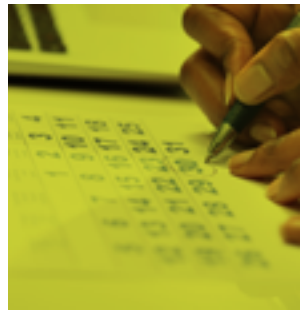
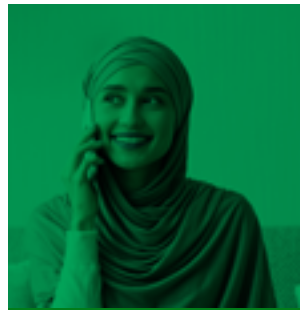




Mmuelli wa Setjhaba wa Lekgetho

TLHOPHISO E MABAPI LE DITOKELO, DITSHWANELO LE BOITLAMO BA BALEFALEKGETHO YA 2022



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SELELEKELA

Mosebetsi ona wa ho ba Monamodi wa tsa Lekgetho o reretswe “...ho tlisa botsitso pakeng tsa matla le mesebetsi ya SARS le boitlamo ba molefalekgetho, ditokiso le ditokelo”.¹ Ho bapa le maikemisetso ana, tokomane ena e leka ho fana ka lesedi ho balefalekgetho mabapi le ditokelo tsa bona, ditshwanelo le boitlamo ba bona bo mabapi le merero ya bona ya lekgetho le dipuisano tsa bona le Ditshebeletso tsa Lekgetho tsa Afrika Borwa (SARS) mmoho le Ofisi ya Monamodi wa tsa Lekgetho.

Ena ha se “Bili ya Ditokelo” e ka kgonang ho qobellwa empa e le tlhophiso feela ya metheo e ka hara ditokomane tse fapaneng, ho akareditswe le Molao wa Motheo, molao wa lekgetho mmoho le ditokomaneng tse ding tsa mmuso. Ditokelo le ditshwanelo dife kapa dife tseo ho builweng ka tsona mona di ka nna tsa angwa ke mekgelo mme di ka ba le moedi ho ya ka moo molao o dumellang ka teng.

Tokomane ena e kentse direferense tse mabapi le dikarolo tse itseng tsa Molao wa Taolo ya Lekgetho, wa 28 wa 2011 (TAA) le Molao ya² e tiisang ditokelo le ditshwanelo tse na hodima balefalekgetho, mmoho le kgutsufatso ya hore ditokelo tse na ke dife.³ Dikarolo tse amehang di hlakisitswe qetellong ya maqephe hore di tle di lekolwe ha bonolo. Ka kopo hlokomela hore maikemisetso ka sena ha se ho tla ka lenane le kentseng tsohle feela ke ho tlisa tekolo ya ka potlako dikarolong tseo e leng tsa bohlokwahlokoa ho bapa le boiphihlelo ba OTO (Ofisi ya Monamodi wa tsa Lekgetho).

Tokomane ena ha e nke sebaka, ha e fete kapa hona ho

1. Tlhalosetso e bitswang Explanatory Memorandum on the Taxation Laws Amendment Bill, 2011, e ntshitsweng ke Lefapha la Matlotlo ka la 27 Pherekong 2012.
2. Molao e laolang Tharollo ya Diqabang e mabapi le motjha o pela Boto ya Lekgetho kapa Lekgotla la Lekgetho tse hlomamisitsweng tlasa s103 sa TAA, GN550 sa GG37819 sa 11 Phupu 2014.
3. Karolo ya 2 ya TAA.

phahamela molao ofe kapa ofe, metheo ya molao wa tlwaelo kapa metjha e mabapi le taolo ya lekgetho mme balefalekgetho ba eletswa ho batla thuso e nang le boiphihlelo ho ba thusa ho phethahatsa ditokelo tsa bona. Mona ho ananelwa hore hangata ho phethahatswa ha ditokelo tsa motho ho hloka ketso e theko e hodimo ya makgotla.

A. DITOKELO TSA HAO LE DITSHWANELO JWALO KA MOLEFALEKGETHO

1. O na le tokelo ya ho fihlella lesedi

- O na le tokelo ya ho tseba hore o hloka eng hore o tle o tsebe ho ikobela melao ya lekgetho.
- O na le tshwanelo ya ho fumana lesedi le leng ho SARS le mabapi le merero ya hao ya lekgetho, o ntse o elellwa hore tse ding tsa dikopo tsa lesedi di hloka hore ho etswe kopo tlasa Molao wa ho Phahamiswa ha Phihlello ya Lesedi le hore SARS e ka hana kopo ebang e le mabapi le lesedi leo e leng la sephiri.⁴
- O na le tokelo ya ho tsebiswa ka diqeto tsa SARS le ho fumana ditlhalosetso tse hlakileng bakeng sa diqeto kapa diphetso tsena o ntse o elellwa hore taba efe kapa efe e mabapi le diqeto tsa SARS e ka nna ya batla hore ho kenngwe kopo tlasa Molao wa ho Phahamiswa ha Taolo ya Toka.⁵
- O na le tshwanelo ya ho fumana lesedi le felletseng le le nepahetseng mabapi le ditshebeletso tseo SARS le Monamodi wa tsa Lekgetho ba fanang ka tsona ka tsela ya mehlodi e fapaneng ho akareditswe diwebsaete tse fapaneng, diofisi tsa makala le ditsi tsa boikopanyi.⁶
- O na le tshwanelo ya ho tsebiswa hore ditshebeletso tsena di lokela ho ba maamong afe le boleng bofeng.⁷

4. Karolo ya 7 ya Molao wa Motheo wa Afrika Borwa; Dikarolo tsa 25(1), 42(1), 42, 48, 60(2), 61(1) & (4), 65, 73, 96, 106(5), 131, 162, 163(5), 164(6), 165, 172(1), 214(1) tsa TAA; mmoho le Molao wa 6 le Molao wa 7.

5. Dikarolo tsa 68 le 73 tsa TAA le Molao wa ho Phahamiswa ha Phihlello ya Lesedi, Molao wa 2 wa 2000.

6. Karolo ya 33 ya Molao wa Motheo e balwanng mmoho le Molao wa ho Phahamiswa ha Taolo ya Toka wa 3 wa 2000.

7. Motheo wa bohlanano wa Batho Pele jwalokaha o hlahella ka hara Pampiri e Tshweu e mabapi le ho Fetolwa ha Phethahatso ya Ditshebeletso tsa Setjhaba GG 18340, GN 1459 ya 1997; Tjhata ya Tshebeletso - sars.gov.za

2. O na le tshwanelo ya ho fumantshwa tshebeletso ya boleng le ya kapele ho tswa ho SARS⁸

O na le tshwanelo ya ho fumana thuso ya potlako, ya tlhomphele le ya seprofeshenale ha o sebetsana le SARS, le ho buiswa ka tsela eo utlwisisehang ha bonolo, ho fumana puisano e hlakileng le utlwisisehang ha bonolo ho tswa ho SARS, le ho tlaleha tshebeletso e sa kgotsofatseng.

Emengyamehlalayan netee akaretsa ena, moomolefalekgetho a lokelang:

- Ho tsebiswa ha a kgethetswe oditi kapa nnetefatso;
- Ho behwa sehlohlolong sa ditaba mabapi le tswelopele ya oditi e jwalo;
- Ho tsebiswa ka sephetho sa ngongoreho matsatsing a 60 ka mora ho tliswa ha ngongoreho e utlwahalang ho SARS; le
- Ho tsebiswa matsatsing a 30 ka mora hore ho kenngwe boipiletso bo utlwahalang hore na taba ena e lokelwa ke tharollo e nngwe ya kganyetsano na.

8. Karolo ya 195(1)(d) ya Molao wa Motheo, dikarolo tsa 22, 23, 25(5), 114, 115(1), 131, 166, 187(1), 256(2) tsa TAA, Molao wa 9, Molao wa 13(1), mmoho le metheo ya bone le ya bosupa ya Batho Pele jwalokaha e hlahella ka hara Pampiri e Tshweu e mabapi le ho Fetolwa ha Phethahatso ya Ditshebeletso tsa Setjhaba GG 18340, GN 1459, Tsebisano ya 1459 ya 1997.

3. O na le tokelo ya mokgwatshebetso wa lekgetho o seng leeme, o sa nkeng lehlakore le o nang le toka⁹

- Ke tokelo ya hao hore dipehelo tsa molao wa lekgetho di sebediswe ka tsela e tsepamemng, e seng leeme le ya nnete. Moedi ofe kapa ofe o ka bang teng wa ditokelo tsa molefalekgetho, jwalokaha di hlahella ka hara tokomane ena, di ka dumellwa feela ebang dipehelo tse itseng tsa molao di dumella seo. Mohlanka wa SARS ya etsang diqeto ka merero ya hao ya lekgetho o tlameha ho etsa jwalo ntle le ho ba le kgohlano ya ditabatabelo tse ka etsang hore a qetelle a nkile lehlakore.
- O ne le tshwanelo ya ho fihlella lekgotla kapa formao e nngwe e nang le matla a loketseng a molao ho phethahatsa ditokelo le ditshwanelo tsa hao.
- Ha re tea mohlala, balefalekgetho ba na le tshwanelo ya:
 - Ho nka ketso efe kapa efe ya taolo ka SARS, e thunthetsang ditokelo tsa bona, hore e ke lekolwe hape ho latela dipehelo tse behilweng ka hara Molao wa ho Phahamiswa ha Taolo ya Toka.
 - Ho etsa dikopo Lekgotleng la Lekgetho ho qobella SARS hore e ikobele Melao ya Tharollo ya Kganyetsano.

9. Dikarolo tsa 33, 34 and 38 of the Moalo wa Moteho; Dikarolo tsa 2(b), 7, 8(3), 10, 11, 41(3), 44, 45(2), 47, 49(3), 55, 59, 60, 61, 62, 63, 64, 65, 66, 101-150, 163(2)(a) & (b), 164(2), 164(6), 167, 168, 172, 174, 176, 177(3), 179-184, 179(2), 185, 186, 187(1), 188-189, 191(2), 200-205, 210, 211, 212, 213, 215(2), 218, 222, 223(1), 229, 232, 236, 237, 240, 256(2) tsa TAA le Tharollo ya Kganyetsano kaofela ha yona.

4. Ha wa lokela ho lefa bokaalo bo fetang bokaalo bo nepahetseng ba lekgetho le kolotuwang SARS¹⁰

- O na le tokelo ya ho lefa bokaalo ba lekgetho leo o le kolotang feela, ho akareditswe tswala le dikotlo. Bokaalo bofe kapa bofe bo lefilweng ho feta tekano ke wena kapa bo fumanweng ho wena ka tsela ya mehato ya pokello ya SARS bo tlameha ho busetswa.
- Mokgwatshebetso wa lekgetho wa Afrika Borwa o sebetsa ka tsela ya “lefa jwale mme o ngangisane hamoraonyana” mme sena se bolela hore, le ha o hanana le hlahlobo e bakileng sekoloto, o tlameha ho e lefa pele. Le ha ho le jwalo, o na le tshwanelo ya ho kopa hore SARS e fanyehe boitlamo bona ba hao ba ho lefa lekgetho ho fihlela motjha ona wa tharollo ya kganyetsano o phethelwa. SARS ha ya dumellwa ho nka mehato efe kapa efe ya pokello ho tloha mohla o kentseng kopo e jwalo, ho fihlela ho feta matsatsi a leshome ka mora hore e o tsebise hore kopo eo e hannwe, kapa kopo eo pejana e neng e tjhaetswe monwana e se e hutswe.¹¹
- O na le tshwanelo ya ho tsebiswa ka sekoloto sa lekgetho le maikemisetso a SARS a ho fumana kahloko kapa ka ho kgethwa ha mokga wa boraro o tlang ho bokella sekoloto.¹²
- O na le tshwanelo ya ho etsa kopo ho SARS bakeng sa ho etsa tlhophiso ya ho lefa sekoloto sa hao sa lekgetho ka mekitlane, kapa ho hlahisa ho lefa bokaalo bo bonnyane ho bo kolotuwang.¹³

10. Dikarolo tsa 93, 98, 164, 166, 169, 177, 179-184, 187(1), 190(1), 191(2), 210, 211, 211, 222, 223(1) tsa TAA.

11. Karolo ya 164(6) ya TAA.

12. Dikarolo tsa 172 le 179 tsa TAA.

13. 13. Dikarolo tsa 167-168; le dikarolo tsa 200-207 tsa TAA.

5. Tokelo ya ho hao ya tse praevete le sephiri¹⁴

- Balefalekgetho ba na le tokelo ya ho lebella hore patlisiso efe kapa efe ya SARS, phuputso kapa phethahatso ya yona e tla ikobela molao. Ketso e jwalo ha ya tshwanela ho intshunyatshunya ho feta ka moo ho lebelletsweng ka teng mme e lokela ho tsamaya ka tsela e seng leeme.
- O na le tokelo ya ho lebella hore lesedi lefe kapa lefe leo o le nehelang SARS le Monamodi wa tsa Lekgetho le ke ke la tsebahatswa ntle feela le ha o le tjhaetse monwana kapa ho dumellehile ho ya ka molao.
- Ka kopo hlokomela hore SARS e dumelletswe ho fumana lesedi le mabapi le merero ya hao ya lekgetho ho tswa mekgeng ya boraro e kang dibanka le beng ba mesebetsi.¹⁵
- O ne le tswanelo ya ho kenya ttletlebo ya bonokwane kgahlano le mosebetsi ofe kapa ofe wa SARS kapa wa Monamodi wa tsa Lekgetho, kapa mang kapa mang ya sebedisang kapa hona ho hlahisa lesedi la hao ka tsela e sa tsamaisaneng le TAA.

14. Dikarolo tsa 21, 40-66, 67-72, 115(2)124(1), 132, 236 tsa TAA le tsa Molao wa Tshireletso ya Lesedi la Motho wa 4 wa 2013.

15. Karolo ya 46 ya TAA.

6. Tokelo ya ho fumana kemedi¹⁶

O na le tokelo ya ho fumana ditshebeletso tsa moemedi ho o thusa ka mereo ya hao ya lekgetho le tse ding ha o sebetsana le SARS.

O tlameha ho hlokomela hore ha ho tluwa ho tse mabapi le ho mamelwa ha taba ke Boto ya Lekgetho, molefalekgetho o tlameha ho kopa tumello ho tswa ho modulasetulo hore a tle a emelwe.¹⁷

16. Dikarolo tsa 25(3), 52(3), 103, 113(8) tsa TAA.

17. Karolo ya 113(8) ya TAA.

7. O ne le tshwanelo ya hore dintho di phethelwe¹⁸

O na le tshwanelo ya hore oditi, phuputso, kganyetsano le mehato ya ho bokella sekoloto e phethelwe kapele ka moo ho kgonehang ka teng.

18. Dikarolo tsa 29(3), 32, 93, 98, 99, 100, 148, 171, 176(3), 197, 198, 232 tsa TAA.

8. O na le tshwanelo ya ho etsa dikopo/ ditlhahiso tse itseng ho SARS¹⁹

Dipehelo tsa molao wa lekgetho tse nehelanang ka dithuso tse itseng ho balefalekgetho ha di iketsahalle ka botsona. Ha ho le tjena, o na le tshwanelo ya ho kopa thuso eo e itseng hore e tle e sebediswe tabeng ya hao.

E meng ya mehlala ya dikopo tseo molefalekgetho a ka di etsang ho SARS ke tse mabapi le:

- Ho ekeletswa nako ya ho nehelana ka ditokomane tse kopilweng ke SARS;
- Ho ntshetsa pele diqeto kapa ho ntsha maikutlo a sa tlameng;
- Mabaka a hlahlobo;
- Le hore qeto e entsweng ke SARS mme e se karolo ya ngongoreho ho etswe boipiletso ka yona le hore e hulwe.
- Hlahlobo e fokotswe;
- Katoloso ya nako ya ho nehelana ka dingongoreho kapa boipiletso;
- Ho etsa tlhahiso ka sepheo sa ho fedisa kganyetsano;
- Hre modulasetulo wa boto ya lekgetho a ikgule; le hore
- Dikotlo tse itseng le tswala di fokotswe.

19. Dikarolo tsa 46(5), 75-90, 93, 95, 98, 104(5), 107(2), 111(7), 113(8), 113(11), 118, 122(2), 130, 142- 150, 164(2), 165, 167, 187(6) & (7)200, 215(1), 223(3), 226, 256(1) tsa TAA le Molao wa 6.

9. O na le tshwanelo ya ho tletleba ntle le tshabo ya ho ba lehlatsipa²⁰

- O na le tshwanelo ya ho tletleba.
- O ke ke wa tshoswa hore o be o qetelle o kentse tletlebo kapa o be o qetelletse o e hutse.
- O ke ke wa eba lehlatsipa ka lebaka la ho kenya tletlebo ho botsamaisi ba ka hare ba ditletlebo SARS kapa ho Ofisi ya Monamodi wa tsa Lekgetho.
- Balefalekgetho ba na le tokelo ya hore ditletlebo tsa bona di ngodiswe ka potlako le ho rarollwa ke Ofisi ya Botsamaisi ba Ditletlebo (SARS SARS's Complaints Management Office (CMO) nakong ya ho fihla ho matsatsi a 21 a kgwebo ho tloha mohlang ho neng ho kenggwana tletlebo, ka ho letsetsa SARS CMO ho **0860 12 12 16**. Ebang molefalekgetho a sa kgotsofalla sephetho sa SARS, molefalekgetho a ka latela motjha wa ditletlebo wa Monamodi wa Lekgetho ka ho kopa foromo ya ditletlebo, e ka rwallwang ho tswa ho www.taxombud.gov.za.

O ka nna wa kopa foromo ena ka imeile ho complaints@taxombud.gov.za kapa mohala ho **0800 662 837**.

20. Karolo ya 195(1)(d) ya 16-18 ya TAA mmoho le motheo wa bosupa wa Batho Pele jwalokaha e hlahella ka hara Pampiri e Tshweu e mabapi le ho Fetolwa ha Phethahatso ya Ditshebeletso tsa Setjhaba GG 18340, Tsebiso ya 1459 ya 1997.

10. O na le tokelo ya ho hanyetsana/ phephetsa dihlahlobo/diqeto²¹

O na le tokelo ya ho hanyetsana le hlahlobo efe kapa efe kapa qeto eo e leng karolo ya boipiletso, ho bapa le dipehelo le melao e laetsweng ya motjha wa tharollo ya dikganyetsano.

O na le tokelo ya ho nka mehato efe kapa efe ya taolo e thunthetsang ditokelo tsa hao, hore e ke lekolwe hape ho latela dipehelo tse behilweng ka hara Molao wa ho Phahamiswa ha Taolo ya Toka.

21. Dikarolo tsa 103, 104, 107, 177(3), 190(6), 220, 224 tsa TAA.

B. BOITLAMO BA HAO JWALO KA MOLEFALEKGETHO²²

- Motho e mong le e mong o na le boikarabelo ba ho sebetsa ho latela bokgoni le bokgabane ba bona le ho lefa makgetho a behilweng ke molao.²³
- Jwalo ka molefalekgetho ke boikarabelo ba hao ho nnetefatsa hore o fadimehetse boitlamo ba hao mme ebang o na le qeaqeo efe kapa efe kapa ebang merero ya hao ya lekgetho e le tshopodi, o lokela ho fumana keletso e tshwanetseng.
- O tlameha ho ingodisetsa ho ba molefi wa lekgetho ha nako e fihla kapa ebang o lokela ho etsa jwalo.²⁴
- O tlameha ho tshepahala le ho nepahala dipuisanong tsa hao le SARS le Monamodi wa tsa Lekgetho.
- O tlameha ho ikobela metjha yohle e laetsweng ya lekgetho mmoho le dinako tse amanang le merero ya hao ya lekgetho.²⁵
- Ka ho qolleha, o tlameha ho fana ka dikgutliso tse felletseng le tsa nnete le ho etsa ditefo tsa makgetho ha ho hlokeha hore o etse jwalo.²⁶
- O tlameha ho fana ka ditokomane tse kopilweng ke SARS ka sebopeho se hlokehang le ho latela nako e behilweng kopong.²⁷

22. Tse tswang Tjhateng ya Tshebeletso ya SARS.

23. Atikele ya 29 ya African Charter of Human and People's Rights e ananetsweng ka la 27 Phuptjane 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), e phethahaditsweng ka la 21 Mphalane 1986 mme ya tjhaelwa monwana ke Afrika Borwa.

24. Dikarolo tsa 22 - 24 tsa TAA.

25. Dikgaolo tsa 3: Boingodiso, 4: Dikgutliso le Direkoto, 5: Pokello ya Lesedi, 9: Tharollo ya Kganyetsano, 10: Sekoloto sa Lekgetho le Tefo; mmoho le 11: Phumanohape ya Lekgetho la TAA ka ho qolleha ke tsa bohlokwa.

26. Dikarolo tsa 25 - 28; and 162 tsa TAA.

27. Karolo ya 46(4) ya TAA.

-
- O tlameha ho tsebisa SARS ka diphetoho dife kapa dife tsa dintlha tsa hao tse ngodisitsweng kapa dintlha tsa hao tsa banka matsatsing a 21.²⁸
 - O tlameha ho boloka ditokomane tsohle le direkoto tse mabapi le ditsebahatso tsa hao tsa lekgetho nako e kana ka dilemo tse hlano ho tloha mohlang o neng o nyehelana ka kgutliso ya hao. Ho bohlokwa ho hlokomela hore nako ya dilemo tse hlano e qala feela ka letsatsi leo ka lona o neng o nyehelana ka kgutliso ya hao.²⁹
 - Ebang ho sa hlokehe hore o nyehelane ka kgutliso, o lokela hore o boloke ditokomane le direkoto tsa hao kaofela nako e kana ka dilemo tse hlano ho tloha mafelong a nako ya lekgetho leo ditokomane tsena le direkoto tsena di angwang ke tsona.³⁰
 - Balefalekgetho ba Kgwebo ba tameha ho netefatsa hore kameha ba emelwa ke mohlanka wa setjhaba ya dulang Afika Borwa.³¹

28. Karolo ya 23 ya TAA.

29. Karolo ya 29 ya TAA.

30. Karolo ya 29 ya TAA.

31. Karolo ya 246 ya TAA.

PHETHELO

Motheo wa mokgwatshebetso wa taolo e hlokanng leeme, ya toka ke botsitso bo ntlafetseng pakeng tsa matla le mesebetsi ya bolaodi ba pokello ya lekgetho, ha ka lehlakoreng le leng, ho na le ditokelo le boitlamo ba molefalekgetho. Tokomane ena e leka ho ba le kabelo ho tlišweng ha botsitso boo ka ho ba ntlha e le nngwe ya tshebeletso e mabapi le ditokelo, ditshwanelo le boitlamo ba balefalekgetho ba Afrika Borwa. Ena ke tokomane ya pele ya mofuta wa yona mona Afrika Borwa mme re tshepa hore e tla sebeletsa Mafrikaborwa hantle le ho ba le kabelo pokellong e seng leeme ya lekgetho lohle le lokelang ho bokellwa.

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