



COVID-19 AND CIVIL UNREST TAX RELIEF MEASURES AFFECTING PAYROLL ALL YOU NEED TO KNOW

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Despite the recent relaxation of the national lockdown, various businesses and employees are still negatively impacted by the COVID-19 pandemic. The negative effect is further worsened by the recent civil unrest; therefore Government wishes to extend the tax relief measures, following the design implemented in 2020.

Tax Relief Measures

The National Treasury and SARS published the second batch of the 2021 Draft Taxation Laws Amendment Bill (TLAB) and 2021 Draft Tax Administration Laws Amendment Bill (TALAB) which contains the emergency tax measures taking effect on 1 August 2021.

These relief measures include the expansion of the employment tax incentive (ETI) and PAYE deferral. Although not promulgated yet, these draft Bills provide the necessary legislative amendments required to implement the Covid-19 tax relief measures.

- It is proposed that the expansion of the ETI be reinstated for another limited four-month period, following the design implemented in 2020.
- It is proposed that the PAYE deferral relief measure be reinstated for another limited three-month period.

Employment tax incentive (ETI) relief measures

Background

The employment tax incentive came into effect on 1 January 2014 and was extended to end on 28 February 2029. Qualifying employers can claim an incentive for qualifying employees by reducing the PAYE payable by the employer.

A **qualifying employer** is a private sector employer who is registered for employees' tax (PAYE) and who;

- is not in the national, provincial or local sphere of government,
- is not a public entity listed in Schedule 2 or 3 of the Public Finance Management Act (other than those public entities designated by the Minister of Finance by Notice in the gazette),
- is not a municipal entity, and
- is not disqualified by the Minister of Finance due to displacement of an employee or by not meeting such conditions as may be prescribed by the Minister by Regulation.

A **qualifying employee** is an employee who;

- has a valid South African ID, a valid asylum seeker permit or valid refugee ID,
- is 18 to 29 years old on the last day of the calendar month or is any age and renders services mainly (more than 50%) within a special economic zone (SEZ) to an employer that carries on trade within a SEZ who is a qualifying company as contemplated in the Income Tax Act under the SEZ regime,
- was employed by the employer or associated person on or after 1 October 2013,
- is not a connected person in relation to the employer,
- is not a domestic worker,
- earns at least the minimum wage (the higher of the minimum wage as specified by a wage regulating measure or the National Minimum Wage Act, or if none of these are applicable - R2 000 wage for a full month which is 160 ordinary employed and remunerated hours), and
- earns monthly remuneration of less than R6 500 (i.e. remuneration for a full month, which is 160 employed and remunerated hours). If the employee was not employed and remunerated for a full month, the actual remuneration must be grossed-up to 160 hours. Please note that this is remuneration as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act).

The incentive is available for a maximum of 24 months (need not be consecutive) per qualifying employee (previous employment and employment with an associated person must be taken into account), broken up into the 'first 12 months' period and the 'next 12 months period' as per the table below. If the employee was not employed and remunerated for a full month (i.e. 160 employed and remunerated hours) the ETI amount must be pro-rated according to the actual employed and remunerated hours in relation to 160 hours.

Monthly remuneration	First 12 months	Next 12 months
R0 – R1 999.99	50% of monthly remuneration	25% of monthly remuneration
R2 000 – R4 499.99	R1 000	R500
R4 500 – R6 499.99	Formula: R1 000 - (50% x (monthly remuneration – R4 500))	Formula: R500 - (25% x (monthly remuneration – R4 500))

Relief measures

These measures are deemed to come into operation on 1 August 2021 for a 4-month period until 30 November 2021. These measures and new rules only apply to employers who are registered for employees' tax with SARS on or before 25 June 2021. Changes are indicated in **blue**.

A **qualifying employee** will be an employee who;

- has a valid South African ID, a valid asylum seeker permit or valid refugee ID,
- is 18 to 29 years old on the last day of the calendar month and was employed before, on or after 1 October 2013 by the employer or associated person,
- is 30 to 65 years old on the last day of the calendar month and was employed before, on or after 1 October 2013 by the employer or associated person,
- is any age and renders services mainly (more than 50%) within a special economic zone (SEZ) to an employer that carries on trade within a SEZ who is a qualifying company as contemplated in the Income Tax Act under the SEZ regime and was employed before, on or after 1 October 2013 by the employer or associated person,

- is not a connected person in relation to the employer,
- is not a domestic worker,
- earns at least the minimum wage (from 1 August 2021 to 30 November 2021, it may not be less than the minimum wage as specified by a wage regulating measure or the National Minimum Wage Act), and
- earns monthly remuneration of less than R6 500. Please note that this is remuneration as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act. No remuneration gross-up calculation should be done, irrespective of the employed and remunerated hours value. Therefore, the actual remuneration value for the month should be used to determine if the remuneration is less than R6 500.

Example:

	Before August 2021 (and after November 2021)	From 1 August 2021 – 30 November 2021
Actual remuneration for the month	R2 600	R2 600
Employed and remunerated hours for the month	130 hours	130 hours
Monthly remuneration used to calculate the ETI amount	R3 200 (R2 600/ 130 x 160). A gross-up calculation is required since the employed and remunerated hours are less than 160.	R2 600 (no gross up calculation required for these months).

The ETI amounts will increase/change to the following (changes indicated in blue);

Monthly remuneration	First 12 months	Next 12 months	Months exceeding 24 months/30–65 years of age/employed before 1 October 2013
Apply to:	Qualifying employees aged 18 to 29 years old and employed on/after 1 October 2013, or Qualifying employees who qualify according to the SEZ criteria and employed before, on or after 1 October 2013	Qualifying employees aged 18 to 29 years old and employed on/after 1 October 2013, or Qualifying employees who qualify according to the SEZ criteria and employed before, on or after 1 October 2013	Qualifying employees aged 18 to 29 years old and employed on/after 1 October 2013 and have already qualified for 24 months, or Qualifying employees who qualify according to the SEZ criteria and employed before, on or after 1 October 2013 and have already qualified for 24 months, or Qualifying employees aged 18 to 29 years old and employed before 1 October 2013 Qualifying employees aged 30 to 65 years old and employed before, on or after 1 October 2013
R0 – R1 999.99	87.5% of monthly remuneration	62.5% of monthly remuneration	37.5% of monthly remuneration

Monthly remuneration	First 12 months	Next 12 months	Months exceeding 24 months/30–65 years of age/employed before 1 October 2013
R2 000 – R4 499.99	R1 750	R1 250	R750
R4 500 – R6 499.99	Formula: R1 750 - (87.5% x (monthly remuneration – R4 500))	Formula: R1 250 - (62.5% x (monthly remuneration – R4 500))	Formula: R750 - (37.5% x (monthly remuneration – R4 500))

- All ETI amounts must be pro-rated if the employee was employed and remunerated for less than 160 hours in the month. Therefore, it is important that the correct employed and remunerated hours (ordinary/contractual, unpaid and additional hours) must be captured/indicated in the system for all employees, to ensure the correct ETI calculation is applied.
- Employers who are not registered for employees' tax with SARS on or before 25 June 2021 may claim ETI, but not the additional ETI as indicated in the table above.

ETI reimbursements:

SARS has accelerated the payment of the employment tax incentive reimbursements from twice a year to monthly as a means of getting cash into the hands of tax compliant employers.

Please note that 'reimbursements' are the 'ETI Carry Forward' value on the EMP201. This amendment is effective from 1 August 2021 and applies in respect of any remuneration paid on/before 30 November 2021.

Take note: No changes will be made to the payroll system to accommodate this. This will be applied by SARS after the employer has submitted and paid the EMP201 before the deadline.

Examples to illustrate the additional ETI relief

Example 1:

Employer XYZ employs 3 qualifying employees.

- Employee A (aged 22): Has qualified for ETI 4 times before August 2021, the month of August is his 5th qualifying month. All qualifying criteria are met. The employee's monthly remuneration is R3 500.00. Employed and remunerated for a full month.
- Employee B (aged 28): Has qualified for ETI 24 times before August 2020. All qualifying criteria are met. The employee's monthly remuneration is R3 000.00. Employed and remunerated for a full month.
- Employee C (aged 40): Has not qualified for ETI before. All qualifying criteria are met. The employee's monthly remuneration is R6 000.00. Employed and remunerated for a full month.

	Normal ETI	Covid-19 and Civil Unrest ETI relief
Employee A	R1 000	R1 750
Employee B	R0	R 750
Employee C	R0	R187.50 (R750 – (37.5% x (R6 000 – R4 500))
Total ETI:	R1 000	R2 687.50

Example 2:

Employer XYZ employs 3 qualifying employees.

- Employee A (aged 22): Has qualified for ETI 14 times before August 2021, the month of August is his 15th qualifying month. All qualifying criteria are met. The employee's monthly remuneration is R3 500.00. Employed and remunerated for 100 hours
- Employee B (aged 28): Has qualified for ETI 24 times before August 2021. All qualifying criteria are met. The employee's monthly remuneration is R3 500.00. Employed and remunerated for 100 hours.
- Employee C (aged 32): Has qualified for ETI 5 times before August 2021. All qualifying criteria are met. The employee's monthly remuneration is R6 000.00. Employed and remunerated for 100 hours.

	Normal ETI	Covid-19 and Civil Unrest ETI relief
Employee A	R 500	R781.25 (pro-rata: R1 250 / 160 x 100)
Employee B	R0	R 468.75 (pro-rata: R750 / 160 x 100)
Employee C	R0	R117.19 (R750 – (37.5% x (R6 000 – R4 500))) (pro-rata: R187.50 / 160 x 100))
Total ETI:	R 500	R1 367.19

Pay-as-you-earn (PAYE) relief measures

Deferral of payment of PAYE for qualifying employers:

A 'qualifying employer' that is a tax resident (or representative) that was registered for employees' tax by 25 June 2021, for a limited period of 3 months from 1 August 2021 – 31 October 2021 is allowed:

- To pay only 65% of the employees' tax withheld/deducted (PAYE liability) without SARS imposing penalties and interest for the late payment thereof. Therefore, the PAYE payable for August (which has to be paid before 7 September) may be reduced by 35% and only 65% is payable. The same applies for the following two months of September and October.

The remaining 35% must be paid to SARS in 4 equal monthly instalments commencing on 1 November 2021 (first payment must be made on 7 December 2021) and ending on 7 March 2022 (EMP201 of February 2021). If these payments are not made before the deadline, SARS will impose penalties and interest.

'Qualifying employer' is a company, trust, partnership or individual;

- that is a taxpayer as defined in section 151 of the Tax Administration Act that conducts trade
- that has a gross income of R100 million or less during the year of assessment ending on or after 1 April 2021 but before 1 April 2022.
- whose gross income for the year of assessment does not include more than 20% in aggregate of interest, dividends, foreign dividends, royalties, rental from letting fixed property, annuities and any remuneration received from an employer, and
- that is tax compliant as referred to in section 256(3) of the Tax Administration Act when relying on a deferral under this Act, provided that -
 - the gross income of a partnership for this purpose is the aggregate of the partner's gross income from the partnership, and
 - the 3rd bullet above must be read without the reference to rental from letting fixed property, if the primary trading activity of the company, trust, partnership or individual is the letting of fixed properties and substantially the whole of the gross income is rental from fixed property.

To claim tax relief for PAYE:

- Complete the EMP201 as per normal with the full PAYE Liability (the form will calculate the PAYE payable at 100%, this value cannot be changed).
- Calculate the Total Payable as 65% of the PAYE Liability plus SDL Payable plus UIF Payable.
- SARS will issue a Statement of Account, reflecting the tax relief (deferred amount) for PAYE and the total amount payable for that respective period.
- If the payment is made late, the benefit of the tax relief for PAYE will be forfeited and SARS will impose penalties and interest on the calculated Total Payable.
- Check your Statement of Account after 48 hours of submitting the EMP201 to make sure that SARS has not revoked the discount due to non-compliance.

For more information, see the [SARS](#) website.

Take note: No changes were made to the payroll system to accommodate this.

Sources

Disaster Management Tax Relief Administration Act, 2020

Disaster Management Tax Relief Act, 2020

Draft Explanatory Notes on the Emergency Tax Measures

Draft Tax Administration Laws Amendment Bill, 2021 Second Batch

Draft Taxation Laws Amendment Bill, 2021 Second Batch

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