Tax Alert

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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Jabu Masondo
Tax Leader
+27 (0) 11 287 0836
jabu.masondo@pwc.com

Kyle Mandy
Tax Technical & Policy
+27 (0) 11 797 4977
kyle.mandy@pwc.com

Frank Mosupa
KwaZulu-Natal
+27 (0) 11 797 5294
frank.mosupa@pwc.com

James Whitaker
Western Cape
+27 (0) 21 529 2638
james.whitaker@pwc.com

Ian Olls
Eastern Cape
+27 (0) 41 391 4474
ian.olls@pwc.com

COVID-19 and the 2020 Supplementary Budget: Introduction of Bills containing tax measures to deal with the pandemic

In brief

Regular readers of our Alerts will be aware of the previous public announcements by the President and Minister of Finance relating to tax measures to deal with the effects of the COVID-19 pandemic in South Africa. These announcements were followed by the publication (by the National Treasury and the South African Revenue Service (SARS)) of a number of versions of the draft Bills containing these measures. At the time of these announcements and the publication of the draft Bills, it was generally understood that the final Bills would only be introduced later in the year in the course of the usual legislative cycle (i.e. possibly only in October or November).

On Wednesday 24 June, however, the Minister of Finance, while tabling the 2020 Supplementary Budget to deal with fiscal and economic effects of the COVID-19 pandemic, introduced the final Disaster Management Tax Relief Bill, 2020, and Disaster Management Tax Relief Administration Bill, 2020.

The purpose of this Alert is to provide a brief overview of the final tax measures as contained in the Bills as introduced.

In detail

It has been acknowledged by Government that the COVID-19 pandemic has had a significant impact on the South African economy, especially as a result of the far-reaching lockdown measures that have been implemented in order to contain the spread of the coronavirus. Compliance by businesses and households with the lockdown measures has resulted in a loss of income. Many businesses experienced cash flow difficulties. Moreover, complying with time periods prescribed in tax Acts has been difficult.

With the above in mind, the measures contained in the Bills are aimed at assisting businesses to focus on staying afloat and paying their employees and suppliers. These measures are expected to provide around R70 billion in support to the South African economy, either by way of reducing taxes otherwise payable or by deferring tax payments.

The measures are generally split between those that provide additional liquidity (in effect, interest free loans) that are ultimately paid back to Government, and those that provide additional subsidies and result in lower tax revenue.

The measures include the following:

Skills development levy holiday

From 1 May 2020, there is a four-month holiday for skills development levy contributions (one per cent of total salaries) to assist all businesses with cashflow. This provides relief of around R6 billion.

Fast-tracking of value-added tax (VAT) refunds

Smaller VAT vendors that are in a net refund position will be temporarily permitted to file monthly instead of once every two months. It is anticipated that this will unlock the input tax refund faster and therefore immediately assist with cashflow. SARS is working towards having its systems in place to allow this in May 2020 for Category A vendors that would otherwise only file in June 2020.

Three-month deferral for filing and first payment of carbon tax liabilities

The first carbon tax payment, together with filing of the first carbon tax return, are due by 31 July 2020. In order to provide additional time to complete the first return as well as short-term cashflow relief, and to allow for the utilisation of carbon offsets as administered by the Department of Mineral Resources and Energy, the filing and payment date will be delayed to 31 October 2020. It is anticipated that this will provide cashflow relief of approximately R2 billion.

Deferral of the payment of excise taxes on alcoholic beverages and tobacco products

Due to the restrictions on the sale of alcoholic beverages and tobacco products, payments due in May and June 2020 are deferred by 90 days for excise-compliant businesses to more closely align tax payments through the duty-at-source system (excise duties are imposed at the point of production) with retail sales. This is expected to provide short-term assistance of around R6 billion.

Expanded employment tax incentive

Firstly, the amount of the Employment Tax Incentive (‘ETI’) claimable for the four-month period from 1 April to 31 July 2020 will be increased by an amount of up to R750 per month for private sector employees earning below R6,500 under the ETI.

Secondly, a monthly ETI claim in the amount of up to R750 will be available during this four-month period for employees:

- from the age of 18 to 29 who are no longer eligible for the ETI on the basis that the employer has already claimed the ETI in respect of those employees for 24 months; and

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

Lastly, in order to get cash into the hands of compliant employers, SARS will, as soon as possible, accelerate the payment of employment tax incentive reimbursements from twice a year to monthly.

It must be noted that the current compliance requirements for employers under sections 8 and 10(4) of the Employment Tax Incentive Act, 2013, will continue to apply.

This measure is expected to provide assistance totalling approximately R15 billion.

Deferral of employees’ tax and provisional tax

For the four months ending on 31 July 2020, small and medium-sized tax compliant businesses are effectively allowed to defer 35% of their employees’ tax liabilities. The deferred tax will need to be paid to SARS in six equal monthly instalments commencing with the payment due by 7 September 2020 and ending with the payment due by 5 February 2020.

In addition, for the 12-month period beginning on 1 April 2020, tax compliant small and medium-sized businesses will be able to defer a portion of their first and second provisional tax payments. Accordingly, the first provisional tax payment will only be 15% of the total estimated tax liability, while the second provisional tax payment will be 65% of the total estimated tax liability, reduced by the amount of the first provisional tax payment. The amount of provisional tax that is deferred as a result will need to be paid by the effective date (i.e. when the third ‘top up’ provisional tax payment falls due).

For the purposes of these proposals, a taxpayer will be a small or medium-sized business if gross income does not exceed R100 million for the year of assessment ending between 1 April 2020 and 31 March 2021 (both dates inclusive).

It is expected that these measures will provide total cash flow relief of around R31 billion, with an expected revenue loss to the fiscus of R5 billion.

Case-by-case application to SARS for waiving of penalties

Larger businesses (with gross income of more than R100 million) that can show they are incapable of making payment as a result of the pandemic, may apply directly to SARS to defer tax payments without incurring penalties. Similarly, businesses with gross income of less than R100 million may apply for an additional deferral of payments without incurring penalties.

Increasing the deduction available for donations to the Solidarity Fund

The tax deductible limit for donations (currently 10% of taxable income) will be increased by an additional 10% for donations to the Solidarity Fund that are made during the 2020/21 tax year.

Adjusting PAYE for donations made through the employer

Employers will be permitted to factor in donations of up to 5% of an employee's monthly salary when calculating the monthly employees' tax to be withheld. An additional percentage of up to 33.3%, depending on the employee's circumstances, will be provided for a limited period for donations to the Solidarity Fund. This will assist employees who donate to the Solidarity Fund from a cashflow perspective.

Extension of time periods

On the basis that the lockdown resulted in taxpayers experiencing difficulties in complying with time periods prescribed in the various tax Acts, the period of the 'lockdown' (i.e. defined as the period commencing on 27 March 2020 and ending on 30 April 2020) is regarded as *dies non* (i.e. will not be counted for purposes of the calculation of a number of specified time periods).

This measure is intended to provide taxpayers with additional time to comply with certain tax obligations or due dates that are affected by the COVID-19 pandemic. It must, however, be noted that the relief does not extend to due dates for return filing or payments.

The takeaway

The introduction of the COVID-19 Tax Relief Bills on 24 June 2020 has resulted in a reduction of uncertainty as to the exact scope of the relief provided for. Affected taxpayers should, where appropriate, make use of this relief.