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TaxFocus | Newsletter

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Are You Ready for the 2025 Tax Filing Season?

SARS has officially announced the dates for the 2025 tax filing season. Here is what you need to know to avoid last-minute stress, costly penalties and additional assessments.

Key Dates to Remember



- Auto-Assessments: 7 – 20 July 2025
- Non-Provisional Taxpayers: 21 July – 20 October 2025
- Provisional Taxpayers: 21 July 2025 – 19 January 2026

Preparation is key. Make sure you have all the necessary documents and information on hand to ensure a smooth submission process. Missing or incorrect information can delay the processing of your assessment and may lead to penalties, especially if you are selected for verification and fail to respond on time.

Common Pitfall: Lump Sum Payments

A recurring issue for taxpayers involves lump sum transactions, such as retirement or retrenchment payouts. The problems often arise when the tax directive on the IRP5 does not match the one issued by SARS, or a tax directive exists, but the corresponding IRP5 is missing.

To avoid delays, keep contact details for your former employer or fund administrator who helped facilitate your lump sum withdrawal. You will need them if you have to urgently resolve discrepancies that prevent you from filing your tax return.

Stay Alert: Beware of Scams

SARS has recently warned taxpayers about a rise in scam attempts now that the filing season is fast approaching. These include amongst others, fake letters of demand, fraudulent payment notifications, and phishing emails requesting login or banking information.

In response to this, SARS created a section on its website where it posts updates of any scams it is aware of. Taxpayers are urged to stay informed and be vigilant.

It is important to note that SARS will never ask for your passwords or banking details via email or SMS. Always remember that whenever in doubt, you can always log into your SARS eFiling profile to check for official SARS correspondence and view your tax compliance status. You can also contact the SARS call centre or visit a SARS branch for assistance.



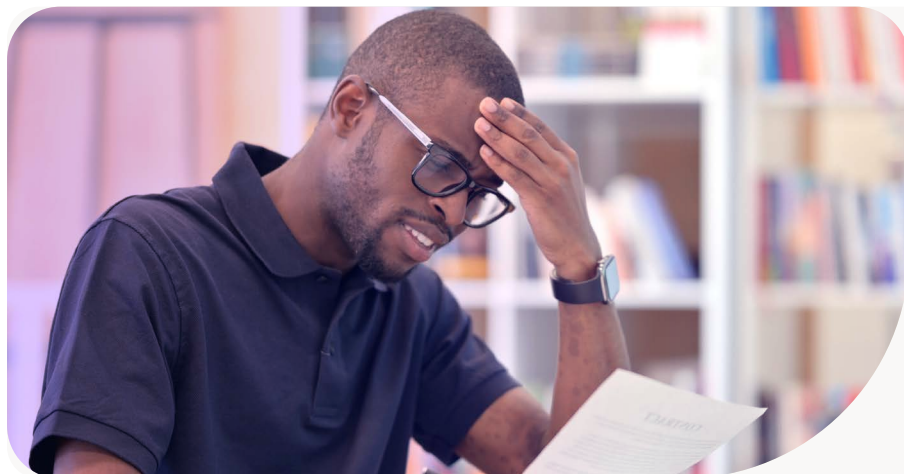
What If Verification Takes Too Long?

If your assessment has been selected for verification, SARS generally processes it within 21 working days. If there is no further feedback after the standard turnaround time:



- Call the SARS Contact Centre.
- Escalate by lodging a complaint with the Complaints Management Office.
- If still unresolved, contact the Office of the Tax Ombud.

Need Help Filing?



Tax compliance can be complex, and errors may result in significant delays or penalties. Should you require professional support, our team is available to assist with every stage of the tax return process, from document preparation to final submission, as well as handling the verification of your assessment till finalisation.

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Disputing SARS decision or assessment? Here is How to Fight Back Legally

Introduction:

Whether a taxpayer disagrees with an assessment issued by the South African Revenue Service (SARS), believes SARS has erred in its interpretation or miscalculation, is dissatisfied with penalties or interest imposed, or has had an application declined, the process can indeed feel overwhelming. However, there are structured remedies and protections available to seek fair outcomes.

To align with its strategic objectives of enhancing clarity, certainty, and simplifying compliance for taxpayers and traders, SARS has adopted the dispute resolution process. These are not discretionary courtesies by SARS, but statutory entitlements afforded to the taxpayers.

Essentially, a tax dispute resolution is a legal process through which a taxpayer, if dissatisfied or aggrieved with an assessment issued or with certain decisions made under the Tax Administration Act (TAA) No. 28 of 2011 or other relevant tax laws by the SARS, may exercise the right to object to and appeal against such assessments or decisions. Specifically, section 104(1) of the TAA gives the rights to the taxpayer to object against an assessment or decision and the section 104(2) provides the list of decisions that may be objected to and appealed against in the same manner as an assessment (namely, decision not to extend the period for lodging an objection, not to extend the period for lodging an appeal and any other decision that may be objected to or appealed against under a tax Act). A taxpayer who has the right to object to an assessment or decision must lodge an objection in the manner, under the terms, and within the period prescribed in the rules¹

Legal and Regulatory Framework

The TAA administers Tax Dispute Resolution in chapter 9, section 101 to section 150 of the TAA. The TAA appeal and objection process covers all disputes arising from all tax acts except for the Customs and Excise Act No. 91 of 1964 which has its own provisions relating to dispute resolution. The TAA clearly outlines the rights of taxpayers together with SARS' powers and limitations. In addition, SARS has issued Interpretation Note 15 (Issue 6) to provide detailed guidance on the tax dispute resolution process, particularly the exercise of discretion in extending the prescribed periods for lodging objections and appeals. Moreover, all legislations, including tax laws, must comply with the Constitution, which serves as the supreme legal authority in South Africa. We outlined below the structured process through which a taxpayer may lodge an objection to an assessment or decision issued by SARS:

Increased Scrutiny by SARS.

¹https://www.gov.za/sites/default/files/gcis_document/202303/48188rg11554gon3146.pdf "the rules governing to lodge an objection and appeal against an assessment or decision under Chapter 9 of the Act, the procedures for alternative dispute resolution hearing of appeals before a Tax Board or Tax Court as rules referred to in section 103 which were made by the Minister of Finance and published in Government Notice 3146 in the Government Gazette 48188 of 10 March 2023)".

²<https://www.sars.gov.za/wp-content/uploads/Legal/Notes/Legal-IntR-IN-15-Exercise-of-discretion-to-extend-the-period-to-lodge-an-objection-or-appeal.pdf>

³The Constitution of the Republic of South Africa, 1996

Assessment by SARS

"assessment" means an assessment as defined in section 1, namely, the determination of the amount of a tax liability or refund, by way of self-assessment by the taxpayer or assessment by SARS.

"decision" means a decision not to extend the period for lodging an objection, not to extend the period for lodging an appeal and any other decision that may be objected to or appealed against under a tax Act, as referred to in section 104(2) of the TAA.



Reason for assessment

Where the taxpayer is aggrieved by an assessment issued by SARS and the grounds provided in the assessment do not enable the taxpayer to understand the basis of the assessment in order to formulate an objection, the taxpayer is entitled to request reasons for the assessment under Rule 6 before lodging an objection.

In providing the taxpayer with reasons, SARS must set out its understanding of the relevant law, any findings of fact on which its conclusions depend on and the reasoning processes which led its conclusion. The principle established by the courts is that the decisionmaker must explain his decision in a way which will enable a person aggrieved to say: 'Even though I may not agree with it, I now understand why the decision went against me. I am now in a position to decide whether that decision has involved an unwarranted finding of fact, or an error of law, which is worth challenging.'

A request for reasons must be delivered to SARS within 30 days from the date of assessment or decision. The term "business day" is defined in section 1 of the TAA as "a day which is not a Saturday, Sunday or public holiday, and for purposes of determining the days or a period allowed for complying with the provisions of Chapter 9, excludes the days between 16 December of each year and 15 January of the following year, both days inclusive".

To this point, the right to receive adequate reasons for the assessment is a fundamental right of the taxpayer. It plays a critical role in enabling the taxpayer to formulate clear and effective grounds of objection.

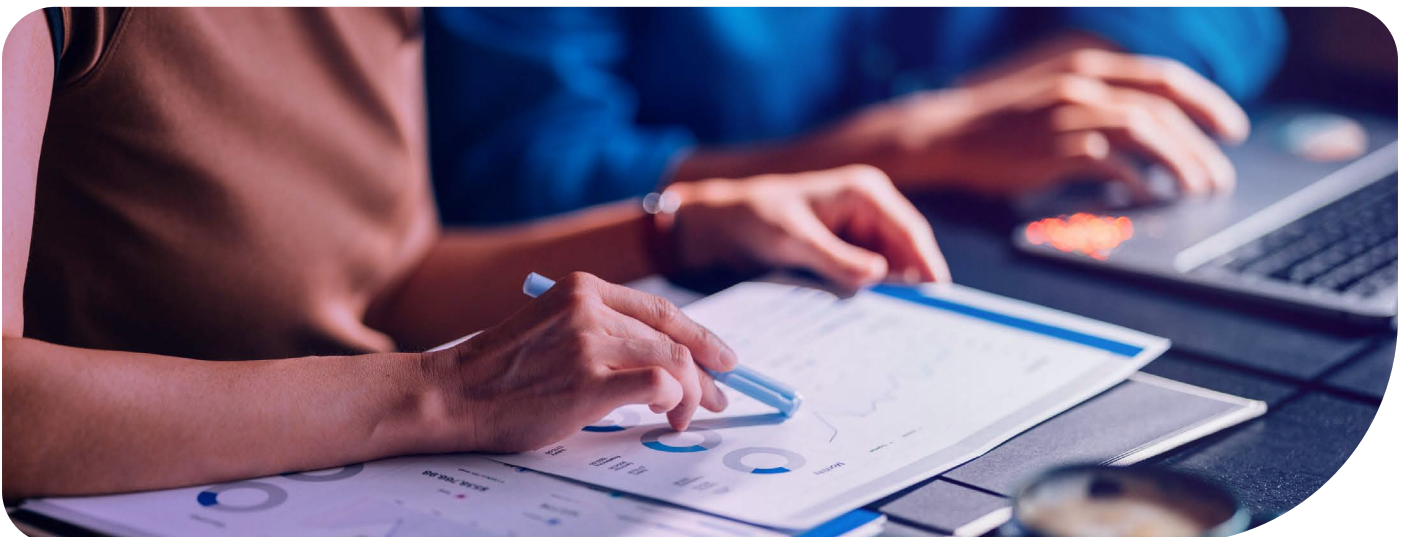
Objection

Section 104(1) states that if the taxpayer disagrees with the assessment or certain SARS decisions, he/she may lodge an objection. The objection must be submitted within 80 business days of the assessment date. SARS may allow a 30 business days extension where reasonable grounds exist for the delay in the submission of the objection.

Where exceptional circumstances exist, an extension up to 3 years may be allowed. No extension is allowed if more than 3 years have passed since the assessment or if the objection is based on a change in practice generally prevailed. This implies that the late objection may not be condoned. The assessment is therefore final.

It is therefore imperative that all grounds for objection covering all the aspects of the assessment are clearly and comprehensively stated from the outset. Under Rule 10(2)(c) introducing new grounds at the appeal stage is generally permitted. However, it must be borne in mind that the taxpayer may not appeal on a new ground not raised in the notice of objection if it constitutes a new objection against a part or amount of the disputed assessment not objected to under rule 7. Accordingly, this further highlights to taxpayers the importance of thoroughly understanding and appreciating the reasoning processes followed by SARS in reaching its conclusion, in order to formulate grounds that comprehensively address all relevant aspects.

¹["CSARS"] v Sprigg Investment 117 CC t/a Global Investment [2010] (73 SATC 126).



Appeal

If the objection is wholly or partly disallowed, section 107(1) gives the taxpayer rights to appeal against the assessment or decision to the tax board or tax court within 30 business days after receiving SARS's notice of disallowance.

SARS may extend the deadline by 21 days if reasonable grounds exist, or by up to 45 business days for exceptional circumstances. No appeal is allowed if more than 75 business days have passed since the disallowance notice.

• Alternation Dispute Resolution (ADR)

Alternative Dispute Resolution is a less formal, quicker and more cost-effective way to resolve tax disputes between taxpayers and SARS. It avoids lengthy court proceedings and encourages settlement through mutual agreement. ADR can be requested after an objection has been disallowed and before the matter proceeds to court. It is initiated by agreement between SARS and the taxpayer, in line with the dispute resolution rules in section 103 of the TAA.

The benefits of ADR include faster resolution than the formal appeal or litigation, it is affordable and less expensive. However, the ADR process may not be suitable for every dispute, and SARS retains the discretion to determine whether a particular matter is appropriate for resolution through the ADR process. If no agreement is reached during ADR, the taxpayer may still proceed to appeal, which can delay final resolution.

The outcomes from the ADR can be binding if a settlement agreement is reached and signed. Where the agreement is not reached, the outcomes are non-binding, and the taxpayer may still appeal. If the dispute is not resolved by ADR the taxpayer may continue to appeal to the Tax Board or the Tax Court.

• Tax Board

Should the dispute remain unresolved through ADR, the taxpayer may proceed with an appeal to the Tax Board. The Tax Board has jurisdiction on matters where the tax in dispute does not exceed R1000 000.00. The Tax Board is not a court as referred to in section 166 of the Constitution, but an administrative tribunal created under the TAA.

The Tax Board operates as an independent body but is less formal than the Tax Court. The process is designed to be quick and accessible, and the decision made by the Tax Board is binding unless a party chooses to appeal to the Tax Court. The sittings of the Tax Board are generally not public, and the Board's decisions are not published by SARS.

• Tax Court

The Tax Court is a formal forum for hearing more complex or high value tax disputes, including those that come on appeal from the Tax Board or arise after a failed ADR. The Tax Court has jurisdiction on matters where the tax in dispute exceeds R1 million. The proceedings in the Tax Court are governed by stricter procedural rules and can be either public or private, depending on the case.

The court comprises a judge and may include a commercial member such as an Accountant and a legal expert. In a recent decision, the High Court in *Poulter v CIR* was called upon to determine whether the Tax Court qualifies as a court of law for the purpose of legal representation. The Court held that, since the Tax Court is not a court of law in the strict sense, the restriction limiting rights of appearance to admitted legal practitioners does not apply. Consequently, the taxpayer was entitled to be represented by her father, a layperson, in the Tax Court. Accordingly, the High Court overturned the Tax Court's ruling that limited representation to individuals with rights of appearance in the High Court, such as attorneys or advocates. The matter was remitted to the Tax Court for a fresh hearing, allowing the taxpayer to be represented by her lay representative.

Any party who feels aggrieved by the judgment of the Tax Court can thereafter appeal to a full bench of the High Court or the SCA against the judgment under Part E of Chapter 9 of the TAA. Thus, the taxpayer or SARS may appeal against any decision of the tax court.

• Supreme Court of Appeal (SCA):

If a taxpayer is dissatisfied with a decision from the tax board or tax court, the taxpayer can appeal to the SCA on a question of law as allowed under the TAA. An appeal can go to the Constitutional Court (CC) only if it involves a constitutional issue. It should be noted that an appeal to a higher court or the SCA will always be a public hearing, i.e. any confidentiality attached to the matter during the tax court hearing will no longer apply.

Conclusion:

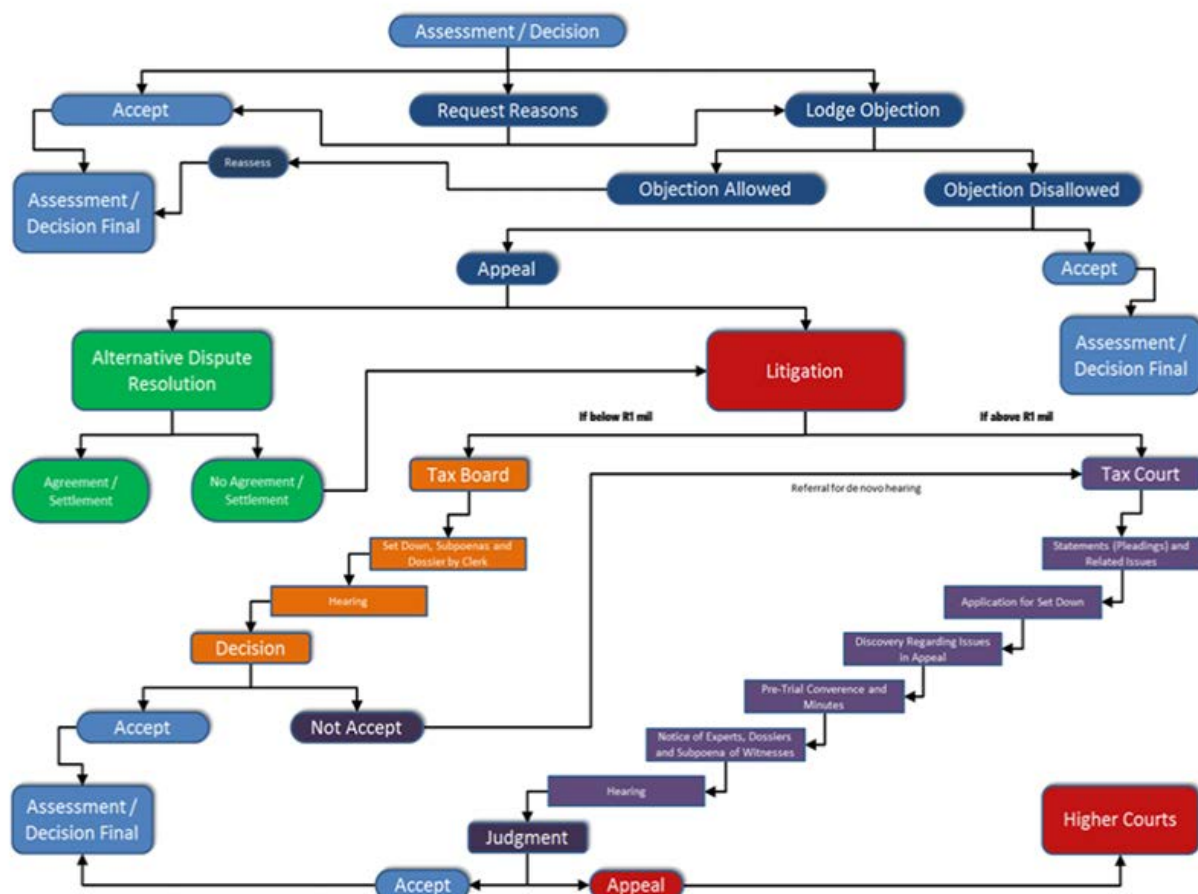
To this end, the SARS dispute resolution process provides a structured legal pathway for taxpayers to challenge assessments or decisions they believe are incorrect. Taxpayers who find themselves at odds with SARS assessments or decisions must engage SARS with high level of precision and urgency.

It's important for taxpayers to recognize that the right to object and appeal is not a discretionary privilege but it's a statutory entitlement anchored in sections 104 and 107 of the TAA. Exercising this right effectively may, however, requires substantial evidence and a well-articulated position to refute SARS's findings.

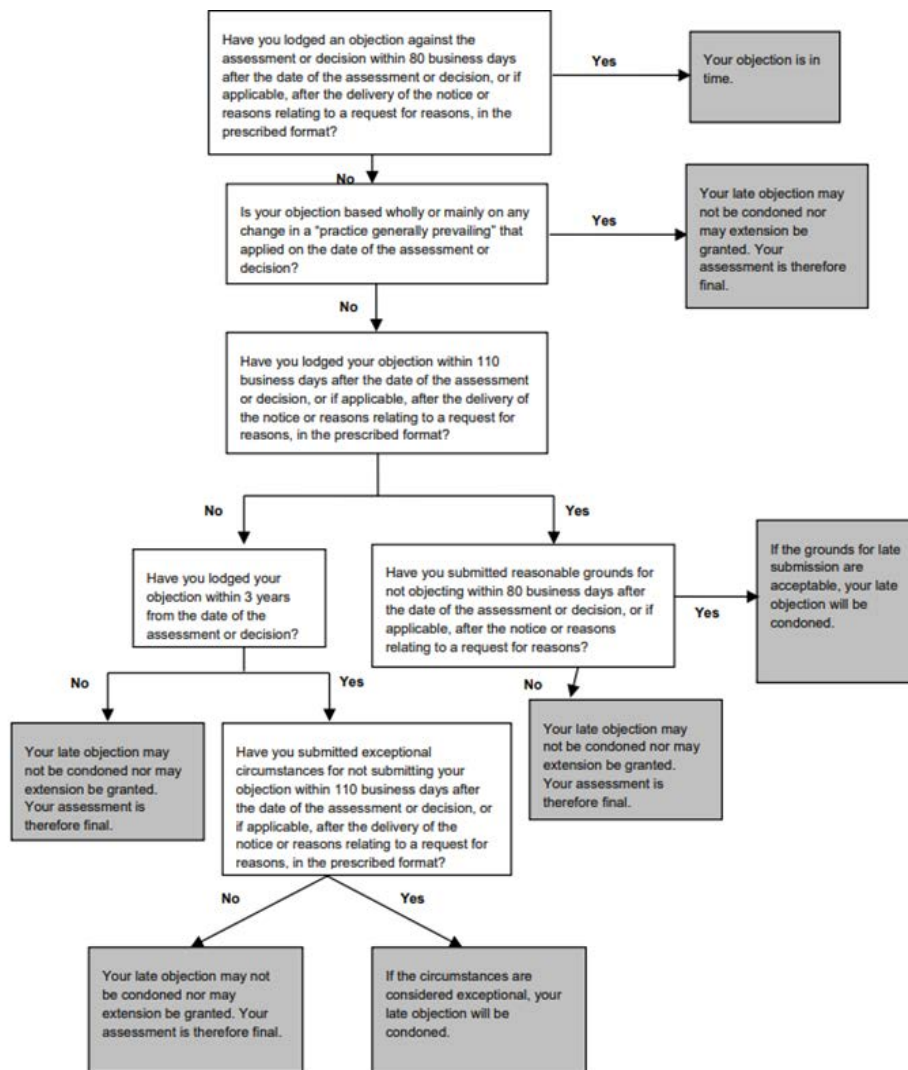
In addition, it is worth emphasizing that these rights are subject to strict timeframes, and any delay must be properly justified; otherwise, the taxpayer may forfeit the right to be heard. As a matter of general rule, proactive engagement is paramount when dealing with SARS.

⁵ Poulter v The Commissioner for the South African Revenue Service [A88/2023] [2024] ZAWCHC

Annexture A:



Annexure B: The objection process and timeframes can be illustrated as follows:



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Case Law

Tax dispute resolution: Failure to discharge onus of proof

Most tax disputes are decided by courts on the basis of whether taxpayer has discharged the onus of proving that something is exempt or otherwise not taxable or that an amount is tax deductible. The standard of proof in the case of a dispute between South African Revenue Service (SARS) and the taxpayer is that of balance of probabilities.

In IT 35476, the court was called upon to decide on whether, taxpayer has satisfactorily discharged in terms of section 102 of the TAA, the onus of proving that the taxpayer's credit loan account in Company A does not represent undeclared income, thus not taxable.

The facts of this case are briefly as follows:

The Taxpayer is a successful businessman who owns several companies. The taxpayer had credit loan account in one of his companies, Company A, in the relevant years of assessment -2014 to 2017, which SARS assessed as undeclared income as well as the interest accrued thereon. SARS questioned the source of the funds that was advanced to Company A as loan but was not provided with any proof to confirm the source of funds. The income declared by the Taxpayer on his returns for the periods in question was low and the inference was drawn that the Taxpayer received additional income in order to advance funds to Company A and has omitted the said income from his tax returns.

Legal issue

The key issue in this case is whether the taxpayer's credit loan account in Company A in the relevant years of assessment – 2014 to 2017 – represented undeclared income.

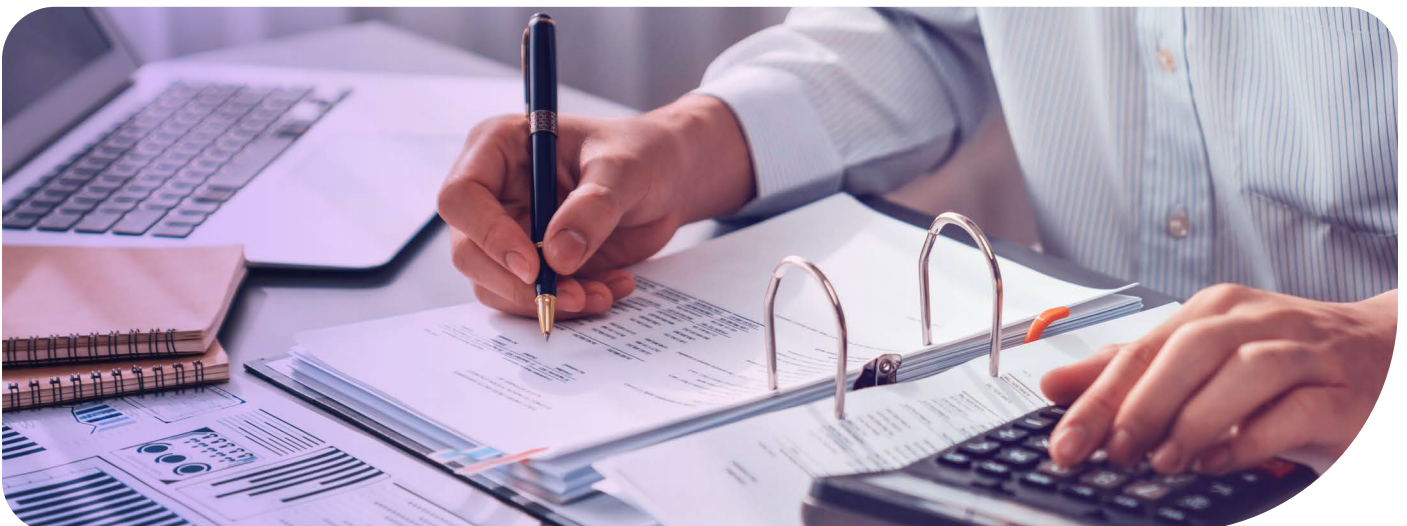
Taxpayer's argument

The key issue in this case is whether the taxpayer's credit loan account in Company A in the relevant years of assessment – 2014 to 2017 – represented undeclared income.

SARS' argument

SARS contention was that the Taxpayer gave inconsistent explanations for the source of the quantum of the loan accounts, as reflected in the First accounts, and then when reliance on these was revoked, the Taxpayer presented a new set of accounts which SARS contends, are wholly unreliable.

SARS has not put up its own version of what the loan accounts should be. SARS relied on the provisions of section 102(1) of the TAA which state that a taxpayer bears the burden of proving that an amount is exempt or not taxable.



Court decision

In terms of section 102(1) of the TAA, the onus is on the taxpayer to prove that an amount is not taxable. The court held that the Taxpayer failed to discharge the onus of proving that the amounts subject to dispute were not taxable and gave the following reasons for its decisions:

- the Taxpayer has changed his version on the source of the funds in the loan account several times including the size of the loan account
- the Taxpayer was required, but failed to establish that the First accounts were erroneous
- the revised version of the Taxpayer's accounts did not withstand scrutiny.

In conclusion,

- In terms of section 102(1) of the TAA, the onus is on the taxpayer to prove that an amount is not taxable.
- Standard of proof is that of balance of probabilities.
- SARS can raise assessment based on the taxpayer's failure to discharge the onus of proof in terms of section 102(1) of the TAA.
- Consequently, onus of proof is of vital importance in tax disputes.

Have you received a letter of request for information, notice of audit or verification, letter of audit findings, or final letter of assessment?

Please contact us for any assistance relating to tax dispute resolution:

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Recently Published Rulings

No new rulings were published between 31 March 2025 and date of this edition.

SARS Updates

2025 Tax Return Submission

The South African Revenue Service (SARS) has commenced the auto-assessment process for the 2025 tax year, in line with its ongoing commitment to simplifying the fulfilment of tax obligations for individual taxpayers.

Between 7 July and 20 July 2025, SARS will issue auto-assessment notices in phased batches via SMS and email.

These assessments are based on third-party data received from employers, financial institutions, medical schemes, retirement fund administrators, and other data providers.

Action Required Upon Receiving Your Auto-Assessment Notice

1. If You Are in Agreement with the Assessment:

- No further action is required on your part.
- Should a refund be due to you, it will be processed and paid directly into your bank account within 72 hours.

2. If You Do Not Agree with the Assessment:

- You are entitled to file your Income Tax Return manually via SARS eFiling or the SARS MobiApp.
- This can be done immediately upon receipt of the notice; there is no need to wait until 21 July 2025.

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