

**TAX ALERT**

**TAX CLEARANCE CERTIFICATES AND THE REQUEST FOR SUSPENSION OF DEBT**

**11 JULY 2017**

Section 256(3)(a) of the Tax Administration Act, 2011 (the TAA) will only allow the South African Revenue Service (SARS) to issue a tax clearance certificate (TCC) if the taxpayer does not have an “outstanding tax debt”, except if such debt is suspended in terms of section 164 of the TAA. However, as members can attest to, the time taken for SARS to consider and make a determination as to whether or not to grant the suspension of debt, puts taxpayers at a severe disadvantage.

The question is – what is the (legal) position that should be taken where a suspension of debt has been requested, but not yet granted, in respect of the outstanding taxes – i.e. should a TCC be issued in these circumstances?

This matter requires consideration of the relevant definitions – that is, “outstanding tax debt” and “tax debt”, per the TAA. The South African Institute of Chartered Accountants (SAICA) has engaged with SARS on this aspect and has discussed with SARS the challenge of balancing the rights of taxpayers with the need of SARS to protect the *fiscus* when dealing with outstanding tax debts and suspension for tax applications and the effect on TCC issuance.

SARS has welcomed the engagement on this matter and has requested proposals to address the issues raised. Should you have any proposals to share which will achieve a balance between fair administration and fiscal protection, please send these to [taxcomments@saica.co.za](mailto:taxcomments@saica.co.za).