

---

---

**SOUTH AFRICAN REVENUE SERVICE**

---

---

**DRAFT TAX GUIDE  
FOR  
MICRO BUSINESSES  
2015/16**

---

---

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



[www.sars.gov.za](http://www.sars.gov.za)

# Draft Tax Guide for Micro Businesses 2015/16

## Preface

This guide contains information about a simplified tax system that is available for micro businesses (businesses with a qualifying turnover of R1 million or less). The system provides for a single tax in the place of normal tax, capital gains tax (CGT) and dividends tax. Under normal circumstances an application to switch to (or from) the system must be made before 1 March each year. As the system is optional, it is important to thoroughly review the operations of a business before deciding on whether to switch or not. Factors such as the overhead costs of the business, its expected tax contributions and – most importantly – its tax compliance costs should be taken into account in making the decision.

This guide is not an “official publication” as defined in section 1 of the TA Act 28 of 2011 and accordingly does not create a practice generally prevailing under section 5 of that Act. It is also not a binding general ruling under section 89 of the TA Act. Should an advance tax ruling be required, visit the SARS website for details of the application procedure.

Another guide offered by SARS, *Tax Guide for Small Businesses*, provides useful background information to this guide and is available on the SARS website. It covers topics such as: the different types of businesses, the SARS requirements that small businesses have to comply with, the requirements of other authorities that small businesses have to comply with, and record-keeping.

For more information you may –

- visit the SARS website at [www.sars.gov.za](http://www.sars.gov.za);
- visit your nearest SARS branch;
- contact your own tax advisor or tax practitioner;
- contact the SARS National Call Centre –
  - if calling locally, on 0800 00 72 77; or
  - if calling from abroad, on +27 11 602 2093 (only between 8am and 4pm South African time).

Comments on this guide may be sent to [policycomments@sars.gov.za](mailto:policycomments@sars.gov.za).

Prepared by

**Legal and Policy Division**  
**SOUTH AFRICAN REVENUE SERVICE**

# CONTENTS

Preface.....	i
Glossary .....	1
<b>1. Purpose.....</b>	<b>2</b>
<b>2. Background .....</b>	<b>2</b>
<b>3. Turnover tax.....</b>	<b>3</b>
3.1 Who may qualify as a micro business?.....	3
3.2 What is qualifying turnover? .....	3
3.3 Specific anti-avoidance rule for qualifying turnover .....	6
3.3.1 Connected persons in relation to a natural person .....	7
3.3.2 Connected persons in relation to a company .....	8
3.4 Persons who do not qualify as micro businesses .....	8
3.4.1 Prohibition and limitation on interests in other companies or partnerships .....	8
3.4.2 Limitation on investment and professional service income.....	9
(a) Investment Income.....	10
(b) Professional services .....	10
3.4.3 Limitation on capital disposals [paragraph 3(e)] .....	12
3.4.4 Year of assessment rule [paragraph 3(f)(i)] .....	12
3.4.5 Only interests and shares held by individuals permitted [paragraph 3(f)(ii)].....	12
3.4.6 Exclusion of personal service providers and certain labour brokers [paragraph 3(c)].....	13
3.4.7 Exclusion of public benefit organisations, recreational clubs, associations and small business funding entities [paragraphs 3(f)(iv), (v), (vi) and (vii)].....	13
3.5 Special rules relating to partnerships.....	13
3.6 Taxable turnover (paragraph 5).....	14
3.6.1 Specific inclusions in taxable turnover (paragraph 6) .....	15
3.6.2 Specific exclusions from taxable turnover (paragraph 7).....	16
3.7 Capital gains tax.....	19
3.8 Dividends tax.....	19
3.9 Turnover tax administration .....	20
3.9.1 Registration (paragraph 8) .....	20
3.9.2 Deregistration.....	20
(a) Compulsory deregistration (paragraph 10) .....	21
(b) Voluntary deregistration (paragraph 9) .....	21
3.9.3 Voluntary VAT registration .....	22
3.9.4 Payment of turnover tax.....	22
(a) Interim payments [paragraphs 11(1) to (4)] .....	22
(b) Interest and penalties [paragraphs 11(3), (5), (6) and (7)].....	23
3.9.5 Payments of other taxes .....	23
3.9.6 Record-keeping (paragraph 14).....	24
3.9.7 General administrative provisions .....	24
3.9.8 Transitional provisions (section 48C).....	25
(a) Amounts received by but not accrued to a micro-business .....	25
(b) Amounts accrued to a micro-business but received under the normal tax system .....	25
(c) Trading stock held by a micro-business.....	25
Annexure A – Quick test to see if a business qualifies for turnover tax .....	26
Annexure B – General descriptions of service fields.....	28
Annexure C – Eleventh Schedule government grants exempt from tax .....	32

## Glossary

In this guide unless the context indicates otherwise –

- **“accrue”** means the point at which a person becomes unconditionally entitled to an amount;
- **“amount of a capital nature”** is a technical income tax term that is usually distinguished from an amount of a revenue nature which is fully taxable. In the context of carrying on a business it is usually derived from the disposal of assets other than trading stock, for example, machinery;
- **“CGT”** means capital gains tax, being the portion of normal tax attributable to the inclusion in taxable income of a taxable capital gain, determined under the Eighth Schedule, on the disposal of assets;
- **“company”** means a company as defined in section 1(1);
- **“compulsory VAT registration threshold”** means the value of taxable supplies made in a year that results in an enterprise having to register for VAT;<sup>1</sup>
- **“employees’ tax”** means the tax that employers are required to withhold or deduct from the earnings of their employees and which is then paid to SARS on the employees’ behalf;
- **“investment income”** means any income in the form of annuities, dividends, interest, rental derived from immovable property, royalties or income of a similar nature and any proceeds derived from the disposal of financial instruments;
- **“micro business”** means a person with a qualifying turnover that does not exceed R1 million in aggregate for a year of assessment, and which is not specifically disqualified from registering as a micro business for turnover tax purposes;
- **“normal tax”** means the tax that is payable to SARS based on the taxable income received by or accrued to individuals, companies and other taxpayers in a year of assessment;
- **“paragraph”** means a paragraph of the Sixth Schedule;
- **“professional service”** means a service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draftsmanship, education, engineering, financial service broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science;
- **“provisional tax”** means the periodic payment of normal tax that is required to be made by taxpayers based on an estimate of the taxable income to be derived by them for a year of assessment, and is offset against the final income tax liability determined for that year of assessment;
- **“qualifying turnover”** means the total receipts derived by a person from carrying on business activities, but excluding any amount of a capital nature and government grants that are exempt from income tax;
- **“Schedule”** means a Schedule to the Act;
- **“section”** means a section of the Act;

---

<sup>1</sup> The threshold as from 1 March 2009 is R1 million.

- “**TA Act**” means the Tax Administration Act 28 of 2011;
- “**the Act**” means the Income Tax Act 58 of 1962;
- “**TT01**” means the registration form prescribed by SARS which is required to be completed by a person applying for registration as a micro business;
- “**TT03**” means the tax return on which a micro business must declare its taxable turnover for a year of assessment and is used by SARS to assess a person’s tax liability for turnover tax;
- “**VAT**” means the value-added tax that is imposed on the supply of goods and services, the importation of goods and the supply of imported services;
- “**VAT Act**” means the Value-Added Tax Act 89 of 91;
- “**year of assessment**” of a micro business, means the tax reporting period which for the purposes of turnover tax generally runs from the beginning of March of one year to the end of February of the following year; and
- any other word or expression bears the meaning ascribed to it in the Act.

## 1. Purpose

This guide provides guidance on the application of the Sixth Schedule and Part IV (sections 48 to 48C) of the Act which regulates the turnover tax system available to micro businesses.

## 2. Background

Small and micro businesses have the potential to grow the economy, generate jobs and reduce poverty. In order to alleviate the tax compliance burden on micro enterprises, a turnover tax regime was introduced with effect from 1 March 2009. It streamlines the tax compliance process for micro businesses by replacing a registered micro business’ liability for income tax (including CGT) and dividends tax<sup>2</sup> with a liability to account for turnover tax. As the term “turnover tax” suggests, the registered micro business’ tax liability is determined by applying a specific turnover tax rate to the registered micro business’ “taxable turnover” in a particular year of assessment.

A micro business is not exempt from the duty to withhold payroll and other taxes, such as employees’ tax<sup>3</sup>, skills development levies (SDL) and unemployment insurance fund (UIF) contributions, or to account for VAT (if voluntarily registered as a VAT vendor). However, as a means of reducing its compliance burden, a micro business has the option of making twice-yearly payments for these taxes as from 1 March 2014.

Turnover tax is a stand-alone tax, meaning that its determination is separate and independent from the normal tax system. Despite being liable to account for turnover tax, certain receipts and income streams of a micro business could be taxable under the normal tax system. These receipts and income streams may relate to remuneration and investment income received by the micro business, as well as amounts derived by the micro business from carrying on business activities outside South Africa.

<sup>2</sup> Micro businesses are exempt from dividends tax to the extent that dividends paid during a year of assessment do not exceed R200 000 [section 64F(1)(h)].

<sup>3</sup> Businesses with employees who are not liable for normal tax are, however, not required to register for ‘employee’s tax - proviso to paragraph 15(1) of the Fourth Schedule.

### 3. Turnover tax

#### 3.1 Who may qualify as a micro business?

Turnover tax<sup>4</sup> is payable by any person who is *registered* as a micro business and is payable in lieu of any income tax, CGT or dividends tax that otherwise may have been payable by the registered micro business. A micro business that does not register as such under Part II of the Sixth Schedule will not be liable to account for turnover tax on its income, but will instead be subject to the normal income tax (including CGT) and dividends tax rules. The turnover tax regime is accordingly an option for persons conducting their business activities as sole proprietors, partnerships, close corporations, co-operatives or private companies. The Act prescribes<sup>5</sup> two broad categories of persons that may qualify as a micro business, namely –

- a natural person (or the deceased or insolvent estate of a natural person who was a registered micro business at the time of death or insolvency);<sup>6</sup> and
- a “company” as defined in section 1(1).

Provided none of the disqualifying factors discussed in **3.4** applies, a business with a “qualifying turnover” not exceeding R1 million in any year of assessment can elect to register as a micro business<sup>7</sup> and in consequence be taxed under the turnover tax system instead of the usual tax rules that apply to other taxpayers.

#### 3.2 What is qualifying turnover?

“Qualifying turnover”<sup>8</sup> is relevant for purposes of determining whether a person qualifies as a micro business and must not be confused with a registered micro business’ “taxable turnover” (see **3.6**), which is the amount upon which the turnover tax is payable. “Qualifying turnover” is defined as the total receipts derived by the person from carrying on any business activities, but excluding –

- any amounts of a capital nature received from conducting business, for example, an amount received from the sale of equipment that was used in the business; and
- government grants which are exempt from income tax under section 12P.

A person will qualify as a micro business only if the person’s qualifying turnover does not exceed R1 million for a year of assessment. Since it is the *total receipts* (excluding capital receipts and government grants exempt under section 12P) derived by the person that are taken into account in determining the person’s qualifying turnover, it is immaterial whether the receipt constitutes gross income or is in fact taxable. It also follows that if the person is registered as a VAT vendor, any VAT charged on the supply of goods or services by the person must be included in the determination of that person’s qualifying turnover.

---

<sup>4</sup> Imposed under section 48A.

<sup>5</sup> Paragraph 2.

<sup>6</sup> Partners in a partnership and sole proprietors fall within the natural person category.

<sup>7</sup> Part IV of the Sixth Schedule.

<sup>8</sup> As defined in paragraph 1.

### *Carrying on of business activities*

A person will be regarded as deriving qualifying turnover only to the extent that the person derives receipts from “carrying on business activities”. Although the phrase is not defined in the Act, the courts have provided useful guidelines in clarifying its meaning.<sup>9</sup> In this regard business activities constitute either –

- an act of selling or supplying goods or services and an intention to continue selling or supplying such goods or services as and when the opportunity arises for as long as it is thought desirable; or
- a series of acts of selling or supplying goods or services in circumstances from which this intention can be inferred.

In addition, a person will be regarded as carrying on business activities if there is some continuity of the particular activities described above. Amounts received from an isolated transaction do not normally fall within the ambit of the term “carrying on business activities”. Note that the definition of “qualifying turnover” specifically provides for the exclusion of certain receipts in determining such turnover - even though the receipts may relate to the carrying on of the person’s business activities.

### *Additional notes on the definition of “qualifying turnover”*

The qualifying turnover for a particular taxpayer is relevant for purposes of determining –

- whether that taxpayer satisfies the prescribed monetary threshold and may therefore elect to be taxed under the turnover tax system; and
- whether the micro business is disqualified (compulsory deregistration) and thus needs to exit the turnover tax system.

The R1 million qualifying turnover threshold applies to a year of assessment (12 months) running from 1 March to 28 February.<sup>10</sup> However, if a person carries on business activities for less than 12 months, the qualifying threshold of R1 million is pro-rated<sup>11</sup> based on the remaining number of full months until the end of that particular year of assessment (see Example 1).

SARS will consider registering a person (see **3.9.1**) who has a *pre-existing business* as a micro business from the beginning of that person’s current or succeeding year of assessment if its qualifying turnover in the previous year of assessment (12 months) did not exceed the qualifying turnover threshold of R1 million – subject to all other requirements being met.<sup>12</sup> The person would however still need to meet the qualifying turnover threshold in the relevant year of assessment in order to qualify as a micro business for that year of assessment.<sup>13</sup> A person will not be registered as a micro business if the person has traded in a prior year of assessment and derived receipts from business activities in excess of the qualifying turnover threshold of R1 million in that prior year of assessment. Should that person however derive qualifying turnover in the current year of assessment that is less than the qualifying turnover threshold of R1 million, that person may apply for registration as a micro business – provided that the person meets all the other requirements.

---

<sup>9</sup> *Cape Town Municipality v Clarensville (Pty) Ltd* (1974) 2 All SA 346 (C).

<sup>10</sup> Under paragraph 3(f)(i) a company with a year of assessment that does not end on the last day of February is ineligible to qualify as a micro business. See **3.4.4**.

<sup>11</sup> Paragraph 2(2).

<sup>12</sup> Paragraph 8(1).

<sup>13</sup> Paragraph 2(1).

A person that *commences business* activities in a year of assessment and applies to be registered as a micro business must be registered as a micro business from the beginning of that year of assessment. Such a person would, by default, satisfy the qualifying turnover threshold requirement since it would not have previously traded and derived receipts from business activities in excess of the qualifying turnover threshold.

Even though SARS is required to register a person as a micro business in these instances from the beginning of a year of assessment, the person will still need to derive qualifying turnover not exceeding the threshold of R1 million in the relevant year of assessment in order to qualify as a micro business *for that year of assessment*.

A micro business must be deregistered (see **3.9.2**) as a micro business at any time during a year of assessment in which its qualifying turnover exceeds the annual threshold of R1 million or when there are reasonable grounds for believing that this threshold will be exceeded.<sup>14</sup> If an increase in the qualifying turnover is of a nominal and temporary nature, the micro business must apply to SARS for a decision whether it must remain registered as a micro business or not.<sup>15</sup>

Although the qualifying turnover of a micro business may be below the R1 million qualifying turnover threshold at the beginning of a year of assessment, it is in the best interests of a micro business to calculate its qualifying turnover on a regular basis so as to ensure it is within the required threshold at all times. Penalties and interest may be levied against taxpayers that account for tax on the basis that they qualify as a micro business but do not qualify as such.

#### **Example 1 – Limitation of qualifying turnover**

*Facts:*

Mnandi Catering Services (Pty) Ltd (Mnandi), which has a February year-end, commenced trading activities on 13 May 2015 and elected to register as a micro business for the 2016 year of assessment. It estimates that it will not derive qualifying turnover exceeding R600 000 for the 2016 year of assessment.

*Result:*

$$\begin{aligned} & \text{R1 million} \times \frac{\text{Full months remaining in the year of assessment}}{12 \text{ months}} \\ &= \text{R1 million} \times \frac{9}{12} \\ &= \text{R750 000} \end{aligned}$$

<sup>14</sup> Paragraph 10(1)(a) read with paragraph 10(2). See **3.9.2**.

<sup>15</sup> Paragraph 10(3).



Since Mnandi will carry on business in the 2016 year of assessment for a period that is less than 12 months, its qualifying turnover threshold for the 2016 year of assessment is reduced proportionately to R750 000. Since Mnandi's projected qualifying turnover for the remaining period of 9 months in the 2016 year of assessment will not exceed the applicable threshold of R750 000 as determined above, Mnandi will be registered as a micro business from the beginning of the 2016 year of assessment. If at any time during the 2016 year of assessment Mnandi's qualifying turnover exceeds R750 000, Mnandi must notify SARS within 21 days of the threshold being exceeded. Unless Mnandi can demonstrate that the excess qualifying turnover (above R750 000) is merely nominal and temporary and SARS decides upon application by Mnandi that it must remain a registered micro business, the company will be deregistered as a micro business from the beginning of the month following the month during which the company's qualifying turnover exceeded the threshold of R750 000 (see **3.9.2**).

As mentioned above, a distinction must be drawn between "qualifying turnover" and "taxable turnover" since these concepts have different meanings and applications. Taxable turnover (subject to specific inclusions and exclusions) is concerned mainly with amounts received from carrying on business activities in South Africa and is the amount on which turnover tax will be levied. By contrast, qualifying turnover comprises one of the tests to determine whether a taxpayer qualifies as a micro business.

The scope of qualifying turnover is much wider than taxable turnover since it may, in certain circumstances, include amounts received by connected persons from business activities both within and outside South Africa. The main reason for considering the receipts of connected persons is to ensure that the turnover tax system is only accessed by micro-enterprises that are genuinely small.

### **3.3 Specific anti-avoidance rule for qualifying turnover**

An anti-avoidance rule to guard against income-splitting by a micro business has been provided for in the Sixth Schedule.<sup>16</sup> This rule caters for circumstances in which the micro business is split between connected persons<sup>17</sup> - see **3.3.1** and **3.3.2** - in order to ensure that the qualifying turnover of each separate business remains within the R1 million qualifying turnover threshold.

For purposes of determining the qualifying turnover of any person, the total amount received by a connected person from carrying on business activities must be added to the qualifying turnover of the person seeking to be registered as a micro business if—

- the connected person carries on business activities that should properly be regarded as forming part of the business activities carried on by that person; and
- the main reason or one of the main reasons for "splitting" the business activities is to ensure that the qualifying turnover of that person is below the qualifying turnover threshold.

The above provision empowers SARS to determine the qualifying turnover of a person seeking registration as a micro business by combining the business receipts of connected

<sup>16</sup> Paragraph 13.

<sup>17</sup> The term "connected person" is defined in section 1(1). Also see Interpretation Note No. 67 (Issue 2) dated 14 February 2014 "Connected Persons".

persons in relation to that person. If the combined qualifying turnover exceeds R1 million, none of the connected parties will qualify as a micro business.

### 3.3.1 Connected persons in relation to a natural person

A connected person in relation to a natural person<sup>18</sup> means –

- any relative<sup>19</sup> (within the third degree of consanguinity) which includes spouses, children, parents, brothers, sisters, grandchildren, grandparents, great-grandchildren, great-grandparents, uncles, aunts, nephews, nieces; and
- any trust (other than a portfolio of a collective investment scheme in securities or property) of which such natural person or such relative is a beneficiary.

It follows that in determining the qualifying turnover of the person seeking registration as a micro business, the amounts derived from the business activities of the relatives of that person and any trust of which that person or a relative is a beneficiary may be taken into account if SARS is satisfied that the circumstances described in 3.3 are present.

#### Example 2 – Qualifying turnover for connected natural persons

*Facts:*

Individual A owns a block of flats and derives rental income from all occupied units and is registered as a micro business. The ground floor is used for various businesses operated by family members who are also registered individually as micro businesses.

Type of micro business	Qualifying turnover R
A supermarket of which A is the registered sole proprietor	680 000
A fruit and veg shop of which A's child C is the registered sole proprietor and manager	450 000
A fast-food and home industry shop of which A's spouse B is the registered sole proprietor and manager	600 000
A butchery of which C's spouse is the registered sole-proprietor and manager.	510 000

The fast-food and home industry shop obtains all its supplies from the butchery, fruit and veg store and supermarket as and when needed. In addition, the staff of the various stores can be summoned to work at any of the stores as needed. A is responsible for payment of all the businesses' staff wages and salaries.

*Result:*

Each of the family members is a "relative" as defined in section 1(1) and therefore a connected person in relation to the other family members. Furthermore, the four separate micro businesses do not appear to be operating independently of each other. Under these circumstances it may be concluded that the above micro businesses can properly be regarded as forming one composite business under paragraph 13. Since the combined qualifying turnover of the four businesses exceeds the qualifying turnover threshold of R1 million, all four micro businesses must be deregistered from turnover tax.

<sup>18</sup> Paragraph (a) of the definition of "connected person" in section 1(1).

<sup>19</sup> As defined in section 1(1).

### 3.3.2 Connected persons in relation to a company

A connected person in relation to a company<sup>20</sup> means –

- any other company that would be part of the same group of companies as that company if the shareholding requirement in the definition of “group of companies”<sup>21</sup> was “more than 50 per cent” instead of “at least 70 per cent” of the equity shares”;
- any person, other than a company as defined in section 1 of the Companies Act, that individually or jointly with any connected person in relation to that person, holds, directly or indirectly, at least 20% of the equity shares or the voting rights in the company;
- any other company if at least 20% of the equity shares or voting rights in the company are held by that other company, and no holder of shares holds the majority voting rights in the company;
- any other company if that company is managed or controlled by any person who is a connected person in relation to the company or a person who is a connected person in relation to the first-mentioned person; or
- in the case of a close corporation, any member, relative of the member or a trust (other than a portfolio of a collective investment scheme in securities or property) who is connected to the member.

### 3.4 Persons who do not qualify as micro businesses

#### 3.4.1 Prohibition and limitation on interests in other companies or partnerships

A person (whether a natural person, partner in a partnership or company) does not qualify as a micro business for any particular year of assessment if, at any time during that year of assessment, that person holds any shares or has any interest in the equity of a company.<sup>22</sup> This prohibition accordingly applies to a company (holding shares in, or an interest in the equity of, another company), a partner in a partnership and a sole proprietor.

While a person (natural person, partner in a partnership or a company) will not qualify as a micro business if the person holds shares in a company, there are certain permissible shareholdings or interests that the person may hold as they are of a public or social nature and present fewer opportunities for tax arbitrage. These are shares or interests –

- in listed South African companies;<sup>23</sup>
- in collective investment schemes;<sup>24</sup>
- in bodies corporate, share block companies or any other association of persons managing collective common interests of members, for example, homeowners’ associations;<sup>25</sup>

---

<sup>20</sup> Paragraph (d) of the definition of “connected person” in section 1(1).

<sup>21</sup> Section 1(1).

<sup>22</sup> Paragraph 3(a).

<sup>23</sup> As defined in paragraph (a) of the definition of “listed company” in section 1(1).

<sup>24</sup> As described in paragraph (e) of the definition of “company” in section 1(1).

<sup>25</sup> Provided the Commissioner is satisfied the association was formed solely for purposes of managing the collective interests of its members and it is not permitted to distribute any of its funds to any person other than a similar association of persons. These companies are described in section 10(1)(e).

- in venture capital companies;<sup>26</sup>
- of less than 5% in social or consumer co-operatives;<sup>27</sup>
- of less than 5% in co-operative burial societies<sup>28</sup> (or any other similar co-operative if all of the income derived from the trade of that co-operative during any year of assessment is solely derived from its members) or primary savings co-operative banks;
- in friendly societies;<sup>29</sup>
- in any company that did not trade during any year of assessment, and which did not own assets with a total market value exceeding R5 000 during any year of assessment;<sup>30</sup> and
- in any company that has taken steps to liquidate, wind up or deregister.<sup>31</sup>

A natural person who is a partner in a partnership will not qualify as a micro business, and therefore qualify for the turnover tax regime, if that natural person –

- is a partner in any other partnership at any time during the year of assessment;<sup>32</sup> or
- holds any shares or has any interest in the equity of a company other than the permissible shareholdings as outlined above.<sup>33</sup>

While the relevant partner may be disqualified because the disqualification criteria referred to above apply, the disqualification of that partner would not result in the disqualification of the other partners. A distinction must therefore be drawn between factors that would disqualify all the partners (see **3.5**) and factors that would disqualify only a specific partner without affecting the rest of the partners.

### **3.4.2 Limitation on investment and professional service income**

A business that trades in the form of a company is disqualified if the aggregate income derived by the company from “investment income” and “professional services”<sup>34</sup> as defined exceeds 20% of the total receipts of the business. A natural person will be similarly disqualified if more than 20% of the natural person’s total receipts consist of income derived from rendering professional services.<sup>35</sup>

---

<sup>26</sup> As defined in section 12J.

<sup>27</sup> As defined in section 1 of the Co-operatives Act, 2005.

<sup>28</sup> See 27 above.

<sup>29</sup> As defined in section 1 of the Friendly Societies Act, 1956.

<sup>30</sup> Paragraph 3(f)(iii)(aa).

<sup>31</sup> Paragraph 3(f)(iii)(bb).

<sup>32</sup> Paragraph 3(g)(ii).

<sup>33</sup> Paragraph 3(a).

<sup>34</sup> See **Glossary** and **3.4.2(b)** for an explanation of the term.

<sup>35</sup> Paragraph 3(b).

### (a) Investment Income

The term “investment income” is defined<sup>36</sup> as any income derived from annuities, dividends, interest, rental derived from immovable property,<sup>37</sup> royalties, or income of a similar nature and any proceeds derived from the disposal of financial instruments.

The term “financial instrument” is in turn defined as follows in section 1(1):

“ **[F]inancial instrument**’ includes—

- (a) a loan, advance, debt, bond, debenture, bill, share, promissory note, banker’s acceptance, negotiable certificate of deposit, deposit with a financial institution, a participatory interest in a portfolio of a collective investment scheme, or a similar instrument;
- (b) any repurchase or resale agreement, forward purchase arrangement, forward sale arrangement, futures contract, option contract or swap contract;
- (c) any other contractual right or obligation the value of which is determined directly or indirectly with reference to—
  - (i) a debt security or equity;
  - (ii) any commodity as quoted on an exchange; or
  - (iii) a rate index or a specified index;
- (d) any interest-bearing arrangement; and
- (e) any financial arrangement based on or determined with reference to the time value of money or cash flow or the exchange or transfer of an asset;”

Any investment income derived by a natural person (that is, a sole proprietor or partner) who is a registered micro business is specifically excluded from that person’s taxable turnover for turnover tax purposes.<sup>38</sup> It follows that any investment income derived by such a natural person continues to be taxable under the normal tax provisions and could still qualify for the exemptions applicable to interest and dividends received.<sup>39</sup>

### (b) Professional services

The term “professional service” is defined in paragraph 1 as follows:

“ **[P]rofessional service**’ means a service in the field of accounting, actuarial science, architecture, auctioneering, auditing, broadcasting, consulting, draftsmanship, education, engineering, financial service broking, health, information technology, journalism, law, management, real estate broking, research, sport, surveying, translation, valuation or veterinary science;”

The term “professional service” is widely defined. If the rendering of a service listed above is ancillary or incidental to any business activity not considered a professional service, the taxpayer will not be disqualified as a micro business, provided the thresholds as discussed in **3.4.2** are not exceeded.

<sup>36</sup> Paragraph 1.

<sup>37</sup> The provision of serviced accommodation at a guesthouse is seen to give rise to rental income from immovable property which is investment income as defined. The room rate is a daily fixed periodical return, the guest is a tenant or occupier of the room and the guesthouse owner is a landlord.

<sup>38</sup> Paragraph 7(a).

<sup>39</sup> Section 10(1)(i) and (k), section 10B and section 12T.

The activities that would not, in general, be considered to be professional services are listed below. These categories are merely provided as guidelines, having regard to the scope of the turnover tax.

These are –

- retail sales which concern the selling of tangible products to customers, for example, supermarkets, convenience stores, spaza shops, flea-markets, restaurants or food outlets, livestock traders or small scale farmers, hawkers and similar activities;
- repairing, installing, altering, decorating, cleaning, constructing, or improving the movable, immovable or personal property of customers, for example, plumbers, electricians and other artisans, carpentry, car-washing, panel beaters, landscape maintenance, laundromats, shoe repairers; and
- the provision of services of a personal or social nature to the public, such as payphone operators, hairdressers, day care centres or crèches, bed and breakfast establishments or guesthouses, taxi drivers, herbalists or traditional healers.

The turnover tax system is mainly aimed at benefiting micro businesses that actively engage in labour-intensive entrepreneurial business activities. Professional services are generally rendered by knowledge-intensive, high-income earning taxpayers, with profit margins that are significantly higher than those envisaged in the design of the turnover tax system. In order to protect the tax base and ensure a more level playing field for various types of businesses under the turnover tax system, professional services are excluded. However, businesses rendering professional services may be eligible for the small business corporation (SBC)<sup>40</sup> tax dispensation under section 12E, if they provide a certain number of employment opportunities and meet other qualifying requirements.

(See **Annexure B** for General descriptions of the professional service fields.)

**Example 3 – Limitation on investment and professional service income for a company**

*Facts:*

Computerstore (Pty) Ltd is registered under the normal tax system and trades mainly in the supply of computer hardware and software. In addition, it offers its customers computer software development services. The shareholders apply to register the company as a micro business for the 2016 year of assessment. Determine whether the taxpayer qualifies as a micro business based on the following income received by the company in the previous year of assessment.

	R
Sales	650 000
Computer software development services	190 000
Gross dividends from listed company	2 700
Interest received	2 000
Proceeds from sale of business assets	<u>5 000</u>
Total receipts	<u>849 700</u>
Qualifying turnover (R650 000 + R190 000 + R2 700 + R2 000)	844 700

<sup>40</sup> The SBC dispensation is a tax concession for qualifying entities that offers accelerated depreciation allowances and graduated tax rates. For more information in this regard, see Draft Interpretation Note No. 9 (Issue 6) “Small Business Corporations”.

*Result:*

$$\frac{\text{Investment income} + \text{Professional service income}}{\text{Total receipts}} \times \frac{100}{1}$$
$$\frac{\text{R2 700} + \text{R2 000} + \text{R190 000}}{\text{R849 700}} \times \frac{100}{1}$$
$$= 22,9\%$$

The interest and dividends constitute investment income and must be added together. Since the rendering of computer software development services falls within the field of information technology, the income from this source constitutes professional services income [see **3.4.2(b)**]. Although the qualifying turnover is below the R1 million threshold, the investment and professional service income exceeds the 20% limitation and the business does not qualify as a micro business.

### **3.4.3 Limitation on capital disposals [paragraph 3(e)]**

A person will not qualify as a micro business in a given year of assessment if the proceeds from the sale of capital assets (whether immovable or movable, but excluding any financial instruments) used *mainly for business purposes* exceed an amount of R1,5 million over a three-year period. The three-year period consists of the current and immediately preceding two years of assessment.

Immovable property disposed of will be regarded as having been used “mainly” for business purposes if *more than 50% of its floor area* was used for business purposes.

As regards all other assets (excluding any financial instrument), the relevant asset will be regarded as having been used “mainly” for business purposes if the asset is used *more than 50% of the time* for business purposes. Note that the R1,5 million threshold applies to the total amount of capital assets disposed of in the relevant years of assessment and not to each individual asset disposed of.

### **3.4.4 Year of assessment rule [paragraph 3(f)(i)]**

The year of assessment for a micro business is fixed from 1 March to 28/29 February of the following year. Therefore only companies with a February year end qualify. A company may change the end of its financial year by notifying the Companies and Intellectual Property Commission on the prescribed form.<sup>41</sup>

### **3.4.5 Only interests and shares held by individuals permitted [paragraph 3(f)(ii)]**

A business will be disqualified if any of its partners,<sup>42</sup> members or shareholders<sup>43</sup> are not natural persons during the relevant year of assessment.

<sup>41</sup> Section 27(4) of the Companies Act, 2008 read with regulation 25(1) of the Companies Regulations, 2011.

<sup>42</sup> Paragraph 3(g)(i).

<sup>43</sup> Paragraph 3(f)(ii).

### **3.4.6 Exclusion of personal service providers and certain labour brokers [paragraph 3(c)]**

“Labour brokers” as defined who have not been issued with a tax exemption certificate by SARS will not qualify as a micro business. All “personal service providers” as defined are also disqualified.

A “labour broker”<sup>44</sup> is any individual who, for reward, provides a client with the services of other persons to render a service and pays the other persons for rendering the service. A person who pays a labour broker for services received must withhold employees’ tax from the payment and pay it over to SARS on behalf of the labour broker unless the labour broker is able to produce a valid tax exemption certificate from SARS.

A “personal service provider”<sup>45</sup> is a company or trust whose services are rendered to clients by a connected person (usually the owner, relative or beneficiary) and –

- the connected person would usually be regarded as an employee of the client; or
- when the services must be performed mainly at the premises of the client, the connected person is controlled or supervised by the client as to the manner in which the services are rendered; or
- if more than 80% of the income of the company or trust is received from any one client during the year of assessment,

except where the company or trust, throughout the year of assessment, employs three or more full-time employees who are on a full-time basis engaged in the business of the company or trust and are not connected persons.

### **3.4.7 Exclusion of public benefit organisations, recreational clubs, associations and small business funding entities [paragraphs 3(f)(iv), (v), (vi) and (vii)]**

The following entities will not qualify as a micro business:

- A company that is a public benefit organisation approved by SARS under section 30.
- A company that is a recreational club approved by SARS under section 30A.
- A company that is an association approved by SARS under section 30B.
- A company that is a small business funding entity approved by SARS under section 30C.

## **3.5 Special rules relating to partnerships**

Partnerships are taxed on a flow-through basis in that the taxable turnover of a partnership will be taxed in the hands of each partner based on the profit-sharing ratio stipulated in the partnership agreement. In this regard, the partners are individually registered as micro businesses for turnover tax purposes and each partner is separately liable for turnover tax based on that partner’s taxable turnover as determined under the partnership profit-sharing ratio.

A distinction must be drawn between factors that would disqualify all the partners in a partnership and factors that would disqualify only a specific partner without affecting the rest of the partners. *All partners* will be disqualified from being subject to turnover tax if any one

---

<sup>44</sup> For the full definition, see paragraph 1 of the Fourth Schedule.

<sup>45</sup> For the full definition, see paragraph 1 of the Fourth Schedule.



of them is not a natural person or if the qualifying turnover of the partnership as a whole exceeds R1 million (see below). By contrast, a *specific partner* will be disqualified if that partner holds shares in a company or is a member of another partnership<sup>46</sup> - but this disqualification will not affect the remaining partners.

In order to ensure that only micro businesses access the turnover tax system, the R1 million qualifying turnover threshold that applies generally is applied to the collective turnover of the partnership. Thus, in order for each individual partner to qualify as a micro business for turnover tax purposes, the collective qualifying turnover of the partnership must not exceed R1 million.<sup>47</sup> Likewise, if any of the partners is not a natural person, none of the partners in the partnership will qualify for micro business status.<sup>48</sup>

The income of any disqualified partner will be subject to normal tax based on the partner's profit sharing ratio. Note that the aggregate qualifying turnover of the partnership must still be determined by considering the collective qualifying turnover of all the partners, including any partners that do not qualify as micro businesses (other than by reason of not being natural persons as this would disqualify all partners from being micro businesses).

### 3.6 Taxable turnover (paragraph 5)

Turnover tax is imposed<sup>49</sup> on the taxable turnover of the registered micro business in the year of assessment. Taxable turnover is the amount, not of a capital nature,<sup>50</sup> that is *received by* a micro business during a year of assessment from carrying on business activities in the Republic,<sup>51</sup> less any amounts refunded to any person for goods and services supplied by the micro business. In addition, specific inclusions (see 3.6.1) and exclusions (see 3.6.2) apply in determining a micro business' taxable turnover. As it is only amounts *received by* the micro business that form part of its taxable turnover, amounts that *accrue* to the micro business but which have not been received by the micro business in the year of assessment must not be included in its taxable turnover. The turnover tax system does not provide for the deduction of expenses against income as is the case under the normal tax system.

See 3.2 for commentary on the expression "carrying on of business activities". Amounts received which relate to isolated transactions normally do not fall within the ambit of the expression "carrying on of business activities".

Taxable turnover is concerned with receipts from carrying on business activities "in the Republic" (South Africa). It follows that the place where the business activities are carried on is important. If the business activities or the work done to earn the income is performed in

---

<sup>46</sup> Paragraph 3(g)(ii)

<sup>47</sup> Paragraph 3(g)(iii) and the *Explanatory Memorandum on the Taxation Laws Amendment Bill, 2008*.

<sup>48</sup> Paragraph 3(g)(i).

<sup>49</sup> Section 48A.

<sup>50</sup> It is a question of fact whether an amount is of a capital or revenue nature. Generally, the intention in acquiring, holding and selling an asset will be a deciding factor. If a taxpayer sold an asset in the course of carrying on a business or in a profit-making scheme, the amount would be of a revenue nature. On the other hand, an amount received in the realisation of fixed capital will be capital in nature. [*Elandsheuwel Farming (Edms) Bpk v SBI* 1978 (1) SA 101(A), 39 SATC 163].

<sup>51</sup> Section 1(1) defines "Republic" to mean the Republic of South Africa and, when used in a geographical sense, includes its territorial sea as well as any area outside the territorial sea which has been or may be designated, under international law and the laws of South Africa, as areas within which South Africa may exercise sovereign rights or jurisdiction with regard to the exploration or exploitation of natural resources.

South Africa, it is most likely that the receipt would be seen to be from business activities carried on in South Africa. The relevant business activities may, for example, include the production of the goods, the taking of orders and the provision of certain services taking place in South Africa. The origin or source of any receipt is irrelevant in determining if the micro business conducts its activities in South Africa. Thus, if the micro business delivers goods only to clients outside South Africa, such foreign receipts must be included in taxable turnover since the income would be from business activities carried on in South Africa. However, if there is any work performed in providing a service that takes place outside South Africa, then the portion of income relating to that service may not fall within taxable turnover.

Any income from business activities carried on outside South Africa that does not constitute taxable turnover will be subject to the normal tax<sup>52</sup> rules. The normal tax system contains mechanisms for avoiding double taxation which arises when two or more countries impose taxation on the same income. In this regard, the provisions of any applicable tax treaty and the unilateral relief granted under section 6quat by way of a tax rebate or deduction must be considered.

Any amounts received for goods or services supplied by a micro business that are refunded by the micro business (cash outflow) to its customers must be deducted in determining its taxable turnover.<sup>53</sup> Importantly, if the micro business receives a refund from any of its suppliers (cash inflow), these receipts must be excluded in determining its taxable turnover<sup>54</sup> – see **3.6.2**.

Since taxable turnover consists of *all amounts* not of a capital nature *received* by the micro business, a micro business that is a vendor for VAT purposes must include in its taxable turnover any VAT charged by it on the supply of goods or services.

### **3.6.1 Specific inclusions in taxable turnover (paragraph 6)**

The following amounts must be included in taxable turnover:

- 50% of all receipts<sup>55</sup> of a capital nature from the disposal of –
  - immovable property mainly used for business purposes, other than trading stock; and
  - any other asset mainly used for business purposes, other than any financial instrument.

See commentary on the CGT implications in **3.7**.

- Investment income, other than dividends and foreign dividends, received by a company.

---

<sup>52</sup> Amounts received by or which accrue to a micro business that constitute gross income will be subject to normal tax.

<sup>53</sup> Paragraph 5.

<sup>54</sup> Paragraph 7(d).

<sup>55</sup> It is the amount of a capital nature that is received by a micro business that must be taken into account, and not a capital gain as determined under the Eighth Schedule. A micro business must in fact disregard any capital gain or loss on disposal of an asset used by it mainly for business purposes (paragraph 57A of the Eighth Schedule).

### 3.6.2 Specific exclusions from taxable turnover (paragraph 7)

The following amounts must be excluded from taxable turnover –

- Investment income received by natural persons, that is, by individuals carrying on business as sole proprietors or partners in a partnership (see 3.4.2).
- Government grants that are exempt from normal tax under section 12P, read with the Eleventh Schedule (See **Annexure C** for a list of these exempt government grants).
- Any amount that accrued to the business and which was subject to normal tax in a year of assessment before the micro business was registered for turnover tax.
- Any refund received from any person for goods and services supplied to a micro business.

#### Example 4 – Determination of turnover tax liability (Natural persons)

*Facts:*

X and Y are in a partnership and their main business is the construction of houses. They share equally in the profits and losses of the partnership. The clients of the business are responsible for the purchase of building material. On a small scale, they also offer clients a service of drafting plans for houses. They decided to register their business as a micro business for turnover tax purposes in the 2016 year of assessment. The amounts below relate to various amounts received by the micro business for that year:

	R
Construction services	785 000
Drafting services	25 000
Government grant exempt from tax under section 12P	10 000
Proceeds from sale of business tools	4 000
Interest earned on the business bank account	6 000
Refund received	<u>4 500</u>
Total income from business activities	<u>834 500</u>

- The refund received by the business relates to faulty equipment that was returned to the supplier.
- The construction services figure includes an amount of R15 000 received from a client for a contract concluded in the previous year of assessment. The R15 000 had accrued to the business in the previous year of assessment and was subject to normal tax.
- The construction figure also includes an amount of R50 000 that relates to a building that was constructed in Lesotho.

**Result:**

The taxable turnover of the partnership for the year of assessment will be determined as follows:

	R
Total income from business activities	834 500
Less: 50% of proceeds from sale of business asset (Note 1)	(2 000)
Income from construction of building in Lesotho (Note 2)	(50 000)
Government grant (Note 3)	(10 000)
Interest received on business bank account (Note 4)	(6 000)
Refund received (Note 5)	(4 500)
Amount previously accrued to business (Note 6)	<u>(15 000)</u>
Taxable turnover	<u>747 000</u>

**Notes:**

1. Only 50% of receipts of a capital nature from the disposal of assets used mainly for business purposes are included in taxable turnover [paragraph 6(a)].
2. The amount received for the services performed in Lesotho is excluded from taxable turnover as it is derived from carrying on business activities outside South Africa (paragraph 5) and is subject to normal tax. The R50 000 must be declared in the TT03 return as an amount from business activities outside South Africa.
3. Government grants exempt from normal tax must be excluded from taxable turnover [paragraph 7(b)].
4. Interest income (being "investment income") derived by natural persons must be excluded from taxable turnover under paragraph 7(a) and is subject to normal tax, subject to the relevant exemptions.
5. Refunds received from suppliers for goods or services supplied to a micro business must be excluded from taxable turnover [paragraph 7(d)].
6. Amounts that had previously accrued under the normal tax system and that were subject to tax must be excluded from taxable turnover [paragraph 7(c)].

Since this is a partnership, the aggregate taxable turnover will be allocated to each partner in accordance with each partner's profit-sharing ratio ( $R747\ 000 \times 50\% = R373\ 500$ ).<sup>56</sup> Applying the turnover tax tables, the tax payable on this amount for each partner will be R385 (1% of R38 500). Assuming that each partner made two interim payments of R200 each (R400) in August and February, the assessment will show a refund of R15 due to each partner.

The interest of R3 000 ( $R6\ 000 \times 50\%$ ) will be subject to normal tax in each partner's hands but is exempt from normal tax since it is below the interest exemption threshold under section 10(1)(i).

<sup>56</sup> See the Rates and Monetary Amounts and Amendment of Revenue Laws Act, 2015 for the tax rates table applicable to micro businesses.

### Example 5 – Determination of turnover tax liability (Company)

#### Facts:

Mnandi Catering Services (Pty) Ltd commenced trading activities on 31 May 2015 and elected to register as a micro business. The company was registered as a micro business with effect from 1 March 2015. The company has six shareholders and the business operates from the private home of one of the shareholders. The amounts below relate to amounts received and expended by the micro business for the 2016 year of assessment from carrying on business activities in South Africa.

	R
Cash sales	625 000
Credit sales	55 000
Government grant exempt from tax	15 000
Proceeds from sale of gas stove	500
Interest received on the business bank account	25 000
Dividends received from listed shares	500
Refund received	2 500
General operating expenses	250 000
Interim payments for turnover tax	5 000

- The credit sales figure refers to outstanding debtors.
- The government grant was received from the Department of Trade and Industry under the Black Business Supplier Development Programme.
- The gas stove which was sold was used mainly for business purposes.
- The refund was received from a supplier for a faulty stove.
- The interim payments are for payments made to SARS in August and February.

#### Result:

The taxable turnover of the micro business for the year of assessment is determined as follows:

	R
Amounts received from business activities (Note 1)	642 500
Add: 50% of proceeds from sale of business asset (Note 2)	250
Investment income (Note 3)	25 000
Less: Government grant (Note 4)	(15 000)
Refund received (Note 5)	<u>(2 500)</u>
Taxable turnover	<u>650 250</u>

#### Notes:

1. The amounts received by the company from business activities consist of all non-capital receipts of a business nature, that is, cash sales (R625 000), the government grant (R15 000) and the refund received (R2 500). Credit sales are excluded since the company did not receive these amounts by the end of the year of assessment.
2. Since the gas stove was used mainly for business purposes, 50% of the proceeds on its disposal must be included [paragraph 6(a)].
3. Investment income must be included and dividends excluded [paragraph 6(b) of the Sixth Schedule]. Thus, only the interest earned on the bank account is included.

4. The government grant was received from the Department of Trade and Industry under the Black Business Supplier Development Programme. Since this grant is listed in the Eleventh Schedule, it qualifies for exemption under section 12P and must be excluded from the company's taxable turnover [paragraph 7(b)].
5. Refunds received by the company for goods or services supplied to it must be excluded [paragraph 7(d)].

The taxable turnover is R650 250. According to the turnover tax tables, the tax payable on this amount is R4 655 (R1 650 + 2% of R150 250). Since the actual payments made by the company (interim payments of R5 000) exceed the actual tax liability, the assessment will reflect a refund of R345 due to the micro business.

### 3.7 Capital gains tax

A typical registered micro business will not have substantial capital assets but must nevertheless disregard any capital gain or loss on disposal of an asset used by it *mainly* for business purposes.<sup>57</sup> However, specific measures were put in place to avoid abuse. As a substitute for CGT, the qualifying micro business will simply have to add 50% of all receipts of a capital nature (see 3.6.1) to its taxable turnover.

Any proceeds derived by a micro business from the disposal of an asset that has not been used *mainly* by the micro business for business purposes must be excluded from its taxable turnover as the inclusion under paragraph 6(a) will be inapplicable. Immovable property disposed of by a micro business will be regarded as having been used "mainly" for business purposes if *more than 50% of its floor area* was used for business purposes. For any other asset disposed of, the proceeds from the sale of the asset will be taken into account when the asset is used *more than 50% of the time* for business purposes.

**Note:** A person will not qualify as a micro business if the total of receipts from the disposal of assets used mainly for business purposes exceeds R1,5 million during the current and preceding two years of assessment (see 3.4.3).

### 3.8 Dividends tax

Dividends tax is levied at 15% on any dividends paid by a company. The 15% rate may be reduced under a tax treaty.

#### *Cash dividends*

While the company paying a *cash* dividend is required to withhold dividends tax and pay it over to SARS, the *beneficial owner of the shares remains liable for dividends tax*. Section 64F(1)(h) provides an exemption from dividends tax for a cash dividend paid to a holder of shares in a registered micro business. Such a dividend is exempt to the extent that the aggregate amount of dividends paid by that registered micro business to all holders of shares in that registered micro business during the year of assessment in which that dividend is paid does not exceed R200 000. All cash dividends paid in excess of R200 000 by the micro business will therefore be subject to dividends tax. In order to qualify for the exemption, the relevant holders of shares in the micro business must submit to the micro business a declaration in the prescribed form claiming the exemption. In essence, the holder of shares in the micro business must declare that the dividend is exempt from dividends tax under section 64F. The prescribed form must be submitted to the micro business by the

<sup>57</sup> Paragraph 57A of the Eighth Schedule.

relevant holder of shares before the date specified by the micro business, or if the micro business has not specified a date for submission, by the date of payment of the dividend.

#### *Dividends in specie*

If a *micro business* declares and pays a dividend consisting of a distribution of an asset *in specie*, it is the micro business that is liable for dividends tax [section 64EA(b)]. The micro business will, however, not be liable for dividends tax on a dividend *in specie* to the extent that its holders of shares would have qualified for the exemption in section 64F(1)(h) had the dividend been a cash dividend. In order for *the micro business* to qualify for the exemption, the holder of shares to whom the dividend *in specie* was paid must, by the date of payment of the dividend, submit to the micro business –

- a declaration in the form prescribed by the Commissioner that the dividend would have been exempt under section 64F had it not been a dividend in specie; and
- a written undertaking in a form prescribed by the Commissioner to forthwith inform the micro business in writing should the circumstances affecting the exemption applicable to the beneficial owner above change or the beneficial owner cease to be a beneficial owner.

### **3.9 Turnover tax administration**

#### **3.9.1 Registration (paragraph 8)**

Since registration for the turnover tax system is optional, a person who qualifies as a micro business (see 3.1) may apply to register as a micro business with SARS –

- before the beginning of a year of assessment, that is, before 1 March, or before a date during the year of assessment prescribed by the Commissioner; or
- if that micro business commences business activities during the course of a year of assessment, within two months from the date of commencement of its business activities.

Should a person qualify as a micro business and elect to be registered as such, SARS is required to register the micro business with effect from the beginning of the year of assessment in accordance with the requirements of paragraph 8(2). It follows that a person cannot be registered as a micro business for part of a year of assessment

Note that a micro business that deregisters either on a voluntary or compulsory basis (see 3.9.2) will not be able to register again as a micro business.<sup>58</sup>

An application form to register for turnover tax (TT01) can be obtained from the SARS website or from a SARS branch.

#### **3.9.2 Deregistration**

There are two instances in which a registered micro business may be deregistered from turnover tax by SARS, namely, compulsory or voluntarily.

---

<sup>58</sup> Paragraph 8(3).

### **(a) Compulsory deregistration (paragraph 10)**

Compulsory deregistration will take place if a registered micro business no longer qualifies to be registered as such. Two factors may necessitate a compulsory deregistration, namely –

- the qualifying turnover derived by the micro business from carrying on business activities exceeds or is likely to exceed the R1 million threshold and the business cannot demonstrate that this will be a nominal or temporary event; or
- the person is disqualified under paragraph 3 (see **3.4**).

A micro business that is required to be deregistered will be so deregistered by SARS with effect from the beginning of the month following the month during which the micro business becomes liable to be deregistered.<sup>59</sup>

If a micro business is required to be deregistered because it has exceeded the qualifying turnover threshold of R1 million in a year of assessment, but the excess is nominal or of a temporary nature, that micro business must apply to SARS for a decision whether the micro business must remain a registered micro business.

A registered micro business which is subject to compulsory deregistration must notify SARS within 21 days from the date on which it no longer qualifies as a micro business. A failure to notify SARS may result in penalties being levied against the taxpayer. SARS will deregister the micro business from the turnover tax system with effect from the first day of the month following the month during which the business no longer qualifies to be a registered micro business. If the micro business ceases to qualify as such during a year of assessment, the taxpayer's assessment for the particular year will contain an amount payable made up of turnover tax and normal tax. The business will also have to register for VAT if the total value of taxable supplies<sup>60</sup> in a 12-month period exceeds, or is likely to exceed, the R1 million threshold at which registration for VAT is compulsory.<sup>61</sup>

### **(b) Voluntary deregistration (paragraph 9)**

Voluntary deregistration occurs when the owner of a registered micro business prefers to be taxed under the normal tax system and elects to deregister from the turnover tax system. A voluntary deregistration is permissible if the taxpayer –

- submits a written notification to the Commissioner on or before the end of a year of assessment, that is, 28 or 29 February;<sup>62</sup> and
- has been registered as a micro business for at least three years. As from years of assessment commencing on or after 1 January 2016, the three-year, lock-in period will not apply and a micro business will be able to voluntarily deregister at any time.<sup>63</sup>

Deregistration will be effective from the beginning of the following year of assessment. For example, a registered micro business that elects to be deregistered from the turnover

---

<sup>59</sup> Paragraph 10(2).

<sup>60</sup> Section 1(1) of the VAT Act defines "taxable supply" as "any supply of goods or services which is chargeable with tax under the provisions of section 7(1)(a), including tax chargeable at the rate of zero per cent under section 11". For further information in this regard, see the *VAT 404 – Value-Added Tax Guide for Vendors* available on the SARS website.

<sup>61</sup> Section 23(1) of the VAT Act.

<sup>62</sup> Notification on a later date of a particular year of assessment is only permissible if the Commissioner has prescribed a later date by way of notice in the *Government Gazette*.

<sup>63</sup> Section 72 of the Taxation Laws Amendment Act 43 of 2014.



tax system by submitting a notification to the Commissioner on 15 January 2015 will be deregistered with effect from 1 March 2015.

### **3.9.3 Voluntary VAT registration**

The prohibition against micro businesses from registering for VAT was lifted as from 1 March 2012.<sup>64</sup> A micro business may choose to register for VAT if it is in its best interests to do so. Note that for a micro business which is registered for VAT, total receipts for taxable turnover purposes include any VAT amounts received by the micro business. In this regard, the compulsory registration threshold for VAT was revised upwards from a total value of taxable supplies of R300 000 to R1 million. Thus, a person that elects to be registered simultaneously under both tax systems does so on a voluntary basis in order to access the benefits that these systems offer. Under these circumstances, it is worthwhile for the micro business to consider the potential advantages and disadvantages of being registered as a VAT vendor in relation to the particular trade it is involved in.

Generally, it may be advantageous for a person to register voluntarily for VAT if goods or services are supplied mainly to vendors and the customers concerned are themselves VAT vendors and therefore able to deduct the VAT charged by the micro business as input tax.

It will generally not be advantageous for a person to register voluntarily for VAT if –

- most of the supplies are made to final consumers who are not registered for VAT; or
- the main or only supplies made consist of the supply of services and if there are very few taxable supplies on which input tax can be deducted, for example, if the enterprise's main expense is salaries and wages.

A micro business that elects to also register for VAT will have to perform certain duties and take on certain responsibilities. For example, vendors are required to ensure that VAT is levied on taxable supplies made by them, tax invoices must be issued, VAT is deemed to be included in all prices advertised or quoted, returns must be submitted and payments are required to be made to SARS on time. For detailed information on VAT, see the *VAT 404 – Value-Added Tax Guide for Vendors* available on the SARS website.

### **3.9.4 Payment of turnover tax**

#### **(a) Interim payments [paragraphs 11(1) to (4)]**

Registered micro businesses are required to make two interim payments and, if necessary, one final payment on assessment.

A registered micro business must, within six calendar months of the start of the year of assessment make an estimate of its taxable turnover for the full year of assessment, calculate the turnover tax payable on that estimated taxable turnover and pay 50% of such turnover tax to SARS – the first interim payment. This estimate must not be less than the micro business' taxable turnover for the previous year of assessment unless the micro business applies to SARS and SARS, having regard to the circumstances of the case, approves a lower estimate. The first interim payment is due within six months from the beginning of the year of assessment. Since the beginning of a year of assessment for a micro business is 1 March, the interim payment for any micro business is due on or before 31 August of each year. This payment date applies to any micro business that has carried

---

<sup>64</sup> Paragraph 10(4) deleted by section 100(1) of the Taxation Laws Amendment Act 24 of 2011.

on business activities or commences business activities within the first six months of a particular year of assessment.

The second interim payment must be paid on or before the last day of the year of assessment, that is, 28 or 29 February. This payment will also be based on an estimate of the taxable turnover for the year of assessment and a calculation of turnover tax payable on such estimate. The second interim payment is thus the total turnover tax payable on the estimated taxable turnover for the full year of assessment, less the first interim payment previously paid by the micro business.

#### **(b) Interest and penalties [paragraphs 11(3), (5), (6) and (7)]**

Should a micro business fail to pay any turnover tax when it is due and payable to SARS, interest (from 1 September in the case of the first interim payment and from 1 March in the case of the second interim payment) at the prescribed rate is payable on the amount of turnover tax that should have been paid until the earlier of –

- the date on which the shortfall is received by SARS; and
- the last day of the year of assessment (in the case of a first interim payment) or the due date of the assessment for that year of assessment (in the case of a second interim payment).

A penalty will be imposed if an estimate of the taxable turnover for the second interim payment is less than 80% of the actual taxable turnover for a year of assessment.<sup>65</sup> The penalty to be charged will be determined at 20% of the difference between –

- the tax payable on 80% of the taxable turnover; and
- the tax payable on the estimate that was initially calculated.

A penalty will not be imposed if SARS has issued an assessment for a payment due at the end of a year of assessment (second interim payment).<sup>66</sup> The penalty will be waived in full or in part if SARS is satisfied or partly satisfied that an understatement of the estimated payment was not done deliberately or negligently, and that the estimate was seriously made based on the information available.<sup>67</sup>

#### **3.9.5 Payments of other taxes**

A registered micro business that is subject to the turnover tax system remains liable to account for employees' tax, skills development levies and unemployment insurance contributions. However, with effect from 1 March 2014 micro businesses are permitted to adopt the following payment and administrative options in meeting their liability for these taxes. These options have been introduced in order to align with the simplified tax system available to micro businesses.

---

<sup>65</sup> For years of assessment commencing on or after 1 March 2014, such a penalty is deemed to be a percentage-based penalty imposed under Chapter 15 of the TA Act [paragraph 10(6) was amended by section 26(1)(b) of the Tax Administration Laws Amendment Act 21 of 2012].

<sup>66</sup> Paragraph 11(8).

<sup>67</sup> Paragraph 11(7).

Paragraph 11(4A)<sup>68</sup> makes provision for micro businesses to elect to make twice-yearly payments of employees tax, skills development levies and unemployment insurance contributions.<sup>69</sup> Accordingly, amounts withheld for those purposes –

- in the first six months of a year of assessment will be payable within seven days after the end of this period; and
- in the next six months of the year of assessment will be payable within seven days after the end of that period.

An election by a micro business as described above applies to all the above mentioned tax types, that is, the micro business cannot elect to adopt the special dispensation in relation to only one or other of the tax types.<sup>70</sup>

The option to make twice-yearly payments also applies to VAT amounts withheld by a micro business.<sup>71</sup> See the *VAT 404 – Value-Added Tax Guide for Vendors* for details of payment due dates.

### 3.9.6 Record-keeping (paragraph 14)

A registered micro business is required to retain a record of –

- all amounts received during a year of assessment;<sup>72</sup>
- any dividends declared during a year of assessment;
- each asset at the end of a year of assessment with a cost price of more than R10 000; and
- each liability at the end of a year of assessment exceeding R10 000.

A micro business is required to retain these records for a period of five years from the date of submission of the return.<sup>73</sup> The records should not be submitted with the TT03 return, but should be kept and made available for audit purposes if requested.

### 3.9.7 General administrative provisions

Although the turnover tax system has its own set of administrative provisions within the Sixth Schedule, the general administrative provisions relating to, for example, returns, assessments, dispute resolution, refunds and anti-avoidance contained in the TA Act will also apply to registered micro businesses which are subject to the turnover tax system.

---

<sup>68</sup> As amended by the Tax Administration Laws Amendment Act 39 of 2013, effective from tax periods commencing on or after 1 March 2014.

<sup>69</sup> Under paragraph 2(1) of the Fourth Schedule, section 89bis(2), section 6 of the Skills Development Levies Act, 1999 and section 8 of the Unemployment Insurance Contributions Act, 2002 respectively.

<sup>70</sup> Paragraph 11(4B).

<sup>71</sup> Section 27(4)(b) of the VAT Act.

<sup>72</sup> This requirement includes documentation relating to amounts specifically excluded from taxable turnover such as investment income, government grants, accruals and refunds made in favour of the micro business. See **3.6.2**.

<sup>73</sup> Section 29(3) of the TA Act.

### 3.9.8 Transitional provisions (section 48C)

Transitional provisions have been put in place in order to regulate the tax treatment of transactions which are spread over periods in which a person is registered under the two tax systems, that is, a person that was registered for turnover tax, deregistered and is currently registered under the normal tax system.<sup>74</sup>

#### (a) Amounts received by but not accrued to a micro-business

Section 48C(1) clarifies the position that when the receipt of income precedes the accrual and the person was initially registered as a micro business but subsequently deregisters as such. This may occur if, for example, the person received payments in advance for goods or services supplied to customers and such amounts were taxed under the turnover tax system. Accordingly, an amount that –

- was received by a person during a year of assessment when registered as a micro business;
- was included in that person's taxable turnover for the year of assessment; and
- accrues to that person when no longer registered as a micro business,

must not be taken into account when determining the taxable income of that person.

#### (b) Amounts accrued to a micro-business but received under the normal tax system

Section 48C(2) provides for a situation in which the accrual of an amount takes place while a person is registered as a micro business and such amount is received subsequent to the micro business being deregistered. This may occur if, for example, the micro business supplied goods or services on credit and payment is received when the micro business is no longer registered as such. In these circumstances 10%<sup>75</sup> of the amount that accrued to a micro business and –

- was not included in taxable turnover but would have been included had it been received on the date of accrual; and
- is only received after the micro business is no longer registered as a micro business,

must be included in the taxable income of the person in the year of assessment in which it is received.

#### (c) Trading stock held by a micro-business

Any trading stock held and not disposed of by a micro business at the time of deregistration from the turnover tax system is, for the purposes of section 22, to be considered opening stock at the beginning of the year of assessment during which it deregistered.

---

<sup>74</sup> A person that moves from the normal tax system to the turnover tax system may have been taxed on the accrual of an amount of income under normal tax which is subsequently received by the micro business falling under the turnover tax system. The amount will be excluded from taxable turnover under paragraph 7(c).

<sup>75</sup> Previously 20%. Section 48C(2) was amended by section 67 of the Taxation Laws Amendment Act 25 of 2015 to change the 20% to 10% with a deemed effective date of 1 March 2015.

## Annexure A – Quick test to see if a business qualifies for turnover tax

(If the answer to **any one** of the following questions is “**No**”, the business will not qualify for turnover tax for that year of assessment)

### Quick test for individuals and partnerships

QUESTION	YES	NO
1. Will the qualifying turnover of the business be less than or equal to R1 million for the year of assessment?		
2. Does the business have a financial year that ends on the last day of February?		
3. Do you declare that the business has never previously been registered for turnover tax?		
4. Do you declare that income from “professional services” is not expected to exceed 20% of the total income of the business for the year of assessment (see 3.4.2)?		
5. Do you declare that the amounts received from the disposal of assets used mainly for business purposes during the current year of assessment and the preceding two years of assessment is not expected to exceed R1,5 million in total (see 3.4.3)?		
6. Do you declare that the business is not a labour broker without a SARS exemption certificate (see 3.4.6)?		
7. If the business is a partnership, do you declare that all the partners will be individuals (natural persons) throughout the year of assessment?		
8. Do you declare that the owner or any partner does not hold shares or interests in a close corporation, co-operative or company other than the exceptions listed in 3.4.1?		

**Note:** A partner in more than one partnership will not qualify for “turnover tax”. The other partners may still qualify if they are only partners in a single partnership and do not answer “**No**” to any of the questions above.

### Quick test for close corporations, companies and co-operatives

QUESTION	YES	NO
1. Will the qualifying turnover of the business be less than or equal to R1 million for the year of assessment?		
2. Does the business have a year of assessment that ends on the last day of February?		
3. Do you declare that the business has never previously been registered for turnover tax?		
4. Do you declare that income from professional services and investment income is not expected to exceed 20% of the total receipts of the business for the year of assessment (see <b>3.4.2</b> )?		
5. Do you declare that the amounts received from the disposal of assets used mainly for business purposes during the current year of assessment and the preceding two years of assessment is not expected to exceed R1,5 million in total (see <b>3.4.3</b> )?		
6. Do you declare that the business is not a public benefit organisation, a recreational club, an association or a small business funding entity (see <b>3.4.7</b> )?		
7. Do you declare that the business is not a personal service provider (see <b>3.4.6</b> )?		
8. Do you declare that all of the shareholders or members will be individuals throughout the year of assessment?		
9. Do you declare that the shareholders, members and the business do not hold shares or interests in another close corporation, co-operative or company other than the exceptions listed in <b>3.4.1</b> ?		

## **Annexure B – General descriptions of service fields**

Set out below are descriptions of various service fields with reference to the definition of “professional service”<sup>76</sup> in the Sixth Schedule. These descriptions have been formulated taking into account the nature and scope of turnover tax and are not exhaustive and merely serve as a guideline.

### **Accounting**

Accounting involves the measurement, disclosure or provision of assurance about financial information, which helps, amongst others, managers and investors make resource-allocation decisions. Accounting-related functions include financial accounting, cost accounting, management accounting, financial planning and bookkeeping.

### **Actuarial science**

Actuarial science involves a professional knowledge of the disciplines of mathematics, statistics, business, finance, economics and insurance. The work requires applying this knowledge to assess the financial risks posed by life, health, retirement or pension and other contingencies. An actuary ensures the financial viability of insurances designed to protect individuals, groups and businesses against the uncertain risk of future financial loss.

### **Architecture**

Architecture involves the professional skill applied to the conceptual and detailed planning of buildings and related works. It includes the planning and designing of outdoor environments for human use, the developing of standards and codes as well as the management or supervision of construction projects.

### **Auctioneering**

Auctioneering refers to the highly skilled profession of taking bids and selling various items to the highest bidder. Auctioneers specialise in the different types of items they sell, and as such, are very knowledgeable about these items as regards to, amongst others, the market value and history in order to encourage bidding. Areas of specialisation may include art, automobiles, furniture, livestock and real estate.

### **Auditing**

Auditing is the application of professional accounting and auditing knowledge, standards and principles in –

- advising on, supervising or performing work which constitutes the examination of financial records, management reports, management controls, policies and practices of an organisation;
- conducting performance audits; or
- conducting activities relating to the detection of fraud, waste and abuse.

---

<sup>76</sup> The main source of information used to construct the descriptions is the *Standard Classification of Occupations* which can be obtained from Statistics South Africa [www.statssa.gov.za](http://www.statssa.gov.za). This particular compilation classifies persons in accordance with the nature of work in which they are involved.

## **Broadcasting**

Broadcasting concerns the practice of distributing audio and video content to a dispersed audience *via* radio, television or any other digital transmission media. Professional services under this group are normally delivered by production companies, editors, programme directors, reporters (news/weather/sport), sound engineering, radio and camera operators.

## **Consulting**

Consulting is the professional, specialised knowledge and experience applied towards investigating assigned problems or providing advice in a particular area of expertise such as accountancy, management, finances, human resources, marketing, law, medicine, engineering, information technology, commercial arts and the environment.

## **Draftsmanship**

Draftsmanship is the work concerned with portraying engineering and architectural ideas and information through drawings. Its application can be found in the production, construction, aeronautical, architectural, civil, and mechanical as well as electrical engineering industries.

## **Education**

Education is concerned with the delivery of education provided by institutions or private teachers as a full-time education or on a part-time basis and at any level or for any profession. This includes pre-primary, elementary and secondary schools, after-school education; technical colleges, universities, universities of technology, vocational and commercial schools, hospital schools, music, dancing and other art schools, training establishments for models; and driving schools. Also included under this group are persons who impart their expert knowledge through, amongst others, customised workshops, seminars, lectures and web-based courses.

## **Engineering**

Engineering is the professional knowledge and skill in applying technical, scientific and mathematical knowledge to design and implement materials, structures, machines, devices, systems and processes. The broad discipline of engineering encompasses a range of more specialised fields of application and particular areas of technology, for example, civil, chemical, mechanical, electrical, agricultural and industrial.

## **Financial services broking**

Financial services broking is concerned with persons acting as financial intermediaries who help clients in –

- tax services or tax consultancy;
- stock broking;
- financial markets;
- banking; or
- asset portfolio management.



## **Health**

In general, health services are delivered by hospitals, medical centres, doctors' offices, dentistry, medical laboratories, alternative health practitioners, long-term care facilities such as hospices, rehabilitation and fitness centres. In the South African context, a professional service comprises the practice of professional, scientific or technical work and the occupation is registered under either the –

- Health Professions Council of South Africa – includes, amongst others, specialists in several branches of medicine, surgery, dentistry, optometry and occupational therapy;
- South African Nursing Council – includes nurses, midwives, enrolled nurses and nursing assistants;
- South African Pharmacy Council – regulates pharmacists and pharmacies; or
- Allied Health Professions Council of South Africa – comprises professionals who are practitioners of alternate medicine, namely, chiropractic, homeopathy, Chinese medicine and acupuncture, ayurveda, naturopathy, osteopathy, aromatherapy and reflexology.

## **Information technology (IT)**

Information technology concerns the study, design, development, implementation, support or management of computer-based information systems, particularly software applications and computer hardware. Some of the duties performed by IT professionals include data management, networking, engineering computer hardware, database and software design as well as the management and administration of entire systems.

## **Journalism**

Journalism is the profession or practice of conveying news, descriptive material and comment *via* a spectrum of media. These media include newspapers, magazines, radio, television, the internet and, more recently, the cell phone. Depending on the context, the practice of journalism also includes various types of editors, columnists and visual journalists such as photographers, graphic artists and page designers.

## **Law**

The practice of law involves the provision of professional legal advice, drafting of legal documents and representing clients in legal negotiations and lawsuits by lawyers, attorneys or advocates.

Included are services rendered by associate professions such as paralegals, conveyancers and other agents in the accountancy, insurance, real estate and banking and finance industries who carry out technical work relating to the field of law such as the preparation of certificates, deeds, bonds, contracts, wills, notarial acts, patents or copyrights.

## **Management**

Management concerns the provision of advice, guidance or operational assistance to businesses. Management activities comprise planning, organising, staffing, leading or directing and controlling an organisation, project or effort for the purpose of accomplishing a goal. It involves the deployment of and manipulation of human resources, financial resources, technological and natural resources. It also includes management consultancies and project management.

## **Real estate broking**

Real estate broking principally involves the practice of a person acting as an intermediary between persons willing to sell and those willing to purchase real property. A real estate broker may perform, advise on, plan or direct one or more of the following functions:

- Acquisition of real property
- Management of real property
- Administration of real property
- Disposal of real property

## **Research**

Research means any study or investigation, the goal of which is to discover facts, interpret one's findings and develop literature, methods or systems for the advancement of human knowledge.

## **Sport**

Sport includes the service of a professional who is someone who participates in a sport for financial reward and may belong to a professional sports club. It also includes, amongst others, services rendered by sports clubs, coaches and racing operators, for example, tattersalls, bookmakers, racehorse owners or trainers.

## **Surveying**

Surveying includes the determining, planning, positioning and mapping out tracts of land, natural and constructed features, coastlines and land areas. Typical specialised fields in surveying include property, cartography, construction, hydrography, mining, topography, photogrammetry, land development and mapping.

## **Translation**

Translation is the skill and practice of transferring the meaning of a written text or spoken language from one language into another so that the written or verbal communication in a second language would have the same meaning as the written or verbal communication in the first language. It includes services rendered by translators, interpreters and lexicography.

## **Valuation**

Valuation is a highly specialised skill gained by education or training of setting an unbiased value on real or personal property. A valuator or appraiser is contracted to examine, research, consult and report on the worth of a specified property. An appraiser may specialise in, amongst others, commercial as well as residential properties, artwork, horses (livestock) and jewellery.

## **Veterinary science**

Veterinary science concerns the services delivered by a branch of health professionals who deal with the causes, diagnosis and treatment of diseases and injuries of animals.

## Annexure C – Eleventh Schedule government grants exempt from tax

Name of Grant	Department paying grant
Automotive Production and Development Programme	Department of Trade and Industry
Automotive Incentive Scheme <sup>77</sup>	Department of Trade and Industry
Black Business Supplier Development Programme	Department of Trade and Industry
Business Process Services	Department of Trade and Industry
Capital Projects Feasibility Programme	Department of Trade and Industry
Capital Restructuring Grant	Department of Human Settlements
Clothing and Textiles Competitiveness Programme	Department of Trade and Industry
Co-operative Incentive Scheme	Department of Trade and Industry
Critical Infrastructure Programme	Department of Trade and Industry
Eastern Cape Jobs Stimulus Fund	Department of Economic Development, Environmental Affairs and Tourism of the Eastern Cape
Enterprise Investment Programme	Department of Trade and Industry
Equity Fund	Department of Science and Technology
Export Marketing and Investment Assistance	Department of Trade and Industry
Film Production Incentive	Department of Trade and Industry
Food Fortification Grant	Department of Health
Idea Development Fund	Department of Science and Technology
Industrial Development Zone Programme	Department of Trade and Industry
Industry Matching Fund	Department of Science and Technology
Integrated National Electrification Programme Grant: Non-grid electrification service providers	Department of Energy
Integrated National Electrification Programme: Electricity connection to households	Department of Energy
Jobs Fund	National Treasury
Manufacturing Competitiveness Enhancement Programme	Department of Trade and Industry
Sector Specific Assistance Scheme	Department of Trade and Industry

<sup>77</sup> Clause 125(1) of the Taxation Laws Amendment Bill, 2015 proposes a change in the title of the grant to “Automotive Investment Scheme”.

Small, Medium Enterprise Development Programme	Department of Trade and Industry
Small/Medium Manufacturing Development Programme	Department of Trade and Industry
South African Research Chairs Initiative	Department of Science and Technology
Support Programme for Industrial Innovation	Department of Trade and Industry
Taxi Recapitalisation Programme	Department of Transport
Technology Development Fund	Department of Science and Technology
Technology and Human Resources for Industry Programme	Department of Trade and Industry
Transfers to the South African National Taxi Council	Department of Transport
Transfers to the University of Pretoria, University of KwaZulu-Natal and University of Stellenbosch	Department of Transport
Youth Technology Innovation Fund	Department of Science and Technology