

Ref: #696777

Submission File

5 November 2018

South African Revenue Service
Private Bag X923
Pretoria
0001

BY E-MAIL: policycomments@sars.gov.za
Cc: shenson@sars.gov.za
sntombela3@sars.gov.za

Dear Sir/Madam

SARS DRAFT LIST OF QUALIFYING PHYSICAL IMPAIRMENT AND DISABILITY EXPENDITURE

1. On behalf of the South African Institute of Chartered Accountants (SAICA), we herewith provide our input on SARS' draft list of qualifying physical impairment and disability expenditure (the draft list) in response to the call for comments by the South African Revenue Service (SARS).
2. As always, we thank SARS for the ongoing opportunity to provide constructive comments on draft documentation and guidance. SAICA believes that a collaborative approach is best suited in seeking actual solutions to complex challenges.
3. For ease of reference, we have reference our comments to the specific sections in the draft list. Should you wish to clarify any of the comments, please do not hesitate to contact us.

Yours sincerely

Somaya Khaki
PROJECT DIRECTOR: TAX

Pieter Faber
SENIOR EXECUTIVE: TAX



Section E – Aids and other devices

4. The current list of qualifying physical impairment and disability expenditure includes the cost of: Air conditioner, heater, fan, air filter, cleaner, or purifier and environment control system (computerised or electronic) to prevent hypothermia or hyperthermia for a person with spinal cord injury or as required by a person with epilepsy.
5. The SARS draft list proposes that this be removed as qualifying expenditure.
6. It is unclear as to the reason for removing this item from the list, specifically in relation to the environmental control system which would enable a paraplegic or quadriplegic to control certain aspects of his/her environment – including lights, air-conditioning, alarms etc.

- | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none">7. <u>Submission:</u> We submit that costs related to an environment control system should be retained as a qualifying expense, even if costs for the other items are removed from the list or reduced in terms of the value that may be claimed.8. Alternatively, it would be helpful if SARS could explain why this cost should be removed so that other costs can be measured against the principle. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Section F – Services

Note-taking services, including real-time captioning (point 4)

9. In addition to persons with a physical disability who are unable to write for themselves, those with learning disabilities also require a scribe who would actually write down their answers in tests and exams.

- | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none">10. <u>Submission:</u> The list should include scribe services (writing on behalf of the disabled person) in addition to note-taking services. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Special education needs schools mainly for learners with disabilities (point 7)

11. The reality is that there is a huge shortage of public special education needs schools and many parents are therefore forced to send children with disabilities to a private special education needs school if they have any hope of integrating into the mainstream educational system.
12. In terms of the current list of qualifying physical impairment and disability expenditure, no distinction is drawn between private and public special education needs schools and both are compared to fee-paying public schools to determine the amount of the qualifying expenditure.
13. The proposed change will significantly disadvantage such parents and, in many cases, make the use of a private special schools unaffordable. Ultimately, this will discriminate against children with disabilities who cannot find a place in a public special school within a reasonable distance of their homes.



14. Furthermore, by benchmarking the excess based on the closest public school, parents who happen to live close to higher fee schools or are forced to send their children to lower cost public special needs schools will get no subsidy.
15. The use of a threshold that is delinked from variables such as income, where you live or where your child goes to school is more in alignment with the policy principles applied to the medical scheme regime.
16. It is accepted that the fiscus cannot fund the full amount of private or public tuition and can only share in the burden, though the comparative cannot just be public fee paying schools (not specialising in special needs learners).

17. Submission: it is submitted that the current position of not distinguishing between private and public special education needs schools for purposes of determining qualifying expenditure should remain in the interim – i.e. we propose the wording: *School fees in respect of a public or private special education needs school in excess of the fees that would ordinarily be payable if the person attended the closest fee-paying public school (not specialising in learners with special education needs) to where they live*
18. We acknowledge the fact that it may not be feasible for the fiscus to continue subsidising the entire amount of 'excess fees' and therefore further submit that SARS introduce a fixed amount deduction threshold as an alternative proposal as replacement for the 'excess fees' regime. This threshold should be determined after performing research to ascertain the average premium for both public and private schools versus special education needs public and private schools.
19. In performing such a study, we submit that it would be important to consider the fact that making a comparison between the fees of the selected special education needs school to the closest special education needs school in the area of residence, is discriminatory on the basis that there is a huge discrepancy in schools based on the area in which they serve. For example, a public special education needs school in Umlazi (being the only special education needs school in the area and catering only for intellectually impaired students) charges R800 per annum in school fees, whereas a public special education needs school in Phoenix charges close to R21 000 per annum. In contrast, one of the private special education needs schools in Durban charges R75 000 and may serve the needs of students that public schools are unable to serve.
20. By introducing a fixed deduction threshold based on the median premium cost for private and public special needs schools and that considers the lack of public special needs schools which forces taxpayers to use private institutions, it will result in taxpayers with children in both public and private special needs education benefiting from this state subsidy and ensure that the subsidy is not disproportionately utilised by taxpayers with children in private special needs schools.

21. Further to the above, it has become increasingly common to send children with learning disabilities, not to a special education needs school mainly for learners with



disabilities, but to schools that offer a different approach to mainstream schools in the form of teaching methods, individual pupil attention and smaller classes.

22. While such schools are not specifically for learners with disabilities, they often meet the needs of such learners better than schools mainly for learners with disabilities.
23. Parents sending their children to these schools will therefore be disadvantaged as compared to those who send their children to the special education needs schools.
24. The availability of the financial subsidy should be determined in relation to the disabled child and the extent of his or her special needs being attended to at such school to ensure such child is accommodated and integrated within society, rather than a label attached to the relevant school.

25. <u>Submission:</u> Provision should be made for the inclusion of such schools in the list. Some examples may be found here: https://www.iozikids.co.za/johannesburg/schools/alternative_schools/ .

26. It is noted that the following is proposed to be removed "*Special training services for a person with a disability – this category includes expenditure incurred and paid for specialised training provided to a person with a disability for rehabilitation purposes. This will include training to cope with the disability, how to use an assistive device or aid etc.*"

27. <u>Submission:</u> It is submitted that the above item should not be removed from the list as this kind of training is essential in order to better able that person to cope with the disability and ensure that the person does not physically regress.

- | |
|------------------------------------------------------------------------------------------------------------------------------|
| 28. Again it is unclear what principle informs this decision to exclude this critical service for persons with disabilities. |
|------------------------------------------------------------------------------------------------------------------------------|