Media release

Transfer Pricing and Country by Country Reporting – Critical focus for Budget

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Johannesburg, South Africa- Feb 20, 2015 – The OECD's adoption of country-by-country reporting (CbCR) was issued in September 2014 as part of the ongoing review of base erosion and profit shifting ("BEPS").

CbCR is intended as a tool for tax authorities to risk assess MNEs' transfer pricing. This will greatly increase transparency for local tax authorities through the reporting of key financial metrics across a group. It is anticipated that this together with the wider changes in the transfer pricing documentation requirements contained in the new Chapter V of the OECD Guidelines should contribute to reducing the tax fiscal deficit in 2015.

Although South Africa is not a member of the OECD, we do have observer status and transfer pricing legislation contained in section 31 of the SA Income Tax Act is modelled on the OECD Guidelines.

The David Tax Committee in their interim report addressing BEPS in South Africa have indicated in their recommendations for South Africa that preparation of a master file, local file and country-by-country reporting should be compulsory for large Multinational businesses. A recommended threshold is businesses over R1 billion group turnover. As the OECD recommends, with regard to compliance matters under the heading "materiality", disproportionate and costly documentation requirements should not imposed on SMEs.

It has been noted by the Committee that "the OECD recommends that use the most reliable information which is usually local comparables over the use of regional comparables where such local comparables are reasonably available. In this regard, it is important that SARS builds a database of comparable information. In this respect:

- SARS needs to establish a highly skilled transfer pricing team to include not only lawyers and accountants but also business analysts and economists, to ensure an understanding of commercial operations. This will require that measures are taken to identify, employ and retain skilled personnel especially in the regions.
- Information required from corporates via the IT14 submissions needs to be improved so that timely decisions can be made on the tax assessment of companies.
- The collection and sharing of data should be extended to include other holders of vital information such as exchange control information about capital outflows collected by the South African Reserve Bank".

BEPS will impact the way companies do business in 2015 creating greater transparency and visibility which could potentially increase the number of tax audits and corresponding revenues to government coffers. This would particularly impact the larger Multinational

businesses. It is anticipated that there will be a significant increase in taxpayer costs in terms of compliance and reporting systems.

SARS will be focusing on establishing teams and sharing of data to recognise anticipated revenue and reduce the tax deficit in 2015. Although it is anticipated that SARS will be taking great strides to do so, the effect of these changes to the fiscus may not be fully realised in 2015.

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