

## Media Releases 2011

### “Pay now, argue later” principle clarified

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**Pretoria, 14 February 2011** – The South African Revenue Service (SARS) wishes to inform taxpayers that the “pay now, argue later” principle has been clarified with effect from 1 February 2011.

The principle that taxpayers are required to pay taxes that are the subject of a dispute with SARS is a long-standing one that has been affirmed by the highest court in South Africa.

While taxpayers have always had the right to request that the application of this principle be waived, the factors to be considered in adjudicating such requests have not been clear. In addition, the payment of interest on refunds should an objection be conceded has not been legislated.

Areas of uncertainty have now been addressed by the Taxation Second Laws Amendment Act, 2009.

The relevant amendments—

- make it clear that a disputed tax debt may be collected despite an objection to the assessment in terms of which it is raised;
- provide guidance on the factors to be considered in deciding whether to agree to a taxpayer’s request to suspend payment of a disputed debt; and
- establish rules for the payment of interest should an amount be collected and later refunded because an objection has been conceded.

Examples of the factors to be considered in deciding on a taxpayer’s request to suspend payment of a disputed debt are—

- the compliance history of the taxpayer;
- the risk of dissipation of assets during the period of suspension;
- whether the taxpayer is able to provide adequate security for the payment of the amount involved;
- whether payment of the amount involved would result in irreparable financial hardship to the taxpayer; and
- whether the objection or appeal is frivolous or vexatious.

The interest paid in terms of the amendments will be paid at the same rate that SARS normally charges on outstanding debt (currently 9.5%), which is four percentage points higher than the rate paid on refunds of overpaid provisional tax.

The amendments came into effect on 1 February 2011. Existing SARS decisions to suspend payment of a disputed amount remain valid until the date given in the decisions or 31 July 2011, whichever is the earlier.

**ENDS.**