

Small Business Tax Amnesty Two Proposed Amendments

4 May 2007



SARS South African
Revenue Service

Eligibility of trusts - problem

- Amnesty restricted to individuals, companies owned by individuals or trusts that only have individuals as beneficiaries, all with a turnover of up to R10 million in 2006, to target it at less sophisticated small businesses
- Several hundred active small businesses carried on through trusts do not qualify, although they were founded with the intent of benefiting the members of a family
- This is the result of poor advice and the use of “boiler-plate” trust deeds that permit the trustees to nominate beneficiaries that may be legal entities

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Eligibility of trusts – proposed solution

- Permit SARS to relax the requirement that all trust beneficiaries be individuals in cases where a trust can show that:
 - Distributions to beneficiaries were made in the 2004, 2005 and/or 2006 years of assessment and
 - None of those distributions were to legal entities

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Taxation of amnesty benefits

- A strict reading of the income tax legislation could result in the taxation of certain amounts waived in terms of the small business amnesty legislation (e.g. Amnesty for VAT actually collected but not paid over to SARS)
- This was not the intention and an amendment will be proposed to make this clear

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