

27 May 2022

To: The South African Revenue Service

Lehae La SARS
299 Bronkhorst Street
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Via email: SARS c&e_legislativecomments@sars.gov.za

COMMENTS ON THE DRAFT AMENDMENT TO RULE 59A.01A – SUBMISSION OF APPLICATIONS FOR REGISTRATION AND UPDATING OF REGISTRATION DETAILS

We set out below the comments from the SAIT Customs and Excise Tax Industry Work Group (the WG), on the draft amendment to Rule 59A.01A, as issued by SARS.

Please do not hesitate to contact us should you require further information.

Yours faithfully,

SAIT Customs and Excise Tax Industry Work Group

Disclaimer

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 South African Revenue Service		Customs & Excise Comment Sheet
Email	C&E_legislativecomments@sars.gov.za	

Number of pages of comments (including this page)	3
Date	27 May 2022
Comments from	Beatrie Gouws – Head of Strategic Development and Stakeholder Management on behalf of the SAIT Customs and Excise Industry Work Group
Company / Institution / Department	South African Institute of Taxation

Rule	Comment	Recommendation
59A.01A (d)	<p>This paragraph seeks to insert the following: <i>“Registration in accordance with rule 5 of the Rules for Electronic Communication prescribed under section 255(1) of the Tax Administration Act, 2011, is for purposes of these rules a registration for electronic user for eFiling as required in terms of paragraph (a)(v)(bb).”</i></p> <p>We refer to the definition section of the Tax Administration Act, No. 28 of 2011 (the TAA) that expressly indicates that the definition “tax Act” <i>“means this Act (the TAA) or an Act, or portion of an Act, referred to in section 4 of the SARS Act, <u>excluding the Customs and Excise Act</u>”</i> [Own emphasis].</p> <p>Our understating is thus that Customs and Excise was excluded from the application of the (TAA).</p> <p>We have noted in several draft amendments that have been circulated for comment (i.e., the draft amendment to rules under section 120(1)(mc) – insertion of rule to advance foreign exchange import payments), that similar</p>	<p>In relation to this draft amendment, we recommend that the Customs legislative division draft legislation pertaining to submission of applications for registration and updating of registration details which does not refer to TAA.</p> <p>At a substantive legislative level, we recommend that the Customs legislative division provide certainty as respects to whether the TAA applies to Customs and excise, or whether it does not.</p>

	<p>references have been made to the application of the TAA.</p> <p>By including sections of the TAA, as opposed to making the TAA applicable to Customs and Excise, is in our view an attempt at “piece meal” application. In addition, this approach may, in our view, create uncertainty amidst taxpayers as respects the appropriate legislative interpretation and interaction between customs and excise and the application thereto of the TAA.</p>	
<p><u>General comments:</u></p>		

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