

21 May 2018

The South African Revenue Service  
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BY EMAIL: [policycomments@sars.gov.za](mailto:policycomments@sars.gov.za)

**RE: COMMENTS IN RESPECT OF THE SECTION 18A AUDIT CERTIFICATE DRAFT INTERPRETATION NOTE**

This is in response to SARS's request for inputs into a draft interpretation note in respect of the section 18A audit certificate requirements for being a public benefit organisation (PBO) that qualifies for receiving deductible donations. In particular, one condition for receiving section 18A deductible donations is for the PBO to obtain and retain an "audit certificate" that all donations received are dedicated to the public benefit promised (section 18A).

**1. Third Party Provider of Certificates**

We agree that section 18A does not specify exactly from whom the PBO should obtain an audit certificate and that the viability of the person conducting the audit must be determined on a case-by-case basis. We also agree that qualifications and experience are a factor. The rules in this regard are not fixed because smaller PBOs simply cannot afford the costs associated with more formal certificates. Stated differently, the experience and in-depth nature of the certificate should correspond with the size and formalized nature of the PBO.

We would, however, request that the interpretation note list potential examples of appropriate persons. Persons of this nature should presumably include:

- Auditors, accountants and bookkeepers who are members in “good standing” of professional bodies (as well as tax professionals of SAIT).
- Lawyers (in good standing) with extensive experience reviewing financial accounts and disbursements.
- Persons with governance and ethical training who are members of corresponding organisations (such as the Institute of Directors)
- Business personnel with significant cost management experience in terms of disbursements.

Persons conducting the audit should be “independent” professionals who are not employees of the PBO. These persons should be separately paid or act as volunteers on the audit committee (otherwise, these persons should also not be on the board of the PBO in order to preserve their independence).

## **2. Penalties**

We agree with the draft interpretation note in terms of the legislative criminal (and civil) sanctions to be imposed for failure to obtain a section 18A audit certificate, failure to properly compile required information and improper usage of the section 18A audit certificates. That said, the note should indicate that smaller PBOs should be treated with leniency in this regard given their lack of resources, especially for various associations lacking full-time staff.

We again thank SARS for the opportunity to interact in terms of enhancing tax interpretation. Should SARS wish to engage further, please do not hesitate to contact us.

Yours sincerely

**Keith Engel**

**Chief Executive**