



Tax & Legal Flash

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Proposed amendments to tax incentives

National Treasury and South African Revenue Service (SARS) have published the 2021 Draft Taxation Laws Amendment Bill (Draft TLAB) for public comment. Within these proposals are amendments to section 12H Learnership Agreement tax incentive (s12H) and section 12I manufacturing tax allowance (s12I) of the Income Tax Act 58 of 1962 (the Act).

Section 12H learnership tax incentive

2017 saw the commencement of a review into various tax incentives. On recommendation of the David Tax Committee, the review was to assess the effect of various tax incentives on investment, job creation and growth. The intention was that all redundant, inefficient and inequitable incentives should be repealed. Until Government's effectiveness review has been completed, the proposed amendment is that s12H be extended by two years (meaning it will apply to learnerships entered into before 1 April 2024).

Section 12I manufacturing tax allowance

S12I was designed to support investment in manufacturing assets that would improve the productivity of the manufacturing sector. The incentive however

reached its sunset date on 31 March 2020. Notwithstanding this, industrial policy projects approved before 31 March 2020 continue to be entitled to the s12I benefits.

It is important to note that approved industrial policy projects are required to meet certain compliance criteria within a specified timeframe. However, as a result of the effects of the COVID-19 pandemic, many beneficiaries of this incentive have experienced challenges in meeting all requirements. In order to give approved projects a better chance of complying, so that they are not adversely affected by COVID-19 and the consequent restrictions on economic activity, the draft TLAB proposes the following amendments to s12I:

- An extension of the time period by which assets must be brought into use by no more than an additional two years (this is in addition to the one year extension which the Minister is currently allowed to provide); and
- An extension of the 'compliance period' within which approved projects must fully comply by no more than two additional years.

These proposed extensions are not intended to provide blanket relief to all approved projects. Companies whose projects have been fundamentally affected by the COVID-19 pandemic or circumstances arising therefrom, should apply for the extension relief measures to the s12I adjudication committee, who will assess these projects on a case-by-case basis.

These amendments will be deemed to have come into effect on 1 January 2020.

Where to from here?

The draft TLAB is currently open for comment and will be finalised once all consultations have been concluded. Based on history, the final Bill is likely to be published in October of this year, with the signature and enactment thereof in December 2021/January 2022. We will keep you posted on the final amendments made to these sections.

For additional information or further assistance, please contact a member of our Incentives Team.

Contact us



Elizabeth Lombaard

Director

Email: elizabeth.lombaard@kpmg.co.za

M: +27827191988



Nicole de Jager
Senior Manager: Corporate Tax
Email: Nicole.deJager@kpmg.co.za
M: +27827174762

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