Tax Update

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The Employment Tax Incentive Act in a nutshell

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The Employment Tax Incentive Act (hereafter the Act) was promulgated on 18 December 2013 and came into effect from 1 January 2014. The legislation is intended to provide an incentive to the private sector to create employment opportunities by sharing the cost of such employment between the state and the private sector employer. This update aims to provide a broad overview of the main provisions of the Act as well as a practical perspective on the considerations for an employer who may qualify for the incentive.

Incentive mechanism

A private sector employer will generally be eligible for the incentive in respect of qualifying employees employed on or after 1 October 2013. An employee will be a qualifying employee if:

- ✓ he/she is over the age of 18, but not yet 30 years of age;
- ✓ is employed in a special economic zone; *or*
- ✓ is employed in a designated industry.

In addition, such a qualifying employee must have an ID card or asylum seeker permit and must not be a connected person in relation to the employer. Employment of domestic workers and independent contractors do not entitle the employer to an incentive.

The incentive is only available to the employer for the first two years of employment. As the legislation currently stands, the incentive is claimed in the form of a reduced employees' tax payment to SARS. In future, section 10 of the Act, which still needs to become effective, will cater for the incentive to be paid out to an employer by SARS.

The monthly incentive is based on the employee's remuneration (as defined for employees' tax purposes) and is calculated according to the sliding scale based on remuneration as depicted in the following table:

Practical perspective

An important aspect of the incentive, which is easy to overlook, is the fact that the incentive benefit is exempt from income tax (new section 10(1)(s)), as opposed to being a recoupment of expenditure.

The following example illustrates the calculation that employers would have to do to determine the full benefit of the incentive.

Facts

EmployerCo employs Person A (aged 25) for the full 2015 year of assessment. EmployerCo pays Person A a remuneration of R3000 per month.

Employer cash flow calculation

	Cash flow
Salary cost of Person A (R3000 x 12)	(R36 000)
Tax deduction in respect of employment cost – s 11(a) (36 000 x 28%)	R10 008
Incentive received tax free in Y1 (s 10(1)(s)) (R1000 x 12)	R12 000
Cash cost to employ Person A	**R13 992**

It must be borne in mind that this example shows the cash flow effect in the first year of employment, the time at which the effect of the incentive is at its greatest.

Concluding thoughts

The effectiveness of the incentive scheme is likely to vary significantly between entities and industries. In my view, it would be worthwhile for a business to do a calculation to determine the potential benefit locked up in the scheme. The result of the calculation must however be considered in light of the longer term cost of employment and labour regulations that may accompany the employment of a qualifying employee.

	Remuneration <= R2 000	**Remuneration >R2000 but < R4 001**	**Remuneration >R4000 but < R6 001**	**Remuneration > R6 000**
First 12 months	50% of remuneration	R1 000	R1000 minus (50% x Remuneration exceeding R4 000)	Nil
Second 12 months	25% of remuneration	R500	R500 minus (50% x Remuneration exceeding R4 000)	Nil

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