EMPLOYMENT | TAX

Temporary Employer / Employee Relief Scheme: tax implications

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by Doelie Lessing, Director and Andre van Heerden, Senior Associate

On 16 April 2020 the Minister of Employment and Labour issued amendments to the directives governing the Covid-19 Temporary Employer / Employee Relief Scheme ("**TERS**"). These must still be published in the Government Gazette. The directives provide, among others, that in order to speed up payment of Covid-19 benefits to employees, employers are urged to pay employees benefits in advance and then reimburse or set off such amounts against funds received from the Unemployment Insurance Fund ("**UIF**").

While there are no express tax regulations/directives or amendments issued on whether employers should be treated as 'agents' when collecting payment from the UIF there is a strong basis to argue that this is the case and that the payment of these amounts to the employees should not result in a PAYE liability on the TERS benefits. PAYE must, therefore, not be deducted from the TERS benefits. It is also arguable that employees should be exempt from paying tax on the benefits received, as the tax legislation provides for a general exemption from tax of benefits or allowances payable in terms of the Unemployment Insurance Act – provided that the TERS benefits are legally payable in terms of that Act (which appears to be the intention). It is advisable, when affecting electronic payments to the employees' bank accounts, that the amounts clearly be recorded as 'UIF TERS benefits.' This clearly distinguish the payments from any remuneration payments ordinarily received.

Should you require any formal advice regarding the above please do not hesitate to contact us.

Doelie Lessing

Head of Tax / Head of Private Wealth

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Andre van Heerden

Director

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