Dear Sir/Madam

CALL FOR COMMENT: DRAFT INTERPRETATION NOTE SECTION 11(A) PRE-TRADE EXPENDITURE AND LOSSES

We refer to the call for comment on the above-mentioned Draft Interpretation Note (The Note). Set out below please find the SAICA National Tax Committee’s submission.

General comment
At the outset we wish to point out that The Note is very well written. We found it to be a helpful guide.

Specific comments

1. We disagree with the interpretation that none of the allowances provided for in section 11 will qualify for deduction under section 11A. Section 11A allows a deduction of expenditure incurred. The Note includes a quote from Juta’s Income Tax which goes on to mention that “an allowance generally refers to the deduction of expenditure which is of a capital nature. The indirect deduction of such expenditure can occur through a specific allowance...”.

Therefore, generally, to qualify for an allowance, an expense had to be incurred. This is required by section 11A. Section 11A refers to the entire section 11 but excluding section 11(x). If allowances were not be included, the section should have specifically excluded s11(cA), (e), (f), (g), (gA), (gC), (h), (hB), (j), (t) and (w).

2. In the 6th line on page 7, it is stated that the excess of the expenditure over the income cannot be set off against other income but can be carried forward to the following years.
Although we accept this interpretation, we are of the opinion that the law does not clearly make provision for such carry forward. See for example section 11(n)(iii).

Please do not hesitate to contact me should you wish to discuss the above.

Yours faithfully

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PROJECT DIRECTOR: TAX
The South African Institute of Chartered Accountants