Tax & Legislative Information Series…

…Employment Tax Incentive (ETI)

Last updated – May 2025
By – J Martin

Employment Tax Incentive - Some Background

- In 2013 the Employment Tax Incentive Act 26 saw its first publication.
- The key intention of the Act was to encourage Employers to actively employ young adults who had never been employed, with the intent to provide work opportunity, develop skills and generally expose these youngsters to the world of the formal workplace.
- In return Employers would receive a rebate against their monthly PAYE bill for each individual that was employed for that month and who met the qualifying criteria.
- This would lead to Employers creating work opportunities, in the form of new jobs, that they ordinarily would not have done.
- Due to the schemes' success over the years the sun set date for the ETI scheme was extended numerous times, with the most recent being set for February 2029.
- Since the Act was released there have been quite a few updates aimed at refining certain aspects of the Act, the latest being the updated definition of "wage" and some of the calculation formula parameters.

Employment Tax Incentive - Terminology

- **Employee**: A natural person, who works directly for another person; and who receives, or is entitled to receive remuneration, from that other person, but does not include an independent contractor.

  - There has been a lot of debate around when an Employee is considered an Employee in terms of ETI. This has been a specific issue where an Employee is seen as a 3rd party Employee. In other words, where an Employee is working for Company A, there is a working relationship between Company A and said Employee, but the Employee’s wage or remuneration is paid by Company B.
  - The question arises who is allowed to claim the ETI that has been calculated on that Employee? SARS has issued an update on Interpretation Note 17 where it states that: ” The second tool is the common law tests, used to determine whether a person is an independent contractor or an Employee. Unfortunately, the common law tests as they apply in South Africa do not permit a simple “checklist” approach. There are no hard and fast rules in determining whether a person is an independent contractor. An “overall” or “dominant impression” of the employment relationship must be formed. ”
  - Although some ETI schemes may be legal, SARS do frown upon not having a proper employment relationship but claiming ETI for those Employees.

Employment Tax Incentive - Terminology

- **Remuneration**: as Described in the Fourth Schedule of the Income Tax Act and is defined as:
  - Any amount of income which is paid or is payable to any person by way of any salary, leave pay, wage, overtime pay, bonus, gratuity or commission whether in cash or otherwise and whether or not in respect of services rendered
  - This includes tips if an independent trade is not being conducted.
  - This excludes any amount paid or payable in respect of services rendered, or to be rendered, by any person during any trade carried on by him independently of the person by whom such amount is paid, or payable, and of the person to whom such services have been, or are to be, rendered.
  - Common law and statutory tests can be applied to determine whether the amount was received while carrying on an independent trade

- **Provisio clause**: The base amount of the fourth schedule remunerations can potentially be reduced by:
  - An "amount other than a cash payment" and
  - "deductions in terms of section 34(1)(b) of the Basic Conditions of Employment Act".

  The value of the remuneration may also be changed by the grossing up requirement relating to the 160 hours rule.

- **Section 34(1)(b) of the BCEA:** This section allows an Employer to make deductions from an Employee's remuneration in terms of a law, collective agreement, court order or arbitration award.

Employment Tax Incentive - Terminology

- **Monthly Remuneration**: where an Employer employs a qualifying Employee for a month - the amount paid or payable in respect of that month; or where an Employer employs a qualifying Employee for part of a month – the amount that would have been payable in respect of that month had that Employer employed that Employee for the entire month.

  Monthly remuneration is calculated as follows:
  - Remuneration as described in the Fourth Schedule of the Income Tax Act
  - Adjusted for the Provisio clause :
    - Minus Fringe Benefits
    - Minus Non - Section 34(1)(b) of the BCEA

- **Wage**: Defined in the BCEA – *““wage” means the amount of money paid or payable to an Employee in respect of ordinary hours of work or, if they are shorter, the hours an Employee ordinarily works in a day or week. “*

Employment Tax Incentive - Terminology

- **Special Economic Zone (SEZ):** A special economic zone designated by the Minister of Trade and Industry pursuant to an Act of Parliament. A special economic zone is a designated areas within the borders of South Africa where in business and trade laws differ from that of the rest of the country. The aim of these zones are to increase certain aspects of the economy of which one is employment.

  There are currently 11 zones:
  - Atlantis SEZ (Western Cape)
  - Nkomazi SEZ (Mpumalanga)
  - Coega IDZ (Eastern Cape)
  - Richards Bay IDZ (KwaZulu-Natal)
  - East London IDZ (Eastern ape)
  - Saldanha Bay IDZ (Western Cape)
  - Dube TradePort (KwaZulu-Natal)
  - Maluti – A- Phofung SEZ (Free State)
  - OR Tambo SEZ (Gauteng)
  - Musina/ Makhado SEZ (Limpopo)
  - The Tshwane Automotive Special Economic Zone (TASEZ) (Gauteng)

- **Displacement of Employee:** The Employer is disqualified by the Minister of Finance due to the displacement of an Employee ito Sect 5(1)(b). Where an Employee is replaced (by the Employer) for the purpose of the Employer to be able to claim ETI, the Employer will be disqualified from claiming ETI.

Employment Tax Incentive - Terminology

- **Prescribed conditions:** Prescribed by the Minister of Finance – regulation conditions based on requirements iro training of Employees and conditions based on the classification of trade in the most recent SIC code issued by STATS SA.

  Standard Industrial Classification (SIC) is a system used to classify a company or entity in a specific industry within the country. There are certain rules and regulations (Prescribed conditions) applicable to each industry which companies need to adhere to.

- **Wage regulating measure:** Defined as a Collective agreement (section 23 of Labour Relations Act), a Sectoral determination (section 51 of the BCEA) or a Binding Bargaining council agreement (sect 31 of Labour Relations Act).

  A wage regulation measure is a measure often put in place by legislation or collective agreement. The most common form here of is the National Minimum Wage. This means that an Employee is not allowed to earn less than this and thus a wage regulation measure is applicable to the Employee.

  Where Employers do not adhere to this, they will not be able to claim ETI for those Employees.

Employment Tax Incentive - Terminology

- **Month count:** Each Employee that qualifies for ETI, regardless if this was claimed for or completed on the EMP201, should have their month count increased by 1, for each month they qualify. Where an Employer does not utilise or claim for a qualifying Employee, the month count should still be increased in that specific month. Only when an Employee does not qualify, the month count will not be increased.

- **Section 7 (2) formula – ie ETI rebate calc –** X = A – (B x (C – D)) where:
  - X – ETI Rebate amount to be claimed
  - A – R 1 500 if the month count is equal to or between 1 and 12 and R 750 if the month count is equal to or between 13 and 24.
  - B – 75% if the month count is between 1 and 12 and 37,5% if the month count is between 13 and 24.
  - C – Remuneration amount
  - D – R 5 500.00

- **Valid month:** Any month from January 2014 – February 2029.

Employment Tax Incentive - Determining the ETI value

There are 4 sections that need to be covered when determining the ETI value for the month:

- Determining if the **Employer is eligible / qualifies**.
- Determining if the **Employee qualifies**.
- **Calculating the available ETI** – ie as per the formula.
- **Utilising ETI** – claiming and rolling over.

Employment Tax Incentive - Eligible Employer

For an **Employer** to qualify for ETI the following conditions must be met:

- The Employer needs to be **Registered for PAYE**.
- The Employer must be **SARS / Tax compliant** when claiming. This includes all aspects of Tax compliance applicable to the Employer. For example, if an Employer has an outstanding VAT return for a previous period, the Employer will not be SARS compliant.
- The Employer is not **allowed to be a Government Employer, Public Entity or Municipal Entity.**
- There **cannot be an Employee Displacement principle** applicable to the Employer. This means that when an Employer discharged a former Employee to replace that Employee with an Employee who would qualify for ETI, the Employer will not be an eligible Employer.
- Should there be any **prescribed conditions** applicable to the Employer the Employer must be compliant with these conditions. Such conditions may be industry or legislative of nature.

Employment Tax Incentive - Qualifying Employee

For an **Employee** to qualify for ETI the following conditions must be met:

- The Employee must be a **Natural Person**.
- The Employee **cannot be a Connected person, Domestic Worker or Independent Contractor**.
- The Employee needs to be **employed after 2013/09/30**.
- The Employee may not be **younger than 18 years or older than 29 years** at the end of the month in which the ETI claim is done. An Employee who turns 30 on the last day of the month in question would thus not qualify for ETI in that month.
- If the Employee **renders services mainly in an SEZ**, the age rule will not apply to that Employee.
- The Employee **needs to have a valid ID or asylum seeker permit**.
- If there are **wage regulation measures applicable** to the Employer, the Employees pro-rate wage should be more or equal to the wage regulation measure.
- If there are no wage regulation measures applicable, the **Employees' pro rate wage should be more than or equal to R 2 500 and remuneration equal or less than R 7 500**

Employment Tax Incentive - Calculating Available ETI

If both the Employer and Employee Qualify for ETI, the ETI can be calculated per qualifying Employee:

- If the Employee's month count is 23 or less, the value of the Monthly Remuneration needs to be determined to be able to calculate the ETI value:
  - Remuneration is more than R 7 500: no ETI is calculated for the Employee.
  - Remuneration is between R 5 500 and R 7 499.99: The Sect 7(2) formula calculation will apply
  - Remuneration is between R 2 500 to R 5 499.99: ETI Calculated will be R 1 500 if the month count is less than 12, or R 750 if the month count is less than 24.
  - Remuneration is less than R 2 500: ETI Calculated is 60% of the monthly remuneration if the month count is less than 12, or 30% of the monthly remuneration if the month count is less than 24.

- If the Employee's **hours paid were less than 160,** then the value determined above should be pro-rated based on the hours worked.

- Regardless of what value has been calculated for ETI (or claimed and utilised), if the Employee qualified for ETI the month count should be increased by 1,

Employment Tax Incentive - Utilising and claiming ETI

It is important for Employers to take note of the **difference between Utilising and Claiming ETI.**

An Employer can claim for ETI on an EMP201 but may not always be able to utilise this on the EMP201. By utilising the ETI claimed, SARS allows for the value claimed (and not utilised in prior months) to be deducted from the value of the total EMP201 declared.

Where ETI has been calculated but not utilised for the month it will be carried forward until the mid-year of year-end recon periods (August and February) where after it will be forfeited.

ETI can only be utilised if the following criteria is met:

- The current month is a valid ETI claim month.
- The Employer has no outstanding returns or debt with SARS. (Note this is not only applicable to PAYE).
- The Employer has a PAYE liability for the month.
- The Employer PAYE liability is more than the total utilizable ETI for the month. Where the PAYE is not sufficient, the unutilised ETI will carry forward to the next month if the current month is not August or February.

Employment Tax Incentive - Example of Calculating ETI

Employer ABC (Pty) Ltd in an Eligible Employer and has met all the criteria to be eligible for claiming ETI.

A. Adams has been employed with ABC (Pty) Ltd since 2022/01/01 and will be 25 years of age at the end of the current month (April 2025). He also meets all other conditions required to be a qualifying Employee in terms of ETI. The Employee only qualified previously for ETI in October 2024 and November 2024 (although the Employer did not claim ETI during these 2 periods), and his month count at the beginning of April 2025 was 2.

He is paid an hourly wage of R 37.00 per hour and worked for 145 hours in the current month. He also received overtime to the amount of R 200.00 and has a Loan Repayment of R 250.00 and a Medical Aid contribution of R 500.00

Wage: (R 37.00 x 160) = R 5 920.00
Monthly Remuneration:

Hourly Wage (R 37 x 160)	R 5 920.00
Overtime	R 1 200.00
Loan Repayment	-R 200.00
Medical Aid Contribution	-R 500.00
	R 6 420.00

- **Examples of Calculating ETI**

The Employee's wage falls in the R 5 500 – R 7 499.99 bracket and thus the Sect 7(2) formula calculation needs to be applied:

X = A – (B x (C – D))
X = R 1 500.00 – (75% (R 6 420.00 – R 5 500.00))
X = R 810.00

ETI Hours paid were less than 160 hours. Thus, the ETI value also needs to be prorated:

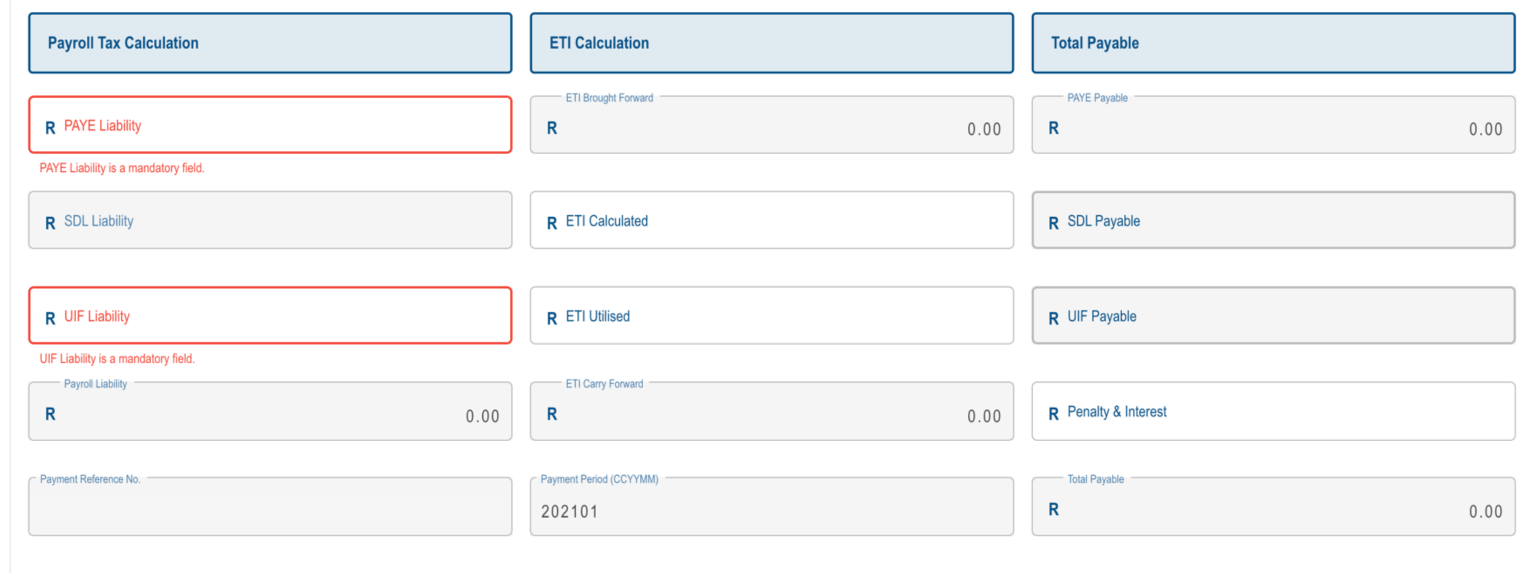
R 810.00 / 160 x 145 = R 734.06

The claimable ETI Value for the Employee is thus R 734.06

Should the Employer have no outstanding submissions or debt, and if the PAYE for the Employer is more than the calculated ETI, the value of the ETI calculated can be utilised on the EMP201. If not, the ETI will carry forward to the next month until it can be utilised or a mid-month or year-end submission period is reached.

Employment Tax Incentive - EMP201 Return

- After an Employer has calculated all the ETI for the month the values need to be completed as follows on the EMP201:



- **ETI Brought Forward**: Should the Employer not have utilised all or part of the ETI in previous months, the EMP201 will pre-populate this value with what has been carried over. It is also important to note that this value will be 0.00 in the months of March and September as any unutilised ETI in February and August will be forfeited.
- **ETI Calculated**: The Employer will need to complete this field with a total value of all the ETI that was calculated for the Employees during the month in question.
- **ETI Utilised**: If this value is greyed out and cannot be completed, it (in most cases) means that the Employer is not compliant with SARS. Should you be able to complete this field, you will be able to enter the full value of the ETI Brought forward plus the ETI Calculated, if this is not more than the PAYE liability value. If this is more, you will only be able to enter a value up to the amount of the PAYE liability value.
- **ETI Carry Forward**: Should the full ETI Brought forward plus the ETI Calculated not have been utilised, the difference will be auto-populated in this field. It is again important to note that if the month is February or August, this value will be 0.00

Employment Tax Incentive - EMP501 Return

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During the Mid-Year submission or Year-End submission you will need to file your EMP501 return. This is usually done on e@sy-File.
The values on your EMP501 will always be pre-populated from the values that was submitted on your EMP201.

Employment Tax Incentive (ETI) Details

Transaction Year (CCYY): 2023 | Period of Reconciliation (CCYYMM): 202302 | PAYE Ref No. | SDL Ref No. | UIF Ref No. | SIC Code

	ETI Brought Forward	ETI Calculated	PAYE Liability	ETI Utilised	PAYE Payable (excl. Penalties, Interest and Add tax
March	0.00	0.00	311858.44	0.00	311858.44
April	0.00	0.00	316301.90	0.00	316301.90
May	0.00	2097.90	320610.43	2097.90	318512.53
June	0.00	1865.40	322841.07	1865.40	320975.67
July	0.00	3000.00	345493.16	3000.00	342493.16
August	0.00	9418.80	342321.81	0.00	342321.81
Total (1st Six Months)	0.00	16382.10	1959426.81	6963.30	1952463.51
ETI not Utilised	9418.80				
September	0.00	5271.00	351678.94	5271.00	346407.94
October	0.00	5692.96	353999.71	5692.96	348306.75
November	0.00	3363.85	375769.87	3363.85	372406.02
December	0.00	3421.85	473027.75	3421.85	469605.90
January	0.00	0.00	298177.65	0.00	298177.65
February	0.00	5901.35	383511.61	5901.35	377610.26
Total (2nd Six Months)	0.00	23651.01	4195592.34	23651.01	2212514.52
ETI not Utilised	0.00				
ETI Calculated per IRP5/ IT3 (a) Code 4118		40033.11			

- **ETI Calculated**: This value will be the value entered on your EMP201 in the month in question.
- **ETI Utilised**: This value will be the value that was utilised (deducted from the PAYE liability) on your EMP201 in the month in question.
- **ETI Calculated per IRP5/ IT3 (a) Code 4118**: This is the sum of all the Employees tax certificates that was imported (or created) on e@sy-File

Employment Tax Incentive - IRP5 Certificate file

- Where an Employee had ETI calculated, the value needs to be declared to SARS per Employee. This is done through the IRP5 tax certificate file that is uploaded onto e@sy-File.

- It is important to note that these codes are not declared on the Employee's IRP5 certificate but are only submitted to SARS for various verification purposes.

- There are a number of IRP5 codes that are required for submitting the ETI to SARS. These are prescribed as per the Business Requirement Specification document that SARS issues on a regular basis, and will be taken care of automatically by your payroll system.

- It is important to note that the file should contain the 7000 range of codes for all the months even if the Employee only had ETI calculated for one of those months. Where there was no ETI calculated the values for the 7000 range of codes in those months will be 0.

Employment Tax Incentive - IRP5 Certificate file

The **IRP5 codes** that relate to ETI are:

- **4118**: The sum of the calculated ETI amounts for the Employee during the year of assessment in accordance with section 7 of the ETI Act.
- **7006**: This indicates the calendar month of the year.
- **7005**: This indicates the 12-month ETI cycle for which the Employee qualifies for ETI. If the Employee does not qualify for ETI for the specified month, this value will be 0.
- **7009**: The code of the Special Economic Zone in which the Employer operates through a fixed place of business and within which the Employee mainly renders services to that Employer, if applicable.
- **7007**: The actual number of hours for which the Employee was employed and paid remuneration in the specified Month (relating to code 7006). 7002: This is the actual “monthly remuneration” (as defined in the ETI Act) paid to the Employee for the specified Month (relating to code 7006).
- **7003**: This indicates the minimum wage which is the higher of: The national minimum wage, or The minimum wage according to the wage regulating measure.
- **7008**: The actual wage that is paid for the specified month.
- **7004**: This indicates the amount of the employment tax incentive available to the Employer for the Employee.

Employment Tax Incentive - ETI Challenges

Employers in South Africa often face various challenges when utilizing, claiming, and calculating the Employment Tax Incentive (ETI).

These challenges include some of the following:

- **Administrative burdens**: Employers must keep track of qualifying Employees' details. In cases where this changes, the Employer is responsible to update the payroll with the new information.
- **Determining Employee eligibility**: Employers often encounter difficulties in determining if Employees meet the required qualifying criteria. One example of this is – does the Employee have a valid asylum seeker permit.
- **Compliance and documentation requirements**: Employers must maintain proper documentation and records to support their ETI claims should SARS require any supporting documentation. Compliance with all other aspects of tax must also be kept up to date.
- **Verification and audits by SARS**: Employers are often selected for audits by SARS and this requires documentation to be sent for verification. This can become a tedious process.
- **Timing and cash flow issues**: Often payroll runs can still run close to or on the day of an EMP201 submission. This means that an ETI claim can be incorrect. Employers can also experience cash flow problems that can cause an EMP201 submission (or payment) to be late which also affects the ETI being utilised.
- **Complex calculations**: A large number of Employers do not know or understand all the criteria that is involved in the ETI calculation. This makes it difficult for a lot of Employers to try and claim ETI or calculate ETI correctly, which in turn can lead to penalties.
- **Changes in legislation**: Where Employers are not aware of changes in legislation, this can cause the ETI calculation to be incorrect which in turn can lead to noncompliance and penalties for the Employer.

Employment Tax Incentive - Noncompliance and Penalties

Non-compliance with the rules and regulations governing ETI can lead to several consequences for Employers of which some can be severe.

Some of these include :

- **Penalties for incorrect ETI claims**: The monetary penalties imposed on Employers for non-compliance with ETI (or intentional incorrect claims) can vary in value. These penalties depend on the specific nature and frequency of the non-compliance. Typically, the penalty amounts are determined based on a percentage of the tax liability or the incorrect claim made by the Employer. What SARS says:

Will penalties apply?

Yes, penalties will apply when:

- An employer claims the ETI for an employee who qualifies and earns less than the minimum wage (or less than R2 000 where a minimum wage is not applicable). A penalty equal to 100% of the ETI claimed for that employee will be imposed. This will lead to an under-payment of employee's tax and possible interest and penalties in terms of the Tax Administration Act.
- An employer is believed to have displaced an employee in order to employ an employee who qualifies. A penalty of R30 000 will be levied, for each employee displaced.

Employment Tax Incentive - Noncompliance and Penalties

Non-compliance with the rules and regulations governing ETI can lead to several consequences for Employers of which some can be severe.

Some of these include :

- **Potential reversal of incentive payments**: SARS can reverse ETI claims that have already been utilised where they deem that the Employer did not comply with the rules of the scheme. This, in turn, will hold penalties and interests on historical "unpaid" EMP201's.

- **Disqualification from the ETI scheme**: Where SARS finds that Employers have been untruthful or in specific cases of Employee displacements, the Minister of Finance can disqualify an Employer from the ETI scheme.

- **Potential legal consequences**: If Employers are found to be involved in fraudulent activities or intentionally participating in illegal ETI schemes, they can face various legal consequences. The consequences may include legal proceedings, financial fines, penalties, or potential criminal charges, which are determined based on the seriousness of the offence.

Employment Tax Incentive - Summary

- There are many variables that need to be considered and checked when an Employer decides to claim ETI.
- It is essential for Employers to adhere to ETI guidelines, maintain accurate records, and seek professional guidance to avoid penalties and legal issues.
- Staying informed and addressing errors or discrepancies timeously can help mitigate the risks associated with non-compliance.
- It is crucial for Employers to adhere to the ETI regulations, maintain ethical practices, and avoid any fraudulent or illegal activities to prevent these legal ramifications.
- ETI can be a very useful incentive to an Employer. However, the application thereof should be carried out with caution as getting this wrong can, and will, result in penalties from SARS.

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