

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 14 - 20 March 2024
(Issue 10 -2024)

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TOP STORIES

CIPC upgrades its security after breach

Following a major security breach at the Companies and Intellectual Properties Commission in early March 2024, the CIPC system underwent some upgrades from Friday, 15 March to Monday, 18 March 2024.

Further to the above, CIPC introduced a new customer verification process for all CIPC customer code holders. This is relevant for SA ID holders as well as Foreign passport holders. All customers with pending transactions were urged to verify their customer code urgently in order to process the pending transaction. As of 13 March 2024, more than 26 831 customers that have already completed the verification of their customer profile since introduction of this requirement on 7 March 2024 and commenced with their transactions.

For more information, read [here](#).

Appointment of Dr Modise as a Deputy Governor of the South African Reserve Bank

Dr Mampho Modise, the current Deputy Director-General of Public Finance in National Treasury has been appointed as a Deputy Governor of the South African Reserve Bank (SARB), effective 1 April 2024. Dr Modise has been appointed in replacement of former deputy Kuben Naidoo.

Dr Modise holds a BCom in Economics, BCom Honours in Econometrics, a MCom in Econometrics (Cum Laude), and a PhD in Economics which have been obtained from the University of Pretoria.

Mr Lesetja Kganyago, Ms Nomfundo Tshazibana and Dr Rashad Cassim have all been re-appointed as Governor and Deputy Governors of the SARB respectively, each for an additional five-year term.

[#StayAbreastOfTheTaxWave](#)

Are you a **tax practitioner** with a passion for writing?

Let's feature your article on the Tax Practice: Weekly Highlights.

Send your article to
taxqueries@thesait.org.za.

Approximately 500 – 600 words

PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

SAIT TaxHelpline – SARS operational queries

Renewed concerns over eFiling profile hijackings and fraudulent refunds (*updated)

Over the past few months, SAIT and other recognised controlling bodies (RCBs) noted an increase in the eFiling profile hijacking cases and the fraudulent changing of banking details.

During November 2023, SARS migrated the function to report digital fraud to the SARS Online Query System. Additionally, SARS established a new and specialised team to investigate digital fraud.

*SARS, through the Cyber Crim Task team, is busy implementing a flag list to prevent fraudulent refunds going out once profile hijacking is identified, however, the older years are being prioritised. Members who have identified any digital fraud are encouraged to report those cases to SARS via [SARS Online Query System](#) and cctv@sars.gov.za and to the SAIT TaxHelpline for assistance.

Number of provisional tax verifications on the rise with concerns around underestimation (reminder)

Taxpayers and tax practitioners are getting more and more verification requests on provisional tax, primarily around the second estimates and payments. Although this is not a new practice from SARS, it would seem SARS has enhanced its risk engines and increased the number of individual and corporate provisional tax verifications.

These verifications and revised declarations are done in line with paragraph 19(3) of the Fourth Schedule of the Income Tax Act, No. 58 of 1962, which states:

“The Commissioner may call upon any provisional taxpayer to justify any estimate made by the provisional taxpayer in terms of subparagraph (1), or to furnish particulars of the provisional taxpayer’s income and expenditure or any other particulars that may be required, and, if the Commissioner is dissatisfied with the said estimate, he or she may increase the amount thereof to such amount as he or she considers reasonable, which increase of the estimate is not subject to objection and appeal.”

Typically, the supporting documents required for these verifications include, but not limited to:

- Computation of taxable income;
- Management Accounts;
- Income statement;
- Balance sheet; and
- Projected capital expenditure for the financial year, if applicable; and
- A schedule of the net capital gains expected for the financial year, if applicable.

It is therefore advisable to consider the above when preparing a tax pack for future provisional tax submissions.

Furthermore, it is imperative to note that the revised estimates are not subject to objection and appeal in terms of Chapter 9 of the Tax Administration Act, No. 28 of 2011. Additionally, where SARS issued a revised estimate, a late payment penalty and interest may be chargeable.

Issues with the ITR14 return not saving completed data (*updated)

With many companies with a February year-end rushing to submit the 2023 annual corporate income tax returns (ITR14) by 29 February 2024, many taxpayers and tax practitioners have been left frustrated as the data completed on the ITR14 does not save after completion.

In several cases investigated, the main problem rests on the Balance Sheet tab and persists whether the return is saved, or a calculation is requested.

Although a system fix was deployed during the week ended on 16 February 2024, upon further testing of the system, the data saving problem persists. In some instances, the taxpayer or tax practitioner is required to complete the return upwards of five times before the return can be submitted.

SARS, at regional and national level have been alerted and are aware of this issue. With the annual tax returns for companies with a February year end due, members are encouraged to keep evidence of any system errors preventing the submission of returns. This may be useful in the event where penalties are levied for late submission and a request for remission must be submitted.

*As of 20 March 2024, the problem was still prevalent and SARS is still working on the resolution of the issue.

SAIT TaxHelpline – escalations

As part of our service to members, SAIT escalates appropriate cases within the SARS structures on behalf of members. Members can submit a query via the [TaxHelpline](#) for SAIT to assist with a SARS escalation matter. You can read more on the process and requirements [here](#).

The most urgent cases escalated this week related to:

1. Delay in the finalisation of VAT verifications and subsequent payment of refunds; and
2. Delay in the finalisation of disputes, including objections and appeals.

SARS regional and national operational meetings

SAIT and its Regional Representatives attend the SARS/RCB regional meetings on a quarterly basis (qualifying for CPD points).

Feedback from the RCB/SARS regional and national meetings

No RCB/SARS regional and national meetings were held for the period 14 – 20 March 2024.

Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. Gauteng South for 10 April 2024;
2. Gauteng North for 23 May 2024;
3. Western Cape for 5 June 2024;

4. Free State and Northern Cape for 10 June 2024;
5. Gauteng South for 17 July 2024;
6. Gauteng North for 22 August 2024;
7. Free State and Northern Cape for 9 September 2024;
8. Free State and Northern Cape for 11 November 2024;
9. Gauteng South for 13 November 2024; and
10. Gauteng North for 21 November 2024.

Other meetings of interest

1. RCB Forum/OTO stakeholder meeting scheduled for 25 March 2024;
2. SARS National Operations meeting scheduled for 18 April 2024;
3. RCB forum meeting scheduled for 4 June 2024;
4. SARS National Operations meeting scheduled for 25 July 2024;
5. RCB forum meeting scheduled for 10 September 2024;
6. RCB forum meeting scheduled for 12 November 2024; and
7. SARS National Operations meeting scheduled for 21 November 2024.

Members who wish to make themselves available to serve as SAIT Regional Representatives or raise agenda points can send their details (full names, region, and area of speciality), to Lerato Mashigo at taxassist@thesait.org.za.

DAILY COMPLIANCE AND ADMINISTRATION

Due dates for reporting and payments: March 2024

Month	Date	Tax Type	Notification
March 2024	07/03/2024	Employment Taxes	EMP201 - Submissions and payments
	25/03/2024	Value-Added Tax	VAT201 - Manual submissions and payments
	29/03/2024	Value-Added Tax	VAT201 - Electronic submissions and payments

SAIT member resources

- [SAIT Important tax dates calendar](#) – contains important dates from January 2024 to December 2024 (unchanged).
- [SAIT SARS contact map](#) – links service requirements to SARS channels (update made to the contact details for lodging a complaint with SARS).

Key Operational News

CIPC upgrades its security after breach

Following the major security breach at the Companies and Intellectual Properties Commission in early March 2024, the CIPC system underwent some upgrades from Friday, 15 March to Monday, 18 March 2024.

Further to the above, CIPC introduced a new customer verification process for all CIPC customer code holders. This is relevant for SA ID holders as well as Foreign passport holders. All customers with pending transactions were urged to verify their customer code urgently in order to process the pending transaction. As of 13 March 2024, more than 26

831 customers that have already completed the verification of their customer profile since introduction of this requirement on 7 March 2024 and commenced with their transactions.

The CIPC would like to assure customers that such a process is necessary to safeguard customer profile information, especially confirming personal information with DHA and selecting of the security question as an additional layer of protection and identification. Personal information relating to family members associated with the customer is not saved, or stored by the CIPC. It is only used for the validation of the profile.

With the intermittent DHA challenges, customers are requested to be patient and retry until such verification has been completed by themselves. Customers struggling with verification are advised to verify their customer profile early in the morning or late afternoon since such periods have a higher success rate of completing the verification.

All customers are urged to verify their customer profiles as soon as possible and must be verified before any of their transactions is processed or their deposits can be allowed. This includes applications e-mailed for processing as well as refund requests.

SARS releases a new PAYE Employer Reconciliation BRS for 2025 (reminder)

On 7 March 2024, SARS published the BRS Employer reconciliation BRS for the 2025 year of assessment.

The changes include:

- New source code (3926) for the Withdrawal from a Retirement Fund from the Savings Component/Pot
- Amendment of descriptions and/or validation rules for:
 - Unclaimed benefits (source code 3909)
 - Certificate Number (source code 3010)
 - Directive Number (source code 3230)
 - Directive Income Source Code (source code 3232)
 - Transfer of Unclaimed Benefits (source code 3923)
 - NED Directors / Audit Committee Member Fees (source code 3620/3670)

The submission dates for the 2025 year of assessment are:

- Interim recon: 16 September – 31 October 2024.
- Annual recon: 1 April – 31 May 2025.

Other SARS and related operational publications and announcements

- **18 March 2024:** The SOQS External Guide was updated with the following information:
 - The 'Submit supporting documents' and 'Report new estate case' queries have been updated in line with the latest system enhancements.
 - The following new queries have been included in the guide:
 - ✓ Request for Auto Assessment status: This enables the taxpayers to query whether they are part of the SARS Auto Assessment population or not.
 - ✓ Submit an LBI query: This enables the taxpayers registered at the Large Business and International (LBI) or High Net Worth (HNW) to direct their queries to LBI or HNW.
- **18 March 2024:** The SARS Third Party Data Annual Submissions process for the period 1 March 2023 – 29 February 2024 opens on 1 April 2024 and will close on 31 May 2024.
- **18 March 2024:** To facilitate the upcoming two-pot retirement system changes, SARS

will be making enhancements to the Tax Directives process. The changes are detailed in [IBIR-006 Tax Directives interim Interface Specification Version 6.701](#). Once the law has been promulgated, an updated version of the Interface Specification will be made available. SARS will also communicate trade testing dates in due course.

TAX PRACTITIONER MANAGEMENT

SAIT TaxHelpline – Tax practitioner access and functionality (eFiling)

No new recurring matters have been identified in the queries submitted to SAIT for the week of 14 – 20 March 2024.

Key tax practitioner news

No other key tax practitioner news were available for the period 14 – 20 March 2024.

Government & Stakeholder Newsletters

No government and stakeholder newsletters were issued for the period 14 – 20 March 2024.

Other Tax practitioner access and functionality publications and announcements

No other tax practitioner access and functionality announcements were made for the period 14 – 20 March 2024.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Tax policy stakeholder engagement

National Treasury's proposed amendments to Public Sector Pension Laws (*updated)

On 11 March 2024, National Treasury published the proposed amendments to various pieces of legislation governing public sector pension funds. The amendments intend on ensuring the effective implementation of the two-pot retirement system changes in public sector funds. The proposed amendments to the public sector pension laws are listed below:

- [Government Employees Pension Law, Proposed amendments two-pot retirement system](#);
- [Telecommunications-related Matters proposed amendments two-pot retirement system](#) and;
- [Transnet Pension Fund proposed amendments two- pot retirement system](#).

The amendments to the public sector pension laws are proposed to be included in the Pension Funds Amendment Bill. Members are encouraged to read the full media statement [here](#).

*The Standing Committee of Finance (**SCOF**) convened public hearings on the proposed amendments to the Pension Funds Amendment Bill on 12 March 2024. Written comments were received from ASISA, IRFA as well as Cosatu. On 19 March 2024, the SCOF convened a public hearing to afford National Treasury an opportunity to respond to submissions received from the above-mentioned stakeholders.

National Treasury's response addressed, inter alia, the following aspects:

- New definition of pension interest;
- Application clause between Divorce Act and Pension Funds Amendment Bill;
- Section 19(5) on loans and guarantees;
- Section 37D related deductions; and
- Clarification and corrections regarding the drafting style adopted.

Members are encouraged to read National Treasury's full response [here](#).

Legislation

There are no legislative updates for the week of 14 - 20 March 2024.

LEGISLATIVE INTERPRETATION

Calls for comment submitted

On 15 March 2024, the SAIT Tax Technical team together with select members of the SAIT Personal and Employment Taxes Technical workgroup made submission to SARS regarding the draft interpretation note (**draft IN**) pertaining to the consequences of an employer's failure to deduct or withhold employees' tax with reference to the Fourth and Seventh Schedule of the Income Tax Act 58, 1962 ('ITA'). The draft IN explains how certain of the

employees' tax obligations of an employer and the income tax obligations of an employee operate in relation to each other when an employer incurs personal liability for failing to deduct or withhold employees' tax.

In analysing the draft IN and providing commentary, the SAIT Tax Technical team and select members of the Personal and Employment Workgroup identified numerous aspects that require clarification. The following submissions were made in relation to the sub-topics below:

1. The application of paragraph 5(5) of the Fourth Schedule to the Act in the case where the employer releases an employee of a debt (or does not recover an amount of employee's tax paid by same)

Submission

"To the extent that there is a gross up of the tax paid by an employer on behalf of an employee an additional fringe benefit arises under paragraph 2(h) of the Seventh Schedule (as stated in the draft IN under paragraph 4.4.2.).

Where the gross-up is performed, the nature of the PAYE liability changes and the full grossed-up amount becomes 'remuneration' paid by the employer to the employee and such amount should be allowed as a deduction in the hands of the employer.

We propose that the draft IN be amended to clarify that the gross up amount is 'remuneration' and an allowable deduction in the hands of the employer."

2. The timing of inclusion of additional taxable benefit in the case that an employee is released of debt and where a gross up is performed

Submission

"We propose that SARS consider only including the grossed-up benefit and the tax thereon in the year that the additional taxable benefit arises, i.e. when the employee is released of the debt.

This will align the timing of the inclusion of the taxable benefit in the hands of the employee and the claiming of the corporate tax deduction and will ensure that the employer is not subject to excessive interest."

3. Absolving employer of its personal liability (application of paragraph 5(2))

Submission

The draft IN specifically excludes a discussion of the requirements for granting absolution in terms of paragraph 5(2) of the Fourth Schedule to the Act, from the scope of the draft IN. The provisions of Paragraph 5(2) are worded in very broad terms and its application is the cause of much confusion amongst employers. We, thus, requested that clarification of these requirements be provided in the finalised version of this draft IN.

The [submission](#) also provides commentary on the consequences for employees, the possibility of double taxation and miscellaneous matters. Members are encouraged to study the [submission](#) for greater detail.

Legislative interpretation calls for comment (Reminder)

SARS and National Treasury issued the following calls for comment:

- [Draft Interpretation Note](#) - Consequences of an employer's failure to deduct or withhold employees' tax.

- [Draft Revenue Laws Amendment Bill, 2024](#) - is aimed largely at clarifying the existing language and to simplify the directives system for both administrators and SARS to allow for an efficient implementation of the 'two-pot' retirement reform.
- [Draft Global Minimum Tax Bill, 2024](#) - is aimed at implementing the GloBE Model Rules in South Africa to enable South Africa to impose a multinational top-up tax at a rate of 15 per cent on the profits of in-scope multinational enterprise groups.
- [Global Minimum Tax Administration Bill, 2024](#) - is aimed at the administration of the Draft Global Minimum Tax Bill.
- [Draft Rates and Monetary Amounts Bill, 2024](#)

For more information on the calls for comment, click [here](#).

Legislative counsel publications

On 18 March 2024, SARS has published three Rulings relating to apportionment. The Rulings are issued in response to an application brought forward by the Applicant(s) and clarify how the Commissioner would interpret and apply the provisions of the Value-Added Tax Act, relating to the specific proposed transactions outlined in the Rulings.

The Rulings are to be treated as Binding Private Rulings (BPR) and the details as respects each Ruling is as follows:

1. [VR 006](#) - This Ruling approves the **varied turnover-based method of apportionment which is applied to a vendor in the asset-based financial services**.
The Applicant is the holding company of various local and foreign subsidiaries that operates through a Holdings Division (that services local subsidiaries) and the Africa Holdings Division (that services foreign entities). The Applicant provides administrative support and management services to these various group companies for which it charges fees on an ongoing basis.

The Ruling is valid from 18 March 2024 and applicable retrospectively to the financial year commencing 1 January 2022 and will remain valid until 31 December 2025.
2. [VR 007](#) – This Ruling approves the **varied turnover-based method of apportionment which is applied to a vendor in the micro-lending industry**. The Applicant is a special purpose vehicle that purchases instalment credit agreements from a financial services provider under a securitisation transaction. The Ruling is valid from 18 March 2024, is applicable retrospectively to the financial year commencing on 1 July 2023 and is valid until 30 June 2026.
3. [VR 008](#) - This Ruling approves the **varied input-based apportionment method which is applied to a vendor in the short-term insurance industry**. The Applicant is a short-term insurance company that conducts short-term insurance operations and related investment activities.

The Applicant has approached the Commissioner requesting the issuance of a Ruling confirming that the vendor may apply the varied input-based method by:

- excluding expenses incurred relating to local reinsurance recoveries; and
- excluding expenses incurred relating to foreign reinsurance recoveries, with effect from the commencement of the Applicants 2024 financial year.

The Ruling is valid from 18 March 2024 and applicable retrospectively to the financial year commencing on 1 July 2023 and is valid until 30 June 2026.

Court cases published.

No new court cases were published in the week of 14 - 20 March 2024.

Other SARS publications and announcements

No other SARS publications and announcements were made for the week of 14 – 20 March 2024.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

SARS set to release preliminary revenue results on 2 April 2024

As the 2023/2024 fiscal year comes to a close, SARS will be aiming to retrieve every last cent before 31 March 2024.

On 2 April 2024, SARS Commissioner, Mr Edward Kieswetter, will officially announce the 2023/2024 preliminary revenue collection returns at the Linton House Auditorium in Brooklyn Pretoria. SARS Commissioner and Deputy Commissioner: Taxpayer Engagement and Operations, Mr Johnstone Makhubu, will be available to answer specific revenue-related questions.

The media briefing will be broadcast on YouTube and the link will be provided closer to the event. Those who are not able to attend the event can send their revenue-related questions to Revenue2024@sars.gov.za. This mailbox will only be monitored from 28 March to Thursday 4 April.