

CHIEF REGISTRAR'S CIRCULAR NO. 9 OF 2009

ALTERATIONS AND ERRORS IN TRANSFER DUTY RECEIPTS

1. NO AMENDMENTS / CHANGES ON TRANSFER DUTY RECEIPTS

The South African Revenue Services ("SARS") has announced that the payment of transfer duty with regard to the acquisition of property is based on specific laid down requirements which influence the amount of duty to be paid and/or whether any penalty (additional tax) is payable as a result of non-adherence to such requirements.

The practice of amending Transfer Duty Receipts is, as a result of the above, a major cause of concern for audits by the Auditor-General. As a consequence SARS will, as from 1 July 2009, no longer effect any manual amendments / changes to Transfer Duty Receipts.

2. INFORMATION THAT MUST APPEAR IN TRANSFER DUTY RECEIPTS

2.1. SARS has indicated the following is information that must appear in a Transfer Duty Receipt:

2.1.1. Full name and identity number / registration number of the parties.

2.1.2. Date of transaction.

2.1.3. Purchase price, if property was sold.

2.1.4. Property description (property in a **sectional title scheme** must be described by referring to the number of the section, name of the scheme, and the sectional plan number. No reference need be made to the undivided share in the common property. The exclusive use area must be described by referring to the exclusive use area, for instance G 10, name of the scheme, and the sectional plan number).

3. ERRORS IN TRANSFER DUTY RECEIPTS

3.1. Deeds examiners **must not accept** Transfer Duty Receipts on which errors of the following nature occur:

3.1.1. Where a clear difference between a **name / identity number / registration number** cited in other documents (i.e. power of attorney) and the Transfer Duty Receipt exist;

3.1.2. Errors in the **property description**. Citing incorrect Erf numbers or the names of places, e.g. Erf 345 instead of Erf 435, and Erf 345 Athlone instead of Erf 345 Cape Town, must not be accepted. Errors with regard to the incorrect portion, e.g. portion 1 instead of portion 11 or the remainder of a portion 1, etc. must not be accepted;

- 3.1.3. Omitting to refer to a **personal servitude**, e.g. usufruct etc;
- 3.1.4. The **date of the transaction** must be correct;
- 3.1.5. The **purchase price** on the Transfer Duty Receipt must tally with the purchase price referred to in the power of attorney;
- 3.1.6. **Deposit** Transfer Duty Receipts must not be accepted for registration purposes. A Transfer Duty Receipt on which the word "Deposit" has been deleted, must not be accepted as a valid Transfer Duty Receipt.
- 3.2. A **certificate by a conveyancer** stating the correct position must be accepted with regard to Transfer Duty Receipts on which errors of the following nature occur:
- where minor errors in the spelling of names i.e. Louww instead of Louw or Gustaf instead of Gustaff, etc. have been made;
 - differences with regard to the last seven digits in an identity number;
 - where minor errors in the spelling of a township / farm / scheme name, etc. have been made;
 - where incorrect or no reference has been made to the extension of a township, e.g. Nelspruit extension 2 (or Nelspruit) instead of Nelspruit extension 12;
 - where incorrect or no reference has been made to the registration division of a farm / agricultural holding;
 - where incorrect or no reference has been made to the extent of a property.

4. COMPLIANCE WITH SARS DIRECTIVE

In order to comply with the directive issued by SARS, deeds registries must refuse to accept for registration purposes any Transfer Duty Receipt, issued on or after 1 July 2009:

- to which an amendment / change has been effected; and
- in which errors as referred to in paragraph 3.1.1 to 3.1.6 *supra*, occur.


 CHIEF REGISTRAR OF DEEDS
 DATE: 19 JUNE 2009

REFERENCE: A 6/2/P
RINGBINDER 44

CHIEF REGISTRAR OF DEEDS
REGISTRARS OF DEEDS
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The Chairperson
Standing Committee on Property Law
Law Society of SA
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Dear Sir/Madam

TRANSFER DUTY AMENDMENTS/CHANGES TO RECEIPTS

As you are aware, the payment of Transfer Duty with regard to the acquisition of property is based on specific laid down requirements which influence the amount of duty to be paid and/or whether any penalty (additional tax) is payable as a result of non-adherence to such requirements.

The most significant information for the South African Revenue Service (SARS) and the Deeds Office, which are key in determining whether Transfer Duty payable, is the following:

1. Full name and identity number / registration number of the parties.
2. Date of transaction.
3. Amount on which Transfer Duty has been paid (this may differ from the purchase price).
4. Property description.

It has been brought to the attention of this office that a practice has evolved over recent times whereby amendments/alterations are brought about on Transfer Duty receipts already issued which have the effect of altering the facts of the transaction substantially. This then has an effect on the amount of Transfer Duty payable as well as the determination of whether penalties/additional taxes will be payable.

The following errors on a Transfer Duty Receipt would **not** be accepted by both SARS and the Deeds Office:

1. Where a clear difference between a **name / identity number / registration number** cited in other documents (i.e. power of attorney) and the Transfer Duty Receipt exist.

(Minor errors, for example spelling errors in names i.e. Louww instead of Louw or Gustaf instead of Gustaff, etc. and differences with regard to the last seven digits in an identity number, must be overlooked. A certificate by a conveyancer stating the correct position must be accepted where minor errors have been made).

2. Errors in the **property description**. Citing incorrect Erf numbers or the names of places, e.g. Erf 345 instead of Erf 435, and Erf 345 Athlone instead of Erf 345 Cape Town, **must not** be accepted. Errors with regard to the incorrect portion, e.g. portion 1 instead of portion 11 or the remainder of a portion 1, etc. **must not** be accepted.

(A certificate by a conveyancer stating the correct position must be accepted where minor errors in the spelling of a township / farm / scheme name have been made. The extent need not be disclosed, therefore, if an incorrect extent has been disclosed, a conveyancer's certificate with regard to the correct extent must be accepted).

3. Omitting to refer to a **personal servitude**, e.g. usufruct etc.
4. The **date of the transaction** must be correct.
5. The **purchase price** on the Transfer Duty Receipt must be in line with the purchase price referred to in the power of attorney.

Deposit Receipts: The Deeds Office will not accept Transfer Duty Receipts that is a deposit receipt for registration purposes. A Transfer Duty Receipt on which the word "Deposit" has been deleted, **will not** be accepted as a valid Transfer Duty Receipt. This receipt must first be finalised by the Office where the receipt was issued.

Clearly accepting corrected receipts raise serious concerns which could have implications to the calculation. Further more it raises concerns regarding the authenticity of the approvals given by SARS and how the Deeds Office can verify the amendments made.

If any of the above, information is incorrect or any changes to the Transfer Duty Receipt have been made, on or after 1 July 2009, such Transfer Duty Receipt will not be accepted by the Deeds Office.

Manual and e-file procedures regarding incorrect Transfer Duty Receipts:

1. An application for a Correction must be made at the SARS Branch Office where the receipt was issued, on the form, Revenue 16, which is obtainable at any SARS Branch Office. The form from the SARS Website Form: REV 16 - Claim for refund out of revenue - 29 May 2007 - March 2008 Updated March 2008 may also be used;
2. An application for a correction must be accompanied by the **original** incorrect Transfer Duty receipt otherwise such request will not be processed or considered;
3. Furthermore, the request must be accompanied by a set of the "new" e.g. the fresh set of Transfer Duty documents to enable SARS to issue a correct Transfer Duty receipt at the same time as processing the application for correction request.

No exceptions to this rule will be permitted; corrections and receipts will follow the accepted SARS business rules and time frames.

Please contact your local SARS Branch Office should you have any questions.

Sincerely



for THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE