

1. Government requirements

Registration requirements

Government registration requirements are in accordance with the Income Tax Act, No. 58 of 1962 (as amended), Skills Development Levies Act No. 9 of 1999, and Unemployment Insurance Act No. 4 of 2002. The governing authority is the South Africa Revenue Service (SARS). There are no registration fees applicable for the registration for Pay-As-You-Earn (PAYE), Skill Development Levy (SDL) or Unemployed Insurance Fund (UIF) contributions.

Registration for employees' tax (PAYE)

Any employer who pays or becomes liable to pay remuneration has an obligation

to deduct or withhold employees' tax (PAYE) from the remuneration and pay the tax deducted to the South African Revenue Services (SARS) on a monthly basis. An employer must apply for registration using Form EMP101e within 21 business days after becoming an employer unless none of their employees are liable for normal tax.

Registration for Skill Development Levy (SDL)

Where an employer is liable to pay SDL, the employer must register with SARS using Form EMP101e and must indicate the jurisdiction of the Sector Education and Training Authority within which the employer must be classified. An employer is only not required to register as an employer for SDL purposes if there are, during any month, reasonable grounds for believing that the total leviable amount paid or payable by that employer to all its employees during the following 12-month period will not exceed ZAR500,000, even though such employer is liable to register with SARS for employees' tax purposes.

Registration for Unemployed Insurance Fund (UIF)

Where the employer is liable to pay the UIF contribution, the employer must register with SARS or the Department of Labour (whichever is applicable to such employer) using Form UI-8 for the payment of the contributions. The governing authority is the Department of Labour. The governing legislature is the Compensation for Occupational Injuries and Diseases Act (COIDA), No. 130 of 1993 (amended 61/1997). An employer who is not required to register with SARS for employees' tax, and an employer

who is not liable for the payment of SDLs in terms of the SDL Act, 1999, must register at the UI Commissioner's office for the purposes of paying the UI contribution.

Registration of an employer with the Compensation Fund

Any person, including the state, must register with the Compensation Fund using COIDA Form W.As.2 within seven days after employment of the first employee. The governing legislature is the Unemployment Insurance Contributions Act, No.63 of 2001 and is governed by the Department of Labour.

Ongoing compliance requirements

The governing legislature is the Income Tax Act, No. 58 of 1962 (as amended), Skills Development Levies Act No. 9 of 1999, and Unemployment Insurance Act No. 4 of 2002. The governing authority is SARS.

Return of declaration of payroll taxes (PAYE, UIF and SDL)

The return (Form EMP201) must be submitted monthly and payment of taxes must be made to SARS within seven days after the end of the month in respect of which the taxes are payable, reflecting the amount of the payment. It can be submitted online via e-filing. No cash payments are accepted.

PAYE

PAYE is calculated monthly on the "balance of remuneration" and deducted in accordance with the prescribed tax tables issued by SARS or in accordance with a tax directive issued by SARS. Twenty-five percent PAYE deduction is applicable to remuneration paid to part-time or temporary employees. The remuneration paid to "true" independent contractors and to labor brokers with IRP30 certificates is exempt.

SDL contributions

SDL is an employer-only contribution and is calculated monthly at 1% of the leviable amount. The leviable amount is based on the "balance of remuneration" for employees' tax purposes. The remuneration paid to learners, "true" independent contractors and to labor brokers with an IRP30 certificate is exempt.

UIF contributions

The UIF contribution is calculated at 1% of the employer's contribution and 1% of the employee's contribution on the gross remuneration up to a monthly limit (ZAR14,872 per month and ZAR178,464 per annum) for both the employer and the employee. The payments made to repatriated employees, government employees, independent contractors, trainees, legal entities, labor brokers and temporary employees (employed for less than 24 hours per month) are excluded.

Biannual reconciliation

The declaration and reconciliation (Form EMP501) must be submitted during October of each year for the period of March to August (six months).

Tax year end reconciliation

The declaration and reconciliation (Form EMP501) must be submitted during May of each year for the period of March to February (annually).

Form UI19: declaration

The declaration must be submitted monthly to the Department of Labour within seven days after the end of the month. The governing authority is the Department of Labour. The governing legislature is the Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993 (amended 61/1997).

Annual earnings

Employers must file the annual earnings return (online) on or before 30 April of each year. Form WAs.8 is used for the annual earnings for employers not engaged in agriculture, while Form WAs.17 is used for employers engaged in agriculture.

Remuneration for annual return of earnings

The employer is required to furnish the amount of earnings paid to its employees for the period from the first day of March of the preceding year up to the last day of February of the current year. The maximum amount of earnings on which the assessment of an employer is calculated is currently R484,200 per annum, effective 1 March 2020.

Regular overtime, bonuses, commission earnings, cash value of food, travel, allowance and all components of the package (excluding company contributions) are included in the calculation. The payments excluded are

irregular overtime, reimbursed payments, ex gratia payments and intangible fringe benefits. Exclusions include military service South African Police Department employees, SA defense force employees, domestic workers and persons contracted to carry out work. The commissioner assesses the employer taking into account the industry in which they operate and the remuneration paid to their employees. The assessment amount must be paid within 30 days after the date of assessment. The governing authority is the Department of Labour. The governing legislature is the Employment Equity Act, No. 55 of 1998.

Form EEA1: Declaration by Employee; Form EEA2: Employer Details and Workforce Movement; Form EEA4: Workforce Profile

Employment Equity Reports

The designated employers include employers who employ 50 or more employees; employers who employ fewer than 50 employees but whose total remuneration turnover equals or exceeds the applicable turnover of a small business; employers appointed by a collective agreement in terms of the Labour Relations Act, a Municipality and organs of state except for local spheres of government; the National Defence Force, the National Intelligence Agency, the South African Secret Service and the National Academy of Intelligence. Foreign national employees are not included as designated employees and will therefore not be assisted by affirmative action programs. Employers who have become newly designated on or after the first working day of April, but before the first working day of October, must only submit their first report on the first working day of October in the following year.

All designated employers must report annually, irrespective of their size. Manual reports must be submitted once every year on the first working day of October, or other date as prescribed. In the case of electronic reporting, the report can be submitted by 15 January of the following year.

2. Pension requirements

Registration requirements

The governing authority is the Registrar of Pension Funds. The governing legislature is the Pension Fund Act, No. 24 of 1956 (as amended).

Retirement funds: pension, provident and retirement annuity funds

In South Africa, over 60% of retirement funds are privately administered and funded. South Africa has no compulsory or national pension fund scheme. The Government, through its taxpayers, funds a social security old age grant to senior citizens. The Government does, however, provide retirement schemes for its employees, through the Government Pension Fund (GPF), the Public Investment Commissioner (PIC) and various public enterprise pension funds. Every pension fund must apply to the registrar for registration under the Act. Types of retirement funds in South Africa include defined contribution funds, defined benefit funds and hybrid funds. Hybrid funds are pension or provident funds that combine a defined contribution and defined benefit component. This can be verified by consulting the rules of the retirement fund, and the fund administrator or trustees.

Ongoing compliance requirements

The governing authority is the Registrar of Pension Funds.

The governing legislature is the Pension Fund Act, No. 24 of 1956 (as amended).

Filing obligations

The retirement fund contributions schedule reflecting the member and the employer contribution is submitted to the fund each month.

Contribution rates

Contributions are calculated in accordance with the rules of the fund for the employer and the employee, and the base on which the contribution is calculated is defined in the fund rules.

Payment obligations

Any pension fund contribution payable in respect of any member to the fund must be paid directly to the fund by or on behalf of the member within a period of seven days after the expiration of the period in respect of which the contribution is being paid, and the board must, not later than the first business day following the day on which the fund received the contribution, deposit the contribution in the name of the fund with an institution registered under the Banks Act, 1965 (Act No. 23 of 1965), or the Building Societies Act, 1965 (Act No. 24 of 1965).

3. Employment obligations

The governing authority is the Department of Labour. The governing legislature is the Basic Conditions of Employment Act, No. 75 of 1997 (as amended).

Annual vacation leave days

The minimum consecutive annual leave is 21 days. The employer can provide in excess of this at their discretion and detail this in their HR leave policy.

Sick leave, family responsibility leaves and maternity leave

For sick leave, the employee is entitled to for every 26 days worked and 30 days per cycle for every 3-year cycle.

For family responsibility leave, three days are given to the employee under this leave per annum. For maternity leave, the employee is given four months of leave with no pay; however, the company can pay the employee at its discretion.

Basic conditions of employment: New parental leave

With effect from 1 January 2020, all parents including father, adopting parents, and surrogates, are now entitled to 10 days unpaid parental leave (paternity) when their children are born.

Minimum wages

The minimum wages are determined at national, regional, sectoral, and occupational or skill levels. They are calculated on a daily, hourly, weekly and monthly basis.

Rest hours — daily and weekly rest period

A daily rest period of 12 consecutive hours and a weekly rest period of 36 consecutive hours are provided to the employee, which must include a Sunday. These rest periods may vary by written agreement under certain circumstances.

4. Payroll requirements

The governing authority is the Department of Labour. The governing legislature is the Basic Conditions of Employment Act, No. 75 of 1997 (as amended).

Payslips (BCEA4)

Information on the payslip must include the employer's name and address, the employee's name and occupation, the period of payment, remuneration in money, any deduction made from the remuneration, and the actual amount paid. The payslip must be given to the employee at the workplace or at a place agreed by the employee, and during the employee's ordinary working hours, or within 15 minutes of the commencement or conclusion of those hours. The payslip can be given to the employee in an electronic format (emailed) or hardcopy (paper payslip). The full value of remuneration, including payment in kind must be specified.

The employer must pay remuneration to employees not later than seven days after the completion of the period for which the remuneration is payable, or the termination of the contract of employment.

Certificate of Service (BCEA5)

On termination of employment, the employee is entitled to a certificate of service reflecting their full name, the name and address of their employer, a description of any council or sectoral employment standard by which the employer's business is covered, the date of commencement and date of termination of employment, the job title or a brief description of the work for which the employee was employed at date of termination, the remuneration at the date of termination, and if the employee so requests, the reason for termination.

5. Banking requirements related to payroll

Payroll payments can be paid by cash, check or electronic funds transfer (EFT or bank transfer).

When paying in cash, the employer and employee should sign a record to confirm the amount of money that has been paid in each pay period. Net salaries may be split and paid into multiple bank accounts.

Foreign exchange control

The client will obtain relevant approvals for foreign exchange control regulations if payments are required from South Africa to other countries.