31 March 2011

Legal & Policy Division
SARS
PO Box 402
Pretoria
0001

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

Dear Sir/Madam

COMMENTS ON THE DRAFT INTERPRETATION NOTE NO 20: ADDITIONAL DEDUCTION FOR LEARNERSHIP AGREEMENTS

We thank you for the opportunity to provide input on the Draft Interpretation Note No. 20 (Additional Deduction for Learnership Agreements). We set out below the SAICA National Tax Committee submission comments.

1. We have observed from the draft document that the following matters have still not been clarified.

   As an example:

   a) Assume the contact was for three calendar years.

   b) Assume that, because of annual closure of offices, the employee only started on 5 January.

   c) The training contract was signed on 1 February and it was registered with the relevant authorities on 1 March.

   The questions we have are as follows.

   a) In view of the fact that the employment did not start on 1 January, while is it clear that this is a three year contract, will a three year completion allowance be allowed?

   b) In view of the fact that registration only took place on 1 March, is there any allowance for the first two months until the February year end?
c) In view of the fact that the contract was not registered for a full period of three years as it was only registered on 1 March, is one still entitled to a three year completion allowance?

d) We are seeking clarity on which is the important date? Is it the date when the employment commenced, the date when the training contract was signed or the date when it was registered?

2. Furthermore, all the references to the Companies Act No. 61 of 1973 should be replaced by references to the new Companies Act, No. 71 of 2008. See the relevant pages as indicated below:

a) Page 2: "association of persons" - both bullets;

b) Page 2: "Companies Act"

c) Page 3: Quotation of section 10(1)(e): section 10(1)(e)(i)(cc);

d) Page 4: NOTE under the quotation section 10(1)(e) must be changed to take the amendments into account;

e) Page 4: 4.1.3 Association of persons: An association of persons may take the form of a non profit making company defined in section 1 of the Companies Act, 2008;

f) Page 9: Example 3 - Calculation of taxable income: Facts: The financial statements of ... Home Owners Association, a non profit company as defined in section 1 of the Companies Act, which ....

3. In the Budget Speech the following was noted:

“The learnership tax incentive, designed to support youth employment, will expire in September 2011. The tax expenditure associated with this incentive is estimated to have amounted to R324 million in 2007/08, but its effectiveness is difficult to assess. Government proposes to extend the incentive for five years, subject to an analysis of its effectiveness by businesses, sector and training authorities, and the Department of Higher Education and Training. The review will take place during 2011”.

The above needs to be considered in the Draft Interpretation Note 20.

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

Muneer Hassan CA(SA)
PROJECT DIRECTOR: TAX
The South African Institute of Chartered Accountants