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Taking your dispute further

The appeal phase

Understanding dispute resolution & SARS debt management

Trade & Taxes

Taking your tax dispute further: The appeal phase

If your objection to SARS is unsuccessful or only partially successful, you are not out of options. The next step is to formally appeal SARS's decision. This article outlines how the appeal process works in practice.

How to lodge an appeal

To appeal, you need to submit either a Notice of Appeal ("NOA") form or an Alternative Dispute Resolution 2 ("ADR2") form. For personal income tax disputes specifically, the NOA form is the one you will use. You can find it on eFiling under the "Returns History" tab by clicking on "Dispute/Suspension of Payment," or directly from the "Dispute/Suspension of Payment" tab on the left-hand panel.

Deadlines you cannot afford to miss

Once SARS has notified you that your objection has been disallowed or only partially allowed, you have 30 business days to submit your NOA or ADR2 form. Missing this deadline can have significant consequences, so it is important to act quickly.

That said, SARS does allow for some flexibility in limited circumstances. If you have a good reason for the delay, SARS may grant an extension of up to 21 additional business days. In exceptional circumstances, this can be extended by a further 45 business days. However, there is an absolute cut-off: no extension can be granted beyond 75 business days from the date SARS delivered its decision. After that point, no application for an extension will be considered, it is simply denied automatically by law, without any official decision being made.

At this stage, procedural discipline becomes as important as technical correctness. Many disputes don't fail on merit, but on process.

Applying for an extension

If you do need more time, be aware that SARS does not grant extensions lightly. According to law, a senior SARS official must carefully consider all relevant information before deciding whether to grant an extension. Each case is assessed on its own facts, and the factors typically considered include why the delay occurred, how long the delay has been, your chances of success if the appeal proceeds, and any other circumstances that may be relevant.

Making sure your appeal is valid

SARS has the discretion to declare an appeal invalid if it is not submitted in the correct format, on the right terms, or within the prescribed timeframe. If this happens, you would need to start over by submitting a new, valid appeal, along with a request for condonation or an extension if required. To avoid this outcome, make sure your appeal is complete and properly submitted from the outset.

You will also need to provide an address at which you are willing to accept delivery of documents, especially for later stages of the process that take place outside of the eFiling platform.

What to include in your NOA form

The NOA form requires more than just a signature, it must be thorough, specific and technically aligned to the original objection. You must clearly state which grounds from your original objection you are carrying forward into the appeal, particularly if you are not appealing on all of them. You must also explain why you disagree with SARS's reasons for disallowing your objection.

One important limitation to keep in mind is that you can add new grounds in your appeal, but only if those new grounds do not amount to a new objection against a part or amount of the assessment that you did not originally object to.

Finally, the NOA form asks whether you would like to make use of Alternative Dispute Resolution ("ADR") procedures, if available. SARS can also propose ADR from its side, in which case you will have 30 business days to indicate whether you agree to participate.

What is ADR and is it worth considering?

ADR is essentially a structured meeting between you and SARS, with the goal of resolving the dispute through agreement or settlement, without going to court. It is generally faster, less formal, and significantly less expensive than litigation. For many taxpayers, it offers a commercially efficient and pragmatic route to resolving disputes.

Tax Board or Tax Court: which forum applies?

The forum that will hear your appeal depends largely on the amount of tax in dispute. As a general rule, when the disputed tax amount exceeds R1 million, the matter falls within the jurisdiction of the Tax Court. For smaller amounts or certain types of disputes, the Tax Board may be the appropriate forum.

Need help with your tax dispute?

Navigating a tax dispute can be complex and stressful. If you are unsure how to proceed at any stage of the process, please do not hesitate to reach out to us, we are here to help guide you through it.

If you are currently engaging with SARS or anticipating a dispute, early structuring of your response can materially affect the outcome.

For general enquiries please contact us at **info@sng.gt.com**

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