<u>Revised Interpretation Note 28 (IN 28) – Draft Briefing Note</u>

IN 28 provides clarity on the deductibility of home office expenses incurred by persons in employment or persons holding an office. During May 2021, an update to IN 28 was published for public comment. The Note has been updated to provide further clarity in response to comments submitted. In addition, an issue addressing the deductibility of interest incurred in connection with a home office has been considered and addressed.

Interest on a mortgage bond is one of the expenses that is incurred in operating a home office. Generally, legitimate expenditure incurred in connection with a home office premise is not prohibited from deduction by section 23(*b*) (section means a section of the Income Tax Act 58 of 1962) or by section 23(*m*).

The applicable exclusion from the prohibition in section 23(*m*)(iv) refers to deductions that are allowable under section 11(*a*) or section 11(*d*). With effect from 1 January 2005, section 24J of the Act was amended to provide for the deduction of interest under section 24J(2) and the inclusion of interest in gross income under section 24J(3). The consequence of bond interest being deductible under section 24J(2) and not under section 11(*a*), is that bond interest incurred in respect of a home office premise is prohibited from deduction by section 23(*m*). Currently, the law only permits employees to claim a home office expense deduction for interest which is deductible under section 11(*a*) and, in most cases, the deduction is under section 24J(2) and not section 11(*a*).

To date IN 28 has indicated that bond interest incurred in respect of a home office premise will not be prohibited from deduction. The interpretation discussed above represents a significant change and, accordingly, the updated draft IN 28 is being released for a second round of comment. Comments must be submitted by close of business on 14 January 2022.

It is proposed that, once finalised, the updated draft IN 28 will be effective for years of assessment commencing on or after 1 March 2022. Even though it is proposed that the Note will be effective for years of assessment commencing on or after 1 March 2022, the additional clarity given on interpretations, which have not changed, will provide useful guidance for earlier years of assessment.