



14 October 2022

To: South African Revenue Service (SARS)

Lehae La SARS
299 Bronkhorst Street
PRETORIA
0181

Via email: SARS policycomments@sars.gov.za;
CC: SAIT kSESana@thesait.org.za; taxassist@thesait.org.za;

**RE: DRAFT INTERPRETATION NOTE PROVIDING GUIDANCE ON
SECTION 18A(2B) AND (2C)**

1. SARS issued the draft update to Interpretation Note 112 (IN112) for comment on 13 September 2022. The update, once consolidated, would be published as 'issue 2' of IN112.
2. IN112 focusses on providing guidance on the interpretation and application of section 18A(2B) and (2C) in relation to the audit certificate that must be obtained and retained in specified circumstances for section 18A receipts issued by an approved organisation or a department.
3. Specifically, guidance is provided on what would be regarded as acceptable information on an audit certificate and from whom such a certificate may be obtained. It was noted that draft IN122 was updated to specifically emphasise that the person issuing the audit certificate is not limited to a registered auditor as defined in the Auditing Profession Act.
4. With COVID-19 and other disasters/events plaguing South Africa, the tax industry has seen a renewed interest in benevolent donations. Indeed, section 18A donations can now be facilitated through a payroll, from a pay-out and a tax deduction perspective.
5. The increase in the volume and the ease by which these donations can be made has necessitated an increase in SARS' compliance risk management to ensure that only qualifying donations result in a section 18A tax deduction for the donor.
6. The increased focus on section 18A, has led the Recognised Controlling Body Forum (RCB Forum) and individual members over the last 2 years to discuss and debate the legislative interpretation of the following matters at length:
 - The nature of an 'audit certificate' as mentioned in section 18A; and
 - The nature of the person authorised to issue such an 'audit certificate'.



7. Once the deliberations were completed, the RCB Forum made a submission to SARS on 19 September 2022 (attached). SAIT participated in the discussions preceding the submission and formally indicated its agreement and approval of the submission.
8. It is accepted that since the issuance of draft IN122 preceded the submission, none of the content in the submission could be considered in draft IN112, accept to the extent that such arguments reached SARS via other means (e.g., Annexure C submissions, etc.) prior to the publication of draft IN112.
9. Considering that the main discussion points raised in the submission remains relevant when analysing the current draft IN112, we feel it prudent to allow SARS the opportunity to canvass these matters before commenting on draft IN122 in its current form.
10. It would be appreciated if SARS could consider calling for another round of comments once the submission has been considered.

We trust that you find the above to be in order.

Yours faithfully,

SAIT Tax Technical

Disclaimer

This document has been prepared within a limited factual and contextual framework, in order to provide technical guidance regarding a specific query relating to tax practice. This document does not purport to be a comprehensive review in respect of the subject matter, nor does it constitute legal advice or legal opinion. No reliance may be placed on this document by any party other than the initial intended recipient, nor may this document be distributed in any manner or form without the prior, written consent of the South African Institute of Taxation NPC having been obtained. The South African Institute of Taxation NPC does not accept any responsibility and/or liability, of whatsoever nature and however arising, in respect of any reliance and/or action taken on, or in respect of, this document. Copyright in respect of this document and its contents remain vested in the South African Institute of Taxation NPC.