



MoneyTalk

Directors and PAYE

PAYE TO BE PAID FROM ALL REMUNERATION PAID TO DIRECTORS AND MEMBERS

MANY employers don't seem to be aware that with effect from 1 March 2002 they will have to deduct and withhold pay - as you - earn (PAYE) from all amounts of remuneration paid by a company to its directors and also by a close corporation to its members.

The legislation giving effect to the changes and the rules on directors and PAYE was enacted on 27 July 2001 by way of Act No. 19 Of 2001, the Revenue Laws Amendment Act 2001.

It does not appear that the Commissioner: South African Revenue Service has issued a circular to companies and CCs to remind them that the law takes effect next month.

Those companies and CCs not currently registered for PAYE, and the Skills Development Levy, will have to register as employers so that they will be in a position to pay the first amount of PAYE, and the Levy, no later than 5 April 2002.

Failure to deduct and withhold PAYE on remuneration due to directors of companies and members of CCs will result in the imposition of penalties, currently imposed at a rate of 10 per cent, and interest currently charged at a rate of 13 percent per annum.

Where the directors is in salaried employment the calculation will be relatively easy to perform in that the tax must be deducted from the amounts of salary paid and fringe benefits actually made available to the director in particular month.

In those cases where the director's earnings are determined only once the financial statements of the

entity are finalised it will be necessary to have regard to the remuneration derived by the directors in the immediately preceding tax year.

Where those financial statements have not yet been finalised, employers will have to work on the preceding year's remuneration, increased by 20 percent.

If the financial statements have not been finalised for the last two years it will be necessary to obtain a directive from The Receiver of Revenue to establish the amount on which PAYE should be paid over to SARS.

On 1 March 2002 the remuneration paid for the year of assessment ended 28 February 2002 will in all likelihood not yet have been finalised. It will therefore be necessary to take account of earnings derived to 28 February 2001 and to increase that amount by 20 percent.

And in the event that earnings are not yet finalised for the tax year ended 21 February 2001 it will be necessary to call for a directive SARS.

Once the earning for the 2002 tax year have been finalised it will be acceptable to base the 2003 PAYE deductions on such earnings.

It is essential therefore that those companies that are not currently registered as employers with SARS seek such registration so that they will be able to pay over timeously the PAYE and Skills Development Levy on amounts paid to directors.

All companies should ensure that they have the necessary systems in place so that they are ready to deduct and withhold PAYE on amounts paid to their directors.

This article was extracted from Tax Breaks.

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