

Response from SARS and the Minister of Finance on the Statuts of PBO'S.
Report no. 1

Following upon an Awqaf SA NGO Tax Seminar held in Johannesburg on the 12th May 2002, a Committee was set up with the objective of liaising with SARS on behalf of S.A Muslim PBO's on issues concerning their tax exempt status.

Numerous meetings were held with senior SARS officials who were very helpful and co-operative. Amongst the issues discussed were the following:

- The type of activities S.A Muslim PBO's engage in.
- The difficulties S.A Muslim PBO's encounter in funding its activities.
- The limitations placed on Muslim entities in investing in interest-earning type investments.
- The survival of many Muslim PBO's is dependent upon rental income from investment properties and donations in the form of Lillah from community members.

As a possible solution to ensure the financial survival of S.A Muslim PBO's, it was suggested to SARS that the Income Tax Act be amended to permit PBO's to invest in properties deriving rental income.

SARS adopted a very conciliatory and accommodating position whereby they requested that we make submissions to the Minister motivating and requesting that we be permitted to invest in fixed properties.

In the meantime, many other religious groups in S.A were also making similar representations to SARS. Towards the end of 2003, SARS initiated a broad-based meeting at their offices in Pretoria of the various religious denominations in S.A. We were also invited to attend as representatives of the S.A Muslim PBO's. At this meeting, a smaller group was formed to constitute a Religious Tax Policy Working Group. We are again represented in this group, which gave us the opportunity to put forward our case. It must be stressed that our presence and existence as Muslim Organisations in S.A is positively accepted and highly respected by SARS and the National Treasury.

Nevertheless, the objective of the Tax Policy Working Group is to formulate a joint policy proposal for all religious denominations which would enable SARS and the National Treasury to advise the Minister of Finance on appropriate legislation for S.A PBO's which would enable them to continue their activities with minimal or no tax restrictions being placed on them.

In the meantime, the deadline date for existing PBO's to register with SARS was 31 December 2004 and PBO's are expected to restructure their activities so as not to contravene the trading limitations imposed by the Act, by no later than the 15th July 2006.

The representations submitted by the Tax Policy Working Group has resulted in the Minister of Finance announcing in his recent Budget Speech certain limited relaxations on trading activities for PBO's. However, the limitations on rental generating property investments still stands.

The way forward is to continue negotiating and discussing with SARS and the National Treasury on issues facing trading activities by S.A Muslim PBO's and Insha-Allah, achieve some level of compromise and success.

In the meantime, we strongly urge all S.A Muslim Organisations to register with SARS as PBO's. We also advise all organisations not to haste into complicated forms of restructuring, as we expect more relaxations to be announced by the Minister in the near future.

Please consult your local Financial Adviser, Accountant or Attorney on your relevant PBO status.

Was-salaam

M. JEENA

Acting Chairperson

S.A Muslim PBO'S