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## SAICA PROPOSED AGENDA ITEMS

### **GENERAL**

SAICA attends various discussions and meetings on behalf of members with National Treasury (“NT”), South African Revenue Service (“SARS”) and other stakeholders (internal and external). These meetings present an opportunity for SAICA to provide constructive comments in relation to the matters in discussion.

SAICA believes that a collaborative approach is best suited in seeking actual solutions to complex challenges. The below Proposed Agenda Items should be seen in the above context and as an attempt to inform SAICA members of the proposed agenda items that will be made during such discussions and meetings.

### **AGENDA ITEMS: STRATEGIC MATTERS WORKSHOP**

**SARS/RCB**

**August 2018**

Below are the proposed SAICA agenda items for discussion at the SARS/RCB Strategic Matters Workshop to be held in August 2018.

### **Tax Practitioner regulatory model**

The Tax Practitioner Regulation Model has been implemented with two main differentiations, namely statutory and non-statutory as well as that it is based on co-regulation with SARS. On the former, disparities are created in the model by having differing criteria amongst RCB's for example, an RA who is a CA has different requirements merely based on whether IRBA or SAICA is the RCB. In respect of the legal profession, the initial justification falls away as, from 1 October 2018, the Legal Practice Council takes over the functions of the Bar Council and the Law Societies.

Furthermore, the sustainability of the tax profession is premised on its ability to generate value to government and taxpayers. Finding this value in the current regulatory model has been challenging and needs to be revisited, including reducing inefficiencies.



For discussion: Creating a model that creates equity and equality amongst all tax practitioners irrespective of the RCB and avoids a conflict between professional bodies' mandate to represent their members and being a regulator. Discussion on what are the value creation levers for the profession and how to access and enable them through a revised regulatory model.

### **Re-evaluation of sustainability of section 30B of the Income Tax Act in its current form and enforcement thereof**

Organisations subject to section 30B and section 10(1)(d)(vi) must comply with those requirements, which include section 30B(2)(b)(ix) regarding 90% member only funding, section 30B(2)(b)(vii) prohibiting joint ventures/profit shares with the organisation's own members and applying 90% of income and human capital to the organisation's primary or sole objective.

However, many organisations subject to these laws have funding models that are not in compliance therewith and it may be that section 30B funding restrictions may not be viable to many organisations. This poses a financial risk to these organisations, but also an enforcement risk to SARS where such organisations remain non-compliant. This non-compliance creates a disparity between member bodies as to services available and funding.

For discussion: To ensure that all section 30B organisations are effectively subject to the same funding requirements that are equally enforced by SARS, discussions should be had regarding the funding restrictions and possible redesign of the requirements of section 30B to allow for sustainable funding, within the policy confines agreeable to NT and SARS.

### **SARS Legal and Policy engagement platform**

SAICA has for numerous years sought a general and regular engagement platform with the SARS Legal Counsel (previously Legal and Policy) division within SARS. Though, in principle, agreement was reached, no implementation has occurred. SAICA believes that this engagement will assist in refining the public consultation process and also ensure that non legislative, but legally important matters such as Interpretation Notes, Practice Notes, Rulings and Guides are engaged upon on an ongoing basis during the course of the year and not on an ad hoc basis.

For discussion: Creation of a bi-annual discussion platform with SARS for legal and policy matters outside the normal legislative engagement framework, but complimentary to it.

### **Prioritisation of SARS Operational National Stakeholder matters for resolution**

The SARS/RCB Operational Stakeholder engagement has been successful in highlighting where there are problem areas but has been less successful in ensuring that matters important to taxpayers are actually resolved timeously. The engagement level at regional and head office level has also been inconsistent with some better than others, but also fragmented as to effecting solutions.



For discussion: Discussing and agreeing the regional engagement platforms for RCB's, how regional matters will be escalated, resolved and communicated and also discussing and agreeing the principle of inclusiveness of SARS prioritisation in addressing operational matters and how it should be implemented.

### **Training SARS officials and SARS training the public**

The constant change and complexity of law and systems results in unnecessary wastage of resources by SARS and taxpayer's/tax professionals in resolving misunderstandings/simple disputes of either law or process. Constant education for both SARS officials and the public is imperative to avoid such wastage. However, constant training and education comes at a huge cost for both SARS and the public which creates a hurdle to implementation and therefore, collaboration in achieving this outcome remains imperative.

For discussion: It is important that through collaboration and acting in the interest of the country, agreement be reached as to how training of SARS officials may be augmented with training from public stakeholders as well as agreeing on access to and scheduling of training to the tax profession or the public by SARS officials.

### **Collaborative thought leadership and research**

The practice of focussing our engagements and discussions on the present and next 12 months result in matters becoming heated exchanges or vested interest debates. It has become imperative as a country that we work collaboratively in navigating the challenges posed by a changing world and economy. This can be better achieved through an organised thought leadership and research platform whereby SARS and the public engaged on policy and process challenges facing us beyond the next 12 months or whereby solutions are collaboratively sought for the present challenges.

SARS has taken various steps towards this good initiative and has agreed in principle with draft engagement terms prepared by SAICA. However, this now needs to be progressed further.

For discussion: Whether interim changes at SARS have impacted on the initial thoughts of how to implement this and what are the timelines and challenges for implementation and agreed terms for interim engagements.

### **Audits, verifications and supporting documentation**

Audits and verifications form a critical part of the checks and balances imposed by SARS. However, the procedures followed and communication thereto has created much anxiety/dissatisfaction by the tax profession and taxpayers, including the process in obtaining supporting evidence and the processes applied in evaluating the sufficiency of such evidence.



For discussion: We welcome the recent changes implemented by SARS, but many challenges remain. Voluntary compliance is the most cost effective form of compliance and the audit/verification process should not frustrate taxpayers or the tax profession, but should be done in a manner that minimises inefficiencies and reduces adversarial traits. It should also be cognisant of workflow procedures of taxpayers and tax practitioners so that it seamlessly integrates, reducing wastage and increasing SARS access to information which it requires to effectively collect revenue. How this is achieved is critical.

### **Effective SARS communication to tax profession and taxpayers**

Communication to and from SARS has been an enormous challenge with the former being the frustration of dealing with a faceless SARS and the latter due to timing and channels not being optimal. Centralisation of communication within SARS also results in time delays and bottlenecks without necessarily ensuring informed management.

For discussion: Addressing the challenge of communicating with the appropriate persons and structures within SARS without creating challenges of inconsistency or overload, including relooking at the Operational Query redirecting model and the SARS engagement points. Discussion is also required as to how to better collaborate in increasing the effectiveness of communicating to taxpayers, whether it is changes, challenges or achievements.