DRAFT SOUTH AFRICAN REVENUE SERVICE CODE OF CONDUCT

1. PREAMBLE

1.1. Over the years, we have always emphasised that our conduct must be guided by a "higher purpose". Although this was not codified, it was implicitly understood that our conduct must evince the values and aspirations embodied in South Africa's Constitution which requires that "a high standard of professional ethics must be promoted and maintained" in public administration.

1.2. As SARS has matured, we realise that the "higher purpose" must be encoded in an explicit set of behaviour to be exhibited by all our staff, but especially senior managers.

1.3. We recognise that the ethical standard for the conduct of senior managers must be higher than is generally expected of the rest of staff because it is they that determine SARS' moral posture and influence others' behaviour.

1.4. Further, we recognise that while SARS has explicit policies and procedures that govern our general contacts with taxpayers in the ordinary course of our business, senior managers may be exposed to ethically ambivalent situations for which there is no provision in law or organisational procedures. It is therefore very important to set standards by which we can recognise such situations and limit their potential effect.

1.5. Senior management have considerable discretion and authority over matters relating to procurement, recruitment, promotion and rewards. In exercising their authority, senior managers must take care to ensure that their actions are within established procedure and in line with SARS values.

1.6. Given the nature of our work at SARS, we are potentially vulnerable to pressures from various quarters. These come in various forms – financial inducements; intimidation; threats of blackmail; moral suasion; political lobbying and sometimes threats to physical safety.

1.7. Many South Africans have greater affinity with our families, close relations and social groupings than with the institutions of state. The demands from our kith
and kin and friends sometimes conflict with the need to act impartially as public servants. We must be conscious of these pressures and not let them interfere with how we carry out our duties.

1.8. South Africa is a young democracy whose institutions must consciously set about cultivating norms, habits and behaviour that will promote and maintain the public’s credibility in them.

**CODE OF CONDUCT**

2. **PURPOSE OF CODE**

2.1. Good governance is essential for the effective administration of a tax system. The management of SARS is acutely conscious of and seeks to implement good governance principles. Good governance means promoting values for the whole of SARS and demonstrating the values of good governance through behaviour.

2.2. The values of SARS are those reflected in section 195 of the Constitution of the Republic of South Africa, 1996. In particular SARS—

i) has zero tolerance for corruption;

ii) optimises its human and material resources and leverages diversity to deliver quality service to all those engaged in legitimate economic activity in and with South Africa;

iii) bases its organisational relationships, business processes and conduct on the following values:

   (1) mutual trust and respect;

   (2) equity and fairness;

   (3) integrity and honesty;

   (4) transparency and openness;

   (5) courtesy and commitment.

2.3. This Code sets out:
i) Specific standards of conduct that represent SARS’ interpretation of its core values and the appropriate conduct expected of a SARS official under certain circumstances;

ii) Additional specific standards of conduct that must be followed by the Commissioner of SARS and members of the SARS Executive Committee.

2.4 The standards of conduct required under this Code must be met by a SARS official when-

iii) acting in an official capacity; and

iv) to the extent applicable, acting in a non-official capacity in circumstances where the official may be recognised or known to be a SARS official

2.5 SARS will develop an explanatory manual on the Code which will provide a practical guide to ethical dilemmas both in the workplace as well as during public interactions.

2.6 Where there is uncertainty or doubt regarding the interpretation or the application of this Code in specific circumstance, a SARS official must consult with his or her direct manager or, where appropriate, the SARS corporate governance subdivision for guidance.

2.7 Any SARS official who contravenes or fails to comply with any provision or standard of the Code will be subjected to the SARS Disciplinary Code.

2.8 If a SARS official believes he or she contravened or failed to comply with any provision or standard of the Code Admission, it will be regarded as mitigating circumstances if the official admits thereto, accepts accountability, apologises and takes corrective steps.

3. LEGAL FRAMEWORK OF CODE

3.1 The legal framework of the Code, particularly for purposes of compliance with the legitimacy and the rule of law core value of SARS, comprises the following statutes:

3.2 The Constitution of the Republic of South Africa, 1996, and in particular section 195 thereof;

3.3 The South African Revenue Service Act, 1997, and in particular section 4(2) thereof;
3.4 The Tax Administration Act, 2011, and in particular section 7 thereof;

3.5 The Public Finance Management Act, 1999, and in particular sections 49(2)(b) and 50 to 55 thereof.

4. ETHICAL STANDARDS FOR SARS OFFICIALS

4.1 SARS officials, especially senior managers at SARS always have to use the following touchstone to guide their actions: “am I the recipient of this attention because of the role I play in SARS?” when the answer is yes, you are probably being placed in a vulnerable position.

4.2 SARS officials must endeavour to promote and maintain a high standard of professionalism and ethical behaviour.

4.3 SARS officials must uphold, defend and enhance the reputation of SARS at all times.

4.4 SARS officials must avoid making misleading statements to the prejudice of the reputation of SARS to the legislature, executive, public, other public servants or organs of state or colleagues.

4.5 SARS officials must at all times act within the law and give effect to taxpayers’ and traders’ rights.

5. TAX COMPLIANCE OF SARS OFFICIALS

5.1 As the custodian of the tax and customs laws, SARS officials must ensure that they are at all times fully compliant with the tax and customs laws.

5.2 SARS officials must make a declaration of compliance on appointment and on an annual basis in a manner prescribed by SARS.
STANDARDS OF CONDUCT FOR SARS OFFICIALS

6 Relationship with the legislature and executive

SARS officials must:

6.1 Be loyal to the Republic

6.2 Honour the Constitution and abide by it in the execution of daily tasks

6.3 Put the public interest first in the execution of daily duties

6.4 Loyally execute the policies of the government of the day as contained in all statutory and other prescripts in the performance of duties

6.5 Strive to be familiar with and abide by all applicable statutory requirements and internal policies of SARS

6.6 Co-operate with organs of state or institutions established under legislation and the Constitution in promoting the public interest and co-operative governance.

7 Relationship with the public and other public officials

7.1 A SARS official, when acting in an official capacity, must:

7.1.1 be professional in all engagements with the public;

7.1.2 perform the official’s powers and duties in a fair and equitable manner and within the ambit of the law;

7.1.3 apply the law consistently, unbiased and impartially;

7.1.4 be polite, courteous, helpful and readily accessible in his or her dealings with the public, at all times treating members of the public as valued clients who are entitled to receive the highest standards of service;

7.1.5 have regard for the circumstances and concerns of the public in performing his or her official duties and in making decisions affecting the public;

7.1.6 be committed through rapid service to the development of all South Africans;

7.1.7 not unfairly discriminate against any member of the public, including, but in no way limiting this provision, on the basis of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture, or language;
7.1.8 not abuse his or her position in SARS to promote or prejudice any person;
7.1.9 not be influenced to abuse his or her authority in any manner;
7.1.10 recognise the public’s right of access to information excluding that information which is specifically protected by law.

7.2 A SARS official, when acting in an official capacity, in conducting meetings with the public must:

7.2.1 endeavour to hold the meeting on a SARS premises, in particular in instances where the meeting will be held with a person who is not known to the official or SARS;

7.2.2 establish the compliance status of the person with whom the meeting is held;

7.2.3 conduct the meeting in the presence of one or more other SARS officials.

7.3 A SARS official must, when acting in a non-official capacity:

7.3.1 must refer the person to the appropriate official channels.

7.3.2 must not make commitments regarding a person’s tax or customs affairs;

7.3.3 not be influenced to abuse his or her authority in any manner;

8 Relationships among officials

A SARS official must:

8.1 co-operate with fellow officials to advance SARS’ interest;

8.2 execute all lawful instructions by officials authorised to give such instructions;

8.3 use appropriate channels to air his or her grievances or to direct representations;

8.4 deal fairly, professionally and equitably with fellow employees, irrespective of, but in no way limited to; race gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language.
9 Performance of duties

A SARS official must:

9.1 avoid being involved in or being seen to be associated with any form of unacceptable tax avoidance or tax evasion;

9.2 refrain from favouring relatives and friends in work-related activities;

9.3 not abuse his or her authority or influence another official to effect favours to relatives and friends in work-related activities;

9.4 be punctual and reliable in the execution of his duties;

9.5 execute his or her duties in a professional and competent manner;

9.6 accepts the responsibility to avail himself or herself to ongoing training and self-development throughout his or her career;

9.7 be honest and accountable in dealing with funds of SARS and uses SARS property and other resources effectively, efficiently, and only for authorised purposes without compromising the legitimate expectations of the public;

9.8 in the course of his or her official duties, report instances of fraud, corruption, nepotism, maladministration and any other act which constitutes an offence or which is prejudicial to the interest of SARS;

9.9 give honest and impartial advice, based on all available relevant information, when asked;

9.10 contribute towards maintaining a work place which is both healthy and safe.

10 Personal conduct and private interest

A SARS official, whether acting in an official or non-official capacity, must:

10.1 dress and behave in a professional manner;

10.2 not behave in a manner that may compromise the official or cause reputational harm to SARS;

10.3 not be under the influence of alcohol or any other substance with an intoxicating effect in circumstances where the official may be compromised or cause reputational harm to SARS;
10.4 not, without approval in the manner prescribed by SARS, undertake remunerative work outside his or her official duties or use office equipment for such work;

10.5 unless specifically authorised, not make public statements or speak or disclose information to the media or public regarding any SARS related matter.

11 Gifts, gratuities and favours

11.1 SARS policy prohibits the soliciting and acceptance of gifts, gratuities and favour as a rule. Where it would be impolite to refuse a gift or gratuity or favour, the gift or gratuity must be surrendered at the earliest to a designated officer. A SARS official must report any favour granted to him or her to a designated officer.

12 Conflict of interest

A SARS official must:

12.1 When executing duties, be alert to actual or potential conflict of interest as referred to in section 7 of the Tax Administration Act, 2011 (hereafter a ‘conflict of interest’), and take steps to avoid such conflict;

12.2 declare any membership, association in organisations, personal or private financial or business interest that may give rise to a ‘conflict of interest’ in the execution of official duties, to his or her manager;

12.3 not engage in any action that may give rise to a ‘conflict of interest’ in the execution of his or her official duties;

12.4 not adjudicate upon or decide a matter in which the member has a personal or private financial or business interest that may give rise to a ‘conflict of interest’;

12.5 recuse himself or herself from any official action or decision-making process which may give rise to a conflict of interest or result in improper personal gain, and declare this interest;

12.6 may not allow the prospect of outside employment to cause him or her to do something that may create an actual or potential conflict of interest in his or her official job; and
12.7 may not use of SARS confidential information, taxpayer information or trader information for personal benefit once the official leaves SARS.

12.8 may not hold any financial or business interest in a company or corporate entity or profit-making enterprise which may give rise to a ‘conflict of interest’ in the execution of that official’s functions;

12.9 for the purposes of this clause, the personal or private financial or business interest of a SARS official includes any financial or business interest which, to the member's knowledge, the member's spouse, permanent companion or family member has.

13 Disclosure of confidential information

A SARS official:

13.1 must take and adhere to the SARS oath of secrecy and internal policies in this regard, in particular SARS information security policies;

13.2 must preserve the confidentiality and secrecy of SARS confidential information or taxpayer information as required under Chapter 6 of the Tax Administration Act, 2011, trader information as required under section 4 of the Customs and Excise Act, 1964, or any other statute that imposes similar confidentiality obligations; and

13.3 including a former official, may not disclose SARS confidential information, trader information or taxpayer information except to the extent permitted by law.

14 Political activities

A SARS official:

14.1 may not allow his or her political activity to affect his or her objectivity in the execution of duties which would result in the public losing confidence in the official’s impartiality; and

14.2 may not abuse his or her official position to either promote or discriminate against any political party or interest group and may not engage in party political activities in the workplace.
SPECIFIC STANDARDS OF CONDUCT FOR SARS SENIOR MANAGEMENT

15. The Commissioner, members of the SARS Executive Committee and senior managers must as the management of SARS lead by example, champion the Code of Conduct and must:

15.1 perform their duties and exercise their powers with the utmost professionalism, diligently, honestly and in conduct themselves in a decent manner at all times;

15.2 fulfil all the obligations imposed upon them by the Constitution and law;

15.3 act in utmost good faith and in the best interest of good governance;

15.4 at all times uphold the reputation of SARS and avoid in any form or manner causing reputational harm to SARS;

15.5 act in all respects in a manner that is consistent with the integrity of their office or SARS;

15.6 not use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person;

15.7 not use information received in confidence in the course of their duties otherwise than in connection with the discharge of their duties;

15.8 not expose themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests;

15.9 not receive remuneration for any work or service other than for the performance of their functions as senior managers; or

15.10 be honest and accountable in dealing with funds of SARS and uses SARS property and other resources effectively, efficiently, and only for authorised purposes without compromising the legitimate expectations of the public;

15.11 not make improper use of any allowance or facility or payment properly made to them by SARS, or disregard the administrative rules which apply to such allowances or facilities or payments.
IMPLEMENTATION OF CODE

16 For purposes of implementing the code, SARS will put the following in effect:

16.1 An awareness campaign regarding the code

16.2 Training of SARS officials for purposes of understanding and applying the Code

16.3 An appropriate support and reward system for ethical conduct by SARS officials

16.4 Rules and mechanisms to enable SARS officials to disclose financial or family interests, gifts and hospitality required under this Code

16.5 A reassurance policy for SARS officials to encourage reporting or discussing concerns not only about the conduct of other SARS officials but also pressure and undue influence that might be applied to them by colleagues or by the public

16.6 Risk assessments of posts or activities vulnerable to corruption including discussions with and training of SARS officials on how to protect both them and their activities from corruption, as well regular surveys of SARS officials about the risks, threats and vulnerabilities of their work.

This document was prepared and issued under the instructions of the Commissioner for SARS and constitutes an official publication as referred to in section 1 of the Tax Administration Act, 2011.