Dear Madam

CALL FOR COMMENT: DRAFT REGULATIONS TO BE ISSUED IN TERMS OF SECTION 10(1)(d) OF THE INCOME TAX ACT

We refer to your call for comment regarding the above-mentioned. Set out below please find SAICA’s comments, which have been provided by members of our National Tax Committee.

Under Conditions:

2(b)(vii) – Firstly there is uncertainty about the interpretation of the phrase “Substantially the whole”. In Interpretation note 44 issued by SARS the phrase “substantially the whole” has been interpreted as 85%. Will it have the same interpretation for the purpose of these regulations? Secondly, does the phrase “funding must be from annual members” only refer to membership fees, or does it also relate other funds obtained from members where members are charged individually for specific services provided by the organisation. This is an important point as a lot of organisations not only create their funding by membership fees, but also charges members for specific services that they provide.

2(b)(ix) - If the exemption is withdrawn can there not be a window period to be reinstated and /or have a deemed disposal of assets to allow the entity to continue as a taxable entity without transferring all the assets to another entity.

2(b)(x) - This clause is too limiting for example SAICA presents seminars / events for the benefit and in the interest of its members (refer section 5.15 of the Constitution), which is not in direct competition in the business, profession or occupation of its members but may be similar as some of our members also present seminars or provide training as part of their business activities.

2(c)(iii) - Should there not be a window period to rectify non-compliance and be reinstated without a penalty.
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