

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 09 - 15 May 2024
(Issue 18 -2024)

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TOP STORIES

What happened with the eFiling two-factor authentication and where to from here?

Three weeks ago, SARS implemented the two-factor authentication option on eFiling in an effort to curb the eFiling profile hijacking and fraud loopholes recently identified.

The problem emanated when SARS introduced a limit on the number of eFiling profiles which could have the same contact details as [eFiling security details](#). Practically speaking, the same cell number or email address (same person), could not be the custodian of multiple eFiling profiles, as this would give raise to fraud.

This limit started causing problems as users would then need to book a virtual appointment to update their security contact details. SARS therefore attempted to reverse this decision and implement the two-factor authentication via the MobiApp instead.

The two-factor authentication would, in lieu of the traditional one-time-pin (OTP), allow the user to access their eFiling profile by making use of their username, password and a push notification sent to the SARS Mobile Application on their smart device.

The main problem would arise if there was any change to the SARS MobiApp registered for the two-factor authentication. For example, if the application was uninstalled and reinstalled on the smart device, if the App Store or Google Play Store updated the application or if the smart phone with the App was lost, users would automatically be denied access to their profile.

These potential challenges have therefore given rise to the current challenges of users being unable to log into their eFiling profiles. SAIT has been reliably advised that a system fix is scheduled for Friday, 17 May 2024 which will see the permanent resolution of this problem. Members will be kept abreast of all the latest developments as they are received.

SARS to host the much anticipated third-party data training session

On 23 May 2024, SARS will host a [training session](#) on the Third-Party Data submission. The Session will cover a variety of topics, including, HTTP or Connect: Direct submission platforms and the submission of the data file.

Access more information [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

Reminder on the eFiling two factor authentication error preventing login

Over the past two weeks, several taxpayers and tax practitioners battled to login into their eFiling profiles due to a technical error. Upon further investigation of these cases, the problem was isolated to the profiles which have a two-factor authentication setting.

Although the two-factor authentication was encouraged to protect the eFiling profile for any unauthorised breaches, it seems that over the past two weeks, it was the cause of the problem. The problem was promptly escalated to the SARS software developers for resolution and who advised that a system fix was scheduled and would be rolled out over the weekend of 27 – 28 April 2024.

Despite this, our eFiling technical specialists have tested the system and found that although the problem did not immediately resolve, some practitioners were able log into the SARS MobiApp but not on their personal computers.

The matter was reported and re-escalated to SARS who announced a system upgrade from Saturday, 11 May 2024 at 20h00 to Sunday, 12 May 2024 at 00h30.

This error comes, particularly, at a sensitive time as many tax practitioners were required to submit and process payments for their monthly EMP201 returns, which were due on Tuesday, 7 May 2024. Where late payment penalties are levied, taxpayers will need to submit the request for remission of penalties and cite the mitigating circumstances as the eFiling log errors.

SAIT will continue to monitor the situation and engage with SARS on this pressing 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. Notice of objection options not being available on eFiling;
2. Delay in the finalisation of tax type deregistration; and
3. Delay in the finalisation of requests for reduced assessments.

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 9 - 15 May 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. North West for 3 June 2024;
4. Western Cape for 5 June 2024;
5. Free State and Northern Cape for 10 June 2024;
6. KwaZulu-Natal for 10 June 2024;
7. Gauteng South for 17 July 2024;
8. Gauteng North for 22 August 2024;
9. Free State and Northern Cape for 9 September 2024;
10. KwaZulu-Natal for 9 September 2024;
11. Free State and Northern Cape for 11 November 2024;
12. Gauteng South for 13 November 2024;
13. Gauteng North for 21 November 2024; and
14. 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: May 2024

Month	Date	Tax Type	Notification
May 2024	07/05/2024	Employment Taxes	EMP201 - Submissions and payments
	24/05/2024	Value-Added Tax	VAT201 - Manual submissions and payments
	31/05/2024	Value-Added Tax	VAT201 - Electronic submissions and payments
	31/05/2024	Employment Taxes	EMP501 - End of the annual employer reconciliation submissions
	31/05/2024	Other	Third-Party Data (IT3) - Close of the annual third-party submissions period

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 to host the much anticipated third party data training session

SARS will host a [training session](#) on the Third-Party Data submission. The Session will cover a variety of topics, including, HTTP or Connect: Direct submission platforms and the submission of the data file.

The webinar details are as follows:

- **Date:** 23 May 2024
- **Time:** 10:00 – 12:00
- **Platform:** Microsoft Teams (please note that Microsoft Teams has a maximum capacity of 1 000 participants. Therefore, this session will be on first come first served basis.)

Pre-reading material can be accessed [here](#).

Other SARS and related operational publications and announcements

No other SARS operational news were published for the period of 9 – 15 May 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 9 - 15 May 2024.

Key tax practitioner news

Reminder on the April 2024 member compliance disciplinary and compliance

In terms of Section 240A of the Tax Administration Act 28 of 2011, all tax practitioners are obliged to register for membership with a recognised controlling body (RCB) as well as SARS. Failure to comply with this provision constitutes a criminal offence.

SAIT has a duty to set professional standards by evaluating, implementing, monitoring and enforcing compliance with industry-specific legislation, regulations and ethics. SAIT has noted that a growing number of members are not compliant in various areas of mandatory compliance and are therefore in default in upholding and maintaining their membership obligations as per membership terms and conditions in line with SAIT policies as well as [SARS Criteria for the Registration of Tax Practitioners and the Recognition of Controlling Bodies](#).

In terms of SAIT Policies, non-compliance in key areas may result in referral to the SAIT Disciplinary Board. The Disciplinary Board may, within its discretion, impose appropriate sanctions and penalties against non-compliant members.

There is a noted increase in SARS deregistrations with the increased enforcement of tax practitioner compliance requirements and rules. Non-compliance may be found on the basis of one, or a combination, of the following key areas:

- Non-compliance with tax (non-submission of returns or tax debt);
- Default in and continued non-compliance with CPD requirements;
- Failure to meet requirements relating to criminal-free status;
- Failure to maintain membership obligations in breach of membership terms and conditions as well as SAIT Codes relating to Professional Conduct and Ethics; or
- Failure to comply with any directive from the SAIT Disciplinary Board in terms of applicable Disciplinary Proceedings and/or Directives.

Tax practitioner disciplinary cases

The below statistics provide a summary of the trends on non-compliance with statutory requirements and codes of conduct within the disciplinary and compliance space:

Type of Non-compliance	October 2023 – Current Stats
Tax non-compliance	35 SAIT-registered Tax Practitioners have been deregistered and suspended from practice for 6 months due to non-compliance with personal tax affairs.
Disciplinary cases reported (unprofessional, negligent and/or unethical conduct)	Currently, the SAIT Disciplinary Committee has investigated 9 cases of unprofessional and/or unethical conduct referred to it by SARS Tax Practitioner Unit or members of the public.
PI insurance claims (fraud, theft and dishonest conduct)	10 cases of fraudulent and dishonest conduct have been reported in the SAIT PI insurance claims history.

Applicable sanctions and penalties

It is crucial to uphold membership and professional obligations and observe RCB and SARS policies, rules and regulations. Apart from immediate deregistration by SARS for personal tax non-compliance, the SAIT Disciplinary Board may administer any, or a combination, of the following sanctions for contravening and non-compliant members:

- Suspension of membership.
- Termination of membership.
- Imposition of financial penalties.
- Listing on the register of non-compliant members (prohibited from registration with alternative controlling bodies as enforced by SARS).

Compliance with membership and statutory obligations applicable to tax practitioners is critical. To protect your tax practitioner registration and maintain a clear disciplinary and/or criminal record, it is imperative to ensure that all conduct is undertaken within RCB and SARS requirements and is underpinned by adherence to standards of ethics and professionalism.

One of our primary goals is to assist our members with remaining compliant and avoiding prosecution and/or deregistration. Should a member have challenges with their respective compliance, there are remedial options and services available to provide the necessary support and assistance through the SAIT Tax Technical and Legal and Compliance Departments. Members are encouraged to reach out and engage with SAIT to remain compliant by logging a query on the '[Ethics and Professional Responsibility](#)' Helpline.

Government & stakeholder newsletters

No government or stakeholder newsletter were published for the week of 9 – 15 May 2024.

Other tax practitioner access and functionality publications and announcements

No other tax practitioner news were published for the period of 9 – 15 May 2024.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Legislation

No new legislation, international agreements or policy matters were published in the week of 9 –15 May 2024.

Legislative cycle update

The annual legislative tax amendment cycle which culminates in the promulgation of the Tax Laws Amendment Act and the Tax Administration Laws Amendment Act includes several key events.

During the Finance Minister's presentation of the National Budget Speech, the Minister indicated that National Treasury will be implementing a global minimum tax to limit the negative effects of tax competition. With retrospective effect for years of assessment commencing on or after 1 January 2024, multinational corporations with annual revenue exceeding €750 million will be subject to an effective tax rate of at least 15 per cent, regardless of where their profits are generated.

National Treasury forecasts that the implementation of the global minimum tax will raise an additional R8 billion in corporate tax revenue in 2026/27. Simultaneously, the Minister of Finance released the draft Global Minimum Tax Bill (and associated documentation) for public commentary. All submissions have since been made to National Treasury and are undergoing consideration.

At present, it is expected that the comprehensive annual tax amendments in the form of the draft tax amendment bills (together with the revised draft Global Minimum Tax Bill) will be published towards the end of July 2024. For ease of reference, SAIT has provided a calendar setting out the general dates relevant to the annual [legislative tax amendment cycle](#).

LEGISLATIVE INTERPRETATION

Legislative interpretation calls for comment

SARS has issued the following call for comment:

- [Draft Interpretation Note](#) - Income Tax Exemption: Water Services Provider.

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

Reminder on the submission made to National Treasury regarding certain classes of battery storage systems – Section 12B

On 2 May 2024, the SAIT Tax Technical team submitted commentary to National Treasury regarding the current income tax treatment of battery storage systems.

Although National Treasury has gone to great pains to explain why certain storage assets will not fall within the ambit of section 12B of the Act, we have identified discrepancies in the classification of certain battery storage assets utilised under various other government departmental programmes and the resultant potential inconsistent treatment of tax.

One such department is the department of Mineral Resources and Energy (DMRE). The DMRE has established the Battery Energy Storage Independent Power Producer's Procurement Programme (BESIPP) under which the DMRE requires, by means of a request for proposal (RFP), bidders to submit proposals for the storage and supply of electricity by virtue of battery storage assets to specific Eskom Holdings SOC Ltd (Eskom) substations. In order to supply this electricity to Eskom, bidders are required to conclude Power Purchase Agreements (PPAs) with Eskom. When these PPA's are concluded, bidders are required to obtain an electricity-generating license from the National Electricity Regulator of South Africa (NERSA).

Although battery storage assets function by absorbing electricity and storing same to then use as an alternative electricity supply when required, these class of assets (under the BESIPP) are typically classified as electricity generating in nature.

The effect of excluding these assets is that taxpayers who engage in the erection of battery storage facilities for energy storage and transmission purposes (under the BESIPP) are precluded from utilising the allowance contained in section 12B of the Act due to the rudimentary classification that these assets are storage in nature. Although the battery storage asset does not generate electricity, these assets store and process electricity back to substations – a process that is classified by NERSA as that which generates electricity. We therefore submitted that the accelerated specific asset allowance which is contained in section 12B is best suited and should be extended to this class of assets within the BESIPP.

Members are encouraged to study the full submission [here](#).

Legislative counsel publications

No legislative counsel publications were issued by SARS and National Treasury in the week of 9 – 15 May 2024.

Published court cases

No new court cases were published in the week of 9 - 15 May 2024.

Other SARS publications and announcements

No other SARS publications and announcements were made in the week of 9 – 15 May 2024.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

Reminder on SARS' 2024/25 Annual Performance Plan

On 8 May 2024, SARS released the 2024/2025 Annual Performance Plan (APP). The APP contains the following performance commitments from SARS:

1. To prioritise the most essential and beneficial strategic initiatives. The initiatives aim to use technology to help taxpayers and traders meet their tax obligations voluntarily, increase public trust and confidence in SARS, and to make SARS a lean, integrated, and data-driven organisation through the SARS Modernisation Programme.
2. Operationalise the aspiration that 'tax just happens' guided by the principles of 'Tax Administration 3.0' and 'the best service is no service'. The end-state we aim to reach is a seamless taxpayer and trader experience that is clear, simple, easy, and accessible.
3. The implementation of the revenue management philosophy that conceptualises revenue as made up of revenue from the economy (including tax-policy interventions) and an efficient compliance programme. SARS will continue to explore opportunities

to enhance base effects from compliance interventions by executing its compliance programme.

4. Build people capability; strengthen the leadership bench; focus on achieving excellent operations management; implement our enhanced employee value proposition; and finalise organisational arrangements and focus on succession management.