

# **SME Tax Issues for Bookkeepers**

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# Presenter

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# Course Outline

# Course Outline

**The webinar will cover the following topics:**

- How to add company to existing eFiling profile.
- Activating a SARS Registered Representative.
- Company Income Tax System and Form changes.
- CIT Audit letters.

# Course Outline

## **Cont.**

- Introduction of penalties for PAYE.
- Request for Remission of Administrative Non-compliance Penalty.
- Interim Dispute Process and Dispute Resolution for PAYE penalties.
- Pilot of ePenalty System.

# Course Outline

## **Cont.**

- Pilot of number plate recognition (NPR) system.
- Crypto Assets and Tax.
- Tax Relief on Excise Duty.
- How to claim donations made to the Solidarity Fund.

# Learning Objectives:

**By the end of this event you should:**

- Know all the latest important tax updates from SARS;
- Be aware of current tax issues affecting SMEs;
- Be able to deal with tax issues affecting your SME clients;
- Be able to use the latest relevant and up to date information in your work; and
- Know the latest information that keeps you compliant with SARS requirements.

# Quote:

*The secret to success is to be ready for your opportunity when it comes.*

- Benjamin Disraeli



# Session One

# Session One Topics:

- How to add company to existing eFiling profile.
- Activating a SARS Registered Representative.
- Company Income Tax System and Form changes.
- CIT Audit letters.

# Video

**How to add company to existing eFiling profile.  
Activating a SARS Registered Representative.**

# Company Income Tax System and Form changes

# Theory

- On 10 September 2021, SARS will introduce form and system changes to the Income Tax Return for Companies (ITR14) and the Notice of Assessment for Companies (ITA34C).
- A limited number of source code descriptions will also be updated.

# Theory

The changes include:

- Updated source code descriptions  
Changing the description of all crypto-related source codes from  
Cryptocurrency to Crypto Asset.

# Theory

The changes include:

- An update on the ITR 14 return with all the latest legislative changes and additions of the appropriate validations. The changes made relate to the following sections of the Income Tax Act:
  - Section 10(1)(yA) Section 10(1)(t)
  - Section 12DA
  - Section 12F
  - Section 13quat
  - Section 13sept

# Theory

The changes include:

- Additional validations that apply to Real Estate Investment Trusts (REIT) and Exempt Foreign Dividends, in terms of the Income Tax Act, were added
- The Audit “Letter of Findings” was enhanced to enable the auditors to explain how the Understatement Penalty (USP) was raised.
- Enhancement of the ITA34C to correctly display the “Payment Due Date”, and an explanatory note will be added to the ITA34C.



# CIT Audit Letters

# Theory

- As from 23 April 2021, all CIT audit letters will state the specific due date for relevant material, supplementary declarations, corrections or any other requests to the taxpayer.
- In the past the CIT audit letters requested the submission of relevant materials within a certain number of business days.
- For returns filed and selected for audit from 23 April, these letters will state a specific date on which the documents required by SARS, need to be submitted.
- Failure to adhere to the stipulated deadline date, may result in withholding CIT refunds due to you or raising an assessment.

# Theory

- SARS trusts that by stating the specific due dates, taxpayers will be provided with the necessary clarity and certainty of their obligations, while making it easy and simple to comply.
- The internal system enhancements will further allow SARS to detect non-compliance by finalising audit cases through enhanced risk identification mechanisms.

# Theory

- CIT is a tax imposed on companies resident in the Republic of South Africa i.e. incorporated under the laws of, or which are effectively managed in the Republic, and which derive income from within or outside the Republic.
- Non-resident companies which operate through a branch or which have a permanent establishment within the Republic are subject to tax on all income from a source within the Republic.

# Theory

- SARS would like to draw to your attention to the fact that CIT filing compliance is currently of serious concern to SARS.
- As the institution closes in on non-compliance by companies, it reminds companies to submit returns on time, correct and complete.

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**End of Session One**

# Session Two



# Session Two Topics

- Introduction of penalties for PAYE.
- Request for Remission of Administrative Non-compliance Penalty.
- Interim Dispute Process and Dispute Resolution for PAYE penalties.
- Pilot of ePenalty System.

# Important Dates

# Theory

## What's New:

- 4 October 2021 – e@syFile version 7.1.7 was released.
- 13 September 2021 – e@syFile version 7.1.6 was released.
- 9 September 2021 – Changes for Interim Reconciliation starting 13 September 2021
- 17 August 2021 – BRS – PAYE Employer Reconciliation v20 0 2 was released
- 10 August 2021 – e@syFile version 7.1.5. was released
- 13 July 2021 – Introduction of penalties for PAYE

# Introduction of penalties for PAYE

# Theory

## **Introduction of penalties for PAYE:**

- The penalty for late filing of a Pay-As-You-Earn (PAYE) reconciliation was introduced for the first time this year.
- However, we are still in the process of enhancing our Dispute Resolution process so that this penalty can be disputed separately from a PAYE late payment penalty.
- In the event that you receive another PAYE penalty for the same tax period, you will not yet be able to do a Request for Remission or lodge an Objection against the added penalty on eFiling when your prior Request for Remission or Dispute has already been finalised.

# **Request for Remission of Administrative Non-compliance Penalty**

# Theory

May I request for a Penalty to be remitted?

A Request for Remittance may be submitted to SARS in writing, it must include:

- A description of the circumstances which prevented the person from complying with the relevant obligation; and
- Supporting documentation and information as required by SARS.

# Theory

A Request for Remission for Penalty can only be submitted via the following two channels:

- eFiling
- SARS Branch.
- No manual request or ADR I form will be accepted.



# Theory

To make use of the interim process to submit a Request for Remission, Notice of Objection or Notice of Appeal, please follow these steps:

- Check on eFiling that the penalty amount for which you wish to request remission, object or appeal against is indeed blocked from being submitted. If eFiling blocks you then proceed to Step 2.

# Theory

## Step 2

- Type or write a Request for Remission, and make sure that you include the reason for your request as well as the PAYE reconciliation period or transaction numbers of the penalties incurred or the EMP201 periods.
- If you already submitted a Request for Remission but you remain aggrieved by the outcome then use the ADR1 form in the case of an objection. If you already objected and the objection was dismissed, and you wish to appeal, then use the ADR2 form.

# Theory

## Step 3

Submit your Request for Remission, ADR1 or ADR2 to [contactus@sars.gov.za](mailto:contactus@sars.gov.za) or [pcc@sars.gov.za](mailto:pcc@sars.gov.za). You will receive a case number which must be used in any future correspondence with SARS relating to this matter.

# Theory

## Step 4

Once we have considered the request for remission, objection or appeal, SARS will notify you by way of a letter addressed to your preferred channel of communication.

**What are the conditions for the remittance of a penalty?**

# Theory

## NOMINAL OR FIRST INCIDENCE ON NON-COMPLIANCE

Possible cases of remittance	Conditions for remittance	If requirements are met
Fixed amount penalties	<ul style="list-style-type: none"> <li>· First incidence of non-compliance; OR</li> <li>· If the duration of the non-compliance is less than five business days · Additional requirements if above two conditions are met:               <ul style="list-style-type: none"> <li>o Reasonable grounds for non-compliance exist; AND</li> <li>o Non-compliance in issue has been remedied.</li> </ul> </li> </ul>	Up to R2000 can be remitted
Reportable arrangements	Up to R100,000 can be remitted	
Imposition of percentage based penalties	<ul style="list-style-type: none"> <li>· First incidence of non-compliance; OR</li> <li>· Involved a penalty amount of less than R2000; AND · Reasonable grounds for non-compliance exists; AND · Non-compliance in issue has been remedied (the capital amount outstanding for the specific period has been paid)</li> </ul>	All penalties can be waived

# Theory

## EXCEPTIONAL CIRCUMSTANCES:

EXCEPTIONAL CIRCUMSTANCES		
Possible cases of remittance	Examples	If requirements are met
Natural or human made disaster	<ul style="list-style-type: none"> <li>· Theft/hijacking · Elements of nature (e.g. fire/floods); etc.</li> </ul>	The whole penalty or a portion thereof.
Civil disturbance or disruption in service	<ul style="list-style-type: none"> <li>· Strikes · Messenger/taxpayer could not drop off payment due to marches/riots; etc.</li> <li>· The bank experiences a technical problem for the day – the bank must provide the taxpayer with a letter confirming the technical error experienced</li> </ul>	
Serious illness or accident	<ul style="list-style-type: none"> <li>· Hospitalisation of business owner or representative · Person dealing with tax affairs was seriously ill and is the only person working with it · Serious accident Stroke, Death; etc</li> </ul>	

# Theory

## EXCEPTIONAL CIRCUMSTANCES Cont.

Serious emotional or mental distress	<ul style="list-style-type: none"><li>· Hospitalisation of business owner or representative</li><li>· Physical disability</li><li>· Mental sickness; etc</li></ul>
Act by SARS (office error)	<ul style="list-style-type: none"><li>· A capturing error</li><li>· A processing delay</li><li>· Provision of incorrect information in an official publication issued by SARS</li><li>· Delay in providing information to any person</li><li>· Failure by SARS to provide sufficient time for an adequate response to a request for information by SARS.</li></ul>
Serious financial hardship	<ul style="list-style-type: none"><li>· In the case of an individual, lack of basic living requirements; or</li><li>· In the case of a business, an immediate danger that the continuity of business operations and the continued employment of its employees are jeopardised.</li></ul>
Any other circumstance of similar seriousness	



# Theory

## REMMITTANCE FOR UNDERESTIMATION:

<b>UNDERESTIMATION OF TAXABLE INCOME FOR PROVISIONAL TAX PURPOSES</b>		
<b>Possible cases of remittance</b>	<b>Conditions for remittance</b>	<b>If requirements are met</b>
Submitted a provisional tax return	Not deliberately or negligently underestimated	Remit the whole penalty or portion of it
Did not submit a provisional tax return	No intent to evade or postpone	Remit the whole penalty or portion of it

# Pilot of ePenalty System

# Theory

## Business Requirement Specifications (BRS) and timelines

Business Requirement Specification	Year Applicable	Submission dates*
<a href="#"><u>BRS – PAYE Employer Reconciliation for 2021 / 2022</u></a>	2022 Annual Employer Reconciliation (1 March 2021 – 28 February 2022)	<b>Interim:</b> 13 Sep – 31 Oct 2021 <b>Annual:</b> 1 Apr – 31 May 2022
<a href="#"><u>BRS – PAYE Employer Reconciliation for 2020 / 2021</u></a>	2021 Annual Employer Reconciliation (1 March 2020 – 28 February 2021)	<b>Interim:</b> 14 Sep – 31 Oct 2020 <b>Annual:</b> 1 Apr – 31 May 2021
<a href="#"><u>BRS – PAYE Employer Reconciliation for 2019 / 2020</u></a>	2020 Annual Employer Reconciliation (1 March 2019 – 28 February 2020)	<b>Interim:</b> 23 Sep – 31 Oct 2019 <b>Annual:</b> 15 Apr – 31 May 2020
<a href="#"><u>BRS – PAYE Employer Reconciliation for 2018 / 2019</u></a>	2019 Annual Employer Reconciliation (1 March 2018 – 28 February 2019)	<b>Interim:</b> 17 Sep – 31 Oct 2018 <b>Annual:</b> 1 Apr – 31 May 2019

# **Business Requirement Specifications (BRS)**

# Theory

## **Pilot of ePenalty System**

- SARS has developed an ePenalty system under its Reporting of Conveyances and Goods (RCG) project to identify instances of non-compliance with prescribed reporting obligations and to penalise cargo reporters accordingly.
- SARS has decided to pilot the ePenalty system outcomes with cargo reporters for a period of three months, starting on 1 September 2021 and concluding on 30 November 2021. During this period, cargo reporters (e.g. carriers and freight forwarders) will not be penalised.

# Theory

## **Pilot of ePenalty System**

- The pilot will focus on the submission of advance cargo reports for imported goods in the sea and air modalities and on export goods in the rail modality.
- The road modality is already largely compliant with its reporting obligations as more than 99% of cross-border truck movements take place against electronic Road Freight Manifests (eRFMs) submitted to SARS by road carriers or their agents.

**End of Session Two**

# Session Three

## **Session Three Topics:**

- Pilot of number plate recognition (NPR) system.
- Crypto Assets and Tax.
- Tax Relief on Excise Duty.
- How to claim donations made to the Solidarity Fund.



**Pilot of number plate recognition  
(NPR) system.**

# Theory

## **Pilot of number plate recognition (NPR) system:**

- The South African Revenue Service (SARS) will soon pilot a new Number Plate Recognition (NPR) system to eliminate the need for manifests and CN2 notices to be presented at the border for arrival and exit control measures.
- What is a CN2 form South Africa?
- The CN2 has been used for some years as a gate pass document. Whenever a truck carrying cargo arrives at the port of entry, a CN2 document is printed, displaying the number of consignments in the vehicle/truck.

# Theory

## **Pilot of number plate recognition (NPR) system:**

- The NPR solution is an initiative under the Customs Modernisation Programme (CMP) and is informed by the SARS Strategic Objectives of making it easy for taxpayers and traders to comply with their obligations, as well as to detect taxpayers and traders who do not comply, and to make non-compliance hard and costly.

# Theory

## **Pilot of number plate recognition (NPR) system:**

- It also aligns with the World Customs Organisation (WCO) “SMART borders” concept that requires Customs administrations to utilise automation, technology and risk-management to facilitate and secure cross-border trade, as well as to improve Customs processes, services and overall performance.

# Theory

## **Pilot of number plate recognition (NPR) system:**

- It also aligns with the World Customs Organisation (WCO) “SMART borders” concept that requires Customs administrations to utilise automation, technology and risk-management to facilitate and secure cross-border trade, as well as to improve Customs processes, services and overall performance.

# Theory

## **Pilot of number plate recognition (NPR) system:**

- The Number Plate Recognition (NPR) system will be piloted in Beitbridge from 28 August 2021. On conclusion of the pilot, it will be rolled out to the remaining land borders in phases.

# Crypto Assets and Tax

# Theory

## **Crypto Assets and Tax:**

What is it?

- A crypto asset is a digital representation of value that is not issued by a central bank, but is traded, transferred and stored electronically by natural and legal persons for the purpose of payment, investment and other forms of utility, and applies cryptography techniques in the underlying technology.



# Theory

## **Crypto Assets and Tax:**

What is it?

- According to the Explanatory Memorandum on the Taxation Laws Amendment Bill as issued on 20 January 2021 the word “cryptocurrency” was replaced with “crypto asset” in line with the proposed adoption of a uniform definition of crypto assets within the South African regulatory framework.

# Theory

## **Crypto Assets and Tax:**

### The Journey:

- 2014: The initial public statement alerting the public to the risks of crypto assets was issued by National Treasury (NT) in a joint initiative with the South African Reserve Bank (SARB), the Financial Services Board (now the Financial Sector Conduct Authority (FSCA)), the South African Revenue Service (SARS) and the Financial Intelligence Centre (FIC).

# Theory

## **Crypto Assets and Tax:**

### The Journey:

- 2016: The Intergovernmental Fintech Working Group (IFWG) was established, comprising members from NT, SARB, FSCA and FIC. The objective of the IFWG is to foster fintech innovation by supporting an enabling regulatory environment and reviewing both the risks and the benefits of emerging innovations.

# Theory

## **Crypto Assets and Tax:**

### The Journey:

- 2018: SARS issued a media release to clarify its stance on the tax treatment of crypto-currencies.
- SARS published a list of FAQs (reviewed in 2021).

# Theory

## **Crypto Assets and Tax:**

The Journey:

2019:

- The National Credit Regulator (NCR) and SARS joined the IFWG.
- The IFWG released a consultation paper on crypto assets. The consultation paper highlighted the perceived benefits and risks of crypto asset-related activities, as well as policy proposals for a regulatory framework.

# Theory

## **Crypto Assets and Tax:**

The Journey:

2020: The IFWVG released a position paper on crypto assets. The purpose of the position paper is to provide specific recommendations for the development of a regulatory framework for crypto assets, including suggestions on the required regulatory changes to be implemented.

# Theory

## **Crypto Assets and Tax:**

The Journey:

2021: The position paper released in 2020 is being used as input into the proposed Regulations and a policy on crypto assets.

# Theory

## **Crypto Assets and Tax:**

Do I need to pay tax on crypto assets?

- Yes, normal income tax rules apply to crypto assets and affected taxpayers need to declare crypto assets' gains or losses as part of their taxable income.
- The onus is on taxpayers to declare all crypto assets-related taxable income in the tax year in which it is received or accrued. Failure to do so could result in interest and penalties.



# Theory

## **Crypto Assets and Tax:**

How will it work?

- Following normal income tax rules, income received or accrued from crypto assets transactions can be taxed on revenue account under “gross income”.
- Alternatively such gains may be regarded as capital in nature, as spelt out in the Eighth Schedule to the Act for taxation under the Capital Gains Tax (CGT) paradigm.
- Taxpayers are also entitled to claim expenses associated with crypto assets accruals or receipts, provided such expenditure is incurred in the production of the taxpayer’s income and for purposes of trade.

# Tax Relief on Excise Duty

# Theory

## Tax Relief on Excise Duty

What is this about?

- National Treasury announced a fiscal package, outlined by President Cyril Ramaphosa on 25 July 2021, in response to the continuing COVID -19 pandemic.
- The relief is applicable to tax compliant businesses in the alcohol sector who have been financially impacted by the COVID-19 pandemic and subsequent lockdown restrictions.

# Theory

## **Tax Relief on Excise Duty**

What type of relief is available?

- SARS will provide deferrals of up to three months for excise duty payments by tax compliant licenses in the alcohol sector.
- The relief is intended to assist businesses that are under pressure in terms of cash flow and their payment obligations towards SARS.

# Theory

## Tax Relief on Excise Duty

Do I automatically qualify for excise payment deferral?

- There is no automatic qualification.
- Tax compliant licensees in financial distress due to COVID-19 that satisfy any one or more of the criteria as set out in rule 105.02(a)(i-iv) of the Customs & Excise Act no.91 of 1964, will be considered for payment deferral.

# Theory

## Tax Relief on Excise Duty

What must I do to be a tax compliant licensee?

In order to qualify for the emergency tax measures, you must be tax compliant, which means that you:

- Are registered for all required taxes
- Have no outstanding returns for any taxes you are registered for
- Have no outstanding debt for any taxes you are registered for, excluding
  - ✓ Instalment payment arrangements
  - ✓ Compromise of tax debt
  - ✓ Payment of tax suspended pending objection or appeal

# Theory

## Tax Relief on Excise Duty

How do I apply for this relief?

- Licensees must apply in terms of rules 105.01 to 105.04 of the Customs & Excise Act no. 91 of 1964 as amended, for deferral of payment and each case will be considered on its merits.
- Requests can be submitted to the following mailbox:  
[osc@sars.gov.za](mailto:osc@sars.gov.za).

**How to claim donations made to  
the Solidarity Fund.**



# Theory

## **The Solidarity Fund**

- The Solidarity Fund is an approved Public Benefit Organisation that has also been approved under section 18A of the Income Tax Act.
- Special provisions were contained in the Disaster Management Tax Relief Administration Act and Disaster Management Tax Relief Act that created a special dispensation for a specific period of time for tax deductible donations made to the Fund by taxpayers.

# Theory

## **The Solidarity Fund**

Donations made to the Solidarity Fund during the 2020/2021 tax year of assessment could have been made through two different channels-

- direct payment to the Solidarity Fund or
- through “payroll giving” by employers on behalf of employees.

# Theory

## **The Solidarity Fund**

The method of claiming a section 18A deduction for these donations depends on the channel used by the donor, as well as the time period during which this donation was made.

# Theory

## The Solidarity Fund

### Direct Contributions:

- The donations made directly to the Solidarity Fund are tax-deductible and the limit for donations, was increased to 20 percent.
- The 20% limit will apply to donations in the form of cash or property in kind and should have been transferred or paid to the Solidarity Fund between 01 April 2020 to September 2020.
- There will, thus, be a limit of 10% for any qualifying donations and an additional 10% for donations to the Solidarity Fund made between April 2020 and September 2020.

# Theory

## **The Solidarity Fund**

### Direct Contributions:

The deduction for these donations is determined as follows

- 1 April 2020 to 30 September 2020: limited to 20% of the taxable income before the section 18A deduction (special tax treatment); and
- 1 October 2020 to 28 February 2021: limited to 10% of the taxable income before the section 18A deduction (normal tax treatment).

# Theory

## **The Solidarity Fund**

### Direct Contributions:

Any donations made to the Solidarity Fund and which are over the limit during the 2020/2021 tax year will be carried forward and deemed to be a donation made in the succeeding years of assessment (e.g. 2021/2022) and will be subject to the 10% limitation in each year, until the rollover has been exhausted.

# Theory

## **The Solidarity Fund**

### Payroll Giving:

Where donations were made through payroll giving to the Solidarity Fund (this is where an employee authorised / requested their employer to deduct an amount as a donation and pay it over on their behalf to the Solidarity Fund), taxpayers (employees) would have already enjoyed the tax benefit (deduction) calculated on a monthly basis as per the applicable rules.

# Theory

## **The Solidarity Fund**

Payroll Giving:

Therefore, taxpayers who donated to the Solidarity Fund through payroll giving should not attempt to claim a deduction upon submission of their annual returns, as this has already been factored in through an automated reconciliation process.



**End of Session Three**

# Q&A Session

**Thank you for participating!**