

20 May 2021

**To: The South African Revenue Service**

Lehae La SARS  
299 Bronkhorst Street  
PRETORIA  
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**Via email:** SARS - [rvivier@sars.gov.za](mailto:rvivier@sars.gov.za)

**CHALLENGES AND ISSUES EXPERIENCED BY MEMBERS AND THEIR CLIENTS IN RESPECT OF THE CUSTOMS AND EXCISE REGISTRATION PROCESSES PRIOR TO AND DURING THE COVID-19 PANDEMIC**

Dear Ms Vivier,

We refer to the information session on the Customs Licensing Framework kindly hosted by the South African Revenue Service (SARS) on 31 March 2021, which some of our members attended. The session was informative and helped explain some of the challenges being experienced by the SARS as well as current interventions undertaken by the SARS to improve the Customs and Excise Licensing, Registration and Accreditation processes and interfaces.

We thank you for your kind offer to engage on these issues which were briefly discussed during SARS' online meeting mentioned above and specifically refer to some questions posed to you by one of our members, Mr. Woolmer. Mr Woolmer reached out to us to take you up on your offer to engage and we thought it more appropriate to engage as the South African Institute of Tax Professionals (SAIT) rather than as individual members.

At the outset, we would like to applaud the SARS' proactive approach to develop and implement a more technologically advanced process to aid with applications and to try and automate as much of the process as is reasonably possible as well as the courage of the SARS in acknowledging shortcomings and constraints in its processes. It is comforting to know that SARS has taken industry comments and requests to heart.

In the spirit of furthering this collaboration, we have reached out to our members to identify common challenges and pitfalls currently being encountered in the registration, licensing and accreditation processes and which are providing not only barriers to business in being able to trade in these extremely volatile and uncertain business conditions but are creating real challenges to business' ability to comply with various legislated requirements while being compelled to do so.

The spirit of this submission is to bring anecdotal evidence of "on the ground challenges" being encountered and this meant as criticism of SARS and its processes, but rather for the purposes of information sharing.

**Disclaimer**

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## 1. Interim Registration Process as a result of COVID-19

- 1.1. With the imposition of the COVID-19 lockdowns and restrictions to movement under the social distancing mantra, SARS kindly allowed applicants to submit applications for registration electronically per e-mail to a designated SARS mailbox. We applaud SARS for making this facility available to Trade on such short notice and acknowledge that it was an interim measure and would not have been developed on an extensive basis and therefore we would always have experienced some issues therewith.
- 1.2. In the interest of a collaborative relationship, we provide you with some of the observations highlighted by our members:
  - 1.2.1. Acknowledgement of receipt and allocation of case numbers
    - 1.2.1.1. Members that submitted documents electronically to a branch, often received no acknowledgement of receipt and no case numbers were allocated. Due to constraints in the size of e-mails and attachments being required as mandatory by the SARS, some of these applications had to be submitted in multiple batches. The lack of acknowledgement and case number exacerbated the problem of keeping track of all the documentation relating to a particular case.
    - 1.2.1.2. Often times applications were rejected due to a document apparently being omitted, despite the fact that the document was submitted. This was prevalent in instances where applications were submitted through multiple e-mails due to size constraints on SARS' own e-mail limits and where large attachments (such as lease agreements and the like) exceeded the size of SARS' e-mail inbox limits.
    - 1.2.1.3. In instances where SARS did not timeously acknowledge receipt of applications when first submitted and the branch later on did acknowledge receipt of the application, it sometimes took two to three weeks before the case was captured and a case number allocated. The actions usually only took place after the applicant or its advisor had followed up on numerous occasions, often with little to no feedback on each request.
  - 1.2.2. Document verification
    - 1.2.2.1. When applications were submitted and SARS exceeded the processing times as stipulated in SARS' service charter (sometimes by 1-2 months), the certification date of the supporting documents would in some cases expire, i.e. become older than 3 months. These applications were then rejected because the supporting documents were out of date. However, in these instances they had not yet prescribed at the time of submission and would have been valid if SARS had processed the application within the turnaround time. It is our contention that if the supporting documents were valid at the time of submission, they need to be considered valid when the application is processed to avoid a circular process.
    - 1.2.2.2. Challenges were experienced as a result of a very strict approach being applied by the SARS in respect of supporting documents, and specifically with reference to proof of address and telephone accounts.
    - 1.2.2.3. Our members have reported that applications have been rejected due to an e-mailed application for a deferred payment account not having an attachment (DA650) in triplicate (in an e-mail).
    - 1.2.2.4. Applications have furthermore been rejected on the basis that a Director has to sign a DA185 despite the form making a very clear provision for a duly authorised representative appointed in terms of a resolution by the board of directors being permitted to sign an application. The disjuncture between the operating requirements as per the form and those implemented by the SARS officials make the process uncertain and creates confusion.

### 1.2.3. Processing timelines

- 1.2.3.1. Timelines for registration turnaround times communicated by SARS is 20-25 working days – the SARS website states 5 business days for applications that do not require an inspection and 21 business days for applications requiring an inspection.
- 1.2.3.2. However, once a case number was issued, it is our experience that the applicant had to follow up with National Registrations on numerous occasions, with feedback being slow and inconsistent. In some instances, when feedback was provided, the case officer would advise that a 21-day service level exists. The case officer would under these circumstances apply the timeframe from the date the case was captured (often 2 to 3 weeks after the application was submitted).

### 1.2.4. Communication and escalations

- 1.2.4.1. From the feedback received, it appears that the operations managers were not responding to emails regarding the queries on registration status. Furthermore, members were often unsuccessful when trying to reach the SARS contact centre, and when they were successful, issues reported were not resolved despite apparently being escalated. As a result, members had to resort to soliciting feedback from SARS executives for operational registrations to obtain feedback on the registration status.
- 1.2.4.2. When on occasion a telephone call to the call centre was answered and a request made for a status update, the advisors were regularly notified that they are not the authorised person indicated on the SARS system, despite having a letter of authority from the client to make follow ups on their behalf and therefore no information or status reports were provided. It appears that there may be a breakdown in the process regarding the call centre's access to, or understanding of, the letter of authority.
- 1.2.4.3. As the general populace including SARS officers are social distancing and are working from home, one cannot reach SARS telephonically, unless you have someone's mobile number. Many SARS officers are understandably not willing to divulge their mobile telephone numbers and even where the mobile number was known, calls were often not answered, and messages were not responded to.
- 1.2.4.4. Escalation as per SARS' instructed procedure, which required an e-mail to be sent to "customssmreg@sars.gov.za" email, often returned a delivery failure due to the mailbox being full.

## 2. **Specific Carbon Tax Issues experienced**

- 2.1. Severe constraints were and are being experienced in respect of Carbon Tax registrations: these issues were addressed with SARS in in November and December 2020. Despite SARS' undertaking on its website to have registrations processed within 5 business days, many applications were not acknowledged weeks after they had been submitted. The unanticipated delay had the effect that affected applicants were unable to meet legislated filing deadlines.
- 2.2. Further, once the application was processed and the client was allocated an excise registration number, taxpayers experienced challenges with getting their profiles established on e-filing, despite following SARS' guidelines available on [www.sars.gov.za](http://www.sars.gov.za). In most of these instances, the functionality to add the profiles just do not exist on their specific profiles for various reasons, which requires more extensive assistance to correct the entire e-filing profile.

2.3. Where a customs practitioner then assisted the client to rectify the e-filing profile, this regularly impacted other tax profiles (as they are all interlinked). From our understanding this gives rise to a potential risk that a customs practitioner who is not a tax practitioner as is required in the Tax Administration Act, No. 28 of 2011 (TAA) might have been providing illegal services or might not be paid to provide these services as is provided for the TAA.

2.4. This is also a potential issue for customs practitioners assisting with compliance with diesel rebates in that the application is made on the VAT201, a tax type subject to the provisions of the TAA whilst being provided for under Schedule 6 of the Customs and Excise Act, No. 91 of 1964.

### **3. Specific bond-store revision issues being experienced**

3.1. In addition to the constraints and challenges discussed above, we have also noted constraints where a particular registration or licensing process requires a physical inspection to be performed.

3.2. In at least one case, a request for an extension of a bonded warehouse has taken almost a year from the date of submission of the DA185. Although two inspections have already been performed (one for a temporary extension and one for the actual extension), the application still remains outstanding. The taxpayer is still being audited and assessed on compliance issues related to the size of its bond store being insufficient, despite the fact that it has taken months for the inspections to be performed.

### **4. Rework and further delays caused directly as a result of SARS' delays**

4.1. SARS requires supporting documents to be no older than 3 months in order to be admissible as proof.

4.2. In many instances, obtaining some of these documents, supporting affidavits and disclosures and board resolutions are extremely challenging, even in ordinary times, due to restricted physical availability of signatories and director. Where these documents have to be redone due to them being older than 3 months due to SARS' delays, it involves significant administrative time and cost to get the applications resubmitted.

4.3. We have noted instances where the SARS guidelines on a particular client type does not explicitly state that the application requires certain documentation. For example, an application for a deferred payment account was prepared and submitted and it was rejected as it was not accompanied by DA185 forms, which were not specifically stated on the Deferment Guide, nor is there any provision for a deferred payment on the DA185 itself. We understand that SARS is in the process of addressing the disconnect between operating procedure, forms and guidelines.

### **5. Difference in processes for new applications, renewals and amendments**

5.1. According to our understanding, new applications for certain client types are to be made on the RLA functionality on SARS' e-filing site. However, as stated above, in some instances enabling that functionality is complex, apparently due to a combination of incorrect, insufficient or erroneous allocation of rights, functionality, access to adobe flash, SARS' own browser, and other reasons.

5.2. In many instances, taxpayers are spending substantial administrative time and cost trying to resolve the e-filing / RLA functionality. In certain instances, the delays lead to the taxpayers being unable to comply with their filing requirements.

- 5.3. As per our understanding, where any existing trader needs to apply for a new client type (such as to register for Carbon Tax) a manual application needs to be submitted. The different processes have caused confusion and many taxpayers are struggling to be compliant as a result.

## 6. Specific issue with regard to SACUM-UK EPA

- 6.1. Registration for SACUM has never been available on RLA. Despite this fact, even at branch level, applications are rejected because the SARS internal system still has no means of adding it to Customs registrations. This omission is concerning since the purpose of the roll-over agreement was to avoid disrupting trade with the UK post Brexit. Members have experienced delays in SACUM-UK applications since January 2021.

## 7. RLA Functionality and our experience therewith

- 7.1. We are happy to report that some of our members have experienced an improved turn-around time for some new applications submitted via the RLA framework and as such many are looking forward to the increased number and types of applications to be submitted in this manner.
- 7.2. The functionality has addressed the frustration caused by an application being prepared, printed, signed-off and taken to the respective counters only to be rejected due to an (apparently) arbitrary requirement cited by the counter officials, or the omission of a word or a document from the application and requiring another trip to the SARS office. Further, it provides a better case management opportunity and acknowledgement that the application has been submitted.
- 7.3. It is our members' view that SARS is making good progress in this regard and we look forward to the RLA functionality being enhanced and improved going forward.
- 7.4. Some of our members have reported that some applicants cannot access RLA due to merge errors. The merge functionality on e-filing does not remove the error. The only way to address this challenge is to submit these applications at the branch, which results in the challenges described above being experienced. Although we have engaged with Mr. Krynauw on this issue, he has indicated that he cannot fix the error and has reported that he gets many enquiries about it. The branch currently takes up to a month to allocate case numbers, so our members prefer to try and avoid submitting at the branches.
- 7.5. Some applications submitted on RLA give a technical error. Despite the fact that members are instructed to log a remedy call at the call centre it usually does not assist to resolve the issue. However, when the taxpayer submits at the branch, the branch gets the same technical error; the taxpayer is then informed that the branch cannot process the application due to a technical error on the system. It appears that a dedicated support channel for RLA technical errors might be required.
- 7.6. Before COVID-19, applications that were submitted at a branch used to get a case number on the same day. However, our members report that they since regularly wait up to a month for a case number. The subsequent processing is further delayed as has been mentioned previously. The delays are a serious impediment to traders who need their registration for business purposes.

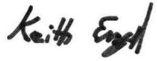
As mentioned at the outset, the purpose of this communication is to provide context to the types of challenges and barriers to compliance being experienced by businesses, specifically in the Customs and Excise space and with a view of providing SARS with examples of these challenges.



We would welcome a further opportunity to engage with you on any issues raised herein with a view of supporting SARS to execute on its mandate whilst maintaining its necessary checks and balances in a reasonable and as simplified process as possible.

\* \* \* \*

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Keith Engel', is placed below the closing.

Keith Engel  
**CEO**