

EMP501 Bi-Annual Reconciliations

We note that with respect to submission of the EMP501 returns, instead of the SARS system implementing validation checks pre-submission, the e@syfile system allows submission of the reconciliation forms and errors are identified only on processing by the SARS system. With respect to the 2020/21 annual submission process, some members noted that they had received notification of ETV errors after submission of the reconciliation forms and it appears that in some instances, the 'incorrect' form was not recognised as having been submitted. To resolve this issue, the forms have to be corrected and re-submitted. If submitted after the due date, this will give rise to late submission administrative penalties.

We have requested that SARS change the system to run validation checks before submission is allowed. However, until this is implemented, it is advisable to submit the bi-annual reconciliation prior to the due date to allow for processing of the form and identification of errors which can be resolved and the form re-submitted by the due date. If not and penalties are imposed, the normal dispute process will need to be followed.

In terms of section 25(2) of the Tax Administration Act, 2011, returns submitted must be a 'full and true return'. Furthermore, the amended paragraph 14(6) of the Fourth Schedule requires that a 'complete return' is submitted, failing which – as explained in the Explanatory Memorandum to the draft bill proposing the amendment to paragraph 14(6) – SARS will treat the return as not having been submitted. The specific wording in the Explanatory Memorandum noting: "The proposed amendment aims to clarify that the penalty in terms of this paragraph may also be imposed where an employer submits an incomplete return." Whilst we note that there may be instances where unintentional errors are made or where information comes to light subsequent to the submission that may require re-submission, there is a risk that SARS may view such an incorrect submission as not fulfilling the requirements of a full, true and complete return and SARS may reject the return and impose penalties if the revised return is submitted past the due date. In such circumstances, it may be difficult to motivate for waiver of such penalties, hence the suggestion for an earlier submission until pre-validation checks are implemented.

6 October 2021