



# **CRITERIA FOR THE REGISTRATION OF TAX PRACTITIONERS AND THE RECOGNITION OF CONTROLLING BODIES**

Chapter 18 of Tax Administration Act

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## 1 SUMMARY

- a) This guide describes the requirements for an individual to register as a tax practitioner, to maintain the status as a tax practitioner, and the process of deregistration and suspension if these requirements are not met.
- b) This guide also describes the requirements for a controlling body to be recognised by the South African Revenue Service (SARS) Commissioner as a recognised controlling body (RCB), to maintain the recognised status as an RCB, and the process for de-recognition of RCBs when they no longer meet these requirements.

## 2 BACKGROUND

- a) Chapter 18 of the Tax Administration Act, 2011 (Act No. 28 of 2011) (the Act), amongst others, ensures the professionalism of the tax advisory industry. Instrumental in this process is the role of tax practitioners and RCBs.
- b) Chapter 18 of the Act defines controlling body as follows:
  - i) “**controlling body**’ means a body established, whether voluntarily or under a law, with power to take disciplinary action against a person who, in carrying on a profession, contravenes the applicable rules or code of conduct for the profession”.
- c) Barring some exceptions, Chapter 18 also requires every natural person who, for a fee, provides advice to another person with respect to the application of a tax Act or completes or assists in completing a return by another person, to register with an RCB and SARS as a tax practitioner.
- d) The objective of this process is twofold:
  - i) On the one hand, it ensures that –
    - A) tax practitioners –
      - I) have the minimum education qualifications and experience that enable them to provide adequate tax advice;
      - II) maintain appropriate continuing professional education to ensure that their tax knowledge is relevant and current; and
      - III) are held to an appropriate standard for the profession; and
    - B) clients of tax practitioners and SARS have recourse to an RCB if a tax practitioner behaves unprofessionally.
  - ii) On the other hand, it ensures that as is appropriate for the profession, RCBs –
    - A) enforce minimum registration and continuing qualifications, experience, and education requirements;
    - B) maintain appropriate codes of ethics and conduct; and
    - C) maintain and enforce disciplinary codes in accordance with appropriate procedures.

## 3 LEGISLATION

- a) Section 240(1) of the Act requires that natural persons who –
  - i) provide advice to another person with respect to the application of a tax Act; or
  - ii) complete or assist in completing a return by another person,must register with or fall under the jurisdiction of an RCB and register with SARS as a tax practitioner within 21 business days after the date on which that person for the first time provides the advice or completes or assists in completing the return.

**Note:** Exclusions to this rule are listed in section 240(2) of the Act.

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- b) The Act recognises the statutory bodies listed in section 240A (1) of the Act, and allows the Commissioner to recognise a controlling body, for natural persons who provide advice with respect to the application of a tax Act or complete returns, in respect of such persons, if the body –
- i) maintains relevant and effective –
    - A) minimum qualifications and experience requirements.
    - B) continuing professional education requirements.
    - C) codes of ethics and conduct; and
    - D) disciplinary codes and procedures.
  - ii) is approved in terms of section 30B of the Income Tax Act, 1962 (Act No. 58 of 1962) (the Income Tax Act), for purposes of section 10(1)(d)(iv) of that Act; and
  - iii) has at least 1000 members when applying for registration or reasonable prospects of having 1000 members within a year of applying.
- c) The Act also provides that the SARS Commissioner may withdraw the recognition of RCBs if they failed to meet the above-mentioned requirements and failed to take corrective steps within the period specified in the notice issued by the Commissioner.

## **4 TAX PRACTITIONER REQUIREMENTS**

### **4.1 REGISTRATION**

- a) To register as a tax practitioner, an individual must be registered with both an RCB and SARS. This means that an individual who wishes to register as a tax practitioner and is not yet registered with an RCB should, ensure that they meet the requirements below, as well the additional requirements specified by the RCB with which they choose to register.
- b) Once the individual has registered with an RCB as a tax practitioner member, the individual is then required to register with SARS as a tax practitioner.
- c) SARS requires the following from an individual who wishes to register as a tax practitioner:
- i) The individual must be registered with an RCB.
  - ii) The individual must have an active tax reference number.
- d) Other than those listed in 4.1.1 below, an individual who is not registered as a tax practitioner, must register as a tax practitioner in accordance with this paragraph within 21 days after the date on which they for the first time provide tax advice to or complete or assist in completing a return on behalf of another, or cease such activities.

#### **4.1.1 INDIVIDUALS WHO ARE EXEMPT FROM REGISTERING AS TAX PRACTITIONERS**

- a) The following individuals are exempt from registering as tax practitioners:
- i) An individual who provides tax advice or completes or assists in completing a return for no consideration to that person or his or her employer or a connected person in relation to that employer or that person.
  - ii) An individual who provides tax related advice in anticipation of or during any litigation to which the Commissioner is a party or where the Commissioner is a complainant.
  - iii) An individual who provides tax related advice as an incidental or subordinate part of providing goods or other services to another person.
  - iv) An individual who provides tax advice or completes or assists in completing a return —
    - A) to or in respect of the employer by whom that person is employed on a full-time basis or to or in respect of that employer and connected persons in relation to that employer; or
    - B) under the direct supervision of a person who is registered as a tax practitioner.

## 4.2 ADMISSION

- a) An individual who intends to register as a tax practitioner or an RCB who intends to register an individual as a tax practitioner member, must ensure that he/she meets the following minimum requirements.

### Requirements:

- Qualifications and experience:
  - NQF level 6 and above with at least one accounting module and one tax module, plus at least 1 year's tax working experience;
  - NQF level 5 plus at least 4 years' tax working experience; or
  - NQF level 4 plus 10 years' tax working experience.

**Note:** The tax working experience must be verifiable by employers or clients.
- Successfully completes the SARS Tax Practitioner Readiness Programme, i.e., passed the assessment.
- Be tax compliant.
- Not have been removed by a controlling body for serious misconduct in the preceding five years, or not have convicted of an offence as described in 4.3 below.

## 4.3 CRIMINAL RECORDS

- a) An individual cannot be registered as a tax practitioner and a tax practitioner cannot remain registered if their criminal record reflects that during the preceding 5 years, they have been convicted (whether in the Republic or elsewhere) of –
- i) a serious tax offence as defined in section 1 of the Act, or
  - ii) theft, fraud, forgery, uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), or any other offence involving dishonesty,  
for which the person has been sentenced to a period of imprisonment exceeding two years without the option of a fine or to a fine exceeding the amount prescribed in the Adjustment of Fines Act, 1991 (Act No. 101 of 1991).

### Requirements:

- Criminal Record:
  - The individual must submit an independently verified criminal record check to their RCB, e.g., a certificate issued by the South African Police Service. This certificate must not be older than 3 months from the date of issue.
  - Once registered, the tax practitioner must produce an annual confirmation indicating that their criminal status remains unchanged. Once, every 5 years, an affidavit indicating that the tax practitioners' criminal record remains in compliance with the above, must be produced and provided to RCBs or at shorter time period as specified by RCBs.

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#### 4.4 CONTINUOUS PROFESSIONAL EDUCATION (CPE)

- a) A registered tax practitioner must ensure that he/she adheres to the CPE requirements that are set out below.

**Requirements:**

- A tax practitioner must have a minimum of 18 verifiable CPE hours per year, which consists of 10 tax hours, 2 ethics hours, and 6 hours relating to the service provided.
- A tax practitioner is required to retain a record of their CPE for 5 years, e.g., competency certificates.

**Please note:** A year commences on 1 January and ends on 31 December of a year, and therefore the 18 hours is calculated on a pro rata basis for newly registered tax practitioners depending on the registration date.

#### 4.5 SERIOUS MISCONDUCT

- a) An individual cannot be registered as a tax practitioner and a tax practitioner cannot remain registered if during the preceding 5 years, they have been removed by an RCB or the controlling body of a related profession for serious misconduct.
- b) Tax practitioners are required to adhere to the following:

**Requirement:**

- At the time of joining an RCB, with the aim of registering as a tax practitioner, an individual must declare to the RCB truthfully, whether they have been removed by a previous RCB or a controlling body of a related profession, for serious misconduct.

#### 4.6 TAX COMPLIANCE

- a) An individual cannot be registered as a tax practitioner and a tax practitioner cannot remain registered if during the preceding 12 months, they have for an aggregate period of at least six months not been tax compliant to the extent referred to in section 256(3) of the Act and have failed to –
- i) demonstrate that they have been compliant for that period; or
  - ii) remedy the noncompliance, within the period specified in a notice by SARS.
- b) Tax practitioners are required to provide the following to their RCBs.

**Requirement:**

- A tax practitioner must provide their RCB with their tax compliance status at the time of registration, annually and at shorter period as specified by the RCB.

#### 4.7 TAX PRACTITIONERS WHO CHANGE THEIR RCBs

- a) This applies to all tax practitioners moving between RCBs, regardless of whether the releasing RCB is an active RCB or ceases to be an RCB for any reason.
- b) The following definitions apply:

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- i) **Releasing RCB** means the RCB that a registered tax practitioner was previously registered with and has ceased to be a member thereof for any reason.
  - ii) **Receiving RCB** means the RCB that a registered tax practitioner joins after leaving the releasing RCB.
  - iii) **Amended criteria** refers to the criteria for recognition of controlling bodies and requirements for registration of tax practitioners amended in 2022 with an effective date of 1 June 2022.
- c) There are various reasons for tax practitioners to change their RCB. These reasons have been categorised as follows:
- i) **Resignation:** A tax practitioner resigns from the releasing RCB due to perceived advantages of the receiving RCB or the releasing RCB ceased to be recognised either voluntarily, or in terms of the Act, or
  - ii) **Termination:** A tax practitioner's membership is terminated by the releasing RCB due to non-compliance of its rules other than categories (iii) and (iv) below,
  - iii) **Deregistration by the releasing RCB or SARS due to serious misconduct or court judgement:** A tax practitioner's membership is deregistered by the releasing RCB, or the tax practitioner's status is deregistered by SARS, in terms of section 240(3)(a), section 240(3)(b) or section 240(3)(c) of the Act, or
  - iv) **Deregistration by the releasing RCB or SARS due to continuous tax non-compliance:** A tax practitioner's membership is deregistered by the releasing RCB, or the tax practitioner status is deregistered by SARS, in terms of section 240(3)(d) of the Act, and
  - v) **Suspension by the RCB or by SARS:** A tax practitioner's membership is suspended, by the RCB he/she is registered with, or tax practitioner status is suspended by SARS, in terms of section 240(4) of the Act.

#### 4.7.1 RESIGNATION

- a) This applies to tax practitioners who resigned from the releasing RCB as described in category (a) above.
- b) A registered tax practitioner is required to provide the receiving RCB with a Letter of Good Standing issued by the releasing RCB. This letter should not be more than six months old. The letter should at least contain the following information of the tax practitioner:
  - i) The full name, the Identity number or passport number, the PR Number, the date of the registration and the date of the resignation of the tax practitioner, and
  - ii) Information on the member indicating that:
    - A) CPE is up to date,
    - B) tax compliance was verified and proved to be compliant,
    - C) a criminal verification check status was provided, and
    - D) there are no pending disciplinary cases against the member.
  - iii) If a registered tax practitioner has joined the receiving RCB in the period of less than six months from the resignation date and has submitted the Letter of Good Standing, he/she must be treated as follows:
    - A) Minimum qualification and working experience:
      - I) If he/she was registered as a tax practitioner prior to 1 June 2022, the requirements in the 2013 criteria document apply,
      - II) If he/she was registered as a tax practitioner on or after 1 June 2022, the amended criteria apply.
    - B) SARS Tax Practitioner Readiness Programme
      - I) If he/she was registered as a tax practitioner prior to 1 July 2022, the requirement for successfully passing the assessment does not apply although he/she is encouraged to attend the programme,

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- II) If he/she was registered as a tax practitioner on or after 1 July 2022, he/she is required to provide evidence of having passed the assessment. The evidence may be a letter from the releasing RCB, or a certificate issued by the institution who conducted the assessment.
- C) Tax compliance: he/she must be tax compliant at the time of joining the receiving RCB.
- D) Criminal record check: he/she is required to submit an affidavit stating that he/she has not committed any crime listed in section 240(3) of the Act.
- E) Continuous Professional Education: He/she is required to provide the evidence of the CPE status for the year.
- F) If a registered tax practitioner has joined the receiving RCB six months or longer after the resignation from the releasing RCB, he/she must be treated as new registration, hence all amended criteria must be met.

#### **4.7.2 MEMBERSHIP TERMINATED**

- a) This refers to tax practitioners whose membership was terminated by the releasing RCB as described in category (ii).
- b) Where a tax practitioner's membership was terminated by the releasing RCB, he/she would not be issued with a letter of good standing. Therefore, no receiving RCB is allowed to register him/her as a tax practitioner. He/she may only be registered with a receiving RCB once he/she meet all the requirements in as set out in 4.7.1 above.

#### **4.7.3 SERIOUS MISCONDUCT OR TAX JUDGMENT**

- a) This applies to tax practitioners who have been deregistered by the releasing RCB or SARS as described in category (iii). No RCB is permitted to register a deregistered tax practitioner as a tax practitioner unless the period of five years, from the date of the deregistration by the releasing RCB or the date of the conviction, has lapsed.
- b) After the five-year period has lapsed, a receiving RCB may register the individual as a tax practitioner if he/she meets the amended criteria. This is treated as a new registration.

#### **4.7.4 CONTINUOUS TAX NON-COMPLIANCE**

- a) This applies to tax practitioners who have been deregistered by the releasing RCB or SARS as described in category (iv)
- b) No RCB is permitted to register a deregistered tax practitioner as a tax practitioner unless he/she can demonstrate to the receiving RCB that he/she has been tax compliant for at least 6 months in the preceding 12 months. Once the individual has demonstrated that he/she has been tax compliant for at least 6 months in the preceding 12 months, a receiving RCB may register him/her as a tax practitioner if he/she meet the amended criteria. This is treated as a new registration.

#### **4.7.5 SUSPENDED TAX PRACTITIONERS**

- a) This applies to tax practitioners whose membership was suspended by the releasing RCB or the tax practitioner status was suspended by SARS as described in category (v).
- b) If prosecution for a serious tax offence has been instituted but not finalised against a registered tax practitioner and if the registered tax practitioner continues with the commission of a serious tax offence after the criminal proceedings have been instituted, SARS must suspend the registration of the registered tax practitioner in terms of section 240(4) of the Act, and his/her RCB must suspend his/her membership. Once fully acquitted, his/her RCB must reactivate his/her tax practitioner status.



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- c) If the tax practitioner wishes to change his/her RCB after the reactivation of the tax practitioner status, the requirements in 4.7.1 apply.

## **5 RECOGNISED CONTROLLING BODIES**

### **5.1 HOW TO QUALIFY AS AN RCB**

- a) SARS works with the RCBs to improve the services offered by tax practitioners to their clients.
- b) To qualify as an RCB an organisation must either be –
- i) listed in section 240A (1) of the Act; or
  - ii) recognised by the Commissioner in accordance with section 240(2).
- c) For an entity to apply to the SARS Commissioner to become an RCB, it must meet the following criteria:

#### **Requirements:**

- Regarding the entity, it must –
  - be a controlling body for natural persons who provide advice with respect to the application of a tax Act or complete returns.
  - be approved in terms of section 30B of the Income Tax Act for purposes of section 10(1)(d)(iv) of that Act; and
  - have a minimum of 1 000 members or a reasonable expectation of reaching 1000 members by the end of the first year of recognition.
- With regards to tax practitioner members, the entity must maintain –
  - the minimum qualifications and experience and continuing professional education requirements that are set by SARS and all RCBs.
  - relevant and effective codes of ethics and conduct, including tax compliance and criminal record requirements; and
  - relevant and effective disciplinary process and procedures.
- When an entity is recognised as an RCB, it must submit an annual report to SARS no later than 31 March of the following year, on its tax practitioner members and RCB compliance within the prescribed time and in the prescribed form and manner.

#### **5.1.1 APPLICATION FOR RECOGNITION AS AN RCB**

- a) The following steps are to be followed for SARS to recognise the controlling body:

#### **Requirements:**

- Ensure that the minimum requirements listed on the Act are met.
- Download the Recognition as an RCB Application (RRC01) form from the SARS website.
- Complete the downloaded RRC01 form. Refer to the steps on how to complete the RRC01 form available on the SARS website.
- Email the completed RRC01 form together with the required documentation to [Reportingunprofessionalconduct@sars.gov.za](mailto:Reportingunprofessionalconduct@sars.gov.za).

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- Await SARS response indicating the success or rejection of the application.
- If successful, the RCB must submit a list of all their registered tax practitioner members either individually or via bulk submission to SARS on eFiling.
- Refer to the SARS Website [www.sars.gov.za](http://www.sars.gov.za) regarding –
  - how to submit information and maintain members using eFiling; and
  - registration as an RCB on [eFiling](http://eFiling).

**Note** that an entity may request a review where they believe SARS decision is not correct. Any queries can be directed to the SARS Tax Practitioner Segment at [Reportingunprofessionalconduct@sars.gov.za](mailto:Reportingunprofessionalconduct@sars.gov.za).

## 5.2 REQUIREMENTS IN RELATION TO PROSPECTIVE AND EXISTING TAX PRACTITIONER MEMBERS

### Requirements:

- An RCB that intends to register an individual as a tax practitioner, must ensure that the individual meets the requirements as set out in section 4.2 of this document.
- An RCB must ensure that its tax practitioner members meet the requirements in section 4 of this document.
- Additionally, RCBs must –
  - verify at least 20% of its tax practitioner members' CPE records per year and retain the records of such verification.
  - verify the tax compliance status of tax practitioner members at least once a year; and
  - notify SARS as and when they have dismissed a member due to serious misconduct or become aware that a member has been convicted of an offence as described in section 4.3 above.

### 5.2.1 CODES OF ETHICS AND CONDUCT OF MEMBER

- a) RCBs should incorporate the following broad principles into their respective codes of conduct to reflect the responsibilities of tax practitioners, as well as to protect the public.

#### Principles

- **Honesty & Integrity**

**Definition:** Tax practitioners should be straightforward and honest in all professional and business relationships. Integrity requires fair dealing and truthfulness.

- Tax practitioners must be compliant in respect of the taxation laws in the conduct of their personal affairs.
- Tax practitioners must be open and honest in respect of their criminal record.
- Tax practitioners must not knowingly be associated with reports, returns, communications and other sources of information where the practitioner believes that the information,
  - contains materially false or misleading statements.
  - contains statements or information furnished recklessly; or
  - omits or obscures information required to be included.
- When a tax practitioner becomes aware that the above has occurred, the practitioner must cease to represent the taxpayer concerned if the taxpayer does not remedy the situation.

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- **Professional Competence**

**Definition:** Tax practitioners must attain and maintain knowledge and skills relevant to the service provided to clients.

- Tax practitioners must take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement being made on behalf of the client, whether in a return submission or otherwise.
- Tax practitioners must ensure that taxation laws are applied correctly and lawfully to the circumstances of the particular client.
- Tax practitioners must not knowingly obstruct the proper administration of the tax laws.
- Tax practitioners must ensure that they advise their clients of their rights and obligations under the taxation laws.
- Tax practitioners must exercise due diligence and care in their interaction with SARS on behalf of their clients.

- **Confidentiality of the Client**

**Definition:** Tax practitioners must maintain the confidentiality of their clients' information and should not disclose the information to a third party without a client's permission unless there is a legal obligation to do so.

- Information disclosed by the client should not be used by the tax practitioner for personal gain or advantage.

- **Fees**

**Definition:** Fees charged by a tax practitioner for work undertaken on behalf of a client must be commensurate with the nature and complexity of the task at hand.

- The charging of a contingency fee, for the completion of tax returns, is not an acceptable form of remuneration for tax practitioners.
- However, the charging of a contingency fee is acceptable.
  - when there is a dispute between the taxpayer and SARS under Chapter 9 of the TA Act, and
  - when the taxpayer brings an application for SARS to review its decisions under section 9 of the TA Act.
- Where contingency fees are allowed, the tax practitioner must enter into a written agreement with his/her client. The agreement should contain sufficient information on:
  - The details of the tax practitioner and the taxpayer,
  - The outcome upon which the contingency fees are based and its percentage,
  - The consequences if the outcome is not achieved, and
  - When the contingency fees are charged.
- The agreement should also contain a clause that gives:
  - The taxpayer client the right to refer the agreement to the relevant RCB for review, and
  - The RCB has the authority to set aside any provision of the agreement or any fees claimable in terms of the agreement if the RCB finds such provision or fees unreasonable or unjust.

## 5.2.2 DISCIPLINARY CODE AND PROCEDURES OF MEMBERS

- a) The principles applicable to disciplinary code and procedures for tax practitioner membership should include the following:

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#### Principles:

- The types of complaints that may be lodged under of section 241 of the Act must be addressed.
- Provision must be made for cases to be reported to the RCB by SARS, clients, other professional bodies, or members of the public.
- A list of offences and sanctions must be drawn up.
- Sanctions must fit the offence committed and address the severity and the effect of the non-compliant behaviour of a member. This could include warnings, a requirement that the tax practitioner undertake educational courses to increase competency in their practice, financial sanctions and removal as a member.
- Repeated non-compliant behaviour must receive a harsher sanction than was imposed previously.
- Outcomes of all disciplinary hearings of tax practitioners that have been found guilty must be reported to SARS as well as the client concerned.
- When a disciplinary hearing results in the removal of a member, the identity and the sanctioning of the member must be published on the controlling body's website.
- The controlling body must retain jurisdiction over its members, (notwithstanding that they may have resigned), provided that the conduct under investigation took place at the time they were a member of the controlling body.

### 5.3 HOW TO UPDATE OR DEREGISTER A TAX PRACTITIONER MEMBER

- a) RCBs must maintain and update the compliance status of their tax practitioner members and deregister them on eFiling. In the case where the tax practitioner was deregistered by the RCB due to serious misconduct, the RCB is required to notify SARS and all other RCBs.
- b) Refer to the SARS website [www.sars.gov.za](http://www.sars.gov.za) on how to use eFiling on [how to update or deregister a tax practitioner member](#).

## 6 SUPPORTING DOCUMENTS WHEN ENGAGING WITH SARS

- a) When making an application or submission of information to SARS, note the following validation documentation requirements.

### 6.1 ENTITIES APPLYING FOR RECOGNITION

- a) Entities applying to become a recognised controlling body must submit the following to SARS:
  - i) Application forms signed off by the CEO of the body.
  - ii) A resolution by the Board.
  - iii) A list of active members of at least 1 000 members or a statement indicating that there is a reasonable prospect of having 1 000 members within a year.
  - iv) A description of the mechanisms used to validate members' tax compliance status.
  - v) A copy of the Code of Ethics and Conduct.
  - vi) A copy of the Disciplinary Code and Process.
  - vii) A copy of the most recent audit report verifying that the body is approved in terms of section 30B of the Income Tax Act for purposes of section 10(1)(d)(iv).

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## 6.2 PERSONS APPLYING FOR TAX PRACTITIONER REGISTRATION

- a) Persons applying to be a tax practitioner must have the following:
  - i) Certificates of qualifications.
  - ii) Summary of working experience accompanied by testimonials from employers or clients.
  - iii) Independently verified criminal record check.
  - iv) Proof of completion of the SARS Tax Practitioner Readiness programme and of the 90% pass mark.
  - v) Letter of tax compliance status which is issued by SARS and contains the pin for verification of tax compliance.
  - vi) Declaration that the person has not been removed by any RCB or controlling body due to serious misconduct.

## 6.3 RCB ANNUAL REPORTING

- a) Process flow diagrams or an explanation of the processes implemented for:
  - i) Admission of new tax practitioner members
  - ii) CPE verification
  - iii) Tax compliance verification
  - iv) Criminal record confirmation (affidavits once every five years and confirmation every year)

### 6.3.1 TAX PRACTITIONER MEMBERSHIP

- a) List compiled in MS Excel of active tax practitioner members for the period of reporting:
  - i) Name and surname
  - ii) PR number
  - iii) Tax number
  - iv) Identification number
- b) List compiled in MS Excel of deregistered tax practitioner members and reasons for the deregistration.
- c) List compiled in MS Excel of tax practitioner members in any other status and an explanation regarding each status.

### 6.3.2 CPE

- a) Evidence (competency certificates) of the verification of tax practitioner members' CPE compliance.
- b) List of active tax practitioners that did not meet CPE requirements.

### 6.3.3 TAX COMPLIANCE VERIFICATION

- a) List of non-compliant tax practitioners and the actions taken against these tax practitioners.
- b) A print screen from SARS eFiling system at the time of verification by the RCB must be retained as evidence. The print screen must contain the tax practitioner's full name, the tax reference numbers that the tax practitioners are registered for, the compliance statuses for all tax types, and the date when the compliance status is verified. The RCB will be required to provide evidence in the annual review process, not in the annual report.

### 6.3.4 CODE OF CONDUCT AND DISCIPLINARY PROCESSES

- a) A copy of the code of ethics and conduct.
- b) A copy of the disciplinary code and procedures:

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- i) List of tax practitioners that were disciplined and the reasons for disciplinary actions.
  - ii) List of complaints received from SARS and the public against the tax practitioner members.
  - iii) List of complaints finalised for the year and the results of thereof.
  - iv) List of work in process complaints.
- c) List of sanctions.
- d) Confirmation that the RCB continues to adhere to the requirements in terms of section 30B of the Income Tax Act, 58 of 1962 (ITA) for the purpose of section 10 (1(d) (iv) of the ITA. The confirmation may be in the form of a statement indicating the percentage breakdown of income received e.g., memberships fees, training fees, etc.
- e) A declaration by the CEO of the RCB that the RCB has at least 1000 members when applying for recognition or reasonable prospects of having 1000 members within a year of applying.

## **7 DEREGISTRATION OF A TAX PRACTITIONER**

- a) A tax practitioner can deregister themselves as a tax practitioner via eFiling.
- i) On how to do this, refer on how to [deregister a tax practitioner member](#) on the SARS website [www.sars.gov.za](http://www.sars.gov.za)
- b) Registered tax practitioners are required to comply with the code of conduct regulating their profession and the Act to retain their registration. Non-adherence can lead to disciplinary action by their RCB and deregistration by their RCB or SARS which would mean that they no longer comply with the dual registration requirement under the Act and can no longer function as a tax practitioner.
- c) Section 240(3) of the Act permits SARS to deregister a registered tax practitioner where the following conditions are met:
- i) An RCB or a controlling body of a related profession has during the preceding of five years revoked the membership of the tax practitioner due to serious misconduct.
  - ii) During the preceding five years, the tax practitioner has been sentenced (whether in the republic or elsewhere) for more than 24 months due to the offences listed in section 240(3)(b) of the Act.
  - iii) During the preceding five years, the tax practitioner has been convicted for a serious tax offence defined in section 1 of the Act.
  - iv) During the preceding 12 months, the tax practitioner has for an aggregate period of at least six months not been tax compliant to the extent referred to in section 256(3) of the Act, AND the tax practitioner failed to demonstrate that s/he has been compliant for the period stipulated in (b)(iv) above or remedy the non-compliance within the period specified in a notice by SARS.
- d) Where the registered tax practitioner's membership has been revoked by the RCB due to serious misconduct, the RCB will:
- i) deregister the tax practitioner on SARS eFiling.
  - ii) inform SARS of this via [reportingunprofessionalconduct@sars.gov.za](mailto:reportingunprofessionalconduct@sars.gov.za)
  - iii) inform all RCBs of this.
- e) SARS will then take the steps to also deregister the tax practitioner.
- f) Where the tax practitioner has been sentenced due to offences listed in section 240(3)(b) of the Act (theft, fraud, forgery or uttering a forged document, perjury or an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004) or any offence involving dishonesty), the steps to deregister the tax practitioner, will be taken both by SARS or the RCB (depending on who first becomes aware of the sentence).

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- i) If SARS deregisters a tax practitioner, SARS will inform the relevant RCB to also deregister the tax practitioner on SARS eFiling. All other RCBs will also be informed of this.
  - ii) If the RCB deregisters a tax practitioner, the RCB will inform SARS to also deregister the tax practitioner and all other RCBs will be informed.
- g) Where the tax practitioner has been convicted for a serious tax offence, the steps to deregister the tax practitioner, will be taken both by SARS and the RCB. All other RCBs will also be informed.
- h) SARS will take the steps to deregister the tax practitioner and will inform the RCB so that the RCB can complete the deregistration via SARS eFiling.
- i) The process below is followed when deregistration for tax non-compliance of tax practitioners is contemplated:
- i) Non-compliant tax practitioners are identified in terms of section 240(3)(d).
  - ii) The non-compliance of the tax practitioner is verified across all tax types at this and every subsequent step of the process before moving to the next step because SARS recognises, that deregistration affects livelihoods, business continuity as well as taxpayers who are linked to the tax practitioners. If non-compliant, proceed to next step.
  - iii) The tax practitioner is advised by letter of SARS' intention to deregister and provided 21 business days to regularise his/her tax affairs.
  - iv) The letter of intent is sent to the email on record, is tracked for delivery, and SARS maintains records that verify whether delivery has taken place. Where a notification is received that the email cannot be delivered because of incorrect registered particulars, updated details are traced using the information across all tax products. In accordance with section 23 of the Act, taxpayers are obligated to inform SARS of any changes to their contact information, and that, in accordance with section 234(2)(a) of the Act, not doing so is a criminal offence.
  - v) If the non-compliance is not corrected or addressed within the period allowed and the practitioner remains non-compliant when verified, a case is prepared to request that the appropriate governance Committee approve deregistration.
  - vi) If approved, the practitioner is deregistered on the SARS system. SARS will notify his/her RCB to deregister the person from eFiling on their side. The RCB may pursue additional disciplinary action against the tax practitioner.

## 8 DERECOGNITION OF AN RCB

- a) Section 240A (6) of the Act states:
- i) If a body recognised under subsection 240A (2) no longer meets the listed requirements, the Commissioner must notify the RCB that if it does not take corrective steps within the period specified in the notice, its recognition will be withdrawn at the end of the period.
- b) SARS will conduct both physical and documentary verifications to evaluate whether RCBs still comply with the criteria mentioned.
- c) In the case where an RCB no longer complies, SARS will notify the RCB concerned in writing providing reasons for its intention to withdraw its recognition status and afford the controlling body 21 business days to submit a response and 90 calendar days to become fully compliant.

## 9 REFERENCES

### 9.1 Cross References

DOCUMENT NUMBER	DOCUMENT TITLE
GEN-ELEC-10-G01	Guide for Tax Practitioners on eFiling- External

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## 10 DEFINITIONS AND ACRONYMS

Link for centralised definitions, acronyms, and abbreviations: [Glossary A-M | South African Revenue Service \(sars.gov.za\)](#)

### DISCLAIMER

The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the guide should refer to the relevant legislation or seek a formal opinion from a suitably qualified individual.

### For more information about the contents of this publication you may:

- Visit the SARS website at [www.sars.gov.za](http://www.sars.gov.za).
- Make a booking to visit the nearest SARS branch.
- Contact your own tax advisor / tax practitioner.
- If calling from within South Africa, contact the SARS Contact Centre on 0800 00 SARS (7277); or
- If calling from outside South Africa, contact the SARS Contact Centre on +27 11 602 2093 (only between 8am and 4pm South African time).