

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 26 Sep -2 October 2024
(Issue 37 -2024)

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TOP STORIES

Mismatch in trust registration numbers remains a hurdle

On 30 September 2024, the submission deadline for the IT3(t) returns, SARS published the trusts' frequently asked questions (FAQs) on the [trusts webpage](#). The FAQs covers seven main questions which include, amongst others:

1. [Due to delays experienced by trusts who are deregistering at the Masters Office, deregistration at SARS is prevented. Further distributions of income will not be possible at this point. Can these trusts be excluded from the IT3\(t\) SARS submission event?;](#)
2. [Do I need to submit a return if my trust made no distributions during the year of assessment \(YOA\)? Further, if a NIL return will be required from 2025 – will the notice to submit third-party returns incorporate this requirement?;](#) and
3. [Where representative taxpayers of trusts have experienced problems in submitting the IT3\(t\), will SARS be penalising these trusts for late filing?](#)

However, a fundamental question which has not been answered is, what is SARS doing about the mismatches between the different trust registration numbers which is preventing trustees and tax practitioners from activating a registered representative and the IT3 tax type?

Without a way forward on this pertinent question, it is expected that many trusts will remain non-compliant with the submission of the third-party data. SARS is yet to share the statistics on the number of IT3(t) returns received and processed thus far, however, we do anticipate that these numbers will not be as significant as initially expected. Once official confirmation has been received, we will advise accordingly.

Most Favoured Nation Clause: A favoured position is soon coming to an end

The South Africa/Kuwait Double Taxation Agreement (SA/Kuwait DTA) contained the Most Favoured Nation (MFN) clause which reduced the dividend withholding tax (DWT) to zero percent. Consequently, the context of the SA/Kuwait DTA extended the zero percent rate to certain other DTAs (such as the Dutch DTA). This means that if South Africa establishes a DTA with a third country that has a lower DWT rate, that lower rate could automatically apply.

National Treasury has been diligently working on amendments to the DWT in the SA/Kuwait DTA.

On September 18, 2024, the Kuwait government ratified the pending protocol to the 2004 SA/Kuwait DTA. This marks the first amendment to the original treaty agreement, and it will come into effect once the ratification instruments are exchanged. This agreement, signed in April 2021 after a lengthy 14-year negotiation, was ratified by South Africa but has been pending ratification from the Kuwaiti government.

The ratification of this protocol would result in the loss of these longstanding MFN benefits, significantly affecting companies with historical and future dividends declared before ratification.

Next big deadline on the card: ITR12 returns for non-provisional taxpayers

Individual non-provisional taxpayers have until Monday, 21 October 2023, to submit their 2024 annual tax returns to SARS.

It is also imperative to note that taxpayers who received an auto-assessment in July 2024 and wish to submit a correction, must submit such correction on or before 21 October 2024. If the taxpayer has reasonable ground preventing them from submit the correction by 21 October 2024, the taxpayer must request an extension for the submission of the 2024 return as the system will automatically lock the return request if an extension is not requested and granted. Where a revised return is not submitted, the auto-assessment will also not be subject to objection and appeal.

Over the past several years, SARS has implemented extremely strict penalties for taxpayers who fail to adhere to submission deadlines. Amongst others, SARS may impose a 10% once-off penalty for the late submission of the return and monthly recurring penalties based on the previous year's taxable income, ranging from R250 to R16 000 per month. These penalties are levied in terms of section 215 of the Tax Administration Act, No. 28 of 2011 (TAA) and in line with SARS' third strategic objective of making non-compliance costly for defaulting taxpayers.

Taxpayers are strongly advised to submit their returns in good time to avoid any technical difficulties as a result of system errors as was the case in the previous years.

#StayAbreastOfTheTaxWave

PART A: COMPLIANCE & SARS OPERATIONS

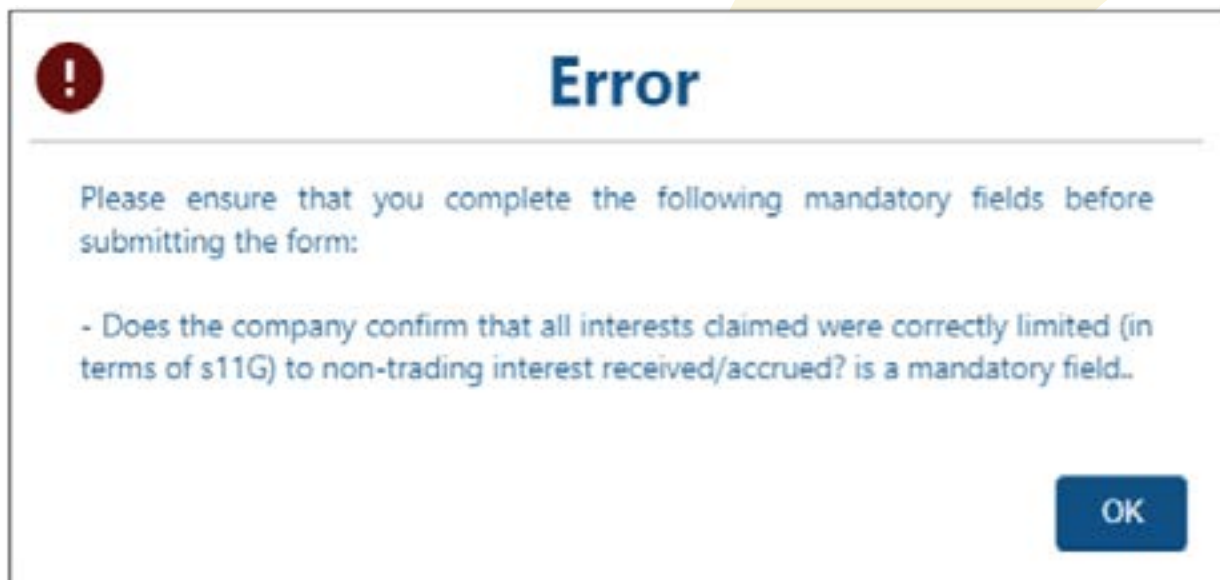
SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

Errors experienced with the submission of the ITR14 return

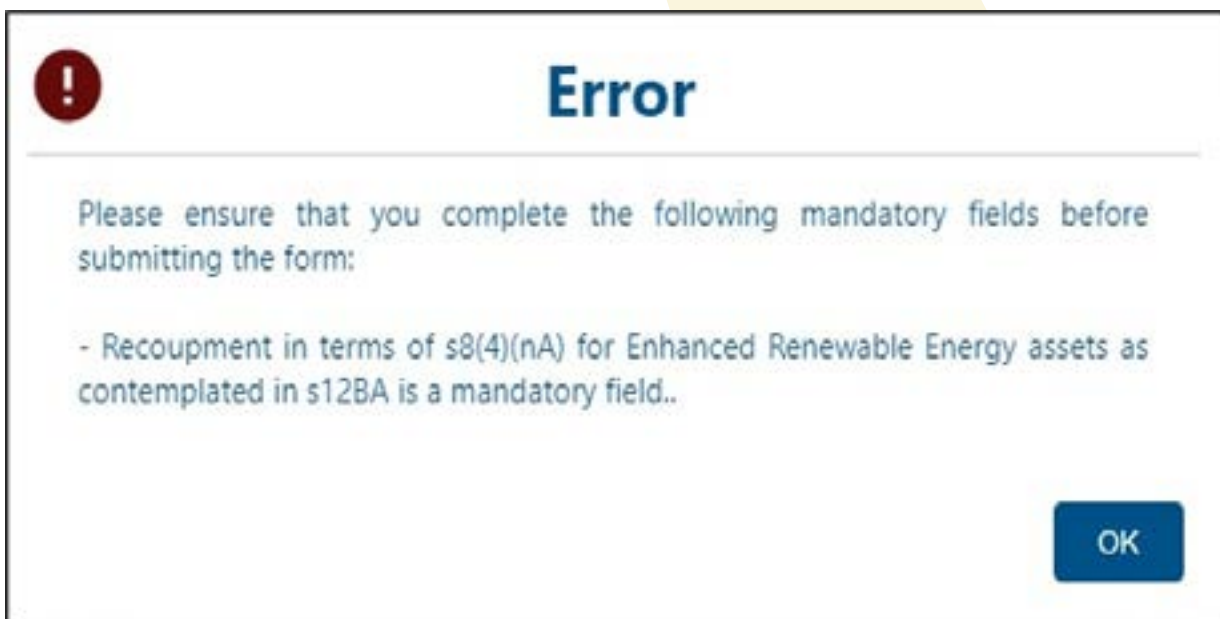
Over the past week, SAIT received several reports about the errors experienced when attempting to submit the 2023 and 2024 corporate income tax return. The initial issue was rectified over the weekend on 28 – 29 September 2024, however, this led to additional issues and error messages popping up when taxpayers attempted to submit the ITR14 return.

This issue was promptly escalated to the national eFiling support team, who have advised that the system fix to correct this error will be implemented on the evening of 11 October 2024.

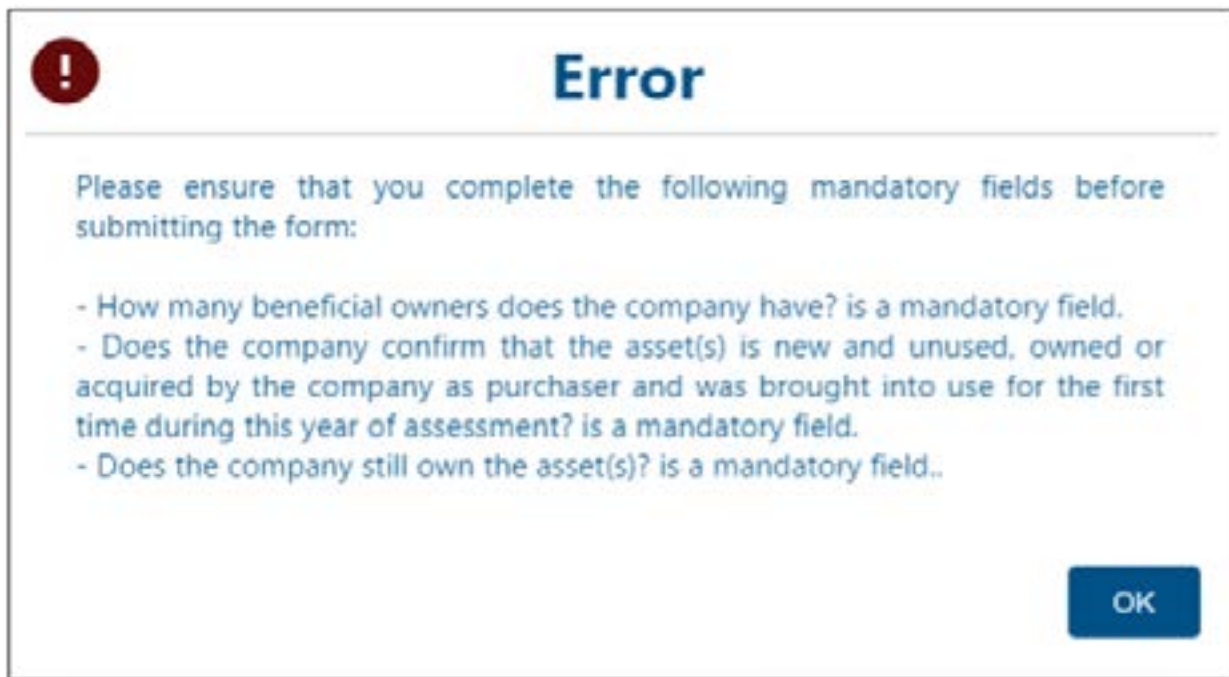
Examples of the error messages include:



The image shows a screenshot of an error message dialog box. It features a red exclamation mark icon in a circle on the top left. The word "Error" is displayed in a large, bold, blue font at the top center. Below this, the text reads: "Please ensure that you complete the following mandatory fields before submitting the form:". A bulleted list follows, containing one item: "- Does the company confirm that all interests claimed were correctly limited (in terms of s11G) to non-trading interest received/accrued? is a mandatory field..". In the bottom right corner, there is a blue rectangular button with the text "OK" in white.



The image shows a screenshot of another error message dialog box, similar in layout to the first one. It has a red exclamation mark icon in a circle on the top left. The word "Error" is displayed in a large, bold, blue font at the top center. The text below reads: "Please ensure that you complete the following mandatory fields before submitting the form:". A bulleted list follows, containing one item: "- Recoupment in terms of s8(4)(nA) for Enhanced Renewable Energy assets as contemplated in s12BA is a mandatory field..". In the bottom right corner, there is a blue rectangular button with the text "OK" in white.



Although the number of affected companies has not been determined, it is anticipated that this error will cause additional delays in companies being able to timeously submit the ITR14 return.

Delays experienced with the finalisation of the 2024 verifications

With the individual non-provisional filing season ending this month, many taxpayers are still awaiting the outcomes of verifications which commenced in July and August 2024. Some of these delayed verifications are also resulting in the delayed payment of refunds due to taxpayers.

At present, these cases are being escalated to the respective regions on a case-by-case basis. SAIT will also monitor the progress of the escalations, and if required, make further submissions to SARS in this regard.

Quick round up of the September 2024 SAIT escalations

Between 1 – 30 September 2024, SAIT has received and validated 249 escalations cases relating to long outstanding cases not finalised by SARS within the prescribed timeframes.

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

1. Delays in the finalisation of 2024 income tax verifications;
2. Trust registered representative and IT3 activation queries;
3. Delays in the finalisation of VAT verifications;
4. Delays in the finalisation of bank verification cases; and
5. Delays in the finalisation of income tax assessments requiring manual intervention.

Some of the systemic issues identified have been raised and discussed at the various regional forums. Feedback from some of these meeting may be accessed, [here](#).

For assistance with an escalation, members may submit a SARS escalation query on the SAIT [TaxHelpline](#) 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.

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 the finalisation of 2024 income tax verifications;
2. Delays in the finalisation of VAT verifications;
3. Delays in the finalisation and payment of refunds;
4. Delays in the finalisation of bank verification cases; and
5. Delays in the finalisation of income tax assessments requiring manual intervention.

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)*.

**For effective and meaningful interactions with SARS, Regional Representatives are urged to provide three specific examples of issues and matters that arise. It should be noted that the regional meetings are not platforms to raise individual escalation, but rather to discuss systemic issues affecting the tax practitioner community at large.*

Feedback from the RCB/SARS regional and national meetings

Feedback from the Mpumalanga regional RCB meeting held on 27 September 2024 can be accessed, [here](#).

Feedback from the previously held Limpopo regional meeting held on 17 September 2024 can be accessed, [here](#).

Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. Free State and Northern Cape for 11 November 2024;
2. Gauteng South for 13 November 2024;
3. Gqeberha and Kariega, Eastern Cape for 14 November 2024;
4. eMalahleni, Mpumalanga for 18 November 2024;
5. North West for 18 November 2024;
6. Gauteng North for 21 November 2024; and
7. KwaZulu-Natal for 25 November 2024.

Other meetings of interest

1. RCB forum meeting scheduled for 12 November 2024; and
2. 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: October 2024

Month	Date	Tax Type	Notification
October 2024	07/10/2024	Employment Taxes	EMP201 - Submissions and payments
	21/10/2024	Income Tax	ITR12 - Submission due date for a return that is submitted electronically through the assistance of a SARS official at a SARS office or manually
	21/10/2024	Income Tax	ITR12 - Submission due date for a return for non-provisional taxpayers and is submitted by using the SARS eFiling platform
	25/10/2024	Value-Added Tax	VAT201 - Manual submissions and payments
	31/10/2024	Other	Third-Party Data (IT3) - End of bi-annual third-party submissions
	31/10/2024	Employment Taxes	EMP501 - End of employer interim reconciliation submissions
	31/10/2024	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

Company Income Tax deregistration process at SARS

“Companies that are registered or generating profits or income in South Africa are subject to the Company Income Tax (CIT). These companies must register for CIT with SARS, file annual and provisional tax returns, and pay their CIT liability on time to avoid penalties and interest charges.

However, a company may no longer need to register for CIT if it has ceased trading, undergone liquidation or dissolution, or has no taxable income or assets in South Africa. In these cases, the company can apply for deregistration from CIT with SARS and stop receiving CIT compliance obligations.

Applying for CIT deregistration with SARS

The company must ensure that it has filed all its previous tax returns and paid all its tax liabilities before applying for CIT deregistration. If the company has any outstanding tax obligations, it must contact SARS to arrange for settlement or dispute resolution. Before approving the application, SARS may also conduct an audit or verification of the company's affairs.

To be deregistered, the company must prove that it meets one of the following criteria:

- *It has ceased to trade or carry on any business activity in South Africa;*
- *It has been liquidated or dissolved by court order or voluntary resolution;*

- *It has no taxable income or assets in South Africa and does not intend to derive any in the future; or*
- *It is a dormant company that has not traded for at least three consecutive years and has no intention of trading in the future.*

It must also submit supporting documents, which may include:

- *A letter from the company's Board of Directors or a resolution stating the reasons for applying for CIT deregistration;*
- *A copy of the company's final financial statements or audited accounts;*
- *A copy of the company's liquidation or dissolution notice or certificate;*
- *A declaration of assets and liabilities of the company;*
- *A confirmation of the company's bank account closure or balance; or*
- *Proof of payment of any outstanding tax debts or penalties.*

The company can submit the application and supporting documents online via eFiling, email, or at a SARS branch. Upon processing and approval of the application, SARS will issue a confirmation letter to the company and deactivate its tax reference number. The company will then no longer be liable for CIT or any related compliance obligations. However, the company must keep its records for at least five years after deregistration in case of any queries from or audits by SARS.

Employer deregistration at SARS

- *An employer who has ceased to operate or employ must apply for company deregistration to avoid further compliance obligations.*
- *The employer must submit an EMP123 form and supporting documents to SARS.*
- *The employer must pay any outstanding tax debts or penalties before they can be deregistered.*
- *The employer will receive a confirmation letter, and their tax reference number will be deactivated."*

Extract was sourced from the [SARS SMME Connect Newsletter](#)

Updated specification for the two-pot retirement system

On 27 September 2024, SARS announced that following the implementation of the two-pot retirement system on 1 September 2024, it had taken note of challenges the industry is experiencing with regards to tax directives. To this end, various enhancements have been incorporated into [IBIR-006 Tax Directives interim Interface Specification Version 6.707](#).

These enhancements and changes among others include:

- Enhancing system parameters to accommodate an annual saving withdrawal benefit from various contracts held with the same fund instead of declining such directives as duplicate directive applications.
- Enhancing system parameters pertaining to the determination of annual income for the purposes of calculating tax on Savings Withdrawal Benefit directive applications.

Importantly, SARS has taken note of the fact that the annual remuneration has been underdeclared in some of the directive applications where the taxpayers are still employed, resulting in a nil or lower tax directive amount being issued. While there are valid instances where a zero declaration is correct, a nil or incorrect tax directive result will negatively impact these employed taxpayers resulting in the incurrance of a debt on assessment.

SARS systems will therefore be enhanced to calculate the taxable amount based on information available to SARS and not necessarily on the annual remuneration value declared on the Savings Withdrawal Benefit directive application.

For more information, see the [tax directive's webpage](#).

Other SARS and related operational publications and announcements

No other SARS and related operational publications and announcements were made for the weeks 26 September – 2 October 2024.

TAX PRACTITIONER MANAGEMENT

SAIT TaxHelpline – Tax practitioner access and functionality (eFiling)

No recurring tax practitioner access and functionality issues were identified via the TaxHelpline during the week of 26 September – 2 October 2024.

Key tax practitioner news

Reminder on tax practitioner registration and compliance updates

This month's tax practitioner compliance reports looks at some general tax practitioner updates including:

- SARS Readiness Programme and new assessment quizzes;
- eFiling profile hijacking: Updated protocols and guidance;
- SARS tax practitioner deregistrations;
- Compliance requirements for tax practitioners; and
- Annual Compliance Audit.

For in depth discussions on the above, access the [tax practitioner registration and compliance updates](#).

Government & stakeholder newsletters

On 26 September 2024, SARS published issue 9 of the SMME Connect newsletter. The 9th edition of the newsletter covers the following topics:

- PAYE Bi-Annual Filing Season 2024;
- Company Income Tax deregistration process at SARS;
- Voluntary Disclosure Programme; and
- What's new? – WhatsApp.

Other tax practitioner access and functionality publications and announcements

- **2 October 2024:** SARS published the [mobile tax unit schedules](#) for the Mpumalanga province covering October and November 2024.
- **27 September 2024:** SARS published the North West province [mobile tax unit and tax workshop schedules](#) for October 2024.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Tax policy & international agreements

Legislation

No legislative updates were made during the week of 26 September – 2 October 2024.

LEGISLATIVE INTERPRETATION

Submissions to SARS and current calls for comment

Submitted calls for comment

Draft Guide on the Mineral and Petroleum Resources Royalty Act

On 13 September 2024, SAIT provided commentary on the [Draft Guide on the Mineral and Petroleum Resources Royalty Act](#). The SAIT Technical team together with select members of the mining tax industry work group submitted, on a high-level basis, that in its current form the draft guide lacks the necessary detail to provide streamlined guidance to taxpayers affected within this area of taxation.

Generally, the royalty calculations in respect to mining gold, a refined mineral, is relatively straightforward and involves fewer complexities than those associated with unrefined minerals.

[SAIT's submission](#) further highlighted the need for further elaboration on the treatment of pre-2004 dumps, which do not attract royalties, particularly when mixed with materials that are subject to royalties. A further request for the provision of examples and a clearer framework for cost allocation in the EBIT calculation was made.

SAIT will monitor progress in this regard as it relates to a finalised guide.

Draft Interpretation Note on the meaning of reserve fund under section 23(e)

On 30 September 2024, the SAIT Technical team submitted commentary on the draft interpretation note on the meaning of reserve fund under section 23(e) ([the draft IN](#)) that considers the meaning of 'reserve fund' for purposes of section 23(e) of the Act.

Our submission proposed the removal of the commentary contained in the draft IN that pertains to insurance.

The rationale for the proposal is contained in the SAIT submission, which may be accessed, [here](#).

Legislative interpretation calls for comment

SARS has issued a call for comment pertaining to the following;

- [Draft Interpretation Note](#) – Meaning of 'similar finance charges'.
- [Draft Interpretation Note](#) – Public benefit organisations: Non-professional sport and recreation.

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

Legislative counsel publications

General Taxation in South Africa 2024

On 25 September 2024, SARS has published a general guide to [Taxation in South Africa 2024](#). The guide provides a high-level overview of the most significant tax legislations administered in South Africa by SARS. This includes but not limited to:

- Carbon Tax Act;
- Customs and Excise Act;
- Employment Tax Incentive Act;
- Income Tax Act;
- Tax Administration Act; and
- Value-Added Tax Act.

General Tax Guide for Small Businesses (2023/2024)

On 26 September 2024, SARS published a [Tax Guide for Small Businesses \(2023/2024\)](#). This guide is a general guide dealing with the taxation of small businesses such as sole proprietors, partnerships and companies not part of large groups. The guide aims to consider the typical taxation issues of an average business trading in South Africa.

SARS publishes interpretation note 134

On 26 September 2024, SARS published [interpretation Note 134](#) that provides general guidance on the application of the deemed disposal of assets by the deceased, a deceased estate, and the transfer of assets between spouses.

This interpretation note considers the tax implications outlined in sections 9HA, 9HB and 25 of the Act. It is to be noted that this interpretation note does not provide for a detailed consideration of the administration of deceased estates beyond the scope of the above sections of the Act.

Members are encouraged to peruse this interpretation note for further detail.

Reminder on SARS updating the table of interest rates

Following the South African Reserve Bank's decision to revise the repo rate downwards by 25 basis points, SARS duly updated the rates at which interest-free or low interest loans are subject to income tax.

Table	Description
Table 1	Interest rates on outstanding taxes and interest rates payable on certain refunds of tax Updated on 11 July 2023
Table 2	Interest rates payable on credit amounts Updated on 11 July 2023
Table 3	Rates at which interest-free or low interest loans are subject to income tax Updated on 25 September 2024 * The South African Reserve Bank changed the 'repo rate' on 20 September 2024, effective 1 October 2024

Published court cases

No new court cases were published in the weeks of 26 September – 2 October 2024.

Other SARS publications and announcements

No other SARS publications and announcements were published in the weeks of 26 September – 2 October 2024.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

No other matters of interest for a tax practice were published in the weeks of 26 September – 2 October 2024.