A comparative analysis of the Employment Tax Incentive Act, No.26 of 2013

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Declaration

I, Petrus Johannes Loock Odendaal, hereby declare that the work on which this thesis is based is my own original work (except where acknowledgements and references specifically indicate otherwise) and that neither the whole work nor any part of it has been, is being, or is to be submitted towards any other degree to this or any other university or academic institution.

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Abstract

Despite being internationally recognised as an economic powerhouse of the African continent, South Africa struggles to overcome certain socio-economic problems, which predominantly stem from the inequalities within its society. One of the most important areas of prevailing concern is high unemployment, particularly amongst the youth segment of the population. Approximately 42% of South Africans under the age of 30 are unemployed, a fate shared by less than 17% of those above 30 years of age.

The South African government appropriately sought to ensure a better future for all its citizens by 'creating', or facilitating the creation, of more jobs. As part of its 'program of action', one of the initial steps was to enact the Employment Tax Incentive Act, No. 26 of 2013 ('ETIA').

The following extract is from the Explanatory Memorandum on the Employment Tax Incentive Bill, 2013:

"High youth unemployment means young people are not gaining the skills or experience needed to drive the economy forward. (...)

In response to the high rate of youth unemployment, government wishes to implement an incentive mainly aimed at encouraging employers to hire young and less experienced work seekers, as stated in the National Development Plan. The incentive is one among many that will fall under the umbrella of government's youth employment strategy, the National Youth Accord, which outlines a program of action to address youth unemployment."

The primary aim of this study is to conduct a detailed analysis of the ETIA in order to ultimately evaluate its merits, i.e. by expressing an opinion on whether or not it is assisting in combatting youth unemployment. The analysis compares similar types of legislation that have been implemented, both successfully and unsuccessfully, in other countries in attempts to address similar unemployment issues. This paper reflects events, legislation and published literature as at 1 December 2015.

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List of Abbreviations

(Any abbreviations not defined herein are defined in the text below)

Abbreviation	Meaning
EM	Explanatory Memorandum on the Employment Tax Incentive Bill, 2013 (31 October 2013)
ETIA	Employment Tax Incentive Act, No. 26 of 2013
ITA	The Income Tax Act, No. 58 of 1962
IT	Income Tax
Government	The Government of the Republic of South Africa
OECD	The Organisation for Economic Co-operation and Development
Legislature	The legislative arm of the South African government, i.e. parliament
Treasury	The National Treasury of the South African government
SARS	The South African Revenue Service

Chapter 1

Introduction

1.1 Background

Since being 'reborn' as a democratic society in 1994, the South African political landscape has undergone a complete metamorphosis. In certain respects, the changes our country has undergone have been for the better and in others it has been for the worse.

The purpose of this research paper is not to analyse the political landscape of South Africa, as this would be an insurmountable task in a paper of this length. Furthermore, chances are slim that such an undertaking will produce anything different from what has been concluded in many political research papers in the past. My idea with this research paper, and what I will hopefully achieve successfully, is to provide insight into one of the newest taxation incentives enacted by the South African legislature, being Act No. 26 of 2013: The Employment Tax Incentive Act, 2013 ('ETIA'). The *ratio* for this new Act was to address a long-standing issue in South Africa, i.e. youth unemployment.

Many an observer would recognise and agree that unemployment (and especially youth unemployment) constitutes a serious problem in South Africa and serves as one of the primary contributors to several other social and economic problems our country is currently plagued with - the high level of crime being an obvious frontrunner in this regard. According to the Organisation for Economic Co-operation and Development ('OECD'), South Africa is the OECD member country with the highest percentage of 'youth not in employment or in education and training' as at Q1 2013.[1] In its Economic Survey on South Africa (2013)[2], the OECD notes as follows:

"Despite considerable success on many economic and social policy fronts over the past 19 years, South Africa faces a number of long-standing economic

[1] OECD (2013). *Action-plan for youth – giving youth a better start* (June 2013) Available at: (http://www.oecd.org/youth.htm).
[2] OECD (2013). *Economic Surveys: South Africa @ OECD 2013*. Available at: (http://www.oecd.org/general/economic%20survey%20south%20africa), at page 11.

problems that still reflect at least in part the long-lasting and harmful legacy of apartheid. One is a lack of economic dynamism [...]. Above all, employment remains too low and unemployment excessively high, which exacerbates a range of social problems and tensions."

Unemployment among the youth of South Africa is an acute problem that requires urgent address. Approximately 42% of young people under the age of 30 are unemployed compared to less than 17% of adults over 30; the former category being the group from which South Africa's *future leaders* ought to emerge.[3] Our government has recognised this problem and the fact that it needs to be addressed immediately and urgently.

1.2 Objectives and approach

In his State of the Nation address on 11 February 2010, President Jacob Gedleyihlekisa Zuma ('President Zuma') said:

"The most urgent focus of policy change must be interventions to create jobs for young people. Unemployment rates for young people are substantially higher than the average. Proposals will be tabled to subsidise the cost of hiring younger workers, to encourage firms to take on inexperienced staff."[4]

The above passage was the first of several public statements in the build-up to the eventual enactment of the ETIA on the 18th of December 2013.[5] The ETIA officially came into effect on 1 January 2014[6] and it provides for an employment tax incentive in the form of an amount by which employees' tax may be reduced.[7] The government's aim with the incentive is to reduce unemployment, especially in relation to young work seekers, by encouraging employers to hire young and less

[3] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 5. Available at: (http://www.treasury.gov.za/documents/national%20budget/2011/Confronting%20youth%20unemployment%20-%20Policy%20options.pdf)

[4] As issued by the Presidency on: (http://www.gov.za/speeches/view.php?sid=7753&lid=1)

[5] Government Gazette No. 37185 (Volume 582)

[6] Section 14(2) of the ETIA stipulates that sections 1,2,3,4,5,6,7,8,9,11,12 and 13 came into operation on 1 January 2014.

[7] Cf. the introduction to the Preamble of the ETIA.

experienced work seekers, confirming its undertaking in the National Development Plan.[8]

In the preamble to ETIA the following considerations are given as motivation for its enactment:

"SINCE the unemployment rate in the Republic is of concern to government;

AND SINCE government recognizes the need to share the costs of expanding job opportunities within the private sector;

AND SINCE government wishes to support employment growth by focusing on labour market activation, especially in relation to young work seekers;

AND SINCE government is desirous of instituting an employment tax incentive [...]".

In this research paper, I intend to conduct a comprehensive evaluation of the ETIA and express an opinion (and hopefully an insightful one) on whether it will adequately assist to address these youth unemployment issues that have been identified. My intention is to analyse the plain language of the ETIA and determine whether what is written in the text will in fact provide an adequate measure to address youth unemployment. This is done in the context of the South African socio-economic landscape, coupled with a limited discussion of similar tax incentives (or subsidies) enacted in other countries.

1.3 Methodology

During the course of my research, I have made use of several resources issued by our government, also of opinions and critiques from academics and experts as well as of international resources relating to the subject of this study. All resources are listed in footnotes as and when they are used and a

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[8] The Explanatory Memorandum on the Employment Tax Incentive Bill, 2013 ('EM') at page 2.

comprehensive list is also included in the bibliography at the end of this research paper.

The structure of this research paper is as follows:

Firstly, I provide a brief historical overview (in *Chapter 2*) of the use of taxation legislation and more specifically employment subsidies to counter socio-economic problems. The focus is on measures or subsidies that have been used by governments across the world to specifically counter youth unemployment, i.e. targeted subsidies[9]. I will not evaluate any legislation in detail in this chapter as such an analysis is conducted in the latter parts of this research paper. My intention was to paint an initial picture for the reader as regards taxation measures that have been used in the past by governments in selected jurisdictions to, for instance, incentivise employers to hire *young work seekers*.

In *Chapter 3*, I provide some of the latest data and statistics relating to youth unemployment levels in South Africa. Once again, the objective is not to provide extensive details, but to give the reader an impression of the extent of the actual problem that requires to be addressed and also to underline the fact that the persistently high rate of unemployment is indeed one of the most pressing socio-economic challenges that the South African government faces.[10]

Thirdly, in *Chapter 4*, I comprehensively analyse the legal framework of the new counter-youth-unemployment measure in South Africa - the ETIA. The intention was to conduct a clause-by-clause analysis of the ETIA (and supporting materials such as the EM) in its current form and ultimately to evaluate whether the plain language of the ETIA will give effect to its intended purpose, being 'to support employment growth, especially in relation to young work seekers'[11]. Despite the fact that the ETIA was relatively recently enacted, it has received wide-ranging publicity (predominantly negative) during the course of the build-up to its promulgation in December 2013. Many stakeholders and commentators agree

[9] "The objective of a targeted subsidy is to improve the employment prospects and opportunities for a particular group. It does this by reducing the costs of employing the targeted group relative to other groups, making them more attractive to hire" - Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011) at page 28.
[10] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 9.
[11] Cf. the preamble to the ETIA.

that, whilst the ETIA shows some intention on the government's part to address youth unemployment, it fails to tackle underlying, core issues, such as a struggling economy and poor basic education provision.[12] Some of the major concerns raised by academics, journalists, politicians and labour unions with regard to the ETIA are therefore brought to the fore in the latter parts of *Chapter 4*.

In *Chapter 5*, and in furtherance of the background provided in *Chapter 2*, I conduct a detailed analysis of similar legislation, i.e. so-called targeted subsidies and other counter-unemployment measures enacted in certain other countries. The intention was to enable a comparative study with the ETIA by means of such an analysis. An explanation as to why certain countries were selected for the comparison with the ETIA will also be provided. Ultimately, the purpose of this analysis is to highlight the reasons for the successes and failures in other countries of such legislative measures; also to put forward suggestions or proposals regarding the ETIA in its current form and to express my view on its merits and shortcomings in the light of such comparisons.

Concluding remarks are made in *Chapter 6*.

1.4 Limitations and scope

The intention of this paper was to analyse the ETIA, to provide suggestions as to where the problem areas may lie and also how the current legislation could be improved. Where suggestions or recommendations are offered, they are offered as provisional conclusions, and not as proposals on how primary changes to the text of the ETIA should be enacted *per se*.

This research paper focuses on the proposed effectiveness of the ETIA within the South African socio-economic landscape and specifically on whether the legislative changes will achieve the goal of countering youth unemployment. No other factors are considered when comments or suggestions are made and the author acknowledges that suggestions may not always be practicable, due to other factors not considered in the research. These limitations on the scope of this study may represent potential areas for future research.

[12] Equal Education (2013). *Our ten concerns about the Employment Tax Incentive Act*. (19 December 2013) Available at: (http://equaleducation.org.za/article/2013-12-19-10-concerns-about-the -employment-tax-incentive-act-which-introduces-a-youth-wagesubsidy-for-business)

All references to the ETIA in this study refer to the Employment Incentive Act, No. 26 of 2013 and incorporate any changes brought about by the Taxation Laws Amendment Act, No. 43 of 2014.

Chapter 2

The use of wage subsidies to combat youth unemployment

2.1 Introduction

Before venturing into the details of the ETIA, I deem it necessary to give the reader some insight into how 'tax incentives'[13] have been used by governments of certain countries in the past to assist in achieving certain socio-economic goals, for example combatting youth unemployment. Humans generally react to incentives - a sales person, for instance, would be willing to work harder and sacrifice more of his or her personal time if incentivised by an employer, i.e. by way of a commission or bonus. On the same premise, consumers will be more likely to spend money when incentivised by substantial discounts offered by retailers and, so too, would companies and corporations be more likely and willing to satisfy certain specified criteria, for instance hiring more employees defined by certain characteristics such as age or socio-economic background, if a financial incentive is provided.

In South Africa, as in most countries with progressive, economically driven tax systems, a wide variety of tax incentives are implemented by legislatures and made available to taxpayers to stimulate aspects of the economy that require addressing at any point in time. As an example, the Research and Development incentive in section 11D of the ITA provides accelerated allowances to companies, which foster research into and the development of certain scientific and innovative technologies. The idea behind section 11D is to enhance South Africa's global competitiveness in the science and technology fields. This is done by encouraging participants (i.e. companies and corporates normally at the forefront of their particular field or business) to participate in certain activities – the benefits for the participants lying, among others, in enhanced in-house technologies and processes as well as being eligible for accelerated allowances for expenditure incurred on such investments, effectively lessening the tax burden of such institutions over the short term. Similarly, incentives are available under provisions that relate to Special Economic Zones[14] or Industrial Development Zones[15], giving added tax

[13] 'A tax incentive is an aspect of a country's tax code designed to incentivise, or encourage a particular economic activity' – (http://en.m.wikipedia.org/wiki/Tax_incentive).
[14] See sections 12R and 12S of the ITA.
[15] See section 12I of the ITA.

benefits to companies if they conduct their trade in certain zoned areas of South Africa. These incentives, however, are not the focus of this research paper and will not be discussed any further.

Of more relevance to the subject matter of this paper is the fact that the granting of employment subsidies (such as the employment tax incentive intended under the ETIA) has been a recurring feature of labour market - and tax policies in many countries over recent decades. In a discussion document issued by the South African National Treasury during the lead-up to the enactment of the ETIA[16], it was noted as follows:

"The majority of OECD countries have some form of job subsidy, recruitment incentive or policies to reduce non-wage labour costs. France, Germany, Spain and the United Kingdom have all implemented new measures in the last two years. Several middle-income countries have also adopted wage subsidies as a result of rising unemployment during the global economic crisis including Chile, Korea, the Slovak Republic and Turkey. In the cases of Chile and Turkey, these have been specifcally targetted towards younger workers".

Clearly, the South African legislature was not taking action without precedent when it was decided to enact the ETIA; in fact, it had many case studies and examples from which guidelines could be drawn during the modelling and drafting of the ETIA in the form of a practical and effective counter-unemployment legislative measure.

2.2 Wage subsidies: purpose and general approach

Wage or employment subsidies are incentives that aim to accelerate job creation and increase levels of employment (thus combatting unemployment) and have been used in both developed and developing countries.[17] In a recent paper by

[16] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 23 and 24.

[17] Burns J, Edwards L & Pauw K (2010). *Wage Subsidies to Combat Unemployment and Poverty: Assessing South Africa's Options* on behalf of the Southern Africa Labour and Development Research Unit. Page 1 - Working Paper number 45; August 2010. Available at: (www.opensaldru.uct.ac.za/bitstream/handle/11090/73/2010_45.pdf?sequence=1).

Burns, Edwards and Pauw (2010)[18], wage subsidies are categorised as follows:

"Wage subsidies can either be classified as worker-side or firm-side programs. Worker-side wage subsidy schemes grant workers a subsidy upon sucessfully obtaining employment and the primary objective is to increase participation in the labour market. Examples of these policies include the Working Families Tax Credit program in the United Kingdom and the Self-Sufficiency Program in Canada which targets parents with children (Smith 2006). The appropriateness of worker-side wage subsidies in South Africa and other developing is questionable, the constraint being that unemployed individuals are simply unable to find employment given a lack of demand. (...)

The alternative approach is to offer firm-side subsidies, which are granted to firms as an incentive to employ more workers. This policy is appropriate when labour is underutilised or unemployed. Given South Africa's high unemployment rate, firm-side subsidies would appear to be most appropriate."

Firm-side (or employer-side) wage subsidies operate in a straightforward way: the subsidy granted by the incentivisor (normally the government or legislature) lowers the cost of employing people for the incentivised employers, whilst not affecting the actual salary that the employee takes home - thus enabling companies to increase employment and output.[19] These subsidies can be applied to employees in general (a 'general subsidy'), to net changes in employment (an 'incremental subsidy'), to certain groups of employees (a 'targeted subsidy') or to gross flows into employment arising from new hirees or layoffs. The most commonly used is the targeted recruitment or hiring subsidy, which compensates employers by way of a subsidy for newly hired workers with certain prescribed characteristics.[20]

In developing countries, where a labour market failure is normally associated with high unemployment, an employer-side subsidy that promotes an increased demand for labour is normally more appropriate.[21] Targeted subsidies

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[18] *Ibid 17* at page 2.
[19] *Ibid 17* at page 2.
[20] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 28.
[21] *Ibid 17* at page 2.

form a central part of labour market policies in many countries where the the costs of labour to an employer are lowered or where the wages workers receive are increased, thereby stimulating both job creation and higher employment. By assisting the unemployed in finding formal, well-regulated employment, employment subsidies also contribute toward the creation of decent jobs.[22]

It will become more apparent in Chapter 4 that the subsidy envisaged under the ETIA indeed constitutes an employer side wage subsidy, targeting a certain group of prospective employees; hence a discussion of this type of subsidy is the aim of the rest of this chapter.

2.3 Examples of wage subsidies used in other countries

Several examples of employer-side, targetted subsidising similar to the employment incentive under the ETIA have previously been implemented in a number of countries. In North America, the Employment Tax Credit Program in Canada (1978) targeted people who had been unemployed for 8 weeks or more, obliging employers to employ such workers for more than three months in a full time job in order to qualify for the subsidy. The Targeted Jobs Tax Credit in the United States, which was replaced by the Work Opportunities Tax Credit in 1994, targetted economically disadvantaged youths, poor veterans from the war in Vietnam, handicapped individuals and social assistance recipients. Neither of these programs was very successful.[23]

Examples of employer-side wage subsidies from Europe, Asia and South America include[24] :

a) The United Kingdom (The New Deal, April 1998): As a result of a high incidence of youth unemployment in the United Kingdom, the government implemented this employer-based subsidy to assist young people between the ages of 18 and 24 years old. It was considered to be a comprehensive intervention by the British government, as it provided several gateways for

[22] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 28.
[23] *Ibid 17* at page 5.
[24] Examples from South America and Asia are more comparable to those from South Africa, as these are also developing or emerging market countries that will often face challenges similar to those from South Africa. (*Ibid 17*)

participants to enter the labour market.[25] By January 1999, a study by Bell, Blundell and van Reenen[26] revealed that, ten months after implementation of this subsidy, 40% of the youths who had passed through the so-called "gateway"[27] phase had moved to unsubsidised employment and 30% into full time education and training.

b) Poland (Intervention Works Programme, mid 1990s): This intervention by the Polish government entailed a subsidy which paid the wage and social insurance costs of all unemployed persons and was implemented following a sharp rise in general unemployment in that country. The programme also provided for other incentives, such as additional subsidies to employers if they retained qualifying workers for a period of six months after the initial subsidy period.[28] A subsequent study by O'Leary[29] found a positive effect on employment levels, but a negative effect on the average earnings of people younger than 30.

c) Singapore (Wage Credit Scheme, 2013): Under this scheme, the Singaporean government proposed to co-fund 40% of wage increases given to 'qualifying employees'[30] who earned less than SGD4,000 (Singapore Dollars) per year. Even though not solely implemented as a mechanism to combat unemployment, it allows employers to free up resources to invest in productivity and to share gains from increased productivity with employees.[31] The need for this intervention arose because of an influx of high-earning foreign expatriates, which necessitated an increase in wages of

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[25] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 26.
[26] Bell, B., R. Blundell and J. van Reenen (1999). *Getting the Unemployed back to work: The Role of targeted wage subsidies*, Institute for Fiscal Studies Working paper No. 99/12.
[27] As part of the New Deal for Youth Employment in the UK, a four-month gateway period was allowed every unemployed youth to receive assistance in searching for a job opportunity by a personal job assistance councellor.
[28] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)*at page 31.
[29] O'Leary, C.J., (1998). *Evaluating the effectiveness of active labour programmes in Poland*, technical report No 98-012 (Upjohn Institute, Michigan, USA).
[30] To qualify, an employee has to be a Singaporean citizen earning a gross monthly wage of less than SGD4,000 and be on the employer's payroll for three months before any qualifying year and received CPF contributions during such time.
[31] Available at: (www.iras.gov.sg/irashome/WCS.aspx)

local employees and which in turn put local businesses in financial distress.[32]

d) Chile (Joven, 1991): A firm-side training-linked subsidy was introduced in 1991 with the aim to encourage employers to hire and train unemployed youths (between ages 15 and 24), thereby receiving a subsidy to cover training costs, whilst the participating youths received transportation subsidies.[33]

e) Argentina (Proyecto Joven, 1997/'98): This program provided a 6-month training subsidy to participating employers on condition that the thus trained employees would be retained for 6 months thereafter. Even though it had to be properly evaluated and updated by way of a further subsidy, i.e. the 'Proempleo Experiment', this subsidy led to an employment increase of 6% over 18 months within the target group.[34]

South Africa has implemented a learnership allowance in the past, i.e. a training-linked wage subsidy, through section 12H of the ITA. This is a modern version of traditional apprenticeships and the response to the idea has been positive among most employers in South Africa. The complexity of implementing and administering such learnerships has been an aspect receiving criticism, however, as has been the fact that subsidy values are normally inadequate to cover compliance costs, while the values are generally not very flexible in nature, either.[35]

f) Colombia (First Job Law, 2010): On 29 December 2010, the Colombian Congress issued the Formalisation and Creation of Jobs Act, more commonly known as the Law of First Employment.[36] This piece of legislation consists of four parts, all of which are designed to bring about increased formal employment throughout Colombia, by reducing the statutory income tax rate for small companies, reducing payroll fees for

[32] Mukherjee, A (2013). *Wage Subsidy could blunt Singapore's edge* (26 February 2013). Available at: (http://blogs.reuters.com/breakingnews/2013/02/26/wage-subsidy-could-blunt-singapores-edge/)
[33] *Ibid 17* at page 5.
[34] *Ibid 17* at page 5.
[35] *Ibid 17* at page 5.
[36] PricewaterhouseCoopers (2011). Tax and Legal News Alert (January 2011) - at page 3 and News Alert by Prieto and Carrizosa Law Firm.

small companies and, more particularly, by providing a tax credit on payroll fees paid. One of the focus areas is targeted at stimulating first employment for people under the age of 28, specifically in the agricultural sector.[37] Effectively, this payroll incentive to stimulate first employment, operated by way of a tax credit granted to employers for hiring employees under the age of 28; women over 40 years old, workers earning less than USD 420 per month or employees in displacement or with a disability.[38] Even though its operation was slightly different to that of the incentive under the ETIA employers also obtained access to a tax benefit by hiring employees that met the above requirements.

2.4 Successes and failures

It is evident from the above that the use of wage subsidies is not an uncommon practice among governments. Several of them have done so with great success whilst others have been less successful. Various advisers to government have endorsed wage subsidies as a means to address unemployment and, although the international experience of wage subsidies tends to be more negative than positive, it does not suggest failure for such an incentive or programme in South Africa.

It is not my intention to discuss the potential success of the ETIA in the present chapter, as I will do so later in *Chapters 4, 5 and 6*. The aim in this (the second) chapter was to inform the reader of interventions similar to the ETIA introduced by other governments. In *Chapter 3,* I intend to, very briefly, provide insight into the most recent data and statistics on youth unemployment in South Africa with the aim to make the reader aware of the extent of the problem that the ETIA is intended to address. A more detailed comparative study of some of the targetted wage subsidies mentioned above with the ETIA, is made in *Chapter 5*.

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[37] Colombiabiz (2010). *The Proposed "Law of First Employment" – Towards Formalisation, Through Incentives, A National Database and Regulatory Reforms.* (18 December 2010) Available at: (http://colombiabiz.com/2010/12/18/the-law-of-first-employment-towards-formalization).
[38] Prieto and Carrizosa Law Firm, News Alert (2010). *New Law Partially Overhauls Corporate Law Foundations and Creates Incentives for New Businesses.* Available at: (www.prietocarrizosa.com/en).

Chapter 3

The current youth unemployment crisis in South Africa

3.1 Introduction

As has been illustrated in the preceding chapters, the use of legislation by governments to address socio-economic problems is not an uncommon occurrence, with taxation being at the forefront of such legislative efforts. What should also become evident to the reader (if it is not apparent already), is that South Africa is currently experiencing a youth unemployment crisis and an extreme one at that. In its discussion paper for public comment issued in the lead-up to the enactment of the ETIA[39], National Treasury ('Treasury') noted that:

"South Africa has an acute problem of youth unemployment that requires a multi-pronged strategy to raise employment and support inclusion and social cohesion".

In the EM[40], issued with the final Employment Tax Incentive Bill, 2013, Treasury further elaborates:

"Many South Africans are excluded from economic activity, and as a result suffer disproportionately from unemployment, discouragement and economic marginalisation. High youth unemployment means young people are not gaining the skills or experience needed to drive the economy forward. (...)

In response to the high rate of youth unemployment, government wishes to implement an incentive mainly aimed at encouraging employers to hire young and less experienced work seekers, as stated in the National Development Plan."

In a paper published in the lead up to the EU elections in 2014[41], the following was said about the consequences of high youth unemployment:

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[39] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 5.
[40] Explanatory Memorandum on the Employment Tax Incentive Bill, 31 October 2013 - at page 1.
[41] Nedeljkovic, V (2014). *Consequences of High Youth Unemployment*. 27 April 2014. Available at: (www.bridgingeurope.net/consequences-of-high-youth-unemployment.html).

"Early unemployment has a negative effect not only on the future employability of young people but also their self-esteem, their role in society and can represent a serious economic burden on the state and finances. (...)

Last but not least, high youth unemployment has a negative effect on economic growth and productivity. Having a large share of the young workforce unemployed not only leads to reduced productivity and gross domestic product (GDP) but also increases economic costs for the state since there is money to be paid on social welfare but less taxes coming in."

From the passages above, it is apparent that the current youth unemployment crisis in our country needs to be addressed urgently to prevent an overall collapse of the South African economy. Our leaders need to act swiftly and decisively to preserve the medium- to long-term health of our economy.

3.2 Purpose and approach

The purpose of this chapter is to provide the reader with some recent and verified data and statistics on youth unemployment in South Africa. The idea is not to delve into these statistics too deeply, but rather to paint a basic and general picture of the current youth unemployment crisis. In this way I intend to create a basis for the analysis of the ETIA that will follow in the remainder of this paper. The idea is to be able to determine the ETIA's potential to be successful in addressing the current youth unemployment problem.

The statistics I use in the rest of this chapter are limited to what was issued and available at the time of writing. Statistics were obtained from various sources, particularly from Statistics South Africa ('Stats SA')[42] and its Quarterly Labour Force Survey ('QLFS') - a household-based survey conducted on a quarterly basis. At the time of writing of this chapter, the latest issue was the Q3:2014, which was issued on 30 October 2014.[43] Naturally, these figures are subject to change, but it

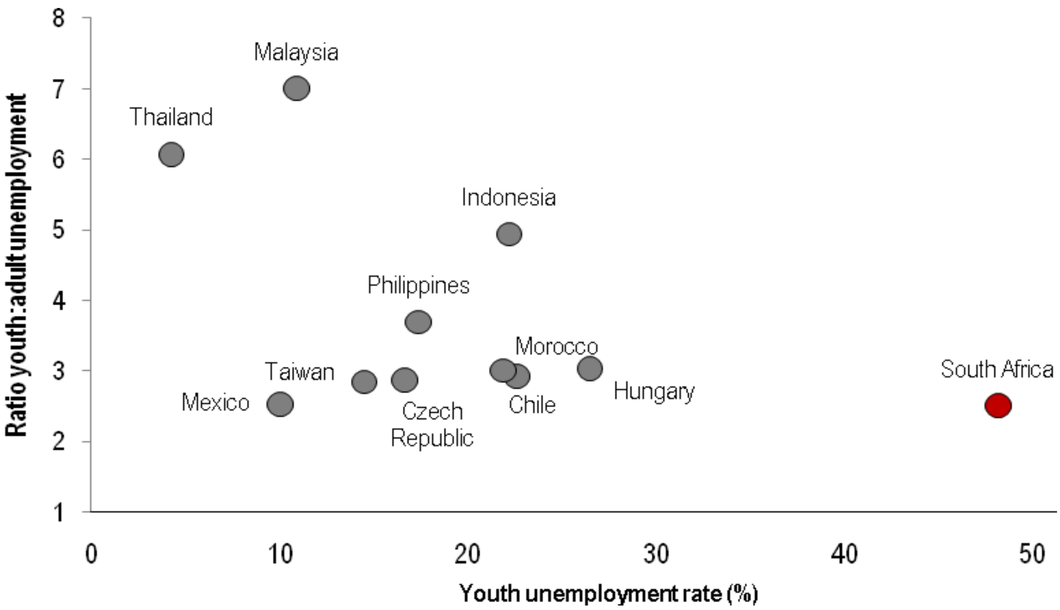
[42] Stats SA is the national statistical service of South Africa, with the goal of producing timely, accurate, and official statistics. Website at: (www.statssa.gov.za)

[43] The QLFS collects data on the labour market activities of individuals aged 15 years and above who live in South Africa. The Q3:2014 QLFS presents key findings of the QLFS conducted from July to September 2014.

should reflect what it intends to, namely that South Africa is suffering from a youth unemployment crisis. Other sources are referenced as and when they are used.

3.3 Current statistics and reasons for it

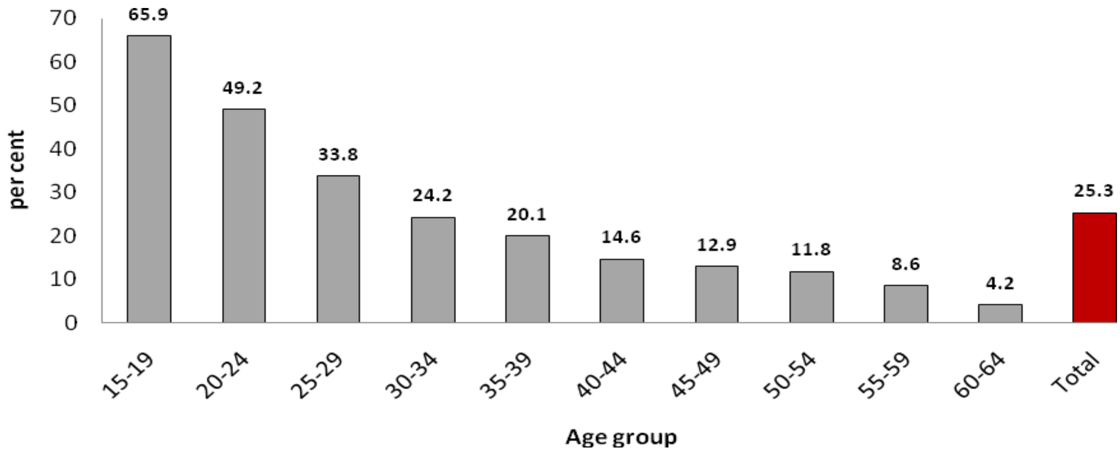
According to a Global Risk report issued by the World Economic Forum (WEF) in 2014[44], South Africa has the third highest unemployment rate for people between the ages of 15 and 24, with only Spain and Greece having higher numbers for this age bracket. It is estimated in this same report that more than 50% of young South Africans between the ages of 15 and 24 are unemployed. The graph below, which was included in the document issued by National Treasury in the lead up to the enactment of the ETIA[45], depicts the ratio of youth to adult unemployment against the total youth unemployment rate in the country. It is relatively clear that, in comparison to other countries shown on this graph, including several other developing countries, South Africa is far worse off in terms of youth unemployment.



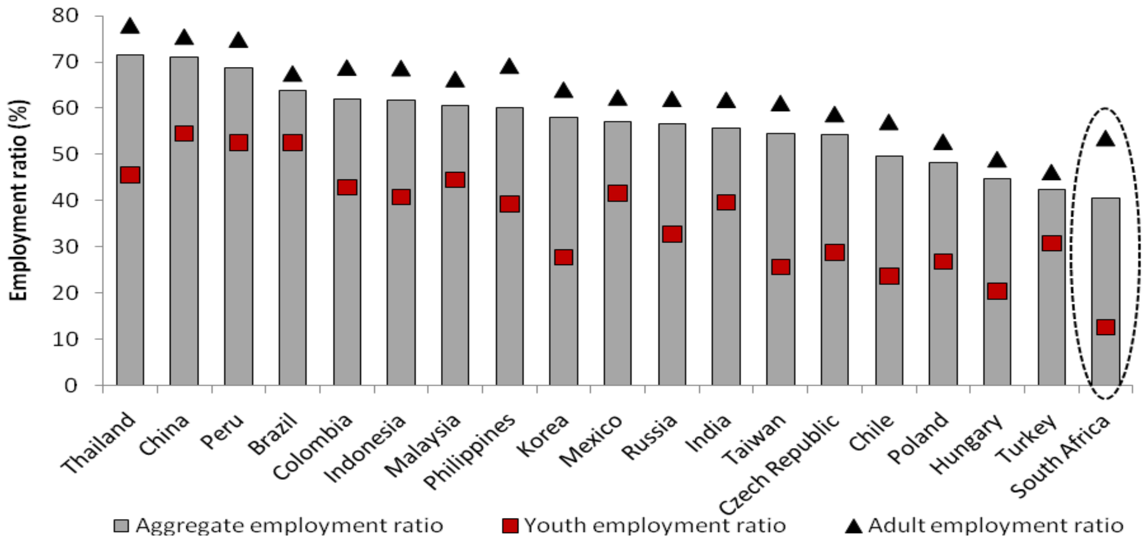
Another graph that makes for interesting reading is the one below, also from the discussion document issued by Treasury in February 2011[46]. This shows

[44] World Economic Forum (2014). *Global Risks 2014 Ninth Edition*. Published on16 January 2014 at page 33. Available at: (www3.weforum.org/docs/WEF_GlobalRisks_Report_2014.pdf).
[45] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* at page 14. Original Source – International Labour Organisation; Key Indicators of the Labour market, 6th edition December 2009.
[46] Source: Statistics SA Quarterly Labour Survey, September 2014.

the comparative unemployment percentages of different age groups in South Africa, and makes it apparent that South Africans between the ages of 15 and 29 have at least twice the chance of being unemployed compared to someone over the age of 40.



A further international comparison, depicted below, shows that even though South Africa's overall employment ratio is (to some extent, at least) comparable to other emerging markets, the same cannot be said with regard to youth employment. It is clear from the little (red) box in the vertical bar that South Africa's youth employment level is substantially lower than that of other emerging markets used in this graph.[47]



[47] Source: International Labour Organisation (Key Indicators of the Labour Market, 6th Edition) and Stats SA QLFS Survey, June 2010.

Of more concern from a South African perspective is a statistic that came to the fore in an OECD report issued in June 2013.[48] According to this report, South Africa has the highest rate of youths 'not in employment or in education or training' of all OECD member countries. Not only are more than half of young South Africans unemployed, but of those unemployed more than one third is not receiving any education or training in order to make them more employable.

In a statement by the Labour Department in October 2014, Sam Morotoba (the Acting Director General for Labour) noted[49]:

"With an unemployment rate of 25,5% South Africa is faced with the triple challenges of unemployment, poverty and inequality. (...)

The survey results recently released by Stats SA reflect an increase of 87 000 unemployed persons from the first quarter to the second quarter of 2014. These results further show that out of the 8.3 million unemployed, 4.4 million is the youth between 15 and 34 years of age."

Another report published by the youth desk in the South African Presidency notes that South Africa alone accounts for 1,9% of global youth employment (1.38 million out of a total of 73 million in total globally). Conversely, South Africa only accounts for 0,77% of the total global population – which means that, currently, South Africa is taking up more than double of what might be termed its 'fair share' of global youth unemployment.[50]

In general, and compared to statistics published in Q3:2013 by Stats SA, overall employment numbers increased slightly (by 81 000 to be exact) during the period July to September 2014. This is mainly due to expansion in the formal and informal sectors, which grew in Q3:2014.[51] The table below compares the unemployment percentages and labour force participation rates per age group from Q3:2012 up to Q3:2014. Once again, the findings emphasise that the core of South Africa's current unemployment issues lies with the fact that the younger

[48] OECD (2013. *Action-plan for youth – Giving youth a better start* (June 2013). Available at: (http://www.oecd.org/youth.htm) at page 1.
[49] Available at: (www.labour.gov.za/DOL/media-desk/media-statement/2014).
[50] Berman, JK (2015). *There is no disguising SA's youth unemployment problem* (26 January 2015) in Business Day. Available at: (www.bdlive.co.za/opinion/columnists/2015/01/26)
[51] QLFS Q3: 2014 at page v.

portion of the population is finding it hard to enter the job market, with only approximately 25% of youths between the ages of 15 and 24 participating in it.

	July to September 2012 (Q3:2012)	*July to September 2013 (Q3:2013)*	*July to September 2014 (Q3:2014)*
15 – 64 years			
Unemployment	25,2%	24,5%	25,4%
Labour force participation rates	56,8%	57,1%	57,1%
15-24 years			
Unemployment	52,2%	50,3%	51,3%
Labour force participation rates	25,9%	26,0%	25,1%
25-34 years			
Unemployment	29,9%	28,9%	31,3%
Labour force participation rates	73,8%	72,8%	73,6%

3.4 Concluding remarks

From the afore-going, it should be unequivocally clear that South Africa is suffering from an acute youth unemployment crisis. What remains to be seen is whether the mechanisms government intends to implement, or has already implemented, will go any way in combating this problem and, accordingly, in rehabilitating this part of the South African economy. To pose a more specific question in this regard: Will government's move to '*implement an incentive* *mainly aimed at encouraging employers to hire young and less experienced work seekers (ETIA)'* have the effect it was intended to have?

An in-depth analysis of the provisions of the ETIA as well as some comments on its potential to be successful will follow in the next chapter, after which a comparative study of the ETIA and other, similar, firm-side wage subsidies and other counter-unemployment measures will be conducted in *Chapter 5*.

Chapter 4

The Employment Tax Incentive Act, No. 26 of 2013

4.1 *Introduction*

4.1.1 General

In President Zuma's 2010 State of the Nation Address he made reference to an urgent need for *'a policy intervention to create more jobs for young people'* (see paragraph 1.2).[52] As one would expect, this led to wide-spread speculation as to which approach the Legislature would follow in considering and potentially giving effect to this statement made by the President, especially considering the challenges that South Africa faced with basic education at the time (and is still facing).

Treasury provided some clarity on President Zuma's abovementioned remark when it issued a discussion document for public comment during February 2011 ('the discussion document')[53]. The discussion document outlined several different policy alternatives that were available to government as a potential solution to 'persistently high youth-unemployment' which, in the same document, was acknowledged as one of the *'most pressing socio-economic challenges'* government was facing at the time.[54] In the discussion document it was noted that only 1 in 8 individuals in South Africa under the age of 25 had jobs, as opposed to the 40% average in most emerging economies. This group of unemployed youths also accounted for approximately 30% of the total unemployment in South Africa at the time.[55]

The discussion document further alluded to some of the main factors contributing to the alarming figures outlined above being, *inter alia,* a lack of skills and experience, low-quality basic education and high minimum wages (these were

[52] As issued by the Presidency on: (http://www.gov.za/speeches/view.php?sid=7753&lid=1)
[53] National Treasury (2011). *Confronting youth unemployment: Policy options for South Africa (Discussion paper as issued by the National Treasury in February 2011)* available at: (http://www.treasury.gov.za/documents/national%20budget/2011/Confronting%20youth%20unemployment%20-%20Policy%20options.pdf)
[54] *Ibid 53* at page 9.
[55] *Ibid* 53 at page 5.

also dissected in Chapter 3).[56] In the writer's opinion it seems logical and unavoidable that over the long term these factors would culminate in irreparable damage to the South African economy if no intervention takes place. The reason for this opinion is that the age group of the South African population 'under the microscope' of the discussion document would eventually be unable to take charge of and drive the country and the economy forward when expected to do so. Consequently, an even bigger burden would be placed on social assistance from government by way of grants and subsidies to be funded by an ever-decreasing number of taxpayers.

According to the discussion document *'the magnitude of the youth unemployment challenge facing South Africa means it cannot be resolved by a single employment policy'*.[57] Treasury came to the conclusion that, considering that no single policy intervention would provide a comprehensive solution to the issue at hand, it was rather required to implement a '*multi-pronged approach'* to create a platform for job creation for youths and to facilitate the general alleviation of unemployment. In short, what was required, was '*a sustained period of accelerated and inclusive economic growth and a comprehensive set of short-term and long term policy reforms'*.[58] As part of this multi-pronged strategy to tackle youth unemployment, Treasury identified the following activities that needed to be carried out to address specific youth unemployment issues:

a) reviewing the legislative environment;

b) improving educational performance and skills development in the schooling and further education system;

c) improving the public employment services available to the youth to aid matching of skills, job search, career guidance and counselling, skills development and job placement;

d) establishing a monitoring system with regular reports on progress; and

[56] *Ibid* 53 at page 5.
[57] *Ibid* 53 at page 18.
[58] *Ibid 53* at page 6.

e) conducting a trial of the youth employment subsidy (*the subject of this paper*).[59]

4.1.2 Youth employment subsidy

In the conclusion of the discussion document, Treasury argued that a youth employment subsidy that leverages other complementary interventions (see paragraph 4.1.1) would be most appropriate for South Africa.[60] The basis for this conclusion was the fact that educational reforms and skills development would only have long-term effects, whilst short-term intervention was also required. By leveraging short-term policies such as a wage subsidy with long-term policies such as better education and skills training, an *'overall harnessing effect'* would be created.[61]

It was further noted that, considering the private sector provided almost 90% of the jobs for unskilled or semi-skilled employees, government would create the necessary short-term pillar for its multi-pronged strategy by engaging the private sector in this way to stimulate labour demand.[62] By reducing the overall relative cost of labour for employers in the private sector by way of a tax reduction, government would reduce some of the risk (especially financial risk) for employers when hiring young people, thus stimulating the levels of labour demand for this specific class of the labour market. Treasury estimated that approximately 423 000 new jobs for unemployed, unskilled youths could be created by establishing the envisaged youth employment subsidy. [63]

In accordance with mandatory legislative processes and procedures, the public were invited to comment on the suggestions made in the discussion document. In his 2013 Budget Speech (on 27 February), the then Finance Minister Pravin Gordhan identified *'an employment incentive through the tax system for first-time job seekers' as* one of the main tax proposals for the 2013 / 2014 fiscal

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[59] *Ibid* 53 at page 6.
[60] *Ibid* 53 at page 42.
[61] *Ibid* 53 at page 42.
[62] *Ibid* 53 at page 42.
[63] *Ibid 53* at page 42.

year.[64] The ETIA was eventually gazetted on 18 December 2013 in Government Gazette number 37185 with its effective date being 1 January 2014.[65]

4.2 Purpose of the ETIA

The introduction to the ETIA notes as follows:

"To provide for an employment tax incentive in the form of an amount by which employees' tax may be reduced; to allow for a claim and payment of an amount where employees' tax cannot be reduced; and to provide for matters connected therewith."[66]

(Also see the excerpt from the preamble to the ETIA under 1.2: Objectives and Purpose.)

The Explanatory Memorandum on the Employment Tax Incentive Bill, 2013 ('EM'), which was issued together with the final draft version of the Employment Tax Incentive Bill, 2013, on 31 October 2014, further elaborates on the *legalis fundamentum* for the enactment of the ETIA:

"The Draft Employment Tax Incentive Bill gives effect to the announcement by the President in his 2010 State of the Nation Address, as well as in the 2010 Budget, that government will table proposals to subsidise the cost of hiring younger workers. The draft bill also gives effect to the 2013 Budget.

Many South Africans are excluded from economic activity, and as a result suffer disproportionately from unemployment, discouragement and economic marginalisation. High youth unemployment means young people are not gaining the skills or experience needed to drive the economy forward. This lack of skills can easily become a lifelong experience, thereby having long-term adverse effects on the economy.

In South Africa's labour market, the current lack of skills and experience as

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[64] http://www.treasury.gov.za/documents/national%20budget/2013/speech/speech.pdf at page 20.
[65] Section 14(2) of the ETIA (Act No 26 of 2013) available at (http://www.sars.gov.za/AllDocs/LegalDoclib/AABC/LAPD-LPrim-Act-2013-01%20-%20Employment%20Tax%20Incentive%20Act%202013.pdf)
[66] See: (http://www.sars.gov.za/AllDocs/LegalDoclib/AABC/LAPD-LPrim-Act-2013-01%20-%20Employment%20Tax%20Incentive%20Act%202013.pdf)

well as perceptions regarding the restrictiveness of labour regulations, make some prospective employers reluctant to hire youth who may lack experience or qualifications. Given that the private sector contributes about 82 per cent of GDP, and employs over 70 per cent of those in formal employment outside of agriculture, it is critical that in order to have the biggest impact, this involves the private sector. The incentive seeks to do exactly this.

In response to the high rate of youth unemployment, government <u>wishes to implement an incentive mainly aimed at encouraging employers to hire young and less experienced work seekers</u>, as stated in the National Development Plan. The incentive is one among many that will fall under the umbrella of government's youth employment strategy, the National Youth Accord, which outlines a program of action to address youth unemployment."[67] (Own emphasis)

From the above it is clear that the ETIA was enacted by the Legislature with the intention to present a short-term solution to address the acute problem that is youth unemployment. This short-term solution forms part of a comprehensive and much needed labour policy overhaul which government had recognised as the panacea for youth unemployment issues in South Africa.

The central question that this research paper therefore intends to address is:

a) whether the ETIA will in fact have any real and significant positive short-term effects for South Africans (especially the young unemployed) as it is intended to; or

b) whether it is rather an ill-conceived attempt by government at showing some initiative to address the acute problem of youth unemployment which has no real potential to succeed.

In the remainder of this chapter, I will firstly conduct an in-depth analysis of the most important sections of the ETIA. I intend to do this with the guidance from the EM which provides insight into the intention of the Legislature and its interpretation of the provisions of the ETIA. Thereafter, I will also address some

[67] The Explanatory Memorandum on the Employment Tax Incentive Bill, 2013 ('EM') at page 2 available at (http://www.sars.gov.za/Media/MediaReleases/Documents/Employment%20Tax%20Incentive%20Bill%20EM%20-%2031%20October%202013.pdf)

commentary and criticism (both positive and negative) from stakeholders and industry experts prior and subsequent to the ETIA's enactment. In conclusion, I will provide some brief personal views on these concerns raised regarding the ETIA. Ultimately, my intention remains to establish whether the provisions of the ETIA will give effect to the envisaged purpose of the legislation as outlined above.

4.3 The ETIA: critical provisions[68]

4.3.1 Application and general operation – section 2

It should be apparent by now that the benefit of the incentive provided by the ETIA to 'eligible employers'[69] lies in the fact that hiring 'qualifying employees'[70] is *cheaper* than in normal circumstances. The incentive reduces the cost of hiring such employees by way of a cost-sharing mechanism with government, while leaving the actual wage that the employee receives unchanged. Simply put, provision is made to grant a 'qualifying employer' a reduction in the pay-as-you-earn ('PAYE') employees' tax payable to SARS in respect of a 'qualifying employee'[71]. The ETIA came into effect on 1 January 2014[72], but employers are entitled to claim the incentive in respect of any qualifying employee employed on or after 1 October 2013[73].

The operation of the incentive is confirmed in section 2 of the ETIA itself (as read with the explanatory notes thereon in the EM):

2. Instituting of employment tax incentive

(1) An incentive, called the employment tax incentive, in order to encourage employment creation is hereby instituted.

(2) If an employer is eligible to receive the employment tax incentive in respect of a qualifying employee in respect of a month, that employer may reduce the employees' tax payable by that employer in an amount determined in terms of section 7 or receive payment of an amount contemplated in section 10(2), unless section 8 applies.

[68] Any reference to 'section' in the rest of this chapter refers to a section of the ETIA, unless specifically indicated otherwise.
[69] See definition at 4.3.2 *infra*
[70] See definition at 4.3.2 *infra*
[71] EM at page 3
[72] See section 14(2) of the ETIA
[73] See section 6(e)

The EM[74] (at page 6) provides the following as an example of the operation of the ETIA incentive:

Example (set-off mechanism)
In respect of April, Eligible Employer employs 10 employees: One manager and 9 qualifying employees. For April, Eligible Employer has an employees' tax liability towards SARS of R20 000 in respect of the manager's salary (no employees' tax liability exists in respect of the qualifying employees). The R20 000 is withheld from the manager's salary in the form of employees' tax. Eligible Employer also has an incentive to the value of R5 000 available in respect of the qualifying employees. Eligible Employer may deduct the R5 000 incentive from the employees' tax payable so that only R15 000 is payable to SARS for April. It should be noted that the incentive does impact the employees' tax liability but will not affect the reconciliation with the individual's tax return upon assessment. The employees' tax paid to SARS for April should be reflected as R20 000 less the incentive of R5 000, totalling R15 000.

4.3.2 Definitions and interpretation – section 1 (read with the EM)

a) 'company': A company as referred to in section 1 of the Companies Act, No. 71 of 2008; and

'associated person': A company is considered as such where two or more companies are directly or indirectly managed or controlled by substantially the same persons.

b) 'employee': Includes natural persons (but excludes independent contractors) who work directly for an employer and who receive remuneration from that selfsame employer.

The aim of the incentive is to assist in the generation of sustainable employment opportunities and the mechanism to claim the incentive is in the first instance through the employees' tax (PAYE) system; hence the need to ensure that

[74] See: (http://www.sars.gov.za/Media/MediaReleases/Documents/Employment%20Tax%20Incentive%20Bill%20EM%20-%2031%20October%202013.pdf).

employees meet both the above requirements, i.e. that they provide services to the specific employer and are remunerated by the same employer.

c) 'employees' tax': The amount deducted or withheld from remuneration (loans, wages or salaries) that must be paid over to SARS by virtue of paragraph 2(1) of the Fourth Schedule to the ITA.

d) 'monthly remuneration': Includes, for qualifying employees, if employed for a full month, the 'remuneration' paid or payable for that particular month and if employed only for part of a month, the amount that would have been payable if such employee had been employed for the full month. 'Remuneration' follows the definition in the Fourth Schedule of the ITA and is wide-ranging in that it includes fringe benefits and discretionary amounts, such as bonusses.

e) 'wage': means a wage as defined in section 1 of the Basic Conditions of Employment Act, No. 75 of 1997 ('BCEA'). The use of the same definition ensures alignment with the labour legislation.

4.3.3 Eligible employers – section 3

The incentive is available to employers that are registered for employees' tax purposes in terms of paragraph 15 of the Fourth Schedule to the ITA[75] and is specifically aimed at the private sector (see comments in paragraph 4.2.2). Public sector employers, such as municipalities and government departments, are specifically excluded from the definition of 'eligible employers', but may become eligible if specifically so designated by the Minister of Finance by regulation.[76]

The intention of the Legislature was further not to make the incentive under the ETIA available to employers that do not meet legal obligations towards employees, or to employers that structure their affairs to the detriment of employees solely for the purpose of maximising their own access to the tax incentive.[77] The exclusions dealing with the prevention of the abuse and exploitation of the incentive are dealt with in two provisions, being:

[75] Section 3(a)
[76] Section 3(b)
[77] See EM at page 7

a) Displacement of employees – section 3(c)(1) read with section 5

An employer will be deemed to have 'displaced' an employee if the dismissal of such employee constitutes an automatically unfair dismissal under section 187(f) of the Labour Relations Act, No. 66 of 1995 ('LRA')[78], or if the employer replaces the dismissed employee with an employee who is a qualifying employee in respect of which the employer is eligible to receive the employment tax incentive.[79] The EM recommends a substance over form approach when evaluating the replacement of a dismissed employee with a qualifying employee.[80] If an employer is deemed to have displaced an employee a penalty of R30 000 in respect of such employee is payable to SARS.[81] The employer may also be completely disqualified from utilising the incentive by way of notice in the Government Gazette by the Minister of Finance. In deciding whether to disqualify an employer, the Minister of Finance must take into account factors such as the number of employees displaced as well as the effect of disqualification on the employees of the employer.

b) Conditions prescribed by regulation – section 3(c)(ii)

The Minister of Finance is also allowed, after consultation with the Minister of Labour, to prescribe specific conditions in respect of the granting of the incentive by publishing regulations. The EM, however, makes it clear that, although 'any' relevant conditions may be prescribed by the Minister of Finance, these conditions should generally be aimed at either preventing and addressing any abuse of the incentive or the training of employees[82].

Considering that the ETIA is a new piece of legislation, it was impossible to produce a complete list of objectionable behaviours that employers wanting to access the incentive should not engage in; hence the

[78] Available at: http://www.labour.gov.za/DOL/legislation/acts/labour-relations/labour-relations-act
[79] Section 5(2)
[80] EM at page 9.
[81] Section 5(1)(a) of the Act.
[82] EM at page 7.

need for ministerial intervention should the need arise.[83] This provision allows some flexibility for the Minister of Finance to address concerns as and when they do arise.

The Legislature also recognised the importance of employee training and its relationship with the continued advancement in employment. The EM, however, notes that any conditions set should not be too onerous and consequently result in excluding employers from access to the incentive due to an inability to provide or facilitate formalised training for employees.[84]

4.3.4 Wage regulating measures – section 4

In order to qualify for and have access to the benefits that the incentive offers, an employer needs to satisfy the wage regulation measures in section 4 in addition to the requirements under section 3.

A 'wage regulation measure' refers to any collective agreement in terms of section 23 of the LRA[85], any sectoral determination as determined under section 51 of the BCEA[86] or a bargaining council agreement contemplated in section 31 of the LRA, including where such agreement is extended by reason of a determination by the Minister of Labour in terms of section 32 of that Act.[87]

In short, an employer will not qualify for the incentive in respect of an employee if that employer pays that employee an amount below what is considered to be the minimum wage in terms of a wage regulation measure. If the employer is not subject to any wage regulation measure in line with the definition above, that employer must pay an employee at least R2 000 per month in order to qualify for the incentive.[88] If the employee has been in the employ for less than a month, a *pro rata* amount is calculated which must bear the same ratio to R2 000 that the number of days that employee worked during the month bears to the total number

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[83] EM at page 7 and 8.
[84] EM at page 7
[85] No. 66 of 1995
[86] No. 75 of 1997
[87] Section 4(3) of the ETIA
[88] Section 4(1)(b)(i) and EM at page 8

of working days in that month.[89]

An employer that claims to qualify and receives the incentive despite not satisfying the wage regulation measures shall be subject to a penalty equal to the full value of the amount claimed under the incentive, over and above the repayment of employees' tax due to SARS. This applies for every month that the incentive was unduly claimed.[90]

4.3.5 Qualifying employees – section 6

An employer may only claim the benefit or incentive under the ETIA in respect of an employee during a particular month if that particular employee meets the definition of a 'qualifying employee' in terms of section 6.

Several criteria need to be satisfied before an employee is considered a 'qualifying employee'. These are explained in the table below:

Criteria[91]	yes / no[92]
1. Was the employee employed by the employer or an 'associated person'[93] on or after 1 October 2013[94]?	*[Only if answered 'yes' can the incentive be claimed on condition that no's 2 to 6 below are also satisfied.]*
2. Do any of the following apply? a) Is the employee not younger than 18 and not older than 29 at the end of the month that the incentive is being claimed?[95] or	

[89] Section 4(1)(b)(ii) and EM at page 8
[90] EM at page 8 and section 4(2)
[91] These are the criteria set out in section 6 of the ETIA.
[92] Answers to the questions in the left column titled 'Criteria'
[93] See definition under 4.3.2 (a)
[94] According to the EM, this date was decided on to ensure that employers did not have to wait for the eventual enactment of the ETIA in order to benefit from the incentive (See page 9 of the EM).
[95] Important to note here is the fact that the incentive is claimed on a monthly basis, so an employee may qualify one month but be disqualified the next because he or she turned 30 that month.

b) Is the employee employed by an employer that operates through a fixed place of business located in a Special Economic Zone ('SEZ') as designated by notice from the Minister of Finance in a Government Gazette and does that employee render services mainly to that employer in that SEZ? or c) Is the employee employed by an employer in an industry designated by the Minister of Finance by way of notice in a Government Gazette?	*[If either (a), (b) or (c) is answered 'yes' the incentive may be claimed on condition that the other requirements in 1, 3, 4, 5 and 6 are also satisfied.]*
3. Does the employee: a) have a valid identity card[96] or b) is he / she in possession of an asylum seeker permit[97]?	*[If either (a) or (b) is answered 'yes' the incentive may be claimed on condition that the other requirements in 1,2,4,5 and 6 are also satisfied.]*
4. Is the employee not a 'connected person' [98] in relation to the employer?	*[If answered 'yes' the incentive may be claimed on condition that the other requirements in 1,2,3,5 and 6 are also satisfied.]*

[96] As defined in section 14 of the Identification Act, No. 68 of 1997.
[97] Issued to the employee in terms of section 22(1) of the Refugees Act, No. 130 of 1998.
[98] The definition of 'connected person' follows the definition in section 1 of the Income Tax Act, No. 58 of 1962. Broadly speaking, a natural person would be considered a 'connected person' in relation to a company if that natural person holds, directly or indirectly, at least twenty percent of equity shares or voting rights in that company, whether on his own or with any connected person in relation to that person – See Interpretation Note No. 67 (http://www.sars.gov.za/AllDocs/LegalDoclib/Notes/LAPD-IntR-IN-2012-67%20-%20Connected%20Persons.pdf) for further information.

5. Is the employee not considered a 'domestic worker'[99]?	*[If answered 'yes' the incentive may be claimed on condition that the other requirements in 1,2,3,4 and 6 are also satisfied.]*
6. Has the employer satisfied the wage regulation measures[100] in section 4 in respect of the particular employee, i.e. does the employer pay the particular employee more than 'minimum wage' or R2 000 per month[101]?	*[If answered 'yes' the incentive may be claimed on condition that the other requirements in 1,2,3,4 and 5 are also satisfied.]*

An eligible employer will qualify for the incentive under the ETIA in respect of every employee (then being regarded as a 'qualifying employee') for whom all six the above criteria provide affirmative or 'yes' answers.

4.3.6 Determining the amount of the incentive – section 7

Eligible employers were entitled to claim the incentive under the ETIA as of 1 January 2014 onwards and in respect of qualifying employees employed on or after 1 October 2013. The incentive amount which may be deducted from employees' tax payable in terms of the Fourth Schedule of the ITA is calculated on a monthly basis and is calculated as the aggregate of the incentive available in respect of all qualifying employees for a particular month together with any roll-over amounts[102] from previous months.[103]

Treasury prescribed the following five steps in the EM[104] to be followed by 'eligible employers' in determining the amount of the incentive for a particular

[99] As defined in section 1 of the Basic Conditions of Employment Act, No. 75 of 1997.
[100] See 4.3.4 above.
[101] If any employee earns more than R6000 in a particular month, he / she remains a qualifying employee but the amount of the incentive claimable for such employee is nil. See sections 7(2)(d), 7(3)(d) and 4.3.6 infra for details.
[102] See 4.3.7 below
[103] See EM page 10.
[104] See EM page 11.

month:

1. Identify all 'qualifying employees' in respect of that month
   - This is done by considering the six criteria set out in 4.3.5 above.

2. Determine the applicable employment period for each qualifying employee

   - The incentive is only available for the first twenty-four months of the qualifying employee's employment. The amount of the employment tax incentive in respect of any qualifying employee differs depending on whether that qualifying employee is in his or her first twelve, or second twelve months of employment. To determine whether an employee still satisfies the twenty-four month requirement or in which twelve month period he or she falls, the total number of months that the employee has been employed by the particular eligible employer (or any associated persons) is taken into account. The inclusion of 'associated persons' in this determination is to avoid abuse of the incentive by virtue of redeployment within a group of companies.

   - Qualifying employers must pro-rate the incentive in respect of employees employed for less than 160 hours in a particular month so that the amount of incentive available bears the same ratio to the total incentive amount available for that month as the number of hours worked bears to the number 160[105] - *see calculation in respect of Ms. D in the examples below under Step 5 – 'Aggregate the result'*.

3. Determine each employee's 'monthly remuneration'

   - This entails a simple data entry exercise as qualifying employees have already been identified in Step 1 in accordance with the criteria in 4.3.5

[105] Section 7(5) was substituted by virtue of section 116(1) of Act 43 of 2014 and with effect from 1 March 2015. Formerly, the prorated calculation was done on the basis of the ratio that the total remuneration paid to the employee bears to the total remuneration such employee would have received if he/she had been employed for the entire month.

above. These include the wage regulation measures[106] that impose a minimum remuneration requirement of R2 000 per month, unless other wage regulation measures are in place.

- In terms of sections 7(2)(d) and 7(3)(d) and when calculating the monthly incentive, the employment tax incentive is only available to employers in respect of employees who earn up to a maximum monthly remuneration amount of R6 000. If any qualifying employee's monthly remuneration exceeds R6 000 for a particular month, the employment tax incentive in respect of such qualifying employee for that month shall be nil.[107] According to Treasury, the reason for this is *'to target the hiring of entry-level workers'*.[108]

4. Calculate the amount of the incentive per qualifying employee

- The table below was included in the EM by Treasury to simplify the calculation of the incentive per qualifying employee.[109] There are 6 different calculations that can occur, depending on the remuneration amount of the particular qualifying employee as well as the applicable employment period:

Monthly Remuneration	Employment Tax Incentive per month during the first 12 months of employment	Employment Tax Incentive per month during the next 12 months of employment
R 0 - R2 000	50% of Monthly Remuneration	25% of Monthly Remuneration
R 2 001 - R4 000	1 000	500
R 4 001 - R6 000	Formula: R1 000 – (0.5 x (Monthly Remuneration – R4 000))	Formula: R500 – (0.25 x (Monthly Remuneration – R4 000))
R6 001 and up	nil	nil

[106] See 4.3.4 above.
[107] See sections 7(2)(d) and 7(3)(d)
[108] See EM at page 12.
[109] See EM at page 11.

5. Aggregate the result.
   - Once the amount of the employment tax incentive for each qualifying employee has been calculated in accordance with the table above, the eligible employer may set-off the total aggregate amount (which includes any roll-over amounts – see 4.3.7 below) against the employees' tax payable to SARS.

A basic example is set out below[110]:

Facts *For April 2014, Joe's Butcher (Joe's) had the following employees:*	Employment tax incentive available to Joe's (with calculations and explanations)
Mr. A whose monthly remuneration was R1 800 per month and who was in his fourth month of employ with Joe's;	Because Mr. A earns below R2 000 per month during the first twelve months of employment the amount of the incentive available is 50% of his remuneration, i.e. R900.
Ms. B whose monthly remuneration was R5 200 per month and who was in her fourteenth month of employ with Joe;	Because Ms. B earns between R4 000 and R6 000 and is in the second twelve month period of employment, the amount of the employment incentive available is R200 [R500- (0.25 x (R5 200 – R4 000))].
Mr. C whose monthly remuneration was R2 600 per month and who was in his tenth month of employ with Joe's. Mr C had however worked for an associate person (sister company) of Joe's for 3	Because Mr. C earns between R2 000 and R4 000 and because he is considered to be in his second twelve months of employment, as he had worked for an associate person of Joe's for 3 months, the employment incentive

[110] The examples used are a combination of examples 1 to 5 on pages 12 to 14 of the EM.

months before joining Joe's;	available is R500.
Ms. D whose monthly remuneration is R4 200 per month but who only worked for the last quarter of the month (40 hours in total), hence she only received R1 050;	Because Ms. D earns between R4 000 and R6 000 and is in her first twelve months of employment the amount of the incentive available to Joe's is R900 [R1 000 – (0.5 x (R4 200 – R4 000))]; but as she only worked for a quarter of the month the incentive available is only R225 [900 x 40/160][111].
Mr. E whose monthly remuneration was R7 000 per month and who was in his 14th month of employ with Joe's.	Because Mr. E earns more than R6 000 the incentive available is nil.
	The total aggregate amount of the employment incentive that Joe's can therefore deduct from employees' tax payable to SARS is R1 825 [R900+R200+R500+R225].

4.3.7 Roll-over of amounts – section 9

The total monthly amount by which an eligible employer may reduce employees' tax payable to SARS, is equal to the total incentive amount calculated in terms of section 7 (see examples above under 4.3.6) and the excess or rolled-over amounts from previous months allowable under section 9.

Section 9 provides for the following three instances where incentive amounts may be rolled over and consequently included in the amount of the

[111] See 4.3.6 'Determine the applicable employment period for each qualifying employee' above. As Ms. D worked for 40 hours, the incentive available must bear to the total incentive the same ration as 40 does to 160.

incentive which may be used to reduce employees' tax in future months[112]:

a) the incentive amount available to a qualifying employer exceeds employees' tax due to SARS in that month;[113]

b) a qualifying employer fails to reduce employees' tax despite being eligible to do so; [114] or

c) the qualifying employer was not allowed to reduce employees' tax due to SARS in previous months by virtue of section 8.[115] Section 8 prevents any available incentive amount being used to reduce the employees' tax due if the qualifying employer has any 'outstanding tax debt' or has 'failed to submit any return'[116].

Section 9(4) imposes a limit on the roll-over amount that may be carried forward where the incentive amount exceeds employees' tax due in preceding months.[117] The limit applies as follows:

For every qualifying employee in respect of which the incentive may be claimed (specifically under (a) above), the amount of the incentive is capped at R6 000 on the first day of the month following the end of the period for which employers are required to render returns in terms of section 14(3)(a) of the Fourth Schedule of the ITA. Employees' tax filing and reconciliation periods currently span 6 months. If an employer was therefore required to file an employees' tax return on 28 February 2014, that employer may only roll-over an incentive amount of R6 000 per qualifying employee to the 1st of March 2014. For 6 qualifying employees, the employer will be allowed to roll over a maximum of R36 000,

[112] See page 14 of the EM.
[113] See section 9(1)
[114] See section 9(2)
[115] See section 9(3)
[116] Both the terms 'outstanding tax debt' and 'failed to submit any return' follow the definitions under Tax Administration Act No. 28 of 2011 ('TAA'). It is worth noting however that 'outstanding tax debt' in the context of the ETIA and specifically section 8 excludes any debts in respect of which an agreement with SARS has been reached in accordance with sections 167 or 204 of the TAA, debts that have been suspended in terms of section 164 of the TAA or debts that do not exceed the amount referred to in section 169(4) of the TAA.
[117] See EM page 14.

which can be set-off against employees' tax at the end of March 2014. Any excess above the R36 000 shall be unavailable for roll-over. This process will be repeated every 6 months.

4.3.8 Reimbursement – section 10

Upon the initial enactment of the ETIA the reimbursement provisions under section 10 were still inoperative. Section 14(2) stipulated that section 10 would only come into operation on a date determined by the Minister of Finance in a Government Gazette. In terms of Government Notice No. 38346 issued on 18 December 2014[118], section 10 took effect on 19 December 2014. The reimbursement provisions operate on a six monthly basis, similar to the 'roll-over of amounts' provisions in section 9 (see 4.3.7 above). An employer is entitled to reimbursement of the entire incentive amount available as at the end of a employees' tax reconciliation period,[119] with the incentive amount then always reverting to *nil* once the reimbursement has been claimed.[120] All reimbursements under section 10 shall be paid from the National Revenue Fund and be treated as a drawback from revenue charged.[121]

Similar to the roll-over provisions in section 9 (see 4.3.7 above), if the reimbursement of the incentive is *unavailable* due to section 8 non-compliance by the employer, such reimburseable amounts may be rolled over to the next employees' tax period, but shall be limited to an amount of R6 000 per qualifying employee per employees' tax period.[122]

4.3.9 'Sunset' clause & other miscellaneous provisions

In terms of section 12, any incentive amounts that have not yet been deducted from employees' tax by 31 December 2016, shall be forfeited as the incentive shall no longer be effective subsequent to that date.

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[118] See: (http://www.greengazette.co.za/notices/employment-tax-incentive-act-26-2013-notice-in-terms-of-section-14-3-of-coming-into-operation-of-section-10-of-the-act_20141218-GGN-38346-01039)

[119] The employees' tax reconciliation period refers the current period or cycle of six months for which employers are legislatively obliged to file employees' tax returns in terms of paragraph 14(3)(a) of the Fourth Schedule to the ITA.

[120] See section 10(3)

[121] See section 10(2)

[122] See EM at page 17 and 18

Section 11 of the ETIA places an obligation on the Minister of Finance to publish information on the ETIA twice a year in order to monitor and evaluate the success thereof. To assist the Minister of Finance with this task, the Commissioner for SARS is obligated under section 11(1) to submit to the Minister of Finance a report, in the prescribed manner and form and containing the prerequisite information.

Some of the other miscellaneous provisions include the 'Amendments of laws' (i.e. the changes to other legislation) brought about by the ETIA, as set out in section 13 and read with the schedule to the ETIA. In short, these amendments include:

a) that any reduction in employees' tax in lieu of the incentive under the ETIA shall be exempt from income tax in terms of section 10(1)(*s*) of the ITA;[123]

b) that a qualifying employer may take into account the amount of the employment tax incentive allowable under the ETIA when paying employees' tax that has been withheld over to SARS in terms of paragraph 2 of the Fourth Schedule to the ITA - i.e. employers may pay over only the reduced amount[124]; and

c) that SARS is permitted to provide to the Department of Labour all details, including names and contact details, of employers registered for employees' tax that claim the employment tax incentive under the ETIA.[125]

4.3.10 Conclusion

The preceding part of this chapter sets out the most significant details of the ETIA and the method qualifying employers should follow to calculate the incentive on a month-to-month basis.

My intention with the rest of this *chapter* is to address some of the criticism and concerns raised with regard to this incentive. This will include providing some

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[123] Section 10(s) of the ITA was inserted into the ITA by Act No. 26 of 2013.
[124] Paragraph 2 of the Fourth Schedule to the ITA was amended and paragraph 2A of the Fourth Schedule to the ITA was inserted by Act No. 26 of 2013.
[125] Section 70 of the TAA was amended by Act No. 26 of 2013.

analysis and comments on the section 11 reports issued by the Minister of Finance in relation to the ETIA thus far. I will also put forward some of my own ideas and insights.

4.4 General concerns and criticism

4.4.1 Introduction

At this juncture it would be appropriate to consider some of the criticism and comments (both positive and negative) from various sources made in regard to the ETIA, both prior and subsequent to its enactment on 1 January 2014.

Whenever new legislation is proposed or enacted it is bound to attract a lot of attention from stakeholders, the general public and the media; even more so when that legislation is aimed at addressing a contentious socio-economic subject, such as the high level of youth unemployment prevalent in South Africa. The likelihood of such criticism is even greater in a multi-cultural society such as ours, considering our country's turbulent history. If one thinks back over the past 21 years since the 'birth' of South Africa's democracy, countless examples come to mind where the Legislature and the decisions it made to enact new legislation came under severe scrutiny from the public and other roleplayers. Some prominent examples include, for instance, the very recent Protection of State Information Bill ('the Secrecy Bill') in 2015 and the Broad Based Black Economic Empowerment Act, No. 46 of 2013.

The build-up to and enactment of the ETIA was no exception to this, with countless academics, politicians, trade unions and the media voicing opinions and criticism relating to this socio-economic policy reform. Of particular significance for the purposes of this paper are the comments made by so-called 'major stakeholders' within the South African labour industry, such as trade unions. Considering that trade unions act as a conduit between the two main parties affected by the ETIA, i.e. the private sector and the employee market, I will place particular emphasis on analysing some of the important concerns raised by them. I will also consider comments by economists, relevant and influential international institutions and give insights into feedback from government by analysing the

Minister of Finance's feedback on the ETIA in the form of obligatory reports under section 11. In conclusion, I will express some personal views on the matters raised.

4.4.2 The ETIA: comments and criticisms

a) The Congress of South African Trade Unions ('COSATU')[126]

In the build-up to the enactment of the ETIA and in response to a document referred to earlier in this paper entitled "Confronting youth unemployment: policy options for South Africa"[127], one of the major players in the South African labour market, COSATU, published some comments as to why (in its view) a youth wage subsidy such as the one proposed under the ETIA would not be effective in South Africa. Their response was entitled *'Response of the Congress of South African Trade Unions'*[128]*.* The following (including the reasons why COSATU was opposed to a youth wage subsidy) is taken directly from their response document:

"The National Treasury document relies on international studies to justify its proposals on youth wage subsidies, or even employment subsidies. But careful reading of those studies reveal that they lean towards the COSATU position. Based on Treasury's own literature which they used to propose this ill-conceived policy, we have shown that there are no empirical grounds for this policy. (...)

Our reasons include that:

1. *The youth wage subsidy will have significant substitution effects. Firms will have an incentive to let go of existing workers in order to employ subsidised ones.*

2. *The substitution effects are likely to be widespread, especially with the existence of labour brokers. This substitution will hit the unskilled and*

[126] For information on Cosatu, see: (http://en.wikipedia.org/wiki/Congress_of_South_African_Trade_Unions): "*Cosatu is a trade union federation in South Africa and was founded in 1985. It is the largest of South Africa's three main trade unions, altogether organizing 1,8 million workers*."
[127] Issued in February 2011 and available at: (http://www.treasury.gov.za/documents/national%20budget/2011/Confronting%20youth%20unemployment%20-%20Policy%20options.pdf)
[128] Published in June 2012 and available at: (http://www.cosatu.org.za/docs/misc/2013/youthwagesubsidy.pdf) - See page 19 to 24.

semi-skilled parts of the workforce the most.

3. *The third reason why we oppose the youth wage subsidy is that it does not guarantee that training and skills development will take place in the workplace, less so in the sectors where job-creation is likely to be created: wholesale and retail trade, personal services and construction.*

4. *The fourth reason why we oppose the youth wage subsidy is that it will lead to the recycling of young people without training. In the literature they say young people will be fired once the subsidy ends. National Treasury (and the Democratic Alliance) dismiss this on the grounds that "it's lousy business to fire good workers". But the fact that businesses have moved drastically towards outsourcing, labour broking and casualisation (of good workers) shows that it is good business to have a workforce that is vulnerable and flexible.*

5. *The fifth reason why we oppose the youth wage subsidy is that with major substitution and increased vulnerability of the workforce, there will be downward pressure on wages. Inequality will worsen as low wage workers replace those that have managed to capture non-wage benefits in their compensation.*

6. *The sixth reason why we oppose the subsidy is that there is an underlying assumption that there is a gap between entry-level wages and productivity among young workers.*

7. *The seventh reason why we oppose the youth wage subsidy is that National Treasury (and the Democratic Alliance) incorrectly assumes that the wage is the major constraint to job-creation. The emphasis on the empirically unsubstantiated gap of an entry-level, or minimum wage, that is above productivity lies at the heart of National Treasury (and the Democratic Alliance's) standpoint.*

8. *The eighth reason why we oppose the youth wage subsidy is that it will*

simply increase the mark-up of firms without increasing employment. As we have argued above, the reasoning of National Treasury on the technical aspects of the youth wage subsidy is partial and incorrect.

9. *The ninth reason why we oppose the youth wage subsidy is that it does not contribute in addressing the underlying causes of the youth unemployment problem. In fact the youth wage subsidy may exacerbate the triple crisis of poverty, unemployment and inequality. In South Africa, there exists a huge possibility that, even if the subsidy is re-designed to improve job-search, young people in desperation may choose to go straight into employment rather than increase their educational attainment. This has serious long-term impact on the career prospects for young people."*

b) The National Union of Mineworkers of South Africa ('NUMSA')[129]

NUMSA, another major player and influential union within in the labour market in South Africa also expressed its concerns on its website shortly after the ETIA coming into effect, stating that:

"When we launched the fight against the wage subsidy and the Employment Tax Incentive Bill, this was not about just selfishly protecting our jobs and conditions of employment or those of our members. We had principled objections to the legislation. Although government has attempted to deal with our concerns and that some of the consequences in the implementation of the statute may not occur in our sectors, as NUMSA we have EIGHT reasons why we remain opposed to the Employment Tax Incentive Act and we are moving forward with our Section 77 notice for a socio-economic strike."[130]

The eight reasons NUMSA referred to, can be summarised as follows[131]:

1. The Act places the onus on the working class to subsidise employers.

[129] For more information on NUMSA, see (http://en.wikipedia.org/wiki/National_Union_of_Metalworkers_of_South_Africa): "*NUMSA is the single biggest trade union in South Africa with more than 338,000 members, and prior to its expulsion on 8 November 2014, the largest affiliate of COSATU, the country's largest trade union federation.*"
[130] Taken from: (http://www.numsa.org.za/article/striking-youth-jobs/)
[131] *Ibid* 130

2. According to the ETIA, 'hand-outs' to the poor are bad, but good for the middle-class.

3. The ETIA is based on the premise that high wages are the reason for unemployment; not a lack of capitalists' investment in business in South Africa.

4. All sectors are subject to abuse; even those with wage agreements.

5. Displacement dangers are not entirely eliminated.

6. There are no mandatory training or skills development provisions in the ETIA.

7. The Minister of Finance has wide ranging powers.

8. The ETIA bypassed review by the NEDLAC (The National Economic Development and Labour Council).

c) Equal Education ('EE')[132]

Subsequent to the ETIA being passed into law by Parliament in October 2013, EE voiced its concerns in a document titled *'Submission to National Treasury'*[133], stating that:

"The indications are that the Act will fail in its stated intention of creating additional youth employment without jeopardising existing jobs. What is needed is a serious plan to expand the economy. A youth wage subsidy is not such a plan. In our opinion the Bill is misconceived and should be scrapped. If the government is determined to persist with it, nonetheless, it should go back to the

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[132] For more information on Equal Education see (http://en.wikipedia.org/wiki/Equal_Education): *"Equal Education (EE) is a movement of learners, parents, teachers and community members working for quality and equality in South African education, through research, analysis and activism."*

[133] Available at: (http://www.equaleducation.org.za/content/2013/12/19/2013-11-14-Equal-Education-Submission-to-Treasury-on-Employment-Tax-Incentive-Bill.pdf)

drawing board so that serious attention can be given to eliminating the unfair discrimination. Moreover the Bill does not address the underlying challenges of unemployment; instead it represents a serious threat to existing older workers and does not provide a durable opportunity for the youth in South Africa."

EE also outlined the ten *serious problems* it had with the law (ETIA), namely that[134]:

1. The impact on unemployment is likely to be fairly low.
2. We need a growing economy to reduce unemployment.
3. The subsidy could cause displacement ('churning') of existing workers.
4. The subsidy could put downward pressure on all wages.
5. What else could usefully be done with the money?
6. The subsidy is not necessarily linked to any training.
7. It discriminates against informal, small businesses with low wages.
8. The period allowed for public comment was too short.
9. No structured process to evaluate the youth wage subsidy has been announced.
10. The youth wage subsidy proposed by the ETIA creates illusions.

[134] Dwane, Y & Brockman, B (2014). Article published at: (http:/www.politicsweb.co.za/politicsweb/view/politicsweb/en/page716 on 11/02/2014)

d) Economist Dawie Roodt[135]

Efficient Group Limited[136] Chief Economist, Dawie Roodt, a frequently quoted economist in the South African media, believes that the potential for young people to be employed by reason of the incentive is low.[137] In an article published on Moneyweb's website, it is stated that Roodt believes it will cost (the then) Finance Minister Pravin Gordhan "R2bn to R3bn" to implement the tax initiative and the jobs created by it will be less successful than initially expected.[138]

Roodt is further quoted in the same article as saying:

"*It (the incentive) addresses the wrong issues of the skills shortage. We are not addressing the real issue. In theory, you never use a tax system to "do stuff". This is more of a tax subsidy than a youth wage subsidy*," Roodt explains.

He (Roodt) added that the Efficient Group would not make use of the incentive under the ETIA. However, and despite the wide-ranging concerns surrounding the ETIA, Roodt does not dispute that it will provide *some* people with employment opportunities.[139]

e) Feedback from the Minister of Finance

In terms of section 11(2) of the ETIA, the Minister of Finance is required to publish information on the employment tax incentive twice a year, based on the reports submitted to him by the Commissioner of SARS under section 11(1) of the same act.[140]

During a sitting of the National Assembly on 12 February 2015, a member of parliament raised the issue regarding the expected dates of such publications to the new Minister of Finance Nhlanhla Nene[141]. The Minister responded as follows:

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[135] More info at: (http://www.bloomberg.com/research/stocks/people/person.asp?personId=116726172&ticker=EFG:SJ)
[136] See (http://www.efgroup.co.za)
[137] Article at: (http://www.moneyweb.co.za/archive/private-sector-sceptical-about-youth-wage-subsidy/)
[138] Ibid 137
[139] Ibid 137
[140] See 4.3.9 *supra*
[141] More information at: (http://en.wikipedia.org/wiki/Nhlanhla_Nene)

"Yes, in compliance with section 11 of the ETI Act No 26 of 2013, the Minister of Finance published information on the Employment Tax Incentive on the following two occasions during:

- *the 2014 Budget on 26 February 2014*[142]*; and*
- *the 2014 Medium-Term Policy Statement on 22 October 2014.*[143]

Given that 2014 was the first year of implementation, the above information was of necessity limited. The third and latest update provided is in the 2015 Budget Review (refer to page 27 published on 25 February 2015). This update notes that in December 2014, this incentive supported the employment of over 216 000 young workers, from a peak of 268 000 in August 2014. A further update will be provided later this year, in October when the next MTBPS is tabled in Parliament."[144]

According to a further statement on 15 January 2015 by Treasury in an article on Southafrica.info, 270 000 people had found jobs since the ETIA came into force.[145] A spokesperson for Treasury, Jabulani Sikhakhane, further confirmed that 29 000 employers were making use of the incentive under the ETIA.

Sikhakane also said[146]:

"National Treasury is working with SARS to use the data that is included in the bi-annual reporting requirements from employers to create a more detailed assessment of the impact of the Act on youth employment. This work is still progressing, but a report will be published when the analysis is complete.

As the incentive progresses and more data become available it will be easier to investigate these specific questions and they will be covered in any report that is published on the incentive. More time is required to adequately assess the

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[142] See: (http://www.treasury.gov.za/documents/national%20budget/2014/speech/speech.pdf) at page 20.
[143] See: (http://www.treasury.gov.za/documents/mtbps/2014/mtbps/speech.pdf) at page 13.
[144] Available at: (http://www.treasury.gov.za/Publications/other/MinAnsw/2015/Reply%20to%20PQ%2068%20[NW70E].pdf)
[145] Article available at: (http://www.southafrica.info/services/government/employment-tax-16115.htm#.VXKU0VwxG8U)
[146] *Ibid* 145

overall success of this policy, as it is dependent on the number of new jobs created and the future opportunities and progression of employees who were hired as a result of the incentive. The incentive will then be up for review in 2016, where adjustments may be made to improve its impact and effectiveness."

What is clear however, according to Sikhakhane, is that *"the initial take up of the incentive had been higher than expected."*[147]

f) JustJobs network[148] *– Gregory Randolph*

In October 2014, JustJobs network issued a report titled 'Overcoming the Youth Employment Crisis: Strategies from Around the Globe'[149], which comprised an analysis of several counter-unemployment measures from around the world. (*Note: South Africa is ranked at 125 out of 148 in JustJobs' index ranking with regard to successes in employing the youth.*)

One of the chapters in this report featured the specific challenges faced by the youth in the South African job market and assessed the ETIA as a counter-unemployment measure. The author concluded his analysis of the potential impact of the ETIA as follows[150]:

"The ETI is an important measure to curb high youth unemployment in the short run, and it is likely that the program will open doors for young people to enter the labor market and become more employable. However, it is by no means a panacea for South Africa's youth entering the labor market. The ETI must be linked to strategies that include up-skilling South Africa's youth, growing small businesses and promoting labour-intensive sectors if it is to have the desired impact of improving youth employment outcomes in the long term.

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[147] *Ibid* 145
[148] The JustJobs Network is the vision of John Podesta, who founded and incubated the organization within the Center for American Progress – For more information see (http://justjobsnetwork.org/history/)
[149] Available at: (http://justjobsnetwork.org/wpcontent/pubs/reports/Overcoming%20the%20Youth%20Employment%20Crisis.pdf)
[150] Available at: (http://justjobsnetwork.org/wp-content/pubs/reports/DPRU.pdf)

To this end, policymakers should increase awareness of the scheme among small businesses and ensure that the cost-benefit analysis for linkages to skill development in countries like Australia increase the likelihood that improved employment outcomes will be sustained in the long run. To preempt a backlash from trade unions, Spain involved them (small businesses) in the process of policy design and implementation.

Most importantly, South Africa must explore ways to link the subsidy with skill development more directly – for instance, by offering a skilling component to program participants aligned with their occupation. In this way, the ETI can serve another goal – strengthening the linkages between labor market demand and vocational training – and its impact can be more sustainable.

Through close evaluation and tracking of the program's success as it evolves, South African policymakers can ensure that the ETI is contributing positively to a larger policy architecture aimed at lifting young people out of joblessness."[151]

The author of the report identified two major obstacles that the employment incentive would have to overcome in order to be successful:

Firstly, the fact that a huge compliance burden is placed on employers that want access to the incentive under the ETIA in that they have to register their payroll under the PAYE (pay-as-you-earn) system and *secondly*, the lack of awareness amongst small businesses which, according to the *JustJobs* report, must play a critical role in the reduction of youth unemployment.[152]

4.4.3 Conclusion and personal views

As far as expressing a personal view on the potential successes and failures of the ETIA as counter unemployment measure in general goes, I will reserve my views to Chapter 6. At this stage it is appropriate however to elaborate somewhat on the foremost concerns raised by stakeholders and commentaries in 4.4.2 above and express *some* personal views on it. I will address each common concern under

[151] *Ibid* 150
[152] *Ibid* 150

a separate heading.

a) Practicality

From the above, it is apparent that there are more misgivings about than support for the ETIA; specifically in regard to its actual practicality and workability. From a practical perspective it seems that employers do have to *'jump through several hoops'* in order to obtain a benefit which, in the bigger scheme of things, does not seem to be substantial, especially for larger businesses or corporations.

As the report from *JustJobs network* (see 4.4.2 (f)) pointed out, in order to lay any claim to the benefit under the ETIA, an employer needs to be registered for PAYE with SARS in terms of paragraph 15 of the Fourth Schedule to the ITA.[153] Personal experience leads me to think that, generally speaking, only medium to large scale businesses would actually have the capacity to process data and information for PAYE purposes on a month-to-month basis in order to be eligible to claim the incentive. That then begs the question: Are these medium and big businesses that will be able to obtain the benefit from this incentive, really the employers that the ETIA should be targeting? As the *JustJobs network* report correctly pointed out, and for the ETIA to truly serve its intended purpose, small businesses ought to be the major utilisers of this incentive under the ETIA. Small businesses are the ones that could really benefit from the incentives, considering their comparably smaller tax base. Smaller businesses would also benefit from any increase in workforce and even more so when this increase comes at a cheaper than usual cost. It seems, however, that so-called 'smaller businesses' are generally unaware of the availability of the incentive; and those that are aware of it may not have the actual business acumen and resources to register for PAYE and process monthly data - making them ineligible employers under the ETIA.

For medium to large businesses that do have the capacity to process monthly PAYE data (most of them being registered to do so already), the benefits under the ETIA would be negligible unless they employ a substantial number of qualifying employees. This is rather unlikely though, due to these employees' lack

[153] See section 3(a) of the ETIA

of skills and experience. Potential employees who can qualify as 'qualifying employees' and do have the necessary skill-set and experience to add real value, will in most cases already be employed elsewhere.

Considering the above, together with the proposed short duration of the ETIA (due under section 12 to be discontinued at the end of 2016), it does not make much sense for businesses to pursue this short term tax benefit, whilst having to train generally unskilled and inexperienced employees.

b) Lack of training

Another recurring concern under 'comments and criticisms' (see 4.4) is the fact that the ETIA does not address the real and fundamental reasons for the high levels of unemployment among youths in South Africa - the foremost being a lack of appropriate education and/or skills.

Under the ETIA, employers are rewarded for granting employees who fall within a certain age group (18 to 29) the opportunity to enter the job market - but not for ensuring that these employees get adequate exposure to, for instance, skills training, or, at least, not as of yet - as section 3(c)(ii) does provide that the Minister of Finance may issue regulations that make it compulsory for employers to expose employees to a certain level of training in order to qualify for the incentive (see 4.3.3 (b)). Compulsory training would ensure that employees are more employable once the ETIA (and the incentive thereunder) has 'run its course'. To add to this, initial indications are that the lifetime of the ETIA will only be three years (section 12 of the ETIA indicates that no incentives under the ETIA are receivable after 1 January 2017), which renders the potential reasons for employers to make use of the incentive even more unjustifiable.

Without any requirements or conditions as to skills development and training placed on employers, there seems to be no other good reason/(s) to make use of this mechanism, other than obtaining a short-term tax saving by employing (and not necessarily training) eligible employees. At the end of 2016, employers that made use of the incentive will be able to say that they have saved "X" amount of tax; however it is highly improbable that employees employed in terms of the ETIA would be able to claim that they have substantially added to their skill-set due to the lack of a compulsory training that employers are required to provide.

This omission in the ETIA seems to be in conflict with its purpose, being 'to encourage employment creation'[154], considering that it is unlikely that employers will retain generally unskilled employees after 31 December 2016.

c) Unfair discrimination

A third common concern is that the ETIA opens the door for employers to unfairly discriminate against certain groups of employees in order to obtain the incentive under the ETIA. Most notably, 'older' employees would be at a disadvantage as the costs to keep them in the employ would be (depending on pre-existing wages) higher than hiring a younger employee who falls within the eligible age category of the ETIA, i.e. between 18 and 29. The displacement prohibition and penalty provisions in section 5 are aimed at discouraging such actions by employers, but its actual effect is questionable as only 'automatically unfair dismissals' under the LRA[155] would be deemed to constitute an act of displacement by an employer.

Jonathan Jones, a director and employment law practitioner at Norton Rose Fulbright South Africa also points out the following in this regard[156]:

"Whilst the Act has a laudable purpose, employers should be cautioned against amending their recruitment practices to qualify for a greater benefit in terms of the incentive scheme. The Act attempts to avoid abuse of the incentive scheme by penalising employers for deliberately replacing older employees with younger employees, but it fails to address a more fundamental issue: the fact that relying on age as the determining ground for employment would very likely constitute unfair discrimination based on age.

Even though affirmative action will always be a contentious subject, preferring employees based on race, gender or disability is properly legislated

[154] See section 2(1) of the ETIA
[155] Labour Relations Act No. 66 of 1995
[156] Article available at: (http://www.globalworkplaceinsider.com/2015/04/age-discrimination-and-the-employment-tax-incentive-act/)

and acceptable. No similar exceptions are applicable for preferring candidates for employment based on age. Where a candidate for employment fails to be appointed because they are older than 29 years of age, the aggrieved candidate for employment may well have a valid claim for unfair discrimination against the prospective employer."

Despite section 5, it is still arguable and likely that older employees or candidates might be discriminated against due to the particular benefits that the ETIA offer employers.

d) Downward pressure on minimum wages

Trade unions COSATU and NUMSA argue that the incentive paves the way for employers wanting access to the incentive under the ETIA to rather employ employees who fall within the allowable wage range, i.e. those that earn less than R6 000 per month. Consequently, relatively unskilled and bottom-end employees would have to 'settle for less' so as to make themselves more employable to employers, in that they would be qualifying employees under the ETIA.

Logic dictates that, for an individual who is unemployed and potentially unemployable due to a lack of skills or experience, any wage is better than no wage. In a developing economy like South Africa, imposing a minimum wage hampers competition between employees and is detrimental to business development and entrepreneurship, as business owners or entrepreneurs may shy away from expanding operations or setting up new businesses due to potentially high wages. This, according to the reasoning by trade unionists, consequently diminishes the job market and opportunities as the demand for employees becomes lower than it ought to be.

In *chapter 5* that follows I will conduct a comparative study of the ETIA and wage subsidies enacted in other countries in order to point out the strengths and weaknesses of the ETIA. I will provide my reasons for selecting each particular country I use as a yardstick as I proceed with the analysis. In *chapter 6*, I intend to provide some of my personal views on the ETIA's potential to succeed or fail.

Chapter 5

A study of similar legislation in other countries

5.1 Introduction

From the examples provided in *Chapter 2* (see 2.3), it is evident that South Africa is not the first country to use a wage subsidy or similar legislative intervention to achieve (or at least attempt to achieve) a socio-economic goal, for instance to combat youth unemployment.

In this penultimate chapter, I intend to delve deeper into some of the wage subsidies, or policies akin to the incentive under the ETIA, that have been used in other countries to try and achieve a particular socio-economic goal. The examples I have selected include Colombia's first job law, the *Joven* projects in Chile and Argentina and Singapore's wage credit scheme. Each example will be discussed under a separate heading. As an introduction, I will provide some background on each of the examples I have selected and give my reasons for selecting each of them. This will be followed by a more detailed analysis on how each incentive was intended to function. I will conclude the discussion of each example by providing some insights on comments in support of, or criticisms of these respective incentives and also briefly compare each example with the incentive under the ETIA. Hopefully, this approach will enable me to draw comparisons and point out differences between the ETIA and these examples to ultimately express a view on the potential for success or failure of the ETIA.

I also intend to provide a brief summary of programmes introduced in Brazil, Indonesia and India to address unemployment, specifically youth unemployment issues.

5.2 Colombia - 'First Job Law' (2010)

5.2.1 Background and reason for selection

I have already provided brief comments on Colombia's Formalisation and Creation of Jobs Act No. 1429 of 2010, otherwise known as the 'First Employment Act' under paragraph 2.3 (f). In order to facilitate and simplify the formal organisation of a business, as well as to create more 'formal employment', the Colombian Congress followed a straightforward approach to introducing reform to the foundations of corporations and corporation law.[157] At the same time, this First Employment Act created some interesting incentives. One of these was a tax credit for employers, which was allowed against payroll contributions in respect of any newly-hired employees under the age of 28, women over 40 years old, workers earning less than USD 430 per month or employees in displacement or with a disability.[158]

It is fair to say that when conducting a study of a socio-ecomic policy or decision made by government, one normally expects more negative comments and criticism than positive ones. It is not unusual for people to criticise rather than to compliment, especially when it comes to governments and the decisions they make. As a part of my research in the lead up to completing this paper, I came accross an article by Adam Thomson on the Financial Times' website on June 3 2013, titled "Booming Bogota nightlife enjoys a feelgood factor"[159]. This article more or less describes the turnaround in the economic prospects of young people in Colombia, particularly in its capital city, Bogotá. Some excerpts from the article that particularly caught my attention include:

"Go back a decade or more, and Bogotá felt much like the chilly and conservative Andean city that it always used to be. (...) Today, the screens have all but gone but there is a feel-good factor arguably stronger than at any time in living memory. The economy is growing fast clip and a demographic boom – a quarter of the country's population is aged between 14 and 28 – has produced an explosion in demand for entertainment – above all, nightlife. (...)

The growing sense of optimism among Bogotá's young crowd marks a fundamental shift compared with the previous generation, which, equipped with sufficient education, money or both, would often leave at the first chance. <u>Basic jobs may not pay particularly well, but at least there are more of them. Besides, several government schemes, such as the 'first job law', which gives employers</u>

157 News Alert by Prieto and Carrizosa Law Firm. *New Law Partially Overhauls Corporate Law Foundations and Creates Incentives for New Businesses*, available at: (www.prietocarrizosa.com/en).
158 *Ibid* 157
159 Available at (http://www.ft.com/intl/cms/s/0/8864951a-a818-11e2-8e5d-00144feabdc0.html#axzz3cRGnDoTG)

tax breaks for increasing their overall headcount by taking on young people, have started to make a difference." (Own emphasis)

This particular reference to the positive effects of the 'First Employment Act' on the Colombian job market for young work seekers, together with the fact that Colombia is also a developing economy like South Africa – therefore also enjoying its fair share of socio-economic problems, including high levels of crime and poverty – convinced me of the potential value of further investigation into its nature and functions.

5.2.2 Operation

The First Employment Act comprises four chapters, which are all aimed at stimulating job creation for youths, either directly by incentivising employers to appoint them, or indirectly by making it easier and cheaper to do business in Colombia through corporate reforms.[160]

The four chapters of the Colombian law can be broken down as follows[161]:

- The *first chapter* deals directly with the stimulation of first employment, targeting youths under the age of 28; directing the creation of incentives for enterprises to formalise employment through micro credit orientated programs. It also prescribes updated procedures for 'easing' new, small businesses into the tax system on a gradual basis, with such businesses being exempted from paying any income tax in the first two years of operation. During the third year only 25% of the tax due is payable, 50% in the fourth year and 75% in the fifth year.[162]

  More importantly for purposes of this study, this chapter also provides for 'discounts' on the costs of appointment and employment of persons under the age of 28, i.e. by creating a tax credit to be set-off by employers against payroll taxes.[163]

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[160] For more information see: (http://colombialawbiz.com/2010/12/18/the-law-of-first-employment-towards-formalization-through-incentives-a-national-database-and-regulatory-reforms/)
[161] *Ibid* 160
[162] *Ibid* 160
[163] *Ibid* 160

The discount method is best explained by way of an example[164]:

Concept	Regular tax calculation*	Calculation after taking into account the first job law incentive*
Gross Revenue	80,000,000	80,000,000
Minus Cost and Expenses	65,000,000	65,000,000
Minus: Payroll	(1,000,000)	
Tax base	14,000,000	15,000,000
Income tax (@34%)	4,760,000	5,100,000
Minus: Tax Credits	0	(1,000,000)
Net Income tax payable	4,760,000	4,100,000

**All amounts are in Colombian Peso*

Most noticeable from the above, is the fact that the payroll expenses incurred by employers can be set off against income tax payable, as opposed to being a standard deduction before the tax payable is calculated, thus providing a 66% increase in benefit for employers – see amounts in bold type.

- The *second chapter* simplifies and reduces the prescribed procedures and expenses pertaining to the liquidation of enterprises.

- The *third chapter* attempts to simplify bureaucratic procedures to be followed when setting up a business and *chapter 4* purports to establish a national employment database.[165]

[164] This example is based on my personal interpretation of the credit available under the First Employment Act for hiring employees under the age of 28.

5.2.3 Comparison with the ETIA and public comments

The wage subsidy under the First Employment Act differs somewhat from the incentive under the ETIA, in the sense that the former forms part of a broader and more general overhaul of Colombian corporation law aimed at economic expansion and the accompanying creation of a platform to facilitate the employment of youths that goes with it. Several similarities can, however, still be drawn between these two counter-unemployment measures. Ultimately, in both instances, employers are rewarded by way of a reduction in their tax liabilities (whether income tax in Colombia or employees' tax in South Africa) for employing first time jobseekers that meet certain other criteria.

Interestingly, many of the concerns raised by stakeholders in South Africa (see COSATU and NUMSA comments in 4.4.2) also seem to be problem areas arising from the 'First Job Law'.

According to a news report broadcasted by the Colombian television news station *teleSUR,* on 27 February 2015[166], it appears from a statement by the General Labor Confederation that the First Employment Law has been 'less effective than expected in comparison to benefits granted to companies', with unemployment under youths (14 to 28 years old) increasing by 0,4% during the last 3 months of 2014. Some of the criticism of the 'First Job Law' raised in this report include that it requires strengthening of its flexibility, that it lacks formalising of outsourcing, and that it enhances the instability of experienced workers in exchange for less experienced workers, thereby weakening overall labour conditions.[167] The report further makes it known that since the enactment of the First Employment Act, there appears to have been an overall increase in job creation; however, such created jobs are mostly of a low quality and of short duration, with 49,4% of jobs in the last quarter of 2014 being recorded as informal employment.[168]

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[165] Ibid *160*
[166] See video at (https://www.youtube.com/watch?v=UgwtZc2XAn0)
[167] *Ibid* 166
[168] *Ibid* 166

Furthermore, in an online article published by Quarterly Americas, Council of the Americas[169], Lorenzo Morales writes as follows[170]:

"The core of the law can be synthetized by two basic strategies: encouraging young people to create companies through special state-financed loans and using fiscal discounts to reward companies who hire a young labour force.

But the well-intentioned law risks clashing with harsh reality: <u>the severe disconnection between the skills we are teaching to our future labour force and what industries need</u>. Most governmental efforts are oriented toward creating more qualified workers, but without reliable information on the abilities that new and growing industries are desperately demanding. (...)

But adjusting a law is much easier than adjusting people's expectations about a promised future. A youth labour law <u>should also tackle cultural and deep-rooted practices</u> that work against any intention of guaranteeing young people a better future through a decent work. (...)

With so little information on the workforce that Colombia needs, entering the job market resembles searching for a seat in a dark and crowded movie theater. You can either sit on the dirty floor wondering why you paid for such a bad seat or simply, as it might be more often the case, leave the theater. No refunds." (Own emphasis)

If any conclusion can be drawn from the above comments, it is that rewarding employers for employing young and generally unskilled youths will not remedy a youth unemployment crisis in the long run, especially in a developing country where youths generally suffer from poor education and a lack of basic skills. This proposed solution seems to overlook the real and most fundamental issues that lead to these high unemployment levels. Based on the Colombian example, it is difficult to foresee much success for the ETIA in helping to address South Africa's youth unemployment issues.

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[169] Americas Quarterly is an AAM audited magazine dedicated to policy analysis and debate of economics, finance, social development and politics in the Western Hemisphere – See: (https://en.m.wikipedia.org/wiki/Americas_Quarterly)

[170] Article available at (www.americasquarterly.org/node/2382)

5.3 Argentina (Proyecto Joven: 1994) & Chile (Chile Joven: 1991)

5.3.1 Background and reason for selection

Projecto Joven and Chile Joven ('Joven programmes') were introduced as mechanisms to combat an increase in youth unemployment in Argentina and Chile respectively. Both were very similar in their operation and were implemented as subsidies towards special training schemes, aimed at younger people who had not been part of the formal educational systems of the relevant countries since a young age. The objective of these programmes was to train at least 100,000 youths between the ages of 15 and 24, each over a four-year period[171], and both comprised two parts: six-month training courses and simultaneous assisted business placements or apprenticeships.

The basis for choosing these programmes as yardsticks for the ETIA, despite their method of operation being very different, is that both were implemented to address the same issue as the ETIA - youth unemployment. Commentary indicates that both programmes were reasonably successful because they aimed to address what would seem to be the fundamental reason for youth unemployment in most countries: a lack of proper education and basic skills.[172] Neither *Projecto Joven* nor *Chile Joven* targetted employers to solve unemployment issues; both rather focussed on employees and the development of their basic skills.

5.3.2 Operation and public comments

As mentioned, both *Joven* programmes offered special skills training to underprivileged youths who did not have the opportunity to finish school, thus granting these youths a 'second chance' at obtaining some form of further education and skills training.

Funding came from a combination of domestic fiscal resources and support from the IDB (Inter-American Development Bank)[173] and both programmes were organised by way of a public tender process during which educational and training

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[171] As per a report by The Overseas Development Institute published in February 2006. For more information see (http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4068.pdf)
[172] *Ibid 171* at page 1
[173] *Ibid 171* at page 1

institutions had to bid to present the course. The idea was to ensure that the programmes were market-driven and the institutions entrusted to present them were advised to design training courses with innovative approaches, taking into account all relevant market factors.[174]

The content of the *Chile Joven* programme was summarised as follows in a report by the United Nations Educational, Scientific and Cultural Organisation ('UNESCO')[175], in collaboration with the International Centre for Technical and Vocational Education and Training ('UNEVOC')[176]:

"The Chile Joven program was targeted at a group of urban youth considered to be "at risk". The initiatives that were replicated from this program targeted to the youth and disadvantaged population with low chances of insertion into the formal labour market.

The programs provide both classroom and on-the-job training. Chilean policymakers envisioned a programme that would train disadvantaged young people and would provide them with a practical experience in the formal labour market, thus helping them to improve their labour market insertion. The objective of these training models is to <u>increase the employability of the young and/or disadvantaged population and to improve the quality of employment</u>.

The programs can improve employability for young people in the medium or short term. The programs can also reduce the costs of job-seeking for the youngsters and reduce the costs for firms of gathering information about potential employees."[177] (Own emphasis)

Each programme consisted of two short courses – each an average of six months in duration. The first course was normally a theoretical training class and

[174] *Ibid 171* at page 3
[175] UNESCO is a specialized agency of the United Nations (UN) – "Its purpose is to contribute to peace and security by promoting international collaboration through education, science, and culture in order to further universal respect for justice, the rule of law, and human rights along with fundamental freedom proclaimed in the United Nations Charter." More at: (http://en.wikipedia.org/wiki/UNESCO)
[176] More information at: (http://www.unevoc.unesco.org/go.php)
[177] More information at: (http://www.unevoc.unesco.org/fileadmin/user_upload/pubs/Chile%20Joven,%20Job%20Training%20Programs%20in%20Latin%20America.pdf).

the second a practical placement at a professional firm or enterprise.[178] By being cost-free for individuals attending, these programmmes eliminated the usual barrier of cost that arises for the extremely poor. Companies could also take part at no cost.[179]

A series of studies have shown the following three positive outcomes from these *Joven* programmes[180]:

- Even though the impacts of the programmes varied somewhat due to the characteristics of participants, the general labour insertion (i.e. the actual number of young people that enter the labour market) increased in both Chile and Argentina.

- A substantial proportion of the participants of these programmes (20,8% in Argentina, per Mitnik, 1997) decided to return to formal education thereafter, suggesting improved levels of confidence, ambition and initiative.

- The programmes had some positive effects on the labour earnings of certain groups of the employee market.[181]

The report by UNESCO (in conjunction with UNEVCO) titled 'Chile Joven, Job Training Programs in Latin America' concluded its findings on the Chile programme as follows[182]:

"Results show that the programmes can generate positive impacts on the labor insertion conditions of their participants. They are assessed to have significant positive impacts in terms of employment for women, and overall the impacts range from null to positive. They increase the employment rate of

[178] *Ibid 171* at page 2
[179] *Ibid 171* at page 3
[180] Examples of these studies include: Aedo C. (2004). *Job Training Programmes: The Cases of Chile Joven and Argentina Proyecto Joven*. Universidad Alberto Hurtado, Chile; Elías V. J., Ruiz Núñez F., Cossa R., Bravo D. (2004). *An Econometric Cost- Benefit Analysis of Argentina's Youth Training Programme*. BID, Washington, D.C.
[181] *Ibid* 171 at page 3
[182] More information at: (http://www.unevoc.unesco.org/fileadmin/user_upload/pubs/Chile%20Joven,%20Job%20Training%20Programs%20in%20Latin%20America.pdf)

participants and enhance the quality of jobs (measured by wages, social security and/or formality)."

A separate report by the Overseas Development Insitute, entitled 'Youth Training | Chile and Argentina (February 2006)'[183] suggests that the following lessons can be taken from the *Joven* programmes:

- Labour market training that focuses on youngsters that abandon education is not a permanent or definitive solution and will never provide a substitute for formal education and training.

- Youth training programmes of this nature will only be effective in a favourable economic environment, i.e. in a country with sustainable growth and flexible labour laws that facilitate job creation.

- The public tender process, by which private institutions were appointed to design these programmes, was highly effective.

5.3.3 Comparison with the ETIA

In contrast to the ETIA and the incentive under the Colombian 'First Job law', employers' involvement in the *Joven* programmes in Chile and Argentina was not quantifiable and was limited to accommodating short-term internships or placements of young work-seekers. The *Joven* programmes focused on the employees and were introduced to directly address their actual lack of skills or education. They did so by granting them a 'second chance' at education and training to make them more employable.

Instead of spending a portion of the fiscal budget to incentivise employers into hiring young employees, like the ETIA (a short-term solution in my view), the governments of Chile and Argentina spent money on directly and pro-actively developing the basic skills of employable youngsters.

This seems to me to be a much more sensible approach to address the fundamental causes for high unemployment.

[183] Available at: (http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4068.pdf)

5.4 Singapore – Wage Credit Scheme (2013)

5.4.1 Background and reason for selection

The Singaporean government acted in a proactive manner when it decided to introduce the Wage Credit Scheme ('WCS') in 2013. Singapore was and is increasingly developing into one of the world's most important financial centres, connecting the East with the West. With its economic progress came certain demographical changes within the Singaporean workforce, most notably the introduction of a big 'expatriate' community, a phenomenon which is also common in other Asian cities that are successful in the world economy, such as Hong Kong and Shanghai, China. To lure highly-qualified, professional expatriates to the city, companies in Singapore more often than not offer them extremely competitive remuneration packages.

The Singaporean government recognised that companies needed to spend these large sums on expatriate employees to remain competitive within the international market and, at the same time, that this caused these companies' budgets for hiring local Singaporean employees to become significantly smaller. It was therefore decided to introduce the WCS as a subsidy for Singaporean employers to put them in a position to also continue hiring local employees in the expanding market.

Although the WCS is not a direct subsidy aimed at combatting youth unemployment (like the one under the ETIA), it remains a governmental intervention by way of wage subsidy, similar to the ETIA, used in Singapore to ensure that unemployment levels of local Singaporeans remain low. It is also a firm-side wage subsidy with a limited lifespan, like the ETIA. My reason for selecting the WCS as an example is to illustrate what can (and should) be achieved if governments are alert to immediate risks of increases in unemployment levels.

The unemployment rate in Singapore has remained relatively consistent between 1,8% and 2% between 2013 and 2015[184] and it was announced in the 2015

[184] See: (www.tradingeconomics.com/singapore/unemployment-rate)

National Budget that the duration of the WCS would be extended by two more years, i.e. to 2016 and 2017.[185]

5.4.2 Operation and public comments

The WCS works as follows[186]:

In any calendar year from 2013 to 2017, employers qualify for a wage credit in respect of employees in their service that are Singaporean Citizens (in terms of the Constitution of Singapore) if they

a) give at least a SGD50 increase in gross monthly wage to Singaporean Citizen employees earning up to SGD4,000 in gross monthly wages, and

b) make CPF[187] contributions for these employees for at least three months in the year of the wage increase; and, in addition

c) the employees who receive the wage increase must have received CPF contributions for at least three months with one employer in the preceding year.

Under the WCS, the Singaporean government co-funded 40% of the wage increases given to Singaporean employees in respect of whom the above-named criteria were met from 2013 to 2015.[188] For 2016 and 2017, the governmental co-funding will be 20%. The WCS operates as a cash grant to employers that meet the qualifying criteria but is not paid pursuant to any legislation, hence no employer has an absolute right thereto.[189]

The IRAS (Inland Revenue Authority of Singapore) notes as follows on its website:

"During this period of economic restructuring, businesses could face a tight labour market with rising wages. Through the Scheme, the government provides

[185] The WCS was initially introduced for 3 years, from 2013 to 2015. See IRAS FAQ's at: (www.iras.gov.sg/IRASHome/Schemes/Businesses/Wage-Credit-Scheme--WCS-/)
[186] *Ibid* 185 at 'General Questions on the Scheme'
[187] The CPF refers to Singapore's Central Provident Fund, a social security savings plan for citizens of old age. For more information see: (www.cpf.gov.sg/)
[188] *Ibid* 185
[189] *Ibid* 185

businesses with co-funding support for wage increases made to their employees. This would allow businesses to free up resources to invest in productivity, and to share productivity gains with their employees."

As one would expect, some comments and points of criticism have been raised in response to the introduction of the WCS. In an article in the Singapore Business Review on 11 March 2013, a Human Resources practitioner Adrian Tan said the following[190]:

"Yes, it will help to narrow the Gini coefficient[191]. So statistically we would look prettier, for sure. But that ultimately still doesn't justify the huge wage increase that companies might be giving or compelled to give due to internal and external pressures if there were little productivity gains. And should that happen, the financing of the wage increase has to come from somewhere. So we probably could be seeing an economy wide inflation contributed to an extent by this scheme.

I would be concerned that companies start using this scheme as the only way to retain talents because they would be in big trouble after 2015. I can already foresee the creative ways some companies may apply into their compensation and benefits structure so as to maximise this scheme. This includes hiring at a lower than average salary and incorporating a higher amount of increment upon confirmation."

Another interesting publication relating to the WCS, and in particular the use by companies of funds received under the WCS, was published on the website of *efinancialcareers* on 8 April 2015.[192] In the article, the writer Simon Mortlock explains:

"UOB[193], though, is encouraging more of its rank-and-file staff in Singapore to look good on the job. The bank is using the SGD3,8million it received under the WCS to fund career development and wellness programmes

[190] Available at: (www.sbr.com.sg/hr-education/commentary/would-wage-credit-scheme-work-1)
[191] The Gini coefficient is a measure of statistical dispersion intended to represent the income distribution of a nation's residents, and is the most commonly used measure of inequality. See: (https://en.m.wikipedia.org/wiki/Gini_coefficient)
[192] See: (www.news.efinancialcareers.com/au-en/204591/uob-funds-personal-grooming-courses-for-staff/)
[193] United Overseas Bank

for all its 3,600 employees at a junior managerial level or below. They will receive credits to spend on training programmes of their choice – including service excellence, computer software and (...) personal grooming sessions. Rival Singaporean bank OCBC[194] took a different approach to the money it received under the WCS – it gave staff a payout last year."

5.4.3 Comparison with the ETIA

Like the ETIA, the WCS is an employer-targeted wage subsidy introduced for a limited period of time with the aim of alleviating some form of unemployment problem, whether it already exists or is potentially imminent. Considering that the economic and labour climate in Singapore differs materially from that in South Africa (unemployment levels are less than a fifteenth of South Africa's), this comparison may seem somewhat irrelevant. I do believe, however, that the WCS shows that employer-side wage subsidies can be effective and of real value if the accompanying market factors support its introduction and facilitate its positive impact.

In South Africa, where an acute youth unemployment issue exists, such a policy cannot single-handedly solve, or even minimally contribute to solving such a problem. I intend to elaborate further in the *final chapter* on my claim that a more comprehensive and well-rounded policy is required to fix a problem like the one South Africa is facing with high unemployment.

5.5 Other strategies to overcome youth unemployment crises

The examples discussed so far in this chapter generally comprise some form of subsidy provided by a government (whether to employers or to facilitate skills training) to try and facilitate the combatting of youth (or general) unemployment. An employer or employee subsidy is not the only way to tackle this type of socio-economic problem, however. In what follows, I will very briefly discuss examples of labour strategies or programmes, other than wage subsidies, that have been

[194] Oversea-Chinese Banking Corporation

implemented by the governments of Brazil, Indonesia and India respectively, in order to attempt to overcome youth unemployment problems.[195]

5.5.1 Brazil – social welfare approach

Despite generally low levels of unemployment (recorded at 5% in March 2014[196]), Brazil also faces some problems with youth unemployment. In particular, it faces a problem with youths entering into the workforce at a too early age. Due to the market climate and relatively high levels of poverty amongst a large portion of the population, youths are often left with no option but to leave school at an early age to start earning an income, even before they have finished secondary or tertiary education and have gained the employable skills necessary for long-term success. This premature entry limits these youths' ability to, firstly, find a good and well-paying job in the formal sector and, secondly, their ability to progress in their careers. Ultimately, it limits their ability to have a good, sustainable quality of life.

In 2009, it was estimated by the Brazilian Institute of Geography and Statistics that almost 65% of Brazilian youths entered the labour force between the ages of 10 and 17, with more than 90% doing so before the age of 20.[197] The Brazilian government had to address this issue by delaying the entry of youths into the labour market to ensure that when they eventually did so, these youths were in a position to do so in a manner which would ensure long-term prosperity. The solution comprised several social welfare policies that were put into place, aimed at reducing inequality, raising wages for low-income earners and strengthening healthcare and education systems.[198] The social components being addressed were thus much wider than in the case of the employer-side wage subsidy that is the focus of ETIA. By 2013, these social welfare measures in Brazil had the effect that less than 25% of youths between the ages of 15 and 17 had a job, whilst more than

[195] The examples and accompanying content that follows were all taken from a report released by JustJobs network (www.justjobsnetwork.org) which was released in October 2014 and tiled 'Overcoming the Youth Employment Crisis: Strategies from Around the Globe (Gregory Randolph). The report can be found at: (www.justjobsnetwork.org/wp-content/pubs/reports/Overcoming%20the%20Youth%20Employment%20Crisis.pdf)
[196] *Ibid* 195 at page 23
[197] *Ibid* 195 at page 24
[198] *Ibid* 195 at page 25

85% were still in school, furthering their education. A third of youths between the ages of 18 and 24 were still studying.[199]

By addressing a broader range of social aspects, the Brazilian government ensured a change to youths' general environment - enabling them to have more and better employment options. This example offers evidence of how important it is to understand the reasons for certain social phenomena, as well as of the successful impact a multi-faceted intervention may have.

5.5.2 Belu district, Indonesia – entrepreneurship

Youth unemployment in Indonesia exceeds 20%.[200]

Entrepreneurship is often presented as a potential panacea for the global youth employment crisis. In a country like Indonesia, where the informal sector employs 60% of the workforce, entrepreneurship becomes even more vital to economic growth and job creation.[201] Entrepreneurship is also often labelled as an 'easy' route to develop an economy and at the same time it creates a lot of informal jobs, whilst it requires very little government intervention and regulation – thus making it an ideal solution for a country with limited state capacity, like Indonesia.

To address its unemployment issues, and considering the sharp decline in job-creation coming from the manufacturing sector, the Indonesian government introduced a National Entrepreneurship Movement, seeking to reduce youth unemployment by combining a series of training and micro-finance programs.[202]

In 2009, a law was passed which outlined a plan for the national and the local governments, together with youth organisations and communities, to foster entrepreneurship through training, internships, coaching, partnerships, and promotion and access to capital.[203] These programmes were introduced and monitored by region or district and the results have been mixed.

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[199] *Ibid* 195 at page 29
[200] *Ibid* 195 at page 76
[201] *Ibid* 195 at page 78
[202] *Ibid* 195 at page 82
[203] *Ibid* 195 at page 83

A recent case study on the Belu District program[204] identified the following aspects relating to the entrepreneurship program that required to be addressed in order to ensure success[205]:

a) the necessity for strong, co-ordinated government institutions to ensure effective implementation, despite the belief that entrepreneurship could stimulate job creation where state capacity is weak;

b) the fact that entrepreneurship policies will only be successful as part of a larger, enabling framework - i.e. skills training and the availability of start-up capital fostering a successful, overall entrepreneurship strategy and creating an ecosystem of complementary interventions;

c) that governmental and private organisational support during the initial start-up phase of an entrepreneurial business is vital to its eventual successes; and

d) that it requires policymakers to have a better understanding of youth aspirations, i.e. by identifying young people who do have the desire to own their own businesses.

5.5.3 India - social skills training

More than 60% of India's population is below 35 years of age[206] – a distinctive demographic advantage for the future prosperity of the country. Unemployment amongst the youth is growing, however, especially among the literate, with almost one in every three urban males who have graduated from school or secondary education finding themselves without a job.[207] The most significant source of the problem seems to be an out-dated education system that is mismatched with current labour demands.[208] Effectively, and despite being sufficiently academically qualified to find jobs in the formal sector, many of India's

[204] *Ibid* 192 at page 84
[205] *Ibid* 192 at page 88 – 89
[206] *Ibid* 192 at page 51
[207] *Ibid* 192 at page 51
[208] *Ibid* 192 at page 52

youths lack the necessary “soft” skills to achieve success in the current labour environment.

The Indian government recognised this problem and, with assistance from the private sector, a National Skill Development Corporation was established, with the aim of providing certain skills training to youths in accordance with industry-requirements and in order to place them in appropriate jobs, thus attempting to ensure long-term successes.[209] To date, these training programmes have not shown significant success, with many of the youths who graduate from these programs failing to stay in their new jobs. Such failures make it clear that vulnerable youths require long-term support networks to improve employment outcomes for them.

The Indian example also underlines the importance of a comprehensive, multi-pronged approached to ensure success in overcoming these types of social issues.

5.6 Conclusion

There is more than one way to solve a problem, and in the context of solving unemployment issues, governments have historically found it somewhat difficult. This chapter outlined a few of the many different approaches governments have decided to adopt, with or without success, to attempt to solve youth unemployment problems. In the following, final chapter I will provide concluding remarks on the ETIA and its potential to succeed. I will also suggest some alternative solutions to South Africa’s unemployment problems.

[209] *Ibid* 192 at page 51

Chapter 6

Conclusion

6.1 Introduction

In the preceding chapters of this study, I:

a) provided brief insights into the historical use of wage subsidies to counter youth unemployment internationally (see *chapter 2*);

b) discussed up-to-date statistics regarding the youth unemployment crisis in South Africa (see *chapter 3*);

c) carried out a detailed analysis of the ETIA and its foremost provisions (see *chapter 4*); and

d) conducted a number of comparative studies by juxtaposing the ETIA and its provisions against counter-unemployment measures (including, most importantly, wage subsidies) used in other countries (see *chapter 5*).

This final chapter is dedicated to concluding remarks.

To start off with, I will provide insights into recommendations taken from in-depth studies by influential international bodies and organisations, including the World Bank and the OECD [210] regarding international programmes, including the ETIA, used to counter youth unemployment. I intend to use these insights to point out where, in my view, the ETIA should fit into the South African government's greater, more comprehensive plan to counter youth unemployment. Clearly, on its own, the ETIA will enjoy little or no success and needs to be part of a 'greater' plan.

Thereafter, and in conclusion of this paper, I will put forward some personal views on the ETIA, the likelihood of it being a successful 'job creation

[210] The Organisation for Economic Co-operation and Development or "OECD" is an international organisation helping governments tackle the economic, social and governance challenges of a globalised economy, see: (http://www.oecd.org)

mechanism' and some of the aspects that could potentially be detrimental to its success.

6.2 International recommendations

6.2.1 World Bank[211]

In a study published by the World Bank in September 2012, entitled 'Youth Employment Programmes: An evaluation of World Bank and IFC Support'[212], the following was noted:

"Youth employment issues are a major concern for many countries because they have negative effects on the welfare of young people, and may also adversely affect economic performance and social stability. (...)

Youth employment is a multi-sectoral issue, but few youth employment projects are implemented by multi-sectoral teams. Evidence on what works in youth employment is scarce. Known factors that contribute to success are a comprehensive approach including participation of the private sector, monitoring and follow up of individual participants, and complementary interventions, such as a combined training with job search and placement assistance, rather than isolated interventions. In high-unemployment environments, wage subsidies, skills training and job search support are of little impact; and demand-side interventions are needed. (...)

The international literature on youth employment programs suggests a comprehensive approach works best. A "comprehensive approach" is a multi-pronged strategy that includes complementary interventions aimed at removing key constraints to youth employment across multiple elements of the youth employment spectrum, namely: influencing the job creation and work opportunities for youth, labour markets characteristics and labour supply."

(Own emphasis)

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[211] The World Bank is an international financial institution that provides loans to developing countries for capital programmes – See (http://www.worldbank.org)
[212] See: (http://elibrary.worldbank.org/doi/abs/10.1596/978-0-8213-9794-7) at pages XI and XV (Overview)

6.2.2 JustJobs Network[213]

A report published by JustJobsnetwork[214], with assistance from the Development Policy Research Unit of South Africa[215], draws the following conclusions regarding the ETIA:

"The ETIA is an important measure to curb high youth unemployment in the short run, and it is likely that the program will open doors for young people to enter the labor market and become more employable. However, it is by no means a panacea to South Africa's youth entering the labor market. The ETI must be linked to strategies that include the up-skilling of South Africa's youth, growing small businesses and promoting labor-intensive sectors if it is to have the desired impact of improving youth employment outcomes in the long term.

To this end, policymakers should increase awareness of the scheme among small businesses and ensure that the cost-benefit analysis for these enterprises is in favour of participation. Most importantly, South Africa must explore ways to link the subsidy with skill development more directly – for instance, by offering a skilling component to program participants aligned with their occupation."

(Own emphasis)

6.2.3 The OECD[216]

As part of its 2013 Economic Surveys[217], the OECD had the following comments regarding South Africa's youth unemployment issues and measures that have been put in place to combat these:

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[213] *Ibid* 195 and (www.justjobsnetwork.org)

[214] 'Overcoming the youth employment crisis: Strategies from around the world', at: (www.justjobsnetwork.org/wp-content/pubs/reports/Overcoming%20the%20Youth%20Employment%20Crisis.pdf) - page 70.

[215] The Development Policy Research Unit is an institutionally recognised research unit located within the School of Economics at the University of Cape Town.

[216] The Organisation for Economic Co-operation and Development or "OECD" is an international organisation helping governments tackle the economic, social and governance challenges of a globalised economy, see: (http://www.oecd.org)

[217] See: (http://oecd-ilibrary.org/economics/oecd-economic-surveys-south-africa-2013/executive-summary_eco_surveys-zaf-2013-2-en) at page 8.

"South Africa is advancing, but is failing to fully achieve its considerable potential. (...)

Education is a critical problem. Skill mismatches represent one aspect of the persistently high unemployment rate, especially for the youth: the education system is not producing the skills needed in the labour market. Returns on a high-school certificate, both in terms of finding a job and the earnings premium when employed, are mediocre, while the shortage of skilled workers is reflected in a high premium for university graduates.

If South Africa is to achieve full employment, the quality of basic and vocational education has to be improved."

(Own emphasis)

6.2.4 The ETIA: An isolated intervention, or not?

Earlier in this paper (see 1.2 and 3.1), I briefly alluded to the ETIA as the fruition of government's plan to 'offer a tax incentive to reduce the cost of hiring young labour market entrants'. I also noted that this incentive forms part of a greater, national initiative, known as the National Development Plan 2030[218] ('NDP') - published on 15 August 2012. The NDP is a long-term South African development plan, developed by the National Planning Commission in collaboration and consultation with South Africans from all walks of life.[219] As one of the 13 action points under chapter 3 of the Summary, Objectives and Actions of the NDP[220], entitled 'Economy and Employment', the need for such a tax incentive was confirmed. This need was satisfied by the enactment of the ETIA, effective from 1 January 2014.

This is a tax paper (or analysis), not a socio-economic one. I therefore do not intend to analyse the NDP in any detail, save to say that, from the contents thereof, it is evident that the ETIA is not an isolated intervention attempting to combat high youth unemployment, as many may have feared. On the contrary,

[218] See: (www.gov.za/issues/national-development-plan-2030)
[219] See: (https://nationalplanningcommission.wordpress.com)
[220] See: (www.gov.za/sites/www.gov.za/files/Executive%20summary-NDP%202030%20-%20Our%future%20-%20make%20it%20work.pdf)

it forms part of a more comprehensive plan to overhaul the South African economic environment that has been (or will be) put in place to achieve certain goals – including to increase general employment. Whether the other measures that government intends to put in place in terms of the NDP will indeed become reality remains to be seen. Questions regarding these measures and their complementary interaction with the ETIA also remain unanswered (see below and 6.3 for personal comments regarding the timing of the ETIA). It does seem, however, that the ETIA is not an isolated attempt to solve the problem.

A particular point of concern regarding the ETIA as part of the NDP is its timing and also the fact that it will only be effective until the last day of December 2016 (see 'Sunset' clause – 4.3.9). It does not seem to be advisable, in my view, for such an incentive have such a short lifespan if the greater initiative that it forms part of will continue until 2030. Of further concern is the fact that the incentive, aimed at the demand-side of the labour market, is enacted before the supply-side issues, such as poor basic education and skills shortages, are addressed.

It will be interesting to see if the government decides to extend the duration of the ETIA beyond the initial 'sunset' date in 2016. Not to do so, would not be advisable, in my view.

6.3 Personal views

Throughout the course of this paper I have provided chapter (or topic) specific personal views. At the end of chapter 4, I addressed some of the common concerns raised by stakeholders regarding the ETIA and made some of my own comments on these and therefore do not intend to do so again in this chapter.

As a tax act, the ETIA has a specific goal and, in my view, it was drafted in a plain, concise and understandable manner to achieve this. Ultimately, the aim remains simple: to encourage 'eligible employers' to make use of a governmental wage subsidy by hiring 'qualifying employees' at a reduced cost. By doing so, previously unemployed young people would be introduced into the job-market for the first time. In general, the plain language of the ETIA is uncomplicated and, if the surrounding circumstances are amenable to it, it should achieve its conceptual goals (see for example 4.1.1 and 4.1.2 for examples of such goals).

All that remains to be addressed is whether, in my view, the ETIA will be successful in actually achieving its goal of reducing or combatting youth unemployment.

My opinion is that it will not, and my reasons are the following:

1. ‘Jumping the gun’ – poor basic education and a lack of skills: To my mind, the biggest flaw of the ETIA is that it does not address much bigger, fundamental issues in South Africa’s employee market. It was enacted prematurely and before these fundamental issues received attention. The foremost of these fundamental issues is the fact that a greater portion of the unemployed youths, who are the ‘target group’ of the ETIA, are unemployable due to having little or no form of basic education. It is, of course, easy to sit on the side and criticise, but in my view the improvement of our education system should be the first priority at this point in time and deserves more attention and funding than what it is receiving at the moment.

2. Practicality of using the PAYE system: As mentioned earlier in chapter 4, employers need to be registered under the PAYE system in order to qualify for the incentive under the ETIA. This poses some practical challenges and seems to automatically exclude some of the employers that the ETIA is actually aimed at. To my mind, the types of employers that will benefit from the incentive under the ETIA are small to medium-sized enterprises. These types of enterprises do not always have the infrastructure and resources to register and process monthly PAYE filings and payments, possibly rendering them ineligible to qualify as ‘eligible employers’ under the ETIA. In my view, this requirement should be revisited.

3. A lack of compulsory skills training: In contrast to the two Projecto Joven’s in Argentina and Chile (see 5.3), the ETIA does not include a compulsory skills training component. The Minister of Finance does have prerogative to issue regulations to make on-the-job training mandatory under the ETIA,

but nothing has been forthcoming thus far. The fact that the ETIA has a lifespan of only three years (initially) also raises some concerns about the extent of actual skills development of qualifying employees during the period of their 'employment' under the ETIA. It also begs the question whether this omission would not entice some employers to merely hire employees to make use of the incentive, leaving employees jobless (once again) and still unskilled, at the end of 2016. From a long-term point of view, this aspect needs to be addressed to make it 'worthwhile' for employees and to ensure a general upskilling of the youth employee-pool in South Africa.

4. <u>Duration of the incentive under the ETIA</u>: This concern may be addressed during 2016 and government may decide to extend the effective period of the ETIA beyond 31 December 2016. Should they not, the incentive will prove to be of little value. South Africa needs a period of sustained employment of previously unemployed youths, i.e. for those youths to keep their jobs for a prolonged period of time to develop skills, build confidence, strengthen personal financial positions, etc. By removing this incentive within three years of its enactment, the Legislature will render those employed under the auspices of the ETIA once again unemployed and with little more to show for themselves than before.

5. <u>Incongruent business-, corporate- and employment laws and access to business financing</u>: As the World Bank and JustJobs network stated (see 6.2.1 and 6.2.2), youth unemployment in South Africa requires a comprehensive strategy that includes several complementary interventions, in order for the issue to be addressed adequately. South Africa is not renowned for being a particularly easy place to do business in, in comparison to other parts of the world. If our youth employment market is to benefit fully from an incentive such as the ETIA, other facets of 'doing business' also need to be addressed. As mentioned herein before, small to medium-sized enterprises are the lifeblood of our economy's future and consequently should be the most prominent exponents or users of the incentive under the ETIA.

Big corporates will never be the main contributors to the success of ETIA in curbing unemployment as these institutions generally require skilled and experienced employees. The incentive under the ETIA is also financially too insignificant to be of any benefit to such corporates. Small to medium-sized enterprises may, however, make use of this more frequently as they will obtain a proportionally bigger benefit. Government therefore needs to ensure that it is easier and more sustainable for entrepreneurs to set up and operate such businesses.

6. A lack of awareness: As noted above, small to medium-sized enterprises need to be the most prominent users of the ETIA for it to be a successful counter-unemployment measure. It seems, however, that many entrepreneurs that own such enterprises are unaware of the ETIA and therefore have not enrolled and do not exploit the benefits available thereunder.[221] Government should do more to promote the ETIA and should also provide public consultancy services to educate business owners more in this regard.

Although a lot more can be said about the ETIA, I believe that the above adequately summarises my understanding of and views on this 'new' piece of legislation. There is room for improvement and several aspects require addressing if one takes a holistic view on youth unemployment issues and the potential impacts of the ETIA. It remains to be seen whether government will do the necessary to meaningfully address the concerns that have been identified above over the next few years.

[23,200 words - Chapters 1 to 6, excluding footnotes]

[221] See article published by Moneyweb.co.za for further comments at: (www.moneyweb.co.za/archive/private-sector-sceptical-about-youth-wage-subsidy/)

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