30 September 2008

South African Revenue Service
Private Bag X923
PRETORIA
0001

By e-mail: policycomments@sars.gov.za

Dear Sir / Madam

FOLLOW-UP SUBMISSION: CALL FOR COMMENT: DRAFT INTERPRETATION NOTE SECTION 11(e) DETERMINATION OF THE AMOUNT OF THE DEDUCTIONS ALLOWABLE

We refer to your call for comment in the above regard and to our previous submission dated 9 May 2008 (copy attached for ease of reference). We would like to raise the following additional point that has been brought to our attention by members of SAICA’s National Tax Committee.

Withdrawal of permission to use the debtor accounting system

Paragraph 3.3.1 of the draft Interpretation Note suggests that permission to use the so-called “debtor accounting system” will be withdrawn with effect from years of assessment commencing on or after 01 January 2009. The Interpretation Note, however, does not appear to address the practical implications of having to change from the debtor accounting system to a wear and tear calculation (subject to section 23A). For example, clarity is required on whether SARS will permit the use of original cost of leased assets for the purposes of calculating wear and tear for the remaining duration of the contracts, in respect of those assets acquired prior to 01 January 2009, that have been accounted for to date, in terms of the “debtor accounting system”. In addition, it is plausible that a deferred tax asset/liability (equal to the difference between the future tax and accounting treatment of assets under leases for the remaining duration of the respective leases, to enable) may arise on the effective date of the switch over. This is best illustrated by way of an example. Kindly refer to the Annexure to this letter which summarises the deferred tax consequences. Clarity is required as regards the manner in which taxpayers should account for this deferred tax asset/liability, for tax purposes.
We suggest that transitional arrangements be implemented to allow for taxpayers to elect to either implement a phasing out of debtor accounting by permitting use thereof for assets leased prior to 01 January 2009 or to permit an adjustment for tax purposes, of the deferred tax asset/liability (that arises per the illustrative example), and an immediate application of section 11(e) for all leased assets, irrespective of the date of the lease.

Please do not hesitate to contact me should you require further information.

Yours faithfully

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