

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 27 Jun - 03 July 2024
(Issue 25 -2024)

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TOP STORY

Fraudsters still finding new ways to beat the tax system

With Filing Season 2024 right around the corner and many other taxpayers having received their auto-assessments, fraudsters continue to lurk in the background looking for new ways to beat the tax system.

2024 has been a difficult year for many taxpayers and tax practitioners who, despite their best efforts to keep their profiles safe, were victim of tax scams and eFiling profile hijacking. Historically, the personal income tax filing seasons sees an increase in the number of tax scams and eFiling profile hijacking cases being identified and reported to SARS.

Over the past three weeks, SARS has alerted taxpayers to three separately identified scams doing the rounds

1. [Outstanding tax payment](#) - Where fraudsters purport to be SARS debt collectors and provide fake banking details to collect 'outstanding tax payments';
2. [Tax refund](#) – Where the fraudsters claim that a refund is due to the taxpayer and require the taxpayer to access a link for phishing purposes; and
3. [Tax refund](#) – A fake 'auto-assessment' notification stating that the tax calculations have been done and a refund is due to the taxpayer. To access the refund, the taxpayer must again access a link to phishing purposes.

It is important to taxpayers and tax practitioners alike to stay vigilant during this time. Members must take note that SARS does not have bank account numbers for taxpayers to make payments. All payment must be made via the public beneficiary accounts on all major banking App or by linking the bank account on the eFiling profile. Members should never open any links contained in emails or SMSs claiming to be from SARS.

If you believe you have been a victim of digital fraud or phishing scams, report these to SARS on the [SARS Online Query System](#) or by emailing phishing@sars.gov.za.

[#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

MEMBERS' DIGEST

Keeping all your coins safe in your piggy bank: safeguarding your assets with trusts

Written by: **Roxshanna du Toit**
General Tax Practitioner (SA)TM



'Trust' you are well

We use the word almost daily. It features in nearly every opening line of a professional email or introductory note: *"Trust you are well"*.

In this context specifically, it serves as a verb conveying hope that your reader is found to be in good health and in good spirits. It can also serve as the foundation for every good relationship we are fortunate enough to find in life; it is often well-rooted amongst the leadership of every established and long-standing business venture that has successfully stood the test of time.

The word 'trust' encompasses all these things. Beyond having a meaning so deeply impacting our lives, 'trust' can also materialise through a legal establishment, bringing to life an arrangement designed to safeguard your wealth and assets and preserve your legacy for generations to come.

Blimey, it's teatime, shall we have some tea: the history of trusts

The emergence of trusts in South Africa can be dated as far back as the 18th century. As the British established control over various regions of South Africa, they brought with them legal structures and institutions, including the concept of trusts derived from English common law.

Fast forward three centuries and trusts are still well utilised in our world today. They have proved their worth, evolving and adapting to changing economic landscapes and legal reforms and becoming increasingly utilised for various purposes, including estate planning, asset protection and charitable endeavours.

While the first trusts in South Africa found their origination from English common law, the Trust Property Control Act 57 of 1988 was promulgated on 17 June 1988, bringing into South African law the legal provisions that now apply to trusts, their establishment and management, as well as their administration by the trustees appointed for this specific purpose.

Who took the cookies from my cookie jar: using a trust to safeguard your assets

If you have ever heard of the saying "another day, another dollar", you would appreciate the meaning behind having worked hard to accumulate your assets and grow your wealth.

When one understands that most people work for the greater portion of their lives to grow their assets and leave a legacy to those held most dear to them, it is of paramount importance to protect the assets they have worked so hard to accumulate.

With this in mind, setting up a trust as an asset protection vehicle for safeguarding your assets from potential risks like claims from creditors, litigation or financial uncertainties may well be worth your while.

Setting up a trust for this purpose will involve transferring your assets into a trust and appointing a trustee who will be responsible for administering your trust and managing the assets housed therein for the benefit of nominated beneficiaries in accordance with the terms as outlined in the trust deed, which is drafted upon the creation of the trust.

The primary goal of an asset protection trust is to shield assets from being seized or depleted by creditors or legal judgements.

By placing your assets into a trust, you as the founder or person establishing the trust, relinquish direct ownership of your assets, thereby making it more difficult for creditors to access your assets in the event of a legal dispute or financial crisis. You can establish this type of trust for yourself, your family or your business in seeking to mitigate financial risks and safeguard your wealth for future generations.

Beyond providing an added layer of protection against financial risks and serving as an asset protection device, placing your assets in a trust offers several other potential benefits:

1. Estate planning: Housing assets in a trust can facilitate the efficient transfer of assets to beneficiaries, simplify your estate and save you on high executor fees based on the value of your estate.
2. Control and management: Trusts allow you as the founder to specify how assets are managed and distributed, even after your passing, ensuring assets are used according to your wishes.
3. Tax efficiency: With careful tax planning, trusts can offer tax advantages such as potentially reducing your estate duty. Your trust will be recognised as separate from you for tax purposes and all assets that are held in your trust will be excluded from your estate in calculating estate duty.
4. Creditor protection for beneficiaries: Assets held in trusts can also protect your beneficiaries from creditors or divorcing spouses, ensuring their long-term financial security.

Along with the benefits that can be reaped by housing your assets in a trust, it is equally important to remember that setting up a trust to hold onto your assets involves careful tax planning, ensuring that all regulatory checkboxes are being ticked by your trustees responsible for administering your trust.

This involves a very careful balance between protecting your assets and ensuring compliance with the legal and tax obligations that apply to trusts.

“You weren’t kidding!” (Not) An April Fool’s Joke: embracing the 1 April 2023 changes to the Trust Property Control Act

The first of April 2023, saw the dawn of a new compliance era for trusts with the Trust Property Control Act being amended to include ‘beneficial ownership’ regulations. This was no April fool’s joke and saw trusts facing new compliance requirements with both the Master of the High Court and SARS.

In understanding why the Trust Property Control Act was amended and why trusts are now heavily on the radar of both the Master and SARS, it is necessary to backtrack to October 2021, when the Financial Action Task Force (FATF), the global money laundering and terrorist financing watchdog, concluded their mutual valuation conducted on South Africa.

The report evaluated South Africa’s anti-money laundering (AML) and counter-terrorism financing (CTF) laws and found there were gaps in South Africa’s AML and CTF framework.

With trusts being flagged as high-risk vehicles that can potentially be used to facilitate money laundering and promote tax evasion, the Trust Property Control Act was amended following the FATF findings to include beneficial ownership regulations with effect 1 April 2023.

“Who is a beneficial owner of a trust?”, you may ask.

Taking guidance from the ‘beneficial owner’ definition contained in section 1 of the Trust Property Control Act, a beneficial owner is the natural person who directly or indirectly owns the trust property or assets or is any natural person who exercises effective control of a trust in the capacity of a trustee, founder or named beneficiary of the trust. These persons are seen to be the ‘warm bodies’ that ultimately control or exercise effective control over the trust and these are the warm bodies that SARS and the Master are interested in knowing more about.

The inclusion of the beneficial ownership regulations in the Trust Property Control Act has not only resulted in trusts needing to report the details of beneficial owners to the Master through the submission of a 'beneficial ownership register', but it has also triggered changes being implemented at SARS when it comes to trusts, namely:

1. At the onset of registration as a taxpayer with SARS, the trust needs to identify and report all beneficial owners of the trust;
2. The trust income tax return has been enhanced to include reporting on beneficial owners; and
3. IT3(t) third-party data reporting has come into effect, with 30 September 2024 marking the very first third-party data reporting deadline for trusts. This reporting is similar to IRP5 reporting for employers in declaring staff salaries and payroll taxes to SARS or medical aids in declaring to SARS the medical aid contributions made by their members. Trusts now fall under the third-party reporting umbrella, which requires declaring to SARS all income and capital gains vested or distributed to any person participating in the trust, including those identified as beneficial owners from the 2024 tax year onwards.

“All’s well that ends well”: leaving a legacy by protecting your assets in a trust

With this changed compliance landscape that trusts now face, it is your trustees who face additional compliance reporting to both the Master and SARS.

It is important for you to know what these responsibilities entail and what information your trustees need to report to SARS and the Master in relation to you, your trust and the trust beneficiaries.

You can choose to look at these changes as a more onerous form of trust administration being imposed on your trust or to consider these changes rather as an extended form of due diligence, giving you peace of mind that your trust is being properly administered and offering greater comfort and security that your trust assets are safe and protected.

Finding inspiration in Andy Warhol's philosophy, “The aim is not to live forever, but to create something that will”, outside of paintbrushes and a magnificent palette, entrusting your assets to a trust could be the brushstroke of genius that shapes your life's ultimate masterpiece— your legacy.

PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

SAIT TaxHelpline – SARS operational queries

No new recurring operational queries were identified from the SAIT TaxHelpline over the week of 27 June – 3 July 2024.

Reminder on the highlights from the June 2024 SAIT/SARS escalations

During the second quarter of 2024, SAIT has received and validated 376 escalations cases relating to long outstanding cases not finalised by SARS within the prescribed timeframes, with 177 in April, 113 in May and 87 in June 2024. Although tax practitioners continue to struggle with SARS not complying with the prescribed turnaround times, SAIT has seen a decrease in the number of escalations received during the month of June.

Upon further analysis of the escalations, the top three escalations relate to:

1. Delays in the finalisation of verifications (for corporate income tax and VAT);
2. Delays in issuing assessments after returns were referred for manual intervention;
3. Delays in the payment of VAT refunds; and
4. SARS locking eFiling profiles where the contact details of the practitioner are utilised on multiple profiles.
5. Delays in the finalisation of cessation of tax residency applications.

We further noted an increase in the number of VAT registrations Approval for International Transfer TCS applications being rejected with generic letters. In these instances, SAIT approached SARS on the reasons for rejection because these reasons could not be obtained in the outcome letter or from the SARS Contact Centre.

For assistance with an escalation, members may submit a SARS [Escalation](#) query on the SAIT Helpline and provide details relating to the query, including:

- Taxpayer tax reference number;
- SARS case number;
- Taxpayer's region of registration;
- Date documents were submitted to SARS;
- Tax period (if applicable); and
- A brief summary of the case.

Reminder on SARS publishing updated guides in anticipation of Filing Season 2024

On 3 June 2024, SARS announced that Filing Season 2024 would commence on 15 July 2024, with the first two weeks of July reserved for the issuing of Auto-Assessments to the qualifying population.

In anticipation of Filing Season 2024, SARS published the following updated guides to assist taxpayers navigate filing season with ease:

- [Guide to the Individual ITR12 Return for Deceased and Insolvent Estates](#)
- [How to submit your Individual Income Tax return via the SARS MobiApp](#)

- [Guide to submit your individual income tax return via eFiling](#)
- [Comprehensive Guide to the ITR12 Income Tax Return for Individuals](#)
- [Submit Request for Reduced Assessment \(RRA01\) via eFiling](#)
- [Guide to Help-You-eFile](#)
- [Guide for Provisional Tax](#)

It is customary for SARS to release a new version of the ITR12 return prior to the commencement of Filing Season to account for any legislative and operational changes. SARS released a [prototype of the 2024 ITR12](#) to allow taxpayers and tax practitioners to familiarise themselves with the below changes.

- **Pro-rata deduction in respect of contributions to retirement funds:** Section 11F(2)(a) of the Income Tax Act No 58 of 1962 was amended as follows: Where any person's year of assessment is less than 12 months, the amount stipulated in section 11F(2)(a) of the Act used to calculate the allowable retirement contribution deduction (currently R350 000) shall be adjusted. The adjusted amount will bear the same ratio to R350 as the number of days in that year of assessment bears to 365 days.

Therefore, if any person's year of assessment is less than 12 months, the allowable retirement contribution deduction (currently R350 000) will be applied on a pro rata basis.

- **Exemption of amounts received or accrued in respect of tax-free investments:** Section 12T(4)(a) of the Income Tax Act was amended as follows: Where any person's year of assessment is less than 12 months, the contribution limitation stipulated in section 12T(4)(a) of the Act (currently R36 000) shall be adjusted. The adjusted contribution limitation will apply in aggregate for any year or years of assessment during the 12-month period commencing in March and ending at the end of February of the immediately following calendar year.

Therefore, if any person's year of assessment is less than 12 months, the applicable contribution limitation (currently R36 000) will be applied on a pro rata basis.

Note: It is unclear how the apportionment will be considered in the event of a death during the year of assessment and how this will affect the section 12T(7) penalty. SAIT will be making a submission to SARS to seek clarity in this regard.

- **Deductions in respect of erection or improvement of buildings in urban development zones:** Section 13quat of the Income Tax Act was amended by substituting the following paragraph in subsection (5) for paragraph (c): "*(c) which is brought into use by the taxpayer after 31 March 2025.*"

Therefore, the Income Tax Return (ITR12) form will be amended to extend the allowable deduction until 31 March 2025.

- **Solar energy tax credit:** To encourage individuals to invest in clean electricity-generation capacity, the solar energy tax credit was available for one year. It applied to new and unused solar PV panels that were acquired by the individual and brought into use for the first time from 1 March 2023 to 29 February 2024.

The amount of the solar energy tax credit allowed as a deduction to an individual was 25% of the cost of the solar PV panels described above, up to a maximum of R15 000.

It should be noted that a deceased estate did not qualify for solar tax credit.

- **Redesigned deduction in respect of certain machinery, plant, implements, utensils and articles used in production of renewable energy:** SARS has redesigned the s10(1)(o) (i) and s10(1)(o)(ii) questionnaire to make it easier for taxpayers to complete the return.

It noted that the ITR12 form rules were a challenge to taxpayers. Previously, taxpayers had to first select the applicable wizard questions for the income, exemption, and foreign tax credit containers before completing the exemption amount for qualifying criteria.

The updated form streamlines this process, making it easier for taxpayers to complete the return.

- **ITR12 form changes — beneficial owner:** In recent years, SARS has observed that tax practitioners sometimes put their own details in the contact information section in the place designated for the individual taxpayers that they represent when submitting ITR12 forms. SARS wishes to emphasise to practitioners that when completing and submitting ITR12 returns for individual taxpayers they must ensure that the container designated for the individual taxpayer's details is filled with the taxpayer's information, and not that of the tax practitioner.

Importantly, it must be noted that there is already a designated container for tax practitioners to declare their own particulars. Therefore, tax practitioners must not use fields intended for individuals to declare their own details.

In addition, remember that the information in the declaration must be true and accurate.

The [2024 corporate income tax return](#) (ITR14) can now also be accessed for taxpayers affected by the 2024 legislative changes.

With the unusual delay in the commencement of the Trust Income Tax Filing Season, we do anticipate that the ITR12T return will be released much closer to 16 September 2024.

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. Lack of response provided on report digital fraud cases;
2. Delays in finalising income tax deregistration cases;
3. Delay in the finalisation of VAT objections; and
4. Delay in the finalisation of VAT verifications and payment of refunds.

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](#)

Feedback from the Eastern Cape regional meeting held on 27 June 2024 can be accessed [here](#).

Feedback from the previously held Gqeberha and Kariega stakeholder meeting on 24 June

2024 can be accessed, [here](#).

Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. Gauteng South for 17 July 2024;
2. KwaZulu-Natal has been rescheduled for 22 July 2024;
3. Gauteng North for 22 August 2024;
4. Free State and Northern Cape for 9 September 2024;
5. KwaZulu-Natal for 9 September 2024;
6. Free State and Northern Cape for 11 November 2024;
7. Gauteng South for 13 November 2024;
8. Gauteng North for 21 November 2024; and
9. KwaZulu-Natal for 25 November 2024.

Other meetings of interest

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

Month	Date	Tax Type	Notification
June 2024	07/06/2024	Employment Taxes	EMP201 - Submissions and payments
	25/06/2024	Value-Added Tax	VAT201 - Manual submissions and payments
	28/06/2024	Value-Added Tax	VAT201 - Electronic submissions and payments
	28/06/2024	Income Tax	ITR14 - Submission of 2023 returns for companies with a June year-end
	28/06/2024	Income Tax	1st provisional (2024) - Submissions and payments for individuals, trusts and companies with a December year-end
	28/06/2024	Income Tax	2nd provisional (2024) - Submissions and payments for companies with a June year-end
	28/06/2024	Income Tax	3rd provisional (2023) - Payments for companies with a December year-end

Month	Date	Tax Type	Notification
July 2024	01/07/2024	Income Tax	ITR12 – Issuance of 2024 Auto Assessment
	15/07/2024	Income Tax	ITR12 - Opening of Filing Season 2024
	05/07/2024	Employment Taxes	EMP201 - Submissions and payments
	25/07/2027	Value-Added Tax	VAT201 - Manual submissions and payments
	31/07/2024	Value-Added Tax	VAT201 - Electronic submissions and payments

SAIT member resources

- [SAIT Important tax dates calendar](#) – contains important dates from January 2024 to January 2025 (unchanged).
- [SAIT SARS contact map](#) – links service requirements to SARS channels (unchanged)

Key Operational News

Reminder on SARS' renewed focus on cryptocurrency traders

SARS has placed its focus on cryptocurrency traders and is using artificial intelligence and third parties to identify those who are not compliant. Many cryptocurrency traders have, for several years, traded with the misconception that their dealings are 'off the grid' and safe from SARS' radar. However, SARS has recently confirmed that it may demand transactional records from cryptocurrency exchanges for audit and assessment purposes.

For context, a crypto asset is a digital representation of value that is not issued by a central bank, but is traded, transferred and stored electronically by natural and legal persons for the purpose of payment, investment and other forms of utility, and applies cryptography techniques in the underlying technology. According to the [Explanatory Memorandum on the Taxation Laws Amendment Bill as issued on 20 January 2021](#) the word 'cryptocurrency' was replaced with 'crypto asset' in line with the proposed adoption of a uniform definition of crypto assets within the South African regulatory framework.

Normal income tax rules apply to crypto assets and affected taxpayers need to declare crypto assets' gains or losses as part of their taxable income. The onus rests on taxpayers to declare all crypto assets-related taxable income in the tax year in which it is received or accrued. For many years, because of the lack of any third-party data on crypto assets, taxpayers have gotten away with omitting these earnings from the annual tax return. However, SARS has since improved its systems and with artificial intelligence, are now able to trace more of the crypto transactions.

For more information, access the [MyBroadband](#) article.

Reminder on how the solar rebate work?

On 26 June 2024, SARS published some notes on how the section 6C solar rebate would work for the 2024 year of assessment. Government introduced a rooftop solar tax incentive for individuals who invest in solar photovoltaic (PV) panels. SARS shared the following notes:

- The tax credit will only apply to new and unused solar PV panels acquired and brought into use for the first time during the 2024 year of assessment (i.e. 1 March 2023 – 29

February 2024) and that have a minimum generation capacity of not less than 275W each.

- The solar PV panels must form part of a system connected to the distribution board of a residence that is mainly (i.e. more than 50%) used by the individual for domestic purposes and an electrical certificate of compliance must have been issued for that residential property (in terms of the Electrical Installation Regulations, 2009) after the solar PV panels were installed.
- The solar energy tax credit applies to the 2024 YOA only and the amount allowed as a deduction will be 25% of the cost of the above solar PV panels up to a maximum of R15 000.
- **Note:** batteries, inverters, fittings or diesel generators, installation costs and portable panels do not qualify.

The following is also worth noting when completing the 2024 personal income tax return (ITR12):

- 'How many new and unused solar panel(s) were installed?' (**maximum value allowed is 99**)
- 'Do you confirm that new and unused solar panel(s) were installed with a minimum generation capacity of more than 275 Watts each?' – (**Select Y or N**).
- 'Do you confirm that the solar panel(s) were connected to the distribution board of a resident that is mainly (more than 50%) used by you for domestic purposes?' – (**Select Y or N**).
- 'Do you confirm that you received an electrical certificate of compliance issued in terms of Electrical Installation Regulations, 2009, pertaining to this installation?' – (**Select Y or N**).
- 'Total cost incurred for solar panel(s)' – **source code 4056**.

In the event that the return is selected for verification, the following supporting documents will be required to prove the 6C solar credit:

- A VAT invoice that indicates the cost of the solar PV panels separately from other items that do not qualify.
- Proof of payment.
- Electrical certificate of compliance.

Other SARS and related operational publications and announcements

No other SARS operational publications and announcements were made during the week of 27 June – 3 July 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 27 June – 3 July 2024.

Key tax practitioner news

Reminder on the June 2024 Tax practitioner compliance report

The annual tax practitioner compliance audit is well underway having commenced in March 2024. The aim of the audit is two-fold:

- a) As a recognised controlling body (RCB) and professional institute, SAIT is legally required to conduct a compliance audit of 20% of its members annually. This audit forms part of

- the RCB annual report on various statutory compliance requirements.
- b) By administering the audit, we can ensure that members in practice are compliant with their tax practitioner registration and retention requirements, thus, avoiding deregistration due to non-compliance.

Members are urged to familiarise themselves with the key requirements encapsulated under [SARS Criteria for the Registration of Tax Practitioners and the Recognition of Controlling Bodies](#), to the extent that this directive relates to RCB obligations to maintain membership compliance. The audit ensures that SAIT maintains proper compliance standards and updated records. All members selected for compliance monitoring and audit will be suspended with no exceptions made on 1 July 2024. The effect of suspension is a revocation of access to SARS platforms and SAIT services and benefits until such time as the relevant individual demonstrates compliance.

Although responsiveness has been improving at 45% full compliance conversion strike rate currently, a significant number of members remain non-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 and statutory requirements. This trend not only places the respective member's ability to practice at risk but poses a risk to the general membership body as well as the Institute due to failure to uphold its legislative mandate.

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.

Members who are non-compliant with personal tax, criminal-free status and continued professional development (CPD) are regularly deregistered by SARS and risk termination by SAIT at the close of the audit. The SARS compliance audit focuses on rectifying non-compliance in the following areas:

- Tax compliance: All members must have updated, verified and compliant tax clearance status every year.
- Criminal-free Status Declaration: Members with criminal or disciplinary records relating to dishonesty, fraud or equivalent misconduct may not be registered as Tax Practitioners. Any records hereunder must be disclosed. Members who do not wish to sign these declarations are required to submit an independently reviewed criminal status check report.
- CPD: By SAIT policies and requirements which take to account SARS and statutory requirements, all members are required to complete 18 hours of verifiable CPD annually:
 - 10 hours tax CPD.
 - 6 hours may be allocated to non-tax CPD. Member may choose to complete this optional portion of verifiable CPD with tax CPD.
 - 2 hours must be ethics and standards CPD.
- General member declarations/forms.

Applicable sanctions and penalties

It is crucial that SAIT members uphold their membership and professional obligations and conduct themselves within SAIT policies, rules and regulations. The SAIT Disciplinary Board may administer any, or a combination, of the following sanctions for contravening and non-compliant members:

- Suspension of membership: A member who is found to be non-compliant at the end of a particular SAIT internal or SARS-mandated compliance audit will automatically be subject to suspension of membership and further compliance monitoring.
- Termination of membership: Members who demonstrate consistent non-compliance and those whose membership profiles reflect CPD non-compliance for any period more than

two compliance cycles (12 months) run the risk of permanent termination of membership and SARS deregistration. Once deregistered, the individual will not be able to register with another RCB.

- Listing on the register of non-compliant members: This register will be submitted to SARS and updated periodically for appropriate dissemination with other RCBs, to the extent as may be permissible in law to prevent chronically non-compliant tax practitioners from registration.

Recognising compliance is paramount to SAIT as a value-adding service, which contributes to the ethos of professionalism and maintain high standards within the tax profession. We hope to encourage a shift in our compliance culture. One of our primary goals is to assist our members in achieving compliance and retaining their tax practitioner registration.

Should a member have challenges with their respective compliance or difficulties with accessing CPD links, webinars, other CPD material, and relevant assessments, the SAIT Compliance Department is available to provide the necessary support. Those selected for audit are encouraged to reach out as soon as possible to avoid suspension.

On behalf of the broader SAIT team, we express our gratitude to all members who maintain healthy and consistent compliance. Formal compliance certificates will be issued to all members on the audit who have achieved compliance.

Government & stakeholder newsletters

No government and stakeholder newsletters were published during the week of 27 June– 3 July 2024.

Other tax practitioner access and functionality publications and announcements

- **2 July 2024:** The Limpopo region released the July 2024 schedule for the [mobile tax unit and tax workshops](#) within the province.
- **2 July 2024:** SARS released the Western Cape [mobile tax unit schedule](#) for August 2024.
- **28 June 2024:** SARS announced that they would be performing planned upgrades to the eFiling platform on Saturday, 29 June 2024 at 05:00 - 10:00. During this time the digital platform may have been unavailable.
- **28 June 2024:** SARS [announced](#) that the Filing Season for provisional taxpayers mandated to submit a tax return will commence on July 15, 2024. Auto-assessments will be conducted for an extended group of taxpayers from July 1 to July 14, 2024.
- **27 June 2024:** SARS [published](#) the mobile tax unit schedule for North West to be held in July 2024.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Reminder pertaining to tax policy & international agreements

The South African Country-by-Country (CbC) Regulations are modelled upon the premise of the legislation related to CbC reporting that was published by the OCED in the 2015, BEPS Action 13 Final Report. Consequently, SARS is also able to receive and exchange information provided in submitted CbC Reports, master files and/or local files with other jurisdictions with which South Africa has entered into an agreement with.

On 21 June 2024, SARS has updated the [list of countries that have a current International Agreement in place with South Africa but do not have a Qualifying Competent Authority Agreement in place for purposes of Article 2\(2\)](#).

SARS has also indicated that the [OECD](#) website should be accessed for regular updates as jurisdictions activate their bilateral exchange relationships for CbC reporting on an ongoing basis. This list was last updated on 20 June 2024.

Update regarding the South African legislative cycle*

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](#).

*A critical piece of legislation will be pertaining to the long-awaited release of the revised draft Global Minimum Tax Bill. Following the stakeholder engagement that was convened on 7 June 2024, SAIT envisages that revisions will be made to the draft Bill. Access more information pertaining to the Global Minimum Tax [here](#).

LEGISLATIVE INTERPRETATION

Submissions to SARS and current calls for comment

Submitted calls for comment

No submission on legislative calls for comment were submitted to National Treasury and/or SARS for the week of 27 June – 3 July 2024.

Legislative interpretation calls for comment

No legislative interpretation calls for comment were issued by SARS for the week of 27 June – 3 July 2024.

Legislative counsel publications

No new legislative counsel publications were published in the week of 27 June – 3 July 2024.

Published court cases

Reminder regarding the Constitutional Court judgment held in favour of the taxpayer in its contentious foreign business establishment case with SARS

The long-awaited outcome in the matter between [Coronation Investment Management SA \(PTY\) Limited \(Coronation\) and SARS](#), which stems from a long-standing matter of judicial debate pertaining to the foreign business establishment (FBE) definition as contained in section 9D of the Income Tax Act was handed down on 21 June 2024.

The unanimous decision of the Constitutional Court held that the Coronation Global Fund Managers (Ireland) Limited (CGFM) met the economic substance requirements required to comply with the definition of an FBE. SARS was misguided and had conflated the main issue in this matter. Essentially, SARS has misunderstood the premise of CGFM's core activities and confused fund management and investment management activities. Thus, arriving at the incorrect conclusion would have resulted in the imputation of income to Coronation of its net income for the 2012 year of assessment. This would have resulted in an R800 million debt being owed to SARS.

The Constitutional Court ruled that the Tax Court was correct in its judgment and that the Supreme Court of Appeal was not. SARS has been ordered to issue a reduced assessment. However, during the 2023 Draft Tax Bill cycle, National Treasury had indicated that it has been made aware of a trend whereby South African resident taxpayers are retaining certain management functions but outsourcing other important functions for which the controlled foreign company (CFC) is also receiving compensation. In order to qualify for the FBE exclusion, National Treasury then proposed that all important functions for which a CFC is compensated should be performed either by the CFC or by another CFC in the same group of companies that is located and subject to tax in the same country as the CFC's fixed place of business. National Treasury later reneged on this proposal subject to the outcome of the Coronation case.

Now that the Apex Court has ruled in favour of the taxpayer, it would be interesting to see whether National Treasury will make a similar proposal – if any. Access more commentary on this case [here](#).

Other SARS publications and announcements

No other matters of interest pertinent to a tax practice were published in the week of 27 June – 3 July 2024.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

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