19 April 2013

South African Revenue Service
Private Bag X923
PRETORIA
0001

BY E-MAIL: sauthar@sars.gov.za

SUBMISSION: DRAFT AMENDMENT TO SCHEDULE NO. 6 RELATING TO DIESEL REFUND

Dear Sir/Madam

The South African Revenue Service’s Draft Amendments to Schedule No. 6 relating to diesel refund refers. Please find SAICA’s response to the request for comments on the Draft Amendment.

Comment relating to the effective date of the notices

First notice

In terms of the draft notice retrospective allowance is made for farming diesel refund beneficiaries to present supplementary information in the absence of logbooks to support refund claims for the period 1 April 2011 to 31 March 2013.

The need for the additional arises when SARS audits farming diesel refund beneficiaries and these audits are not limited to the period 1 April 2011 to 31 March 2013.
It is proposed that farming diesel refund beneficiaries should also be allowed to present supplementary information in the absence of logbooks to support refund claims for periods prior to the period 1 April 2011 to 31 March 2013.

Second notice

The second draft notice principally introduces the definition of a logbook and does so from the 1 April 2013.

Comment to the draft notice can be made until 19 March 2013 and the draft note will therefore only become effective thereafter. Farming diesel refund beneficiaries may not be aware of the new logbook definition and may not meet the requirements in the period from 1 April 2013 to the date of the publication of the final notice.

It is proposed that the effective date of the definition of logbook for purposes of the notice is the date on which the notice is issued in its final form.

The requirement to enter records and occurrences in the logbook

The definition of logbook contains the requirement that entries must be made to record “all activities and occurrences that impact on the validity of refund claims” in the logbook.

The practical problem of recording in the logbook for each event is very onerous and impractical. The usage by farmers often occur under difficult circumstances, such as when it is raining or under conditions of dust which make recording and reading of meters difficult. The work is also often done during the night and there is not always sufficient light to read numbers on counters etc.

It is proposed that requirement must not be to record all activities. It should also allow that the entries can be made to record usage of a period of time, such as weekly or monthly, where the activities or occurrences are based on the same activities or occurrences (the purpose or usage) of the diesel.
An alternative suggestion in instances where it is difficult or impractical to record all activities or occurrences would be to allow for the recording of non-qualifying activities or occurrences of the use of diesel only.

**Example logbooks**

It is not clear from the notice if the Example for the “Diesel Storage Logbook” and the “Diesel Usage Logbook” are examples only or whether they introduce additional requirements with regard to the information that must be contained in the logbook. The draft notice refers to the example in the following sentence: “Example(s) of minimum logbook record requirements are available on the SARS website at [www.sars.gov.za](http://www.sars.gov.za).”

It is submitted that these should be seen as examples only and that as long as the information required by the definition of logbook in the notice was kept by the farmer it will be accepted as a logbook. The examples will therefore not introduce requirements in addition to the ones contained in the notice when it is finally issued.

**Additional information required in example logbooks**

The “Diesel Usage Logbook” includes a requirement to record the “vehicle registration number / machine serial number.”

Not all machines used may have a registration number or serial number and it is submitted that all that is all that is required is that the machine be identifiable.

**The discretion of the Commissioner**

The draft notice that is intended to apply from 1 April (but see our earlier comment in this regard) gives discretion to the Commissioner to accept additional information from the farming diesel refund beneficiary to support refund claims. The draft notice then states that “these criteria will be applied in the absence of required logbook information...”
It is assumed that the phrase “these criteria” refers to the additional information and it is submitted that it is considered to clarify the note in this regard. The intention is clearly to allow for the use of additional information (of the kind listed in the note) in the absence of a logbook that meets the requirements of the definition in the draft notice.

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

Yours faithfully

Piet Nel CA(SA)

PROJECT DIRECTOR: TAX

The South African Institute of Chartered Accountants