

# The Professional

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## Special points of interest:

- The IAC office will close on 22 December 2022 at 12pm and re-open on 9 January 2023 at 8 am

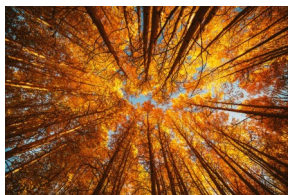


## 2022 Annual General Meeting

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## Multiple trusts registered from one will

The Master of High Court (Master) issues the same number where two or more trusts are formed through a single will. SARS introduced a work-around to ensure that these separate trusts are uniquely identified as a taxpayer.

### Process

Identify each of the trusts where the Master issued a duplicate (or more) trust registration number.

SARS will add a suffix "A" for the duplicate Trust Registration Number, followed by an increasing numerical value

starting with "01".

- For example – Trust number (MTI4695/2017 by MOHC) allocated to different Trusts
- Allocate the numbers as follows for entity registration purposes:

- \* First Trust – MTI46952017A01
- \* Second Trust – MTI46952017A02

These two trusts shall not be merged for income purposes as they are two separate tax entities irrespective of the "Trustee Details"

The Trust name shall be captured as reflected on the Letter of Authority.

Note: A Trust can have more than one beneficiary. However, a Trust is regarded as a single entity and only one trust must be registered irrespective of the number of beneficiaries.

## Types of trusts

There are various types of trusts in South Africa. These include:

Type	Description
Ownership Trust	The founder or settlor transfers ownership of assets or property to a trustee (in a fiduciary capacity) to be held for the benefit of defined or determinable beneficiaries of the trust.
Bewind Trust	The founder or settlor transfers ownership of assets or property to beneficiaries of the trust, but control over the assets or property, is given to the trustee
Inter Vivos Trust	Created during the lifetime of a person by way of an agreement (contract) between the founder and the trustee(s).
Testamentary Trust	Set up in terms of the will of a person and comes into effect after their death.
Vesting Trust	Trusts where income, capital gains or assets are vested to a beneficiary in terms of the trust instrument.
Discretionary Trust	A trust where the trustee(s) in terms of the trust instrument, has the right to vest income, capital gains, assets or retained amounts in that trust, to its beneficiaries.
Hybrid Trust	The majority of trusts in South Africa will have vested and contingent rights provided for in the trust instrument. In other words, a combination of the vesting trust and the discretionary trust mentioned above

## Specific application trusts

Specific application trusts – trusts may be classified as a type of trust based on the application of the trust, for example:

- Trading (Business) trusts
- Asset-protection or realisation trusts
- Charitable trusts
- Land rehabilitation trusts
- Share incentive scheme trusts
- BEE trusts
- Collective investment scheme (CIS) trusts
- Special trusts
  - \* Special Trust Type A – a trust created solely for the benefit of a person(s) with a mental or physical “disability” as defined in section 6B(1) .
  - \* Special Trust Type B – a trust created solely for the benefit of a person(s) who is a relative of the person who died and who are alive on the date of death of that deceased person (including those conceived but not yet born), and the youngest of the beneficiaries is younger than 18 years on the last day of the year of assessment.

The various ways of describing trusts or trust types are not mutually exclusive. For example, an Inter vivos trust can technically be both a Special Trust Type A and an Inter Vivos Trust; and a Testamentary Trust can be both a Special Trust Type B and a Testamentary Trust.

However, from a tax perspective, approved (and qualifying) Special Trusts are taxed differently than normal Inter Vivos and Testamentary Trusts, and it is recommended that the relevant approved (and qualifying) Special Trust should be disclosed as the Trust Type when completing the tax return. All trusts need to register with SARS.

The income of the trust may, depending on the circumstances and nature of the trust, may be taxes in the hands of the donor, beneficiary or the trust itself. The trustee of a trust is the representative taxpayer of a trust.

***“You only live  
once, but if you  
do it right,  
once is  
enough.”***

***— Mae West***

## Requirements—Home office

A person may recover home office expenses provided that the space meets the following requirements to be regarded as a “home office”.

The part of the home (i.e. office space) for which the claim is submitted must be occupied for purposes of a trade. This can include employment.

The office must be specifically equipped for purposes of the trade, e.g. a home study, with a desk, computer, and so

forth.

The employee must regularly and exclusively use the office for business purposes, i.e. it cannot be used for private purposes.

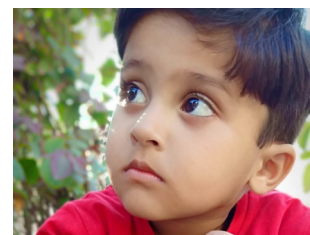
If an employee does not have a separate study or office available in their home, home office expenditure will not be allowed as a deduction.

Employees who are not commission earners, but who spend the majority of their

time on the road visiting clients, performing their duties mainly at their clients’ premises do not qualify for a deduction/claim of home office.

The employee’s duties must be performed mainly, i.e., more than 50%, in their home office.

The employer must allow the employee to work from home. Confirmation thereof will be a requirement upon Audit.





## Net profit v taxable income

The concept “net profit” is an accounting concept and describes the amount of the profit made by a business from an accounting point of view.

The term “taxable income” on the other hand is defined in section 1(1) of the Income Tax Act and describes the amount on which a business’ normal tax is calculated.

These two amounts will often be different because of the basic differences in the income and deductions considered in determining these amounts.

For example, certain income of a capital nature may be included in full for accounting purposes, while only a portion thereof may be included for normal tax purposes.

On the deduction side, there may be timing differences in the depreciation of capital assets or special deductions or allowances for income tax purposes which will cause differences in the deductions allowed for accounting purposes and those allowed for income tax purposes.

Nevertheless, the determina-

tion of net profit from an accounting point of view is an important building block in the determination of the taxable income of a business. Every business must prepare a set of financial statements (income statement and a statement of assets and liabilities). From the income statement which determines the net profit or loss of a business, certain adjustments can be made to the net profit or loss to compute (normally referred to as the tax computation) the taxable income or assessed loss of the business.

**“In three words  
I can sum up  
everything I’ve  
learned about  
life: it goes on.”  
— Robert Frost**

## Calculating taxable income/assessed loss

The first step is to determine the person’s gross income which is, in the case of

- A Resident, the total amount of worldwide income, in cash or otherwise, received by or accrued to or in favour of the person during the year of assessment, excluding receipts or accruals of a capital nature; or
- A Non-Resident, the total amount of income, in cash or otherwise, received by or accrued to or in favour of the person from a

source within South Africa during the year of assessment, excluding receipts or accruals of a capital nature.

Receipts or accruals of a capital nature are generally excluded from gross income, since the Eighth Schedule deals with capital gains and capital losses.

However, gross income also includes certain other receipts and accruals specified within the definition of “gross income” regardless of their nature. These are generally referred to as “specific inclu-

sions”.

The next step is to deduct all receipts and accruals that are exempt from normal tax.

The allowable expenses and other allowances are deducted. Lastly, the taxable capital gain is added.



## General deduction formula

Expenditure and losses are deductible under section 11(a) read with section 23(g) for income tax purposes. To be deductible the expenditure and losses must be

- actually incurred;
- in the production of income;
- not of a capital nature; and
- Incurred for the purposes of trade
- In addition, expenditure and losses must be claimed during the year of assessment in which they are actually incurred.



## Learnership agreements

Employers are entitled to an annual allowance and a completion allowance if the employer is a party to a qualifying learnership agreement with an employee.

The term “registered learnership agreement” as defined in section 12H(1) means a learnership agreement that is registered in accordance with the Skills Development Act and entered into between a learner and the employer before 1 April 2024.

### Deduction

The allowable deduction during any year of assessment that a learner is a party to a registered learnership agreement with an employer and that agreement was entered into pursuant to a trade carried on by that employer is equal to:

- R40 000 for a learner holding an NQF-level qualification from 1-6, or
- R20 000 for learners holding an NQF-level qualification from 7-10.

If the learnership agreement is for less than 12 full months during the year of assessment, the applicable amount is reduced pro rate based on the number of full months. For example, if a NQF2 learner was employed under a quali-

fying learnership agreement for 5 and a half months, the deduction would be calculated as  $40\,000 \times 5/12 = R16\,666.67$

If the learner is a person with a disability at the time of entering into the learnership agreement, the deduction in respect of that learner is:

- R60 000 for a learner holding an NQF-level qualification from 1-6, or
- R50 000 for learners holding an NQF-level qualification from 7-10.

### Completion of learnership

If a learner is a party to a registered learnership agreement with an employer for less than 24 full months, that agreement was entered into pursuant to a trade carried on by that employer, and that learner successfully completes that learnership during that year of assessment, the deduction is

- R40 000 for a learner holding an NQF-level qualification from 1-6, or
- R20 000 for learners holding an NQF-level qualification from 7-10.

If the learnership period was equal to or exceeded 24 full months, the deduction is calculated as follows:

- R40 000 for a learner holding an NQF-level qualification from 1 to 6 multiplied by the number of consecutive 12-month periods within the duration of that learnership agreement or
- R20 000 for a learner holding an NQF-level qualification from 7 to 10 multiplied by the number of consecutive 12-month periods within the duration of that learnership agreement.

If the learner is a person with a disability at the time of entering into the learnership agreement, the deduction in respect of that learner is

- R60 000 x number of consecutive 12-month periods within the duration of that learnership agreement (NQF 1-6), or
- R50 000 multiplied by the number of consecutive 12-month periods within the duration of that learnership agreement (NQF 7-10).



**“To live is the rarest thing in the world. Most people exist, that is all.”**

**— Oscar Wilde**

## NQF Levels

NQF 1	Grade 9	NQF 6	National Diploma and Advanced certificates in any
NQF 2	Grade 10 or Level 2 Vocational Certificate	NQF 7	Bachelor's degree, Advanced Diploma, B-tech, and Post Graduate Certificate
NQF 3	Grade 11 or Level 3 Vocational Certificate	NQF 8	Honours degree, Post Graduate Diploma, and Professional qualifications
NQF 4	Grade 12 or Level 4 Vocational Certificate	NQF 9	Master's Degree
NQF 5	Higher certificates and Advanced National or vocational certificate	NQF 10	Doctor's degree



## Deduction of home office expenses

Only expenses that are actually incurred during the year of assessment in the production of income may be deducted, provided these expenses are not of a capital nature.

The following are examples of expenses that may be claimed, provided it relates to the home office:

- Rent of the premises
- Interest on bond/mortgage
- Repairs
- Rates and taxes
- Cleaning
- Phone (only commission

earners)

- Stationary (only commission earners)
- Wear and tear on office equipment

Capital amounts include, for example, repayments of a bond or mortgage of the premises.

### Calculating the deductible amount

1. Calculate the area (m<sup>2</sup>) of the home office as a percentage of the total area of the home.

2. Apply the percentage to the total expenditure in respect of the home, e.g. the expenses previously listed.
3. Add any other allowable expenditure, e.g. wear and tear.
4. Obtain and retain all the supporting evidence, including invoices, statements and contracts etc.

*“Life is like riding a bicycle.*

*To keep your balance, you must keep moving.”*

*— Albert Einstein*

## Home office and CGT

The primary residence allowance for an individual is the first R2million of any capital gain or loss arising on sale or the first R2million of proceeds from the disposal.

When a part of a person's home is used as a home office and a deduction is claimed for, that part of the home is considered “tainted” for capital gains tax purposes.

When the home is sold the overall capital gain/loss will need to be apportioned between its tainted (trade) and untainted (private) elements.

The primary residence exclusion can only be set-off against the untainted (private) portion of the capital gain/loss and the tainted (trade) portion of the capital gain must be fully brought to account.

The tax impact that home office has on the calculation of capital gains tax, upon sale of a property in the future, could be considerable.

For more information, visit

- SARS YouTube channel [www.youtube.com/sarstax](http://www.youtube.com/sarstax)
- SARS website

## Home office—Supporting documents

A person is required to retain supporting documents to substantiate a deduction for home office expenses. This may include, for example:

- Letter from employer permitting remote work – including the period that remote work was allowed and where available dates that the employee did not report to the office.
- Floor plan showing dedicated space and calculation of

proportion in relation to total buildings on the property (this does not need to be a municipal or council plan of the home, but can be an informal but accurate drawing of the floor plan).

- Photographs showing dedicated space, specifically equipped.
- Schedule showing calculation that work was mainly from home – in other words, showing that more

than 50% of all work for the year was from the home office, including any supporting evidence.

- Actual invoices of claimed expenses with proof of payment.
- Schedule of amounts claimed and apportionment calculations.

This information should be available to provide to the SARS auditors if so requested.



## VAT—Rounding differences in cash transactions

SARS published a draft binding general ruling on rounding for public comment. Comments are due on 2 December 2022.

### Background

Some suppliers still receive cash payment. The discontinuance by the South African Reserve Bank of the minting and circulation of certain coins resulted in those suppliers adopting the practice of rounding the total amount due on the sale of goods or services to the nearest circulated coin, when returning change for cash transaction.

Consequently, the supplier has in effect charged a lesser consideration for goods or services than the advertised amount for cash transactions. The tax invoice issued in relation to a supply, and the amount shown as tax charged

on the tax invoice thus differs from the actual tax charged for the supply.

### Proposed ruling— Suppliers

The supplier is not required to issue a credit note in respect of the rounding difference subject to the following conditions:

- The tax invoice must clearly indicate that, due to the rounding difference, input tax can only be deducted on the adjusted amount in the case of a cash transaction.
- The supplier may only make an adjustment to the extent that it relates to standard rated supplies made.
- The supplier must retain the relevant records to substantiate the adjustment re-

ferred to above for the prescribed retention period.

### Proposed ruling— Recipients that are vendors

The recipient vendor may use the tax invoice issued by the supplier as described above, for the purpose of deducting input tax, under section 16(3) (a)(v) read with section 16(2) (b)(ii) and the definition of “input tax” in section 1(1).

Input tax can only be deducted on the adjusted amount for cash transactions.

The recipient vendor must do a reasonable split for the purpose of deducting input tax on acquisition of goods and services charged with different tax rates.



## VAT—Electronic services supplied by non-residents

The definition of “enterprise” specifically includes the supply of certain electronic services by foreign e-commerce suppliers in respect of which at least any two of the following three circumstances apply:

- The recipient of those electronic services is a South African resident.
- Payment for such electronic services originates from a South African bank account.
- The recipient of such electronic services has an address (for example, residential, business or postal) in South Africa.

The rules governing electronic services include the following:

- The scope of “electronic services” includes any supplies of electronic services (subject to a few exceptions such as telecommunications

services, certain group company transactions and educational services)

- The compulsory registration threshold for non-resident suppliers of electronic services is R1 million.
- Non-resident suppliers of electronic services can also register voluntarily if they exceed the R50 000 threshold.
- The definition of “enterprise” includes the activities of an “intermediary” if that person facilitates a supply of “electronic services” by a non-resident. “Facilitates” in this context means, for example, that the electronic services are advertised, sold or otherwise made available via an online marketplace or “platform” operated by the intermediary. This rule applies in circumstances where the invoicing and

collection of the payment for the supply is done by the intermediary.

- In certain circumstances, an intermediary is deemed to be the supplier of electronic services in certain instances. The effect is that the intermediary facilitating supplies of electronic services will be liable to charge and account to SARS for the VAT on the supply of electronic services if the non-resident principal is not registered for VAT in South Africa.
- Non-resident electronic service supplies and intermediaries may apply to account for VAT on the payment basis.

For more detailed information see the Frequently Asked Questions (FAQs): Supplies of Electronic Services on the SARS website.



*“Life isn't  
about finding  
yourself. Life is  
about creating  
yourself.”  
— George  
Bernard Shaw*



**“How wonderful it is that nobody need wait a single moment before starting to improve the world.”**  
— Anne Frank



## Income Tax—Residence of natural persons

South African residents are taxed on their worldwide income.

From a South African perspective, a natural person may be regarded as a ‘resident’ if he is either ordinarily resident in the Republic or if he satisfies the requirement of the ‘physical presence’ test.

The first test is therefore to determine whether a person is ‘ordinarily resident’ in the Republic and if not, the second test is to determine whether the person meets the ‘physical presence’ test..

### Ordinarily resident

Interpretation Note 15 confirms that a physical presence is not a prerequisite to be ordinarily resident in the Republic. The purpose, nature and intention of a natural person’s absence must be established and considered as part of all the facts in determining whether that person is ordinarily resident. When assessing whether a natural person is ordinarily resident in the Republic, SARS indicates that the following factors will be taken into consideration:

- An intention to be ordinarily resident in the Republic.
- The natural person’s most fixed and settled place of residence.
- The natural person’s habitual abode, that is, the place where that person stays most often, and his or her present habits and mode of life.
- The place of business and personal interests of the natural person and his or her family.
- Employment and economic factors.
- The status of the individual in the Republic and in other countries, for example,

whether he or she is an immigrant and what the work permit periods and conditions are.

- The location of the natural person’s personal belongings.
- The natural person’s nationality.
- Family and social relations (for example, schools, places of worship and sports or social clubs).
- Political, cultural or other activities.
- That natural person’s application for permanent residence or citizenship.
- Periods abroad, purpose and nature of visits.
- Frequency of and reasons for visits.

### Physical presence

A natural person who is not ordinarily resident during a year of assessment is regarded as a resident in that year if he is or was physically present in the Republic,

- for a period or periods exceeding 91 days in aggregate during the current year of assessment; and
- for a period or periods exceeding 91 days in aggregate during each of the five years of assessment preceding the current year of assessment; and
- for a period or periods exceeding 915 days in aggregate during the five years of assessment preceding the current year of assessment.

However, these criteria are subject to the following provisos:

- for the purposes of determining the number of days

during which a person is physically present, a day includes part of a day, but excludes any day in transit through the Republic between two places outside the Republic if he does not formally enter the Republic through a ‘port’ and

- person who is a resident because of his physical presence in the Republic, ceases to be such from the day he ceases to be physically present in the Republic, if he remains outside the Republic for a continuous period of at least 330 days.

### Dual residency

It may happen that a natural person is regarded as a resident in more than one country. This may lead to double taxation, unless a double taxation agreement (DTA) is in place. Most countries base their DTAs on either the OECD or United Nations Model Tax Conventions (MTC).

Article 4(2) of the OECD MTC provide tie-breaker rules to determine in which contracting state the individual is regarded as being a resident for tax purposes.

If an individual is a resident of both Contracting States, then his status shall be determined as follows:

- He shall be deemed to be a resident only of the State in which he has a permanent home is available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which the individual’s personal and economic relations are closer (centre of vital interests). The dwelling must be available to the individual at all times continuously, and not occasionally for the purposes of



## Income Tax—Residence of natural persons

a stay which, owing to the reasons for it, is necessarily of short duration. For instance, the stay at a dwelling must not merely be for travel for pleasure, business travel, educational travel, attending a course at a school.

- If the State in which he has his centre of vital interest

cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which the individual has an habitual abode;

- if he has an habitual abode in both States or in neither of them, the individual shall

be deemed to be a resident only of the State of which he is a national;

- if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement



## Income tax—Residence of other persons

A person (other than a natural person) will be regarded as a 'resident' of South Africa if either it is incorporated, established or formed in the Republic or if its place of effective management is in the Republic.

For instance, if a company is incorporated in the Republic, the company will be regarded as a 'resident' irrespective of its place of effective management. In the same respect.

If a company is not incorporated, established or formed in the Republic, it may still be regarded as 'resident' if its place of effective management is in the Republic.

However, as was the case with natural persons, specifically not included as a 'resident', is any person other a natural person, that is deemed to be exclusively a resident of another country for purposes of the application of any agreement entered into between the governments of the Republic and any other country for the avoidance of double taxation.

SARS recognises that no definitive rule can be laid down in determining the place of effective management and all the relevant facts and circumstances must be examined on a case-by-case basis.

### Place of effective management

The place of effective management test is one of substance over form. It therefore requires the identification of those persons in a company who actually "call the shots" and exercise "realistic positive management".

To assist with the determination of an entities place of effective management, Interpretation Note 6 suggests that the following can be considered:

- The location of and functions performed at the head office.
- The extent to which the board's authority has been delegated to executive committees and the location of those committees.
- The location where a company's board regularly meets and makes decisions.
- Changes in telecommunications, information technology, global travel and modern business practices can impact on the place of effective management
- The place where the controlling shareholders make key management and commercial decisions in relation to the company.
- Legal factors such as the place of incorporation,

formation or establishment and the location of the registered office and public officer are generally not relevant.

- The extent of a company's economic nexus with a country is generally irrelevant in the determination of its place of effective management. However, if may have an impact.
- The experience and skills of the directors, managers, trustees or designated managers who purport to manage the entity.
- The location where a company's accounting records are retained will generally not be indicative of the place where the key management and commercial decisions are made and in these circumstances would therefore be irrelevant in determining a company's place of effective management.

### International tax

For the purposes of the OECD MTC, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof.

***"If you don't  
know where  
you're going,  
any road'll take  
you there"***  
— **George  
Harrison**





## Income tax—Residence of other persons

This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

If a person, other than an individual, is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention.

Factors which will be considered includes:

- The person's place of effective management,
- the place where it is incorporated or otherwise constituted and
- any other relevant factors.

If the Contracting States are unable to agree where the person will be regarded as being resident, the person will not be entitled to any relief or exemption from tax provided by the MTC except to the extent and in such manner as

may be agreed upon by the competent authorities of the Contracting States.'

***"Never doubt that a small group of thoughtful, committed, citizens can change the world. Indeed, it is the only thing that ever has."***  
— Margaret Mead

## OECD BEPS project

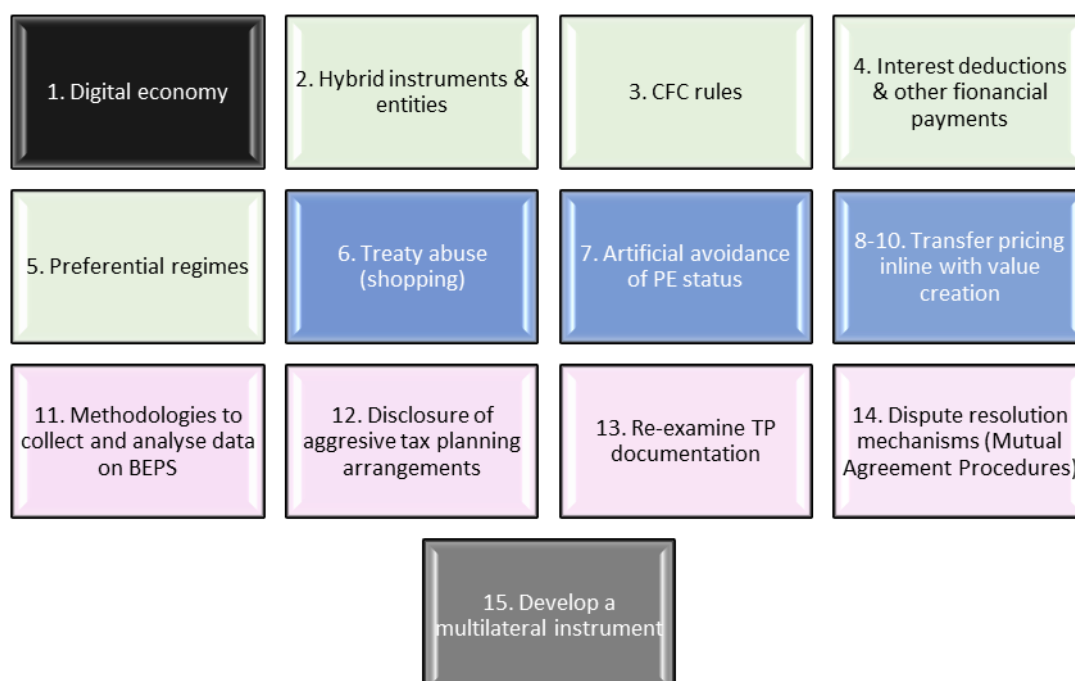
South Africa holds observer status at the OECD and it is, therefore, important to consider the OECD Base Erosion and Profit Shifting (BEPS) initiatives.

One of the core principles is that profits should be taxed where the economic activities are performed and where value is created. The OECD

identified 15 measures (Actions) based on the following pillars:

- Improving coherence of domestic anti-avoidance provisions – avoid double taxation (2-5)
- Reinforcing substance requirements on MNEs in low tax regimes (6 -10)

- Ensuring transparency and access to information (11-14)
- Reports relating to all of the above (1 & 15)



## Transfer pricing—Introduction

There has been an increase in transactions between members of multinational groups, including cross-border transaction. Due to the level of control, prices charged for goods and services may not be market related. These supplies can be structured in such a way to shift profits to lower tax jurisdictions by manipulating the prices charged by a related party to another related party.

“Transfer pricing” is the general term for the pricing of cross-border, intra-firm transactions between related par-

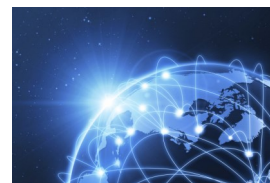
ties. Transfer pricing therefore refers to the setting of prices for transactions between associated enterprises involving the transfer of property or services.

These transactions are also referred to as “controlled” transactions, opposed to “uncontrolled” transactions between companies that are not associated and can be assumed to operate independently (“on an arm’s length basis”) in setting terms for such transactions.

Transfer prices impacts on the

income of both parties involved in the cross-border transaction., i.e., it is income in the hands of the supplier and determine the deduction in the hands of the recipient, thereby impacting on the profit of both parties.

The transfer price therefore influences the tax base of the countries involved in cross-border transaction. The next issue of the Professional will provide more detail on the various methods that can be used to determine an arm’s length price.



## Permanent establishments—Introduction

A foreign business may be taxed on its South African business profits if it has a permanent establishment in South Africa. The specific double taxation agreement between the contracting states should be considered to determine the distribution of taxing rights.

For purposes of this article, the generic principles as set out under Article 5 of the OECD MTC is discussed as this convention forms the basis of most of South Africa’s double taxation agreements.

It is important to note that Article 5 of the OECD MTC was amended as a result of BEPS. Following the ambulatory approach of interpretation, conflicts on interpretation should be interpreted in the spirit of the revised OECD Commentary except where the change constitutes a significant change. If so, the static approach should be followed and interpretation should be done on the basis of the wording at the time of the DTA.

### What is a PE?

A PE is a fixed place of business where the business of an enterprise is carried on wholly or partially.

A “place of business” refers to a physical presence in the source state. This includes premises, facilities or installations for carrying on business of the enterprise whether or not used exclusively for that purpose.

A PE may also exist even if no premises is available or required but the enterprise has “space at its disposal” for its business activities. This may, for example include:

- Right to use a n area in a marketplace or a permanently used area in a customs depot.
- Business facilities of another enterprise if an employee of parent company uses an office of its foreign subsidiary to ensure it complies with its obligations to the parent company.

The following are not considered as creating a PE:

- Sales person who regularly meets a client at the client’s premises to take orders.
- A road transportation enterprise which uses a delivery dock at customer’s warehouse to deliver goods.

### Home offices

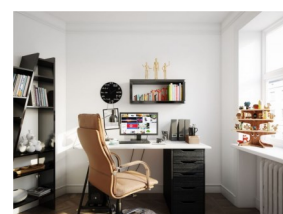
Home offices do not automatically create a PE. Its status depends on the specific facts and circumstances.

If the home office is used continuously for carrying on business and the individual is required to work from the home office, it could create a PE at the location of the home office.

However, if the individual performs the work from a home situated in one State rather than from an office made available in the other State, the home is not regarded as being at the disposal of the enterprise and, therefore, do not create a PE.

*“May you live every day of your life.”*

*— Jonathan Swift*



## Year-end message from the CEO

Dear IAC Members

It is again a great privilege that the IAC Board has entrusted and tasked me to be the CEO of your Institute. My main task really is to serve you, our valuable Members, and then serve at the pleasure of the IAC Board, the Statutory Bodies, Staff and all Stakeholders involved with your Institute.

The 2022 year has been very eventful with the invisible enemy of the COVID-19 Pandemic, abating to lower levels which has seen the relevant authorities decreasing the stringent measures as experienced during COVID-19 and resulting in the end, that we can talk of a post COVID-19 era. Nevertheless, it is advisable to take care of your health and movements when you find yourself in busy places. Business has been resuming stealthily to a point where our Members are finding their feet and getting along by doing business as usual. I think COVID-19 has changed our lives forever, which has caused us to apply creative thinking in many areas, including adapting to virtual meetings. At this point, I would like to thank the IAC Board of Directors who encouraged and supported me through these difficult times, to operate the Institute the best way I saw fit.

The IAC Staff are all back to working at the Head Office in Cape Town. I thank them for their dedication and commitment for assuming great responsibility in working remotely from home during that COVID-19 period.

As the New Year of 2023 is fast approaching, I want to take this opportunity to express my heartfelt appreciation to each of you, being valuable members of the IAC, and pass my gratitude and seasonal greetings to you and your families. I would like to re-iterate to you, our valuable members, that your Institute's commitment to sustainability remains strong. We continue to be invested in conducting our business responsibly and integrating sustainability into our operations to ensure that you, our members, are more than satisfied that your Institute is always working in your best interest.

Our commitment to sustainable development caused us to continue investing in modern technology; enhancing the new online member database linked directly to the Website CPD system, making optimal use of the fibre system & upgrading the computer hardware to gain traction on acceptable internet speeds, amongst other things, in order to allow our staff to serve you better.

As your CEO, I continue to build strong relations with Statutory Bodies like CIPC, SAQA, FASSET, PAFA, SARS, etc., for the IAC to remain relevant, so that your concerns are addressed at the highest level. I am pleased to report that the initiatives mentioned has allowed your Institute to efficiently assist you with your queries and ensure that our communication with all Stakeholders remained relevant. We are trusting that the SARS platforms will be more efficient going forward as I talk to them all the time on the challenges we face on the tax side.

### Subscription fees

The IAC Board meticulously tabled the Financial Budget of the Institute for 2022 on the 11th November 2022, and has decided to assist you, our valuable Members, with the Subscription Fees payable for 2023. This is due on the 1st January 2023, and with the greatest amount of respect, the Board has decided to allow you the opportunity to pay your Fees in the following manner:

- If you pay your Full Subscription Fees for the 2023 year by the end of December 2022, you will NOT RECEIVE an INCREASE in your fees (0%) for 2023. You will pay the same fees as 2022. This is a great opportunity that the IAC Board has allowed us as they have considered that we have come through a difficult year in 2022. I urge you to take advantage of this considerate INCENTIVE.
- If you pay your Full Subscription Fees from 1 January 2023 onwards, you will receive an increase of 5% on the fees you paid in 2022.



## Year-end message from the CEO (continued)

For those that pay after the end of January 2023, the Penalty Interest System will apply from the 1st February 2023 as follows:

- 15% if paid in February 2023,
- 25% Interest Penalty if paid in March 2023 and
- 40% Penalty Interest if paid in April 2023.
- If no payment is received by then, your Membership will unfortunately be terminated, which I am confident will not come to that.

It goes without saying that your Institute wants to assist, rather than inconvenience you with Subscription Penalties. We hate to apply this as we are not in the business of issuing Interests, so please assist the Institute and if possible, pay your fees by the 31st December 2022 to AVOID AN INCREASE in your 2023 fees. As your CEO, I am trusting that all our Members will take advantage of the opportunity and settle your fees by 31st December 2022, as it will be a saving to you, having come through a difficult year.

With regards to your PI Insurance, AON has instituted a 9% increase as they have managed to keep the same fees for the past 4 years and are finding it difficult to cope with inflationary costs. I think we all understand that in order for them to stay sustainable, they need to institute this increase which actually works out to R5.00 per month, per Member. The IAC therefore had to accept this small increase after benchmarking other Insurers who were much higher than the present charge of AON.

### Continuous Professional Development

In order to retain membership of the IAC you are required to be CPD compliant. Members must ensure that they meet the CPD hour requirements for the 2022 year. (1 January 2022 to 31 December 2022). The notice outlining the amount of Structured and Unstructured Hours is included at length in this issue of "The Professional". Please take careful note of the hours required by SARS, effective 1st June 2022.

If you are unsure, please contact Ms. Bronwyn Scholtz at the IAC Head Office on [info@iacsa.co.za](mailto:info@iacsa.co.za)

### Concluding remarks

I would like to take this opportunity to firstly thank you, our Members, for the comradery spirit displayed to me at all times. A special thank you and gratitude is extended to the IAC Board Directors, Regional Committees and all other stakeholders who has assisted me in leading you as your CEO.

Lastly, but definitely not least, I want to thank the IAC Staff for their tremendous support to the Institute. I could not be the CEO of this great Institute without your commitment and willingness to assist in every way possible and to ensure that our Members receive a niche service as needed. It is indeed an honour as the Secretariat to steer a great Institute like the IAC. I remain insistent that compliance to set procedures, Good Corporate Governance, being Professional, and maintaining a high standard of Ethics is not negotiable and I make no apology for not compromising on these principles.

My relationship with Directors, Staff and Members is friendly and professional, but more importantly respectful, and I thank all of them for the respect shown to me at all times. In conclusion, please accept my sincere thanks and appreciation for the loyal support to your Institute. Let us continue to work hard to add to the greatness of your Institute. I pray God's blessings on all of you, and if you are travelling, please stay safe on the roads.

Yours Faithfully  
**Mr. Prakash Singh** (Chief Executive Officer)





***“If my life is  
going to mean  
anything, I  
have to live it  
myself.”  
— Rick  
Riordan***

## Independent Accounting Professional (IAP)

The Independent Accounting Professional (IAP) (Reviewer) performs the same duties as an Accounting Officer, however, the Independent Accounting Professional is allowed to do reviews of companies in terms of Regulation 29 of the Companies Act 71 of 2008 in compliance with ISRE 2400 and ISRE 4400.

Only registered Accounting Officers who completed and passed an approved Reviewer course, may apply to be registered as an Independent Accounting Professional.

### Qualification criteria

The person must have completed an:

- IAC diploma in Accounting, Cost and Management Accounting and Company Secretaries, or
- Accounting qualification with a minimum SAQA rated NQF Level 6 (pre 2009) and NQF Level 7 (post 2009). This qualification has to include Financial Accounting 3, Taxation, Company Law and Auditing I or Internal Auditing 2.

Accounting Officers of the following Institutes are also eligible for professional membership of the IAC.

- South African Inst. of Professional Accountants (SAIPA)

- South African Inst. of Chartered Accountants (CA) (SA)
- ACCA,
- CIMA,
- CSSA

Please note that members from Zimbabwe who want to register as a member with the IAC in South Africa will have to ensure that, in addition to the normal criteria, they pass:

- Company Law (in terms of South African Legislation)
- Taxation (in terms of South African Legislation)

The applicant must be compliant with the Institute's code of conduct.

All practicing IAC members, who provide a service to the public, are compelled to have professional indemnity insurance.

### Practical experience

The person is required to have at least

- Three years supervised training (per IAC logbook), under the guidance of a registered Accounting Officer, or

- Six years relevant, practical accounting experience at a management or supervisory level.

The application must be supported by an affidavit, stamped and signed by a Commissioner of Oaths, verifying the applicant's practical experience, as well as a comprehensive job description.

### Competency Assessment

Once the academic and practical requirements are met, an applicant would need to undergo a 3 hour written evaluation followed by a 2 hour oral evaluation, conducted by a registered IAC assessor.

The assessment covers the following:

- Financial Accounting
- Management Accounting
- Auditing
- Company Law
- Taxation
- Practice Management

The pass mark for the assessment evaluation is as follows:

- Accounting 80%
- All other subjects 75%.

## Fellows

### Fellow

A Fellow Member shall be any person who has been a Full Member of the Institute for at least five years, and must have held a senior management position for at least five years.

### Honorary Life Fellowship

Honorary Life Fellowship is bestowed at the discretion of the Board of Directors, upon any Fellow Member, Full Member or Corporate Member, who in the opinion of the Board has served the Institute with a high order of meritorious service over a period of years.

An Honorary Life Member shall not be eligible to serve as a director or vote at general meetings.



## Continuous Professional Development

SARS implemented CPD changes which became effective on 1 June 2022. According to the new rules, the IAC, as a RCB, is required

- To ensure that its Tax Practitioner members obtain a minimum of 18 verifiable CPD hours per year. These hours shall consist of the following:
  - \* 10 tax hours,
  - \* 2 ethics hours, and
  - \* 6 hours relating to the service provided.

Please note: the pro-rata of the 18 hours per annum is applied to newly registered Tax Practitioners depending on the registration date.

- Verify at least 20% of its members' CPD records per year and
- Retain the records of the verified compliance status of its Tax Practitioner members. Tax Practitioners are required to retain their CPD records, e.g., competency certificates. The records must be retained for five years.

### Accounting officer & Tax Practitioner

If you are an Accounting Officer and a Tax Practitioner with IAC, you will be required to complete

- 10 Structured Tax Hours,
- 2 Structured Ethics Hours and
- Any 8 Structured hours relating to the service provided per annum.

You will also need to complete 20 Unstructured Hours, relating to the service provided.

### Technical accountant & Tax Practitioner

If you are a Technical Accountant and a Tax Practitioner with IAC, you will be required to complete the following:

- 10 Structured Tax Hours,
- 2 Structured Ethics Hours and
- 6 Structured hours relating to the service provided per annum.

You will also need to complete 2 Structured or Unstructured Hours, relating to the

service provided, as extra Structured hours rolls over to compensate for Unstructured Hours.

### Other Tax Practitioners

If you are a Tax Practitioner with IAC, you will be required to complete

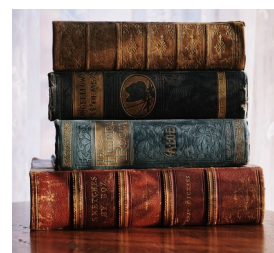
- 10 Structured Tax Hours,
- 2 Structured Ethics Hours and
- 6 Structured hours relating to the service provided per annum.

Unstructured Hours are no longer required for Tax Practitioners.

### Impact for 2022/23

Please note that in the 2022 calendar year, the CPD hours will be calculated as follows on a pro-rata basis,

- from 1 January 2022 to 30 June 2022, the pro-rata of the previous requirements for CPD hours apply, and
- from 1 July 2022 to 31 December 2022, the pro-rata of the new requirements for CPD hours apply.



**“We have to dare to be ourselves, however frightening or strange that self may prove to be.”**  
— May Sarton

## CPD Notification

Please be reminded to upload your CPD Hours on our website database by 31 December 2022.

Failing to log your CPD hours by 31 December 2022, will result in the following penalties:

- R2 000.00 - First offence
- R5 000.00 - Second offence
- R10 000.00 - Third offence
- The fourth offence will result in the termination of your membership.

Members who are not compliant by 31 December 2022 will have their membership suspended or terminated without any further notice.



Soraya Busch

MEMBERSHIP OFFICER

## 2022 CPD requirements

DESIGNATION	STRUCTURED TAX	STRUCTURED ETHICS	OTHER STRUCTURED HOURS RELATING TO SERVICE PROVIDED	UNSTRUCTURED TAX	UNSTRUCTURED OTHER
IAP		2	18		20
IAP + CTP	9.5	2	8.5	3	17
FAP		2	18		20
FAP + CTP	9.5	2	8.5	3	17
FAC		2	18		20
FAC + CTP/ATP	9.5	2	8.5	3	17
TA		2	8		10
TA + CTP/ATP	9.5	2	3	3	2.5
CTP	9.5	2	3	3	
ATP	9.5	2	3	3	
BRP ONLY		2	10		8
BRP + CTP	9.5	2	5		3.5

## 2023 CPD requirements

DESIGNATION	STRUCTURED TAX	STRUCTURED ETHICS	OTHER STRUCTURED HOURS RELATING TO SERVICE PROVIDED	UNSTRUCTURED TAX	UNSTRUCTURED OTHER
IAP		2	18		20
IAP + CTP	10	2	8		20
FAP		2	18		20
FAP + CTP	10	2	8		20
FAC		2	18		20
FAC + CTP/ATP	10	2	8		20
TA		2	8		10
TA + CTP/ATP	10	2	6		2
CTP	10	2	6		
ATP	10	2	6		
BRP		2	10		8
BRP + CTP	10	2	6		2

*“Life is a book and there are a thousand pages I have not yet read.”*

— Cassandra Clare



## Membership fees

For members' convenience, the subscription fee structure is reflected below. Please note that the following color coding is used.:

- **Payment by 31 December 2022**
- **Payment during January 2023**



Valencia Williams  
FINANCE OFFICER

Membership Category	Subscription Fee	PI Insurance (R5m cover)	VAT	Total
Financial Accountant in Practice, Independent Reviewers & Business Rescue Practitioners (Same Fee)	<b>R5 119.43</b> <b>R5 375.40</b>	<b>R590.43</b> <b>R595.43</b>	<b>R856.48</b> <b>R895.62</b>	<b>R6 566.34</b> <b>R6 886.45</b>
CC's as Accounting Officers	<b>R1 529.82</b> <b>R1 606.31</b>		<b>R229.47</b> <b>R240.95</b>	<b>R1 759.29</b> <b>R1 847.26</b>
Financial Accountant in Commerce	<b>R2 240.08</b> <b>R2 240.08</b>		<b>R336.01</b> <b>R352.81</b>	<b>R2 576.09</b> <b>R2 704.26</b>
Technical Accountant	<b>R1 409.62</b> <b>R1 480.10</b>		<b>R211.44</b> <b>R222.01</b>	<b>R1 621.06</b> <b>R1 702.11</b>
Students on Learnership	<b>R1 193.25</b> <b>R1 252.91</b>		<b>R178.99</b> <b>R187.94</b>	<b>R1 372.24</b> <b>R1 440.85</b>
Students	<b>R0.00</b>		<b>R0.00</b>	<b>R0.00</b>
ATC's	<b>R0.00</b>		<b>R0.00</b>	<b>R0.00</b>
Certified Tax Practitioner	<b>R2 699.05</b> <b>R2 699.04</b>	<b>R590.43</b> <b>R595.43</b>	<b>R493.42</b> <b>R514.41</b>	<b>R3 782.90</b> <b>R3 943.84</b>
Associate Tax Practitioner	<b>R2 103.50</b> <b>R2 208.68</b>	<b>R590.43</b> <b>R595.43</b>	<b>R404.09</b> <b>R420.62</b>	<b>R3 098.02</b> <b>R3 224.73</b>

**REMINDER**  
**PAY YOUR 2023**  
**SUBSCRIPTION**  
**FEES IN DECEMBER**  
**2022 TO RECEIVE**  
**0% INCREASE**



**PLEASE NOTE:**  
**2023 SUBSCRIPTION**  
**FEES WILL INCREASE BY**  
**5%**  
**FOR PAYMENTS**  
**MADE AFTER**  
**DECEMBER 2022**

Should you wish to pay your subscriptions by **SnapScan**, please contact Ms. Valencia Williams on her email [finance2@iacsa.co.za](mailto:finance2@iacsa.co.za) who will send you the SnapScan code, together with your quote.

If at all possible, please pay via **EFT**.

The Finance Department will send out quotations per the usual procedure and upon payment, you will be invoiced.

## Regional committees

We congratulate the following members who were elected to serve on the IAC's regional committees.

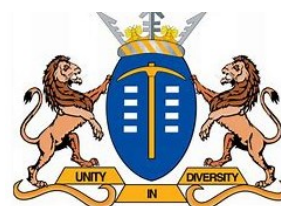


### Free State

- Ms. Johanna Lubbe (Chairperson)
- Ms. Johanna du Toit (Vice Chairperson)
- Ms. Juanita Botha
- Ms. Jenny Ferreira

### Gauteng

- Mr. Colinn Alberts (Chairperson)
- Mr. Hein Badenhorst (Vice Chairperson)
- Ms. Marlise Badenhorst
- Ms. Lara Lencioni



### Western Cape

- Mr. Shawn Cupido (Chairperson)
- Mr. Bjorn Manuel (Vice Chairperson)
- Mr. Derek Johnstone
- Ms. Elmarie Schwenke
- Ms. Melanie Telleman
- Ms. Leatitia van der Walt



*"Don't be  
pushed around  
by the fears in  
your mind. Be  
led by the  
dreams in your  
heart."*

— Roy T.  
Bennett

**REMINDER:  
UPLOAD YOUR CPD  
HOURS BEFORE  
31 DECEMBER 2022  
TO AVOID PENALTIES**  
[WWW.IACSA.CO.ZA](http://WWW.IACSA.CO.ZA)

**2022  
CPD HOURS**



## Death announcement



We learned with regret of the passing away of Mr. Chance Mupondri in February 2022.

We at the IAC would like to express our sincere condolences to his family. Please keep them in your thoughts and prayers.

## Congratulations to our new and upgraded\* members

<b>CERTIFIED BUSINESS RESCUE PRACTITIONER</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
9656578(CBRP)	LEHUTSO	JOSEPH LESEJA RUSH
<b>FINANCIAL ACCOUNTANT IN PRACTICE/CERTIFIED TAX PRACTITIONER</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
5456105(FAP/CTP)	ADAMS	LLULANE VALREZE
299301(FAP/CTP)*	GHOLE	TARIQUE SHAHABUDDIN
8771576(FAP/CTP)	TALJAARD	ROCHELLE AURORA
<b>FINANCIAL ACCOUNTANT IN COMMERCE/CERTIFIED TAX PRACTITIONER</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
4727253(FAC)(CTP)	POOLE	ANDRE EVERET
<b>CERTIFIED TAX PRACTITIONER</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
8204264(CTP)	TSHAYINGWE	SINTHEMBA
<b>TECHNICAL ACCOUNTANT/CERTIFIED TAX PRACTITIONER</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
506144(TA/CTP)	BARMINA	IRINA
5604000(TA/CTP)	MUNEMO	HUMPREY ZVIKOMBORERO
1211411(TA/CTP)	NTSUMELE	MAX AKANI
5701282(TA/CTP)	STEENKAMP	TAMZYN GWYNNETH
4316140(TA/CTP)	VAN DE WALT	JOAN
<b>TECHNICAL ACCOUNTANT</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
9036990(TA)	LABUSCHAGNE	LEONI
9190131(TA)	MUZEZA	RUVIMBO
1283497(TA)	VAN VUUREN	MORNE
<b>APPROVED TRAINING CENTRE</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
2239103(ATC)	-	ANGELA VALENTINE
<b>ACADEMIA MEMBERSHIP</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
5037996	KHARWA	MOHAMMED SALEEM ESSOP
<b>STUDENT</b>		
<b><u>MEMBERSHIP NUMBER</u></b>	<b><u>SURNAME</u></b>	<b><u>NAME</u></b>
9704991	TSHIVHULA	MOAGOTA ROTENDA

## INSTITUTE OF ACCOUNTING AND COMMERCE

252 Rosmead Avenue  
Wynberg  
7780  
Phone: (021) 761 6211  
Fax: (021) 761 5089  
E-mail: Prakash Singh  
ceo@iacsa.co.za

### ENQUIRIES

#### General:

Bronwyn Benjamin  
info@iacsa.co.za

#### Membership

Soraya Busch  
members@iacsa.co.za

#### Finance

Valencia Williams  
finance2@iac.co.za

#### CEO & Technical

Prakash Singh  
ceo@iacsa.co.za

#### Office Hours:

Monday - Thursday  
08:00 - 16:00  
Friday  
08:00 - 15:30

[www.iacsa.co.za](http://www.iacsa.co.za)

## A dynamic world-class professional accounting institute

### Vision

To be a dynamic world class Professional Accounting Institute (incorporating related fields) at the forefront of technology and an integrated approach to the profession.

### Mission

It is the aim of the Institute to be recognised as the pre-eminent Professional Body for Accountants and other related professionals by actively promoting the effective utilization and development of qualified professionals, through the achievement of excellence in standards of professional competence and socially acceptable ethical conduct amongst its members, through a dynamic integrated approach to the legislative and environmental arena.



### 2022/2023 BOARD DIRECTORS

MR S CUPIDO - PRESIDENT / WESTERN  
CAPE REGION CHAIRPERSON

MR D SWANEPOEL - VICE PRESIDENT  
/ BOARD DIRECTOR

MR A BEZUIDENHOUT - IMMEDIATE PAST  
PRESIDENT / BOARD DIRECTOR

MS J LUBBE - BOARD DIRECTOR / FREE STATE  
REGION CHAIRPERSON

MR C ALBERTS - BOARD DIRECTOR / GAUTENG  
REGION CHAIRPERSON

MS L VAN DER WALT - BOARD DIRECTOR

MS M TELLEMAN - BOARD DIRECTOR

MR H BADENHORST - BOARD DIRECTOR

MR. N. CHENGETA - ZIMBABWE PRESIDENT

MR. P SINGH - SOUTH AFRICA CEO  
/ EX OFFICIO

MR. J. DUBE - ZIMBABWE CEO  
/ EX OFFICIO

