# AGENDA

## 1 Matters from PKF
- Suspension of payment and the compliance history requirement
- Deferred payment terms and the compliance history requirement
- Rule 26 applications and the escalation process
- Interest on amounts withheld in terms of pay now argue later
- Registering objection on the time rules where SARS does not adhere to time rules
- Understatement penalties and the new rules of 16 January 2014

## 2 Matter from SAIT
- Application for TCC in respect of citizens emigrating from SA – IT21(a)’s

## 3 Matter from SARS
SARS Update
Section 164 of the TAA Act

(3) A senior SARS official may suspend payment of the disputed tax having regard to—
(a) the compliance history of the taxpayer;
(b) the amount of tax involved;
(c) the risk of dissipation of assets by the taxpayer concerned during the period of suspension;
(d) whether the taxpayer is able to provide adequate security for the payment of the amount involved;
(e) whether payment of the amount involved would result in irreparable financial hardship to the taxpayer;
(f) whether sequestration or liquidation proceedings are imminent;
(g) whether fraud is involved in the origin of the dispute; or
(h) whether the taxpayer has failed to furnish information requested under this Act for purposes of a decision under this section.

NB:
• It is prudent to note that the decision to suspend is undertaken by a committee.
• The constituents of the committee are the same as the Write-off/Compromise committee.
• A TCC may be issued on successful suspension requests.
Deferments

Section 168 of the TAAAct

**Criteria for instalment payment agreement**

A senior SARS official may enter into an instalment payment agreement only if—

(a) the taxpayer suffers from a deficiency of assets or liquidity which is reasonably certain to be remedied in the future;

(b) the taxpayer anticipates income or other receipts which can be used to satisfy the tax debt;

(c) prospects of immediate collection activity are poor or uneconomical but are likely to improve in the future;

(d) collection activity would be harsh in the particular case and the deferral or instalment agreement is unlikely to prejudice tax collection; or

(e) the taxpayer provides the security as may be required by the official.
Deferments  

DEBT MANAGEMENT

>R50 000 and <R50 000 (> 6 months) requests for deferment …… Requests for arrangements in these cases must be requested in writing and routed to Debt Management.

Compliance history requirement is not listed as a criteria.

However, in the correspondence (which is a standard Debt Management template) and issued to the taxpayer for deferred payments arrangements declined, one of the reasons that a Team Member can choose is that of “Demonstrated history of non-compliance”. This is normally used when a taxpayer has previously defaulted on a deferred payment arrangement.

Arrangements that form part of Compromise agreements (Compromise Deferral) are subject to further conditions (if any) as per the compromise agreement in terms of the arrangement.

BRANCH OPERATIONS

< R50 000 and less than 6 months

4. A TCC may be issued on successful Deferral and Compromise requests.
Rule 26 applications

Extension of prescribed periods, condonation and non-compliance with Rules.

For the purposes of the discussion, this is an application to compel SARS to deal with an issue where there has been a delay.

**REQUIREMENTS:**

Generally, if an objection has not been dealt with by SARS within the prescribed time, the taxpayer can bring a Rule 26 application out of the Tax Court to compel SARS to deal with the objection.

The application must be served on the Registrar of the Tax Court.

There is no official escalation procedure as all follow ups must be done with the Registrar of the Tax Court.
Section 164(7) of the TAAAct

If an assessment is altered in accordance with an objection or appeal or a court decision or a decision by SARS to concede the appeal, then an adjustment must be made and any amounts paid in excess refunded with interest at the prescribed rate.

The interest is calculated form the date that the excess was received by SARS to the date the refunded tax is paid, and amounts short-paid are recoverable with interest calculated as provided in section 187(1).
Objection Turn Around Time

**COMPLIANCE - Assessment Maint:**

Electronic NOO submissions:

No register maintained as the objection is already on the system. The taxpayer has access to this on his e-filing profile as well.

Manual ADR submissions:

These are so few that we record them in a register but do not send out an acknowledgment but deal with the case immediately.

We have 2 dedicated people dealing with these cases.

**REMINDER:**

Objections to individual and company Income Tax assessments to be lodged via the NOO and not an ADR1.
COMPLIANCE - Accounts Maint:

All our ADR’s are now captured onto service manager and these are tracked and finalised within the turnaround time.

AUDIT

Mr Hlophe
S270(6D) of the TAAct states:

“…. that if an understatement penalty is imposed as a result of an understatement, as defined in section 221, made in a return submitted before the commencement date of this Act, a taxpayer may object against the penalty under Chapter 9 (whether or not the taxpayer has previously objected against the assessment imposing the penalty) and if the return was required under –

a) the Income Tax Act, a senior SARS official must, in considering the objection, reduce the penalty in whole or in part if satisfied that there were extenuating circumstances; or

b) the Value-Added Tax Act, a senior SARS official must reduce the penalty in whole if the penalty was imposed under circumstances other than the circumstances referred to in item(v) of the understatement penalty table in section 223(1).

The new application creates for a more lenient approach to the imposition and waiver of the USP.
DECLINED APPLICATION FOR A TCC

• The taxpayer will receive an email stating that the application for a TCC has been declined. (where an email address is available)

• Alternatively, the taxpayer will receive a notification of all outstanding matters in writing via post or fax

The taxpayer must contact the local SARS branch or the SARS Contact Centre at telephone number 0800 00 SARS (7277) to enquire as to the reason why the application for a TCC was declined.
FI Applications

• <R4M captured in BO,

• >R4 Million not captured - only scanned and referred via e-mail to operations service escalations and support (OSES) team

REMINDER:

FIA certificate/s will not be issued immediately, to allow 14 days for issuing.

FIA / IT21(a) cannot be done via e-filing yet.
Key points raised at the National Operational stakeholder forum held on the 3\textsuperscript{rd} December 2013.

- Appointments with branches/No shows, SARS has agreed with the RCB’s that if the tax practitioner does not honour their appointments, .... the tax practitioner will not be allowed to make an appointment with the Tax practitioner unit for 2 months.

- SARS will start denying services to tax practitioners who are not registered in terms of section 240 of the TAA at our offices.

Reminder: of the Escalation List process
Modernisation

Tax clearance process

• Auto approve – When the branch agent captures the TCC, the SARS system may automatically approve the TCC without human intervention. They can then immediately print the TCC.

• Auto decline – The TCC system will automatically decline TCC’s where taxpayers are not in good standing with SARS. If the non compliance is remedied, a new TCC may be applied for. In the instance where a status change is requested, these cases will be routed to our Compliance division for resolution.

• The TCC will reflect the trading name as recorded on SARS systems and not what is captured on the TCC application.
Modernisation ..... Continued

Legal Entity Registration

• The registration process with regards to Income Tax, VAT and PAYE is being enhanced. The maintenance of registered particulars will follow the same process.

• Within the new process in terms of registering for the various tax products, there are 2 key applications:
  - The registration process –will focus on whom we want to register (Individual, Companies, Trusts, Body Corporates etc.)
  - The subscription process- will focus on what tax products does the legal entity want to register for.

• The changes envisaged will decrease the administrative burden with regards to registering for the various tax products.

• The IT77/VAT101/EMP101 will still need to be completed and the necessary relevant material to be attached.

• SARS will have established links with the Department of Home Affairs, CIPC and the Master of the High Court to verify the registration details of the applying entity.
Fax and Email

Practitioners Contact Centre (PCC) and Regional Inbound

Cases will be created upon receipt of the e-mail / fax from the Practitioner / taxpayer for the following business Units:

- Accounts Maintenance;
- Assessment Maintenance; and
- Portfolio Maintenance
- Include Estates and De-registrations.

A response letter will be e-mailed to the practitioner / taxpayer to advise them of the case number allocated to the enquiry.

A resolution confirmation letter will be e-mailed to the practitioner / taxpayer from the relevant business area in finalisation of the e-mail / fax received / or to request additional information if required.

NB: This will in time extend to all other Divisions as Modernisation progresses further
Requirements:

We require the following information to effectively manage your query and attend to your matter:

- Tax reference number
- Tax practitioner number (PR number)
- If this is a follow-up query, please quote the original case number that you were allocated in your email or fax from us.
- E-mail address to enable us to issue a response to your enquiry
- Subject of e-mail – clearly state what the enquiry is about
- Attachments if required

NB: Limit of 5 queries per e-mail
Please forward the requested information as well as the original attachments from your initial correspondence to the email addresses/fax numbers listed under **Contact Details** below.

<table>
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<tr>
<th>Region</th>
<th>PCC MAILBOXES</th>
<th>INBOUND MAILBOXES</th>
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<tbody>
<tr>
<td>North (including Pretoria, North West, Limpopo, Mpumalanga &amp; West Rand)</td>
<td><a href="mailto:pcc.north@sars.gov.za">pcc.north@sars.gov.za</a>/010 208 5003</td>
<td><a href="mailto:Contact.north@sars.gov.za">Contact.north@sars.gov.za</a> / 0126706880</td>
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<tr>
<td>Central (including East Rand, Soweto, Alberton, Vereeniging)</td>
<td><a href="mailto:pcc.central@sars.gov.za">pcc.central@sars.gov.za</a>/010 5004</td>
<td><a href="mailto:Contact.central@sars.gov.za">Contact.central@sars.gov.za</a> / 0102085005</td>
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<td><a href="mailto:pcc.east@sars.gov.za">pcc.east@sars.gov.za</a>/010 208 5005</td>
<td><a href="mailto:Contact.east@sars.gov.za">Contact.east@sars.gov.za</a> / 0313286018</td>
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**NB:** Please note that emails sent directly to a SARS official will not be accepted. Please note that the turnaround time for a query is 21 working days.
The following documents and correspondence **are not accepted** by SARS in the fax and email channels:

- Returns
- Forms e.g. dispute forms; except for VAT ADR1’s
- Relevant material
- New registration requests
- Requests for change of bank details
- Requests for refunds
- Electronic attachments sent via e-mail exceeding the limit of 2MB

You may submit these via any of the following channels:

Post or SARS branch drop box.
A SARS branch
Electronically via e-Filing.

For a postal address or to locate a SARS branch nearest you, please visit our website [www.sars.gov.za](http://www.sars.gov.za)