

**Standing Committee on Finance (SCOF): Report-Back Hearings  
22 October 2013**

**DRAFT Employment Tax Incentive Bill**

**Response Document from National Treasury as presented to SCOF**

**1. Introduction**

Many South Africans are excluded from economic activity, and as a result suffer disproportionately from unemployment, discouragement and economic marginalisation. Indeed, South Africa has some of the highest rates of unemployment worldwide, and every effort must be made to reduce unemployment. The incidence of unemployment is highest for young people. About 42 per cent of young people under the age of 30 are unemployed compared with 17 per cent of those 30 years and older.

Young, inexperienced workers have few credible ways to signal to potential employers that they will be productive workers. The strongest signal is a proven track record, but many young South Africans struggle to gain a foot in the door.

**1.1. Design of the employment tax incentive**

Government wishes to implement a cost-sharing mechanism with employers in the private sector to encourage them to hire young and less experienced work seekers, as stated in the National Development Plan. The incentive is one among many programmes that will fall under the umbrella of Government's youth employment strategy, including the National Youth Accord.

The incentive is meant as a temporary programme to stimulate demand for young workers, recognising that this incentive cannot possibly address all structural issues in the youth labour market. This is no substitute to programmes that address the long term employability of youth in the economy. At best, this programme acts as a temporary complement to skills upgrade programmes. This incentive can stimulate on-the-job training and the development of soft skills through work experience. This type of incentive is a relatively common intervention in both developed and developing countries, including Argentina, Australia, Czech Republic, Germany, Poland, Sweden, Turkey, United Kingdom and United States.

The first phase of the incentive is intended to be simple and easy to implement using the efficiencies in existing tax administration platforms in order to ensure effective and timely implementation. The second phase of the incentive will gradually include more sophisticated design options, such as reimbursements and other features, to either expand or tighten the incentive.

**1.2. Policy approach**

There is no debate regarding the gravity of the impact that unemployment has on our society and the debate around potential solutions is vigorous, but provides few credible proposals. The employment tax incentive is not being put forward as the sole answer to youth unemployment, but is part of a broader package of initiatives. Instead, an element of realism relating to the potential level of success of the proposal is already incorporated into the design, since as it stands the employment tax incentive will automatically end after three

years. This design feature highlights the experimental approach of the proposal, recognising that if there is no sufficient evidence to suggest that the policy was successful there will be little impetus to extend the incentive beyond three years and it will either be reviewed or will automatically cease.

The sunset clause emphasises the importance of monitoring and evaluation for any continuation of the policy. National Treasury and the South African Revenue Service will monitor the incentive closely in order to evaluate and explore what works and which design can make the best use of taxpayers' money. These findings will be shared with interested stakeholders and the public to illustrate the extent of the impact of the proposal. International research on the effectiveness of wage subsidies is mixed, but results do indicate that the design structure and country specific factors play an important part in the success of such initiatives.

A considered evaluation will be vital for determining potential design adjustments in the second phase of the policy. Importantly, these findings will add to the debate and can allow for more effective policy making in the future. The employment tax incentive is just one part of Government's strategy to tackle unemployment but it should be viewed as an active step in the development of solutions that are actively being pursued.

## **2. Background**

### **2.1. Process**

The Draft Employment Tax Incentive Bill was publicly released on 20 September 2013. The Committee heard responses from the public at hearings on 15 October 2013. The final report back to the Committee is on 22 October 2013.

### **2.2. Public comments**

The deadline for public comments was 11 October 2013. National Treasury and SARS received responses from 17 organisations and individuals and held informal discussions with interested parties to discuss their comments in greater detail.

### **2.3. Policy issues and responses**

Provided below are the responses to the policy issues raised by the public comments received. Both policy and technical issues have been reviewed fully and included within the revised Bills as appropriate. This response document reflects the main and salient comments, but does not provide an exhaustive account of the tax technical comments. Comments that fall outside the scope of the Bill have not been taken into account for purposes of this response document.

## **3. Comments on the conceptual issues in the Bill**

### **3.1. Comments on the socio-economic impact and overall process**

**Comment:** The Bill should also be subject to consultation within NEDLAC as it has a major socio-economic impact on the labour component of the economy. The Bill should also be subject to agreement by all stakeholders of the National Youth Accord.

Response: Not accepted. The Bill will not affect currently employed persons, and their vested rights are protected, and hence will not have negative socio-economic impact on

labour. Rather, the incentive will benefit those outside the current labour force, who do not currently have a job, and qualify in terms of the criteria. It will therefore expand the labour force, and potentially provide more members to trade unions.

With regard to the process for the incentive, in the 2010 State of Nation speech the President announced that proposals would be tabled to subsidise the cost of hiring younger workers, to encourage firms to take on inexperienced staff. The government thereafter published a discussion paper in February 2011, "Confronting youth unemployment: policy options for South Africa", to consult key stakeholders over the proposal. Comments on the discussion paper came from a wide range of sources, including community organisations, business fora, individual employers and individual workers. It was followed by extensive consultations that took place with affected stakeholders, including through the NEDLAC process with community representatives, organised labour and organised business. These consultations resulted in numerous changes to the incentive design, including mechanisms to detect abuse, penalties for abuse, containing the risk of early schooling exit, changes to the age range of eligible workers and mechanisms to cut deadweight loss.

This bill is a Money Bill (Section 77 of the Constitution), which requires stricter-than-usual parliamentary oversight. Money Bills deal with the imposition of taxes or the allocation of public funds. This incentive allocates public funds in the form of foregone revenue. This Bill does not rewrite or reinterpret any labour law or regulation.

Parliament is the only body that can approve, amend or reject a Bill. Whilst adhering to the broad objectives of the National Youth Accord, no bill can be made subject to agreement outside of the Parliamentary process, and neither should Parliament only be required to consider a Bill only at the end of any process of consultation.

### 3.2. Potential economic impact

**Comment:** The application of subsidies to special economic zones (SEZs) and designated industries would likely have the effect of destroying employment in specific geographic regions as employers relocate to access the subsidy.

Response: Not accepted. No evidence or research is presented on how employment will be destroyed in other specific geographical regions outside SEZs or designated industries. South Africa competes for investment with other countries. In order to attract the best investment and remain competitive we offer a suite of incentives to companies in SEZs. Most of these incentives result in capital-intensive investment. By offering an incentive to hire workers, the intent is to attract investment that can result in more inclusive economic benefits. The bulk of these investments are greenfield investments, which are more likely to result in net job creation. The rules and criteria governing the location of businesses within SEZs will be drafted by the Department of Trade and Industry. Such rules and criteria will attempt to limit or prevent the likelihood that businesses will relocate from the rest of South Africa into the SEZs merely to benefit from any of the tax incentives on offer ( e.g. the lower corporate tax rate, the building tax incentive and the employment tax incentive).

**Comment:** The remuneration provided to employees will be the same for subsidised and unsubsidised workers, but there will be a considerable difference in cost for the employer between the two categories. This will invariably place downward pressure on the wages of unsubsidised workers.

Response: Not accepted. The design of the incentive reflects the conscious decision to target the incentive to hiring of a specific group of vulnerable workers, namely entry level, inexperienced workers, where current market wages are concentrated in the range of R1 500 to R3 500 per month. Wages are a reflection of what an employer is willing to pay for labour (subject to minimum wage legislation), and the wage that a worker is able to command based on their experience, skill, personal attributes and productivity. The more favourable these characteristics are, the higher the wage. Workers who will not qualify for the incentive are workers that are older, have lower rates of unemployment and longer experience. Given that skilled and experienced workers are in short supply in the economy, wages are unlikely to adjust downward.

### 3.3. Implications for labour relations

**Comment:** The Employment Tax Incentive Bill will result in the displacement of older and unsubsidised workers. Employers will also move to a greater use of atypical employees in place of their current workforce in order to access the incentive, putting pressure on the rights of the workforce. The incentive will also lead to a potential hiring bias toward younger people where these employees could easily be replaced after two years of employment.

Response: Not accepted. This critique is based on the false premise that labour is a uniform factor of production, and that workers are completely substitutable. The Bill has specific provisions to penalise potential abuse by employers where current employees have been displaced in order to access the incentive. The Bill has no impact on current labour relations or legislation, and will not weaken the rights of the workers.

**Comment:** The proposal could lead to the creation of a two-tier labour market in relation to wages, benefits and overall employment conditions.

Response: Not accepted. The incentive does not relax current labour law or regulations in any way, and therefore does not renege on the non-wage benefits and any other conditions prescribed by sectoral determinations, bargaining councils, collective agreements, extensions of determinations and requirements of any act or law. Wages will still be decided in the usual fashion, the employer will merely be able to share a portion of the cost with government.

### 3.4. Alternatives to employment tax incentive

**Comment:** It is a serious problem that none of the subsidies are linked to mandatory skills development or training.

Response: Accepted. The point is valid, but cannot be implemented in the first phase. It is accepted that ideally, the Bill should ensure that training takes place for every employee for whom the tax incentive applies. However, given that the incentive is expected to be taken up by many small businesses, and given that access to training funds is via SETAs, further consultation (with for example Department of Higher Education, labour, employers) and legislative amendments to other Acts of Parliament may be required. This proposal can therefore be considered for enactment in the second phase of the tax incentive programme.

In the meanwhile, government intends to encourage all employers accessing the tax incentive to take up training programmes and incentives, without making this an

obligation initially. Firms will therefore continue to have access to government's full suite of skills incentives alongside the employment tax incentive. Programmes in support of these objectives include sector education and training authorities, further education and training colleges, small enterprise support, the Industrial Policy Action Plan, the expanded public works programme and the community work programme. Other tax provisions to improve skills in the economy, like the learnership tax incentive and the allowance for bursaries, will also be available to employers. It is important to keep in mind that the incentive will be administered on a self-assessment basis. Conditionalities require active enforcement. The more conditionalities are added to the design, the more stringent enforcement must become and the lower the take-up. The first phase of the incentive is envisaged to be as simple as possible by not initially prescribing any conditions on compulsory training or skills development, however the mechanism is available to include these design options after implementation.

In the event that the process of consultation can be completed before a change in this legislation, the Bill has also been amended to allow the Minister to prescribe by regulation any conditions that may be required of employers in relation to training of their employees. The Minister would now have the ability, if necessary, to link the use of the incentive with some form of compulsory training, should circumstances allow.

#### **4. Comments on specific design characteristics**

##### **4.1. Employees that qualify**

**Comment:** It is unfair discrimination, and may even be unconstitutional, to exclude refugees or asylum seekers who have the right to seek employment. It is recommended that the incentive is expanded to include this group of individuals.

Response: Accepted. Workers with an asylum seeker permit will be included.

**Comment:** According to the Fourth Schedule in the Income Tax Act there may be legal entities that can be defined as employees. The definition of employee would need to be changed to disallow these legal entities from receiving the incentive.

Response: Accepted. The incentive is only intended to apply in respect of employees that are natural persons. The definition of 'employee' has been adjusted accordingly.

**Comment:** It is unclear when exactly the age of the employee should be determined in order to check whether they are a qualifying employee for a particular month. Recommend that a specific point of time is chosen within the month to determine the employee's age.

Response: Accepted. The eligibility of an employee will be determined with reference to the age of the employee as at the end of a particular month.

**Comment:** The official definitions for youth do not fit with the age range that was chosen for the incentive. The South African definition is from 14 to 34 years of age and the International Labour Organisations' definition is from 15 to 24 years of age. It is unclear as to why the range of 19 to 29 years of age was chosen. The starting age of 19 is too high as school leavers would need to wait a year before they could qualify. This is against the purpose of the Bill and it is suggested that the starting age be decreased to 18 years of age. It is also not clear why the top age limit could not be increased to a level beyond 29.

Response: Partially accepted. The minimum will be adjusted to 18 years as it will still ensure that the incentive does not interfere with school attendance, but that newly matriculated workers are included. The age bracket was chosen to target the groups with the highest levels of unemployment, which in this case is for individuals below the age of 30. This is also the age group where it is increasingly difficult to find a job if job seekers remain unemployed over time. Unemployment rates fall dramatically for those groups who are older than 30.

**Comment:** An individual should only be allowed to be classified as a 'qualifying employee' if they have at least a Grade 12 or equivalent qualification. This would encourage the completion of further studies and improve longer term employability.

Response: Not accepted. Many job seekers in the target group only have incomplete secondary education and the incentive is intended to offer them an opportunity to gain experience to overcome this draw-back. The age-criteria is set to ensure that school attendance is not hampered by the incentive.

**Comment:** The 'connected persons' provision will unfairly exclude small businesses as they are often run within the family. If the aim is to prevent fraud the design should rather require a set of employment records, proof of role and the duties carried out. It would be difficult for large institutions to monitor whether the 'connected persons' requirement is met. It is recommended that this feature is removed or narrowed.

Response: Not accepted. This is a standard feature of the tax system, which ensures that trading takes place on the basis of unbiased contracts and prices. From a practical point of view, this is the simplest provision to prevent the emergence of fictitious positions. From a conceptual point of view, it is difficult to show that such employees are quite as vulnerable as the target group, due to their networks into workplaces.

**Comment:** The proposal states that an employer will need to record how many months the qualifying employee was previously employed at an associated institution and calculate the incentive accordingly. From an employer's perspective this would be difficult to administer as the human resources departments for the employer may not know whether a previous employer is an associated institution. It is suggested that this measure be reviewed.

Response: Not accepted. The proposal is intended to provide a temporary incentive for new employees to gain experience and is not aimed at extending the incentive for single employers over a longer time period. A 'related party' measure is therefore required to prevent abuse where employers may shift employees to related parties in order to continue to benefit from the full amount of the incentive after a period of 24 months (i.e. the calculation of the 24 months takes into account the current employer as well as associated institutions).

#### 4.2. **Employers that are eligible**

**Comment:** The current wording would not allow an employer who is not a company (such as a sole proprietor) to claim the incentive. It is recommended that references to 'company' be replaced by 'entity'.

Response: Accepted. The proposal aims to include sole proprietors. A reference to a natural person has been added to the definition of the employer.

**Comment:** There may be circumstances where the supervisory role and the payment role are split for a single employee. In similar instances an outside organisation may fund the employment, as is the case of some learnerships. It is unclear which of these two 'employers' would receive the incentive.

Response: Accepted. The definition of 'employee' will be amended to clarify that the employer with whom the employee has a direct contract of employment and that pays the remuneration to the employee may claim the incentive.

**Comment:** Currently only employers required to register and who are registered for PAYE are eligible. However, in order for informal sector employers to benefit from the incentive once the reimbursement process is implemented, provision must be made to allow other employers to register voluntarily for PAYE. Alternatively, the incentive could be offset against income tax payable instead of employee's tax.

Response: Partially accepted. The Income Tax system would not be suitable for this incentive as tax payments only take place every six months, whereas the PAYE system has payments on a monthly basis. Employers can register for PAYE to claim the incentive, but for the time being the benefit cannot exceed PAYE liability. Consideration will be given to allow businesses that are currently not registered for PAYE to do so and in a future date to be reimbursed retrospectively through the rollover mechanism. Once the reimbursement mechanism is operational employers will be able to claim the benefit regardless of PAYE liability.

**Comment:** The incentive may not be utilised where the employer has failed to submit any return to SARS. The definition of 'return' is wide and includes all submissions. If these returns are not submitted companies are already subject to interest and penalties and the unavailability of the incentive is additional punishment which would limit the use of incentive and stimulation of employment. It is also difficult for a firm to determine whether or not there are any returns outstanding. It is suggested that the definition of 'return' is limited specifically to employee's tax returns or that companies may still utilise the incentive even if a return has not been submitted.

Response: Not accepted. This incentive will be administered as a tax incentive, and therefore the provisions of the tax system must be upheld. Any benefit of a tax incentive should only accrue to tax compliant employers, which includes all tax instruments.

**Comment:** The Minister can extend an expanded incentive to designated industries. The Minister of Finance should consult with the Ministers of Labour, Trade and Industry, and other stakeholders. The Minister can also prescribe conditions that employers will have to meet in order to claim the incentive. There is no timing as to notification or public consultation and it is uncertain whether there will be a chance to make representations. These conditions should be specified and timeframes included in order to provide certainty to employers regarding the availability of the incentive.

Response: Partially accepted. The Bill has been amended to require the Minister to consult with the Minister of Labour and the Minister of Trade and Industry before expanding the incentive for designated industries. Tax regulations published by the Minister of Finance are always published for public comment prior to publication in the Government Gazette.

#### 4.3. Income range and value of the incentive

**Comment:** The proposal requires employers to 'gross up' an employee's remuneration to check eligibility for the incentive and then 'gross down' the amount of the incentive on a pro-rata basis. Payroll companies may have slightly different methods for this calculation and it is proposed they are allowed the freedom to choose their own method.

Response: Accepted. The employer will be allowed to choose the grossing-up mechanism used to relate remuneration paid in terms of a portion of a month to an entire month. The grossing-down mechanism will be redesigned to allow the employer to also determine the calculation in accordance with its own circumstances, but taking into account the method used in the grossing up of the remuneration.

**Comment:** The remuneration bracket of between R2000 and R6000 may be suitable for those on entry level salaries, however the upper limit of R6000 may be too low as it will exclude many employees who are in the qualifying age bracket. The incentive will also be less attractive in terms of employing semi-skilled workers as their monthly income may be above this income range. It is recommended that the top bracket be increased to a more appropriate level or to abolish the top limit completely to broaden the coverage of the incentive.

Response: Not accepted. The incentive targets entry level, inexperienced workers, where current market wages are concentrated in the range of R1 500 to R3 500 per month. Workers who earn in the range of R4 000 to R6 000 per month are likely to be better skilled and experienced. Employers are more willing to pay an additional amount for these attributes and employees with such characteristics are more likely to find employment, diminishing the need for an incentive.

**Comment:** The profile of the value of the incentive will put downward pressure on wages. Employers will be able to obtain a greater incentive for those who are hired on wages between R2000 and R4000 per month compared to those on R4000 to R6000 per month. This difference in wage cost will motivate employers to lower wages, both for subsidised and unsubsidised workers. Recommend that the incentive is rather a fixed proportion of the wage.

Response: Not accepted. If the incentive is a fixed proportion of the wage it would still need to be reduced to zero at some income level. The tapering of the incentive from R4 000 to R6 000 avoids an immediate cut-off which would severely distort payment behaviour by employers. Skilled and experienced workers are in short supply in the economy and employees with the relevant skills are unlikely to willingly accept a lower wage in order for the employer to gain access to a larger incentive.

**Comment:** Grossing up would not be fair in the case of part time employees.

Response: Not accepted. The grossing up format takes part of a month into account and the incentive can be claimed in the same proportion

**Comment:** The definition of remuneration includes non-wage benefits such as medical aid and retirement contributions, which may push employees with low wages above the income range for the incentive. This would unfairly exclude many of the targeted employees. It is suggested that cash remuneration is used or alternatively if the monthly remuneration exceeds R6 000 but there is no employees' tax to be paid then the employee should still qualify.

Response: Not accepted. The design and modelling of the income targeting took additional employment benefits into account. Exclusion of certain elements of remuneration would result in an increased scope for abuse of the incentive and risk missing the target group.

#### 4.4. Labour clause suggestions

**Comment:** Section 5 not consistent with Section 187 of Labour Relations Act “automatically” unfair dismissals as this has a narrow application.

Response: Accepted. Significant revisions were made to this section in order to ensure that the scope is appropriate and that the provision is consistent with the Labour Relations Act.

**Comment:** Employers only receive the incentive if employees are paid in accordance to minimum wages set through bargaining councils or sectorial determinations. If there are no agreements through a bargaining council or sectorial determination then employees must be paid a minimum of R2000. However, collective agreements do exist in sectors with no bargaining councils and these are not recognised in the Bill. It is suggested that the Bill is amended to recognise such collective agreements.

Response: Accepted. It was not the policy intent to exclude these types of collective agreements. The provision for minimum wages has been broadened to include other stipulations.

**Comment:** The qualification requirements for the incentive are only linked to the minimum wage and do not consider other employment benefits and conditions, such as retirement benefits, medical aid and leave, that sectorial determinations and bargaining agreements may have set out. These factors should be included in assessing whether an employer is eligible to receive the incentive or if they should pay a penalty if conditions are breached.

Response: Not accepted. The total income of the worker (cost to employer) has a direct bearing on whether the employee qualifies for the incentive and therefore it is important to monitor for this incentive. The other factors remain binding and the normal labour regulatory enforcement mechanisms will apply.

**Comment:** Subsidised workers would have no union protection and could be vulnerable to abuse from employers.

Response: Not accepted. There is no impediment to unionisation of qualifying employees.

#### 4.5. Anti-abuse suggestions and penalties

**Comment:** The burden of proof for determining whether displacement has occurred is on the employee that has been dismissed. Dismissed employees are at an informational and resource disadvantage and employers can reorganise their workplace so that new subsidised employees are not in the same unit where a dismissal has taken place. As such, the burden of proof should rather be on the employer. The length of time to resolve the process is also too long.

Response: Not accepted. The unfair dismissals procedure is based on the provisions and processes described in the Labour Relations Act. While it is prudent to base the incentive

on the regulatory interventions that already exist, it implies that the existing consequences of those provisions apply to the incentive. The burden of proof is assigned to the employee in the case of automatically unfair dismissals, which is a general principle in the Labour Relations Act that cannot be overridden. The procedure to obtain a finding is rigorous and could therefore be time consuming. This, along with the severity of the penalty, reflects the grave nature of the transgression.

**Comment:** Employers who have dismissed full-time employees in the six months preceding their participation in the incentive should have to explain these dismissals before being eligible to for the incentive.

Response: Not accepted. This will result in a retrospective burden of proof.

**Comment:** It is questionable whether it is fair to completely exclude an employer from the incentive and impose penalties if it is found that the employer has displaced a single employee. Exclusion would negatively impact potential future employees as well as the employer. It is recommended that instead of excluding the employer a larger financial penalty is imposed.

Response: Partially accepted. The non-displacement requirement is specifically targeted to instances where the employer has intentionally removed a non-qualifying employee in order to hire a qualifying employee to access the incentive. This type of behaviour is not acceptable, but to ensure that the current qualifying employees of the offending employer are not adversely affected the Bill has been amended to only exclude employers at the direction of the Minister. The Minister will assess both the severity of the displacement and the potential effect that disqualification would have on existing employees before determining whether a particular employer should be excluded. Although there is merit in the argument that a penalty should be sufficient to deter abuse, the disqualification remains an important enforcement mechanism.

**Comment:** It is doubtful that employers will be able to determine for certain whether all hiring in the business has been done in accordance with the minimum wage and it is likely there could be inadvertent errors at particular points in time. The proposal indicates that the employer will face penalties and be disqualified completely from participating in the incentive even if a single employee did not receive the correct minimum wage. It is recommended that this aspect be reviewed.

Response: Partially accepted. Employers are expected to comply with minimum wages determinations, but it is also specifically required in this instance to receive the incentive. It is accepted, however, that there may be inadvertent errors that the employer did not anticipate. The penalty for non-compliance with minimum wages will therefore be redesigned to exclude employees in respect of whom employers do not pay the minimum wage and in addition impose a penalty of 200% (100% repayment plus 100% penalty) of the incentive claim in respect of a month where the employer was in breach.

**Comment:** The time frame for the proposed penalty is based on the 12 months preceding the finding of any displacement. Employers may delay the proceedings in order to reduce the penalty if there is a finding of displacement. It is recommended that the penalty amount is rather based on the 12 months preceding the date of the initial complaint.

Response: Partially accepted. The penalty for displacement has been adjusted to avoid the irregular penalty amounts that are a function of both the value of the incentive arising

from the number of qualifying employees within the firm and the period in which the incentive was received. Instead, the penalty will now be based on the number of employees who were displaced in order for the employer to access the incentive. Considering that the maximum amount an employer can receive via the incentive over a two year period is R18 000, the penalty amount will be set at R30 000 per dismissed employee.

**Comment:** The penalty for displacement can be enforced pending appeal. The Bill does not describe the procedures that would apply if the decision was overturned on appeal and how a penalty reimbursement and application for unclaimed amounts would be processed. This would be administratively difficult and would require revisions to previous assessments.

Response: Noted. The provisions of the Tax Administration Act will apply to govern the process of revisions, appeals, overturning of findings and any other dispute. Significant reporting requirements and revisions are only applicable in the case that a transgression took place.

#### 4.6. Other administrative and legislative comments

**Comment:** It is unclear what would happen to the incentive if it is not claimed by the employer in previous months. It is recommended that this amount also be allowed to be rolled over to future months.

Response: Accepted. If the employer fails to reduce the employees' tax by the amount of the employment tax incentive available to that employer, the amount may be rolled over subject to the restrictions on roll overs.

**Comment:** To further entice the informal sector firms to 'formalise', the reimbursement phase should include a tax amnesty to enable the informal sector firm to regularise its affairs.

Response: Misplaced. This is a broader tax policy and administrative matter, which will be considered along with broader enforcement and policy considerations. This legislation cannot make a determination on tax amnesty, it merely enacts the incentive.

**Comment:** If cash is paid to an employer through the reimbursement mechanism due to insufficient PAYE to deduct, this could be seen as taxable income unless there is a specific exemption that is introduced.

Response: Accepted. The schedule that accompanies the Bill provides for an exemption (Section 10 of the Income Tax Act).

**Comment:** Amend section 10(3) to make excess amount R nil (opening balance) for period to which return relates in which the excess was claimed.

Response: Accepted. The section was amended to reflect this suggestion.

**Comment:** The 1 January 2014 is problematic since employers will need more time to implement these changes after the proposed Bill has been promulgated. Recommend that the start date is 1 March 2014 in order to coincide with the year of assessment for employees.

Response: Not accepted. In order to have the maximum impact, the date was set for the start of the calendar year. This is also when new school-leavers will start their search for

employment. The gravity of the youth unemployment challenge outweighs administrative considerations. The first period of reconciliation will be adjusted for the starting date in the middle of a reconciliation period.

## 5. List of organisations and individuals who provided public comment

	Company Name	Contact person
1	ABSA	Rakesh Seethal, Lucia Hlongwane
2	Business Unity South Africa	Kgatlaki Ngoasheng
3	Candela Luminescence	Fleur Honeywill
4	COSATU	Prakashnee Govender
5	Durban Chamber of Commerce and Industry	A.J. Layman
6	Ethekwini Municipality: PSIR Unit	Caili Forrest
7	FEDUSA	Riefdah Ajam
8	FirstRand Bank	Marelize Loftie-Eaton
9	NUMSA	Woody Aroun
10	Payroll Authors Group South Africa	Rob Cooper
11	PWC	Gerald Seegers, Pieter Faber
12	SA Chamber of Commerce and Industry	Pietman Roos
13	SACTWU	Simon Eppel
14	Sean Muller	Sean Muller
15	Shoprite Checkers	C J C Burger
16	South African Institute of Tax Practitioners	Prof Sharon Smulder
17	Southern African Catholic Bishop's Conference	Adv Mike Pothier