



SOUTH AFRICAN REVENUE SERVICE

**INTERPRETATION NOTE: NO. 20 (ISSUE 3)**

DATE: 28 January 2010

**ACT : INCOME TAX ACT, NO. 58 OF 1962 (the Act)**

**SECTION : SECTION 12H**

**SUBJECT : LEARNERSHIP ALLOWANCE**

***Preamble***

In this Note –

- “**Commissioner**” means the Commissioner for SARS;
- “**SARS**” means the South African Revenue Service; and
- legislative references to sections are to sections of the Act unless the context indicates otherwise.

**1 Purpose**

The Note provides clarity regarding the interpretation and application of the provisions of section 12H that relate to the deduction of the learnership allowance for the entering into or completion of a registered learnership agreement.

This Note has been updated to include the amendments to section 12H effected by section 25 of the Revenue Laws Amendment Act, No. 60 of 2008. The Note will again be updated to include the amendments effected by Section 23 of the Taxation Laws Amendment Act, No. 17 of 2009.

**2 Background**

The introduction of the learnership allowance to employers that offer learnership programmes was first introduced by the Minister of Finance in 2002. This was in response to the establishment of an inter-departmental task team set up to review a range of potential wage incentives and to identify the most appropriate tax measure in South Africa's socio-economic circumstances.

The objective of the learnership allowance is to encourage job creation by reducing the cost of hiring and training employees through learnerships and to encourage human capacity development.

The learnership allowance constitutes a deduction in addition to other deductions allowable to taxpayers for the employment and training of employees, that is, the expenditure incurred for the payment of their salaries and/or wages and training. Tax relief is granted to employers that enter into registered learnership agreements with the unemployed workforce, as well as workers that are already in their employment

before the conclusion of such agreements. In 2006 special provision was made for learnership agreements entered into with disabled persons.

In 2008 a special need was recognised for certain apprenticeships which extended over a number of years, that is, three to five year contracts, as the benefit to the employer was much lower than if a new contract was concluded each year as would occur with other learnership agreements.

The learnership allowance is applicable to registered learnership agreements entered into between a learner and an employer before 1 October 2011.

### **3 The law and its application**

Despite the provisions of section 23B that provides for the prohibition of double deductions, section 12H provides for a deduction of the learnership allowance for any registered learnership agreement –

- entered into on or after 1 October 2001; or
- completed on or after 1 October 2001,

provided that all the other requirements of section 12H are met.

Section 12H, furthermore, provides for a more favourable learnership allowance for the entering into of a registered learnership agreement with a learner who is a disabled person on or after 1 July 2006 and again upon the completion thereof.

A deduction will be allowed in the year of assessment during which the registered learnership agreement was entered into between a learner and an employer [sections 12H(2)(a) and 12H(2A)(a)] and in the year of assessment during which it was completed by a learner [sections 12H(2)(b) and 12H(2A)(b)]. A registered learnership agreement entered into and completed during the same year of assessment will, therefore, qualify for a deduction of the learnership allowance for both events.

In the case of apprenticeships, if the minimum training period before the apprentice undergoes a trade test is more than 12 months, special provision is made for the learnership allowance upon completion [sections 12H(2)(b)(ii) and 12H(2A)(b)(ii)]. The provisions applicable upon entering the contract of apprenticeship are the same as for a learnership agreement [sections 12H(2)(a) and 12H(2A)(a)].

#### **3.1 The meaning of certain concepts**

To be able to apply the provisions of section 12H, it is necessary to understand the meaning of certain concepts.

##### **3.1.1 As defined in section 12H**

A “disabled person” 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).

A disabled person is, therefore, a person who has a long-term or recurring physical or mental impairment which substantially limits his/her prospects of entry into, or advancement in, employment.

An “**employer**” 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.

A “**learner**” means –

- (a) a learner who is a party to a registered learnership agreement; or
- (b) an apprentice in a contract of apprenticeship contemplated in paragraph (b) of the definition of “registered learnership agreement”.

“**Learnership Regulations, 2007**” means –

the Learnership Regulations, 2007 (Government Notice No. R.519 published in *Government Gazette* No. 30010 of 29 June 2007), made by the Minister of Labour in terms of section 36, read with sections 16 and 17, of the Skills Development Act, 1998 (Act No. 97 of 1998).

A “**registered learnership agreement**” 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, 1998; or
- (b) a contract of apprenticeship registered in terms of section 18 of the Manpower Training Act, 1981 (Act No. 56 of 1981), if the minimum period of training required in terms of the Conditions of Apprenticeship prescribed in terms of section 13(2)(b) of that Act before the apprentice is permitted to undergo a trade test is more than 12 months.

“**SETA**” means –

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

“**Skills Development Act, 1998**” means –

the Skills Development Act, 1998 (Act No. 97 of 1998).

### 3.1.2 As defined in the Fourth Schedule to the Act

The term “**remuneration**” means, amongst other things –

any amount of income which is paid or is payable to any person by way of any salary, leave pay, wage, overtime pay, bonus, gratuity, commission, fee, etc. and includes, amongst other things, such as—

- (a) the cash equivalent of all fringe benefits as determined in terms of the Seventh Schedule to the Act; and
- (b) 60 per cent of the amount of any allowance or advance in respect of transport expenses, other than any allowance or advance which is based on the actual distance travelled by the recipient in using a motor vehicle on business (excluding the private travelling), and which is calculated at a rate per kilometre which does not exceed the appropriate rate per kilometre fixed by the Minister of Finance under section 8(1)(b)(iii) of the Act.

### 3.1.3 As defined in the Seventh Schedule to the Act

An “**associated institution**”, in relation to any single employer, means –

- (a) where the employer is a company, any other company which is associated with the employer company by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons; or
- (b) where the employer is not a company, any company which is managed or controlled directly or indirectly by the employer or by any partnership of which the employer is a member; or
- (c) any fund established solely or mainly for providing benefits for employees or former employees of the employer or for employees or former employees of the employer and any company which is in terms of paragraphs (a) or (b) an associated institution in relation to the employer, but excluding any fund established by a trade union or industrial council and any fund established for postgraduate research otherwise than out of moneys provided by the employer or by any associated institution in relation to the employer.

### 3.1.4 As defined in section 1

A “**group of companies**” 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.

## 3.2 Requirements for the deduction of the learnership allowance

An employer will only qualify for a learnership allowance for entering into and again upon completion of a registered learnership agreement where –

- the registered learnership agreement had been entered into between the employer and the learner on or after 1 October 2001;
- an agreement of employment had been concluded between the employer and the learner for the period of the learnership under which remuneration is payable to the learner for the period of the learnership agreement;
- the learnership agreements had been entered into in the course of any trade carried on by the employer; and
- the employer had provided certain information to the Commissioner as discussed in 4.4.

To be regarded as a registered learnership agreement, a learnership agreement must have been entered into between a learner and an employer before 1 October 2011 and registered with a SETA, as contemplated in section 17(3) of the Skills Development Act. A contract of apprenticeship registered with the Department of Labour under section 18 of the Manpower Training Act, 1981 will also be regarded as a registered learnership agreement if the minimum training period before undergoing a trade test is more than 12 months.

A learner, who has entered into a learnership agreement with an employer (which is a company within a “group of companies” as defined in section 1), may be transferred between those companies within that group of companies. The learnership agreement should then reflect the change in employer. Upon completion, the company with which the learner is employed would qualify for the deduction in the year of assessment in which the learnership is completed [section 12H(1)(b)].

An employer may qualify for a deduction for the learnership allowance of multiple registered learnership agreements that are entered into with the same learner and again upon the completion of the learnership agreement by the same learner, as long as the learnerships constitute different learnerships registered by the Director-General: Department of Labour. One registered learnership agreement may, however, not substitute another registered learnership agreement entered into by an employer with the same learner.

### 3.3 The quantum of the deduction for the learnership allowance

The quantum of the learnership allowance depends on various factors, namely, –

- whether the learnership agreement is entered into or is completed;
- the date on which the learnership agreement is entered into;
- whether the learnership agreement is entered into for less than 12 months or for 12 months or more;
- whether the learner with whom the learnership agreement is entered into is already in the employment of the employer before entering into the learnership agreement (**existing** employee) or not (**new** employee);
- whether the learner with whom the learnership agreement is entered into is a disabled person or not; and
- whether the learnership agreement is a contract of apprenticeship.

The amount of the learnership allowance that is to be allowed in the case of a learner who is a new employee is greater than the learnership allowance that is to be

allowed in the case of a learner who is an existing employee. The reason for the greater amount is to encourage new employment.

The amount of the learnership allowance that is to be allowed in the case of a learner who is a disabled person is greater than the allowance that is to be allowed in the case of a learner who is not a disabled person. The reason for the greater amount is to encourage employers to develop the skills of disabled persons.

The amount of the learnership allowance that is to be claimed in the case of a registered contract of apprenticeship, upon entering the agreement, is the same as any other learnership agreement. However, the year of completion generates a "multi-year" set of additional deductions equivalent to a series of learnerships to ensure that "multi-year" apprenticeships are on equal footing with a series of learnerships over the same period.

### **3.3.1 Learnership agreements entered into with learners during a year of assessment**

#### **a) Learnership agreement in respect of a learnership with a duration of less than 12 months**

The quantum of the learnership allowance is equal to –

- the lesser of R20 000 or 70% of the total amount of the remuneration of the learner for the period of that learnership as stipulated in the agreement of employment between the learner and the employer, where the learner is an **existing** employee; or
- the lesser of R30 000 or the total amount of the remuneration of the learner as stipulated in the agreement of employment between the learner and the employer, where the learner is a **new** employee.

Furthermore, where an employer, on or after 1 July 2006, entered into a learnership agreement with a learner who is a disabled person, the quantum of the learnership allowance is equal to –

- the lesser of R40 000 or 150% of the total amount of the remuneration of the learner for the period of that learnership as stipulated in the agreement of employment between the learner and the employer, where the learner is an **existing** employee; or
- the lesser of R50 000 or 175% of the total amount of the remuneration of the learner for the period of that learnership as stipulated in the agreement of employment between the learner and the employer, where the learner is a **new** employee.

#### **b) Learnership agreements in respect of a learnership with a duration of 12 months or more**

The quantum of the learnership allowance is equal to –

- the lesser of R20 000 or 70% of the annual equivalent of the remuneration of the learner as stipulated in the agreement of employment between the learner and the employer, where the learner is an **existing** employee; or

- the lesser of R30 000 or annual equivalent of the remuneration of the learner as stipulated in the agreement of employment between the learner and the employer, where the learner is a **new** employee.

Furthermore, where an employer, on or after 1 July 2006, entered into a learnership agreement with a learner who is a disabled person, the quantum of the learnership allowance is equal to –

- the lesser of R40 000 or 150% of the annual equivalent of the remuneration of the learner as stipulated in the employment agreement between the learner and the employer, where the learner is an **existing** employee; or
- the lesser of R50 000 or 175% of the annual equivalent of the remuneration of the learner as stipulated in the agreement of employment between the learner and the employer, where the learner is a **new** employee.

For purposes of the learnership allowance in respect of the entering into a learnership agreement, the term "annual equivalent" constitutes remuneration paid/payable to the learner by the employer, according to the agreement of employment entered into between the learner and the employer, for the 12 months period which *commences* from the date of commencement of the learnership.

Points (a) and (b) above are also applicable to registered apprenticeships.

**Example – Calculation of the "annual equivalent" upon entering a learnership agreement**

*Facts:*

On 1 April 2007 an employer entered into a learnership agreement with a learner who is not a disabled person. The agreement of employment entered into between the employer and the learner stipulates that a salary of R3 000 per month is payable to the learner for the first six months of the learnership and that the amount will increase to R4 000 after the six-month period.

*Result:*

For an existing employee the 70% of the annual equivalent will be  $70\% \times [(R3\ 000 \times 6) + (R4\ 000 \times 6)] = R29\ 400$ . The allowable deduction will, however, be limited to R20 000.

For a new employee the annual equivalent will be  $(R3\ 000 \times 6) + (R4\ 000 \times 6) = R42\ 000$ . The allowable deduction will, however, be limited to R30 000.

### 3.3.2 Learnership agreements completed during a year of assessment

#### a) Learnership agreements which have been registered with a SETA

The quantum of the learnership allowance for a learnership agreement completed during a year of assessment [section 12H(2)(b)(i)], is equal to –

the lesser of R30 000 or –

- the total amount of the remuneration of the learner for the period of the learnership as stipulated in the agreement of employment between the learner and the employer, where the learnership agreement was entered into for less than 12 months; or

- the annual equivalent of the remuneration of the learner as stipulated in the agreement of employment between the learner and the employer where the learnership agreement was entered into for 12 months or more.

Furthermore, where an employer, on or after 1 July 2006, entered into a learnership agreement with a learner who is a disabled person [section 12H(2A)(b)(i)] and that learnership agreement is completed during the year of assessment, the quantum of the learnership allowance is equal to –

the lesser of R50 000 or –

- 175% of the total amount of the remuneration of the learner for the period of the learnership agreement as stipulated in the agreement of employment between the learner and the employer, where the learnership agreement was entered into for less than 12 months; or
- 175% of the annual equivalent of the remuneration of the learner stipulated in the agreement of employment between the learner and the employer, where the learnership was entered into for 12 months or more.

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.

For purposes of the learnership allowance in respect of the completion of a learnership agreement, the term "annual equivalent" constitutes remuneration paid/payable to the learner by the employer, according to the agreement of employment entered into between the learner and the employer, for the 12-month period *ending* on the date of completion of the learnership agreement.

**Example – Calculation of the "annual equivalent" upon the completion of a learnership agreement**

*Facts:*

On 1 April 2007 an employer entered into a learnership agreement with a learner who is not a disabled person. The agreement of employment entered into between the learner and the employer stipulates that a salary of R3 000 per month is payable to the learner for the first six months of the learnership and an amount of R4 000 per month for the last six months of the learnership.

*Result*

The annual equivalent of the remuneration will be  $(R3\ 000 \times 6) + (R4\ 000 \times 6) = R42\ 000$ . The allowable deduction will, however, be limited to R30 000.

**b) Learnership agreements which are contracts of apprenticeship registered under the Manpower Training Act of 1981 and completed during a year of assessment**

If the minimum training period required before an apprentice is permitted to undergo a trade test is more than 12 months then the amount to be claimed upon completion of the trade test is a cumulative amount equal to –

- the allowance claimed at the commencement of the apprenticeship plus the allowance upon completion of the of the apprenticeship calculated for each year of the apprenticeship, less the allowance claimed at the commencement of the apprenticeship.

The learnership allowance granted upon completion of the apprenticeship takes into account the number of years that the apprenticeship took to complete and treats the agreement as if the agreement was entered into and completed in each year for the length of the apprenticeship.

Therefore, the learnership allowance is claimed in the year in which the apprenticeship is completed based upon the number of years stipulated in the contract of apprenticeship.

The quantum of the allowance and the limits that apply are as stipulated in 4.3.2 above. This provision is applicable to contracts of apprenticeship entered into as from 1 January 2009.

#### **Example – Contract of apprenticeship**

##### *Facts:*

On 1 January 2009 the employer enters into a contract of apprenticeship with an existing employee. The training is for a period of four years and the apprentice writes a trade test in December 2012. The contract stipulates a salary of R3 000 per month for the duration of the contract.

##### *Result:*

##### ***Learnership allowance (commencement of apprenticeship)***

70% of the annual equivalent, limited to R20 000.

$$70\% \times (R3\ 000 \times 12) = R25\ 200$$

The amount of the learnership allowance deductible is limited to R20 000.

##### ***Learnership allowance (completion of apprenticeship)***

*The annual equivalent of the remuneration amounts to R36 000, that is, R3 000 x 12. The learnership allowable to be deducted will be limited to R30 000.*

Year 1: Learnership allowance (commencement) R20 000  
Learnership allowance (upon completion) R30 000

Year 2: Learnership allowance (commencement) R20 000  
Learnership allowance (upon completion) R30 000

Year 3: Learnership allowance (commencement) R20 000  
Learnership allowance (upon completion) R30 000

Year 4: Learnership allowance (commencement) R20 000  
Learnership allowance (upon completion) R30 000

The learnership allowance to be claimed in Year 4 upon completion of the apprenticeship is calculated as follows:

(Year 1 + Year 2 + Year 3 + Year 4) – learnership allowance claimed in Year 1 on commencement

R200 000 – R20 000 = R180 000

### 3.4 Documentary requirements which employers should keep available

The employer must complete a standard form (IT 180) for each learnership agreement for which a learnership allowance is claimed. The form must be retained for five years as from the date the relevant income tax return, in which the learnership allowance is claimed, was submitted to SARS.

Under section 12H(3) the following information, amongst other things, must be provided to the Commissioner 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: Department of Labour in terms of regulation 2(3) of the Learnership Regulations, 2007.
- The full names and identification number of the learner contemplated in the registered learnership agreement.
- Proof that the employer has complied with all the requirements of the Skills Development Levies Act, 1999.
- Where the learnership has been completed, confirmation from the SETA that the learnership has been successfully completed.

See **Annexure B** or the SARS website at [www.sars.gov.za](http://www.sars.gov.za) for a copy of the IT 180 form.

An employer may, where a number of registered learnership agreements were entered into or completed during a year of assessment, instead of completing an IT 180 for 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 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, 1999 have been complied with.

An employer which is exempt from the payment of the skills development levy under section 4(b) of the Skills Development Levies Act, 1999 (that is, 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) could also qualify for a deduction of the learnership allowance if all the other requirements are met.

### 3.5 Circumstances under which no learnership allowance may be claimed

Section 12H(4) prohibits the employer to deduct the learnership allowance under the following circumstances:

- Any employer which is party to an existing registered learnership agreement which employer is substituted by another employer (substituting employer) (and the substituting employer does not form part of the same group of companies as that employer). Neither the employer nor the substituting employer may claim the

learnership allowance for the completion of the learnership and the substituting employer may not claim the learnership allowance for entering into the learnership.

- Where an employer enters into a registered learnership agreement with a learner as a result of substitution of an existing registered learnership agreement.
- Where an employer enters into a registered learnership agreement with the same learner where a deduction was previously allowable to that employer in respect of any other registered learnership agreement entered between that employer and that learner in respect of the same registered learnership. 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.

### **3.6 Recoupment of the learnership allowance allowed**

Section 12H(5) deems the deduction of the learnership allowance to have been recovered or recouped by an employer where the registered learnership agreement is terminated before the completion thereof, unless the termination is due to the death of the learner or the dismissal of the learner is due to his or her incapacity as a result of ill-health or injury.

A learnership agreement will also be considered terminated before completion thereof when the parties agree to terminate the agreement or when there is a breach of the terms of the agreement, such as when a party no longer gives effect to the provisions or no longer complies with the obligations of the agreement.

The amount that was previously allowed as a learnership allowance is to be included in the income of the employer for the year of assessment during which the registered learnership agreement is terminated.

No amount is to be recouped where an employer which is party to an existing registered learnership agreement is substituted by another employer and the learnership agreement is not terminated. The substituting employer (if it does not form part of the same group of companies as that employer) does not qualify for the learnership allowance on completion of the agreement.

## **4 Reporting requirements**

Under the provisions of section 12H(5A) and (5B) should an employer become entitled to claim a learnership allowance in any year of assessment, that employer must submit certain information to the SETA with which it is registered, in the form and manner, at the place and within the time indicated by the relevant SETA.

The SETA in turn is required to aggregate this information and submit it to the Minister of Finance in the form and manner, at the place and within the time that the Minister prescribes.

## **5 Case study**

The determination of the amount deductible as a learnership allowance is illustrated by means of the following example:

**Example – The determination of the amount deductible as a learnership allowance**

*Facts:*

Employer ABC (Pty) Ltd (ABC) concluded learnership agreements with employees X, Z and employee D who is a disabled person, and a contract of apprenticeship with employees Y and A in the course of a trade carried on by ABC. The learnership agreements have been registered with the relevant SETA and titles and codes have been allocated and issued by the Director-General: Department of Labour. The contract of apprenticeship is registered with the Department of Labour. ABC has a 31 March year-end.

(a) Employee X

Employee X entered into a learnership agreement on 1 April 2005. He was already in the employment of ABC before entering into the learnership agreement. The learnership agreement was completed by employee X on 31 December 2005. In terms of the agreement of employment, X is only entitled to a wage of R2 000 per month, with no other benefits.

(b) Employee Y

Employee Y entered into a contract of apprenticeship on 1 April 2006. She was not in the employment of ABC before entering into this agreement. The contract of apprenticeship was completed by employee Y on 31 March 2008. In terms of the agreement of employment, Y is only entitled to a wage of R2 000 per month, with no other benefits.

(c) Employee Z

Employee Z entered into a learnership agreement on 1 September 2005. This learnership has a duration of 2 years. She was not in the employment of ABC before entering into this agreement. In terms of the agreement of employment, Z is only entitled to a wage of R3 000 per month, with no other benefits.

(d) Employee D

Employee D, a disabled person, entered into a learnership agreement on 1 July 2006. He was not in the employment of ABC before entering into the learnership agreement. The learnership was completed by employee D on 31 March 2008. In terms of the agreement of employment, D is only entitled to a wage of R3 000 per month, with no other benefits.

(e) Employee A

Employee A entered into a contract of apprenticeship on 1 January 2009. He was not in the employment of ABC before entering into this agreement. The contract of apprenticeship was completed by employee A on 31 December 2010. In terms of the agreement of employment, A is only entitled to a wage of R3 000 per month for the entire period.

*Result:*

YEAR OF ASSESSMENT	EVENT	DEDUCTION	DETERMINATION OF DEDUCTION	NOTE
				Registered learnership agreement (RLA)

2006	Employee X entered into a learnership agreement	R12 600	<p><b>Lesser of –</b>  <math>70\% \times \text{total remuneration}</math>  <math>= 70\% \times (9 \times R2\ 000)</math>  <math>= R12\ 600;</math>  <b>or</b>  R20 000</p>	Learner in employment before entering into RLA of less than 12 months.
	Employee X completed a learnership agreement	R18 000	<p><b>Lesser of –</b>  Total remuneration  <math>= 9 \times R2\ 000</math>  <math>= R18\ 000;</math>  <b>or</b>  R30 000</p>	RLA of less than 12 months.
	Employee Z entered into a learnership agreement	R30 000	<p><b>Lesser of –</b>  Annual equivalent  <math>= 12 \times R3\ 000</math>  <math>= R36\ 000;</math>  <b>or</b>  R30 000</p>	Learner not in employment before entering into RLA of 12 months or more.
2007	Employee Y entered into a contract of apprenticeship	R24 000	<p><b>Lesser of –</b>  Annual equivalent  <math>= 12 \times R2\ 000</math>  <math>= R24\ 000;</math>  <b>or</b>  R30 000</p>	Learner not in employment before entering into a contract of apprenticeship of 12 months or more.
	Employee D entered into a learnership agreement	R50 000	<p><b>Lesser of –</b>  Annual equivalent  <math>= 175\% \times (12 \times R3\ 000)</math>  <math>= R63\ 000;</math>  <b>or</b>  R50 000</p>	RLA entered into on 1 July 2006. Learner not in employment before entering into RLA of 12 months or more.
2008	Employee Y completed a contract of apprenticeship	R24 000	<p><b>Lesser of –</b>  Annual equivalent  <math>= 12 \times R2\ 000</math>  <math>= R24\ 000;</math>  <b>or</b>  R30 000</p>	Contract of apprenticeship was entered into before 1 January 2009.
	Employee D completed a learnership agreement	R50 000	<p><b>Lesser of –</b>  <math>175\% \times \text{Annual equivalent}</math>  <math>= 175\% \times (12 \times R3\ 000)</math>  <math>= R63\ 000;</math>  <b>or</b>  R50 000</p>	RLA entered into and completed after 1 July 2006
	Employee Z completed a learnership agreement	R30 000	<p><b>Lesser of –</b>  Annual equivalent  <math>= 12 \times R3\ 000</math>  <math>= R36\ 000;</math>  <b>or</b>  R30 000</p>	RLA of 12 months or longer.

2009	Employee A entered into a contract of apprenticeship	R20 000	<p>Lesser of –</p> <p>70% x annual equivalent = 70% x (12 x R3 000) = R25 200;</p> <p>or</p> <p>R20 000</p>	Contract of apprenticeship was entered into on/after 1 January 2009. Learner in employment before entering into the contract for 2 years.
2010	No claims			
2011	Employee A completed a contract of apprenticeship	R80 000	<p>Lesser of –</p> <p>Annual equivalent = 12 x R3 000 = R36 000;</p> <p>or</p> <p>R30 000</p> <p>The sum of claims which would have been allowed</p> <p><u>Year 2009</u> Commencement R20 000 + completion R30 000 = R50 000</p> <p><u>Year 2010</u> Commencement R20 000 + completion R30 000 = R50 000</p> <p><b>Upon Completion:</b> Year 2009 + Year 2010 less learnership allowance in respect of commencement in Year 2009 (R50 000 + R50 000) - R20 000 = R80 000</p>	Apprenticeship contract of more than 12 months entered into.
<p><b>Total deduction of the learnership allowance for the –</b></p> <p>2006 year of assessment = R60 600</p> <p>2007 year of assessment = R74 000</p> <p>2008 year of assessment = R104 000</p> <p>2009 year of assessment = R20 000</p> <p>2010 year of assessment = RNil</p> <p>2011 year of assessment = R80 000</p>				

## 6 Conclusion

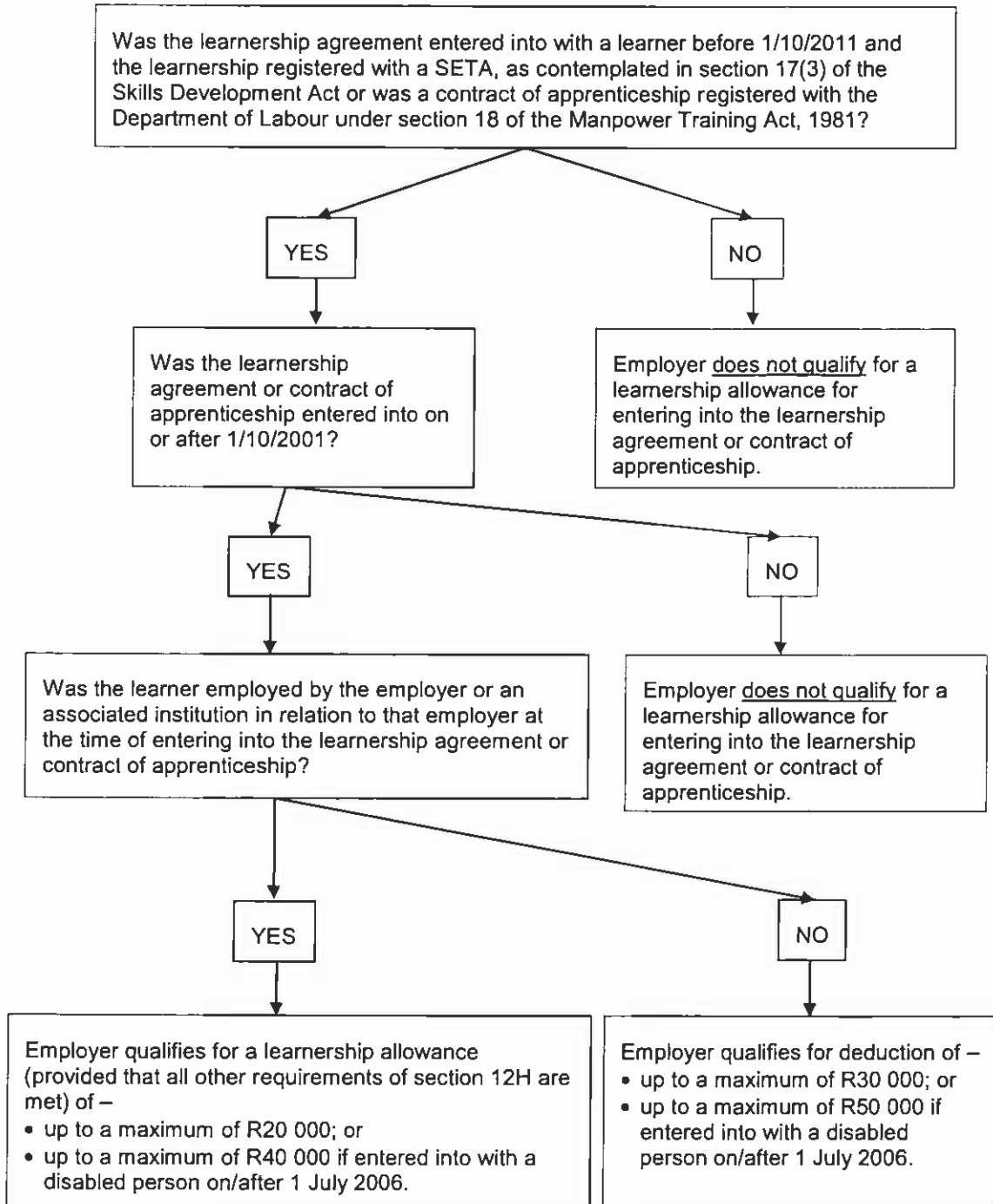
An employer will only qualify for the learnership allowance if a **registered learnership agreement** (that is, a learnership agreement entered into before 1 October 2011 and registered with a SETA or a contract of apprenticeship registered with the Department of Labour) was entered into or completed on or after 1 October 2001. The more favourable allowance, for learnerships entered into with disabled persons, are applicable to those learnership agreements entered into on or

after 1 July 2006. The provision for apprenticeship contracts of 12 months or more is applicable to those contracts entered into on or after 1 January 2009.

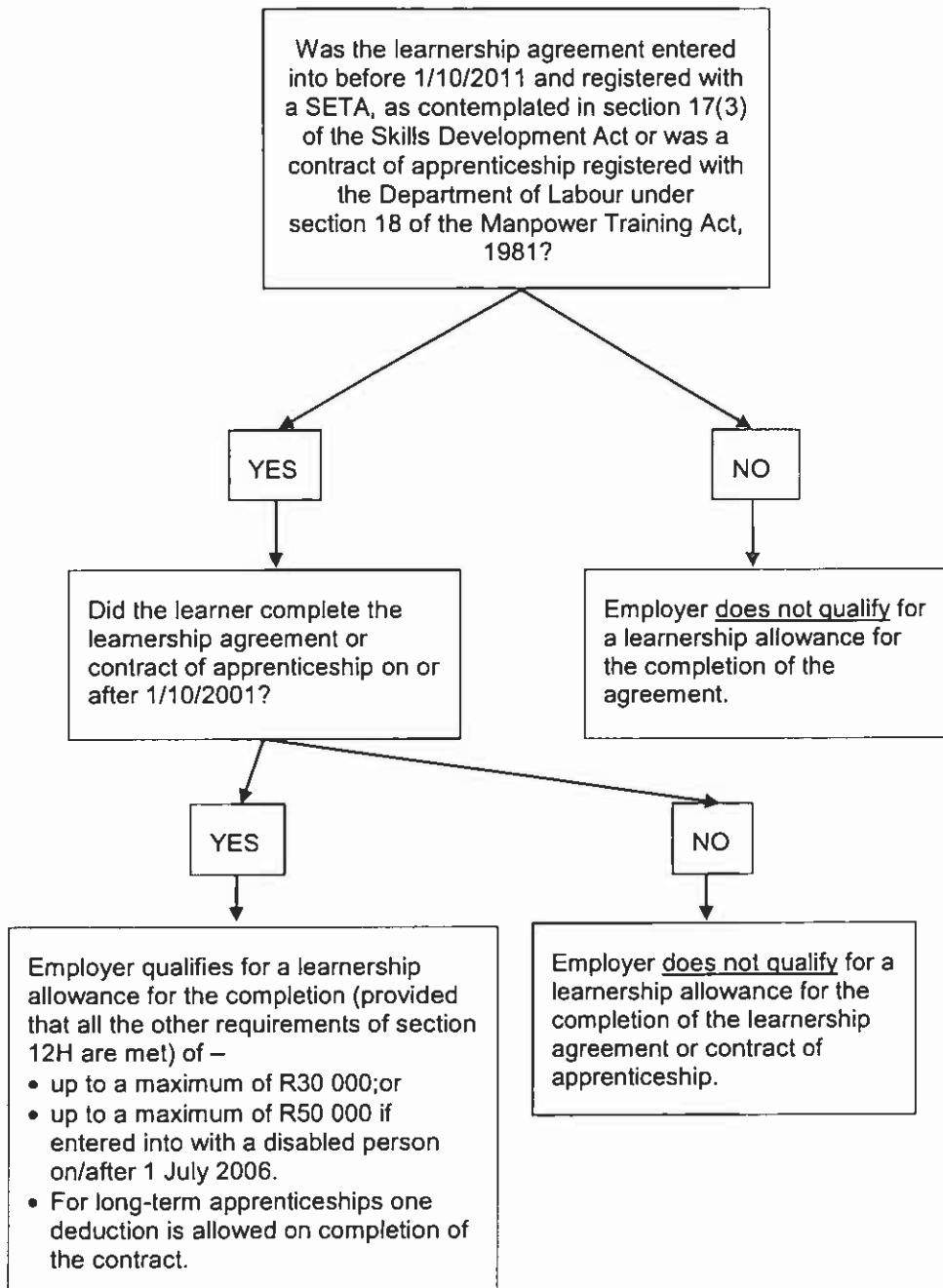
**Legal and Policy Division**  
**SOUTH AFRICAN REVENUE SERVICE**  
Date of first issue: 5 March 2004  
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**ANNEXURE A – Determination whether or not an employer is eligible for a learnership allowance in respect of a learnership agreement or contract of apprenticeship**

**(a) Flow chart of learnership agreement/contract of apprenticeship entered into**




## (b) Flow chart of learnership agreement/contract of apprenticeship completed



**NOTE: Where (a) and (b) occur in the same year of assessment, a deduction for a learnership allowance will be allowed for both events.**

Annexure B – IT 180

	<b>INCOME TAX INKOMSTEBELASTING</b>	<table border="1" style="float: right; border-collapse: collapse;"> <tr> <td style="padding: 2px;">IT 180 IB 180</td> </tr> </table>	IT 180 IB 180
IT 180 IB 180			
<b>Declaration by employer for the purpose of claiming a deduction for an allowance in respect of a learnership agreement or contract of apprenticeship</b> <b>Verklaring deur werkgever vir doeleindes van die eis van 'n aftrekking vir 'n toelaag ten opsigte van 'n leerlingooreenkoms of vakleerlingooreenkoms</b>			
Income Tax Reference Number of Employer Inkomstebelastingverwysingsnommer van werkgever			
Year of Assessment Jaar van aanslag			
<p>The form must be completed in respect of each learnership agreement or contract of apprenticeship in respect of which a deduction for an allowance is claimed in terms of the provisions of section 12H of the Income Tax Act. This form must be attached to the return of income for the year of assessment in respect of which a deduction for an allowance is claimed.</p> <p>Hierdie vorm moet ten opsigte van elke leerlingooreenkoms of vakleerlingooreenkoms ten opsigte waarvan daar 'n aftrekking vir 'n toelaag ingevolge die bepaling van artikel 12H van die Inkomstebelastingwet geëis word, voltooi word. Die vorm moet aan die opgewaarde van inkomste van die jaar van aanslag ten opsigte waarvan 'n aftrekking geëis word, geheg word.</p>			
<p><b>Registered name of employer</b> Geregistreerde naam van werkgever</p>			
<p><b>Skill Development Levy reference number</b> Vaardighedsontwikkelingsheffingverwysingsnommer</p>			
<p><b>Name of SETA with which the learnership is registered</b> Naam van SETA waar die leerlingooreenkoms geregistreer is</p>			
<p><b>Particulars of title and code allocated and issued by the Director-General Department of Labour in terms of regulation 2(3) of the Learnership Regulations, 2001</b> Besondere van titel en kode van die leerlingooreenkoms deur die Direkteur-Generaal, Departement van Arbeid toegeken en uitgereik, ingevolge regulasie 2(3) van die Leerlingooreenkomsregulasie, 2001</p>			
<p><b>Full names and identity number of the learner contemplated in the registered learnership agreement</b> Volle name en identiteitsnommer van die leerling in die geregistreerde leerlingooreenkoms bedoel</p>			
<p><b>Date of entering into the registered learnership agreement</b> Datum waarop die geregistreerde leerlingooreenkoms aangegaan is</p>			
<p><b>Date of completion of the registered learnership agreement if completed during the year of assessment</b> Indien die geregistreerde leerlingooreenkoms ten opsigte waarvan 'n aftrekking geëis word gedurende van aanslag voltooi is, datum van voltooiing</p>			
<p><b>Was the learner at the time of entering into the learnership agreement employed by the above mentioned institution or any company which forms part of the same group of companies as the employer?</b> Was die leerder op die tydstip waarop die ooreenkoms aangegaan is, in diens by die werkgever of enige maatskappy wat deel van dieselfde groep van maatskappye as die werkgever vorm?</p>			
<p><b>Was the learner at the time of entering into the learnership agreement a disabled person?</b> Was die leerder op die tydstip waarop die leerlingooreenkoms aangegaan is 'n gestremde persoon?</p>			
<p><b>Was the learnership agreement entered into between the employer and the learner in the course of an trade carried on by that employer?</b> Was die leerlingooreenkoms met die leerling aangegaan in die loop van 'n bedryf deur die werkgewebedoel?</p>			
<p><b>Period of the learnership agreement</b> Tydperk van die leerlingooreenkoms</p>			
<p><b>The annual equivalent of the total remuneration, as stipulated in the employment agreement between the learner and the employer on entering into or on completion of the learnership agreement, whichever is applicable</b> Die jaarlike ekwivalent of die totale besoldiging van die leerder asos in die ooreenkoms tussen die leerder en werkgever aangedui, wat ookal van toepassing is</p>			
<p><b>The amount of the deduction claimed</b> Die bedrag van die aftrekking geëis</p>		R (Rands only) (Slegs Rande)	
<p><b>The limitation on the deduction claimed</b> Die beperking op die aftrekking geëis</p>		R (Rands only) (Slegs Rande)	
1 - 2			

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 is ander werkgewer wat in party tot 'n bestaende geregistreerde leerlingooreenkoms soos in regulasie 5(1) van die leerlingooreenkoms 2001 bedoel (behalwe 'n maatskappy wat deel van die selfde groep van maatskappye vorm) vervang?

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 leerlingooreenkoms met 'n leerling aangegaan as gevolg van die vervang van 'n bestaende geregistreerde leerlingooreenkoms soos in regulasie 5(2) van die Leerlingooreenkoms 2001 bedoel?

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 leerlingooreenkoms deur die Direkteur-Generaal Departement van Arbeid geregistreer?

I, \_\_\_\_\_, in my capacity as employer/representative employer hereby declare that  
 Ek, \_\_\_\_\_, in my hoedanigheid as werkgewer/verteenwoordigende werkgewer verklaar

that the requirements of the Skills Development Levies Act, No. 9 of 1999 have been complied with  
 dat die vereistes van die Skills Development Levies Act, No. 9 of 1999 voldoen is

Signature  
 Handtekening

Date  
 Datum