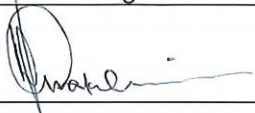
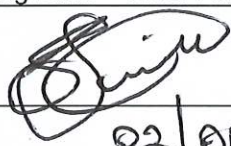





SAFETY AND SECURITY SECTOR EDUCATION AND TRAINING AUTHORITY

THIRD PARTY APPOINTMENT(SARS GARNISHEE) STANDARD OPERATING PROCEDURE	
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1. PURPOSE

- The purpose of the Standard Operating Procedure (SOP) is to highlight the important and practical aspects regarding the SETA discharging its duties as a responsible 3rd party in terms of the Tax Administration Act (later referred to as the Act).
- This SOP also highlights the limitations of the Finance and Human Resources Management departments in carrying out their duties as a responsible 3rd party representative.
- This SOP also directs the Finance department of the responsibility to account for accurate and complete tax liability including that imposed by the Act under responsible 3rd party circumstances.

2. LEGISLATIVE APPLICATION

- The Act empowers the Commissioner for the South African Revenue Service (SARS) to appoint a 3rd party to withhold and pay over to SARS any amounts due by a taxpayer in terms of the relevant tax Act.
- Such a 3rd party may be an employer of the taxpayer or any other person who has the management, custody or control of any income, monies, or property of the taxpayer.
- If you are an employer and any of the listed taxpayers have left (and no pay outs have been effected) or intends leaving your employment, any instalment arrangement for deductions will fall away, and the full amount outstanding must then be deducted from the monies due to him/her. Should such instalments be insufficient to cover the outstanding debt owed to SARS, all available funds must be paid over to SARS in full.
- In this Act, responsible 3rd party means a person who becomes otherwise liable for the tax liability of another person, other than as a representative taxpayer or as a withholding agent, whether in a personal or representative capacity.
- A senior SARS official may by notice to a person (i.e., SETA) who holds or owes or will hold or owe any money, including a pension, salary, wage, or other remuneration, for or to a taxpayer, require the person (i.e., SETA) to pay the money to SARS in satisfaction of the taxpayer's tax debt.
- A person (i.e., SETA) receiving the notice must pay the money in accordance with the notice and, if the person (i.e., SETA) parts with the money contrary to the notice, the person (i.e., SETA) is personally liable for the money.
- It is further required in terms of the Public Finance Management Act that the Accounting Authority or delegated official should ensure that it is responsible for the management, including the safeguarding, of the assets and for the management of the revenue, expenditure, and liabilities of the public entity.

3. LIMITATIONS

- The SETA including its representative will not act either as a SARS branch office or taxpayer's representative.

- The SETA including its representative will only act to notify the affected taxpayer (i.e., employee) of the SARS notice issued against the taxpayer (i.e., employee).
- The SETA including its representative will only implement the impositions of the SARS notice or any other subsequent revocations or notice cancellation as provided by SARS.

4. IMPLEMENTATION PROCESS

4.1 Step 1 – First synchronization

- i. In the first week of every month, 3rd party representative (i.e., Financial Accountant) will draw a list of new SARS notices; and
- ii. Communicate the notice via e-mail to affected taxpayers (i.e., employee).

4.2 Step 2 – Appeal (dispute), arrangement or settlement

- i. Affected taxpayer should personally engage or consult the SARS representative in order to appeal the notice or make suitable settlement arrangements.
- ii. Affected taxpayers should note that once they have been garnished through a notice, they will not be able to appeal, make arrangement via the eFiling platform.
- iii. Due to a timing difference, the affected taxpayer should furnish a 3rd party representative (i.e., Payroll Officer) with documented proof from SARS confirming either a considered appeal or confirmed arrangement.
- iv. In an instance where the affected taxpayer has settled the debt in full directly with SARS, such proof of payment will be submitted to a 3rd party representative (i.e., Payroll Officer). Affected taxpayers are reminded to use the payment reference number (PRN) stated in the SARS notice statement.
- v. Documented proof indicated in (i) and (ii) above relieves the SETA from its capacity as a responsible 3rd party.

4.3 Step 3 – Second synchronization

- i. Towards month end but before payroll processes are completed a 3rd party representative (i.e., Financial Accountant) will draw a report of objections.
- ii. This will provide guidance whether the initial SARS notice is still applicable or not.
- iii. In instances where the initial SARS notice is still applicable, the affected taxpayer will be garnished in accordance with the SARS notice.

4.4 Step 4 – Final administration

- i. Once garnished, the applicable amount will be indicated separately in the payslip under the heading *SARS Garnish Order*.
- ii. A representative (i.e., Financial Accountant) will pay over the amount to SARS via EFT using a payment reference number (PRN) stated in the SARS notice statement.
- iii. Any overpayments received by SARS will be refunded directly to the taxpayer concerned by SARS.



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5. DERELICTION OF DUTY

- Where the SETA refuses, fails or neglect to carry out the duties of a responsible 3rd party in accordance with the Act, the SETA will be personally liable for the taxpayer's (i.e., employee's) debt.
- SARS can in light of the above garnish the SETA directly on behalf of its taxpayers (i.e., employees), and in return the SETA will recover the money directly from the affected employees in full. There will be no recovery arrangements between affected employee/s and the SETA in this regard.
- SARS may use its discretion in certain circumstances and recover the money directly from the bank account of the affected taxpayer.

6. REPORTING

- A monthly reconciliation between new notices, objections, appeals, arrangements as well as settlements will be maintained by the Financial Accountant.
- Amounts collected by the SETA and paid over to SARS will be reported as part of Pay-As-You-Earn (PAYE) but disclosed separately.

7. APPLICABILITY

- This SOP will remain in place until there are material changes in the Act or circumstances governing this process.

