Ref: 205291
Call for comment

9 May 2008

South African Revenue Service
Private Bag X923
PRETORIA
0001

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

Dear Sir / Madam

CALL FOR COMMENT: DRAFT ADDENDUM A TO GENERAL NOTE 29: SECOND SCHEDULE APPORTIONMENT OF SURPLUS AND MINIMUM BENEFIT REQUIREMENTS

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.

The content of the document is in line with the legislation, paragraph 2C of the Second Schedule to the Income Tax Act.

General comment: As correctly stated on page 2, distributions to employer’s surplus accounts will qualify for this exemption, and will therefore be included in ‘gross income’ in terms of paragraph (eB) of the ‘gross income’ definition. As these distributions to employer’s surplus accounts are usually not in the form of cash, but only an ‘allocation’ to be utilised in the future, there appears to be uncertainty about the timing of the taxation on such surplus distributions. Consideration should be given to provide further guidance regarding the timing of the taxation of such surplus distributions to employers.

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