

**KEYNOTE ADDRESS BY COMMISSIONER MOYANE TO THE  
TAX INDABA 2016  
5<sup>TH</sup> SEPTEMBER 2016**

**Distinguished Members of the Recognised Controlling Bodies**

**Esteemed Colleagues from National Treasury**

**Esteemed Office of the Tax -Ombud**

**Fellow SARS Colleagues**

**Distinguished Ladies and Gentlemen**

**Members of the media**

**Good morning to you all.**

Firstly, I would like to thank all South African taxpayers for making us a proud tax administration authority of note and for achieving a historical milestone, for performing better than the economy, by collecting a dizzy R1,069 trillion for the 2015/16 financial year.

Most importantly, I want to extend my profound appreciation to you (the Recognised Controlling Bodies) as the custodian and torch bearers for compliance. This was done in line with our 3 key levers upon which SARS operates: Service, Education and Enforcement (SEE)

As the legendary automotive pioneer Henry Ford once noted, ***“Coming together is the beginning; keeping together is progress; working together is success.”***

Ladies and gentlemen, in essence this is why we are here today. SARS plays a pivotal role in ensuring the health and stability of our fiscal framework. A strong revenue service and customs administration is the fundamental cornerstone of a capable state and the key enabler to government’s ability to fund expenditure and provide better services for its people.

But we cannot do it alone, Recognised Controlling Bodies (RCBs) and our Tax Practitioners are crucial partners for SARS. The thousands of honest Tax Practitioners are a vital cog in helping South Africans to meet their tax obligations honestly and on time.

Without your valuable assistance, insights and support the task that faces SARS would be much more challenging. With this in mind, it is my honour and privilege to address you all, and I am very appreciative for the invitation to deliver the keynote address at the third National Tax Indaba.

SARS is grateful for the opportunity to participate fully in this industry hosted event and our subject matter experts are here this week to clarify and confirm and assist in providing direction to any operational issues you may have.

Tax practitioners and their representative structures are key stakeholders to SARS and key to building higher levels of compliance amongst taxpayers. RCBs partnership with SARS is fundamentally to ensure that their tax practitioners continue to offer correct advice to their clients so that we can achieve improved tax morality and a higher level of fiscal citizenship in our country.

Your willingness to partner with SARS and in implementing the new regulatory model that governs the conduct of your members has set the basis for building a relationship of trust and cooperation between the tax practitioner community and SARS. At the centre of this relationship is the desire to enhance the standard of tax advice given to taxpayers, exclude dishonest practitioners from practicing and create a level of trust between tax practitioners and SARS.

### **State-of-play regarding the economic outlook**

Our ability as a collective to ensure tax compliance is critical if we are to overcome the economic challenges we face as a country. Ladies and gentlemen we live in challenging times. According to Statistics SA, South Africa's gross domestic product (GDP) growth rate was -1, 2% in the first quarter of this year. The main contributors to the negative GDP growth rate were the mining and quarrying industry and the transport, storage and communication industry. Mining and quarrying fell by 18, 1%, largely as a result of lower production of platinum group metals and iron ore. Transport, storage and communication fell by 2, 7%, largely as a result of a decline in land transportation (both passenger and freight).

The poor economic conditions clearly play their part in our revenue collection ability. Tax buoyancy is an important indicator as it measures the extent to which tax revenues vary with changes in economic growth.

Economists will tell you that the buoyancy effect which correlates to taxpayer behaviour and overall compliance with tax realisation places an additional burden of tax administrations during difficult economic times.

Annabel Bishop, economic analyst at Investec had this to say in article published on the 30 August 2016 “The commodity cycle slump suppressed Q1.16 DGP (-1.2% qqsaa), but Q2.16’s commodity price recovery should allow South Africa to avoid a H1.16 recession. The downward trajectory will pull the economy towards recession unless we start doing things differently”.

Significantly, despite South Africa facing declining GDP growth, tax revenue collections in the 2016 Financial Year outperformed the economy, representing a growth of 8.5% from the 2014/15 fiscal year, and increasing the estimated tax to GDP ratio from 25.8% in Budget 2015, to 26.3% as projected in Budget 2016. This level of tax extraction moved closer to the levels obtained during the commodity boom cycles in the mid 2000’s.

Despite this achievement much more needs to be done if we are going to find the resources to take this country to the next level. We require all taxpayers to pay their “fair share” – taxpayers need to meet their obligations both honestly and timeously. Our future and that of the future generations depend on us doing the ‘RIGHT THING’.

### **Policy and Administrative Changes:**

As indicated, our tax policy framework has proved resilient in a period of global economic volatility, but tax revenue collections depend on improved tax compliance and strong economic growth.

As Government, our focus is very much on fiscal consolidation. Cabinet has constantly reiterated that we cannot spend money we do not have. We cannot borrow beyond our ability to repay. Until we can ignite growth and generate more revenue, we have to be tough on ourselves.

Tax revenue collections for 2016/17 are estimated at R1.175 trillion. This revenue target is at risk due to our weak economic performance as a country. Other risks include:

- Further currency volatility and the consequential impact on inflation
- The threat of sovereign credit rating downgrades and its impact of borrowing costs (SARS remains the pillar of hope during these difficult economic period)
- Weaker growth rates domestically and internationally
- The impact of the exit of the UK from the EU
- Rising unemployment
- Higher indebtedness
- Falling per income per capita
- Low consumption levels and ability to spend, is constrained by higher interest rates

All these risks we face as a country puts a strain on SARS's ability to provide government with the necessary resources to build a better life for all.

With this local and global economic context in mind, it is more important than ever before that the increased compliance levels we have achieved as a country is consolidated and that an even more concerted effort is made in fighting tax evasion.

### **Tax Morality & Illicit Financial Flows are a threat to South Africa**

Bringing those taxpayers that deliberately evade paying their fair share of taxes to book is a key focus area of SARS. The global debate about tax fairness, morality and justice has ebbed and flowed in many directions. We have all noted with growing concern the apparent ease with which capital flows out of our country, the African continent and other developing economies. Illicit financial flows have been in the news for some time now and remain a threat to our fiscus. That is not surprising given that they undermine development in our country and our continent.

Money flows out of countries and is no longer available to be put to work to generate jobs and provide critical social services in their economies. There has also been some debate about the size of illicit financial flow. Again, this is not

surprising, given that by their very definition illicit financial flows are intended to fly under the radar.

What has been a little surprising, though, have been comments that business and multinational enterprises have little to no role to play in illicit financial flows. According to research cited in the United Nations Economic Commission of Africa's (UNECA) report *The State of Governance in Africa: The Dimension of Illicit Financial Flows as a Governance Challenge* of February 2013 the relative composition of global illicit financial flows is as follows:

- Commercial transactions through multinational enterprises, which includes trade mispricing, transfer mispricing and other forms of tax avoidance and evasion, representing 60%
- Criminal activities, which includes trade in drugs, weapons and people, representing 35%
- Corruption, which includes bribery and embezzlement of national wealth, representing 5%

The report notes these categories overlap and are interrelated. The proportions should, therefore, be considered indicative. Taking them and the similar proportions in other reports as indicative, the fact remains that business has a large role to play in bringing illicit financial flows under control.

This starts with a business's approach to aggressive tax planning. It carries through to business's governance mechanisms to ensure that its approach, whatever it might be, is implemented within the bounds of the law. If tax is not already on the boardroom agenda, it should be. The world has become a more difficult place for those that work beyond the spirit and the letter of the law. Business reputations are on the line with citizens seeing the shirking of tax responsibilities as something that will impact both their social services and their tax in future.

Tax practitioners have a valuable service to offer in this context. It is ensuring that all these risks are properly taken into account and mitigated, rather than simply focussing on a tax saving, whatever the broader cost to society and the business itself.

From a SARS perspective, a responsible approach to tax planning will free up resources to focus on those who persist in sailing close to the edge, and sometimes past it.

### **New Legislation: Special Voluntary Disclosure Programme**

What then of taxpayers that have engaged in extreme sailing in the past? Here too tax practitioners have a valuable role to play. You can help clients that find themselves in this position seriously consider the voluntary disclosure opportunities that are available. You will all be aware of the permanent voluntary disclosure programme (or VDP) that was introduced with by Tax Administration Act, 2011. The waiver or substantial reduction in penalties offered by the VDP make it worthwhile to contact SARS before we contact you. The message is clear and a simple one – Talk to SARS before we talk to you”.

This has been taken a step further in the special VDP legislation that was announced in this year’s Budget and is currently in the Parliamentary process. The draft legislation has already seen a simplification from the taxation of 50% of “seed capital” and of the investment returns for 2010 to 2015, as initially announced, to only 50% of the highest value of the offshore assets involved for the period 2010 to 2015.

The window of opportunity for the special VDP is currently scheduled to close at the end of March 2017. It’s an opportunity not to be missed, since automatic exchange of information on rulings, financial information and country-by-country reports between tax administrations is gathering momentum.

More than 50 [currently 54] jurisdictions, including South Africa, will be exchanging financial account information from 2017. They will be joined in 2018 by more than 45 [currently 47] additional jurisdictions. The world is becoming a smaller place for tax dodgers, so here is your window to help them get on the right side of the law and public opinion.

Once again let me reiterate – Talk to SARS before SARS talks to you.

## **Current Regulatory Model for Tax Practitioners**

Since the programme this week at this Indaba is under the auspices of some of the tax practitioners' bodies, you will all be well aware of the existing model to ensure that tax practitioners are appropriately qualified and that a mechanism is available, both to taxpayers and SARS, to ensure that misconduct is addressed. The recognised controlling body model is a middle way between a lack of regulation and a statutory regulator, which leverages existing bodies.

The model was put in place by law in 2012 and implemented in 2013 after a series of intensive consultations with tax practitioner's bodies. These consultations assisted SARS in arriving at the current criteria for a body seeking recognition under the law for minimum qualifications and experience requirements, continuing professional education requirements, codes of ethics and conduct and disciplinary procedures.

The current model has shown promising results. It should, however, be considered a work in progress. As noted in the explanatory memorandum when the law was introduced a review of its success or otherwise must be undertaken. This review is still under way to inform the consideration of the establishment of an independent regulatory board for tax practitioners.

## **The role of SARS in a modern South Africa**

With this in mind, I wish to share a glimpse of the new SARS strategic direction chosen to serve all South Africans, as well as to highlight the imperative of taking a far wider view of the institutions' role in the new emerging global tax and trade architecture.

Despite the negative narrative that has been perpetuated by some via the media we at SARS have demonstrated that we have capable leadership and a cadre of men and women that will meet any challenge head-on as we implement our mandate.

Our new Operating Model introduced over the past year has brought a beacon of hope and drive that SARS will succeed. The implementation of this operating model is not taking place in the absence of caution to avoid recklessness and uninformed strategic alignment principles. The SARS of 2016 is geared to meet

the challenges we face as a revenue authority. Tax is woven into the fabric of civil society.

At essence the implicit social compact - between the State and those who use a country's resources as a resident or as a trader - provides the moral and legal justification for paying and enforcing payment of taxes. The elements that make up this social compact between the State and people of South Africa cannot be eroded.

At SARS our vision is to always make it easier and more convenient for the honest taxpayer to comply. Concurrently, it is vital that we turn up the heat and make it more difficult for the dishonest taxpayers to cheat the system. I am sure this does not apply to any of you present – our compliant taxpayers.

We are seized with constantly improving our service to all taxpayers. Our aim is to provide a standard of service that makes it easy and hassle-free as possible for taxpayers to meet their obligations.

### **Improving our Service**

I know that many of you here today have daily interactions with SARS and no doubt will have different experiences with the service levels provided. What I want to assure you of is that SARS is committed to improving its service offering to all clients including tax practitioners.

Linked to the SARS service offering, you would be aware that there have been repeated questions in respect of the SARS Service Charter. While there have been delays in providing a new Charter, I want to inform you that we will shortly be engaging with industry to discuss a draft of the charter for implementation before the end of the financial year. This charter will set out SARS' obligations and the timelines for key business processes

As you would have seen recently, SARS has rolled out the new Tax Compliance System (TCS) which I believe is adding great value in the lives of tax practitioners and taxpayers. This together with the Compliance Dashboard allows you to better manage your client's affairs.

Further we have rolled out online practitioner appointments for most offices, although I know there are concerns regarding the fact that there are limited numbers of appointments available.

From interactions SARS has had with tax practitioners there are a number of areas which I know still cause you concern in the running of your practice. It is our intention to continually improve our service offering so that these issues do not hinder you in providing a good service to taxpayers.

The areas we need to work at collectively include:

- Allowing practitioners to do more of their work on eFiling with no or little interaction with SARS.
- Ensuring that you are alerted via SMS or email on progress of matters thereby reducing the need to visit or call the SARS Contact Centre.
- Reducing turnaround times for refunds and disputes
- Ensuring account maintenance issues are dealt with as quickly as possible.

While we are committed to improve the services, given available resources it is not possible to do everything at once. I am therefore proposing today that, you through your practitioner's bodies engage with SARS and collectively give feedback to us as to what issues you believe we need to address and what holds the highest priority. We will then consider this and engage with you on the issues.

### **SARS and Tax Practitioners are stronger when in harmony**

Everything we have done as an organisation over the past financial year has been with the intention of ensuring that SARS becomes more efficient and effective so that it can provide Government with the resources to make South Africa great.

It is quite easy getting brilliant results when economic outlook is strong, but when sentiment is negative and GDP growth is down, the challenge is much harder.

It is precisely for this reason that the symbiotic relationship between SARS and tax practitioners is so crucial. It may be stating the obvious but tax practitioners and the RCBs are critical stakeholders to SARS and key to building higher levels of compliance amongst taxpayers. SARS relationships with various tax

practitioner bodies changed dramatically with the introduction of Section 240A of TAA. This law set the foundation for SARS and RCB's to co-regulate and professionalise the sector.

The designation of RCB's has also effectively created a level playing field for engagement with SARS. To date we have 11 Recognised Controlling Bodies and currently over thirteen thousand tax practitioners registered in terms of the new co-regulatory model. SARS would like to thank you for embracing the change and walking with us on this journey to a more professional and responsible sector of tax professionals.

I cannot emphasise this point more vociferously: your willingness to partner with SARS and in implementing the new regulatory model has set the basis for building a relationship of trust and cooperation that will build towards achieving greater fiscal citizenship in the country.

In the last year our partnership has contributed immensely, not only to improve tax compliance but also enabled SARS to achieve and exceed revenue targets that impacted positively on the national fiscus. As you know together we achieved a historical first by meeting the revenue target of 1 trillion rand in the last financial year.

Your support in this success is greatly appreciated, we say to all South Africans – **It's Cool to Pay Tax and it is an act of Patriotism!**

### **In Conclusion**

Colleagues, friends and counterparts, it doesn't stop here; we call on tax practitioners to actively play a role in the economic growth of our country by working together in a spirit of partnership. SARS is committed to regular dialogue with you and we would like to build stronger partnerships with key stakeholders such as yourselves. I trust that our relationship will continue to go from strength to strength as we share a common goal of achieving maximum compliance in the most effective way possible.

Thank You