THE SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS

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FEEDBACK SUMMARY – 18 April 2019

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 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.

SARS RCB NATIONAL STAKEHOLDER MEETING

11 April 2019

SARS engages with Recognised Controlling Bodies (RCB) via regular SARS RCB National Stakeholder Meetings. We note that the most recent meeting was positive and we look forward to further engagements with SARS with a view to collectively resolving operational issues experienced by members.

Below are some of the matters discussed at the meeting held on 11 April 2019.

1. Lack of adequate communication on various levels

Ongoing concerns have been raised with SARS regarding the lack of adequate communication between SARS and taxpayers/tax practitioners as well as between SARS and RCBs. This includes insufficient notice with respect to updates of returns/forms/eFiling systems, as well as lack of or inadequate notification when assessments are raised or other correspondence is sent to taxpayers or tax practitioners.

SARS has committed to improving communication in all regards and specifically with respect to tax practitioners, SARS have shared plans as to how eFiling will be improved for tax practitioners over the rest of the year, starting in July 2019, based on input provided by SAICA and other RCBs. SARS have also advised that communication regarding changes affecting the 2019 filing season will be shared timeously and opportunities for testing by registered tax practitioners will be allowed in order to identify issues upfront before being implemented for use.

2. **<u>eFiling system glitches and lack of functionality, with no clear alternatives</u>**

SARS acknowledged concerns regarding the eFiling system and the stability and security thereof. In this regard, SARS noted that there would be updates on the eFiling system from Friday, 12 April to the morning of Tuesday, 16 April. This, according to SARS will address some concerns regarding system security and general maintenance.

Regarding functionality that is not currently available on eFiling – for example, Turnover tax returns, donations tax returns and dispute forms for Trusts – SARS noted that they are working on this. However, due to resource constraints there needs to be prioritisation of other updates before these are addressed and SARS indicated that these improvements will be included in the 2020/21 budgeting cycle.

SAICA specifically raised concerns regarding the fact that the suspension of payment request is not available on eFiling for all taxes and, furthermore, one may only request the suspension at the time of lodging the NOO form, where this function is available on eFiling.

SARS noted that where one is unable to request suspension of payment online, this must be done manually. Where the tax compliance status of a taxpayer is negatively affected due to the suspension request not being visible online, the taxpayer has the option to query the status and provide proof of the submission of the suspension request, which SARS will take into account in overriding the tax compliance system status and granting tax clearance.

SARS has also advised that there will be improvements over time to the debt management system to alleviate some of the challenges currently experienced in this area.

3. **<u>Debt management</u>**

Concerns were raised in past meetings regarding the debt management processes at SARS. It appears that this continues to be an issue and requires urgent attention. Some of the issues raised by members include the aggressive nature of debt collectors and follow up on recent debt.

SARS noted that if debt collectors are involved, this is probably due to long outstanding debt that SARS has been unable to recover despite continued follow ups that have been ignored by taxpayers/practitioners.

Regarding the aggressive nature of some calls or some debt collection agents, examples were requested. However, SARS did also advise that the engagement of debt collectors was a temporary measure and the contract has now been concluded. Should SARS decide to outsource this function again, this will be communicated to the public.

4. **<u>Diesel rebates</u>**

SAICA commended SARS for conducting a workshop allowing engagement on this topic at a policy level. For more information, read the feedback summary regarding this engagement

Concerns were raised by SAICA that, despite SARS acknowledging the difficulties regarding the inclusion of diesel rebates on the VAT return and agreeing to prioritise the splitting of diesel rebates from the VAT return, this has again been deferred and may only be implemented in 2021 or 2022. We noted that we have been engaging with SARS on this matter since 2015 and we requested that this be dealt with as a matter of urgency.

SARS advised that the diesel rebate system was over 14 years old and that the issues regarding the system was mentioned in Budget Review, outlining what SARS intends doing. Regarding splitting of diesel rebates from the VAT return, SARS noted that this will be raised in the 2020 budget proposals and stakeholders will be invited to participate in workshops in this regard.

SARS reiterated that despite the fact that diesel rebate related refunds are administered on the VAT system, the legislation that applies is Customs and Excise Act. Therefore, despite automatic set off of diesel rebates with an output VAT liability, vendors are required to pay the VAT due, unless they have specifically requested in writing, and have been granted, the right to set off the VAT and diesel rebate. Where a vendor has not followed this process, the set off is not permitted.

SARS acknowledged that there is a delay in reviewing the rebates due to the fraud being committed in this regard and that should any portion of the rebate be disallowed, this would result in underpayment of VAT and related penalties and interest. With respect to a dispute regarding the outcome of a review/audit of the diesel rebate claimed, an objection must be lodged using a DA51 form, in terms of the Customs & Excise Act.

5. Administrative penalties for late submission of corporate tax returns

With respect to the corporate non-compliance penalties, according to Notice 1372 (Government Gazette, 42100), SARS is required to issue the non-compliant company with a final demand, referring to the aforementioned notice and requiring the submission of the outstanding tax return. Should the company fail to submit the return within 21 business days of the final demand, the penalty may be imposed.

Members have noted that in many instances, the penalty assessment is issued (i.e. the penalty is imposed) without SARS first issuing the final letter of demand.

Members who have experienced this must please send an email with their examples for the purpose of escalation to SARS.

6. VAT registrations

SAICA noted that VAT registrations continue to create a challenge as the process followed by different branches appear to be inconsistent and taxpayers and tax practitioners sometimes have to visit a branch multiple times to finalise the registration, with different documents requested each time. There is even inconsistency based on the different views of officials within the same SARS branch.

SARS agrees that education within branches, nationwide, is required as this continues to be an issue. SARS acknowledges that the inconsistencies may be due to an interpretation issue as different SARS staff may interpret the requirements differently and due to the high level of fraud with respect to VAT refunds, SARS needs to ensure that steps are taken to prevent fraudulent people entering into the VAT system.

SARS committed to addressing the educational problem, but also noted that it would be difficult to strictly apply a 'fixed' list of documents as not all situations are the same and such an approach will frustrate taxpayers and tax practitioners. For example, whilst three months' bank statements are generally required for VAT registration purposes, where the applicant is a new business, a bank confirmation letter plus one month's bank statement would suffice.

SAICA also raised the fact that in the past, SARS agreed that they would endeavour to make the registration process easier, but ensure rigorous procedures before releasing refunds – i.e. in order to address the fraud risk. SARS noted that it will relook at this approach, but there is still a need to ensure that only genuine vendors are allowed into the system.

7. Deceased estates

It is the present requirement by SARS that when an estate registers for income tax, the executor has to visit the branch personally to register the estate. It was requested that SARS consider alternatives (and communicate such to the branches and the public) where the executor is either too old and/or physically challenged and cannot sit in queues at a branch office. For example, the tax practitioner or staff member of the tax practitioner (provided the relevant powers of attorney are in place) should be allowed to engage on behalf of an executor in certain circumstances. The same applies to non-resident taxpayers and trustees, in certain instances.

SARS noted that due to specific risks identified, there are instances where the executor/taxpayer/trustee needs to be present in person for validation purposes. There are, however, exceptions which SARS does cater for.

For example, with respect to banking details, SARS requires fingerprints for verification purposes and have sent the mobile unit to the individual, where circumstances required it. Certain information may also be submitted manually – details of this are available on the SARS website and there is no need for an in-branch visit at inception of the process. SARS also noted that with respect to deceased estates specifically, no new registration is required – i.e. one may use the existing income tax registration and code it as deceased estate. It is only if there is income being received post-death, that a new registration needs to be processed.

With respect to the allowable exceptions, SARS acknowledged that this is not communicated publicly as the exceptions are rare. Arrangements may be made via the relevant branch manager or SARS regional executive, where appropriate. Should members not be assisted by the relevant SARS staff, we encourage you to escalate this to SAICA and we will assist, as appropriate. SARS committed to educating its staff on how to deal with such exceptions.

8. Load shedding

In the last few months, we have all been affected by intermittent load shedding, with some experiencing the effect for up to 9 hours a day, every day, up to a few weeks ago. Members have also raised concerns with regards to the impact of ongoing load shedding on their ability to submit returns and make payments on time, as well impacting their ability to respond to SARS queries timeously. Some have proposed that SARS extend their deadlines where possible, to take into account the delays caused by load shedding – due to the impact on connectivity, landlines and even cell phone connectivity due to cell phone towers going offline.

In view of the fact that extensions are unlikely, SAICA proposed that the remittance of penalties on the basis of delays caused by load shedding should be considered given that this is exceptional circumstances.

SARS agreed to consider this as exceptional circumstances for the purpose of requesting a waiver of penalties, on a case by case basis. Affected taxpayers would need to prove this, for example, by providing evidence that the taxpayer or tax practitioner was on the schedule for loading at relevant times and dates thereby affecting the ability to meet the specific deadline/s.