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Suspension of payment

Do you still have to pay while you dispute?

Understanding dispute resolution & SARS debt management

Trade & Taxes

Suspension of payment

Many taxpayers are surprised to learn that lodging an objection or appeal does not automatically suspend the obligation to pay. In other words, you are still required to pay the amount in dispute while the matter is being resolved. This is commonly known as the "pay now argue later" rule.

If your dispute is ultimately successful, SARS will refund the amount paid — but you are expected to make payment upfront.

Understanding this principle is critical to managing cash flow and dispute strategy simultaneously.

Is there a way around this?

You can formally apply to SARS to have your payment suspended while your objection or appeal is being considered. This is done by submitting a Request for Suspension of Payment (form DISP01) through eFiling, along with any relevant supporting documentation. If SARS approves your request, you will not be required to pay the disputed amount until the dispute is resolved.

If you do not apply for suspension of payment, or if your application is declined, the pay-now-argue-later rule applies, unless an automatic suspension applies, as discussed further below.

How does SARS decide whether to grant a suspension?

A senior SARS official will assess your request by weighing up a number of factors, including whether there is a risk of asset dissipation, your tax compliance history, whether there are any indications of fraud in relation to the dispute; whether paying the disputed amount immediately would cause you serious and irreparable financial hardship that outweighs any prejudice to SARS or the fiscus; and whether you have offered adequate security for the payment of the disputed tax.
It is worth noting that this list is not exhaustive.

SARS may also take other factors into account, such as your prospects of success in the objection or appeal. You may apply for suspension of payment even before you have formally submitted your objection or appeal, if you intend to do so.

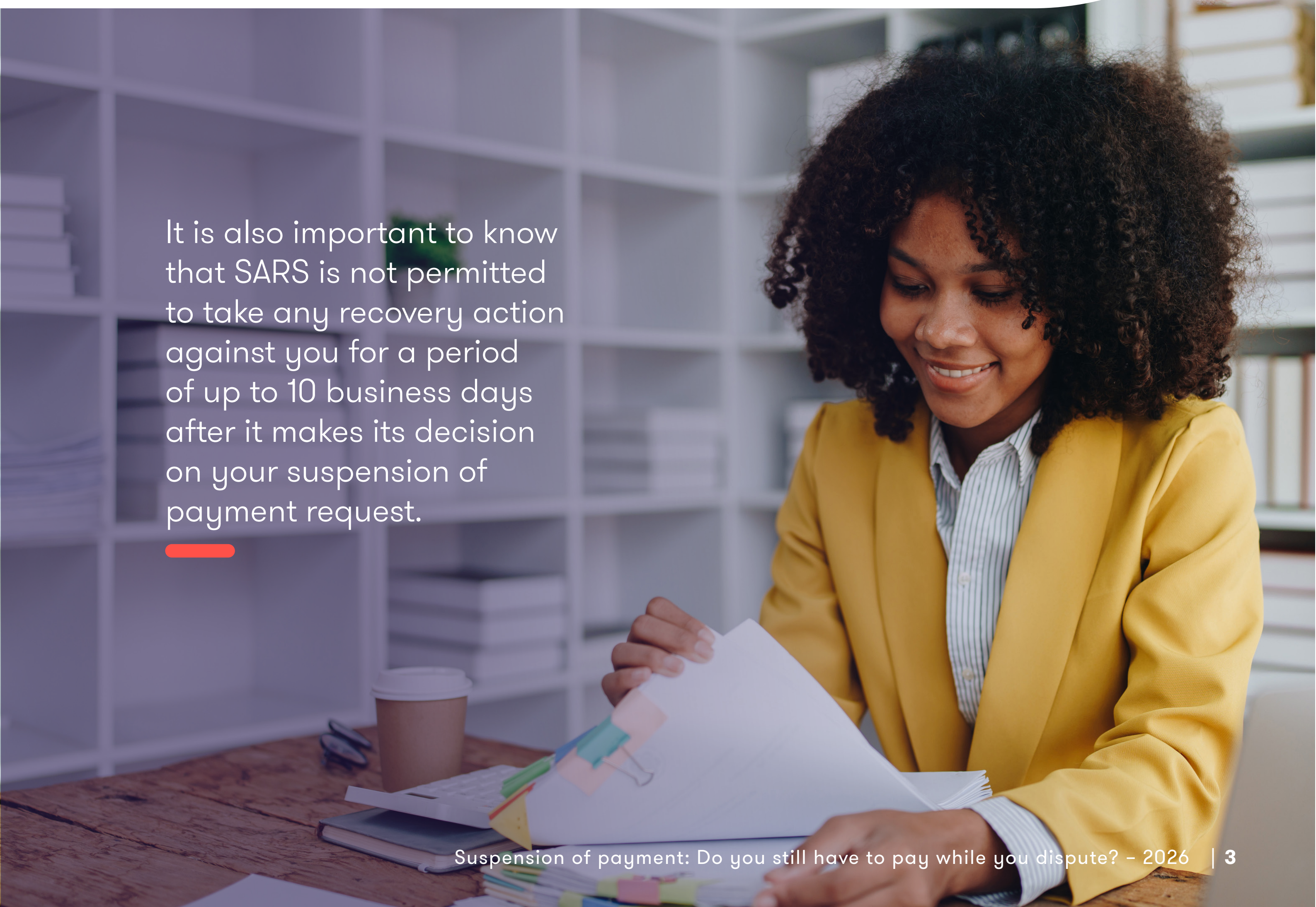
What happens once a suspension Is granted?

Once SARS approves your suspension request, payment of the disputed tax is put on hold until the suspension is either automatically revoked or SARS withdraws its approval, whichever happens first.

Your suspension will be automatically revoked if you do not end up submitting an objection, if your objection is disallowed and you do not appeal, if the Tax Board makes a decision and you do not refer the matter to the Tax Court, or if the Tax Court makes a decision and you do not appeal further to a higher court. In each of these cases, revocation occurs once the relevant time periods, including any extensions (where allowed) have lapsed.

What if SARS declines Your application?

If SARS declines your suspension request, you cannot object to or appeal that decision directly. However, you are entitled to submit a new request or ask for the decision to be reviewed.
It is also important to know that SARS is not permitted to take any recovery action against you for a period of up to 10 business days after it makes its decision on your suspension of payment request.



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Automatic suspension: when does it apply?

In certain situations, a suspension of payment applies automatically, without the need to submit an application. Specifically, if you are disputing a penalty (whether a fixed amount penalty, a percentage based penalty, or a reportable arrangement penalty), your obligation to pay that penalty is automatically suspended from the date on which you submit a request for remission. This automatic suspension remains in effect for **21 business days** after SARS issues its decision on the remission request.

If SARS does not allow the remission, you may object to that decision and request a further suspension pending the outcome of your objection. One important limitation to keep in mind is that automatic suspension does not apply where SARS has reasonable grounds to believe that there is a risk that assets may be dissipated.

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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