

Is the tax deduction for home expenses fair in its application in light of Covid-19?

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The Covid-19 national lockdown has resulted in more employees having to work from home. Due to cost-saving factors and the uncertainties around the pandemic, employers have now begun looking at the option of having their employees work from home indefinitely.



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One of the disadvantages of working from home has been that employees have seen an increase in their electricity, water, telephone and data bills, over and above possible salary cuts due to the economic effects of the pandemic. On the more positive note, however, employees are able to claim tax deductions for home office expenses, provided they meet the requirements of section 11(a) read with 23(b) and (m) of the Income Tax Act 58 of 1962 (the Act).

Typically, home office expenditure will include the type of expenses referred to in section 23(b) of the Act, namely: rent of premises, interest on bond, cost of repairs to a premises and other expenses in connection with the premises. Other home office expenditure may relate to phone costs, stationery, rates and taxes, cleaning fees, office equipment and wear-and-tear.

In terms of the Act, an employee can claim a tax deduction for home expenses if they work from home for at least six months of a tax year. To qualify for the tax deduction, an employee's home office must be specifically equipped for work. In addition, the home office must "regularly and exclusively used" for such purposes.

This means that an employee must have a dedicated work area and employees who share a work area with family members, work from their dining room or have meetings with clients from their living room, will not qualify for the tax deduction.

The reality is, however, that not all South African employees have the means to create a designated home office space. Further, as a result of Covid-19, most employees are in a situation where they are forced to work from home, without being reimbursed by employers for the additional costs incurred.

The question that arises is whether the provisions of the Act are fair and equal in light of the South African Constitution. If, for example, specific relief was to be provided to employees working from home who do not have a designated office space, the relief could be seen as an additional Covid-19 relief measure, whilst also promoting the principles of fairness and equality.

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