

THE IMPORTANCE OF ASSESSMENTS

SARS is very quick to try and collect taxes, which they allege are outstanding. Many taxpayers have been confronted by unexpected written demands for payment of such taxes. In some cases those demands relate to long past tax periods. It is often the case that the taxpayer is unable to dispute the alleged liability on the basis that they no longer possess the necessary documentary evidence.

Firstly it is important to remember that a liability for tax can only ever be created by either :

- an unpaid tax return, or
- an assessment.

Secondly, if SARS disputes any part of a tax return, they must issue an assessment against the return, highlighting what is disputed.

Thirdly, and in terms of the Tax Administration Act, an assessment must be delivered to a taxpayer in the prescribed manner. This could include attaching it to an email, or delivering it to that taxpayer's e-filing page, on the e-filing system.

Therefore, if SARS cannot produce an assessment or proof of delivery of that assessment, it cannot prove that the taxpayer is liable for any tax. If SARS demands payment of an alleged tax debt the taxpayer is entitled to demand a copy of the certified particulars of the related assessment. If SARS is unable to do so, they cannot demand the amount which they allege is due and payable.

So, if SARS cannot produce a copy of the relevant assessment, DON'T PAY! There is no legal basis on which you need to do so. If SARS continue to demand payment, you will require the assistance of a legal specialist.

Alan has successfully helped many taxpayers to resist demands and assessments for various taxes. He can also help you.