



04 May, 2020

Honourable Dr Nkosazana Dlamini-Zuma
Ministry of Cooperative Governance and Traditional Affairs (COGTA)
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Dear Minister Dlamini-Zuma

APPLICATION TO CLASSIFY TAX COMPLIANCE AND RELATED ACCOUNTING SERVICES AS “ESSENTIAL SERVICES”

1. On 18 March 2020 the President of South Africa, Honourable Cyril Ramaphosa announced that South Africa would be going into a 3-week national lockdown to address the national disaster of COVID 19. This lock down was subsequently been extended by 2 weeks and the country is moving into Level 4 from May 1, 2020.
2. Only services that were “essential services” as defined in the directive would be allowed to continue. The list of “essential services” promulgated on 25 March 2020 included such essential South African Revenue Services (SARS) services as determined by the Commissioner of SARS.
3. SARS have confirmed that most tax compliance and tax payment obligations would continue as normal with no deferrals and that where SARS Branch visits were required by taxpayers or tax practitioners, SARS would, by an appointment being made by the taxpayer/tax practitioner, issue a letter authorising such travel as essential service travel.
4. To date the legal basis for this approach by SARS remains unclear as the SARS only has a mandate to determine what is a SARS essential service in respect of SARS officials and SARS Services.
5. It should be noted that in the OECD Revenue Services guidelines and in most other countries, tax compliance has been deferred.
6. In the amended regulations of 6 April 2020, payroll processing services were specifically added though it remains unclear if this includes the related tax



compliance elements as well which are not payroll processing services per se as the former is merely determining who needs to be paid and what amount in terms of contractual obligations and labour law.

7. In relation to tax, the following tax compliance as a minimum needs to occur, though there is substantially more, including for Customs & Excise and Carbon Tax as well as processing payments for these:

7.1 April 2020 payrolls will require processing and submission by 7 May 2020

7.2 Employers Annual PAYE Reconciliations are due 31 May 2020

7.3 VAT returns for March 2020 periods were due for submission 25/30 April 2020

7.4 Annual Corporate Income Tax returns for April and May 2019 year - ends are due end April and May 2020

7.5 Annual mining royalty returns for December 2019 are due end June 2020

7.6 Annual deemed donations for section 7C Trusts were due 30 March 2020 and these were historically manually submitted to SARS branches as there was no e-filing functionality for Donations Tax

8. In respect of all of the above, significant financial record capturing, adjustments for tax purposes and review of accuracy have to be performed, which in some instances include records for a full financial year. It should be recognised that tax compliance has no materiality and even immaterial non-compliance can result in penalties and interest, costly disputes and/or being unable to obtain a Tax Compliance Certificate which enables trade.

9. Most worrying is that SARS have continued requesting relevant information and conducting audits and verifications during the lockdown with no time extensions to comply.

10. Furthermore, many rural taxpayers such as farmers and small businesses rely on their tax practitioners and accountants to collect original documents to capture, record and process. This has not been possible during lockdown. In many of these areas there is no internet signal or high volume scanning available.

11. Many sole practitioners, who are excluded from current economic stimulus packages are also reliant on their accountants and tax practitioners to assist them.

12. This has a further compounding effect that these professional services firms which would have had more than a month to spread the work will have to do 5 weeks of work in a few days which is not deemed possible, resulting in inevitable non-compliance.

13. This has a severe knock on effect as all the disaster incentives, especially the small business compliance deferrals, which are only accessible if tax compliance has been (from 1 April 2020) and is maintained.

14. The current approach by SARS seems to be informed by the misconception that taxpayers, tax practitioners and accountants are able to process all these financial records remotely to the relevant accounting and tax systems and have access to the physical records required to be captured.



15. However, whilst it may be possible for tax practitioners and their staff as well as staff of taxpayers to perform some functions remotely, this is not always the case. For information security reasons, it is sometimes impossible for staff to gain access to necessary financial systems outside of the office environment.

16. Given the already constrained fiscus, we believe that the best approach would be to allow tax compliance and financial accounting functions to immediately resume to ensure that fiscal collections are not interrupted.

17. We believe that these services do not require large numbers of people to congregate as it relies on small numbers of professionals and social distancing and other safety measures could easily be applied by the relevant employers and service providers to ensure the safety of staff and business owners.

18. Submission: It is submitted that the following “essential service” be urgently added:

“Tax compliance and relevant accounting services provided to or required to be performed by taxpayers, tax practitioners and accountants to ensure tax compliance and tax payments to the South African Revenue Service in respect of any Tax Act administered by SARS”

Should you wish to clarify any of the above matters please do not hesitate to contact our Vice President Advocacy, Ms Samantha Louis on Samantha.louis@aicpa-cima.com.

Yours sincerely

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