



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

**TO: ACCOUNTING OFFICERS OF NATIONAL DEPARTMENTS
PROVINCIAL HEADS OF DEPARTMENT
NATIONAL AND PROVINCIAL CHIEF FINANCIAL OFFICERS**

DIVISION OF REVENUE CIRCULAR NO. 1 OF 2010/11

COMPLIANCE WITH SECTION 38 OF THE 2010 DIVISION OF REVENUE ACT (ACT NO. 1 OF 2010) AND SECTION 31 OF THE 2009 DIVISION OF REVENUE ACT (ACT. NO. 12 OF 2009)

1 PURPOSE

1.1 To give effect to the provisions of section 31 of the 2009 Division of Revenue Act (Act no.12 of 2009);

2 LEGAL REQUIREMENT

- 2.1 Section 38 of the 2010 Division of Revenue Act (Act no. 1 of 2010) states that the repeal of the 2009 Division of Revenue Act (Act no. 12 of 2009) does not affect any duty or obligation set out in that Act, the execution of which is still outstanding.
- 2.2 Therefore, in terms of section 31 (1) of the 2009 Division of Revenue Act, any conditional allocation, excluding the Gautrain Rapid Rail Link Grant, the Gautrain Rapid Rail Link Loan and the Expanded Public Works Programme Incentive, that is not spent at the end of the financial year reverts to the National Revenue Fund, unless the relevant receiving officer can prove to the satisfaction of the National Treasury that the unspent allocation is committed to identifiable projects.
- 2.3 Furthermore, section 31 (2) stipulates that the National Treasury may at the request of a transferring national officer, provincial treasury or municipality approve a roll-over from a conditional allocation to the next financial year.

3 PROCEDURE

- 3.1 To give effect to the above legal requirement the following procedure must be applied:
- 3.1.1 Each Provincial Treasury must by **30 April 2010** indicate to the National Treasury and the transferring national officer in writing:

- 3.1.1.1 The total amount of unspent funds for each relevant conditional grant as at 31 March 2009;
 - 3.1.1.2 The amount of unspent funds for the relevant grant not committed to identifiable projects;
 - 3.1.1.3 The amount of funds currently committed to identifiable projects;
 - 3.1.1.4 Given that section 31 requires proof of commitment, the provincial treasury must submit a list of the projects referred to in (3.1.1.3) above, clearly stipulating the tender numbers related to each project or invoices awaiting payment.
- 3.1.2 National Treasury will, after consultation with the relevant treasury and the national transferring officer, give provisional approval for funds committed to identified projects to be retained within the relevant Provincial Revenue Fund for the purposes of rolling over to the 2010/11 financial year. Such approval will be communicated within 14 days of receipt of the project lists and the committed amounts as outlined above.
- 3.1.3 Upon completion of the preliminary year-end closure, the relevant provincial department must surrender any unspent funds that are not committed to identified projects through the provincial treasury to the relevant national department. The final date for this initial surrender of unspent funds is **21 May 2010**.
- 3.1.4 National departments must, upon receipt of these funds, surrender the same to the National Revenue Fund. This should be reflected by each department in the Annual Financial Statements (AFS). Each department will therefore have to decrease the amount transferred for conditional grants in order to increase the amount of voted funds to be surrendered. An explicit outline of the conditional grants portion of this entry must be provided in the relevant annexure. The final date for all such surrenders is **31 May 2010**.
- 3.1.5 If a provincial department has determined, after the finalisation of the audit and the final system audit close, that the initial surrender was either too much or too little it must, in consultation with the provincial treasury, notify the relevant national department as well as the National Treasury.
- 3.1.6 Any money due to the National Revenue Fund after the determination described in (3.1.5) above, must be surrendered by a province to the appropriate national department within one (1) week after the submission of the annual financial statements. Where funds are due to the provincial department, transfers must be done in consultation with the National Treasury within one (1) week after the submission of the national department's annual financial statements for auditing.

4 REQUESTS FOR ROLL-OVERS

- 4.1 Treasury Regulation 6.4 will apply with respect to requests for roll-overs (including the implementation of provincial roll-overs), and Treasury Regulation 6.6 applies with respect to accounting for such in an adjustments budget. Therefore:
- 4.1.1 Only funds for projects already in progress may be rolled over;
 - 4.1.2 Conditional grant funds earmarked/budgeted for *transfers and subsidies* may not be rolled over unless they will be used for the same purpose already voted for;

4.1.3 Conditional grant funds that are budgeted for *compensation of employees* (such as those within the Integrated Housing and Human Settlement Development Grant) may not be rolled over if unspent.

4.2 In the case of funds either withheld by a national department as at 31 March 2010 or where a province has surrendered funds, the relevant national department may submit to National Treasury a request for roll-overs that includes a comprehensive contribution from the provincial treasuries of the provinces for which the roll-over application is being made. The request must be accompanied by an appropriate motivation on behalf of the sector and the province.

5 CONCLUSION

5.1.1 This circular seeks to provide clarity on the application of section 31 of the 2009 Division of Revenue Act.

5.1.2 This circular is not a substitute for any other requirement stipulated in the 2009 Division of Revenue Act and does not affect any duty or obligation set out in that Act, or the relevant conditional grant framework in terms of sections 24, 25 and 26.

6 APPLICABILITY

6.1.1 This circular applies to all national and provincial departments.

7 EFFECTIVE DATE

7.1.1 The procedures contained in this circular take effect from 01 April 2010 and must be adhered to by all accounting officers.

8 CONTACT PERSON

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