

**FEEDBACK SUMMARY
3 NOVEMBER 2022**

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/RCB NATIONAL STAKEHOLDER ENGAGEMENT
27 OCTOBER 2022**

Below is a summary of some of the SAICA agenda items raised with SARS as well as SARS feedback on such issues. The matters raised are determined through engagements with members via the various committee structures and discussion groups, as well as queries logged by members on the SAICA Member Portal and those raised in the tax seminars held during the course of the year.

The agenda items were submitted two weeks prior to the meeting and therefore some of the dates referred to in the feedback summary would have passed at the date that this summary is shared.

1. Challenges with respect to the SARS process when an individual ceases to be a resident for tax purposes

- 1.1. Members have noted that there are a number of challenges with respect to the process to finalise a taxpayer's cessation of tax residency in South Africa.
- 1.2. Whilst in prior years, taxpayers could indicate the change in residency on the ITR12 form, effective from the 2022 filing season, this may now only be done via the RAV01 form. The RAV01 update initiates a request for supporting documents which SARS must first review **before** the ITR12 form is updated on eFiling.
- 1.3. For some, the process seems to work efficiently and the ITR12 form is updated within a reasonable time. However, many taxpayers are experiencing delays in the process.
- 1.4. Unfortunately, until the ITR12 is updated by SARS, certain fields are not available for completion and the change in residency question is greyed out and unmarked – this applies even where the taxpayer previously communicated a change in residency to SARS on the ITR12 form – i.e., in a prior year.
- 1.5. One concern was that the delay may make it impossible for some taxpayers to submit a 'full and true' return, by the due date of 24 October 2022.
- 1.6. SARS agreed to a meeting with RCBs and other stakeholders, but until all the issues are collated and presented, there are certain aspects which required urgent clarification – i.e., prior to the filing deadline of 24 October.
- 1.7. Firstly, would a late return be accepted, and the non-compliance penalty waived on the basis that the late submission is due to a processing delay on SARS' end (i.e. in terms of Section 218(2)(e)(ii) of the TAA)?
- 1.8. Alternatively, should taxpayers who ceased residency in 2022 or a prior year submit their returns pending the outcome of the cessation request? If so, the question was what steps should be taken to ensure that relevant fields are available for completion. For example, the section 10(1)(h) interest exemption is not available unless the 'ceased residency' block is marked, and this may be relevant to certain taxpayers.

SARS Response:

- 1.9. SARS noted that there is a delay as each RAV01 change needs to go through a process and be validated. It was acknowledged that there is a backlog at the moment, but in future, updating the RAV01 form should result in an immediate update on the system even though a verification process will follow.
- 1.10. Going forward, taxpayers must ensure that they update the RAV01 as soon as South African tax residency status changes. In this way, by the time filing season has opened, many of the residency changes would have been dealt with.
- 1.11. With respect to the current filing season, if taxpayers submit returns late due to SARS delays and penalties are imposed, SARS will consider remission of such penalties on a case by case basis. Taxpayers or their tax practitioners must follow the process to request remission.

2. Delays in the finalisation of verifications

- 2.1. One of the most common complaints from members is with respect to SARS delaying in finalising verifications, usually resulting in delays in payment of refunds due to taxpayers. This applies to value added tax (VAT) and personal income tax (PIT).
- 2.2. SARS had implemented certain interventions to deal with this in various regions. However, recently, other than resolution of specific cases escalated, the systemic issue persists.
- 2.3. SARS was asked to advise as to the specific steps it has taken to address the delays as well as provide insight as to the average turnaround time from submission of documents to finalisation of verifications and the timeline from finalisation of verifications to the payment of refunds.
- 2.4. An issue previously addressed by SARS, is that of current year PIT refunds being recalled or withheld due to outstanding verifications in respect of prior years. SARS had clarified that this should not happen. However, SAICA is still receiving complaints of such incidences.
- 2.5. An additional concern is with respect to the turnaround time for manual interventions. The SARS website indicates a 21 day turnaround time, but on follow up with the SARS contact centre, members are sometimes advised that the turnaround is 90 business days as the process is akin to an 'audit'.

SARS Response:

- 2.6. SARS acknowledged that the volume of verifications exceeded the resource capacity, but this was partly as a result of a large number of fraudulent refunds that SARS is dealing with. Hence, the risk engine was identifying the need for extensive verifications.
- 2.7. SARS officials noted that staff are actively monitoring the inventory ageing report and assigning cases as necessary in order to ensure that verifications are finalised as soon as possible.
- 2.8. When a manual intervention is required, the turnaround time should be 21 working days as confirmed on the SARS website. The risk engine may identify returns for manual intervention where there is a data mismatch or where expenses claimed need to be verified. SARS officials agreed that they would specifically look into the timelines with respect to those returns subject to manual intervention to determine the average turnaround time in respect of this, as the communication regarding 90 business days is incorrect.

3. SARS Complaints Management System (CMS) rejecting complaints on the basis that the matter is still within service levels

- 3.1. Related to delayed verifications, whilst timelines for finalisation is not legislated, the SARS service charter indicates an aspirational turnaround time of 21 days from submission of documents and on escalation of such cases, the SARS regional teams usually address the issues and assist with resolution.
- 3.2. However, where members engage SARS directly by lodging complaints via the Complaints Management System (CMS), members have noted a number of cases whereby the CMS rejects the complaint on the basis that the 'cause of complaint is still within service level', even

where, in some cases, more than 40 business days have passed since documentation was submitted. In some cases, it is even longer than this.

- 3.3. It is not clear if the complaint is being reviewed and intentionally rejected or if the system is automatically rejecting the complaint.
- 3.4. SARS was asked to provide insight as to whether there is an automatic trigger for rejection of cases and how this should be addressed.

SARS Response:

- 3.5. SARS noted that there has been a spike in complaints recently and SARS acknowledged that there are complaints being rejected which should be accepted. SARS is investigating and will update the system to ensure that this does not happen going forward.
- 3.6. SAICA notes that it is also important to ensure that the correct case reference number is used when lodging complaints. For example, the case reference number on submission of documents should be used, as opposed to using the case reference number issued when complaining of the delay to the SARS contact centre.

4. Date of notification of (late) auto assessment not aligned to assessment date

- 4.1. A member noted an auto assessment issued in October, but the date of the assessment reflects as August. There were similar issues during the period when auto assessments were issued – i.e. it only appeared on the dashboard and a notification sent on a certain date, but on opening the assessment, it reflects an earlier date. This issue just transpired and is being escalated since it appears to be a system error. See screenshots below.
- 4.2. SARS was asked to investigate and advise further.

SARS Response:

- 4.3. SARS agreed to investigate the specific case, but it seems to be isolated. There was an issue in the first few weeks of filing season, but the related errors were resolved.
- 4.4. SAICA appeals to members to report such issues on the Member Portal, where relevant.

5. Revised returns rejected where a prepopulated field is amended

- 5.1. Members have noted instances where on submitting an edited return after amending pre-populated fields on SARS 'estimated returns', a pop up message appears indicating that the return has been rejected, presumably on the basis that there is a data mismatch.
- 5.2. On resetting the information and reverting to what has been populated, the system accepts the submission. However, this is not correct as it prevents the taxpayer from submitting a full and true return.
- 5.3. In some instances, the system allows submission, but the status is noted as 'Rejected', no assessment is issued and a note pops up indicating that the return is being subject to manual intervention. The experience has been that such manual intervention results in significant delays in assessment.

SARS Response:

5.4. SARS advised that it would investigate and respond.

6. Inconsistency in treatment of auto-assessed taxpayers who submitted revised tax returns without requesting an extension, but still within 61 business days of the assessment

6.1. It has been noted that when the above circumstances apply, two scenarios are noted:

- The taxpayer's submission is declined and they receive a letter telling them their 40 days has lapsed and they must file a dispute (these seem to be earlier cases).
- Alternatively, the taxpayer is routed for manual intervention, but no link for documents opens. No letters or assessments are issued and the Request for Extension button falls away (these are more recent cases, so it seems SARS made a change). The eFiling status states 'correction filed'.

6.2. SAICA notes that according to SARS, taxpayers were supposed to edit and submit revised returns within 40 business of being auto assessed and that if an extension was required, this should be requested either within 40 business days of assessment or within 21 business days of the expiry of the 40 days, provided reasonable circumstances are cited. This, SARS believes, is the correct approach in terms of section 95 of the Tax Administration Act.

6.3. SAICA has made submissions to SARS noting why it disagrees with the interpretation of section 95 insofar as it relates to the SARS auto assessment process and has proposed that the legislation be amended to accommodate the process. However, SARS maintains that its interpretation is correct.

6.4. From a practical perspective, SAICA noted that whilst SARS confirmed receipt of some extension requests, no letter indicating SARS' decision was issued.

6.5. SAICA also raised concerns that there may not have been sufficient communication regarding the change in the approach in the current year – i.e. removal of the 'Accept' button which we saw as problematic.

6.6. In our view, this may have contributed to affected parties not understanding the change in process and assuming they could still check and revise the return by the 24 October deadline.

SARS Response:

6.7. SARS noted that it is investigating this and will decide on the appropriate action to be taken.

6.8. SARS has seen a number of cases where the taxpayer submits the return without asking for an extension. The system may have rejected some and accepted some, but with manual intervention. SARS noted that there may be an inconsistency and will advise after further investigation.

7. SARS requesting prior year tax returns more than five years later

7.1. Regarding very old returns requested where taxpayers don't have records, SARS is investigating and working on a resolution.

8. Request for consideration of an extension to the Trust filing deadline

8.1. Whilst tax practitioners worked hard to meet the new filing season deadline, including working extended hours to achieve this, many raised concerns that the new deadline is just not achievable and they raised concerns about their clients being non-compliant despite their best efforts.

8.2. As previously noted to SARS, the earlier deadlines together with the recent spate of load-shedding which is affecting the provision of network service by the likes of MTN and Vodacom, is creating overwhelming pressure on tax practitioners.

8.3. Specifically with respect to Trusts, tax practitioners asked SAICA to engage SARS regarding an extension to the filing deadline for Trusts which are not provisional taxpayers, given the amount of work involved in the preparation of a Trust return as well as the sometimes complicated nature thereof.

8.4. SAICA noted that SARS itself had acknowledged that 90% of Trust tax returns are filed by tax practitioners and as such, practitioners contribute significantly to ensuring compliance, thus assisting SARS in its mandate.

SARS Response:

8.5. SARS noted that based on an analysis of the effects of load-shedding on prior filing seasons and were of the view that the impact was relatively insignificant.

8.6. SARS further noted that most of the auto assessments had been accepted by the taxpayers as being correct with a limited number of assessments being corrected by the taxpayers.

8.7. Based on the above, SARS was of the view that a general extension of the deadlines was not necessary.

9. The EMP501 reconciliation no longer 'overrides' EMP201 forms

9.1. It has been noted that in the past, the EMP501 reconciliations over-rode the requirement for submission of the EMP201 forms; i.e. if the EMP201s were not submitted.

9.2. This is not the case in the current filing season as one is now required to submit all the EMP201s before submitting the EMP501 reconciliation. It is noted that submission of the EMP201 forms are required in law.

9.3. Due to the SARS system previously facilitating the 'override', it is our understanding that in respect of dormant clients or clients in the deregistration process, EMP201 forms were not always submitted on the basis that no liability was due – i.e. the returns, if submitted, would have been NIL returns.

9.4. SARS was asked to advise as to the reason for the change in practice and whether or not it was intentional. SARS was also asked to consider if it may revert to the previous practice at least for the current filing deadline and to advise relevant stakeholders of the change to be implemented going forward.

SARS Response:

9.5. SARS noted that in the past, the reconciliations were prepared and submitted manually and practice allowed for the EMP501 to override the EMP201 forms.

9.6. Now that this process is electronic, SARS has changed the practice as it believes that compliance with this is much easier. SARS confirmed that this practice only changed during the current filing season.

9.7. The EMP501 does override the EMP201s in certain circumstances – i.e. if most of the EMP201s are submitted before the EMP501, the system may accept the EMP501 even though there may be a few outstanding EMP201 forms.

9.8. There is a legal requirement to submit EMP201 returns monthly. Failure to do so may result in administrative non-compliance penalties in the near future.

10. VAT vendor search

10.1. When using the VAT Vendor search, only the trading name appears in the results box, and not the registered name. As a vendor can use either their registered name or their trading name on a tax invoice, this results in a large number of discrepancies being detected between the invoice and trading name which can then only be resolved by contacting the vendor and requesting a copy of their VAT registration in order to verify which name is being used.

10.2. Where self-invoicing is frequently used, this exercise is becoming exceedingly time consuming for those affected. As SARS requires that this be done, members noted that it would be helpful if the VAT vendor search shows both the registered and trading names.

SARS Response:

10.3. SARS acknowledged the challenge and noted that there is a concern that in terms of confidentiality provisions in the legislation, it is not clear if SARS is permitted to share this information, but this will be investigated and SARS will provide feedback thereafter.

11. Change in status from non-provisional to provisional taxpayer between tax years

- 11.1. Members have raised concerns regarding the potential implications in the circumstances where an individual who was historically a non-provisional taxpayer has changed to a provisional taxpayer during the last year of assessment and therefore will only submit the return by 23 January 2023.
- 11.2. The SARS system only determines an individual's status on assessment and the concern is that where an individual has historically submitted a return by the non-provisional taxpayer due date, failure to do so in the first year of the change in status, may result in a non-compliant status as well as administrative non-compliance penalties.

SARS Response:

- 11.3. SARS advised that if the taxpayer has submitted IRP6 returns and made provisional tax payments during the tax year in question, the system would not automatically treat that taxpayer as non-compliant.
- 11.4. The system would also not impose a late submission penalty until the return is submitted and assessed and SARS makes the determination as to whether or not the person does fit the definition of provisional taxpayer.
- 11.5. Members are to monitor the situation in respect of taxpayers to whom these circumstances apply and any challenges identified must be logged on SAICA's member portal for escalation to and engagement with SARS.

12. Repeated VAT verifications yielding no adjustments

- 12.1. Recently, there have been many escalations regarding SARS' repeated VAT verifications on the same taxpayer, often yielding no adjustments'.

SARS Response:

- 12.2. SARS is working on issuing risk specific letters rather than generic verification letters.
- 12.3. In addition, SARS will analyse the audit history vs case outcomes to determine if there is a need to reduce verifications in respect of certain taxpayers. However, there is currently a 44% adjustment rate on current verifications so a process needs to be followed before any changes may be made.

13. Multiple bookings for tax practitioners

- 13.1. SARS development team is working on an enhancement in this regard. However, this may be delayed if SARS decides to implement multiple enhancements at the same time.
- 13.2. SARS prefers this approach rather than a piece-meal approach. Interim measures to alleviate current challenges may be considered.
- 13.3. Where possible, tax practitioners will be included in the testing process.

14. Delays in estates registration process

- 14.1. SARS noted concerns regarding delays in the estates registration process and advised that it is working on the automation of the coding of estate cases which will hopefully assist in quicker coding of the estates.