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TO: THE HEADS OF ALL NATIONAL/PROVINCIAL DEPARTMENTS AND PROVINCIAL ADMINISTRATIONS

(ATTENTION: CHIEF FINANCIAL OFFICERS/HEADS OF CORPORATE SERVICES/HR MANAGER)

INCOME TAX: STATE AND OTHER HOUSING

1. The South African Revenue Service (SARS) has provided this department with the method of taxing free and cheap residential accommodation for employees in the Public Service. The new method applies with effect from 1 March 2012.
2. According to the last ruling issued by SARS on 27 August 2008, the taxable benefit was limited to R1144.00 per month where employees occupy the premises under unique circumstances. This meant that an affected employee had a nil taxable benefit for the residential accommodation that was provided by his/her employer.
3. Please note that SARS has increased the limited amount of R1144 referred to above to an amount of R1488 per month for the 2013 tax year. The details of the increase are contained in the attached letter from SARS.
4. Departments that provide such housing, are expected to effect the implementation of the said increase in the 2013 tax year.

FOR DIRECTOR-GENERAL

DATE: 29-03-2012

**Policy & Law Application:
Direct Taxes**

Reference
LCS 031/08/NV

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Ms. Salome Motaung
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0001

Dear Ms.Motaung

**INCOME TAX: FREE OR CHEAP RESIDENTIAL ACCOMMODATION FOR
EMPLOYEES IN THE PUBLIC SERVICE**

I refer to our previous correspondence dated 27 August 2008. Please be advised that the ruling issued on the same date is withdrawn and replaced as follows:

1. A taxable benefit shall be deemed to have accrued to all employees in the Public Service who have been granted residential accommodation either free of charge or for considerations which are less than the rental values for such properties.
2. The formula in paragraph 9(3) of the Seventh Schedule to the Income Tax Act, 1962 (the Schedule) should be used to calculate the taxable benefits of the officials.
3. The ruling issued on 27 August 2008 stated that the taxable benefit will be limited to R1144.00 per month, **where it is found that employees occupy the premises under unique circumstances and that the premises will not be able to draw rentals similar to other premises of the same size on the market**, the taxable benefit calculated must be limited to an amount of R 1488.00 This amount has been adjusted according to consumer price indices made

available by the Reserve Bank . The capping is in terms of discretion afforded to the Commissioner in paragraph 9(5) of the Schedule.

4. The employees in the lower income brackets stand to gain as they may not be liable for any income tax in view of the formula being based on the ability of the employee to pay income tax.

The formula mentioned in 3 is as follows:

$$(A - B) \times \frac{C}{100} \times \frac{D}{12}$$

in which formula-

- i) 'A' represents the remuneration factor as determined in relation to the year of assessment;
- (ii) 'B' represents an abatement equal to an amount of R63556:

Provided that ...

- (iii) 'C' represents a quantity of 17: Provided that where the accommodation consists of a house, flat or apartment consisting of at least four rooms-
- aa) 'C' represents a quantity of 18 if-
- A) such accommodation is unfurnished and power or fuel is supplied by the employer; or
- (B) such accommodation is furnished but power or fuel is not supplied; or
- (bb) 'C' represents a quantity of 19 if such accommodation is furnished and power or fuel is supplied by the employer; and
- (iv) 'D' represents the number of months in relation to a year of assessment during which the employee was entitled to occupation of such accommodation;

“remuneration” in relation to any employee, means the aggregate of the amounts of remuneration (as determined in accordance with the definition of

'remuneration' in paragraph 1 of the Fourth Schedule but excluding any amounts referred to in paragraph (f).

'remuneration factor', in relation to a year of assessment during which an employee has occupied residential accommodation, means the remuneration derived by him during the year of assessment immediately preceding the first mentioned year of assessment: Provided that-

- i) where during a portion of such preceding year the employee was not in the employment of the employer ...;
- (ii) where during the whole of such preceding year, the employee was not in the employment of the employer...

Kindly ensure that this method of taxing free or cheap residential accommodation for employees in the Public Service is implemented by all affected departments in the Public Service with effect from 01 March 2012.

Kindly take note that any consideration paid by the employee for the use of the accommodation will reduce the benefit, including the capped amount.

This ruling is applicable to the 2013 year of assessment and must be applied for annually.

Sincerely

Leo du Toit

for **COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**