



May 2020

# Employment tax summaries

Draft Disaster Management Tax Relief and Draft Disaster Management Tax Relief Administration bills were issued by Treasury on 1 April 2020 and submissions were made to Treasury regarding proposed changes to these initial publications. Revised draft bills were issued by Treasury on 1 May 2020. We herewith summarise the employment proposals and provide guidance regarding the disclosures required on the monthly PAYE return (form EMP201). A summary reference table is provided at the end of the document.

### Employees' tax

The employees' tax deferral is 35% per month for the period 1 April 2020 to 31 July 2020 and applies to compliant "qualifying taxpayers". Interest and penalties will not be payable on deferred amounts (if calculated and reported correctly – more on disclosure below).

**"qualifying taxpayer"** is a company, trust, partnership or individual—

(a) that is a taxpayer as defined in section 151 of the Tax Administration Act that conducts a trade;

(b) that has a gross income of R100 million or less during the year of assessment ending on or after 1 April 2020 but before 1 April 2021;

(c) whose gross income for the year of assessment does not include more than 20 per cent in aggregate of interest, dividends, foreign dividends, royalties, rental from letting fixed property, annuities and any remuneration received from an employer; and

(d) 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:

*(i) the gross income of a partnership for purposes of this definition is the aggregate of the partners' gross income from the partnership; and*

*(ii) paragraph (c) 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.*

## **The Declaration Process on the Monthly Return (form EMP201)**

### *Employees' tax – Employer wants to utilise the deferral option*

As relates to employees' tax, the employer must declare 100% of the employees' tax on the EMP201. The form will calculate the PAYE payable at 100% and the taxpayer cannot change this value. The relief amounts in relation to the PAYE relief will not be displayed on the EMP201 form.

There are two ways to determine the actual amount of taxes (PAYE, SDL<sup>[1]</sup> and UIF) due to the South African Revenue Service (SARS):

1. Submit the EMP201 to SARS who in turn will issue a Statement of Account, which will reflect the deferred PAYE value and the total amount payable for that month.

OR

2. The employer calculates the Total PAYE payable (i.e. 65% of the liability) plus the SDL<sup>1</sup> plus UIF Payable

If the payment is received late by SARS, the PAYE COVID-19 Tax Relief is forfeited and SARS will impose penalties and interest on the calculated total payable. Check your statement of account 48 hours after submitting the EMP201 to ensure SARS has not revoked the discount due to non-compliance.

### *Employees' tax – Employer does not utilise the deferral option*

Should a taxpayer elect not to utilise the deferment option, the employer must complete the EMP201 as usual and make the full payment to SARS by the due date.

## **Unemployment Insurance Fund**

Unemployment insurance fund ("UIF") contributions must be still calculated and reported as usual i.e. up to R148.72 per contributor per month i.e. 1% is payable by the employee and a matching contribution is by the employer. There is no UIF contribution relief.

## **Skills Development Levies**

In relation to skills development levies ("SDL"), the employer is exempt from liability and payment<sup>[2]</sup>. No declaration is to be made on the EMP201. A zero amount SDL liability will be defaulted on the EMP201 return for the four-month period from May to August 2020.

## **Employment Tax Incentive**

See our alert on the Employment Tax Incentive Relief (attached).

## **C19-TERS programme (UIF relief)**

<sup>[1]</sup> April 2020 only

<sup>[2]</sup> Disaster Management Tax Relief Bill, 2020

See our previous alert on the C19-TERS programme (attached).

## Donations to the Solidarity Fund – Employees' tax deduction

### Background

It has been proposed that employee donations to the Solidarity Fund (as defined) be deductible for payroll purposes. The “**Solidarity Fund**” means the Solidarity Response Fund, registered with the Companies and Intellectual Property Commission as a non-profit company under registration number 2020/179561/08.

Certain contributions may be deducted by the employer in order to determine an employee's monthly taxable remuneration for employees' tax purposes<sup>[3]</sup> e.g. employee contributions to retirement annuity funds (RAFs) may be deducted in the monthly payroll<sup>[4]</sup>.

Per section 18A(2)(b), donations made by the employee which is supported by an employees' tax certificate (form IRP5) for which the employer has received a receipt will qualify as a section 18A tax deduction. The payroll code for traditional donations is 4030. Payroll code 4055 has been proposed for use for any amount deducted from the employee's remuneration and paid by the employer directly to the COVID-19 Solidarity Fund.

### How will this work?

1. The employee makes the donation via the employer to the Solidarity Fund;
2. The employee receives an immediate tax deduction via the payroll up to certain limits (discussed below);
3. The employer then remits the tax deductions withheld from the employees to the Solidarity Fund; and
4. The employer receives the s18A tax deduction certificate from the Solidarity Fund.

Note that the employer must retain the donations tax certificate (and the details of the donors) should there be an employees' tax audit conducted by the South African Revenue Service (SARS).

The donation deduction limitations in terms of paragraph 2(4) of the Fourth Schedule are as follows:

- Up to 33.33% of monthly remuneration for the period 1 April 2020 to 31 July 2020; or
- Up to 16.66% during a period of six months commencing on 1 April 2020 i.e. 1 April 2020 to 30 September 2020.

### Employment taxes Summary Table

Employment tax	Period of Application	Monthly Tax Relief & Comments
PAYE <sup>[5]</sup>	1 April 2020 – 31 July 2020	35% of the PAYE liability is deferred for “qualifying taxpayers”. Deferred amounts are payable to SARS over the six-month period 7 September 2020 to 7 February 2021 as per the

<sup>[3]</sup> Paragraph 2(4) of the Fourth Schedule to the Income Tax Act No. 58 of 1962

<sup>[4]</sup> Subject to the relevant proof of contributions to the RAF being made available to the employer

<sup>[5]</sup> Pay-As-You-Earn

		SARS <sup>[6]</sup> . SARS will make the payment plan available after 15 August 2020
SDL	1 May 2020 – 31 August 2020	No levy payable.
ETI	1 April 2020 – 31 July 2020	Applicable to employees between the ages of 18-65 years who earn less than R6 500 per month. Up to an additional R750 per employee per month can be claimed for this period.
UIF	Not applicable	No relief in relation to contributions – UIF is still payable to SARS at the standard rates

## Conclusion

These updated draft bills provide much needed clarity regarding employment taxes. Should you have any queries in this regard, please contact us.

### Contact us



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Regards  
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### FOOTNOTES

<sup>1</sup> April 2020 only

<sup>2</sup> Disaster Management Tax Relief Bill, 2020

<sup>3</sup> Paragraph 2(4) of the Fourth Schedule to the Income Tax Act No. 58 of 1962

<sup>4</sup> Subject to the relevant proof of contributions to the RAF being made available to the employer

<sup>5</sup> Pay-As-You-Earn

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