HRTorQue Outsourcing (Pty) Ltd

HRTorQue Reporter
September 2023

Table of contents

Should you need any further information on these topics, please contact us at info@hrtorque.co.za.

Top of page

1) Domestics and COID claims

Author: David Beattie

Government is urging domestic workers to apply for compensation if they have been injured, disabled or contracted an occupational disease while at work. In a recent statement, Government encouraged qualifying domestic workers to apply directly to the Compensation Fund.

The call follows an amendment to the Compensation for Occupational Injuries and Diseases Act, no. 130, in April 2023, to include domestic workers in the definition of 'employee' for COID purposes. Domestic workers can also claim benefits retrospectively for occupational diseases, disabilities, or injuries dating from the 27th April 1994 onwards. Families of deceased domestic workers who have died from occupational injury or disease since the 27th April 1994, are also entitled to compensation.

According to the Act, employers must register their private domestic workers within seven days of employment with the Compensation Fund, and submit a declaration of the annual earnings of the domestic worker via a Return of Earnings (ROE). The ROE reflects what the domestic worker earns in that reporting period (1st March to the 28th February) and includes bonuses, overtime and fringe benefits.

Even with the treat of penalties and interest being levied for non-compliance, we have seen a very small percentage of employers comply with legislation and register their domestic workers. Whether this is because of a lack of knowledge, an unwillingness to incur extra costs or avoiding the administrative burden that it creates, is unclear at this point.

Another concern regarding the inclusion of domestics for COID purposes is the Government reference to claims being made directly by employees to the fund and the fact that claims dated back to the 27th April 1994 will be entertained. Dealing with the Compensation Fund is challenging at the best of times. Domestic employees making direct claims to the Fund will no doubt be a process fraught with challenges.

There are just so many questions that are unanswered at this point. These include:

- Will a claim be entertained if the employer is not registered?
- If registration is a requirement, what will happen if the employer is no longer traceable or deceased?
- What level of proof will be required to prove that the injury / illness / death was incurred on the job?

- What documentation would be needed to lodge a claim? With the time lapse since 1994, it is unlikely that many potential claimants would have the applicable documentation to prove expenses and loss of income.

Only time will tell whether this announcement will result in actual claims being processed and benefits paid out. With the Compensation Commissioner's Office so difficult to deal with, it would not be a surprise to see cases drag on for years, while case files are shuffled around and letters traded. And whether those who really need the assistance will ever see any financial benefit, is another question.

2) Available options when in debt to SARS

Author: David Beattie

With SARS on the brink of appointing external debt collectors, it is just a matter of time before these skilled professionals find the errant taxpayers and start collection proceedings on their terms. It would be wise to avoid this and approach SARS with the intention of working with them to settle any debt.

There are two options available to taxpayers that are indebted to SARS and who cannot settle the debt in its entirety. The first is a deferred payment arrangement and the other is a compromise. Either way, both options are certainly better than ignoring the debt and hoping it will go away.

Deferred payment

This is an arrangement that a taxpayer enters because they do not have the cash flow to immediately pay SARS in full. Instead of just not paying and incurring penalties and interest, the taxpayer signs an agreement with SARS to extend the payment period so that it is more manageable. The repayment usually takes the form of equal monthly instalments for a certain period until the debt is repaid. It is important to note that the debt is not waived, but that the taxpayer has a longer time to pay it off.

For a deferral agreement the taxpayer must show:

- They suffer from a lack of assets or liquidity which is expected to be remedied in the future
- Future revenue sources that can be used to satisfy the tax debt
- Prospects of immediate collection activity are poor or uneconomical or unlikely to improve
- That any collection activity would jeopardise the taxpayer's chances of economic survival

Additionally, the taxpayer will be required to submit all outstanding returns in order to meet compliancy requirements, and possibly provide security.

If the taxpayer defaults on a deferral agreement SARS will consider the contract null and void, and will reinstate the penalties and interest, with immediate collection processes implemented.

Compromise

On the other hand, a compromise is an agreement where SARS waives some or all the tax debt owed by the taxpayer. This option is only applied under rare circumstances and a compromise agreement is only entered into when a taxpayer is in a dire situation, or SARS believes they may not get any of the debt if they do not strike while the iron is hot. If a compromise agreement is reached, SARS will ordinarily waive the penalties and interest.

For a compromise the taxpayer must show:

- The fair value of their assets
- Description of any prospects and transactions
- The monetary value of any future right they will forgo

- Details of any connected parties to them as the taxpayer

SARS will also consider both the taxpayer concerned and whether a person in their fiduciary capacity could be liable for such taxes (directors beware).

If a compromise agreement is a suitable arrangement, a senior SARS official and the taxpayer / public officer will enter into an agreement setting out the following conditions:

- The amount payable by the taxpayer in full settlement of the tax liability
- An undertaking by SARS to cease recovery proceedings of the tax owing
- Any other terms and conditions of the compromise

It is imperative that taxpayers make detailed and honest disclosures to SARS during the negotiation process. This is a once-off opportunity to compromise with SARS and any perceived dishonesty or non-disclosure could result in cancellation of the agreement. This will have dire consequences for the taxpayer as the full debt plus penalties and interest would immediately be reinstated.

Taxpayers owing SARS money have options, so there is no excuse for burying your head in the sand. These options have their pros and cons, and it would be prudent for the indebted taxpayer to consult with an experienced tax practitioner to walk through the options to see what the best fit is. Once in the spotlight, the taxpayer is at the mercy of SARS, so it is imperative that the right option is chosen from the beginning.

Chat to one our tax experts today for more information.

Top of page

3) Appointment of external SARS debt collectors

Author: David Beattie

SARS has started the process of notifying taxpayers with outstanding debt of older than five years, of its intent to hand them over to external third-party debt collectors from October 2023.

These debt collectors will assist with overdue accounts where taxpayers have been repeatedly contacted, sent letters of demand detailing options for debt resolution, but have failed to settle their accounts or formalise payment arrangements with SARS.

Taxpayers who receive a notification from SARS and fail to make payment arrangements or settle their debt immediately will be notified via letter that their debt has been handed over to SARS appointed debt collectors.

SARS has assigned dedicated consultants to help affected taxpayers with handover-related questions through a dedicated mailbox. Taxpayers can also use SARS eFiling/MobiApp to request a payment arrangement.

We are also here to help! Email us on info@hrtorque.co.za for any tax related query.

Top of page

4) Navigating the 2023 interim filing season with HRTorQue

Author: Candice Zulu

As we gear up for the 2023 filing season, it is crucial for all employers, both in the private and public sectors, to mark their calendars for an essential task - the Employer's Interim Reconciliation. This process plays a pivotal role in ensuring compliance with South African tax regulations and should not be overlooked.

What is the Employer's Interim Reconciliation?

The Employer's Interim Reconciliation forms part of the filing season, and is set to take place from the 18th September, 2023, through to the end of October. During this period, employers are required to reconcile their Monthly Employer Declarations (EMP201). This reconciliation is based on the Monthly Employer Declarations (EMP201) submitted earlier, which includes tax values from interim IRP5/IT3(a) certificates, accurate payroll information, and employees' tax (PAYE) payments made between the 1st March and the 31st August 2023.

Why Is it important?

- **Compliancy**
  Accurate reporting of payroll information and PAYE payments is crucial to avoid penalties and maintain a good standing with SARS.

- **Accuracy**
  Reconciliation helps in identifying discrepancies and correcting errors in your tax submissions. This ensures that the tax values declared on interim IRP5/IT3(a) certificates align with the EMP201 submissions.

- **Efficiency**
  By reconciling your records promptly, you can streamline the tax filing process and avoid a last-minute rush, reducing stress and the risk of mistakes.

To ensure a smooth Employer's Interim Reconciliation process, it is imperative to put in place the following:

- Review your payroll records and verify the accuracy of tax values
- Rectify any discrepancies or errors promptly to avoid compliance issues
- Keep track of key dates to ensure timely submission to SARS

Remember that compliance with tax regulations is not only a legal obligation but also a vital aspect of maintaining your organisation's financial health and reputation.

As you prepare for the filing season, we at HRTorQue are here to support you every step of the way. Whether you are an existing client or exploring our services, we are committed to assisting you in navigating the complex world of tax compliance.

Stay proactive, stay compliant, and let's make this filing season a successful one!

Top of page

5) It's employment equity season… are you a designated employer?

Author: Nicky Hardwick

Employment equity (EE) is a legislative requirement for all companies deemed to be designated employers. Two of the main requirements to determine if you are a designated employer include:

- A company which employs 50 or more employees (this includes temporary/fixed term contracts)
- A person who employs fewer than 50 employees but has a total turnover that is equal to or above the applicable annual turnover of a small business in terms of Schedule 4 of this Act. See below:

Sector	Turnover
Agriculture	R 6,00 m
Mining and quarrying	R 22,50 m
Manufacturing	R 30,00 m
Electricity, gas and water	R 30,00 m
Construction	R 15,00 m
Retail and motor trade, and repair services	R 45,00 m
Wholesale trade, commercial agents, and allied	R 75,00 m

Catering, accommodation, and other trade services	R 15,00 m
Transport, storage, and communications	R 30,00 m
Finance and business services	R 30,00 m
Community, social, and personal services	R 15,00 m

Designated employers are required to comply with the following in terms of the Employment Equity Act:

1. Assign a senior manager
2. Establish a consultative forum
3. Prepare an EE analysis
4. Conduct harassment risk assessment
5. Prepare and implement an employment equity plan
6. Submit EE reports and income differential statements electronically from the 15th September 2022

Failure to comply could result in a fine of R1,5 million or 2% of your turnover!

Please feel free to make use of the HRTorQue Outsourcing Employment Equity Compliance Checklist. This is not a Department of Labour audit, but will assist you in quickly identifying possible areas of concern where you may not be compliant in line with the Employment Equity Act.

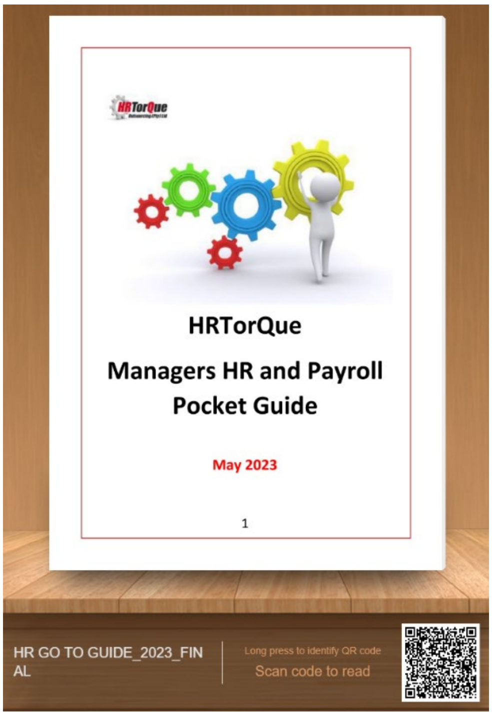
If you are uncertain about your overall compliance, please reach out to one of our employment equity specialists for a consult. Email us on info@hrtorque.co.za - we are here to help you in whatever way we can!

Top of page

6) Things to take note of this September

Author: Candice Zulu

1. At HRTorQue Outsourcing we understand that managing HR matters can sometimes feel like navigating a maze. That's why we're thrilled to announce the launch of our brand-new HR Go-To Guide—a powerful resource designed to simplify your HR journey! Access the HR Go-To Guide now.



2. **Personal tax filing season** started on the 1st July 2023 and is now in full swing. For assistance send an email to tax@hrtorque.co.za . View our full Newsflash here.

3. **Income tax number:** We can assist you with the registration of your employees for income tax purposes, managing the process from start to finish. Our consultants will obtain the employee's personal information from your payroll administrator and complete the necessary applications. The turnaround time for this process is 24 hours and the cost per application is R150 plus VAT. A volume discount will be negotiated in cases where there are more than 20 applications at a time. Should you need assistance please contact Dave Beattie on 031 582 7410 or dave@hrtorque.co.za.

4. **Communicate with SARS quickly and easily**
The new USSD service makes it easy for taxpayers to communicate with SARS without having to own a smartphone or visit a SARS branch. All you need is a basic feature phone with a dial function, and you will be able to use the code * 134 * 7277 # to interact with the organisation. After entering the code, taxpayers will be presented with four menu options:
    1. To check if they have a tax number
    2. To get their account balance
    3. To check if they need to submit a tax return
    4. To make an e-booking to visit a branch

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

6. For our latest recordings from our **free Wednesday webinars** check out our YouTube channel, filled with informative HR, payroll and legislation webinars. If you are not receiving our weekly invites you can subscribe to our Reporter list here.

For all your HR, payroll, tax and accounting needs contact us today.

Top of page

7) Do I need to submit a personal income tax return?

Author: Karen van den Bergh

If you are wondering whether you need to submit an income tax return, take a quick look at the list below. If you answer 'yes' to any of the following questions, or any of them are applicable to you for the tax year 1 March 2022 to 29 February 2023, then you will need to get started on your submission immediately.

- Did you conduct any trade* in South Africa, or if you are a South African tax resident, did you conduct any trade*?
- Did you receive an allowance such as a travel, subsistence or office bearer allowance? Check your IRP5/IT3(a) if unsure.
- Did you hold any funds in foreign currency or assets outside South Africa that have a combined total value of more than R225 000 at any stage during the tax year?
- Did you have Capital Gains or Capital Losses exceeding R40 000?
- Was any income or a Capital Gain from funds in foreign currency or assets outside South Africa attributed to you?
- Do you hold any rights in a Controlled Foreign Company?

Note: *The term 'trade' means every profession, trade, business, calling, occupation or venture, including the letting of any property but excluding any employment.

Filing deadlines:

- 7 July to 23 October 2023: non-provisional taxpayers
- 7 July to 24 January 2024: Provisional taxpayers

Take a look here for more information.

https://hrtorque.co.za/do-i-need-to-submit-a-personal-income-tax-return-2/

Top of page

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