



**LUMENROCK**

**SOUTH COAST (PTY) LTD**

**THRIVE SA**

**Presentation**

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## Burden of Proof

The burden of proof will always remain the taxpayers responsibility. At all times get any professional advice, recommendations and/or motivating circumstances in writing. This will assist to motivate any claims relating to the disability. E.g. Relocations Costs – Child is experiencing additional stress due to the extended travelling requirements to and from school.

It is advisable to have all the relevant documentation and information available when submitting the return, if SARS requests the information relating to any claims, this will need to be provided to them within a specific timeframe, if not SARS will disallow the claim. In most cases this is 30 days.

### 1. Medical Aid Contributions

If a Taxpayer, or any dependant (in terms of the Act) is disabled, they can then claim 100% of their Medical Aid Contributions plus 100% of Additional Medical Expenses (as discussed above). If no disability can be proved, then only the Contributions (capped at a maximum) and a portion of “qualifying medical expense” can be claimed.

Note: a 100% claim does not necessary mean you get all of your expenditure back, this is subject to the individual taxpayers tax rate.

Income – R1 000 000	100% Claim – R100 000	Tax Rate 41%	Saving – R41 000
Income – R450 000	100% Claim – R100 000	Tax Rate 31%	Saving – R33 840

### 2. Travelling Expenses

Simple examples here are school bus charges, flights and accommodation for specialised treatments, etc. These can be quantified and proved relatively easily.

“Travel Claim” – This would be the percentage of entire vehicle expenses, based on the mileage travelled, this must be relating to the disability. In order to prove this a Logbook would be required by SARS, reflecting all travel. Split into 3 categories: Business (if relevant), Private & Medical Related. The medical related travel would include things like, Doctor & Therapy visits, Support Group meetings, Related Conferences, etc.

A logbook must include the following information:

- Date
- Opening & Closing Mileage
- Total Mileage
- Description/details of trip
- Split between Business/Private and Medical related.

A logbook can be in an electronic or written format, as long as it meets the SARS criteria.

### 3. Conference (National and International)

The expenditure for attending related conferences can be claimed. This would be subject to meeting specific criteria. Proof would need to be presented of the nature of the conference, length and availability of the conference. E.g. SARS will not allow the claim if the conference is available in your local area too, or you stay for seven days yet the conference is only three days, etc.

I would suggest ensure that the itinerary is kept, detailing the conference, specific topics and speakers, etc.

#### **4. Development Aids & Tools**

Development Aids and Tools such as books, computers, iPads, etc can be claimed. It is relatively simple to prove what a book relates to, and how this could assist in the development of both the child and family.

Things like computers, iPads, etc. are going to be slightly more difficult to prove that they are directly related to the child's disability. Once again I would suggest getting a professional's recommendation in writing to motivate the purchase, and keeping this on record. Even better would to have more than one professional opinion on the matter in writing.

#### **5. Home Improvements**

This is a difficult one, and really need to be researched, and documented extremely well, before a decision to renovate is made or claimed. The mere nature of this expense (and potential amount) would obviously be an area that SARS would investigate. This would also be an area that could be exploited, thus the need to have all your paperwork in order.

SARS might also only allow a portion of the improvements, depending on the value and evidence that is presented to SARS.

NOTE: If this property is then sold, and the claims have previously been allowed in terms of improvements, this would need to be factored into the Capital Gain Calculation. My suggestion would then to leave the improvements out of the base cost calculation. This would result is a higher Capital Gain.

#### **6. Schools**

Remedial and specifically equipped schools are simple to quantify and provide the necessary supporting documentation for your claim. By virtue of the child attending these schools gives the taxpayer grounds for including a claim on their tax return (even if this is the only inclusion).

If you choose to send your child to a mainstream school (for whatever reason), this once again complicates matters. You would need to prove the reasoning behind utilising a mainstream school. Additional expenses might need to be incurred to equip the child for the mainstream environment, it might be easier to quantify and prove to SARS.

If no specialised school is within a reasonable travelling distance, and a child is forced to go to a mainstream school, or be home schooled. Then a claim is feasible, in addition to any extra expenses (extra lessons, translators, etc)

#### **7. Definition of a Child**

In terms of the Act:

- Not over 18 years
- Not over 21, and is dependent on maintenance and not liable to pay normal tax
- Not over 26, and is dependent on maintenance and not liable to pay normal tax and is a full time student
- Is incapacitated by disability from maintaining himself/herself, and is dependent on maintenance and not liable to pay normal tax

## **8. Supporting Documentation**

In order to claim for a disability, SARS requires the ITR-DD "Confirmation of Diagnosis of Disability" form to be completed. This can be downloaded from the [www.sars.gov.za](http://www.sars.gov.za) website.

- Part A must be completed by the person with the disability or their parent, guardian or curator.
- Part B & C must be completed by a registered medical practitioner specially trained to deal with the applicable disability.

All correspondence, recommendation letters, motivation letters and research must be retained to substantiate any claim, and continually updated, amended and added too.

Invoice, receipts and proof of payments for all related expenses must be retained, with the Medical Aid Tax Certificate.

ITR-DD should be completed at least one every three years.

## **9. Maximum Claim**

There is no limit to the claim regarding "Additional Medical Expenses", however the claim will be limited by the amount of tax actually paid. If you do not pay any tax, you will not be able to claim anything back.

This will also be limited to the proof that can be quantified, and be approved by SARS for any claim. Once again, the more correspondence relating to expenditure that can be provided, the more likely that the claim will not be adjusted or queried.

## **10. Additional Points**

When dealing with this nature of claims, each case would be unique and determined by the specific circumstances.

- Insurance on Hearing Aid/Cochlear Implant/Specialised Equipment.
- Alterations to a Motor Vehicle
- Changing of Motor Vehicles to a more suitable model

All documents relating to a Tax Assessment must be retained for five years from the date of the assessment, thus if your 2010 assessment was only finalise in 2015, the documents must be retained until 2020.

An Objection must be lodged within 30 days of the assessment. If it is submitted late, it is your responsibility to provide SARS with a valid reason for this being late. SARS can disallow the objection based on the fact that this was submitted late.

# Income Tax Act, 1962 (Act 58 of 1962)

## 6B. Additional medical expenses tax credit

1) For the purposes of this section—

'child' means a person's child or child of his or her spouse who was alive during any portion of the year of assessment, and who on the last day of the year of assessment—

- a) was unmarried and was not or would not, had he or she lived, have been—
  - i) over the age of 18 years;  
over the age of 21 years and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of such year;
  - ii) over the age of 26 years and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of such year
  - iii) and was a full-time student at an educational institution of a public character; or  
in the case of any other child, was incapacitated by a disability from maintaining himself or herself and was wholly or partially dependent for maintenance upon the person and has not become liable for the payment of normal tax in respect of that year;
- b) not become liable for the payment of normal tax in respect of that year;

'dependant' means—

- a) a person's spouse;
- b) a person's child and the child of his or her spouse;  
any other member of a person's family in respect of whom he or she is liable for family care and support; and
- c) any other person who is recognised as a dependant of that person in terms of the rules of a medical scheme or fund contemplated in [section 6A\(2\)\(a\)\(i\) or \(ii\)](#),  
at the time the fees contemplated in section 6A(2)(a) were paid, the amounts contemplated in paragraph (a) and (b) of the definition of 'qualifying medical expenses' were paid or the expenditure contemplated in paragraph (c) of that definition was incurred and paid;

'disability' means a moderate to severe limitation of any person's ability to function or perform daily activities as a result of a physical, sensory, communication, intellectual or mental impairment, if the limitation—

- a) has lasted or has a prognosis of lasting more than a year; and  
is diagnosed by a duly registered medical practitioner in accordance with criteria prescribed by the
- b) Commissioner;

'qualifying medical expenses' means—

- a) any amounts (other than amounts recoverable by a person or his or her spouse) which were paid by the person during the year of assessment to any duly registered—  
medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopaedist for professional services rendered or medicines supplied to the person or any dependant of the person;  
nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of the services of such a nurse, midwife or nursing assistant) in respect of the illness or confinement of the person or any dependant of the person; or  
pharmacist for medicines supplied on the prescription of any person mentioned in subparagraph (i)
- iii) for the person or any dependant of the person;
- b) any amounts (other than amounts recoverable by a person or his or her spouse) which were paid by the person during the year of assessment in respect of expenditure incurred outside the Republic on services rendered or medicines supplied to the person or any dependant of the person, and which are substantially similar to the services and medicines contemplated in paragraph (a); and  
any expenditure that is prescribed by the Commissioner (other than expenditure recoverable by a person or his or her spouse) necessarily incurred and paid by the person during the year of assessment in consequence of any physical impairment or disability suffered by the person or any dependant of the person.
- c) any expenditure that is prescribed by the Commissioner (other than expenditure recoverable by a person or his or her spouse) necessarily incurred and paid by the person during the year of assessment in consequence of any physical impairment or disability suffered by the person or any dependant of the person.