



Tax & Legislative Information Series...

**... about SARS Interpretation Notices
and Binding Rules**



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- **Some Background**

- South Africa's tax system is complex, and **taxpayers often require clarity** on how SARS interprets and applies legislation.
- To **promote consistency and reduce uncertainty**, SARS regularly issues Interpretation Notes and Binding Rulings.
- Interpretation Notes have been part of SARS's administrative practice for many years and are regularly updated as tax laws and policies evolve.
- Binding Rulings were formally introduced through the Tax Administration Act (TAA) **to give taxpayers legal certainty in advance** about SARS's treatment of specific transactions or classes of taxpayers.
- Both tools are **designed to improve understanding of the application, maintain compliance, reduce disputes, and provide transparency** in SARS's approach to tax administration.



South African Revenue Service

- **Definition and Legal Basis**

- An Interpretation Note is a SARS document that **provides guidance on the interpretation and application** of provisions of legislation.
- These are administered by SARS, and SARS updates them when legislation or policy changes, or when there is a requirement to advise the public on the interpretation thereof.
- A Binding General Ruling (BGR) is a SARS ruling issued on matters of general interest or importance that sets out the Commissioner's interpretation and application of tax law for all taxpayers who meet the conditions set out in the ruling.
- A Binding Class Ruling (BCR) is issued in response to an application and binds SARS and **all members of an identified class of legal persons** described in the ruling.
- A Binding Private Ruling (BPR) is issued in response to an individual application and sets out **how the Commissioner will apply tax law to the specific proposed transaction or facts submitted by a specific applicant.**

- **Definition and Legal Basis**
 - The Tax Administration Act (TAA) and related tax Acts **provide the statutory framework for issuing binding rulings** and set out rules about their effect, application, and publication.
- **Purpose and Importance**
 - Interpretation Notes aim to give practical guidance so taxpayers and SARS staff have a **consistent understanding of how statutory provisions should be read and applied**.
 - Binding Rulings provide legal certainty by recording how SARS will apply the law to a particular class of transactions (general/class) or to a particular taxpayer's facts (private), which reduces the risk of future disputes for those who obtain or fall within the ruling.
 - Because Binding Rulings are signed by senior SARS officials and published, they also help the tax community understand SARS' current administrative position on recurring technical issues.

- **What does the Tax Administration Act say?**

- The Tax Administration Act expressly contemplates binding rulings and provides the Commissioner with the power to issue Binding General Rulings, Binding Class Rulings and Binding Private Rulings, subject to the Act's procedures and limits.
- The Act makes a distinction between rulings that are binding on SARS (for specific applicants or classes) and interpretation documents that are published for guidance, and it regulates how binding rulings may be applied or cited in proceedings.
- For example, a BPR or BCR generally binds SARS in relation to the applicant or class members but cannot be relied on by third parties outside that relationship in court proceedings except in limited circumstances.
- The Act also allows SARS to prescribe rules about how applications for binding rulings are made and to refuse or reject applications on set grounds, which are published in official notices.

- **How should they be used:**

- Taxpayers should use Interpretation Notes as persuasive administrative guidance to understand SARS's view of how particular provisions are applied, while remembering that Interpretation Notes are not automatically binding law in a court.
- Taxpayers with unusual, material or uncertain transactions should consider applying for a Binding Private Ruling to obtain certainty about SARS' position that will be binding on SARS in respect of the facts and transaction described.
- Where an issue affects many similarly situated taxpayers, a Binding Class Ruling or Binding General Ruling may be sought or relied on to achieve certainty for the class or the general taxpayer population that meets the criteria in the ruling.
- Practitioners should carefully prepare and fully disclose the facts and assumptions in any application for a BPR or BCR because the ruling binds SARS only if the facts set out in the application are complete and accurate.

- **Why It Matters**

- Binding Rulings convert SARS' administrative position into an **enforceable position** for the applicant or class, which materially reduces tax risk, compliance uncertainty and potential disputes with SARS.
- Interpretation Notes, though not strictly binding on courts, are **influential** practical guides that shape compliance practice and are frequently consulted by tax practitioners and SARS staff.



• Practical Risks and Concerns

- A Binding Private Ruling is binding only for the applicant and only for the facts presented; it **generally cannot be cited by other taxpayers** in litigation unless they are party to the ruling or a class member, which limits third-party reliance.
- If the facts or assumptions given to SARS in an application are incomplete or incorrect, **SARS can withdraw or refuse to apply the ruling**, which can expose the taxpayer to additional liabilities or penalties.
- Interpretation Notes are **not immune from legal challenge** and may be treated as persuasive but not binding in court, which means reliance on an Interpretation Note alone **does not guarantee the same outcome in litigation**.
- There is administrative timing and cost involved in preparing and obtaining Binding Rulings, and SARS may reject applications that do not meet prescribed requirements or where the matter is not suitable for a ruling.

- Why is this important from a payroll perspective
 - Payroll teams **rely on consistent SARS interpretation of remuneration**, fringe benefits, employees' tax, and PAYE rules.
 - Binding Rulings and Interpretation Notes give **practical guidance and certainty** that directly affect payroll withholding, reporting and policy.
 - Where a payroll treatment is uncertain (for example, tax treatment of certain allowances, director's fees, or employee benefits), obtaining a Binding Ruling or consulting relevant Interpretation Notes **can prevent under- or over-withholding and reduce the risk of assessed shortfalls, interest and penalties.**
 - **Payroll practitioners should monitor** published Binding General Rulings and Interpretation Notes, so payroll policies and payroll system logic reflect SARS' current administrative positions.

- **What should an employer do if they are uncertain about interpreting the legislative facts?**
 - **Identify the issue early:**
 - When a payment looks unusual (e.g. director's fees, labour broker payments, student training stipends, unusual allowances), **flag it**.
 - **Check** whether there is any published SARS Interpretation Note, Binding Ruling, or Employer Guide dealing with it.
 - **Consult SARS published sources:**
 - Use the SARS website to locate relevant Interpretation Notes.
 - **Review the SARS Employer Guides** to understand what is currently prescribed.
 - Check for recent Binding General Rulings that **set precedents**.
 - **Assess whether a binding ruling is needed:**
 - If the **facts are clear and match any officially published guidance**, follow that.
 - If the **circumstances are unique**, large sums are involved, or there is risk of misclassification, request a Binding Private Ruling to get certainty.
 - Ensure **factual disclosure is complete and accurate**.

- **What should an employer do if they are uncertain about interpreting the legislative facts?**
 - **Check statutory tests or criteria where relevant:**
 - Example - For non-executive directors: apply the “premises test” and “control or supervision test” as in BGR 40.
 - **Review payroll system and IRP5/IT3 certificate codes:**
 - Ensure the correct codes are used according to SARS guides and rulings (for example, new codes for non-executive directors’ fees after BGR 40).
 - **Document everything:**
 - Keep copies or descriptions of Interpretation Notes, Binding Rulings, and Employer Guides used in the decision-making process
 - Maintain detailed records of facts and assumptions underlying payroll treatments.
 - Ensure employees or stakeholders understand the treatment when necessary.

*Make sure that communication is two-way and absolutely clear ...
... if the query from SARS is directed at the employee, you want to ensure that both you
and the employee are “saying the same thing”.*

- **What should an employer do if they are uncertain about interpreting the legislative facts?**
 - **Monitor changes:**
 - Tax law, SARS rules, and rulings change. Always check that your treatment of a scenario/payment reflects the latest material.
 - Review guides / SARS publications annually or when major legislation changes.
 - **Seek professional input when needed:**
 - For ambiguous cases, or those with large financial exposure, consult tax specialists.
 - If a prior treatment might have been incorrect, consider whether adjustments or **voluntary disclosures** are necessary.



- **Some important Interpretation Notes applicable to Payroll**

Document	What it about
Interpretation Note 139	Taxation of amounts received by or accrued to missionaries
Interpretation Note 121	Deduction of medical lump sum payments
Interpretation Note 88	Tax deduction for amounts refunded
Interpretation Note 77	Taxable benefit: Use of employer-provided telephone or computer equipment or employer-funded telecommunication services
Interpretation Note 76	Tax treatment of tips for recipients, employers and patrons
Interpretation Note 72	Right of use of motor vehicle
Interpretation Note 71	Long service awards
Interpretation Note 67	Connected persons
Interpretation Note 66	Scholarships or bursaries
Interpretation Note 62	Broad-based employee share plan
Interpretation Note 55	Taxation of directors and employees on vesting of equity instruments
Interpretation Note 35	Employees' Tax: Personal Service Providers and Labour Brokers
Interpretation Note 26	Taxation of CCMA and Labour Court awards to employees and former employees
Interpretation Note 20	Additional deduction for learnership allowance
Interpretation Note 17	Employees' tax: Independent contractors
Interpretation Note 16	Exemption from income tax: Foreign employment income

- Some important Interpretation Notes applicable to Payroll

Document	What it about
Interpretation Note 14	Allowances, advances and reimbursements
Interpretation Note 13	Deductions: Limitation of deductions for employees and office holders
Interpretation Note 10	Skills development levy exemption: Public benefit organisations
Interpretation Note 7	Restraint of trade payments
Interpretation Note 4	Resident: Definition in relation to a natural person – physical presence test
Interpretation Note 3	Resident: Definition in relation to a natural person – ordinarily resident



- **In Summary**

- SARS issues Interpretation Notes to guide **consistent interpretation** and Binding Rulings to provide **legal certainty** in the application of tax law.
- Binding Private Rulings **bind SARS only in relation to the applicant and the facts presented**, while Binding Class and General Rulings can bind a defined class or apply generally to taxpayers who meet the stated criteria. If relying on a Binding Rule, **check the validity period** of the Ruling to ensure that it's **still relevant**.
- Interpretation Notes offer **persuasive administrative guidance** rather than automatically binding law in court, so taxpayers needing certainty about a specific set of facts should consider a binding ruling.
- From a payroll perspective, relying on the latest Interpretation Notes and Binding Rulings reduces risk in withholding and reporting, and **supports defensible payroll policies**.



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