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Should you require any further detail on any of these topics, please feel free to contact us at [info@hrtorque.co.za](mailto:info@hrtorque.co.za)

### 1) Tax Administration Laws Amendment Bill

**Author: Dave Beattie**

#### **Feedback on proposed payroll legislative changes**

In a previous edition of the HRTorque Reporter we discussed the details of the proposed changes to the Tax Law Amendment Bill and the Tax Administration Law Amendment Bill that had been released for public comment. On 10 November 2021 National Treasury published a Draft Response Document on the 2021 Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill, 2021 Draft Taxation Laws Amendment Bill and the Second Batch of the 2021 Draft Taxation Laws Amendment Bill and 2021 Draft Tax Administration Laws Amendment Bill.

This article will look at the PAYE (payroll) and relevant Income Tax issues mentioned in this Draft Response Document (Draft Taxation Laws Amendment Bill). The feedback will follow the issues originally identified.

#### **Taxation of a long service award**

The total non-taxable value of R 5 000 and all other qualifying criteria must continue to be met. It is however proposed that in future the award can be provided in cash / voucher, as opposed to a non-cash asset, as is required by the current legislation. This would be a welcome change as the current requirements make the practicalities of achieving compliance difficult.

**Response:** *It is accepted that gift vouchers will be regarded as assets and not cash when awarded to employees qualifying for long service or bravery awards. Government did not however accept the request to increase the exempt amount (currently assets valued up R 5 000) or amend the number of years required to qualify for long service. This issue may be relooked at in the next cycle.*

#### **Clarifying the calculation of the fringe benefit in relation to employer contributions to a retirement fund**

Where the employer contributes to a defined benefit fund the actual taxable benefit accruing to the employee is derived by using a specific formula. The ‘self-insured’ risk-benefit which is included in the contribution is often “lost” when calculating the amount that the employee can use towards the calculation of the allowable deduction, thus allowing the employee a greater deduction than permitted. The proposal is to split the two amounts to ensure the value of the benefit for both the retirement fund and the self-insured risk-benefit can be determined and taxed accordingly.

**Response:** Government believes that the reference to 'self-insurance policy' is problematic. As the term is not currently used in practice there is room for confusion. In order to alleviate confusion, changes will be made in the 2021 2021 Draft TLAB to use the colloquially used term 'risk benefits'.

### **Definition of an employee for ETI purposes**

It is proposed that the definition of an "employee" and a "qualifying employee" be changed to clearly specify that "work" must be performed in terms of an employment contract and that the employee must be documented in the employer's records. This is to ensure that employers don't claim for employees who don't actually work for them. There has been a significant amount of fraud perpetuated in this area since the introduction of ETI and this proposed change has been a long time coming.

**Response:** The incentive is intended to apply to all legitimate arrangements where the employee is not only engaged in the activity of studying, but rather gaining valuable work experience. In the event that some of the employee's duties involve some sort of training or studying, the costs of said training or studying should ideally be borne by the employer. To ensure that the employee's remuneration package is not solely allocated to the cost associated with any required training or studying, qualification for the incentive shall further be based on the employee receiving a cash payment in lieu of services rendered. Changes will be made in the 2021 TLAB to reflect this intention. The implementation date of such change is likely to be 1 March 2022.

### **Transfer between retirement funds by members reaching 55 (or older)**

There are certain instances where a tax liability arises when a fund member reaches retirement age and transfers their funds into a preservation fund. The intention is that any transfer to a similar fund should not be taxed. It is proposed that an amendment be made to address this and allow for the tax-free transfer of funds from a preservation fund into a similar fund by a member who has already reached normal retirement age. This is a welcomed proposal as it enables individuals to maximize their return by moving from one fund to another, without any unintended tax consequences.

**Response:** Government has chosen to ignore requests for greater flexibility in transfers to enable individuals to consolidate their retirement savings in any type of retirement fund, including occupational funds. Their concern with allowing transfers between occupational funds (be they transfers between same employer occupational funds or transfers between different employer occupational funds) is that the transferor and transferee retirement funds may have different rules with regards to their respective normal retirement ages. A member may therefore be able to access retirement benefits that were not available in the retirement fund transferred from.

### **The tax implications on a retirement fund when an individual ceases to be a tax resident**

There are some proposed changes which will assist an individual in delaying the payment of the tax liability that arises when there has been a deemed "withdrawal" by the individual from the fund. It is proposed that the taxable benefit will only accrue to the individual when they receive the payment from the fund.

**Response:** Bypassing tax treaties with domestic legislation is controversial and could potentially result in the double taxation for members of retirement funds. It is believed that Government should renegotiate treaties that they consider to be problematic. Section 9HC will lead to involuntary withdrawals of retirement interest on emigration (even if they had preferred to leave their retirement interest in SA). Consequently, the recent introduction of the 3-year rule still requires clarity from an administrative point of view and due to the additional complexity of the emigration process the administration costs to taxpayers has increased. Government has stated that the proposed amendments regarding the introduction of section 9HC will be withdrawn from the 2021 Draft TLAB and further amendments will be considered in the next legislative cycle in order to address the complexities that were raised through the comment cycle.

### **Penalties for non-submission of bi-annual PAYE reconciliations**

There is a proposed new method for calculating the penalty due for this type of non-compliance. If the proposal is adopted, we will see higher penalties being issued. Employers will be forced to pay more attention to meeting deadlines and ensuring that they comply with the technical specifications of these returns. SARS may estimate such penalties.

**Response:** SARS has confirmed that they will be utilizing data readily available to raise PAYE Administrative non-compliance penalties. SARS will use prior submissions as the basis for penalties where such liability is not available for the reconciliation period that is outstanding. SARS is also willing to use the salary expense reflected in the corporate Income Tax return to estimate the PAYE liability on which to base the PAYE Administrative penalty.

There has been a concern that where the Employees Tax is overestimated the PAYE Administration penalty will be higher. If this were later corrected it would increase the unallocated payments against the taxpayer's account. SARS has however stated that accounts and payment processing needs will be monitored. Current legislation allows SARS to adjust the Administration penalty in line with the changes in liability of the taxpayer.

Another concern involving the EMP 501 is that such returns are considered not to be submitted on eFiling if SARS performs an Employment Taxes Verification on the return. This should not be so, with returns under ETV reflecting as submitted, but flagged for review. This will prevent any proposed non-submission penalty from being raised incorrectly. SARS has stated that with any submission the status is updated to 'received', irrespective of whether a ETV review is done or not. SARS has asked that taxpayers raise this matter through a recognized controlling body if they have such issues again.

These issues will be expanded on in depth when we do the annual tax year-end in March 2022. We will keep a close eye on developments over the coming months.

## 2) Interns and Learnerships

**Author: Joe Ferreira ([www.nowhr.co.za](http://www.nowhr.co.za))**

It's that time when companies plan if, and what type of schemes, they will implement to attract, upskill and retain future potential. Of course, with every scheme, there are costs and rebates which need to be carefully weighed up to identify which type of scheme will best suit the organization from a return on investment perspective, and naturally, the potential tax benefits of these schemes will also need investigation.

Let's have a look at a few points worth considering:

### **INTERNSHIPS**

These programs and initiatives can be hugely beneficial in that they are effective in addressing skills shortages and in many ways offer something back to society, which certainly bodes well for organisations wanting to create a "caring" profile amongst their peers in the marketplace.

Participants on these schemes usually have some form of formal diploma or degree, and through these internships are exposed to great practical experience in potentially very short periods of time.

Companies can decide the duration of an internship which can vary from a few weeks to 12 months. From a cost perspective, companies usually provide the individual on the program with a stipend that covers transport and food. Albeit a small stipend, the trade-off is that the program offers the individual an opportunity to get into their chosen field and to start gaining some experience.

The big plus is that the company gets to evaluate their work ethic, their commitment, their skill level and their suitability all round, resulting in some of these individuals actually getting full-time employment with the company.

From a tax perspective, the individual receiving the stipend will most likely not be liable for tax as their stipend (if it's deemed as remuneration) will fall below the tax threshold for the year. As per the Income Tax Act, a stipend given as part of a scholarship to meet the education expenses is exempt from income tax under Section 10 (16).

### **LEARNERSHIPS**

A learnership is a little different in that it offers the individual the opportunity to get a nationally recognised qualification whilst on the program. From a tax perspective there are a number of benefits:

The individual can be on the ETI scheme even though they are on a learnership program. The company can save up to R 1 000 per month per individual on the scheme. This is in the form of a rebate against their monthly PAYE bill.

Depending on how those individuals are taken into full-time employment there are a number of points that can be gained for BBBEE scorecard purposes.

Under the Skills Development element for BBBEE purposes, up to 25 points can be acquired.

Finally, up to R 80 000 for an able-bodied learner and R120 000 for a learner with disabilities can be claimed as a rebate.

### **CLOSING COMMENT**

There are advantages and benefits to learnerships and internships which will vary from scheme to scheme and company to company, the deciding factor normally being the business requirements of the company as to which is more suitable.

The important point to bear in mind is that either scheme will improve the skill level of the individual, make them more employable and ultimately give them some level of experience, which our youth so desperately need.

### 3) Late submission of Compensation Fund Annual Return of Earnings – Employers beware

**Author: Jonathan Aitken**

On 2 December 2021 the Commissioner of the Compensation Fund reminded employers that the Fund is entitled to estimate the earnings where an employer has not made a submission on time; and issue an assessment accordingly.

We urge employers not to miss the deadline. The Compensation Fund is notoriously difficult to deal with and we think trying to revise an estimated assessment will be immensely time consuming, expensive and frustrating.

### 4) SARS is increasing the pressure on South Africans living abroad

**Author: Dave Beattie**

With SARS aggressively targeting the tax affairs of wealthy South Africans it is not a surprise that South Africans living abroad have now been put in the spotlight. SARS is of the opinion that many of these people are likely to be non-compliant for the following reasons:

- They have not ceased their tax residency in South Africa
- They have not filed tax returns in South Africa
- They have not declared their foreign income (as required by a South African taxpayer).

SARS has legislation in its arsenal that can punish these taxpayers if they do not engage and comply with SARS queries and directives. Taxpayers can be punished for non-compliance in the following areas:

- Non-co-operation with a SARS official, submitting false or incomplete documents
- Neglecting to notify SARS of the change of personal details
- Retaining records as required under the Tax Act, etc.

Whilst this is not a complete list, SARS appears to be willing to go the prosecution route to punish taxpayers for non-compliance, with such punishment including a fine or imprisonment of up to two years.

So, in a nutshell what is the problem facing these taxpayers living abroad?

Solely being abroad does not exempt the person from declaring their worldwide income and assets to SARS. Unless they have formally ceased their tax residency, they will still be seen as a tax resident and will need to declare worldwide income and assets. The onus remains with the taxpayer to declare and formalize their tax residency with SARS to avoid being prosecuted due to a non-compliant profile.

SARS has not let grass grow under their feet and have sent out a deluge of e-mails to taxpayers who left South Africa to live overseas. It would be interesting to know what the statistics are in terms of the number of responses received. As tax practitioners a lot of these e-mails have come to us and then been forwarded on to our clients. We have seen a poor response in terms of interest in compliance from our clients to date though.

It would have come as quite a shock to many of these taxpayers that SARS has 'dredged' up their tax affairs again, particularly for those South Africans who have been gone for more than 10 years. Many of these people have stated that they have foreign citizenship and have no obligation to SARS, not realizing that citizenship is a home affairs status and tax residency a SARS status. The two are not aligned and do not depend on one another. If that is a shock to the person, what is the advisable course of action to ensure a clean slate with SARS?

The best option for South African expatriates is to cease their tax residency with SARS formally, either through financial emigration or using a double taxation treaty when it is applicable. Once tax residency has ceased the taxpayer will be seen as a non-resident for tax purposes and would only be required to declare earnings from a South African source going forward.

The taxpayer must be fully tax compliant for SARS to change their tax residency status to 'non-resident'.

The only other option to ensure compliance with SARS is to use the foreign income exemption. The taxpayer would need to meet the applicable qualifying requirements though to ensure that the R 1.25 exemption was applicable. Ceasing tax residency would be better as it takes the full foreign-earned income out of the equation and that's why it's important that the taxpayer is compliant and has followed the correct procedures.

To those sceptics who believe that SARS will not tackle them on foreign soil, please think again. SARS has been very clear that being non-compliant with them leaves the taxpayer vulnerable to the risk of being criminally prosecuted. SARS is not afraid of using social media as the medium to serve a summons. If it can be proved that the taxpayer has viewed the summons SARS will push for a judgement finding the taxpayer guilty of non-compliance. With the new harsher penalties that SARS has recently legislated, it could prove quite a shock should the taxpayer be arrested at a border entry point when returning for a holiday or a family event. The taxpayer would also need to carefully consider their international travel plans as a non-compliance conviction could get them arrested in a country having an extradition treaty with South Africa.

We urge taxpayers who may fall into this target category to take these threats seriously and to take immediate action to regularize their tax affairs. It is important to consult with an experienced tax consultant in this space to ensure that your non-residency has been formally declared, regardless of the number of years you have lived abroad. Our tax team can certainly assist in this regard and can be contacted on [info@hrtorque.co.za](mailto:info@hrtorque.co.za) or at [info@sailsolutions.co.uk](mailto:info@sailsolutions.co.uk).

You will be in good hands.

## 5) Employment Tax Incentive – “Qualifying Months” and reporting challenges

**Author: Dave Beattie**

When the Employment Tax Incentive scheme was introduced into legislation after only a very short public comment period there was concern that this was a political stunt. Like with any new legislation public comment is critical to identify possible challenges in terms of the wording, interpretation and practical implementation of the legislation. As this process was not adequately followed it was no surprise that there have been several significant amendments to the ETI Act over the years since 2014. This is not to mention the numerous versions of the SARS PAYE-GEN-01-G05 ETI Guide and the four issues of the LAPD-ET-G01-Guide-to-the-Employment-tax-Incentive. Further complicating matters is the introduction of the additional ETI deductions offered by SARS because of the effect of COVID on the economy as well as the concessions linked to the civil unrest in July 2021.

The swift introduction of the ETI Act also took payroll suppliers by surprise and the roll out of the legislation and subsequent training created significant challenges for employers. We have seen first-hand the challenges that employers have faced, and it would be fair to say that ETI has created a significant administration burden for employers. This has created risk of non-compliance and there is also the constant threat of SARS audits.

Some of the areas of ETI where we see the most challenges are:

### The ‘Qualifying Months’ Principle

The legislation specifies the formula that the payroll must use to calculate the ETI for each of the first 12 months in which the employee qualifies and also the formula to be used for the second 12 qualifying months of the maximum of 24 qualifying months. It is important that one ‘qualifying month’ must be determined and accumulated by the payroll for every month in which an employee qualified to generate an ETI amount for an eligible employer.

As qualifying tests are based on ‘wage’ and ‘remuneration’ that can fluctuate from month-to-month, these fluctuations can therefore result in an employee ‘qualifying’ in certain months and not in other months. This means that qualifying months need not be consecutive. The payroll then applies the correct formula (first or second twelve months) according to the number of qualifying months accumulated for the month and calculates the ETI amount for that month. When the payroll identifies that 24 qualifying months have been utilized, the ETI benefit will be stopped.

Qualifying months must be calculated and accumulated by payrolls for every month in which the employee qualifies, even if the employer did not claim ETI for that month. This means that the eventual length of the 24-month ETI calculation period is determined by the number of months that an employee qualifies, not the number of months in which the ETI is claimed for that employee. This is a concept that is often misunderstood by payroll administrators and employers.

Another challenge relating to qualifying months occurs when an employee is transferred between associated companies. If a qualifying employee changes employment from one associated company to another, then the qualifying months accumulated by the last employer must be carried forward to the new employer. Without this condition it would be possible for two companies that are associated to move employees from the one company to the other to remain indefinitely within the first 12-month bracket, or to escape the limitation of the maximum of 24 qualifying months for an employee.

Similarly, if an employee leaves employment but is reemployed at a later stage, the qualifying months recorded for the employee when the employee left services of the employer must be used as the starting point of the further accumulation of qualifying months when the employee is reemployed. This logic is particularly applicable to the use of seasonal workers or casuals.

## Reporting challenges

Reporting ETI on the EMP 201 is a challenge to many employers. While there is a direct link between the payroll's ETI calculations and the ETI information reported on the tax certificate, there is no direct link (or upload) between the payroll and the EMP201. The EMP201 administration is independent of the payroll, and it is the employer's responsibility to complete the EMP201 timeously and accurately. If the employer, for whatever reason, does not claim the ETI on the EMP201 for a certain month, the payroll has increased the number of qualifying months by one month and recorded the ETI information for the tax certificate for that month, irrespective of the fact that the ETI was not claimed.

It is possible that this mismatch between the number of qualifying months and the total ETI claimed can be rectified before the end of the 6-month tax certificate cycle if the employer claims the unclaimed ETI in a later month, as long as this retrospective claim falls within the same 6-month tax certificate cycle. Add the last-minute changes relating to COVID and the civil unrest and this significantly complicates the auditing of such claims and can give administrators sleepless nights.

The plight of the employer has not been ignored though. The Payroll Authors Group of SA has discussed these difficulties with the policy makers and has submitted proposals to amend the legislation with a view to simplifying the administration and largely removing the risk of inadvertent non-compliance. The timeframe on any changes is not known at this point, meaning that employers will continue to run the gauntlet with SARS until common sense prevails.

## 6) Recent legislative changes – Algeria / Eswatini / Ghana / Kenya / Malawi / Nigeria / Mauritius / Saudi Arabia / Zimbabwe / Zambia

Source: [crs.co.za](http://crs.co.za)

### ALGERIA

#### Tax changes published in the Finance Law 2022

On Thursday, 30 December 2021 Algeria Head of State signed the Finance Law 2022 at the headquarters of the Presidency of the Republic.

The Finance Law 2022 changed the level of income brackets and applicable tax rates. The last modification of this scale was brought forth in the Finance Law for 2008.

As of January 2022, the progressive scale of personal income tax (PIT) laid down in Article 104 of the Direct Tax Code is amended as follows:

Annual income (IRG) DZD	Tax Rate
Not exceeding 240,000	0%
240,001 to 480,000	23%
480,001 to 960,000	27%
960,000 to 1,920,000	30%
1,920,000 to 3,840,000	33%
3,840,000 and above	35%

Note:

Individuals with a gross monthly salary level not exceeding DZD 30,000 will continue to be fully exempt from PIT.

To view the Finance Law 2022, follow the [link](#). Please note that the FL2022 is only available in French.

### ESWATINI

#### National Provident Fund (NPF) limit increase

The Minister for Labour and Social Security made the following regulations citation and commencement in respect of the Eswatini National Provident Fund (ENPF) (Statutory Contributions) Regulations, 2020.

Legal Notice 140 of 2020, Section 2(1)(b) states that the wages level for statutory contributions for the year 2022 shall be payable by a contributing employer in respect of wages of E3,300 or less during any calendar month.

Effective 1 January 2022 the ENPF ceiling amount of wages for the purposes of the calculation of statutory contributions has increased from E3,100.00 to E3,300.00 per month, bringing the maximum contribution per employee and employer to the following:

Effective 1 January 2022	Maximum Contribution
Employer	E165
Employee	E165
<b>Total Monthly Contribution</b>	<b>E330</b>

To view the Legal Public Notice, follow the [link](#).

## EGYPT

### Social insurance contribution limit

On 4 January 2022 the head of the National Social Insurance Authority (NOSI) stated in a press release that, as of 1 January 2022, the minimum insurance contribution wage has been raised to 1400 pounds instead of 1200 pounds, and the maximum insurance contribution wage has been raised to 9400 pounds instead of 8100 pounds.

The decision to raise the minimum and maximum insurance contribution wages follows the implementation of the provisions of the new Insurance and Pensions Law, promulgated by Law No. 148 of 2019, which included an annual mechanism to increase these two limits for the first time in the authority's history.

As from 1 January 2022 the comprehensive insurance salary (upon which the contributions are based) are subject to the minimum and maximum amounts below:

2021 Contribution Base		2022 Contribution Base	
Monthly Minimum	Monthly Maximum	Monthly Minimum	Monthly Maximum
EGP 1,200	EGP 8,100	EGP 1,400	EGP 9,400

Please note the minimum and maximum limits are being approximated to the nearest hundred pounds.

To view the press release, follow the [link](#).

## GHANA

### Tax changes published in the amendment to the Income Tax Act

On 30 December 2021 the Parliament of Ghana enacted the following Acts in line with the various measures introduced by the Government in the 2022 Budget:

- Income Tax (Amendment) (No. 2) Act, 2021, Act 1071;
- Value Added Tax (Amendment) Act, 2021, Act 1072;
- Penalty and Interest Waiver (Amendment) Act, 2021, Act 1073.

Even though no income tax changes were proposed in the budget statement, the enactment of the Income Tax (Amendment) (No. 2) Act, 2021 on 30 December 2021 made changes to the tax tables for 2022.

With effect from 1 January 2022 the income tax bands are as follows:

Annual Chargeable Income GH¢	Rate %	Tax GH¢	Cumulative Chargeable Income GH¢	Cumulative Tax GH¢
First 4,380	0	0	4,380.00	Nil
Next 1,320	5	66	5,700.00	66
Next 1,560	10	156	7,260.00	222
Next 36,000	17.5	6,300.00	43,260.00	6,522.00
Next 196,740	25	49,185.00	240,000.00	55,707.00
Exceeding 240,000	30	72,000.00		

To view the Income Tax (Amendment) (No. 2) Act, 2021, follow the [link](#).

### **SSNIT and NIA numbers merger extended to 30 June 2022**

The Social Security and National Insurance Trust (SSNIT) has extended the deadline for members of the scheme to merge their SSNIT and NIA numbers (personal ID numbers on their Ghana Cards) from 31 December 2021 to 30 June 2022.

Members who are yet to register for their Ghana Cards are entreated to do so to merge their SSNIT and NIA numbers before 30 June 2022.

From 1 July 2022 the Ghana Card will be the only identification recognised by the Trust. This is in compliance with Regulation 7 (1) of the National Identity Register Regulations, 2012, L.I. 2111 which requires the use of the Ghana Card as identification for "transactions pertaining to individuals in respect of pensions" and "transactions that have social security implications".

Employers are to note that they will be required to use only the NIA numbers of their workers to process contribution reports and make payments. Voluntary contributors will also have to pay their contributions using their NIA numbers.

To read the SSNIT media release, follow the [link](#).

## **KENYA**

### **NHIF added to Insurance Relief components**

The Finance Act, 2021, assented on 29 June 2021, made provision for National Hospital Insurance Fund (NHIF) deductions to be eligible for insurance relief in the PAYE tax calculation, effective 1 January 2022.

The existing insurance relief has been extended to include NHIF relief on contributions to the fund by the employees at the rate of 15% per month, subject to a maximum of KES5 000 per month or KES60 000 per year.

The Kenya Finance Act No. 8 of 2021, Section 13 stipulates the following:

Section 31 of the Income Tax Act is amended in subsection (1) by inserting the words "or a contribution made to the National Hospital Insurance Fund" immediately after the expression "2007" appearing in paragraph (v) of the proviso to the subsection.

Thus, section 31, paragraph (1) (v) of the Income Tax Act, 1973 pertaining to Insurance Relief, will be amended as follows:

"(v) a health policy whose term commences on or after 1st January 2007 or a contribution made to the National Hospital Insurance Fund shall qualify for relief;"

To view the Finance Act No. 8 of 2021, follow the [link](#).

## **MALAWI**

### **Rollout of e-filing**

Following the rollout of electronic filing (e-filing) of VAT returns to taxpayers under the Large Taxpayer Office, Blantyre Medium Taxpayer Office and the Lilongwe Medium Taxpayer Offices in November 2021, the Malawi Revenue Authority (MRA) is pleased to inform taxpayers and the general public about the rollout of e-filing of the following tax returns to ALL taxpayers from December 2021:

- Pay as you earn (PAYE);
- Domestic Excise (DEX);
- Fringe Benefit Tax (FBT);
- Value Added Tax (VAT); and
- Capital Gains Tax (CGT)

MRA would like to remind taxpayers and the public that Msonkho Online is different from MyTaxOnline/ePayments.

Therefore, in order to electronically file the returns using the Msonkho Online Taxpayer Portal, taxpayers need to complete portal registration under the Msonkho Online System.

Registration can be done on the MRA website ([www.mra.mu](http://www.mra.mu)) where they will click the Taxpayer Login link (<https://msonkho-online.mra.mu/#/security/login/taxpayer>) and click Register Now to create a unique username and password.

For more information, visit the Mauritius Revenue Authority (MRA) [website](#).

## **MAURITIUS**

### **Portable Retirement Gratuity Fund (PRGF) contributions**

On 31 December 2021 the Mauritius Revenue Authority (MRA) published an announcement to inform employers that the obligation to contribute to PRGF will be applicable from January 2022.

The submission of the PRGF return for 2022 and the payment of the contribution due are required to be made on or before 28 February 2022. To this end, the necessary facilities will be available on the MRA website ([www.mra.mu](http://www.mra.mu)) by the end of January 2022.

It may be recalled that the obligation to contribute to PRGF was suspended for the period January 2020 to December 2021.

PRGF contribution with respect to that period shall be deemed to form part of "past services".

### **Contributions for past services**

An employer will also have the obligation to pay contributions in respect of the past services of an employee who is in employment as of 1 April 2020. An employer will have the option of either paying the contributions for past services:

- On the termination of employment for any cause whatsoever, or the retirement, or the death of an employee, calculated on the last monthly salary drawn by the employee; or
- At any time before any of the events mentioned below, calculated on the monthly salary drawn by the employee as of 24 October 2019.

In case of the resignation of an employee, there is no obligation to pay contributions for past services.

The contributions required to be paid will be:

- In the case of an employee whose employment is terminated
  - To the employee when he/she retires on attaining the appropriate retiring age; or
  - Where the employee dies, be paid to the legal heirs of the employee,

Note:

Unpaid contributions for the period January 2020 to December 2021 will be deemed to be past services and will be paid on exit of the employee or at any time before the exit.

To view the announcement, follow the [link](#).

### **End-of-year bonus**

Further information regarding the end-of-year bonus was published in a press release by the Ministry of Labour, Human Resources Development and Training on 10 December 2021.

- The Ministry of Labour, Human Resources Development and Training informs employers and employees of the private sector that the "Workers' Rights Act, Act No. 20 of 2019" provides for the mandatory payment of an end-of-year bonus to employees receiving a monthly base salary not exceeding 100,000 rupees.
- In the event that the employee was employed during the period 1 January to 31 December 2021, the end-of-year bonus will be equivalent to one-twelfth of the annual compensation obtained by the employee.
- The end-of-year bonus will, however, be payable on a pro-rata basis to an employee:
  - who, during the year 2021:
    - has taken up employment and is still in service as of 31 December 2021;
    - retired;
    - was made redundant;

- has submitted his/her resignation, while having completed at least eight months of continuous service during the current year with the same employer;
- whose fixed-term contract ended during the year 2021.
- On the other hand, if the employee's last month's salary is higher than the average wages during the period during which the employee worked, the end-of-year bonus will be calculated on his/her last salary as stipulated by the "End of Year Gratuity Act 2001".
- If the employee is still employed on 31 December 2021, the employee must pay the employee 75% of the bonus, five days before 25 December 2021, and the balance no later than the last working day of the year.
- With regard to an employee who will receive a monthly base salary of more than 100,000 rupees, he/she will be eligible, in this case, for the payment of a "free", according to the provisions of "End of Year Gratuity Act 2001".
- If the employee was employed during the period 1 January to 31 December 2021, the "free" will be equivalent to the employee's base salary for the month of December 2021.
- The "free" is, however, payable on a pro-rata basis to an employee who, during the year:
  - has taken up employment and is still in service as of 31 December 2021;
  - retired;
  - was made redundant for economic reasons.

Anyone wishing to obtain additional information should contact the local Labour Office or call the Ministry on 207 2600.

To view the original press release, follow the [link](#).

*It should be noted that the press release is only available in French.*

## **NIGERIA**

### **Tertiary Education Tax (EDT) rate**

The Tertiary Education Tax (EDT) is now governed by Tertiary Education Trust (TET) Fund (Establishment, Etc.) Act 2011, imposed on all companies registered in Nigeria.

The Finance Act, 2021 was signed into law on 31 December 2021, following its passage by the National Assembly. The Act introduced a change to the EDT rate.

An increase from 2% to 2.5% for Nigerian companies was introduced, effective 1 January 2022. Furthermore, the Act reduces the timeline for payment of TET from 60 to 30 days after the FIRS has served a notice of the assessment on a company.

To view the Finance Act, 2021, follow the [link](#).

## **SAUDI ARABIA**

### **Social insurance contributions 2022**

Effective 1 January 2022, the General Organisation for Social Insurance (GOSI) announced changes to employee and employer contribution rates for the unemployment insurance law (SANED) GOSI component. All other elements of the current GOSI contributions remain unchanged.

Social insurance contributions are paid monthly, based on the monthly basic salary plus housing (paid or in kind) with an upper limit of SAR 45,000.

<b>Social Security Components</b>	<b>2021</b>		<b>2022</b>	
	<b>Employer</b>	<b>Employee</b>	<b>Employer</b>	<b>Employee</b>
Social Insurance	9%	9%	9%	9%
Occupational Hazard	2%	-	2%	-
Unemployment Insurance	1%	1%	0.75%	0.75%
<b>Total contribution %</b>	<b>12%</b>	<b>10%</b>	<b>11.75%</b>	<b>9.75%</b>

To view the GOSI media release, follow the [link](#).

## **ZAMBIA**

### **National Pension Scheme Authority (NAPSA) contribution ceiling**

On 24 December 2021 the National Pension Scheme Authority (NAPSA) published a public notice regarding the revision of contribution ceiling and pension payments for 2022.

NAPSA is mandated to review the contribution ceiling and pension payments annually and adjust them in line with the change in the national average earnings (NAE). This is in accordance with Section 35 of the National Pension Scheme Act No 40 of 1996.

The national average earnings are determined annually by the Zambia Statistics Agency and were increased from K5,797.00 in 2021 to K6,109.00 in 2022.

Accordingly, the contribution ceiling has increased from K23,188 in 2021 to K24,436 in 2022.

Hence, the maximum employee monthly statutory contribution deductible for the year 2022 is K1,221.80, which is 5% of the contribution ceiling.

This entails that the maximum monthly contribution payable by employers is K2,443.60, constituting 5% employee share and 5% employer share.

Employees earning below the contribution ceiling continue to contribute 5% of the individual's applicable monthly earnings.

To view the public notice, follow the [link](#).

To view the national contributions table 2022, follow the [link](#).

## ZIMBABWE

### Tax changes and Finance Bill 2022

Zimbabwe's Minister of Finance and Economic Development has approved the Finance Bill ahead of other amendments.

These amendments will give effect to various fiscal measures mentioned by the Minister of Finance in the National Budget Statement delivered on 25 November 2021 and make certain modifications to improve revenue collection and administration

With effect from 1 January 2022 the monthly tax free threshold increased to ZWL\$ 25,000 for remuneration earned in ZWL currency.

Annual Tax Tables from 1 January 2022 to 31 December 2022 – Zimbabwe Dollars (ZWL)

Tax Band (ZWL) From:	Tax Band (ZWL) To:	Tax Rate
0,00	300,000	0%
300,000.01	720,000.00	20%
720,000.01	1,440,000.00	25%
1,440,000.01	2,880,000.00	30%
2,880,000.01	6,000,000.00	35%
6,000,000.01	and above	40%

With effect from 1 January 2022 the monthly tax free threshold increased to US\$ 100 for remuneration earned in US currency.

Annual Tax Tables from 1 January 2022 to 31 December 2022 – Foreign Currency

Tax Band (US\$) From	Tax Band (US\$) To	Tax Rate
0,00	1,200.00	0%
1,200.01	3,600.00	20%
3,600.01	12,000.00	25%
12,000.01	24,000.00	30%
24,000.01	36,000.00	35%
36,000.01	and above	40%

### Tax-free bonus

The annual tax-free bonus threshold has increased from \$25,000 to \$100,000 for income earned in ZWL, and from US\$320 to US\$ 700 for income earned in USD, effective 1 November 2021.

To view the Finance 2022 Memorandum, follow the [link](#).

To view the tax tables published by ZIMRA, follow the [link](#).

### NSSA pensioners increment in January 2022

In Statutory Instrument 169 of 2021, published on 11 June 2021 regarding new contribution rates to the National Social Security Authority's (NSSA) (POSB), the authority has advised employers that the new maximum amount of monthly insurable earnings in respect of which contributions are payable shall be 75% (seventy five per cent) of the previous month's total consumption poverty line (TCPL).

The insurable ceiling amount will change each month going forward and therefore the capped NSSA amount has to be adjusted each month as well.

Where the TCPL figure is not available or published, the last published figure is applicable.

For January 2022 the insurable earnings ceiling is ZWL\$ 30,032.00.

For both employer and employee the maximum monthly deduction changed from ZWL\$ 1,274.99 (4.5% x 28,333.00) to ZWL\$ 1,351.44 (4.5% x 30,032.00).

To view the public notice, follow the [link](#).

## 7) How can outsourcing (BPO) help a startup business?

### Author: Jonathan Aitken

If you are not used to it, starting a business in South Africa can be time consuming and costly. Unfortunately, we have a legislative environment which makes it complex for new businesses. At a time when your focus should be on getting your business up and running and attracting your first clients, the last thing you need as an entrepreneur is admin.

While it may seem like an unnecessary cost, using the combination of a good outsourcer and the right systems will make your startup journey far easier and make your business far more likely to succeed.

Feel free to contact us for more information on [info@hrtorque.co.za](mailto:info@hrtorque.co.za). Either we or our partners can assist you with all of the elements in the checklist.

I have included below an indicative checklist of the various things an outsource partner can assist you with. Let's call it the "Start-up checklist". Note this is not an exhaustive list:

Area of Focus	Things to do
Registrations & setup	<ul style="list-style-type: none"> <li>• Setup company with CIPC and register for company tax with SARS</li> <li>• Register for VAT (where applicable)</li> <li>• Register with SARS <ul style="list-style-type: none"> <li>◦ PAYE / UIF / SDL</li> </ul> </li> <li>• Register with the Department of Labour <ul style="list-style-type: none"> <li>◦ UIF</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>• Register with the Compensation Commissioner for workmens' compensation / COID</li> <li>• Setup bank account</li> </ul>
Ongoing compliance	<p>Company</p> <ul style="list-style-type: none"> <li>• Bi-monthly VAT returns (where applicable)</li> <li>• Company tax and provisional tax with SARS</li> <li>• Annual Financial Statements with CIPC</li> <li>• Annual return with CIPC</li> </ul> <p>Employer</p> <ul style="list-style-type: none"> <li>• Monthly <ul style="list-style-type: none"> <li>◦ Payroll</li> <li>◦ EMP201 with SARS</li> <li>◦ Declaration for UIF to DoL</li> <li>◦ Remittances to medical aid, provident funds, bargaining councils, unions (where applicable)</li> </ul> </li> <li>• Semi-annually <ul style="list-style-type: none"> <li>◦ EMP501 / IRP5s</li> </ul> </li> <li>• Annually <ul style="list-style-type: none"> <li>◦ WCA Annual return of earnings</li> <li>◦ Employment equity returns (where applicable)</li> <li>◦ Skills development returns (where applicable)</li> </ul> </li> </ul>
Human Resources	<ul style="list-style-type: none"> <li>• Provide policies and procedures and contracts of employment</li> <li>• Recruitment <ul style="list-style-type: none"> <li>◦ Help prepare org structure and job descriptions</li> <li>◦ Advertise</li> <li>◦ Arrange interviews, psychometric and technical assessments</li> <li>◦ Make offer and get contract signed</li> <li>◦ Onboard</li> </ul> </li> <li>• Grievances and IR <ul style="list-style-type: none"> <li>◦ Assist with the "problem children"</li> <li>◦ Exit management</li> </ul> </li> <li>• Work with you to grow the business <ul style="list-style-type: none"> <li>◦ Training</li> <li>◦ Performance management and reviews</li> </ul> </li> <li>• Assist in setting up time &amp; attendance and payroll</li> <li>• Help design remuneration and incentive structures</li> <li>• POPI and data security compliance</li> </ul>
Information Technology	<ul style="list-style-type: none"> <li>• Help to source necessary hardware <ul style="list-style-type: none"> <li>◦ Laptops, printers, mobile devices</li> </ul> </li> <li>• Cost effective access to critical software <ul style="list-style-type: none"> <li>◦ Office 365 licensing and setup (email, word, excel, sharepoint, one drive etc..)</li> <li>◦ Firewalls and security software</li> </ul> </li> <li>• Help with operational platforms <ul style="list-style-type: none"> <li>◦ Web design</li> <li>◦ Social media and digital advertising</li> <li>◦ PoS and ecommerce</li> </ul> </li> <li>• POPI and data security compliance</li> </ul>
Accounting & Tax	<p>Over and above the compliance aspects:</p> <ul style="list-style-type: none"> <li>• Help drawing up a business plan</li> <li>• Tax advisory and support</li> <li>• Bookkeeping support <ul style="list-style-type: none"> <li>◦ Customer invoicing</li> <li>◦ Customer collections</li> <li>◦ Bill payments and supplier management</li> <li>◦ Cash management</li> </ul> </li> <li>• Dashboard development and KPIs</li> <li>• Real time and monthly management reporting (you can't run a business if you don't know what is happening)</li> <li>• Company valuation and modelling</li> <li>• Budgeting</li> </ul>

Strategy	<ul style="list-style-type: none"> <li>• Facilitate strategic planning</li> <li>• Develop business strategy</li> <li>• Build five-year plan</li> </ul>
Systems	<p>The real benefit of modern cloud-based systems is that you can setup all of the above areas on cloud-based platforms that communicate and interface naturally with one another. This means all your info is real time and available to you wherever you are. For example:</p> <ul style="list-style-type: none"> <li>• Xero accounting with a linked bank recon process, automatic client payment reminders and direct interfaces to inter alia: <ul style="list-style-type: none"> <li>○ Payroll and HR software</li> <li>○ CRM platforms</li> <li>○ Inventory management</li> <li>○ eCommerce and payment platforms</li> </ul> </li> <li>• Office 365 or AWS tools to automate processes and functions within the organisation (onboarding clients, document management, workflow management)</li> </ul>

## 8) Can an employee disclose their conditions of employment to other employees?

**Author: Melany Bydowell**

Is an employee entitled to discuss the conditions of their employment with other employees?

This question comes up regularly from clients who are concerned that employees freely discuss their conditions of employment with others.

The Basic Conditions of Employment includes provision for this under 78.(1) (b) as follows:

Protection of employees against discrimination

Rights of employees

78. (1) Every employee has the right to—

(a) make a complaint to a trade union representative, a trade union official or a labour inspector concerning any alleged failure or refusal by an employer to comply with this Act;

**(b) discuss his or her conditions of employment with his or her fellow employees, his or her employer or any other person;**

(c) refuse to comply with an instruction that is contrary to this Act or any sectoral determination;

(d) refuse to agree to any term or condition of employment that is contrary to this Act or any sectoral determination;

(e) inspect any record kept in terms of this Act that relates to the employment of that employee;

(f) participate in proceedings in terms of this Act;

**(g) request a trade union representative or a labour inspector to inspect any record kept in terms of this Act and that relates to the employment of that employee.**

**(2) Every trade union representative has the right, at the request of an employee, to inspect any record kept in terms of this Act that relates to the employment of that employee.**

The Act is therefore clear in giving employees the right to communicate with others about their conditions of employment.

## 9) Skills Development Levy – Deadline 2022

**Author: Jonathan Aitken**

Payment towards the Skills Development Levy grant scheme is legislated in terms of the Skills Development Levies Act, 1999. Under this act every employer in South Africa who is registered with SARS (South African Revenue Services) for PAYE; and has an annual payroll in excess of R500,000 or more than 50 employees must register with SARS to pay the Skills Development Levy.

If an employer wishes to have access to recover either a mandatory or discretionary grant (to reclaim portion of their SDL levy to support their staff training), or they wish to claim BBEEE points by setting up an apprenticeship or learnership programme, they are required to register with their appropriate SETA (Sector Education and Training Authority) and submit an Annual Training Report and Workplace Skills Plan by the 30 April each year.

If you need assistance preparing either of these reports please feel free to contact one of our consultants at [info@hrtorque.co.za](mailto:info@hrtorque.co.za).

## 10) Skills Development Levy – Q&A

**Author: Nicky Hardwick**

In this article we explore some of the common questions we get around the Skills Development Levy and interacting with your SETA.

### **Who can be my company's Skills Development Facilitator and what do they do?**

Your company's skills development facilitator (SDF) can be either:

- One of your employees;
- An external person who you have formally contracted to take on this position; or
- A person who you, together with a number of other employers, employ to assess the group's skills development needs.

Your SDF will act as a liaison between your company and your Seta.

Your SDF must:

1. Liaise with your Seta
2. Develop quality-assurance systems in your company
3. Develop, submit and implement your company's workplace skills plan
4. Draft an implementation report against a workplace skills plan; and
5. Tell you what your Seta's quality assurance requirements are.

### **Can in-house training be considered a pivotal program?**

Pivotal Programs are defined as professional, vocational, technical and academic learning programmes that result in qualifications or part qualifications registered on the National Qualifications Framework (NQF) that address critical and scarce skills needs. Internal programs would need to be registered in terms of NQF to be classified as pivotal and allow you to claim accordingly.

### **Must out-house training be accredited with an ETQA (Education and Training Quality Assurance Bodies) or is a certificate of completion enough?**

Any course that is not accredited can be claimed for under the mandatory grant whereas training that is accredited with an ETQA can be claimed for under Pivotal and Discretionary grants.

### **How do unit standards work and how do we find out which unit standards are needed and likely to be granted discretionary funding?**

A unit standard is:

- a registered statement of desired education and training outcomes and its associated assessment criteria, together with administrative and other information as specified in the regulations.

Each unit standard has a credit value which is equivalent to 10 hours of notional learning. Notional learning time is:

- The learning time that it would take an average learner to meet the outcomes defined.
- It includes concepts such as contact time, time spent in structured learning in the workplace and individual learning.

Each unit standard has to be registered on the National Qualifications Framework (NQF) - at a particular level, with a prescribed number of credits.

In terms of finding out what discretionary funding you will be granted; the best thing to do is to find out what the scarce and critical skills are as listed by your Seta.

**Can you claim back your SDL for training non-employees? (eg. teaching matriculants basic computer skills)**

Yes, this would be listed under Non-Employees

**How can you increase your BBBEE score with SDL claims?**

This is based on your percentage of spend on BLACK employees and non-employees training and provided the criteria are met, can be credited against various part of your scorecard (including Skills and Socio-Economic Development)

**11) HR Mini Workshop**

HRTorQue has identified a need in many businesses during our interaction with clients and their staff through our HR Services.

Many supervisors, managers and team leaders do not understand the basics legislation and/or of managing their staff and so either do it badly or do not do it at all. This can result in the company being placed at risk of wrongful termination claims; increased allegations of preferential treatment and employees who cannot be held accountable in the workplace.

HRTorQue will be hosting sessions on a weekly basis on various topics to assist and guide your managers to perform more optimally in their positions.

Name of Training	Brief overview	Date	Facilitator
Probationary Periods: How to use them effectively	The aim of the virtual training session will be to help supervisors better understand what probation is; how it can be effectively used and what to do if the employee is not meeting the standards	08/02/2022	Nosisa Ndhlovu
Different Leave Types	Understanding how leave is applied to different to categories of staff and legislative rules on accrual and approval of leave	15/02/2022	Nicky Hardwick
Managing Sick Leave	Understanding how to effectively manage and reduce sick leave within the guidelines provided by the Basic Conditions and Labour Relations Act	22/02/2022	Nicky Hardwick
Overtime	Understanding how to apply the legislation to calculation of different types of overtime for different categories of staff	01/03/2022	Nicky Hardwick
Job Profiles: Effective use of profiles in the workplace	This session will help participants to understand the information in a job profile, how to apply it and how to manage staff not meeting their performance standards.	08/03/2022	Nosisa Ndhlovu
Performance Appraisals: What you need to know	A performance appraisal is not a session to raise all the good or bad of the last 6 months. This session will help participants understand how appraisals can best be used to utilise their human resources effectively	15/03/2022	Meagan Cesare
Misconduct, Incapacity and Poor Performance: What is the difference?	Many errors are made by managers when dealing with these aspects in the workplace due to their lack of understanding of what legislation requires and how to distinguish between the three.	22/03/2022	Nicky Hardwick
Sexual Harassment in the workplace	This session will assist managers in understanding the full scope of sexual	29/03/2022	Nicky Hardwick

harassment and how to manage it and make sure it is eliminated from the workplace.		
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**All sessions will be held from 09h00 to 10h00 on the specified dates.**

Virtual trainings are R100.00 + VAT per attendee per session

**BOOK NOW**

**Training will be conducted via MS Teams and participants must be able to Connect Via: Laptop, Tablet or Smart Phone and have the ability to use microphone and speakers.**

Should you require a more in-depth overview of any of the mini-workshops please do not hesitate to send an email to [hra@hrtorque.co.za](mailto:hra@hrtorque.co.za)

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