

LATEST PAYROLL ISSUES

August 2010

This PKF Tax Alert sets out some of the latest taxation issues affecting your payroll.

1. 2010 Bi-annual submission

This bi-annual submission is a reconciliation for the six month period from 1 March 2010 until 31 August 2010. Although the due date has not yet been published on SARS' website, a national newspaper has reported that employers will have until 29 October 2010 to submit the following to SARS:

Tax certificates
EMP501 reconciliation declaration

1.1. Tax certificates

Tax certificates must not be issued to employees (only intended to be submitted to SARS).

The income and deduction information reflected on such will be for a maximum of six months.

Employees' tax deducted must be reflected as PAYE and not split between SITE and PAYE.

Specific rules apply in respect of employees whose employment terminated before the bi-annual period (e.g. for purposes of the 2010 bi-annual submission before 31 August 2010).

General rules applicable to tax certificates, include:

- the tax certificate consists of two pages, e.g. first page contains the employer's and employee's demographic information and the second page contains the employee's income and deduction information;
- the tax certificate number must be unique per employer and may not be duplicated in either the current or previous tax years;
- income codes are limited to 13 while deduction codes are limited to seven (sub-codes can be maintained on the employer's payroll but must be reflected under the appropriate main codes on the tax certificates);
- local and foreign income can be reflected on the same tax certificate;
- retirement funding indicator per income code has been deleted, therefore, the gross amount of retirement funding income must be reflected as code 3697 while the gross amount of non-retirement funding income must be reflected as code 3698;
- the requirement to reflect clearance numbers in respect of pension and/or provident codes has been deleted
- the employee's bank name and branch name are no longer mandatory fields.

1.2. Registration of employees for income tax purposes

Employers will be able to apply to register their employees for income tax or verify the employees' income tax reference numbers (where already registered). Two registration options are available to an employer:

- bulk registration of employees on the employer's payroll as at 31 August 2010

SARS will, in respect of tax certificates submitted by 31 August 2010 and which do not reflect an income tax reference number, check and validate the employees' demographic information reflected on the tax certificate and use this information to register the employees for income tax; this is only available for the 2010 bi-annual submission, thereafter, the individual registration process must be used;

Note: for the 2010 bi-annual submission the field reflecting the income tax reference number is not mandatory.

- individual registration of employees who are employed after 31 August 2010 this method can be used in respect of employees appointed after the bi-annual period.

Where the registration process is successful SARS will notify both the employer and employee. If the application is rejected the employer will be notified and provided with the reasons for rejection.

1.3. EMP501 reconciliation declaration

This will reflect, for the six month period, the monthly total reconciliation liability.

2. New EMP201 returns

As from 1 July 2010 an employer must use the new EMP201 returns for purposes of submitting the monthly declarations;

SARS will not accept the old EMP201 returns and where such return was use in error SARS will return same and impose penalties and interest until the new EMP201 return is submitted;

The new EMP201 returns and process will allow for:

- an unique pre-populated payment reference number (this should limit submission and associated administrative errors as it will link the payment with the payment allocation);
- consolidation of the three separate accounts for PAYE, SDL and UIF into one account, namely PAYE account (SARS-PAYE);
- adjustment of previous declarations and re-allocation of credit amounts to other periods;

3. Penalties, additional tax and interest

It is important to remember that any penalty, additional tax and interest imposed on an employer for non-compliance in respect of employees' tax, SDL and UIF is not allowed as a tax deduction in terms of section 23(d) of the Income Tax Act, No. 58 of 1962 ('the Act').

With the amendments to paragraph five of the Fourth Schedule to the Act, any amount that an employer fails to deduct and which the employer does not recover from the relevant employee will constitute a penalty. Therefore, in addition to the employer having the obligation to pay the amount not deducted no deduction of this amount will be allowed for income tax purposes.

4. SARS audit questionnaire

SARS has launched a new audit questionnaire which targets share schemes, travel allowances and expatriate employees (both inbound and outbound).

It appears that the audit questionnaire will initially be addressed to employers registered with the SARS Large Business Centre ('LBC') but could well find its way to smaller employers!

This audit questionnaire should be considered closely. Therefore, it is recommended that you seek professional advice should you receive such a document.