

Chartered Governance Institute of Southern Africa (CGISA)

CGISA Members' Handbook: Chapter 4: Code of Ethics: Part D-Special provisions applicable to CGISA Members who are registered with SARS as "tax practitioners" in terms of the Tax Administration Act 2011, as amended.

Code of Ethics and Conduct Criteria:

1. Honesty and integrity

Definition: Tax practitioners should be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness.

1.1 Tax practitioners must be compliant in respect of the taxation laws in the conduct of their personal affairs.

1.2 Tax practitioners must not knowingly be associated with reports, returns, communications or other information where the tax practitioner believes that the information:

- Contains a materially false or misleading statement;
- Contains statements or information furnished recklessly;
- Omits or obscures information required to be included where such omission or obscurity would be misleading.

1.3 When a tax practitioner becomes aware that the above has occurred the tax practitioner must cease to represent the taxpayer concerned if the taxpayer does not remedy the situation.

2. Professional competence

Definition: Tax practitioners must attain and maintain knowledge and skills relevant to the service provided to clients.

2.1 Tax practitioners must take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement being made on behalf of the client.

2.2 Tax practitioners must ensure that taxation laws are applied correctly and lawfully to the circumstances of the particular client.

2.3 Tax practitioners must not knowingly obstruct the proper administration of the tax laws.

2.4 Tax practitioners must ensure that they advise their clients of their rights and obligations under the taxation laws in the country.

2.5 Tax practitioners must exercise due diligence and care in their interaction with SARS on behalf of their clients.

3. Confidentiality of the client Definition: Tax practitioners must maintain the confidentiality of their clients and should not disclose client information to a third party without a client's permission, unless there is a legal obligation to do so.

3.1 Information disclosed by the client should not be used by the tax practitioner for personal gain or advantage.

4. Fees

Definition: Fees charged by a tax practitioner for work undertaken on behalf of a client must be commensurate with the nature and complexity of the task at hand.

4.1 The charging of a contingency fee for the completion of tax returns, is not an acceptable form of remuneration for tax practitioners. The principles of the Contingency Fees Act, 1997, should be considered when a contingency fee is to be agreed upon in other circumstances.

5. Disciplinary Code & Procedures applicable to tax practitioner members of Chartered Governance Institute of Southern Africa.

The following provisions apply in addition to the existing Disciplinary Code and Procedures: it is recorded that disciplinary procedures for CGISA members are in place pursuant to bye-laws 54-58 of THE INSTITUTE OF CHARTERED SECRETARIES AND ADMINISTRATORS, which have been adopted by the Committee for Southern Africa, to apply to CGISA members in the Southern African Division.

5.1 The Committee for Southern Africa undertakes to ensure that complaints that may be lodged in terms of Section 241 of the Tax Administration Act, 201, are addressed as breaches of the Code of Ethics and Conduct by a tax practitioner member of CGISA.

5.2 It is acknowledged that cases may be reported to CGISA by SARS, clients of tax practitioners or other professional bodies.

5.3 In addition to the penalties outlined in the bye-laws, sanctions may be implemented against tax practitioner members which are designed to address the severity and the effect of the non-compliant behaviour of a member; this could include warnings, recommendations for the tax practitioner to undertake educational courses to increase competency in their practice, financial sanctions and removal as a member. Sanctions will be designed to endeavour to ensure a change in the behaviour of the tax practitioner.

5.4 Repeated non-compliant behaviour must receive a harsher sanction than was imposed previously.

- 5.5 Outcomes of all disciplinary hearings of tax practitioners that have been found guilty must be reported to SARS as well as the client concerned.
- 5.6 When a disciplinary hearing results in the removal of a tax practitioner member, the identity and the sanctioning of the member must be published on the website of Chartered Governance Institute of Southern Africa.
- 5.7 Chartered Governance Institute of Southern Africa undertakes to take all reasonable steps to endeavour to ensure that it retains jurisdiction over its tax practitioner members, notwithstanding that they may have resigned, provided that the conduct under investigation took place at the time they were a member of CGISA.