

**FEEDBACK SUMMARY  
23 JUNE 2022**

**GENERAL**

SAICA attends various discussions and meetings on behalf of members with National Treasury (“NT”), South African Revenue Service (“SARS”), the Office of the Tax Ombud (the OTO) and other stakeholders (internal and external). These meetings represent an opportunity for stakeholders to obtain further information on any tax matter from the public and discussions and views expressed do not represent policy or decisions. Furthermore, these discussions do not represent an undertaking by SARS, NT or other stakeholders, but merely statements of their understanding or how they perceive or anticipate a particular matter to be addressed.

The below Feedback Summary should be seen in the above context as merely attempts to inform SAICA members of the discussions and of any proposals that were made during such discussions.

**SARS/RCB MEETING  
21 JUNE 2022**

SARS initiated a meeting with Recognised Controlling Bodies (RCBs) to address concerns regarding the revised SARS Service Charter and the upcoming 2022 Filing Season. Some of the more important aspects of this discussion are highlighted below.

**FILING SEASON 2022**

1. In terms of the third party data submission, SARS has seen a significant improvement in terms of submission of PAYE related information as well as other third party submissions.

2. There are still 104 000 employers that have not yet submitted their returns and SARS is addressing this with relevant parties. It is concerning that a number of these employers are represented by tax practitioners.
3. SARS noted that for the first time this year, third party certificates submitted may be viewed on eFiling. However, concerns were raised that it is only prior year information that can be viewed. SARS advised that the 2022 information will be available from Saturday, 25 June.
4. Auto assessments will be considered original assessments in terms of section 95 of the Tax Administration Act, 2011 (the TAA). SAICA raised concerns that the current wording of the legislation does not allow for this. SARS believes that the wording does support its view. However, no written feedback has been issued in this regard.
5. In terms of timing and process, from 1 – 4 July, SARS aims to issue all auto assessments where a refund is due. The rest will be issued in batches up to 24 July 2022.
6. If in agreement with the assessment, no action will be required – i.e. there will be no need to 'accept' the assessment as it will be considered an original assessment.
7. If the taxpayer disagrees with the assessment, a return may be requested and submitted. This must be done within 40 business days of the date of assessment. Extensions will be provided for by SARS – limited to a maximum of a further 40 business days, if reasonable circumstances exist to justify the extension. Such extension may be requested via eFiling and SARS will issue a letter in response and the return will be available for submission after the initial 40 business days have passed. If no extension was requested or none was granted, the return will not be available for filing on expiry of the initial 40 business days provided for in section 95(6) of the TAA.
8. An extension of up to three years is provided for, in exceptional circumstances. Concerns were raised that section 95(7) refers only to 'reasonable grounds' to be provided whether requesting an extension for 40 business days or up to three years. SARS noted that in terms of section 244 of the TAA, if the application for the extension is made more than 21 business days after the deadline has expired, the taxpayer must provide exceptional circumstances to justify the delayed request. There seems to be a misunderstanding as to the application of these sections, read together, and SARS agreed to further engagement on this.
9. Debt due as a result of an automated assessment will be payable by the end of January 2023.
10. SARS will be issuing notices if third party data changes after the submission of a return, in order to inform the taxpayer that action is required.
11. SARS requests that errors in third-party data should be communicated to the third-party directly, as SARS does not have the means to change the data submitted.
12. Where taxpayers are selected for verification or audit, we understand that SARS is now issuing specific documentary request letters – i.e. request for relevant material, as opposed to the generic requests for information that has been historically issued. It is important to note that if the taxpayer submits relevant material that is incorrect or inadequate, SARS may, in terms of section 95(1)(b) of the TAA, issue an additional assessment. In this case, the taxpayer will have to lodge a dispute against the assessment and follow due process. Please note that SARS has

recently implemented this practice of raising additional assessments, without any further requests for information. Therefore, attention must be given to the specific requirements listed in the initial verification letter issued by SARS. This is likely to be more prevalent in respect of the 2022 Filing Season.

13. If taxpayers fail to respond to the request for relevant material, SARS is obliged to send a second request and failure to respond to that request can also result in SARS issuing an additional assessment – in terms of section 95(1)(c) of the TAA. In this scenario, the taxpayer will have 40 business days within which to request a reduced assessment and submit the relevant material to SARS – this is in terms of section 95(6) of the TAA.
14. SAICA members have noted that currently, when engaging SARS regarding a request for a reduced assessment and to submit outstanding relevant material, SARS is directing members to lodge a dispute. SAICA questioned this approach and was advised that the eFiling system should accommodate the submission of relevant material and a request for a reduced assessment by making a 'container' available for the upload of such information, on issuing of the related ITA34 additional assessment. SARS requested that taxpayers and/or tax practitioners check this functionality once filing season commences and if the functionality is not available, members must escalate such queries to their respective RCBs for escalation to SARS.

## **SERVICE CHARTER**

15. Although the Service Charter has been published, it is yet to be formally introduced by the Commissioner of SARS.
16. The Service Charter was revised to incorporate the new SARS strategy as well as to take into account comments made by various stakeholders, proposing improvements to the Service Charter.
17. SARS noted the concerns raised by SAICA and other stakeholders, regarding some of the timelines – i.e. where SARS is deviating from legislative timelines especially in respect of disputes.
18. SARS noted that whilst it aspires to adhere to all timelines whether provided for in the legislation or in the Service Charter, the reality is that in respect of certain matters, SARS is not adhering to timelines and has implemented processes to address this.
19. Until it is able to reach 100% adherence, the SARS Service Charter was revised with a view to manage the expectations of taxpayers and tax practitioners. Therefore, the current timelines were determined based on historical data and then extended to target higher than current compliance to the law and the prior Service Charter. For example, if SARS was only at 60% adherence to defined timelines, the targets were increased to, for example, 70% or 80% with the commitment to continued improvement until 100% adherence is reached.
20. With respect to those taxpayers who fall within the percentage where the timelines are not adhered to, SARS has indicated that the aim would be to finalise such cases within 1.5 times that provided for in legislation and/or the Service Charter, even though not defined in the Charter itself.

21. SARS noted that with respect to disputes specifically, a large volume of these relates to 'onus' disputes – that is, taxpayers not providing documentation timeously, resulting in assessments that would not have been raised if the taxpayers provided relevant evidence when due. To the extent that SARS addresses this and ensures compliance with documentary requests, this should hopefully reduce the number of disputes received and thereby reduce the backlog and improve timelines in this area.
22. It was further noted that the SARS Commissioner has acknowledged the concerns regarding the mismatch between timelines in the Service Charter versus that provided in legislation, where relevant and that taxpayers still reserve the right to use the channels available to address such non-compliance by SARS.