



CRITERIA FOR THE RECOGNITION OF CONTROLLING BODIES

Chapter 18 of Tax Administration Act

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1 SUMMARY

- a) This guide 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 recognition status as an RCB, and the process for de-recognition of RCBs when they no longer meet these requirements.
- b) The requirements in this guide are applicable to both the RCBs recognised by section 240A (1) the Tax Administration Act, 2011 (Act No. 28 of 2011) (the Act), currently the Legal Practice Council, and by the SARS commissioner, with the following exceptions for the RCBs recognised by the Act:
 - i) Criminal records verification should be based on the Legal Practice Council Act, and
 - ii) the paragraphs relating to derecognition of RCBs. Only the Act can derecognise the RCB.

2 BACKGROUND

- a) Chapter 18 of the Tax Administration Act, 2011 (Act No. 28 of 2011) (the Act), amongst others, provides legal framework for regulating 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 requires that –
 - A) tax practitioners –
 - I) have the minimum education qualifications and working 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 requires that as is appropriate for the profession, RCBs –
 - A) enforce minimum qualification and working experience for registration, and continuous professional education requirements;
 - B) maintain appropriate codes of ethics and conduct; and
 - C) maintain and enforce disciplinary codes in accordance with appropriate procedures.
- e) Chapter 18 of the Act defines recognised controlling body as follows:
 - i) “**Recognised controlling body**’ means a ‘controlling body’ recognised by the Commissioner under section 240A.”
- f) To qualify as a recognised controlling body an organisation must either be –
 - i) listed in section 240A (1) of the Act or
 - ii) be recognised by SARS Commissioner in terms of section 240(2) of the Act.

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- g) SARS is expected to “Recognise” Controlling Bodies for tax practitioners that provide advice with respect to the application of a tax Act or complete or assist others to complete returns if the body remains relevant and effective on their requirements stipulated in the Act.

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.

- 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 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 controlling body to apply to the SARS Commissioner to become an RCB, it must meet the following criteria:

Requirements:

- Regarding the controlling body, it must –
 - be a controlling body for natural persons who provide advice with respect to the application of a tax Act or complete or assist others to 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.

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- With regards to tax practitioner members, the controlling body must maintain –
 - the minimum qualifications and working experience and continuing professional education requirements that are set by SARS
 - relevant and effective codes of ethics and conduct, including tax compliance and criminal record requirements; and
 - relevant and effective disciplinary process and procedures.
- When a controlling body 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, see 7.3 below.

5 HOW TO APPLY 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.
- 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 to SARS on eFiling.
- Refer to the SARS Website www.sars.gov.za regarding –
 - how to submit information and maintain members using eFiling; and
 - registration as an RCB on [eFiling](#).

Note that a controlling body 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.

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6 IMPLEMENTATION OF 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 the external guide
 - GEN-GEN-59-G01 – Criteria for the Registration of Tax Practitioners – External Guide.
- An RCB must ensure that its tax practitioner members meet the requirements in listed on the following external guide:
 - GEN-GEN-59-G01 – Criteria for the Registration of Tax Practitioners – External Guide.
- Additionally, RCBs must –
 - verify at least 20% of its tax practitioner members' CPE records per year and retain the records of such verification for five years.
 - verify the tax compliance status of tax practitioner members at least once a year.
 - To verify the tax compliance using the TCS PIN, refer to the following external guide:
 - GEN-ELEC-08-G01-Guide-to-the-Tax-Compliance-Status-functionality-on-eFiling-External-Guide:
 - 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 7.2 below
 - verify criminal records of current tax practitioners once every five years; and
 - not register an individual as a tax practitioner if such person falls under at least one category in sec240(3) and sec240(4).

6.1 ADMISSION OF TAX PRACTITIONER

- a) 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 from related profession by a controlling body for serious misconduct in the preceding five years, or not have been convicted of an offence as described in 7.2 below.

6.2 CODES OF ETHICS AND CONDUCT OF TAX PRACTITIONER MEMBERS

- 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.

- **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 and revision 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.

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- Where contingency fees are allowed, the tax practitioner must enter into a written agreement with their 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.

6.3 DISCIPLINARY CODE AND PROCEDURES FOR TAX PRACTITIONER MEMBERS

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

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.

6.4 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 on how to use eFiling on [how to update or deregister a tax practitioner member](#).

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6.5 TAX PRACTITIONER TAX COMPLIANCE

- a) RCBs are to ensure that an individual cannot be registered as a tax practitioner. Additionally, RCBs are to ensure that 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 21 business days from the date of the letter of intention to deregister, issued by SARS
- b) Registered tax practitioners are required to provide the following to the RCB.

Requirement:

- RCBs must verify their members' compliance statuses at the time of registration, annually and at shorter period as specified by the RCB, to ensure that no individual is registered as a tax practitioner member if such person is tax non-compliant, and no tax practitioner membership remained as such if the tax practitioner is tax non-compliant.

6.6 CONDITIONS FOR TAX PRACTITIONERS TO CHANGE THEIR RCB

- 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:
- 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,
 - ii) **Termination:** A tax practitioner's membership is terminated by the releasing RCB due to non-compliance with 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.

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6.7 RESIGNATION

- a) This applies to tax practitioners who resigned from the releasing RCB as described in category 6.6 (c)(i) above.
- b) The receiving RCB should receive a Letter of Good Standing provided by the registered tax practitioner and 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) In instances where 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 meet the following conditions:
 - A) Minimum qualification and working experience:
 - I) Tax practitioners registered prior to 1 June 2022, must meet the 2013 criteria requirements listed in the following document,
 - GEN-GEN-59-G01 – Criteria for the Registration of Tax Practitioners – External Guide.
 - II) Tax practitioners registered as on or after 1 June 2022, must meet the requirements listed in the following document:
 - GEN-GEN-59-G01 – Criteria for the Registration of Tax Practitioners – External Guide.
 - B) SARS Tax Practitioner Readiness Programme
 - I) Tax practitioners registered prior to 1 July 2022, are not required to successfully pass the assessment, however they are encouraged to attend the programme,
 - II) Tax practitioners registered as on or after 1 July 2022, are 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:
 - I) Tax practitioners must be tax compliant at the time of joining the receiving RCB.
 - D) Criminal record check:
 - I) Tax practitioners are required to submit an affidavit stating that they have not committed any crime listed in section 240(3) of the Act and are not in the situation described in section 240(4) of the Act.
 - E) Continuous Professional Education:
 - I) Tax practitioners are required to provide the evidence of the CPE status for the year.
 - F) When a registered tax practitioner has joined the receiving RCB six months or longer after the resignation from the releasing RCB, they must be treated as a new registration, hence the amended criteria must be met.

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6.8 MEMBERSHIP TERMINATED

- a) This refers to tax practitioners whose membership was terminated by the releasing RCB as described in category 6.6 (c)(ii) above.
- b) Where the releasing RCB has terminated the membership of a tax practitioner's, the RCB should not issue a Letter of Good Standing to the terminated tax practitioner. Additionally, an RCB should not register the terminated tax practitioner. The terminated tax practitioner can only be registered with an RCB once all the requirements as set out in the amended criteria have been met.

6.9 SERIOUS MISCONDUCT OR COURT JUDGMENT

- a) This applies to tax practitioners who have been deregistered by the releasing RCB or SARS as described in category 6.6 (c)(iii). An RCB is not permitted to register a tax practitioner that has been deregistered with any RCB, 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, the deregistered tax practitioner may only register as a tax practitioner once the amended criteria have been met.

6.10 CONTINUOUS TAX NON-COMPLIANCE

- a) This applies to tax practitioners who have been deregistered by the releasing RCB or SARS as described in category 6.6 (c)(iv) above.
- b) An RCB is not permitted to register as a deregistered tax practitioner, unless the deregistered tax practitioner has demonstrated 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 the individual as a tax practitioner if the amended criteria have been met.

6.11 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 6.6 (c)(v) above.
- 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 will suspend the registration of the registered tax practitioner in terms of section 240(4) of the Act, and their RCB must suspend their membership. Once fully acquitted, the RCB may reactivate the tax practitioner status. However, an individual who has not been fully acquitted, may not register as a tax practitioner.
- c) If the tax practitioner wishes to change his/her RCB after the reactivation of the tax practitioner status, the requirements in 6.7 apply.

7 SUPPORTING DOCUMENTS REQUIRED WHEN ENGAGING WITH SARS

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

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7.1 CONTROLLING BODIES APPLYING FOR RECOGNITION

- a) A controlling body 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).

7.2 REGISTERING PERSONS AS TAX PRACTITIONERS

- a) The RCB should ensure that persons registering as tax practitioners should provide them with the following:
- i) Certificates of qualifications.
 - ii) Summary of working experience accompanied by testimonials from employers or clients.
 - iii) Independently verified criminal record check. RCBs are not allowed to register any individual if they fall under the category of sec240(3)(b) and (c) and sec240(4).
 - 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. The RCB is not allowed to register a person who is not tax compliant.
 - vi) Declaration that the person has not been removed by any RCB or controlling body due to serious misconduct. The RCB is not allowed to register a person as a tax practitioner if they fall under the category of sec240(3)(a).
- b) Additionally, where an individual intends to register as a tax practitioner, the RCB 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 from related profession by a controlling body for serious misconduct in the preceding five years, or not have been convicted of an offence as described in (c) and (d) below.

- c) 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 from a related profession by a RCB or a controlling body for serious misconduct.

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- d) RCB are required to validate that Tax practitioners adhere to the following:

Requirement:

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

7.3 RCB ANNUAL REPORTING

- a) An RCB is required to submit its annual report which contains the following information and in the prescribed form as indicated below, no later than 31 March of the following year. For example, the annual report for the period from 1 January 2023 to 31 December 2023 must be submitted to SARS no later than 31 March 2024.
- b) 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)

7.3.1 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.

7.3.2 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.

7.3.3 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.

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7.3.4 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:
 - 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.

8 DEREGISTRATION OF A TAX PRACTITIONER

- a) A tax practitioner who chooses to no longer be a tax practitioner, must start with their RCB. Their RCB will commence the process.
 - i) On how the RCB will do this, refer on how to [deregister a tax practitioner member](#) on the SARS website www.sars.gov.za
- b) RCBs are to ensure that their registered tax practitioners comply with the code of conduct, regulating their profession and the Act to retain their registration. Where a tax practitioner does not adhere to the requirements, this will result in a disciplinary action issued by their RCB and may be deregistered by their RCB or SARS. This would imply that they no longer comply with the dual registration requirement under the Act and can no longer function as a tax practitioner.
- c) The Act permits SARS to deregister a registered tax practitioner where the following conditions are met:
 - i) An RCB or a controlling body has during the preceding of five years revoked the membership of the tax practitioner from a related profession 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 they have been compliant for at least a 6-month period or remedy compliance within 21 business days from the SARS' letter of intention to deregister.
- d) Where the registered tax practitioner's membership has been revoked by their RCB of controlling body from related profession due to serious misconduct, the RCB/controlling body is required to:
 - i) deregister the tax practitioner on SARS eFiling.
 - ii) inform SARS of this via ReportingUnprofessionalConduct@sars.gov.za
 - iii) inform all RCBs of this.
- e) SARS will then take the steps to also deregister the tax practitioner.

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- 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).
- 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 (sec240(3)(c)), the steps to deregister the tax practitioner, will be taken both by SARS and the RCB. All other RCBs will also be informed.

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.

- h) The process below is followed when deregistration for tax non-compliance of tax practitioners is contemplated:
- i) Non-compliant tax practitioners are identified based on the information in SARS possession.
 - 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 notified by the 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 address on the tax practitioner's RAV01 on the SARS system, 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.

9 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.

10 DISPUTE PROCESS

- a) When a controlling body or an RCB is aggrieved by SARS' decision for not being recognised as an RCB or where a derecognised RCB is aggrieved by SARS' decision, a request can be made for SARS to review its decision in terms of section 9 of the Act. In such instances, SARS will require a clear motivation of the request together with the relevant supporting documents.

11 REFERENCES

11.1 CROSS REFERENCES

| DOCUMENT NUMBER | DOCUMENT TITLE |
|-----------------|--|
| GEN-GEN-59-G01 | Criteria for the Registration of Tax Practitioners – External Guide |
| GEN-GEN-58-G01 | How RCBs can manage tax practitioner members on eFiling – External Guide |

12 DEFINITIONS AND ACRONYMS

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

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.
- 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).