## 2008

### Changes To Provisional Tax Payments

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**PRETORIA 10 DECEMBER 2008** – Earlier this year Parliament approved an important change to the second provisional tax payments process and the imposition of additional tax on underestimates relating to these payments.

Until now, additional tax has been imposed if the estimate for the second period is not equal to at least:

- 90% of the taxable income for the year; or
- the basic amount (essentially the taxable income for the last year assessed).

The Revenue Laws Second Amendment Bill (2008), approved by Parliament and due for promulgation in January 2009, provides that additional tax will be imposed if the estimate is not equal to at least 80% of the final taxable income for the year. In other words, the first alternative above has been relaxed and the second has been done away with.

An existing provision that SARS may waive the additional tax if the estimate is seriously calculated and is not deliberately or negligently understated has been retained.

The amendment, which followed the usual Parliamentary consultation process, was aimed at creating more certainty and accuracy in provisional tax payments to the benefit of both taxpayers and the fiscus.

More accurate estimates by taxpayers will reduce the number of times that SARS has to invoke paragraph 19(3) of the Fourth Schedule to the Income Tax Act, 1962, and that taxpayers have to respond to SARS's enquiries in this regard.

Taxpayers have long had the option of using actual taxable income for the current year as a basis for estimating the second provisional payment. This option was typically used when taxpayers expected a lower taxable income than the basic amount. These taxpayers were generally able to make estimates to within the required 90% of actual taxable income. Taxpayers facing difficult circumstances in the current trading environment thus have more leeway for error than they would have up to now.

However, realising that these provisions are new to provisional taxpayers and in response to requests from practitioner representative organisations for more time to implement the new requirements in the light of the overlap with the close of the Tax Season for 2008, SARS has decided to implement a transitional arrangement for second provisional tax payments due on or before 28 February 2009.

In terms of this transitional arrangement, SARS will waive the additional tax imposed under the new legislation where provisional tax payments are based on estimates that are equal to at least 90% of the taxable income for the year or the basic amount.

The IRP6 provisional tax returns due for submission by 28 February 2009 are currently being printed for distribution to taxpayers. These forms are identical to previous forms except that, in line with the new legislation, they no longer contain a SARS proposed calculation. They will still contain the basic amount for taxpayers' information. The returns will be accompanied by a letter from SARS explaining the changes and transitional arrangement.

The new provisions will apply in full effect from 1 March 2009.

ENDS.