



South African Revenue Service

PROPOSED AMENDMENT TO THE TAX ADMINISTRATION ACT 2011: IMPLICATIONS FOR TAX PRACTITIONER REGISTRATION

Further to our recent communique regarding the 1 July 2013 deadline for registration as a tax practitioner, we would like to draw your attention to the fact that an amendment is proposed in the Tax Administration Laws Amendment Bill, 2013, which will have implications for the registration of those acting as tax practitioners.

The Tax Administration Act requires tax practitioners who provide tax advice or complete returns for payment to be registered with a Recognised Controlling Body and with SARS by 1 July 2013. The Act provides for certain exceptions when persons who provide tax advice or complete returns need no register as a tax practitioner. These exceptions are included under section 240(2) of the Tax Administration Act, and include persons who perform these functions under the *direct supervision* of a person who is a registered tax practitioner.

The amendment to section 240(2) proposes to replace *direct supervision* with the concept of *acceptance of accountability*. This amendment is proposed in clause 68 of the Tax Administration Laws Amendment Bill, 2013, published for public comment in 5 July 2013. Under the current wording of section 240(2) of the Tax Administration Act, the result of using the concept *direct supervision* according to the industry is that “intermediate managers” between trainees or articled clerks, for example, and a partner or director must also register as tax practitioners.

In view of the arguable adverse practical implications thereof, the amendment to replace direct supervision with the concept of acceptance of accountability is proposed. This will require the partner or director who is a registered tax practitioner, to accept accountability for the actions of both the intermediate manager and the trainees or articled clerks, for example, for purposes of complaints by taxpayers or SARS to the relevant Recognised Controlling Body.

As it is not a certainty that Parliament will accept the proposed amendment, SARS will not lay complaints or charges for the period after 1 July 2013 if the amendment is not accepted and a person otherwise required to register as a tax practitioner by 1 July 2013 did not do so in anticipation of the outcome of the proposed legislation, if SARS is satisfied that the failure to register was *bona fide* and solely for this reason.

We do understand that the deadline of 1 July 2013 and the uncertainty regarding the proposed amendment placed the industry in a difficult position and we will keep you updated as to the outcome of the proposed amendment. Any queries about the registration as a tax practitioner can be directed to SARS Practitioners Contact Centre on 0860 12 12 19.

Sincerely

ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

July 2013