

Submission File

19 July 2018

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Dear Pearl

REQUEST FOR MECHANISM TO MONITOR SARS FEEDBACK ON SAICA SUBMISSIONS

1. We refer to our e-mail correspondence with you on 11 July 2018.
2. On behalf of the TAA sub-committee of the South African Institute of Chartered Accountants (SAICA), we hereby make our submissions to the Office of the Tax Ombud (the OTO) on the need for introducing a system for:
 - 2.1 indicators on progress with a tax dispute; and
 - 2.2 requesting and monitoring feedback on submissions made by SAICA on a variety of topics to the South African Revenue Service (SARS).
3. As always, we thank the OTO for the ongoing opportunity to provide constructive comments in relation to procedural and systemic matters. SAICA believes that a collaborative approach is best suited in seeking actual solutions to complex challenges.
4. Should you wish to clarify any of the above matters please do not hesitate to contact us.

Yours sincerely

Tarryn Atkinson

Christel van Wyk

Chairperson: SAICA TAA sub-committee

Project Director: Tax

South African Institute of Chartered Accountants



Annexure A

Progress indicators and feedback

1. Significant issues arise in the tax dispute framework where SARS is not abiding by prescribed procedural time frames.
2. A taxpayer may approach the Tax Court (the Court) in terms of rule 52 or rule 56 of the rules made under section 103 of the Tax Administration Act, 2011 (the TAA) to force SARS to comply with its obligations or to obtain a default judgment. A taxpayer or recognized controlling body (RCB) may also approach the OTO as an alternative mechanism. Whilst these are useful and valuable remedies, they are nevertheless not always ideal, especially since time is of the essence through-out the dispute process. An escalation to the OTO also does not currently stay the dispute process, which could be a draw-back to following this route.
3. Whilst there are therefore mechanisms in place in terms of the tax legislation and rules, there are no processes in place whereby a taxpayer involved in a tax dispute could determine whether SARS is observing its own procedural time frame, as there is no ongoing feedback on the progress in relation to the particular dispute. A taxpayer is therefore often in the dark as to whether the time frames are being observed and whether to consider an alternative remedy, such as the rule 52, rule 56 or the OTO route. This adds significantly to current frustrations, whilst also adding to the time frame and costs of managing a tax dispute.
4. There is also not an overall mechanism in place for routine feedback to RCBs on systemic, procedural and operational issues encountered by SARS and the progress being made in addressing these. We note by way of example that we continuously raise the same operational issues at our regional and national RCB meetings with SARS, and there seems to be no uniform monitoring system in place to gauge the extent of the issues involved or the timeframes for addressing this. A simple example is the matter of the lead time required for a tax practitioner to make an appointment at a SARS branch, which can currently take as long as 6-8 weeks.
5. Submission: We propose that procedural accountability mechanisms should be put in place whereby SARS should, in the interest of transparency, be required to provide progress indicators to taxpayers in relation to their specific tax dispute. This will enable the taxpayer involved in a dispute to gauge the progress made and provide confirmation that the matter is receiving the required attention.
6. In addition, we propose that a mechanism is introduced for routine and ongoing feedback either by SARS or the OTO to RCBs on systemic, procedural and operational issues, and that the processes are monitored by virtue of an oversight role by the OTO. This should be in place over and above the annual report issued by the OTO.
7. We further propose that feedback should similarly be provided on monthly or quarterly statistics on non-adherence of procedural time frames and well as the manner and time frame in which the issues are addressed.



Monitoring system and feedback on submissions to SARS

8. A matter that has been continuously raised with SARS is that SAICA, on an ongoing basis, makes written submissions to SARS on a number of tax topics. Some of these submissions are broad in ambit, whilst other submissions are more in-depth and may cover specialist topics. The submissions to SARS not only cover matters concerning current fiscal cycle, but also a myriad of other matters during the course of the year. This may include, for example, comments on draft guidelines, regulations, and procedural and operational matters that may impact SAICA members and taxpayers in general.
 9. There seems to be no standard procedure or mechanism in place whereby SARS routinely consider and provide feedback on these submissions made. Accordingly there is no indication of the extent to which proposals will find its way either into legislation, or into operational procedures. Where follow up meetings are requested, these requests do not currently receive the required level of attention.
 10. There is a real need for mechanisms or procedures are put in place whereby SAICA and other RCB and industry bodies may routinely be provided with feedback on whether any submissions will find its way into legislation or operational or SARS practice changes. We also consider that the OTO has an oversight role to play in ensuring that these procedures are transparent, efficient and fair.
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| <ol style="list-style-type: none">11. <u>Submission:</u> We propose that a feedback and monitoring process should be put in place whereby SARS provides routine feedback, possibly enhanced through a “monitoring process” managed by the OTO as an impartial, fair and independent body.12. We further submit that mechanisms should be put in place whereby submissions made to SARS are recorded and progress accurately tracked in a transparent manner. |
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