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Introduction

Welcome to the fourth and final edition of our NewsFlash for the year, the content of which we hope will help you keep up to date with the latest developments in payroll-related legislation.

2021 has been another tough year for many, holding many **new and additional challenges**, it brought unrest resulting in looting of many workplaces, and the legislative landscape has been busier than ever, with a somewhat revenue-hungry SARS trying to find the means to make up for budget deficits, with many more brand new changes on the horizon, very likely to start taking shape during 2022.

Hybrid-Model 2022 Annual Payroll Managers Tax Year-End Seminar

Our next Annual Payroll Managers Tax Year-End Seminar is scheduled to take place on **10 March 2022**. For the first time ever, we'll be piloting a hybrid approach to our seminar.

What does this mean? We will be hosting a physical seminar at a venue (in line with the COVID-19 regulations) and at the same time, we will be broadcasting the seminar live to those delegates that wish to attend remotely.

Our agenda is packed with exciting content and if you thought 2020 and 2021 were busy in the legislative landscape and rather challenging for the payroll profession, you haven't seen anything yet!

We'll not only be covering the legislative changes surrounding the 2022 Budget Speech, but we'll also be highlighting several amendments that were made during 2021 and some interesting developments at SARS that will impact all businesses. In this NewsFlash, we have highlighted only some of the more significant changes and happenings during 2021 that impacted businesses and the payroll profession, all of which we'll be covering in more detail during our seminar in March. Check back here regularly to reserve your seat:

<https://www.payrollseminars.co.za>

Important Notice: Tax Directives Enhancements

SARS released a notice on 9 November 2021 detailing important information regarding tax directive enhancements that will come into play soon.

The SARS notice deals with the topic of pensioners in receipt of more than one source of income, where a tax debt may arise at year-end when all the income sources are combined for the purposes of determining taxable income and the resulting tax due.

Read the full article and access the SARS Notice [here](#).



SARS issued notices regarding penalties for late submissions

SARS have indicated that they are going to **impose the legislated penalty** on employers who are late with the submission of their IRP5's and their EMP501's.

A **penalty of 1% of the PAYE value for the year** will be charged for every month that the info is late.

For a large employer whose PAYE deducted from employees can easily run into the millions, this is going to be very expensive.

Access the Official SARS Notice [here](#).

SARS issued further notices regarding penalties

During August 2021, reference was made to a **Fixed Amount Penalty** relating specifically to instances of non-compliance due to tax returns that have not been submitted.

It is clear from this notice that SARS is paying increasing attention to the issue of outstanding tax returns, and are thus taking a hard-line approach, as the Tax Administration Laws Act entitles them to do.

Please don't ignore this as it could result in expensive consequences.

Access the Official Notice [here](#).



SARS published the new Business Requirements Specification (BRS) V20 0 2

In July SARS finalised and published their updated Business Requirements Specification (BRS) V20 0 2 to be implemented for the August 2021 submission of tax certificates and beyond.

Key changes included:

Some **validation and format changes to email addresses**. For example, a backslash, an inverted comma, a percentage sign, and a few other items cannot be inserted in an email address, including the introduction of a few other basic rules regarding formats.

1. The employer's **Trade Classification as per the VAT 403 guide (i.e. code 2035) is optional** if the Transaction Year of a certificate is **prior to 2021**. If the Transaction Year of the certificate is **after 2021** then this field was **not to be completed**.
2. There were some important **new validation rules around the actual Certificate Number** (i.e. code 3010) in that it now needs to be unique per employee and cannot be reused in any prior or current year. The rules however do state under what specific conditions the same Certificate Number can be used. There are also a few new rules around the use of special characters in the Certificate Number.
3. The ETI fields were updated to **cater for the latest ETI eligibility conditions such as age, date joined, extension of the number of months claimed where the employee reaches the 24 months, SEZ exemptions**, as well as the **increased rebate values** (i.e. under the extended lockdown relief measures). There were also some additional validations included **to assist in curbing the abuse** of the ETI scheme.
4. Additional validation was included to ensure the uniqueness of employee numbers used on the Certificate.
5. Changes to the **number of, and supporting information** required for reporting on an employee's **Tax Directive/s** was included – i.e. up to **5 directives** can now be included for the **Transaction Year 2022 and greater**. For the **Transaction Years prior to 2022, 3 records** of Tax Directives can be reported on. New information required when reporting Tax Directive information includes the **date that the directive was issued**, the related **income source code** for the directive, and the **value of the lump sum or taxable benefit** as per the directive issued.
6. Some additional comments and updates under code 3713 (Other Allowances) regarding the provision of a **Subsistence Allowance** to an employee were also included.
7. The new provision regarding **an employees' eligibility for a daily subsistence allowance even though that employee did not spend a night out of town** has been included.

Employers need to be aware of these changes and can access the original specification document [here](#).

Proposed changes to the Tax Law Amendment Bill

Take note of the following proposed changes that may impact the payroll profession:

- Taxation of **a long service award**. The total non-taxable value of R 5 000 and all other qualifying criteria must continue to be met. However, it is proposed that in future the award can be provided

in cash, as opposed to a non-cash asset, as is the current requirement. This is a welcome change as most employers provide long service awards in many different forms, some of which have different tax implications.

- Clarifying the calculation of the fringe benefit in relation to ***employer contributions to a retirement fund***. Where the employer contributes to a defined benefit fund and the actual taxable benefit accruing to the employee is derived by using a specific formula, the self-insured risk-benefit which is included in the contribution is often “lost” when calculating the amount that the employee can use towards the calculation of the allowable deduction (i.e. the 27.5%), thus allowing the employee a greater deduction than permitted. The proposal is to split the two amounts to ensure the value of the benefit for both the retirement fund and the self-insured risk-benefit can be determined and taxed accordingly.
- ***Definition of an employee for ETI purposes***. It is proposed that the definition of an “employee” and a “qualifying employee” be changed to clearly specify that “work” must be performed in terms of an employment contract and that the employee must be documented in the employer’s records. This is to ensure that employers don’t claim for employees who don’t actually work for them.
- ***Transfer between retirement funds by members reaching 55 (or older)***. There are certain instances where a tax liability arises when a fund member reaches retirement age and for example, transfers his/her funds into a preservation fund. The intention is that any transfer to a similar fund should not be taxed. It is proposed that an amendment be made to address this and allow for the tax-free transfer of funds from a preservation fund into a similar fund by a member who has already reached normal retirement age. This is a welcomed proposal as it enables individuals to maximise their return by moving from one fund to another, without any tax liability.
- ***The tax implications on a retirement fund when an individual ceases to be a tax resident***. There are some proposed changes which, for example, will assist the individual in delaying the payment of the tax liability that arises when it is deemed that the individual has “withdrawn” from the fund, until such time as the individual has actually received the payment from the fund.
- ***Penalties for non-submission of bi-annual PAYE reconciliations***. There is a proposed new method in calculating the penalty due (i.e. higher!) for this type of non-compliance.

Join us at our **Annual Payroll Managers Tax Year-End Seminar** on 10 March 2022 where we unpack what has been legislated and what the impact is on businesses and the payroll profession. Access our seminars page [here](#) to keep an eye on the details.

SARS officials are doing "house calls" to verify home office expense claims

Yes...having tea with a SARS official, in your home is not that uncommon as of late.

Surprised? Don’t be...as anticipated there has been a massive increase in taxpayers claiming for home office expenses this past year, and as such SARS are doing a huge amount of home inspections.

We have all experienced the “new norm” of working from home in recent months, either voluntarily or having been instructed by employers to do so, and naturally, we were all hoping to get a little relief from SARS this year.

If your home office doesn’t stack up with SARS’ expectations, they will reject your claim. SARS have already rejected about 80% of claims!

[Here’s](#) a quick reminder of what to keep in mind to ensure your home office complies with SARS requirements.

The deadline for submission of Tax Returns has been extended...for non-provisional taxpayers only

For those taxpayers who have not submitted their tax returns yet – there is some relief. Non-provisional taxpayers had to submit their returns by the 23rd of November 2021, failing which there was a possibility of penalties being imposed.

The good news is that SARS has announced that the filing season deadline has been extended for non-provisional individual taxpayers from the 23rd of November 2021 to the 2nd of December 2021.

See the official SARS media release [here](#).



Important information regarding COIDA

Apart from the recent announcement from COIDA regarding the maximum earnings amount being increased to **R 506 473 per annum** (up from R 484 200 per annum) please be advised of the following:

- the **revised Return of Earnings Form (W.As.8)** to be used for the **assessment period 1 March 2021 to 28 Feb 2022**.
- This new form comes into effect immediately.
- The return **had to be submitted by 31 May 2021**. The portal for submitting the return was opened on 1 April 2021 and was available until 31 May 2021. Employers were encouraged to use the online service, so we trust that everyone managed to successfully navigate through the process.

An update on the UIF

Many employers are experiencing frustrations with the UIF department, in some cases, businesses have reached a point of desperation as they are unable to obtain clearance certificates due to unresponsive systems and exception reports. This is having a dire impact on their ability to participate in tenders. It is reported that the UIF system is unresponsive or “hangs”. Some employers receive exception reports in excess of 5 000 pages in length, making it impossible to get to the bottom of what they need to do to obtain the necessary clearance certificates.

In other cases, the exceptions highlighted date back to 1999, with many of the employees no longer employed by such a company and in some situations, even deceased. The PAGSA have become involved in an attempt to resolve some of the issues but no progress is being made and at this stage, there aren't any answers or an indication of when the issues may be resolved.

Every angle possible is being pursued to obtain answers and the PAGSA continues to send the UIF department details of every issue they become aware of. There is speculation that SARS may be getting closer to the problem with the UIF as it will impact their collections ultimately if businesses lose revenue due to not being awarded tenders.

Repo Rate Increase

The South African Reserve Bank's Monetary Policy Committee (MPC) decided to **raise the Repo Rate by 25 basis points with effect from the 19th of November 2021.**

We have been quite fortunate in that we haven't had a rate increase for three years, so it was inevitable that an increase had to eventually happen.

This increase of 0.25% sees the Repo Rate increase to 3.75%, which then also **increases the prime lending rate of the commercial banks to 7.25%.** The SARS official rate of interest, as defined in section 1(1) of the Income Tax Act 58 of 1962 (the Act), therefore also changes, which is now set at 4.75%. The **SARS official rate of interest** is the Repo Rate, plus 100 basis points (1%). This rate will therefore be adjusted to **4.75% as of 1 December 2021.**

As with everything tax-related, there were some consequences resulting from this increase. For more detail click [here](#).



The 2021 Budget Speech held various rate changes - confirm the latest rates

Since the 2021 Budget Speech, many legislative rates and earnings limits and their effective dates have been published by various statutory departments.

As the rate changes were all released at different times we feel it necessary to provide you with a consolidated reminder of all these changes.

Access our news section using the button below, to see the latest statutory rates, earnings limits, and their effective dates.

Click [here](#) for the latest rates.

POPIA - Now a reality

Effective 1 July 2021 businesses were required to be fully compliant with the Protection of Personal Information Act (“POPIA”). This has been on the cards for a number of years now – but is now a reality.

The bottom line is that no matter what size or type of company you manage, you cannot ignore this. You need to take it seriously and start the process of at least implementing some basic steps.

There are many non-compliance dangers and not to mention HEFTY penalties. Here are a few pointers to help get you started if you still find yourself a little lost.

Still not sure where to begin? Click [here](#) for a quick guide and more information.



The Temporary Financial Relief Scheme is now open

For workers who were affected by the unrest in KZN and Gauteng a few months ago, the UIF have provided some relief via the Temporary Financial Relief Scheme, which was opened for applications recently.

To qualify, the employees’ company must be registered (or register) with the UIF and the company needs to prove that its closure was directly linked to the destruction, damage, or looting of its workplace.

Applications will be validated against various entities within the Government (e.g. Dept of Labour, Dept of Trade and Industry, etc.) prior to any applications being approved.

Those companies submitting an application must also have a case number from the SAPS, together with specific evidence (e.g. pictures, etc.) to support their application.

Before any payment is made there will be a physical inspection of the workplace by the appropriate authorities.

In the event of the application being approved, the affected employee will receive compensation directly into their bank account, but only after suitable validation on the bank account has been done. Companies can now apply online.

Use [this link](#) to apply online.

Worried about vaccination side effects? COID may help...

The Department of Labour recently released a communication that addresses how the Compensation Fund will cover employees for illness, injuries, or even death, as a result of an employee receiving the COVID-19 vaccine.

There are however a few important items to take note of before any compensation will be applicable:

- The vaccine must have been mandatory due to the employer's requirement as a result of a risk assessment having been done;
- The employee must have been vaccinated with an approved vaccine i.e. as approved by SAHPRA;
- The employee must provide the proof of the employer's risk assessment and vaccination plan – i.e. as defined in para 3(1)(a)(i)(ii) and (b) of the Consolidated Directions on Occupational Health and Safety Measures (in certain workplaces) – dated 28 May 2021;
- The order of events – i.e. between receipt of the vaccine, the development of symptoms and clinical signs must be supplied;
- The employee must clearly show symptoms and clinical signs that are ordinality recognized as side effects of the COVID-19 vaccine;
- COID may request additional tests to be done to assess the presence of any abnormalities of any organ that may have been affected;

As per the usual process, any claim will go through adjudication and any resulting compensation that is determined will be paid in terms of both the Act as well as the guidelines as defined by the Compensation Fund.

Government Gazette Number 45356 was published on 22 October 2021 and addresses this amendment to the Act. Access the Government Gazette directly using the below button. Access the Official Notice [here](#).



The PSiberWORKS User Group (PUG) is officially constituted

We are proud to announce that we have constituted the PUG, short for “PSiberWORKS User Group” and that the PUG is officially recognised by LabourNet as a duly constituted User Group.

The purpose of the PUG is to provide the means to get input and feedback from the PSiber User Community. The PUG is formed and operated independently from PSiber/LabourNet and provides a forum to discuss trends in the Payroll and HR industry, new technology, and much more.

The PUG is the ideal mechanism to obtain future ideas, trends, and suggested product features and improvements and to share those with PSiber/LabourNet for consideration. The ultimate aim of the PUG is to ensure that the PSiber product continues to keep pace with what the industry and users require, ensuring continued relevance in the marketplace and with users.

Read more about the PUG [here](#).

Important Q&A from 2021 Mid-Year Payroll Taxes and Associated Legislation Virtual Seminar

Did you miss our 2021 Mid-Year Payroll Taxes and Associated Legislation Virtual Seminar? Here's a quick summary of what we covered and a link to access the answers to popular questions raised during the sessions.

Our 2021 Mid-Year Payroll Taxes and Associated Legislation Virtual Seminar had a good online turnout with many questions raised.

There were a couple of interesting questions that emanated from the sessions, some of which we covered during the Q & A session. If you did not attend the Q & A session or you've missed the seminar altogether, you can access a list of questions raised and their detailed answers below.

Here's a quick summary of what we covered:

We did a review of the various legislative changes announced during the 2021 Budget Speech. Remember that several amendments were made after the 2021 Budget Speech, some of which were not all that apparent and which did carry non-compliance risk if not implemented.

We discussed the recent changes impacting the ETI scheme including changes affecting this year's tax certificate submissions, not to mention the potential upcoming changes as proposed in this year's Taxation Laws Amendment Bill (TLAB), and of course, the usual payroll related changes required to keep compliant with various entities in the Labour Department such as the UIF & COIDA.

Access a list of questions raised and their detailed answers [here](#).

In Closing...

Thank you for your support during 2021 and your part played in making our Association successful.

We wish you a happy and safe festive season, a prosperous 2022, and as always, we look forward to working with you again next year.

Rob Nowicki and Team

