

(1 April 2026 – to date)

[This is the **current** version and applies as from **1 April 2026** i.e. the date of commencement of the Rates and Monetary Amounts and Amendment of Revenue Laws Act 3 of 2026– **to date**]

### **EMPLOYMENT TAX INCENTIVE ACT 26 OF 2013**

*Government Notice 1032 in Government Gazette 37185 dated 18 December 2013. Commencement date:*

*1 January 2014 – unless otherwise indicated*

*Commencement date of section 10: 19 December 2014 [Government Notice 1039, Gazette No. 38346]*

#### **as amended by:**

*Taxation Laws Amendment Act 43 of 2014 - Government Notice 21 in Government Gazette 38405 dated 20 January 2015. Commencement date: 20 January 2015 – unless otherwise indicated.*

*Taxation Laws Amendment Act 25 of 2015 – Government Notice 22 in Government Gazette 39588 dated 8 January 2016. Commencement date: 1 January 2016 – unless otherwise indicated.*

*Taxation Laws Amendment Act 15 of 2016 - Government Notice No. 40 in Government Gazette No. 40562 dated 19 January 2017. Commencement date: 19 January 2017 – unless otherwise indicated.*

*Taxation Laws Amendment Act 17 of 2017 - Government Notice No. 1451 in Government Gazette 41342 dated 18 December 2017. Commencement date of section 92: 1 March 2017*

*Taxation Laws Amendment Act 17 of 2017 - Government Notice No. 1451 in Government Gazette 41342 dated 18 December 2017. Commencement date of section 91: 1 March 2018*

*Taxation Laws Amendment Act 23 of 2018 – Government Notice 19 in Government Gazette 42172, dated 17 January 2018. Commencement date: 17 January 2019, unless otherwise indicated*

*Rates and Monetary Amounts and Amendment of Revenue Laws Act 32 of 2019 – Government Notice 19 in Government Gazette 42950 dated 15 January 2020. Commencement date: 15 January 2020, unless otherwise indicated*

*Taxation Laws Amendment Act 34 of 2019 – Government Notice 21 in Government Gazette 42951 dated 15 January 2020. Commencement date: 15 January 2020, unless otherwise indicated*

*Taxation Laws Amendment Act 34 of 2019 – Government Notice 21 in Government Gazette 42951 dated 15 January 2020. Commencement date of sections 78 and 80(1)(a): 1 March 2020*

*Disaster Management Tax Relief Act 13 of 2020 - Government Notice 1188 in Government Gazette 43883 dated 5 November 2020. Commencement date of certain sections: **1 April 2020***

*Disaster Management Tax Relief Act 13 of 2020 - Government Notice 1188 in Government Gazette 43883 dated 5 November 2020. Commencement date of further sections: **1 May 2020***

*Disaster Management Tax Relief Act 13 of 2020 - Government Notice 1188 in Government Gazette 43883 dated 5 November 2020. Commencement date of even further sections: **1 August 2020***

*Taxation Laws Amendment Act 23 of 2020 - Government Notice 25 in Government Gazette 44083 dated 20 January 2021. The amendment to the Employment Tax Incentive Act by this Act is deemed to have come into operation on **31 July 2020**.*

*Taxation Laws Amendment Act 20 of 2021 - Government Notice 770 in Government Gazette 45787 dated 19 January 2022. Commencement date: **1 March 2022**.*

*Tax Administration Laws Amendment Act 16 of 2022 - Government Notice 1542 in Government Gazette 47827 dated 5 January 2023. Commencement date: **5 January 2023 – unless otherwise indicated**.*

*Rates and Monetary Amounts and Amendment of Revenue Laws Act 19 of 2022 - Government Notice 1540 in Government Gazette 47825 dated 5 January 2023. Commencement date: **5 January 2023 – unless otherwise indicated**.*

*Taxation Laws Amendment Act 42 of 2024 – Government Notice 5736 in Government Gazette 51826 dated 24 December 2024. Commencement date: **1 March 2025**.*

*Rates and Monetary Amounts and Amendment of Revenue Laws Act 3 of 2026 - Government Notice 7342 in Government Gazette 54446 dated 1 April 2026. Commencement date: **1 April 2026 - unless otherwise indicated**.*

**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.

\_\_\_\_\_  
(English text signed by the President)

(Assented to 17 December 2013)

**ACT**

**To provide for an employment tax incentive in the form of an amount by which employees' tax may be reduced; to allow for a claim and payment of an amount where employees' tax cannot be reduced; and to provide for matters connected therewith.**

**PREAMBLE**

**SINCE** the unemployment rate in the Republic is of concern to government;

**AND SINCE** government recognises the need to share the costs of expanding job opportunities with the private sector;

**AND SINCE** government wishes to support employment growth by focusing on labour market activation, especially in relation to young work seekers;

**AND SINCE** government is desirous of instituting an employment tax incentive,

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

**ARRANGEMENT OF ACT**

1. Definitions

***Part I***

***Employment tax incentive***

2. Instituting of employment tax incentive

***Part II***

***Eligible employers and qualifying employees***

3. Eligible employers
4. Compliance with wage regulating measures
5. Penalty and disqualification
6. Qualifying employees

***Part III***

***Determining amount of employment tax incentive***

7. Determining amount of employment tax incentive
- 7A. Minister may announce altered amounts
8. Unavailability of employment tax incentive for reducing employees' tax
9. Roll-over of amounts
10. Refund

**Part IV**  
**Miscellaneous**

11. Reporting
12. Cessation of employment tax incentive
13. Amendment of laws
14. Short title and commencement

SCHEDULE

**1. Definitions**

(1) In this Act, unless the context indicates otherwise—

**“associated person”**, in relation to an employer—

- (a) where the employer is a company, means any other company which is associated with that employer by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons;
- (b) where the employer is not a company, means any company which is managed or controlled directly or indirectly by the employer or by any partnership of which the employer is a member; or
- (c) where the employer is a natural person, means any relative of that employer;

**“company”** means a company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

**“employee”** means a natural person—

- (a) who works for another person and in any other manner directly or indirectly assists in carrying on or conducting the business of that other person;
- (b) who receives, or is entitled to receive remuneration from that other person; and
- (c) who is documented in the records of that other person as envisaged in the record keeping provisions in section 31 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997),

but does not include an independent contractor;

*(Definition of “employee” amended by section 101(1) of Act 23 of 2018 with effect from 26 July 2018)*

*(Definition of “employee” substituted by section 58(1)(a) of Act 20 of 2021, with effect from 1 March 2022 and applies in respect of years of assessment commencing on or after that date)*

**“employees’ tax”** means the amount deducted or withheld and that must be paid over to the Commissioner for the South African Revenue Service by virtue of paragraph 2(1) of the Fourth Schedule to the Income Tax Act;

**“Income Tax Act”** means the Income Tax Act, 1962 (Act No. 58 of 1962);

**“Labour Relations Act”** means the Labour Relations Act, 1995 (Act No. 66 of 1995);

**“monthly remuneration”**—

- (a) where an employer employs and pays remuneration to a qualifying employee for at least 160 hours in a month, means the amount paid or payable to the qualifying employee by the employer in respect of a month; or;
- (b) where the employer employs a qualifying employee and pays remuneration to that employee for less than 160 hours in a month, means an amount calculated in terms of section 7(5):

Provided that in determining the remuneration paid or payable, an amount other than a cash payment to the employee after adding back deductions in terms of section 34(1)(b) of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), must be disregarded;

*(Proviso to the definition of “monthly remuneration” substituted by section 56(1) of Act 42 of 2024 with effect from 1 March 2025)*

*(Definition of “monthly remuneration” amended by section 93(1) of Act 15 of 2016 with effect from 1 March 2017)*

*(Definition of “monthly remuneration” substituted by section 112(1) of Act 43 of 2014 with effect from 1 March 2015)*

*(Definition of “monthly remuneration” substituted by section 2(1)(a) of Act 13 of 2020, with effect from 1 May 2020)*

*(Definition of “monthly remuneration” substituted by section 2(1)(b) of Act 13 of 2020, with effect from 1 August 2020)*

*(Definition of “monthly remuneration” substituted by section 58(1)(b) of Act 20 of 2021, with effect from 1 March 2022 and applies in respect of years of assessment commencing on or after that date)*

**“qualifying employee”** means an employee contemplated in section 6;

**“special economic zone”** means a special economic zone as defined in section 12R(1) of the Income Tax Act;

*(Definition of “special economic zone” substituted by section 78(1) of Act 34 of 2020 with effect from 1 March 2020)*

“**Tax Administration Act**” means the Tax Administration Act, 2011 (Act No. 28 of 2011);

“**wage**” means wage as defined in section 1 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997).

- (2) For the purposes of the definition of “monthly remuneration” in subsection (1), “remuneration” has the meaning ascribed to it in paragraph (1) of the Fourth Schedule to the Income Tax Act.
- (3) For the purposes of paragraph (c) of the definition of “associated person” in subsection (1) “relative”, in relation to any person, means the spouse of that person or anybody related to him or her or to his or her spouse within the third degree of consanguinity, or any spouse of anybody so related.

### ***Part I***

#### ***Employment tax incentive***

## **2. Instituting of employment tax incentive**

- (1) An incentive, called the employment tax incentive, in order to encourage employment creation is hereby instituted.
- (2) If an employer is eligible to receive the employment tax incentive in respect of a qualifying employee in respect of a month, that employer may reduce the employees’ tax payable by that employer in an amount determined in terms of section 7 or receive payment of an amount contemplated in section 10(2), unless section 8 applies.

### ***Part II***

#### ***Eligible employers and qualifying employees***

## **3. Eligible employers**

An employer is eligible to receive the employment tax incentive if the employer—

- (a) is registered for the purposes of the withholding and payment of employees’ tax by virtue of paragraph 15 of the Fourth Schedule to the Income Tax Act; and
- (b) is not—
  - (i) the government of the Republic in the national, provincial or local sphere;
  - (ii) a public entity that is listed in Schedule 2 or 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), other than those public entities that the Minister of Finance may

designate by notice in the *Gazette* on such conditions as the Minister of Finance may prescribe by regulation;

- (iii) a municipal entity defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (c) is not disqualified from receiving the incentive—
  - (i) by the Minister of Finance in accordance with section 5(1)(b), due to the displacement of an employee by virtue of section 5(2); or
  - (ii) by not meeting such conditions as the Minister of Finance, after consultation with the Minister of Labour, may prescribe by regulation, including—
    - (aa) conditions based on requirements in respect of the training of employees; and
    - (bb) conditions based on the classification of trade in the most recent Standard Industrial Classification Code issued by Statistics South Africa.

#### **4. Compliance with wage regulating measures**

- (1) An employer is not eligible to receive the employment tax incentive in respect of an employee in respect of a month if the wage paid to that employee in respect of that month is less than—
  - (a) the higher of the amount payable by virtue of a wage regulating measure applicable to that employer or the amount contemplated in section 4(1) of the National Minimum Wage Act, 2018 (Act No. 9 of 2018), or Schedule 2 to that Act; or
  - (b) if the amount of the wage payable to an employee by an employer is not subject to any wage regulating measure or not subject to section 3 of the National Minimum Wage Act, 2018 (Act No. 9 of 2018), or exempt under section 15 of that Act—
    - (i) where the employee is employed and paid remuneration for at least 160 hours in a month, the amount of R2 500 in respect of a month; or  
*(Section 4(1)(b)(i) substituted by section 5(1) of Act 3 of 2006, deemed to have come into operation on 1 April 2025)*
    - (ii) where the employee is employed and paid remuneration for less than 160 hours in a month, an amount that bears to the amount of R2 500 the same ratio as 160 hours bears to the number of hours that the employee was employed for and paid remuneration by that employer in that month.

*(Section 4(1)(b)(ii) substituted by section 5(1) of Act 3 of 2006, deemed to have come into operation on 1 April 2025)*

*(Section 4(1) amended by section 113 of Act 43 of 2014 with effect from 1 March 2015)*

*(Section 4(1) amended by section 141 of Act 25 of 2015)*

*(Section 4(1) amended by section 94 of Act 15 of 2016 with effect from 1 March 2017)*

*(Section 4(1) amended by section 91 of Act 17 of 2017 with effect from 1 March 2018)*

*(Section 4(1) amended by section 79 of Act 34 of 2019, deemed to have come into operation on 1 August 2019)*

*(Section 4(1) substituted by section 3(1)(a) of Act 13 of 2020, with effect from 1 May 2020)*

*(Section 4(1) substituted by section 3(1)(b) of Act 13 of 2020, with effect from 1 August 2020)*

- (2) If an employer receives the employment tax incentive in respect of an employee despite not being eligible by reason of subsection (1), that employer must pay a penalty to the South African Revenue Service in an amount equal to 100 per cent of the employment tax incentive received in respect of that employee in respect of each month that the employer received the employment tax incentive.
- (3) For the purposes of this section “**wage regulating measure**” means—
- (a) a collective agreement as contemplated in section 23 of the Labour Relations Act;
  - (b) a sectoral determination as contemplated in section 51 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997); or
  - (c) a binding bargaining council agreement as contemplated in section 31 of the Labour Relations Act, including where such agreement is extended by reason of a determination of the Minister of Labour in terms of section 32 of that Act.
- (4) For the purposes of this section, ‘hours’ means ‘ordinary hours’ as defined in section 1 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997).

*(Section 4(4) added by section 91(1)(b) of Act 17 of 2017 with effect from 1 March 2018)*

## **5. Penalty and disqualification**

*(Heading substituted by section 57(1)(a) of Act 42 of 2024 with effect from 1 March 2025)*

- (1) Where an employer is deemed to have displaced an employee as contemplated in subsection (2), that employer—
- (a) must pay a penalty to the South African Revenue Service in an amount of R30 000 in respect of the employee that is displaced; and

- (b) may be disqualified from receiving the employment tax incentive by the Minister of Finance by notice in the *Gazette* after taking into account—
- (i) the number of employees that have been displaced by the employer; and
  - (ii) the effect that the disqualification may directly or indirectly have on the employees of the employer.
- (2) For the purposes of subsection (1), an employer is deemed to have displaced an employee if—
- (a) the resolution of a dispute, whether by agreement, order of court or otherwise, reveals that the dismissal of that employee constitutes an automatically unfair dismissal in terms of section 187(1)(f) of the Labour Relations Act; and  
*(Section 5(2)(a) substituted by section 114(1) of Act 43 of 2014 with effect from 1 January 2014)*
  - (b) the employer replaces that dismissed employee with an employee in respect of which the employer is eligible to receive the employment tax incentive.
- (3) If an employer receives the employment tax incentive in respect of an amount that must be disregarded in terms of the proviso to the definition of ‘monthly remuneration’ in section 1(1), that employer must pay a penalty to the South African Revenue Service in an amount equal to 100 per cent of the employment tax incentive received in respect of that employee in respect of each month that the employer received the employment tax incentive relating to the amount that should have been so disregarded.  
*(Section 5(3) added by section 57(1)(b) of Act 42 of 2024 with effect from 1 March 2025)*

## 6. Qualifying employees

An employee is a qualifying employee if the employee—

- (a)
- (i) 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;  
*(Section 6(a)(i) substituted by section 4(a) of Act 13 of 2020, with effect from 1 April 2020)*  
*(Section 6(a)(i) substituted by section 4(b) of Act 13 of 2020, with effect from 1 August 2020)*
  - (ii) is employed by an employer that is a qualifying company as contemplated in section 12R of the Income Tax Act, and that employee renders services to that employer mainly within the special economic zone in which the qualifying company that is the employer carries on trade; or  
*(Section 6(a)(ii) substituted by section 80(1)(a) of Act 34 of 2020 with effect from 1 March 2020)*

(iii) is employed by an employer in an industry designated by the Minister of Finance, after consultation with the Minister of Labour and the Minister of Trade and Industry, by notice in the *Gazette*;

(b)

(i) is in possession of an identity card referred to in section 14 of the Identification Act, 1997 (Act No. 68 of 1997), issued to that employee after application for the card in terms of section 15 of that Act;

*(Section 6(b)(i) amended by section 115(1)(a) of Act 43 of 2014 with effect from 1 January 2014)*

(ii) is in possession of an asylum seeker permit, issued to that employee in terms of section 22(1) of the Refugees Act, 1998 (Act No. 130 of 1998), after application for the permit in terms of section 21(1) of that Act; or

*(Section 6(b)(ii) amended by section 115(1)(a) of Act 43 of 2014 with effect from 1 January 2014)*

(iii) is in possession of an identity document issued in terms of section 30 of the Refugees Act, 1998 (Act No. 130 of 1998);

*(Section 6(b)(iii) added by section 115(1)(a) of Act 43 of 2014 with effect from 1 January 2014)*

(c) in relation to the employer, is not a connected person as defined in section 1 of the Income Tax Act;

(d) is not a domestic worker as defined in section 1 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);

(e) was employed by the employer or an associated person on or after 1 October 2013 in respect of employment commencing on or after that date;

*(Section 6(e) amended by section 115(1)(b) of Act 43 of 2014 with effect from 1 January 2014)*

*(Section 6(e) deleted by section 4(c) of Act 13 of 2020, with effect from 1 April 2020)*

*(Section 6(e) inserted by section 4(d) of Act 13 of 2020, with effect from 1 August 2020)*

(f) is not an employee in respect of whom an employer is ineligible to receive the incentive by virtue of section 4; and

*(Section 6(f) amended by section 115(1)(b) of Act 43 of 2014 with effect from 1 January 2014)*

(g) receives remuneration in an amount less than R7 500 in respect of a month.

*(Section 6(g) added by section 115(1)(b) of Act 43 of 2014 with effect from 1 January 2014)*

*(Section 6(g) substituted by section 80(1)(b) of Act 34 of 2019 which amendment is deemed to have come into operation on 1 March 2019)*

*(Section 6(g) substituted by section 6(1) of Act 3 of 2006, deemed to have come into operation on 1 April 2025)*

: Provided that the employee is not, in fulfilling the conditions of their employment contract during any month, mainly involved in the activity of studying, unless the employer and employee have entered into a learning programme as defined in section 1 of the Skills Development Act, 1998 (Act No. 97 of 1998), and, in determining the time spent studying in proportion to the total time for which the employee is employed, the time must be based on actual hours spent studying and employed.

*(Proviso added by section 59(1) of Act 20 of 2021, with effect from 1 March 2022 and applies in respect of years of assessment commencing on or after that date)*

### **Part III**

#### **Determining amount of employment tax incentive**

#### **7. Determining amount of employment tax incentive**

- (1) During each month, commencing from 1 January 2014, that an employer employs a qualifying employee, the amount of the employment tax incentive available to that employer is the sum of the amounts determined in respect of each qualifying employee of that employer stipulated in subsections (2) and (3) and section 9.

*(Section 7(1) substituted by section 95(1)(a) of Act 15 of 2016 with effect from 1 March 2017)*

*(Section 7(1) substituted by section 92(1) of Act 17 of 2017, which amendment is deemed to have come into operation on 1 March 2017)*

- (2) During each month of the first 12 months in respect of which an employer employs a qualifying employee, the amount of the employment tax incentive in respect of that qualifying employee, if the monthly remuneration of the employee is—
- (a) less than R2 500, is an amount equal to 60 per cent of the monthly remuneration of the employee;
  - (b) R2 500 or more but less than R5 500, is an amount of R1 500;
  - (c) R5 500 or more but less than R7 500, is an amount determined in accordance with the following formula:

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

in which formula—

- (i) “X” represents the amount of the monthly employment tax incentive that must be determined;
- (ii) “A” represents the amount of R1 500;
- (iii) “B” represents the number 0,75;

(iv) “C” represents the amount of the monthly remuneration of the employee; and

(v) “D” represents the amount of R5 500; or

(d) R7 500 or more, is an amount of nil.

*(Section 7(2) amended by section 95(1) of Act 15 of 2016 with effect from 1 March 2017)*

*(Section 7(2) amended by section 5(1) of Act 32 of 2019 with effect from 1 March 2019)*

*(Section 7(2) amended by section 5(g) of Act 13 of 2020, with effect from 1 April 2020)*

*(Section 7(2) amended by section 5(h) of Act 13 of 2020, with effect from 1 August 2020)*

*(Section 7(2) amended by section 6(1) of Act 19 of 2022, deemed to have come into operation on 1 March 2022)*

*(Section 7(2) substituted by section 7(1) of Act 3 of 2006, deemed to have come into operation on 1 April 2025)*

(3) During each of the 12 months after the first 12 months that the same employer employs the qualifying employee, the amount of the employment tax incentive in respect of that qualifying employee, if the monthly remuneration of the employee is—

(a) less than R2 500, is an amount equal to 30 per cent of the monthly remuneration of the employee;

(b) R2 500 or more but less than R5 500, is an amount of R750;

(c) R5 500 or more but less than R7 500, is an amount determined in accordance with the following formula:

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

in which formula—

(i) “X” represents the amount of the monthly employment tax incentive that must be determined;

(ii) “A” represents the amount of R750;

(iii) “B” represents the number 0,375;

(iv) “C” represents the amount of the monthly remuneration of the employee; and

(v) “D” represents the amount of R5 500; or

(d) R7 500 or more, is an amount of nil.

*(Section 7(3) amended by section 95(1) of Act 15 of 2016 with effect from 1 March 2017)*

*(Section 7(3) amended by section 5(1) of Act 32 of 2019 with effect from 1 March 2019)*

*(Section 7(3) amended by section 5(o) of Act 13 of 2020, with effect from 1 April 2020)*

*(Section 7(3) amended by section 5(p) of Act 13 of 2020, with effect from 1 August 2020)*

*(Section 7(3) amended by section 6(1) of Act 19 of 2022, deemed to have come into operation on 1 March 2022)*

*(Section 7(3) substituted by section 7(1) of Act 3 of 2006, deemed to have come into operation on 1 April 2025)*

(3A) .....

*(Section 7(3A) inserted by section 5(q) of Act 13 of 2020, with effect from 1 April 2020)*

*(Section 7(3A) deleted by section 5(r) of Act 13 of 2020, with effect from 1 August 2020)*

(4) If a qualifying employee was previously, on or after 1 January 2014, employed by an associated person in relation to the employer that employs the qualifying employee, the number of months that the qualifying employee was employed by the associated person must be taken into account by that employer for the purposes of this section as if that employee had already been employed by that employer for that number of months.

(5) If an employer employs a qualifying employee for less than 160 hours in a month, the employment tax incentive to be received in respect of that month in respect of that qualifying employee must be an amount that bears to the total amount calculated in terms of subsection (2) or (3) the same ratio as the number of hours that the qualifying employee was employed and is paid remuneration in respect of those hours by that employer in that month bears to the number 160.

*(Section 7(5) substituted by section 116(1) of Act 43 of 2014 with effect from 1 March 2015)*

*(Section 7(5) substituted by section 95(1)(j) of Act 15 of 2016 with effect from 1 March 2017)*

*(Section 7(5) substituted by section 5(s) of Act 13 of 2020, with effect from 1 April 2020)*

*(Section 7(5) substituted by section 5(t) of Act 13 of 2020, with effect from 1 August 2020)*

#### **7A. Minister may announce altered amounts**

(1) The Minister of Finance may announce in the national annual budget contemplated in section 27(1) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), that, with effect from a date or dates mentioned in that announcement, the amounts stipulated in section 4, 5, 6 or 7 will be altered to the extent mentioned in the announcement.

(2) If the Minister of Finance makes an announcement of an alteration contemplated in subsection (1), that alteration comes into effect on the date or dates determined by the Minister of Finance in that announcement and continues to apply for a period of 12 months from that date subject to Parliament passing legislation giving effect to that announcement within that period of 12 months.

*(Section 7A inserted by section 81(1) of Act 34 of 2019 which amendment is deemed to have come into operation on 20 February 2019)*

## **8. Unavailability of employment tax incentive for reducing employees' tax**

An employer may not reduce the employees' tax payable by that employer in respect of a month by the amount of the employment tax incentive available to that employer in that month if, on the last day of that month, the employer—

- (a) has failed to submit any return as defined in section 1 of the Tax Administration Act on the basis required by section 25 of that Act; or
- (b) has any outstanding tax debt as defined in section 1 of the Tax Administration Act, but excluding a tax debt—
  - (i) in respect of which an agreement has been entered into in accordance with section 167 or 204 of the Tax Administration Act;
  - (ii) that has been suspended in terms of section 164 of the Tax Administration Act; or
  - (iii) that does not exceed the amount referred to in section 169(4) of the Tax Administration Act.

## **9. Roll-over of amounts**

- (1) Subject to subsection (4) and section 10(3), if in any month the amount of the employment tax incentive available to an employer exceeds the amount payable by the employer in respect of employees' tax, the amount of the employment tax incentive by which the employees' tax may be reduced in the succeeding month must be increased by adding the amount of that excess to the amount of the employment tax incentive that is available in that succeeding month.
- (2) If an employer does not reduce employees' tax in the amount of the employment tax incentive despite that amount being available to that employer, the sum of the amounts by which the employer would have been entitled to reduce employees' tax must be treated as an excess contemplated in subsection (1) in the first month that the employer reduces employees' tax in the amount of the tax incentive available to the employer.
- (3) If, by virtue of section 8, an employer may not reduce employees' tax in the amount of the employment tax incentive available to that employer, the sum of the amounts by which the employer would have been entitled to reduce employees' tax payable by that employer if the employer had not been subject to section 8 must be treated as an excess contemplated in subsection (1) in the first month that the employer is not subject to section 8.

- (4) Any amount as contemplated in subsection (2) on the first day of the month following 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, must be deemed to be nil in respect of each qualifying employee employed by the employer on that date.

*(Section 9(4) deleted by section 117(1) of Act 43 of 2014 with effect from 1 January 2014)*

*(Section 9(4) added by section 96(1) of Act 15 of 2016 with effect from 1 March 2017)*

*(Section 9(4) substituted by section 70(1) of Act 23 of 2020, deemed to have come into operation on 31 July 2020)*

## **10. Refund**

- (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, a refund 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) A refund contemplated in subsection (1) must be paid in accordance with section 190(1)(a) of the Tax Administration Act to the employer from the National Revenue Fund and be treated as a drawback from revenue charged to the National Revenue Fund.
- (3) Where an employer has claimed the refund in terms of subsection (1), the amount of the excess in respect of the period to which the refund relates must be deemed to be nil in the month immediately following that period.
- (4) The refund contemplated in subsection (1) payable to an employer may not be paid to that employer if the employer—
- (a) has failed to submit any return contemplated in section 8(a); or
  - (b) has any tax debt contemplated in section 8(b).
- (5) Where—
- (a) an employer has claimed a refund in terms of subsection (1); and
  - (b) the refund contemplated in subsection (2) was not paid in terms of subsection (4),

that refund must be paid to an employer during any month in 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 subsequent to the period contemplated in subsection (1) in the first month during that period in which the employer is not subject to subsection (4).

- (6) Where a refund contemplated in subsection (2) is not paid by virtue of subsection (4) and (5) that refund must be deemed to be nil at the end of the period contemplated in subsection (5).

*(Section 10 amended by section 118 of Act 43 of 2014 with effect from 1 January 2014)*

*(Section 10 amended by section 142 of Act 25 of 2015, deemed to have come into operation of 1 January 2014)*

*(Section 10 amended by section 6 of Act 13 of 2020, with effect from 1 April 2020)*

*(Section 10 substituted by section 30(1) of Act 16 of 2022, deemed to have come into operation on 1 September 2022, and applies to any return, for purposes of paragraph 14(2) of the Fourth Schedule to the Income Tax Act, submitted on or after that date)*

*(Commencement date of section 10: 19 December 2014 [Government Notice 1039, Gazette No. 38346])*

#### **Part IV**

#### **Miscellaneous**

#### **11. Reporting**

- (1) The Commissioner of the South African Revenue Service must submit to the Minister of Finance a report in the form and manner and containing the information that the Minister of Finance may prescribe by regulation in the *Gazette* for the purposes of the monitoring and evaluation of the employment tax incentive.
- (2) The Minister of Finance must publish information on the employment tax incentive twice a year.

#### **12. Cessation of employment tax incentive**

An employer may not receive the employment tax incentive after 28 February 2029.

*(Section 12 substituted by section 97 of Act 15 of 2016. Deemed to have come into operation on 1 October 2016.)*

*(Section 12 substituted by section 102 of Act 23 of 2018)*

#### **13. Amendment of laws**

The laws specified in the second column of the Schedule are hereby amended to the extent set out in the third column of that Schedule.

#### **14. Short title and commencement**

- (1) This Act is called the Employment Tax Incentive Act, 2013.
- (2) Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12 and 13 come into operation on 1 January 2014.

- (3) Section 10 comes into operation on a date determined by the Minister of Finance in the *Gazette*.

**SCHEDULE***(Section 13)*

No. and year	Short title	Extent of amendment
Act No. 58 of 1962	Income Tax Act, 1962	<p>1. Section 10 of the Income Tax Act is hereby amended by the insertion in subsection (1) after paragraph (r) of the following paragraph:</p> <p style="padding-left: 40px;"><u>"(s) any amount by which the employees' tax as defined in section 1 of the Employment Tax Incentive Act, 2013, payable by an employer as contemplated in section 3 of that Act is reduced in terms of section 2(2) of that Act or paid in terms of section 10 of that Act;"</u>.</p> <p>2. Paragraph 2 of the Fourth Schedule to the Income Tax Act is hereby amended-</p> <p>(a) by the substitution in subparagraph (1) for the words following item (b) of the following words:</p> <p style="padding-left: 40px;">"(whether or not registered as an employer under paragraph 15) who pays or becomes liable to pay any amount by way of remuneration to any employee shall, unless the Commissioner has granted authority to the contrary, deduct or withhold from that amount, or, where that amount constitutes any lump sum contemplated in paragraph 2(1)(b) of the Second Schedule, deduct from the employees benefit or minimum individual reserve as contemplated in that paragraph, by way of employees' tax an amount which shall be determined as provided in paragraph 9, 10, 11 or 12, whichever is applicable, in respect of the liability for normal tax of that employee, or, if such remuneration is paid or payable to an employee who is married and such remuneration is under the provisions of section 7(2) of this Act deemed to be income of the employee's spouse, in respect of such liability of that spouse, and shall, <u>subject to the Employment Tax Incentive Act, 2013</u>, pay the</p>

No. and year	Short title	Extent of amendment
		<p>amount so deducted or withheld to the Commissioner within seven days after the end of the month during which the amount was deducted or withheld, or in the case of a person who ceases to be an employer before the end of such month, within seven days after the day on which that person ceased to be an employer, or in either case within such further period as the Commissioner may approve."; and</p> <p>(b) by the insertion after subparagraph (2) of the following subparagraph:</p> <p><u>"(2A) An employer may deduct the amount of the employment tax incentive or which the employer is eligible in terms of the Employment Tax Incentive Act, 2013, from the amount of the employees' tax to be paid to the Commissioner by that employer in terms of subparagraph (1), unless section 8 of that Act applies."</u></p>
Act No. 34 of 1997	South African Revenue Service Act, 1997	<p>1. Schedule 1 to the South African Service Act, 1997 Revenue, is hereby amended by the insertion after item 19 of the following item:</p> <p><b><u>"19A. Employment Tax Incentive Act, 2013."</u></b></p>
Act No. 28 of 2011	Tax Administration Act, 2011	<p>1. Section 70 of the Tax Administration Act is hereby amended by the addition to subsection (2) after paragraph (e) of the following paragraph:</p> <p><b><u>"(f) the Department of Labour, the name and contact details of all employers registered for employees' tax and eligible to receive the employment tax incentive in terms of section 2 of the Employment Tax Incentive Act, 2013."</u></b></p>