Dear Madam,

WITHDRAWAL OF VAT RULING: ANNUAL SUBSCRIPTION INVOICES VAT NUMBER: 4570104366

We understand that the Commissioner intends withdrawing the ruling issued to SAICA dealing with the deductibility of VAT on SAICA membership fees with effect from 1 January 2013. The original ruling was issued in terms of section 72 of the VAT Act. It was issued on the basis that an anomaly was created by the fact that sole practitioners will qualify to recover the VAT but other business forms will not. (SAICA application document attached).

The issue is much bigger than SAICA membership. It touches at the heart of the VAT system that seeks to tax value added in the supply chain. It specifically taxes the residual after the VAT on goods and services acquired for the purpose of consumption, use or supply in the course of making taxable supplies has been set off against the value generated by the inputs (referred to as output tax). We are in agreement that the VAT Act cannot cater for each and every individual transaction or situation in the course of running businesses, but where established principles are under threat, the VAT Act must be amended to give effect to the foundational principles.

Membership of professional bodies primarily seek to ensure that the members of the profession represented by the body act within the professional guidelines of the body and that continuous development and maintenance of key skills are maintained. In this regard it is important to understand that the professional bodies only regulate their members; they are not responsible for their members’ conduct and training. Employers in employing professionals require that their employees remain members of their respective governing bodies to ensure effective monitoring of ongoing professional conduct and development, failing which, the employer would need to assume this responsibility. The reason why the employer pays for the
employee’s membership fees is to effectively outsource the regulatory requirements to the regulatory bodies. The only practical difficult is that only the employees (and not the employers) qualify to be members of professional bodies.

From a VAT perspective the cost of the professional membership is part and parcel of the cost of employing the professional resources, and as such part of the cost to make taxable supplies. In income tax terms recognition is given to this fact as no fringe benefits accrue to the employee, the real beneficiary being the employer.

Based on the above we recommend that a general public ruling be issued to confirm the recoverability of VAT on professional membership fees as an interim measure. As a longer term solution we recommend an amendment to the VAT Act to regulate and clarify the position.

Please do not hesitate to contact us, should you have any questions regarding the above.

Yours faithfully

Piet Nel CA(SA)  Muneer Hassan CA(SA)
PROJECT DIRECTOR: TAX  SENIOR EXECUTIVE: STANDARDS

The South African Institute of Chartered Accountants

CC:  Keith.Engel@Treasury.gov.za
     Seelan.Moonsamy@Treasury.gov.za
     nalberts@sars.gov.za
     DMunien@sars.gov.za
     rgovender@sars.gov.za