

LIGHT IN THE FACE OF COVID-19: FINANCIAL AND TAX RESPONSES TO LOCKDOWN

There has been a significant response by National Treasury, the South African Revenue Service, the private sector and various government bodies in respect of relief measures aimed at minimising the negative effect of COVID-19. This article will cover two aspects; first a brief summary of the measures recently introduced by National Treasury and SARS in so far as they relate to tax relief for businesses and individuals. Second, we'll give you details of the various kinds of funding streams available to businesses to combat the financial implications of COVID-19.

FROM A TAX PERSPECTIVE...

The National Treasury and SARS have published the following draft legislation in response to the COVID-19 state of disaster and consequent lockdown:

1. The 2020 Draft Disaster Management Tax Relief Bill; and
2. the 2020 Draft Disaster Management Tax Relief Administration Bill.

The measures contained in both bills will take effect from the 1st of April 2020. The bills are open for public comment until the 15th of April 2020.

Draft Disaster Management Tax Relief Bill (Draft DMTRB)

The Disaster Management Tax Relief Bill introduces various relief measures via the Employment Tax Incentive (ETI) and amendments to the ETI Act. Amendments have also been introduced into the Income Tax Act to provide alleviation to Debt Relief Trusts.

1. Employment Tax Incentives:
 - a. Earning thresholds and the corresponding incentives applicable to them have been increased.
 - b. A significant change to the Employment Tax Incentive Act has come with the relaxation of the age-related qualification criteria. Ordinarily, only employees who were between the ages of 18 and 29 at the end of each month in terms of which the incentive is being claimed would qualify in terms of the incentive. This age bracket has been extended to include employees who are between the ages of 30 and 65 at the end of any month in respect of which the incentive is claimed, in respect of remuneration paid between 01 April 2020 and 31 July 2020.
 - c. Employers can claim their employment tax incentives on a monthly basis, as opposed to every 6 months.
2. Bona fide Donations to the Disaster Relief Fund between 01 April 2020 and 31 July 2020 will be deductible against taxable income for the 2020 tax year.



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3. Trusts established for the purposes of providing disaster relief must be deemed to be public benefit organisations in terms of the Income Tax Act, and therefore subject to special tax dispensations applicable to public benefit organisations.
4. As from the 31st of July 2020, any COVID-19 disaster relief trust that is not dissolved and which has not had all its assets distributed on or before the 31st of July 2020 must be deemed to be a small business funding entity for the purposes of the Income Tax Act and must be approved as such.
5. The amendments relating to the Employment Tax Incentive Act do not apply to companies who were registered as employers with SARS after the 1st of March 2020.

Draft Disaster Management Tax Relief Administration Bill (Draft DMTRAB)

The Draft DMTRAB introduces relief measures available to qualifying taxpayers and qualifying micro enterprises in relation to:

1. Employee's Tax
2. Provisional Tax
3. Interim payments by micro businesses
4. Extension of time periods.

It is important to know that these Bills and the measures contained in them only apply to qualifying taxpayers, and qualifying micro-businesses, and therefore it is important to first understand what each of these terms means.

Qualifying Taxpayer

A qualifying taxpayer is defined in the Bill as being a trust, partnership, company or individual who is a taxpayer who has a gross income of R50 million or less during the year of assessment ending on or before 1 April 2020, but before 1 April 2021; who's gross income for the year of the assessment does not include more than 10% income derived from interest, dividends, foreign dividends, rental from fixed property and any remuneration received from an employer; and who is tax compliant for the purposes of relying on any deferral in the Tax Administration Act.

Qualifying Micro-business

An individual or company which meets the criteria for a micro-business as set out in the Income Tax Act (predominantly a gross income of less than R1 million Rand), who is a taxpayer and who is tax compliant.

1. Deferral of Employee's Tax

Any qualifying taxpayer who was registered as an employer for the purposes of PAYE before the 1st of March 2020 shall be allowed to pay only 80% of the total PAYE due in respect of amounts withheld from remuneration during the period 01 April 2020 to 31 July 2020.

Thereafter, the remaining 20% which is due must be paid by the employer in 6 equal monthly instalments, starting on the 7th of September 2020, and ending on the 5th of February 2021. It appears as if the entire amount deferred, and which is owing to SARS will be divided by 6 and added to the Employer's PAYE from the 7th of September 2020 to the 5th of February 2021.

There will be no penalties or interest levied against PAYE deferred in terms of the Bill, however if the amounts are not paid when they are due (i.e. from 7 September to 5 February), they will incur interest and penalties.



2. Deferral of Provisional Tax

Qualifying provisional taxpayers can pay 15% instead of 50% of their estimated liability as their first provisional tax payment, and thereafter 65% of their total estimated tax liability as their second provisional tax payment.

No interest or penalties will run on deferred payments, however the tax that has been deferred must be paid as a third provisional tax payment at the end of the year of assessment in order to avoid interest running.

3. Interim Payments by micro-businesses

Similar relief is available to qualifying micro-businesses who are obliged to make interim payments, i.e. payment of 15% as opposed to 50% of their first interim payment, and 65% as opposed to 100% of their second.

4. Extension of Time Periods

Some administrative processes contained in the Tax Administration Act and the Customs and Excise Act are subject to specific time periods, and non-compliance may have a significant impact on these processes.

In terms of the Bill, the period of the national lockdown will be counted as *dies non*. In other words, they will not be counted for the purpose of calculating the applicable time period. It is important to note that the circumstances in which these days will be taken as *dies non* are set out in detail in the Bill, and you should consult your tax practitioner to see whether the Bill is applicable to your unique circumstances.

As mentioned before, a number of funding avenues have been extended to businesses (and their employees) to assist in combating the negative financial consequences of COVID-19.

5. SMME DEBT RELIEF FUND

This is a soft-loan facility aimed at qualifying businesses who are directly or indirectly negatively affected by COVID-19. In order to be eligible, the business must have been registered with the CIPC on or before the 29th of February 2020, must be 100% South African owned, and must employ at least 70% South African citizens in its workforce.

Priority will be given to businesses owned by women, young persons and persons with disabilities.

In order to apply for this funding, SMMEs must register on www.smmesa.gov.za. Once issued with a reference number, applicants must fill out the requisite forms, and send these along with the required supporting documentation to smmerelief@sefa.org.za

The registration page and application forms can be found at www.smmesa.gov.za.

6. SMME GROWTH RESILIENCE FACILITY

The SMME growth resilience facility has been made available to bolster and protect those businesses providing medical and essential services and equipment.

The Business Growth and Resilience Facility is targeted at SMMEs who locally manufacture or supply hygiene and medical products that are in demand in order to curb and manage the spread of the COVID-19 virus. These are products such as sanitizers, detergents and tissue paper. This facility will offer working capital, stock, bridging



finance, order finance and equipment finance. The funding amount will be based on the funding needs of the actual business. Find more info and application forms at www.smmesa.gov.za.

7. SAFT TRUST (SOUTH AFRICAN FUTURE TRUST – SAFT)

This Trust was established by the Oppenheimer family, to extend **direct financial support to SMME employees** who are at risk of losing their jobs or will suffer a loss of income **because of COVID-19**.

SAFT will transfer funds directly to employees of participating SMMEs, via interest-free loans where employees themselves carry no liability.

Loans will be extended to eligible SMMEs on a first-come-first-served basis.

Eligible SMME employers apply for the scheme via their preferred partner bank and provide a list of names of employees “at risk” due to COVID-19. The SMME must be an existing client of the partner bank in order to apply. To qualify businesses must have an annual turnover of less than R25 million, have been a sustainable business on the 29th of February 2020, be negatively affected by COVID-19 and have been trading for at least 24 months prior to shut down.

Partner banks are: ABSA, FirstRand Bank, Nedbank and Standard Bank.

SAFT has set the eligibility criteria for the loans, in consultation with their banking partners. However, the ultimate decision on whether or not to extend a loan and who will receive the funds will rest with the banks.

8. PRIVATE SECTOR ASSISTANCE

a. Standard Bank

From 1 April 2020, Standard Bank will support small and medium-sized enterprises (SMEs) with a payment holiday for 90 days (01 April 2020 until 30 June 2020) – restructuring payments for the repayment to come into effect after the 90-period. <https://www.standardbank.co.za/southafrica/personal/campaigns/covid-19>

b. ABSA Bank

From the 1 April 2020, ABSA’s corporate and business clients will be offered solutions based on their unique requirements and operations. For retail clients, the ABSA relief programme incorporates a three-month payment holiday and allows customers to reduce their monthly repayments. <https://www.absa.co.za/media-centre/press-statements/2020/dealing-with-the-impact-of-covid-19/>

c. First National Bank

From 1 April to 30 June 2020 aimed at providing relief to individual and business FNB customers whose financial stability has been impacted by Covid-19 pandemic. <https://www.fnb.co.za/press-office/index.html>

d. Nedbank

No specific relief policy for businesses or customer are currently in place. Customers are encouraged to contact the bank directly if they are in financial distress due to Covid-19. Call 086 055 5111.



9. COVID-19 TERS (Disaster Fund)

In addition to the measures introduced by National Treasury and SARS, the Department of Labour, via the UIF, has made a substantial amount of money available via the COVID-19 TERS facility.

In terms of this facility, employers whose employees have been placed on short time, or who have been temporarily retrenched, may apply to the UIF for a benefit to be paid to their employees, via the company. The benefit may be a minimum of R 3500.00 per month, per employee, or between 38% and 68% of the benefit the employee would have received if they had been completely unemployed.

Interested employers may send a blank email to Covid19ters@LABOUR.gov.za and they will receive a detailed breakdown of the application process, as well as the required forms.

