

Ref: #771761

Submission File

23 November 2021

South African Revenue Service
Private Bag X923
Pretoria
0001

BY E-MAIL: [REDACTED]

Dear Mr Kingon and Mr Ntombela

VAT VERIFICATIONS: SALE OF PROPERTIES AND TRANSFER DUTY EXEMPTION CERTIFICATES

1. On behalf of SAICA's National Tax Committee, the SAICA VAT Sub-Committee herewith takes the opportunity to present the challenges experienced by VAT vendors with the process followed by the South African Revenue Service (SARS) during VAT verifications initiated by SARS in respect to the reconciliation of declarations made in transfer duty exemption certificates (TDREPs) where fixed properties are disposed of.
2. We wish to bring these challenges with the processes followed by SARS to your attention in an attempt to find a more practical and less administratively burdensome way to finalise these types of verifications that appear to be on the increase.
3. We set out below our comments and recommendations in this regard.

COMMENTS

Background

4. A vendor enters into a sale of fixed property that is subject to VAT and not transfer duty and the conveyancer then duly applies to SARS for a TDREP in order to lodge the request for transfer at the Deeds Office.
5. The TDREP contains the value of the supply, as well as the VAT due and the *anticipated* date of transfer. The time of supply for the sale of a fixed property (when the VAT should be declared) is the earliest of payment of consideration (e.g. purchase price or any portion thereof) and the date of registration in the deeds office (section 9(3)(d) of the VAT Act).
6. SARS appears to have embarked on a new project whereby it aims to verify the VAT declared as due and payable in the TDREP against the VAT declared in the relevant VAT return submitted by the supplying vendor.



Process followed by SARS

7. SARS sends out a standard verification request via e-filing which contains very limited details to enable a taxpayer to identify and provide support for the particular transaction(s) / supplies SARS is seeking to verify and it mainly includes a statement that the vendor sold fixed property and that it must confirm that the VAT was declared in a return.
8. The verification request is issued in relation to a specific VAT period and a case number is created for further correspondence.

Challenges identified

9. Firstly, SARS issues the verification request for a specific VAT period, however, in most instances, the supplies in respect of which SARS is trying to verify the output tax, did not occur in the VAT period subject to the verification. Furthermore, SARS may refer to a number of supplies in the verification notice and these supplies may well be reported over a number of VAT periods rather than the specific one being verified.
10. We understand that a verification is a face-value verification of the information declared by the taxpayer on the declaration or in a return. SARS confirmed that it will conclude the verification within 21 business days from the date all required relevant material is received (if the return is for the current filing period).
11. It is therefore accepted that a verification is aimed at checking that the details contained in the specific VAT return is accurate and complete and that there are no errors in that specific tax return, not any other tax return not subject to the verification, which is what invariable happens.
12. This verification process in its current form is in our view not aligned to the provisions of the Tax Administration Act, 28 of 2011 ("TAA") as it is aiming to verify transactions that are not included in a return that SARS is verifying.
13. Submission: SARS should amend the request to ask vendors to confirm in which VAT periods the VAT noted in a TDREP was declared and to specify what particular proof SARS requires to be satisfied that the VAT was indeed included in a return.
14. The second issue is that the verification request does not contain the necessary detail to enable the vendor to comply with the request which is often not even clearly articulated as it is simply typed into the e-filing input box on SARS's side and the SARS official is using an aggregated amount for a number of transactions being queried so that the amount per each supply cannot even be discerned.
15. There is also no contact person noted therein to whom further correspondences to clarify the request can be addressed which makes it very administratively burdensome as the



vendor has to email SARS's general mailboxes to notify SARS that it cannot respond, and that the vendor requires further information. This then generates an automated response with a turnaround time of 21 business days which delays the process and adds a further admin layer that is not necessary. Also, SARS may not respond within that 21 business days and the vendor will have to again email the general mailbox to get the query addressed.

16. The verification request also includes no details of the TDREPs or ERF numbers so that a vendor can identify which ERF was sold and try and reconcile it to its VAT records. It must be appreciated that a vendor such as a Bank or a property development company may have output tax recorded in a single VAT period for thousands of transactions so identifying a sale that created a VAT liability of a negligible amount is not possible unless the TDREP details are also made available.
17. The third issue is that as a result of using the verification process to manage these reconciliations (and the noted shortcomings thereof as per above), the vendor eventually engages via email with a SARS official who provides the details and often does not provide a deadline for feedback, or if such a deadline is provided it doesn't align to the usual periods provided for by the TAA or under SARS' Service Charter. Also, having now exited the formal process as emails are now being sent outside the e-filing system, the concern is that it opens up this process to manual manipulation and human error given the interaction between the system and the officials.
18. For instance, in a particular case a SARS official provided an extension for the submission of the supporting documentation/information after the details of the TDREPs had been sent to the vendor. However, the SARS e-filing system for uploading the supporting documentation seems to run independently and was then locked before the vendor's manual due date for submission. As the information was not uploaded on e-filing, the system generated an assessment. However, the vendor was still entitled to submit/upload the information and the assessment was technically raised prematurely. This required the vendor to object to the incorrect assessment or submit a section 93(1)(d) application if applicable which delays the process even further.
19. As a side issue, SARS should ideally also note what proof they will accept as to the reporting of the output tax in a specific period. For smaller entities with only a few transactions it is easy to provide an output tax schedule with total VAT due that can be verified to the VAT return, but it is not simple for large vendors with thousands of monthly transactions and VAT as input and output schedules would not be prepared with such level of detail. In this respect, SARS should prescribe what will be acceptable detail to verify the VAT on the TDREPs, such as for instance, entries into the accounting system where the VAT is booked to specific output tax VAT account for the relevant period which is accepted as rolling up into the final output tax amount for that VAT periods. It is submitted that going beyond that would be very onerous in trying to tie the VAT on these transaction into the overall VAT return disclosure.

20. The current manner in which these transactions are verified by SARS, not only creates an administrative burden, delays the close-out of these requests, requires unnecessary involvement of e-filing notifications which are often not correct, but also results in wasted resources on both SARS and the vendor's side.

21. Submission: It is suggested that the process is amended and that instead of e-filing generated verification requests being used for purposes of the reconciliation exercise SARS aims to undertake, SARS should issue a formal section 46 request for information which includes the following detail –

- * The contact details of the SARS official dealing with the request;
- * A response time that is reasonable and in line with SARS' practice;
- * Either the details contained in each TDREP, or the actual TDREP which SARS seeks to confirm/verify; and
- * Full details of what SARS requires to be provided in order to complete the verification.

22. The above will perhaps be managed outside the e-filing system but it will improve the efficiency and turnaround time so that vendors can respond to SARS timeously and with limited additional engagement with SARS.

23. This will then also preclude the relevant VAT period being locked for correction once the verification is actioned as it may well be that the supplies do not even fall into that VAT period at all as alluded to above which results in an unfair position for the vendor.

Should you wish to clarify any of the above matters please do not hesitate to contact us.

Yours sincerely

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The South African Institute of Chartered Accountants