

# TAX PRACTICE

## WEEKLY HIGHLIGHTS

WEEK OF 08 - 14 August 2024  
(Issue 31 -2024)

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### TOP STORY

#### Two weeks to go before the 2025 first provisional tax payments due date

Individuals, trusts and companies with a February year-end are reminded that the due date for the submission of the 2025 first provisional tax returns and payments is 30 August 2024. It is important to note that 31 August 2024 fall over the weekend, therefore all payments must be received by SARS at the last day preceding the weekend. The first interim payments for the 2024 year of assessment in respect of micro businesses registered for turnover tax are also due on the same date.

The [SARS external guide on Provisional Tax 2025](#) was updated with all the latest information on 24 June 2024, covering a variety of issues, including, amongst others:

- Estimates of taxable income;
- Justifications of an estimate by a taxpayer;
- Form used to capture provisional tax calculations;
- How provisional tax is calculated;
- Failure to submit a provisional tax return; and
- Interest on underpayment of provisional tax.

Members who wish to learn more about provisional tax can access the [SAIT Advisory](#) and the February 2024 [Tax Practice: On the Move](#) SARS Operations webinar.

[#StayAbreastOfTheTaxWave](#)

# Are you a **tax practitioner** with a passion for writing?

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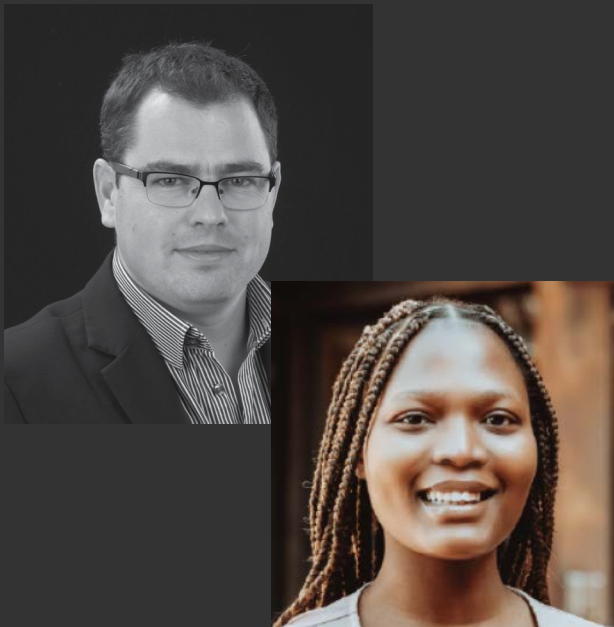
Send your article to  
[taxqueries@thesait.org.za](mailto:taxqueries@thesait.org.za).

Approximately 500 – 1 500 words

## MEMBERS' DIGEST

### Maybe you may now lift the veil

Written by: Nico Theron, Chartered Tax Adviser™ and Hopolang Mollo, Tax Article Trainee



Income tax season beckons and in line with what the doctor has ordered, a key consideration for individual taxpayers submitting their returns should be prescription. Indeed, there is a three-year prescription rule.

It is commonly accepted that an assessment prescribes three years from the date of its issuance in terms of section 99(1) of the Tax Administration Act No. 28 of 2011 (the TAA). However, the provisions of section 99(2) of the TAA, which are often neglected by taxpayers in making their income tax submissions, afford the Commissioner the ability to lift the proverbial veil of prescription.

This article seeks to distinguish between the two common assessment types anticipated this upcoming tax season and some aspects taxpayers should consider regarding prescription for both.

#### Auto-assessments

Over the past few years, the South African

Revenue Service (SARS) rolled out the auto-assessment system in which assessments, without the submission of a return by the taxpayer, were automatically issued based on data collected by the authority from third parties, i.e. employers, medical aid schemes, banks and so forth. Presumably, the underlying assumption is that the data collected from third parties constitutes what the taxpayer's return, had it been made at their own submission, would comprise, i.e. that the auto-assessment would be full and complete in all material respects. Though colloquially termed 'auto-assessments', these assessments are technically estimated assessments made by SARS in terms of section 95(1)(a) of the TAA. Accordingly, taxpayers are afforded the opportunity to revise these assessments; in the event that the auto-assessments are inaccurate or incomplete, the prescribed period for such revision this upcoming tax season is 21 October 2024, as promulgated by the Commissioner under the provisions of section 95(6) of the TAA.

#### Original assessments based on a taxpayer's return

The second type of assessment is the self-proclaimed mogul's misfortune—the original assessment made by SARS based on the return submitted by the taxpayer. In making the submission of the return, taxpayers need to diligently consider their streams of income, the correct tax treatment thereof, exemptions which may apply, deductions and so forth.

Prevention is said to be better than cure. What, then, can the taxpayer do when making the submission of their tax returns to reasonably ensure the prescribed period of limitation on their assessments? Ideally, engage the assistance of a registered tax professional in filing their tax return, given the complexities of tax legislation and the arguably narrow yet wide ambit under which SARS lifts such a veil.

In the absence of the option provided for, or even where it proves to be inadequate, some common mistakes made by taxpayers, which may jeopardise the expiry of the assessment, follow.

## **Common mistakes made by taxpayers in submitting their tax returns**

### **Failure to declare all income**

Under the naïve assumption that no one person intentionally does not declare income to SARS, said failure specifically relates to resident taxpayers omitting income received or accrued in foreign jurisdictions.

### **Incorrectly classifying the nature of a receipt or accrual**

Are the monies gross income or capital in nature?

### **For resident taxpayers working abroad**

- Miscalculating the limitation on the section 10(1)(o)(ii) exemption provided for under the Income Tax Act No. 58 of 1962 (ITA).
- Failure to retain relevant supporting documentation such as travel diaries, leave applications, letters of employment, etc.

### **For taxpayers receiving a travel allowance**

Failure to keep a travel logbook entirely or in the prescribed manner.

### **Document retention failure**

- For the entrepreneurs: invoices relating to trade income and expenditure.
- For the philanthropists: section 18A certificates.
- For your hair transplant, medical invoices to claim a rebate on qualifying medical expenditure, not covered by your medical scheme, under section 6B of the ITA.

## **Common mistakes by taxpayers receiving auto-assessments**

You will remember that the legislation provides for the taxpayer to revise an auto-assessment in the event that it is incorrect or incomplete. Taxpayers to whom auto-assessments are issued are thus liable to ensure their accuracy. SARS being oblivious to your after-hours trade as a streamer, does not exonerate you from paying taxes thereon. Material disclosures not made to SARS, despite the return being issued by them at their own volition, still constitute a form of misconduct that SARS, given reasonable grounds, may

eventually audit and, if necessitated by the lapsing of a three-year period, lift the veil of prescription.

## **How do the assessments differ?**

The key distinction between an auto-assessment and an original assessment based on a taxpayer's submission is arguably the alleviated administrative burden on the taxpayer in the former. Beyond that, be it an auto-assessment or an original assessment based on a return submitted by the taxpayer, the income and deductions, if any, for a single taxpayer should be identical irrespective of who made the submission. Simply put, the return ought to be full and complete in all material respects.

## **The importance of full and complete returns**

As alluded to above, the veil of prescription may be lifted in relation to original assessments, in terms of section 99(2)(a), in the event that tax was not fully charged owing to fraud, misrepresentation or non-disclosure of material facts.

It becomes worth noting that in terms of section 95(1) of the TAA, the 'auto-assessment' constitutes an original assessment.

The requisites for SARS to lift the veil of prescription, at least insofar as they relate to fraud and non-disclosure of material facts, are definitive. As far as misrepresentation goes, there is an argument to be made that it may, in some circumstances, come down to an interpretation of the law; thus, it is not an objective truth. Nonetheless, on the assumption that all the requirements are, indeed, objective truths and either one led to the incorrect assessment of tax, SARS may, after the lapsing of a period of three years, lift the veil of prescription to issue an additional assessment.

The delicacy of the party bearing the onus of proof is often overlooked. Taxpayers often find themselves at the mercy of SARS, attempting to discharge the burden of proof which at times does not rest on them. A case in point

refers to instances where SARS raises an additional assessment post-prescription. In these instances, SARS carries the burden of proving the objective existence of fraud, misrepresentation and non-disclosure of material facts.

At the time SARS seeks to lift the veil of prescription, they ought to have a factual and legal basis for doing so. Realistically speaking, no objective test is available to the taxpayer to determine SARS' satisfaction of such requirements. Typically, only after the taxpayer has reached litigation, can the courts, an unbiased third-party, decide on the matter.

The nuances required to lift the veil of prescription cannot be stressed enough and any deficiencies on SARS' part to this effect can be used by taxpayers as a defence to their assessments. The assistance of an expert to this effect is always recommended.

# PART A: COMPLIANCE & SARS OPERATIONS

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

### SAIT TaxHelpline – SARS operational queries

#### Highlights from the July and August 2024 SAIT/SARS escalations

Over the month of 1 July – 14 August 2024, SAIT has received and validated 200 escalation 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 corporate income tax and VAT);
2. Delays in the payment of VAT refunds;
3. Delays in finalising deregistration requests; and
4. Delays in the finalisation of cessation of tax residency applications.

We further noted a decrease in the number of escalations relating to registered representative requests and Approval for International Transfer TCS applications.

Some of the systemic issues identified have been raised and discussed at the various regional forums and the National Operations meeting which took place on 1 August 2024. Additionally, we noted some teething challenges at the beginning of Filing Season 2024, which included the blocking of tax practitioner profiles, Standard Bank refund reversals and appointment unavailability. However, to a large extent, the aforementioned challenges have since been resolved.

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;
- The date documents were submitted to SARS;
- Tax period (if applicable); and
- A brief summary of the case.

#### Reminder that SAIT published an advisory on requesting interest on delayed VAT refunds

During the recent Tax Practice: *On the Move*: SARS Operations webinar held on Thursday, 1 August 2024, the issue of requesting interest on delayed VAT refunds was discussed. In the main, the issue emanates around the process to request the interest from SARS on delayed VAT refunds because the SARS system does not automatically calculate the pay out interest when the requirements are met.

To assist members understand the process around interests of delayed VAT refunds, SAIT has drafted an [advisory](#) to further discuss the topic. Members are encouraged to consult the [advisory](#) before requesting interest of delayed VAT refunds.

## 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. Delays in finalising VAT verifications and refunds
2. Delays in the finalisation of year end change requests; 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 Eastern Cape stakeholder meeting held on 14 August 2024 will be available in issue 32 of the Tax Practice: Weekly Highlights.

## Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. North West for 19 August 2024;
2. Gauteng North for 22 August 2024;
3. Mbombela for 23 August 2024;
4. Witbank, Mpumalanga scheduled for 26 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. RCB forum meeting scheduled for 10 September 2024;
2. RCB forum meeting scheduled for 12 November 2024; and
3. 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](mailto:taxassist@thesait.org.za).

## DAILY COMPLIANCE AND ADMINISTRATION

### Due dates for reporting and payments: August 2024

Month	Date	Tax Type	Notification
August 2024	07/08/2024	Employment Taxes	<b>EMP201</b> - Submissions and payments
	23/08/20234	Value-Added Tax	<b>VAT201</b> - Manual submissions and payments
	30/08/2024	Value-Added Tax	<b>VAT201</b> - Electronic submissions and payments
	30/08/2024	Income Tax	<b>1st provisional (2025)</b> submissions and payments for individuals, trusts and companies with a February year-end
	30/08/2024	Turnover Tax	<b>1st TT02 (2025)</b> payments for micro businesses registered for turnover tax

### 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 (updated). The contact map has been updated with the addresses at which disputes in terms of Section 103 of the Tax Administration Act must be delivered. [Public notice 5114](#) replaces [public notice 3135](#) previous published on 10 March 2023.

### Key Operational News

#### Updated e@syfile Employer Beta release available for trade testing

SARS will provide trade testers an opportunity to test the updated e@syFile™ Employer build before the formal release in mid-September 2024 for the Employer Interim Reconciliation.

The updated e@syFile™ Employer BETA version with enhanced features for download will be released on 16 September 2024. During the testing period from 19 August to 23 August 2024, all online functionalities will be disabled to prevent incorrect submissions of test data into the production environment. This means that the application will default to offline mode. Certain menu options will also be disabled as a precautionary measure.

The BETA version of the current e@syFile will contain the following changes:

- New source code for the saving withdrawal benefit for two-pot system.
- Minor amendments to source code validations.

For more information on how to participate in the trade testing, read [here](#).

#### Reminder that SARS issued a public notice on the extended period to correct an auto-assessment

On 26 July 2024, SARS published the public notice in terms of section 95(6) of the Tax Administration Act, 2011. The notice stipulates the extension date by which a taxpayer - eligible for automatic assessment under paragraph 3(3) of Notice No. 4918 published in *Government Gazette* No. 50741 dated 31 May 2024 - may request a reduced or additional



assessment; the extension date is 21 October 2024. Note that the extension does not apply if the date of the automatic assessment is after 23 August 2024.

Publications Date	GG Notice Number	Implementation date
26 July 2024	GG 50986 <a href="#">Notice 5077</a>	The extended date is 21 October 2024, unless the date of the automatic assessment is after 23 August 2024.
<p>Notice in terms of section 95(6) of the Tax Administration Act, 2011, extending the date by which a taxpayer, eligible for automatic assessment under paragraph 3(3) of the Notice to Submit Returns, published in terms of section 25 of the Tax Administration Act, 2011 (see <a href="#">Notice 4918</a> in <i>Government Gazette</i> No. 50741) may request a reduced or additional assessment.</p> <p><a href="#">Notice 5077</a></p>		

### Other SARS and related operational publications and announcements

No other SARS and related operational publications and announcements were made during the week of 8 – 14 August 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 8 – 14 August 2024.

### Key tax practitioner news

#### SARS fights against ‘ghost’ tax practitioners head on

Over the past few years, a focus has been placed on tax practitioners’ personal tax compliance and how they advise their clients, with very little focus on ‘ghost’ tax preparers who remain off the system. This has since changed with SARS fighting against ‘ghost’ tax practitioners head on.

Keith Engel, CEO of SAIT, indicated that these scammers also raise other red flags, often promising clients guaranteed tax returns from SARS. *“Many of what we call ‘ghost’ tax preparers promise refunds, charge a fee and then disappear. If SARS then audits the taxpayers’ cases, they demand that the money be repaid. The taxpayer can also incur penalties,”* Keith said.

It is suggested that taxpayers not be lax about their tax affairs and assume that they can be hands-off, even with tax practitioners involved. The question then arises, how do you know if your tax practitioner is legit?

- 1. Check registration:** Ensure that your tax practitioner is duly registered with SARS and a recognised controlling body, and that they are in good standing with both.
- 2. Request proof of compliance:** Ask your practitioner to provide evidence of their overall compliance status.

## Reminder of the benefits of using SARS' online services

On 7 August 2024, SARS published some of the benefits of using SARS's online self-help services like eFiling or the SARS MobiApp to interact with SARS in a safe and convenient way. These entail:

- **Save and submit later** – eFilers can save their Income Tax Return to submit it later. This gives more time to review the information before submission.
- **Comprehensive history** – eFilers have a full history of all submissions, payments, and electronic correspondence available at the click of a button. The system allows taxpayers and tax practitioners to view the history of their Income Tax Return submissions at their convenience.
- **Correspondence inbox** – eFilers have a dedicated inbox to check the latest notifications from SARS. SMS and email notifications assist in the submission process to ensure returns are submitted before the due date.
- **Reduced errors and faster processing** – The simplicity of the eFiling process results in fewer errors and quicker processing cycles for individuals and businesses. Embedded functions within the Personal Income Tax Return (ITR12) such as pre-populating fields and pop-up warning messages, help guide you through the process and prevent mistakes.
- **Opportunity to revise** – eFilers can revise their initial tax return declaration via eFiling. This function allows taxpayers and tax practitioners to resubmit corrected information to ensure an accurate assessment.

For more information on the Filing Season 2024, visit the [Filing Season 2024 webpage](#).

## Government & stakeholder newsletters

No government and other stakeholder newsletters were published during the week of 8 – 14 August 2024.

## Other tax practitioner access and functionality publications and announcements

- **14 August 2024:** The SARS digital platforms will [undergo planned maintenance](#) on Friday, 16 August 2024 from 18h00 to 23h00. During this time, users may experience intermittent service interruption on eFiling, Tax and Customs Digital Platforms.
- **14 August 2024:** SARS published the Mthatha [Mobile Tax Unit and Mall Activation schedules](#) for September to October 2024.
- **8 August 2024:** SARS published the Western Cape [mobile tax unit schedule](#) for September 2024.

# PART B – LEGISLATION & POLICY

## LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

### Tax policy & international agreements

#### Legislation

### Reminder regarding the release of the 2024 Draft Tax Bills and Regulations for public comment

On 1 August 2024, National Treasury and SARS jointly released the 2024 Draft Tax Bills and Draft Regulations for public comment, which give effect to and provide clarity to the necessary legislative amendments required to implement the more complex tax announcements made in Chapter 4 and Annexure C of the 2024 Budget Review.

Key draft legislative amendments being proposed include:

- Curbing the abuse of the employment tax incentive scheme.
- Reviewing the connected person definition in relation to partnerships.
- Relaxing the assessed loss restriction rule under certain circumstances.
- Reviewing the prohibition against transfers of assets to non-taxable transferees in terms of an 'amalgamation transaction'.
- Clarifying anti-avoidance rules dealing with third-party backed shares.
- An investment allowance for automotive companies investing in production capacity for electric and hydrogen-powered vehicles in South Africa.
- Further refining the definition of 'exchange item' for determining exchange differences.
- Reviewing the interaction of the set-off of assessed loss rules and rules on exchange differences on foreign exchange transactions.
- Retrospective amendment applicable to fuel products of heading 27.10.
- Implementing the Arena Holdings Constitutional Court judgment regarding access to tax records.
- Clarifying provisions relating to original assessments where no return is required or a taxpayer voluntarily submits a return.
- Clarifying the right to appearance before the tax court by taxpayers' representatives who are not legal practitioners and the taxation of legal costs where SARS legal practitioners appear for SARS.
- Reviewing of dispute resolution proceedings to improve their efficiency.
- Removing of grace period for new company to appoint a public officer.

National Treasury and SARS have also published the following draft regulations and amendments:

- Draft Regulations on the method for determining the VAT liability in respect of casino table games of chance, issued in terms of section 74(2) of the Value-Added Tax Act;
- Draft Carbon Offset Regulations;
- Draft Regulations on the domestic reverse charge issued in terms of section 74(2) of the Value-Added Tax Act; and
- Draft Regulations on Electronic Services for the purpose of the definition of 'electronic services' in section 1 of the Value-Added Tax Act.

Members may access the 2024 Draft Tax Bills and Draft Regulations, [here](#), which includes all relevant documentation as well as associated draft explanatory memoranda that sets out the details regarding to the aforementioned proposed tax amendments.

In the main, the due date for commentary is 31 August 2024. SAIT Tax Technical as well as the SAIT Technical workgroups will be making submissions on all the proposed amendments. Should you wish to provide your commentary, please circulate your input to [ksesana@thesait.org.za](mailto:ksesana@thesait.org.za) by no later than **21 August 2024**.

- [Draft Revenue Laws Amendment Bill 2024](#)
- [Draft Taxation Laws Amendment Bill 2024](#)
- [Draft Tax Administration Laws Amendment Bill of 2024](#)
- [Draft Regulations on Electronic Services for the purpose of the definition of electronic services](#)
- [Draft Regulations on the method for determining the VAT liability in respect of casino table games of chance](#)
- [Draft Carbon Offset Regulations Prescribing Carbon Offsets in terms of Section 19\(C\) of The Carbon Tax Act 1](#)
- [Domestic Reverse Charge Regulations](#)

For more information on the call for comment, click [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 8 – 14 August 2024

## Legislative interpretation calls for comment

SARS has issued calls for comment as pertaining to the following;

- [Draft Guide](#) – Income Tax Benefits in Special Economic Zones
- [Draft Guide](#) – Allowances and deductions relating to assets used in the generation of electricity from specified sources of renewable energy
- [Draft Guide](#)– Mineral and Petroleum Resources Royalty Act

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

## Legislative counsel publications

### Reminder regarding SARS publications regarding interpretation and rulings

#### 1. [BPR 407](#) - Generation and supply of renewable energy

This BPR considers the application and interpretation of section 12BA of the Act.

The ruling outlined herein determines the deductibility of expenditure to be incurred by a company installing photovoltaic solar energy plants on lessors' premises to be used by an applicant which is a resident company to supply solar electricity to companies within the same group of companies as the applicant in terms of power purchase agreements. These companies are part of a global group of companies with a South African footprint as well as resident subsidiaries that are subsidiaries within the same group of companies.

Interestingly, the ruling outlines *inter alia* the costs incurred that pertain to new and

unused components that are applied to measurement of electricity consumption by the subsidiaries (for billing purposes), which are specifically excluded from the deduction under section 12BA. Members are reminded of the policy rationale behind section 12BA – being that the incentive is only applicable in respect of utilisation of among others new and unused components that are used for the generation of electricity.

Members are encouraged to study [BPR 407](#) for further and full detail.

## 2. [BPR 408](#) - Corporate restructuring using section 42 of the Act

The BPR considers the application and interpretation of several provisions in the Act, the Eighth Schedule to the Act and the STT Act.

This ruling determines the tax consequences of a corporate restructuring involving the disposal of shares in terms of section 42 of the Act. The BPR outlines the tax implications that are envisaged in a transaction whereby two resident companies (the applicant and company A) seek to restructure their shareholding for commercial reasons and to resultantly hold their shareholding in (company C) through a single entity namely, company B.

[BPR 408](#) is valid for a period of three years from 27 March 2024. Members are encouraged to study [BPR 408](#) for full detail pertaining to the proposed transaction, conditions and assumptions as well as the ruling.

## 3. [BPR 409](#) - Acquisition by a public benefit organisation of forfeited share incentive scheme shares

[BPR 409](#) outlines the income tax and securities transfer tax consequences for a public benefit organisation acquiring forfeited share incentive scheme shares.

The ruling contained herein is an interpretation and application of:

- section 10(1)(cN) of the Act;
- paragraph 63A of the Eighth Schedule to the Act;
- section 1 – definition of ‘transfer’ as contained in the STT Act; and
- section 8(1)(d) of the STT Act.

The parties to the proposed transaction are as follows:

Parties	Description
The applicant	A resident wholly-owned subsidiary of company A.
Company A	A resident company listed on the JSE and the holding company of the employer companies.
Employer companies	The applicant and the other operating companies within the company A group of companies that employ the eligible employees who will participate in the proposed employee share incentive scheme.
Participants	The eligible employees of the employer companies that will take part in the proposed share incentive scheme.
Trust A	A charitable trust approved as a public benefit organisation under section 30(3) of the Act established to carry out public benefit activities on behalf of the group companies.

Members are encouraged to study [BPR 409](#) for detail relating to the transaction and the ruling made in connection thereto. [BPR 409](#) is valid for a period of 5 years from 23 April 2024.

## Reminder that SARS published Binding Class Ruling 090

On 5 August 2024, SARS issued [BCR 090](#) that determines the income tax and STT consequences for employer companies of a proposed share incentive scheme. The ruling is an application of several provisions in the Act and the STT Act.

The parties to the proposed transaction are as follows:

Parties	Description
The applicant	A resident wholly-owned subsidiary of company A.
Company A	A resident company listed on the JSE and the holding company of the employer companies.
Employer companies	The applicant and the other operating companies within the company A group of companies that employ the eligible employees who will participate in the proposed employee share incentive scheme.
Participants	The eligible employees of the employer companies that will take part in the proposed share incentive scheme.
Trust A	A trust approved as a public benefit organisation under section 30(3) of the Act established to carry out public benefit activities on behalf of the group

Members are encouraged to study [BCR 090](#) for detailed description of the transaction and the associated Ruling.

## Reminder that SARS published Interpretation Note 98 (Issue 2)

On 5 August 2024, SARS has issued [Interpretation Note 98 \(issue 2\)](#) that deals with tax implications incumbent upon public benefit organisations to provide funds, assets or other resources to any association of persons as outlined in section 30(1), 30(3)(f) and public benefit activity 10(iii) stipulated in part I of the Ninth Schedule to the Act.

This interpretation note provides guidance on the tax implications pertaining to:

- a conduit PBO that provides funds, assets or other resources to an association of persons carrying on PBA 10(iii) in Part I in South Africa;
- the requirement imposed under section 30(3)(f) on a conduit PBO providing funds to an association of persons; and
- the meaning of 'association of persons' Public benefit organisations.

In conclusion, a conduit (as ordinarily defined) PBO may provide funds, assets or other resources to an informal voluntary association of persons contemplated in PBA 10(iii) in Part I. The Commissioner must be satisfied in the case of any conduit PBO providing funds to any such association of persons that such conduit PBO has taken reasonable steps to ensure that the funds are used for the purpose for which those funds have been provided, which is to carry on one or more PBAs in Part I (other than PBA 10 in Part I) in South Africa.

However, a conduit PBO not carrying on its sole or principal object, which is to provide funds, assets or other resources as contemplated in PBA 10(iii) in Part I, may forfeit approval as a PBO under section 30(5).

Members are encouraged to study [IN 98 \(issue 2\)](#) for further detail pertaining to the following:

- Application of the law.
- A conduit public benefit organisation Section 30(3)(f) requirement.

- Association of persons.
- Tax-deductible donations.

Consequently, issue 1 has duly been archived.

### **Published court cases**

No new court cases were published in the week of 8 – 14 August 2024.

### **Other SARS publications and announcements**

No other SARS publication and/or announcements were made in week of 8 – 14 August 2024.

### **OTHER MATTERS OF INTEREST FOR A TAX PRACTICE**

No other matters of interest for a tax practice were published during the week 8- 14 August 2024.