

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 11 - 17 July 2024
(Issue 27 -2024)

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TOP STORIES

System glitches as Filing Season 2024 officially kicks off

Filing Season 2024 officially kicked off on Monday, 15 July 2024, for all individual taxpayers not forming part of the auto-assessment population. The start of the filing season was not without any teething problems as thousands of taxpayers and tax practitioners rushed to eFiling to submit their tax returns. The increased traffic on the system causes some system glitches including:

- Inability to log into eFiling;
- Taxpayers or tax types not reflecting on eFiling;
- Inability to request the tax return; or
- Timeout errors.

For more information on Filing Season 2024, read [here](#).

Wiese v SARS case: Another feather in SARS' cap to recover taxes due to the State

On 12 July 2024, the SCA handed down judgment dismissing with costs an appeal by Christoffel Wiese and others against the decision of the Western Cape Division of the High Court, Cape Town, in his long-standing dispute with SARS.

The appellants (Christoffel Wiese and his advisors) sought leave of the High Court to appeal its judgment before the SCA. The appellants sought the SCA's indulgence on the admissibility of the transcript of evidence presented by the appellants at an inquiry held during 2015 and 2016, and whether the assessments raised by SARS for secondary tax on companies (STC) and capital gains tax (CGT) constituted 'tax debts' for purposes of section 183 of the Tax Administration Act (TAA) – tax debts that SARS sought to recover. The effects of the High Court's adverse judgment would result in the appellants being liable for a tax bill of R216 million.

For more on this judgement, read [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

System glitches as Filing Season 2024 officially kicks off

Filing Season 2024 officially kicked off on Monday, 15 July 2024 for all individual taxpayers not forming part of the auto-assessment population. The start of the filing season was not without any teething problems as thousands of taxpayers and tax practitioners rushed to eFiling to submit their tax returns. The increased traffic on the system causes some system glitches including:

- Inability to log into eFiling;
- Taxpayers or tax types not reflecting on eFiling;
- Inability to request the tax return; or
- Timeout errors.

These problems were subsequently investigated and resolved by SARS technicians by Tuesday, 16 July 2024. Since then, members have not experienced or reported any problems on the system.

Historically, the Corporate Income Tax return (ITR14) would be made available at the start of the individual Filing Season. This year, however, during the Gauteng South regional meeting held on Wednesday, 17 July 2024, SARS representatives confirmed that the 2024 Corporate Income Tax return (ITR14) will only be available from **13 September 2024**.

SARS is currently finalising the return to include all the legislative changes which came into effect for the 2024 year of assessment. The prototype of the 2024 ITR12T return for trusts will also be available on 13 September 2024 in preparation for the Trust Filing Season commencing on 16 September 2024.

Update on SARS blocking the submission of returns older than 5 years on eFiling

Two weeks ago, SARS took a decision to block the submission of personal income tax returns older than five years on eFiling and requires that taxpayers with outstanding returns must visit a SARS branch to regularise their income tax affairs.

The decision comes two weeks before the commencement of the 2024 Filing Season, a period where branch appointments are difficult to secure with 2 - 6 week waiting times for virtual and physical appointments, respectively.

SARS, however, indicated that returns older than five years would only be blocked from the individual eFiling profile and that registered tax practitioners would still be able to submit these returns on the tax practitioner eFiling profile. However, upon testing the system, SAIT discovered that tax practitioners are also unable to file returns older than five years on eFiling.

RETURN COULD NOT BE ISSUED

Please note that the tax return older than 5 years cannot be requested via eFiling or MobiApp. Please make an appointment with a branch office for further assistance to request and submit older than 5 years tax return(s).

[Back](#)

From SAIT's understanding, the rationale behind this decision is to manage the human resource capacity within the compliance audit division. With the unforeseen raise fraud cases, the older tax returns are often used to submit fictitious deductions and rebates to create fraudulent refunds. As a result, the number of cases being routed for audit have increased, thus creating excessive backlogs within the audit divisions. With Filing Season starting in a few days, priority needs to be given to new audit cases in lieu of the older years of assessment.

While SAIT appreciates the above rational, we do believe that this decision goes against two of the nine SARS strategic objectives, namely:

- Make it **easy** for taxpayers and traders to comply with their obligations.
- Modernise our systems to provide **digital** and **streamlined** online services.

By forcing the taxpayers to visit the SARS branches in order to submit older returns, it makes it hard for taxpayers and tax practitioners to comply with the obligations, and moves away from utilising the digital online services already available.

*In response to this decision, SAIT has made a [submission](#) to SARS to request the reconsideration of this decision with the hopes of restoring the status quo for the submission of older tax returns. Failing which, SAIT has also requested the increase in virtual and physical appointments slots to cater for the increased demand for appointments. Members will be kept informed on all developments as they happen.

Update on SARS placing stoppers on assessed accounts after paying penalties on income tax

For income tax purposes, when a taxpayer settles their administrative penalty debt, the payment reference number is linked to the assessed account rather than the admin penalties account.

Unfortunately, when the payment is made to the assessed account, taxpayers receive weekly 'refund status' letters indicating that the refund cannot be paid out because of the admin penalty. There seems to be a delay in the manual allocation / debt equalisation processes. In most instances, the taxpayer must then submit a payment allocation on the [SARS Online Query System](#) for SARS to correctly allocate the payment.

In some cases, a stopper is placed on the assessed account because 'a payment was received when no payment was expected'. The taxpayer is then required to submit the proof of payment and an explanation on why the payment was made to SARS. If this is not done, it may delay the payment of any future refunds due to the taxpayer.

*This issue was raised with SARS at the recently held Gauteng South regional meeting. During this meeting, SARS representatives committed to investigating the case further. Members who continue to experience this problem are encouraged to share examples with SAIT via email, helpline@thesait.org.za with 'Stopper on assessed account' as the subject line.

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. eFiling users not being able to log into their eFiling profiles;
2. Delays in SARS issuing the Deceased Estate Compliance (DEC) letters; and
3. Delays in finalising income tax deregistration cases.

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 Gauteng South regional meeting held on 17 July 2024 will be available in Issue 28 of the Tax Practice: Weekly Highlights.

Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. KwaZulu-Natal for 22 July 2024;
2. Eastern Cape tentatively scheduled for 14 August 2024;
3. Witbank, Mpumalanga tentatively scheduled for 16 August 2024;
4. Gauteng North for 22 August 2024;
5. Free State and Northern Cape for 9 September 2024;
6. KwaZulu-Natal for 9 September 2024;
7. Free State and Northern Cape for 11 November 2024;
8. Gauteng South for 13 November 2024;
9. Gauteng North for 21 November 2024; and
10. KwaZulu-Natal for 25 November 2024.

Other meetings of interest

1. SARS Trust engagement schedules for 18 July 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: July 2024

Month	Date	Tax Type	Notification
	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

Tax Directives software update for the Two Pot Retirement system

To facilitate the upcoming two-pot retirement system changes, SARS announced that they will be making enhancements to the Tax Directives process. The changes are detailed in [IBIR-006 Tax Directives Interim Specification Version 6.704](#). Trade testing commenced on 1 July 2024 and will run till 16 August 2024. Should tax practitioners wish to be part of the trade testing of the tax directives, please follow these steps to submit test files:

- **Step 1:** Before testing can commence, you will need to email 10 taxpayer reference numbers to ncts@sars.gov.za to ensure the numbers are active. In the email subject line, use 'Tax reference numbers for Trade Testing'. A maximum of 10 taxpayer reference numbers will be allowed.
- **Step 2:** You will be notified via the same email address to confirm when testing may commence.

For trade testing queries please email ncts@sars.gov.za.

Update on fraudsters finding new ways to beat the tax system

With Filing Season 2024 underway and many other taxpayers having received their auto-assessments and awaiting tax refunds 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.

*In the past week, SARS identified two new auto-assessment and refund scams doing the rounds, in addition to the three scams identified earlier this month.

1. [Complete you refund](#) – Where the fraudsters indicate that the taxpayer is eligible for a refund and must access a link for phishing purposes;
2. [Auto-Assessment](#) – Where fraudsters indicate that you have been auto-assessed and should access the Notice of Assessment and act as instructed.
3. [Outstanding tax payment](#) - Where fraudsters propret to be SARS debt collectors and provide fake banking details to collect 'outstanding tax payments';
4. [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
5. [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.

Reminder on accepting or rejecting an auto-assessment this Filing Season

Filing Season 2024 is the 5th year of auto-assessment that SARS introduced during the 2020 year of assessment. The first two years of auto-assessments (2020 and 2021) allowed taxpayers to accept or reject the pre-populated tax return on eFiling. During Filing Season 2022, the 'accept' and 'reject' options were replaced by the Estimated Original Assessments, which saw taxpayers needing to submit a return with 40 business days if they did not agree with the assessment.

In 2023, the period to submit a revised assessment was automatically extended to 80 business days without the need to request for extension in terms of section 95(7) of the Tax Administration Act, No. 28 of 2011 (the TAA).

Much like Filing Season 2023, if the taxpayer disagrees with the auto-assessment, they must file their Income Tax Return (ITR12) with the additional information they have and submit it before 21 October 2024 via eFiling or SARS MobiApp.

Taxpayers who receive an auto-assessment do not have to wait for 15 July 2024, but can access the ITR12 immediately. If the taxpayer agrees with the auto-assessment, they do not have to do anything further.

Other SARS and related operational publications and announcements

No other SARS operational publications and announcements were made during the week 11 – 17 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 11 - 17 July 2024.

Key tax practitioner news

No other key tax practitioner news were published during the week of 11 – 17 July 2024.

Government & stakeholder newsletters

Reminder that the OTO published issue 33 of the Fair Play newsletter

On 4 July 2024, the Office of the Tax Ombud published [issue 33 of the FairPlay newsletter](#). SAIT contributed to the 33rd edition of the newsletter, 'Tips for the youth', written by Yolisa Dyasi (Tax Technical Specialist: Operations and Tax Administration). The newsletter covers the following articles:

- A look into the ongoing hacking of SARS eFiling profiles;
- How to prevent and report digital fraud;
- Tips for the youth;
- Steps to take when appointing a tax practitioner; and
- Celebration of women in tax.

Other tax practitioner access and functionality publications and announcements

- **17 July 2024:** SARS published the North West [mobile tax unit schedule](#) for August 2024.
- **16 July 2024:** SARS published the Free State and Northern Cape [mobile tax unit schedule](#) for July to October 2024.
- **15 July 2024:** SARS published the Mpumalanga [mobile tax unit schedule](#) for July to September 2024.
- **15 July 2024:** SARS confirmed that they experienced high volumes on their online channels which led to intermittent slowdown and service interruption. The SARS technical teams actively worked on optimising and improving response times in order to provide the best service experience.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

No legislation, international agreements or policy matters were published during the week of 11 – 17 July 2024.

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 11 July – 17 July 2024.

Legislative interpretation calls for comment

On 5 July 2024, SARS issued the following call for comment:

- [Draft Guide](#) – Income Tax Benefits in Special Economic Zones.

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

Legislative counsel publications

SARS publishes Binding Private Ruling 404: Expenditure incurred in respect of environmental conservation

On 15 July 2024, SARS published [BPR 404](#) that outlines the tax consequences pertaining to expenditure incurred in the process of securing land that is to be declared as a nature reserve. The ruling is an interpretation and application of section 37C and section 37D of the Act, accordingly.

The Ruling contained in [BPR 404](#) is valid for 5 years commencing retrospectively on 4 March 2024 and is as follows:

- a) The expenditure incurred in respect of the acquisition of the portion of the Property to be declared a nature reserve under the relevant provisions of the National Environmental Management: Protected Areas Act 57 of 2003 (NEMPA), will be deductible under section 37D(2) commencing in the year the land becomes declared.
- b) The expenditure to be incurred in respect of historic and future improvements (excluding borrowing and financing costs) effected to the portion of the Property to be declared a nature reserve under the provisions of NEMPA, will qualify for deduction under section 37D(2) commencing in the year the land becomes declared.
- c) The cost of expenditure to be incurred in respect of environmental conservation and maintenance undertaken in terms of the agreement entered into under the provisions of NEMBA. The portion of the Property to be declared a nature reserve under the relevant provisions of NEMPA will meet the requirements of section 37C(1).

Members are encouraged to peruse [BPR 404](#) for full and further detail regarding the nature of the proposed transaction and the applicants thereto.

Reminder on SARS publishing a Tax Exemption Guide for Small Business Funding Entities

A major challenge in the growth of small, medium and micro enterprises (SMMEs) is access to funding due to their inherent risk and lack of collateral together with the fact that they often lack the necessary training and commercial skills to manage and develop the business. Often, SMMEs lack the necessary tax knowledge to conduct their business optimally.

Therefore, on 5 July 2024, SARS published the [Tax Exemption Guide for Small Business Funding Entities](#) to provide general guidance on the approval of small business funding entities under section 30C of the Income Tax Act 58 of 1962 (the Act) and partial taxation of its receipts and accruals under section 10(1)(cQ) of the Act.

To assist in the development of and to encourage support to SMMEs, the following legislative provisions, amongst others, were introduced specifically for SBFES:

- Definitions in section 1(1) of the terms 'small business funding entity' and 'small, medium or micro-sized enterprise'.
- Section 30C setting out the prescribed requirements an entity must comply with to qualify for and retain approval as an SBFES to enjoy partial taxation.
- Section 10(1)(cQ) providing for the exemption from income tax of certain receipts and accruals of SBFES and the taxation of receipts and accruals falling outside the permissible business undertakings or trading activities provided in that section.

The [guide](#) also outlines specific guidance in respects of the following taxes and duties that may affect entities approved by the Commissioner as SBFES:

- Capital gains tax;
- Dividends tax;
- Donations tax;
- Employees' tax;
- Estate duty;
- Income tax;
- Securities transfer tax;
- Skills development levy;
- Transfer duty;
- Unemployment insurance fund contributions; and
- Value-added tax.

Tax practitioners who render services to this clientele are encouraged to study the [guide](#) for more detail.

Reminder on SARS releasing interpretation note 95(issue 3) that provides guidance on the section 12L deduction for energy efficiency saving

In response to South Africa being ranked as one of the top 20 global contributors of greenhouse gas emissions, government announced that it would implement measures to significantly reduce domestic greenhouse gas emissions. One such measure was the introduction of a carbon tax policy to encourage behavioural change towards cleaner low-carbon technologies.

As a complementary measure, government has introduced environmental-related tax incentives to address concerns related to global warming and energy security. One such incentive is contained in section 12L of the Act and essentially allows a qualifying taxpayer to claim a deduction for most forms of energy efficiency savings that result from activities

performed in the carrying on of any trade and in the production of income. Claiming the section 12L deduction can create or increase an assessed loss, which taxpayers can utilise against their taxable income, thus creating a favourable tax position (in some instances). The Section 12L deduction became effective on 1 November 2013 and applies to years of assessment ending before 1 January 2026.

In releasing this [interpretation note](#), SARS seeks to provide guidance on how to claim the deduction for energy efficiency savings under section 12L which is to be read together with the regulations that were published by the Minister of Finance pertaining thereto.

Members may access further detail, [here](#) regarding *inter alia* qualifying and non-qualifying activities for which the section 12L deduction may be claimed.

Published court cases

On 12 July 2024, the SCA handed down judgment dismissing with costs an appeal by Christoffel Wiese and others against the decision of the Western Cape Division of the High Court, Cape Town, in his long-standing dispute with SARS.

The appellants (Christoffel Wiese and his advisors) sought leave of the High Court to appeal its judgment before the SCA. The appellants sought the SCA's indulgence on the admissibility of the transcript of evidence presented by the appellants at an inquiry held during 2015 and 2016, and whether the assessments raised by SARS for secondary tax on companies (STC) and capital gains tax (CGT) constituted 'tax debts' for purposes of section 183 of the Tax Administration Act (TAA) – tax debts that SARS sought to recover. The effects of the High Court's adverse judgment would result in the appellants being liable for a tax bill of R216 million.

The SCA agreed with the High Court on both enquiries, holding firstly that there are no contradictions between the provisions of section 56 and 69 of the TAA, therefore rendering the transcripts admissible. This decision empowers SARS to obtain information it would otherwise not be able to acquire in pursuance of its statutory functions.

Secondly, notwithstanding that the appellants argued that the STC and CGT assessments did not constitute tax debts as contemplated by section 183 of the TAA, the SCA held a different view and agreed with the High Court that section 183 should not be construed to mean that a taxpayer's liability to pay tax due to SARS should have been determined by assessment at the time that the dissipation of assets occurred. If that was the case, a culpable third-party who intentionally assisted a taxpayer to dissipate assets to evade tax would escape liability because SARS would have not issued an assessment to that effect.

This judgment highlights the powers of SARS, the spirit of the provisions of the TAA and SARS' determination in its quest to recover taxes due to the State.

Date of delivery	Case	Relevant Legislation
12/07/2024	<p><i>Christoffel Hendrik Wiese and Others v CSARS (1307/2022)</i></p> <p>A synopsis of this case is contained in the media summary.</p> <p><i>*This summary does not form part of the judgment of the Supreme Court of Appeal.</i></p>	Tax Administration Act, 2011
<p>Summary:</p> <p>Taxation – recovery of tax debt from third party in terms of section 183 of the TAA – whether term ‘tax debt’ envisages existence of assessed tax indebtedness at the time of dissipation of assets to obstruct the collection of tax debt – admissibility of transcript of evidence at inquiry in subsequent proceedings in terms of section 56 of the TAA.</p>		

Other SARS publications and announcements

- 8 July 2024:** Following the representations received by National Treasury proposing the introduction of section 11G, ‘*Deduction of expenses incurred in the production of interest*’, which was subsequently taken up in the Taxation Laws Amendment Act No.17 of 2023, the proposed effective date of section 11G is for the years of assessment commencing on or after 1 January 2025.

The withdrawal of [Practice Note 31](#) will therefore be delayed and will coincide with the effective date of section 11G.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

Reminder on FATF publishing the latest status on SA’s ‘greylisting’ action plan

The Financial Action Task Force (FATF) has published the latest update on South Africa’s progress in addressing the action items in its prescribed Action Plan. Following the conclusion of the June 2024 FATF Plenary meetings, National Treasury has duly acknowledged that whilst South Africa is on track to address all the relevant ‘action items’, there are 14 outstanding items left to address. Although challenging, National Treasury anticipates that all ‘action items’ will be addressed by June 2025, thus affording South Africa an opportunity to exit the ‘greylist’.

Moreover, National Treasury has confirmed that all relevant agencies and authorities continue to demonstrate significant improvements and remain committed to making the necessary improvements and progress.

Members are encouraged to access further detail, [here](#).