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REPUBLIC OF SOUTH AFRICA

TAXATION LAWS AMENDMENT BILL, 2021

SECOND BATCH

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

(MINISTER of FINANCE)

12 August 2021

[Bxx—2021]

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.

BILL

To amend the Disaster Management Tax Relief Act, 2020, so as to amend provisions and to insert new provisions; and to provide for matters connected therewith.

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

Amendment of long title of Act 13 of 2020

1. (1) The Disaster Management Tax Relief Act, 2020, is hereby amended by the substitution for the existing long title of the following long title:

"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 in respect of the recent unrest within the Republic of South Africa that resulted in destruction of businesses; to make new provision for the tax treatment of certain organisations for disaster relief in respect of the COVID-19 pandemic and of donations to such organisations; to provide for a temporary exemption from liability to pay skills development levies under the Skills Development Levies Act, 1999; and to provide for matters connected therewith."

(2) Subsection (1) is deemed to have come into operation on 1 August 2021.

Amendment of Preamble to Act 13 of 2020

2. (1) The Disaster Management Tax Relief Act, 2020, is hereby amended by the substitution for the existing Preamble of the following Preamble:

"PREAMBLE

SINCE Government implemented measures to combat the worldwide COVID-19 pandemic and measures in response to the recent unrest that resulted in destruction of businesses within the Republic of South Africa;

AND SINCE Government is desirous to put measures in place to mitigate the economic impact of the COVID-19 pandemic and to mitigate the economic impact caused by the recent unrest within the Republic of South Africa that resulted in destruction of businesses and to devise a set of interventions that may help to cushion society from these economic difficulties;

AND SINCE financial commitments have been made to assist small businesses and their employees affected by the COVID-19 pandemic and to assist small businesses and employees affected by the recent unrest within the Republic of South Africa that resulted in destruction of businesses, Government is desirous of ensuring that those financial commitments have the maximum beneficial results,".

(2) Subsection (1) is deemed to have come into operation on 1 August 2021.

Amendment of section 2 of Act 13 of 2020

3. (1) Section 2 of the Disaster Management Tax Relief Act, 2020, is hereby amended—

(a) by the deletion in subsection (1) of the word "and" at the end of paragraph (a), by the substitution for the full stop at the end of paragraph (b) of a semi-colon and by the addition after paragraph (b) of the following paragraphs:

"(c) by the substitution in subsection (1) for the definition of 'monthly remuneration' of the following definition:

' "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 an 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);]; and

(d) by the substitution in subsection (1) for the definition of 'monthly remuneration' of the following definition:

' "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 30 a month; or

(b) where an 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);';

(b) the substitution for subsection (3) of the following subsection:

"(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 1 August 2020 and applies in respect of any remuneration paid on or after that date but on or before 31 July 2021."; and

(c) the addition after subsection (3) of the following subsections:

"(4) Paragraph (c) of subsection (1) is deemed to have come into operation on 1 August 2021 and applies in respect of remuneration paid on or after that date but on or before 30 November 2021.

(5) Paragraph (d) of subsection (1) is deemed to have come into operation on 1 December 2021 and applies in respect of remuneration paid on or after that date."

(2) Subsection (1) is deemed to have come into operation on 1 August 2021.

Amendment of section 3 of Act 13 of 2020

4. (1) Section 3 of the Disaster Management Tax Relief Act, 2020, is hereby amended—

(a) by the deletion in subsection (1) of the word "and" at the end of paragraph (a), by the substitution for the full stop at the end of paragraph (b) of a semi-colon and by the addition after paragraph (b) of the following paragraphs:

"(c) by the substitution for subsection (1) of the following subsection:

‘(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 000 in respect of a month; or**

(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 000 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].’; and**

(d) by the substitution for subsection (1) of the following subsection:

‘(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 000 in respect of a month; or
- (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 000 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.'";
- (b) the substitution for subsection (3) of the following subsection:
- "(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 1 August 2020 and applies in respect of any remuneration paid on or after that date but on or before 31 July 2021."; and
- (c) the addition after subsection (3) of the following subsections:
- "(4) Paragraph (c) of subsection (1) is deemed to have come into operation on 1 August 2021 and applies in respect of remuneration paid on or after that date but on or before 30 November 2021.
- (5) Paragraph (d) of subsection (1) is deemed to have come into operation on 1 December 2021 and applies in respect of remuneration paid on or after that date."
- (2) Subsection (1) is deemed to have come into operation on 1 August 2021.

Amendment of section 4 of Act 13 of 2020

5. (1) Section 4 of the Disaster Management Tax Relief Act, 2020, is hereby amended—

(a) by the renumbering in subsection (1) of paragraph (c) to paragraph (e) and paragraph (d) to paragraph (f) and the insertion after paragraph (b) of the following paragraphs:

"(c) 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 and 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;

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

(cc) 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;';

(d) 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 **[and 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;**

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

(cc) 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];";

(b) by the addition to subsection (1) after paragraph (f) of the following paragraphs:

(g) by the deletion of paragraph (e); and

(h) by the insertion after paragraph (d) of the following paragraph:

"(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."

(c) by the substitution for subsection (3) of the following subsection:

"(3) Paragraph (b) and (f) of subsection (1) is deemed to have come into operation on 1 August 2020 and applies in respect of any remuneration paid on or after that date but on or before 31 July 2021."; and

(d) by the addition after subsection (3) of the following subsections:

"(4) Paragraphs (c) and (g) of subsection (1) are deemed to have come into operation on 1 August 2021 and apply in respect of remuneration paid on or after that date but on or before 30 November 2021.

"(5) Paragraphs (d) and (h) of subsection (1) are deemed to have come into operation on 1 December 2021 and apply in respect of any remuneration paid on or after that date."

(2) Subsection (1) is deemed to have come into operation on 1 August 2021.

Amendment of section 5 of Act 13 of 2020

6. (1) Section 5 of the Disaster Management Tax Relief Act, 2020, is hereby amended—

(a) by the renumbering in subsection (1) of paragraph (c) to paragraph (e) and paragraph (d) to paragraph (f) and by the insertion after paragraph (b) of the following paragraphs:

"(c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

'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—';

- (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

'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 renumbering in subsection (1) of paragraph (e) to paragraph (i) and paragraph (f) to paragraph (j) and by the insertion after paragraph (f) of the following paragraphs:

- "(g) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

'(a) less than R2 000, is an amount equal to **[50 per cent]** 87,5 per cent of the monthly remuneration of the employee;';

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

'(a) less than R2 000, is an amount equal to **[87,5 per cent]** 50 per cent of the monthly remuneration of the employee;';

- (c) by the renumbering in subsection (1) of paragraph (g) to paragraph (m) and paragraph (h) to paragraph (n) and by the insertion after paragraph (j) of the following paragraphs:

- "(k) 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 750;';

- (l) 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 750]** R1 000;';

- (d) by the renumbering in subsection (1) of paragraph (i) to paragraph (q) and paragraph (j) to paragraph (r) and by the insertion after paragraph (n) of the following paragraphs:

- "(o) 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 750;
 - (iii) 'B' represents the number **[0,5]** 0,875;
- (p) by the substitution in subsection (2)(c) for subparagraphs (ii) and (iii) of the following subparagraphs:
- '(ii) 'A' represents the amount of **[R1 750]** R1 000;
 - (iii) 'B' represents the number **[0,875]** 0,5;
- (e) by the renumbering in subsection (1) of paragraph (k) to paragraph (u) and paragraph (l) to paragraph (v) and by the insertion after paragraph (r) of the following paragraphs:
- "(s) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
- '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—';
- (t) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
- '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 renumbering in subsection (1) of paragraph (m) to paragraph (y) and paragraph (n) to paragraph (z) and by the insertion after paragraph (v) of the following paragraphs:
- "(w) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
- '(a) less than R2 000, is an amount equal to **[25 per cent]** 62,5 per cent of the monthly remuneration of the employee;';
- (x) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

- '(a) less than R2 000, is an amount equal to **[62,5 per cent]** 25 per cent of the monthly remuneration of the employee;';
- (g) by the renumbering in subsection (1) of paragraph (o) to paragraph (zC) and paragraph (p) to paragraph (zD) and by the insertion after paragraph (z) of the following paragraphs:
- "(zA) 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 250;';
- (zB) 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 **[R1 250]** R500;';
- (h) by the renumbering in subsection (1) of paragraph (q) to paragraph (zG) and paragraph (r) to paragraph (zH) and by the insertion after paragraph (zD) of the following paragraphs:
- "(zE) by the substitution in subsection (3)(c) for subparagraphs (ii) and (iii) of the following subparagraphs:
- '(ii) 'A' represents the amount of **[R500]** R1 250;
- (iii) 'B' represents the number **[0,25]** 0,625;';
- (zF) by the substitution in subsection (3)(c) for subparagraphs (ii) and (iii) of the following subparagraphs:
- '(ii) 'A' represents the amount of **[R1 250]** R500;
- (iii) 'B' represents the number **[0,625]** 0,25;';
- (i) by the renumbering in subsection (1) of paragraph (s) to paragraph (zK) and paragraph (t) to paragraph (zL) and by the insertion after paragraph (zH) of the following paragraphs:
- "(zI) by the insertion after subsection (3) of the following subsection:
- '(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) or (cc).

the amount of the employment tax incentive in respect of that qualifying employee, if the monthly remuneration of the employee is—

- (i) less than R2 000, an amount equal to 37,5% of the monthly remuneration of the employee;
- (ii) R2 000 or more but less than R4 500, an amount of R750;
- (iii) 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 R750;

(cc) 'B' represents the number 0,375;

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

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

(iv) R6 500 or more, an amount of nil.';

(zJ) by the deletion of subsection (3A);";

(j) by the addition after paragraph (zL) of the following paragraphs:

"(zM) by the substitution for subsection (5) of the following subsection:

'(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) or (3A) 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.';

(zN) by the substitution for subsection (5) of the following subsection:

'(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) **[or (3A)]** 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.';"

(k) by the substitution for subsections (2) and (3) of the following subsections:

"(2) Paragraphs (a), **[(c)]** (e), **[(e)]** (i), **[(g)]** (m), **[(i)]** (q), **[(k)]** (u), **[(m)]** (y), **[(o)]** (zC), **[(q)]** (zG) and **[(s)]** (zK) of subsection (1) are deemed to have come into operation on 1 April 2020 and apply in respect of any remuneration paid on or after that date but on or before 31 July 2020.

(3) Paragraphs (b), **[(d)]** (f), **[(f)]** (j), **[(h)]** (n), **[(j)]** (r), **[(l)]** (v), **[(n)]** (z), **[(p)]** (zD), **[(r)]** (zH) and **[(t)]** (zL) of subsection (1) are deemed to have come into operation on 1 August 2020 and apply in respect of any remuneration paid on or after that date but on or before 31 July 2021."; and

(l) by the addition after subsection (3) of the following subsections:

"(4) Paragraphs (c), (g), (k), (o), (s), (w), (zA), (zE), (zI) and (zM) of subsection (1) are deemed to have come into operation on 1 August 2021 and apply in respect of any remuneration paid on or after that date but on or before 30 November 2021.

"(5) Paragraphs (d), (h), (l), (p), (t), (x), (zB), (zF), (zJ) and (zN) of subsection (1) are deemed to have come into operation on 1 December 2021 and apply in respect of any remuneration paid on or after that date."

(2) Subsection (1) is deemed to have come into operation on 1 August 2021.

Amendment of section 6 of Act 13 of 2020

7. (1) Section 6 of the Disaster Management Tax Relief Act, 2020, is hereby amended—

(a) by the deletion in subsection (1) of the word "and" at the end of paragraph (a), by the substitution for the full stop at the end of paragraph (b) of the expression ";" and by the addition of the following paragraphs:

"(c) 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.'; and

(d) by the substitution for subsection (1) of the following subsection:

'(1) At the end of [each month] 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, 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.';

(b) by the substitution for subsection (3) of the following subsection:

"(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 1 August 2020 and applies in respect of any remuneration paid on or after that date but on or before 31 July 2021."; and

(c) by the addition after subsection (3) of the following subsections:

"(4) Paragraph (c) of subsection (1) is deemed to have come into operation on 1 August 2021 and applies in respect of any remuneration paid on or before 30 November 2021.

(5) Paragraph (d) of subsection (1) is deemed to have come into operation on 1 December 2021 and applies in respect of any remuneration paid on or after that date."

(2) Subsection (1) is deemed to have come into operation on 1 August 2021.

Amendment of section 11 of Act 13 of 2020

8. (1) Section 11 of the Disaster Management Tax Relief Act, 2020, is hereby amended—

(a) by the substitution for the existing wording of the following subsection:

"(1) [Sections] Paragraph (a) of section 2(1), paragraph (a) of section 3(1), paragraphs (a) and (e) of section 4(1), paragraphs (a), (e), (i), (m), (q), (u), (y), (zC), (zG) and (zK) of section 5(1) and paragraph (a) of section 6(1) must not apply in respect of any employer registered as such with the South

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African Revenue Service, as contemplated in Chapter 3 of the Tax Administration Act, 2011 (Act No. 28 of 2011), after 25 March 2020."; and

(b) by the addition of the following subsection:

"(2) Paragraph (c) of section 2(1), paragraph (c) of section 3(1), paragraphs (c) and (g) of section 4(1), paragraphs (c), (g), (k), (o), (s), (w), (zA), (zE), (zI) and (zM) of section 5(1) and paragraph (c) of section 6(1) must not apply in respect of any employer registered as such with the South African Revenue Service, as contemplated in Chapter 3 of the Tax Administration Act, 2011 (Act No. 28 of 2011), after 25 June 2021."

(2) Paragraph (a) of subsection (1) is deemed to have come into operation on 1 May 2020.

(3) Paragraph (b) of subsection (1) is deemed to have come into operation on 1 August 2021.