

Frequently Asked Questions (FAQs)

2021 emergency tax relief measures

What type of relief is provided to employers?

Employment Tax Incentive (ETI)

Tax relief under the ETI is available for a four month period from 1 August 2021 to 30 November 2021. The first extended ETI can be claimed in your August EMP201. Please remember that this is due by 7 September 2021. The maximum monthly amount that will be permissible under the ETI during this period will be increased according to the following criteria:

- Employees eligible under the current ETI Act from R1 000 to R1 750 per month in the first qualifying 12 months and from R500 to R1 250 per month in the second 12 qualifying months.
- 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, or are not eligible as they were in the employer's employment before 1 October 2013, from not eligible to R750 per month.
- Employees from the ages 30 to 65 year who are not eligible for the ETI due to their age, from not eligible to R750 per month.

SARS will also pay monthly ETI refunds for the four month period, instead of every six months as is normally the case. Refunds will commence by 13 September 2021, subject to any verification or audit steps that may be required.

To claim tax relief under the ETI:

- Capture the **full PAYE Liability** (The form will calculate the PAYE payable at 100%, you cannot change this value)
- Capture the ETI Calculated
- Calculate 65% of the PAYE Liability in terms of the tax relief for PAYE **for the first three (3) months**
- Limit the ETI Utilised to the lesser of ETI Calculated or 65% of the PAYE Liability for the first three months or 100% of the PAYE liability in the fourth month
- Calculate the Total Payable as (65% of the PAYE Liability for the first three months, or 100% PAYE liability for the fourth month) less ETI Utilised plus SDL Payable plus UIF Payable

PAYE tax relief period

The tax relief for PAYE is available to qualifying businesses for the three month period from 1 August 2021 to 31 October 2021. The first deferment can be claimed in your August 2021 EMP201 return, which is due by 7 September 2021.

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%, you cannot change this value)
- Calculate the Total Payable as 65% of the PAYE Liability plus SDL Payable plus UIF Payable.

Note:

- 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 your payment is made late, you will forfeit the benefit of the tax relief for PAYE 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

PAYE deferral months

For period	File in	
August 2021	September 2021	* month 1 of relief
September 2021	October 2021	* month 2 of relief
October 2021	November 2021	* month 3 of relief

When will payment of the deferred PAYE liability start?

After the 7th of November 2021, SARS will determine the four equal payments for the total amount that you have deferred and include it in your monthly Statement of Account. Payments will be made over a four month period that will commence on 7 December 2021 with the last payment due by 7 March 2022.

Income Tax

1. I have lost trading stock during the civil unrest, how do I account for this?

Trading stock is generally deductible under the provisions of section 11(a) of the Income Tax Act. Where trading stock is not disposed of during a taxpayer's financial year, the closing stock and opening stock provisions in section 22 are applicable. The opening stock provisions effectively operate to give a taxpayer a deduction in the year that trading stock is disposed of. However where trading stock is disposed of as a result of theft, destruction or other involuntary means, the tax consequences are dependent on whether the trading stock was insured or not.

If not insured:

The trading stock acquired will be deductible either in terms of section 11(a) or the opening stock provisions, depending on when it was acquired. The loss arising as a result of the involuntary disposal of the asset (theft, destruction etc.) will not be deductible as there is a prohibition against double deductions in the Act.

If a taxpayer receives any type financial aid or assistance as compensation for the lost trading stock, other than through a contract of insurance, this amount will be regarded as a recoupment and must be included in gross income.

If insured:

Section 23(c) of the Income Tax Act prohibits a deduction for any expenditure and losses that are recoverable under a contract of insurance. Trading stock lost as a result of the involuntary disposal thereof (theft, destruction etc.) that is covered by an insurance policy, will not be deductible under the abovementioned provisions (section 11(a) or the opening stock provisions) to the extent that this loss is recoverable under the contract of insurance. The timing of the insurance payment will not affect this prohibition. The insurance proceeds will not be taxable in this instance.

2. I have incurred a loss on capital goods during the civil unrest. What are the tax consequences?

If you are not insured: Losses owing to theft or destruction of capital assets are not deductible under the general deduction formula [section 11(a)], since they are of a capital nature.

The taxpayer may claim scrapping allowance –(section 11(0)) which occurs when a cost of an asset exceeds the sum of the tax allowances or deductions in respect of that assets and the proceeds on the disposal, due to the loss made. Any destruction of an asset gives rise to a disposal or part-disposal event for CGT purposes which may result in a capital loss.

If you are insured: Losses incurred due to theft or destruction of capital assets do not qualify for deduction under the general deduction formula [section 11(a)], since they are of a capital nature.

The taxpayer may claim Scrapping allowance - (section 11(o)) which occurs when a cost of an asset exceeds the sum of the tax allowances or deductions in respect of that assets and the proceeds on the disposal, due to the loss made.

Any insurance proceeds received or accrued are included in income as a recoupment under section 8(4)(a) to the extent that they are a recovery of allowances previously allowed as a deduction.

Any destruction of an asset gives rise to a disposal or part-disposal event for CGT purposes which may result in a capital loss. A capital gain may arise if insurance proceeds are received from an insurer and the proceeds exceed the base cost.

3. Can I claim the costs of repairing my property damaged in the civil unrest as a tax deduction?

Section 11(d) of the Income Tax Act provides for the deduction of expenditure actually incurred on repairs of –

- Property occupied for the purposes of trade or from which income is receivable; and
- Machinery, implements, utensils and other articles employed by the taxpayer for the purposes of trade.

In the case of repairs, it is not necessary that the materials used should be identical with the materials replaced. In judging whether a repair has been carried out, regard must be had to the extent of the restoration work in relation to the entire property of which the portion restored forms a part. The greater the restoration work in relation to that entirety, the less likely it is that a repair has taken place.

VAT

1. I have lost trading stock during the civil unrest, how do I account for this?

If the VAT (input tax) was deducted on the purchase of the trading stock, in a VAT return that was filed before the unrest, then input tax will not be affected.

If the input tax has not been deducted, it may be deducted in a VAT return that is due after the unrest. In the event where supporting documents and proof is not available, the amount may be regarded as an estimate [estimated assessments may apply].

Answer

If the trading stock was not insured, no further input tax is deductible nor is any output tax payable on the trading stock that is lost. However where the trading stock is insured, output tax will be payable [section 8(8)] on the monetary insurance payout from the Insurer. If the Insurer replaces the trading stock, instead of making a monetary insurance payout there will be no output tax payable.

Note: output tax is not payable if the VAT on the trading stock was denied when it was purchased.

There are no VAT implications if trading stock is not insured.

2. I have incurred a loss of capital goods during civil unrest and looting, how do I account for this?

If the VAT (input tax) was deducted on the purchase of the capital goods, in a VAT return that was filed before the unrest, the input tax will not be affected.

If the input tax has not been deducted, it may be deducted in a VAT return that is due after the unrest. In the event where supporting documents and proof is not available, the amount may be regarded as an estimate [estimated assessments may apply].

For capital goods that are not insured, no further input tax is deductible nor is any output tax payable on the capital goods that were lost. However, where the capital goods are insured, output tax will be payable [section 8(8)] on the insurance payout from the Insurer. There will be no output tax payable if the Insurer replaces the capital goods, instead of making a monetary insurance payout.

If the VAT was denied when the capital goods were purchased then output tax is not payable.

There are no VAT implications on capital goods that are not insured.

3. My business has ceased trading as result of the civil unrest and looting, what are the VAT implications?

If all assets were destroyed there will be no VAT implications as you do not have any assets on hand at the date of cessation [S8(2) will not apply].

If some assets were not destroyed, then VAT will be payable on the lower of the cost or the market value of the assets that were not destroyed.

An instalment payment arrangement may be entered into to pay the VAT liability.

A request to remit interest and penalty may also be made.

LOSS OF RECORDS

1. I have lost my records and I want to declare Income tax, VAT and PAYE

If the taxpayer is unable to reconstruct records and therefore unable to file a full and accurate tax returns, the taxpayer can approach SARS, through a senior SARS official, to agree to and make an estimated assessment [S95(3) of the Tax Administration Act].

An agreed estimated assessment is not subject to objection or appeal. The basis on which an agreed estimated assessment is made will depend on the facts and circumstances of each case.

However, for an agreed estimated assessment to be fair and reasonable, alternative supporting documents such as bank statements, disclosures on previous VAT returns submitted, third party records such as supplier, municipal and lease agreements records may be used.

The taxpayer can also arrange with SARS to make a payment of a deposit based on the estimated VAT liability if the taxpayer is unable to comply with the timeframes for filing a VAT return and making the associated payment [S38 of the VAT Act]. This payment will be a provisional payment until such time the final liability is determined.

As part of debt management, instalment payment arrangements are available to the taxpayer and request for the remission of penalty and/or interest in respect of any amount of tax that was not paid on time.

SARS must be satisfied that the business has been impacted by the civil unrest, therefore the taxpayer must inform SARS of the business address and furnish proof that a report has been made with the relevant policing authority [case number] or proof of an insurance claim submitted to the Insurer.

Filing of VAT Returns

2. My business was destroyed in the civil unrest. Do I still need to file VAT returns?

Answer

If you are restituting your business, VAT returns must still be filed. There may not be any VAT payable on sales while restituting your business but there may be VAT incurred on expenditure to reconstitute your business and this must be disclosed on the relevant VAT return.

The obligation to file a VAT return remains even if no tax is payable.

Ceasing your business: If you are ceasing your business, VAT returns must still be filed for all tax periods up to the tax period in which you ceased your business. You must inform SARS that the business has ceased, including the date of cessation. Thereafter, SARS will inform you of the last tax period for which you must file a VAT return.

The obligation to file a VAT return remains even if no tax is payable.

Debt Management

1. What are the remedies available to manage my debt?

The following remedies are available:

- 1) Contact SARS to make suitable payment arrangements

You may, within 10 business days from the date of the letter of demand, apply:

- 2) Apply for payment in instalments where you are unable to pay the full amount.
- 3) Apply for suspension of the debt where you intend to submit or have submitted a formal dispute.
- 4) Apply for a compromise of a portion of the tax where this will provide a higher return to the fiscus than liquidation, sequestration, or other collection measures.