

# Annexure F

## DRAFT SOUTH AFRICAN REVENUE SERVICE CODE OF CONDUCT

### 1. PREAMBLE

- 1.1. Over the years, we have emphasised that we must be guided by a “higher purpose” and that our attitude and conduct must reflect the fundamental values and aspirations embodied in our Constitution.
- 1.2. Although our expectations might not have been codified in a single and constant set of standards, we have defined SARS’ values in a code of conduct, and have emphasised that as SARS officials we must follow a moral compass that has integrity, honesty and professionalism as true north.
- 1.3. As SARS has matured we recognise the unique pressures and challenges facing SARS officials in their everyday lives, and that senior SARS officials have a responsibility to practice the highest standards of conduct.
- 1.4. We further recognise that while explicit policies and procedures exist to guide our conduct these cannot accommodate every possible situation, and that it is therefore crucial that we set standards of conduct to which we should subscribe. These standards must exist as a source of reference to guide our conduct when facing unique situations that may include financial inducements; intimidation; threats of blackmail; moral suasion; political lobbying and sometimes threats to physical safety.
- 1.5. At this point of our development we now seek to set out the conduct and responsibilities expected of all SARS officials as well as the standards and principles that we must be guided by.
- 1.6. South Africa is a young democracy whose institutions must consciously set about cultivating norms, habits and behaviour that will promote and maintain the public’s credibility in them. This is especially true as demands from our kith and kin and friends sometimes conflict with the need to act impartially as public servants.

## CODE OF CONDUCT

### 2. PURPOSE OF CODE

2.1. The purpose of this Code is to express the set of values and behaviours expected of SARS officials, to ensure that SARS officials conduct themselves in an appropriate and ethical manner. These values and behaviours are essential for the effective administration of a tax system and form one of the cornerstones of SARS' model of good governance.

2.2. The values of SARS are those reflected in section 195 of the Constitution of the Republic of South Africa, 1996. In particular SARS—

2.2.1. has zero tolerance for corruption;

2.2.2. optimises its human and material resources and leverages diversity to deliver quality service to all those engaged in legitimate economic activity in and with South Africa;

2.2.3. bases its organisational relationships, business processes and conduct on the following values:

- mutual trust and respect;
- equity and fairness;
- integrity and honesty;
- transparency and openness;
- courtesy and commitment.

2.3. This Code sets out:

2.3.1. Specific standards of conduct that represent SARS' interpretation of its core values and the appropriate conduct expected of a SARS official under certain circumstances;

2.3.2. Additional specific standards of conduct that must be followed by the Commissioner and senior management of SARS.

- 2.4 The standards of conduct required under this Code must be met by a SARS official when-
- 2.4.1. in an official capacity; and
  - 2.4.2. to the extent applicable, acting in a non-official capacity in circumstances where the official may be recognised or known to be a SARS official
- 2.5 SARS will develop an explanatory manual on the Code which will provide a practical guide to ethical dilemmas both in the workplace as well as during public interactions.
- 2.6 Where there is uncertainty or doubt regarding the interpretation or the application of this Code in specific circumstance, a SARS official must consult with his or her direct manager or, where appropriate, the SARS corporate governance subdivision for guidance.
- 2.7 Any SARS official who contravenes or fails to comply with any provision or standard of the Code will be subjected to the SARS Disciplinary Code.
- 2.8 If a SARS official believes he or she contravened or failed to comply with any provision or standard of the Code, it will be regarded as mitigating circumstances if the official admits thereto, accepts accountability, apologises and takes corrective steps.

### **3. LEGAL FRAMEWORK OF CODE**

The legal framework of the Code comprises the following:

- 3.1 The Constitution of the Republic of South Africa, 1996, and in particular section 195 thereof;
- 3.2 The South African Revenue Service Act, 1997, and in particular section 4(2) thereof;
- 3.3 The Tax Administration Act, 2011, and in particular section 7 thereof;
- 3.4 The Public Finance Management Act, 1999, and in particular sections 49(2)(b) and 50 to 55 thereof.

#### **4. ETHICAL STANDARDS FOR SARS OFFICIALS**

4.1 SARS officials, especially senior managers always have to use the following touchstone to guide their actions:

“am I the recipient of this attention because of the role I play in SARS?” when the answer is yes, you are probably being placed in a vulnerable position.

4.2 SARS officials must endeavour to promote and maintain a high standard of professionalism and ethical behaviour.

4.3 SARS officials must uphold, defend and enhance the reputation of SARS at all times.

4.4 SARS officials must avoid making misleading statements to the prejudice of the reputation of SARS to the legislature, executive, public, other public servants or organs of state or colleagues.

4.5 SARS officials must at all times act within the law and respect taxpayers' and traders' rights.

#### **5. TAX COMPLIANCE OF SARS OFFICIALS**

5.1 As the custodian of the tax and customs laws, SARS officials must ensure that they are at all times fully compliant with the tax and customs laws.

5.2 SARS officials must make a declaration of compliance on appointment and on an annual basis in a manner prescribed by SARS.

#### **STANDARDS OF CONDUCT FOR SARS OFFICIALS**

##### **6 Relationship with the legislature and executive**

SARS officials must:

6.1 Be loyal to the Republic;

6.2 Honour the Constitution and abide by it in the execution of daily tasks;

6.3 Put the public interest first in the execution of daily duties;

6.4 Loyal execute the policies of the government of the day as contained in all statutory and other prescripts in the performance of duties;

- 6.5 Strive to be familiar with and abide by all applicable statutory requirements and internal policies of SARS; and
- 6.6 Co-operate with organs of state or institutions established under legislation and the Constitution in promoting the public interest and co-operative governance.

## **7 Relationship with the public and other public officials**

7.1 A SARS official, when acting in an official capacity, must:

- 7.1.1 be professional in all engagements with the public;
- 7.1.2 perform the official's powers and duties in a fair and equitable manner and within the ambit of the law;
- 7.1.3 apply the law consistently, unbiased and impartially;
- 7.1.4 be polite, courteous, helpful and readily accessible in his or her dealings with the public;
- 7.1.5 have regard for the circumstances and concerns of the public in performing his or her official duties and in making decisions affecting the public;
- 7.1.6 be committed to providing the highest standard of service to the public;
- 7.1.7 not discriminate against any member of the public as contemplated in the Constitution;
- 7.1.8 not abuse his or her position in SARS to promote or prejudice any person;
- 7.1.9 not be influenced to abuse his or her authority in any manner;
- 7.1.10 recognise the public's right of access to information excluding that information which is specifically protected by law.

7.2 A SARS official, when acting in an official capacity, in conducting meetings with the public must:

- 7.2.1 endeavour to hold the meeting on a SARS premises, in particular in instances where the meeting will be held with a person who is not known to the official or SARS;
- 7.2.2 establish the compliance status of the person with whom the meeting is held;
- 7.2.3 conduct the meeting in the presence of one or more other SARS officials.

- 7.3 A SARS official must, when not acting in an official capacity:
- 7.3.1 refer the person to the appropriate official channels;
  - 7.3.2 not make commitments regarding a person's tax or customs affairs; and
  - 7.3.3 not be influenced to abuse his or her authority in any manner;

## **8 Relationships among officials**

A SARS official must:

- 8.1 co-operate with fellow officials to advance SARS' interest;
- 8.2 execute all lawful instructions by officials authorised to give such instructions;
- 8.3 use appropriate channels to air his or her grievances or to direct representations;
- 8.4 deal fairly, professionally and equitably with fellow employees in the widest sense possible.

## **9 Performance of duties**

A SARS official must:

- 9.1 avoid being involved in or being seen to be associated with any form of unacceptable tax avoidance or tax evasion;
- 9.2 refrain from favouring relatives, friends and related entities in work-related activities;
- 9.3 not abuse his or her authority or influence another official to favour a relative, friend or related entity in work-related activities;
- 9.4 be punctual and reliable in the execution of his duties;
- 9.5 execute his or her duties in a professional and competent manner;
- 9.6 accept the responsibility to avail himself or herself to ongoing training and self-development throughout his or her career;

- 9.7 be honest and accountable in dealing with SARS' funds and property and use SARS property and other resources effectively, efficiently, and only for authorised purposes without compromising the legitimate expectations of the public;
- 9.8 in the course of his or her official duties, report instances of fraud, corruption, nepotism, maladministration and any other act which constitutes an offence or which is prejudicial to the interest of SARS;
- 9.9 give honest and impartial advice, based on all available relevant information, when asked;
- 9.10 contribute towards maintaining a work place which is both healthy and safe.

## **10 Personal conduct and private interest**

A SARS official, whether acting in an official or non-official capacity, must:

- 10.1 dress and behave in a professional manner;
- 10.2 not behave in a manner that may compromise the official or cause reputational harm to SARS;
- 10.3 not be under the influence of alcohol or any other substance with an intoxicating effect in circumstances where the official may be compromised or cause reputational harm to SARS;
- 10.4 not, without approval in the manner prescribed by SARS, undertake remunerative work outside his or her official duties or use office equipment for such work;
- 10.5 unless specifically authorised, not make public statements or speak or disclose information to the media or public regarding any SARS related matter.

## **11 Gifts, gratuities and favours**

- 11.1 SARS policy prohibits the soliciting and acceptance of gifts, gratuities and favours as a rule. Where it would be impolite to refuse a gift, gratuity or favour, the gift or gratuity must be surrendered at the earliest to a designated

officer. A SARS official must report any favour granted to him or her to a designated officer.

## **12 Conflict of interest**

A SARS official must:

- 12.1 When executing duties, be alert to actual or potential conflict of interest as referred to in section 7 of the Tax Administration Act, 2011 (hereafter a 'conflict of interest'), and take steps to avoid such conflict;
- 12.2 declare to his or her manager any membership, association in organisations, personal or private financial or business interest that may give rise to a 'conflict of interest' in the execution of official duties;
- 12.3 not engage in any action that may give rise to a 'conflict of interest' in the execution of his or her official duties;
- 12.4 not adjudicate upon or decide a matter in which the member has a personal or private financial or business interest that may give rise to a 'conflict of interest';
- 12.5 declare any actual or potential conflict of interest when performing an official act or making a decision and recuse himself or herself from taking any such official action or participating in such decision-making process;
- 12.6 may not allow the prospect of outside employment to cause him or her to do something that may create an actual or potential conflict of interest in his or her capacity as a SARS official; and
- 12.7 may not use SARS confidential information, taxpayer information or trader information for personal benefit once the official leaves SARS.
- 12.8 may not hold any financial or business interest in a company or corporate entity or profit-making enterprise which may give rise to a 'conflict of interest' in the execution of that official's functions;
- 12.9 for the purposes of this clause, the personal or private financial or business interest of a SARS official includes any financial or business interest which, to the member's knowledge, the member's spouse, permanent companion or family member has.



### **13 Disclosure of confidential information**

A SARS official including a former official:

- 13.1 must take and adhere to the SARS oath of secrecy and internal policies in this regard, in particular SARS information security policies;
- 13.2 must preserve the confidentiality and secrecy of SARS confidential information or taxpayer information as required under Chapter 6 of the Tax Administration Act, 2011, trader information as required under section 4 of the Customs and Excise Act, 1964, or any other statute that imposes similar confidentiality obligations; and
- 13.3 may not disclose SARS confidential information, trader information or taxpayer information except to the extent permitted by law.

### **14 Political activities**

A SARS official:

- 14.1 may not allow his or her political activity to affect his or her objectivity in the execution of duties which would result in the public losing confidence in the official's impartiality; and
- 14.2 may not abuse his or her official position to either promote or discriminate against any political party or interest group and may not engage in party political activities in the workplace.

### **15. SPECIFIC STANDARDS OF CONDUCT FOR SARS SENIOR MANAGEMENT**

The Commissioner, members of the SARS Executive Committee and senior managers must as the leadership of SARS lead by example, champion the Code of Conduct and must:

- 15.1. perform their duties and exercise their powers with the utmost professionalism, diligence, honesty and must conduct themselves in a decent manner at all times;
- 15.2. fulfil all the obligations imposed upon them by the Constitution and law;
- 15.3. act in utmost good faith and in the best interest of good governance,

- 15.4. at all times uphold the reputation of SARS and avoid in any form or manner causing reputational harm to SARS;
- 15.5. act in all respects in a manner that is consistent with the integrity of their office or SARS;
- 15.6. not use their position or any information entrusted to them, to enrich themselves or improperly benefit any other person;
- 15.7. not use information received in confidence in the course of their duties otherwise than in the discharge of their duties;
- 15.8. not expose themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests;
- 15.9. not receive remuneration for any work or service other than for the performance of their functions as senior managers;
- 15.10. be honest and accountable in dealing with funds of SARS and use SARS property and other resources effectively, efficiently, and only for authorised purposes without compromising the legitimate expectations of the public;
- 15.11. not make improper use of any allowance or facility or payment properly made to them by SARS, or disregard the administrative rules which apply to such allowances or facilities or payments.

## **16. IMPLEMENTATION OF CODE**

For purposes of implementing the code, SARS will put the following in effect:

- 16.1. An awareness campaign regarding the code
- 16.2. Training of SARS officials for purposes of understanding and applying the Code
- 16.3. An appropriate support and reward system for ethical conduct by SARS officials
- 16.4. Rules and mechanisms to enable SARS officials to disclose financial or family interests, gifts and hospitality required under this Code
- 16.5. A reassurance policy for SARS officials to encourage reporting or discussing concerns not only about the conduct of other SARS officials but also pressure and undue influence that might be applied to them by colleagues or by the public
- 16.6. Risk assessments of posts or activities vulnerable to corruption including discussions with and training of SARS officials on how to protect both them and their activities from corruption, as well regular surveys of SARS officials about the risks, threats and vulnerabilities of their work.

**This document was prepared under the instructions of the Commissioner for SARS.**