Call for comment file

12 April 2007

Legal and Policy Division
South African Revenue Service
Private Bag X923
PRETORIA
0001

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

Dear Sirs

CALL FOR COMMENT: DRAFT INTERPRETATION NOTE 24 (ISSUE 2), DRAFT INTERPRETATION NOTE – PUBLIC BENEFIT ORGANISATIONS (PBOS): CAPITAL GAINS TAX (CGT) AND PBO TAX EXEMPTION GUIDE

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

The Draft Interpretation Notes refer to the *de minimus* rule of 5% of gross receipts or R50 000 and also refers to the 2007 Budget Speech announcement that this will be changed to R100 000. We question whether it would not be preferable to amend the Draft Interpretation Note and only issue it once the legislation has been changed.

Paragraph 5.3.2 of the PBO: CGT Draft Interpretation Note refers to the minimal trading asset example of a church manse, partially used by the Minister and partially let to a third party. It could be argued that the trading activity should not be taxed at all, as the income is still utilised in the furtherance of the church’s exempt purpose. The disposal of the manse and reinvestment in, for example shares, would form part of its exempt business, and the PBO should therefore not be precluded from investing in property as an alternative exempt investment. In other words, it should not lose its exempt status merely because the Minister no longer uses it personally, provided the profit made from the letting of the asset is used in the furtherance of the exempt purpose of the PBO.

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

Yours faithfully

M Kendall CA(SA)
TECHNICAL ASSISTANT: TAX