

Tax Alert

11 October 2011

SARS's Discussion Paper on Place of Effective Management – Call for comment

SARS recently issued a discussion paper on Interpretation Note 6 – ‘Place of Effective management’ with the purpose of inviting comments from the public to create a framework for the possible revision of the Interpretation Note.

SARS has noted the difficulties experienced in the application of current Interpretation Note, particularly in light of the recent Headquarter Company Regime introduced by National Treasury in 2010. SARS has therefore tentatively proposed to revise the existing Interpretation Note. The priority, it appears, is the refinement or clarification of (and perhaps even departure from) the current focus on the ‘second level of management’. Currently the Interpretation Note attaches greater importance to the “*execution and implementation*” of strategy and policy (as opposed to the “*formulation and adoption*” of strategy and policy).

The stated purpose of the discussion paper is to align the concept of effective management more closely with international precedent and OECD principles. Significantly, the discussion paper proposes that the focus might be on individuals that are responsible for developing or formulating operational or commercial strategies and policies and the action of decision making, rather than implementation thereof.



The deadline for submissions is 30 October 2011. Have you considered the effect this may have on your foreign subsidiaries, whether intermediate holding companies or operational? It is equally relevant for SA-resident companies with significant management involvement from non-residents (e.g. a foreign parent company).

Please contact your PwC contact or any of the persons listed below should you wish to make submissions to SARS on this discussion paper.

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