

# **PAYE for Resident Employees of Non-Resident Employers**



The fourth schedule to the South African Income Tax Act provides that employers must deduct a withholding tax (PAYE) from the remuneration payable to employees.

This responsibility applies to an employer (natural person or entity) who is resident in South Africa and a representative employer in the case of an employer who is not a resident.

A representative employer in the case of any employer which is not resident in South Africa means an agent of such employer having authority to pay remuneration. The effect has been that if there was no payroll administration in South Africa, there was no requirement to register as an employer.

Draft legislation now provides that the obligation to withhold PAYE will now be on “every employer or representative employer”.

It appears that the intention is that foreign employers of resident employees will be obliged to withhold PAYE from salaries paid. This will require registration as an employer and maintenance of all employee records as is currently required by resident employers.

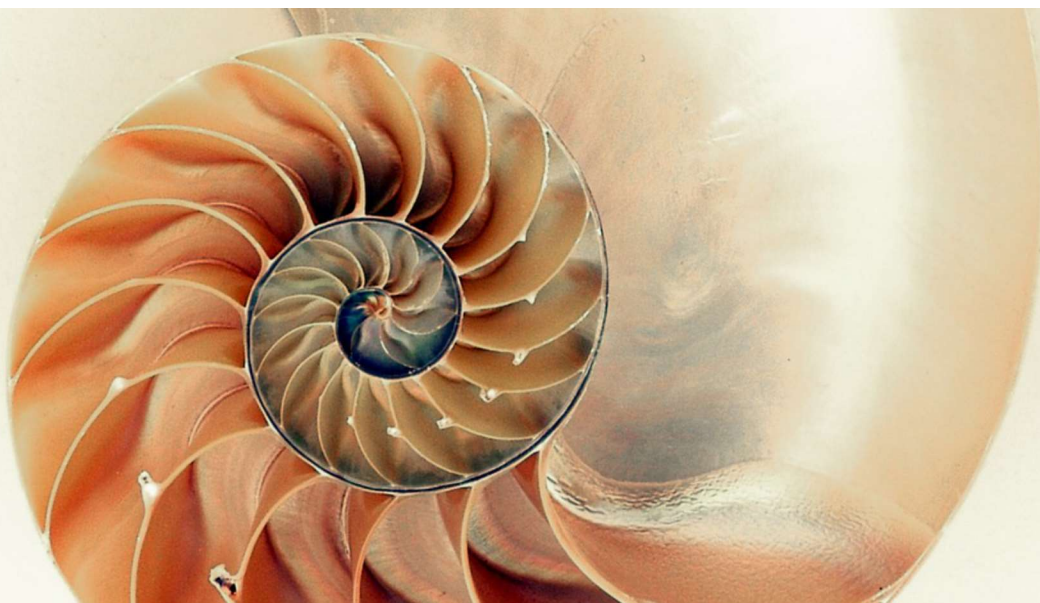
This might relieve those employees from the requirement to register as provisional taxpayers and to pay provisional tax instead of having PAYE deductions from their salaries.

The foreign employer will also be obliged to comply with skills development levies and unemployment insurance contributions as currently applicable to resident employers.

No commencement date for this change has been announced but we anticipate that it is likely to be 1 March 2024.

We recommend that foreign employers who may be required to register as employers in the future should start collating the relevant information and documentation.

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