



# **“REMOVING THE SAND IN THE GEARS”**

## **VAT REFUNDS**

15 MARCH 2019

PAYING TAXES TECHNICAL WORKING GROUP



**SAICA**  
THE SOUTH AFRICAN INSTITUTE  
OF CHARTERED ACCOUNTANTS  
develop.influence.lead.

# PAYING TAXES

## *“WORKING TOGETHER TOWARDS TOP 50”*

Addressing negative bias and improving perceptions

Vesting better understanding of survey methodology

Broadening base of respondents

Bring SARS and Taxpayer “facts” case study closer to each other

Assumptions are far removed from reality on both SARS and taxpayers side

HIGH RISK of taxpayer perception that study undermines their concerns by excluding reality of their challenges

# PAYING TAXES

## DISCUSSION POINTS

Perceptions – SAICA  
2016 VAT Refund survey

Analyzing VAT Refund  
process



# SAICA SURVEY 2016

“The mountain of perception  
that becomes reality”

# VAT REFUNDS

## SAICA 2016 SURVEY

### Objective

- SAICA has received numerous complaints, from members directly or via its committees, that SARS is delaying refunds with a specific issue regarding VAT refunds.
- The purpose of this survey is to gather data to be presented to SARS in support of these complaints.

### Methodology

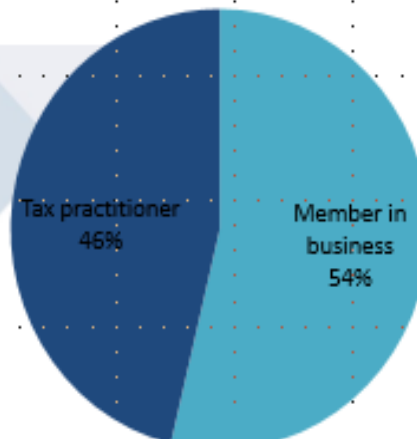
- An online survey was sent out to members subscribed to receive the Standards & Legislation newsletter.

### Data Gathering

- Data gathering took place from 22 September to 6 October 2016

### Response rate

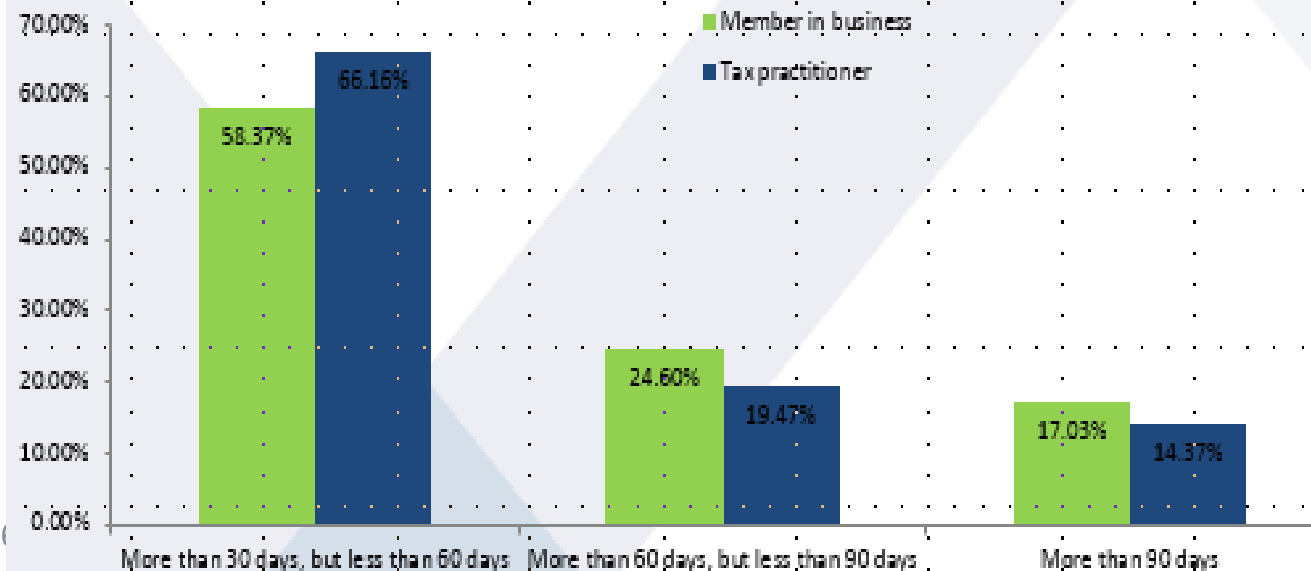
- 1 873 responses were received



# VAT REFUNDS

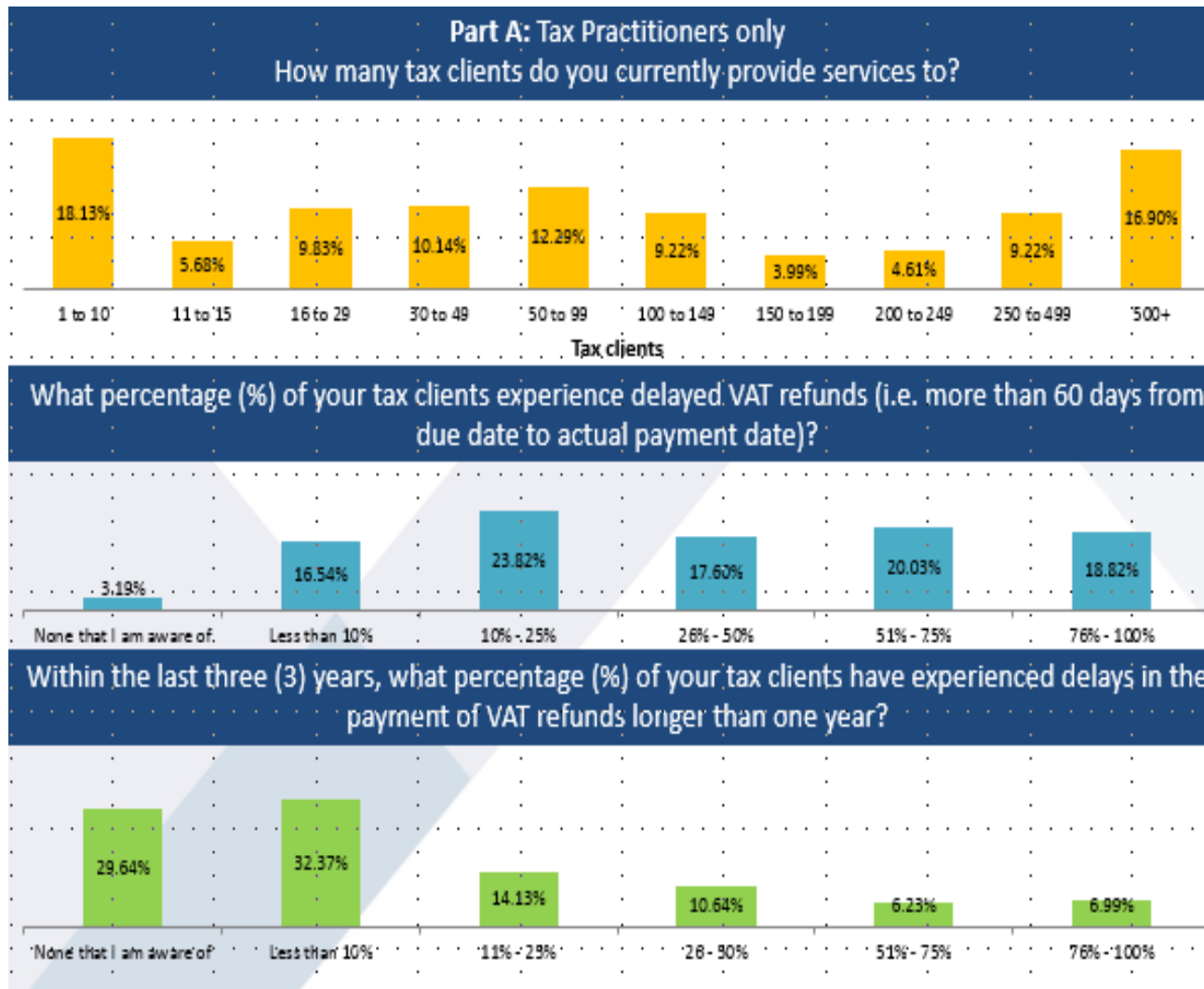
## SAICA 2016 SURVEY – WHAT IS A DELAY?

In your view, what time period would constitute a 'delay' by SARS with respect to the payment of VAT refunds?



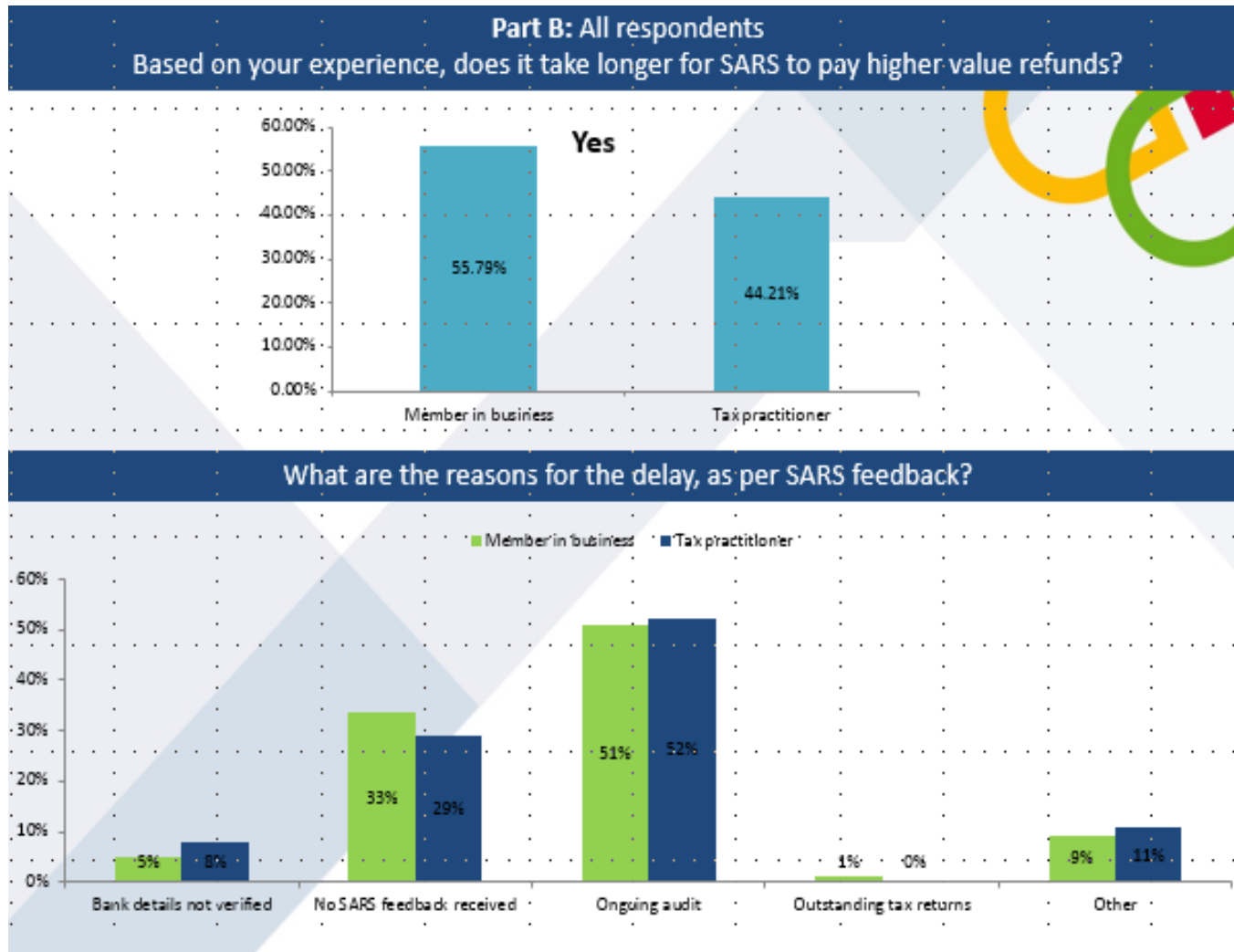
# VAT REFUNDS

## SAICA 2016 SURVEY – DELAY PERVASIVENESS



# VAT REFUNDS

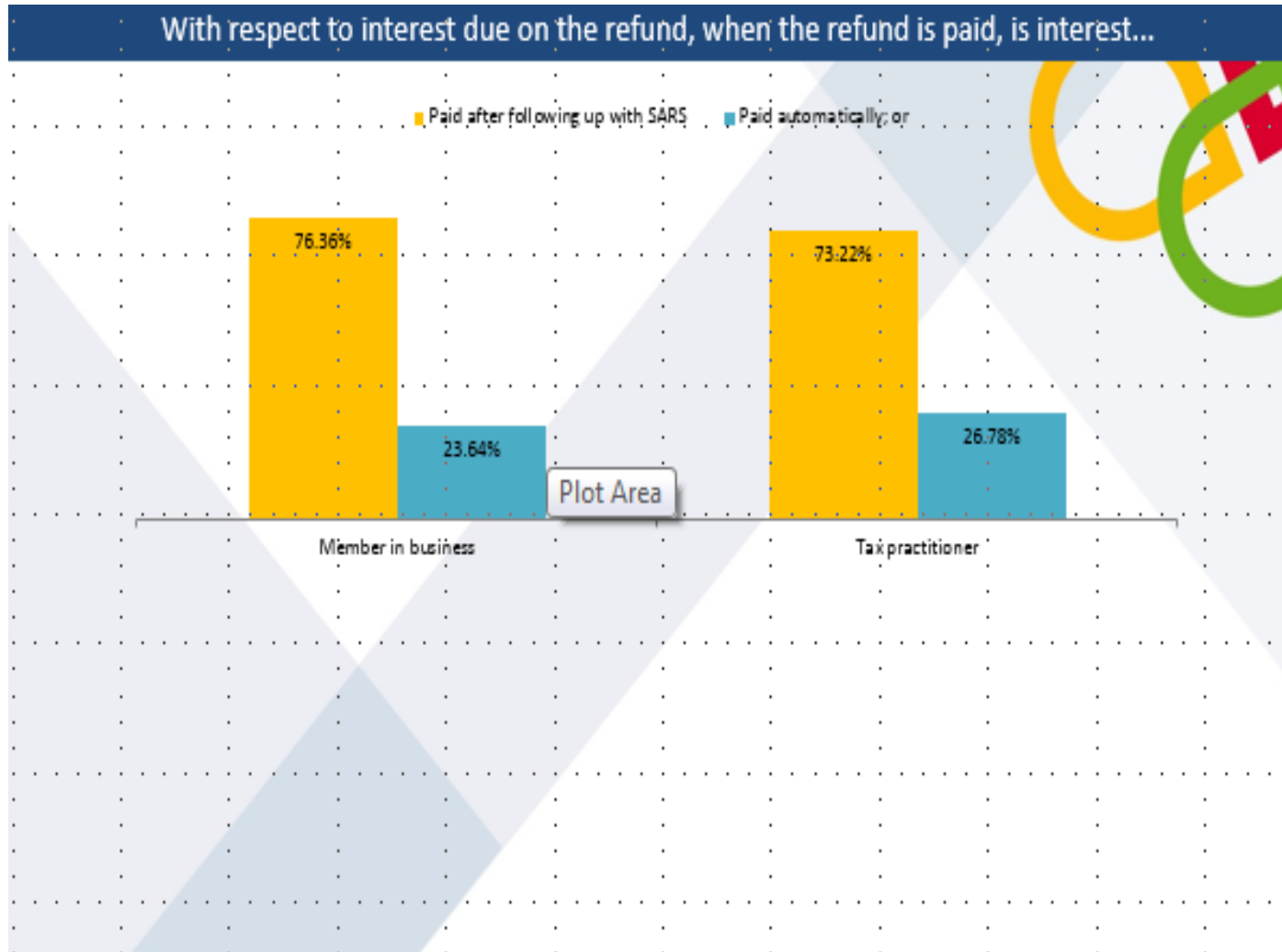
## SAICA 2016 SURVEY – DELAY REASONS





# VAT REFUNDS

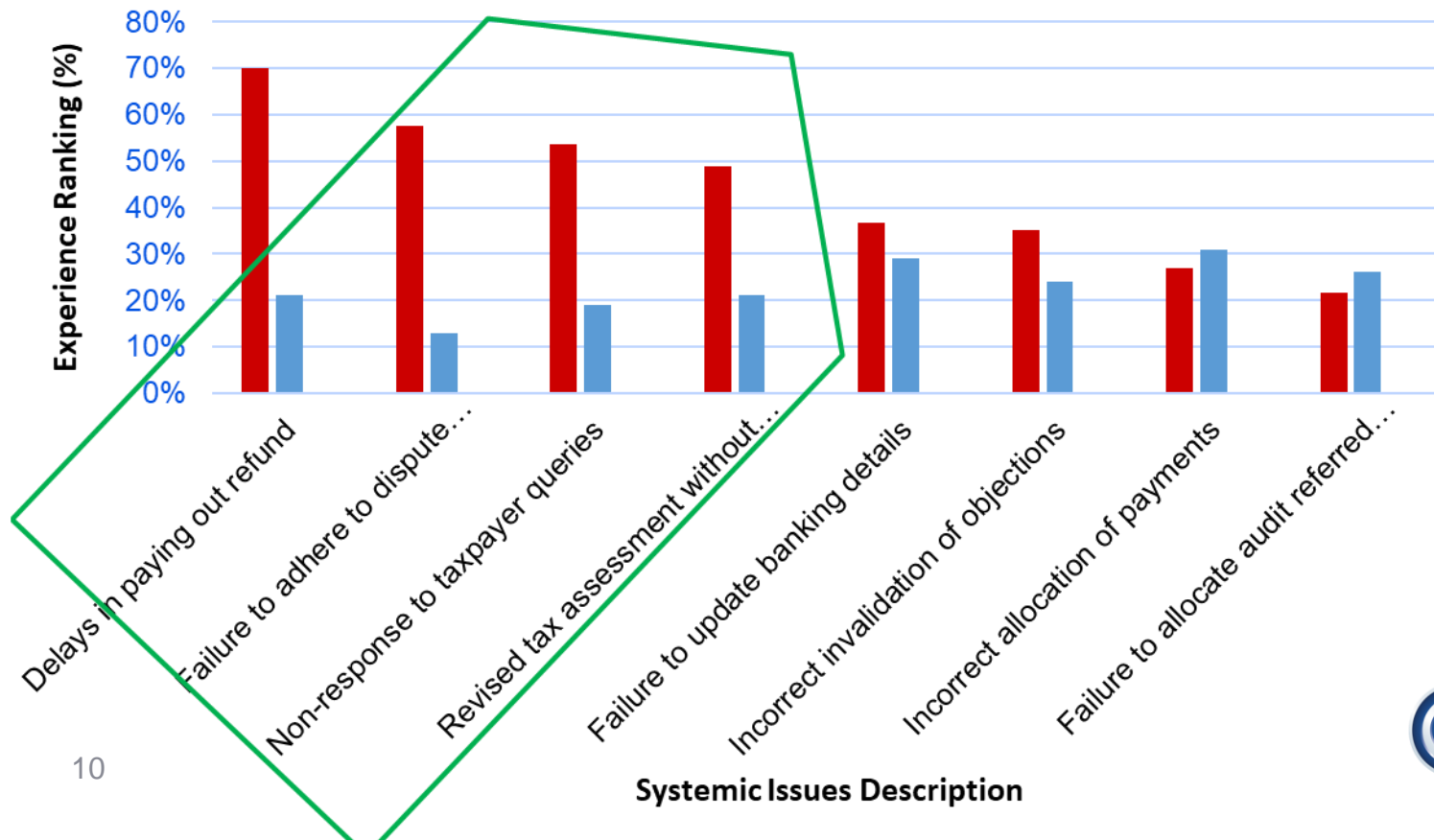
## SAICA 2016 SURVEY – DELAYED INTEREST



# VAT REFUNDS

## SAICA 2018 SURVEY – SYSTEMIC MATTERS OTO

Taxpayers **MOST** & **LEAST** experience on  
Systemic Issues



# VAT REFUNDS

## SAICA 2016 SURVEY – SARS' REASONS FOR DELAYS

- Insufficient documentation provided by vendor;
- Cases identified for audit due to fraud;
- Outstanding returns for other periods (R1 billion in refunds delayed due to this);
- Insufficient vendor history (i.e. new vendors);
- More than 6 returns submitted in a 6 six month cycle.

# VAT REFUNDS

## SAICA 2016 SURVEY – SHORT TERM INTERVENTIONS AGREED

- Incorrect calculation of interest;
- SARS “misplaced documents” i.e. multiple requests for same documents;
- Audit letters or notifications not being sent to taxpayers.

# VAT REFUNDS

## TAX OPERATIONS MATTERS – NEGATIVE BIAS

A → TOP MATTERS REQUIRING URGENT RESOLUTION .....	4
1 → Debt management .....	4
2 → Lack of adequate communication .....	5
3 → Non-compliance with time-frames .....	5
4 → Tax refunds .....	6
5 → SARS System/Data integrity Issues .....	6
6 → Segregation of duties at SARS .....	7
B → CURRENT MATTERS (OTHER) .....	8
1 → Requests and feedback from auditors concerning .....	8
2 → Administrative penalties for late submission of corporate tax returns, effective 7 December 2018 .....	8
C → PREVIOUS UNRESOLVED AGENDA ITEMS REQUIRING FEEDBACK .....	8
1 → Unresolved matters from the 24 May 2018 meeting (excluding those which were resolved via other platforms/engagements, including regional engagements) .....	8
2 → Unresolved matters from the 6 September 2017 meeting (based on the SAICA agenda sent to SARS) .....	10
2.1 → Public benefit organisations (PBOs) .....	10
2.2 → Disallowance of expenses for professional sole practitioner taxpayers .....	10
2.3 → Dispute form containing incorrect details .....	10
2.4 → Administrative non-compliance penalties .....	11
2.5 → Tax type activation – new timelines .....	11
2.6 → Taxpayers being redirected to make section 93 applications instead of following the dispute process .....	11
2.7 → Inability to print ITR12 form after having submitted the form .....	12
3 → Unresolved matters from the 18 May 2017 meeting .....	12
3.1 → Delayed refunds (A1) .....	12
3.2 → Challenges with the dispute resolution process (A2) .....	12
3.3 → Audit vs Verification (A4) .....	12
3.4 → Diesel rebates (A5) .....	12
3.5 → Data on SARS eFiling (B1) .....	13
3.6 → Bank account verification (B3) .....	13
3.7 → Requests for supporting documents (B6) .....	13
3.8 → Rejection of section 93 applications (B7) .....	13
3.9 → Correspondence and taxpayer identification (B9) .....	13
3.10 → Foreign investment applications (B11) .....	13
3.11 → Request for remission system (B12) .....	13
3.12 → Disallowing donations as a deduction due to incorrect PBO numbers (B13) .....	13
3.13 → SARS Complaints Management System (B14) .....	13
3.14 → Administrative non-compliance penalties (B16) .....	13
4 → Unresolved matters arising from the 18 October 2016 meeting .....	13
4.1 → Lack of feedback and progress reports on agenda items and submissions .....	13

4.2 → Lack of correcting consequences of system problems e.g. diesel rebates, request for reasons, pre-populated objections etc. ....	13
4.3 → Status of Senior SARS Official list .....	13
4.4 → Invalid objections policy for relevant information .....	13
4.5 → Liquidated companies and winding up of estates .....	13
5 → Unresolved matters arising from the 10 March 2016 meeting .....	13
5.1 → Rejection of reasons provided for late objections (5.2) .....	13
5.2 → Invalid objections (5.5) .....	13
5.3 → SARS non-response to ADRs lodged (5.6) .....	14
5.4 → Activating provisional tax type on eFiling – activation rejected even where taxpayer was registered in prior years (9.8) .....	14
5.5 → SARS contacting taxpayers directly even when the RAV01 is updated (12.2) .....	14
6 → Unresolved matters arising from the 4 August 2015 meeting .....	14
6.1 → VAT letter of findings/blanket assessments (d) .....	14
6.2 → Acknowledgement of receipt (with a reference number) for SARS LBC email address (e) .....	14
6.3 → VAT penalties on delayed diesel rebates – status on splitting this (h) .....	14
6.4 → SARS Audit and other correspondence (5.8 (a) – (d)) .....	14
6.5 → 'Suspension of payment' requests and SARS wrongly instituting recovery proceedings (5.15) →	14

..... Section Break (Next Page) .....

# VAT REFUNDS

## TAX OPERATIONS MATTERS – NOV 2018

- Diesel rebate set off
- Days calculation in verification letters
- Duplicate verification letters with expectation of different information
- SARS banking details data integrity and multiple successive banking detail verifications
- Communication on delays
- Audit vs verification
- Revised VAT returns collated with incorrect
- Over auditing
- Journal adjustments reversing refunds
- Journal assessments
- No reasons for Additional Assessments
- No communication on moving vendor to different category



# Tax Simplification

## VAT Refunds

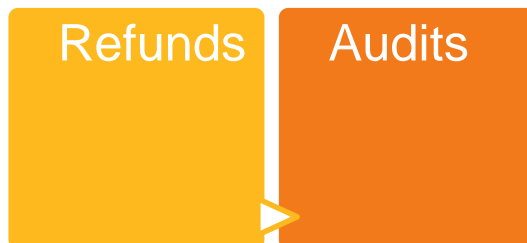
# TAX SIMPLIFICATION

## COMPONENTS OF DISTANCE TO FRONTIER INDEX

1. Total Tax & Contribution Rate (TTCR)
2. Time to comply and payment components



3. Post filing index



### Paying taxes

Payments (number per year)

Time (hours per year)

Total tax and contribution rate (% of profit)

Postfiling index (0–100)

Time to comply with VAT refund (hours)

Time to obtain VAT refund (weeks)

Time to comply with corporate income tax audit (hours)

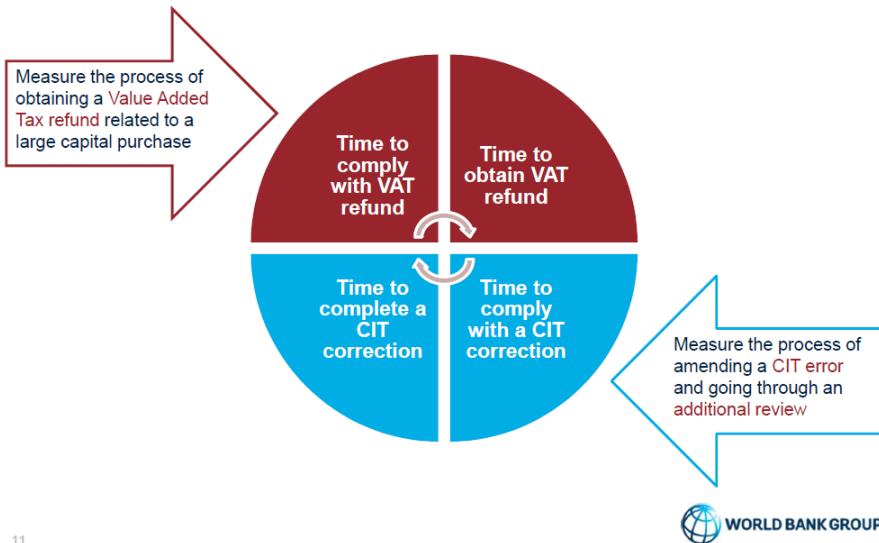
Time to complete a corporate income tax audit (weeks)



# TAX SIMPLIFICATION

## ASSUMPTIONS

Postfiling index: what is included?



11

VAT Refund – 2 components

Time to comply with a VAT refund

- Time required to gather information and calculate VAT refund amount;
- Time required to prepare VAT refund claim and any additional documents needed to substantiate the claim;
- Time spent making representation at the tax office or completing any other activities, if required;
- Time to conclude an audit is included if companies with a request for a VAT cash refund due to a capital purchase are pooled into additional review in 50% or more of cases – based on the experience of expert contributors:
  - Time to conclude an audit includes: time spent gathering information and preparing any documentation required by the tax auditor; and time spent submitting the documents requested;
  - The type of audit interaction is taken into account (single item audit or comprehensive audit).

Time to obtain a VAT refund

- Time in time (in weeks) to receive a cash VAT refund from the moment the request has been submitted.
- Includes delays due to waiting for an audit to be finalized by the authorities.

12



# TAX SIMPLIFICATION

## LEGISLATION

- **Section 44 VATA – VAT refunds**
- **Section 45 VATA – Interest on delayed refunds**
- **Section 45A VATA – Calculation of interest for rate changes**
- **Section 190 TAA – Refunds of excess payments**
- **Section 191 TAA – Refunds subject to set-off**

# TAX SIMPLIFICATION

## VAT REFUNDS – SARS INFORMATION

### VAT REFUNDS FOR VENDORS



#### What is a VAT refund?

A VAT refund is an amount of VAT that is payable by SARS to a vendor, where

- the total amount of input tax exceeds the total amount of output tax in a particular tax period, or
- a vendor has paid an amount of VAT, in excess of the amount that should have been paid to SARS.

#### How do VAT refunds for vendors work?

A vendor is required to calculate their VAT liability, in relation to its allocated tax period, by off-setting input tax (i.e. VAT that is charged on the acquisition of goods and services and which is allowed as a deduction) against output tax (i.e. VAT that is charged on the supply of goods and services by the vendor). The difference is either **paid to SARS** (this occurs when output tax exceeds input tax) or a refund is claimed from SARS (this occurs when input tax exceeds output tax).

If a vendor is entitled to a refund, SARS is required to pay that refund within 21 business days of receiving the correctly completed VAT return in respect of that refund. If the refund is not paid within 21 business days, SARS will have to pay interest, at the prescribed rate, on the amount that is refundable. However, the period of 21 business days may be suspended, in which case no interest is payable. For example, a return may be materially incomplete or defective, in which case the 21 business days will be suspended until the vendor rectifies the return.

SARS may also withhold a refund, where, for example, the vendor has not provided valid banking details, or has not submitted all their VAT returns, or has not paid other taxes that are administered by SARS.

#### May a vendor object or appeal when SARS does not authorise a VAT refund?

A vendor can object to or appeal a decision by SARS not to authorise a VAT refund.

The objection must be in writing and the alternative dispute resolution form ([ADR 1 form](#)) must be completed. The reason for objection must be clearly stated and the supporting documents must be attached and sent back to SARS. The objection must be lodged within 30 business days from the date of the assessment.

The appeal must be in writing and the alternative dispute resolution form ([ADR 2 form](#)) must be completed and sent back to SARS within 30 business days from the date of receiving notice of SARS's decision in respect of the objection.

On appeal indicate whether you wish to make use of the Alternative Dispute Resolution (ADR) procedures or rather appeal to the Special Board or Tax Court.

#### How is high risk VAT refund claims identified?

SARS uses a risk engine to objectively identify any risks that may be associated with the refund, which warrants further investigation and auditing. Vendors that are registered for e-Filing can make use of the Refund Dashboard to view the status of their refunds.

Vendors that are selected for further verification of their refund claims will be requested to submit supporting documents.

**Top Tip:** Due to concerns involving VAT fraud, the use of third party banking details will only be permitted in two instances, firstly, where the vendor is a foreign company and secondly, where the vendor falls within the ambit of a "group of companies" (i.e. the vendor is either a subsidiary company or a holding company). In both cases, the vendor must supply the necessary authority from the account holder (for example, company resolution) and indemnify SARS against possible losses of amounts that are paid into the nominated bank account. The vendor is required to complete a [VAT119i form](#) for this purpose.

Is this enough  
and  
appropriate  
format?



**SAICA**  
THE SOUTH AFRICAN INSTITUTE  
OF CHARTERED ACCOUNTANTS

develop.influence.lead.

# TAX SIMPLIFICATION

## PROCESS - ENTITLEMENT

### S190(1) TAA

Person is automatically entitled to refund reflected on assessment (i.e. SARS must), including interest thereon

No prescribed days

### S190(4) TAA

Erroneous overpayment must be claimed to become entitled

### S44(11) VATA

Deemed not to be made if banking details not verified in writing 90 days from claim

### S191 TAA

Compelled set off against outstanding tax debts

### S190(6) TAA

Decision not to authorise refund subject to objection and appeal

# TAX SIMPLIFICATION

## PROCESS – ENTITLEMENT DEFERRALS

### S190(1) TAA

Person is automatically entitled to refund reflected on assessment (i.e. SARS must), including interest thereon

### S190(2) TAA

Verification, audit and inspection completed for the refund unless security provided

### S44(3)(d) VATA

Furnished banking details in writing

### S44(7) VATA

Failed to submit any return, deferred until done

# TAX SIMPLIFICATION

## PROCESS – AUDIT AND VERIFICATION

### VERIFICATION OF VALUE-ADDED TAX DECLARATION (VAT201)

The South African Revenue Service (SARS) thanks you for submitting your VAT201 declaration for the 201901 tax period.

Please note that, in terms of the Tax Administration Act, your VAT201 declaration has been identified for verification as a result of variances detected in this submission.

Please review your VAT201 declaration against your relevant Value-Added Tax (VAT) calculations and relevant material. If you find any errors, correct them by submitting a request for correction.

If you cannot find any errors pertaining to the VAT201 declaration, you are required to submit the following relevant material:

The output tax schedule, input tax schedule, all documents relating to capital expenditure claimed (if applicable), and other transactional documents that would for example, substantiate any increase/decrease in sales, inventory, change in use adjustment or bad debts.

Please ensure that you enclose this original letter when submitting your relevant material, as it contains a unique bar-coded reference which links it to your VAT account with SARS. A photocopy of this letter will not be accepted by SARS. You may however make a copy of this letter for your records.

Note that SARS only accepts relevant material in A4 format.

Relevant material can be submitted through the following channels:

- At your nearest SARS branch
- By post to the address above
- Electronically via eFiling

Note that you have 21 days from the date of this letter to comply in order to enable SARS to finalise the verification.

It is a criminal offence to wilfully and without just cause fail to provide the relevant material.

Should you have any queries please call the SARS Contact Centre on 0800 00 SARS(7277). Remember to have your registration number at hand when you call to enable us to assist you promptly.

Sincerely

**ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

# TAX SIMPLIFICATION

## PROCESS – INTEREST AS PART OF REFUND

### S45 VATA

Interest runs automatically from 21 business days from return (i.e. effective date) submission to date of payment

### S187 & 188(3) TAA

Refund not paid, interest accrues from effective date and is payable

**CONCLUSION:** SARS have 21 business days before refund amount changes

# TAX SIMPLIFICATION

## PROCESS – INTEREST DEFERRALS

### S45 VATA

Interest runs automatically from 21 business days from return submission to date of payment

### S45(1) VATA

Defective or incomplete return, till after Vendor corrects and in writing confirms defect does not affect refund amount or information is provided to reflect correct amount

### S45(1) VATA

Default in respect of ANY obligations under any Act administered by the Commissioner to furnish returns

### S45(1) VATA

SARS is prevented from access to records

### S45(1) VATA

Has not furnished banking details to SARS





# Recommendations

# TAX SIMPLIFICATION

## RECOMMENDATIONS

- **Separate diesel and VAT on return**
- **Filing with standard support documents attached**
- **Insert verification procedures, times lines and communications in law**
- **Consolidate VAT refund and interest provisions into TAA**
- **Enable open box information requests by SARS auditors with additional document filing boxes on eFiling**
- **Better management oversight of manual interest calculations and journals**
- **Enhanced and more direct communication between taxpayer and relevant SARS officials busy auctioning matter**



# Thank you