A (2)(b) of the Income Tax Act, the potential ring fencing will be applied as from the 2005 year of assessment, unless the "facts and circumstances test" indicates that the particular activity constitutes a business which has a reasonable prospect of deriving taxable income within a reasonable period of time.

The potential ring-fencing can be applied in respect of losses from all the identified trades or other trades, in terms of the three-out-of-five-year-rule, and ring fencing of any trade loss (excluding farming activities) will occur in terms of the six-out-of-ten-year-rule.

### Identified trades Section 20A (2)(b)

The identified trades listed in Section 20A (2)(b) are as follows:

- Any sport practiced by the taxpayer (or relative);
- Dealing in collectibles by the taxpayer or any relative;
- The rental of residential accommodation, unless at least 80% of the residential accommodation is used by persons who are not relatives of that person for at least half of the year of assessment;
- The rental of vehicles, aircraft or boats, unless at least 80% of the vehicles, aircraft or boats are used by persons who are not relatives of that person for at least half of the year of assessment;
- Animal showing by the taxpayer or any relative;
- Farming or animal breeding (unless the taxpayer carried on the farming or animal breeding on a full time basis);

- Any form of performing or creative arts; and
- Gambling or betting.

### The three-out-of-five-year-rule

The three-out-of-five-year-rule applies to any trade that is not included in the list of identified trades mentioned above. The current year must be taken into account in determining the three-out-of-five-year-rule. Losses incurred in respect of other trading activities not listed above could, therefore, be subject to potential ring fencing as from the 2007 year of assessment in terms of Section 20A (2)(a). This would occur if the specific trading activity has realised a loss for three consecutive years, commencing with the 2005 year of assessment. Should any trading activity realise a profit in any one of the three years mentioned above, the potential ring fencing is delayed, as illustrated in the following example:

Year of assessment	Rental property A
2005	loss
2006	loss
2007	profit
2008	loss

Due to the fact that the trading activity (rental income is also considered to be trading income) has realised a loss in three-out-of-five-years (where that person has, during the five year period ending on the last day of that year of assessment, incurred an assessed loss in at least three years of assessment), ring fencing could be applied in the 2008 year of assessment. Should the taxpayer realise a profit in the 2008 year of assessment and a loss in 2009, the ring fencing would only apply as from the 2009 year of assessment.

The trade in respect of which the three-out-of-five-year-rule applies includes;

- Rental of residential accommodation where at least 80% of the residential accommodation is used for at least half of the year of assessment by persons who are not relatives;
- The rental of vehicles, aircraft or boats where at least 80% of the vehicles, aircraft or boats are used by persons for at least half of the year of assessment who are not relatives of that person;
- Farming or animal breeding carried on, on a full time basis; and
- Any other trade not specifically identified.

### Facts and circumstances

In respect of both the identified trades, as well as the other trades listed above, ring-fencing can be avoided in terms of subsection (3) of Section 20A. This section provides an escape route in terms of which the taxpayer can prove that the particular activity constitutes a business that has a reasonable prospect of deriving taxable income within a reasonable period of time. The factors to which special regard must be had, are the following:

- The proportion of the gross income derived from that trade in relation to the amount of allowable deductions incurred in carrying on that trade.
- The level of activities carried on by the person or the amount of expenses incurred by the person in respect of advertising, promoting or selling, in carrying on that trade.
- Whether that trade is carried on in a commercial manner, taking into account-
- The number of full time employees appointed to that trade;
- The commercial setting of the premises where the trade is carried on;
- The extent of the equipment used exclusively for the purpose of carrying on the trade; and
- The time the person spends at the premises conducting that business.
- The number of years of assessment in which assessed losses were incurred in relation to the total number of years that the specific trade was carried on, taking the following into account
- Any unexpected events giving rise to the losses; and
- The nature of the business involved.
- The business plans and any changes thereto to ensure that the business will in future derive taxable income.
- The extent to which any asset attributable to the trade is available for recreational use or personal consumption by the person or any relative of the person.

### The six-out-of-ten-year-rule

Where losses have been realised in at least six-out-of-ten-years of assessment the “facts and circumstances test” will, in terms of subsection (4), no longer be available to prevent the ring fencing of a loss in respect of the trades identified in subsection (2)(b). This means that where a loss pertaining to an identified trade was not ring fenced after having applied the “facts and circumstances test”, the loss will, however, be ring fenced where the specific trade has incurred a loss in at least six-out-of-ten-years of assessment. The “facts and circumstances” escape route will, therefore, no longer be available to prevent the ring fencing of the specific trade loss. Although this provision applies to all identified trades, subsection (7), however, specifically provides that this rule will not be applicable to farming activities. This is in recognition of the fact that many forms of legitimate farming activities entail long-term losses before the expectation of profit can be realised.

### Losses to be taken into account

In the application of both the three-out-of-five-year-rule and the six-out-of-ten-year-rule any losses incurred on or before 29 February 2004 will not be taken into account.

For further details refer to the Brochure on Section 20A, which is available on the SARS website [www.sars.gov.za](http://www.sars.gov.za) or contact your local SARS office.

Please note that each trading activity is evaluated separately for the application of the potential ring fencing. Financial statements must therefore be drawn up separately and the profit or loss declared separately in respect of each trade/property/asset (rental income).

In certain circumstances where more than one property/asset is let, the letting of such properties/assets could be considered as a single trade. Should this be the case the profit/loss must be declared as a single entry in which case a combined set of financial statements can be prepared and retained.

If you are in receipt of rental income and you are married in community of property you must declare the full profit/loss of such income. The 50% application will be done programmatically by SARS.

### Should the loss incurred be excluded (ring fenced) in the calculation of your tax liability

Please read the question carefully and tick the yes or no block to indicate whether you want the loss to be ring fenced or not. Should you indicate "yes" the loss, if incurred, would not be taken into account in the determination of your taxable income. Should you indicate that the loss should not be ring fenced you will have to retain substantiating documentation based on the information contained in the paragraph dealing with "facts and circumstances" (escape clause), to support the claim. The documentation must be based on the factors specifically mentioned in the relevant paragraph.

All documentation in this regard must be available on request for a period of five years after the submission of the return.

### Source Code

Use the following list of source codes together with the source code booklet available on the SARS website [www.sars.gov.za](http://www.sars.gov.za) to complete this section.

4280 Profit: Sporting  
4281 Loss: Sporting  
4282 Profit: Collectables  
4283 Loss: Collectables  
4284 Profit: Animal showing  
4285 Loss: Animal showing  
4286 Profit: Gambling  
4287 Loss: Gambling  
2428 Profit: Renting of boats  
2429 Loss: Renting of boats  
4210 Profit: Local – Rental  
4211 Loss: Local – Rental  
2408 Profit: Renting of trucks/cars/etc.  
2409 Loss: Renting of trucks/cars/etc.  
3110 Profit: Author/composer/artist  
3111 Loss: Author/composer/artist  
2416 Profit: Renting of aircraft  
2417 Loss: Renting of aircraft

## FARMING OPERATIONS

You need to indicate whether you partake in farming partnership operations. If yes you also need to declare in how many partnerships you partake. You also need to complete the IT12C -IV schedule in respect of each partnership. The completed schedules must be attached to your return otherwise your return will be considered incomplete and returned to you for proper completion.

All income derived directly from pastoral, agricultural or other farming operations will constitute farming income. Income from farming activities will, besides including the ordinary farming income, also include, for example, grazing fees derived by a person who carries on farming operations, recoupment of wear and tear allowed on vehicles, implements and machinery used to carry on farming activities and subsidies received by farmers, whether in respect of farm products or capital expenditure on dams. Stakes won by a farmer as a result of racing horses bred by him/her and a fixed rental income received in respect of farming property will, for example, not constitute farming income.

### NOTE:

Income derived from foreign farming activities must be recorded separately.

### Private consumption

If livestock has been utilised for private consumption, an amount equal to the cost price of such livestock or produce must be included in the income.

Livestock sold on account of drought, stock disease, etc.

Prepare a schedule detailing -

- The names and addresses of persons to whom you sold livestock and/or produce or to whom you gave livestock and/or produce in exchange;
- A description of the livestock or produce; and

- The amount received.

The proceeds in respect of the sale of livestock -

- On account of conditions of drought, stock disease or damage to grazing by fire or plaque
- By reason of your participation in a livestock reduction scheme organised by the Government, are taxable and must be declared as income.

The Act provides that, subject to certain conditions, you may choose to deduct the cost of livestock purchased in replacement, either:

- In the year of assessment during which you purchased such livestock; or
- In the year of assessment during which the original livestock was sold.

If you wish for the cost of livestock purchased in replacement of livestock sold under special conditions to be deducted in the year of sale (i.e. your assessment for that year will be reduced) you must notify SARS of your choice for the year in which the sale took place and furnish full particulars of the livestock sold and the reason for the sale. The concession will only be granted if you comply with the following conditions:

- You must replace livestock sold on account of drought or stock disease or damage to grazing by fire or plague within four years after the close of the year of assessment during which the livestock was sold.
- You must replace livestock sold by reason of your participation in a livestock reduction scheme organised by the Government within nine years after the close of the year of assessment during which the livestock was sold.

## LIVESTOCK SALES DEPOSITED WITH LAND BANK

Where a farmer has disposed of livestock on account of drought on or after 1 March 1982 and the whole or any portion of the proceeds of such disposal has been deposited in an account in the name of the farmer with the Land Bank of South Africa, the amount of such deposit will be deemed not to be gross income for the year of assessment. Only that portion of the proceeds deposited within 3 months after receipt thereof will qualify for this concession.

An amount, being the whole or any portion of the proceeds so deposited, will;

- If it is withdrawn within 6 months after the last day of the year of assessment in which such disposal took place, be deemed to be gross income on the date of such disposal; or
- If it is withdrawn after a period of 6 months, but within 6 years after the last day of the year of assessment in which such disposal took place, be deemed to be gross income on the date of such withdrawal; or
- In the event of a farmer's death or insolvency before the expiration of the 6 year period, be deemed to be gross income on the day before the date of the farmer's death or insolvency, as the case may be; or
- If it is not withdrawn within the 6 year period, be deemed to be gross income on the last day of the 6 year period.

You cannot make use of this concession if you have elected that the cost of livestock purchased in replacement be allowed as a deduction in the year of assessment the livestock was sold on account of drought.

## THE FOLLOWING MAY BE USED AS A GUIDE TO DETERMINE YOUR INCOME / LOSS FROM FARMING OPERATIONS.

### NOTES:

- If your spouse has conducted farming operations for his/her personal account, he/she has to submit a separate return.
- Local and foreign farming activities must be reported separately.

## GROSS RECEIPTS AND ACCRUALS

(a) Livestock and produce sold or bartered	R
(b) Livestock and produce donated	R

Prepare and retain a list of -

- The names and addresses of persons to whom livestock and/or produce was donated;
- A description of the livestock or produce donated; and
- The market value thereof;

(c) Livestock and produce removed from RSA	R
--	---

If you removed livestock or produce from the Republic for purposes other than sale, retain -

- A description of the livestock or produce removed; and
- The market value thereof.

(d) Value of livestock and produce consumed by yourself, your family and domestic servants	R
--	---

Retain a list of the number of persons in your family, the number of domestic servants and the estimated value (based on the cost of production) of the livestock and produce consumed.

(e) Recoupment of machinery, implements, utensils and articles brought into use on or before 1 July 1988	R
--	---

(f) Subsidies received	R
------------------------	---

Retain a schedule detailing -

- The type of subsidy received, e.g. for bond interest, dams, fencing, soil erosion, approved bulls, etc.; and
- The amount received in respect of each type of subsidy.

(g) Any other farming income, including a withdrawal from Land Bank account of the amount invested in respect of livestock sold on account of drought	R
---	---

Retain details of any other farming income not specifically mentioned above - this includes bonuses from agricultural co-operatives. Rental received from farming property must be reflected as trading income in the return.

(h) Recoupment of expenditure incurred in respect of development and improvements	R
---	---

Did you or any person other than an employee occupy, during the year of assessment, any farm building, the cost of which has previously been allowed as a deduction for tax purposes? If "yes", retain full particulars for a period of five years in respect of the following:

- The total amount received or accrued in respect of moveable assets must be included under this section as a recoupment.
- The total amount recouped will be included in your income, except where a balance in respect of expenditure on development and improvements has been brought forward from the previous year of assessment. In such a case the amount recouped will be set off against the relevant balance and only the excess, if any, will be brought into account as farming income.

The following information in respect of such assets sold, given in exchange or donated must be retained:

- Description of asset;
- Original purchase price;
- Date sold, exchanged or donated; and
- Selling price or market value of asset given in exchange or donated.

**NOTE:**

The total amount of the recoupment in respect of machinery, implements, utensils or articles brought into use on or after 1 July 1988, must be included under part (e) of this section.

GROSS RECEIPTS = Total (a) to (h)	R
-----------------------------------	---

## FARMING EXPENSES

Note: Expenses in respect of your dwelling or household must be excluded.

(a) Rent	R
----------	---

Retain -

- A description of the property or properties in respect of which rent was paid;
- The names and addresses of persons to whom payment was made; and
- The amount that was paid in respect of each property.

(b) Interest	R
--------------	---

Retain a schedule detailing the -

- Names and addresses of persons or institutions to whom payment was made;
- The amount of each loan;
- Rate of interest payable on each loan;
- Purpose for which each loan was utilised; and
- The amount of interest paid on each loan.

## CAPITAL REPAYMENTS MUST NOT BE INCLUDED.

(c) Rates and taxes	R
---------------------	---

Retain a list detailing the -

- Nature of the taxes; and
- The amount paid.

## INCOME TAX MUST NOT BE INCLUDED.

(d) Seed and fertiliser	R
-------------------------	---

Retain a list detailing the -

- Names and addresses of persons or firms from whom you purchased; and
- The amounts paid to each group.



(e) Cash wages paid to farm employees	R
---------------------------------------	---

Retain a list detailing the -

- Number of employees normally employed;
- Number of casual employees; and
- The actual amounts paid to each group.

Do not include wages of domestic servants.

Wages paid in respect of improvements must not be claimed under cash wages, but under improvements.

(f) Rations purchased for farm employees	R
--	---

Retain a list detailing the -

- Names and addresses of persons or firms from whom you purchased rations and the amounts paid.

Do not include the value of farm produce produced by you or stock bred or purchased by you which has already been included.

(g) Expenses, i.e. motor vehicles, machinery and implements	
(i) Fuel, oil and grease	
(ii) Repairs and maintenance	
(iii) Insurance and licences	
(iv) Wear and tear allowance	
(v) Deduction - machinery and implements	
(vi) Other (specify on separate schedule)	
Sub-total	
Less: Private use of vehicles	
TOTAL	R

## Repairs

This part only refers to repairs to vehicles, machinery and implements. Repairs to other items must be shown under item (j) of this section.

## Wear and tear allowance of an asset owned by you or acquired in terms of an instalment credit agreement

This allowance may only be claimed in respect of motor vehicles (of which the exclusive or primary function is the transportation of people), caravans, aircraft (except an aircraft used solely or mainly for crop-spraying), and office furniture or office equipment used for farming purposes.

The following information must be retained:

- Particulars and value of assets on which wear and tear is claimed and which were on hand at the beginning of the year of assessment;
- Dates, description and purchase price of assets purchased or received in exchange during the year of assessment; and
- Dates and descriptions of assets sold, exchanged, traded in or scrapped during the year of assessment and the amounts received for such assets.
- The original date of purchase and cost price of each asset must be stated.

## Deduction - machinery and implements owned by you or acquired in terms of an instalment credit agreement

A deduction in respect of machinery, implements and utensils brought into use for farming purposes for the first time, will be allowed as follows:

- 50% of the cash cost of the asset in the year of assessment the asset is brought into use;
- 30% of such cost in the following year of assessment; and
- 20% of such cost in the third year of assessment.

This deduction also applies to an aircraft used solely or mainly for the purpose of crop-spraying. The cash cost of a new asset, acquired to replace an asset, which was damaged or destroyed, must be reduced by the amount recouped in respect of the latter asset.

The amount recouped is, therefore, not included in the farmer's income.

(h) Finance charges	R
---------------------	---

(i) Cost of material and/or contract price i.r.o. eradication of noxious plants and prevention of soil erosion	R
--	---

- Only the actual costs which were specifically incurred in eradicating noxious plants or soil conservation must be claimed.
- Wages, rations, fuel, materials, etc., which have already been claimed under other headings must not again be claimed here.
- If independent contractors undertook the work, the names of the contractors and the amounts paid to them must be retained. The

nature of the work done by yourself or the contractor must be available on request.

- If the work includes the building of dams, weirs or the erection of fences, explanation why the expenses are claimed under this part must be retained.

(j) Repairs (excluding those claimed under item (g)(ii) above)	R
--	---

Retain a list detailing the -

- The nature of the repairs; and
- The cost of the work done.

Only repairs to buildings (except your private dwellings or the dwellings of persons who are not employees), windmills or pumping plant, etc. or expenses for the maintenance of other assets used for farming purposes may be claimed. Wages paid to own farm employees must not be included in this part.

(k) Other (retain on a separate schedule and retain)	R
--	---

<b>EXPENSES = Total (a) to (k)</b>	<b>R</b>
------------------------------------	----------

## EXPENDITURE ON DEVELOPMENTS AND IMPROVEMENTS

(a) Dipping tanks	
(b) Dams, irrigation schemes, boreholes and pumping plant	
(c) Fences	
(d) Erection of or additions or improvements to farm buildings, dwellings for employees	
(e) Planting of trees, scrubs or perennial plants for the production of grapes or other fruit, nuts, tea, coffee, hops, sugar, vegetable oils or fibers and the establishment of an area for such purposes	
(f) Building of roads and bridges and used in farming operations	
(g) Carrying of electric power from the main transmission lines to the farm apparatus	
TOTAL	R

The following details must be retained in respect of development and improvement works;

- Description of the work undertaken; and
- How the expenses were compiled, i.e. what amounts were spent on wages, materials, etc.
- If an independent contractor undertook the work, the name and address of the contractor and the amount paid to him/her must be retained.

### NOTE:

Wages claimed under item (e) must not be claimed again.

Housing erected for employees does not include housing for your relatives.

<b>Expenditure on Development and improvements = Total (a) to (g).</b>	<b>R</b>
--	----------

## LIVESTOCK PURCHASED AND RECEIVED IN EXCHANGE

Example:

Farming income		R 5 000
Closing stock - Livestock		<u>R 1 500</u>
		R 6 500
LESS: Opening stock - Livestock	R 1 000	
Livestock purchases	<u>R 8 000</u>	<u>R 9 000</u>
Loss on livestock		R 2 500

The loss of R2 500 is not allowable and is carried forward to the following year of assessment. This provision is not applicable if the farmer can show that he/she no longer held and had not disposed of the livestock that he/she acquired on or after 31 May 1988. If the farmer can prove that, for example, due to drought, the fair market value of his/her livestock at the end of the year of assessment is less than the loss on livestock as shown above, together with the value of opening stock, such loss is reduced by the difference.

Example:

Amount to be carried forward (loss on livestock)		R 2 500
Plus:		
Opening stock of livestock		<u>R 1 000</u>
		R 3 500
Less:		
Fair market value of closing stock		<u>R 3 000</u>
Allowable		R 500

The amount of R2 500 is reduced to R 2 000.

## STANDARD CLASSIFICATION AND STANDARD VALUES OF LIVESTOCK

Deaths during the year	Standard classification	Standard values (Rands)	Own value (Rands)	Number on hand	Total values (Rands)
	Cattle: Bulls	50			
	Oxen	40			
	Cows	40			
	Tollies and heifers 2 - 3 years	30			
	Tollies and heifers 1-2 years	14			
	Calves	4			
	Sheep: Wethers	6			
	Rams	6			
	Ewes	6			
	Weaned lambs	2			
	Goats: Fully grown	4			
	Weaned kids	2			
	Horses: Stallions over 4 yrs	40			
	Mares over 4 yrs	30			
	Geldings over 3 yrs	30			
	Colts and fillies: 3 Yrs	10			
	Colts and fillies: 2 Yrs	8			
	Colts and fillies: 1 Yr	6			
	Foals under 1 yr	2			
	Donkeys: Jacks over 3 yrs	4			
	Jacks under 3 yrs	2			
	Jennies over 3 yrs	4			
	Jennies under 3 yrs	2			
	Mules: 4 years and over	30			
	3 years	20			
	2 years	14			
	1 year	6			
	Ostriches: Fully grown	6			
	Pigs: Over 6 months	12			
	Under 6 months	6			
	Poultry: Over 9 months	1			
	Chinchillas All ages	1			

<b>TOTAL = Total value of livestock on hand.</b>	<b>R</b>
--	----------

**PRODUCE (gathered and marketable) on hand, value at cost of production or market value, whichever is the lower.**

Produce	Quantity	Total Value (Rands)

<b>TOTAL = Total value of livestock on hand</b>	<b>R</b>
---	----------

## ELECTION OF LIVESTOCK VALUES

Should you not apply the standard values as prescribed and you have not yet made an election in this regard you are requested to complete the following declaration and retain it for inspection purposes, for a period of five years after date of submission of the last return in which you declared any farming activities.

I hereby elect the following classification and values and understand that my election may be varied only with the consent and approval of the Commissioner for the South African Revenue Service.

Mark with an "X":

- (a) The standard classification and standard values as fixed by the Regulations under the Income Tax Act and set out above.
- (b) The standard classification, but at my own values as detailed above.
- (c) My own classification and my own values, as detailed.

Date: ..... Signature: .....

## ELECTION IN RESPECT OF EQUALISED NORMAL TAX RATES

If you elect to have your normal tax calculated at equalised tax rates and you have not previously exercised such an election, complete the following declaration and retain it for a period of five years after the last return was submitted in which you declared farming income:

I..... hereby elect that, with effect from the year of assessment ended ....., my normal tax be calculated at the equalised tax rate in terms of the provisions of paragraph 19 of the First Schedule to the Income Tax Act.

I understand and accept that this decision is binding for all future years of assessment.

Date: ..... Taxpayer/ .....  
 Executor/  
 Trustee

1. N.B. - This election must be exercised only if you wish to adopt the system of equalised normal tax rates. If normal tax is to be calculated at ordinary rates the election need not be made.
2. The election must be made by the person who is carrying on farming operations. In the case of a deceased or insolvent person, the executor or trustee, as the case may be, must make the election.

## STATUTORY RATES OF TAX APPLICABLE TO INDIVIDUALS IN RESPECT OF THE 2007 YEAR OF ASSESSMENT

Where the taxable income -	
Does not exceed R100 000	18 % of each R1 of taxable income
Exceeds R100 00 but does not exceed R160 000	R18 000 plus 25 % of the amount by which the taxable income exceeds R160 000
Exceeds R160 000 but does not exceed R220 000	R33 000 plus 30% of the amount by which the taxable income exceeds R160 000
Exceeds R220 000 but does not exceed R300 000	R51 000 plus 35% of the amount by which the taxable income exceeds R160 000
Exceeds R300 000 but does not exceed R400 000	R79 000 plus 38% of the amount by which the taxable income exceeds R300 000
Exceeds R400 000	R117 000 plus 40% of the amount by which the taxable income exceeds R400 000

Rebates: R7 200 - Secondary rebate taxpayers 65 years and older - R4 500

If you received foreign income the allowable deductions in respect of DONATIONS, RETIREMENT ANNUITY FUND CONTRIBUTIONS and MEDICAL AND DENTAL EXPENSES will be proportioned in the ratio your foreign and local income bears to the total income before offsetting the above-mentioned deductions. For further details refer to the relevant Interpretation Note on the SARS website [www.sars.gov.za](http://www.sars.gov.za) or contact your local SARS office.

## CONCLUSION

Should you require any further information, not addressed in this brochure, access the information available on the SARS website or contact your local SARS office or the SARS Call Centre at 0860 12 12 18 for assistance.