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To: THE DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

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BY EMAIL: R.Jeewan - RJeewan@thedtic.gov.za

Dear MS R Jeewan

RE: SECTION 12I INDUSTRIAL POLICY PROJECT SURVEY RESULTS FOR COMPANIES IMPACTED BY COVID-19

We at the South African Institute of Tax Professionals (SAIT) are writing this correspondence as a follow-up to our prior correspondence on 13 July 2020 and our follow-up telephonic discussions in September. The purpose of these discussions related to the impact of COVID-19 on company compliance in terms of the section 12I Industry Policy Project incentive. We are mindful that National Treasury is currently preparing its tax proposals for the 2021 February Budget Announcements.

In our initial submission, we relayed the concerns of our members who were finding that many companies were already having trouble meeting their section 12I targets because of COVID-19 (in terms of the disruption of economic activity caused by the lockdowns and following adverse economic climate). In our prior discussions, Government appeared to have sympathy with these concerns and accordingly requested more information directly from the companies adversely impacted.

The goal was to have a reality check on the situation to focus on the practical realities as opposed to theoretical possibilities. We at SAIT conducted a poll with approximately 20 companies to determine the practical impact. Provided below were the results:

1. Concern #1 - Training: A key annual requirement for section 12I is investment in skills development (training) for employees). This requirement is expressly stated in section 12I(8)(e) and (10)(e) with corresponding regulations. Satisfaction of this requirement is the overwhelming concern. Almost all of the approximate 20 companies surveyed are having a problem in this regard. Many manufacturing companies provide practical hands-on training, which cannot be properly substituted with online classes. Some training required foreign or distant expert support, most of whom could not travel. Others simply did not have the internal resources to shift to online training while still others had to make training cuts due to adverse economic conditions. All of these companies are seeking a waiver or a severe reduction in the training requirement for 2020 (possibly with trade-off of an extended section 12I compliance period).

2. Concern #2 – Energy Efficiency: A second key annual factor for section 12I is investment in energy efficiency / cleaner production. This requirement is expressly stated in section 12I(8)(a)(ii) and (10)(g) with corresponding regulations. Satisfaction of this requirement is of concern to more than half of the respondents. This factor appears to be hindered by two factors. Firstly, overall production is down, thereby indirectly impacting the energy efficiency numbers (i.e. less production equals less potential energy efficiency). Secondly, actual investment into energy efficiency has slowed for 2020 as funds for investment has dried up during the 2020 economic downturn. These companies are mainly seeking a waiver in the energy efficiency requirement for 2020 with a few seeking a 2-year extension (possibly with an extended section 12I compliance period).

3. Concern #3 – Productive Use: A base requirement for section 12I is the "brought into use" requirement. Under this requirement, more than 50 per cent of the manufacturing assets must be "brought into use" within 4 years from approval (section 12I(7)(c)). A large minority of companies have brought some of their manufacturing assets into use but have not yet reached the "more than 50 percent" level. Usage has been disrupted by the lock-downs and slowed by weak economic conditions. This disruption is expected throughout 2020 and 2021 in line with the expected return of economic pre-COVID conditions. It is noted that the adjudication committee can extend the requirements by one year (section 12I(19)(a)). However, some of the companies have already requested a delay by one year prior to 2020 due to unique business circumstances. Therefore, these companies are requesting either an automatic 1-to-2 year extension or a modified discretionary approval for extension for the same period via the section 12I(19)(a) process.

4. Concern #4 – Asset Acquisition: A base requirement for section 12I is the "acquisition" requirement. Under this requirement, more than 50 per cent of the manufacturing assets must be acquired within 4 years from approval (section 12I(7)(c)). A small number of late entries into the section 12I regime are still falling short of the "more than 50 per cent" level. The lockdown and subsequent economic conditions have delayed further acquisitions. This disruption is again expected to last throughout the remainder of 2020 and all of 2021. These companies are accordingly requesting the same 1-to-2 year extension as those requesting an extension for the "brought into use" requirement.

While the above patterns show a more narrow impact than initially anticipated in terms of the overall issues, COVID-19 and the economic aftermath has taken its toll. Concerns also exist as to the potential impact of any second wave ahead.

We thank you for the prior discussions concerning this matter. We remain willing and supportive of any further engagement requirement in order to assist.

Yours faithfully,

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