

DISPUTE RESOLUTION WEBINAR NOTES

A dark blue banner with a subtle grid pattern. The Accfin Sky logo is in the top left. A small tagline is in a pill-shaped box. The main headline is centered, and a descriptive paragraph is at the bottom.

Accfin Sky

Accfin Sky - AI-powered practice software

**The operating system for
the modern accounting and
tax practice**

Sky Tax, Sky Sec, Sky Time, Sky FIC and AI Taxman work from one integrated client database — eliminating duplicate capture, accelerating compliance work and helping every member of your team perform at a higher level.

Prepared by Mark Silberman B.Acc CA(SA)

October 2026

Table of Contents

DISPUTE RESOLUTION WEBINAR NOTES	1
Session 1 Understanding the SARS Dispute Process	8
The period before a formal objection	8
1. PURPOSE OF THIS SESSION	8
2. START WITH A CHRONOLOGY.....	8
3. VERIFICATION, AUDIT AND INVESTIGATION.....	9
3.1 Verification.....	9
3.2 Audit	9
3.3 Investigation.....	9
4. SARS REQUESTS FOR RELEVANT MATERIAL.....	9
Practical approach to a request for relevant material	10
Interview requests	10
5. WHEN DOES A VERIFICATION BECOME AN AUDIT?	10
6. AUDIT FINDINGS: WHAT TO EXAMINE	10
6.1 Are the findings clear?.....	11
6.2 Do the findings match the documents supplied?	11
6.3 Was the taxpayer given an opportunity to respond?	11
6.4 Are reasons still needed?	11
7. ADDITIONAL ASSESSMENTS: WHAT TO CHECK IMMEDIATELY	11
Check these points immediately:	11
8. PRESCRIPTION MUST BE CHECKED EARLY	11
Practical prescription checklist	12
9. EARLY DECISIONS THAT MUST BE MADE.....	12
9.1 Do we understand the case against the taxpayer?	12
9.2 Is this really a verification, or has it become an audit?	12
9.3 Is prescription available?.....	12
9.4 Must payment be suspended?.....	12
9.5 Is specialist input needed now?	12
10. LINK TO THE FORMAL DISPUTE PROCESS.....	12
11. PRACTICAL DELEGATE TAKEAWAYS.....	13
Session 2 Requests for Reasons and Preparing an Objection	13
1. LEGAL FRAMEWORK	13
2. WHEN SHOULD REASONS BE REQUESTED?	14
Practical point.....	14
3. TIME LIMITS FOR REQUESTING REASONS	14
SARS's duty after receiving the request	14
Important calculation point	14

4. WHAT MAKES REASONS “ADEQUATE”?	14
A useful practical test	14
Where penalties are involved	15
5. TIME LIMITS FOR LODGING THE OBJECTION	15
Extensions for late objections	15
6. WHAT A VALID NOTICE OF OBJECTION MUST CONTAIN	15
Practical focus for delegates	15
7. A GOOD WORKING STRUCTURE FOR AN OBJECTION	16
A. Assessment details	16
B. Time-bar compliance	16
C. Portion objected to	16
D. SARS’s stated grounds	16
E. Grounds of objection	16
F. Relief sought	16
8. BUILDING A STRONG EVIDENCE-BASED OBJECTION	16
Key practical rule	16
Recommended evidence pack	16
Source documents should be real proof	17
9. BURDEN OF PROOF	17
Understatement penalties	17
Practical implication	17
10. PENALTIES AND INTEREST MUST BE DEALT WITH SEPARATELY	17
11. COMMON CAUSES OF INVALID OBJECTIONS	17
Useful warning	18
12. WHAT HAPPENS IF SARS INVALIDATES THE OBJECTION?	18
Practical delegate takeaway	18
13. SARS’S TIME TO DECIDE THE OBJECTION	18
14. PRACTICAL DELEGATE CHECKLIST BEFORE SUBMISSION	18
Time limits	18
Technical validity	18
Substance	19
Evidence	19
Distinct issues	19
15. SIMPLE MODEL FOR DRAFTING GROUNDS OF OBJECTION	19
16. KEY MESSAGES FOR DELEGATES	19
Source documents used	20
Practical Court Cases for Sessions 1 and 2	20
1. Where reasons are needed before drafting the objection	20

Most practical case:.....	20
Supporting cases:.....	20
Practical use:.....	20
2. Where the objection must be specific and valid	20
Most practical case:.....	20
Practical points from the case:	20
Practical use:.....	20
3. Where SARS itemises many deposits or receipts and each one must be answered	21
Most practical case:.....	21
Practical use:.....	21
4. Where the objection must contain all grounds from the start.....	21
Most practical case:.....	21
Supporting case:.....	21
Practical use:.....	21
5. Where SARS invalidates an objection and the taxpayer wants to challenge that	21
Most practical cases:.....	21
Practical use:.....	21
6. Where a late objection is sought and “exceptional circumstances” must be shown	22
Most practical case:.....	22
Practical use:.....	22
7. Where the taxpayer needs SARS to disclose the real basis of its case	22
Most practical case:.....	22
Practical use:.....	22
Letter Templates for Sessions 1 and 2.....	22
2. PREPARING AND LODGING AN OBJECTION	22
3. INVALID OBJECTIONS AND REVISED OBJECTIONS.....	23
4. LATE OBJECTIONS AND EXTENSIONS.....	23
5. EVIDENCE-BASED OR SPECIALISED OBJECTIONS.....	23
6. PRESCRIPTION-RELATED LETTERS	23
Session 3 Building a Strong Evidence Based Objection.....	24
1. CORE MESSAGE	24
2. Legal framework.....	24
3. Timing matters	25
4. Request reasons before objecting where necessary	25
5. Burden of proof.....	25
6. Build the objection issue by issue	25
7. Match each disputed finding to evidence	26
Practical method	26

Typical supporting documents	26
8. Use chronologies properly	27
9. Supporting documents must be objective, not merely summary schedules.....	27
10. Separate tax, penalty and interest issues.....	27
Good practice.....	27
11. Understatement penalties: keep them separate	28
12. Interest and remission: check the dispute path carefully	28
13. Record-keeping is part of objection readiness	28
14. Common causes of invalid objections.....	29
15. What to do if SARS invalidates the objection	29
16. Do not confuse audit findings with an objectionable assessment	29
17. Suggested objection bundle for practice	29
18. Delegate checklist before submission	29
19. Closing note for delegates	30
Court Cases for Session 3	30
1. Validity of an objection and supporting documents	30
2. Each disputed finding must be dealt with specifically	30
3. A taxpayer is confined to the grounds raised in the objection.....	30
4. Scope of dispute cannot later be widened.....	31
5. Procedure where SARS invalidates an objection.....	31
6. Late objections and “exceptional circumstances”	31
7. General condonation principles referred to in Interpretation Note 15	31
8. Change of SARS case during litigation.....	31
Practical Conclusion	32
Session 4 Appeals ADR and Settlement	32
1. OVERVIEW OF THIS STAGE IN THE DISPUTE.....	32
2. NOTICE OF APPEAL: TIME LIMITS AND REQUIREMENTS	33
Practical note.....	33
3. GROUNDS OF APPEAL	33
Practical note.....	33
4. CHOOSING THE ROUTE AFTER THE APPEAL	33
Practical note.....	33
5. WHEN ADR MAY BE USEFUL.....	34
6. HOW ADR WORKS.....	34
Practical note for preparation.....	34
7. PREPARING AND PRESENTING THE CASE AFTER THE OBJECTION DECISION	35
Suggested framework for delegates	35
8. AGREEMENT DURING ADR	35

Practical note.....	35
9. SETTLEMENT OF THE DISPUTE.....	36
10. WHEN SETTLEMENT IS APPROPRIATE OR INAPPROPRIATE.....	36
Practical note.....	36
11. WHAT A SETTLEMENT AGREEMENT MUST CONTAIN.....	36
12. PARTIAL RESOLUTION: HOW TO RECORD IT PROPERLY	37
Practical note.....	37
13. WHAT HAPPENS IF ADR FAILS.....	37
14. PRACTICAL CHECKLIST FOR DELEGATES.....	37
Appeal stage.....	37
ADR suitability	37
Settlement suitability	38
Presentation of the case.....	38
15. KEY TAKEAWAY	38
Appeal and Settlement Letter Templates.....	38
1. SETTLEMENT 1 – General Settlement Procedure under section 144(1)	38
2. SETTLEMENT 2 – Settlement After Alternative Dispute Resolution (ADR) under section 144(1).....	38
3. Notice of Appeal Against Assessment under section 107(1).....	38
4. Application for Extension under section 107(2)	38
5. Appeal for Extension Refused.....	38
6. Request for reduced assessment after final dispute resolution – REF LETTER RA4.....	39
Session 5 Protecting the Taxpayer and Using Additional Remedies	39
1. THE MAIN PRACTICAL POINT	39
2. “PAY NOW, ARGUE LATER”	40
Factors SARS considers under section 164.....	40
3. AUTOMATIC PROTECTION AGAINST COLLECTION	40
4. IF SARS REFUSES SUSPENSION.....	40
5. COLLECTION ACTION MUST BE CHECKED SEPARATELY	41
Third-party appointments.....	41
Certified statements	41
Practical lesson.....	41
6. REDUCED ASSESSMENTS: WHEN THE PROBLEM IS AN ERROR.....	41
Main grounds identified in the knowledge	41
Important limitation.....	41
Time limits and prescription	41
7. REMISSION: WHERE THE ISSUE IS A PENALTY.....	42
Practical lesson.....	42
8. DEFERRED PAYMENT ARRANGEMENTS	42

9. COMPROMISES	42
Practical lesson	42
10. REQUESTS FOR INFORMATION: SECTION 73 AND PAIA	42
Practical lesson	43
11. COMPLAINTS, DELAYS AND THE TAX OMBUD	43
Escalation path for SARS delays	43
Role of the Tax Ombud	43
12. PAJA AS A FURTHER REMEDY	43
13. HOW TO CHOOSE THE CORRECT REMEDY	44
Court Cases for Session 5	44
1. Main case directly on this section: suspension of payment / “pay now, argue later”	44
2. Case relevant to taxpayer protection against SARS overreach	44
3. Case relevant to dispute procedure and fairness	45
4. What the knowledge appears to show on the rest of the section	45
Short answer for delegates	45

Session 1 Understanding the SARS Dispute Process

WEBINAR SERIES

Session 1: Understanding the SARS Dispute Process

The period before a formal objection

KNOW PREPARE RESPOND RESOLVE
A STRONGER TAX TOMORROW

Process Flow:

- SARS request
- Verification
- Audit
- Investigation
- Relevant material
- Audit findings
- Additional assessment
- Preparing the objection

Key Considerations Before a Formal Objection:

- Chronology:** Map the sequence of events
- Document bundle:** Collect and organise relevant material
- Reasons:** Understand SARS's position and rationale
- Prescription:** Be mindful of time limits
- Suspension of payment:** Consider options and implications

The period before a formal objection

1. PURPOSE OF THIS SESSION

This session deals with what happens before a taxpayer lodges a formal objection. The focus is on identifying the nature of SARS's intervention, managing requests for relevant material properly, and preparing for any dispute that may follow an audit outcome or additional assessment. The records created at this stage often determine the strength of the later objection and appeal. The dispute framework is dealt with in Chapter 9 of the Tax Administration Act, while information gathering and audit processes are dealt with in Chapter 5.

2. START WITH A CHRONOLOGY

A practical chronology should be opened from the first SARS contact.

Keep the following together in one bundle:

- the first SARS request
- every follow-up request
- proof of delivery of all responses
- all material supplied to SARS
- SARS correspondence and findings
- the notice of assessment or additional assessment
- notes of telephone calls and meetings
- dates of issue, submission and receipt

This is important because the later grounds of objection must be linked to what SARS actually asked for, what the taxpayer provided, and what SARS ultimately decided. The guidance in the knowledge stresses

that the ***objection stage is where the dispute is framed***, and that the taxpayer should match the assessment, the facts, the law and the supporting documents carefully.

3. VERIFICATION, AUDIT AND INVESTIGATION

3.1 Verification

A verification is generally a checking process. The material in the knowledge explains it as a face-value check of the information submitted by the taxpayer against supporting documents. It does not necessarily involve the deeper interrogation associated with an audit.

Practical points:

- SARS may request documents to verify entries on a return.
- The taxpayer should provide what is requested, but must keep a record of exactly what was submitted.
- If the scope expands materially, ask whether the process remains a verification or has become an audit. There is a tendency to disguise an audit as a verification.-

3.2 Audit

An audit is more extensive. It is a deeper examination that may involve scrutiny of the accuracy, completeness and authenticity of records, and possibly third-party confirmations.

Under section 42, SARS must keep the taxpayer informed during the course of an audit where SARS requires relevant material, and on conclusion must provide a document containing the outcome and the grounds for the proposed assessment or decision.

Practical significance:

- section 42 applies to an audit, not merely a verification
- if SARS is effectively auditing, the taxpayer should insist on section 42 compliance
- if SARS issues audit findings, compare them line by line against the material submitted

3.3 Investigation

The Tax Administration Act separates audit and criminal investigation functions in Chapter 5. Section 42 also applies to a criminal investigation for purposes of keeping the taxpayer informed where SARS requires relevant material, and on conclusion SARS must provide the outcome document and grounds where applicable. The Act also separately lists referral for criminal investigation and conduct of criminal investigation in sections 43 and 44.

Practical point:

- if the matter appears to go beyond routine checking and into possible criminal exposure, treat it differently and escalate immediately for specialist advice

4. SARS REQUESTS FOR RELEVANT MATERIAL

Section 46 deals with SARS's power to request relevant material. The knowledge highlights several practical protections:

- SARS may extend the period for submission if reasonable grounds for an extension are given
- the material requested must be referred to with ***reasonable specificity***

- if the taxpayer fails to provide material referred to in section 46(2)(b), that material may later be excluded in subsequent proceedings unless a court directs otherwise

Practical approach to a request for relevant material

1. Read the request carefully.

Check exactly what SARS wants and the deadline.

2. Check whether the request is specific enough.

The request must identify the relevant material with reasonable specificity.

3. Create a submission index.

Number the documents and keep proof of delivery.

4. If more time is needed, ask for an extension before the deadline.

SARS may extend the submission period if reasonable grounds are provided.

5. Answer what is asked, not what is assumed.

Avoid creating confusion by sending unstructured bundles.

6. Record gaps or ambiguities in writing.

If the request is unclear, ask SARS to clarify it.

Interview requests

Section 47 permits SARS to require a person to attend in person to clarify issues, including to render further verification or audit unnecessary or to expedite a current verification or audit, provided it is not for a criminal investigation.

5. WHEN DOES A VERIFICATION BECOME AN AUDIT?

This is a recurring practical issue. The material in the knowledge notes that if a verification evolves into something more extensive, the taxpayer may need to insist on section 42 protections. Template material specifically recognises the problem of an audit being conducted under the guise of a verification and calls for SARS to clarify the status of the process and comply with section 42 if an audit has in fact been initiated.

Practical warning signs:

- repeated and expanding requests
- requests going beyond checking return entries
- extensive interrogation of underlying transactions
- requests suggesting authenticity or completeness challenges
- SARS proposing adjustments without having issued an audit outcome

The knowledge also refers to cases where taxpayers argued that SARS's "verification" was effectively an audit, with differing outcomes depending on the facts and forum.

6. AUDIT FINDINGS: WHAT TO EXAMINE

When SARS issues audit findings or an outcome letter, examine the following:

6.1 Are the findings clear?

The taxpayer must be able to identify:

- the factual basis for the proposed adjustment
- the legal basis relied on by SARS
- the exact amount or adjustment in dispute

The knowledge emphasises that vague findings may prejudice the taxpayer's ability to object properly and that SARS should indicate clearly the basis of its case.

6.2 Do the findings match the documents supplied?

Compare each SARS conclusion against:

- the document submitted
- the date submitted
- the explanation given at the time

6.3 Was the taxpayer given an opportunity to respond?

The knowledge notes that section 42 is intended to ensure transparency and to give the taxpayer an opportunity to engage before additional assessments are issued after an audit.

6.4 Are reasons still needed?

If the assessment or outcome is unclear, the taxpayer may request reasons under Rule 6 before objecting. The material in the knowledge specifically recommends requesting reasons where the basis of the assessment is unclear, and notes that the objection period runs from delivery of the reasons if reasons were requested properly.

7. ADDITIONAL ASSESSMENTS: WHAT TO CHECK IMMEDIATELY

The Tax Administration Act provides for additional assessments in section 92. The template and guidance material in the knowledge stresses that an additional assessment must be supported by proper grounds and that section 96(2) requires a clear statement of the grounds for the assessment so that the taxpayer can understand and dispute it if necessary.

Check these points immediately:

- What is the date of the additional assessment?
 - What tax type is involved?
 - What periods are affected?
 - What adjustments were made?
- Are the grounds clearly stated?
- Was there an audit outcome before the assessment, if this was in substance an audit?
- Has SARS imposed penalties or interest?
- Is the taxpayer now in a pay-now-argue-later position?

The knowledge also records that suspension of payment under section 164 should be considered at every stage because an objection does not automatically suspend payment.

8. PRESCRIPTION MUST BE CHECKED EARLY

Prescription is one of the first issues to check once an additional assessment is issued.

The knowledge states:

- for VAT and PAYE, use a 5-year prescription period
- for other tax types, use a 3-year prescription period
- section 99 becomes important because once prescribed, an assessment cannot be issued unless an exception applies

The template material further notes that the default position is that SARS may not issue an additional assessment after the limitation period unless one of the section 99(2) exceptions applies, such as fraud, misrepresentation or non-disclosure of material facts.

Practical prescription checklist

Ask:

- what is the original assessment date?
- what is the tax type?
- has the limitation period expired?
- is SARS relying on fraud, misrepresentation or non-disclosure?
- is there evidence to support or challenge that reliance?

Prescription is not a side issue. It can be decisive.

9. EARLY DECISIONS THAT MUST BE MADE

Before a formal objection is lodged, the taxpayer should decide the following:

9.1 Do we understand the case against the taxpayer?

If not, request reasons under Rule 6.

9.2 Is this really a verification, or has it become an audit?

If it has become an audit, insist on section 42 compliance.

9.3 Is prescription available?

This must be checked at once, especially where older periods are involved.

9.4 Must payment be suspended?

Consider an application under section 164 because objection does not automatically suspend payment.

9.5 Is specialist input needed now?

The knowledge recommends involving a tax specialist early because poorly framed disputes create later difficulties.

10. LINK TO THE FORMAL DISPUTE PROCESS

Although this session is about the pre-objection stage, delegates should know what follows.

The knowledge notes that:

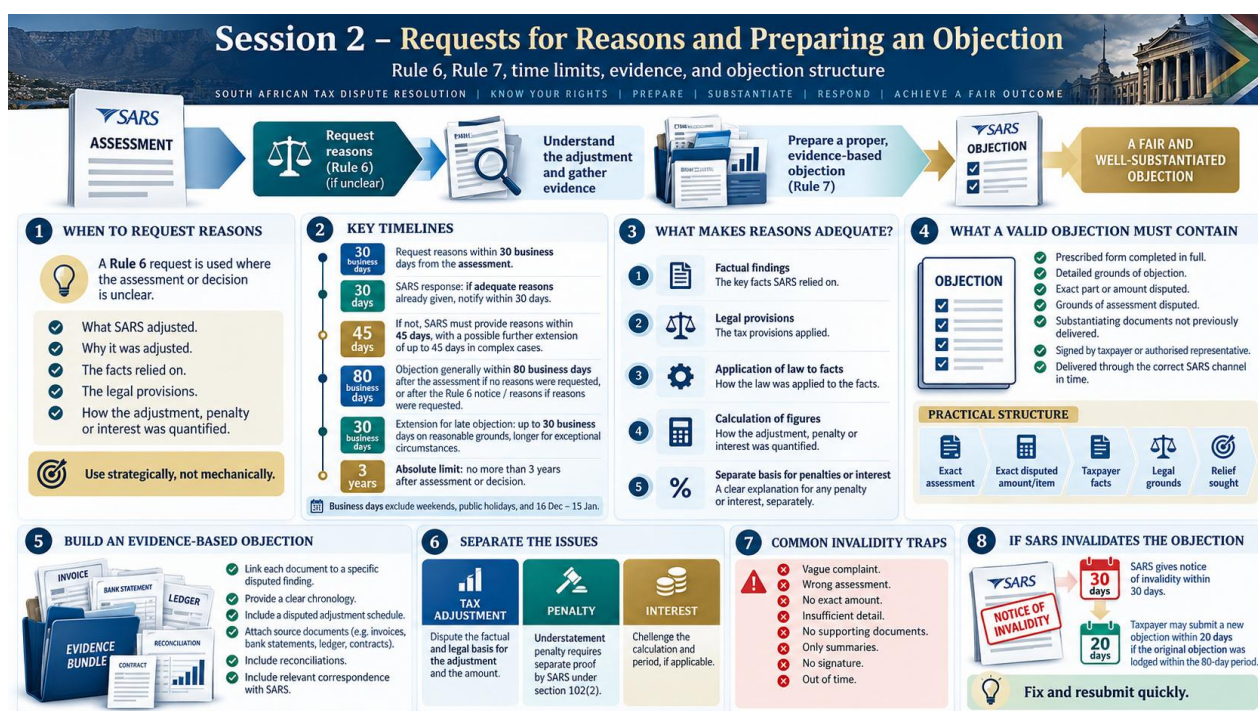
- a taxpayer aggrieved by an assessment or decision may object under section 104
- the objection must be lodged in the prescribed form and manner and within the prescribed period
- under the current rules, the objection period is 80 business days
- the period may be extended by 30 business days on reasonable grounds, or longer in exceptional circumstances, but not beyond three years from the date of assessment for objection purposes

Section 105 provides that a taxpayer may dispute an assessment or decision only in proceedings under Chapter 9 unless a High Court otherwise directs.

11. PRACTICAL DELEGATE TAKEAWAYS

- Open a chronology from the first SARS request.
- Keep a complete dispute file.
- Distinguish verification from audit from investigation.
- Treat every request for relevant material seriously and respond in a structured way.
- If the process has effectively become an audit, insist on section 42 protections.
- Check all audit findings against the material already submitted.
- When an additional assessment is issued, examine the grounds immediately.
- Check prescription before doing anything else on older periods.
- Consider requesting reasons under Rule 6.
- Consider suspension of payment under section 164.
- Frame the case properly before lodging the objection.

Session 2 Requests for Reasons and Preparing an Objection



1. LEGAL FRAMEWORK

An objection is a formal dispute step under Chapter 9 of the Tax Administration Act and the dispute resolution rules. It is not merely a complaint or a request for SARS to reconsider a matter. A taxpayer who is aggrieved by an assessment or a decision contemplated in section 104 may object, but the objection must be lodged in the prescribed form, within the prescribed time, and with sufficient detail and supporting material

The current rules are important. Under the 2023 rules, the period to lodge an objection is generally 80 business days, not the older 30-business-day period found in earlier material

2. WHEN SHOULD REASONS BE REQUESTED?

A request for reasons under Rule 6 is useful where the assessment or decision does not clearly explain:

- what SARS adjusted
- why SARS adjusted it
- what facts SARS relied on
- what legal provisions SARS applied
- how SARS quantified the adjustment, penalty or interest

The purpose of the request is to obtain enough information to formulate a proper objection. The request should therefore be targeted and should help identify SARS's actual case before the objection is drafted

Practical point

Do not request reasons mechanically in every case. Request them where the assessment, letter of findings, or decision is unclear, vague, conclusory or lacks workings. ***If the basis is already clear, move directly to the objection as it's a time factor.***

3. TIME LIMITS FOR REQUESTING REASONS

Under Rule 6:

- the taxpayer may request reasons before lodging an objection
- the request must be delivered within 30 business days from the date of assessment
- SARS may extend that period by up to 45 days if ***reasonable grounds*** exist for the delay

SARS's duty after receiving the request

If SARS considers that adequate reasons have already been provided, it must notify the taxpayer within 30 days and ***refer to the documents where those reasons appear***. If adequate reasons have not yet been provided, SARS must provide them within 45 days. That 45-day period may be extended by up to a further 45 days where SARS requires more time because of exceptional circumstances, complexity, or the principle or amount involved, but SARS must notify the taxpayer before the initial 45 days expires

Important calculation point

For Chapter 9 time periods, "business day" excludes Saturdays, Sundays, public holidays, and also excludes the period from 16 December to 15 January, both days inclusive

4. WHAT MAKES REASONS "ADEQUATE"?

Adequate reasons must do more than state a conclusion. They should ***disclose the factual and legal basis of SARS's decision*** clearly enough to enable the taxpayer to understand why SARS decided against them and to formulate an informed objection

A useful practical test

Ask whether the reasons tell you:

1. what factual findings SARS made
2. what legal provisions SARS relied on
3. how SARS applied the law to the facts
4. how the figures were calculated
5. why any penalty or interest was imposed separately

If those points are missing, the reasons may be inadequate.

Where penalties are involved

The request for reasons should ask separately for:

- the basis of the underlying adjustment
- the basis of the penalty
- the behavioural category relied upon
- the penalty percentage used
- the computations used
- the basis on which SARS says section 222(1) does not apply, if understatement penalty is imposed
- the basis on which SARS says it has discharged its burden under section 102(2) for understatement penalties

5. TIME LIMITS FOR LODGING THE OBJECTION

Under Rule 7(1), the objection must be delivered within 80 business days after:

- the date of assessment, if no reasons were requested; or
- delivery of the Rule 6(4) notice stating that adequate reasons were already provided; or
- delivery of the reasons requested under Rule 6

Extensions for late objections

A senior SARS official may extend the objection period:

- by up to 30 business days if reasonable grounds exist for the delay
- by a longer period where exceptional circumstances exist

There is an absolute limit: a taxpayer may not object more than 3 years after the date of assessment or decision

6. WHAT A VALID NOTICE OF OBJECTION MUST CONTAIN

Rule 7(2) requires a valid objection to:

- be on the prescribed form and completed in full
- set out the grounds of objection in detail
- specify the part or specific amount of the disputed assessment objected to
- specify which grounds of assessment are disputed
- submit the substantiating documents not previously delivered to SARS
- be signed by the taxpayer or duly authorised representative
- be delivered at the correct address or via the correct SARS channel within the time period

Practical focus for delegates

A valid objection must state precisely:

1. which assessment or decision is disputed
2. which amount, item or adjustment is disputed
3. what facts are relied on by the taxpayer
4. what legal grounds support the objection
5. what relief is sought

That practical structure is also emphasised in the objection guidance in the knowledge base

7. A GOOD WORKING STRUCTURE FOR AN OBJECTION

A strong objection usually follows this order:

A. Assessment details

- taxpayer details
 - tax type
 - year or period
 - assessment number
 - assessment date
- whether reasons were requested and when

B. Time-bar compliance

State why the objection is in time, with dates.

C. Portion objected to

Identify the exact adjustment, amount, tax effect, penalty and interest being challenged.

D. SARS's stated grounds

Quote or summarise SARS's reasons accurately.

E. Grounds of objection

A practical way is to structure grounds as follows:

- SARS is wrong on the facts
- SARS is wrong in law
- SARS's quantification is wrong or excessive
- SARS's reasons are inadequate, where applicable

F. Relief sought

State exactly what corrected outcome is requested

8. BUILDING A STRONG EVIDENCE-BASED OBJECTION

The objection stage is where the dispute is framed. If the objection is vague, SARS may reject it, misunderstand it, or later argue that a point was never properly raised. The objection must therefore be precise, structured and properly supported

Key practical rule

Do not simply attach documents. Link each document to a specific disputed finding.

Recommended evidence pack

For each disputed issue, prepare:

- a chronology of events
- a schedule of disputed adjustments
- a schedule linking each disputed issue to the relevant documents
- source documents, not just summaries
- reconciliations between SARS's figures and the taxpayer's records
- copies of correspondence, audit findings, requests, responses and explanations

Source documents should be real proof

The materials emphasise that underlying records are needed, such as:

- tax invoices
- bank statements
- ledgers
- contracts
- proof of payment
- accounting records
- schedules reconciling SARS figures to taxpayer figures

9. BURDEN OF PROOF

A delegate should distinguish between the underlying tax dispute and a penalty dispute.

Understatement penalties

Section 102(2) places the burden on SARS to prove the facts on which SARS bases ***the imposition of an understatement penalty***. SARS must separately prove the behavioural basis for the penalty. A disputed deduction or expense is not, without more, proof of blameworthy conduct, gross negligence or intentional tax evasion

Practical implication

Where SARS imposes tax, penalty and interest together, do not treat them as one issue. Challenge them separately where appropriate:

- the underlying tax adjustment
- the understatement penalty or administrative penalty
- the interest position

The materials specifically warn that these are separate questions and should not be collapsed into one conclusion

10. PENALTIES AND INTEREST MUST BE DEALT WITH SEPARATELY

Delegates should always test whether the objection needs separate grounds for:

- the substantive tax adjustment
- understatement penalty
- administrative non-compliance penalty
- interest

A later failure on the substantive issue does not automatically justify a penalty, and remission of a penalty does not automatically remove interest. The documents specifically note that interest may remain a separate issue from a penalty dispute

11. COMMON CAUSES OF INVALID OBJECTIONS

Many objections fail because they are drafted as broad complaints instead of technical objections. Common causes of invalidity include:

- not identifying the exact assessment being challenged
- not identifying the specific amount or part of the assessment in dispute

- not stating which SARS findings are disputed
- not setting out grounds in sufficient detail
- not attaching substantiating documents not previously supplied
- filing summaries rather than underlying source records
- not signing correctly
- filing out of time
- objecting to correspondence instead of the assessment itself

Useful warning

A blanket statement such as “the assessment is wrong” does not work. The objection must be specific enough to place SARS in a position to determine the merits

12. WHAT HAPPENS IF SARS INVALIDATES THE OBJECTION?

If SARS regards the objection as invalid, it must notify the taxpayer and ***state the ground of invalidity*** within 30 days of delivery of the invalid objection

If the objection was lodged within the 80-day period, the taxpayer may submit a new objection within 20 days of delivery of the invalidity notice without applying for an extension. If the taxpayer misses that 20-day opportunity, any further objection will require compliance with the rules and, if necessary, an extension application

Practical delegate takeaway

If SARS invalidates, fix the objection quickly and resubmit. Do not assume SARS must first ask for more documents. The materials state clearly that a taxpayer cannot rely on hoping SARS will ask

13. SARS’S TIME TO DECIDE THE OBJECTION

Once a valid objection is delivered:

- SARS must decide it within 60 business days; or
- where SARS requested supporting documents under Rule 8, within 45 business days after delivery of those documents, or after expiry of the period for delivering them

SARS may extend the decision period by up to 45 days where more time is required because of exceptional circumstances, complexity, or the principle or amount involved, provided proper notice is given

14. PRACTICAL DELEGATE CHECKLIST BEFORE SUBMISSION

Before lodging the objection, check the following:

Time limits

- Have you diarised the 30-business-day period for requesting reasons?
- Have you diarised the 80-business-day objection deadline?
- If late, is an extension application required?
- Have you counted business days correctly, excluding 16 December to 15 January?

Technical validity

- Correct prescribed form?
- Correct tax period and assessment number?
- Signed by the taxpayer or authorised representative?
- Correct SARS filing channel?

Substance

- Exact amount disputed identified?
- Exact SARS findings disputed identified?
- Facts clearly stated?
- Legal grounds clearly stated?
- Relief sought clearly stated?

Evidence

- Does each ground have matching documents?
- Are source documents attached, not only summaries?
- Are reconciliations included?
- Is there a chronology where the facts are complex?

Distinct issues

- Have tax, penalty and interest been separated?
- If understatement penalty is disputed, have you addressed the behavioural category and section 102(2) burden?

15. SIMPLE MODEL FOR DRAFTING GROUNDS OF OBJECTION

A practical drafting formula from the knowledge materials is:

For a case where SARS's reasons are clear:

"SARS is wrong in fact and law because the factual premise of the adjustment is denied, the supporting documents establish the claim, the statutory requirements are met, and the amount adjusted is excessive or wrongly calculated."

For a case where SARS's reasons are inadequate:

"The taxpayer objects because the stated reason is inadequate, vague and prejudicial, does not disclose the factual and legal basis of the adjustment, and SARS's conclusion is in any event denied on the available facts."

16. KEY MESSAGES FOR DELEGATES

1. A request for reasons is a strategic tool, not a reflex. Use it where SARS's basis is unclear.
2. The current objection period is generally 80 business days.
3. A valid objection must identify the exact assessment, exact disputed amount, exact grounds, and supporting documents.
4. Evidence must be organised and linked to each ground.
5. Tax, penalties and interest should be analysed separately.
6. Understatement penalty requires separate factual proof by SARS under section 102(2).
7. If SARS invalidates the objection, correct it and re-submit within 20 days if possible.
8. A good objection is not a complaint. It is a precise, evidence-based, technical attack on the assessment

Source documents used

Practical Court Cases for Sessions 1 and 2

1. Where reasons are needed before drafting the objection

Most practical case:

BCJ V COMMISSIONER FOR SARS (2025 Tax Court)

This is the most practical case on a Rule 6 request for reasons. It confirms that SARS must give reasons that address the specific issue raised by the taxpayer and may not simply repeat broad conclusions. In that matter SARS' response was held to be inadequate because it did not properly explain the "business context" requirement under the GAAR provisions. The court ordered SARS to provide proper reasons.

Supporting cases:

SPRIGG INVESTMENT V SARS

Sprigg Investment won, according to *ADDITIONAL TAX LAW.docx*. It reports that the Supreme Court of Appeal ruled in Sprigg's favour and set aside the assessments because SARS had not provided adequate reasons. That was a ruling about the reasons for the assessments, not a finding that Sprigg's tax treatment was correct.

PHAMBILI FISHERIES

These cases are referred to in the knowledge as authority for what "adequate reasons" must look like. The reasons must enable the taxpayer to understand why SARS decided against them, identify the relevant law and facts, and be expressed clearly and unambiguously.

Practical use:

Use BCJ where:

- SARS gives a vague Letter of Findings
- the assessment states conclusions without explanation
- you need to know the legal and factual basis before objecting

2. Where the objection must be specific and valid

Most practical case:

DR X AND DR X INC V CSARS (52/2023) [2024] ZATC 12

This is the strongest practical case on Rule 7(2). The court held that the objection must be sufficiently detailed to place SARS in a position to decide the merits. It also held that aggregate summaries are not enough; the taxpayer must provide proper underlying source records where required.

Practical points from the case:

- the taxpayer cannot simply say the assessment is wrong
 - the objection must identify the disputed components
 - supporting documents must objectively substantiate the grounds
- SARS is entitled to invalidate an objection that is too vague or unsupported

Practical use:

Use DR X where:

- SARS says the objection is invalid
- the objection lacks detail
- SARS complains that the documents filed are only summaries and not source records

3. Where SARS itemises many deposits or receipts and each one must be answered

Most practical case:

CSARS V M (A5036/2022) [2023] ZAGPJHC 789

This case is highly practical where SARS raises an assessment based on unexplained deposits or receipts. The Full Court held that where SARS itemises each unexplained amount, the taxpayer must deal with each one. A general denial is not enough.

Practical use:

Use CSARS V M where:

- SARS has raised estimated assessments based on bank deposits
- the audit findings list multiple individual receipts
- the taxpayer wants to object globally without addressing each amount

4. Where the objection must contain all grounds from the start

Most practical case:

HR COMPUTEK (PTY) LTD V CSARS (830/2012) [2012] ZASCA 17

This is the key practical case for the principle that the taxpayer is confined to the original grounds of objection. ***If a ground is omitted from the objection, it cannot later be introduced in the appeal statement.***

Supporting case:

BASLINE CIVIL CONTRACTORS (PTY) LTD V CSARS (893/2024) [2026] (SCA)

This is noted in the knowledge as reinforcing the same principle: the notice of objection defines the scope of the dispute and is not merely a preliminary procedural step.

Practical use:

Use HR COMPUTEK where:

- a taxpayer wants to add a new issue later
- the original objection only dealt with penalties or interest but not the principal tax
- you are training delegates to draft a complete objection from the start

5. Where SARS invalidates an objection and the taxpayer wants to challenge that

Most practical cases:

APPLICANT X V CSARS [2022] ZATC 11

CM V CSARS

C.V V CSARS (A322/2019) [2020] ZAWCHC 140

These cases are practical for the procedural point that where SARS invalidates an objection, the proper remedy is generally under Rule 52(2)(b). The knowledge notes that default judgment or bypassing the dispute rules is not the correct route.

Practical use:

Use these cases where:

- SARS says the objection is invalid
- the taxpayer wants to know the correct next procedural step
- there is confusion between an invalid objection and a disallowed objection

6. Where a late objection is sought and “exceptional circumstances” must be shown

Most practical case:

ABC (PTY) LTD V CSARS (ITC 0038/2015)

This is identified in the knowledge as the leading authority on “exceptional circumstances” for late objections. The Tax Court held that unusual facts must be proved and there must be a causal connection between those facts and the delay. It is not enough merely to show that unusual facts existed.

Practical use:

Use ABC (Pty) Ltd where:

- the objection is out of time
- the taxpayer seeks an extension beyond ordinary reasonable grounds
- delegates need to understand that exceptional circumstances must explain the delay itself

7. Where the taxpayer needs SARS to disclose the real basis of its case

Most practical case:

CSARS V PRETORIA EAST MOTORS (PTY) LTD 2014 (5) SA 231 (SCA)

This is a very practical case for the proposition that SARS must make clear the basis of its case, particularly where factual disputes and accounting records are involved. It is useful when explaining why a taxpayer may need reasons, why the case must be properly particularised, and why both sides must engage the real factual issues. This case was referred to in the earlier knowledge search and is useful for disputes involving audit findings and factual reconstruction. (Use only to the extent reflected in the uploaded knowledge.)

Practical use:

Letter Templates for Sessions 1 and 2

These cover the session on deciding whether reasons are needed, requesting them, and dealing with extensions and refusals.

- REF LETTER ER1 – Request for an extension of time to submit a request for reasons
- REF LETTER ER2 – Request for SARS to reconsider a denial of an extension of time to request reasons
- REF LETTER RE3 – Where SARS says the taxpayer’s request for reasons is “invalid” without proper explanation

Also relevant is the template dealing with:

- Objection to reversed expenses, lack of reasons provided, and request for confirmation of audit authorisation — useful where the taxpayer needs reasons and also wants clarity on a verification or audit process under section 42

2. PREPARING AND LODGING AN OBJECTION

These cover the session on the structure of a valid Notice of Objection and how to frame the disputed assessment, facts, grounds, and relief sought.

- REF LETTER OB1 – Notice of Objection under section 104(2)
- REF LETTER OB2 – Disputes the additional assessment
- REF LETTER OB4 – Taxpayer contests the assessment on grounds such as factual inaccuracy or

misapplication of law

- REF LETTER OB8 – To formally lodge an objection

3. INVALID OBJECTIONS AND REVISED OBJECTIONS

These are directly relevant to the part of the session dealing with common causes of invalid objections and checking validity before submission.

- REF LETTER OB5 – Original objection has been deemed invalid
- REF LETTER OB6 – Revised objection following SARS's notice of invalidity
- REF LETTER OB7 – Taxpayer disputes SARS's decision to regard the objection as invalid
- REF LETTER OD1 – Formally contests SARS's notice of invalidity under Rule 7(4)

4. LATE OBJECTIONS AND EXTENSIONS

These cover the time-limit and condonation part of the session.

- REF LETTER OB9 – Condonation for late objection
- REF LETTER OB11 – Requesting condonation for a late appeal in terms of section 107(2)
- REF LETTER OD2 – SARS rejected the objection as late; taxpayer contests that rejection

5. EVIDENCE-BASED OR SPECIALISED OBJECTIONS

These are useful where the training session deals with evidence, burden of proof, and matching each disputed finding to supporting documents.

- REF LETTER OB10 – Mass disallowance of claims

This is useful where multiple claims are disallowed and each must be supported carefully.

- REF LETTER AU13 – Objecting to audit outcome under section 42(3)

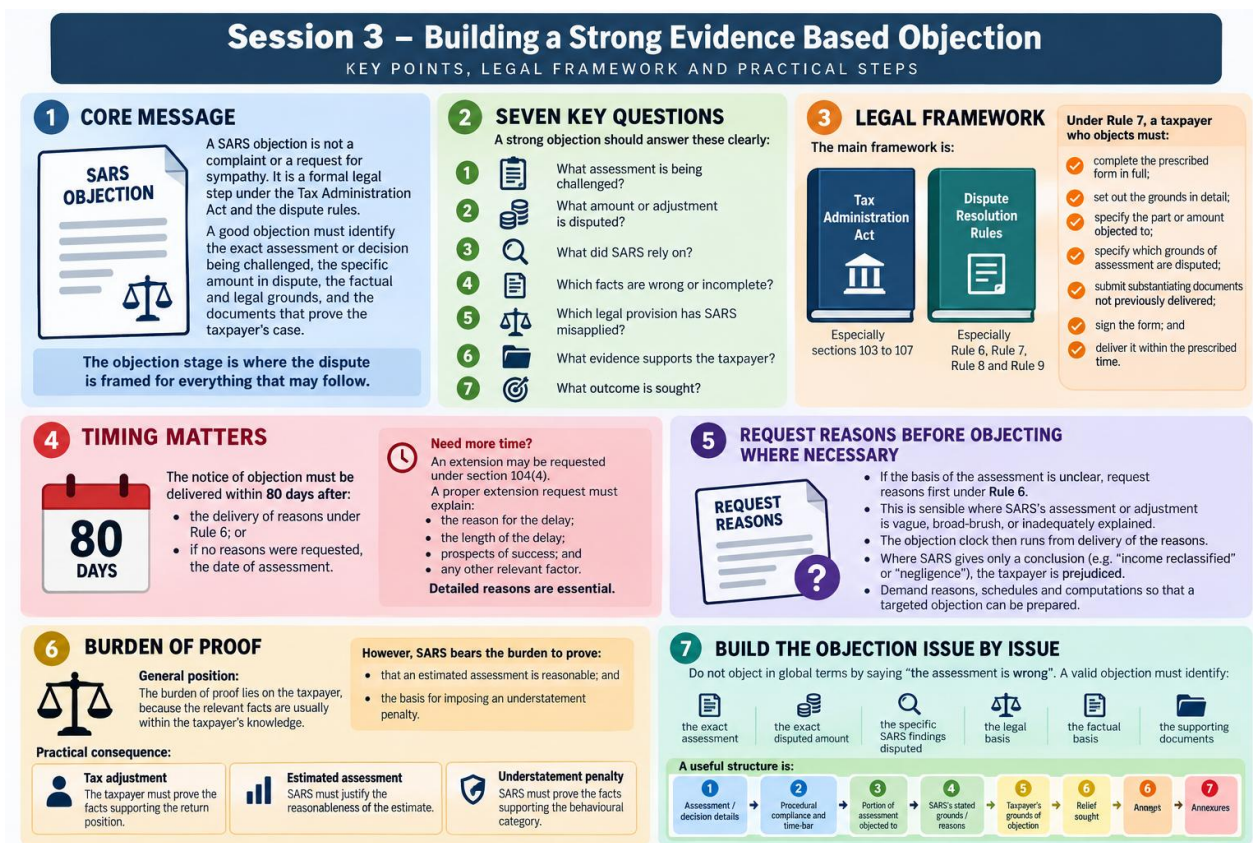
Useful where the objection follows an audit and evidence must be matched to SARS's findings.

6. PRESCRIPTION-RELATED LETTERS

Because the chat also touched on objection strategy where old assessments or decisions are involved, these are relevant where prescription must be checked.

- REF LETTER PS1 – Request SARS to withdraw an additional assessment due to prescription
- REF LETTER PS2 – Challenges SARS for issuing an assessment after the prescription period
- REF LETTER PS3 – SARS alleges misrepresentation or non-disclosure to avoid prescription; taxpayer disputes that
- REF LETTER PS5 – Prescription issue arising after ADR
- REF LETTER PS8 – SARS requests documents for a prescribed period

Session 3 Building a Strong Evidence Based Objection



1. CORE MESSAGE

A SARS objection is not a complaint or a request for sympathy. It is a formal legal step under the Tax Administration Act and the dispute rules. A good objection must identify the exact assessment or decision being challenged, the specific amount in dispute, the factual and legal grounds, and the documents that prove the taxpayer's case. The objection stage is where the dispute is framed for everything that may follow.

A strong objection should therefore answer seven questions clearly:

1. What assessment is being challenged?
2. What amount or adjustment is disputed?
3. What did SARS rely on?
4. Which facts are wrong or incomplete?
5. Which legal provision has SARS misapplied?
6. What evidence supports the taxpayer?
7. What outcome is sought?

2. Legal framework

The main framework is:

- the Tax Administration Act, especially sections 103 to 107; and
- the dispute resolution rules, especially Rule 6, Rule 7, Rule 8 and Rule 9.

Under Rule 7, a taxpayer who objects must:

- complete the prescribed form in full;

- set out the grounds in detail;
- specify the part or amount objected to;
- specify which grounds of assessment are disputed;
- submit substantiating documents not previously delivered;
- sign the form; and
- deliver it within the prescribed time.

3. Timing matters

The current rule is that the notice of objection must be delivered within 80 days after:

- the delivery of reasons under Rule 6; or
- if no reasons were requested, the date of assessment.

If more time is needed, an extension may be requested under section 104(4). Interpretation Note 15 shows that a proper extension request must explain:

- the reason for the delay;
- the length of the delay;
- prospects of success; and
- any other relevant factor. Detailed reasons are essential.

Practical point: if the taxpayer cannot yet properly formulate and substantiate the objection because documents are still outstanding, that may support an extension request, but it must be explained properly.

4. Request reasons before objecting where necessary

If the basis of the assessment is unclear, request reasons first under Rule 6. This is often sensible where SARS's assessment or adjustment is vague, broad-brush, or inadequately explained. The objection clock then runs from delivery of the reasons.

Where SARS gives only a conclusion, such as "income reclassified" or "negligence", the taxpayer is prejudiced because the factual and legal basis is not properly disclosed. In those cases, reasons, schedules and computations should be demanded so that a targeted objection can be prepared.

5. Burden of proof

The general position is that the burden of proof lies on the taxpayer, because the relevant facts are usually within the taxpayer's knowledge. However, SARS bears the burden to prove:

- that an estimated assessment is reasonable; and
- the basis for imposing an understatement penalty.

Practical consequence:

- For the tax adjustment itself, the taxpayer must prove the facts supporting the return position.
- For an estimated assessment, SARS must justify the reasonableness of the estimate.
- For an understatement penalty, SARS must prove the facts supporting the behavioural category.

6. Build the objection issue by issue

Do not object in global terms by saying "the assessment is wrong". That is not enough. A valid objection must identify:

- the exact assessment;
- the exact disputed amount;

- the specific SARS findings disputed;
- the legal basis;
- the factual basis; and
- the supporting documents.

A useful structure is:

1. Assessment / decision details
2. Procedural compliance and time-bar
3. Portion of assessment objected to
4. SARS's stated grounds / reasons
5. Taxpayer's grounds of objection
6. Relief sought
7. Annexures

7. Match each disputed finding to evidence

This is the heart of an evidence-based objection.

Each disputed finding should be matched to:

- the SARS allegation;
- the taxpayer's factual answer;
- the legal answer; and
- the supporting documents.

Do not dump annexures on SARS and expect SARS to find the point. The objection itself must explain why each document matters and how it supports the relevant ground.

Practical method

For each issue, prepare:

- a chronology;
- an evidence schedule;
- a reconciliation;
- a legal note; and
- the underlying source documents.

Typical supporting documents

Depending on the dispute, the evidence may include:

- contracts and agreements;
- tax invoices and credit notes;
- bank statements;
- ledgers and accounting records;
- working papers and tax computations;
- proof of payment;
- correspondence with SARS;
- emails and meeting notes;
- deposit-by-deposit schedules;
- loan account support;

- board resolutions or explanatory memoranda.

8. Use chronologies properly

Chronologies are especially important where:

- SARS alleges non-cooperation;
- SARS alleges delay;
- a condonation request is needed;
- SARS relies on audit history; or
- there were multiple document submissions.

A good chronology should show:

- when SARS asked for information;
- when the taxpayer responded;
- what documents were supplied;
- what remained outstanding and why;
- when reasons were requested;
- when the assessment was issued; and
- when the objection was lodged.

This can be decisive where SARS claims “partial cooperation” or similar vague conduct. The training material specifically recommends chronologies, proof of submission, correspondence and meeting notes to counter such assertions.

9. Supporting documents must be objective, not merely summary schedules

The material must objectively substantiate the grounds. Summaries and aggregations alone may not be enough. The documents should be the underlying source records where those records are needed to prove the disputed facts.

The objection must put SARS in a position to determine the merits. If it is too vague or too general, it may be invalid. The taxpayer cannot expect SARS to object “blind”.

10. Separate tax, penalty and interest issues

One of the most important practical disciplines is to separate:

- the underlying tax adjustment;
- the evidence for that adjustment;
- the legal conclusion on the tax;
- the behavioural conclusion for penalty purposes;
- the penalty percentage; and
- interest or other consequences.

A mistake does not automatically mean there must be a penalty. A misallocation does not automatically prove negligence. A documentation problem does not automatically destroy the claim. An adjustment does not automatically justify gross negligence.

Good practice

Where appropriate, draft separate grounds under separate headings:

- Ground A: underlying tax adjustment
- Ground B: understatement penalty
- Ground C: administrative penalty

- Ground D: interest or remission issue

This avoids one issue contaminating another.

11. Understatement penalties: keep them separate

SARS must prove the basis for the behavioural category. It is not enough for SARS to say:

- the return was wrong, therefore there is negligence; or
- the deduction was wrong, therefore there was gross negligence or evasion.

The objection should test whether SARS has properly identified:

- the exact omission, entry or statement;
- why it is wrong in fact and law;
- the shortfall;
- the section 223 behavioural category; and
- the facts supporting that behaviour.

Useful objection points include:

- the taxpayer acted on records and a bona fide tax position;
- mere disagreement with the tax treatment does not prove culpable behaviour;
- SARS has not identified the conduct relied upon;
- SARS has not discharged the burden under section 102(2).

12. Interest and remission: check the dispute path carefully

Interest should not automatically be dealt with in the same way as the main assessment.

The eFiling dispute guide states that:

- a Request for Remission may be the first step for interest and late payment penalties;
- the NOO for interest and penalty for late payment can only be completed once the RFR has been submitted and partially allowed or disallowed;
- for VAT and PAYE, late payment interest disputes are allowed only up to RFR level.

For provisional tax, the materials also indicate that different routes may apply depending on whether the issue is:

- an underestimation penalty; or
- late payment penalty / interest.

So, before drafting the objection, check:

1. Is the issue tax, penalty, or interest?
2. Is an RFR required first?
3. Is an objection actually available for that specific charge?

13. Record-keeping is part of objection readiness

The Tax Administration Act requires records, books and documents sufficient to enable compliance and to satisfy SARS. The standard retention period is five years, but where records relate to an audit, objection or appeal, they must be kept longer until the matter is final. VAT vendors also have additional record obligations under the VAT Act and VAT guidance.

Practical lesson: a taxpayer who cannot produce the underlying documents is already weakened before the objection is drafted.

14. Common causes of invalid objections

An objection may be treated as invalid if it does not comply with Rule 7. Common problems include:

- failure to use the prescribed form;
- failure to lodge in time;
- failure to specify the part or amount disputed;
- failure to specify the SARS grounds disputed;
- failure to attach substantiating documents;
- vague grounds such as “the assessment is wrong”;
- failure to sign properly or show authority.

A blanket objection does not work. The objection must be sufficiently detailed to allow SARS to determine the merits.

15. What to do if SARS invalidates the objection

If SARS issues a notice of invalidity, Rule 7 allows a practical cure:

- SARS must notify the taxpayer of the invalidity and state the ground within 30 days;
- if the original objection was lodged within the 80-day period, the taxpayer may submit a new objection within 20 days of the invalidity notice, without applying for condonation.

The notes in the knowledge emphasise that the first step is usually to file a fresh, compliant objection within the 20-day cure period, rather than fight abstractly about invalidity.

16. Do not confuse audit findings with an objectionable assessment

A section 42 audit findings letter is not itself the assessment to be objected to. At that stage the taxpayer responds to the audit findings. The formal objection comes after the actual assessment or objectionable decision is issued.

That distinction matters because many weak disputes start by objecting to the wrong document.

17. Suggested objection bundle for practice

Delegates should prepare an objection bundle with:

1. assessment / decision
2. Rule 6 request and SARS reasons, if any
3. disputed item schedule
4. legal grounds schedule
5. factual chronology
6. reconciliation to SARS's figures
7. source documents
8. proof of submissions to SARS
9. mandate / authority
10. relief sought summary

18. Delegate checklist before submission

Before submitting, ask:

- Have I identified the correct assessment or decision?

- Am I within the 80-day period, or do I need an extension?
- Have I specified the exact amount and item in dispute?
- Have I stated the legal grounds and factual grounds separately?
- Have I attached the underlying source documents, not just summaries?
- Have I reconciled SARS's figures to the taxpayer's records?
- Have I separated the tax issue from penalty and interest issues?
- If SARS's reasons are vague, have I requested reasons or attacked the inadequacy of the reasons?
- If the issue is late payment interest or penalty, have I checked whether an RFR is required first?
- If acting as representative, have I included authority to act?

19. Closing note for delegates

The best objections are not the longest objections. They are the clearest ones. They isolate the exact dispute, link each SARS finding to a factual answer and proof, separate tax from penalty and interest, and comply fully with Rule 7. In simple terms, an objection that works is a technical, evidence-based attack on the assessment.

Court Cases for Session 3

1. Validity of an objection and supporting documents

X AND ANOTHER V CSARS (52/2023) [2024] ZATC 12; 87 SATC 474

This is identified in the knowledge as the most detailed recent judgment on what makes an objection valid. It deals directly with:

- Rule 7 compliance
- the need for detailed grounds
- the need for proper substantiating documents
- the principle that summaries and aggregations are not enough where source records are required
- the principle that the objection must place SARS in a position to decide the merits

The material also records the court's statement that a taxpayer is "not entitled to play possum" when objecting, which is directly relevant to evidence-based objections.

2. Each disputed finding must be dealt with specifically

CSARS V M (A5036/2022) [2023] ZAGPJHC 789

This case is noted in the knowledge for the proposition that where SARS's audit findings identify unexplained deposits item by item, the taxpayer's objection must deal with each item specifically. A general denial is not enough for Rule 7(2)(b)(i).

This is very useful for your training point that each disputed finding must be matched to a factual explanation and supporting proof.

3. A taxpayer is confined to the grounds raised in the objection

HR COMPUTEK (PTY) LTD V CSARS (830/2012) [2012] ZASCA 17

This case is cited for the principle that a taxpayer is confined to the original grounds of objection for the duration of the dispute. If a point is omitted from the objection, it cannot simply be introduced later in the appeal process.

This supports your practical point that the objection must separately cover:

- the underlying tax
- penalties

- interest
- each legal and factual issue

4. Scope of dispute cannot later be widened

BASELINE CIVIL CONTRACTORS (PTY) LTD V CSARS (893/2024) [2026] (SCA)

The knowledge notes this case as reinforcing HR COMPUTEK, namely that a taxpayer cannot introduce a new ground of objection at appeal stage and that the notice of objection defines the scope of the dispute.

5. Procedure where SARS invalidates an objection

APPLICANT X V CSARS [2022] ZATC 11; 85 SATC 382

This case is recorded as authority that where SARS invalidates an objection, the taxpayer should not proceed by default judgment. The correct route is Rule 52(2)(b).

The knowledge uses this case to show that where an objection is invalid, the validity issue must first be resolved before merits can be considered.

CM V CSARS (Rogers J)

The material refers to this case as supporting the doctrinal basis that Rule 52(2)(b) is the proper remedy where an objection has been treated as invalid.

C.V V CSARS (A322/2019) [2020] ZAWCHC 140

This is referred to as a full bench decision confirming that Rule 52(2)(b) is the exclusive remedy, and that using default judgment in that situation is an abuse of process.

6. Late objections and “exceptional circumstances”

ABC (PTY) LTD V CSARS (ITC 0038/2015)

The knowledge identifies this as the leading authority on “exceptional circumstances” for extension of time. It states that unusual facts must be proved and there must be a causal connection between those facts and the delay.

This is directly relevant if your session covers:

- late objections
- condonation
- extension requests under section 104(4)

7. General condonation principles referred to in Interpretation Note 15

The material also refers to:

- ZONDI V MEC FOR TRADITIONAL AND LOCAL GOVERNMENT AFFAIRS AND OTHERS 2005 (3) SA 589 (CC)
- MTSHALI & OTHERS V BUFFALO CONSERVATION 97 (PTY) LTD

These are cited in the knowledge in the context of discretion and extension principles.

8. Change of SARS case during litigation

BASF

The knowledge refers to BASF as authority where SARS:

- changes its reasons
- changes its methodology
- introduces a new factual case

- relies on new calculations altering the basis of assessment
- tries to strengthen a weak assessment during litigation

The extract in the knowledge does not give the full citation in the search result I have, so I should not invent it. But it is clearly referred to as authority in the uploaded material.

Practical Conclusion

- what makes an objection valid
- the need for detailed grounds
- the need for proper supporting documents
- the inability to add new grounds later
- the correct procedure where SARS invalidates an objection
- late objection extensions and exceptional circumstances

Session 4 Appeals ADR and Settlement



1. OVERVIEW OF THIS STAGE IN THE DISPUTE

Once SARS has made its decision on an objection, the dispute moves into the appeal stage if the taxpayer remains aggrieved. Section 106 provides that SARS may disallow the objection or allow it in whole or in part, and the notice of the decision must state the basis for the decision and include a summary of the procedures for appeal. A taxpayer may dispute an assessment or relevant decision only through the Chapter 9 dispute procedures, unless a High Court otherwise directs.

This stage requires a fresh reassessment of the matter. The objection has already tested the original grounds. After SARS's objection decision, the taxpayer should identify:

- which grounds were allowed;
- which grounds were partially allowed;
- which grounds remain fully in dispute; and
- whether the remaining issues are best suited for ADR, settlement, the Tax Board or the Tax Court. This practical approach is consistent with the dispute framework in Chapter 9 and the Rules.

2. NOTICE OF APPEAL: TIME LIMITS AND REQUIREMENTS

A taxpayer dissatisfied with SARS's objection decision may appeal. The appeal must be lodged within 30 business days after delivery of the notice of the objection decision. A senior SARS official may extend the period by:

- up to 21 business days if reasonable grounds exist for the delay; or
- up to 45 business days if exceptional circumstances exist.

The appeal must be lodged on the prescribed form and must:

- be signed by the taxpayer or authorised representative;
- indicate which grounds in the objection are being appealed; and
- indicate whether ADR is sought, or whether the matter should proceed to the Tax Board or Tax Court.

A notice of appeal that does not satisfy section 107(1) is not valid.

Practical note

When preparing the Notice of Appeal, compare the objection and the objection decision line by line. The appeal should isolate the precise points SARS still disputes. This keeps the appeal focused and helps determine whether ADR can narrow or resolve the issues.

3. GROUNDS OF APPEAL

The Rules allow a taxpayer to appeal on a new ground not raised in the notice of objection, provided that it does not amount to a new objection against a part or amount of the disputed assessment that was not previously objected to. SARS may then require substantiating documents within 15 days, and the taxpayer must deliver those documents within 15 days, subject to a possible limited extension.

Practical note

Delegates should therefore test every proposed appeal ground against two questions:

1. Is this truly a further argument on an existing disputed issue?
2. Or is it really a fresh objection to a different part of the assessment?

If it is the latter, it may fall outside the proper scope of the appeal.

4. CHOOSING THE ROUTE AFTER THE APPEAL

After the appeal has been noted, the dispute may proceed by:

- ADR;
- Tax Board; or
- Tax Court.

The Tax Board generally deals with matters where the amount in dispute does not exceed R1 million, and the Short Guide notes that a tax board may hear such an appeal if both SARS and the appellant agree. Even where the amount is lower, a matter may still go to the Tax Court, for example where a legal principle is in dispute.

Practical note

A useful early exercise is to separate the issues into:

- factual disputes;
- evidentiary disputes;
- legal interpretation issues; and
- quantification issues.

This helps determine whether the matter is suitable for ADR or requires adjudication.

5. WHEN ADR MAY BE USEFUL

ADR is a voluntary process. It applies only if both SARS and the taxpayer agree. Section 107(5) allows the parties, by mutual agreement, to attempt to resolve the dispute through ADR, and section 107(6) provides that the appeal proceedings are suspended while ADR is ongoing.

The Rules provide that where the appellant indicates willingness to participate in ADR, SARS must inform the appellant within 30 days whether the matter is appropriate for ADR. If the taxpayer did not request ADR but SARS considers the matter suitable, SARS may invite the taxpayer to ADR, and the taxpayer then has 30 days to state whether it agrees.

The VAT 404 Guide describes ADR as quicker, less formal and more cost-effective than litigation, and states that it is useful where the parties agree to try to resolve the dispute outside court.

ADR is often useful where:

- the evidence is incomplete but can be clarified;
- the dispute is narrow and capable of compromise;
- there are factual or evidentiary difficulties;
- the parties need a quicker and less formal process; or
- a partial resolution may meaningfully reduce the scope of litigation. This aligns with the settlement criteria in section 146, which recognises complex factual issues and evidentiary difficulties as relevant considerations.

6. HOW ADR WORKS

Under the Rules and the VAT 404 Guide:

- ADR may be conducted with or without a facilitator;
- if a facilitator is used, the person must be acceptable to both parties and have appropriate experience in tax;
- ***the facilitator must seek a fair, equitable and legal resolution;***
- during the ADR meeting both parties state their case and provide supporting documents; and
- the ADR process must generally be finalised within 90 business days, unless extended by agreement.

The Rules further state that ADR is conducted with full reservation of rights, and representations or documents submitted during ADR are without prejudice. The VAT 404 Guide adds that ADR proceedings may not be electronically recorded and that the taxpayer should disclose all relevant facts during the process.

Practical note for preparation

Before ADR, prepare:

- a schedule of disputed issues;
- the relevant appeal grounds;
- the supporting documents for each issue;
- a short chronology;
- the taxpayer's best factual case;
- the taxpayer's best legal case; and
- a list of issues that could realistically be resolved without a hearing.

ADR is not merely a meeting. It is a structured opportunity to narrow the issues and test the strength of the evidence.

7. PREPARING AND PRESENTING THE CASE AFTER THE OBJECTION DECISION

The practical focus at appeal stage is to reassess the strengths and weaknesses of the case in light of SARS's reasons for disallowing the objection.

Suggested framework for delegates

(a) Reassess the evidence

Ask:

- What evidence did SARS reject?
- Was it rejected as insufficient, unreliable, irrelevant or incomplete?
- Can the evidence be strengthened by additional source documents, reconciliations or witness explanations?

This is particularly important because ADR and appeal preparation both require the parties to present their case with supporting documents.

(b) Separate issues

Divide the dispute into:

- issues capable of proof by documents;
- issues turning on legal interpretation;
- issues suitable for concession; and
- issues that remain genuinely contested.

(c) Match evidence to each issue

For every issue, prepare:

- the taxpayer's factual contention;
- the documentary proof;
- the relevant statutory basis; and
- the outcome sought.

(d) Identify what can be resolved in ADR

Some issues may be suitable for full concession, partial concession, revised quantification or agreement on treatment in future years.

8. AGREEMENT DURING ADR

Rule 23 allows a dispute in ADR to be resolved by agreement where one party accepts, in whole or in part, the other party's interpretation of the facts or law or both. That agreement:

- must be in writing;
- must be signed;
- must relate to the appeal as a whole, including costs;
- must specify which issues are resolved and which remain unresolved; and
- if all issues are resolved, SARS must issue the assessment giving effect to the agreement within 45 days after the last signature.

If not all issues are resolved, the taxpayer may continue with the unresolved issues to the Tax Board or Tax Court, and must give the required notice within 15 days of the agreement.

Practical note

A partial agreement must be drafted with precision. It should clearly record:

- exactly which issues are resolved;
- the tax effect of each resolution;
- which issues remain open; and
- the procedural step for continuation of the unresolved issues.

9. SETTLEMENT OF THE DISPUTE

Settlement is dealt with in Part F of Chapter 9 of the Tax Administration Act. Either party may initiate settlement discussions, but neither SARS nor the taxpayer can compel the other to engage in settlement.

Under Rule 24, where parties have agreed to ADR but are unable to resolve the dispute under Rule 23, they may attempt to settle the matter under Part F of Chapter 9. A settlement under Rule 24:

- is subject to the approval of the relevant senior SARS official;
- must be recorded in writing and signed;
- must relate to the appeal as a whole, including costs;
- must specify resolved and unresolved issues if it is only partial; and
- if it resolves all issues, SARS must issue an assessment to give effect to it within 45 days after the last signature.

10. WHEN SETTLEMENT IS APPROPRIATE OR INAPPROPRIATE

Settlement is inappropriate if, in SARS's opinion:

- the matter involves intentional tax evasion or fraud;
- settlement would be contrary to the law or a generally prevailing practice and no exceptional circumstances justify departure;
- the non-compliance is serious;
- it is in the public interest to obtain judicial clarification; or
- court proceedings would significantly promote taxpayer compliance.

Settlement may be appropriate where it is fair and equitable and in the best advantage of the State, having regard to factors such as:

- good management of the tax system;
- overall fairness;
- best use of SARS resources;
- litigation cost versus likely benefit and prospects of success;
- complex factual issues;
- evidentiary difficulties; or
- whether settlement is a cost-effective way to promote compliance.

Practical note

In preparing for settlement, the taxpayer should be able to explain why settlement is appropriate under section 146, not merely why the taxpayer wants it.

11. WHAT A SETTLEMENT AGREEMENT MUST CONTAIN

Section 147 requires full disclosure of relevant and material facts. A settlement must be in writing and must include details of:

- how each issue is settled;
- undertakings by the parties;
- treatment of the issue in future years;

- withdrawal of objections and appeals; and
- arrangements for payment. The agreement must be signed by a senior SARS official and is confidential unless disclosure is authorised by law or agreed.

Section 148 provides that the settlement agreement is the final agreed position and is in full and final settlement of all or the specified aspects of the dispute. SARS must adhere to it unless material facts were not disclosed or there was fraud or misrepresentation. If the taxpayer fails to pay or otherwise fails to adhere to the agreement, SARS may treat the agreement as void and proceed on the original disputed amount, or enforce collection of the settlement amount.

Section 150 further provides that an altered assessment or decision issued to give effect to a settlement is not subject to objection and appeal.

12. PARTIAL RESOLUTION: HOW TO RECORD IT PROPERLY

A partial settlement or partial ADR agreement should accurately record:

- the issues resolved;
- the exact tax effect of each resolved issue;
- the basis on which the issue is treated in future years, if relevant;
- whether penalties and interest are included;
- payment arrangements;
- withdrawal of the relevant parts of the objection or appeal; and
- the issues that remain for the Tax Board or Tax Court. These requirements appear both in section 147 and in Rules 23 and 24.

Practical note

A badly drafted partial settlement creates new disputes. A good partial settlement narrows the case, quantifies the effect and preserves the taxpayer's ability to continue only on the unresolved issues.

13. WHAT HAPPENS IF ADR FAILS

If ADR is terminated without agreement or settlement:

- the appellant must, within 20 days of termination,
- request the clerk to set the matter down before the Tax Board; or
- give notice to SARS that the appellant wishes to proceed with the Tax Court appeal.

Where no ADR is pursued and the appeal is to be dealt with by the Tax Board, the appellant must request the clerk to set the matter down within 35 days of delivery of the notice of appeal.

14. PRACTICAL CHECKLIST FOR DELEGATES

After SARS's objection decision, delegates should work through the following checklist:

Appeal stage

- Diarise the 30 business day deadline.
- Check whether condonation is needed.
- Confirm the grounds that remain in dispute.
- Ensure the appeal does not try to introduce a fresh objection to a different amount or part of the assessment.

ADR suitability

- Is the dispute mainly factual or evidential?
- Can supporting documents close the gap?

- Would a faster, less formal process benefit the taxpayer?
- Would ADR likely narrow the issues even if it does not resolve everything?

Settlement suitability

- Is there a section 146 basis for settlement?
- Are there issues of fraud, serious non-compliance or public interest that make settlement inappropriate?
- Can the terms be recorded clearly enough to avoid future dispute?

Presentation of the case

- Prepare a dispute matrix issue by issue.
- Link each issue to evidence, law and relief sought.
- Decide what can be conceded, compromised or left for adjudication.

15. KEY TAKEAWAY

The period after the objection decision is not merely procedural. It is the stage at which the taxpayer must make strategic decisions about:

- whether to appeal;
- whether ADR is likely to assist;
- whether settlement is legally and practically appropriate; and
- how to present only the real issues that remain in dispute.

A strong appeal or ADR strategy depends on disciplined issue identification, proper evidence preparation and careful drafting of any agreement or settlement reached. The Rules and Chapter 9 of the Tax Administration Act are designed to allow either full resolution or a carefully managed partial resolution of the dispute.

Appeal and Settlement Letter Templates

From LETTERS 8.docx, the clearest letters on this topic are:

1. SETTLEMENT 1 – General Settlement Procedure under section 144(1)

This is a settlement proposal letter where the taxpayer proposes terms to SARS for resolving the dispute. It is specifically framed around the voluntary settlement procedure in section 144(1) of the Tax Administration Act.

2. SETTLEMENT 2 – Settlement After Alternative Dispute Resolution (ADR) under section 144(1)

This is aimed at a matter that has already gone through ADR and where the taxpayer then proposes formal settlement terms to SARS. The template states that ADR clarified the strengths and weaknesses of the parties' positions and then moves into the proposed settlement terms.

3. Notice of Appeal Against Assessment under section 107(1)

The template list in LETTERS 8.docx refers to a specimen letter for a notice of appeal after an objection has been disallowed in whole or in part.

4. Application for Extension under section 107(2)

There is also a specimen letter for requesting an extension of time where the taxpayer cannot meet the 30 business day deadline for noting the appeal.

5. Appeal for Extension Refused

A further specimen is listed for challenging SARS's refusal to extend the deadline for lodging an appeal.

6. Request for reduced assessment after final dispute resolution – REF LETTER RA4

This letter is relevant where the dispute has already been finally resolved by objection, appeal, settlement or court judgment and the taxpayer wants SARS to issue the reduced assessment reflecting the correct liability under section 93(1)(a), (b) or (c).

- appeals,
- extensions for appeals,
- settlement generally,
- settlement after ADR, and
- implementation of the final outcome by way of a reduced assessment.

Session 5 Protecting the Taxpayer and Using Additional Remedies



These notes are intended to help delegates identify the correct remedy while a SARS dispute remains open. They are based on the tax administration material in the knowledge and should be used as a practical guide to the available remedies, not as a substitute for the underlying legislation, guides and templates.

1. THE MAIN PRACTICAL POINT

When a dispute arises with SARS, do not look only at whether the assessment is right or wrong. Also consider:

- whether SARS may continue collecting the tax;
- whether a suspension of payment is needed;
- whether the issue is really a clear error rather than a dispute on the merits;
- whether the problem relates to a penalty that may be remitted;
- whether SARS is withholding information needed by the taxpayer; and
- whether the real issue is administrative delay or unfair conduct by SARS.

A sound dispute strategy must therefore deal with both:

- the merits of the assessment; and

- the risk of collection and enforcement.

2. “PAY NOW, ARGUE LATER”

The default position under the Tax Administration Act is that tax remains payable even if the taxpayer disputes the assessment. The taxpayer must therefore take active steps if payment should not be enforced immediately.

The knowledge explains that suspension of payment is the main protection against immediate enforcement while an objection or appeal is pending. A taxpayer may request SARS to suspend payment pending the outcome of the dispute.

Factors SARS considers under section 164

A senior SARS official must consider factors including:

- whether recovery will be in jeopardy;
- whether there is a risk of dissipation of assets;
- the taxpayer’s compliance history;
- whether fraud is prima facie involved;
- whether payment will cause irreparable hardship not justified by the prejudice to SARS or the fiscus; and
- whether adequate security has been tendered.

The knowledge also notes that SARS may consider other relevant factors, such as prospects of success.

3. AUTOMATIC PROTECTION AGAINST COLLECTION

The knowledge states that, once the suspension request is submitted, no recovery action may be taken from the date of submission until 10 business days after SARS’s decision, unless SARS believes assets may be dissipated.

This is an important temporary protection and should be used properly and timeously. Delegates should note that the request should be properly motivated and supported with documents showing hardship, security, and the surrounding facts.

4. IF SARS REFUSES SUSPENSION

The knowledge is clear that a refusal of suspension of payment is not objectionable or appealable under Chapter 9.

The remedies identified are:

- a request for review under section 9(1) of the TAA;
- if necessary, a judicial review under PAJA; and
- where collection is imminent, an interdict from the High Court.

The material specifically recommends a step-by-step approach:

1. supplement or improve the original suspension request if necessary;
2. file a review request under section 9;
3. if SARS still acts unlawfully or irrationally, prepare a PAJA review with urgent relief if required; and
4. continue with the objection or appeal on the underlying assessment.

The knowledge also records a recent case example showing that a refusal of suspension may be reviewable where SARS acts on incorrect facts or ignores objectively adequate security.

5. COLLECTION ACTION MUST BE CHECKED SEPARATELY

Even where the assessment is being disputed, SARS may attempt collection through:

- third-party appointments; or
- certified statements filed with a court.

Third-party appointments

The knowledge states that section 179(5) requires SARS to give at least 10 business days' notice before collection action by third-party appointment. This gives the taxpayer an opportunity to respond.

Certified statements

The knowledge notes that section 172(1) allows SARS to file a certified statement which has the effect of a civil judgment for recovery purposes. Delegates must appreciate the seriousness of this remedy and act immediately if it has been used incorrectly.

Practical lesson

Whenever a dispute exists, ask:

- Has SARS already begun collection?
- Has valid notice been given?
- Is there a need for urgent suspension, correction, or information requests?

6. REDUCED ASSESSMENTS: WHEN THE PROBLEM IS AN ERROR

A reduced assessment under section 93 is appropriate where the issue is a correction that SARS can make without requiring the full objection-and-appeal route, or where dispute resolution has already determined the correct liability.

Main grounds identified in the knowledge

The knowledge sets out these grounds:

- section 93(1)(a), (b), (c): where a dispute has been resolved through objection, appeal, settlement, or final judgment;
- section 93(1)(d): an obvious, readily apparent and undisputed error;
- section 93(1)(e): a third-party submission error or SARS processing error;
- section 93(2): a reduced assessment may be issued even where no formal objection has been lodged, provided the requirements are met.

Important limitation

The draft interpretation note in the knowledge stresses that section 93(1)(d) does not replace the Chapter 9 dispute process. It is available only for a readily apparent undisputed error and must not be used to raise substantive interpretative disputes.

Time limits and prescription

The knowledge also notes that reduced assessments must still be considered with reference to section 99 time limits. It states generally that a reduced assessment cannot usually be made more than three years after the original assessment unless an exception applies.

Delegates must always check prescription. The instructions in the knowledge also require specific attention to section 99, and note that VAT and PAYE involve a five-year prescription period, while income tax generally involves three years. Where prescription applies, SARS cannot issue the assessment.

7. REMISSION: WHERE THE ISSUE IS A PENALTY

Sometimes the dispute is not truly about the tax itself, but about a penalty. In those cases, remission may be the more suitable remedy. The knowledge notes that there is a similar suspension rule for penalties, and that suspension is automatic during the 21 business days after SARS decides a remission request.

The amendment note in the knowledge also records that “bona fide inadvertent error” relief is now framed through section 223(3) as a remission mechanism for substantial understatement penalties, rather than a blanket exclusion at the start.

Practical lesson

Ask:

- Is this really a dispute on tax liability?
- Or is the real issue the penalty and whether remission should be sought?

8. DEFERRED PAYMENT ARRANGEMENTS

Where the taxpayer is unable to pay immediately, sections 167 and 168 may provide relief through an instalment arrangement or deferred payment. The knowledge states that SARS may allow this where:

- the taxpayer has temporary liquidity difficulties;
- income is expected in future;
- immediate collection would be inefficient or harsh; or
- security is provided.

The knowledge also states that applying for deferred payment does not amount to admitting liability, if this is stated clearly in the application.

This remedy may be especially useful where:

- the taxpayer disputes part of the debt;
- collection pressure exists; and
- the taxpayer still needs breathing space while the matter is resolved.

9. COMPROMISES

The knowledge refers to compromises under section 200 as a mechanism for permanent relief from part of the tax debt. However, it contains an important warning: if a compromise is accepted, the taxpayer should not expect still to challenge the underlying assessment.

Practical lesson

Do not use the compromise route if the taxpayer still intends to fight the assessment on the merits.

10. REQUESTS FOR INFORMATION: SECTION 73 AND PAIA

Often the problem is that the taxpayer does not yet have the material needed to understand SARS's position, verify the debt, or prepare a dispute properly. In those cases, the knowledge points to section 73 of the TAA and, in some instances, PAIA-related requests and appeals.

The knowledge includes requests for:

- certified copies of assessments;
- non-confidential information used by SARS;
- statements of account;
- internal memoranda and related records in appropriate cases; and

- the taxpayer's own information held by SARS.

Practical lesson

If you do not know:

- what assessments SARS relies on;
- how the debt is made up;
- what documents SARS used; or
- why SARS took the administrative step,

then the first remedy may be an information request rather than an objection.

11. COMPLAINTS, DELAYS AND THE TAX OMBUD

The knowledge makes it clear that not every problem is an objection problem. Sometimes the real issue is delay, lack of communication, or poor administration by SARS.

Escalation path for SARS delays

The knowledge sets out a structured escalation process:

1. initial follow-up;
2. formal demand for progress;
3. formal SARS complaint;
4. escalation to the Complaints Management Office;
5. escalation to the Office of the Tax Ombud; and
6. legal proceedings where serious prejudice exists and no adequate alternative remedy remains.

The suggested wording in the knowledge emphasises that the taxpayer should identify:

- the submission date;
- the case number;
- that all documents were supplied;
- that the relevant service period has expired; and
- the need for SARS to specify what remains outstanding and when the matter will be finalised.

Role of the Tax Ombud

The Tax Ombud is described in the knowledge as dealing with:

- service issues;
- administrative failures;
- procedural unfairness; and
- delays.

The Ombud does not decide the substantive tax merits in place of SARS or the courts.

12. PAJA AS A FURTHER REMEDY

Where SARS acts unlawfully, irrationally, unfairly, or refuses to provide reasons or information, the knowledge identifies PAJA review as an available remedy after the appropriate internal steps have been taken.

This is particularly relevant where:

- SARS refuses suspension irrationally;
- SARS fails to provide reasons;

- SARS withholds information improperly; or
- delays become unreasonable and prejudicial.

13. HOW TO CHOOSE THE CORRECT REMEDY

Delegates should match the problem to the remedy:

If the assessment is wrong on the merits

Use:

- objection;
- appeal; and where appropriate
- ADR.

Court Cases for Session 5

Yes. The knowledge contains a few court cases relevant to this part of the programme, especially on suspension of payment, review remedies, and procedural fairness in SARS disputes.

1. Main case directly on this section: suspension of payment / “pay now, argue later”

FERRERIA V CSARS

This is the clearest case in the knowledge on section 164 and the taxpayer’s remedies where SARS refuses a suspension of payment. The note records that the taxpayer challenged SARS’s refusal to suspend payment pending the dispute, after tendering substantial security. The court held that SARS’s refusal was reviewable, that SARS had relied on incorrect and irrelevant facts, and that the refusal lacked a rational connection to the purpose of section 164 in the circumstances. The court then set aside SARS’s decision and substituted it with an order suspending payment, subject to security being provided.

The same note also states that the case confirms that a refusal of suspension is an administrative decision, not a determination of tax liability under Chapter 9, so the remedy is by review rather than objection or appeal. It specifically links this to section 9 and PAJA.

Why it matters

For your delegates, this is the leading case in the knowledge for the proposition that:

- a refusal of suspension of payment can be reviewed;
- SARS must act rationally and on correct facts;
- proper security can be highly relevant; and
- the taxpayer may obtain court relief where SARS acts unlawfully or irrationally.

2. Case relevant to taxpayer protection against SARS overreach

BULLION STAR (Pty) LTD V CSARS

This case in the knowledge concerns SARS’s investigative powers and the protection of taxpayers against overbroad or defective warrant-based searches and seizures. The court set aside the warrant because of non-disclosure, misrepresentation and overbreadth, and ordered SARS to return items and destroy derivative copies.

Why it matters

Although it is not a section 164 case, it is relevant to the broader theme of protecting the taxpayer and using additional remedies where SARS exceeds its powers. It supports the idea that SARS’s administrative and enforcement conduct is subject to judicial control.

3. Case relevant to dispute procedure and fairness

CSARS V ERASMUS

The knowledge notes this case as authority that SARS cannot use procedural mechanisms such as Rule 31 to change its case after issuing the assessment, particularly in a GAAR context. The Supreme Court of Appeal held that SARS could not “move the goalposts” and dismissed the appeal with costs.

Why it matters

This is useful for the part of the session dealing with fairness during disputes and the need to match SARS’s conduct against the dispute rules. It is not about suspension of payment, but it is relevant to procedural protection for taxpayers.

4. What the knowledge appears to show on the rest of the section

From the material searched, the clearest reported case on this session’s topics is FERRERIA V CSARS for suspension of payment and review. The knowledge also provides administrative guidance on:

- section 164 suspension of payment;
- section 93 reduced assessments;
- section 73 requests for taxpayer information;
- complaints, delays and the Tax Ombud; and
- PAJA review,

but the search results I found do not show a specific named court case in the knowledge dealing directly with Tax Ombud complaints, PAIA requests, or SARS delays in the same way Ferreria deals with suspension of payment.

Short answer for delegates

Yes — the main case covering this section is FERRERIA V CSARS, which deals directly with section 164 suspension of payment and confirms that a refusal by SARS may be attacked by review rather than objection or appeal. The knowledge also contains BULLION STAR and CSARS V ERASMUS as related taxpayer-protection and dispute-procedure cases.