national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

FREQUENTLY ASKED QUESTIONS

DRAFT EMPLOYMENT TAX INCENTIVE BILL

1. How will the employment tax incentive work?

The employment tax incentive will operate by decreasing the amount of tax that is owed by an employer through the pay-as-you-earn (PAYE) system. Employers withhold the amount of tax that is owed by their employees and pay this amount over to SARS. If the employer was to hire a ‘qualifying employee’ they can deduct the amount of the incentive from the amount of the employees’ tax that is owed to SARS. The amount of tax that is owed by the employees will still be recorded as being paid (there will be no shortfall on assessment) however the employer may retain the cash value of the incentive.

2. Which types of employers would be eligible for the employment tax incentive?

An employer is eligible if they are registered to withhold and pay tax on behalf of their employees (PAYE). There is no restriction to employers in a certain sector. Public sector employers are excluded, however the Minister of Finance may allow certain public entities to participate on a case-by-case basis (subject to performance and affordability).

Eligible employers do need to meet certain criteria in order to be granted the tax incentive. Employers who do not pay the qualifying employee according to the minimum wage prescribed by the relevant sector determination or bargaining counsel agreement would be disqualified from receiving the incentive. If there is no sector determination or bargaining counsel agreement the employer must pay a minimum salary of R2 000 per month to qualify for the incentive.

Where it has been found that an employer has unfairly dismissed an employee in order to hire a new ‘qualifying employee’ to take advantage of the incentive, the employer will face a penalty and be excluded from receiving the incentive in future. In addition, employers who have failed to submit a return or have a debt owed to SARS on the last day of the month will also not qualify. The Minister of Finance (after consulting the Minister of Labour) may also exclude specific employers or sectors in future if the incentive is not being targeted effectively.

3. What determines whether a potential employee is a 'qualifying employee'?

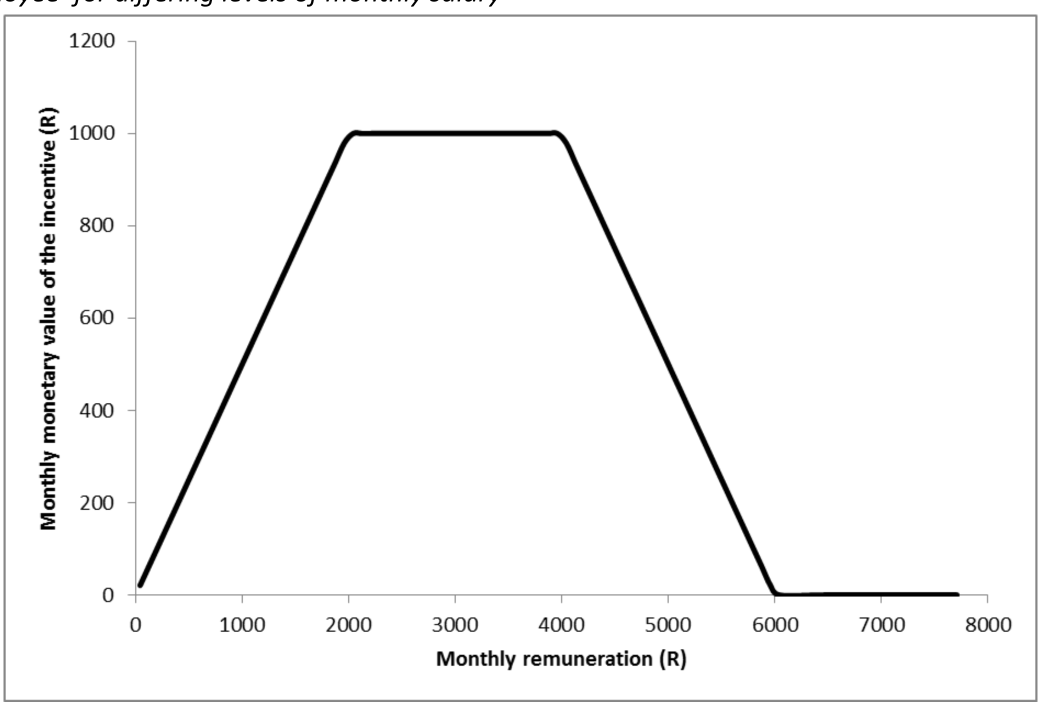
A 'qualifying employee' must be in possession of a South African ID document and must be older than 19 and younger than 30 years of age. The employee must also not be a 'connected person' to the employer (for example they cannot be a relative of the employer) and they cannot be a domestic worker. The employee must not have been employed with the current employer or an associated institution (for example a subsidiary) before 1 October 2013 and must not earn more than R6 000 per month.

If the employer is operating in a Special Economic Zone or designated industry then there is no age limitation for the 'qualifying employee'.

4. What is the value of the incentive per employee?

For a qualifying employee in the first twelve months of employment the monthly value of the incentive will be 50% of the monthly salary of an employee up to a salary of R2 000, which is R1 000, and will remain at R1 000 for employees with a salary between R2 000 to R4 000 per month. The value of the incentive will decrease from R1 000 to zero for qualifying employees with a salary between R4 000 and R6 000. For example, an employer who hires two 'qualifying employees' with a salary of R3 000 each will be able to deduct R2 000 from the PAYE amount that they owe SARS.

The monthly value of the incentive for the first 12 months of employment of a 'qualifying employee' for differing levels of monthly salary



Monthly remuneration in R	1,000	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	6,000
Monthly value of incentive in R	500	750	1,000	1,000	1,000	1,000	1,000	750	500	0

For a qualifying employee in their second twelve months of employment the monthly value of the incentive will be half of the amount described above.

5. Is there a limit or cap on the amount that an employer can use through the employment tax incentive to decrease their PAYE tax liability in each month?

There is no limit to the number of 'qualifying employees' that an employer can hire. However, the employer cannot deduct more than the total amount of tax that is owed to SARS through the PAYE system.

6. The employment tax incentive is administered through the PAYE system. How will employers who have no PAYE tax liability be included?

Initially there will be no reimbursement mechanism, however if an employer does not have a large enough PAYE tax liability in a certain month to make full use of the incentive then the employer may roll over the amount of the incentive to the following month. Amounts that are rolled over may be used against a potential PAYE tax liability in future months. The amount that can be rolled over is limited to R6 000 for each 'qualifying employee' as at the end of the employer's six month tax reconciliation period.

Once the SARS systems have updated to allow for reimbursements on a bi-annual basis there will be an announcement by the Minister of Finance to bring this facility into effect. The change will extend the scope of the incentive to many firms in the informal sector who are not required to pay PAYE.

7. When will the employment tax incentive become available to employers and for how long will it last?

It is proposed that the employment tax incentive is implemented from 1 January 2014 and it will be available until 31 December 2016. To avoid the possibility of employers holding off hiring decisions until 1 January 2014 the employment incentive will apply to all qualifying employees who were hired after 1 October 2013. A decision on the future of the incentive will be made in 2016 after an evaluation of the original incentive has taken place.

8. **Would a new employee who is eligible to qualify for the employment tax incentive receive any monetary benefit?**

   A new 'qualifying employee' would not receive any additional monetary benefit, the employee would receive the salary that was agreed upon between them and the employer. The incentive is paid to the employer by decreasing the employers' total pay-as-you-earn (PAYE) tax liability.

9. **If an employee qualified for the employment tax incentive but then moved to another employer would they be still be classified as a 'qualifying employee'?**

   The value of the incentive that is attributed to each qualifying individual need not be utilised on a continuous basis or with the same employer. The eligibility for the incentive and the amount of the incentive is not determined from the time the individual starts working, but instead reflects the number of months that the person was employed. In the first twelve months of employment the employer can deduct the full value of the incentive, while in the second twelve months of employment the employer can deduct half of the previous amount.

   For example, a qualifying employee who worked for an employer for 6 months on a salary of R2 500 a month would entitle the employer to deduct R6 000 (R1 000 per month) from their PAYE liability. If the individual became unemployed for six months but then took up a position with a new employer where they worked for a year on a salary of R4 000 the employer would be entitled to the full deduction for six months and half of that amount for the remaining six months (R9 000).

10. **How will the potential displacement of older workers, or those who have been employed for longer than two years and are no longer eligible for the incentive, be avoided?**

    Employers will face a penalty of 150% of the value of the incentive that they have received for the previous twelve month period if it is found that they have 'unfairly dismissed' (in accordance with the Labour Relations Act) an employee in order to hire a new 'qualifying employee' to take advantage of the incentive. These employers will also be excluded from any future participation in the incentive.

    The finding of an unfair dismissal in this context must be made by the CCMA (Commission for Conciliation, Mediation and Arbitration), an accredited council or private agency or any competent court.

11. **Does the employment tax incentive align with current labour legislation?**

    Yes, the incentive does align with current labour legislation and employers who do not abide by the minimum wages as determined by the sector determinations or bargaining counsel agreements will be excluded from the incentive.