

COMPREHENSIVE GUIDE FOR THE ITR12 RETURN IN RESPECT OF THE 2009 YEAR OF ASSESSMENT

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1. COMPREHENSIVE GUIDE FOR THE ITR12 RETURN IN RESPECT OF THE 2009 YEAR OF ASSESSMENT.

- 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 ITR12 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 ITR12 income tax return:
 - General
 - Creation of the return using the “return wizard”
 - Personal details of the taxpayer
 - Employee tax certificate information
 - Income received and / or accrued and reflected on an IRP5 / IT3(a)
 - Income tax credits relating to IRP5 / IT3(a) certificates
 - Investment income
 - Foreign income
 - Foreign interest
 - Foreign dividends
 - Foreign business / trading
 - Foreign farming
 - Other foreign income
 - Income from a CFC
 - Foreign tax credits
 - Capital Gains
 - Local
 - Foreign
 - Trading income (including rental)
 - Other receipts and accruals
 - Amounts considered non-taxable
 - Farming income
 - Deductions
 - Medical
 - Retirement and Income Protection Contributions
 - Travel claims against a travel allowance
 - Other deductions
 - Statement of assets and liabilities
 - Local
 - Foreign

2. GENERAL

2.1 WHO MUST COMPLETE AND SUBMIT A RETURN?

- All taxpayers earning any remuneration in excess of R120 000 per year from one single employer or any other non related remuneration must submit a return in accordance with the IT2, Notice to furnish returns for the 2009 year of assessment, which is published on an annual basis in the Government Gazette.

- Although taxpayers still have to register, if in receipt of income from remuneration (salary type income) and such remuneration is less than R120 000, he / she may elect not to submit a return provided that the:
 - Remuneration is from a single employer;
 - Remuneration is for a full year of assessment; and
 - No allowance was paid from which PAYE was not deducted in full such as a travel allowance.
- The R60 000 limit is still applicable for registration purposes if the taxpayer is earning remuneration. The taxpayer must register for income tax if he / she is earning remuneration which is equal to or above R60 000. The R120 000 limit is for the submission of returns only.

2.2 WILL RETURNS BE MAILED TO TAXPAYERS?

- SARS will issue individual taxpayers, that are not registered for e-filing, with a Request for Income Tax Return (ITRR) form that must be completed and sent back to SARS. This is to enable SARS to customise income tax returns (ITR12) containing only those income and deduction sections relevant to each taxpayer.
- Returns will thereafter be issued to taxpayers based on the information supplied in the completed ITRR. If, however, the return issued does not make provision for all the income and deductions fields required a correct return must be obtained by contacting the SARS Contact Centre at 0800 SARS (7277) or by visiting the local SARS Branch Office.
- There are three ways of obtaining a return:
 - The quickest and most simple way to obtain a return is to register as an eFiler and to create your own customised return by using the return wizard (refer to the section dealing with the creation of the return for more information) ;
 - Contacting the SARS Contact Centre at 0800 00SARS (7277); or
 - By visiting your local SARS Branch Office.

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

- If a taxpayers monthly salary income for the year of assessment did not exceed R5 000 per month, or the IRP5/IT3(a) certificate only indicates a SITE deduction (code 4101) and no amount is recorded in respect of PAYE (Code 4102), the taxpayer will probably not be registered for income tax purposes. If, however, the taxpayer did incur medical expenses, made retirement annuity, or income protection contributions and such contributions or expenses were not taken into account by the employer the taxpayer could qualify for a refund.
- A way to establish whether these amounts were taken into account by the employer is to look at the IRP5/IT3(a), Employee Income Tax Certificate. If the following amounts and source codes listed below appear on the 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, it is not certain that;
 - The correct amounts were taken into account by the employer; or
 - The amounts were not taken into account by the employer (the abovementioned codes do not appear on the certificate); or
 - The contributions or expenses incurred exceed the amounts reflected on the IRP5/IT3(a), Employee Income Tax Certificate; the taxpayer needs to approach the local SARS office to be issued with a return.

2.4 BY WHEN MUST THE RETURN BE COMPLETED AND SUBMITTED?

- 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 2009 the individual returns must be submitted by 18 September 2009.
- The electronic completion and submission of returns, being the option preferred by SARS, will grant taxpayers until 20 November 2009 to submit their returns electronically to SARS, by using the e-Filing option. Returns can be submitted until 20 November 2009 without being penalised for the late submission thereof.

2.5 METHODS IN WHICH THE RETURN CAN BE SUBMITTED

- Even though a return might have been received in the mail it does not have to be completed and submitted manually 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 and follow the detailed registration process. Should any assistance with the registration process be required contact the SARS Contact Centre at 0800 SARS (7277).
 - Any of the SARS branch offices can assist in the completion and submission of the return electronically without registering as eFiler.
 - By manually completing the return that was mailed, signing it and either mailing it or handing it in at the local SARS office.

2.6 DOCUMENTATION THAT COULD BE REQUIRED FOR THE COMPLETION OF YOUR RETURN

- To complete the return the following documentation will probably be required:
 - Banking particulars
 - IRP5/IT3(a) Employee Income Tax certificates (if applicable)
 - The certificates received for local interest income, foreign interest and foreign dividends, in respect of **the taxpayer**, if **unmarried or married out of community of property**, or the certificates received by the taxpayer and his / her spouse if married in community of property
 - The documentation relating to medical expenditure such as the medical statement (if the taxpayer belongs to a medical fund) received from the medical fund at the end of February 2009 and proof of other medical claims not submitted to the medical fund
 - The certificate received from the financial institution to which contributions for retirement annuities are being made

- If the taxpayer is in receipt of a travel allowance the details to calculate the travel claim i.e. the opening and closing kilometre reading and details of 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 can be claimed.
- Please note that although the documentation will be used to complete returns **NO** documentation must be attached to the returns when submitted to SARS.
- Taxpayers will however be required to keep **ALL** the documentation for at least a period of five years after the date of submission of the return, as SARS could within a five-year period ask for the submission of the documentation to verify the information declared by taxpayers.

3. CREATING A RETURN BY USING THE RETURN “WIZARD”

- By registering for electronic submission of returns on the SARS eFiling website taxpayers will be able to create their own returns by using the return wizard. The wizard comprises of three main sections:
- **UNEMPLOYED OPTION**
 - The first section deals with taxpayers that are unemployed and therefore receives no income. Unemployment and no income should only be selected if the person did not receive an amount that would be included as taxable income for the year of assessment including a capital gain determined in terms of the Eight Schedule.
 - Should a taxpayer indicate unemployment the return will be generated with the second page as an IRP5/IT3(a) page and will be populated with a “0” in the income section next to the code 3601. The reason being that the SARS systems can not raise a NIL assessment without the taxpayer actually indicating “0” (no income).
 - In selecting this option the taxpayer will further be requested to indicate whether he / she incurred any medical expenditure and / or made any retirement annuity contributions? The reason for the medical question is that the Income Tax Act makes provision for medical expenditure to create a loss that can be set off in future years. With regards to retirement annuity contributions amounts that do not qualify for a deduction in the current year of assessment will be carried forward to subsequent years of assessment.
- **SALARY (PENSION) TYPE INCOME OPTION**
 - This question in this section concentrates on the person that is in receipt of remuneration income and that incurred typical expenditure such as medical, retirement annuity contributions and travel expenditure against a travel allowance. If the taxpayer is in receipt of more than one, but not exceeding 15 IRP5/IT3(a) it must be indicated as such. If the taxpayer’s IRP5/IT3(a) certificates exceed 15, please contact the SARS Call Centre or the local SARS Branch Office for further assistance. The same principle applies to a travel claim where more than one vehicle was used in the calculation of the claim.
 - Taxpayers are further requested to indicate whether they are in receipt of investment income. If so this container must be requested even though the amount received might be below the amount that will ultimately be exempted. The gross amounts

must be declared as SARS will programmatically be applying the exemption. For further details please refer to the investment section in this guide.

- Should a taxpayer receive local dividend income the “Amounts considered non-taxable” container will be created for completion. In respect of the 2009 year of assessments all gross receipts and accruals must be declared and therefore the line item referring to “exempt dividends” must be completed with the relevant amount.
- If however the taxpayer is a member of a close corporation or a director of a company it must be indicated as such to include the creation of a Statement of Assets and Liabilities container.

- **OTHER INCOME AND DECUTIONS THAT ARE NOT SALARY RELATED**

- This section deals with all the other types of income not addressed in the salary type option. To unfold this section of the wizard the last question in the above option must be marked as “Yes”.
- The questions are self explanatory therefore only the exceptions and changes will be discussed:
 - Section 10(1)(o): If a taxpayer is in receipt of remuneration income that should be exempt in terms of section 10(1)(o) of the Income Tax Act and the wizard is completed as such, the “amounts considered non taxable” container will be created. This container specifically makes provision for the declaration of the amount that the taxpayer considers to be exempt. For further details please refer to the section in this guide dealing with residence basis of taxation.
 - Capital gain transactions: In respect of the 2009 year of assessment taxpayers must declare each disposal separately. The wizard makes provision for the requesting of 10 local and 10 foreign disposals. Where a taxpayer disposes of shares and such shares are administered by one single administrator and the taxpayer therefore receives one advice for the disposal of such shares, these disposals can for the completion of the return purposes be regarded as one transaction. For further detail refer to the capital gain section in this guide.

4. COMPLETING THE RETURN

- The returns in respect of the 2009 year of assessment will be populated with information at the disposal of SARS, such as:
 - Personal particulars, for example (name, surname, date of birth, physical and postal address, banking details, account number and branch number only, etc.)
 - Information received from employers / pension funds, relating to the salary / pension income received, for example IRP5/IT3(a) information
- This information will be populated in a pink colour to enable the taxpayer to correct any information that is incorrect. The pre – populated information must be checked for correctness.
- If the information populated in pink is correct, the taxpayer should not make any changes. He / she must however ensure that all other income, that is not populated, is declared. The return must be signed and submitted to SARS.
- If however some of the information populated is incorrect, the taxpayer will need to change it. Changes must only be made in the incorrect fields. For example, if the name is spelt incorrectly but the surname is spelt correct, only the name field must be changed to the correct information, and the surname field must be left unchanged.

- To change any populated information, the taxpayer must do the following:
 - Use a black pen to write over the information printed in pink;
 - Keep the writing within the spaces provided;
 - The taxpayer need not worry if some of the pink lettering is still displayed where the correction in black has been made. SARS will ignore the pink populated information if it has been written over in black.
 - If the taxpayer has made a mistake in completing a field, it must not be corrected by completing the correct information outside the field, or making notes in the margin, as all this information will not be considered as valid and will thus not be taken into account in the calculation of the assessment.
 - Write the word or number in full, i.e. do not change only one letter of a name or one digit of a number, but re-write the full name or number respectively.
 - Should pre-populated information have to be deleted, or is no longer applicable, do so by putting a horizontal line through the middle of the incorrect characters in the field.
- Please do not use correcting fluid if a mistake has been made. Do not fold a return as it will delay the process of assessing the return.
- All relevant parts of the return must be completed. Any incomplete return will be sent back to the taxpayer and will be marked as “not submitted” until it is sent back fully completed. This could result in penalties for the late submission of a return.

• **TAXPAYERS 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 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).
- Taxpayers 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 completion of the return taxpayers must read the declaration on the front page of the return and sign it. It is acceptable to have returns completed by someone else such as a bookkeeper, accountant, tax advisor or friend but the taxpayer is responsible for the entries on the form and must therefore always sign the return.
- Please note that if the return is not signed by the taxpayer it will be returned to the taxpayer and be regarded as not having been received. This could result in penalties for the late rendition of the return.
- If a taxpayer is registered as an e-Filer and submit the return electronically, the password received during registration as an e-Filer, will serve as the taxpayers digital signature.

- **PERSONAL DETAILS OF THE TAXPAYER**
- **Year of assessment:** This will relate to the period commencing on the 1st March of a particular year and ending at the end of February the next year. In respect of the 2009 year the period will be 1 March 2008 to 28 February 2009.
 - Should SARS mail the return to the taxpayer this information will be populated on the return.
- **Tax reference number:** This information will be populated on the return.
- **Personal details:** Should the pre-populated personal details be incorrect the taxpayer must update the personal details, please refer to “Completing the Return” above.
- **Date of birth:** This is a mandatory field that must be completed
- **Identity number:** This field must be completed if the taxpayer is a South African resident.
- **Marital status:** It is vital that the marital status is indicated correctly as it impacts the assessment result where a taxpayer is in receipt of investment and / or rental income and entered into capital gain transactions. The information relating to the marital status as at 28 February 2009 should be reflected by marking the applicable box with an “X”.
- **Passport number:** This number must only be completed if an identity number is not available.
- **Passport Country:** A new field has been added to the return. This has been pre-populated with ZAF, representing South Africa. Please change to another country if needed. Please see list below:

Code	Country of Citizenship	Code	Country of Citizenship	Code	Country of Citizenship
ABW	Aruba	GGY	Guernsey	PRI	Puerto Rico
AFG	Afghanistan	ATF	French Southern Territories - TF	NOR	Norway
AGO	Angola	GIB	Gibraltar	PNG	Papua New Guinea
AIA	Anguilla	GRC	Greece	PRY	Paraguay
ALA	Åland Islands	GAB	Gabon	PSE	Occupied Palestinian Territory
ALB	Albania	GMB	Gambia	OMN	Oman
AND	Andorra	GHA	Ghana	PAN	Panama
ARG	Argentina	GUM	Guam	POL	Poland
ARM	Armenia	GTM	Guatemala	PRT	Portugal
ARS	Arabia Saudi	GLP	Guadeloupe	PCN	Pitcairn
ASM	American Samoa	DEU	Germany	PLW	Palau
ATA	Antarctica	GRL	Greenland	PER	Peru
ATG	Antigua and Barbuda	GRD	Grenada	PHL	Philippines
AUS	Australia	GIN	Guinea	QAT	Qatar
AUT	Austria	GNB	Guinea-Bissau	KOR	Republic of Korea
AZE	Azerbaijan	GUI	Guiana French	REU	Réunion
BDI	Burundi	KAZ	Kazakhstan	SGP	Singapore
BEL	Belgium	HUN	Hungary	SHN	Saint Helena
BEN	Benin	IND	India	LCA	Saint Lucia
BFA	Burkina Faso	JOR	Jordan	SLE	Sierra Leone

Code	Country of Citizenship	Code	Country of Citizenship	Code	Country of Citizenship
BGD	Bangladesh	HMD	Heard and McDonald Islands	RWA	Rwanda
BGR	Bulgaria	JEY	Jersey	SYC	Seychelles
BHR	Bahrain	HTI	Haiti	RUS	Russian Federation
BHS	Bahamas	GUY	Guyana	ROU	Romania
BIH	Bosnia and Herzegovina	IRL	Ireland	VCT	Saint Vincent and the Grenadines
BLR	Belarus	HND	Honduras	BLM	Saint-Barthélemy
BLZ	Belize	ISL	Iceland	KNA	Saint Kitts and Nevis
BMU	Bermuda	IDN	Indonesia	MAF	Saint-Martin (French part)
BOL	Bolivia	IRQ	Iraq		
BRA	Brazil	CIV	Ivory Coast (see Cote d'Ivoire)	STP	Sao Tome and Principe
BRB	Barbados	VAT	Holy See	SAH	Sahara
BRN	Brunei Darussalam	JPN	Japan	SRB	Serbia
BTN	Bhutan	IRN	Iran, Islamic Republic of	SPM	Saint Pierre and Miquelon
BVT	Bouvet Island	ISR	Israel	SMR	San Marino
BWA	Botswana	IMN	Isle of Man	WSM	Samoa
CAF	Central African Republic	LVA	Latvia	SGS	S. Georgia and S. Sandwich Is.
CAN	Canada	KWT	Kuwait	SLB	Solomon Islands
CCK	Cocos (Keeling) Island	LIE	Liechtenstein	SJM	Svalbard and Jan Mayen Islands
CHL	Chile	LSO	Lesotho	LKA	Sri Lanka
CHN	China	LBR	Liberia	SDN	Sudan
CIV	Côte d'Ivoire	MLT	Malta	MKD	The former Yugoslav Republic of Macedonia
CMR	Cameroon	KIR	Kiribati	SVN	Slovenia
COD	Democratic Republic of the Congo	FSM	Micronesia, Federated States of	TUR	Turkey
COG	Congo	MYS	Malaysia	TAI	Taiwan
COK	Cook Islands	MDV	Maldives	TJK	Tajikistan
COL	Colombia	MDG	Madagascar	CHE	Switzerland
COM	Comoros	MWI	Malawi	SYR	Syrian Arab Republic
CPV	Cape Verde	KGZ	Kyrgyzstan	SOM	Somalia
CRI	Costa Rica	MLI	Mali	THA	Thailand
CUB	Cuba	MTQ	Martinique	TGO	Togo
CXR	Christmas Island	LBY	Libyan Arab Jamahiriya	SUR	Suriname
CYM	Cayman Islands	LAO	Lao People's Democratic Republic	ZAF	South Africa
CYP	Cyprus	MRT	Mauritania	TKL	Tokelau
CZE	Czech Republic	MUS	Mauritius	TON	Tonga
CZF	Czechoslovakia (Former)	MYT	Mayotte	TTO	Trinidad and Tobago
DJI	Djibouti	MCO	Monaco	TCA	Turks and Caicos Islands
DMA	Dominica	MNG	Mongolia	TUV	Tuvalu
DNK	Denmark	MDA	Moldova	TKM	Turkmenistan
DOM	Dominican Republic	MNE	Montenegro	UGA	Uganda
DZA	Algeria	GEO	Georgia	PAK	Pakistan

Code	Country of Citizenship	Code	Country of Citizenship	Code	Country of Citizenship
EAT	East Timor	MSR	Montserrat	UKR	Ukraine
ECU	Ecuador	MAR	Morocco	ARE	United Arab Emirates
EGY	Egypt	MOZ	Mozambique	GBR	United Kingdom of Great Britain and Northern Ireland
ERI	Eritrea	NRU	Nauru	VIR	United States Virgin Islands
EST	Estonia	NPL	Nepal	USM	US Minor Outlying Islands
ETH	Ethiopia	NLD	Netherlands	URY	Uruguay
EUU	European Union	ANT	Netherlands Antilles	UZB	Uzbekistan
FIN	Finland	NER	Niger	WLF	Wallis and Futuna Islands
FJI	Fiji	NIC	Nicaragua	VNM	Viet Nam
FLK	Falkland Islands (Malvinas)	NZL	New Zealand	VEN	Venezuela (Bolivarian Republic of)
FRA	France	NGA	Nigeria	ESH	Western Sahara
FRO	Faeroe Islands	NCL	New Caledonia	VUT	Vanuatu
GNQ	Equatorial Guinea	NAM	Namibia	USA	United States of America
GUF	French Guiana	NIU	Niue	YEM	Yemen
HKG	Hong Kong Special Administrative Region of China	LTU	Lithuania	SWZ	Swaziland
HRV	Croatia	MHL	Marshall Islands	TLS	Timor-Leste
IOT	British Indian Ocean Territory	ITA	Italy	SAU	Saudi Arabia
KHM	Cambodia	KEN	Kenya	SVK	Slovakia
MAC	Macao Special Administrative Region of China	LUX	Luxembourg	SWE	Sweden
PRK	Democratic People's Republic of Korea	MEX	Mexico	TUN	Tunisia
PYF	French Polynesia	NFK	Norfolk Island	ZMB	Zambia
SLV	El Salvador	MMR	Myanmar	TZA	United Republic of Tanzania
TCD	Chad	LBN	Lebanon	ESP	Spain
VGB	British Virgin Islands	JAM	Jamaica	SEN	Senegal
ZNC	Any country not on this list	MNP	Northern Mariana Islands	ZWE	Zimbabwe

- **Address information:** This information will be populated on the return. If, however, the residential address and postal address are the same it is not necessary to repeat the address details in the postal address section. In these cases it is only necessary to mark the box indicating that the addresses are the same.
 - Please note that the address information must be the details pertaining to the taxpayer and not the details of another person such as a tax practitioner completing the return.
- **Bank account information:** SARS has adopted a policy of issuing all refunds by way of electronic transferring of funds. It is therefore imperative that the taxpayer makes sure that the banking details reflected are correct.

- **Note:** Banking details are mandatory. If the taxpayer does not have a local savings or cheque bank account, it should be indicated by placing an "X" next to the field. If the taxpayer has a local Savings or Cheque account, the relevant fields should be completed.
 - Verify the correctness of the populated details and if they are incorrect, please update accordingly.
 - If no details are printed in this section all the applicable fields needs to be completed with the relevant details
 - New fields has been added this year, which the taxpayer will have to complete namely:
 - Bank Name and;
 - Branch Name
 - If neither the tick box nor banking details are completed, the return will be sent back to the taxpayer as incomplete.
 - Only one of the above must be completed.
- **Note: No refund will be paid into the bank account of a third party or agent.**
- **Tax practitioner information:** If the services of a tax practitioner is used to complete the return this information should be completed by the tax practitioner.
- If the return is submitted electronically via eFiling the data can be updated during the filing process.

5. INCOME RECEIVED

- An IRP 5/IT3(a) Employee Income Tax 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 IRP5/IT3(a) Employee Income Tax 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 IRP5/IT3(a) will present a reason for non deduction of tax.
- This year SARS will again be pre-populating returns with the information relating to the income received from employers, pension funds, retirement funds, etc. In other words all employees' tax certificate (IRP5/IT3(a)) information, providing the relevant employer has timeously submitted the information to SARS. If, however, the specific employer has not submitted the IRP5/IT3(a) information to SARS the return will not contain the pre-populated details of the relevant IRP5/IT3(a). In these cases the IRP5/IT3(a) certificates the taxpayer received from the employer must be utilised to complete this part of the return. If the taxpayer worked for two employers during the year of assessment and also received payments from a retirement annuity fund the taxpayer should have received three IRP5/IT3(a) certificates in which case the return should contain three separate pages for IRP5/IT3(a) information. Thus one for each employer as well as one for the retirement annuity payments received. The total number of IRP5/IT3(a) declarations are limited to 15 per taxpayer. If you require a return with more than 15 IRP5/IT3(a)'s, or sufficient pages are not available, please contact your nearest SARS Branch office or the SARS Call Centre.
- Although a return is issued to a taxpayer if the taxpayer is in receipt of income from remuneration (salary type income) and such remuneration is less than R120 000, he / she may elect not to submit a return provided that the:
 - Remuneration is from a single employer;

- Remuneration is for a full year of assessment; and
 - No allowance was paid from which PAYE was not deducted in full such as a travel allowance.
- Examples of income / benefits, which must be included in the 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

5.1 WAGES AND SALARIES

- Wages and salaries are usually reflected as code 3601 on an IRP5/IT3(a) Employee Income Tax certificate received from an employer.

5.2 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/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.

5.3 ALLOWANCES

- Allowances will be reflected on the IRP5/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/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.

5.4 OVERTIME

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

5.5 OPTIONS / RIGHTS TO ACQUIRE MARKETABLE SECURITIES

- Section 8A applies in respect of all right (options) acquired by an employee before 26 November 2004. Thereafter such rights are dealt with in section 8C.
- 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 R50 000 in value during any five-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/IT3(a) 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.

5.6 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 the pension in respect of services rendered in the Republic will be deemed to be from a source within, 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 PENSION

- 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.

5.7 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.
- Amounts received in respect of Retirement Fund Lump Sum Benefits will be reflected as code 3915.

5.8 BONUSES

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

5.9 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.

5.10 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.

5.11 DIRECTOR'S REMUNERATION

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

5.12 INCENTIVE AWARDS

- These amounts are usually supplementary to a 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 the IRP5/IT3(a) certificate.

5.13 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 travelling 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 an insurance policy
 - Which covers that person solely against the loss of income as a result of illness, injury, disability or unemployment; and
 - 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 that also include 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 sum of the gross retirement funding income (3697) and the gross non retirement funding income (3698) indicated on the particular IRP5/IT3(a) certificate.
- The following example illustrates this.

▫ **Example 1**

- A taxpayer receives the following income:

3601	Salary	R 200,000	
3605	Annual payment	R 40,000	
3701	Travel allowance	R 70,000	
3704	Subsistence - taxable	R 6,000	
3705	Subsistence - not taxable	R 3,000	(reimbursive amount)
3713	Other allowances	R 10,000	
3810	Medical benefit	R 4,500	
3606	Commission	R 300,000	
3699	Gross remuneration	R 630,500	

- 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	R 200,000	
3605	Annual payment	R 40,000	
3701	Travel allowance	R 70,000	
3704	Subsistence - taxable	R 6,000	
3705	Subsistence - not taxable	R 3,000	(reimbursive amount)
3713	Other allowances	R 10,000	
3810	Medical benefit	R 4,500	
3606	Commission	R 350,000	
3699	Gross remunerations	R 680,500	(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).

5.14 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.
 - 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.
- 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 or contact your local SARS office.

5.15 MARRIAGE 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. investment income, capital gain transaction), 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). Should the income be excluded from the communal estate the indicator in the investment income, capital gain and trading income containers must be marked with an "X". Should an amount be excluded from the communal estate SARS will be requesting detail in this regard to enable the correct assessment of the return.
- 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.

5.16 COMPLETION OF THE "INCOME RECEIVED" SECTION OF THE RETURN

- Many of the sections of the return relating to IRP5/IT3(a) information, that taxpayers had to complete previously, will now be pre-populated providing that the relevant employers have actually submitted the PAYE reconciliations to SARS. If, however, the information was not submitted by an employer to SARS the return will not contain the pre-populated details of the IRP5/IT3(a). It must further be noted that each IRP5/IT3(a) certificate will be contained as a separate page in the income tax return. If the taxpayer therefore received two certificates the return for the specific taxpayer will contain two pages with information relating to IRP5/IT3(a) information.
- Although the information is pre-populated by SARS employers must however still issue employees with employee tax certificates as in the past. This will enable taxpayers to verify the information pre-populated by SARS in the employee tax certificate section of the return. Should there be any discrepancies between the certificate issued to the taxpayer by the employer and the information populated by SARS on the income tax return, taxpayers should contact the employer to confirm the correctness of the information supplied to SARS. Taxpayers should further make sure that all the personal particulars on the employee tax certificate issued to them by employers are correct. If the personal particulars

in the possession of the employer and the information at the disposal of SARS are not in sync, SARS will not be able to match a particular certificate to a specific taxpayer and will therefore not be able to populate the specific return with the information relating to the employee tax certificate. Where returns have not been populated it could lead to an extended assessment period and SARS requesting the supporting documentation to enable the finalisation of the assessment.

- Where taxpayers have more than one source of IRP5/IT3(a) related income it is possible that the return will contain one certificate with populated data and one blank certificate. Taxpayers must fill in the details of the certificate(s) that was not pre-populated.
- To enable to assist taxpayers in completing returns correctly SARS has introduced the following so called control totals in the employee tax certificate section of the return.

5.17 GROSS RETIREMENT FUNDING, NON RETIREMENT FUNDING INCOME AND NON TAXABLE AMOUNTS

- All the amounts filled in the income received section of the IRP5/IT3(a) should total to the aggregate amount of the gross retirement funding income (code 3697), the gross non retirement funding income (code 3698) and the non taxable amounts (code 3696). Should it not tally taxpayers should check and make sure that the income section has been filled in correctly.

5.18 DEDUCTIONS / CONTRIBUTIONS

- In this section provision is also made for a total. Again if the total amount does not correspond with the total of the amounts completed in the deductions / contributions section of the return it is likely that an error was made in transcribing the amounts onto this section.

5.19 TAX WITHHELD (Rand and cents to be reflected)

- Here the total of the amounts completed next to SITE (code 4101), PAYE (code 4102) and PAYE on retirement fund lump sum benefits (code 4115) should equal the control total amount. If not, the taxpayer should verify the amounts completed against the certificate issued by the employer. Please note that as this page also makes provision for the information relating to an IRP5/IT3(a) Employee Income Tax certificate (where no tax was withheld), it is possible that this section should not be completed or alternatively not have amounts next to all codes depending on the amount and nature of income received.

5.20 MAIN SOURCE OF INCOME

- This information forms part of the IRP5/IT3(a) information and should appear on the certificate issued by the employer / pension fund administrator. If it is not completed the table below can be utilised to determine the correct source code.

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

6. INVESTMENT INCOME

- If a taxpayer is in receipt of investment income it is important to note that the marital status on the front page of the return must be correctly indicated as it could impact the correct calculation of an assessment. It is further important to note that if the taxpayer is married in community of property and the income from investments are received that should be excluded from the communal estate, that the question referring to this is marked accordingly.
- This section makes provision for the declaration of the following types of investment income:
 - **Local interest:**
 - If the taxpayer is married IN community of property all local interest income must be declared in this section, even though some of the income should be excluded from the communal estate. This will include the income in respect of the taxpayer, spouse and minor children. The gross amounts received must be reflected, as the exemptions as well as the 50% split will be applied programmatically by SARS. Where the communal estate indicator is marked the assessment will be referred to an assessor who will request the required information from the taxpayer to ensure that the assessment is finalised correctly.
 - **Foreign interest:**
 - Here all the gross amounts received in respect of foreign interest must be declared. If any withholding tax was paid on the interest received such

amounts should appear on the certificate received from the institution administering the investment. Again the gross amount of withholding tax should be declared next to the code 4113.

▫ **Foreign dividends:**

- Here all the gross amounts received in respect of foreign dividends must be declared. If any withholding tax was paid on the dividend received such amounts should appear on the certificate received from the institution administering the investment. Again the gross amount of withholding tax should be declared next to the code 4112

▫ **Exemption on investment income [section 10(i)(xv)]**

- The exemption applicable to the 2009 year of assessment is R19 000 for persons under the age of 65 years and R27 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 R3 200 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.
- If any local dividend income is received taxpayers should declare the amount received as such in the "Amounts considered non taxable" section of the return.
- All investment income received by or accrued to a taxpayer or his / her minor children must be declared (including investment income which has not been paid but has been utilised, accumulated or re - invested for the taxpayer or his / her 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 a taxpayer have received R20 100 investment income that is made up of R2 000 in respect of foreign dividends, R1 400 in respect of foreign interest and R16 700 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 R3 200. The balance of R1 200 (R3 200 – R 2 000) will be offset against the foreign interest received.	R2 000
FOREIGN INTEREST RECEIVED R1 400 foreign interest has been received, of which R1 200 will be exempt (the balance not offset against foreign dividends). R200 will therefore be included in taxable income	R1 400
LOCAL INTEREST RECEIVED The total exemption in respect of investment income is R19 000 of which R3 200 has already been utilised against foreign investment income. The balance of R15 800 will now be offset against the R16 700 received in respect of local interest, leaving a balance of R900 that will be included in taxable income.	R16 700
RESULT OF CALCULATION - included in taxable income In the determination of tax liability an amount of R1 100 will be included as taxable investment income. The R200 not exempt on foreign investment income plus the R900 in respect of local investment income.	R1 100

- If however the foreign investment income in aggregate was less than R3 200 the balance of the R3 200 could be utilised against local investment income.

- **Income of Minor children**
 - A taxpayer is liable for the payment of tax on any income which has been received by or accrued to or in favour of any minor children if such income arises from a donation, settlement, or other disposition by - (i) the taxpayer; or (ii) any other person, if the taxpayer made a donation, settlement or gave some consideration directly or indirectly in favour of the other person or his family.
 - A minor child will, however, be liable for tax on income which is received or accrues to him / her independently of him / herself; 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 a minor child's taxable income be sufficient to render him / her liable for tax, the taxpayer, as the legal guardian, must register him / her for income tax purposes and obtain and submit a return on his / her behalf.

7. DEDUCTIONS

7.1 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:
 - R570 for each month in the year of assessment in respect of which the contributions were made for benefits for yourself;
 - R1 140 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 140 in respect and yourself and one dependant plus R345 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. In other words, excluding the medical fringe benefit that is included in the gross income of the taxpayer.
- 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 considered a person with a disability 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 after application of the capping amount.

7.2 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.

7.3 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 the taxpayer, the taxpayers' 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.

7.4 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. Should the person providing the letter consider the taxpayer as blind, SARS will accept. The letter confirming the blind status of the taxpayer must however be retained for a period of five years to substantiate the claim
 - **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 who is under the age of 65 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 140 plus R345 in respect of the 3rd and 4th dependant = R1 830 per month. The capped amount in respect of the full year of assessment will therefore equal R21 960.
- 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/IT3(a) certificate. The employer paid more than the capped amount of R21 960 thus resulting in a taxable fringe benefit to the amount of R2 040. This amount of R2 040 will be reflected as code 3810 in the income section of the IRP5/IT3(a) certificate. This amount of R2 040 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 R2 040 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/IT3(a) should reflect the following income and deduction codes:

3601	Salary	R 150,000	
3810	Medical fringe benefit	R 2,040	
4005*	Employees medical contributions	R 14,040	(12 000+2040)
4474	Employers medical contributions	R 24,000	
4001	Pension contributions	R 11,250	

- The amount reflected next tot 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 R2 040 (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 140 plus R345 in respect of the 3rd and 4th dependant = R1 830 per month. The capped amount in respect of the full year of assessment will therefore equal R21 960.
- As the employer contributes in excess of the capped amount of R21 960 and the R21 960 is not included in the gross remuneration reflected on the IRP5/IT3(a), the taxpayer would therefore in this case not qualify for the deduction of the capped amount. The balance of the employer's contribution of R7 920 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	R 36,000
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Minus: The employers contributions	<u>R 24,000</u>
	R 12,000
Plus: Employers contribution included in gross	R 2,040
Other expenditure	<u>R 9,500</u>
Amount subject to the limitation	<u>R 23,540</u>

Taxpayers' gross remuneration	R 152,040	(150000+2040)
Minus: Pension contributions	<u>R 11,250</u>	
Income prior to the medical deduction	R 140,790	

Minus: Additional capping to be allowed	NIL
The employers contribution exceed the calculated capping amount	
Thus 7.5% of income (calculated limitation)	R 10,559
Amount subject to limitation	R 23,540
Calculated limitation	<u>R 10,559</u>
Amount allowable as deduction	R 12,981

- **Please note that the calculations illustrated above will be performed programmatically by SARS.**
- **The medical container within the deduction section of the income tax return must not be completed with the contribution amount if it already appears in the "Deduction / Contribution" section of the IRP5/IT3(a). The detail relating to the beneficiaries must however be completed as well as the sections referring to the amounts not covered by the medical fund.**
- **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 830 per month [R1 140 plus R690 (345 x 2) in respect of the 3rd and 4th dependant]. The capped amount in respect of the full year of assessment will therefore equal R21 960.
 - The employer contributes R12 000 which is less than the capped amount of R21 960 and the R12 000 is not included in the gross remuneration reflected on the IRP5/IT3(a). Mr Taxpayer will therefore qualify for a deduction of R9 960 in respect of the capped amount, being the difference between the capped amount of R21 960 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 be considered as a deduction taking into account the 7.5% limitation of taxable income. The taxable income amount will be determined before the application of the medical deduction but after the application of the capped amount.
- The calculation will be as follows:

Medical contributions	R 36,000
Minus: The employers contributions	<u>R 12,000</u>
	R 24,000

Minus: Deduction in respect if capped amount	R 9,960
Medical contribution subject to limitation	<u>R 14,040</u>
Plus: Other expenditure	<u>R 9,500</u>
Amount subject to the limitation	<u>R 23,540</u>

Taxpayers' gross remuneration	R 150,000
Minus: Pension contributions	<u>R 11,250</u>
Income prior to the medical deduction	<u>R 138,750</u>
Minus the capped amount	<u>R 21,960</u>
Taxable income subject limitation	<u>R 116,790</u>

Thus 7.5% of income (calculated limitation) R 8,759

Amount subject to limitation	R 23,540
Calculated limitation	<u>R 8,759</u>
Amount allowable as deduction (after limitation)	<u>R 14,781</u>
Plus: Deduction in respect of capped amount	<u>R 9,960</u>
Total deduction for medical	<u>R 24,741</u>

- **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	R 36,000
Minus: The employers contributions	<u>NIL</u>
	<u>R 36,000</u>
Minus: Deduction in respect if capped amount	<u>R 21,960</u>
Medical contribution subject to limitation	<u>R 14,040</u>
Plus: Other expenditure	<u>R 9,500</u>
Amount subject to the limitation	<u>R 23,540</u>

Taxpayers' gross remuneration	R 150,000
Minus: Pension contributions	<u>R 11,250</u>
Income prior to the medical deduction	<u>R 138,750</u>
Minus the capped amount	<u>R 21,960</u>
Amount subject to limitation	<u>R 116,790</u>

Thus 7.5% of income (calculated limitation) R 8,759

Amount subject to limitation	R 23,540
Calculated limitation	<u>R 8,759</u>
Amount allowable as deduction (after limitation)	<u>R 14,781</u>
Plus: Deduction in respect of capped amount	<u>R 21,960</u>
Total deduction for medical	<u>R 36,741</u>

- 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 = 1140	1 = 345	R 1,485
April	1+1 = 1140	2 = 690	R 1,830
May	1+1 = 1140	2 = 690	R 1,830
June	1+1 = 1140	2 = 690	R 1,830
July	1+1 = 1140	2 = 690	R 1,830
August	1+1 = 1140	2 = 690	R 1,830
September	1+1 = 1140	4 = 1380	R 2,520
October	1+1 = 1140	4 = 1380	R 2,520
November	1+1 = 1140	4 = 1380	R 2,520
December	1+1 = 1140	4 = 1380	R 2,520
January	1+1 = 1140	4 = 1380	R 2,520
February	1+1 = 1140	4 = 1380	R 2,520
Totals	R 13,680	R 12,075	R 25,755

- In this case the capping amount that needs to be applied in respect of the calculations above would be R25 755.
- **To enable SARS to calculate your allowable deduction it is important that you complete this section correctly and in full.**
- The taxpayer should use the certificate received from the medical fund and the IRP5/IT3(a) certificates as this will assist in filling in this section.
- **State the number of members and dependants for whom contributions were made during the year of assessment**
 - The information required refers to the number of members / beneficiaries for whom contributions that were paid to the medical fund for the period 1 March 2008 to 28 February 2009, in respect of the taxpayer and the other persons (dependants) that are covered by the fund. This information is usually reflected on the medical statement that is received from the medical fund at the end of February.
 - Provision has been made for all twelve months of the year of assessment starting with "Mar" for March as the year of assessment starts on 1 March 2008. Indicate the number of persons for whom contributions are made for each month of the year. If for example contributions are made in respect of taxpayer, spouse and two children the taxpayer will have to enter the number 4 in the block representing March. If it remained the same for April the taxpayer will again fill in the number 4 in the block marked with "Apr" that represents April. If however in May contributions in respect of taxpayer, spouse and 3 children are made the number 5 must be filled in in the block representing May. This is the process that needs to be followed in respect of all the months up to and including February 2009. If no contributions are made in respect of any members or dependants for a specific month the block referring to that month must be left blank.

7.5 MEDICAL FUND CONTRIBUTIONS

- Please note that if the contributions were paid over to the medical fund by an employer the amount will be reflected in the "Deduction / Contribution" section of the return / employee tax certificate next to the code 4005 and / or 4474 and should therefore not be completed in the medical section of the return next to code 4040. The line item referring to medical **contributions made by the taxpayer (source code 4040), in the medical section should be left blank**. This line item should only be completed if a taxpayer in his / her private capacity contributes to a medical and the payment of the contributions is made by the taxpayer him / herself via for example a bank account. In these cases no amount should appear in the IRP5/IT3(a) Employee Income Tax certificate section of the return next to the codes 4005 and / or 4474.
- 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.

7.6 QUALIFYING MEDICAL EXPENSES NOT RECOVERED FROM THE MEDICAL FUND

- If the taxpayer belongs to a medical fund the amount for the medical expenses that were not recovered from the medical fund can be found on the medical statement received from the medical fund at the end of February. The statement may reflect two amounts that were not covered by the fund. These amounts must be used together with the amount of the claims that were not submitted to the Medical fund due to the fact that the taxpayer has exceeded the limits in respect of certain procedures, and should be completed next to source code 4020.

7.7 PHYSICAL DISABILITY EXPENDITURE

- The Income Tax Act makes provision that a taxpayer can claim any expenditure necessarily incurred and paid in consequence of any physical disability suffered by the taxpayer, his or her spouse or child or any dependant as defined in section 1 of the Medical Schemes Act. 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.

7.8 HANDICAPPED EXPENDITURE

- If based on the definition of handicapped described in this brochure, the taxpayer, 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 the taxpayer not have incurred any handicap expenditure although he / she, his / her spouse or child are considered to be handicapped, the question relating to the handicapped status must be marked with an "X".

8. RETIREMENT AND INCOME PROTECTION CONTRIBUTIONS

8.1 ARREAR PENSION FUND CONTRIBUTIONS – Section 11(k)(ii)

- This amount will be reflected on the IRP5/IT3(a) certificate next to the code 4002 in which case it must not be completed in this section of the return. Only amounts referring to arrear pension fund contributions that were purchased during the year of assessment must be claimed. Amounts that were paid in prior years and not granted as a deduction in full will programmatically be off set in the current year of assessment to a maximum of R1 800. The maximum deduction per person is R1 800 per year of assessment. Any excess will be carried forward to the subsequent year of assessment.

8.2 CURRENT CONTRIBUTIONS TO AN APPROVED RETIREMENT ANNUITY FUND - Section 11(n)(aa)

- Use the certificate received from the institution to which contributions were made to complete the return, next to source code 4006 in the “Retirement and Income Protection” section of the return. Please note that the amounts reflected on the IRP5/IT3(a) certificates next to the code 4006 will not be taken into account during the assessment process as only contributions made by the taxpayer him / herself as a member of a retirement annuity fund will be considered as a deduction, i.e. a taxpayer may not claim contributions made on behalf of a third party, e.g. spouse or child.
- 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:
 - Capital development expenditure (farming);
 - Donations;
 - Retirement annuity fund contributions;
 - Medical and dental expenses;
 - Expenditure in respect of soil erosion works; **or**
 - R3 500 less allowable pension fund contributions; **or**
 - R1 750.
- The actual contributions made must be claimed as the calculation will be done by SARS.
- Any excess will be carried forward to the succeeding year of assessment.

8.3 ARREAR CONTRIBUTIONS TO AN APPROVED RETIREMENT ANNUITY FUND - Section 11(n)(bb)

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

8.4 INCOME PROTECTION INSURANCE CONTRIBUTIONS

- If any contributions were made to protect the taxpayers' income he / she should receive a certificate from the institution to which the contributions were made. Deductions will be considered in respect of policies where it covers 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 in the “Retirement and Income Protection” section of the return.

8.5 OTHER QUALIFYING DEDUCTIONS

- In terms of the Income Tax Act only certain deductions are allowable if a taxpayer earns 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:

8.5.1 Expenses against local and / or foreign taxable subsistence allowance

- Should an allowance be reflected as code 3704 (local) the claimable amount needs to be determined based on the actual amounts expended or the amount deemed to have been expended in terms of Section 8(1)(c)(ii) of the Income Tax Act. Claim the amounts expended next to the code 4017 in the “Other Deduction” section of the return.
- If the taxpayer received a foreign subsistence allowance, the allowance should be indicated as a code 3715 or 3754 on the IRP5/IT3(a) certificate. Claim the amounts expended next to the code 4019 in the “Other Deduction” section of the return.
- A schedule detailing the following must be prepared and retained for a period of five years to substantiate the 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 the claim, if requested by SARS.

8.5.2 Donations allowable i.t.o. Section 18A

- Use the amount reflected on the receipt 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.

8.5.3 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, the taxpayer owns an asset such as a computer and he / she is obliged to use the asset regularly to perform tasks relating to their job he / she will be entitled to claim depreciation on the asset. The amount calculated must be filled in next to the code 4027 in the “Other Deduction” section of the 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 does not exceed 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 the claim, should SARS call for it.

8.5.4 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:
 - The 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**
 - The taxpayer's duties are mainly performed in the study at his / her private residence.
- The following guidelines are given with regard to a claim for a home study. Full details in support of the claim must be retained for a period of five years after submission of the 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.
 - The taxpayer must, in terms of the requirements of a service contract with his/her employer, be required to maintain a study at his / her 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 the occupation and why is it necessary to maintain a study at home?
 - A copy of the service contract, service regulations or personnel code.
 - Does the employer place an office at his / her disposal at the workplace? Full details of any restrictions in the use of this office are to be furnished, as well as a letter of confirmation from the employer.
 - Is the work of such a nature that he/she is expected to work at home after hours? Full details of how frequently the home study is used as well as a statement confirming the use thereof is required from the employer.
 - Is the taxpayer required to use the home study to interview or supply information to clients or employees after hours?
 - Is the home study specifically equipped for purposes of the trade?
 - Is the study used regularly and exclusively for his / her work?
 - To what extent is the study indispensable to the proper carrying out of his/her tasks?
- Should the taxpayer qualify for a deduction the amount should be calculated on the following basis:
 - $A / B \times \text{Total costs}$, where
 - A = the area in m² of the area specifically equipped and used regularly and exclusively for trade;
 - B = the total area in m² 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.

8.5.5 Travel expenses (no allowance – commission income)

- 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 the taxpayer 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, a deduction may be claimed and the amount must be reflected in the “Other Deduction” section of the return.
- The reduction in the value of the benefit will not apply where more than one vehicle was made available to the taxpayer 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.

8.5.6 Amounts taxed on IRP5 but comply with exemptions i.t.o. Section 10(1)(o)(ii)

- Refer to [Section 10.1 – Residence Basis of taxation](#)
 - Where remuneration is 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, such income received could be exempt in terms of Section 10(1)(o)(ii). If however the income considered exempt is reflected as income on the IRP5/IT3(a), Employee Income Tax certificate, received from the taxpayer's employer, the amount considered as exempt must be reflected as a deduction next to code 4041 in the “Other Deductions” section of the Income Tax Return. Please note that proof of entries and exits from the RSA could be requested to prove conformity to the provisions as set out in Section 10(1)(o)(ii).
 - This provision does not apply to employees of national, provincial or local governments and to employees of certain public entities;
- An amount must also be completed in the field “Exempt Amount i.t.o. Section 10(1)(o)(ii) under the section “Amounts Considered **Non-Taxable**”

8.5.7 Amounts refunded i.t.o. Section 11(nA) and 11(nB)

- Certain amounts that were received from the employer and subsequently refunded to the employer can be claimed as a deduction subject to resolute conditions. Examples of these are: maternity leave payments, bursaries, restraint of trade etc,
- **Example 1**
 - A taxpayer receives a bursary, from his / her employer of R10 000 during the 2008 year of assessment. The conditions stated in the contract are that the taxpayer will remain an employee for the duration of two years, following receipt of the bursary. One year after receiving the bursary (2009), the taxpayer resigns. As the taxpayer fails to fulfil his / her conditions of the contract, he / she must refund the R10 000 to

the employer. As this amount was fully taxable, at the time of receipt, the taxpayer can now claim a deduction.

- The amount, R10 000, must be completed next to the source code **4042**.

8.5.8 Allowable Accountancy Fees

- This deduction can only be claimed if the taxpayer is in receipt of income, other than salary, pension, and / or annuities only. The allowable amount will be determined by SARS
 - Only professional fees for the completion of the return, which was actually paid or is payable can be considered as a deduction
 - Investment Income will only be considered if the amount was taxable.
 - Since the first R19 000 for under 65 and the first R27 500 for over 65, of interest income is exempt from income tax, fees paid will only be allowed as a deduction to the extent that it does not create a loss.
 - Please note that annuity income is not considered to be investment income for the purpose of the deduction in respect of Allowable Accountancy fees.
- The amount paid or payable must be completed next to source code **4043**.
- **Example 1**
 - In respect of the 2009 year of assessment the taxpayer receives remuneration (salary) of R80 000 and he / she is also in receipt of R20 000 interest income and he claims R1 500 in respect of accountancy fees. The taxpayer is under the age of 65 and is not married.
 - Conclusion: The accountancy fees must be limited to R1 000, which is the taxable portion of the interest income as the accountancy fees may not create or increase a loss.
- **Example 2**
 - In respect of the 2009 year of assessment the taxpayer receives remuneration (salary) of R80 000 and he is also in receipt of R22 000 interest income and he claims R4 000 in respect of accountancy fees. The taxpayer is under the age of 65 and is not married. The taxpayer is also in receipt of rental income to the amount of R800.
 - Conclusion: The accountancy fees need not be limited as the taxpayer is in receipt of trading income. (The rental income is regarded as trading income.) Should the taxpayer have realized a rental loss instead of the rental profit the accountancy fees would also have been granted due to the fact that the letting of property is considered a trade.

8.5.9 OTHER EXPENSES

- **Legal costs - section 11(c)**
 - Legal cost directly related to a 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 an employer has issued the taxpayer with an IRP5/IT3(a) where the amount is included as income received and the taxpayer in fact has not received the applicable amount.

- **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, traveling 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 remuneration is derived normally and mainly in the form of commission and the taxpayer has 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 any travel expenditure is incurred and the taxpayer did not receive a travel allowance the amount of the claim must be calculated and filled in next to the code 4015 in the "Other Deduction" section of the return.
 - All calculations, receipts and other supporting documentation must be retained for a period of five years.

9. TRAVEL CLAIM AGAINST ALLOWANCE - SECTION 8(1)(b)

- This section must only be completed if a taxpayer is in receipt of a travel allowance. If he / she did not receive a travel allowance this section must not be requested. A travel allowance will be reflected on the IRP5/IT3(a) Employee Income Tax certificate next to the codes 3701 and / or 3702.

9.1 WAS A LOG – BOOK USED IN DETERMINATION OF BUSINESS KILOMETERS TRAVELLED?

- The taxpayer needs to indicate whether a logbook was used to determine the business kilometres travelled. This must be indicated in respect of each vehicle used for business purposes.
- Should the claim be calculated based on the 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 the travel took place
 - The destination to and from.
 - The kilometers 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.

9.2 WHERE NO RECORDS ARE KEPT OF KILOMETERS 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*
 - *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.

9.3 STARTING DATE AND CLOSING DATE

- Indicate the period in respect of which the vehicle(s) was used during the period 1 March 2008 to 28 February 2009 by completing the start and closing date for each vehicle separately.

9.4 CALCULATION OF THE TRAVEL CLAIM

- To enable SARS to calculate the travel claim it is imperative that the following information is completed:
 - The cost price or cash value of the vehicle;
 - Start and closing dates
 - Starting and closing kilometres;
 - Total kilometers
 - The business kilometres travelled.
- The following fields must be completed:
 - The vehicle registration number;
 - The make of the car;
 - The model of the car; and
 - The manufacturing year
- **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 fixed cost 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.

9.4.1 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:

Value of the vehicle (including VAT) (value in rands)	Fixed Cost (R p.a)	Fuel cost (c/km)	Maintenance cost (c/km)
0 - 40 000	14 672	58.6	21.7
40 001 - 80 000	29 106	58.6	21.7
80 001 - 120 000	39 928	62.5	24.2
120 001 - 160 000	50 749	68.6	28.0
160 001 - 200 000	63 424	68.8	41.1
200 001 - 240 000	76 041	81.5	46.4
240 001 - 280 000	86 211	81.5	46.4
280 001 - 320 000	96 260	85.7	49.4
320 001 - 360 000	106 367	94.6	56.2
360 001 - 400 000	116 012	110.3	75.2
exceeding 400 000	116 012	110.3	75.2

- 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**

- A taxpayer owns 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, he / she 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 traveled	45 000 km
Deemed total kilometers (cannot exceed 32 000 km)	32 000 km
Deemed Private kilometers	(18 000 km)
Deemed Business kilometers	14 000 km
Total allowance received for the year	R36 000

Fixed Cost as per Fixed Cost Schedule	R29 106
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▫ *Apply the formula:*

$$\circ \quad \frac{\text{Fixed Cost as per schedule}}{\text{Total distance travelled}} \times \frac{\text{No. of days Used}}{365}$$

$$\circ \quad = \frac{R29\,106}{45\,000 \text{ km}} \times \frac{365}{365} \times 100$$

$$\circ \quad = 64,7c$$

∴ Fixed Cost per kilometer	= 64,7c
Add Fuel cost element (per schedule)	= 58,6c
Add Maintenance cost (per schedule)	= <u>21,7c</u>
Total cost per kilometre	= 145,0c

- Multiply the total cost by the deemed business kilometres

$$\circ \quad (14\,000 \text{ km} \times 145c) / 100 = \underline{\underline{R20\,300}}$$

- 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 the taxpayer used the vehicle for 6 months (183 days), during which he / she travelled 18 000 km. Thereafter, he / she 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)	<u>(9 000km)</u>
Deemed Business kilometres	7 000 km
Total allowance received for the year	R36 000

Fixed cost as per Fixed Cost Schedule	R29 106
---------------------------------------	---------

▫ *Apply the Formula*

$$\circ \quad \frac{R29\,106}{18\,000 \text{ km}} \times \frac{183}{365} \text{ days} \times 100$$

$$\circ \quad = 81,1c$$

∴ Fixed Cost per kilometer	= 81,1c
Add Fuel cost element (per schedule)	= 58,6c
Add Maintenance cost (per schedule)	= <u>21,7c</u>
Total cost per kilometre	= 161,4c

- *Multiply the total cost per kilometre by the deemed business kilometres*

$$\circ \quad (7\,000 \text{ km} \times 161,4c)/100 = \underline{\underline{R11\,298}}$$

- In other words, the taxpayer is entitled to claim a deduction of R11 298 on the 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)	<u>(9 000km)</u>
Deemed Business kilometres	2 000 km
Total allowance received for the year	R36 000

Fixed cost as per Fixed Cost Schedule	R39 928
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▫ *Apply the Formula*

$$\circ \quad \frac{R39\,928}{11\,000 \text{ km}} \times \frac{183}{365} \text{ days} \times 100$$

$$\circ \quad = 182,0c$$

∴ Fixed Cost per kilometer	= 182,0c
Add Fuel cost element (per schedule)	= 62,5c
Add Maintenance cost (per schedule)	= <u>24,2c</u>
Total cost per kilometre	= 268,7c

- *∴ Multiply the total cost per kilometre by the deemed business kilometres*

- $(2\,000\text{ km} \times 268,7\text{c})/100 = \underline{\underline{\text{R}5\,374}}$
- In other words you are entitled to claim a deduction of R5 068 for your second vehicle.
- Total Deduction Claimed in respect of the full year:
 - $\text{R}11\,298 + \text{R}5\,374 = \text{R}16\,627$
- As the total amount of the claim does not exceed the allowance received the amount will be considered as a deduction.

9.4.2 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 2008 to 28 February 2009. 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 2008 to 28 February 2009. 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 2008 to 28 February 2009. 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 a limitation on the amount he / she 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 / she 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 R400 000**.
- **Example:**
 - Mr. James purchased a motor vehicle on 1 March 2008 for R450 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 2009 year of assessment, must be calculated as follows:

- The cost of the vehicle may not exceed R400 000. The R450 000 is thus limited to R400 000 and wear and tear is calculated on this legislated limitation:
 - $R400\ 000 / 7\ \text{years} = R57\ 143\ \text{per annum}$
- **Wear and tear if vehicle was required prior to 2008**
 - If the car was acquired (and wear and tear claimed) prior to the 2008 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 2008 year of assessment**.
- **Example:**
 - Mr. Y purchased a car on 01/03/2004 with a value of R250 000, which he uses for business purposes. During the 2009 year of assessment, he received a travel allowance amounting to R25 000.
 - The value of the vehicle on 01/03/2006 would be the original value less wear and tear previously allowed. If the vehicle was purchased in the 2005 year of assessment, it would have been depreciated over 4 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: 2005 (R250 000 / 5 years)	(R50 000)
Value: 01/03/2006	R200 000
Less: Wear & Tear: 2006 (R250 000 / 5 years)	(R50 000)
Value: 01/03/2007	R150 000
- In other words, in the 2007 year of assessment, the value of the vehicle is R150 000, and 2 years of wear and tear have already been allowed. Therefore, in the 2007 to 2011 years of assessment, the wear and tear will now be calculated over the remaining 5 years (7 less 2 years already claimed), based on the Income Tax Value of R150 000. Wear and Tear:
 - $R150\ 000 / 5\ \text{years} = R30\ 000$.
- **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.
 - A taxpayer may 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 R400 000.

- **Other expenses**
 - Any other expenses not specifically addressed must be declared in this section and proof of such expenditure incurred retained for a period of five years.

10. FOREIGN INCOME (EXCLUDING CGT)

10.1 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.

10.2 TOTAL TAXABLE FOREIGN INCOME (excluding investment income and CGT transactions)

- 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.

10.3 FOREIGN CURRENCY TRANSLATION

- A natural person that is a resident who derives income measured in a foreign currency may, 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. / Income Tax / Average exchange rates for a year of assessment](http://www.sars.gov.za./Income%20Tax/Average%20exchange%20rates%20for%20a%20year%20of%20assessment).
- The following average exchange rates were available as at 28 February 2009 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	10.04
SA rand per British pound	14.47
SA rand per Euro	12.88
SA rand per Australian dollar	6.63
SA rand per Canadian dollar	8.26
SA rand per Hong Kong dollar	1.31
SA rand per Japanese Yen	0.1
SA rand per Swiss Franc	8.9

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

10.4 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:
 - $$\frac{\text{Foreign taxable income} \times \text{Normal tax payable}}{\text{Total taxable income}}$$

11. 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.

11.1 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 off 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).
 - 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.

11.2 WHAT IS THE BASE COST OF AN ASSET HELD ON 01 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.

11.3 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.

- **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:
 - $$\frac{\text{Original cost} + \text{Gain} \times \text{Period held before valuation date}}{\text{Period held before and after valuation date}}$$
- 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).

11.4 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, and 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.

- 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 2009 year of assessment is R16 000. During the assessment process 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 R16 000, limited to the amount of the gain / loss, should the gain / loss be less than R16 000.

- Where a natural person dies during the year of assessment, that person's annual exclusion for the 2009 year of assessment is increased to R120 000.
 - The annual exclusion will be applied programmatically by SARS.
- **NOTE:** The exclusion applies to gains as well as losses.

11.5 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.

11.6 COMPLETION OF THE ANNUAL INCOME TAX RETURN

- The income tax return makes provision for taxpayers to declare 10 local and 10 foreign capital gain transactions. As from the 2008 year of assessment taxpayer must therefore declare each transaction separately. Where multiple disposals of shares take place that is administered by a single administrator and the disposal of such shares are reported on a single certificate, the disposals reflected on the certificate can be treated as one disposal.
- With regard to the disposal of a primary residence the return now caters for the insertion of the primary residence exclusion. Should a primary residence be disposed off and the difference between the proceeds and the base cost is less than the primary residence exclusion the profit should be indicated as a "0". Please see example below:

Proceeds on the disposal of a primary residence	R 3 800 000
Base cost	R 2 500 000
Gain prior to primary residence exclusion	R 1 300 000
Primary residence exclusion R 1 500 000 (this will be limited to the R 1 300 000)	R 1 300 000
Profit	0

12. OTHER RECEIPTS AND ACCRUALS

12.1 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 income was from royalties the source codes 4212 (profit) and 4213 (loss) must be used. If the income is anything other than royalties the source code 4214 must be used.
- Please note that if income is 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.

12.2 DIRECTORS OF COMPANY'S / MEMBERS OF CLOSE CORPORATIONS

- Directors of a company or members of a close corporation are obliged to submit a statement of assets and liabilities when completing the return

12.3 LEADERSHIP - 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.
- Legislative changes were introduced to make provision for learnership with duration of less and learnerships with duration of more than 12 months.
- More favorable 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.

12.4 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 for first buyers who buy from a bona-fide developer. The first buyer, although not having incurred the actual cost of construction of 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 cost incurred by the buyer.
- 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 s13*quat*: 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

13. STATEMENT OF ASSETS AND LIABILITIES

- The completion of the statement of assets and liabilities is mandatory if the taxpayer:
 - Is 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; and or
 - Received foreign income that excludes foreign investment income.
- All local assets and liabilities must be listed and if in receipt of any foreign assets and liabilities those should also be listed..

14. 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 taxpayers for their own account and not as employees. If however a taxpayer receives an IRP5/IT3(a) in respect of services rendered by means of the trading activities undertaken, such IRP5/IT3(a) income will be part of the information that is pre-populated in the IRP5/IT3(a) section of the return. In declaring trading income in the “Local business, trade and professional income” section of the return the amount should be declared next to the line item “Income reflected on IRP5/IT3(a) regarded as trade income”.
- Complete financial information must be prepared in respect of each local business, trade or profession carried on by the taxpayer where such income is not considered as a single trade with reference to section 20A of the Income Tax Act.

14.1 DUAL – PURPOSE EXPENDITURE

- Some of the expenses 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 calculations must be retained for a period of five years.
- Reasonable allocation - It is 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.

14.2 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.

14.3 TRADING STOCK TAKEN FOR PRIVATE USE

- If such goods have already been accounted for in the books, this adjustment must not again be taken into account in the determination of 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.

14.4 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 the taxpayer in the carrying on of the trade, may be claimed as a deduction. Details must be retained.

14.5 GENERAL EXPENSES

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

14.6 PRIVATE USE OF BUSINESS PREMISES

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

14.7 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 December 2003.

14.8 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 the taxpayer;
 - Were transferred to the taxpayer free or for some consideration; or
 - Any other benefit accrued to the taxpayer in these circumstances, full details must be retained.
- Copies of documentation from the relevant financial institution must be retained.

14.9 RECOUPMENT OF EXPENDITURE

- Any items of expenditure or losses, which were allowed as deductions in the determination of the 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 the financial accounts.

14.10 RESERVES

- Details of all reserves which were not disclosed as such in the 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.

14.11 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.

14.12 FINANCE CHARGES

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

14.13 COST OF TRIPS ABROAD

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

14.14 DRAWINGS AND CAPITAL ACCOUNTS

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

14.15 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.

14.16 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 2009 year of assessment the maximum marginal tax rate will apply to taxable income in excess of R490 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.

14.17 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 2008 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 2006 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
2006	loss
2007	loss
2008	profit
2009	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 2009 year of assessment. Should the taxpayer realise a profit in the 2009 year of assessment and a loss in 2010, the ring fencing would only apply as from the 2010 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.

14.18 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 made, 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.

14.19 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.

14.20 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, phone the SARS Call Centre on 0800 SARS (7277) or contact the 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 the taxpayer is in receipt of rental income and are married in community of property the full profit / loss of such income must be declared. The 50% application will be done programmatically by SARS.

14.21 SHOULD THE LOSS INCURRED BE EXCLUDED (RING FENCED) IN THE CALCULATION OF THE TAX LIABILITY

- The taxpayer should indicate whether the loss should be ring fenced or not by marking the applicable “Y” or “N” block. Should a “yes” be indicated the loss, if incurred, would not be taken into account in the determination of the taxable income. Should it be indicated that the loss should not be ring fenced substantiating documentation based on the information contained in the paragraph dealing with “facts and circumstances” (escape clause) must be retained, 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.

14.22 SOURCE CODE

- Use the following list of source codes together with the source code booklet available on the SARS website 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

14.23 PARTNERSHIPS

- Taxpayers that are in a partnership might incur expenditure for their own account in the production of their income. Such income is usually not reflected in the financial statements of the partnership. In such cases the individual taxpayer should claim such expenditure in the “Other deduction” section of the return next to the code 4016. Please note that all details referring to such an amount claimed must be retained for a period of five years to prove such claims.
- The information from the financial statements of the partnership must always be reflected even though a variable ratio is applicable in the sharing of income and expenditure within a partnership. If this is the case the question referring to the variable ratio should be marked with an “X” in the “Local business, trade and professional income” section of the return. In these cases the supporting documentation necessary to correctly assess the relevant taxpayer will be requested by SARS. Please note that the original documentation must be retained by the taxpayer and copies of the supporting documentation must be forwarded to SARS on request thereof.

15. FARMING OPERATIONS

- 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 and be declared in the “Foreign Income” section of the return.

15.1 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.

15.2 LIVESTOCK SOLD ON ACCOUNT OF DROUGHT, STOCK DISEASES, ETC.

- Prepare a schedule detailing -
 - The names and addresses of persons to whom sold livestock and / or produce were sold or to whom livestock and / or produce were given 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 plague
 - By reason of the 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, the taxpayer may choose to deduct the cost of livestock purchased in replacement, either:
 - In the year of assessment during which such livestock were purchased; or
 - In the year of assessment during which the original livestock was sold.
- If the taxpayer wishes for the cost of livestock purchased in replacement of livestock sold under special conditions to be deducted in the year of sale (i.e. the assessment for that year will be reduced) SARS must be notified of the choice for the year in which the sale took place and full particulars of the livestock sold and the reason for the sale must be furnished. The concession will only be granted if the following conditions are complied with:
 - The taxpayer 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.
 - The taxpayer must replace livestock sold by reason of the 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.

15.3 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.
- A taxpayer cannot make use of this concession if he / she has 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.

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

- **NOTES:**
 - If the taxpayers spouse has conducted farming operations for his / her personal account, he / she have 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
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- If removed livestock or produce were removed from the Republic for purposes other than sale, retain –
 - A description of the livestock or produce removed; and
 - The market value thereof.

Value of livestock and produce consumed by the farmer, his /her family and domestic servants	R
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- Retain a list of the number of persons in the 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
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(f) Subsidies received	R
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- 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
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- 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
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- Did the farmer 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 the 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
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- **FARMING EXPENSES**

- **NOTE:** Expenses in respect of the farmers dwelling or household must be excluded.

(a) Rent	R
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- 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
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- 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
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- Retain a list detailing the –
 - Nature of the taxes; and
 - The amount paid.

- *INCOME TAX MUST NOT BE INCLUDED.*

(d) Seed and fertiliser	R
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- Retain a list detailing the –
 - Names and addresses of persons or firms from whom purchased were made; and
 - The amounts paid to each group.

(e) Cash wages paid to farm employees	R
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- 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
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- Retain a list detailing the –
 - Names and addresses of persons or firms from whom the farmer purchased rations and the amounts paid.
- Do not include the value of farm produce produced by the farmer or stock bred or purchased by the farmer 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
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- **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 the farmer 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 THE FARMER 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
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(i) Cost of material and / or contract price i.r.o. eradication of noxious plants and prevention of soil erosion	R
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- 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 the farmer him / herself 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
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- Retain a list detailing the –
 - The nature of the repairs; and
 - The cost of the work done.
- Only repairs to buildings (except the farmer's 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
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EXPENSES = Total (a) to (k)	R
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• **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 the farmer's relatives.

Expenditure on Development and improvements = Total (a) to (g).	R
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- **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>
	R -9,000
Loss on livestock	<u>R -2,500</u>

- 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	<u>R 500</u>

- 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 years	40			
		Mares over 4 years	30			
		Geldings over 3 years	30			
		Colts and fillies: 3 years	10			
		Colts and fillies: 2 years	8			
		Colts and fillies: 1 years	6			
		Foals under 1 year	2			
	Donkeys:	Jacks over 3 years	4			
		Jacks under 3 years	2			
		Jennies over 3 years	4			
		Jennies under 3 years	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			

TOTAL = Total value of livestock on hand.	R
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- **PRODUCE (gathered and marketable) on hand, value at cost of production or market value, whichever is the lower.**

Produce	Quantity	Total Value (Rands)

TOTAL = Total value of livestock on hand	R
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- **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 the farmer wishes 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.

16. STATUTORY RATES OF TAX APPLICABLE TO INDIVIDUALS IN RESPECT OF THE 2009 YEAR OF ASSESSMENT

Where the taxable income - Does not exceed R122 000	18 % of each R1 of taxable income
Exceeds R122 000 but does not exceed R195 000	R21 960 plus 25 % of the amount by which the taxable income exceeds R122 000

Exceeds R195 000 but does not exceed R270 000	R40 210 plus 30% of the amount by which the taxable income exceeds R195 000
Exceeds R270 000 but does not exceed R380 000	R62 710 plus 35% of the amount by which the taxable income exceeds R270 000
Exceeds R380 000 but does not exceed R490 000	R101 210 plus 38% of the amount by which the taxable income exceeds R380 000
Exceeds R490 000	R143 010 plus 40% of the amount by which the taxable income exceeds R490 000

Rebates: R8 280 - Secondary rebate taxpayers 65 years and older – R5 040
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- 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 <http://www.sars.gov.za> or contact your local SARS office.

17. 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 Branch office or the SARS Call Centre at 0800 00SARS (7277) for assistance.