

DRAFT

REPUBLIC OF SOUTH AFRICA

DRAFT DISASTER MANAGEMENT TAX RELIEF BILL

*(As introduced in the National Assembly (proposed section 77))
(The English text is the official text of the Bill)*

(MINISTER OF FINANCE)

Please forward written comments to the National Treasury's tax policy depository at 2020AnnexCProp@treasury.gov.za and Adele Collins at acollins@sars.gov.za by close of business on **15 April 2020**.

1 April 2020

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To provide for tax relief in respect of the COVID-19 pandemic, to provide for the tax treatment of certain trusts for tax relief in respect of the COVID-19 pandemic; to provide for non-withholding of employees' tax for tax relief in respect of the COVID-19 pandemic; to amend the Employment Tax Incentive Act, 2013, so as to amend certain provisions to provide for tax relief in respect of the COVID-19 pandemic; and to provide for matters incidental thereto.

PREAMBLE

SINCE Government implemented measures in the Republic of South Africa to combat the worldwide COVID-19 pandemic within the Republic;

AND SINCE Government is desirous to put measures in place to mitigate the economic impact of the COVID-19 pandemic and to devise a set of interventions that may assist to cushion society from these economic difficulties;

AND SINCE commitments have been made to assist small businesses and their employees affected by the COVID-19 pandemic and Government is desirous of ensuring that those financial commitments have the maximum beneficial results,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:

Interpretation

1. In this Act, “**COVID-19 disaster relief trust**”, means any trust established for the sole purpose of disaster relief in respect of the COVID-19 pandemic, declared a national disaster on 15 March 2020 by the Minister of Cooperative Governance and Traditional Affairs under section 27(1) of the Disaster Management Act, 2002 (Act No. 57 of 2002), by Government Notice No. 313 published in *Government Gazette* No. 43096 of 15 March 2020.

Amendment of section 6 of Act 26 of 2013, as amended by section 115 of Act 43 of 2014 and section 80 of Act 34 of 2019

2. (1) Section 6 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution in paragraph (a) for subparagraph (i) of the following subparagraph:

“(i) (aa) is not less than 18 years old and not more than 29 years old at the end of any month in respect of which the employment tax incentive is claimed;

or

(bb) is not less than 30 years old and not more than 65 years old at the end of any month in respect of which the employment tax incentive is claimed;”.

(2) Subsection (1) is deemed to have come into operation on 1 April 2020 and applies to any remuneration paid on or before 31 July 2020.

Amendment of section 7 of Act 26 of 2013, as amended by section 116 of Act 43 of 2014, section 95 of Act 15 of 2016, section 92 of Act 17 of 2017, section 5 of Act 32 of 2019 and section 81 of Act 34 of 2019

3. (1) Section 7 of the Employment Tax Incentive Act, 2013, is hereby amended—
(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“(2) During each month of the first 12 months in respect of which an employer employs a qualifying employee contemplated in section 6(a)(i)(aa) or 6(a)(ii) or (iii), the amount of the employment tax incentive in respect of that qualifying employee, if the monthly remuneration of the employee is—”;

(b) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

- “(a) less than R2 000, is an amount equal to the sum of the amount of R500 and an amount equal to 50 per cent of the monthly remuneration of the employee;
- (c) by the substitution in subsection (2) for paragraph (b) of the following paragraph:
“(b) R2 000 or more but less than R4 500, is an amount of **[R1 000]** R1 500;”;
- (d) by the substitution in subsection (2)(c) for subparagraphs (ii) and (iii) of the following subparagraphs:
“(ii) ‘A’ represents the amount of **[R1 000]** R1 500;
(iii) ‘B’ represents the number **[0,5]** 0,75;”
- (e) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
“(3) During each of the 12 months after the first 12 months that the same employer employs the qualifying employee contemplated in section 6(a)(i)(aa) or 6(a)(ii) or (iii), the amount of the employment tax incentive in respect of that qualifying employee, if the monthly remuneration of the employee is—”;
- (f) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
“(a) less than R2 000, is an amount equal to the sum of the amount of R500 and an amount equal to 25 per cent of the monthly remuneration of the employee;
- (g) by the substitution in subsection (3) for paragraph (b) of the following paragraph:
“(b) R2 000 or more but less than R4 500, is an amount of **[R500]** R1 000;”;
- (h) by the substitution in subsection (3)(c) for subparagraphs (ii) and (iii) of the following subparagraphs:
“(ii) ‘A’ represents the amount of **[R500]** R1 000;
(iii) ‘B’ represents the number **[0,25]** 0,5;
- (i) by the insertion after subsection (3) of the following subsections:
“(3A) During each month—
(a) after the first 24 months that the same employer employs a qualifying employee contemplated in section 6(a)(i)(aa) or 6(a)(ii) or (iii); or
(b) that the employer employs a qualifying employee contemplated in section 6(a)(i)(bb),
the amount of the employment tax incentive in respect of that qualifying employee,
if the monthly remuneration of the employee is—
(i) less than R4 500, an amount of R 500;

(ii) R4 500 or more but less than R6 500, an amount determined in accordance with the formula:

$$X = A - (B \times (C - D))$$

in which formula—

(aa) ‘X’ represents the amount of the monthly employment tax incentive that must be determined;

(bb) ‘A’ represents the amount of R500;

(cc) ‘B’ represents the number 0,25;

(dd) ‘C’ represents the amount of the monthly remuneration of the employee; and

(ee) ‘D’ represents the amount of R4 500; or

(iii) R6 500 or more, an amount of nil.

(2) Subsection (1) is deemed to have come into operation on 1 April 2020 and applies any remuneration paid on or before 31 July 2020.

Amendment of section 10 of Act 26 of 2013, as amended by section 118 of Act 43 of 2014 and section 142 of Act 25 of 2015

4. (1) Section 10 of the Employment Tax Incentive Act, 2013, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) At the end of **[the period for which the employer is required to render a return in terms of paragraph 14(3)(a) of the Fourth Schedule to the Income Tax Act]** each month, payment of an amount equal to the excess contemplated in section 9(1) must be claimed from the South African Revenue Service in the form and manner and at the time and place prescribed by the Commissioner for the South African Revenue Service.”.

(2) Subsection (1) is deemed to have come into operation on 1 March 2020 and applies in respect of any remuneration paid on or before 31 July 2020.

Deduction in respect of donation to COVID-19 disaster relief trust

5. (1) There must be allowed to be deducted, in accordance with section 18A of the Income Tax Act, 1962 (Act No.58 of 1962), in the determination, for the purposes of that Act, of the taxable income, as defined in section 1 of that Act, of any taxpayer, as defined in that section, so much of any *bona fide* donation by that taxpayer in cash which was

actually paid during the year of assessment by that taxpayer to a COVID-19 disaster relief trust.

(2) Subsection (1) comes into operation on 1 April 2020 and applies in respect of any amount paid on or before 31 July 2020.

COVID-19 disaster relief trust deemed to be public benefit organisation.

6. (1) Any COVID-19 disaster relief trust must be deemed—

- (a) to be a public benefit organisation, as defined in section 30(1) of the Income Tax Act, 1962 (Act No. 58 of 1962) for the purposes of that Act, if that COVID-19 disaster relief trust carries on a public benefit activity as contemplated in paragraph (a) of the definition of “public benefit activity” in that section; and
- (b) approved as a public benefit organisation, as defined in that section, by the Commissioner, as defined in section 1 of that Act, under section 30(3) of that Act, subject to—
 - (i) that COVID-19 disaster relief trust complying with all the conditions imposed by section 30 of that Act in respect of a public benefit organisation; and
 - (ii) any power granted to the Commissioner, as defined in section (1) of that Act to withdraw the approval of any public benefit organisation under section 30 of that Act.

(2) Subsection (1) comes into operation on 1 April 2020 and applies until 31 July 2020.

COVID-19 disaster relief trust deemed to be small business funding entity

7. (1) Any COVID-19 disaster relief trust that is not dissolved and the assets thereof are not distributed as contemplated in section 30(3)(b)(iii) of the Income Tax Act, 1962 (Act No. 58 of 1962), on or before 31 July 2020, must be deemed to be a small business funding entity for the purposes of that Act as contemplated in section 30C of that Act, and must be deemed to be approved as a small business funding entity by the Commissioner for the South African Revenue Service under section 30C(1) of that Act, subject to subsections (2) to (7) of that section.

(2) Subsection (1) comes into operation on 31 July 2020.

Amounts received or accrued from COVID-19 relief trust not subject to employees' tax

8. (1) For the purposes of paragraph 2(4) of the Fourth Schedule to the Income Tax Act, 1962 (Act No. 58 of 1962), any amount received or accrued from a COVID-19 disaster relief trust, must be deducted or excluded from remuneration, as defined in that Schedule, in calculating the balance of remuneration as referred to in that paragraph.

(2) Subsection (1) is deemed to have come into operation on 1 April 2020 and applies in respect of any amount received or accrued on or after that date but on or before 31 July 2020.

Application of sections

9. Sections 2, 3 and 4 must not apply in respect of any employer registered as such with the South African Revenue Service after 1 March 2020, as contemplated in Chapter 3 of the Tax Administration Act, 2011 (Act No. 28 of 2011).

Short title

10. This Act is called the Disaster Management Tax Relief Act, 2020.