SOUTH AFRICAN INSTITUTE OF PROFESSIONAL ACCOUNTANTS™

YOUR WEALTH

TAX MEASURES TO COMBAT THE COVID-19 PANDEMIC : AS PROPOSED BY THE MINISTER OF FINANCE

Introduction

The Minister of Finance has supplied comprehensive details to the tax measures as announced by the President of RSA on 23 March 2020 in his speech on the measures to be undertaken to combat the effects of COVID-19.

It must be borne in mind that these tax relief are for the employer and the employee. The employee will, for example pay the full PAYE, but the employer will obtain the tax relief in order to improve the cash flow of the employer so that they may continue to maintain existing staff levels and pay salaries to their employees.

Employees are also eligible for relief, if they meet certain requirements. The relief for employees can be obtained via the UIF mechanism. This is dealt with separately by SAIPA.

The proposed measures (these are draft proposal) will be given legal effect in terms of two bills to be tabled in Parliament when it re-convenes later in the year. As result the new tax measures will be enacted retrospectively. The tax measures will take effect from 1 April 2020.
The two bills to be tabled in Parliament in this regard are

i) The Disaster Management Tax Relief Bill, and
ii) The Disaster Management Tax Relief Administration Bill.

Synopsis

Briefly the tax measures are as follows:
Measures for employers

- The introduction of a tax subsidy to employers of up to R500 per month for the next four months for those private sector employees earning below R6,500 under the Employment Tax Incentive, and
- SARS to accelerate the payment of employment tax incentive reimbursements from twice a year to monthly to get cash into the hands of compliant employers as soon as possible.
- Tax compliant businesses with an annual turnover of R50 million or less will be allowed to delay 20% of their employees' tax liabilities over the next four months and a portion of their provisional corporate income tax payments without penalties or interest over the next six months.

The mechanics of the tax proposals

1) ETI – benefits for employers

i) Existing benefits

The ETI programme makes provision for the employer to claim the ETI in respect of a qualifying employee:

- that is, between the ages of 18 and 29; and
- must have a monthly remuneration of less than R6 500.

The maximum monthly ETI claimable per qualifying employee is limited to R1 000 in the first year of employment and R500 in the second year of employment. In addition, the monthly ETI can only be claimed for the first 24 months of the qualifying employee's employment by an employer or associated institutions.

New Proposal: applicable for four months: 1 April 2020 and ending on 31 July 2020

These are as follows:

- Increasing the maximum amount of ETI claimable during this four-month period for employees eligible under the current ETI Act from R1 000 to R1 500 in the first qualifying twelve months and from R500 to R1 000 in the second twelve qualifying months.
- Allowing a monthly ETI claim in the amount of R500 during this four-month period for employees from the ages of:

  18 to 29 who are no longer eligible for the ETI as the employer has claimed ETI in respect of those employees for 24 months; and

  30 to 65 who are not eligible for the ETI due to their age.

- Accelerating the payment of employment tax incentive reimbursements from twice a year to monthly as a means of getting cash into the hands of tax compliant employers as soon as possible.

Requirements:

- Applies to employers that were registered with SARS as at 1 March 2020.

- The current compliance requirements for employers under of the ETI Act will continue to apply.

  i) An employer must not reduce the employees' tax payable by that employer in respect of a month by the amount of the employment tax incentive available to that employer in that month if, on the last day of that month, the employer has failed to submit any return as required a tax Act or
  ii) has any outstanding tax debt, that is due or payable to SARS for the benefit of the National Revenue Fund in terms of a tax Act:

<u>Illustrative example 1 – ETI benefits</u>

Employer A – a resident company / person - has 10 workers earning R4 500 per month each. In terms of the new proposal, the employer may claim R500 per month for each employee although the employer never enjoyed ETI benefits previously for these employees.

<u>Outcome</u>

The employer can retain up to an additional R5 000 from the employer's PAYE liability each month between April and July.

<u>Illustrative example 2 – ETI benefits</u>

Employer B – a resident company / person - has 3 workers – Employee A, B, C

Employee A - The employer claims the ETI.

Employee B - the employer exhausted ETI claims for 27-year-old two years ago, and

Employee C is 34 years old and has never been a qualifying employee for ETI benefit.

Given each employee earns R4 500 per month.

<u>Outcome</u>

Employer B will be able to retain the following amounts per month:

Employee A	R 1500 (previously R1000)
Employee B	R 500 (previously R0)
Employee C	R500 (previously R0)
Total per month (until 31 July 20200).	**<u>R2 500</u>**

The monthly wage bill is R13 500 and the employer can retain 19% of the monthly wage bill in this situation.

Since these are the only 3 workers, the amount will likely be claimed as a reimbursement from SARS.

2) DEFERRAL OF THE PAYMENT OF PAYE (EMPLOYEES' TAX) - applicable for a limited period of four months, beginning 1 April 2020 and ending on 31 July 2020:

i) Existing benefits

These are as follows:

- a provisional taxpayer must submit a return and make provisional tax payment to SARS.
- The first payment, which is 50 percent of the total estimated liability, must be made within six months after the commencement of the year of assessment, and
- The second payment, which is the total estimated liability reduced by the first payment, must be made by no later than the last day of that year of assessment.

The existing penalty provisions are as follows:

- a 10 per cent penalty for late payment of a provisional tax liability for both the first and second tax periods.
- a penalty on the underpayment of a provisional tax liability for the second provisional tax period as a result of underestimation, reduced by the abovementioned penalty imposed for the same period., and
- interest on the unpaid portion of a provisional tax liability.

New Proposal: applicable for four months: 1 April 2020 and ending on 31 July 2020. But Treasury & SARS proposes the following tax measures for tax compliant small to medium sized businesses, for a period of twelve months, beginning 1 April 2020 and ending on 31 March 2021

These are as follows:

- Deferral of a portion of the payment of the first and second provisional tax liability to SARS, without SARS imposing administrative penalties and interest for the late payment of the deferred amount.

- The first provisional tax payment due from 1 April 2020 to 30 September 2020 will be based on 15 percent of the estimated total tax liability, while the second provisional tax payment from 1 April 2020 to 31 March 2021 will be based on 65 percent of the estimated total tax liability.

- Provisional taxpayers with deferred payments will be required to pay the full tax liability when making the third provisional tax payment in order to avoid interest charges.

The eligibility criteria for individuals carrying on a business have yet to be finalised, but government is entertaining the following possibility –

- turnover should be less than R5 million
- no more than 10 per cent of their turnover is derived from interest, dividends, foreign dividends, rental from letting fixed property and any remuneration received from an employer.

Requirements

i) Company must be tax compliant, and
ii) Tax relief available to small to medium sized businesses only - defined to mean any business with an annual turnover not exceeding R50m.

i) will not apply to an employer or representative employer that has failed to submit any return in terms of tax Act, and has any outstanding tax debt, that is due or payable to SARS for the benefit of the National Revenue Fund in terms of a tax Act but will exclude an agreement for which an instalment payment agreement exists or a compromise or debt write-off exists.

Taxpayers must be reminded that interest and penalties will apply if the employer has understated the PAYE liability for any of the four months.

Individuals conducting trade

Given the fact that the 1st period provisional tax is due only on 30 August 2020, and the 2nd provisional tax is due in February 2020 only for individual, there is a bit more time to finalise the finer details for individuals conducting a trade.

Illustrative example 1 – PAYE benefits

Background information

Company A – a resident RSA company has financial year-end (FYE) of 30 June 2020.
It would already have paid its first provisional tax payment of approximately 50 per cent (of its estimated total tax liability, say R3 million) by 31 December 2019.

But Its second provisional payment will be due 30 June 2020 – during the period of the temporary relief measure.

Outcome

Instead of paying a further R1.5 million (50 per cent) based on the current legislation, it need only pay R450 000 (15 percent of R3 million) so that the cumulative total of the first and second provisional tax payments is 65 percent of the estimated total tax liability (as opposed to 100 percent).

This will provide Company A with a R1 050 000 cash flow benefit during the temporary relief period.

Company A would have to pay the outstanding balance (35 percent or R1 050 000) by 31 December 2020.

Illustrative example 2 – PAYE benefits

Background information

Company B has a 28 February 2021 FYE,
It first provisional tax payment will coincide with the shutdown period – that is 31 August 2020.
It is given that the estimated total tax liability for the year is R800 000.

Outcome

Therefore, first provisional tax payment (due by 31 August 2020) will be R120 000 (15per cent of its estimated total tax liability of R800 000 for the year) instead of R400 000, allowing temporary relief of R280 000.

As a further relief measure only 50 per cent of the estimated tax liability (R400 000) will be due by 28 February 2021, so that the cumulative total tax paid at that point is 65 per cent of the estimated total tax liability.

The remaining balance of R280 000 (35 per cent of estimated tax liability) will be due by 30 September 2021 in order to avoid interest charges.

Broad conclusions

1) SARS has not extended the deadline for the submission of any returns in relation to any of the tax Act.
2) The benefits available to employers must be assessed by combining both type of relief – that is, the benefits available in terms of ETI relief and PAYE relief available.

Practical considerations (as received from members) are as follows:

- If the system automatically issues a request for review documents in regards to VAT, the taxpayer may not be in a position to prepare the documentation (as the source documents such as invoices will be at the company's offices which are closed as a result of the shutdown).

- Obtaining documents for audits or for personal income tax may be difficult during the lock down (access to systems or physical documents, as well as some companies are closed).

- Is there a special field in the PAYE return? Is this for March 2020 PAYE and deducted and payable on the 7th April 2020? Or is it from April PAYE and payable in May 2020?

- Will SARS accept copies of Power of Attorney, for urgent matters? It is currently not possible for a client to sign and provide you with the original.

- How does SARS expect small businesses who makes use of external accountants to submit on time? Clients need to physically hand over their invoices to the tax practitioners. There are two issues associated with these matters.
  - i) Clients cannot go to their offices to fetch the invoices in printed format because their offices are closed as a result of supplying non-essential services,
  - ii) tax practitioners are also closed as a result of the shutdown and as a result unable to receive documentary evidence for the submissions of VAT returns.

These issues will be dealt with at the webinar on Tuesday 31 March 2020 at 10.am and both SARS and National Treasury will be alerted to these issues.