SARS Tax Practitioner Readiness Programme

Module 8 - Part 2

Dispute Resolution

Learning Objectives

At the end of this module, you are expected to:

- Understand the SARS dispute process

- Understand the difference between

  - Request for remission

  - Notice of objection

  - Notice of appeal

- Understand the time lines for the above

Dispute Resolution Process

- When taxpayers are aggrieved by an assessment, they have a right to dispute it. **Chapter 9** of the Tax Administration Act provides the legal framework for these disputes across all tax types found in the tax Acts.
- Chapter 9 must be read in conjunction with the rules issued under Sec103 governing the following:
    - The procedures to lodge an objection and appeal against an assessment or 'decision' that is subject to objection and appeal under Sec104(2);
    - Alternative dispute resolution (ADR) procedures under which SARS and the person aggrieved by an assessment or 'decision' may resolve a dispute;
    - The conduct and hearing of an appeal before a tax board or tax court

The rules under Sec103 of the Act were issued by the Minister after consultation with the Minister of Justice and Constitutional Development, by public notice on 11 July 2014 in Government Gazette No. 37819.

Assessments and Decisions

What assessments and decisions can be objected against?

- Any assessment where the taxpayer is aggrieved;

- A decision by SARS to not extend the period for objection or appeal where the taxpayer requested such extension;

- Any decision that may be objected to or appealed against under a tax Act

- A decision to not authorise a refund;

- A decision to not remit an understatement penalty

- A decision to not remit an administrative non-compliance penalty

Valid Objection

The requirements for a valid objection are regulated by the rules, which rules will essentially prescribe that an objection must

- Be lodged within 21 business days after the date of assessment;
- Be lodged in the prescribed form & specify the grounds of objection in full;
- Specify an address at which the taxpayer will accept notice and delivery of documents for purposes of the dispute;
- Be signed by the taxpayer or duly authorised representative
- Be delivered at the SARS address specified for this purpose in the assessment

An objection that does not comply with any of the above requirements will be regarded as invalid and of no effect, unless the taxpayer remedies the invalidity within a prescribed period after delivery of SARS's notice of invalidity to the taxpayer.

SARS' Decision on an Objection

The Act provides that SARS must consider a valid objection in the manner and within the period prescribed under the Act and the rules. The Act provides that

- SARS may disallow the objection or allow it either in whole or in part and alter the assessment accordingly; and

- SARS must inform a taxpayer by notice of the disallowance or partial allowance of an objection, which notice must

  - state the basis for the decision; and

  - contain a summary of the procedures for appeal

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Condonation of a Late Objection

The requirements for and limitations of the condonation of a late objection are

- An application for the extension of the period within which an objection must be filed must be submitted to SARS in the prescribed form before the deadline expires unless

  - reasonable grounds exist for the delay and the application is submitted within 30 business days of the deadline; or

  - the delay is due to an exceptional circumstance referred to in Sec 218 or any other circumstance of analogous seriousness and the application is submitted within three years of the deadline;

- To qualify for an extension for a late objection, the taxpayer has to prove that

  - for an extension of the objection period for a period of less than 30 business days, reasonable grounds exist for the delay; or

  - for an extension of the objection period for a period of more than 30 business days, exceptional circumstances exist for the delay;

Requirements for a Valid Appeal

After a taxpayer is notified of SARS's decision on the objection, the taxpayer has the right to appeal against the assessment or the decision in the prescribed form and manner. The process to be followed to lodge a valid appeal is set out in the rules, which essentially prescribe that an appeal must

- Be in the prescribed form;
- Be delivered to SARS within 30 days after the date of the notice of the disallowance or partial allowance of an objection at the address prescribed in the notice;
- Be signed by the taxpayer or duly authorised representative;
- indicate in respect of which grounds specified in the objection the taxpayer is appealing;
- Indicate whether or not the taxpayer wishes to make use of the ADR procedures to resolve the dispute, should these procedures be available; and
- Contain a request for a representative, when the 'appellant' wants to be represented at the hearing by another person.

A notice of appeal that does not satisfy the requirements of the rules is not valid. If the assessment that was objected against is altered after an objection, the appeal is made against that altered assessment.

Alternative Dispute Resolution (ADR)

- Provisions are made in the rules to resolve a dispute outside of the tax board or tax court in line with principles of mediation.

- The ADR process applies only if there is mutual agreement between SARS and the taxpayer.

- No one can be compelled to enter into the ADR process, and proceedings in the appeal are suspended while the ADR procedure is ongoing.

- ADR proceedings are with full reservation of rights of both SARS and the taxpayer and if ADR is unsuccessful, the taxpayer can pursue the appeal to the tax board or the tax court.

Practical Application

- A taxpayer can lodge a Request for Remission (RFR), Notice of Objection (NOO) and Notice of Appeal (NOA) against interest and penalty on late payments and assessments in relation to Personal Income Tax (PIT), Corporate Income Tax (CIT), Value-Added Tax (VAT) and Pay-As-You-Earn (PAYE), including Employment Tax Incentive (ETI), Unemployment Insurance Fund (UIF) and Skills Development Levy (SDL).

- The Request for Remission must be completed on the prescribed form (RFR01).

- The Notice of Objection, Notice of Appeal and Suspension of Payment prescribed forms have the DISP01 form code.

- The NOO form for interest and penalty for late payment can only be completed once the Request for Remission (RFR01) has been submitted to SARS and the RFR has been partially allowed or disallowed.

Practical Application

- The NOA form can only be completed and submitted to SARS once the NOO has been submitted to SARS and the outcome of the objection has been received i.e. where a NOO has been partially allowed or disallowed.

- The request for suspension of payment can be requested as a standalone option on eFiling for Income Tax.

- To ensure that the correct process is followed, validations will be applied against the disputes that are lodged.

Practical Application

Multiple transactions and/or source codes may be disputed on the RFR, NOO or NOA form per period.

For VAT, multiple periods up to 12 months may be disputed on the RFR, NOO or NOA form.

In the case where the NOO was partially allowed or disallowed and you wish to submit a NOA, ensure that the appeal is based on the same items being objected. The same source code and amounts used in the NOO must be completed on the NOA.

The RFR01, DISP01 or supporting documents can be submitted via any of the following channels:

• eFiling
• At a local SARS branch

Use of E Filing for Disputes

- The dispute process can be triggered from the following functionalities on eFiling

    - Assessment notices (ITA34)

    - Statement of Account

    - Dispute landing page

    - Relevant return work page

- SARS can either ALLOW, PARTIALLY ALLOW or DISALLOW the request for remission, objection or appeal by the taxpayer. The outcome of the objection or appeal will be communicated to the taxpayer by means of a dispute outcome letter.

Submission of Request for Remission (RFR)

REQUEST TO FILE DISPUTE

Request to file a Dispute	
Tax Type:	Income Tax ▼
Reference Number:	
Period:	2016 ▼

Next

REQUEST TO FILE DISPUTE

Request to file a Dispute	
Tax Type:	VAT ▼
Reference Number:	
Period:	

By clicking on this button, eFiling will perform a check to confirm whether there are currently any existing disputes against the selected tax type and period, and if the dispute is allowed.

Next

If there are no items available for Income tax, VAT or PAYE to dispute against, an error message will be displayed as indicated on the next screen.

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Submission of Request for Remission (RFR)

REQUEST TO FILE DISPUTE

No dispute items could be found

Request to file a Dispute	
Tax Type:	VAT
Reference Number:	.
Period:	2012-11,

Next

REQUEST TO FILE DISPUTE

No dispute items could be found

Request to file a Dispute	
Tax Type:	PAYE
Reference Number:	
Period:	2017-05,

Next

If there are items available to dispute, a list of items will be displayed on the "**Selection – Request for Remission**" screen.

- **Note**: Only items that are available for dispute will be displayed in the "**Dispute Item List**". The below screen is only an example of how the dispute item list looks.

SELECTION PAGE

Assessment

201502

Account

201502

RFR

Select	Source Code/Transaction Code	Source Code/Field Description	Case Nr.	Dispute Type	Dispute Amount	Requested Amount
☐	9995	VAT Interest	0	RFR	R 200.77	
☐	9996	VAT Penalties	0	RFR	R 98.25	

Reason/Grounds	Apply Across
	☐ Period
	☐ All Periods

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Select the source code that you want to dispute and enter the requested amount.

The "**Dispute Item List**" will display the following information columns:
- ✓ **Select** – indicate the items to dispute against by selecting the relevant tick boxes.
- ✓ **Source Code/Transaction Code** – the source code / transaction code of the dispute item is displayed.
- ✓ **Source Code/Field Description** – the description of the source/transaction code of the dispute item is displayed.
- ✓ **Case Number** – a case number will be automatically created and displayed if the dispute was submitted to SARS.
- ✓ **Dispute Type** – The dispute type as per the selection is displayed e.g. RFR for Request for Remission, as indicated on the screen.
- ✓ **Dispute Amount** – the amount that has been charged for interest or penalties for late payment are displayed.
- ✓ **Requested Amount** – indicate what you believe the amount should be.

201406

Select	Source Code/Transaction Code	Source Code Description	Dispute Type	Dispute Amount	Requested Amount
☑	9995	VAT Interest	RFR	R 251.51	0.0000
☐	9996	VAT Penalties	RFR	R 122.29	

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Complete the reasons for request for remission of the dispute item(s) in the "**Reason/Grounds**" block provided.

Indicate if the reason/grounds should apply across this specific period or all indicated periods. If the "**All periods**" option is selected, the reason(s) entered will be applied to all periods that was selected.

If no reason has been completed and you click the "**Next**" button, the following warning message will be displayed to complete a reason. Click "**OK**" to complete a reason.

Click the "**Back**" button to be directed to the "Request to File Dispute" landing page.

Click the "**Next**" button to continue with the Request for Remission process and the "**Summary**" page will be displayed.

SUMMARY

Taxpayer Name	
Tax Reference	
Tax Type	VAT
Period	201502

RFR

Supporting Documents	Status	Requirement
Supporting Documents	Waiting for Documentation to be Uploaded	Optional

201502

Tax Period	Source Code/Transaction Code	Source Code/Field Description	Case Nr.	Dispute Type	Dispute Value	Requested Value
201502	9996	VAT Penalties	0	RFR	R 98.25	50.00

Reason/Grounds

Interest to be reduced

View Form

Back   Submit

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Reasons/Grounds for Dispute

SELECTION PAGE

Assessment

201502

Account

201502

RFR

Select	Source Code/Transaction Code	Source Code/Field Description	Case Nr.	Dispute Type	Dispute Amount	Requested Amount
☐	9995	VAT Interest	0	RFR	R 200.77	
☑	9996	VAT Penalties	0	RFR	R 98.25	50

Reason/Grounds

Interest to be reduced

Apply Across

☐ Period

☐ All Periods

Submission Message

RESULT

Thank you for your submission. Your dispute request has been sent to SARS.
You may view the history of all your submission via eFiling from within the View Submitted menu on the left

Continue

Click "**Continue**" to proceed and the Submitted disputes screen will be displayed.

Name	Tax Number	Dispute Type	Status	Tax Period	Status Date	Open
		Request For Remission	Submitted	201502	2017/04/24	Open

Click "**Open**" and the Dispute Work Page will be displayed that will indicate that the RFR is submitted.

DISPUTE WORK PAGE

Taxpayer Name		eFiling Status	
Tax Reference			Submitted
Case Reference Number			

DISPUTE	DESCRIPTION	STATUS	DATE	LAST UPDATED BY
RFR	Request For Remission	Submitted	2017/04/24	

Submission of Notice of Objection (NOO)

On the selection page, the assessment, accounts related and suspension of payment containers will be indicated separately.

Note: Only items that are available for dispute will be displayed in the "**Dispute Item List**". The below screen is only an example of how the dispute item list looks.

SELECTION PAGE

Assessment

201406

NOO

Select	Source Code/Transaction Code	Source Code/Field Description	Case Nr.	Dispute Type	Dispute Amount	Requested Amount
☐	0001	Standard rate (excluding capital goods)	.	NOO	R 5 000.00	
☐	0004	Zero rate (only exported goods)		NOO	R 3 000.00	
☐	0007	Supply of accommodation: Value not exceeding 28 days	ʼ	NOO	R 3 000.00	
☐	0008	Change in use and export of second-hand goods	0	NOO	R 3 000.00	
☐	0009	Other and imported services	0	NOO	R 300.00	
☐	0011	Capital goods imported by you	0	NOO	R 200.00	
☐	0012	Other goods and/or services supplied to you (not capital goods)	0	NOO	R 100.00	
☐	0013	Other goods imported by you (not capital goods)	.	NOO	R 200.00	

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If the item that you eish to dispute against is not displayed, click the "**Add**" button and the "**Add source codes**" container will be displayed.

Add source codes

Source Code	Description	Dispute Value	New Value

Add Source Code | Save

Add source codes

Source Code	Description
360 ✕	

3601 - INCOME - TAXABLE
3602 - INCOME - NON-TAXABLE
3603 - PENSION - TAXABLE
3604 - PENSION - NON-TAXABLE
3605 - ANNUAL PAYMENT - TAXABLE
3606 - COMMISSION
3607 - OVERTIME
3608 - ARBITRATION AWARDS - TAXABLE
3609 - ARBITRATION AWARDS - NON-TAXABLE

In the "**Add source codes**" container, the following fields will be displayed to be completed:
☐ **Source Code**
☐ **Description –** this field will populate with the description of the source code entered.
☐ **Dispute Value –** this is the amount that is reflected in the original assessment
☐ **New Value –** this is the amount that you believe should be reflected.

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Upon selection of the relevant source code, the description field will be populated. Complete the "**Dispute value**" and the "**New Value**". Click the "**Add Source Code**" button and then "**Save**" and the field will be added onto the Dispute Item list.

Add source codes

Source Code	Description	Dispute Value	New Value
4103	TOTALEMPLOYEESTAX	0	20000

[Add Source Code]   [Save]

Reason/Grounds   **Apply Across**

☐ Period

☐ All Periods

Message from webpage ✖

⚠ Please Note: Grounds for dispute must be supplied for Tax Period:201406

[OK]

Apply Across

☐ Period

☐ All Periods

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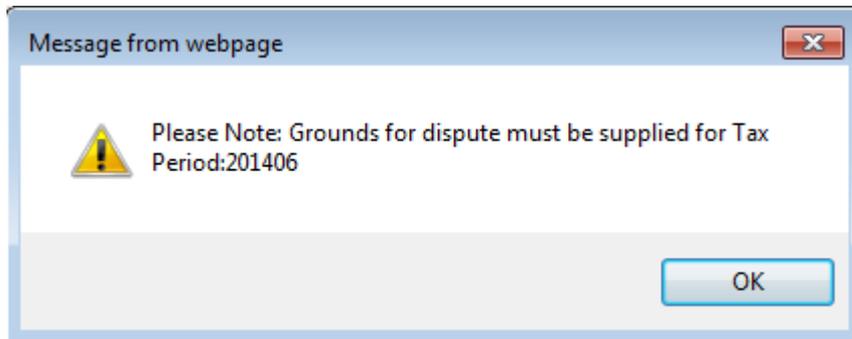
Late Submission of NOO

If you wish to submit a reason for late submission in the case of late objection, complete the reason in the block provided.

The Summary page will display the following information that has been populated from the previous completed steps:

Tax Year – this is the period selected to dispute against.
☐ **Source/Transaction Code** – this is the source/transaction code selected.
☐ **Source Code/Field Description** – the description of the source code selected.
☐ **Case Number** – once the dispute has been sent to SARS and a case has been created, the case number will be populated in this field.
☐ **Dispute Type** – indicates the dispute type that is being completed.
☐ **Dispute Value** – the amount that has been selected for assessed or interest or penalties for late payment are displayed.
☐ **Requested Value** – this is the amount that you believe should be reflected.
☐ **Reason/Grounds** – this will be populated from the information captured
☐ **Reason for Late Submission** – this will be populated from the information captured

DISPUTE WORK PAGE

Taxpayer Name		eFiling Status	
Tax Reference			Submitted
Case Reference Number			

DISPUTE	DESCRIPTION	STATUS	DATE	LAST UPDATED BY
NOO	Notice of Objection	Submitted	2017/04/25	

SUPPORTING DOCUMENTS	STATUS	TYPE	DATE	SIZE (Kb)	NO. OF DOCS
Dispute Supporting Documents	Submitted	📄	2017/04/25		80	1

DISPUTE WORK PAGE

Taxpayer Name		eFiling Status	
Tax Reference			Sent to SARS
Case Reference Number			

DISPUTE	DESCRIPTION	STATUS	DATE	LAST UPDATED BY
NOO	Notice of Objection	Sent to SARS	2017/04/25	

Query Dispute Status | Withdraw

SUPPORTING DOCUMENTS	STATUS	TYPE	DATE	SIZE (Kb)	NO. OF DOCS
Dispute Supporting Documents	Submitted	📄	2017/04/25		80	1

The supporting documents page will be displayed as indicated below.

Summary

The following is important to remember:

- Disputes should be done in the correct order and within the stipulated timeframe

- Disputes should be done via e-filing

- Remember to have all the relevant supporting documents in place when submitting a dispute

- Take into account the turn around times to file disputes and to query disputes

Corporate Income Tax

28 January 2019 - Administrative Penalties for Corporate Income Tax (CIT) to be imposed

SARS will be imposing CIT Administrative penalties from 28 January 2019.

Administrative penalties will be imposed on companies that receive a final demand to submit a return.

In terms of Section 210 of the Tax Administration Act of 2011, non-compliance with regards to non-submission of required CIT returns may be subjected to a penalty, as follows:

If SARS is satisfied that noncompliance by a person referred to in subsection (2) exists, excluding the non-compliance referred to in section 213,

SARS must impose the appropriate 'penalty' in accordance with the Table in section 211.

Non-compliance is failure to comply with an obligation that is imposed by or under a tax Act and is listed in a public notice issued by the Commissioner, other than:

the failure to pay tax subject to a percentage based penalty under Part C; or

non-compliance subject to an understatement penalty under Chapter 16.

Thank you

www.sars.gov.za

SARS Contact Centre 0800 00 SARS (7277)

Visit your nearest SARS branch (to locate a branch visit www.sars.gov.za)

Open: Monday, Tuesday, Thursday & Friday 08:00 to 16:00; Wednesday 09:00 to 16:00

Find us on Facebook

Thank you

Re a leboha

Re a leboga

Ndza Khensa

Dankie

Ndi a livhuwa

Ngiyabonga

Enkosi

Ngiyathokoza

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