Standing Committee on Finance
Parliament of the Republic of South Africa
Plein Street
Cape Town
South Africa

By e-mail: awicomb@parliament.gov.za

7 November 2016

Chair, Members,

Submission on the (draft) Taxation Laws Amendment Bills (2^{nd} Batch), 2016

1. We present herewith our commentary on the draft Taxation Laws Amendment Bill (2^{nd} Batch), 2016.

2. We have limited our comments to the Learnership Allowance and the Employment Tax Incentive for purposes of this submission.

A. AMENDMENT OF SECTION 12H OF ACT 58 OF 1962

Learnership Allowance

2. We have a number of comments with respect to the proposed changes to the learnership allowance as set out below.

Amount of allowance

3. We note the proposal to adjust the amount of the allowance for the different NQF levels. While we welcome the proposal to increase the amount of the allowance for NQF levels 1 to 6 to R40 000 and R60 000 for persons without and with a disability respectively, we are concerned that this increase is too low. Furthermore, we are concerned with the proposal to reduce the amount of the allowance for NQF levels 7 to 10 for persons without a disability to R20 000.

4. While we acknowledge the rationale behind the proposal to prioritise learners with a lower level of qualifications and are generally supportive thereof, the proposal ignores a number of considerations:

PricewaterhouseCoopers Tax Services (Pty) Ltd
2 Eglin Road, Sunninghill 2157, Private Bag X36, Sunninghill 2157
T: +27 (11) 797 4000, F: +27 (11) 797 5800, www.pwc.co.za

T P Blandin de Chalain – National Tax Leader

- The incentive as it stands already provides a relatively larger subsidy to less qualified learners who are inherently cheaper to employ than learners with a higher level of qualification. As such, the value of the incentive as a proportion to the costs of employment of less-qualified learners is already greater than that for more qualified learners and therefore more favourable.

- Many of the skills that are included on the critical skills list would, generally, involve learnerships where the qualification falls within the range of NQF levels 7 to 10 and would therefore be subject to the lower allowance as proposed. Such critical skills include those in the fields of engineering, auditing, nursing, pharmacy and many others. The proposal in its current form will discriminate against such learnerships by affording a much smaller allowance to them.

- The current allowance amounts of R30 000 and R50 000 have been in place since 1 March 2006. As a result, the value of the allowance in real terms is now half of what it was at that time. The proposed increase in the allowance for NQF levels 1 to 6 is nowhere near sufficient to reinstate the real value of the allowance to its original position, while the proposal to reduce the amount of the allowance for NQF levels 7 to 10 will further reduce the current value of the allowance by a third. This is likely to have a significant impact on the cost of learnerships offered by taxpayers in the range of NQF levels 7 to 10 and is likely to see a reduction in the number of learnerships in this range being offered as a result.

- The tax expenditure estimates for the learnership allowance contained in Annexure C of the Budget Review suggest that the number of learnerships offered has fallen in recent years and tax expenditure has fallen from R1.368 billion in 2010/11 to R966 million in 2013/14. When considered in real terms, the fall is even more significant. This must be considered in the context of tax expenditures which increased up to 2010/11. While, we have no empirical evidence for the cause of this, it is likely that this correlates closely with the fall off in economic growth and employment and was likely worsened by the fact that the fall in value of the learnership allowance in real terms started to become significant.

5. In light of the above, we are not in favour of a differentiated allowance for different levels of qualification. Rather, if any differentiation is to be introduced it should be so as to favour learnerships in areas where critical skills are in short supply. This could be done by linking the learnership to the critical skills list published by the Department of Home Affairs in terms of the Immigration Act.

6. Furthermore, it is submitted that the amount of the allowance should be doubled so as to reinstate the value of the allowance in real terms to 2006 levels and to provide a real incentive for business to offer learnerships.

Submission: Different allowances should not be awarded for different levels of education and the amount of the allowance should be doubled so as to reinstate the value of the allowance in real terms.

Completion allowance

7. Notwithstanding the above, it is noted that the completion allowance is also proposed to be linked to the level of qualification. However, it is not clear if the NQF level is to be tested at the time of entering into the learnership or at the time of completion. To illustrate, an auditing firm could enter into a five year learnership agreement with a person who holds a matric qualification with the aim of them qualifying as a chartered accountant. After three years, the learner obtains a BCom degree and therefore no longer falls within the NQF 1 to 6 range. It is not clear if the taxpayer, from that point on would be entitled to only the reduced allowance for NQF 7 to 10 or would be entitled to continue claiming the allowance for NQF 1 to 6.

8. It is submitted that the amount of the allowance should be based on the level of qualification at the time of entering into the learnership and that this should be made clear in the legislation.

Submission: The amount of the allowance should be based on the level of qualification at the time of entering into the learnership.

B. AMENDMENT OF SECTIONS 1, 4, 7, 9, and 12 of ACT 26 OF 2013

Employment tax incentive

9. We are concerned with the proposal to limit the amount of the incentive to R20 million per annum for any employer.

10. While it is apparent from the Employment tax incentive descriptive report that large firms dominate the ETI claims, it is our view that this is no reason to restrict its application to such firms. It seems to us that the biggest impediments to smaller firms claiming the incentive relate to a lack of awareness and the marginal cost of accessing the allowance for smaller firms. To this end, more appropriate interventions would be to create greater awareness around the incentive with smaller businesses and to simplify its application (including investigating a more regular refund mechanism than the biannual one currently provided for as cash flow is one of the major challenges faced by small business).

11. In our view, given the extremely high levels of youth unemployment, it would not be appropriate to exclude any participants from the ETI or place a cap on their participation and all businesses that can employ youth should benefit from the incentive to the full extent. To this end, employment creation in general and youth employment specifically, should take precedence over any other considerations.

12. It is noteworthy that, from the *Employment tax incentive descriptive report*, the average annual ETI claim per job after adjusting for job duration is lower as a business grows in size due to the higher average wages paid by smaller businesses. As such, it is apparent that large business benefits less on a per jobs basis than small business, already resulting in a bias in favour of small business in practice.

13. Furthermore, the report indicates that the wage differential between ETI supported jobs and non-ETI supported jobs is larger for large business than it is for small business. This demonstrates that large business passes on much of the benefit of the ETI to employees resulting in increased welfare of these employees in the form of higher wages.

14. Given the dearth of statistical data available at this stage, the initial indications that the incentive has been effective in achieving its objectives and that there is little indication of displacement of existing workers or abuse by employers, it is strongly suggested that no changes should be made at this stage to limit the availability of the incentive.

    Submission: No changes should be made to limit the availability of the incentive and the proposed R20 million cap should be scrapped.

Amount of incentive and caps

15. As matters stand, the incentive does not apply to any employee earning R6 000 or more per month. If this cap were to keep pace with inflation from 1 January 2014, it would need to be increased to approximately R7 000 as of August 2016. If this cap is not increased, it will result in an increasing number of jobs no longer qualifying for the ETI due to wage inflation and will begin to undermine the effectiveness of the incentive.

16. In light of the above, it is recommended that the upper cap should be increased to R7 500 and the other thresholds similarly increased in order to maintain the effectiveness of the incentive.

17. One of the drawbacks to the incentive for small business is the relative complexity thereof with three different modes of determining the quantum of the incentive depending on the monthly remuneration of the employee. In order to simplify the incentive and in order to make it more attractive for the employment of persons in the upper band of R4 000 to R6 000, it is suggested that the formula for the upper band be dropped in favour of a fixed amount of R1 000 in the first year and R500 in the second year for the existing range of R2 000 to R6 000.

18. Furthermore, it is recommended that the amount of the fixed incentive be increased to R1 250 and R625 in order to maintain the value of the incentive in real terms.

    Submission: The upper cap of the incentives, as well as the other thresholds should be increase to maintain the effectiveness of the incentive. Similarly, the amount of the fixed incentive should be increased to maintain its value in real terms. In order to simplify the application of the incentive the formula for the upper band should be dropped in favour of a fixed amount.

19. We thank you for the opportunity to offer our opinion on the draft Taxation Laws Amendment Bill (2nd Batch), 2016 and we trust that you find this to be of assistance in your deliberations. Please do not hesitate to call on us for further analysis.

Yours sincerely,

Kyle Mandy
Director and Tax Policy Leader
kyle.mandy@pwc.com
+27 (11) 797 49 77