# VATconnect

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Welcome to the first edition of VAT Connect – your electronic newsletter that will provide you with the latest news and information on VAT and related matters. VAT Connect replaces VAT News as there is a great need to communicate with our VAT stakeholders in a more direct and immediate way. We hope you enjoy the read and that you will find the information helpful in meeting your VAT obligations.

## VAT refunds - a delicate balance

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SARS
At Your Service

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# VAT refunds - a delicate balance

SARS's mandate is to collect all revenue that is due to the fiscus. In fulfilling this mandate it is imperative on SARS to ensure that collected revenue is not put at risk because of fraud and corruption. This requires a careful balance between service efficiency and firm and fair enforcement.

VAT refund fraud poses a serious risk to the fiscus. Over the past six months SARS's focus on VAT refunds has uncovered a number of refund scams involving tens of millions of rand – and led to the arrest of a number of suspects.

In terms of tax revenue collected and refunded, VAT is by far the largest tax administered by SARS. Due to the large portion of refunds, it also has the greatest scope for abuse. In 2010/11 SARS collected R287.2 billion in VAT, of which a total of R103.6 billion was paid out as VAT refunds.

Once paid, illegitimate refunds are very difficult – if not impossible – to recover as the criminals quickly move the money and then disappear. To prevent this, SARS has introduced a number of measures over the past few years specifically aimed at reducing the risk of VAT fraud.

At the end of May 2011, the South African Revenue Service introduced a new sophisticated risk engine and other enhancements to the VAT system as part of its on-going Modernisation programme.

The new risk engine was born out of an additional verification process which SARS introduced in March this year in a bid to prevent illegitimate refunds and to test the efficacy of the old process as part of the development of new parameters for the risk engine. In part, the need for further scrutiny was informed by an increase in VAT refund claims during the prior financial year which were not supported by a similar increase in corporate income tax. While not directly linked, one expects a correlation between VAT activity and corporate profitability linked to economic growth. At the same time, a recent survey by the OECD's Forum on Tax Administration found strong evidence that tax fraud increases during times of economic downturn when company profits and cash flows are under pressure. *(Tax Repayments: Maintaining the Balance Between Refund Service Delivery, Compliance and Integrity, May 2011)*

**Speed and accuracy**

The improvements to the VAT system, which include a new VAT 201 form, an automated risk assessment tool and a case management system to track the progress of VAT assessments, audits and refund payments, are already significantly increasing the speed and accuracy with which SARS is able to release legitimate VAT refunds while simultaneously identifying highly risky or suspicious refunds for further review and investigation.

As part of the new process, VAT vendors selected for further verification of their refund claims are requested to submit documents in support of their declaration or to revise their declaration (submit a revised return) where an error is suspected.

To date, almost a quarter of all vendors given this option have opted to revise their refund claims downwards in the total amount of over R4 billion rather than to submit supporting documents. SARS sees this as a vindication of the new risk system.

The new process replaces the previous manually-intensive process by which each VAT return was assessed for risk by SARS officials who either released refunds or marked the VAT return for audit. This previous system was not only less efficient but prone to human error and potential interference and corruption.

The new risk system applies objective risk criteria – including third party data - to identify high risk VAT refund claims for further investigation and audit each month.

Other measures introduced to curb VAT refund abuse include additional verification processes (announced in November 2008) for VAT registration including inspections of business premises.

This was followed a year later with a clean-up of the VAT register in the removal of taxpayers from the VAT register who failed to meet the criteria. This has been an on-going exercise.

SARS is mindful of the need by VAT vendors to recoup legitimate VAT inputs as quickly as possible and the impact these have on businesses' cash flows – particularly smaller businesses – especially during difficult economic times.

We remain committed to meeting our service standards of processing VAT refunds within 21 working days. Where this is not possible, In terms of the law, SARS pays a highly competitive market-related interest rate of 8.5% per annum on any refunds which are not processed within 21 days of receipt of the refund claim or within 21 days of the receipt of information requested by SARS from the taxpayer necessary to complete an audit or investigation.

Importantly, however, the new process has not resulted in any significant decline in VAT refunds. In the past four months (March to June) VAT refunds totalling R34.886 billion were paid out compared to R35.661 billion during the same period in 2010.

SARS processes an average of 3 million VAT returns each year – of which only approximately 10% are identified for further verification or investigation by the risk engine.

These vendors are required to – as a first step – submit supporting documentation for review. SARS records show that it takes an average of 14 days for vendors to submit the necessary documents. This obviously impacts the overall time taken to process these VAT returns and any further verification or investigation action by SARS.

**Outdated banking details**

It should further be noted that SARS currently has over 17 000 cases of VAT refunds (to a value of approximately R1.2 billion) which cannot be released due to non-compliance by the VAT vendors. Vendors can expect a delay for the following reasons;

- If their banking details are outdated
- If there are any outstanding returns
- If there are any outstanding payments due to SARS
- If supporting documents have been requested but have not as yet been submitted

For those VAT vendors who after 21 working days of submission of a VAT refund believe their refund may have been unfairly delayed and who wish to lodge a service complaint, SARS has also revised its service escalation procedure in respect of VAT returns.

VAT vendors who have exhausted all the normal query processes (including logging a case at the SARS Contact Centre and approaching the SARS Service Monitoring Office) can lodge a VAT service escalation complaint via the Contact Centre or via www.sars.gov.za/vatescalations by entering the case reference number if the service enquiry has not been dealt with within 3 days. These escalations will be dealt with by a team of specialists to expedite the matter – especially in respect of small businesses experiencing economic hardship.

While we maintain that those VAT vendors who have experienced poor service are a very small minority (supported by a recent Radio 702 Talk Show dealing with VAT refunds which elicited only 9 complaints – one of which is a person being criminally investigated by SARS for alleged fraud), as part of our continuous quest for better service and more effective enforcement further improvements to the VAT process are under development.

We believe that additional phases of VAT modernisation to be introduced over the next 12 months will provide further service benefits to compliant taxpayers and enhanced risk detection measures to identify the non-compliant.

Individual taxpayers who submit income tax returns electronically as part of the annual Tax Season can testify to the power of a fully modernised process backed by comprehensive third party data in which returns are processed on average within 24 hours of submission and refunds, where applicable, are paid into bank accounts within 48 hours.

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# File early, honestly for Tax Season 2011

Tax Season 2011 is in full swing and you can join more than 4 million taxpayers who will be submitting their annual income tax returns to the South African Revenue Service (SARS) to help make South Africa great.

The tax return submission process is a reconciliation of all income, deductions and income tax already paid during the tax year 1 March 2010 to 28 February 2011.

Remember that SARS no longer sends out income tax returns to taxpayers unless requested. However, taxpayers don't have to wait to receive their return to submit it.

You can simply visit your nearest SARS branch with your tax documents and personal particulars and a SARS consultant will help you complete and submit your return then and there. Last year more than 1.5 million taxpayers were assisted to submit their returns at SARS branches countrywide.

Those registered for eFiling can simply log on to www.sarsefiling.co.za and will receive their customised return on their eFiling profile. eFiling continues to grow as the preferred channel to file returns with more than 2.25 million submitted to SARS via eFiling during Tax Season 2010.

All tax returns are pre-populated with information which SARS has obtained from employers during the recently completed Tax season for employers which ended on 3 June 2011 during which a record number of 235 882 employers submitted almost 15 million employee tax certificates.

The theme of this year's Tax Season campaign is "Taking the 'eish' out of tax-eish-ion" and taxpayers will be encouraged to do this by following these Tax Season tips:

- **File early:** Don't wait for the last minute to submit your tax return. The earlier you do it, the less congestion you will experience – and the quicker you will receive any refund you may have due.

- **File electronically**: Last year more than 95% of all returns were submitted electronically either via a SARS branch or via SARS eFiling, the free internet service that allows you to file your return any time of the day or night from anywhere you want to. Electronically submitted returns are processed on average in just 24 hours.

- **File honestly**: It is a criminal offence to fail to declare all your income on your tax return or to misrepresent your allowable deductions. Make sure you are completely honest on your return…and avoid delays in processing your return and/or further investigation and action by SARS.

- **Complete the return in full:** Your return will have some information that SARS has already provided. You need to check that this is correct, make corrections where necessary and provide all relevant information about your personal details (including ID or passport number, name, addresses and banking details) as well as your income and deductions. If your return is incomplete SARS will not be able to process it…and you could receive a penalty.

- **And don't miss the deadline**: Eish! This is really important. If you submit your return after the deadline you face an administrative penalty of at least R250 per month that your return is outstanding!

The deadlines—

- The submission deadline for taxpayers who submit a paper / manual return via post or dropping it off at a SARS branch is Friday 30 September 2011.

- Taxpayers who use eFiling or come into a branch where SARS consultants capture their returns on computer have until Friday 25 November 2011.

- Provisional taxpayers who file via eFiling have until Tuesday 31 January 2012 to submit their returns.

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## Proposed legislative amendments

The draft Taxation Laws Amendment Bill, 2011 (the TLAB), released on 2 June 2011, proposes a number of amendments to the VAT Act. The proposed amendments are scheduled to become effective from the date of promulgation of the TLAB as an Act of Parliament, or as otherwise provided in that Act. Proposed amendments are, however, subject to a process of consultation and the final wording in the Act may differ slightly from the proposals. In some cases, substantive changes might be made to a proposed amendment, or it may even be withdrawn. Some of the most important proposals are summarised below:

- **Temporary letting of dwellings by property developers.** It is proposed that an amendment be made to provide some temporary relief for the change in use adjustment for property developers which is required when they temporarily let newly developed units as residences (exempt supplies) whilst they are also being marketed for sale (taxable supplies).

- **Delinking VAT from Transfer Duty.** It is proposed that the limitation of the notional input tax credit to the Transfer Duty payable in respect of the purchase of fixed property from a non-vendor should be removed. The proposal is therefore that the acquisition of fixed property from non-VAT vendors should be subject to largely the same rules applicable for the claiming of notional input tax credits in respect of other second-hand goods. This includes limiting the input tax to the extent that there has been actual payment of the purchase price of the property.

- **Adjustments for unpaid debt on inter-company loan accounts.** Vendors who are registered on the invoice basis are required to pay back VAT inputs previously deducted which relate to credit purchases which have not been paid within a 12-month period. It is proposed that relief from this adjustment be granted to members of a group of companies under certain conditions.

- **Temporary imports.** It is proposed that the wording of the relevant Schedule Item Numbers in the Customs and Excise Act and in the VAT Act be amended to ensure that they align so that the application of the VAT exemption for temporary imports can include both dutiable and duty-free goods.

- **Intra-warehouse transfers.** It is proposed that the valuation of goods entered for home consumption should reflect the value of the goods in terms of intra-warehouse sales that occurred before the goods were entered for home consumption instead of their original value on entry into the warehouse.

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- **Exemption from imported services and certain goods imported by post.** The VAT Act currently provides for a minimum threshold exemption of R100 in respect of books, newspapers and journals imported by post. It has been proposed that this exemption be increased to R500 and that a similar exemption with regard to imported services be introduced.

- **Redemption of tokens, vouchers and stamps.** A vendor who has issued a discount token, voucher or stamp may, subject to certain requirements, deduct input tax in respect of a payment made to the supplier of goods or services who has granted a discount to the final customer who surrendered that token, voucher or stamp to the supplier. It is proposed that the input tax may only be deducted if the supply was subject to VAT at the standard rate.

  For more information on the proposed amendments, refer to the TLAB and Explanatory Memorandum to the TLAB on the SARS website.

## Ruling Reconfirmations

In VAT News 37 (February 2011), notice was given that the binding effect of the rulings mentioned in paragraph 3.3 of Binding General Ruling No. 2 that was issued on 1 January 2007 will be withdrawn with effect from **1 October 2011**. A further reminder is hereby given that any person who has applied for, but not yet received confirmation of the binding status or withdrawal should follow up on the status of their application. Any enquiries in this regard should be sent by facsimile to SARS Legal and Policy Division (Indirect Taxes) at (012) 422 5043. The facsimile should be headed “Ruling reconfirmations” and must include the VRC number that was issued at the time the original application was made.

## Voluntary Disclosure Programme (VDP)

Guidelines have been published on the SARS website on the waiver or non-waiver of penalties, additional tax and interest in terms of the VDP. Any person wishing to make use of the VDP is reminded to make application before the closing date of **31 October 2011**. Refer to the VDP page on the SARS website for more information.

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# Publications

The following VAT Guides and Binding General Rulings (BGRs) have been finalised, updated or issued for public comment in the past 6 months:

*Guides*

- VAT 409: Guide to Fixed Property and Construction.
- VAT 419: Guide for Municipalities.
- Step-by-Step Guide for Completion of the VAT201 Declaration (manually and on eFiling).

*BGRs*

- BGR 5: Discounts, rebates and incentives in the motor industry.
- BGR 6: Discounts, rebates and incentives in the fast moving consumable goods industry.

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## Changes to the SARS payment rules

SARS has implemented changes with respect to payments made by VAT vendors to reduce any risk to vendors and to ensure that vendors are provided with an accurate record of payments.

The Commissioner for SARS has prescribed the form in which VAT payments and returns must be submitted to SARS, as he is empowered to do by the Value-Added Tax Act No. 89 of 1991. With effect from 1 May 2011 the following have been prescribed in the Government Gazette in respect of VAT and/or Diesel payments:

- SARS will no longer accept any cheque payments which exceed the total amount of R100 000 in respect of VAT and/or Diesel at any SARS branch or via the post

- All vendors falling within Category C in terms of Section 27 of the VAT Act must submit VAT returns in electronic format and make VAT and/or Diesel payments electronically.

Cheque payments in respect of Employees' Tax and VAT and/or Diesel may not exceed R100 000. This applies irrespective of the number of tax periods being paid. Furthermore, should multiple cheque payments be received, the total amounts received may not exceed R100 000.

For cheque payments which are in excess of R100 000, vendors are requested to make use of the following channels:

- Deposit the cheques at a bank
- Complete an internet banking transfer
- Make payment via eFiling on www.sarsefiling.co.za
  Please note: To make payments via eFiling you need to register as an eFiler on www.sarsefiling.co.za).

The following has also been prescribed in the Government Gazette in respect of the time and manner of payment effect from 1 May 2011:

- Any payment made under the Income Tax Act and/or the VAT Act, using a SARS drop-box on a business day, must be received by no later than 15:00, failing which it will be regarded as having been received on the first following business day.

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