

Service Centre

Taxpayer Service
CASH HALL

Office
Pietermaritzburg

Enquiries
Mrs V. Muskett

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Date
17 August 2009



South African Revenue Service

KwaZulu Natal – Pietermaritzburg
Westoe Building, 209 Pietermaritz Street,
Pietermaritzburg, 3201
PO Box 921, Durban, 4000
SARS online: www.sars.gov.za
Helpline Telephone (0800 00 7277)

Notice to all Conveyancers

Dear Conveyancer

Request for transfer duty exemption in terms of section 9(15) of the Transfer Duty Act No. 40 of 1949 (as amended) (the Act)

Notwithstanding the requisites of section 9(15) of the Act, it has become the norm in fixed property transactions to pay the purchase price and VAT to the transferor on date of registration – as in any other fixed property transaction.

On examining sections 11(3) and 9(15)(c) read with section 12 of the Transfer Duty Act, it is apparent that it is not the intention of the legislator to allow fixed property to be registered in a Deeds Office without payment being made or security being lodged.

In exercising the discretion for security as envisaged in section 9(15) (b) of the Act guidance is sought in section 43 of the Value-Added Tax Act No. 89 of 1991.

Besides normal bank securities it is practice for SARS to accept an irrevocable undertaking to pay the VAT.

1. The undertaking must be issued by a registered conveyancer;
2. It must be received by SARS before the certificate for transfer is issued;
3. It must be irrevocable; and
4. **It must undertake to pay the VAT on transfer.**

On transfer of the property in the deeds office the conveyancer must;

1. Make payment of the stipulated amount to the transfer duty section by cheque.
2. Attach a second copy of such undertaking to the cheque indicating the actual date of transfer in the deeds office for correct allocation to the clients VAT account.
3. Where electronic/eFiled payments are made kindly e-mail the undertaking, copy of the cheque/eFiling receipt as proof of payment and indicate the date of transfer to once again ensure correctness of the client's VAT account to prevent unnecessary interest and penalties.

Kindly find an example of the undertaking acceptable to SARS on the Conveyancer's letter head. No alteration to the wording will be acceptable.

The above process is a standard national SARS practice

Please feel free to contact me with any concerns.

Regards,

Vanessa Muskett

TPSC Team Leader: Pietermaritzburg

**SECURITY REQUIRED IN TERMS OF SECTION 9(15) (b)
OF THE TRANSFER DUTY ACT NO.40 OF 1949**

- (a) A bank cheque from a recognised financial institution or an Attorney's Trust Account cheque, OR
- (b) An undertaking by the conveyancer and/or Firm of Attorneys attending to the transfer of the property and as set out in the format hereunder and presented on the formal letterhead of such conveyancer and/ or Firm of Attorneys.

I the undersigned [Name of Attorney with Practice number] in my capacity as [Conveyancer and/or Attorney] of [Name of firm of Attorneys] do hereby irrevocable undertake to pay the South African Revenue Services the amount of Value-Added Tax due as per the attached TD 5 declaration against registration of transfer of [Property Description]

Dated at _____ this _____ day of _____ 2009.

AS WITNESSES:

1. _____

2. _____

**Conveyancer and/or
Attorney**

Note: No variation of these words will be accepted by SARS