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Submission File

17 November 2020

The Office of the Commissioner
South African Revenue Service
Private Bag X923
Pretoria
0001

BY E-MAIL: tradzilani@sars.gov.za
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Dear Mr Radzilani

THE REVIEW OF THE TAXPAYERS SERVICE CHARTER

1. Your letter of 20 October 2020 refers, wherein SARS noted that it is reviewing the current Taxpayers' Service Charter in order to align it with SARS' vision and strategic objectives and therefore requested input to this process of enhancing the service charter to ensure that it has an outward view.
2. We sincerely appreciate SARS' willingness to collaborate with SAICA and other stakeholders in this regard.
3. For ease of reference, we set out in Annexure A, our proposals for enhancement of the Service Charter, section by section, as per the current SARS format.
4. Should you wish to clarify any of the comments, please do not hesitate to contact us.

Yours sincerely

Pieter Faber
Senior Executive: Tax

Somaya Khaki
Project Director: Tax Operational Support



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GENERAL

1. Our overall concern regarding the Taxpayers' Service Charter (the TSC) is not mainly the content thereof, but how effectively it is being implemented by management.
 2. During our engagements with SARS via the various stakeholder forums, it has always been a concern that despite the TSC being in place, some aspects thereof are not adequately enforced and therefore the TSC is of less effect - i.e. it is only as good as the manner in which it is implemented.
 3. For example, whilst timelines in terms of the Dispute Process are regulated in terms of the Dispute Rules and defined in the TSC, the recent report by the Office of the Tax Ombud (the OTO) on the outcome of its systemic investigations related to dispute timelines indicate that the TSC and the Dispute Rules are not being adhered to, in many instances.
 4. Given that this is a breach of law, we would have expected even much more dedication and accountability by SARS management in ensuring compliance by SARS officials.
 5. Some of the wording used in the TSC is also disappointing as it does not refer to an absolute commitment to fulfilling the service levels per the TSC, but rather that SARS will 'endeavour to' or 'strive to' do such. It seems that without any transparent accountability these "best efforts" do not endear SARS officials to really attempt to meet it.
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| <ol style="list-style-type: none">6. <u>Submission</u>: SARS should strive to ensure that all staff are well aware of the TSC and that measures are in place to test adherence thereto, from a SARS perspective.7. For example, SARS can extract records to test whether disputes are responded to within relevant timelines or whether or not refunds are paid within 21 days of finalisation thereof and address non-compliance with these timelines.8. Transparency on KPI for the TSC is critical. Perhaps there are measures in place to do this which stakeholders are unaware of and if so, it would be useful if this is communicated to stakeholders. To encourage a SARS culture of transparency but also correct incorrect perceptions by taxpayers, it is recommended that SARS include comparative statistics in its Annual Report as to how it fared in meeting all the service level objectives it set itself.9. SARS management should also be transparent in its interventions to improve SARS Service Levels. The lack of public information creates the impression that nothing is being done which we know to be untrue. However, it will also highlight where there are areas where too little is being done to effect improvements.10. Lastly, should a best efforts document like the TSC not achieve the desired results of enhanced service delivery by SARS Officials, the alternative may be to consider a Taxpayer Bill of Rights which is legislated and therefore will need to be adhered to. |
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CURRENT CATEGORIES

Engagement

Communication - General

11. There continue to be concerns regarding inadequate communication by SARS to stakeholders, taxpayers and tax practitioners and various examples were cited in stakeholder engagements. SARS are especially reluctant to publicly communicate when there are IT system faults (which are a natural aspect of IT modernisation) and it is usually exactly the time that it should increase communication.
 12. These communications are also sometimes after the fact or not timeous for taxpayers to make the necessary interventions.
 13. The communications strategy seems still very centralised and in silo's with no apparent strategy to include stakeholders and leverage their reach in an appropriate and coordinated manner to enhance service delivery.
 14. Regarding some of the more general aspects dealing with engagement, we have made a few proposals below which we believe will assist in enhancing engaging at all levels.
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| <ol style="list-style-type: none">15. <u>Submission</u>: The use by CSARS of social media is welcomed and has been well received by the public. However, SARS' general lack of communicating on social media and video channels such as Youtube, especially on guidance and work around or announcing challenges, result in a very narrow reach.16. Where system errors occur that result in letters sent in error to specific taxpayers, SARS must issue letters of correction to every single affected taxpayer in the same manner that the incorrect letter was sent, rather than sending a 'general' letter addressed to all.17. All letters issued by SARS should have the name of the SARS official/auditor, their email address and their contact details which will enable more efficient resolution of queries and finalisation of the matter for both SARS and the taxpayer.18. SARS should commit to upskilling/training their staff on using social media and other media platforms.19. SARS should collaborate more with stakeholders on communication plans and strategy especially for big changes like filing season or large system or process changes, enabling SARS to better leverage stakeholder platforms to communicate.20. Lastly, SARS should finalise and adopt its own 2016 proposals in the draft section 255 TAA regulations to compel SARS to send notifications by email to the taxpayers nominated email address when any correspondence is uploaded on the taxpayer's Efiling profile. |
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21. We understand that many SARS staff are currently working remotely and SARS have invested in ensuring that its staff has the necessary tools to work as efficiently as if they were office-based.
22. However, we have had many complaints regarding the online appointments where agents either do not honour the appointments at the scheduled time or there are connectivity issues delaying the meeting and then running out of time.
23. There is also a reluctance to allow branch visits. This is very frustrating for the taxpayers and tax practitioners and is not conducive to efficient resolution of issues.

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| 24. <u>Submission</u> : SARS' system should issue a survey questionnaire after each online appointment to determine the efficiency and effectiveness thereof and address deficiencies in the process. Alternatively, if an online appointment is not honoured by SARS, SARS should allow a branch appointment if the taxpayer or tax practitioner chooses. |
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25. Whilst remote working does make sense in the current circumstances, SARS still needs to ensure adequate service delivery to all that should not be hampered by connectivity issues experienced by individual agents. If connectivity is an issue, alternatives need to be considered.

New centralized mailbox for tax practitioners and taxpayers

26. SARS has introduced new mailboxes for use by taxpayers and tax practitioners. Specific mailboxes to deal with certain queries have also been introduced as a means of addressing taxpayer needs due to the limitation on branch visits.
27. There are concerns regarding the capacity of the mailbox and the timelines for a response as they are continually full. In fact this new mailbox was full and unresponsive within the first day of its implementation.
28. The decentralisation of authority and decision making within SARS, but with centralised oversight under the new 9 regions and other 3 units was welcomed. However, it seems that SARS communication strategy has not been similarly decentralised with only central oversight and alignment. Mailboxes as communication channel should be aligned to the new SARS structure.

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| 29. <u>Submission</u> : SARS must update the TSC with the following email addresses, for the purposes of contacting SARS for general queries: |
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For Tax Practitioners: pcc@sars.gov.za

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| 30. For specific queries - i.e. debt management, payment allocation etc, SARS must perhaps include a hyperlink in the enhanced TSC to the page on which such details are shared. |
| 31. The TSC must specific response times for each of the mailboxes as well as action to |



be taken if these timelines are not adhered to.

Contact Centre

33. Submission: SARS must commit to regularly training of Call Centre agents to ensure that taxpayers get the correct information. As a control, SARS should randomly listen to recordings to ensure that the agents are providing the correct information and be transparent in the outcome of such quality checks.
34. SARS should commit to ensuring that all Call Centre agents are made aware of known errors and the channels whereby taxpayers and tax practitioners may resolve these, rather than referring taxpayers to third parties to resolve SARS' issues.
35. SARS must commit to a maximum waiting time before a caller is assisted as current waiting times are untenable. A solution may be to offer a call back option after a caller has waited more than ten minutes on the line.
36. We further propose that SARS train some Contact Centre agents to be able to deal with more "complex" issues competently - i.e. there should be someone within the Team with more in-depth knowledge on specific matters to enable referral of such matters where the Contact Centre agent's knowledge is limited in this area.

E-filing/Technology

37. We commend SARS for its quick response to the COVID19 situation by extending electronic platforms within a short time frame and note that this is indicative that SARS does have capability to modernise other functions.
38. There are currently some limitations in terms of functionalities available on eFiling.
39. Submission: With the 4th Industrial Revolution, SARS should ensure that all its processes are available on e-filing.
40. In addition, SARS should make a commitment to update technology by a specific date, where enhancements are necessary for certain functionalities - for example, modernisation of the tax exempt institution space and online donations tax forms.
41. The Tax Administration Act, 2011 (the TAA) is very deadline-driven. We understand that SARS plans on implementing an online dashboard for taxpayer-related correspondence from a tax practitioner perspective as well as to provide updates on the progress within an audit or payment of refunds. However, there are no defined timelines for implementation. In implementing this dashboard, SARS should consider extending this to all taxpayers and in respect of other administrative functions. The user interface should be a visual timeline showing all relevant events, deadlines and correspondence. From a TSC perspective, SARS should commit to updating the information on this dashboard as and when the matter progresses, in respect of the



following matters (at a minimum):

- a) Date of notice of assessment
- b) Date of request for extension
- c) New deadline to submit objection
- d) Date objection was submitted
- e) Due date for SARS to respond to objection
- f) Deadline for taxpayer to submit appeal
- g) Start of ADR
- h) Deadline for ADR to be completed; etc.

At each relevant stage, SARS should commit to issuing communication in the form of an email and SMS 7 days before a relevant deadline.

42. Submission: We are aware that this would require significant software build at a time when SARS is struggling for capacity. However, considering advancements in technology and the decline in the cost of developing software, this must be something that is on SARS' medium-term horizon.
43. Uploading of documents should not be limited to a specific file size.

Registration

44. Even though the TSC notes the turnaround time as two business days where no inspection is required, in many instances, SARS fails to communicate within this two-day turnaround period.
45. If the turnaround time is in fact 2 days, then this is likely an automated process and therefore the question arises as to whether this can be done automatically.

46. Submission: Instead of committing to register taxpayers within two business days of initiation of registration, we propose that SARS should register the taxpayer on the same day as the branch visit or virtual appointment and provide the tax number immediately, in those instances where all the relevant supporting documents have been made available and no inspection is required.

47. Whilst SARS notes that where inspection is required, the registration will be finalised within 21 days, there is no indication in terms of timelines for requesting the documentation for further inspection and request for further documentation, where relevant.

48. Submission: We propose that where inspection is required, SARS request this within 2 business days of the application being made and say, 7 days to review the documentation and finalise the registration unless further documentation is required.
49. Further, SARS should commit to clearly communicating standard documentation required for registration of different taxes and should endeavour to ensure that this is



consistently applied across consultants and branches. Such information is to be made available on the SARS website and in SARS branches.

50. Examples of exceptional circumstances should also be communicated to indicate in which circumstances further documentation will be required.

51. There are currently challenges and delays experienced with respect to the verification of banking details.

52. Submission: The TSC should provide that banking details should be validated and confirmed within 48 hours as this contributes to loss of interest on VAT refunds.

53. The current TSC does not include timelines for deregistration.

54. Submission: SARS must implement electronic channels and timelines for deregistration for all tax types.

Returns/Declarations

55. The TSC notes that SARS will finalise a verification within 48 hours. However, it is not clear whether this relates to customs or other taxes.

56. Submission: SARS should clarify what the turnaround time refers to as the Inspection, Audit and Verification section refers to different timelines.

57. If this refers to all verifications, there should be a commitment to either complete this within 48 hours and/or notify the taxpayer at the same time if additional information is required.

58. In terms of manual intervention, a timeframe should be provided for when a return will be assessed and a reasonable timeframe is proposed of less than 21 business days.

Inspection, Audit and Verification

59. Whilst the TAA defines the audit process and timelines within which certain functions or actions must be completed in the audit context, there are concerns as to whether this is adhered to and it may be useful to reiterate some of these in the TSC.

60. There is a further concern that the TSC seems to distinguish a 'verification' from an 'audit'. However, there is no clear distinction in the TAA and the view adopted by SARS which seems to be entrenched via the current TSC contradicts the ordinary or dictionary meaning of audit.

61. A dictionary definition of 'audit' is 'a formal examination of an organisation's or individual's accounts or financial situation' or 'a methodical examination and review'.¹ The ordinary meaning of the term "audit" accordingly encompasses any of SARS'

¹ <https://www.merriam-webster.com/dictionary/audit>



actions that would lead to the issuing of an additional assessment - i.e. including a 'verification'.

62. Even if SARS' view differs in the interpretation in this regard, we believe that there needs to be more defined rules for all inspections, audits and verifications.
63. To enhance the service delivery on verifications, it would be better to formalise in law what the process is verification and what the administrative balance measures and remedies are for taxpayers.

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| 64. | <u>Submission</u> : SARS must provide the taxpayer and its tax practitioner with a notice of commencement of an audit, including a verification. |
| 65. | Where the verification period extends beyond 21 days after documentation has been submitted, SARS must keep the taxpayer informed as to the progress thereof. |
| 66. | SARS must keep the taxpayer updated with progress reports (we suggest the 90 days are shortened to 60-day intervals) in respect of their audit. We recommend the issuance of a revised public notice (GG) to give effect to this. |
| 67. | Furthermore, such progress reports should provide a meaningful update on the status of the taxpayer's audit (instead of being generic/system generated). |
| 68. | SARS must also provide timelines with respect to finalisation of audits in respect of returns for prior periods as the current TSC refers to returns for the current period, only. |

69. We note that whilst SARS allows itself 21 business days after documentation has been submitted, to provide an update, the same courtesy is not afforded to taxpayers when SARS requests information.

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| 70. | <u>Submission</u> : The same timelines afforded to SARS to respond to taxpayer queries or following submission of information, should apply to taxpayers whether in respect of audit or other documentation requests, including requests in terms of paragraph 19(3) of the Fourth Schedule. |
| 71. | Though SARS claims to require more time due to having 12 000 employees, many taxpayers have multiple entities and 3 fold as many employees through which matters must be directed. |

72. According to the OTO's list of Systemic Issues, one of the issues noted is 'SARS' failure to take information at its disposal into account', more specifically, SARS requests information during audit/verification/objection procedures and takes decisions without taking into account the information submitted by a taxpayer.



73. This is supported by the findings of the recent PWC's Taxing Times Survey², wherein a concerning 66% of the respondents reveal that SARS' letter of assessment/ audit findings is identical to SARS' letter of audit findings.

74. Submission: Where a letter of audit findings has been issued to the taxpayer, SARS officials must ensure that they read and digest the information contained in the taxpayer's response to the letter of audit findings, before the issuance of a finalisation of audit letter.
75. SARS should endeavour to performing an independent review of the outcome prior to issuing the letter especially with respect to more complex matters.
76. We believe that it is possible that SARS is over-auditing compliant taxpayers. SARS should adopt a better "risk-based" approach which reduces the audit burden both on taxpayers and on SARS.

Refunds

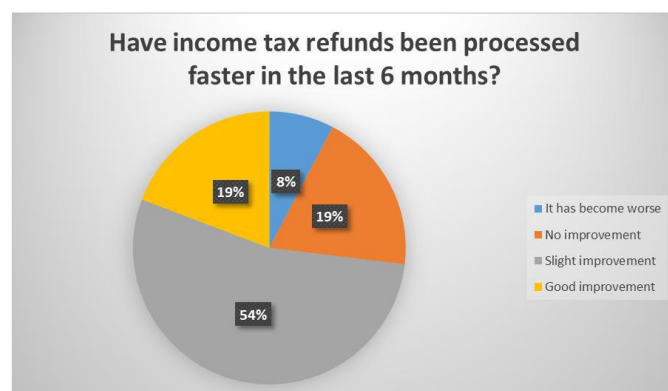
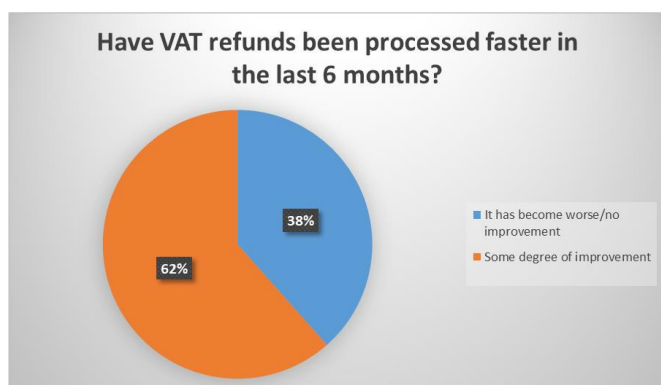
77. Whilst SARS indicates that if a current year's refund is due to you and 'no inspection, verification or audit is required or has been initiated', the refund will be paid within 7 business days of finalising the final assessment (other than customs).

78. There have been complaints that SARS may be withholding refunds where the verifications involve other periods, unrelated to the period in which the current refund is due.

79. Submission: SARS should change the wording to 'no inspection, verification or audit is required or has been initiated **in respect of the current period**'.

80. We are pleased to note that 65% of respondents to the PwC Taxing Times 2020 survey stated that VAT verifications are being completing within 21 days, up from 60% in 2019 and 37% in 2018, and receive their VAT refund shortly thereafter.

81. This correlates to SAICA's own research that compared to 2016 and again in 2018, 2020 showed improvement in the area of refunds.



² <https://www.pwc.co.za/en/assets/pdf/taxing-times-2020.pdf>



82. At the moment, although section 190 of the TAA instructs SARS to make payment of refunds to taxpayers, there is no firm deadline to which taxpayers can hold SARS. However, the current TSC indicates that refunds will be paid within 7 business days of finalising the related assessment.

83. Submission: In our view, 7 business days is a reasonable timeline. However, SARS must ensure that this is implemented effectively by endeavouring to test compliance therewith.

84. We are aware of incidents where, after having paid refunds, SARS then appointed third parties to repay such refunds to SARS on the basis that fraud was detected.

85. Submission: SARS should ensure adequate review of the refund prior to payment thereof, whilst still making payment within the proposed turnaround times.

Payments

86. Whilst SARS endeavours to process payments within 3 days where the correct reference number is provided, there is no timeline provided regarding allocation of payments where details are incorrect.

87. Submission: Should SARS be unable to process the payment within 3 days if the incorrect payment reference number was used, SARS should make direct contact with the taxpayer within 3 days to rectify it as soon as possible.

88. Further, it would be extremely beneficial if SARS could invest in a visual dashboard with a well-designed and intuitive user interface which taxpayers can use to check the status on payments. This will ultimately reduce the pressure on its call centre and other communication channels.

89. SARS does not currently issue monthly statements of account and this is only issued on request. Furthermore, SARS does not issue automatic statements of account where changes are effected.

90. Submission: SARS should issue monthly statements of account as well as statements of account every time a change is made on such statement.

91. The recent OTO report on the outcome of its systemic investigation into the fluidity of PAYE statements of accounts indicated that much of the confusion related to journal adjustments on these statements relate to the taxpayer/tax practitioner not understanding SARS payment allocation rules.

92. Submission: to avoid disputes regarding the adjustments to statements, SARS should commit to communicating the allocation rules via various platforms and perhaps conduct online workshops explaining this.



Debt

93. In respect of deferment arrangements, we understand from our members that this is also a long drawn out process (rarely, if ever, within 21 days) which should be shortened to ensure clarity to Taxpayers and revenue collection to SARS.

94. Submission: As with other timelines provided for in the TSC, we recommend that SARS apply increased focus and attention as to the implementation and adherence to such timelines.

95. Furthermore, it would be useful if SARS ceases collection steps until the review of the request for payment arrangements is completed.

96. There have been some challenges with respect to the suspension of payments, in terms of section 164(3) of the TAA. For example, there are no timelines which SARS must adhere to in terms of making a decision on whether to grant the suspension.

97. Delays in making the decision sometimes lead to collection action being taken and/or impacts the tax compliance status of taxpayers.

98. Whilst SARS is making a decision regarding the request, in accordance with the legislation and as confirmed by SARS, it is as though a suspension is in place and SARS may not take collection steps. However, this is not how the system is set up.

99. It is not possible to request the suspension via eFiling in some instances - for example, Trust disputes, disputes already lodged where the taxpayer forgot to request suspension, etc. When making the request by calling the Contact Centre or via email, there are often delays in SARS internal communication conveying this to the relevant departments and taxpayers are then subjected to third party collections in some instances. To recover the funds is a challenge.

100. Submission: SARS must implement a 21 business day turnaround for issuing a decision regarding suspension of payment requests.

101. Until a decision is made, the tax compliance status of the affected taxpayer should not be impacted by the related payment due, which is subject to the suspension request.

102. Similar to the SARS portal on the website to upload documentation, there should be a similar 'portal' to request suspension of payment where, for whatever reason, the suspension request is not available on eFiling.

Disputes

103. In our view, even if the TSC timelines are adhered to, the dispute process is unnecessarily long and can be reduced especially as SARS' non-adherence is unlawful and particular objectionable.

104. Submission: Regarding the timelines currently proposed in the TSC, we propose the



following changes to the number of days:

- Provide reasons for an assessment within **21** business days.
- Consider the objection within **45** business days.
- Consider if a matter is suitable for Alternative Dispute Resolution (ADR) within **30** days from the date the request was received.
- Finalise ADR proceedings within **60** business days.
- Where an agreement is concluded, issue an assessment to give effect to the agreement within a period of **21** days, after the date of the last signing of the agreement.

105. This will likely require a change to the dispute rules.

106. Alternatively, if SARS wishes to retain the current timelines, there should be a rule that if SARS fails to comply with the timelines, the objection or appeal will be considered accepted.

107. If SARS requires more time, this should be communicated to the taxpayer early on in the process and not immediately before or after the time period has expired.

108. We have found that SARS' responses to requests for reasons are often severely deficient both in terms of quality and detail. This may be because of a technical limitation on the eFiling system which restricts the amount of feedback that SARS officials can provide. SARS officials often comment that it's a template that they complete which only allows them to add a limited amount of information which then makes it difficult for SARS to communicate the basis for the assessment and difficult for taxpayers to dispute (Rule 6 of the TAA).

109. Submission: It is submitted that when issuing an additional or revised assessment, the SARS official would have applied his/her mind to the facts on hand in arriving at the adjustments resulting in the additional assessment. SARS should therefore ensure that this reasoning or grounds for the assessment is issued to the taxpayer at the time of or prior to the issuing of the assessment. This would also eliminate the need for the taxpayer to request reasons, in many instances.

110. If the limitation in providing the reasons is system driven, the letter with reasons should be prepared outside of the system and shared with the taxpayer or registered tax practitioner via the contact email provided as well as being uploaded on the taxpayer profile. We understand that in some instances letters with reasons are issued, but are only sent to the taxpayer on enquiry being made with the SARS Call Centre.

111. As noted earlier, according to the OTO's list of Systemic Issues, one of the issues noted is 'SARS' failure to take information at its disposal into account', more specifically, SARS requests information during, *inter alia*, objection procedures and takes decisions without taking into account the information submitted by a taxpayer.

112. There are also concerns that the SARS person responsible for the audit is also involved in deciding or influencing the outcome of the dispute process, which brings into question the independence of the dispute process.



113. This is especially concerning given the outcome of the OTOs systemic investigation into disputes, which indicated that 76% of disallowed objections, are allowed on appeal and it could well be a consequence of the above-mentioned concerns
114. It has been alleged that from a performance review perspective, SARS auditors' performance rating is linked to the number of objections disallowed. If these decisions are subsequently overturned on appeal, this does not impact the performance rating of auditor that initially issued the disallowance.
115. In our view, should this be correct, this drives the wrong behaviour and may be why such a significant number of disallowed objections are allowed on appeal.

116. Submission: If the person making the decision regarding the objection is uncertain about certain aspects thereof, he/she should engage with the taxpayer or registered tax practitioner to seek clarification. This can be done in terms of Rule 8 of the Dispute Rules, which allows for SARS to request substantiating documents to make an informed decision.

117. Further, prior to issuing a decision to disallow the objection, the dispute should be subject to a robust objections governance process, including rigorous internal peer review to avoid unnecessary appeals which is costly for both the taxpayer and SARS.

118. We find that ADR turnaround times are very poor. It takes far too long to allocate an ADR facilitator and set up an ADR and then takes too long to finalise the ADR. The process has been designed to bring a swift and cost-effective resolution to tax matters but in most instances it could take longer than a year to finalise. This puts unnecessary strain on SARS' resources (time and cost) as well as increased cost to taxpayer with the remaining lack of certainty on the process and outcome.

119. Submission: We propose that SARS finalise ADR proceedings within 45 days as opposed to 90 days to ensure swifter resolution of disputes.

120. Where the ADR meeting is conducted remotely, the process is deficient where the platform used is teleconferencing facilities. Using this type of facility does not allow for sharing of document and makes for a frustrating, inefficient process for all parties.

121. Submission: SARS should allow for the ADR meeting to take place via a platform conducive to the sharing of documents and other interaction by the parties involved - i.e. MS Teams or Zoom.

122. The TSC currently notes the timeline for set down of appeals before the Tax Board, but does not address those matters for the Tax Court.

123. Submission: The TSC should provide for timelines for set down of matters before the Tax Court.



Complaints to SARS

124. The key factor in registering complaints (but also in avoiding complaints) is to have clear lines of communication with relevant SARS officials, with appropriate options to escalate matters. Multi-purpose mailboxes and emails are not particularly effective.
125. Page 2 of the TSC refers to lodging of complaints via eFiling, the Contact Centre or a SARS branch.

126. Submission: SARS must allow the lodging of complaints via the virtual appointment system given that branch visits are severely restricted.

127. SARS must consider a complaints specific mailbox or query form on the SARS website to deal with complaints.

128. SARS notes that it will endeavour to respond to complaints within 21 days of it being lodged. Firstly, this is not a commitment to respond and secondly, in our view, 21 days is excessive.

129. Submission: We propose that SARS should commit to respond to complaints within 10 business days of the complaint being lodged.

130. Where a complaint is rejected, the only recourse is to refer the matter to the OTO. However, this is a further drawn-out process.

131. Submission: SARS should provide for a mechanism of internal review of the decision to reject the complaint if the taxpayer wishes to use this as an alternative to referring to the OTO.

Complaints to the OTO

132. The TSC notes that if one has exhausted all administrative complaint processes within SARS or there are compelling circumstances, one may lodge a complaint with the OTO
133. We assume that the taxpayer would have exhausted administrative complaint processes 21 days after lodging the complaint. However, this is not clear in the TSC.

134. Submission: SARS must clearly state when the administrative complaint process is considered 'exhausted'. Our proposed timeline of 10 business days bearing relevance.



NEW CATEGORIES PROPOSED

Voluntary Disclosure Programme (VDP)

135. In the recent engagements with SARS, SAICA and BASA to discuss the VDP challenges, as well as SAICA's submission in this regard, SARS have acknowledged that there has been a significant backlog in resolution of both special and ordinary VDP applications.
136. SARS agreed to address this and has already made some progress in working through the backlog. However, there are a number of new applications that are still taking some time to finalise.
137. It appears that SARS seriously needs to re-look at the operations within the VDP Unit, from the allocation of resources and capacity, to skill.
138. There are also concerns regarding the time allowed to taxpayers to provide additional documentation during the VDP process, whilst SARS may take months to request such documentation.

139. Submission: SARS should therefore commit to:

- improve VDP turnaround times i.e. allocate a VDP application to the voluntary disclosure unit within business 21 days after submission on the SARS e-filing system and endeavour to finalise such application between 60 - 80 business days;
- allow more time to taxpayers to provide relevant documentation during the process, for example, 21 business days from the date of request;
- allocate the relevant skilled resources to the VDP unit;
- update their technology and upskill staff in the VDP unit so that they are able to process VDP applications efficiently and effectively;
- provide guidance on key VDP definitions so that taxpayers are aware of what is expected from them for purposes of making a valid voluntary disclosure;
- provide a date by when such guidance will be issued.

Assessments

140. The current TSC does not specifically address assessments and therefore we have made proposals regarding some aspects that the enhanced TSC could address in this regard.

141. Submission: Where an assessment contains a readily apparent undisputed error, SARS should commit to rectify the error within 21 business days of receiving a request from the Taxpayer. Doing so, will enable a Taxpayer to be able to object in time (within 30 business days of the objection) should SARS dispute that the error is readily apparent. This functionality should be available via eFiling.

142. SARS should commit to send notifications to Taxpayers when posting assessment related correspondence on eFiling.



143. In many instances, when estimated/revised/additional assessments are issued, SARS does not include sufficient details to enable the taxpayer to adequately respond to such assessment.

144. Submission: It is submitted that when issuing an additional or revised assessment, the SARS official would have applied his/her mind to the facts on hand in arriving at the adjustments resulting in the additional assessment. SARS should therefore ensure that this reasoning or grounds for the assessment is issued to the taxpayer at the time of or prior to the issuing of the assessment. This would also eliminate the need for the taxpayer to request reasons, in many instances.

145. If the limitation in providing the reasons is system driven, the letter with reasons should be prepared outside of the system and shared with the taxpayer or registered tax practitioner via the contact email provided as well as being uploaded on the taxpayer profile. We understand that in some instances letters with reasons are issued, but are only sent to the taxpayer on enquiry being made with the SARS Call Centre.

146. SARS should commit to sending an email or SMS notification to the nominated contact, on issuing such a letter.

147. Assessments cannot be raised on supporting documents not provided, if the supporting documents have been provided by a third party

148. There are instances where penalties and/or interest is raised or other adjustments are made to statements of account, resulting in an amount payable to SARS. In most instances, no assessment is issued in respect of this, limiting the taxpayer's ability to dispute such 'adjustment'.

149. Submission: Any change to a statement of account resulting in amount payable to SARS, must be preceded by an assessment.

Tax compliance status

150. There are currently no timelines within which SARS must respond if a taxpayer challenges its tax compliance status.

151. Submission: SARS must introduce timelines within which to respond if a taxpayer challenges its tax compliance status.

Other

152. A general comment regarding user friendliness of the charter: In order to make the charter a document that taxpayers can regularly refer to, perhaps a format similar to that of the Rwandan Tax Authority Service Charter could be utilised: https://www.rra.gov.rw/fileadmin/user_upload/rra_service_chater.pdf

For instance, a service provided by the Rwandan Tax Authority is set out as follows:

| SERVICE | REQUIREMENTS | TIME LINE | COST | CONTACT |
|---------|--------------|-----------|------|---------|
|---------|--------------|-----------|------|---------|

ANNEXURE A
SARS TAXPAYERS' SERVICE CHARTER - PROPOSALS FOR ENHANCEMENT



| | | | | |
|---------------------------------------|--|--------|------------------------------|---------------------|
| | | | | PERSON |
| Issuance of tax clearance certificate | <ul style="list-style-type: none"> • Online Application; • Proof of payment for application fee. | 2 days | Application fee of 5,000 Rwf | Chief Tax Collector |

153. Alternatively, SARS could update its Service Offerings per channel: <https://www.sars.gov.za/ClientSegments/Tax-Practitioners/Pages/Service-offerings-per-channel.aspx> to include timelines per the TSC.