

# TAX PRACTICE

## WEEKLY HIGHLIGHTS

WEEK OF 25 - 31 January 2024  
(Issue 3-2024)

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### TOP STORIES

#### Provisional Tax: Solar Energy Tax Incentive

On 26 January 2024, SARS announced that the IRP6 return had officially been updated and individual provisional taxpayers could claim the solar energy tax incentive rebate on the second payment due on 29 February 2024. To this effect, a revised [external guide on Provisional Tax](#) was also published.

This tax credit applies to any natural person who is liable for personal income tax and who invests in qualifying solar photovoltaic panels (solar PV panels).

Additionally, SARS has released a [draft guide on the Solar Energy Tax Credit provided under Section 6C](#) for public comment. The draft guide covers a variety of issues inter alia the requirements of section 6C, solar photovoltaic panel requirements and disposal of solar photovoltaic panels and capital gains tax.

For more information of the solar energy tax incentive, read more [here](#).

#### 2024 State of the Nation Address looming

The State of The Nation Address (SONA) is set to be held on Thursday, 8 February 2024.

The SONA provides the President, Cyril Ramaphosa, with an opportunity to speak to the nation on the general state of South Africa. To also reflect on a wide range of political, economic and social matters within the domestic and global contexts to account to the nation on the work of Government and to set out Government's programme of action.

Following the contents of the SONA, Parliament may accept, reject or amend the allocation of budgets to government departments to ensure that these are in line with national priorities as outlined in the SONA. Parliament may also withhold the budgets of departments whose annual performance plans are not in line with these priorities.

The highlights from the SONA will be available in issue 5 of the Tax Practice: Weekly Highlights.

[#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](mailto:taxqueries@thesait.org.za).

Approximately 500 – 600 words

# PART A: COMPLIANCE & SARS OPERATIONS

## SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

### SAIT TaxHelpline – SARS operational queries

#### Highlights from the January 2024 SAIT/SARS escalations

Since the opening of the SAIT [TaxHelpline](#) on Monday, 15 January 2024, SAIT has received and validated 133 escalations cases relating to long outstanding cases not finalised by SARS within the prescribed timeframes.

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

1. Delays in the finalisation of verifications (for personal income tax and VAT);
2. Delays in the payment of VAT refunds; and
3. Delays in the finalisation of cessation of tax residency applications.

We further noted a decrease in the number of escalations relating to Approval for International Transfer TCS applications and registered representative requests. That stated, the challenge of unclear reasons for the registered representative requests being rejected still remains problematic.

Although various regions were requested to state explicit reasons why the requests were rejected, the system is yet to be enhanced and at present the correspondence issued to the applicants simply states, *"Your request has been rejected as it could not be verified based on the supporting documentation provided."* SAIT will continue to engage SARS in this regard.

For assistance with an escalation, members may submit an [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.

#### Appointment system STILL automatically routing to physical appointments (\*updated)

In November 2023, SARS confirmed that all appointments were being routed for physical appointments as a result of a system error that they are aware of and in the process of resolving. It was anticipated that a system fix would be implemented in December 2023, during the annual closure period.

Unfortunately, as on 24 January 2024, the virtual appointments were still not available to company representatives and tax practitioners. The virtual appointments continued to be available for individual taxpayers.

This issue was further escalated to the SARS Head Office, which suggested that the problem exists due to an authentication issue between the taxpayer profile and information provided by the appointment requestor (representative or tax practitioner).

Upon further analysis of the response provided by SARS, it was determined that it is improbable that all registered representatives and tax practitioners who experience the same or similar authentication error. It is further unreasonable to request all company representatives and tax practitioners to visit their nearest SARS branch to update their SARS profiles in order to make virtual appointments in the future.

\*Following these developments, SAIT has made a [submission](#) to SARS, with multiple examples, requesting that this problem be investigated and resolved. SAIT will follow up on this matter and provide feedback to all members as soon as it becomes available.

## **Extensive delays experienced in payment of VAT refunds to vendors (reminder)**

Over the December 2023 and January 2024 period, SAIT has noted an increase in escalations relating to the delayed finalisation of VAT verifications and the late or non-payment of VAT refunds. In some instances, VAT verifications for periods dating back to January 2023 had not been finalised, thus directly affecting the payment of any possible refund. In other instances, the refund of one period has been withheld due to an ongoing verification or audit on another VAT period.

Retrospectively, considering the 2022 and 2023 escalations, SAIT noted a similar trend in the delay of finalising VAT verification and refund during December and January.

At present, all the individual cases submitted to SAIT via the TaxHelpline have been escalated to the responsible regions. However, considering the negative and potentially detrimental impact the delayed refunds have on small and micro businesses, SAIT will be preparing a submission to SARS in an effort to address this issue as a matter of urgency.

The submission will be made available in the coming weeks and feedback will be provided as soon as possible.

## **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.

## **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

The following regional and national meetings have been scheduled:

1. Eastern Cape for 21 February 2024;
2. Mpumalanga for 29 February 2024; and
3. Western Cape for 6 March 2024.

## Other meetings of interest

1. RCB forum meeting scheduled for 5 March 2024;
2. RCB forum meeting scheduled for 4 June 2024;
3. RCB forum meeting scheduled for 10 September 2024; and
4. RCB forum meeting scheduled for 12 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](mailto:taxassist@thesait.org.za).

## DAILY COMPLIANCE AND ADMINISTRATION

### Due dates for reporting and payments: January and February 2024

Month	Tax Type	Date	Notification
January 2024	Employment Taxes	05/01/2024	<b>EMP201</b> submissions and payments
	Income Tax	24/01/2024	Submission due date for <b>2023 income tax returns</b> for individuals and trusts that are provisional taxpayers
	Value-Added Tax	25/01/2024	Manual <b>VAT201</b> submissions and payments
	Value-Added Tax	31/01/2024	Electronic <b>VAT201</b> submissions and payments
February 2024	Employment Taxes	07/02/2024	<b>EMP201</b> submissions and payments
	Value-Added Tax	23/02/2024	Manual <b>VAT201</b> submissions and payments
	Value-Added Tax	29/02/2024	Electronic <b>VAT201</b> submissions and payments
	Income Tax	29/02/2024	Submission of 2023 <b>ITR14</b> returns for companies with a February year-end
	Income Tax	29/02/2024	<b>2nd provisional (2024)</b> submissions and payments for individuals, trusts and companies with a February year-end
	Income Tax	29/02/2024	2024 closing odometer reading for logbook purposes
	Turnover Tax	29/02/2024	<b>2nd (2024)</b> payments for micro-businesses registered for turnover tax

## SAIT member resources

- [SAIT Important tax dates calendar](#) – contains important dates from December 2023 to July 2024 (updated).
- [SAIT SARS contact map](#) – links service requirements to SARS channels (unchanged).

## Key Operational News

### Provisional Tax: Solar Energy Tax Incentive

On 22 February 2023, the Minister of Finance announced the introduction of the solar energy tax incentive scheme, which would be available to individuals for a limited period between 1 March 2023 to 28 February 2024. This incentive scheme was made available to encourage households to invest in clean electricity generation capacity.

With the understanding that PAYE taxpayers would be able to claim the rebate on assessment during 2024 filing season and provisional taxpayers would be able to claim the rebate against provisional and final payments, SAIT wrote to SARS in August 2023 to find out when the 2024 IRP6 return would be updated to allow provisional taxpayers to claim the rebate when calculating the provisional payments. Unfortunately, by the due date of the first provisional payments on 31 August 2023, the IRP6 return had not been updated and individual provisional taxpayers were unable to rebate.

On 26 January 2024, SARS announced that the IRP6 return had officially been updated and individual provisional taxpayers could claim the solar energy tax incentive rebate on the second payment due on 29 February 2024. To this effect, a revised [external guide on Provisional Tax](#) was also published.

According to the guide, the second provisional tax payment would be calculated as follows:

	R
Estimated taxable income for the year of assessment	XXXXXXXX
Normal tax on estimated taxable income	XXXXXX
Less: Primary, secondary and tertiary rebates under section 6	(XXX)
Less: Tax credit for medical scheme fees under section 6A	(XXX)
Less: Additional medical expenses tax credit under section 6B	(XXX)
<b>Less: Solar energy tax credit under section 6C Total Tax Payable</b>	(XXX)
Less: Employees' tax deducted from the provisional taxpayer's remuneration during the year	(XXX)
Less: First provisional tax payment (if actually paid)	(XXX)
Less: Foreign tax credits (section 6quat) for the year	(XXX)
<b>SECOND PROVISIONAL TAX PAYMENT</b>	<b>XXXX</b>

This tax credit applies to any natural person who is liable for personal income tax and who invests in qualifying solar photovoltaic panels (solar PV panels).

Under section 6C of the Income Tax Act, No. 58 of 1962 (the Income Tax Act), a natural person may be eligible for the tax credit on the cost that has been actually incurred in respect of the acquisition of **qualifying solar PV panels**. The cost relating to other components of a complete solar energy system such as inverters, batteries and supporting structures **do not** qualify for the tax credit.

Additionally, SARS has released a [draft guide on the Solar Energy Tax Credit provided under Section 6C](#) for public comment. The draft guide covers a variety of issues *inter alia* the requirements of section 6C, solar photovoltaic panel requirements and disposal of solar photovoltaic panels and capital gains tax.

The SAIT Tax Technical team and Industry Workgroups will scrutinize the contents thereof and provide commentary to SARS by 9 February 2024.

## Other SARS and related operational publications and announcements

No other SARS and related operational announcements were made for the period 25 – 31 January 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 25 – 31 January 2024.

## Key tax practitioner news

### SARS amends the criteria for registration of Tax Practitioners and the recognition of Controlling Bodies (\*updated)

On 22 January 2024, SARS announced that the criteria for registration of tax practitioners and the recognition of controlling bodies had been amended.

Chapter 18 of the Tax Administration Act, 2011 (Act No. 28 of 2011) (the Act), amongst others, ensures the professionalism of the tax advisory industry. Instrumental in this process is the role of tax practitioners and RCBs. Barring some exceptions, Chapter 18 also requires every natural person who, for a fee, provides advice to another person with respect to the application of a tax Act or completes or assists in completing a return by another person, to register with an RCB and SARS as a tax practitioner.

\*SARS announced that the change had been made to the requirements for both tax practitioners and recognised controlling bodies. Below is a short summary to contrast the changes between the 2013 and 2024 requirements:

2013 Recognition criteria	2024 Recognition criteria
<b>Requirements of individuals when registering as a Tax Practitioner/ Requirements of Tax Practitioner Membership relating to their RCBs</b>	
<ol style="list-style-type: none"> <li>1. NQF 6 or higher tertiary or post Grade 12 relevant qualification (B Com, etc.), with at least one accounting, commercial law or tax law module; or</li> <li>2. NQF 4 (Grade 12) plus:               <ul style="list-style-type: none"> <li>• If previously employed, five years of working experience in interpreting and applying the various tax Acts – verified by a letter from the employer attesting to the experiential requirements; or</li> <li>• If the individual tax practitioner is self-employed – five years working experience interpreting and applying the various tax Acts must be in evidence, supported by client references. A schedule of client references confirming a tax practitioner’s status and the number of years that the professional relationship has been in place is sufficient; plus</li> </ul> </li> <li>3. Commitment by the controlling body to ensure that members with the minimum education requirement of NQF 4, increase their qualifications to at least NQF 5 in the three years subsequent to joining the controlling body.</li> <li>4. Controlling bodies may make provision for tax practitioners who may not be able to or do not wish to acquire further education, e.g. due to their age, by considering different tiers of membership so that basic practitioners can still register and be subject to their codes of conduct and disciplinary codes – to protect the public interest.</li> </ol>	<ol style="list-style-type: none"> <li>1. Qualifications and experience:               <ul style="list-style-type: none"> <li>• NQF level 6 and above with at least one accounting module and one tax module, plus at least 1 year’s tax working experience;</li> <li>• NQF level 5 plus at least 4 years’ tax working experience; or</li> <li>• NQF level 4 plus 10 years’ tax working experience.</li> </ul> <p><b>Note:</b> The tax working experience must be verifiable by employers or clients.</p> </li> <li>2. Successfully completes the SARS Tax Practitioner Readiness Programme, i.e. passed the assessment.</li> <li>3. Be tax compliant.</li> <li>4. Not have been removed by a controlling body for serious misconduct in the preceding five years, or not have convicted of an offence as described in 4.3 below.</li> </ol>

2013 Recognition criteria	2024 Recognition criteria
<b>Requirements of Controlling Bodies to be approved as RCBs</b>	
<ol style="list-style-type: none"> <li>1. 1 000 or more full members – excluding trainees and students.</li> <li>2. The controlling body must require members to declare that they have not been removed from a controlling body for misconduct and that they do not have a criminal record, as set out in Section 240(3) of the Tax Administration Act, 2011. The controlling body must either agree procedures with SARS to verify a random selection of its members' criminal records or assist SARS with the verification of the criminal records of members randomly identified by SARS. Selected members must provide the recognised controlling body with the necessary proof.</li> <li>3. A tax practitioner removed by a recognised controlling body for misconduct cannot be accepted as a member of another recognised controlling body.</li> </ol>	<ol style="list-style-type: none"> <li>1. Regarding the entity, it must – <ul style="list-style-type: none"> <li>• be a controlling body for natural persons who provide advice with respect to the application of a tax Act or complete returns.</li> <li>• be approved in terms of section 30B of the Income Tax Act for purposes of section 10(1)(d)(iv) of that Act; and</li> <li>• have a minimum of 1 000 members or a reasonable expectation of reaching 1 000 members by the end of the first year of recognition.</li> </ul> </li> <li>2. With regards to tax practitioner members, the entity must maintain – <ul style="list-style-type: none"> <li>• the minimum qualifications and experience and continuing professional education requirements that are set by SARS and all RCBs.</li> <li>• relevant and effective codes of ethics and conduct, including tax compliance and criminal record requirements; and</li> <li>• relevant and effective disciplinary process and procedures.</li> </ul> </li> <li>3. When an entity is recognised as an RCB, it must submit an annual report to SARS no later than 31 March of the following year, on its tax practitioner members and RCB compliance within the prescribed time and in the prescribed form and manner.</li> </ol>

For more information, access the full [tax practitioner guide](#).

## Government & Stakeholder Newsletters

No new Government & Stakeholder Newsletters were published for the week 25 – 31 January 2024.

## Other Tax practitioner access and functionality publications and announcements

- **1 February 2024:** SARS announced that the eFiling platform would be undergoing routine upgrades on Saturday, 3 February 2024 from 20h00 until 02h30 on Sunday, 4 February 2024. During this time, the SARS digital may be unavailable. Stakeholders submitted priority Goods Declarations (bills of entry) and Road Manifests are urged to do so by 19h00 on Saturday, 3 February 2024.
- **31 January 2024:** SARS released the schedules for the [tax workshop and mobile tax units](#) arranged to take place in the Mpumalanga province for February and March 2024.
- **31 January 2024:** SARS released the [mobile tax unit](#) schedule for the Eastern Cape province for March 2024.
- **26 January 2024:** SARS published that the eFiling system would be upgraded on Saturday, 27 January 2024 from 22:00 – 01:00 on Sunday 28 January 2024. During this time, the digital platforms may have been unavailable.
- **26 January 2024:** SARS published that the eFiling system would be upgraded on Saturday, 26 January 2024 from 18:00 – 22:00. During this time, the digital platforms may have been unavailable.



# PART B – LEGISLATION & POLICY

## LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

### Tax policy & international agreements

#### Budget Review 2024 (reminder)

It is anticipated that the Budget Review 2024 will be delivered on 21 February 2024. SAIT Tax Technical and the various Tax Technical Work Groups will study the proposals made in the Budget Review and where necessary, prepare comment.

SAIT will monitor the outcome of the Annexure C of the Budget Review 2024 to ascertain which proposals were in fact accepted by the Minister of Finance, and which were not.

In the interim, and in preparation for the upcoming Budget, members who would like to submit a budget tip to the Minister of Finance may do so [here](#).

## LEGISLATIVE INTERPRETATION

### Legislative interpretation calls for comment

On 26 January 2024, SARS issued the following call for comment:

- [Draft guide](#) - Section 6 Solar Energy Tax Credit Provided under Section 6C

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

### Legislative counsel publications

No new legislative counsel publications were published for the week 25- 31 January 2024.

#### Court cases published (reminder)

On 26 January 2024, SARS published the following Tax Court judgment:

Date of delivery	Case	Applicable legislation
26/01/2024	<a href="#">SARSTC VAT 2218 [2023] ZATC CPT (8 December 2023)</a>	Value-Added Tax Act, 1991
<b>Summary:</b> Supply of services to non- resident: The nature of the supply and whether it also constitutes in part a supply to the foreign tourists who subscribe to the foreign tour operator's tours		

On 26 January 2024, SARS published the following High Court judgments:

Date of delivery	Case	Applicable legislation
26/01/2024	<a href="#">Van Der Merwe v South African Legal Practice Council and Another (19591/2022) [2023] ZAW-CHC 341 (29 May 2023)</a>	Legal Practice Act, 2014 Vexatious Proceedings Act, 1956

**Summary:** Civil Procedure: Whether applicant may apply for declaratory relief as regards representation of parties and the rendering of legal services listed in section 33(1)(a) and (b) of the Legal Practice Act 28 of 2014 by persons other than legal practitioners admitted and enrolled under the Act, and in particular whether the applicant is within his right to represent his daughter in proceedings before the Tax Court.

29/11/2023

[Walter v CSARS \(A2023/008433\)](#)

Tax Administration Act, 2011

**Summary:** Appeal: Whether the Tax Court ([IT 45628](#)) erred in holding that there is a causal link between the restraint of trade payment and Mr Jordi's past employment or the holding of office with Rappa Holdings and its affiliated companies.

## Other SARS publications and announcements

No other SARS and related legislative announcements were made for the period 25 – 31 January 2024.

## OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

### 2024 State of the Nation Address looming

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