



**QUICK REFERENCE GUIDE
ON SDL**

Document #
AS-SDL-01

Revision #
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Effective

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REVISION HISTORY				
REV	DESCRIPTION OF CHANGE	AUTHOR	APPROVAL	OWNER
0	Initial Release	A Scheepers	GM Operational Services	GM Operational Services
1				
2				
3				
4				

REFERENCE TO LEGISLATION & OTHER REFERENCES	
This procedure must be read with the following:	
TYPE OF REFERENCE	REFERENCE
Legislation and Rules Administered by SARS:	Income Tax Act, No 52 of 1968: Paragraphs 1, 2(4) and 14(1) of the Fourth Schedule, Sections 1, 6(1), 8B, C, 10(1)(cN), 69(1) 89sex, and 89ter 1(A) Skills Development Levies Act, No. 9 of 1999: Sections (2), 3(1), 3(5), 5(6), 6(10), 7(1), 11, 12, Skills Development Act, No. 97 of 1998: 18(3)
Other Legislation:	Children’s Act, No. 33 of 1960: Section 89 Public Service Act 1994: section 1(1) Social Assistance Act, No. 13 of 2004; Sections 4, 5, 6, 9 and 10
International Instruments:	None

REFERENCE TO QUALITY DOCUMENTS		
This procedure must be read with the following quality documents:		
DOCUMENT #	DOCUMENT TITLE	QUALITY REQUIREMENTS
QMS-01	Quality Management System Manual	ISO 9001:2000
AS-SDL-01-A1	ASSET SETA codes and contact details	All
AS-SDL-01-A2	BANKSETA codes and contact details	All
AS-SDL-01-A3	CHIETA SETA codes and contact details	All
AS-SDL-01-A4	CTFLSETA codes and contact details	All
AS-SDL-01-A5	CETA SETA codes and contact details	All
AS-SDL-01-A6	ETDPSETA codes and contact details	All
AS-SDL-01-A7	ESETA codes and contact details	All
AS-SDL-01-A8	FOODBEV SETA codes and contact details	All
AS-SDL-01-A9	FIETA SETA codes and contact details	All
AS-SDL-01-A10	HWSETA codes and contact details	All
AS-SDL-01-A11	SETT SETA codes and contact details	All
AS-SDL-01-A12	INSETA codes and contact details	All
AS-SDL-01-A13	GWSETA codes and contact details	All
AS-SDL-01-A14	MAPPP SETA codes and contact details	All
AS-SDL-01-A15	MQA SETA codes and contact details	All
AS-SDL-01-A16	MERSETA codes and contact details	All
AS-SDL-01-A17	POSLECSETA codes and contact details	All
AS-SDL-01-A18	GRISSETA codes and contact details	All
AS-SDL-01-A19	SETA codes and contact details	All
AS-SDL-01-A20	SERVICES SETA codes and contact details	All
AS-SDL-01-A21	THETA SETA codes and contact details	All
AS-SDL-01-A22	TETA SETA codes and contact details	All
AS-SDL-01-A23	W&RSETA codes and contact details	All



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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 and must be read in conjunction with the Income Tax Act.

2 SCOPE

- This basic guide explains the legislative requirements applicable to employers for the deductions relating to Skills Development Levy contributions.
- 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 office should be approached for assistance.

3 DEFINITIONS AND ACRONYMS

n.e.c	Not elsewhere classified
PAYE	Pay-as-you-earn
SARS	South African Revenue Service
SETA	Sector Education and Training Authority
SDL	Skills Development Levy
SIC	Standard Industrial Classification Code

4 BACKGROUND

- The Skills Development Levies Act, No. 9 of 1999 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 Skills Development Levies Act came into operation on 1 September 1999 and the levy became payable with effect from 1 April 2000.
- The Department of Labour in conjunction with the various SETA's is responsible for the administration of the Skill Development Act No. 97 of 1998. Any enquiries regarding the levy grant scheme must therefore be referred to the relevant SETA or the Department of Labour
- The Commissioner for the South African Revenue Service is responsible for administering the Skills Development Levies Act in so far as it relates to the collection and the payment of the levy by employers to the Commissioner.

5 GOVERNING LEGISLATION

The paragraphs of the Fourth Schedule referred to in this publication are governed by the Income Tax Act and the sections are governed by the Skills Development Levies Act. References to sections governed by the Income Tax Act are specifically indicated.

6 WHO PAYS SKILLS DEVELOPMENT LEVIES?

- An employer (Paragraph 1 of the Fourth Schedule and Section 1 of the Skills Development Levies Act) who pays or is liable to pay a person an amount by way of remuneration, including a person remunerated under the provisions of a law or out of public funds or out of funds voted by Parliament or Provincial Council.
- A representative employer (Paragraph 1 of the Fourth Schedule) is any public officer, liquidator, judicial manager, manager, secretary, officer, guardian, curator, administrator or other person having authority to pay remuneration on behalf of an employer.

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- The representative employer is subject to the same duties, responsibilities and liabilities as the employer.

7 WHICH EMPLOYERS ARE EXEMPT FROM PAYING THE LEVY?

- 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 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 the training and education of their employees).
- Any public benefit organisation which is exempt from the payment of income tax in terms of section 10(1)(cN) of the Income Tax Act which solely carries on welfare and humanitarian, certain health care and religious belief or philosophy public benefit activities which solely provides funds to such public benefit organisation.
- Any municipality in respect of which a certificate of exemption has been issued by the Minister of Labour.
- Any employer where the total leviable amount of all its employees over the next 12 months will not exceed R500 000.
- Although the above-mentioned employers are exempt from the payment of the levy, these employers (excluding the employer where the leviable amount does not exceed R500 000) are NOT absolved from registration in terms of section 5(6) of the Skills Development Levies Act. (Refer to paragraph 10 relating to registration.)

8 WHAT IS REMUNERATION?

- Paragraph 1 of the Fourth Schedule to the Income Tax Act, defines “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 for example –
 - Salary;
 - Remuneration for overtime;
 - Fees;
 - Leave gratuity;
 - Emolument;
 - Allowance;
 - Bonus;
 - Gratuity;
 - Wage;
 - Commission;
 - Stipend;
 - Voluntary award;
 - Lump sum payment;
 - Directors remuneration;
 - An amount received or accrued in commutation of an amount due in terms of a contract or employment or service;

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- 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 an allowance paid or advance given to an employee or holder of a public office in respect of the expense of traveling for business purposes (excluding an allowance paid for actual distance traveled not exceeding the rate per kilometer fixed by the Minister of Finance in the Government Gazette);
- 50% of an allowance paid to a holder of a public office;
- Fringe benefits received in terms of the Seventh Schedule to the Income Tax Act;
- 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;
- The market value of any qualifying equity share contemplated in section 8B, determined on the date of disposal, which has been disposed of by the employee and where the receipts and accruals from that disposal must be included in the employee's income; and
- Any gain determined in terms of section 8C which is required to be included in the income of an employee.

- **Amounts excluded from remuneration –**

- Independent contractors who are not subject to control or supervision of any person as to the manner in which their duties are performed, the hours of work or if the amounts paid or payable to them are not payable at regular (daily, weekly, monthly or other) intervals.
- Any pension or allowance in terms of any of the following Acts:
 - Children's Act, No. 33 of 1960;
 - Public Service Act 1994; and
 - Social Assistance Act, No. 13 of 2004.
- Amounts paid to an employee to reimburse the employee for actual business expenses incurred in the course of his / her employment.
- Any allowance or advance in terms of an order of divorce or decree of judicial separation or under any agreement of separation.

9 LEVIABLE AMOUNT

- 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 for the purposes of determining employees' tax in terms of the Fourth Schedule to the Income Tax Act, whether or not such employer is liable to deduct or withhold such employees' tax.
- Remuneration paid to employees below the income tax threshold (i.e. in those cases where no employees' tax is deducted) must be incorporated into the remuneration for determining the leviable amount.
- 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.

- **Amounts excluded in determining the leviable amount –**

- Section 3(5) of the Skills Development Levies Act stipulates that the following amounts must be excluded 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 **AND to whom a certificate of exemption has been issued by the Commissioner for the South African Revenue Service (SARS).**
 - An amount paid or payable to any person by way of any pension, superannuating allowance or retiring allowance.

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- An amount contemplated in paragraphs (a), (d), (e) or (eA) of the definition of “gross income” in section 1 of the Income Tax Act. In essence this pertains to -
 - annuity payments;
 - any amount, including a voluntary award received or accrued in respect of the relinquishment, termination, loss, repudiation, cancellation or variation of an office or employment or of any appointment, e.g. retrenchment payment; and
 - lump sum payments from pension, provident and retirement annuity funds.
- An amount payable to a learner in terms of a contract of employment contemplated in section 18(3) of the Skills Development Act.

• **How to determine the leviable amount:**

<i>Action and Status</i>		<i>Authority</i>
1.	Total Remuneration	Par. 1 of the Fourth Schedule definition: “remuneration”
2.	LESS: PAYE Exclusions <ul style="list-style-type: none"> • amount paid to an independent contractor; • reimbursive amounts paid to employees; • pensions and allowances payable in terms of — <ul style="list-style-type: none"> ➢ Children’s Act, No. 33 of 1960: Section 89 ➢ Social Assistance Act, No. 13 of 2004: Sections 4, 5, 6, 9 and 10 • allowances or advances in terms of an order of divorce or decree of judicial agreement of separation. 	Par. 1 of the Fourth Schedule definition: “remuneration”
3.	LESS: SDL exclusions <ul style="list-style-type: none"> • Amounts payable to labour brokers who are in possession of a valid exemption certificate; • Amounts payable by way of any pension, superannuating allowance or retiring allowance; • Annuities; • Lump sum payments from employers (gratuities); • Lump sum payments from any fund; and • Amounts paid to a learner in terms of the Skills Development Levies Act. 	Sect. 3(5) of the Skills Development Levies Act
4.	LESS: Allowable deductions in respect of - <ul style="list-style-type: none"> • Current and arrear contributions to approved pension and retirement annuity funds; • Medical aid contributions in case of an employee who is 65 years or older; and • Income protection policy premiums. 	Par. 2(4) & Par. 1 of the Fourth Schedule, definition: “net remuneration”
5.	Leviable amount X prescribed percentage	Sec. 3(1) of the SDL Levies Act.

10 REGISTRATION FOR PAYMENT OF SKILLS DEVELOPMENT LEVY

(Section 5(1) and (2) of the Skills Development Levies Act)

- Where an employer is liable to pay the levy he / she must register per EMP 101 (Application for Registration) as an employer with the SARS office in which area the business is situated and indicate thereon the jurisdiction of the SETA within which the employer must be classified as well as the SIC code (refer to the annexes for the applicable SETA codes).
- **Important:** Although certain employers are exempt from paying skills development levy, they are NOT absolved from registration in terms of section 5(6) of the Skills Development Levies Act. In other words the employer must still register per EMP 101 form (Application for Registration). However, any employer who, during any month, within reasonable grounds believes that the total leviable amount paid or payable to his / her employees during the following 12 month period will not exceed R500 000 is absolved from registration. (Refer to paragraph 7 relating to exemptions.)

11 PAYMENT OF LEVY

- Section 3(1) and (4) of the Skills Development Levies Act prescribes that the employer must pay a skills development levy of –
 - 0,5% of the leviable amount for 1 April 2000 to 31 March 2001; and
 - 1% of the leviable amount from 1 April 2001.

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- **Method of payments –**

- **Payment via eFiling:** eFiling is a free of charge secure electronic tax return and payment submission service offered by SARS. SARS eFiling provides various enhanced payment solutions available for most of the major banks. For more information go to www.sarsefiling.co.za.
- **Electronic payments via the internet:** Electronic payments can be made directly into SARS banking accounts via Internet bank facilities. It is however imperative that exactly the same reference number which is reflected on the monthly return (EMP 201) is provided / used to ensure that the tax payments can be identified and correctly allocated upon receipt by SARS to ensure that the payments are processed correctly to the correct tax type, there are two items, which are essential namely -
 - the 19-digit bank payment reference number; and
 - the SARS bank account number.
- The following table lists the relevant tax type, bank account and date reference for the purposes of compiling the 19-digit reference number:

Reference Number	Tax Type Indicator	Date format	Bank Account
LXX07XXXXX	G	00mmyyyy	620 13984291

X refers to a digit from 0 – 9.

- The 19-digit reference number is made up as follows –



This number ensures that the payment will be credited to the taxpayer's tax account. This reference number is allocated by SARS with registration, for example the number starting with "L" is for SDL.

This alpha character will vary depending on the type of tax being paid, for example, "G" is for Skills Development Levy.

The last 8 digits refer to the period for which the payment is being made. The date format used is 00mmyyyy. The particular date used is dependant on the month for which the tax is paid. For SDL, only the month and year are required. In this instance the first two digits of the date format must be "00".

- **Payments exceeding bank limits:** The banks have set limits on cheques, ATM transactions and electronic payments. These limits are as follows –
 - Cheque payments to SARS may not exceed R5 million. Should a cheque exceeding this amount be issued, it will be returned and penalties and interest as a result of late payment will be incurred.
 - EFT payments in excess of R5 million must be cleared with your banker.
 - eFiling transactions will not be affected by these new rules as no limits are imposed thereon.

Should your existing payment method exceed **any** of these limits, you must approach your bank in a timely fashion in order to ensure electronic transfer of funds or a real time transaction if necessary.
- **Payment at FNB or ABSA bank:** Any payment made at FNB or ABSA must comply with exactly the same payment referencing requirements as internet payments. The following information is required by FNB / ABSA in order to accept and process SARS payments -
 - SARS tax form / payment advice;
 - A FNB / ABSA deposit slip, completed with the following specific details -
 - The bank branch code is 253145;

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- The bank account number - each tax type has a different bank account into which payment must be made, 620 13984291 in the case of SDL;
- A 19-digit bank payment reference number which complies with the requirements, as shown above; and
- The amount due.

In order for SARS to process your payment accurately and timely it is of vital importance that the deposit slip contains all the correct information. The bank will reject all payments which do not comply with the payment reference criteria listed above.

- **Payment at SARS office:** Payment can be made during office hours at any SARS Revenue office. For ease of processing, taxpayers should ensure that the return / payment advice is attached to all payments indicating the taxpayer's reference number, tax type and tax period.
- **Due date for payments –**
 - Sections 6(1) & (2) and 7(1) & (4) of the Skills Development Levies Act and Section 89sex of the Income Tax Act prescribe that the levy must be paid over to SARS not later than 7 days after the end of the month in respect of which the levy is payable under cover of a completed EMP 201 return.
 - **Exception:** Where the 7th day after the end of the month for which the levy is payable falls on a Saturday, Sunday or Public holiday, such payment must be made not later than the last business day **prior** to such Saturday, Sunday or Public holiday.
 - Payment must be made on the prescribed EMP 201 return, which will be posted to registered employers each month for this purpose. However, **only** in cases where the employer did not received the return in time for payment, he / she must attach a note to his / her payment stating —
 - Name, postal address and contact telephone number of employer;
 - Reference number, starting with a L;
 - Month to which the payment relates (e.g. April 2005);
 - Total leviable amount;
 - The amount of payment enclosed; and
 - The number of employees whose remuneration was included in the leviable amount.
 - The fact that an employer does not receive an EMP 201 return at all will **not** be accepted as an excuse for the late payment of the levy.
- **Allocation of payment –**
 - Where any payment is made by an employer in respect of employees' tax, such payment will be allocated in the following order -
 - in respect of penalty;
 - in respect of interest, to the extent to which the payment exceeds the amount of penalty;
 - in respect of employees' tax or additional penalty, to the extent to which the payment exceeds the amount of penalty and interest.
 - here there is a shortfall after the allocation of penalties and interest and the outstanding tax has not been covered in full, interest will continue to accrue on the outstanding tax.

12 PENALTIES AND INTEREST

- In terms of sections 11 and 12 of the Skills Development Levies Act and sections 89ter 1(A) of the Income Tax Act, interest will be charged at the prescribed rates determined by the Minister of Finance and published periodically, and a penalty equal to 10% of the outstanding amount will be imposed should the levy not be paid within the prescribed period.
- **Additional penalty:** An additional penalty, not exceeding an amount equal to twice the amount of Skills Development Levy may be imposed on the employer where the employer fails to pay the relevant amount with intent to evade his / her obligation(s) under this Act.

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13 OFFENCES

- With reference to Section 20 of the Skills Development Levies Act 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; or
 - 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.
- In terms of section 75A the Commissioner may, notwithstanding the Secrecy section from time to time publish for general information the particulars relating to any offence in terms of the Income Tax Act.
- Every such publication may specify the following -
 - Name and address of the offender;
 - Such particulars of the offence as the Commissioner may think fit;
 - Year or period during which the offence occurred;
 - Amount or estimated amount involved; and / or
 - Particulars of the fine or sentence imposed.

14 PROCEDURE TO FOLLOW SHOULD AN EMPLOYER FALL WITHIN THE JURISDICTION OF MORE THAN ONE SETA

- Sections 5(2) and (3) of the Skills Development Levies Act prescribe that 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 Skills Development Levy 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 South African Revenue Service otherwise directs.

15 RECORD KEEPING

- With reference to Section 69(1) of the Income Tax Act and paragraph 14(1) of the Fourth Schedule to the Income Tax Act records of all the remuneration paid to every employee, as well as the employees' tax deducted or withheld from the said remuneration and levies paid, 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 Department of Labour.
- The **provisions of the Income Tax Act** is applicable to Skills Development Levy in respect of -
 - The administration thereof;
 - Returns, the production of information, documents or things, enquiries, searches and seizure and evidence under oath;
 - Assessments, objections and appeals;
 - The payment, recovery or refund of any contribution, interest and penalty; and
 - Representative taxpayers and representative employers; etc.