

SAICA FEEDBACK SUMMARY

15 NOVEMBER 2018

GENERAL

SAICA attends various discussions and meetings on behalf of members with National Treasury (“NT”), 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 NATIONAL STAKEHOLDER MEETING 7 NOVEMBER 2018

SAICA and other recognised controlling bodies (RCBs) met with SARS on 7 November 2018 to discuss various administrative and operational issues, some of which are discussed below.

1. Debt management

- Demands for payment are being issued in writing and/or taxpayers or their practitioners are being called by SARS officials or, in some instances, third party debt collectors to follow up on ‘outstanding’ debt even before the payment due date of the related debt. In some instances, the caller notes that they require details of when the payment will be made in order to ‘make notes on the system’. SARS have noted that these are just courtesy calls from SARS and in the ordinary course of operations.
- Concerns have been raised regarding the methods used by the third party debt collectors to recover monies outstanding as well as the aggressive nature of some of the agents. The email addresses used sometimes creates concern as one is not sure whether the email is valid or a scam attempt. SARS advised that a list of debt collectors is on the website and SARS will include email addresses on the website as well so taxpayers and practitioners may check and validate these
- In some instances, the debt collection agents seem to have incomplete or outdated information and seek to secure more information from the relevant tax practitioner. Agents are also not being timeously updated on payments that have been made creating confusion for taxpayers and tax practitioners. SARS responded that it is the

taxpayer and practitioners duty in terms of section 23 of the Tax Administration Act, 2011 (the TAA), to ensure that contact details are updated when these change. These must be updated on the relevant client eFiling profile and the RAV01. Failure to update sometimes results in what seems to be outdated contact details. SAICA challenged this and noted that this could be a SARS system error since despite updating details, SARS system still seems incorrect. Any discrepancies in information (i.e. where this has been updated), should be taken up with SARS.

With regards to updates on debt, SARS noted that every Monday, debt collectors are being updated with payments/credits that took place over the last week. Unfortunately this cannot be done daily and may be causing these discrepancies.

- There continues to be an issue with respect to suspension of debt due to the time taken to make a decision as to whether to grant the suspension or not. This results in the situation where the taxpayer is of the view that a suspension is in place (as SARS have not rejected the application), whereas SARS continues to issue demands in respect of the affected debt given that there is no link between the request for suspension (on eFiling) and the debt collection process. The non-processing of the request results in IT88s being issued, money is taken, even if suspension has been requested (and not denied).

SARS acknowledge that they have been flooded with requests to suspend debt and there is a backlog to process, hence the delay. SARS agrees that this needs to be prioritised as it has an effect on collection procedures and tax compliance statues, for example.

SARS have also noted that in some instances, it appears that taxpayers and practitioners may be using this a delay tactic – i.e. a suspension request is submitted, but no objection is being lodged so this creates a delay in the whole process as SARS needs to distinguish between valid requests and intentional delays. Tax practitioners must familiarise themselves with the conditions applicable when making a request for suspension of debt (refer to section 164 of the TAA in this regard).

2. Lack of adequate communication

We note that SARS has been working on improving communication between RCBs, taxpayers and tax practitioners. However, there are still issues regarding communication between SARS and taxpayers or tax practitioners, which need to be addressed, as they have a direct impact on affected persons to take action in a timeous manner. Some examples are noted below.

- When additional assessments are issued via eFiling, in some instances, no notification is being sent to taxpayers or tax practitioners resulting in the assessment being 'missed' and in many instances resulting in the lodging of late objections when the assessment comes to light. SARS maintains that the notification system should be working in all instances, however, all RCBs agreed that this does not happen in some cases. Members need to be more vigilant and escalate such issues to their RCBs to validate this issue. Examples may be sent to taxcomments@saica.co.za. Without examples, it is difficult to prove the issues to SARS and members need to provide input in this regard.

- In some instances, whilst an additional assessment may refer to a letter providing reasons for the assessment, no such letter is available on eFiling. It is only on visiting a SARS branch, where the letter may be obtained. This results in a waste of time and resources both for SARS and the taxpayer. For investigative audits, SARS noted that the letter may not be on eFiling as the auditor may respond directly via email, with the letter of findings. For compliance audits, these should be on filing. SARS has agreed to investigate this further. Examples have been provided, but SARS would like further examples to validate that this is not isolated. Examples may be sent to taxcomments@saica.co.za.
- Despite SARS committing to including detailed reasons for the issuing of additional assessments, there are many instances where reasons are not provided. In some instances these assessments seem to be issued without consideration or adequate review of requested documents that have been provided by the taxpayers.

In addition, some assessments are issued noting that the taxpayer has not been selected for verification or audit. On following up on the refund, one discovers that this is being due to the return being selected for verification – i.e. no communication is being sent until the taxpayer or tax practitioner follows up with the SARS Contact Centre on outstanding refunds. Similarly, requests for documentation are still quite 'general', in most instances, despite the commitment to issue specific requests for documentation.

SARS have agreed to look into the above issues and where members are experiencing this, members are encouraged to please forward examples.

3. Non-compliance with time-frames

We commend SARS for finalising and issuing the long-awaited SARS Service Charter earlier this year, wherein SARS commits to endeavour to comply with certain time-frames in respect of various processes, some of which are provided for in legislation (for example, dispute-related time-frames) and others which are to be guided by the Service Charter, for example, payment of refunds and processing documents or new registrations. Members have noted, however, that SARS is not complying with the abovementioned time-frames in certain instances, for example:

- Registrations, where no documents are required, are not always completed within 7 days of application. SARS noted that there were delays during filing season due to the volume of registrations in that period. There were apparently delays also as a result of mismatches in data which has now been resolved. If members are still experiencing significant delays, please send examples of this. From a SARS perspective, SARS noted that sometimes the documentation submitted is not always clearly visible, therefore SARS can't verify the information and this delays registration. Hopefully now that SARS has stopped using fax communication this issue will be alleviated to some extent.
- Refunds are not paid within the noted time-frame post finalisation thereof. In some instances, when following up on refunds, this has triggered newly initiated verifications on assessments that had been finalised. SARS advised that a refund appearing on the statement is just a 'credit' until SARS checks if there is any other outstanding debt, or if, for example, there are outstanding returns (that could result

in debt). Once the refund is finalised, in most instances, refunds are paid within 3 – 4 days. However, this may not always be the case and deviations must be escalated. The Office of the Tax Ombud (the OTO) is always investigating delayed refunds as a systemic issue and we have noted a quick turnaround where members escalate issues via the OTO. We therefore recommend that where escalation to SARS has yielded no results (and the refund is validly due), the matter should be escalated to the OTO.

- There are extended delays in finalisation of verifications ('compliance audits'). Furthermore, dispute related time-frames continue to be a concern with matters remaining outstanding for extended periods of time. The OTO is also investigating non-compliance with time frames in various circumstances. Again, we encourage members to escalate matters to the OTO where these matters are not satisfactorily dealt with by SARS, within a reasonable timeframe.

4. Tax refunds

As noted above, there are ongoing delays with the payment of tax refunds. However, other issues have also arisen in this regard:

- Journals appearing on statements of account to seemingly 'reverse' refunds due to the taxpayer. SARS acknowledges that there are problems with PAYE, but shouldn't be a problem with VAT. This issue is being investigated by the OTO and we urge members to submit examples. Please see the survey link that was sent via the Integritax Weekly newsletter.
- Ongoing bank verifications delaying the processing of refunds without notifying the taxpayer of the need for the bank verification (and without bank details having changed). SARS noted that bank verifications are often triggered where information on the IRP5 doesn't match the ITR12. Apparently, notification of the verification required is only sent by SARS once a week, because it's not an automated process. Therefore, there may be a delay before taxpayers are made aware of the need to verify bank details.

5. Segregation of duties at SARS

Concerns have been raised regarding the lack (or perceived lack) of adequate segregation of duties at SARS. There are concerns that in some instances, the person who raises an assessment or revised assessment seems to be involved in the dispute process, despite the fact that a separate team should be making decisions in this regard, based on the information provided by the auditor/assessor and the taxpayer.

The proposed approach is that the assessor/auditor should document their reason for the assessment on the SARS system. All future requests for reasons or disputes must then be handled by different staff/divisions within SARS – i.e. the objection committee should make a decision without the auditor/assessor being involved in that decision-making process, other than to ensure factual information in a written format. The person who raises the assessment should never again (except in court) be involved in the matter.

SARS has advised as follows:

- For compliance audits (verification) – the ‘auditor’ is not involved in the dispute
- With respect to investigative audits – there may be a perception that there is an issue with segregation as the auditor will need to make his/her case for the SARS assessment, but SARS maintains that the committee (chaired by Legal) ultimately makes the decision and the auditor merely provides evidence.

Where members feel that the above is not the case, these examples need to be escalated to SAICA.

6. SARS System/Data integrity Issues

Given recent reports, concerns were raised regarding the sustainability of SARS systems SARS was requested to share details as to how these will be addressed. Concerns were also raised specifically with respect to the integrity of data on SARS systems with tax practitioner members noting ‘missing’ or inconsistent information. Just some examples are noted:

- Despite updating contact details via the relevant RAV01 form, there are concerns that the information on the internal SARS system (and which it uses to contact members) is outdated. In some instances, correspondence is sent to tax practitioners who stopped providing services to the client many years ago. In this regard, there are concerns regarding the sharing of confidential taxpayer data with the wrong person.

SARS noted that one needs to update details on the RAV01 and eFiling profile – if not, there will be two sets of data – which may unintentionally not match. Apparently SARS needs to maintain separate data as taxpayers may have different practitioners dealing with different tax types. SARS also reiterated that changing information on the tax return will not update the database and they believe that some practitioners have the misconception that changing the data on the return will update the main database. Changes must be made on eFiling and the RAV01.

- Other issues raised, which SARS agreed to provide feedback on are set out below:
 - Documentation uploaded seems to ‘disappear’ as there are constant requests for the same information to be uploaded post-submission thereof
 - Errors in tax return forms and other forms which affect the ability of the taxpayer or tax practitioner to correctly disclose information. For example:
 - information ‘disappears’ in certain sections of the ITR14 return on submission thereof. One example of this is the transfer pricing information which after completion of the relevant sections and submission of the return, it is noted that the fields are then ‘blank’. SARS have advised that this will be fixed by 16 November.
 - dispute forms are still prepopulated in certain fields, and cannot be changed, i.e. “contact details”, “particulars of representative taxpayer” and “address for delivery of notices”. This issue has been raised in the past and appears to remain unresolved

- Requests for remission of penalties is not always available/functional on eFiling

Members are again encouraged to send examples of the above issues to taxcomments@saica.co.za.