

24 July 2020

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Dear Mr Buthelezi

## **FILING SEASON 2020: AUTO-ASSESSMENTS AND TIMELINES**

1. On 5 May 2020, the Commissioner of SARS (the CSARS) briefed the public on SARS' responses to the COVID-19 challenges, Filing Season 2020 and a reflection on his past 12 months in office.
2. Following the information shared regarding Filing Season 2020, we have raised concerns mainly to the filing season timelines and auto-assessments, with SARS via various platforms.
3. Unfortunately, we have received no response to our various enquiries and as we move closer to the commencement of filing season including the auto-assessment process that will commence in a week. We are concerned regarding the impact of the changes on taxpayers and tax practitioners.
4. On 3 July 2020, Notice 741 in Government Gazette 43495 - Returns to be submitted by a person in terms of section 25 of the Tax Administration Act, 2011 (the Notice) was issued.
5. This Notice included further details regarding the auto-assessment process which raised additional concerns which we will address in this submission.



## **AUTO-ASSESSMENTS**

6. In terms of provision 3(3), one of the categories of 'Persons not required to submit an income tax return',

'A natural person is not required to submit an income tax return in terms of paragraph 2(f)(vii) if—

1. the person is notified by the Commissioner in writing that he or she is eligible for automatic assessment; and
2. the person's gross income, exemptions, deductions and rebates reflected in the records of the Commissioner are complete and correct as at the date—
  - i. of accepting automatic assessment; or
  - ii. specified in paragraph 4(b)(iii), irrespective of whether the return relates to a provisional taxpayer, if he or she does not respond to the notification by this date.'

7. Recent emails to individual taxpayers provide the following:

*'In August, we will assess a significant number of taxpayers automatically. If you accept the outcome, you do not have to complete a return because we would have done that for you.'*

*If you are auto-assessed, you will be notified per SMS in August – so there will be no need for you to call us or visit a branch. The SMS will direct you to eFiling or the SARS MobiApp to either "Accept" or "Edit" the return.'*

*Some taxpayers may receive communication prior to 1 August 2020 indicating why they will not be auto-assessed, or alerting them to their 2019 return submission findings. This will assist them to submit the outstanding returns. Please adhere to the communication and submit any outstanding returns as soon as possible, to avoid delays in filing your 2020 return, and to ensure a seamless experience this year.'*

8. We note and are supportive of SARS' efforts to make compliance easier for individual taxpayers and to ensure that taxpayers file their returns timeously as this facilitates collection of taxes and processing of refunds.
9. We draw your attention to the following aspects which would improve the process and assist SARS to ensure greater compliance amongst taxpayers.
10. We are of the view that the Tax Administration Act, 2011 (the TAA) currently does not allow for this type of assessment. Whilst SARS may be able to pre-populate the third-party data received, it cannot use such information to auto-assess.
11. Should SARS have a different view, it needs to clarify this and specify what type of assessment this fits into in terms of the TAA.



12. The type of assessment will determine the application of other provisions of the TAA. For example, with respect to section 99 'Period of limitations for issuance of assessment', the period of limitation for a 'SARS assessment' is three years and that for a 'self-assessment' is five years after the date of assessment.

13. An assessment based on an estimation made under section 95 or an assessment agreed upon between SARS and a taxpayer (section 95(3)) is subject to understatement penalties in terms of section 222.

14. Submission: The CSARS should confirm the section in terms of which the 'auto-assessment' will be issued, with specific reference to the application of other TAA sections in relation to such an assessment.

15. The Notice indicates that the CSARS will notify the taxpayer to be auto assessed 'in writing' that he or she is eligible for automatic assessment'. All other information shared refers to an SMS being sent to the individual.

16. Even though an SMS may constitute a written notification by the CSARS, we believe that SARS should also issue a formal letter to the taxpayer in respect of whom SARS will be issuing an auto-assessment.

17. We place on record our concerns regarding an SMS notification as queries regarding taxpayers that have not received notifications has been raised in previous SARS national and regional stakeholder meetings in respect of important correspondence resulting in taxpayers not meeting deadlines.

18. Where the SMS is not delivered, the taxpayer will not be aware of the auto-assessment and the requirement to 'accept' or 'edit'.

19. This is especially concerning given that the Notice provides that if a person does not accept the auto-assessment by 29 January 2021, the assessment will be treated as accepted if the records of the CSARS are complete and accurate as at that date.

20. If a taxpayer did not accept or edit the 'auto-assessment', it is possible that the taxpayer would not have received the related SMS. In this circumstance, the 'auto-assessment' will be accepted as complete and accurate even though some information may be incorrect. The taxpayer may not be aware of the assessment and therefore did not take steps to correct this. It is unclear who would be responsible for the misinformation which forms the basis of the assessment issued.

21. Where a taxpayer accepts the auto-assessment by mistake, it is not clear what the process would be to correct or dispute it.

22. Submission: SARS should, in addition to the SMS, issue a formal letter to affected taxpayers especially given that this is a new process. Such communication should provide details regarding the consequences of accepting or rejecting this 'assessment'.



23. Such communication could be sent by email to the nominated contact on the taxpayer's RAV01 form as well as a letter to be uploaded on eFiling that appears as a notification on the landing page of the taxpayer's profile (whether linked to the individual or tax practitioner) to ensure that the information is sent via various platforms, thus reducing the risk of non-delivery.
  24. If the person is not registered for eFiling, SARS should consider other means of delivery of the communication.
  25. It is imperative that SARS issue communication to the public noting that individuals should check their eFiling profile during the month of August to determine if an auto-assessment has been issued.
  26. Regarding the assumed acceptance of the assessment if the taxpayer does not respond to the auto-assessment by 29 January 2021, we propose that the 'prescription' period should expire three years after 29 January 2021 and should be clearly indicated in communication to relevant taxpayers.
  27. SARS should clarify the process to be followed if a taxpayer needs to dispute the assessment. In the circumstances, we propose that an allowance should be made to the current dispute timelines in respect of an auto-assessment given the risk of non-delivery which could lead to a taxpayer missing a normal dispute deadline in terms of the dispute rules.
28. Please refer to our submission dated 17 June for other, practical concerns regarding the auto-assessment process which may not have been addressed herein.

### **TIMELINES**

29. As noted, we have previously raised various concerns regarding the filing season timelines. Refer to our submission dated 17 June in this regard. In addition, we have sent various emails to SARS stakeholder management and RCB representatives have raised queries at the SARS regional meetings in June, specifically regarding the shortened filing season.
30. We think it is important to reiterate a few concerns whilst raising additional concerns and/or proposals.
31. The SARS timelines seem to cater only for taxpayers filing their own tax returns and do not take into account the important role that the tax practitioner plays in this process nor does it take into account corporate taxpayers with financial year ends in the first 6 months of 2020.
32. With respect to the impact on tax practitioners, many of their individual taxpayer clients will not fall within the auto-assessment category and restricting tax practitioners from filing returns of their other clients will result in a significant disruption to their workflow process and may result in delays in filing. Very briefly, some of the steps involved in filing



a return include data gathering, analysis, preparation of the tax calculation, completion of the return (including ensuring all third-party data is accurate), review, approval and final submission.

33. Delays in the ability to file for all types of taxpayers creates a significant burden on tax practitioners who will have less time to do the same amount of work given that deadlines remain more or less the same as prior years. This will result in some 'idle' staff for two months and some firms having to hire more (temporary) staff to ensure timeous submission during the shortened filing season.
34. If the tax practitioner attempts to prepare in advance and the return when released differs to prior years, there will be a significant time commitment to re-open the thousands of taxpayer files to ensure additional data is collated and disclosed as per the new format.
35. SARS have indicated that the 2021 first provisional tax returns for individuals will only be pre-populated by 1 August, the same date that the auto-assessment process will commence. The deadline for submission of these returns remains 31 August, despite delays in the pre-population of the returns. The delay in populating the returns creates an increased burden and time pressure on tax practitioners who are manually populating these. Given that auto-assessments will also commence in August and will require review, acceptance, or rejection (and editing), there is even more concern regarding the ability of tax practitioners to fulfil this timeously.
36. In many instances, system glitches crop up only once filing season is opened and sometimes take a few days to a couple of weeks to resolve. Just recently the SARS system could not cope with increased system activity and taxpayers were unable to file their EMP201 returns by 5 June due to SARS system challenges. With the compressed filing seasons and system instability it will increase the burden to file timeously.
37. EMP501 bi-annual reconciliations are due at the end of October, shortly before the filing season deadline for non-provisional taxpayer returns. Tax practitioners providing this service as well as individual taxpayer compliance services will be under more pressure to comply with both deadlines given the compression of filing season for individuals.
38. Considering the above issues, there are grave concerns regarding the tax practitioners' ability to meet compliance deadlines within the limited timeframe currently provided for.

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| <ol style="list-style-type: none"><li>39. <u>Submission</u>: If possible, SARS should allow earlier access to eFiling for tax practitioners corporate taxpayer clients.</li><li>40. Where third party information is complete for certain individual taxpayers, these returns could be made available earlier if not part of the auto-assessment category, even if only for viewing, completing and saving returns to allow for the collation of the correct data per SARS requirements in the current filing season.</li><li>41. If it is not possible to allow earlier access, we propose that SARS consider extending deadlines by two months, given the two-month delay in commencement.</li></ol> |
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42. We respectfully request SARS to consider cancelling the August 2020 third-party submissions, including PAYE, to free up resources.

43. We appreciate the opportunity to engage SARS on these issues with a view to working together towards resolving these and enhance tax compliance. Should you wish to discuss any aspects of this submission, please contact us.

Yours sincerely

**Somaya Khaki**

Project Director: Tax

**Marelize Loftie-Eaton**

Chairperson: SAICA TAA Subcommittee