



Tax and Legal News



PAYE and ETI update

On 1 April 2020, the draft Disaster Management Tax Relief Administration Bill, 2020, was published. These provisions are to provide for tax measures in order to assist with alleviating cash flow burdens on tax compliant small to medium sized businesses arising as a result of the COVID-19 pandemic and lockdown and to provide for matters connected therewith.

This tax alert focuses on the employment taxes amendments announced. This follows our recent tax alert on the same topics [South Africa: Tax relief measures in response to “lockdown” \(COVID-19\)](#).

Government has proposed the following tax measures for **tax compliant** “qualifying taxpayers” for a limited period of four months commencing on 1 April 2020 and ending on 30 July 2020.

A “qualifying taxpayer” is defined as a company, trust, partnership or individual:

- That is a taxpayer as contemplated in the Tax Administration Act;
- That is tax compliant as contemplated in the Tax Administration Act;
- That has gross income of R50 million or less during the year of assessment ending on or after 1 April 2020 but before 1 April 2021; and
- Whose gross income for the year of assessment does not include more than 10% income derived from interest, dividends, foreign dividends, rental from the letting of fixed property and remuneration received from any employer.

The deferral of employees’ tax

A qualifying taxpayer that is a resident employer or representative employer that is registered for employees’ tax by 1 March 2020, may pay 80% of the total employees’ tax due (in terms of paragraph 2(1) of the Fourth Schedule of the Income Tax Act. No. 58 of 1962 (as

amended)). This deferral applies to employees' tax amounts deducted or withheld during the period commencing on 1 April 2020 and ending on 31 July 2020 i.e. there is a deferral of 20% of the PAYE liability, without the South African Revenue Service (SARS) imposing administrative penalties and interest for the late payment thereof.

The deferred PAYE liability must be paid to SARS, in equal instalments, over the six month period beginning on 1 August 2020 (i.e. the first payment must be made by 7 September 2020; with the last payment being received by the South African Revenue Service by 5 February 2021).

These proposals will not apply to an employer or representative employer that:

- Has failed to submit any return as defined in section 1 of the Tax Administration Act ("TAA"), on the basis required by section 25 of the TAA; or
- Has any outstanding tax debt as defined in section 1 of the TAA.

Interest and penalties will apply if the employer has understated the PAYE for any of the four months.

Practical considerations for employees' tax

SARS will have to implement changes to the monthly employer return (form EMP201) to ensure that the appropriate employees' tax disclosures are made.

Provisional tax relief for individuals

First provisional tax returns in relation to the individuals in relation to the tax year ending 28 February 2021 must be filed with SARS by 31 August 2020. Treasury has extended provisional tax relief to individual who are "qualifying taxpayers" as well. Please see our tax alert on this for further information (**see attached**).

Employment Tax Incentive

The following proposals in respect of the Employment Tax Incentive (ETI) are deemed to have come into operation on 1 April 2020 and applies to any remuneration paid on or before 31 July 2020.

- The criteria for a qualifying employee in section 6 of the Employment Tax Incentive Act No 26 of 2013 (the ETI Act), will be amended to also include an employee who is not less than 30 years old and not more than 65 years old at the end of any month in respect of which the ETI is claimed.
- This clarification in the draft bill is more restrictive than originally anticipated as it allows the employer to claim the ETI for employees in the 30 to 65 year age category, only if the employee meets all the criteria applicable to a qualifying employee, as opposed to only earning less than R6 500.
- Section 7 of the ETI Act which determines the amount of the ETI that can be claimed will be amended to provide additional relief for an eligible employer (as defined) who employs a qualifying employee, during each month of the first 12 months and second 12 months, if the qualifying employee:
 - is not less than 18 years old and not more than 29 years old at the end of any month in respect of which the ETI is claimed;
 - is employed by an employer that is a qualifying company as contemplated in section 12R of the Income Tax Act⁽¹⁾, and that employee renders services to that employer mainly within the Special Economic Zone (SEZ) in which the qualifying company that is the employer carries on trade; or
 - is employed by an employer in an industry designated by the Minister of Finance, after consultation with the Minister of Labour and the Minister of Trade and Industry, by notice in the *Gazette*.
- Where an employer operates through a business located within a SEZ, that employer can benefit from the ETI in respect of employees who render services to that employer within a SEZ, without having the age limit as a restriction.
- The amount of the ETI in respect of a qualifying employee who falls within the abovementioned provisions will be calculated as follows:

Monthly remuneration	First 12 months	Second 12 months
R0- R1 999	50% of Monthly Remuneration plus R500	25% of Monthly Remuneration plus R500
R2 000- R 4 499	R1 500 per employee	R1 000 per employee
R4 500- R6 499	R1 500 – (0.75 x (Monthly Remuneration – R4 500))	R1 000 – (0.5 x (Monthly Remuneration – R4 500))
R6 500 or more	R0	R0

— Where the employer claimed the ETI for the first 24 months in respect of the above mentioned qualifying employee or the employer employs a qualifying employee between 30 and 65 years of age, the amount of the ETI will be calculated as follows:

Monthly remuneration	Amount of the ETI
R0- R 4 499	R500
R4 500- R6 499	R500 – (0.25 x (Monthly Remuneration – R4 500))
R6 500 and more	R0

- In addition to the above, section 10 of the ETI Act has been clarified to indicate that a reimbursement must be claimed from SARS at the end of each month where the ETI available to an employer exceeds the employees' tax liability.
- SARS will therefore accelerate the payment of ETI reimbursements from twice a year to monthly to facilitate the availability of cash into the hands of compliant employers as soon as possible. SARS will have to ensure that its systems are updated to allow for a monthly reimbursement.

Conclusion

The proposed amendments will be effective from 1 April 2020. Comments on the Draft Bills are due by 15 April 2020.

KPMG Tax and Legal has a wide range of skills to assist taxpayers in ensuring that they are tax compliant including assistance with dispute resolution matters which may be affecting the taxpayer's compliance status.

If you have any queries, require assistance or need more information, please contact us:

Contact us



Melissa Duffy

Director: Global Mobility Services & Employment Tax Advisory

Email: melissa.duffy@kpmg.co.za

Tel: +27824481989



Natasha Rohhamlal

Associate Director: Global Mobility Services & Employment Tax Advisory

Email: natasha.rohhamlal@kpmg.co.za

Tel: +27827195689



Claudine Bouwmeester
Senior Manager: Global Mobility Services & Employment Tax Advisory
Email: claudine.bouwmeester@kpmg.co.za
Tel: +27827195639

Regards
KPMG Tax & Legal

Footnotes

^[1] Income Tax Act No. 58 of 1962

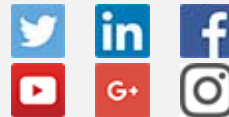
Privacy | Legal

[Unsubscribe](#)

kpmg.co.za

You have received this message from KPMG in South Africa.

© 2020 KPMG Services Proprietary Limited, a South African company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ('KPMG International'), a Swiss entity. All rights reserved.



^[1] Income Tax Act No. 58 of 1962