

Debt compromise:

Can you settle your tax
debt for less?



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If you owe SARS a significant amount of tax and are struggling to pay the full debt, you may not be aware that there is a formal process through which SARS can agree to accept less than the full amount owed. This is known as a tax debt compromise. Once agreed upon, the remaining portion of the debt is permanently written off, meaning you are no longer liable for it. However, this is not a decision to be taken lightly, and there are important implications to understand before pursuing this route.

A critical warning for taxpayers in a dispute

If you are currently disputing a tax assessment, or intend to do so, you should be very cautious about simultaneously applying for a debt compromise. By entering into a compromise agreement, you effectively accept the debt as it stands, which means you would no longer be able to challenge the original assessment that gave rise to it. In short, pursuing a compromise could cost you your right to dispute the debt altogether.

When can SARS agree to a compromise?

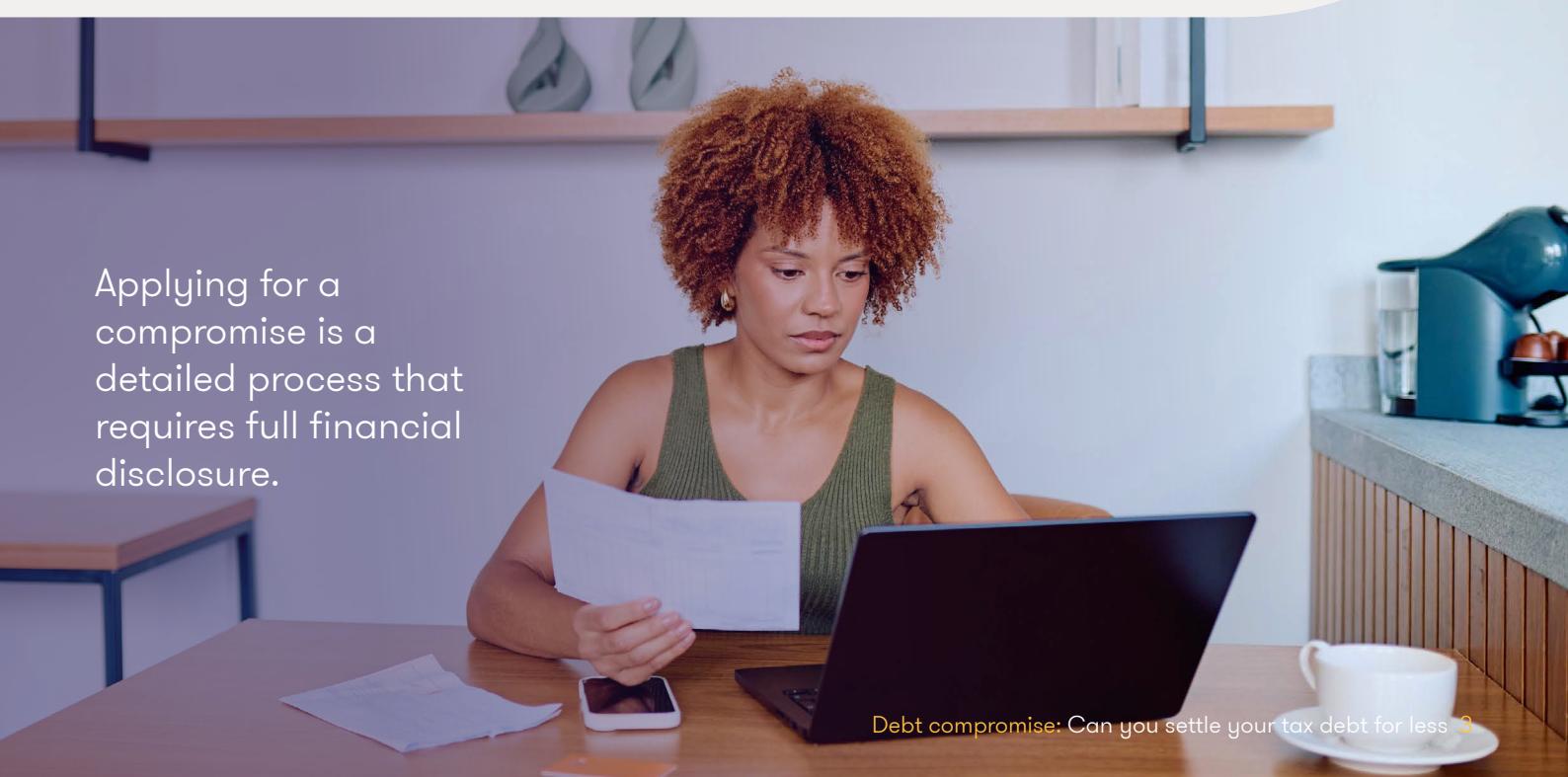
A senior SARS official has the authority to approve a compromise, but only under specific conditions. SARS must be satisfied that the compromise will result in the highest possible recovery of the tax debt, and that it is consistent with good tax administration and efficiency. In other words, SARS needs to be convinced that accepting less now is a better outcome than pursuing the full amount, which may be unrecoverable.

What do you need to submit?

Applying for a compromise is a detailed process that requires full financial disclosure. Your application must be signed by you and supported by a comprehensive financial position declaration covering your current assets and liabilities at fair market value, your income and expenditure over the past 12 months, details of any assets you disposed of in the past three years (including who acquired them and at what value), any future interests in assets, whether certain or contingent, assets over which you have any power of appointment or disposal, details of any connected persons, your current and anticipated income for the next three years along with your future financial plans, and your reasons for seeking the compromise.

Assets donated to your spouse or partners, children or charities must be included in the details of assets disposed of. Assets that were destroyed, scrapped, stolen, lost etc. should also be included on the list of disposals.

You will also need to provide supporting evidence demonstrating why you are unable to pay the full amount, and you must confirm that all information provided is accurate and complete. SARS may request additional information if needed.



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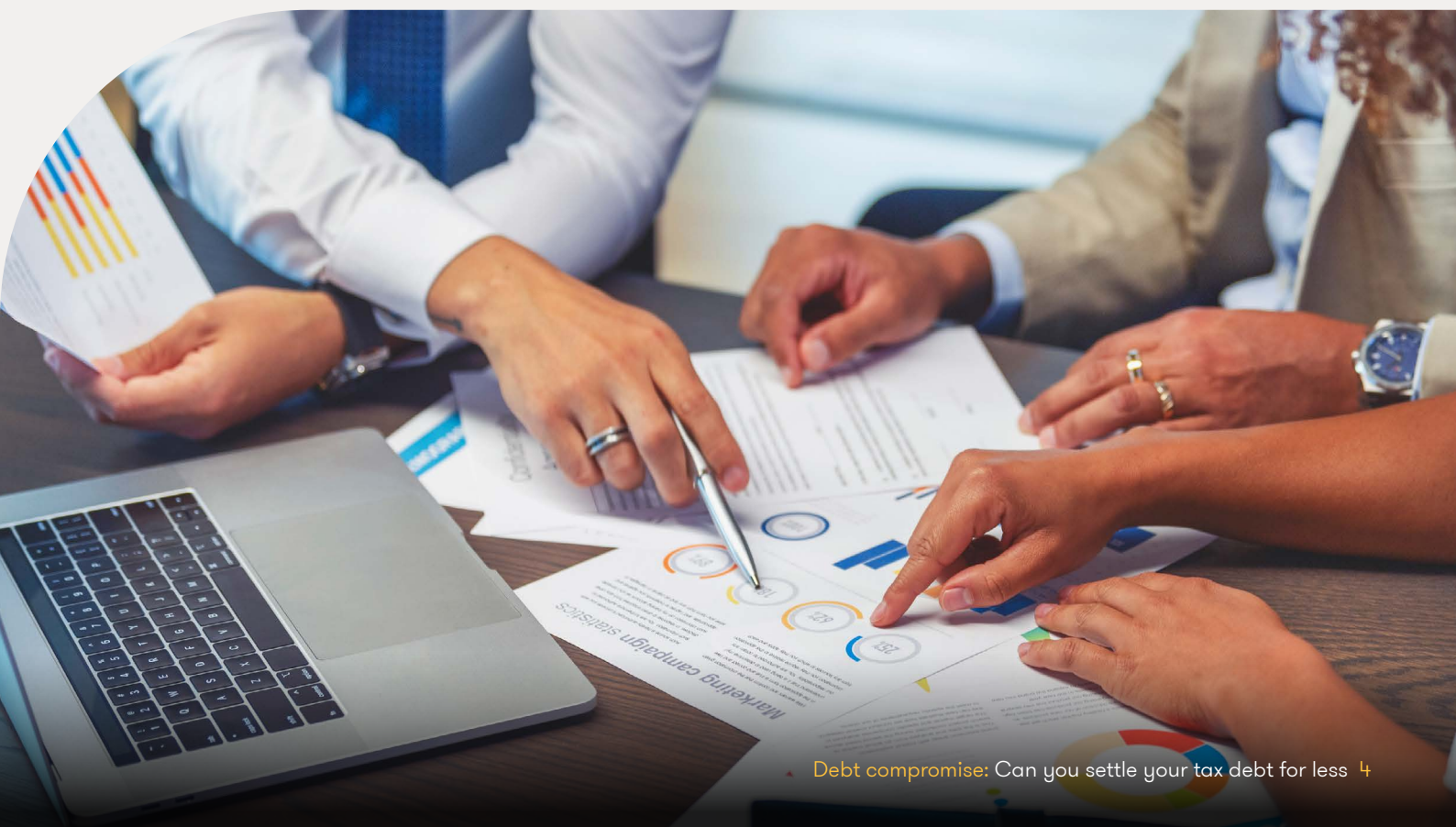
When will SARS not consider a compromise?

Even if you apply, there are circumstances in which SARS is not permitted to approve a compromise. These include situations where you entered into a previous compromise agreement with SARS within the last three years, your tax affairs are not up to date (apart from the debt in question), another creditor has initiated or indicated an intention to initiate liquidation or sequestration proceedings against you, the compromise would unfairly prejudice other creditors or place them at a disadvantage relative to SARS, approving the compromise could negatively impact overall tax compliance, or in the case of a company or trust, SARS has not yet explored recovering the debt from the personal assets of those who may be personally liable.

What does the compromise agreement look like?

If SARS approves your application, both you and a senior SARS official must sign a formal agreement. This agreement will set out the reduced amount you are required to pay in full and final settlement of the debt, SARS's undertaking not to pursue the remaining balance, and any conditions attached to the compromise.

These conditions may include requirements such as staying up to date with all future tax obligations, paying the agreed amount in a manner specified by SARS, and potentially giving up certain existing or future tax benefits, such as assessed losses, deductions, or tax credits.



Need help navigating a tax debt compromise? We can help.

Reaching a compromise with SARS on a tax debt is a complex process that requires careful consideration and thorough preparation. If you are struggling to meet your tax obligations and would like to explore whether a debt compromise is a viable option for you, our team is here to assist you in assessing your situation and guiding you through the process.

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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