

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 18 - 24 April 2024
(Issue 15 -2024)

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TOP STORY

SARS puts measures in place to prevent digital fraud

There have been several incidences of eFiling profile hijackings reported to SARS and SAIT over the past 2 months. Whilst these cases are reacted to with utmost urgency, the proactive safeguarding of eFiling profiles remains important.

Based on thorough investigations, SARS has identified fraudulent activities where users attempt to register to use the eFiling platform, and that compels SARS to embark on an initiative aimed at curbing illicit activities. A taxpayer will always be required to provide a valid email address and cell phone number to register for and utilise the eFiling service. This information will serve as the eFiling security contact details and will be used to send a one-time-pin (OTP) to authenticate the eFiler.

Should the SARS eFiling system identify that the email address or cell phone number has already been provided by an eFiler and is actively in use (maximum usage reached), an error message will be displayed on the user's screen.

For existing users, SARS has published some tips on how to proactively keep eFiling profiles and client information safe. Access the tips [here](#).

[#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 – 1 500 words

PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

SAIT TaxHelpline – SARS operational queries

No new recurring SARS operational issues were identified during the week of 18 – 24 April 2024.

Update on renewed concerns over eFiling profile hijackings and fraudulent refunds

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

Upon analysis of these cases, the following similarities were identified:

- Security contact details are changed, and a tax-type transfer is requested and approved to transfer the profile;
- Fraudulent returns are submitted to create fictitious refunds (this happens across all tax types);
- Banking details changed to receive the fraudulent refund (majority of the banking details are changed to a Tyme Bank account); and
- If the refund is not paid out immediately, statements of accounts are requested daily to check on the status of the refund.

*During the SARS National Operations meeting held on 18 April 2024, SARS indicated that the fraud pressure points have been identified and no new eFiling profile hijacking cases were reported from 14 April 2024. Additionally, SARS published the [top tips](#) taxpayers and tax practitioners can use to safeguard their eFiling profiles proactively.

Since SARS migrated the function to report digital fraud to the SARS Online Query System, members who have identified any digital fraud are encouraged to report those cases to SARS and on the SAIT [TaxHelpline](#). Members are reminded to include the date of the suspected breach, the SARS Fraud case number and whether any fraudulent returns have been submitted or fraudulent refunds have been obtained.

Reminder on the uspension of payments for estimated assessments not working as promised

At the beginning of 2024, SARS started implementing more estimated assessments, specifically for VAT where supporting documents were not submitted during the verification.

In terms of Section 95 of the Tax Administration Act, No. 28 of 2011 (TAA), an assessment issued in terms of section 95(1)(c) is not subject to objection and appeal and a taxpayer must submit the outstanding supporting documents instead. Although not a formal dispute, SARS had advised that a suspension of payment in terms of section 164 of the TAA could be applied for if the estimated assessment resulted in a tax debt owing to SARS. It was expected that this function would be available on eFiling.

At the recently held Gauteng South region meeting held on 10 April 2024, it was unfortunately confirmed that the function is not available on eFiling and a manual suspension of payment request must be submitted for consideration by SARS. The request should be submitted via email (pcc@sars.gov.za) and it is anticipated that this would be treated as a 'request for service' case and a 21-business day turnaround time will apply.

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;
2. Delay in the processing of manual assessments; and
3. 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 meetings were held during the week of 18 – 24 April 2024.

Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. EMalahleni, Mpumalanga for 20 May 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. KwaZulu-Natal for 10 June 2024;
6. Gauteng South for 17 July 2024;
7. Gauteng North for 22 August 2024;
8. Free State and Northern Cape for 9 September 2024;
9. KwaZulu-Natal for 9 September 2024;
10. Free State and Northern Cape for 11 November 2024;
11. Gauteng South for 13 November 2024;
12. Gauteng North for 21 November 2024; and
13. KwaZulu-Natal for 25 November 2024.

[Other meetings of interest](#)

1. RCB forum meeting scheduled for 4 June 2024;
2. SARS National Operations meeting scheduled for 25 July 2024;
3. RCB forum meeting scheduled for 10 September 2024;
4. RCB forum meeting scheduled for 12 November 2024; and
5. 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: April 2024

Month	Date	Tax Type	Notification
April 2024	01/04/2024	Employment Taxes	EMP501 - Start of the annual employer reconciliation submissions
	01/04/2024	Other	Third-party data (IT3) - Start of the annual third-party submissions period
	05/04/2024	Employment Taxes	EMP201 - Submissions and payments
	25/04/2024	Value-Added Tax	VAT201 - Manual submissions and payments
	30/04/2024	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 (unchanged).

Key Operational News

SARS launches a new unmerge functionality

Currently, the [Merge functionality](#) available via eFiling, allows the taxpayer or tax practitioner to initiate a merge, which consolidates the entity records and Tax Reference Numbers (TRNs) into a single tax profile.

A new 'unmerge' function has now been introduced and allows SARS branch offices to undo the incorrectly merged case. The unmerge option can only be used if cases have been previously merged or auto merged. The unmerge process will affect the registered details of the entity. Therefore, it is important to verify and update the registered details on the RAV01 form after the unmerge process was completed.

The following details must be confirmed:

- Demographic information such as contact details/ email / eFiling Security Details;
- Bank details;
- Tax Product Information confirmation; and
- Registered Representative details including confirmation of appointed details on the Registration Amendments and Verification Form RAV01.

Remember to [make an appointment](#) before going to the SARS branch.

Reminder on SARS' modernisation of trust disputes

As part of the SARS 2024 vision, the revenue collection agency is still moving full steam ahead with modernising the trust disputes. Historically, trust disputes were handled manually, on a paper-based system, by completing a manual ADR1 or ADR2 form for an objection and appeal, respectively.

In 2023, the ADR1 and ADR2 forms were moved to digital forms to be completed on Adobe. Although this was considered as progress, the forms still needed to be sent via email, have a case number allocated and send supporting documents on the SARS online query system.

SARS has now announced that the trust disputes will be migrated to eFiling by the end of April 2024. This means that the prescribed form for trust objections and appeals will move from the ADR1/ADR2 to the NOO01 and NOA01. Supporting documents will also be submitted on eFiling and all outcomes for trusts disputes will be available on eFiling.

Reminder on SARS implementing changes to medical aid third-party data

SARS will be implementing changes in the medical aid third-party data reporting. SARS has identified some challenges faced by taxpayers in submitting medical aid data accurately and on time. To simplify this process and reduce the burden on taxpayers, SARS is making changes on the data that is required from medical aid schemes.

The changes include:

- Provision of data on disabled principal members and their dependents.
- Data of persons making payment on behalf of principal members.
- Separate non-allowable from the allowable expenses, currently reported as claims not paid or covered by medical schemes on the IT3(f) certificate.

These changes will also allow SARS to reduce audit interventions, and enable speedy assessment of tax returns, and assist in allocating medical tax credits to the correct taxpayers. From **September 2024**, medical aids are expected to provide the requested data in line with the conditions outlined in the [external Medical Scheme Contributions Business Requirement Specification \(BRS\)](#).

To allow for a smooth transition, SARS will grant a grace period of **6 months** for partial submission of the requested data while stakeholders attain resources that consent to full compliance. Where such cases of partial compliance occur, reasons and a commitment date for full compliance will be required.

To assist taxpayers and tax practitioners with the long-term effect of these changes, SAIT will be preparing an advisory, which will be published in issue 15 of the Tax Practice: Weekly Highlights.

Other SARS and related operational publications and announcements

No other SARS operational publications and announcements were made during the week of 18 – 24 April 2024.

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 18 – 24 April 2024.

Key tax practitioner news

Reminder on tax practitioners being given green light to represent their clients in South African Tax Courts

After a lengthy legal battle between the CSARS and Ms Candice-Jean van der Merwe, on 2 April 2024 a full bench of the High Court (Western Cape division) has decided that there is no statutory provision that limits the right of representative appearance in the Tax Court to legal practitioners.

Consequently, on the basis that the full bench of the High Court (Western Cape division) has ruled that South Africa's tax courts are courts of revisions and not "courts of law", tax practitioners are permitted to represent their clients in tax disputes that have been brought before any of South Africa's tax courts.

Read more about this judgment [below](#).

Government & Stakeholder Newsletters

SARS publishes the latest Government Connect newsletter

On 19 April 2024, SARS published issue 17 of the [Government Connect](#) newsletter. The 17th edition of the newsletter highlights the following issues:

- Employees' Tax Compliance Starts with You;
- Third-party Data Annual Submission;
- Advancement in requesting SARS certificate for Third-party Data Submission; and
- Enhancement of SARS Online Query System.

Reminder on OTO's latest FairPlay stakeholder newsletter

On 16 April 2024, the Office of the Tax Ombud published the 32nd edition of the [FairPlay stakeholder newsletter](#). Issue 32 covers the theme 'Striking a balance: *The relationship between taxpayers' rights and the powers of the tax authority is a delicate balance.*'

Amongst others, the newsletter covers guest contributors who cover the following topics:

- Striking a balance: Taxpayer rights and compliance in South Africa;
- Taxpayer tips when dealing with SARS; and
- Tackling your tax disputes with Yilungelo Lakho.

Other tax practitioner access and functionality publications and announcements

- **24 April 2024:** SARS published the Western Cape [mobile tax unit](#) schedule for May 2024.
- **18 April 2024:** SARS announced that they were upgrading the eFiling platform on Friday, 19 April 2024 from 18:00 to 23:00. During this time, the system was unavailable.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

LEGISLATIVE INTERPRETATION

Legislation

There are no legislative updates for the week of 18 – 24 April 2024.

Legislative interpretation calls for comment

No new calls for comment were issued for the week of 18 – 24 April 2024.

Legislative counsel publications

No new legislative counsel publications were published in the week of 18 – 24 April 2024.

Reminder on previously published Court cases

SARS has published the following Constitutional Court judgments:

Date of delivery	Case	Applicable legislation
12/04/2024	Capitec Bank Limited v CSARS (CCT 209/22)	Value Added Tax Act, 1991
<p>Summary: The case raises questions about the interpretation and application of section 16(3)(c) of the Value Added Tax Act ('VAT Act'). In submitting their VAT return for November 2017, the taxpayer deducted an amount in terms of section 16(3) of the VAT Act. SARS disallowed the deduction, which it gave effect to by issuing an additional assessment. SARS pleaded that the loan cover payments did not qualify for "input tax deduction" in terms of section 16(3)(c), on the basis that the supply of the loan cover did not constitute a "taxable supply".</p> <p>The Tax Court concluded that the requirements of section 16(3)(c) were satisfied and upheld the appeal. The Supreme Court of Appeal (SCA) upheld SARS' appeal against the Tax Court's order, replacing the latter order with one dismissing the taxpayer's appeal to the Tax Court. The Constitutional Court set aside the orders of the Tax Court and SCA. The Constitutional Court further held that where a taxpayer has failed to plead apportionment, it should not result in them being deprived of any deduction. The Court stated it was incorrect for SARS to have disallowed the deduction in full. In this regard the Court therefore ruled that the assessment for the applicants November 2017 VAT period be remitted to SARS for examinations and assessment in accordance with the principles set out in this judgment.</p>		

SARS has published the following Tax Court judgments:

Date of delivery	Case	Applicable legislation
20/03/2024	IT 45979	Income Tax Act, 1962
<p>Summary: The case concerned a statutory appeal by the taxpayer in terms of section 107 of the Tax Administration Act 28 of 2011 (the TAA), read with Rule 10 of the Tax Court Rules. The taxpayer appealed against the additional assessments raised by CSARS.</p> <p>The matter concerned whether premiums qualify as deductible expenses under section 11 of the ITA. The taxpayer claimed that the premiums paid constituted insurance expenses and bore the onus of proving that the payments made to Company XYZ were not of a capital nature. The taxpayer failed to demonstrate a sufficient link between its rights to the experience account and the performance of its income-earning operations. The appeal against the additional assessments raised by SARS in respect of the 2018 and 2019 years of assessment accordingly failed, and the taxpayer remained liable for understatement penalty of 10%.</p>		
27/02/2024	IT 45997	Tax Administration Act, 2011
<p>Summary: The matter concerned a condonation application in which the taxpayer sought condonation for the late filing of its rule 36(6) notice. CSARS opposed the condonation application, stating the taxpayer’s application for condonation lacked the necessary full explanation required for successful condonation applications.</p> <p>With regards to the approach on the requirements for condonation, the court relied on the requirements set out in the case of <i>Melane v Santam Insurance Co. Limited</i> where, it was stated that, “the court has discretion with regards to deciding if condonation must be granted however, fairness to both parties must be considered. Factors that are relevant include: degree of lateness, explanation, prospects of success and importance of the case”.</p> <p>The Court applied the above listed requirements to the facts and found the taxpayer to have successfully met them. Accordingly, the condonation application succeeded, and costs were reserved.</p>		

Other SARS publications and announcements

On 18 and 19 April 2024, the South African government and private sector partners published and launched a report on the terrorist financing risk assessment on the non-profit organisation (NPO) sector with the aim of providing focused, proportionate, and risk-based measures to mitigate the identified risks.

This risk assessment was conducted in line with the Financial Action Task Force (FATF) global standards to combat money laundering and terrorist financing, as well as South Africa’s follow-up action plan to address grey listing by the FATF in 2023. This action plan requires amongst others that countries periodically identify and assess the terrorist financing risks to which organisations that raise or disburse funds for good works are exposed.

The Commissioner for SARS has welcomed the publication of South Africa’s first national terrorist financing risk assessment report on the non-profit organisation (NPO) sector. This collaborative effort is indication that SARS strategically partners with other government agencies to address vulnerabilities, “*be they at a policy level, or in the day-to-day operations of NPOs*”.

The Commissioner further stated that SARS aims to “*identify these vulnerabilities so that we can safeguard the integrity of non-profit organisations that play a pivotal role in South Africa’s socio-economic development.*”

Members may access the full media statement [here](#).

Members may access the full report [here](#).

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

There are no other matters of interest for tax practice for the week of 18 – 24 April 2024.