Is your tax advisor compliant?

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The Tax Amendment Act, which passed into legislation in December 2012, has started a countdown for the entire tax profession, with less than six months remaining for tax advisors to register with a recognised controlling body. Failing to register by 1 July will result in criminal sanctions should they continue to submit tax returns or provide tax advice for a fee.

"There is now a responsibility for the general taxpayer to ensure the advisor they use is registered with a controlling Body" comments Sharon Smulders, Head of Technical Tax at the South African Institute of Tax Practitioners, (SAIT). "It is evident that the primary aim of Government with the regulation is to reform the tax profession to protect taxpayers against tax practitioners who practice without the required diligence, and in extreme circumstances practice recklessly to the ultimate detriment of the ordinary taxpayer," she adds.

During the 2012 Budget speech, Minister Pravin Gordan criticised Tax Practitioners, alleging that they owed over R260 Million to the State, and accounted for more than 18 000 outstanding income returns in their personal capacity. "If that is their attitude to their own tax compliance, one shudders to think what advice they are giving to their clients", Gordhan asked.

According to SARS' Strategic Plan 2012-2017, non-registered practitioners owe SARS, on average, four times more tax than their registered counterparts, and recent figures released by SARS show that that nearly half of the 34 000 operating tax advisors and practitioners still do not belong to a controlling body.

In anticipation of the new regulatory regime for tax advisors, SAIT was officially recognised as a controlling professional body in November 2012. This is in addition to SAIT's appointment as national Board Examination adjudicators for tax professionals. The tax profession now joins the list of professional designations whose statutory and non-statutory professional bodies will have to comply with criteria set out by SAQA.

In order to measure the 17 000 tax practitioners before the 1 July deadline, SAIT has developed a tax competency assessment, along similar lines to the US Inland Revenue Service (IRS) compulsory competency assessment for tax return pre-parers. The first national assessment will be held on 15 February, with monthly tests scheduled thereafter. As a recognised professional controlling body, SAIT now has their own Taxation Disciplinary Board which can take action against their tax practitioners if they commit fraud or act unprofessionally.

"We believe this new regulatory regime introduced on 1 July, together with the occupational qualification in tax will address the issue of training and certification of tax practitioners", says Sharon Smulders.