

5 June 2018

The South African Revenue Service
Lehae La SARS, 299 Bronkhorst Street
PRETORIA
0181

Attention: Gary Edwards

Per email: [REDACTED]

Claiming severance benefit tax treatment for voluntary retrenchment previously taxed

We appreciate your ongoing assistance in relation to the tax treatment of voluntary retrenchment lump sums, and particularly the practical advice provided to taxpayers to obtain the correct tax treatment.

Thank you once again for your response to our submission dated 29 January 2018. You confirmed in this regard that the original *Completion Guide for IRP3(a) and IRP3(s) Forms* did not accurately reflect SARS' position on the tax treatment of voluntary retrenchment packages. Specifically, you indicated in your response on 30 January 2018 that SARS intends to treat voluntary retrenchment lump sums as severance benefits. Furthermore, the operational tax directive guides and forms were in the process of being updated to reflect the change in policy. In the interim, SARS accepted that the "involuntary retrenchment" field must be selected on a retrenched employee's tax directive application in order to practically qualify them for the tax benefit.

We are pleased that the *Completion Guide for IRP3(a) and IRP3(s) Forms* was revised on or about 20 April 2018 to make the tax treatment of voluntary retrenchment packages as severance benefits clear. This change should address the problem going forward. We are, however, concerned that taxpayers who received voluntary retrenchment lump sums in the past may have been overtaxed and may not know how to go about to claim a tax refund.

Many taxpayers may have already been overtaxed by SARS because their employers were either instructed to tick the “voluntary retrenchment” field by a SARS official, or the wording of the *Guide* caused the employers to do so. In the circumstances, the overtaxed taxpayers should be entitled to claim back the overpaid tax from SARS.

SAIT’s working group members have attempted to share this information with the general public via media engagements, so that hopefully the affected taxpayers would have the opportunity to engage with SARS, including rectifying any past incorrect tax treatment. (For example, see the following link <https://www.moneyweb.co.za/mymoney/moneyweb-personal-finance/overtaxed-on-retrenchment-get-your-overpaid-taxes-back/>).

It is unclear how many people’s IRP5s were incorrectly completed, but after becoming aware of their overtaxation, it is possible that many will attempt to object to their assessments – either by visiting a SARS branch or by initiating the objection process on their e-Filing profile.

We are therefore writing to you to ask for your assistance, in dealing with these cases. It appears that it would be in both SARS’ and the affected taxpayers’ best interests to assign a specific official (or team) at SARS to handle these future cases. Designating an individual, to whom these objections and specific retrenchment-related queries can be directed, would allow for a more centralized and streamlined process for the benefit of both parties. From our perspective, this would offer the best method to meet the needs of the public in an efficient, economic and effective manner.

Should SARS decide to designate a specific official(s) to these tasks, please advise whether SAIT would be permitted to circulate their respective details. This would be in an effort to better facilitate and manage future taxpayer engagements with SARS.

Please let us know your thoughts and/or responses in this respect.

Yours sincerely

Erika de Villiers
Head of Tax Policy