1.3.4.2.2 The taxpayer provided the SARS auditors with a schedule of all of the instances from August 2008 where this occurred. During meetings between the SARS auditors and the taxpayer's representatives this was referred to as the VAT leakage (income leakage).

1.3.4.2.3 These amounts are deemed in terms of the definition of gross income in the IT Act to be the income of the taxpayer on the date when they became available to be paid to clients.

1.3.4.1.4 SARS is therefore assessing the taxpayer on fees transferred from the taxpayers trust account to the business account. Although the taxpayer may not have been entitled to these fees, they were received by the taxpayer for its benefit once they were transferred to the taxpayer's business account. Refer in this regard to the Krion judgment.

1.3.4.2.5 SARS therefore assess all amounts received by the taxpayer for its benefit during each of the applicable periods or years of assessment.

1.3.4.2.6 The SARS auditors have accepted the representations made to them in respect of the income leakage in the absence of any evidence to the contrary.

1.3.4.2.7 Additional assessments are to be raised in terms of section 92 of the TA Act and section 5(1)(d) of the IT Act for the 2008 and 2009 periods or years of assessment in respect of all of the amounts identified by the taxpayer in its representations to the SARS auditors (please refer to annexure **"B1"** and **"B2"** for detailed calculations).

Annexure "B2"

RONALD BOBROFF & PARTNERS INC.
INCOME TAX REFERENCE NO.: 9545/187/14/9

Year of Assessment ended 30 September 2009

Taxable Income per IT34	15 124 483.00
Add: Interest Received on Directors Loan Accounts	113 053.72
Add: Income not declared (Leakage) - per VAT workings	1 654 492.19

Date	Client	VAT INC.	VAT EXC.
[redacted]	[redacted]	[redacted]	[redacted]
		376 912.50	330 625.00
22/05/2009	MacKenzie	[redacted]	[redacted]
[redacted]	[redacted]	385 513.80	338 170.00
15/06/2009	de la Guerre	24 796.88	21 751.65
15/06/2009	de la Guerre	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

Note: Auditors journal reflects R1 917 519.84	
Revised Taxable Income	16 892 028.91
Taxation @ 28%	4 729 768.09
Less: Taxation per previous assessment	-4 234 855.24
Difference	494 912.85