

BRIEFING NOTE: RELEASE OF DRAFT REGULATION OF TAX PRACTITIONERS BILL AND CONSEQUENTIAL AMENDMENTS

In the 2002 Budget the Minister of Finance announced that *“In order to promote better compliance and ensure that taxpayers receive advice consistent with tax legislation, SARS will initiate discussions on the regulation of tax consultants and advisors in South Africa, with appropriate sanctions in the event of non-compliance with tax legislation.”* A discussion document entitled *Regulating Tax Practitioners* was released for public comment on 29 November 2002 and comments were received by 28 February 2003. After consideration of the comments a number of refinements to the proposal were made, including its introduction in two phases.

The first phase involved the registration of tax practitioners with SARS by 30 June 2005. This phase provided information on existing tax practitioners with regard to their qualifications, experience and membership of existing professional bodies. Over 17 000 tax practitioners are registered with SARS.

The second phase envisages the establishment of an independent regulatory board for tax practitioners in terms of a separate Bill. The draft Bill released today provides for the establishment of the Independent Regulatory Board for Tax Practitioners as a juristic person.

Ten principal members of the Board will be appointed by the Minister of Finance from persons nominated by the general public. Only half of the members may be tax practitioners. The Minister may appoint officials of the National Treasury as his representatives to the Board and an official of SARS as an additional member to the board, without the right to vote.

It will be the Board's function to prescribe the standards of qualification and experience of tax practitioners, to maintain the registration system, to implement a code of professional conduct and to take disciplinary action where necessary. The Board may establish committees to assist with its work and must establish an investigating committee and a disciplinary committee.

In terms of the draft Bill tax practitioners are required to register with the Board and failure to register is an offence. Tax practitioners who have already registered in terms of the Income Tax Act, 1962, need not apply for registration with the Board, as their information will be provided directly to the Board by SARS. Certain tax practitioners are not required to register and this includes clearing agents who are already licensed in terms of the Customs and Excise Act, 1964. One of the duties of accredited tax practitioners is to report irregularities in connection with tax and fraud to the Board.

Comments on the draft Bill and consequential amendments must be submitted by 5 April 2007. Comments should be directed to:

Ms Adele Collins

E-mail: acollins@sars.gov.za

Fax No.: (012) 422- 5195