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TAX INSIGHTS

Tax saving tip 2: Section 12H Learnership Agreement Tax Allowance available to employers

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One of the allowances included in the Income Tax Act to achieve government's objectives of creating jobs and uplifting employees, is the Section 12H learnership agreement tax allowance. Section 12H provides an additional income tax deduction for employers (over and above the normal remuneration deductions, such as salaries and wages) to employers who have entered into registered learnership agreements with employees.

Qualification criteria

Section 12H applies if, during any year of assessment, a learner:

- **entered into a registered learnership agreement with an employer; or**
- **was party to a registered learnership agreement with an employer and the employee successfully completed the learnership during the year.**

Moreover, the learnership agreement must always be entered into pursuant to the employer's trade, from which income is derived.

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Employers, should note that Section 12H defines a *registered learnership agreement* as a learnership agreement that is registered in accordance with the Skills Development Act (i.e., registered with a Skills Education Training Authority (SETA) in the prescribed form) and entered into between a learner and an employer before 1 April 2022.

Section 12H will *not* apply where a learner who has previously failed to complete a registered learnership agreement, registered for another agreement with the same employer, with the same training and educational content.

Allowance available

The Section 12H allowance comprises both:

- **an annual allowance – i.e., available in respect of each year of assessment in respect of which the learner is party to a registered learnership agreement; and**
- **a completion allowance – a once off allowance available in the year of assessment in respect of which the learner successfully completes the registered learnership agreement and in addition to the annual allowance.**

The following should be noted with regard to the annual and completion allowances:

- **The annual allowance will be apportioned if the registered learnership agreement does not cover the full 12 months during any year of assessment.**
- **Different rules apply in determining the completion allowance for registered learnership agreements spanning periods of less than 24 months, and those which cover a longer period as follows:**
    - **For learnership agreements with a duration of less than 24 months, the applicable completion allowance is claimed in the year of completion.**
    - **For the learnership agreements with a duration greater than 24 months, the completion allowance is calculated as the applicable allowance multiplied by the number of 12 months periods during which the leadership agreement was in place.**

Additionally, the quantum of the allowance differs, depending on whether the learnership agreement is entered into with a learner holding (1) an NQF-level qualification from 1 to 6; or (2) an NQF-level qualification from 7 to 10, and whether or not the learner is disabled.

The allowances (annual and completion) available for the categories discussed above, for learnerships entered into on or after 1 October 2016 but before 1 April 2022, are summarised as follows:

TAX INSIGHTS

Tax saving tip 2: Section 12H Learnership Agreement Tax Allowance available to employers

Learnership entered into				
	Annual allowance		**Completion allowance**	
1-6	**R40 000**	**R60 000**	**R40 000**	**R60 000**
7-10	**R20 000**	**R50 000**	**R20 000**	**R50 000**

To illustrate how section 12 H works, suppose a learner with a NQF level 6, with no disability, enters into a 2 year learnership agreement with the employer on 1 January 2021, and the employer has a 31 December year end:

The following section 12H allowances will be claimed as income tax deductions by the employer:

2021	**Annual Allowance**	**R 40 000**
	Total 2021:	**R 40 000**
2022	**Annual Allowance**	**R 40 000**
	Completion Allowance (R 40 000 x 2 completed 12 month periods)	**R 80 000**
	Total 2022:	**R 120 000**

Proof of completion of learnership agreement

For the Section 12 H allowance to be claimed, SARS requires proof of the successful completion of the learnership, usually in the form of the relevant SETA completion certificate. Many employers have, however, experienced lengthy delays and difficulty in obtaining such SETA confirmations in the year of assessment during which the learnership was completed. SARS has advised that, considering these challenges, any alternative objective evidence can be provided as proof of successful completion.

This includes a statement of results issued by an accredited training provider or an evaluation report by a registered assessor on workplace experience, provided that the employer also provides evidence to SARS that reasonable steps were taken to request confirmation of completion from the SETA.

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Conclusion

Employers are encouraged to enter into learnership agreements with new employees, thereby benefiting from the sizeable additional tax deductions available under Section 12H, while also assisting government in job creation and skills development, which are sorely need in South Africa.

Caveat: This article is intended for general information purposes only and does not constitute tax advice or a tax opinion