

11 April 2016

The South African Revenue Service

Lehae La SARS

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**PRETORIA**

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**BY EMAIL:**     [policycomments@sars.gov.za](mailto:policycomments@sars.gov.za) & [aveary@sars.gov.za](mailto:aveary@sars.gov.za)

**RE:     DRAFT RULE AMENDMENTS FOR ELECTRONIC COMMUNICATION (SECTION 255(1) OF THE TAX ADMINISTRATION ACT)**

Provided below are SAIT's comments relating to the draft rule amendments for electronic communication (section 255(1) of the Tax Administration Act (to be contained in a future public notice replacing Notice 644). We apologise for the delayed response but needed to connect with the appropriate stakeholders who had the unique skills required to comment on this topic.

*I.       Issue #1: Role of the Chief Information Officer (CIO)*

The main question to be asked is whether the current focus of electronic communication responsibility is correct. Under the present notice, the main focus appears to fall mainly on the registered user or supporting tax personnel (see the "electronic communicator" and "registered user" definitions).

Although the focus can include others (such as those obliged or electing to communicate with SARS via electronic form), the regulations seem to overlook the role of the chief information officer in many companies. Tax personnel are admittedly key to many tax information processes in terms of substantive information. However, the more technical computer aspects, such as electronic storage, transmission and security, are not within the domain and expertise of tax personnel. These aspects are instead typically undertaken by the chief information officer and other computer technical experts.

We would accordingly suggest that the pre-existing focus of responsibility in terms of the notice be reconsidered or at least be an item for future consideration. We would also suggest that some discussions be held with information officers who are better able to address the practical concerns associated with this notice.

*II. Record Retention*

The proposed amendments enhancing SARS security measures of record retention are fully supported with one key suggestion. SARS should retain records for 10 years as opposed to five years.

Even though the five-year period should be sufficient in most cases because the standard prescription falls within a five-year period, we know of many cases where SARS seeks to pierce prescription for a variety of reasons (with “non-disclosure” often being a prime cause). In these circumstances, lack of information becomes a problem for all sides with this lack of information creating a practical presumption against the taxpayer. Taxpayers may also lose information after the five year period. SARS should accordingly keep their records for longer if potential use beyond the standard prescription is likely to occur.

We thank for the opportunity to comment on the proposed amendments to the public notice.

Yours sincerely,

**Keith Engel**

**Chief Executive**