

VERIFICATION OF VALUE ADDED TAX DECLARATION 201

The request for a VAT Verification has multiple problems which need to be addressed. Unfortunately there is a misuse of the verification request causing extreme labour in the tax industry and many errors causing non compliance by taxpayers.

LETTER REQUEST

SARS fails to cite the legal basis other than the Tax Administration Act (TAA) in general for the reason a VAT verification is requested.

The SARS letter says that the taxpayers VAT declaration has been identified as a result of variances detected in the submission. How is this possible as the declaration is a summary of what has actually occurred.

The letter indicates that the documents required for verification can be posted however there is no postal address indicated on the letter.

It is assumed that the verification letter is issued under s 27 (1) of the Tax Administration Act as nothing is said on the letter other than in terms of the TAA. There is no indication that the letter is generated by a Senior SARS official as is the requirement in the provision, as the letter is a form letter generated automatically by the SARS e-filing system. The requirement of this section is that SARS requires a "further or more detailed return". There is no prescribed form other what is received in the letter request.

Relevant material may be called for by SARS in terms of s46 (1) only within the context of an audit and SARS is currently conducting no audit of the taxpayers affairs at this point.

It must be said in many instances that the sole purpose of requiring the verification is where there is a vat refund in order to delay the payment to the taxpayer as entitled under the law as most refunds go through this process.

Despite the verification it may be that the taxpayer is entitled to the refund as it's not an audit and there should be nothing to stop the payment from taking place. This has to be tested.

ALGORITHM TAKES CONTROL

The verification request is determined by an algorithm and it is doubtful as to whether a SARS senior official had anything to do with it. This is indicated by the fact that the letter is delivered electronically very soon after the filing of the VAT return. The return is a summary of what transpired so there is no way that SARS can have any evidence at the stage of filing that would indicate that there is a discrepancy with what has been input.

The question arises whether this can be a rational decision? The methodology been used to determine if a verification should be done is secret, but clearly happens on the movement on the figures as compared with previous months that are input or on some average basis.

There is no known reason that SARS has at its disposal a measurement that will measure the quality of the VAT return submitted.

This request happens more often than not where there is VAT refund, however not all refunds have a verification. Sometimes it also happens when the output tax is actually higher than in the previous period. In some instances the taxpayer receives a verification each and every month for no apparent reason whatsoever.

If the numbers on the return are compared to previous periods or averages are worked out the current algorithm is not taking into account the current economic climate or the pandemic and serious economic factors in our economy. This can never be a full proof way of determining whether a verification or audit should be done so therefore the allegation that variances have been detected on a VAT 201 return have no foundation in fact. Owing to the fact that a return was not identical to the previous returns is commercial reality and no basis of evidence to generate a review or even an audit.

One might say that this is harassment where there are repeated requests for a verification as the taxpayer has made their best endeavours to complete the tax return without errors.

We have recently been advised that the algorithm kicks in on the actual filing of the VAT201 preventing the return from being filed causing non filing making the taxpayer non-compliant as this filing normally takes place on the last day for filing.

REFERENCE TO ERRORS

The reference to possible errors that the taxpayer might find is proof that SARS has made no rational analysis as this is a warning for the taxpayer to check what has been input and is based on variances detected by an out of date algorithm or on the basis of a refund request.

SUBMISSION

The form letter generated for verification needs to be improved and updated as follows:-

Correction of the letter making sure that it is properly worded as mentioned above – correct references to the TAA – what relevant material is required – correct instructions - postal references removed.

Find a way to add a senior SARS official to legitimise the request or issue a notice of amendment in some form available to SARS.

The algorithm used to determine variances needs to be updated taking into account current economic reality or on a rotation basis from time to time.

The algorithm in use prior to filing a VAT 201 must be aborted immediately.

The situation in regard to asking for verification in regard to refunds has to be looked at and improved.

TRANSFER OF TAX TYPES FROM A TAX PRACTITIONER TO ANOTHER

Currently in light of the situation in South Africa there is an increased requirement to move taxpayers from one profile to another profile. There are huge problems which have been indicated in other SAICA interactions with SARS. There are numerous complaints from Tax Practitioners (TPS) in this regard. We understand the issue of taxpayers been stolen off a tax profile but believe that the current situation in order to get a taxpayer transferred has huge issues for TPS.

The chairman of this committee has been waiting patiently for a company that he is in control of to be moved from one tax practitioner to another so far 3 months. The issue being emails going to the w person. It's accepted that the public officer was not addressed when the company was taken over but this issue has been going on for three months.

Most representatives or public officers are in fact taxpayers. Why can there not be a link to a taxpayer who is an individual where all the necessary info has been verified by SARS including identity and bank account details.

The issue here is that tax compliance is been held up for no other reason than the steps taken by SARS to improve the system. There should be no issue in regard to the transfer but only steps taken when the tax return is submitted. At that stage something should be done to make the verification but at least allowing taxpayers to become compliant.

There are also systems in place that link with home affairs and will allow anyone on the SARS system to be verified with home affairs in terms of the ID and even facial recognition on the ID.

ERRORS ON THE SYSTEM

There are significant errors in relation to statements of account, computer glitches which result in numerous calls to the call centre. Speaking to many TPS in the field the call centre can never help and the only reason for calling the call centre is to process an audit trail of the problem which may be used in an objection process.

Errors are going up. I think to some extent SARS staff members not being sufficiently trained.

Examples ridiculous queries with clearly no understanding of the law results in huge labour and probably accounts for thousands of hours in the tax industry.

The journal entry on any statement of account is a no-no because this results in the TP having to find out what has caused it and why. Many of the situations go unanswered. An objection process if one can do it is just not on owing to the length time it takes.

The errors in uploading of supporting documents is a serious issue because in many instances the forms are not looked at and assessments and penalties are issued. The chairman of this committee has the situation where on a VAT 201 process there were small refunds during the pandemic and it took eight months after the uploading of the relevant information and answering the queries requested to have the refunds two periods in a row reversed on the statement of account with no clear indication as to the reason. There is now multiple vat notices which have no bearing to what is going on. Multiply this across the whole tax industry causing many unnecessary hours.

There is also a major issue with receiving of notices and I have come across examples where the notices on e-filing are backdated so that the taxpayer are unable to respond in the time resulting in penalties. I believe that this happened to me on a number of occasions, but very difficult to prove.

We can go on and on with these kind of queries some of which I have posted on the SAICA portal. Unfortunately there are many of these instances but most TPS and their client do not want to put the examples forward for fear of victimisation.

SARS knows how many taxpayers are not compliant and I would estimate that we are running into a situation of above 30% of all taxpayers are not compliant. There was a time when doing business with the corporates like banks and big listed companies that one of the conditions were that you had to be tax compliant. If you were not tax compliant you cannot get the business. Now the rule is put in a letter to say that you have a dispute with SARS and they will accept that.

If these errors have to be corrected by going through the normal channels of an objection we are probably looking at 5 years or more used to sort this out.

I do not believe that this can be done on an electronic basis because one needs human intervention on the SARS side to see the error and make the necessary corrections.

I would suggest either we go through the auspices of the controlling bodies that we draft in some retired accountants who will evaluate each error and on a weekly basis set aside a day where a SARS senior staff members will evaluate each error.