

# EXTERNAL GUIDE

## GUIDE FOR EMPLOYERS IN RESPECT OF EMPLOYMENT TAX INCENTIVE

**REVISION HISTORY TABLE**

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## TABLE OF CONTENTS

1	PURPOSE	4
2	SCOPE	4
3	THE PURPOSE OF THE EMPLOYMENT TAX INCENTIVE (ETI)	4
4	HOW WILL THE ETI WORK?	4
5	EMPLOYERS WHO ARE ELIGIBLE	5
6	EMPLOYERS WHO ARE NOT ELIGIBLE	5
7	MONTHLY WAGE FOR QUALIFYING EMPLOYEES	6
8	CRITERIA FOR EMPLOYEES WHO QUALIFY	6
9	QUALIFYING PERIODS	7
10	STEPS TO BE FOLLOWED BY THE EMPLOYER	8
11	CALCULATION OF THE MONTHLY ETI AMOUNT	8
12	ROLL-OVER AMOUNTS	9
13	WHEN IS ETI UNAVAILABLE FOR REDUCING EMPLOYEES' TAX?	10
14	HOW WILL THE EMPLOYER OBTAIN REIMBURSEMENT?	10
15	ETI PAYMENT ALLOCATION	11
16	HOW WILL SARS PAY THE REFUND	12
17	OBLIGATION OF EMPLOYER TO SUBMIT RECONCILIATION (EMP501)	12
18	ETI FILE	13
19	CSV VALIDATION RULES	13
20	PENALTIES	16
21	RECORD KEEPING	17
22	APPLICABILITY TO PROVISIONS OF THE INCOME TAX ACT	17
23	REFERENCES	17
23.1	LEGISLATION	17
23.2	CROSS REFERENCES	17
24	DEFINITIONS AND ACRONYMS	18

## 1 PURPOSE

- This guide in its design, development, implementation and review phases is guided and underpinned by the SARS strategic objectives, the SARS Intent and the SARS values, code of conduct and the applicable legislation. Should any aspect of this guide conflict with the applicable legislation, the applicable legislation will take precedence.
- These guidelines have been compiled to assist employers in understanding the fundamentals of the Employment Tax Incentive Act No. 26 of 2013 (the ETI Act) and must be read in conjunction with the Fourth Schedule to the Income Tax Act, No. 58 of 1962 (the Income Tax Act) and the Expanded Employment Tax Incentive annexure.

## 2 SCOPE

- This guide explains the legislative requirements applicable to employers in respect of the Employment Tax Incentive (ETI).
- In the event of this guide not providing a solution to any enquiry relating to the calculation and reimbursement of the ETI, the SARS National Contact Centre (0800 00 7277) or your local SARS branch should be approached for assistance.

## 3 THE PURPOSE OF THE EMPLOYMENT TAX INCENTIVE (ETI)

**Reference to the Act** Section 2 of the ETI Act

**What is Employment Tax Incentive**

- The employment tax incentive is aimed at encouraging employers to hire young and less experienced work seekers. If an employer is eligible to receive the employment tax incentive in respect of a qualifying employee, the employer may reduce its employees' tax payable. The incentive came into effect on 1<sup>st</sup> January 2014 and ends on 28 February 2029.

**What is Expanded Tax Incentive**

- The expanded employment tax incentive is a short-term tax relief measure aims to assist tax compliant businesses with cash flow so that businesses can retain their employees which will result in minimizing unemployment and the risk of the economy grinding to a halt as a result of the COVID-19 outbreak. The expansion of the ETI programme will be made available for a limited period of four months, beginning 1 April 2020 and ending on 31 July 2020 .Refer to the Expanded Employment Tax Incentive annexure attached on this guide for more details.

## 4 HOW WILL THE ETI WORK?

**Reference to the Act** Section 2 of the ETI Act

**Meaning**

- The ETI applies to only employers who are registered for employees' tax with SARS.
- Employers deduct or withhold the amount of employees' tax that is payable on remuneration paid or payable to an employee.
- If the eligible employer hires a qualifying employee, the employer can deduct the employment tax incentive amount from the total amount of the employees' tax owed to SARS.

- The ETI will operate by decreasing the amount of employees' tax that is payable by an employer through the Pay-As-You-Earn (PAYE) system.
- The amount of employees' tax that is owed by the employee will still be recorded as being paid (that is there will be no shortfall when the employer reconciles at the end of the tax year). The employer merely retains the cash value of the incentive.

## 5 EMPLOYERS WHO ARE ELIGIBLE

**Reference to the Act** Section 3 of the ETI Act  
Paragraph 15 of the Fourth Schedule

- Eligible criteria**
- The employer must meet the following criterion to qualify -
    - Be registered with SARS for employees' tax (PAYE) purposes (adhere to the legislative requirements as provided for in paragraph 15 of the Fourth Schedule to the Income Tax Act).
  - Note: Employers who are not registered for PAYE purposes will not be eligible to claim the employment tax incentive.
  - The guides on registration can be accessed on the SARS website [www.sars.gov.za](http://www.sars.gov.za).

## 6 EMPLOYERS WHO ARE NOT ELIGIBLE

**Reference to the Act** Sections (1)(a), (1)(b) and 3 of the ETI Act  
Schedules 2 and 3 of the PFM Act  
Section 1 of the Local Government Act

- Non-eligible criteria**
- The following entities cannot be an eligible employer:-
    - Public entity as defined in Schedule 2 and 3 of the Public Finance Management Act No.1 of 1999 (PFM Act) (other than those public entities designated by the Minister of Finance by Notice in the Gazette);
    - Government as in the national, provincial or local sphere; and
    - Municipal entity as defined in section 1 of the Local Government Act No.27 of 2000.
  - An employer can also be disqualified by the Minister of Finance due to:
    - The employer displacing an employee; or
    - By not meeting conditions prescribed by regulation, including conditions
      - Based on requirements in respect of training of employees; and
      - As per the SIC7 - Standard Industrial Classification (SIC Coder v7, as defined on the Statistic SA Website: [www.statssa.gov.za](http://www.statssa.gov.za)).
  - **Note:** An employer is deemed to have displaced an employee if:
    - 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
    - The employer replaces that dismissed employee with a qualifying employee in respect of which the employer claims the employment tax incentive.

## 7 MONTHLY WAGE FOR QUALIFYING EMPLOYEES

**Reference to the Act** Section 4 of the ETI Act  
Section 1 of Basic Conditions of Employment Act

**Non-eligible  
(specific month)**

- An employer is not eligible to receive 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:
  - The higher of the amount payable by a collective agreement; sectoral determination or binding bargaining council agreement or the amount contemplated in the Minimum Wage Act No. 9 of 2018 (the Minimum Wage Act) or Schedule 2 of that Act.
  - If no prescribed wage regulating measures or not subject to requirements of National Minimum Wage Act or exempt in terms of this Act, the wage must not be less than R2,000 (where qualifying employee employed and **paid** remuneration for at least 160 hours a month);
  - Where the qualifying employee was employed and paid remuneration for less than 160 hours in a month, an amount that bears to amount of R2, 000 the same ratio as 160 hours bears to the number of hours that the employee was employed and paid remuneration by that employer in a month. This amendment came into effect from 1 March 2017.
    - Impact of this amendment means those 160 hours is linked to hours worked and the actual payment received.
    - Unpaid leave will not form part of the 160 hours.
  - Pre 1 March 2017, where an employee was employed for more than 160 hours in a month but worked and paid for less than 160 hours as a result of, for example unpaid leave, that employee would still have been employed for more than 160 hours in that month.
  - Effective from 1 March 2018, “hours” means ordinary hours as defined in section 1 of the Basic Conditions of Employment Act No. 75 of 1997.
  - Effective date to the changes to the minimum wage is 1 August 2019.

## 8 CRITERIA FOR EMPLOYEES WHO QUALIFY

**Reference to the Act** Section 6 of the ETI Act  
Section 30 of the Refugees Act

**Qualifying employees**

- Employee will qualify, if the employee:
  - Is 18 to 29 years old;
  - **Note:** This age limit will not apply if the employer that is a “qualifying company” as contemplated in section 12R of the Income Tax Act employs the employee and that employee renders services mainly within the special economic zone to the qualifying employer.
  - Is in possession of a valid South African identity card, Asylum Seeker permit or identity document issued in terms of the Refugees Act;
  - Has been employed by employer on or after 1 October 2013;
  - Earns monthly wage of at least R2, 000 (where the qualifying employee was employed for at least 160 hours in a month) and receives remuneration of less than R6, 500 per month.
- The Minister of Finance has identified the following six as SEZs as from 1 August 2018:
  - Coega;
  - Dube Trade Port;
  - East London;
  - Maluti-A-Phufong;
  - Saldanha Bay; and
  - Richards Bay.

- With effect from 1 August 2020, the no age limit for is only available for an employee who is employed by an employer that is a **'qualifying company'** as defined under section 12R of the Income Tax Act **and** that employee renders services to that employer mainly within that SEZ.

#### Qualifying company

- For an employer to be a 'qualifying company' that company –
  - Must be incorporated in South Africa, or has its place of effective management in South Africa;
  - Carries on an approved trade;
  - The trade is carried on from a fixed place of business situated within a SEZ;
  - 90% of the income of the company is derived from the carrying on of a trade within one or more SEZ.

#### Exclusions

- The following companies are excluded from definition 'qualifying company'
  - If that company conducts any of the following activities –
    - distilling and rectifying and blending of spirits (SIC Code 1101);
    - manufacture of wines (SIC Code 1102);
    - manufacture of malt liquors and malt (SIC Code 103);
    - manufacture of tobacco products (SIC Code 12);
    - manufacture of weapons and ammunition (SIC Code 252);
    - manufacture of bio-fuels if that manufacture negatively impacts on food security in the Republic;
  - A company that conducts any activity classified in the SIC code, which the Minister of Finance may designate by notice in the Gazette; or
  - If more than 20% of expenditure that is deductible under the Income Tax Act is incurred, or more than 20% of the income of that company is received by accrued in respect of transactions with any connected person in relation to that company if that connected person is a resident or is not a resident and those transactions are attributable to a permanent establishment of that connected person in the Republic.
- Employee will NOT qualify, if the employee:
  - Is a domestic worker; and
  - Is a "connected person" to the employer.
- **Note:** The age and monthly remuneration of the qualifying employee must be determined at the end of each month. Where the employee was employed for less than 160 hours in a month, the employment tax incentive must be calculated on a pro-rata basis.

## 9 QUALIFYING PERIODS

#### Meaning

- The following are the qualifying periods:
  - Any period from 01/01/2014,
  - A maximum period of 24 months per qualifying employee.
- **Note:**
  - Where the qualifying employee was not employed for a full month, the ETI calculation in respect of that employee must be apportioned.
  - The qualifying period is also applicable to any associated institution to the employer in respect of the qualifying employee.
  - If an employer re-deploys the qualifying employee to an associated institution or another member of the same group of companies, the ETI amount will be deemed to be claimed by one and the same employer.

## 10 STEPS TO BE FOLLOWED BY THE EMPLOYER

**Reference to the Act** Subsections 7(2), (3), (5) and (9) of the ETI Act  
Section 7A  
Paragraph 14 of the Fourth Schedule

- Meaning**
- The employer must follow five (5) steps listed below:
    - Identify all qualifying employees in respect of that month;
    - Determine applicable employment period for each qualifying employee;
    - Determine each employee's "monthly remuneration";
    - Calculate employment tax incentive amount per qualifying employee; and
    - Aggregate the result as per the table below

## 11 CALCULATION OF THE MONTHLY ETI AMOUNT

- The ETI calculations are as follows:-

Monthly Remuneration	ETI per month during the <u>first 12 months</u> of employment of the qualifying employee	ETI per month during the <u>second 12 months</u> of employment of the qualifying employee
R 0 - R1 999	50% of monthly remuneration	25% of monthly remuneration
R 2 000 – R4 499	R1 000	R 500
R 4 500 - R6 499	Formula: $X = A - (B \times (C - D))$ A = represents an amount of R1 000 B = represents 0.50 C = represents employee's monthly remuneration D = represents the amount of R4 500	Formula: $X = A - (B \times (C - D))$ A = represents an amount of R 500 B = represents 0.25 C = represents employee's monthly remuneration D = represents the amount of R4 500

**Note:**

- Where employee was employed for only part of the month, ETI must be calculated on a pro-rata basis (the same, as for monthly PAYE calculation). For example, if employee starts to work on 15 February 2014 and receives wage of R1 800, the grossed monthly remuneration = R3 600. Full calculated employment tax incentive value is therefore R1 000 and the employer can only claim R500 for this employee for February 2014.
- In determining the first or second 12 month period, only the months in which employee was a qualifying employee are taken into account. For example, employee may be a qualifying employee in first three months but not qualifying employee in fourth and fifth months. If employee is qualifying employee in sixth month, the sixth month is month number four as far as 12-month period is concerned.
- **PAYE on EMP201 monthly declaration may not result in a negative amount, if this does occur the employer must indicate "Nett PAYE" amount as "0" on the monthly EMP201 declaration.**
- **Examples:**

	PAYE Payable	ETI Brought Forward	ETI Calculated	ETI Utilised	Excess ETI Carry Forward	Nett PAYE
March	80	0	100	80	20	0
April	130	20	120	130	10	0
May	90	10	90	90	10	0
June	120	10	150	120	40	0
July	120	40	110	120	30	0
Aug	120	30	130	120	40	0



- Where employer employs a qualifying employee for less than 160 hours in a month, the amount of tax incentive to be received by the employer for that month in respect of that qualifying employee must be limited to the 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 and paid remuneration by that employer in a month.
- The Minister may announce in his annual budget speech, changes to the amounts stimulated in sections 4, 5, 6 or 7 of the ETI Act and the effective date/s thereof.
- The Government has made provision for the expansion of the Employment Tax Incentive (ETI) programme due to the COVID-19 outbreak. An increase in the expanded employment tax incentive amount is a short-term tax relief measure and aims to assist tax compliant businesses with cashflow so that businesses can retain their employees which will result in minimizing unemployment and the risk of the economy grinding to a halt.
- Please refer to the attached annexure - Expanded Employment Tax Incentive for the increase in the amount of ETI claim for a period of four months – April, May, June and July 2020.

## 12 ROLL-OVER AMOUNTS

### Reference to the Act

Section 9 of the ETI Act;  
Paragraph 14(3)(a) of the Fourth Schedule of the Income Tax Act

### Meaning

- Any excess employment tax incentive amount can be rolled over from month-to-month:
  - If monthly-calculated ETI amount claimed exceeds gross employees' tax for a specific month, the excess ETI will be carried forward to the next month. The ETI amount will only be rolled-over to the extent that the "Nett PAYE" = 0.
  - This carried forward ETI amount from a previous month becomes the brought forward ETI amount for next (current) month. This should be added to current month's calculated ETI amount and the total should be claimed on the EMP201 declaration for that month.
  - Roll-over provisions are also applicable where the employer was not allowed to reduce the employees' tax as a result of non-compliance issues (i.e. non-submission of returns and the tax debt owing with certain exceptions), the incentive amount will be carried forward to the subsequent month.
  - Where the employer has omitted to claim for any qualifying employee, the employer has until the end of that respective reconciliation period to make such claim.

#### Example:

Period 1/3/2017 to 31 August 2017

- Employer had 10 qualifying employees however only claimed for 8 employees for the months of March, April, May, June and July.
  - This omission was discovered in August 2017.
  - ETI claim for these omitted employees can be claimed on the EMP201 for August 2017.
  - If this omission was discovered during September 2017 and the EMP201 for August was already filed, the ETI claim for these employees will be forfeited.
- The limitation of an unclaimed ETI amount is effective from 1 March 2017.

## 13 WHEN IS ETI UNAVAILABLE FOR REDUCING EMPLOYEES' TAX?

**Reference to the Act** Section 8 of the ETI Act

- Meaning**
- An employer cannot reduce its employees' tax liability if on the last day of that month, the employer has:
    - Failed to submit any return;
    - Any tax debt outstanding, excluding where:-
      - An agreement has been concluded for a deferral payment;
      - An agreement has been concluded for compromise of a tax debt;
      - Tax debt has been suspended pending an objection or appeal; or
      - Tax debt is less than R1, 000 for total debt across all taxes.

## 14 HOW WILL THE EMPLOYER OBTAIN REIMBURSEMENT?

**Reference to the Act** Section 10 of the ETI Act

- Meaning**
- How will the employer obtain a reimbursement?
    - If there is no employees' tax to set-off against the ETI amount, the employer is entitled to a reimbursement of the total ETI amount available as at the end of each PAYE reconciliation period.
      - The tax reconciliation period is at the end of every six (6) month period (that is at the end of every August and February).
    - At the end of August and February, the excess ETI amount will be ring-fenced. This means the opening balances for 1 September and 1 March will always start at a zero.
    - The reimbursement will not be paid to the employer if the employer is tax non-compliant (i.e. non-submission of any returns and/or tax debt owing with certain exceptions).
    - The employer has until the end of the next reconciliation period to rectify its non-compliance.
    - Where the employer does not rectify its non-compliance within this period, the refund amount will be forfeited.
      - This means the refund amount will be deemed to be a nil.
  - The above process does not apply to the February 2014 reconciliation. In this instance, the excess ETI amount **was** rolled-over to 1 March 2014 and used by the employer in its subsequent ETI claims.
    - Example 1:  
Employer submits its August 2015 reconciliation and qualifies for reimbursement of R10 000.  
However, the employer is non-compliant (income tax return for 2014 is outstanding).  
The employer rectifies this non-compliance on 12 January 2015 and notifies SARS that the non-compliance status is rectified. SARS must pay the refund amount immediately.
    - Example 2:  
Employer submits its August 2015 reconciliation and qualifies for reimbursement of R10 000.  
However, the employer is non-compliant (income tax return for 2014 is outstanding).  
The employer does not rectify its non-compliance by 28 February 2015.  
The refund amount of R10 000 is forfeited (in other words, the refund amount is changed to a nil).

- SARS will not pay any refund due to the employer if the amount is less than R100 or any amount determined by the Commissioner in the Government Gazette.
  - Such amount shall be carried forward to the following month of the next reconciliation period.
- **Meaning ETI Errors –**
  - ETI not claimed or under-claimed in a previous month (including January and February 2014)
    - Where an ETI amount was not claimed or a lower amount than the qualifying amount was claimed, the shortfall must be claimed in the month during which the error was realized.
    - Section 9 was amended to insert a new subsection (4) which states that any unclaimed ETI amount must be claimed in the last month of that reconciliation period, by the latest.
    - For example, if an employer did not claim for Employee A in June 2017.
      - This ETI amount can only be claimed either in July 2017 or by the latest August 2017.
      - If the employer does not claim the ETI amount by August 2017, that amount is forfeited (that is, cannot be claimed in any subsequent period).
      - The ETI information on the employees' tax certificates (IRP5/IT3(a)) for that month must not be changed to include the ETI information of the previous month.
  - ETI over-claimed in a previous month (including January and February 2014)
    - Where a higher ETI calculated amount was claimed than the qualifying amount, a revised EMP201 must be submitted for that period.
    - If the error is realised after the EMP501 has been submitted, the ETI information on the relevant IRP5/IT3(a) s must be corrected and re-submitted together with the revised EMP501.
      - Except for the March 2014 (201403), the ETI brought forward amount for March and September must always be zero.
      - Any ETI carried forward amount at the end of the reconciliation period (31 August and 28 February) will be refunded, only if the employer is tax compliant.
  - A system error has been identified in the employers' ETI account, where an incorrect ETI amount was brought forward for the tax periods 202004 and 202005 EMP201 declarations -
    - Where this incorrect ETI amount was utilised by the employer, this has resulted in an under payment of PAYE.
    - SARS is correcting the error and the employer is given the opportunity to make the correct payment of PAYE before a specified date.
    - SARS issues the letter to the employer which reflects the summary of account details with correct and incorrect ETI account brought forward values.

## 15 ETI PAYMENT ALLOCATION

### Meaning

- The ETI account will never be in debit unless in exceptional circumstances where SARS has reversed the ETI refund due to an audit or imposed a penalty
- The following payment rules must be applied -

- PAYE tax value (in the following sequence – penalty, interest, tax, additional tax/USP)
  - UIF contribution value (in the following sequence – penalty, interest, tax, additional tax/USP)
  - SDL value (in the following sequence – penalty, interest, tax, additional tax/USP)
  - PAYE remainder of the balance (in the following sequence – penalty, interest, tax additional tax/USP)
  - UIF contribution remainder of the balance (in the following sequence, penalty, interest, tax, additional tax/USP)
  - SDL contribution remainder of the balance (in the following sequence, penalty, interest, tax, additional tax/USP)
  - ETI debt
  - Should there still be a credit left over, it must be placed in the unallocated account.
- **Note:** The employer must use the PAYE PRN to make the payment.

## 16 HOW WILL SARS PAY THE REFUND

**Reference to the Act** Chapter 10 of the ETI Act

**Meaning**

- The employer shall be paid any excess amount of ETI at the end of each PAYE reconciliation period. However the employer shall not be paid the refund if –
  - If the employer has failed to submit any returns, or
  - Has any outstanding tax debt.
- Refunds will be paid out via an automated EFT payment to employers using the confirmed bank details on our system.
- The ETI refund is paid by SARS into the employer’s bank account if the employer is tax compliant and the employer’s bank account has passed the system validations.
  - Should the bank account fail the system validations, a letter will be issued to the employer advising the employer to visit the nearest SARS branch to update the banking details.

## 17 OBLIGATION OF EMPLOYER TO SUBMIT RECONCILIATION (EMP501)

**Reference to the Act** Paragraph 14(3) of the Fourth Schedule  
Chapter 4 of the Tax Administration Act

**Meaning**

- Paragraph 14(3) of the Fourth Schedule which is also applicable to ETI, prescribes that the employer is obliged to furnish a reconciliation statement showing details of the total amount of employees’ tax deducted or withheld as well as the details of employees’ tax certificates issued during the tax year. The purpose of the reconciliation is to:
  - Reconcile the amount of employees’ tax which was declared and paid over to SARS on the EMP201, with the tax reflected on the IRP5/IT3(a) issued for that tax year.
  - Justify all issued, cancelled, lost and destroyed IRP5/IT3(a)’s.
    - Every employer shall -
      - by such date or dates as prescribed by the Commissioner by

- notice in the Gazette; and
  - if the employer ceases to carry on any business or other undertaking in respect of which the employer has paid or becomes liable to pay remuneration to any employee or otherwise ceases to be an employer, within 14 days after the date on which the employer has so ceased to carry on that business or undertaking or to be an employer, as the case may be, or within such longer time as the Commissioner may approve, render to the Commissioner a return.
- The monthly returns and reconciliation submissions (annual and interim) are aligned to allow the submission of the monthly ETI information.

## 18 ETI FILE

### Meaning

- All employers participating in ETI benefit must keep records of supporting data in a comma delimited CSV file of qualifying employees for whom ETI is claimed, as SARS will from time to time in a manner as prescribed by Commissioner for the South African Revenue Service, request such supporting data to authenticate the eligibility of those employees. Records must be kept for a period of five years from the date of submission of the return in terms of the Tax Administration Act No. 28 of 2011

## 19 CSV VALIDATION RULES

Code	Field name	Validation rules
7002	Remuneration paid	<p>Actual remuneration as defined in the Fourth Schedule and referred to by ETI Act paid to the employee for a specified month (code 7006)</p> <p><b>Field Layout:</b></p> <ul style="list-style-type: none"> <li>• Mandatory</li> <li>• If code 7005 is equal to zero (0. 00), this field may be equal to zero (0.00).</li> <li>• If code 7005 is equal to 1, 2 or 3, this field must be greater than be zero (0.00).</li> <li>• Decimal digits are mandatory even if the decimal value is zero</li> <li>• Must be decimal point (comma invalid).</li> <li>• Data for a full period of reconciliation must be submitted.</li> <li>• Only applicable for month 01 and 02 of 2014 year of assessment and from 2015 year of assessment.</li> <li>• If the certificate type is ITREG this field must not be completed.</li> </ul>
7003	Minimum wage	<p>To indicate minimum wage which is the higher of –</p> <ul style="list-style-type: none"> <li>• The national minimum wage , or</li> <li>• The minimum wage according to the wage regulating measure.</li> </ul> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• If the employer is exempt from the minimum wage after successful application and there is no regulating measure, then this field must be zero.</li> <li>• The same minimum wage rate (hourly, weekly or monthly) that is used for code 7003 must be used for code 7008.</li> </ul> <p><b>Note:</b> If there is no wage regulating measure, this field must be zero. The same minimum wage rate (hourly, weekly or monthly) that is used for code 7003 must be used for 7008</p> <p><b>Field Layout:</b></p> <ul style="list-style-type: none"> <li>• Mandatory</li> </ul>

		<ul style="list-style-type: none"> <li>• Value must be equal to 0.00 or greater than 0.00</li> <li>• Decimal digits are mandatory even if the decimal value is zero</li> <li>• Must be decimal point (comma invalid)</li> <li>• Information for a full reconciliation period must be submitted.</li> <li>• Only applicable for month 01 and 02 of the 2014 year of assessment and from 2015 year of assessment</li> <li>• If the certificate type is ITREG this field must not be completed</li> </ul>
7004	Monthly Calculated ETI	<p>To indicate amount of ETI available to employer for the employee.</p> <p><b>Field Layout:</b></p> <ul style="list-style-type: none"> <li>• This field is Mandatory</li> <li>• If code 7005 is equal to zero (0.00), this field must be equal to zero (0.00)</li> <li>• If code 7005 is equal to 1, 2 or 3, this field must be greater than zero (0.00)</li> <li>• If code 7004 is greater than zero, then codes 7002, 7008 and 7007 must be greater than zero.</li> <li>• Decimal digits are mandatory even if the decimal value is zero</li> <li>• Must be decimal point (comma invalid)</li> <li>• .</li> <li>• If the year of assessment is prior to 2019 and employee's age for specified month is less than 18 or greater than and or equal to 30, then this field must be zero (0.00).</li> <li>• If the year of assessment is equal to 2019 and Month (code 7006) is equal to 03 until 07 (March until July) and employee's age for specified month is less than 18 or greater than and or equal to 30, then this field must be zero (0.00).</li> <li>• If the year of assessment is equal to 2019 and Month is equal to 08 until 02 (August 2018 until February 2019) <ul style="list-style-type: none"> <li>▪ If employer SEZ Code (code 2083) is valid: <ul style="list-style-type: none"> <li>○ If the employee ETI SEZ code (code 3264) is valid, then this field <b>may</b> be greater than zero (0.00)</li> <li>○ If the employee ETI SEZ code (3264) is not valid, <ul style="list-style-type: none"> <li>• If the employee age for a specified month is greater than / equal to 18 but less than 30, this field <b>may</b> be greater than zero (0.00).</li> <li>• If the employee age for a specified month is less than 18 or greater than / equal to 30, this field <b>must</b> be zero (0.00).</li> </ul> </li> </ul> </li> <li>▪ If employer SEZ code (code 2083) is not valid as per Appendix E: <ul style="list-style-type: none"> <li>▪ If employee's age for the specified month is greater than / equal to 18 but less than 30 then this field <b>MAY</b> be greater than zero (0.00)</li> <li>▪ If employee's age for the specified month is less than 18 or greater than / equal to 30 then this field <b>MUST</b> be zero (0.00)</li> </ul> </li> </ul> </li> <li>• If the year of assessment is equal to 2020, then – <ul style="list-style-type: none"> <li>▪ If ETI SEZ code (code 7009) is completed, then this field <b>may</b> be greater than zero (0.00).</li> <li>▪ If ETI SEZ code (code 7009) is not completed, <ul style="list-style-type: none"> <li>○ If the employee age for a specified month is greater than / equal to 18 but less than 30, this field may be greater than zero (0.00).</li> <li>○ If the employee age for a specified month is less than 18 or greater than / equal to 30, this field <b>must</b> be zero (0.00).</li> </ul> </li> </ul> </li> <li>• If the year of assessment is equal to 2021, then <ul style="list-style-type: none"> <li>▪ If Month is 04, 05, 06 or 07, then <ul style="list-style-type: none"> <li>○ If ETI qualifying 12 month cycle indicator (Code 7005) is 3, then this field must be greater than zero :</li> <li>○ Else, code 7005 must be equal to 1 or 2 <ul style="list-style-type: none"> <li>▪ If ETI SEZ code (code 7009) is completed, then this field <b>MAY</b> be greater than zero.</li> <li>▪ If ETI SEZ code is not completed - <ul style="list-style-type: none"> <li>➢ If the employee's age for a specific month is greater than or equal to 18 but less than 30, this field <b>MAY</b> be greater than zero.</li> <li>➢ If the employee's age for a specific month is less than 18 or greater than or equal to 30, this field <b>MUST</b> be zero.</li> </ul> </li> </ul> </li> <li>○ Else, the Month is 04, 05, 06 or 07 – <ul style="list-style-type: none"> <li>▪ If ETI SEZ code (code 7009) is completed, then this field <b>MAY</b> be greater than zero.</li> <li>▪ If ETI SEZ code is not completed - <ul style="list-style-type: none"> <li>➢ If the employee's age for a specific month is greater than or equal</li> </ul> </li> </ul> </li> </ul> </li> </ul> </li> </ul>

		<p>to 18 but less than 30, this field MAY be greater than zero.</p> <ul style="list-style-type: none"> <li>➤ If the employee's age for a specific month is less than 18 or greater than or equal to 30, this field MUST be zero.</li> </ul> <ul style="list-style-type: none"> <li>• If the year of assessment is greater than 2021, then – <ul style="list-style-type: none"> <li>▪ If ETI SEZ code (code 7009) is completed, then this field <b>may</b> be greater than zero (0.00).</li> <li>▪ If ETI SEZ code (code 7009) is not completed, <ul style="list-style-type: none"> <li>○ If the employee age for a specified month is greater than / equal to 18 but less than 30, this field may be greater than zero (0.00).</li> <li>○ If the employee age for a specified month is less than 18 or greater than / equal to 30, this field <b>must</b> be zero (0.00).</li> </ul> </li> <li>▪ Only applicable for month 01 and 02 of the 2014 year of assessment and from 2015 year of assessment.</li> <li>▪ If the certificate type is ITREG this field must not be completed</li> </ul> </li> </ul>
7005	ETI qualifying 12 month cycle indicator	<p>This indicates 12 month cycle for which employee qualifies for ETI.</p> <p><b>Field layout:</b></p> <ul style="list-style-type: none"> <li>• Mandatory field if 3026 is populated with “Y”</li> <li>• Value can only be 0,1, 2 or 3 <ul style="list-style-type: none"> <li>▪ 0 – if employee does not qualify for ETI for specified month;</li> <li>▪ 1 – if employee qualifies for ETI for specified month and the specified month is in the first 12 month period</li> <li>▪ 2 – if employee qualifies for ETI for specified month and the specified month is in the second 12 month period.</li> <li>▪ 3 – if the employee qualifies for additional ETI (increased ETI due to COVID-19)</li> </ul> </li> <li>• Applicable from 2018 year of assessment</li> <li>• Option is applicable for 2021 year of assessment and Month (Code 7006) is 04,05,06 or 07</li> <li>• If the certificate type is ITREG this field must not be completed</li> </ul>
7006	Month	<p>To indicate the month of the year</p> <p><b>Field layout:</b></p> <ul style="list-style-type: none"> <li>• Mandatory if Code 3026 is populated with a “Y”.</li> <li>• Value must in the range 01 to 12. <ul style="list-style-type: none"> <li>▪ March = 03</li> <li>▪ April = 04</li> <li>▪ May = 05</li> <li>▪ June = 06</li> <li>▪ July = 07</li> <li>▪ August = 08</li> <li>▪ September = 09</li> <li>▪ October = 10</li> <li>▪ November = 11</li> <li>▪ December = 12</li> <li>▪ January = 01</li> <li>▪ February = 02</li> </ul> </li> <li>• Only numeric values allowed.</li> <li>• Only applicable for month 01 and 02 of the 2014 year of assessment and from 2015 year of assessment</li> <li>• If the certificate type is ITREG this field must not be completed</li> <li>• Information for a full period of reconciliation must be submitted.</li> </ul>
7007	ETI Hours	<p>To indicate the actual number of hours for which the employee was employed and paid remuneration. Only report to a maximum of 160 hours</p> <p><b>Field layout:</b></p> <ul style="list-style-type: none"> <li>• This field is Mandatory.</li> <li>• If the value of code 7005 is zero, then this field may be equal to 0.00 (zero).</li> <li>• If the value of code 7005 is 1, 2 or 3, then this field must be greater than 0.00 (zero).</li> <li>• Must be a decimal point</li> <li>• Decimal digits are mandatory even if the decimal value is 0.00 (zero).</li> <li>• Data for a full reconciliation period must be submitted</li> </ul>

		<ul style="list-style-type: none"> <li>• Only applicable from 2017 year of assessment</li> <li>• If the certificate type is ITREG, then this field must not be completed.</li> </ul>
7008	Wage paid	<p>The actual wage that is paid for the specified month. The same rate at which the wage is paid (hourly, weekly or monthly) that is used for code 7003 must be used for code 7008).</p> <p><b>Field layout:</b></p> <ul style="list-style-type: none"> <li>• This field is Mandatory.</li> <li>• If the value of code 7005 is zero, then this field may be equal to 0.00 (zero).</li> <li>• If the value of code 7005 is 1, 2 or 3, then this field must be greater than 0.00 (zero). <ul style="list-style-type: none"> <li>▪ Decimal digits are mandatory even if the decimal value is zero</li> <li>▪ Must be decimal point (comma invalid)</li> <li>▪ Data for a full period of reconciliation must be submitted.</li> <li>▪ Only applicable from 2018 year of assessment.</li> <li>▪ If the certificate type is ITREG this field must not be completed</li> </ul> </li> </ul>
7009	ETI SEZ Code	<p>This is a code for Special Economic Zone in which the employer operates through a fixed place of business and within which employee mainly renders services to the employer, if applicable.</p> <p>If the employee does not render services mainly to the employer (50% or more) within a Special Economic Zone in which the employer has a fixed place of business, this field must <b>not</b> be completed.</p> <p><b>Field layout:</b></p> <ul style="list-style-type: none"> <li>• This field is optional.</li> <li>• If the certificate type is ITREG this field must not be completed.</li> <li>• If the year of assessment is less than 2020, this field must not be completed.</li> </ul>

## 20 PENALTIES

### Reference to the Act

Sections 4 and 5 of the ETI Act

### Meaning

- A 100% penalty is imposed for each month that:
  - An employer receives the ETI in respect of a specific employee that was paid less than the wage regulating measure applicable to that employer or if the employer is not subject to any wage regulating measure, less than R2, 000 per month.
  - In addition, ETI amount claimed must be reversed which will result in interest and penalties on the under payment of PAYE amount.
- A R30 000 penalty is imposed when:
  - An employer is deemed to have displaced an employee and may be disqualified from receiving ETI by the Minister of Finance after taking into account:
    - The number of employees that have been displaced; and
    - The effect that the disqualification may directly or indirectly have on the employees of the employer.
- **Note:** An employer is deemed to have displaced an employee if:
  - 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
  - The employer replaces that dismissed employee with an employee in respect of which the employer is eligible to receive the ETI.



## 21 RECORD KEEPING

**Reference to the Act** Paragraph 14(1) of Fourth Schedule to the IT Act which is also applicable to the ETI Act;  
Chapter 4 of the Tax Administration Act

**Meaning**

- Records relating to all returns submitted must be kept / maintained in a manner prescribed by the Commissioner in a public notice.
  - These records must be kept for a period of five years from the date of the submission of the return and must be available for inspection purposes by SARS.

## 22 APPLICABILITY TO PROVISIONS OF THE INCOME TAX ACT

**Meaning**

- The provisions of the IT Act apply equally to the ETI Act in the following aspects:
  - The administration thereof;
  - Returns, production of information, relevant material; enquiries, searches and seizure;
  - Evidence under oath;
  - Assessments, objections and appeals;
  - The payment, recovery or refund of any levy, interest and penalty;
  - Representative taxpayers and representative employers;
  - Reporting of unprofessional conduct;
  - Transactions, operations or schemes for avoiding or postponing liability;
  - The jurisdiction of Courts.

## 23 REFERENCES

### 23.1 LEGISLATION

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<b>Income Tax Act No. 58 of 1962</b> Section 1 and Fourth Schedule. <b>Employment Tax Incentive Act No. 26 of 2013</b> <b>Tax Administration Act No. 28 of 2011</b>
Other Legislation:	<b>Public Finance Management Act No. 1 of 1999</b> <b>Local Government Act No. 27 of 2000</b> <b>National Minimum Wage Act No. 9 of 2018</b>
International Instruments:	None

### 23.2 CROSS REFERENCES

DOCUMENT #	DOCUMENT TITLE
PAYE-GEN-01-G01	Guide for employers i.r.o Employees' Tax deduction tables
PAYE-GEN-01-G15	Guide for employer in respect of Employees' Tax for 2021
PAYE-GEN-01-G05-A01	SIC7 Codes in respect of Employment Tax Incentive - External Annexure
PAYE-GEN-01-G05-A02	Expanded Employment Tax Incentive - External Annexure

## 24 DEFINITIONS AND ACRONYMS

<b>Associated person (in relation to employer)</b>	<ul style="list-style-type: none"> <li>• Where the employer is a company, the associated person (in relation to the employer) means any other company which is associated with the employer, by reason of the fact that both companies are managed or controlled directly or indirectly by substantially the same persons; or</li> <li>• Where the employer is not a company, the associated person (in relation to the employer) 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</li> <li>• Where the employer is a natural person, the associated person (in relation to the employer) means any relative of that employer.</li> </ul> <p><b>Note:</b> 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.</p>
<b>Certificate type</b>	<ul style="list-style-type: none"> <li>• Type of a certificate for which tax is to be levied. Types of certificates include: <ul style="list-style-type: none"> <li>▫ IRP5</li> <li>▫ IT3(a)</li> </ul> </li> </ul> <p><b>Note:</b> Additional certificate types may be added at a later stage.</p>
<b>Commissioner</b>	<ul style="list-style-type: none"> <li>• The Commissioner for the South African Revenue Service (SARS)</li> </ul>
<b>CSV file</b>	<ul style="list-style-type: none"> <li>• Comma Separated Value file</li> </ul>
<b>e@syFile™ Employer</b>	<ul style="list-style-type: none"> <li>• Software package supplied by SARS which has the functionality to create reconciliation documents in the prescribed formats and produce an electronic file in ZipCentralFile format for submission purposes</li> </ul>
<b>EFiling</b>	<ul style="list-style-type: none"> <li>• Is a free, convenient and secure electronic channel for submission of tax returns and payments to SARS</li> </ul>
<b>EMP201</b>	<ul style="list-style-type: none"> <li>• Monthly Employer Declaration</li> </ul>
<b>EMP501</b>	<ul style="list-style-type: none"> <li>• Employer Reconciliation Declaration</li> </ul>
<b>Employee (for the purposes of ETI)</b>	<ul style="list-style-type: none"> <li>• Means a natural person who: <ul style="list-style-type: none"> <li>▫ Works directly for another person; and</li> <li>▫ Receives, or is entitled to receive remuneration from that person but does not include an independent contractor</li> </ul> </li> </ul>
<b>Employees' tax</b>	<ul style="list-style-type: none"> <li>• Means the amount deducted or withheld and such amount must be paid over the Commissioner for South African Revenue Service by virtue of paragraph 2(1) of the Fourth Schedule to the Income Tax Act</li> </ul>
<b>Employer</b>	<ul style="list-style-type: none"> <li>• In terms of paragraph 1 of the Fourth Schedule and section 1 of the Skills Development Levies Act, employer is any person who pays or is liable to pay any person an amount by way of remuneration including a person responsible for the payment of an amount by way of remuneration to any person under the provisions of a law or out of public funds or out of funds voted by parliament or Provincial Council. This definition excludes any person not acting as a principal but includes any person acting in a fiduciary capacity or in his/her capacity as trustee in an insolvent estate, an executor or an administrator of a benefit fund, pension fund, pension preservation fund, provident fund, provident preservation fund, retirement annuity fund or any other fund</li> </ul>
<b>ETI</b>	<ul style="list-style-type: none"> <li>• Employment Tax Incentive</li> </ul>
<b>ETI Act</b>	<ul style="list-style-type: none"> <li>• Employment Tax Incentive Act No. 26 of 2013</li> </ul>
<b>Fourth Schedule</b>	<ul style="list-style-type: none"> <li>• The Fourth Schedule to the Income Tax Act No. 58 of 1962</li> </ul>
<b>Income Tax Act</b>	<ul style="list-style-type: none"> <li>• The Income Tax Act No.58 of 1962</li> </ul>
<b>IRP5/IT3(a)</b>	<ul style="list-style-type: none"> <li>• Employees' Tax Certificate</li> </ul>

<b>Minimum Wage Act</b>	<ul style="list-style-type: none"> <li>Minimum Wage Act No. 9 of 2018</li> </ul>
<b>Monthly remuneration (for purposes of ETI)</b>	<ul style="list-style-type: none"> <li>Where an employer employs the qualifying employee for a month, means the amount paid or payable in respect of that month; or</li> <li>Where an employer employs the qualifying employee for part of a month, means amount that would have been payable in respect of that month had that employer employed that employee for the entire month</li> </ul>
<b>PAYE</b>	<ul style="list-style-type: none"> <li>Pay-As-You-Earn - see definition of employees' tax above</li> </ul>
<b>Qualifying employee</b>	<ul style="list-style-type: none"> <li>An employee as contemplated in section 6 of the ETI Act</li> </ul>
<b>Reconciliation declaration</b>	<ul style="list-style-type: none"> <li>The reconciliation declaration is the EMP501 document on which an employer's PAYE, SDL and UIF liabilities are declared with associated payments, certificate values and the resulting net effect of setting off payments against liabilities</li> </ul>
<b>Reconciliation submission process</b>	<ul style="list-style-type: none"> <li>This is the process through which an employer submits all required PAYE, SDL and UIF documentation to SARS for processing i.e. IRP5/IT3(a), EMP501, EMP601 and an EMP701 if applicable.</li> <li>Use EMP701 with the EMP601 with 8 digit certificate numbers to adjust reconciliation submissions for 1999 – 2008 transaction years.</li> <li>The EMP701 is not applicable for transaction years 2009 onwards</li> </ul>
<b>Refugees Act</b>	<ul style="list-style-type: none"> <li>The Refugees Act No. 130 of 1998</li> </ul>
<b>Representative employer</b>	<ul style="list-style-type: none"> <li>A representative employer is, for a: <ul style="list-style-type: none"> <li>Company: Any public officer, liquidator, judicial manager,</li> <li>Municipality: Manager, secretary, officer, or other person,</li> <li>Person under legal disability: Guardian, curator, administrator or other person</li> <li>Non-resident employer: Agent having authority to pay remuneration</li> </ul> </li> </ul>
<b>SARS</b>	<ul style="list-style-type: none"> <li>The South African Revenue Service</li> </ul>
<b>Seventh Schedule</b>	<ul style="list-style-type: none"> <li>The Seventh Schedule to the Income Tax Act No. 58 of 1962</li> </ul>
<b>SEZ</b>	<ul style="list-style-type: none"> <li>Special Economic Zone as defined as per Section 12R(1) of the Income Tax Act .</li> </ul>
<b>Wage regulating measure (for purposes of ETI only)</b>	<p>Means -</p> <ul style="list-style-type: none"> <li>A collective agreement as contemplated in section 23 of the Labour Relations Act;</li> <li>A sectoral determination as contemplated in section 51 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997); or</li> <li>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.</li> </ul>
<b>Year of assessment</b>	<ul style="list-style-type: none"> <li>The year of assessment in which the remuneration was paid or payable to the employee</li> </ul>

#### DISCLAIMER

The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the guide should refer to the relevant legislation, or seek a formal opinion from a suitably qualified individual.

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