

30 September 2024

To: The South African Revenue Service

Lehae La SARS
299 Bronkhorst Street
PRETORIA
0181

Via email: SARS: policycomments@sars.gov.za

RE: SAIT RESPOSNE TO THE CALL FOR COMMENT PERTAINING TO THE DRAFT INTERPRETATION NOTE ON THE MEANING OF RESERVE FUND

Dear Colleagues,

We refer to the call for commentary regarding the draft interpretation note on the meaning of reserve fund under section 23(e) (**the draft IN**), that considers the meaning of “reserve fund” for purposes of section 23(e) of the Income Tax Act, No. 58 of 1962 (**the Act**).

We have perused the draft IN and have noted several textual suggestions. For your ease of reference, these suggested textual amendments are highlighted in track changes in the attached annexure to this document.

1. Reserve fund in the form of an insurance policy

Contained in the later part of the draft IN is commentary pertaining to insurance, noting that some types of insurance policies may comprise a reserve fund.

We query whether an insurance policy, whether short-term or long-term, can truly be classified as a reserve fund. This is on the basis that the expenditure on premiums is an incurred cost. For short-term policies, premiums are allowable under section 11(a) of the Act if they are incurred in the course of trade, are not of a capital nature, and contribute to income production. However, premiums for coverage related to death, disability, or illness are prohibited under section 23(r) of the Act.

It appears that the example described in the draft IN might align with what the authors of the IN intended. However, it is worthy to note that section 23L of the Act specifically addresses this type of policy, and the expenditure is likely to be of a capital nature. Furthermore, such a policy does not involve a transfer to reserves.

It is our understanding that a reserve fund is created when an amount is transferred through an accounting provision (i.e., debiting the income statement and crediting the reserve fund). We are not of the view that the process of taking out an insurance policy conforms to this scenario. The appropriate accounting entry would typically be a debit to the income statement for the premium, crediting cash, or a debit to the balance sheet with a credit to cash if the policy functions as an asset, such as a sinking fund or endowment policy.

Recommendation

Based on the above commentary, we propose that the commentary relating to insurance that is contained in the draft IN, be removed.



Conclusion

We value the opportunity to participate in the legislative process and look forward to further engagement, where appropriate.

Please do not hesitate to contact us should you need further information.

Yours sincerely,

SAIT Tax Technical

End.

Disclaimer

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