2014

REFERENCE GUIDE

Guide for Provisional Tax

EXTERNAL GUIDE - PROVISIONAL TAX IT-PT-AE-01-G01
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SARS
At Your Service

1 PURPOSE

- This reference guide provides guidelines for the completion of the return for payment of provisional tax (IRP6).

2 SCOPE

- This document supplies sufficient guidelines and tax tables to ensure that taxpayers understand and are able to complete the IRP6 return and make the necessary payments timeously.

3 REFERENCES

3.1 LEGISLATION

TYPE OF REFERENCE	REFERENCE
Legislation and rules administered by SARS:	**Income Tax Act No. 58 of 1962** **Fourth Schedule** **Eight Schedule** **Tax Administration Act No. 28 of 2011**
Other legislation:	**None**
International instruments:	**None**

3.2 CROSS REFERENCES

DOCUMENT #	DOCUMENT TITLE	APPLICABILITY
IT-PT-AE-03-POL01	External Policy – Provisional Tax	All
IT-PT-AE-01-G01-A01	Example - First Period Persons Over 65	All
IT-PT-AE-01-G01-A02	Example - Second Period Persons Over 65	All
IT-PT-AE-01-G01-A03	Example - First Period Persons Under 65	All
IT-PT-AE-01-G01-A04	Example - Second Period Persons Under 65	All
IT-PT-AE-01-G01-A05	Example - First Period Persons Over 75	All
IT-PT-AE-01-G01-A06	Example – Second Period Persons Over 75	All
IT-PT-AE-01-G01-A07	Example - First Period Trusts	All
IT-PT-AE-01-G01-A08	Example - First Period Small Business Corporations	All
IT-PT-AE-01-G01-A11	Example - Second Period Trusts	All
IT-PT-AE-01-G01-A12	Example - Second Period Small Business Corporations	All
IT-PT-AE-01-G01-A13	Example: First Period –Under 65 – Medical scheme fees tax credit – Employees' tax not adjusted	All
IT-PT-AE-01-G01-A14	Example – First Period Medium to Large Companies	All
IT-PT-AE-01-G01-A15	Example – Second Period Medium to Large Companies	All

4 DEFINITIONS AND ACRONYMS

ATM	Automatic teller machine
CGT	Capital gains tax
FNB	First National Bank
IRP 6	Return for payment of provisional tax
Paragraphs	Paragraphs in the Fourth Schedule to the Income Tax Act of No. 58 of 1962
PBO	Public Benefit Organisation
PAYE	Pay-as-you-earn
RSA	Republic of South Africa
SA	South African / South Africa
SARS	South African Revenue Service
Sections	Sections of the Income Tax Act
TAAct	Tax Administration Act No. 28 of 2011
The Act	Income Tax Act No. 58 of 1962

5 BACKGROUND

- The new provisional tax tables/rates and instructions in this publication are for the 2014 year of assessment (1 March 2013 – 28 February 2014).
- No documentary proof of income received, employees' tax certificates [IRP5/IT3(a)] or foreign tax credits should be attached to the IRP6 return.
- Interest rates applicable on late payments or to the under or overpayment of tax are published in the Government Gazette,and may change form time to time.
- Further guidance and assistance can be obtained from your SARS branch.
- This document is intended to be used as a basic guide and is **not for legal reference**.
- With the majority of provisional taxpayers making their submissions electronically, SARS will no longer issue IRP6 returns to provisional taxpayers. The IRP6 return can be requested, pre-populated, captured and submitted via the following various channels:
  - Accessing SARS eFiling at www.sarsefiling.co.za
  - Visiting a SARS branch
  - Calling the SARS Contact Centre on 0800 00 SARS (7277).

6 GOVERNING LEGISLATION

- The sections, schedules and paragraphs (**Fourth Schedule)** referred to in this publication are governed by the Income Tax Act No. 58 of 1962 (the Act) and the Tax Administration Act No. 28 of 2011.

6.1 PROVISIONAL TAX

- Paragraph 1 of the Fourth Schedule to the Act defines provisional tax.
- It is not a separate tax but merely Provisional tax is a mechanism to pay the income tax during the tax year in which the income is earned.
- By paying the amounts due in terms of your provisional tax liability you will prevent large amounts of tax due by you on assessment as the tax load is spread over the relevant year of assessment.
- In terms of paragraph 28, provisional tax payments are not refundable. These payments will be set off against the liability for normal tax for the applicable year of assessment.

7 PROVISIONAL TAXPAYER

- With reference to the definition of provisional taxpayer in paragraph 1, a provisional taxpayer is any:
  - Person (other than a company) who derives income, other than remuneration or an allowance or advance as contemplated in section 8(1)
  - Company
  - Person who is notified by the Commissioner that he is a provisional taxpayer.
- Excluding:
  - Public Benefit Organisations (PBO) approved by SARS
  - Recreational clubs approved by SARS
  - Body-Corporate
  - Share Block Company
  - Any association of persons contemplated in section 10(1) (e)
  - A person exempt from the provisional tax payment in terms of paragraph 18

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8 DIRECTORS OF PRIVATE COMPANIES & MEMBERS OF CLOSE CORPORATIONS

- In terms of the definitions of “employee” and “provisional taxpayer” in paragraph 1, as well as the provisions of paragraph 11C, directors of private companies and members of close corporations are regarded as employees. They are not considered to be provisional taxpayers unless they have income that falls within the scope of provisional tax income.

9 WHO IS EXEMPT FROM THE PAYMENT OF PROVISIONAL TAX

- In terms of **paragraph 18** the following persons are exempt from provisional tax and are therefore **not** required to pay provisional tax or submit an IRP6 return.

    - Any natural person whose income is derived solely from remuneration
    - Any natural person who is **below the age of 65** and who:
        - Does not derive any income from the carrying on of any business
        - Whose taxable income for the relevant year does not exceed the tax threshold which is R67 111; and
        - Whose taxable income for the relevant year (which is derived solely from interest, foreign dividends, and rental from the letting of fixed property) will not exceed R20 000.
    - Any natural person **65 years of age or older** is exempt from the payment of provisional tax if:
        - The taxable income for the tax year will not exceed R120 000.
        - The taxable income for that year consists solely of remuneration (including pension) interest, foreign dividends or rental income from the letting of fixed property; and
        - That person’s taxable income will not be derived wholly or in part from the carrying on of any business.
    - **Non-resident ship** and **aircraft owners** that are required to make payment **under section 33** of the Act are **exempt from paying provisional tax**

10 ESTIMATE OF TAXABLE INCOME

- **Paragraph 19** states that provisional taxpayers must, during every period, submit an estimate of the total taxable income which will be derived by the taxpayer in respect of the year of assessment for which the provisional tax is payable.

- **Basic amount** - The basic amount is deemed to be:

    - Taxpayers other than a company
        - Taxpayer’s taxable income, assessed by SARS, for the latest preceding year of assessment in relation to such estimate less any taxable capital gain, any amount contemplated in paragraph (d) of the defition of ‘gross income’ and any amount contemplated in paragraph (e) of the definion of gross income.
        - Any retirement fund lump sum benefit, retirement fund lump sum withdrawal benefit or any severance benefit received or accrued to the taxpayer during the relevant year of assessment shall be excluded from the estimate taxable income amount, as these benefits are separately taxed.
    - A company
        - The company’s taxable income, as assessed by SARS for the latest preceding year of assessment in relation to such estimate, less the amount of any taxable capital gain.

- Where the estimate must be made more than 18 months and in respect of a period that ends more than one year after the latest preceeding year of assessment, the basic amount shall will be increased by an amount equal to eight per cent (8%) per annum of that amount,from the end of such year to the end of the year of assessment in respect of which the estimate is made.

- The **“year last assessed”,** as shown on the IRP6 return, will refer to an assessment preceding the year of assessment in respect of which the estimate is made and in respect of which the notice of assessment relevant to the estimate has been issued by SARS not less than **14 days prior** to the due date of such estimate.

- Basic Amount Examples

- Example 1:

- Statement:

  - The notice of assessment for 2013 tax year of assessment was issued on 15 August 2013.
  - The IRP6 for the 2014 tax year 1st period is 30 August 2013.
  - The notice of assessment for the 2012 tax year of assessment was issued on 1 February 2013.

- Solution:

  - The 2013 year of assessment was issued 15 days prior to submission of provisional tax estimate was submitted. Due to the 14 day criteria being met, the latest preceding year is the 2013 tax year.
  - The estimate is **not** made **more than 18 months** after the end of the latest preceding year (2013).
  - The estimate is **not** in respect of the period that ends **more than 1 year** after the end of the latest preceding year of assessment (2013).
  - Therefore, the basic amount increase of 8% will **not** be increased.

- Example 2

- Statement:

  - The notice of assessment for the 2013 tax year assessment was issued on 19 August 2013.
  - The IRP6 for the 2014 tax year 1st period is 30 August 2013.
  - The notice of assessment for the 2012 tax year of assessment was issued on 1 February 2013.

- Solution:

  - The 2013 year of assessment was issued 11 days prior to the date on which the provisional tax estimate was submitted. Therefore, the 2013 assessment does not meet the 14 days criteria, the latest preceding year of assessment is the 2012 tax year of assessment.
  - The estimate is **not** made **more than 18 months** after the end of the latest preceding year (2012).
  - The estimate in respect of the period that ends **more than 1 year** after the end of the latest preceding year of assessment (2013).
  - Therefore, the basic amount increase of 8% will **not** be increased.

- Additional Payment:

  - Any provisional taxpayer may for the purpose of avoiding or reducing liability on interest which is payable under *section 89quat* on assessment, may elect to make an additional payment.

  - The third period (voluntary) payment should be based on actual taxable income as the purpose of this payment is to enable you to pay the difference between employees' tax plus provisional tax already paid for the year and the full tax liability for that tax year.

- Note that non-residents who are not physically present in the country for more than 183 days in total in a year of assessment and who are not carrying on a business in South Africa, are exempt from interest in terms of section 10(1)(*h*) of the Act.

- Any taxable capital gain of a company resulting from the application of deemed disposal rules under section 29B of the Act for years of assessment ending on or after 29 February 2012 but not later than 31 October 2012, is exempt from provisional tax.

11 FORMS USED FOR ESTIMATES AND PAYMENTS

- In terms of paragraph 19(1) an IRP6 return must be completed for provisional tax purposes.

- The IRP6 return can be completed for the following types of taxpayers:

  - Individuals
  - Trusts
  - Companies.

- IRP6(3) – Payment advice for additional provisional tax. **No IRP6 return is required or accepted for the third period.** Should you wish to make a voluntary payment; the payment advice can be obtained from the SARS website at www.sars.gov.za or at your nearest SARS branch.

- IRP6 returns for the first and second period **must** be submitted even if, according to the result of your calculation, the total amount of tax due and payable is 'nil' (0). However,if the taxable income is 'nil' (0), an IRP6 return is not required.

12 NON-COMPLIANCE TO PROCEDURES

- **Paragraph 19(2)** stipulate that if you fail to submit an estimate the Commissioner may estimate the taxable income and determine the amount payable thereon.

- Paragraph 19(3) estimates:

  - In terms of paragraph 19(3), a provisional taxpayer may be asked to justify any estimate made by him or to furnish full particulars of income.
  - If no satisfactory response is forthcoming from you or if SARS is not satisfied with your response, the estimate may be increased to an amount which is considered reasonable. You will be notified accordingly. SARS will issue you with a revised estimate which will be used to calculate your provisional liability.
  - **More information** in this regard can be found in "Interpretation Note 1 of 2001" which is available on the SARS' website www.sars.gov.za.

- Outstanding provisional tax:

  - Interest on any outstanding provisional tax payable for the first period will be limited to the day prior to the second period provisional tax payment due date.
  - Any outstanding interest/penalty for the first period will be carried over to the second period. Refer to example IT-PT-AE-01-A04.

13 CALCULATION OF PROVISIONAL TAX

- **Paragraphs 19(1), 21 and 23A** regulate the payment of provisional tax payable for the applicable period and are as follows:

  - The amount of tax payable is determined on the estimated taxable income. Consult the tax tables or the relevant statutory tax rates and the applicable tax rebates as presented in this publication as well as the medical scheme fees tax credit.

- The provisional tax for the first period represents:

  - Half of the total tax for the full year
  - Less the Employees tax deducted for this period (six months)
  - Less any allowable foreign tax credits for this period (six months).

- The provisional tax for the second period represents:

  - The total estimated tax for the full year
  - Less the Employees' tax paid for the full year

- Less any allowable foreign tax credits for the full year
- Less the amount paid for the first period.

- The provisional tax for the third period represents:
  - The total tax payable for the full year
  - Less the Employees' tax paid for the full year
  - Less any allowable foreign tax credits for the full year
  - Less the amount paid for the 1st and 2nd provisional tax periods.

14 CALCULATION OF PROVISIONAL TAX PAYABLE

- In order to calculate the provisional tax payable the items listed below should be deducted.

14.1 EXEMPT PORTION OF INVESTMENT INCOME

- In terms of **Section 10(1)(i)** of the Act the exempt portion of all interest income is as follows:
  - R23 800 for persons under 65 years of age.
  - R34 500 for persons 65 years of age or older.

- Foreign dividends and all interest income are taxable. This is applicable to individuals, companies and trusts that are regarded as residents of SA.

14.2 CAPITAL GAINS TAX (CGT)

- Eighth Schedule and paragraph 19(1) of the Fourth Schedule.

- Certain capital gains realised on or after 1 October 2001 are taxable.

- Where a taxable capital gain was included in the taxable income of the latest preceding tax year it is excluded when determining the basic amount for provisional tax purposes.

- If any taxable capital gains is realised in the current tax year it must be included in estimated taxable income for the relevant provisional tax period. This will prevent interest being levied on assessment in terms of section 89quat(2).
  - The annual capital gain/loss exclusion is R30 000
  - The primary residence exclusion is R2 million
  - The aggregate capital gain/loss will be disregarded where the proceeds on the sale of a primary residence does not exceed R2 million
  - The annual exclusion on death is R300 000
  - The exclusion on small business assets or on the disposal of a small business is limited to R1.8 million if that person is 55 years of age or older.

- Capital gains on the disposal of assets are included in a taxable income.

- Inclusion rate of capital gains in taxable income:
  - Individuals and special trusts 33,3 %
  - Companies 66,6%
  - Trusts 66,6%.

15 RESIDENCE BASIS OF TAXATION

- Section 1 defines a 'resident' as follows:
  - A person ordinarily resident in SA
  - A person not ordinarily a resident in SA but physically present in the Republic for more than 91 days in aggregate during the year of assessment as well as during each of the preceding five years of assessment, and physically present for more than 915 days in aggregate in those preceding five years of assessment
  - A person other than a natural person, which is incorporated, established or formed in the Republic or which has its place of effective management in the RSA.

- All residents are subject to tax in SA on their worldwide income.Persons other than residents (non-residents) are subject to tax in SA only on income derived from a SA source.Note that the source rules are in section 9 of the Act, and applies to the amounts received or accrued during the years of assessment commencing on or after 1 January 2012.

- Income from patents, designs, trademarks and/or copyrights is deemed to be the income of the holder or owner of the said property.

16 TRUSTS

- **Section 1** defines a person and a **trust**.

- A trust consists of cash or other assets that are administered and controlled by a person, known as a trustee, who acts in a fiduciary capacity.Such person is appointed in terms of a deed of trust, by agreement or in terms of the will of a deceased person.

- A special trust is:
  - A trust created solely for the benefit of a person who suffers from a mental illness or a serious physical disability and such person earns insufficient income to maintain him/herself; or is incapable of managing his/her own financial affairs.
  - A trust created in terms of the will of a deceased, solely for the benefit of beneficiaries who are relatives in relation to that deceased person and who are alive or conceived but not yet born on the date of the death of the deceased person.

- Trusts are taxed at a flat rate of 40% **except** for special trusts and testamentary trusts established for the benefit of minor childre, which are taxed according to the tax rates applicable to individuals.
  - Should a trust have taxable income for a particular year of assessment, the IRP6 return should be requested at the nearest SARS branch or requested from SARS Contact Centre on 0800 00 SARS (7277) or SARS eFiling at www.sarsefiling.co.za.

17 SMALL BUSINESS CORPORATIONS AND MICRO BUSINESSES

- Small business corporations with an annual turnover of up to R14 million will qualify for the special graduate corporate tax regime.For further details on thresholds refer to the tax tables IT-PT-AE-01-G01-A10 – Statutory Rates and Rebates - External Annexure.

- Turnover tax is a simplified tax system for micro businesses with a turnover of up to R1 million per annum. Qualifying micro businesses which are registered for turnover tax are not required to pay provisional tax. For detailed information on turnover tax payable by micro businesses, please refer to the SARS website www.sars.gov.za.

18 MEDICAL SCHEME FEES TAX CREDIT

- Effective from 1 March 2012 the current medical scheme contribution deduction will, for taxpayers below 65 years of age, be replaced by medical tax credit.This provision **does not apply to persons who are 65 years of age or older.** Detailed information of medical tax credits can be accessed on the SARS website www.sars.gov.za. The tax credit is applicable in respect of fees paid by the taxpayer to a registered medical scheme. Refer to **IT-PT-AE-01-G01-A10 – Statutory Rates and Rebates - External Annexure** for allowable medical tax credits table and thresholds.

- For further information on how the medical tax credit is determined, refer to IT-PT-AE-01-G01-A13 - Example: Under 65 – Medical Scheme Fees Tax Credit – Employees' Tax not adjusted – External Annexure.

19 THE TAXABLE INCOME EXAMPLES

- Example 1: Person **under 6**5 years of age:
  - This person will **not be** regarded as a provisional taxpayer as there is no taxable portion of his/her investment income, after taking into account the applicable interest exemptions, resulting in only 'remuneration' remaining. Where the taxpayer's investment is taxable he/she must request an IRP6 return.

Salary income		R 64 000
Local Interest Income	R 12 000	
Less: Exempt portion	R 23 800	R 0
Total Taxable Income		R 64 000

- Example 2: Person 65 years of age or older:
  - As the taxpayer is 65 years of age or older, has no business income, the total taxable income is **less** than R120 000, and such income consists solely of remuneration and interest which is exempt, he/she is exempt from the payment of provisional tax.
  - If the exemption applies to you and you received an IRP6 return by post, the return must be **endorsed** accordingly and returned to a SARS branch.
  - This exemption applies only to provisional tax. You may still be liable for income tax if your income exceeds the tax threshold

Pension income		R100 000
Local interest income	R 28 000	
Less: Exempt portion	R 34 500	R 0
Total taxable income		R 100 000

- TRUSTS
- For an example of the taxable income calculation for a trust refer to annexures AS-IT-PT-01-A07 and AS-IT-PT-01-A11. Example: First Period: Trusts and Example Second Period Trusts:

Income of trust		R187 000
Less: Allowable expenses	R 55 000	
Less: Distribution to beneficiaries	R 21 000	R 76 000
Retained Income (taxable income)		R111 000

- SMALL BUSINESS CORPORATIONS
- For examples of the taxable income calculation for a Small Business Corporation, refer to annexture AS-IT-PT-01-A08 AND AS-IT-PT-01-A12. Example: First Period: Small Business Corporations and Example Second Period: Small Business Corporations and Example Second Period:
  - Example 1

Income of Small Business Corporation		R298 000
Less: Allowable expenses	R 55 000	R 55 000

Taxable net profit		R243 000

- Example 2

Income of Small Business Corporation		R400 000
Less: Allowable expenses	R 55 000	R 55 000
Taxable net profit		R345 000

20 WHEN MUST PROVISIONAL TAX BE PAID

- In terms of **paragraphs 21, 23, 23A**, and **25(1)** the due dates for payments are:

  - **First period:** This payment must be made within six months from the commencement of the year of assessment for the 28 February financial year end or six months after the approved FYE date; half of the tax liability, for the full tax year, is payable.
  - **Second period:** This payment must be made not later than the last day of the year of assessment or approved financial year-end date.
    In the case of individuals and trusts where a February financial year-end creates financial hardship and approval has been obtained from SARS to submit financial statements to a date other than the end of February, such persons may also request approval to submit IRP6 returns in line with the approved financial year-end. All other income however remains in the year of assessment ending 28/29 February.
  - **Third period:** Also known as "additional" or "topping-up" provisional payment. If such a payment is made; it must be paid not later than the **'effective' date.**
    - Where the year of assessment ends on 28/29 February the **effective date** is seven months after the financial year end, which is 30 September.
    - For an approved financial year end which ends on a date other than 28/29 February, the **effective date will be** six months after the financial year end e.g. financial year end is 30 April 2013, the effective date will therefore be 31 October 2014.
  - The **payment in the third period** is a voluntary payment which any provisional taxpayer can make. However taxpayers (other than companies) with a taxable income more than R50 000 or companies with a taxable income of R20 000 or more, may make a third voluntary payment to avoid interest in terms of section 89quat(2) being levied on any underpayment of tax on assessment.
  - The purpose of this payment is therefore to enable taxpayers to pay the difference between Employees' tax and provisional tax already paid for the year and the total tax liability for the year of assessment.
  - Where the estimated taxable income amount submitted by the provisional taxpayer has been increased in terms paragraph 19(3), any additional tax payable as a result of such increase shall be payable within a period determined by the Commissioner.

- Example of payment dates:

  - The following example refers to a 28 February 2014 year-end (2014 tax year):

First provisional tax payment due on	31 Aug 2013
Second provisional tax payment due on	28 Feb 2014
Third or voluntary payment due on	30 Sept 2014
The following example refers to a 31 May 2014 year-end (2014 tax year):	
First provisional tax payment due on	30 Nov 2013
Second provisional tax payment due on	31 May 2014
Third or voluntary payment due on	30 Nov 2014

21 PAYMENTS

- **Paragraphs 21 and 23** stipulates that provisional tax shall be paid by provisional taxpayers, on or **before the payment** due dates. Reference is also made to when provisional tax must be paid'.

- The following methods to effect payments to SARS are available:

  - Provisional tax **payments** may be **made at any SARS branch**, Mondays to Fridays, between 08:00 and 15:30, excluding public holidays.
  - Where **payments** are **made by mail**, via the bank or ATM, sufficient time for mailing or processing must be taken into account.
  - Where **payments** are **made electronically,** provision must be made for your bank's cut-off times and for a clearance period that could take between two and five days.

- For detailed information on payments refer to the 'External Guide South African Revenue Payment Rules'.

- Bank details:

  - Clients paying over the counter at any ABSA, FNB, Nedbank or Standard Bank branch will no longer need to supply a bank account number and bank code when making payments. This applies equally to all ABSA, Capitec Bank, FNB, Investec, Mercantile Bank, Nedbank and Standard Bank internet banking clients.
  - All that will be required is:
    - The client's 19-digit payment reference number
    - The **beneficiary ID/account number** which is linked to a specific type of tax to make payments.
  - These details are reflected on the payment advice of the IRP6 return.
  - Payments that do not comply with both the above-mentioned payment reference number and the beneficiary ID will not be accepted.

- If the last day for payment falls on a **public holiday** or **weekend**, the payment must be made on the last working day **prior** to the public holiday or weekend. For more details refer to the SARS website www.sars.gov.za.

- Section 167: Deferral of Payment – Instalment payment agreement:

  - A senior SARS official may enter into an agreement with a taxpayer in the prescribed form under which the taxpayer is allowed to pay a tax debt in one sum or in instalments, within the agreed period if satisfied that:
    - Criteria or risks that may be prescribed by the Commissioner by public notice have been duly taken into consideration; and
    - The agreement facilitates the collection of the debt.
  - The agreement may contain such conditions as SARS deems necessary to secure collection of tax.
  - SARS may terminate an instalment payment agreement if the taxpayer fails to pay an instalment or to otherwise comply with its terms and a payment prior to the termination of the agreement must be regarded as part payment of the tax debt.
  - The agreement remains in effect for the term of the agreement except if:
    - A senior SARS official may modify or terminate an instalment payment agreement if satisfied that:
      - The collection of tax is in jeopardy;
      - The taxpayer has furnished materially incorrect information in applying for the agreement; or
      - The financial condition of the taxpayer has materially changed.
  - A termination or modification:
    - Takes effect as at the date stated in the notice of termination or modification sent to the taxpayer; and
    - Takes effect 21 business days after notice of the termination or modification is sent to the taxpayer.

- Section 168: Deferral of Payment – Criteria for instalment payment agreement:

  - A senior SARS official may enter into an instalment payment agreement only if:
    - The taxpayer suffers from a deficiency of assets or liquidity which is reasonably certain to be remedied in the future;
    - The taxpayer anticipates income or other receipts which can be used to satisfy the tax debt;

- Prospects of immediate collection activity are poor or uneconomical but are likely to improve in the future;
- Collection activity would be harsh in the particular case and the deferral or instalment agreement is unlikely to prejudice tax collection; or
- The taxpayer provides the security as may be required by the official.

22 INTEREST AND PENALTIES

- Interest:

- Refer to **sections *89bis*** and ***89quat* and paragraphs 20, 20A** and **27** regarding interest and penalties payable in respect of provisional tax.

- Section 89*bis* interest:

  - Interest at the prescribed rate (currently 8,5% per annum subject to changes as published in Government Gazette) is payable on late payments in respect of first, second and third periods.

- 89*quat* interest:

  - Interest in terms of Section 89*quat* is either **levied on** an underpayment of tax or **paid on** an overpayment of tax from the **'effective date'**. See below for an explanation of the 'effective date'.

- 89*quat*(2) interest:

  - Interest, in terms of section 89*quat*(2), is payable by a provisional taxpayer if the normal tax exceeds the **'credit amount'** (i.e. an underpayment of tax) **and** if in:
    - The case of an individual or trust, the taxable income for the year of assessment exceeds R50 000
    - The case of a company, the taxable income for the year exceeds R20 000.
  - This interest is levied at the prescribed rate (currently 8,5 % p.a. subject to changes as published in Government Gazette), and is calculated from the day following the **'effective date'** to the day before the first due date on the relevant assessment notice.
  - Interest on underpayment paid by a taxpayer is **not tax deductible.**

- Example-89*quat*(2) interest:

  - If the first due date on the assessment notice is 1 December 2012, interest on underpayment for the 2012 year of assessment (February year-end) will be calculated from 1 October 2012, to 30 November 2012.

- 89*quat*(4) interest:

  - Interest is payable to a provisional taxpayer if the **'credit amount'** exceeds the normal tax payable for that year of assessment **and**:
    - The amount exceeds R10 000; or
    - In the case of an individual or trust, the taxable income for the year of assessment exceeds R50 000;or
    - In the case of a company, the taxable income for the year exceeds R20 000.
  - This interest is payable to the taxpayer at the prescribed rate (currently 8,5 % p.a. subject to changes as published in Government Gazette) on the amount by which the **'credit amount'** exceeds the normal tax and is calculated from the day following the **'effective date'** to date of refund.
  - Interest paid to a taxpayer by SARS on an overpayment **is taxable** and **must be declared** under interest income in the income tax return for the tax year in which it is **received**

- Penalties:

- Paragraph 20 penalty:

- Provisional taxpayers with a taxable income of up to R1 million

  - An estimated taxable income for the second period must be equal to the lesser of the basic amount or 90% of the actual taxable income for the year.
  - Where the estimate is less than 90% of the actual taxable income and also less than the basic amount, a penalty is levied (deemed to be a percentage based penalty under Chapter 15 of the Tax Administration Act) equal to 20% of the difference between the amount of normal tax calculated in respect of such taxable estimate, and the lesser of:
    - The amount of normal tax calculated in respect of a taxable income equal to 90% of such actual taxable income; and
    - The amount of normal tax calculated in respect of a taxable income equal to such basic amount, at the applicable rate.

- Provisional taxpayers with a taxable income above R1 million

  - An estimated taxable income for the second period must be equal to 80% of the actual taxable income for the year.
  - A penalty, which is deemed to be a percentage based penalty imposed under Chapter 15 of the Tax Administration Act; will be equal to 20% of the difference between the amount of normal tax as determined in respect of such estimate, and the amount of normal tax calculated, at the rates applicable in respect of such year of assessment, in respect of a taxable income equal to 80% of such actual taxable income.

- Paragraph 20A penalty:

  - This penalty may be imposed on assessment for the **failure to submit** a timely estimate of income.
  - The penalty is equal to 20% of the amount by which the normal tax payable exceeds the sum of the provisional tax plus employees' tax paid for such tax year.

- Paragraph 27 penalty:

  - Penalty of 10% will also be levied on any **late payment** in respect of the first and second periods.

- The 'effective date' is:

  - Where the year of assessment ends on 28/29 February, seven (7) months thereafter
  - For approved financial year ends which end on a date other than 28/29 February, six months thereafter.

- The effective date would be the date that the tax is payable under Chapter 12 of the Tax Administration Act; and it applies for the first and second provisional tax payments; and

  - If tax is not paid by that date, interest will accrue from that date until the tax is paid
  - If the refund is due, interest on the amount refundable is calculated from the later of the effective date or the date that the excess was received by SARS to the date the refunded tax is paid.

- The **'credit amount'** in respect of a provisional taxpayer is the sum of:

  - All provisional tax payments (1st, 2nd and 3rd periods) made
  - Employees' tax paid
  - Allowable foreign tax credits for the applicable year of assessment.

23 QUALITY RECORDS

Number	
IRP6 return	Return of payment of provisional tax
IRP6(3)	Payment advice for additional provisional tax

24 DOCUMENT MANAGEMENT

Designation	Name / Division
Business Owner:	Group Executive: Enterprise Business Enablement
Policy Owner:	Executive: EBE - Process Solutions – Assessment, Enforcement and Services Portfolio
Author:	Magdeline Makhushe
Detail of change from previous revision:	Updated with legislation changes
Template number and revision	POL-TM-07 - Rev 3