

TAX PRACTICE

WEEKLY HIGHLIGHTS

WEEK OF 09 - 15 January 2025
(Issue 01 -2025)

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TOP STORIES

Provisional individuals and trust deadline: 20 January 2025

The deadline for the 2024 filing season for individual and trust provisional taxpayers is Monday, 20 January 2025. Provisional taxpayers are encouraged to submit accurate and complete returns on time to avoid penalties for late submission.

Failure to submit an income tax return may result in the imposition of a non-compliance penalty under Chapter 15 of the Tax Administration Act, No. 28 of 2011.

Non-compliance penalty subject to a fixed amount penalty

The administrative non-compliance penalty for failing to submit a return consists of fixed amount penalties determined by the taxpayer's taxable income. These penalties range from R250 to R16,000 per month for each month of continued non-compliance. Administrative penalties recur monthly until compliance is achieved, up to a maximum of 35 months.

To avoid these penalties and the burden of requesting a remission of administrative penalties, ensure that all income tax returns for provisional taxpayers are submitted by the due date.

For more details about late submission penalties [here](#).

Pivotal tax policy week ahead

This week marks a critical turning point for South Africa's policy landscape, with two major workshops scheduled for 16 – 17 January 2025 to engage stakeholders and National Treasury.

- **Phase 2 carbon tax discussion paper – Stakeholder consultation workshop:** National Treasury has proposed substantial changes to the carbon tax framework as part of South Africa's broader climate commitments. The discussion paper outlines key adjustments to the carbon tax structure, its implications for various industries, and the challenge of balancing economic growth with sustainability. These issues will be explored in depth during the upcoming workshop.
- **Collective Investment Schemes (CIS) discussion paper workshop:** The proposed amendments to the regulatory framework for CISs are extensive and will likely have significant implications for both investors and fund managers. Concerns have been raised within the CIS industry that these changes may hinder growth, potentially affecting savers, local businesses, and employment.

Both proposals require thorough engagement and dialogue to ensure the final regulatory frameworks are well-balanced and effective in shaping South Africa's economic and environmental future. SAIT will attend both workshops and will provide feedback, as appropriate.

[#StayAbreastOfTheTaxWave](#)

Are you a **tax practitioner** with a passion for writing?

Let's feature your article on the Tax Practice: Weekly Highlights.

Send your article to
taxqueries@thesait.org.za.

Approximately 500 – 1500 words

MEMBERS' DIGEST

Imputation of personal liability on individuals managing financial affairs of non-compliant companies

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The growing importance of personal liability in corporate governance and tax compliance is a pressing issue. It is increasingly being imposed on individuals who control or are regularly involved in managing a company's financial affairs. Section 180 of the Tax Administration Act (TAA) outlines a complex set of responsibilities that can implicate various parties in a company's failure to meet its tax obligations due to fraud or negligence. This article delves into the implications of personal liability, the degree of control or involvement required, and the legal precedent that supports this doctrine

Historically, tax laws have not explicitly delineated the parameters of formal responsibility regarding a company's financial management. Instead, the legislation necessitates that any individual who exercises considerable control or regular involvement in the company's financial dealings be held accountable for any delivery failures towards tax debts. This broad scope extends beyond the conventional roles of shareholders or directors, encompassing anyone who possesses a factual influence over the financial decisions and practices of the enterprise. This broad interpretation raises critical questions regarding delineating liability and the thresholds of negligence or fraud that must be satisfied to invoke such personal responsibility.

To fully understand this discourse, it's crucial to grasp the language and intent of section 180 of the TAA. This provision states that individuals may be personally liable for a company's unpaid tax debts if their negligence or fraudulent actions contribute to the non-compliance. The Act focuses on 'control' and 'involvement,' categorising these terms in a way that allows for a broad interpretation. It identifies liable parties who, while not holding formal authority, wield substantial influence over financial operations.

The actions of a company director who failed to ensure adequate financial oversight ultimately led to a significant tax deficiency. In this context, the director's apparent lack of vigilance in monitoring financial affairs was deemed negligent, satisfying the threshold for personal liability under the Act.

Moreover, the ramifications of tax contravention are far-reaching and detrimental. Not only does it impose a financial burden on the company itself, but it also presents severe reputational risks for the individuals involved. Tax noncompliance, mainly when characterised by negligence or fraudulent behaviour, can lead to substantial financial penalties, legal prosecution, and, in extreme cases, incarceration. This aspect underscores the importance of corporate governance and individual accountability in compliance with tax laws. When a managing director had knowingly facilitated tax evasion schemes, the company and the director faced severe penalties. The active participation in fraudulent activities warranted personal liability, accentuating the expectation for individuals in positions of control to maintain vigilance and ethical prudence.

The interpretation of 'control' within section 180 extends to those who may not hold formal titles within a company but exhibit significant influence over its operations. For instance, a substantial shareholder in a corporation with a controlling interest, despite lacking a formal management title, may be held liable for his actions or negligence that adversely affects the company's tax compliance. The implications of such interpretations are wide-reaching, as

they underscore the importance of individual awareness of one's influence and responsibility within the corporate structure.

The law requires a careful balancing of interests—a recognition that while fostering a corporate environment that encourages entrepreneurial spirit is vital, it must coexist with an unwavering commitment to tax compliance. This balance is achieved by ensuring that while individual accountability becomes a pivotal mechanism for ensuring compliance, it equally serves to deter negligent or exploitative practices that jeopardise the financial ecosystem. Failure to adhere to tax obligations undermines the company's financial integrity and jeopardises the state's fiscal resources, prompting stricter regulations and enforcement actions. Thus, the law functions not only as a punitive measure but also as a catalyst for positive behavioural change within corporate governance.

Legal scholars and tax policy experts have long debated the consequences of imposing personal liability under such expansive interpretations. Critics argue that these provisions may encourage reckless management practices, wherein individuals might divorce themselves from fiduciary responsibilities, fearing potential personal repercussions. However, proponents contend that heightened vigilance is vital in ensuring adherence to tax laws and ethical financial management. Through careful construction and rigorous enforcement of personal liability frameworks, the law is a punitive measure and a catalyst for positive behavioural change within corporate governance.

Adverse implications arise when authorities pursue personal liability for unpaid tax obligations, alongside a lack of clarity in distinguishing between negligence, fraud, and mere incompetence. The decision to impose personal liability hinged upon a multifaceted examination of the individual's ongoing involvement and the specific nature of their actions (or inactions). The ruling elucidated that personal accountability should not only hinge on outcomes but should be critically assessed against the responsible party's state

of mind and awareness. This underscores the need for individuals to exercise caution and diligence in their financial management roles, as personal liability risks are significant and should not be underestimated.

As the corporate law landscape evolves, individuals managing financial affairs must foster a culture of transparency and compliance. Implementing rigorous internal accounting controls, regular oversight evaluations, and ethical training programmes can significantly mitigate risks associated with personal liability. This proactive approach empowers individuals to take control of their roles and responsibilities, reducing the likelihood of negligence or fraudulent conduct and instilling a sense of responsibility and proactivity in the audience.

The framework prescribed by section 180 of the Tax Administration Act necessitates that those who control or engage regularly with a company's financial affairs must do so with vigilance and integrity. The imposition of personal liability serves as a critical legal remedy to deter negligence and fraud, reinforcing the expectation that individuals uphold their fiduciary duties. Reflecting on the pertinent case law, it is clear that the law evolves within a context where the stakes of tax compliance are markedly high—a failure to act responsibly can result in dire consequences for the companies involved and the individuals steering those companies. As the discourse surrounding corporate accountability continues, it remains imperative that legal practitioners and policymakers work collaboratively to forge solutions that foster compliance while safeguarding individual rights; in this pursuit, the delicate balance between promoting innovation and ensuring accountability remains paramount. This reiteration of responsibility is intended to make the audience feel the weight of their roles and the importance of their actions.

PART A: COMPLIANCE & SARS OPERATIONS

SAIT-SARS 'ON-THE-GROUND' ENGAGEMENT

SAIT TaxHelpline officially open for 2025

We are pleased to announce that the SAIT TaxHelpline is now officially open for 2025! Our expert consultants are ready to assist with a variety of topics, including:

- Legal interpretation
- SARS operations and eFiling
- Customs
- Accounting
- Discretionary incentives and grants
- Exchange control
- Ethics and professional conduct.

Additionally, the designated [SARS escalations portal](#) is available to help facilitate the escalation of cases that exceed SARS's turnaround times.

In just three days since reopening, the TaxHelpline has already successfully received and resolved 185 queries. We look forward to assisting you with yours as well!

Progress report on the bank verification delays and system upgrades

The management of bank verification cases and the issuance of weekly refund notices by SARS revealed several challenges requiring immediate attention. One of the most pressing issues was the repeated failure to finalise bank verification cases within the agreed turnaround time of 21 business days. These delays significantly hindered the resolution process, leaving taxpayers frustrated and uncertain about the status of their cases.

Another concern was the continued issuance of weekly refund notices, even after all required supporting documents had been submitted. This redundancy created confusion and placed an unnecessary administrative burden on taxpayers and their representatives.

Additionally, there were instances where account stoppers were placed without any prior or subsequent communication. Taxpayers often discovered these stoppers only when attempting to progress their cases via the SARS contact centre, which further exacerbated delays and undermined confidence in the system.

SARS acknowledged these concerns and initiated investigations to address them. They sought to determine why bank verification cases were created despite valid banking details being provided on the RAV01 form. They also aimed to identify the causes of delays in resolving these cases and the reasons for issuing redundant refund notices. Feedback from these investigations was expected to guide corrective actions to improve operational efficiency and enhance the taxpayer experience.

Efforts to address these challenges focused on ensuring compliance with the 21-business-day turnaround standard and improving communication processes to keep taxpayers informed about account stoppers and other procedural requirements.

Recommendations included establishing a dedicated point of contact to manage bank verification delays and refund-related queries. Creating a transparent notification system to provide detailed explanations for stoppers was also suggested as a way to build trust

and engagement. Moreover, optimising internal processes to ensure that valid banking details on the RAV01 form were not incorrectly flagged was considered critical for improving resolution timelines.

SARS has committed to providing feedback on these investigations and any potential enhancements in the coming weeks. Stakeholders will be informed accordingly once this feedback is available.

SAIT TaxHelpline – escalations

As part of our commitment to serving members, SAIT escalates appropriate cases within the SARS structures on their behalf. Members can submit queries via the [TaxHelpline](#) for assistance with SARS escalations. Read more on the process and requirements [here](#).

The most urgent escalations this week include:

1. Delays in finalising income tax and VAT verifications.
2. Delays in finalising bank verification cases.
3. Delays in finalising and payment refunds.
4. Delays in finalising requests for company year-end changes.

SARS regional and national operational meetings

SAIT and its Regional Representatives attend SARS/RCB regional meetings quarterly, offering opportunities for effective, systemic discussions (qualifying for CPD points)*.

** For effective and meaningful engagement with SARS, Regional Representatives are encouraged to provide three specific examples of issues or challenges that arise. It is important to note that regional meetings are not intended for individual case escalations but serve as a platform to address systemic issues impacting the broader tax practitioner community.*

Feedback from the RCB/SARS regional and national meetings

The last regional meeting of 2024, held in Mpumalanga on 12 December, occurred after the publication of the last 2024 newsletter. Feedback from this meeting is now available [here](#).

DAILY COMPLIANCE AND ADMINISTRATION

Due dates for reporting and payments: January 2025

Month	Date	Tax Type	Notification
January 2025	07/01/2025	Employment Taxes	EMP201 - Submissions and payments
	20/01/2025	Income Tax	ITR12 - Submission due date for a return for provisional taxpayers and is submitted by using the SARS eFiling platform
	20/01/2025	Income Tax	ITR12T - Submission due date for the Trust Income Tax returns.
	24/01/2025	Value-Added Tax	VAT201 - Manual submissions and payments
	31/01/2025	Value-Added Tax	VAT201 - Electronic submissions and payments

SAIT member resources

- [SAIT important tax dates calendar](#) – contains important dates from January 2025 to January 2026 (updated).
- [SAIT SARS contact map](#) – links service requirements to SARS channels (unchanged).

Key operational news

Updated process for Tax-Exempt Institutions to apply for Public Benefit status

SARS has streamlined the application process for Tax-Exempt Institutions seeking Public Benefit Status, enhancing efficiency and ease of use.

Non-profit organisations (NPOs) play a vital role in addressing societal and developmental needs. To support their efforts, preferential tax treatment is available but not granted automatically. Eligible organisations must meet the criteria set out in the Income Tax Act and apply for exemption.

Eligible entities include:

- Public benefit organisations (PBOs)
- Recreational clubs
- Homeowners' associations
- Membership associations
- Professional bodies
- Public institutions
- Government entities (national, provincial, or local)
- Section 18A status

Improved E11 application form

SARS has upgraded the E11 application form for entities seeking income tax exemption.

Key form enhancements:

1. **Simplified completion:**
 - The form can now be saved, submitted as a PDF, or printed for convenience.
2. **Clearer guidance:**
 - Instructions are tailored to assist various taxpayers in completing the form accurately.
3. **Signature and declaration section:**
 - A dedicated section for those accepting fiduciary responsibility.
 - Eliminates the need for a separate E12 form if the founding document is legally valid.
4. **Up-to-date legal compliance:**
 - The form includes measures aligned with Financial Action Task Force recommendations to mitigate risks.
 - A new "General" section requires details about Non-Profit Organisation registration and persons acting in fiduciary responsibility. While part of SARS's risk-based methodology, this section is not part of the approval criteria.

You can access the updated E11 application form [here](#).

Application guide

SARS has created a comprehensive guide with annexures for each Exempt Institution category. The guide provides detailed completion instructions and lists required supporting documents.

Download the guide with annexures [here](#).

Transition period

Taxpayers are encouraged to adopt the updated E1 application form immediately. However, applications submitted using the old forms will still be accepted until **28 February 2025**.

SARS introduces AI Assistant for 24-hour assistance

The initial phase of the SARS Artificial Intelligence (AI) conversational platform, called the “AI Assistant,” is now live. This cutting-edge tool provides instant responses to queries from taxpayers, traders, and travellers by drawing on information from published sources, user guides, and other publicly accessible SARS systems. The AI Assistant can be accessed via the SARS MobiApp or through the bottom right corner of the SARS website homepage at www.sars.gov.za.

Feedback from several SAIT representatives who tested the platform has been overwhelmingly positive, particularly regarding its functionality and ease of use. We look forward to the upcoming phases, which promise to enhance user engagement and improve service delivery even further.

Other SARS and related operational publications and announcements

No other SARS and related operation publications and announcements were made during the week of 9 – 15 January 2025

TAX PRACTITIONER MANAGEMENT

SAIT TaxHelpline – Tax practitioner access and functionality (eFiling)

No recurring tax practitioner access and functionality issues were identified via the TaxHelpline during the week of 9 – 15 January 2025.

Key tax practitioner news

No other tax practitioner news was published from 9 – 15 January 2025.

Government & stakeholder newsletters

Leadership transition at the Office of the Tax Ombud

On 14 January 2025, the Office of the Tax Ombud (OTO) released a media statement announcing a leadership transition effective from 1 January 2025.

The OTO announced the appointment of Ms Mmamelao Malakalaka as Acting CEO, succeeding Professor Thabo Legwaila, whose leadership played a significant role in advancing the organisation’s mission.

Ms Malakalaka has been part of the OTO since 2016, serving as Senior Manager: Office Enablement and Support Services. Her previous roles include Chief Financial Officer at NEMISA and Audit Committee Member for IPID. She holds a BCom in Accounting Science (UNISA), an MPhil in Development Finance (Stellenbosch University), and is a SAIPA-accredited Professional Accountant.

The OTO is confident that her expertise and leadership will continue to drive the OTO's commitment to fairness and transparency in the tax system.

Access the full media statement [here](#).

Other tax practitioner access and functionality publications and announcements

- **14 January 2025:** SARS [published](#) the North West tax workshop schedule for January 2025. The schedule includes, Klerksdorp, Mmabatho and Rustenburg.

PART B – LEGISLATION & POLICY

LEGISLATION, INTERNATIONAL AGREEMENTS & POLICY

Tax policy & international agreements

National Legislation

The following National legislation has been promulgated into law:

Legislation	Act and Gazette Number	Date of Promulgation
Global Minimum Tax Administration Act	Act 47 of 2024 (GG 51884)	9 January 2025
Global Minimum Tax Act	46 of 2024 (GG51830)	24 December 2024
Taxation Laws Amendment Act, 2024	Act 42 of 2024 (GG 51826)	
Tax Administration Laws Amendment Act, 2024	Act 43 of 2024 (GG 51827)	
Revenue Laws Second Amendment Act, 2024	Act 44 of 2024 (GG 51828)	
Rates and Monetary Amounts Amendment Act, 2024	Act 45 of 2024 (GG 51829)	

LEGISLATIVE INTERPRETATION

Submissions made to SARS and current calls for comment

No new submissions were made in the week of 9 – 15 January 2025.

Legislative interpretation calls for comment

No new calls for comment were issued by SARS in the week of 9 –15 January 2025.

Legislative counsel publications

Tables of interest rates updated

On 7 January 2025, the following tables of interest rates were updated:

Table	Description
Table 1	Interest rates on outstanding taxes and interest rates payable on certain refunds of tax
Table 2	Interest rates payable on credit amounts

Published court cases

SARS has published the following Constitutional Court case:

Date of delivery	Case	Relevant Legislation
20/12/2024	CSARS v Medtronic International Trading S.A.R.L (CCT 79/23)	Value-Added Tax Act, 1991 Tax Administration Act, 2011

Keywords:

Leave to appeal: The appeal is upheld with costs, including the costs of two counsel. The order of the Supreme Court of Appeal is set aside and replaced with the following:

- a. The appeal is upheld.
- b. The order of the Gauteng Division of the High Court, Pretoria is set aside and replaced with the following:
“The application is dismissed with costs, including the costs of two counsel.”

SARS has published the following High Court cases:

Date of delivery	Case	Relevant Legislation
14/01/2025	<i>JBSA Props (Pty) Ltd and Another v CSARS and Others</i>	Companies Act, 2008 Tax Administration Act, 2011 Value-Added Tax Act, 1991

Keywords:

Business rescue: Whether the applicants have established prima facie that the second applicant's obligations to pay VAT generated by its trading during the course of business rescue were compromised in terms of the approved business plan.

6/12/ 2024	<i>ASPASA NPC and Others v CSARS</i> (2023/099811)	Tax Administration Act, 2011
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Keywords:

Whether the applicants established a right to declaratory relief in terms of section 21(1)(c) of the Superior Courts Act, 10 of 2013.

13/12/2024	<i>Jaymat Enviro Solutions CC v CSARS</i> (7559/2024)	Employment Tax Incentive Act, 2013 Tax Administration Act, 2011
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Keywords:

Whether the applicant's application for relief is permissible.

Other SARS publications and announcements

No other legislative publications or announcements were made by SARS during the week of 9 – 15 January 2025.

OTHER MATTERS OF INTEREST FOR A TAX PRACTICE

No other matters of interest pertaining to legislation and policy were issued in the week of 9 – 15 January 2025.