

SKY TAX – RSA's fastest tax production system.



COMMUNICATING PROPERLY WITH YOUR CLIENTS

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Contents

COMMUNICATING PROPERLY WITH YOUR CLIENTS	1
<u>1.</u> COMMUNICATING PROPERLY WITH YOUR CLIENTS	3
1.1 Introduction	3
1.2 Communications	4
1.3 IN A P1 LETTER	5
1.4 IN A P2 LETTER	5
1.5 P1 AND P2 LETTER	7
1.6 LETTER FOR P2 OVER A MILLION RAND.....	7
1.7 ITR14	9
1.9 Digital Signatures	10
1.10 Conclusion	13

1. COMMUNICATING PROPERLY WITH YOUR CLIENTS

1.1 Introduction

Throughout this document we are going to talk about the risks associated with various aspects of tax compliance and tax preparation. One of the areas that need urgent attention is the way a Tax Practitioner communicates with clients from **letters of engagement**, **mandates** to every day run of the mill **letters** and **e-mails**. Part of this communication will include **verbal communication**, **e-mail communication** as well as **sms communication**. Good communication always starts with having a proper mandate or engagement letter in place. We will deal with this later on in this guide.

In today’s times meeting with clients can be hugely costly. In big cities think of traffic and the time it takes to get to a client or for the client to get to your office. Then consider crime and protests and the effect it has on travelling. There is more than a good reason to start having electronic meetings with your clients in order to finalise tax returns. Systems like **Skype** or **Gotomeeting** come into their own for this kind of meeting. I have seen practitioners embrace this practice very successfully.

Tax departments today have a greater need to communicate with their clients more so than ever before. It is a lack of proper communication that is going to cause problems for the firm. All documentation to clients must point out the responsibilities of the taxpayer to provide correct and timeous information. Make it their responsibility to do certain things by passing back the risk to them. There must be a clear understanding by the client of what their responsibility is and what the practitioner’s responsibility is. We have reached the point where there is missed communication the Tax Practitioner will be blamed.

We have also reached the stage where the postal service is a dead service so if a Tax Practitioner is not emailing how are they notifying their clients. The only way to go about doing this is by making all your communications e-mail based. If you set this up properly, whatever you send to a client can be sent out as an attachment in a PDF format and save the documentation on your hard drive. Systems now also have an ability to keep the documentation for quick retrieval. With the advent of digital

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signatures, electronic documents, letters, tax returns etc. the way you store these documents are going to become exceedingly important.

1.2 Communications

By writing your letters and your emails properly and by even introducing a **sms** system to remind clients of their tasks you can avert a huge area of risk for the practice. The sms system should be used as a constant reminder to clients about their responsibilities which in the event of a dispute will become a critical part of risk aversion and defending yourself against claims.

There are some basic rules that you should adhere to. Write your letters on the basis that you are **defending yourself** in regard to future allegations which may be made against you by your client. E.g. your client has to pay a tax penalty and says they never knew about it and blames you. You need to make sure that you have procedures in place so that each step in the process building up to the provisional payment can be confirmed independently by having audit paper trails that you can show e.g. each step taken, letters, email and even sms’s that says “don’t forget to pay your provisional tax”.

Write your letters setting out all the responsibilities of the client and passing over the risk e.g. set out the consequences of not paying provisional tax on time and the penalties of paying late or if the tax return is not in on time what the consequences are. Now more than ever this is critically important as SARS has introduced its new penalty regime system. Monthly penalties may be generated automatically.

It’s a fact that no taxpayer likes to pay penalties and interest and where they can they will hold you responsible.

Detailed below we point out some paragraphs that must be inserted into your letters and emails.

A must in every provisional tax letter;

1.3 IN A P1 LETTER

“Your attention is drawn to the fact that should the payment not reach the South African Revenue Services (SARS) on or before 31 August 2016 a penalty of 10% and interest of 15% per annum will be charged on the late payment of provisional tax. The interest and penalty may not be deducted for tax purposes”.

1.4 IN A P2 LETTER

“Your attention is drawn to the fact that should the payment not reach the South African Revenue Services (SARS) on or before 28 February 2016 a penalty of 10% will be applied and or SARS will consider that your estimated income for the 2nd provisional tax payment is deemed to be zero and will apply the underestimation penalties which could be quite substantial. Interest of 15% per annum will also be charged on the late payment of provisional tax. The interest and penalty may not be deducted for tax purposes”.

Explain to your client where and how to pay the tax. Make sure that when you send a payment advice the correct payment reference is properly displayed. Also make sure that the client is aware of SARS payment rules. The client may pay too late i.e. outside the rules or may pay against the wrong reference number and the payment will not be accepted or allocated incorrectly.

“Direct transfers can also be made into the bank account of SARS. The banking details are provided at the bottom of the IRP6 return attached to this email. Please note that the IRP6 return will be submitted to SARS by us on your behalf once you have confirmed the figures. After you have made the payment please advise us that the payment has been made.

Where you use an Estimate lower than the basic amount it is imperative that you point out the consequences to the taxpayer of an under estimation.

“As discussed with you an estimate lower than the Basic Amount was used in order to calculate this provisional tax payment. We have indicated reasons for

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the lower estimate on our system in the event that SARS queries this lower amount. Paragraph 19(3) of the Fourth Schedule permits the Commissioner to increase any provisional tax estimate to an amount that he considers reasonable based on information that SARS has in their possession. This only happens after SARS has asked for a justification of the estimate and the estimate is not to SARS’s satisfaction. This direction may be used whenever enough information is available to substantiate the increase. Should you be aware of any reason why the last taxable income should not be used as the basic amount, please contact us.”

Where you use the last assessed figure of the basic amount...

We have based the calculation on the taxable income per the last year assessed of RXXXXX. In terms of current legislation, the assessed income has been reduced by any taxable capital gains or lump sums or severance benefit payments, and where relevant, the basic amount is increased by 8% per annum for each year behind for the purposes of the estimate.

Paragraph 19(3) of the Fourth Schedule permits the Commissioner to increase any provisional tax estimate to an amount that he considers reasonable based on information that SARS has in their possession. This only happens after SARS has asked for a justification of the estimate and the estimate is not to SARS’s satisfaction. This direction may be used whenever enough information is available to substantiate the increase. Should you be aware of any reason why the last taxable income should not be used as the basic amount, please contact us.”

Give the taxpayer specific instructions;

“If you are in agreement with the IRP6 and the amount reflected therein, please indicate by return email and make sure you do the transfer to SARS before the 25th February 2015.

1.5P1 AND P2 LETTER

It is imperative that if you have earned a capital gain during the current year that you declare it for provisional tax purposes in order to avoid an understatement penalty. In the event that you do not advise us of a capital gain that should be included in provisional tax an understatement penalty will be levied by SARS.

REFUND

It has now come to light the fact that in regard to refund cheques that SARS does not send out any notification that a refund has been processed. This leaves the Tax Practitioner's records unfinished. I would recommend that we build into our assessment letters where there is a refund something to the effect that when the client receives their refund, that they should please notify the Tax Practitioner so that this can be processed against the taxpayer records in their systems.

1.6 LETTER FOR P2 OVER A MILLION RAND

Dear Client

We attach your IRP6 provisional tax return. We have completed the calculation based on the information supplied by you which we have used to calculate your provisional tax payment for the P2 2017 payment. We require your confirmation of the calculation by you signing the return and faxing or e-mailing it back to us. The calculation is based on Income of R9999999 and requires that you pay R999999. If you are in agreement with this please make sure your return is properly signed and the form is returned to us and that your payment is made to SARS by dd/mm/yyyy 10 days before the submission date

As you may be aware where the taxable income is estimated to be more than R1 million the taxpayer may no longer base their second provisional tax payments on the basic amount (last assessed taxable income), but must use

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an estimate which must be within 80% of what is finally submitted on your tax return and assessed by SARS.

If the difference is more than 20% a penalty of up to 20% of the underpayment may be charged by SARS. SARS will not consider waiving such penalty if it is satisfied that the amount of the estimated taxable income was not seriously calculated with regard to the factors having a bearing on the estimate; or deliberately or negligently understated.

In addition, in terms of Paragraph 19(3) of the Fourth Schedule, SARS may increase any provisional tax estimate to an amount that he considers reasonable. This only happens after SARS has asked for a justification of the estimate and the estimate is not to SARS's satisfaction. This increase in estimate may be used whenever enough information in SARS's possession is available to substantiate the increase.

Please note that if you derive taxable income this year of assessment and you fail to submit the enclosed IRP6 return, SARS can levy a penalty equal to 20% of the difference between the actual tax paid for the year of assessment and any provisional tax paid for the year.

Your attention is drawn to the fact that should the payment not reach the South African Revenue Services (SARS) on or before 28 February 2017 a penalty of 10% will be applied and or SARS will consider that your estimated income for the 2nd provisional tax payment is deemed to be zero and will apply the underestimation penalties which could be quite substantial. Interest of 15% per annum will also be charged on the late payment of provisional tax. The interest and penalty may not be deducted for tax purposes.

Further information about provisional tax, related interest, penalties, estimates and payments is available on request from our tax department. You are urged to communicate with us if you have any issues.

Yours faithfully

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1.7 ITR14

Where a Tax Practitioner processes an ITR14 tax return you should insert something like this. It's imperative that you enlighten your clients about the extra work that this involves as well as the additional costs involved.

We would like to advise you that as part of SARS risk control mechanism there is a possibility that they will request that we provide them with an additional return called an ITR14SD supplementary declaration. This form will involve the following:

- ***a VAT reconciliation,***
- ***PAYE Reconciliation and***
- ***a Customs and Excise reconciliation.***

It is therefore imperative that before we submit your ITR14 that all the necessary abovementioned reconciliations be completed by your firm. If you have difficulty with this the onus is on you to liaise with our staff so that we can deal with any issues you may have. It is absolutely imperative that all the reconciliations be done before we e-file as differences found after the filing of the ITR14 tax return will lead to difficult explanations being offered to SARS and may result in penalties.

1.8 ASSESSMENT LETTERS

In writing an assessment received letter to clients the wording must be considered very carefully. We could so easily provide the following: -

We are in receipt of your assessment which we have attached for your records. We have checked the assessment which is correct and in agreement with our records. Please ensure that you pay R9999 by 99/99/99 in order to avoid any penalties.

or

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The assessment correctly reflects a refund due of R9999 due to you. SARS will pay this directly into your bank account. Please notify us when you receive the refund so that we can complete our records.

The paragraphs above appear to be the standard letters that Practitioners write to their clients on assessment. It is my view that the above is just not good enough simply because the fact that SARS issues an assessment does not make the tax return final. In many instances SARS issues a letter or notice for additional information required which in fact does not make the return final. The return only becomes final when SARS indicates that it is final. One should also make the client aware of the prescription periods of a tax return. It would be a good idea to insert this into the mandate or the engagement letter.

One should add the following to a letter on assessment of the taxpayer.

Please be advised that the issuing of an assessment by SARS does not necessarily mean the tax return for the year in question has been finalized by SARS. Even though it is not finalized you are still obliged to pay the amount due mentioned above.

Or

The refund due to you will not be paid until we have satisfied the requirements that SARS has notified us in the letter that we have received. SARS has asked us to provide them with the following additional information as follows:-

IRP5 certificates and medical aid and retirement annuity documentation.

We will communicate with you once SARS has finalized your tax return shortly.

1.9 Digital Signatures

DIGITAL SIGNATURE PLATFORM

Introduction

I have mentioned the word disruptive technologies. We are now in an age where

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there is no time to carry out all our tasks. The more labour-saving technology that we can use the better it’s going to be. South African law embraces digital signatures. This therefore must become the standard to help improve our efficiency.

The Problem

An imperative aspect of any tax department is the **tracking** and the **control** of provisional tax and tax return forms once they have been emailed to the taxpayer. The bigger the practice the worse it becomes. The Tax Practitioner must have a positive confirmation before they file anything. The Tax Practitioner easily loses control of emails forcing manual follow up each email sent out. This task is time consuming and is prone to error causing risk exposure! Imagine if a system can do this electronically and the follow up is automatic!

The Solution

The solution is automation of the **confirmation** or **denial** (together with a reason) by the taxpayer client of their **IRP6 document** or **Tax Return**. The solution is available right now.

The How

Accfin Software have partnered with the leader in digital signatures in RSA to produce an automated approach to solve the above problem. We see the integration of Sky and a digital signature or confirmation system as a very important aspect in improving the efficiency of a tax practitioner’s office, reducing labour costs and risk of errors substantially.

Typically, what happens is that the tax application sends out an email generally with a letter explaining the provisional tax payment to be made as well as a facsimile of an IRP6 form, or a tax pack in respect of a tax return. The email sent out will have the necessary links that direct the taxpayer to the **Sky Sign Cloud**. Log in credentials will be required to get into the **secure Sky Cloud Server**. The taxpayer will **confirm** or **deny** the contents of the form indicating reasons for the denial.

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When the taxpayer **confirms** or **rejects** the IRP6 or tax return by indicating the selection in the **Sky Sign Cloud** this will automatically notify **Sky Tax** of acceptance or rejection. I.e. there is no human interaction in this process from the Tax Practitioners side. From this point on reports can be produced to deal with those non-responsive taxpayers saving a huge amount of labour and reducing risks.

A further risk reduction technique is that clients can indicate if they have paid the provisional tax when they have done so thus further reducing risk.

The digital signature system works on the same basis as the SARS e Filing system by connecting to the **Sky Sign Cloud** and will be transparent to the user interacting with the **Sky Sign Cloud**.

The screenshot displays the 'DOCUMENTS' section of the Sky Sign Cloud interface. The document title is 'Tax Mandate letter'. The description is 'Mandate Letter and Disclaimer'. The date is '2017/06/16 12:02 PM'. The group is 'GENERAL' and the sub-group is 'eMAIL'. The receiver name is 'MICHAEL' and the receiver email is 'mark.silberman2009@gmail.com'. The receiver cell number is '09363636'. The due date is '2017/06/16'. The priority is 'Normal' and the status is 'Completed'. A red arrow points to the 'Completed' status field. The interface also includes a 'Get File' section with file name 'Tax Mandate letter.pdf', file path 'ClientDash_dtl', and type 'application/pdf'. There are also 'Data' and 'Notes' sections, and buttons for 'Submit', 'Update Status', and 'Get Doc'.

Field	Value
Name	Tax Mandate letter
Description	Mandate Letter and Disclaimer
Date	2017/06/16 12:02 PM
Group	GENERAL
Sub Group	eMAIL
Reference	
Receiver Name	MICHAEL
Receiver Email	mark.silberman2009@gmail.com
Receiver Cell	09363636
Due Date	2017/06/16
Priority	Normal
Status	Completed

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16 June 2017

ANGLO AMERICAN (PTY) LTD
P O BOX 787878
RAEDENE
2124



HARRY CASUAL
HARRY CASUAL
16-06-2017 16:06:55 (UTC+02:00)
Signed by HARRY CASUAL, mark.silberman2009@

Dear MICHAEL

MANDATE FOR TAXATION SERVICES FOR ANGLO AMERICAN (PTY) LTD

We are pleased to confirm the arrangement for ACCFIN Sky to provide your taxation services.

You have requested us to assist you in the preparation and submission to the South African Revenue Services (SARS) of all your income tax returns, to submit the returns according to the time specifications that SARS have stipulated, and to review related tax assessments for correctness. You have also requested us to assist you to respond to queries from SARS and to errors in assessments identified by our review of assessments and to lodge the appropriate objections where considered necessary.

The work performed will be based on our interpretation of the tax law at the relevant time. These tax laws are subject to change occasioned by future legislative amendments and court decisions. You are cautioned to keep abreast of such developments and are welcome to engage our service for this purpose. We confirm that it is your responsibility to provide us with complete, reliable and accurate information in respect of your tax affairs timeously in order for us to provide the required services.

1.10 Conclusion

Writing letters and email is one thing, having a record of them is another thing. Letters and email must be filed so that they are easily accessible. It is absolutely essential that firms get their letter writing and their e-mail systems in order and that the wording is absolutely perfect.

Even more important than writing letters is getting a proper mandate in place which we discuss later. On my recent travels when I ask the question *have you got a*

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mandate? I kind of get a very sheepish “**No we do not, but we are going to do it soon**”. A well written and thought out mandate will go a long way to ensuring that a tax practice is totally risk averse.