13 March 2009

South African Revenue Service
Private Bag X923
PRETORIA
0001

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

Dear Sir/Madam

CALL FOR COMMENT: DRAFT INTERPRETATION NOTE SECTION 11(e) WEAR-AND-TEAR OR DEPRECIATION ALLOWANCE

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

1. Non-qualifying assets (par 4.1.2)

1.1 In our opinion the second bullet is not entirely correct. Section 23B(1) provides that double deductions are not permitted. This section does not stipulate that a section 11(e) allowance is not available when an allowance is available under another section in the Income Tax Act.

2. Leased assets (par of 4.2.6)

2.1 The comments in the first paragraph do not seem to be supported by any legislation in the Income Tax Act. The revised draft explains why and how the residual value should be taken into account, but it still does not give legislative support to the proposed treatment.

3. Assets that were damaged or destroyed and replaced

3.1 Section 11(e) subparagraph (iv) still refers to section 8(4)(e) as it was before 22 December 2003. An amendment to section 11(e) is therefore required to correct this.

4. “Small items” (par 4.3.5)

4.1 The Interpretation Note shows a cost of R7 000 per item. This is the only place where this change is shown. This has caused confusion previously. The Previous Practice Note 19 was not amended for many years even though SAICA continuously pointed this out whereafter it was eventually amended. As a result there was confusion as to whether the amount was R2 000 or R5 000.
5. Withdrawal of permission to use the debtor accounting system.

5.1 It appears that assets currently being dealt with under the debtors accounting system will be allowed to conclude under this system. This is an acceptable treatment. We are however concerned about the 1 March 2009 date that has already passed and suggest a future date such as 1 January 2010 to give businesses sufficient time to set up their systems to accommodate the non-application of assets being let out under the debtors accounting system.

6. Annexure A: Schedule of write-off periods acceptable to SARS

6.1 Only cellular phone masts should be written off over 10 years. Antennas attached to the cell phone mast have shorter useful lives, i.e. antennas useful lives are the same as communication equipment 5 years;

6.2 We note that containers are now written off over 10 years. These were previously written off over 5 years. We would like to understand the reason for the change.

6.3 The suggested rate for portable generators on page 21 of the Draft Interpretation Note is 5 years. Seen in light of the current electricity crisis and the effect on small business there is a strong case to be made for an accelerated depreciation rate (for example 3 years) for portable generators as a large number of businesses will not be able to survive without them.

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

Yours faithfully

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