

## FEEDBACK SUMMARY – 31 May 2017

### GENERAL

SAICA attends various discussions and meetings on behalf of members with National Treasury (NT), the South African Revenue Service (SARS) and other stakeholders (internal and external). These meetings represent an opportunity for NT and SARS 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 it merely attempts to inform SAICA members of the discussions and of any proposals that were made during such discussions.

## SARS NATIONAL STAKEHOLDER FORUM – 24 MAY 2018

SAICA and other recognised controlling bodies (RCBs) met with SARS on 24 May 2018 to discuss various administrative and operational issues, some of which are discussed below.

### Procedures for raising additional/estimate/default assessments

There have been multiple concerns raised by SAICA members regarding how SARS deals with assessments and related communications, including the following:

- Additional assessments are sometimes issued without clear reason or justification;
- Verification procedures often result in additional assessments without the taxpayer being engaged on the proposed adjustments;
- In some instances, requests for information do not reach the taxpayer or tax practitioner and a default assessment is raised on the basis that the taxpayer ignored the requests;
- Adjustments/journals and in some instances penalty amounts appear on taxpayer statements of accounts, without a related assessment or notice of adjustment being issued;
- Delays have been noted in the reversal of assessments following a Tax Court judgment in favour of a taxpayer – there is no defined process as to how this should be dealt with.



SARS has agreed to investigate the above noted issues and has further noted as follows:

- At the outset, SARS acknowledged that the issue with assessments not reflecting the grounds for assessment upfront, is long outstanding and needs to be dealt with decisively. In anticipation of the 2018 filing season, system enhancements are being rolled out to allow assessors to note more detailed grounds for assessments.
- With respect to information requests, SARS agreed that these would be made more specific, in instances where specific risks have been identified and it was noted that this has already started. Some taxpayers may still receive a general request for information and in those instances, all supporting documentation must be provided.
- SARS noted that they are currently working on the communications model to reflect more specific details and updates which should alleviate some of the communication related issues.
- Furthermore, where no documentation is submitted when requested, refunds will be withheld until taxpayers have complied with the information request and SARS has reviewed these at which point it will issue an assessment.
- With respect to journals 'appearing' on statements of account, SARS has advised that it has implemented a new practice to engage with taxpayers to reach agreement in terms of how to address these adjustments which sometimes arise when the taxpayer completes any transaction on PAYE, for example. Members who are still struggling with this issue should submit examples to [taxcomments@saica.co.za](mailto:taxcomments@saica.co.za).
- With respect to refunds owing due to tax court findings in favour of the taxpayer, SARS acknowledged that there is currently no process to 'handover' the decision to the relevant auditors. It was noted that SARS Legal Counsel is currently setting up a process to address this deficiency.

### **Dispute process**

Members have experienced many challenges with the dispute resolution process. SAICA noted that, given that this is a legal process, it is of utmost importance that the resolution of these issues be prioritised. Below are just some of the issues raised:

- Reasons provided, especially with respect to individual taxpayers, are often felt to be insufficient, both from a factual and legal interpretative perspective, to enable a taxpayer to properly formulate grounds of objection;
- Invalid objections are being issued with reasons which seem more aligned to a disallowance rather than the limited criteria applicable to an invalid objection; and
- Overall, there are concerns that SARS is not complying with statutory timeframes in respect of the dispute process.

SARS acknowledged the above issues and noted that with respect to the reasons provided, the system upgrade to allow for more text to be inserted in assessments should alleviate this to some extent. SARS agreed to investigate the concerns regarding invalid objections being incorrectly issued and have requested examples in this regard.



With respect to timelines, SARS noted that the Service Charter is nearing finalisation and in efforts to ensure that all business units understand the relevant timelines (as per the Dispute Rules), these will also be incorporated into the Service Charter.

Issues regarding errors in dispute forms where certain fields were not available, was also discussed and SARS noted that there is an option at the bottom of the relevant forms where one may 'ADD' dispute items.

### **Debt management**

Members have raised increasing concerns regarding the debt management processes at SARS, with taxpayers and tax practitioners experiencing the following:

- Demands for payment are being sent even after a suspension of debt request has been submitted;
- There is no clear process to follow where the suspension request is not available on eFiling – for example, for Trust related disputes – or where the request is to be made after the dispute form has been lodged on eFiling. This then creates uncertainty for both SARS and the taxpayer as to what constitutes a 'valid' request resulting in the taxpayer being exposed; and
- Third party/agent appointments appear to have increased in the first quarter of 2018 and what is more concerning is that they are sometimes based on 'default' assessments – i.e. an assessment issued on the basis that no/or insufficient supporting documents has been submitted for deductions claimed and all deductions are then disallowed.

SARS acknowledged that there is a backlog with respect to the reviewing of suspension of payment requests and are working on clearing this backlog. SARS noted that since around September 2017, the system has been set up such that should a taxpayer or tax practitioner select the suspension of payment option on eFiling, a notification will automatically be sent to the debt management department and SARS has asked for specific issues to be escalated via the correct channels.

With respect to requesting a suspension of payment prior to or after having submitted a dispute form online, SARS noted that there are facilities now available on eFiling to effect this, whereas in the past it was only available electronically on lodging the dispute form. SAICA requested that SARS update its guides to clarify the various options available.

With respect to manual requests for suspension – i.e. where disputes are not online (e.g. for Trusts) or where there is a system error, SAICA requested that SARS clearly define and document the process in this regard to avoid confusion going forward.

### **Delayed tax refunds**

The delay in the payment of tax refunds continues to be of great concern as was acknowledged by the acting Commissioner at the recent SARS/RCB Leadership meeting, the summary of which was circulated in a prior Integritax Newsletter. The following specific concerns were raised:



- Refund delays are sometimes caused by repeated requests for bank verification for the same taxpayer even where banking details have not changed;
- There are examples of special stoppers being applied again in respect of certain refunds;
- Clients have demands for payments whilst in the objection phase and then when the dispute is successful, the refunds do not materialise;
- Capacity of audit staff is insufficient to finalise audits in a timely manner, thus delaying the payment of refunds where taxpayers are under audit;
- At the 16 May 2017 meeting, a commitment was made to address the issue of blanket assessments specifically. As noted above in the section dealing with assessments, this is an ongoing issue and we await feedback on this.

With respect to bank verifications, SARS noted that bank account fraud continues to be of significant concern. SARS noted, however, that it is working on refining the business rules being applied to identify taxpayers who need to verify their bank accounts. It was proposed that where a bank verification was required, the ITA34 should reflect this requirement on issuance rather than the taxpayer having to find this out only after enquiring about a delayed refund.

SARS noted that the term 'special stopper' may be used incorrectly. Refunds are stopped where investigation needs to take place where risks are identified with respect to a specific taxpayer. SARS noted that it will relook at the process in this regard to ensure more efficient resolution.

With respect to delays in finalisation of audits, SARS noted that cases are dealt with in line with the order in which information is received. It was further noted, that given the proposed shortened filing season, auditors would have additional time to finalise audits as tax returns would be submitted almost one month earlier than prior years. Members must ensure that they submit relevant documentation timeously and in the format required, in order to avoid additional delays.

### **Tax clearance certificates**

Members have noted recent problems with securing tax clearance certificates (TCCs). For example, where taxpayers have submitted an application for suspension of payment, this does not always reflect on the system, and the tax clearance certificate is then incorrectly denied. SARS noted that the request for suspension and tax compliance status are not linked and that they are currently working on addressing this issue. Where members have experienced the TCC being denied due to bank verifications and delays in audit (or in any other circumstances where the taxpayer is not at fault), members must escalate these via [SAICA's online operational query system](#).