

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 17 -23 October 2024
(Issue 40 -2024)

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TOP STORIES

2025/01 interim employer recons due on 31 October 2024

Thursday, 31 October 2024, is the due date for the bi-annual third-party data and interim employer EMP501 reconciliation submissions in respect of the 2025 year of assessment. The 2025/01 period covering the 1 March – 31 August 2024 reporting period. This is a crucial step in the wider income tax reconciliation process, simplifying compliance and enabling SARS to issue income tax returns with pre-populated third-party and payroll information.

Employers may utilise the eFiling or e@syFile systems to submit their interim reconciliations with eFiling being limited to 50 or less employees. Any employer with more than 50 employees must utilise the e@syFile platform.

For employers submitting on the e@syFile platform, it is important to note that SARS is in the process of moving to a new platform (Replatform). Therefore, for this submission period, both the BETA Flex and Replatform versions will be available, however, for the 2025/02 submissions only, the e@syFile Replatform version should be used.

National Treasury and SARS jointly table their response document regarding commentary on the 2024 Draft Tax Bills

As part of the legislative cycle, National Treasury and SARS published, among others, the 2024 Draft Taxation Laws Amendment Bill (TLAB) and the Tax Administration Laws Amendment Bill (TALAB) for comments. SAIT along with 64 other organisations and six individuals provided written submission commentary on the draft TLAB and TALAB. On 17 September 2024, National Treasury and SARS briefed the Standing Committee on Finance (SCoF) on the various draft bills, leading to hearings on 8 and 9 October 2024.

On 23 October 2024, National Treasury and SARS presented the Draft Response Document summarising public comments and proposed steps to address key issues to SCoF. Various stakeholders, including SAIT were given an opportunity to opine on the response provided. Following SCoF's consideration, the responses will be presented to the Minister of Finance for approval before formal introduction in Parliament, continuing the legislative process.

The draft presentation may be accessed, [here](#). The associated draft document may be accessed, [here](#).

[#StayAbreastOfTheTaxWave](#)

MEMBERS' DIGEST

Reflecting on the evolution of tax filing in South Africa: From paper to eFiling

Written by: **Sidney Fletcher**, Tax Technician Practitioner (SA)TM



When I read the most recent report on the statistics about the first two weeks of the 2024 tax filing season, I couldn't help but think back to a time before 2007. This was the era before eFiling when millions of tax returns were printed and posted to taxpayers nationwide. I remember how many of these were returned to SARS marked as 'address unknown'. Postboxes outside the SARS buildings were flooded with envelopes on deadline day as disciplined taxpayers hurried to submit their tax returns on time. SARS Mail Rooms had to extend working hours to get paper-based returns sorted and date-stamped.

This frenzy was only matched by the queues of taxpayers snaking around buildings, rushing to get their tax filings in on time. Exhausted 'meter greeters' manning and trying to organise these queues always had the same question: "Why do people always leave this for the last minute?"

The dawn of eFiling

As part of SARS' Modernisation Strategy, eFiling was introduced in 2007. Initially only able to process Personal Income Tax Returns, the platform was met with scepticism by the industry and taxpayers alike. It was not until 2009 that the true benefits of electronic filing were experienced across the tax base. During this time, the platform introduced Value-added Tax (VAT) and Corporate Tax return submissions. SARS also launched E@syfile Employer and E@syfile Practitioner in 2008. Although E@syfile Practitioner never really caught on, E@syfile allowed SARS to prepopulate employer-provided data directly onto individual tax returns, which later became known as Third-Party Data.

Transforming tax filing

At this point, the Tax Filing Season initiative looked completely different. The paper-based return was replaced with the ability to use the Tax Return Wizard, allowing taxpayers to customise their returns. In some cases, this reduced returns from twelve pages to just two. This transformation significantly reduced the number of 'walk-ins' at SARS branch offices.

The benefits for taxpayers were tangible. The return submission process was simpler and more efficient, allowing SARS to process refunds quickly. With all these benefits, SARS recorded a more than 80% growth in electronic filings at the end of the 2010 tax year. This also significantly enhanced SARS' ability to realign its focus to various enforcement initiatives, as they could now detect fraud and non-compliance at a very early stage.

The modern eFiling era

Fast forward to 2024, where we have seen significant changes to the eFiling platform over the years. One notable improvement is the merging of various usernames into a primary username. Add to that the different profile types that allow you to create various

Portfolio Types. Depending on your requirements, you can select an Individual, Organisation or Tax Practitioner portfolio type. Each allows you the appropriate functions on the eFiling platform. You can add different users, each with their own submission level and user rights, offering your organisation or practice the ability to limit access to certain users while allowing additional access to other users.

With all these system improvements, SARS has aggressively enhanced its Third-Party Data Submission Initiative by adding more and more data from institutions. These institutions include employers, banks, investment houses, medical aids, etc. The most recent additions are Public Benefits Organisations and Trusts. This allows SARS the ability to create accurate Estimated and Auto Assessments.

Challenges and continuous improvements

The platform is by no means perfect. Several queries are still being escalated to SARS via the various Registered Controlling Bodies (RCBs). Evidence of this is the confusion caused by SARS' noble attempt to empower taxpayers when it comes to eFiling by introducing the 'eFiling Security Details' and the emphasis placed on the functions of a Registered Representative. More recently, several taxpayers and practitioners were logged out of their profiles due to registered details captured on the RAV01.

Conclusion

Looking back, it is clear that the journey from paper-based tax returns to eFiling has been transformative for South Africa's tax system. The introduction of eFiling marked a significant step in making tax filing more accessible, efficient and accurate. The transition from paper-based returns to a comprehensive online system has revolutionised how South Africans file their taxes. Moreover, the eFiling platform continues to evolve, offering enhanced functionalities and efficiencies that benefit taxpayers, tax practitioners and SARS. While challenges remain, the continuous improvements and innovations in the eFiling platform demonstrate SARS' commitment to modernising and enhancing the tax filing experience for all South Africans. As we move forward, it will be interesting to see how the platform continues to evolve and adapt to meet the needs of taxpayers and the ever-changing technological landscape.

PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

No recurring matters were identified from the SAIT TaxHelpline over the week of 17 – 23 October 2024.

Reminder on phishing scams on the rise

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 17 – 23 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

Reminder on the two-pot retirement system withdrawals

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.

Other SARS and related operational publications and announcements

No other SARS and related operational publications and announcements were made for the week 17 – 23 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 17 – 23 October 2024.

Key tax practitioner news

Reminder on the reworked criteria for the registration of tax practitioners

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 17 October 2024, SARS published the latest edition of the [Tax Practitioner Connect newsletter](#). Issue 57 of the newsletter cover the following topics:

- Updated Tax Practitioner Readiness Programme
- Employer Interim Reconciliation
- Company Income Tax deregistration process at SARS
- Trust Filing season: SARS focusing on the accountability of trustees, and tax and legal practitioners
- Tax obligations of a Trust
- Interpretation Notes and Rulings for Tax Exempt Institutions
- Income Tax return filing dates
- How can taxpayers learn about taxes?

Other tax practitioner access and functionality publications and announcements

- **22 October 2024:** SARS [announced](#) that the Kariega branch was closed from 22 October 2024 due to power and flooding problems. Virtual appointments were accommodated.
- **22 October 2024:** SARS [announced](#) that the Mobile Tax Unit at the Humansdorp library in the Eastern Cape was cancelled due to flooding.
- **16 October 2024:** SARS announced that it would be performing planned upgrades to the eFiling platform on Friday, 18 October 2024, at 18:00 to 22:00. During that time, the digital platform may have been unavailable.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Tax policy & international agreements

National Legislation

National Treasury and SARS jointly table their response document regarding commentary on the 2024 Draft Tax Bills

National Treasury and SARS have tabled their draft response to submission made on among others the 2024 Draft Taxation Laws Amendment Bill and the 2024 Draft Tax Administration Laws Amendment Bill. Whilst we acknowledge the partial and full acceptance of some recommendations which reflects the productive nature of our engagement with government stakeholders, we have noted several important proposals that were partially or not accepted, which include proposals pertaining to:

- **Clarifying anti-avoidance rules for low-interest or interest-free loans to trusts:**
 - In our submission commentary we had highlighted that the impact of the proposal would result in instances whereby the loan would be subject to the section 7C rate and tax consequences, notwithstanding that it is an arm's length transaction. As such, it was proposed that there should be a carve out that in those instances where an interest rate lower than the official rate can be justified as being an arm's length interest rate, section 7C should not apply. National Treasury has strongly rejected this proposal indicating that the policy intent is that section 7C of the Act is an anti-avoidance measure aimed at curbing the tax-free transfer of wealth. The proposed amendment ends any improper or undue opportunities that arise due to the difference in rate.
- **Reviewing the interaction of the set-off of assessed loss rules and rules on exchange differences on foreign exchange transaction:**
 - We had recommended that clarification be provided in section 20 of the Income Tax Act for companies that are not trading to be able to carry forward their net foreign exchange against net foreign exchange gains in subsequent years. National Treasury has not accepted this proposal on the basis that it represents a significant shift to the policy objective of section 20.
 - Furthermore, our submission proposed that to achieve the objective of the proposed amendment, this proposed amendment should only apply to foreign exchange losses where the relevant taxpayer is not trading. National Treasury has partially accepted this proposal and has undertaken to reword this proposed amendment to cater for this instance.
- **Right of appearance of SARS' officials and natural persons appearing on behalf of the taxpayer:**
 - Our submission had included a proposal that the natural person that appears on behalf of another should be registered with a professional body, or at a minimum be a registered tax practitioner with a recognised controlling body. National Treasury has partially accepted this proposal and has indicated that compelling a natural person who wishes to appear on behalf of a taxpayer to belong to a professional body or be a recognised tax practitioner would limit the taxpayer's right of representation in this regard. As an example, a family member would be prevented from representing another family member. The discretion afforded to the president of the tax court is, however, intended to ensure that the person representing the taxpayer is able to do so in a manner that will not prejudice the conduct of the proceedings in the tax court.

Members are encouraged to keep abreast with the legislative amendments in this regard.

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 17 – 23 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

Reminder regarding the 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.

SARS published the following High Court judgment

On 23 October 2024, SARS has published the following High Court judgment:

Date of delivery	Case	Relevant Legislation
27/08/2024	TALT v CSARS (A2023/077887)	Tax Administration Act, 2011
Keywords: Appeal from the Tax Court – whether the taxpayer impermissibly raised new grounds of objection to additional assessment – the prescription of SARS’s entitlement to raise additional assessment – raised by the taxpayer in its objection letter – further ground of objection relates to the so-called ‘merits’ of the additional assessment – taxpayer makes out a case that it is not liable to pay tax on the additional income which took into account an alleged capital gain – Tax Court Rule 32(3) – a new ground of appeal may be included in rule 32 statement by taxpayer – ‘unless it constitutes a ground of objection against a part or amount of the disputed assessment not objected to under rule 7’ – Court found disputed assessment objected to under Rule 7 – as contemplated in Rule 32(3) – the determination in terms of which the disputed ‘taxable capital gain’ was included in the taxpayer’s taxable income – and the basis for the objection, or the ground of objection, was prescription – there is only one amount in dispute, that being the amount included in the taxpayer’s taxable income giving rise to the tax liability flowing therefrom – The fact that the taxpayer objected on the ground of ‘prescription’ does not mean that it did not object to the inclusion of the said sum in its taxable income – precisely what it objected to, albeit on the grounds of ‘prescription’ – Rule 32(3) therefore engaged – Appeal upheld with costs.		

SARS published the following Supreme Court of Appeal judgments

On 23 October 2024, SARS has published the following Supreme Court of Appeal judgment:

Date of delivery	Case	Relevant Legislation
19/10/2024	Naraidu v The State (894/2023)	Value-Added Tax Act, 1991 Tax Administrative Act, 2011
Keywords: Criminal law – Tax practitioner – claim for a refund under the Value-Added Tax Act 89 of 1991 (the VAT Act) – fraud – intent to defraud – knowledge of the fictitious claim – statutory charges under s 59(1) of the VAT Act and s 269(6) of the Tax Administration Act 28 of 2011 – validity of the statutory charges. Members may access the media summary .		

Other SARS publications and announcements

No other SARS publications and announcements were published in the weeks of 17 – 23 October 2024.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

There were no additional matters of interest affecting your tax practice from a legislative policy perspective published during the week of October 17 – 23, 2024.