



GLOBAL
EMPLOYER
GUIDE

SOUTH AFRICA





Basic Country Facts

Full Name

- Republic of South Africa

Capital

- Pretoria (Executive)
- Bloemfontein (Judicial)
- Cape Town (Legislative)

Main Languages

- Zulu
- Xhosa
- Afrikaans
- English

Population

- 57.78 million

Monetary Unit

- South African Rand

Internet Domain

- .za

International Dialing Code

- +27

Currency

- South African Rand



STATUTORY LABOR REQUIREMENTS

Probation Period

- There is no prescribed time limit set for a probation period.
- The probation period must be reasonable, given the circumstances of the job.

Annual Leave

- Every employee is entitled to 21 consecutive days' annual leave on full pay in every leave cycle.
- This equates to 15 working days per annum if the employee works a five-day week, and 18 working days per annum if the employee works a six-day week.

Public Holidays

- New Year's Day (1st January)
- Human Rights Day (21st March)
- Good Friday (10th April)
- Family Day (13th April)
- Freedom Day (27th April)
- International Workers' Day (1st May)
- Youth Day (in South Africa) (16th June)
- National Women's Day (10th August)
- Heritage Day (24th September)
- Day of Reconciliation (16th December)
- Christmas Day (25th December)
- Boxing Day (26th December)

Maternity Leave

- Female employees have a right to four months' maternity leave when they are pregnant.
- By law your employer is not obliged to give you paid maternity leave, but you are entitled to four consecutive months of maternity leave.
- The maternity leave may begin at any time from at least four weeks before the birth of the baby.



Paternity Leave

- An employee, who is a parent of a child is entitled to 10 consecutive days of parental leave

Sick Leave

- Section 22(1) to 22(4) of South Africa's Employment Act stipulates that during each 36-month cycle starting from the first day at work, an employee is entitled to a paid sick leave.
- This should be equivalent to the exact number of days that they usually work in a typical 6-week period.
- Therefore, in case the employee works five days per week, then they are entitled to a 30-day sick leave on full pay.
- On the other hand, if the person works six days per week, then they will have a 36-day sick leave on full pay.
- When distributed across the three years, one may have a 10 to 12-days paid sick leave per year on average.

Work Hours

- The maximum normal working time allowed is 45 hours weekly.
- This is nine hours per day (excluding a lunch break) if the employee works a five-day week, and eight hours per day (excluding a lunch break) if the employee works more than 5 days per week.

Overtime

- Employees may work a maximum of 3 hours' overtime per day - or 10 hours in any one week.
- Overtime remuneration is paid at 1.5x normal rate, and 2x normal rate for Sundays and public holidays

Notice Period

- According to section 37 of the BCEA, an employee may give notice of his resignation, or an employer may give notice of termination of employment, within the following time periods:
 - One week's notice, if the employee has been employed for six months or less.
 - Two weeks' notice, if the employee has been employed for more than six months but less than one year.
 - Four weeks' notice, if an employee has been employed for one year or more.
 - Four weeks' notice, if an employee is either a farmworker or a domestic worker who has been employed for more than six months.
- These are the minimum time periods allowed by law.
- The consent of both parties is required to agree to a shorter notice period.

Severance

- A retrenched employee must at least be paid 1 week's pay for each completed year of ongoing service.
- However, the employer must pay the retrenched employee the amount specified in any policy or his/her employment contract, if that amount is larger.

13th Month

- It Is Not Compulsory for an Employer to pay A 13th salary to Its Employees.
- However, it is customary and is paid as a special bonus at the end of the year.

Income Tax

- Individuals resident in South Africa are subject to tax on their worldwide income.
- Nonresidents are subject to tax on income from a South African source.
- A person cannot be treated as a South African resident for tax purposes if he or she is considered to be a resident of another country under the “tiebreaker” rules of a double tax treaty applicable to the relevant income item.
- The basis of employee taxation is remuneration, which consists of salary, leave pay, allowances, wages, overtime pay, bonuses, gratuities, pensions, superannuation allowances, retirement allowances and stipends, whether in cash or otherwise.
- These payments, together with the cash value of any fringe benefits received, form part of the gross income of an employee. Fringe benefits are taxed in accordance with a schedule of valuations
- Remuneration from employment on extended absences outside South Africa is exempt from tax if the employee is outside South Africa for an aggregate of more than 183 full days in any 12-month period and for at least one continuous period exceeding 60 full days during the same 12-month period.
- Professional fees paid to nonresidents are subject to employees’ tax withholding (if from a South African source), even if the nonresident is an independent contractor.



| Taxable Income | | Tax on lower amount (ZAR) | Rate on excess |
|-----------------|---------------------|---------------------------|----------------|
| Exceeding (ZAR) | Not exceeding (ZAR) | | |
| 0 | 195,850 | 0 | 18 |
| 195,850 | 305,850 | 35,253 | 26 |
| 305,850 | 423,300 | 63,853 | 31 |
| 423,300 | 555,600 | 100,263 | 36 |
| 555,600 | 708,310 | 147,891 | 39 |
| 708,310 | 1,500,000 | 207,448 | 41 |
| 1,500,000 | | 532,041 | 45 |



Social Security

- South Africa does not have a social security system per se.
- However, South Africa does have contributions that are similar to social security contributions, such as Unemployment Insurance Fund contributions and Compensation Commission contributions.
- Limited unemployment insurance and accident or illness benefits are provided.
- The Unemployment Insurance Fund provides benefits to unemployed people and to dependents of deceased contributors.
- Employers and employees each contribute to the fund at a rate of 1% of the employee's remuneration up to a remuneration limit of ZAR14,872 per month.
- Both local and foreign national employees are required to contribute to this fund.
- Employers are required to make contributions to the Compensation Fund, which was created under the Compensation for Injuries and Diseases Act to insure employees against industrial accidents or illnesses that result in death or disability.
- The Compensation Commissioner determines the amount of the contributions after the employer reports the annual total remuneration of employees.
- Contributions to the Compensation Fund are payable on annual remuneration of up to ZAR458,520 for the period of 1 March 2019 through 29 February 2020.

| Social Security Contributions | | |
|-------------------------------|---|----------|
| Contribution | Employer | Employee |
| Unemployment Insurance Fund | 15 | 1 |
| Compensation Fund | Contributions to the Compensation Fund are payable on annual remuneration of up to ZAR458,520 | |



Deductible Expenses

Employment Expenses

- Certain limited expenses may be deducted by employees from their employment income.
- Such expenses include business-related travel, automobile, and entertainment expenses, with the amount that is deductible by an employee also being limited to the amount of the relevant allowance that is granted to the employee by their employer.
- A capital depreciation deduction is also available for allowance assets used in the course of employment.
- Legal fees incurred in respect of employment income are also deductible.

Personal deductions

Charitable contributions

- Donations to certain approved public benefit organizations are allowed as deductions, up to a maximum of 10% of taxable income.

Medical Expenses

- Medical scheme contributions for taxpayers and their dependents (subject to certain maximum limits) convert to a specified monetary amount tax rebate. This rebate can be set-off against the person's tax liability
- The conversion rate for persons over the age of 65 and persons with a disability is higher.
- The contributions in excess of the specified credit amount as well as any other medical expenses are converted to medical tax rebates at a specified rate.





- Persons over the age of 65 and persons with a disability are subject to a higher conversion rate and are also not subject to a further threshold for the excess, which applies to persons under the age of 65 who have no disability.

Income insurance policy

- Premiums paid on a loss of income insurance policy as a result of death, disablement, severe illness, or unemployment are not allowed as a deduction.
- However, a corresponding exemption results in none of the proceeds being taxable.

Retirement Funds

- Contributions to a pension, provident, or retirement annuity fund are deductible (subject to certain maximum limits), provided that such funds are registered in South Africa.
- The harmonization of the tax treatment of payments to South African retirement funds to ensure consistent treatment of the contributions, irrespective of the type of retirement vehicle that the person is a member of, is effective from 1 March 2016

Business Deductions

- If the taxpayer is carrying on a business in their individual capacity or in partnership, the deduction of business expenditure or losses is available to them on the same basis as to companies.
- Where the deductions and allowances permissible under the Income Tax Act exceed income, an assessed loss results which may be carried forward for set-off against income earned in future years.

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Immigration

- Work visas fall into the following four categories:
 - Critical skills work visas
 - General work visas
 - Intracompany transfer work visas
 - Corporate work visas

Critical skills work visas

- Subject to any prescribed requirements, a critical skills work visa may be issued to individuals possessing such skills or qualifications determined to be critical for South Africa as per a notice in the Government Gazette.
- A critical skills work visa is issued for a period not exceeding five years.

General work visas

- General work visas are issued to individuals who do not fall in a critical skills category.
- The South African employer needs to prove through advertisements and interviews that a suitably skilled or experienced South African citizen or permanent resident could not be found to fill the position offered.
- The applicant's qualifications need to be certified by the South African Qualifications Authority.
- It is also required that the Department of Labor issue a certificate confirming the following:
 - Despite a diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant.

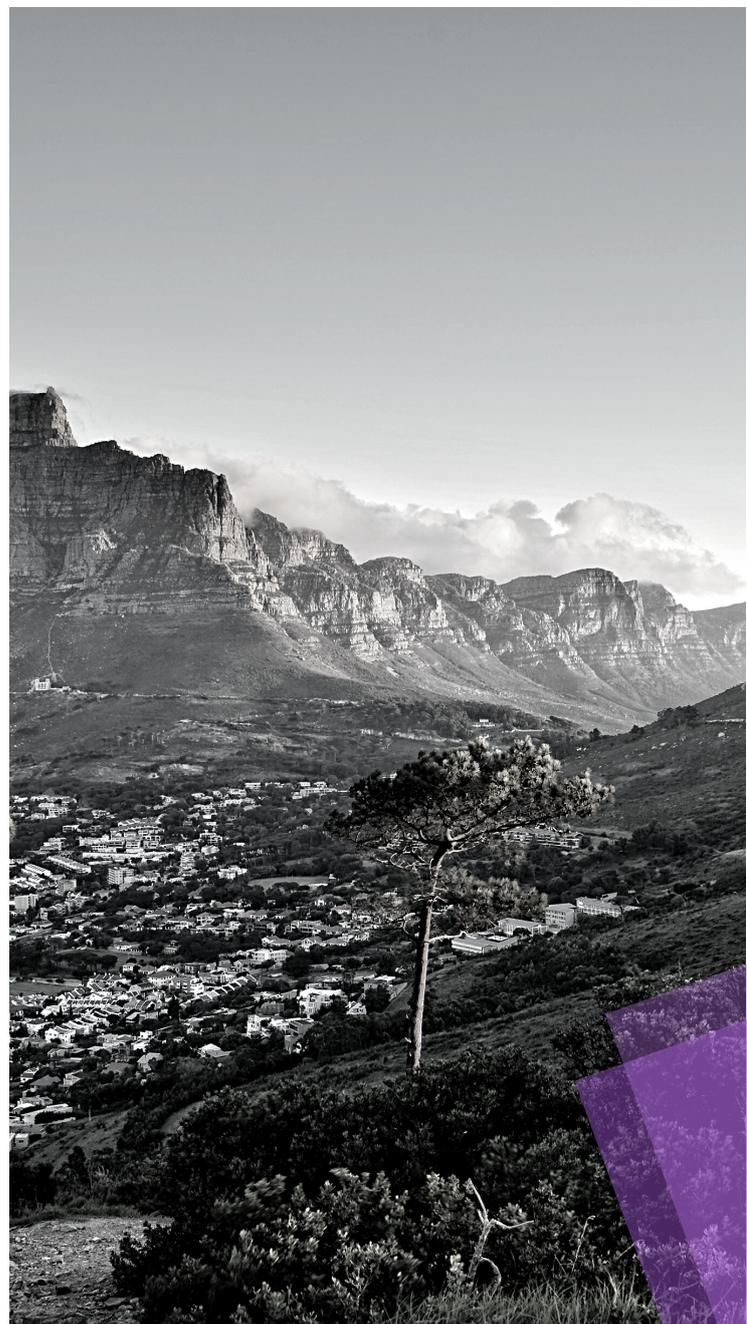
- The applicant has qualifications or proven skills and experience in line with the job offer.
- The salary and benefits of the applicant are not inferior to the average salary and benefits of citizens or permanent residents occupying similar positions in South Africa.
- The employment contract stipulating the conditions of employment that is signed by both the employer and the applicant is in line with the labor standards in South Africa and is conditioned on the general work visa being approved.
- Registration with the relevant professional body is required.
- A general work visa is issued for a period not exceeding five years.

Intracompany transfer work visas

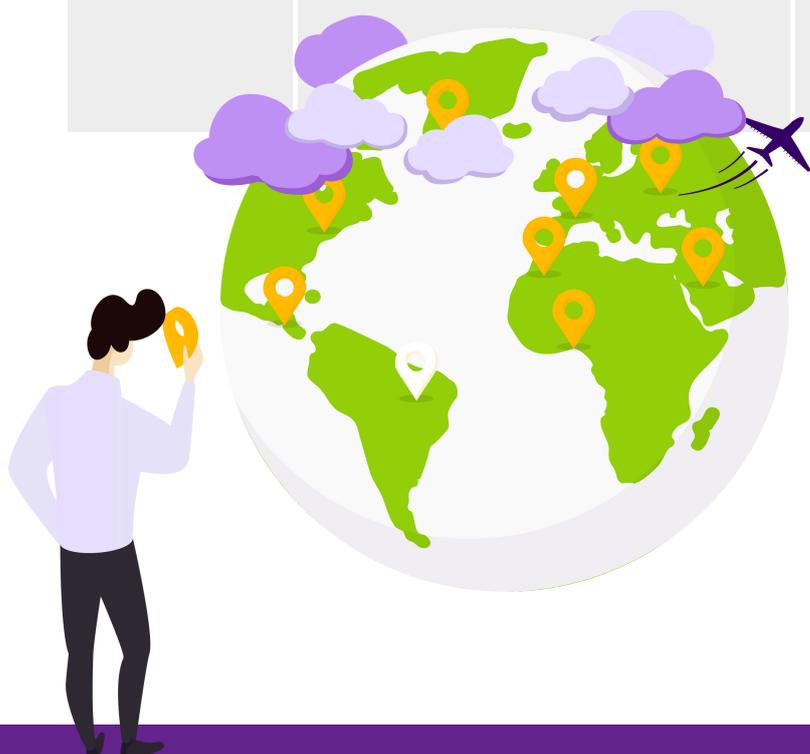
- Intracompany transfer work visas are issued if an employee is seconded from his or her place of employment abroad to an affiliated company or branch in South Africa for a period of up to four years only and if the foreigner's employment contract with the company abroad is valid for a period of not less than six months before transfer.
- These types of visas are nonrenewable and may be issued for a period of four years.
- The intent of this visa category is that the expatriate transfers his or her skills to South African employees and leave South Africa at the end of the four-year secondment.
- A plan must be developed for the transfer of skills to a South African citizen or permanent resident.
- The employer's skills transfer plan must accompany the application.

Corporate work visas

- Corporate work visas may be issued to a corporate applicant to employ foreigners to conduct work for the applicant in South Africa.
- No corporate visa may be issued or renewed with respect to any business undertaking that is listed as “undesirable” by the Minister of Home Affairs.
- The corporate work visa application requires a certificate from the Department of Labor confirming the following:
 - Despite a diligent search, the prospective employer has been unable to find a suitable citizen or permanent resident with qualifications or skills and experience equivalent to those of the applicant.
 - The job description and proposed remuneration for each foreigner.
 - The salary and benefits of any foreigner employed by the corporate applicant is not inferior to the average salary and benefits of citizens or permanent residents occupying similar positions in South Africa.
- An applicant for a corporate visa must provide proof that at least 60% of the total staff employed in the operations of the business is citizens or permanent residents employed permanently in various positions.
- This proof is also required during the duration of the visa.
- To qualify, the corporate applicant must conduct business in certain sectors, as published in the Government Gazette.
- The immigration authorities determine, in consultation with prescribed departments, the maximum number of foreigners to be employed under a corporate visa.
- The corporate applicant must undertake that it will take prescribed measures to ensure that foreign employees comply with the provisions of immigration legislation and the conditions of the corporate visa.
- In certain circumstances, the corporate applicant may be required to post financial guarantees to defray deportation or other costs in the event that the corporate visa is withdrawn.



| Type of Visa | Documentation | Validity | Eligibility |
|-----------------------------------|---|---|--|
| Critical skills work visas | <ul style="list-style-type: none"> • Passport • A medical report not older than 6 months • A radiological report not older than 6 months • Marriage certificate • Police clearance certificate issued by the police or security authority in each country where the relevant applicant resided for 12 months or longer after attaining the age of 18 years • A yellow fever vaccination certificate • Proof that the applicant falls within the critical skills category • Proof of evaluation of the foreign qualification by SAQA • Proof of payment of the applicable fee | <ul style="list-style-type: none"> • Maximum 5 years | <ul style="list-style-type: none"> • Subject to any prescribed requirements, a critical skills work visas may be issued to individuals possessing such skills or qualifications determined to be critical for South Africa as per a notice in the Government Gazette. |
| General work visas | <ul style="list-style-type: none"> • A duly completed application form • A valid Passport • The South African Qualifications Authority (SAQA) application • Police Clearance Certificates (for all applicants older than 18 years of age) • Contract of employment • Proof of medical wellbeing • CV | <ul style="list-style-type: none"> • Maximum 5 years | <ul style="list-style-type: none"> • General work visas are issued to individuals who do not fall in a critical skills category. • The South African employer needs to prove through advertisements and interviews that a suitably skilled or experienced South African citizen or permanent resident could not be found to fill the position offered. |



| Type of Visa | Documentation | Validity | Eligibility |
|--|--|---|--|
| Intra-company transfer work visas | <ul style="list-style-type: none"> • A completed temporary visa application form • A valid passport • Proof of financial means to cover living expenses until you receive a salary in the form of: <ul style="list-style-type: none"> ◦ bank statement; ◦ cash available, or travelers' cheques. • A medical and radiological report. • A vaccination certificate, if required. • A police clearance • A letter from the employer/company abroad confirming that the you will be transferred to a branch/affiliate company in South Africa • A letter from the South African company where you will work, confirming the transfer from the parent/affiliated company abroad • An employment contract with the company abroad | <ul style="list-style-type: none"> • 4 years | <ul style="list-style-type: none"> • Intracompany transfer work visas are issued if an employee is seconded from his or her place of employment abroad to an affiliated company or branch in South Africa for a period of up to four years only and if the foreigner's employment contract with the company abroad is valid for a period of not less than six months before transfer. |
| Corporate work visas | <ul style="list-style-type: none"> • Duly completed application forms signed by the applicants • A certificate by the Department of Labor • Proof of registration of the corporation with the: <ul style="list-style-type: none"> ◦ The South African Revenue Service ◦ Unemployment Insurance Fund ◦ Compensation Fund for Occupational Injuries ◦ Companies and Intellectual Properties Commission, where legally required • Applicants must have valid passports | <ul style="list-style-type: none"> • Maximum 3 years | <ul style="list-style-type: none"> • Corporate work visas may be issued to a corporate applicant to employ foreigners to conduct work for the applicant in South Africa. • An applicant for a corporate visa must provide proof that at least 60% of the total staff employed in the operations of the business is citizens or permanent residents employed permanently in various positions. • To qualify, the corporate applicant must conduct business in certain sectors, as published in the Government Gazette. |



Value Added Tax (VAT)

- The standard rate of VAT is 15%.
- Exports, certain foodstuffs and other supplies are zero-rated, and certain supplies are exempt (mainly certain financial services, residential accommodation and public transport).

| VAT | |
|---------------|-----|
| Standard Rate | 15% |
| Zero Rate | 0% |

Withholding Tax

Dividends

- Dividends paid by one resident company to another resident company generally are exempt from dividends tax
- Dividends paid to individuals, trusts, and foreign persons are subject to a 20% withholding tax (subject to the provisions of an applicable tax treaty)
- Dividends paid by a headquarter company are exempt from withholding tax

Interest

- Interest paid to or for the benefit of a nonresident is subject to a 15% withholding tax (subject to the provisions of an applicable tax treaty), to the extent that such interest accrues from a source within South Africa
- Interest paid by a headquarter company is exempt from withholding tax in certain circumstances

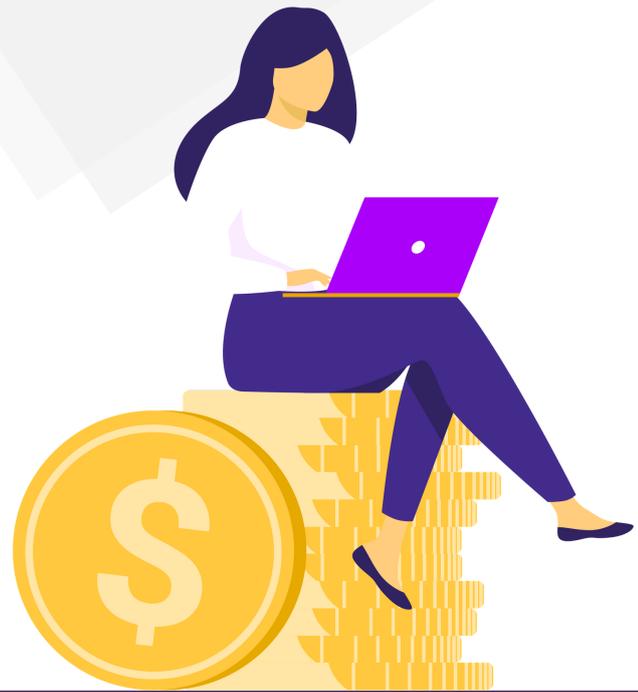
Royalties

- The rate of the withholding tax on royalties paid to a nonresident is 15%
- The rate may be reduced under a tax treaty
- Royalties paid by a headquarter company are exempt from withholding tax in certain circumstances

Fees for technical services

- There is no withholding tax on fees for technical services

| WHT | |
|------------------------|-----|
| Dividends | 20% |
| Interest | 15% |
| Royalties | 15% |
| Technical Service Fees | 0% |



Termination

- According to section 37 of the BCEA, an employee may give notice of his resignation, or an employer may give notice of termination of employment, within the following time periods:
 - One week's notice, if the employee has been employed for six months or less.
 - Two weeks' notice, if the employee has been employed for more than six months but less than one year.
 - Four weeks' notice, if an employee has been employed for one year or more.
 - Four weeks' notice, if an employee is either a farmworker or a domestic worker who has been employed for more than six months.
- These are the minimum time periods allowed by law.
- The consent of both parties is required to agree to a shorter notice period.
- A retrenched employee must at least be paid 1 week's pay for each completed year of ongoing service.
- However, the employer must pay the retrenched employee the amount specified in any policy or his/her employment contract, if that amount is larger.

Statutory Benefits

- These are mandatory benefits as postulated by law
- These include annual leave, public holidays, sick leave, maternity leave, paternity leave, overtime pay, notice period, and severance pay
- Statutory benefits also include social security benefits

Statutory Benefits

Annual Leave

Public holidays

Maternity leave

Paternity leave

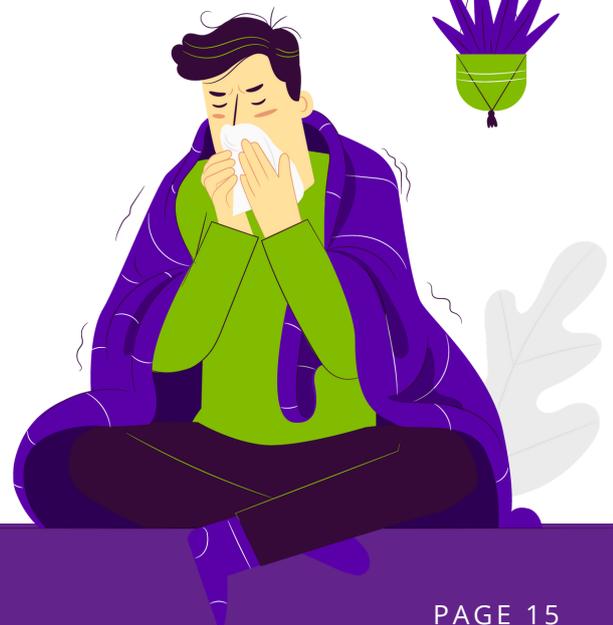
Sick pay

Overtime Pay

Notice period

Severance pay

Social security benefits



Payments and Invoicing

- The year of assessment in South Africa is from 1 March to 28 (or 29) February.
 - Nonresidents are subject to the same requirements for filing tax returns as residents.
 - If an individual (resident or nonresident) earns less than ZAR500,000 during a tax year, he or she is not required to file a tax return (subject to certain conditions).
 - Under the Pay-As-You-Earn (PAYE) system, resident employers or agents for nonresident employers must deduct tax monthly from the remuneration of their employees and must pay these amounts to the South African Revenue Service (SARS).
 - If a nonresident employer does not have a place of business in South Africa or an agent who is authorized to pay remuneration, no PAYE liability is likely to arise.
 - However, the foreign employer effectively has an obligation to pay the statutory contributions described above.
 - Annual tax returns must be submitted to the Commissioner for SARS within the period specified in the annual "Notice to Furnish Returns" (this deadline is confirmed annually by the SARS).
 - Persons deriving income, excluding exempt income, of ZAR30,000 or more a year from sources other than remuneration or having taxable income in excess of the tax threshold are considered provisional taxpayers and are required to make provisional tax payments each year on 31 August (first payment) and in the following year on 28 February (second payment) and 30 September (third payment).
- The second provisional tax estimate must be at least 80% of the taxpayer's actual income (90% if less than ZAR1 million) for the year to avoid penalties.
 - The third payment must bring the total amount paid to 100% of actual liability, to avoid an interest penalty

Ease of Doing Business

- The ease of doing business index is an index created by Simeon Djankov, an economist at the Central and Eastern Europe sector of the World Bank Group.
- Higher rankings (a low numerical value) indicate better, usually simpler, regulations for businesses and stronger protections of property rights.
- According to the World Bank Belgium ranked 84th in the World in 2019 in terms of ease of doing business.



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