SARS South African Revenue Service

INTERPRETATION NOTE: NO. 19 (ISSUE 3)

DATE: 9 October 2013

ACT	**:**	**INCOME TAX ACT NO. 58 OF 1962 (the Act)**
SECTION	**:**	**SECTIONS 1(1), DEFINITION OF "YEAR OF ASSESSMENT", 5, 66(13A) AND (13B) AND 89*quat* AND PARAGRAPH 21 OF FOURTH SCHEDULE**
SUBJECT	**:**	**YEAR OF ASSESSMENT OF NATURAL PERSONS AND TRUSTS: ACCOUNTS ACCEPTED TO A DATE OTHER THAN THE LAST DAY OF FEBRUARY**

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Preamble

In this Note unless the context indicates otherwise –

- **“Schedule”** means a schedule to the Act;
- **“section”** means a section of the Act;
- **“accounting period”** means a period ending on a date other than the last day of February which has been approved by the Commissioner under section 66(13A) for the drawing up of financial accounts by an individual or trust;
- **“TA Act”** means the Tax Administration Act No. 28 of 2011;
- **“taxpayer”** means a natural person or a trust; and
- any word or expression bears the meaning ascribed to it in the Act.

1. Purpose

This Note provides guidance on the Commissioner’s discretionary power to grant permission to a natural person or trust to submit financial accounts for a period (the “accounting period”) which differs from the year of assessment ending on the last day of February.

2. Background

This Note deals with natural persons and trusts that carry on a trade.

In earlier years partnerships or professionals were allowed to render accounts for their business income for periods ending on dates other than the last day of February under section 66(13)*ter* but that provision was deleted in 2002 and replaced by section 66(13A).[1] Section 66(13A) came into effect on 1 July 2002 and provides that a taxpayer (individual or trust) may apply to the Commissioner to draw up financial accounts to a date other than the last day of February when the Commissioner is satisfied that the whole or some portion of the taxpayer’s income cannot be conveniently returned for any year of assessment.

3. The law

For ease of reference, the relevant sections of the Act are quoted in the Annexure.

4. Application of the law

With effect from 1 March 2003 all natural persons and trusts have a year of assessment for a period of 12 months which runs from 1 March of one year to the last day of February of the succeeding year.

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[1] Under section 66(13)*ter* which was deleted by the Revenue Laws Amendment Act No. 74 of 2002 with effect from 1 July 2002 and applicable to years of assessment commencing on or after that date.

4.1 Financial accounts drawn up for a period that differs from the year of assessment (accounting period)

4.1.1 Introduction

Section 66(13A) applies when it is not convenient for a taxpayer to render accounts for business income derived during the period ending on the last day of February. It does this by allowing the taxpayer to draw up accounts for the business for a period ending on a date agreed to by the Commissioner.

A distinction must be made between a "year of assessment" as defined in section 1(1), and the "accounting period" for which financial accounts are drawn up. The "year of assessment" of all natural persons and trusts runs from 1 March of one year to the last day of February of the succeeding year and this is not changed by section 66(13A). The "year of assessment" will not necessarily coincide with the accounting period approved by the Commissioner for which the financial accounts of the business are drawn up.

The Commissioner may approve an application to draw accounts to a date other than the last day of February if satisfied that the whole or some portion of the taxpayer's income cannot be conveniently returned for any year of assessment, subject to any conditions as may be imposed.

Section 66(13A) deems the income for the accounting period to be the income for the year of assessment ending on the last day of February. It is not required to apportion any income to fall into the year of assessment.

The term "income" is not used in its defined sense as contained in section 1(1) but rather in the sense of "profit" or "taxable income". Such an interpretation is necessary in order to ensure that any deductions or allowances relating to an accounting period can be taken back or carried forward to a year of assessment.[2]

4.1.2 Conditions imposed by the Commissioner

While financial accounts for a business or professional may be submitted to a date different from the year of assessment, the last day of February will be the operative date for all other purposes of the Act, for example, the rebates and rates of tax will be governed by the statutory year of assessment.

Approval to submit financial accounts to a date other than the last day of February is limited to income derived from a business or profession. The Commissioner will not permit taxpayers to make up their returns for a period other than the statutory year of assessment ending on the last day of February for any other income such as remuneration, interest, rentals, royalties and dividends.

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[2] For similar reasons, in *CIR v Simpson* 1949 (4) SA 678 (A), 16 SATC 268 at 282 Watermeyer CJ adopted the ordinary meaning of the word "income" of "profits or gains" in relation to the equivalent of section 7(2).

In the case of remuneration, the employer must comply with the Fourth Schedule, for instance, an employees' tax certificate must be issued for the year of assessment ending on the last day of February –[3]

- if the employer has not ceased to be an employer in relation to the employee concerned, within 60 days after the last day of February; or
- if the employer has ceased to be an employer in relation to the employee concerned but continues to be an employer in relation to other employees, within 14 days of the date on which the employer has so ceased or
- if the employer has ceased to be an employer, within seven days of the date on which the employer has so ceased.

IT3 returns for remuneration not subject to employees' tax, interest, rentals, royalties and the like must also be compiled up to the last day of February for the year of assessment, notwithstanding that accounts of a business are made up to some other date.

Example 1 – Person carrying on business also in receipt of a salary

Facts:

In 2008 a trader was granted permission to render accounts for the year ending 30 June on condition that the results are taken back to each immediately preceding year of assessment. The trader also derives a monthly salary.

Result:

The trader's annual statutory year of assessment covers the period 1 March to the last day of February while the accounts for the business cover the period 1 July to 30 June.

The salary for the period 1 March 2012 to 28 February 2013 must be accounted for in the 2013 year of assessment which covers the same period.

The taxable income from the business for the year ended 30 June 2013 must be accounted for in the 2013 year of assessment ending on 28 February 2013 while the results for the year ending on 30 June 2012 must be accounted for in the year of assessment ended on 29 February 2012.

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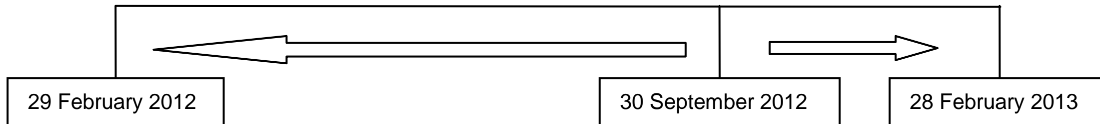
Application to render accounts to a date other than the last day of February may involve negative tax implications for the *fiscus*. The early closing off of financial accounts may lead to the manipulation of the income or expenditure of a person, for example, the deferral of income derived during peak seasons. Approval will only be granted if the Commissioner is satisfied that the purpose for the request is not the obtaining of a tax benefit.

[3] Paragraph 13(2) of the Fourth Schedule.

Approval to render financial accounts up to the end of September will be granted on condition that the income is subject to tax in the year of assessment ending on the last day of February of the same year. Approval to render financial accounts ending after September of a year will be granted on the basis that the income will be subject to tax in the year of assessment ending on the last day of February following the closing date of the financial accounts.



In other words, by choosing an accounting date that falls within the period from March to September, the income accruing after the last day of February up to the date the accounting records are drawn up, will be taxed at the rates of tax and rebates applicable to the year ending February of that calendar year.

Example 2 – Accounts rendered up to 30 September

Facts:

B was permitted to render financial accounts for the 2013 year of assessment for farming income for the period 1 October 2012 to 30 September 2013.

Result:

The income from farming for the year ending 30 September 2013 must be included in the 2013 return of income and will be taxable at the rate of tax applicable to the year of assessment ended on 28 February 2013. The rebates for the 2013 year of assessment will also apply. Other income such as remuneration and interest must be returned for the 12 months ending 28 February 2013.

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Example 3 – Business with a closing date of 31 December

Facts:

The Commissioner granted C permission to render financial accounts for the 2013 year of assessment for C's plumbing business for the period 1 January 2012 to 31 December 2012.

Result:

The income from the plumbing business for the year ended 31 December 2012 will be taxable in the year of assessment ended on 28 February 2013. The rate of tax chargeable and rebates allowable are those applicable to the 2013 year of assessment. Other income for the period 1 March 2012 to 28 February 2013 must be reflected in the annual return of income for the 2013 year of assessment. Payments for provisional tax will be in line with the year of assessment ended on 28 February 2013 (see **4.3**).

A beneficiary of a trust who acquires a vested right to any income distributed by the trust will be taxable on the income in the same year of assessment as the trust.

Example 4 – Trusts and their beneficiaries

Facts:

The ABC Trust is permitted to render financial accounts for its trading activities to 30 June of each year. Its profits from trading during the period 1 July 2012 to 30 June 2013 were R100 000. An amount of R80 000 was distributed to beneficiary D on 30 June 2013 out of those profits leaving R20 000 to be retained in the trust.

Result:

For the year of assessment ended on 28 February 2013 the trust will be taxable on taxable income of R20 000, while beneficiary D will be taxable on taxable income of R80 000.

Requests received from taxpayers will be considered individually, taking the specific circumstances of the taxpayer into account. In the case of a partnership, all the partners must agree to the request to submit accounts to a date other than the last day of February.

Application for an accounting period must be in writing and reasons detailing the special circumstances to be taken into account must be furnished. Taxpayers must provide sufficient information and documentation in order to enable the Commissioner to make an informed decision.

4.1.3 Public benefit organisations (PBOs)

All PBOs approved under section 30(3) are obliged to render annual income tax returns notwithstanding that some or all of their receipts and accruals may be exempt from income tax under section 10(1)(*c*N).

Any PBO which is a trust may apply for permission to draw up financial accounts for a period ending on a date other than the last day of February. The investment income of a PBO that is a trust must be returned to the date approved for submitting the financial accounts of the PBO since it is inherently part of the PBO's funds to be used in the ordinary course of its activities.

4.1.4 Share-purchase arrangements

Trusts created by an employer (a company) as vehicles for share-purchase arrangements designed to benefit employees of the company normally have the same year-end as the company. Permission may be granted to the trust to submit financial accounts in accordance with the year end of the company. In most of these types of trusts the main source of taxable income will consist of passive income such as interest.

All income received by or accrued to a share-purchase trust may be returned to the date approved for submitting its financial accounts.

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4.1.5 General

Multiple sources of business income with differing accounting periods

A taxpayer with more than one source of business income may apply to have different accounting dates for each source of income. A separate application must be submitted for each business.

Example 5 – Multiple businesses with differing closing dates

Facts:

X, an individual, applies to submit accounts for various businesses as follows:

- Partnership income (business) End of March
- Farming income End of June

Result:

Assuming that the request is properly motivated, permission may be granted to X to draw up the accounts for the partnership and farming operation to the end of March and June respectively. In both instances the results will be accounted for in the immediately preceding year of assessment, that is, the results for the years ended 31 March 2013 and 30 June 2013 will be included in the 2013 year of assessment ended 28 February 2013.

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Capital gains and losses

A person's capital gain or loss is determined for a year of assessment. Such a determination must be made in the year of assessment in which an asset is disposed of or in a later year of assessment when, for example, further proceeds are derived or further expenditure is incurred in relation to the asset disposed of.[4]

Section 66(13B) provides that the word 'income' in section 66(13A) includes any aggregate capital gain or aggregate capital loss. This means that a capital gain or capital loss arising in an accounting period may be carried back to the preceding year of assessment or to a subsequent year of assessment if it relates to a business for which the Commissioner has granted approval under section 66(13A).

A capital gain or loss which is extraneous to a business for which an accounting period applies must be accounted for in the year of assessment in which it arises.

Example 6 – Treatment of capital gains

Facts:

Permission is granted to a farmer to draw up financial accounts with a closing date of 30 June for the farming operation. During the period 1 March 2012 to 30 June 2013 the farmer realised capital gains on the following assets:

- 30 June 2013 – Tractor used in the farming operation
- 30 April 2013 – Holiday home
- 25 March 2012 – Listed shares

[4] Paragraphs 3 and 4 of the Eighth Schedule set out the general rules for determining a capital gain or capital loss for a year of assessment.

Result:

The capital gain on disposal of the tractor must be accounted for in the financial accounts covering the year ended 30 June 2013 and the taxable income from the farming operations for that period (including the capital gain) must be brought to account in the 2013 year of assessment covering the period 1 March 2012 to 28 February 2013.

The capital gain on disposal of the holiday home must be accounted for in the 2014 tax return covering the period 1 March 2013 to 28 February 2014 since it is extraneous to the farming operation.

The capital gain on disposal of the listed shares must be accounted for in the 2013 tax return covering the period 1 March 2012 to 28 February 2013 since it is extraneous to the farming operation.

Foreign income

- Foreign interest - when a taxpayer receives an annual certificate from a foreign financial institution which reflects interest earned during the tax year of the foreign country, an equitable apportionment of the income and tax over the tax year will be acceptable. The appropriate portions can then be allocated to the relevant South African year of assessment, taking into account the provisions of section 24J.
- Remuneration normally accrues on a monthly basis and may be easily accounted for in a year of assessment.
- Residents (natural persons and trusts) conducting a business offshore may apply for permission to draw up accounts for a period used for financial reporting purposes in the foreign country concerned.

Example 7 – Resident partner of foreign partnership

Facts:

X is a partner in a partnership conducting business in Lesotho. X is the only partner resident in South Africa. The partnership draws up its financial accounts to the end of June.

Result:

X will be permitted to render financial accounts for the partnership to the end of June.

Objection and appeal

The discretionary powers of the Commissioner under section 66(13A) are not subject to objection and appeal [see section 3(4)(*b*) which does not include section 66(13A].

Changed circumstances requiring a fresh application

A new application must be submitted if the circumstances of the taxpayer change.

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4.2 Provisional tax

All taxpayers who fall within the definition of the term "provisional taxpayer" as defined in paragraph 1 of the Fourth Schedule are liable for the payment of provisional tax, payable twice a year with an optional additional payment (third payment if applicable) as follows:

- First payment – Six months after the commencement of the year of assessment, that is, 31 August.
- Second payment – End of the year of assessment, that is, 28/29 February.
- Third payment – Seven months after the end of the year of assessment, that is, 30 September.

4.3 Provisional tax and accounting periods

If approval has been granted to a taxpayer to submit financial accounts to a date falling after the last day of February (that is, from March to September), the taxpayer may apply under paragraph 21(2) of the Fourth Schedule to make provisional tax payments in line with the closing date of the accounts.

Paragraph 21(2) will not apply if accounts are drawn up for dates ending after September but before the last day of February because the closing date will fall within the year of assessment and not after it. In these circumstances provisional tax payments must be made on the normal dates (31 August, last day of February and 30 September).

Taxpayers must apply in writing, detailing the special circumstances to be taken into account. In the case of a partnership, each partner must apply, since the circumstances of each member of the partnership must be considered individually. The Commissioner may, having regard to the circumstances of the case, approve provisional tax payments to fall in line with the dates as approved for the accounting periods. This discretion is subject to objection and appeal [see section 3(4)(*e*)].

Approval to pay provisional tax in line with the accounting period will not be granted automatically. It will be conditional on the income from the business or trading activities for which the accounting period is allowed being the main source of income giving rise to the liability to pay provisional tax. In other words, in exercising the discretion in paragraph 21(2) of the Fourth Schedule, the Commissioner will approve payments for provisional tax in accordance with the main source of income.

Example 8 – Determination of dates to pay provisional tax

Facts:

A taxpayer receives the following income:

- Business income which is the person's main source of income with a February year-end.
- Farming income – approval has been granted to submit accounts with a June year-end.

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Result:

The taxpayer will not receive approval to make payments of provisional tax on dates other than 31 August and the last day of February as well as on 30 September (if applicable).

If different accounting dates have been approved for income received from different sources, the dates for the payment of provisional tax will be approved having regard to the main source of income giving rise to the liability for the payment of provisional tax.

In most instances, the first day of the accounting year will be regarded as the date from which the period for the first payment will be reckoned. In the year of conversion, the first payment for provisional tax will be six months from the commencement of the year of assessment in question.

Example 9 – Change from February year-end to July year-end

Facts:

F, an individual, has in the past submitted accounts for a farming operation with a closing date ending on the last day of February, the last such accounts having been submitted for the year ended 29 February 2012. F has now applied for permission to submit accounts for the farming operation to the end of 31 July with effect from the 2013 year of assessment. The request has been approved by the Commissioner on condition that the results for the period 1 March 2012 to 31 July 2013 are included in the 2013 year of assessment. F has applied for permission to make provisional tax payments in line with the closing date of the accounts under paragraph 21(2) of the Fourth Schedule.

Result:

The payments for provisional tax for the year of assessment ending on the last day of February 2013 and subsequent years of assessment may be approved as follows:

For the 2013 year of assessment (which includes the financial accounts for farming activities – 1 March 2012 to 31 July 2013):

- 1st payment – Six months after the date of the commencement of the 2013 year of assessment, that is, 31 August 2012
- 2nd payment – The accounting date, that is, 31 July 2013
- 3rd payment – Six months after the accounting date, that is, 31 January 2014

For the 2014 and subsequent years of assessment: (which includes the financial accounts for farming activities – 1 August to 31 July)

- 1st payment – Six months after the date of commencement of the year, (the accounting date) that is, 31 January 2014
- 2nd payment – End of the year, (the accounting date) that is, 31 July 2014
- 3rd payment – Six months after the end of the year, (the accounting date) that is, 31 January 2015

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All other income such as interest, remuneration and rent must still be accounted for during the 12 months ending on the last day of February and taken into account in calculating the payment of provisional tax on 31 January and 31 July as well as on 31 January (if applicable).

Example 10 – Change of accounting date from February to September

Facts:

G, an individual, who always submitted accounts on the last day of February, has now requested permission to submit them on 30 September, with effect from the 2013 year of assessment. G also requested permission to pay provisional tax in line with the accounting date.

Result:

For the 2012 year of assessment G would have submitted accounts for the period 1 March 2011 to 29 February 2012. If approval of G's request is granted for the 2013 year of assessment G will submit financial accounts for the period 1 March 2012 to 30 September 2013, that is, an extended period of 19 months.

Payments for provisional tax for the 2013 year of assessment will be payable as follows:

- 1st payment – Six months after the date of the commencement of the 2013 year of assessment, that is, 31 August 2012
- 2nd payment – End of the year (the accounting date) that is, 30 September 2013
- 3rd payment – Six months after the end of the accounting date, that is, 31 March 2014

Payments for provisional tax for the 2014 and subsequent years of assessment will be payable on the following dates:

- 1st payment – Six months after the date of commencement of the year, (the accounting date) that is, 31 March
- 2nd payment – The accounting date, that is, 30 September
- 3rd payment – Six months after the end of the year, (the accounting date) that is, 31 March

Example 11 – Change of accounting date from February to December

Facts:

H, an individual, who always submitted accounts on the last day of February, has now requested permission to submit them on 31 December, with effect from the 2013 year of assessment. H also requested permission to pay provisional tax in line with the accounting date.

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Result:

For the 2012 year of assessment H would have submitted accounts for the period 1 March 2011 to 29 February 2012. For the 2013 year of assessment H will submit accounts for the period 1 March 2012 to 31 December 2012 which is a short period of 10 months.

Payments for provisional tax for the 2013 and subsequent years of assessment will be payable as follows (see second paragraph of **4.4** below):

- 1st payment – 31 August
- 2nd payment – 28 February
- 3rd payment – 30 September

4.4 Interest on underpayments and overpayments of provisional tax

Under paragraph 23A of the fourth Schedule a provisional taxpayer may reduce the interest payable under section 89quat by making an additional payment before the effective date as defined in section 89*quat*(1). Under paragraph (b) of that definition read with paragraph 21(2) of the Fourth Schedule the effective date for an accounting period falling after the end of the year of assessment will be six months after the closing date of the accounts. In practice this will usually apply to accounting periods falling in the months ending March to September. The effective date for accounts ending during October to January fall within the year of assessment and in these cases the effective date will be accepted as 30 September.[5]

Section *89quat* is to be repealed by paragraph 66 of Schedule 1 to the TA Act on a date to be proclaimed by the President in the *Government Gazette*.[6]

4.5 Trading stock and livestock

4.5.1 Trading stock

Section 22 specifies how trading stock held and not disposed of at the beginning and end of a year of assessment must be accounted for. Section 22(6)(*b*) provides that any reference in section 22 to the beginning or end of a year of assessment includes a reference to the beginning or end of an accounting period accepted by the Commissioner under section 66(13A).

It follows that when accounts are accepted by the Commissioner to a date other than the last day of the year of assessment, section 22(6)(*b*) requires that trading stock must be accounted for at the beginning and end of the accounting period.

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[5] The law is unclear on this point because paragraph (a) of the definition of the term "effective date" which specifies 30 September applies when the Commissioner has not approved a closing date under section 66(13A) to a date other than February. On the other hand, paragraph (*b*) of the definition refers to paragraph 21 of the Fourth Schedule which applies when the accounting period falls after the end of the year of assessment. The Act is therefore silent on what effective date should be used when the accounting period falls within a year of assessment on a date other than the last day of February.

[6] See Interpretation Note No. 68 (Issue 2) (7 February 2013) which sets out the provisions of the TA Act that did not come into effect on 1 October 2012. Under Proclamation No. 51 of 14 September 2012 published in *GG* 35687 the President proclaimed that the TA Act would commence on 1 October 2012 except for any provision of Schedule 1 to the Act that amends or repeals a provision of a tax Act relating to interest under that tax Act, to the extent of that amendment or repeal.

4.5.2 Livestock

Paragraph 1(*a*) of the First Schedule contains a provision similar to section 22(6) for the purposes of determining the dates when opening and closing stock of livestock and produce on hand must be accounted for.

4.6 Effective dates of legislation

When applying section 66(13A) taxpayers need to be aware of changes in legislation that occur outside a year of assessment but during the accounting period. Exactly how such changes will affect a particular transaction will depend on the wording of the relevant effective date provision and it is not possible to lay down hard and fast rules for dealing with such changes. Generally, effective dates of income tax legislation take two forms, namely –

- an effective date that Is linked to the timing of a transaction (for example, the timing of a receipt or accrual, incurral of expenditure or disposal of an asset); or
- an effective date that applies to a year of assessment.

Effective dates applicable to a transaction date are unaffected by the fact that the results for an accounting period are taken back to an earlier year of assessment or carried forward to a future year of assessment.

An effective date that applies to a year of assessment can, however, apply to a transaction conducted before or after the year of assessment if it falls within the accounting period and the results for that period are carried forward or back to the year of assessment in question.

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Example 12 – Change in legislation applicable to a year of assessment

Facts:

Y, an individual, carries on an auditing business with an accounting period ending on 30 June.

On 31 May 2012 Y disposed of an office building at a capital gain of R120 000. Y derived no other capital gains or losses during the accounting period ended 30 June 2012 or during the 2012 year of assessment.

Result:

Under section 66(13A) the capital gain must be accounted for in the 2012 year of assessment ended on 29 February 2012.

Under paragraph 5(1) of the Eighth Schedule the annual exclusion for an individual was increased from R20 000 to R30 000 with effect from years of assessment commencing on or after 1 March 2012.

Under paragraph 10 of the Eighth Schedule the inclusion rate changed from 25% to 33,3% with effect from years of assessment commencing on or after 1 March 2012, that is, the 2013 year of assessment.

Since the capital gain is accounted for in the 2012 year of assessment, Y's capital gain must be reduced by the lower annual exclusion of R20 000 and will be subject to the lower inclusion rate of 25%. Y's taxable capital gain is therefore (R120 000 – R20 000) x 25% = R25 000.

Example 13 – Change of legislation applicable to a transaction date

Facts:

Z, an individual, carries on a business with an accounting period that ends on 30 April.

On 31 March 2013 Z incurred an expense in relation to the business. The section governing the deductibility of the expense was withdrawn with effect from 1 March 2013 and applicable to any expenditure actually incurred on or after that date.

Result:

The expenditure will not be deductible because the transaction took place after the effective date of the amendment (1 March 2013) which applies to all transactions on or after that date. This result is not altered by the fact that the deduction is carried back to the 2013 year of assessment which ends before 1 March 2013.

5. Conclusion

Under section 66(13A) a taxpayer who cannot conveniently return income from a business or profession to the last day of February may apply to the SARS branch office at which that taxpayer is on register for permission to draw up accounts to another closing date. Any request of this nature is subject to conditions that the Commissioner may impose. Generally the closing date so approved will determine into which year of assessment the results for the accounting period must be included and the dates on which provisional tax payments must be made.

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Legal and Policy Division
SOUTH AFRICAN REVENUE SERVICE
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Annexure – The law

Section 1(1) – definition of the term "year of assessment"

"year of assessment" means any year or other period in respect of which any tax or duty leviable under this Act is chargeable, and any reference in this Act to any year of assessment ending the last or the twenty-eighth or the twenty-ninth day of February shall, unless the context otherwise indicates, in the case of a company or a portfolio of a collective investment scheme in securities be construed as a reference to any financial year of that company or portfolio ending during the calendar year in question.

Section 5

5. Levy of normal tax and rates thereof.—(1) Subject to the provisions of the Fourth Schedule there shall be paid annually for the benefit of the National Revenue Fund, an income tax (in this Act referred to as the normal tax) in respect of the taxable income received by or accrued to or in favour of—

(*a*) . . . . . .

(*b*) . . . . . .

(*c*) any person (other than a company) during the year of assessment ended the last day of February each year; and

(*d*) ……

Section 66(13A) and (13B)

(13A) Where—

(*a*) it is established to the satisfaction of the Commissioner that the whole or any portion of the income of any person to whom the provisions of subsection (13)(*a*) apply cannot be conveniently returned for any year of assessment, the Commissioner may, subject to such conditions as he or she may impose, accept accounts in respect of the whole or a portion of the taxpayer's income drawn to a date agreed to by the Commissioner, whether for a longer or shorter period than the year of assessment under charge, and the income disclosed in any such accounts must be deemed to be income of that person in respect of that year under charge;

(*b*) any such accounts are drawn to a date later than the last day of the year of assessment, no further regard shall be had to the income disclosed by those accounts for purposes of any subsequent year of assessment;

(*c*) any such accounts are drawn to a date falling within the year of assessment and the person concerned dies or his or her estate is sequestrated during the interim period between that date and the last day of the year of assessment, any income received by or accrued to that person during that interim period must be deemed to be part of that person's income for the year of assessment.

(13B) For the purposes of subsections (13A) and (13C), the word **"income"** must be construed as including any aggregate capital gain or aggregate capital loss.

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Definition of the term "effective date" in section 89*quat*(1)

"effective date", in relation to any year of assessment of a provisional taxpayer, means—

(*a*) where the provisional taxpayer is a company which has a year of assessment which ends on the last day of February or is a person (other than a company) who has not been granted permission by the Commissioner under the provisions of section 66 (13A) to render accounts for a period ending on a date other than the last day of February, the date falling seven months after the last day of such year; or

(*b*) in any other case, the date falling six months after the last day of such year as applicable for the purposes of the provisions of paragraph 21 or 23 of the Fourth Schedule;

Paragraph 21 of the Fourth Schedule

21. (1) Subject to the provisions of subparagraph (2), provisional tax shall be paid by every provisional taxpayer (other than a company) in the following manner, namely—

(*a*) within the period of six months reckoned from the commencement of the year of assessment in question, one half of an amount equal to the total estimated liability of such taxpayer (as determined in accordance with paragraph 17) for normal tax in respect of that year, less the total amount of—

(i) any employees' tax deducted by the taxpayer's employer from the taxpayer's remuneration during such period; and

(ii) any tax proved to be payable to the government of any other country which will qualify as a rebate under section 6*quat*; and

(*b*) not later than the last day of the year of assessment in question, an amount equal to the total estimated liability of such taxpayer (as finally determined in accordance with paragraph 17) for normal tax in respect of that year, less the total amount of—

(i) any employee's tax deducted by the taxpayer's employer from the taxpayer's remuneration during such year and the amount paid in terms of item (a); and

(ii) any tax proved to be payable to the government of any other country which will qualify as a rebate under section 6*quat*.

(2) If the Commissioner has in terms of section 66 (13A) of this Act agreed to accept accounts from any provisional taxpayer in respect of any year of assessment drawn to a date falling after the end of such year, the period referred to in item (a) of subparagraph (1) shall, notwithstanding the provisions of that subparagraph, be reckoned from such date as the Commissioner upon application of the taxpayer and having regard to the circumstances of the case may approve, and in such case the last day of such year of assessment shall for the purposes of item (b) of that subparagraph be deemed to be the day preceding the first anniversary of the said date.

(3) . . . . . .

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