



2 May 2024

To: South African Revenue Service (SARS)

Lehae La SARS
299 Bronkhorst Street
PRETORIA
0181

Via email: SARS SNtombela3@sars.gov.za
CC: SAIT escalations@thesait.org.za

RE: VAT217 Assessment Enhancement

Background

When a VAT201 return is selected by SARS for verification in terms of section 40 of the Tax Administration Act, No. 28 of 2011 (hereafter Tax Administration Act), the standard verification letter issued to the vendor typically requests the following information and/or documentation:

- Output tax and Input tax VAT schedules;
- Top 5 by rand value of tax invoices issued; and
- Top 5 by rand value of tax invoices claimed.

It is likely that most of the VAT vendors issued more than one VAT output invoice and where applicable, claim more than one VAT input invoice during a VAT tax period. These are usually referenced accordingly in the VAT control schedules when submitted.

A VAT additional assessment (VAT217) may be issued to a vendor for numerous reasons. Amongst others, the failure to submit supporting documents, invalid tax invoices, unsubstantiated input tax claims or failure to discharge the burden of proof.

Section 96(2)(a) of the Tax Administration Act states that

“In addition to the information provided in terms of subsection (1) SARS must give the person assessed—

- (a) in the case of an assessment described in section 95 or an assessment that is not fully based on a return submitted by the taxpayer, a statement of the grounds for the assessment” (*own emphasis*)

Although all the aforementioned reasons for an additional assessment may be considered the ‘overarching’ reasons for an assessment, SARS is required to provide a statement of the grounds upon which the additional assessment was made. The statement of the grounds for the additional assessment should also allow a taxpayer to formulate the grounds for the objection should they disagree with the additional assessment.



Impact analysis

1. In instances where multiple invoices are disallowed, VAT vendors are unable to determine which invoices were disallowed and the reason for it.
2. Where SARS deems a tax invoice to be invalid, the reasons for it are not included, and the VAT vendor is unable to determine what requires correction.
3. Because the VAT217 assessment is void of grounds for the assessment, a VAT vendor must submit a request for reasons in terms of rule 6 of the Dispute Resolution Rules as promulgated under section 103 of the Tax Administration Act. This then requires SARS to provide the grounds for the assessment, which should have been provided upfront. This is a waste of time and resources, as this information was available at the time of the assessment.

Prior engagements and commitments from SARS

At the SARS National Operations meeting held on Friday, 17 November 2023, the above was discussed with the SARS Stakeholder Engagement team. SARS undertook to enhance the VAT217 assessment to provide sufficient space to allow the assigned auditor to provide the detailed grounds for the assessment.

SARS further undertook to implement this enhancement during the December 2023 festive season to minimize the impact of system downtime for taxpayers, as majority of taxpayers and tax practitioners would be on leave.

SAIT had therefore anticipated that the VAT217 assessments issued from January 2024, would contain the detailed assessment grounds, as previously committed.

Unfortunately, to date, VAT vendors are still issued with VAT217 assessments which merely state 'invalid tax invoice' or 'burden of proof not discharged', without any further information or context. Examples of these assessments are attached for ease of reference.

The matter was again raised at the SARS National Operations meeting held on 18 April 2024. Unfortunately, since this was a recurring agenda point, SARS was unable to give it priority and it was not discussed during the meeting.

Request

Considering the above, SAIT hereby formally requests SARS to consider the enhancement and/or modernisation of the VAT217 assessment system to compel VAT compliance auditors to provide the detailed grounds for an assessment beyond the current scope.

Yours faithfully,

SAIT Tax Technical

**Disclaimer**

This document has been prepared within a limited factual and contextual framework, in order to provide technical guidance regarding a specific query relating to tax practice. This document does not purport to be a comprehensive review in respect of the subject matter, nor does it constitute legal advice or legal opinion. No reliance may be placed on this document by any party other than the initial intended recipient, nor may this document be distributed in any manner or form without the prior, written consent of the South African Institute of Taxation NPC having been obtained. The South African Institute of Taxation NPC does not accept any responsibility and/or liability, of whatsoever nature and however arising, in respect of any reliance and/or action taken on, or in respect of, this document. Copyright in respect of this document and its contents remain vested in the South African Institute of Taxation NPC.