



# Correcting errors in tax returns

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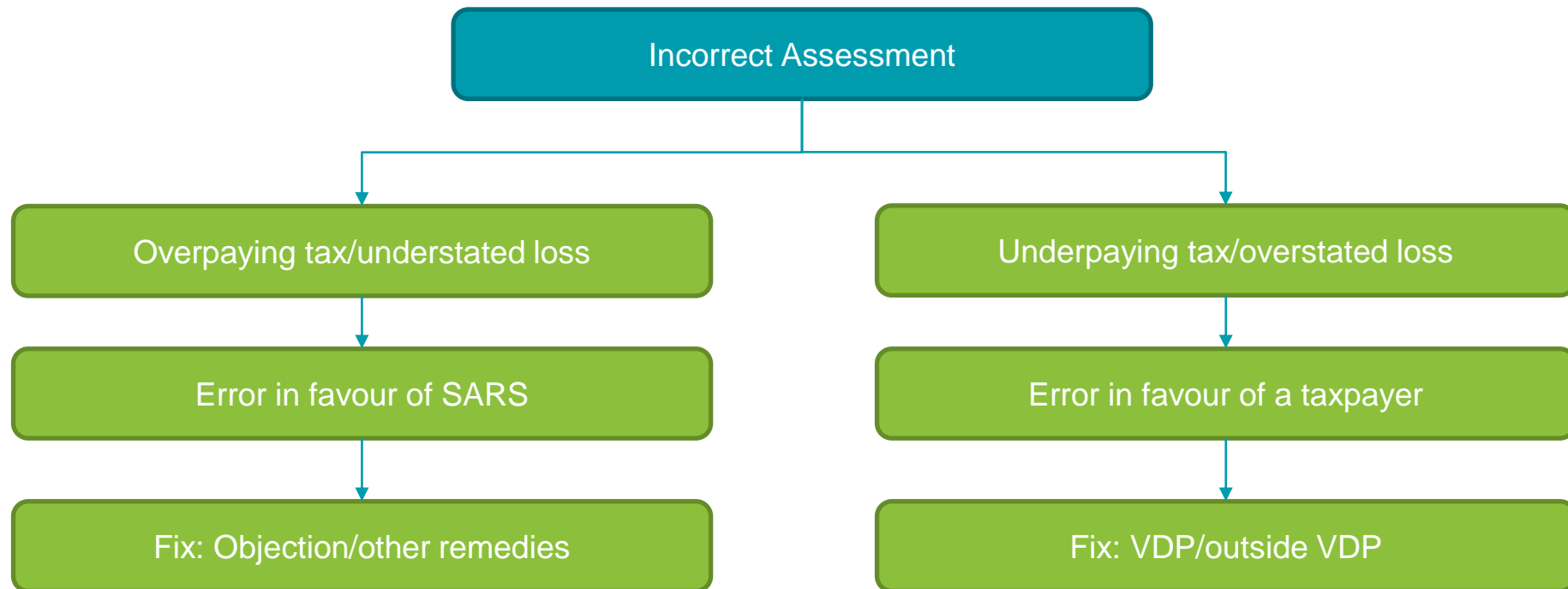
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# Error in tax return?

Error in a tax return = incorrect assessment



# Error in favour of SARS: Objection/other remedies overview

Error in a tax return = incorrect assessment

You want a reduced assessment – section 93 TAA

93(1)(a) - Objection and appeal  
Section 104 and 107 TAA  
The objection rules

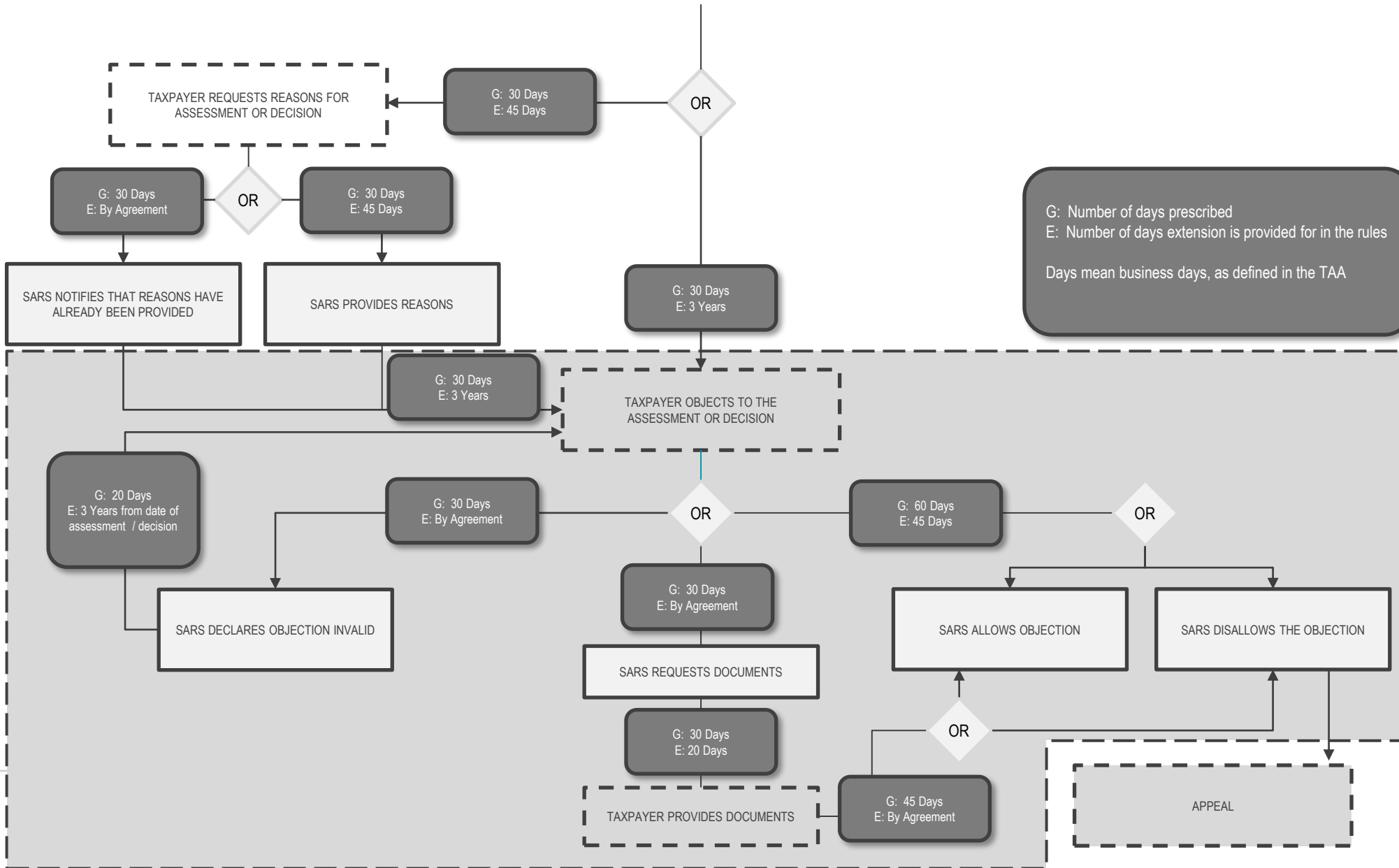
S93(1)(d): Readily apparent undisputed error  
S93(1)(e): processing errors; faulty 3rd party returns; fraudulent tax returns  
S 98: withdrawal of assessments;  
Section 9: decisions given effect to in assessments that are not subject to objection and appeal

# Errors in favour of SARS: Objection overview

- Error and object? – Aggrieved by? – GB Mining v CSARS
- Object within 30 business days
- Complete the prescribed form: NOO/ADR1
- Set out part of assessment objected to
- Provide grounds for objection
- Add substantiating documents
- Submit

# ASSESSMENT OR DECISION THAT IS SUBJECT TO OBJECTION AND APPEAL

Extract from Practical Guide to Handling Tax Dispute by Lexis Nexis



G: Number of days prescribed  
E: Number of days extension is provided for in the rules

Days mean business days, as defined in the TAA



# Errors in favour of SARS: Other remedies – 93(1)(d)

Section 93(1)(d)

SSO satisfied that there is a readily apparent undisputed error in the assessment by SARS or by the taxpayer in a return:

SARS draft Interpretation Note  
Effectively - typos

Practical Guide to Handling Tax Disputes  
Rampersahd and another v CSARS  
Crookes Brothers V CSARS  
CBA v CSARS

“It follows then that SARS can make a reduced assessment ... if, on the facts before it or readily available to it, SARS is of the opinion that it is easy to see that there can be no dispute regarding the fact that the assessment is incorrect”

# Errors in favour of SARS: Other remedies – 93(1)(d)

- How?
- Submit request for correction on e-filing or
- Submit letter to SARS
- Beware – section 99 and section 100

# Errors in favour of SARS: Other remedies – 93(1)(e)

Section 93(1)(e)

Assessments based on “processing error by SARS”; incorrect third party returns/returns fraudulently submitted

Processing error?  
SARS  
Effectively - Typos

Processing error?  
Practical Guide to Handling tax disputes:  
Error made in the sequence of events leading to the issue of an assessment but only of the type that are typically only discovered after prescription periods have lapsed.



# Errors in favour of SARS

Decisions given effect to in an assessment not subject to objection – section 9 :

Very narrow scope

Example: par 19(3) increases letters

# Errors in favour of Taxpayer: Why VDP

- Because it is the right thing to do; and
- Very much secondary incentive: relief against:
  - USP
  - % based penalty
  - No criminal prosecution
- Tax and interest remains payable

# Errors in favour of Taxpayer: What if cant VDP?

- Must still fix
- Challenge may lie against interest and penalties

# The role of the CMO and Tax Ombud to fix errors?

- To fix an error in an assessment – neither the CMO nor the ombud has jurisdiction over the fixing of assessments'
- They may assist in ensuring SARS adheres to procedures – for example not responding to a reduced assessment request/objection but cant tell SARS to fix the error.

# THANK YOU

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