Ref: #192005-v1

11 January 2008

South African Revenue Service
Private Bag X923
PRETORIA
0001

By e-mail: mkingon@sars.gov.za / klouw@sars.gov.za

Dear Sirs

SECTION 11D OF THE INCOME TAX ACT

We have been in contact with the Department of Science and Technology (the DST) and have been given the impression that the DST views its role as being required to, *inter alia*, validate Research & Development activity related information submitted by the taxpayer in order to determine the eligibility of Research & Development activities for deductibility of the related costs in terms of Section 11D of the Income Tax Act, No 58 of 1962 (the Act). This has been confirmed by the information contained in paragraph 1.7 of the Guide to Scientific and technological Research and Development (R&D) Tax Incentives published by the DST (refer [http://www.dst.gov.za](http://www.dst.gov.za)). Therefore, the DST sees its role not only to report information to the Minister of Finance but, in addition, to practically determine the deductibility of R&D expenditure.

From the legislation the latter would not appear to be the intention. It is submitted that although the DST would have the experience to validate and assess R&D claims and to advise SARS on the eligibility/ ineligibility of certain activities, this authority should be supported by legal authority, particularly if it may be necessary to perform this function retrospectively, i.e. subsequent to SARS' assessment of an income tax return.

The South African Institute of Chartered Accountants requests that the South African Revenue Service confirm what the intention of the law pertaining to the confirmation of deductibility of R&D expenditure is, i.e. Section 11D of the Act. Should it be the intention that the DST is required to validate information to determine the eligibility of R&D activities, this should in our view then be legislated.

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