

# Tax effects for educational bursaries, scholarships and loans in South Africa

*By Sharon Tayfield*

Nelson Mandela, an ambassador of education in his home country South Africa said: “Education is the most powerful weapon which you can use to change the world”. Tax legislation, therefore, often encourages employers to assist employees with their studies and South Africa is no exception

However employers need to follow the correct procedures to ensure that bursaries or loans granted to employees are done so within the ambit of the legislation to prevent a deemed benefit in kind arising. So, what are the rules and regulations covering bursaries and loans in South Africa?

## **Scholarships or bursaries**

Generally, any bona fide scholarship or bursary granted to enable or assist any person to study at a recognised educational or research institution is exempt from normal tax. The exemption is subject to certain conditions, particularly where the scholarship or bursary is granted by an employer (or an associated institution in relation to that employer), to an employee or to a relative of such employee.

The section of the tax legislation, which affects bursaries, is Section 10(1)(q). The Seventh Schedule

to the Income Tax Act contains various definitions, which are also relevant.

Employees must agree, at the time the bursary or scholarship is granted, to repay the bursary or scholarship if they fail, for the exemption in terms of Section 10 (1) (q) to apply. ▶

## **Study loans**

Loans granted to employees for study purposes are not regarded as a scholarship or bursary, but are treated as low or interest free loans upon which no value is placed.

In terms of paragraph 11(4)(b), there is no value placed on a taxable benefit derived by an employee as a result of the employer granting the employee a low- interest or interest-free loan for the purpose of enabling that employee to further his or her own studies.







## What happens when employees do not meet the requirements of the bursary?

According to SARS, Interpretation Note 66, 2012: “Any scholarship or bursary which is granted subject to repayment due to non-fulfillment of conditions stipulated in a written agreement will be treated as a bona fide scholarship or bursary until such time as the non-compliance provisions of the agreement are invoked. In the year of assessment in which such provisions are invoked, the amount or amounts of the scholarship or bursary will be regarded as a loan and, if relevant, any benefit which an employee may have received by way of an interest-free or low-interest loan will constitute a taxable benefit in terms of paragraph 2(f). The employee will not qualify for the exemption contained in paragraph 11(4) (b), as the loan was not granted to enable the employee to study. An employee will have received a taxable benefit in terms of paragraph 2(h) if he or she is absolved from repaying a loan received from his or her employer to enable him or her to study.”

- So if Employer A gives an employee a loan which stipulates that they must pass the course there would be no tax consequences for the employee at the point of granting the loan.

- If Employer A gives the employee a bursary which has to be repaid if the employee fails the year/course then there would be no tax consequences for the employee at the point of granting the bursary

## Reimbursement of study expenses

If the employer gives the employee a reward or reimburses the employee for a qualification, or for having successfully completed a course of studies, or reimburses the study expenses paid by the employee, this represents taxable remuneration. (This is gross income in terms of paragraph (c) of that definition in section 1).

It is important to note that an agreement must be made before the studies begin, as any reimbursements after completion results in the amounts been included in taxable income.

## What happens where the study loans or bursaries are taken over by a new employer?

It is common practice that where an employee has been granted a bursary, study loan or similar assistance on condition that the employee will render

## ‘What if’ scenarios (depending on the outcomes of the study)

Outcome	Loan	Bursary
<b>Employee passes</b> Employer A <b>writes off</b> the amount	<b>Taxable benefit of the full value</b> -settlement of employee debt	<b>No tax</b> consequences
<b>Employee passes</b> Employer A still gets the <b>employee to repay</b> the amount	<b>No tax</b> consequences	Not normal to <b>repay a bursary</b>
<b>Employee fails</b> Employer A requires <b>employee to repay</b> the amount	<b>No tax</b> consequences	The amount is now regarded as a <b>loan</b> and the <b>interest, if not charged, will be a fringe benefit (loose the exception on the interest)</b>



services to that employer for an agreed period, that the employee will also be required to refund that employer the full amount or a portion of the amount of the bursary if the employee leaves the employment of that employer, before the expiry of the agreed period.

If the new employer takes over the liability then there will be no value placed on the benefit if the employee has undertaken to work for the new employer for at least the unexpired period that had not been worked for the former employer.

## Other forms of study assistance

SARS, Interpretation Note 66, 2012 explains: “Expenditure in connection with in-house or on-the-job training or courses presented by training institutions for or on behalf of employers does not represent a taxable benefit in the hands of the employees of the employer, if the training is job-related and at the employer’s premises. This is in terms of paragraph 10(2)(c), which provides that no value will be placed on the benefit derived by employees on services rendered by the employer to his or her or its employees at their place of work for the better performance of their duties.”

In-house or on-the-job training, research and education need to be distinguished from professional and formal education, which results in the employee receiving a formal qualification. SARS, Interpretation Note 66, 2012 continues: “The employee will, subject to the provisions of section 10(1)(q), be regarded as having received a taxable benefit if, for example, admission to a particular profession or the ability to perform certain specialised duties is dependent on the employee obtaining an appropriate qualification and the employer meets the employee’s costs of obtaining the required qualification.”

It is common practice for courses to be run offsite and generally no fringe benefit tax is charged on the value of that training but this point is not specifically covered in the guidance.

As highlighted at the outset, employers need to ensure that the sequence of events occurs in the correct order and that agreements meet the requirements stipulated in the legislation to avoid employees becoming liable for tax on the study assistance. ■



After graduating with a degree majoring in Taxation, Accounting and Managerial Accounts and Finance, Sharon gained considerable experience in the field of training, tax issues and financial/ICT management, including mergers and acquisitions. Starting her career in the field of education, Sharon progressed to a position within SARS (South African Revenue Services) before moving on to Anglo American Property Services where she climbed the ranks to become Group Financial Director (with ICT and Payroll as part of her management portfolio). She joined Praxima Payroll Systems in 2001 and steered the company through the development of their own software and established them as a provider of payroll services to some of the largest legal practices in South Africa. She moved to Celergo, a global consolidator in 2012, to take up the role of Head of Operations-UK. There she oversaw the right-sizing of operations and refining of payroll processes to improve productivity. She was asked to take on the COO role at Praxima Holdings in 2013 and has assisted the company to extend its footprint into Africa and beyond. She is a registered Tax Practitioner, a member of CIPP and GPA.