

# Education sector – Tax

VAT | PAYE | CIT | Technology

May 2026

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# 01

Summary of Key Issues

# Introduction



# Introduction



## Summary of Key Issues

South African universities operate under a complex financial model, relying on a mix of government funding, student fees, and commercial activities. The operating environment results in a complex regulatory environment creating an administrative burden for institutions.



1. Summary of Key Issues

2. indirect Taxes

3. Employees' Tax & Global Mobility

4. International Tax

5. Corporate Income Tax

# 1. The VAT Conundrum

Educational services are classified as an "exempt supply" under the VAT Act. While this exemption was originally intended to reduce the financial burden on government-funded institutions, it has created a complex operating environment. VAT implications of research activities, foreign donor funded projects, the determination of the appropriate apportionment ratio requires a skilled VAT expert.



Supplies made by Educational Institutions



VAT on Imported Services



VAT Apportionment



Research Activities



Foreign Donor Funded Projects



Change in use adjustment



## 2. The Cost of Diversification

To supplement government grants and tuition, universities have increasingly expanded into taxable activities like accommodation rental and research.

Many have also created separate, non-exempt vehicles for income generation. This mix of exempt and taxable activities forces universities to perform complex VAT apportionment calculations to claim input tax credits.

# 02

Indirect Taxes

# Key Takeaways

1. Summary of Key Issues

2. Indirect Taxes

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4. International Tax

5. Corporate Income Tax

# Key Tax Risks – VAT



## 1. Classification of Supplies

Universities provide a mix of services that must be correctly classified for VAT:

- Educational services are exempt. However, expanded revenue streams (e.g., commercial activities, certain partnerships) have created grey areas. Supplies that fall outside the exemption are subject to VAT at 15%, while some supplies may qualify for zero rating.
- Correct classification is essential to avoid under or over charging VAT.



## 2. VAT on Imported Services

- Universities import services (e.g., foreign research collaborations, software, consultancy) used for both taxable and exempt activities.
- VAT must be self accounted on the portion attributable to exempt activities.
- Robust procedures are needed to ensure ongoing compliance with the imported services rules.



## 3. VAT Apportionment

- Because universities make both exempt and taxable supplies, they must apportion VAT incurred on mixed use goods and services (those not exclusively attributable to either category).
- SARS issued a Binding Class Ruling (VCR) for Universities South Africa members. The ruling caps the recovery rate on overhead expenses at 12.5%.
- The apportionment calculation is complex and must be performed annually. It requires:
  - Ring fencing expenses into categories (e.g., research, exempt supplies, mixed supplies, taxable supplies).
  - Accurate ERP system configuration to ensure expenses are captured under the correct cost centres.



## 4. Research Activities

- Universities increasingly conduct research and consulting for private entities, creating additional VAT complexity.
- The VCR distinguishes between applied research, basic research, and research grants, each with different input tax recovery rates.
- Without proper analysis and classification in dedicated cost centres, universities risk:
  - Incorrect VAT treatment of research income.
  - Improper recovery of VAT on research related expenses.



## 5. Change in Use Adjustments

- Where capital goods were originally used for mixed supplies and their use changes, a year-end adjustment is required under the VCR.
- The adjustment is triggered if the apportionment ratio changes by more than 10% from the prior year. The adjustment applies to the VAT previously claimed on the affected capital goods.
- Institutions must implement controls to identify assets subject to change in use; failure to do so creates exposure.



## 6. Foreign Donor Funded Projects (FDFPs)

For VAT purposes, each FDFP is treated as a separate enterprise. It must be registered as a branch of the university's main VAT registration.

Each project must:

- File its own VAT returns.
- Maintain separate financial records.
- Clear processes are required to identify FDFPs and ring fence their activities to ensure compliance.



# 03

Employees' Tax & Global Mobility

# Key Risks and Recommendations

1. Summary of Key Issues

2. Indirect Taxes

3. Employees' Tax & Global Mobility

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5. Corporate Income Tax

# 1. Remuneration Structure and Employee Benefits

## Risk

Universities often provide non-cash benefits (accommodation, study assistance, etc.) to staff. If these benefits are not correctly identified and taxed as fringe benefits under the Fourth Schedule to the Income Tax Act, employees' tax may be under withheld, leading to penalties and interest.

## What we recommend

Conduct a regular review of all employee benefits to ensure each is correctly classified and PAYE withheld.

Implement clear internal processes to capture and tax fringe benefits at source.

# 2. Third Party Service Providers and Contractors

## Risk

Guest lecturers and non-resident contractors are often treated as independent contractors, yet the Law deems non resident independent contractors as "employees" for PAYE purposes. Misclassification can result in failure to withhold PAYE, exposing the university to penalties and interest.

## What we recommend

Establish a formal classification process for all third party service providers, especially non resident contractors.

Withhold PAYE where required, and document the basis of classification to support compliance.

### 3. Retirement Benefits, Other Benefits and Allowances

#### Risk

- Retirement lump sums must be paid in accordance with a SARS tax directive; failure to do so can lead to incorrect taxation.
- Relocation and other allowances may be incorrectly treated as non taxable without the required proof of actual expenditure under section 10(1)(nB) of the Income Tax Act , resulting in underpayment of PAYE.

#### What we recommend

Always obtain and adhere to SARS directives before paying retirement benefits.

Apply strict controls to ensure that allowances are only paid tax free when all legal requirements are met.

### 4. Tax Directives

#### Risk

Incorrectly including non directive amounts (e.g., leave pay, notice pay) in lump sum directives or failing to obtain directives where required leads to misapplication of tax tables, under withholding of PAYE, SDL, and UIF, and consequent penalties.

#### What we recommend

Maintain a robust process for obtaining and applying SARS tax directives.

Ensure payroll systems clearly distinguish between directive driven payments and ordinary remuneration.



## 5. Global Mobility

### Risk

Universities frequently send staff abroad and host international researchers. Complex cross border rules create risks around:

- Withholding PAYE, SDL, and UIF on employees seconded abroad, particularly when the foreign employment income exemption (R1.25 million) does not fully apply.
- Determining the tax residency and source of income for non resident individuals working in South Africa, including the application of double taxation agreements (DTAs). This includes non-residents working remotely for South African Universities.
- Failing to withhold PAYE on non resident employees who do not meet the DTA exemption conditions.

### What we recommend

Develop a global mobility framework that tracks staff movements, determines tax residency, and assesses DTA eligibility before travel.

For inbound non residents, apply the 183 day DTA test; if conditions are not met, withhold PAYE and other statutory deductions.

For secondments abroad, calculate PAYE withholding on remuneration above the foreign employment income exemption threshold.

Document the rationale for withholding or non withholding to support any SARS review.

### Summary

The key to mitigating employees' tax and global mobility risks lies in correct classification—of benefits, contractors, directives, and cross-border activities. Universities should:

- Strengthen internal controls and payroll configurations.
- Regularly train staff on fringe benefits and third-party classifications.
- Implement a formal global mobility policy with clear compliance checkpoints.
- Ensure all SARS directives are obtained and applied accurately.

Proactive management in these areas will reduce exposure to penalties, interest, and reputational risk.

# 04

Permanent Establishment Risk

# International Tax



# Permanent Establishment Risk

## Risk

Foreign universities and institutions frequently collaborate with South African universities, often deploying staff to the country for research, teaching, or project management. Recent guidance from SARS has clarified that such activities can create a permanent establishment (PE) in South Africa, triggering local tax obligations.

### Key triggers for a PE include:

- Employees regularly performing core activities from a fixed or stable location in South Africa (including a home office) that is effectively at the disposal of the foreign employer.
- Even flexible or hybrid working arrangements can create a PE if the presence is continuous and structured.
- A 50% time threshold serves as a practical indicator: if an individual works from a South African location for 50% or more of their working time over a 12 month period, it is likely to constitute a PE. Below 50%, a fact specific inquiry may still apply depending on permanence and commercial rationale.

### Consequences of a PE:

If a PE is created, the foreign university:

Gains a taxable presence in South Africa.

Must register for income tax with SARS.

Must file annual returns reflecting profits attributable to the PE.

May face additional administrative, record keeping, and withholding tax obligations.

## Recommendations for Universities

- **Proactively assess cross border arrangements:** Before hosting foreign academic staff or researchers, evaluate the duration, nature, and location of their activities against the 50% threshold and broader PE criteria.
- **Establish a central tracking mechanism:** Monitor the presence and work locations of all international secondees, visitors, and collaborators to detect potential PE exposure early.
- **Clarify arrangements in written agreements:** Ensure collaboration agreements with foreign institutions address tax responsibilities, including which party will bear any PE related compliance obligations.
- **Engage with tax advisers early:** Where a PE risk is identified, seek advice on registration, profit attribution, and potential relief under double taxation agreements.

By managing PE risk proactively, universities can avoid unexpected tax registrations, penalties, and compliance burdens arising from international academic activities.

# 05

Corporate Income Tax

# Key Risks and Recommendations

1. Summary of Key Issues

2. Indirect Taxes

3. Employees' Tax & Global Mobility

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5. Corporate Income Tax

Universities qualify as Public Benefit Organisations (PBOs) under section 30 of the Income Tax Act. This status grants exemption from income tax on qualifying activities, but it does not exempt the institution from compliance obligations. Failure to meet these obligations can result in penalties and potential loss of preferential treatment.

## 1. Maintaining PBO Status

### Risk

To retain tax exempt status, a university must:

- Carry out public benefit activities (PBAs) as listed in Part I(4) of the Ninth Schedule (e.g., educational services).
- Ensure that appropriate tax is payable where receipts and accruals from non PBA activities exceed the allowable threshold—the greater of R200 000 or 5% of total receipts/accruals for the year.
- Submit annual income tax returns (IT12EI) even though no tax is payable.

If non PBA income exceeds the threshold, the excess becomes taxable. Failure to correctly classify income or to file returns can lead to understatement penalties and compliance penalties.

### What we recommend

Annually review all income streams to distinguish between PBA related and non PBA receipts.

Monitor the 5% / R200 000 limit and set aside tax provisions for any excess.

Maintain a robust filing calendar to ensure the IT12EI return is submitted on time, every year.

## 2. University Subsidiaries

### Risk

Subsidiaries (e.g., bookstores, property companies, commercial research ventures) are separate legal entities. They do not automatically inherit the university's PBO status. Most are structured as profit making companies and are therefore subject to:

- > Corporate income tax at 27%.
- Their own tax return filing obligations (CIT returns).

Failure to register subsidiaries correctly or to file their returns can result in penalties, interest, and potential SARS audits.

### Recommendations

Annually review all income streams to distinguish between PBA related and non PBA receipts.

Monitor the 5% / R200 000 limit and set aside tax provisions for any excess.

Maintain a robust filing calendar to ensure the IT12EI return is submitted on time, every year.

### 3. Donations and Section 18A Certificates

Universities often receive donations for various activities. To encourage donations Universities can seek to ensure that they are able to issue Section 18A certificates which will allow the donor to claim the cost as a tax deduction if they qualify.

- Issue certificates only for donations used for approved purposes.
- Issue certificates without approval or for non qualifying donations can lead reputational risk.
- If non PBA income exceeds the threshold, the excess becomes taxable. Failure to correctly classify income or to file returns can lead to understatement penalties and compliance penalties.

#### Recommendations

Confirm that the university holds a valid section 18A approval.

Implement internal controls to ensure that only eligible donations receive certificates, and that funds are applied accordingly.

Maintain records linking donated funds to approved PBA activities.

### 4. Transfer of Assets and Capital Gains

#### Risk

PBOs may enjoy relief from capital gains tax (CGT) on certain asset disposals. However:

- Gains from assets used in trading activities (i.e., non PBA operations) may be taxable.
- Special restrictions apply when assets are sold or transferred to non exempt organisations (e.g., a subsidiary or commercial partner).

If such transactions are not correctly accounted for, the university could face unexpected CGT liabilities or compliance issues.

#### Recommendations

Before disposing of or transferring significant assets, determine whether the asset was used for PBA or trading purposes.

Assess whether the transferee is tax exempt; if not, evaluate the CGT consequences.

Document the rationale for any disregarded gains to support the tax treatment.

## Summary

While PBO exemption offers significant tax relief, it brings ongoing compliance obligations that cannot be overlooked. Key actions include:

- Classify income correctly to stay within the non PBA threshold.
- Manage subsidiaries as separate taxable entities.
- Safeguard section 18A status by issuing donation certificates only for approved purposes.
- Review asset transfers to avoid unexpected CGT exposure.

Proactive management of these areas will help preserve the university's tax exempt status and avoid penalties, interest, and reputational risk.

We offer specialised tax and compliance services designed to address the unique risks faced by higher education institutions

# Why this matters

Our integrated approach helps universities:

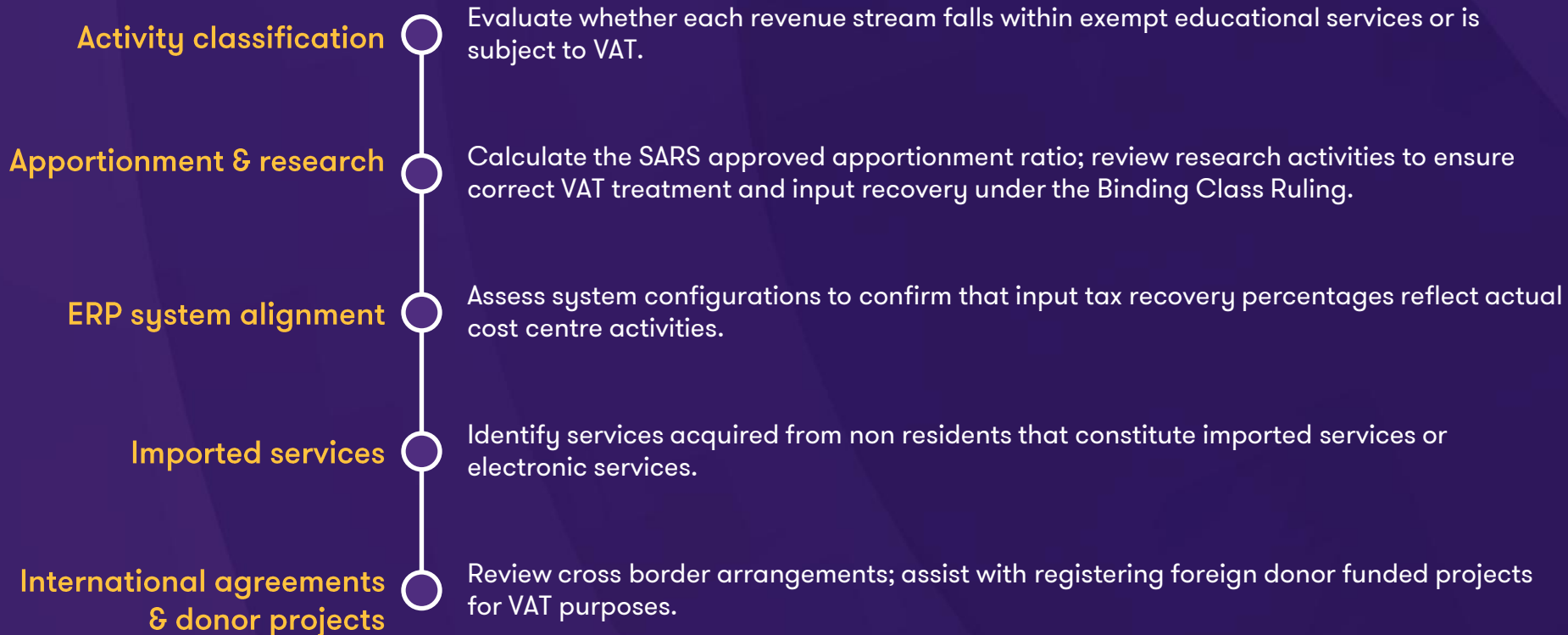


*We work alongside university finance teams to provide practical, sector specific solutions.*

# How we can help

We offer specialised tax and compliance services designed to address the unique risks faced by higher education institutions. Our support spans four main areas:

## 1. Indirect Tax



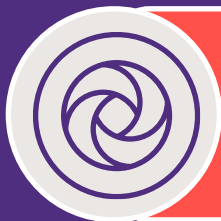
## 2. Employees' tax & global mobility



**Third-party service providers** – Ensure correct PAYE classification and withholding for guest lecturers and non-resident contractors.



**Benefits & allowances** – Advise on the PAYE treatment of fringe benefits (e.g., laptops, vehicles, cell phones), tax-exempt bursaries, scholarships, and other allowances.



**Global mobility** – Support compliance for cross-border academic activities, including secondments and international research collaborations.

## 3. Tax controversy & dispute resolution

### Voluntary Disclosure Programme

Assist with applications where historical non-compliance is identified.

### SARS audits & assessments

Prepare responses to SARS inquiries; lodge objections and appeals against assessments.

## 4. Compliance & Reporting



### VAT

Prepare and submit periodic VAT returns. Report and track VAT net cashflows through use of dashboards.



### Employees' tax

Ensure compliance laws applicable to employment income including rules related to third parties, foreign employees and non-executive directors for subsidiaries.



### Income tax

Prepare and submit annual income tax returns (including IT12EI for the university and CIT returns for subsidiaries). Use of dashboards to understand current and deferred tax for subsidiaries over time. Report on trends related to non-exempt income generated by the university.



### Tax health checks

Conduct comprehensive reviews to identify and mitigate tax risks across the institution.

# Contact us



Let us help you turn growth into purposeful progress



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