



Notice of Appeal

The completed form together with the supporting documentation must be returned to the SARS office where the taxpayer is registered for the applicable tax.

Full name(s) of taxpayer or Trading name
Tax reference number
SARS office where taxpayer is registered for applicable tax

Contact details (For purpose of further correspondence regarding the objection (rule 4(c) & 26 in terms of section 107A Income Tax Act rules))

Full name(s), Tel number, Fax number, E-mail, Postal address, Physical address, Code

Assessment detail (Mark applicable tax type with an X)

Type of Tax: Income Tax/STC, VAT, PAYE/SDL/UIF, Estate Duty, Donations Tax, Other
Nature of the amount in dispute: Income, Deduction, Additional tax, Interest, Penalty, Other
Year of Assessment/Tax Period, Date of disallowance of objection
Amount of tax in dispute in terms of the notice of disallowance R

Grounds of appeal

• Please indicate which of the grounds specified in your objection you are still relying on.
• If the space provided is not sufficient, reasons should be provided in a separate document.

Extension request: (Refer to rules - documentation available on www.sars.gov.za)

The 30 days for lodging the appeal expired on:
The reason for the late appeal is:

Alternative Dispute Resolution (ADR)

Choose to refer to ADR (Alternative Dispute Resolution) YES NO If YES, read and sign the terms on page 2 of this document. I hereby request that this dispute, the details of which are contained in this notice, be referred for Alternative Dispute Resolution

Signature

Full name, Signature, Date, Capacity

## THE TERMS OF ALTERNATIVE DISPUTE RESOLUTION (ADR)

### Notification to taxpayer:-

The SARS has introduced an option of resolving tax disputes within an alternative dispute resolution procedure. ADR is not intended to be a "court case", but an opportunity to settle differences of fact and interpretation of law. This option is available in addition to a taxpayer's right to appeal to the Tax Court or Board, and any delays caused through the ADR procedure will not affect this right.

#### 1. Main Rule

ADR is only available if these terms are accepted. Both the Commissioner and the taxpayer have to agree to the ADR process, for any agreement or settlement on resolution to have any effect.

#### 2. Who may initiate ADR?

ADR may be initiated by either the taxpayer in his or her notice of appeal, or the Commissioner subsequent to the receipt of a notice of appeal by the taxpayer.

#### 3. When may a dispute be referred for ADR?

- 3.1 The taxpayer can request the referral of a dispute for ADR if his or her objection has been disallowed or his or her assessment has been altered in consequence of the objection by the Commissioner, and the taxpayer is dissatisfied with such decision and wishes to appeal to the Tax Board or Tax Court. The Commissioner may then decide whether or not the matter is appropriate for ADR, and inform the taxpayer accordingly within 20 days after receipt of the notice of appeal wherein ADR is requested.
- 3.2 If the Commissioner is of the opinion that a matter is appropriate for ADR, then he or she must inform the taxpayer within 10 days of the receipt of the notice of appeal. The taxpayer is then required to notify the Commissioner in writing within 10 days of the date of the notice by the Commissioner, whether he or she agrees to ADR.

#### 4. How?

A taxpayer whose objection is disallowed or whose assessment in consequence of the objection has been altered by the Commissioner, and who wishes to appeal to the Tax Board or the Tax Court against such decision must:-

- 4.1. complete the form "Notice of Appeal", indicating "refer to ADR" and sign where provided at the bottom of the notice; and
- 4.2. deliver the completed "Notice of Appeal" form to the address specified in the "Notice of Appeal".

#### 5. When?

Every notice of appeal with a request for the referral of a dispute for ADR must reach the Commissioner within 30 days of the date of the notice of disallowance or the date of the notice of the alteration of the assessment in consequence of the objection.

#### 6. The Facilitator

- 6.1 Where the Commissioner or the taxpayer, in terms of paragraph 3, has notified the other party that the dispute may be referred for ADR, the Commissioner must appoint a facilitator to facilitate the ADR process within 15 days after receipt of the notice by the taxpayer that he or she agrees to ADR, or the date of the notice by the Commissioner that a matter is appropriate for ADR. The Commissioner must inform the taxpayer who has been appointed as facilitator.
- 6.2 The facilitator will, in the normal course, be an appropriately qualified officer of SARS and will be bound by a Code of Conduct.
- 6.3 The facilitator's objective is to seek a fair, equitable and legal resolution of the dispute between the taxpayer and the Commissioner.
- 6.4 The facilitator cannot make a ruling or decision which binds the Commissioner or the taxpayer, nor may he or she compel the taxpayer and the Commissioner to settle the dispute.
- 6.5 At the conclusion of the ADR process the facilitator must record the terms of any agreement or settlement reached by the parties, or, if no agreement or settlement is reached, he or she shall record that fact.
- 6.6 The facilitator has the authority to summarily terminate the process of dispute resolution without prior notice if:-
  - 6.6.1 any person fails to attend the meeting referred to in paragraph 8;
  - 6.6.2 any person fails to carry out a request made in terms of paragraph 7;
  - 6.6.3 he or she is of the opinion that the dispute cannot be resolved;
  - 6.6.4 either of the parties agree that the issues in dispute cannot be reconciled in the resolution process; or
  - 6.6.5 for any other appropriate reason.

#### 7. Determining the process

The facilitator must, after consulting the taxpayer and the officer(s) of SARS responsible for issuing the assessment under dispute:-

- 7.1. determine the procedure to be adopted in the dispute resolution process;
- 7.2. determine a place, date and time at which the parties shall convene the ADR meeting; and
- 7.3. notify each party in writing which written submissions or any other document should be furnished or exchanged (if this is required at all), and when the submissions or documents are required.

#### 8. ADR Meeting

A meeting between the parties to the dispute must be held for the purpose of resolving the dispute by consent, within 20 days of the appointment of the facilitator, or within such further period as the Commissioner and the taxpayer may agree.

#### 9. Rules for the ADR Meeting

- 9.1 The taxpayer (or the representative taxpayer as contemplated in s 1 of the Act) must be personally present during the ADR meeting and may be accompanied by a representative of his or her choice.
- 9.2 The facilitator may, in exceptional circumstances, excuse the taxpayer or representative taxpayer from personally attending the meeting in which event they may be represented in their absence by a representative of their choice.
- 9.3 The meeting must be concluded:-
  - 9.3.1. at the instance of the facilitator; or
  - 9.3.2. after the parties agree that the meeting shall be concluded.
- 9.4 If both parties and the facilitator agree, the meeting may resume at any other place, date or time (set by the facilitator).
- 9.5 The parties may for the purpose of resolving an issue in dispute, and only if the facilitator agrees, lead or bring witnesses in the ADR process.
- 9.6 The facilitator may require either party to produce a witness to give evidence.
- 9.7 At the conclusion of the meeting the facilitator must record:-
  - 9.7.1. All issues which were resolved (through the ADR process);
  - 9.7.2. Any issue upon which agreement or settlement could not be reached; and
  - 9.7.3. Any other point which the facilitator considers necessary.
- 9.8 The facilitator must deliver the report to the taxpayer and the Commissioner's designated representative within 10 days of the cessation of the ADR process.
- 9.9 The facilitator may, if requested at the commencement of the ADR process, make a recommendation at the conclusion of the proceedings if no agreement or settlement is ultimately reached between the parties.

#### 10. Reservations of rights

- 10.1 The proceedings may not be electronically recorded, and any representations made in the course of the meeting will be without prejudice.
- 10.2 Any representation made or document tendered in the course of the dispute resolution proceedings may not be tendered in any subsequent proceedings as evidence by any other party, except in the circumstances contemplated in rule 7(6)(b)(ii) of Part A.
- 10.3 Neither party, except in the circumstances contemplated in rule 7(6)(b)(ii) of Part A, may subpoena any person involved in the alternative dispute procedure in order to compel disclosure of any representation made or documentation produced in the course of the ADR process. The facilitator may not be subpoenaed under any circumstances.
- 10.4 Any recommendation made by the facilitator in terms of paragraph 9.9. above, will be admissible during any subsequent proceedings including court proceedings.

#### 11. Agreement or Settlement

- 11.1. Any agreement or settlement reached between the parties must be recorded in writing and must be signed by the taxpayer and by the Commissioner's designated official.
- 11.2. Should the parties not resolve all issues in dispute, the agreement or settlement in paragraph 11.1. must stipulate those areas in dispute:
  - 11.2.1. that are resolved; and
  - 11.2.2. that could not be resolved and on which the taxpayer may continue on appeal to the Tax Board or Tax Court.
- 11.3. Any agreement or settlement reached through the ADR process has no binding effect in respect of any assessments relating to that taxpayer not actually covered by the agreement or settlement, or any other taxpayer.

#### 12. Days

A day means a business day.

I hereby agree and confirm that the terms of the ADR process shall apply to the resolution of this dispute:

Signed at	<input style="width: 90%;" type="text"/>	this	<input style="width: 80%;" type="text"/>	day of	<input style="width: 90%;" type="text"/>	20	<input style="width: 90%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>				<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>
Full name	Signature			Capacity			Tax reference number