31 July 2020

To: Impact Empowerment Ventures (VCC-0135) Investors, directors and key stakeholders

THE PRACTICAL APPLICATION OF SECTION 12J TO PAYE TAXPAYERS

Background

The Income Tax Act allows various deductions from a person's gross income to determine their taxable income. Where a person pays provisional tax, they can cater for these deductions when they submit their tax returns and only pay the tax due on the net taxable income. Where a taxpayer is a salaried employee, tax is deducted from their salary based on their gross income and those deductions their employer would be aware of (such as pension fund and medical aid contributions). A taxpayer would have to deduct any other amounts eligible for deduction when he submits his ITR12 return. He will then receive a refund on the tax that was previously deducted from his salary.

Tax refunds

A taxpayer's right to a tax refund is set out in section 190 of the Tax Administration Act, which places an obligation on SARS to pay taxpayers any refunds that are due to them. Only where a verification, inspection or audit of a refund has not yet been finalised, may SARS withhold the refund. This would typically occur where SARS has selected the taxpayer's return for audit verification, where the taxpayer's returns aren't up to date, SARS hasn't verified the taxpayer's banking details or the taxpayer owes SARS money. Where the taxpayer is compliant and his affairs are in order, a refund should reflect in his bank account within 2 to 3 days of the ITA34 being issued.

Section 12J

One of the deductions catered for in the Income Tax Act, is the deduction allowed by section 12J, which (in subsection (2)) provides that a taxpayer may claim a deduction for expenditure actually incurred by that taxpayer in acquiring venture capital shares issued to that taxpayer by an authorised venture capital company ("VCC").

Once the investor has submitted his tax return and, upon request, provided SARS with the relevant proof of his investment (i.e. the certificate issued by the VCC), SARS transfers an amount, equal to the tax attributable to the taxpayer's investment in the VCC, to his bank account. To ensure compliance and avoid SARS from withholding a refund due to a VCC investor, VCCs would perform the necessary due diligence, which includes requesting a tax clearance certificate.

I trust this clarifies the practicalities around refunds attributable to deductions allowed under section 12J.

Your sincerely

T.*H -e SIGNATURE 31.07.2020*

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