THE START OF THE NEW TAX SEASON

Don’t think you are going to get through the 2022 tax season without a back office system because you are not!

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1 NOTE FROM THE AUTHOR

I have been in the software business for more than 30 years supplying systems to accountants. Never in my experience have I gone through so much hectic change as in the last few years. Such a period of change causes frustration with each new process, rules and new regulations are introduced virtually on a daily basis. This year we had Covid-19 with huge change and many things that went wrong and the understanding of the new laws!.

Everything about what we know in terms of processes and procedures in a practitioner's tax office is now out of the window, we have moved into a whole new era. Clearly those firms who embrace the changes will reduce their costs, reduce their risks and offer their clients a better service.

One of the things about being in a software business for the last thirty years is that we have had a wonderful opportunity to automate practices as the changes have been taking place. As each year goes by we see the additional requirements in a tax practice and the pressure that SARS is placing on tax practitioners. We at Accfin have looked at the way tax practitioners work and come up with a range of wonderful features that will allow the practice to automate as much as possible and save huge amounts of labour. Have a look at the differences in running a manual system in the table provided in these notes as opposed to a back-office system.

On my rounds I hear the complaints about the extra work all the tax practitioners have to do and the pressures that have been placed on them to meet deadlines. I also hear of how hard it is to get an objection resolved. There is nothing much we can do about the physical interaction that takes place so we at Accfin concentrate as much as possible on the automating routines that take place and we have been pretty successful in e Filing, tax returns, downloading assessments and other bulk processes. All these routines go a long way to saving a huge amount of time.

In interacting with many tax practices, it is clear that in many tax practices they are not receiving the attention that they should from their own management. It appears

that everything else comes first. This is an attitude that is going to have to change as SARS exerts more and more pressure on practices. By now you should have heard about the proposed legislation for criminal intent for non-compliance. It does not get worse than this!

We have all heard the words disruptive technologies. The whole system of revenue collection is going through a major technology shift. When the SARS system was originally devised it was never designed for running the systems of an accountant's tax office. Why should it. And of course, do tax practitioners actually want SARS to have an inside view of their tax practice. The answer of course is no, it's really up to the tax practitioner to design their own system's. At this point in time we are all going through a major technology shift. Even SARS cannot change their systems fast enough to keep up with the changes in legislation as we have seen with the current provisional tax changes and auto assessment SMS's sent out by SARS.

Therefore, this document is an attempt to take all known information around tax practice management and distil it into one reference source, mix and match with what is realistically happening but with the emphasis on **Risk Aversion**. Now with the advent of "criminal intent" a "how to document", I do realise that systems and procedures are going to change dramatically as we continue through this process and I will endeavour to keep it up to date with the latest information.

Although we criticise and perhaps sometimes harshly, we criticise in a spirit that will invite interaction and help make the whole system better for all concerned. There is no question in the fact that I have embraced all these changes and the criticism I make should be taken constructively.

Mark Silberman Oct 2020

1.1 INTRODUCTION

This document has been prepared as a guide to help Tax Practitioner's deal with the e Filing and electronic **tax return processes** and the ***provisional tax processes*** and how to run their tax practices ***more efficiently***, ***cost effectively*** and most importantly ***reduce risks***. Never before has there being any document that deals with tax compliance issues like this.

Tax practices over the last few years have been battered by the number of new requirements instituted by SARS, with Covid making it far worse. With the advent of electronic filing in regard to provisional tax and individuals, companies and trust tax returns as well as other automated functionality which is available like the download of assessments there is now the need more than ever for Tax Practitioners to become more organized so that they are more automated which will make them more profitable while also becoming more risk adverse.

We all know that the risks in tax practices are high because of all the new compliance rules and the fact that SARS is far more aggressive in its search for tax money, making it more and more difficult to be risk free. This document will deal with many of the issues of risk, making Tax Practitioners aware of all the legal pitfalls. Now of course for the first time all tax practices are beginning to understand the meaning of a SARS deadline and they know for sure that there are no longer any extensions on deadlines.

This guide is not a tax law reference but is designed to show best practices of compliance and mechanisms reducing all associated risks in running a tax practice. This document will deal with various laws around compliance issues.

1.2 BACKGROUND TO TAX MANAGEMENT SYSTEMS

It's hard to believe that in today's age that some tax practices are not fully computerised or they do have a Tax Management system and it is used as a simple listing system, but not to the full extent. There are still many firms like this, perhaps some even use stand-alone tax calculators, and however there is no question that they are not competitive. There are also some practices that use systems as a bare bones system and do not get much benefit out of their systems. The problem is accounting firms concentrate on audits, accounting and consulting and do not give the tax back office much attention. SARS has changed this because especially in medium size firms downwards all tax practices are what I call ***tax-centric.***

The back-office systems of today are sophisticated and require much more than a decent effort to setup in order to get the best out of them. A well run system generally has a system champion (somebody who makes the system hum) and it normally shows.

I was very fortunate in that I designed the first tax management system in South Africa which launched in 1984. Since then tax management has come a long way. Over the years there have been a number of successful tax management systems which have been used by tax practices to manage their tax departments. The kind of things that tax management systems do is to track and control all functions in a tax department, to do various processing tasks like the calculation of provisional tax, the production of provisional tax forms and various communication aspects, like sending the client a letter or an e-mail or sms to remind the client about a certain payment, or to send the client a reminder by sms not to forget to pay provisional tax or to ask the client to come in and sign the tax return. Essentially a tax management system is a ***management, a control and a client communication system*** all in one to make sure that all tax events in the taxpayer's tax year are taken care of and the clients are advised accordingly.

With the advent of e Filing and tax preparation systems being connected to e-Filing, tax systems become even more important in the accounting firm. These systems

can now communicate with SARS electronically and they can now submit forms like provisional tax and tax returns and actually receive receipts for them as well as download assessments and balance of account correspondence from SARS.

The strength of any tax management system must be to ensure that by certain dates various tasks in the tax year are handled effectively and efficiently. The late rendition of a tax return or a provisional tax form will result in taxpayers being penalized which in some instances can be substantial and will result in claims against the practice. For example if a client pays his provisional tax payment of R200 000.00 only one day late the penalty is 10 per cent being R20 000.00 and if this is in regard to the 2nd provisional payment the penalty can be more sizable than the 10% because of the new understatement penalties. If there is an error by the tax practice in regard to any tax matter, the client may very well hold the practice responsible for penalties and interest. For taxpayers there is only one thing worse than paying tax and that is paying penalties and interest because the payment was late or calculated incorrectly. In today's times most damage claims against accounting firms are for provisional tax "botch ups". This is why by running a good electronic system claims for errors will decrease. SARS has published an interpretation note for provisional tax, discussed later in this document which will give an idea of how serious they are about provisional tax and of course the penalties.

Despite the fact that SARS is looking to force all Tax Practitioners (note the new registration procedures) into interacting with them on an electronic basis they have now implemented a system of administrative penalties (and now criminal intent) whereby if you do not advise them of a taxpayer's address there are penalties that are prescribed and would now have criminal intent. We will deal with this later when we discuss risks.

Increased volumes of work that tax practices now have to handle make electronic systems essential. Even small practices with a few hundred clients have bulk processes that they need to control and manage and this is why most successful tax practices cannot operate today without having a management system in place. It is

only recently that companies like Accfin have also put together an integrated tax preparation system that will improve the effectiveness of the practice.

Over the years I have visited many firms and there is one thing for sure, it is that the tax office of most firms across the board have been neglected as it has always been more important to get the audit work done or do the consulting and earn the fees. When I visit tax practices I always ask the same questions;

1. How many taxpayers have you got? – Answer "*No Idea*"
2. How many tax returns have you got to do before your deadline or extension date? - Answer "*No Idea".*
3. How many objections and how many queries do you have to process.
4. Do you even know how many notices you have missed.

Another sure thing is that the more taxpayers a Tax Practice has the further behind they are. It seems to me that the smaller Tax Practices are doing much better meeting their deadlines.

The view that this is the way we have been doing it for years and SARS has always given us more time has to change. It is because of this ***tax-centric*** approach that Tax Practices now have to put a whole lot of new effort into tax preparation. We now know for sure that deadlines from SARS will never be extended again.

Above all, a good tax management system today is how the system helps ***manage and reduce the risk in your practice*** reducing the time taken on the various mundane standard tasks. You should at least have the following implemented:

- Planning tasks – planning the whole tax year – Covid and delays have now messed everything up
- Managing the tasks – making sure that the clients the staff meet their deadlines
- Lists of outstanding obligations monthly weekly
- Provisional tax review reports early and on time well before due date

- 3rd or top up payment procedures to ensure interest is minimised
- Communication with clients to tell the client their obligations and give them instructions what they need to do
- Risk aversion procedures – protect your firm from having penalties by passing the risk back to the client
- Back-office that interacts with the SARS e-Filing system

In today's times running a tax practice is more risky then some years ago. One of the ways of reducing risk is to use the tax management system as a means of communicating with the taxpayer client's i.e.

- Tell your clients what they have to do well before the time.
- Tell your clients what you are going to do.
- Tell them that you have done it.
- Tell them what is going to happen in the future.

1.3 MEANING OF TAX-CENTRIC

Tax-centric is a word I have coined and I base it on the story of some years ago when IBM coined the word NET-CENTRIC. They said that everything in the IT environment was going to revolve around the computer network. Is this not true! Today everything we do revolves around the internet and the cloud.

So what do I mean by Tax- centric? Everything as far as a Tax Practitioner's client is concerned revolves around income tax. Every client of an accounting practice wants to know that his or her tax affairs are in order. Now there are many different kinds of accounting practices in South Africa. Most of them in the medium sized small environment are without doubt Tax-Centric and this means that they have a dedicated tax compliance department whose sole function is to prepare, produce and submit tax returns. The revenue generated by the tax department in these firms is not the main source of revenue of the practice. Perhaps the auditing and accounting

divisions or the consulting division of the practice generates far more revenue. However, to the client their tax affairs are the most important thing, for them personally, and for all their business interests. This is what I call Tax-centric.

It could be that the firm handles an auditing assignment with a group of companies that might generate a revenue of say R500,000 from auditing and consulting fees and they do all the tax returns of the directors and the companies involved and this might only generate a revenue of say R20,000. Should the firm slip up on the Managing Director's tax return and he is penalized and has to pay interest, that group as a revenue source is suddenly at risk. Despite the fact that most of the revenue is not produced by the tax compliance department, tax compliance is uppermost in the minds of the accountant's clients because SARS has got a very active profile in the marketplace.

Compliance Standards and filing of Tax Returns on time in South Africa is improving dramatically – **pre Covid**. Soon this is going to be the norm rather than the exception. We are moving into a world where there will no longer be extensions or not doing something on due date. The good old days are over! It is because of this that many practices have to build a Tax-centric approach into their whole practice.

This guide is an attempt to help Tax Practitioners become more compliant and improve their efficiency and actually make some money out of a tax department while reducing their Risk.

1.4 TAX PRACTICE RISKS

There are many risks associated with running a tax practice, in fact everything you do in a practice is prone to some kind of error or risk, and very often not of your making. Listed below are some of the things that could go wrong and cause a problem in terms of financial and reputational risk as well as being instrumental in losing a client's total revenue from all sources: -

- A major tax revolt taking place owing to state capture and mismanagement of economy places the TP in the middle.

- Having **No Mandate** where the risk is not passed down to the taxpayer may make the Tax Practitioner personally liable for anything wrong on a tax return and open him or her up to being reported to their controlling body.
- On a tax return submission where a disclaimer and approval of the return by the taxpayer are ignored and the risk of the tax return is not passed back to the taxpayer.
- Inferior correspondence to clients which does not pass the risk back to the taxpayer for each action, i.e. provisional tax and tax returns.
- Late payment or no payment at all of provisional tax by the taxpayer. This will occur where there is no follow up or having proper systems in place.
- Income left out of a tax return negligently or fraudulently can cause the practitioner to be asked tough questions by SARS – now criminal intent legislation seems to be in progress.
- Filing returns without provable confirmation from the client. Verbal confirmation is highly risky.
- No statement of assets filed where this is necessary can render the tax return open forever as it will not prescribe, as this may be seen as a material non-disclosure by SARS.
- No test of living expenses.
- The taxpayer or practitioner does not get a SARS notification by way of email or SMS and therefore makes no response resulting in a punitive revised assessment.
- Leaving payments for the last day is highly risky in the event that something goes wrong.
- The risk elements of Provisional Tax are horrendous and unless you have a system that gives you all the ins and outs you are doomed to make a mistake.
- Not knowing that your tax client is not tax compliant.

2. HOW COST STRUCTURES HAVE CHANGED

2.1 Introduction

It's about being profitable and about making a decent living, whilst protecting yourself against lawsuits, but in the tax industry this is becoming increasingly more difficult. For many larger firms it is about providing an additional service i.e. the tax service that they have to carry out because they are the accountants of large groups and in many cases the tax service is subsidized by the audit and consulting fees. For smaller firms it has become impossible to recover the fees for tax compliance work where it can't be subsidised by the other fees. In this section we will examine why this is so.

In recent times owing to the falling away of many audits, running a tax department has to become more viable. It is exceedingly important that tax practices make a reasonable profit so that they become efficient and provide their clients with a fantastic service.

SARS through their marketing campaigns have created a climate of fear for taxpayers by their heightened PR campaigns and their heavy handed tactics in the way they conduct themselves. I am sure each practice has many examples of these tactics.

We have gone through state capture where SARS was captured and now SARS have got through that and have kicked back with pressure on all tax practitioners and taxpayers. Its true that many taxpayers took advantage and have not paid the correct tax. SARS have declared war on taxpayers which is going to be very difficult on tax practitioners as the work load increases.

Tax Practices in today's times need to ensure that they charge ***proper fees*** for all the work that they do and introduce ***risk aversion checks*** by the steps they carry out. It's also a question of making sure that the taxpayer clients of the practice understand exactly what the Tax Practice does so that where additional work is required to fix or sort out a taxpayer the taxpayer understands that they are getting a bill. Make sure you put this in your engagement letter.

You need to get your client to understand that they need to pay for you to fix their problems with SARS as these problems are mostly ever your fault.

2.2 SARS inefficiency causes increase in costs

The tax industry over the last 7 years has changed dramatically (especially now) and it is clear that there is drop in the administration efficiency of SARS even though they were viewed as the most efficient government department, perhaps this comes about because of their cash collection ability. The real issue with SARS is getting someone at SARs to make a decision and fix a problem that they have created in the first place. It has become really difficult to sort out a problem. Collection efficiency has improved

substantially because that is where all the SARS effort has gone. So in effect if Tax Practitioners do not seek correction of all the errors in assessment, balance of account, misallocations of payments and all other problems the taxpayer may have records that will be wrong as the corrections will definitely not be initiated on the SARS side especially if it is to their detriment.

There was a time (many years ago) where you could visit SARS or phone and have your problem resolved easily. Now this does not happen because of fear of corruption or collusion. So now you can never speak to the same person twice. It's quite clear when I have run workshops how many attendees are ex SARS personnel. Clearly the skills have moved from SARS into the tax profession. The cost factor in the tax profession has gone up dramatically as SARS has become less efficient and more prone to errors which has resulted in additional time that Tax Practitioners have to put in.

Let's look at the incorrect assessments situation in the free e-Filing environment, practitioners are still reporting errors although over the last few years this has improved substantially. There are still many problems with misallocations of payments. There are also many system errors that cause problems that can't be fixed easily.

2.3 SARS has Allocated additional work load to Tax Practitioners

It is not only SARS inefficiency that has created work for TP's but the additional workload that has been passed down to TP's owing to nonstop changes in legislations. This additional work load would include;

- The addition of more complicated tax returns. Compare the ITR12, IT12R trust and the ITR14 to the returns of 5 years ago and the care that must be taken in producing those tax returns.
- The addition of the IT14SD which should now be completed before the ITR14 is submitted.

- Making sure that returns are accurate and that there is no material error that can cause assessments to remain open. Non-disclosure of a material item will cause the assessment to remain open for ever.
- Additional work in regard to provisional tax. A complicated P2 can take days to complete especially where its over R1 million.
- PAYE is a very important tax and payroll data must be uploaded twice a year.
- Dividend returns.
- Sorting out SARS errors and missing notices.

Taking all this into account there has over the last 8 years been an additional workload of anything between 3-10 hours per taxpayer per year on average which has been added to the cost structure of each firm. Now if we assume that the tax profession handles the top half million taxpayers in the country at an average cost rate of R600 per hour, this equates to many hours additional time spent which has to be passed on to clients if possible. Smaller practitioners will tell you that they cannot pass any of these costs on to their clients and that they really struggle with this.

We also need to realise that what used to be quite simple and did not take much effort in the calculation of a provisional tax for P2 now requires some serious time for those businesses that do not have a good accounting structure in place. The onus now falls on the Tax Practitioner to help the taxpayer manage this process.

We need to understand that SARS is going through a tremendous modernisation process so it is expected that their productivity and efficiency will improve over a period of time and we have already seen remarkable efficiency improvements. (And then we had Covid). We need to start thinking about plans for the future and how important it is to cater for future SARS crackdowns i.e. when are they going to automate statement of asset reconciliations.

As SARS automates a lot of their processes like assessments, tax returns, uploading of PAYE and as these processes become more accurate, on the other side of the coin they tend to be asking for more, so the queries have intensified, the

assessments that they process have additional requirements, the audits have grown and, in some instances, we have heard about multiple audits at the same client. Going down to a service center and trying to get some help requires a wait in the queue for hours on end and trying to get a VAT registration is almost impossible until recently, so although there are a lot of aspects that have improved dramatically the workload that they are passing down to Tax Practitioners has grown dramatically.

And then of course we had the pandemic.

There is not much that the profession can do about this, but what is vitally important is that those things that can be automated should be automated so that we can save as much time as is possible.

2.4 The new eFiling costs

Owing to what we have discussed above every practice is going to spend many more additional hours per taxpayer to get all the tax return processes up and running and to comply with all the SARS requirements. It is always going to be harder to recover these costs from clients as the clients are going to resist paying for these additional services especially in the light of tax morality at its lowest level because of the blatant corruption and stealing by government officials.

There is also the bandwidth cost and the cost of maintaining your profiles on the SARS e-Filing website. There is a cost of errors and problems occurring and the cost of phoning the call center to try and get something resolved.

It has become necessary therefore to automate as much as possible.

2.5 Tax Practitioners own inefficiency causes an increase in costs

Accountants are clearly cobblers without any shoes. The pressure of work attending to client's affairs causes them not to put any thought into the way their practice works.

A bit of time, effort and thought and planning would save hundreds of thousands of Rands.

One penalty because of negligence can blow the practice financially.

Simple things as indicated below can save thousands.

2.6 Letters and E-Mail

I have seen tax practices that run in a way that causes their costs to increase dramatically and they do not even realize it. They have been doing it the same way for many years. Practitioners are overburdened with work and because of this they tend to work on a defensive basis so no thought gets put into the processes that are required in a tax department.

Let's take a simple thing – the firm has to write letters or emails to clients about their tax affairs. The question we should ask is how many firms don't do automated letters with all the tax details merged in.

Let's say the annual requirements are as follows:

- Mandate letter
- Pre-season letter
- Approval letter to client for tax returns
- Assessment letter
- 2 Provisional tax letters

This means say at least 6 letters per year. Now say a firm has 1000 provisional taxpayers and the firm does not use automatic letter writing out of their back-office system. Let's say on average it takes 5 minutes per letter (even with a Word template) because they have to be typed, addresses have to be sought and inserted and amounts have to be entered. They then have to be checked and signed. Let us now calculate the time.

1000*6*5 = 30,000 minutes or 500 hours or 71 man days.

Now if the cost rate is say R300 per hour then this has cost the firm 500*300 = R150,000

By converting this to an automatic process straight out of a back office system it is the set up time that has to be spent, but it is this time that is only once off and the rest takes up no administration time whatsoever. Of course, the question to be asked is what we now with the secretaries!

Scenarios that I have come across: -

1. In the past a firm posted all correspondence to the tune of R150,000 per annum and would not pay a licence fee of 80k for software. Can you believe this?
2. Print the correspondence from a back-office system and then sign scan and email.

2.7 Processing IRP6 Forms

There is a school of thought that says why do we need a back-office tax system? Let's just work from Excel and the SARS e-Filing system. "SARS sends us the electronic form with the tax already calculated, all we have to do is step through the IRP6 on the e-Filing system". Copies of everything are filed in the tax file or in a separate lever arch file to make access easier.

Of course, in the light of the way the system works this does not apply anymore. Practitioners who relied on this method found themselves wanting because many of the figures on the downloaded forms are incorrect and can't be used. (*See the discussion in provisional tax*) In this manual situation letters and reports are really difficult to produce as they have to be done manually. Of course, if this is the way the firm works and they believe it is efficient then so be it. My experience is that it takes some convincing to convince them otherwise. The manual basis is only really feasible if the firm handles less than 50 taxpayers.

Where the manual basis is kept the practitioner loses out on the following:

- Producing instant reports – This includes groups of reports for taxpayers.
- Instant access to an electronic tax ledger – one glance tells all.
- History of payments and how they were calculated.
- Instant e-mail, and SMS for communication with clients.
- Ability to receive tax records online.
- Interaction of a back office system with SARS e-Filing.
- Duplication by having to enter data into the SARS e-Filing website.

2.8 How can accounting firms get ahead

A back-office tax return e-Filing system which makes use of tax calculation and a tax preparation system is guaranteed to save a tax practice as much as 40 minutes per taxpayer per year depending on the firm's internal procedures. Today there are web enabled systems that run in the cloud. This gives the practitioner the advantage of being able to access data anywhere anytime.

At a cost rate of R300.00 per hour, savings on a 1000 taxpayers are R150 000.00 in time will be achieved.

All Tax Practitioners have been through a trying time over the last 5 years and now of course the pandemic, however owing to the nature of the beast it is always going to be tough for practices to meet their deadlines. SARS are not going to let up. Dates are going to be continually pulled forward. More work is going to be continually added by SARS – Now more than ever a tax practice has to be automated.

Unfortunately the pressure is not going to stop! Tax Practitioners should all be aware that the tax return filing season starts on the **1st July** of each year on time and that the final submission date for electronic submission for individuals for non-provisional taxpayers will be about **20th November** of each year. Thereafter expect taxpayers to be penalized as the fiscus looks for additional revenue in the global

downturn. SARS penalty system is becoming totally automatic. **Covid changed all these dates.**

Planning is going to be essential if you going to meet your deadlines. As part of the planning process you need to take into account the auditing and planning requirements into account when devising your planning schedule. When are financials finished as the tax return can only be started when the audit is finished?

Work out a ***run rate*** for tax return production. Run rate is how many tax returns per day you have to process from the start of the season to meet the deadline that SARS sets. The tax practitioner needs to re-evaluate the run rate every week.

This in effect gives Tax Practitioners roughly 106 working days to produce and e-File tax returns for individuals. Let us assume that half the body of tax returns that you have are individuals. This means that in a tax practice with 1000 individual taxpayers starting on the 1st July the tax department has to produce and submit 10 tax returns per day on average to meet the deadline. In regard to companies you have a little bit more time. You have in fact 145 days starting on the 1st July. This means you have to do 7 company tax returns per day on average. This does not sound a lot but start counting your submitted tax returns from the 1st July and work out your **run rate** and see how you go!

Now if after the first month the firm is far out and then as each month goes by it becomes worse, the practice will never ever recover or catch up?

Practitioners can now build up a tax return in their back office systems and move it around the office electronically without having to produce a single piece of paper. If you have a system that works at home that is easy. After the return goes through the review and finalisation procedures which are built into the software by simply pressing a button the tax return data can be sent electronically straight through to the e-Filing server.

On visits to many practices it was clear to me just how hard workers in tax departments have to work in order to meet the submission obligations. Very often I

have heard the story of a Tax Practitioner arriving at 06:00 am and leaving at 22:00 at night. Prior to the pandemic Stats were looking much better with many firms submitting between 85% and 90% of submissions by deadline dates.

2.9 Why will a Back Office Methodology Reduce Costs

Once time is lost it can never be recovered!

On the e-Filing Website

On average a high net worth taxpayer will be loaded 5-7 times (SARS stats) on the e-Filing website system before the return is submitted. The average for the whole tax base is loading the returns 3 times.

There is difficulty in accessing the tax return in a high volume database.

There is no facility to automate the moving of the tax return around the practitioners office on the SARS e-Filing website. One has to advise others by email or verbally or by printing it out for completion and review.

There are glitches in saving returns where changes are made with data being lost very often.

One can't complete the return unless all the fields are completed resulting in the stepping through of many fields and entering a zero.

Sending the form to a client can prove difficult with all the different browsers and different versions of Adobe.

One cannot print the form until all the fields are completed.

Entering IRP6 data in a large database is hugely time consuming as one has to find the record enter the data and file. There is a disconnect between the SARS data and your own systems and your tax files.

2.10 On a Back Office System

No saving of a tax return when building up a return as it's automatically saved.

Multiple people can work on and review the return easily.

The ability to find a return easily.

The ability to move the return around the office easily.

Retain statement of assets and liabilities data across all years.

The calculation of income and the statements of assets and the calculation and reconciliation of the capital and living expenses is a huge benefit.

Import company trial balances resulting in quick preparation of ITR14's.

Bulk filing of IRP6's

If one compares the pros and cons it is easy to see that the time saving will be immense. We say that 40 minutes will be saved per tax return using our methodology. The above list certainly makes it a lot more.

2.11 Efficient back-office system will reduce costs

There is absolutely no question that an efficient back-office system will reduce costs substantially. Today there are many firms that will not cope if their back-office system is taken away.

3. THE START OF THE NEW SEASON

We have just completed the 2021 tax year and oh boy it was tough. We said it was different but 2022 is going to be more different. This year Tax Practitioners are going to be all dealing with major shortfalls at SARS and there is going to be increased pressure like never before! The SARS Commissioner announced for 2021 the fact that there was going to be R260 billion shortfall a few months ago. It is likely to be far worse. Therefore it is very important to plan the way we are going to handle this season properly. This year we can't just do what we did in the past as it not the same. We now do have some time to plan and yes we still trying to finish last year. What exactly are we going to be doing until the 1st July when the season actually opens.

The plan that I think all tax practices need to adopt is to get their processes and procedures right, to think ahead and start early. In this set of notes I will deal with what we have to do in the short term and what we have to know now and what we have to understand.

In this document we are going to talk about the ***planning process*** what we have to do now and what we have to send our clients. It's also important that our taxpayer clients need to know their responsibilities and what they have to do and what information they need to provide and more importantly what we do for them. Our taxpayer clients have no idea of what's involved.

It's because of what is going on and what the business and pandemic world is going through that we have to get our communication strategy right up front so that there is no mixed messaging so that all the clients know exactly where they stand and what they have to do. By having the correct communications strategy you will be making your practice risk averse.

Most important of all we have to take cognisance of where our clients are financially and how they are coping with the lockdown and the loss of business. Cash Flow

will be impacted for a long time. Practices will have pressures from 3 sources and will need to mitigate this pressure:-

- SARS
- Clients who don't understand what you do.
- Sheer increase in tax volume

Most important of all is how do we handle the clients cash flow when it comes to paying tax. If we don't do this properly the client will not exist in the future. There will be nothing worse then paying the right amount of taxes and then the business goes into liquidation 6 months later.

https://www.accfinsoftware.com/cash-flow.html

4. THE COMMUNICATION PROCESS

4.1 HOW TO DO COMMUNICATIONS

We now talk about the ***new normal***! We at Accfin have been talking about the new normal for a long time and now Corona Virus has forced the new normal upon us.

What is the new normal;-

The way a Tax Practitioner communicates with clients from ***letters of engagement***, ***mandates***, ***pre-season letters, provisional tax letters*** to every day run of the mill ***letters*** and ***e-mails***. Part of this communication will include ***verbal communication, now on-line communication***, ***e-mail communication*** with ***digital signatures*** as well as ***SMS communication***. We need to adopt and approach that makes us risk averse as far as our clients are concerned.

Good communication always starts with having a proper ***mandate or engagement*** letter. Does your firm have one? 60% of all tax practitioners don't have one.

Face to face is now the old normal and just not on and more costly then on-line. I am nevertheless sure that as everything normalizes that it is not going to be the same again ever as in the past as the new things we are learning will remain.

We are all under huge pressure especially Tax Departments and therefore have a greater need to communicate with their clients. It is a lack of proper communication that is going to cause problems for the firm and create bad will. The mandate or engagement 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 if there is missed communication the Tax Practitioner will be blamed. Of course you will be blamed years of experience tells me so!

The new normal is there is no postal service as it died long ago, we did not need Corona Virus to do this, State Capture already did it. If you set up email properly whatever you send to a client can be sent out as an attachment securely in a PDF format and saved. Systems now also have an ability to keep the documentation for quick retrieval. With the advent of digital signatures, electronic documents, letters, tax returns etc. the way you store these documents are going to become exceedingly important.

4.2 HOW TO DO COMMUNICATIONS

By writing your letters and your emails properly and by even introducing an **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. An SMS is a data message and a legal way of communicating with your clients in terms of the ***Electronic Communications and Transaction Act.***

There are some basic rules that you should adhere to in your communications. 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. Think about things that have happened to you in the past and you have had to defend yourself. 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 or email 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 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. SARS has a penalty regime which they may kick into action at any point in time.

It's a fact that no taxpayer likes to pay penalties and interest and where they can they will hold you responsible. Penalties and interest are definitely a sign of the future.

It's my belief that because it's now coronavirus time that SARS will home in on taxpayers who are still there like you have never seen before. There is no better time than now to get your whole tax practice up to an excellent state from a professional and a risk averse point of view.

At the end of this document we provide a series of links to the letters that you should be writing.

4.3 ENGAGEMENT LETTERS

The core of the practice's risk aversion strategy is the way you handle your communications. It is of absolute necessity to have a signed mandate or engagement letter. It is in fact a term of the SARS e-filing terms and conditions state that you have to have such a document on file signed by your client.

An engagement letter with the e-Filing terms and conditions should be sufficient to give the Tax Practitioner a sufficient mandate to handle all tax aspects for your clients. In fact the engagement letter that Accfin presents sets out the whole tax year and should be used as an **educational document** for your client as it explains to your client exactly what you do for them.

In my view it is necessary to set up a **separate engagement letter** for the tax department other than an engagement letter that covers audits. I would seriously recommend this because this document has to be reviewed each year as terms and conditions, procedures and circumstances change. Look at the effect of COVID-19.

A major issue that your tax practice will have is the **delivery of communications** and notices to your client as well as to SARS and income notices from SARS. A paragraph detailing where electronic communications must be delivered is detailed below and should be inserted in your letter of engagement;

4.4 MANDATE AND E-FILING TERMS AND CONDITIONS

https://www.sarsefiling.co.za/TermsCondtions.aspx

The above link will take you to the SARS terms and conditions which must be read by every Tax Practitioner. As a Tax Practitioner if you have not read the terms and conditions you are at risk.

I strongly suggest that the original bullet points contained in the original e-filing terms and conditions published by e-Filing (which have now been removed) be inserted into the mandate and engagement letter which we have provided. The e-filing terms and conditions bullet points are listed below.

> *Please be advised that South African Revenue Services (SARS) has now forced us to make use of their E-filing Services and we require your mandate for **MY FIRM** to register as an E-filer on your behalf. Once this is done the following additional terms and conditions in regard to E-filing shall apply:*

- ***MY FIRM*** *the e Filer acts as a duly authorised agent on your behalf.*
- *You will be liable to SARS for the due and timeous fulfilment of all your obligations towards SARS.*
- *Any information submitted by* ***MY FIRM*** *to SARS by means of the e Filing service will be based on information received from you and you are responsible for ensuring that such information is true and correct.*
- *Before we submit any information to SARS by means of the E-filing service we will need your confirmation that the information being submitted is a true and correct reflection of what you have provided.*
- ***MY FIRM*** *will not be responsible for any tax liability imposed by SARS for any reason whatsoever.*
- ***MY FIRM*** *has disclosed the minimum conditions for the mandate to you;*
- *Where SARS changes the conditions of E-filing on their website, the effect of such changes will take three months. We will disclose any change and minimum conditions within the three-month period to you.*
- *You the taxpayer confirm that all liabilities, obligations and penalties due to SARS remain with you.*

There is one term and condition on the e-Filing Terms and conditions which must be taken note of and understood - ***additional terms of use No 5***:

If the e-Filer is a **registered tax practitioner** or a person referred to in section 240(2)(d) of the Act, the e-Filer must obtain a written mandate from the taxpayer, ***which mandate must be provided to SARS*** and at a minimum –

1. ***detail the authority*** granted to the e-Filer by the taxpayer; and
2. ***contain an acknowledgement by the taxpayer*** that any and all liabilities under a tax Act remains with the taxpayer.

Please do not confuse the mandate and engagement with TPPOA form which is used by tax practitioners who need the power of attorney when they visit SARS to handle a client's affairs.

Tax Return processing and submission

The issue that I am raising is this:-

"the e-Filer must obtain a written mandate from the taxpayer, **which mandate must be provided to SARS and at a minimum –** "

What is meant by "**must be provided to SARS"**. Does this mean that the Tax Practitioner's must submit (provided to) to SARS a mandate to cover everything? This wording is confusing, because if this is the case then SARS must provide a facility for this. If this is not the case then SARS should change the words. I think what SARS may be trying to say is that the Tax Practitioner should have a signed mandate in his or her possession which passes the risk of the return back to the taxpayer before any e-Filing can be done.

It appears that this term also applies to a person mentioned in S240 (d) of the TAA.

S 240 (d) provides for someone within the firm who provides advice or completes or assists in completing a document solely—

(i) to or in respect of the employer by whom that person is employed on a full-time basis or to or in respect of that employer and connected persons in relation to that employer; or

(ii) under the direct supervision of a person who is registered as a tax practitioner in terms of subsection (1).

4.5 WHY A TAX MANDATE IS ESSENTIAL

A signed mandate or engagement letter must be in the tax practitioners possession because of the following reasons;-

- the e-Filing terms and conditions says the taxpayer must have a signed mandate with the Tax Practitioner
- the Tax Practitioner is acting as an agent for the taxpayer ensuring that all actions and returns submitted are with the authority of the taxpayer.

- It is an indicator to SARS that there is no collusion between the taxpayer and Tax Practitioner and making sure the risk is with the taxpayer
- Its an indicator that the Tax Practitioner has the necessary authority to provide SARS with tax returns and any information that SARS requires

In the recent media release by the Commissioner he mentions that they caught many Tax Practitioners colluding with taxpayers. If you follow the rules this can never happen.

4.6 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".

4.7 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 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.

4.8 P1 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.

4.9 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.

4.10 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 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

4.11 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.

4.12 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

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 being 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.

Letter examples

https://www.accfinsoftware.com/tax-mandate-letter.html

https://www.accfinsoftware.com/tax-pre--season-letter.html

https://www.accfinsoftware.com/sky-tax-prov-letters.html

4.13 DIGITAL SIGNATURES

DIGITAL SIGNATURE PLATFORM

Introduction

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

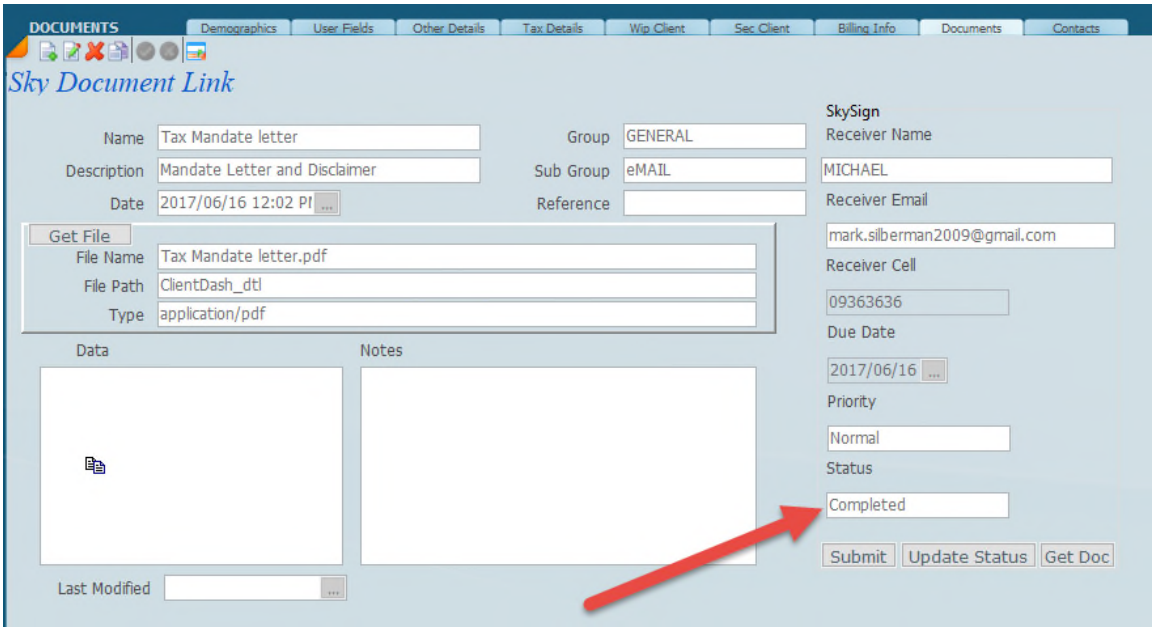
Accfin Software have partnered with the leader in digital signatures in RSA to produce an automated approach to solve the above problem. We see the integration of Sky and a digital signature or confirmation system as a very important aspect in improving the efficiency of a tax practitioner's office,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

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**.


DOCUMENTS
Demographics
User Fields
Other Details
Tax Details
Wip Client
Sec Client
Billing Info
Documents
Contacts
Sky Document Link
Name
Tax Mandate letter
Description
Mandate Letter and Disclaimer
Date
2017/06/16 12:02 PI
Group
GENERAL
Sub Group
eMAIL
Reference
Get File
File Name
Tax Mandate letter.pdf
File Path
ClientDash_dtl
Type
application/pdf
Data
Notes
Last Modified
SkySign
Receiver Name
MICHAEL
Receiver Email
mark.silberman2009@gmail.com
Receiver Cell
09363636
Due Date
2017/06/16
Priority
Normal
Status
Completed
Submit
Update Status
Get Doc

ACCFIN
SOFTWARE THAT WORKS THE WAY YOU THINK

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.

4.14 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 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.

5. MANAGEMENT OF THE TAX RETURN SUBMISSION PROCESS

5.1 INTRODUCTION

In this section we talk about how a Tax Practitioner should manage the whole tax return submission process cycle. It's important to manage the process so that no steps are missed which could cause risk to the Tax Practitioner and of course to the client. Later on, we will talk about how ***task management*** helps in this process and we will give some of the steps in the process. Task management is really just about managing each step in the process making sure that you don't miss anything before you file.

Start thinking now about the tax return process even though the season only starts in July. You have to actually start from now as everything we know has changed.

We all know that producing and processing a tax return is a stop start process and it's very easy to miss information and steps,

5.2 THE NEW STEPS IN THE PROCESS FOR TAX RETURN RETRIEVAL AND AUTO-ASSESSMENT

Before we get into the actual steps we need to understand the new procedure introduced by SARS in regard to **auto assessment** and how it's going to affect your tax practice. Its already affecting your practice and its likely to continue as it produces assessments long before the taxpayer does.

I have extracted part of a government gazette notice **No. 43495** 3 July 2020

(3) A natural person is not required to submit an income tax return in terms of paragraph 2*(f)*(vii) if—

(*a*) the person is notified by the Commissioner in writing that he or she is eligible for automatic assessment; and
(*b*) the person's gross income, exemptions, deductions and rebates reflected in the records of the Commissioner are complete and correct as at the date—

(i) of accepting automatic assessment; or

(ii) specified in paragraph 4(*b*)(iii), irrespective of whether the return relates to a provisional taxpayer, if he or she does not respond to the notification by this date.

All auto assessment for 2020 that have not been accepted or rejected received an assessment based on the figures that SARS has on file by the end of February 2021.

From a tax back office system – Accfin or competitor point of view.

SARS have been working on getting ***3rd parties*** like banks, insurance companies and medical aids and all companies to upload their data so that tax returns are pre-populated with the data. Owing to this SARS now has sufficient data to generate an assessment automatically.

The first step in doing any tax return is the ***retrieval process*** where we first of all request retrieval of the tax return we wish to process via Sky Tax or any other tax back-office system or manually on e-Filing. From the 2020 season in regard to ITR12's there is a change in the retrieval process as some taxpayers who have more simple tax returns and fall within the rules SARS has set will now receive an ***auto assessment.*** The taxpayer either accepts or rejects the auto assessment, by rejecting the auto assessment the taxpayer has the choice of modifying the tax return and correcting it. Currently at this stage the acceptance or rejection has to take place on the e-Filing system and not in any back office system.

Its important to note that by the close of the season that SARS will automatically issue an assessment if no action is taken by the taxpayer. This will even apply to taxpayers who are on a Tax Practitioners profile.

The Tax Practitioner will be able to do the acceptance or rejection on the tax Practitioner profile.

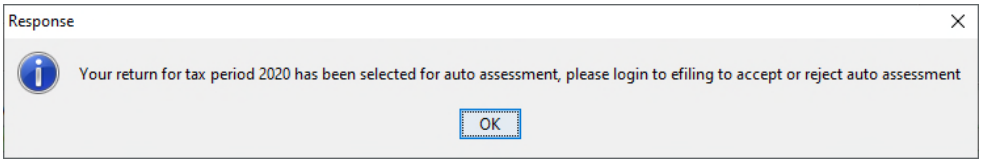
At the time of writing we are not sure who will receive an auto assessment as SARS has not indicated the exact rules on who gets an auto assessment therefore we will have to see how this goes when we start the process of retrieval of the returns.

Taxpayers will be getting SMS messages indicating that they have been chosen for auto assessment. The SMS appears to indicate the amount or refund due.

The ***first step*** is that you start with the **retrieval process** in Sky Tax or your back office tax system.

Once this is done by clicking on the **response button** the following **message** will appear, which will give you an indication of which way SARS is going on the tax return. If you use another system ask your vendor how you will get this notice.

As a rule the Sky Tax system will give you a response message by clicking on the response button instantly:-



Where there is an auto assessment the Tax Practitioner must log into their tax e-filing profile and retrieve the tax return. On retrieval you will be presented with a banner to **accept or edit** the auto assessment. The return will come down for editing if **edit** is selected and if **accept** is selected an assessment will be issued in the normal manner.

In the Sky Tax or back office system if the auto assessment is accepted SARS will issue an assessment which on request will come down into the back-office system in the normal manner.

In Sky Tax or another tax back-office system retrieve the return again which will come down instantly for completion.

Where there is **no auto assessment** the ITR12 return will come down into the Sky Tax or your back office system as it normally does after 24 hours.

If the auto-assessment is rejected the ITR12 return will come down into the system for completion and the Tax Practitioner may complete it in the normal way.

5.3 IMPORTANT STEPS IN THE PROCEDURAL PROCESS OF TAX RETURNS

There are a number of critical steps in the tax return planning and procedural process that must be adhered to in preparation of the 2022 season.

The most important steps are:-

- **Mandate letter**
- **Pre-season letter**
- **Approval of tax returns before filing**

Ensuring that you have an updated ***mandate letter*** or ***engagement letter*** on file is critical to being risk averse in your tax practice and probably the most important step that you carry out before submitting a tax return. The mandate letter is mandatory in terms of the e-filing terms and conditions.

https://accfinsoftware.lpages.co/accfin-sky-tax-mandate/

It's also imperative that you write to your clients a ***pre-season letter*** before you start the process so that your clients understand their responsibilities.

It is important to ensure that the client **approves the tax return** and that you have a signed mandate and disclaimer before you file.

There is a further step that comes to light from the 2020 season being that you need to have approval to **accept or reject an auto assessment** on behalf of your client. It will be standard that if there is any deduction or claim to be made against income that the auto assessment must be rejected.

In fact if the taxpayer is on the tax practitioners profile the auto-assessment must be rejected.

There should be documented steps in the process that at least deals with the following even if you are a very small practice.

*** Check that the mandate is signed and up to date**

If you ***don't*** have a signed mandate in your possession do not submit the tax return as SARS could hold you responsible for anything that SARS finds wrong with the tax return. It's imperative that you pass the risk back to the taxpayer. SARS are out to find collusion and they are finding it.

*** Taxpayer to approve the return or the auto assessment.**

Another important step would be to get the taxpayer to sign the return or facsimile or report as acceptance that they agree with the figures that are being submitted to SARS. It's all about risk and it's imperative to make sure that you pass the risk back to the taxpayer.

Each firm should devise a step-by-step procedure or check list whereby each function can be ticked off as completed. The tasking system will take care of all the steps in the process ensuring that your firm becomes risk averse.

Sky Tax allows you to manage each step in the process!

If you are manual keep a spreadsheet and keep all the steps that you have followed as proof as to exactly what you have done. Its always best to keep this information in one place.

In a back-office tax calculation system one can set up a system to ensure that all the steps are carried out before electronic submission is allowed. An example is that if say the client has not approved the tax return it can't be submitted by mistake.

It is clear that before a Tax Practitioner can submit any document on the e-filing website namely a provisional tax return or an income tax return it is imperative that the clients approval is received before the document flows through to SARS. In other words, the client must indicate that they have agreed with the return prepared by the

Tax Practitioner and the practitioner should have evidence to this effect. If the Tax Practitioner can't show this where there is a dispute there is a problem.

This has to do with money and especially in regard to provisional tax and could result in penalties if there is any mis-communication. When this goes wrong see how long the client remains your client? Big clients are easily lost when something goes wrong in their tax.

It is also no good to have an email for the approval from the client unless you can file it and access it if you really need to. It is certainly not a good idea to accept a verbal ok for both provisional tax and for tax returns as the client could easily deny this when something goes wrong.

For convenience there should be a disclaimer for every tax return that the taxpayer must sign.

> ***This tax return is prepared by My Firm based on information received from you. You confirm that you have signed the letter of mandate and you indicate your agreement with the net income as shown in this documentation and confirm that the figures are supported by the information and supporting records that you have supplied to us by signing this page. You confirm that all liabilities to SARS remain your liabilities. You also confirm that we can go ahead with the filing of your income tax return. On signature of this page we confirm that we will proceed with the electronic submission of your tax return***.

Before the Tax Practitioner submits the return electronically the client must sign the printed report which is retained in the taxpayers file. Digital signatures would help tremendously with this task and make the whole process electronic.

Running or managing the various processes in a tax department is extremely difficult owing to the stop start nature of the tax return process and the large number of people that could be involved in the process. Owing to shortfalls of tax collection and improvements at SARS the processes are going to be more difficult than ever before.

The more taxpayers you have the more control over the management of the process that you need. We at Accfin have developed a technology which we call ***task management*** which is integrated into all aspects of our software. Tasks help manage the process or the steps of each function in building up a tax return using the cradle to the grave approach.

By making use of task management systems a user or the manager of a tax department can define the steps in the process that they wish to manage. The steps could be simple, perhaps a three-step process or they could be more complex perhaps a ten-step process. Later in this section we define some of the tasks that you would need to consider.

A **Task** can be either electronic or manual or can be part of a CRM system. It is just that if these tasks are manual they would be much harder to control. With the electronic approach used in Sky Tax solution you will easily be able to see exactly what tasks are outstanding at any point in time by running our specialised filters.

5.4 SOME RISK CONTROL ASPECTS

There are numerous articles and papers on risk control. Tax departments now have to take extra care as they cannot afford mistakes which could result in claims against them either by the client or by SARS or mistakes that can affect their reputation.

Completing tax returns can be likened to doing audits. There are rules and procedures that have to be followed in order for the auditor to get to an opinion that he can sign off on the financials. The same applies to tax returns. There are rules and procedures that must be followed that will allow a practitioner to sign off on a tax return and be satisfied that all the rules and procedures have taken place and that *his or her good name is protected.*

Filing a tax return is like signing a balance sheet and could be more risky. Section 234 of the Tax Administration Act now makes any error or any rule as specified not attended to by the taxpayer a criminal action with a fine or jail term of up to 2 years. The provision specifically talks about a negligent action being a criminal event. A

Tax Practitioner does not want to find themselves in this position where they neglected to attend to some aspect on behalf of their client and the client gets charged criminally.

5.5 TASK THAT YOU CAN SET UP

Tasks That You Should Set Up

Detailed below is a list of suggested procedures or tasks that could be followed in a tax department in order to satisfy risk control and put good management controls in place ensuring the tax affairs of the taxpayer are handled perfectly.

- ✓ Check the ***tax status*** of the previous year's return.
- ✓ Check to see if there were any ***queries*** that you need to be aware of
- ✓ Set up a procedure to get the ***demographics*** correct Sky has a procedure to end an email on this
- ✓ ***Mandate*** – ***Make sure*** you have an up to date signed mandate.
- ✓ ***Pre-season letter – advise client*** of deadlines and responsibilities.
- ✓ ***Check for the auto-assessment Sky does this***
- ✓ ***Data collection process*** – ***make sure*** you get all the data to complete the tax return before you start processing the tax return. This will include IRP5's, RA's, travelling details, financial statements and interest and dividend certificates. Make sure you obtain all the necessary information for the statement of assets if required. ***It is not good enough to accept that SARS uploaded correct data.***
- ✓ ***Input IRP5*** – make sure that you have all the IRP5 forms and that they are correct – pay particular question to the medical aid figures.
- ✓ ***Provisional tax*** Make sure you confirm the actual payments otherwise the amount due could be wrong
- ✓ ***Preparation of schedules*** – complete all the schedules that you need for supporting figures in the tax return.
- ✓ ***Inputting the data into a Tax Calculator*** – capture the data making sure that that you select the correct source codes.

- ✓ ***Checking the tax calculation*** – check the calculation making sure that the figures tie up with your schedules and input documents.
- ✓ ***Submit the tax return to a manager for vetting*** – manager to review the tax return making sure that it is correct.
- ✓ ***Client to sign documents*** – arrange for client to sign the return or to sign digitally – make sure that the client understands the full implications of what they are signing.
- ✓ ***Submit to E-filing*** –submit the data from the back office system to e Filing or manually from e-filing.
- ✓ ***Check the assessment –*** make sure the assessment is correct.
- ✓ ***Finalisation letter –*** make sure that a finalisation letter is received from SARS.
- ✓ ***Objections –*** if an objection is required make sure that it's handled timeously and the various aspects are tracked and controlled

5.6 TIME LOST CAN NEVER BE RECOVERED

The approach that is used in tax return production is different to provisional tax returns because tax returns is more of a build-up of the return which if we take all the steps in the process can be by multiple people i.e. review, signoff and submission and can be over a longer period of time. ***For those of you that are manual I have indicated the difference with a back office system!***

E Filing Website	Back Office System
Analytics. SARS runs analytics and can tell exactly what you do including if you play "what if" on the travelling claim allowance. They may as well have a camera in your office.	No Analytics. The first time SARS sees anything from a taxpayer is when the return is filed. Play "what if" without consequences.
On average a high net worth taxpayer will be loaded 5-7 times on the e-Filing website system before the return is Filed. This takes time and there is no control over the process other than manual controls.	The first time SARS sees the tax return is when it's filed via the Back Office system. There is a huge advantage in building up a return on an external system independent of the website as there is total control of every aspect.

There is difficulty in accessing the tax return in a high volume database as you have to log in each time and there are a number of key strokes to find the tax return. You cannot leave the return open as the system will take you out automatically forcing you to log in again.	Access a tax return instantly irrespective of the size of the database and leave it open indefinitely.
There is no facility to automate the moving of the tax return around the office on the SARS e Filing website. One has to advise others by email or verbally or by printing it out for completion and review taking time.	In building up a tax return the system allows the moving of the tax return around the office automatically through the various stages of preparation, signing and review.
It is difficult for multiple people to work on and review one return.	Multiple people can work on and review the return easily.
There are glitches in saving returns where changes made to a return are often lost.	No saving of a tax return when building up a return as it's automatically saved on the system. Provided the correct procedure is carried out there will be no loss.
One can't complete the return unless all the fields are completed resulting in the stepping through of many fields.	One only needs to complete the parts that have to be completed and the rest can be ignored.
Sending the form to a client can prove difficult with all the different browsers and different versions of Adobe.	Not applicable as a report pack can be produced and sent to the client.
One cannot print the form until all the fields are completed.	A report pack can be produced at any time during the building stage.
Running on the SARs e Filing website is a duplication to your own in house systems and files. Returns have to be printed and entered into the filing system.	There is no duplication as all the data is processed internally and then communicated to SARS.

By making use of the Accfin methodology in filing a tax return the practice will save at least 50 minutes per taxpayer per year which can result in substantial savings.

6. LIABILITY OF TAX PRACTITIONERS

6.1 Introduction

Many years ago SARS published The Guide for Practitioners under the heading Liability of Practitioners which deals with some very important issues in regard to the

liability of Tax Practitioners and it is important that Tax Practitioners understand all the implications. Please note that this is a discontinued publication but provides important information and principles for the Tax Practitioner. The most important principle being stated below.

> **"*In essence as long as the information on the return accords with the taxpayer's instructions and there is no dishonesty on the part of the practitioner, practitioners cannot incur any liability."***

Dishonesty is one thing, but besides this the practitioner must show that he has complied with the rules of good tax practice in building up the tax return and that he has applied his professional skill in making sure that what he is filing is correct and cannot be questioned and conforms with the information that the client has supplied. If for instance a Tax Practitioner does not do a ***capital reconciliation*** for the client to ensure that all the income has been accounted for as well as including the taxpayer's assets and liability on the return could this be negligence?. In this case has he the Tax Practitioner really applied due care and skill in preparing the tax return of his client? Of course this would only apply to a more complex tax return situation. If however the Tax Practitioner does not complete the statement of assets this may very well result in a material non-disclosure.

When e Filing started there was a misconception that Tax Practitioners would incur greater liability by e Filing tax returns. According to page 12 of the Guide for Tax Practitioners – *"**using the e Filing channel does not impose greater accountability or liability on you than of our manual channels"**.* As this is contained in an official publication I believe that this is exactly what SARS has intended and confirms the discussion from some years ago when the terms and conditions were onerous and made e Filing far more dangerous for Tax Practitioners. SARS agreed to change the conditions so that the liability between manual and electronic filing were exactly the same.

The real issue here is that because SARS in the past has acted aggressively against Tax Practitioners there is mistrust of SARS's intentions. There are many well known cases of this aggression especially in some of the statements that SARS have made.

6.2 Signing Tax Returns

There is some confusion in regard to the signing of tax returns and many misconceptions. In order to determine the liability of practitioners in regard to signing tax returns we have to examine some of the sections of the law. The electronic way of doing things changes everything we know.

Tax returns must be signed by either the taxpayer or his duly authorized agent. I would just like to point out that the sections shown below have been deleted by the Tax Administration Act. I am discussing these sections because they really emphasize the proper position as I don't think that the current law deals with some of these items properly.

> *6) Any return furnished as contemplated in this section shall be signed by the taxpayer or by his agent duly authorized in that behalf, and any person signing any such return shall be deemed for all purposes in connection with this Act to be cognizant of all statements made in that return.*

The person who signs a return is deemed to be cognizant of all statements made in that return. So, it is very important that when completing the return, the Tax Practitioner gets the taxpayer to sign their approval, something we discuss in these notes. Nevertheless, the Tax Practitioner must apply his mind and understand all the components of the return, because by submitting any information to SARS the practitioner confirms that to the best of his knowledge such information is correct and complete, and that all the necessary information has been disclosed to SARS. Remember the Tax Practitioner detail is being entered on the return. The same rules apply whether the return is completed manually or by electronically means.

The above applies perfectly when doing a manual tax return, however when doing an electronic tax return, it is the Tax Practitioners who press the submit button who are effectively signing the tax return. The question then arises who in actual fact signed the tax return.

The letter of mandate or engagement letter should cover when signing the tax return on an electronic basis. It is therefore very important that Tax Practitioners get from their client a proper mandate and must get a positive confirmation that the taxpayer agrees with the contents of the return.

A return is deemed to have been duly made and signed by the taxpayer, unless the taxpayer proves that the return was not made or signed by him or on his behalf, section 66(7).

> *7) Any return made or purporting to be made or signed by or on behalf of any person for the purposes of this Act, shall be deemed to be duly made and signed by the person affected unless such person proves that such return was not made or signed by him or on his behalf.*
>
> *7A) The Commissioner may, in the case of any return furnished by a taxpayer or a taxpayer's authorised agent in electronic format, accept electronic or digital signatures as valid signatures for the purposes of subsection (7).*

A taxpayer cannot avoid responsibility by having his Tax Practitioner sign the return on his behalf. The taxpayer remains liable to SARS for the due and timeous fulfilment of all the taxpayers' obligations towards SARS. There is also a presumption in law that a false statement on a return is attributable to the taxpayer.

If there is a dispute as to whether a Tax Practitioner completed a return and applied his signature to the return with or without the consent of the taxpayer in either a manual or an electronic format it will be assumed that the signature was with the consent and authority of the taxpayer. See Section 66(7)(c). Of course if the Tax Practitioner has an engagement letter and mandate in place which is properly signed

there can be no doubt that the taxpayer is responsible. It is these simple formalities that will prevent a lot of heartache in the long term.

> *7C) Where in any proceedings or prosecution under this Act or in any dispute in which the State, the Minister or the Commissioner is a party, the question arises whether an electronic or digital signature of a taxpayer affixed to any return as contemplated in subsection (7A), was used with or without the consent and authority of that taxpayer, it shall, in the absence of proof to the contrary, for purposes of this Act be assumed that such signature was so used with the consent and authority of that taxpayer.*

6.3 Responsibility of Information When Submitting a Return

When submitting a return, it is absolutely imperative that there is confirmation by the taxpayer of what is been submitted and that the taxpayer is in total agreement because if the taxpayer changes his mind because of a SARS query or audit or the taxpayer is caught in a lie then at least the practitioner has the signature of the taxpayer of exactly what has been submitted and approved by the taxpayer. This could cause a huge problem for the Tax Practitioner if there is a dispute later, and this is one of the reasons why a practitioner should obtain confirmation from the taxpayer that all the information contained in the return was provided by the taxpayer and is correct. The mandate conditions will cover many of these aspects so we now see that the engagement letter and mandate are now extremely critical and it is really important to have it on file before you submit the tax return.

In the Tax Practitioner Guide it clearly says that information submitted to SARS should be based on information received from the taxpayer and the taxpayer is responsible for ensuring that such information is true and correct regardless of whether the information is submitted to SARS manually or electronically.

In these notes we deal with the mandate at length, so based on the above interpretation when a tax return is finalized by a practitioner that some form of document is printed out with a statement which will appear on the bottom of the

summary of the tax calculation, which when the taxpayer signs his approval that he is aware of all the information that went into building up the tax return and he is aware that it is the information that he the taxpayer has provided for the completion of his tax return. Another way of doing this is for the taxpayer to sign a printout of the Adobe form but we would also suggest that a summary of the calculation is printed and the taxpayer signs it as well. This way he understands the total impact of the amounts that he is declaring.

If you were to use a tax preparation system then on a tax calculation summary or cover we would suggest something like this on the bottom of the calculation.

> ***Prepared by My Firm based on information received from you. You confirm that you have signed the letter of mandate and you confirm your agreement with the net income as displayed in this documentation and confirm that the figures are supported by the information and supporting documentation that you have supplied to us by signing this page. On signature of this page we confirm that we will proceed with the electronic submission of your tax return***.

6.4 When Practitioners Could Potentially Incur Some Liability.

In the Tax Practitioners Guide there is a section which deals with when practitioners could potentially incur some liability. The points below come from the guide.

If a Tax Practitioner signs a return without reasonable grounds for believing it to be true, or if they make use of any “fraud, art or contrivance is used.” It would be a good idea for the Tax Practitioner to establish some reasonableness tests to establish the reasonableness of the data been submitted on the tax return. It could be that a capital reconciliation exercise would be a reasonable exercise to establish that the living expenses are reasonable. It would be a very reasonable test to compare from one year to the next.

If Tax Practitioners use the electronic or digital signature of another person without their consent and authority.

If a Tax Practitioner does or omits to do anything that he is intended to, enable or assist a taxpayer to avoid or unduly postpone the performance of any duty or obligation imposed on imposed on the taxpayer. It could be the late rendition of a tax return in order to reduce the next years provisional tax could fall foul of this.

If a Tax Practitioner's negligence results in the avoidance or undue postponement of the performance of a duty or obligation imposed on a taxpayer. Again the late rendition of a tax return in order to reduce the next year's provisional tax could fall foul of this.

If a Tax Practitioners action or omission constitutes a contravention of a rule or a code of conduct laid down by the controlling professional body. Remember the Tax Practitioner has to be registered with a controlling body.

Action by SARS will only be taken if it is clear that the Tax Practitioner is guilty of a serious or persistent dereliction of duty involving dishonesty or subterfuge or the circumstances indicate an intention to obstruct or mislead SARS.

In terms of the TAA the Tax Practitioner can be reported to their controlling body by SARS for any dereliction of duty.

The mere act of submission either manually or electronically does not expose a practitioner to any liability.

7. ASSESSMENT RETRIEVAL AND CORRESPONDENCE

7.1 INTRODUCTION

SARS downloads assessments as fast as they can, and in many instances the assessments are subject to various additional steps that practitioners have to carry out. SARS sends out many different letters after assessment which will result in audit verification etc. Some of these assessments might be subject to a third-party upload, your tax return is going for audit, you have a refund, please supply the following information, complete an ITR14SD etc. It is because of these issues that an assessment is never finalized until SARS says that it's finalized by issuing a finalisation letter.

Over peak periods at the end of October and February practitioners get so many assessments and notices that they don't have sufficient time to process before the payment date. A back-office system can help the practitioners get through this much faster.

How do you control this? A TP needs a system to track and control the administration of assessments right through to their finality. It is my belief that the control of this aspect is critical to any tax practice.

The retrieval function is a basic fundamental transaction that happens daily. Every day you should retrieve assessments and notices. We have now implemented automatic retrieval and notices guaranteeing retrieval of these documents. This will populate the assessment file in our systems automatically and bring down the notices.

Users will then be in a position to produce a difference report and investigate, what was submitted against what was assessed.

In a back-office tax system there should be no need to download assessments and correspondence. There is no need to go on to the e Filing website to get the notices.

7.2 Types of assessment and prescription

Assessment means an assessment as defined in section 1, namely, the determination of the amount of a tax liability or refund, by way of self-assessment by the taxpayer or assessment by SARS;

S91 of the TAA deals with assessments. The 2 main type are self-assessment like VAT or PAYE and the assessment that is issued by SARS like tax returns where SARS calculates the liability. Where a return incorporates a liability it's a self-assessment.

SARS may not make an additional or reduced assessment 3 years or more after the date of assessment after an original assessment issued. In the case of self-assessment, it is 5 years.

The prescription period for a SARS assessment does not apply if the tax liability was not paid by the taxpayer due to fraud, misrepresentation or non-disclosure of material facts. In the case of self-assessment, the prescription period does not apply if the tax was not paid due to fraud, intentional or negligent non- disclosure of material facts, or the failure to pay the tax if no return was required.

Where fraud is alleged SARS has to tell the taxpayer what fraud is alleged before ignoring the prescription period.

7.3 My personal view

My personal view is that the act does not take into account the many problems that there are in an electronic environment. There is no question that the SARS system from this side is an excellent system I have actually seen its capability with every notice and every letter and every interaction been logged by the call center agents.

In many instances there have been fantastic features that work with back office systems that are designed to make tax life easier.

The various tax acts came about before the electronification of tax. There are no measures to deal with system failure where a taxpayer is unable to file, make a payment on time, make an objection or meet a SARS commitment. The Acts and the way the system works is totally out of sync. The method of using an email is just not secure, even if something like a read and delivery receipt are used as sometimes the email receiver just clicks on an email and a receipt is sent but do not look at it and it's missed. There has to be another method of making sure that all notices and letters are received and acted on. There should also be a method of fixing easily the errors that arise and currently there are many.

With the resultant downturn in the economy and the number of queries from SARS and the number of notices tax practitioners are finding themselves inundated. It is almost impossible to work through this maze. There are also many notices that are missed.

7.4 Where there is a problem with the e-filing system

There are numerous problems with the e-filing system when one is trying to process something upload documents form to an objection or anything like that. Some of these results in timeouts and loss of data. Receiving a notice when you try and open it appears as a blank.

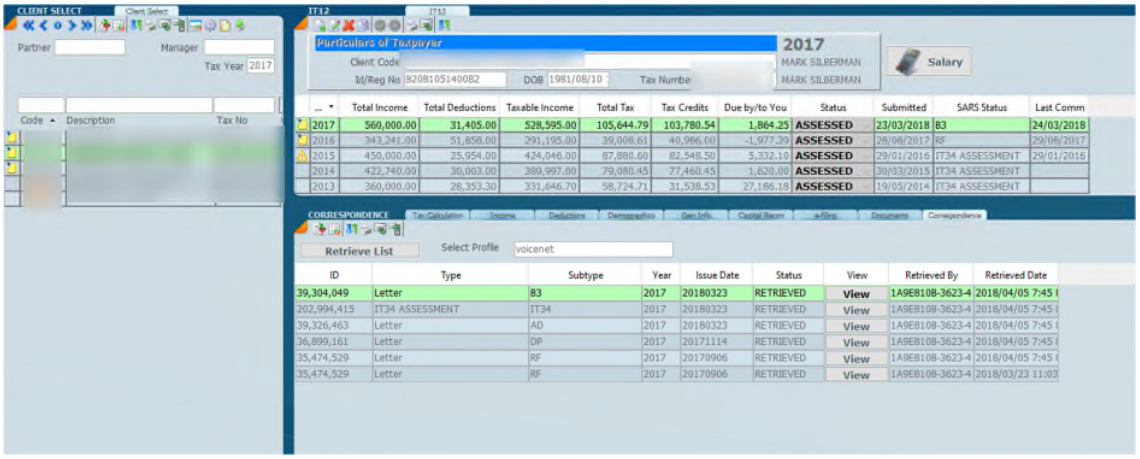
Note all the problems with the browser and adobe forms.

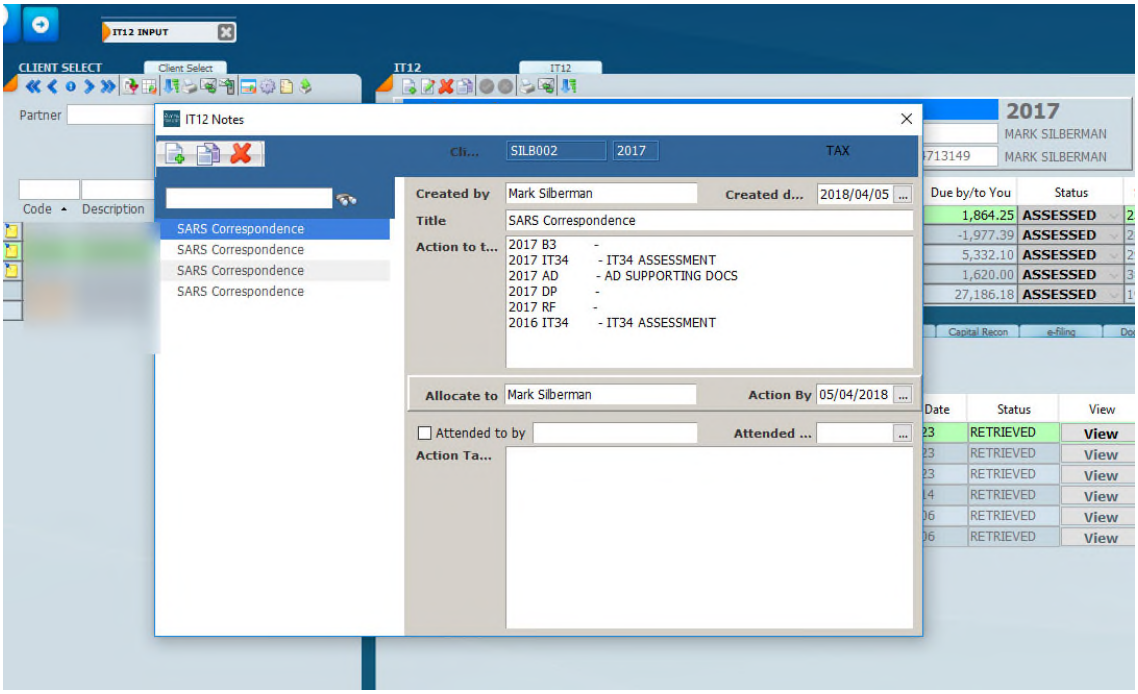
The problem is when the system crashes and you need some help and you phone the call center there's really no one who can help. They make a note of your problem and then say to you that they will elevate it and that someone will attend to it in 21 days which never ever happens

7.5 System To Handle Notices

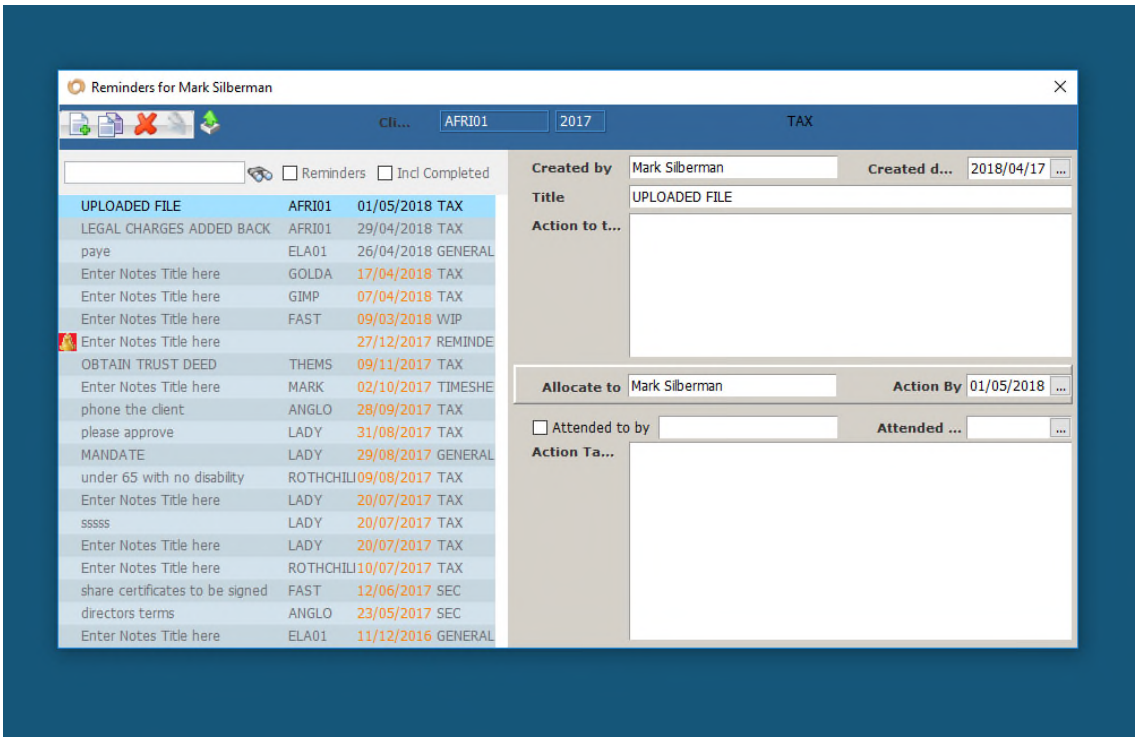
SARS now communicates with Tax Practitioners and with taxpayers on an electronic basis. Assessments notices and letters are sent to the tax profile of the tax practitioner with an email or a SMS going to the actual tax practitioner notifying that there is a notice. The problem with this is that if practitioners are running on a manual basis then it is very difficult to track and control this. It requires a great deal of discipline. One definitely needs a system so that practitioners can deal with each notice in terms of its requirements.

I have displayed a number of the screen dumps from Sky Tax which illustrates exactly how notices which have been downloaded will look.





Clicking on the View icon will open the document.



There is always a reminder of what has not been downloaded by of the sticky notes not cleared.

8. RISK AVERSION THE TEST – ASSETS AND LIABILITIES

We heard the SARS Commissioner talk about the various tools they have to find High Net Worth taxpayers who do not pay the right amount of tax one of which is the statement of assets and liabilities. This is something that is going to play a much bigger role in tax returns in the future.

SARS uses the statement of assets and liabilities reconciliation as a tool to help in the verification of the integrity of the income in the tax return. Tax practitioners should do the same thing even where it is not necessary for the taxpayer to file a statement of assets. There are a number of things that the statement of assets can show by the correct interpretation of the reconciliation; -

- Income not reflected on the tax return
- Assets producing income missing from the statement of assets
- Liabilities over stated

Any of the above can result in showing SARS the incorrect situation in respect of income. Any of the above-mentioned issues can result in a material mis-statement on the completion of the tax return and can result in the assessment being open for ever if and when SARS finds out, which they may do on a full audit. SARS are not really concerned about finding this in any particular year, however if they find out say in a future year they will then make the decision to go back in time and do the reconciliations for every year and if they find misstatements they will amend assessments together with the relevant penalties which could be substantial.

The reconciliation performed is the comparison of the net asset position between the current year and the previous year taking into account net income from all sources and living expenses. As a rule, we have all the components of the calculation except the living expenses which is the calculation of the difference as shown in the diagram below. Where SARS suspects there is something wrong with the living expenses they will ask the taxpayer to complete a lifestyle questionnaire, forcing the taxpayer to

account for their living expenditure. Having to explain the difference between the questionnaire and the calculation could be a huge problem for the taxpayer and cause a risk issue for the Tax Practitioner as the practitioner will have to explain to SARS and advise the client accordingly.

How to prepare the statement is not indicated in any legislation as it is really an accounting exercise. The requirement on the tax return is to list the assets and liabilities at the cost of the acquisition of the asset or liability incurred. Even if assets fluctuate, because of changes in valuation, the **historical cost** must be kept in the statement from year to year until the asset is disposed of. The reconciliation between the current and previous year is not part of the return, it is an exercise that SARS carries out behind the scenes. Tax Practitioners should perform the reconciliation to pre-empt any problem that SARS may find. It is much like doing the IT14SD before submitting the ITR14.

Why is it important to submit an accurate statement of assets and liabilities? Taxpayers must ensure that a full and accurate disclosure is made of all relevant information as required in the income tax return. Misrepresentation, neglect or omission of information may expose the taxpayer to additional tax and interest in the event of SARS undertaking an audit. In fact, this could open up the tax return forever as the tax return will never prescribe as it should do after 3 years.

The statement of assets over one year is in fact meaningless but if compared to statements over a number of years tells a very unique story about the affairs of the taxpayer. This should be borne in mind when preparing the statement.

For certain taxpayers, the completion of the assets and liabilities section of the tax return is mandatory.
The statement of assets and liabilities must be completed if the taxpayer:

- is a director of a company or a member of a close corporation
- receives income from business, trading or professional activities
- receives farming income

- receives foreign income that excludes foreign investment income.

Local assets and liabilities must be individually listed, e.g. fixed properties, shares in private companies, mortgage bonds and bank overdrafts. The local assets and liabilities must be reflected at cost. The foreign assets and liabilities are translated to rand using the exchange rate as at the end of the year of assessment in the year they were acquired. This cost should be kept and be retained over future years so a proper reconciliation can be done each year.

As a rule, on the statement of assets on the tax return we consolidate like items together for example things like properties, shares, motor vehicles etc. Of course, it is very important that we are able to produce detailed records of all the assets and liabilities when this detail is required.

SARS can use the information in the statement of assets and liabilities to identify potential non-declaration of capital gains/losses, e.g. where the cost of fixed property has reduced in a year of assessment in the statement of asset and liabilities, it may indicate that fixed property has been disposed of. The next step would be to identify whether the capital gain/loss has been reflected in the tax return. The same principle would apply to other classes of assets which would be subject to capital gains tax (CGT).

A capital reconciliation is a method employed by SARS to determine whether a taxpayer has accurately declared their income. This method applies a simple concept on identifying the growth in the taxpayer's net assets over a period of tax years. A living expenditure schedule must be completed by the taxpayer if the capital reconciliation goes out of sync. The living expenditure is an estimated expenditure schedule which encompasses items such as household groceries, school fees and holiday costs. The growth in the taxpayer's assets plus the living expenditure is compared to the income declared in the tax returns.

Where the income declared cannot justify the growth in assets and the living expenses, SARS may raise an assessment for the under-declaration of income. The taxpayer then has exposure to understatement penalties, tax and interest. It is therefore important to ensure that tax returns are complete and accurate, and that special attention is given to the statement of assets and liabilities.

In community of property – the total will be entered for both the wife and husband in South African Rands – foreign currencies must be converted at exchange rate at end of year. Once they are converted in one year make sure the cost is the same in later years to avoid foreign exchange fluctuations. Where the income is halved by SARS in the tax return then its my view to halve the asset for that income as it will distort the living expenses.

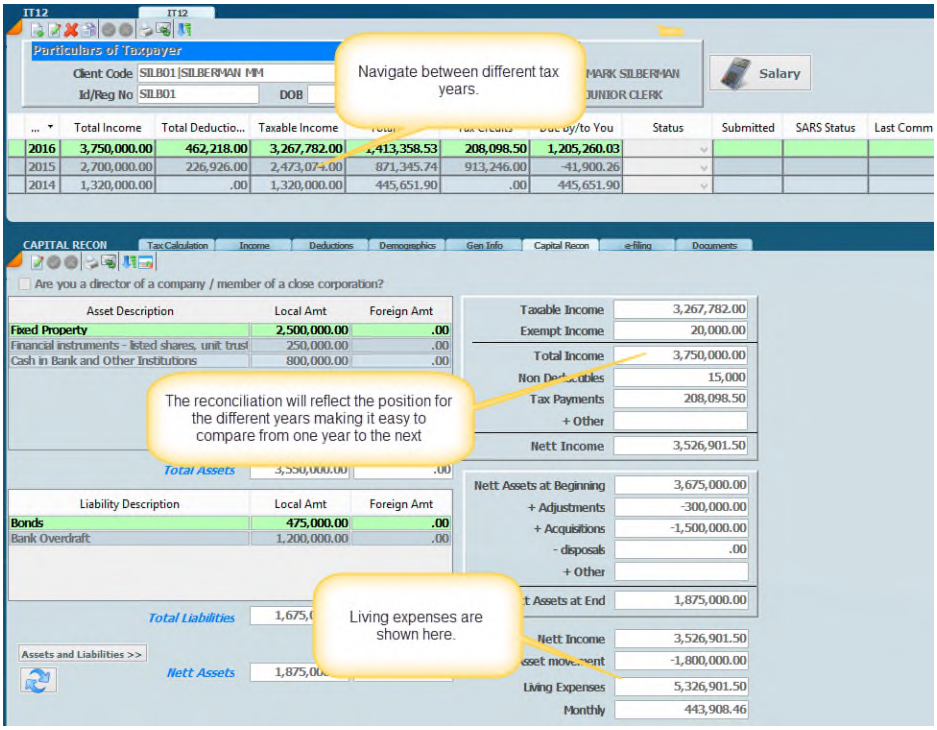
Individual Businesses of wife and husband can be excluded in terms of an agreement.

Historic cost

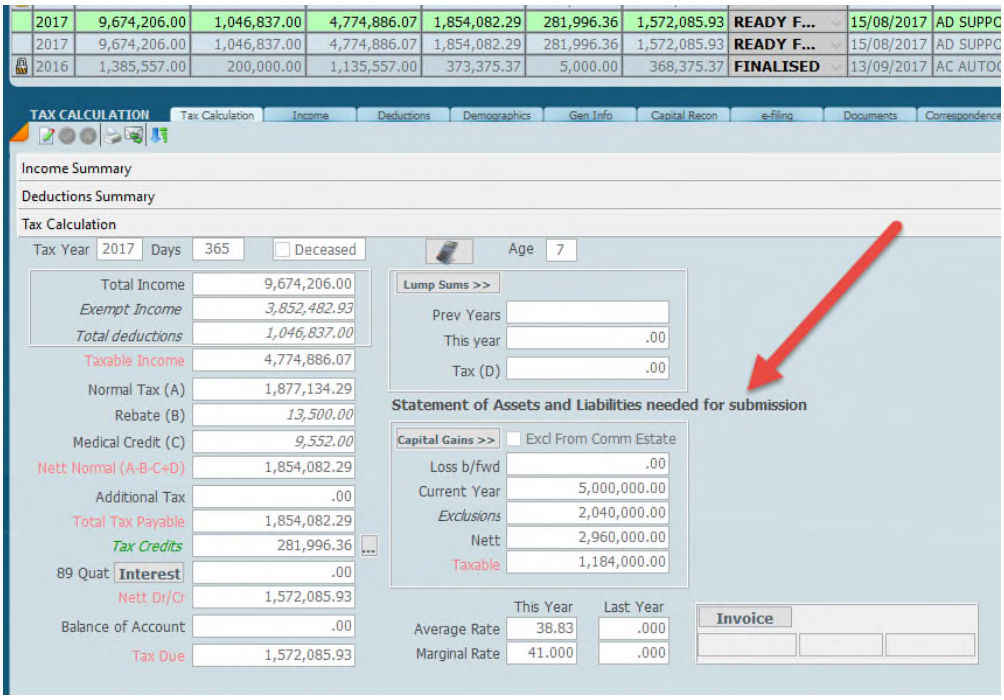
Shares – cost of the shares acquired
Companies and CC – cost of investment
Loans amount owing or receivable
Capital account in a partnership or sole proprietor.

In order to get a very accurate result it may be necessary to consolidate the husband and wife statement to get a true reflection of the living expenses.

An example of capital reconciliation is shown below.



Sky Tax forces a submission of assets if mandatory.



9. LAW THE CHANGING PROVISIONAL TAX PROCESSES

9.1 System To Handle Notices

The new electronic processes that SARS have introduced over the years have been a baptism of fire to the Tax Practitioner community. It is understood that change does cause disruption and re-learning, and there are bound to be teething problems and we accept that and plan for it where possible. The problem in South Africa is that there is not sufficient time after tax legislation changes to make the necessary system changes so that the law can be properly implemented by SARS. Sometimes these changes are communicated very late, causing disruption and late delivery of amendments to software. Sometimes the wording of the legislation is really difficult to understand and takes time to unwind.

Take for example the 14 days rule for the determination of the basic amount and the way this has been implemented by SARS on the IRP6. You should be well aware that during the process the figure can change or could be wrong on the website.

From my understanding, National Treasury makes the laws without thinking of their practical implementation on SARS systems and their roll out. In the past, when the laws were changed, SARS had to delay the implementation and even with the delay SARS could not program the changes on their own systems in time.

SARS also introduces policy changes like the ***turnover field*** in order to reduce their risk which is an excellent example of the way SARS introduces policy changes without having a backup of changes in the legislation. There was very little notice and no time for software vendors to make the necessary changes as it was a last-minute thing. Many practitioners I have spoken to just insert a zero. Now if a taxpayer wants Covid relief they have to insert the turnover.

9.2 Provisional Tax Changes

Any back-office e Filing system must be super-efficient at provisional tax as the provisional tax system lends itself very nicely to the e-Filing model. The ability to

download form data straight into a Tax Management system and then submit the calculated data back to SARS saves this country millions of rand in labour. In fact, this concept is proved and provisional tax systems are running incredibly well.

Unfortunately, provisional tax law has been changing over the years. We have now reached a point where the law is complicated and the penalty regime onerous. There are also various interpretation issues as up and until recently SARS has not issued clarity on various things.

The law was changed with effect from 1 January 2010. In effect provisional tax remains almost the same as it has always been, however a two-tier system was introduced. Taxpayers who earn more than 1 million rand will need to produce an accurate estimate for the P2 payment in terms of the legislation. The estimate must be within 80 percent on assessment and if not, SARS may apply a penalty if SARS are of the opinion that there has been an attempt to delay or reduce taxes.

At January 2015 new penalty laws were introduced and although it is pretty difficult to understand some of these laws Tax Practitioners have the added responsibility of **communicating** these new laws to their clients.

There is no question now that any Taxpayers doing their own IRP6 are in fact taking a huge risk as the chances are they will never understand the new laws unless they have a tax background and of course they will be subject to penalties.

9.3 Note from the author

In my view the method of calculating P2 in many companies is extremely difficult. It's ok when the economy is static or predictable in terms of growth. Let's look at two situations where this is not the case: -

- **A smaller company with fluctuating turnover whose profits are over R1 million, whose books are far behind can never make an accurate prediction because there is no time before the P2 payment.**

- **A large listed enterprise with many branches and many tax allowances can never make the prediction accurately as there is no time. As a rule, it will take at least 3 months to get an accurate result.**
- **Paragraph 19(3) causes havoc with cash flow where it kicks in.**

Owing to the factors above it's quite easy to get an understatement penalty simply because the way the penalty is legislated is simply not fair.

https://www.accfinsoftware.com/sky-tax-webinars.html

Click on the above link and go to the short webinar on how penalties work. The webinar is based on the interpretation document issued by SARS.

9.4 Comments on Basic Amount

The interpretation note states the following:-
"The amount of the estimate cannot be less than the basic amount unless the Commissioner, having regard to the circumstances of the case, agrees to accept a lower amount."

Clearly there are some practical difficulties with this! Please remember this only applies to the basic amount where the income is less than R1 million.

Remember in past years one would write to the Commissioner motivating the lower basic amount. To my knowledge no reply was ever received, but there was a record of a lower basic amount being used and permission from the Commissioner being sought. We accepted the non-reply of the Commissioner as to the fact that the Commissioner had agreed to the use of the lower amount.

Later on, the motivation for a lower amount used to be inserted on the SARS e Filing website when filing the form. Currently no motivation is sent through. There is now no method for advising the Commissioner that a lower amount is being used.

There was therefore a **disconnect** between what the law said and with the practical situation of submitting an amount lower than the basic amount. SARS have clarified this in the interpretation note which now says;

"The amount of the estimate ***cannot be less than the "basic amount"*** **unless the circumstances of the case justify the submission of an estimate of a lower amount**."

However, if SARS sees that an amount has being lowered materially SARS will ask the taxpayer to justify the estimate in terms of Para 19(3) and if not satisfied with the justification will increase the amount. It is therefore necessary to make sure that the reason for lowering the amount can be justified. The Covid lockdown would be a good reason for reducing the basic amount.

9.5 Issue in regard to amounts appearing on the basic amount

SARS provides an IRP6 with an amount on it i.e. the basic amount according to SARS.

Prior to the payment date in the past, provisional taxpayers were sent a form with the latest assessment reflected on it. Now of course this figure is reflected on the IRP6 page on the SARS e Filing website. In regard to the last basic amount being over R1 million SARS now leaves this blank so that the taxpayer the necessary calculation.

Owing to various logistical problems SARS as a rule load the figures onto the website at least 60 days prior to the payment date. P1 2020 was late and place pressure on tax practitioners who don't use a system. Clearly there is a disconnect between the law and what they are able to do logistically as the definition of the basic amount talks about 14 days prior to the submission date which is totally not feasible for larger practices or a large tax base as there is just not enough time to handle the logistics in terms of the time available.

For many years now, SARS has had technical difficulty in collecting the assessment figures for the IRP6 as this is a bi-annual process for the big provisional tax runs of August and February as well as issues with timing and in many cases collecting the correct figures. In many instances a zero is provided where there should be a figure and in many other instances the timing is wrong and the incorrect basic amount is shown on the IRP6. Clearly the 14 days as in the basic amount definition is not practical because by the time the Practitioner receives the IRP6 it is too late to do a

proper and decent job. In the past we used to have a 60-day period which was far more practical as this gave the Practitioner more time to do proper calculations and liaise with their clients.

We have been told in the past that the amount on the form is the deemed basic amount and can be used for the purposes of calculating provisional tax, but this is not really correct. Think about the person at home who does not have proper records and does not really understand the laws, how do they handle provisional tax, do they just accept the figure. The problem with the figure on the IRP6 return is that through the process the figure may change on the SARS e Filing website as new assessments come in and a refresh is done.

What is the position where the wrong basic amount is used by SARS or a zero is used. If a taxpayer receives an assessment which reflects a higher taxable income than that shown on the IRP6, after he has received the IRP6, he may use the figure reflected in the IRP6 (see paragraph 19(1)(e))

In terms of Para 19 (3) the Commissioner may ask the taxpayer to justify the estimate used and if the justification is not adequate the Commissioner can push up the estimate. What is the effect of the penalty situation if the wrong figure on the IRP6 is used?

Clarity is needed on whether the amount on the IRP6 is the deemed basic amount and what is the effect if it's wrong and the taxpayer who may be totally oblivious to this uses this wrong figure. The way the legislation is worded SARS takes no responsibility for the figures being wrong. It is really important to understand that's SARS are not responsible for providing the correct figures as they are in fact doing taxpayers a favour by providing the figures at all, therefore it is imperative that Tax Practitioners get the figures correct.

Owing to the above this is the reason why a good back office system will tell you what the correct cutoff date is for the determination of the correct basic amount. The system will allow you the choice of choosing the correct amount. The back-office systems should provide the practitioner with various differences like the last assessment the date of the assessment and the downloaded figure.

About 3 or 4 weeks prior to the payment date practitioners should **stop filing tax returns** to prevent assessments and in so doing make the logistics easier for themselves. This will prevent the basic amount from changing.

9.6 Business day

This means a day which is not a Saturday, Sunday or public holiday.

The TA Act generally uses business days in the context of time periods for registration, submission of returns or requested relevant material and calendar days in the context of time periods for payment of tax or calculation of interest.

The definition of basic amounts talks about 14 days prior to the ***submission date***. This is in fact 14 actual days based on the above definition which may have a major impact on which basic amount should be used. As the legislation uses ***submission date, the 14 days can be different for every taxpayer depending on the submission date.***

The **cutoff** date for P1 Aug 2015 is 16 August 2015 and for P2 Feb is 14 Feb 2016.

9.7 Letter That Sars Send Out In Terms Of 19(3)

Detailed below is an actual letter sent out by SARS in the situation where the taxpayer sold a property and made a huge capital gain which he neglected to tell the Tax Practitioner much to the Tax Practitioners embarrassment.

Tax Practitioners need to take precautions and prevent this from happening.

INCOME TAX: FIRST PROVISIONAL TAX PAYMENT FOR 2016 YEAR OF ASSESSMENT: 2016
DUE DATE: 29 FEBRUARY 2016

With regard to the calculation of provisional taxes made, the amount of tax payable is determined on the estimated taxable income. This requires you to specifically estimate your taxable income for the relevant year of assessment and not revert to the basic amount.

With reference to the estimate of taxable income made in respect of the above provisional tax period, kindly furnish me, in terms of section 46 of the Tax Administration Act No. 28 of 2011 and paragraph 19(3) of the Fourth Schedule to the Income Tax Act No 58 of 1962, as amended ('the Act') with the following documents and supporting information used in determining your estimate of taxable income for the 2016 year of assessment.

• Computation of the above mentioned taxable income (including but not restricted to, if applicable interest income, share options and foreign income) as at 29 February 2016.

• If applicable, a schedule of net capital gains calculated for the financial year.

These gains should also be included in the computation of taxable income, in terms of section 26A and the Eighth Schedule of the Act.

• Key assumptions applied in determining the taxable income.

Kindly submit the above information to me on or before 17 November 2015. If on receiving your response it has been determined that an additional amount is payable (in terms of para 19(3) of the Fourth Schedule of the Act, as amended) a second SARS letter will be sent to you requesting the payment of the additional amount.

It must be noted that this additional payment that may become due, will be free of interest or a penalty for the late payment of provisional tax, if it is paid within the new prescribed payment period recorded in the SARS second letter. Furthermore, this additional payment, could assist you to ensure that you do not fall foul of the provisional tax underestimation penalty under Para 20 of the Fourth Schedule of the Income Tax Act. You are therefore respectfully requested to ensure that you take advantage of this opportunity to ensure that your provisional taxes are paid in full.

Interesting to note that in the case of a P1 if the taxpayer rectifies there will be no penalty in the situation of the above example.

9.8 Some Differences Between Provisions and Practice

	Provisions	Actual
REGISTRATION AS A PROV TAXPAYER	**USED TO BE** Register within 21 days of becoming a provisional taxpayer. **NOW** Retrieve an IRP6 in terms of Interpretation Note	Retrieve an IRP6 on the SARS website and you are a provisional taxpayer. SARS will penalise if no provisional tax is paid when there is a payment due.
Cut-off date for determination of the basic amount	**USED TO BE** 60 days from the ***payment date***. **NOW** 14 days from the ***submission date*** (not the payment date). This Could make the cut-off date different for every taxpayer in a tax practice.	Most make use of the SARS figure that is downloaded at the 60 day mark. It is very difficult to implement the rule from the submission date unless you have a back office system which guides you.
LOWERING THE BASIC AMOUNT ON P1 ON LESS THAN R1 MILLION.	**USED TO BE** Obtain the permission of the commissioner. In practice nothing is done so there was a dis-connect between legislation and practice.	**NOW** the basic amount can be lowered if the circumstances of the case justify the submission of an estimate of a lower amount as stated – as per interpretation note.

		SARS can ask you to justify the estimate in terms of Para 19(3) and push the amount up if they are not happy with the justification.
UNDERSTATEMENT PENALTIES.	There are clear cut rules as included in the interpretation note and the provisions making the penalty regime much stronger especially for P2.	SARS may work on the DATA loaded on the e Filing website and not the proper figure causing disruption.
MISSING A PAYMENT DATE FOR P2.	**USED TO BE** A penalty of 10% and interest charged at the prescribed rates.	**NOW** A nil payment will be assumed and an understatement penalty will be charged which could be substantial.

9.9 Deferral of Payment - Instalment Payment Agreement

- A senior SARS official may enter into an agreement with a taxpayer in the prescribed form under which the taxpayer is allowed to pay a tax debt in one sum or in instalments, within the agreed period if satisfied that:
  - Criteria or risks that may be prescribed by the Commissioner by public notice have been duly taken into consideration; and
  - The agreement facilitates the collection of the debt.
- The agreement may contain such conditions as SARS deems necessary to secure collection of tax.

- SARS may terminate an instalment payment agreement if the taxpayer fails to pay an instalment or to otherwise comply with its terms and a payment prior to the termination of the agreement must be regarded as part payment of the tax debt. The agreement remains in effect for the term of the agreement except if:
- A senior SARS official may modify or terminate an instalment payment agreement if satisfied that:
    - The collection of tax is in jeopardy;
    - The taxpayer has furnished materially incorrect information in applying for the agreement; or
    - The financial condition of the taxpayer has materially changed.

- A termination or modification:

    - Takes effect as at the date stated in the notice of termination or modification sent to the taxpayer; and
    - Takes effect 21 business days after notice of the termination or modification is sent to the taxpayer.

9.10 Deferral Of Payment – Criteria For Instalment Payment Agreement

A senior SARS official may enter into an instalment payment agreement only if:

The taxpayer suffers from a deficiency of assets or liquidity which is reasonably certain to be remedied in the future;

The taxpayer anticipates income or other receipts which can be used to satisfy the tax debt;

Prospects of immediate collection activity are poor or uneconomical but are likely to improve in the future;

Collection activity would be harsh in the particular case and the deferral or instalment agreement is unlikely to prejudice tax collection; or

The taxpayer provides the security as may be required by the official.

1. The registration process:

"You have to register the taxpayer for provisional tax under **organisations** tax types. SARS then has to verify the provisional tax registration. If verification is successful, registration will be approved. If taxpayer's details have changed, SARS wants to authenticate the provisional tax profile and request supporting documents. Once supporting documents have been submitted, and SARS are satisfied, they will approve the provisional tax registration."

2. To deregister:

So a letter on your letterhead and email it to your SARS pcc email addresses.

Region

North (including Pretoria, North West, Limpopo, Mpumalanga & West Rand) pcc.north@sars.gov.za

Central (including East Rand, Soweto, Alberton, Vereeniging) pcc.central@sars.gov.za

Ensure that you have the following information on you letter for deregistration:

- Tax reference number
- Tax practitioner number
- When following up, quote the original case number that you were allocated in your email (you will receive this once pcc replies on your email)
- E-mail address to enable SARS to respond to your enquiry (even if you sent an e-mail still put your e-mail on your letter)
- Subject of e-mail – clearly state what the enquiry is about (deregistration of Provisional Tax)
- Attachment if required
- Limited to 5 queries per e-mail, should you have more than one to deregister.

Once you receive feedback that SARS has deregistered your client as a provisional tax payer goto website and untick the provisional tax under organisation on e-filing.

10. PROVISIONAL TAX AUTOMATION– IN THE TAX PRACTITIONERS OFFICE

10.1 Interaction with SARS

The copyright granted to ISV's that was used in the past for reproducing the IRP6 forms have been abolished forever, in fact a good few years ago. Everything is now electronic.

In regard to provisional tax, back office tax systems interact with the SARS e Filing server on the following basis:

1. Register directly from within the back-office system a taxpayer either individually or in bulk electronically with SARS e Filing and receive an electronic receipt to this effect. This in effect connects the practise tax base with the SARS e Filing profile.
2. Pull down the taxpayers IRP6 form data from the SARS e Filing server into the IRP6 forms received database of the back office system for comparison with taxpayer assessment records. (***There are some issues in regard to the timing of this- see the provisional tax notes***)
3. When the provisional tax has been processed and finalised in a back office system and communicated to the clients of the tax practice, the IRP6 forms are then submitted electronically to SARS e Filing server.

10.2 Interaction with Back Office System

A back office system will carry out the following automatic functions:-

1. Calculation of provisional tax globally.
2. Comparing different situations with your own in house records.
3. Moving provisional tax records around the office for finalisation and review.
4. Automatic communications with the client by way of email.
5. Pulling through the medical credit automatically from the last tax calculation.

10.3 Benefits of a Back Office Provisional Tax System

The whole point of making this process electronic for end users and ISV's is to reduce the logistics and the huge cost associated with these logistics. Huge money has been spent by SARS and ISV's on making these systems work and now the time has come to use these systems so Tax Practitioners can show significant time savings.

The benefits to the Tax Practitioner of making use of a back office system that connects with SARS is huge. In my view there is no comparison. The savings are in obtaining the SARS IRP6 figures and entering it into your system as this data is downloaded automatically and then once the figure has been finalised to submit the figures automatically back to SARS. According to statistics that we have it takes a few minutes to download a thousand IRP6 data records and will probably take about double that to resubmit them once the figures have been finalized and confirmed by the Tax Practitioners clients. This represents a huge saving in time, because firms that still go onto the website and re-submit the data need to spend days and they need to get their planning right in order to do this. Take into account the ability of a back office system to communicate quickly with clients by attaching letters to e-mail and providing digital signatures and confirmation will significantly reduce this task making provisional tax a breeze.

SARS have indicated that the volumes for provisional tax are reasonable through back office systems and it makes it worthwhile to them as opposed to the situation with the filing of income tax returns which seems to have a low uptake by Tax Practitioners.

10.4 The Different Systems for Provisional Tax – Manual Versus Back Office

There are two types of user methods listed below:-

1. **MANUAL** No tax system in use at all. All SARS processing happens on the e Filing web site. The company may be using a spreadsheet.
2. **BACK OFFICE** system with full interaction with SARS.

We will all agree that ***provisional tax law*** has become very ***complicated*** and is prone to risk and errors. There is no way that most of your clients will be able to handle it properly, understanding all the laws and the penalties, especially the new understatement laws. I am therefore going to paint the picture for each of the scenarios mentioned above. Of course size plays a part and that a firm has some volume.

1. No Tax system in use. Use the e Filing website only	**2. Use Back Office System in full interaction with SARS**
Each taxpayer's IRP6 to be retrieved one at a time which is very time consuming as there is no bulk retrieval.	Globally retrieve IRP6's into the Tax system for processing, manipulation and communicating with clients.
Calculate one provisional taxpayer at a time on the website. Time consuming as you have to access each taxpayer individually and make the changes individually. There is no global processing option.	Calculate provisional tax globally in minutes.
Have to check the figures being used against a manual tax file. Time consuming and impossible in a larger database.	Not necessary all automatic as a difference report is produced. Shows the difference between what SARS says and the last assessment.
No quick method for checking the difference between SARS IRP6 figures and the correct basic amount figure.	Producing the difference report is an automatic function and will highlight the differences.
Medical credits have to be calculated manually.	The back-office system will pull in the first part of the medical credits based on the last tax calculation taking the current rates into account.

No method of communication with clients. This is a manual very time-consuming method and has to be done one by one on an email system outside the SARS system.	Communication with clients is automatic with forms and letters created automatically being emailed to taxpayers in bulk.
There is no method to track and control the status of a PT return like client confirmation unless a manual or spreadsheet is kept. This is very time consuming.	Ability to track and control the status automatically by making use of digital signatures.
E file IRP6 on the e filing website client by client which is very time consuming.	E file IRP6 from the Back-Office application in bulk.

There are some important issues that go beyond the table above that one needs to understand.

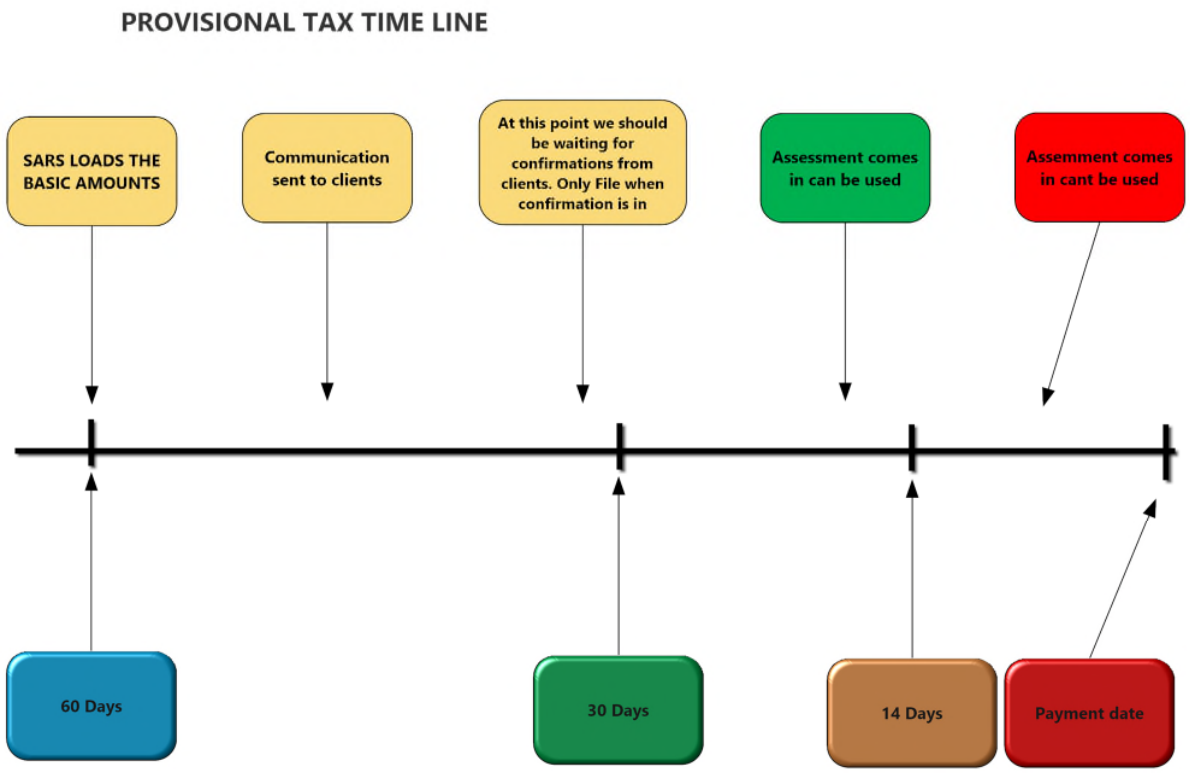
SARS loads the basic amounts about ***60 days prior*** to the payment date. The website refreshes the basic amount as new assessments come through. The practitioner will never know if they miss an email or SMS about the assessments from SARS. The method of trying to find the assessment is extremely time consuming on the SARS e Filing website. With a back-office system, the assessments are loaded daily directly from SARS and all that the practitioner has to do is look at the assessments file to decide which figure are going to be used by comparing it with the current provisional tax status. In a manual system and a system without connection this would have to be checked manually. On a large database this is almost impossible. By not being connected with an integrated system with SARS Tax Practitioners are doing your clients a great disservice.

There is another very important issue in that SARS are putting up the incorrect figures in many instances and earlier basic amount rather than the later correct ones that is why one needs a difference report which will give the Tax Practitioner an idea as to which figure should be used.

The communication aspect is automatic, the ability to send bulk emails will save an inordinate amount of time as opposed to one at a time.

10.5 Timing issues in regard to Provisional Tax Processing

Timing of the provisional tax process is very important from a logistical point of view. Detailed below is a chart depicting how you should work the timing? If you manage this process well it will make the provisional process much simpler.



It is absolutely imperative when making use of the provisional tax e Filing system that you get your timing right. For example, if the payment date is the 31st August the practitioner needs to know by the 20th of the month that the taxpayer agrees with the figures to be submitted, because once the practitioner presses the button and submits the provisional tax form to SARS there is no way that this can be changed easily. Of course you do a 2nd version but this is costly and time consuming.

A practice should also put in more effort in advising high net worth taxpayers with their payment details earlier rather than later.

10.6 Provisional Tax Payments

When we started this e Filing process the majority of firms indicated that they were not interested in generating payments to SARS on behalf of their clients because of the risk issues involved.

What we have found is that larger accounting firms do not wish to get involved in payments and would rather let the client make the necessary arrangements to pay the provisional tax. Smaller accounting firms get involved in generating the payments for their clients and larger firms don't.

I think the time has now come to find the mechanism to generate payments in bulk and users can make their choice as to whether they want to or not. In our systems we are in fact carrying all the bank accounts if you are e-filing tax returns. I do not see why we cannot introduce a bulk facility so that when the necessary confirmations from the client have come in, the system will then automatically generate payments in bulk, subject to the client's final authorization. The system of Payments is now geared towards this as the notification is sent to the bank and the client needs to authorise. There will be huge time savings in this.

10.7 The Risk of Provisional Tax

Provisional Tax has become very very risky. It is a possibility that depending on when you submit your tax return every single taxpayer in you tax base could have a ***different basic amount***, because of the definition of basic amount which counts back 14 days from the ***submission date***. The planning for Provisional Tax has become very critical. In the past the submission date was the date that we use to count back the 60 days for the basic amount.

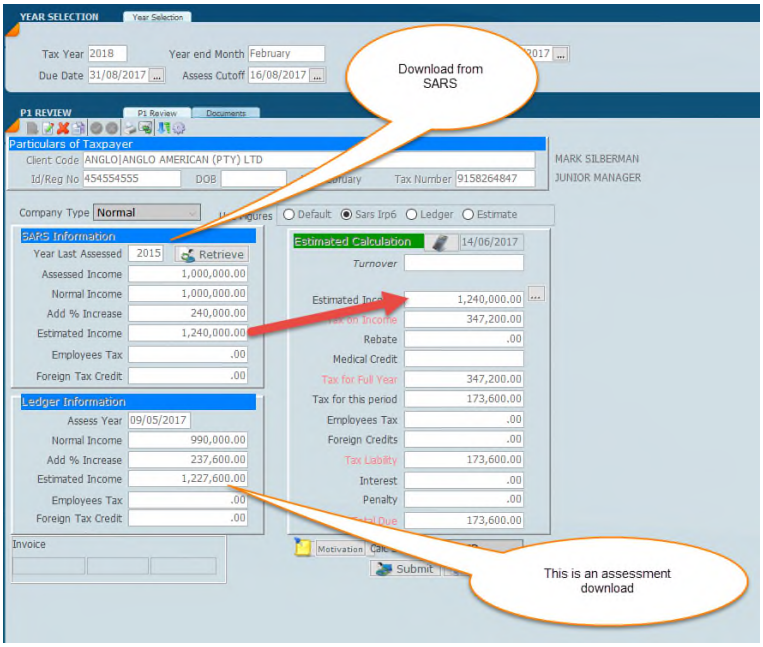
The next issue that has become significantly important is the fact that SARS does not get the ***correct figures on the website***. There may be an earlier figure which is

displayed before the latest correct figure. There may even be a blank. Now this becomes a problem where you want to calculate provisional tax and the taxpayer's income is below a million rand and you use the incorrect basic amount. If SARS was in a position to show the correct basic amount below R1 million rand this would make provisional tax much simpler and Tax Practitioners have a basis of comparison.

The situation as mentioned above makes it really difficult to get the right figure on a manual basis. It is much safer to have a back-office system that will allow you to make the right choice, as it is very easy to get this wrong when you are working manually. It should be noted that the onus is on the taxpayer and tax practitioner to get the numbers right.

Where the taxpayer's income is over a million rand then we need to start doing more accurate tax calculations working out the **6A and 6B Medical Credits** and if there is a Capital Gain to actually work it out as accurately as possible. The gap between final tax calculation and provisional tax narrows as provisional tax becomes more complicated and risky. The missing of a capital gain in provisional is a high-risk area which will allow SARS to punish the taxpayer if its left out of a provisional tax calculation.

To this end it is very important that you have a tax calculator on hand so that you can do the tax calculations inserting the figures into the Provisional Tax calculation.


YEAR SELECTION
Year Selection
Tax Year 2018
Year end Month February
Due Date 31/08/2017
Assess Cutoff 16/08/2017
Download from SARS
P1 REVIEW
P1 Review
Documents
Particulars of Taxpayer
Client Code ANGLO|ANGLO AMERICAN (PTY) LTD
Id/Reg No 4545545555
DOB
Tax Number 9158264847
MARK SILBERMAN
JUNIOR MANAGER
Company Type Normal
Default
Sars Irp6
Ledger
Estimate
SARS Information
Year Last Assessed 2015
Retrieve
Assessed Income 1,000,000.00
Normal Income 1,000,000.00
Add % Increase 240,000.00
Estimated Income 1,240,000.00
Employees Tax .00
Foreign Tax Credit .00
Ledger Information
Assess Year 09/05/2017
Normal Income 990,000.00
Add % Increase 237,600.00
Estimated Income 1,227,600.00
Employees Tax .00
Foreign Tax Credit .00
Invoice
Estimated Calculation
14/06/2017
Turnover
1,240,000.00
347,200.00
Rebate .00
Medical Credit
Tax for Full Year 347,200.00
Tax for this period 173,600.00
Employees Tax .00
Foreign Credits .00
Tax Liability 173,600.00
Interest .00
Penalty .00
173,600.00
Motivation
Submit
This is an assessment download