

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 07 - 13 March 2024
(Issue 9 -2024)

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TOP STORIES

SARS set to release preliminary revenue results on 2 April 2024

As the 2023/2024 fiscal year comes to a close, SARS will be aiming to retrieve every last cent before 31 March 2024.

On 2 April 2024, SARS Commissioner, Mr Edward Kieswetter, will be officially announcing the 2023/2024 preliminary revenue collection returns at the Linton House Auditorium in Brooklyn Pretoria. SARS Commissioner and Deputy Commissioner: Taxpayer Engagement and Operations, Mr Johnstone Makhubu, will be available to answer specific revenue-related questions.

The media briefing will be broadcast on YouTube and the link will be provided closer to the event. Those who are not able to attend the event can send their revenue-related questions to Revenue2024@sars.gov.za. This mailbox will only be monitored from 28 March to Thursday 4 April.

Renewed concerns over eFiling profile hijackings and fraudulent refunds

Over the past few months, SAIT and other recognised controlling bodies (RCBs) noted an increase in the eFiling profile hijacking cases and the fraudulent changing of banking details.

During November 2023, SARS migrated the function to report digital fraud to the SARS Online Query System. Additionally, SARS established a new and specialised team to investigate digital fraud.

SARS is busy implementing a flag list to prevent fraudulent refunds going out once profile hijacking is identified, however, the older years are being prioritised. Members who have identified any digital fraud are encouraged to report those cases on to SARS and to the SAIT TaxHelpline for assistance.

[#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

Number of provisional tax verifications on the rise with concerns around underestimation

Taxpayers and tax practitioners are getting more and more verification requests on provisional tax, primarily around the second estimates and payments. Although this is not a new practice from SARS, it would seem SARS has enhanced its risk engines and increased the number of individual and corporate provisional tax verifications.

These verifications and revised declarations are done in line with paragraph 19(3) of the Fourth Schedule of the Income Tax Act, No. 58 of 1962, which states:

“The Commissioner may call upon any provisional taxpayer to justify any estimate made by the provisional taxpayer in terms of subparagraph (1), or to furnish particulars of the provisional taxpayer’s income and expenditure or any other particulars that may be required, and, if the Commissioner is dissatisfied with the said estimate, he or she may increase the amount thereof to such amount as he or she considers reasonable, which increase of the estimate is not subject to objection and appeal.”

Typically, the supporting documents required for these verifications include, but not limited to:

- Computation of taxable income;
- Management Accounts;
- Income statement;
- Balance sheet; and
- Projected capital expenditure for the financial year, if applicable; and
- A schedule of the net capital gains expected for the financial year, if applicable.

It is therefore advisable to consider the above when preparing a tax pack for future provisional tax submissions.

Furthermore, it is imperative to note that the revised estimates are not subject to objection and appeal in terms of Chapter 9 of the Tax Administration Act, No. 28 of 2011. Additionally, where SARS issued a revised estimate, a late payment penalty and interest may be chargeable.

Issues with the ITR14 return not saving completed data (reminder)

With many companies with a February year-end rushing to submit the 2023 annual corporate income tax returns (ITR14) by 29 February 2024, many taxpayers and tax practitioners have been left frustrated as the data completed on the ITR14 does not save after completion.

In several cases investigated, the main problem rests on the Balance Sheet tab and persists whether the return is saved, or a calculation is requested.

Although a system fix was deployed during the week ended on 16 February 2024, upon further testing of the system, the data saving problem persists. In some instances, the

taxpayer or tax practitioner is required to complete the return upwards of five times before the return can be submitted.

SARS, at regional and national level have been alerted and are aware of this issue. With the annual tax returns for companies with a February year end due, members are encouraged to keep evidence of any system errors preventing the submission of returns. This may be useful in the event where penalties are levied for late submission and a request for remission must be submitted.

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;
2. Delay in the finalisation of disputes, including objections and appeals; and
3. Delays in the issuance of Deceased Estate Compliance letters.

SARS regional and national operational meetings

Feedback from the RCB/SARS regional and national meetings

Feedback from the following regional and RCB meetings is available:

1. [Western Cape](#) held on 6 March 2024;
2. [KwaZulu-Natal](#) held on 11 March 2024; and
3. [Free State and Northern Cape](#) held on 11 March 2024.

Upcoming RCB/SARS regional and national meetings

The following regional and national meetings have been scheduled:

1. Gauteng South for 10 April 2024;
2. Gauteng North for 23 May 2024;
3. Free State and Northern Cape for 10 June 2024;
4. Gauteng South for 17 July 2024;
5. Gauteng North for 22 August 2024;
6. Free State and Northern Cape for 9 September 2024;
7. Free State and Northern Cape for 11 November 2024;
8. Gauteng South for 13 November 2024; and
9. Gauteng North for 21 November 2024.

Other meetings of interest

1. SARS National Operations meeting scheduled for 18 April 2024;
2. RCB forum meeting scheduled for 4 June 2024;
3. SARS National Operations meeting scheduled for 25 July 2024;
4. RCB forum meeting scheduled for 10 September 2024;
5. RCB forum meeting scheduled for 12 November 2024; and
6. 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: March 2024

Month	Date	Tax Type	Notification
March 2024	07/03/2024	Employment Taxes	EMP201 - Submissions and payments
	25/03/2024	Value-Added Tax	VAT201 - Manual submissions and payments
	29/03/2024	Value-Added Tax	VAT201 - Electronic submissions and payments

SAIT member resources

- [SAIT Important tax dates calendar](#) – contains important dates from January 2024 to December 2024 (unchanged).
- [SAIT SARS contact map](#) – links service requirements to SARS channels (update made to the contact details for lodging a complaint with SARS).

Key Operational News

SARS releases a new PAYE Employer Reconciliation BRS for 2025

On 7 March 2024, SARS published the BRS Employer reconciliation BRS for the 2025 year of assessment.

The changes include:

- New source code (3926) for the Withdrawal from a Retirement Fund from the Savings Component/Pot
- Amendment of descriptions and/or validation rules for:
 - Unclaimed benefits (source code 3909)
 - Certificate Number (source code 3010)
 - Directive Number (source code 3230)
 - Directive Income Source Code (source code 3232)
 - Transfer of Unclaimed Benefits (source code 3923)
 - NED Directors / Audit Committee Member Fees (source code 3620/3670)

The submission dates for the 2025 year of assessment are:

- Interim recon: 16 September – 31 October 2024.
- Annual recon: 1 April – 31 May 2025.

SARS submits that SA banks have a duty to report questionable transactions (reminder)

In a recent statement, the Commissioner of the South African Revenue Service (SARS) declared that SARS is willing to go to court to reiterate South African banks' duty to report questionable transactions made by their clients.

The Financial Intelligence Centre Act requires banks to report certain transactions if they suspect they may be questionable. According to the Commissioner, the banks cannot plead ignorance or deny this responsibility but must manage this duty from a “risk to the entire financial ecosystem” perspective.

The Commissioner’s comments come after SARS served a bank with a civil summons in the form of a damages claim. The outcome of this case is awaited with great interest.

Concerns raised after the CIPC data hacking (reminder)

South Africa’s Companies and Intellectual Property Commission (CIPC) is adopting a new customer verification process as part of its damage control after having its systems hacked where personal information of its clients and employees were exposed.

The CIPC urged clients to be vigilant in the monitoring of credit card transactions and to only approve/authorise known and valid transaction requests.

The CIPC new customer verification process entails the following:

A. Clients with a South African ID number

1. Customers will log in using existing credentials on existing platforms.
2. Upon logging in, customers will be presented with a verification page. Customers must provide all necessary information which is mandatory.
3. Once all provided information is verified, a password reset page will be presented, and they will be required to update their password.
 - Follow the instructions for ‘password minimum requirements’.
 - In instances where customers need to update their contact details, follow ‘update contact details process’.
4. When customers input the new password and confirm new password, click on update.
5. An email link will be sent to the email address as listed by the customer for verification.
6. Click the link to verify.
7. Upon successful verification, clients will now be able to log in.

B. Foreign Nationals – (passport numbers)

1. Customers will log in using existing credentials on the existing platforms.
2. Upon logging in, customers will be presented with a verification page. Customers must:
 - Provide all necessary information, which is mandatory and click verify.
 - Follow the instructions for ‘password minimum requirements’.
 - In instances where customers need to update their contact details, follow the ‘update contact details process’.
 - Once all provided information is verified and successful, a password reset page will be provided to update the password.
3. If there is no record of passport details on the CIPC’s database, customers will be provided with a link to update passport details on the Foreigner Assurance process.
4. Once approved, they will be able to return after **48 hours** and then follow Step 2 above.
5. An email link will be sent to the email address as listed by the customer for verification.
6. Click the link to verify.
7. Upon successful verification, clients will now be able to log in.

Ghost exports: Diesel refunds (reminder)

On 4 March 2024 the Commissioner for the South African Revenue Service (SARS) welcomed the High Court decision to dismiss an application for leave to appeal to review the Commissioner’s decision to refuse a diesel refund claim.

The taxpayer did not qualify for refunds in respect of duty paid on fuel exported as the taxpayer:

- could not prove that the fuel was exported, nor
- could it identify the consignee who received the export delivery.

The Commissioner expressed his satisfaction that the court provided legal certainty and clarity on how SARS should deal with ghost exports.

Other SARS and related operational publications and announcements

No other SARS and related operational announcements were made for the week of 7 - 13 March 2024.

TAX PRACTITIONER MANAGEMENT

SAIT TaxHelpline – Tax practitioner access and functionality (eFiling)

No new recurring matters have been identified in the queries submitted to SAIT for the week of 7 – 13 March 2024.

Key tax practitioner news

No other key tax practitioner news were available for the period 7 – 13 March 2024.

Government & Stakeholder Newsletters

No government and stakeholder newsletters were issued for the period 7 – 13 March 2024.

Other Tax practitioner access and functionality publications and announcements

No other tax practitioner access and functionality announcements were made for the period 7 – 13 March 2024.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Tax policy stakeholder engagement

National Treasury's proposed amendments to Public Sector Pension Laws

On 11 March 2024, National Treasury published the proposed amendments to various pieces of legislation governing public sector pension funds. The amendments intend on ensuring the effective implementation of the two-pot retirement system changes in public sector funds. The proposed amendments to the public sector pension laws are listed below:

- [Government Employees Pension Law, Proposed amendments two-pot retirement system;](#)
- [Telecommunications-related Matters proposed amendments two-pot retirement system and;](#)
- [Transnet Pension Fund proposed amendments two- pot retirement system.](#)

The amendments to the public sector pension laws will be proposed for inclusion in the Pension Funds Amendment Bill which is currently under consideration by the Standing Committee on Finance.

Members are encouraged to read the full media statement, [here](#).

Legislation

Government has released the *Government Gazette* publication details for the following Income Tax Notices (Reminder)

Notice	Description	Implementation Date
GG 50243 Notice 4456	Fixing of rate per kilometre in respect of motor vehicles – section 8(1)(b)(ii) and (iii)	1 March 2024
GG 50243 Notice 4458	Determination of the daily amount in respect of meals and incidental costs for purposes of section 8(1)(c)(ii) (overnight allowance)	
GG 50243 Notice 4457	Determination of the daily amount in respect of meals and incidental costs for purposes of section 8(1)(a)(ii) (daily allowance)	

LEGISLATIVE INTERPRETATION

Calls for comment submitted.

No calls for comment were submitted for the week 7 – 13 March 2024.

Legislative interpretation calls for comment (Reminder)

SARS and National Treasury issued the following calls for comment:

- [Draft Interpretation Note](#) - Consequences of an employer's failure to deduct or withhold employees' tax.
- [Draft Revenue Laws Amendment Bill, 2024](#) - is aimed largely at clarifying the existing language and to simplify the directives system for both administrators and SARS to allow for an efficient implementation of the 'two-pot' retirement reform.
- [Draft Global Minimum Tax Bill, 2024](#) - is aimed at implementing the GloBE Model Rules in South Africa to enable South Africa to impose a multinational top-up tax at a rate of 15 per cent on the profits of in-scope multinational enterprise groups.
- [Global Minimum Tax Administration Bill, 2024](#) - is aimed at the administration of the Draft Global Minimum Tax Bill.
- [Draft Rates and Monetary Amounts Bill, 2024](#)

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

Legislative counsel publications

Guide on the Solar Energy Tax Credit provided under Section 6C

On 26 January 2024, SARS released the [draft guide for the Solar Energy Tax Credit](#) (draft guide) that discusses the requirements that individual taxpayers have to comply with to claim the incentive under section 6C. The draft Guide was issued for public comment and the SAIT Tax Technical team and select members of the Personal and Employment Workgroup made submission to SARS on 8 February 2024 on the content thereof. The full submission may be accessed [here](#).

Subsequent to the receipt of public commentary, SARS has published the final [Guide-on-the-solar-energy-tax-credit-provided-under-section-6C](#) (Section 6C guide).

Section 6C of the Act was introduced to alleviate the pressure on the national grid and to improve energy efficiency in South Africa. Accordingly, the draft guide aimed to provide general guidance on the newly introduced solar energy tax credit. It lists, amongst others, the requirements of section 6C, persons eligible to claim the solar tax credit and the validity period for the solar energy tax credit.

In analysing the draft guide and providing commentary, the SAIT Tax Technical team and select members of the Personal and Employment Workgroup highlighted three areas of concern:

1. The first area of concern was the confusion created by the draft guide in relation to when the 'acquisition' of the solar panels needs to have taken place.
2. The second area of concern was regarding Example 3 of the draft guide that addresses the tax treatment when multiple persons incur costs of the solar panels. *Prima facie* the example implied that only 'co- homeowners' and spouses are allowed to split the solar energy tax credit.
3. The last area of concern was in relation to how to satisfy the electrical certificate of compliance requirement where there are multiple acquirers of the solar panels.

The above concerns were addressed in the finalised guide on section 6C.

Court cases published

On 6 March 2024, SARS published the following Supreme Court of Appeal judgment:

Date of delivery	Case	Relevant Legislation
05/03/2024	<i>Bechan and Another v SARS Customs Investigations Unit and Others (1196/2022)</i>	Tax Administration Act, 2011
Summary: Search and seizure – Tax Administration Act 28 of 2011 (the TAA) – interpretation – sections 59(1) and 60(1) – execution of a warrant against third parties on premises identified in the warrant – section 61(3)(a) of TAA – permits search of anything on the premises identified in the warrant including motor vehicle parked on the premises on suspicion that it contains material relevant to the taxpayer.		

On 6 March 2024, SARS published the following High Court judgments:

Date of delivery	Case	Relevant Legislation
29 /01/2024	<i>CSARS v J Company (14944/19)</i>	Tax Administration Act, 2011
Summary: Tax law – redaction of documents: Whether Respondent (the taxpayer) ought to comply with its obligation to respond fully to requests directed to it in terms of section 46 of Act 28 of 2011 –whether applicant (SARS) is entitled to demand, without more, the un-redacted information from the documents already provided and which, as contended by the respondent, does not relate to it as the taxpayer but rather to its clients and suppliers – and as a consequence – does not fall within the definition of ‘relevant material’ – Secondly and in any event, if it is found to be material, then this Court has to ascertain whether there has been non-compliance of the Tax Administration Act by the applicant in determining an ‘objectively identifiable class of taxpayers’ as required in sections 46(1) and (2)(a) of the Tax Administration Act, and as a result, whether the Request amounts to a so-called ‘fishing expedition’.		
25/01/2024	<i>Dorking Africa (Pty) Ltd v CSARS (A141/2022)</i>	Tax Administration Act, 2011
Summary: Whether or not the appellant’s Notice of Appeal complied with Tax Court Rule 10(2)(a).		

On 6 March 2024, SARS published the following Tax Court judgment:

Date of delivery	Case	Relevant Legislation
14 /02/2024	14302	Income Tax Act, 1962, Tax Administration Act, 2011
Summary: Transfer pricing – arm’s length price adjustment: Whether appellant may appeal against an increased assessment imposed on it by the respondent		

Other SARS publications and announcements

No other SARS publications and announcements were made for the week of 7– 13 March 2024.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

No other matters of interest were identified in the week of 7 -13 March 2024.