



SAICA 2016 VAT REFUND SURVEY RESULTS AND SARS FEEDBACK

Dear SAICA members

1. We present herewith the results of the SAICA VAT Refund Survey 2016 (**Annexure A**).
2. We will be encouraging other RCB's to conduct similar studies to obtain a more representative sample and understanding of the problem as it is clear that the problems are diverse.
3. These results were first a step to engage with SARS in understanding the apparent mismatch in the factual data presented by SARS and that informed by our members.
4. During the past 18 months, SAICA members have expressed continuous frustrations and concern at what they perceive to be attempts by SARS in delaying the payment of legitimate VAT refund claims.
5. It is therefore not only the time taken to pay VAT refunds but the reasons given by SARS for such delays which were raised as a concern.
6. This matter was again raised at the SARS National Operations Forum held on 10 March 2016 where again SARS stated that its official statistics indicate that this was merely perception and not factual and reaffirmed that no deliberate attempt to delay tax refunds exist.
7. These SARS statistics are represented in the following documents:
 - a. SARS Annual Performance Plan 2016/2017 :
 - i. Average turnaround time for VAT refunds in 2014/2015 was 32.85 business days
 - b. SARS Annual Report 2015/2016:
 - i. 55% of VAT refunds paid out in 48 hours
 - ii. Average VAT refund processing times 2015/2016 was 33.11 business days (Target 21 days)
 - iii. 62.42% VAT refunds processed in 14 days

8. However, it remains unclear what the differences are in processing times, turnaround times and payment times and whether they denote the same or different concepts.
9. For clarity, the SAICA survey dealt with actual payment.
10. SAICA presented these survey results to SARS as a basis for discussion for the meeting held on 1 November 2016.
11. SAICA would also like to take the opportunity to thank SARS for their willingness to positively engage on the matter and the urgency with which they did so. The outcomes of the meeting are summarised in Annexure B.
12. The process to resolve this concern by members or at least materially improve the process will be ongoing into 2017 with due consideration of the increased challenges and incidences faced by SARS in respect of tax fraud.
13. The SAICA tax division will be in contact in due course with members who indicated in the survey their willingness to provide substantiating evidence of the problems experienced to SARS to enable them to properly address the causes.
14. Lastly, I would like to thank each and every member who participated in the survey and hope that you will continue to enable SAICA to engage with stakeholders with properly informed positions that encourages responsible leadership.

Yours sincerely

Pieter Faber
Senior Executive: Tax Practitioners and Legislation
The South African Institute of Chartered Accountants
17 November 2016

ANNEXURE A

SUMMARY AND COMMENTARY ON THE 2016 SAICA VAT REFUND SURVEY RESULTS

General

Objective

- SAICA has received numerous complaints, from members directly or via its committees, that SARS is delaying refunds with a specific issue regarding VAT refunds.
- The purpose of this survey is to gather data to be presented to SARS in support of these complaints.

Methodology

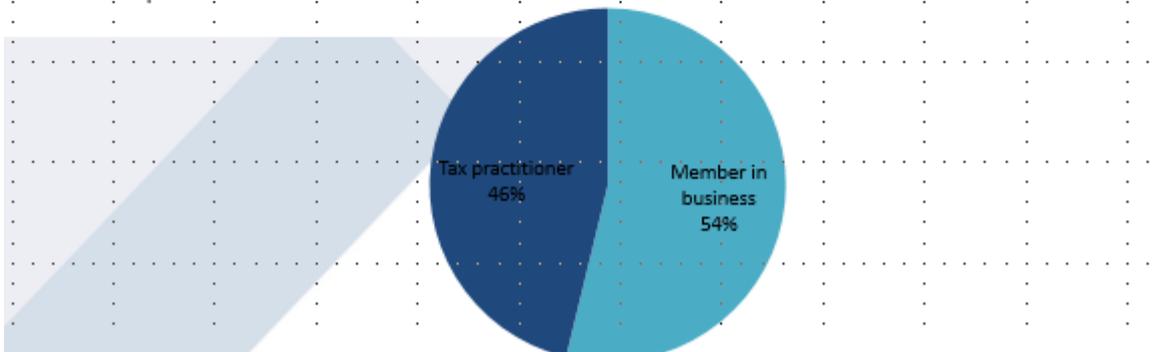
- An online survey was sent out to members subscribed to receive the Standards & Legislation newsletter.

Data Gathering

- Data gathering took place from 22 September to 6 October 2016

Response rate

- 1 873 responses were received

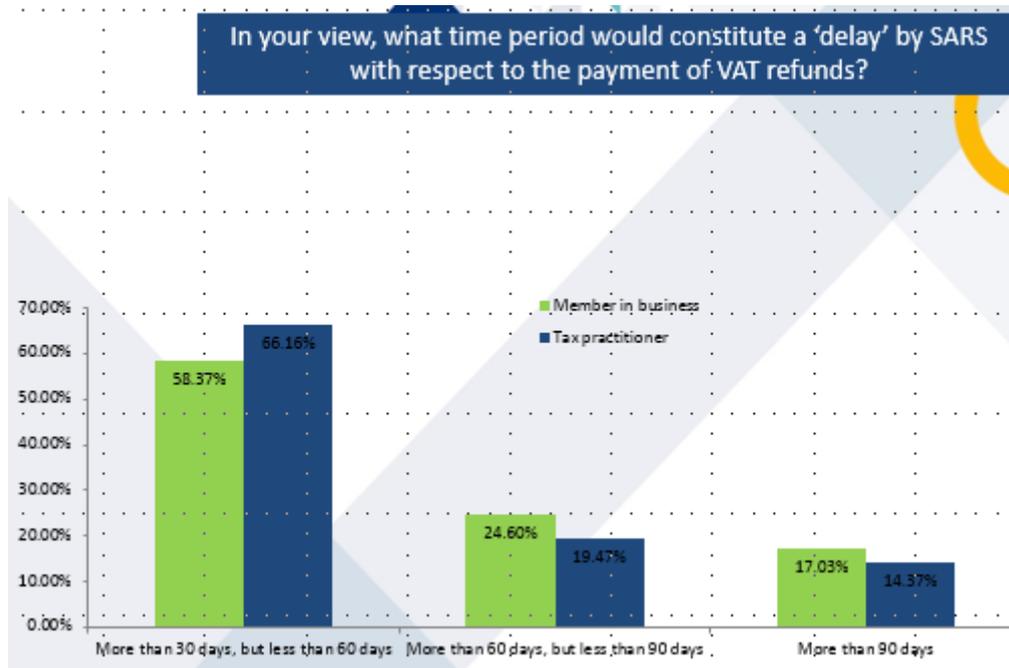


SAICA COMMENT

Though we would have ideally wanted an even greater response from our more than 36 000 members based in South Africa, the fact that more than 1 400 of these responses were received in the first 48 hours, does emphasise that this is a pressing member matter that SAICA needs to prioritise. The low numbers may also be attributable to the effectiveness of the communication medium used, namely emailed newsletter and we are investigating how we better engage with members to obtain information going forward. This is especially important in implementing our strategic focus on research that in turn enhances the value and credibility of our contributions and submissions.

However, compared to similar surveys conducted in the recent past by SAICA on the same platform, this is an overwhelming response and those who took the time and effort to participate should rightfully be congratulated. The majority response from members in business is also noted and confirms that this concern is a serious impediment in difficult economic times to the cash flows of the business community.

QUESTION 1

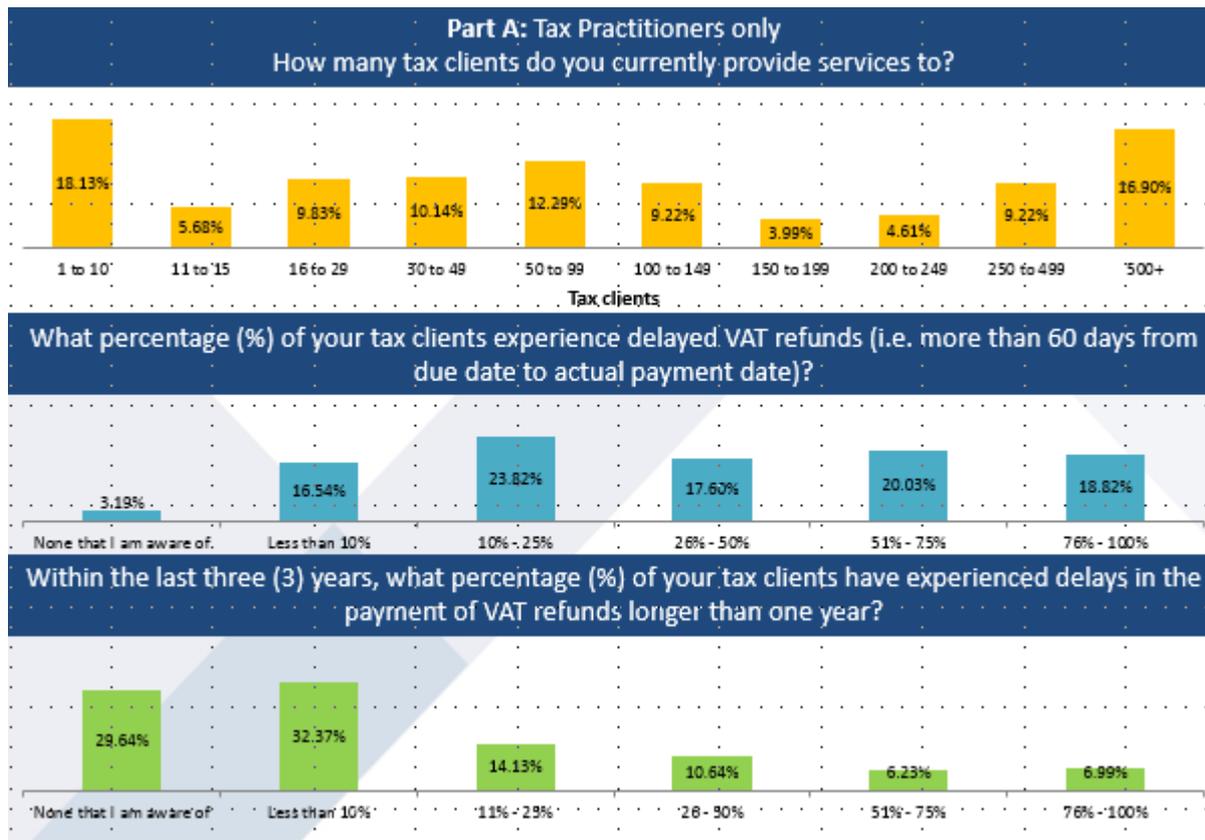


SAICA COMMENT

This result, in our view, confirms that members' expectation is that SARS meet the 21 business days in paying refunds. This 21 business day expectation is coincidentally also reflected in the SARS Annual Report 2015/2016 on pg 89 and is also the time period when interest starts to accrue to the taxpayer. However, members should be cognisant that when a valid reason is given for delaying the refund, no prescribed period exists in law as to the length of the delay.

In such instances it remains critical that SARS continue to keep taxpayers informed as to progress with the delay and SAICA will seek to engage SARS on this principle. Communication on refund delays should be clear, timeous and automatic and issued in all instances without exception.

QUESTION 2 – 4 – TAX PRACTITIONERS



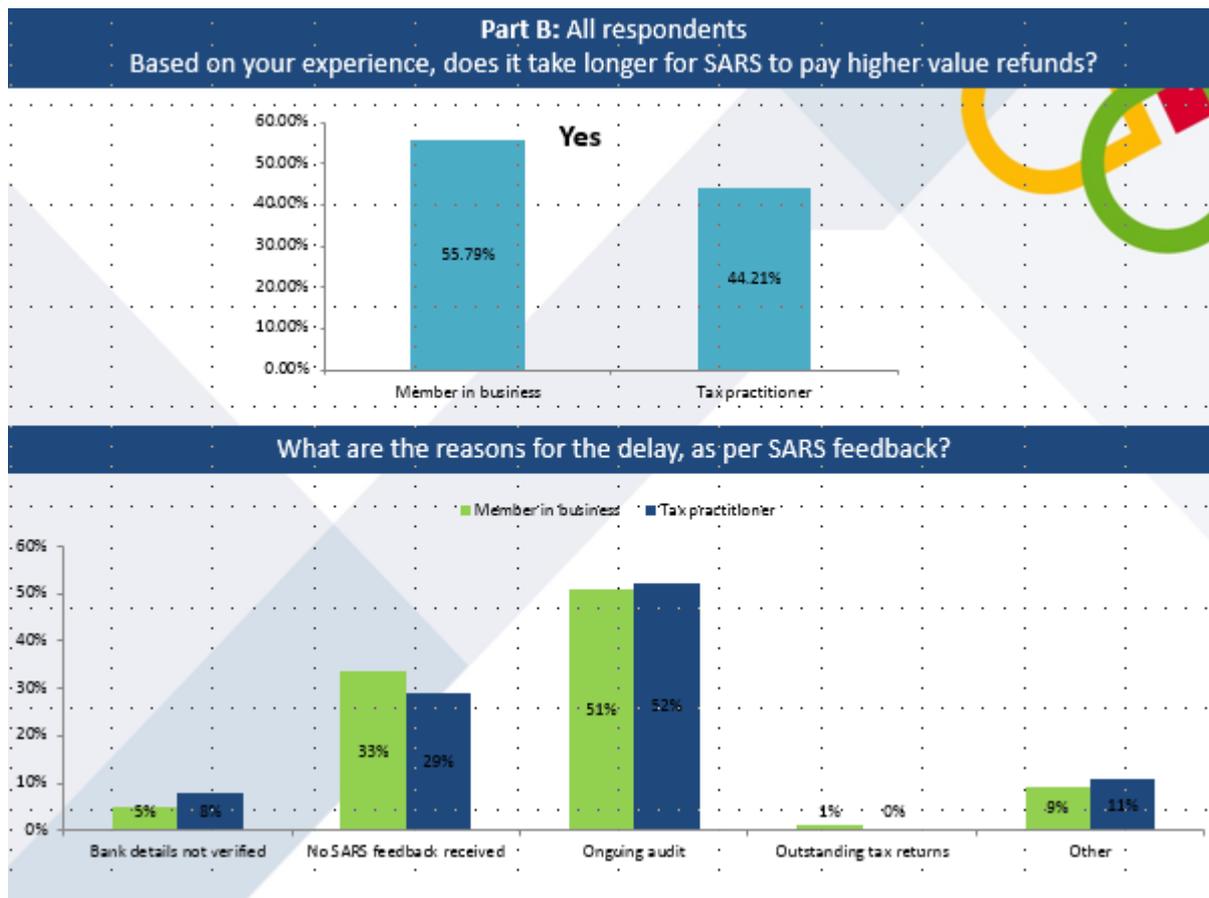
SAICA COMMENT

Using a benchmark twice as long as the SARS performance target of 21 days, **38,95%** of members confirm that **more than 50%** of their clients experience VAT refund delays exceeding 60 days. This represents a substantial part of the population where a majority of their clients experience such delays.

Using a benchmark of 1 year, 24.16% of members indicated that more than 25% of their clients experience such long delays, which still represents quite a significant number given the extended time period.

Again, communication between SARS, taxpayers and tax practitioners will be critical to ensure that these delays are not attributable to misunderstandings or delays in the actual correspondence being sent, for example for requests for relevant material. SAICA will focus on this element as it will in our view significantly reduce time periods, though the reasons for the delays in correspondence may be numerous.

QUESTION 5 – 6 – ALL RESPONDENTS



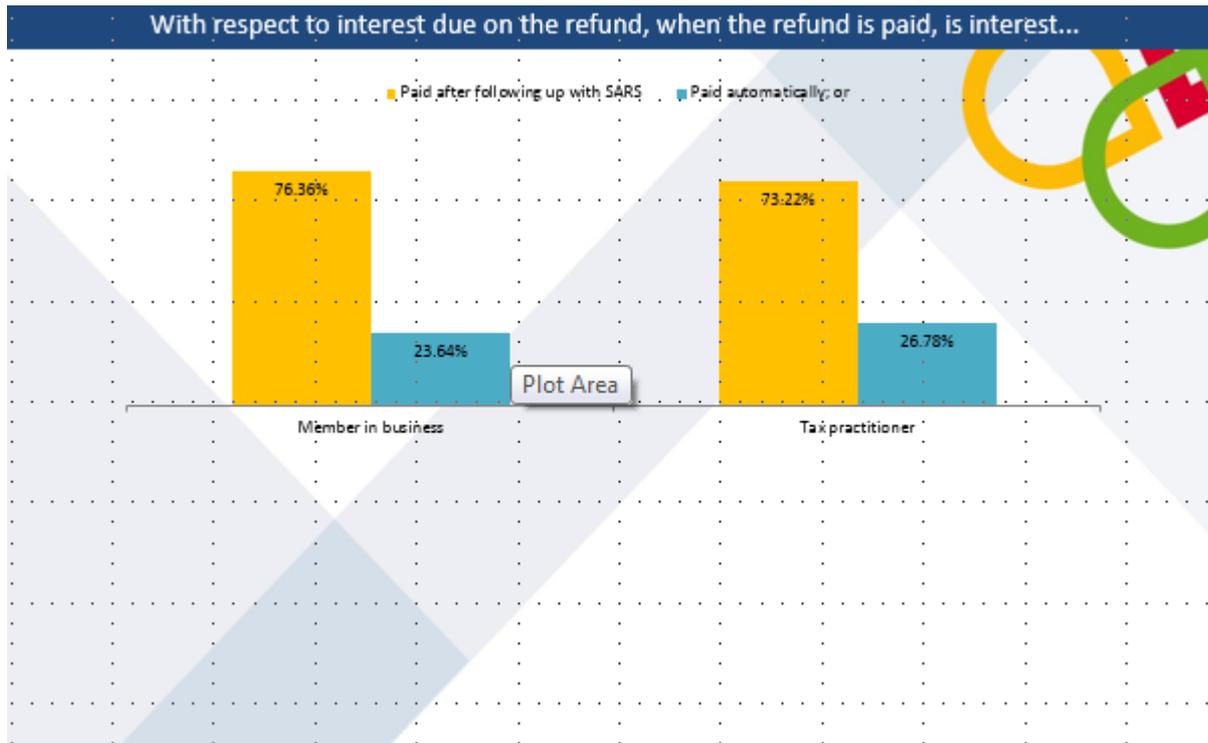
SAICA COMMENT

Though it is conceivable that larger refunds should be subjected to more risk procedures, the above response confirms that this particular risk element is receiving a lot of weighting in SARS' risk engine. It would therefore be important to understand from SARS what the average refund times are on refunds above a specific monetary threshold, for example R500 000.

Furthermore, as noted above, the lack of communication from SARS when refund delays do occur is worrisome and SAICA will seek to engage SARS as to why this is happening. However, contrary to perception, bank detail verification has not been identified as the main cause of delays, but rather ongoing audit. Here SAICA has already identified that the term "audit" is used in different processes and that even the law may need to be clarified to match actions to the enabling defined methods and minimise confusion through the colloquial use of this term. Once again, communication is critical.

An interesting observation is that though outstanding returns have been identified as one of main reasons for refund delays by SARS, members indicate this as a minor reason. It is again unclear why this disparity exists and SAICA will engage with SARS.

QUESTION 7



SAICA COMMENT

The feedback from members is worrisome in that interest, which forms part of any refund that SARS must pay, is not being paid automatically with the relevant refund. We have confirmed with SARS that interest is system calculated (and properly so) unless a manual intervention is performed for a delay by the vendor, which delays interest accruing. Again, the lack of communication from SARS when this occurs, how the relevant SARS official calculated the excluded days and why, needs to be addressed and SAICA will engage with SARS to implement a new process or provide guidance regarding its current processes.

SUMMARY OF FEEDBACK FROM SARS – 9 NOVEMBER 2016

TOP 5 REASONS IDENTIFIED BY SARS FOR VAT REFUND DELAYS

- Insufficient documentation provided by vendor;
- Cases identified for audit due to fraud;
- Outstanding returns for other periods (R1 billion in refunds delayed due to this);
- Insufficient vendor history (i.e. new vendors);
- More than 6 returns submitted in a 6 six month cycle.

SAICA COMMENT

SAICA members should take note of the above Top 5 reasons and ensure that prior to enquiring or escalating a tax refund matter that the above has been confirmed not to be applicable. Initial enquiries to the call centre or verification to the SARS Tax Compliance Status (TCS) system on the above matters should minimise the enquiry process.

In respect of insufficient documentation, SAICA has in conjunction with SARS already identified possible procedural problems that contribute to this challenge where follow up information is required to be requested by SARS officials, which problematically includes telephonic requests. This will be investigated by SARS for a possible solution.

New vendors will continue to be problematic as SARS attempt to move the risk checking process from registration to the refund process in order to avoid the challenges faced by taxpayers in registering for VAT and complying with their legal obligations.

THREE AREAS IDENTIFIED FOR SHORT TERM IMPROVEMENT BY SARS

- Incorrect calculation of interest;
- SARS misplaced documents;
- Audit letters or notifications not being sent to taxpayers.

SARS have also undertaken to engage the SARS Legal Counsel Unit to ensure that the legislation and its operational processes are in alignment to reduce confusion.

SAICA COMMENT

The incorrect calculation of interest has been clarified to not relate to the rates but the days over which interest accrues and the lack of reasons why such days were excluded over and above the initial 21 business days. The misplacement of document relates to repeated requests for the same documents and SAICA will try and distinguish the actual repeats from the system challenges noted above. Lastly, the lack of audit letters being sent will be investigated and confirmed by SAICA in respect of “field audits” but also in respect of other processes akin to audit or colloquially called audits (i.e. desks audits, forensic audits etc.).

SAICA has undertaken to source examples of the above from members who indicated in the survey that they could be contacted for such data. SAICA will after 6 months conduct another survey to confirm progress made in respect of these 3 matters and report to both SARS and members regarding the progress made.