HRTorQue Reporter
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Should you require any further detail on any of these topics, please contact us at info@hrtorque.co.za.

1) Ensuring compliance with remote workers and foreign employers in South Africa

Author: Dave Beattie

Proposals from National Treasury in the February 2023 budget highlight their intention to align the obligations of South African and foreign employers. We have recently been inundated with queries from foreign employers wanting to employ South Africans to do remote work. So how is the proposed legislation going to impact on these companies in terms of meeting their legislative obligations?

It is believed that Treasury and SARS may be looking to have foreign employers register as employers for PAYE purposes.

With there being inconsistencies in the legislation covering the obligations of foreign employers, a change would be prudent. Annexure C of the Budget Review 2023 proposes to align the employer registration requirements for foreign employers to ensure these rules are consistent for both resident and foreign employers. At present, foreign employers do not have to have a representative employer in South Africa to pay remuneration and deduct PAYE from remuneration paid to South African employees. These individuals would currently be registered as provisional taxpayers and be paying their tax liability by submitting returns and payments in August and February each year.

According to Treasury, foreign employers paying remuneration are not required to deduct PAYE but are required to deduct UIF and SDL (although this is unlikely to be happening in practice). A South African employer when employing their first employee is required to register as an employer with SARS for PAYE purposes, deduct PAYE from remuneration paid or payable to employees, and pay the PAYE, SDL and UIF contributions to SARS. The budget now proposes to align provisions on foreign employers to ensure consistency between resident and foreign employers.

We are aware that some 'external companies' have chosen to register as employers from day one as it takes the provisional tax obligation away from employees and provides a platform to pay all payroll taxes and levies to SARS monthly. Should this proposal be implemented, foreign employers will need to register with the CIPC and obtain a CIPC number as an 'external company'. In addition to this number, they will need to get an Income Tax and PAYE number from SARS and open a South African bank account. The foreign entity, when registered as an employer with

SARS, will be required to meet all payroll compliance obligations, including submission of all returns and employees' tax certificates by the applicable deadlines.

HRTorQue Outsourcing can assist with 'external company' CIPC registration processes, the various SARS and Department of Labour registrations, and the running of your monthly payroll. These services will cover the payroll legislative compliance requirements that any offshore employer will need to adhere to.

For now, though, it's a case of wait and see as to what SARS and Treasury comes back with.

We will keep you up to date as more information is made available later in the year.

2) Activating bonus tax provisions

Author: Karl van der Merwe

As the economy starts recovering to pre-COVID times, we are seeing more payrolls requiring the activation of bonus tax provisions.

A **bonus provision** is the accounting provision of funds to pay a bonus during the bonus period.

A **bonus tax provision** is an additional 'earning' that is added to an employee to inflate the taxable earnings, for the purpose of increasing the employee's tax to such a point that when the bonus is paid the value of the tax on said bonus has already been paid.

For those navigating legislative and perception challenges, this can be an attractive option for employees.

The bonus in and of itself is the first part to consider; is the bonus guaranteed, does it form part of the package, and on what value is it based? While these questions exclude the bonus tax provision, they will impact on the decision-making process.

The next point to consider is the period over which the tax provision will run. This is generally 12 months, but this may not be practical for your situation or the date of increase, and what the bonus is based on may need to be taken into account in determining the length of the tax provision. Having said that, the general duration is between 10 and 12 months as anything less is overly onerous on the employee's taxation. Also remember that the while the provision for bonus can run across tax years, the bonus tax provision cannot. This may also need to be considered.

In addition, when looking at the value of the bonus in relation to the tax provision amount, one must ascertain what to do in cases of fluctuations in the bonus value, for example, what happens to the bonus tax provision when the employee gets an increase? Where the bonus is part of a total cost of employment scenario, what happens when there are fluctuations to the components that make up the total cost? These could potentially significantly affect the bonus provision as well as the bonus tax provision.

If you already have a robust policy in place with regards to bonuses then you are on the right path, as these policies and procedures will form the basis of when and how much bonus is paid (including pro rata bonuses).

The final consideration is the payroll system that is being used, as some allow for automatic bonus tax provision, others need more configuration and customisation, and others still require manual intervention.

The challenges that this specific payroll element presents can seem daunting, but it does have its place and is a firm favourite amongst staff (assuming it all works as intended). If you are considering a bonus tax provision for your staff, carefully think through all the scenarios applicable to your organisation first. If you are unsure about anything, consult with a payroll professional like HRTorQue.

To discuss any of your tax needs or challenges, contact us on info@hrtorque.co.za.

3) Frequently asked questions on COIDA

Author: Odessa Nutter

The Compensation for Occupational Injuries and Diseases Act (COIDA) is a South African law that provides compensation for employees who are injured or contract an occupational disease while on the job. We receive many enquiries from our readers regarding COIDA, so for your convenience have put together a handy FAQ with some of our most popular questions.

1) Who is covered by COIDA?

COIDA covers all employees who are working in South Africa, including foreign workers and part-time employees such as domestic workers and part-time workers, who are injured or contract diseases while on the job. However, some categories of employees are excluded from the Act, such as members of the South African National Defense Force and certain volunteers.

2) What benefits do employees receive under COIDA?

Employees who are injured or contract a disease because of their work are entitled to medical treatment, rehabilitation and compensation for loss of income. In the case of a work-related death, the dependents of the deceased employee may be entitled to compensation for loss of support.

3) Who pays for the compensation under COIDA?

The compensation is paid by the employer, who is required by law to register with the Compensation Fund and to pay annual assessments based on their payroll. The Compensation Fund is a public entity that manages the funds collected from employers and administers the compensation payments.

4) What is the process for making a claim under COIDA?

Employees who are injured or contract diseases while on the job must report the incident to their employer within seven days. The employer must then report the incident to the Compensation Fund within 14 days. The employee can also submit a claim directly to the Compensation Fund if the employer fails to do so. The Compensation Fund will investigate the claim and determine whether compensation is payable.

5) How long does it take for a claim to be processed under COIDA?

The processing time for a claim varies depending on the complexity of the case and the availability of supporting documentation. Generally, the Compensation Fund aims to process claims within 120 days of receiving all the necessary information.

6) Can employees sue their employer for work-related injuries or diseases?

Under COIDA, employees are generally not allowed to sue their employer for work-related injuries or diseases. The Act provides a no-fault compensation system, which means that the employee is entitled to compensation regardless of who was at fault for the incident. However, there are some exceptions where the employee may be allowed to sue their employer, such as in cases of intentional harm or gross negligence.

7) What benefits does COIDA provide?

COIDA provides for medical expenses, temporary disability benefits, permanent disability benefits, and death benefits. The amount of benefits paid depends on the severity of the injury or disease.

8) What types of injuries and diseases are covered by COIDA?

COIDA covers all injuries and diseases that are caused by or arise out of an employee's work. This includes physical injuries, such as broken bones caused by accidents or repetitive strain, as well as diseases caused by exposure to chemicals, radiation, or infectious diseases.

9) What types of compensation are available under COIDA?

Compensation under COIDA include medical expenses, disability benefits and death benefits. The amount of compensation depends on the severity of the injury or illness and the extent of the employee's disability.

10) Can I still claim compensation if the injury was my fault?

Yes, you can, however if the injury was caused by your own negligence or misconduct, the amount of compensation may be reduced.

11) Can I claim compensation if I was injured while commuting to or from work?

No, injuries sustained while commuting to or from work are not covered by COIDA. However, injuries sustained while traveling for work-related purposes are covered.

12) What should I do if my employer refuses to pay compensation under COIDA?

If your employer refuses to pay compensation under COIDA, you can file a complaint with the Compensation Commissioner. You may also seek legal advice and take legal action against your employer.

13) Is COIDA the only option for injured workers in South Africa?

No. Workers who are not covered by COIDA may be able to claim compensation through common law or other statutory schemes. It is recommended that you seek legal advice to explore your options.

14) Do I need a lawyer to make a claim under COIDA?

You do not need a lawyer to make a claim under COIDA, but it can be helpful to consult with one if your claim is complex or if you are having difficulty getting the benefits you are entitled to.

For all your COIDA assistance and queries please contact us, you can also view our COIDA fact sheet together with pricing here.

4) The importance of payroll reconciliations

Author: Jonathan Aitken

Having processed payrolls for multiple clients over many years, one of the things we have noticed is that often a reconciliation is not performed (or not performed well) between the processed payroll, the actual payments made to employees and third parties; and the general ledger recorded in an employer's books.

This lack of a solid reconciliation occurs for several reasons:

- Confidentiality - the finance team performing the recons are not privy to detailed employee information (and senior finance don't have the time to do the recons themselves).
- Understanding - some of the issues that arise in payroll can be confusing or complex, either from an HR or tax perspective or from an accounting perspective.
- Communication - the payroll may be processed by HR, but nobody communicates with the person doing the recon to explain why specific transactions have taken place.

The downside to either no recon being performed, or a recon being performed badly, leads to a number of risks for the business from an accounting perspective. These include:

- Leave and bonus provisions are not recorded accurately.
- The general ledger may balance, but employer contributions and fringe benefits (double sided entries) may not have been coded and do not appear on the general ledger.

- The general ledger may assume that all net pay and third party payments have been made and reflect no liability, whereas in reality some payments may not have gone through properly (such as garnishees), or where payments have been deliberately withheld until an issue is resolved.
- The balance sheet may not accurately reflect loan accounts, SARS liabilities (including ETI) and employees with negative net pay.

We highly recommend employers perform a reconciliation between their payroll, general ledger and EFT payments as a critical form of control.

Our accounting team is available to assist with this and offers a confidential, professional service. Should you wish to take the stress out of your payroll reconciliations, email us on info@hrtorque.co.za.

5) Updated amendments to the COID Act

Author: Dave Beattie

Revisions to the Compensation for Occupational Injuries and Diseases Amendment Act, 2022 were published on the 17th April 2023 in Government Gazette number 48431.

Most importantly, this Act changes the previous definition of 'employee' to include domestic workers. Previously, domestic workers and gardeners were not included in the definition of 'employee' in the COID Act, and could only claim UIF benefits in terms of the Unemployment Insurance Fund.

The Act also introduces the concept of a multi-disciplinary employee-based process in which employee rehabilitation, re-integration and return to work processes must be undertaken by employers for employees who suffer from occupational injuries or disease.

It is important to note that the Act amends the existing legislation in the following areas:

- Amends, substitutes, insert, deletes and repeals certain definitions and sections
- Provides for matters pertaining to the board and its members
- Provides for the Commissioner to perform certain functions that were previously performed by the Director General
- Further provides for matters pertaining to the rehabilitation and integration of workers injured in the course of their occupation and acquiring a disease due to their occupation
- Regulates the use of health care services
- Provides for the Commissioner to review pension claims or awards
- Provides for administrative penalties
- Regulates inspection, compliance and enforcement

The effective date of implementation of this legislation is yet to be confirmed by President Ramaphosa, and will be done by a proclamation in the Government Gazette. When this happens, we will publish more information and will also be able to assist you with any COIDA queries.

6) Things to take note of this May

Author: Candice Zulu

1. **Return of Earnings (ROE)** submission to the Department of Labour due date has now been extended from the 1st April 2023 to the 31st May 2023. Employers are encouraged to meet this deadline in order to avoid penalties. View our COIDA fact sheet together with pricing here.

2. **COIDA threshold increase changes:** On the 10th March, Government Gazette 48187 was published containing a notice that listed the 'Increase in monthly pensions'. At the end of the Gazette, it listed the earnings threshold for COID purposes as R 568 959. This means that there are two Gazettes with differing

earnings thresholds. This matter was queried, and it has been confirmed by the Department of Employment and Labour that the earnings threshold to be applied in payroll systems for the period 1 March 2023 to 28 February 2024 is R 568 959. Read the complete newsflash here.

3. The 2023 **employer annual filing season** opened on the 1st April 2023 and will close on the 31st May 2023. This means employers must submit all annual reconciliation declarations covering the tax year from 1 March 2022 to 28 February 2023. Note that EMP501's must reflect accurate and up to date payroll information about your employees. If you often struggle during the employer filing season, we can assist. Whether you are using Psiber, Payspace, Sage 300 People or Sage VIP, our team of experienced professionals will take the hassle away. Contact us for more information.

4. HRTorQue hosts a number of weekly, online HR-focused mini workshops, covering various topics to assist and guide your managers to perform more optimally in their positions. View our list of trainings available or email us for more information.

7) GHANA - 2023 tax changes

Source: CRS www.crs.co.za

On the 24th November 2022, the 2023 Budget Statement was delivered by Ghana's Minister for Finance and Economic Planning. The Minister indicated that the income tax regime will undergo reforms in 2023, including a review of the upper limits for vehicle benefits and the introduction of an additional income tax bracket.

These changes have now come into effect with the President's assent to the Income Tax (Amendment) Act of 2023. The Act was assented to on the 3rd April 2023 and published on the 18th April 2023.

With effect from **1 January 2023**, the rates of income tax for individuals are as follows:

No.	Annual Chargeable Income	Rate of tax
1	First GH₵ 4,824	0%
2	Next GH₵ 1,320	5%
3	Next GH₵ 1,560	10%
4	Next GH₵ 36,000	17.5%
5	Next GH₵ 196,740	25%
6	Next GH₵ 359,556	30%
7	Exceeding GH₵ 600,000	35%

In addition, a benefit consisting of the availability for use or usage of a motor vehicle provided by an employer to an employee, or an entity to a member or manager during a year of assessment, is quantified according to the following rates:

Company vehicle bands		
No.	**Benefit**	**Rate**
1	Driver and vehicle with fuel	12.5% of the total cash emoluments of the person up to a maximum of GH₵1,500.00 per month
2	Vehicle with fuel	10% of the total cash emoluments of the person up to a maximum of GH₵1,250.00 per month
3	Vehicle only	5% of the total cash emoluments of the person up to a maximum of GH₵625.00 per month
4	Fuel only	5% of the total cash emoluments of the person up to a maximum of GH₵625.00 per month

To view the Income Tax (Amendment) Act, 2023, follow this link.

8) LESOTHO and MALAWI - 2023 tax changes

Source: CRS www.crs.co.za

Lesotho

Following the 2023/2024 Budget Speech delivered on the 27th February 2023, the Income Tax (Monetary Amounts) (Amendment) Regulations, 2023 was published on the 24th March 2023. The regulation serves as confirmation of the tax changes proposed during the Budget Speech.

In terms of Legal Notice No. 32 of 2023, the Income Tax (Monetary Amounts) (Amendment) Regulations, the lower tax bracket has been increased from M67,440.00 to M69,120.00 per annum.

In addition, the non-refundable tax credit has been increased from M10,560 per annum to M10,824 per annum.

With effect from 1 April 2023, the applicable rates for PAYE are as follows:

Resident Individual Income Tax Rates		
Chargeable Annual Income	**Chargeable Monthly Income**	**Rate of Tax**
First M69,120	First M5,760	20%
Over M69,120	Over M5,760	30%
A non-refundable tax credit of M10,824.00 pa		

To download the legal notice, follow the link.

Malawi

Following the Budget Speech delivered on the 2nd March 2023 by the Minister of Finance and Economic Affairs, the Taxation (Amendment) Act, 2023 was published on the 11th April 2023. The amended Act serves as confirmation of the tax changes proposed during the Budget Speech.

The PAYE rates, effective 1 April 2023, have been amended as follows:

Monthly Income	Annual Income	Rate
First K100,000	First K1,200,000	0%
Next K350,000	Next K4,200,000	25%
Next K2,050,000	Next K24,600,000	30%
Excess of K2,500,000	Excess of K30,000,000	35%

To view the Taxation (Amendment) Act, 2023, follow this link and scroll down to page 5.

9) ZIMBABWE - NSSA insurable earnings ceiling April to June 2023

Source: CRS www.crs.co.za

Pension and Other Benefits Scheme (POBS) contributions
The National Social Security Authority (NSSA) has published the new maximum amount for the POBS monthly contributions insurable earnings ceiling applicable to April, May and June 2023.

For January, February and March 2023 the insurable earnings ceiling was ZWL$ 500,966.
For both employer and employee, the maximum deduction has changed from ZWL$ 20,317.46 (4.5% x 451,499) to ZWL$ 22,543.47 (4.5% x 500,966).

For April 2023, May 2023 and June 2023 the insurable earning ceiling is ZWL$ 518,239.

For both employer and employee, the maximum deduction has changed from ZWL$ 22,543.47 (4.5% x 500,966) to ZWL$ 23,320.75 (4.5% x 518,239).

To view the insurable earnings banner on the NSSA website, follow this link.

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