Government initiative on reduction in additional tax and interest in terms of the Income Tax Act

This initiative is intended to:
1) Encourage the submission of outstanding income tax returns;
2) settle tax balances due;
3) offer an opportunity for those who want to adjust their income on a voluntary basis.

This initiative is only applicable in respect of income tax balances due and thus cannot be availed of to reduce any pending balances representing Final Settlement System (FSS), Social Security Contributions (SSC) or Value Added Tax (VAT) amounts. The initiative contemplates different reduction calculations depending on whether the tax balances due arise from pre-self assessment years (i.e. year of assessment 1998 or earlier) or later years.

Reductions in tax balances due

Income tax balances arising up to year of assessment 1998 (basis year 1997)

In respect of income tax balances due and arising from years up to year of assessment 1998, the scheme provides for a reduction in the income tax liability as well as additional tax and interest amounting to 25% of the total amount due.

Income tax balances arising from self-assessment years (i.e. years of assessment 1999 to year of assessment 2008)

In respect of self-assessment years, the reduction in the balance applies in respect of additional tax and interest (i.e. the income tax liability is not reduced). This reduction will amount to 90% of the total of the interest and penalties included in the balance payable.

The reductions mentioned above are subject to a number of conditions and the taking of specific actions by certain deadlines as outlined below.
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General conditions

- All pending income tax returns for the years up to and including the year of assessment 2008 (basis year 2007) are filed by the 16 November 2009 (or later as indicated below).
- In respect of self-assessment years, all pending Adjustment Forms (revised returns) for years up to year of assessment 2008 are filed by 16 November 2009.
- Any objections raised against assessments served by the Commissioner of Inland Revenue (CIR) for all years up to year of assessment 2008 (basis year 2007) are withdrawn thus making such assessments final and conclusive.
- Any amount resulting to be payable after the reductions specified above, as confirmed in writing by the CIR, is settled by 15 January 2010.

Deadlines

- Manual filing of pending returns for any of the years of assessment 1999 to 2008 must be effected by 16 November 2009.
- All pending Adjustment Forms (revised returns) for years of assessment 1999 to 2008 must be filed by 16 November 2009.
- Electronic filing of tax returns (for years of assessment 2002 to 2008) must be effected by 16 December 2009. Where this option is availed of, any manual tax returns (typically those related to the years of assessment 1999 to 2001) must still be filed by 16 November 2009.
- Submission of the counter-signed letter provided by the Commissioner and payment in full of the amount resulting therefrom must be effected by 15 January 2010.

Process

The initiative will follow the process set out below:

- The Commissioner of Inland Revenue will be notifying tax payers who have outstanding income tax returns.
- The Commissioner will also inform tax payers of the balance of tax, additional tax, and interest due, and of the amount that will need to be settled by the 15 January 2010 in terms of this initiative (this notification will be made following the submission of any outstanding returns if applicable). The information provided in the letter to be issued by the Commissioner will distinguish between amounts due in respect of pre-self assessment years and amounts due from year of assessment 1999 to 2008.
- Tax payers need to counter-sign and return the letter, together with the relative payment, indicating whether they wish to benefit under this initiative
  - In respect of amounts due and arising from self assessment years only – i.e. balances arising from year of assessment 1999 to 2008; or
  - In respect of amounts due and arising from all years up to year of assessment 2008

It will not be possible to benefit in terms of this initiative only in respect of tax balances due for pre-self assessment years if an unsettled tax balance also arises in self-assessment years.

- The said letter, when signed and submitted, will be considered as a withdrawal by the taxpayer of any pending claims/objections/appeals (including those pending in front of the Board of Special Commissioners and Court Appeal) for the years opted for.

The Commissioner of Inland Revenue has also notified that in the case of all companies (not merely those taking up this initiative), the statutory deadline for the electronic submission of the income tax return for the year of assessment 2009 (the statutory due date was 30 September 2009) which had already been extended to 21 November 2009 has now been extended further to 21 January 2010. The deadline for the settlement of any balance of tax resulting from such income tax return has however remained unchanged.