31 October 2008

The South African Revenue Service
Private Bag X923
PRETORIA
0001

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

Dear Madam

CALL FOR COMMENT: TAX CLEARANCE CERTIFICATE PROCESS

We refer to the call for comment on the above-mentioned process. Set out below please find the SAICA National Tax Committee’s submission regarding the above mentioned process.

We welcome the opportunity to comment. The tax clearance certificate process has long been a point of frustration for taxpayers and practitioners alike and we hope that this initiative by SARS to revamp the process will resolve the problems.

1. Challenges

1.1 Initial applications are being declined, and in most instances it is no fault of the taxpayer, but primarily due to incorrect capturing of information on the SARS system.

1.2 After making several calls to the call centre, taxpayers sometimes end up with completely different answers of what is outstanding on the specified account.

1.3 Problems are being encountered with who has signed the application form.

1.4 With applications from one year to another, often a taxpayer is in effect “renewing” the tax clearance. When re-applying in the next year, there are suddenly forms outstanding, which were not outstanding in the previous year.

1.5 Problems that were attended to in the prior years remain outstanding in the current year.

1.6 Where there are credits on the account, the application is declined until the credits have been sorted out.
1.7 Outstanding IRP6’s being requested for tax years that have already been assessed.

1.8 Proof of electronically submitted tax return are not being accepted.

1.9 A further unnecessary complication is that in the case of tax clearances for foreign investment, SARS require an original document from the bank confirming that the funds are in the bank account ready to be remitted.

2. **Suggested improvements**

2.1 A dedicated department should be set up to deal with tax clearance certificates. The consultants allocated to this department should have access rights to all the relevant sections of the system, in order to ensure that the correct information is relayed to the applicant.

2.2 A dedicated telephonic line e.g. “select option 5” for tax clearance applications. Here too, the consultants should have access rights as mentioned above.

2.3 A dedicated e-mail address, specifically for tax clearance applications should also be made available.

2.4 By having a dedicated department, this would cut down on unnecessary delays. Should there be any capturing errors, these could then be attended to immediately without the documents having to go to the back-office.

2.5 The advantage of having a dedicated department is that the applicant could obtain the contact details of the person attending to the application. If there are further problems, the applicant could then direct the relevant information or documentation to that consultant. Again, this would cut down on any unnecessary delays with the application process.

3. **Tax clearances for tender purposes**

3.1 The biggest problem that practitioners experience is that they do not know what is outstanding at SARS. When one submits an application electronically, one receives an e-mail stating that the client’s matters are not in order without any indication of what this involves. If the taxpayer goes into the local branch office they will receive the detail of the outstanding issues, but often when these issues have been attended to, new issues arise.

3.2 It is most frustrating to be told of an outstanding issue relating to a tax year for which a number of previous clearances were obtained. The most recent example relates to employees tax issues and often dates back to the 1990's.

3.3 It can take weeks for SARS to rectify capturing or other problems. At times the taxpayer loses out on a tender, due to these frustrating turn-around times that SARS implement.

4. **Tax clearances for foreign investment purposes**
4.1 The preamble of the document states that this application will not be considered if a balance sheet was not submitted with the previous return of income. This is not always possible as the taxpayer may not have been required in the previous period to submit a balance sheet.

4.2 It is often not known what the particulars of the foreign investment will be and it is therefore difficult to complete that part of the application. Taxpayers often obtain the clearance before they shop around for an investment in the country.

4.3 The local branch offices have lately refused to issue the clearance if proof of the availability of funds were not provided. They insist that the only acceptable proof is a recent bank statement reflecting the amount of money necessary for the investment. This creates problems as taxpayers often utilise distributions from trusts or repayments of loan accounts to enable them to make the foreign investment. This leads to unnecessary bank costs.

5. Changes to the application form

5.1 Part 2 – Particulars of representative (Public Officer/Trustee/Partner):

5.1.1 Add tax practitioner as an option.

5.1.2 Add a section where the tax practitioner’s PR number can be filled in.

5.1.3 If the tax practitioner is applying on behalf of the taxpayer, the tax compliance Officer attending to the application details should be allowed to be completed on the form i.e. the person who will be going to the branch office in person.

5.2 Part 3 – Particulars of tender:

5.2.1 This should be removed as it is not necessary. The certificates are valid for a period of one year. The certificates are used by the taxpayers for numerous tenders as and when needed.

5.3 Part 5 – Appointment of representative/agent:

5.3.1 A signature from the tax practitioner or tax compliance officer should suffice as an application for the clearance certificates are never undertaken without consent from the taxpayer/client.

6. Online applications (e-Filing)

6.1 The process is easy to use. We would suggest that SARS branch offices have a dedicated counter to print out tax clearance certificates that have been approved on e-filing. Alternatively SARS should mail the tax clearance certificate in a PDF format like CIPRO does with CK and certain CM documents.

6.2 Should the application be declined, the reasons should be listed. This would make it easier to follow up and sort out as quickly as possible.
6.3 Clear instructions and details should be made available as to the required format of the tax reference numbers.

7. General

7.1 Allocation of payments to multiple periods/taxes

7.1.1 A form e.g. TCC 002, could be made available to be attached to the cheque or application form. The taxpayer / tax practitioner could then complete it and indicate the amounts that need to be allocated to the various tax periods or different types of taxes.

7.1.2 As long as there is proof of payment there should be an over-ride function that allows the certificate to be issued as invariably, SARS takes an indefinite time to allocate the payments accordingly.

7.2 Minimum outstanding balance over-ride

7.2.1 Should there be an outstanding balance on the taxpayer’s respective accounts, which are due to processing/capturing errors made by SARS; an over-ride function should be available so that the certificate can still be issued.

7.2.2 If there is an amount outstanding on the system and it is below a certain limit (i.e. R500), then the over-ride function should be available so that the certificate is still issued. The taxpayer could sign an undertaking to pay the outstanding balance within a certain time period (i.e. two weeks or one month from the date that the certificate was issued). Should the taxpayer not accede, then SARS would have the right to retract the issued certificate.

7.3 Taxpayers registered at different tax offices

7.3.1 An application should be attended to at any SARS branch office, irrespective of where the taxpayer is registered.

7.3.2 There are times where a taxpayer has relocated but he remains registered at the incorrect branch office, the application should still be attended to at the office it has been presented to.

8. Branch office application

The branches offices phone taxpayers to pick up tax clearance certificates, but this is not always the case. An e-mail would be more appropriate in most instances.

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

Yours faithfully

M Hassan CA(SA)

PROJECT DIRECTOR: TAX