





# APPROVED DOCUMENT CONTROL PAGE

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23/03/2013

LEGAL NOTICE NO.....

PRACTICE NOTE NO DT- IT/006-12

## ISSUANCE OF TAX COMPLIANCE CERTIFICATE

In exercise of the powers conferred by section 68*bis* of the Income Tax Order 1975, as amended, the Commissioner General issues the following notice.

### CITATION

This notice may be cited as Practice Note No DT-IT/006-12 on the Issuance of Tax Compliance Certificate.

### SECTION

Section 69 of the Income Tax Order 1975 as amended

### PURPOSE:

This practice note outlines how the Tax Compliance Certificate shall be issued, required to be met by tax payer, his tax obligations and further sets out a schedule of documents required.

### DEFINITION

Any word or term used in this Practice Note shall, unless specified otherwise, have the same meaning as defined in the Act.

## THE LAW INCOME TAX

### Requirements of the Law

#### ***1. Conditions for Tax Compliance Issuance:***

The Commissioner General shall **only** issue a Tax Compliance Certificate where:

The taxpayer has no outstanding tax

- Satisfactory arrangements have been made with the Commissioner General for the outstanding tax including any interest and penalty so charged.
- All outstanding tax returns in respect of any past years of assessment or part thereof i.e. VAT Returns, Income Tax returns, Withholding Tax Returns etc., have been submitted.

- Current Tax returns have been submitted or an extension of time has been granted.
- All P.A.Y.E so deducted has been remitted to the Commissioner General
- All provisional tax payments have been made.
- Taxpayer has complied with his statutory obligations.

## **2. Compliance**

Compliance is the performing of all obligations by a taxpayer as provided in the law and the following are the main obligations:

- Registration for Tax Purposes
- Submission of all tax returns such as VAT returns, Reconciliation Statements, and Annual Salaries.
- Making Timely payments of tax assessed
- The deduction and remittance on time of all withholding taxes
- Payment of branch profit tax
- The keeping of business and other records.

## **3. No Tax Outstanding Endorsement**

An endorsement on the Tax Compliance Certificate should be made when:

- Any duly assessed tax in respect of any year of assessment should have been fully paid.
- All P.A.Y.E and other withheld taxes should have been remitted to the Commissioner General.
- All outstanding Sales Tax payments have been made.
- In the case of Entertainers, Sportsmen and or Artists, payment of the withholding tax as per the contract by the agent has been made.

## **4. Satisfactory Arrangements Conditions**

- Satisfactory arrangements should have been made in terms of section 57(1) of the Income Tax Order
- All applications for any arrangements to settle outstanding taxes must be forwarded to the Manager Debt Collection for consideration and approval.
- The recovery of tax under such arrangements, if approved, must be completed within the financial year, that is, on or before 31 March.
- Arrangements shall only be agreed on in cases of acute financial difficulties.
- The Commissioner General holds the view that if profits were made, then the tax should have been provided for.

**5. *Revocation of Legal Notice 141 of 2004.***

The Legal Notice no 141 of 2004 (Practice Note 177) on Issuance of Income Tax Clearance Certificate is hereby revoked.

**6. *Schedule B***

Schedule B sets out the documents necessary on submission of Tax Compliance Certificate application for each transaction.

<i>Transaction</i>	<i>Documents Required for the Application</i>
1. Renewal or transfer of any licence (other than renewal of motor vehicles licence), permit or similar documents relating to any trade, business, profession or vocation, for businesses or trade.	<ul style="list-style-type: none"> <li>• Old licence or permit</li> <li>• Applicants graded tax number/TIN.</li> <li>• Tax Reference Number (in the case of companies).</li> </ul>
2. Transfer of immovable property or any endorsement to any title deed having the effect of transferring immovable property.	<ul style="list-style-type: none"> <li>• Letter from Conveyancer clearly stating the lot/ farm that is being transferred ,</li> <li>• Transferor's graded tax number/TIN</li> </ul>
3. De-registration of a company.	<ul style="list-style-type: none"> <li>• Certificate of incorporation</li> <li>• Application to deregister and form J</li> <li>• Directors graded tax number/TIN</li> <li>• Companies tax number/TIN</li> </ul>
4. First registration of a motor vehicle in Swaziland.	<ul style="list-style-type: none"> <li>• Invoices from Car Dealer</li> <li>• Tax invoices</li> <li>• Police clearance(If second hand)</li> <li>• Purchaser's graded tax number/TIN</li> </ul>
5. Registration of 2nd hand motor vehicle	<ul style="list-style-type: none"> <li>• Change of Ownership Form</li> <li>• Blue Book</li> <li>• Police Clearance</li> <li>• Purchaser's graded tax number/ TIN</li> </ul>
6. The for the provision of goods or services to the Government, a government institution, local authority or a parastatal body , a company and any other entity.in excess of E5 000(Five thousand Emalangen) for residents and non-residents.	<ul style="list-style-type: none"> <li>• Company Tax Reference Number/TIN</li> <li>• Graded tax number/TIN( in the case of Individuals)</li> <li>• Agreements/Contracts</li> <li>• TIN /Graded Tax Number for the local Company / Individual engaging such foreign entity /consultant.</li> </ul>
7. Purchase, sale or transfer of	<ul style="list-style-type: none"> <li>• Companies tax number/ TIN (where</li> </ul>

shares in companies.	company is the transferor, seller or purchaser).
8. Renewal of temporal residence permit.	<ul style="list-style-type: none"> <li>• TIN /Graded tax number of Individual where an individual is a transferor)</li> <li>• Old permit</li> <li>• TIN/Graded tax number</li> </ul>
9. The performance of any theatrical, musical, sporting or any other entertainment in Swaziland by a non-resident entertainer or sportsperson.	<ul style="list-style-type: none"> <li>• Contract of engagement between resident and non -resident person</li> <li>• TIN/Tax Reference Number of the person engaging the non-resident performer</li> <li>• Resident persons TIN/Tax Reference Number.</li> </ul>
10. Transfer of funds by all persons from Financial Institutions, Building Societies', Co-operatives, in Swaziland to offshore banks and investments institutions.	<ul style="list-style-type: none"> <li>• TIN/Graded Tax Number(in the case of individuals ,TIN/Tax Reference Number in case of companies</li> <li>• TIN/ Graded Tax Number of the transferor.</li> <li>• Bank statement reflecting the amount being transferred.</li> <li>• Details of the Bank, Investment Institution, Individual to which funds are being transferred to.</li> <li>• Reason for the Transfer in writing.</li> </ul>
11. First application, transfer and renewal by any person for a cellphone contract with a cellphone provider in Swaziland.	<ul style="list-style-type: none"> <li>• Certificate of Incorporation for the Company</li> <li>• TIN/Tax Reference Number</li> <li>• TIN/Graded Tax Number in the case of individuals.</li> </ul>
12. Any other persons as so required by law and or policies of certain organisations not listed above.	<ul style="list-style-type: none"> <li>• TIN/Tax Reference Number where the taxpayer is company</li> <li>• TIN/Graded Tax Number where taxpayer is an individual.</li> <li>• Any document to prove that a transaction requires such Tax Compliance Certificate.</li> </ul>

**COMMISSIONER GENERAL**  
**DUMISAMI MASILELA**

