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Submission File

29 July 2020

Mr Wicomb and Mr Nkululeko  
Parliamentary Standing Committee on Finance  
90 Plein Street  
Cape Town  
8001

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Dear Sirs

**PARLIAMENTARY PUBLIC HEARINGS – SUMMARY OF SAICA COMMENTS ON THE  
2020 DRAFT DISASTER MANAGEMENT TAX BILLS**

1. Four overarching concerns were raised by SAICA.
2. The first concern is the effective separation of powers and the **practical implementation challenges** of “temporary” legislative powers for the Executive. Our concern can be expressed in just a single question, namely: **“How can Parliament’s rights to legislate be practically effective if it cannot explain how it will undo what the Executive implemented “temporarily”?** If it can’t, then it is permanent and unlawful.
3. For example, PAYE you can adjust in payroll till the following year February, but if Parliament were to reject a VAT increase in November as implemented in March, how will it practically do that? How would businesses (and SARS) justify and implement efficient substantial system and process changes which are “temporary” until approved by Parliament?
4. As per our submission on 23 April 2018 to the committee we noted the challenges of this and the international comparatives where similar challenges exist in some countries.
5. SAICA urges Parliament to re-evaluate the approach being followed as to changes that would be practically impossible to change if already implemented based on the draft legislation. This is not a problem in all instances, PAYE changes being such an instance. We also commit to assist in researching the matter and in finding an informed and practical solution.
6. The second concern is the uncertainty that exists as to the **administrative approval process COVID-19 Disaster Relief Organisations** would have to follow to not only ensure their exemption from tax in terms of section 30, but also to ensure that donors to these organisations would be able to claim a **tax deduction for their donations** made (s18A).



7. To enhance clarity and reduce disputes in Filing Season 2021, SAICA recommends that an express requirement be inserted into the bill that COVID-19 disaster relief organisations should apply to SARS for approval for section 18A status as *well*. It should be made clear in the EM that once approved, these organisations should issue section 18A receipts that comply with the requirements of section 18A and that donors and employers providing “payroll giving” must ensure that they obtain a valid section 18A receipt in order to deduct their donations in their own tax returns or through the payroll. This submission codifies and clarifies what SARS has already implemented.
8. The third concern is the **case-by-case penalty waivers**. This process is administratively burdensome for all concerned and has caused a backlog for SARS at the very least. Furthermore, adverse cash flow positions have forced taxpayers to seek funding from lenders and their assets are secured in favour of these lenders which does not allow a taxpayer to provide security as required in section 168(e) of the TAA.
9. SAICA suggests a relaxation of section 168(e) TAA on the provision of security during COVID-19 which would reduce the administrative burden and help taxpayers and SARS to focus on the important tasks of saving jobs and continuing business.
10. The last concern relates to the **relief not included in the Bills**. Various people have been putting their lives at risk without additional compensation whilst providing essential services. Relief should be provided to these individuals and their families. The fringe benefit tax on ‘care packages’ should be removed or limited to R200 per month.
11. Relief for individuals not meeting the “days” requirements of the section 10(1)(o) exemption should be provided as well as for the permanent establishment concerns that may be created due to COVID-19. Finally, expanded home office deductions and fringe benefit relief for people who now have to work from home and incur additional expenses or whose employers have to set them up at home with furniture etc. should be provided.

Yours sincerely

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**Chairperson: National Tax Committee**

**Sharon Smulders**  
**Project Director: Tax Advocacy**

*The South African Institute of Chartered Accountants*