



MOTOR INDUSTRY BARGAINING COUNCIL – MIBCO

REGISTERED UNDER THE LABOUR RELATIONS ACT 66 OF 1995

Reg. No. LR2/6/6/1

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The Committee Secretary
Mr Allen Wicomb
3rd Floor
90 Plein Street
Cape Town
8001

14 August 2012

Dear Mr Wicomb,

**Submission on the Draft Taxation Laws Amendment Bill:
Bargaining Councils**

With reference to the invitation for written submissions on the Draft Taxation Laws Amendment Bill the following:

The Income Tax Act, 1990, omitted the specific exemption of all income streams for Bargaining Councils from income and capital gain tax. Furthermore as a result of a legislative omission in the previous Industrial Councils Act, Industrial Councils were not permitted to own property in its own capacity. This omission was corrected in the current Labour Relations Act and Bargaining Councils are now permitted to own property. However as a result of this omission relating to the previous Industrial Councils Act, the Industrial Councils were required to find creative means to acquire operational premises. The National Industrial Council for the Motor Industry thus established several property companies to act as legal vehicles to hold these operational properties (kindly note that the properties were acquired exclusively for the purpose of conducting operational activities and never as investment properties).

As these properties are now being transferred to the Motor Industry Bargaining Council (the legal entity replacing the previous Industrial Council), a possible capital gains tax liability may now be perceived by SARS.

This is in sharp contrast to the intended exemption of Bargaining Council revenue streams as the sole beneficiary of these capital gains is the Bargaining Council and by implication the employees in the industry.

Although the proposed amendments addresses the previous omission of VAT exemption for Bargaining Councils, it is vital that this also be applied retrospectively to ensure consistent application of the exemption and to prevent this as being viewed as a change in the exemption status of Bargaining Councils. It is also vital that the exemption explicitly address all revenue streams of Bargaining Councils to ensure the status is clearly defined. The impact of the omission on the activities of the Bargaining Council might be severe. Pertaining to the property companies as explained above, it has far less of an impact for the Bargaining Council since rent is merely an intercompany transaction, however to ensure these matters are addressed holistically it is requested that this omission also be corrected.

It is the humble request by the Motor Industry Bargaining Council that the above omissions be corrected both prospective and retrospectively for all income streams of Bargaining Councils as these matters have severe impact on all Bargaining Councils registered with the Department of Labour and their operations.

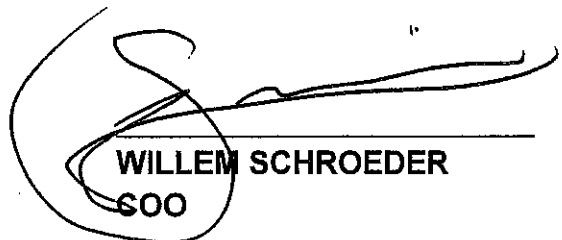
We trust that our request will receive your favourable consideration and look forward to your response. For more information you are more than welcome to contact Mr Willem Schroeder on (011) 369-7604.

We are prepared to address the above issues in more detail should the Committee need more detail and/or motivation.

Kind regards



ROBERT KAISER
GENERAL SECRETARY



WILLEM SCHROEDER
SOO

c.c. **MR IAN MACUN – DEPARTMENT OF LABOUR**
MR J CROUSE - DEPARTMENT OF LABOUR