**2. Report of the Standing Committee on Finance on the Disaster Management Tax Relief Bill [B11 - 2020] (National Assembly- section 77), dated 19 August 2020**

The Standing Committee on Finance, having considered the **Disaster Management Tax Relief Bill [B11 - 2020] (National Assembly- section 77)**, referred to it, and classified by the JTM as a Money Bill, reports the Bill with amendments [B11A– 2020] as follows:

1. **INTRODUCTION AND BACKGROUND**
   1. The Disaster Management Tax Relief Bill (DMTRB), 2020 (commonly referred to as the COVID-19 Tax Bill) was introduced by the Minister of Finance (“the Minister”) together the special adjustment budget on 24 June 2020. The adjustment budget was promulgated to deal with and minimise the impact of the COVID-19 lockdowns and the resultant economic downturn. The ordinary tax proposals announced with Budget 2020 will still be processed through the normal annual tax legislative process.
   2. The first version of the draft DMTR Bill was published by the Minister on 01 April 2020 to give effect to the exceptional tax relief measures outlined by President Cyril Ramaphosa on 23 March on the Escalation of Measures to Combat COVID-19. Initially the draft Bill was to give effect to COVID-19 tax measures with effect from 1 April 2020 and apply for a limited period of four months, ending on 31 July 2020.
   3. On 21 April 2020, President Cyril Ramaphosa addressed the nation announcing further tax measures that aimed to assist individuals and businesses through the pandemic. The draft Bill was revised and published for public comments on 01 May 2020 by the National Treasury (NT) and the South African Revenue Service (SARS). NT and SARS indicated that the revisions of 01 May 2020 to the draft took account of public comments received on the initial draft Bill of 01 April 2020. The measures took effect on 01 May 2020 and applied for a limited period of four months, ending on 31 August 2020. Again on 19 May 2020, NT and SARS published another revised draft DMTR Bill and revised draft Notice on Expanding Access to Living Annuity Funds.
   4. The DMTR Bill is a Money Bill in terms of section 77 of the Constitution, dealing with national taxes, levies, duties and surcharges.
2. **PUBLIC PARTICIPATION**
   1. NT and SARS reported to Parliament that it received a total of 186 written submissions on the COVID-19 Tax Bills. Of these written submissions; 94 were received on the draft Bill that was published for public comment on 01 April, 76 on the revised draft Bills published on 01 May and, 16 further comments on the drafts published on 19 May 2020. Other consultations were conducted through virtual communication, NT and SARS reported. Parliament was also briefed on the draft Bills on 23 April 2020.
   2. After Parliament passed the special adjustment budget in July, the Committee was briefed on the COVID-19 Tax Bills on 14 July and issued a call for public comments. Public hearings were held on 22 July and NT and SARS responded to public comments on 28 July. Five organizations: COSATU, the South African Institute of Chartered Accountants (SAICA), the South African Institute for Tax (SAIT) and PWC, made oral submission. Written submissions were received from ABSA Bank and Dr Ramola Naidoo.
3. **OVERVIEW OF THE TAX PROPOSALS IN THE DMTRB**
   1. The DMTR Bill contained proposed measures to: expand the Employment Tax Incentive (ETI) scheme’s age eligibility criteria and the amount claimable; provide for special dispensation for funds established to assist with COVID-19 relief efforts; increase the deduction available for donations to the Solidarity Fund; and, provide for the Skills Development Levy holiday.
   2. On ETI, the Bill proposed expanding the scheme for a limited period of four months beginning from 01 April and ending on 31 July 2020 to allow a monthly claim to employees aged between 18 and 29 but are no longer eligible for the scheme because the employer would have already claimed for them for the permissible 24 months. The expansion would further cover employees between the ages of 30 and 60 to be claimed for, although they are no longer eligible on the basis of age. A further allowance would be made for the payment of ETI reimbursements to monthly rather than only twice a year to ease cash shortages. All these proposals were directed at saving jobs as businesses face economic hardships and would be extended to employers the were registered with SARS at 01 March 2020 and were compliant with the ETI Act provisions.
   3. The special dispensation for COVID-19 funds proposal would give a special tax dispensation application to public benefit organisations (PBOs) that provide disaster relief as per section 10(1)(cN) and 30 read together with Part 1 and Part II of the Ninth Schedule to the Income Tax Act. The COVID-19 funds would have to apply for approval and their status would be applicable for four months beginning on 01 April 2020 to 31 July 2020, exempting their receipts and accruals and donations from income tax and donations tax, respectively. Donations made to the COVID-19 funds would also be tax deductible at 10%.
   4. In respect of tax deductions for donations to the Solidarity Fund, the proposal in the Bill is to increase the ordinary 10 per cent deduction by a further 10 per cent in the 2020/21 tax year.
   5. On the Skills Development Levy holiday, a four-month holiday for the Levy contributions was proposed to assist businesses with cash flow, starting from 01 May to 31 August 2020.
4. **KEY ISSUES RAISED DURING THE PUBLIC HEARINGS**
   1. The key issues raised on the DMTR Bill were: the expansion of the ETI age eligibility criteria and amount claimable; the special tax dispensation for funds established to assist with COVID-19 relief efforts; the Skills Development Levy Holiday; and, increasing the tax-deductible donations in respect of the Solidarity Fund by an additional 10 per cent.
   2. Expansion of ETI age eligibility criteria
      1. Submission and deliberations of the Committee supported the expansion of the ETI age eligibility criteria as one of the proposals to assist in minimizing job losses as a result of the COVID-19 lockdown. While there were submissions in favour of extending the ETI COVID-19 relief beyond the proposed 31 July 2020 period as the country was heading towards the peak of COVID-19 infections and the lockdown was still in place, National Treasury and SARS highlighted that additional extensions would have direct costs to government and breach the fiscal framework.
   3. Streamlined special tax dispensation for funds established to assist with COVID-19 relief efforts
      1. The Bill as introduced in Parliament had settled earlier comments on the scope of the legal nature of COVID-19 relief funds (contained in Clause 1 of the Bill) to be expanded to not only cover trusts but also non-profit companies as defined in section 1 of the Companies Act or an association of persons. However, in order to prevent abuse, organisations would have to apply and be approved by SARS in order to qualify for the proposed tax benefits and be deemed as Public Benefit Organisations for these purposes. The Committee urged for the approvals of the applications of qualifying entities to be expedited. Donations were also expanded (see Clause 8 of the Bill) to include not only cash, but property (goods) donated in kind.
      2. Submissions were received for the extension of the period of relief funds for a further two months as the country had not reached its peak and was still under the lockdown. This has been agreed to by the Minister of Finance and the relief period will be extended for a further two months from end of 31 July 2020 to 30 September 2020. The compliance of this amendment with section 11(3) and section 8(5) of the Money Bills Act is dealt with in 4.6 below.
   4. Skills Development Levy Holiday
      1. The Skills Development Levy Holiday is a tax exemption, and not a deferral. This means that qualifying entities will not be liable for repayment of the levy later, for the exempted period (01 May to 30 August 2020) aimed at giving the cash flow relief.
   5. Increasing the tax deductible donations available for the Solidarity Funds by additional 10 per cent
      1. This proposal is aimed at encouraging South Africans to make contributions to the Solidarity Fund. The increase by an additional 10 percent increases the tax deductible limit for donations to 20 per cent in respect of cash or property in kind donated and actually transferred to the Solidarity Fund. Submissions were made for other COVID-19 relief funds to benefit from this 20 per cent deduction that would be applicable to donations to the Solidarity Fund. It was, however, noted that the current 10 per cent available to these other funds was already generous given that some of these funds operate on the basis of providing loan funding which may require repayment by borrowers later.
   6. **AMENDMENTS AND COMPLIANCE WITH THE MONEY BILLS ACT**
      1. Accommodating proposals for the extension of relief in Clauses 7, 8 and 9 of the Bill, the Minister of Finance addressed a letter to the Committee on 17 August 2020, requesting the Committee to consider the amendment of words/dates in Clauses 7, 8 and 9, replacing the date of “31 July 2020” with the new ending date of “30 September 2020”.
      2. Section 11 (3) of the Money Bills Act requires that in amending revenue Bills, Parliament and the Committee consider: the revenue implications and impact of proposed change on the composition of tax revenue; principles of equity, efficiency, certainty and, ease of collection; regional and international tax trends; and, impact on development, economic growth, investment and employment.
      3. Section 8(5) also requires that amendments consider the impact on the fiscal framework, including elements of revenue, expenditure and borrowing.
      4. In respect of the above, National Treasury reported to the Committee that amendments to Clauses 7,8 and 9 dealt only with the extension of the relief measures dealing with streamlined tax dispensation for funds established to assist with COVID-19 relief efforts by two months, from four to six months. These funds would have qualified for tax exemption in terms of the current provisions of the Income Tax Act, 1962, NT indicated, and the extension of this relief is tax neutral and does not result in an additional direct cost to government.
      5. In its deliberations, the Committee was satisfied that the extension by two months, of the relief provided for in Clauses 7,8 and 9 of the Bill would not adversely affect the fiscal framework and the composition of tax revenue, but would provide much needed relief as the country is still under COVID-19 lockdown measures.
5. **CONCLUSION**
   * 1. The Committee was assured by National Treasury that many other measures would be covered in the ordinary tax amendment laws to be processed by Parliament with the Medium-Term Budget Policy Statement later in the year.
     2. The Committee reports the Bill, with amendments.

To be considered.