

qdos

C O N S U L T I N G

Tax Enquiry Insurance

Policy Wording

Should you wish to obtain any information in connection with this policy, kindly contact

Noland House | 2nd Floor | River Park | River Lane | Mowbray | 7700

T. 0860 qdossa (736 772) | F. 0866 775 622

enquiries@qdosconsulting.co.za

www.qdosconsulting.co.za

QDOS CONSULTING SA (PTY) Ltd is an authorised Financial Services Provider - Registration No. 30071

UNDERWRITTEN BY

The Hollard Insurance Company Limited

Reg. No. 1952/003004/06

22 Oxford Road | Parktown | 2193

Tel: 011 351-5000

ADMINISTERED BY

Qdos Underwriting Managers

Reg No: 2002/026257/07

In exchange for receipt of the Premium as stated in the Policy Schedule, Hollard agrees to indemnify the Policyholder against Professional Fees incurred during the Period of Insurance subject to the terms, conditions, exceptions and exclusions contained in this policy or in any subsequent endorsement to it.

CONTENTS

INTRODUCTION	2
POLICY COVER	3
POLICY EXCLUSIONS	4
CONDITIONS OF COVER	5
DEFINITIONS	8
IMPORTANT INFORMATION	9

qdos

CONSULTING

Tax Enquiry Insurance

Noland House | 2nd Floor | River Park | River Lane | Mowbray | 7700 | PO Box 788 Cape Town | 8000
T. 0860 qdossa (736 772) | F. 0866 775 622
Company Registration: 2005 / 041747 / 07
Company VAT Number: 4420228670
Financial service Provider License No: 30071
Hollard Insurance Company Limited Company VAT No: 4450117405
Underwritten by Hollard, an Authorised Financial Services Provider

INTRODUCTION

(Words shown in Italics are explained in the definitions section of this policy)

This policy is underwritten by The Hollard Insurance Company Limited (a duly registered insurer), and administered by Qdos Underwriting Managers (a licensed Financial Services Provider).

Hollard will pay for *Professional Fees* incurred by the Accountant (*Appointed Consultant*) when undertaking work on the Policyholder's behalf in respect of certain tax enquiries by SARS.

This policy is subject to various terms, conditions and exclusions which appear elsewhere in this document. Please read them carefully.

The cover and terms applying to the policy are detailed on the Policy Schedule.

This policy wording, together with the *Proposal Form*, *Policy Schedule*, declarations, authorisations and endorsements pertaining to this policy as supplied by Qdos, shall form the basis of this insurance contract.

In the event of any conflict between the provisions of this policy and that of any other document as mentioned above, the provisions of this policy wording shall prevail.

POLICY COVER

INSURED EVENTS COVERED BY THIS POLICY

This policy covers the Policyholder against Professional Fees Incurred by the Appointed Consultant in respect of:

SOUTH AFRICAN REVENUE SERVICE (SARS) ENQUIRIES AND DISPUTES:

- a full enquiry by SARS into the Policyholder's income tax return following the issue of a notice, request or action under Sections 74, 74A,74B,74C or 74D of the Income Tax Act No 58 of 1962 which includes a request to examine all the Policyholder's books and records.
- an aspect enquiry by SARS which is limited to one or more specific aspects of the Policyholder's income tax return following the issue of a notice, request, or action under Sections 74, 74A,74B,74C or 74D of the Income Tax Act No 58 of 1962 which does not include a request to examine all the Policyholder's books and records.
- any challenge in writing by SARS of the accuracy or completeness of returns submitted in accordance with the Employees Tax Provisions in the Fourth Schedule to the Income Tax Act, No 58 of 1962 following a compliance review by SARS into the operation of employee tax.
- an enquiry by SARS provided that at the culmination of such enquiry it is proved that the Policyholder was not found guilty of any fraud, fraudulent intent or serious irregularities.

VALUE ADDED TAX (VAT) DISPUTES:

- an appeal, including the local review procedure, to a dispute resolution hearing, the Tax Board, or the Tax Court or written decision issued by SARS relating to the Policyholder's VAT affairs.
- an enquiry held pursuant to Section 59 of the VAT Act No. 89 of 1991 providing that at the culmination of such investigation it is proved that the Policyholder was not found guilty of dishonesty, fraud or fraudulent intent.

The insured events above include Professional Fees incurred in respect of preparation and representation of the Policyholder at a SARS hearing and provided that Hollard has consented, an appeal against a decision following such a hearing.

COVER LIMITS

Hollard will indemnify the Policyholder for Any One Claim or a series of claims notified during the Period of Insurance or the Notification Period.

- The **Any One Claim** payment limit during the Period of Insurance will not exceed the amount stated in the Policy Schedule.
- The aggregate payment amount for a series of claims during the Period of Insurance will not exceed the **Limit of Indemnity** stated in the Policy Schedule.
- The Appointed Consultant's hourly charge out rates shall be limited to the respective amounts as agreed and amended from time to time. The **maximum hourly charge out rate** is indicated in the Policy Schedule.

POLICY EXCLUSIONS

THE POLICY WILL NOT COVER PROFESSIONAL FEES INCURRED BY THE APPOINTED CONSULTANT:

- in respect of any claim made, brought, or commenced outside the Territorial Limits.
- before the written acceptance of a claim by Qdos.
- from any insured event which occurred prior to inception of this policy or when the Policyholder completed their proposal form for this policy which the Policyholder or the Appointed Consultant ought to have known was likely to give rise to a claim, unless in the case of a renewal of the policy.
- from any claim notified outside of the Period of Insurance or Notification Period.
- from any event arising out of a routine inspection / audit by SARS.
- in the defence of any criminal prosecution, fraud or known tax evasion other than mentioned under the Insured Events.
- from any claim arising from an enquiry into a Policyholder's tax return or an amendment to a Policyholder's tax return or any other statutory return that was not submitted within the statutory time limits. .
- from any claim arising from an enquiry into a Policyholder's tax affairs, if in the absence of a tax return SARS has not been notified of chargeability to tax, within the statutory time limits.
- from any enquiry following the correction of an income tax return where the error requiring rectification was due to a deliberate act by the Policyholder or Appointed Consultant or any other representative or where the Policyholder refuses SARS reasonable request for rectification of the self-assessment return.
- in the preparation or rectification of income tax returns or any other statutory returns as administered by the SARS commissioner or for any Professional Fees incurred for the routine presentation of the Policyholder's affairs, including the reconciliation of annual accounts with VAT returns.
- from costs involved in agreeing the value of land and assets when determining Capital Gains Tax liabilities
- from any claim in respect of fees of Counsel, unless appointed by Hollard, to determine prospects of success.
- from any taxes, fines, interest or any other duties or penalties imposed upon the Policyholder or the Appointed Consultant by SARS or any other authority.
- from an enquiry or dispute involving the SARS large business centre.
- where a loss is covered under another enforceable insurance policy, we will only cover our rateable portion of that loss .
- from any insured event involving a Tax Avoidance Scheme

CONDITIONS OF COVER

GENERAL CONDITIONS

1. Consent to Disclosure of Private Information

It is essential for insurance companies to share claims and underwriting information (as well as credit information) in order to enable the fair assessment and underwriting of risks and to reduce the number of fraudulent claims.

You hereby waive any right to privacy and consent to the disclosure of any insurance information provided by You or on Your behalf for any insurance policy or claim made or lodged by You or on Your behalf and You agree to such information being disclosed to any other insurance company, whether on Your behalf or on behalf of any person You represent herein.

This consent clause will survive the termination for whatever reason of the policy, including the cancellation or lapsing thereof.

The information provided may be verified against other sources or databases.

2. Rejection of Claim and Time Bar

If Hollard decline liability or reject a claim made in terms of this policy, or avoid the policy, or if the Policyholder disputes the amount of a claim, then representation may be made to Hollard within 90 (ninety) Days of the date of the letter of rejection or letter of avoidance. The representation must be submitted in writing to:

Hollard Select Brokers and Underwriters

PO Box 87419 | Houghton | 2041

Tel No: 011 351 5000

Fax No: 011 351 8014

Alternatively, the Policyholder may contact

The Ombudsman for Short Term Insurance

PO Box 32334 | Braamfontein | 2017

Tel No: 011 726 8900

Fax No: 011 726 5501

If the dispute is not satisfactorily resolved in this manner, the Policyholder may institute legal action against Hollard for the enforcement of the claim by means of a summons against Hollard. Summons must be served on Hollard within 180 (one hundred and eighty) Days of the original rejection- or avoidance letter, else all benefits in respect of such claim will be forfeited and no liability can arise in terms of such claim.

3. DUE OBSERVANCE

The due observance of and compliance with the terms, provisions, exclusions and conditions of this policy insofar as they relate to anything to be done or complied with by the Policyholder or the Appointed Consultant shall be conditions precedent to any liability of Hollard to make or continue to make any payment hereunder.

4. CANCELLATION

The policy may be cancelled in writing at any time by the Policyholder, by giving immediate written notice to Qdos. Hollard may also cancel the policy by giving 30 (thirty) Days written notice to the Policyholder. In the event of cancellation the Policyholder will be entitled to a full refund of Premium if the policy is cancelled within the first 14 (fourteen) Days or refund of a proportionate part of the Premium corresponding to the unexpired Period of Insurance where the policy is cancelled after the first 14 (fourteen) Days. There will be no refund of Premium if the Policyholder has notified a claim during the Period of Insurance.

4. INSOLVENCY OF THE POLICYHOLDER

If the Policyholder becomes insolvent during the course of any claim or legal proceedings to which Hollard has consented, Hollard shall reserve the right to withdraw consent. The Policyholder shall be deemed to be insolvent upon the appointment of an office holder within the meaning given by the Insolvency Act.

5. MINIMISING CLAIMS OR PROCEEDINGS

Hollard may restrict the amount claimed if the Policyholder has not;

5.1 taken all reasonable steps to minimise the cost and effect of any enquiry or dispute involving SARS.

5.2 observed the requirement of taxpayers to maintain records as required under the Income Tax Act or any other Act administered by the SARS Commissioner and in the case of a corporate Policyholder, also maintain records of account in accordance with the Companies Act.

5.3 given the Appointed Consultant full co-operation, including a full and truthful account of their affairs and all relevant documentary or other evidence.

6. OFFERS OF SETTLEMENT

Where the Policyholder rejects an offer of settlement from SARS in respect of an Insured Event, which Hollard deems to be reasonable, Hollard reserves the right to remove or restrict any further payment of Professional Fees.

7. INSURABLE INTEREST

Hollard acknowledges that the Policyholder has an insurable interest in respect of claims made against the policy. Hollard in any event agrees to waive the right to dispute the insurable interest of the Policyholder.

8. ERRONEOUS AND MISSTATED RETURNS

Where a Policyholder's most recently submitted tax return contains significant misstatements or omissions, any claim as a result of an enquiry into that return may be restricted by Hollard to an amount that would have been payable had there been no significant misstatements or omissions.

9. PREPARED OR SUBMITTED

Where a Policyholder's most recently submitted tax return was not prepared or submitted by the Appointed Consultant and the return has significant misstatements or omissions, any claim as a result of an enquiry into that return may be restricted by Hollard to an amount that would have been payable had there been no significant misstatements or omissions.

10. CHOICE OF LAW

The law applicable to the policy shall be South African law and the parties hereby agree to submit to the jurisdiction of the courts of the Republic of South Africa.

11. FRAUD

If any claim under this policy is in any way fraudulent or if any fraudulent means are used by the Policyholder or anyone acting on their behalf to obtain any benefit under this policy or if any of the Events insured against in terms of this policy are occasioned by their intentional acts or with connivance, all benefits under and the Premiums paid in terms of this policy shall be forfeited, and the policy shall be void at Hollard's option.

12. PRESCRIPTION

There shall be no liability for any claim under this policy after the lapse of 12 (twelve) months from the Insured Event unless such claim is the subject of a pending legal action.

13. PREMIUM PAYMENT OPTIONS

This is an annual policy paid either annually or monthly as specified on the Policy Schedule.

MONTHLY PREMIUM

- This policy is conditional upon the payment of all monthly premiums, and will only commence following the payment of the first premium. The Premium is payable in advance and must be paid on the Premium Due Date which is the first Day of every month.
- Should there be a claim during the Period of Insurance in respect of which the debit order has been unpaid, the Policyholder must first settle the outstanding Premium before the claim can be processed; alternatively this Premium shall be deducted from any payment.
- If Qdos do not receive a Premium by the due date or within thirty (30) Days after the due date (save in the first month) the policy shall automatically terminate from 24:00 (midnight) on the last Day of the month for which Premium was actually received by Qdos. The 30 Days grace only applies from the second month of the inception of the policy.
- Non-payment of the Premium shall result in the policy terminating without notice.
- If Qdos do not receive the first Premium (in the first month) the policy will be void from the first inception date.
- This policy will automatically renew on receipt of your 13th (Thirteenth) monthly premium.

ANNUAL PREMIUM

- If according to the Policy Schedule this is an annual policy, this policy is valid for one year.
- The policy may be renewed on the annual review date if Premium payment was received on or before the annual review date, which date will be the due date for payment of the Premium.
- The Premium is payable in advance and the Policyholder will only be covered for that period in respect of which the Premium has already been paid to Qdos.
- If the Premium is not paid there shall be no cover.

CLAIMS CONDITIONS

1. HOLLARD'S CONSENT

Professional Fees will only be covered under the policy if incurred with Hollard's prior consent.

Hollard will give consent in writing or by telephone provided that there are reasonable grounds for representation of the Policyholder and provided that Hollard is satisfied that there are reasonable prospects of the Policyholder achieving a satisfactory outcome in the enquiry or dispute and that it is reasonable to incur Professional Fees.

Reasonable prospects of the Policyholder achieving a satisfactory outcome exist if,

- the Policyholder has a reasonable prospect of either pursuing or defending a claim.
- the Appointed Consultant would advise a paying party of moderate financial means to proceed with the claim.
- the benefits likely to be obtained by proceeding with the claim justify the likely costs.
- the Appointed Consultant considers it reasonable in all circumstances that the claim should proceed.

The opinion of the Appointed Consultant will be taken into account in determining the prospects of achieving a satisfactory outcome. If Hollard is not satisfied that there are prospects of achieving a satisfactory outcome in the enquiry or dispute, Hollard's consent will not be given. If the Policyholder proceeds without consent and is unsuccessful, Professional Fees will not be covered. If the Policyholder proceeds and is successful then Hollard may indemnify the Policyholder as if consent had been given subject to the terms and conditions of the policy.

Hollard will withdraw consent if facts become known which mean that a particular claim would not have been accepted under the terms and conditions of the policy. If the Policyholder or Appointed Consultant makes a fraudulent or false claim, the policy shall become void, any Premiums shall be forfeited and any indemnity paid shall be recoverable by Hollard.

2. DUTY TO NOTIFY IN 30 DAYS

Qdos must be advised in writing, immediately when the Policyholder, or any person acting on behalf of the Policyholder, becomes aware of any cause, want or circumstance which has or is likely to give rise to a claim under this policy. Failure to notify Qdos during the Period of Insurance may lead to the claim not being admitted. Where notification occurs more than 30 (Thirty) Days after the occurrence of an Insured Event, Hollard will have the right to repudiate the claim on the basis of late notification.

The Policyholder must advise Qdos of any claim prior to incurring any Professional Fees and during the Period of Insurance or Notification Period.

3. INITIAL CONSENT

In the event of a likely claim,

- the Policyholder shall complete a claim form and return this to Qdos together with any relevant information.
- Qdos may, following notification, authorise initial fees prior to receiving a completed claim form.
- Qdos will advise, on receipt of the full claim form, whether consent is given and the amount that has been authorised. The amount authorised must not be exceeded without first obtaining written consent from Qdos. If this amount is exceeded without consent any such additional amount may not be covered under the policy.

4. INFORMATION AND PARTICULARS

Hollard will be entitled to obtain from the Appointed Consultant any information or particulars, whether privileged or not, relating to a claim. On request the Policyholder will give the Appointed Consultant any instructions necessary to secure the required access.

5. PAYMENT OF THE APPOINTED CONSULTANT'S INVOICES

Hollard will pay the Appointed Consultant's invoices for Professional Fees up to the Any One Claim limit or Limit of Indemnity only if satisfied that the charges are reasonable and have been properly incurred. Interim invoices will be paid provided the Policyholder acknowledges that Hollard will be entitled to recover such payments if for any reason the cover is deemed void by Hollard.

6. RECOVERY OF COSTS

Where it is possible to recover costs from the relevant authority following the successful defence of an Insured Event, the Policyholder and the Appointed Consultant must take all steps necessary to recover costs paid or due to be paid by Hollard and must pass all such recoveries in full to Hollard, subject to the Limit of Indemnity paid in terms of the claim.

7. MAXIMUM HOURLY CHARGE OUT RATES

The Appointed Consultant's hourly charge out rates shall be limited to the respective amounts as agreed and amended on the Policy Schedule.

DEFINITIONS

The words explained below will have the same meaning where they appear within the policy wording or Policy Schedule.

Any One Claim

All claims consequent to the same original cause or event shall be regarded as one claim including a full enquiry into a subsequent periods' income tax return, where a previous year's return is still subject to an open enquiry.

Appeal or Objection

The formal mechanism to resolve a Tax Investigation with the South African Revenue Services ("SARS") or to resolve a VAT disagreement or dispute with SARS. Also the procedure required to refer the subsequent decision to a higher authority including the Special Income Tax Court.

Appointed Consultant

An accountant or other appropriately qualified person or firm as nominated or as approved by Hollard, who arranges, manages or introduces this insurance on the Policyholder's behalf and who is appointed to represent the Policyholder in accordance with the terms of the policy.

Aspect Inquiry

The investigation by the Revenue authorities into one or more specific aspects of a legal entity or natural person's tax return as opposed to an in-depth review of a taxpayers affairs.

Days

Ordinary days, including weekends and public holidays.

Designated Service Provider

Any person or entity designated through written appointment by QDos.

Excess

The first amount of any claim borne by the Policyholder in respect of each and every claim. The Excess applicable to this policy is stated on the Policy Schedule.

Hollard

The Hollard Insurance Company Limited, a registered insurer in terms of the Short-term Insurance Act 53 of 1998, and a licensed Financial Services Provider in terms of the Financial Advisory and Intermediary Services Act 37 of 2002.

Incurred

Work undertaken by the Appointed Consultant for which an invoice may or may not have been raised.

Insured Event

The issuance of an official notification in writing by the SARS to the Policyholder or any person acting on behalf of the Policyholder, of an enquiry or dispute in to the tax affairs of the Policyholder.

Limit of Indemnity

The maximum amount payable by Hollard for any claims made during the Period of Insurance in respect of the Policyholder. This amount is stated in the Policy Schedule.

Notification Period

The 30 (thirty) Day period commencing on the first Day following the official notification date as recorded by SARS, provided the notification is in respect of an Insured Event that occurred during the Period of Insurance.

Period of Insurance

A period of 12 (twelve) consecutive calendar months commencing on the Inception Date or annual anniversary date of the policy, and for which premiums have been received.

Policyholder

The legal entity or individual named in the Policy Schedule, to whom this policy has been issued, who has paid the appropriate Premium and who is entitled to claim against this policy.

Policy Schedule

The schedule containing the Policyholder details and the details of the Period of Insurance, Premium payable, Excess etc. and updated from time to time.

Premium

The annual or monthly amount payable as stated in the Policy Schedule or any endorsement issued in terms of this policy. The amount payable under this policy is subject to change on 30 days written notice and may be renewed on the annual review date.

Premium Due Date

Annual Premium payments are due on the inception date and subsequent annual review date of the policy. If the policyholder has elected to pay the annual premium monthly, these payments are due on the first Day of the month.

Professional Fees

Any fees, expenses and other disbursements reasonably incurred in respect of work undertaken on behalf of the Policyholder by the Appointed Consultant in connection with any matter falling within the terms and conditions of the policy and not exceeding the Limit of Indemnity.

QDos

Qdos Underwriting Managers (Pty) Ltd which manages claim settlements on behalf of the Policyholder and Hollard and to whom any notification of claim must be made. Also an Insurance Intermediary who has been delegated the authority to bind cover by Hollard.

Review Date

The policy will be due for renewal on this date as specified on the Policy Schedule date

Tax Avoidance Scheme

A tax avoidance mechanism that is individually marketed to the Policyholder, often by a third party, which requires significant implementation costs, is expected to obtain a tax advantage as a main benefit, involves certain employment or financial products and, if adopted, will require notification to SARS under section 74A of the Income Tax Act No 58 of 1962.

Territorial Limits

The Republic of South Africa. Only clients tax resident in RSA who submit tax returns to SARS are covered.



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Underwritten by Hollard, an Authorised Financial Services Provider

IMPORTANT INFORMATION

MAKING A CLAIM

If you have a claim, initial notification must be made within 30 Days in writing by registered post, facsimile or email to:

Qdos Underwriting Managers

PO Box 788 | Cape Town | 8000

Telephone: +0860 736772

Facsimile: +27 866443844

Email: claims@qdosconsulting.co.za

All notices and communications from Hollard or Qdos shall be deemed to have been sent if posted to the Policyholder or Appointed Consultant at the address in the Policy Schedule.

All notices and communications from the Policyholder or the Appointed Consultant to Hollard shall be deemed to have been sent if posted to Qdos Underwriting Managers at the above address. Qdos Underwriting Managers acts as representatives to Hollard Insurance.

COMPLAINTS

If you have a complaint about the service or the advice you received from Qdos, please write to:

The Managing Director | Qdos Underwriting Managers (Pty) Ltd

PO Box 788 | Cape Town | 8000

If you have a complaint about this policy or the service you received from Hollard, please contact:

Hollard Select Brokers and Underwriters

PO Box 87419 | Houghton | 2041

Telephone number: 011 351 5000 | Facsimile number: 011 351 8014

If your enquiry or your dispute is not satisfactorily resolved, you may contact:

The Ombudsman for Short Term Insurance

P O Box 32334 | Braamfontein | 2017

Telephone number: 011 726 8900 | Facsimile number: 011 726 5501