

Welcome to the SARS Tax Workshop

The purpose of this presentation is merely to provide information in an easily understandable format and is intended to make the provisions of the legislation more accessible to the layman. The information therefore has no binding legal effect and the relevant legislation must be consulted in the event of any doubt as to the meaning or application of any provision.

Learnership Allowance (Amendments)

Points for Discussion

- Overview
- Definitions
- Key Features
- Requirements and Prohibitions
- Quantum of the allowance
- Termination of Agreement

Overview

- Allowance may be deducted from employer's income from trade in the determination of taxable income
- Additional deduction to other Income Tax deductions allowable to employers
 - Salaries and/or wages
- An incentive to train employees
 - Regulated environment
 - Encourage skills development and job creation

Overview

- Learnership agreements and contracts of apprenticeship registered with a SETA
- Additional deduction consists of
 - Annual allowance
 - Allowance on completion
- Effective date: Tax year ending on or after 01 January 2010

Definitions

Employer

- party to a registered learnership agreement
- In the case of more than one employer, employer identified as the lead employer

Learner

- As defined in section 1 of the Skills Development Act, 1998

Definitions

Registered Learnership Agreement

- Contract of apprenticeship *and* registered in terms of Section 18 of the Manpower Training Act, 1981
 - Minimum period of training required is more than 12 months *before* the apprentice is permitted to undergo a trade test
- Learnership agreement registered in accordance with the Skills Development Act, 1998 entered into between learner and employer

Key Features

- Annual Allowance
 - learner is party to a registered learnership agreement
 - pro-rata reduction if agreement is less than 12 full months
- Completion Allowance
 - learner successfully completes the learnership
 - quantum of the allowance different for agreements covering a period equal to or exceeding 24 full months
- Quantum of both allowances is increased in the case of a disabled learner

Requirements

- Deduction of Annual Allowance
 - learner is party to a registered learnership agreement
 - agreement has been entered into during the course of trade
 - employer has derived “income” as defined in section 1 of the Income Tax Act, 1962
 - Deductible in tax year during which the learnership agreement is in force
- Example on date of commencement of annual allowance

Requirements

- Deduction of Completion Allowance
 - learner is party to a registered learnership agreement
 - agreement has been entered into during the course of trade
 - learner successfully completes learnership
 - employer has derived “income” as defined in section 1 of the Income Tax Act, 1962

Requirements

- Deduction of Completion Allowance
 - deduction can create an “assessed loss” from the particular trade
 - agreement may provide for an extension of the training period, where employer is not satisfied that the learner has met the required level of competency
 - allowance claimable in the tax year during which the SETA has confirmed, in writing, that the learnership has been completed successfully

Requirements

- Enhanced allowances – disabled learners
 - increase in annual *and* completion allowance
 - “disability” as defined in Section 18(3) of the Income Tax Act, 1962
 - moderate to severe limitation of a person’s ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if the limitation-
 - ✓ has lasted or has a prognosis of lasting more than a year
 - ✓ is diagnosed by a duly registered medical practitioner (SARS ITR-DD)

Prohibition of Allowance

- Employer may not claim any annual or completion allowance if a learner -
 - has previously failed to complete any other registered learnership agreement which contains the same education and training component(s) as the newly registered learnership agreement

Quantum of Annual Allowance

12 full months during any tax year

- Allowable deduction equal to -
 - R30 000 *or*
 - R50 000 in the case of a learner with a disability (as defined)

Quantum of Annual Allowance

Period of less than 12 full months during
any tax year

- Allowable deduction equal to:
 - a *pro-rata* portion of R30 000 or
 - a *pro-rata* portion of R50 000 in the case of a learner with a disability (as defined)

Quantum of Annual Allowance

Example

Quantum of Completion Allowance

Learnership agreements for less than 24 full months

- Allowable deduction equal to:
 - R30 000 *or*
 - R50 000 in the case of a learner with a disability (as defined)

Quantum of Completion Allowance

Learnership agreements equal to or exceeding
24 full months

- Allowable deduction equal to:
 - R30 000 X (number of consecutive 12-month periods),
or
 - R50 000 X (number of consecutive 12-month periods), in the case of a learner with a disability (as defined)
- Only full 12-month periods taken into account

Quantum of Completion Allowance

- Completed Learnership Agreement
 - Confirmation provided by SETA with which the learnership agreement is registered
 - Successfully completed according to the required standards *or* the standards of a professional body

Quantum of Completion Allowance

Example

Substitution of Employers

- Section 17(5) of Skills Development Act, 1998: Employer may be substituted with the consent of the learner *and* approval of the SETA with which the learnership agreement has been registered
 - Employer “A” and “B” entitled to claim *pro-rata* portion of annual allowance during the tax year in which learner changes employment
 - Employer “A” not entitled to any further allowances
 - Employer “B” entitled to future allowances, provided all the requirements have been met

Substitution of Employers

Example

Termination of Agreement

- Amendments have done away with the recoupment rule
 - Learners change employment for better opportunities, which resulted in the termination of a registered learnership agreement.
 - Termination triggered a recoupment of the allowance already claimed
- Initial employer will still be able to deduct an amount equal to a *pro-rata* portion of the annual allowance
 - To ensure that employer is not burdened by actions taken by the learner or any events beyond the employer's control