

The South African Taxation Standard 8000

Form and content of advice to taxpayers

SATS 8000

Content

	Paragraph
1. Introduction	.01-.04
2. Standards	.05-.09
3. Guidance	.10-.18
4. Compatibility with International Taxation Standards	.19

Introduction

- .01 This statement sets out guidance for SAIT tax practitioners concerning certain aspects of providing advice to a taxpayer and considers the circumstances in which a SAIT tax practitioner has a responsibility to communicate with a taxpayer when subsequent developments affect advice previously provided. The standard does not, however, cover a SAIT tax practitioner’s responsibilities when the expectation is that the advice rendered is likely to be relied on by parties other than the taxpayer.
- .02 This standard must be read in conjunction with the ‘Professional Code of Conduct in relation to taxation’.
- .03 For the purposes of these standards, a taxpayer is a SAIT tax practitioner’s client, a SAIT tax practitioner’s employer, or any other third party recipient of tax services.
- .04 This guidance is equally relevant to advice given in connection with all SA taxes, whether direct or indirect.

Standard

.05 Before giving advice the SAIT tax practitioner should identify:

- who is to rely on the advice
- the purpose of the advice
- the scope of the advice

There should be an agreed engagement letter confirming the taxpayer's instructions to the SAIT tax practitioner and the terms of business on which the advice is to be provided.

.06 A SAIT tax practitioner should use judgement to ensure that tax advice provided to a taxpayer reflects professional competence and appropriately serves the taxpayer's needs.

.07 A SAIT tax practitioner should assume that tax advice provided to a taxpayer will affect the manner in which the matters or transactions considered would be reported on the taxpayer's tax returns. Thus, for all tax advice given to a taxpayer, a SAIT tax practitioner should follow the South African Taxation Standard (SATS) 2000 Filing Tax Returns.

.08 A SAIT tax practitioner has no obligation to communicate with a taxpayer when subsequent developments affect advice previously provided with respect to significant matters, except while assisting a taxpayer in implementing procedures or plans associated with the advice provided or when a SAIT tax practitioner undertakes this obligation by specific, agreement.

.09 Where a SAIT tax practitioner has taken specialist advice from a third party on a particular topic and relays this to the taxpayer the SAIT tax practitioner assumes responsibility for the advice in the context of the taxpayer's requirements.

Guidance

- .10 Tax advice is recognised as a valuable service provided by SAIT tax practitioners. The form of advice may be oral or written and the subject matter may range from routine to complex. Because the range of advice is so extensive and because advice should meet the specific needs of a taxpayer, neither a standard format nor guidelines for communicating or documenting advice to the taxpayer can be established to cover all situations.
- .11 Although oral advice may serve a taxpayer's needs appropriately in routine matters or in well-defined areas, written communications (or e-mails) are recommended in important, unusual or complicated transactions. The SAIT tax practitioner may use professional judgement about whether, subsequently, to document oral advice in writing.
- .12 On deciding on the form of advice provided to a taxpayer, a SAIT tax practitioner should exercise professional judgement and should consider such factors as the following:
 - a. The importance of the transaction and amounts involved
 - b. The specific or general nature of the taxpayer's enquiry
 - c. The time available for development and submission of the advice
 - d. The technical complications presented
 - e. The existence of authorities and precedents
 - f. The tax sophistication of the taxpayer
 - g. The need to seek other professional advice
- .13 A SAIT tax practitioner may assist a taxpayer in implementing procedures or plans associated with the advice offered. When providing such assistance, the SAIT tax practitioner should review and revise such advice as warranted by new developments and factors affecting the transaction.

- .14 Sometimes a SAIT tax practitioner is requested to provide tax advice but does not assist in implementing the plans adopted. Although such developments as legislative or administrative changes or future judicial interpretations may affect the advice previously provided, a SAIT tax practitioner cannot be expected to communicate subsequent developments that affect such advice unless the SAIT tax practitioner undertakes this obligation by specific agreement with the taxpayer.
- .15 Taxpayers should be informed that advice reflects professional judgement based on an existing situation and that subsequent developments could affect previous professional advice. SAIT tax practitioners may use precautionary language to the effect that their advice is based on facts as stated and authorities that are subject to change.
- .16 If, exceptionally, a SAIT tax practitioner agrees with a taxpayer to keep the taxpayer updated with developments and monitor advice previously provided this should be recorded in the engagement letter.
- .17 In providing tax advice, a SAIT tax practitioner should be mindful of applicable confidentiality privileges.
- .18 Whilst advice is given to a taxpayer confidentially the SAIT tax practitioner should be aware that, subject to any claim for privilege that may be asserted by the taxpayer, such advice could be discovered by the South African Revenue Service through proper exercise of their powers in the course of an enquiry. A SAIT tax practitioner should advise the taxpayer where this becomes a relevant issue.

Compatibility with International Taxation Standards

- .19 This South African standard is consistent with international tax standards and best practice in all material respects as followed by members of the International Tax Directors' Forum.