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SARS announces publication of prescribed list and diagnosis for disability

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Pretoria, 20 April 2010 – The Commissioner for the South African Revenue Service (SARS) today announced the publication of the prescribed list of qualifying expenses relating to physical impairment or disability and the diagnostic criteria for of disability.

Previously a person with disabilities could only claim their total medical expenses that were not covered by their medical aid if they were 65 years and older or if the Income Tax Act No 58, 1962 regarded them as handicapped. These limitations in the law were restrictive for people with a disability who were not handicapped. For example this meant a person would have to be deaf to the point that they relied on sign language to claim all expenses whereas a person requiring a hearing aid could not claim the expense incurred in full.

Recognising this, the Income Tax Act, 1962, was amended in 2008 (a change that came into effect on 1 March 2009) so that people with disabilities can claim all expenses, medical or otherwise, that enable them to function more fully in their daily lives. These new deductions apply if the taxpayer concerned, a child or spouse of the taxpayer has a disability.

The amendment also clarified which expenses SARS would allow as a deduction. However, for the aims of the law to be fully realised, the Commissioner is required to prescribe the qualifying expenses and the criteria for diagnosing a disability. Today's announcement provides for the list and the diagnostic criteria following extensive discussions with the representative bodies for people with disabilities, health professionals and other government departments.

Although the list of qualifying expenses is quite extensive, care has been taken to ensure that it does not exclude a legitimate expense that is not listed. Therefore, instead of a comprehensive list, it identifies broad categories of qualifying expenses and provides examples of expenditure that could be claimed.

With respect to the diagnostic criteria, disability is now viewed as an impairment to the body or mind that results in a moderate to severe limitation on a person's ability to perform daily functions. This increases the number of people who now may claim their expenses in full.

A person may now be diagnosed as permanently or temporarily disabled. In the case of a permanent disability, the diagnosis will be valid for five years and must be confirmed by a registered health practitioner at the end of that period while temporary disability diagnosis is valid for a year.

Claims by people who are not disabled but have physical impairments will still be subject to limitations. They may claim expenses related to their impairment only when such expenses exceed 7.5% of their taxable income.

Physical impairment is distinguished from disability by the fact that the severity of its effects can be overcome by a device or be corrected through therapy.
To claim the deductions, the person with a disability must obtain a confirmation of their disability from a registered health practitioner. People who had previously been declared handicapped must also follow this procedure.

The confirmation must be done on the prescribed form (ITR-DD) available from the SARS website (www.sars.gov.za) or from any SARS office. Please note that these forms must not be submitted together with the tax return but must be produced when requested to do so by SARS for audit purposes.