

Tax Practitioner Connect Issue 20

<https://www.sars.gov.za/ClientSegments/Businesses/My-Bus-and-Tax/Pages/Tax-Practitioner-Connect-Issue20-December-2020.aspx>

December 2020

Welcome to the latest edition of Tax Practitioner Connect, the electronic newsletter for tax practitioners that keeps you up to date with the tax matters that affect you.

Process for Reporting Unprofessional Conduct

Registered tax practitioners play a critical role in promoting voluntary compliance. Therefore, they are required to:

- Ensure that taxpayers receive advice consistent with the tax legislation, and
- Conduct his/her business in a professional and ethical manner.

It is for this reason that section 240 to 243 of the Tax Administration Act (hereafter, referred to as the Act) was promulgated in 2012.

Section 241 of the Act provides that a Senior SARS Official may lodge a complaint with a recognised controlling body if, in the opinion of the official, a registered tax practitioner's conduct is unprofessional. To implement this section, SARS has established a governance process for reporting unprofessional conduct by tax practitioners. The two main components of the process namely:

Registering a complaint

Any person or entity may submit a complaint to SARS via the Contact Centre, a branch visit, virtual engagement with SARS, or email channels. SARS has a mailbox specifically for the reporting unprofessional conduct, which is ReportingUnprofessionalConduct@sars.gov.za.

Processing the complaint

- SARS engages with the complainant to establish the facts, e.g. SARS requests an explanation and evidence of the alleged unprofessional conduct. If the complainant is a third party, a Power of Attorney (POA) is required by SARS.
- SARS contacts the tax practitioner concerned through a letter of intention to report the complaint to his/her recognised controlling body (RCB). The tax practitioner has 21 business days to object/respond to SARS's intention. The objection must be accompanied by clear grounds.
- SARS governance committee considers all facts provided by the complainant, the tax practitioner and other information in SARS' possession, and make a decision on whether or not to report the tax practitioner to his/her RCB.
 - If the committee decided not to report to the RCB, the tax practitioner and the complainant are notified, and the case will be closed.
 - If the committee decided to report to the RCB, SARS lodges a complaint with the RCB and notify the tax practitioner accordingly.
- Upon receiving a complaint from SARS, the RCB takes the matter further through its internal disciplinary processes, and provides SARS with regular feedback and the outcome of its decision.

- The SARS governance committee considers the RCB's decision and decides whether or not SARS agrees with the RCB decision:
 - If the committee agrees with the RCB's decision, the RCB is notified accordingly and the case is closed.
 - If the committee disagrees with the RCB's decision, the RCB is notified accordingly and provided with reasons for the decision. SARS may provide additional information to the RCBs. The RCB will then need to revisit its decision.
 - If SARS and the RCB are unable to reach agreement, the ministerial process will be initiated as noted in the Act.

Withholding eFiling profiles and misrepresentation of taxpayers' contact details

In the process of implementing section 240 to 243 of the Tax Administration Act No. 28 of 2011 (hereafter, referred to as the Act), SARS has noted a trend that is concerning with tax practitioners whereby they

- 1) Refuse to release taxpayers' eFiling profiles when requested to do so, and/or
- 2) Misrepresent taxpayers' information.

Withholding eFiling profiles

To address withholding of eFiling profiles, SARS sent a letter to tax practitioners through their respective controlling bodies in December 2019.

This matter was also raised at the different platforms with the different RCBs. Despite this we still find that there are a number of tax practitioners who continue this practice of withholding taxpayers' eFiling profiles.

SARS wishes to remind tax practitioners that in terms section 237 (b) and (c) of the Act, withholding taxpayers' eFiling profiles without the taxpayers' consent is a criminal offence.

We, therefore, urge tax practitioners to refrain from withholding taxpayers' eFiling profiles after establishing the legitimacy of such a request.

We believe that this will protect the interests of both tax practitioners and taxpayers and will contribute to improving voluntary compliance.

Misrepresentation of taxpayers' information

Some tax practitioners provide SARS with their own contact details (cell phone number and email address) in the RAV01s of their taxpayer clients.

This conduct has prevented taxpayers from receiving communication from SARS, including One Time Pins when requesting eFiling profile transfers.

This is not acceptable and we recommend that tax practitioners ensure that the correct contact details of taxpayers are provided in their RAV01s.

New unit established to serve interests of SMMEs, traders and travellers

The Small, Micro and Medium Enterprises (SMME), Traders and Travellers Division is a newly established unit within SARS.

As such the unit is undertaking a study to understand the challenges faced by the stakeholders concerned in a bid to ease the burden of compliance.

Particular emphasis is placed on how tax legislation, policies and incentives are being experienced by these stakeholders. It is hoped that a fuller understanding may assist SARS in improving its service offerings.

The exercise is strictly for SARS use and your participation will remain confidential and will not be used to prejudice you in your dealings with SARS. Participation is completely anonymous and voluntary and taxpayers can withdraw from the study at any time and without consequences for choosing not to participate.

The survey will take approximately 10 minutes to complete and it will be launched in December 2020 and intended to run until the end of January 2021. We hope that you will participate as we would like to ensure that we can continue to fashion our services to match your needs.

A Guide for booking an appointment with SARS

How to book an appointment using the SARS MobiApp:

Step 1: Login to the SARS MobiApp

Step 2: Tap on the menu 'next to the welcome note'

Step 3: Tap the option 'Branch eBooking'

Step 4: Select Requester Information.

Step 5: Complete 'Mandatory taxpayer and appointment information'.

Step 6: Click on 'Check for appointment' and a calendar will appear

Step 7: Select date and time for your appointment and click on 'submit'.

An appointment confirmation message will appear on your screen. You will also receive an appointment confirmation message via your preferred mode of contact.

How to book an appointment using the SARS website:

The use of Google Chrome, Microsoft Edge, Firefox or Safari is recommended to access the booking form. Please do not use Internet Explorer.

Step 1: To book an appointment, go to www.sars.gov.za

Step 2: Click on 'Book an appointment'.

Step 3: Click on the link to open booking form 'Book an appointment via our eBooking online system'.

Step 4: Select 'Taxpayer Type'.

Step 5: Complete 'Mandatory personal details'.

Step 6: Select 'Appointment method', Voice (telephonic engagement) or Video.

Step 7: Select 'Reason for appointment' from selected drop down list.

Step 8: Select 'Province' from selected drop down list.

Step 9: Select 'Branch' from selected drop down list.

Step 10: Click on 'Check for appointment' and a calendar will appear.

Step 11: Select the date and time for your appointment and click on 'submit'.

An appointment confirmation message will appear on your screen. You will also receive an appointment confirmation message via your preferred mode of contact.

Processes that warrant an appointment:

- To submit a Personal Income Tax Return (exceptional circumstances)
- To submit supporting documents, e.g. when a taxpayer does not have access to a scanner or there are too many documents to be uploaded.
- Registrations for Body Corporate/Trust/Estates
- Appointment of executor for estates or appointment of first-time public officer
- Request for Statement of Account Prior 2008 for Estates/STC
- Application for Income Tax Exemption (EI1 & EI2)
- Donation Tax Declaration (IT144) proof of current valid ID number
- Lifting a Bank Special Stopper
- Conversions from CC to PTY
- Financial year-end changes
- Interpretations and explanations required
- Alternative Dispute Resolution (ADR)
- Deferred arrangements (for all taxes/amounts)
- Reactivation of a tax number
- NPO manual Interventions
- New Income Tax Registration Number – issued after insolvency declaration
- Updating estate bank details
- Verification of company banking details
- eFiling registration verification
- VAT registration - only for Joint Venture applications.

What can be done by way of a virtual/telephonic engagement:

The following appointment methods are available to interact with SARS:

- Submission of Personal Income Tax Returns (exceptional circumstances)
- Submission of supporting documents. Physical appointments may only be made when a taxpayer does not have access to a scanner or if too many documents have to be uploaded.
- Registrations for Body Corporate/Trust/Estates
- Appointment of executor for estates or appointment of first-time public officer
- Request for Statement of Account Prior 2008 for Estates/STC
- Application for Income Tax Exemption (EI1 & EI2)
- Donation Tax Declaration (IT144)

- Maintain ID number
- Lifting of Bank Special Stopper
- Conversions from CC to PTY
- Financial year end changes
- Interpretation and Explanation
- Alternative Dispute Resolution (ADR)
- Deferred arrangements (for all taxes/amounts)
- Reactivation of Tax Number
- NPO Manual Interventions
- Income Tax Registration Number – after insolvency
- Estate bank details update
- Update of registered personal details – remove – can be done on eFiling
- Income Tax Registration (Individual/Company/Insolvent or Estate)
- Verification Company banking
- eFiling registration verification
- VAT registration – only for Joint Ventures

Exceptions:

- Failed authentication
- No access to internet
- No smart phone or unable to use one
- Illiteracy
- Registered clients without valid ID or passport (residence permit)
- eFiling technical assistance required, for instance when a taxpayer experiences errors on eFiling and requires assistance.
- There may be instances where no timeslots will display. This will occur when the SARS branch selected is fully booked for that day. Taxpayers may walk into branches only if their query is an exception. Instead, book the next available appointment date.
- Assistance with submission of Individual Income Tax returns (ITR12s) are limited to telephonic engagements only.
- For video appointments, you must have internet connectivity and a device with a camera (e.g. a smartphone with a camera or computer with a webcam) in order to engage with the SARS official.
- The eBooking system may only be used to make appointments for taxpayers already registered with SARS.
- The data entered (passport or ID number) has failed validation (not registered or invalid).
- You will not be allowed to make multiple bookings once a booking has already been submitted and is still active for the tax reference number entered.
- Appointments cannot be made for a date and time that:

- Is more than 60 days in advance of the current date, or
- Sooner than 48 hours from the current date; or if it falls
- On a public holiday; or
- A weekend (unless otherwise stated by SARS).