



**DRAFT GUIDE: SPECIAL VOLUNTARY DISCLOSURE PROGRAMME
(v1.0)**

- This is a preliminary, draft guide which is subject to Parliamentary legislative processes.
- The draft guide is meant to assist individuals and companies in preparing for the commencement of the Special Voluntary Disclosure Programme that was proposed by the Minister of Finance in his 2016 Budget.
- The draft will be replaced by a final guide as soon as possible. The final guide may differ from this draft in form and content. Please regularly check the VDP page on the SARS website for updates, at:
<http://www.sars.gov.za/Legal/VDP/Pages/default.aspx>
- The current draft SVDP legislation is available here:
<http://www.treasury.gov.za/public%20comments/RMTAB2016/>
- Comments and suggestions relating to this draft guide are welcome and can be emailed to vdp@sars.gov.za

1. **Background**

In terms of the new global standard for the automatic exchange of information between tax authorities, the South African Revenue Service (SARS) will start receiving offshore 3rd party financial data from other tax authorities from 2017 on a regular basis. This created a window to propose a Special Voluntary Disclosure Programme (SVDP) to give opportunity for non-compliant taxpayers to voluntarily disclose offshore assets and income, thereby regularising both their tax and exchange control affairs. The SVDP will be open for applications from 1 October 2016 until 31 March 2017.

The SVDP will run concurrent to the permanent Voluntary Disclosure Programme (VDP) of SARS.

SARS and the South African Reserve Bank (SARB) are working together to ensure that SVDP applications are evaluated and processed through one joint process, i.e. for both tax non-compliance and exchange control contraventions.

For information on SVDP exchange control defaults please visit the following web page:

<http://www.resbank.co.za/RegulationAndSupervision/FinancialSurveillanceAndExchangeControl/Pages/Special-Voluntary-Disclosure-Programme.aspx>

2. SVDP Legislative Design

a) Window

- Applications for relief under the SVDP will apply for a limited window period of six months starting on 1 October 2016 and closing on 31 March 2017;
- Applications submitted prior to 1 October 2016 or after 31 March 2017 will be processed under the normal VDP rules, i.e. the SVDP rules cannot be applied.

b) Eligibility

- Individuals and companies may apply.
- Settlers, donors and beneficiaries of foreign discretionary trusts (including deceased estates) may participate in the SVDP if they elect to have the trust's offshore assets and income deemed to be held by and accrued to them.
- Amounts in respect of which SARS obtained information under the terms of any international exchange of information procedure will not be eligible for the SVDP.
- Disclosures where it is argued by the applicant that all or part of the seed money / subsequent deposits / funding of foreign assets are not taxable in South Africa or have already been taxed in South Africa, are excluded from the SVDP. The normal VDP channel remains open for disclosures of this nature.

Special Voluntary Disclosure Programme

c) Relief Granted

	SARS	SARB
Capital that funded the asset ("seed money" and subsequent deposits)	<ul style="list-style-type: none"> <input type="checkbox"/> The undeclared income that originally gave rise to the foreign asset will be exempt from income tax, donations tax and estate duty liabilities arising in the past. <input type="checkbox"/> 50% of the highest value of the aggregate of all assets situated outside South Africa between (or deemed to be between) 1 March 2010 and 28 February 2015 that were derived from undeclared income will be included in taxable income and subject to tax in South Africa in the 2015 tax period. The value referred to above is the market value determined in the relevant foreign currency translated to South African Rand at the spot rate at the end of the tax period in which the highest value fell. 	<ul style="list-style-type: none"> <input type="checkbox"/> 5% levy if asset is repatriated, on value of asset as at 29 Feb 2016 <input type="checkbox"/> 10% levy if asset is not repatriated, on value of asset as at 29 Feb 2016 <input type="checkbox"/> 12% levy if asset is not repatriated and if local funds are used to pay the levy
Investment returns & other taxable events	Investment earnings & other taxable events prior to 1 March 2015 will be exempt from tax	Not applicable
Interest on SARS debt	Interest on tax debts arising from the disclosure only commence from the 2015 year of assessment	Not applicable
Understatement penalties	No understatement penalties will be levied	Not applicable
Other SARS penalties	Same as current VDP	Not applicable
Criminal Prosecution	Same as current VDP	Not applicable

d) Required supporting documentation

- To determine the amount of relief for tax purposes, information in the following format must be submitted together with the VDP01 application form:

Table A				
Tax period	Asset acquisition value and subsequent additional funding		Market value of aggregate of all foreign asset(s)	
	Per foreign currency	Per South African Rand	Per foreign currency	Per South African Rand
Pre-2011				
2011				
2012				
2013				
2014				
2015				

- Documentation in evidence of the existence of the foreign asset (e.g. bank account details, property registration papers);
- Confirmation of the date on which the asset was acquired (e.g. letter from the bank in case of a bank account, shareholder certificates, property registration papers);
- Nature of the applicant's connection to the asset (e.g. owner, director, shareholder, beneficiary);
- A description of the structure and/or intermediaries/advisors that were utilised to establish or acquire the foreign asset;
- Power of attorney (where required).

3. SVDP application and processing

a) Application process

For SVDP purposes, SARS & SARB have agreed to a single point of entry for applications, which is the SARS eFiling VDP application process. The current VDP application form (VDP01) will be enhanced to accommodate the SVDP tax related disclosures, while a second form (SVDP01) form will be available for exchange control disclosures. Both forms will be available on-line on the SARS eFiling platform.

b) Resources

A compliment of SARB staff will be seated at the SARS VDP office. Contact details will be made available in due course.

c) Evaluation of applications

Tax-related disclosures will be routed to SARS staff and exchange control contravention disclosures will be routed to SARB staff.

d) Approval / Rejection of applications

Tax-related disclosures will be approved or rejected on the same basis as the current VDP process. Exchange control contravention disclosures will be approved or rejected on the same basis as currently applied by SARB.