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1. Deductions

1.1. Income Insurance / Protection Policies

Paragraph 2(4) of the Fourth Schedule to the Income Tax Act allows the deduction of premiums, paid to an income insurance policy for purpose of calculating employees tax. Only premiums paid in terms of an insurance policy where it covers the employee *against loss of income as a result of illness, injury, disability or unemployment*; AND all amounts payable, in terms of such a policy, constitute income as defined under section 11(a), qualify for this deduction.

Employer-paid

Income Protection schemes (where the benefit is paid on a monthly basis) that are paid by the employer give rise to a fringe benefit on the employee, which in turn is deemed to be deductible (both from income and remuneration), and is therefore tax neutral to the employee.

If and when the monthly benefit is paid, it will be included in the employee's income and taxed.

Employee-paid

Income Protection schemes paid by the employee are deductible, both from remuneration and income.

If and when the monthly benefit is paid, it will be included in the employee's income and taxed.

Please note that the employee must provide proof of payment of such premiums to the employer.

1.2. Medical Aid Contributions

Medical Tax Credits

The Fourth Schedule to the Income Tax Act, No 58 of 1962, allows an employer, when determining employees' tax payable, to take into account any Medical Aid contributions paid by the employee in respect the employee, his/her spouse and any dependant of that employee as defined in section 1 of the medical schemes act ie the Employees tax will be reduced by the value of the Medical Aid Credits

Taxable Benefit in terms of Employer Contributions

With effect from 1 March 2012, all Company contributions to Medical Aid is treated as a taxable fringe benefit with exception of Employees that are retired for reason of age, illness or infirmity.

In summary the rules are as follows:

Working Employees under the age of 65:

- All company paid contributions are treated as a taxable fringe benefit
- Employees are entitled to a 'Tax Credit' for the member and each dependant

Working Employees 65 years and older:

- All company paid contributions are treated as a taxable fringe benefit
- Taxable earnings are reduced by the Value of the 'Employee Contribution + any 'Deemed Employee Contribution' ie Taxable Fringe Benefit of the Company contribution'

Retired Employees:

- All company paid contributions are treated as a *non-taxable fringe benefit*
- Employees are entitled to a 'Tax Credit' for the member and each dependant

The following table provides full details of the Rules:

Employer Contribution	
Employee Working (All Ages)	Fully Taxable Fringe Benefit Note: > = 65 Years : the Taxable Fringe Benefit is seen as a 'deemed Employee contribution' thus it gets included in the 'Remuneration Deduction'.
Employee Retired (All Ages)	Non-Taxable Fringe Benefit Note: The reason for retirement must be one of those specified in the Seventh Schedule paragraph 12A(5)(a) to (c) namely – a. Superannuation, ill health or other infirmity b. The dependants of an employee after the death while in service of the employee c. The dependants of a person referred to in a above.]

Employee Contribution (rules are based on 'age')	
Employee < 65 years	Tax Credit: - Member R230 pm - 1 st Dependant R230 pm - Additional Dependants R154 pm Note: Must belong to a Medical Aid Fund to qualify for the Tax Credits (contr. to a Private MA qualifies, proof of contribution must be provided) The Tax Credit can use an annualized calculation. The Tax Credit will be limited to the amount of Tax Deducted for an interval i.e. the Tax Credit must not put the Employee into a negative tax situation for the interval.
Employee >= 65 years	Reduce Remuneration : by the Value of the Employee Contribution + any 'Deemed Employee Contribution' Note: = > 65 years : if the Employer Contribution is TAXABLE (i.e. the individual is not retired) , the resultant 'Taxable Fringe Benefit' is deemed to be an 'Employee contribution', thus: Remuneration Reduction = Employee Contributions + Taxable Fringe Benefit value of Employer Contribution Amount.

1.3. Pension Fund Contributions

Current or Arrears contributions that an employee makes to a Pension Fund, may be treated as a pre-tax deduction. Proof of payment by the employee must be furnished to the employer.

Current Contributions

The tax-free portion of current contribution is limited to the greater of:
 7.5% of annual 'retirement funding income', OR
 R1 750 per annum.

Example :	Retirement Funding Income	R9,000
	Pension Fund Contribution	R 675 (7.5%)
	Taxable Income	R8,325

Arrears Contributions

The tax-free portion of arrears contributions is limited to R1800 pa. If the arrears contribution exceeds R1800pa, that balance will be carried forward to the next tax year.

Employer's contribution does not affect your taxable income, i.e.

the company's contribution may not be treated as a deduction by the employee

the employee is not taxed on the company's contribution

If you claim more than R1 750, you need to furnish the Receiver with:

Name of Pension Fund of which you are a member

Which portion of your gross remuneration was taken into account to determine the contributions (this Retirement funding Income is reflected on your tax certificate).

1.4. Provident Fund Contributions

The difference between a Pension and a Provident Fund is as follows:

An individual does not get a tax deduction for making a contribution to a Provident Fund himself, but if the employer contributes to a Provident Fund on the employee's behalf, the employee will not pay tax on that contribution.

Current Contributions

The tax-free portion of current contribution is limited to 10% of the employee's Retirement Funding Income. Anything over that limit will be taxable in the hands of the employee.

Please note that this is the legal limit, however, current practice is 20%.

Arrears Contributions

The tax-free portion of arrears contributions is limited to R1800 pa. If the arrears contribution exceeds R1800pa, that balance will be carried forward to the next tax year.

1.5. Retirement Annuities

Current or Reinstatement contributions that an employee makes to a Retirement Annuity, may be treated as a pre-tax deduction. Proof of payment by the employee must be furnished to the employer.

Current Contributions

The annual tax-free portion is limited to the greater of:

R3 500 less the amount of your contribution to an allowed Pension fund, or

R1 750, or 15% of taxable income derived from Non Retirement Funding Income.

Reinstatement Contributions

The annual tax-free portion is limited to R1 800.

If you claim more than R1 750, you may be required to furnish the Receiver with:

Name of Fund of which you are a member

Which portion of your gross remuneration was taken into account to determine the contributions (this is reflected on your tax certificate).

1.6. Unemployment Insurance Fund

All employees are liable to contribute up to 1% of their earnings up to a maximum of the UIF remuneration.

The UIF contribution is 1% by the employer and 1% by the employee, of the employee's gross remuneration.

2. Allowances

Allowances are paid by an employer to an employee to enable the employee to meet the cost of expenditure incurred on behalf of the employer. This generally forms part of the employee's taxable income.

Generally allowances are fully taxable on a monthly basis. The benefit is realized at the end of the financial year, when the employee deducts the actual expenses from their taxable earnings i.e. claim back the tax that has been paid on the allowances. The deduction must not exceed the amount of the allowance.

- Business travel deductions against car allowance
- Subsistence allowance
- Medical Expenses according to defined limits
- Pension and Retirement Annuity contributions
- Donations to certain public benefit organizations
- Expenditure against allowances of Holders of Public Office
- Wear and Tear allowances on equipment
- Public Office allowance
- Uniform allowance
- Tool allowance
- Telephone allowance

2.1. Holders of Public Office Allowance

This allowance is to enable 'holders of public office' to defray expenditure incurred in connection with his office. Where the person is a temporary employee, 50% of the allowance is subject to tax at a rate of 25%. If the person is in standard employment ie fulltime employee, 50% of the allowance is taxed as per the standard tax tables. The allowance covers the following expenses:

Secretarial services

- Duplicating services
- Stationery
- Postage
- Telephone calls
- The hire and maintenance of office accommodation
- Travelling
- Hospitality extended at any official or civic function that you are expected to arrange by reason of the nature of your office
- Subsistence and incidental costs incurred when you are obliged by reason of your duties to spend at least one night away from your usual place of residence

Holders of Public Office are:

- A Minister, a Deputy Minister , a member of Parliament or National Assemble, permanent delegate to the National Council of Provinces, a Premier, a member of an Executive Council or a member of a provincial legislature
- A member of a municipality, a Traditional leader, a member of a provincial house of Traditional Leaders and a member of the Council of Traditional Leaders and
- divisional council or similar local institution or a peri-urban board
- The President, Chairman or Chief Executive Officer of a national or regional non-profit making organization that represents persons with common interest and derives funds wholly or mainly from subscriptions of members of donations from the general public.

2.2. Subsistence Allowance

Tax Free - This is a tax free allowance where the allowance is for expenses incurred for 'incidental costs' or for meals & incidental costs' as a result of spending at least one night away from home, on business for your employer. If you are required to undertake business trips away from your normal place of residence on a regular basis, you may receive a standard monthly subsistence allowance. Such subsistence allowance is not subject to PAYE but will be assessed at tax year end by SARS. Where you wish to claim for expenses in excess of these limits, you will have to prove to the Receiver that you have actually incurred those expenses.

Please Note: A subsistence allowance is intended for abnormal circumstances and therefore cannot form part of your remuneration package. Also, a subsistence allowances cannot be paid for the anticipation of cost to be incurred.

Taxable - As soon as you receive an allowance in excess of the limits (please see below), the full amount will be reflected as a taxable allowance on your IRP5. PAYE will however not apply to the allowance.

Local Travel: A daily Subsistence allowance is stipulated by SARS for the following (please see the 'Statutory Quick Reference Summary Doc for rates):

- Incidental Costs only
- Meals & Incidental Costs

Overseas Travel: Rates are available on the SARS website ie different rates for different countries.

Per day – this includes each day or part of a day that you are away from home. Therefore, you may have spent only one night away, but are entitled to claim for the two days that you were away.

If the allowances do not exceed the monetary or the 6 week limits, [employee's tax](#) will not be deducted and the allowances will not be included in gross remuneration on IRP5 certificates.

Example:

You are required to go on a one week business trip within SA

You are given a R300 per day allowance to cover all expenses (meals & incidentals)

<i>Subsistence Allowance</i>	<i>7 x R300 = 2 100</i>
<i>Deemed Expenses</i>	<i>7 x R240 = 1 680 (example values only)</i>
<i>Taxable portion</i>	<i>R 420</i>

2.3. Travel Allowance

If you are a salaried employee and use your own car for business purposes, then you can receive a Travel allowance. This will enable you to claim an income tax deduction for the business travel undertaken.

Travel allowances are granted in the form of regular travel allowances or reimbursive allowances:

- 80% of the travel allowance is to be included in taxable remuneration
- If the Employer is satisfied that at least 80% of the allowance will be used for business purposes, they may reduce the taxable remuneration to 20%

Re-imbursive Payments - where an employee receives a Travel Allowance and/or any of the employee's vehicle expenses are paid by the employer, all Re-imbursive Travel Payments based on kms travelled will be taxed as though it was a Travel Allowance (regardless of rate and distance claimed). Thus, 80% of re-imbursive travel expenses will be taxed. Where the employee has no Travel Allowance and no vehicle expenses are paid by the employer, the full amount of the re-imbursive payment is non-taxable UNLESS the rate paid per kilometer exceeds R3.16 OR the annual distance travelled exceeds 8000km in which case the full re-imbursive amount is taxable income

Please note : Travel between your residence and place of work is not classified as business travel.

Calculation Example

To calculate the allowable rate, as per SARS Schedule A, the rates per km are divided into fixed cost, fuel cost and maintenance cost. The fixed cost element relates to depreciation, loss of interest, licensing and insurance for the year. Calculate the Rate/ Km for Fixed Cost, by dividing the 'fixed cost' by the total distance travelled during the tax year.

Examples (please note these figures are examples only)

Full Year – *Where business travel was carried out for the full tax year, using the same vehicle.*

Example: Monthly Allowance R3000 per month (R36 000 per year)

Total Kms travelled 45 000
 Value of Vehicle R189 000
 Fixed Cost Element R63 424 (example only : use Schedule A)

Fixed Cost Calculation: $63\,424 = 140.95c/Km$
 45 000

Total cost per kilometer: 140.95c per Km Fixed Cost
 68.80c per Km Fuel Cost
 41.10c per Km Maintenance
 250.85c per Km Total cost per Kilometer

Total Business Travel: 32 000 Km Limit
 Less: 18 000 Km Deemed to be private travel
 Total business Travel 14 000 Km Deemed business travel

Total Cost of Business travel: $14\,000 \times 250.85 \text{ cents} = R35\,119.00$

Travel Allowance Received R36 000.00
 Less: R35 119.00 Deduction allowed
 Taxable Amount R 881.00

Please Note: The employee can own more than one vehicle and all cars are used for business travel. All vehicles then need to be taken into account. This could be a combination of logged and calculated business mileage. Combinations are therefore as follows:

- 1 car used for duration of the tax year
- 1 car used for part of the tax year
- +1 cars, each used for a different portion of the tax year
- +1 cars, each used for duration of the tax year
- +1 cars, combination of logged and calculated business mileage.

Rates per Kilometer

Where accurate records are not kept, mileage is worked out according to the following table (Schedule A) except in the following instances:

- Where an allowance or advance is based on the actual distance travelled on business , the amount expended is deemed to be:
 the actual distance travelled X rate/ Km fixed by the Minister of Finance
- Where an allowance is based on:
 actual distance travelled on business
 And
 the distance does not exceed 8 000 Km /tax year
 And
 no further compensation or reimbursement is payable to the employee
 the rate/Km may, at the option of the employee, be based on the maximum rate of R3.16 per Km.

Value is determined as follows:

- Where the vehicle was acquired by an employee under a bona fide agreement of sale or exchange - value equals the original cost, including VAT (finance charges or interest payable is excluded).
- Where an employer, as a result of policy change, sells his fleet of vehicles to his employees and pays them a travelling allowance – value is the price paid, including VAT, by the employee for the vehicle and not the price originally paid by the employer

- Where the vehicle is held by the employee under a 'financial lease' or 'installment credit agreement' OR the ownership was acquired by him on termination of a lease – the value as determined in Section 1 of the VAT Act, together with any VAT paid by the leaser under such financial lease.
- In all other cases – the market value, plus VAT, of the motor vehicle at the time the vehicle was first obtained by the employee or when right of use was first attained.

2.4. Cellphone or Telephone Allowance

Allowance - a Cell phone allowance is tax free where:

- it is available to employees who can justify the use of a cellular telephone, primarily for business purposes AND
- any private use is purely incidental.

If the cell phone allowance is a perk, this is taxable at your marginal rate of tax. At the end of the tax year, you could claim back, with the support of detailed billing statements, the costs of all business calls.

Typically, the monthly allowance is equal to the monthly rental and call charges. It is advisable to peg the allowance at R500 per month.

Cell Phone - see Cellphone under Fringe Benefits.

2.5. Computer Allowance

If, as a condition of your employment, you are required to use a computer at home to adequately perform your duties, you qualify for a computer allowance. The allowance is included as part of your remuneration package and is fully taxable. Actual expenses are then deducted as an allowable expense on the annual tax return.

- Where the employee owns the computer that is used for business purposes, the employee may also be granted a monthly allowance as part of a remuneration package. This is calculated to cover the cost of the software, stationery, printer cartridges and monthly rentals of the computer
- A monthly allowance for Internet Subscriptions may also be given and is treated as a computer allowance.
- Where the Company Purchases the computer that is used for business purposes by the employee, its cost may form part of the employee's remuneration package.

Reimbursement of actual costs incurred by the employee, in respect of cartridges, stationery, printer cartridges etc., as a result of business use can be reimbursed by the employer and is therefore not taxable (treated as a claim for expenses incurred).

Please Note : the allowance must be disclosed on the IRP5 form and the employee must justify the deductibility of it in the tax return.

2.6. Transfer Costs (Relocation)

Where an employer has borne certain expenditure incurred due to the transfer of the employee from one place of employment to another, or on appointment or termination of the employee's employment, is exempt from tax.

The following are exempt from tax up to the amount of one months salary:

- Bond registration and legal fees
- Transfer duty
- Cancellation of bond
- Agent's fee on sale of previous residence
- New school uniforms
- Replacement of curtains
- Motor vehicle registration fees

- Telephone, water and electricity connection
- Hiring of temporary accommodation during the period of 183 days after transfer or appointment, but not after termination of employment

Note: The first three costs are to be paid by the employer directly to the supplier

The following are NOT exempt from tax:

- Payments for the reimbursement for loss incurred on sale of previous residence

Architect's fees for the design or alteration of a new residence

2.7. Uniform Allowance

This is a non-taxable allowance if you are required to wear a uniform to work and receive an allowance to cover its cost, or if you are provided with a uniform. This exemption only applies where the uniform is clearly distinguishable from ordinary clothes.

3. Fringe Benefits

The package you receive from your employer may include certain benefits apart from your cash remuneration. These benefits, as listed below, are known as 'fringe benefits'. For income tax purposes, it is necessary to place a monetary value on these benefits and include it in your taxable income.

The fringe benefit is only worthwhile if the taxable value thereof is less than the cost of the actual benefit.

Fringe benefits are usually valued as follows:

Cost of the benefit to the employer	5000
Less any amount paid by employee for the benefit	- 2000
Amount included in taxable income	3000

The exceptions to the above calculation are:

- Company car
- Residential Accommodation
- Holiday Accommodation
- Low Interest or Interest free loan
- Company paid Medical Aid contributions

3.1. Acquisition of Asset for less than Market Value

You are regarded as having derived a taxable benefit, if you acquire any asset free or for less than its value from:

- your employer
or
- associated institution in relation to your employer
or
- any other person by arrangement with your employer

Asset in this context refers to:

- Goods
- Commodities
- Marketable securities
- Property of any nature (other than money)

Examples:

- Prizes for Sales performance
- Prizes for outstanding work
- Use of a Credit Card for the purchase of goods
- Where the employer arranges for the employee to acquire an asset from any other person at a discount
- The provision of security for the protection of the private home of an employee eg installation of an alarm system, burglar bars, the provision of armed response etc

Value is defined as follows:

- If it is not a movable asset, the market value at the time that you acquired it
- If it is a movable asset:
 - your employer acquired it in order to dispose of it to you, the employer's cost price will be taken as the value
 - OR
 - the asset was the employer's trading stock, the employer's cost price will be taken as the value. If it can be shown that the market value is less than the cost price, then the market value will apply.

The above rules do not apply to marketable securities or an asset on which the employer had the right of use before acquiring ownership thereof e.g. a leased asset on which the employer had the right to acquire ownership at the end of the lease agreement. If an employee acquires marketable securities or such asset, the value would be the market value.

Exempted from tax are:

- The first R5 000 of the cost to your employer of all the assets (not money) presented to you by your employer during the tax year as awards for bravery
- The first R5 000 of the cost to your employer of all the assets (not money) given to you by your employer during a tax year for long service, which is taken as an initial unbroken period of service of at least fifteen years or any subsequent period of at least ten years
- Fuel or lubricants supplied by your employer for use in a motor vehicle of which your private use is a fringe benefit (see 'Right of use of motor vehicle')

3.2. Bursaries / Scholarships (Education Costs)

Tax exempt bursaries/scholarships may be granted by an employer/associated institution to an employee or relative of an employee. This needs to be a bona fide scholarship or bursary granted to enable/assist a person to study at a recognized institution. There are limits to the tax exempt portion of the bursary/scholarship.

The following do not qualify as bursaries/scholarships:

- Low-interest or interest-free loans granted by an employer to further the employee's studies, are not regarded as bursaries but rather as 'low or interest-free loans'.
- This classifies as a tax free loan.
- Where the employee is not required to repay a study loan, it is regarded as a fringe benefit and employees tax must be deducted
- Where an employee is rewarded for obtaining a qualification or for successful completion of a course, the reward becomes taxable remuneration
- Where an employee is reimbursed for study expenses, this must be treated as a fringe benefit
- Where a bursary/scholarship becomes repayable due to non fulfilment of conditions stipulated in a written agreement, the amount of the scholarship/bursary will be regarded as, and must be treated as an 'low or interest-free loan'

The exemption will **not** apply, and thus be fully taxable, where:

- the scholarship/bursary would not have been granted had the employee not been an employee of that employer
- a salary sacrifice is involved i.e. if any remuneration, present or future, is reduced or forfeited as a result of the grant
- if the employees annual remuneration exceeds defined amount

The exemption of scholarships and bursaries is to be simplified. With effect from 1 March 2006, the exemption will be granted as long as the employer's fund are applied directly towards tuition and tuition-related expenses and the employee is required to repay the employer of he/she fails to fulfill their scholarship or bursary obligations.

If all the above conditions are satisfied, the exemptions are as follows:

- SARS defined Rand limit per annum, per person/relative is exempt from tax i.e. anything over the defined limit per person will be taxable
- If the employer operates a bursary scheme which is open to the general public, the above limits do not apply
- Costs of in-house or on-the-job training, where the training is job-related and ultimately for the employer's benefit, does not represent a taxable benefit to the employee. The following are examples of such courses:
 - Computer and word processing
 - Management and administration
 - Bookkeeping
 - Sales
 - Courses in operating office and technical equipment
 - Language courses

Please note: only the taxable portion of the bursary/scholarship is to be reflected as a fringe benefit in the gross earnings.

Bursary Example:

Employee earnings: R34 000 pa

Bonus: R 2 000

Housing Subsidy: R 6 000

Bursary: R 4 500 each for employee's two children

Employer does not operate a bursary scheme open to the general public

R 4 500 exceeds R2 000 limit per relative

	R 9 000	Total of the two bursaries
Less	<u>R 4 000</u>	Total of limit i.e. 2 x R2 000
	Taxable R 5 000	

If the remuneration exceeded remuneration limit eg R60 000pa, the full R9 000 would become taxable.

3.3. Deemed Loans

See 'Low or Interest Free Loans'

3.4. Free or Cheap Services

A **taxable** benefit arises if you receive the benefit of any service for private purposes, from your employer at no cost or at less than the cost to the employer.

It will be **taxable** if:

- The employer is in the business of transporting passengers by land, sea or air e.g. SAA and he grants an employee or his relative, travel to any destination outside SA for private purposes, and the lowest full fare is over R500.

Lowest fare available for the journey
 Less: *any amount paid by the employee or his relative*
 = Taxable fringe benefit

- With the exception of the tax free instances (see below), in all other cases the taxable fringe benefit is calculated as

Cost to the employer
 Less: any amount paid by the employee
 = Taxable fringe benefit

It will be provided **free of tax** if:

- It is provided by your employer to all employees at their place of work for
 - the better performance of their duties
 - or
 - as a benefit to be enjoyed by them at their place of work
 - or
 - at a place of recreation for the use of the employees in general
- It is a transport service to or from home provided to all employees in general
- It is a provision of parking for personnel at their place of work
- Any travel facility granted by an employer to the spouse or minor child of the employee if:
 - The employee is stationed, for business purposes further than 250km from usual place of residence;
 - The Employee is to spend more than 183 days of the tax year at that specific place; and
 - Such a facility is granted for travel between the employee's usual place of residence and the work station
- The employer is in the business of transporting passengers by land, sea or air e.g. SAA and the employee, his spouse or minor children travel:
 - to any destination in SA
 - or
 - overland outside of SA
 - or
 - outside by air or sea where the trip was made in the ordinary course of business and the employee/spouse/minor child, was not permitted to make a firm advance booking

Please note that Holiday accommodation does not fall into this category

3.5. Holiday Accommodation

Where your employer provides you with holiday accommodation, you will be taxed on the following rental value, less any amount that you pay towards the accommodation:

- If the accommodation is owned or hired by the employer from an associated institution: an amount calculated at the prevailing rate per day at which such accommodation could normally be let to a person other than an employee
- If the accommodation is hired your employer (from a person other than an associated institution) - then the cost to your employer of providing the accommodation, meals, refreshments and other services will apply

3.6. Insurance Policies (Employee Related)

The following is a summary of the rules regarding taxation of Employment Related Insurance Policies. Unapproved Group Scheme policies paid by the employer for the benefit of the employee will give rise to a

fringe benefit for the employee. There is no deduction for the employee (only for the employer) and consequently the benefits are tax free.

3.6.1. Income Protection Schemes

Employer-paid - Income Protection schemes (where the benefit is paid on a monthly basis) that are paid by the employer give rise to a fringe benefit on the employee, which in turn is deemed to be deductible (both from income and remuneration), and is therefore tax neutral to the employee.

Employee-paid - Income Protection schemes paid by the employee are deductible, both from remuneration and income.

If and when the monthly benefit is paid, it will be included in the employee's income and taxed.

3.6.2. Key Person Schemes

'Conforming' Policies - A conforming Key Person policy is always employer paid and is one that conforms to the following criteria specified:

- The policy insures the employer against any loss due to death, disablement or severe illness of the employee.
- The policy is a risk policy only and has no surrender (or cash) value.
- The policy is the property of the employer at the time of paying the premiums, but can be held by a creditor of the employer as security for a debt of the employer.

Note: if the key person policy conforms with the above criteria, the employer must declare that the policy falls under section 11(w)(ii) in one of two ways depending on the age of the policy -

- If the policy was entered into after March 2012, the policy agreement must state that section 11(w)(ii) applies in respect of premiums payable under that policy; or
- If the policy was entered into before March 2012, it must be stated in an addendum to the policy agreement by no later than 31 August 2012 that section 11(w)(ii) applies in respect of premiums payable under that policy.

For conforming Key Person policies –

- the premiums paid by the employer are deductible when paid
- the benefit is taxable if and when the insured risk happens.

'Non-conforming' Policies - A non-conforming Key Person policy is one if either of the criteria to be a conforming policy are not satisfied, or no choice is made by the employer, the policy will be automatically classified as a non-conforming policy.

For non-conforming Key Person policies:

- the premiums paid by the employer are not deductible when paid
- the benefit is normally tax free if and when the insured risk happens.

3.7. Loan Subsidy

A loan subsidy is where the loan is not received from the employer but rather where the employer pays a third party in respect of, the granting by that third party, of a low interest or interest-free loan to an employee of the employer. This applies to amounts of interest or capital.

Subsidies are fully taxable i.e. the whole amount of the loan subsidy received by you is subject to tax.

Please note that the Official Rate of Interest changes frequently, therefore for the purposes of this example 9.5% has been used.

Example:

Official interest rate:	9.5%
Interest paid by employee:	6%
Interest payment by employer:	14%
Interest received by lender	20% (6% + 14%)

The 20% paid is Greater Than the official 9.5% therefore it is a subsidy
The value of the taxable benefit is therefore 14% ie the 14% paid by the Employer.

Low or Interest Free Loan - Where the 'Employee paid interest + employer paid interest' IS NOT GREATER THAN interest that would have been paid at the 'official rate of interest', it is seen as a 'low or interest free loan' and not as a subsidy.

3.8. Low or Interest Free Loan

Where your employer or anyone else by arrangement with your employer, grants you a loan which bears reduced or no interest rates (i.e. lower than the 'official rate of interest'), you have received a taxable fringe benefit. Tax is payable on the difference between the official rate of interest and the interest paid by you.

The loan is a taxable benefit where it has been granted to an employee:

- By the employer
OR
- By any other person by arrangement with the employer
OR
- Any associated institution in relation to the employer
AND
The employee pays no interest or interest at a rate less than the official rate

No taxable value is placed on loans that meet the following conditions:

- Occasional or Casual Loan - your employer can make an occasional loan up to a maximum of R3 000 per annum, at low or no interest
- A loan for the purpose of enabling the employee to further his own studies
- If a financial institution such as a bank provides loans to its employees at the same rate as (below the official rate of interest) to the customers of the institution on the same conditions and under the same circumstances
- A loan provided to a director of a company or to a member of a close corporation, where the loan is for the directors share holding

Deemed Loans – Where the following provision is made for employees, the scheme is in effect identical to that of a 'low or interest free loan' and is treated as such:

- the employer acquires and registers the employee's house under the name of the employer
- the employee, in terms of his employment agreement, is entitled or obliged to acquire the house at a price stated in the agreement, either on termination or after a fixed period
- the employee is granted the right to occupy the house and pays a rental which is calculated as a percentage of the cost of the house

Where the employee ultimately purchases the house from the employer:

- Taxable benefit - If purchased at a price lower than the market value, as at the date of the original agreement between employer and employee, then it is a taxable benefit. The value of the benefit is calculated as follows:
Market Value
Less: Purchase Price

= Taxable benefit

- Non taxable benefit - If the price paid is not lower than market value as at date of the agreement, then it is not seen as a taxable benefit.

Subsidy - not a low or Interest Free Loan

Please note that under the following conditions, the benefit is classified as a 'subsidy' and not as a 'low or interest free loan'.

Where the employee paid interest plus employer paid interest IS NOT GREATER than the interest that would have been paid at the official rate, it is seen as a 'low/interest free loan'.

Value of Taxable Benefit

Low or Interest Free Loans – where the total amount of interest paid by you (if any) and your employer (if any) is less than the official rate of interest, it is classified as a 'low or interest free loan'. The value of which benefit is calculated as follows:

$$\begin{aligned} & \text{Amount of interest (at the official rate) that would have been payable} \\ & \text{Less: } \underline{\text{the amount of interest (if any) actually paid by the employee}} \\ & = \text{Taxable benefit} \end{aligned}$$

Please note that the Official Rate of Interest changes frequently, therefore for the purposes of this example 9.5% has been used.

<i>Example:</i>	<i>Official interest rate:</i>	<i>9.5%</i>
	<i>Less: Interest paid by employee:</i>	<i>4.0%</i>
	<i>= Value of Taxable benefit</i>	<i>5.5%</i>

Deduction of deemed interest:

Where the loan is used by the employee to produce income e.g. the loan is used to purchase a property that is rented out, the cash equivalent of the benefit will be allowed as a deduction from the income earned.

3.9. Meals / Refreshments / Vouchers

Meals, refreshments and vouchers entitling the employee to meals and refreshments provided by the employer free of charge or for an inadequate consideration, are regarded as taxable benefits.

Board and **meals provided with accommodation** fall under the 'Provision of Residential Accommodation' or 'Holiday Accommodation' benefits.

A **non-taxable benefit** arises if:

- You get free meals or refreshments from a canteen, dining-room or cafeteria:
 - Where the canteen/dining-room/cafeteria is operated by or on behalf of the employer AND is patronized wholly or mainly by the employees
 - OR
 - The canteen/dining-room/cafeteria is on the business premises of the employer
- You are provided with a meal or refreshment during business hours, during extended working hours (overtime) or when working on special occasions
- You have a meal in the course of entertaining on behalf of your employer

Note: Board and meals provided with accommodation, are dealt with as part of the accommodation benefit.

A taxable benefit arises if:

- you are provided with a meal, a refreshment for free or for less than its value (cost to the employer)
- you are provided with a voucher entitling you to a meal or refreshment for free or for less than its value

You will be taxed on the value of the meal, refreshment or voucher as follows:

Cost to the employer
 Less: any amount that you contribute towards it
 = taxable value of the fringe benefit

Employees' tax is deducted from this benefit and the full value of the benefit will be shown on the employees tax certificates.

3.10. Medical Aid Contributions

Please see section 1.2 Medical Aid (under Section 1 Deductions)

3.11. Medical Expenses

Medical Expenses (paid by Employer on behalf of the Employee)

This is where a taxable benefit is deemed to have been granted in respect of medical, dental and similar services, hospital services, nursing services or medicines provided to the employee, their spouse, child, relative or other dependant.

The actual cost of the medical expense is treated as a 'taxable' benefit for the purposes of calculating PAYE. However, on assessment the 'expenses for immediate family' will be evaluated as an 'expense/deduction' based on the applicable rules.

There is no deemed taxable Fringe Benefit under the following conditions:

- Where services are rendered or the medicines are supplied for purposes of complying with any law of the Republic;
- Where the services are rendered to the employees in general at their place of work for better performance of their duties
- Resulting from the provision of medical treatment listed in a category of prescribed minimum benefits determined by the Minister of Health, which is provided to the employee, their spouse or children in terms of a scheme or programme :
 - Which constitutes the carrying on of the business of medical schemes if that scheme is approved as being exempt from complying with the requirements of medical schemes; or
 - Which does not constitute the carrying on of the business of medical schemes if the employee, their spouse or children :
 - Are not beneficiaries of a medical scheme
 - Are beneficiaries of such medical scheme and the total cost of the treatment is recovered from that scheme
- Derived from an employer by
 - A person by reason of superannuation, ill health or other infirmity retired from employ
 - The dependants of a pensioner after the death of the person (if the pensioner retired from employment by reason of superannuation, ill health or other infirmity
 - The dependants of a deceased employee after such employee's death, if the employee was in the employ on the date of death or
 - The employee is 65 years or older

*Spouse – the definition of spouse is as follows:

"spouse", in relation to any person, means a person who is the partner of such person —

- (a) in a marriage or customary union recognized in terms of the laws of the Republic;
- (b) in a union recognized as a marriage in accordance with the tenets of any religion; or

- (c) in a same-sex or heterosexual union which the Commissioner is satisfied is intended to be permanent, and "married", "husband" or "wife" shall be construed accordingly: Provided that a marriage or union contemplated in paragraph (b) or (c) shall, in the absence of proof to the contrary, be deemed to be a marriage or union without community of property.

3.12. Payment of Employees Debt or Release from Debt

This is a taxable benefit and applies where:

- Your employer pays any amount paid to your creditor on your behalf
- Your employer releases you from the obligation to pay an amount that you owe him

This excludes :

- Medical contributions made by or the incurring of medical costs by the employer
- Employers payment of subscriptions to a professional body, if such membership is a condition of the employee's employment
- If a new employer grants a low or interest free loan to the employee to enable him to recompense the previous employer, such new loan cannot be regarded as a study loan. However, a refund of a bursary study loan or similar assistance by an employer to the employee's previous employer, is not regarded as taxable if :
 - The previous employer made a grant on conditions that the employee rendered service for an agreed period
 - On termination of service before expiration of the agreed period
 - Upon accepting new employment, the outstanding amount is refunded to the previous employer by the new employer on behalf of the employee; and
 - The employee is liable to work for the new employer for a period not shorter than the remaining period that should have been worked for the previous employer.

The amount paid or the amount of the debt from which you are released becomes fully taxable.

Please note that if the Employer pays Medical Expenses on behalf of an Employee, this is no longer treated as 'Payment of Employees Debt'. Please see 'Medical Expenses'.

3.13. Residential Accommodation (Provision Of)

Residential accommodation provided to the employee at a nominal rental, is a **taxable fringe benefit**.

If the employee, in terms of his employment agreement, is **entitled or obliged to purchase** the accommodation, then the benefit is classified as a 'Low or Interest Free Loan'.

Exception:

Where the employee has 'an interest' in the accommodation or owns the accommodation that he rents from the employer, the taxable fringe benefit value is the greater of:

- the rental and any other expenditure which is paid by the employer
- OR
- the rental value based on the formula

You as the employee, 'have an interest' where the accommodation:

- Is owned by you, your spouse or your child
- or
- If you, or a connected person, has a right to acquire the accommodation from your employer
- or
- has any increase in value accrued directly or indirectly to you, your spouse or your child

A non-taxable benefit arises if:

The accommodation is away from an employee's usual place of residence -:

- In RSA while the employee is absent from his usual place of residence in th RSA for the purpose of performing his duties of employment. This provision does not apply where more than one residential accommodation at different places has been made available.
- Outside the RSA for a period of not more than 2 years from the date of arrival of the employee in RSA for employment reasons or if the accommodation is provided during the year of assessment and the employee is physically present in RSA for a period of less than 90 days in that year. These provisions do not apply:
 - If the employee was in RSA for more than 90 days during the assessment year preceding the arrival date in RSA
OR
 - To the extent that the value of the taxable benefit exceeds an amount of R25 000 X the number of months the employee was away

Two or More Residential Units

Where the employee is provided with two or more residential accommodation units, situated at different places, which the employee is entitled to occupy from time to time while performing his duties, the taxable value is as follows:

- the value of the unit with the highest rental value determined by the formula, over the full period during which the employee was entitled to occupy more than one unit

Value of the fringe benefit

The employee will be taxed on the greater of the following:

- the cost to the employer (rentals paid and other expenses incurred to provide the accommodation)
or
- the amount arrived at by applying the following formula, less any amount paid by the employee, for the use of the accommodation

i.e.
$$\begin{aligned} & \text{Formula result} \\ & \text{Less: amount paid by employee} \\ & = \text{Taxable fringe benefit} \end{aligned}$$

Formula:

$$(A - B) \times \frac{C}{100} \times \frac{D}{12} \text{ i.e. (Remuneration - Abatement of R54 200) X } \frac{\text{factor (17,18 or 19)}}{100} \times \frac{\text{months of accommodation}}{12}$$

Where:

A is the 'remuneration factor' i.e.refers to annualized remuneration as determined for employees tax, that was earned in the previous tax year, excluding the following:

- 80% of any Travel Allowance
- Taxable benefit derived iro private use of a company vehicle
- Taxable benefit derived from the residential accommodation itself
- Income derived by you from an associated institution (in relation to your employer), provided you are not one of the controlling shareholders of your employer's company and your employment is not connected with that institution

If you are a Director of a private company:

- include any amount paid to you in respect of services rendered or to be rendered

B is the abatement amount ie R54 200

This however, must be reduced to zero if:

- The employer is a private company which you or your spouse are one of the people controlling the company (directly or indirectly)
- The employee or his spouse or his minor child has an option to become the owner of the property, directly or indirectly

C is a factor which determines the value to be placed on the accommodation ie:

C = 17, if the accommodation has less than four rooms OR is unfurnished with no power/fuel supplied by the employer;

or

C = 18, if the accommodation has at least four rooms AND it is either furnished or power/fuel is supplied by the employer;

or

C = 19 if the accommodation has at least four rooms AND is both furnished and power/fuel is supplied by the employer

Please note:

The valuation based on the cost to the employer will not apply where:

- it is customary for the employer in that industry to provide free and subsidized accommodation; And
- it is necessary to provide free and subsidized accommodation for the proper performance of their duties, and as a result of frequent movement of employees or lack of existing accommodation; And
- the benefit is provided for bona fide purposes other than that of obtaining a tax benefit

D is the number of completed months in the tax year during which you were entitled to occupy the accommodation.

Example:

- Earnings = R7 800 per month during year of assessment
- Accommodation provided belongs to the employer
- It is an unfurnished, four roomed house
- The employer is paying for power/fuel
- You're paying a nominal rent of R500 per month
- You have occupied the accommodation for 6 months of the tax year.

The rental value in terms of the formula is:

$$\begin{aligned}
 & \text{(Remuneration - Abatement of R54 200)} \times \frac{\text{factor (17,18 or 19)}}{100} \times \frac{\text{months of accommodation}}{12} \\
 & (R93\ 600 - R54\ 200) \times \frac{17}{100} \times \frac{6}{12} = R3\ 349
 \end{aligned}$$

The **rental value** for the 6 months of the tax year is therefore R3 349

The **total taxable benefit** for the 6 months is:

- The **rental value for the period:** R3 349
- LESS

- Rent paid for the 6 month period @ R500pm: R 3 000
Taxable Benefit R 349

Please note:

Where the Employer Rents the Accommodation

The Fringe Benefit value is the result of the formula (as defined above) where the following conditions are met :

- it is customary for an employer in the industry concerned to provide free or subsidized accommodation to employees
AND
 - it is necessary for the employer, having regard to the kind of employment, to provide free or subsidized accommodation –
 - for the proper performance of the duties of the employee
 or
 - as a result of frequent movement of employees
 or
 - due to lack if employer-owned accommodation
- AND**
- the benefit is provided for bona fide business purposes, other than the obtaining of a tax benefit

If these conditions are not met, then the greater of the two methods must be used to determine the value of the fringe benefit i.e. the result of the formula versus the rent paid by the employer.

See also 'Holiday Accommodation' section.

3.14. Share Incentive Schemes (Broad Based Employee Share Plan)

General rules for the tax-free treatment of shares acquired by employees in terms of a “broad-based employee share plan” approved on or after 26 October 2004 by the directors of the company, were introduced. These rules allow for the tax-free treatment of “qualifying equity shares” acquired by employees, even though the shares may be acquired without cost or at a discount.

In order for the shares to be qualifying equity shares”, the shares must satisfy two requirements. Firstly, the employee must receive the shares in terms of a “broad-based employee share plan” and secondly, the total shares received under the plan by the employee may not exceed R9 000 in value during any 36-month period.

A “broad-based employee share plan” of an employer means a plan in terms of which:

- employees who participate in any other equity scheme of that employer or of a company in the same group of companies as that employer are not entitled to participate,
- at least 90% of all other employees who are employed by that employer on a permanent basis on the date of the grant and who have been continuously been employed on a full-time basis for at least 1 year, are entitled to participate,
- the employees who acquire the equity shares are entitled to all dividends and full voting rights in relation to the shares, and
- no restrictions have been imposed in respect of the disposal of the share, other than
 - a restriction imposed by legislation,
 - a right of any person to acquire the shares from the employee at market value, or
 - a restriction in terms of which the employee may not dispose of the shares for a period which may not extend beyond 5 years from date of grant.

Employees' tax will have to be withheld by the employer from any consideration paid or payable to an employee when "qualifying equity shares" are disposed of by that employee within 5 years from the date the shares were granted. The sale within this period effectively amounts to a salary-substitute for tax purposes. The market value of such shares sold, determined on the date of sale, is therefore included in remuneration - new code 3717 (3767 for foreign service income).

To calculate the amount of employees' tax to be withheld by the employer, the market value of the "qualifying equity shares" sold, should be deemed to be an annual payment. If an employee sells these "qualifying equity shares" after 5 years, the gain will generally be of a capital nature and will not be deemed to be remuneration. More detail can be obtained from the Explanatory Memorandum on the Revenue Laws Amendment Act, No 32 of 2004 which is available on SARS website: www.sars.gov.za under "Legislation".

3.15. Subscriptions

Subscriptions paid by an employer, are tax free where:

- They are paid directly to a professional body
AND
- Membership is a condition of the employee's employment.

3.16. Use of Assets (Excluding Car & Accommodation)

Where your employer grants you the use of an asset for your private use either free or at a nominal cost, this is a taxable fringe benefit . It is taxable from the day that you are given the right of use.

Please note: The above does not apply to the use of ' residential accommodation' or household goods supplied therewith or 'use of company motor vehicles'.

The value of the fringe benefit is derived as follows:

- Where your employer owns the asset, you will be taxed on 15% per year, for the period that you have use of the asset, on the lower of:
 - The cost of the asset to your employer
 - Or
 - The market value at the time you begin to use the asset
- Where your employer leases/hires the asset, the rental cost for the period that you have use of it, represents your taxable benefit
- Where you are given the sole use of the asset for all or the major part of its useful life, you will be taxed on the cost to your employer of the asset.

Derived value:

In the first two of the above cases, the fringe benefit value will be reduced by any amount paid by the employee for the use of and for repair and maintenance of the asset

$$\begin{aligned}
 &\text{i.e.} && \text{Value of Fringe Benefit} \\
 &&& \text{Less: Employee paid, repair \& maintenance costs} \\
 &&& \text{Less: Employee payment for use} \\
 &&& \text{Taxable Fringe Benefit Value}
 \end{aligned}$$

As a monthly employee, one-twelfth of the calculated benefit will be subject to the deduction of PAYE monthly

$$\text{i.e.} \quad \text{Monthly Taxable Fringe Benefit} = \text{Taxable Fringe Benefit Value} / 12$$

In the case of an **employee having sole use** of the asset for all or the major part of its useful life, the full PAYE on the cost of the asset is payable in the month that he was granted use of the asset.

Where the Employer **owns the asset**: the taxable value will be calculated as per the following example:

i.e Original Value of Asset eg Caravan R60 000, value at time of Employee use R40 000
 Cost to Employer: $R60\,000 \times 15\% / 365 \text{ days} \times 10 \text{ days use} = R247$
 Market Cost: $R40\,000 \times 15\% / 365 \text{ days} \times 10 \text{ days use} = R164$ (fringe benefit value to the employee)

The use of such asset is **tax free** if:

- Your private use is incidental to its use in your employers business
- It is provided as an amenity to be enjoyed by you at work
- It is provided for recreational purposes at work
- It is provided at any place of recreation for the use of all employees
- It consists of equipment or a machine that employees in general are allowed to use from time to time for short periods and the Commissioner is satisfied that the value of the private use is negligible
- If the asset is a telephone or computer equipment which the employee uses mainly for business purposes
- It consists of books, literature, recordings or works of art.

3.17. Use of Motor Vehicle / Company Car

This is a **taxable** benefit when:

- the employee, including a director, has the right to use a company vehicle for private travel (this includes travel to and from work)
AND
- the value of the motor vehicle is higher than the consideration paid by the employee

Non-Taxable if:

- the vehicle is available to and is used by the employees of the employer in general
- the private use of the vehicle is infrequent or merely incidental to its business use
- The vehicle is not usually kept at or near your home when it is not in use outside of business hours

All of the above three conditions must be met OR

- If the nature of your duties are such that you are regularly required to use it for the performance of your duties outside of normal hours of work and are not permitted to use it for private purposes other than in travelling to and from work.

Important:

If the employee keeps accurate travel records for private travel and this distance is less than 10 000km per year, the Commissioner may, on employees assessment, place a lesser value on the private use of the vehicle.

Where more than one vehicle is used at the same time, (the 2.5% on the vehicle with the highest value and 4% on the other) and the commissioner is satisfied that each vehicle is used primarily for business (ie more than 50% of the annual mileage), the value of the taxable benefit iro all vehicles may be re-determined on assessment.

Fringe Benefit value of the Company Car is as follows:

- MONTHLY TAXABLE BENEFIT = 3.5% X DETERMINED VALUE
- If the Vehicle is subject to a maintenance plan, the Fringe Benefit value is 3.25% of the determined valued ie 3.5% - 0.25%

Taxable Value of the Fringe Benefit is as follows:

- 80% of the Fringe Benefit value
- If at least 80% of mileage is for business travel, then the percentage can be reduced to 20%

'Determined value' is as follows:

- Where the vehicle is owned by the employer - the original or cash cost of the vehicle, excluding VAT, maintenance contract, interest or finance charges BUT including the cost of any motor accessories
- Where the vehicle is leased, or was leased before acquiring ownership, the determined value will be the cash value excluding VAT:
 - Determined value = retail market value at the time the employer first obtained use thereof
OR
 - Where the lease was a financial lease under the Sales Tax Act, determined value = the cash value as determined under Schedule 4 of the Sales Tax Act
OR
 - Where the lease falls under the 'instalment credit agreement' of Section 1 of the VAT Tax Act, determined value = the cash value of the vehicle as defined in the definition of "cash value" in said tax act
- Where the employer is a manufacturer of motor vehicles, determined value = the cost of manufacturing the vehicle
- Where the employee makes a contribution to the cost of the vehicle, determined value = cost of the vehicle less employee contribution

Depreciation allowance - If your employer had already had use of the vehicle for at least 12 months before use was given to you, the determined value will reduce by 15% p.a. (on a reducing balance) for each completed year of use by your employer. If the vehicle was acquired from another company in the same group and you already had use thereof, the 15% reduction does not apply.

Please note that the depreciation only applies to the period in which the company owned the car prior to the date that you acquired use thereof.

Unless you are given an allowance or a reimbursement for fuel and maintenance costs, the monthly 'determined value' is reduced as follows:

- If the employee bears the full cost of private use, reduce the percentage by 0.22%
- If the employee bears the cost of maintenance, reduce the percentage by 0.18%

Temporary Non-use – where the employee embarks on business travel for a period exceeding one month, and he leaves the vehicle at the employer's premises, a reduction for the value of private use may be made for this period.

Use for Part of Month - Where the employee has use of a vehicle for part of a month, the value must be determined at the same ratio as the number of days in the month.

Accurate Record of Private Travel: If the employee keeps an accurate record of private travel and this distance is less than 10 000 Km per year, the Commissioner may, when assessing your taxes, place a lesser value on the private use of the vehicle.

EXAMPLE

Tom has a company car. The vehicle was acquired at a cost of R179 800 including VAT, an air conditioner was fitted at a cost of R4 560 including VAT

The monthly fringe benefit and Taxable value is calculated as follows:

Cost of car excluding VAT	157 720
Cost of air conditioner excluding VAT	4 000
Determined value	161 720

Fringe Benefit Value:	Determined Cost X 3.5% = R5 660
Taxable Value of Fringe Benefit:	Fringe Benefit Value x 80% = R4 528

B) Vehicle used for more than 12 months before use given employee:

The first was acquired on 1 January 2000, at a cost of R55 000 excluding VAT and finance charges
Used by employee A for 30 months before being given to employee B

The monthly fringe benefit is calculated as follows:

Employee A : Determined value 55 000

Employee B : Determined value	
Cost price as at 1/1/00	55 000
Depreciation allowance - year 1	8 250
	46 750

Depreciation allowance - year 2	7 012
Determined value on 1/7/02	39 738

4. Other

4.1. Gratuities (Lumpsums)

A gratuity is a voluntary amount paid to an employee by an employer in respect of his/her termination of service. Common examples are:

- Retrenchment
- Retirement
- Resignation / Discharge

The first R30 000 of an amount, received by or accrued to an employee because of the termination of his services or because of the impending termination of his services within five years, is exempt from tax provided that:

- The taxpayer has attained the age of 55
OR
- The employer died before retirement
OR
- The termination or impending termination (within 5 years) is due to ill-health or other infirmity
OR
- The termination is as a result of his employer having ceased business, or where he has affected a general reduction in personnel or a reduction in personnel of a particular class

The exemption does not apply where the employer is a company and the employee was at any time a director or at any time held more than 5% shares of the company's issued share capital.

Please note that with effect from 23 February 2000, restraints of trade paid to natural persons or 'employment companies' are included as income in the hands of the recipient, and will be taxed as such. The payer may deduct such payment over the longer of the period of the restraint of 3 years.

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