

# SARS and your bank account

On 29 February 2012, the South African Revenue Service (SARS) issued a notice in Government Gazette No 35090 (Notice No 173) relating to the liability of certain institutions, most notably banks, to furnish SARS with financial information about taxpayers.

The notice was issued in terms of s69 of the Income Tax Act, No 58 of 1962, which section has been superseded by s26 of the Tax Administration Act, No 28 of 2011 (TAA).

In terms of the notice, banks are obliged to furnish financial information to SARS relating to the period 1 March 2012 to 28 February 2013, being the 2013 tax year for taxpayers who are natural persons.

Since natural person taxpayers are currently submitting their returns for the 2013 tax year, it means that SARS will, for the first time, have such financial information available for purposes of verifying information submitted in returns, or for other auditing purposes.

The specific information that banks will by now have had to report to SARS in terms of the notice, for both natural and juristic person taxpayers, includes:

- Names, Surname, date of birth/Registered name if juristic person
- Address, identity number/registration number if juristic person, tax number
- Bank account number and dates account was opened/closed
- Closing balance of account at end of period
- Interest accrued

- Monthly totals of all credits and debits to the account
- FICA status of the taxpayer.

The said information has to be reported to SARS in electronic format.

Assuming that all banks have complied with the notice, SARS will by now have an enormous electronic database of financial information about taxpayers in respect of the 2013 tax year.

Perhaps one of the most striking pieces of information that banks have to report to SARS, is the monthly credit and debit totals on taxpayers' bank accounts (one step short of handing over a detailed statement).

It is however not entirely certain how SARS will be able to use all this information in a meaningful manner. At first glance one might assume that SARS will compare the aggregate credit totals of a taxpayer's bank accounts for a relevant period, with the income that the taxpayer has declared in his/her/its return, and that if there is a mismatch, the taxpayer will be seen as having under-declared his/her/its income.

However, on further consideration, it is quite evident that the aggregate credit totals of a taxpayer's bank accounts for a period will not necessarily equate to that taxpayer's gross income for the period, as defined in section 1 of the Income Tax Act No 58 of 1962.

Amounts reflected in credit totals could for instance be capital in nature, double counted, or held in trust for another. For example:

- Where a taxpayer has multiple accounts, receives money in one account (salary) and transfers an amount to another account (savings account), the same amount will be reflected in the credit totals of both accounts, and sufficient information will not be available in SARS's database to match the corresponding debit amount (only totals are reported).

- Where a taxpayer sells a capital asset (car or other business assets – assuming no recoupment) the amount reflected in the credit total will actually be capital in nature.
- Where a taxpayer receives money from a spouse to settle household expenses, the amount reflected in the taxpayer's credit total will arguably be an amount to be disbursed on behalf of another (the spouse).
- Even where a taxpayer receives a refund from SARS, the amount will arguably be capital in nature, and the credit total will be inaccurate for purposes of determining gross income.

For purposes of the 2014 tax year, a similar notice was published in terms of section 26 of the TAA (Government Gazette No 36346, Notice No 260, 5 April 2013). This notice requires banks to submit similar information in accordance with SARS's IT3 data submission specification.

In addition to the above, s179 of the TAA gives SARS sweeping powers to instruct a taxpayer's bank to transfer funds from that taxpayer's account to SARS in circumstances where there is an alleged tax debt owed to SARS (whether disputed or not).

A taxpayer, whether a salaried natural person or a large corporate conducting business, may very well find itself with an empty bank account on any given day.

In light of the above, it will not be surprising to find that some taxpayers may be tempted to revert to a system of keeping their cash under the mattress, as opposed to handing it over to their banker.