
SOUTH AFRICAN REVENUE SERVICE

**GUIDE
TO
THE TAX INCENTIVE IN
RESPECT OF
LEARNERSHIP
AGREEMENTS**

Another helpful guide brought to you by the
South African Revenue Service



GUIDE TO THE ALLOWANCE IN RESPECT OF LEARNERSHIP AGREEMENTS

Foreword

This guide provides general guidelines regarding the tax incentive in respect of learnership agreements. It is not meant to delve into the precise technical and legal detail that is often associated with taxation and should, therefore, not be used as a legal reference. The guide is not a binding general ruling in terms of Part IA of Chapter III of the Income Tax Act, No. 58 of 1962 (the Act).

The guide is based on the legislation as at 8 August 2007, including the amendments effected by the Taxation Laws Amendment Act, No. 8 of 2007 and the Taxation Laws Second Amendment Act, No. 9 of 2007.

Should you require additional information regarding the learnership tax incentive, you may –

- contact your local South African Revenue Service (SARS) branch;
- visit SARS website at www.sars.gov.za;
- contact your own tax advisors;
- if calling locally, contact the SARS National Call Centre on 0860 12 12 18; or
- if calling from abroad, contact the SARS National Call Centre on +27 11 602 2093.

Comments and/or suggestions regarding this guide may be sent to the following e-mail address: policycomments@sars.gov.za.

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GLOSSARY

Unless the context indicates otherwise, the meaning of words, concepts and acronyms used in this guide, is the following:

Commissioner : Commissioner for the South African Revenue Service

SARS : South African Revenue Service

SETA : Sector Education Training Authority

Minister : Minister of Finance

the Act : Income Tax Act, No. 58 of 1962

1 INTRODUCTION

Skills development is an integral part of the country's overall objectives to reduce poverty and the decline in employment, increase job skills and improve the economic growth of the country. To give effect to the National Skills Development Strategy, the Skills Development Act No. 97 of 1998 was introduced in 1998 to establish an institutional and financial framework for training and development of skills in the workplace. This Act *inter alia* provides for the registration of learnerships by the various Sector Education and Training Authorities (SETAs).

A tax incentive in respect of registered learnership agreements was introduced by the Minister of Finance (the Minister) in his 2002 Budget Speech. The purpose of this tax incentive is to encourage job creation by reducing the cost of hiring and training employees through learnerships and to encourage human capacity development.

The Minister, thereafter, in his February 2006 Budget Speech announced that –

- the tax incentive, which was due to expire in October 2006 and would only have been applicable in respect of registered learnership agreements entered into before 1 October 2006, was extended to be applicable in respect of registered learnership agreements entered into before 1 October 2011; and
- a more favourable tax incentive would be applicable in respect of registered learnership agreements entered into with disabled persons on or after 1 July 2006.

In his 2008 Budget Speech, the Minister of Finance announced that the incentive will be extended to longer learnerships. As details in this regard are not available yet and no legislation has been passed, the matter will be dealt with in the next issue.

2 BROAD OVERVIEW OF THE TAX INCENTIVE

The tax incentive in respect of learnership agreements was introduced in the form of an allowance which may be deducted from the employer's income from trade when his or her taxable income is determined. The allowance is referred to in this document as the "learnership allowance" and is applicable in respect of learnership agreements entered into or completed during a year of assessment.

A deduction of this allowance constitutes a deduction in addition to other income tax deductions allowable to employers in respect of the employment and skills development of employees, that is, the expenditure incurred in respect of their salaries and/or wages and skills development.

Tax relief is granted to employers that enter into registered learnership agreements with persons that were not employed by them when the learnership agreements were entered into, as well as their existing employees. The allowable deduction will, however, be greater where a registered learnership is entered into with a person that was not employed by the employer than when the learnership was entered into with an existing employee. An employer will, furthermore, qualify for a greater deduction where a registered learnership agreement was entered into with a disabled person on or after 1 July 2006.

Where a learnership agreement is terminated prior to its completion, the amount that was previously allowed as a learnership allowance will be recouped. In other words it will be included in the employer's income during the year of assessment when the learnership agreement is terminated.

3 WHAT IS A LEARNERSHIP AGREEMENT?

In order to understand the concept “learnership agreement”, it is important to understand what a “learnership” is.

A **learnership** is a work-based approach to learning and gaining qualifications. The Skills Development Act sets out the criteria of a learnership, namely it must –

- consist of a structured learning component;
- include practical work experience of a specified nature and duration;
- lead to a qualification;
- relate to an occupation; and
- be registered with the Director-General of the Department of Labour.

Learnerships include traditional apprenticeships registered with the Department of Labour in terms of the Manpower Training Act, No. 56 of 1981.

A **learnership agreement** is an agreement entered into for a specified period between –

- a learner;
- an employer or group of employers; and
- an accredited training provider.

The agreement must be in the prescribed form and registered with a Sector Education and Training Authority (SETA).

The terms of a learnership agreement oblige –

a) the **employer** to –

- employ the learner for the period specified (where the learner was unemployed when entering into the learnership agreement, the employer must enter into a contract of employment with the learner);
- provide the learner with the specified practical work experience; and
- release the learner to attend the education and training specified in the agreement;

b) the **learner** to –

- work for the employer; and
- attend the specified education and training; and

c) the **training provider** to –

- provide the education and training specified in the agreement; and
- provide the learner with support specified in the agreement.

4 THE LEARNERSHIP ALLOWANCE

4.1 WHAT REQUIREMENTS MUST BE MET BEFORE AN EMPLOYER WILL QUALIFY FOR THE ALLOWANCE

Any employer (natural person, company, close corporation, trust etc) will be eligible for a deduction of a learnership allowance during a year of assessment if the following seven requirements are met:

4.1.1 A learnership agreement must have been entered into or completed during the year of assessment

In order to qualify for a deduction in respect of a learnership allowance during a year of assessment, a learnership agreement must have been entered into by the employer with a learner during the year of assessment, or the learner which is party to a learnership agreement must have completed the learnership agreement during the year of assessment.

An employer qualifies for a learnership allowance for the entering into or completion of a learnership agreement. Therefore, where a learnership agreement is entered into and completed during the same year of assessment, the employer will qualify for a deduction in both respects.

Example 1

Facts:

A new employee entered into a registered learnership agreement of six months with an employer on 1 May 2006 and successfully completed it on 31 October 2006.

Solution:

During the 2007 year of assessment the employer may claim a deduction for entering into the learnership agreement, as well as completing it.

A learnership agreement is considered “completed” when confirmation is provided by the SETA with which the learnership agreement is registered, that the learnership has been **successfully** completed according to its required standards or the standards of a professional body.

4.1.2 The learnership agreement must be a registered learnership agreement

An employer will not qualify for a deduction for a learnership allowance, unless a **registered learnership agreement** has been entered into with a learner.

A “**registered learnership agreement**”, defined in section 12H of the Act means –

- (a) a learnership agreement entered into between a learner and an employer before 1 October 2011, which has been registered with a SETA, as contemplated in section 17(3) of the Skills Development Act, No. 97 of 1998; or
- (b) a contract of apprenticeship registered with the Department of Labour in terms of section 18 of the Manpower Training Act, No. 56 of 1981.

“**SETA**”, defined in section 12H of the Act means –

a sector education and training authority established in terms of the Skills Development Act, 1998.

An employer that entered into a learnership agreement which has not been registered with a SETA or which does not constitute a contract of apprenticeship registered with the Department of Labour will, therefore, not qualify for the learnership allowance in respect of such learnership agreement, as the learnership agreement does not constitute a registered learnership agreement, as defined.

4.1.3 The learnership agreement must have been entered into between 1 October 2001 and 30 September 2011

An employer will only qualify for a deduction for a learnership allowance in respect of a learnership agreement entered into on or after 1 October 2001, but before 1 October 2011, as –

- section 12H of the Act provides that an employer will only qualify for a learnership allowance in respect of a registered learnership agreement entered into on or after 1 October 2001; and
- any learnership agreement entered into on or after 1 October 2011 will not constitute a registered learnership allowance.

Where a learnership agreement was entered into before 1 October 2011 by an employer but completed **after** that date, the employer will still qualify for an allowance in respect of the completion of the learnership agreement, as it is the **commencement** date of the learnership that determines whether or not an employer will qualify for the allowance.

4.1.4 The employer must be the original employer in terms of the learnership agreement

An “**employer**”, defined in section 12H of the Act means –

- (a) in the case where a group of employers is party to a registered learnership agreement, the employer which is identified in that agreement as the lead employer; or
- (b) in any other case, the employer which is party to a registered learnership agreement.

An employer that enters into a registered learnership agreement with a learner will qualify for a deduction for the learnership allowance when the learnership agreement is entered into or completed.

Any person that substitutes the employer that originally entered into the learnership agreement as the employer will, however, not qualify for a learnership allowance in respect of the entering into the learnership agreement or the completion thereof.

The only exception to this rule is where an employer, which is a company that forms part of a group of companies, is substituted by another company within the group of companies as the employer for purposes of the learnership agreement.

A “**group of companies**”, defined in section 1 of the Act means –

two or more companies in which one company (hereinafter referred to as the “**controlling group company**”) directly or indirectly holds shares in at least one other company (hereinafter referred to as the “**controlled group company**”), to the extent that –

- (a) at least 70 per cent of the equity shares of each controlled group company are directly held by the controlling group company, one or more other controlled group companies or any combination thereof; and
- (b) the controlling group company directly holds at least 70 per cent of the equity shares in at least one controlled group company.

A learner who has entered into a learnership agreement with an employer may thus transfer between companies which form part of the same group of companies as that employer. The learnership agreement should reflect this change in employer.

This can be illustrated by the following example:

Example 2

Facts:

Learner A entered into a learnership agreement with an employer Company X. Company X and Company Y form part of a group of companies (as defined in the Act). The learner completed the learnership agreement with Company Y. Which employer qualifies for the allowance?

Solution:

Company X may claim the allowance on entering into the learnership agreement with Learner A, but may not do so on completion. Company Y may claim the allowance on completion of the learnership agreement.

Where a group of employers (not employers within the same group of companies) enter into a registered learnership agreement with a learner, one employer must be identified as the lead employer in the learnership agreement. Only the lead employer will be able to qualify for a deduction in respect of the learnership allowance.

4.1.5 One learnership agreement may not be replaced by another

An employer may qualify for a deduction of the learnership allowance in respect of multiple registered learnership agreements that are entered into with the same learner or completed by the same learner, as long as they constitute different learnerships as registered with the Director-General of the Department of Labour.

However, where one registered learnership agreement is substituted by another registered learnership agreement entered into by an employer with the same learner, the employer will not qualify for a deduction of a learnership allowance in respect of the entering into or completion of such a learnership agreement.

4.1.6 The learnership agreement must have been entered into in the course of a trade

In order to qualify for a deduction of a learnership allowance, the learnership agreement entered into by an employer must have been entered into in the course of any trade carried on by the employer. A person that does not carry on a trade and enters into a registered learnership as the employer will, therefore, not be eligible for a deduction of the learnership allowance.

4.1.7 The employer must have certain documentation available

In order to qualify for a deduction for the learnership allowance the employer must have completed a standard form (*IT 180*) for each learnership agreement, in respect of which a deduction for the learnership allowance is claimed, in his/her possession for audit purposes. These forms must be retained for a period of five years from the date the relevant income tax return, in which the deduction for the learnership allowance was claimed, was submitted to the Commissioner. The *IT 180* form is available on the SARS website at www.sars.gov.za and is also included in this guide as **Annexure 2**.

The following information must *inter alia* be provided on the form:

- The name of the SETA with which the learnership agreement is registered.
- The title and code of the learnership allocated and issued by the Director-General of the Department of Labour in terms of regulation 2 (3) of the Learnership Regulations, 2001.

- The full names and identification number of the learner contemplated in the registered learnership agreement.
- Confirmation that the employer has complied with all the requirements of the Skills Development Levies Act, No. 9 of 1999.
- Where the learnership has been completed, confirmation from the SETA that the learnership has been successfully completed.

Where a number of registered learnership agreements were entered into or completed during a year of assessment an employer may, instead of completing an IT 180 in respect of each registered learnership agreement, compile a schedule that reflects all the required information. Such a schedule must make provision for all the information required on the IT 180 and must contain a declaration by the taxpayer in the capacity of employer/representative employer to the effect that all the requirements of the Skills Development Levies Act, No. 9 of 1999 have been complied with.

4.2 WHAT AMOUNT WILL BE ALLOWED AS A LEARNERSHIP ALLOWANCE?

The amount of the deduction in respect of the learnership allowance which will be allowed during a year of assessment in respect of a registered learnership agreement will depend on various factors, such as –

- whether the learnership agreement was entered into or completed;
- the date on which the learnership agreement was entered into;
- whether the learnership agreement was entered into for a period of less than 12 months or not;
- whether the learner was already in the employment of the employer before entering into the learnership agreement (existing employee) or not (new employee); and
- in respect of learnership agreements entered into on or after 1 July 2006, whether the learner is a disabled person or not.

A “**disabled person**”, defined in section 12H of the Act means –

a person who falls within the definition of “people with disabilities” as contained in section 1 of the Employment Equity Act 1998 (Act No. 55 of 1998), namely, people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment.

4.2.1 The amount allowable in respect of a learnership agreement entered into

The deduction for the learnership allowance in respect of the entering into of a registered learnership agreement will, subject to the limitations mentioned below, be determined by the period of the learnership agreement, the remuneration as stipulated in the employment agreement, whether or not the learner was in the employment of the employer when the learnership was entered into and after 1 July 2006 whether the learner is a disabled person or not.

a) A learnership agreement with a duration of less than 12 months

Where an employer entered into a learnership agreement for a period shorter than 12 months, the deduction for the learnership allowance will be equal to –

- 70% of the total remuneration of the learner for the period as stipulated in the employment agreement, where the learner was an existing employee; and
- the total remuneration of the learner as stipulated in the employment agreement, where the learner was a new employee,

Where such learnership agreement was entered into on or after 1 July 2006 with a learner who is a disabled person, the amount will be equal to –

- 150% of the total remuneration of the learner for the period as stipulated in the employment agreement, where the learner was an existing employee; and
- 175% of the total remuneration of the learner as stipulated in the employment agreement, where the learner was a new employee.

b) A learnership agreement with a duration of 12 months or longer

Where an employer entered into a learnership agreement for a period of 12 months or longer, the deduction for the learnership allowance will be equal to –

- 70% of the annual equivalent of the remuneration of the learner as stipulated in the employment agreement, where the learner was an existing employee; or
- the annual equivalent of the remuneration of the learner as stipulated in the employment agreement, where the learner was a new employee.

Where such learnership agreement was entered into on or after 1 July 2006 with a learner that is a disabled person, the deduction for the learnership allowance will be equal to –

- 150% of the annual equivalent of the remuneration of the learner for the period as stipulated in the employment agreement, where the learner was an existing employee; and
- 175% of the annual equivalent of the remuneration of the learner as stipulated in the employment agreement, where the learner was a new employee.

For purposes of the determination of the deduction for the learnership allowance in respect of the entering into of a learnership agreement, the “annual equivalent” constitutes remuneration paid/payable to the learner by the employer and the learner for the period of 12 months which **commences** from the date of commencement of the learnership.

The deduction for a learnership allowance in respect of a learnership agreement entered into will, however, be limited to certain maximum amounts.

a) Learnership agreement with an existing employee of the employer

The deduction for the learnership allowance may not exceed –

- R17 500, where the learnership agreement was entered into on or after 1 October 2001 and before 1 March 2006;
- R20 000, where the learnership agreement was entered into on or after 1 March 2006; and
- R40 000, where the learnership agreement was entered into on or after 1 July 2006 with a learner who is a disabled person.

Example 4

Facts:

On 1 July 2006, a disabled learner who was an existing employee of an employer, entered into a learnership agreement of eight months with the employer. The employment agreement stipulates that a salary of R3 000 per month is payable.

Solution:

The total remuneration as stipulated is R24 000 (R3 000 x 8 months). For an existing disabled employee, the learnership allowance comprises 150% of the total remuneration, limited to R40 000, where the learnership agreement was entered into on or after 1 July 2006. 150% of the total remuneration amounts to R36 000. As this amount does not exceed the maximum amount allowable, the total amount of R36 000 will be allowed as a deduction for the learnership allowance.

Example 5

Facts:

On 1 February 2006, a learner who was an existing employee of an employer, entered into a learnership agreement of 18 months with the employer. The employment agreement stipulates that a salary of R3 000 per month is payable in respect of the first six months of the learnership and that the amount will increase to R4 000 per month for the remaining period.

Solution:

The annual equivalent of the remuneration stipulated in the employment contract amounts to $(R3\ 000 \times 6) + (R4\ 000 \times 6) = R42\ 000$. For an existing employee the learnership allowance comprises 70% of the annual equivalent, limited to R17 500 where the learnership contract was entered into on or after 1 October 2001, but before 1 March 2006. 70% of the annual equivalent of the remuneration amounts to R29 400. As this amount exceeds the maximum amount allowable, the amount of R17 500 will be allowed as a deduction for the learnership allowance.

b) Learnership agreement with a person who was not an existing employee of the employer

The deduction for the learnership allowance may not exceed –

- R25 000, where the learnership agreement was entered into on or after 1 October 2001 and before 1 March 2006.
- R30 000, where the learnership agreement was entered into on or after 1 March 2006.
- R50 000, where the learnership agreement was entered into on after 1 July 2006 with learners who are disabled persons.

Example 6

Facts:

On 1 April 2006, a learner not previously in the employment of the employer, entered into a learnership agreement of eight months with the employer. The employment agreement stipulates that a salary of R3 000 per month is payable.

Solution:

The total remuneration as stipulated in the employment contract is R24 000 (i.e. R3 000 x 8 months). For a person who was not in the employment of the employer, the learnership allowance amounts to the total remuneration as stipulated in the employment contract, limited to R30 000 where the learnership agreement was entered into on or after 1 March 2006. As the total remuneration does not exceed the maximum amount of R30 000, the total amount of R24 000 will be allowed as deduction for the learnership allowance.

4.2.2 A learnership completed

The deduction for the learnership allowance in respect of the entering into of a registered learnership agreement will, subject to the limitations mentioned below, be determined by the period of the learnership agreement, the remuneration as stipulated in the employment agreement and in respect of learnership agreements entered into on or after 1 July 2006, whether the learner is a disabled person or not.

a) A learnership agreement with a duration of less than 12 months

Where a learnership agreement was entered into for a period shorter than 12 months and the learnership was completed during a year of assessment, the deduction of the learnership allowance will be equal to –

- the total remuneration of the learner for the period of the learnership agreement; and
- where the learnership agreement was entered into on or after 1 July 2006 with a disabled person, 175% of the total remuneration of the learner for the period of the learnership agreement.

b) A learnership agreement with a duration of 12 months or longer

Where a learnership agreement was entered into for a period of 12 months or longer and the learnership agreement was completed during a year of assessment, the deduction of the learnership allowance will be equal to –

- the annual equivalent of the remuneration of the learner as stipulated in the employment agreement; and
- where the learnership agreement was entered into on or after 1 July 2006 with a learner who is a disabled person, 175% of the annual equivalent of the remuneration of the learner as stipulated in the employment agreement.

The deduction for the learnership allowance in respect of the completion of a learnership agreement may, however, not exceed –

- R25 000 where the learnership agreement was entered into on or after 1 October 2001 and before 1 March 2006;
- R30 000 where the learnership agreement was entered into on or after 1 March 2006; or
- R50 000 where the learnership agreement was entered into on after 1 July 2006 with a learner who is a disabled person.

For purposes of the determination of the deduction for the learnership allowance in respect of learnerships completed, the “annual equivalent” constitutes remuneration paid/payable to the learner by the employer for the 12 month period **ending** on the date of completion of the learnership agreement according to the employment agreement entered into between the employer and the learner.

Example 7

Facts:

On 1 February 2006, an employee entered into a learnership agreement of eight months with an employer. The employment agreement stipulates that a salary of R4 000 per month is payable. The learnership was completed on 30 September 2006.

Solution:

The total remuneration in terms of the employment contract is R32 000 (i.e. R4 000 x 8 months). The allowable deduction is, however, limited to R25 000 - the learnership agreement was entered into on or after 1 October 2001, but before 1 March 2006 where the limitation of R25 000 will apply.

Example 8

Facts:

On 1 February 2006, an employee who is disabled person, entered into a learnership agreement of eight months with an employer. The employment agreement stipulates that a salary of R4 000 per month is payable. The learnership agreement was completed on 30 September 2006.

Solution:

The total remuneration in terms of the employment contract is R32 000 (R4 000 x 8 months). The allowable deduction amounts to the total remuneration as stipulated in the employment contract, limited to R25 000. As the total remuneration exceeds the maximum allowable deduction, the deduction for the learnership allowance will be limited to R25 000. The learnership agreement was entered into before 1 July 2006; therefore the amount allowable in respect of a learnership agreement completed by a disabled person does not apply.

Example 9

Facts:

On 1 April 2006 an employee entered into a learnership agreement of 18 months with an employer. The employment agreement stipulates that an amount of R3 000 per month is payable for the first six months and R4 000 per month for the remaining 12 months.

Solution:

The annual equivalent of the remuneration is R48 000 (i.e. R4 000 x 12). The allowable deduction in respect of a learnership agreement entered into on or after 1 March 2006 and completed thereafter amounts to the annual equivalent of the remuneration as stipulated in the employment agreement, limited to R30 000. As the annual equivalent of the remuneration exceeds the maximum deduction allowable, the deduction for a learnership allowance will be limited to R30 000.

5. WHEN WILL AN EMPLOYER NOT BE ELIGIBLE FOR THE ALLOWANCE?

An employer will not be eligible for a deduction of an allowance in respect of a registered learnership agreement where –

- the employer which is party to an existing registered learnership agreement is substituted by another employer (and that employer does not form part of the same group of companies as that original employer). Neither the employer nor the substituting employer may claim the allowance upon completion of the registered learnership agreement and the substituting employer may not claim the allowance in respect of entering into the learnership agreement;
- an existing registered learnership agreement entered into with a learner is substituted by another registered learnership agreement entered into with the same learner; or
- a registered learnership agreement is entered into by the employer more than once with the same learner in respect of the same registered learnership and a deduction of the learnership allowance is or was allowed to that employer during any year of assessment in respect of the previous registered learnership agreement entered into. This will be the case where a learner, for example, did not succeed in obtaining the formal qualification that

needs to be obtained as part of the learnership agreement within the prescribed period of the learnership agreement.

6. WILL AN EMPLOYER WHICH IS EXEMPT FROM SKILLS DEVELOPMENT LEVIES BE ELIGIBLE FOR THIS ALLOWANCE?

An employer which is exempt from the payment of skills development levies in terms of section 4(b) of the Skills Development Levies Act, No. 9 of 1999 (for example, where an employer during any month upon reasonable grounds believes that the total remuneration payable to all its employees during the following 12-month period will not exceed R500 000) will also qualify for a learnership allowance if all the requirements in respect of the allowance are met.

However, certain exempt employers, for example, public benefit organisations which are exempt from the payment of skills development levies and do not have any income that is subject to income tax, will receive no tax benefit where a deduction for a learnership allowance is allowed, as they are exempt from the payment of income tax.

7. WHAT HAPPENS WHEN A LEARNERSHIP AGREEMENT IS TERMINATED PRIOR TO ITS COMPLETION?

Where a learnership agreement is terminated prior to its completion, there will be some tax consequences.

7.1 WHEN IS A LEARNERSHIP AGREEMENT TERMINATED?

A learnership agreement will be considered terminated prior to completion where a party no longer gives effect to the provisions of the agreement or no longer complies with the obligations of the agreement. This will include situations where the parties agree to terminate the agreement, when there is a breach of the terms of the agreement or where an agreement is terminated due to the death of the learner or the dismissal of the learner due to his or her incapacity as a result of ill-health or injury.

7.2 DEDUCTIONS IN RESPECT OF THE LEARNERSHIP ALLOWANCE ALREADY CLAIMED WILL BE RECOUPED

Section 12H(5) of the Act provides that when the learnership agreement is terminated prior to completion, except where a learnership agreement is terminated due to the death of the learner or the dismissal of the learner due to his or her incapacity as a result of ill-health or injury, the learnership allowance is deemed to have been recovered or recouped by the employer. This means that the amount that was previously allowed as a deduction for the learnership allowance will then be included in the income of the employer in respect of the year of assessment during which the registered learnership agreement was terminated.

Where an employer which is party to an existing registered learnership agreement is substituted by another employer and the learnership agreement is not terminated, no amount will be recouped. The substituting employer (if it does not form part of the same group of companies as the original employer) will, however, not qualify for the allowance on entering into or completion of the registered learnership agreement.

8. CAN A PERSON OBJECT TO THE DISALLOWANCE OF THE LEARNERSHIP ALLOWANCE?

Where a person that claimed a deduction for the learnership allowance is not satisfied with an assessment issued, for example, where an adjustment has been made by the Commissioner to the learnership allowance claimed in the person's return of income, the person may object to such an assessment.

The objection must –

- be in the prescribed *ADR 1* form,
- state the grounds on which the objection is lodged, and
- reach the Commissioner within a period of 30 business days after the date of the assessment.

Further information regarding the objection and appeal procedure is available on the SARS website www.sars.gov.za in the *Guide on Tax Dispute Resolution* and can also be obtained from SARS branches.

9. FOR WHICH PERIOD MUST RECORDS PERTAINING TO THE CLAIMING OF THIS ALLOWANCE BE RETAINED?

Any taxpayer who has submitted an income tax return is required to retain all records relevant to that return (including any information/documentation pertaining to the claiming of a deduction in respect of a learnership allowance) for a period of five years from the date upon which the return relevant to the last entry in those records was received by the Commissioner.

In addition to this requirement, any taxpayer that has lodged an objection or appeal to an assessment, is required to retain the records relevant to the objection or appeal until the date the objection or appeal has been finalised.

10. CONCLUSION

It is trusted that this Guide will contribute to greater clarity regarding the application and interpretation of the provisions of the Act pertaining to the tax incentive in respect of learnership agreements. Further information regarding the topics discussed in this Guide and about SARS is available on the SARS website www.sars.gov.za or can be obtained from SARS branches.

ANNEXURE 1: SUMMARY OF ALLOWANCES

1. ALLOWANCE I.R.O LEARNERSHIP AGREEMENT ENTERED INTO

a) LEARNERSHIP AGREEMENT NOT ENTERED INTO ON OR AFTER 1 JULY 2006 WITH A DISABLED PERSON

	AMOUNT OF ALLOWANCE		MAXIMUM AMOUNT ALLOWABLE	
	Learnership shorter than 12 months	Learnership 12 months or longer	If entered into before 01/3/2006	If entered into on or after 01/03/2006
Existing employee	70% of total remuneration	70% of annual equivalent (i.e. first 12 months)	R17 500	R20 000
New employee	Total remuneration	Annual equivalent (i.e. first 12 months)	R25 000	R30 000

b) LEARNERSHIP AGREEMENT ENTERED INTO ON OR AFTER 1 JULY 2006 WITH A DISABLED PERSON

	AMOUNT OF ALLOWANCE		MAXIMUM AMOUNT ALLOWABLE
	Learnership shorter than 12 months	Learnership 12 months or longer	
Existing employee	150% of total remuneration	150% of annual equivalent (i.e. first 12 months)	R40 000
New employee	175% of total remuneration	175% of annual equivalent (i.e. first 12 months)	R50 000

2. ALLOWANCE I.R.O COMPLETION OF LEARNERSHIP

	AMOUNT OF ALLOWANCE		MAXIMUM AMOUNT ALLOWABLE	
	Learnership shorter than 12 Months	Learnership 12 months or longer		
Learner	Total remuneration	Annual equivalent i.e. last 12 months remuneration	If entered into before 01/03/2006: R25 000	If entered into on or after 01/03/2006: R30 000
Disabled Learner	175 % of total remuneration	175% of annual equivalent i.e. last 12 months remuneration	If entered into on/after 01/07/2006: R50 000	

Did the above-mentioned employer substitute any employer (excluding any company which forms part of the same group of companies as that employer), which is party to an existing registered learnership agreement as contemplated in regulation 5(1) of the Learnership Regulations, 2001?
 Het bogenoemde werkgewer 'n ander werkgewer wat 'n party tot 'n bestaande geregistreerde leerlingooreenkoms soos in regulasie 5(1) van die leerlingskapregulasies 2001, bedoel (behalwe 'n maatskappy wat deel van die selfde groep van maatskappye vorm), vervang? YES JA NO NEE

Did the above-mentioned employer enter into this learnership agreement with a learner as a result of the substitution of an existing registered learnership agreement, as contemplated in regulation 5(2) of the Learnership Regulations, 2001?
 Het bogenoemde werkgewer hierdie leerlingskapooreenkoms met 'n leerling aangegaan as gevolg van die vervanging van 'n bestaande geregistreerde leerlingooreenkoms, soos in regulasie 5(2) van die Leerlingskapregulasies, 2001, bedoel? YES JA NO NEE

Was or is a deduction allowable to the above-mentioned employer during any year of assessment in respect of any other registered learnership agreement entered into by that employer with that learner in respect of the same learnership registered by the Director-General of Labour?
 Is of was 'n aftrekking gedurende enige jaar van aanslag aan die werkgewer toelaatbaar ten opsigte van enige ander geregistreerde leerlingooreenkoms deur daardie werkgewer aangegaan ten opsigte van dieselfde leerlingenskap deur die Direkteur-Generaal: Departement van Arbeid geregistreer? YES JA NO NEE

I, , in my capacity as employer/representative employer hereby declare that
 Ek, , in my hoedanigheid as werkgewer/verteenwoordigende werkgewer verklaar
 all the requirements of the Skills Development Levies Act, No. 9 of 1999 have been complied with.
 hiermee dat daar aan al die vereistes van die Skills Development Levies Act, No. 9 of 1999 voldoen is.

Signature
Handtekening

Date
Datum

C E C Y Y - M M - D D