

SARS withholding 2022 refunds due to 'outstanding verifications' in respect of prior years

Recently, we have had complaints of SARS withholding or recalling 2022 personal income tax refunds on the basis that there are 'outstanding verifications' in respect of prior years' ITR12 tax returns. Such verifications were seemingly initiated after the 2022 ITR12 was submitted. In terms of the legislation and case law, SARS may not withhold a refund for one period/tax year due to a verification/audit/review being conducted in respect of a different period/tax year. Following engagement with SARS, SAICA has been advised as follows:

1. During SARS processes, where a risk is identified in a particular year, various historic analyses are performed to identify if similar risks occurred in the past 36 months and this may trigger a verification in respect of a prior year.
2. As per the Tax Administration Act, 2011, SARS may reopen previous periods to conduct a verification or audit in respect of those historic periods.
3. SARS agrees that it may not withhold a refund for one period due to a verification outstanding in respect of a different period and SARS is in the process of ensuring that such refunds will be released. However, where SARS has completed a verification, audit or review and raised an additional assessment in respect of a different tax period, resulting in a tax liability, the refund for the current period may not be processed.

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