

**FEEDBACK SUMMARY
20 MAY 2021**

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 stakeholders 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.

**SARS NATIONAL STAKEHOLDER FORUM MEETING
18 MAY 2021**

1. SARS Dispute Resolution Meetings

It was noted that the SARS Gauteng North region has recently implemented the use of the MS Teams platform to conduct Alternate Dispute Resolution meetings. We welcome this change which has been requested by SAICA some time ago. Members must please share their experience to determine whether this new platform is more effective than the conference call facility.

2. Delays in finalisation of appeals

As was previously noted, SARS acknowledged that it is experiencing a significant backlog in the finalisation of appeal cases. SARS noted that one of the contributing factors is that taxpayers and/or

tax practitioners do not provide adequate supporting documents during the verification or audit phase and these are only being provided at the appeal stage, resulting in the allowance of the majority of appeals. It is important to ensure that all requests for documentation as part of a SARS audit or verification are submitted timeously and completely to avoid unnecessary assessments leading to disputes.

In addition to this, SARS also noted that in many instances, taxpayers and/or tax practitioners do not provide contact details in the appeal documentation submitted and, in some instances, the contact details on the system are incorrect, thereby causing further delays due to difficulties in contacting the taxpayer or tax practitioner.

In terms of Section 234(2)(a), it is a criminal offence if one wilfully or negligently fails to update their registered particulars with SARS. There it is imperative that taxpayers and/or tax practitioners update the registered particulars to ensure that one complies with the legislation and to facilitate effective communication.

3. VAT Input Tax claims on invalid Tax invoices

It was noted by SARS that there are instances where taxpayers are claiming input tax without having the support of a valid tax invoice resulting in the disallowance of the input tax claim/s. It is important that members familiarise themselves with the requirements for a valid tax invoice and ensure compliance by suppliers, to avoid disallowance of the input tax claim.

SAICA did enquire as to the remedies available where the supplier (local or foreign) refuses to comply with the requirements and SARS agreed to provide feedback at a later stage.

4. Removal of taxpayers from a tax practitioner profile due to inactivity

There are instances where tax practitioners may wish to remove a taxpayer from their profile due to no longer providing services to that taxpayer. In some instances, the taxpayer may ignore communication from the tax practitioner, or the tax practitioner may no longer have contact details for the taxpayer. We understand that it is possible to remove such taxpayers. However, whilst SARS confirmed that it is the taxpayer's responsibility to ensure compliance and manage their profile, SARS officials warns against deactivating the tax types on the basis that the transactional history on the e-Filing profile will be lost unless the profile is transferred to another user.

SARS agreed to consider alternatives where the profile is 'held' by SARS until such time that another user requests it as it is unfeasible to expect the current tax practitioner to retain the profile indefinitely, especially where it will affect the compliance rating of the tax practitioner.

If the tax practitioner decides to deactivate the tax types, effectively removing the taxpayer from their eFiling profile, it is important to ensure that evidence of failed attempts to engage the taxpayer to transfer the profile must be kept on hand in case the taxpayer subsequently lodges a case of unprofessional conduct against the tax practitioner.

5. Difficulty transferring tax types

The tax type transfer process has changed, effective 23 April 2021. The process for the registration and/or transfer of corporate income tax (CIT) and Value-Added Tax (VAT) types, amongst other tax types, is now the same as that for personal income tax (PIT).

The main change is that a taxpayer (or representative taxpayer) must now approve a request for the transfer of a profile – that is, it is no longer the current tax practitioner that must approve the transfer. This puts the profile in the control of the taxpayer and the tax practitioner will no longer be able to withhold profiles, which has been an ongoing challenge as highlighted by SARS. The taxpayer may also remove a tax practitioner's access to the profile, without any notification to or approval by the current tax practitioner.

Importantly, for the transfer to work, the taxpayer information captured on the profile of the person requesting the transfer and the profile of the person who currently holds the taxpayer's profile, must be exactly the same. The tax type transfer will not be effected if there is a data mismatch.

We understand that members are experiencing challenges with the process, including difficulty changing details of the registered representative as well as adding a new representative. Other challenges have also been noted with respect to the registration of new companies, Trusts etc. SARS is aware of the challenges and is working on a solution. Regarding the first-time registration of a representative, this [online form](#) will be of assistance.

Members may find the following links useful in understanding the new process and related challenges:

- [Guide to register for eFiling and manage your user profile](#)
- [Tax type transfer process](#) (link to page)
- [SAICA submission](#): Top 5 challenges with tax type transfer

If members experience difficulties with tax type transfers and delays will result in non-compliance, we encourage you to either contact the SARS Contact Centre or make a virtual SARS appointment to resolve the matter. Unresolved matters must then be logged on SAICA's Member Portal under the SARS Operational category and we will escalate to the relevant SARS official. It is important that you quote the case reference number for the initial engagement with SARS, to facilitate effective escalation.

6. Accessing certain documents in eFiling remains an issue

SARS acknowledged the challenges in this regard and advised that progress is being made in migrating the remain Adobe Flash forms to HTML format. However, no timeline was provided for the completion of this. Those who cannot access certain forms, especially the dispute related forms which seem to be a challenge for some tax types, must make a branch appointment to 'submit' this and use the case reference number for the appointment to upload the forms manually, until the system errors are resolved.

7. 2022 tax return forms not available on eFiling

There are instances where 2022 tax returns may need to be submitted, for example with respect to deceased estates. However, it is not possible to request a 2022 return on the SARS eFiling system.

SARS indicated that this matter has been escalated to the business systems team and a fix will be implemented soon.

We also noted some examples where in respect of Trusts, on requesting a 2021 return, a 2022 return is issued. SARS noted that it is aware of an error in this regard, but until more examples are received, it is being dealt with as an isolated matter.

8. Ongoing delays due to manual interventions

There are still issues with respect to assessments subject to manual intervention as these are not finalised within a reasonable timeframe and there is limited communication from SARS, with some cases still not finalised more than 6 months later.

SARS confirmed that the turnaround should be 21 days for cases referred for manual intervention and that, ideally, any delays are meant to be communicated to the tax practitioner or taxpayer. We understand that from a Gauteng North perspective, there is no backlog with respect to this, but there may be a backlog at a national level. Any long outstanding cases that SARS has failed to resolve must be logged on the SAICA Member Portal, in the SARS Operational category, for escalation to SARS.

9. Challenges related to ceasing tax residency

There are many taxpayers who ceased tax residency in prior years but were not aware of or neglected the duty to inform SARS of this fact. It is only recently that the ITR12 has a question regarding tax residency and in fact, the question only allowed for responses to the extent that a person ceased tax residency in the year of assessment in respect of which the return was being submitted. It appears that this will change with the implementation of the 2021 tax return which allows one to note the ceasing of tax residency in respect of a prior year.

However, this does not solve the issue that taxpayers now face, especially with respect to the recent change in legislation regarding the withdrawal from retirement funds. Taxpayers now have to prove that they ceased residency more than three years ago and it is not clear as to what process must be followed in this regard, in the instance where the taxpayer did not previously communicate their change in tax residency to SARS.

Guidance was requested from SARS as to how one can now inform SARS of the fact that they ceased residency in a prior year as well as evidence that SARS will accept as proof of their non-residence.

Related to this, there are also taxpayers who may have deactivated their tax numbers or deregistered on leaving South Africa and now need to reactivate the tax numbers or re-register, for example, due to having to disclose SA sourced income in their tax return or to access funds left in trust in SA.

Guidance was also requested as to how one should go about reactivating their tax reference numbers or registering again, as the current process seems to be to email the pcc@sars.gov.za mailbox, which is not efficient in the circumstances.

The SARS Gauteng North region agreed to seek further guidance from SARS Legal and Policy and the stakeholder management team and feedback will be provided in due course.

10. EMP501 reconciliations outstanding for prior years

Members noted that there are still issues where old EMP501 reconciliations are requested by SARS on the basis that SARS has no record of these. In the past, where these reconciliations relate to periods in respect of which there was no requirement to retain records, SARS would accept affidavits confirming that the reconciliation had been submitted. However, in some instances SARS is unwilling to accept affidavits.

SARS confirmed that affidavits are still accepted depending on the circumstances. Should members face difficulties in resolving such issues after escalating via the normal SARS channels, these queries should be logged on SAICA's Member Portal.

11. Trust registrations at SARS remain a problem

Concerns were raised regarding delays in the finalisation of Trust registrations and a request was made for the region to follow up on whether any progress has been made with respect to the Masters' Offices creating a link similar to CIPC, facilitating automatic registration of a Trust for tax purposes, after registering such Trust with the Master's Office.

The SARS Gauteng North team indicated that based on their experience, there are no challenges with respect to the process and that the registration must be facilitated via a virtual appointment at which the Trustee must be present. Regarding the proposal on linking SARS and the Masters' Office, this suggestion will be escalated to SARS Head Office and recognised controlling bodies were also asked to engage the Master's Office directly in this regard.

12. Donations Tax dedicated e-mail address not functioning

It was requested that SARS advise as to whether or not the donations tax dedicated email address is operational and/or if there is a backlog in terms of responding to emails received by this mailbox.

SARS acknowledged that there are challenges with this mailbox and it appears that emails received were not being attended to. Until this matter has been addressed, it would be better if one books a virtual appointment for the submission of donations tax forms and a dedicated team member will be allocated to honour such appointment, even if from a different SARS branch.

Regarding emails already sent through, SARS will advise as to how this will be dealt with.

It was proposed that SARS update the website to indicate the new process given the deficiency with the process communicated on the SARS website. With respect to the donations forms to be submitted in relation to section 7C deemed donations, it was noted that there is a need for a bulk submission facility during peak times. SARS will consider the proposal and provide feedback in due course.

Members also stressed to SARS the importance of prioritising the provision of an electronic channel for submission of the donations tax form – i.e. it was requested that the form should be made available via eFiling as soon as possible.