

THE PROBLEM WITH TAX RETURN DEADLINES

SARS Position

*SARS have indicated that they are considering **ONE filing season deadline** for both provisional and non-provisional taxpayers. We proposed 31 January, given that SARS did not want to consider a later date. SARS seem to think that an earlier date is more appropriate – i.e. **SARS suggestion is end of September**. Tax practitioner members/other RCBs strongly opposed this and provided valid reasons in this regard.*

INTRODUCTION

For the 2021 tax year the basis for determination of extension on individual tax returns based on provisional tax status was not a workable situation. The basis for filing companies 1 month after individuals are filed is definitely not workable as for February companies this happens during the busiest time of the year as tax practitioners are preparing provisional tax returns.

Depending on the size of the practice where all the services are offered by larger practises these deadlines will not be reached for the reasons indicated in this document.

I believe that there is a tax community crises taking place which is going to worsen as the work load becomes greater. This document discusses some very important issues about the tax community crises and some suggestions for the future.

The suggestion for the end of September is clearly an attempt by SARS to generate penalties which will become a monthly penalty as they know that the profession is struggling and thousands of tax returns will be late.

SARS knows the numbers of penalties but I think we should do a survey to find out the state of how many penalties were issued.

SUMMARY

- Using provisional tax status for extension purposes which is determined a year in advance and which has no certainty of the end result owing to the economy, which could change from month to month is just not a workable option in the tax community and has not been thought through. To merge the two types i.e. provisional and non-provisional together is never going to work as clearly the provisional taxpayer returns are more complicated.
- A bigger issue is the unworkable extension dates for tax returns in a time when everyone has fallen far behind owing to the pandemic so why punish the tax community even further where the desired result is not going to be achieved. Taxpayers have also taken tremendous punishment through the pandemic.

- It is not feasible to do directors and members tax returns without having the groups of all their interests in companies and trusts prepared at the same time which make the compliance status of tax returns very difficult as individual tax returns cannot be completed with total accuracy and without having all the information on hand.
- The extension requirements as currently stipulated are just not workable owing to the heavy workload required in December (SARS goes away in December) and January, for tax return and provisional tax production where the 2nd provisional tax becomes very onerous and requires a lot more effort than just selecting a basic amount figure and where the pandemic ravaged income.
- The time after February is catch up time to try and complete all returns before the next season starts and that's what many tax practitioners are going to be doing.
- I call for engagement on the points discussed and a way to make the extension process easier.

THE PROBLEM WITH GROUPS

Most important of all is that many of the directors and members of CC's and beneficiaries of trusts are connected to companies and CC's and trusts whose results come out well after the year end. It's always a good idea to do all the tax returns in a group, the company, the shareholders the CC members and directors together to ensure that every aspect of income is accounted for including loan accounts for statement of assets that need to be filed with tax returns.

It is always a good idea to lead with the sources of income for individuals from the businesses they direct from a risk point of view to ensure that nothing is unaccounted for. Based on the current system of extensions because of the fact that individuals in this situation have to be done a long time before the companies are done that estimates are made and additional income accrued may be left out and balances for statements of assets are estimated making such tax returns misstated which opens up another risk element for the taxpayer and for SARS. Any information missed will not allow the assessment to prescribe. The situation as it stands is just not workable especially with s234 hanging over the taxpayers head for inadvertent errors which are bound to happen in these circumstances.

The bigger issue here is that tax returns for both companies and individuals are not going to meet the set deadlines for the next 3 years just the same way as SARS have not sorted out errors on tax accounts going back years because of a lack of capacity and the fact that many of 35% of non-tax compliant (now more owing to the admin penalty) taxpayers are not tax compliant simply because of errors that have occurred in the past and can't be fixed. Now add to this the current penalty situation created by

lack of capacity in the profession and of course the pandemic causing the profession to have lost a year at least.

Most of the taxpayers who have more complex financial circumstances are in the hands of tax practitioners who will continue to struggle with deadlines.

I would suggest that before the 2022 tax return season that there should be a serious engagement between SARS and the RCB's and that something is agreed upon that will allow the tax industry to comply with the dates agreed upon and actually catch up.

SUGGESTION

I call for engagement on the points discussed and a way to make the extension process easier.

I would suggest that extension deadline's move to a percentage basis. E.g. 30% by November 50% by December etc. based on the size of the firm as it's a fact that returns are going to take longer than 12 months.