



15 May 2018

The Chairperson  
Ms.C.Mabuza  
South African Board for Sheriffs  
P.O. Box 15223  
Vlaeberg  
8018

Your Ref: Ms.C.Mabuza

Our ref: Pres./FredC/Levy

Dear Madam,

- (I) **PROPOSED CALCULATION OF LEVIES PAYABLE TO THE SOUTH AFRICAN BOARD FOR SHERIFFS AND**
- (II) **AMENDMENT TO FORM 16 IN TERMS OF THE REGULATION RELATING TO SHERIFFS (1990)**

### INTRODUCTION

The expenses to be deducted mentioned in Form 16 have not been adjusted since the inception thereof in the nineties. The only adjustment to Form 16 has since resulted in the Board for Sheriffs **increasing the levy percentage from 0, 6 per cent to 1.5 per cent** despite our efforts and protestations against such a high increase. As a result of this levy increase, the benefit to the Board was an almost **300% immediate increase**. This increase resulted in sheriffs ending up paying exorbitant amounts of levies yet neglecting to amend the outdated Form 16 to reflect the current position in Sheriffs offices. It is an understatement to say that **Sheriffs cannot afford** to pay these huge amounts.

The **current method** for calculating the “**NETT INCOME**” in a Sheriff’s office, in terms of the regulation, is to **deduct** (exclude) **actual recoverable expenses** from Gross Turnover as these amounts are monies paid out to service



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providers but which are possible to **recover** by way of **Returns of Service**. Of these recoverable expenses, an **amount not exceeding 20 per cent** of gross turnover is allowed to be deducted as actual expenses. **Travelling**, in the meanwhile, **became part of this calculation**, but is **excluded** due to the **outdated format of Form 16**. **The neglect and ignorance** to adequately **increase Sheriffs fees** has resulted in the **expenses in sheriff's offices spiraling beyond the cap of 20%** of gross turnover deductible and **became obsolete** and definitely has to change. **The expenses in Sheriffs offices changed significantly** with the **implementation of technology** such as computers, Sheriff's office programs, IT services, telephone systems, printers, franking machines, internet, e-mail and social media.

The requirement for office space, **equipment** and vehicles that Sheriffs need to enable them to be **professional and effective** have become more and **more expensive**. This has not been made easy by volatile fuel prices which have skyrocketed far beyond the profitability of a sheriff's office as compared with the fee structure. **Salaries and wages** increased **yearly** and sometimes above the inflation rate whilst on the other hand Sheriffs' **fees increase on an average far below the inflation rate**. To make matters worse, sheriffs also struggle to collect their payments from attorneys many times writing them as bad debts.

The **misconstrued figures**, which are reflected in the current Forms 16 as "net income", are erroneously accepted as being **genuine net income** for Sheriffs. These figures create a **gross misconception about the remuneration for a Sheriff** with the SABFS as well as the **DoJCD** and is as such being distributed to prospective applicants as profitable ventures which ultimately prove to be false.

It is therefore our submission that the **amendment of Form 16** for the calculation of **ADJUSTED NETT TURNOVER** and the subsequent change of the Regulations is therefore **imperative**.

## **PROPOSAL**

### **RECOVERABLE EXPENSES**

The objective is to include the **major unrecoverable** direct business **expenses** to be deductible together with **the recoverable expenses** from Gross Turnover. We propose that the term "**Actual expenses**" be amended to read as: "**Average business expenses**". The long term effect of failure to increase Sheriffs fees adequately has resulted in expenses spiraling beyond the **cap of 20% of gross turnover** deductible and can therefore not be applicable anymore. We propose that it **should be scrapped entirely**.

**Annexure 2 Table C has been amended to allow for travelling** as per Rule 68 in the High Court. The Sheriffs **turnover will increase significantly** with the implementation hereof and **travelling should therefore be included as a deductible recoverable item.** (We are of the opinion that travelling should have been added as a recoverable expense since the inception of this regulation travelling has always been applicable in the High court).

Postage should also be amended to read “**Postage and other**” to include courier costs and other methods to enable the Sheriff to distribute documents and returns to the intended parties.

Telephone calls should read **Telephonic Communication and equipment** to include faxes, cell phones and internet access.

## **UNRECOVERABLE MAJOR DIRECT BUSSINESS EXPENSES**

The following **major direct business expenses** which are **essential** in the set up and survival of a **Sheriff’s office** should be included in Form 16, as a deduction from gross turnover, to reflect a **more accurate and acceptable** net gross turnover. (It doesn’t have to be a detailed calculation of expenses as reflected on a financial statement calculation).

The term “**net income**” should change to **ADJUSTED NETT TURNOVER.**

**Salaries and wages - these** could easily be proven by including the **IRP5’s and It3 a’s.** **Salaries and wages** amount to **more than 50% of some Sheriff’s turnover** and are not recoverable. Salaries are some of the major expenses in the Sheriffs outfit. We find it extremely unacceptable or fair, to pay 1.5% of a salaries bill as a levy to the Board.

**Office rent -** This is normally the second largest direct expense for Sheriffs. We propose that **office space alone** should be calculated per Square meter size at the **average going rate per square meter per month in the Sheriff’s vicinity.**

**Storage space** is already covered under Removal and Storage costs which are recoverable.

**Professional insurance -** The amount paid yearly for **professional insurance** as well as **excess payments** to be made on claims. (Most claims are malicious and result in unnecessary forced excess payments which are unrecoverable). Sheriffs are **rightfully forced** to take out such insurance. The risk of claims

against the Fidelity fund would be minimized if this item could be deducted from gross turnover. Sheriffs would then be able to afford such premiums.

**Third Party insurance** - Third party insurance is becoming more and more expensive and is now one of the large expenses in a sheriff's office. It became compulsory to sheriffs and rightfully so. It will also minimize the risk of claims to the fidelity fund as sheriffs will be able to afford the premiums. It should be easy to provide proof of yearly premiums paid.

**Equipment: Computer, IT and printing: IT services** are an essential part of a Sheriffs' office and are very **expensive**. Service providers of the various Sheriffs programmes **charge a monthly fee** for the continuation and upgrades of the programme. **External IT services** are a necessity for the upkeep of internet and e-mail services which are an essential necessity for the **modern Sheriff**. Copiers and printers are integrated and are charged per copy. **Paper** is also essential in a Sheriff's office. All these are **the life line** of any office to be able to deliver a **required service**. Expenses incurred could be proven by invoices received.

**Bank charges** - Business bank charges should also be deductible, like the charges in the trust account.

**Bad debts** - **Bad** debts, per financial year, are already a hurdle to sheriffs and they should therefore not be burdened with the obligation to pay the levy percentage on that amount. The amount could be audited and verified by an auditor and should be considered as a deduction.

## CONCLUSION

There is no doubt that Sheriffs **agree and understand** that a **levy should be payable** to the Board for Sheriffs in terms of section 19.1 of the Sheriffs Act. It is essential, however, to **review the current calculations** to define the term "Adjusted Net Turnover" which has been incorrectly phrased in the past. Sheriffs should not be burdened with an extra 1.5 per cent levy on these huge expenses, some of which are compulsory.

We concede that the **income from levies** for the SABFS may drop as a result of these proposed amendments and adjustments. However, **sheriff's turnover**, and therefore the **Board's turnover**, will increased with **further fee increases** and will be poised to increase even more with further **proposed amendments to the fee structure**. **One good example may be the scrapping of the fee per radius, as is currently charged in terms of annexure A table C and**

**amendment thereof to a single service and execution fee as in the High court.**

**The Board has also amended the regulation to receive unrecovered trust funds. The interest accrued therefrom can be diverted as income to the Board.**

We submit that it is in the interest of good business practice and fair play that the above deductions are allowed to accommodate Sheriffs to pay a levy based on a net reflection and to eliminate confusion which may be created as a result of the current calculations.