

SARS wants access to your working papers

By **Curated Content** - Aug 2, 2018

Accountants prepare working papers to keep track of their work, and to ensure that the conclusions they reach on a clients financial statement are based on evidence and compliant with laws, regulations and standards.

However, these working papers may contain sensitive and proprietary information and could, if interpreted incorrectly, lead to misunderstandings and wrongful allegations by third parties not familiar with the clients business. That is why accountants should be averse to the idea of just giving anyone access to their working papers, unless required to do so.

Access to working papers can be requested or required in the following circumstances: access required by Law such as the Tax Administration Act, access required in compliance with reporting engagement standards or a professional body Code of Conduct, and access requested in terms of a contractual agreement.

It is best that SARS should request information directly with the client, but sometimes the accountant, whether as auditor, reviewer or accounting officer will also be approached.

Section 46 of the Tax Administration Act, 28 of 2011 (TAA), and Sections 101 and 101(A) read with Section 4 of the Customs and Excise Act, 91 of 1964 (Customs Act), allows SARS to ask the accountant for access to the engagement working papers.

How will SARS obtain access?

SARS issued a guide on 13 December 2016 which includes guidance on SARS access to audit working papers.

The SARS Guide provides an overview of the SARS policy, namely, that a request for access to audit working papers forms part of its right in terms of the Tax Administration Act, 28 of 2011 (TAA) to request relevant material.

Although the Guide is not legally binding it will be best to consult with an attorney to help you navigate the SARS request as SARS does not have an unfettered discretion to request relevant material (including access to working papers) and are limited in scope and application to what they can ask.

SARS states in the Guide that access to the audit file of the statutory auditor would only be requested where it is considered necessary for purposes of administration of a tax Act. Furthermore, the SARS Guide states that while there is no general restriction on SARS requiring

information contained in an audit file, SARS respects the unique relationship between the taxpayer and the statutory auditors and therefore undertakes not to call for audit files as a matter of routine or without obtaining approval from a senior SARS official.

SARS also indicates in the Guide that it has issued internal policies and procedures to govern requests for access to audit files. As such, any concerns with such a request should be referred to senior management at SARS.

When will the working papers contain relevant material that have to be provided to SARS?

Relevant material may be required by representatives of SARS to administer a tax Act in terms of Chapter 5 of the TAA. The most common reasons for requesting information include:

- Verifying whether a tax return, declaration or document is correct;
- Auditing a person's tax affairs;
- Establishing a person's correct liability or refund;
- Collecting a tax debt; and
- Investigating and collecting evidence on whether a person has committed a tax offence.

Relevant material is defined in Section 1 of the TAA to mean any information, document or thing that in the opinion of SARS is foreseeably relevant for the administration of a tax Act, as referred to in Section 3 of the TAA.

In terms of Section 46 of the TAA, SARS may, in relation to a taxpayer, require the taxpayer or another person to submit relevant material that SARS requires. The relevant material may be required orally or in writing.

If SARS ask information the accountant will have to:

- Inform the client of the request,
- Put the necessary safeguards in place to limit access solely to the specific information requested, and
- If a field audit is conducted also determine whether the authorisation letter meets the requirements of Section 41 of the TAA.

Sometimes the request by SARS will be made to the client who may then request the auditor to provide certain working papers.

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