

TAX PRACTITIONER REQUIREMENTS, REGISTRATION AND DE-REGISTRATION PROCESS

1. Background

Section 240 of the Tax Administration Act, 2011 (the TAA), requires every natural person who:

- provides advice to another person with respect to the application of a tax Act; or
- completes or assists in completing a return;

to register with or fall under the jurisdiction of an **'recognised controlling body'** (RCB), as referred to in section 240A of the Tax Administration Act, 2011 (the TAA), by the later of 31 July 2013 or 21 business days after the date on which that person, for the first time, becomes liable to register. Such person must also register with SARS as a tax practitioner within 21 business days after becoming liable to register. Certain exceptions do apply as set out in section 240 of the TAA.

The TAA, defines certain bodies to be recognised controlling bodies (RCBs). They are:

- the Independent Regulatory Board for Auditors (IRBA);
- a Law Society established in terms of Chapter 3 of the Attorneys Act, 1979;
- the General Council of the Bar of SA, a Bar Council and a Society of Advocates referred to in Section 7 of the Admission of Advocates Act, 1964;
- a statutory body that the Minister is satisfied is similar to the statutory bodies listed above.

The Act further stipulates that the Commissioner may recognise a controlling body, if the body:

- Maintains relevant and effective:
 - minimum qualifications and experience requirements;
 - continuing professional education requirements;
 - codes of ethics and conduct; and
 - disciplinary codes and procedures.
- is approved in terms of section 30B of the Income Tax Act, 1962, for purposes of Section 10 (1)(d)(iv) of that Act; and
- has at least 1 000 members when applying for registration or reasonable prospects of having 1 000 members within a year of applying.

SAICA, together with a number of other professional bodies applied for and were approved as RCBs, by SARS. A member of SAICA therefore does not need to register with any other body in order to register as a tax practitioner. However, there are specific requirements that members need to adhere to and steps to be taken to enable registration.



2. Requirements for registration

In order to qualify for registration as a tax practitioner, all SAICA members must complete the declaration form. To maintain this registration on an ongoing basis, ALL of the following requirements must be met:

1. The person must belong to or fall under the jurisdiction of an RCB; **and**

All SAICA members (CA(SA), AGA(SA) & AT(SA)) would qualify in respect of this aspect. However, these members are required to request SAICA to submit their details to SARS for registration purposes (see below).

2. The person must have the minimum qualifications and experience set by the relevant RCB; **and**

SAICA members will also comply with this requirement due to the SAICA entry requirements.

3. The person must not have been removed from any other controlling body, within the last five years, as a result of serious misconduct; **and**

4. The person must not have criminal convictions in respect of the offences described in section 240(3) of the Tax Administration Act during the last five years, that is:

- theft, fraud, forgery or uttering a forged document, perjury or an offence under the Prevention and Combating of Corrupt Activities Act, 2014; or
- any offence involving dishonesty,

for which such person has been sentenced to two years in person without the option of a fine or a fine exceeding the amount prescribed in the Adjustment of Fines Act, 1991; **and**

SAICA verifies this on an annual basis as part of the annual tax practitioner declaration and audit process.

5. The person must not have been convicted of a serious tax offence within the last five years; **and**

A serious tax offence is defined as a tax offence for which a person may be liable on conviction to imprisonment for a period exceeding two years, without the option of a fine; or to a fine exceeding the equivalent fine under the Adjustment of Fines Act 101 of 1991, currently R120 000.

6. The registering member must be compliant with SAICA's code of ethics; **and**

This may include the person being substantively compliant with all his or her personal tax affairs as at the date of registration for new practitioners or renewal of membership for previously registered practitioners.



SAICA verifies this on an annual basis as part of the annual tax practitioner declaration and audit process.

7. The person must participate and comply with the continuous professional development requirements as set by the RCB.

*The SARS requirement for tax practitioners applies from date of registration (that is, apportionment applies). In terms of these requirements, tax practitioner members must attain an annual equivalent of **at least 15 hours tax specific CPD for each year or part of the year, 60% (9 hours) of which is verifiable.***

The SAICA CPD policy has been amended as effective from 01 January 2020. SAICA has proposed a change in focus as the previous CPD policy promotes an input based approach and does not specifically focus on the individual as a responsible life-long learner. The current policy offers members and associates the choice of following an input or output based approach. However, the assessment of an individual's CPD is based on a set number of hours per year and an accumulative number of hours over a three-year period. Although SAICA provides members with a number of mechanisms to satisfy their CPD requirements and to enhance their professional development, SAICA is of the view that an output-based approach to CPD will promote a more holistic view of CPD and better drive the core attitude / behaviour of life-long learning.

Section 2.1.2 (h) of the new CPD policy note that members who are required to fulfil certain additional requirements set out by an external regulator operating in the specialist area in which the member or associate is working, must take responsibility for satisfying the obligations for continued registration with this regulator / oversight body. In some cases, this may require additional reporting or submissions of declarations. It is the members' responsibility to meet both SAICA and the regulators requirements. Refer to the link:

<https://www.saica.co.za/Members/ContinuingProfessionalDevelopment/tabid/745/language/en-US/Default.aspx> (for SAICA CPD Policy).

Note that SAICA verifies this on an annual basis as part of the annual tax practitioner declaration and audit process.

3. Registration process

Registration as a tax practitioner is a two-pronged approach as, in terms of the process defined by SARS, one needs to register both with SARS and the RCB, which is, in this case, SAICA.

3.1 SARS registration

- Members must first register as an eFiler, if this has not already been done.
- Following this, members must register as a tax practitioner on their eFiling profile.
- Guidance is provided on the [SARS website](#) and may change from time to time depending on SARS system changes. It is important that members select SAICA as their designated RCB on the RAV01 (registration, amendment and verification form) on their eFiling profile.



3.2 SAICA registration

- During the 2018 year, SAICA introduced a tax practitioner regulatory subscription fee to cover the cost of regulating tax practitioners. Please read [this notice](#) for more details on the fee. This fee is applicable from the 2018 membership year, going forward. However, the amount is subject to change. No concessions have been granted to lifetime members or members with smaller practices as the cost to regulate is the same, per member, regardless of specific circumstances.
- SAICA's membership department is responsible for processing the registration, subject to the abovementioned fee being settled.
- To notify SAICA of your intention to register, please complete this online registration form - <https://kwiksurveys.com/s/hJNft34W>
- Members must email saica@saica.co.za and the relevant staff will advise you regarding the relevant fee as well as provide a link to the online registration form.
 - Please allow a few days for the registration to be completed. Once registration has been completed, members will receive an email confirming this together with additional information that may be of assistance in completing the process.
 - For queries regarding registration (i.e. after having completed the online registration form), please send these to saica@saica.co.za. Alternatively you may log onto the [member portal](#) to open a case (query) – Use the following to categorize your query: Tax Practitioner Administration > Operational > Tax Practitioner Member Services - Registration (for more information how to create a query visit the [SAICA website](#).)
 - Note that SARS issues the tax practitioner number (e.g. PR-1234567) and SAICA will not be informed of this. Once you receive your PR number, we'd appreciate if you'd send this to saica@saica.co.za to assist us in updating the member database. If you do not receive your PR number within 3 days of SAICA having confirmed your registration, please contact the person who assisted with registration to ensure that the matter is escalated appropriately.

4. De-registration process

De-registration as a tax practitioner may be effected by the tax practitioner member on your personal eFiling profile and is immediate. You will also need to advise SAICA of your de-registration and SAICA will also effect the deregistration on our eFiling profile. Note that once you have deregistered, you may not provide tax services for a fee as doing so whilst not registered, is considered a criminal offence.

4.1 SARS De-registration

See below extract from the SARS guide to assist with deactivation as a tax practitioner, with SARS:

This functionality will only deactivate the registration of the tax practitioner, which means that you will not be able to practice as a tax practitioner nor be assisted by SARS through any of the tax practitioner channels. In the tax practitioner container on the RAV01 form, there is a tick box that may be selected if you wish to deactivate your tax practitioner registration.

Tax Practitioner Details			
Registration Status	<input type="text"/>	Registration No.	<input type="text"/>
Appointment Date (CCYYMMDD)	<input type="text"/>		
Controlling Body	<input type="text"/>		
	<input type="checkbox"/> Deactivate Registration		

A warning message will be displayed to ensure that you want to deactivate the registration.



Select "Ok" to continue or "Cancel" if you do not want to deactivate the registration. If you click "Ok", the tick box will be selected.



You will receive a Deregistration notice, that you can view by following the steps in the section below "Tax Practitioner Notices".

Note: If you select to deactivate your registration, you will not be able to assist any taxpayer in your capacity as a registered tax practitioner. You will still be allowed to act as a representative on behalf of others provided the service is not for payment.

Should you encounter difficulties with the deregistration process, please call the SARS Contact Centre for assistance.

If SARS are unable to assist, contact SAICA and complete the form accessible via the link below.

4.2 SAICA De-registration

To notify SAICA of your intention to de-register, please complete this online de-registration form - <https://kwiksurveys.com/s/esAXE9Hc>

5. De-registration of Tax Practitioners for Tax Non-Compliance

5.1 Background

Section 240(3)(d) of the Tax Administration Act, 2011 was added from **1 January 2019** which provides:

'A person may not register as a tax practitioner under subsection (1) or **SARS may deregister a registered tax practitioner if the person or the registered tax**

practitioner, as the case may be—...

- (d) during the preceding 12 months has for an aggregate period of at least six months **not been tax compliant** to the extent referred to in section 256(3) and has failed to—
- (i) demonstrate that he or she has been compliant for that period; or
 - (ii) remedy the non-compliance,
- within the period specified in a notice by SARS.

5.2 Impact

The impact of this deregistration is that tax practitioners will lose their access to the tax practitioner eFiling profile and will effectively be prevented to reregister as a tax practitioner for 6 months after the non-compliance has been remedied. They will also not be able to make use of the SARS tax practitioner channel.

This will also have a material impact on the clients of these tax practitioners and members should ensure that where they are affected by such deregistration that they take appropriate actions to minimise the impact on clients, including timeously communicating to them and ensuring that they have sufficient time to transfer any eFiling taxpayer profiles before the deregistration becomes effective.

5.3 Ensure Ongoing Tax Compliance

All members should ensure that they maintain ongoing tax compliance in respect of all taxes and tax practitioners should lead by example in this regard.

5.4 Confirm your registered controlling body on eFiling or with SARS

Members who are tax practitioners are also requested to please ensure that you verify your current registered controlling body on your eFiling profile and that it is correct, especially if you have changed controlling bodies in the last few years.