



# SARS Operations and eFiling

**SAIT Webinar**  
**12 October 2023**

*YOUR KEY TO THE TAX COMMUNITY*

## Anchors:

- **Yolisa Dyasi** – (Tax Technical Consultant at SAIT)  
Yolisa is the Tax Technical Consultant at SAIT. She is responsible for management of the SAIT Tax Technical Helpline, SARS escalations and SARS operational submissions.
- **Cecile Bothe** – (Consultant at SAIT)  
Cecile Bothe is Consulting to SAIT (ex SARS) with 44 years of experience at SARS. Specialises in Income Tax, Provisional tax, Deceased and insolvent estates, Donations Tax and Estate duty.

# Guest

- **Annette Brits** - Consultant at SAIT
- with 39 years working experience in accounting of which 21 years pertain to experience in Corporate Tax. Retired as Public Officer and Tax Executive from a JSE listed company in February 2021.
- Now has own practice specialising in:-
  - Corporate Tax (national and international) for various multi-nationals listed on various International Stock Exchanges ;
  - Dispute Resolution (all taxes including customs and excise; excluding estates) ;
  - Income Tax with focus on high-net worth individuals and expats

## Agenda:

**This session will contain a brief overview of SARS Operations, reporting and eFiling including the following aspects:**

- ❖ General SARS Ops updates
  - ✓ Important filing, payment and/or reporting dates
  - ✓ Challenges in the SARS Operational space
  - ✓ New procedures, systems and SARS implementations
- ❖ Expert Corner; and
- ❖ Question and Answer Session





# Important filing, payment and/or reporting dates

# Important filing, payment and/or reporting dates

Income Tax	23/10/2023	<b>Submission due date</b> for a return that is submitted electronically through the assistance of a SARS official at a <b>SARS office or manually</b>
Income Tax	23/10/2023	<b>Submission due date</b> for a return for non-provisional taxpayers and is submitted by using the <b>SARS eFiling platform</b>
Value-Added Tax	25/10/2023	Manual <b>VAT201</b> submissions and payments
Other	31/10/2023	End of bi-annual third-party submissions
Employment Taxes	31/10/2023	End of employer interim <b>EMP501</b> reconciliation submissions
Value-Added Tax	31/10/2023	Electronic <b>VAT201</b> submissions and payments
Employment Taxes	07/11/2023	<b>EMP201</b> submissions and payments



# Challenges in the SARS Operational space

# SARS enhances the eBooking system

On 14 August 2023, SARS announced the enhancement to the eBooking platform for virtual and walk-in appointments. The enhancements include:

- Branch walk-in appointments can now be made via the eBooking system, where previously this type of appointment could only be booked through the SARS Contact Centre.
- Only **available** timeslots will be displayed from now on, therefore no more 'timeslot not available' messages will be displayed.
- Booked slots will be automatically cancelled if supporting documents are not uploaded within 24 hours, thereby freeing up timeslots.



# Challenges experienced with appointment system

- **Appointment waiting times** – Currently, appointments are made available on a 60 calendar day rolling basis.
- **Validation of tax number** – The eBooking system now no longer requires a taxpayer to provide their income tax reference number, as SARS automatically captures this information based on the ID, passport, company registration or trust registration number.
- **Supporting documents and cancellations** – The submission of supporting documents is a requirement for the confirmation of an appointment. If the supporting documents are not submitted to SARS 24 hours after the booking has been made, the appointment will be cancelled.

## Challenges with the RLA onboarding and entity merge

1. The entity merge function on eFiling is not operational. The only way an entity merge can be done is via an online appointment with SARS. Currently, there is a 7-week lead time for appointment availability and, therefore, any taxpayer wanting to do an entity merge may realistically only be able to do so by mid November 2023.
2. The RLA onboarding cannot be done unless all the taxes of the entity have been merged.

# New procedures, systems and SARS implementations

# VAT modernation

- On 8 September 2023, SARS published a [VAT Modernisation discussion paper](#) for public comment, which contains details about the purpose of the VAT modernisation drive, discussions on international benchmarking and potential legislative amendments required to achieve this new South African VAT framework.
- The SAIT Tax Technical team will engage with the relevant stakeholders and submit comments to SARS by 31 October 2023.



# PAYE Monthly submission external BRS was published

- A part of the Modernisation journey that SARS has embarked on, is to replace the current employees' tax, provisional tax and assessment filing seasons for employers and non-business individuals with a modern, fully automated tax assessment, withholding and paying to SARS of tax due system.
- The first step in achieving this objective requires Employers to submit payroll data monthly from 1 March 2025. The [PAYE Monthly Submission External BRS](#) defines the requirements Employers must adhere to for the monthly submissions.

# Expert Corner

**SA Tax Residents working abroad:  
Factors for consideration when declaring  
income and filing an ITR12**

# Topic Overview

- Concept of Residence and DTA exceptions
- Test for Ordinarily Resident including test beginning / end
- Test for Physical presence including test beginning / end
- DTA considerations
- Exit Tax - CGT Implications of ceasing tax residency
- ITR12 completion and relevant source codes
- Tax Directives

# Concept Residence

- SA residency-based tax system
- Distinguish between natural and persons and other than natural (companies)
- Definition resident is set out in section 1 of the Income Tax Act but there is a Double Tax Agreement (“DTA”) exclusion



# DTA Exclusion

- A person who is deemed to be exclusively a resident of another country
- For purposes of a ratified DTA between the Republic and that other country will not be a resident of the Republic
- Even though taxpayer meets the qualifying requirements of being a resident (par ( a ) of the definition of 'resident').
- This rule will, in many cases, render the physical presence test irrelevant since the rules in DTA's are more similar to the ordinarily resident test.

# Ordinarily resident

- Not defined in Act
- Case law (Cohen v CIR case) set out 3 important principles
  - Ordinary residence – home returning to after all his wanderings
  - Not only consider actions during year of assessment but also outside year of assessment
  - Physical absence is not always decisive (e.g. person could be absent whole year but still be ordinarily resident)

# **IN 3 – General Guidance**

## **Test for ordinarily resident (not exhaustive)**

- Intention to be ordinarily resident in the Republic
- Habitual abode, meaning place where the person stays most often, and his present habits and mode of life
- Place of business and personal interests of the person and his family
- Employment and economic factors
- Status of Individual in the Republic and in other countries (e.g. immigrant, work permit periods and conditions, etc. )
- Location of personal belongings
- Nationality
- Family and social relations (schools, places of worship, sports or social clubs, etc.)
- Application for permanent residence or citizenship
- Period abroad, purpose and nature of visits, and
- Frequency of and reasons for visits.

# Beginning and ending of being 'ordinarily resident'

- A natural person who became ordinarily resident will be a resident from a specific date.
- A taxpayer immigrating to the Republic will therefore be treated as being 'ordinarily resident' in the Republic from the day on which he becomes ordinarily resident in the Republic and not for the full year of assessment in which he becomes ordinarily resident.
- For the period from the beginning of the year until the day before he becomes ordinarily resident, he will be seen as a non-resident for tax purposes.
- Interpretation Note No. 3 determines that a natural person who emigrates from the Republic to another country will cease to be a resident from the date that he emigrates.
- This means that the day on which the natural person flies to the other country (leaves the Republic) is the first day that he will be regarded as a non-resident.



# Physical presence

- Natural person who is not at any time during the relevant year of assessment 'ordinarily resident' will be a 'resident' if he is physically present in the Republic for certain periods
- That is, if he meets the requirements of the so-called 'physical presence' test. This test therefore only applies to a person who is not ordinarily resident in the Republic at any time during the year of assessment (referred to here as 'the current year of assessment') but is physically present in the Republic for a period or periods
  - exceeding 91 days in aggregate during the current year of assessment, and
  - exceeding 91 days in aggregate during each of the five years of assessment preceding the current year of assessment, and
  - exceeding 915 days in aggregate during the five years of assessment preceding the current year of assessment (par ( a )(ii) of the definition of 'resident' in s 1).

# Physical presence

The effect of the definition of a 'resident' is that a natural person who is not ordinarily resident in the Republic can, in terms of the physical presence test, only become a resident for tax purposes in the current year of assessment after a period of five consecutive years of assessment during which the person was physically present in the Republic for the qualifying periods.

The following rules apply to the 'physical presence test':

- for the purposes of determining the number of days during which a person is physically present in the Republic, a part of a day is included as a day
- a day spent in transit through the Republic is not included as a day, provided that the person does not formally enter the Republic through a port of entry
- the more than 91 days and more than 915 days' periods of physical presence in the Republic need not be continuous.

If a person is present for several periods which in aggregate exceed 91 or 915 days, the requirement will be met.

# Beginning and ending of being Physical Presence Test (“PPT”)

- Begin – After 5 year test - 1<sup>st</sup> day of year 6 if all requirements are met (unintended consequences for foreigner e.g. “swallows”)
- End – in terms of PPT – Physically outside Republic continuous period 330 days starting day leaves Republic
- End – in terms of PPT – Natural person ceases as resident from day when person leaves Republic.
- Foreign Studies – Ordinary Resident but absent 330 days not cease residency

# DTA considerations





# DTA considerations

- Countries enter into tax treaties to avoid judicial double taxation
- Each treaty is specific
- Treaty must be read with domestic law (a treaty cannot impose a tax liability on taxpayer that would not otherwise be liable under domestic law)
- Treaty allocates rights of taxation in terms of domestic laws
- If transaction not taxed in SA tax law - no need to consider Treaty provisions and vice versa

# Exit Charge – CGT trigger event

- Deemed disposal –s9H(2) – natural persons and s9H(3)(a) – companies
- Cessation triggers deeming CGT event with certain exclusion
- Cessation permanently leaves SA
- Exclusions
  - Immoveable property but does not include share-blocks so nature is NB
  - Assets attributable to Permanent Establishment (PE)
  - Qualifying - equity shares s8B / instrument s8C/ right acquire S8A(<26.10.2004)

# ITR12 completion and relevant source codes

- STANDARD & COMPREHENSIVE WIZARD questions must be correct otherwise assessment incorrect
- Did you receive any form of remuneration for foreign services rendered that is reflected on your South African IRP5/IT3(a) certificate(s)' (Select 'Y' or 'N').
- If you received remuneration for foreign services rendered that is reflected on an IRP5/IT3(a) certificate indicate if any portion of this foreign services remuneration was subject to tax in another country.
- You will also be required to complete the following applicable sections on the return:
  - o 'Residency Information'
  - o 'Amounts considered non-taxable'
  - o 'Other Deductions'
  - o 'Foreign Income'

# ITR12 completion and relevant source codes

- Note: If you received income for foreign services rendered and it is not reflected on any IRP5/IT3(a) certificate, you must select yes for the following question under the “Comprehensive” section of your return:
  - “Did you receive any foreign income (including remuneration) apart from foreign interest and foreign dividend income and excluding foreign capital gain transactions?”
    - o The foreign income section will open for completion.
  - “Did you receive any foreign income (including remuneration) apart from foreign interest and foreign dividend income and excluding foreign capital gain transactions?”
- (Select ‘Y’ or ‘N’) - If yes, the container for ‘Foreign Income’ and ‘Local Statement of Assets and Liabilities’ will be added to the return.



# ITR12 completion and relevant source codes (not exhaustive)

- **4235** : From the 2021 YOA this field will display as 'Income received from foreign employment services reflected on a South African IRP5/IT3(a) certificate subject to tax outside the RSA and the s10(1)(o)(ii) exemption **does not apply**'
- **4298** : 'Income received from foreign employment services not reflected on a South African IRP5/IT3(a) certificate, subject to tax outside RSA and the s10(1)(o)(ii) exemption does not apply' – Applicable YOA 2023
- **4304** : 'Income received from foreign employment services not reflected on a South African IRP5/IT3(a) certificate, subject to tax outside RSA and the s10(1)(o)(i) exemption does not apply' – Applicable YOA 2023
- **4299** : 'Income received from foreign employment services not reflected on a South African IRP5/IT3(a) certificate, subject to tax outside RSA and the s10(1)(o)(i) exemption applies' – Applicable YOA 2023
- **4111** : From the 2021 YOA this field will display as 'Other Foreign Tax Credits (excluding Rental from the letting of fixed property(ies) and income received from foreign employment services **not** reflected on a South African IRP5/IT3(a) certificate, subject to tax outside RSA and the s10(1)(o)(ii) exemption applies'
- **4259** : 'Income received from foreign employment services not reflected on a South African IRP5/IT3(a) certificate, subject to tax outside RSA and the s10(1)(o)(ii) exemption applies' - this is applicable from the 2021 YOA
- 'Foreign Tax Credit on income received from foreign employment services not reflected on a South African IRP5/IT3(a) certificate, subject to tax outside RSA and the s10(1)(o)(ii) exemption applies' – this is applicable from the 2021 YOA
- Access Annexure 1 & 2 for more information

# Tax Directives

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## Application by Non-Resident for a Directive for Relief from South African Tax for Pension and Annuities in terms of a Double Taxation Agreement

RST01

### Information:

- Form to be completed by a resident of a foreign country who claims relief from South African (SA) tax in respect of pension and annuities in terms of a Double Taxation Agreement. For a refund please complete the RST02 form.
- This form, when completed, should be taken to your local tax office for certification in your country of tax residence. Once certified post the original form to the South African Revenue Service (SARS): Private Bag x923, Pretoria, 0001
- For each source of Pension/Annuity, complete the relevant schedule.

### Applicant Details – Individual

Country of Tax Residence																														
National Identification Number in Country of Tax Residence																														
Surname																														
First Name																														
Other Name																														
Initials				Date of Birth (CCYYMMDD)				SA ID No.				Tick here if you do not have a SA ID number: <input type="checkbox"/>																		
Country of Birth																														

### Taxpayer Reference Number(s)

South African Taxpayer Reference No.									Foreign Taxpayer Identification Number in country of Tax Residence												
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### Contact Details

Fixed Line Telephone No.													Mobile No.																	
Email																														

### Physical Address Details

Unit No.					Complex (if applicable)																				
Street No.					Street / Farm Name																				
Suburb / District																									
City / Town																	Country code								
Postal Code																									

### Declaration by Applicant

I declare that the information furnished in this return is true and correct in every respect.

Date (CCYYMMDD)

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Signature

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RST02

- Form to be completed by a resident of a foreign country who claims a refund from South African (SA) tax in respect of pension and annuities in terms of a Double Taxation Agreement. For a directive please complete the RST01 form.
- This form, when completed, should be taken to your local tax office for certification in your country of tax residence. Once certified post the original form to the South African Revenue Service (SARS): Private Bag x923, Pretoria, 0001 or attach it to your Notice of Objection (NOO)
- For each source of Pension/Annuity, complete the relevant schedule.

Country of Tax Residence																														
National Identification Number in Country of Tax Residence																														
Surname																														
First Name																														
Other Name																														
Initials					Date of Birth (CCYYMMDD)					SA ID No.							Tick here if you do not have a SA ID number: <input type="checkbox"/>													
Country of Birth																														

South African Taxpayer Reference No.  Foreign Taxpayer Identification Number in country of Tax Residence

Fixed Line Telephone No.		Mobile No.	
Email			

Unit No.	<input type="text"/>	Complex (if applicable)	<input type="text"/>
Street No.	<input type="text"/>	Street / Farm Name	<input type="text"/>
Suburb / District	<input type="text"/>		
City / Town	<input type="text"/>	Country code	<input type="text"/>
Postal Code	<input type="text"/>		

I declare that the information furnished in this return is true and correct in every respect.

Date (CCYYMMDD)

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Signature



# Thank you