

**FEEDBACK SUMMARY
10 SEPTEMBER 2020**

GENERAL

SAICA attends various discussions and meetings on behalf of members with National Treasury (“NT”), South African Revenue Service (“SARS”), the Office of the Tax Ombud (the OTO) and other stakeholders (internal and external). These meetings represent an opportunity for them to obtain further information on any tax matter from the public and discussions and views expressed do not represent policy or decisions. Furthermore, these discussions do not represent an undertaking by SARS, NT or other stakeholders, but merely statements of their understanding or how they perceive or anticipate a particular matter to be addressed.

The below Feedback Summary should be seen in the above context as merely attempts to inform SAICA members of the discussions and of any proposals that were made during such discussions.

**OTO/RCB ENGAGEMENT
1 SEPTEMBER 2020**

The RCB Forum met with representatives of the OTO to discuss various matters of common interest. Some of the matters discussed are noted below.

Trends in complaints

- The OTO noted that trends in complaints from tax practitioners are similar to that for taxpayers - i.e. there seem to be common SARS administrative issues experienced across the board.
- Some of the main complaints lodged include, *inter alia*:
 - Delays in refunds
 - Delays in resolution of disputes
 - Assessments without adequate notification

- Issues regarding debt management
- SARS mailboxes being full
- Account maintenance issues including unexplained allocations and journals
- Fraud as a result of 'hijacked' profiles
- Delays in resolution of audits
- Repeated requests for documents that have already been submitted
- SARS eFiling/system issues

As many members will attest to, the above are the main SARS administrative/operational issues that members have been facing over the last few years, in addition to recent issues related to the system errors on applying the COVID19 deferral relief as well as auto assessment and pre-population issues in respect of the 2020 Filing Season.

Rejected complaints

Year after year, the OTO Annual Report has indicated a high number of rejected complaints and thus far, this year seems no different. Some of the contributing factors are discussed below.

- The incidences of rejected complaints is still quite high and based on examples shared by the OTO, it appears that a lot of this is as a result of taxpayers and tax practitioners not understanding the mandate of the OTO and/or not following the SARS escalation procedures prior to lodging a complaint with the OTO.
- In fact, the OTO representatives went so far as to say that 95% of the rejected complaints were as a result of taxpayers and/or tax practitioners not exhausting the SARS escalation procedure and the issues did not warrant direct escalation to the OTO.
- What is also concerning is that, despite ongoing communication that taxpayers and tax practitioners must hold SARS to turnaround times, it still appears that instead of following the escalation process all the way to the CMO, taxpayers and tax practitioners continue following up via the same initial contact with SARS rather proceeding to the next step in the escalation process.
- It is after months of following up using the same channel, that the matter is then lodged as a complaint with the OTO - i.e. without having exhausted the SARS escalation process.
- It is very important that taxpayers and tax practitioners hold SARS to timelines as provided for in the relevant tax Acts and/or SARS Service Charter.
- If the defined turnaround time has been exceeded, one must escalate to the next level, wait for the turnaround time to lapse and eventually lodge the matter with the SARS CMO.
- Once lodged with the CMO, one must wait only the required 21 days and then immediately lodge the complaint with the OTO once the turnaround time has lapsed, if there has been no response or an inadequate response from SARS, instead of following up again with the CMO. However, should SARS request further information at any step in the process, this must be submitted as soon as possible.
- In addition to the above, there are also examples where SARS has requested documentation from the taxpayer and instead of providing such documentation, a complaint is lodged with the OTO. In such a case, the complaint would be rejected due to the taxpayer not having complied with a SARS request.

Education of taxpayers and tax practitioners

As is evident from the above and previous years' reports, there is a need for further engagement with taxpayers and tax practitioners to ensure a better understanding of the OTO's mandate as well as the conditions to be met before lodging a complaint with the OTO. Hopefully this will lead to less frustration for those lodging complaints as well as allowing the OTO to focus more on the valid complaints lodged in order to deal with these more efficiently and effectively.

RCBs and the OTO will continue to work together to ensure that taxpayers and tax practitioners understand both their rights and their obligations, from a tax/SARS perspective and take action accordingly.

We encourage members to familiarise themselves with the provisions of Chapter 2, Part F of the Tax Administration Act, 2011 to ensure a better understanding of the Powers and Duties of the OTO. The [OTO website](#) is also very insightful and of course, if in doubt, you may contact the OTO directly for advice before lodging a complaint.