DISCLAIMER
The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the guide should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.

For more information about the contents of this publication you may:
• Visit the SARS website at www.sars.gov.za
• Visit your nearest SARS branch
• Contact your own tax advisor/tax practitioner
• If calling from within South Africa, contact the SARS Contact Centre on 0800 00 SARS (7277)
• If calling from outside South Africa, contact the SARS Contact Centre on +27 11 602 2093 (only between 8am and 4pm South African time).
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1 **PURPOSE**

- These guidelines have been compiled to assist employers in understanding the basic fundamentals of the Skills Development Levies Act No. 9 of 1999 (SDL Act) and must be read in conjunction with the Income Tax Act No. 58 of 1962 (Income Tax Act) and the Tax Administration Act No. 28 of 2011.

2 **SCOPE**

- This basic guide explains the legislative requirements applicable to employers for the payment of the Skills Development Levy (SDL).
- In the event of this guide not providing a solution to any problem relating to the registration, calculating and payment of the levy, your local SARS branch should be approached for assistance.

3 **REFERENCES**

### 3.1 LEGISLATION

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<td><em>Skills Development Levies Act No. 9 of 1999</em>: Sections 2, 3(1), 3(5), 5(6), 6(1), 6(2), (2A), 7(1), 11, 12</td>
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<td><em>Class</em>: Government Notice</td>
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3.2 **CROSS REFERENCES**

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<th>APPLICABILITY</th>
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<td>Guide for Employers in respect of ETI</td>
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<td>PAYE-GEN-01-G02</td>
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<td>PAYE-GEN-01-G03</td>
<td>Guide for employers in respect of allowances</td>
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<td>PAYE-GEN-01-G03-A01</td>
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<td>Guide for employer in respect of Employees’ Tax</td>
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<td>SETA codes and contact details</td>
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# Definitions and Acronyms

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<td>4th Schedule</td>
<td>The Fourth Schedule to the Income Tax Act No. 58 of 1962</td>
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<td>7th Schedule</td>
<td>The Seventh Schedule to the Income Tax Act No. 58 of 1962</td>
</tr>
<tr>
<td>AGRISETA</td>
<td>Agri Education and Training Authority</td>
</tr>
<tr>
<td>Alternate period</td>
<td>A period, whether of 12 months or not, commencing on the day following the last day of the preceding alternate period in relation to the employer and ending on a date falling not more than 14 days before or after the last day of February, or such greater number of days as the Commissioner, having regard to the circumstances of the case, may allow.</td>
</tr>
<tr>
<td>Balance of remuneration</td>
<td>Any amount of remuneration after deducting the allowable deductions for Employees’ Tax purposes in the Fourth Schedule</td>
</tr>
<tr>
<td>BANKSETA</td>
<td>Banking Sector Education and Training Authority</td>
</tr>
<tr>
<td>CATHSETA</td>
<td>Culture, Arts, Tourism, Hospitality and Sports Education and Training Authority</td>
</tr>
<tr>
<td>CETA</td>
<td>Construction Education and Training Authority</td>
</tr>
<tr>
<td>CHIETA</td>
<td>Chemical Industries Education and Training Authority</td>
</tr>
<tr>
<td>Commissioner</td>
<td>The Commissioner for the South African Revenue Service (SARS)</td>
</tr>
<tr>
<td>e@syFile™ Employer</td>
<td>Software package supplied by SARS which has the functionality to create reconciliation documents in the prescribed formats and produce an electronic file in ZipCentralFile format for submission purposes</td>
</tr>
<tr>
<td>EFiling</td>
<td>Is a free, convenient and secure electronic channel for submission of tax returns and payments to SARS</td>
</tr>
<tr>
<td>EFT</td>
<td>Electronic Fund Transfer</td>
</tr>
<tr>
<td>EMP201</td>
<td>Monthly Employer Declaration</td>
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<td>EMP501</td>
<td>Employer Reconciliation Declaration</td>
</tr>
<tr>
<td>Employee</td>
<td>An employee in terms of the 4th Schedule to the Income Tax Act, is:</td>
</tr>
<tr>
<td></td>
<td>- Any person (other than a company) who receives any remuneration or to whom any remuneration accrues;</td>
</tr>
<tr>
<td></td>
<td>- Any person who receives any remuneration or to whom any remuneration accrues by reason of any services rendered by such person to or on behalf of a labour broker;</td>
</tr>
<tr>
<td></td>
<td>- Any labour broker;</td>
</tr>
<tr>
<td></td>
<td>- Any person or class or category of person whom the Minister of Finance by notice in the Gazette declares to be an employee for the purposes of this definition;</td>
</tr>
<tr>
<td></td>
<td>- Any personal service provider; and</td>
</tr>
<tr>
<td></td>
<td>- Any director of a private company who is not otherwise included in bullet point one above</td>
</tr>
<tr>
<td>Employer</td>
<td>In terms of paragraph 1 of the Fourth Schedule employer is any person who pays or is liable to pay any person an amount by way of remuneration, and any person responsible for the payment of an amount by way of remuneration to any person under the provisions of any law or out of public funds or out of funds voted by Parliament or provincial council (including funds of any provincial council or any administration or undertaking of the State). The definition excludes any person not acting as a principal but includes any person acting in a fiduciary capacity or in his/her capacity as trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or any other fund.</td>
</tr>
<tr>
<td>ESSETA</td>
<td>Energy Sector Education and Training Authority</td>
</tr>
<tr>
<td>ETDP</td>
<td>Education, Training and Development Practices Sector Education and Training Authority</td>
</tr>
<tr>
<td>FASSET</td>
<td>Financial and Accounting Services Sector Education and Training Authority</td>
</tr>
<tr>
<td>FOODBEV</td>
<td>Food and Beverage Manufacturing Industry Education and Training Authority</td>
</tr>
<tr>
<td>Authority</td>
<td>Description</td>
</tr>
<tr>
<td>-----------</td>
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</tr>
<tr>
<td>FPMSETA</td>
<td>Fibre Processing Manufacturing Sector Education and Training Authority</td>
</tr>
<tr>
<td>HWSETA</td>
<td>Health and Welfare Sector Education and Training Authority</td>
</tr>
<tr>
<td>INSETA</td>
<td>Insurance Sector Education and Training Authority</td>
</tr>
<tr>
<td>Interim reconciliation</td>
<td>The submission of reconciliation documents (including electronic data files) for the first six months (i.e. March to August) of the year of assessment.</td>
</tr>
<tr>
<td>IRP5/IT3(a)</td>
<td>Employees’ Tax Certificate</td>
</tr>
<tr>
<td>IT Act</td>
<td>Income Tax Act No.58 of 1962</td>
</tr>
<tr>
<td>Labour Broker</td>
<td>Any natural person who conducts or carries on any business whereby such person for reward provides a client of such business with other persons (or procures other persons) to render a service or to perform work for the client, for which services or work of such other persons are remunerated by such person.</td>
</tr>
<tr>
<td>Learner</td>
<td>Means a learner as defined in section 1 of the Skills Development Act, 1998</td>
</tr>
<tr>
<td>Leviable amount</td>
<td>The leviable amount means the total amount of remuneration, paid or payable, or deemed to be paid or payable, by an employer to its employees during any month, as determined in accordance with the provisions of the 4th Schedule to the IT Act for the purposes of determining the employer’s liability for any employees’ tax in terms of that Schedule, whether or not such employer is liable to deduct or withhold such employees’ tax.</td>
</tr>
<tr>
<td>Levy</td>
<td>Means the skills development levy referred to in section 3 of the Skills Development Levy Act No. 97 of 1998 and any administrative penalty leviable under the Tax Administration Act.</td>
</tr>
<tr>
<td>LGSETA</td>
<td>Local Government Education and Training Authority</td>
</tr>
<tr>
<td>MERSETA</td>
<td>Manufacturing, Engineering and Related Services Education and Training Authority</td>
</tr>
<tr>
<td>MICTS</td>
<td>Media, Information and Communication Technologies Sector Education and Training Authority</td>
</tr>
<tr>
<td>MQA</td>
<td>Mining Qualifications Authority</td>
</tr>
<tr>
<td>N.E.C</td>
<td>Not Elsewhere Classified - Check on the SETA’S codes and contacts details</td>
</tr>
<tr>
<td>PAYE</td>
<td>Pay As You Earn, also known as employee’s tax</td>
</tr>
<tr>
<td>PBO</td>
<td>Public Benefit Organisation</td>
</tr>
<tr>
<td>Person</td>
<td>Includes any public authority, any municipality, any company, anybody of persons, the estate of any deceased or insolvent person and any trust fund.</td>
</tr>
<tr>
<td>Prescribed</td>
<td>Means prescribed or deemed to be prescribed by or under this Act</td>
</tr>
<tr>
<td>PRN</td>
<td>Payment Reference Number</td>
</tr>
<tr>
<td>PSETA</td>
<td>Public Service Sector Education and Training Authority</td>
</tr>
<tr>
<td>Registered agreement</td>
<td>Means a contract of apprenticeship entered into before 1 October 2011 and registered in terms of section 18 of the Manpower Training Act, 1981 (Act No. 56 of 1981), if the minimum period of training required in terms of the Conditions of Apprenticeship prescribed in terms of section 13(2)(b) of that Act before the apprentice is permitted to undergo a trade test is more than 12 months; or</td>
</tr>
<tr>
<td>Learnership agreement</td>
<td>A learnership agreement that is—</td>
</tr>
<tr>
<td></td>
<td>▷ Registered in accordance with the Skills Development Act No. 97 of 1998; and entered into between a learner and an employer before 1 October 2011.</td>
</tr>
<tr>
<td>Relevant material</td>
<td>In terms of section 1 of the Tax Administration Act, means any information, document or thing that is foreseeable relevant for tax risk assessment, assessing tax, collecting tax, showing non-compliance with an obligation under a tax Act or showing that a tax offence was committed</td>
</tr>
</tbody>
</table>
Remuneration for SDL proposes

- Remuneration for SDL purposes is defined as remuneration for Employees’ Tax purposes (this means after taking the allowable deductions into account which the employer may have deducted for purposes of calculating employees tax, including remuneration of employees who earn less than the tax threshold), but does not include any of the following amounts:

  - an amount paid or payable to any labour broker or any person declared by the Minister of Finance by notice in the Government Gazette as an employee to whom a certificate of exemption has been issued by SARS;
  - an amount paid or payable to any person by way of pension, superannuation allowance or retiring allowance;
  - an amount contemplated in paragraphs (a), (d), (e) or (eA) of the definition of gross income in section 1 of the Income Tax Act:
  - any amount required to be included in such person's gross income under paragraph (i) of that definition excluding an amount described in paragraph 7 of the Seventh Schedule;
  - any allowance or advance, which must be included in the taxable income of that person in terms of section 8(1)(a)(i), other than:
    - an allowance in respect of which paragraph (c) or (cA) applies; or
    - an allowance or advance paid or granted to that person in respect of accommodation, meals or other incidental costs while that person is by reason of the duties of his or her office obliged to spend at least one night away from his or her usual place of residence in the Republic: Provided that where:
      - such an allowance or advance was paid or granted to a person during any month in respect of a night away from his or her usual place of residence; and
      - that person has not by the last day of the following month either spent the night away from his or her usual place of residence or refunded that allowance or advance to his or her employer,
      - that allowance or advance is deemed not to have been paid or granted to that person during that first-mentioned month in respect of accommodation, meals or other incidental costs, but is deemed to be an amount which has become payable to that person in that following month in respect of services rendered by that person;
      - 50 percent of the amount of any allowance referred to in section 8(1)(d) granted to the holder of a public office contemplated in section 8(1)(e) 80 percent of the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under section 8(1)(b)(iii), provided that where the employer is satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of the amount of such allowance or advance must be included;
      - 80 percent of the amount of the taxable benefit as determined in terms of paragraph 7 of the Seventh Schedule, provided that where the employer is
satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of such amount must be included:

- any gain determined in terms of section 8B, which must be included in that person’s income under that section;
- any gain determined in terms of section 8C which is required to be included in the income of that person;
  - any amount deemed to be income accrued to that person in terms of section 7(11).
- an amount payable to a learner in terms of a contract of employment contemplated in Section 18(3) of the Skills Development Act
- an amount which is, in term so section 11C of the Fourth Schedule, deemed to be paid or payable by an employer which is a private company for purposes of the Fourth Schedule, to any person who is a director of that private company.

### Representative employer

- Representative employer contemplated in the 4th Schedule means:
  - In the case of the company, the public officer of that company, or, in the event of such company being placed in liquidation or under judicial management, the liquidator or judicial manager, as the case may be;
  - In the case of any municipality or any body corporate or unincorporated (other than a company or a partnership), any manager, secretary, officer or other person responsible for paying remuneration on behalf of such municipality or body;
  - In the case of a person under legal disability, any guardian, curator, administrator or other person having the management or control of the affairs of the person under legal disability; or
  - In the case any employer who is not resident in the Republic, any agent of such employer having authority to pay remuneration.

- The representative employer is not relieved from any liability, responsibility or duty of the employer and is therefore, subject to the same duties, responsibilities and liabilities as the employer.

### Resident

- Includes:
  - Any natural person who is ordinarily resident in South Africa; or
  - Any natural person who complies with the physical presence test; or
  - Any person (other than a natural person) which is incorporated, established or formed in South Africa or which has its place of effective management in South Africa, but:
    - Excludes any person who is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the government of South Africa and that other country for the avoidance of double taxation.

<table>
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<tr>
<th>SARS</th>
<th>The South African Revenue Service</th>
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<td>SASSETA</td>
<td>Safety and Security Education and Training Authority</td>
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<td>SDL</td>
<td>Skills Development Levy</td>
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<td>SERVICES SETA</td>
<td>Services Sector Education and Training Authority</td>
</tr>
<tr>
<td>SETA</td>
<td>Sector Education and Training Authority</td>
</tr>
<tr>
<td>SIC Code</td>
<td>Standard Industrial Classification Code</td>
</tr>
<tr>
<td>Tax year</td>
<td>A period of twelve months ending on the last day of February</td>
</tr>
<tr>
<td>TETÁ</td>
<td>Transport Education and Training Authority</td>
</tr>
</tbody>
</table>
5 BACKGROUND

What is Skills Development Levy

- The Skill Development Levy Act (the SDL Act), established a compulsory levy scheme for the purpose of funding education and training as envisaged in the Skills Development Act, No. 97 of 1998. The SDL Act came into operation on 1 September 1999 and the levy became payable with effect from 1 April 2000 and is payable by employers on a monthly basis.

- The Minister of Higher Education and Training in conjunction with the various Sector Education and Training Authorities (SETAs) is responsible for the administration of the Skills Development Act No. 97 of 1998. Any enquiries regarding the levy grant scheme must therefore be referred to the relevant SETA or the Minister of Higher Education and Training.

- The Commissioner for the South African Revenue Service (SARS) is responsible for administering the SDL Act in so far as it relates to the collection and the payment of such levy by employers to the Commissioner.

6 THE PURPOSE OF PAYING THE SDL LEVIES:

Reference to the Act

Sections 5(2) and 5(3) of the SDL Act.

Meaning

- This is a compulsory levy scheme for the purposes of funding education and training as envisaged in the Skills Development Act, 1998. The payment of the levy by employers came into operation on 1 April 2000 and is payable by employers on a monthly basis.

- The purpose of the levy collected is:
  - To develop the skills of the South African workforce:
    - To improve the quality of life of workers, their prospects of work and labour mobility;
    - To improve productivity in the workplace and the competitiveness of employers;
    - To promote self-employment;
    - To improve the delivery of social services;
    - To increase the levels of investment in education and training in the labour market and to improve the return on that investment.
  - To encourage workers:
    - To use the workplace as an active learning environment;
    - To provide employees with the opportunities to acquire new skills;
    - To provide opportunities for new entrants to the labour market to gain work experience;
    - To employ persons who find it difficult to be employed.
    - To encourage workers to participate in leadership and other training programmes.
  - To improve the employment prospects of persons previously disadvantaged by unfair discrimination and to redress those disadvantages through training and education.
  - To ensure the quality of learning in and for the workplace;
  - To assist:
    - Work-seekers to find work;
    - Retrenched workers to re-enter the Labour market;
    - Employers to find qualified employees;
To provide and regulate employment services.

Those purposes are to be achieved through:

- An institutional and financial framework comprising of:
  - the National Skills Authority;
  - the National Skills Fund;
  - a skills development levy-financing scheme as contemplated in the Skills Development Levies Act;
  - SETAs;
  - provincial offices of the Department;
  - accredited trade test centres;
  - skills development institutes;
  - the Quality Council for Trades and Occupations;
  - a skills development forum for each province;
  - a national artisan moderation body; and
  - Productivity South Africa;
- encouraging partnerships between the public and private sectors of the economy to provide learning in and for the workplace; and
- co-operating with the South African Qualifications Authority

7 REGISTRATION

7.1 REGISTRATION FOR SKILLS DEVELOPMENT LEVY

Reference to the Act

Section 4 and 5 of the SDL Act.

Meaning

- Registration for SDL purposes — section 5 of the SDL Act prescribes that where an employer is liable to pay the levy, the employer must register as an employer with SARS in the area in which the business is situated and must indicate the jurisdiction of the SETA within which the employer must be classified as well as the applicable Standard Industrial Classification (SIC) code.

- In order to ensure that the application for registration for SDL is processed, the valid classification SETA/SIC codes must be completed. All employers who do not choose a SETA cannot claim their grants as they do not belong to a SETA. They are automatically allocated to SETA 0.

Application form

- Application to register as an employer must be made on an EMP101.

Employers exempt from paying the SDL levy

- The following employers are exempt from paying the SDL:
  - Any public service employer in the national or provincial sphere of Government. (These employers must budget for an amount equal to the levies payable for training and education of their employees).
  - Any employer where section 3(1)(a) or (b) applies and during any month, there are reasonable grounds for believing that the total amount of remuneration, as determined in accordance with section 3(4), paid or payable by that employer to all its employees during the following 12 month period will not exceed R500 000;
  - Any national or provincial public entity if 80% or more of its expenditure is paid directly or indirectly from funds voted by Parliament. (These employers must budget for an amount equal to the levies payable for training and education of their employees).
  - Any Public Benefit Organisation (PBO), exempt from the payment of Income Tax in terms of Section 10(1) (cN) of the Income Tax Act (the IT Act) which solely carries on certain welfare, humanitarian, health care, religion, belief or philosophy public benefit activities or solely provides funds to such a PBO and to whom a letter of exemption has been issued by the SARS Tax Exemption Unit.
Any municipality in respect of which a certificate of exemption is issued by the Minister of Higher Education and Training.

**Note:** Although the above-mentioned employers are exempt from the payment of the levy, these employers are not absolved from registration. An employer is only not required to register as an employer for SDL purposes if there are, during any month, reasonable grounds for believing that the total leviable amount paid or payable by that employer to all its employees during the following 12 month period will not exceed R500 000 even though such employer is liable to register with SARS for Employees’ Tax purposes.

### Payments

- In terms of section 7 of the SDL Act, SDL contributions deducted must be paid over to SARS within seven (7) days after the end of the month in respect of which the contributions are payable.

- In terms of section 7(1) of the SDL Act, the employer must, together with the payment, submit a return reflecting the amount of the payment and such other particulars as the Minister of Finance may prescribe.

- by such date or dates as prescribed by the Commissioner by notice in the Gazette; and

  - if the employer ceases to carry on any business or other undertaking in respect of which the employer has paid or becomes liable to pay a levy as prescribed in terms of section 3, or otherwise ceases to be an employer, within 14 days after the date on which the employer has so ceased to carry on that business or undertaking or to be an employer, as the case may be,

  - or within such longer time as the Commissioner may approve, render to the Commissioner such return as the Commissioner may prescribe.

- EMP201 not received in time by an employer will not be accepted as an excuse for the late payment of Employees’ Tax.

**Note 1:** With effect from 1 July 2010, the old format EMP201 is no longer accepted by SARS. SARS returns all old format EMP201s received, and penalties and interest are imposed on employers that do not make submissions on time using the newly prescribed EMP201.

- With effect from 01 April 2010:
  - No cash payments are accepted at a SARS branch;
  - SARS only accepts “Not Transferable” cheque payments where the payee’s name is correctly stated in full, in any of the 11 official languages. (SARS no longer accepts cheques made out using the abbreviation ”SARS”).

- With effect from 16 July 2012:
  - SARS no longer accepts cheque payments exceeding R500 000. This is a decision taken by the Payments Association of South Africa (PASA), the association responsible for managing payments within South Africa, with the endorsement of the South African Reserve Bank (SARB);
  - Banks do not accept “split cheque” payments i.e. single and full amount of payment divided into two or more simultaneous cheque payments to make up an amount larger than R500000.

- Any payment made and placed in a SARS drop box on a business day...
must be received no later than 15:00. Where payments are received after 15:00, this will be deemed to have been received on the first following business day.


Reconciliations
- Submit completed Employer Reconciliation Declaration (EMP501) in order to reconcile SDL deducted with the payments made as well as the IRP5/IT3 (a) issued to employees.

7.2 WHEN AN EMPLOYER FALL WITHIN THE JURISDICTION OF MORE THAN ONE SETA

Reference to the Act
- Sections 5(2) and (3) of the SDL Act.

Meaning
- Where an employer falls within the jurisdiction of more than one SETA, that employer must select one SETA within which it must be classified for the purpose of SDL after taking the following factors into consideration:
  - Composition of its workforce;
  - Amount of remuneration paid or payable to the different categories of employees; and
  - Training needs of the different categories of employees.

- Any selection undertaken is binding upon the employer unless the Commissioner for the SARS otherwise directs.

7.3 INCORRECT SETA, CHAMBER/SIC CODE AMENDMENTS

Reference to the Act
- Sections 5(2) and (3) of the SDL Act.

Meaning
- In order to ensure that the application for registration for SDL on the EMP101e is processed, the SETA/SIC code must be completed by the employer.

- Where the incorrect SETA and Chamber/SIC codes have been indicated/allocated, applications for the amendment thereof should be submitted by the relevant employers directly to the SETA under which such employers are currently registered. Application forms can be obtained from the relevant SETA’s or the Minister of Higher Education and Training.

Contact details
- The contact details for the Minister of Higher Education and Training are the following:
  - Address: Private Bag X174, Pretoria, 0001
  - E-mail: Sigenu.Y@dhet.gov.za
  - Maenetja.A@dhet.gov.za
  - Callcentre@dhet.gov.za
  - Telephone: (012) 312 5118
  - Call Centre: 0800 87 22 22
  - Fax: (012) 323 5612/5109

Inter SETA Changes
- The following steps need to be noted for inter SETA transfer changes using the IST-01 form and must be submitted to the Minister of Higher Education and Training:

<table>
<thead>
<tr>
<th>Step</th>
<th>Instructions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Employer submits an application for IST to SETA between April-June of each year using IST-01.</td>
</tr>
</tbody>
</table>
2. If approved, the SETA forwards the IST to DHET (Sub directorate: Levy Grants) with recommendation.

3. If not approved, the SETA informs the employer in writing and provides reasons for disapproving IST.

4. DHET verifies the application for inter-SETA transfer.

5. If employer is not satisfied, appeal procedure is followed.

6. DHET verifies application.

7. DHET forwards IST-01 to SARS with recommendation.

8. SARS approves IST and records transfer on SDL Employer Database.

9. DHET informs the previous and new SETA that employer has been transferred through DHET website.

10. New SETA acknowledges the transfer to the employer through IST-02.

11. New SETA requests employer documentation from previous SETA through IST-03.

12. Previous SETA provides the requested documentation to new the SETA.

---

**Inter SETA transfer of SDL Levies**

- The following steps need to be noted for inter SETA transfer of the SDL Levies and **must be submitted to the Minister of Higher Education and Training**: -

<table>
<thead>
<tr>
<th>Step</th>
<th>Instructions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Conformation of IST from previous to New SETA through monthly downloads.</td>
</tr>
<tr>
<td>2.</td>
<td>New SETA requests previous SETA to transfer all current year levies including SARS interest and penalties.</td>
</tr>
<tr>
<td>3.</td>
<td>Previous SETA provides New SETA with proof of payment including all necessary supporting documentation.</td>
</tr>
<tr>
<td>4.</td>
<td>SETAs follow up IST-03 process for all other relevant information.</td>
</tr>
</tbody>
</table>

---

**Dispute Mechanism**

- The following steps need to be noted for dispute resolution mechanism and **must be submitted to the Minister of Higher Education and Training**: -

<table>
<thead>
<tr>
<th>Step</th>
<th>Instructions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The two SETAs concerned should try to resolve which the correct SETA is for an employer.</td>
</tr>
<tr>
<td>2.</td>
<td>The employer concerned must be informed of the decision of the two SETAs.</td>
</tr>
<tr>
<td>3.</td>
<td>If the two SETAs cannot come to an agreement, the two SETAs should involve the affected employer in the discussion.</td>
</tr>
<tr>
<td>4.</td>
<td>If the three parties cannot come to an agreement, the parties should request the DHET to facilitate process to come to a conclusion and to take a decision by completing the IST-04.</td>
</tr>
<tr>
<td>5.</td>
<td>Once the dispute has been resolved, decision to be recorded in writing and all the parties to the decision to sign the document.</td>
</tr>
<tr>
<td>6.</td>
<td>The signed document must be referred via DHET to SARS to effect the change of the SETA.</td>
</tr>
<tr>
<td>7.</td>
<td>The Commissioner's decision is final and binding to the employer.</td>
</tr>
</tbody>
</table>

---

**8 REMUNERATION**

**Reference to the Act**

Paragraph 1 of the 4th Schedule to the IT Act.

**Meaning**

- “Remuneration” as any amount of income which is paid or is payable to any person whether in cash or otherwise and whether or not in respect of services rendered, including:
- Salary.
- Remuneration for overtime.
- Fee.
- Leave gratuity.
- Emolument.
- Allowance.
- Bonus.
- Gratuity.
- Wage.
- Commission.
- Stipend.
- Voluntary award.
- Lump sum payment
- Director's remuneration.
- An amount received or accrued in commutation of an amount due in terms of a contract or employment or service.
- Restraint of trade payment.
- An amount received or accrued in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of an office or employment of an appointment.
- 50% of the amount of any allowance granted to the holder of office as contemplated in section 8(1)e).
- 80 percent of the travel allowance paid to an employee is subject to the deduction of Employees’ Tax. Where the employer is satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of the allowance is subject to the deduction of Employees’ Tax effective 1 March 2011.
- 80 percent of the amount of the taxable fringe benefits as determined in terms of paragraph 7 of the Seventh Schedule. Where the employer is satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of such amount must be included;
- A gratuity received or accrued to a person from his/her employer because such person obtained a university degree or diploma or was successful in an examination.
- Any gains determined in terms of section 8B, which must be included in that person’s income under that section;
- Any gain determined in terms of section 8C which is required to be included in the income of an employee.
- An allowance or advance, which must be included in the taxable income of that person in terms of section 8(1)(a)(i), other than:
  - an allowance in respect of which paragraph (c) or (cA) applies; or
  - an allowance or advance paid or granted to that person in respect of accommodation, meals or other incidental costs while that person is by reason of the duties of his or her office obliged to spend at least one night away from his or her usual place of residence in the Republic: Provided that where:
    - such an allowance or advance was paid or granted to a person during any month in respect of a night away from his or her usual place of residence; and
    - that person has not by the last day of the following month either spent the night away from his or her usual place of residence or refunded that allowance or advance to his or her employer,
  that allowance or advance is deemed not to have been paid or granted to that person during that first-mentioned month in respect of accommodation, meals or other incidental costs,
but is deemed to be an amount which has become payable to that person in that following month in respect of services rendered by that person.

- For SDL purposes, the following amounts are excluded from remuneration for purposes of determining the leviable amount:
  - an amount paid or payable to any labour broker or any person declared by the Minister of Finance by notice in the Government Gazette as an employee to whom a certificate of exemption has been issued by SARS.
  - an amount paid or payable to any person by way of pension, superannuation allowance or retiring allowance.
  - an amount contemplated in paragraphs (a), (d), (e) or (eA) of the definition of gross income in Section 1 of the Income Tax Act.
  - any amount required to be included in such person's gross income under paragraph (i) of that definition excluding an amount described in paragraph 7 of the Seventh Schedule.
  - any allowance or advance, which must be included in the taxable income of that person in terms of section 8(1)(a)(i), other than:
    - an allowance in respect of which paragraph (c) or (cA) applies; or
    - an allowance or advance paid or granted to that person in respect of accommodation, meals or other incidental costs while that person is by reason of the duties of his or her office obliged to spend at least one night away from his or her usual place of residence in the Republic; Provided that where:
      - such an allowance or advance was paid or granted to a person during any month in respect of a night away from his or her usual place of residence; and
      - that person has not by the last day of the following month either spent the night away from his or her usual place of residence or refunded that allowance or advance to his or her employer,
      - that allowance or advance is deemed not to have been paid or granted to that person during that first-mentioned month in respect of accommodation, meals or other incidental costs, but is deemed to be an amount which has become payable to that person in that following month in respect of services rendered by that person;
    - 50 percent of the amount of any allowance referred to in section 8(1)(d) granted to the holder of a public office contemplated in section 8(1)(e) 80 percent of the amount of any allowance or advance in respect of transport expenses referred to in section 8(1)(b), other than any such allowance or advance contemplated in section 8(1)(b)(iii) which is based on the actual distance travelled by the recipient, and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under section 8(1)(b)(iii), provided that where the employer is satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of such amount must be included;
    - 80 percent of the amount of the taxable benefit as determined in terms of paragraph 7 of the Seventh Schedule, provided that where the employer is satisfied that at least 80 percent of the use of the motor vehicle for a year of assessment will be for business purposes, then only 20 percent of such amount must be included;
- any gain determined in terms of section 8B, which must be included in that person's income under that section;
- any gain determined in terms of section 8C which is required to be included in the income of that person;
  - any amount deemed to be income accrued to that person in terms of section 7(11).

### 8.1 PAYMENT OF SDL LEVIES BY THE EMPLOYER

**Reference to the Act**
Section 3(1) of SDL Act.

**Meaning**
- Prescribe that the employer must pay a SDL of:
  - 0, 5% of the leviable amount for 1 April 2000 to 31 March 2001.
  - 1% of the leviable amount from 1 April 2001.

### 8.2 LEVIABLE AMOUNT

**Reference to the Act**
Section 3 (4) and 3(5) of the SDL Act.

**Meaning**
- The remuneration paid/payable to directors of private companies (including members of close corporations) must also be included when calculating the leviable amount. The amount must be calculated by using the actual remuneration of the director.

#### How to determine the leviable amount

<table>
<thead>
<tr>
<th>Action and Status</th>
<th>Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Total remuneration</td>
<td>Paragraph 1 of the 4th Schedule definition: “remuneration”</td>
</tr>
<tr>
<td>2. LESS: SDL exclusions</td>
<td>Section 3(5) of the Skills Development Levies Act</td>
</tr>
</tbody>
</table>
  - an amount paid or payable to any labour broker or any person declared by the Minister of Finance by notice in the Government Gazette as an employee to whom a certificate of exemption has been issued by SARS.
  - an amount paid or payable to any person by way of pension, superannuation allowance or retiring allowance.
  - an amount contemplated in paragraphs (a), (d), (e) or (eA) of the definition of gross income in Section 1 of the Income Tax Act.
  - an amount payable to a learner in terms of a contract of employment contemplated in Section 18(3) of the Skills Development Act.
  - any amount deemed to be paid or payable to any person who is a director of a private company in terms of paragraph 11C of the 4th Schedule. |
3. LESS:
Allowable deductions in respect of the following amounts paid by employees -
- The balance of remuneration after the deduction of all allowable deductions (i.e. pension fund contributions, RAF contributions, income protection policy premiums, donations and medical scheme contributions (for persons 65 and above)).

<table>
<thead>
<tr>
<th>Paragraph 2(4) of the 4th schedule</th>
<th>Section 3(1) of the SDL Levies Act</th>
</tr>
</thead>
</table>

4. Leviable amount X prescribed percentage

Channels for requesting the EMP201 declarations
- EMP201 can be requested via one of the following channels:
  - Post
  - eFiling
  - e@syFile™ Employer
  - SARS branch
    - Upon issuing of EMP201 by SARS, a PRN will be pre-populated. The PRN is a 19 digit reference number that must be used by an employer to reference payment to the EMP201.

Payment Options

8.3 PENALTIES AND INTEREST

Reference to the Act
- Section 11 and 12 of the SDL Act
- Chapter 12 of the Tax Administration Act

Meaning
- Interest and penalty will be charged at the prescribed rates. A penalty is imposed programmatically when:
  - Subject to subsection (2), if any levy remains unpaid after the last day for payment thereof as contemplated in section 6(2) or 7(4), the Commissioner must, under Chapter 15 of the Tax Administration Act, impose a penalty of 10 per cent of that unpaid amount
  - In terms of Section 12 of SDL Act, the Commissioner may make a decision not to remit any penalty imposed and such penalty may be subject to objection and appeal.

9 ESTIMATED ASSESSMENTS

Reference to the Act
- Section 6 or section 7 of the SDL Act
- Chapter 8 of the Tax Administration Act

Meaning
- Where any employer who is required to pay the levy in terms of section 6 or section 7 of the SDL Act:
  - has failed to submit a statement as required in terms of section 6(2) or section 7(4).
  - has submitted a statement as required in terms of section 6(2A) or 7(4A) but the Commissioner is not satisfied with the statement.
  - has failed to pay such levy, and such employer has not been absolved from his or her liabilities in terms of the provisions of this Act, the Commissioner or the SETA, as the case may be, may make a reasonable estimate of the amount of any levy due in terms of this Act and
issue to the employer a notice of assessment for the unpaid amount.

- Any estimate of the amount of the levy payable by an employer shall be subject to objection or appeal.

## 10 OFFENCES

### Reference to the Act
Chapter 17 of the Tax Administration Act.

### Meaning
- Any person who:
  - Fails to apply for registration for the purposes of the levy.
  - Fails to pay any levy on the date determined for payment thereof.
  - Furnishes any false information in a statement or other document required in terms of this Act, knowing the information to be false.
  - Fails to submit or deliver any statement or other document or thing.
  - Fails to disclose any information that he/she is obliged to disclose in terms of the Act.
  - Fails to reply or answer truly and fully any questions put to him/her.
  - Fails to attend and give evidence required in terms of the Skills Development Levies Act.
  - Hinders or obstructs any person in carrying out his/her functions in terms of the Skills Development Levies Act, will be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.

## 11 OBLIGATION OF EMPLOYER TO SUBMIT RECONCILIATION (EMP501)

### Reference to the Act
Paragraph 14(3) of the 4th Schedule
Chapter 4 of the Tax Administration Act

### Meaning
- Paragraph 14(3) of the 4th Schedule, which is also applicable to the SDL, prescribes that the employer is obliged to furnish a reconciliation statement showing details of the total amount of Employees’ Tax deducted or withheld as well as the details of employees’ tax certificates issued during the tax year. The purpose of the reconciliation is to:
  - Reconcile the amount of Employees’ Tax which was declared and paid over to SARS on the EMP201, with the tax reflected on the IRP5/IT3(a) issued for that tax year.
  - Justify all issued, cancelled, lost and destroyed IRP5/IT3(a)’s.
    - Every employer shall -
      - by such date or dates as prescribed by the Commissioner by notice in the Gazette; and
      - if the employer ceases to carry on any business or other undertaking in respect of which the employer has paid or becomes liable to pay remuneration to any employee or otherwise ceases to be an employer, within 14 days after the date on which the employer has so ceased to carry on that business or undertaking or to be an employer, as the case may be, or within such longer time as the Commissioner may approve, render to the Commissioner a return.

## 12 RECORD KEEPING

### Reference to the Act
Paragraph 14(1) of the 4th Schedule to the IT Act which is also applicable to the SDL Act
Chapter 4 of the Tax Administration Act
Meaning
- Records relating to all returns submitted must be kept / maintained.
  - These records must be kept for a period of 5 years from the date of the last entry and must be available for inspection purposes by SARS and/or the Minister of Higher Education and Training (where applicable).

13 APPLICABILITY OF PROVISIONS OF INCOME TAX ACT

Meaning
- The provisions of the IT Act apply equally to SDL Act in the following aspects:
  - The administration thereof.
  - Returns, the production of information, relevant material or things, enquiries, searches and seizure.
  - Evidence under oath.
  - Assessments, objections and appeals.
  - The payment, recovery or refund of any levy, interest and penalty.
  - Representative taxpayers and representative employers.
  - Reporting of unprofessional conduct.
  - Transactions, operations or schemes for avoiding or postponing the liability.
  - The jurisdiction of Courts.

14 CHANGES/AMENDMENTS/AMALGAMATIONS/DELETIONS OF SECTOR EDUCATION TRAINING AUTHORITIES (SETA)

Meaning
- With effect from 1 April 2011 to 31 March 2016 the following changes been made to the Education Training Authorities (SETA):
  - **Amalgamations**
    - SETA 10 (FIETA) and specific sub sectors of SETA 15 (MAPPP) has be amalgamated/incorporated in various other Sectors.
  - **Name Change**
    - SETA 04 (CTFLSETA) has changes its name to - FPMSETA - Fibre Processing Manufacturing Sector Education and Training Authority. SETA.
  - **Additions/changes/deletions**
    - Please refer to the latest Sector Education Training Authority annexures for the relevant updates.

15 QUALITY RECORDS

- Completed forms as listed below:

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>EMP101</td>
<td>Application for registration</td>
</tr>
<tr>
<td>EMP102</td>
<td>Application for registration of a separate branch/division</td>
</tr>
<tr>
<td>EMP103</td>
<td>PAYE/SDL/UIF registration certificate</td>
</tr>
<tr>
<td>EMP201</td>
<td>Monthly employer declaration</td>
</tr>
<tr>
<td>EMP501</td>
<td>Employer reconciliation declaration</td>
</tr>
<tr>
<td>IRP5/IT3(a)</td>
<td>Employee tax certificate</td>
</tr>
</tbody>
</table>

16 DOCUMENT MANAGEMENT

<table>
<thead>
<tr>
<th>Designation</th>
<th>Name/Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Owner:</td>
<td>GE: Enterprise Business Enablement</td>
</tr>
<tr>
<td>Designation</td>
<td>Name/Division</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>Policy Owner:</td>
<td>GE: Enterprise Business Enablement</td>
</tr>
<tr>
<td>Author:</td>
<td>C Rossouw</td>
</tr>
<tr>
<td>Detail of change from previous revision:</td>
<td>General review</td>
</tr>
<tr>
<td>Template number and revision:</td>
<td>POL-TM-07 REV. 0</td>
</tr>
</tbody>
</table>