

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 01 - 07 February 2024
(Issue 4-2024)

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TOP STORIES

President Cyril Ramaphosa agrees to extend the SARS Commissioner's tenure

On 6 February 2024, President Cyril Ramaphosa and SARS Commissioner, Edward Kieswetter, agreed to extend the tenure of the Commissioner beyond the end of his term to enable an orderly transition in the organisation.

Commissioner Kieswetter's contract was set to end on 30 April 2024 after a five-year term. It is currently unclear how long the extension will be and who is set to replace Kieswetter as Commissioner of SARS following his departure.

2024 State of the Nation Address happening today!

The State of The Nation Address (SONA) will be held today, 8 February 2024 at 19:00.

The SONA provides the President, Cyril Ramaphosa, with an opportunity to speak to the nation on the general state of South Africa. Also, to 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 next week.

[#StayAbreastOfTheTaxWave](#)

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

Let's feature your article on the Tax Practice: Weekly Highlights.

Send your article to
taxqueries@thesait.org.za.

Approximately 500 – 600 words

PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

SAIT TaxHelpline – SARS operational queries

Deferral payment arrangement not available before the end of the debt 'grace period'

Often times, taxpayers who are assessed with a tax debt on assessment are unable to settle the tax debt in a single instalment or even before the payment due date and interest free grace period granted by SARS. Many taxpayers opt to request an instalment payment arrangement which will allow them to settle the debt within an agreed timeframe and allow them to be tax compliant.

Unfortunately, the eFiling system does not allow a taxpayer to request an instalment payment arrangement before the 'interest free grace period' has lapsed. For example, if a return is submitted on 3 November 2023, the payment due date is 1 December 2023 and the interest free grace period is 31 December 2023, the taxpayer will only be able to apply for an instalment payment arrangement on 1 January 2024.

According to the [2023 SARS Service Charter](#), SARS endeavours to finalise the instalment payment arrangement within 21 business days. A secondary challenge that this may cause is that by the time a taxpayer is able to apply for an instalment payment arrangement, the tax compliance status may be reflected as 'non-compliant'.

SAIT will engage SARS on the possibility of enhancing the eFiling system to allow taxpayers to submit requests for an instalment payment arrangement; at the moment a tax debt is reflected on the assessed account. Feedback will be provided to all members as soon as it becomes available.

Supporting documents required to claim the section 6B credit

Any medical expenses paid by a taxpayer that was claimed from the medical scheme and reflected on the medical certificate (other than physical impairment or disability expenses) will be reflected under code **4020** on the personal income tax return (ITR12). Even expenses that were claimed from the medical aid scheme, but not paid to the taxpayer will be reflected under this code as long as the expenses qualify as medical expenses.

In addition to the expenses prepopulated in the ITR12, a taxpayer can also claim any qualifying medical expenses paid by that taxpayer that was not claimed from any medical scheme and was therefore not reflected on any medical scheme certificates (other than physical impairment or disability expenses), under code **4034**.

In the event that an assessment is selected for verification, SARS will require documentary evidence to prove (invoices and receipts), any medical expenses claimed in the underlying tax return whether through the pre-population of code 4020 or as a result of additional out-of-pocket expenses claimed by the taxpayer (4034). However, if no additional medical expenses (4034) are claimed, SARS will accept the medical aid certificate as sufficient proof.

This past week, it was brought to SAIT's attention that in addition to invoices and actual receipts, SARS has been requesting the proof of the prescription (including repeat prescriptions) for the qualifying medical expenses.

In terms of Section 22A(6)(n) of the Medicines and Related Substances Act, No. 101 of 1965, a seller of prescription medication is required to retain the valid prescription for no less than five years.

Practically speaking, a taxpayer would therefore be required to request copies of all prescriptions received during the year of assessment from the respective pharmacies and furnish same to SARS. This, in addition to receipts (proofs of payment) and detailed schedule of the additional out-of-pocket expenses.

The current [guide on the determination of medical tax credits](#) does not indicate that copies of prescription are required to claim the additional medical expenses tax credit.

With the 2024 year of assessment for individual taxpayers coming to an end on 29 February 2024, many taxpayers will start putting together their tax packs in anticipation of Filing Season 2024 and these additional documents will be something to consider.

In the interim, SAIT will engage SARS on the rationale behind adding these stringent requirements to the section 6B credit. Members will be provided with feedback as soon as possible.

Highlights from the January 2024 SAIT/SARS escalations (reminder)

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 (reminder)

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.

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.

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. Gauteng North for 22 February 2024;
3. North West for 26 February 2024;
4. Mpumalanga for 29 February 2024; and
5. 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.

DAILY COMPLIANCE AND ADMINISTRATION

Due dates for reporting and payments: February 2024

Month	Tax Type	Date	Notification
February 2024	Employment Taxes	07/02/2024	EMP201 submissions and payments
	Value-Added Tax	23/02/2024	Manual VAT201 submissions and payments
	Value-Added Tax	29/02/2024	Electronic VAT201 submissions and payments
	Income Tax	29/02/2024	Submission of 2023 ITR14 returns for companies with a February year-end
	Income Tax	29/02/2024	2nd provisional (2024) 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	2nd (2024) 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 (unchanged).
- [SAIT SARS contact map](#) – links service requirements to SARS channels (unchanged).

Key Operational News

SAIT Advisory: Section 93 revision

There are various circumstances under which a taxpayer may need to request SARS to reduce an existing assessment.

Section 93 of the Tax Administrations Act, No 28 of 2011 (the TAA) allows a taxpayer to request SARS to amend an assessment without having to follow the formal dispute resolution process under Chapter 9. It offers taxpayers a less formal mechanism to resolve errors and is only applicable in limited circumstances where all the requirements are met.

SAIT has prepared an [advisory](#) to assist taxpayers understand the requirements for a section 93 revision and circumstances where this mechanism may be used.

SARS to commence trade testing of Tax Directives

SARS will introduce enhancements to the Tax Directives process as indicated in the [IBIR-006 Tax Directives Interface Specification Version 6.601](#). Trade testing is planned to start on Monday, 12 February 2024 to prepare for the implementation of the software by end of February 2024. In the event that dates are changed, SARS will communicate accordingly.

To participate in the trade test, **please follow these steps to submit test files:**

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

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

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	XXXXX
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)
Less: Solar energy tax credit under section 6C Total Tax Payable	(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)
SECOND PROVISIONAL TAX PAYMENT	XXXX

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 1 – 7 February 2024.

Key tax practitioner news

SARS amends the criteria for registration of Tax Practitioners and the recognition of Controlling Bodies (reminder)

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:

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

Government & Stakeholder Newsletters

No new Government & Stakeholder Newsletters were published for the week 1 – 7 February 2024.

Other Tax practitioner access and functionality publications and

- **2 February 2024:** SARS released the schedules for the [mobile tax units](#) arranged to take place in the Western Cape province for February 2024.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Tax policy & international agreements

On 1 February 2024, SARS uploaded the synthesised texts to the Multilateral Instrument (MLI). The synthesised texts are in relation to the covered tax agreements with the following countries: Chile, Finland (updated), France, Hungary, Mexico, The Netherlands and Ukraine.

A synthesised text represents the following in a single document:

- The text of the Covered Tax Agreement that is modified by the MLI, including the text of amending protocols (where relevant);
- The provisions of the MLI that have an effect on the tax treaty as a result of the interaction of the MLI positions of the jurisdictions; and
- The dates on which the provisions of the MLI take effect for the specific Covered Tax Agreement

Synthesised texts are aimed at facilitating the understanding of the application of the MLI to a particular tax treaty. However, it should be noted that a synthesised text does not constitute a source of law. The authentic legal texts of the tax treaty and the MLI take precedence and remain the legal texts applicable.

The MLI synthesised text for the abovementioned countries may be accessed [here](#).

Legislation

On 6 February 2024, National Treasury announced the publication of the 2023 Tax Acts and their accompanying documentation via an [official media statement](#).

The publication refers to the 2023 Rates Act, the 2023 TLAA and the 2023 TALAA which were promulgated on 22 December 2023. These Acts gave legislative effect to the tax proposals as outlined by the Minister of Finance in his annual National Budget Speech delivered on 22 February 2023.

The 2023 Rates Act gives effect to changes in rates and monetary thresholds and increases of the excise duties on alcohol and tobacco. The 2023 TLAA contains more complex, technical, and anti-avoidance legislative changes. The 2023 TALAA deals with tax proposals that are technical and administrative in nature.

National Treasury has also published the final [Response Document on the 2023 Rates Bill, 2023 TLAA and 2023 TALAA](#) as well as the [Explanatory Memorandum to the 2023 TLAA](#) and the [Memorandum of Objects to the 2023 TALAA](#) for public record.

LEGISLATIVE INTERPRETATION

Legislative interpretation calls for comment (Reminder)

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 1 – 7 February 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	SARSTC VAT 2218 [2023] ZATC CPT (8 December 2023)	Value-Added Tax Act, 1991
Summary: 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	Van Der Merwe v South African Legal Practice Council and Another (19591/2022) [2023] ZAW-CHC 341 (29 May 2023)	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 1 – 7 February 2024.

2024 State of the Nation Address happening today!

The State of The Nation Address (SONA) will be held today, 8 February 2024 at 19:00. The SONA provides the President, Cyril Ramaphosa, with an opportunity to speak to the nation on the general state of South Africa. Also, to 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.