Dear Sir / Madam

CALL FOR COMMENT: DRAFT INTERPRETATION NOTE SECTION 6quat REBATE OR DEDUCTION FOR FOREIGN TAXES ON INCOME

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.

This is an extremely difficult document to work through and introduces a further apportionment in respect of foreign taxes which go beyond the section itself - explained below. This makes section 6quat even more complicated than it already is and we strongly oppose this additional dimension.

In particular:

1. On page 4, two paragraphs above example 3:

   The sentence in bold is confusing and should merely read **before the rebate provided for in section 6 is taken into account.**

2. On page 7 *the three-step limitation process*, first bullet - Step 1 this is a reference to 6quat(1A) and not 6quat (1)

3. On page 7 the paragraph before example 5. This is the point above which is a new interpretation which we disagree with. It allows only 25% of the foreign tax to be deducted when it relates to a gain of which only 25% is included in income. The balance of the foreign tax is forfeited. This is unnecessary as there is already a limit imposed by limiting the foreign tax to the SA Tax payable. This complicates the already complicated formula of 6quar. This concept pervades the whole interpretation
note. The example on page 17 in 3.6.5 before example 12 also introduces this apportionment.

4. The last paragraph before 3.4 on page 9 at **this statement seems to be incorrect. It states that the capital gain comes before the sections 18 and 18A deductions?

5. In 3.6.1 on page 12 there is a list of taxes not taxes on income and not available for rebate set off. The last bullet includes, presumably the new presumptive tax on turnover for small business. Why does this not qualify for rebate?

6. In 3.6.5 Example 13 on page 17: A statement is made that R8000 is forfeited (once again because of apportionment) and does not qualify for a deduction either. Section 6qaut (1C) excludes taxes contemplated in (1A). If the R8000 is excluded then it is “not contemplated” and therefore still available for deduction?

7. Example 16 in 3.8 page 22 and 23. This treatment is questionable. The full dividend is in taxable income therefore the full R150 should qualify for rebate and not only R92.

8. In annexure A, 2.4 (e). We disagree with this treatment as it is unfair. As the tax payable is nil for the current year they may not carry forward excess foreign credits.

Please do not hesitate to contact me should you require further information.

Yours faithfully

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*The South African Institute of Chartered Accountants*