

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 10 -16 October 2024
(Issue 39 -2024)

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TOP STORIES

ITR12 returns for non-provisional taxpayers due on Monday, 21 October 2024

Individual non-provisional taxpayers have until Monday, 21 October 2024, 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.

[Several SARS branches](#) will also be opened on Saturday, 19 October 2024, to accommodate and assist taxpayers meet the submission due date.

SAIT presents to the Parliamentary Finance Committees regarding the 2024 Tax Amendments

In response to the Standing and Select Committee on Finance's invitation for written submissions and presentations regarding the 2024 Draft Taxation Amendment Bill and the Draft Tax Administration Laws Amendment Bill, SAIT presented before the committees, highlighting submissions by the various SAIT Technical Workgroups.

SAIT's presentation and accompanying written submission addressed several key issues, including:

- Prescription period for input VAT tax claims
- Controversial amendments to Section 24I
- Trust in turmoil: Navigating the maze of anti-avoidance measures
- Appointment of public officers
- Laypersons in the Tax Court battlefield
- Objection against assessment or decision – Moving the ADR earlier in the process
- Unlisted real estate entities: A step forward but not far enough
- Fuelling confusion: Unravelling the retrospective amendments
- The ETI enigma: What's behind the abuse?

For full and further detail, members may access the presentation, [here](#), together with the detailed summary thereof, [here](#).

[#StayAbreastOfTheTaxWave](#)


PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

Latest update on the 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. This issue was promptly escalated to the national eFiling support team, and a system fix was implemented on the evening on 11 October 2024.

Members who experienced any of the following error messages are advised to fully refresh the data on the ITR14 return before attempting to recomplete and submit the return. Examples of the error messages include:




Error

Please ensure that you complete the following mandatory fields before submitting the form:

- 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..

OK




Error

Please ensure that you complete the following mandatory fields before submitting the form:

- Recoupment in terms of s8(4)(nA) for Enhanced Renewable Energy assets as contemplated in s12BA is a mandatory field..

OK



Error

Please ensure that you complete the following mandatory fields before submitting the form:

- How many beneficial owners does the company have? is a mandatory field.
- Does the company confirm that the asset(s) is new and unused, owned or acquired by the company as purchaser and was brought into use for the first time during this year of assessment? is a mandatory field.
- Does the company still own the asset(s)? is a mandatory field..

OK

Should any members continue to experience submission error on the ITR14 returns after refreshing all the data, they are advised to inform SAIT via the [TaxHelpline](#) and to provide a timestamped screenprint of such error.

Phishing scams back on the rise with Filing Season coming to an end

Over the past two weeks, SARS has identified additional phishing scams targeted at unsuspecting taxpayers demanding payment for an [unsettled tax debt](#) or [impersonating a SARS employee](#) to exploit taxpayers.

Both these ongoing phishing scams may appear legitimate to the unsuspecting taxpayer, however, taxpayers and tax practitioners alike are urged to scrutinise the email domains on these email addresses. If you are unsure of the validity of the correspondence, contact the SARS Contact Centre to authenticate such correspondence before opening any links or making any payments to the accounts stipulated therein.

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 income tax deregistrations;
3. Delays in the finalisation of deceased estates compliance;
4. Delays in the finalisation of bank verification cases; and
5. Delays in the finalisation of registered representative 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)*.

**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

No RCB/SARS regional or national meetings were held during the week of 10 – 16 October 2024.

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. Western Cape for 20 November 2024;
7. Gauteng North for 21 November 2024;
8. KwaZulu-Natal for 25 November 2024; and
9. Western Cape for 5 March 2025.

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

Two-pot retirement system withdrawals update

On 11 October 2024, SARS announced that to date, it has received over 1 million tax directives applications for withdrawals from the savings withdrawal benefit of the two-pot system. Of the total number of applications 1 148 729 tax directives were approved for funds to be released. The remainder were declined for a variety of reasons, including incorrect identity numbers, incorrect tax numbers, amongst others.

As a result, a total gross lumpsum of R **R21.4 billion** has been paid out from the two-pot retirement system.

SARS also reminded taxpayers who want to apply for a withdrawal to make sure that they verify their tax numbers, have supplied the correct identity numbers and that they do not have any outstanding debt with SARS. Before a final amount is paid to the applicant, the pension fund will be informed to also deduct any outstanding debt on behalf of SARS before any payout is made to the member. If a person has a debt arrangement with SARS, the withdrawal will not be affected. If there is a debt owed to SARS, it will be deducted in terms of such arrangement.

Reminder on new medical third-party data requirements officially coming into effect

The new medical aid data reporting requirements officially came into effect at 17:00 on Friday, 4 October 2024. The major changes to the medical aid data reporting requirements *inter alia* include:

- Provision of data on disabled principal members and their dependents.
- Data of persons making payment on behalf of principal members; and
- Separate non-allowable from the allowable expenses, currently reported as claims not paid or covered by medical schemes on the IT3(f) certificate.

Effective from Saturday, 5 October 2024, medical aid data submissions must be provided in line with the requirements outlined in the new [External Medical Scheme Contributions BRS](#).

To ensure a smooth transition, SARS will grant a grace period of six months for partial submission of the requested data, while stakeholders obtain resources to achieve full compliance. For cases of partial compliance, reasons and a commitment date to fully comply must be submitted to Bus_Sys_CDSupport@sars.gov.za.

Other SARS and related operational publications and announcements

No other SARS and related operational publications and announcements were made for the week 10 – 16 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 10 – 16 October 2024.

Key tax practitioner news

On 11 October 2024, SARS published the reworked criteria for the registration of tax practitioners and the recognition of controlling bodies (RCBs). Because the Tax Administration Act stipulates that an individual must register with both an RCB and SARS as a tax practitioner, should they wish to provide tax related services to taxpayers, the RCB is responsible for overseeing the registration and admission of tax practitioners.

RCBs are also required to manage their tax practitioner members' compliance to the registration requirements. To support RCBs and tax practitioners in fulfilling these responsibilities, SARS has also updated the following guides for more information:

- [How RCBs can manage tax practitioner members on eFiling](#)
- [Criteria for the recognition of controlling bodies](#)
- [Criteria for the registration of tax practitioners](#)

Government & stakeholder newsletters

On 15 October 2024, SARS published the latest edition of the [Monthly Tax Digest newsletter](#). The October 2024 edition of the newsletter cover the following topics:

- Tax Filing deadlines coming up;
- What will occur once you have submitted?;
- Understanding your ITA34;
- Penalties for failing to meet the 21 October 2024 deadline;
- Deadline for the Employer Interim Reconciliation Filing Season;
- Submission channels; and
- Beware of the latest impersonation scam.

Other tax practitioner access and functionality publications and announcements

- **13 October 2024:** SARS honours the late Mr Tito Mboweni for his crucial role in stabilising the macroeconomic landscape as Governor of the Reserve Bank and Minister of Finance. From 1999 to 2009, Mr Mboweni led the SARB alongside the late Mr Pravin Gordhan and Mr Trevor Manuel, and this stability in leadership was vital for modernising SARS into a world-class revenue authority. SARS Commissioner, Mr Edward Kieswetter, recognised Mr Mboweni as a member of a brave generation that fought against apartheid, acknowledging his sacrifices for freedom and his significant contributions to rebuilding SARS. His support since May 2019 has been instrumental in strengthening SARS's mandate. Kieswetter expressed sadness over Mr Mboweni's passing, especially following the recent loss of Mr Gordhan, highlighting Mr Mboweni's enduring impact on South Africa's fiscal integrity. SARS extends its condolences to the Mboweni family during this difficult time.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Tax policy & international agreements

National Legislation

No new national legislation was released during the week of 10 – 16 October 2024.

LEGISLATIVE INTERPRETATION

Submissions to SARS and current calls for comment

There were no submissions made to the National Treasury or SARS during the week of 10 - 16 October 2024.

Legislative interpretation calls for comment

As a reminder, SARS has issued calls 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.
- [Draft Interpretation Note](#) – Diminution in the value of closing stock.

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

Legislative counsel publications

Publication of Binding Private Ruling 411 regarding the tax consequences of a deemed input tax deduction under the VAT Act

Binding Private Ruling 411 ([BPR 411](#)) determines the tax consequences of a deemed input tax deduction when a motor vehicle financed under an Instalment Credit Agreement (ICA), as defined in section 1 of the VAT Act, is repossessed by the creditor

In the [BPR 411](#), a resident, registered bank (the Applicant) found itself navigating the complexities of tax law when dealing with repossessed motor vehicles financed under ICAs. As outlined under the proposed transaction, when a debtor defaults on their payments, the Applicant, in accordance with the ICA, would repossess the vehicle. Typically, if the debtor is not registered as a VAT vendor, the bank deducts the input tax amount and credits the debtor’s account. However, the bank proposed an alternative approach which entails that instead of crediting the debtor’s account, the Applicant would credit ‘other income’ on their Statement of Comprehensive Income.

In its Ruling, SARS has confirmed the following:

1. The Applicant will be entitled to an input tax deduction in accordance with section 16(3) (a)(i) of the VAT Act read with paragraph (c) of the definition of ‘input tax’ under section 1 of the VAT Act in respect of the supply (not being a taxable supply) deemed by section 8(10) of the VAT Act to be made to the Applicant on the repossession of a motor vehicle under the ICA. This deduction is subject to compliance with the requirements of section 16(2)(c) of the VAT Act.

2. The amount determined in accordance with section 16(3)(a)(i) of the VAT Act read with paragraph (c) of the definition of 'input tax' in section 1 of the VAT Act does not constitute 'gross income' as defined in section 1(1) of the Act nor will it result in any capital gains tax consequences under the Eighth Schedule to the Act.

Reminder: Publication of Binding General Rulings 27 (Issue 2) and Interpretation Note 83 (Issue 3)

Sections 20(4) and (5) of the VAT Act contains certain requirements and prescribes certain particulars that must be contained on a tax invoice, credit- or debit note (as the case may be). However, recognising that in certain industries and for certain transactions it may be challenging to comply with these prescribed particulars, the Commissioner has a discretion to approve deviations therefrom in certain circumstances as outlined in section 21(5) of the VAT Act.

SARS has published [Binding General Ruling 27 \(Issue 2\)](#) that sets out the circumstances and conditions under which:

- a vendor need not issue a tax invoice, credit or debit note; or
- the particulars required on a tax invoice may be furnished in another manner.

[Binding General Ruling 27 \(Issue 2\)](#), outlines the circumstances under which the requirements outlined in Sections 20(4) and (5) are not applicable in relation to the following approved circumstances:

1. Instalment credit agreements in respect of goods consisting of corporeal movable goods or of any machinery or plant, whether movable or immovable;
2. Rental agreements for movable or immovable property;
3. Royalty agreements; and
4. Short-term insurance.

A vendor that meets the requirements outlined in BGR 27 is not required to seek prior approval from the Commissioner to refrain from issuing a tax invoice, credit note, or debit note, or to provide the required particulars in an alternative manner.

As per the guidance provided by SARS, vendors are reminded that they:

"Should not request rulings on whether the circumstances and conditions in the said BGR are met, as this involves a confirmation of a fact, as opposed to the interpretation of the law. However, vendors that are not able to comply with the criteria stipulated in BGR 27, may apply for a decision in writing by sending an e-mail to VATrulings@sars.gov.za."

Furthermore, the application should consist of a completed VAT 301 form and must comply with inter alia the provisions of section 79 of the TAA.

[Binding General Rulings 27](#) has been duly archived. Members are encouraged to peruse [Binding General Ruling 27 \(Issue 2\)](#) for full detail regarding the application of the legislative provisions in relation to the above cited approved circumstances.

To further assist with legislative interpretation of the above provisions of the VAT Act, SARS has released Issue 3 of [Interpretation Note 83](#) that sets out interpretative guidance regarding the requirements that have to be met in order for the Commissioner to apply the provisions of section 20(7) or 21(5).

As discussed above, the VAT Act outlines specific requirements and details that must be included on tax invoices, credit notes, and debit notes. However, acknowledging that certain industries and transactions may face challenges in meeting these requirements, the

Commissioner has the discretion to approve deviations under specific circumstances. The following requirements must be met:

- **Record sufficiency:** The Commissioner must be satisfied that there are adequate records to establish the particulars of a supply or category of supplies.
- **Impractical requirement:** The vendor must demonstrate to the Commissioner that it is impractical to issue a full tax invoice, credit note, or debit note.

[Interpretation Note 83 \(Issue 2\)](#) has been duly archived. Members are encouraged to peruse [Interpretation Note 83 \(Issue 3\)](#) for full detail regarding the application of the legislative provisions in relation to the above cited approved circumstances.

Reminder regarding SARS' publication of Binding General Ruling 74

SARS has published [Binding General Ruling 74](#) that considers the VAT treatment of certain supplies of goods or services made by municipalities to a national or provincial government. This BGR sets out the VAT treatment of supplies of goods or services that are made by municipalities to national or provincial government under each method of contracting.

[Binding General Ruling 74](#) is based on the section 1(1) definitions of 'grant' and 'input tax' and sections 7(1)(a), 8(5a), (11)(2)(t) and 54 of the VAT Act and outlines the VAT implications based on the nature of the transaction and the contractual capacity of the parties to the agreement.

Published court cases

No court cases were published during the week of 10 – 16 October 2024.

Other SARS publications and announcements

No other SARS publications and announcements were published in the weeks of 10 – 16 October 2024.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

SARS engages with industry to avert fuel shortages

After careful consideration, SARS Commissioner has granted special permission for the importation of kerosene fuel from 21 October 2024 until 20 October 2025. The special permission is granted to allow parties to attend to the complexities involved in the process of the deregistration of manufacturing warehouses and reregistration of affected storage facilities.

The Commissioner requests all parties to conclude the outstanding work urgently and ensure that all compliance requirements are met and that the current licensing provision, in respect of the importation of kerosene fuel and its derivatives, may be confirmed where appropriate.

Every taxpayer that is involved will be communicated with individually in line with their applicable circumstances. SARS believes that this announcement will bring certainty to the industry, which will benefit the country's economy and enable everyone to travel smoothly.