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Responsibility	Partner
Jurisdiction:	Zimbabwe
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Proposed New Sections 380 and 280

1. Do you agree with the IESBA's approach to addressing TP by creating two new Sections 380 and 280 in the Code as described in Section VI of this memorandum?

PAs, irrespective of the sector they serve are guided by the same fundamental principles and conceptual framework which has to be applied at all times. This high bar needs to be maintained and it should never be deemed that a different expectation is desired merely on the basis that they are in public practice or in business. They both act in the public interest and the situations they may face are different but the principles applied to the resolutions remain unchanged.

We agree with the uncertainties faced being different but it stands to reason that in the recent slew of leaked papers, PAs in practice and those in business were both implicated for their role and complicity in it. Usually, we believe that PAs in public practice and those in business may work together on certain TP schemes. Irrespective of the uncertainties faced in the different sectors, they remain uncertainties which require resolution.

In conclusion the separation into 2 sections for the different sector accountants may not have the intended effect due to the stakeholders they serve and their compliance with the law. Even if they seek legal advice, this does not mean that similar TP schemes adopted in the leaked papers will not be avoided. The legal framework has to change to match the professional changes to have any real impact.

Description of Tax Planning and Related Services

2. Do you agree with IESBA's description of TP as detailed in Section VII.A above?

We concur with the definition in paragraph 27.

Role of the PA in Acting in the Public Interest

3. Do you agree with IESBA's proposals as explained in Section VII.B above regarding the role of the PA in acting in the public interest in the context of TP?

Interpretation of tax legislation is always going to pose a challenge. We agree and support the view that should the tax authority grant consent on a tax treatment that will be acting in the public interest. What can't be gauged is the level and extent of consultation that may occur in this direction.

We believe that the four factors mentioned in section 36 may go a long way in ensuring that PAs have considered the wider public interest and should be documented and maintained as per the deliverables of such engagements.

Basis for Recommending or Otherwise Advising on a Tax Planning Arrangement

4. Do you agree with the IESBA's proposals regarding the thought process for PAs to determine that there is a credible basis in laws and regulations for recommending or otherwise advising on a TP arrangement to a client or an employing organization, as described in Section VII.E above?

We agree with the IESBA's proposals regarding the actions that a professional accountant might take to determine that there is a credible basis in relation to a particular tax planning arrangement.

A credible basis in law and regulations needs to be further explained. For example, where the legislative intent behind tax laws is unclear or uncertain, and the related regulations or tax forms lack clarity, then how is this going to be resolved? Clear guidance needs to be had for the PA to follow.

5. Are you aware of any other considerations, including jurisdiction-specific considerations that may impact the proper application of the proposed provisions?

None

Consideration of the Overall Tax Planning Recommendation or Advice

6. Do you agree with the proposals regarding the stand-back test, as described in Section VII.F above? Describing the Gray Zone and Applying the Conceptual Framework to Navigate the Gray Zone

Yes, we agree with the stand-back provisions and these again require documentation to ensure that reputational, commercial and wider-economic consequences have been considered.

The gray-zone provisions are clear and the requirement to apply the conceptual framework to such situations is part of the solution to overcome areas and matters of uncertainty.

7. Do you agree with the IESBA's proposals as outlined in Section VII.G above describing the gray zone of uncertainty and its relationship to determining that there is a credible basis for the TP arrangement?

Similar to the stand-back provisions, incorporation of a current and look-forward provision will allow the PA to constructively and objectively determine the existence of a gray-area/s. This has to be considered in tandem with laws and regulations. When looking-forward the PA must determine ethical, reputational and professional requirements relating to the TP arrangement/transaction.

8. In relation to the application of the CF as outlined in Section VII.H above, is the proposed guidance on:

- (a) The types of threats that might be created in the gray zone;
- (b) The factors that are relevant in evaluating the level of such threats;
- (c) The examples of actions that might eliminate threats created by circumstances of uncertainty; and
- (d) The examples of actions that might be safeguards to address such threats sufficiently clear and appropriate?

We agree with the guidance provided in the ED in relation to a-d above.

Disagreement with Management

9. Do you agree with the proposals outlined in Section VII.I above which set out the various actions PAs should take in the case of disagreement with the client or with the PA's immediate superior or other responsible individual within the employing organization regarding a TP arrangement?

We concur with the steps proposed in paragraph 81

Documentation

10. Do you agree with the IESBA's proposals regarding documentation as outlined in Section VII.J above?

In as much as documentation is a quality and risk management matter its existence will also allow a reviewer to determine how ethical issues have been documented and resolved

Tax Planning Products or Arrangements Developed by a Third Party

11. Do you agree with the IESBA's proposals as detailed in Section VII.K above addressing TP products or arrangements developed by a third party provider?

The PA must disclose their relationship or interest in the service provider. The PA should not be the only one ascertaining the service providers competence and expertise and it would be the organisations responsibility as well to do an independent due diligence.

Multi-jurisdictional Tax Benefit

12. Do you agree with the IESBA's proposals regarding a multi-jurisdiction tax benefit as described in Section VII.L above?

We agree with the proposed manner in which section 92 be resolved.

Proposed Consequential and Conforming Amendments

13. Do you agree with the proposed consequential and conforming amendments to Section 321 as described in Section VII.M above?

The second opinion needs to be based on exactly the same facts as the original opinion. We believe the PA ought to be aware from the onset that they are providing a second opinion without being privy to the opinion already completed. The PA should be allowed to communicate with the predecessor and should any ethical matters arise these need to be considered before undertaking the engagement. Second opinions tend to undermine the work of the original service provider and should only be used in limited circumstances or for the public interest or when required by law and regulation.