

Ref #: 632586

27 May 2019

South African Revenue Service
Private Bag X923
Pretoria
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BY E-MAIL: SARS stakeholder contact

Dear Sir/Madam

COMMENTS ON STRUCTURING and STRATEGY OF TRANSFER PRICING UNIT WITHIN THE LARGE BUSINESS CENTRE

1. We herewith present our proposals and comments on behalf of the South African Institute of Chartered Accounts (SAICA) Transfer Pricing Sub-Committee on how the South African Revenue Service (SARS) may be able to structure and strategise their Transfer Pricing Unit within the SARS Large Business Centre (LBC).
2. The submission transpires from an initiative to engage more effectively with SARS, as invited by the then Acting Commissioner, Mark Kingon, in shaping the LBC.
3. Given the need for a Transfer Pricing Unit within the SARS LBC, the SAICA Transfer Pricing Sub-Committee would like SARS to consider the practical issues identified in this submission transpiring from doing business at large, take into account the proposed solution thereto and how it may benefit SARS in doing so.
4. Our submission includes a discussion of some of the most pertinent matters, which we believe require SARS' most urgent attention.
5. We would like to thank SARS for the opportunity to provide constructive comments in relation to the structuring and strategy of a Transfer Pricing Unit within SARS LBC. SAICA believes that a collaborative approach is best suited in seeking actual solutions to complex problems.
6. Should you wish to clarify any of the above matters please do not hesitate to contact us.

Yours sincerely

Christian Wiesener

Chairman of SAICA Transfer Pricing Sub-Committee

Madelein Grobler

SAICA Project Director: Tax Thought leadership

The South African Institute of Chartered Accountants



ANNEXURE A

SARS Specialised BEPS Unit

7. Globalisation is a reality and tax systems therefore needs to keep with the tide to ensure there is no revenue loss to the *fiscus*. One of the coordinated actions by over 100 countries and jurisdictions is to tackle concerns over base erosion and profit shifting (BEPS). BEPS refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations.
8. Many taxpayers in South Africa experience frustration dealing with staff that would appear to not have sufficient experience required when dealing in complex areas of the legislation, especially from a multinational enterprise perspective. This is both costly and time consuming for taxpayers.
9. SARS noted in its media release on 6 November 2018 that the LBC functionality will include to enforce an increased focus on BEPS and tax planning measures.

10. Submission: We recommend that in re-establishing the SARS LBC functionality, SARS should formulate a specialised BEPS Unit staffed with experienced personnel to also handle complex arrangements and BEPS related context.

SARS Taxpayer Relationship Manager (TRM)

11. SARS notes that the key responsibility of a TRM is to assist taxpayers to comply with their statutory obligations in the most efficient and effective manner through the delivery of a superior and differentiated service and educating taxpayers. The TRM is the single point of contact for the taxpayer who should facilitate a more efficient service and permit regular interaction.
12. From experience of taxpayers the TRM seems to be the single point of contact, but not necessarily always able to resolve tax issues that taxpayers may experience.

13. Submission: It is our submission that the TRM can be utilised more efficiently by adopting a more service focussed role rather than just being a “post box” for issues.

14. For example, a taxpayer required the file of one of its subsidiaries to be moved to LBC and for more than a year could not get any feedback on this request. Follow ups kept being met with – “we are waiting for sign off”. In the interim, this impacted heavily on the taxpayer’s ability to do business. Numerous correspondence and explanation of the problem ensued without success.

15. Submission: We submit that a solution to the above issue may be to have a dedicated help desk at LBC where tracking numbers can be assigned to taxpayer issues which can assist in further follow up and escalation.



Open communication and collaboration

16. SAICA has raised, the lack of communication between SARS and taxpayers, tax practitioners and Recognised Controlling Bodies (RCB) and this is a standing item on the SARS/Recognised Controlling Body National Stakeholder Forum.
17. SARS have acknowledged the issue and in the recent SARS/RCB Leadership meeting agreed to working harder on improving this. We have seen an effort to improve the communication.
18. For example the SAICA Transfer Pricing Subcommittee has been pro-active in submitting a submission on the topic “Comments on the proposed Interpretation Note on Transfer Pricing” to SARS during August 2018, but the actual SARS meeting only took place recently in April 2019.
19. We would like to commend SARS in this regard for their openness to collaborate at the meeting in April 2019. The meeting was insightful and well attended by all SARS officials in the Transfer Pricing space.
20. However, there may be still a perception that efforts to consult/communicate may be more mechanical rather than with a real intent to seriously consider submissions made.
21. Submission: We submit and request in the spirit of collaboration and service delivery, that the LBC Transfer Unit have a bi-annual meeting with RCB's, tax practitioners and interested taxpayers to communicate what is working and what is not, both from an operational and legislative perspective.